

THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS



THE FIRST SESSION

OF

THE THIRTY-EIGHTH CONGRESS.

BY JOHN C. RIVES.

CITY OF WASHINGTON:
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.
1864.

5-11-2004

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

WEDNESDAY, JUNE 15, 1864.

NEW SERIES....No. 184.

I have given to this subject, there is no other report of a committee of the House of Representatives in regard to it.

Then this is a proposition to compel Wisconsin, if it shall come out of her funds, to buy this stock; and the amendment is so curiously drawn that I am at a loss to know whether it comes out of her five per cent. or out of the Treasury of the United States. At first I thought it was an appropriation out of the five per cent. fund due to Wisconsin, but I am inclined to think, on a more careful examination of the subject, that it will be derived from the Treasury of the United States. It is a proposition, then, to take money out of the Treasury of the United States to pay for this stock which we never agreed to buy unless Wisconsin chose to make the purchase for her own advantage, which she never has agreed to do in a period of twenty years.

Mr. JOHNSON. I of course wish to understand what the question before the Senate is before I vote. My present impression is that the case before us is this: an appropriation was made for the benefit of the canal company, and the controversy now is whether the canal company has or has not a right as against the United States upon an alleged failure on the part of the United States to comply with their part of the contract as between themselves and the canal company. The State of Wisconsin claims the whole amount of the fund in the hands of the United States, or rather that five per cent. of the proceeds of the sales of the public lands ought to be paid to the State, and the canal company insists that a portion of those proceeds are due to it.

Mr. HOWE. No, the Senator will allow me to say; neither the canal company nor anybody else, so far as I know, denies that the State of Wisconsin is entitled to just what she claims, that is, five per cent. of the proceeds of the sales of the public lands; but of the grant that was made to the Territory for the purpose of constructing that canal, a portion of the land was sold and a part of the money was paid over to the company and expended, and a part was not, but still remains in the treasury of Wisconsin, and the question is whether that portion belongs to the United States or belongs to the canal company. That is the dispute. The United States has charged the whole grant to the State, that which she has got and that which has been paid over to the company. Everybody concedes now that that charge is wrong, and so far as the unexpended balance in our hands is concerned, the State concedes that she does not own it, that it belongs to somebody else, she is a mere stakeholder, and the question now under debate is whether it belongs to the United States or belongs to the canal company. The canal company say it belongs to them because the act which made the grant declared that if the State of Wisconsin which was to be formed afterwards out of the Territory should make no other adequate provision for purchasing out the residue of the stock of the said canal, the dividend of the State stock thereby acquired, and all other proceeds of the sales of the lands thereby granted, should constitute a fund to be applied to the extinguishment of the claims of all other stockholders until the entire stock vested in the canal should have been acquired by the State. After which, and after said State should have been reimbursed for all expenses incurred out of her own proper funds in the construction and repairs of said canal, no other tolls or charge whatever for the use or navigation of the said canal should be levied, except to such amount as might be required to keep the said canal and the works appurtenant thereto in good repair, and provide for the collection of the tolls and the superintendence of said canal.

Because of that language, and because of the decision had in the House of Representatives some years ago, the canal company say that this fund belongs to them; it was granted to their use, and they ought to have it; and it ought not to go into the treasury until all the individual money which they expended has been refunded. The

Territory of Wisconsin, it will be borne in mind, some years after this work was undertaken, thinking that the fund was not likely to prove adequate, and that the company with all its private means and with the trust fund was not likely to be able to complete the canal, thought it discreet not to pay over any more money, and asked Congress to take back the grant. On that occasion the question of the right of the company to the grant was considered, and a committee of the House of Representatives made a report from which the Senator from Indiana has quoted repeatedly. I will just call the attention of the Senator from Maryland to this clause of it:

"The company have refused their assent to this proposition?"

That is, the proposition that the Government should take back the grant:

"The company have refused their assent to this proposition of the Territorial Legislature, and the inquiry presents itself whether, without that assent, the Federal Government can rightfully exercise the supposed power of repealing the act of cession. From the recitals made above from the charter, and from the act of June 18, it is manifest that the company have an interest in the proceeds of the lands. They constitute an estate in trust, the use of which is to be enjoyed by the company under its charter. The Territory, as a party, can assert no beneficial or pecuniary interest in the fund: its character is entirely fiduciary, and its rightful action can only be in subordination to the objects authorized by the charter. This grant was made for the sole purpose of aiding the company in opening the canal. To this aid, to this pecuniary benefit, they have an undoubted right."

Holding that without the assent of the company the grant could not be passed back. Then, thinking it still imprudent to pay over the money to the company, the Territory used the money for its own use, but passing the act which the Senator from Indiana has quoted, pledging the faith of the Territory to make the fund good. The fund is good to-day, and the State simply waits for you to determine whether you own it or whether the canal company owns it.

Mr. JOHNSON. I collect, then, from the explanation made by the honorable member from Wisconsin that there is a dispute between the three parties, the canal company, the State of Wisconsin, and the United States; and the object of this joint resolution is to settle that dispute, the whole of it. The United States have in their hands five per cent. of the proceeds of the sales of the public lands in Wisconsin, due to that State. The honorable member says the State of Wisconsin has in its hands part of the proceeds of the lands that were included in the grant to the canal company, the part not expended, and the canal company are unable to get those proceeds from the State of Wisconsin because the United States are unwilling to pay the five per cent. which the United States hold and which if nothing else had occurred would clearly belong to the State of Wisconsin. The condition, therefore, in which the State is, is that she cannot get her five per cent., and the condition in which the canal company is, is that it cannot get the proceeds in the hands of the State which the canal company claims; and the effect of these two difficulties is that the dispute is kept alive and must continue to be kept alive until it is settled by some judicial decision. There can be no judicial decision, first, because the State cannot be sued, and secondly because the United States cannot be sued; and the only way, therefore, in which it can be settled is by an arbitration voluntarily entered into or compulsorily ordered; and if I understand the object of the joint resolution reported from the committee on this subject, it is to leave by law the settlement of this question to the law officers of the Government, and that settles the whole dispute. If Wisconsin receives from the Treasury, even if the Government were willing to pay it, the five per cent. which the Government holds and which belongs to the State of Wisconsin, then the canal company will say that the United States ought to pay them the amount of the proceeds which are in the hands of the State of Wisconsin and which the State refuses to pay; so that really it would seem to me that the only practical way, the only way in which the dispute can be

settled at all is the way proposed by the committee or some analogous way. The laws as they now stand furnish no remedy for the case, and the question for the Senate to decide is whether the case is not entitled to a remedy, (and nobody can doubt about that,) and if it is, whether this is not a fair remedy. Thinking that it is, I shall vote for the joint resolution.

Mr. DOOLITTLE. I will say to the Senator from Iowa that I shall vote against his amendment and vote for the report of the committee, because the very question of the validity of the claim of this company as against Wisconsin will come up and be heard and determined before the Commissioner of the General Land Office. We do not by voting for this reference admit in behalf of Wisconsin any valid claim on the part of this company against the State of Wisconsin; but for the sake of peace, and to have an end of the controversy, which has lasted nearly twenty years, we are willing to vote for this joint resolution which contains a reference to a tribunal that will put an end to the controversy.

Mr. HARLAN. The Senator is entirely mistaken. It does not leave the question open to be decided by the Commissioner, only so far as ascertaining the amount is concerned. It settles the whole question of the right of the company. Here is the language that I propose to strike out:

The said Secretary shall also settle and allow to the Milwaukee and Rock River Canal Company such sums of money as have been properly expended by said company in the survey and location of said canal, &c.

There it is; it is a decision of the whole question here by Congress. The only question open for the Commissioner of the General Land Office is to ascertain how much they have thus expended, and not to ascertain whether we are liable for the amount.

Mr. TRUMBULL. I desire simply to say in reference to this matter, which I once looked into somewhat, that I do not think the Government of the United States ought to be mixed up with the settlement of the claims which a company in Wisconsin has against the State of Wisconsin. I shall therefore vote for this amendment.

Mr. DOOLITTLE. In answer to my honorable friend from Illinois, allow me to say that the Government of the United States has mixed itself up with our Wisconsin affairs by refusing to pay us our five per cent., and refusing to pay that five per cent. until we settled with this company. We cannot get the five per cent. without it.

Mr. HARLAN. The Senator is in error there again; the State of Wisconsin has been credited every dollar of the five per cent. fund on the books of the Treasury, and the whole amount has been paid over to Wisconsin, and more than the whole amount, and she is now indebted on the books of the Treasury to the United States the sum of over sixty-three thousand dollars.

Mr. DOOLITTLE. Wisconsin is charged with this land at \$2 50 an acre.

Mr. HARLAN. And this joint resolution, in the first part of it, proposes to remit just one half of that, and that, I think, would be just; but this canal company says the Government of the United States shall not remit \$156,000 with which she has improperly charged Wisconsin, unless we take an additional sum from the Treasury of the United States and pay them all they have put into a canal over in Wisconsin. That is the state of the controversy.

Mr. DOOLITTLE. The account, as charged on the books of the Treasury of the United States against Wisconsin, charges Wisconsin with this land at \$2 50 an acre, which is charging Wisconsin by the wholesale for lands twice as much as the United States sell them for at retail in all the new States and Territories. That is the way in which the account stands there. At once it is seen that, so far as Wisconsin is concerned, it certainly cannot be right to charge her twice as much at wholesale as the Government charges individuals at retail for the public lands.

Mr. HOWE. I must protest against the remark of the Senator from Iowa, when he under-

takes to say that the State of Wisconsin has received every dollar of the five per cent. fund. I cannot conceive by what reason or upon what data he can justify that statement. In point of fact, strictly speaking, we have not received a dollar of it; but we have received, and have now, as the resolution admits, out of another fund, which does not belong to us, a part of the five per cent. fund. We propose to offset it against the five per cent. fund. That is all. It is true we have been credited with the whole five per cent. fund, but you have charged us with this whole grant at twice as much as the Senator concedes it ought to be charged at, and a grant which was not made for our use to the amount of one dollar. We could not receive one dollar of benefit, as I have stated over and over again, and shown you, and as your own committee of the House of Representatives said. We could not receive a dollar's beneficial interest out of it in any way; and yet you have charged us double what you ought to have charged for it if we had had the whole interest. We want to get rid of that charge. That is what we are struggling for.

MR. HARLAN. The Senator from Wisconsin is not correct in saying that Wisconsin never received a cent. It received every dollar due up to 1851 in money.

MR. HOWE. Not of this claim.

MR. HARLAN. Yes, of the five per cent. fund, and since then it has received it in credit on the books of the Treasury. It is true the Government did charge her \$2 50 an acre for the land granted to construct this work, and the first part of this joint resolution proposes to remit just one half of that charge, amounting to \$156,000; but the Senators refuse to take this unless we put our hands into the Treasury and take out an additional sum equal to all that the canal company has expended.

MR. HOWE. I protest again. The Senator says that "the Senators refuse to take this." He knows that the resolution which I introduced myself did not open up this controversy. I proposed simply a settlement between the State and the United States, and I have said since this debate came before the Senate that I regarded the State of Wisconsin as a simple stakeholder. So far as the State is concerned I care nothing whether you vote that money into the Treasury or into the hands of the company. He is not justified, therefore, in saying that "the Senators refuse" to make this settlement unless this other thing is done. We refuse no such thing.

MR. HARLAN. I think I was justified in making the remark, from having heard the announcement of the mode in which the Senator said he intended to vote. The bill, as introduced by him, I think is about right without any amendment whatever, and it would remit to the Senate about one hundred and fifty-six thousand dollars unjustly charged, and I am perfectly willing to vote for the proposition as he introduced it; but then the amendment carries as much more as I have indicated. It carries from the Treasury of the United States to the canal company an amount of money which the Senator himself never intended should be taken; and hence I think I have a right to claim his vote in favor of the amendment I have proposed, for that will leave the joint resolution substantially as he introduced it.

THE PRESIDENT pro tempore. The question is on the amendment of the Senator from Iowa to the amendment made as in Committee of the Whole.

The question being taken by yeas and nays, resulted—yeas 10, nays 22; as follows:

YEAS—Messrs. Brown, Buckalew, Fessenden, Foot, Harlan, Morgan, Ten Eyck, Trumbull, Wilkinson, and Wilson—10.

NAYS—Messrs. Carlisle, Clark, Conness, Doolittle, Harris, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Nesmith, Pomeroy, Powell, Raymond, Richardson, Riddle, Sausbury, Sprague, Sumner, and Wiley—22.

ABSENT—Messrs. Anthony, Chandler, Collamer, Cowan, Davis, Dixon, Foster, Grimes, Hale, Harding, Henderson, Hicks, Howard, Sherman, Van Winkle, Wade, and Wright—17.

So the amendment to the amendment was rejected.

The amendment made as in Committee of the Whole was concurred in.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

SPECULATIVE TRANSACTIONS IN GOLD.

On motion of Mr. FESSENDEN, the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 106) to prohibit certain sales of gold and foreign exchange. The amendment was to strike out the first section of the bill after the enacting clause, and in lieu of it to insert the following:

That it shall be unlawful to make any contract for the purchase or sale and delivery of any gold coin or bullion to be delivered on any day subsequent to the day of making such contract, or for the payment of any sum, either fixed or contingent, in default of the delivery of any gold coin or bullion, or to make such contract upon any other terms than the actual delivery of such gold coin or bullion, and the payment in full of the agreed price thereof, on the day on which such contract is made, in United States notes or national currency, and not otherwise; or to make any contract for the purchase or sale and delivery of any foreign exchange to be delivered at any time beyond ten days subsequent to the making of such contract, or for the payment of any sum, either fixed or contingent, in default of the delivery of any foreign exchange, or upon any other terms than the actual delivery of such foreign exchange within ten days from the making of such contract, and the immediate payment in full of the agreed price thereof on the day of delivery in United States notes or national currency; or to make any contract whatever for the sale and delivery of any gold coin or bullion of which the person making such contract shall not, at the time of making the same, be in actual possession. And it shall be unlawful to make any loan of money or currency not being in coin to be repaid in coin or bullion, or to make any loan of coin or bullion to be repaid in money or currency other than coin.

MR. HENDRICKS. That is a very lengthy amendment, and I think it ought to be printed so that we can see exactly what it is before voting on it.

MR. FESSENDEN. It only makes two changes from the section as it stood before, and they are in mitigation of it. Instead of requiring immediate payment in the case of a sale of gold, it allows the contract to be completed within the day. Then in regard to the purchase of foreign exchange, it allows the transaction to be completed within ten days instead of its being done at once. The amendment is an improvement on the bill, and an improvement in the direction in which the Senator's mind would operate. I think, therefore, there can be no objection to adopting the amendment at once.

MR. JOHNSON. Does the amendment change the Senate bill except in the first section?

MR. FESSENDEN. It only changes the first section.

MR. HENDRICKS. I have not been of opinion that it was competent for Congress to legislate in respect to contracts in the States. It is an important question, and I think the Senator from Maine might let it stand over till to-morrow and let the amendment be printed.

MR. FESSENDEN. If the Senator insists upon that, I shall not make objection; but inasmuch as the Senate passed the bill on full consideration, and this amendment is a change in the direction of the Senator's own argument and would rather operate in the way he desires, I should suppose he would make no objection. It is rather important if it is to pass that it should be passed as soon as possible. I will not object, however, to the printing of the amendment.

MR. HENDRICKS. I cannot tell now whether I may not want to propose an amendment to the amendment of the House of Representatives.

MR. FESSENDEN. I hope not. We discussed the matter quite fully; it has been gone over and over and through and through in all directions, and further discussion would only have a tendency to illustrate what we all understand, the Senator's acuteness and power on such questions.

MR. HENDRICKS. I am much obliged to the Senator; but I think the bill ought to be printed with the amendment. I do not want to discuss it, but I may possibly wish to propose an amendment.

MR. FESSENDEN. I will not object to printing the amendment if the Senator insists upon it, and I make that motion.

Several SENATORS. Pass it now.

MR. FESSENDEN. Senators about me think it is best to dispose of the question at once.

THE PRESIDENT pro tempore. The question is on concurring in the amendment made by the House of Representatives.

MR. JOHNSON. The amendment I understand does not alter the bill except in the particular stated by the Senator from Maine, which

would make it more acceptable to those who were opposed to the original bill. The objection, however, that I had to the first section of the original bill is not removed by the amendment, because that objection was as to the authority of Congress to legislate on the subject at all. As far as I am concerned, therefore, the amendment will not receive my assent; but as a majority of the Senate think otherwise, there is no reason why it should not be acted upon at once.

The amendment was concurred in.

GOODS IN WAREHOUSE.

MR. FESSENDEN. There is upon the table another bill which has been returned from the House of Representatives with amendments, and I desire to have them disposed of. It is the bill in reference to goods in warehouse.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 282) to amend an act entitled "An act to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes," approved February 29, 1864.

The amendments were, after the word "warehouses," in line two, to strike out as follows: "On the 1st day of May, A. D., 1864;" in line four to strike out the words "at that time were" and to insert in lieu thereof "are;" in line five to strike out the words "had then" and insert in lieu thereof "shall have;" so that, if amended, the bill will read:

That all goods, wares, and merchandise in public stores or bonded warehouses, on which the duties are unpaid, and which shall have been in bond for more than one year and less than three years, may be entered for consumption and the bonds canceled at any time before the 1st day of September next, on payment of duties and charges according to the laws in force at the time the goods shall be withdrawn.

The amendments were concurred in.

TRADING WITH INSURRECTIONARY DISTRICTS.

MR. MORRILL. I move—

MR. SUMNER. I hope the Senator from Maine will not interfere now. It was understood that the bill for the Bureau of Freedmen should come up next.

MR. MORRILL. I beg to say that I have had an understanding with myself for the last three days to press the bill which I propose to take up at the first moment I could get the floor.

MR. SUMNER. I have had an understanding with myself for three months in regard to this other bill.

MR. MORRILL. I want only to finish a bill which has been three times before the Senate, and will not occupy twenty minutes.

MR. SUMNER. I desire to finish a bill; whether it will occupy twenty minutes or not, I do not know. I hope not twenty minutes.

MR. MORRILL. I move to take up Senate bill No. 232, in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States. It is one of the most important bills that can be presented to the Senate, and it has been considered several times.

MR. SUMNER. I hope that the Senate will not now proceed to the consideration of that bill. The Senator says it will not occupy twenty minutes. Grant that. I have given way to-day from time to time; indeed I began at one o'clock by giving way. Motion after motion has been made, and each time I have tried to bring forward a bill which has been pending now not weeks but months, and which has been under consideration already for hours, much more than the bill of the Senator. It precedes the bill of the Senator in every sense, by its place on the Calendar, by its place in the consideration of this body, and I submit, also, by its importance. It hope that my friend will allow me to proceed with that bill and bring it to a conclusion to-day.

MR. BROWN. I should like to ask the Senator from Maine to let the bill alluded to by him lie over for a day or two days unless he is especially urgent about it. My colleague who, he will remember, was engaged in the discussion of it when it was up before, and who is very deeply interested in the bill itself, is unwell to-day and not able to be out. It is a bill that involves our State very largely, perhaps more largely than any other State, in its commercial relations, and I shall be gratified to have an opportunity to have the matter discussed, and discussed by my colleague, who has given the question some atten-

tion. If the Senator's sense of duty will permit him to let the matter lie over, I shall be gratified if he will do so.

Mr. MORRILL. I am aware that the Senator from Missouri on this side of the Chamber has taken a deep interest in this bill, but I propose to offer an amendment which I supposed to some extent would obviate the objection brought against it by him.

Mr. BROWN. I will state to the Senator from Maine that my colleague sent word to the Senate to-day asking, if the bill came up, to have it laid over if possible.

Mr. SUMNER. It seems to me that is enough.

Mr. MORRILL. This bill is of the very greatest importance, and I have pressed it once or twice on the Senate; but I feel that I have been a little negligent, that I have not pressed it on the Senate at an earlier day; but under this appeal perhaps I ought not to press it at present, and I withdraw my motion.

FREEDMEN'S BUREAU.

Mr. SUMNER. Now I move to proceed to the consideration of House bill No. 51, to establish a Bureau of Freedmen's Affairs.

Mr. McDUGALL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 23, nays 11, as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Doolittle, Fessenden, Foot, Grimes, Harlan, Harris, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sprague, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—23.

NAYS—Messrs. Buckalew, Carlile, Hendricks, Johnson, McDougall, Nesmith, Powell, Riddle, Saulsbury, Van Winkle, and Wiley—11.

ABSENT—Messrs. Collamer, Cowan, Davis, Dixon, Foster, Hale, Harding, Henderson, Hicks, Howard, Howe, Lane of Indiana, Richardson, Sherman, and Wright—15.

Mr. BUCKALEW. I desire to mention in connection with the vote just taken that my colleague [Mr. COWAN] is detained from the Senate by indisposition.

Mr. McDUGALL. I ask the courtesy of the Senator from Massachusetts [Mr. SUMNER] to allow me to offer a resolution not for present consideration but to go upon the table.

Mr. CONNESS and Mr. SUMNER. What is it?

The PRESIDENT *pro tempore*. The resolution will be read for information.

The Secretary read, as follows:

Resolved, That the people of the United States can never regard with indifference the attempt of any foreign Power to overthrow by force or to supplant by fraud the institutions of any republican Government on the western continent, and that they will view with extreme jealousy, as menacing to the peace and independence of their own country, the efforts of any such Power to obtain any footholds for monarchical Governments sustained by foreign military force in near proximity to the United States.

Mr. CONNESS. I object.

The PRESIDENT *pro tempore*. Objection being made, the resolution cannot be received.

Mr. McDUGALL. I give notice then of the resolution for to-morrow morning, when I shall call it up for consideration. I suppose that is sufficient notice.

The PRESIDENT *pro tempore*. No notice is required to introduce a mere resolution. At the proper time when in order the Senator can offer a resolution without notice. The objection now is that a bill is pending before the Senate.

Mr. McDUGALL. I shall present it at the first opportunity.

The PRESIDENT *pro tempore*. The bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs is before the Senate as in Committee of the Whole, the question being on the amendment reported by the select committee on slavery and freedmen.

Mr. GRIMES. It will be observed that in the second section of the amendment proposed by the select committee on slavery and freedmen it is provided that the Commissioner who is to have charge of this bureau "shall have authority, under the direction of the Secretary of the Treasury, to create departments of freedmen within the rebel States, so far as the same may be brought under the military power of the United States;" but there is no limit to the number of these departments. I propose to amend that clause by inserting after the word "States" in the fourth line the words "not to exceed two in each State."

Mr. SUMNER. I have no objection to that.

The amendment to the amendment was agreed to.

Mr. GRIMES. I now move in line ten of that section after the word "needed" to insert "not to exceed four in each State," so as to limit the number of local superintendents and clerks.

Mr. SUMNER. I have no objection.

The amendment to the amendment was agreed to.

Mr. GRIMES. Now I propose to strike out the eleventh and twelfth lines of that section, and insert the words "\$1,500." That will give to these local superintendents and clerks \$1,500 compensation. The section now provides that they shall receive "a compensation not exceeding the ordinary rate for similar services, subject, in all respects, to the approval of the Secretary."

I do not suppose there is any "ordinary rate for similar services."

Mr. SUMNER. The judgment of the Senator on that question certainly is fully as good as mine, and I should be disposed to defer to it. I merely call his attention to this point, whether it may not happen that in some parts of the country the service that is desired cannot be obtained for \$1,500; and if so, whether upon the whole it might not be better to leave this question of compensation to the discretion of the Secretary. As it now stands, it does come back upon his discretion. I put that as an inquiry to the Senator. I say that I shall defer to his judgment upon it; he is more familiar with that part of the country than I am; but the practical question is whether if you insert the limitation proposed by the Senator you may not in some way constrain the operations of the Department, whether you may not oblige yourself to resort to an inferior kind of service which will not be competent to do the work required.

Mr. GRIMES. The committee themselves have fixed the compensation of the Assistant Commissioner, who is a superior officer to the superintendents and clerks, at \$2,000, and I thought that I was providing for a very liberal compensation to these subordinate officers in comparison with the Assistant Commissioner, who is to receive \$2,000, when I proposed that they should receive \$1,500. The Senator will observe that in the seventh line of this section it is provided that these Assistant Commissioners shall receive an annual salary of \$2,000, and they have authority "to appoint local superintendents and clerks, so far as the same may be needed, not to exceed four in each State, at a compensation not exceeding \$1,500." That is the way I propose to amend it. I think that will command the best talent that may be required for this service.

Mr. POMEROY. I think \$1,500 is a fair compensation.

Mr. GRIMES. Very liberal compensation.

Mr. POMEROY. That is the compensation the Indian agents have. I think we had better settle on it.

Mr. SUMNER. Very well.

The amendment to the amendment was agreed to.

Mr. HENDRICKS. I have one or two amendments to propose. In the third line of the first section of the amendment of the committee I move to strike out "Treasury Department" and insert "Department of the Interior." I am not in favor of the bill, but I think this matter should go under the Interior Department if under any Department. It does not relate to the Treasury or to the management of the finances of the country, but contemplates a supervision over a class of persons in the country. The management of the Indians is somewhat analogous to it, and yet that belongs to the Interior Department. There are disbursements of money, to be sure, connected with the management of the Indians; but those disbursements are made under the supervision of the Interior Department. Pensions, and the like of that, relating to different individuals and classes of persons, are all placed under the charge of the Interior Department. It seems to me that it is proper, in connection with the general system we have, that this should be referred to the Interior rather than the Treasury Department.

Mr. SUMNER. The point to which the Senator directs attention was considered very carefully by the committee. Were this a moment of peace, I believe the committee would have been unanimous in adopting the idea of the Senator. Indeed, it seems to me, the reasons for it, if this were a moment of peace, are absolutely unanswerable. It is in the Interior Department that we place the Bureau of Indian Affairs, the Bu-

reau of Pensions, the Bureau of Patents, the Bureau of Public Lands, and this certainly would be more or less germane with all those interests. It would naturally be lodged in the same Department with them. Naturally it belongs to the Interior; there can be no question about it. The Senator, therefore, is perfectly right when he makes the suggestion. But the Senator should take into consideration that at this moment we are acting provisionally and not permanently under suggestions growing out of the present state of the country, and not as if we were in a condition of permanent peace.

In placing the bureau where the committee have placed it, they followed what seemed to be the necessities of the case. Congress by previous legislation has practically placed the bureau there, in the Treasury Department, or rather it has rendered it necessary that the bureau should be placed there, unless Congress was willing by legislation on this matter to create a conflict between two different Departments. Congress has already placed in the Treasury Department the control of the business relations between the rebel States and the loyal States, and also the control of the abandoned lands and plantations in the rebel States. Now, as I tried to exhibit to the Senate the other day when I opened this question, the main interest for the moment in regard to the freedmen is how to bring them in connection with the lands. If you go beyond that, if you undertake to provide means for their support, you assume what I believe the country really does not expect you to assume, and what I believe those who have the welfare of that people most at heart do not venture to counsel. We desire to secure to that people opportunity—opportunity to work; that is the main point, and that can be secured only by bringing them in connection with the lands. The care and guardianship of those lands where it is proposed to place the freedmen has already by previous legislation been lodged with the Treasury Department. Therefore, naturally and logically it seemed to follow, unless you were willing to create a conflict between two different Departments or between the agents of two different Departments, that you should place the care of the freedmen in the same Department.

Sir, I am not alone in this view. The other day I presented it and gave some opinions on the subject. I have here a letter; it was written as a private letter from Mr. Owen, well known to the Senator from Indiana, from which I will read a passage:

"It will never do to have Treasury agents who lease the lands to white men, and War Department agents who assign the same lands to colored people. Nothing but confusion and conflict of authority can result; it will not work at all; but even if it would, why employ two sets of agents to do what one set can do so much better? And who is to inspect the leased plantations, and see to it that neither employers nor employed are wronged? The men who give the leases to them are Treasury agents, and have nothing to do with freedmen or the freedmen's commissioners; but what authority can they have over men who do not hold their leases from them? The men who have the care of the laborer ought to have the leasing of the land and the inspection of the leases, and they should be authorized to lease equally to white and to colored people."

But this is not all. I hold in my hand a document which was not printed when I addressed the Senate before on this subject, though, having perused it in manuscript, I referred to it. It is a part of the report of the freedmen's commission, appointed by the Secretary of War to consider, among other questions, the very one which is now before the Senate. In the course of the document the commission express the following explicit opinions:

"But, in the judgment of the commission, the most serious error in connection with the present arrangements for the care and protection of these people arises out of the assignment to a different agency of the care and disposal of the abandoned plantations."

The Senator from Indiana will observe how completely that is an answer to his proposition to place the Bureau of Freedmen in the Department of the Interior, because, as I have already said, Congress has placed the care of the abandoned plantations in another Department.

The commissioners proceed:

"To enter into the detail of all the evils and abuses that have arisen out of this error, and which are unavoidable so long as it continues to exist, would occupy too great a space in this report. Suffice it to say that it is the source of the greatest confusion and a perpetual collision between the different local authorities, in which not only the emancipated population but the Government itself suffers the most serious injuries and losses."

The commissioners then proceed to quote the opinion of General Banks on the very question started by the Senator from Indiana. It is as follows:

"The assignment of the abandoned or forfeited plantations to one Department of the Government, and the protection and support of the emancipated people to another, is a fundamental error productive of incalculable evils, and cannot be too soon or too thoroughly corrected."

So far General Banks. The commissioners then proceed:

"And this is the purport of all the testimony which the commission has been able to obtain, not in the department of the Gulf only, but everywhere in relation to the matter."

"The unhesitating judgment of every person, official or other, not interested in the opportunities it affords for speculation with whom we have consulted, coincides with that of General Banks. All, without exception, declare that no system can avail to effect the great objects contemplated, that does not assign to one and the same authority the care and disposal of the abandoned plantations and the care and protection of the emancipated laborers who are to cultivate them."

"And, after the most thorough investigations, I am authorized in saying that this is the deliberate judgment of the commission."

Now, sir, this is the answer to the proposition of the Senator from Indiana. In order to make his proposition practical, he must proceed still further, and take from the Treasury Department the superintendence of the business relations between the loyal and disloyal States, and that other branch which has followed on the first, the care of the abandoned plantations and captured property. It was after a most careful review of the whole question, contemplating it in every possible light, and I may say beginning with a conviction that the bureau ought not to be lodged in the Treasury Department, that I was brought to the conclusion that at the present moment there was no other place where it could be lodged with any reasonable chance of its accomplishing the good which we hope for it.

But I wish the Senate to bear in mind that I speak only for the present time. If we were establishing a permanent bureau to continue hereafter when the war is closed, or for an indefinite time during peace, than it should be placed where the Senator from Indiana proposes to place it. But until then, it seems to me, it must be placed in the Treasury Department, unless we choose to take from that Department that other branch of business to which I have referred.

Mr. HENDRICKS. The Senator says that if we were in a time of peace he would be in favor of the proposition. How long does the Senator expect this war to last? Does he expect this bureau to continue as a bureau of the Government only during the war? I presume, to accomplish his purposes, that it must continue for some period after the termination of the war. I am not one of those who believe that this war is to continue very many years. I believe it has got to terminate some way or other within a reasonably short period; and therefore, as this bureau is to continue, unquestionably, (the Senator will not question that,) for some time after the war, for a longer time after the war than during the war, the argument on that point, so far as length of time decides it, is in favor of the amendment which I have proposed.

His next point is that the abandoned plantations ought to be under the control of the same Department in which this bureau is to be located. If we are to have a management of the abandoned plantations at all, it ought to be in the Interior Department. If these lands are to be considered as abandoned by the owner and thereby fall into the mass of the public lands, as is contemplated by a bill that is before the Senate, those public lands ought to be under the control of the Interior Department, because they do not relate to the Treasury; the Treasury has no machinery for their management; and I think perhaps that is one reason they have been so badly managed, why there are so many complaints from different quarters of fraud and outrage touching the management of the abandoned lands. I do not know very much of it, but it is said that a system of favoritism has grown up that is exceedingly disgusting, and it may be owing to the fact that the Secretary of the Treasury is so much occupied with investigations of altogether a different sort that he cannot give the necessary attention to that class of business.

But further, I ask the Senator having this bill in charge if he intends one set of agents to be paid by the Government to manage the lands that are

abandoned, and another set of agents to be paid by the Government to manage the negroes in the same neighborhood? Certainly, the superintendents that he provides for in this bill ought to take the immediate charge of abandoned lands, if they are to be taken charge of at all by officers of the Government; and it is my purpose, if this bill is to become a law, to provide that the agencies established in the bill itself shall have charge of the abandoned lands. We ought not to be paying two sets of agents to manage a matter that one set of agents ought to manage. If there is force in the argument of the Senator that the agents managing the abandoned lands ought to be appointed by the same Department, that argument will go further, and will lead us to this result, that the abandoned lands and the freedmen, as he calls them, ought to be managed by the same agents in the same neighborhood.

Mr. SUMNER. That is admitted.

Mr. HENDRICKS. Thereby saving very large expenditures to the Government, enormous expenses. Then in this same bill he ought to provide at once that these agents whom he provides for shall have charge of the abandoned lands. Then the whole properly falls under the Interior Department. This matter will have to go to the Interior Department some time. There is so much dissatisfaction with the management of the abandoned lands, and the Treasury regulations touching the commerce between the sections, that it will go to some other Department before very long.

Mr. SUMNER. Will the Senator allow me to call his attention to the seventh section? There he will find a provision which I think meets his views. It is that the agents of the Treasury who now have the leasing of abandoned plantations shall hand over all their papers to the commissioners appointed under this bill, the object being to put an end to those agencies, or rather to allow them to be all absorbed into those created under this bill.

Mr. HENDRICKS. If that be done, then these ought to be agents of the Interior Department, and there need be none of this conflict that the Senator provides for. In a very simple provision of this bill we can transfer the whole of the lands, which properly belong to the Interior Department, as well as the persons that he wants to provide for, and let the whole go to the Interior Department. I think, that Department being more accustomed to deal with questions of this sort, and having the machinery for their management, there will be less public dissatisfaction because of favoritism and fraud than as they are managed now.

I think the amendment I have proposed ought to be adopted to make the system effective. Let the agencies for the lands and the agencies for freedmen be the same, and the whole under the Interior Department.

Mr. SUMNER. I have only to say in reply that when the war is over and the State governments are once more established I shall welcome such a proposition as the Senator now makes. If a Bureau of Freedmen continues then, its proper place will be in the Department of the Interior; but until then it must be where Congress has already placed these other branches of public business with which this bureau is necessarily associated.

Mr. JOHNSON. The Senator admits that the proper Department to take charge of the business to be created by this bill, in a time of peace, is the Department of the Interior. About that I suppose there can be no difference of opinion. But he says this is not a time when it should go into the hands of the Secretary of the Interior, because we are in a state of war. If we are in a state of war, as we certainly are, and if, because we are in that state, it is not proper that the control should be in the hands of the Interior Department, it seems to me equally to follow that it should not be in the hands of any of the civil Departments of the Government, but in the hands of the War Department; and I see the bill as it originally was drafted by the House of Representatives, and as it came to us from that House, left it with the War Department. There must have been some reason for taking it away from that Department, and if the honorable member is able to tell us why it is that the Treasury Department was substituted for the War Department, I should, for one, like to be informed.

Mr. SUMNER. Well, Mr. President, if the Senator had done me the honor to listen to me the other day—I know it is too much for me to expect—he would have found all that answered at too great length. I discussed it fully; and I may say also that I have discussed it even this morning. I have stated that the actual legislation of Congress required that the proposed bureau should be placed in the Treasury Department, and it is simply to prevent discord and conflict between two Departments and between the agents of two Departments managing more or less the same subject-matter. Congress has already placed in the Treasury Department, as I have said, the care of the business relations between the rebel States and the loyal States, and also the care of the abandoned lands and captured property.

Now, Congress may have erred in placing those two interests in the Treasury Department. On that I express no opinion. Possibly the Senator from Maryland is right when he suggests that they should be in the War Department. Congress has not seen fit to place them in the War Department; it has placed them in the Treasury Department; and as all the testimony of persons most interested in this question, constituting what we may call experts, went in one direction, that the care of the freedmen should be in the same Department which had the care of the lands, the committee felt constrained to report the present bill, feeling that if the care of the freedmen was placed in any other Department, be it the War or be it the Interior, there would be an occasion for conflict or discord at least among the agents of these two Departments, if not between the two Departments.

Mr. HENDRICKS. I wish to ask the Senator from Massachusetts a question, as he is familiar with this subject. Is there any inconvenience, so far as the records are concerned, or the mere machinery that is found now in the Treasury Department, in transferring that from that Department to the Department of the Interior?

Mr. SUMNER. The Senator understands that we should have to transfer these two great interests to which I have referred, the control of the business relations between the rebel States and the loyal States, and also the control of the abandoned plantations and captured property.

Mr. HENDRICKS. The Senator does not understand the question I designed to put. It is this: whether it is inconvenient or impracticable to hand over the machinery already established in the Treasury Department, the records, and the files. Are the books voluminous?

Mr. SUMNER. On that point I am not able to answer positively; but I have an impression that if Congress should see fit to take from the Treasury Department the whole subject-matter under the two heads to which I have referred, the business relations between the rebel States and the loyal States, and the control of the abandoned plantations and captured property, all that in one mass might be transferred to another Department. I know nothing to the contrary.

Mr. GRIMES. I have no proposition to make in regard to it; but it seems that there are three different Departments here who have their advocates for the control and management of this Freedmen's Bureau. The Senator from Massachusetts is in favor of vesting all this power in the Secretary of the Treasury; the Senator from Indiana prefers to bestow it upon the Secretary of the Interior; and the Senator from Maryland proposes to put it upon the War Department. As I said before, I have no proposition to make; but I wish to ask these Senators whether they have not overlooked one department to which this subject might more properly be referred than to any other, and that is to the Attorney General. It is known of course that the War Department is overwhelmed with business. There are connected with it a great many bureaus. It has the charge of the armies in the field; it has the charge of almost all the operations in connection with this war. The Interior Department has charge of our public lands, of our Census Bureau, of our Indian affairs, of patents and the Patent Office, and, I believe, is somewhat connected with the agriculture of the country. The Treasury Department is also overwhelmed with business. The Attorney General, who holds the same relation to the Government as a member of the Cabinet, has connected with his department no bureau. He

has thus far been a mere law officer of the Government. It will be observed by reference to this bill that the chief of this Freedmen's Bureau is called upon to perform very responsible legal duties. He is to see that lands are leased; he is to appear in court and represent all of these freedmen in any controversy that may arise between them and third parties, or he is to see that somebody does appear and represent them. It occurs to me, although I am not prepared to give any advice to the Senate on a subject of this kind, that there is a peculiar appropriateness in putting this bureau into the charge of the Attorney General. That makes the fourth Department that has been suggested as being the proper one.

Mr. SUMNER. In reply to that I have simply to say that had Congress placed the other branch of the subject in the charge of the Department of the Attorney General, I should certainly be in favor of following the suggestion of the Senator.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Indiana to the amendment.

The amendment to the amendment was rejected.

Mr. SAULSBURY. I offer an amendment to add as a new section the following:

And be it further enacted, That all white persons in the States not in revolt shall be protected in their constitutional rights, and that no such person shall be deprived of life, liberty, or property, without due process of law; nor shall any such person be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any such person, except as aforesaid, be tried for any crime or offense whatever by court-martial or military commission.

It is not my intention to discuss this bill at the present time. If the vote should not be taken this afternoon, perhaps I may do so to-morrow. Neither is it my intention to discuss the amendment which I have offered.

The bill under consideration, in my judgment, has not a single section in it which is not liable to a constitutional objection. The bill is very careful of the rights, if rights there be, of the interests, if interests there be, and of the feelings of the negro race. I wish in these times, when so much interest is manifested in that particular race by Congress, and when so much of the legislation of the country is devoted to that particular race, that we should manifest some regard for our own poor, abject, downtrodden, and in these times I fear, popularly considered even inferior race. I want to see whether the Senate of the United States will recognize those great constitutional rights of white persons which are guaranteed in the Constitution which was framed by our fathers. It will be observed that the entire language of my amendment, with the exception of the latter clause which provides that no such persons shall be tried by court-martial or military commission, is in the language of the Constitution of the United States.

Sir, it may be out of order in these times to say a word or to enter a plea in behalf of this poor, downtrodden white race; certainly if the character of the legislation of Congress is to be considered, they have not much interest in this Government; because most of our legislation during this session has been devoted to a consideration of the interests of the negro race. Scarcely a single day since the commencement of this Congress has passed that the African race has not occupied a considerable portion of the attention of the Senate, much more, I apprehend, than the white race.

To guard this amendment which I propose against any possible objection arising from the class of persons whose rights are to be protected, I have been careful to insert in it the words "all white persons in the States not in revolt," so as to leave to the Administration to continue whatever policy they please in reference to persons in States in revolt. But, sir, I will not occupy the time of the Senate in discussing the question. I simply ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. SUMNER. I merely wish to make one remark now, and I hope I may not have occasion to say another word. This bill has been carefully considered by the committee; it is the best that they can present to the Senate; and their desire and my desire and the desire of its friends is that the Senate should proceed to vote without any further discussion, certainly on our part.

Mr. WILLEY. Of course the Senator from Delaware does not expect that there will be any very serious discussion of his proposition, or that it will be seriously entertained by the Senate.

Mr. SAULSBURY. I beg the Senator's pardon. I did not expect any discussion, but I did expect that it would be seriously entertained.

Mr. WILLEY. There is not a proposition in the amendment of the Senator from Delaware to which I do not most heartily subscribe; but I suppose it will hardly be proper to be attached to this bill. I rose, however, to notice a remark made by the Senator from Delaware. He said that in his opinion this bill, while it ignored the interests of the downtrodden white race, was, nevertheless, very careful of the African race. I entertain an opinion directly the reverse of that. In my opinion, after as close and careful an examination of this bill as I have been able to give to it, its proper title would be, "A bill to reenslave freedmen." Looking at the provisions of this bill, looking at the machinery by which its purposes are to be carried out, looking at the inevitable effects which must ensue, this bill if it passes will be the initiation of a policy to reenslave that portion of the African race to which it relates; and for one, sir, I protest against it on that ground.

Sir, it would be more consonant with what will be the practical results of this bill if the officer named in the first section of it as a Commissioner were called an Overseer General, and the subordinate officers provided for in other sections as deputy drivers, according to the language of the craft in the South. Why, sir, what responsibility is fixed upon any one of these commissioners who are to exercise this tremendous authority over the African race? What penalty in this bill is attached for cruelty, for peculation, for violation of their duties? Where is there any particular prescription of what they shall perform, except simply to confide in them an authority that no slave-master of the South ever gave to an overseer on his plantation. You may examine the articles of agreement, as I have a hundred times, between the slave-owners in the South and the overseers they employ, and I have never yet seen a carefully drawn agreement between them that did not provide more particularly for the care and protection of the negroes under his control than this bill does for the rights and liberties and privileges of the negroes who have been emancipated and who are to be operated upon by this bill. Sir, in the name of liberty and emancipation I protest against the passage of any such bill by the American Senate. Look at it for a moment. What is the language used in the bill?

That the Commissioner, under the direction of the Secretary of the Treasury, shall have the general superintendence of all freedmen throughout the several departments, and it shall be his duty especially to watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen, and generally, by careful regulations, in the spirit of the Constitution.

That is the only limitation upon the exercise of his power; but he is clothed with the authority to say what the "spirit of the Constitution" is. There is no penalty in this bill for any violation of any authority vested in him; there is no limitation in it:

In the spirit of the Constitution to protect these persons in the enjoyment of their rights, to promote their welfare, and to secure to them and their posterity the blessings of liberty.

Sir, liberty is a thing that is regulated by law. What law regulates this Commissioner and his deputies in the exercise of the power vested in them in this bill? What is it that the Commissioner is required to do? Where are the limitations upon the exercise of his power? To what tribunal is he responsible? If to any tribunal at all, simply to the arbitrary discretion of the Secretary of the Treasury, who is to appoint him, and to nobody else. I desire to attract the attention of the honorable Senator from Massachusetts, and of all other Senators, to this bill in all its provisions, and I will venture to say that I will be sustained in the assertion by every candid mind in this Senate that there never was a more arbitrary authority vested in any set of human beings upon the face of the earth. Why, sir, the master is limited in the exercise of arbitrary authority and cruelty toward his slave by his interest in the preservation of his life and health, so that he may make the most out of his labor; but there is noth-

ing even of that character here. It is arbitrary power without any limitation, without any rules or regulations to govern these masters and drivers in the exercise of their most extraordinary authority.

Why, sir, it has been held lately that these freedmen are perfectly competent to exercise the great privilege of franchise or voting; but according to the provisions of this bill they are not to be allowed even to exercise their own free will in their maintenance and self-support, unless it be under the supervision and direction, if not under the lash, of an arbitrary commissioner, appointed without responsibility to any authority anywhere or anyhow.

Look at the provisions of this bill again, sir. It seems that there is to be no limitation to it. I looked in the amendment reported by the Senate committee for a limitation to this system that is put upon the country by the appointment of a swarm of irresponsible officers at extravagant salaries; but it seems there is to be no end to it; there is no limitation, no time fixed when the exercise of this authority is to cease. It is not only irresponsible while it exists, it is not only illimitable in its extent while it operates, but illimitable, so far as this bill is concerned, in the length of its duration. When are these poor creatures to be allowed to escape from the custody and oversight and domination of these irresponsible commissioners who are to be placed over them? These men, who are sometimes qualified to vote, are not allowed to make a contract, under this bill, for a longer period than one year, but from year to year without any end, so far as this bill is concerned. They are to be in the hands of these commissioners; their contracts are to be written for them; they are to be under the supervision of these men from year to year, transferred hither and thither, according to the arbitrary authority of these men, from farm to farm, and section to section, so far as I can see, without any limitation or discrimination.

Senators look at me as if they were surprised at my warmth. I say again I protest, in the name of liberty, against this bill as the initiation of a scheme, much earlier than I had anticipated, to reenslave the men who, by the operation of this war, have, for a short time at least, enjoyed the boon of freedom.

Look at the provisions of the bill further. In one sense, some portion of the white race might be characterized as downtrodden by this bill. Here is another provision of it:

That the Assistant Commissioners shall have authority, within their respective departments, to take possession of all abandoned real estate and all real estate, with the houses thereon, liable to sale or confiscation.

In other words, if in the county of Fairfax, Virginia—and I only allude to that section of the country by way of illustration—there are farms lying abandoned there to-day, as there are, owned by loyal refugees in the city of Washington, they are to be taken possession of by these commissioners. The bill provides that all abandoned farms are to be taken possession of by these Commissioners whether they belong to loyal or disloyal persons. Why, sir, there are thousands upon thousands of abandoned farms all over the South to-day, unless they are occupied by traitors, the owners of whom have sought refuge in the North until this storm of war be over and passed.

Mr. SUMNER. Let me correct the Senator. The Senator forgets to read the qualifying language:

All abandoned real estate and all real estate, with the houses thereon, liable to sale or confiscation, or to any claim of title by the United States, and not already appropriated to Government uses.

Mr. WILLEY. Very well; I will read it again:

That the Assistant Commissioners shall have authority within their respective departments to take possession of all abandoned real estate and all real estate, with the houses thereon, liable to sale or confiscation—

The Senator's own bill makes a distinction between the two classes of real estate—

All abandoned real estate and all real estate, with the houses thereon, liable to sale or confiscation, or to any claim of title by the United States.

Why, sir, there are thousands of farms all through the South owned by loyal refugees in New York, Boston, and in all the loyal States to-day—men who have been merely able to escape with their lives. These irresponsible Com-

missioners are to take these poor Africans again and impose upon them a worse bondage than the masters of the South ever exercised over them, and make them work these lands, not for the benefit and profit of the slaves, except at stipulated prices at the will and pleasure of these irresponsible masters, and hand over the proceeds and the profit of their labor—to what? In the first place to pay this overseer general and these deputy drivers these extravagant salaries, and if anything is left it is to be paid into the Treasury of the United States.

Then again I think there is a chance for a very handsome speculation by these Commissioners and deputy drivers. The bill provides that they are also "to take possession of all personal property found on such estate;" and what are they going to do with it? They take possession of it, and there is an end of it so far as the bill is concerned. How are they to account for it? To whom are they responsible? What is the object of taking the personal estate into possession—horses, corn, and things that perish in the using? What are they to do with them? How are they to account for this personal property? The bill does not seem to provide.

Sir, I will not detain the Senate by going through this bill. Every section of it, it seems to me, is liable to objection of the same kind and character. Some of the provisions of the amended bill reported by the Senate committee, if it passes, ought to be modified; for instance, the one in regard to the character of the leases. They are to be but for a year, I believe. You can raise but half a crop on these abandoned lands if you lease them but for a year. If you lease them during the winter you can raise a crop of corn and oats the next summer, but you cannot raise a crop of wheat, because you sow in the fall, and it does not ripen until the next year.

But, Mr. President, having attracted, as I see I have, the attention of Senators, and that was the object of my rising, to a critical observation of the special provisions in this bill, and more especially having stated the fact, that I believe whatever may have been its intent, its result will be practically the reenslavement of the African race, I am content to leave the subject with the Senate.

It has been a matter of wonder to me that the honorable Senator from Massachusetts failed to discover the only practical mode by which the difficulties which he seeks to remedy could, in my estimation, be obviated. Why, sir, we hear cries every day from Massachusetts, Connecticut, and various other States, of the lack of labor, that the war has so much subtracted from the labor of those States that the manufactories and the farms to a great extent are lying idle. It is so, I believe, in all the States. Now, here are thrown loose upon us, without employment, a vast number of athletic men and women. Would it not be a much better policy, Mr. President, would it not be a vastly better policy to clothe these Commissioners with the simple duty of finding in those States places and employment for these freedmen, where they could be under the influence of free institutions, where they could be brought in contact with the law and with the labor, according to the idea, and the good idea, too, of the honorable Senator from Massachusetts, where they would not be left to the arbitrary will of irresponsible Commissioners to control them, but where as citizens they would have all the guarantees and protection of the Constitution and laws and the courts in the forms of law? Why not place them there and give them employment there? Therefore I move to amend the amendment of the honorable Senator from Delaware, which I suppose he does not expect to pass, [Mr. SAULSBURY. I do, sir,] by striking out all after the enacting clause and inserting the following:

That it shall be the duty of said Commissioner to procure places and employment for as many of said freedmen as may be practicable with the farmers, mechanics, and manufacturers of the free and loyal States where the laws of said States shall not prohibit it, and that for the purpose of more effectually accomplishing this object he open a correspondence with the Governors and various municipal authorities of said free and loyal States requesting their cooperation.

The PRESIDENT *pro tempore*. The Chair will inquire to what the Senator proposes his amendment?

Mr. WILLEY. To the amendment of the Senator from Delaware.

The PRESIDENT *pro tempore*. The Chair

will suggest—the Senator may not be aware of the fact—that that is an amendment to an amendment, and a further amendment cannot be in order.

Mr. WILLEY. Then, sir, I will withdraw my amendment for the present.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Delaware to the amendment of the committee.

Mr. JOHNSON. The amendment offered by the Senator from Delaware, which is now before the Senate, merely affirms or seeks to affirm the Constitution of the United States; and as I am at a loss to imagine how the validity of that instrument can in any manner be made greater than it is by any legislation I shall vote against the amendment. It is neither more nor less than stating that the Constitution of the United States should be enforced. If it is not enforced practically, the fault lies with the Executive. If they have abandoned all the guarantees of the Constitution, which they have sworn to support, what security is there, what reason is there to think that they will not abandon the duty which apparently would be enforced upon them by this proposition?

In the next place, it is an amendment not germane to the bill itself. The bill professes, if I understand it, to deal only with such portion of the States of the United States as are in rebellion. The Constitution of the United States in the States in rebellion is only so far in force as is consistent with the state of war which exists between the United States and the States in rebellion. The trial by jury, and all the personal guarantees that the Constitution provides for a state of peace, are necessarily at an end for the time in a state of war as between the United States and the people, if they be a portion of the United States, who are in a state of war with the United States. As the bill refers only to the rebellious States, the whole operation of the amendment if it were to pass, if it could have any operation, would be upon the States that are not in rebellion; and with reference to the States that are not in rebellion, if they are not protected by the Constitution, my friend and Congress might pile acts upon acts, and we should still be without protection.

Mr. SAULSBURY. If the honorable Senator from Maryland had lived in the days when the sovereign of England guaranteed to his people the rights of Magna Charta, I presume he would have condemned the action of that people afterwards who, when that Magna Charta was violated, wished its reaffirmance; for his first objection is that these rights are guaranteed by the Constitution, and if they are violated the Executive is to blame. So, sir, might have said the honorable Senator had he lived in the days to which I have referred, when the Executive of England violated the rights secured by Magna Charta, "It is useless for you to ask their reaffirmance, because they are there already." Not so was the spirit of liberty in those former days; but when chartered rights were violated, the people, whose rights were interested, rose up and demanded their reaffirmance; and under the reign of one king alone, I believe some several times was that reaffirmance asked.

Sir, in times like these it is well to look back into the precedents of the past, for history in these times is but repeating itself. Human liberty—the liberty of free, noble-born, high-spirited white men—is but imitating the example of the noble champions of liberty in the past; and the example of those champions comes up in thunder tones today condemnatory of the principle laid down by the honorable Senator from Maryland. Admit that my amendment but reaffirms the Constitution of the United States, would it not be refreshing to thousands of American citizens whose constitutional rights have been violated, the violation of which has been condemned by many who have had the boldness to condemn it in the face of arbitrary power—would it not bring gladness to their hearts to know that the representatives of the sovereign States of this Union, having witnessed these violations long enough, meant to give to their constitutional rights the vote of their approval? Sir, pass my amendment, and joy will spring up in many an aching heart; he who without cause now groans in unlawful bastille prisons would be cheered; the weeping mother and the worse than orphaned child would take heart again, and they would say that the representatives of what was once the great Republic of the United

States have arisen at last to a sense of the just constitutional rights of this people, and they mean to assert in the face of the exercise of arbitrary power that they cherish those rights, and will see that they shall be preserved.

But the honorable Senator says the amendment is not germane to the bill. That is no objection to its adoption. It has been held by the Senate that any amendment, whether germane or not, may be made to a bill. On one occasion a large appropriation bill was tacked on to a pension bill as an amendment, and the point of order being made, (and the history of the Senate of the United States will show it,) it was decided by the Senate, as I understand, that it could be done. I may be mistaken in the facts, but I know that two bills wholly incongruous were united. I have often heard it from the late distinguished Senator from Maryland, Mr. Pearce.

I have offered this amendment to this bill because I did not believe that if I offered it as a separate resolution I could get a vote upon it. In my feeble attempts on all previous occasions to assert by resolutions, either of inquiry or affirmative in their nature, the constitutional rights of the people, I have been disappointed, and have never been allowed to take them up for consideration. The bill of my honorable friend from Kentucky, [Mr. POWELL,] providing against military interference with the freedom of elections was introduced early in the session and debated, but he has not been allowed to take it up for consideration since it was postponed on the motion of the honorable Senator from Maryland [Mr. JOHNSON] that he might discuss it.

Now, sir, no evil can result from the adoption of this amendment. It is not liable to any objection arising under your rules. It can do no possible harm. It asserts, it is true, constitutional rights. I offer it, therefore, that the people of this country may know that there is respect in the American Senate for those constitutional rights, and that they will see that in the future those rights are preserved.

Mr. JOHNSON. I yield to no member of the Senate in devotion to all the principles of freedom which make a part of the Constitution of the United States, and which are guaranteed by that instrument; and when any portion of the Government shall violate those principles, and I am called upon officially to declare an opinion, I shall not hesitate to meet it, and to meet it, if the fact be true, by punishing the violation to the whole extent of any existing law. But the amendment offered by the Senator from Delaware to this bill is not offered as a censure upon any branch of the Government.

Mr. SAULSBURY. I do not wish to censure them.

Mr. JOHNSON. So I supposed. I have a right, therefore, to assume, as far as that amendment is concerned, that every branch of the Government has conformed to the Constitution; that there have been no violations. However the assumption may be true in point of fact, I have a right, for the purpose of passing upon the propriety of this amendment as it stands, to assume that to be true.

My friend talks about the reiteration by the barons of Magna Charta from time to time. If he will bring in (provided it is a matter over which the Senate have any control) a proposition of censure, and will establish the case as against the President or any member of the Administration, of an intentional violation of the Constitution, he will not find me lagging far behind.

But the question now is, as presented by his amendment to this bill, are we to declare that the Constitution is in force? My friend says it was done in England, and it had a wonderful, happy effect upon the then majesty, and it was done more than once. Does he think if there has been any violation of the Constitution that this reiteration of the Constitution will guard us more effectually in the future than the Constitution itself has in the past?

Mr. SAULSBURY. I hope it will be a warning.

Mr. JOHNSON. But that single warning will have no effect. Put it into every bill that is presented; and to-morrow morning when we have bills in relation to other subjects before us, the honorable member if he carries out his theory will be found offering an amendment like this, that the

Constitution of the United States is in force. Where are we to stop?

Now, sir, I have stated as another reason for not voting for this particular amendment that it is not germane to the bill. The honorable Senator says there was a case in which an appropriation bill was attached to a pension bill. Does not the honorable member see that that pension bill was an appropriation bill; that it dealt with money in the Treasury just as directly as any other mode of appropriating money in the Treasury; and that therefore, so far from the two propositions not being germane in the eye of parliamentary law, there was an exact similarity?

I repeat, Mr. President, that come when the time will, when this great charter of American freedom is to be vindicated against all its violators, and more certainly just in proportion as they may hold high and elevated situations, he will not find me behind him in using whatever ability I may possess in laying bare the enormity of such transgressions, and visiting upon the parties who have been guilty of them all the punishment which the laws have provided. And if it does not come in any parliamentary or judicial form, by any parliamentary or judicial proceeding, but does come before the grand inquest of the nation, who are in all cases the rightful judges of what shall be done to a certain extent with those who have violated the Constitution, and I am satisfied that persons of that description are again seeking popular support by seeking reelection to the offices that they now fill, I will use whatever ability I possess to expose their conduct before that inquest and try to obtain a verdict at their hands, which, while it will punish the present guilty, will be a warning to all who shall have thoughts of guilt in their mind hereafter.

Mr. SAULSBURY. The honorable Senator from Maryland asked me if, in my judgment any persons now exercising power have violated any of the provisions of the Constitution of the United States which are recited in this amendment why I did not bring in a resolution of censure, and if I presented a case where they had so violated he would unite with me in voting for the resolution of censure. Sir, it is because I have too much respect for the Constitution of the United States, notwithstanding I do know that persons are exercising this unwarrantable power and doing these unwarrantable things, that I do not bring in a resolution of censure. The Constitution of the United States points out the mode and manner in which you shall censure the high executive officers of this Government. It is not by a simple resolution of censure of this body, but it is by articles of impeachment in the other House, in which case the honorable Senator and myself would be called upon to act as judges. That is the mode and that is the manner which the Constitution of the United States points out for censuring those clothed with office under the Constitution of the United States who abuse their power.

The honorable Senator says that he has a right to presume, at least so far as this amendment is concerned, that there have been no such violations of the Constitution; and yet, sir, as a matter of fact there is no gentleman in this country who knows better than the honorable Senator that those violations have occurred, for he himself was frequently called upon before he became a member of this body to render his professional services to procure the release of persons who have been arbitrarily, without process of law, and contrary to the Constitution of the United States, imprisoned in forts and bastilles.

The Senator says that this amendment is not germane to the bill. If the honorable Senator thinks that it is not germane to the bill what is the mode for him to take advantage of it? If he thinks we cannot properly and legitimately add on this amendment to the amendment proposed by the committee of the Senate, his proper plan is to raise the point of order, and ask for the judgment of the Presiding Officer. That would bring up the question.

Mr. FOOT. You cannot raise a point of order on the question of congruity.

Mr. SAULSBURY. I presume that some of those who will vote against my amendment will do it because it is incongruous. I should like to have the opinion of the distinguished ex-presiding officer of the Senate, before this debate closes, whether my amendment to this bill is proper or

not; I mean, whether there is anything in the rules of the Senate that prevents this body from so amending the bill.

Mr. FOOT. I will say to the Senator from Delaware that it is not competent for the Presiding Officer to rule any proposition in the form of an amendment out of order upon the ground of incongruity to the matter to which it is proposed as an amendment. The want of congruity may be the best of all reasons for voting against the proposition, but a question of order cannot be raised upon it upon which the Chair can decide it out of order.

Mr. SAULSBURY. I hope that honorable members of the Senate who I know profess to believe that the principles embodied in the amendment are correct will give us a direct vote upon it, and not give us a vote the reasons for which the country cannot understand. The country can understand this, sir: that if this Senate votes affirmatively upon my amendment, they mean to assert the principles therein contained; but if honorable Senators vote against it, then they know one of two things: either that honorable Senators are not in favor of the principles contained in the amendment, or else there is some technical objection to prevent them from so voting; but what that technical objection is, or how many technical objections there may be, the country cannot understand. But, sir, I will not pursue the debate further.

Mr. GRIMES. I move that the Senate do now adjourn.

Mr. SUMNER. I hope we may be allowed to have a vote on this question.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, June 14, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

OVERLAND MAIL.

Mr. ALLEY. I ask the unanimous consent of the House to report a joint resolution from the Committee on the Post Office and Post Roads in relation to the continuance for one year of the overland mail to California.

There was no objection.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported a joint resolution to authorize the Postmaster General to extend the contract with the Overland Mail Company; which was read a first and second time.

The joint resolution, which was read, provides that the contract with the Overland Mail Company be renewed for one year from the 1st day of July next on the same terms and conditions as the present existing contract.

Mr. ALLEY. Mr. Speaker, I will state for the information of the House that a bill came from the Senate authorizing the Postmaster General to contract with the Overland Mail Company or any other company, if in his discretion he should deem it expedient, for the continuance of the service of carrying the mails by the overland route for four years, which bill has been before the Post Office Committee of the House, and we have been unable to agree fully, and if we had, it has been impossible to report to the House, inasmuch as that committee has not been called for reports for several months. The Postmaster General has advertised for bids, and the time expires to-morrow, and it is therefore necessary to have immediate action. Under the circumstances it was regarded by the parties in interest on all sides that it was for the interest of the service and of the Government that this contract should be extended for one year. And in the present state of the currency it is impossible to determine what the service may be actually worth for so long a time as four years.

It is clear to my mind, therefore, and I think it is the unanimous opinion of the committee, that this, under the circumstances, is the best thing to be done. I therefore call for the previous question.

Mr. STEVENS. Will the gentleman yield to me?

Mr. ALLEY. Certainly.

Mr. STEVENS. Has not this contract been

advertised for by the Department, and are they not receiving proposals?

Mr. ALLEY. The contract was advertised for, but was afterwards withdrawn, as was stated, at the request of the Senate committee, for the purpose of procuring additional legislation. That additional legislation it has been impossible to obtain in consequence of the committee being unable to report. The interest of the Government requires that immediate action should be taken, and, in my judgment, this course will save to the Government a very large amount, perhaps \$1,000,000.

Mr. STEVENS. When does the contract expire?

Mr. ALLEY. On the 1st of July; but the time for receiving bids expires to-morrow. As I learn, scarcely any bids have been presented, and it will place the Government in the hands of a few individuals.

Mr. STEVENS. Let us postpone this to see what these bids are. I suggest that it be postponed till Monday next.

Mr. ALLEY. I will say that the Senate have had the matter under consideration, and have reported that the Overland Mail Company shall receive \$150,000 additional compensation to what they have received during the last four years. That bill is now before the Post Office Committee of this House for consideration. In my opinion that is a very exorbitant price for the Government to pay for that service, if we had a sound currency, which we hope to have long before the four years will expire.

Mr. STEVENS. I do not like to vote against this resolution, but I want to see what these bids are.

Mr. ALLEY. It will be too late.

Mr. STEVENS. Why too late? It does not expire till the 1st of July.

Mr. ALLEY. Because the Postmaster General will, I fear, hardly feel himself authorized to reject those bids without any suggestion from Congress. This resolution extends the contract for only one year. It is already extended to next October. Consequently it really extends it only nine months, which gives an opportunity to mature a bill at the next session and protect the interests of the Government to the fullest extent.

Mr. SHANNON. In my opinion this resolution ought not to pass. The Postmaster General did advertise for bids to carry the overland mail to California, but I understand at the request of a single individual he has withdrawn them.

Mr. ALLEY. It was, as the gentleman states, by a single member of the committee, but with the sanction of the committee, and in the note to the Postmaster General he stated that it was by direction of the committee. The Postmaster General acted on that authority, and the committee, as I understand, did not disclaim that action.

Mr. SHANNON. In view of the fact that the contract will expire on the 1st of July, I do not see why the Postmaster General, at the instance of any member or committee of either House, thought proper to withdraw those bids. We believe, and indeed we understand and know, that if the advertisements had been continued competent parties would have bid to carry the mails to the Pacific coast within the schedule time set forth in the advertisement. That some responsible party would have taken the contract on the 1st of July there is no doubt, in my opinion. Now, sir, the management of carrying the mail to Salt Lake, St. Joseph, and Atchison, is notoriously outrageous. We wanted a better management and more efficiency in carrying the mail. The carrying of the mail from Salt Lake to Folsom, California, is well done, but it is notorious that it is outrageously managed from Salt Lake in this direction. Complaints of all these matters were made known to the Postmaster General, and he was informed that the service required more efficiency, more competency, more responsibility, and better management, and that we desired that the contract should be opened to competition, and that the mail should be carried within fifteen or twenty days. Now, sir, the extending of this contract for one year in this manner is a piece of patch-work, and I hope the resolution will not pass.

Mr. ALLEY. What the gentleman states may or may not be correct. On that I have nothing to say, for that is not the question at issue before the House at the present time. If, however, what

he states is correct, there is the strongest reason existing why this resolution should be passed, because it extends this contract for only a short time. If it is not passed these parties will probably obtain that contract for four years, and at a much larger sum than is provided to be paid by this joint resolution.

So that by every consideration of interest, justice, and propriety, if there is anything in the gentleman's argument and if his statements are correct, this resolution should be adopted by the House. I am certain its passage will save a very large amount to the Government. Whether the Postmaster General has done right in withdrawing that advertisement has nothing to do with the case. He acted, I have no doubt, in perfect good faith, and at the suggestion and in accordance with the wish and direction, as he supposed, of the Committee on Post Offices and Post Roads on the part of the Senate.

The advertisement was withdrawn and another substituted, but too late to allow these parties to come in and make bids and obtain their supplies; and now the Government finds itself in a position without protection at all against any of these parties, and if the Postmaster General is obliged to accede to any propositions which may be submitted, the probability is that the Government will suffer to the extent of several hundred thousand if not million dollars.

Mr. LOAN. I would inquire of the gentleman how he knows that the second advertisement was too late for bids to be put in that would authorize the granting of a contract to these parties. How does the gentleman know what the bids are, and that it is too late?

Mr. ALLEY. Parties have been waiting for the action of Congress, and this company has finally agreed to extend the time to October next; and no matter how I obtained my knowledge. I have information which satisfies my mind, and which justifies me in making this declaration to the House. I say here upon my judgment and responsibility that I believe that if the resolution is not adopted it will place the Government to a great extent so far as this service is concerned in the hands of two or three parties, and that it will cost the Government several hundred thousand if not million dollars. If the resolution is adopted it will only extend the time from October to July, and will give ample opportunity next session to investigate the whole matter, and to settle it upon such a basis as will be just to the Government and all the parties interested.

Mr. STEVENS. I cannot see how letting this thing go over to next Monday will do any harm. I see no great harm to accrue to the Government from accepting these bids, and I presume neither the Government officers nor the gentleman know what these bids are. I cannot presume that they do. I hope, therefore, the gentleman will allow me to postpone the resolution until Monday next. If not, I hope the House will not pass it. I cannot understand the objection to postponing the resolution until Monday, when we shall know exactly what the bids are.

Mr. ALLEY. I see nothing to be gained by postponing; but, on the contrary, great harm will result, if it is any object to save a large amount of money to the Government.

Mr. STEVENS. I hope the gentleman will allow me to move to postpone.

Mr. ALLEY. I cannot. I insist upon the previous question.

Mr. STEVENS. I hope the House will not second it.

The question was taken; and there were—ayes 33, noes 36; no quorum voting.

Tellers were ordered; and Messrs. ALLEY and SHANNON were appointed.

The House divided; and the tellers reported—ayes 56, noes 40.

So the previous question was seconded.

The main question was then ordered to be put; and being put, the joint resolution was ordered to be engrossed and read a third time.

Mr. SHANNON called for the reading of the engrossed joint resolution.

The SPEAKER stated that the joint resolution not having been engrossed, it went to the Speaker's table.

VOTES RECORDED.

Mr. KELLOGG, of New York. I ask unanimous consent of the House to record my vote on

the last vote taken yesterday—that on the passage of the bill for the repeal of the fugitive slave law.

Mr. ANCONA. I will not object if the same privilege is accorded to me. I was absent yesterday under the impression that I was paired.

Mr. ARNOLD. I ask the same privilege.

No objection was made.

Mr. ARNOLD and Mr. KELLOGG, of New York, voted "ay."

Mr. ANCONA voted "no."

Mr. FENTON. I was obliged to leave the House yesterday afternoon in consequence of ill-health, and my colleague [Mr. STEELE] kindly paired with me on the bill to repeal the fugitive slave law. We are both present now, and I ask that we have leave of the House to record our votes.

No objection was made.

Mr. FENTON voted in the affirmative, and Mr. STEELE, of New York, in the negative.

Mr. HUBBARD, of Iowa, by unanimous consent, changed his vote from the negative to the affirmative on the resolution reported from the Committee of Elections declaring Mr. Jayne not to be entitled to a seat as Delegate from Dakota.

SALES OF GOLD.

Mr. HOOPER called for the regular order of business.

The SPEAKER stated the regular order of business to be the consideration of the bill (S. No. 106) to prohibit certain sales of gold and foreign exchange, coming up as unfinished business.

Mr. FERNANDO WOOD. Will the gentleman from Massachusetts withdraw the previous question long enough to afford me an opportunity of saying a few words on this bill prohibiting the sales of gold?

The SPEAKER. It is not in the power of the gentleman from Massachusetts to do it. The previous question was sustained on the third reading of the bill, which cut off debate, and a motion was then made to lay the bill on the table, which was also undebatable. The gentleman can speak now only by unanimous consent.

Mr. FERNANDO WOOD. I was absent from the House when this bill was under consideration last week. I desire an opportunity to be heard upon it, and I would like to say what I have to say now.

The SPEAKER. The Chair will state the condition of the question. After the previous question was sustained on the third reading of the bill, a motion was made to lay the bill on the table, which prevailed. A motion was then entered to reconsider the vote by which the bill was laid upon the table; and a motion has been made to lay the motion to reconsider on the table. In this state of the question the gentleman from New York asks leave to speak for a few minutes. Is there objection?

Mr. SPALDING. I object.

Mr. ELDRIDGE demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 63, nays 79, not voting 39; as follows:

YEAS—Messrs. James C. Allen, Ancona, Bally, Augustus C. Baldwin, Brooks, James S. Brown, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Ganson, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Herrick, Higby, Holman, Hutchins, Philip Johnson, William Johnson, Kernan, King, Knapp, Law, Lazear, Le Blond, Mallory, Marcy, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, John O'Neill, Pendleton, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, William G. Steele, Sules, Strouse, Stuart, Sweet, Thomas, Tracy, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—63.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Ingersoll, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Marvin, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perlman, Pike, Price, Alexander H. Rice, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Upson, Van Valkenburgh, Webster, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—79.

NOT VOTING—Messrs. William J. Allen, Baxter, Bliss, William G. Brown, Chandler, Freeman Clarke, Clay, Deming, Dumont, Finck, Gooch, Grinnell, Hall, Benjamin G. Harris, Jencks, Kalbfleisch, Kasson, Long, McAllister, McBride, Middleton, Daniel Morris, Nelson, Noble, Odell,

Patterson, Perry, Pomeroy, William H. Randall, Edward H. Rollins, James S. Rollins, Stebbins, Voorhees, Ward, Elihu B. Washburne, William B. Washburn, Winfield, Benjamin Wood, and Yeaman—39.

So the House refused to lay the motion to reconsider on the table.

Mr. W. J. ALLEN stated (during the roll-call) that he was paired with his colleague, Mr. WASHBURN.

The question recurred on the motion to reconsider the vote by which the bill and amendments were laid upon the table.

The question was put; and the motion to reconsider prevailed.

The question recurred on laying the bill and amendments on the table.

Mr. FERNANDO WOOD. Will the gentleman from Massachusetts [Mr. HOOPER] withdraw the previous question to enable me to submit a few remarks?

The SPEAKER. The gentleman from Massachusetts cannot withdraw it, as the House has ordered the main question.

Mr. FERNANDO WOOD. I ask the unanimous consent of the House to speak for ten minutes on the bill.

Mr. SPALDING. I object.

The question was taken; and the House refused to lay the bill and amendments on the table.

The question recurred on the amendment proposed by Mr. HOOPER, in the nature of a substitute for the first section, as follows:

That it shall be unlawful to make any contract for the purchase or sale or delivery of any gold coin or bullion to be delivered on any day subsequent to the day of making such contract, or for the payment of any sum, either fixed or contingent, in default of the delivery of any gold coin or bullion, or to make such contract upon any other terms than the actual delivery of such gold coin or bullion, and the payment in full of the agreed price thereof, on the day on which such contract is made, in United States notes or national currency, and not otherwise; or to make any contract for the purchase or sale or delivery of any foreign exchange to be delivered at any time beyond ten days subsequent to the making of such contract; or for the payment of any sum, either fixed or contingent, in default of the delivery of any foreign exchange, or upon any other terms than the actual delivery of such foreign exchange within ten days from the making of such contract, and the immediate payment in full of the agreed price thereof, on the day of delivery, in United States notes or national currency; or to make any contract whatever for the sale or delivery of any gold coin or bullion of which the person making such contract shall not, at the time of making the same, be in actual possession. And it shall be unlawful to make any loan of money or currency not being in coin to be repaid in coin or bullion, or to make any loan of coin or bullion to be repaid in money or currency other than coin.

And on the amendment to the amendment offered by Mr. DAVIS, of New York, to add the following proviso:

Provided, however, That during the operation of this act the laws of trade and the law of gravitation be, and they are hereby, suspended.

Mr. HOOPER. I propose to modify my amendment.

Mr. BROOKS. I object to any modification.

Mr. COX. I propose to move to amend the title.

The SPEAKER. That motion is not in order at this stage of the bill.

Mr. BROOKS. I rise to a question of order. The amendment, as read by the Clerk, is different from the printed amendment of the gentleman from Massachusetts.

The SPEAKER. The gentleman modified his amendment the other day in various particulars.

Mr. DAVIS, of New York. I ask leave to withdraw the amendment to the amendment.

The SPEAKER. The gentleman can only withdraw it by unanimous consent.

Mr. BROOKS. I object.

The question was taken on the amendment to the amendment; and it was rejected.

The question recurred on Mr. Hooper's amendment; and it was agreed to.

The bill, as amended, was then read the third time.

Mr. HOOPER moved the previous question on the passage of the bill.

Mr. ANCONA demanded tellers.

Tellers were ordered; and Messrs. ANCONA and ALLISON were appointed.

The House divided; and the tellers reported—ayes 64, noes 54.

So the previous question was seconded.

The main question was then ordered to be put.

OVERLAND MAIL.

Mr. ALLEY. I rise to a privileged question.

I move to reconsider the vote by which the joint resolution in relation to the continuance, for one year, of the overland mail to California was ordered to be engrossed and read a third time.

The motion was entered.

SALES OF GOLD—AGAIN.

The question being on the passage of the bill, Mr. ANCONA demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 62, not voting 43; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Dawes, Dixon, Donnelly, Eckley, Eliot, Farnsworth, Peaton, Frank, Garfield, Gooch, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jencks, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Penman, Pike, Price, Alexander H. Rice, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Starr, Stevens, Thayer, Upton, Van Valkenburgh, Webster, Whaley, Wilder, Wilson, and Windom—76.

NAYS—Messrs. James C. Allen, Ancona, Bailly, Augustus C. Baldwin, Brooke, James S. Brown, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kuhlreich, Kernan, Knapp, Law, Lazear, Le Blond, Mahony, Marcy, McDowell, McKinney, William H. Miller, James K. Morris, Morrissey, Pendleton, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Thomas, Tracy, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—62.

NOT VOTING—Messrs. William J. Allen, Bliss, Broomall, William G. Brown, Chandler, Freeman Clarke, Clay, Creswell, Thomas T. Davis, Deming, Driggs, Dumont, Grinnell, Hall, Benjamin G. Harris, Higby, Kasson, King, Long, McAllister, McBride, McInroe, Middleton, Morrill, Nelson, Noble, Odell, John O'Neill, Perry, Pomeroy, William H. Randall, Edward B. Rollins, James S. Rollins, Stebbins, Voorhees, Ward, Elisha B. Washburne, William B. Washburn, Williams, Winfield, Benjamin Wood, Woodbridge, and Yeaman—43.

So the bill was passed.

During the roll-call,

Mr. ALLISON stated that his colleague, Mr. KASSON, was detained from the House by illness.

Mr. HOOPER moved the previous question on the title of the bill.

Mr. COX. I move to amend the title by making it read "still further to depreciate the currency."

The SPEAKER. If the previous question be not seconded, the amendment will be in order.

The previous question was seconded and the main question ordered, which was on agreeing to the title of the bill.

Mr. COX. I move to amend the title of the bill.

The SPEAKER. No amendments in order, the previous question having been ordered.

Mr. COX. I rise to a question of order. In the first place I gave notice of my intention to amend this title long before the previous question was called; but I waive that, and raise another point of order. I submit that the Constitution requires that the title of each bill shall express the object and purpose of it. Now, the object and effect of this bill is to depreciate the currency of the country and embarrass the commerce of the country. The title of the bill does not conform to that object, and therefore is not in order.

The SPEAKER. The Chair overrules the question of order. The gentleman from Ohio did give notice of his intention to move to amend the title, but, as the gentleman from Ohio very well knows, the uniform practice of the Chair is to recognize the gentleman having charge of the bill at every stage.

The title of the bill was passed.

Mr. HOOPER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CIVIL APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon House bill No. 506.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. MORRILL in the

chair,) and proceeded to the consideration of House bill No. 506, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865, and for other purposes.

On motion of Mr. STEVENS, by unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN announced that the bill would be read by sections for amendment.

Mr. HOLMAN. Before the reading of the bill for amendments is commenced I rise to make an inquiry of the Chair. Some time ago a bill was brought before the House by the gentleman from Pennsylvania (Mr. STEVENS) from the Committee of Ways and Means, when upon the gentleman's own motion upon its second reading it was postponed. Objection was made to the second reading of the bill for the purpose of giving an opportunity of making certain points of order upon provisions in that bill, and upon the suggestion of the gentleman from Pennsylvania its consideration was at that time passed over.

Subsequently, the bill which I hold in my hand was brought before the House not by the Committee of Ways and Means but by a gentleman who is a member of that committee upon his own individual responsibility. The bill was introduced, and by order of the House referred to the Committee of the Whole on the state of the Union on Monday morning last during the morning hour on the call of the States for resolutions and the introduction of bills on leave.

I submit that this is introducing a new practice into the House, a practice which the Committee of Ways and Means, with all the responsibility that is upon them, having to a great extent in their charge the business of the House, cannot justify for a moment. It was known that this bill contained certain provisions which could not properly be incorporated into an appropriation bill, and gentlemen desired to avail themselves of their right under the rules of the House to raise points of order upon them, and it was upon that point that the bill was laid over on its second reading. But, while that bill was thus pending in the House, this bill containing the same provisions was introduced and referred here in the irregular way I have stated; and if the proceeding is to be sustained by the House it will be seen that members will in this way be deprived of their just rights on this floor.

Mr. STEVENS. I do not know whether the gentleman has made a point of order or not.

Mr. HOLMAN. I cannot raise a point of order on this bill. It is here in committee by the order of the House. The history of how it came here the gentleman very well understands. I simply rose to call the attention of the House to it for the purpose of showing how gentlemen had been deprived of their rights of raising questions of order upon provisions that are improperly in the bill.

Mr. STEVENS. I have only to say that the bill to which the gentleman refers will come up in its turn. This bill contains some of the provisions of that bill and some important ones, but that bill contains some provisions that are not in this. This bill came into the House in a legitimate way. It has been referred by the House to the Committee of the Whole on the state of the Union, and I presume we have nothing to do but to consider it.

Mr. HOLMAN. I ask the gentleman from Pennsylvania if it is not the intention to substitute this bill for the one pending in the House upon which our points of order were to be raised.

Mr. STEVENS. I was not here when this bill was introduced. The Committee of Ways and Means had nothing to do with its introduction, and we have nothing to do now but to consider it.

Mr. HOLMAN. As far as my experience is concerned, and gentlemen who are better acquainted with proceedings here agree with me, this is the first time an appropriation bill has ever come before the Committee of the Whole except through the channel of the Committee of Ways and Means. It is made their duty by law to report it within a certain time, or report their reasons for not reporting it.

Mr. STEVENS. The items in this bill are some of the items of the bill to which the gentleman objected, and were therefore passed on by the Committee of Ways and Means. As the

gentleman made a point of order, in order to obviate difficulties of that kind, as they might be out of order, they were left out, and the pending bill was introduced containing some items which the Committee of Ways and Means have sanctioned. As there were some not in order in that bill this was prepared and introduced to obviate that difficulty.

Mr. HOLMAN. One question and answer will settle all I desire to obtain. I ask the gentleman from Pennsylvania whether this bill has been framed in strict conformity to the rules of the House in reference to what appropriation bills ought to be?

Mr. STEVENS. I will answer that items in it have been examined and sanctioned by the Committee of Ways and Means.

Mr. HOLMAN. I do not think that the gentleman answers my objection. The objection to the other bill was that it contained appropriations not authorized by the rules of the House. I ask whether in this revision to which he refers those portions of the bill which he reported himself, and to which the objection was made that they were not appropriate to appropriation bills, were stricken out?

Mr. STEVENS. I am not able to judge how far the Speaker would have decided some of these to be in order. This bill contains some items I have never assented to, although the majority of the Committee of Ways and Means have sanctioned them. I will not say that they are not in order, but they are items for which I will not vote.

Mr. HOLMAN. All I have to say I can say in a single word: it is the first instance where a practice of this kind has been resorted to to deprive members of their rights upon this floor.

Mr. STEVENS. I move that the first reading of the bill be dispensed with.

Mr. HOLMAN. I object, and call for the first reading of the bill.

Mr. PENDLETON. In relation to the subject under discussion I desire to say that I introduced this bill, and introduced it in accordance with the rules of the House last Monday morning, and it was, as under the rule it must be, referred to the Committee of the Whole on the state of the Union. I am not aware there has been any evasion or any transgression of any rule of order.

Mr. BROOKS. Mr. Chairman, I propose to come into collision with my friend from Ohio (Mr. PENDLETON) on this bill, in order to call the attention of the House more particularly to the extraordinary mode of legislation which has sprung up in this House, by which private bills, private claims, which cannot be brought before the House in any proper and legitimate way except on report by the Committee of Claims, are put into appropriation bills, and then forced through as coming from the Committee of Ways and Means as if in regular order. If I were to make these remarks to apply to the other side of the House, they would not have that force as when I make them on a gentleman who is a political associate of mine, ostensibly the father of this bill, although it comes from the Committee of Ways and Means.

I call the attention of this House to the last section of the bill. It provides that the ninth section of the act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1864, and for the year ending June 30, 1863, and for other purposes, approved March 3, 1863, appropriating thirty per cent. of the cost of engraving the special dies for internal revenue stamps, not to exceed in amount \$20,000, be so amended as to enable the Secretary of the Treasury to pay the contractors, Butler & Carpenter, the sum of \$20,000 in full of all claims for indemnity. I do not know who Butler & Carpenter are. I presume that they have an undoubted right to this money, or this appropriation would not have been put in the bill. But here is an appropriation bill, every item of which should be in pursuance of some statute in order to be reported from the Committee of Ways and Means.

Mr. STEVENS. I will say that Butler & Carpenter are persons who are engaged in printing stamps for the Government, and this item was passed in pursuance of the request of the Treasury Department. The whole matter was submitted to and acted on by the Committee of Ways and Means.

Mr. BROOKS. The legitimate way of doing

business is, not that these communications shall be addressed to the Committee of Ways and Means, but to the official organ of this House, the Speaker, to be read by the Clerk.

Mr. STEVENS. It has been the uniform practice since I have been here to send these matters to the Committee of Ways and Means.

Mr. BROOKS. I beg the gentleman's pardon. When I was a member of the Committee of Ways and Means we never received any communications from the Departments asking for appropriations except through the Speaker of the House, and the reason was that when communications reached the Speaker they were made matter of record, while these communications which are brought before the Ways and Means Committee are not matters of record, and not hereafter to be known in the public history of the country.

Mr. STEVENS. The gentleman will remember that that was in old times, when he and I were young men; but now we are old fogies.

Mr. BROOKS. Oh! for those old happy days once more.

Mr. STEVENS. I should be happy if we could go back. I would go back thirty years. If the gentleman will consult the rules, he will there find communications spoken of sent by the Departments to the committee.

Mr. BROOKS. I speak as an old fogey and as an antiquarian of this House—as one who has been about this House for thirty years—and I say from observation and knowledge that in the better days of the Republic appropriations intended for private purposes—for contractors or individuals—never came through the Committee of Ways and Means; and in those days whenever the Secretaries wished to carry appropriations, their letters were addressed to the legitimate organ of this House, the Speaker, and not to the chairman or any other gentleman of the Ways and Means Committee.

The result of a departure from the old practice is that now in these latter days of the Republic whenever an object cannot force its way through the legitimate channels of the House the Committee of Claims or the Committee on Expenditures, or some other of the committees of this House, it forms a combination or association by which, linking itself with other appropriations, it works its way through the Ways and Means in some bill they have to report.

Again, I find in this bill another private claim. I do not know but that it is just and right; I am bound to presume it is, because it is here. It is an appropriation of \$200,000 for Dr. Morton for the discovery and introduction of the anæsthetic agent, and for its use in the Army and Navy of the United States. What antecedent law is there which entitles this claim to appear in this appropriation bill? And to illustrate my idea more explicitly, I desire to say that the Ways and Means Committee, in its legitimate action, is but the clerk of the House to report appropriations which are provided for by law, and it has no right in the exercise of its powers to wander off into other purposes whatever, unless especially instructed. Its legitimate duty is but to make a record of the result of law. It is but to embody in appropriations the public statutes and enactments, and when it goes beyond that it steps into a sphere most dangerous to the public good, while it arrogates for itself substantially the monopoly of the legislation of this House.

Sir, that committee has already too much of the public business to transact without appropriating to itself any of these outside works. Its services are vast, its powers are vast, even when legitimately exercised. And I avail myself of this opportunity to say that the committee ought to be broken up into three separate divisions at least—a committee on currency, a committee on internal revenue, and a committee on the tariff. The Ways and Means take the clerk-like duties of reporting statute appropriations. But the tendency of illegitimate action now is to absorb all the other committees of the House. The right of the Ways and Means Committee at any time and on any occasion to avail itself of the privilege to report, absorbs the whole political and legislative power of the House, and concentrates and throws it all into the hands of that committee. Here is my honorable friend from Massachusetts at my right, [Mr. ALLEY], who, as head of the Committee on the Post Office and Post Roads, has

been seeking for an opportunity to report a bill from that committee; and here are the heads of other committees who have not had time to report and to bring their legitimate business before the House; so that in all probability the only ways and means by which they can this session effect their object is to hitch their measures to some appropriation bill, or beg the Ways and Means Committee to let them come within some report from that committee.

I protest against this action in the House; I protest against putting private claims into public appropriation bills; and I protest against this mode and manner of reporting a bill. In my judgment a bill was acted upon this morning (the gold bill)—I do not say through the Ways and Means Committee, but under its influence and authority—which would not have been sanctioned by the sound sense of the House if it had had opportunity to act freely upon it. But availing itself of the sanction of the Committee of Ways and Means, and under its protection, the bill has passed through by a party vote, in a good degree rallying a large portion of that (the Republican) side of the House, not all. The bill could not have made any progress at all from any other committee of the House, nor progress even from that committee, if any debate had been allowed upon the subject.

But before I sit down I beg leave once more to refer to the original practice of the Republic in those glorious halcyon days when purity reigned through all the Departments of the Government, and when private bills could not be forced into appropriation bills by the Committee of Ways and Means. Let us return to them, in our congressional action, as soon as possible. The forms, the precedents, the principles of our fathers, in their legislation, as well as in constitutional construction, alone, alone can save the Republic. And I tell the gentleman from Pennsylvania that the sooner we cease to be old and become young again as legislators, the less we go in advance of the times, and the more we retrace our steps to the steps of our forefathers, the more will posterity revere our services, and the higher shall we stand on the records of history.

Mr. WILSON. Mr. Chairman, this bill seems not to have been reported by the Committee of Ways and Means, but to have been introduced by the gentleman from Ohio [Mr. PENDLETON] on his own motion. The subject-matter of the bill has been passed upon by the Committee of Ways and Means, and that committee reported a bill to the House. In regard to that bill the right to raise questions of order pertinent to the bill was reserved. This bill having been introduced in the manner in which it was, and referred to the committee, no such reservation existed. Consequently all members who might desire to reach any improper appropriations in the bill by a question of order are deprived of that privilege. For the purpose of going back to the bill reported by the Committee of Ways and Means, embracing these same appropriations, and in order that the House may avail itself of the right to raise questions of order pertinent to the appropriations reported in the bill, I move to strike out the enacting clause.

The CHAIRMAN. That motion will take precedence of all motions to amend.

Mr. FENTON. Mr. Chairman, I had no knowledge of the bill now before the House, introduced by the gentleman from Ohio, my colleague on the Committee of the Ways and Means, until this morning.

Mr. STEVENS. I rise to a question of order; merely to ask whether, if that motion be negatived by the House, it prevents any amendment of the bill.

The CHAIRMAN. It does.

Mr. WILSON. To relieve the gentleman from Pennsylvania of any doubt on that point I will say that the motion will not be rejected, and that the House can then reach the other bill by points of order, and amend it as the House may deem proper.

Mr. STEVENS. The House will see the impropriety and danger of this. There are some things in this bill which the Committee of the Whole on the state of the Union would perhaps not agree to; and yet we will be under the necessity, if this motion shall prevail in committee and fail in the House, of taking the whole or nothing.

Mr. WILSON. It will not fail in the House. Mr. DAWES. Can we not then take the other bill?

Mr. STEVENS. No, sir; this or none.

Mr. FENTON. I only wish to remark, Mr. Chairman, that I desire that the benefit of the points of order raised by the gentleman from Indiana [Mr. HOLMAN] shall not be lost, for the reason that I am opposed to some provisions of the bill reported, and to which I think the attention of the gentleman from Indiana was directed. And I shall favor the motion of the gentleman from Indiana if we do not, by its adoption, lose the opportunity of amending the bill.

The question was taken on Mr. WILSON's motion; and it was agreed to.

So the enacting clause was struck out.

Mr. HOLMAN. I move that the committee now rise and report the bill to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MORRILL reported that the Committee of the Whole on the state of the Union had had under consideration House bill No. 506, making appropriations for the civil expenses of the Government for the year ending June 30, 1865, and had instructed him to report back the same to the House, with a recommendation that the enacting clause be struck out.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 198) making appropriations for the support of the Army for the year ending June 30, 1865, and for other purposes;

An act (H. R. No. 383) to incorporate the Home for Friendless Women and Children; and

An act to empower the Superannuated Fund Society of the Maryland Annual Conference to hold property in the District of Columbia.

CIVIL APPROPRIATION BILL—AGAIN.

The question being on striking out the enacting clause of the civil appropriation bill,

Mr. STEVENS called for the yeas and nays.

The yeas and nays were ordered.

Mr. COX. I would like to ask the Chair what will be the effect of confirming that which the Committee of the Whole on the state of the Union has done.

The SPEAKER. The effect will be the rejection of the bill.

Mr. COX. And what will be the effect on the bill if the House should refuse to strike out the enacting clause?

The SPEAKER. If the recommendation of the Committee of the Whole on the state of the Union be not concurred in, it will, by the rule adopted in 1860, be recommitted to the Committee of the Whole on the state of the Union.

Mr. HOLMAN. The adoption of the recommendation of the Committee of the Whole on the state of the Union does not interfere at all with the bill reported by the Committee of Ways and Means before the House.

The SPEAKER. That bill is not now before the House. It only rejects this bill.

The question was taken on concurring in the recommendation of the Committee of the Whole on the state of the Union; and it was decided in the affirmative—yeas 73, nays 67, not voting 41; as follows:

YEAS—Messrs. William J. Allen, Alley, Ames, Ashley, John D. Baldwin, Beaman, Blair, Boutwell, Boyd, Brooks, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Creswell, Thomas T. Davis, Dawes, Dawson, Donnelly, Eckley, Eden, Edgerston, Eldridge, English, Farnsworth, Frank, Ganson, Garfield, Gooch, Harding, Harrington, Charles M. Harris, Herriek, Higby, Hotman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Francis W. Kellogg, Orlando Kellogg, Kerau, King, Knapp, Loan, Longear, Samuel F. Miller, William H. Miller, Moorehead, Daniel Morris, James R. Morris, Morrison, Odell, John O'Neill, Pike, Price, Radford, John R. Rice, Robinson, Scott, Smithers, Spaulding, John B. Steele, William G. Steele, Stiles, Thayer, Upson, Williams, and Wilson—73.

NAYS—Messrs. James C. Allen, Alston, Ancona, Anderson, Bailly, Augustus C. Baldwin, Baxter, Blaine, Blow, Brandegee, James S. Brown, Coie, Cox, Cravens, Denison, Dixon, Driggs, Eliot, Fenton, Finck, Grider, Griswold, Hale, Hubbard, Lugesoh, Jencks, Kelley, Law, Lazear, Le Blond, Mallory, Marcy, Marvin, McDowell, Morrill, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Pendleton, Perham, Samuel J. Randall, Alexander H. Rice, Rogers, Ross, Schenck, Seofield, Shannon, Sloan, Stevens,

Strouse, Stuart, Sweet, Thomas, Tracy, Van Valkenburgh, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Windom, Fernando Wood, and Woodbridge—67.

NOT VOTING—Messrs. Arnold, Bliss, William G. Brown, Chandler, Clay, Henry Winter Davis, Deming, Dumont, Grinnell, Hall, Benjamin G. Harris, Hooper, Julian, Kasson, Littlejohn, Long, McAllister, McBride, McClurg, McIndoe, McKinney, Middleton, Leonard Myers, Nelson, Noble, Perry, Pomeroy, Pruyn, William H. Randall, Edward H. Rollins, James S. Rollins, Smith, Starr, Stebbins, Voorhees, Ward, Elihu B. Washburne, William B. Washburn, Winfield, Benjamin Wood, and Yeaman—41.

So the enacting clause of the bill was stricken out.

During the roll-call,

Mr. MORRILL said: I desire to ask for information whether if the House should vote not to strike out the enacting clause of the bill the bill would be open to amendment when its consideration should be resumed in Committee of the Whole on the state of the Union.

The SPEAKER.. It would be.

Mr. HOLMAN. Could points of order be made on the bill?

The SPEAKER. A point of order can be made on amendments in Committee of the Whole on the state of the Union, but not on the bill itself.

The result of the vote was announced as above recorded.

Mr. WILSON moved to reconsider the vote by which the enacting clause of the bill was stricken out; and also moved to lay the motion to reconsider on the table.

Mr. KELLOGG, of Michigan, demanded the yeas and nays.

Mr. STEVENS called for tellers on the yeas and nays.

Mr. WILSON withdrew his motion.

Mr. KELLOGG, of Michigan, moved to reconsider the vote by which the enacting clause was stricken out.

Mr. UPSON moved to lay the motion to reconsider upon the table.

Mr. STEVENS demanded the yeas and nays.

The yeas and nays were ordered.

Mr. FENTON. Has the hour arrived for the consideration of the special order?

The SPEAKER. It has not.

The question was taken; and it was decided in the affirmative—yeas 85, nays 49, not voting 47; as follows:

YEAS—Messrs. William J. Allen, Alcey, Anderson, Arnold, Ashley, John D. Baldwin, Beaman, Blair, Boutwell, Boyd, Brandegee, Brooks, Broomall, Ambrose W. Clark, Cobb, Coffroth, Cox, Creswell, Thomas T. Davis, Dawson, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, English, Farnsworth, Frank, Ganson, Garfield, Gooch, Harding, Harrington, Charles M. Harris, Herriek, Higby, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hutchins, Philip Johnson, William Johnson, Julian, Kaibfleisch, Orlando Kellogg, King, Knapp, Lazear, Le Blond, Loan, Longyeue, Marcy, McDowell, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, James R. Morris, Morrison, Odell, John O'Neill, Pike, Pruyn, Radford, John H. Rice, Robinson, Rogers, Scott, Sloan, Smithers, Spalding, Starr, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Thayer, Tracy, Upson, Joseph W. White, Williams, and Wilson—85.

NAYS—Messrs. Allison, Ancona, Bailly, Augustus C. Baldwin, Baxter, Blaine, Blow, James S. Brown, Chandler, Cole, Deinson, Dixon, Ehot, Feinton, Finck, Grider, Griswold, Hulburt, Jenckes, Kelley, Law, Littlejohn, Mallory, Marvin, McBride, McClurg, Morrill, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Pendleton, Perham, Alexander H. Rice, Ross, Schenck, Scofield, Shannon, Thomas, Van Valkenburgh, Wadsworth, Webster, Whaley, Wheeler, Wilder, Windom, Fernando Wood, and Woodbridge—49.

NOT VOTING—Messrs. James C. Allen, Ames, Bliss, William G. Brown, Freeman Clarke, Clay, Cravens, Henry Winter Davis, Davies, Deming, Dumont, Grinnell, Hale, Hall, Benjamin G. Harris, Hooper, Ingersoll, Kasson, Francis W. Kellogg, Keiman, Long, McAllister, McKinney, Middleton, William H. Miller, Amos Myers, Nelson, Noble, Perry, Pomeroy, Price, Samuel J. Randall, William H. Randall, Edward H. Rollins, James S. Rollins, Smith, Stebbins, Stevens, Sweet, Voorhees, Ward, Elihu B. Washburne, William B. Washburn, Chilton A. White, Winfield, Benjamin Wood, and Yeaman—47.

So the motion to reconsider was laid upon the table.

ABOLITION OF SLAVERY.

The SPEAKER stated that the first business in order was the special order, being Senate joint resolution No. 16, proposing amendments to the Constitution of the United States, on which the gentleman from California [Mr. Higby] was entitled to the floor.

Mr. PRUYN. By an arrangement with the gentleman from California he has agreed to let me precede him.

EVENING SESSIONS.

Mr. HOLMAN. I ask the gentleman to yield to me for a moment. It is the understanding that this day shall be devoted to the discussion of this joint resolution, and that it shall continue to-morrow until four o'clock, when the vote is to be taken. In order to afford all gentlemen an opportunity of being heard who desire to be heard, I move that we shall to-day take a recess from five o'clock until half past seven, in order to have a night session for debate only.

There was no objection, and it was ordered accordingly.

Mr. STEVENS. I ask that to-morrow or the next day a recess be taken for the purpose of considering the Pacific railroad bill during the evening session, so that it will not interfere with the day business.

The SPEAKER. The Chair will state that it would require unanimous consent to set apart to-morrow evening for the consideration of the Pacific railroad proposition, but if the House shall take a recess to-morrow the first business at the evening session will be that of the morning hour, and the Pacific railroad bill will be the first question.

Mr. STEVENS. I move that, until otherwise ordered, the House shall take a recess from half past four o'clock to half past seven o'clock, p. m.

Mr. HOLMAN. That does not include to-day, as we have agreed to take a recess at five o'clock.

The SPEAKER. It does not.

Mr. STEVENS. I propose these night sessions for the transaction of business.

The SPEAKER. The session this evening has been set apart for debate.

There was no objection, and Mr. STEVENS's motion was agreed to.

CIVIL APPROPRIATION BILL—AGAIN.

Mr. STEVENS. Mr. Speaker, I ask the unanimous consent of the House to recommit to the Committee of Ways and Means the civil and miscellaneous appropriation bill, with the view, I am frank to say, of taking the vote of the House as instructions to that committee to strike out everything not provided for by law.

There was no objection, and it was agreed to accordingly.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, its Chief Clerk, notifying the House that that body had passed bills of the following titles without amendment:

An act (H. R. No. 486) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863; and

An act (H. R. No. 504) to authorize the Secretary of the Treasury to sell the marine hospital at Chicago, Illinois, and to purchase a new site and build a new hospital.

And the following with amendments, in which he was directed to ask the concurrence of the House:

An act (H. R. No. 450) to provide for the repair and preservation of certain public works of the United States.

Also, that it had passed a joint resolution and bill of the following titles, in which he was directed to ask the concurrence of the House:

A joint resolution (S. No. 64) to amend an act entitled "An act extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan; and

An act (S. No. 306) to grant to the State of California certain lands for State prison purposes.

Also, that it had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on bill of the House No. 40, making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1865.

ABOLITION OF SLAVERY—AGAIN.

Mr. HIGBY. I call for the regular order of business, and I yield to the gentleman from New York, [Mr. PRUYN.]

Mr. PRUYN. For the first time in our history it is now proposed to make a change in the Constitution which, if effected, will interfere with the reserved rights of the States. This question is presented in the midst of a great struggle which demands all the power and energies and thought

of the country, and when a large number of the States, and those most deeply to be affected by the contemplated change, are not represented in either House of Congress. It has been one of the great drawbacks under which the country has labored in its present troubles that the time and attention of the Administration and its friends have been so largely devoted to questions of social reform in the condition of the slave population of the South, alienating thereby the friends of the Union in those States and embarrassing their return to their allegiance, while they should have devoted their energies to the great work and duty before them, leaving other questions until the rebellion should have been suppressed. Had this latter course been thoroughly and faithfully pursued and a sincere respect exhibited for the spirit of the Constitution and the rights of the States, the contest would, in my judgment, long since have ended. Those who are to write the history of the present time will look back with astonishment at the course of an Administration which, while ostensibly engaged in putting down the rebellion, did so much to keep it alive, and, while calling on the people of the South to return to their allegiance, did so much to drive them still further into resistance. These thoughts properly lead to a consideration of the expediency of the measure before us. That this is not the time to act upon it, and that it is inexpedient now to consider it, has been well shown in the very clear remarks of my colleague, [Mr. HERRICK,] and others no doubt will add to what he has said. I will, however, entirely pass by this part of the subject, and with it all consideration of the slavery question, wishing only to present very briefly some remarks as to the power of Congress to take the action now proposed, and to show that we have no right to initiate the measure under consideration.

At the time of the adoption of the Constitution of the United States the several States were independent sovereignties, each claiming and exercising the full attributes of sovereignty under constitutions or forms of government which they had respectively established or recognized. The Constitution was a grant of power by these sovereignties, each acting for itself severally, as appears by the express terms of the instrument, and each retaining every attribute and power not thus granted, and that this might not rest on implication only, however clear and strong, it was so expressly declared by one of the amendments to the Constitution, insisted upon by some of the States at the time of its adoption, and forth with assented to by the others. The reserved rights of the States, as they are often called—more properly their inherent original rights of sovereignty not granted under the Constitution to the common Government thereby established—it will thus be seen are in no manner impaired or affected by that instrument, but belong to and remain with the States respectively as fully and entirely as if it did not exist.

I admit that the Constitution should be liberally construed for the purposes for which it was established, but I deny that it can be constructively enlarged, or that under the pretense of amending it, we can go outside of the terms and of the spirit of the grant, and draw within its grasp subjects with which it does not deal, and which have been expressly declared to be beyond its reach. This is not the legitimate meaning of the power to amend; such a power would be one to originate—to create—to establish. The right remained with the States severally to regulate their internal affairs each in its own way, and according to its own views of right and duty. The relations of parent and child, of master and servant; the law of marriage; the mode of alienating property; the law of descent; in short, almost all that concerned the social relations, and the every-day life and pursuits of the great body of the people, were left to be regulated by each State as it chose. The States were not asked to give up these rights, and they were not in any way yielded, and from the history of the times there can be no doubt that had it been proposed to give this large class of powers to the General Government the Constitution would never have been adopted.

Let us suppose that it had been distinctly declared by the Constitution, as adopted by the Convention which formed it, that the powers remaining in and not granted by the States respectively

might at any time be delegated or transferred to the General Government, under the section authorizing amendments. Had this been done, no candid man who has studied our political history, or who is familiar with the debates in the State conventions which adopted the Constitution, will hesitate to say that it would never have received the sanction of the number of States required to put it into operation. Or had it been proposed to add to the amendment declaring the powers not granted to the United States to be reserved to the States, a proviso that this should not interfere with the right of the General Government to absorb any of those powers by future amendments, can it be believed that it would have been adopted? The history of the times, and the debates already referred to, pronounce a most emphatic negative.

It may be said that the objection I make would apply even if all the States should assent to a new clause to be added to the Constitution. My answer is that such an assent would be good not by way of amendment, but as a new or further grant of power.

Twelve amendments to the Constitution have been made, the first ten almost simultaneously with its adoption. They are declaratory and restrictive, containing the great principles of the Bill of Rights. The eleventh and twelfth amendments were adopted a few years subsequently. The eleventh, as to the judicial powers, is also restrictive. The twelfth prescribes more definitely than before the mode of casting the electoral vote and of conducting the election for President and Vice President under the provisions of the Constitution. All these amendments, it will be observed, are in substance declaratory and restrictive, or regulate the exercise of powers already granted, and do not enlarge the powers of the General Government. Since the last of them was adopted sixty years have passed, during which time the instrument has not been touched.

But, to return to the point I am considering: Can three-fourths of the States, under this power to amend, overturn the institutions, subvert the authority, and change the condition of the other States? If so, the States might as well in the outset have surrendered all their sovereignty to the General Government, and the amendment declaratory of their reserved rights was meaningless. Is there any person who will venture to claim that any State which adopted the Constitution placed any such construction on this power to amend? I find that the amendment affirming the reserved rights of the States was adopted unanimously by the States which voted on it, and that in Massachusetts it was proposed by John Hancock, president of the State convention, warmly approved by Samuel Adams, and recommended for adoption to the other States. (See Eliot's Debates.)

I am well aware, Mr. Speaker, that it is considered by the supporters of the present Administration to be a great offense to speak of the reserved rights of the States, even in the light in which those rights were formerly understood by the people of the North of all political parties. I learn that three Republican Senators have recently ventured to say a word for them in the Senate Chamber. One of these is the venerable Senator from Vermont, once at the head of the Post Office Department; another is one of the Senators from New Hampshire; and the third a Senator from Wisconsin. What will be done by the Senate with these, I had almost said contumacious members of their body, remains to be seen. In my opinion they deserve credit for their boldness and fidelity to principle. But if gentlemen will read the debates which took place in the State conventions held to consider the question of adopting the Federal Constitution, they will learn how highly State institutions, State interests, and State rights were then prized even in the northern States. My friends from Massachusetts especially would find that views were advanced in their State convention from which most of their statesmen of the present day have widely departed. Let us look at this point somewhat further.

Can Maryland and Delaware and New Jersey (for this illustrates the principle) force upon Pennsylvania an entire change of her domestic policy and institutions? Can Vermont, Massachusetts, and Connecticut compel New York to submit to their domination over her internal affairs, and to lay down rights at their bidding

which she never agreed to surrender? If three-fourths of the States can take away rights now clearly reserved to their associates, what is to prevent the absorption of their territory by other States? If one right can be taken away, several can be—all can be. If one principle can be swept away, all can be. Under such a doctrine States may be annihilated and a monarchy built up. These it may be said are extreme cases, but they are legitimate results from the power to amend now claimed. The right to amend is not a right to extend and enlarge the powers granted under the Constitution. It was only intended through its instrumentality to provide for the better and more convenient exercise of the powers expressly granted, in case defects should be found to exist in the practical working of the system. The amendment as to the manner of electing the President and Vice President illustrates this view.

To construe the Constitution as authorizing three-fourths of the States to impose upon the residue terms and conditions of Union not agreed upon or assented to by them, would be a wide departure from its spirit, and a monstrous usurpation of power; and this it is which we are now called upon to do; to take a further step to alienate the feelings of the South, and to embarrass and impede their return to the Union. No matter what the question may be, whether that of slavery or of any other domestic institution or right reserved to the States; so long as it is reserved, Congress has no right to interfere with it in any way. Let us leave it as the fathers of the Republic left it, to each State to do what it believes to be just and expedient in reference to its own people and to its own institutions. Had this course been pursued; had not the aggressive, untiring spirit of abolitionism, which has brought so much misery and wretchedness upon the negro population of the South, been constantly at work; emancipation would have taken place in many of the slave States years since, and the so-called political power of slavery would have disappeared long before the opening of the rebellion. But a spirit of intermeddling and of false philanthropy has delayed this result and brought evils upon our country which no man living can expect to see wholly removed.

Mr. FERNANDO WOOD. Mr. Speaker, this is a proposition to provide by an amendment to the Constitution for the abolition of slavery without compensation in all of the States in the Union. It will be, if adopted, a change in the fundamental law—a material alteration in the Constitution of the United States as formed by the founders of the Government. It is, therefore, a proposition which involves considerations and reflections such as belong to the gravest questions which can come before the American people for determination. It is whether we shall alter the whole structure and theory of government by changing the basis upon which it rests. My first difficulty in assenting to the resolution is that this is no time for any alteration in the organic law. We are now in the midst of a fearful civil war. The horrid din of this conflict, the groans of the wounded and dying, the sad evidences of death and destruction are all around us. Until recently, even at the very doors of this capital, the armed enemy has presented his threatening hostility. The whole people of America are involved directly or indirectly in this dreadful conflict. Reason, judgment, and that cautious investigation and comparison of interests, opinions, and prejudices necessary to a proper adjustment of a nation's welfare have been banished by the graver realities of war. This is no time to make or alter constitutions. Those who are enveloped in the elemental strifes of the tempest or the earthquake, and involved in the ruin thus created, cannot judge of the cause or measure the extent of the calamity. So it is with the historical convulsions which have desolated vast regions and swept myriads to the grave. The spectator who is himself in the midst of the horrors of war has seldom the coolness to discriminate and decide, with any reasonable degree of accuracy, as to the impelling cause of the struggle. The passions of men, the excitements of the contest, the temptations of ambition, avarice, and fear, all tend to blind the vision and warp the judgments of the actors in the terrible drama now being performed on this continent before the civilized world as spectators. Therefore,

in my opinion, this is no time to act upon the proposition, no time to change the fundamental law. Nations do not alter their forms of government amid revolutions. We are now surrounded by dangers from without and from within. The people are in an unnatural excitement, unsuited to that calm deliberation which an alteration of the Constitution requires. All our statesmanship, love of country, efforts at union, consolidation, and good-fellowship, should be devoted to a restoration of our fraternity and prosperity as a people.

But if a change can be made, is this such a one as should be made? It is sought through this amendment to abolish at once and summarily the system of domestic servitude existing in one third of the States which came into the Union with the Government and which have remained with it until now. The effects of such a revulsion in such an interest will be of the most wide-spread and radical character. It will, of course, add to the existing sectional hostilities, and if possible make the pending conflict yet more intense and deadly.

Mr. Speaker, I see many objections to this amendment, while I fail to find one reason in its favor. I am opposed to it because it aims at the introduction of a new element over which Government shall operate. It proposes to make the social interests subjects for governmental action. This is the introduction of a principle antagonist to that which underlies all republican systems. Our Union was made for the political government of the parties to it, for certain specified objects of a very general character, all of them political, and none of them relating to or affecting in any manner individual or personal interests in those things which touch the domestic concerns. There is no feature or principle of it giving to the Federal power authority over them. These were reserved and left exclusively to the jurisdiction of the States and "the people thereof." Of this character are the marital relations, the religious beliefs, the right of eminent domain within the territorial limits of the States, other private property, and all matters purely social. Slavery where it exists is a system of domestic labor; it is not the creature of law. It existed without law before this Government was established. It is incorporated into the organization of society as part of the existing domestic regulations. It cannot be brought within constitutional jurisdiction any more than can any or either of the other private and personal interests referred to.

Again, sir, the proposed amendment to abolish slavery in the States of the Union is unjust in itself, a breach of good faith, and utterly irreconcilable with expediency. It is unjust because it involves a tyrannical destruction of individual property under the plea of a legitimate exercise of the functions of Government. It is in theory the idea which has been derived from despotism and the notions of feudal powers that Governments are omnipotent, and draw within their sphere all that belongs to the individual, even the liberty of thought, speech, and conscience. This is an impious dogma of the past which should be repudiated, as opposed to the fundamental aims and ends of the Constitution of our Government. The essence of a constitution is protection of individual rights, and in popular Governments to restrain the power of majorities and secure the rights of minorities. Hence it has been truthfully said that the best Government is that which governs least. I characterize all pure, unmixed, and unconditional Governments, whether dependent on the will of one, few, or many, as alike repugnant to sound reason, to justice, and to the interests and happiness of mankind. Modern Turkey, mediæval Venice, and ancient Athens, are examples alike of error in theory and injustice in practice, and wanting in the necessary conditions to secure permanent success and prosperity. I should be sorry to see our system degenerate into either the despotism of monarchy or the despotism of majorities, and I therefore oppose the very first step toward removing the wholesome checks imposed by the constitutional compact. I am well aware in stating this that constitutions are limitations self-imposed by the popular will, and that the sovereign power is competent to change them so as to make them better subserve the great ends of civil order and the welfare of the general mass. Like all other institutions, Governments are made for man, and contrived for his benefit; they con-

form to the errors and frailties of his nature, and are affected by the ignorances and vices of the times to which they belong. In this enlightened era, and in a land like ours, separated from the influence of ages of barbarism and wars, I shudder at the prospect of going back to any of the exploded forms of arbitrary power. I desire to stand by the traditions of our fathers, and above all to the legacy of that sound and beneficent form of Government which they have given us in the Constitution.

I hold that a good Government is bound to protect the individual in the enjoyment of life and liberty, and in the exercise of his faculties for labor, physical and mental, in the acquisition and preservation of property. It may be destructive, but it should be conservative in these respects. This proposition strikes at property, and it is justified on the doctrine of the wild and erratic though subtle and powerful thinker who proclaimed that all property is founded on robbery. Property, Mr. Speaker, is the stimulus to industry and the foundation of improvement and civilization. All that is valuable or valued belongs to the grand total of public or private wealth, the material products of nature, the field, the mine, and the water, with all their teeming variety of what is useful or necessary; the powers of mind, the stores of knowledge, the genius of the inventor, the harmony of the poet, and last and greatest, virtue itself, the priceless treasure of the soul, all that can be wished and hoped for, are embraced in the idea of property. The social and domestic relations are equally matters of individual ownership with flocks and herds, houses and lands. The affections of a man's wife and children are among the dearest of his possessions, and as such are under the protection of the law. The domestic institution of slavery is one of these relations, and was recognized in the States of this Confederation as a species of proprietary interest. The Constitution describes slaves, and I suppose children and apprentices might come under the same class as persons bound to service.

I insist that no vindictive laws can be passed either depriving individuals of anything which can be denominated as property or infringing existing social relations as the punishment of the offenses either of men or communities. Neither Congress nor the assent of the States requisite to incorporate a new article or amendment into the Constitution can do so justly, under any pretense, when the object is to appropriate private property without due compensation, or confiscate it without the formality of trial and condemnation. Within the scope and reason of the Constitution any amendment to it would be legitimate when ratified by the required three fourths of the States; but for those three fourths to attempt a revolution in social or religious rights by seizing on what was never intended to be delegated by any of the parties to the compact, would be a prodigy of injustice carried out under the forms of law, a wrong more fatally so because made by the very highest authority. If an amendment were now proposed to the Constitution declaring an establishment of religion or prohibiting the free exercise of it by the citizen, it would be parallel with the present and no more obnoxious than this is to merited condemnation. The States, sovereign as I claim that they are and continue to be, could not have delegated what they did not themselves possess, that is, to destroy or appropriate individual rights without compensation. In all the acts of emancipation heretofore passed the tacit consent of the citizens affected accompanied the passage of the statute. A species of property which has ceased to be profitable is usually surrendered without protest or opposition. Men are not disposed to cavil at the exercise of a power abstractly arbitrary, which rids them of a relation which is onerous or inconvenient. Such was slavery in the States where it has been abolished. But where it is one of the main sources of the prosperity of the community it will be regarded very differently.

This proposed alteration of the Constitution is therefore beyond the power of the Government, but the necessary consequences of it are revoltingly so. It involves the extermination of the white men of the southern States, and the forfeiture of all the land and other property belonging to them. Negroes and military colonists will take the place of the race thus blotted out of ex-

istence. Is this intended as the last scene of the bloody drama of carnage and civil war now being prosecuted? The world looks on with horror, and it will leave to future ages a fearful warning to avoid similar acts of perfidious atrocity.

But, sir, the most important aspect of this question is whether it is not a violation of the plighted faith of the States who shall aid in foisting this amendment into the Constitution. That the States in establishing the Constitution performed it as a federal act has been shown in the Federalist by an argument as indisputable as any mathematical demonstration. Mr. Madison says on this subject:

"Each State in ratifying the Constitution is considered as a sovereign body independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a federal and not a national Constitution."

It is true that the common Government which resulted presents national characteristics, especially in this respect, that its operation is exerted immediately upon citizens within the scope of the powers delegated to it in their individual capacities. The State sovereignties were by no means quenched by the act of federation, but by it certain functions were delegated by the sovereign power in each State to a common depository, to be used in certain cases, and to be exercised over the citizens respectively of each and every State by virtue of the sovereignty of their several States. The obligation, however, of the citizen of the State of New York to obey the Federal laws or authorities results from the powers imparted to the Federal Legislature or Executive by the act of New York, and derives no additional strength from other States entering into the Union. The citizen is bound to obey the Constitution and laws of the United States, because his State is a party to the Federal compact, and for no other reason. The State has delegated a portion of her authority (not of her sovereignty, which is, in its very nature, indivisible as that of individual personality) to a common agency, who may thus within the scope of such procurator require obedience to its requirements. The Government of the Union has this extent and no more, and allegiance, loyalty, and nationality are the new-fangled catch-words of the exploded dogmas of the old Federal party. Allegiance is due to the law, and derives its sanction from the sovereignty of each individual State.

The Democratic party has always maintained the doctrine that the Constitution was a compact from the times of Jefferson, and has for more than sixty years declared this as the foundation of its political faith. It is laid down most distinctly in the Kentucky and Virginia resolutions, the corner-stone of Democracy—

"That the several States composing the United States of America are not united on the principles of unlimited submission to the General Government, but that by compact, under the style and title of a Constitution for the United States and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving each State to itself the residuary mass of right to their own self-government, and that whenever the General Government assumes undelegated powers its acts are unauthorized, void, and of no force; that to this compact each State acceded as a State, and is an integral part; that this Government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measures of redress."

Such is the language of Mr. Jefferson in the Kentucky resolutions. In the Virginia resolutions, the author of which was Mr. Madison, it is declared—

"That in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States who are parties thereto have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them."

Daniel Webster emphatically recognized this character of a compact in the Constitution when he stated that "if the northern States refuse willfully and deliberately to carry into effect that part of the Constitution which respects the restoration of fugitive slaves, and Congress provide no remedy, the South would no longer be bound to observe the compact." Nay, the dominant party in this House, acting on the same theory of a bargain broken on the part of the South by secession, and considering themselves thereby absolved from the constitutional obligation to return fugitive slaves,

have just passed a bill to repeal the fugitive slave law. It must be taken as conceded that the Constitution is a compact and covenant. Now, the very nature of a compact requires that there shall be contracting parties, and mutual obligations and considerations. The States and the people of those States in their sovereign capacity are the parties, and must be held answerable for any breach of good faith in not observing the terms of the contract, or in attempting to change them in any particular which destroys or alters essential and material portions. There was an implied and solemn understanding that the local and domestic institutions of the States should not be attempted to be interfered with in any manner so as to be drawn within the sphere of Federal authority. Does any one suppose that if it had been imagined for a moment that the rights of property and the social relations of the citizens of the several States could have been made the subject of Federal legislation in any contingency that the Constitution would have been ratified by any of the States? The local jurisdiction over slavery was one of the subjects peculiarly guarded and guaranteed to the States, and an amendment ratified by any number of States less than the whole, though within the letter of the article which provides for amendments, would be contrary to the spirit of the instrument, and so in reality an act of gross bad faith.

The control over slavery, and the domestic and social relations of the people of the respective States, was not and never was intended to be delegated to the United States, and cannot now be delegated except by the consent of all the States. Articles nine and ten of the Amendments to the Constitution are conclusive on this point. These articles are the general rules for the construction and interpretation of the entire instrument. Powers already granted may be modified, enlarged, or taken away by an amendment, but those which are retained by the people, or reserved to them or to the States, cannot be delegated to the United States, except by the unanimous consent of all the States. This is the only reasonable construction of those articles, in accordance with the plain sense and meaning of the words. The entire subject of slavery in the States has been reserved by them, and the right been retained by the people. No power has been delegated to the United States over this relation thus reserved to the legislative power of the State, and which is thus retained by the people, subject to such State power alone. It stands precisely on the same footing as that of eminent domain in the respective States, a prerogative of their inherent sovereignty, which cannot be taken away by an act of other States. How would an agreement between private parties be construed and interpreted which should declare that the articles of association might be modified and altered by three fourths of the number, and then should declare that certain rights were reserved to them individually? Would not, manifestly, the matters not delegated but reserved be considered as excepted from the subjects which were within the scope of the authority to alter or modify? Take the right of the States respectively of eminent domain within their territorial limits, could this be taken away from the States and delegated to the United States by the consent of the Legislatures of three fourths of the States, after a proposal made by two thirds of both Houses of Congress? I maintain that article ten of the Amendments is point-blank against such a supposition, and is equally repugnant to an invasion of the right of the State alone to legislate on the subject of slavery. I insist further, that, as the States themselves could not justly take away property or destroy social relations without giving just compensation, this is not only not delegated by the States, but is among the rights retained by the people of the States where it exists, and that if all the States should delegate this power, it must, according to the rules of natural equity, be connected with the condition of allowing the masters a proper equivalent for the property taken or destroyed.

This identical proposition was laid down in the fourth resolution of the Chicago platform, once deemed so sacred in the eyes of the President and the gentlemen on the other side of the House, which asserts—

"That the maintenance inviolate of the rights of the States, and especially the right of each State to order and

control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political faith depend."

Where now will be the right of each State to order and control its domestic institutions if the institutions of one fourth of the States are to be subjected to the will of the people of three fourths by amending the Constitution so as to make them belong to and under the control of a majority in Congress, or to wipe them out altogether?

About the time of the peace conferences an amendment which was substantially the converse of the present was proposed, declaring explicitly that no amendment affecting slavery should be valid that did not obtain the consent of all the States in which that institution existed. I believe if it had been adopted the present war would have been averted; and I consider that the suggestion made by the present Secretary of State, in one of his speeches during the last presidential canvass, that slavery could be constitutionally abolished when the number of free States had increased so as to allow the passage of this very amendment now under consideration, was one of the impelling causes that precipitated the struggle now convulsing the States and converted the "irrepressible conflict" of that political leader into the fearful strife of contending armies and warring States. This, the crowning act of the agitation of years against slavery, from the Missouri restriction to the invasion of Virginia by John Brown, whose chorus has become the music for the loyal hosts, comes at length to give a show of legality to the destruction of the institution of slavery. The very proposal of this amendment demonstrates the utter bad faith of the long series of acts which, illegally and in defiance of the Constitution, "the pledge of mutual friendship and the instrument of mutual happiness," sought to break down this domestic institution of the States of the South.

The proposal of this amendment arraigns the President as having violated the Constitution in his emancipation proclamation, and stamps it as a nullity and void. It is an implied confession that the Administration, carrying on an aggressive war on States and State institutions, had this design in view from the commencement—that the war was not for the purpose of sustaining the Government, preserving the Union, and maintaining the supremacy of the Constitution, but was directed against the sovereignties of the States, and to destroy such of their domestic institutions as were obnoxious to the views of the party controlling the Government for the time. The aggressor is always in the wrong in case of hostilities among States united under a federal system like ours, no matter on which side the General Government may array itself. This is the spirit embodied in the Crittenden resolutions, but it is not in accordance with the policy now avowed by the Administration in prosecuting the war, nor by the party which supports the President for reelection, and least of all by the proposed amendment to the Constitution. The Administration party have proclaimed "that the utter and complete extirpation of slavery from the soil of the Republic" is its present object, and support the adoption of an amendment to the Constitution to this effect. Impartial history, in dealing with these events, will pronounce a verdict that this attitude, and, above all, the attempt to change the Constitution to make that illegal which was not so before, shows that the moving cause of the war was from the commencement the prohibition of slavery. That design, suspected with such ample ground, is now rendered transparently clear. No candid mind can avoid the inevitable conclusion which will brand northern sectionalism as the primary cause of the war, and that the apprehensions of the southern people were fully justified by the events now taking place and by the previous acts and proclamations of the Government. The pretext that those acts were done in its defense will be regarded as a falsehood, only intended to deceive the people and conceal the real character of the war.

The charge that slavery was the cause of the war is notoriously false. The agitation against slavery and the menaces uttered against that institution had risen to such an alarming height that the States where it existed believed that the only recourse left was to attempt peaceably to withdraw

from the Confederation on the ground that the compact was broken. That this would be the inevitable result of the success of a party which denounced slavery as a moral, social, and political evil and declared its intention to use every means to extirpate it, was foretold for years. The speeches and writings of that pack of political jackals known as war Democrats, most of whom are now to be found yelling and yelping at the heels of power, were full of warnings of what the South would do in defense of their domestic institutions and their constitutional rights. If I did not consider these political renegades and mountebanks beneath contempt, I could fill volumes and exhaust your patience in quotations from men who were once the most ultra in their opposition to coercion and in defense of the Jeffersonian doctrine of State sovereignty. Fortunately their names are now erased from the memorials of the Democratic party, and are expunged and blotted out from the respect of those who still hold fast to its time-honored principles—principles which I trust will survive the storm and wreck of battle and the fiery ordeal of this unjust and unholy war, and upon which only the Union can or should exist.

The sentiment of opposition to slavery is so powerful that I could hardly expect to offer any reason which would awaken sympathy in behalf of its continuance, even if I showed that it was the best possible condition to insure the happiness of the negro race, or that its abolition was an invasion of the rights of the masters and the well-being of the communities where it existed. I have abstained from doing any more than to assert that the relation was one having a legal existence in the southern States and fully recognized by the Constitution. This is uncontrovertible, a fact not to be denied, and virtually admitted by the amendment now proposed. The theory that the States never parted with their sovereignty is likewise not acceptable to the opposite side of the House, and the notion that the General Government is paramount and can set aside all State authority is now popular. We are told, "Preserve the nation, though you tear the Constitution to a thousand pieces; hold the Union fast and let the Constitution slide as long as the nation remains; this generation, wiser and more patriotic than any that has gone before, is competent to devise a constitution better and nobler than that of Washington." I fear that I have no eloquence so persuasive, can make no appeals so winning as to convince the friends of the Administration that the Constitution cannot be improved by their wisdom, but I do insist that no cunning of man can frame a system of morality more perfect than that which demands that contracts between States and individuals should be observed inviolate, that mutual promises should be kept, and that faith should be preserved sacred and unbroken. If this is a nation, let not its national character be based on perfidy and falsehood. This would be worse than boldly proclaiming that it is founded on force, and that "might makes right."

When, however, I declare my hope and sincere desire to see the restoration and perpetuity of the Union, the gathering back into the galaxy of every star that has shot madly from its sphere, and the enfolding of every wanderer into the dear old flag with all its precious memories of associated glory and mutual happiness and mutual good will, I expect that what I utter will not be regarded with hostile feelings and alienated minds. You profess yourselves lovers of the Union, and so do I; we may differ as it regards the means of restoration and the remedy to be applied, "and purge it to a sound and pristine health," but we agree in devotion to the Union. It has been proposed by an eminent state physician that a violation of the Constitution is an excellent medicine to save the "life of the nation." I cannot, indeed, coincide with that same "learned Theban;" but I would humbly suggest a milder treatment than this with its concomitants of fire and sword and desolation. The "life of the nation" cannot be preserved by perjury, the Almighty will not suffer it, and the sense of truth and justice which He has implanted in His creatures forbids the success of the experiment. No Government can be lasting that is not founded on the consent of the governed. Do we dream of a Union of force, and vainly imagine that we can hold forever unwilling States, linked to us with-

out their consent, by circling bayonets and threatening cannon? Is this the lesson taught by the history of that glorious Revolution which made the colonies of Great Britain free and independent States? If the policy of Chatham and Burke had been rejected instead of that of Bute and North, would not the rebellion of the colonies been crushed, and the authority of the mother country restored over her injured and offended children? Have centuries of wrong and injustice cemented the union between England and Ireland? Mark the difference: Scotland, treated with fairness and equity, became completely and firmly allied to her southern and more powerful neighbor, maintaining her laws, her church, and local institutions intact; the political alliance between the two nations has been undisturbed and inviolate.

Turn to the other side of the Channel, and what a contrast between the union of force and the union of kindness, the union of oppression and the union of equality, the union of hate and the union of love! Unhappy Poland still writhes subdued in the chains of that union which binds her to the Muscovite throne. The last instance of determined resistance to arbitrary power is the voluntary expatriation of the Circassian mountaineers, abandoning their country rather than be made subjects of Russia. Do you think that the people of the southern States are more degenerate and of tamer natures than the children of Europe, or the sons of the old birthplace of the race among the rugged mountains of Caucasus? Assuredly the experience of this war should teach otherwise. I see in it no warrant to cherish the anticipation that they will succumb and acquiesce in the yoke, as they deem it, even of the most beneficent Government the world ever saw, when offered to them on the points of your bayonets. The paternal sway of a Butler and the conciliatory policy of a Hunter produced the same effect in Louisiana and South Carolina that the benignant lash of Haynau did in Brescia and the merciful Russian knout did at Warsaw. Human nature is constituted the same in every quarter of the world. Opposition and hate are the results of aggression and force, and gratitude and sympathy the peaceful fruit of kindness and love. On these last, joined with mutual forbearance and consideration, this Union was originally founded; by them alone can it be recreated and made perpetual. How is it that gentlemen can prate of the acts of confiscation and vengeance, and the proclamations of emancipation dealing a "death-blow at the strength of this gigantic rebellion?" Is not the fact far otherwise, and have not the most vigorous efforts to prosecute the war been followed by equally determined resolution to resist to the last extremity? The bloody and brutal policy of the Administration party has well-nigh destroyed all hope of reconstruction, but I have an enduring faith in the efficacy of justice and fraternity. Call these divine principles back to your counsels and you will have taken the only step which can permanently restore the Union.

We have destroyed the former happy state of mutual friendship by innovations on the principles of the Government, first by the specious pretext of destroying slavery by excluding it from the common territory, and since the war broke out by executive usurpations substantially amounting to a military dictatorship under the same pretext, and the plausible though false assumption that this was necessary to preserve the existence of the Government. The present attempt to change the principles of the Union, though proposed in the form and letter of the Constitution, is adverse to its spirit and irreconcilable with its ends. But if it were allowable, it would be madness to press the alteration at this time, when a civil war is raging of such gigantic proportions. Pass this amendment, and the only limit of this war will be the subjugation of the South or the exhaustion of the North. And what is involved in the subjugation of the South? Nothing less than extermination. The contest is of a nature to admit of no termination until the last man dies on the battle-field or the scaffold. From this alternative my soul turns away in loathing and disgust. If the objects of the war were all that its instigators and supporters claim for them, I would shrink from the enforcement of the awful penalty which demands the annihilation of a kindred people. Infinite justice did not thus deal with the sons of Adam, but remitted the dire sentence of

death at the intercession of mercy. If human societies would strive to imitate this august and divine exemplar, on earth would be seen—

"Golden days, fruitful of golden deeds,
With joy and love triumphing, and fair truth."

While this struggle is going on, an empire is planted in Mexico. If the war continues, the consequence will be not only perpetual disunion and the South a desolation, but an empire will be so firmly rooted on American-Mexican soil that the battle-wasted population and exhausted resources of the American "nation" cannot uproot it. Canada will have grown and expanded, and monarchical institutions will be then so matured that republicanism will stand alone on this as on the old continent. While war is continued, and it must long be so if this amendment is carried, it is idle to parade the threat that the people cannot regard with indifference the establishment of a monarchy in their proximity. Whether hostile, indifferent, or favorable to the erection of an empire in Mexico, this people must bide their time to offer resistance. It will be time enough to remonstrate when there is power to make remonstrances felt. Bring back the old Union, and the new empire will perish like a premature birth. Make it the victim of an interminable war, or wither and paralyze its limbs by subjugation, and the Mexican throne will be founded too securely to be overthrown by our exhausted energies.

I consider this the crisis of the fate of the Union. As yet there is hope, though three years of war may have piled the dead on either side so high that the boundary might be marked with the whitening bones of the slain. We may still be friends. Neither people have yet been dishonored, and both protest that they were observant of the compact. The people of the South you assert are rebels and traitors. Admit it. You cannot doubt that they are sincere in the opinion that they were justified in the course they adopted, and that it was consistent with the constitutional compact and their reserved rights. All crimes depend on the motive and design of the perpetrator and his guilty knowledge. You cannot deny the sincerity and patriotism of the South. They have submitted to sacrifices and sufferings greater than that of any other race that ever fought for independence. Are they to be branded as traitors because they, in common with Jefferson and Madison, believed that this was not a nation but a confederacy? If you do indeed account this the gist of their offense, then tear the ashes of those arch-traitors from the sepulchers where they repose and cast them to be scattered by the winds and waves, so that the spot of their burial may be unknown among men.

Recall, I entreat you, before it is too late, the ancient spirit of concession and mutual forbearance. There is a higher duty of every American citizen than fighting enemies or quelling by force of arms rebellions. Its voice may be stifled in the deadly struggle and forgotten in the tempest of political animosities, or the earthquake of revolution, but it still lives, and will forever survive. See it in the homely lesson, "to love his neighbor." This obeyed, though but imperfectly, will be more efficacious than all that has been done by force of arms in crushing the rebellion. In carrying out this policy of peace and reconciliation, do not in one breath proclaim the paramount authority of the Constitution, and then proceed to change it in that very particular in which those who are now in rebellion charged that you intended to disobey and violate it. Assure them that the Constitution shall remain as it is; publish an amnesty so broad, general, and all-embracing that it will include all degrees and ranks, civil and military; make at once a treaty of peace, pledging the faith of the States and the people to its strict observance, and invite the rebel States and people to send Representatives to Congress and join in the election of a Chief Magistrate and unite again in the establishment anew of the Union as it was. Let no feeling of vengeance and no mock philanthropy mar this auspicious reinauguration of the Constitution, but let an act of mutual oblivion conceal forever the horrible demonic possession which has held possession of the States and the people for the last three years. This can be accomplished if the people only were wise enough to recognize their highest duty and their highest interest. Admonished by the past, let them be willing to purchase peace by the cheap cost of doing justice.

Mr. HIGBY. Before speaking to the resolution embracing the proposition to amend, I refer to the fifth article of the Constitution of the United States, which makes ample provision and explains the way by which an amendment may be made. The article reads as follows:

"ARTICLE V.—The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

The resolution follows in accordance and in consonance with the method proposed by that article of the Constitution, and it proposes an article which, should it become a portion of the Constitution, will forever prohibit the institution of slavery within the limits of our country. The resolution and amendment proposed read as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid, to all intents and purposes, as a part of the said Constitution, namely:

ARTICLE XIII.

SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

Sir, the whole debate on the other side of the House upon this proposition has been upon the presumption that whatever action is taken by us as a legislative body is conclusive; that if this resolution passes this House—it having already passed the Senate—it becomes a finality, and whatever is embraced in it becomes a portion of the Constitution of the United States. Let no such fallacy sink deep into the heart of any man. The Constitution has most amply and cautiously provided that the national legislative branch of the Government can make no such amendment. Why, sir, the resolution simply gives the amendment in so many words, and proposes its ratification, and then the amendment goes to the State Legislatures, and must be ratified by them.

There is nowhere contemplated in the Constitution of the United States any action by Congress that more completely acknowledges and recognizes State sovereignty than this very provision of the Constitution explaining how it may be amended. Our people are looking with anxiety to the action of Congress with reference to this subject. And now let me put a question to gentlemen on the other side of the House. They have belabored this side often and long with denunciations that State rights are not regarded, that State sovereignty by our action is unheeded, and that we are aiding the national Government to absorb all powers which legitimately belong to the States under and by virtue of the Constitution. I appeal to them when a proposition does come from this side of the House that acknowledges and recognizes State sovereignty in full, whether they dare submit that proposition to the several States; whether they have faith in State sovereignty so great that when the Constitution makes a provision so ample as it has in this case, and so safe too, requiring the Legislatures of three fourths of the States to ratify, that they dare allow their different States to act upon this subject.

The only question that could possibly arise—and that one I find dwelt upon but very little—is whether the times call for an amendment of this character, but the great burden of the argument on the other side is that there is no power in the Constitution to do this act. The member from New York who has just taken his seat [Mr. FERNANDO WOOD] has had the hardihood to promulge to this nation that the ninth and tenth articles of the Amendments to the Constitution do away and make a nullity of the article to which I have directed attention and quoted. Can he find anywhere in the Constitution a provision by which

it may be amended in so indirect a way, and the portions amended be left as dead matter to cumber the living body? He would search in vain for such a provision. Why, sir, he would trample the Constitution under his feet. And if we follow out his argument and act upon it we will become violators of that instrument.

I regard the fifth article as a part of the Constitution just as full of vitality as it was the day our fathers established it as a part of the Constitution of this country; and, sir, the gentleman from New York, if he has a particle of honesty, himself will ignore every word which he has said upon that one subject.

Let me call the attention of the House to the only limitation in the instrument; and they are referred to this fifth article, where the limitation is to be found; it provides "that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article." But, sir, this Constitution is entirely silent with reference to all other portions, including even that which provides that fugitives from labor shall be returned to service. Upon this the Constitution is silent, and even before 1808 it could have been amended, with the exception above quoted, by pursuing the course laid down in the fifth article.

Now, sir, what is there in the proposition contained in this resolution? It is that a certain amendment, specifying it in so many words, shall be submitted to the different State Legislatures for their action, and if the Legislatures of three fourths of the States of the Union ratify it it becomes a portion of the Constitution of the United States. And, sir, that is a proposition appealing to State sovereignty that members upon the other side of the House dare not allow to be submitted and acted upon by those high constitutional deliberative bodies.

But, Mr. Speaker, I will not dwell longer upon that point. It is sufficient that we simply propose what the State Legislatures ratify and make a part of the Constitution, or else render a nullity. Sir, this amendment, if it should become a portion of the Constitution, strikes at the root of the terrible evil that is now piercing the very vitals of the nation, whose roots of bitterness have sunk so deep that they are almost drinking up the life-blood of this Government. Men talk upon the other side as they did in the palmy days of peace, when nothing but the busy hum of industry could be heard on every side, and when slavery lay like a lamb, submissive to every law. But now, sir, when it has aroused and become venomous, and, full of the spirit of the tiger, draws the sword and makes no distinction in its wrath, and is feasting upon the very life of this nation, we hear the same songs in this Hall that we used to hear in the days of peace, showing how utterly heartless men must be, having no blood of patriotism in their veins.

We are told that the institution of slavery in the rebellious States has rights under this Government. The rights of slavery! What right, in God's name, has the institution that has now two or three hundred thousand men arrayed in arms against the Government? Is this bold effrontery to be weighed as argument, and are we yet to hear about the rights of slavery? It has culminated in concentrating its whole power against this Government. What right has it which this Government is bound to respect?

What was its *morale*, sir? In early days as an institution it was humble and unpretending. While it was an institution in the colonies it had no political power. The charm of this whole institution has been in the political power that it has exercised. But, sir, as we emerged from dependents as colonies and became an independent nation, the fathers who lived in its very midst trod very cautiously over the ground. Why, sir, what was its first exercise of power? When Virginia, which was then a slave State, ceded the Northwest Territory to the Union, it demanded that slavery should be prohibited forever in that Territory, and the power was admitted to rest in Congress to prohibit the institution from ever going there while it was a Territory. Such was the *morale* of slavery in its early days, so far as the exercise of political power was concerned. But, sir, it increased in magnitude and in proportions, and became interwoven with our whole system. It was held in early times to be an evil, but a necessary one; it was

impossible to throw it aside then, but it was hoped and believed by those who were helping to sustain it for the time being that it would wear away and finally disappear.

But, sir, as it increased in power, so it acquired political ascendancy; it spread over a vast extent of country; slavery was the rule and freedom the exception, and the poor whites under its shadow were insignificant in comparison with master or even bondsman. Slave labor became profitable; it constituted the great labor force, and, what was still sweeter than all, it gave such a political ascendancy that it enabled a few States and a comparatively few white people to control the Government. I declare, sir, for myself, and no man is responsible for what I say but myself, that no Government is republican in form, body, or spirit, that tolerates such an institution as slavery. I lay it down as a self-evident truth to my mind, and if every other man would take the same ground there could be no such institution in existence under the Constitution as we now have it. But as I am probably alone here in that view, and as that construction would not be given by other men, I prefer that the Constitution be changed in the respect that is contemplated by this resolution. For, sir, I would not be willing to trust all men with the construing of the Constitution in its many provisions, for fear self-interest and love of personal aggrandizement would influence in construction instead of a love of equal justice. It has been claimed in latter years that slavery is an institution sanctioned by divine law and by the word of God. Ah, sir, those who made that claim did not read the Scriptures very faithfully, for they would have found it said even in the Old Testament that when a servant escapes from his master he shall not be returned to him again; he shall let him go free:

"Thou shalt not deliver unto his master the servant which is escaped from his master unto thee:

"He shall dwell with thee, even among you, in that place which he shall choose in one of thy gates, where it liketh him best: thou shalt not oppress him."

And over and above all, they forgot the new covenant, whose Founder told the world that He came to "fulfill the law."

But, sir, it will do for old foggy exploded divines to dwell upon that subject and show the validity and divine origin of slavery—for such men as the one who was voted for Chaplain of this House (Bishop Hopkins) at the commencement of this session. The evils of the institution and the effects resulting from those evils are too numerous to mention in a brief hour speech. I have declared that the institution is anti-republican, and that no Government which tolerated it could be in form, body, or spirit a republican Government. Why, sir, men have stood upon this floor, prior to the rebellion, who represented States that had more slaves than free white inhabitants, and I instance South Carolina as one of those States. Those slaves have no political or civil rights, and yet every five of them are equal to three white persons, giving a representation on this floor to four hundred thousand slaves, not one of whom has in the State or nation a voice or a vote, and who can enjoy no civil or political rights any more than the horse and ox which his master owns. Two hundred thousand white inhabitants and five hundred thousand slaves—equal to three hundred thousand whites—would give five hundred thousand inhabitants to be represented in the State; and, under the rule giving one member of Congress to every one hundred thousand inhabitants, that would give to a State having only two hundred thousand white inhabitants five Representatives on this floor. That is not republicanism, sir. That is anti-republicanism. It is the very worst kind of a Government imaginable. It is despotism to the extent of the slave representation—a cruel, brutal despotism.

Mr. Speaker, the people of the South have been extremely cunning in the argument of this question whenever it has been raised. Whenever the spirit of free discussion has arisen, and the question of slavery has been debated, they who were in favor of the abolition of slavery were told that they were in favor of giving to the slaves the civil rights that white people had, the political rights, and not only that but the social rights. The latter point was pressed with more vehemence than all the others. And while they have

pressed that as an argument why slavery should not be annihilated, the secret with the South in holding fast to slavery has been the political power which it has given them in this Government. There is the charm; there is the fascination. It is power, political power. That is what they have held to.

The member from New York who last addressed the House [Mr. FERNANDO WOOD] said a most beautiful thing, but, sir, he put it to extremely wrong use: "The best Government is that which governs least." I agree with him in the truism. The Government that does away with slavery as an institution does away with the most infamous system of government that was ever instituted on God's earth. It does away with a system which makes the man who domineers a cruel taskmaster. It does away with a system which perverts the judgment of him as master and panders to the basest propensities of the human heart. It is a perpetual, never-dying despotism. And I will join with the gentleman from New York, [Mr. FERNANDO WOOD], and all others who will, in perpetuating all over the country that truism which he has uttered. I would have the voice of freedom and free discussion and the song of freedom go South, and the other song of the lash and the clanking of chains should recede as these two advanced. Such would be the consequence of carrying out the truism which the gentleman has published here to-day.

Sir, I was speaking of slaves. They are property. They are held as such; that is, when we acknowledge the institution as a legal and rightful one between man and man. But I deny that, in right and justice, such an institution can exist. But, sir, the argument is that in States the institution exists. If it be so, human beings are property; and the five hundred thousand slaves are nothing but property in the estimate as between man and man. And yet, sir, when the Representative leaves his State and comes into this Hall, the five hundred thousand slaves in his State count as three hundred thousand inhabitants, and the State sends here three members, on property owned in human beings over whom they exercise absolute control as property, whom they can buy and sell. But here they stand and talk about the rights of freemen, the rights of free speech, the sovereignty of States, and the rights of their constituents. It is an institution, sir, which has its pens where humanity is herded like cattle, and has its block in market where human beings are bought and sold. And that is claimed to be republicanism. It is a republicanism, sir, which is born of hell, not of earth, or of above the earth. It is an institution which is now at war with this Government, and which will destroy it if it can. And we on this side of the House propose to do away with it in the way pointed out by the Constitution, or so to amend the Constitution that it cannot exist when peace is restored; and they cavil at it on the other side of the House. That shows, Mr. Speaker, how hollow their arguments are and how insincere their purposes and pretenses.

Now, sir, as to the political power exercised by this institution. Slavery wished that there should be a line of latitude between freedom and slavery; and it gave us the Missouri compromise in 1820. It was legitimate, below a certain line, to hold slaves; above it it was unlawful. Great principles of human right were to be bounded by lines of latitude and longitude. I cannot enumerate all the opportunities it has sought to exercise power, and all the wrong it has done.

But what has been done by the Government, under the dictation of the slave power, at certain well-known periods? In 1850 the State which I have the honor in part to represent upon this floor could not be admitted into this Union except through an infamous compromise. The fugitive slave law had to be tacked on and made a part of the bundle. I tell gentlemen on the other side of the House that the Congress then in session, and the Executive who occupied the presidential chair at that day, did more mischief, more toward bringing about the condition of things we have suffered and endured, and which we are now suffering in agony, than any one public act ever done in this country. It was the low, crouching, and mean subserviency of great political parties to the encroachments, arrogance, and aggressions of the slave power.

In 1854 the votaries of the slave power with few exceptions demanded that the Missouri compromise line should be obliterated, and that demand was yielded to. Some of the older and far-seeing ones were fearful when that line was removed that free institutions and free labor in the struggle for supremacy would get the advantage of the slave power. And their fears were not without foundation.

The struggle in Kansas during the last Administration is an illustration of the fallacy of human judgment and human intention, for those men who desired the admission of Kansas as a slave State had the whole power of the Government to aid them. They had not only the civil but the military power to aid in subduing the people and bringing them to terms. It was all of no avail. When the Lecompton constitution came before Congress slavery sugared it all over in order to make it a sweet morsel and palatable to the throats of that people. They told them in the English bill, so infamous, that if they would accept that constitution they might come in as a State with what population they then had. Not only that, but that they should have all of the salt springs and five per cent. of the receipts of the sale of the public lands in their State. This was the bribe which they were offered to induce them to accept that constitution; and if Kansas should refuse the offer admission should be postponed until she had the population the census required. In 1858, after that turmoil in which the Lecompton constitution was attempted to be forced upon them, the people took a vote on it and refused to accept the humiliating imposition by an overwhelming majority. They became a free people and a free State. In that movement slavery was defeated.

It has controlled political parties. Its power has been so great that all political parties have been compelled to bend the knee to it. In 1850, in the passage of the fugitive slave law, the two great parties of the country, the Democratic and Whig, were represented in the infamous transaction. They joined their hands in infamous fellowship, a Democratic Congress passing it and a Whig Executive approving it. And in 1860 there was no political party that did not tolerate and acknowledge the status of this institution of slavery. There was not a national party that had a candidate for the Presidency but acknowledged the right to hold slaves as property in a State. It could have no footing unless it did so. The present Executive took his seat in the presidential chair with the recognition of the right of every State to have the institution of slavery inviolate by Federal action. And yet, sir, slavery arrogantly insisted that the Government was aggressive in its policy. In 1856 it demanded non-intervention, and in the Cincinnati convention non-intervention was made a part of its platform. In 1860, at Charleston, it demanded intervention, and because there was not a yielding and knocking under to that demand it divided the Democratic party, and ran its candidate upon that proposition. And then, notwithstanding the pledge of every party that the institution of slavery was a recognized institution of the different States whose State constitutions allowed its existence, and which every State government could have within its limits, it made war upon this Government for the reason that it would not acknowledge the grasping policy which it demanded.

And gentlemen argue here that we are waging war upon the South. It is a falsehood in fact, yet not intended as such, because some as good men as are here, men whom I know to be as correct as can be upon this subject, still talk on this subject as though the Government was waging war upon the South.

Mr. Speaker, I commend to the attention of every member of this House for his perusal and study a report that was made in the Thirty-Sixth Congress in the session of 1860-61. It is the report of a select committee of five, appointed on the 9th of January, and to whom was referred the special messages of the President and sundry other papers. On the 28th of February, 1861, that committee submitted a report, and I will read from it an extract to be found upon page 3:

"Self-preservation is the first law of a nation. The power to defend its implements of self-preservation is one of the clearest of all its powers. We cannot conceive of a nation without the power to build and defend forts and all implements of war within its own jurisdiction. And yet secession claims to have seized, within sixty days,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

WEDNESDAY, JUNE 15, 1864.

NEW SERIES.....No. 185.

fourteen forts, costing \$5,580,858, and mounting eleven hundred and twenty-four guns. These forts are not only held against the United States, but two others are closely besieged, and assault is every day threatened. The arsenals, the arms, the revenue cutters, the custom-houses, the post offices, the mints, the money, and even the hospitals of the United States are seized and held with impunity. The operations of commerce are impeded. Seven States claim to have released themselves from all constitutional obligations; to have disrupted the Government, and formed a new and independent confederacy in the bounds of the United States, all in the name of secession; and yet we are told secession is not only a peaceful but a constitutional remedy; as if the Constitution had provided for its own destruction by an inconsiderable fraction of the power that made it."

But, Mr. Speaker, it may be possible that some gentlemen upon this floor may question the veracity of that portion of the report, but those gentlemen will not question the veracity of what I am about to read, for it comes from one whom many of them loved at that time, and I do not know but their love still continues:

"Even now the danger is upon us. In several of the States which have not yet seceded, the forts, arsenals, and magazines of the United States have been seized. This is by far the most serious step which has been taken since the commencement of the troubles. This public property has long been left without garrisons and troops for its protection, because no person doubted its security under the flag of the country in any State of the Union. Besides, our small Army has scarcely been sufficient to guard our remote frontiers against Indian incursions. The seizure of this property, from all appearances, has been purely aggressive, and not in resistance to any attempt to coerce a State or States to remain in the Union."

This is an extract from a special message sent to Congress by James Buchanan, and has his signature as President.

And this was signed on the 8th day of January, 1861, almost two months before his presidential term expired. War! Talk about waging war. These villains were laying destruction across the pathway of the Government, seizing its property here and there, going in military array and doing it, threatening men if they did not yield, and yet we are told that this Government has been waging war against the South! That is as big a lie as the institution of slavery is itself. I call slavery the great lie of the age, got up by a body of men, while this is a simple lie by individuals, and history will put the stamp upon it.

But we are told further than that—and here is where men attempt to escape—that Abraham Lincoln gave strength to the rebellion by his proclamation. On the 1st day of January, 1863, President Lincoln issued his proclamation after giving a hundred days' notice, ample time for the rebel States to lay down their arms and come back into the Union and be as they were before they took up arms—a grace which none but the God of heaven would have given, and I doubt whether He would have given it.

Why, sir, the Opposition seek an excuse under that proclamation to withdraw their aid to the Government in this hour of its peril. Let me remind such of a little piece of history taken from the words of the vice president of the confederate States, and which has become a part of the history of that government. He says that the new government formed by them is based upon the institution of slavery as its foundation. Do gentlemen object to getting at the foundation and knocking it to pieces? Do they desire to hagggle at the branches, and attack the trunk before they reach the foundation? Is that the way to destroy a system which has slavery as its foundation? There is a preferable mode. Strike at the foundation first, knock it out, and the superstructure will fall, and the whole mass will come crushing down. It is the best blow possible to be struck.

Mr. Speaker, gentlemen who would avoid supporting the Government cry, "Oh, the proclamation!" The proclamation struck at the foundation. It struck at the root of the terrible aggression against this Government. It struck at the very vitality of it, and every man of sense and judgment knows it, and they only deny it for an excuse for not rendering aid to the Government.

Mr. Speaker, there never was a time when the proposition contained in this resolution and in this proposed amendment of the Constitu-

tion needed more the action of this body than now, at this time, during this session; and, sir, the States, by their Legislatures, should act upon it at their earliest sessions after it shall have passed this Congress. The Constitution should be adapted to the condition of the country where the noble men of the loyal States are giving up their lives and where they have given them up by thousands. Their bones are bleaching upon hundreds of battle-fields. They are drenching with their blood the soil over which they are moving with victory perching on their banners and killing out the roots of slavery so that it cannot exist; and we, as the legislative part of this Government, should be adapting the Constitution and all the laws as speedily as we can to the new condition of the country where our armies do march in triumph, so that we may never see nor feel again this power that has come so near being the end of this nation.

Mr. KALBFLEISCH. Mr. Speaker, I shall not attempt to wander over the road traveled by the gentleman who preceded me, [Mr. HIGBY,] but will endeavor to take a common-sense view of the subject, and in plain language strive to give expression to the sentiments I entertain in regard to the proposition now before the House.

For the first time in the history of our country a serious attempt is about to be made to introduce a radical change in the Constitution under which we have enjoyed the greatest amount of earthly blessings ever vouchsafed to a nation. The question as to its propriety is therefore a grave one, beset with many perils, and its consideration should be approached with the greatest care and conducted with the most serious deliberation. Indeed, the necessity for such a change should first be made clearly manifest, and placed beyond all doubt, before its consideration at all should be allowed seriously to occupy our minds.

The subject embraced in the proposed amendment to the Constitution, that of prohibiting involuntary servitude, or, in other words, slavery, in any State or Territory, is not a new one and for the first time agitated. It received the attention of the framers of that instrument, and was exhaustively debated and thoroughly considered by them. They were not unmindful of the fact that the time might arrive when it would require the greatest forbearance on the one side and the utmost caution on the other to avoid a crisis like that in which the nation is now plunged. They settled the distracting question for themselves by mutual concession on the part of conflicting interests and views, and then provided for the permanency of that settlement by the adoption of a clause in the Constitution providing that amendments to it should be made only with the assent of three fourths of the parties to the compact. They feared that at some future time an attempt might be made to tamper with the Constitution in order to unjustly benefit or interfere with an especial interest or a particular section of country at the expense of another, and established what they believed to be an impassable barrier to any such attempt. They sought to place the glorious result of their labors upon as it were a rock, against which the fluctuating, surging tides of evanescent popular majorities and the stormy waves of mere partisan strife should be impotent to endanger its permanence. And there in that firm position it has remained invulnerable, if not unassailable, to the present time, an illustration and embodiment of human wisdom the most sublime ever reared by the mind of man.

Revering the Constitution as I do, can it be wondered at that I should receive the bare suggestion of amending it with any other than feelings of doubt and misgiving, and that before I can give my assent to any proposition for its amendment even for real and apparent defects, still less for fancied ones, I must be clearly convinced that it is indispensable to the future well-being of the country? I must not only be satisfied that it will infallibly tend to restore peace to the country and harmony to the Union, but also that the present is the proper and most auspicious

moment for its inauguration. In examining the proposition before us, with a view to satisfy my mind upon these points, it will be pertinent also to inquire into the objects and motives of its advocates here—whether their real desire is the benefit of every section of the country, or only that of a particular locality coupled with the corrupt purpose of perpetuating the power of the party now administering the Government.

The advocates of the proposition to amend the Constitution have endeavored to show by various arguments that the country could not continue to prosper while slavery was permitted to exist in the Territories or States of the Union, and that therefore a clause prohibiting the holding of slaves within the borders of the Republic should be inserted in that illustrious and venerated instrument. How long, let me ask, is it since it was discovered that the country could not prosper under our Constitution? Why, but a few years since to preach such a doctrine would have subjected the party having the hardihood to do it to the scorn and contumely of the people. Even the noisiest abolition brawling fanatics, whether of the slightest tinge or of the darkest hue, have invariably acknowledged that the country was prosperous, at least up to and until the outbreak of the rebellion.

The absurdity of the argument that the proposed amendment to the Constitution is necessary to the prosperity of the country is so manifest that to me it seems almost absurd to attempt seriously to refute it. It is either a crazy delusion or a wicked and willful falsehood on the part of those who promulgate it. No, sir; the prosperity of the country has been marred and its welfare affected, not by the legitimate operation of the Constitution, but by the efforts that have been made to interfere with and overthrow it. The continual intermeddling with and agitation of the subject of slavery by some of the people of the free States who had become frantic upon that question, and the use made of that frenzied state of mind by others of them in promoting the gratification of their inordinate desire for public office and political spoils, may well be regarded as among the primary causes that have hastened, if not produced, the unhappy condition in which we now find the country.

While the Constitution was respected and enforced, for three quarters of a century, we were happy and prosperous; and it was not until a miserable set of political charlatans sought to blind the people to their grasping for place and power by a false issue that this cry was raised that the instrument was defective and needed amendment. It was the production of the master minds of the age in which they lived, men who, if alive to-day, would be joyfully intrusted by the people with the task of leading the nation out of the calamities into which it has been plunged by the corrupt and incompetent imbeciles to whose hands the destinies of the country are now confided. Is it wise, under these circumstances, to discard their labors and teachings, and to attempt a change which may be sowing the seeds of our utter destruction. The fate of him who was well, took physic to make him better, and died in consequence thereof, is an apt illustration of the dangers of tampering with the Constitution, under the benign influences of which, heretofore, our national health has been so hearty and robust. It needs no physic, and least of all such as now offered us by political quacks and mountebanks, to improve our condition.

Where risks are but small in comparison with benefits anticipated, there perhaps may be justification in trying experiments, but the risk of altering one line, nay, even a single word of the Constitution, may involve us in consequences so fatal to the welfare and the liberties of the people that it would be worse than madness to attempt it. The alteration once commenced and the people made familiar with the idea of its mutability, and who can tell how soon other and more fancied grievances and wrongs, or even the reckless desire to pull down everything that bears upon

it the least stamp of antiquity, now so prevalent among us, may cause other and more radical changes, until in the end, of the now solid and perfect structure which has stood the test of years, scarce a vestige will remain? The glorious work of the fathers of the Republic, the perfection of human wisdom as it has often been pronounced, may thus become a mere piece of patch-work, shaped and transformed at the will and caprice of the parties in power until at last there shall remain of it but a bundle of shreds and patches as a mournful reminder of its former greatness. God forbid that such a destiny shall await the American Constitution. I regard, sir, this proposition for an amendment of the Constitution but as a part of the scheming and agitation which resulted in the origin and success of the party now controlling the Government, and brought forward in the hope, vain I trust, of securing for it a new lease of power.

By grossly high coloring and unfairly exaggerating the evils of slavery, these politicians succeeded in exciting among the people a sentiment of blind enthusiastic sympathy for the negro, of which they artfully availed themselves as a stepping stone to place and power. And they now seek by appeals to the passions and prejudices of the people stimulated by the events of the war, and by misrepresentation and the raising of false issues, to perpetuate their hold of the position which by the means to which I have referred they have succeeded in obtaining. This proposition to amend the Constitution for the benefit of the negro is, I repeat, but a new dodge in their game. The Democratic party are to be abused and maligned anew for daring to oppose them in their destructive career, and another agitation attempted to be excited, based upon the plea of justice to the negro. I say their destructive career, and I believe I am fully warranted in using the expression, because notwithstanding all their vaunting professions of extreme patriotism and loyalty (the latter a phrase only properly appropriate in countries where monarchical Governments prevail) they have perpetrated many acts which history will pronounce to be subversive of the best interests of the nation and tending still further to widen the breach which we have striven at the cost of hundreds of thousands of valuable lives and thousands of millions of treasure ineffectually to close.

What need, let me ask, have these politicians for an amendment of the Constitution, for any object? Have they ever failed, when their purpose seemed to them to require it, to disregard it both in spirit and letter? If those who differ with me shall answer this in the negative, let them, if they are able, wipe away the stain of confiscating lands, in clear violation not only of the spirit of the Constitution but of the only liberal construction that can be put upon it. Let them account for the disregard of its provisions in the numerous cases of arbitrary arrests, a power heretofore only exercised by military authority, under despotism, and the creation of which was never contemplated by our forefathers. Could the framers of our Magna Charta have foreseen that the time would ever arrive when it would be undertaken to suppress the publication of newspapers, and upon a pretext so frivolous as that put forth in the case of the *World* and the *Journal of Commerce*, they would have abandoned their work in despair. These are acts in violation of the Constitution, and which can only be perpetrated by means of military force. Let us hope that we shall have no more of them, and that we are not yet lost to all sense of patriotism and those feelings which animated our forefathers when they declared themselves a free and independent people, willing to stake their lives and sacred honors to maintain that declaration. Let us not become forgetful of their sacrifices and the boon they have conferred upon us, but resolve to continue with a steady and unflinching step to travel the road they have marked out for us, and which, always pursued by the Democratic party, has under their guidance conducted the Republic to happiness, glory, and renown.

A part of the game to retain power and control of the Government has been to misrepresent and vituperate the Democratic party. We are charged with opposing their proposed change in the Constitution simply with a design to thwart the Government in its purposes and action, and to frustrate its efforts for the restoration of the Union.

This is no new charge. The Democratic party have all along been accused by these political schemers of conduct tending to give aid and comfort to our enemies, and thereby assisting in destroying all hope of a restoration of the Union to its former proud stand among the nations of the earth, when its emblem of nationality was respected in every clime, the dread of tyrants and the star of hope of the oppressed. They are often in derision styled "copperheads," with intent to convey the idea of their favorable disposition to the so-called southern confederacy and their opposition to our own Government. These charges and accusations need no retort nor defense. They fall harmless at the feet of the Democratic party. The hundreds of thousands of brave and patriotic members of that party who fill the ranks of our heroic armies, and whose remains are moldering beneath the battle-fields of the war, and the pecuniary contributions of thousands of their brethren in civil life in behalf of the cause of the Union, suffice to show the proud position occupied by the Democratic party in this controversy. Their acts speak more eloquently than words, and the railing of the blatant babblers in the ranks of the Administration supporters will fail to blot or obscure the glorious record.

But here let me say that these aspersions upon and misrepresentation of the Democratic party, wanton and unjustifiable as they are, have tended more to the prolongation of the civil war than a casual observation would lead one to suppose. They have tended to encourage the rebels in holding out against a return to their allegiance, and in persisting in their vain effort to establish a Government of their own. This they have done by inducing them to believe that there was in the States adhering to the Union a party as powerful as is the Democratic party, sympathizing with their efforts and wishing them success. By conveying this impression and by the everlasting cries of copperhead, traitor, secessionist, and other opprobrious and lying epithets, of late so lavishly heaped upon the members of the Democratic party, the supporters of the Administration have, in my candid opinion, helped to prolong a war which should long ere this have been ended. And let me ask, would it not be a fair argument for the rebels to use to these would-be pure patriots who are so denunciatory of the acts of their fellow-citizens who differ with them in opinion, should they, the rebels, say: "You admit that you are in favor of a Government selected by a majority of the governed, and you say that you believe the power of sovereignty is still vested in the people, and that they possess the right to delegate it to such of their number as a majority of them may select?" You will not deny this, and the rebels continue: "You allege that the Democrats of the North are copperheads, in favor of the government of one Jeff. Davis; in short, that they are secessionists in sentiment; if so, why do you war against us and condemn us as rebels? You must admit that combined we rebels and the copperheads, who, as you say, are in favor of our Government, constitute a large majority of the people North and South; therefore our rebellion, according to your own showing, is justifiable and becomes a revolution, because it is based upon a desire for a change of Government, which, according to the principle recognized by us all, the majority of the people have an unquestioned right to make." This is the argument you put in the mouths of the rebels, and upon your own premises I imagine you would find it exceedingly difficult if not absolutely impossible to confute it.

Mr. Speaker, the language I have used may not be as eloquent nor my arguments as clear and lucid as I could wish and as others more capable to the task might have given expression to; but I believe my idea of popular government will be understood. No one, I am sure, with the least particle of love for the Union inspiring him, can fail to see the harm done to its cause by our opponents, not only by their unceasing use of language unbecoming American citizens, but by the commission of acts which are disgraceful in the extreme. Certain it is that to charge the Democratic party with having brought about the evils under which the nation labors, and with aiding and abetting in their continuance, does not tend to promote the fraternal feeling which should prevail among us, especially at the present.

So much for this charge that the Democrats are the enemies of the Government. I acknowledge, sir, and here I hope I may not be misunderstood, that when I speak of the Government I mean the Government as distinct and different from the individuals who, for the time being, administer it. To further explain: I love and venerate the Government and the Constitution defining its powers, and I maintain a proper respect for the authorities elected or appointed under it; but I reserve the right to examine into their official conduct and to express my disapproval of their acts if they do not accord with my sense of propriety and justice, even though such acts may be those of a constitutionally elected President. I say I claim the right to disapprove, as I do, of many of the official acts of Abraham Lincoln, the President of the United States. To this extent, no more, has the Democratic party sinned; and what sincere and candid friend of free speech can arraign them for that?

Having, Mr. Speaker, referred to these unfounded charges against the Democratic party, so far as I consider them worthy of notice, I desire somewhat to examine the claims of their opponents to all the political virtues which they so boastfully put forth. Let us see, also, whether these professions of desire to restore the Union are founded in truth or conceived in a genuine spirit of patriotism. They assert that the institution of slavery is the primary cause of this war, and that it should, therefore, be no longer allowed to exist. At first blush the assertion appears to have considerable force, and the consequence which they insist should attend seems to follow naturally enough. I deny, however, slavery to have been the origin of all our evils; but admitting, for the sake of the argument, that it was, upon reflection it will be found that the question still arises, is its utter annihilation at the present time, and in the present condition of the country and that of the negro race, the proper remedy? As well might it be contended that the utter destruction of life is the best mode of relieving long-continued bodily ailment. No sensible physician would either in theory or practice advocate such a treatment, and yet in what respect do the cases differ? The immediate abolition of slavery no one will deny strikes a death-blow at the very existence of the communities whose people are said to be cursed with the institution. A safer and more certain method to restore them to political health would be a resort to gradual emancipation or some other measure of a like nature. It might at least have been allowed consideration, for it should not be forgotten that the southern people themselves are not wholly accountable for the evil of slavery. Their brethren of the North are more responsible for its introduction among them, and should therefore be the last to demand that their title to what has always been recognized as property should be destroyed merely to satisfy the inordinate cravings of fanaticism. For one I can never consent to the adoption of a measure which must utterly abrogate their former acknowledged rights and destroy their political existence, and thus deprive them of a participation in the blessings enjoyed by other portions of the country to whose birth and prosperity they have so largely contributed by their willing sacrifice of blood and treasure.

But passing over this question and conceding, if you please, for argument's sake, the position of our opponents, what justification can they possibly find for their attempt to enact laws depriving innocent offspring of lands owned by their forefathers, and thus robbing them of their lawful inheritance, to be parceled out among these liberated slaves? This is an assumption of power in direct violation of the Constitution, quite as much so as would be a law for the utter abolition of slavery. And yet we have had not even a hint of a proposition to amend that instrument so as to permit of confiscation. And why? Was it because that, unlike the slavery agitation, there was no political capital to be made from such a proposition, and because they feared that a proposition so outrageous might lead to a more careful inquiry and scrutiny into their acts by the people, and result in the raising of a whirlwind the effects of which no political organization could withstand? It would seem so, at all events.

Again, why are we not asked to amend the Constitution so as to confer greater powers upon the Administration to justify them in their unwar-

rantable arbitrary arrests? Is it not because they fear the verdict of the people upon such an issue directly raised? The Constitution prohibits the infliction of cruel and unusual punishment upon actually guilty parties; and what can be said in mitigation of the incarceration of citizens in a dungeon as a punishment for a casual remark or for no conceivable offense whatever, upon mere frivolous charges preferred by irresponsible parties? The Constitution also provides for the freedom of the press. Why are we not asked to amend it so as to prohibit such freedom? Will they dare do it? No, and yet they have not hesitated to set the constitutional guarantee utterly at naught. Why, one of the main planks of the platform upon which the Administration party rode into power was the assertion of the freedom of the press, and yet see how they have disregarded their promises and pledges. Have we not been made the scorn and laughing-stock of the civilized world, from the fact that, with all our boasted freedom, our press is muzzled to an extent scarcely paralleled in any age or country since the art of printing was discovered? Is it not on pain of extinction that our public journals are compelled to refrain from giving utterance to their opinions and obliged to remain silent, while stupid and stupendous lies are daily perpetrated and circulated by parties who, affecting to be *par excellence* the friends of the Union, are influenced by purposes of plundering or stock-jobbing operations, or both? Has not the suspension of the two journals alluded to before, and known as the Journal of Commerce and the World, by order of the President, and placing a military guard in possession of the premises, presses, and printing materials, been of a character to alarm every freeman and justly excite his apprehension for the liberty of the press in the future? Have the American people already become so familiar with the perpetration of kindred acts that they cease to warn them of approaching danger? I hope and trust the people have not yet become so indifferent and have so tamely submitted to these attempts to trample upon or abrogate their sacred rights guaranteed by the Constitution as to have suffered them to be taken away without opposition, or have deservedly lost their title to them by default. The despotic theory that "the king can do no wrong" can never be recognized by Americans nor its practice tolerated on American soil.

If the publication of the bogus proclamation was what it is claimed to have been, a criminal transgression of law, the offending parties should have been arrested on a warrant issued by a civil magistrate and taken before him for a hearing, been allowed an opportunity to answer, and if able establish their innocence and show that they were not guilty of the offenses charged against them. This privilege was denied, though it was soon discovered that they did not commit nor intend to commit any wrong, and that they were simply the victims of a base and fraudulent imposition. Had these papers been published in the interest of the Administration they might not have received such harsh treatment. The actually guilty party who had committed the act was soon discovered, arrested, and taken to that celebrated Government boarding-house, "Fort La Fayette," where he should be kept for the good of the country and the improvement of his morals; but I am informed he is soon to be liberated and will be once more at large, free to again play his pranks at any moment upon some unsuspecting victim. Like the fox he may lose his hair, but I doubt if, like the fox, he ever loses his tricks. He was an attendant at Beecher's church; a prominent member, nay, I believe the president of one of the numerous loyal leagues; and if true, as I am led to believe, that it is to these circumstances he will owe his speedy liberation, he will prove to have been much more fortunate than other and, in my opinion, much better citizens and purer patriots.

At the time of the suppression of the journals named many if not all the employees of the Independent Telegraph Company were deprived of their liberties, under circumstances, if possible, more to be regretted by the people. These men were incarcerated in a dungeon upon a mere suspicion that possibly they could have been guilty of transmitting this notorious bogus proclamation over the wires of the company in whose employ

they were. Their innocence was shortly after established beyond even a shadow of a doubt, and had to be admitted by the very parties who, under color of authority, so ruthlessly deprived them of their liberties. No amends can be made for the injury done by such unauthorized assumption and exercise of arbitrary power, and it should, therefore, not be allowed to pass unnoticed, but be properly rebuked, and receive at least the merited indignation of every lover of freedom, and of all those who have any regard for the fundamental law and the observance of its mandates.

The placing of a military guard over the property of the company and depriving them of its use for the time being, is yet another act done without authority and in clear violation of the Constitution. It may not be as deplorable in its results; but that does not justify it nevertheless. The pecuniary loss occasioned by these unlawful proceedings I admit can be restored, but nothing can be done to blot them out. I am informed that it is the intention to give the company some of the Government patronage hitherto exclusively bestowed upon their rivals in business. But notwithstanding all this, what a sad page the recital of these wrongs will fill in the history of our country.

Let us not, for Heaven's sake, tamper with the Constitution. We have a work of more importance to perform; let us try and do it; yes, do it manfully, and not hesitate; let us see that the Constitution is respected in future; let us insist upon the proper enforcement of its provisions at all times and in all places, high or low; and let us not be deterred from inflicting condign punishment upon him who has the presumption to dare to violate or disregard it.

Let us talk no more about amending the Constitution to attempt to free the negroes. Are we not warned by the signs of the times, lest in so doing we may not only lay the foundation for enslaving the white people of this country, but of the whole American continent beyond redemption and for all time to come?

Mr. Speaker, I repeat that on no occasion when the purposes of those administering the Government have seemed to them to demand it, have they hesitated to infringe upon and disregard the Constitution. Not only by their acts, but in numberless instances by the teachings of those who are recognized as expounders and exponents of their views, have they asserted that where the Constitution stood in the way of the carrying into effect of their policy the Constitution must give way. This is the doctrine daily preached by that pulpit politician, Henry Ward Beecher, and the worthies who affiliate with him in political sentiment and action. And no one will question that they are the very apostles of the political faith of the partisans in power. This same Mr. Beecher, in 1863, said in Plymouth church in speaking of the Constitution, "I know it is said that the President is not the Government. What!" he exclaimed, "a sheep-skin parchment a Government!" doubtless presuming the assemblage to be in unison with him in sentiment. Why, sir, this is as much a substitution of the mere will of the Administration in place of the written law as the most arbitrary despot in history has ever dared to exercise.

It was for no more daring assertion of kingly prerogative and usurpation of power that Charles I of England lost his head upon the scaffold. Louis XIV of France, when he arrogantly declared, "The State—I am the State," and acted upon that declaration, scarcely went further than this new doctrine, which boldly announces that the Constitution may be violated upon the pretext that, in the opinion of the President, it is necessary to do so to preserve the Union. Louis had the Bastille, in which by a summary process, secretly and without trial, those who dared to criticize or oppose his policy were incarcerated. The Administration have Fort La Fayette in which, for no greater offenses, American citizens have been subjected to similar treatment. History, we are told, repeats itself; and the parallel I have cited would seem to be an illustration of the truth of the saying. Let those having charge of the Government beware that the parallel is not carried still further. Louis Philippe restrained the freedom of the French press, and went so far as to attempt to prohibit the right of the citizens peacefully to assemble in public meeting, and the result was that he was forced to fly the country, not dis-

guised in a long military cloak and Scotch cap, it is true, but in the loose blouse and overalls of a Parisian hod-carrier. Let the Administration, then, I repeat, be warned in time, for there are limits beyond which it is not safe to trench upon the rights even of a people so patient as those of the United States have shown themselves to be.

Already the indignant mutterings of the people at the repeated gross violation of freedom of speech and discussion are to be heard coming up in tones that should give most significant warning that the limit of endurance has been reached.

Why is there this apparent hesitancy at this moment to treat the Constitution in regard to the institution of slavery as they have treated it in respect to the points to which I have referred? There was no hesitancy to violate that sacred instrument in the case of the emancipation proclamation and confiscation acts. And why this newborn delicacy and reluctance manifested in the present request to go through the form of its amendment? Is it because the old love and reverence for the Constitution once so universal among us has been resuscitated, or because the majority here repent of its many wanton violations on their part? No, sir; I can give them credit for no such reform and repentance. It is an attempt to replenish again their almost exhausted stock of political capital by creating a new issue based upon the slavery question before the people, in the hope of renewing again that agitation upon the turbulent waves of which they were swept into the power which they have so deplorably abused.

In conclusion, Mr. Speaker, permit me to appeal to gentlemen of the Opposition to pause and reflect. Let me remind them that the country has little to hope for the future unless the war and its speedy and successful termination be not made the primary and unceasing object of all our efforts. Let us, I beseech you, thus occupy our attention, and leave this carping about constitutional amendments and other measures of like character to be disputed about and disposed of hereafter. Is not the war still the question of all questions pressing upon our consideration? Alas! no one can deny it. Let our earnest effort then be to unite in the endeavor to secure an early and honorable termination thereof. Above all let us not be led astray by a desire for mere partisan success, and thus, through party strife, place additional barriers in the way of the consummation that our people so fervently desire. Let our aim be to restore the country to its former happy condition; but, if unsuccessful, let us at least maintain our great charter inviolate. Let us heed the lesson which history teaches us, that it is wisest always to leave well enough alone.

Mr. SHANNON obtained the floor.

ENROLLED BILLS SIGNED.

Mr. STEELE, of New Jersey, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 486) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863; and an act (H. R. No. 504) to authorize the Secretary of the Treasury to sell the marine hospital and grounds at Chicago, Illinois, and to purchase a new site and build a new hospital; when the Speaker signed the same.

The hour of five o'clock p. m. having arrived, the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

INDIAN APPROPRIATION BILL.

On motion of Mr. STEVENS, by unanimous consent, the Indian appropriation bill, returned from the Senate with amendments, was taken from the Speaker's table and referred to the Committee of Ways and Means.

WAYS AND MEANS.

Mr. STEVENS. I ask the unanimous consent of the House for an order to have printed some amendments which I propose to offer to the bill of the House (No. 515) to provide ways and means for the support of the Government.

There being no objection, the order to print was made.

ABOLITION OF SLAVERY.

The House then resumed the consideration of the joint resolution of the Senate proposing amendments to the Constitution of the United States, on which the gentleman from California [Mr. SHANNON] was entitled to the floor.

Mr. WHEELER. With the permission of the gentleman from California I desire to present an amendment to the resolution, which I shall offer at the proper time.

The Clerk read the amendment, as follows:

Add to the resolution the following:

Provided, That this article shall not apply to the States of Kentucky, Missouri, Delaware, and Maryland until after the expiration of ten years from the time the same shall be ratified.

Mr. WHEELER. I ask consent to print an argument on this subject which I am unable to deliver.

There was no objection, and leave was granted. [The speech will be published in the Appendix.]

Mr. SHANNON. Before proceeding with my remarks, I desire to say that I have given my friend from Illinois [Mr. INGERSOLL] half of my time. He is a new member, and was not aware that he would have an opportunity to speak until late this evening, and could not prepare his remarks before to-morrow morning. I trust, therefore, that under these circumstances he will be permitted to occupy half of my time to-morrow instead of this evening.

There was no objection.

Mr. SHANNON. Mr. Speaker, I am not addicted to boring this House with set speeches, and nothing save the deep conviction I feel of the importance of the question now pending would induce me on this occasion to occupy time in these closing days of the session. But, sir, I would not do justice to the constituency I represent were I not to place upon the record my protest and their protest against this rebellion and its unholy cause.

It will not, I trust, be necessary in this, the fourth year of our struggle, to press upon this House proof that slavery is alone responsible for this war. No man who has read carefully the history of the past eighty years, whatever may be his political bias, will, I think, differ with this opinion. It is now our province to inquire whether that curse can be perpetuated with safety to American freedom and national unity, and if we find that it cannot, it will then become our duty to see to it that for the future it shall not exist as an element of disruption and disintegration in our midst.

Sir, the apothegm "liberty regulated by law" expresses my idea of the spirit of American institutions. It is that condition of the people wherein each is at liberty to regulate his own domestic affairs according to his own judgment or caprice, only being careful that those laws which protect the rights of his neighbor from infringement must not be violated. Slavery is inconsistent with this condition; it makes the many subject to the few, makes the laborer the mere tool of the capitalist, and centralizes the political power of the nation. Yet, sir, this centralization is not such as that which gave Russia her solidity and despotic greatness; it is that cheaper article from which "potty lords and feudal despots" spring. It draws around the slave-owning nabob all the petty trappings of the feudal system, and does not hesitate to assume like political powers. Its slaves are numbered as people to be represented, yet considered before the law as soulless beasts of burden. The man who owns five hundred slaves figures in the tables of representation as the equal of three hundred non-slaveholders. In plain Saxon, Mr. Speaker, the half-witted heir to a plantation stocked with five hundred negroes, located in a slave State, has just the same voice in this Hall as have three hundred of your constituency, even though my friends on the opposite side should move into your district.

Much was said a few years ago on this floor and elsewhere about higher law, and men were branded with every opprobrious epithet who believed that slavery should be amenable to a law higher than constitutions or human enactments. Sir, the statesman of the North was not responsible for that doctrine; the Commonwealth of Kentucky has adopted it as a part of her organic act.

The constitution of that State, adopted in 1850, contains this remarkable sentence:

"That the right of property is before and higher than any constitutional sanction; that the right of the owner of a slave to such slave and its increase is the same, and as inviolable, as the right of the owner of any other property whatever."

Now, sir, any gentleman who will turn to article thirteen, section three, of that instrument will see that I do not misquote the people of Kentucky when I assert that with them slavery assumes to exist by a "higher law" than the constitutions of our fathers. "He that is not for us is against us." Slavery is by its own declarations in antagonism to our Constitution, and for that reason, if for no other, I would oppose its continuance.

Sir, slavery rolls back the car of civilization, and brings us once more to the feudal age, giving us that system with all of its iniquities, and yet without its claims to respectability. Can such a system be legitimate fruit growing upon the tree of liberty planted by our patriot fathers and watered by their blood? Is it not rather a poisonous parasite which clings to the sides of the tree, sucking up its sap, smothering its foliage, and sure in the end to destroy it? For my own part I could never understand why the owner of slaves should be entitled to more political weight than the man who earns his daily bread by his daily toil.

I conceive, sir, that that nation is greatest the largest proportion of whose people are educated, possessed of the comforts of life, and are endowed with citizenship. Let the voting masses of any country be composed of an independent yeomanry the majority of whom are freeholders of moderate yet sufficient estate, let them be fairly schooled, intelligent, each one bearing a fair share of the responsibilities of the Government, and that nation will be healthy; more, sir, it will be great in a nobler sense than Rome was great.

Small farms, small towns, manufacturing communities and villages, rather than cities or large estates, are among the conditions of true national greatness. To each of these slavery is in antagonism. It revels in extensive plantations, seeks to deprive those who are not citizens of education, independence, and the comforts of life, and by increasing the proportion of slaves reduces the number of its citizens to the smallest possible point. With it the statesmanship that labors to secure "the greatest good to the greatest number" is inverted, and the greatest good to the smallest number is substituted.

Slavery and barbarism are identical. There was no enormity perpetrated in the darkest age or among the rudest people which it does not sanction. Every form of incest is common in this, that assumes to be a paternal relation. Even polygamy is degraded by it to promiscuous prostitution. Now, sir, I love the white race too well willingly to see their blood miscegenating with the African, and must protest against any institution, however patriarchal, under which such things are profitable, and too generally, on that account, called respectable.

It has been asserted, and even in some cases by divines otherwise respectable, that this thing, slavery, was of divine origin. I shall not stop, nor have I patience, to discuss those texts in holy writ which are said to favor this view, but shall content myself with remembering the one great test by which the divinity of all doctrines must be weighed: "By their fruits ye shall know them." Who will dare make, in this enlightened age, the assertion that the fruits of slavery are divine? What divinity, pray, in that condition of affairs where men and women are compelled to labor illy fed, more illy clothed, and unpaid, to the end that one, no better before God, should live in ease and without labor? What divinity in whipping women for protesting when their virtue is assailed? What divinity in tearing from the mother's arms the sucking child, and selling them to different and distant owners? Where is there one fruit of this tree that any man will dare to call divine?

Mr. Speaker, I have no respect for clergymen who so far forget the sacredness of their high calling as to give utterance to such a dogma. The man who preaches such stuff and believes it, if there is one such, I cannot help looking upon as a fool; the more intelligent the man who gives

it utterance, the less do I respect him; for a fool may be pitied, a hypocrite must be despised. Slavery divine, indeed! Is its divinity attested by its unbridled licentiousness, or by its degradation of labor; by its destruction of every family tie, or its prostitution of both races in prohibiting its victims from acquiring that knowledge which would enable them to read God's holy word?

Where, then, are the fruits of its growing which proclaim it as emanating from on high? Shame on the blasphemy which would saddle such an accursed institution upon the God of love and mercy! Man could heap no greater contumely upon his Maker than to attribute so unholy a thing to Heaven.

But, sir, some of these learned churchmen who find it profitable to advocate the divinity of slavery may conceive that this theivish rebellion is a bud of hope suggestive of a coming confederacy that shall prove to be a divine fruitage. Perhaps, sir, the grand dream of a confederacy whose citizens should be above the vulgar necessity of toil, and who should, every man of them, luxuriate in the enjoyment of a fat office, or rejoice in the possession of a princely revenue, would prove the disease which gave birth to the utopian dream, as being born of Heaven.

A. H. Stephens declared that the confederacy had slavery for its corner-stone. Mad brains had conceived the idea that a nation could be builded up all of whose citizens—not all of its people—should be free gentlemen and ladies, free not only to act as their own refined instincts might dictate in their intercourse with each other, but the male portion, at least, free to follow those same instincts into the descending cycle where the dusky damsels who are an integral part of this corner-stone might pander to their laziness and lust. It was to be a government whose citizens should not degrade themselves with the vulgar cares of life; they were to leave such things to their slaves, and they rule. Some would be soldiers, that is, wear the shoulder-straps; some would fill the various official positions of civil government; others would condescend to grace the various liberal professions by their presence. There should be no non-producers who were not slaves in fact, no producers among the governing class. The poor white man should be made a common soldier, a sailor, a petty officer, or a patrolman, whose duty it should be to keep the slave population in proper subjection. For, Mr. Speaker, it is a fact which those who believe slavery divine and the normal condition of the black man must wonder at, that these so-called happy slaves have so poor an appreciation of the joys of their condition as to be constantly pining for freedom to that extent that they will skedaddle from their comfortable quarters to seek refuge among the abolition barbarians of the frigid North whenever they chance upon an opportunity, and instances are not wanting where they have even risen upon their kind and indulgent masters and struck with terrible courage for that liberty so sweet to all men. The poor whites, however, were to protect their wealthy neighbors from all such terrible contingencies. This employment of the poor white would leave no poor idle, hence no dangerous class in the community; it would all be absorbed and its interest made identical with the interest of the wealthy class. The conditions of master and slave were alone to exist, the third class being a mere adjunct of the latter.

This institution necessarily establishes three conditions of society where it prevails: the master, the slave, and that most degraded condition of all, the middle-man, or the poor white trash, whose vocation is pander and pimp to the vices of both master and slave, and ultimately dependent on both, having no recognized condition, and enjoying none of the privileges of the governing or governed class, but an outcast from both and despised by both.

Now let it never be forgotten that our mission also is to elevate and disenthral that most injured and dependent class of our fellow white men from their downtrodden and degraded condition, that they too may be men, and enjoy the independence and rights of manhood. And, Mr. Speaker, that Utopia was much nearer its realization three years ago than most of us dreamed. Why, sir, subsisted by these slaves, every well man among the citizens of the slave States has been able to become a soldier. In the North two

thirds of the able-bodied men are required in the production of food and all those articles required for the subsistence of our wives, our children, and our armies.

Our enemies leave all this work to the slaves, and the slaves are all productive; male and female, old and young, all go into the field. The planter and producer is not, as with us, limited to the number of able-bodied men upon the plantation. With him a woman is a full hand. She does, and is expected to do, the same work with the men. Little children are not required to attend school, as school bills for colored children form no part of the plantation expenses. The little fellows of six summers are quarter hands, at twelve are required to do half the work of a man, and at sixteen are full hands. Decrepit age and tender youth alike are made to produce subsistence for the armies and the people of the South. It is this system which calls out all the bone and sinew of the South in aid of their cause which has made the once celebrated anaconda system of warfare a failure. Sir, all the cries of starvation we have imagined ourselves to be hearing from our "erring brethren" have been but the cries wrung from the poor creatures engaged in gathering their abundant harvests. And unless those cries are heard and heeded by this Government we can never hope to succeed in crushing the rebellion, and never ought to. We must deprive them of their producers; we must by our action in this Hall demoralize every slave left beyond the reach of our armies by guarantying to him his freedom beyond contingency; for, depend upon it, the action we take upon this bill will be known to every black man and woman in the South in a very short time.

In 1860 a period was reached which had been predicted by very many of the founders of the Republic, and which had been foreseen by that advocate of State rights, Thomas Jefferson. It was a period in which was to be solved a problem of vital importance to the American people. Jefferson wrote in 1798 that the State and General Governments were "coördinate departments of one simple and integral whole;" and in a letter to one of his friends said, "The enlightened statesman, therefore, will endeavor to preserve the weight and influence of every part, as too much given to any member of it would destroy the general equilibrium." And to another friend he expressed the fear that "a conflict would arise between State rights upon the one hand and Federal rights upon the other, the one encroaching upon the other to that extent as to produce a collision." Sir, that collision has come, and now we must decide for ourselves and for those who come after us whether the one or the other shall be maintained; whether the Republic as a whole is worth more than a system of petty nations, each independent of the other, and each powerless to protect its citizens from attacks from without or dissensions within.

The idea of a confederation of States had been tried and the experiment found not worth repeating; hence, on the formation of the present Constitution, it had been decided to "form a more perfect Union" by the action of the people of the States themselves, through their delegates to the Convention. That Convention represented the people of the several States, and their action was afterwards indorsed by a vote of the people of the several States. Sir, the people, acting through that Convention, ordained that this Government should have power to declare war, make peace, regulate the currency, and be in fact a supreme Government, "a more perfect Union;" one in which the people of the several States could find repose undisturbed by foreign attacks, or the machination of factionists within their own borders. The men of 1860, swelled up with the lust of slavery and blinded by its specious reasonings in favor of what it was pleased to call the rights of the States, unfortunately have proved too weak, too unpatriotic, to maintain unsullied the inheritance of freedom left them by their sires. To these men the doctrine of State rights was a cry under which slavery with all its attendant evils was to be fostered.

Slavery had been suffered to remain in our system at first by men who were anxiously counting the days, the time, when it could be abolished, as they believed, without peril to the country. They argued that it was weak, and the sense of justice which they believed was inborn in the

American heart would soon lead to its final and utter abolition. In fact, our fathers were abolitionists. A provision was incorporated into the Constitution by which no new additions were to be made to the stock of slaves then in the country, and it was believed that gradually and without a jar to the Federal system it would become extinct. Our fathers were mistaken. Slavery was not waning. Every year but added strength and gave vigor to the accursed tree, and eighty years after it is found to have grown so much as to number more victims than was the entire population of the Republic in the days of the Revolution. Waning, indeed! Why, sir, to-day it claims more territory than our fathers aspired to possess for the whole nation, and fights this war to enable it to wrench more domain from the grasp of freedom. This mistake, leaving to the people of the several States the right and authority to establish and regulate the crime of human slavery, has well-nigh proved a vital one. It is not necessary to trace the progress of the slave power. Every page of our nation's history records it. Every school-boy is familiar with it. From the purchase of Louisiana and from the passage of the Missouri compromise to the breaking out of the rebellion, every year's legislation embodied some new concession to slavery, and the pill was always labeled "compromise." It was continually making aggressions upon freedom, and still claiming that it was only securing to itself rights guarantied to it by the Constitution.

Assuming that the Government was a partnership of the States, the adherents of slavery finally attempted to dissolve it unless the reins of power were delivered into their hands. It would rule, sir, or it would ruin. The issue, then, was reduced to this: we must have the Union with the Government in the hands of the slave oligarchy or submit to its dissolution. We consented to neither, but trusting to the God of battles and the patriotism of our people we dared the fight, and as sure as Heaven is just we will succeed.

Now, sir, what is this institution of slavery that has sought to assume the reins of Government in this land of freedom? What is slavery, sir? It is "the sum total of all villainies." It is the destroyer of every virtue, public as well as private, because it encourages promiscuous and unbridled licentiousness, and renders null the marriage relation. It is the enemy of all religion, inasmuch as it has caused to be enacted in every slave State laws making it a felony to teach men and women whose skins are black to read even the Bible, and places restrictions about their assembling themselves together to worship God. It destroys all thrift, energy, and good citizenship among the ruling classes, teaching them to depend upon the labor of others for support when God has ordained to man that by the sweat of his brow he should eat his bread. Slavery is paganism refined, brutality vitiated, dishonesty corrupted; and, sir, we are asked to retain this curse, to protect it after it has corrupted our sons, dishonored our daughters, subverted our institutions, and shed rivers of the best blood of our countrymen.

Sir, the time has passed for concessions to the slave power. Slavery has risked all to gain all, and now it must abide by the cast of its own die; and to us there is but one issue, dissolution and a recognition of the confederacy, or the utter and immediate abolition of slavery. There is now no middle ground. I believe now that since the days of Calhoun there has never been a middle ground. We have tried tenderness long enough. For eighty years we have been compromising; we have coaxed and petted; it has availed us nothing. We have given the South the high places in our national synagogue, our kindness has never faltered, but, sir, it has been our ruin. We said to the South, we will not interfere with your pet snake while you keep it in the den you have provided for it; we will not fight your nefarious institution so long as you keep it at home. Slavery shall not be interfered with in any State where by local law it exists. We would even permit the snake to crawl into and establish for itself a den in Territories common to both; but because we insisted that it should not invade with its slime our own homes and take to itself every foot of the common inheritance it has rebelled. Why, sir, even as late as 1860 we of the North were a nation of compromisers, and after the ordinances

of secession had been passed in several States, it is a question whether we would not have been willing to accede to all the demands of the South. Even the old abolition party had men in its ranks who were willing to make some arrangement by which the widening breach might be bridged.

Mr. Speaker, at that time few men in the North were found so radical as to be unwilling to compromise upon some basis, and a still smaller number who would insist upon no terms short of full emancipation.

But, sir, as the history of the past might have warned us, every pacific overture was rejected, and no alternative was left to the freemen of the North but war. How sternly that war has been prosecuted upon both sides history will bear testimony. And shall we be willing to end the struggle now until sufficient guarantees are secured that our people and their successors shall live for all future time without a constant fear that the smothered flame shall again leap forth and burn with tenfold fury? No, sir, we must end this war now, end it for all coming time; and we can only end it as we desire by so amending our organic act that slavery can never again be an element of discord among our people. Members upon this floor who fear that their constituency will not sustain them in voting for this measure should remember that they have a constituency coming after those whom they now represent, a constituency who will hold them to a more strict account of their stewardship than will the partial friends of to-day, and the execrations of that constituency will be heaped upon the man who now hesitates to aid in wiping out this stain and curse that has disgraced us so long. We want no timid men now. Our brothers and sons have poured out their blood upon fields made memorable by their bravery, and shall fear that some of us will not be returned to seats in this House lead us to hesitate in doing justice to our country in this the crisis of her destiny?

Mr. Speaker, there can be no reunion with slavery—the day when such a thing was possible has passed. Sir, let us for one moment try to realize such a reunion. The first thing to be done under such a condition would be to enforce the fugitive slave law. But, sir, thousands of the slaves we would be called upon to return would be soldiers in the Union Army, men who had been engaged in fighting our battles. Our faith as a people is pledged to those men for freedom. They would be the wives, sisters, mothers and daughters of soldiers, and dare we submit to the rendition of that class? The fugitives who have followed our armies from the plantations of the South have been the only loyal men and women it found in its track, and shall we be asked in the day of our triumph to punish these our friends with one hand while with the other we reward the red-handed assassins who have endeavored to strike down our liberties? Sir, I can never bring myself calmly to contemplate the possibility of a reunion with the South which shall tolerate the further existence of slavery, much less one that shall restore it to its former assumed privileges. No, sir, we must either abolish slavery, or consent to see the Union of our fathers destroyed, its hitherto proud name become a hissing and a reproach, and its people no longer free.

Sir, there is but one compensation we can render to this country for the terrible sacrifices she has been called upon to endure in this struggle; that compensation is the entire abolition of the curse of slavery; otherwise the blood of our countrymen is shed in vain. We have seen it lurking and rankling in the veins of our body-politic for eighty years, until it has culminated at last in this terrible war, the most gigantic, and, upon the part of the South, the most brutal the world ever saw. Shall we now be willing to give it a new lease of power, new strength to renew its attacks? No, sir, we cannot, we dare not consent to such a thing. Were we to so far forget the lessons of the past as to entertain so base a proposition, we would be disgraced in our own sight and in the eyes of the world and of God.

But, sir, if we are to make emancipation effective and adequate to our national disease, we must adopt it boldly, resolutely, and at once. We must not only emancipate the slaves in the seceded States, but we must include the slaves of the border States, leaving no root of the accursed tree to spring up for the future to the peril of the country.

And, sir, the measure now pending seems to me to be the only one adequate to the emergency.

Mr. MARCY. Mr. Speaker, I have sought this opportunity to address the House for the purpose of expressing some general views on the state of the country. In the expression of my sentiments I shall not be sustained with the hope that my counsels will be heeded by the Administration party in power in this House, but if my remarks go out to the country, it is more probable that the righteous aversion existing in the heart of the people to this Administration may receive strength. The foundations on which our national liberty rests were deliberately settled by the illustrious statesmen of the Revolution; everything that was felt to be a necessity for a free people was carefully provided for; civil and religious liberty was surrounded with safeguards; the cause and the Government which the heroes of the Revolution fought for received the blessings of Heaven; the Constitution was a perfect work, and so long as the Administration of the Government under it was in the hands of the Democratic party, so long did it meet the wants of the whole country, but the moment the great disloyal abolition party assumed to direct the affairs of the nation, from that moment the safeguards of liberty were broken down, the foundations of the nation's strength were undermined, time-honored landmarks were blotted out, the purity and sacredness of the ballot-box were violated, and now, emboldened by success, the Executive of the nation proclaims to a bewildered people that, as he understands his oath to support and preserve the Constitution, it calls on him to do what in his judgment is indispensable to its preservation, whether such means are constitutional and according to its letter or not.

I address myself now, Mr. Speaker, to the consideration of the President's position as a plain, honest man, seeking for what is the best for the whole country, and as a man free from all prejudices, free from fanaticisms, and free from the mortal sin of ever having by word or deed promoted and fostered hatred between the two sections of the country. When visiting the splendid agricultural regions of the South, and doing business there, and when at home amid the busy marts of New England industry, I have invariably cherished one and the same national sentiment. Fraternity and equality are the guides of all true Americans. The Constitution in plain and unmistakable terms—so plain that a wayfaring man though a fool and a joker need not err therein—defines and limits the President's use of means and measures in the exercise of his duty in its protection and defense. His oath confines him to the use of the means which the Constitution provides. When he knowingly violates the sacred instrument, instead of either protecting or defending it, he destroys it; he commits a high crime against the American people, and registers in heaven the act of his perjury; and all his aids and accessories to the crime in this Congress, and all that portion of the wicked, disloyal abolition party who sustain the President in his infractions on the Constitution, are joint heirs with him to the inheritance of eternal infamy.

If the President has the right to overleap, or, in the language of the gentleman from Ohio, [Mr. GARFIELD,] "override" the Constitution and to substitute his own views for the written law of the land, he can justify himself by showing wherein the Constitution gives him that right. He says he does it to preserve the nation. How would you like a physician to preserve your life by cutting your heart out; the Constitution is the heart of the nation. Oaths are of no consequence when those who take them are allowed discretion as to when and for what purposes they can be violated. In time of peace the Constitution cannot become obsolete. In time of war, for still more obvious reasons, it cannot be laid aside. It is a living code; no part of it can die; every line is operative everywhere throughout the country, and at all times. It is binding on every American, and he who has once sworn to support it and then perjures himself, he is a traitor.

We are not to-day, Mr. Speaker, where my voice can reach the erring and misguided South; if we were I should entreat them to return to their allegiance, to come back within the fold of the Union and once more cross their hands in friendship with us. If they would listen, the great

loyal Democratic party would guaranty to them the pure administration of the law of the land, they should enjoy without further molestation their full and equitable rights under the Constitution. If the disloyal abolition party would humble itself in dust and ashes, and purge itself from its monstrous iniquities and wash away the stains which disfigure its infamous brow, and swear that from this time henceforth and forever it would never seek to interfere with the administration and regulation of the internal police of the southern States or of any State, and act with the Democratic party, peace would once more return to bless the land and to seal with the benediction of divine love the nuptials of a reunited country. Shall we see that glorious day? The abolition party do not wish to have the Union restored. I challenge any one of them to rise in his seat and say that he is in favor of the Union as it was and the Constitution as it is. Whenever such a blessing is hoped and prayed for they universally deride and mock the sentiment; all expressions for the Union as it was turn to ashes on their lips.

At the time the Constitution was adopted it saved us from impending anarchy and sought to secure liberty to posterity. But the history of this Republic, like that of all others, has taught us that virtue among the rulers and the people can alone preserve and protect the forms of Government. The power of minute local administration was given to each State. It was made a very prominent feature; the people of each State were allowed to make their own laws, to govern their own institutions. From 1792 to 1860 the country for the greater part of the time was under Democratic rule. It ascended in the scale of nations to the first rank, and was the equal of the four great Powers of the earth; the American people became the pride and boast of the world. All this was accomplished because the great code between the States was respected. The party in power now seem as ready to overthrow this glorious Constitution as our fathers were to shed their blood to obtain it. Our fathers broke the yoke of tyranny, and a degenerate portion of their sons are ready to place their necks in it again.

Why are they ready to resume it, Mr. Speaker? When for a moment reason is allowed to resume its sway the question is easily answered. We are engaged in putting down a great rebellion. That was the ostensible purpose of the war. Whether it has degenerated into a crusade to overthrow the institution of slavery at the expense of all the available blood and treasure of the North is an open question; but I asked the question, why does a portion of the country seem ready to put on the yoke of despotism? It is because they meekly sit by and see established forms of Government swept away, and, either in their ignorance or in their willingness to see the Government destroyed, aid and abet the nefarious crime. Nothing can be more unfortunate in any country than the necessity or the rashness which blots out an established constitution before a substitute is prepared. We hear every day now, in addition to open infractions of the Constitution, of schemes for a different form of Government. Change it in the slightest manner and the form of Government is changed. If the Constitution should be altered to suit the infractions that have been made on it, what would become of us while the change was going on? How many fanatical theorists, filled with only the idea of the black man, would come forward and obtrude their ill-digested notions upon the public? Despotism and its minions would lie in wait to take advantage of the hazards by which the Constitution would be surrounded. Breaking the Constitution is like breaking the golden cord: when once the mischief is done you cannot expect it to be repaired; rulers and people are alike unrestrained by authority; but while there is enough of the Constitution left to keep a remembrance of what it was, I shall not lose all confidence that its condition will be beyond hope when it again falls into the hands and care of the loyal Democratic party.

Mr. Speaker, as I proceed in my remarks I shall have occasion to speak more particularly of some of the infractions of the Constitution. I have said so much in a general way for the purpose of expressing to this House the absolute convictions of my constituents as well as my own, that by disregarding constitutional obligations the

warning admonition of Washington, and the wise counsels of all the most eminent patriots of the land, past and present, the country has been involved in the horrors of a terrible and devastating civil war. My constituents, with me, believe that the Constitution, as framed by the fathers of our country, is sufficient for all emergencies, and we utterly repudiate the doctrine that in time of war, or at any time, it can be suspended or enlarged in its powers beyond the letter and true meaning of that sacred instrument. It is to us, as it was to our fathers, the only hope of a perfect Union, to establish justice, insure domestic tranquillity, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, and if observed in its letter and spirit is amply sufficient to secure to us, as it did to them, these inestimable blessings. And as a Representative in Congress, I am instructed by my constituents to unite with all true Union men everywhere in the support of the Federal Government, and to seek to preserve the Constitution as it is and to restore the Union as it was.

Mr. Speaker, the patriotic and eloquent gentleman from Indiana [Mr. VOORHEES] has told us how, under its present custodians, the Constitution has been used to establish justice, insure domestic tranquillity, promote the general welfare, and secure the blessings of liberty. The remembrance of that speech must still be fresh in the minds of the guilty party who have murdered the Constitution by piecemeal. My constituency do not believe in war as a remedy for the tremendous evil with which our country is afflicted. They regard the history of the three years of the immediate past as one of mourning, shame, and sorrow, and humiliation; they look upon it as a fratricidal strife which wise statesmanship might have avoided; they look upon the terrible and frightful slaughter as so many lives uselessly sacrificed; they think the mourning which the fate of war has carried to so many homes a dear price to pay for the military glory we have won; they look upon the immense amount of property which has been destroyed as a reckless and wanton waste; they assume the gigantic load of taxes which has been placed upon their shoulders with a spirit of heroism that may be equal to the task, but praying that they may be spared additional weight; they look upon the mighty pyramid of our national debt and its prospective increase, and cry out, "Not unto the third and fourth generation shall our children suffer for their fathers' sins, but all our posterity, throughout all the coming ages of the endurance of this nation, must feel the burden of heavy taxation to pay even its interest." My constituents are a thinking, reasoning people. They bow down to no idols and worship no false gods; their politics consists of pure Democracy, and their religion of patriotism and devotion to the whole country. They do not believe that the black man is equal to the white. They are not imbued either with any false philanthropy or false notions concerning the black man's true position. They would not disturb the equilibrium of States and plunge the country into a desolating war on the negro's account, but would leave each State to regulate its own internal affairs as guarantied by the Constitution. If there is sin in slavery, they would leave it wholly to the conscience of the southern people and to their God.

By what principle of right can any man justify the breaking up of our form of government to secure freedom to the slaves? Gentlemen on the other side, do not disguise your true position, do not deceive yourselves any longer; look into the mirror of present events and see the reflection of your own image; if it is not more frightful than any ever seen in Babylon, and more terrible than the apocalyptic Beast, then I have not seen the colossal and iniquitous image in its true light. "Better a thousand times the old Union as it was should perish and rebellion triumph than ever to witness its restoration," is the wicked sentiment of the Republican party. It is fastened on them like the poisoned shirt of Nessus. Could the war stop to-morrow by the restoration of the Union as it was, how many votes could the measure get from gentlemen who charge this side of the House with disloyalty? Could the war stop to-morrow by the resurrection of the hopeless slain to return to the bosom of their families, and to bless with their presence the bereaved and stricken

mourners, how many disloyal and crazy fanatics would give up their schemes for their loved negro to help on such a bright and glorious day? Not one, Mr. Speaker; in my judgment, not one; if there be any such who would, let him speak for himself.

Have I offended? But, gentlemen, your career is fast drawing to a close. God, in His mercy, will not impose upon the free American people another four years of your dreadful misrule; four years in the fiery furnace, four years groping in the valley and shadow of death, four years of the blind leading the blind, four years amid the sulphurous flames of the pit that is bottomless, I think will satisfy even divine vengeance; and when the administration of the Government passes into the hands of the conservative party, our abolition friends must emigrate to the place the gentleman from Illinois [Mr. WASHBURN] so often mentions, Abyssinia, and into the heart of Africa, or be content with the four years of miscegenetic beatitude they have so hugely enjoyed. The Government instituted for white men will again become popular. The bleeding Treasury will be rescued from the grasp of relentless speculators, and will become virtuous too; and the *fairy tales* that render it so disreputable will cease to exist.

I approach now, sir, the consideration of two or three of the subjects which have claimed much of the attention of the country, and done much to excite that deep and overwhelming spirit of opposition to the Administration which is so manifest in all the States. One of the resolutions, sir, passed at the convention which nominated me for Congress was as follows:

"Resolved, That the arbitrary arrest and imprisonment of citizens for political offenses, and the suspension of the writ of *habeas corpus* in loyal States, are gross violations of our national and State constitutions, and tyrannical infractions of the rights and liberties of American citizens, which cannot be tolerated in a free country; and that the people cannot, and will not, allow the freedom of speech and of the press, that great safeguard of civil liberty, to be put down by unwarranted and despotic exercise of power from whatever source."

Among the articles of our present faith we find the following: we do not believe the Administration is engaged exclusively in putting down the rebellion; we believe it is employing our vast armies to sustain acts which have the strongest tendency to overthrow the framework of our Government. We believe the Army has been used in loyal States to carry elections, and, above all, Mr. Speaker, how was it in Florida for the purpose of getting up a bogus State government in favor of the President, and how has the Army been used by Banks for the purpose of enriching cotton speculators? Are these things fresh in the minds of Republicans, or are they not? Are the immense losses in the material of war and the lives of thousands uselessly sacrificed to Moloch and Mammon passed forgotten into the history of your nameless crimes? The true purpose of the people in furnishing the sinews of war is comprehensively stated in a general order issued by General McClellan, August 9, 1862. The order is as follows:

"The general commanding takes this occasion to remind the officers and soldiers of this army that we are engaged in supporting the Constitution and laws of the United States, and in suppressing rebellion against their authority; that we are not engaged in a war of rapine, revenge, or subjugation; that this is not a contest against populations, but against armed forces and political organizations; that it is a struggle carried on within the United States, and should be conducted by us upon the highest principles known to Christian civilization."

But I pass on to the resolution first quoted. I know not how many times Mr. Seward has rung his bell since he has been prime minister, and consequently I know not how many citizens have been unceremoniously locked up in military dungeons without an opportunity of trial by a jury of their countrymen; but we do know the number is legion, and that in every instance it was done in absolute violation of the established law of the land. No special pleading can convince us to the contrary; when the people are robbed of their liberties they know it. Among the dearest of their rights is that of trial by jury. The people will not be trifled with any longer; the great constitutional arguments on this subject I leave for the able lawyers on this side of the House to discuss. I simply state the broad facts as stated by the Constitution and as they are understood by the people at large, who are now awaking to a sense of their true condition.

The President has had a majority of both Houses of Congress in his favor; hence whatever radical measure he has wished to carry has been accomplished without the slightest difficulty. The direct and only object of a majority of these measures has been to secure a firm foothold for approaching despotism, coming on with equal steps with every unconstitutional act. Is it any exaggeration to assert that the military prisons have been filled with citizens from the loyal States who are political opponents of this Administration, and have they not, in their wretchedness, become prematurely old, and has not the affliction with many of them been so great as to lead to suicide and to the lunatic asylum? After they have been confined for many weary months, vainly seeking for the cause of their arrest and for a trial, have they not been released without one, or even so much as an excuse given for the horrible outrage inflicted upon them? Any man of influence known to be opposed to this Administration is in danger all the time of having his most sacred rights violated, of being torn from the bosom of his family and incarcerated in a loathsome dungeon. The whole country is filled with spies and eavesdroppers to report to the Bakers whatever can be tortured into anything like opposition to the tyranny seeking to plant itself upon a throne. By the suspension of the writ of *habeas corpus* the Government officials are enabled to seize and imprison any offensive person. How long will such a state of things last? Just so long as a foolish people will permit it.

My constituents understand this question, and woe be to the man who attempts among them to execute the mandates of tyrants. My friends are also in favor of free speech and a free press.

Mr. Speaker, during the ever-to-be-memorable trial of the distinguished Representative from Ohio [Mr. LONG] for words spoken in debate, I was painfully struck with the following remark from the gentleman from Indiana, [Mr. ORTH], namely:

"A man is free to speak so long as he speaks for the nation; when he speaks against it he shall not, with my consent, do so with impunity on the floor of this House."

Who is to be the judge when I am speaking whether I am speaking for the nation or not—the gentleman from Indiana [Mr. ORTH] or myself? Is his judgment so faultless that he can decide better than his peers what is constitutional and within the scope of legitimate debate? Has it come to this in his judgment, that he can rise and dictate what we, with "bated breath and whispering humbleness," may say? Dare he stand up in Congress and seek to lock the mouths of the Representatives of a free people whose every right is as sacred as his own? I tell the gentleman and all of his way of thinking that I shall utter upon the floor of this House whatever I wish concerning the crimes, the follies, and the outrages of this Administration; whatever I wish concerning its turpitude, its sins, and deformity. I quote from Story on the Constitution:

"In some foreign countries even to this day it is a crime to speak on any subject, religious, philosophic, or political, what is contrary to the received opinions of the Government; or even to speak upon the conduct of public men, of rulers or representatives, in terms of the strictest truth and courtesy, has been and is now deemed a scandal upon the supposed sanctity of their stations and character, subjecting the party guilty of it to the severest punishments."

The gentleman and his friends had better at once find those genial climes. They are just suited to the tastes of despots and aristocrats. But the right of free speech is a plant of indigenous growth in this country, and can not be eradicated. The freedom of the press, Mr. Speaker, receives no protection from the present guardians of the people's rights. I now ask for information: is there an instance on record where Government officials have exerted their power and authority to prevent the destruction of newspaper offices? Is there an instance on record where the strong arm of the law has been interposed and upheld by the friends of Mr. Lincoln to save newspaper property from a lawless mob? I know of none, sir, and I do not think there is one; it has seemed rather a holiday pastime than otherwise, and thought as lightly of as any other infraction of the Constitution. It has remained for the historian to refresh our memories with the fact, while comparing this country with others, that

"In some countries the press has been shackled, and compelled to speak only in the timid language which the cringing

courtier of the capricious Inquisition should license for publication."

Sir, how well do his words apply to the state of things now in our own unhappy country. Let the people ponder well these facts before the glory of our nation is entirely gone; before it stands only as the shadow of the imperial name it once had; before it is seen only as a broken and crumbling monument of its heroic history; before Icha-bod is written all over its shattered temples.

In this hasty review I must avail myself of the privilege to notice other acts of this Administration, which have materially helped to strengthen and prolong the rebellion, and to swell the army of tax-gatherers and the processions of wretched mourners in all our streets.

On the 22d of September, 1862, the President gave notice that on the 1st of January, 1863, he should issue a proclamation of emancipation to all the slaves in the districts seeking for independence. Three months' notice was given to the southern men to prepare for the event. During this time the abolition press was in ecstasies, the rebellion was about to receive its final blow, the colored millennium was to be ushered in. Greeley, at the head of nine hundred thousand more, promised to move immediately upon the enemy's works under the influence of the Spirit of the Lord. At the tread of their conquering march the confederacy was to tremble and totter to its fall. But how have all those bright visions vanished! Time has demonstrated the wisdom of the country's true friends. That proclamation had the identical effect which statesmen foresaw. Not one single slave has been liberated thereby. Wherever the armies have penetrated slaves have been received and protected within the lines of the Federal forces. The same was the case before the proclamation was issued.

Mr. Speaker, while General McClellan was in command he received and protected every negro who came within his lines. He never refused one, and never returned one to slavery. But it was not his idea to employ the armies of the Union for the purpose of destroying their property, liberating slaves; the Army had with him a higher and holier destiny. Under his leadership his soldiers knew that the grand object of the war was to preserve the Constitution and restore the unity of the States. After the proclamation was made, instead of having the effect to fill up the depleted ranks of the Army with a million of willing troops, conscription and princely bounties was the resort. On the other hand it broke the spirit of thousands of loyal men struggling to be loyal. They saw their property about to be swept away from them at a single stroke; it may have been nothing but a weakness of theirs, but it was more than they could stand. They joined the ranks of the confederates, and interposed a line of gleaming bayonets between their property and those who would take it away; and beyond all that, it kindled into a flame seven times fiercer than ever felt before the mortal enmity of the southern heart. This may have been wise and judicious. I beg leave, however, to differ. In my judgment overreach of the Constitution to proclaim freedom to millions of blacks affords staple for the demagogue; consequently the misery and wretchedness the country endures on account of it are of no earthly account.

For an explanation of the additional burdens imposed upon the white laboring classes at the North to support this folly of follies, I refer the other side to the able and exhaustive speech of my distinguished friend from Indiana, [Mr. HOLMAN.]

Leaving the proclamation to slumber in the charnel house where, shrouded in the habiliments of death repose the brains of the Republican party, let us pass on to the act approved July 17, 1862, to seize and confiscate the property of rebels, &c. This act provides for the immediate seizure of all the estate and property, money, stocks, credits, and effects of those who were at the time of the passage of the act holding high office, civil and military; and in section six this act provides that the property of any person engaged in the rebellion shall suffer confiscation, including estates, money, stocks, and credits, unless within sixty days after the proclamation of the President, which is provided for in the act, such persons shall return to their allegiance.

On the 25th of July, 1862, the President issued

his proclamation of warning to all persons liable to be affected by the act.

Nearly two years have passed, sir, since this act went into operation. In a few places and on the borders of two or three States the act of confiscation has had a practical effect; estates have been seized and confiscated; slight revenues to the Government have thereby gone into the national Treasury; a few persons have been turned out, homeless and homeless into the streets; the greed of the officers charged with the execution of the law has been partially satisfied; the radical humanitarian and utopian theorist have enjoyed the partial fulfillment of their dreams of dividing up and realizing easy profits from the large estates of the South. But, sir, if possible it gave additional incentives to the owners of landed property South to oppose with all their might the military power of the North, which alone is the only power that can enforce the provisions of the law. From these two distinguished acts of the Administration nothing but misery, bloodshed, and desolation have followed in their train; by them the war has been prolonged, millions on millions have been added to the national debt; thousands of the bravest and best of our citizen soldiery have lost their lives in consequence. In the idea of emancipation and confiscation the great and only legitimate object of the war has been lost sight of, and they have led directly to the adoption of the theories of subjugation and extermination.

The Union, as presented to the South by the abolition party, is nothing more nor less than the acceptance of a master who is to prescribe their laws and regulate their internal police.

Forcible arguments have now been put into their mouths to resist, step by step, force with force, the encroachments of an Administration which, in its blind zeal to gratify the lunacy of fanatics, throws down all constitutional barriers and leaps headlong into the whirlpool of anarchy and misrule. Time would fail me to specify one half of the radical mistakes Mr. Lincoln has made. I have no heart to go over the list; they are before the American people. The whole bill of indictments is being drawn by the accused himself. The trial of Abraham Lincoln will not prove a farce, and no packed jury, armed by bayonets, will be able to acquit him. I may reason wrong; but I believe the name of the President will go down to posterity along with the deep execrations of all who revere and love the Union as our fathers gave it to us.

Our soldiers in the field deserve and have ever received from this side of the House the warmest sympathy and support. Their own individual interests have and ever will be among our most sacred trusts. They went out to defend the flag of their country, and to bring back under the Constitution the seceded States. They have illustrated on every battle-field the valor and prowess of American arms. They could do no more. They have done enough to accomplish the true object of the war, and would have done more but for the interference of ambitious, selfish, and designing politicians.

Mr. Speaker, the flag of our country is dear to me. I have carried it all over the world, and beneath that sacred emblem of our nation's power I have in every foreign land, among civilized and uncivilized nations, realized the influence of its protection. I have never felt that it was designed for the benefit of any State or section, but that under it all were alike equal. That flag I still intend to uphold and defend. I see in it nothing to warrant oppression or commitment of crime in the sacred name of liberty. As has been well said by the able patriot from the city of New York, [Mr. Brooks,] traitors to the Constitution are those who violate it; those who depart from it are like the mariner at sea without a compass, and although the truly loyal men stand as lights all over the country to keep the ship of State away and free from the rocks and shoals whither it is drifting, our good intentions are always disregarded and often treated with contempt.

More than once, sir, I have ridden on the mountain waves of the ocean, clinging to a portion of the wreck of my noble ship; the small boat, some friendly plank or spar, has been the means of saving my life. So, sir, amid the general wreck of States, and floating about as we are on the waves of this tempestuous ocean of civil war, I will cling to the Constitution as my only hope of

refuge and safety. To refuse its aid would be madness.

Mr. COFFROTH. Mr. Speaker, when I entered this Hall at the opening of this session, I had determined not to participate in any general debate. It was my intention to be a listener and not a talker. This resolve would have been faithfully kept had it not been for the extraordinary legislation that has been pressed upon the House—legislation, in my opinion, which is not only subversive of the interests of the people, but which erects an insurmountable barrier to the restoration of the Union. The resolution before us proposes to amend the Constitution, made by the patriots of the Revolution, so as to abolish slavery throughout the United States. It proposes to set free four million ignorant and debased negroes to swarm the country with pestilential effect. It is to carry out the design of the bad and wicked men whose fanatical teaching has produced the terrible bloodshed and destruction of life through which we are now passing.

Sir, we should pause before proceeding any further in this unconstitutional and censurable legislation. The mere abolition of slavery is not my cause of complaint. I care not whether slavery is retained or abolished by the people of the States in which it exists—the only rightful authority. The question to me is, has Congress a right to take from the people of the South their property; or, in other words, having no pecuniary interest therein, are we justified in freeing the slave property of others? Can we abolish slavery in the loyal State of Kentucky against her will? If this resolution should pass, and be ratified by three fourths of the States—States already free—and Kentucky refuses to ratify it, upon what principle of right or law would we be justified in taking this slave property of the people of Kentucky? Would it be less than stealing?

This legislation has a tendency not only to create discord among the people of the North, but has a power so immense the mind cannot calculate its weight in giving strength and force to the rebellion. It fulfills all the prophecies of the South concerning the North. They have been bolstering up and maintaining their Army by asserting that the people of the North intended to confiscate their homes and rob them of their slave property. The one has already been put in force by an unconstitutional enactment, and you now propose to do the other by the same process of illegality. These acts constitute the propelling power which has filled southern armies. The fanatical legislation of this Congress has been of more value to the South, in giving them large armies, than all the conscriptions they have passed or bounties they have paid. Men who were attached to the old Union, but placed under circumstances to be of little service to it, and who have been waiting with beating hearts to be again sheltered under the old flag, are now forced, not only into sympathy with the rebellion, but into hearty co-operation. They have no other resort. To remain idle now is to lose all they have. In their opinion, to sustain the rebellion retains to them their property.

If slavery is to be abolished, allow it to be done according to the principles of common justice. Allow the people in each State the inalienable right, through their legally constituted authorities, to control their own domestic institutions in their own way. This was the doctrine held by statesmen whose passions and prejudices did not blind them to a correct idea of right.

President Harrison saw the disunion purposes of the abolitionists and slavery agitators at an early day, and expressed the following opinion:

"I am, and have been, for many years, so much opposed to slavery, that I will never live in a slave State. But I believe the Constitution has given no power to the General Government to interfere in this matter, and that to have slaves or no slaves depends upon the people in each State alone. But besides the constitutional objection, I am persuaded that the obvious tendency of such interference on the part of the States which have no slaves with the property of their fellow-citizens of the others, is to produce a state of discord and jealousy, that will, in the end, prove fatal to the Union. I believe that in no other State are such wild and dangerous sentiments entertained on this subject as in Ohio."

Sir, I do not deny the right of Congress to amend the Constitution of the United States for the benefit of the people, but I do deny the right of Congress to amend the Constitution to the destruction of the right of the people to hold prop-

erty. It never was intended by the framers of the Constitution, nor by any of the great men who ruled this country, that the dominant party, blinded by prejudice, should alter or amend the Constitution to the injury of the weaker section. If the North has the power to take from the South their property, it follows that if the South ever gets the power, she would have the same right to take our property, and the result would be that instead of the Constitution protecting the people it would be turned into a power to oppress them.

The Democratic party has been exerting its power to restrain legislation to its proper channel, and for this it is daily stated upon this floor and elsewhere that the Democrats are in sympathy with the rebellion. What a libel upon that great party! Its great principles, its pure devotion to the country, and its never-dying fealty to the doctrine of man's capacity for self-government, can receive these shocks of vituperation with as little effect as the mighty oak, that has planted its roots deep into the mountain side, receives the peltings of the storm. Let history speak for the Democratic party. Under its control this nation grew from thirteen penniless colonies to thirty-four mighty States. Under its control the forests, where the red man roamed unmolested, have been felled, and mighty cities have sprung up, with their spires piercing the clouds. Under its control the old road wagon had scarcely pulverized the stones of the macadamized pikes upon the mountains, until the iron horse flew with lightning speed through their bowels. It was under its control the sails of our vessels whitened every navigable stream in the world and the flag of our country protected American citizens in every clime. Under its control, when foreign nations were suffering for food, the old ocean was made to groan beneath the weight of provisions sent to a starving people. Under its control science, agriculture, and the mechanical arts became so perfect and harmonious that the Old World wondered in amazement at the scientific advancement of our people. Under its control the people of all climes and countries were invited to make this their home, where they might worship God according to the dictates of their own conscience, and under their own "vine and fig-tree." It was under the control of this same Democratic party that vast and boundless territory was acquired. The great Northwest was molded by the hand of the Democracy. That beautiful country, which was once a wild and waving prairie, is now dotted with habitations as the stars dot the heavens above us, and her cattle are feeding upon a thousand hills. It was under Democratic control that "empire marched onward" until the flag of our country was placed upon the highest peaks of the Rocky mountains,

"Whose vast walls
Have pinnacled in clouds their snowy sculps,
And throned eternally in icy halls
Of cold sublimity."

Under Democratic rule the monster barriers of the Rocky mountains proved no impediment to the onward march of American civilization and constitutional government, and the adjoining valley was acquired, whose loveliness and beauty are described as rivaling the magnificence of the garden of Eden. The Democratic party not content with even all these splendid acquisitions took the "empire onward" and crossed the Sierra Nevada mountains, and planted the flag of the free upon the golden soil of California and gave us a "domain of more than imperial grandeur. Its valleys teem with unbounded fertility, and its mountains are filled with inexhaustible treasures of mineral wealth. The navigable rivers run hundreds of miles into the interior, and the coast is indented with the most capacious harbors in the world. The climate is more healthful than any other on the globe, the vegetation is more vigorous, and the products more abundant; the face of the earth is more varied, and the sky bends over it with a lovelier blue. Everything in it is made upon a scale of magnificence which a man living in such a commonplace region as ours can scarcely dream of,

"Which his eyes must see
To know how beautiful this world can be."

No political organization of any country or age can show so glorious a record, so free from blunders and crimes, and so rich in valuable achievements. The unexampled progress of the country

in wealth and power, and its peaceful, prosperous, and happy condition before this war, were the result of the wise and patriotic policy of the Democratic party. Can the Democratic party in this the hour of the country's desolation forget its past history? The shouts of fifteen hundred thousand Democrats answer no. The mission of the Democracy is to save our wrecked and divided country, and, with the help of God, relying upon the justice of our cause, we will unite this distracted country in bonds so strong that future causes will never bring upon us a separation.

The man who with this record before him charges the Democratic party with disloyalty I look upon as either a madman or a knave. When the gentleman from Iowa [Mr. GRINNELL] uttered in debate the startling announcement that he "would rather say a thousand times let the country be divided, the South go their way, all slave, and the North all free, than see the country once more under Democratic rule," I was not surprised. The history of the gentleman from Iowa is consistent with this treasonable language. He declared in a speech he made in Iowa that he would as soon see his daughter marry a negro as a Democrat. It well becomes a man of such refined education and exquisite taste to belch forth his bitterness against the Democratic party of the country.

Looking at the great progress and power of our people, the mind naturally asks the question, what has caused the afflicting and severe troubles that hang over us; what has caused this beautiful land to be drenched in blood, and brother meet brother in deadly conflict? I will not attempt to answer this question myself, but will give the warning voice of some of the great men who lived before us. The prophecy they then made is now being literally fulfilled, and we are reaping the bitter fruits of our disobedience to their advice.

General Washington, in his Farewell Address, thus admonishes the people:

"My countrymen, grow indignant upon every attempt to alienate any portion of our country from the rest. BEWARE OF SECTIONAL ORGANIZATIONS! of arraying the South against the South or the South against the North. In the end it will prove fatal to our liberties."

General Jackson had the reputation of "seeing through a man at a glance." He has left his sage counsels for us to ponder over. In his Farewell Address he says:

"What have you to gain by divisions and dissensions? Delude not yourselves with the hope that the breach once made would be afterwards easily repaired. If the Union is once severed, the separation will grow wider and wider, and the controversies which are now debated and settled in the halls of legislation will be tried in the field of battle and determined by the sword. Neither should you deceive yourselves with the hope that the first line of separation would be the permanent one." * * * "Local interests would still be found there and unchastened ambition. If the recollection of common dangers, in which the people of the United States have stood side by side against the common foe, the prosperity and happiness they have enjoyed under the present Constitution—if all these recollections and proofs of common interests are not strong enough to bind us together as one people, what tie will hold united the warring divisions of empire, when those bonds have been broken and the Union dissolved? The first line of separation would not last long; new fragments would be torn off; new leaders would spring up, and this glorious Republic would soon be broken into a multitude of petty States, armed for mutual aggressions; loaded with taxes to pay armies and leaders; seeking aid against each other from foreign Powers; insulted and trampled upon by the nations of Europe, until, harassed with conflicts and humbled and debased in spirit, they would be willing to submit to a domination of any military adventurer, and surrender their liberty for the sake of repose."

Henry Clay, in a speech in Congress as early as 1839, warned his countrymen against the fanaticism of the abolitionists in the following words:

"Abolitionism should no longer be regarded as an imaginary danger. The abolitionists, let me suppose, succeeded in their present aim of uniting the inhabitants of the free States as one man against the inhabitants of the slave States. Upon one side will beget union on the other, and this process of reciprocal consolidation will be attended with all the violent prejudices, embittered passions, and implacable animosities which ever degraded or deformed human nature." * * * "One section will stand in menacing and hostile array against the other. The collisions of opinion will be quickly followed by the clash of arms. I will not attempt to describe scenes which now happily be concealed from our view. Abolitionists themselves would shrink back in horror at the contemplation of desolated fields, conflagrated cities, murdered inhabitants, and the overthrow of the fairest fabric of human government that ever rose to animate the hopes of civilized man."

In addition to these warnings and prophecies might be added like opinions from all the great statesmen of the country. This advice has been disregarded, and a party was built up in the North

whose aim was to destroy the institution of slavery, either out of hatred to the people of the South or false ideas of humanity. They appealed to the passions of men, and labored to array the North against the South, and to alienate one section from the other. The friendly relations of the North and South were broken; strife begat strife. The unjustifiable intermeddling with the institutions of the South fed the bad passions of men until that section of our once happy country has taken up arms to destroy the fairest fabric of human government that ever rose to animate the hopes of civilized men.

Sir, I need not quote the treasonable utterances of the opponents of the Democratic party, nor their threats of violence to the South. I need not repeat how they exasperated the people of one section against another; how they attempted to murder and did murder citizens of the South in a wild attempt to abolish slavery; how many jack-leg itinerant preachers have gone to the South like the wolf in sheep's clothing to stir up servile insurrection, to incite the slave to murder his master, and slay the first-born. Sir, this is the history of the fanatical party that was the inception and cause of the rebellion. While I do not justify the rebellion, while I pronounce those engaged in it guilty of treason, yea, worse than treason, if there be such a crime, in truth and justice I must equally condemn that party which furnished them the excuse for the rebellion. During all the agitation preceding and attending secession, the southern conspirators considered the abolitionists their best friends. Governor Adams, of South Carolina, said of them:

"The abolitionists are our best friends. Thank God for what they have already done; and for the inestimable blessings they were about to confer, they were entitled to our warmest gratitude. Their assaults have been unceasing, but all for our good. They have furnished us a justification for dissolving our connection with them."

In three particulars the abolitionists were the best friends of the southern conspirators. First, by furnishing them with the means to excite the southern masses into rebellion. Second, by advocating the policy of "letting them go in peace," and thus aiding them to establish an "empire founded on slavery." Third, by pushing the Government into an extreme policy of emancipation and confiscation, uniting the South, dividing the North, and in effect doubling the relative strength of the rebellion.

Slavery is denounced as the cause of the rebellion; I deny this, though it may be the occasion, as money is the occasion of larceny, robbery, or burglary. If bad men did not covet their neighbors' money and lay felonious hands upon it and carry it away, such a crime as larceny would not be known to the law. If the unjustifiable and unlawful intermeddling with slavery had never occurred there would have been no rebellion; the deadly conflict which is now convulsing the country from center to circumference would not have occurred; no fields and beautiful farms devastated; no loss of thousands of free and happy people; no graveyards extending from the Potomac to the Mississippi; no people in mourning for lost friends who fell in battle. We lived four-score years in peace and prosperity, and the clash of arms in intestine war was not heard and never would have been had the people been true to themselves and their country, by discountenancing and condemning the fanaticism of the abolitionists.

This nation has been a nation of compromises. From its foundation and through its growth all its difficulties and its dissensions have ended in mutual concessions. The spirit of our genius and the brilliancy of our destiny have always led us heretofore to compromise. When this nation was in the throes of dissolution, before secession had to any extent captivated the southern heart, we might have prevented this unnatural war. If the Crittenden amendments had been adopted the South would have remained in the Union, and to-day all would be peace. Fanaticism had triumphed at the polls, and the President elect, forgetting his country and remaining true only to his sectional platform and party, stood a mute observer of the great events which were passing. His party triumph was dearer to him than the interests of his country. His country was forgotten, and while on his way to assume the presidential chair he dealt in the slang phrase "no body is hurt." Had he been possessed of the

patriotism of a Clay or a Webster he would have done as they did in 1850, forget his party devotion and kneel at the altar of his country and there pour the "oil upon the troubled waters," and thus allay the threatening storm. This he could have done. He had power and influence over his own party, and at his suggestion his friends would have adopted a compromise which would have prevented secession and riveted the chains which bound this Union together in indissoluble bonds. Was it unbecoming or degrading to the party coming into power to have adopted the Crittenden compromise? Hear the reasonable and just provisions of that preserver of our peace:

"ART. I. In all the territory of the United States now held, or hereafter acquired, situated north of latitude 36° 30', slavery or involuntary servitude, except as a punishment for crime, is prohibited while such territory shall remain under territorial government. In all the territory now held, or hereafter acquired, south of said line of latitude, slavery of the African race is hereby recognized as existing, and shall not be interfered with by Congress, but shall be protected as property by all the departments of the territorial government during its continuance; and when any Territory north or south of said line, within such boundaries as Congress may prescribe, shall contain the population requisite for a member of Congress according to the then Federal ratio of representation of the people of the United States, it shall, if its form of government be republican, be admitted into the Union on an equal footing with the original States with or without slavery, as the constitution of such new States may provide.

"ART. II. Congress shall have no power to abolish slavery in places under its exclusive jurisdiction, or within the limits of States that permit the holding of slaves.

"ART. III. Congress shall have no power to abolish slavery within the District of Columbia, so long as it exists in the adjoining States of Virginia and Maryland, or either, nor without the consent of the inhabitants, nor without just compensation first made to said owners of slaves as do not consent to such abolishment. Nor shall Congress at any time prohibit officers of the Federal Government or members of Congress, whose duties require them to be in said District, from bringing with them their slaves, and holding them as such during the time their duties may require them to remain there, and afterwards taking them from the District.

"ART. IV. Congress shall have no power to prohibit or hinder the transportation of slaves from one State to another, or to a Territory in which slaves are by law permitted to be held, whether that transportation be by land, navigable rivers, or by sea.

"ART. V. That in addition to the provisions of the third paragraph of the second section of the fourth article of the Constitution of the United States, Congress shall have power to provide by law, and it shall be its duty so to provide, that the United States shall pay to the owner who shall apply for it the full value of his fugitive slave in all cases where the marshal, or other officers, whose duty it was to arrest said fugitive, was prevented from so doing by violence or intimidation, or when after said arrest said fugitive was rescued by force, and the owner thereby prevented and obstructed in the pursuit of his remedy for the recovery of his fugitive slaves under the said clause of the Constitution and the laws made in pursuance thereof. And in such cases when the United States shall pay for such fugitive they shall have the right in their own name to sue the county in which such violence, intimidation, or rescue was committed, and to recover from it, with interest and damages, the amount paid by them for said fugitive slave. And the said county, after it has paid said amount to the United States, may, for its indemnity, sue and recover from the wrong-doers or rescuers, by whom the owner was prevented from the recovery of his fugitive slave, in like manner as the owner himself might have sued and recovered.

"ART. VI. No future amendment of the Constitution shall affect the five preceding articles, nor the third paragraph of the second section of the first article of the Constitution, nor the third paragraph of the second section of the fourth article of said Constitution, and no amendment shall be made to the Constitution which will authorize or give to Congress any power to abolish or interfere with slavery in any of the States by whose laws it is or may be allowed or permitted."

If these amendments, Mr. Speaker, would have satisfied the South and saved the Union, the people who bear the burden of the war, who pay heavy taxes, and who give their sons to the Army, will ask what party is responsible for their defeat? I will answer by quoting from the votes and proceedings in the Senate of the United States where this compromise originated. On the 3d of March, 1861, the Crittenden amendments were voted upon, and the following is the vote:

"YEAS—Messrs. Bayard, Bigler, Bright, Crittenden, Douglas, Gwin, Hunter, Johnson, Kennedy, Lane, Latham, Mason, Nicholson, Folk, Pugh, Rice, Sebastian, Thomson, and Wigfall—19.

"NAYS—Messrs. Anthony, Bingham, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Grimes, Harlan, King, Morrill, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—20."

Of the nineteen who voted *yea*, seventeen were Democrats and two southern Americans. The twenty who voted *nay* were all Republicans. If the Republicans had voted *yea*, the country would have been saved, and no war with all its desolating effects would have been inaugurated. But party predominated.

It has often been asserted by the Opposition that the Crittenden amendments would not have saved the country from war. I will not rest the solution of this question upon my own opinion. I appeal to the proceedings in the Senate for a correct estimate of their value. Senator Pugh, of Ohio, has put on record the following testimony as to what could have been done under a proper desire to save the Union:

"The Crittenden proposition has been indorsed by the almost unanimous vote of the Legislature of Kentucky. It has been indorsed by the Legislature of the noble old Commonwealth of Virginia. It has been petitioned for by a larger number of electors of the United States than any proposition that was ever before Congress. I believe in my heart to-day that it would carry an overwhelming majority of the people of my State; ay, sir, and of nearly every State in the Union. Before the Senators from the State of Mississippi left this Chamber I heard one of them, who assumes at least to be president of the southern confederacy, propose to accept it and maintain the Union if that proposition could receive the vote it ought to receive from the other side of the Chamber. Therefore, all of your propositions, of all your amendments, knowing as I do, and knowing that the historian will write it down, at any time before the 1st of January, a two thirds vote for the Crittenden resolution in this Chamber would have saved every State in the Union but South Carolina. Georgia would be here by her Representatives and Louisiana, those two great States which at least would have broken the whole column of secession."—*Globe*, second session, Thirty-Sixth Congress, page 1390.

To show that yielding would have saved us, we quote the lamented Douglas at an early period:

"The Senator [Mr. Pugh] has said that if the Crittenden proposition could have passed early in the session it would have saved all the States except South Carolina. I firmly believe it would. While the Crittenden proposition was not in accordance with my cherished views, I avowed my readiness to accept it, in order to save the Union if we could unite upon it. I can confirm the Senator's declaration, that Senator Davis himself, when on that committee of thirteen, was ready at all times to compromise on the Crittenden proposition. I will go further and say that Mr. Toombs was also."—*Globe*, second session, Thirty-Sixth Congress, page 1391.

Judge Douglas said in a speech in the Senate, January 3, 1861:

"I address the inquiry to the Republicans alone, for the reason that, in the committee of thirteen a few days ago, every member of the South, including those from the cotton States, [Messrs. Toombs and Davis], expressed their readiness to accept the proposition of my venerable friend from Kentucky [Mr. Crittenden] as a final settlement of the controversy, it tendered and sustained by Republican members. Hence the sole responsibility of our disagreement. The only difficulty in the way of amicable adjustment is with the Republican party."

Judge Douglas has so often been quoted on this floor as authority, I scarcely think any one will deny what he said. Then, sir, the present Administration and its friends are responsible for the non-settlement of our difficulties, and are equally chargeable with the secessionists for every drop of blood which has been shed. The very acts of the Opposition prove they did not desire to have peace and tranquility reign, but preferred bloodshed at the risk of national ruin and bankruptcy. Hear the present Secretary of the Treasury:

WASHINGTON, February 9, 1861.

* DEAR SIR: Thanks for your note and explanation of that vote. It may be useful. There is a greater disposition to compromise than I like to see. But I hope the best. Half a dozen of the border State gentlemen have been in our room to-night: Etheridge and Stokes, of Tennessee; Adams and Bristow, of Kentucky; Glines, of North Carolina, and others. I really sympathize with them, but see no reason why we should sacrifice permanently a large power to help them, for the purpose of gaining temporarily a little one.

Yours, cordially,

S. P. CHASE.

"There is a greater disposition to compromise than I like to see," says Mr. Chase. Certain southern gentlemen had been in his room asking for compromise. He really sympathized with them, but his party fealty held him against a settlement.

We hear it frequently asserted that the responsibility of not quelling the rebellion in its infancy rests with President Buchanan. If there ever was a clear and satisfactory defense for any public man in times of great national danger, that defense undoubtedly belongs to Mr. Buchanan. That he exercised rare qualities of statesmanship and a most exalted patriotism is a proposition which I regard as beyond all controversy. It is true that he was of all men in the country the most anxious that our difficulties should be settled without a resort to arms—

"For the field of the dead rushed red on his sight."

In the Gulf States the excitement ran high. Southern men, who, as Mr. Douglas testifies, were willing and anxious for a settlement, entreated him to exert his influence with the north-

ern men to meet them on equal grounds. His days were spent in unavailing attempts to have them appreciate the danger. They listened not to his admonitions, and when he brought the subject to their attention by his message of January 8, 1861, and urged upon them the necessity of either compromising the difficulties or giving him power to raise the requisite forces, they scorned his counsel and refused him the power. Congress contented itself with preparing and listening to angry speeches, still more exciting the public mind. The peace convention was broken up by Republicans. Yet through all these dark days Mr. Buchanan safely carried this Government and handed it over in full vigor to Mr. Lincoln. That he should have done so well, standing as he did between two parties bent on the destruction of the country, will be the great wonder of our children. It is a most fitting commentary upon the policy of Mr. Buchanan's administration that Mr. Lincoln, for six long weeks after his inauguration, followed precisely in the footsteps of his predecessor. This fact speaks more for the wisdom of Mr. Buchanan's policy than all the praise of his most ardent friends.

I repeat it, Mr. Speaker, and history will sustain me in the declaration, that the same breath which casts calumny upon Mr. Buchanan for an alleged inefficiency must cover with unspeakable shame the man who, with that experience before him, chose to walk in the same path. Mr. Lincoln well knew that up to the day that Fort Sumter was fired upon the prospect for a settlement had not faded away. The three great States of Virginia, Tennessee, and North Carolina still stood fast for the Union, and he himself had but a short time before expressed the opinion that the Union sentiment predominated in every southern State except perhaps South Carolina. Mr. Buchanan acted upon the belief that the American people could never be guilty of such gross folly as to lash themselves to pieces in a civil war. Had Fort Sumter been fired upon during his term of office, force would have been met by force. General Dix in a speech made not long since bears this testimony to Mr. Buchanan's resolution; and he, it will be remembered, was a member of the Cabinet, and ought to know what he affirms.

War is upon us; what shall we do? Shall we resign ourselves to the fate of a dismembered republic, or will we spring up, giant-like, to a new hope of a speedy peace and restoration of the Union? Under this Administration we never can have it. I take it, sir, it is not the intention of the Opposition to have peace until every negro is free. If this was not their object the Administration in power would have faithfully adhered to the resolution adopted by Congress with unparalleled unanimity on the 22d of July, 1861, "that this war is not waged on their part in any spirit of oppression, for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of the States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired." They will free the slaves of the South and enslave their own children in the most galling yoke known to mankind, that of enormous taxation to pay an immense public debt.

I charge it upon the Opposition—

That they are not in favor of a restoration of this Union; that, in the event of the election of a Democratic President in November next, they will be in favor of the recognition of the southern confederacy.

That the war has been made a pretext and apology for the usurpation, by the President, of powers unwarranted by the Federal Constitution, and totally irreconcilable with the letter and spirit of our institutions.

That the war has been conducted to build up a party at the expense of blood and treasure and time, and at the hazard of permanent separation of the States.

That the conduct of the war has been characterized by corruptions unprecedented in the history of any people, for which the President has in many instances declared himself responsible.

That the present Administration has committed itself to doctrines which elevate the military above the civil power, affect the purity of the ballot-box, and endanger the personal liberty of the citizen.

That the policy now declared is fatal, not merely to all ideas of a legal reunion of the States, but fore-shadows future bankruptcy, constant agitation, the establishment of a large standing army, and, in a time not remote, a military centralization such as to-day exists in France.

If we are prepared for all this; if we close our eyes and shut our mouths, and do not raise our voices against the infringement that is now being made upon our rights, and we permit the present Administration to remain in power, we should bow our necks to the yoke of tyranny without a murmur. But if we intend to secure to ourselves the imperishable boon to speak, to act as a free people, and to enjoy liberty and preserve our rights, we must retrace our steps to a strict observance of the laws and the Constitution. The question is with the people to decide. "Where there is a will there is a way." No bristling bayonets, no threats or executive influence can tame the will of a people who love liberty. Their fires will be kindled upon every mountain side, until the valleys are lurid with the burning insense upon the altar of liberty, and their shouts will be heard above the din of battle:

"To arms, my friends. And let no sword be sheathed
Until our land from cliff to lake is free!
Free as our torrents are that leap our rocks,
Or as our peaks, that wear their caps of snow
In the very presence of the regal sun!
A country is never lost that hath one man
To wrestle with the tyrant who would enslave her!"

The liberty of speech, the freedom of the ballot-box, and the inalienable rights of the citizen are worth preserving. If defending them on this floor makes this side of the House, in the opinion of gentlemen on the other side, sympathizers with the rebellion, we know we do our duty, and that unborn generations will rise to bless the memory of the men who have preserved for them the rights and privileges of their fathers.

MR. KELLOGG, of Michigan. Mr. Speaker, I have had no time to prepare remarks for this occasion that would be worthy of a subject of such importance to the people of this country as that which we have now before us; but I cannot avoid expressing my opinions and feelings on this question, and, standing here for my constituents, to declare in their behalf my desire that the amendment of the Constitution which this bill contemplates shall finally prevail.

There are so many reasons and so many arguments that might be urged in behalf of this measure that I hardly know where to begin. It seems to me that our prosperity as a people, our progress in civilization, and our duty to mankind, demand such an amendment of the Constitution, and that if we evade it we shall be guilty of treason to human liberty and human rights.

The American Revolution of 1776 was the great event of the eighteenth century, and in my opinion the greatest event of the last eighteen hundred years, and one even of more importance than any other that has taken place in the civilized world. It was not because it severed the connection of the thirteen colonies with the mother country and erected them into an independent nation, but because the result of that Revolution was the establishment of a Government based upon principles not recognized in any other in all the history of the past. It was an attempt to create political institutions that should harmonize in practice with the great cardinal principles of Christianity as taught by Christ and His apostles, principles which I believe are yet to prevail universally and make their way to the dominion of the world. They were new in the history of nations, for they taught the duty of protecting the poor and succoring the oppressed, and enjoined the deliverance of all men from the bondage of body or soul and the education and consequent elevation of the race.

Mr. Speaker, they are well expressed in the Declaration of Independence, which affirms that all men are created equal and possessed of rights which are inalienable; that Governments can rightfully exist only with the consent of the governed, and that they are established for the protection of the humblest as well as the most exalted member of the body-politic, and to secure them in the enjoyment of those rights with which God endowed them when He gave them existence.

It was a belief in the possibility of such a Government that caused the American Revolution and carried our ancestors successfully through

it. They had a conviction that these principles must finally prevail, and their faith sustained them in a most unequal contest till they were finally victorious, and won for themselves a name and place among the nations of the earth.

But their trials did not end with the advent of peace, and something more must be done if they would secure the political blessings for which they had sacrificed so much blood and treasure. The partial union of the States under the Articles of Confederation enabled them to achieve their independence, but the Government it created possessed so little power that it could not provide for the payment of the public debt nor command the respect of the people. It was apparent to all that it was necessary to form a more perfect Union and establish a Government with sufficient powers for the emergency which called it into being, and to preserve the liberties and the national independence which had been so dearly won. In this crisis of our history, when wise men knew not what to do, George Washington, our great leader in the struggle for independence, who I devoutly believe was raised up by God for this occasion, called together, for consultation, his illustrious associates in the Revolution, in the hope that they might by their united wisdom accomplish what the people so ardently desired.

They assembled in Philadelphia, where Congress first proclaimed the Declaration of Independence, to devise a way to give force and effect to its provisions, and, after months spent in solemn deliberation and discussion, they succeeded in framing a Constitution so perfect in all its parts that it seems almost the work of inspiration.

The object of this Constitution was admirably expressed in its preamble, which declares that—
“We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”

It established a national Government, with ample powers for all purposes, and promising every blessing to the people; it was approved and adopted by them, and thus became the supreme law of the land. The statesmen and philosophers of the Old World admired it; the prosperity of the American people for three quarters of a century testifies its worth; and we all feel and believe that it is the grandest work of human genius and human wisdom the world has ever known. But while it was adapted to the condition of the country at that time, the great men who devised it saw that some change might be necessary in the future, and wisely provided a way for its amendment so difficult an accidental majority could not effect it, yet easily accomplished when it was plainly the wish of the people. Several amendments have been made already, and no one has questioned their wisdom or doubted their utility. But the one which we propose is more important than any that has been offered in the past or that is likely to be presented in the future. Its adoption is necessary if we wish to carry out the objects of the Constitution itself as set forth in the preamble, and remove the only cause of discord and contention from our midst. We propose to insert an article prohibiting slavery throughout the Republic; and unless this is done I fear we shall experience greater calamities in the future than we have suffered already.

I am aware that many in this House object to this amendment, and I confess I am amazed at the opposition to a measure of such vital importance to our country. We are told that slavery is dead, that the war has destroyed it, and this provision in the Constitution is unnecessary; but I do not believe it.

If the rebels should lay down their arms to-day and submit to the Constitution and laws of the United States slavery would still exist and continue to exist increasing in influence and strength with each succeeding year until it would plunge us into greater difficulties than we are involved in now. If they believe it is dead why object to making it certain, why not render its resurrection impossible and set the public mind at rest on this question forever?

I was surprised to hear it asserted on this floor that we had no right to amend the Constitution in the absence of those who are mainly affected by the provision we would adopt. What, sir! Have we no right to change the organic law of

the land when we act in accordance with the provisions of the Constitution itself, obeying it to the very letter? If the southern States are not represented it is not our fault, but theirs. Their Representatives left these Halls voluntarily, without any cause whatever, and if we sit here as the Congress of the United States in obedience to the Constitution and the laws what right have they to complain of our action however it may affect them?

We are told, too, that this is an interference with the rights of the people of the slave States, rights which were solemnly guaranteed to them by the Constitution. Sir, what rights have rebels under a Constitution which they have set at naught? What rights under laws they refuse to obey? What rights under a Government they declare their determination to destroy? Sir, I cannot understand the logic of these gentlemen, nor do I believe them to be serious in their objection.

Mr. Speaker, the people demand that this shall be done. There is more unanimity among them in favor of this measure than any other on which we are called to act. The men of the country who are determined to preserve the Constitution and the Union, and who are pouring out their blood so freely in their defense are everywhere in favor of this amendment of the Constitution, and intensely anxious to see it adopted by this Congress and submitted to the States for their approval.

Gentlemen who sit on this floor as the Representatives of the people will vote as they think best, and in accordance, no doubt, with their views of duty, but I believe that those who vote against this measure will find it difficult to justify themselves to their constituents, and be compelled to relinquish their seats to men of different views hereafter.

Mr. Speaker, what is there in the institution of slavery as it exists in this country that should make us feel so tender and forbearing toward it? I cannot imagine a single reason that can be urged in its favor. It is a social, political, and moral evil, without a single redeeming feature, and its immediate abolition would be the greatest blessing that could be conferred upon our country or even upon the States where it now exists. The laws enacted for its protection are more wicked and barbarous than the statutes and decrees of any despot in the civilized world. It fosters ignorance, inculcates a hatred of the principles of liberty, and sanctions customs and practices of the most revolting character. Before the war broke out the principal exports of some of the States were human beings, who were daily sold in the markets of the South. The people of Virginia have sold men and women enough within the last fifty years, who were born and raised in their midst, to pay for all the real estate and personal property they were possessed of at the commencement of the rebellion. It was the business of many of them to breed human beings for sale and live on the proceeds, as the farmers of the West live and grow rich by raising herds of cattle and driving them to market. What cared they for the sufferings of families whom they separated, or the anguish of those whom they sold from their homes to the planters of the South? It was a trade that was sanctioned by public sentiment and the churches of the country, and protected by the laws and constitution of the State and the nation also; and why not, since it was part and parcel of the system and necessary to its existence? If we had prohibited the exportation of slaves from Virginia we should have destroyed slavery in that State immediately by making it unprofitable. We see then that slavery and the slave trade are inseparable, and while we have the one we must have the other.

Sir, I do not wonder that some men are unable to speak of this organized system of iniquity with calmness and composure. Its cruelty and wickedness are enough to fill the soul with horror and send reason reeling from her throne.

We have called John Brown a fanatic; we have said that he was crazy, and I should not wonder if he was. He was a man who had a clear perception of the wickedness of slavery, and was so affected by it that he could think of nothing else. “Here,” said he, “are millions of human beings whom God made and Christ died for, who are robbed of every right by a people professedly Christian. They are men, but they must not

read the word of God; they have no right to any reward for their labor; no right to their wives; no right to their children; no right to themselves! The law makes them property and affords them no protection, and what are the Christian people of this country doing about it? Nothing at all! Congress is discussing another compromise which if adopted will perpetuate this infernal system a century longer. Bishops and doctors of divinity are preaching in its favor, the press is rallying to its support, and our great cities, the centers of trade and commerce, will not suffer it to be disturbed; but I cannot endure it any longer, and I will utter my protest against it in such a way that the world shall hear me if I die the next moment.” And he did die; but his death woke up the nation, and I trust we shall never sleep again on this subject till we have swept the last vestige of slavery from the land.

Mr. Speaker, the gentleman from Pennsylvania [Mr. CORFORTH] who preceded me says slavery was not the cause of the rebellion; but I do not agree with him. I know the leading men of the South had been conspiring against this Government for twenty-five years, and were resolved to establish another of a different character altogether. But what caused this conspiracy against the best Government that ever existed? What but slavery itself and its influence upon them? It taught them to love absolute power, imbued them with a hatred of democratic ideas and institutions, and a love for those social and political distinctions in society which prevailed in the Governments of the Old World. De Bow, in his Review, the acknowledged organ of southern sentiments, affirms that republican institutions are a failure, and that an aristocratic form of government is the best for any people. True, said he, if you have an aristocracy you must have paupers, but better have it, notwithstanding. They would degrade the laboring classes to a condition below that of the peasantry of Europe and render it impossible for them to rise in society. The atrocious sentiment that it was better for society that the capitalists of the country should own the laborers, whether white or black, found ready advocates among them. In the government they wished to establish in the place of one founded by Washington they would have but two classes, masters and slaves.

Who does not see that civil war was inevitable under such circumstances, and that slavery was the cause of it? The gentleman from Pennsylvania thinks we might have prevented it by adopting a conciliatory course toward the South, but he offers no evidence in support of the assertion. I was here when the rebellion broke out, and I do not believe the adoption of the Crittenden compromise, so called, would have postponed the war for a single week. Southern Senators laughed at the idea of being satisfied in such a way. They were determined to dissolve the Union and establish a separate government in conformity with their ideas, and they firmly believed that we would allow them to do so. They had a supreme contempt for the people of the North, and never dreamed of the difficulties in the way or the opposition they were to encounter. They had made up their minds to do as they pleased, and set the Government of the United States at defiance. It was the last great effort of slavery for the control of this continent, and will end in its annihilation. Heaven and earth are arrayed against it, and what can save it now? God made the human race subject to the law of progress, and all the slaveholders of the country and their friends and advocates in this House or elsewhere will fail to put any brakes on the chariot wheels of Almighty God and prevent the onward march of all mankind toward that liberty and independence which He has promised them at some period in the far-off future.

Mr. Speaker, I regret that any one should be found on the floor of either House who would propose peace on terms which are degrading to every American citizen, and which would destroy the Government of the United States. A day or two since a resolution was introduced in the Senate [by Mr. DAVIS, of Kentucky] calling upon the President to take steps to secure peace at any price, and, if necessary, to consent to the recognition of the rebel government rather than continue the war. Such an act on our part would bring upon us the contempt of the whole world

and the curses of our posterity. If the South became an independent nation they would form alliances with France and England, and be ready in a few years to renew the war. Let no one suppose we should be able to live long in peace with them, or that a pretext would be wanting on their part for a rupture. A confession of our inability to vanquish them would increase their contempt for us, and, burning with a desire to avenge their fancied wrongs, they would seize the first occasion to involve us in a war more desolating than we are engaged in now. Better fight this out now, for, come what will, we cannot consent to a dissolution of the Union; that would be the greatest calamity that could befall us.

The opponents of the Government who belong to the peace-at-any-price party are anxious to convince the people that they cannot carry on this war much longer because of the expense involved in it, and that national bankruptcy and financial ruin are inevitable. One of my colleagues, who I am sorry to say is not a friend of the Administration, fixes the liabilities of the national Government on the 1st day of July next at \$3,000,000,000. The people in his opinion cannot pay the interest on this debt much longer; but if he is a friend of the Union, as he assures me that he is, I am confident that he will thank me for showing him that he is mistaken. The entire indebtedness of the nation at the close of the fiscal year in July next will not exceed \$1,800,000,000, and should the war continue a year longer, it will not reach the amount which he asserts is due already. We have ample means for the payment of this debt were it much larger than it ever will be. In 1850 our national wealth amounted in round numbers to \$7,000,000,000. In 1860 it had reached the sum of \$16,000,000,000; and should it continue to increase in the same ratio for the next forty years it will amount to more than \$400,000,000,000. Our population will soon be double what it now is, and the debt we incur in suppressing the rebellion will not be large in comparison with our resources. Our taxes may be burdensome for a while, but the people are willing to pay them. They know what this Government is worth and they will not suffer it to be destroyed.

But we are told that we cannot conquer the South. Sir, if we do not conquer them they will conquer us. One side or the other must be subdued. There is no escaping that result and no peace to be had on any other terms. Those who have watched the progress of the great commander whose army is now thundering at the gates of Richmond believe he will be successful, and that no matter how bravely the rebels may fight, no matter what skill and genius they may display in the handling of their armies, no matter how despair may nerve their arms, their defeat is inevitable, and they will have to submit at last to the armies of the Union.

Fresh troops are pouring in from every part of the country, and the northwestern States alone have furnished one hundred thousand men in the last thirty days for the reinforcement of our armies.

Ohio tendered thirty-five thousand, and the most of them were ready to march as soon as they were accepted. They were ordered to man the forts and defenses of the frontier, but when they saw our wounded heroes borne back from the battle-field they besought the President to order them to the front, that they too might prove their devotion to their country and peril their lives in its defense. Michigan has furnished more than her quota of men for every campaign since the commencement of the war. Thousands of her sons have fallen in battle and sleep on southern soil, but I trust when the last trumpet sounds they will rise under the same flag that waved over them when they fell.

While our armies are fighting our battles the people have nominated our worthy President for another term, and intend to elect him by an overwhelming majority. They have confidence in his patriotism and ability, and laugh at the silly charges of our enemies that he will rob them of their liberties and despoil them of their rights. They will sustain him in whatever he may do at this time for the salvation of the Union. Sir, it is not the friends of the Government, not those who desire its preservation, nor those who love liberty and hate despotism, who complain of the Executive or feel aggrieved at anything he may

do. It is your half-way traitor, the sympathizer with treason, who will do all he can in behalf of the enemies of the Union and escape conviction under the laws. These are the men who are prattling about tyranny, talking about arbitrary arrests, and denouncing those who would save the country at any hazard whatever.

Sir, the Constitution confers sufficient power upon the President to enable him to put down this rebellion, and the people expect he will use it against the enemies of the Republic, whoever they may be.

The able statesman whom we have selected for the second place in the people's gift resides in the South; but those who have listened to his denunciations of treason, and who know his hatred of slavery, his love of liberty, and his devotion to the cause of human rights, rejoice that he has been chosen for a post of such importance, and will give him their hearty and undivided support.

Mr. Speaker, we cannot magnify the importance of the issues involved in this conflict for the supremacy of the Government and the integrity of the nation. Our cause is that of the whole family of man, and every lover of liberty in the Old World is watching the progress of this struggle with intense solicitude. Never since the Son of God expired on Calvary has any event transpired upon earth in which every human being is so deeply interested as in the result of this contest. It will settle the question of man's capacity for self-government and settle it forever.

If this Republic is destroyed no other will rise upon its ruins, but if we are successful other nations will follow our example, till liberty is universal.

Sir, my trust is in the intelligence and patriotism of the people, and may God help us to preserve our liberties and institutions, and transmit them unimpaired to our posterity.

Mr. ROSS. Mr. Speaker, occupying the position of a new member, without congressional experience, I have refrained from participating in the discussion of public affairs; but in view of the extraordinary assumptions indulged in by leading members of the party in power in arrogating to themselves to be the exclusive Union party, and hurling their anathemas of disloyalty against the Democratic party, I deem it due to my constituency and myself to probe their pretended Unionism, to answer and repel the grave calumny. Perhaps the radical members from Maryland and Ohio [Messrs. DAVIS and SCHENCK] have been the most arrogant in their assumptions and vituperative in their aspersions, while smaller craft have followed in their wake.

As evidence to sustain the slanderous imputation, reference is made to certain resolutions offered in the Legislatures of Illinois and other States, and votes cast for Democratic nominees for Governor. Now, sir, the resolutions of said States, and the views of said candidates for Governor, may be submitted to the severest test of scrutiny, and the most unscrupulous mendacity cannot show a word or sentiment which does not breathe the purest patriotism and exhibit the most exalted devotion to the best interest of the country. I profess to have some knowledge of this party, having for thirty years been an humble member within the pale of its organization, aiding and rejoicing in its triumphs, and sorrowing over its defeats. A party has never existed more national in its principles, conservative in its action, or patriotic in its impulses than the old Democratic guard. Sir, it has a clear record and an untarnished history, which will live in the affections and memories of the people as long as personal liberty and free constitutional government shall endure.

Permit me to call attention to a few significant historical facts: the Democratic party made the Government, they laid broad and deep its solid foundations and built the magnificent superstructure. From its organization, with few and short exceptions, they have held and governed it. For over sixty years it exercised its functions. Under its auspices and wise legislation we increased from three or four millions to over thirty millions of population, from thirteen to thirty-four States; under the aegis of our flag our commerce floated upon every sea, honored and respected throughout the world, without large armies or navies or a national debt to paralyze industry, exhaust the substance, or foster in the flesh of the people; they carried us safely and triumphantly through

the war of 1812 and with Mexico; they added large accessions of territory to the national domain; the rights and liberties of citizens were protected and defended at home and abroad, on the land and the sea; Government securities were eagerly sought and commanded a premium in coin; the people were happy, prosperous, and contented; the public mind was securely at rest in the abiding faith that the experiment of free government had proved a success, that they had built upon a rock, and the gates of hell should not prevail against it.

These, sir, are some of the trophies scattered along the highway of our national greatness, acquired under the auspices of that party now charged with disloyalty by these newly fledged Unionists. In behalf of my constituency and the Democracy of the country I pronounce the charge a willful, malicious slander, and hurl the imputation back in the teeth of the calumniators with merited scorn and indignant contempt.

Having said thus much in vindication of the Democracy, suppose we carry the war into Africa and feel the strength of the enemy. And you are a Union party, are you? Pray tell us when, where, and how you got to be a Union party? Surely it was not in 1860, when with taunts and jeers you sneeringly called us "Union-savers." Many of these latter-day Unionists are from the old Federal stock, lineal descendants from the Tories of the Revolution, enemies to the Union, the Constitution, and our form of government from the beginning. Disciples of the Adams-Hamiltonian-Federal theory, they wanted a stronger, more consolidated system; they held it unsafe to confer general political powers into the hands of the people, they distrusted their capacity to govern themselves, and would have modeled our organic law more after the British form; but Madison, Jefferson, and their compeers thwarted their machinations. Since then they have been restless for a change, ever ready to coalesce with any party or faction to extirpate the Democratic theory and change the form of government; and although the names are legion by which this Federal scion has been known, they never before had the presumption or unblushing impudence to call themselves a "Union party." They a Union party! No, sir; they are the most wily, dangerous enemies the Union has ever encountered; their pretended devotion is only to enable them more effectually to undermine the Government and filch from the people their liberties. Judas saluted his master with a kiss that he might betray him into the hands of his enemies. It is to be hoped that our Union and Constitution may survive the deadly embrace and hypocritical kiss of these latter-day Judases, who, less scrupulous than their prototype who exacted coin as the price of innocent blood, are willing to take pay in contracts, cotton, or greenbacks.

Sir, this fungus "Union party" came into power with treason in its heart and perjury upon its lips; they took upon themselves a solemn oath to support and maintain the Federal Constitution, and at the same time held and promulgated the treasonable doctrine that our form of government had proved a failure, and could not endure, although for over three quarters of a century we had lived beneath its aegis, enjoying the blessings of life, liberty, and the pursuit of happiness such as had never fallen to the lot of any other people in the world's history. How could it be expected that they would successfully administer a Government which in advance they had declared a failure? Our revolutionary fathers made it to endure as long as time should last. They little thought in laying the solid foundations for future empire that it would cease to endure and crumble into fragments within the first century. It did endure, answering all the purposes of a perfect Government for over eighty years, and in our simplicity, except for the teachings and practices of this new Union party, we would never have doubted its stability or endurance. Thanks to an overruling Providence and the virtue, patriotism, and wisdom of our fathers, it has so far successfully endured the assaults of open enemies and the covert embrace of pretended friends; it has endured and outlived every danger except four years' rule of the party in power, and that is truly hard to endure; and although the aspect of our national affairs looks dark, gloomy, and portentous of evil, let us never despair of the Republic, but

take courage and still hope that we may weather the storm of fanaticism and passion, and live and endure to overcome and consign to the grave of oblivion, amidst the exultant shouts of a disenfranchised people, its last, most dangerous, insidious enemy.

In the present exigency of our national affairs, the practical, important question which should demand the thoughtful and dispassionate consideration of the country is how it is to be extricated from its present sad, humiliating condition; how the fell spirits of secession and abolitionism, "twin relics of barbarism" and discord, may be securely and effectually buried with the national approbation in a common grave, and "the public mind rest secure in the belief that they are in process of ultimate extinction."

Three alternatives, looking to a solution of pending difficulties, are being considered and canvassed by the people.

The first looks to a continued prosecution of the war, involving the overthrow of State institutions and governments, and the entire subjugation or extermination of the insurgents.

The second contemplates "letting the wayward sisters go in peace," division of the country and recognition of their independence, with offensive and defensive treaty stipulations and the free navigation of the Mississippi.

The third and last alternative is by means of an armistice to cease hostilities, call a national convention, with a view of amicably settling and adjusting all our differences upon the basis of the Constitution as it is and the Union as it was.

Perhaps neither of these plans are exempt from objection, but if they are the only alternatives left us we should manfully face the difficulties, calmly and dispassionately canvass them, and select the least objectionable. History and our own sad experience should admonish us that war, especially a civil war, is a fearful calamity, and should be accepted only for the most imperative considerations, after all hope of honorable, peaceful adjustment had failed. I do not hold that war is never justifiable; by no means. After the exhaustion of all peaceful remedies, as the last alternative, with all its train of evils, rather than submit to national dishonor, insult, or disintegration, we should accept the arbitrament of arms.

I have no hesitation in saying, however, that in my judgment the sanguinary fratricidal conflict in which our country is now involved might by wise and prudent means on the part of those temporarily charged with the administration of public affairs have been honorably avoided; that there has been a wanton and unnecessary sacrifice of blood and treasure, and that the war should cease whenever and just as soon as peace can be secured, with a disintegrated Government, and the constitutional rights and powers of the Federal and State Governments unimpaired.

The second alternative of separation and recognition has been espoused and plausibly sustained by leading politicians and journals of both political parties; but there are to my mind serious if not insuperable objections to the proposed separation. A treaty based upon recognition and independence would, I fear, amount to nothing more enduring than a truce; that the sanguinary conflict would be renewed along our extended borders, aggravated and intensified by heart-burnings and animosities until protracted, exhausting wars would lead to foreign alliance. I hope we may never be subjected to the humiliation of being vassals and dependents to the despotisms of the Old World. Separation affords no adequate remedy for existing evils. There is not room enough on the North American continent for two independent Governments. Give me rather the gilded hope of my youthful fancy, an ocean-bound Republic, with the adjacent islands shining stars in the effulgent galaxy of the national constellation, each harmoniously moving in its appropriate orbit around their common center. Hence I conclude that the best interests of both sections and the whole country require that we should now and forever abandon all thought of despoiling our inheritance and jeopardizing our liberties by the suicidal policy of disintegration.

This brings me to the consideration of the third and last alternative, to wit, peace and a restored Union by means of mutual concessions and a fair and just compromise. This, I am frank to say, I regard with more favor than either of the pre-

ceding alternatives. It at once affords a full solution of all our differences in the spirit and upon the basis of the original compact. It has the approving sanction of precedents, and the high authority of the distinguished patriots and statesmen whose places we unworthily fill. It has the advantage of a continued and perpetuated union of the States by *consent* and not by *force*. It stops any further sacrifice of the lives of our brave men, and the accumulation of national debt. It is more in harmony with the sublime teachings of our divine Master, who said, "Blessed are the peacemakers." It will place us beyond the contingency of danger from foreign intervention or molestation. It is, sir, the true remedy, the infallible specific for the ills by which we are encompassed. It is the road our fathers trod; let us "keep step to the music of the Union," and follow in their footsteps. Perhaps the inquiry may be suggested, how are we to attain so desirable a result? I am wedded to no specific plan; if there is a will a way will readily be found. Permit me, however, to suggest that we first agree upon an armistice, then send commissioners to meet on the 4th of July at Mount Vernon, around the grave of Washington, when the soul-stirring inspiration of the day, the grandeur of the place, and the solemnity of the occasion would still and subdue every selfish ambition and unholy emotion, and rekindle a spirit of patriotism and love of country in the hearts of degenerate sons. Let the commissioners fix upon a time and place for holding a national convention to finally settle and adjust in a spirit of fairness and mutual concession all our differences; then unite and consolidate the national forces, North and South, into one grand invincible army of the Republic, and vindicate the honor and insulted dignity of the nation by reaffirming the inviolability of the Monroe doctrine, reinstating free institutions wherever foreign despots have intervened for their overthrow on this continent.

But am I asked, "Suppose all efforts to compromise fail, what do you then propose?" This is impossible; it must not, cannot be. I will not suffer myself to raise the curtain and contemplate the dim vista lying beyond all hopes of settlement. This unnatural, cruel conflict is sustained and procrastinated by passion, prejudice, and hatred. Patriotism, nationality, self-interest, civilization, humanity, and Christianity all prompt a settlement. Political fanaticism, like all other virulent contagious diseases to which frail humanity is subject, will run its course. If the patient survive, reason will be restored, it may be with a shattered and broken constitution, with heavy unliquidated liabilities, with a mere skeleton of former greatness and power; but still the patient lives.

We are now passing the crucible, the fiery ordeal of this malignant disease; the hectic flush mantes the cheek, the pulse beats quick and wiry, but there are still hopes, by a change of doctors and treatment, and careful nursing, the patient may survive. If I had power to reach the mind and touch the heart of the nation, I would beseech my countrymen everywhere, North and South, to stay their hands and cease this self-destruction before it be forever too late. Why persist in destroying the best form of government ever devised by the wisdom, virtue, and patriotism of man? Why blot out the world's last hope of free constitutional liberty? The despots of the Old World have no love for our free institutions and democratic form of government; they have marked with a jealous eye our growing greatness and power; they are pleased with the manner in which we are executing a job for them which they dare not undertake themselves. If we continue to gratify them by procrastinating our civil war until our armies are destroyed and our finances collapse, they will be ready to grasp the exhausted giant by the throat, and furnish Maximilians to rule over us. I would implore the country to pause and reflect; this question of self-preservation, of maintaining our liberties and free institutions, rises infinitely above all party considerations. Save the country though political parties crumble into atoms like a rope of sand. We must not suffer this mental aberration, this *quasi* insanity to run on until the epitaph of suicide is inscribed on the national monument.

These suggestions in favor of an amicable adjustment will not be likely to meet the approbation of the cabinets or their special adherents at Wash-

ington or Richmond. The first would peril the nation with its thirty million Anglo-Saxons for the supposed benefit of three or four million African slaves; they would extirpate slavery at whatever cost or sacrifice of blood and treasure; they would brush Federal and State constitutions out of their way like cobwebs; they would overrun and subjugate the South and exterminate the people; they would encourage servile insurrection, and arm the slave against his master; they would make war on and starve non-combatants, women and children; they would devastate and desolate the land with fire and sword and make it a howling wilderness; confiscate real and personal property; place the negro as to civil and political rights on an equality with the whites; execute or banish the rebel leaders; exclude all others engaged in the rebellion from the rights of citizens; place the freed negroes under the control of the Secretary of War, to be worked and managed by Government overseers; keep the people in subjection by means of a standing army, and to rule and govern the country by civil and military officers appointed by the President. Now I submit whether a war prosecuted for such purposes and in such a manner can reasonably be expected to terminate short of extermination?

On the other hand, the rebel leaders and cabinet at Richmond would prosecute the war to disintegrate the Union, subvert the Constitution, and destroy the Government, under the metaphysical sophistry that a State has the constitutional right to secede from the Union. This subtle theory cannot be sustained. It is a reproach to the wisdom and sagacity of the patriotic statesmen who molded and fashioned our organic law to suppose a State could at will secede and destroy the whole system. Again, they say they will continue to wage this war because a party is in power pledged to overthrow the institutions of their States. Suppose it be admitted. They aided in bringing about the result, and are therefore *particeps criminis*. Let them remember the schism they caused in the Democratic party at Charleston and Baltimore, and the encouragement they gave to Johnson, Dickinson, Butler, and others of their tools and allies, to defeat the election of the Democratic nominee and thereby aid the election of the party in power; they should be quiescent at a result to which they contributed. If there is a sectional party in power hostile to their institutions they so willed it; they said they preferred Lincoln to Douglas, and got their choice; it is to be hoped they are satisfied, and will be satiated with his Administration; I think the North is already. Now, while these two war parties would continue its prosecution for entirely dissimilar purposes, they concur in saying that there is no other alternative but to fight on. It cannot be possible we are in any such extremity. If the politicians had been out of the way the people would have settled our difficulties long ago. But unfortunately for the peace of the country, the political caldron in its effervescence had spawned to the surface a brood of political tricksters and fanatical demagogues; the scum rose to the top, and floated into positions of honor and trust; without capacity or patriotism to parry the threatened danger, they recklessly involved the country in civil war.

These wiseacres tell us that peace is a myth not to be thought of, that we must fight on, kill and slaughter, give up the last man and the last dollar; that the country must meekly and silently submit to having our gallant young men, the flower and hope of the country, pitted against each other in deadly combat, and glory in the slaughter. The greedy Moloch of sectionalism is not satiated, through dripping with the blood fresh from the hecatomb of hundreds of thousands of human sacrifices offered upon its crimsoned altars. And still a confiding people are told there is no other way, no alternative left but to fight on, and on, and on. How long, O God! how long is this bleeding, dying people to be deceived and duped by political quacks and speculators in the suffering and life's blood of the nation? How long are the bulls and edicts emanating from Richmond and Washington to be potential to coerce the free people of this country to sacrifice their lives at their behest? In the parlance of the sportsman, they skillfully and adroitly "play into each other's hands" for the overthrow of the constitutional rights and liberties of the people; there

is a most singularly marked coincidence in their views in relation to public policy. They agree that written constitutions and the solemn obligations of oaths have but little binding weight in time of war. The freedom of speech and the press has been stricken down. The people's writ of *habeas corpus* has been suspended, and its right denied to the citizen. The judicial ermine has been invaded, judges forcibly dragged from their courts and imprisoned for judicial decisions. The elective franchise has been abridged, and the voters driven from the polls at the point of the bayonet. Martial law has been declared over districts of country not in rebellion, and the military placed above the civil authorities. Free citizens, not belonging to the military or naval service, have been arrested without process, tried, and sentenced by drum-head courts-martial without counsel or jury, and exiled or incarcerated in military bastilles. These gross and flagrant infractions upon the liberties and clearly-defined constitutional rights of the people have been unblushingly perpetrated under the free institutions of the United States, in the middle of the nineteenth century, under the despotism of military necessity. O degenerate, subjugated sons of a glorious ancestry, whose cheek does not tinge and mantle with shame at the humiliating reflection?

Now, I submit to the House and the country whether the people had not better dispense with the services of officials who in the brief space of three years have reduced the country to its present humiliating condition. Power was temporarily placed in their hands to administer the Government, not to subvert it, or wrest from the people their liberties. They are the servants of the people to execute their will, not their masters to lord it over and oppress them; let them take due and timely notice and govern themselves accordingly. They contemplate, no doubt, by means of the purse and the sword and the vast patronage which they wield, to disregard the will of the people and perpetuate their power. If they succeed in establishing themselves in power by such means, the liberties of the country are irretrievably lost. It is time that the people were aroused to the magnitude and importance of the issues involved in the approaching contest.

For the purpose of rescuing the Government from their hands, preserving the Constitution, and maintaining the Union and the liberties of the people, let us for the time being, if need be, ignore party names and alliances, and unite with Union-loving, conservative men everywhere, to preserve and transmit as a precious boon the legacy of free government. The honest, confiding masses should not be deceived or lulled into false security; the greedy swarms of Federal officers, contractors, and placemen, who are hoarding their ill-gotten wealth at the expense of the toil and sweat of the laborer, will be active and unscrupulous. I fear they have selfish, ambitious, traitorous designs upon the liberties of the country.

By rejecting all propositions looking to a peaceful adjustment they have involved the country in the most terrible, gigantic civil war the world has ever witnessed. The Douglas, Crittenden, Kellogg, and border State propositions were all rejected. The leading representative men of the South offered to accept the Crittenden compromise as a finality, if tendered in good faith by the party in power. When the peace congress was in session in this city, fearing that they might be thwarted in their cherished design of precipitating the country in civil war, they wrote and telegraphed to the Governors of the States, "Send us stiff-backed men or none;" "Ohio, Indiana, and Rhode Island are caving in, and there is some danger of Illinois;" "For God's sake come to the rescue and save the Republican party from rupture;" "Without a little blood-letting the country will not be worth a curse." Now, this shows most clearly that they were opposed to compromise, and were willing to involve the country in war to save the Republican party from "rupture."

As further evidence of their premeditated designs to have war, I submit the testimony of Judge Douglas. He said:

"The South would take my proposition if the Republicans would agree to it." "Many of the Republican leaders desire a dissolution of the Union, and urge war as a

means of accomplishing disunion." "We have now reached a point where a compromise on the basis of mutual concessions or disunion and war are inevitable. I prefer a fair and just compromise."

And again, on February 2, 1861, he said:

"They are striving to break up the Union under the pretense of unbounded devotion to it. They are struggling to overthrow the Constitution while professing undying attachment to it and a willingness to make any sacrifice to maintain it. They are trying to plunge the country into civil war as the surest means of destroying the Union, upon the plea of enforcing the laws and protecting the public property. If they can defeat every kind of adjustment or compromise by which the points at issue may be satisfactorily settled, and keep up the irritation so as to induce the border States to follow the cotton States, they will feel certain of the accomplishment of their ultimate design."

"Nothing will gratify them so much or contribute so successfully to their success as the secession of Tennessee and the border States. Every State that withdraws from the Union increases the relative power of northern abolitionists to defeat a satisfactory adjustment, and to bring on a war, which, sooner or later, must end in final separation and recognition of the independence of the two contending sections."

This, Mr. Chairman, is a true and faithful exposition of the animus of the party in power, drawn by a master hand; may it give them "the power to see themselves as others see them." They refused to permit the people to be heard upon the question of compromise, for fear they would decide in favor of peace and thereby thwart their cherished schemes of war and disunion. By reference to the Journals of the House of January 7, 1860, it will be seen that Mr. Clemens proposed to submit the Crittenden compromise to a vote of the people for adoption or rejection; (see resolutions offered by him;) this proposition they rejected by a party vote, many of the honorable members over the way, including the honorable Speaker, voting against it. This refusal to permit the people to be heard on the question of peace or war shows a premeditated intention to precipitate the country in civil war. And since they have succeeded in inaugurating their treasonable machinations against the liberties of the country nothing so rouses the irrepressible ire of these disunionists *per se* as to mention PEACE; they dread it as the devil does holy water. With swagging, blubbing gasonade they vociferate traitor, copperhead, disloyal. This stop-thief cry of criminals lacks the merit of originality. They would divert attention and cover their tracks by charging upon others the foul and infamous treason under which their own seared and lacerated consciences are writhing. But the transparent trick, the gauzy texture will not conceal from the searching scrutiny and withering rebuke of the country the gross iniquity and dark perfidy of their crimes. The people, indignant at the imbecility and treachery of those charged with the administration of the Government, are being aroused to impending danger. The rumbling ground-swell from the disabused masses is heard in the dim distance; its audible mutterings fall like the sound of a death-knell upon the ears of the guilty plotters of treason. The "wolves in sheep's clothing" will be disrobed, and their naked deformity exposed to the indignant scrutiny of a deceived and outraged people, so that "they may be known and read of all men." Their day of reckoning is drawing near. In the midst of their public plunder, bloody carnival and bacchanalian revelings their hearts quake, kneestremble, and cheeks blanch as they read the handwriting on the wall, "Thou art weighed in the balance and found wanting."

Mr. Speaker, the sad, humiliating spectacle is presented to the country of its liberties being crucified and put to an ignominious death in the house of its pretended friends. They insist on giving the last dollar and the last man, but exhibit prudential caution that their dollar is the last one taken, and they the last men to go. They do not want the southern States in the Union, consequently take care to prosecute the war in such a manner and for such purposes as to prevent their return; its continuance is their political capital stock, and they would procrastinate it as long as they can hold the offices, get fat contracts, and speculate in the blood and suffering of the country. When the war is stopped there will be \$2,000,000 per day less tax for the people to pay; consequently, *minus* that amount to lavish among the fawning minions of power, the speculation, fraud, and plunder of the public Treasury would have to cease; the Mississippi river would be opened to navigation; the railroad monopolies

could no longer extort from the farmer of the West half the value of his production for transportation to market. This war has been a godsend to monopolists, speculators, shoddy contractors, Government thieves, and public plunderers generally; they are amassing princely fortunes, rolling in wealth, reveling in their ill-gotten gains; you may set them down for the war; they "will go to the last dollar and to the last man." These Shylocks will hold mortgages in the shape of Government bonds on the property and industry of the country; a bill of sale on the sweat and toil of honest labor for unborn generations.

Mr. Speaker, it is not marvelous that New England is for the war. By means of her railroad monopolies, fishing bounties, and high tariffs she impoverishes the balance of the country, and its wealth flows into the lap of her pampered aristocracy; she, as a matter of course, favors a vigorous prosecution of the war. Did you ever know the universal Yankee nation to let up with their hands to the elbows in the pockets of the people? The history of this peculiar people furnishes no such example; they are still true to their nature and their instincts. Perhaps I should notice the oft-repeated charge from the other side of the House that the Democratic party are hostile to the soldiers. No aspersion could be more groundless or ungenerous. It is true they sought and advised peace rather than to have the country scourged with a devastating civil war; they would that this bitter cup might have passed, and the country not be compelled to drink it to its bitter dregs; but when their counsels were rejected and the conflict upon us there was no factious opposition interposed to the party in power trying their plan; money and men were voted without stint; Democrats vied with Republicans in filling the ranks until the first call of seventy-five thousand has swelled to over two million, a full half from the Democratic party. Such is the case in my own State, which has always been ahead of all calls. It is true there is a deficit from the Republican districts; but they have been more than filled by the excess from ours, and in case of emergency they can easily "stamp flaming giants from the earth" to fill up their quotas.

When the tocsin of war was sounded the people rallied around the flag of the country under the assurance that it was necessary to preserve the Government, and that it was to be prosecuted to enforce the laws and suppress the rebellion, and not to interfere with or overthrow the institutions or independence of the States. I am frank to say I did not rely upon these assurances, but have no fault to find with those having more faith than myself who deemed it their duty to enter the service, and cheerfully award to them the meed of patriotic self-sacrificing devotion to what they deemed the best interest of the country, and they are justly entitled to our respect, sympathy, and support; recognizing to its fullest extent this duty and obligation, I have uniformly voted supplies, increase of pay, and pensions for our soldiers. But, sir, when and in what way have the party in power exhibited their kind regard for the welfare of our soldiers? Is it in the reckless and wanton sacrifice of their lives to the Moloch of abolition? Is it in their fanatical, radical measures which have obliterated the Union sentiment of the South and united their people against us? Is it by colonizing the North with the degraded Africans from the South, so that the soldier on returning home will have to work by his side, and compete with him for place and pay? Is it by placing the *corp d'Afrique* upon an equality with them in the ranks, and thereby humiliating their pride and wounding their honor? If their love for the soldier had been anything more than hollow-hearted pretense why did they remain in session over five months without reporting a bill to increase their pay? They knew that since our soldiers left home the expense of living had greatly increased; that their families had to pay double the ordinary price for the necessities of life; that labor at home was commanding from a dollar and a quarter to three dollars per day. Why, then, should the soldier be expected to endure the hardships and dangers incident to war for less compensation than his services would command at home? These exclusive friends of the soldier have reduced his rations, and in their munificent generosity and fullness of heart have actually increased his pay ten cents per day, up, up to the

prodigal sum of fifty-three and a third cents a day. This lavish increase of ten cents will enable them, if judiciously expended, to purchase from one quarter to one third of a yard of calico or brown domestic to clothe their families at home, and as for such luxuries as tea and coffee, they are not to be thought of; "rye coffee is good enough if the negroes can be free."

Unfortunately for this side of the House, our estimable no-party Speaker has failed, inadvertently no doubt, to assign us any such position on committees as would enable us to exercise any controlling influence for the benefit of the soldier or the country. I believe the only chairman awarded us is that on mileage, over which my distinguished colleague, [Mr. ROBINSON,] honored with six years' congressional experience, presides. But thankful for small favors in our humble sphere, at the tail end of committees, we have done the best we could. Early in the session, at my instance, a resolution was adopted directing the Military Committee to inquire into the expediency of increasing the pay of our officers and soldiers, but their attention has been so exclusively engrossed in miscegenation projects for the benefit of "American citizens of African descent" that little time was left to devote to the secondary interests of mere white soldiers. Becoming impatient after waiting several months for a report, I offered another resolution instructing the committee to report a bill at an early day increasing the pay of officers and soldiers at least thirty-three per cent. This presented a dilemma; if it passed a bill would have to be reported; if they voted it down it would disclose to the soldiers and the country their hypocrisy. In their extremity they brought to the rescue the fertile resources and parliamentary skill of the distinguished member from Pennsylvania, [Mr. STEVENS;] in a crisis he is their reliance to furnish brains. He arose and gravely announced a desire to debate the resolution; this, under the rules, passes over their anxious countenances at the success of their tactician. The honorable Speaker has never yet been able to reach the resolution. When the Military Committee introduced their bill to reduce the rations and increase the soldier's pay ten cents per day, I appealed to the chairman to permit an amendment to be made inserting twenty dollars in lieu of sixteen dollars per month; this he peremptorily refused, but demanded, and the House sustained, the previous question, thereby cutting off all amendments and debate. Again, when the report of the committee of conference on the military bill was under discussion, I moved to recommit the bill with instructions to report it back with an increase of pay to the soldier of at least twenty dollars per month. This proposition, at the instance of a member of the committee, [Mr. FARNSWORTH,] was ruled by the Speaker to be out of order.

I submit, Mr. Speaker, the above facts that the country may determine who are the true friends of the soldier. They may well ask to be delivered from such friends.

Honorable members over the way tell us they have been doing a nice thing for the soldiers by the bill of this session in dividing and parceling out between them and the negroes the plantations of the South, and granting them homesteads by robbing other people of the fruits of their labor and converting them to their own use. I think they have greatly mistaken and underrated the character and pluck of our citizen soldiers if they suppose they entered the service for purposes of pillage and plunder; they are not homeless freebooters to be seduced from the paths of honor by "beauty and booty;" they left homes acquired by honest industry, and domestic associations more endearing and tempting than the steal-yourself-a-home, negro-equality doctrine tendered by the party in power. Hence I conclude that these loud-mouthed professions of love for the soldier and the Union are off of the same piece, slack-twisted, badly wove, and not large enough to cover their nakedness. The patent truth is they are not for the Constitution or the Union, but, wishing to subvert them, oppose peace and urge war; they say that a little blood-letting is healthful for the body-politic; that the tree of liberty must be watered with the blood of her citizens; that there is no remission for sins but by the shedding of blood; that we must cry havoc and let slip the dogs of war; that all great nations

have had civil wars, and the time has come for ours. Sir, in an evil hour these counsels prevailed. Still they hesitated to startle the country by fully showing their purposes. In ninety days, with seventy-five thousand men, the job was to be completed and the breakfast spell over. We have now reached the fourth year of the war, and they modestly ask us to extend the time that they may continue to "peg away" for four years longer. Two millions of our young men, the hope and flower of the country, have gone into the service; two hundred and fifty thousand lives have been sacrificed; as many more with shattered and broken constitutions and with maimed and mutilated persons still linger in our midst, objects of the nation's bounty and sympathy. A fearful responsibility rests upon the guilty authors of this suffering and sacrifice of life. The full measure of just punishment would be too terrible. May neither their daily meditations nor nightly visions be haunted by sepulchral specters of departed spirits.

"Thou canst not say I did it: never shake
Thy gory locks at me."

Mr. Speaker, the life of the nation is in imminent peril; the agonizing throes and death-rattle admonish us of approaching dissolution; but while there is life there is still hope. As the shipwrecked mariner seizes with dying hope to the last floating spar, so let the people rally around and cling to the Constitution as the sheet-anchor of our hope. Their duties and responsibilities are fearfully great and cannot be ignored. They owe it to their sires, the wives of their bosoms, the innocent prattlers that dandle upon their knees, to unborn generations, and to their own manhood, to preserve free government and transmit constitutional liberty as the most invaluable legacy. The Federal Constitution with all its limitations and just balances must be maintained; the reserved rights of the States and the people protected; the union of the States must be preserved and perpetuated; the personal rights and liberties of the citizen must be upheld and defended; free speech, a free press, and a free ballot, cannot be surrendered by a free people; these inalienable, clearly-defined, expressly guaranteed constitutional rights, invaluable to freemen, formidable only to tyrants, must be protected, maintained, and defended from any and every assault, from whatever source or under whatever pretext made, by every lawful means, peaceably if they can, but forcibly if they must. To slavishly surrender their priceless liberties would show them to be craven-hearted cowards unworthy to enjoy them.

The State of Illinois has furnished from one hundred and fifty to two hundred thousand of her brave sons to suppress treason in front, and could, if necessary, duplicate the number, and still has left a Democratic reserve of one hundred and fifty thousand home guards of true, reliable men, who have never bowed the knee to Baal, able and willing, if it should become necessary, to protect and defend the constitutional rights and liberties of the people against any fire in the rear by home traitors.

One of the most humiliating reflections which forces itself upon the country is its barrenness of able statesmen. The national councils are filled, with but few exceptions, (which, of course, includes this Congress,) with men woefully dwarfed in intellect and patriotism, the scum that rises and floats to the surface during the simmering blubbery of the political caldron.

In view of this patent deficiency there was an aptness and pertinence in the supplication recently offered up with great unction and pathos by the Chaplain of the Senate, which is said to run as follows: "O Lord, give us more brains we beseech Thee; more brains, Lord, more brains. Thou knowest our destitution and need of more brains." The President should without delay, by proclamation, make the matter of "more brains" a special subject of prayer. Surprise has been manifested in some quarters at the House selecting as their spiritual teacher a Chaplain who repudiates the evangelical Trinity and denies the divinity of our Saviour, but bear in mind we live in a progressive age. By the new standard of orthodoxy supplications for war and negro equality supersede the gospel of peace; the elastic consciences of the party in power are not to be hampered by the obsolete old-fogy doctrines of the old Constitution and the old Bible.

At a time like the present the utility or good taste of indulging in crimination and recrimination may be seriously questioned. It can scarcely be sanctioned in the way of retaliation, but to refrain under such provocation would have subjected the meekness of Moses to a severe test.

Now, permit me to suggest that party and personal asperities be dropped, and we apply ourselves to the higher and nobler objects of saving the country. With this purpose in view, will honorable members over the way consent for the time being, at least, to abjure the partisan and assume the stature of statesmen? It requires an effort on your part to sever party ties and breast the dashing waves of fanaticism; there is more ignoble ease in floating with the rubbish in the current, and pandering to the passion and prejudice of the hour. You have distinguished precedents for breasting the tide, by resisting popular passion and sectional fanaticism. In 1850 our argus-eyed statesmen descried in the dim distance a small dark spot, no larger than a man's hand, lowering over our political horizon, gathering in volume and blackness; they snuffed the danger in the tainted breeze. Behold Kentucky's gifted orator and distinguished statesman as he leaves again the endearments of home and enters the arena of his former glory. For four decades his clarion voice had been the talismanic wand that stirred into quicker pulsations and thrilled the national heart; crowded, spell-bound! Senates hung in wonder upon his words, entranced and electrified by the magic inspiration of his burning eloquence. He had retired from the stormy turmoil of political strife to enjoy coveted quiet amid the ambrosial shades of his own beloved Ashland. At the call of an imperiled country his stooping form becomes erect, his dim eye brightens. He again enters the Senate; party spirit and strife is hushed into silence. By common consent he is awarded the distinction of chairman of the conference committee of thirteen, composed in equal proportions of the distinguished men of both parties. For months they labored, vying with each other to avert the gathering storm, and sustaining their venerable chairman.

Illinois' favorite statesman, the lamented Douglas, exhibited in a remarkable degree the moral greatness and heroism to stem the tide and breast the dashing waves of fanaticism as its angry billows beat around the old ship of State, threatening to engulf the hopes of the nation within its yawning vortex. For his action in sustaining the committee he was denounced, persecuted, and vilified, but with the bitterest acrimony at his own home in Chicago; here the city council and clergy openly arrayed themselves against the measures of pacification adopted by Congress, and the popular frenzy was so great that he said he could travel through that part of the country by the light of his own burning effigies. Nor was Massachusetts' illustrious statesman exempt from the malignant obloquy of the viperous tongue for attempting to stay and roll back the flowing tide of political fanaticism engendered in the hot-house of abolitionism in his own State; when he returned to his constituents from the Congress in which he had taken so conspicuous a part in sustaining the compromise measures of 1850, his action was so obnoxious to the vitiated sectional sentiments that he could not have been elected a justice of the peace in any township in Massachusetts; he sought to vindicate his course before his constituents, but they tried to stifle and suppress freedom of speech. The city authorities of Boston, to their shame and reproach be it spoken, refused to permit him to speak in Faneuil Hall; its doors were shut against the defender of the Constitution, the man who had done more than any other to give a name and character to New England. Oh, shame on the base ingratitude, the dark perfidy, the bitter malignity of sectional fanaticism! The great Webster never loomed up in such grand and godlike proportions; excluded from liberty's consecrated halls, the people assemble in Boston common, and there, beneath the azure arch and starry canopy of heaven, he bares his frosted locks and massive brow to the free rustling breezes; the pure water gushes from the smitten rock in terse Anglo-Saxon words, that should be written in letters of gold, appealing to the fanaticism of New England to learn to subdue their passions.

These truly great men could soar above passion and prejudice and sever the iron shackles of party.

In 1852, through the national conventions of the two great political parties, the country ratified and indorsed the compromise measures of 1850 as a finality.

Mr. Chairman, may we not learn wisdom by the examples and experience of the past? I would implore honorable members to abjure party for the paramount interest of our common country, and respectfully commend to their favorable consideration these illustrious examples as eminently worthy of their noblest and most exalted aspirations. Their names and memories will live green and fresh in the hearts of the people, revered and venerated by the friends of personal and constitutional liberty throughout the world, while the fomenters of civil war, the bloodthirsty Marats and Robespierres, like their prototypes, will be a reproach and hissing, a byword and stench in the nostrils of honest men.

This side of the House is powerless to give relief to our bleeding, dying country. Its destinies for weal or woe, with all its glorious memories of the past and precious hopes of the future, hang tremblingly in the balance in your hands. Will you save us our liberties, and preserve us our blood-bought inheritance? This boon we demand at your hands; we demand it in behalf of thirty million free-born Anglo-Saxons, whose throbbing hearts implore and wishful eyes are anxiously turned toward this capital. This you can still do. Will you do it? We do not expect you to relieve us from the burdens of the \$3,000,000,000 of national debt created by this war; this is not in your power. You cannot expiate for nor breathe new life into the two hundred and fifty thousand brave men wantonly sacrificed, I fear, by your war policy. You cannot restore them to their stricken and disconsolate friends, nor fill the aching void that pals these bereft and desolate hearthstones. You cannot close the gaping wounds nor ease the piercing agony of a hundred thousand brave men languishing on the field and in the hospitals. You cannot bind up the broken heart nor stay the gushing tear of the inconsolable widow. You cannot meliorate the piteous condition, soothe the plaintive wail, nor hush the unbid sob of the moaning, heart-stricken orphan. These things you cannot do. But you can yet give us back a free, independent judiciary, the writ of *habeas corpus*, a free ballot, free speech, and a free press. Give us back the old Constitution of our fathers, with all its sacred memories and cherished associations; though torn and rent and perverted as it has been, we love it still; strong arms will uphold and warm hearts cluster and nestle around it. Give us back as it was the old Union of our fathers, without a star erased or stricken from the bright galaxy of its effulgent constellation, with the old flag of our fathers with all its ample folds still floating proudly in triumph above us.

Mr. HOLMAN. Mr. Speaker, I am reluctant to occupy the attention of the House at this late moment, but I desire to present briefly my views on the pending question. This bill, having passed the Senate by a constitutional majority, only awaits the approval of this House. It proposes to introduce into the political contest of the present year a measure of great public concern. It presents the question, shall the Constitution of the United States be amended? In view, sir, of the present condition of the country, no graver question has ever challenged the attention of the American Congress. The merits of the amendment are of comparatively little moment. The more serious question is, shall the Constitution be amended at all? Are the times propitious for the consideration of such a question? Is it a time to weaken in the public mind, already in a state of revolution, the authority of established principles by innovation and change? I cannot but express my earnest regret that this new element of discord has been forced upon the country. Of all of the measures of this disastrous Administration, each in its turn producing new calamities, this attempt to tamper with the Constitution threatens the most permanent injury. I speak, sir, without reference to the merits of the amendment. If it were ever so wise in the abstract the present condition of the country would demand its postponement. The bitter experience of three years and a half of uninterrupted misfortune ought to have taught the Republican party the fallibility of their judgment, fatality of their policy; but the more

fatal their measures the more reckless their experiments. What a series of promises and failures! The act of confiscation was to terrify the South and more than supply the expenses of the war. Yet it only impoverished the Treasury by hosts of new officers, and swelled the ranks of the rebel army.

The proclamation of the President emancipating the slaves alike of the loyal and disloyal in ten States of the South was to strike an irresistible blow. The promise was fulfilled, but the blow fell upon us, and its effect was to unite a divided South and divide the public opinion of the North. But the arming of the African would create an irresistible army eager to redress the servitude of ages; but it only deepened and embittered, if it were possible, the contest; confirmed the wavering in their disloyalty, and exhausted the public Treasury; withdrew the negro from effective labor in your service, and has failed to add the tithe of a hair to the effective force of your army. Your pet system of finance would sustain the public credit for indefinite years; and if, at the command of Hamilton, dead public credit rose to its feet, Secretary Chase was to accomplish more; yet even now the system totters to its fall. Capital riots in excessive gains; the wealth of the country rapidly centralizes, and labor already feels the weight of oppression. Over the united judgment of your opponents, and in the favoritism of wealth you ingrafted the principle of commutation in the act for the conscription of citizens in the Army, and after certain States of the East have obtained its benefits you propose its repeal. The measure was a crime or a mistake in the beginning, but its repeal would excite a just and an indignant resistance, it may be even to violence, because its enactment and ultimate repeal would create an unendurable inequality in the burdens of the war between the States of the East and the West.

But why enumerate? What measure of this Administration has failed to be fatal? Every step in your progress has been a mistake. I use the mildest term of censure. While you leave the fundamental principles of the Republic unchanged we may submit, but how can we consent that the ephemeral politicians of the hour shall assume the task of revising the grand work of the grand old master workmen? For sixty years the Constitution has remained untouched and unchanged. Not one of the vital principles has ever been impaired except, indeed, by recent usurpation. The twelve amendments made by the men who formed the Constitution were adopted in the same spirit that presided over their original counsels, were but stronger guarantees against the Federal power; stronger guarantees of the domestic sovereignty of the States, and gave such perfection to the noble instrument that for sixty years it has commanded the veneration of the American people and excited the admiration of the world; and through all of this period the eloquence of the wisest and purest statesmen has been exhausted in impressing its excellence and the duty of maintaining it on the successive generations of the American people. And how have the people illustrated in this desperate contest their devotion to this Constitution! It has inspired a heroism the most exalted, an enthusiasm as fervid and self-denying as religious faith. It has called into the field a countless army of citizens, and sanctified the grave of every hero who has fallen in its defense. It is this instrument and its sacred power over the public mind that you would impair. It is a part of the new gospel that you preach. Your deity condemns with a fanatic voice all that is sacred and venerable, and a filial remembrance of our fathers and an imitation of their example in their duty to God and their country become impiety and treason.

The mariner whose gallant vessel is driven by the storm on an inhospitable coast looks out with eager solicitude to catch the warnings of the beacon's light. If the firm rock on which the beacon stands can resist the rage of the elements, he may outwade the tempest, but if the beacon light is overwhelmed, the gallant ship is left to the mercy of the storm, and must perish. The Constitution, the serene light of the past, with all of the sacred memories of the past ages clustering around it, sanctified by tradition and history, is the only power under God that can save this Republic. Its serene wisdom, its sublime principles, refuting the mad fanaticism of the hour, is

the only power that will lead us back into the path of safety.

The fanaticism of the North and the madness and treason of the South have controlled the public mind but a few years. The fall of the great statesmen of the last generation was seized upon as a favored moment for the reign of faction, and its reign has been terrible, intensified by all that fanaticism could suggest and ambition inspire; and fearful, sir, as is now the condition of our prostrate country, I cannot yet believe, sir, that these mad elements are destined to totally overthrow this once noble Republic. I cannot believe, sir, that four years of pitiless and destructive war, terrible as it is, will destroy the strong foundations of this Republic; the fiery rage of fanaticism must burn itself to cinders. Ambition must expose its base aspirations to its deluded followers. The youth and vigor and intelligence of the American people must sooner or later assert their power for humanity and justice and peace. Four years of anarchy and ruin cannot obliterate the memory and tradition of ages. If fortunately the Constitution shall be left unimpaired, and in a favored moment under a wiser administration of our affairs it shall be brought forward as presenting the basis and conditions of reunion and of peace, who shall say, sir, that this monument of the wisdom of our fathers, this solemn guarantee of equity and justice, will not reunite the bleeding fragments of the Republic? If, sir, this Union is ever restored, it must and will be under this Constitution. If under the promptings of vengeance or passion, or instigated by the fierce fanaticism of the hour you amend this Constitution, you render desperate the attempt to restore the Union. The subjugation of armies will not avail; you must obtain the voluntary submission of the people. They may submit, I have ever believed they would submit to the old Government of their fathers. If you change that Government by constitutional amendment, what hope have you in the light of human experience of a voluntary submission?

To submit to the Constitution would be to submit to a Government once revered by them as by us; to submit to a Constitution remodeled by yourselves is submission, not to a common Constitution, but to you. It would be madness to overlook the pride of character that pervades and controls every part of the American people. If you amend the Constitution simply to render it hostile to the institutions of the South, you will not restore the Union. However fortunate you may be, subjugation is all that is left, and subjugation implies a standing army, a military republic, vaulting ambition, despotism. But in this march of events, with the sanctity of the old Constitution impaired and weakened in the public mind by innovation, what disintegration will occur, what frightful chasms will open, through that broad country now loyal to the Constitution. Sir, all the experience of history warns us against this suicidal act. All changes in the fundamental principles of government are perilous. A wise statesman will never attempt them except upon the most deliberate consideration, and then only when imperatively demanded and the danger more than counterbalanced by the manifest benefits. Charondas, the Locrian legislator, enacted that he who proposed a change in the laws of the republic should do so in the midst of the people with a rope around his neck; that if the change he proposed should be rejected he should be instantly hanged; and for two hundred years Locria was a prosperous republic. The rash temerity that would seize upon the moment of a nation's weakness to change the principles of government to gratify the insane passions of the hour would be lightly punished by the Locrian law. This proposition is brought forward as a measure of war. I well remember, sir, when, on the 27th day of February, 1861, a proposition to submit an amendment of the Constitution to a direct vote of the whole people was brought before this House, a measure of peace, when it was manifest that no other measure would disarm the ambitious conspirators of the South by quieting the apprehensions of the southern people. I refer to the Crittenden compromise. It was brought forward as a compromise. It was to be submitted to the vote of the whole people. It was the belief of its venerable author that it would prevent civil war. It was brought before this House by a distinguished

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

THURSDAY, JUNE 16, 1864.

NEW SERIES. No. 186.

gentleman from Virginia. The measure was defeated by 80 votes in the affirmative to 113 in the negative. Every negative vote was given by a Republican, except that of Thomas C. Hindman, now a general in the rebel army. Four gentlemen are still upon this floor who voted in the affirmative, S. S. Cox, of Ohio; ROBERT MALLORY, of Kentucky; JAMES C. ROBINSON, of Illinois; and WILLIAM S. HOLMAN, of Indiana. Among the southern votes in its favor are John A. Gilmer, of South Carolina, then, and I believe still, an earnest friend of the Union; John S. Millson, the pure and virtuous Representative from Virginia, still loyal to his country; Zebulon B. Vance, the present Governor of North Carolina; and Thomas S. Bocoek, of Virginia.

Mr. WASHBURN, of Illinois. I desire to ask the gentleman from Indiana what position Thomas S. Bocoek now holds. Is he not speaker of the rebel congress?

Mr. HOLMAN. He is speaker of the rebel congress. It is a striking fact, however, sir, that such men, drifting ultimately into rebellion, on the 27th of February, 1861, were eager to avoid the terrible calamities of war by voting in favor of submitting these propositions to the people, while my loyal friend from Illinois, [Mr. WASHBURN,] then voting against that measure of peace because it was a proposition to amend the Constitution, now proposes to amend the Constitution as a measure of war. The gentleman from Illinois offered a resolution in that same connection, from the committee of thirty-three, that the Constitution of the United States did not need to be amended but to be obeyed.

Sixteen gentlemen are still upon this floor who voted in the negative; one of them, at least, according to his declaration that the Constitution required to be obeyed, not amended. But that was a measure of compromise and of peace, this is a measure of war, of disintegration, of ruin. The voice of humanity and peace pleaded for the one; fanaticism clamors for the other. In behalf of peace and the Union, you would not even permit the people to vote on the question of constitutional amendment. We shall see whether, in behalf of disunion and war, you will press this amendment upon a distracted country. I have said, sir, that in the formation and adoption of the Constitution and its amendments, the last of which was adopted on the 25th day of September, 1804, there was an extraordinary unity of public counsel and a state of profound peace. Upon questions so grave and important party and faction were silent, and statesmen of diverging views, in the spirit of compromise, directed the counsels of the people. But this amendment is brought forward as a mere party measure. It is the attempt to consummate the policy of sectional domination which formed, and has ever controlled, the Republican party, the policy which armed the southern conspirators with the power by which they forced their people into revolution. You propose to effect this amendment by the power of party, by the strength, not of deliberate public will, but of party organization. You make it a plank in your political platform. The danger of attempting so grave a measure through a party organization is well illustrated by the farewell address of the illustrious citizen whom it was once our pride to call the Father of his Country. Alas! what a country now since his counsels have been spurned and forgotten! He says:

"I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you, in the most solemn manner, against the baneful effects of the spirit of party generally."

"The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which, in different ages and countries, has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition

to the purposes of his own elevation on the ruins of public liberty.

"Without looking forward to an extremity of this kind; (which, nevertheless, ought not to be entirely out of sight,) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it."

Sir, if the noble figure which adorns this Hall upon your right, and which now looks down so calmly upon us, with a sheathed sword by its side, and its hand resting on "the Constitution of the United States" of America could be for a moment animated by the patriot spirit of him it represents, how would that calm eye flash upon this House! What words of fiery indignation would overwhelm the party tricksters who, having brought his country to the brink of ruin, now in the rage of party spirit assail the Constitution signed by his immortal name, the proudest monument of his wisdom and of that of his illustrious comrades! Sir, as his eye surveyed the men who, holding the destiny of his country in their hands, have betrayed their trust, and now prepare to consummate this parhizical act, how would its fiery luster terrify and alarm! Sir, he "would look on them but to blast, he would speak but to curse." He would speak as Washington alone could speak, "Lay not your hand upon the Constitution. It is the only anchor of hope that is left for you and for your children. It was formed in the spirit of fraternal concession. It embodies the matured wisdom of the Revolution. Its spirit would have preserved my country in prosperity and peace. You have rejected its wisdom and my country is in ruins. Lay not your hand upon it. It is all that is left of the rich legacy of the past; traitors assail it with open violence and you by a more deadly because secret assault. You would extinguish its vital power on the miserable pretense of reform. Let it alone; it may again under wiser counsels revive and redeem my country. How dare you attempt its amendment, you who have neither the patriotism to comprehend nor the virtue to administer in the spirit of its authors!" Such, sir, would be the words of Washington if he could speak to this House.

But independent, sir, of the agitation of the public mind and the vicissitudes of war, are not the times inauspicious for the work of constitutional amendment, comparing the era when the Constitution was adopted and the present? In the development of the nobler attributes of mankind the era of the Revolution is the most remarkable in history. Patience, forbearance, and self-denial were the common virtues. It was the era of elevated public and private virtue, of fraternity, conciliation, concession, and over all a patriotism in which individual interests were forgotten, and all sacrificed to the public good. Armies poorly clad fought without pay, private citizens exhausted their estates in the public service, and generals and officers of every grade, following the example of their illustrious leader, spurned the thought of compensation beyond actual expenses incurred in the line of duty, and the unworthy citizen who sought to coin fortune out of the grief of his country sank under the universal scorn. Such was the spirit of the age which gave us the Constitution. And what, sir, of the age which would amend it? It is an age, sir, in which the masses of the people emulate the virtues of their fathers, but in which organized party with the insolence of a braggart and the arrogance of a tyrant usurps the supremacy of the public will. It is an era of venality and selfishness; the leaders of public opinion sacrifice their country for private end even to the baseness of self-aggrandizement, coining into private fortune the life-blood of the Republic, and the very statutes of public law look to the aggrandizement of the rich and the oppression of the poor; an age, sir, of truckling subserviency to power, when men are found base enough to

"crook the pregnant hinges of the knee,
Where thrift may follow fawning."

when the venal courtier with blasphemous words dares to compare the first citizen of the Republic, but first only in position, the dispenser of mil-

lions of patronage, light and airy in the midst of the general grief, partaking in the gay and festive scenes of the capital, while the wail of grief swells up from countless fields of battle, to the immortal Washington who suffered in every grief of his bleeding country, and on his bended knees in the simple majesty of prayer stormed the very gates of heaven in her behalf. The one, sir, is the offspring of a reckless and fanatic party, the mere instrument of party power; the other, sir, was a gift of God to mankind. Washington, sir, was a type of his period, Abraham Lincoln is a type of his party. Is such a time auspicious to revise the work of the patriot fathers?

But as to the merits of the proposed amendment. You propose to invade the domestic policy of States so solemnly guaranteed by the Constitution and without which the Union would never have been formed, and abolish African slavery, a subject foreign to the Constitution, for it has no relation to domestic concerns of a State. Its purpose was to unite the States, while each as to domestic government was still a sovereign, as parts of one nation each subordinate to the Federal head. You now propose to abolish African slavery throughout the United States. I am, sir, a firm advocate of the rights of the States. I would maintain these rights with the same fidelity that I would the rights of Federal Government. I am neither the advocate nor the apologist of slavery. In a war for the Constitution and the Union I would not have slavery weigh a feather against the progress of our arms. If it went down in such a struggle, even the loyal men of the South could not complain. But, sir, the Federal Constitution is in no sense responsible for slavery. It is not for slavery nor against slavery, as it is not for or against any other domestic institution of the States. It has not the remotest connection with such questions, and even the clause for the return of fugitives from justice and labor is but a measure of comity to preserve the friendly relations of the States. The change you propose is a fundamental change of your Government never contemplated by its founders.

But, sir, what are you to gain by the amendment? In Maryland, Missouri, and Virginia, at least to the extent of the recognized powers of these States, slavery is already abolished. The President's proclamation, solemnly indorsed by yourselves and the validity of which you assert, has declared slavery abolished in every State in rebellion except Tennessee. Tennessee, then, a State full of loyal citizens, and the loyal State of Kentucky, with sixty thousand Union soldiers in the field, are the only States to be affected, according to your own theory. The slaves of the disloyal in those States have already been impressed into your employment, so that upon your own theory this provision will only affect loyal citizens who, through every misfortune, have adhered to the cause of their country. Sir, will this act of violence, this usurpation of a majority under the spur of party organization, increase the loyalty of those whose rights you impair? Is your condition such, after the terrible effects of your policy on this subject, to justify you in still further impairing your cause in the southern States? Are you so strong and irresistible, laying aside all questions of justice and good faith, that you can afford to provoke new and permanent causes of hostility on the part of men now loyal to the Union? So far as this measure affects the interests of your citizens in the slaveholding States it can only provoke indignation and bitterness. If Kentucky wishes to abolish African slavery it is well. I should rejoice to know that she regarded such to be her true policy. It is her own domestic institution; in good faith and justice it is a measure beyond your power. If consummated, it is but an act of violence. If in the reckless arrogance of political power you assume to annul rights guaranteed by your fathers and enjoyed for ages—the rights of domestic government—and provoke to a just indignation a loyal people, the result of the folly should fall upon your own heads; but instead of that you will attempt to

meet the consequences by new drains upon the manhood of the North. But I warn gentlemen that there is some limit to the duty of forbearance.

But what will be the effect on the negroes thus to be enfranchised? Will they increase your military power? Why, sir, by your policy you are now availing yourselves of the services of every negro within the lines of your Army. In spite of proclamations and laws three and a half millions remain passively within the rebel lines. You only reach them as your army advances, and then subject them to any service you desire. You never dream of consulting their wishes. As to them your past experience proves that this amendment would be a nullity. It would only affect the temper and spirit of men still loyal to your cause. It may do more; it may confirm in the public mind the belief that the war in the secret councils of your ruling cabal is not for the Union; that if the Union cannot be restored with slavery abolished the separation shall be eternal. I charge, indeed, that such is the purpose of leading men in the ranks of the Republican party.

But, sir, the amendment goes further. It confers on Congress the power to invade any State to enforce the freedom of the African in war or peace. What is the meaning of all that? Is freedom the simple exemption from personal servitude? No, sir; in the language of America it means the right to participate in government, the freedom for which our fathers resisted the British empire. Mere exemption from servitude is a miserable idea of freedom. A pariah in the State, a subject, but not a citizen, holding any right at the will of the governing power. What is this but slavery? It exists in my own noble State. Then, sir, this amendment has some significance. Your policy, directed in its main purpose to the enfranchisement of a people who have looked with indifference on your struggle, who have given their strength to your enemies, and then the constitutional power to force them into freedom, to citizenship. If such be your purpose, why deceive a noble and confiding people? Your purpose in this amendment is not to increase the efficiency of your Army or to diminish the power of your enemies. No, sir; you diminish the one and increase the other. You run the hazard of all that to gratify your visionary fanaticism, the elevation of the African to the august rights of citizenship. The Federal power to invade the States for this purpose, as proposed by this amendment, strikes down the corner-stone of the Republic, the local sovereignty of the States, the only resistance this day to a central despotism, the event foreseen and thus guarded against by our fathers. Not only then, sir, the time, the condition of the country, the distracted state of the public mind, the actual danger which it must provoke, the absence of any promised benefit to our arms; not only all these plead in the voice of a supplicating and bleeding country against this new act of folly and madness, but the fatal change it proposes in the relation of the States to the Federal Government cries out against it. This act, sir, if it shall have any effect at all, must be fatal; fatal to the very life of the Constitution, fatal to the fundamental principles of the Republic, the right, the irrepressible right of the States to domestic government. Policy and prudence condemn it; and if it were possible, sir, the very ashes of the Revolution would cry out against this subordination of the States in domestic affairs to the Federal power.

We entered upon this war, sir, with a united North and a divided South, with overwhelming advantages in all the sinews of war, more than twenty to one. With a patriotism never surpassed the people have given you every power you demanded both of men and money. You have had the whole vast resources of the country under your control. Congress, almost without a dissenting voice, and without a moment's delay, has passed every measure you have required; the courage and spirit of your gallant armies has been all that a patriot could desire; and yet, sir, such has been the imbecility and fanaticism of your policy that you have united the South, you have divided the public opinion of the North, and torn the country into factions; you have sacrificed a half a million of the very flower of our youth, you have imposed upon the country the most appalling debt, a debt which will crush labor for ages to come; all of this in three years and a

half; and yet, sir, what have you accomplished? By directing these mighty energies to one end, the overthrow of the armed rebellion, with the rights of the States and of the masses of the South unimpaired, a year and a half of war would have seen the authority of the Constitution reestablished. Now who can predict the issue? Your policy will not save but will ruin the country, and this constitutional amendment suggests the danger that you already propose to abandon the Union as you have virtually done by your bill for reconstruction, if your policy with reference to the African shall ultimately fail. This Administration is weighed in the balance and found wanting; it inspires no further hope; under God the salvation of the Republic rests only in the hands of the people.

But I will not despair of my country. The Constitution, though trampled upon, is still unchanged. I trust in God it will stand to illuminate with the serene light of the past the darkness that gathers around us, that a people worthy of the Republic and worthy to be free will snatch it from the hands of its enemies and cling to it as the only foundation of hope.

And then, on motion of Mr. ELIOT, (at half past eleven o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, June 15, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal was dispensed with.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented a petition of citizens of Ulster county, New York, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which was referred to the Committee on Public Lands.

Mr. FOOT presented two petitions of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military and naval service of the United States homesteads on confiscated or forfeited estates; which were referred to the Committee on Public Lands.

Mr. SUMNER presented six petitions of men and women of the United States, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

Mr. POMEROY presented the memorial of Henry Charles d'Aha, praying that certain moneys alleged to have been placed by him in the hands of the Government may be refunded; which was referred to the Committee on Claims.

JUAN MIRANDA.

Mr. CARLILE. Yesterday when the bill (S. No. 238) for the settlement of private land claims in the State of California was before the body on a motion for its indefinite postponement, anxious as I have shown myself to be not to delay the business of the Senate, I did not discharge probably my duty by making a statement to the Senate in relation to it; I feel, therefore, that it is due to myself to appeal to some member of the majority who voted for the indefinite postponement to move a reconsideration of that vote. The Senator from California, [Mr. CONNESS], who differs with me in opinion about it, will at least bear me witness that I have endeavored to accommodate my action to suit his convenience; and I should be glad if the vote postponing the bill should be reconsidered, so that I could make a statement and present it to the Senate in the light in which it has appeared to me. Then let the Senate act upon it. I will not interfere with the business of the Senate by calling it up at an unreasonable hour if it should be reconsidered and allowed to remain.

Mr. FOOT. I will answer to that appeal so far as to move the reconsideration under the statement of the Senator from Virginia.

The PRESIDENT *pro tempore*. Shall the vote by which the bill was indefinitely postponed be reconsidered?

Mr. CONNESS. I should prefer on this motion to reconsider to hear whatever the Senator

has to say additionally on the measure. I have of course the hope that the Senate will not reconsider the vote. I forbore saying to the Senate all that I desired to say when the bill was under consideration, in deference to what I knew to be the wishes of the Senate, and also with regard to what I knew to be the near approach of the termination of the session, knowing how valuable time was.

Mr. CARLILE. The Senator will allow me to interrupt him. Let the vote be reconsidered, and I will promise it shall not be called up until it suits the convenience of the Senator. I do not wish now to interfere with the morning business. It is suggested that it is unusual to make a statement on a bare motion to reconsider. If he will just allow the reconsideration to be had, I will confer with him as to the time when we can discuss it, and I promise him I shall content myself with a bare statement.

Mr. CONNESS. I do not know any reason why the motion to reconsider may not be entered as it is now; and when a motion is made to take it up, then the statement of the Senator may be made. This question is one of great importance to the State that I in part represent here. I have already caused to be read to Senators from the desk of this body the concurrent resolutions of the sovereign State of California after duly and fully considering this subject. It is a question that affects, so far as the assertion of title is concerned, the interests of over seven thousand people in the State that I represent.

Mr. CARLILE. If the Senator will allow me, I understand there are some reports to be made. Let the motion to reconsider be entered, and when we have leisure I will call it up.

Mr. CONNESS. I have no objection to that.

Mr. CARLILE. It will leave it, then, in the position in which it was.

The PRESIDENT *pro tempore*. The motion to reconsider has been made, and it will be laid aside to be taken up at some other time.

Mr. CONNESS. I have no objection to that course.

Mr. CARLILE. It is not that I desire it, but only to accommodate myself to the wishes of the Senate.

REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 281) to amend the sixteenth section of the act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, reported it without amendment.

Mr. FOSTER, from the Committee on the Judiciary, to whom was referred the bill (S. No. 271) relating to civil actions in the District of Columbia, reported it with an amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a petition of citizens of Florida praying that the salary of the United States district judge for the northern district of that State may be increased, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a resolution relative to an arrangement made by the President and Secretary of War with Major Generals Schenck and Blair to receive from them temporarily the resignation of their commissions to enable them to take their seats as members of the House of Representatives, submitted a report accompanied by the following resolution:

Resolved, That an officer of the United States whose resignation has been duly accepted and taken effect, or who having been elected a member of either House of Congress qualifies and enters on the discharge of the duties of a member, is thereby in either case out of the office previously held, and cannot be restored to it without a new appointment in the manner provided by the Constitution.

The resolution lies over for consideration, and the report was ordered to be printed.

MICHIGAN JUDICIAL DISTRICTS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 513) to detach the counties of Calhoun and Branch from the western judicial district and annex the same to the eastern district of Michigan, have instructed me to report it back and recommend its passage. It is merely to detach two counties from one judicial district and transfer

them to the other. I ask that the bill be acted on now.

By unanimous consent the bill was considered as in Committee of the Whole, reported to the Senate, ordered to a third reading, read the third time, and passed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore*:

A bill (S. No. 293) to empower the Superannuated Fund Society of the Maryland Annual Conference to hold property in the District of Columbia, and to take a devise under the will of the late William Doughty;

A bill (H. R. No. 149) concerning certain school lands in township forty-five north, range seven east, in the State of Missouri;

A bill (H. R. No. 198) making appropriations for the support of the Army for the year ending the 30th June, 1865, and for other purposes;

A bill (H. R. No. 383) to incorporate the Home for Friendless Women and Children;

A joint resolution (H. R. No. 55) granting certain privileges to the city of Des Moines, in the State of Iowa;

A bill (H. R. No. 486) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863; and

A bill (H. R. No. 504) to authorize the Secretary of the Treasury to sell the marine hospital and grounds at Chicago, Illinois, and to purchase a new site and build a new hospital.

MILITARY INTERFERENCE WITH ELECTIONS.

Mr. POWELL. I move that all prior orders be postponed for the purpose of taking up the bill (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States.

Mr. HALE. I have not the slightest objection to the consideration of the bill; but I think we ought to have the morning hour for morning business; and I shall vote against it until we get through the morning business. If the motion is persisted in, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. POWELL. I hope the Senate will now take up and act upon this bill. I have made some dozen ineffectual efforts to get it up. It was discussed for three or four days; and all I desire now is to have a vote upon it. I will agree to make no speech about it. I wish to suggest one very important amendment and then take the vote.

Mr. HOWARD. I hope at this late period of the session this bill will not be taken up for further consideration. I do not think any public interest requires it.

The question being taken by yeas and nays, resulted—yeas 6, nays 26; as follows:

YEAS—Messrs. Carlile, Davis, Nesmith, Powell, Richardson, and Saulsbury—6.

NAYS—Messrs. Anthony, Brown, Clark, Conness, Dixon, Doollittle, Fessenden, Foot, Foster, Hale, Harlan, Harris, Hicks, Howard, Howe, Lane of Indiana, Morgan, Morrill, Ramsey, Sherman, Sumner, Ten Eyck, Van Winkle, Wade, Willey, and Wilson—26.

ABSENT—Messrs. Buckalew, Chandler, Collamer, Cowan, Grimes, Harding, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Pomeroy, Riddle, Sprague, Trumbull, Wilkinson, and Wright—17.

So the motion was not agreed to.

Mr. FOOT. I take this occasion to say that my colleague [Mr. COLLAMER] is detained from attendance on the Senate in consequence of somewhat severe indisposition.

REPEAL OF FUGITIVE SLAVE LAW.

The bill (H. R. No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves, was read twice by its title.

The PRESIDENT *pro tempore*. The bill will be referred to the select committee on slavery and—

Mr. SUMNER. I am instructed by the committee on slavery and freedmen to move the immediate passage of that bill. The Senate understands it; the House of Representatives has already acted on it; there is no need of debate; and I ask to have it voted upon at once.

Mr. HALE. I object; I want the morning hour for morning business.

Mr. POWELL. I move the reference of the bill to the Committee on the Judiciary.

Mr. SUMNER. I propose to amend that motion by moving its reference to the committee which during this session has had charge of the subject, to which, on the motion of the chairman of the Committee on the Judiciary, it has been already referred during this session—the select committee on slavery and freedmen.

The PRESIDENT *pro tempore*. The Chair is of opinion that the motion is not amendable, and the motion to refer to a standing committee takes precedence. The question, therefore, is on the motion of the Senator from Kentucky to refer the bill to the Committee on the Judiciary.

Mr. POWELL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 14, nays 21; as follows:

YEAS—Messrs. Buckalew, Carlile, Davis, Harris, Hendricks, Hicks, Johnson, Lane of Indiana, Nesmith, Powell, Richardson, Saulsbury, Van Winkle, and Willey—14.

NAYS—Messrs. Anthony, Brown, Clark, Conness, Dixon, Doollittle, Fessenden, Foot, Grimes, Hale, Harlan, Howard, Lane of Kansas, Morgan, Morrill, Ramsey, Sherman, Sumner, Ten Eyck, Wade, and Wilson—21.

ABSENT—Messrs. Chandler, Collamer, Cowan, Foster, Harding, Henderson, Howe, McDougall, Pomeroy, Riddle, Sprague, Trumbull, Wilkinson, and Wright—14.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from Massachusetts to refer the bill to the select committee on slavery and freedmen.

The motion was agreed to.

PAY OF COLORED TROOPS.

The PRESIDENT *pro tempore*. The Chair will take this occasion to announce that he has appointed as the committee of conference on the part of the Senate upon the disagreeing votes of the two Houses on the amendments to the bill (S. No. 145) to equalize the pay of soldiers in the United States Army, Messrs. WILSON, GRIMES, and NESMITH.

REPEAL OF FUGITIVE SLAVE LAW.

Mr. SUMNER. The select committee on slavery and freedmen, to whom was referred the bill (H. R. No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves, have directed me to report the same back to the Senate with a recommendation that it pass, and I ask now for immediate action.

Mr. POWELL. I object to that kind of business. We know that this committee has not been in session since that bill was referred. No member of the committee has approached the Senator, and he has not approached one of them, since the bill was referred. We want the committee to consider it. There is a member of the committee who sits near me, [Mr. BUCKALEW,] and I know he has not been consulted about it.

Mr. SUMNER. Will the Senator who sits near you answer whether he has been consulted?

Mr. POWELL. The Senator a moment ago said you had no right to make the report in that way. I happened to overhear him, and that caused me to make the objection. I object to that kind of a report being made.

The PRESIDENT *pro tempore*. The Chair is of opinion that it is not a question for the Chair to decide upon the propriety of the report or the action of the committee.

Mr. SAULSBURY. I object to its present consideration.

The PRESIDENT *pro tempore*. Objection being made, the report must lie over.

Mr. JOHNSON. I suppose a committee is under no obligation to go into a committee-room to consult on a bill.

Mr. DAVIS. I move that that report be not accepted.

The PRESIDENT *pro tempore*. In the opinion of the Chair the report lies over for action until to-morrow.

BILLS INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 308) repealing so much of "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864, and for other purposes," approved March 14, 1864, as appropriates \$25,000 for erecting naval hospital at Kittery, Maine; which was read twice by its

title, and referred to the Committee on Naval Affairs.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 66) providing for adjustment of the accounts of Henry W. Diman; which was read twice by its title, and referred to the Committee on Naval Affairs.

DISPOSAL OF COAL LANDS.

Mr. HARLAN. I move that the prior orders be postponed, and that we proceed to the consideration of Senate bill No. 264, for the disposal of coal lands and of town property on the public domain.

The motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

Mr. HARLAN. This bill has been read through, and I suppose it is not necessary to read it again unless it be desired.

Several SENATORS. What is the bill?

Mr. HARLAN. It provides for the survey and sale of town sites that may be located on the public domain; and also for the sale of coal lands on the public domain.

The bill was reported to the Senate without amendment.

Mr. DAVIS. Has that bill been read in the Senate?

The PRESIDENT *pro tempore*. The Chair understands that it was before the Senate on the 3d of June, and was then read.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

MILITARY ROAD IN WISCONSIN.

Mr. DOOLITTLE. I move to take up the House bill granting lands to the State of Wisconsin to build a military road to Lake Superior.

Mr. WILSON. I hope the Senator will not press that bill this morning. We have had land bills or something about Wisconsin up almost every morning for many days. I am anxious to take up another bill.

Mr. DOOLITTLE. I think there will be no debate about this bill. It is precisely in the language of one passed the other morning to grant lands for a wagon road in Michigan. They are word for word the same. This bill was reported by the Senator from Iowa, and I think there can be no objection to it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Wisconsin.

The motion was agreed to; and the bill (H. R. No. 247) granting lands to the State of Wisconsin to build a military road to Lake Superior was considered as in Committee of the Whole.

Mr. HARLAN. The Committee on Public Lands reported an amendment to this bill to strike out all after the enacting clause and insert a substitute. I suppose, therefore, the original bill need not be read.

The PRESIDENT *pro tempore*. The amendment alone will be read unless some Senator calls for the reading of the original bill.

The Secretary read the amendment, which was to strike out all of the original bill after the enacting clause and in lieu thereof to insert the following:

That there be, and is hereby, granted to the State of Wisconsin, to aid in the construction of a military wagon road from Wausaw, Marathon county, Wisconsin, following the Wisconsin river as far as Skonowang, and from thence, on the most feasible and direct route, to a point on the State line between the States of Wisconsin and Michigan, in a direction leading to Ontonagon, on Lake Superior, every alternate section of public land, not mineral, designated by odd numbers, for three sections in width on each side of said road. But in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of any section, or any part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, then it shall be the duty of the Secretary of the Interior to set apart from the public lands of the United States, as hereinbefore described, designated by odd numbers, as near to said even section aforesaid as may be, and the same shall be located within six miles of said road, so much land as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the right of preemption or homestead settlement has attached; which lands, (thus selected in lieu of those sold, reserved, or otherwise appropriated, and to which the right of preemption or homestead settlement has attached as aforesaid,) together with the sections and parts of sections designated by odd numbers as aforesaid, and approved as aforesaid, shall be held by the State of Wisconsin for the use and purpose aforesaid: *Provided*, That the lands

herely granted shall be exclusively applied in the construction of that road for and on account of which such lands are hereby granted, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatever: *Provided further*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purposes, whatsoever, be, and the same are hereby, reserved to the United States from the operation of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way only shall be granted.

Sec. 2. *And be it further enacted*, That the said lands hereby granted to the said State shall be subject to the disposition of the Legislature thereof, for the purposes aforesaid and no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States.

Sec. 3. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: when the said Governor shall certify to the Secretary of the Interior that any ten consecutive miles of said road have been completed under the provisions of this act, and in accordance with the fourth section of this act, stating definitely where said completed section of road commences and where it terminates, it shall be the duty of the said Secretary to cause patents to issue to said State for three sections of land for each mile of road thus completed as aforesaid, and so on until the whole of said road is completed: *Provided further*, That no patents shall be given for any of the aforesaid lands before the completion of ten consecutive miles of road, or for any road, or for any part of any road made before the passage of this act, for any greater quantity than thirty sections for each ten miles completed according to the provisions of this act; and if said road is not completed within five years no further sales shall be made, and the lands unsold shall revert to the United States.

Sec. 4. *And be it further enacted*, That said military road shall be constructed under the direction of such agents or commissioners as the Governor of said State may appoint, and where it passes through timbered lands shall be chopped out a uniform width of at least six rods. The road-bed proper to be not less than thirty-two feet wide, and constructed with ample ditches on both sides, so as to afford sufficient drains, with good and substantial bridges and proper culverts and sluices where necessary. All stumps and roots to be thoroughly grubbed out between the ditches the entire length of said road; the central portion of which to be sufficiently raised to afford a dry road-bed by means of drainage from the center to the side ditches; the hills to be leveled and valleys raised so as to make as easy a grade as practicable.

Mr. SHERMAN. I certainly cannot be charged with being illiberal to the western States; but I think this is going a little further than we have ever gone before. It is a proposition to grant lands for the construction of ordinary highways in the State of Wisconsin. I believe something like that was done in one case. Those who were advocating a grant of land for a somewhat similar purpose to the State of Michigan came to me and said there were peculiar circumstances connected with the construction of that road; that it was absolutely important for military purposes that we should open a road to Lake Superior in the winter time when the mail cannot be carried there, and there was no chance of granting aid for the making of that road except by a grant of lands, and in that way a road would be obtained between Chicago and the upper settlements on Lake Superior. I thought the circumstances were peculiar; and I voted for the bill introduced by the Senator from Michigan. Now, it is proposed to grant lands for the construction of an ordinary highway through one of the new States. It seems to me it is carrying the joke a little too far. I would rather at once vote to grant all the lands within the organized States to the States, and be done with them.

There is one peculiar feature in this grant which Senators may not have noticed. If the lands have been heretofore granted, or have been sold or are occupied by preëmptors, so that the country is rich enough to make its own roads, as we did in Ohio, then instead of taking the land that is thus settled by preëmptors, land may be taken three miles further off by the State of Wisconsin to aid in making the road. We give the land to the preëmptors under the homestead law, and then by this bill we give the alternate sections of land within six miles to make a road for them. It seems to me that is carrying the operation of these grants further than ever has been done before. In all the grants to railroad companies we have reserved the alternate sections and doubled the price, and in that way we have recovered for the benefit of the Government some portion of the value of the lands. But this bill does not propose to do that; it leaves the alternate sections open to purchase at \$1.25 an acre, and open for entry under the homestead act.

Since we passed the homestead law, a wise law, I think we ought not to have granted any public lands either to States or to railroad companies. We ought to have rested upon the system that no land should be set apart for any purpose except for actual settlement. I have been enough in the new States, and I have been familiar with the organization of the new States, to know that all sales of land to corporations, to States, and to individuals, except for actual settlement, are a great injury to the new States. If I had it in my power I would not sell any public land for any purpose but actual settlement. I would allow it to be preëmpted by actual settlers and saved for actual occupation. Every other sale of the public lands is a detriment to the nation and is a detriment to the neighborhood in which the land lies.

It seems to me that unless the Senator from Wisconsin can show that there is some absolute military necessity for the construction of this road, we ought not to carry the grants of lands any further and apply them to the construction of ordinary wagon roads.

Mr. HARLAN. Before the Senator from Ohio takes his seat, I ask him to refer again to that part of the bill which he considers peculiar or new in its character.

Mr. SHERMAN. In case land within three miles on either side has been sold, or is occupied by preëmptors, this bill allows the State to go outside of the limit of three miles on either side to take public land.

Mr. HARLAN. But within the limit of six miles.

Mr. SHERMAN. Now, suppose that all the land along the river Wisconsin—because this road, I believe, is to be built near the banks of the river—is preëmpted, as it probably is by preëmptors, and settlements have sprung up there. It seems to me that these preëmptors, settlers, having received from the United States their land free of cost, ought at least to build their own roads, build their own school-houses, make their own improvements, and not call upon us to appropriate land to make improvements for them. After a while they will want land to build their school-houses, and to build their barns, &c.

Mr. HARLAN. I will make this suggestion in relation to this point: immense amounts of land warrants have been located in the western country by gentlemen living East; a very large number of the inhabitants of Ohio have located land warrants in Iowa, and do not now occupy lands. I do not doubt this is true on the line of this road. Those land-owners living abroad of course will not invest their money in the construction of the road; and if the idea suggested by the Senator from Ohio should be carried out, it would prevent the opening up of the wilderness part of the country, as it is hoped will be done by the passage of this bill. If the land shall have been thus taken up by non-residents, the State may go beyond the location of those lands, where there are vacant lands within the limit of six miles, and take an equal quantity, and the amount is only to be applied as the road proceeds. They will not be able to go in advance of the construction of the road to secure lands, but as the road progresses they take the vacant lands within six miles on each side, and thus proceed until the whole road shall be completed.

Mr. SHERMAN. Is there any difficulty in the local authorities and State authorities laying taxes for road purposes? I know the non-residents, complained of so much in the new States generally, have to pay three or four times as much taxes in proportion to the value of their lands as residents, some way or other.

Mr. HARLAN. The constitution of Iowa, and I suppose of Wisconsin, provides that the lands of non-residents shall not be taxed higher than those of residents.

Mr. SHERMAN. That is the provision in all the new States, but in some way or other they do always assess the land of non-residents higher than that of residents, and they ought to do so. My impression is that a non-resident owner of land, who does not occupy it, does not go on it, ought to be discriminated against by legislation, and I would give the new States that power.

Mr. DOOLITTLE. The Senator from Ohio has not looked on the map to see where this road is located; and probably he is not very familiar with

Wisconsin. It begins at a point called Wausaw, which is away up on the Wisconsin river, and goes through from there to Lake Superior. It is comparatively an entirely uninhabited region of country; it is a region of timber, and a region which has never yet been surveyed by the Government, a good portion of it, and it will not be surveyed or ever brought into market unless there is a road opened up through there; and it is for the purpose of opening up that road that we have asked the grant of these lands.

Now, let me say to Senators who are not familiar with the bills which have been passed at the present session, that the other day there was one passed to aid the State of Michigan to build two just such roads through the timber wilderness region of Michigan, one on the right-hand side and the other on the left-hand side, nearly twice the distance of this road. It would be strange indeed, if, having granted land to Michigan to aid roads through her wilderness region, we should not do the same thing for Wisconsin. The United States is the great landholder in that section. It now holds in our State millions of acres of unsurveyed lands. This road runs right through that region, and helps to develop it.

Mr. FESSENDEN. I said a word or two the other day on the subject of the public lands by way of comment on a bill then pending which I did not fully understand, which made a grant of lands for several hundred miles of road. I felt that I ought to apologize, and I did apologize to the Senate, being an eastern man, for saying a word on such a subject. It seems the matter is extending a little. First, we made grants for railroads. The policy of the country was settled on that subject, and it has been very well followed up, to grant everything that was required in the shape of aid for railroads. We have had a considerable number of such bills during this session. I have not a word to say about them. I presume them to be all right.

It seems we begin a new system, and are to grant the public domain for the purpose of making ordinary roads. It is done I believe by calling them "military roads." I do not know what military purpose is to be subserved by a road from Wausaw to Lake Superior. Will my friend from Iowa explain to me what the military purpose is of a road from Wausaw to Lake Superior?

Mr. HARLAN. To enable troops and munitions of war to be transported through that wilderness to our fortifications.

Mr. FESSENDEN. Is there no other way to get there?

Mr. HARLAN. I understand there is no other way to get there but by the lake, and in winter time when the lake is frozen up there is no possible way of reaching them.

Mr. FESSENDEN. Is it to reach any particular military post?

Mr. HARLAN. I understand so.

Mr. FESSENDEN. What one?

Mr. HARLAN. Some fortifications on the Straits, as I understand. The Senators from that State are more familiar with the locality.

Mr. FESSENDEN. I do not rise here for the purpose of opposing the bill; I should not think of doing such a thing; and I am astonished at the rashness of my friend, the Senator from Ohio, who suggested, in the mildest tones in the world that could possibly be used, some doubt or perhaps even an inquiry. I am rather in favor of it for this simple reason: we need a military road down in Maine very much; we are there right on the frontier, and we have been exposed to considerable danger already, and it is very difficult to get from the central parts of our State to the frontier, and we want a military road.

Mr. HARLAN. I will most cheerfully vote for an appropriation of public lands within the State of Maine for the construction of such a road.

Mr. FESSENDEN. Exactly. I was about to ask, if it is for military purposes, what would be the impropriety of granting us some lands out West?

Mr. GRIMES. I would inquire of the Senator from Maine if he does not think the \$450,000 we appropriated yesterday for fortifications in Maine would be a fair offset?

Mr. FESSENDEN. That is on the coast. It is very true that appropriation was made; but I am not talking about the State of Maine particularly, but about military defenses. I go for fortifications;

I go for military roads; and if this is shown to me to be for military purposes, for the defense of the country, I have no objection, and I stated I did not rise to oppose it in any shape or form. I only wanted to say that we needed a military road down in Maine very much, and we had no public lands, and to suggest to my friend from Iowa that perhaps he would be willing, as chairman of the Committee on Public Lands, to bring us in a bill granting us some lands out West for that purpose.

Mr. GRIMES. Will the Senator inform me whether the Government did not at the national expense build a national road from Bangor to the frontier some years ago?

Mr. FESSENDEN. I believe they did a long while ago, and it has been very useful; but there is no military post in that region now. We want the road in another direction.

Mr. HOWE. Would it not be satisfactory to them if we would change the direction of the fishing boundaries and apply them to building the road? [Laughter.]

Mr. FESSENDEN. That is another question altogether. [Laughter.] We settled that the other day, and very decidedly.

Now, I want to suggest that by and by we shall come here—and really I am serious about it, because it has been contemplated and I have been urged to move in the matter, but I have been so pressed with other business that I have not been able to attend to it—to ask an appropriation of public lands to aid in constructing a military road in Maine. We are right on the border, as gentlemen know, liable to attack, and something of that sort is necessary. With regard to opening roads, we have lands there of our own, and our mode is if they want roads to have the county lay out the road and assess the expense of building it upon the owners of land.

I do not wish my friend from Iowa or my friend from Wisconsin to misunderstand me. I do not mean to oppose this bill; I only wish to give notice that I shall appeal to the well-known generosity of my friend from Iowa, particularly in reference to these things, for I think we have a cargo of bills from his committee granting lands for all purposes, that he shall extend these grants for military purposes to some other section of the country by and by when the time comes. Our military stations are quite as definite as they are on Lake Superior. [Laughter.]

Mr. HARLAN. Perhaps I ought to state as chairman of the Committee on Public Lands that no bills have been reported from that committee at this session making appropriations of land that are not in strict accordance with the principles that have been adopted by Congress heretofore.

The PRESIDENT *pro tempore*. It becomes the duty of the Chair to arrest the debate and call up the special order, which is the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs, the pending question being on the amendment of the Senator from Delaware, [Mr. SAULSBURY,] upon which the yeas and nays have been ordered.

Mr. DOOLITTLE. I hope the Senator having charge of that bill will allow us to vote on this question. We can do so without further discussion.

Mr. SUMNER. I am perfectly willing that the special order shall be passed over informally.

The PRESIDENT *pro tempore*. The Chair hears no objection. The special order will be passed over informally.

Mr. JOHNSON. I should like to know how much Wisconsin has got of the public lands by legislation during the present session; and besides the amount of public lands which she may have received, if I recollect aright she received a pretty large amount of public moneys the other day from the Treasury, to which she said she was entitled. It is difficult I know for the honorable member from Wisconsin to give a precise answer as to the number of acres of public lands that she has got, because the grants have been made of sections of lands on either side of the roads that are to be made, and if I understand the legislation they are long roads, just as long as they think proper to make them, and with as many branches as they think proper to construct, and they get upon the main stem so to speak of their roads and upon all the collateral branches sections of land; it may amount to hundreds of thousands, it may be millions of acres. I rather think that if the legisla-

tion which is now proposed shall pass, that, with the legislation which has already occurred, if Wisconsin is as diligent in carrying out this legislation as her Senators upon this floor have been diligent in getting the legislation passed, it will absorb nearly all the public land in the State of Wisconsin. What is true of Wisconsin is true in a great measure of the other States in which public lands are. If therefore the honorable member from Maine contemplates getting an appropriation from those lands for the purpose of constructing a military road in Maine, I would advise him to get it at once.

Mr. CONNESS. My friend will allow me to make a suggestion. I believe (I should like to have the information for our benefit from the honorable chairman of the Committee on Public Lands) that the Northern Pacific Railroad Company is chartered by the State of Maine, and that we are about to pass a bill giving that company some fifty million acres. Surely that would be a military road connecting the State of Maine with the Pacific ocean. I do not see but that Maine is going to take away the largest portions of land of any State of the Union.

Mr. JOHNSON. The honorable member did not understand me as saying that the State of Maine was suffering very much for want of appropriations.

Mr. CONNESS. No. It does not appear that she is.

Mr. JOHNSON. But as the honorable member from Maine contemplated, as he said, getting an appropriation of public lands for the purpose of making a military road in Maine, I advised him that he had better begin at once or he would be too late, the lands will all be gone. And what is true of the State of Maine, (for she will not have as much before we adjourn as she is entitled to,) is true of the other States upon the Atlantic. Maryland has none, Pennsylvania has none, and the other States north of Pennsylvania have none that I know of except it be Maine; and yet these lands belong to the whole. All the States to which I have just adverted have been liberal, and the legislation of Congress has been liberal enough to the new States. We were willing to give to these new States all the land that was necessary to improve the States, when the effect was to improve the value of what was left; but as far as that ground of legislation is concerned we shall not be able to stand upon it in the future when we are not able to stand upon it in relation to the present legislation, because there will be nothing left. We cannot say that we give to Wisconsin a million of acres alongside of these contemplated roads because to do so will add to the value of a million that we have on either side of the roads, because we shall have none on either side of the roads; it will all belong to the State of Wisconsin. If the policy of the Government, as it would seem to be, is that all these lands are to be appropriated for the benefit exclusively of the States where they lie, let us give all the lands to the States at once to deal with just as they think proper. But before that policy is adopted it is well for the public councils to reflect upon the financial condition in which the country now is and is certain to be in the end. The debt will be an enormous one; and with the emigration that is flowing in upon us, and with the natural increase of population in these great western States, enterprising, successful, prosperous now, and yet to be prosperous from hour to hour, they will be able to pay a pretty considerable price for these lands to go into the public Treasury to meet the public debt. That debt may be \$2,000,000,000 before we are done, and perhaps more; and if the whole of it is to be met by taxation, although I have no doubt we shall be able to meet it, it will require an effort and a patriotic effort to meet it; whereas, if we have these public lands under our control we can sell them, benefiting us by the sale, and benefiting the purchaser just as much as he should be benefited.

Mr. HOWE. Will the honorable Senator allow me to make a suggestion?

Mr. JOHNSON. I have said all I propose to say.

Mr. HOWE. If the Senator will just step and look at the map which my colleague has, and see the isolated community that this road is intended to accommodate, and if then, considering the large tract of country which the United States own,

unsettled, untraversed by any track between that settlement on the lake and the settlements in the State of Wisconsin, he thinks that the United States cannot afford to give this quantity of land to open a highway up there to these people, he will not give it; that is all. It is not for the State. It is an American community that has gone up by the lakes and settled on the borders of the lakes; they have a good highway in the summer time, but in the winter they are isolated from the whole world, and you own all the lands between them and the nearest settlement in Wisconsin. The exact distance I do not recollect; the map will show at a single glance just what is asked.

Mr. JOHNSON. That is not the fault of the United States. How long has this population been there in this isolated condition?

Mr. HOWE. Ever since they went there.

Mr. JOHNSON. Of course. But how long is that?

Mr. HOWE. I am utterly unable to answer that question. In point of fact they did not all go at the same moment of time, nor on the same steamer, nor in the same year.

Mr. JOHNSON. I know. I will put my question in a different way. How long has there been a population there sufficiently large to require that the Government should make roads for them—this isolated population?

Mr. HOWE. It has been constantly increasing for the last ten or twelve years.

Mr. JOHNSON. They got along ten years ago pretty well. But it strikes me that that is a new ground upon which to ask a gift of the public lands. These emigrants went there and they settled on the lands, and bought them, and paid for them; they knew what they were about, and they got more than dollar for dollar in exchange. After they got there and got lands that were worth a great deal more than they paid for them, they say, or their representatives say for them, "Now give us millions and millions of acres of land to enable us to make roads over which we may travel from one end of the State to the other." I am speaking of it now as a mere question of justice. There are considerations of policy, I admit, that are to govern us. They are a people whom we are bound to provide for in every way, if we can do it with justice to all the other people; but if they have gone there imprudently when they could have settled this side of the point where they now stand isolated, it is their fault, and not ours.

But all that I meant to say was that we ought to come to some decided policy on the question, "What shall we do with the public lands?" If they are all to be given away in the name of internal improvements, I am for giving them away at once; and the only objection I have to giving them away for the purpose for which this bill proposes, to have a share of them appropriated or for giving them away at once in the gross, is the existing public debt, now very large, and to be still larger before we are through.

Mr. HENDRICKS. The question is asked how much lands the State of Wisconsin has already received. I grant that she has received very handsome donations from the General Government, but I do not think that should defeat this grant. The Committee on Public Lands has adopted a very liberal policy at this session, and I believe it has at former sessions of the Senate, and I think that policy in respect to the north-western States can be well vindicated.

The Senator from Maryland will observe that the State of Wisconsin is a very large State; that much of its territory is in a northern and rigorous latitude; that it is covered with heavy timber. It is a hard country to open, a very hard country to make roads through, and it is asking but little of the General Government, inasmuch as she is the owner of a large domain there, that she shall help the enterprising men who go out into this new country, which is very hard to open indeed, in making the improvements that are necessary for the enjoyment of these lands. And, sir, it cannot well be asked by the General Government how much the State has received. When all the lands of Wisconsin that are granted and all the lands are bought that will be bought by the citizen, the account will be largely in favor of the citizen and against the Government. Has the Senator taken the trouble to estimate the cost to the General

Government of the public lands? Upon one occasion I made this investigation, and found that the lands, in the extinguishment of the Indian titles, in making the surveys and the expenses of the sales cost a little less than twenty-two cents an acre. That is what it cost the General Government.

Mr. SHERMAN. Will my friend allow me to correct him? The States of Ohio and Indiana yielded more money to the General Government from the sale of public lands than any of the new western States have yielded, and we received less grants. I know the basis on which the account referred to was made up. Take the new western States, and I doubt very much whether the receipts from the sale of public lands in the new western States west of the Mississippi river and north of Illinois, have paid the expenses of their acquisition, and expenses of surveys and the Indian grants, &c. That account is based on the idea of taking the old sum received from Ohio and Indiana when the lands sold at two dollars an acre, when we did not get even three per cent. on the proceeds of the public lands, and when there was no such thing as land grants. The sum is made up in that way.

Mr. HENDRICKS. The Senator from Ohio speaks in general terms. I was attempting to give the exact facts as I arrived at them upon an investigation made some years ago when I was a member of the House of Representatives. In extinguishing the Indian titles, in surveying the public lands, and in selling the public lands, they cost to the Government about twenty-one and a half cents an acre, and our minimum is \$1 25 an acre, so that the man who enters a quarter section of land, pays for it in money, and makes his settlement, has paid to the Government a clear profit of above one dollar on each acre that he pays for.

Mr. GRIMES. Do you take into account the expenses of keeping up the land offices?

Mr. HENDRICKS. Yes, sir. I take into account the expense of selling, which involves the expense of the land offices; but I do not take into account the annuities we pay to the Indians, nor is that a fair charge against the public domain. Those annuities are paid because we wish to keep on terms of peace with the Indians, and it is a part of the war policy of the Government to pay the Indians annuities, instead of a part of the public land policy; therefore that charge is not properly to be made against the public lands.

The agriculturist of the Northwest for many years, ever since the adoption of the present land system, has paid to the Government a profit of above one dollar an acre on the public land. If he pays for it in money, it is that much clear profit. If he pays for it in a bounty land warrant, it is a discharge to the Government of the obligation she assumed to the soldier for his services in the field. No odds whether it is paid in the one way or the other, it is a profit to the Government, and we may give away one half of the lands in Wisconsin to aid in the development of that hard country, and still the agriculturists of Wisconsin will be on the credit side of the account between her and the General Government. I do not listen with the greatest patience possible to this balancing of accounts and saying that the northwestern States are indebted to the General Government for these grants. The agricultural interest of the Northwest has been taxed more heavily in the purchase of the public lands than any other interest in the Government. No other interest pays five hundred per cent. upon any original cost that the Government has incurred. We foster other interests, but we charge a large speculative price to the settler upon the public land. What speculator in public land expects to make five hundred per cent., expects upon an investment of twenty-one and a half cents to make \$1 03? This bill, I think, is a fair one. It tends to the development of a very hard country in a very northern and rigorous latitude, covered with dense forests, very hard to open indeed, and I think it is but fair to make the grant.

I desire to make a verbal amendment to the amendment of the committee. After the words "United States," in the thirty-sixth line of the first section of the amendment of the committee, I propose to add the words "or granted," so as to make the purpose of the committee clear.

The amendment to the amendment was agreed to.

Mr. HENDRICKS. Another verbal amendment I think is proper. I move to strike out of the fortieth and forty-first lines the words "to the United States," and to insert "and excluded," so as to read, "be and the same are hereby reserved and excluded from the operation of this act."

The amendment to the amendment was agreed to. The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read the third time. The bill was read the third time.

Mr. SHERMAN. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 8; as follows:

YEAS—Messrs. Cardie, Conness, Davis, Dixon, Doolittle, Foot, Harlan, Harris, Hendricks, Howe, Johnson, Morgan, Nesmith, Pomeroy, Ramsey, Richardson, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, and Wilson—22.

NAYS—Messrs. Anthony, Clark, Grimes, Hicks, Riddle, Saulsbury, Sherman, and Willey—8.

ABSENT—Messrs. Brown, Buckalew, Chandler, Collier, Cowan, Fessenden, Foster, Hale, Harding, Henderson, Howard, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Powell, Sprague, Wilkinson, and Wright—19.

So the bill was passed.

FREEDMEN'S BUREAU.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs, the pending question being on the amendment of Mr. SAULSBURY to the amendment reported by the select committee on slavery and freedmen.

Mr. SAULSBURY. It is not my purpose to continue this debate if nothing further shall be said which shall call for reply, but merely to notice a little further one objection which was made yesterday to my amendment. It was objected by the Senator from West Virginia [Mr. WILEY] that the amendment was not germane to the bill, and by the Senator from Maryland [Mr. JOHNSON] that it was incongruous. Now, sir, I wish to say that there is no incongruity about my amendment, because the fourth section of this bill, which is a bill to establish a Freedmen's Bureau, applying to negroes, declares:

That the Commissioner, under the direction of the Secretary of the Treasury, shall have the general superintendence of all freedmen throughout the several departments; and it shall be his duty especially to watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen, and generally, by careful regulations, in the spirit of the Constitution, to protect these persons in the enjoyment of their rights, to promote their welfare, and to secure to them and their posterity the blessings of liberty.

That is one section of the bill. I have offered an additional section referring to the white race; and if there is any incongruity in it, it is simply because one refers to white and the other to black men, my amendment declaring that the constitutional rights of white people in the States not in revolt shall be respected, and that no white person within those States shall be deprived of life, liberty, or property except by due process of law, reciting the words of the Constitution.

Now, sir, what is the object of my amendment? It is to secure to a portion of the people of this country the blessings of liberty which the bill under consideration proposes to secure to another class of people. It is to protect them in the enjoyment of their constitutional rights. This bill proposes to protect the negro race in their rights. It is to promote the welfare of the white race that my amendment is offered. This bill proposes to promote the welfare of the black race.

Another objection was made to my amendment, that it was confined to the States not in revolt. There is no incongruity in that, Mr. President. The bill under consideration provides, or professes to provide, for securing the rights of the black race in certain sections of the country. My amendment proposes to protect the white race in the enjoyment of their rights. There can be no incongruity in the fact that they may apply to different sections of the country.

I think, therefore, I have removed the objection raised by the Senator from West Virginia and the Senator from Maryland as to this amendment not being congruous to the bill, and I now present it to the Senate in this light: that while professing to pass a bill promotive of the rights

and the liberty and the welfare of the black race they have an opportunity of adopting an amendment to secure to white people the enjoyment of their rights and the promotion of their welfare, and to assure to them and their posterity the blessings of liberty.

Having removed this objection, I ask the Senate to vote without attempting the intervention of any technicality, because no one will say that it is not perfectly competent for the Senate so to vote, and to vote directly upon the question whether these constitutional rights, secured to us by the fundamental law of the land, are to be respected in future. I rejoice that there is one portion of what is considered the dominant party in this Government, the party which now administers the Government, although not in my opinion numerically the strongest party in this country, that has recently proclaimed to the people of the United States that these rights shall in the future be respected. I am glad that there is a portion of the dominant party who, after witnessing the violation of these rights in the past by this Administration, have firmly resolved that in the future they will strike hands, at least so far, with that party which has always been faithful to the Constitution, to secure in future permanently the advantage of these constitutional rights. I welcome any auxiliaries, however much I may have differed from them in the past.

Mr. President, let the Senate adopt my amendment and it will cause a thrill of joy throughout the whole country; it will give assurance to the people of the whole land that the fundamental charter of their liberties is not totally forgotten, and that however much it may have been infringed in the past it shall be respected in the future; then the patriotic heart will take hope again, and we shall be enabled to march forward to a common destiny and to a common renown.

Mr. HARLAN. As I understand this proposition, it is a repetition of the phraseology of the Constitution on the points indicated. If I am right in this, I suppose a vote of Congress one way or the other will not affect the subject. Congress would have no right to repeal these provisions of the Constitution; and if we attempt to incorporate them into a law and reenact them it will give them no additional force. It seems to me, then, to be sheer folly to vote in favor of a proposition of this kind. It might convey the idea to the unthoughtful that we have a right to repeal the Constitution of the United States; and I suppose the Senator does not intend that any such inference shall be drawn if his proposition shall be rejected.

Mr. POWELL. I shall vote, sir, for the amendment of the Senator from Delaware with a great deal of pleasure. I do not think there is any force in the point which has been made that it is not germane to this bill, nor do I think it intimates directly or indirectly that we can repeal the Constitution of the country. It can do no harm to the bill under consideration if the bill is to be passed. Our ancestors saw fit to proclaim in the Constitution the principles set forth in the amendment of the Senator from Delaware; and in these times, when these great principles of civil liberty are being trodden under foot by executive power throughout the whole land, I think we should be recreant to our duty if we did not reaffirm them whenever they were presented. Our English ancestors reaffirmed over thirty times by act of Parliament the great principles of liberty embodied in Magna Charta; and why should we not now here rebuke those in authority who are putting under their feet these principles of civil liberty which we all pretend so much to cherish? I think the adoption of the amendment by the Senate at this time would be a rebuke, and a just rebuke, to the executive power, and that is one reason why I shall vote for it. I will on all fit occasions give my vote to reaffirm the great principles of the Constitution that are the very base, the foundation-stone of the liberties of this people. It can do no injury to the bill if it is to be passed. I am opposed, of course, to the bill of the Senator from Massachusetts; I think it is very odious in all its features; and I shall take occasion, perhaps, before it is put upon its passage, to state some of my objections to it; but I can see no objection to having these great principles that underlie our institutions reaffirmed here to-day by the solemn vote of the American Senate.

WAR NEWS.

The **PRESIDENT** *pro tempore*. The Chair will lay before the Senate the following dispatch from the War Department, which will be read.

The Secretary read it, as follows:

WAR DEPARTMENT,
WASHINGTON, June 15, 7 a. m.

SIR: The movement of the army of the Potomac to the south side of Richmond, across the Chickahominy river and James river, has progressed far enough to admit of the publication of some general facts without danger of premature disclosure.

After several days' preliminary preparations the movement commenced on Sunday night. The eighteenth corps, under command of General Smith, marched to the White House and then embarked on transports for Bermuda Landing. Wright's corps and Burnside's moved to Jones's bridge, where they crossed the Chickahominy and marched thence to Charles City, on the James river. Hancock's and Warren's corps crossed the Chickahominy at Long bridge, and marched thence to Wilcox's, on the James river. The James river was to be crossed by the army at Powhatan Point.

A dispatch from General Grant, dated Monday evening, half past five o'clock, headquarters Wilcox's Landing, says that the advance of our troops had reached that place, and would commence crossing the James river to-morrow, (Tuesday); that Smith's corps would commence arriving at City Point that night, and that no fighting was reported during the movement except a little cavalry skirmishing yesterday.

On Tuesday afternoon, at one o'clock, General Grant was at Bermuda Landing. In a dispatch from him dated there of that date he says: "Our forces will commence crossing James river to-day. The enemy show no signs of yet having brought troops to the south side of Richmond. Our movement from Cold Harbor to the James river has been made with great celerity, and so far without loss or accident."

An official dispatch dated at General Butler's headquarters, 2.20 p. m., says that Smith's corps was coming in, five thousand having already landed.

A dispatch from General Sherman's headquarters, dated at three o'clock yesterday afternoon, near Konesaw, states that the General is in front advancing his lines on Konesaw. Another unofficial dispatch, dated at nine o'clock last night, reports some advance to-day; that Thomas has gained ground, and that one rebel brigade is nearly surrounded. It further states that the rebel General Polk was killed to-day and his body sent to Marietta.

In another part of General Sherman's East Mississippi division our forces have not met with the success that has attended competent commanders. General Washburne, at Memphis, reports that the expedition, consisting of three thousand cavalry, five thousand infantry, and sixteen pieces of artillery, sent out from there under command of General Sturgis, encountered a large rebel force on the 10th instant, under command of Forrest, at Guntown, on the railroad running south from Corinth, and after a severe fight, in which our loss in killed and wounded was heavy, our troops were worsted, and that at the latest accounts Sturgis was at Colliersville, retreating toward Memphis. He further states that, with the troops that had lately arrived, Memphis is safe.

General Sherman, having received news of Sturgis's defeat, reports that he has already made arrangements to repair the disaster, and placed General A. J. Smith in command, who will resume the offensive immediately. No other military intelligence has been received by this Department since my last telegram.

EDWIN M. STANTON,

Secretary of War.

Hon. DANIEL CLARK, President *pro tempore* of the Senate.

FREEDMEN'S BUREAU.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. TEN EYCK. No doubt the reading of that dispatch is as gratifying to the Senator from Delaware as it can possibly be to me, because it gives a further assurance that the authority of the Constitution, the infraction of which lies so near his heart, is likely to be maintained and the men who are guilty of its attempted destruction are likely to be overcome and overwhelmed. Although he has not mentioned the circumstance that rebels in the South are guilty of a violation of this Constitution, and the whole burden of his song has been directed to the violators of it, as he charges, in the North, still I have not the slightest doubt it brings the liveliest satisfaction and joy to his heart to learn that this Constitution thus violated and thus trampled upon is likely to be placed upon a sure, stable, and firm foundation.

Mr. SAULSBURY. Allow me to interrupt the Senator.

Mr. TEN EYCK. In a moment. The Senator will have an opportunity to reply when I am through. I often desire to put a question or throw in a word while a Senator is speaking, but I always restrain my anxiety until he has concluded, and then nothing can afford me greater pleasure than to give way to the Senator. The Senator from Delaware has frequently distinguished me by proposing questions. Now I will

propose one to him, as a legislator, not as a politician. It is this: whether he thinks the adoption of the amendment of his upon this bill can be of any practical importance one way or the other. As I understand it, it is a reaffirmance of certain cardinal principles of the Constitution of the United States, which we are all sworn to support. If we disregard the Constitution and our oaths also—if it be true that there are men in the North who do that thing—will we be likely to reverence and respect an act of Congress upon this subject? We reverence the doings of our ancestors when we pay but very little heed to the acts of those about us—certainly not to as great an extent as the acts and deeds of our forefathers and the men who framed this charter of our liberties.

I see, then, no practical use in incorporating this declaration of wise and wholesome doctrines in this bill. But if the object is to make a speech, if the object is to attract the attention of the country, if the object is to arraign a pure and noble body of patriots in the North and to impress upon the public mind that the Administration and its friends are enemies to the Constitution, to the Government, and to the country, then I can understand why the Senator should propose this amendment and make his comments, and hail the boasted accession of strength which he anticipates as being on its way to join the true friends of the Union, of which the Senator from Delaware informs us he is one. He is welcome to all the strength he can secure from such a source as that. He can boast in his new friends, "woolly horse" and all.

Sir, I could vote without any difficulty for this amendment; but where is the practical use of it? What is the object of it? I cannot impugn the motives of the Senator; I cannot dive into the heart of the Senator from Delaware and see the motive, design, and object that he has in view; and therefore I cannot attribute motives to him. Still, I can form my own opinions of his designs and purposes; but being in the dark in relation to his object further than from his declaration that his amendment will bring a "thrill of joy" to the northern heart, I cannot fully understand him. But, sir, as necessity has compelled the Government to lay its hand on traitors and to hinder them from pulling down the fabric of our Government, I can understand that a thrill of joy might rush through the veins of these if we should pass a law to fetter the action of the Government, and to restrain it from taking up these violators of the Constitution. It may bring a thrill of joy to the hearts of such men, but it will bring sorrow and regret to the hearts of patriots who are serving in the Army, to the hearts of patriots who have lost sons and relatives in the service, and whose bodies are now festering in bloody graves.

Sir, I shall vote against this amendment for the reasons stated.

Mr. SAULSBURY. The honorable Senator from New Jersey has referred to the joy that he felt on hearing the dispatch from the Secretary of War read. He has expressed his opinion—at least he says he has no doubt—that I felt the same joy. I am sorry to hear that honorable Senator admit that at least one portion of that dispatch brought joy to his heart; for, sir, there was one portion of it that brought no joy to mine. When it was announced by the Secretary of War that General Sturgis had been defeated and with great loss, and was on his retreat to Memphis, I felt no joy; and I do not presume that it gave any joy to the heart of the honorable Senator from New Jersey. It was a word incautiously said, not properly weighed. I confess to the Senator that I felt no joy in hearing such an announcement upon this floor.

Mr. TEN EYCK. I meant the general progress and success of our arms.

Mr. SAULSBURY. I have never, under any circumstances, in private or in public, whatever may be my opinion of this war and of its utility, felt any joy when those who bore the standard of the country in the field have met with disaster. Sir, I was born under that flag. I expect to live and die under that flag and under no other, provided the friends of liberty can be successful in preventing despotic power from tearing it down, and provided they can in the future, as they have in the past, cause it to be the emblem of that constitutional liberty achieved for us by patriotic sires. When that disaster shall come over my

country, I shall not be found among those who raise the standard of revolt against it; should my State suffer the humiliation of continuing to be a subject province, and her sons be permanently denied the enjoyment of liberty, I will see whether an asylum of liberty cannot be found upon some distant shore; I will not seek it where that flag has been stricken down, but bidding farewell to the graves of my fathers, I will seek it across the waters, where at least I can cherish the recollection that I and my fathers were born under it and lived under it, until all the principles of which it was once the glorious emblem have been destroyed.

The honorable Senator says I do not refer to those southern men who raised the standard of revolt against that flag. I appeal to the records of this Senate whether I have had any more participation in their movement than the Senator from New Jersey. As I have before said on this floor, on the day when Mr. Buchanan sent in his last annual message and Mr. Wigfall and Mr. Iversen made their speeches, proclaiming here in their seats the intention of the South to retire from the Union, though at that time the youngest member of this body, scarcely warm in my seat, before even the Senator from New Jersey rose, I was the first man to proclaim that the State of Delaware, which always has a watchful care, I should like to have said, over New Jersey, which always respects New Jersey, having been the first to enter this Union would be the last to abandon it. We have made no attempt to abandon it even when deprived of our constitutional rights. I have seen, in violation of those principles of the Constitution, which my amendment seeks to reaffirm, my neighbors and friends, four in one day, snatched from their helpless families and carried, by order of General Schenck, to Baltimore, denied a hearing, refused a statement of the charge against them, refused a trial, and banished the same afternoon to a hostile shore. I have seen, in violation of the principles of fundamental law which my amendment seeks to establish, the constitutional rights of my people taken away of even voting for those who shall make the laws under which they shall live. Sir, the people of my State have witnessed all this, but they have never attempted to follow the leaders of secession.

Sir, it is fruitless here to be always denouncing the men who have seceded from the Union. I ask the honorable Senator what good that can do? He approves of their course as much as I do. I have but one mission now during the remainder of my brief term in the Senate. My mission is one and single: the advocacy of civil liberty, to hold up before my countrymen the example of our fathers, and on all fit occasions, if I possibly can, to induce my associates here to reaffirm those principles of civil liberty upon which were laid the deep foundations of this Government. I invite the cooperation of my honorable friend from New Jersey, the patriotic and gallant State of New Jersey, whose Witherspoon and other heroes and sages of revolutionary renown helped to frame this Constitution; I invite him to join me in this noble work of reaffirming what they did, of saying now that New Jersey, in these days when these principles are being constantly violated, will imitate the example of New Jersey's sons of revolutionary renown, and reaffirm the principles which they so fondly cherished.

But the honorable Senator asks, what good can result from the adoption of this amendment? Sir, good may result in several respects. Coming to the ear of the present occupant of the White House, who has violated every one of the articles of the Amendments to the Constitution repeatedly, almost daily, it will tell him, "Sir, you seek a recollection at the hands of the American people; we, the representatives of the sovereign States of this Union, say to you, you must not dare to repeat these infractions in the future, because if you do you are not above the Senate of the United States." It will go forth also as the voice of the Senate to the people of this country, saying to them, "Those who represent you in the highest council chamber of the nation intend to take care in the future that your constitutional rights shall be respected, that whatever may be the termination of this most unfortunate war, civil liberty at all events shall be preserved in the adhering States." What good will it do? I ask the honorable Senator whether, when the people

of England demanded the reaffirmance of Magna Charta, it did no good? Is it true the good may have been temporary; but when infringed again they demanded a reaffirmance; the king had to listen; and, sir, our *would-be* king will have to listen to the voice of the American Senate if you adopt this amendment.

The honorable Senator says it may give joy to the hearts of traitors, but not to patriots. What, sir, the reaffirmance of the Constitution of the United States give joy to the hearts of traitors and not to patriots? Is there any provision in that Constitution of the United States which gives security or protection to traitors? Is there anything in it that a traitor loves? Is it not full of guarantees for patriots? Is there anything in it that the patriot heart will not bound for joy to hear reaffirmed? Sir, it was made by patriots. What those patriots made my amendment seeks to affirm and to maintain in the future.

This talk about traitors has become so common, so stale, that sensible men know exactly how to appreciate it, and he is most apt to be conscious of traitorous purposes who talks most loudly of his own and questions most often the patriotism of others. It has got to be common now, if a man differs with you in any matter of party, policy, if any man dissents from this Administration, to call him a traitor. We heard it a few days ago upon this floor that all loyal men were abolitionists. Why, sir, does the character of treason change so suddenly? Are its elements so suddenly changed that what ten years ago one half of the majority of this Chamber would have disowned, abolitionism, has now become the test of patriotism? I have heard some of the very gentlemen belonging to the majority on this floor deny the charge of abolitionism, and yet we were gravely told the other day that it is the test of loyalty. Let this Administration announce any heresy, however great, and immediately, while there may be some who will not say that it is a test of loyalty—I will not impute anything to honorable Senators—there will be many throughout the country who will swear that it is true patriotism, and that the contrary is arrant treason.

Mr. President, we shall settle this question of what is treason and what is disloyalty in a few months. The grand army of true patriots, the men who stand by the Constitution of their fathers, the men who intend if possible to preserve that Constitution with all its guarantees, are rallying for the struggle; and, determined as they are to have a free election this time, come what shall come, a free election or a free fight, the gathering hosts will constantly receive additional strength and march on to assured victory.

The honorable Senator says he cannot dive into the depths of my heart to inquire into my motives, but he can form his own opinions. Free thought, free speech is what I seek to reaffirm on this occasion. The honorable Senator is free in the exercise of his thought, and is perfectly free in the exercise of his speech.

But it is said these things have only been done from necessity. No tyrant ever yet attempted to trample upon the rights of a people who did not allege that it was done from necessity. But, sir, a once free people, and a people now determined to be free again, will sit in judgment upon this tyrant plea and the tyrant who seeks to justify his conduct under it very soon, when you will cease to hear, unless I mistake the indications of the times, outrages justified under the pretense of necessity.

Mr. TEN EYCK. Perhaps I may claim the indulgence and the patience of the Senator from Massachusetts and the Senate for a minute while I reply to one or two of the points taken by the Senator from Delaware.

I think it was rather an unfair application of my remark by the Senator from Delaware, when he stated that he had no joy in hearing the report that General Sturgis had been worsted and was falling back on Memphis. Why, sir, the joy I felt was on account of the constant general success and progress of our armies, which, through the heroism of our noble troops, are like a great and mighty torrent sweeping away all treason and rebellion from before them. I thought it was a very little point indeed for the gentleman to seize hold of, and by way of escape, that he could not rejoice at the discomfiture of Sturgis. Sir,

he did not rejoice, or at least he did not declare even in his reply that he rejoiced in the general progress of our arms; and I have never heard him on this floor or anywhere else express his gratification on that account.

The Senator professes, and I do not dispute it, that he is a warm friend of the Union and of the flag of the Union. He tells us that his ancestors were born under it; that he was born under it, and that he has lived under it. May I ask the Senator if he expects to die under it? I have not heard of his taking any step during the five years he and I have sat side by side upon this floor to maintain its supremacy over the length and breadth of the Union established by our fathers. If so, in what respect? What has he said, what has he done that he might continue to live under it, and that when the day came for him to close his eyes in death, his last faint gaze might rest upon the emblem of our sovereignty fluttering in the breeze? I do not expect the Senator to go into the field and fight; his duties as a Senator could better be performed here than elsewhere; but when did he ever raise his voice in behalf of the Army or the Navy, or the prosecution of the war? What vote did he ever give to raise a man and put him in the field, or to raise a dollar to maintain and keep him there? If he has ever given such a vote it has escaped my observation.

The Senator, in the kindness of his heart, is willing to extend the care of Delaware unto New Jersey. I thank the Senator for the warm and gushing impulses of his heart. I remember the early history of the "Blue Hen's Chickens," and it is a proud one; the record is as proud as that of the early "Jersey Blues;" but I trust the Senator will not undertake to indoctrinate our people, when he is exercising this care over them, in the sentiments he has given utterance to upon this floor. There are too many men already in the State—it is with shame and sorrow that I speak it—indoctrinated with such sentiments as the Senator from Delaware utters here from day to day. Sir, there are a few men there who refuse to give a dollar to sustain that flag to which the Senator from Delaware has alluded. There are noble, patriotic hearts in Delaware. We will unite with them in putting down this fierce rebellion, we will spare with them our last remaining man and our last dollar in this holy purpose, but Heaven preserve us from such friends as have only praise and sympathy for rebellion and denunciation and abuse for those who pass their working days and sleepless nights in noble efforts to maintain the Union transmitted by our fathers.

There is but one other point to which I will allude, and that is the utility of this amendment. The Senator thinks there is great utility in reenacting the solemn declarations of the Constitution, that it would bring joy to the hearts of the citizens of the North and send a thrill throughout their veins. If there be not sufficient loyalty to the Constitution and the Government in the people now under the Constitution, there will be not sufficient under any act of Congress that you may pass. I protest that no such violation of the Constitution has been committed by those who are charged with the public service; and, by way of "excluding a conclusion," I will say if such has been the case; if, under the stern necessity of the times, when this Government, so to speak, has been gasping for its breath beneath the bloody stabs of traitors; if under such exigencies, unusual, undefined, or unfamiliar powers, which I nowise admit, have been resorted to to save the nation's life, will the Senator from Delaware close his eyes to the great motive, and go howling through the land against the men who may have done this thing to preserve the country while traitors and traitor sympathizers have striven to destroy it, and that, too, be it said, without rebuke or even comment from the Senator from Delaware?

Mr. President, I apologize for having taken up so much time; but it seemed to me before this vote was taken upon the call of the yeas and nays, it was perhaps proper, or at least excusable in me, to state why I did not consider it necessary on this and every other occasion to reaffirm the doctrines of the Constitution framed over seventy years ago, and which our fathers and ourselves have faithfully lived up to and maintained from the day of its adoption down to the present hour.

Mr. SAULSBURY. Mr. President, I shall not continue this debate any further than is ab-

solutely necessary to take particular notice of some few remarks of the honorable Senator from New Jersey. With the general spirit which he has manifested in this discussion I am pleased; and yet I have been surprised that one so familiar with the proprieties of debate should have been found using the words he has uttered in this instance. He spoke of the Senator from Delaware "professing" to be a friend of the Union, and of my "going howling through the land." The Senator is a man of taste.

Mr. TEN EYCK. I should like to withdraw that declaration. Sometimes in the hurry of debate we use expressions that we would not otherwise do. I did not propose to use that term.

Mr. SAULSBURY. So far as I have conducted this debate, in my humble way, I have made no personal allusions whatever to the honorable Senator. I am not now speaking in reference to those expressions. I do not choose to be put on trial upon every occasion by any Senator as to the propriety or impropriety of the course which I as a free American Senator choose to pursue in my judgment upon matters. But the Senator has so far again forgotten what is in issue between him and me, the discussion of principles, as to refer to our personal course since we have been Senators. He asks, what has the Senator from Delaware done since the commencement of these troubles? and he proclaims to the country the noble deeds and noble acts which he has performed. Sir, I need no trumpeter of what little fame I have got, and if I needed one I would not be my own.

But, sir, the Senator has chosen to make a contrast between what he has done and what I have done upon this floor. The Senator and myself were both Senators when these troubles commenced, before a gun was fired, before a drop of blood was shed. He cannot forget the scene that transpired in these Halls then. He cannot forget the anxiety of his countrymen from the lakes to the gulf and from ocean to ocean, that these calamities should be spared to this great people. He cannot forget that from every quarter of the land there came up in trumpet tones a prayer to him; a prayer to me, a prayer to every one intrusted with the discharge of official duties, "Do what you possibly can to avert such a dire calamity as war; do not allow brethren of a common origin, and of a common renown to imbue their hands in each other's blood." He recollects that responsive to that call a great statesman, a link between the glorious past and the then agitated but mighty present, a man who had seen Washington, who had been familiar with the great men who laid the deep foundations of this Government in the principles of constitutional liberty; that man, whose head was frosted with age and trembling in every limb, stood up in his hearing in this council Chamber and implored the warring sections to cease their strife. He offered an olive-branch of peace, which contained nothing but what had been judicially decided to be true by the highest legal tribunal of the country. The Senator saw the people of one entire section of the country, through their representatives, willing to receive those propositions of peace, and to accept of that olive-branch that peace might prevail in the land, that the unity of the Government might be preserved, and that constitutional liberty might be transmitted to their posterity forever. The Senator saw the tables of many of the Senators upon this floor loaded with petitions for the establishment of those principles of peace so patriotically offered. He saw the Senator from Delaware persistently and continuously, when present in the body, voting to accept that olive-branch of peace, voting to agree upon these common terms upon which brethren should live. Although that honorable Senator could not mistake the voice of the people, nor be indifferent to the anxiety of his countrymen, upon every occasion, according to my recollection, he persistently voted against those propositions. Nothing but war, bloody war, a little more blood-letting, in his judgment, could save the Union. He turned a deaf ear to their entreaties. He would not heed even the counsels of his own State; for he cannot disguise the fact, and he would not disguise it if he could—for I mean to deal in no discourteous language toward him—that the sentiment of his State was then, as it is now, in favor of those principles of peace. He thought that one section of this country, because it was

numerically stronger than the other, could restore this Union and preserve our liberties by force of arms. I, in the exercise of my judgment, never, from the beginning of these troubles to the present time, have had any such faith. But because I could not believe in the potency of the means which the Senator chose to adopt for the restoration of the Union, is that any evidence that I am less patriotic than he? Is a difference in judgment as to the means of restoring this Union to be evidence of the loyalty?—I beg pardon for using the word—the patriotism of the one and the want of patriotism of the other? I shall go into no vindication of my votes or my record in this body. I believe that the judgment of a large majority of the people of this country now, as I know it was when these troubles commenced, is in perfect accord with my own.

But, sir, I am surprised to hear the honorable Senator talk about this war being a war for the restoration of the Union. Whatever was its original design, in view of the bill under consideration, and another bill which we have been notified is to come up for consideration on Friday next, can the Senator believe that those who are prosecuting this war—I mean those who have its management—mean a restoration of the Union and the preservation of the Constitution? I have no doubt there are hundreds and thousands of men advocating this war, who are doing it for the honest purpose, as they think, of restoring the Union and preserving the Constitution; but, sir, looking at the acts of those entrusted with the management of public affairs, the acts of this Administration, does any man believe it? If so, I ask how do you reconcile that with the fact that when the gallant and noble State of Kentucky, notwithstanding her local institutions, notwithstanding her geographical position, and the State of Maryland and the State of Delaware and other States geographically situated as they were, came honestly to tell the Executive what policy would conduce most to enable their people to support with cordiality the war for the maintenance of the Union, he turned a deaf ear to all their entreaties and set up his judgment against that of those States?

Sir, he had a policy to pursue, and he has pursued it; and now this bill, as a means of restoring the Union, I presume, is brought forward to establish a Freedman's Bureau, to take the lands away from the people whom you expect either to reconcile or conquer, and divide them out among their slaves whom you denominate freedmen; and a bill is on your table upon which I shall have something to say when it shall come up, because in its discussion will arise the great fundamental principles of government—the government of what was once the United States—which proposes to reduce at least eleven of the past creators of the Constitution and the Union to the condition of Territories, excluding almost every white man and white boy in them from any participation in the government and handing the government of these Territories, which are ultimately to be built up into States, into the hands of the servile race who are to rule over the white race. All this is done to preserve the Constitution and to restore the Union! Sir, the bare suggestion awakens a train of thought and forces upon the mind a flood of ideas the elaboration of which would take days if not weeks, and I shall forbear from entering into their further recital or discussion.

If the honorable Senator, by the policy which he pursues, shall ultimately restore the Union and preserve the Constitution—and I know of no Union except that of which the Constitution is the link, the tie, the bond—no person will rejoice more than I shall. But, sir, against the measure now before the Senate, and such kindred measures, there comes up, in my judgment, not only the blood of a murdered Constitution, but there comes up from the grave of every soldier who has fallen in battle a solemn protest. They fought and died, not for the adoption of such measures as this, not, in the language of the patriot Butler—who telegraphed only a few days ago that he had the key to Richmond, and who seems to have lost it—"to tear down the old house and build up a new one with all the modern improvements," but to sustain the old Union and the old Constitution. Sir, I say that even the blood of the fallen brave cries from the ground against the policy

which the Senator is advocating and the adoption of these measures.

Mr. President, I have been led to say thus much from the personal allusions made by the honorable Senator to the course which I have pursued in this Senate. My term in this Senate is brief. I have no ambition for a new lease of that term. If I had I am very sure that the patriotic measures which the honorable Senator's Executive has heretofore put in force, and which he will try again to put in force, would preclude me from so high an honor. Whatever shall be my political fate in the future, I shall retire from this Senate Chamber with the consciousness that, whether mistaken in judgment or not, I have done the best I could, according to the best of my knowledge, faithfully and patriotically to serve my country. But before that brief term shall close, in the light of the experience which will then be afforded, perhaps the honorable Senator and myself will have another opportunity to contrast records and policies and see which would have been wisest from the beginning to pursue.

In conclusion, sir, I will say this: I had despaired of the Republic; but from the indications of the present, to which I before referred, that there are a portion of the American people, even of the dominant party, who are sick and tired at heart of these arbitrary measures which the honorable Senator denies to have ever been put in execution, and from the fact that I believe the free people of this country mean in the coming presidential election to assert their rights at the polls in defiance of military interference, if such should be invoked, I begin to have a dream of hope that the ship of State which his policy had wrecked and stranded and almost caused to go to pieces may yet be taken from the breakers, and may again be placed upon the wave of prosperity and happiness; and that as common brothers, ignoring the insane policy of this Administration, and not only ignoring it but reminding our children and our children's children forever of its utter folly, we will safely cause it to ride triumphantly over the tempestuous billows; that Peace, with her heavenly wings, may be spread over the whole of what was once a united and happy country; and that, instead of the watch word "the Constitution as it is and the Union as it was" being a term of reproach and an evidence of disloyalty, it may be held as the rallying cry of a happy and united people; and that, gathering under that same old flag of stars and stripes, and not of stars and bars, they will again throughout the whole land recelbrate an almost forgotten Fourth of July.

Mr. TENEYCK. Mr. President, I must say, in all kindness, I think I ought not to have withdrawn the word of which the Senator from Delaware complained. From the emphatic manner of his speech and style, perhaps I would not have been much amiss if I said he "shouted" instead of "howled;" but, sir, I wish to be courteous, and avoid anything that looks like personal offense even toward gentlemen from whom I so widely differ.

But, sir, I ought to say a word in relation to my State. Allusion has been made to the State of New Jersey; and although I do not care about prolonging this discussion in its personal aspects, still I should be recreant to the State I love, that I regard with the tender emotions I do the memory of the mother who bore me on her bosom, if I did not reply to a declaration of the Senator in relation to the character of my State. He says "New Jersey was always in favor of peace;" that it was the sentiment of her people; and that the Senator from New Jersey has disregarded her well-known voice. Sir, I deny that that now is or ever was the sentiment of her people. I admit that owing to certain circumstances, about the time of the commencement of this war or a little before, certain persons got possession of seats in the legislative councils of our State, and held the majority on certain political questions; and they did—I do not know whether it was under the care or teaching of the Senator from Delaware—pass certain resolutions in favor of the Crittenden compromise so called, or Crittenden resolutions. I do not refer to the resolution, also called the Crittenden resolution, introduced afterwards in the Senate by Andrew Johnson, the present candidate for Vice President, and who, with Abraham

Lincoln, I believe and trust, will be elected; but I mean the resolutions introduced by the late venerable Senator from Kentucky, one of which was designed to beat down the division line between free and slave soil; and open the free North to the slave power of the South. In my humble capacity as a Senator, without professing to have much firmness, and believing it to be a crime against both God and man, I voted against that resolution. I would have done it if an impending blow deadly as a flash from heaven had fallen on my brow the very moment that I did it.

Last year the Legislature of my State undertook to pass a set of resolutions in favor of a peace. I believe some of them were willing to send commissioners to meet others from the rebel States and desecrate the consecrated ground of Independence Square by patching up a peace upon that sacred spot with traitors and with rebels; but there were many worthy men in that Legislature who denounced and utterly abhorred the thing; and the guilty authors of that deed have most of them already heard the voices of an outraged people on the subject.

The Senator from Delaware says I have been individually opposed to peace and "in favor of blood—a little more blood-letting." Sir, I was not so much in favor of blood-letting as I was in favor of maintaining the Constitution and the laws. If it became necessary to maintain that Constitution and the laws to shed the blood of traitors, I was ready for it, and to carry on the war until the last of them succumbed. That is the way I stood; that is the way I stand to-day; and that is the way I mean to stand, "first, last, and all the time."

But the Senator says it will be seen in the future whether his policy would not have been the best and wisest to pursue, and that the people of the country will denounce the measures of this Administration. Sir, I am not afraid of that; I will accept that test.

But, Mr. President, I will say, finally, without reflecting upon the Senator, that he has, unintentionally I hope, slandered the character of the dead when he says that the soldiers who have fallen in battle, if they could speak, would send a voice from the grave in favor of peace. Sir, it is not so. Establish a peace before obedience is secured to the Constitution and the laws, and you will not only do an act of gross injustice to the hosts who now are battling in the front, and from whom we hear the shouts of victory day by day, but also an act of gross injustice to the sacred dead who have offered up their precious lives a sacrifice to this principle. So far from voices of denunciation coming from the grave in case you do not establish peace upon the terms the Senator from Delaware would have it, establish peace by surrendering your rights, by acknowledging secession, and without inflicting punishment upon criminals and rebels, and you will have a voice of condemnation coming from the beds in hospitals where on yesterday I saw our heroes in the cold embrace of death; others in their last gasp, and others suffering pain and agony without a sigh or groan. Sir, establish peace upon the principles sought by the Senator from Delaware, and you would have, if such a thing were possible, the soldiers slain in battle, whose bodies lie upon the road to Richmond, rising from their graves, bursting the crust of clay now resting on their bosoms, stalking forth upon the earth, and, with bony arms extended, denouncing fiercely all that class of men who madly talk about a "peace" before this fierce rebellion is subdued.

Mr. SAULSBURY. I will simply say that if the remarks last made by the Senator afford any gratification to him, as they contain nothing to which I feel called upon to reply, I will allow him to have the last word.

Mr. CARLILE. I rose simply for the purpose of calling the attention of Senators to the fact that this is the middle of June. There is a resolution upon the table which has been adopted by the House of Representatives, the third one of a similar kind, providing for the adjournment of this body. The bill under consideration seems to give rise to a latitude of discussion that would be likely to occupy the attention of Congress, if it is indulged in, for the rest of the year. I presume Senators are anxious to return to their homes some time before the expiration of sum-

mercy; and for the purpose of testing that question I shall before I sit down submit a motion, in order that business indispensable so far as the workings of the Government are concerned, may be transacted within the period of time prescribed in the resolution of the House for an adjournment.

I think it was clearly shown yesterday, by the Senator from West Virginia, that the bill under consideration is a bill which, if it should pass and become a law, will have an effect that I cannot for a moment believe was ever entertained by its author. I cannot suppose that a Senator who has expended almost the entire of his public life at least in an effort to liberate the African would be the first in this body to introduce a proposition to reenslave those whom he believes have been liberated by action to which he was somewhat at least a party. That that will be the effect of the bill I think was clearly shown by the Senator from West Virginia. If the title which he suggested yesterday should not be adopted by the Senate to the bill, if it should become a law, I will suggest one which I think will equally well define its character; and that is, "A bill to take from the individual owners all African slaves in the slaveholding States their right of property therein, and transfer the same to the United States." The bill evidently merely transfers the ownership of these slaves; and if the system proposed by it is carried out, with no interest on the part of those who are to have the management and care of these people such as the owners have now, it will perpetuate a much more barbarous system of slavery than the one which the Senator desires to get rid of. Instead of the slave belonging to an individual, and being the slave of one man, he becomes the slave of every man in the community who is liable to be selected by the head of this particular bureau as his overseer or superintendent.

I do not believe that such was the intention of the author of this bill. In order, therefore, that he may have time to prepare such a proposition as will carry out his philanthropic views, I will move to postpone the further consideration of this bill until the first Monday in December next. If that motion shall be agreed to, the time of the Senate at this session will not be taken up in its consideration, and we shall probably be enabled in December next to dispose of it properly.

Mr. BUCKALEW. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 23; as follows:

YEAS—Messrs. Buckalew, Carlile, Davis, Grimes, Hendricks, Hicks, Johnson, Jewell, Richardson, Riddle, Sautsbury, Van Winkle, and Wiley—13.

NAYS—Messrs. Anthony, Brown, Clark, Conness, Dixon, Doolittle, Fessenden, Foot, Hale, Harlan, Harris, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Ramsey, Sherman, Sumner, Ten Eyck, Trumbull, Wade, and Wilson—23.

ABSENT—Messrs. Chandler, Collamer, Cowan, Foster, Harding, Henderson, Howard, McDougall, Nesmith, Pomeroy, Sprague, Wilkinson, and Wright—13.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question returns on the amendment of the Senator from Delaware.

Mr. HICKS. Mr. President, I feel somewhat embarrassed by my condition. I only desire to make a remark or two; but I must ask the permission of the Senate, if they will indulge me so far, to be allowed to keep my seat. My condition is such that I cannot rise.

The PRESIDENT *pro tempore*. The Senate undoubtedly will.

Mr. HICKS. Mr. President, it does seem to me as if we are consuming time very unnecessarily in the discussion of this and other subjects. Senators on both sides of me have taken their ground; but in all that has been said and done, it seems to me as if we should accomplish very little upon the subject, the all-engrossing subject with some members of the Senate. I confess that I am tired of the slavery question at this particular juncture of time as can be any Senator on this floor; and yet there are Senators here who, it appears to me, think about nothing else. If those Senators, able and efficient as they are, would bend their energies to the putting down of this rebellion, then with that will go slavery, just as certain, in my opinion, as night follows day. And yet, sir, sub-

jects entirely calculated, at least, to defeat the main object—the putting down this rebellion and restoring the Union—are attended to particularly by some Senators.

Sir, if they desire to be the champions of the anti-slavery party, if they desire to be the bell-wethers of the party of freedom, in Heaven's name let them proclaim it, and I am perfectly willing to concede them that position; but I protest against this consumption of the time of our constituents, hour after hour and day after day, in the presentation of this subject of slavery, a subject that must fall with this rebellion, which I trust will speedily fall. I cannot see why Senators on this floor should waste so much time or lead to the waste of so much, in discussing a subject which it is clear, to my mind at least, will end with the rebellion. Why not let well enough alone? Why throw in the subject of slavery again? While many here opposed, at least to me, in my views in regard to the condition of the country, and to what has brought this state of things upon the country, are trying to cover up the main fact, I have never lost sight of it, and I think no sensible man ever should lose sight of it: I mean the fact of the South breaking down by the unholy efforts they have been making.

They talk about "the Union as it was and the Constitution as it is." In God's name, must not every Senator understand perfectly that these people in the South have disregarded the Constitution; that they themselves have broached the subject; that when they had the power to continue things as they were, they left their seats in this Senate Chamber and in the Hall of the House of Representatives, went home, and commenced to fight? But, sir, there is nothing more clear when you come to talk about slavery. I never had but one opinion in regard to that. The poor creatures that we are wasting so much time over here are to be the principal sufferers. But, sir, it must come; and I say let it come, and the earlier it comes the better. I have been all my life since manhood a slaveholder. I have some slaves at home now acting as free people, for I pay them just as I do the free people who work for me. But, sir, as I before remarked, the thing is working well. Why not let it work? We have a convention in session in my State now that will probably in a few days—I learned so yesterday from a leading delegate to that convention—pass an act of emancipation. I have always desired that Maryland should emancipate her own slaves. I believe many of the other border States will follow. Then whether the southern States now in rebellion do so or not, they will be compelled to do so, and slavery must perish. Why any Senator here, or any one outside of this Chamber, should think for a moment of perpetuating slavery at the expense of this Government, I confess, is a thing that I cannot comprehend. I never have understood it. Sir, if I owned all the slaves south of Mason and Dixon's line, I would give them up cheerfully to-morrow rather than see this Government fall. I have no objection, but on the contrary am in favor of a freedman's commission. My sympathies have been very much wrought up in regard to these poor creatures. They have had no participation in what has brought this trouble on the country; they have had nothing to do with it; we have acted for them.

But, sir, my object in addressing the Senate was to say a few words in regard to the effort that is being made here to press this thing faster than time will allow it to come. Under the circumstances, can it be possible that gentlemen will interpose difficulties and throw barriers in the way of putting down this rebellion, a thing that every lover of the Union and every lover of the country must desire more than anything else? Why not bend our entire energies to the one point, the breaking down of this rebellion? Our brethren are falling in arms by the thousands; thousands more are coming home wounded and maimed, and will remain so to the end of their lives, many of them unable to take care of themselves or to earn their daily bread by the sweat of their brow. When they are making such sacrifices, I cannot, as I before remarked, understand why it is that gentlemen will throw difficulties in the way—for I consider everything of that sort a difficulty in the way—of the main thing, the putting down of this rebellion.

Allusion has been made to the coming presidential election and to the present Administration. Sir, I was as much opposed to the election of Abraham Lincoln as any man here. I will go for him now, if I live to see the next election, in preference to any man in this country. I believe he has accomplished more to save the border States than perhaps any other man in the country could have done similarly situated. I was not of Mr. Lincoln's party. I did not vote for Mr. Lincoln. I voted for Bell and Everett, and was anxious that they should be elected; but, as I remarked on a former occasion, I believe it was a godsend that Abraham Lincoln was elected to the Presidency of the country. I love the Union, gentlemen, more than I do everything else, and I desire to see the Union restored, and the Government of the United States to the latest moment of my life and the lives of those who may come after me preserved intact.

I have been so situated lately as not to be able to participate in the active duties of the Senate, and while absent lost a good deal of the run of the business of the Senate; but, sir, I confess my utter surprise at seeing gentlemen here, intelligent gentlemen and efficient statesmen, battling over mere matters of moonshine, things that no one need think of interfering with at this particular juncture. Put down the rebellion; that is what I desire to see above everything else; and then, though a slaveholder, I desire slavery to go just as quickly as possible. I would rather see this Government perpetuated with freedom proclaimed to all classes than to see those who have been slaves returned to slavery again. The people are becoming prepared for this by degrees. They are preparing themselves for it. I know that in my own State eighteen months ago no patience would have been manifested toward a man who would talk about the emancipation of slaves in Maryland. We have now a decided vote in favor of emancipation. Our people desire it, and the quicker it is done the better it will be for the State, and the quicker slavery is out of the country the quicker we shall have a restoration of this Union, and then we can start again upon a well-established Government, one that I hope will continue for the duration of time.

I regret that I have been compelled at this late hour in the day to make a single remark on this subject, but I felt it my duty to do so. It seems to me all this discussion is entirely out of place. I want the gentlemen who are such sticklers for emancipation and so exceedingly eager to press forward and put themselves at the head of the anti-slavery party, to let this subject rest until the proper time comes; when, without any trouble to them or to any one else, slavery will just as certainly be gone, as I before remarked, as night follows day. Sir, I shall not detain the Senate longer.

Mr. CONNESS. I will not undertake to make any speech. I only rise to express my desire that a vote shall be taken, and that we shall dispose of this measure to-day. A majority of the committee on slavery and freedmen, to whom it was referred, reported in favor of the bill now before the Senate. They gave it a great deal of attention. They believed it was the best form of measure that could be produced on that subject. They believed it necessary to the country at this time to give legality to what was being done perhaps illegally, or by mere acts of Administration. But, sir, let us come to a vote first on this amendment, then upon the bill reported by the Senator from Massachusetts from the committee as a substitute for the House bill, and then to a vote upon the House bill, and dispose of it in some manner. We can do it in a very short time.

The question being taken by yeas and nays on the amendment of Mr. SAULSBURY, resulted—yeas 8, nays 29; as follows:

YEAS—Messrs. Buckalew, Carlile, Davis, Hendricks, Powell, Richardson, Riddle, and Sautsbury—8.

NAYS—Messrs. Anthony, Brown, Clark, Conness, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Hicks, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wiley, and Wilson—29.

ABSENT—Messrs. Chandler, Collamer, Cowan, Harding, Henderson, Howard, Lane of Kansas, McDougall, Nesmith, Sprague, Wilkinson, and Wright—12.

So the amendment to the amendment was rejected.

Mr. GRIMES. The question I understand now to be on the adoption of the substitute reported from the committee.

The PRESIDENT *pro tempore*. That is the question.

Mr. GRIMES. As I shall be constrained to record my vote against this proposition I wish in one or two words to state the reasons why I shall do it.

So far as it was the intention of the select committee on the part of the Senate to alleviate the condition of colored refugees or freedmen, I fully sympathize with them. I desire to do, in my individual capacity and as a Senator, anything that may be in my power to put them upon a better footing than they are now. I have no doubt that they have endured a great deal of suffering; and I had supposed that this committee would present to us a proposition in some tangible shape in which we would be able to act upon this subject. I do not think the committee thus far has presented a scheme that commends itself to the good judgment of the Senate and the country, and I am going to show why I think so.

As to the question whether this bureau, if established, should be put under the charge of the War Department or the Treasury Department, I have not a word to say at present. Senators will observe, by reference to the first section of the substitute, that it provides—

That an office is hereby created in the Treasury Department to be called the Bureau of Freedmen, meaning thereby such persons as have once been slaves.

There is no limit as to the time when they were slaves. They may have been slaves and been emancipated twenty-five years ago, but if they were once slaves, under the provisions of this bill they are subjected to the general superintendence, which I understand to mean the general control and management, of the bureau that is to be created by the passage of this bill. Sir, I am not prepared to vote that such a man as Robert Small, who has performed as gallant an action as was ever performed by any of our white officers or soldiers or sailors, shall be put under the superintendence of the Secretary of the Treasury or of any Commissioner of a Freedmen's Bureau.

Mr. SUMNER. May I interrupt the Senator?

Mr. GRIMES. Yes, sir.

Mr. SUMNER. Is there one word in the bill that compels him to go under any such superintendence?

Mr. GRIMES. I so infer.

Mr. SUMNER. Is he not declared to be a free man? Is he not as free as the Senator himself?

Mr. GRIMES. I think not; and I am going to try to convince the Senate that under this bill, although in terms a freedman, he is not in fact a freedman.

Mr. HOWE. I suspect the dispute between the Senator from Iowa and the Senator from Massachusetts, if there is any, arises from a different construction of some clauses of this bill. If the Senator will give way, I had marked probably some of the clauses which he is about to comment upon; and I intended to offer some amendments, three I believe; and if the Senator has no objection I should like to offer them now to see if the committee will accept them. I think if they are accepted they will do away with some of the objections of the Senator to the bill.

Mr. GRIMES. I have no objection to hearing what the Senator proposes to substitute as an amendment. I think I can satisfy the Senate that at present as the bill now stands, and as we are asked to vote for it, it puts every colored man who was ever a slave under the general superintendence of the Commissioner at the head of this bureau, who is to act under the direction of the Secretary of the Treasury. That is the provision of the fourth section.

Mr. SUMNER. Just, I take it, as the Senator himself is under the superintendence of the police of Washington.

Mr. GRIMES. No; he is not.

Mr. SUMNER. Is he not? Then the Senator is in an exceptional position. I take it that we are all under the laws of the land.

Mr. GRIMES. I take it that the deputy policemen are under the general superintendence of the superintendent of police. What does he superintend? Does he superintend the Senator, the citizens, the males and females of the city?

No; he superintends the police who are put under him as the superintendent.

Mr. SUMNER. He sees that the laws are in force for the protection of every Senator, including the Senator from Iowa and myself.

Mr. GRIMES. Exactly.

Mr. SUMNER. And that is what the superintendent here is to do with regard to freedmen.

Mr. GRIMES. If the Senator would only accompany his bill with a commentary upon it, so that we should understand exactly what he meant and what the Senate meant, there might be something practical in it; but without that commentary, without that interpretation, I think there might be a good deal of doubt as to what the bill meant; not doubt in regard to this particular phrase, for I think there cannot be any question as to what is meant by this phrase, "shall have the general superintendence of all freedmen." That means the general control, the general management, the general direction. More expressive language could not have been selected by this select committee than they did select when they drew this fourth section; and I think the sentiment of the Senate is with me on that subject.

It will be observed that the colored men who have once been slaves, as I have already said, no matter what may be their present condition, no matter where they are if they are included within any one of the departments that the Secretary of the Treasury is authorized to erect under the provisions of this bill, are to be under the general superintendence of the Secretary of the Treasury and of the Commissioner.

Mr. DOOLITTLE. Like the Indians under the Indian Bureau.

Mr. GRIMES. Certainly. The second section provides—

That the Commissioner shall have authority, under the direction of the Secretary of the Treasury, to create departments of freedmen within the rebel States.

That section has been amended at my suggestion so as to limit the number to two for each State. Then he is authorized to appoint Assistant Commissioners who are also limited to four—

With an annual salary of \$2,000, to be appointed by the Secretary of the Treasury, and with authority to appoint local superintendents and clerks, so far as the same may be needed.

It will be observed that there is no qualification required on the part of these Assistant Commissioners or the superintendents or the clerks who are to be appointed and to act under them; there is no obligation of an oath resting upon them; they are not required to give bonds; they are not required anywhere in this bill to make a return of anything that they may do.

Mr. SUMNER. Who?

Mr. GRIMES. None of these Assistant Commissioners, superintendents, or clerks. This bill does not require a return from them to any superior officer as to what they may do or what they may not do. They are not even, so far as I remember—

Mr. SUMNER. The Senator is mistaken—

That the Commissioner shall, before the commencement of each session of Congress, make full report of his proceedings to the Secretary of the Treasury, who shall communicate the same to Congress. And the Assistant Commissioners shall make quarterly reports of their proceedings to the Commissioner, and also such other special reports as from time to time may be required.

Mr. GRIMES. Where is that?

Mr. SUMNER. In the very last section of the bill.

Mr. GRIMES. I was mistaken about that. The last section of the bill, which would apparently indicate that it was an afterthought on the part of the authors of the bill—

Mr. SUMNER. It was no afterthought.

Mr. GRIMES. By the last or tenth section of the bill it is required that these Assistant Commissioners shall make returns to the Commissioner quarterly, and the Commissioner is required to make a report to Congress at the commencement of each session.

Mr. FOSTER. The superintendents and clerks are not required to do it.

Mr. GRIMES. The superintendents and clerks are required to execute no oath, no bonds, and make no returns. It will be observed also that the Commissioner and Assistant Commissioners, although the money that is to be realized from the renting of this property and the labor of these freedmen has to pass through their hands, are to

give no bonds; there is to be, so far as I am able to learn from the bill, no sort of restraint that can be exercised upon them and no power.

Mr. SUMNER. The Assistant Commissioners are to give bonds. The second section, on my own motion, was amended in the seventh line by introducing after the word "dollars" the words "under bond as required for the chief clerk."

Mr. GRIMES. Of what?

Mr. SUMNER. Of the bureau. It is provided in the first section that the chief clerk of the bureau shall be "under bond to the United States for the faithful discharge of his duties;" and then in the second section it is provided that the Assistant Commissioners shall be under the same bond.

Mr. GRIMES. I am glad the Senator has made some provision in that regard. I was not aware that he had done it. It has been done since the bill has been under consideration in the Senate. But the other officers named here and the Commissioner himself are not required to give bonds. They are not even required to swear to support the Constitution of the United States. The fourth section reads:

That the Commissioner, under the direction of the Secretary of the Treasury, shall have the general superintendence of all freedmen throughout the several departments.

That is all there is material in that section. The residue of the section is merely a stump speech injected into it:

And it shall be his duty especially to watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen, and generally, by careful regulations, in the spirit of the Constitution, to protect these persons in the enjoyment of their rights, to promote their welfare, and to secure to them and their posterity the blessings of liberty.

All there is in that section that is material is the bestowment upon this Commissioner of an unlimited control and power and superintendence of all the freedmen who may be found at the time of the passage of this act within the several departments that may be created by the Secretary of the Treasury.

Mr. SUMNER. Will the Senator indicate one word of unlimited control and power?

Mr. GRIMES. I should suppose that the words "general superintendence" meant general power.

Mr. SUMNER. Does it convey any power of control over them? Is it not a superintendence for their protection, for their improvement?

Mr. GRIMES. I apprehend there is not a man within the sound of my voice, save the Senator from Massachusetts, who does not entertain the opinion that I express. What is meant when we create a superintendent of Indian affairs? Do we not bestow upon that superintendent the control of the Indians within the jurisdiction to which we limit him?

Mr. SUMNER. For their protection.

Mr. GRIMES. For their protection and their government, for protecting them one tribe from another, for settling difficulties that may arise between the agents of the respective tribes that are within their superintendency, seeing that no harm befalls the Indians, and that the Indians perpetrate no harm upon the white man. When the Senator incorporates into his bill a phrase that has received by the common consent of the country and of our courts an interpretation, we must conclude that he intends to mean exactly the interpretation that that phrase has hitherto received.

The fifth section reads:

That the Assistant Commissioners shall have authority, within their respective departments, to take possession of all abandoned real estate and all real estate, with the houses thereon—

I do not exactly know how that was intended to be punctuated—

liable to sale or confiscation, or to any claim of title by the United States, and not already appropriated to Government uses; and also to take possession of all personal property found on such estate, and to rent or lease all such real estate, or any part thereof, with the personal property thereon, and to act as inspectors of the same.

Why, Mr. President, the most extraordinary powers are conferred upon these Assistant Commissioners, who are not required, as I said before, to take an oath, who are not required to execute a bond.

Mr. SUMNER. I beg the Senator's pardon; they are required to execute a bond.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Massachusetts

that he must observe the rules of the Senate, and not interrupt the Senator upon the floor.

MR. GRIMES. Who are not to be sent to the Senate for confirmation; who are to receive a compensation of \$2,000 a year, \$500 more than we pay the agents of our various Indian tribes, and who are to take possession of all the abandoned real estate and all real estate that is liable to sale or confiscation, or to which a claim of title by the United States has already been set up, or that may be set up, and to take all personal property; and what are they to do with it? They are to authorize it to be cultivated and to lease it out; and how is it to be cultivated? This section provides:

Or in case no proper lessees can be found, then to cause the same to be cultivated or occupied by the freedmen, on such terms, in either case, and under such regulations as the Commissioner may determine.

It is to be cultivated by the freedmen on such terms in either case, and under such regulations as the Commissioner may determine, not upon such terms as those freedmen may determine.

MR. SUMNER. I beg the Senator's pardon. Read the next clause and you will see.

MR. GRIMES. If the Senator will keep quiet I think I will do him justice and his bill too.

MR. SUMNER. Very well; excuse me.

MR. GRIMES. It is to be "cultivated or occupied by the freedmen on such terms in either case"—that is, whether it is rented out or whether it is cultivated and occupied by the freedmen—"on such terms and under such regulations as the Commissioner may determine." What does that mean? Suppose it stops right there—I will read the proviso presently. That these commissioners may determine the manner and the terms upon which these freedmen shall be permitted to cultivate these abandoned or other plantations. But there is this proviso, which, in the estimation of the Senator, helps the matter a great deal:

Provided, That no freedman shall be held to service upon any estate:

Mark the language: "Held to service"—the very language that is used where you undertake to convey the power to hold in bondage, either for a limited or for an unlimited period of time.

That no freedman shall be held to service on any estate above mentioned, otherwise than according to voluntary contract reduced to writing and certified by the Assistant Commissioner or local superintendent, nor shall any such contract be for a longer period than twelve months.

Now, Mr. President, that is neither more nor less in my honest conviction—I do not say that that was the intention of the chairman of the committee, nor of the committee; I know it was not; I know that they did not design any such thing—but in my opinion it is nothing more nor less than peon slavery. It confers the right to hold this man for twelve months as a slave.

MR. FESSENDEN. If he agrees to it.

MR. GRIMES. That is true; but what is going to be the condition of these men down there, without anything to eat, without anything to drink, without anything to wear, entirely under the control of these Commissioners, men who cannot either read or write? They will have to agree to it. We have not even the assurance of honesty on the part of these Commissioners that would be afforded by their being sent to the Senate and being confirmed by us, so that we may know who they are.

The sixth section of the bill contains this clause: That they shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others, and that on their part they perform their duty in the premises.

MR. SUMNER. "Their duty under any contract entered into by them." That is the language.

MR. GRIMES. I did not know that anything had been inserted there. "And that on their part they perform their duty." How are these Commissioners to see that these colored men perform their duty? Are they free men, or are they not? If they are free men, why not let them stand as free men, and let the men who have claims against them for the performance of duty enforce them as they do claims against other people? Why do you confer upon these Commissioners and deputy Commissioners the unlimited power to see to it that these colored men perform what, in the estimation of these Commissioners and deputy Commissioners, may be their duty? How are you going to enforce it? By stripes and lashes? Yes,

sir; here is the way they are to enforce it. The third section provides:

That the military commander within any department shall, on the application of the Assistant Commissioner thereof, supply all needful military support in the discharge of the duties of such Assistant Commissioner, unless there are controlling military reasons for withholding the same.

These Assistant Commissioners are to see to it that these colored men perform their contracts; and they are authorized by the third section of the bill to call to their aid, in order to compel the performance of their obligations, the military force that may be within their department. And yet we are told that this bill is designed for the benefit of freedmen!

The eighth section reads—

MR. BROWN. The Senator from Iowa lays a great deal of stress upon the word "freedman." I will inquire of the Senator how much less is a man free who has his contracts enforced by a military authority than one who has them enforced by civil authority?

MR. GRIMES. It has been suggested to me to ask in reply to the Senator—

MR. BROWN. Answer my question before asking another.

MR. GRIMES. Well, Mr. President, it is enough for me to know that there is no corresponding obligation here on the part of anybody to call the military authority to the aid of the colored man if his rights are infringed. This Commissioner may profess to enter into such a contract just as he pleases; he is dealing with men who can neither read nor write; who do not understand their rights nor their obligations in a great many respects; I mean a large portion of them. He enters into a contract nominally in the name of these colored men, and he is allowed to enforce that obligation, whatever it may be, by the military authority within the department.

MR. SUMNER. The object was to guard against rebel incursions.

MR. GRIMES. I have no doubt the object was admirable. I know that the Senator wants to meet the very purposes that I want to meet, to protect these colored men. I am not talking about the intentions that he had in view, or the committee of which he is the organ. I am talking about the bill which I am asked to vote for, and which I am constrained to vote against; and I am assigning the reasons why I do so; because I suppose I shall be compelled to differ with a great many friends with whom I ordinarily act in this Chamber.

MR. HENDRICKS. With the permission of the Senator from Iowa, I wish to suggest an answer to the question asked by the Senator from Missouri. It is a pointed question, and when I read this bill the very question that he suggested suggested itself to my mind. There is this difference: if a free white man of the North makes a contract to serve another for a year, he has a right to make such a contract; but in his person he is not enforced to remain in that servitude during the year; if he fails to remain the entire year he answers in the civil courts in damages. By this provision, however, the slave is required to remain the year, and if he fails to do that duty it is the business of the superintendent or overseer to call in the military force and make him serve in person for the year. There is the difference. He owns him personally for the year.

MR. GRIMES. It is a matter of small consequence, because, I apprehend, there will not be very large receipts from this measure, but the eighth section provides—

That the Commissioner shall apply the proceeds arising from leases in the several departments to pay the salaries and other expenses under this act, so that the bureau herein established may become, at an early day, self-supporting; and any proceeds over and above the annual expense thereof shall be paid into the Treasury of the United States.

Mr. President, it will be observed that there are no bonds, no checks, no efficient responsibility in connection with this matter. All the salaries of these men are to be paid through this bureau. There is nobody to audit the accounts of these officers under this bill. But the idea is held out that this bureau is to be self-supporting. If the bill should pass, as it may pass, I hope it will be; but such would not be the prediction that I should make in regard to the self-sustaining character of this bill.

Mr. President, the men whom this bill will

put under more than the guardianship of these Commissioners and deputy Commissioners, and, as I think, under the temporary servitude of these men, are the same class of men upon whom, three or four weeks ago, a portion of the members of this Senate were attempting to bestow the elective franchise. I submit that there was a very great mistake then, or there is a very great mistake now when we undertake to put under the control of general superintendents the unlimited superintendence of these Commissioners all the colored men who may be within these respective departments, and authorize the Commissioners to enforce with the military power the alleged contracts which this unfortunate and despoised class of people may be said to have entered into. There either was a great mistake then or else we are making a very great mistake now in passing this bill.

Mr. President, I desire to unite with the majority of this Senate in passing some bill that will relieve this unfortunate class of human beings. I think they demand our sympathies, our protection, and our support. I am ready to contribute of my substance and of the substance of the people whom I represent here as liberally as any Senator upon this floor; but I am unwilling to record my vote in favor of the passage of this substitute. I think that it is violative of some of the fundamental principles of the institutions of this country; it would violate my own convictions of duty and of right; and I therefore cannot support it.

MR. SUMNER. I am sorry to be obliged to say another word in this debate. I had hoped to be excused. But the remarks of the Senator from Iowa leave me no alternative.

I am not astonished at the opposition which this bill has encountered from Senators over the way. It is their vocation to oppose every such measure, and to give it, if possible, a bad name. They believe in slavery, more or less, and will not do anything to remove it or to mitigate its terrible curse. There is the Senator from West Virginia, who gives us smooth words about slavery, with boasts of the slaves he has emancipated; and then straightway, by voice and vote, sustains slave-hunting, and, if possible worse still, startles the Senate by a menace that slaves set free by act of Congress will be reenslaved by States again restored to the Union. That this Senator should attack a bill for a Bureau of Freedmen is perfectly natural; nor am I astonished that he should misrepresent its character. But I cannot conceal my surprise at the course of the Senator from Iowa, who I know has no love for slavery, and no congenial, persistent, and rooted prejudices against justice to the colored race. If the Senator from West Virginia spoke naturally, allow me to say that my friend from Iowa did not speak naturally.

Sir, the Senator has not done justice to the bill which he undertook to criticize. It was evident that he spoke hastily, without having even read the bill. At least this is not an improper assumption when we consider some of his criticisms. It will be remembered how promptly I corrected him when he was picturing the Assistant Commissioners as so utterly without restraint that they were not even obliged to make reports. I read the clause in the bill expressly requiring not only "quarterly reports" but "other special reports from time to time." The Senator, surprised by this provision, replied that it was at the close of the bill and was evidently an afterthought. This again was a mistake. Had he read the bill carefully he would have found that whatever may be its merits in other respects everything is introduced in its proper place, and this provision is no exception. The Senator then complained that the Assistant Commissioner was not obliged to give a bond. Here again he was mistaken. By an amendment moved by myself this was required. All this was a part of the attempt of the Senator to show that the bureau had not been planned with sufficient care. Suffice it to say that there is no bureau of the Government constituted with more care or surrounded with more safeguards against abuse. Much in the last resort must be confided to the honesty of public servants, but in the present case they are all placed under the observation of their superiors; superintendents will be observed by the Assistant Commissioner; the latter will be observed by the Commissioner; and

all will be under the observation of the Secretary of the Treasury, who himself is under the observation of the President; and I need not add that the whole will be subject to the oversight of a humane and enlightened people, awakening daily to a sense of obligation which cannot be postponed.

I am not wrong, then, when I say that the Senator did injustice to the bill in his criticism on its structure and the machinery which it establishes. But this was the smallest part of his injustice. He went further, and, following the Senator from West Virginia, asserted that it gave the Commissioner unlimited power and control over the freedmen, so as to hand them over to slavery under another name. I looked at the Senator to see if he were really serious as he made this strange accusation against a measure conceived in a sentiment of humanity and equity, and, by positive provisions, guarding freedmen against the very outrage which the Senator professes to fear. He seemed to be serious, as he repeated the accusation. But as he had erred with regard to the restraints upon the Assistant Commissioners, so he erred in the graver impeachment which he launched.

The Senator began this impeachment by saying that the bill, according to its definition of freedmen, was applicable to all who were "once slaves," and that even Robert Small, the patriot slave who navigated the Planter out of Charleston and gave it to us, would come under its provisions. Very well. Suppose he does. Can he suffer from it? Does he lose anything by it? Can anybody under this bill exercise any power or control over Robert Small? The Senator forgets that the bill assumes that all are free, and in every respect entitled to all the privileges of freemen; that they are invested with every right which the Senator himself possesses, and, if these rights are violated, they may look for a remedy to any court of justice precisely as he could. None of these rights are infringed by the present bill. On the contrary, the officers under it are charged to see that the freedmen are secure in their rights, so that Robert Small himself, if the occasion required, might find aid and protection under it. The bill gives no power to take away or limit existing rights; but it provides additional means for their defense, that emancipation may be perfect, so far as possible.

I do not like to take time, especially when I consider that in opening this matter to the Senate I explained the character of the bill and its necessity. I do not pretend that it is perfect; but I beg to assure the Senate that it is the result of the careful deliberations of the committee. If Senators are disposed to criticize it, or to offer amendments with a view to its improvement, let them do so. But I trust that they will not allow themselves to be carried into a general hostility to the measure, founded on a misconception of its real character. I might remind them again of the large numbers of freedmen—free, thank God! by the legislative and executive acts of the United States—but not yet introduced into the new condition appointed for them—unemployed, suffering, starving, and, with a voice of agony, calling for assistance. I might remind them of the inability of private charity, or any effort organized by private individuals, to meet all the exigencies of this unprecedented case, although the generosity of our people is overflowing. And I might dwell on the obligation of the nation, reaching everywhere with its hundred arms, to do what any inferior charity must fail to do; and I might especially show that it was not enough to strike down the slave-master, but that you must go further, and lift up the slave. But I forbear. I content myself now with reminding you that if you oppose legislation to help the freedmen in their rough passage from slavery to freedom, you hand over this unhappy people—unhappy for long generations, and not yet conducted into the full enjoyment of freedom—to a condition which I dread to contemplate. They look about and find no home. They seek occupation, but it is not within their reach. They ask for protection, sometimes against their former taskmasters and sometimes against other selfish men. If these are not supplied in some way by the Government I know not where to look for them. Surely, sir, you will not hesitate in this good work. You will not hesitate to provide, so far as you can, carefully and wisely, the proper means to secure employment for these freedmen during the transition from one condition to another, and,

above all, to throw over them everywhere theegis of Constitution and law. And such, permit me to say, was the single object of the present bill, which has been so cordially misrepresented by the Senator from West Virginia and so unjustly misrepresented by my friend from Iowa.

I have said that the object was care and protection for persons actually free and so regarded, who, from the peculiarity of their condition, might not be able in all respects to secure these without assistance. To this end a central agency is proposed at Washington, with subordinate agencies where the freedmen are to be found, devoted to this work of watching over emancipation, so that it may be surrounded with a congenial atmosphere. Is not the object worthy of support? Who will question it?

The language of the bill describing the functions of the Commissioner is plain and explicit; and yet out of this language, so guarded, and so utterly inoffensive, the Senator from Iowa has conjured a phantom to frighten the Senate from its propriety. Why, sir, if there were anything which, by any possibility, could justify the fears of the Senator, if there were anything which even the most lively imagination could exaggerate into anything but care and protection, then I should be the first to denounce it, and to ask forgiveness for an unconscious aberration. But there is absolutely nothing; and if you will listen to the words of the bill you will agree with me.

I begin with the very words which to the Senator from Iowa were so alarming:

The Commissioner, under the direction of the Secretary of the Treasury, shall have the general superintendence of all freedmen throughout the several departments.

Here are duties imposed upon the Commissioner; but there is no power or control over the freedmen. Calling a man superintendent gives him no power, except in conformity with the laws; but here all the laws, general and special, are for freedom. And yet the Senator has repeated again and again that here was a grant of unlimited power and control over the freedmen. To his mind here was an overflowing fountain of tyranny and wrong.

Mr. GRIMES. Will the Senator tell the Senate what is meant by it?

Mr. SUMNER. With great pleasure; and if I can have the candid attention of my friend, I believe that he and I cannot differ about it, for I will not doubt that we have the same objects at heart. Obviously the language in question indicates in a general way the character of the duties to be performed. They are duties of superintendence; but we are to look elsewhere to see the extent of these duties; and the words which follow in the same section show something of their nature. Thus:

And he shall be his duty especially to watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen.

There, sir, is the first glimpse of the duties of this tyrant. Mark, sir, there is not one word of power or control over the freedmen, but duties solemnly imposed, all in behalf of freedom. What next?

And generally, by careful regulations, in the spirit of the Constitution, to protect these persons in the enjoyment of their rights, to promote their welfare, and to secure to them and their posterity the blessings of liberty.

Here again are the duties of the Commissioner; but there is not one word which confers power or control over the freedmen. The main object is protection in the enjoyment of their rights, inborn but new-found. This is to be crowned by such watchfulness as will promote their welfare and secure to them and their posterity the blessings of liberty; and all this is to be according to "careful regulations." To find tyranny in this provision the Senator must be as critical as the German theologian who found a heresy in the Lord's Prayer. I do not go to the dictionary for the meaning of superintendent. This is needless. Obviously, the superintendent must superintend according to law; and since this is now for freedom, whatever he does must be for freedom likewise. He can do nothing without this inspiration. There is a superintendent of emigrants; but nobody supposes that he can do anything with regard to emigrants except in conformity with law. The mayor of Washington is, in a certain sense, a superintendent of the Senator and myself, as we walk the streets or lie down at night in our houses, to see that we are protected from outrage and robbery.

And the Vice President or the President of the Senate is a superintendent of this Chamber, to see that the rules of parliamentary law are observed. But the Senator would not think of attributing to either of these functionaries that "unlimited power and control" which he threatened in the superintendent of freedmen. And yet it exists in one case just as much as in the other.

I think, sir, that after this explanation there can be no difficulty in answering the inquiry of the Senator. By superintendence of all freedmen is meant that watchfulness of their rights and interests, consistent with laws general and special, for their protection, welfare, and liberty, so that they may be helped to employment and be guarded against outrage. The object is good. What other word would the Senator employ to designate it? How would he describe the humane function of the Commissioner? He is versed in language. Will he supply any term more apt? I invite him to do it, and shall gladly accept it. Since we seem to concur in the object proposed, let there be no difference on account of words. All that I desire is something which shall supply help and protection. For this I cheerfully sacrifice all the rest. And there is no single word in the bill from beginning to end which can give the most remote apology for any other idea.

But I have thus far only glanced at a single section. Look further. I skip for the moment the next section, and go to the sixth, which describes some of the duties of the "Assistant Commissioners and local superintendents." It begins by declaring that they

shall act as advisory guardians to aid the freedmen in the adjustment of their wages, or, where they have rented plantations or small holdings, in the application of their labor.

Mark, if you please, the friendly service to be performed. Not in this way do tyrants or slave-masters act. Here is advice, guardianship, and the adjustment of wages—all inconsistent with slavery in any of its pretensions. What next?

That they shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others, and that on their part they perform their duty under any contract entered into by them.

Mark again the friendly service required. Here is another duty cast upon these officers.

Mr. GRIMES. How is that to be enforced? Suppose they will not work—will not fulfill their contracts?

Mr. SUMNER. The duty of these officers is "advisory." They are not invested with power to enforce any provisions, unless by a court of law or some other tribunal. The freedmen are entitled to all the rights of freemen, just as much as the Senator. Curiously the Senator does not seem to have purged his mind of the idea that these men, in some way or other, have not yet ceased to be slaves—[Mr. GRIMES. No.]—an assumption, which, however natural in the Senator from West Virginia, is not natural in my friend from Iowa. But let him recognize them as free, like himself, and he will see that there is no remedy open to him which will not be open to them, and that any outrage upon them will, in point of law, be the same as if inflicted upon himself.

Mr. HARLAN. I desire to ask the Senator if there are courts of law in existence in these rebel States before whom the parties may appear.

Mr. SUMNER. I am afraid that courts of justice in those States are not yet in perfect operation.

Mr. GRIMES. Then I want to ask the Senator—

Mr. SUMNER. The next words of the section show what shall be done by these officers to promote the administration of justice. Thus:

They shall further do what they can as arbitrators to reconcile and settle any differences in which freedmen may be involved, whether among themselves or between themselves and other persons.

Here is the duty of arbitrator and peacemaker; but no power or control. And this duty is applicable to differences of all kinds where the freedmen are parties. Nothing can be more humane or less tyrannical. But this is not all.

In case such differences are carried before any tribunal, civil or military, they shall appear as next friends of the freedmen, so far as to see that the case is fairly stated and heard. And in all such proceedings there shall be no disability or exclusion on account of color.

If not "arbitrators," then the officers are to be "next friends" to aid the freedmen in any litigation into which they may be drawn. Very little

tyranny here. And this service is to be rendered in any tribunal, "civil or military," so that where the civil courts are closed the freedmen may obtain justice in any military tribunal. But whether in a civil or military tribunal, there is to be no disability or exclusion on account of color. When we consider how this disability and exclusion have been the badge of slavery and its pretensions, we may find in their positive prohibition a new token of the spirit in which this bill has been conceived. Very little tyranny here.

Mr. GRIMES. But, Mr. President, the case that was put by me was not where there was a controversy between the colored man and some third party, but where the Commissioner attempted to enforce the obligation of duty upon the colored man. What I wanted to know was how the Commissioner was going to exercise this duty enjoined upon him in the sixth section, in these words: "and that on their part," that is, on the part of the freedmen, "they perform their duty." Now, the Senator admits that the law requires and enjoins the obligation on the part of the Commissioner to see that these colored men perform their duty. They have not got any courts in those States; the Senator admits that. They cannot enforce them in a court of law. The colored man has not got any property, and you cannot compel a specific performance of personal labor. Now, I want to know of the Senator if a Commissioner who undertakes to carry out the provisions of this bill may not, under the third section, avail himself of the military authority that may be in the department to enforce obedience; and if he thinks it would be doing justice to the colored men in the department to leave them to the military control of the Commissioner, of whom we know nothing, and about whom we do not know whether he sympathizes with the colored man or not. Is it right to leave these colored men to the military control of this Commissioner in order to enforce the obligation to labor?

Mr. SUMNER. The Senator now calls attention to another section, where it is provided that "the military commander within any department shall, on the application of the Assistant Commissioner thereof, supply all needful military support in the discharge of the duties of such Commissioner;" and he inquires if this does not authorize the Assistant Commissioner to use military power in making the freedmen work. Let me say at once that the criticism of the Senator on this point is absolutely novel. If the clause to which he refers could be employed to any such purpose, I beg to assure him it was not anticipated by the committee. The clause was intended for a very different purpose—in the interest of the freedmen. And here again let me remind the Senator that nothing can be done by any officer, military or civil, toward a freedman which cannot be done toward any other citizen. If this military power can be used against one it can be equally used against the other. The occasion for this power seemed to be obvious. It was supposed that in the rebel States there might be exposed districts where the plantations would be subject, perhaps, to incursion or ravage from the enemy, by which the labor there would be disturbed unless military protection were at hand, or that there might be cases where the control of the plantations would be prevented or interrupted. It was to remedy this evil that this provision was introduced. Such was the object sought to be accomplished. It was protection in the spirit of the whole bill, and nothing else. If by any possibility there can be any chance of any abuse of this power beyond what is incident to every trust, I shall be very glad to take advantage of the criticism of the Senator and amend the bill so that the evil which he snuffs afar shall not be permitted to arrive.

The Senator cannot bear the thought of our freedmen exposed to the tyranny of military power. But does he not forget that at this moment they are subject to this tyranny? It is to remove them from this arbitrary control and uncertain protection that we now establish a bureau, which shall be an agency of the civil power, charged to surround the freedmen with every safeguard which the Constitution and laws can supply. Show me any provision in one or the other for the protection of human rights, and I claim it at once for the freedman against any oppressor, whatever may be his office or name.

Let the Senator bear these things in mind, and

give us the advantage of his counsels. I shall welcome from him any suggestion, any proposition, any criticism calculated to promote the object of the bill. The more he makes the better. Let him be no niggard. But I trust he will pardon me if I complain of a hasty assault, which, as it seems to me, can have no other effect than to injure the cause itself.

But I have not done with the criticism of the Senator. It was on the fifth section, concerning labor on abandoned plantations, that he bent his whole force. In the provisions of that section he found a new system of slavery; sometimes it was slavery outright, and sometimes it was peon slavery. Senators who did me the honor of listening to my remarks at the beginning of this debate will remember how I dwelt upon the importance of guarding against any revival of slavery under any other name, whether of apprenticeship or adscription to the soil; and they may remember, perhaps, how I explained the impossibility of any such occurrence under the present bill, and showed that the freedman was guarded at all points. And yet, in the face of this exposition and of the positive text—better than any exposition—the cry has been sounded that the liberty of the freedman is in danger. The Senator read this section over at length, and then repeated again particular clauses and phrases, striving to interpret them for slavery. I will not read it at length; nor will I dwell on the first part of the section. Suffice it to say that, so far as it describes the lands which are to be taken for occupation, it follows substantially the text of the order from the War Department, by which "all houses, tenements, lands, and plantations, except such as may be required for military purposes, which have been or may be deserted and abandoned by insurgents within the lines of military occupation," are placed under the supervision and control of the supervising special agents of the Treasury Department. Under this order the Secretary of the Treasury has been acting for more than a year; doing with regard to these lands precisely what the Senator so vehemently condemns. The present bill, so far as concerns the power of the Commissioner over the lands, has done little more than reduce the order of the War Department to the text of a statute, thus giving to it a certain legality which it does not now possess.

But passing from the lands which are to be occupied under the bill, the Senator next pictures the terrible fate of the freedmen laboring on these lands in pursuance of careful contracts. There seemed to be no limit to the Senator's anxiety lest they should be bound in slavery. I welcome his generous anxiety. But I pray that he will not allow it to mislead his judgment or prevent him from seeing the case in its true character. Surely he must have been unduly excited, or he could not have found danger in these words:

In case no proper lessees can be found, then to cause the same to be cultivated or occupied by the freedmen, on such terms, in either case, and under such regulations, as the Commissioner may determine.

"What a frightful power!" exclaimed the Senator. But why? Here is no power or control over the freedmen, but simply over the lands, which the officers are to cause to be cultivated or occupied. These officers are the representatives of the Government of the United States, to which these lands belong for the time being, and, in determining the terms and regulations under which they are to be cultivated or occupied, they do no more than is done by the Senator with regard to the lands which he is so happy as to own. The Senator determines the terms and regulations under which his lands shall be leased or cultivated; does he not? And he would be surprised if any person called in question his rights in this regard; especially would he be surprised if any person undertook to infer that the freedom of laborers upon his lands could be compromised by any terms or regulations which he might choose to adopt. But there is no power which he might exercise over his own lands that may not now be exercised by the Government. In each case, the laborer must be treated as a freeman. The Senator seems to imagine that there is a power or control over the freedman, which is conferred by these words. Here is the mistake of the Senator. The power and control are over the lands, not over the freedmen. There is not a word in the clause which can be tortured

into any such idea. I challenge the Senator to point it out.

Thus far I have considered this clause, which according to the Senator is so terribly pregnant, without alluding to the express limitation which follows in the same section. Even without this limitation it is clear and blameless. But the committee, in order to make assurance doubly sure, and to set up an absolute impediment against any abuse, have added the following proviso:

Provided, That no freedmen shall be held to service in any State above-mentioned otherwise than according to voluntary contract reduced to writing, and certified by the Assistant Commissioner or local superintendent; nor shall any such contract be for a longer period than twelve months.

And yet in the face of this proviso the Senator sees danger. Nobody can be found on this land except in pursuance of voluntary contract, which must be reduced to writing and certified by an officer of the Government. Nor is this all. The contract is not to be for a term beyond twelve months; so that, by no excuse, and by no exercise of power, can the freedman be put even under a shadow of control beyond this brief term. He is in all respects a freeman, laboring on land according to careful contract for a limited period. And yet the Senator calls this beneficent arrangement slavery, and then, changing the name, peonage. Sir, the Senator has an imperfect conception of that peonage which is indefinite service, or that slavery which is service for endless generations, if he undertakes to liken an employment in pursuance of contract most carefully guarded for a term of a few months to either of these conditions.

But all this is only a part of the mistake in which the Senator has proceeded from beginning to end. I am at a loss to account for it. I do not understand it. That I regret it most sincerely I need not say. I counted upon his good will with regard to this bill. I felt sure of his sympathies with regard to its general objects. I do not renounce the hope of these sympathies now. But I cannot forbear saying that, to my mind, the Senator has thrown himself in the way of a humane undertaking, and has practically abandoned the claims of that oppressed race to which he and I both owe service. Long have they suffered; much have they been abused; wearily have they journeyed through life; and now at last, when slavery is overturned, and we seek to provide a passage from its torments to a better condition, where labor shall be quickened and protected by liberty, and where all rights shall be respected, it is hard to find our efforts arrested by a crosswind from such an unexpected quarter.

Mr. GRIMES. Mr. President, the purpose, as I said when I addressed the Senate before, which the Senator desires to secure, is one that commends itself to my heart. I want to do exactly what he wants to accomplish. It is a humane purpose; but I think most conscientiously that he is not attaining that object by the passage of the bill which he seeks to have us pass; and hence, acting according to the convictions of my own heart, I am compelled to vote against the passage of the bill.

The Senator says I have proceeded upon a wrong supposition, that I, in common with the Senator from West Virginia, seem to entertain the notion that these men are not freedmen. It is because I do entertain the opinion that they are freedmen, and because I am anxious that they shall forever remain freedmen, that I oppose the passage of this bill. Why, Mr. President, according to my conviction, the only way to treat these men is to treat them as freedmen. You have got to give them alms, you have got to exercise acts of humanity and friendship to them for awhile. They will be jostled as we are all being jostled through this life, but in a little while they will settle down into the position that Providence has designed that they shall occupy under the new condition of affairs in this country. It is not by any such processes as are attempted to be enacted into a law by the passage of this bill that you are going to really alleviate the wants and difficulties under which these people now suffer.

Mr. President, the Senator started out with a declaration that I was altogether mistaken as to the interpretation that is to be put upon the fourth section of this bill. He says that the words "general superintendence" do not confer the power and the control which I said they did. Now, sir, I have an authority here, which I know the Sen-

ator recognizes as the highest in the country, Worcester's dictionary; that is the Harvard university authority.

Mr. SUMNER. The best dictionary.

Mr. GRIMES. Permit me to read: "Superintendent, one who superintends; a director; an overseer," a very unfortunate word in this connection. "Superintending, overseeing; directing; taking charge of anything."

What was it that I said was meant by these words? What was it that I said would be the legal construction of them? That they would have the control, the power to take charge of, the overseeing of these men; and it was to that that I objected. Now, look at the definition of the verb as laid down by Worcester: "To superintend; to oversee," from whence the word "oversee" on the southern plantations is derived; "to overlook; to have the care or direction of."

Mr. SUMNER. Now, let me interrupt my friend just there. The Senator hinges much on the synonym "oversee," and reminds us of the overseer on a plantation. Now, the word "oversee" in itself is not a bad word; it has a bad association. It is bad where a man is overseer for slavery; but if a man is an overseer for liberty, and if the bill charges him to oversee for human freedom and to guard sacredly all the rights of these persons, then I rejoice to call him "oversee."

Mr. GRIMES. Then I understand that the Senator virtually abandons the ground that he took when he was up before, and admits that I was right in the interpretation of the term, but he says that he intends that these men shall oversee, not for wrong but for good, that he intends to confer the power to oversee, to take charge of, to direct, to control these men—

Mr. SUMNER. Not to control.

Mr. GRIMES. To take the charge of, to take the direction of. What is that but taking the control of? He admits that it is the purpose of the bill to confer this extraordinary power, this general superintendence, this general control, this general overseeing, but he says he is going to have it executed beneficially for these colored men. If we pass this bill, that is the way that I trust these great powers will be exercised; but I am fearful that if we confer upon these officials such extraordinary powers, they may not always and in all cases exercise them for the benefit of these men.

The Senator went on and read to us the duties of these officers as they are described in the sixth section, that they "shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others, and that on their part they perform their duty." Now, he says that this can be enforced in a court of justice, and yet we all know that there are no courts of justice there. How, then, is this Commissioner to perform this duty? What means does the bill place in the hands of the Commissioner or deputy Commissioner to perform this injunction of the law that is imposed upon him? There is one means, and only one means, and that is provided for in the third section, which allows him to call to his aid the military power that may be within his department to enforce obedience at the point of the bayonet; and furthermore let me remark that this military commander may be the overseer himself by the provisions of the bill.

Mr. BROWN. I would call the attention of the Senator from Iowa to the fact that the word which he criticises so freely is used in our laws already. We have a Superintendent of Indian affairs who superintends the various agents; but I have never yet heard that he had authority to reduce them to slavery. He must superintend in accordance with the laws. We have a Superintendent of the Mint. I believe he superintends in accordance with the laws. In the same manner "superintendents" here means those who superintend in accordance with the purposes of the bill. Furthermore, as to the mode of enforcement, it does not necessarily follow that he must do it by means of the military power, because that is a matter which the department of course will have under regulation. It may be done by the retention of wages; it may be done by various modes, as various duties which are now enjoined upon other subordinates are required to be performed.

Mr. GRIMES. Mr. President, when there is

a question of human liberty presented to me for my consideration, I do not choose to submit it to the regulations of any department.

Mr. BROWN. It is not submitted to the regulations of any department. That is declared in the bill.

Mr. GRIMES. The fourth section, on which the Senator from Massachusetts has commented, provides:

Or in case no proper lessees can be found, then to cause the same to be cultivated or occupied by the freedmen on such terms in either case and on such regulations as the Commissioner may determine.

The Senator from Massachusetts insists that this does not apply to the freedmen; that it does not give the Commissioner any power or control to determine the relation that the freedmen may occupy to these cultivated or occupied possessions. If anybody will read that language critically he will observe that it gives to each of these Commissioners power, first, to lease the land to any other party; second, to lease it to the freedmen themselves and enter into a contract, himself being the agent both of the Government and of the freedmen too; and thirdly, it gives him an opportunity, if he chooses, to occupy it upon any other terms and make just such a contract as he pleases as the representative of the Government and as the guardian of these colored men in regard to that occupation; and then the sixth section authorizes and requires that he shall hold these colored men to the performance of their duty under the contract which he has thus entered into for them. I cannot approve of such a provision as that. It seems to me that the objection is radical.

Mr. WILLEY. Mr. President, I had hoped that the remarks which I submitted yesterday would have been all that it would be necessary for me to make in the discussion of this bill; and I rise now very reluctantly, but I rise under a sense of duty to myself and to the Senate, to notice some of the remarks of the honorable Senator from Massachusetts. I do not exactly understand, I suppose I do not understand, that honorable Senator in some of the phraseology which he uses; and before I proceed further in my remarks I wish to understand from him what was his meaning. He seems to draw a distinction between the motives which operate upon me and the motives which operate upon the honorable Senator from Iowa in opposing this bill; and while he complains that the honorable Senator from Iowa unjustly misrepresented the bill, he alleges at the same time that the Senator from West Virginia "cordially" misrepresented the bill. I desire to know what the honorable Senator from Massachusetts meant by that qualifying term.

Mr. SUMNER. I will explain with great pleasure. Since the Senator from West Virginia has been a member of this body, I have observed his course. I find that while sometimes boasting that he has emancipated slaves he openly avows his willingness to be a slave-hunter. I cannot forget, sir, that on another occasion he shocked this Senate and the country by the open, unblushing declaration that after the emancipation of slaves in a State they might be again reenslaved and plunged into their former bondage. Who can forget the splendid eloquence with which the Senator from New Hampshire [Mr. HALE] at once denounced the impious assumption? Sir, I was then astonished that this Capitol itself did not open "its ponderous marble jaws" and cast the Senator out; ay, sir, and ejaculate him back into that land of slavery which he seems to be so unwilling to forget. The Senator asks why I said that he cordially set himself against this bill. Because, sir, in setting himself against this bill he simply followed those instincts which his former conduct has displayed.

Mr. WILLEY. Mr. President, if I escape the ponderous jaws of the honorable Senator from Massachusetts, I imagine I shall be in no danger of being swallowed up by the Capitol of the Union. [Laughter.] I do the honorable Senator the credit, however, to say that he has been very explicit, and I am happy to have the opportunity on the present occasion to pay my respects to the honorable Senator in reply to the charges which he has been making without authority upon this floor as well as elsewhere. Sir, I never advocated the reenslavement of ne-

groes who had been emancipated. The Senator in his New York speech represented me as doing so. The record does not bear him out. It is not so, sir. But I did say that certain policies then initiated, if persisted in, would leave the States where slavery existed to the reenslavement of negroes already free; and I say to-day, in reply to the honorable Senator, that until very recently it was a matter of daily occurrence in Virginia, and I imagine all through the South, that those who had been free were reenslaved. I did not vindicate that law; I did not say it was right; but I said that the result of the policy advocated at that time would lead to such an effect in those States.

Mr. SUMNER. Did not the Senator say that it might be done, and did the Senator heap scorn and indignation and contumely on such an idea? No, sir. He named it as an argument to influence our conduct.

Mr. WILLEY. I did name it as an argument, Mr. President. I named it as an argument, and a result to be deprecated, and so the connection in which I made the remark will show, not because I advocated it, but deprecating the policy and imploring Senators to desist lest those consequences might ensue which I as much as they deprecated. But, Mr. President, these remarks come with an ill grace from the honorable Senator from Massachusetts. Has he forgotten the time when I stood here on this floor solitary and alone, in the name of freedom knocking at the doors of Congress for admission into the Union, coming in the name of the first soil rescued from the rebellion, and in the name of the first soil rescued from slavery, knocking at the door of Congress for admission upon the platform of freedom? Can I forget when I stood here in that condition that I met with the persistent hostility of the honorable Senator from Massachusetts, and that his vote stands to-day recorded against the admission of West Virginia into the Union? And yet he rebukes me as standing here as not being opposed to slavery! Sir, I desire to attract the attention of the country to the honorable Senator's record in that case. I wish my voice could reach Massachusetts, whose freemen he represents and whose freedom sentiments he represents, to let her know that on a distinguished occasion, when he had it in his power, practically to extend the area of freedom and to strike the shackles from more than twelve thousand slaves his vote was recorded against it.

And yet, sir, the honorable Senator says he is not astonished that I follow out my instincts! The honorable Senator smiles. I suppose that is intended for an answer to my argument and an answer to these facts. I recall the expression, Mr. President: the honorable Senator cannot smile. Sir, there is a wonderful difference between a smile and a sneer, a mere sardonic grin. One comes from the genial nature and kindly sentiments of the heart, the outkindling upon the features. The other is that kind of grim satisfaction which may be imagined to rest upon the dusky features of the inquisitor down in the dungeons of the dark ages when the logic of religion was the thumb-screw and its charity a cat-o'-nine-tails—that kind of satisfaction which rested upon the features of the gentleman's progenitors when they were cutting off the ears of the Quakers in Massachusetts or tormenting to death old women as witches at Salem.

Sir, my instincts are all the other way. My record is for freedom. The best part of my fortune has been devoted to freedom, and it is one of the consolations of my heart that when my old slaves, now walking free as God's freedmen may walk, bend each night and morning before the altar to render their devotions to their Maker, their benedictions rest upon me, not because my instincts have been adverse to freedom, but because through me they have been made free.

Mr. President, I am at a loss to understand the honorable Senator from Massachusetts. I am at a loss to understand his persistent hostility toward me as indicated by his manner, and by his style, and by his language. I have never sought occasion to give him offense. I have been desirous, as far as I could consistently with my obligations to the Constitution and the laws and obedience to my instincts of freedom, to cooperate with him in bringing about the time when the shackles should fall from the last human being

in bondage, and I as earnestly desire to see the accomplishment of that as he can. What is there upon this record here that would justify any such assertion as the Senator has made on this floor to-day, made with a dictatorial air as of one having authority; but in the language and elocution of a sophomore? The gentleman may crack his lash where he has authority. He has no terrors for me. Humble as I am, I regard myself as his peer upon this floor, and whenever I see proper to discuss a bill which he introduces I will do it fearlessly; I trust courteously, and I call the Senate to witness whether there was anything else than courtesy in what I said yesterday in regard to the honorable Senator from Massachusetts that would justify the unwarrantable insinuations and imputation of improper motive which he has made against me here to-day.

Now let us look. I made a few remarks yesterday expressing my objections to this bill. The honorable Senator from Iowa to-day, with much more force, I acknowledge, rises in his place and makes the very same identical objections, and the only difference is that he puts them in a clear and strong light, much more so than I was able to do. And yet, sir, I am to be denounced as being operated upon by impure and improper motives; I am to be denounced to-day as a slave-hunter; the honorable Senator from Massachusetts, with all the bitterness which he could throw both into his manner and into his voice, denounced me here on the floor of the Senate of the United States as a slave-hunter, as having openly advocated slave-hunting. Sir, when did I do so? Where did I do so? How did I do so? I do not remember ever discussing upon the floor of the Senate or elsewhere in public the question of the fugitive slave law except the other day when the bill was up for consideration. What did I do then? I simply said that I would not enter fully into that matter, but I read the following as expressing my opinion exactly; I will read it again:

"It is scarcely questioned that this provision—"

Referring to the clause of the Constitution relative to fugitives from service—

"was intended by those who made it for the reclaiming of what we call fugitive slaves; and the intention of the law-giver is the law. All members of Congress swear their support to the whole Constitution—to this provision as much as any other. To the proposition, then, that slaves whose cases come within the terms of this clause 'shall be delivered up,' their oaths are unanimous. Now if they would make the effort in good temper, could they not, with nearly equal unanimity, frame and pass a law by means of which to keep good that unanimous oath?"

Who uttered that language?

Mr. SUMNER. Is not that a vindication of slave-hunting, and has not the Senator voted for slave-hunting in this Chamber during his short presence here?

Mr. WILLEY. Well, sir, we will see how I voted. I just now remarked that I am in very good company if I did so vote, the majority of the Senate having voted the same way that I did. I ask again who used this language? It was the present Chief Magistrate of the United States; and why does the honorable Senator here pour out his violence and his spleen upon my humble head, when he has a man worthy of his ambition and worthy of his mark whom he may denounce? Sir, does the honorable Senator intend to vote for this slave-hunter? Is this the first tocsin of war against Abraham Lincoln that he is not worthy to be the next President of the United States because he is a slave-hunter? The gentleman asks if this is not the language of slave-hunting. Be it what it may, it is Abraham Lincoln's language; and if Abraham Lincoln is a slave-hunter for using this language, so am I for adopting the language as my own, not otherwise. I said on that occasion, after quoting this language:

"I think the case is very plainly stated, sir, and therefore I shall conclude my remarks on that branch of the topics which I propose to discuss to-day by simply saying that I cannot vote for any repeal of our fugitive slave law until there is another law proposed accomplishing the same result in a better and more humane manner. If the honorable Senator from Massachusetts had introduced a law to supply the place of this, so that we might keep our constitutional obligation, and if that in its terms had been efficient and more humane, it would give me great pleasure to vote for it; but while this obligation rests upon me as a member of the Senate, while I am one of those who have taken that 'unanimous oath,' I shall feel as long as there is a slave remaining with the shackles on him, however much I may detest slavery in the abstract, that it is my solemn duty to make a provision to carry into effect the plain requirement of the Constitution."

That is my offense constituting slave-hunting! My offense was adopting the language and sentiment of the present excellent Chief Magistrate of these United States. Am I to be condemned for entertaining such sentiments? What was the result of that discussion? The honorable Senator from Ohio [Mr. SHERMAN] proposed an amendment that the fugitive slave law, as it is called, of 1850 should be repealed, leaving the law of 1793 still as the law of the land. In obedience to the very sentiments that I uttered, I voted with a majority of the Senators upon this floor for the repeal of the law of 1850, leaving the law of 1793 as the law of the land.

Are we all slave-hunters that voted for that proposition? Is the distinguished Senator from Ohio a slave-hunter because he voted for and moved that proposition? Are other distinguished Senators that I see on the other side of the Chamber also to be denounced as slave-hunters because they adopted that policy and voted for that proposition? Mr. President, the honorable Senator from Massachusetts is welcome to all he can make out of this record.

Now, sir, it seems that I have not yet recovered from the influence of slavery; it was "natural" for me to vote against this bill! How inconsistent is that? It was because I believed the operation of this bill would be prejudicial to the freedom of these freedmen that I opposed it. It was because I believed it would initiate a policy that would lead to their ultimate reenslavement that I opposed it. It was because I believed it was giving an arbitrary authority over the person and over the labor and over the rights of these unfortunate beings that I opposed the extraordinary provisions of this bill. And yet I am to be charged with obeying my natural instincts and education and going against freedom!

But, sir, asking pardon of the Senate for these personal observations, I desire to avail myself of the floor while I am up to notice one or two other considerations which I think it would be well for the Senate to observe.

I want to put this question to the honorable Senator from Massachusetts who has this bill in charge: to-day how much territory in the South, if this bill were a law, how many counties in any one body anywhere in the States whose people are in rebellion, could be brought under the operation of this law? Take Virginia, for instance. Our armies are now beyond Richmond or near Richmond in one quarter; they have moved up toward Charlottesville or Staunton in another; they have left half the territory of the State behind them within what are called our lines. I ask the honorable Senator to-day if he had his Commissioner appointed, in what single county in that scope of territory dare he go and stay all night this night twenty miles from Alexandria or ten miles from Alexandria? How long would a parcel of these freedmen placed upon a plantation be allowed to labor in any of that section of country before Mosby and his guerrillas would be upon them? And is it not so everywhere else? Does not the same condition of things exist to a very considerable extent everywhere in the States in rebellion?

But it will be argued that this cannot last always, that the rebellion will be crushed. Why, sir, when the rebellion is crushed, then let the State authorities be reorganized and revived and take charge of these matters, as the only proper and legitimate authority to do so. Until then it will be impossible, even if this bill become a law, to carry this complex machinery into effect with any degree of efficiency; and what will be the result of that? We shall have a Commissioner at a heavy salary, and his clerks at heavy salaries, and his Assistant Commissioners at heavy salaries, not in the territory of the rebel States but in Washington city, or at their homes, afraid to go there, paid by the Government of the United States as mere sinecures. I put it to honorable Senators to say whether that would not be the condition of things. To-day I ask where you can get a respectable scope of territory sufficient to compose a district, where you can get not merely half a State, but the one fourth, or one tenth, or one twentieth part of any State in rebellion in which you could establish this system? Sir, if there be such a territory I do not know where it is.

And now, sir, a general remark in regard to the bill, further. This bill has few or no checks

upon the operation and conduct of these Commissioners and subaltern officers. They are invested with most astonishing control and power, both over the property which they are to take into possession and the labor of the freedmen whom they are to control. We have already complaints, I am afraid too well founded, of corruption and speculation on the part of the Treasury agents, and it seems to me that the wit of man could not devise a more efficient system for speculation and corruption than is devised by this bill, a more efficient agency to operate in that direction, with fewer checks and balances, and no pains and penalties whatever anywhere in the bill to check or to punish those who are guilty of speculation under its provisions.

With such a bill, the principal result of which will be to introduce a system of peonage or reenslavement of these Africans that will necessarily lead to corruption and speculation, if it lead to anything at all, that will very probably only result in creating some twenty or thirty officers to be paid heavy salaries while they remain at home, I ask whether at this hour and under existing circumstances the interests of the country; the justice of the case demand at the hands of the Senate any such legislation.

Sir, I scorn and repel any imputation, come from what quarter it may, that indicates immediately or remotely that I am actuated in my conduct upon the floor of the Senate here otherwise than by the purest and holiest instincts for freedom. I may err in my judgment; but, as God is my judge and will be at the final day, I desire from the depths of my heart universal emancipation as soon as it is practicable, and I am for the manner and way that will bring it about most speedily and most judiciously. The whole tenor of my life gives the direct denial to the imputations of the honorable Senator from Massachusetts. My private and my public record do not bear him out in casting such imputations. I have differed with Senators here in regard to their policy. I have thought that sometimes the policy would lead not to the liberation of the slave, but would absolutely lead, perhaps in the free States—I thought so in the beginning of this controversy—to the reenslavement of the negroes that were there already free; that it might do so; that probably it would do so, that such would be the result. Circumstances have changed very much since that time. I do not now believe that such will ever be the case. Such an onslaught has been made upon slavery that no possible reaction, it seems to me, can ever recover it from the final destiny of universal emancipation to which it is tending.

Mr. SUMNER. The Senator from West Virginia has again repeated the charge that the bill under consideration creates a system of peonage. Does he know what a system of peonage is? If he does, then he does not know what the bill is.

Mr. WILLEY. Does the honorable Senator know what the bill is?

Mr. SUMNER. Certainly I do.

Mr. WILLEY. Then he knows what peonage will be if it be adopted. [Laughter.]

Mr. SUMNER. That indicates, then, the precise difference between the Senator from West Virginia and myself. However, sir, I do not wish to be carried into any verbal dispute with that Senator or with any Senator on this floor. Candidly and sincerely I seek the truth, and I regret any difference with anybody, and let me say in all frankness that since I have been on this floor there has been much in that Senator which has interested me, and yet there has been something which has pained me; but when I was pained I always tried to remember that he had unfortunately been brought up under a system of slavery, and I have been too intimate, from long experience on this floor, with the operations of slavery on character not to recognize the unhappy circumstances by which the Senator had too obviously been surrounded. It takes long to recover from slavery, and the unconsciousness of its influence is one of the characteristics which appear in those who have been exposed to it.

The Senator was able to rise on this floor and deliberately to state without putting his heel upon the idea that men once emancipated might under the operation of State laws be reenslaved. He now seeks to explain it away. The Globe, sir, is the perpetual record. Here it is. I have sent

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

THURSDAY, JUNE 16, 1864.

NEW SERIES....No. 187.

for it. On April 10, 1862, the words were said, and on that day they were happily denounced by the Senator from New Hampshire. The Senator from West Virginia proposed as an amendment to a pending proposition that provision should be made for the "deportation or colonization of all other persons of the African race who are now free in any of the United States." That was his policy, deportation, colonization, applicable on a gigantic scale, and the Treasury of this country was to be taxed to carry out that idea. How did he enforce the idea? By developing at some length that persons of African descent could not be allowed to continue in communities where they had been emancipated, and he wound up as follows:

"Here you are surrounding us"—

"Us" slave-masters—

"by an impassable barrier of constitutional interdictions against the diffusion of this population, while at the same time you want to manumit our slaves and throw them broadcast on our community. Sir, the evil will be unendurable, and the result will be the reënslavement of the slaves thus manumitted, as well as those already free in our State."

And having given utterance to that most atrocious sentiment, he took his seat.

Mr. WILLEY. Did I indorse—

Mr. SUMNER. Excuse me; I have the record here; it will all appear. The Senator from New Hampshire was happily in his seat, and he rose at once and said:

"Mr. HALE. Mr. President, I have not said a word upon this bill, and did not intend to, and I do not know that I shall now; but I declare I cannot sit still and hear such sentiments as those that have just been uttered by the honorable Senator from Virginia without an attempt to rebuke them. The honorable Senator intimates, of course not offensively, but in the way of a threat, that ultimately the State of Virginia and possibly the State of Maryland and the State of Kentucky may be compelled, in consequence of a system of legislation indicated by this bill, to reënslave their colored population, to tear the colored freemen of those States from the little portion of right which they enjoy, and bind them again in the chains of bondage and slavery."

Mr. WILLEY. I hope the gentleman will permit me—

Mr. HALE. I shall get through in a minute, and then I will.

Mr. WILLEY. Simply an explanation. The gentleman misconceived my remark.

Mr. HALE. I think I did not misunderstand the remark—

The remark was as plain as day; I have read it—

"I certainly would not misrepresent the Senator. The intimation was that they would be compelled, as a matter of necessity, to reënslave the colored population that are already free and those that would be made free under this bill. Now, sir, I recollect, as long ago as the last war with England, after the victory of General Jackson at New Orleans, hearing a famous song which was sung all over the country in praise of the hunters of Kentucky. I have as high regard for the chivalry, bravery, and the power of Kentucky, Virginia, and Maryland, and any of these States as any man has; but I tell them, and I tell the Legislature of every State in this Union, that when they undertake that they undertake a job that they cannot do; they set themselves in opposition to the moral sentiment of the country and of the world. There is not a monarch to-day on the throne of any of the kingdoms of Europe situated there so firmly that he dare to set himself in opposition to the moral sentiment of mankind. I take it, sir, that it is neither fanaticism nor superstition to say that when the Creator of the earth made the earth, and the same Power made colored men, He intended that the colored men He had made should dwell upon the earth that He had made; and that when the broad earth was subjected to the servitude of man and the fiat went forth that by the sweat of the brow of man should his living be obtained from the earth, it was a universal edict, irrespective of complexion, and that the earth is subject to the servitude of supporting the black man as well as the white. I laugh to scorn all attempts and all threats at reënslaving this people. I tell you it cannot be done. I believe, sir, that the Almighty, sitting on the throne of eternal justice, would proclaim in thunder tones, that States no less than individuals would hear, that the great and eternal principles of fundamental justice could not be outraged against a whole people and a whole class so grossly as that without a vindication on His part of the eternal laws which He has promulgated."

That, sir, was the deserved rebuke which the Senator from New Hampshire gave to the Senator from West Virginia. There is a long explanation that follows, which the Senator may read if he sees fit; I certainly cannot congratulate him if he thinks that it contains any apology for the sentiment which he uttered. Sir, I come now to one other point—

Mr. WILLEY rose.

Mr. SUMNER. The Senator will bear with me; I shall not be long. One other point. The Senator is unwilling to be called a slave-hunter. Let him not, then, in any way sustain the hunting of slaves. Sir, I use plain language, and I always have used plain language ever since I have been on this floor, especially when slavery in this terrible form was under consideration. A man who hunts slaves is a slave-hunter. A man who authorizes another to hunt slaves is a slave-hunter. If slavery be a crime, then is slave-hunting something more, for slavery never appears in so odious an aspect as when it assumes the form of slave-hunting. And yet the Senator now to-day openly avows himself a slave-hunter; and satisfies his conscience by referring to others who do the same thing. Sir, each man must stand or fall by himself. If the Senator from West Virginia chooses to vindicate or to sanction in any way the hunting of his fellow-man, I know no term of our common language which more aptly designates the function which he undertakes than that which I have employed. If the term be offensive it is not so offensive as the thing.

Mr. WILLEY. Mr. President, the honorable Senator from Massachusetts still persists in denouncing me as a slave-hunter in a manner and in language not to be misunderstood by the Senate, and to which I dare not be indifferent if I could. It is designed to carry with it reproach. It is designed to carry with it something of the particeps criminis, something humiliating, something dastardly, something mean. Now, Mr. President, how far do I go for the fugitive slave law? No further than the Constitution of the United States in express terms provides. Who made it? George Washington. He is one of the authors of the fugitive slave law; he is a slave-hunter! James Madison too is a slave-hunter! I suppose their ashes will not be much disturbed to-day, after the accumulated glory of half a century resting on their memories, by the traducing epithets of the honorable Senator from Massachusetts, who denounces them far more than he does me. If I had been in their place, with my present feelings, it is very probable that I never would have consented to the introduction of such a clause into the Constitution. Perhaps, actuated as they were by a spirit of compromise, in order to make a Union and to perpetuate it, I might be induced to do so, but from no other consideration. And because to-day I desire upon the obligation of the oath which I took at your desk to carry out in good faith that oath and to see that the Constitution is preserved and maintained and its laws executed—a Constitution formed by George Washington and James Madison and the brightest intellects that ever adorned humanity—I am to be denounced in the contemptuous language of the Senator from Massachusetts as a slave-hunter. Sir, every Senator upon this floor must judge of his own constitutional obligation in the light of his own conviction, but with my conviction of my duty under the oath which I took to support the Constitution, if I did not go for carrying out that clause in some form by some law or other, as humane as possible, I should regard myself as worse than the vilest slave-hunter and slave-driver that ever cracked the lash over the back of a slave—a perjured man, unfit for earth and unfit for heaven.

But then, sir, the honorable Senator thinks I do not understand what a "peon" is. From his expression I am pretty certain that he does not. It has several significations. We understand it best in this country, I suppose, from the example nearest to us in Mexico. A "peon" is thus defined by Worcester: "In Mexico, a day laborer, usually a laborer held in servitude until a debt is discharged;" not for life; "a bondman for debt." Now, if this bill is not pretty much peonage according to this definition, I do not know what peonage is.

Now, sir, a word in regard to my remarks made some two years ago which have been read by the honorable Senator from Massachusetts. The honorable Senator evidently conveyed, or

his language was calculated to convey, the idea in the first place that I had advocated the reënslavement of those who had been emancipated, that it met my approbation. He read the record; and I ask Senators to observe whether there was a word in it that sustains the honorable Senator in that view of the case. I was using it as an argument that this terrible consequence would ensue, a consequence which in the very terms I used I deprecated, as the result of the policy that the honorable Senator was then pursuing. I did then think that peradventure the result of that policy would be the reënslavement of emancipated negroes. Sir, I thought that reënslavement would come from another quarter. I supposed the reënslavement of the poor negroes who have been emancipated by this war would take place by their original masters. I never expected that the first act and movement for their reënslavement would come from the honorable Senator from Massachusetts, as we have it in this bill here to-day.

Mr. HENDRICKS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 15, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

By unanimous consent, the reading of the Journal of yesterday was dispensed with.

ABOLITION OF SLAVERY.

The House then resumed the consideration of joint resolution of the Senate (No. 16) submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States.

Mr. FARNSWORTH. Mr. Speaker, before proceeding to discuss directly the question before the House, I wish to devote a few moments in replying to some remarks which fell from the lips of my colleague [Mr. Ross] last evening, and incidentally to remarks which have been uttered by other gentlemen since this debate commenced. I was surprised at the speech of my colleague last evening. In the whole course of a prepared speech of an hour's length, scarcely one word did he utter by way of rebuke of the rebels and traitors of the South. The entire burden of his speech, with a very small exception, from beginning to end was abuse of the Administration and of the Government, misrepresentation as to the manner in which the war had been conducted, and allegations against the Union men of the country that they had produced the war and were continuing it with a view to self-aggrandizement. It is true that he did for a very few moments, in a very mild and gingerly manner, take issue with Jeff. Davis and his crew upon the dogma of the right of States to secede from the Union under the Constitution; but it was done in a very deferential and careful and tender manner. To the balance of his speech it was like a grain of wheat hidden in a bushel of chaff; you may search for it all day, and when you find it it is not worth the seeking; or like Falstaff's bill at Mrs. Quickly's tavern, a penny-worth of bread to an enormous quantity of sack.

My colleague said that he and the party with which he acts are the friends of the soldier, that he himself introduced into the House a resolution to instruct the Committee on Military Affairs to increase the pay of officers and soldiers thirty-three per cent., but that instead of the committee reporting a bill to increase the pay of officers and soldiers of the Army thirty-three per cent. they had only reported a bill to increase the pay of the soldiers ten cents a day, while at the same time they reduced his rations.

Now, what is the truth about this? A bill has been reported and has passed this House to increase the pay of soldiers from thirteen to sixteen dollars per month. It is true that that bill also provided for the repeal of part of the act of 1861,

which act largely increased the rations of the soldier. And why? Because it was found that the soldier did not require these rations, and did not consume them. It was found that the rations provided by law for the soldiers in the field were sufficient to support a frugal family of a man, wife, and three children. The surplus rations were wasted, or their proceeds went into the pockets of commissaries and quartermasters, or were wasted. No soldier has complained of the reduction of his rations. I defy my colleague or any other gentleman on this floor to point to the case of a single soldier in the Army of the United States who complains of the loss.

True, my colleague did introduce a resolution, as he says, to increase the pay of officers and soldiers thirty-three per cent., but I think a few moments' examination of the votes of my colleague and the party with which he acts on other questions will not only convince the House and the country but the soldiers also, that those measures are not introduced by him from any friendly motive or feeling toward the soldier.

What has been the course of that gentleman and his party on this floor in regard to voting supplies to the Army? What has been their course in regard to raising money to pay the Army? His vote will be found recorded in almost every instance against the appropriation bills, against ways and means for raising money to pay the Army. It is only a week ago last Monday that a bill was introduced here to punish guerrillas, to punish those men who infest the woods and highways, playing *neutrals* when our Army comes along, and then prowling along the highways to shoot the wounded soldier who is dragging his weary footsteps to the rear to a hospital; and how did my colleague vote? Against the bill. First, there was a motion made to lay the bill on the table, and my colleague voted for that motion. On the passage of the bill, when the yeas and nays were again ordered, my colleague voted in the negative. And yet he is the friend of the soldier! I submit on this point an extract from the Globe of the proceedings of June 6:

"Mr. GARFIELD. I am directed by the Committee on Military Affairs to report back bill of the House No. 429, to provide for the more speedy punishment of guerrillas, and for other purposes.

"The bill was read *in extenso*.

"Mr. ANCONA. How does that bill come in under this call.

"The SPEAKER. Under the call of States for resolutions bills may be introduced. That has been the uniform practice of the House.

"Mr. GARFIELD. I call for the previous question.

"Mr. LE BLOND. I move that the bill be referred to the Committee of the Whole on the state of the Union.

"The SPEAKER. That motion is not in order during the demand for the previous question.

"Mr. LE BLOND. Is a motion to refer to a standing committee in order?

"The SPEAKER. It is not now in order.

"Mr. LE BLOND. I move, then, that the bill be laid upon the table.

"Mr. ELDRIDGE. I demand the yeas and nays.

"The yeas and nays were ordered.

"Mr. ELDRIDGE. I withdraw the demand for the yeas and nays to see whether the previous question is seconded or not.

"The motion to lay upon the table was disagreed to.

"The House was then divided; and there were—ayes 60, noes 35.

"So the call for the previous question was seconded.

"Mr. ELDRIDGE moved that the bill be laid upon the table.

"Mr. BLAIR, of West Virginia, demanded the yeas and nays.

"Mr. ELDRIDGE demanded tellers on the yeas and nays.

"Tellers were ordered; and Messrs. ELDRIDGE, and COLE of California, were appointed.

"The House was divided; and the tellers reported—ayes thirty five.

"So (more than one fifth voting in favor thereof) the yeas and nays were ordered.

"The question was taken; and it was decided in the negative—yeas 35, nays 67; as follows:

"YEAS—Messrs. James C. Allen, Ancona, Bliss, James S. Brown, Cox, Cravens, Dawson, Eden, Edgerton, Eldridge, Finck, Grider, Harding, Harrington, Charles M. Harris, Herrick, Hutchins, William Johnson, King, Le Blond, Long, Mallory, Marcy, McDowell, James R. Morris, Morrison, Noble, Pendleton, Perry, Robinson, Rogers, Ross, Scott, Chilton A. White, and Joseph W. White—35.

"NAYS—Messrs. Allison, Ames, Arnold, Ashley, Bailly, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Grinnell, Griswold, Hale, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Patterson, Perham, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Tracy, Upson, Elihu

B. Washburne, William B. Washburn, Whaley, Wilder, Wilson, Windom, and Woodbridge—67.

"So the bill was not laid upon the table.

"The previous question was seconded and the main question ordered, which was on the passage of the bill.

"Mr. ALLEY called for the yeas and nays.

"The yeas and nays were ordered.

"The question was taken; and it was decided in the affirmative—yeas 72, nays 37; as follows:

"YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Bailly, John D. Baldwin, Beaman, Blaine, Jacob B. Blair, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Patterson, Perham, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—72.

"NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Coffroth, Cravens, Henry Winter Davis, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Grider, Harding, Harrington, Charles M. Harris, Hutchins, King, Knapp, Le Blond, Long, Mallory, Marcy, McDowell, Morrison, Noble, Pendleton, Perry, Robinson, Rogers, Ross, Strouse, Voorhees, Wadsworth, Chilton A. White, and Joseph W. White—37.

"So the bill was passed."

On the subject of arming slaves, of putting negroes into the Army, how has my colleague and his party voted? Universally against it. They would strip from the backs of these black soldiers, now in the service of the country, their uniforms, and would send them back to slavery with chains and manacles. And yet they are the friends of the soldier!

Mr. ELDRIDGE. I rise to a point of order. The gentleman from Illinois is not discussing the question before the House.

The SPEAKER. The constitutional amendment opens a very wide range of debate. The gentleman's colleague [Mr. Ross] to whom he refers followed the same course of debate last evening, and it was tolerated.

Mr. WASHBURN, of Illinois. My colleague [Mr. FARNSWORTH] is only replying to the speech of my other colleague [Mr. Ross] who spoke last night, and on whom no point of order was raised.

The SPEAKER. The Chair has not attempted to confine gentlemen very closely in debate, for the proposition certainly opens up a very wide range.

Mr. HOLMAN. I trust the point of order will not be pressed. But I trust that he will not charge that the Democratic party has, by any declaration, favored the returning of slaves to rebel masters.

Mr. FARNSWORTH. On the vote to repeal the fugitive slave law how did that side of the House vote? Does not the fugitive slave law affect the black soldier in the Army who was a slave? That side of the House are in favor of continuing the fugitive slave law, and of disbanding colored troops. How did that side of the House vote on the question of arming slaves and paying them as soldiers? They voted against it. They are in favor of disbanding the colored regiments, and armed with the fugitive slave law, sending the men back to their masters. I do not charge this on the gentleman from Indiana, [Mr. HOLMAN.] I think he does not vote invariably with his party. He has too much sense and too good a heart for that.

Another objection to this proposition, made by my colleague, [Mr. Ross,] and also by the gentleman from New York, [Mr. FERNANDO WOOD,] and by the other gentleman from New York, [Mr. PRYOR,] is that it strikes at property; that it interferes with the vested rights of the people of States in property. What constitutes property? I know it is said by some gentlemen on the other side that what the statute makes property is property. I deny it. What vested right has any man or State in property in man? We of the North hold property, not by virtue of statute law, not by virtue of enactments. Our property consists in lands, in chattels, in *things*. Our property was made property by Jehovah when He gave man dominion over it. But nowhere did He give dominion to man over another man. Our title extends back to the foundation of the world. That constitutes property. There is where we get our title. There is where we get our "vested rights" to property.

In these points are summed up pretty much all the arguments made on the other side of this House against the passage of this bill, and I will occupy no more time in answering them.

Mr. Speaker, at the time of the organization of this Government there were but about fifty thousand slaves within the limits of the United States. When our fathers rose out of the clouds of the Revolution and formed this Constitution, which I trust we are about to amend, no one of them dreamed that slavery in this land would continue until this time.

This fact may be gathered from the writings of the men who wrote and from the speeches of the men who spoke in that day. Why, sir, immediately after the Revolution, Congress issued an address to the people in which occur these memorable words:

"Let it be remembered, finally, that it has ever been the boast and pride of America that the rights for which she contended are the RIGHTS OF HUMAN NATURE."

This language was deliberately adopted and addressed to the people of the United States. This was after the Declaration of Independence, wherein they had declared as self-evident facts that all men were created equal, and endowed with the inalienable rights of life, liberty, and the pursuit of happiness. And when they followed this by the adoption of the Constitution the greatest care was taken that no words should be incorporated into that instrument which would imply that "man could hold property in man." I use the very language of James Madison, a member of the Convention which framed the Constitution. He objected to incorporating the word "slave" or "slavery" into the Constitution, for the reason, as he said, that he would have nothing put into it which would recognize the right of a man to hold property in man. And you may search through the Constitution from the beginning to the conclusion of it, and no stranger to the fact that slavery has existed in the United States would believe for a moment that slavery could exist under it.

Let that Constitution go before a court which is a stranger to the fact that slavery has existed here, and let it be construed as courts are required to construe written instruments, by itself, without looking to the facts of contemporaneous history, and no judge thus construing the Constitution would say that slavery could exist under it.

Our fathers were thus careful in framing the Constitution so that when slavery should be entirely abolished, and when their posterity should come to look in there, they could find nothing to mar its beautiful symmetry. That was the object, that when future generations came to look at that sacred instrument they should not find anything in it to indicate or imply that slavery ever existed in this land. Why, sir, they believed that slavery was going to die outspeedily. Already steps had been taken in several of the States toward the abolition of slavery, and several of the States abolished it soon afterwards. There were, as I said before, but fifty thousand slaves in the Union. The raising of slaves for market was unprofitable. The old fathers who made the Constitution, the men who fought the battles of the Revolution, fought for the rights of *human nature*, and they believed that slavery was at war with the rights of *human nature*. Of course such men, who had just gone through the fires of a seven years' war for those principles, and who framed the Constitution upon such a base, believed that slavery would die, and that speedily. Mr. Jefferson, in his Notes on Virginia, says:

"In the very first session held under the republican Government the Assembly [of Virginia] passed a law for the perpetual prohibition of the importation of slaves. This will in some measure stop the increase of this great political and moral evil, while the minds of our citizens may be ripening for a COMPLETE EMANCIPATION OF HUMAN NATURE."

Why, sir, it has been said by gentlemen over the way, if not now I have heard the sentiment uttered before on that side of the House, and by men of that party, that the "human nature" referred to in that address of Congress was not meant to apply to black human nature; that that only meant white men, Anglo-Saxons—Anglo-Saxon *human nature*! But Mr. Jefferson declares that the abolishing of the importation of slaves may prepare the way for the "speedy emancipation of human nature." That shows what was meant and how those words were understood

I said I thank God that this nation at last has recognized the manhood of the negro. It did that when it put on him the uniform of a soldier of the Republic, and put him into the field to defend the country. His rights and his manhood were recognized, and nobly does he vindicate himself. Sir, I know something of the good faith, of the reliability and nobility of the negroes, and of the faithfulness with which they assist us. The

very first information that the army of McClellan had of the approach of Jackson from the Shenandoah toward Mechanicsville was given by a contraband who came into my lines a little above Atlee's station. When I had examined him I sent him to headquarters, with a note stating that he possessed and had given me valuable information. Porter sent him back to me with directions to send him through my lines again for more information. That very night he passed through the picket lines of the enemy, and in twenty-four hours returned with information of the exact position of Jackson and his army, and of his designs. And yet, according to the doctrine of my colleague, I should have put chains and manacles on that man, and with stripes sent him back to his master. What right had he there? Set at him the blood-hounds of the fugitive slave law; "the Constitution guarantees slavery; you are agitating the rebels and making them worse." Irritating them; yes, sir, that is the expression. I irritated that man's master by not sending him back. Was not that man more valuable to the Government than Jeff. Davis and his whole crew ever were? Was he not better entitled to respect from the white men of this nation than any man now in the rebel ranks, or who sympathizes with them, no matter what his position or wealth?

Mr. ROSS. I desire to ask the gentleman whether he thinks the white man is equal to the negro.

Mr. FARNSWORTH. Mr. Speaker, that is a silly question which it is useless to answer. I think some white men are better than some other white men. I think some white men are better than some negroes, and that some negroes are better than some white men, especially those of the copperhead persuasion.

Mr. Speaker, upon every battle-field where the black troops have had any chance to show their gallantry and bravery, they have vindicated the high estimation which has been placed upon them and the confidence imposed in them in elevating them to the position of soldiers. I know it used to be said when the idea of arming the blacks was first broached that white soldiers would not fight by the side of black men. Go to the Army to-day and witness the charge of a black brigade, and then come back and tell me whether the white soldier is not willing that the black man shall fight by his side. Witness the shouts and plaudits and cheers which ring out from the throats of the white soldiers as the black men march steadily up to the serried lines of the rebels, and then come back and tell me if the white man is not willing that the black man shall help him to fight the battles of his country.

Mr. Speaker, I am in favor of finishing this business *entirely and finally now*. No child is so simple as not to know that slavery is the cause of this war; that it is the source of all our woe. Then why not finish it? It has spread the land with weeds and mourning. It has hung the very heavens with black. It has disgraced and dishonored us long enough with the other nations of the earth, and God is now chastising us for the sin.

Mr. THAYER. Mr. Speaker, it is not my intention to detain the House at this late period of the present discussion with any protracted expression of my views in regard to the measure now before the House. I rise merely to make one or two suggestions in reply to the line of argument which was pursued yesterday upon this question by gentlemen on the opposite side of the House, and to give my reasons why I believe it to be the duty of every man who has the welfare of his country at heart to vote for the joint resolution now before the House. With that class of thinkers who agree with the member from the fifth congressional district of New York [Mr. FERNANDO WOOD] that slavery is the best possible condition for the negro race, or for any race, I do not intend at the present time to enter into argument. Sir, I would consider it derogatory to the representatives of a free people to enter into a deliberate argument to refute a proposition so monstrous and so barbarous as that enunciated by the gentleman from New York. Humanity and civilization revolt against a sentiment so inhuman in itself, and so debasing to the mind that holds it, as the sentiment which we listened to yesterday, that slavery is the best possible condition of the negro race.

Mr. FERNANDO WOOD. I reaffirm it.

Mr. THAYER. I am willing that he shall reaffirm it. Let that record which he here reaffirms to-day go down to posterity in the history of this country, and let those who act with the gentleman from New York assume the responsibility of that sentiment before the country if they dare.

Sir, the gentleman from New York has a right to his sentiments. He has a right to express them. While I find no fault with his expression of them I can only say that for myself I would not hold or avow a sentiment so barbarous, so cruel, and so inhuman in its character as that for all the wealth and honor that are embraced within the four quarters of the world.

I do not intend, sir, to enter into an argument to show that the negro is not a brute but a man. I will not insult the presence in which I stand by entering into an argument to prove that which every man's conscience, which every man's humanity, must or ought to admit without argument. I have said, sir, that I do not intend in the few moments during which I shall occupy the attention of the House to deal with that kind of argument. I content myself here with simply denouncing such sentiments as those expressed by the gentleman from New York as barbarous, inhuman, uncivilized, and unchristian. I am willing that the record which he has made shall go down to posterity as he has chosen to make it yesterday and to reaffirm it to-day.

Mr. FERNANDO WOOD. That is why I did it, for posterity, not for this House, nor for the fanaticism of the day.

Mr. THAYER. I pass from that. I have nothing to say to men who hold sentiments of that character. In my opinion it is too late in the history of the world, and too late in the history of this country, for it to be necessary to enter into any argument to prove the falsity and the inhumanity of a sentiment like that to which I have referred.

But, sir, I pass to some objections which were urged to the passage of this joint resolution on the ground of a want of power in Congress to pass it. It was said by the gentleman from New York from the fourteenth district [Mr. PRYOR] that we had no right—at least I understood that to be the line of his argument—to provide for an amendment of this character to the Constitution. He referred to the fact that all the amendments of the Constitution that have hitherto been adopted were restrictive in their character. And, if I understood him, he meant to build upon a statement of that fact an argument that we had no right so to amend the Constitution as to enlarge the powers of the General Government. I take issue with the gentleman on that argument. I stand on the Constitution when I say that the people of the United States have by the forms and instrumentalities prescribed in the Constitution an unlimited right to amend that instrument, except in the particulars in which they are prohibited by the fundamental law itself. When I find in an instrument like this a power given to amend in every respect except in certain specified particulars, on what has an argument to stand which says that you can only amend it in one direction, that you can only amend it in a manner that shall restrain and contract the powers originally granted, and that you cannot amend it in a direction that will enlarge its powers or improve its character? Such a principle as that conflicts with the very foundations of liberty. Upon what ground, I ask, are the people of the United States to be told that they cannot, if they choose, improve the fundamental law of their Government? Suppose the people of the United States were to propose to amend the Constitution so as to enlarge the presidential term of office to six years, would that be a restriction of the rights already granted? Undoubtedly not. And yet, according to the theory of the gentleman from New York, [Mr. PRYOR,] they could not so amend the Constitution. So if the people should choose to alter the Constitution in regard to the length of service of their Representatives in Congress, or to enlarge the powers of Congress, they clearly may do it. I suppose there is no one on this floor who would deny that proposition. And yet such an amendment would be in direct contravention of the principle laid down by the gentleman from New York, because it would not be a restriction or limitation of the rights already granted, but an enlargement of them.

I might multiply these illustrations indefinitely, but there is no necessity to do so. The fallacy of the argument is as clearly demonstrated by one example as it would be by a hundred. The truth is that there is not the slightest foundation for the principle laid down by the gentleman from New York.

The people have, in making the Constitution, reserved to themselves a right of amendment unlimited, except in the particulars in which they have chosen, in the fifth article, to restrain themselves from amendment, and those are so clearly defined that it is impossible to fall into any mistake in regard to them. You cannot alter the equality of suffrage in the Senate without the consent of the State to be affected thereby. You could not, prior to 1808, prohibit the slave trade or alter the proportion of direct taxes to the census as prescribed in the ninth section of the first article. These were fundamental points which the framers of the Constitution declared should not be changed. In no other respects was the will of the people to be restricted. In all other matters the power of amendment is unlimited. In all other matters three fourths of the States may amend, revise, restrict, enlarge, or correct, as it may suit their own judgment.

Sir, this is a matter for the people of the United States. We are not amending the Constitution. We do not propose to amend the Constitution. We propose by this joint resolution to afford the people the opportunity of amending their Constitution if they see proper to exercise that power. When the Legislatures of the several States shall act upon the amendment proposed to them by Congress in accordance with the provisions of the Constitution, they will act as the representatives of the people. The votes which they will give for or against any such amendment are the votes of the representatives of the people. Their voices are the voice of the people. If then, sir, the people have an unlimited right of amendment of their Constitution except in so far as they have chosen in the fundamental law to restrain themselves from the exercise of that right, the only question which remains is whether it is proper at the present time to afford the people the opportunity of so amending the Constitution of the United States, if they shall see proper so to do, as to prohibit slavery forever within the territory of the United States.

But here we are met with the objection that the time is not auspicious for such action; that it is not a proper time to amend the Constitution in this respect. Why, sir, what time could be more opportune for effecting this great national reform than the present time? What hour is more proper for the punishment of a great State criminal than the hour in which he is found engaged in the commission of his crime? This institution, sir, has waged war against the life, the liberties, and the Government of the nation; and this institution for this crime deserves to die. It should die in the commission of its great and unpardonable crime. No more proper time could be fixed for inflicting the punishment than the time in which it is engaged in carrying on this desolating war against the very existence of the Government.

But we are told that this will exasperate the people of the South; that we should act calmly upon so grave a measure; that it will drive the South to fiercer resistance. Sir, if a smile were not out of place in the discussion of a subject so terrible and so distressing in its character as the war which now rages in this country, surely such an argument as this would justify it. The atrocities committed by the traitors in arms have been so many and so great that it is mere folly to speak of increasing their hatred or exasperation. To the ferocity and vindictiveness of those who, for the extension and perpetuation of this cruel and remorseless institution, have commenced and are now carrying on this war against the Government of the United States, you can add nothing by any legislation which you may propose here; you can add nothing to the hate which these conspirators against public liberty entertain against the free institutions of the United States and the people who are in arms to defend them.

I repeat, sir, that now is the time to uproot and destroy forever this prolific cause of all our sufferings. Let the institution of human slavery, which has set on foot this diabolical war and filled the land with desolation and sorrow, perish from

the earth. It alone stands between our country and its future greatness, prosperity, and glory. Let us so act to-day that its injustice, its cruelties, and its bloody footprints shall speedily and forever disappear from the soil of America.

Mr. MALLORY. I not only take issue with the gentleman from Pennsylvania who just addressed the House, on his assertion that this is preëminently the time to amend the Constitution, but, sir, I believe the calm reason of the House, if they would submit themselves to their calm reason, and the calm reason of the country, will bear me out in declaring that of all the times, from the foundation of the Government down to the present moment, for taking into consideration the Constitution, that great instrument of organic law, for the purpose of alteration and amendment, this is the most inopportune and unfit. That instrument, sir, was given us by a band of men the like of whom I believe has never been seen in this or any other country; men of wisdom unparalleled; men of almost more than human wisdom, for I believe I shall be sustained in the declaration which I now make in the full view of history and of the great events in which they lived, those noble sires, when they gave us that great instrument, spoke almost as men inspired with wisdom from on high.

Do you tell me, when the passions of the entire country are swayed to and fro by the civil war now raging in our midst, when the public passion and feeling are upheaved from their lowest depths, that we are fit, calmly and deliberately, to act on the work of those great masters and say in what particulars it should be changed? Sir, the declaration is one of arrogance and presumption, against which I offer my solemn protest. Who are the men who are to take into consideration and pass in review this wonderful work of those mighty men? Where are the giants of the present day to correct the work of the giants of the past? Do we see them in this Hall? I cannot see them. Do we see them in the Senate of the United States? That was a great body in former times. They are not there. Are they to be found in this country, either in high official position or in the walks of private life? If they are, I have failed to find out where and who they are.

Sir, when you compare the pigmies who undertake to trifle with the Constitution and the legislation of this land upon this floor to-day with the great men who framed and expounded that Constitution in the earlier and better days of the Republic, it is like comparing Hyperion to a satyr.

No, Mr. Speaker, this is not the time for changing the Constitution of the United States. When men return to their reason, or when reason returns to men, when passion has subsided, when this civil war has ended, and peace spreads her wings over this land, will be time, if there be a necessity for it, to consider this great system and attach to it such amendments as the calm wisdom of that day shall adjudge proper. Does the gentleman from Pennsylvania [Mr. THAYER] feel that he is competent to examine and analyze and alter and amend this great instrument? Has he the conscious power?

Mr. THAYER. In this particular I think that we are all fitted.

Mr. MALLORY. In this particular! Why, sir, in this particular you are less fitted to act than in any other particular that can be imagined. You cannot reason about the institution of slavery. You cannot judge about it. You run a "muck" whenever the question is introduced into this Hall. No word of reason, no word of judgment, and no word of sense scarcely falls from your lips when the subject is mooted. Yet in this particular you feel yourselves competent to do better than the great men who framed this Government have done!

The provisions of that great instrument in relation to the subject of slavery were the result of compromise, without which this Government never could have been framed. To that Constitution, with that and other compromises embraced in it, every State in the Union gave not only an implied but a direct and express assent. We are informed by the best writers on the science of government, at least they have consented to the truth of the aphorism, that "all government derives its just powers from the consent of the governed." Even now in this time of war, in this

time of passion and excitement, to change the Constitution on a vital point, when eleven States are not here to consult and act with us, and when their assent to this altered Constitution is not expressed and cannot be implied by any sort of forced construction, and say that they shall be subjected to it, is in utter violation of this great and just principle. They do not compose a foreign country and a foreign Government, as so many on that side of the House have asserted. They are States of the Union yet, who have formally given their assent to the Constitution which you now propose to amend. If you change it in their absence what right have you to declare that they shall abide by it? If all Governments derive their just powers from the consent of the governed, when you have amended this Constitution what right have you to say to those States in revolt, who are not here to-day to engage in your deliberations, that they are bound by that Constitution to which they have given neither assent or dissent?

Sir, the gentleman from Pennsylvania [Mr. THAYER] urged that this amendment is necessary; ay, in that new language which the President of the United States has put into their mouths, I suppose he and his party would say *indispensable* in order to preserve the peace of this country and the integrity and perpetuity of the Government. It is necessary, it is indispensable in order to effect these great objects that slavery now, when you have the power in the absence of those States, should be stricken from existence. And they say this is necessary because it is impossible to continue this Government of ours any longer with slavery in it. It is such a disturbing element that peace and slavery are incompatible, and through all time, if you permit this crisis to pass without exterminating it, you will have this disturbing cause to produce civil war in this country.

I deny that theory. From the commencement of this Government down to this time—a period of seventy-five years—slavery has existed in the United States, and I defy the most astute man upon that side of the House to point to a nation that has progressed like ours in everything which makes a nation great, prosperous, and happy, in the same space of time. It was not until you undertook to strike down this institution that it became a disturbing element, and agitation to restrict and destroy it, commenced by the North, and for its extension by the South, have produced the effects from which we are now suffering. Slavery inconsistent with the republican liberty which we have enjoyed under the Constitution of the United States! Slavery inconsistent with peace! An irrepressible conflict between free and slave States in the same Confederacy! The absurdity of the doctrine is proved by the inexorable logic of history; by proof incontestable and absolute.

Where do those who differ most widely upon the subject of slavery live? On the Gulf of Mexico, and away up in the cold region of New England; States not in contact; States as wide apart almost as the poles; in South Carolina, from which a slave rarely ever escaped, and Massachusetts, into which one scarcely ever fled, whose people rarely met, and knew little of each other. But in the border States where I live, where free and slave States come in contact, a different state of feeling prevails. Take the immense strip of country where this contact exists along the Ohio river; take Kentucky on one side and Indiana on the other; Kentucky on one side and Illinois on the other; Virginia on one side and Ohio on the other; Missouri on one side and Illinois on the other, and Missouri and Iowa, and I defy any man to point out any portion of the people of this country who have lived in more perfect peace and accord and harmony. The southern portion of those free States bordering on the slave States, along the Ohio, have never objected to the institution of slavery. They have agreed with us socially; they have had constant friendly intercourse with us as neighbors; they have returned our property, and the most friendly relations have existed between those portions of the free States and the slave States along the Ohio.

But when you go further north you find a people who are constantly exciting the public mind by inflammatory writings and speeches, and by everything calculated to arouse a feeling of hatred against the people of slave States. There is no

irrepressible conflict between the free and slave States; no want of homogeneity in the people of those States in which slavery exists and those in which it does not exist; and there is no enmity except that which has been engendered by the teachings of the enemies of our country North and South. An aspersion of this kind is a mere pretext; it has always been such, and it has nothing to warrant it. Did not the States which adopted this Constitution, did not the State which I represent, and of which I am proud, when they gave their consent to the Constitution of the United States, pledge themselves that every State should be preserved—not particularly in the right to hold slaves, for I do not want to talk about the matter in that limited and confined view—but did they not pledge themselves that every State should have the right to the unfettered control of their own domestic institutions in their own way? If we were disposed not to value slavery and cared nothing about it, yet we ought to stand in solid phalanx protesting against this infringement which, if not rebuked, will reduce us to abject submission and slavery. Give up our right to have slavery if we choose, submit to have that right wrested from us, and in what right are we secure? One after another will be usurped by the President and Congress, until all State rights will be gone, and perhaps State limits obliterated, and a grand imperial despotism erected on the ruins of our rights and liberties. It will matter very little whether this is accomplished by amendments to the Constitution, or under the plea of military necessity, or under the claim that whatever is indispensable is lawful, even though clearly in violation of the Constitution. Against this consummation I will speak, and, if necessary to prevent it, I will fight.

Kentucky, sir, protesting here on this floor, protesting by her people, protesting through her press, protests against amendment of the Constitution at this time, and does not hold herself bound to a Constitution that you change in spite of her protest and in spite of the absence of those States which would aid her in preventing that amendment.

You say that slavery is incompatible with peace, and fealty and allegiance to the Constitution dangerous to the Union. Sir, did the existence of slavery in Kentucky, Missouri, and Maryland lead those States into rebellion against the General Government? Did it induce them to follow the lead of South Carolina into rebellion? Yet slavery existed there. It exists in those States now. How then can you, in the face of this proof, say that slavery cannot exist in States and those States be loyal? Why persist in the declaration that it is impossible to preserve the Union and let slavery exist? In making this declaration you give the lie to your President and his prime minister. Seward, in his letters to Dayton and Adams, says, "Slavery will remain whether the rebellion succeeds or fails." Ah, Mr. Speaker, slavery is not properly a ground or a cause for a dissolution of this Union, for civil war, or for disturbance. But I am very much afraid that the party upon the other side of the House, aided by the present Administration of the General Government, may make slavery the cause for the disruption of this Union. You have changed your whole policy in regard to the war. You have converted it from a war to preserve the Union, as you acknowledge and boldly declare, into a war for the abolition of slavery, because you say that is the only way to preserve the Union. What has been the effect of your course? You have united the people of the southern States in solid phalanx and divided the people of the North, and alienated to a great extent the people of States who were almost undivided at the commencement of the war. By your peculiar policy, the confiscation bill, the freedmen's bill, and now by your proposed amendment to the Constitution, you have made the South a unit against you, where at the commencement of the war there was a divided opinion.

Sir, I remember a remarkable statement made of the great man who now heads the Administration of this Government, and whom you are trying to make your President for the next four years on this subject. On the Sunday preceding the day on which the extra session of Congress was to adjourn in 1861, I called upon the President by appointment in company with two of my col-

leagues, now dead, the lamented Crittenden, and Jackson who fell so gallantly at the battle of Perryville, and my colleague from the Maysville district, [Mr. WADSWORTH.] Congress had passed the confiscation bill, limited in its operation and scope, confiscating only the property of rebels used in the rebellion and emancipating the slaves so used. We thought we saw in that measure the commencement of this emancipation policy of the Government which would lead to disastrous results. We visited the President with a view of trying to induce him to forbid that law. We had a long and free conversation with him. He left the impression on my mind and on the minds of my colleagues that he would not give his sanction to that law. He said that he was opposed to this whole system of legislation, and left the impression on us, although he did not say so in express terms, that he would veto that bill. In the course of that conversation he turned to me and, addressing me personally, said: "Mr. Mallory, this war, so far as I have anything to do with it, is carried on on the idea that there is a Union sentiment in these States, which, when set free from the control now held over it by the presence of the confederate or rebel power, will be sufficient to replace those States in the Union. If I am mistaken in this, if there is no such sentiment there, if the people of those States are determined with unanimity, or with a feeling approaching unanimity, that their States shall not be members of this Confederacy, it is beyond the power of the people of the other States to force them to remain in the Union;" and said he, "in that contingency—in the contingency that there is not that sentiment there—this war is not only an error; it is a crime." That was his declaration at the commencement of this war. Since then he has been induced to change his policy by his friends on the other side of the House.

Mr. STEVENS. Will the gentleman allow me to ask him a question?

Mr. MALLORY. I have only forty minutes, and must decline to yield.

Mr. STEVENS. I dislike to raise a point of order on the gentleman; but if he will not let me ask my question, I shall have to do so.

Mr. MALLORY. Go on and make your point of order. I do not yield under a threat.

Mr. STEVENS. I do not threaten; and if the gentleman takes it unkindly, I will withdraw the request. I thought he was going on out of order.

Mr. MALLORY. If the gentleman asks me in that way I will yield to him. I did not wish to yield under a threat.

Mr. STEVENS. Oh, no; I meant no threat. I withdraw the request.

Mr. MALLORY. Mr. Speaker, from that time to this—I charge here—the President of the United States, after having made to me this declaration, and his aiders and abettors on that side of the House have persistently, constantly, and with diabolical ingenuity, struggled by their legislation and policy to crush out the Union sentiment existing in the southern States. I go further, and say that I believe that by that harsh policy they have accomplished their purpose. I go still further, and say that I believe, with many a man on that side of the House, this was designed and looked for and intended. They wished to crush out Union sentiment in the South, and to have nobody there their friend. They wished to pursue that whole country with a sword in one hand and a fire-brand in the other, burning and destroying as they went, in order to do—what? To wipe out the white people of the country and supplant them by black free men, whom they are going to make American citizens, to be controlled and governed by the northern emigrants whom they may think proper to send there from New England.

I am very much afraid, Mr. Speaker, as I charged a few moments ago, that by that policy, by that persistent effort to exterminate slavery by means of cruel and unconstitutional acts, they have succeeded in rendering a continuation of this Union impossible, and they may in that way have made slavery the cause of the dissolution of the Union. I deplore it, sir. This Union is the very life-blood of Kentucky, and I deplore its destruction. I will raise my voice and do any act to prevent a consummation which we in our State would deplore as one of the greatest, if not the greatest, evil that could befall us. If you say to

those rebellious States, "Submit to the authority of the Federal Government, yield obedience to the law," they have the right to ask you what they are to expect if they comply with your demand. And what is the reply? "You are to expect that you shall be stripped of every particle of your property. You have to expect that the right of self-government will be taken from you. You have to expect that the President and Congress will frame and impose on you such form of State government as they may think proper; that the President shall indicate not only the men who shall vote in the elections for members of Congress and of the State Legislatures, but shall also indicate the men who shall be elected to those offices, and the peculiar qualifications of electors and office-holders in those States. You have to expect nothing better than that. You are to expect, if you come back, to come back the abject and submissive slaves of the conquering power."

Sir, in the most arrogant days of the Roman empire, when, after a province was subdued, the conqueror came back to Rome with a long train of captives following his chariot and forced to pass *sub iugo*, there never was presented a spectacle more mournful and degrading than that which you propose to subject this people to.

Mr. WADSWORTH. It is impossible.

Mr. MALLORY. I believe it is impossible, it cannot be done until all spirit and pride are crushed out of a gallant and proud race, and that can only be done when they are exterminated.

Mr. Speaker, what is the necessity for this constitutional amendment? Why do gentlemen of the Republican party want to tamper with the Constitution? The Baltimore convention indorses every act of the President of the United States; and the President says in his letter to A. G. Hodges, of Kentucky, that while there is a step to be taken indispensable to save the nation he will take it, although he knows it to be in violation of the Constitution, and that he has a right to do it, and that such step is lawful. Lawful to violate the Constitution which he has taken a solemn oath to protect and defend! Lawful to violate that in order to preserve the nation by the commission of any act he may deem indispensable to such preservation! Oh! what fidelity to the Constitution rests on the conscience of that great man! What a law-maker, what a law-giver, what a law-enforcer he is! Would he not be a pretty amender of the Constitution of the United States framed by Washington and Hamilton and Madison? Why do you want to change it?

The President strikes down the writ of *habeas corpus*, the safeguard of personal liberty, and says that it is indispensable and is right. And you support him in it. He abolishes trial by jury, and says that it is indispensable to do it in order to get at traitors; and you say so, too, and that he has a right to do it, because he deemed it indispensable. He has arrested without "warrant" and condemned without "due process of law" hundreds of our citizens, and confined them in prisons and forts, who have been ascertained to be guiltless of any crime, and you approve it. He has subjected hundreds of free citizens not in military service to be tried by military tribunals, and punished by martial law, and you indorse it. He struck down slavery, as he himself acknowledges, in defiance of the rights of the States to control their own domestic institutions. He says it was in violation of the Constitution, and that he knew it when he did it. You say it was indispensable as a war measure, and, constitutional or unconstitutional, it is right. Very well; why, then, do you want to tamper with the Constitution? Why do you want to change the Constitution? Why do you want to exercise this power through the Constitution to accomplish that which you say the President has already done with your consent, in spite of and in violation of the Constitution? The Constitution is no impediment to the President or to you.

Sir, in discussing this question I feel for my country, I feel for those who framed the Constitution, I feel even for you gentlemen upon the other side of the House, for I do not want to see inflicted upon any portion of my fellow-citizens the contempt of the country and of the whole civilized world, such as will be visited on your heads for the tergiversation you have practiced since the commencement of this war. You have broken faith with the country; you have broken

faith with States still loyal to the Constitution; you have broken faith, and you now propose to break faith by taking to yourselves the control over an institution which not only the requirements of the Constitution but all the dictates of reason and justice join in urging should remain under the control of the several States.

I ask gentlemen, if they will not regard the dictates of conscience and reason in this matter, to consider what a precedent they are setting. We are now carrying on a war which I believe, so help me God, unless the policy upon which it is being carried on is changed, will render any other result than the total destruction of the Union impossible. You are heaping up a national debt of four to six thousand millions, which will in future be represented by the bonds of the United States. You are heaping up this debt at a fearful rate for the benefit of shoddies and the manufacturers and capitalists in the eastern States. Suppose you do as you profess to believe; after carrying on the war until you have heaped up the public debt to five or six thousand million dollars, wrung from the labor and sweat of the people of the whole country, and especially of the West, by taxes, by which those colossal fortunes in the East have been reaped, suppose you bring it to a close by crushing out the power of the South, have you ever reflected on what is to follow? Have you ever reflected what a precedent you are setting by the acts of broken faith you have heretofore perpetrated and are now enacting? When this public debt of five or six thousand million dollars, held by eastern men, shall come to stare the nation in the face; when the men of the West shall be called on to have wrung out of their scanty earnings the amount required to pay the interest on that debt, and when the price of their products shall have been reduced, as they will be in that day, these men, with starvation before them, will be driven to say they will no longer submit to these exactions, they will be no longer responsible for the public debt. You will say, "That is a breach of the public faith; your faith was plighted to pay this debt; you will be disgraced in the eyes of the civilized world if you repudiate it." In that day of your terror and your alarm, in that day, when these millionaires, these men of opulence, are being reduced to poverty and want, I will not laugh at your calamity, I will not mock when your fear cometh; I will mourn with you in your affliction.

But if the people of this country, following the wild precedents you have set them, and are proposing to set them to-day, swear that they will not submit to be impoverished by exactions to swell the bloated coffers of the eastern millionaire enriched by sucking like a vampire the blood of his country, and in the exercise of their power wipe this debt, and the barnacle fortunes that hang to it, out of existence, it will not be for you to complain. It will not become you to cry out, Broken faith!

Now, let me ask you a practical question. What do you intend to do with the slaves you propose to set free? What are you going to do with the elephant when you get him? [Laughter.] Has anybody attempted to furnish a solution of this question? Yes, sir, a solution has been attempted; I will examine it. They propose to put those of them capable of rendering military service into the Army to fight the battles of the country. They have been placed in the Army to the number of one hundred and thirty or one hundred and fifty thousand. Where, in your armies, have you placed these men? Have you placed them as a shield between the enemy and your white troops? A gentleman in this House in the last Congress declared he was willing a black soldier should stand as a shield between his son and the bullets of the enemy. No, sir; these black men have not been placed in that position; they have been placed behind fortifications and out of the reach of the guns of the enemy. You make them equal to white soldiers in pay, clothing, rations, and position; you make them superior in position to white soldiers by saving them from danger and wounds and death. You degrade the white private soldier to a level with or below the negro; but the officers you make a privileged class. You make the black private soldiers equal to the white, but you will not allow your white officers to be degraded by allowing the negro to become his equal in position as an officer in the Army of the

United States. Why do you not do that? You assert that Bob Small and Fred Douglass and others are equal to white men in gallantry and intelligence, and all the elements of the military leader, and yet refuse them positions commensurate with their asserted merit. Why is this?

Do you say in reply, "We want to use these officers, we want to keep in their good graces. We will not debase them by saying that a negro shall be their equal. Our officers are gentlemen; they would be offended if we raise the negro to their level or degrade them to the negro's level, though he shall be the equal of the contemptible scum that composes the rank and file of the Army." That is your policy, is it?

You will not put the negro forward to share the dangers of the white soldier. I ask you why? You say that he is a good soldier. Lorenzo Thomas, suspected of being a rebel at the commencement of the war, who has gone throughout the South to organize the negro forces, says that he is a better soldier than the white man, because he has a musical ear that enables him to keep step better: I suppose to the music of the Union. He says that he is a better soldier, because he has been accustomed to be commanded and readily obeys. There it is: he obeys without questioning, and therefore you want to save him from the ravages of war. You want to see that one hundred and thirty thousand negro soldiers spoken of by Mr. Lincoln increased to three hundred thousand. You do not want the number diminished. You want to save them from the bullets of the rebels. This obedient, submissive race, when this war is over, may be needed for some other purpose. They have had this class of soldiers in Europe. There they have had hired soldiers known as Swiss, ignoring home and country, with no local attachment. Like the dog, they follow and obey their master; dependent for their pay and subsistence upon their employers, they know and obey no one else. We do not want that class of soldiers in the United States. History points them out as the tools used to crush out the liberties of the people and to preserve and defend despotic power. If you want them, for what purpose do you want them? Sir, this is a pregnant question; it is not answered here. I hope that history may not write the answer in blood, in the destruction of our Government and liberty, in the erection of a despotism on the ruins of our Republic.

What do you propose to do with those you cannot use in the Army—the women and children and worn-out men? Three years ago I asked that question in this House, and the answer by the leading abolitionists then was, "We will colonize them." I stated then that this would not be done, that the country would never consent to add to its debt twelve or fifteen hundred million dollars for such a purpose. I said truly. You have abandoned the idea of colonization. Numbers of the free States by law prohibit their immigration within their limits. You are afraid as yet to resist the exercise of this right in despite of that prohibition, although you dispute it. You cannot send them into those States; but you propose to leave them where they are freed, and protect them in their right to remain there. You do not intend, however, to leave them to the tender mercies of those States. You propose by a most flagrant violation of their rights to hold the control of this large class in these various States in your own hands. The abolitionists of New England, by means of a majority which they hope to secure in Congress and an Administration they expect to retain in office in some way, intend to govern thousands of these creatures in my State and the other border slave States, and exempt them from the operation of the laws of those States. They intend to establish an "*imperium in imperio*" in all those States. Do you expect that the States will submit quietly to this outrage? You are not so infatuated. Do you expect then to force obedience to your will, to coerce obedience to the regulations of the "Freedmen's Bureau" by means of negro soldiers to be garrisoned in these States to overawe the people? Do you intend to "quarter a standing army on us without our consent?" Our history teaches a lesson on this subject which I commend to your consideration. You have brought thousands of these unfortunate wretches from the fields of Grant's operations to your Freedmen's Village, around Arlington, at the pub-

lic expense, and in boats which ought to have been used for the transportation of wounded and suffering soldiers, to be maintained at the expense of the national Treasury, in this way adding millions to the already intolerable public debt, taxing the already overtaxed people of the country for a purpose never contemplated by the Constitution. And are they freed? No, sir; no, sir. You still govern and control them. They do not govern themselves. You regulate their conduct, you prescribe their work, you determine what to give them, you control their actions. They are still slaves, by whatever name you may call them. You have kidnapped them from their masters in Virginia and made them your slaves.

How have you freed them in Louisiana? Banks, with the consent of the President, has established a system of slavery there, better for the master and worse for the slave, than any that I have any experience of. By it the master is relieved of the expense of rearing the slave until he is capable of performing profitable labor, and released from all obligation to maintain him after he has become unfitted by age or disease to render remunerating service. Nor is there the least freedom conceded to the slave by this system, unless it be the liberty to wander off, when overtaken by death, and die like a dog on the first dung heap untended and uncared for by a kind and Christian master. He has not the liberty to work where he pleases; he is confined to the limits of a particular plantation. He has not the right to work when he pleases; his hours of labor are prescribed. He has not the right to demand such wages as he may think his services worth; his wages are fixed for him. He has not the privilege of expending his earnings as he pleases; this is done for him by regulation. And I make the declaration that the compensation he is forced to labor for is not near equivalent to what a slave in Louisiana received under the slave system, which these wise humanitarians, Banks and the President, wish to supplant by their system of free labor. God save the mark. Mr. Speaker, by such a change as this you do not abolish slavery, but you rob it of all its humanizing and redeeming characteristics. By destroying all interest of the master in the preservation of the health of the slave, you diminish his care and kindness and indulgence to him. The watchful care of the intelligent and interested master over the young is lost, and they are left to grow up uncared for except by the negro father and mother, whose ignorance and indifference to the welfare of their offspring are matters of common notoriety.

Mr. Speaker, I will not touch this subject in its connection with political economy. I will not argue that African slave labor is the most profitable labor for the land-owner. I would never propose that African slavery should be introduced where it does not exist. I would leave all people in all States free to have it or abolish it, as a regard to their own interests may prompt them. I will not assert that African slavery is best for the white man. I may be in doubt as to that. But this I do say, in view of an experience and observation of a lifetime, and in spite of the horror excited in the gentleman from Pennsylvania [Mr. THAYER] by the declaration of the gentleman from New York, [Mr. FERNANDO WOOD], that the condition of slavery existing in my State and the other slave States is the best condition in which the African has ever been placed on the continent of America; I mean the best for the negro as it regards his physical, moral, and intellectual wants.

Mr. Speaker, I will conclude what I have to say with the assertion that I believe that the only way to preserve this Union is to stand by the Constitution as our fathers made it; not to change it; to preserve its great safeguards of liberty from destruction or violation; to return to the original policy of this Government, indorsed by the President and his Cabinet, by Douglas and Crittenden; the policy of conciliation and coercion which has received the name of border State policy—the policy of conciliation and coercion going hand in hand. I was always for it—I am for it now. While I would put down the military power of the South by force of arms I would "still carry in my right hand gentle peace;" I would hold it out to them; I would persuade them by every inducement I could offer them as erring men and

brothers to abandon their bloody rebellion. I will not denounce them as devils. I would not say that I will exterminate you if you do not submit, and strip you of all you have if you do; but I would say, "Come back, and I will forgive you as freely as the Son of man ever forgave repentant sinners."

[Here the hammer fell.]

Mr. KELLEY. Mr. Speaker, madness and despair rave, and I shall consume none of the brief time allotted me by following the gentleman from Kentucky, [Mr. MALLORY,] who has just taken his seat. Nor do I avail myself of the floor in the hope that I can say anything which will change the mind of the House on the question now before it; but, sir, the privilege is not often given to men to perform an act the influence of which will be felt beneficially by the poor, the oppressed, the ignorant, and the degraded of all lands, and which will endure until terminated by the wreck of matter and the crush of worlds. And I rise that I may thus publicly thank God and the good people by whose suffrages I am here to-day for the golden opportunity afforded me of doing such an act.

When the proposed amendment to the Constitution shall have been adopted and approved by the Legislatures, as I hope it will be, that instrument will be perfect as the genius of man can conceive. Experience, as the ages roll away, may, it is true, suggest improvements, but my poor imagination presents none. We were asked this morning whether we are wiser than the framers of our Government. I utter no word, I think no thought of disparagement of those great men. They were good men and were wise in their day and generation, but all wisdom did not die with them, and we are expiating in blood and agony and death and bereavement one of their errors—the unwise compromise they made with wrong in providing for the toleration and perpetuation of human slavery. The Convention which framed the Constitution unwisely compromised with wrong, and the bill before the House proposes to submit their work to the people through the States for revisal in this particular. It was not unknown to many of them that evil must result from their action. They knew and said while in the Convention that right and wrong were in eternal conflict, and that the avenging God was ever on the side of right.

In proof of this I turn not to the remarks of men from New England, not to those from dear old Pennsylvania, but of those who represented Virginia in that august assemblage. I hold in my hand the third volume of Eliot's Debates of the Convention which framed the Constitution of the United States, and I quote from Mr. George Mason, of Virginia, when speaking, June 15, 1788, on the first clause of the ninth section of article one of the Constitution:

"Mr. Chairman," said he, "this is a fatal section, which has created more danger than any other. The first clause allows the importation of slaves for twenty years. Under the royal Government this evil was looked upon as a great oppression, and many attempts were made to prevent it; but the interest of the African merchants prevented its prohibition. No sooner did the Revolution take place than it was thought of. It was one of the great causes of our separation from Great Britain. Its exclusion has been a principal object of this State, and most of the States in the Union. The augmentation of slaves weakens the States, and such a trade is diabolical in itself and disgraceful to mankind; yet by this Constitution it is continued for twenty years. As much as I value a union of all the States, I would not admit the southern States into the Union unless they agree to the discontinuance of this disgraceful trade, because it would bring weakness and not strength to the Union. This detestable kind of commerce."

As he proceeded he spoke of "this detestable kind of commerce," and said "I have ever looked upon this as a most disgraceful thing to America. I cannot express my detestation of it."

Mr. Tyler, of Virginia, in the discussion of the same day, as I find on the very next page, "warmly enlarged on the impolicy, iniquity, and disgracefulness of this wicked traffic. He thought the reasons urged by gentlemen in defense of it were inconclusive and ill-founded. It was one cause of the complaints against British tyranny that this trade was permitted. The Revolution had put a period to it; but now it was to be revived. He thought nothing could justify it."

Thus all the wise and good men of that period denounced the system of unpaid labor and property in human beings as wicked, infamously wicked, and the trade in men, women, and chil-

dren as diabolical. We who advocate this amendment do but propose to consummate that which the wisest and best men of that day wished to do in the Convention. We do but propose to advise the people to listen to their counsel and perfect their great work.

But the gentleman from Kentucky [Mr. Mallory] says the season is inopportune. Sir, justice is ever in season, and it is never inopportune to do right. But he also says that the rebellious States are in the Union, and yet we do not propose to allow them to vote on this measure. The people of those States are probably not aware of the fact that they are in the Union. They believe themselves to be out of the Union, and if they only knew as well as the gentleman from Kentucky does that they have a right to be represented here as well as at Richmond, I doubt not they would have their Representatives here to oppose our action on this question. If in the Union, why are their Representatives not here? Who expelled them from this House or the Senate Chamber? If the Constitution be amended by default of their votes there will be no ground for a motion to open or set aside the judgment, as, to say the least, the default is the result of their voluntary absence. Sir, he who does not sustain this resolution is recreant to the teachings of the fathers of our country; and did I not sustain it I would be especially false to the traditions of the great State which I have the honor in part to represent. In the course I pursue I am guided by the wise counsels of Benjamin Franklin and the men of Pennsylvania who with him carried that State through the revolutionary war, and gave form and spirit to her free institutions. While yet the revolutionary war was pending—more than three years before our national independence was acknowledged—on the 1st of March, 1780, in view of the fact that they then had "every prospect of being delivered" from British thralldom, they "extinguished and forever abolished" slavery in Pennsylvania. Time will not permit me to read the noble preamble to that act of Christian statesmanship; but I will hand it to the reporter that it may appear as part of my remarks in the Globe. Its spirit is that of the gospel, and its grand sentences seem to have been plucked from John Milton's noblest essays:

Preamble to an act for the abolition of slavery in Pennsylvania.

When we contemplate our abhorrence of that condition to which the arms and tyranny of Great Britain were exerted to reduce us; when we look back upon the variety of dangers to which we have been exposed, and how miraculously our wants in many instances have been supplied and our deliverance wrought, when even hope and human fortitude have become unequal to the conflict, we are unavoidably led to a serious and grateful sense of the manifold blessings which we have undeservedly received from the hand of that Being from whom every good and perfect gift cometh. Impressed with these ideas we conceive that it is our duty, and we rejoice that it is in our power, to extend a portion of that freedom to others which hath been extended to us, and release from that state of thralldom to which we ourselves were tyrannically doomed, and from which we have now every prospect of being delivered. It is not for us to inquire why, in the creation of mankind, the inhabitants of the several parts of the earth were distinguished by a difference in feature or complexion. It is sufficient to know that all are the work of an Almighty hand. We find in the distribution of the human species that the most fertile, as well as the most barren, parts of the earth are inhabited by men of complexions different from ours and from each other, from whence we may reasonably, as well as religiously, infer that He who placed them in their various situations hath extended equally His care and protection to all, and that it becometh not us to counteract His mercies. We esteem it a peculiar blessing granted to us that we are enabled this day to add one more step to universal civilization, by removing, as much as possible, the sorrows of those who have lived in undesired bondage, and from which, by the assumed authority of the kings of Great Britain, no effectual legal relief could be obtained. Weaned by a long course of experience from those narrow prejudices and partialities we had imbibed, we find our hearts enlarged with kindness and benevolence toward men of all conditions and nations, and we conceive ourselves at this particular period extraordinarily called upon, by the blessings which we have received, to manifest the sincerity of our profession and to give a substantial proof of our gratitude.

Sec. 2. And whereas the condition of those persons who have heretofore been denominated negro and mulatto slaves has been attended with circumstances which not only deprive them of the common blessings that they were by nature entitled to, but has cast them into the deepest afflictions, by an unnatural separation and sale of husband and wife from each other and from their children—an injury the greatness of which can only be conceived by supposing that we were in the same unhappy case—in justice, therefore, to persons so unhappily circumstanced, and who, having no prospect before them wherein they may rest their sorrows and their hopes, have no reasonable inducement to render their services to society which

they otherwise might, and also in grateful commemoration of our own happy deliverance from that state of unconditional submission to which we were doomed by the tyranny of Britain.

Sec. 3. All persons, as well negroes and mulattoes as others, who shall be born within this State, shall not be deemed and considered as servants for life, or slaves, and all servitude for life or slavery of children, in consequence of the slavery of their mothers, in the case of all children born within this State from and after the passing of this act as aforesaid, shall be, and hereby is, utterly taken away, extinguished, and forever abolished.

Scarcely had the Congress of the United States assembled, when, as the president of an abolition society, Benjamin Franklin was admitted to the bar of the House of Representatives, that, bowing under the weight of honors and more than four-score years, he might present the petition of the people of Pennsylvania praying Congress to follow the benign example of that State and abolish slavery. It was on the 12th of February, 1789. He drew the petition, which grateful thousands thronged to sign. And, as truth is immortal, let us listen to those words, and now, when we can aid in doing it constitutionally, grant, so far as in us lies the power, their prayer, by submitting the proposed amendment to the people. It reads as follows:

"To the Senate and House of Representatives of the United States:

"From a persuasion that equal liberty was originally the portion, and is still the birthright, of all men, and influenced by the strong ties of humanity and the principles of their institution, your memorialists conceive themselves bound to use all justifiable endeavors to loosen the bands of slavery and promote a general enjoyment of the blessings of freedom.

"Under these impressions they earnestly entreat your serious attention to the subject of slavery; that you will be pleased to countenance the restoration of liberty to those unhappy men who alone, in this land of freedom, are degraded into perpetual bondage, and who, amid the general joy of surrounding freedom, are groaning in servile subjection; that you will devise means for removing this inconsistency from the character of the American people; that you will promote mercy and justice toward this distressed race; that you will step to the very verge of the power vested in you for discouraging every species of traffic in the persons of our fellow-men."

Let us, I repeat, heed, and, so far as we may, grant that petition. Who shall complain that the Congress of 1864 responds to the prayer of the men who secured our freedom and elaborated our institutions? Who shall induce us to pause in this great work till millions of rebels return to loyalty and their soldiers lay down their arms and come to contest the policy of the act? Sir, they will probably be here before the Legislatures have all passed on the question. The dispatch just read told us that Grant is to the east of Richmond, and we know that Hunter's artillery thunders to the west of that doomed city. I apprehend legislation at Richmond is not done calmly to-day. We may deliberate, but they who address the Richmond congress most probably echo the ravings of the gentleman from Kentucky. Sir, what is it that we propose to do? Is it an act of doubtful power? No. It is simply to execute the fifth article of the Constitution of the United States, which provides:

"Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part of this Constitution when ratified by three fourths of the Legislatures of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress."

We propose to submit to the wisdom, patriotism, and humanity of the people of the States of this Union an amendment in accordance with this article, and for that we are denounced by those who in the name of Democracy plead for the perpetuity of slavery as violating the Constitution. I repeat the question of my friend and colleague, [Mr. A. Myers,] do gentlemen upon the other side know of any one act done against this rebellion that has been done constitutionally? Have they any other prayer than a prayer for the success of the rebellion, which will, in their judgment, save the Constitution by perpetuating and extending the area of human slavery? Their love of Democracy and the Constitution finds expression in degrading the laboring man to a thing of sale upon the auction-block, in shutting out from more than half our territory schools and churches and civilization in all its aspects, whether it be religion, science, art, or social life.

Sir, I arraign slavery as the efficient cause of every national evil we have endured. It put the vice with which we are now contending into the Constitution; it commenced a war upon the dig-

nity of labor and the freedom of conscience and thought the very day our Government was organized; it inspired and gives physical power to the rebellion we are crushing at such fearful cost of vigorous life; it is, as it has been, the fruitful source of all our national woes.

The gentleman from Ohio [Mr. Cox] as usual avoided the subject under discussion, but cried out for the right of asylum. Sir, this sacred instrument, the Constitution of the United States, provides, section two, article four, that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." Does he not know that for more than thirty years those dear friends of his, for whose institutions he and his party plead so fervently, have, notwithstanding this right so specifically guaranteed, denied not only the right of asylum, but the right of transit through their States to us, who doubted the wisdom or divinity of chattel slavery? He prates in behalf of the right of asylum for a slave-dealer, a slave-trader, one whom the civilized world brands as a pirate. I have not studied the Arguelles case, but if it be bad as his partisan rhetoric paints it, it is but a returning of a "poisoned chalice" to "plague the inventor." The offspring of robbery, its life one continued crime, its only support despotic power, slavery has impaired the national regard for the rights of the individual. It was slavery that denied the right of asylum to the beautiful and accomplished daughter of Samuel Hoar, of Massachusetts, and expelled that venerable scholar, jurist, and statesman from the limits of South Carolina, who went to argue a great cause in her courts. It was slavery that did not deny the right of asylum to William Lloyd Garrison, but offered \$20,000 to the man who would kidnap him and carry him to that State, that its humane dealers in the bodies and souls of men might flay him alive, or slowly burn him at the stake, as they sometimes did a refractory slave, or put him in a barrel with holes bored in it, that he might retain his consciousness while slowly starving to death, as he drifted in the river to which they might commit him, as other poor devotees of freedom had done when treated thus by them.

It was slavery that by threats and demonstrations of violence twice banished that friend of the Union and of mankind, George Thompson, from the limits of our country. And it is rather late to prate with lips that have praised all these acts of the right of asylum to a stealer of men and a violator of the laws of nations, which make the slave trade piracy. Devotion to slavery alone can prompt such mad garrulity. The gentleman from Kentucky said that we have made the South a unit. I deny the proposition. Sir, I believe that when the calamity of Ball's Bluff occurred we were contending against a unit. I believe that we encountered a unit at Bull Run. But it is so no longer. We have dispelled the vain pride of the South and broken its unity of purpose. We have conquered its contempt for the northern Yankee, and at no day since this rebellion began were so many southern men coming into our lines to rally around the old flag as there are to-day. You cannot get information from one of our armies, be it where it may, on any day that does not tell you of the tens and hundreds of deserters that come into our lines claiming the protection of the Constitution and restoration to the privileges and blessings of citizenship. I speak not of black men, but of white men. You cannot pass through the streets of this city any day without meeting southern people who have fled from the despotism for the perpetuation of which the leaders of the Democratic party plead to the freedom and security of the Constitution as administered by Abraham Lincoln. We make the people of the South a unit! We will indeed soon make them a unit if Grant and Sherman and the proudly victorious armies of freemen who bear their standards go on as they are going, and the bond of Union will be gratitude to those who will have freed them from a fearful despotism and secured to them and their posterity the enlarged blessings of American citizenship.

The gentleman from Kentucky also said that we do not use our colored soldiers to fight, but pet and save them at the expense of our white soldiers. Did we save them at Fort Pillow? And let me pause to ask who crucified the men at Fort Pillow, and why was it done? But that your in-

fernal institutions had taught the people of the South to look upon men, women, and children as cattle, soulless beings, things to be scourged as you would scourge an unruly and dangerous animal, that horrible chapter would never have disgraced American history. It is not for you, the champions of slavery, to complain that the negro is not exposed sufficiently to the dangers of war, for your myrmidons have fled before them in many battles, and when they have overmastered them have tortured, burned, and crucified them under the teachings of that system of which we propose constitutionally to purge the Constitution of our country. Did we save the negroes at Port Hudson, Fort Wagner, Olustee, and Plymouth; or did you at each of these places illustrate the morality of your system? Your former colleagues are the defenders of slavery in arms, you are its defenders in this Hall to-day, and for the same reason; that is, because slavery is the strength of the rebellion, the power that is assailing our country, the only means by which the masses of white men whose toil is their only wealth can be reduced to ignorance and want, and the only possible means by which you can hope to restore to power that political organization which under the name of Democracy sought to subvert our free institutions.

What, asks the gentleman, are you going to do with the freed negroes? I will tell that gentleman a secret confidentially. Above us all there is a God—slave-owners have not generally known the fact—who will take care of His children. I will trust the freed negroes to the care of God, under our beneficent republican institutions. We are told that the cries of the laborer whose hire has been kept back by fraud enter into the ears of the Lord of Sabaoth; and if the State of Kentucky is to-day desolated by contending armies, it is because the Lord of Sabaoth is avenging the wrongs of His poor children, made dumb and voiceless by the atheistic laws of that State. It is the work of a just and avenging God punishing even in the third and fourth generation the wrongs done by your fathers and which you have not repented. And when the iron shall have so entered the soul of the aristocracy of the slave States as to make them feel in their despair that "verily there is a God" who controls the destinies of men and of nations, and when they will trust to Him, in His righteous power, the care of His children, this war will cease and peace again bless our nation. When we break every yoke and let the oppressed go free, the broad fields that war has desolated will again blossom as the rose and reward the labor of the husbandman.

Let us protect our posterity against the possibility of a recurrence of these fearful evils. Let us not be content with crushing this rebellion. Let us not be content with producing all over the country loyalty to the flag. Let justice to all men be our aim. Let us establish freedom as a permanent institution, and make it universal.

I appeal to those gentlemen on the other side of the House who shrink from the abhorrent doctrines of the leaders of their party; to those of you who have read the Beatitudes and remember that at your mothers' knees you lisped a prayer that God would deal gently even with those who had trespassed against you, to vote with us, and not withhold from the intelligent people of this country the right to pass upon this question so fraught with blessed or fearful consequences. We do not make the amendment. We cannot make it. We can but initiate it. Gentlemen, you who profess to have such abiding confidence in the people, will you let them have an opportunity to say whether the Constitution shall be constitutionally amended? In their name, in the name of Democracy, in the name of Humanity, in the name of Christianity, I pray you for once to make good your professions and confide in the people sufficiently to permit them to say yea or nay on the question whether they will peaceably and constitutionally extinguish the scourge and disgrace of our common country, human slavery.

Mr. EDGERTON. Mr. Speaker, having on the question of its second reading voted for the rejection of the joint resolution now before the House, and intending to vote against it when put upon its passage, I desire to state some of the reasons that influence my vote.

In so far as the anti-slavery sentiment which

now exists in the United States is based in sincere moral and political convictions, free from the taint of passion and fanaticism, I sympathize with and respect it, and I find fault with no man for opinions intelligently and honestly entertained. A large majority of the people of the United States who have had their birth and education in non-slaveholding States, whether American or foreign, are not in favor of negro slavery. They regard it as an evil to be deprecated, not as a good to be fostered and perpetuated; and when we look back upon the history of our country from the organization of the Union until now, and see how much the question of slavery has had to do with the political agitations and sectional and partisan animosity that have culminated in disunion and civil war, few candid men can hesitate to believe that it would have been far better if negro slavery had never existed on this continent. Say what we can in its favor, its existence and history afford no bright pages in the annals of our country. For one, sir, I would rejoice to know that by the free, peaceful, constitutional action of the people of the slaveholding States, manifested through their own constitutions and laws, slavery had ceased to exist in all those States, and that the word slave could never again be truly applied to a human being within all the broad territory of the Federal Union; but I will not permit my opinions against slavery to lead me into hatred of slaveholders, nor into a lawless zeal to violate rights conceded to them by the Constitution of my country; and, in my judgment, so long as the Federal Union exists there is not and should not be any political power short of the free consent of each slaveholding State that can rightfully abolish slavery in the United States.

Negro slavery existed in all the States of the Union but one when the Federal Constitution was formed. It was a subject considered and earnestly discussed in the Convention that framed the Constitution, and the southern States, most largely holding slaves, were very sensitive and jealous as to any interference by the Federal Government with the question of slavery in the States. The Federal Constitution, therefore, accepted and recognized slavery as a fact and a legal relation under State laws; but it left it where it found it, subject to those laws. It neither in terms nor by implication assumed any control over the subject, except in three particulars:

1. It recognized and guaranteed the right of the States to import slaves until 1808.
 2. It provided that in the basis of representation and direct taxation in the Federal Government five slaves should count as three free persons.
 3. It provided, in substance if not in words, for the surrender to the owner or master, of any slave escaping from a State, where held as a slave under the laws thereof, into another State.
- It is indisputable, therefore, that the Federal Constitution went into operation in 1789 as the bond of union and the supreme law for all national purposes expressed in that Constitution of free and slaveholding States, and that there was nothing in the Constitution to abrogate or impair the right of a slave-owner to the person and service of his slave in a slaveholding State any more than there was in it anything to impair the right of a father to the person and services of his minor child in any non-slaveholding State.

Under the peaceful protection and fostering care of this Constitution, which, in the language of its framers, was "the result of a spirit of amity and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable," States that were slave States when the Constitution was adopted became of their own volition, by their own legislation, and in their own time and way, without interference, let, or hindrance from the Federal Government, free States. Other original States of the Union continued to hold their slaves. Territory was acquired and organized as slaveholding territory. New States, formed from national territory acquired by cession from the original States or by purchase or annexation, as in the case of Texas, were admitted into the Union, some as slaveholding, others as non-slaveholding States; and on the 20th day of December, 1860, when South Carolina passed an ordinance of secession from the Federal Union, of the thirty-three States of the Union fifteen were slaveholding States.

It is needless to comment on the growth and

prosperity of the Union from its organization up to the time of the attempt at its dissolution. It is enough to say, what we all know, that its history demonstrated that a Republic of Federal States, part slave and part free, could grow and prosper, and become great among the nations, and diffuse unexampled freedom and happiness among its people. Left to its peaceful, healthful action, the Federal system, committed to our care by our fathers, did not dishonor their wisdom or patriotism.

It is undoubtedly true as a fact of history that the Union could not have continued, nor the Constitution as it now is have been adopted; if the northern States had insisted upon the prohibition of slavery in the Constitution, or in providing for power in the Federal Government to control or abolish it. It was a local State institution, analogous in its legal features to the domestic relation of parent and child, guardian and ward, master and servant, one of the class which, by the theory of the Union, was reserved from the control of the Federal Government; and to have conceded the right of the Federal Government to control it would have been to concede a principle of Federal intervention with the internal polity of the States that would have been fatal to the peace and permanence of the Union. By the confederation of July 9, 1778, each State retained its sovereignty, freedom, and independence, and every power, jurisdiction, and right not expressly delegated to the United States; and if not in similar language, the Federal Constitution in its tenth amendment contains, in spirit and substance, the same reservation of rights to the States or their people. From the beginning of the Government until the commencement of civil war for its destruction it was the received interpretation of the Constitution of the United States by all political parties having any claims to numbers or respectability that the right to control or abolish slavery in the States was not in the Federal Government, and it was because of this absence of power in that Government, and of its supposed obligation to protect slavery, that a small party of the zealots of anti-slavery pronounced the Constitution itself to be "a covenant with death and an agreement with hell." It was for that cause they hated it and cursed it, and worked for its destruction by poisoning the mind of the people with their traitorous heresies.

In so far as the present Administration and its party are concerned, I presume they will not deny, in reference to this question of State control over the institution of slavery, the authority of the fourth resolution of the Chicago convention of May, 1860, in these words:

"That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend."

Again, on the 11th of February, 1861, pending the efforts at compromise in Congress and in the peace conference consequent upon the threatened dissolution of the Union, the House of Representatives in the Thirty-Sixth Congress by a vote of 116 yeas to 4 nays adopted this resolution:

"Resolved, That neither the Federal Government nor the people nor governments of the non-slaveholding States have a purpose or a constitutional right to legislate upon or interfere with slavery in any of the States of the Union."

On the same day this resolution was amended and passed by a unanimous vote of one hundred and sixty-one members, so as to read as follows:

"Resolved, That neither Congress nor the people or the governments of the non-slaveholding States have the right to legislate upon or interfere with slavery in any of the slaveholding States of the Union."

But again, on the 4th of March, 1861, President Lincoln, under the obligations of his official oath, and under circumstances, if ever, demanding truth and patriotism, reaffirmed the fourth resolution of the Chicago convention, and declared it to be his law, accompanying it with this declaration:

"Apprehension seems to exist among the people of the southern States that by the accession of a Republican Administration their property and peace and personal security are to be endangered. There has never been any reasonable cause for such apprehension. Indeed, the most ample evidence to the contrary has all the while existed and been open to their inspection. It is found in nearly all the published speeches of him who now addresses you. I do but quote from one of those speeches when I declare that 'I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I

believe I have no lawful right to do so, and I have no inclination to do so." Those who nominated and elected me did so with the full knowledge that I had made this and many similar declarations, and had never recanted them. And more than this, they placed in the platform for my acceptance, and as a law to themselves and to me, the clear and emphatic resolution which I now read."

Here the President read, as his law, the fourth resolution of the Chicago platform.

It would be incredible, Mr. Speaker, except for the reason that it is a fact of history admitting of no question, that the author of the above declaration is also the author of the emancipation proclamations of September 22, 1862, January 1, 1863, and of the amnesty proclamation, so called, though it more properly deserves the name of the tyrant's and usurper's proclamation, of December 8, 1863.

Again, who would believe, sir, except because we knew from history and experience the power of fanaticism and party spirit in overthrowing reason and corrupting morality, that the same party and the same political leaders who on the 10th May, 1860, adopted the fourth resolution of the Chicago convention, and on 11th February, 1861, voted for or approved the resolutions of the House of Representatives just read, would, on the 8th day of June, 1864, in the face of the intelligence and public conscience of the American people and of the intelligent judgment of the world, have the assurance to publish to the world as articles of their political faith the resolutions I now read, namely, the third and fifth resolutions of the self-styled Union convention lately held in Baltimore, namely:

"Resolved, 3. That as slavery was the cause and now constitutes the strength of this rebellion, and it must be always and everywhere hostile to the principles of republican government, justice and the national safety demand its utter and complete extirpation from the soil of the Republic; and that while we uphold and maintain the acts and proclamations by which the Government in its own defense has aimed a death-blow at this gigantic evil, we are in favor furthermore of such an amendment to the Constitution, to be made by the people in conformity to its provisions, as shall terminate and forever prohibit the existence of slavery within the limits or jurisdiction of the United States."

"Resolved, 5. That we approve and applaud the practical wisdom, the unselfish patriotism, and the unswerving fidelity to the Constitution and the principles of American liberty with which Abraham Lincoln has discharged, under circumstances of unparalleled difficulty, the great duties and responsibilities of the presidential office; that we approve and indorse, as demanded by the emergency and essential to the preservation of the nation, and as within the provisions of the Constitution, the measures and acts which he has adopted to defend the nation against its open and secret foes; that we approve, especially, the proclamation of emancipation and the employment as Union soldiers of the men heretofore held in slavery."

Mr. Speaker, when American citizens, public men, the leaders of a great political party, can thus stultify themselves and insult the truth of history; when they can thus prove their lack of all political integrity; when their "candied tongues" can thus lick the feet of power and "applaud" the destroyer of constitutional liberty, we have indeed reached a mournful era in our history as a nation, and there is cause for the hope of the patriot's heart to fail.

In answer to the wild ravings against slavery, and the revolutionary measures attempted in regard to it by the Administration and its party, I think I may safely appeal from the present testimony of that party, now thoroughly lost to reason, and infidel to its own pledged faith, to its testimony at Chicago and in Congress, which I have quoted, when under the name of the Republican party it was comparatively clothed and in its right mind.

I will assume, sir, for charity's sake, that the resolution of the Chicago convention, and the declarations of Mr. Lincoln's inaugural, and the resolutions of February 11, 1861, honestly expressed the opinions and purposes declared in them. We thus find the party now in power then affirming and committed to two cardinal principles:

1. Absence of power in the Federal Government and in the non-slaveholding States to legislate upon or interfere with slavery in the slaveholding States.

2. The right of the State governments to control their own domestic institutions, including slavery, and that the maintenance of this right "is essential to that balance of power on which the perfection and endurance of our political fabric [meaning of course the whole system of Federal and State government] depend." This

proposition of the Republican party of 1860 and 1861 of course involved as its logical consequence the further proposition that to take from any State "the right to order and control its own domestic institutions according to its own judgment exclusively" would be to destroy that balance of power on which the perfection and endurance of the Union depend. In other words, when the right of State self-government as to its domestic affairs is taken away, the Union ceases to be perfect and will not endure.

We have no better proof of this fundamental truth than the present condition of our country. Disunion and civil war attest the danger of disturbing the balance of power in our Federal system. Out of their own mouths and by their own professed principles are the party in power convicted and condemned.

Thus stood the case as to Federal power over slavery when civil war was commenced.

We all know that one and the chief cause of that war, so far as the southern States were concerned, was jealousy in those States of the growing and overshadowing political power of the northern States, and fear that that power, in the hands of a party hostile to slavery, determined in some way to abolish it, and pledged to exclude it from all the Territories of the United States, would soon be exercised to reach and abolish it in the States, by amendments of the Federal Constitution, or some other exercise of political power by the free States. The people of the southern States, after the election of November, 1860, felt that the power of the Federal Government had substantially passed into the hands of an aggressive anti-slavery or abolition party, and that in so far as their own peculiar domestic institutions were concerned the southern States were no longer able to protect them within the Union, and had therefore ceased to be equal States in that Union. Whether well founded or not, we know that this belief, this jealousy and fear prevailed in and excited the southern States to war against the Federal Government.

The closing weeks of the Thirty-Sixth Congress will ever be memorable in the history of this country for the struggle between the radical or revolutionary and the conservative and constitutional elements of which that Congress was composed. During the same period a similar struggle between the friends of the Union and its enemies was going on in the peace conference held in this city. On the one side, both in Congress and in the conference, were the desire and effort to avoid the impending peril of civil war, and to restore the Union and its harmony by conciliation and compromise. On the other side was the evident determination to yield no point of the anti-slavery policy which had carried the Republican party into power, but to press that policy even to the extremity of the shedding of blood. The only substantial result of the effort to meet the southern States in a spirit of conciliation, and to settle the question of slavery so as to allay their fears as to further interference with it within the States by the Federal Government or the free States, was the joint resolution of Congress, approved March 2, 1861, providing for the submission to a vote of the State Legislatures of an amendment to the Constitution, in these words:

"No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere within any State with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State."

This resolution passed the House of Representatives by a vote of 133 against 65, and the Senate by a vote of 24 against 12. What there was of wisdom in this action of Congress came too late. Whether because the southern people saw in the negative vote of the radical Republicans in Congress upon this resolution the evidence of a determination still to agitate the slavery question and to continue anti-slavery aggression, and therefore did not consider it as offering any security to them, or whether because they were determined that the Union should be broken at all hazards, it is certain that the joint resolution of Congress failed to stop the progress of disunion or to stay the coming of war. I refer to the resolution now as additional evidence to what I have already cited of the opinion of a large majority of the people, as expressed through their representatives at that time, that the right to le-

gislate upon and control slavery should not exist in the Federal Government nor be taken from the State governments. The resolution itself, in fact, expressed no more than what was the spirit, if not the letter, of the Constitution as it now is; and the southern people so understood it, and did not therefore accept it as any substantial concession by the non-slaveholding States.

The assertion of power or right in a majority of the States, either through the legislation of the Federal Government or through amendments of the Constitution, to interfere with or control the domestic institutions of a State, such, for example, as slavery, essentially repudiates the principle upon which the Union was formed, namely, the political equality of the States. Such a right or power conceded places the minority of States at the mercy of the majority. A Federal State to which the Constitution affords no guarantee that its domestic institutions shall not be changed by other States nor by the Federal Government, loses the very essence of its freedom, independence, and sovereignty.

The arguments against the proposed joint resolution arise, first, from the character of the proposition itself; and, secondly, from the time and circumstances or the condition of public affairs in which it is presented.

I do not propose, Mr. Speaker, to consider in detail all the objectionable features which this proposed amendment to the Constitution presents. I am, sir, at a loss for words wherein to express my sense of its true character. It assumes the name and form of liberty and the functions and power of free government to perpetrate and cover up a great public wrong. It is not the only instance in history of an attempt to prostitute liberty to unholy purpose and malignant passions. "O liberty, what crimes are committed in thy name!" was the last exclamation of Madam Roland—herself a true lover of liberty—as she stood upon the scaffold, amid the demoniac yells of a Parisian mob, the zealots of "liberty, equality, fraternity."

I shall notice in general terms some of the cardinal objections to the joint resolution:

1. It proposes a revolutionary change in the Government. It seeks to draw within the authority of the Federal Constitution and the Federal Congress a question of local or internal policy belonging exclusively to the slaveholding States, and is in conflict with the principles on which the Union was originally formed, and with the whole theory and spirit of the Constitution as to the rights of the States. It means that three fourths of the States may dictate to the other one fourth what shall be their domestic institutions, and how they shall govern their internal affairs, and that even the right to govern as to such affairs may be taken away. It means that three fourths of the States may at pleasure, by a constitutional amendment, appropriate without compensation or confiscate the property of the other one fourth. In its present form the resolution is aimed at slavery; but it might, with equal propriety, be aimed at any other local law or institution of a State. It might as well propose that freedom of religious opinion should be abolished, and one form of religious worship only prevail in all the States; or that marriage should not take place except between certain classes and at certain ages and otherwise define marital rights, or be extended to regulate the relations of parent and child, or the canons of property, or the elective franchise. The principle of the proposed amendment is the principle of consolidation, and cannot be drawn into precedent without a final subversion of our constitutional Government. It is absurd to call a Federal Union wherein such a principle of consolidation has been introduced into its fundamental law a Union of free and equal States. The minority would be ever the subjects, not the co-equals, of the majority of the States.

2. The amendment proposes to change the constitutional basis of representation and taxation. By the Constitution as it is five slaves count as three free persons only in the apportionment of Federal Representatives and direct taxes. The effect of the amendment, therefore, will be to increase southern representation, based upon the negro population, to the extent of two fifths at least of that population; and no man who knows the motives and policy of the party in power questions but that their object in part, by the

proposed amendment, is to make the negro population not merely a passive but an active basis of representation in the Federal Government. First, the negro a citizen of the United States; secondly, the negro a free citizen of the United States, protected everywhere, in defiance of existing State constitutions and laws, as such citizen; and thirdly, the negro a voting citizen of the United States, are all propositions logically involved in the proposed amendment. The same revolutionary power which enfranchises negroes by presidential edicts of emancipation, or by constitutional amendments, carried, as this would be, in the southern States, if it receives the two-thirds vote of this Congress, so as to be submitted to the State Legislatures, by fraudulent elections and by duress of arms, would soon admit negroes to the elective franchise in all the States, and negro representatives in Congress would speak the voice of southern if not of the northern States. This is the designed effect of the proposed amendment in its change of the constitutional basis of representation.

In its operation upon the basis of taxation in the southern States, the effect of the proposed amendment would be to increase their quota of direct taxation while it diminished their wealth and ability of payment: first, in the direct loss of the value, equal perhaps to \$2,000,000,000, of all slave property, by the act of abolition without compensation; second, in the diminished value of all southern agricultural lands, consequent upon the destruction of the organized system of labor that has made them productive and valuable; third, in the diminution, resulting from the same cause, of the products of all farm or plantation property. Whatever might be the remote and ultimate effects of abolition upon the wealth of the southern States, no man can doubt that its immediate effect would be to immensely reduce their aggregate wealth and to overburden with taxation and impoverish the present owners of property in those States.

3. The effect of this amendment would be to turn loose at once, without preparation or education for freedom, without property or the means whereby to live, and without the guidance, restraint, and protection of the superior intelligence and forethought of their masters or owners, the whole slave population of the southern States, numbering from three and a half to four million persons. A change so sudden and so radical in the industrial and social system of States, and especially in the condition of such a class of persons as the negro population of the southern States, is without precedent or justification in history; and we have no warrant for believing that it would be a benign and healthful change. On the contrary, we have the testimony of one who, although an instrument, and an active instrument, in bringing about this great social revolution, has declared—but in this as in many other instances proved false to his own opinions—that “gradual, not sudden emancipation is better for all.” All who know anything of the negro character know this to be true. Sudden freedom to the negro, without the capacity to appreciate and improve it, has proved not a blessing but a curse. On this point let tens of thousands of homeless, diseased, demoralized, starving, naked, helpless “contrabands” bear testimony.

4. This proposed amendment is designed to be the coadjutor and crowning effort of that stupendous system of confiscation or legalized plunder by which the party in power propose to restore the Union. They have already gone as far as they could do by acts of legislation and executive edicts of emancipation to seize and appropriate the property and free the slaves of those in arms against the Federal Government and to partition the southern lands among negroes, and now the final act of confiscation in the shape of this amendment is proposed to operate upon friend and foe, Union man and rebel alike, in the appropriation to public use without compensation of the entire slave property of the United States.

We have hitherto considered it a fundamental principle of civil polity, as it is a provision of our Constitution, that private property cannot be taken for public use without just compensation. This proposed amendment ignores and tramples upon that principle. If the public good really demands that the slave-owners of the South

should surrender their slave property, is there any principle of constitutional freedom or of public justice that justifies the demand for that surrender without making adequate compensation? None, sir; and it is the plunder of despotism, not justice nor constitutional liberty, to take the property without making the compensation. There was a time, sir, when the President of the United States, now in office, and many of his friends in the Thirty-Seventh Congress, thought that slaves were property, and that if they were emancipated for the public good the United States should cooperate and help to pay for them. I refer for evidence on this point to the various messages and resolutions comprising his compensated emancipation scheme sent to the Thirty-Seventh Congress by President Lincoln, and to the action of that Congress on the subject. In this, as in most other cases, the President and his party have been false to their professions. What they once thought should not be taken without being paid for he, by his emancipation proclamation, and they by their proposed amendment to the Constitution—which he no doubt will approve if it passes this Congress—propose to take by the strong hand of a despotic majority without payment or compensation.

Again: if the proposed amendment be based upon the idea of punishment to slaveholders for their rebellion, then is it evidence of an attempt to punish a whole class for the crime of a part, the innocent for the guilty. If the slaveholders of South Carolina, for example, have rebelled and forfeited their slaves to the vengeance or justice of the law, they, and they alone, should be punished according to the law; but, sir, should the slaveholders of Kentucky, who have not rebelled nor forfeited any constitutional right, be swept into the same great revenge which it is proposed to visit upon the slaveholders of South Carolina?

“Slavery has committed the unpardonable sin and it must die” is a declaration, in substance if not in words, uttered in this Hall. It is the shibboleth of the party in power, the key-note of their policy; and in the consummation of their purposes they ruthlessly trample upon constitutions, laws, instincts of race, the love of kindred, and even the common feelings of humanity. What matters it, sir, to the zealots of the anti-slavery idea that a white man of the South, his wife, his children, born perhaps to affluence and educated in all the refinements of social life, should be driven from their inheritance and become homeless, houseless wanderers, and even mendicants, before their own slaves, so long as the negro, without intelligence, without education, without capacity for self-government, can be installed as owner of the soil from which his master and protector has been driven, and become a political instrument whereby the party now controlling the Federal Government can perpetuate their hold on public power? What matters it that our land is drenched in blood, our people demoralized, oppressed, impoverished, and grinding taxation makes the labor of our once thrifty husbandmen a struggle only for the means whereby to live, and drives forth to the labor of the fields, like the slave women of the South or the serfs of European despotism, our white women and children, so long as slaveholders and “slavemongers” are crushed, and negroes are free, owners of southern soil, voters at elections, statesmen in Congress, and companions and equals at our firesides and in our marriage beds? This joint resolution is the legitimate fruit of that hatred toward the slaveholders of the South and to the Union and the Constitution which found expression in the publication known as the *Helper* book, and in the declaration of Garrison, “The Constitution of the United States, a covenant with death and an agreement with hell.” The abolition of slavery and the destruction and impoverishment of slaveholders, “the ruffians, outlaws, and criminals” of the southern States, feed fat the grudge of northern abolitionists; and what matters it that the Union and Constitution perish in the flames if the fanatics of abolition can but dance around the holocaust of negro slavery?

On the issue that the principles and policy of the abolition party now in power inevitably involved a revolutionary change in our Federal system; in other words, in fear that the Republican party, if not in other apparently less legitimate ways of carrying out their anti-slavery policy,

would do it by amending the Federal Constitution and coercing the minority of States to accept the amendment, eleven of the southern States declared their independence of the Federal Government, and have attempted to establish that independence by war.

In the midst of this war, gigantic; barbarous, unnatural, filling the land with sorrow, and swiftly leading the Republic on the road to its ruin, while mighty opposing armies confront each other, and almost every day witnesses the slaughter of hundreds, if not thousands, of our heroic young men, and while the results of the war in the restoration of a divided Union and the preservation of the Constitution are yet unknown and uncertain, this revolutionary proposition to amend the Constitution of the United States by introducing into it the very principle against the establishment of which eleven States have seceded and appealed to arms, is brought forward for agitation among the people—brought forward, too, as I believe, when its advocates well know that it cannot receive the constitutional two-thirds vote of this Congress to warrant its submission to the Legislatures and people of the United States.

There can, therefore, it seems to me, be no practical purpose to be accomplished by this attempt at constitutional amendment at this time, except to indicate to the world, and especially to the men in arms against us, that the war on our part is to accomplish the very purpose with which they charged us in the beginning; namely, the abolition of slavery in the United States, and the political and social elevation of negroes to all the rights of white men. If this Congress desires to prove to the people of the southern confederacy that they had a cause for beginning a war for their independence, the proof cannot more effectually be made than by the passage of this resolution. It is a plain, undisguised attempt to indicate what the Administration and party in power intend shall be the result of the irrepressible conflict they have declared and invited even to the extremity of civil war.

Mr. Speaker, I have no desire to discuss the right or policy of slavery at this time. It may be a sin; it may be impolitic; it may be unprofitable. Arguments on both sides have been and can be made, and radical differences of opinion exist on the subject, and neither the power of a political majority nor the power of war can determine the abstract right or wrong of the opposing opinions. I am not the apologist nor friend of slavery, but no abstract or theoretical opinions about slavery determine my vote on the question before the House. If so be that slavery is dead, as the result of civil war, as many say, not of the emancipation proclamation, which the author of it has himself aptly termed *brutum fulmen*, I have no regrets for it; no tears to shed over its grave; its own advocates have done their part to slay it; let them reap as they have sown; I have no desire to revive or restore it. If, however, slavery be wounded nigh unto death, but not slain, I for one will not, for the sake of giving it its death-blow, either swear to or admit the right to abolish it by executive edict, or introduce into the Constitution of my country, by way of amendment, a principle and a precedent that may in an evil hour of excited passion like the present put the dagger to the heart of the freedom and independence of my own State, and make me the serf of a despotism. Better, sir, for our country, better for man, that negro slavery exist a thousand years than that American white men lose their constitutional liberty in the extinction of the constitutional sovereignty of the Federal States of this Union. Slavery is the creature of the States alone, not of the Federal Union; they made it, let them unmake it. If the States wherein slavery still lives, a mangled, bleeding, prostrate form, see fit to give it the final blow that shall make it a thing of the past, let them do it in their own time and way. If, however, they see fit to nurse it into a further brief vitality, let them do it; it is their ward, not yours nor mine.

My arguments against the joint resolution are in substance as already indicated:

1. That it seeks to draw within the authority of the Federal Constitution and Congress a question of local or internal policy, belonging exclusively to the slaveholding States, and that it is therefore in conflict with the theory and spirit of

the Constitution, and subversive of the principles and basis of the Union.

2. That it is a scheme malignant in its motives, and essentially unjust and dishonest in its purposes. In cannot on any principle of constitutional or public law be justified as an act of punishment; and as a scheme of virtual appropriation of private property without compensation, it is equally repugnant to the principles of free and just government.

3. That the tendency of the resolution, offered at this time especially, is to strengthen the resistance to the restoration of the Union, and to render such restoration improbable if not impossible.

4. That even if the proposed amendment were just and politic in the abstract, it should be brought forward at a time when it can be fairly and calmly discussed, and passed upon by a full and fair expression of the opinions of the people of all the States; and we know that no such full and fair expression of opinion can be obtained at this time, or pending this war. The work of remodeling the Constitution, if that be necessary, is a work for the calm thought of times of peace, not for the excited passions of war. It is said "the laws are silent in the midst of arms," and we know by a painful experience that this is too true, even in our own States that have been far removed from the theater of the war, and where the civil courts should be open for the free operation of the laws in the punishment of offenders and for the protection of the innocent.

In confirmation of this statement, sir, I need but mention that a true American patriot and statesman, known to us all—the peer in patriotism and statesmanship of any man upon this floor—still lives in exile, a banished man, the victim of lawless oppression, because the laws he honored and obeyed were silent and impotent in the midst of arms, and he appealed to them in vain for justice and protection. And, sir, I would here say, because it is due to truth to say it, that so long as that flagrant and shameless act of despotism, the banishment of Vallandigham, remains unrebuked and unpunished by the American people, they claim without truth the title of freemen, and their boast of constitutional liberty is a boast and nothing more. But more is it true that laws are silent in States occupied and overrun by the opposing armies. There law and reason alike are voiceless and powerless, and freedom of speech and of suffrage, the basis of all true political freedom, is subdued by arms. It is mockery and insult to talk of submitting to the people of the seceded States questions of amendment to the Federal Constitution when they are under the duress and subjected to all the calamities and excitements of war.

Again, sir, I would ask, is it right, is it wise, is it magnanimous, is it in accordance with the principles of our Federal system, that this Congress, in the absence virtually of the Representatives of eleven States, parties to the Constitution, while the places of those States are vacant, and their voices not heard in our Halls—except I might, perhaps without exaggeration, say, in the thunders of their warlike array, protesting against our policy of aggression and usurpation—is it right or wise, I ask, that we, a fraction of the constitutional representation in Congress, should attempt to provide for a fundamental change in the Government that will overturn their social and industrial systems, and affect for all time the absent and protesting States? I freely say that there is neither wisdom, justice, magnanimity, nor humanity in the attempt of this Congress, at this time and in this way, to innovate upon the Constitution. Let us first determine how much of the territory that once acknowledged the Constitution of the United States as its supreme law is our territory, and whether or not that Constitution is to remain the supreme law of the land, before we attempt to amend it. Let us reconcile those in arms against it to the Constitution as it is before we attempt to incorporate into it a provision they have denounced, and we have no right to impose without their free consent.

I have watched with the anxiety due to their importance the proceedings and legislation of this Congress, and noted well the spirit and purposes of the majority that control it. The majority here seem to me to be governed by the spirit of revolution, not of conservation. They do not be-

lieve in the Constitution of the United States as its framers made and interpreted it. They do not believe in the Union as the fathers made it. They do not propose to restore that Union nor to retain the Constitution in its integrity. Co-workers with and copyists of the revolutionists of secession, this Administration and this Congress have abandoned the old Union and Constitution—our surest hope and our best defense—and adopted the dangerous experiment of revolution against revolution. The party of secession would disintegrate by revolution; this Congress would consolidate by revolution. The one by force of arms would make a new nation of slaveholding States; the other by force of arms and by force of revolutionary and unconstitutional legislation would make a new nation, a regenerated Republic, as they are pleased to style it, without slavery, but in truth States emasculated of the manly freedom that was once the pride and boast of the people of all the United States.

It is vain, sir, for gentlemen of the majority here to claim that they are the friends of peace on the basis of the Union and Constitution as they existed before the war began, or to deny that they are the advocates and instruments of revolution. The records of this Congress, with daily accumulating evidence, falsify the claim and the denial. You desire no peace, and you do not intend, if you can help it, to accept peace until you have abolished slavery; deprived if not robbed by confiscation the property-holders of the South of their rightful inheritance; made negroes socially and politically the equals of white men; and remodeled the Constitution to suit your own political purposes. Your ears are deaf to appeals and arguments for the old Union, and you speak of it as a hated thing of the past. You openly scoff at the Constitution, and the ablest among you denounce it as "an atrocious idea." You do not seek the ways of peace. Your policy is subjugation, not restoration. The instruments by which you work are the instruments of vengeance and despotism, not of humanity and justice and constitutional freedom. Your records show no resolves or enactments for conciliation and peace and reunion, but for conscription, wherein you attempt to legalize the slavery of freemen to a military power that acknowledges no limit but its own will; confiscation by whose agency revenge, avarice, and fraud combine for plunder; inordinate taxation that borders on confiscation; proscription of your political opponents; proscription of the press, of free speech, and proscription of freedom of debate, even in these Halls consecrated to it by the Constitution and by every hope of a freeman's heart. You openly justify wanton acts of executive usurpation, and violations hitherto unprecedented of constitutional liberty.

While hundreds of thousands of your kindred, of patriots whom you have lured into war under the solemn pledge that it should be a war to restore the Union and Constitution with all the dignity, equality, and rights of the several States unimpaired, are slaughtered by the demon of war, and the people groan under the burdens you have laid upon them, and are still exerting your skill in devices of taxation to increase, with eager haste you counsel together and legislate for the division among negroes of southern lands, on which you cannot and dare not set your feet. You are arrogant in your present power and despise your enemies without cause. You exasperate while you should conciliate; you threaten where you should negotiate, and work for vengeance where you should labor for peace. You openly declare your purpose to treat as devils those of your kindred race whom you have exasperated to madness; those who have been your fellow-citizens, and who, however malignant and inhuman your purposes concerning them, you must in the end treat as men and equals, if not as fellow-citizens and brethren.

Mr. Speaker, the line of policy which this Administration and its party and the majority in this Congress have adopted toward the people of the southern States, and toward the Democratic party of the North, is the dictate of passion and partisan spirit, and indicates more the arrogance of power than of patriotic statesmanship. That line of policy will not succeed. The experience of history and of human nature teaches us it will not succeed. The work of this Administration and Congress is the work of disunion, not of Union.

It will destroy, not build up. It is fruitful of evil, not of good, and must and will be changed—peacefully and in the methods of the Constitution, so far as the northern Democracy are concerned, so long as they are left free to use the methods of the Constitution, but forcibly if need be when an oppressed and indignant people have no other remedy for the preservation of their constitutional rights but to rise in the majesty of their strength and assert and maintain them by the strong arms of freemen.

If we are to restore the Union with the seceded States and save the Constitution, other arguments than war and denunciation and insult and the invocation of the spirit of revenge and plunder must be used. It was not in that way the Union and Constitution were formed, nor can they thus be saved. In persisting in your policy, of which the joint resolution now before the House is but one expression, you are but paving the way for the division and dishonor of your country, and for your own dishonor, when impartial history shall sit in judgment upon the men and events of these perilous days.

Mr. ARNOLD. Mr. Speaker, I regret that this late day of the session compels an abridgment of discussion upon a subject of such overshadowing importance, yet I cannot let the occasion pass without briefly giving my reasons for voting for this constitutional amendment.

SHALL SLAVERY STILL LIVE?

Slavery is to-day an open enemy striking at the heart of the Republic. It is the soul and body, the spirit and motive of the rebellion. It is slavery which marshals yonder rebel hosts which confront the patriot armies of Grant and Sherman. It is the savage spirit of this barbarous institution which starves the Union prisoners at Richmond, which assassinates them at Fort Pillow, which murders the wounded on the field of battle, and which fills up the catalogue of wrong and outrage which mark the conduct of the rebels during all this war.

In view of all the long catalogue of wrongs which slavery has inflicted upon the country I demand to-day of the Congress of the United States the death of African slavery. We can have no permanent peace while slavery lives. It now reels and staggers toward its last death-struggle. Let us strike the monster this last decisive blow.

The Thirty-Seventh Congress will live in history as the Congress which prohibited slavery in all the Territories of the Union, and abolished it at the national capital. The President of the United States will be remembered as the author of the proclamation of emancipation, as the liberator of a race, the apostle of freedom, the great emancipator of his country. The Thirty-Eighth Congress, if we pass this joint resolution, will live in history as that which consummated the great work of freeing a continent from the curse of human bondage.

Never, since the day when John Adams plead for the Declaration of Independence, has so important a question been submitted to an American Congress as that upon which you are now about to vote. The signing of the immortal Declaration is a familiar picture in every log cabin and residence all over the land. Pass this resolution, and the grand spectacle of this vote, which, knocks off the fetters of a whole race, will make this scene immortal.

Live a century, nay, a thousand years, and no such opportunity to do a great deed for humanity, for liberty, for peace, and for your country, will ever again present itself. Pass this joint resolution, and you win a victory over wrong and injustice lasting as eternity. The whole world will rise up to do you honor. Every lover of liberty in Germany, France, Italy, Great Britain, the world, will rise up and call you blessed. The gallant soldiers in the field who are giving their lives for liberty and Union will call down upon you the blessings of Heaven. Let the lightnings of God (fit instrument for the glorious message) transmit to the toiling and struggling soldiers of Sherman and Hunter and Butler and Grant the thrilling words, "Slavery abolished forever," and their joyous shouts will strike terror into the ranks of the rebels and traitors fighting for tyranny and bondage. The thousands of wounded in the hospitals around this capital would hail

the intelligence as a battle fought and a great victory won.

This constitutional amendment has passed the Senate, long regarded as the citadel of the slave power; how strange if it should fail in the popular branch of Congress! The people and the States are eager and impatient to ratify it. Will those who claim to represent the ancient Democracy refuse to give the people an opportunity to vote upon it? Is this your confidence in the loyal masses?

The passage of this resolution will strike the rebellion at the heart. I appeal to border State men and Democrats of the free States; look over your country; see the bloody footsteps of slavery; see the ruin and desolation which it has brought upon our once happy land; and I ask, why stay the hand now ready to strike down to death the cause of all these evils? Why seek to prolong the life, to restore to vigor, the institution of slavery, now needing but this last act to doom it to everlasting death and damnation?

Gentlemen may flatter themselves with a restoration of the slave power in this country. "The Union as it was!" It is a dream, never again to be realized. The America of the past is gone forever. A new nation is to be born from the agony through which the people are now passing. This new nation is to be wholly free. Liberty, equality before the law is to be the great corner-stone.

Much yet remains to be done to secure this. Many a battle on the field has yet to be fought and won against the mighty power which fights for slavery, the barbarous system of the past. Many a battle has yet to be won on the higher sphere of moral conflict. While our gallant soldiers are subduing the rebels in the field, let us second their efforts by sweeping from the statute-book every stay and prop and shield of human slavery, the scourge of our country, and let us crown all by incorporating into our organic law the glorious prohibition of slavery. For myself, I mean to fight this cause of the war, this cursed cause of all the expenditure of blood and treasure from which my country is now suffering, this institution which has filled our whole land with desolation, sorrow, and anguish; I mean to fight it until neither on statute-book nor in Constitution shall there be left a single sentence or word which can be construed to sanction the stupendous wrong.

Mr. Speaker, I thank God and a liberty-loving constituency for the privilege of voting for this constitutional amendment, for universal emancipation throughout our country. Let us now, to-day, in the name of liberty, justice, and of God, consummate this grand revolution. Let us to-day make our country, our whole country, the home of the free.

I conclude, in the language of the President:

"So much good has not been done by one effort in all past time as in the providence of God it is now your high privilege to do. May the vast future not have to lament that you have neglected it."

Mr. INGERSOLL. Mr. Speaker, having very recently taken a seat in this body, it was my intention to have contented myself with voting for all such measures as I believed to be just and expedient, and against such as I believed to be unjust or inexpedient without taking part in the discussion of such measures. But in justice to the liberty-loving and Union-loving men who sent me here, and in justice to myself I ask the indulgence of the House for the few minutes which have been generously given me by my friend, the honorable gentleman from California, [Mr. SHANNON,] out of his hour, in which to discuss the joint resolution now under consideration.

I have the proud honor to represent a district in which a very great majority of the people are thoroughly and unalterably anti-slavery. They are in favor of justice and against oppression and wrong everywhere and in every form. There are two grand objects for the accomplishment of which they have already freely given of their best blood and treasure, and stand ready to-day to give much more of both, if necessary, for the absolute and unconditional crushing out of this most wicked and devastating rebellion, and for the complete and utter extinction of human slavery, the sole and fearful cause of the rebellion.

I know full well if the lamented Lovejoy, my honored and noble predecessor, could come to-day from the unseen world and take his place among us,

his manly and eloquent voice would be heard in this Hall, as in days past, with all the earnestness of his great soul, pronouncing in favor of the adoption of this resolution, in favor of universal liberty and the rights of mankind. The cause of liberty and equal and exact justice lost a noble and heroic friend when he died, and the Union cause and the country lost one of their best and boldest champions. A grateful people hold him in affectionate remembrance, and it is to be hoped they may emulate his many virtues. He died in the midst of his great and good work; but God, in His infinite wisdom and goodness, did not suffer him to depart until the abolition of slavery in this country was approaching with rapid step the grand and glorious day of its consummation. And I say with all my heart, may Heaven speed the day. Universal liberty was the child of his heart, and he lived long enough to see that divine child adopted as its own by the nation.

Sir, I hope this resolution may pass by the necessary majority to give it validity. All truly honest and philanthropic men throughout the world will have reason to rejoice and will rejoice if it so passes. It will be heralded over the world as another grand step upward and onward in the irresistible march of a christianized civilization. The old starry banner of our country, as it "floats over the sea and over the land," will be grander and more glorious than ever before. Its stars will be brighter; it will be holier; it will mean more than a mere nationality; it will mean universal liberty; it will mean that the rights of mankind, without regard to color or race, are respected and protected. The oppressed and downtrodden of all the world will take new courage; hope will spring afresh in their struggling and weary hearts; and when they look upon that banner in distant lands they will yearn to be here, where they can enjoy the inestimable blessings which are denied them forever on their native shores.

Mr. Speaker, it would seem that this resolution should be adopted by a unanimous vote. Yet I fear we shall lose it. The slave power has not yet lost all its influence in this Congress. The pock-marks of slavery are plainly visible on the faces of many of the members of the Opposition. They were inoculated and corrupted by it in the days of its wanton power. Its woeful and baneful influence is upon them still. Slavery has been their idol. They worshiped at its shrine in the days of its power, and even now, when it is going to an ignominious grave, they rally around and protect and defend it in all its hideous ghastliness as though it were really divine. We may admire their pluck, but we must condemn their action, their want of patriotism, their inappreciation of liberty, and their entire lack of generous sentiments common to humanity. They are blinded by prejudice. They are politically corrupt, under an undue desire to regain that power which they so ingloriously lost during the last Democratic administration, or, I should say, maladministration. Being the slaves of the slave power, we cannot expect much of them until we have made them free and hewn down their prejudices.

In my opinion many of the Opposition members would vote for this resolution if they could be convinced that slavery could no longer be made available to them as a political power. But they know it as certain as fate that if slavery goes down the present Democratic organization goes down with it. Hence their herculean efforts to save slavery; but they cannot succeed in their unholy and detestable work. The liberty-loving and loyal people of this country have sworn in their hearts that the rebellion and slavery shall both go down, and forever. And they will keep that oath. When we have succeeded in burying the rebellion and slavery, if we could only petrify the pro-slavery Democracy, what a becoming and fitting tombstone it would make to mark the place of their burial.

There can be no objection on legal grounds to amend the Constitution in the precise manner pointed out by that instrument itself. Article five of the Constitution provides for its own amendment as follows:

"ART. 5. The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the

several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided, that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent shall be deprived of its equal suffrage in the Senate."

It is plain to be seen, then, that this resolution contemplates no violation of the Constitution. Then why this objection to adopting it and submitting the proposed amendment to the Legislatures of the several States not in rebellion? Are you of the Opposition afraid to trust the representatives of the people? In reality I believe you are. You fear, and have good cause to fear, that the necessary majority of States will ratify the proposed amendment, and make it thereby a part of the Constitution. Then slavery will no longer need defenders and protectors in our national Congress. "Othello's occupation" will be gone indeed. You will go hungry for place and office, and slavery can no longer gratify your unholy ambition. But the people will rejoice, the friends of freedom everywhere will rejoice, and our country will be infinitely more prosperous, more glorious, and grander than ever before.

But the Opposition object to the adoption of this resolution at the present time, because they say Mississippi, South Carolina, and other States in rebellion can have no voice upon the question of its ratification. Is this a good objection? I answer not. Why is it that Mississippi and South Carolina can have no voice upon this question? It is because they voluntarily entered into this rebellion. Had they not done so they would have had equal right and enjoyed equal privilege with Illinois upon this question. Are we, because a portion of the States inaugurated and still carry on this rebellion, to suspend all legislative action which might affect things or institutions in such States? I say not. Let those who inaugurate and carry on the rebellion take the consequences. We are responsible to the Constitution and the loyal people, not to the disloyal and rebels. It is truly said that at almost any time it is well to do right. It is well to eradicate an evil. That slavery is an evil no sane, honest man will deny. It has been the great curse of this country from its infancy to the present hour. And now that the States in rebellion have given the loyal States the opportunity to take off that curse, to wipe away the foul stain, I say let it be done. We owe it to ourselves; we owe it to posterity; we owe it to the slaves themselves to exterminate slavery in this country forever by the adoption of the proposed amendment to the Constitution. If we fail to do it, now that we have the power, not only will our constituents but posterity and humanity hold us responsible, and remember us only to condemn.

I hold that slavery and rebellion are so closely allied that any act, legislative or military, which cripples the one tends to destroy the other. If slavery could be abolished to-day the rebellion would end to-morrow. If the rebellion could be put down to-day slavery would go down to-morrow. So that in my opinion any act that we can do, which is lawful in itself, to weaken slavery, if we should fail to do it, we would be criminally culpable.

I believe slavery is the mother of this rebellion, that this rebellion can be attributed to no other cause but slavery; from that it derived its life and gathers its strength to-day. Destroy the mother, and the child will die. Destroy the cause, and the effect will disappear. Slavery has ever been the enemy of liberal principles. It has ever been the friend of ignorance, prejudice, and all the unlawful, savage, and detestable passions which proceed therefrom. It has ever been domineering arrogant, exacting, and overbearing. It has claimed to be a polished aristocrat, when in reality it has only been a coarse, swaggering, and brutal boor. It has ever claimed to be a gentleman, when in reality it has ever been a villain. I think it is high time to clip its overgrown pretensions, strip it of its mask, and expose it in all its hideous deformity to the detestation of all honest and patriotic men.

For eighty years the bogus aristocracy of slavery have left nothing undone to corrupt and demoralize the people and their Representatives. For eighty years they have attempted to clothe this monster in the radiance of divinity, when in reality it should only be draped in the blackness

of its own enormity. In order to maintain their power they had so molded public opinion, even in the grand free States of the North, that many honest but deluded men were willing to concede that slavery, if not divine, was not so bad an institution after all, that "the devil was not so black as he is painted." The North, against its sense of justice and right, for the sake of peace and union, has, time and time again, humiliated itself in its own and the eyes of the world by conceding to the unhallowed and ambitious demands of slavery.

At the formation of our Constitution slavery demanded that a section should be incorporated therein restraining Congress from passing a law prohibiting the importation of negroes prior to the year 1808. The North, in violation of its sense of honor, got down upon its knees and consented that it should be "written in the bond," thereby conceding the right to this bogus aristocracy to freight its ships with human beings stolen from their native land and consigned to an ignominious slavery only equaled by its savage cruelty.

Again, in 1793, they demanded a fugitive slave law; that is to say, that free northern men should be their blood-hounds. The North again assented, and went into the blood-hound business. In 1850 they again demanded more and fiercer blood-hounds. The North, true to its instincts of peace and union, but false to its honor, agreed that the blood-hounds should be forthcoming. For one—and I am happy to say that I am not alone—I am tired of this blood-hound business, and voted on Monday last to abolish it. The Opposition are in favor of its continuance; I am for this amendment to the Constitution, in order to take from these adherents of the slave power the ignominy and degradation consequent upon so base an occupation.

Again, in 1820, the same relentless monster demanded of the North more territory for the uses of slavery. The North again got upon its knees and admitted Missouri with a slave constitution, and again suffered the mortification of self-degradation.

Again, in 1854, they demanded the repeal of the Missouri compromise line. Again, in northern men, whom they had demoralized and corrupted by the contaminating influence of slavery, united to a corresponding lust for office, they found the willing tools wherewith to consummate this treachery. Liberty received a blow in the face, and slavery was taken by the hand.

Again, in 1857, the slave power brought all its energies to bear to convert this territory, which had been thrown open to it by the repeal of the Missouri compromise line, into a slave State. To the everlasting infamy of James Buchanan's Administration be it said, with a few honorable exceptions, it lent the whole force and power of its authority to the accomplishment of this foul crime. But, thank God, the people of the North at last had become aroused, and they determined that slavery should no longer be the master of liberty. They felt it in their hearts, they expressed it with their lips, that they would no longer be the tools of slavery, or the indifferent spectators of its encroachments. They declared that Kansas should be free. The slave power swore it should be slave; and then and there this war commenced which is now deluging this land with blood. After a long and not a bloodless struggle justice and freedom triumphed, and Kansas to-day is a beaming star of liberty in the western horizon. The South saw in this triumph the ultimate overthrow of their most cherished institution. They became alarmed, and felt and knew that if the people of the North were unwilling to submit to further degradation thereafter they must depend on themselves for the protection of slavery, as their northern friends were powerless to stem the tide which was rising and swelling toward universal liberty.

So, in 1860, at the Charleston convention they demanded that additional guarantees for slavery be incorporated in the platform of the Democratic party. The northern Democracy saw at once that to yield to them on this point was certain defeat. The South repudiated Douglas in that convention for the reason that they did not believe him sound on the slavery question. As an evidence of his unsoundness they pointed to his Freeport speech, made in 1858, in joint debate with President Lincoln. In this speech he enunciated the doctrine that Territorial Legislatures possessed the power to exclude slavery from the Territories by "un-

friendly legislation." This was anything but orthodox in their view. Another objection to Senator Douglas was that he had been opposed to the Lecompton-Kansas constitution. Consequently Douglas was thrown overboard. They demanded that slavery should be recognized as a national institution, and that Congress should protect it in the Territories by affirmative legislation. The northern Democracy positively refused to accede to this. The consequence was that the southern Democracy seceded, and nominated their own candidate, upon their own platform, thereby breaking up the Democratic party and depriving it of all hope of success in the then approaching presidential campaign. Who can say but that the northern wing of the Democratic party is responsible for this war? for had the northern Democracy been willing to concede at that convention to the demands of the South, and accept a platform agreeable to it, the nominee of that convention would have been elected President, and this "cruel and bloody war," as the Opposition delight to call it, would have been avoided, or, at any rate, postponed. Let the responsibility rest where it legitimately belongs. It is dishonorable in any man to say that the Republican party is responsible for this war, when, as I have shown, it perhaps might have been avoided had the northern Democracy been willing to have covered themselves with a thicker coating of degradation than they had ever before worn, and sacrificed their dignity and manhood to the behests of slavery.

I am well aware that the Opposition persistently charge that the abolitionists are responsible for the war and are the authors of the war. This charge is as false as is the assertion that slavery is divine. Had there been no slavery in this country there never would have been an abolitionist or an agitator; the inhuman and barbarous system of slavery created the abolitionist and the agitator. In this instance the evil produced the good—the wrong the right; and the good and the right must prevail. Slavery has piled up the mountain which will fall upon it and crush it to dust. Slavery alone is the cause of the war, and he who attributes this war to any other cause than slavery is wide of the mark. The man who to-day, after three years of war and desolation, would raise even a straw to shield or protect slavery, deserves, and at no very distant day will receive, the merited condemnation of a united, happy, prosperous, and liberty-loving people.

It is a humiliating and saddening spectacle to witness how persistently and unrelentingly the Opposition pursue our most worthy President, and with what vehemence they denounce his war policy, if such policy in their opinion tends in the least to interfere with the institution of slavery. If, under the war power of the Administration, a rebel sympathizer, who disgraces the soil of Illinois, is arrested and imprisoned, if a disloyal paper is suppressed, they at once set up a tremendous howl about personal liberty and the freedom of the press. If an attempt is made to expel or censure a member of Congress for uttering disloyal sentiments, another distressing howl goes up in protestation against the Administration. Their denunciation is all against Lincoln. They utter none against Davis. Our soldiers may be starved in Libby prison; they may be butchered in cold blood, as at Fort Pillow and elsewhere; Union men all through the South may be indiscriminately plundered and then dragged to the gallows, and they have no voice to raise against it or denounce it. The reason of this is obvious. They care more to regain political power than for the triumph of liberty and justice.

The eloquent and scholarly SUMNER may be knocked down in the United States Senate by a southern ruffian and blackguard: northern dough-faces say, "Served him right." A Giddings and an Adams may be censured in the House of Representatives because they have the manhood to raise their voices in behalf of liberty and justice: northern dough-faces cry out again, "Served them right." The incorruptible Parker, Codding, and Garrison may be mobbed, stoned, and imprisoned, for daring to give utterance to the sublime and eternal principles of truth, and liberty, and justice, and these same northern dough-faces rise up and cry out, "Served them right." A northern man imbued with the spirit of liberty may, within the limits of a slave State, have the effrontery to raise his voice against oppres-

sion, and say, "Your system of slavery is wrong, and you ought to abolish it:" a coat of tar and feathers or the halter may be administered as a corrective of such heretical expressions, and the northern dough-faces again cry out, "Served him right." A minister of the gospel may find it to be his duty to say to his people, "It is right that you should do unto others as you would they should do unto you;" that you ought to let the bondman go free; and he is immediately denounced as an abolition agitator, and the varnished hypocrites of his church call upon him at once and say they cannot tolerate the expression of such opinions in the pulpit, as they are calculated to irritate the South, and he must stop them or they will withdraw their support. Consequently the poor, good preacher must close his lips to such divine and heaven-born truths or starve, and this, too, in a free State; and again the northern dough-faces say, "Served him right." To crown all this record of infamy, the martyr, Elijah P. Lovejoy, is mobbed and murdered on the free, broad prairies of Illinois, simply for the crime of publishing a paper dedicated to the advocacy of the rights of mankind; and again these northern dough-faces cry out, "Away with him," "Served him right." O liberty! where is thy power? O justice! where is thy strength? But thank God, that day is gone, and gone forever. Let us take courage; the world is better; their sufferings and their trials were not in vain; liberty is stronger; justice is surer; and the idols of oppression, ignorance, and prejudice, which have been worshiped so long, are crumbling to dust. And so the good work goes bravely on. It is as irresistible as the avalanche and as grand as the Alps.

Sir, I am in favor in the fullest sense of personal liberty. I am in favor of the freedom of speech. The freedom of speech that I am in favor of is the freedom which guarantees to the citizen of Illinois, in common with the citizen of Massachusetts, the right to proclaim the eternal principles of liberty, truth, and justice in Mobile, Savannah, or Charleston with the same freedom and security as though he were standing at the foot of Bunker Hill monument; and if this proposed amendment to the Constitution is adopted and ratified, the day is not far distant when this glorious privilege will be accorded to every citizen of the Republic. I am in favor of the adoption of this amendment because it will secure to the oppressed slave his natural and God-given rights. I believe that the black man has certain inalienable rights, which are as sacred in the sight of Heaven as those of any other race. I believe he has a right to live, and live in a state of freedom. He has a right to breathe the free air and enjoy God's free sunshine. He has a right to till the soil, to earn his bread by the sweat of his brow, and enjoy the rewards of his own labor. He has a right to the endearments and enjoyment of family ties; and no white man has any right to rob him of or infringe upon any of these blessings.

I am in favor of the adoption of this amendment to the Constitution for the sake of the seven millions of poor white people who live in the slave States but who have ever been deprived of the blessings of manhood by reason of this thrice-acursed institution of slavery. Slavery has kept them in ignorance, in poverty, and in degradation. Abolish slavery, and school-houses will rise upon the ruins of the slave mart, intelligence will take the place of ignorance, wealth of poverty, and honor of degradation; industry will go hand in hand with virtue, and prosperity with happiness, and a disinherited and regenerated people will rise up and bless you and be an honor to the American Republic.

Slavery has shed every drop of blood which has been spilled in this war. It has filled thousands of graves with our heroic dead. It has filled our hospitals with our shattered heroes. It has swept American commerce from the ocean. It has carried desolation and mourning to the hearthstones of our northern homes from Maine to California; consequently I am the unyielding and persistent enemy of slavery and the earnest supporter of any and all lawful measures for its speedy and effectual extinction. It is this demon of slavery which has called from their happy homes in Illinois one hundred and seventy-five thousand of her sons as brave and heroic as ever the sun shone upon. Donelson, Shiloh, Arkansas

Post, Vicksburg, and many other well-fought fields attest their devotion to liberty and Union. Their self-sacrificing heroism to maintain the honor and glory of the Republic has won for them a fame more enduring than granite and a place in the hearts of their countrymen so long as liberty shall be loved and justice respected.

I wish we could emulate the example of the soldiers. The Democrat and the Republican have gone together, side by side, fighting these great battles for liberty and Union. They have allowed no former political differences to divide them, or to weaken their devotion to the cause. They have fought side by side. If the Democrat falls in battle the Republican gathers him in his arms, composes his limbs in death, hollows out a little place in the earth, and therein deposits his heroic and sacred remains; he covers him tenderly with the earth; he marks the spot where he lies, that you may know a hero sleeps there; he drops a tear upon the grave, and rushes again into the thickest of the fight. If the Republican falls, his Democratic comrade extends to him the same sacred charity, forgets that he was a Republican, and only remembers that he was a heroic soldier of the Union. Why cannot we, far from the roar of the battle, secure in the enjoyments of peace—secured only by the heroism and devotion of the Army—forget that we ever have been partisans, and unite, with heart and hand, for the suppression of the rebellion and the establishment of "Liberty and Union, one and inseparable?"

Mr. Speaker, I have already occupied too much time. There is a great deal more that I would like to say, but I must forbear. I implore the House to adopt this resolution. I implore it to stand by the Army and the country and the war policy of the Administration, and the day is not far distant when we may rejoice in the glorious consummation of the eternal principles of liberty, truth, and justice. There shall be no more slavery and no more oppression, no more tyranny and no more injustice, and our voices may go up together in one grand diapason which will ascend to heaven over a country reunited, over a people disinherited, and God will bless us.

Mr. RANDALL, of Pennsylvania. The joint resolutions under consideration, Mr. Speaker, propose to amend the Constitution of the United States so as to prevent the existence of slavery in any of the States. Sir, I cannot favor this amendment with my vote, for many reasons:

1. The time proposed for the agitation of this question is most inopportune. Our country is rent by the throes of civil strife, and the Constitution that you seek to amend by these resolutions is being tested by the intense fires of rebellion. Under such circumstances it is unwise to make any alteration whatever. It is doing a double injury to that sacred instrument, being, in my judgment, wrong in point of time as well as impolitic and entirely unnecessary. In fact, sir, I am convinced that the occasion does not now, nor is it likely to, occur that will justify any amendment of the kind proposed.

2. It in substance says to the people of the seceded States that we never will live on terms of peace within the Union so long as slavery has any existence among them, and to this extent prevents any restoration of the Union or reinforcement of the Constitution within their territory, except after subjugation and annihilation shall have been fully accomplished with all its dire, bloody, and barbarous accompaniments.

3. It tends to that which at this time our people have most to fear, a centralization of power and a consolidated Government. It strikes at the root of all State institutions, overturns and sets at naught all local laws, and while it throws away every hope of reconciliation, either now or in the future, it at the same moment looks to the enslavement of the white citizens of the country.

Sir, if this is the beginning of a radical change in our Constitution, is it not the forerunner of other usurpations of a like nature with those that the Executive of this Government has from time to time resorted to, setting aside the laws and the Constitution, and the rights of individuals and States guaranteed by them? This change once commenced will not stop, but go on from usurpation to usurpation, until individuals and States are swallowed up in a common ruin. The President and those who surround him have so far

ignored all law and rights that we may next expect to see introduced in this body amendments permanently striking out the writ of *habeas corpus*. Then will follow the erasure of the second section of article four of the Constitution, third clause:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

Which you have practically done already. Following in the wake of the extinction of this chartered right will be the destruction of a free press, to be placed under the absolute control and dictation of an Executive, perhaps an ambitious one, and allowed only to publish such matter as shall meet the approving caprice of his excellency or some of his agents who shall be assigned to this degrading duty. Then, sir, the right of free speech, freedom of conscience, and trial by jury will be demanded to complete the holocaust on the altar of a despotism as ruthless as it is unrelenting. This fearful sacrifice of our liberties will be interspersed at will by the agreeable pastime of stealing property, gobbling up Legislatures, men thrown in and let out of prison, being neither informed why they were put in or why they were let out, and redress denied for wrongs inflicted. This you have tried to do by the act of March 3, 1863, section four, which makes the order of the President a good defense against such arrests, to wit:

"That any order of the President, or under his authority, made at any time during the existence of the present rebellion, shall be a defense in all courts to any action or prosecution, civil or criminal, pending, or to be commenced, for any search, seizure, arrest, or imprisonment, made, done, or committed, or acts omitted to be done, under and by virtue of such order, or under color of any law of Congress, and such defense may be made by special plea or under the general issue."

This section the party in power were quite aware the Supreme Court would declare unconstitutional, and to remedy that you have passed the seventh section, limiting the time in which suit must be instituted to two years. This you could do, this you did do, but was it right or just thus to act?

A most remarkable similarity exists in the acts of this Administration toward the people of the North and those that were perpetrated by the mother country against the colonies, and which called forth from those colonies and now these States such able, persevering, and just appeals for redress. These like acts in a great measure produced the Revolution, whereby the mother country lost the colonies. Some may think I speak without the record. To it I appeal.

In the first Continental Congress, in an address containing a declaration of rights, it was held that seizing or attempting to seize any American in order to transport him over the seas for trial was a violation of the rights and privileges of the colonies. Does not this Administration almost daily transport citizens from State to State, from fort to fort without any legal procedure whatever? It broke up and dispersed or imprisoned the Legislature of Maryland. Parliament in like manner in 1767 suspended the functions of the New York Assembly. My friends from Illinois have the misfortune to have a Governor at this time who assumed a like despotic prerogative. In 1765 the stamp act was passed; and if you examine it you will find the same interference with the right of trial by jury through an admiralty jurisdiction, transferring decisions of the law and trials of persons from the colonial courts, where it of right belonged, to the admiralty courts of England, presided over by the pets of the Crown; and, sir, now, in 1864, the right of trial by jury is interrupted by military power, in each case the result being alike. The Gazetteer of that day tells us that one Captain McDougal was arrested in New York because he saw fit to speak freely his opinions. How many hundreds of such cases have occurred since this Administration came into power? This was one of the grievances complained of by the colonies, and redress being refused they fell back upon their inalienable right of life with liberty if life at all.

In 1774 town meetings were interdicted by act of Parliament. What have gentlemen from Kentucky to say as to the same despotic proceeding in their own sovereign State? Her recent history shows that without even the flimsy pretext of an

unconstitutional enactment, similar, ay, worse, interferences have taken place with the freedom of speech. Public meetings in my own district have been interrupted under the *quasi* approval of the police, and would have been broken up but for the grit of those who composed the assembly. Sir, I am one of those who obey the laws. I never did and never will counsel or countenance any resistance thereto, but when the right of the people to assemble peaceably and discuss their grievances is trampled down by unconstitutional enactments or the illegal and unwarranted exercise of military force, then, then, sir, I would say to the people:

"Think through whom your life-blood tracks its parent course,
And then—strike home!"

The suspension of newspapers occurred at the same early period that marked the interference with public meetings by the minions of the British Crown. In our own day, side by side with the breaking up of public assemblages, goes the invasion of newspaper offices and the suppression of their publication. Is not the parallel complete?

Mr. Speaker, I cling to the States as a shipwrecked man clings to the plank. They gave the Constitution birth. We lived under it happily, cheerfully, and prosperously up to the advent of this Administration. I believe a change of the Administration will again make us united, happy, and prosperous. I look to its approach with a hope full of promise. I will hail it as a glad return from the decaying era of the Roman republic, when spies, informers, and a despotic military power prevailed against civil liberty, and made her the "lone mother of dead empires." But if the great conservative party of the country is beaten in the coming presidential campaign I see no hope, unless a power mightier than man's so rules the heart and judgment of the Executive as to cause him to acknowledge his errors, correct them, and by carrying out the principles enunciated in his inaugural entitle himself to the good opinion of all who love truth and constitutional liberty. If this unlooked-for change should occur, such another exhibition will be witnessed as took place in Congress in April, 1861, when the nation, through her representatives, spoke almost as one man in favor of crushing the rebellion, yet maintaining, "unimpaired, the rights of the States."

Sir, there is a fixed and growing belief in the public mind that the conduct of this Administration is not what it should be; hence, I in all sincerity desire a change such as will reestablish confidence among the people, and thus strengthen the capacity of the North to restore the Union, and preserve, protect, and defend the Constitution and the laws enacted under its provisions. Let us get rid of all laws extracted through imaginary implications of that instrument. Let the Administration walk up to the line of policy and principle upon which a large majority of the people agree, stand firmly and immovably there, and I will predict no failure in the success of our efforts to bring about amity among the now parted States. This feeling was shown at the period to which I have alluded through the channel of volunteering, whereas now, under the changed policy of the Administration, drafting has failed and volunteering is of the past. Universal conscription comes next. The beginning of the war found a united North and a divided South in sentiment and action. How is it to-day? Under the inroads upon the Constitution by those in power we find the South united, and the North, to a great extent, almost equally divided.

Sir, I maintain that the only mode in which the Union can be restored and put on the march of a newer and more glorious progress, is by having due regard to the mutual advantages and interests of the States. This will rest our liberties on a solid basis. This cannot be done by laying waste their lands, or by carrying off their property, or by endeavoring to make the African that which God did not intend—the physical, mental, and social equal of the white man. Nor can it be done by tinkering with the Constitution as is now proposed. Let the Constitution alone. It is good enough. Under it we grew in power and dignity until the civilized world were compelled to admit the "capacity of man for self-government." Let the old constitutional tree stand in all its fullness and beauty, not a leaf withered and dropping, not a bough dead and

lopped off; let it stand, and under its refreshing shade, beneath its green branches, there will yet repose a united, happy, and prosperous people.

The heart of the nation has been wonderfully stirred by the following words of an American poet, so that they have passed into household language:

"Woodman, spare that tree;
Touch not a single bough;
In youth it sheltered me,
And I'll protect it now."

Paraphrasing these touching words, I to-day invoke this House to protect the Constitution of our fathers.

Mr. ROLLINS, of Missouri, next addressed the House. [His speech will be published in the Appendix.]

Mr. PENDLETON. I desire, before proceeding with any remarks upon this joint resolution, to submit an amendment.

The SPEAKER. One amendment is pending offered yesterday by the gentleman from Wisconsin, [Mr. WHEELER.]

Mr. PENDLETON. Is not an amendment to the amendment in order?

The SPEAKER. If it is germane to the amendment of the gentleman from Wisconsin.

Mr. PENDLETON. What I propose is to strike out that portion of the bill which submits the amendment of the Constitution to the Legislatures of the several States, and to insert a provision submitting it to the conventions of the several States, so that the ratification, if at all, shall be by conventions of three fourths of the States.

The SPEAKER. The gentleman can only introduce his amendment to accomplish that purpose by moving a substitute for the entire resolution.

Mr. PENDLETON. I offer my amendment, then, in the shape of a substitute.

Mr. ARNOLD. Will the gentleman yield to me for five minutes?

Mr. PENDLETON. I will.

Mr. ARNOLD. I desire to ask the gentleman from Ohio whether with that amendment he will vote for the resolution?

Mr. PENDLETON. I will not. There is no difficulty in answering that question; but I desire, if gentlemen intend to submit a proposition of this kind to the States for ratification, that they shall submit it to conventions which are elected for the sole purpose of passing on it, and not to Legislatures already elected upon other and different issues.

Mr. Speaker, I approach the discussion of this question with great diffidence. I believe in the constant progress of political science, and I am willing always to yield to its just demands. I believe in the constant amelioration of the condition of the human race, and I am anxious in every position in social or political, in private or public life, to aid in every movement toward that result. I believe in the constant development of the human intellect; and I think it our bounden duty to apply its maturing powers to the ever-varying condition of affairs which the ages in their course evolve. I revere the wisdom and the virtue of the good men who have gone before us; but I am unwilling blindly to believe that either their principles or their actions have attained to absolute perfection. I regard their achievements as the landmarks by which our course ought to be directed, not as barriers by which our progress should be stayed.

But, sir, I am profoundly convinced that wise men will not lightly touch the organic law of a Government which has held its beneficent sway over thirty million people, and that their hesitation will be akin to solemn dread when that Government by the sparing exercise of extremely limited powers has been able to maintain social order without retarding an unparalleled development of material prosperity in the midst of the enjoyment of civil and personal liberty unequalled in the history of the world. This Constitution has existed for seventy-five years; for sixty its provisions have been unchanged. Three times only has the hand of change touched it: once when, in obedience to the requirements of the conventions which ratified it, the First Congress proposed amendments to the States; again in 1794, when the Third Congress proposed an amendment to limit the power of the Federal judi-

ciary; and again after the struggle for the Presidency in 1801, when it became necessary to change the mode of electing the President and Vice President. It is worthy of attention that not one of these amendments added to the powers which were delegated to the United States, and not one of them added to the powers which were prohibited to the States. All of them except the last, in reference to the election of President and Vice President, were guarantees of the personal liberty of the citizen, or declarations of the inviolability of the reserved rights of the States.

Sir, these sixty years have been eventful in the life of the nation. Three million people have become thirty million. Our western boundary, then hidden in the almost unknown valley of the Mississippi, now touches the Pacific, whose laughing waves reflect the gems which sparkle on the golden shore. France, Spain, Mexico on the south and Great Britain on the north have added to the extent of this magnificent domain. We have had wars upon the sea and wars upon the land. We have had wars of invasion, and have repelled the invader. We have had foreign wars, and have tasted the triumphs of conquest. We have had struggles for the emoluments of office; we have had struggles for the political powers of the Government; we have had partisan strife; we have had sectional strife; and this Constitution was sufficient for all of these things.

But a change has come over us. New principles have been asserted. A new party has come into power, and that party, in the first term of its administration, in the midst of the civil war which was coincident with its attainment of power, when a million and a half of men with serried ranks and glittering bayonets invoke the arbitrament of the sword, calls upon us to change in a vital point this Constitution.

I object to this action for many reasons. I object to it because the time is not auspicious. I know full well that in the excitements of war, when all the elements of mind and matter are brought into conflict, we attain in a moment, as it were, to results which the experience of an age of peaceful life would not develop. But, sir, these are times for inventing and not for perfecting. They are times for experimenting and not for the full maturing of plans. They are times in which to try expedients. But it requires the self-possession, the deliberation, the freedom from excitement which belong to times of peace to lay securely and justly and wisely the foundations of a permanent free Government.

In 1861, before a drop of blood was shed, before an army was put into the field, before excitement was rife, before exacerbation had sprung up, an eminent statesman then in the Senate, now in the Cabinet, spoke on this subject. His theme was the perils which environed the Union, and the true method of avoiding them. All eyes were directed to him, all ears were intent to hear him. The country stood silent to catch the word of hope. Gentlemen who were here at that time will remember how this House was deserted in order that we might hear from Mr. Seward, in the Senate, his remedy for the evils and his plans to allay the excitements of that hour. He concluded his speech with the remark which I desire to commend to my friends on the opposite side of this Chamber:

"But if the measure were practicable I should prefer a different course, namely, when the eccentric movements of secession and disunion shall have ended, in whatever form that end may come, and the angry excitements of the hour shall have subsided, and calmness shall have once more resumed its accustomed sway over the public mind, then, and not till then—one, two, three years hence—I would cheerfully advise a convention of the people, to be assembled in pursuance of the Constitution, to consider and decide whether any and what amendments of the national organic law ought to be made."

I confide the weight of the objection I first make to the passage of this resolution to the wisdom and soundness of the views expressed at that time by that Senator.

Mr. Speaker, I object to the passage of this resolution for this simple reason, that it is impossible that the amendment proposed should be ratified without a fraudulent use—I select the term advisedly—without a fraudulent use of the power to admit new States or a fraudulent use of the military power of the Federal Government in the seceded States.

There are thirty-five States. Twenty-seven are necessary to ratify this amendment. There are

nineteen free States. Suppose you get them all, where do you get the others? Count also Maryland, Missouri, West Virginia, even Delaware, if you please, and you have but twenty-three. Where are the other four? Gentlemen tell me they have provided for the admission of Colorado, Montana, and Nevada. This addition to the number of States increases to the same extent the number necessary for the ratification. If you get them all, four are still wanting. If you intend to make up this number by the addition of new States you will have to add sixteen; three fourths of which, twelve, will be the proper proportion for the number added, and the remaining four to make up the deficiency among the old States. Are gentlemen prepared to carve sixteen new States out of this territory in the West for this purpose?

Will gentlemen call on the southern States to furnish the requisite number? Does any man suppose that Kentucky, if left to her unbiased choice, will ratify this amendment? Will you call on Tennessee? Tennessee is to-day in possession of a military governor, and not represented in either House of Congress. Arkansas? Arkansas begs to-day that you will recognize her as a State and admit her Senator. And he cannot be admitted. Louisiana? General Banks is again its military governor. He is already ashamed of the force which was enacted there a short time since, and is about to get rid of the pretense of a government which a little while ago he set up in the person of our quondam colleague, Michael Hahn. South Carolina? Is she to be called upon? Why, sir, the possession of Hilton Head did not give hold upon that State enough to secure the admission of delegates to the Baltimore convention.

If these States are to vote in their present condition, it would be a broad farce if it were not a wicked fraud.

If they are to be reorganized under the proclamation of the President, or under an act of Congress, upon the basis of one tenth of the population, it must be effected through the exercise of military power and by the votes of the dependents and hangers-on and contractors and cormorants who follow an army, and if you should attempt to amend the Constitution by such means, what binding obligation would it have? What binding obligation ought it to have? Do you suppose the States now in secession, with arms in their hands, and where you have hardly a foothold, would ever submit to it? Do you really propose to establish over them by force of arms a Constitution which you have just changed by force of arms?

If that is your purpose, I warn you now that you will destroy the last lingering hope, faint, small as it now is, that you will ever be able to restore this Union, or even to maintain the jurisdiction of the Federal Government over those States.

But, sir, I object to the passage of this resolution because in my judgment this amendment, or this change—I will not call it an amendment—of the Constitution is not within the power conferred by the Constitution. The arguments which my friend from Kentucky [Mr. MALLORY] and my friend from Indiana [Mr. EGBERTON] have made upon that subject relieve me from the necessity of dwelling long upon it. I know what the language of the Constitution is. I desire to ask gentlemen opposite, and I address my question particularly to the gentleman from Pennsylvania [Mr. THAYER] who spoke this morning, whether they contend that three fourths of the States can make any and every change of this Constitution. The gentleman said this morning that they can change the number of Representatives here in the Federal Congress. I grant it. He said that they could change the length of tenure of the presidential office. I grant it.

Mr. STROUSE. What gentleman from Pennsylvania made those assertions? To whom does the gentleman refer?

Mr. PENDLETON. I refer to the gentleman's colleague over the way, [Mr. THAYER,] who spoke this morning. But is it competent under the Constitution for three fourths of the States to change the Government into a hereditary monarchy; to abolish the Senate and House of Representatives, and convert this Government into an autocracy? It certainly is not. That would be revolution, not amendment. The States can-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

FRIDAY, JUNE 17, 1864.

NEW SERIES.....No. 188.

not, under the pretense of amending the Constitution, subvert the structure, spirit, and theory of this Government.

Mr. THAYER. Does the gentleman expect me to answer his question now?

Mr. PENDLETON. Certainly. I will yield to the gentleman for that purpose.

Mr. THAYER. I say distinctly that it is in the power of the people of this country to erect any Government that the people may choose. I will say, further, that the weakness of an argument is often shown by putting an extreme case like that which the gentleman puts, and which is scarcely within the range of human probability.

Mr. PENDLETON. It is not a question of human probability. The question is whether the power exists under the Constitution to do it.

Mr. THAYER. In answer to that I will say that the powers of the people under the Constitution are unlimited except in the case of the particulars in which by the Constitution they are limited.

Mr. PENDLETON. That is a different proposition. The gentleman thinks that there is power under the pretense of amending the Constitution to revolutionize it. He thinks it competent to change this Government into a monarchy or into an oligarchy; to change it not by the mere force of arms under the rights of revolution, but under this written Constitution. He believes that one fourth of the States are bound hand and foot, and must submit to anything that the other three fourths attempt to impose upon them.

Mr. THAYER. I think it competent for a majority of the people of this country to determine what shall be the character of the institutions of the country.

Mr. PENDLETON. Do you think it competent for a majority to do it under the provisions of the Constitution?

Mr. THAYER. I do.

Mr. PENDLETON. Then why is it that three fourths of the States are required to ratify the amendment of the Constitution? Why not simply require a majority of all the people of the States?

Mr. THAYER. Because three fourths of the States is the constitutional majority which it requires to accomplish it. When I speak of a majority I mean, of course, a constitutional majority.

Mr. PENDLETON. Exactly. That is the Constitution. And therefore it is not competent for a majority of the people, under the Constitution, to change this Government as they see fit.

Mr. THAYER. When I spoke of a majority, I meant a constitutional majority.

Mr. WADSWORTH. I beg the gentleman from Ohio to indulge me for a single question.

Mr. PENDLETON. For only a single one.

Mr. WADSWORTH. I wish to know whether, under the doctrine of the gentleman from Pennsylvania, [Mr. THAYER,] three fourths of the States could compel all the States to have slavery.

Mr. PENDLETON. I yield for a moment that the gentleman from Pennsylvania may say "yes" or "no" to that proposition.

Mr. THAYER. I believe that under the Constitution three fourths of the States might legalize it in all the States; and allow me to add that in saying that I stand by that Constitution which gentlemen on that side of the House make a great show of upholding until there is a practical question presented under it for our action, when they oppose its plain provisions.

Mr. PENDLETON. I agree to no such doctrine. I repudiate it entirely. There is in three fourths of the States neither the power to establish nor to abolish slavery in all the States. The gentleman says I put an improbable case. I admit it. I did so purposely. I desired to test the extent of the constitutional power. I desired to show that the power was to amend, not to revolutionize, not to subvert the form and spirit and theory of the Government. The Federal Government has power over the relations of the States with foreign nations, and the relations of the States as between and among themselves. It has

no power over the purely internal affairs of the State. This principle was as familiar as household words three years ago. Every power delegated to the Federal Government relates either to the international or the inter-State relations of the United States. Every power prohibited to the States affects the same relations, and them only. The domestic internal affairs of a State, having no connection with the Federal Government, or with foreign nations, or with the other States, are reserved to the absolute, exclusive sovereign power of the States respectively, and to the people thereof. The other States are not affected by them, and have no interest in them. The Federal Government has no cognizance of them. The power of amendment which is confided to three fourths of the States does not reach them, nor the power to regulate them, but is limited to the subjects and powers delegated to the United States. It is not competent, in my judgment, for three fourths of the States to abolish that provision of the Constitution by which no new State shall be formed within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, without the consent of the Legislatures, and give to the Congress the power to subdivide or unite the States; nor is it competent for three fourths of the States to amend the Constitution so as to give to the Federal Government the power to appoint the Governors of the States, nor to prescribe the qualifications of electors in the State, nor the number or qualifications of the members of its Legislature, nor to amend the constitution of the State. Three fourths of the States might change the war-making power, or the power to regulate commerce, or the power to make treaties. Three fourths of the States may abolish the three-fifths rule of representation, or the provision for the rendition of fugitive slaves, or the rule for imposing direct taxes. All these amendments may be made, because they relate to inter-State affairs. They relate to the connections of the States as between themselves, or as between the States and foreign nations. But neither three fourths of the States, nor all the States save one, can abolish slavery in that dissenting State, because it lies within the domain reserved entirely to each State for itself, and upon it the other States cannot enter.

I have said nothing about the purposes sought to be accomplished by this amendment. I do not intend to. If the institution of slavery were all that gentlemen in this debate have declared it to be, if its abolition were as desirable as they assert, I, for one, would still not yield the position which I have taken. I would deny the power of the States to touch it outside their own limits, and I find my satisfaction in the fact that the people of the States themselves could and doubtless would correct the evil. But if this amendment were within the constitutional power of amendment; if this were a proper time to consider it; if three fourths of the States were willing to ratify it; and if it did not require the fraudulent use of power either in this House or in the executive department to secure its adoption, I would still resist the passage of this resolution. It is another step toward consolidation, and consolidation is despotism; confederation is liberty.

I believe, sir, in the doctrine of State rights. I know it is fashionable to-day to denounce it. I know that regard for it has been diminished in the public mind; and I know also that in the same degree has love of union waned, and want of harmony among the States increased.

The colonies were originally independent of each other. Their only connection was through the British Crown. New York was as independent of Virginia as of India; Massachusetts was as independent of Pennsylvania as of New Zealand. At times, when threatened with an Indian war, or pressed by some other common danger, they took counsel together, and asked for their common protection. In early times the New England colonies formed a league, but it was finally dissolved in 1688. In 1754 war with France was imminent, and delegates from the colonies met

at Albany. The convention was held under the auspices of the British Government. The delegates unanimously declared in favor of a Federal Union, and adopted a scheme of confederation prepared by Franklin. It was disapproved by the mother Government and by every provincial Assembly. The encroachments of the Crown roused the colonies again to the necessity of union. In 1774 they sent delegates to Philadelphia. They were sent for consultation and advice. They exhausted their power in doing that. Their successors met in 1775. It was the revolutionary Congress. It was that Congress whose State papers Lord Chatham declared to be unsurpassed in the history of diplomacy. Their authority was to take counsel; their legislation was recommendation. They sat for a year, and then they declared that the united colonies were free and independent States—not a State—but each a free and independent State; and to maintain this declaration they pledged each to the other "their lives, their fortunes, and their sacred honor." This declaration converted colonies into independent States, whose sole relation to each other would thenceforth depend upon their own will.

On the same day the Articles of Confederation were proposed. They were adopted by the first State in July, 1778, by the last in 1781. We have been told lately by one high in authority that the States were never out of the Union. What was their condition between July, 1776, and July, 1778? They were independent States coöperating, acting in union, uniting their armies for their common defense. There were no defined relations, no fixed duties, no prescribed obligations. There was no treaty, no compact, no contract; some of them were ready to enter into confederation, some had authorized their delegates to agree to and sign articles. But this had not been done, and until it was done the coöperation was purely voluntary, and each State was the sole judge of the extent and character of its coöperation. The pressure of war ceased. The Articles of Confederation were disregarded; the Union was fast going to pieces; the Convention which framed the Constitution met. The student of political history will find much to interest him. The men of this day would find food for reflection in the history of parties and of men in that Convention. Randolph and Madison of Virginia, Pinckney of South Carolina, scarcely less than Hamilton, were advocates of a strong consolidated Government. Oppressed by a sense of the insufficiency of the power of the Confederation of which they each had large experience, they sought a remedy in centralization. They were citizens of large States, and large States were safe by reason of their numbers and wealth. The delegates from the small States were opposed to consolidation. New Hampshire, Connecticut, New Jersey, Delaware were the friends of confederation. I have not time to trace the action of the Convention. I will content myself with one or two particulars as illustrations of the spirit of the members and of the conclusions which were attained.

Mr. Hamilton proposed that the Governors of the States should be appointed by the General Government. Mr. Pinckney declared himself warmly in favor of this plan, and desired in addition to give the Governor a control over State laws. It met apparently with little favor, however, and was not pressed.

The power of the national Legislature to negative the laws of the States elicited much discussion. Mr. Randolph proposed that the power should extend to all laws "contravening, in the opinion of the national Legislature, the articles of Union or any treaty subsisting under the authority of the Union." Mr. Charles Pinckney proposed that it should extend to "revise the laws of the several States that may be supposed to infringe the powers exclusively delegated by the Constitution to Congress, and to negative and annul such as do." Mr. Charles Cotesworth Pinckney moved "that the national Legislature should have authority to negative all laws which

they should judge to be improper." Mr. Madison seconded the motion. "He could not but regard an indefinite power to negative legislative acts of the States as absolutely necessary to a perfect system." The debate was warm. Mr. Pinckney's motion was rejected, Massachusetts, Pennsylvania, and Virginia only voting for it. And the proposition of Mr. Randolph was also rejected, Massachusetts and Virginia alone voting for it. (Madison Papers, 732, 735, 1116.) It was in this debate that Mr. Madison said:

"Should no such precaution be taken the only remedy would be an appeal to coercion. Was such a remedy eligible? Was it practicable? Could the national resources, if exerted to the utmost, enforce a national decree against Massachusetts, abetted, perhaps, by several of her neighbors? It would not be possible. Any government for the United States formed on the supposed practicability of using force against the unconstitutional proceedings of the States would prove as visionary as the government of Congress."—*Madison Papers*, 822.

And on the question whether any negative of any kind on State laws should be given, the vote stood: New Hampshire, Pennsylvania, Delaware, Maryland, Virginia, in favor of, and Massachusetts, Connecticut, New Jersey, North Carolina, South Carolina, Georgia, against it. (Madison Papers, 1412.)

The rule of suffrage in the national Legislature was so difficult of adjustment as to jeopard the continuance of the Convention. The contest was between those who insisted on an equality of votes as in the Confederation and those who desired to apportion the votes according to numbers or otherwise. The large States—Massachusetts, Pennsylvania, Virginia, South Carolina—voted steadily for an inequality of vote. This rule for the first branch was readily adopted, New Jersey and Delaware alone dissenting. And upon the question of applying the same rule to the Senate, Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia, voted for it. (Madison Papers, 843.)

An accommodation was finally effected between the parties by giving to each State representation in the House according to population, and in the Senate an equal representation; and against this adjustment Pennsylvania, Virginia, South Carolina, and Georgia voted to the last; Massachusetts divided. (Madison Papers, 1107.)

I have not time to discuss the various views put forward in relation to the various modes of electing the President, nor to show the position of the States and the delegates on that point. The same general spirit pervaded the discussion, and the votes were determined generally by the desire or the fear of a strong consolidated government.

The Constitution was adopted. It was submitted to the States for ratification.

Madison and Hamilton, both members of the Convention, both disappointed by the defeat of some of their favorite provisions, both anxious for a stronger national Government, and for the subordination if not the destruction of the State governments, understood well the intention of the Convention and the meaning of the Constitution. They urged its ratification in the Federalist.

The gentleman from Ohio [Mr. GARFIELD] has spoken of "the pestilent doctrine of State rights;" and the gentleman from Massachusetts [Mr. BALDWIN] has said "State sovereignty never was anything more than a dream of theorists." I confront them with Hamilton:

"The State governments, by their original constitutions, are invested with complete sovereignty."

"An entire consolidation of the States into one complete national sovereignty would imply an entire subordination of the parts; and whatever powers might remain in them would be altogether dependent on the general will. But as the plan of the Convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were not by that act exclusively delegated to the United States." * * * "The rule that all the authorities of which the States are not explicitly divested in favor of the Union remain with them in full vigor, is not only a theoretical consequence of that division, (i. e., of sovereign power), but is clearly admitted by the whole tenor of the instrument which contains the articles of the proposed Constitution."—*Federalist*, Nos. 31, 32.

I confront them with Madison:

"In this relation, then, the proposed Government cannot be considered a national one, since its jurisdiction extends to certain enumerated articles only, and leaves to the several States a residuary and inviolable sovereignty over all other objects."—*Federalist*, No. 39.

My colleague [Mr. GARFIELD] says, "The States have no flag, have no army, cannot declare war, cannot make peace; how then can they be sovereign?" Sovereign power can forbear the exercise of any attribute; can delegate its exercise to another. It requires an act of sovereign power to delegate these powers of declaring war and making peace. But if the gentleman denies the sovereign power of the States because they have agreed to delegate certain powers to the Federal Government, upon what ground will he claim sovereignty for the Federal Government, whose powers are all delegated, and which cannot now and never could provide a tribunal or a law by which the citizen of a State may recover from a citizen of the same State the amount of a simple promissory note?

The Constitution was adopted by the States, not by the people as a nation, nor yet by the people of the States, but by the States themselves:

"Each State in ratifying the Constitution is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act."—*Madison Papers*, No. 39.

The States ratified the Constitution, and the citizens of each State owed obedience to it by reason of the ratification by that State. Their allegiance to it was through their State, given by its command, transferred by its act. The State of Massachusetts adopted the Federal Constitution; by that act that State became a member of the Federal Union; and in this wise, and this alone, the citizens of Massachusetts were compelled, were entitled, to recognize its authority. If Massachusetts had rejected the Constitution, its citizens would have owed no obedience to, would have had no interest in, would have been entitled to no protection from the Federal Government. Rhode Island did not ratify the Constitution till May, 1790, one year after the inauguration of the new Government. What was her condition in the interval? The old Confederation had been entirely dissolved. She had not become a member of the new one. Was she not then an independent, sovereign State? Was she not a "State out of the Union?"

The discussions during this period had caused a searching investigation of the nature of the Federal Government. Its character as a national Government had been asserted. The powers and rights of the States had been questioned. The ratifying conventions demanded that all uncertainty on this point should be dispelled. The First Congress proposed and within six months nine States adopted the amendment to the Constitution, that

"All powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The pure character, the spotless patriotism, the unflinching firmness of Washington sufficed to delay the struggle between confederation and consolidation in the early administration of the new Government. It came in the days of John Adams. The alien and sedition laws were the occasion. The States of Virginia and Kentucky declared their fixed opinion and purpose. Other States responded; the struggle was severe, but its termination gave possession of the administration for twenty-four years to Jefferson and Madison and Monroe, and that party which adhered to the declaration of principles contained in the Resolutions of 1798 and 1799. They declare that the powers of the Federal Government result "from the compact to which the States are parties;" that they are "limited by the plain sense and intention of the instrument constituting that compact;" that they "are no further valid than they are authorized by the grants enumerated in that compact;" and that in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States who are parties thereto have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them."

Mr. Speaker, I have entered into this historical examination not for the purpose of insisting upon the use of mere names, or of discussing any questions which are just now rather speculative than practical. They all find their solution in the logical deductions from these premises. I desired rather to assert the true theory and nature

of the Government in order to solve this pending question. I have desired to maintain that the States are sovereign; that their powers are inherent; that they comprise the undelimited mass; that the Federal Government is their agent, derives all its powers from them, exercises its powers in their name; that its duties are few and defined, and its powers are few and simple, sometimes exclusive and far-reaching, but always limited to the grants declared in the Constitution. I have done this in order that I might bring vividly to the mind of each gentleman here that this Government was designed to be a confederation of States, not a consolidated empire, and to beg them, amidst the temptations of these evil days, to adhere to the wise design of its original formation.

The experience of seventy-five years has confirmed the wisdom of the fathers. The States administering their own internal affairs, the Federal Government regulating their international and inter-State relations, have each fulfilled their respective duties and exercised in harmony their respective powers. We have had peace and prosperity; we have had liberty and social order; we have had variety of institutions in the parts, and unity and vigor in the whole; we have solved the problem of large confederations; we have reconciled the liberty of the citizen with the expansion of empire; individuals have been free; communities have been self-governing; minorities have been protected. The theory of State sovereignty, the theory of State rights, has done this. I beg gentlemen not to depart from it. I beg them not to be seduced into the idea that we can be more free or more prosperous or more happy by breaking down the States and substituting for their just influence the unbridled will of a majority of the whole people. We do not need uniformity of institutions. Their very variety develops the good in all. Organized communities, with all the powers of well-ordered and settled State governments, are the best security for the personal liberties and material interests of all the people. We of the Northwest will have little to fear if you insist upon a change. Our country, rich in all the products of a fruitful soil, is prolific of men. If the rule of a consolidated majority is to prevail, we can from our northern prairies send down a countless host under whose mighty tread the institutions of pigmy States and small communities will be trampled in the dust. Illinois has more voters than New Hampshire, Vermont, and Connecticut. Ohio has more voters than Maine, Massachusetts, and Rhode Island. Teach them that power resides in numbers alone; teach them that the institutions of the States are not sacred from their touch; while they attack the institution of slavery to-day you may smile, but to-morrow you will tremble when your religion, your manufactures, your capital are wrested from your control and subjected to their will. You have no safety but in the maintenance of your State governments, no security for your liberty, your property, your prosperity but in the protection of the rights of minorities under the power of firm, well-established communities.

We have gone too far toward consolidation already. Federal power is encroaching on the States. The Executive is displacing the Legislature; the rights of individuals are not safe; the rights of minorities are not respected; power is raising itself above law, above Constitution, and putting the safeguards of liberty and the guarantees of good government beneath his feet. This House declares that it cannot look with satisfaction upon the establishment of an Austrian empire upon the ruins of a Mexican republic, and thereupon the President makes haste humbly to tell the Emperor of the French that although the House expresses the unanimous sentiment of our people, he governs the foreign affairs of the country, and that he will defy that sentiment in his action. Argueless seeks asylum in New York. He is demanded as a slave-trader by the Cuban authorities, and the President and the Secretary of State, without treaty, without law, without judicial investigation, in violation of the rights of New York, in violation of the Constitution of the United States, command that he be secretly kidnapped in the night, and that to avoid a *habeas corpus* he be hidden away till the vessel sails for Cuba. We must retrace our steps; we must return to State rights. They are the conservators of liberty; they are the con-

servators of Union; and the first step of that return should be now and here, in our firm resolve to remit to the States, where the Constitution left it, the whole subject of domestic slavery.

[Here the hammer fell.]

Mr. STILES. I move that the gentleman have leave to proceed for ten minutes.

Mr. PRICE. I object.

Mr. SPALDING. I desire permission of the House to ask the gentleman from Ohio a question.

Mr. PENDLETON. I shall be very happy to answer any question my colleague will ask, if the House will permit it.

Several MEMBERS objected.

Mr. WILSON. I desire to submit this suggestion to the House.

Mr. KALBFLEISCH. I object.

Mr. WILSON. Well, sir, I move that the time fixed for taking a recess be extended till this resolution has been disposed of.

The SPEAKER. That motion is in order.

The motion was agreed to.

The question being on the amendment submitted by Mr. WHEELER,

Mr. GANSON called for the yeas and nays.

The yeas and nays were not ordered.

The amendment was disagreed to.

The substitute proposed by Mr. PENDLETON was disagreed to.

The joint resolution was then ordered to a third reading, and was accordingly read the third time.

Mr. HOLMAN demanded the yeas and nays upon the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 93, nays 65, not voting 23; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Griswold, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Marvin, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perlman, Pike, Price, Alexander H. Rice, John H. Rice, Scheuck, Scofield, Shannon, Sloan, Smith, Smithers, Spaulding, Starr, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, and Woodbridge—93.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Ashley, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Gravens, Dawson, Denison, Edin, Edgerton, Eldridge, English, Finck, Ganson, Grider, Harding, Harrington, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, King, Law, Lazenby, Le Blond, Long, Mallory, Marey, McAllister, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Stiles, Srouse, Stuart, Sweet, Wadsworth, Ward, Chilton A. White, Joseph W. White, and Fernando Wood—65.

NOT VOTING—Messrs. William G. Brown, Clay, Henry Winter Davis, Thomas T. Davis, Dumont, Grinnell, Hall, Benjamin G. Harris, Charles M. Harris, Knapp, McBride, Middleton, Nelson, Perry, Pomeroy, William H. Randall, Edward H. Rollins, Stebbins, Voorhees, William B. Washburn, Winfield, Benjamin Wood, and Yeaman—23.

So the joint resolution was not passed, two thirds not having voted in favor thereof.

During the call of the roll,

Mr. WEBSTER stated that his colleague, Mr. DAVIS, of Maryland, was detained from the House by illness, and was paired with Mr. KNAPP, also detained by illness. Mr. DAVIS would have voted in the affirmative and Mr. KNAPP in the negative.

Mr. STEELE, of New York, stated that his colleague, Mr. DAVIS, had paired with Mr. WINFIELD.

Mr. COX stated that Mr. VOORHEES had paired with Mr. ROLLINS, of New Hampshire.

Mr. McBRIDE stated that he had paired with Mr. HALL, otherwise he would have voted in the affirmative.

Mr. ASHLEY changed his vote from the affirmative to the negative, for the purpose of submitting at the proper time the motion to reconsider.

Mr. HARRIS, of Illinois, I, when very busy, was requested by Mr. GRINNELL, of Iowa, to pair with him on this question. Without reflection or thinking that it required a vote of two thirds to carry the resolution, I agreed to it, which I now regret, and but for which I should vote in the negative.

The vote was announced as above recorded.

Mr. HOLMAN. I rise to a question of order. I desire to know whether less than a majority is competent to lay a motion to reconsider the vote just taken on the table?

The SPEAKER. The only provision of the Constitution requiring a two thirds vote is upon the passage of the resolution.

Mr. HOLMAN. Then I will not submit a motion to reconsider.

INTERNAL REVENUE.

Mr. MORRILL. I desire to say to the House that if a quorum is present at half past seven this evening I shall endeavor to take up the Senate amendments to the internal revenue tax bill.

Mr. COX. Does the gentleman desire a vote upon them to-night?

Mr. MORRILL. I do.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, informed the House that the Senate insist upon its amendments to the amendments of the House of Representatives to the bill (S. No. 145) to equalize the pay of soldiers in the United States Army, agree to the committee of conference asked for by the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. WILSON, Mr. GRIMES, and Mr. NESMITH to be the committee of conference on the part of the Senate.

Also, that the Senate have passed a bill (H. R. No. 247) making a grant of land to the State of Wisconsin to build a military road to Lake Superior, with amendments; in which the concurrence of the House was requested.

Also, that the Senate have passed an act (S. No. 264) for the disposal of coal lands and town property in the public domain; in which the concurrence of the House was requested.

Also, that the Senate have passed, without amendment, an act (H. R. No. 513) to detach the counties of Calhoun and Branch from the western judicial district and annex the same to the eastern district of the State of Michigan.

Also, that the Senate have passed an act (No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1865, with amendments; in which the concurrence of the House was requested.

Also, that the Senate agree to the amendments of the House to the bill (S. No. 106) to prohibit certain sales of gold and foreign exchange; and also to the bill (H. R. No. 282) to amend an act entitled "An act to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes," approved February 29, 1864.

Also, that the Senate have passed a bill and joint resolution of the following titles; in which the concurrence of the House was requested:

An act (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes; and

Joint resolution (S. No. 8) for the relief of the State of Wisconsin.

ARMY NEWS.

The SPEAKER, by unanimous consent, laid before the House for information the following communication from the Secretary of War:

WAR DEPARTMENT,
WASHINGTON, June 15, 7 a. m.

SIR: The movement of the army of the Potomac to the south side of Richmond, across the Chickahominy river and James river, has progressed far enough to admit of the publication of some general facts without danger of premature disclosure.

After several days' preliminary preparations the movement commenced on Sunday night. The eighteenth corps, under command of General Smith, marched to the White House and then embarked on transports for Bermuda Landing. Wright's corps and Burnside's moved to Jones's bridge, where they crossed the Chickahominy and marched thence to Charles City, on the James river. Hancock's and Warren's corps crossed the Chickahominy at Long Bridge, and marched thence to Wilcox's, on the James river. The James river was to be crossed by the army at Powhatan Point.

A dispatch from General Grant, dated Monday evening, half past five o'clock, headquarters Wilcox's Landing, says that the advance of our troops had reached that place, and would commence crossing the James river to-morrow, (Tuesday,) that Smith's corps would commence arriving at City Point that night, and that no fighting was reported during the movement except a little cavalry skirmishing yesterday.

On Tuesday afternoon, at one o'clock, General Grant was

at Bermuda Landing. In a dispatch from him dated there of that date he says: "Our forces will commence crossing James river to-day. The enemy show no signs of yet having brought troops to the south side of Richmond. Our movement from Cold Harbor to the James river has been made with great celerity, and so far without loss or accident."

An official dispatch dated at General Butler's headquarters, 2.20 p. m., says that Smith's corps was coming in, five thousand having already landed.

A dispatch from General Sherman's headquarters, dated at three o'clock yesterday afternoon, near Kenesaw, states that the general is in front advancing his lines on Kenesaw. Another unofficial dispatch, dated at nine o'clock last night, reports some advance to-day; that Thomas has gained ground, and that one rebel brigade is nearly surrounded. It further states that the rebel General Polk was killed to-day and his body sent to Marietta.

In another part of General Sherman's East Mississippi division our forces have not met with the success that has attended competent commanders. General Washburne, at Memphis, reports that the expedition, consisting of three thousand cavalry, five thousand infantry, and sixteen pieces of artillery, sent out from there under command of General Sturgis, encountered a large rebel force on the 10th instant, under command of Forrest, at Guntown, on the railroad running south from Corinth, and after a severe fight, in which our loss in killed and wounded was heavy, our troops were worsted, and that at the latest accounts Sturgis was at Collierville, retreating toward Memphis. He further states that, with the troops that had lately arrived, Memphis is safe.

General Sherman, having received news of Sturgis's defeat, reports that he has already made arrangements to repair the disaster, and placed General A. J. Smith in command, who will resume the offensive immediately.

No other military intelligence has been received by this Department since my last telegram.

EDWIN M. STANTON,
Secretary of War.

Hon. SCHUYLER COLFAX, Speaker of House of Representatives.

ENROLLED BILLS.

Mr. STEELE, of New Jersey, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 106) to prohibit certain sales of gold and foreign exchange; and

An act (S. No. 282) to amend an act entitled "An act to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes," approved February 29, 1864.

The hour of half past four having arrived, the House took a recess till half past seven.

EVENING SESSION.

The House, at half past seven o'clock, p. m., resumed its session.

BUSINESS OF DISTRICT OF COLUMBIA.

Mr. STEELE, of New York. I ask the unanimous consent of the House that Friday evening be set apart for the consideration of business from the Committee for the District of Columbia.

There was no objection, and it was ordered accordingly.

NEW YORK CUSTOM-HOUSE.

Mr. HULBURD, from the Committee on Public Expenditures, made a report in reference to the New York custom-house; which was laid on the table, and ordered to be printed.

VILLAGE OF CAHOKIA.

Mr. MORRISON, by unanimous consent, introduced a bill to amend an act entitled "An act confirming the proceedings of the inhabitants of the village of Cahokia, in the State of Illinois," approved May 1, 1820; which was read a first and second time, and referred to the Committee on Public Lands.

RHODA WOLCOTT.

Mr. HERRICK submitted the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 295) for the relief of Rhoda Wolcott having met, have, after full and free conference, agreed to recommend and do recommend to their respective Houses as follows:

That the House of Representatives do concur in the amendment of the Senate with an amendment, as follows:

Strike out the words "1st day of January, 1851," and in lieu thereof insert the words "14th day of November, 1863;" that the Senate do agree to the said amendment, to the amendment of the Senate.

L. F. S. FOSTER.

R. GRAY BROWN.

C. B. BUCKLEY.

Managers on the part of the Senate.

ANSON HERRICK.

JAMES T. HALE.

Managers on the part of the House.

The report was adopted.

Mr. HERRICK moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

CONSULAR AND DIPLOMATIC BILL.

Mr. WILSON. I submit the following privileged report.

The Clerk read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 40) entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1865, and for other purposes," having met, after a full and free conference have agreed to recommend, and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the second amendment of the Senate, and agree to the same with the following amendments: strike out the words "twenty-five" and insert the word "thirteen;" strike out the word "pupils" and insert the word "clerks."

That the House agree to the twenty-eighth amendment of the Senate.

That the Senate recede from all the twenty-ninth amendment after the enacting clause, and that the following be inserted in lieu thereof:

That the President be, and is hereby, authorized, whenever he shall think the public good will be promoted thereby, to appoint consular clerks, not exceeding thirteen in number at any one time, who shall be citizens of the United States, and over eighteen years of age at the time of their appointment, and shall be entitled to compensation for their services, respectively at a rate not exceeding \$1,000 per annum, to be determined by the President, and to assign such clerks from time to time to such consulates and with such duties as he shall direct; and before the appointment of any such clerk shall be made, it shall be satisfactorily shown to the Secretary of State, after due examination and report by an examining board, that the applicant is qualified and fit for the duties to which he shall be assigned, and such report shall be laid before the President. And no clerk so appointed shall be removed from office except for cause stated in writing, which shall be submitted to Congress at the session first following such removal.

That the Senate recede from its thirtieth amendment. That the House recede from its amendment to the thirty-first amendment of the Senate, and agree to the same.

LYMAN TRUMBULL,
IRA HARRIS,
P. G. VAN WINKLE,

Managers on the part of the Senate.

JAMES F. WILSON,
GODLOVE S. ORTH,
Managers on the part of the House.

Mr. WILSON. This is the same as the report of the first committee of conference except that part which relates to the Belgian minister. That is stricken out. The Senate recede from their amendment entirely. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the report was adopted.

Mr. WILSON moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

MARQUETTE AND ONTONAGON RAILROAD.

Mr. ELDRIDGE moved, by unanimous consent, to take up Senate joint resolution No. 64, explanatory of an act entitled "An act extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan."

The motion was agreed to.

The joint resolution was taken up, read a first and second time, ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. ELDRIDGE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PRESERVATION OF HARBORS.

Mr. WASHBURNE, of Illinois, moved to take up and concur in the verbal amendments of the Senate to House bill No. 450, to provide for the repair and preservation of certain public works of the United States.

The amendments were concurred in.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which these Senate amendments were concurred in; and also moved that the motion to reconsider be laid upon the table. The latter motion was agreed to.

STATE GOVERNMENT FOR COLORADO.

Mr. ASHLEY moved to take up Senate bill No. 291, to amend an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of

such State into the Union on an equal footing with the original States."

The motion was agreed to.

The bill was read a first and second time.

It provides that so much of the fifth section of the act to which this act is an amendment as provides by ordinance for submitting the constitution to the people of the State for their ratification or rejection, at an election to be held on the second Tuesday of October, be so amended as to read on the second Tuesday in September.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. ASHLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WISCONSIN.

Mr. ELDRIDGE moved, by unanimous consent, to take from the Speaker's table Senate joint resolution No. 8, for the relief of the State of Wisconsin.

The motion was agreed to; and the joint resolution was taken up, read a first and second time, and referred to the Committee on the Judiciary.

CHEROKEES.

Mr. BOYD presented the memorial of the chief of the Cherokee nation, &c., which was referred to the Committee of Ways and Means.

INTERNAL REVENUE.

Mr. MORRILL. I ask unanimous consent that the Senate amendments to the tax bill be considered in the House as in Committee of the Whole under the five minutes rule.

Mr. SHANNON. Will this interfere with the Pacific railroad bill?

The SPEAKER. That will come up in the morning hour to-morrow.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Vermont will continue the consideration of the tax bill.

Mr. MORRILL. I hope it will be disposed of this evening, and then the Pacific railroad bill will be the next business in order.

The SPEAKER. The parliamentary ruling would be that the morning hour commences this evening, in which the Pacific railroad bill is in order. If the tax bill is taken up, and the House adjourn with the bill undisposed of, it would come up as unfinished business to-morrow for one hour, and after the morning hour the day is assigned to the Committee on Military Affairs.

Mr. MORRILL. If gentlemen desire an early adjournment I hope they will take up this bill and consider it first. It is important that it should be sent to the Senate, as they have nearly got through with the tariff bill.

Mr. WASHBURNE, of Illinois. I hope the House will proceed with this now.

Mr. COLE, of California. I hope this evening will be devoted to the tax bill, and then again to-morrow evening, and from evening to evening until disposed of.

Mr. WILSON. I suggest that an arrangement should be made by which the Pacific railroad bill shall come up to-morrow morning.

Mr. MORRILL. I hope we shall get through this bill to-night.

The SPEAKER. Is there unanimous consent to proceed to the consideration of the tax bill?

Mr. SHANNON. If it be understood that if the bill is not finished to-night it shall go over until to-morrow evening, I will not object.

Mr. WASHBURNE, of Illinois. I will not consent to anything which overrides the tax bill.

Mr. WILSON. I ask unanimous consent that the Pacific railroad bill shall be considered to-morrow evening.

There was no objection, and it was so agreed.

MEMBER SWORN IN.

Mr. LOAN. I rise to a privileged question. I desire to have my colleague, Mr. Knox, sworn in as a member of the House.

Mr. SAMUEL KNOX was then qualified by taking the oath prescribed by the act of July 2, 1862.

INTERNAL REVENUE—AGAIN.

The House, by unanimous consent, proceeded to the consideration of the Senate amendments to the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes.

Mr. MORRILL. The Committee of Ways and Means recommend a concurrence in about three hundred and ninety-four of the amendments of the Senate, a non-concurrence in about two hundred and forty-two, and a concurrence in about a dozen with amendments. I desire to say that the committee would propose some amendments to many of the amendments wherein they recommend a non-concurrence; but some of them are important and some are unimportant, and they thought the matter could be better arranged in a committee of conference. They ask that a vote in gross be taken on all the amendments in which we propose a concurrence, except such as gentlemen may desire a separate vote on. That the House may know what the amendments are in which we ask a concurrence and in which a non-concurrence, I send the report to the Clerk's desk to be read.

Mr. WASHBURNE, of Illinois. What course does the gentleman propose?

Mr. MORRILL. A vote first on concurring in the three hundred and ninety-four amendments except such as gentlemen may desire a separate vote on.

Mr. WASHBURNE, of Illinois. What is the recommendation in reference to taxing whisky on hand?

Mr. MORRILL. The committee recommend a concurrence with the Senate.

Mr. WASHBURNE, of Illinois. I ask a separate vote on that early and often. [Laughter.]

Mr. GARFIELD. With the permission of the gentleman from Vermont I desire to inquire what effect the arrangement entered into in reference to this bill will have upon the Military Committee's business?

The SPEAKER. If the House adjourn to-night with the tax bill undisposed of it comes up as unfinished business to-morrow morning, and remains before the House until it is disposed of, unfinished business having priority of all business except privileged questions and questions of privilege. If there was a morning hour to-morrow, which never occurs when there is unfinished business, the day after that morning hour would be devoted to the business reported from the Military Committee.

Mr. GARFIELD. I stated at the time that I objected to any arrangement which would interfere with the business pertaining to the Military Committee.

The SPEAKER. That is true, when the first proposition was pending; subsequently another proposition was made and unanimously agreed to.

Mr. GARFIELD. I intended my objection to extend to all such arrangements.

The SPEAKER. The Chair did not understand the gentleman so to object.

Mr. WASHBURNE, of Illinois. Let us go ahead with this, and we will soon get through with the bill.

Mr. GARFIELD. Will we get through to-night?

Mr. WASHBURNE, of Illinois. We will try.

Mr. GARFIELD. If we get through to-night will the Military Committee have to-morrow?

The SPEAKER. After the morning hour.

The Clerk will now read the list of amendments in which the Committee of Ways and Means recommend concurrence.

The Clerk proceeded to read the list, giving only the numbers of the amendments.

Mr. HOLMAN. I must call for the reading of all the amendments.

Mr. FENTON. I hope the gentleman will withdraw that demand. There are six hundred and thirty-six amendments, and we shall never get through. Let the Clerk read the numbers slowly, so that members can keep the run of them.

Mr. HOLMAN. We cannot understand what we are doing in that way.

Mr. FERNANDO WOOD. The bill is too important to be passed in that manner. I demand the reading of each amendment.

The amendments of the Senate in which the Committee of Ways and Means recommended concurrence were then read and concurred in *nem. con.* by the House, except in the following instances in which special action was taken:

Thirty-first amendment:

On page 13, line eighteen, strike out the words "false or fraudulent."

Thirty-second amendment:

On same page, after the word "return," in the same line, insert the words "which in the opinion of the assessor is false or fraudulent."

Thirty-third amendment:

On same page, lines nineteen and twenty, strike out the words "a list on which there is" and insert in lieu thereof the word "contains."

Thirty-fourth amendment:

On same page, in line twenty-two, strike out the words "by subpoena, to be served by any assistant assessor."

Thirty-fifth amendment:

On same page, after the word "officer," in line twenty-six, insert the words "before such assessor."

The clause, as amended by these several amendments, reads as follows:

And if any person, on being notified or required as aforesaid, shall refuse or neglect to give such list or return within the time required as aforesaid, or if any person shall not deliver a monthly or other list or return without notice at the time required by law, or if any person shall deliver or disclose to any assessor or assistant assessor any list, statement, or return, which in the opinion of the assessor is false or fraudulent, or contains any under-statement or under-valuation, it shall be lawful for the assessor to summon such person, his agent, or other person having possession, custody, or care of books of account containing entries relating to the trade or business of such person, or any other persons as he may deem proper, to appear before such assessor and produce such book, at a time and place therein named, and to give testimony or answer interrogatories under oath or affirmation respecting any objects liable to duty or tax as aforesaid, or the lists, statements, or returns thereof, or any trade, business, or profession liable to any tax or license as aforesaid.

Mr. BROWN, of Wisconsin. My reasons for objecting to these amendments is that they violate every idea of individual right and liberty which belongs to the common law and to our people. The clause as amended proposes to allow an assessor upon mere suspicion, no matter how baseless it may be, that a party has made a false oath, to examine into all of his private accounts, to call for his books, and make himself master of all the business transactions of the party. We have in almost every State in the Union laws which call for oaths as to personal property, and so far as I have any knowledge of any such laws this is the only one that puts it in the power of a little petty officer to call for the books and accounts of a merchant or a person engaged in general business, and examine them, and make his business transactions the subject of an inquiry. I believe it to be all wrong, and for that reason I object to this additional power which is given by the Senate to the assessors. It was bad enough when the House allowed the assessors to take the responsibility, when it is alleged that a certain statement is false, of making an inquiry into the business transactions of the party. We are fast hurrying on to that state of things when we not only disregard private rights, but everything which is considered sacred under the common law. I hope that these amendments will not be concurred in.

Mr. STEVENS. The only difference between the provision of the House bill and the amendment of the Senate is as to whether the assessor shall believe the return to be false and fraudulent, or whether it shall be alleged to be so. It is only a difference of expression. According to the provision of the original bill every assessor has a right, if he alleges fraud, to call the party before him to verify his statement by oath. How can he absolutely know that it is false and fraudulent? He must have good reason to suspect it. All that is done is to call the party and examine him, and let him take the oath and produce his books—nothing else. There is nothing harsh in the measure. It only puts the party on his oath, the same as in the case of a return of income. I can see no reason why these amendments should not be concurred in. I think the amendments of the Senate make the provision a little softer and better than the original bill does.

Mr. ELDRIDGE. Does it not go further and require the production of books and the disclosure of all the affairs of the party on mere suspicion?

Mr. STEVENS. That was in the bill as it went from the House, and the Senate have agreed to it.

Mr. ELDRIDGE. This puts it merely upon suspicion of the assessor. It does not require that there shall be any charge against the individual. He acts upon mere suspicion.

Mr. BROWN, of Wisconsin. If the gentleman will allow me, I will say that I would strike

out that provision as it existed in the House bill. But I am here willing, as I am forced to, to concede that the House bill was correct. The Senate amendment goes further. It allows, without any probable cause, every little petty officer of all this number scattered through the whole country, to take advantage of his suspicion, whether founded or unfounded, to institute an investigation into the private affairs of the citizen. I prefer that the party should answer under oath, and if he answer falsely, that he shall be prosecuted for perjury. That is the law as it generally exists throughout the United States with regard to the taxation of personal property.

Mr. STEVENS. I think the gentleman entirely misapprehends. That part of the provision which the gentleman complains of is in the House bill and is left untouched. We cannot, therefore, amend that now.

Mr. BROWN, of Wisconsin. That I concede.

Mr. STEVENS. As it stood before, the assistant assessor, as well as the assessor, had the right to summon the party if, in his judgment, the return was fraudulent. There can be no absolute certainty of a fraud which is not investigated. The amendment of the Senate is to take away from the assistant assessor that power, leaving it to the assessor where fraud is suspected.

Mr. BROWN, of Wisconsin. I will ask the gentleman if, under the bill as he reported it, it was not necessary that the assessor should be certain, that he should know that the return was false. In other words, was not the assessor compelled to assume the responsibility in order to be able to make the inquiry?

Mr. STEVENS. No. It would be absurd to ask him to examine the books and take the oath of the party if he knew the facts himself. These were the means provided in the original bill to ascertain whether the return was fraudulent or not, but the idea was very illy expressed in the original bill, and has been better put in the amendment.

The question was taken on the amendments; and there were, on division—ayes 57, noes 41.

So the amendments were concurred in.

Thirty-sixth amendment:

Section fourteen, after the word "aforesaid" strike out the words "and to enforce such writ by attachment for contempt," and insert in lieu thereof as follows:

Such summons may be served by any assistant assessor of the district. In case any person so summoned shall neglect or refuse to obey such summons according to its exigency, or to give testimony, or to answer interrogatories as required, it shall be lawful for the assessor, upon affidavit proving the facts, to apply to the judge of the district court, or a commissioner authorized to perform the duties of such judge at chambers, for an attachment against such person as a contempt. It shall be the duty of such judge or commissioner to hear such application, and if satisfactory proof be made, to issue an attachment directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case, and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper to enforce obedience to the requirements of the summons, and punish such person for his default or disobedience.

Mr. GANSON. Mr. Speaker, this amendment authorizes the officer to whom this application is made to issue an attachment, in the first instance, against the person as for contempt. In my judgment the first thing that the officer should be authorized to do, when the application is made by the assessor, is to issue an order to the party to appear and show cause why an attachment should not issue against him, instead of authorizing the issuing of an attachment in the first instance.

In the next place my objection is to the last part of this clause, which vests in this officer the power to impose any punishment that he may deem proper. I do not believe in the propriety of investing all these officers with such discretionary power. I think there should be some limit to it. I think that some kind of punishment should be prescribed by the statute in the nature of a fine. We should not authorize the commissioner to commit a party to jail. Under this clause, as it now stands, he might imprison a man for five years. He might sentence him to be hanged, or might inflict any punishment he chose. There is no limitation whatever. I think the nature of the punishment should be indicated. I think the amendment of the Senate an improvement on the original clause as the bill passed the House; but I am also of opinion that it should be altered in those particulars.

Mr. STEVENS. This provides expressly that

on appearance the process and everything shall be open to answer.

Mr. GANSON. Not before the attachment is issued.

Mr. STEVENS. The attachment is only to bring the party there, and then the answer is open. It will be simply one process instead of two, which will be a great saving in time and expense. It takes no privilege from the party. He is not to be punished until he is heard. This is to be done by the judge. I am sorry that in New York they can hang a man for contempt. [Laughter.] If that is the law there it is certainly not the law in Pennsylvania.

Mr. GANSON. I have been so informed.

Mr. STEVENS. The gentleman has been misinformed. I recollect that they put Passmore Williamson in jail for saying that a negro was a man. [Laughter.] It was a great contempt of the Democracy of Pennsylvania.

Mr. GANSON. They put a man in jail now without process.

Mr. STEVENS. That saves a great deal of trouble. It does away with the law's delays of which we have heard so much. [Laughter.]

Mr. GANSON. What about the amendment?

Mr. STEVENS. I think it is right as it is.

Mr. GANSON. He should not be arrested by process in the first instance; he may have a good excuse. This, in my opinion, is unknown to any practice I have ever heard of.

Mr. BOUTWELL. I think that the gentleman from New York has not heard the section. Parties liable to be taxed have ten days in which to make their returns. If they do not make returns, or the returns are deemed fraudulent, then they are summoned to show their books and are put under oath. If they refuse they are to be punished for contempt. It is a very proper amendment.

Mr. PRUYN. I move, in the fortieth line, after the words "judge in chambers" to insert the words "on eight days' notice to the party." That does not quite meet the views of my colleague, but I have not had time to prepare an amendment to do that. This gives the party an opportunity to appear without a preliminary order to show cause. It meets the objection of the gentleman from Pennsylvania, that we would have two proceedings.

Mr. KERNAN. If gentleman will look at it they will see that no harm can come to the Government by adopting this amendment to the amendment, and that it will be acting with fairness toward the individual. It will not delay by directing that the assessor may apply for his attachment on giving five or eight days' notice. If the party can give a good excuse there is no necessity for arresting him; and if he cannot, they can then arrest him. It is in accordance with all the practice I have ever heard of. He will have notice, and there will be no expense.

The House divided; and there were—ayes 46, noes 48.

So the amendment to the amendment was disagreed to.

The amendment of the Senate was concurred in.

Fifty-first amendment:

In section twenty, after the proviso, "That on the hearing of appeals it shall be lawful for the assessor to require by summons the attendance of witnesses and the production of books of account in the same manner and under the same penalties as are provided in cases of refusal or neglect to furnish lists or returns," add as follows:

The bills for the attendance and mileage of said witnesses shall be taxed by the assessor and paid by the delinquent parties, or otherwise by the collector of the district, on certificate of the assessor, at the rates usually allowed in said district for witnesses in courts of justice.

Mr. BROWN, of Wisconsin, demanded a separate vote.

The House divided; and there were—ayes 53, noes 39.

So the amendment was concurred in.

Sixty-third amendment:

Strike out "\$3 50" and insert "\$4," so that it will read: And there shall be allowed and paid to each assistant assessor \$4 for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor; and \$3 for every hundred persons assessed contained in the tax list, as completed and delivered by him to the assessor.

Mr. HOLMAN. It will be observed that the increase made by us from \$3 to \$3 50 has been still further increased by the Senate to \$4. This is an increase of \$1 per day in addition to the

very large increase for making out lists. If it were proposed to reduce the pay of the principal assessor and increase the pay of the assistant assessor, I do not know that I could urge any serious objection; but with the compensation of the principal assessor so high, it seems to me this increase is beyond all reason. I think the compensation of \$3 50 a day, as fixed by the House, ought to be adhered to. We are making the collection of the revenue enormously expensive. This will be a subject of universal comparison. Our people will compare it with the expenses of their own assessments at home, and with the expenses incurred by themselves in the enforcement of their own local policy; and they will condemn it, because of the amount paid to the collectors, assessors, and assistant collectors, which so largely exceeds that paid to State officers who perform corresponding services. I do not hesitate to say that the compensation provided for in this bill for assessors and assistant assessors is three-fold the amount paid in my own State to competent men for the rendition of similar services. It will be condemned everywhere as an attempt to foist upon the country a body of officers receiving a large compensation, while the States wisely and prudently secure the performance of the same services for a very inconsiderable sum in comparison with this amount.

Mr. MORRILL. The more the Committee of Ways and Means examined this subject the more they were convinced that these officers were the poorest paid and the hardest working officers engaged in the service of collecting the internal revenue. In the cities it is utterly impossible to get competent men to execute the duties of the office of assistant assessor without a higher compensation. In the country the assistant assessors have to hire a team, if they do not own one, and travel over vast distances at their own expense. I know that in one district an officer who had been wounded in the service of his country went home and took the position of assistant assessor, and after working three months he ascertained he had paid out fifty dollars more than he had received from the Government.

Mr. HOTCHKISS. I heard no complaint until I came into this House of any difficulty of getting competent men to discharge the duties of assistant assessor at \$3 a day. The remedy is to be found in having smaller districts—a district in each town or township.

Mr. MORRILL. Would that diminish the expense?

Mr. HOTCHKISS. It will largely. This matter was discussed here when the bill was before the House before, and the motion made to raise the amount half a dollar. The increasing the compensation of these officers is very bad policy. It creates a prejudice in the public against the law, more than any other objection which exists against it. It is creating a swarm of office-holders to be paid a higher price than States pay their officers for the performance of similar duties. The States pay this class of men not more than \$1 50 or \$2 at the outside. These men get a larger pay under the law as it stood before the amendment than any similar class of officers in a State, and I hope the amendment will not be concurred in.

Mr. MORRIS, of New York, called for tellers. Tellers were ordered; and Mr. HOLMAN and Mr. MORRILL were appointed.

The House divided; and the tellers reported—ayes 57, noes 55.

Mr. HOLMAN. I call for the yeas and nays upon the amendment.

The yeas and nays were ordered.

The question was put, and it was decided in the affirmative—yeas 63, nays 55, not voting 64; as follows:

YEAS—Messrs. Alley, Allison, Ashley, John D. Baldwin, Baxter, Beaman, Blair, Blow, Boyd, Brooks, Cobb, Cole, Creswell, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, English, Griswold, Hale, Herrick, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Julian, Francis W. Kellogg, Orlando Kellogg, Knox, Loan, Longyear, Marvin, McAllister, McBride, McClurg, McIndoe, Moorhead, Morrill, Leonard Myers, Norton, Odell, Charles O'Neill, Pendleton, Price, Alexander H. Rice, Seofield, Scott, Shannon, Sloan, Smithers, Spalding, Stevens, Thayer, Upson, Ward, Webster, Williams, Wilder, Wilson, and Woodbridge—63.

NAYS—Messrs. James C. Allen, Ames, Ancona, Augustus C. Baldwin, Blaine, Boutwell, Broomall, James S. Brown, Chanler, Ambrose W. Clark, Freeman Clarke, Cox, Dawson, Eden, Edgerton, Eldridge, Fenton, Fink,

Frank, Ganson, Harding, Harrington, Holman, Hotchkiss, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Lazar, Littlejohn, Long, Marcy, McDowell, McKinney, Samuel F. Miller, Daniel Morris, James R. Morris, Morrison, Amos Myers, Noble, Radford, John H. Rice, Robinson, Ross, John B. Steele, William G. Steele, Siles, Stuart, Sweet, Tracy, Wadsworth, Elihu B. Washburne, Chilton A. White, Joseph W. White, and Fernando Wood—55.

NOT VOTING—Messrs. William J. Allen, Anderson, Arnold, Bailly, Bliss, Brandegee, William G. Brown, Clay, Coffroth, Cravens, Henry Winter Davis, Thomas T. Davis, Deming, Denison, Dumont, Farnsworth, Garfield, Gooch, Grider, Grinnell, Hall, Benjamin G. Harris, Charles M. Harris, Hubbard, Hutchins, Jencks, Kasson, Kelley, King, Knapp, Law, Le Blond, Mallory, Middleton, William H. Miller, Nelson, John O'Neill, Orth, Patterson, Perham, Perry, Pike, Pomeroy, Pruyn, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Smith, Starr, Stebbins, Strouse, Thomas, Van Valkenburgh, Voorhees, William B. Washburn, Whaley, Wheeler, Windom, Winfield, Benjamin Wood, and Yeaman—64.

So the amendment was agreed to.

Seventieth amendment:

On page 27, line ninety-one, after the words "assistant assessors" insert the words "revenue agents and inspectors;" so that the proviso will read:

Provided, That the Secretary of the Treasury shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in cases where a collection district embraces more than a single congressional district, and to assessors and assistant assessors, revenue agents and inspectors, in the States of Louisiana, North Carolina, Mississippi, &c.

Mr. KERNAN. I do not think we ought to authorize the Secretary of the Treasury to increase the pay of these officers at his discretion, even if we do it in the case of assessors and assistant assessors. I do not think this amendment ought to be adopted.

Mr. KASSON. The gentleman will find toward the close of the section this limitation:

But the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories respectively.

Mr. KERNAN. Can any gentleman tell us what those rates are?

Mr. HOLMAN. I move to amend the amendment by striking out the words "revenue agents." I trust the House will perceive the difficulty there is about this amendment of the Senate. With great reluctance, I think, the House concurred in the text as it stands in the original bill. The Senate inserts in addition the words "revenue agents and inspectors," so as to authorize the Secretary of the Treasury to fix additional compensation to assessors and assistant assessors in cases where a collection district embraces more than a single congressional district, "and to assessors and assistant assessors, revenue agents and inspectors, in the States of Louisiana, North Carolina," &c.

Now, sir, it is true that there is a proviso that the rate of compensation thus allowed shall not exceed the rates paid to similar officers in such States. Who knows what that compensation is?

Mr. KERNAN. There are no such officers in the States.

Mr. HOLMAN. There are no such officers as revenue agents and inspectors in the States. They have no connection with the revenue at all. The House has been punished within the last two months with a long list of revenue agents, employed by the Secretary of the Treasury at four dollars, six dollars, and I believe eight dollars per day and their expenses, and I presume these revenue agents are to be employed in the same way.

Mr. UPSON. I call the attention of the gentleman to the fourth section of the bill, which shows that only five of these agents are to be employed.

Mr. HOLMAN. Will the gentleman read that section?

Mr. UPSON. It provides that "the Secretary of the Treasury may appoint, not exceeding five revenue agents, whose duty shall be, under the direction of the Secretary of the Treasury, to aid in the prevention, detection, and punishment of frauds upon the internal revenue," and so on.

Mr. HOLMAN. That, I presume, provides for these revenue agents, but what are the inspectors employed for? What are their duties? Similar additional compensation is to be paid to them.

Mr. BROOMALL. The gentleman will allow me to call his attention to the commencement of the fifth section, which provides for these inspectors.

Mr. HOLMAN. The fourth and fifth sections, according to my recollection, provide for

these officers. Here is a proposition to appoint revenue agents and inspectors in certain States where you will probably not collect a dollar of revenue.

Now, sir, I have been in portions of the South myself within the last twelve months, where multitudes of public officers were employed, receiving high compensation, whose services, from the very nature of things, would not inure one tithe of a hair, to the extent of one dollar, to the benefit of this Government. There are multitudes of such officers, and you here authorize not simply their multiplication, but by the vague terms you use in referring to the pay of similar officers in the States you authorize the Secretary of the Treasury to exercise unlimited power of compensating these agents for the purpose of carrying out, not the interests of the Government, but business pertaining to the organization of the political power of the country.

Mr. MORRILL. If the gentleman will go through his speech we will not pass this amendment. These officers are only to have their expenses paid in addition to their salaries.

Mr. STEVENS. I think the gentleman had better withdraw his amendment, and let us vote down the whole amendment of the Senate.

Mr. HOLMAN. Very well, I withdraw it. The amendment of the Senate was not concurred in.

The seventy-fourth amendment was read and concurred in, as follows:

Page 30, lines three and four, strike out "one thousand" and insert in lieu thereof "fifteen hundred;" so that the section will read:

Sec. 24. And be it further enacted, That there shall be allowed to collectors, in full compensation for their services and that of their deputies, a salary of \$1,500 per annum, to be paid quarterly, &c.

Several succeeding amendments were then read and concurred in.

Mr. HOLMAN. I desire to inquire whether the seventy-fourth amendment has been disposed of.

The SPEAKER. It has been concurred in.

Mr. HOLMAN. The Clerk passed over the amendments so rapidly that I did not notice it.

The SPEAKER. The Clerk passed over them at the usual speed—rather slowly, the Chair thought.

Mr. HOLMAN. I move to reconsider the vote by which the amendment was concurred in. I trust the House will at least give us an opportunity of considering the amendment by a reconsideration. Let us at least have a vote on the amendment. [Cries of "Oh! no."] Then I shall ask for a vote upon each amendment.

The SPEAKER. The Chair thinks the motion to reconsider is not in order, as the House is now acting as in Committee of the Whole.

Mr. HOLMAN. I ask, then, that in order to facilitate business the House will consider the seventy-fourth amendment, which is to increase the salaries—

Mr. FENTON. Is debate in order?

The SPEAKER. It is not.

Mr. FENTON. Let us proceed, then.

Mr. HOLMAN. Do I understand that the motion to reconsider is not in order?

The SPEAKER. The Chair is under the impression that it is not, from the fact that the House has decided to consider the amendments as if in Committee of the Whole on the state of the Union, where a motion to reconsider is not in order.

Mr. HOLMAN. Then, to avoid the necessity of having a separate vote on each proposition, which I do not desire to insist on, I ask unanimous consent of the House to make a statement.

Mr. PRICE. I object.

Mr. HOLMAN. Then I call for a separate vote on each amendment.

Eighty-ninth amendment:

Section twenty-seven, line eighteen, strike out the word "summons" and insert in lieu thereof the word "notice."

Mr. HOLMAN called for a separate vote.

The House divided; and no quorum voting, The SPEAKER ordered tellers; and appointed Messrs. HOLMAN and SHANNON.

Mr. HOLMAN. I again ask unanimous consent to have the vote on the seventy-fourth amendment reconsidered.

Mr. WILSON. I object to the House being forced by one member to do anything.

The House divided; and the tellers reported—ayes 60, noes 20.

The SPEAKER announced that the amendment was concurred in.

Mr. HOLMAN. Was there a quorum voting?

The SPEAKER. The gentleman from Indiana deserted his post as teller.

Mr. HOLMAN. I rise to a point of order. The tellers appointed by the Chair did not report that result.

The SPEAKER. The Chair had appealed to gentlemen to vote, and some were coming forward to do so when the gentleman from Indiana left his post, and the Chair took it for granted that he withdrew the demand for a division. The Chair will appoint two other tellers; and Mr. NOBLE and Mr. BAXTER will please act as such.

The House again divided; and the tellers reported—ayes 77, noes 16.

So the amendment was concurred in.

Mr. HOLMAN. I move to reconsider the vote by which the seventy-fourth amendment was concurred in.

The SPEAKER. The Chair decides that that motion is not in order.

Mr. HOLMAN. I appeal respectfully from the decision of the Chair. I inquire whether we are not now in the House, and controlled, except in regard to the limitation of debate, by the rules of the House?

The SPEAKER. The Chair decides that the House, having resolved by unanimous consent to consider the amendments to this bill the same as if in Committee of the Whole on the state of the Union, the rules that govern in committee apply in the House. In Committee of the Whole on the state of the Union no motion to reconsider is in order except by unanimous consent. The Chair, therefore, rules the motion to reconsider to be not in order. From that decision the gentleman from Indiana appeals; the question is: "Shall the decision of the Chair stand as the judgment of the House?"

The House divided; and there were—ayes 95, noes 1.

So the decision of the Chair was sustained by the House.

Mr. SCOFIELD. I ask the Chair how it is that the yeas and nays can be called, if we are acting as if in Committee of the Whole on the state of the Union?

The SPEAKER. When we are in the House, we are acting under the Constitution of the United States, which provides that one fifth of the members present can always order the yeas and nays.

Mr. SCOFIELD. I understood the Chair to say that we were acting under the rules which govern the Committee of the Whole on the state of the Union. That is why I voted against sustaining the decision of the Chair.

The SPEAKER. The gentleman has the right to vote as he pleases.

Mr. SCOFIELD. I wish to explain—

The SPEAKER. No explanation is necessary.

Mr. SCOFIELD. I understood the Chair to decide that we were acting as if in Committee of the Whole on the state of the Union.

The SPEAKER. No debate is in order.

Mr. HALE. I suggest that the vote be taken on reconsidering the seventy-fourth amendment.

Mr. BEAMAN and others objected.

The amendments of the Senate (commencing with the ninetieth amendment) in which concurrence was recommended by the Committee of Ways and Means were read, and were severally voted on and concurred in without question, except the following, on which special action was taken:

Ninetyth amendment:

Section twenty-seven, line twenty-two, strike out the word "summons" and insert in lieu thereof the word "notice."

Mr. HOLMAN. I rise to debate the proposition, and I expect to enjoy all the rights of the Representative of a free constituency on this floor.

The SPEAKER. The gentleman from Indiana shall enjoy all his rights.

Mr. HOLMAN. I intend to enjoy them to the most unlimited extent under the rules of the House. I expect not only to be heard, but—

The SPEAKER. The gentleman from Indiana is not in order.

Mr. HOLMAN. The gentleman from Indiana is discussing the question before the House.

The SPEAKER. The gentlemen will debate the ninetieth amendment.

Mr. HOLMAN. Mr. Speaker, in the rapid running over of these amendments by the Clerk it is somewhat difficult to distinguish between the amendments recommended by the Committee of Ways and Means and those not recommended. It will therefore occur occasionally that a number of amendments are passed over without notice. I am therefore very desirous that the Clerk shall read the amendments in such order as that members may understand exactly as to what they have to vote upon.

Mr. UPSON. I make the point of order that the gentleman from Indiana is not speaking to the amendment.

The SPEAKER. The Chair sustains the point of order.

Mr. HOLMAN. I do not think there is any objection to the amendment of the Senate, but I wish it understood that the Clerk in reading the amendments of the Senate shall not run over them with such rapidity as to deprive members of their right to have the several propositions fairly presented for a vote of the House.

The amendment was concurred in.

The Clerk proceeded with the reading of the amendments of the Senate.

Mr. MORRILL. I appeal to the gentleman from Indiana to withdraw his objection. There are over six hundred amendments; and compelling the Speaker to put the question on every one of them, many being verbal in their nature, is unnecessarily fatiguing him without accomplishing any good result.

Mr. KERNAN. I do not see why we should not agree to reconsider the vote on the important amendment to which he has referred, and which was passed over hastily.

Mr. MORRILL. Before we get through I will agree to that.

Mr. HOLMAN. Let us go back at once.

The SPEAKER. The Chair does not want the House to be controlled by any suggestion in reference to his convenience. He will put the question on each of these six hundred and thirty-six amendments, as he is required to do, and he will do it with pleasure.

Mr. KERNAN. Let us accommodate each other about these things. We do not wish to throw any obstacles in the way of transacting the public business, but if there is to be this sharpness on the other side gentlemen on this side will stand upon their rights. Let us go back to the amendment indicated. If there is a majority for it, let it stand; if not, let it be rejected.

Mr. WILSON. I object.

Mr. KERNAN. When we agreed to take these amendments up out of their usual course we did not expect this sharpness on the other side. The amendments have been run over rapidly.

The SPEAKER. The Clerk cannot speak for himself, and the Chair will state that when he came to the seventy-fourth amendment he waited, expecting as the Chair did that there would be a call for a separate vote, but there was none.

Mr. KERNAN. I do not make any reflection on the Clerk.

Mr. BALDWIN, of Massachusetts. I object to going back.

Mr. HOLMAN. Then let the amendments be read and voted on separately.

Ninety-eighth amendment:

Strike out the words "place of residence of the person whose" and "shall be;" so that it will read:

And the said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted up at the post office nearest to the estate so seized, and in two other public places within the county.

The House divided; and there were—ayes 75, noes 7; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. STEELE, of New York, and LITTLEJOHN.

The House was again divided; and the tellers reported—ayes 86, noes 7.

So the amendment was concurred in.

Ninety-ninth amendment:

Insert the words "except by special order of the Commissioner of Internal Revenue;" so that it will read: And the place of said sale shall not be more than five

miles distant from the estate seized, except by special order of the Commissioner of Internal Revenue.

Mr. HOLMAN. That is an extraordinary power to confer upon the Commissioner of Internal Revenue, and I ask for a division.

Mr. MORRILL. The gentleman would not object if he had carefully read the provision. It is intended to apply to a number of States not now entirely under the jurisdiction of the United States.

The House divided; and there were—ayes 74, noes 19.

So the amendment was concurred in.

Mr. JOHNSON, of Pennsylvania, moved to adjourn.

Mr. DAWSON demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 35, nays 82, not voting 65; as follows:

YEAS—Messrs. William J. Allen, Ancona, Bally, Blaine, Brooks, James S. Brown, Chanler, Cravens, Dawson, Eden, Edgerton, Eldridge, English, Finck, Grider, Harrington, Herrick, Holman, William Johnson, Kableisen, Lazear, Long, Macey, McDowell, McKinney, James K. Morris, Morrison, Pruyn, Radford, Robinson, Ross, Shannon, Stiles, Sweat, and Fernando Wood—35.

NAYS—Messrs. Alley, Allison, Ames, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blair, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Cresswell, Dawes, Dixon, Donnelly, Driggs, Eckley, Elliot, Fenton, Frank, Ganson, Garfield, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Philip Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Knox, Littlejohn, Long, Longyear, Mallory, Marvin, McAllister, McClurg, McDermott, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Charles O'Neill, Pendleton, Perham, Price, Alexander H. Rice, John H. Rice, James S. Rollins, Scofield, Scott, Sloan, Smithers, Spalding, John B. Steele, William G. Steele, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Ward, Elihu B. Washburne, Webster, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, and Woodbridge—82.

NOT VOTING—Messrs. James C. Allen, Anderson, Arnold, Bliss, Blow, Brandegee, William G. Brown, Freeman Clarke, Clay, Coffin, Cox, Henry Winter Davis, Thomas T. Davis, Denison, Denison, Dumont, Farnsworth, Gould, Grinnell, Griswold, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Hulburd, Hutchins, Jenckes, King, Knapp, Law, Le Blond, McBride, Middleton, William H. Miller, Amos Myers, Nelson, Noble, Odell, John O'Neill, Orin, Patterson, Perry, Pike, Pomeroy, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, Schenck, Smith, Starr, Stebbins, Strouse, Stuart, Thomas, Voorles, Wadsworth, William B. Washburn, Whaley, Wheeler, Windom, Winfield, Benjamin Wood, and Yeaman—65.

So the House refused to adjourn.

Mr. HOLMAN. I now suggest, as a matter of ordinary courtesy in the House, that after the other amendments are disposed of the seventy-fourth amendment be reconsidered.

Mr. BEAMAN. I object.

Mr. MORRILL. I will say to the gentleman from Indiana that I am very anxious to make some progress in this bill to-night, so as to not entirely lose the evening. When we get through the bill, I will say to the gentleman from Indiana, I will ask the House to go back and consider the seventy-fourth amendment.

Mr. HOLMAN. Will not the House do it at this time?

The SPEAKER. Is there unanimous consent that when the other amendments are disposed of the House shall go back and consider the seventy-fourth amendment?

There was no objection.

Mr. HOLMAN. After this understanding by the House I withdraw my demand for a separate vote on each amendment.

The SPEAKER. The Clerk will proceed with the reading of the amendments, and those upon which no separate vote is asked will be considered as agreed to.

One hundred and twentieth amendment:

In section thirty-seven, line three, after the word "collector" insert "revenue agent or inspector;" so that the clause will read:

Sec. 37. And be it further enacted, That if any person shall forcibly obstruct or hinder any assessor or assistant assessor, or any collector or deputy collector, revenue agent or inspector, in the execution of this act, or of any power and authority hereby vested in him, or shall forcibly rescue, or cause to be rescued, any property, articles, or objects, after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending shall, upon conviction thereof, for every such offense, forfeit and pay the sum of \$500, or double the amount of property so rescued, or be imprisoned for a term not exceeding two years, at the discretion of the court.

Mr. HOLMAN. It may be proper to place the names of these two officers in this place on account of the States which are in rebellion, but

that is certainly the only reason for doing so. It struck me upon the first blush that it was not necessary at all, but inasmuch as it has been recommended by the Committee of Ways and Means there may probably be a necessity for it. I rose for the purpose of objecting to this Senate amendment, but it may be that the fourth and fifth sections of this act may require the addition of the names of these two officers to this section of the bill, but it did not so strike me.

Mr. MORRILL. It must be apparent to every man in the House that these inspectors and revenue agents, who are to look after frauds, should at least have the powers of assessors and collectors.

The Clerk having read from the one hundred and sixty-third to the one hundred and sixty-eighth amendments, inclusive, relating to the tax on whisky,

Mr. PRUYN said: I would ask the gentleman from Vermont what changes are proposed by these amendments.

Mr. MORRILL. The House imposed a tax on whisky of \$1 until January next and \$1 25 after that time. The Senate amendments make the duty \$1 to October, \$1 25 from October to January, and \$1 50 after January next.

Mr. BROWN, of Wisconsin. A portion of these amendments in reference to the time at which various transactions shall take effect have been read, and I have hardly had time to notice what was involved in them. All these amendments ought properly to go together as they relate to the same matter, and I therefore ask that they may all be acted upon by the House in one vote.

Mr. BOUTWELL. I object.

Mr. STEVENS. I think the proposition is right, as they all relate to the tax on whisky.

Mr. MORRILL. The committee have recommended a non-concurrence in the last one. At the same time they ought all to be acted on together, and I suggest that the House non-concur in them all.

Mr. BOUTWELL. I withdraw my objection. The several amendments were then all non-concurred in.

One hundred and sixty-ninth amendment:

Strike out the words "such spirits, and also on the interest of all persons in default in;" so that it will read:

And the said duty shall be a lien on the distillery used for distilling the same, with all the stills, vessels, fixtures, and tools therein, and on the lot or tract of land whereon the said distillery is situated, until the said duty shall be paid.

Mr. BROWN, of Wisconsin. I call for a separate vote upon that amendment. The language of the law as originally adopted by the House is:

And the said duty shall be a lien on such spirits, and also on the interest of all persons in default in the distillery used for distilling the same, &c.

Thereby the Committee of Ways and Means of the House provided that an honest owner of premises, which he may have leased, could not lose by a tenant or be held responsible for his acts. A man may lease a piece of property for one purpose and it may be used for another; he may lease it generally, and it may be used for a distillery. Now, by the amendment of the Senate, although a piece of property may be used as a distillery against the wish of the owner, the owner runs the risk of losing it by the default of the distiller. The House properly limited the loss to the party in default.

ABOLITION OF SLAVERY.

Mr. ASHLEY. I rise to a privileged question. I move to reconsider the vote by which the constitutional amendment was rejected this afternoon.

The SPEAKER. The motion will be entered.

Mr. COX. I move to lay the motion to reconsider on the table.

The SPEAKER. That motion is not in order.

Mr. COX. What will be the effect of the motion made by the gentleman from Ohio?

The SPEAKER. It can be called up at any time.

Mr. COX. How did the gentleman vote?

The SPEAKER. With the prevailing side.

Mr. HOLMAN. I rise to a point of order. It is that, so far as the mere question of the constitutional amendment is concerned, a two-thirds vote is necessary; but with reference to everything else pertaining to a vote in this House the ordinary rules govern; and therefore, to enable a party

to move to reconsider, he should have voted in the majority instead of with the prevailing side, and therefore a member who voted in the minority cannot move to reconsider.

Mr. BROWN, of Wisconsin. I raise another point of order.

The SPEAKER. The Chair will decide one point of order at a time. That is about as much as the Chair can decide at once. [Laughter.]

The Chair overrules the point of order raised by the gentleman from Indiana, [Mr. HOLMAN.] The gentleman from Ohio has a right to make the motion to reconsider. The Clerk will read from Barclay's Digest, page 162.

The Clerk read, as follows:

"A fair construction of this rule will permit a member who has voted with the prevailing side on a tie vote to move a reconsideration. Such is evidently the spirit of the rule, and such has been the subsequent practice."

The SPEAKER. The practice is that any member who has voted on the prevailing side can move to reconsider, and the gentleman from Ohio voted with the prevailing side.

Mr. COX. Was this a tie vote?

The SPEAKER. It was not a tie vote, it is true; but the spirit of the rule applies precisely the same to this case. A member who votes on the side which succeeds on the vote can move a reconsideration. That has been the practice, and the Chair so decides.

Mr. COX. By what vote can the reconsideration be carried—by two thirds or by a majority?

The SPEAKER. By a majority vote; but on the passage of the joint resolution a two-thirds vote is required.

Mr. COX. We never can end the question under that ruling of the Chair so long as there is a majority in favor of the resolution and not two thirds.

The SPEAKER. The gentleman is incorrect, as but one reconsideration can be moved on any question. That exhausts the power to reconsider.

Mr. FERNANDO WOOD. Within what period can the motion to reconsider be made?

The SPEAKER. On this day or to-morrow, under the rules, and after to-morrow the motion to reconsider cannot be withdrawn by the gentleman from Ohio, except by the consent of the House.

Mr. BROWN, of Wisconsin. I make the point of order that the Speaker has already decided that we are acting as in Committee of the Whole.

The SPEAKER. That is true.

Mr. BROWN, of Wisconsin. And that the rules applicable to that committee are applicable to us now. I submit, therefore, that being in Committee of the Whole the motion to reconsider cannot be made.

The SPEAKER. The Chair overrules that point of order, for the reason that although the House has voted to act upon this bill as in Committee of the Whole, yet it is the House of Representatives still, or else the present occupant of the chair could not be in the chair. There is one member of the House who is not privileged to preside in Committee of the Whole, and that is the Speaker. Some other member must occupy the chair, because the Committee of the Whole must make a report to the House, and the Speaker must be in the chair to receive that report.

Mr. BROWN, of Wisconsin. The other rules applicable to the Committee of the Whole apply to us, as the House has decided that the rules applicable to the Committee of the Whole now prevail, and therefore it is that I say this motion cannot be entertained.

The SPEAKER. The Chair would overrule the point of order on the additional suggestion of the gentleman from Wisconsin, from the fact that this is the House of Representatives, and the yeas and nays can be called, and can be taken on an adjournment, or on a motion to lay upon the table. Neither of those motions can be made in Committee of the Whole; and yet the Chair, with the general consent of the House, has entertained a motion to adjourn several times this evening.

Mr. COX. I propose to call the previous question on the motion of my colleague [Mr. ASHLEY] at this time.

The SPEAKER. The gentleman cannot do that, for the reason that the rule requires that when a motion to reconsider is submitted at a time when other business is progressing, it must

be entered on the Journal. The Chair will have the rule read from Barclay's Digest, page 152.

The Clerk read, as follows:

"It is in order on the same or succeeding day to move a reconsideration and have it entered, but it cannot be taken up and considered while another question is before the House."

Mr. COX. Why cannot I make the motion to lay the motion to reconsider upon the table now?

The SPEAKER. Because it would be in direct conflict with the rule which has just been read.

Mr. COX. I do not propose to take the motion to reconsider "up," but to lay it on the table.

[Laughter.] I make the point of order that I have a right to make my motion now if my colleague had a right to make his.

The SPEAKER. The Chair overrules the point of order, under the express language of the rule that a motion to reconsider can be entered but not called up when other business is before the House.

Mr. COX. All I propose is to have my motion entered now.

The SPEAKER. The gentleman cannot have it entered, it not being a privileged motion.

Mr. HOLMAN. Is there anything in the rules that prevents the motion to lay on the table being made at the proper time, when the subject comes up for action?

The SPEAKER. There is not.

Mr. HOLMAN. Then of course there is no necessity for making the motion now.

The SPEAKER. When the subject comes up the motion can, of course, be made.

INTERNAL REVENUE—AGAIN.

The House resumed the consideration of the Senate amendments to the internal revenue bill, the question being on the one hundred and sixty-ninth amendment.

Mr. MORRILL. In reference to the particular point under discussion it will be seen that the owners of a distillery may let it to an irresponsible party, and under the present high rate of duties he may go on and distill liquors and defraud the Government, and then abandon the distillery. Now we make it a point that the owner of the distillery shall see to it that he lets it to a responsible party. I can see no great hardship in that.

Mr. UPSON. I would say to the gentleman from Vermont that such cases do actually occur, and have occurred in my own district.

Mr. BROWN, of Wisconsin. I move to amend the amendment by striking out the last word. The gentleman from Vermont does not meet the objection which I made. It does not follow, because there is a distillery on your land, that you have ever assented to its being constructed there. You may own lots in a city, as thousands of others have had the misfortune to do, and lease them, and the parties to whom you have leased them may themselves construct the distillery, and construct it against your wish; but under this clause you become responsible for the acts of the distiller.

Mr. STEVENS. I would say to the gentleman that in cases of this kind I suppose these lots are on ground rent.

Mr. BROWN, of Wisconsin. Undoubtedly.

Mr. STEVENS. A sale of the premises would not discharge the ground rent.

Mr. BROWN, of Wisconsin. Mr. Speaker, with very great respect for the legal opinion of the gentleman from Pennsylvania, I can hardly see, when you forfeit the premises themselves, when you forfeit the interest which each person has in them, how the owner can still claim his ground rent. Suppose he leases the premises for a year, or two, or three, or ten years, what becomes of his right after the expiration of the term? There are thousands of persons in the western country who lease their lots for the mere taxes, expecting to sell them at a profit after a while. The ground rent amounts to the tax and nothing more. What, under this section, becomes of the lot then after the lease expires? It is absolutely forfeited.

I do not know, Mr. Speaker, that it is in order to mention the Constitution in this House. I know it is almost out of order. But I do not believe that under the Constitution this section can be enforced. But the fact that it cannot be enforced is no reason why we should pass it. I know, from the past action of the House, that

to appeal either to its justice or to the obligations imposed upon it by the Constitution is the very weakest argument that a man can use. But when you have no object in this procedure except to aid a fraud, when the forfeiture that you have is sufficient, over and over again, to cover the amount that the Government may claim, it seems to me to be idle to enter on a doubtful field like this, even supposing that there is no constitutional question involved. I know of but one argument in favor of the amendment, and that is the argument of consistency. You have already destroyed the right existing under that old English maxim which makes a man's house his castle. You have deprived him of that protection. You have already deprived a man of the privilege of transacting his own business without being subjected to the idle and impudent curiosity of parties who wish to inquire into it; and it would be almost inconsistent to adopt any measure that would be no encroachment on popular rights.

Mr. BEAMAN. I rise to a point of order. I want to know if the gentleman's argument has any reference to his amendment to strike out the last word.

The SPEAKER. The point of order is not material, as the gentleman's time has expired.

The question was taken on Mr. Brown's amendment to the amendment; and it was rejected.

Mr. GANSON. I move to strike out the words "such spirits." I do not see why we should exclude the spirits of the man who has violated the law.

Mr. BOUTWELL. If the spirits can be found they are always liable for the duties under this act. It is not necessary by this provision of law that a lien should be put upon the spirits, for all articles subject to tax are responsible for the tax themselves. That is so by the old sixty-ninth section and by another section of this bill. If the spirits can be found they are liable for the tax.

I think the amendment as it comes from the Senate is a desirable one. It may turn out to be unconstitutional as the gentleman from Wisconsin suggests, but as he has great respect for the Supreme Court of the United States, if any party is aggrieved he can submit the question to that court. It will be agreed, I think, that its decision is as good as the opinion of the Government.

The Government has suffered from irresponsible distillers leasing premises for distilling spirits; the Government has been defrauded of its just revenue, and, although there may be cases of hardship, I think the principle is a safe one that the property of the distillery should be held responsible for the doings of the distiller.

The amendment to the amendment was rejected.

Mr. BROWN, of Wisconsin. I move to strike out all after the first word.

Mr. BOUTWELL. I insist that the gentleman shall confine his remarks to the amendment which he has submitted.

Mr. BROWN, of Wisconsin. The gentleman from Massachusetts, in his zeal to suppress discussion, might as well wait until he has heard my argument before he raises a question of order. Gentlemen who believe they have the right seldom wish to escape from discussion. It is only those who believe that, by brute force, by a numerical majority, they can vote down any proposition, whether right or wrong, who resort to such rules and desire to apply the gag to members of this House.

Now, Mr. Speaker, the argument the gentleman makes well becomes the gentleman who makes it, and the side of this House from which it comes. It is an argument that we, acting under our oaths to do our duty under the Constitution, and to comply with all of its provisions, shall pass a law independently of these oaths, and forgetting what we have promised. He says let us pass these propositions, and if they are wrong the Supreme Court can make them right! It furnishes a key to the action of this House during this session on more than one half of its legislation. Day after day we have appealed in vain, not only to the protection of the Constitution, but to the protection of those principles of justice which lie back of all constitutions, and which all men, whether born under the despotic sway of a Russian czar or in a free land, have recognized as the primary object of all legislation.

We have followed such rules because the numerical majority of this House have the power.

They can pass this bill and leave to the courts to supply what we have left undone.

Any attempt by any party, under the plea of necessity, to take the property of the innocent as a punishment for the fault of the guilty is dishonest as well as unconstitutional. It will be encouraging the spirit of plunder.

[Here the hammer fell.]

Mr. STEVENS. I am sorry the gentleman had not more time, for his argument is so germane to the amendment. [Laughter.] I regret that he should not have a larger privilege; but if it were granted to him some of the rest of us would ask for the same thing. As he did not get to the amendment we are not enlightened enough to vote with him, and I hope the amendment will be voted down.

Mr. BROWN, of Wisconsin, withdrew his amendment to the amendment.

Mr. GANSON. I demand the yeas and nays upon the amendment.

Mr. ELDRIDGE. I move that the House adjourn.

The motion was not agreed to.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 47, nays 51, not voting 84; as follows:

YEAS—Messrs. Alley, Allison, Ames, Baily, John D. Baldwin, Beaman, Boutwell, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Dawes, Dixon, Donnelly, Eckley, Eliot, Fenton, Frank, Higby, Hooper, Hotchkiss, John H. Hubbard, Ingersoll, Orlando Kellogg, Littlejohn, Loan, McBride, McIndoe, Moorhead, Morrill, Norton, Charles O'Neill, Perham, Price, Alexander H. Rice, John H. Rice, Shannon, Sloan, Smithers, Stevens, Upson, Van Valkenburgh, Elihu B. Washburne, Webster, Wilson, and Woodbridge—47.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, James S. Brown, Chanler, Cox, Cravens, Dawson, Eden, Edgerton, Eldridge, Finck, Ganson, Garfield, Griswold, Hale, Harding, Herrick, Holman, Philip Johnson, Kullfleisch, Korman, Lazenby, Marcy, Marvin, McAllister, McDowell, McKinney, James R. Morris, Morrison, Leonard Myers, Osceola, Pendleton, Prunyn, Robinson, James S. Rollins, Russ, Strouse, Tracy, Wadsworth, William G. Steele, Sutes, Joseph W. White, Williams, and Fernando Wood—51.

NOT VOTING—Messrs. Anderson, Arnold, Ashley, Baxter, Blaine, Blair, Bliss, Brown, Boyd, Brandegee, Brooks, William G. Brown, Freeman Clarke, Clay, Coffroth, Henry Winter Davis, Thomas T. Davis, Deming, Denison, Driggs, Dumont, English, Barnum G. Harris, Charles M. Harris, Asahel W. Hubbard, Hullard, Hutchins, Jenckes, William Johnson, Julian, Kasson, Kellogg, Francis W. Kellogg, King, Knapp, Knox, Law, Le Bond, Long, Longyear, Mallory, McClurg, Middleton, Myers, Nelson, Noble, John O'Neill, Orin, Patterson, Perry, Pike, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Rogers, Edward H. Rollins, Schenck, Smith, Spalding, Starr, Stebbins, Stuart, Sweat, Thayer, Thomas, Voorhees, William B. Washburn, Whaley, Wheeler, Wilder, Windom, Winfield, Benjamin Wood, and Yeaman—84.

So the amendment was not concurred in.

During the roll-call,

Mr. NORTON stated that Mr. ARNOLD was detained at home on account of sickness.

Mr. L. MYERS stated that Mr. AMOS MYERS had left the House on account of illness.

And then, on motion of Mr. MORRILL, (at ten o'clock and thirty-five minutes p. m.) the House adjourned.

IN SENATE.

THURSDAY, June 16, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. FOOT presented seven petitions of citizens of Vermont praying for the passage of the bill (H. R. No. 276) to secure to persons in the military and naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were referred to the Committee on Public Lands.

Mr. MORGAN presented a memorial of citizens of Boston, Massachusetts, and a petition of citizens of Huntingdon county, Pennsylvania, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military and naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were referred to the Committee on Public Lands.

Mr. SUMNER presented six petitions of men and women of the United States praying for the abolition of slavery, and such an amendment of

the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

Mr. WADE presented a memorial of citizens of Ohio engaged in the manufacture and working of marble, remonstrating against any increase of the duty on marble; which was referred to the Committee on Finance.

TREASURY PRINTING AND ENGRAVING.

Mr. WADE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be instructed to inquire in what manner the engraving and printing of the fractional currency, bonds, notes, and other Government securities is conducted in the Treasury building; what safeguards have been adopted for the protection of the public interests, and to secure the integrity of the said issues of notes and bonds, and for the safety of the dies and plates used in printing the same; what expenditures have been made for the purchase of machinery, and for labor and materials; what alterations have been made in the Treasury building for the accommodation of the said work, and the cost of the same, as well as their effect upon the stability and convenience of the building; from what appropriations the said expenditures have been made; and that the said committee have power to send for persons and papers.

REPORTS FROM COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the petition of citizens of New Albany, Indiana, praying that New Albany may be made a district for the inspection of steamboats and for the collection of customs, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (H. R. No. 520) for the relief of Samuel Beaton, master of the schooner George Harris, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 519) repealing certain provisions of law concerning seamen on board of public and private vessels of the United States, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 290) for increased facilities of telegraph communication between the Atlantic and Pacific States and the Territory of Idaho, reported it with an amendment.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the petition of William Rogers Hopkins, asked to be discharged from its further consideration; which was agreed to.

Mr. SPRAGUE, from the Committee on Commerce, to whom was referred the petition of the American Shipmasters' Association, submitted a report accompanied by a bill (S. No. 310) for the promotion of commerce and the improvement of navigation. The bill was read, and passed to a second reading; and the report was ordered to be printed.

PREVENTION OF SMUGGLING.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the amendment of the House of Representatives to the bill (S. No. 266) to prevent smuggling, and for other purposes, recommend that the Senate non-concur in the amendment. I make that motion, and also that the Senate ask for a conference on the subject.

Mr. MORRILL. I desire to suggest to the chairman of the Committee on Commerce whether we had not better simply non-concur. That will send the bill back to the House of Representatives, and put it upon the House to ask a conference, as I think ought to be done in this case, as the amendment here, which purports to be a substitute for the entire bill, is in all essential particulars the bill itself. I think when the other House sends to us an amendment as a substitute to our bill, which amendment is substantially the bill itself, we have a right to non-concur and ask them to take the initiative in any further proceedings.

Mr. CHANDLER. Very well; I withdraw the motion for a conference.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives.

The amendment was non-concurred in.

THOMAS J. GALBRAITH.

Mr. WILKINSON. The Committee on In-

dian Affairs, to whom was referred the petition of Thomas J. Galbraith, asking certain relief, have instructed me to report a joint resolution, and I ask for its present consideration. I presume there will be no objection to it.

The joint resolution (S. No. 67) for the relief of Thomas J. Galbraith was read twice by its title.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the joint resolution?

Mr. POWELL and others. Let it be read.

The Secretary read the resolution. It proposes to direct the proper accounting officers of the Interior and Treasury Departments to settle and adjust the money and property accounts and claims of Thomas J. Galbraith, as agent of the United States for the Sioux Indians of Minnesota, upon principles of equity and justice; and to allow him credit for all moneys and property actually expended by him, in good faith, in and about the affairs of his agency, and for the use of the Indians, upon his affidavit or affidavits, duly sworn to, of such expenditure; and he is to be discharged from all liability for or on account of Indian trust property, which, by his affidavit or affidavits, shall clearly appear to have been destroyed or taken and carried away by hostile Indians, or by the troops or citizens of the United States, or of the State of Minnesota, against his will, and without his fault or connivance. In addition to these affidavits, the officers may, in their discretion, require corroborative, countervailing, or explanatory evidence of the matters and statements in the affidavits set forth and sworn to.

Mr. POWELL. It strikes me that that is a very loose mode of legislation.

The PRESIDENT *pro tempore*. Does the Senator object to the present consideration of the resolution?

Mr. POWELL. I have no objection to its being considered now.

The PRESIDENT *pro tempore*. No objection to its present consideration being made, the joint resolution is before the Senate as in Committee of the Whole.

Mr. POWELL. It strikes me that to allow the accounting officers of the Treasury to settle those accounts upon the mere affidavit of the party as to the property that was in his hands is not proper. There ought to be some further evidence about it. I do not object to the present consideration of the resolution, but I merely state this as a reason why I cannot vote for it. If the Senator will amend it so as to provide for proof outside of the affidavit of the party, it would perhaps be proper to pass it.

Mr. WILKINSON. I think I can explain the case to the satisfaction of the honorable Senator from Kentucky. There is at the end of this resolution a proviso that the accounting officers may require such further proof to sustain the affidavits of Mr. Galbraith, the petitioner, as in their discretion they shall deem necessary and proper.

Mr. RICHARDSON. Allow me to make a suggestion to the Senator from Minnesota. The provision of the resolution, as I understand the reading of it from the Secretary's table, is that as to property which was taken by hostile Indians his affidavit shall be sufficient, and he shall not be accountable for it. I have no objection to that. The resolution also provides that he shall not be accountable for property taken by our own citizens. There is no reason in the world why his affidavit should be taken for that. He can obtain the testimony of the people of Minnesota who took the property, and account for it, and he ought to be responsible for it if they have taken it. To that portion of the resolution I object.

Mr. HARLAN. I suggest to my friend from Minnesota that perhaps the resolution had better go over and be printed, and each Senator can have it on his desk in the morning.

Mr. WILKINSON. I will consent to let it go over, and I ask that the resolution and the petition be printed.

Mr. DOOLITTLE. I suggest also that the letters from the Department on the subject be printed.

The PRESIDENT *pro tempore*. The resolution will be printed, as a matter of course; but the motion to print the petition must go to the Committee on Printing.

Mr. DOOLITTLE. The papers are short,

and I ask by unanimous consent that an order be made to print them.

The PRESIDENT *pro tempore*. The order may be made by unanimous consent. The Chair hears no objection.

BILLS INTRODUCED.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 309) for the relief of Clara Moore, executrix of the late Eli Moore; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 311) for the relief of W. H. and C. S. Duncan; which was read twice by its title, and, with papers presented by him, referred to the Committee on Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott, and to the report of the committee of conference on the bill (H. R. No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1865.

The message also announced that the House had passed the bill (S. No. 291) to amend an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;" and the joint resolution (S. No. 64) explanatory of an act entitled "An act extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan."

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 106) to prohibit certain sales of gold and foreign exchange;

A bill (S. No. 282) to amend an act entitled "An act to extend the time for the withdrawal of goods from public stores and bonded warehouses, and for other purposes," approved February 29, 1864;

A bill (H. R. No. 513) to detach the counties of Calhoun and Branch from the western judicial district and annex the same to the eastern district of the State of Michigan;

A bill (S. No. 291) to amend an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;"

A bill (H. R. No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1865, and for other purposes; and

A joint resolution (S. No. 64) explanatory of an act entitled "An act extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan."

DUTIES ON SALT.

Mr. CHANDLER. I move to suspend all prior orders for the purpose of taking up House bill No. 356, requiring proof of payment of duties on foreign salt before payment of the allowances provided for by the acts of July 29, 1813, and March 3, 1819.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It provides that the allowance of bounty to vessels employed in the Bank and other cod fisheries, as provided for in the act of July 29, 1813, laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries, and the act of March 3, 1819, amendatory thereof, shall not hereafter be paid to any such vessel until satisfactory proof shall have been furnished to the collector of customs, charged with the payment of the bounty, that the import duty imposed by law on foreign salt imported into the United States has been duly paid on all foreign salt used in curing the fish on which the claim to the allowance of bounty is based.

Mr. FESSENDEN. I wish to say simply that in the remarks I made the other day on the question of the fishing bounties I stated that this bill had become a law. In that supposition I was mistaken, and therefore I make this explanation to the Senate, now.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CONVENTION WITH PERU.

On motion of Mr. SUMNER, the bill (H. R. No. 521) to amend an act entitled "An act to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863," approved June 1, 1864, was considered as in Committee of the Whole. It proposes to amend the act approved June 1, 1864, by striking out, after the word "January," the word "last," and inserting in lieu thereof the words "eighteen hundred and sixty-three;" and also so as to authorize the Secretary of State to pay to each of the persons mentioned in the act the interest that may be found due in accordance with the terms of the settlement of the claims.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

EXEMPLIFICATION OF LAND RECORDS.

Mr. HARLAN. I move to take up for consideration Senate bill No. 278.

Mr. WILSON. I should like to know what it is.

Mr. HARLAN. It is a bill reported from the Committee on Public Lands prescribing the terms on which exemplifications shall be furnished by the General Land Office.

The motion was agreed to; and the bill (S. No. 278) prescribing the terms on which exemplifications shall be furnished by the General Land Office was read the second time and considered as in Committee of the Whole.

It provides that from and after the 1st day of July next, all exemplifications of patents, or papers on file or of record in the General Land Office, which may be required by parties interested, shall be furnished by the Commissioner upon the payment by such parties at the rate of fifteen cents per hundred words, and two dollars for copies of township plates or diagrams, with an additional sum of one dollar for the Commissioner's certificate of verification with the General Land Office seal. One of the employees of the office is to be designated by the said Commissioner as the receiving clerk, and the amounts so received are, under the direction of the Commissioner, to be paid into the Treasury of the United States. The fees stipulated are not to apply to authenticated copies which may be required by the officers of any branch of the Government, nor to such unverified copies as the Commissioner in his discretion may deem proper to furnish.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

PUNISHMENT OF GUERRILLAS.

Mr. WILSON. I move to take up the House bill to provide for the more speedy punishment of guerrillas and for other purposes, which was up the other morning.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes, the question being on the amendment reported from the Committee on Military Affairs and the Militia.

Mr. WILSON. On further consultation with the committee I am authorized to propose a modification of the amendment, so as to retain all the words which the committee proposed to strike out except the word "and," in the eleventh line of the first section, the result of which will be to make the bill read, "shall have power to carry into execution all sentences against guerrillas for robbery, arson, burglary, rape, assault with intent to commit rape, and for violation of the laws and customs of war."

The result of this amendment is to confine the bill entirely to the punishment of that class of men for these offenses. I am told by Colonel Holt that in the trials of guerrillas the specifications are always for some act embraced in these words. If the word "and" in the eleventh line

be stricken out, it will be confined simply to guerrillas who commit the offenses specified. I hope the amendment will be agreed to, and the bill passed.

Mr. JOHNSON. When this bill was before the Senate at a former day, I rose to support, as well as I might be able to do, the amendment proposed by the Committee on Military Affairs. It was to strike out the words in brackets in the eleventh and twelfth lines and a portion of the thirteenth line, but without meaning, if those words were stricken out, to vote for the bill unless it should be altered in another particular. The doubt that I have now is whether the amendment which the Senator from Massachusetts, with the consent of the Senate, has just proposed, gets clear of the difficulty that I think would have existed in relation to the bill if it had been amended as originally proposed; and that difficulty is that there is no definition at all of who are guerrillas. The bill will read, if amended as now contemplated by the chairman of the committee, so as to confine it to guerrillas who commit robbery, arson, and the other offenses here named; but who are guerrillas? I do not know. There is no designation of the term, as far as I am advised, in the books of criminal law, and in the absence of any legislative definition of the term, if you leave it to the different courts-martial before whom the question may be from time to time pending, there may be as many different decisions as there are differences of views upon the meaning of that term by the different courts-martial or military commissions; and I should prefer, therefore, if it can be done, that there should be some definition of the term itself. The honorable member seems to suppose, if I understood him, that that definition will be found in the bill, if it passes as he now proposes it to pass; but in that I submit he is mistaken. There are two things to be established before the party can be punished. The particular offense designated, irrespective of the party by whom it may be perpetrated, is first to be established, was it a case of robbery, arson, &c.? And the second is, was the perpetrator a guerrilla? If he was not a guerrilla, then he could not be punished under this bill. The purpose of the bill is to draw within the jurisdiction of the military a certain description of our people who are supposed to be outside of the protection to which other citizens are entitled.

Now, I do not know, Mr. President, what has been the practice of the confederate authorities. In one sense, in the legal sense, in the constitutional sense, (and if the war was terminated the courts would so hold,) no commission from any branch of that alleged government would be a defense as against homicide or either of the other species of offenses stated in this bill. If the war was to terminate to-morrow successfully for us, and of course unsuccessfully for the other side, and the commander-in-chief of that army should be indicted for treason, the courts would be compelled to hold that he could seek no defense at all behind a commission issued by a coconspirator and a cotraitor. In one sense, therefore, he would be considered a guerrilla. But as the war is not terminated, and as the principles of humanity demand that this species of warfare, if it can be called warfare, is not to be carried on, which will bring about retaliation from one side or the other, we have been willing to recognize that government as a government in point of fact, and to deal with it, because it is a government in point of fact, as if it was a government legally established, so far as to authorize us to make exchanges of prisoners and to recognize their officers as contradistinguished from their privates, and to make exchanges in the same way in which we would make exchanges if the confederate government had been a long-established and separate foreign government.

Now, I can very well imagine that those who are called guerrillas in the popular sense, and who will be held to be guerrillas by these military commissions, will be found to have been acting under some sort of authority derived from some branch of that confederate government. If we should punish them as having without the slightest authority robbed and murdered, it might lead to retaliation as against our own prisoners, a condition of retaliation which, if possible, I am sure every humane man will agree with me in saying should be avoided. The safety of our

troops, the honor of the nation, may demand it; but unless that safety and that honor, or some equally imperative reason, demand it in any particular case all the impulses of humanity would repel it. Now, I should like to know from my friend, the chairman of the Committee on Military Affairs, what he understands by the term "guerrilla?" Who is a "guerrilla" in the sense in which the term is used in this bill? If he is authorized to say, and can satisfy me, that "guerrilla" is a well-established term in the law, and so established that to inflict punishment upon the party will not properly subject us to retaliation upon our men who have committed no such offense, then I will vote for this bill, provided it is true that the same object cannot be obtained in a different way.

This bill—I may not perhaps correctly understand it—deals with the offenses mentioned where ever they may be committed. It deals with them, therefore, if committed in Maryland or in either of the loyal States; and if it does, then it takes from the civil authority of those States the right which the constitution and laws of those States give to them and to nobody else—the right to try them. That, I suppose, the committee do not contemplate, and if they did, according to my view, it would be a clear violation of the Constitution. It would be substituting in Maryland military authority for the civil authority. Any of my fellow-citizens may be taken up and charged with these offenses, and called a guerrilla; he may not have committed an offense; he may not, in the judgment of our courts, be a guerrilla at all, in any sense in which that term can be used; but yet he may be convicted, sentenced, and executed by this military commission; and what makes it still more obnoxious, in my view, is that a party in that situation, although within a stone's throw of the President of the United States, and within a nearer distance from the Executive of Maryland, cannot appeal to the executive power of either the State or the United States to save him from the punishment.

There may be, I know, in a time of war, where the Army is a necessity for trying by a drum-head court-martial an offense committed on the spot which is calculated to affect the efficiency of the Army. Nobody, I suppose, ever contemplated that unless, upon the ground of military necessity, unless, upon the foundation of the war power exercised because of the necessity of each case, Congress had a right to interfere with the laws and constitutions of the States, and give the decision of all such questions as the violation of our laws to the judgment of a court-martial. But now what laws are violated upon which this commission is to sit in judgment? Congress has passed no law, has not the authority to do it, for the punishment of murder committed within the limits of the States. The whole jurisdiction in reference to offenses within the limits of the States is with the States; and this military commission, therefore, who are to sit in judgment for the purpose of trying whether a citizen of Maryland has committed robbery, or arson, or burglary, or either of the other offenses named, must look to the laws of Maryland for the purpose of ascertaining what by those laws is murder, arson, burglary, &c.; so that you are giving to this military commission the authority to consider and execute Maryland law. I only mention Maryland by way of illustration. You may be giving them, if there are any military from whom a military commission may be constituted in the State of Massachusetts, the right to decide as against a citizen of Massachusetts whether he has committed murder, arson, burglary, or the other offenses contrary to the definition of those offenses as prescribed by Massachusetts law. I do not believe, with the well-known devotion to liberty which belongs to the sons of Massachusetts, that they ever would consent to be subjected to any other jurisdiction in relation to such matters except their own State jurisdiction, and especially would they not consent to be subjected to a military jurisdiction.

Mr. DAVIS. Mr. President, this is another of the series of strange and absurd bills that these extraordinary times have originated. That the criminals who are designated in this bill ought to be punished, I suppose, nobody will controvert; but all men ought to be punished according to law, and not in conflict with law, and especially

with constitution. I should like to have the attention of the honorable Senator from Maryland while I propound a question or two to him. I ask the honorable Senator, who certainly is one of the ablest lawyers not only of the Senate but of the nation, if a military court can take cognizance of and punish for any offenses not arising in the military or naval service of the United States, or in the militia of the States when in the actual service of the United States.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The hour of one o'clock having arrived, it becomes the duty of the Chair to call up the special order, which is the unfinished business of yesterday, being House bill No. 51, to establish a Bureau of Freedmen's Affairs.

ORDER OF BUSINESS.

Mr. FESSENDEN. I move to postpone that and all prior orders and take up the tariff bill.

Mr. BUCKALEW. I hope the Senator will permit me to offer an amendment to this bill before it passes from the consideration of the Senate, that it may lie over with the bill.

The PRESIDING OFFICER. The amendment can be received by unanimous consent.

Mr. FESSENDEN. It can be offered afterwards. I do not want my motion displaced.

Mr. BUCKALEW. Very well; I can wait.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine.

Mr. SUMNER. I hope the Senate will proceed with the consideration of the bill which is now regularly before it. We have been engaged upon it two days; why not finish it? It is a measure of great importance. The public expectation is following it, and large numbers of people are depending upon its passage, numbers counted by the hundred thousand—we hope soon, in the progress of victory, to be counted by the million—being the freedmen of the country. I say, sir, they have a right to look to our care and protection; and this bill seeks to secure it. I hope, therefore—if I may appeal to the Senator from Maine—that he will not interpose his measure to arrest the final decision of the Senate on a bill which is so humane in its object, in which so many people take an interest, and which is so well calculated to serve the public good. The tariff bill is sure to pass; it can be taken up any day when no other measure is before the Senate; it need not put aside an important measure. I hope, therefore, that the Senate will proceed with the consideration of the bill before it.

Mr. FESSENDEN. All I can say is that the tariff bill and the internal revenue bill are the two essential measures which we must pass before the Senate adjourns. It so happens that my personal attention is necessary to both of them. I am very sorry that it is so. I should be very glad to be rid of both of them, if I could avoid the labor which I must necessarily go through. The internal revenue bill is before the House of Representatives to-day. It will be probably finished there to-day or to-morrow, and then come to us undoubtedly for a committee of conference; and it is important that when that is done the tariff bill should be in a condition to go to the House of Representatives with the amendments that may be made by the Senate. I expect that after that bill is placed in that position, according to the ordinary course of business my personal attention will be necessary to the internal revenue bill, (if I should with the approbation of the Senate happen to be upon the committee of conference, which perhaps is not unlikely under the circumstances,) not only in the ordinary time devoted to such matters, but during the sessions of the Senate in order to get the business through. That was my motive for moving to take up the tariff bill now. I did not see ahead of me any particular time when I could give it that personal attention which it is necessary that I should give to it in the Senate, for some days, or so as to get the bill back to the House of Representatives in time to have the amendments of the Senate to it there considered in connection with the internal revenue bill. I think that is important. In addition, I will say that I have been applied to by many members of the Senate on both sides of the Chamber who have requested that I should bring up this bill and have it disposed of as soon as possible. Having said this, I will only add that the matter is in the hands of the Senate, and I have no wish about it one way

or the other. The Senate can do what it sees good. I have done my duty in making the motion.

Mr. SUMNER. We were led to believe at the end of the last week that this week would be left open for the consideration of measures that did not come from the Finance Committee. I think the chairman of that committee so stated himself distinctly to the Senate. With that understanding we have proceeded with the consideration of several measures this week, and yet once or twice the Senator has brought forward measures from his committee which have displaced those we were considering.

Mr. FESSENDEN. The Senator is a little in error. I said last Friday that I was in hopes to get the two appropriation bills to which I then referred, the Indian appropriation bill and the fortification bill, through before the end of that week, and that in that case I saw nothing to interfere with the business of this week. We have since, however, reported the tariff bill, and the question presents itself precisely under the circumstances I have stated. When that bill shall be out of the way, it is probable there will be several days when I shall have no other business to present. But the Senate can judge of this matter as well as I can. I have stated frankly the condition of the two bills, and it is for the Senate to decide what is the propriety of the case in view of the situation of the public business.

Mr. SUMNER. It becomes a question between the importance of the two measures under the peculiar circumstances of the case, one measure having been already proceeded with to a certain stage and there being a chance of arriving at some decision one way or the other very speedily, and the other not having been taken up. Now, I submit that it is bad economy to cut off the consideration of a measure that has been proceeded with for two days in order to take up a measure that has not been touched. I am not aware of any disposition to protract the debate on the bill to establish a Bureau of Freedmen. Certainly there is not on my part, or on the part of the friends of the bill; and I really hope the Senate will be willing to go on with it, and let us before we part this afternoon finish it.

Mr. WILSON. Mr. President, the other day the President of the United States sent here a message in reference to the military exigencies of the country, and a bill was presented according to the recommendation of the message and the suggestion of the Secretary of War. That bill was considered for a short time and then went over. The Senator from Maine came in the next day and claimed the time which we all gave to him, as we generally do, and as I certainly generally am willing to do. The Senator from Maine then having finished or nearly finished all the business of his committee which was before the Senate, told us that they were engaged in examining the tariff bill, and that the coming week, which is the present week, would be left open for the consideration of other business. Supposing that that was to be the case, supposing that no bills from the Finance Committee were to be called up this week, I yielded to my colleague who had charge of the other measure to which he has referred, as I ought not to have done. He supposed that measure would take but a short time for its consideration, and that the bill in my charge would soon be reached. The Senator from Maine soon came in and claimed Monday, and then the day before yesterday and yesterday were occupied by the bill in charge of my colleague. I have yielded the measure to which I refer, which I have been pressed every day for the last week or ten days to bring to a conclusion, and the Senator from Maine now comes in here and asks us to consider the tariff bill, when I supposed there was no earthly probability of its being touched this week, and I have written to men who have inquired of me in regard to it that it would not come up this week. The Senator from Maine last week promised to give us all this week, but now he comes in to-day in the middle of the week and asks to take up the tariff bill for consideration. I do not like generally to vote against any request the Senator from Maine makes on behalf of his committee, because I know how much he has to do, but I really think this motion of his is contrary to all the understandings we had in regard to this week's work.

Mr. FESSENDEN. I really think that there

ought not to be any implied charge against me of a want of good faith, and I am sorry that my friend from Massachusetts [Mr. WILSON] should have indulged in any remark that would lead to a supposition of that kind. The Indian appropriation bill took two days, instead of one, as I supposed would be sufficient for it. It took all Friday and all Saturday, leaving me with the fortification bill still on my hands. I had that taken up this week, and it was disposed of in about an hour. Now, I believe the bill to which my friend alludes has already taken two days in its discussion, and is not much nearer a decision than it was when it began, and I can say the same, I think, in reference to the bill of his colleague that has been discussed for three days.

Mr. SUMNER. Portions of three days.

Mr. FESSENDEN. The most of three days. Each of them has taken more time than both of the bills which I brought forward before the Senate last week and this week. I did make a remark that Senators would probably have all of this week for their bills, and I supposed that would be the case, but I did not presume that my having said so imposed a binding obligation on me not to make a motion in regard to what I consider the necessary business of the Senate, if circumstances should make it proper.

Now, sir, I have simply stated the condition of these two great, necessary, essential measures to carrying on the Government. Senators know as well as I do that we cannot get along without them. I have stated frankly my condition. I have no personal request to make of any Senator in regard to it. I only say that under the circumstances of the case I have felt it my duty to state to the Senate the exact condition of these two bills and the necessities we are under about them. I make the motion, and it is for the Senate to judge. Any decision that the Senate may come to will be quite satisfactory to me, whether it be one way or the other.

The PRESIDING OFFICER. The Senator from Maine moves to postpone the pending and all other prior orders for the purpose of proceeding to the consideration of the bill (H. R. No. 494) to increase the duties on imports and for other purposes.

The motion was agreed to.

RHODA WOLCOTT.

Mr. FOSTER. Before proceeding with the tariff bill, I ask consent to be allowed to make a report from a committee of conference.

The PRESIDING OFFICER. The Chair will receive the report.

Mr. FOSTER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott, having met, have, after a full and free conference, agreed to recommend and do recommend to their respective Houses as follows:

1. That the House of Representatives do concur in the amendment of the Senate with an amendment as follows: strike out the words "1st day of January, 1861," and in lieu thereof insert "14th day of November, 1860."
2. That the Senate do agree to the said amendment to the amendment of the Senate.

L. F. S. FOSTER,
B. GRATZ BROWN,
C. R. BUCKALEW,
Managers on the part of the Senate.
ANSON HERRICK,
JAMES T. HALE,
Managers on the part of the House.

Mr. FOSTER. The original bill as it came from the House of Representatives proposed to give to the person named in the bill a pension as the widow of a soldier in the war of 1812, beginning from the time of his death in 1812 or 1813. The Senate struck out the time specified in the House bill and fixed the 1st day of January, 1861, for the time of the commencement of the pension. The committee of conference have agreed to change the time to the 14th of November, 1860, and as the pension is only four dollars a month, the change from the amendment of the Senate makes a difference only of some six dollars, which is certainly a very small matter. I hope the report will be agreed to.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had passed a joint resolution (H. R. No. 93) to authorize the Postmaster General to ex-

tend the contract with the Overland Mail Company.

The message also announced that the House insisted upon its amendment to the bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes, disagreed to by the Senate, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. F. WILSON of Iowa, Mr. J. S. BROWN of Wisconsin, and Mr. F. E. WOODBRIDGE of Vermont, managers at the conference on its part.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 450) to provide for the repair and preservation of certain public works of the United States, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. E. B. WASHBURN of Illinois, Mr. J. W. LONGYEAR of Michigan, and Mr. N. PERRY of New Jersey, managers at the conference on its part.

BILLS BECOME LAWS.

The message also announced that the President of the United States had on the 15th instant approved the following acts and joint resolution:

An act (H. R. No. 149) concerning certain school lands in township forty-five north, range seven east, in the State of Missouri;

An act (H. R. No. 198) making appropriations for the support of the Army for the year ending the 30th of June, 1865, and for other purposes;

An act (H. R. No. 383) to incorporate the Home for Friendless Women and Children; and

A joint resolution (H. R. No. 55) granting certain privileges to the city of Des Moines, in the State of Iowa.

TARIFF BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 494) to increase the duties on imports, and for other purposes.

Mr. FESSENDEN. As the bill is a long one, I move that the amendments proposed by the Committee on Finance be acted upon as they are reached in the reading of the bill.

The PRESIDING OFFICER. That course will be adopted.

The Secretary read the bill until he reached the first amendment of the Committee on Finance, which was in section one, line ten, to strike out the word "five" after the word "twenty," and to add after the word "upon" the words "and in addition thereto 10 per cent. *ad valorem*;" so as to make the clause read:

On teas of all kinds 20 cents per pound, and in addition thereto 10 per cent. *ad valorem*.

Mr. MORGAN. As the amendment proposed by the committee is somewhat new and tends to reduce the duty fixed by the House of Representatives, I should be glad to hear what has led to the imposition of an *ad valorem* duty instead of a specific duty as before.

Mr. FESSENDEN. The 20 cents a pound is the old duty, as the Senator knows. The House of Representatives, on the recommendation of the Committee of Ways and Means, have added five cents a pound to it. There was a good deal of doubt expressed on all hands whether tea would, under the circumstances, bear a larger duty than was put upon it before. The Finance Committee, however, came to the conclusion that as there was a very considerable difference in the value of the teas imported, it would be worth while to leave the old specific duty, and then put the addition, if any were made, in the shape of an *ad valorem* duty. It may be a little more in some cases and a little less in others than the House of Representatives propose. We had no very fixed opinions on the subject, but we thought at all events that by making this change the matter would be left open for discussion in a committee of conference between the two Houses, and probably we might arrive at a just conclusion, whereas if we leave the clause precisely as it has come from the House of Representatives the matter will be concluded.

Mr. MORGAN. I have no objection to leaving the matter open for discussion between the two Houses to be decided hereafter, but I object to the passage of the bill with the provision in this form.

Mr. JOHNSON. The present duty on tea, I think, is 20 cents a pound, and the House of Representatives propose to increase it 5 cents specifically. Our committee strike out that increase, but they impose an *ad valorem* duty of 10 per cent. in addition to the present specific duty. I am very little informed as to the grade of this article or the nature of the article itself in the market, but my general impression derived from conversations with importers of tea has been that it is a very difficult thing to ascertain the real price of the article abroad. There is no general standard by which you can test the price abroad. Most of our importers do not buy the tea in the shape in which it is imported here, but they buy it in the leaf and cure it. All the expense of what may be considered the manufacture of the tea is cast upon the importer who pursues his trade in that way, as the largest of them I believe do. Some do it for less, some for more. The cost of the tea to them is ascertained by the original cost of the leaf, with the addition of the expenses to which they are subjected in fitting it for exportation from China or from Japan, and the expense of freight to the United States. As I understand—the chairman of the committee perhaps has informed himself more fully than I have, and the Senator from New York of course knows more about it than I do—there is no uniform price at any moment. It costs some less and some more, and as this additional *ad valorem* charge is to be upon the invoice cost, and not upon the home value, it would be exceedingly difficult for the appraiser to ascertain with anything even approximating to accuracy what the invoice cost of the particular article was, unless he took it from the invoice of the shipper. That invoice is not accurate, cannot be made accurate. This trade goes on for a number of months, and they make up the cost of a particular shipment by charging it its proportion of the amount of the cost of a much larger stock; so that it very often happens, as I understand, that the invoice of one shipment, when they settle their accounts at the end of a year, is found to be higher or sometimes lower than it should be. The actual proper cost which should be charged to each shipment cannot be ascertained until the work of the whole season is performed.

Now, I submit to the chairman of the Finance Committee whether it would not be better—it would save these importers a great deal of trouble, and perhaps give the Government more money—to adopt the proposition of the House of Representatives adding 5 cents a pound to the specific duty. These importers, too, will be subjected to the provision which the laws on the subject contain that if their invoice shall be found to be put below a certain percentage of what the appraiser shall find to be the actual proper invoice cost, they will incur a penalty—I forget what it is—10, 15, or 20 per cent., and without any fault of their own. If you add 5 or 10 cents specific duty it seems to me it will perhaps operate more justly than by imposing an *ad valorem* duty. I make these suggestions of course with comparative ignorance, and will go by the judgment of the Committee on Finance, provided their attention has been, as it no doubt has been, called to the subject.

Mr. FESSENDEN. I suppose there may be somewhat more difficulty in ascertaining the exact value of tea than of other articles.

Mr. MORGAN. It varies very much.

Mr. FESSENDEN. But there are many other articles in regard to which there is an equal difficulty. Still it seemed to us manifestly proper that where there is such a very large difference in the value of the article imported as there is in different qualities of tea, it might be well to make a discrimination. I do not think that the importation of teas will be troubled very much by the 5 cents additional duty; but if you lay the 5 cents additional duty on the pound, and make it all specific, it has no reference to the cost or value of the article; and the Senator knows as well as I do that there is a very great difference.

Mr. JOHNSON. I know there is.

Mr. FESSENDEN. The importers seem to object to this proposition very much; but although I have great respect for many individual men, I have learned in some degree to exercise my own judgment in reference to these matters, irrespective of the arguments of importers or manufacturers. To be sure, the judgment of the committee

is necessarily very imperfect, but they come to conclusions on the facts in the best way they can get at them, and it is for the Senate to do the same. I do not suppose there is really any very great difficulty about ascertaining the value of the various grades of teas. If the business is precisely as the Senator from Maryland states, the importers know what the teas cost them when they buy them; they know the cost of manufacturing them, if it may be so called, when they prepare them for shipment, and if they make an honest statement of the cost per pound there is no danger of their suffering. All they have got to do is to state it fairly and honestly according to what they know. If they pay the money in the first place, and in the next place if they manufacture the article and it has no market price, it is not a subject of fluctuation; they know the actual cost on the spot. At any rate, I think there is enough of value in the suggestion not to conclude the matter as it stands in the bill, but to adopt the amendment of the committee and let it be further considered.

Mr. HALE. I do not know anything about this particular tax, but there is one principle which has been stated by the chairman of the Committee on Finance to which I do not assent. Anybody who has been conversant with the legislation of Congress for the last few years must have noticed the great tendency that there is to leave everything to be adjusted by committees of conference at the last; and we pass bills when we do not know what is in them, simply because they have gone to committees of conference and in the course of time those committees have made the best report they could. The result has been that the laws in many cases have been made by committees of conference instead of the two Houses of Congress. Now, sir, instead of refusing to make an amendment, or making an amendment, trusting to a committee of conference to adjust any mistake there is in it, I think the effort of Congress should be to fix legislation itself, and leave as little as possible to committees of conference.

Mr. CLARK. This matter was very carefully considered by the Committee on Finance, and I think there is very good reason underlying the action of the committee. It is the information of the committee that the production of tea has very much diminished in China, especially of the higher grades, by the action of the rebels in that empire. The finer teas are produced mainly in certain latitudes where the rebels there have been operating largely. The disparity between the price of those finer teas and the lower teas is very large now, and by the non-production of the finer kinds it will evidently be more from time to time. Now, while the committee keep the duty, as it has been, a fixed duty, that is a duty per pound of 20 cents upon all kinds of tea, it seemed to them that if an additional duty was imposed it might as well be of an *ad valorem* kind to meet that very discrimination and distinction in regard to teas. It is not a new principle. On many articles we impose a fixed specific duty and an additional *ad valorem* duty.

Mr. JOHNSON. It has not been done in this case before.

Mr. CLARK. Not in regard to tea; and the committee on first consideration did not propose an *ad valorem* duty. In fact, their consideration at first mainly was whether there should be any additional duty at all, whether the present duty of twenty cents a pound was not as much as the article would bear, because the information of the committee is that only about one half the amount of tea that was produced two years ago is now produced, and that only about one half is imported into this country and sold that was imported formerly. The consumption of tea has very much diminished since the duty has been increased. I think the Senator from New York can give information to that fact. The committee, therefore, hesitated whether it would bear an additional duty; but desiring to get all the revenue they possibly could, they came to the conclusion that if any additional duty was imposed, it should be an *ad valorem* duty of ten per cent., yielding probably as much as the 5 cents a pound specific duty. We cannot tell precisely how much it will yield, but we think it better to assess the additional duty in that way.

Mr. JOHNSON. What is the falling off in the higher kinds?

Mr. CLARK. The falling off is mostly in the higher kinds, owing to the non-production of the article and the increased cost of it caused by the rebellion in China, and then the imposition of the high duty on the lower grades. That is the information the committee have.

Mr. JOHNSON. I should like to have the question divided. There are really two amendments proposed by the committee. The first is to strike out "5" in the tenth line.

The PRESIDING OFFICER. The amendment is divisible.

Mr. JOHNSON. I hope the question will be first taken on striking out "5" after "20."

The PRESIDING OFFICER. The question will be so taken at the request of the Senator.

Mr. CONNESS. I suppose the objection to a specific duty of 25 cents a pound on tea is that under such tax all qualities of tea would be taxed the same; in other words that the cheaper teas would pay as high a tax as teas of a higher quality. If the statement made by the honorable Senator from New Hampshire [Mr. CLARK] be correct, the objection to a specific tax I think is proportionably removed by the fact that the higher grades of tea are produced in less quantities than they were, and that we get a less variable quality of the article than we did before the rebellion in China. The difficulty about this amendment as it suggests itself to my mind is that it gives us all that is objectionable in the two systems of levying duties, the specific and the *ad valorem* systems.

Mr. CLARK. Allow me to say to the Senator that we have that in a great many cases.

Mr. CONNESS. I am aware of that, but it is a question whether it is desirable to preserve the difficulties of the two systems where we can avoid it. The difficulties of the *ad valorem* system are very generally understood by all intelligent persons who have given their attention to the matter of imports. I have now in my possession a statement prepared on oath by revenue officers at San Francisco, showing and establishing that for a long period of time the invoices under the *ad valorem* system had been prepared at San Francisco, and not at the place from whence the goods were exported. There was a regular system of false invoices at that port for a long time, and the cures and remedies that are applicable by diligence on the part of the revenue officers and by prosecutions in the courts have been applied, but it is almost impossible to avoid them. You have no protection in point of fact but in the integrity of the importer on the one hand and the perspicacity and ability of your appraisers on the other. I very much incline to think that the 25 cents specific duty on this particular article had better be adhered to, and the *ad valorem* system abandoned. I think it probable that will simplify the matter and give us more revenue.

Mr. CLARK. I want to suggest to the Senator and to the Senate that there is already a wide difference between these qualities of teas at the place of production, some of them costing 30, 45, or 50 cents, and others as high as a dollar. Suppose that kind of tea which costs a dollar is very much diminished in production, it goes up very much higher in price of course, and yet you impose on that the same tax precisely as on the lower grades. What is the consequence? You make the poor man who consumes the lower quality pay just as much tax as he who consumes the costly article. You make the tax fall very unequally. By a specific duty of 20 cents a pound we secure the revenue to a very great degree against any such fraud as the Senator apprehends; and I admit what he says in regard to the frauds heretofore practiced, and by the imposition of an *ad valorem* duty you do get a little more revenue from these higher grades to be paid by those who consume them, as they ought to pay. That is the object.

The PRESIDING OFFICER. The question is on the first amendment to strike out the word "five" after "twenty" in line ten of section one.

Mr. FESSENDEN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 15; as follows:

YEAS—Messrs. Anthony, Clark, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hendricks, Hicks, Howe, Lane of Kansas, Richardson, Riddle, Sautsbury, Van Winkle, Willey, and Wilson—19.

NAYS—Messrs. Brown, Buckalew, Chandler, Conness,

Davis, Hale, Harris, Howard, Johnson, Morgan, Powell, Ramsey, Sprague, Sumner, and Ten Eyck—15.
 ABSENT—Messrs. Carlile, Collamer, Harding, Harlan, Henderson, Lane of Indiana, McDougall, Morrill, Nesmith, Pomeroy, Sherman, Trumbull, Wade, Wilkinson, and Wright—15.

So the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the next branch of the amendment, to insert after "pound" the words "and in addition thereto 10 per cent. *ad valorem*."

Mr. HENDRICKS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 29, nays 7; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Cowan, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harris, Hicks, Howard, Howe, Johnson, Lane of Kansas, Morgan, Ramsey, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wilkinson, Willey, and Wilson—99.

NAYS—Messrs. Buckalew, Davis, Hendricks, Nesmith, Powell, Richardson, and Saulsbury—7.

ABSENT—Messrs. Carlile, Collamer, Dixon, Harding, Harlan, Henderson, Lane of Indiana, McDougall, Morrill, Pomeroy, Trumbull, Wade, and Wright—13.

So the amendment was agreed to.

The next amendment of the Committee on Finance was in line thirty of section two, to strike out the word "also" after "and."

The amendment was agreed to.

The next amendments were in section two, line forty-nine, to strike out "10" and insert "15;" in line fifty to strike out "50" and insert "75;" in line fifty-two to strike out "10" and insert "15," and to strike out "20" and insert "30;" in line fifty-three after "dollar" to insert "and 25 cents;" in line fifty-four to strike out "20" and insert "30;" in line fifty-five to insert "5" after "40;" after "thousand" in line fifty-five to strike out "\$1 50 per pound and 40 per cent. *ad valorem*; valued at over \$40 and not over \$75;" in line fifty-nine to strike out "70" and insert "40;" in line sixty to strike out "\$2 50" and insert "\$3;" so as to make the clause read:

Third. On cigars of all kinds, valued at \$15 or less per thousand, 75 cents per pound and 20 per cent. *ad valorem*; valued at over \$15 and not over \$30 per thousand, \$1 25 per pound and 30 per cent. *ad valorem*; valued at over \$30 and not over \$45 per thousand, \$2 per pound and 50 per cent. *ad valorem*; valued at over \$45 per thousand, \$3 per pound and 60 per cent. *ad valorem*: Provided, That paper cigars or cigarettes, including wrappers, shall be subject to the same duties imposed on cigars.

Mr. CLARK. These amendments are to make this bill conform to the internal revenue bill.

The amendments were agreed to.

The next amendment was in section three, line fifteen, after the word "inch" to insert "and not more than two inches;" and after "or" in line sixteen to insert "less than one inch and not;" and in line twenty to strike out "fourth" and insert "half;" so as to make the clause read:

On bar iron, rolled or hammered, comprising flats less than three eighths of an inch and not more than two inches thick, or less than one inch and not more than six inches wide; rounds less than three fourths of an inch or more than two inches in diameter; and squares less than three fourths of an inch or more than two inches square, 1½ cent per pound.

Mr. SUMNER. I do not propose to say anything about that at this moment, but I simply give notice that at the next stage of the bill, when we come into the Senate, I shall probably call attention to that amendment. I merely make the remark now that I may not be considered as passing it over. I have seen communications in regard to it which I have not yet sufficiently examined.

The amendment was agreed to.

The next amendment was in line twenty-eight of section three, to strike out "80" and insert "70;" so as to make the clause read:

On all iron imported in bars for railroads and inclined planes, made to patterns and fitted to belaid down on such roads or planes without further manufacture, 70 cents per one hundred pounds.

Mr. POMEROY. I should like to have a vote on that amendment when we come into the Senate. I am in favor of reducing the rate to 60 cents, which was the previous duty on railroad iron.

Mr. JOHNSON. You are in favor of striking out 80.

Mr. POMEROY. But I am in favor of inserting "60" instead of "70."

Mr. FESSENDEN. That amendment can be moved in the Senate.

Mr. CONNESS and other SENATORS. It can be moved now.

Mr. POMEROY. The question is on the amendment of the Finance Committee, and I suppose that is subject to amendment.

The PRESIDING OFFICER. It is.

Mr. POMEROY. Then I move to amend the amendment by striking out "70" and inserting "60." That gives us \$13 50 a ton in gold, and it is all the railroads can bear. I suppose every Senator has had his attention called to this matter, and it is not necessary to discuss it. Sixty cents a hundred pounds is the duty we have been paying on railroad iron in gold, which amounts now to about \$24 or \$25 a ton in currency.

Mr. CLARK. The committee gave their attention largely to this matter. They considered well the iron interest, both that which is produced in this country and that which is imported, and concluded on the whole to reduce the rate proposed by the House of Representatives from 80 to 70 cents. Senators will bear in mind that we have increased the internal revenue tax upon iron. We have increased it on pig iron and we have increased it on rolled iron. I went into the matter and made a careful calculation, taking the old tax imposed on iron produced in this country and taking the old tariff duty on iron imported, and I found that to make the duty on imported iron correspond exactly with the tax imposed upon domestic iron we should make this duty 74 cents and a fraction; but considering that there was a large demand for railroad iron, that it was very difficult to supply the iron in this country, and that the mills were all engaged, and very profitably engaged, supplying as much as their capacity would allow them to supply, we concluded to put the duty a little lower and make it 70 cents. The existing duty is 60 cents. We raised it to 70 cents instead of 80 as proposed by the other House. If we carried the duty up in the same proportion that we carried up the internal revenue tax, it should be 74 2-10 cents, instead of 70 as we propose.

Mr. JOHNSON. But the tax under the internal revenue bill is payable in currency.

Mr. CLARK. That is true, but we cannot go into that matter because we do not know what will be the difference between gold and currency. That fluctuates. We are making a law to last until it shall be the pleasure of Congress to alter it again. The difference between gold and currency fluctuates; it may be higher to-day, it may be lower to-morrow, and *vice versa*. We endeavor to do what we think will be just in regard to this matter. If you make a discrimination in regard to railroad iron you may go through the whole tariff and make the same discrimination and nobody can tell where you will finally land. All the duties on imported goods are payable in coin. The duties on railroad iron are not alone payable in coin, but all the duties alike are payable in coin.

The principle that has governed the committee in adjusting this tariff has been to make the duties correspondent with the internal revenue, to advance the one as we advance the other, keeping in mind that some articles could bear a still heavier tax so that we could get more revenue, but we thought we ought not to impose a duty on railroad iron more than it would bear for the purpose of getting revenue, because there is such a demand for it in certain quarters to be laid down under contracts already made, and if we impose a very heavy duty it would lead to the countermanding of those orders. The information of the committee is that large numbers of orders have already been countermanded. The committee do not desire to prohibit it coming into the country for the wants of the country, neither do the committee desire to break down the domestic manufacturers. They adjusted the two, and the committee thought that 70 cents was the proper point for them to fix, keeping in mind these two considerations. It is 60 cents now; the House of Representatives propose to put it at 80. We thought that too high, and took the medium ground, making it 70.

Mr. JOHNSON. What is the tax in the internal revenue bill?

Mr. CLARK. Two dollars a ton on pig iron, and three dollars on bar iron. It is about 3 per cent. on the whole.

Mr. HENDRICKS. On railroad iron?

Mr. CLARK. On the manufacture of railroad iron it is about 3 per cent.

Mr. JOHNSON. I have no doubt the committee have considered, and, to use the language of the honorable member from New Hampshire, have "largely" considered this question, meaning by it that they have maturely considered it. The objection I have to this amendment is not, if it could be collected without materially affecting the public interest, that I would object to fixing the duty at 70 cents, or even to the amount named by the House of Representatives; but the prospect of its being raised from the present tax which is 60 cents, and upon the faith of which the present orders have been given that are now unexecuted, has, as the honorable member tells us, led to a great many of those orders being countermanded, and countermanded because the railroad companies who had ordered the iron felt that they would not be able to meet their contracts.

Mr. CLARK. I meant that they had been countermanded because of the great increase proposed by the House of Representatives.

Mr. JOHNSON. I understand that. Now, I am very apprehensive that they will not be able to meet the increase of 10 cents a hundred pounds upon the present duty as proposed by the committee. There is no competition in point of fact now between the foreign manufacturer of railroad iron and the domestic manufacturer.

Mr. FESSENDEN. Oh, yes, there is.

Mr. JOHNSON. When I say there is no competition I mean there is none to any extent; and I say so for this reason, which was given by the honorable member from New Hampshire himself: all our manufactories of iron are now engaged on behalf of the Government; they cannot supply the demand for railroad iron; they will not undertake to supply that demand; and all the railroad iron that the country has needed for the last four or five months, and will need perhaps during the continuance of this rebellion, must be supplied from abroad; and the only question is whether the companies can meet the price which railroad iron bears abroad with the duty which you propose to put upon it. If they cannot, or if that be doubtful, it seems to me to be better to lose the difference in the revenue which we may be able to collect, even if the iron came in (but it would not come in according to my hypothesis) between the 60 and the 70 cents, than to put an end to these improvements of ours. Six months, ay, one month during which these improvements may be arrested, will lose to the country more than the whole amount which will be realized by a duty of 70 cents instead of 60 cents.

I do not know how it is with other railroads, but the railroad of which I know more than any other, because of its locality, the Baltimore and Ohio railroad, has been obliged to supply its whole demand for railroad iron from abroad, and I think that company have now large outstanding orders given upon the faith that the tariff on railroad iron, as it existed at the time the orders were sent out, would not be changed; but I do not know whether they have countermanded those orders, nor do I know that they will not be able to meet their contracts. They are comparatively a very rich company. Notwithstanding the inroads upon their road made by the rebels, they have been doing an immense business, and have been able to pay 6 per cent. besides reconstructing their railway, because of the peculiar locality of the road, and the condition of the country in other respects, which has increased in some measure the business they otherwise would have had. But if it be at all doubtful whether a duty of 70 cents will not put it out of the power of the railroad companies whose roads are now in progress or those who want railroad iron to repair their roads to get it from abroad, and they cannot get it here, I suggest that it would be better to leave the duty as it now is, at 60 cents.

Mr. CLARK. The tax upon all domestic iron would put it out of their power to get the iron, as much as the increased duty of 10 cents a pound on foreign iron would. I desire to state one fact to the Senator, and to the Senate, in regard to the value of iron, stated by those who are desirous of importing iron; and that is that a ton of American railroad iron is worth now from \$115 to \$120, and a ton of foreign imported railroad iron is worth about \$116 or \$119. I see that the Senator from Kansas shakes his head.

Mr. POMEROY. I presume the Senator has not been purchasing any lately.

Mr. CLARK. No, but I have the information from those who are importing it, who want to get the duty down, and who would therefore be likely to put the foreign article as high as it would bear. If they bear that relative value in the market, being about the same in price, the American iron being worth a little more, because somewhat better in quality, if we were to impose on the foreign article a duty not over that which we impose upon the domestic article we should be doing what was just. Now, I submit to the Senator from Maryland that while it is not, as he says, desirable to interfere with the operations of trade, it is not desirable to break down the iron establishments of this country.

Mr. JOHNSON. I admit that.

Mr. CLARK. They are now in a prosperous condition it is true; but if it should be found that by admitting the foreign article at a less duty than would correspond with the tax upon the domestic article we had injured those establishments—

Mr. JOHNSON. The Senator will permit me to put myself right in this matter. I object to the amendment merely so far as it relates to taxing the railroad iron, and I do that on the ground that the domestic manufacturers are not in a condition to supply it.

Mr. CLARK. I do not understand that the Senator from Maryland is wrong now; but I was directing his attention to a consideration that he did not advert to. While we have been desirous to admit the railroad iron at as low a duty as is consistent with the interests of the country, we have been careful on the other hand not to admit it at so low a duty as would in any way injure the labor and establishments of our own country. That is the point we have endeavored to attain.

Mr. POMEROY. I have usually, I believe, sustained the views of the Finance Committee in regard to their efforts to increase the tariff. I think I feel as sensibly as any man can the necessity of doing it. The condition of the country at this time is such as, it seems to me, to demand a very large revenue; and if it were not for that consideration I should have proposed that the duty on railroad iron be taken off entirely. The condition of things now is such that it is almost impossible to build any railroad in this country. The scarcity of labor, and the high price of labor, and the extraordinary price of all other articles among us, make it almost impossible now to build a railroad anywhere; and I think if it were not a time of war I should have followed the example of the Senators from New England when they were building their railroads some years ago, and proposed to take off the duty entirely. I lived in Massachusetts when they were making every possible effort to build railroads in that State; and by some legislation of Congress I think the tariff on foreign iron was remitted for a given period; I do not remember how long; I have not the act before me. I say that if it were not now for the fact that we need revenue more than we did at any former period, and were it not that it is indispensably necessary for the success and prosperity of the country and for the prosecution of the war to raise money, I should have moved to strike off for one year the duty on railroad iron altogether. I believe the increase of the general wealth of the country caused by the construction of railroads which cannot be built at present prices would be such that the country would not on the whole be a loser; but I would not propose that at this time. I think this interest of the country can do no less, however, than to ask that the tariff remain as it was in this respect. Now, \$13 50 in gold is paid on a ton of railroad iron, and that makes those who are building roads in this country now pay between two and three thousand dollars a mile.

In regard to the use of the foreign iron and American iron, I can say that the best quality of foreign iron is worth as much per ton as the American iron, every dollar of it. There are inferior grades, to be sure, that sell for less, but the best quality of foreign iron is equal to any American iron not only in price but in durability. There was a prejudice at one time against using foreign iron because some poor foreign iron was imported at a low price and sold and used and found to be brittle and almost worthless. That applies, however, only to a poor quality of the

foreign iron. The best quality of A No. 1 rail iron made abroad is equal in quality and value to the standard of any American iron produced in this country. I know something of the American manufacture and I know that last year some of our establishments divided over 50 per cent. on their capital. They have been flourishing beyond precedent during the last twelve months, and in fact almost ever since the war began. It is an interest that does not need this protection. It has become in fact almost a monopoly in itself. I know establishments in Pennsylvania that last year not only watered their stock but paid 50 per cent. after that.

The internal revenue tax to which the Senator from New Hampshire referred, I believe is about \$3 a ton in currency. Last year it was \$1 50, and the additional \$1 50 put on this year in currency only makes it just about equal to \$1 50 paid last year or the year before in gold. When we consider the advanced price of iron, the internal revenue tax on it is not anything of moment. All that you put on in that way the manufacturers will just advance so much on their iron. You might put on \$10 internal revenue tax on iron to-day, and the only effect would be that the manufacturers would add just \$10 to the price of their iron and sell it and divide their 50 per cent. as before.

But I am not going to argue the question here. We shall have another vote on it in the Senate, perhaps, though that will not be necessary if my amendment prevails. I think the interest of the country would be subserved by my proposition. I know that the interest of the poor struggling States in the West will be subserved by enabling them to build their railroads. They cannot build them if they have to pay \$2,327 a mile more than they have been in the habit of paying hitherto for the railroad iron.

Mr. WILKINSON. This duty upon railroad iron operates with peculiar hardship upon the new States. New England and all the older States have their railroads already built and in operation. We have now three or four companies in Minnesota who are trying to build their roads, and one of them has already entered into a contract for the iron for about three hundred miles. The president of that road told me the other day that if the duty proposed by the House of Representatives be put upon iron, he would be obliged to countermand the order entirely, but that they could pay and lay the track under the old duty of 60 cents per hundred pounds.

As was said by the honorable Senator from Maryland, the development of the country is worth a little something even in war times. It matters a little something to the country whether these railroads shall be built or whether they are to be stopped. It seems to me that, considering the present price of gold, the duty of 60 cents a hundred pounds is all that the purchasers of iron can stand, particularly when you consider the scarcity of labor and the great difficulty that railroad corporations are laboring under in order to build their roads. It is almost an impossibility now, if the entire duty on iron was taken off, to go on and construct railroads as the necessities of the country require. The labor of the new States is in the battle-field. The great body of the young laboring men of my State and the new States generally are to-day at the front, fighting this rebellion, and it is a little harsh, inasmuch as this duty bears more heavily on the new States, who have not their railroads already constructed, to impose this additional duty upon railroad iron. I hope the amendment of the Senator from Kansas will be adopted.

Mr. CLARK. I agree with the remark made by the Senator from Minnesota, that the development of the country is something. I go further; it is a great deal. But the railroad interest is not the only interest in the country, nor the only interest by which the country is developed. I do not agree with the Senator from Kansas, if he means that it would be well for the country that these iron establishments should stop for a year; because to let the iron come in free would result in destroying these establishments in the country, and I do not agree with him that it would be well, for the sake of building a road through any State in the West or from one side of the continent to the other, to break down the labor of the country.

I suggest to the Senator from Kansas that a more wise policy, in my judgment, would be that while we build the railroads we should build up on each side of the railroads all the various branches of industry which support and sustain the railroads.

Mr. WILKINSON. I should like to ask the Senator whether the iron interest has not prospered under the duty as it now stands?

Mr. CLARK. Under the great demand for products in this country, almost every business in the country has prospered. I agree with the Senator from Minnesota, if he means that these establishments have been largely employed. All the establishments of iron in the country have been called upon by the Government and other interests to furnish their products. But supposing the war be over and there is not a call for that branch of the manufacture, what becomes of your iron establishments? Then they need the protection they always have had; and you must not adjust your tariff particularly to the situation of to-day, but to the great and continuing interests of the country; and I want to see not only one interest, not only this or that interest developed, but I want to see all the interests of the country developed.

And here I want to make a remark to the Senator from Minnesota, in the utmost kindness, and that is in regard to the labor of the West, which he says is on the battle-field. That has been a serious drain on the new States; but he will bear in mind one thing beyond that, that while the old States have furnished their quotas, many of them, and others have been endeavoring to furnish their quotas upon the battle-field, they have furnished many of the young men that have gone to the West and then gone to the battle-field. They have thus furnished twice over. You cannot expect us to furnish the new States of the West with settlers and to furnish our full quota always and readily on the battle-field besides. If it is a drain on them, it is a drain on us also; and in this remark I do not mean to be invidious, nor to say that the West has not done all and even more than all she could be called on to do. I feel a glory in her history. But I desire to suggest to the Senator that, while they have been called upon, we have been called upon and also have supplied many of the men which I glory have gone from their country and sustained their country and our country together. We all bear these burdens, and we must all bear them, and we should be willing to stand together.

While I will go as far as any man in protecting the railroad interest; while I will go as far as any man in helping my friend from Kansas to build his road, and my friend from Minnesota to build his road; and while the committee will go as far as anybody, we ask that you shall consider also the other interests of the country; that while you protect one you shall not strike down another. The committee have endeavored to go between the two. While they do not go with the House of Representatives, and put upon railroad iron a tax of 80 cents a hundred pounds, they would not either go to the old tariff and put simply a tax of 60 cents; but they propose a tax of 70 cents. That would not be so high as we should impose if we followed the rule of proportion to impose a corresponding duty upon the foreign article with that which we impose on the domestic product.

I am told—I did not hear the remark of the Senator from Maryland—that he said or intimated that but small quantities of railroad iron were furnished in this country. Sir, very large quantities are furnished in this country, and it is an interest that should be protected. I am told that the interest is large; I know it is large. I did not preserve the figures that were given to us, but the interest is a very large one, and one which the country should protect.

Now, let me say here, once for all, that I desire to see this country a great manufacturing shop—if I may so speak—not only a manufacturing shop but an agricultural region besides; that we shall rely upon ourselves, and produce for ourselves, and support ourselves, and if the Governments of the Old World feel any hostility to the republican institutions of the New I want that the time shall come when we can say to them, "Thank God, we can live and will live without you." So, sir, while I would say to these railroads, "Go to the old countries and buy the iron

which you need, still do not break down these establishments which we have at home."

Mr. WILKINSON. I hope that the honorable Senator from New Hampshire did not suppose that in my allusion to the embarrassments of the West at this particular time I intended to draw any comparison between the West and the East.

Mr. CLARK. Not at all. I only desired to present a further consideration.

Mr. WILKINSON. There is one great difference, however, now between the two districts of country. The East is rich; the West, these new States, as a general rule, are poor; their people have just about the same industry, and the same patriotism, and the same devotion to the cause of their country that the East has. I do not suppose they have any more. I am sure the country will not say they have any less. But in advocating this amendment I do not, as the honorable Senator says, advocate the railroad interests. I advocate the interests of the country. I do not care how much you tax a railroad company, provided you do not stop the building of roads, the development of the resources of the country. What are any of the new States worth, or any of our old States worth, if it were not for the railroad system? What could we have done to-day in putting down this rebellion but for our railroad system all over the country? It matters not to me whether the railroad companies make money or lose money, the nation gains by their construction. When railroads are built in the new States they become great States at once, they are brought nearer to the seaboard, property is equalized, and the productions of the new States, under a generous railroad system, will add enormously to the wealth and to the treasure of the nation. In all legitimate and proper ways it is wise, in my judgment, for the country to encourage the building of railroads in the new States, not for the benefit of the corporations, but for the benefit of the country at large, for the development of its resources, for the purpose of augmenting its wealth.

We have, as I said before, in our own State about four hundred miles of railroad under contract. The iron has already been purchased; it has not arrived here yet; and it now seems to me—and I am so advised—that if we raise this tax, those orders will have to be countermanded, and instead of the Treasury profiting by it the Government will actually lose by it; instead of getting the 60 cents on the hundred pounds, you will get nothing, because they cannot afford to pay. The reason of it is obvious. As the Senator from Kansas said, it is a very difficult matter to build roads now in this embarrassed condition of the country under the most favorable circumstances, and I think it is wise in the Government to do everything in our power to favor the construction of new railroads in that section of country where they are most needed.

Mr. CHANDLER. I regret exceedingly that I am compelled to differ from my friend from Minnesota on this occasion. If I had my way I would absolutely prohibit the introduction of foreign iron. Our mountains are filled with the purest ores on the face of the earth. This nation to-day should be an exporter of iron instead of an importer. There is no reason on earth why we should buy a single pound of iron from any other nation on the face of the globe.

But at present the question is, what tax, what duty will raise the largest revenue? If you can show me that the tax imposed by the committee will raise a larger revenue than any other, I ask no further question. During the continuance of this war individual interests must suffer and will suffer. All individual interests suffer. It is unavoidable. We are in a state of war. The question is, can we save this nation, can we carry this Government through financially? And individual interests are not to be taken into account in the slightest degree while that condition continues. If I had my way, I would raise a wall of fire between this nation and Great Britain. I not only would not allow her iron to come here, but I would not allow a single fabric manufactured in Great Britain to enter a single port of ours during the continuance of this war. What do we owe Great Britain, sir? She has sent out cruisers, English ships, built of English timber, manned with Englishmen, provisioned with English pro-

visions, sailing under British colors, to prey upon our commerce, until she has virtually driven that commerce from the face of the earth. Sir, I am prepared to-day to say to Great Britain, "Pay that bill, principal and interest, and there shall be no commercial intercourse between you and us until that bill is paid," and if she did not pay the bill, and England got into war with any Power on earth, I do not care if it was the King of Dahomey, I would let loose a fleet of fast-sailing steamers that should make her drink the cup to its dregs. That is what I am prepared to say to Great Britain to-day. We owe her no comity, and I will give her no comity by my vote. I hope the result of this duty will be to prohibit the introduction of a pound of English iron until the end of this war, and let railroad interests and any other interests suffer; it is nothing to me. I am for the tax and the highest tax.

Mr. WILKINSON. It would do very well, if Minnesota had all her roads built as Michigan has, to talk in this way, but our roads are not built yet. For instance, there is one company in my State that will pay under the old duty more than a million dollars into the Treasury of the United States on iron which they have already contracted for or bargained for. If the bill be passed as the House of Representatives sent it to the Senate, or if this tax be very materially raised, the orders will be countermanded, and the Government will not get one dollar into the Treasury. It will receive now more than a million dollars from my State alone under the rates of duties as they stand. So the Government is not aided any by prohibiting this iron from coming from Europe.

I always have been a pretty high tariff man. I do not believe in encouraging foreign manufacturers very much, but I do not believe at this time it is wise to lay so heavy a duty on a particular article as to prohibit the construction of works of internal improvement which may be necessary to the prosperity and advancement of the nation.

Mr. MORGAN. I am very unwilling to prolong the debate, but yet I cannot quite agree with the Senator from Michigan in favor of prohibition, nor can I agree entirely with those who are advocating a less duty on account of certain special interests, on account of railroads still to be built. I should be very glad myself to accommodate those interests, but the question is one of much higher importance. It is a question of revenue; it is a question of national importance; and I shall be governed entirely, not only in relation to this matter of iron which is now before us but in considering every part of the bill, by the national necessities of the case. The proposition of the Senator from Kansas is to reduce the duty to 60 cents a hundred pounds. That is the present rate. The Finance Committee propose to make it 70 cents; the House of Representatives have made it 80. If the Finance Committee are satisfied that a greater amount of revenue will be derived from the duty as fixed by them I shall sustain the committee, because I deem it of the highest importance that we should pass a tariff for revenue, not a prohibitory tariff, not a protective tariff, but a tariff to meet the present necessities of the Government. I shall, therefore, sustain the report of the committee.

Mr. POMEROY. I only desire in a single word to reply to the Senator from New Hampshire, who seems to think that this is a movement toward breaking down the iron interests of the country. So far from that it is only necessary to state the fact that the iron interests of the country under the present tariff have prospered beyond all precedent, and this proposition is not to lower the tariff; it is no blow at the iron interests of the country. I know the internal revenue tax upon that interest is a slight tax. The price of the iron has increased over forty per cent. from what it was before we levied the tax. But if they are able under the present tax to make dividends beyond all precedent, and beyond those of any other corporations in the country, and it is impossible for them to supply the demand, I want to know how it is a blow at the iron manufacturing interests of the country to let the tariff remain as it is.

Now, the Senator very well remarks, the war will be over after a little, and then there may not be the demand that there is now. No one of us can tell for an absolute certainty, I admit, what the demand will be; but what are the probabilities

of a demand? The whole southern country have manufactured no iron, and I suppose imported but little. Their railroads must be out of repair. Our Army do little else when they come to a railroad than bend and destroy the iron, make it as useless as they can; and when the war is closed those roads must be rebuilt, and then all the manufacturing establishments in the country that are making railroad iron and building locomotives will have enough to do. You cannot get a locomotive now in twelve months in any manufacturing establishment in this country; their contracts reach over twelve months ahead; and if the war should stop to-day, instead of this interest being diminished it would be increased. The demand for railroad iron and for locomotives, from the very fact of the destruction they have been subject to during the war, would increase the business largely. I venture to say that there will be fifty per cent. more iron laid down during the next year, if we have peace, than there ever has been laid in any previous year.

Mr. CLARK. Allow me to make a suggestion to the Senator on this point in regard to the production of locomotives, and the difficulty of getting them. The Senator is right; there is a difficulty; and why? Because that business had become so poor before the breaking out of the war that almost all of the locomotive shops in the country had ceased to manufacture. There was not a locomotive establishment in all my region of country that had not stopped. There were two right in my own city, but both, by the very poverty of the business, had broken down, had ceased to manufacture. Now there is a little time when there is a demand, but you cannot induce some of these establishments to go into it again because it is so fluctuating.

Mr. POMEROY. I cannot tell how it is with the manufacturing establishments in New Hampshire; I am not acquainted with those; but in New Jersey and Massachusetts I know they are pressed beyond precedent and have been for a year back. They have flourished not only up to the war, but since the war.

Mr. CLARK. The same would be true in regard to another interest; for instance take the woolen interest. The Government are consuming so large an amount of woolen manufactures for the clothing of the Army and other matters of that kind that it calls into exercise all the power of the mills; but would the Senator think it just, while we impose a duty upon wool all over the country and a tax upon that manufactured, that there shall be no corresponding protection against the foreign article? While you adjust one side you must adjust the other too.

Mr. POMEROY. There is a great difference between the production of wool in regard to the interests of the country and that of building railroads. The railroad interest of the country promotes the development of almost every other interest in the country. The production of wool is simply a production of one interest of the country, and I do not know that the wool-growers need the tariff that we put upon it. We get some revenue on it, but it is not worth anything as protection, because the very kind of wool that we put the tariff upon, the fine Saxony wool that the tariff is highest upon, cannot be produced in this country. You may bring the very same sheep on which that wool is grown in foreign countries, and place them here, and they will produce a different article of wool. You cannot produce the same peach if you transplant it to another climate, and you cannot grow the same wool. Wool is like any other product; it is subject to the climate and the country where it is produced. This tariff on fine wool is no protection, because we cannot produce the article in this country.

I only want to add that the Senator from Michigan not only would have this tariff increased, but he would have it prohibitory; and still further, the British people having behaved so badly, if they get into a war with anybody else he would turn in and fight them.

Mr. CHANDLER. As they have been fighting us.

Mr. POMEROY. It occurs to me if they have behaved themselves so that we should fight them at all, we ought not to wait for them to get into a war with some other nation. I do not think it is the highest point of gallantry to strike a man when he is engaged in fighting somebody else.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

FRIDAY, JUNE 17, 1864.

NEW SERIES....No. 189.

I have never thought the etiquette of the thing was very good for one nation to fight another while engaged in a foreign war. I hold that if we should fight Great Britain at all we should fight them on principle, whether they are engaged in war with another nation or not, and not take advantage of their weakness and then pitch in.

Mr. FESSENDEN. Let me beg of gentlemen not to raise such a discussion on this bill. This is going off on another tack entirely.

Mr. SUMNER. I suggest, as that is a question concerning our foreign relations, I think it ought to be referred to that committee. [Laughter.]

Mr. POMEROY. I am willing to refer the question to the Committee on Foreign Relations.

Mr. CHANDLER. The Senator does not mean to misrepresent me. I did not say that we should go to war with Great Britain; but I would make her drink to the dregs the bitter cup she has presented to our lips. We are engaged in the most gigantic war the world has ever seen, and England sees fit to let loose her cruisers upon our commerce under a pretended—I do not know what you call it—but under a pretended authority from a man by the name of Jeff. Davis, and the result has been that she has driven sixty per cent. of our commerce from the ocean to-day. I simply say I would let her drink the very cup she has presented to our lips in the time of our humiliation and sorrow. I would let private individuals take out letters of marque, and I would let them drive the English flag from the seas as she has driven ours. That is all I said and all I meant.

Mr. POMEROY. I want the Senate to vote whether they will increase this tariff or not. The amendment I have moved is to let the tariff remain, as it has during the last two years, at 60 cents per one hundred pounds. The amendment of the Committee on Finance increases it to seventy cents. That is the only question before the Senate, and the only question on which we are to vote.

Mr. FESSENDEN. The House of Representatives put this tax at a somewhat higher rate, as we judged, than was necessary, in order to equalize the matter with reference to the internal revenue bill. We did not, however, propose to interfere with it much until some representations were made to us by these delegations from the railroad companies; and I would warn gentlemen, while they give the utmost credit in point of intention and integrity to everybody who speaks to them on the subject of these duties, either in the shape of an importer or manufacturer or anybody else, just to hold themselves at liberty to decide the question afterwards according to their own judgment, and not take everything they hear for granted; because there is a style of dealing in generalities to a very large extent on all sides that you will find to be a very unsafe guide in legislation, if you listen to all that is said in reference to these matters.

Now, sir, with regard to this tax the question is a very simple one. We fixed a rate of duty when we adjusted the tariff in the internal revenue bill before. The Senator from Kansas says the manufacturers of railroad iron have been making money, and in some cases making very large sums. Probably that is true in some cases, not in all. The Senator knows that in all times the conduct of affairs under different companies produces different results according in some measure to fortune and in another measure to ability; but it is utterly unsafe to legislate from what appears to be the case in feverish times. You cannot judge of a man in a fever as you can of a man in health, and you cannot judge of a nation in fever as you can of a nation in health. You cannot legislate safely with reference to the present price of gold, because we do not know how long it will continue or what changes will take place, and very rapidly; and so far as the very large price of gold is to be considered as affecting the question, it is offset, so far as the manufacturers are concerned, by other considerations, the very great increased

price of labor, and many other facts of a similar description.

The policy of the country, I take it, is to get money to support the Government principally from internal taxation, and to an exceedingly large degree from manufactures. If you propose to get money from them you must enable them to pay it; because if you so legislate as to break down manufacturers or to check their prosperity or affect their prosperity seriously, that source of revenue, which is the great source of revenue, is dried up, and you fail in that most important particular. The tariff is adjusted and was adjusted before upon that simple principle with reference to the internal revenue taxation; and any gentleman will see on the slightest consideration in the world that on no other principle can you possibly accomplish your object. You may lessen perhaps the revenue in some degree derived from imports, but that is of comparatively small importance, because although you depend upon that to a degree, you depend upon the internal taxation to a very much greater degree.

Carrying out that principle we imposed a certain duty upon manufactures of railroad iron, and we imposed, when we passed the last tariff bill, what we supposed to be a corresponding duty upon imports of the same article in order to accomplish the two purposes, get the money from both sources, because that is the great thing, and especially to protect the one great source of revenue. That the manufacturers have prospered may be true; it is true; and it is our good fortune that they have prospered, because we are thereby enabled to derive more revenue from the same source. Instead of oppressing them we increase their ability, and we derive benefit from that increase of ability.

Those are the general principles. I do not mean to enlarge upon them. Senators will find them running all through the bill. It is necessarily founded upon those ideas.

But take this article of railroad iron. We have imposed additional burdens upon the manufacturers of railroad iron in this country, and to protect them we propose to impose a corresponding duty in the tariff. We had these representations from railroad companies and railroad men made to us. To a certain extent, undoubtedly, the representations are correct; the burdens are heavy upon them; but because they are heavy upon them you cannot legislate for the moment and say we will relieve them, when by doing that for a particular interest you may break down this very interest which we wish to sustain, and they will take the consequences hereafter to a much more serious extent than any consequences could be visited upon them now. If you build up the interest in this country, as is the policy, by degrees, you lessen the price of the article. That is a very familiar principle. If you break down the interest, you are in the hands of the foreigner. Suppose, then, that we gain for a few railroads and a few railroad companies a momentary benefit at the present time, but suppose that, at the same time, you stop substantially the manufacture here of much the largest half of all that is used in this country; Senators must see that hundreds of miles of railroad are not built in a day or a week or a month or a year or in several years, and the time must come when they must experience the same difficulty.

But that, however, is all outside of the question of revenue. In taking this matter into consideration we did not feel disposed to go so high as the House of Representatives have gone, or even quite to lay a corresponding duty to that laid in the internal revenue bill, because, as my friend from New Hampshire [Mr. CLARK] said, it was carefully calculated. We did feel disposed to relieve these railroad companies and the railroad interests, because they are the interests of the country just as much as we could; and for that reason instead of putting the duty at 80 cents or even at 74 and a fraction or at 75—which I was rather disposed to do on the whole—it was struck down to 70 cents, below what would be a corresponding duty

in point of fact. While we impose this additional burden upon the manufacturers of the article in this country and tell them they must pay so much more into the Treasury, will you hazard their ability to meet the call which you make upon them, and for a purpose which after all is a temporary purpose? That would not be just.

I acknowledge the great importance of the railroad interest; I acknowledge the very great importance of encouraging them; I acknowledge their vast value and consequence to the country; but, sir, I must say that with reference to all those matters there is an interest ahead of them all, and that is the interest of the country as involved in this contest. My opinion has been—it may be a narrow opinion—with reference to the Pacific railroad, important as I considered that great work to be, that it ought not to be undertaken while the country was burdened with so tremendous a responsibility with regard to many matters as it has upon it; that all things that could be deferred should be deferred. The Senate judged differently. I was one of a very small minority. It was undertaken. Sir, important as these matters are, there is one thing still more important, as I said, and that is the obtaining of revenue and the keeping alive the sources of revenue upon which we must depend in order to accomplish these purposes. It was with a view to that, adjusting the tax as well as we could, and leaning to the side of the railroads who desired that this duty should be made as light as possible, that we did strike off one-half the increased duty proposed by the House of Representatives; and I think that ought to satisfy any interest or any person connected with it. We thought it was certainly all the forbearance which it was possible to exercise on such a subject.

Mr. WILKINSON. There is one thing about the statement which the honorable Senator has made, and also which the Senator from New Hampshire made, that I do not exactly understand, and which I wish they would explain to the Senate: that if we were to equalize this tax as compared with the internal revenue tax which is laid on our manufactures of iron, it would make the duty on foreign iron 74 cents on the hundred pounds.

Mr. FESSENDEN. The Senator from New Hampshire calculated it.

Mr. WILKINSON. I should like to know how he arrived at that estimate; whether he calculates the currency in which the internal revenues are paid, equally, dollar for dollar, with gold, which is paid on all imports?

Mr. CLARK. Certainly. We cannot go into the fluctuations of gold. We do not undertake to do that on any one of these measures.

Mr. WILKINSON. That is the way the calculation is made. These import duties are paid in coin, which is worth twice as much as currency; because gold is worth nearly two hundred per cent. Instead of making them equal, you have just doubled the duty on foreign iron as long as gold stands at one hundred and ninety-eight per cent.

Mr. FESSENDEN. Then on that principle you might just as well omit laying any duties whatever under the new tariff. We might as well say gold has made all the difference in the world and we will not lay any duties. If we said that, where should we be?

Mr. WILKINSON. I do not ask that that rule shall govern all the way through, but I do think it is legitimate to a certain extent when vast interests of the country are involved. I know very well that in a calculation of this kind, where gold is going up one day and down the next, no satisfactory explanation or opinion can be arrived at in regard to its real value.

Mr. CHANDLER. The Senator from Kansas stated a short time since that the iron interests had prospered beyond precedent during the past year or two, and that they had now orders on hand which would last them twelve months, or words to that effect. Sir, I rejoice in that prosperity. I rejoice in the prosperity of any inter-

est connected with the people of the United States, and particularly with the prosperity of the iron interest. What is the result of that prosperity? Every dollar that has been earned by these companies has gone into new foundries, new machine shops, new mills; and to-day what we want is not foreign iron, but the foreign skilled laborers to work up our own iron; and that is precisely what we are receiving by thousands. We wish not to take their iron, but to take their men who make iron; and the high prices that this prosperity has enabled our iron-masters to pay for labor is utterly denuding England of her most skilled labor at the time when we require it. Sir, this is the first instance in the history of the world that in time of civil war immigration into the country engaged in civil war has increased. It is increasing beyond all precedent. At first immigration fell off. We received very few immigrants the first year of this war; but to-day the Governments of Europe are actually trembling at the monstrous tide of skilled immigration that is seeking our shores and seeking our high prices of labor.

As I said before, I rejoice at all this prosperity. I do not care if the iron-masters did make last year, as the Senator says, 50 per cent. The result is that we have 50 per cent. more facilities next year than we had for increasing our product; and again we shall have perhaps more than 50 per cent. additional of skilled laborers to use those facilities in its production. I would go for a higher duty than the committee have recommended if I could have an opportunity to vote for it.

Mr. WILKINSON. It would be unjust in me to do so, but perhaps I should do so, too, if we had as large an iron interest in Minnesota as they have in Michigan.

Mr. HENDRICKS. Mr. President, it has not been the policy of Congress to discourage railroad enterprises, but on the contrary the policy has been to encourage them. That policy has been shown in the large grants of lands to aid in the construction of railroads. In short, a few years since the duties upon railroad iron were remitted by acts of Congress, and I believe in some cases those duties were paid back after they had been paid into the Treasury, so as to encourage the construction of important lines of railroad.

A Senator who has lived in the eastern portion of the Confederacy cannot very well judge to what extent the construction of a railroad develops the country adjoining it; I would not undertake to say to what extent. It is a very surprising spectacle that is presented immediately after the construction of a railroad through a section of country. The lands that have lain wild and waste are immediately settled upon and improved; they become a source of wealth to the country. The whole country is advantaged, as Congress has declared by its policy for a number of years, by the construction of railroads especially in the newer States. Who can judge of the advantages to the country by the construction of two or three railroads that will go over the State of Iowa; two or three railroads running from the eastern to the western boundary of Minnesota; two or three railroads running westward across the State of Kansas? Why, sir, it would open up an immense region of country that is now lying waste, and it would fill the Treasury to some extent from the production of that labor; more, I undertake to say, than we shall realize by an oppressive tax upon railroad iron.

But what is the argument now? We propose to place an enormous tax upon railroad iron. Of course every Senator admits that to that extent it discourages railroad enterprises. The argument is that we must encourage the production of railroad iron in our own country. It is the old doctrine of a protective policy which has been exploded in this country, which is not the doctrine of this country now, and advantage is being taken of the present condition of the country to fasten that policy upon us; a policy to which, I think, the Northwest will never agree.

But take this single case: I find in the internal revenue bill that passed the Senate very recently that railroad iron produced in the country is taxed \$3 on the ton, while this bill proposes to tax imported railroad iron above \$15 on the ton, taxing the imported article above \$12 more than

that which is produced in the country. And yet different Senators say that this interest is likely to languish under a discrimination like that! They cannot insist upon it; and the Senator from Kansas is well supported in his position that scarcely any interest of the country has made money more rapidly than the iron interest since the tax that was imposed two years ago.

I am in favor of a fair tax upon railroad iron, but I am not in favor of one which will be a burden upon the enterprises that are being undertaken in the Northwest. Indiana has no interest in this question, for her railroad system is substantially completed; but Iowa, Minnesota, and Kansas, States in the development of which we all feel an interest, are largely to be affected by this policy.

Mr. CONNESS. Add my State, if you please.

Mr. HENDRICKS. I do not know to what extent California is interested in it; but, sir, it seems to me strange that during one week of this session we shall pledge the credit of the Government to build a railroad from the Missouri river westward to the Pacific ocean, and during the next week of the session a policy shall be advocated that will oppress an enterprise of that sort. I am not in favor of such a policy. I shall be happy to see a railroad constructed to the Pacific ocean, but I feel an equal interest in the construction of railroads in the great States of the Northwest, those States in which New England as well as Indiana has a large interest.

Mr. CLARK. I cannot agree with the Senator from Indiana that the people of the East do not appreciate the value of a railroad. They appreciate it very largely. They know very well that it adds to the value of every acre of the soil; they know very well that it adds to the value of every ton of coal; they know very well that it adds to the value of every cord of wood and every hundred of the hay and every bushel of the corn. But that is not the only interest. We are in a condition in which we need a revenue and must have a revenue, or the country must perish; and if the country perishes, your acres, your coal, your wood, and your corn will become of very little value. I submit to the Senator from Indiana that if he will just look at the tax that we propose to put upon railroad iron it is smaller in comparison than the duty upon almost any other article in the whole catalogue of the tariff. We do not tax it 20 per cent., nor 19 per cent., as the value of iron is now.

Mr. HENDRICKS. I desire to understand the Senator. This will be a duty of \$15 in gold upon what he assumes now to be the value in paper money. Railroad iron is not worth more than \$60 a ton in gold.

Mr. CLARK. I have been saying all along to the Senator that I had not made the distinction and did not propose to make the distinction in regard to the currency. We cannot adjust the tariff upon that basis. A ton of railroad iron is worth in New York from \$115 to \$120 in currency, and the tax on that ton of railroad iron is not 19 per cent.

Mr. HENDRICKS. Certainly, if the Senator will allow me to interrupt him, he must make his calculations upon a gold basis when he undertakes to tax an imported article, because the importer must pay for it in gold. Our greenbacks will not pay for an article that is produced abroad; but you are taxing an article which when it comes into our ports must be paid for in gold, and the tax is to be paid for in gold.

Mr. CLARK. I understand, precisely, that that will be so substantially if the tax was laid for to-day and only to-day, and things were to continue as they are; but we hope they are not to continue. We are legislating for the country for a long series, it may be, of years; at least for years. While I would go with the Senator, and would encourage railroads, and if the country was at peace and her Treasury was full would be even willing to make the duty the very lowest consistent with our manufactures at home, yet when we need a revenue I submit to the Senate we cannot be expected to do it.

Mr. SUMNER. Mr. President, I am unwilling to say that we are now legislating on this matter for a long number of years. Indeed, I regard our present legislation as temporary or provisional in its character. It is to meet the exigency of the hour; and it is on that account pre-

cisely that I am ready to follow the chairman of the Committee on Finance, at least in opposing the proposition of the Senator from Kansas.

Let me say, sir, what I have said very often on this floor since this rebellion has begun, that on important propositions there is one rule which I have always followed, and, by the blessing of God, I will follow to the end. It is this: show me how I can best contribute to the strength and the resources of my country, and in that way enable it to reach that end which we all desire, and I shall vote for it. At this moment I know no way in which I can contribute more than by adding to the financial resources. Show me, therefore, how I can best secure means with which to carry on the war to its successful close, and I shall vote for it. If, therefore, by placing the tax at 70 cents I can promise myself a larger income than by placing it at 60 cents, I shall vote for 70 cents. Therefore, as I have said, to that extent I follow the Senator from Maine.

But the question remains (though we are not to vote upon it immediately; the first vote is to be taken on the motion of the Senator from Kansas) as to the recommendation of the committee. The committee propose to cut down the House proposition from 80 to 70 cents. On that I do not know that the Senator from Maine explained himself with perfect clearness. Indeed I did not understand whether in his opinion, after the inquiry which he has necessarily given to the subject, he was satisfied that this interest would not bear a tax of 80 cents, and in that way be more productive to the country than a tax of 70 cents; because if it would be more productive to the country than 70 cents, I should be disposed to adopt it. But as our first vote is to be taken on the proposition of the Senator from Kansas, I say nothing more on the other question.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The question is on the motion of the Senator from Kansas to amend the amendment of the Committee on Finance, by striking out "70" and inserting "60."

Mr. POMEROY. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. TRUMBULL. I should like to know one thing before voting on this question. The Senator from Massachusetts assumes that 70 cents will raise more revenue than 60 cents, and seems to intimate that 80 cents will raise more than 70. I have been informed that orders that were issued for the importation of iron have been countermanded in consequence of the resolution recently passed adding 50 per cent. to the tariff. I should like to know (for I have only conversed with one or two persons about this) whether there is any information which is regarded as reliable to show that by putting a duty of 80 cents or 70 cents on the hundred pounds we would derive a larger revenue than from a duty of 60 cents. I am informed that the effect of putting the duty so high is to prevent the importation of iron.

We might pass a non-intercourse act, and the Senator from Michigan I think avowed himself in favor of that. We are now in the midst of this war spending hundreds of millions of dollars for the purpose of enforcing a non-intercourse act upon our enemies, guarding their coasts. We suppose that that is one of the means of putting down these rebels which the Senator from Massachusetts desires. If we voluntarily impose a non-intercourse act upon ourselves, and it must be upon the ground that a non-intercourse will help us, as the Senator from Michigan seems to think, in that event we had better withdraw our fleets and open to the commerce of the world these rebel ports; for that would ruin them the soonest, according to his view. This is not a mathematical matter, I am aware; but still persons who have dealt in iron and who understand the railroad transactions of the country and the manufacturing interests of the country would be able to arrive at, probably, an approximate correct statement. I did not like the principle which was avowed by the Senator from Maine as the reason for adding to the amount of revenue heretofore imposed. He placed it, as I understood him, solely upon this proposition: that we have lately passed an internal revenue bill in which we have imposed an additional tax upon the manufacturers of railroad iron in this country, and we must therefore impose a corresponding additional tax upon iron that is im-

ported from abroad. Do we know that the tax heretofore imposed was the proper one? That assumes that our legislation heretofore established the true standard, the very thing which I am told it did not do. I am informed that the result of our former legislation has been to stop enterprises and prevent the importation of iron which would otherwise have been imported, and that in fact it has led to the countermanding of orders that have been given for the importation of iron, and will stop the construction of railroads. If that be so we made a mistake before, and this should not go along *pari passu* hereafter in our legislation.

Mr. FESSENDEN. I can only say, in reply to the Senator, that the committee were not satisfied that such was the fact.

Mr. TRUMBULL. I should like to know, in regard to that, whether the committee was satisfied that 70 cents will raise more revenue than 60 cents.

Mr. FESSENDEN. We trust it will; we believe it will; but we cannot tell.

Mr. TRUMBULL. On the foreign article it would raise the larger revenue?

Mr. FESSENDEN. Yes, sir, because we do not believe it is sufficiently high to restrict the importation.

The question being taken by yeas and nays, resulted—yeas 17, nays 20; as follows:

YEAS—Messrs. Brown, Carlile, Conness, Davis, Doolittle, Harlan, Hendricks, Johnson, Lane of Kansas, Pomeroy, Powell, Ramsey, Richardson, Riddle, Saulsbury, Trumbull, and Wilkinson—17.

NAYS—Messrs. Anthony, Buckalew, Chandler, Clark, Cowan, Dixon, Fessenden, Foot, Foster, Harris, Hicks, Lane of Indiana, Morgan, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, and Wiley—20.

ABSENT—Messrs. Collamer, Grimes, Hale, Harding, Henderson, Howard, Howe, McDougall, Morrill, Nesmith, Wilson, and Wright—12.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now is on the amendment of the committee reducing the tax from 80 to 70 cents.

The amendment was agreed to.

The next amendment of the committee was in section three, line forty-nine, after the word "on" to strike out the word "galvanized;" after the word "plates" to strike out the words "galvanized iron;" after the word "iron" to insert the words "galvanized or;" and in line fifty after the word "batteries" to insert "or otherwise;" so that the clause will read:

On tin plates, or iron galvanized or coated with any metal by electric batteries, or otherwise, $\frac{1}{2}$ cents per pound.

The amendment was agreed to.

Mr. FESSENDEN. I will move to amend that clause further in the forty-ninth line by striking out the word "or" and inserting "and;" so as to read, "tin plates and iron galvanized."

The amendment was agreed to.

The next amendment was in section three, after line fifty-one, to strike out the following clause:

On band and hoop iron not less than one and one half inch wide and not less than one eighth of an inch thick, $\frac{1}{2}$ cent per pound.

On band and hoop iron less than one and one half inch and not less than three fourths of an inch wide, and less than one eighth of an inch thick, and not less than No. 15 wire gauge, $\frac{1}{2}$ cent per pound.

On band and hoop iron less than three fourths of an inch wide and less than No. 15 wire gauge, $\frac{1}{2}$ cent per pound.

And to insert in lieu thereof:

On all band, hoop, and scroll iron from one half to six inches in width, not thinner than one eighth of an inch, $\frac{1}{2}$ cent per pound.

On all band, hoop, and scroll iron from one half to six inches wide, under one eighth of an inch in thickness, and not thinner than No. 20 wire gauge, $\frac{1}{2}$ cent per pound.

On all band, hoop, and scroll iron thinner than No. 20 wire gauge, $\frac{1}{2}$ cent per pound.

The amendment was agreed to.

The next amendment was in section three, line seventy-one, after the word "rods" to insert " $\frac{1}{2}$ cent per pound;" and after the word "and" to insert the word "or;" so that the clause will read:

On slit rods $\frac{1}{2}$ cent per pound, and on all other descriptions of rolled or hammered iron, not otherwise provided for, $\frac{1}{2}$ cent per pound.

The amendment was agreed to.

The next amendment was in section three, line one hundred and eight, to strike out " $\frac{1}{2}$," and to insert "9;" and in line one hundred and nine

to strike out "9;" and insert "12;" so that the clause will read:

On screws, commonly called wood screws, two inches or over in length, 9 cents per pound; less than two inches in length, 12 cents per pound.

The amendment was agreed to.

The next amendment was in section three, line one hundred and twenty-eight, to strike out "9" and insert "7;" so that the clause will read:

On old scrap iron, $\frac{7}{8}$ per ton: *Provided*, That nothing shall be deemed old iron that has not been in actual use and fit only to be remanufactured.

The amendment was agreed to.

The next amendment was in section three, line one hundred and thirty-one, to strike out the word "or" and to insert "and steel;" so that it will read:

On steel, in ingots, bars, coils, sheets, and steel wire, not less than one fourth of one inch in diameter, valued at 7 cents per pound or less, $\frac{3}{4}$ cents per pound; valued at above 7 cents and not above 11 cents per pound, 9 cents per pound; valued at above 11 cents per pound, $\frac{3}{4}$ cents per pound, and 10 per cent. *ad valorem*.

The amendment was agreed to.

The Secretary proceeded to read the next paragraph of the bill, as follows:

On steel wire less than one fourth of an inch in diameter and not less than No. 16 wire gauge, $\frac{3}{4}$ cents per pound, and in addition thereto 15 per cent. *ad valorem*; less or finer than No. 16 wire gauge, 3 cents per pound, and in addition thereto 15 per cent. *ad valorem*.

Mr. CLARK. I propose to amend that paragraph by striking out "15" where it occurs in lines one hundred and forty and one hundred and forty-two, and inserting "20," so as to get a little more duty. It is an amendment agreed upon by the committee.

The amendment was agreed to.

The next amendment was in section three, line one hundred and sixty-six, after the word "knives" to strike out the word "or" and to insert "and;" and in line one hundred and sixty-seven, after the word "kinds" to strike out the words, "valued at \$3 or less per dozen, 50 cents per dozen, and in addition thereto 25 per cent. *ad valorem*; valued at over \$3 per dozen, 50 cents per dozen, and in addition thereto 40," and to insert "50;" so that the clause will read: "On pen-knives, jack-knives, and pocket-knives of all kinds, 50 per cent. *ad valorem*."

Mr. DIXON. I wish to propose an amendment to the amendment of the committee; and that is, to add after the words "50 per cent. *ad valorem*" the words "and 50 cents per dozen." I do not know whether the amendment would come in now properly, or after the amendment of the committee has been acted upon.

The PRESIDING OFFICER. It comes in properly now.

Mr. DIXON. The object of the amendment is to tax a class of cheap cutlery and make them pay a revenue.

Mr. FESSENDEN. I hope the amendment to the amendment will not be agreed to. It will be noticed that we have increased the *ad valorem* tax from twenty-five to fifty per cent. on that cheap class of cutlery. If the amendment proposed by my friend from Connecticut should be adopted the result will be that you will exclude entirely a very considerable class of cheap cutlery that is not and cannot be manufactured in this country.

The proof to the committee was very conclusive on that subject. We have already put the duty quite as high as it will well bear. It will be noticed that as the bill came to us from the House of Representatives the tax was put at "50 cents per dozen, and, in addition thereto, 25 per cent. *ad valorem*." We propose to make the *ad valorem* duty 50 per cent., doubling the percentage, and to strike out the specific duty. There are many different qualities of knives, and I thought I had a paper here showing the different qualities which this proposition would exclude; but I find that I have mislaid it; it is not among my papers. Some of them do not cost more than two or three cents apiece; and if you put on a tax of 50 cents per dozen and 50 per cent. *ad valorem* you will exclude them altogether. We gave a great deal of consideration to this matter, and the committee became perfectly satisfied on investigation that the amount of duty we proposed was sufficient.

Mr. DIXON. The Senator from Maine is entirely correct with regard to the fact that there is a class of cheap cutlery imported, at almost a

nominal value, not worth over 2 or 3 or 4 cents apiece; some of them but 25 cents a dozen, and some even less. A duty of 50 per cent. *ad valorem* upon that article of course would be nominal; it amounts to nothing comparatively. I desire in the first place to procure a revenue from this source. This species of goods can afford to pay a higher tax, can afford to pay 50 cents a dozen; and even if they were excluded by such a tax it would be no injury, because they are almost valueless, and a better class of goods would be manufactured and imported. But if they are to be imported and used, they can certainly afford to pay 50 cents per dozen. The duty which is placed upon them by the amendment of the committee of 50 per cent. *ad valorem* would amount, for instance, on knives that are worth about 20 cents a dozen to just 10 cents, less than 1 cent on each knife. It is plain that if that class of goods are to be imported and their importation is to be encouraged, a higher rate of revenue may be raised from them.

Mr. CLARK. It was in order to get some revenue out of them that the committee were induced to change the duty as it stood in the bill originally. That was a leading consideration. It was very plain to the committee, and made very plain by the evidence before us, that a dozen of knives costing say 20 cents could not be taxed 50 cents a dozen and then taxed 25 per cent. *ad valorem* in addition, because it would entirely exclude them, and we should get no revenue from them. As they did not come in competition with anything we produced in this country it was thought desirable on the part of the committee that they should come in and pay such duty as they could bear. The committee, therefore, changed this clause and imposed a duty of 50 per cent. *ad valorem* upon all classes of these goods, which is a very high duty, and sufficiently protective for anything that we manufacture in this country, and perhaps as high a rate of duty as the article will bear when imported.

Mr. DIXON. The Senator from Maine stated that these knives were imported at a cost of 2 or 3 cents a piece, which is true. Some of them do not cost over 20 or 30 cents a dozen. What does a duty of 50 per cent. *ad valorem* amount to upon them? The price is so low that it amounts to nothing. The Senator says they do not come in competition with our manufactures. They do. Those low-priced goods do come in competition with articles manufactured in this country, and although the duty sounds large—50 per cent.—it is really nominal.

Mr. CLARK. It is true, the price of the knife is small; but I submit that 1 cent or 2 cents is something of a duty upon it, though 2 cents is a small price for a knife.

Mr. DIXON. Then why not put on a specific duty on this cheap knife?

Mr. CLARK. Because it will exclude the importation of the article, and we shall get nothing from it.

Mr. DIXON. I do not think it will.

Mr. CLARK. The judgment of the committee was that it would, and therefore the committee changed it; and it was on the very ground that they could not save the importation of the article and get any revenue at the duty that had been fixed upon by the House of Representatives that they were induced to change it.

Mr. DIXON. A duty of 50 cents a dozen is only about 4 cents on each knife. It must be a very miserable article that would be excluded by the imposition of such a duty as that, and perhaps it had better be excluded, so far as the use of the article is concerned. If you want to get revenue, you will get next to none by the proposition of the committee.

Mr. CLARK. It is true, it is a very miserable article, and if the only question were whether the article had better come in or not, and that was the only consideration, perhaps we should exclude it altogether; but we want revenue out of everything out of which we can get it, and where an article does not come in competition with anything we manufacture we desire that it shall come in, if it is not a hurtful article, in order to obtain revenue out of it. The question was, how shall we adjust this tax so as to obtain the largest amount of revenue? The committee said, "Certainly it will not do to impose upon a dozen of knives costing 20 cents a tax of 50 cents." We

tax on other article in the world in that way that I know of. They therefore adopted this duty of 50 per cent. *ad valorem* as the fairest way to get the proper revenue from all classes.

Mr. DIXON. In my judgment, though of course my judgment is inferior to that of the committee, a much larger revenue can be raised by putting on this additional tax of 50 cents per dozen upon these goods. As I have already said, the revenue received now is merely nominal. The duty is so low that it amounts to scarcely anything. These goods can pay more revenue, and my object is to procure more revenue from this source. If you put on a tax of 50 cents a dozen on these knives, it only amounts to 3 or 4 cents on each knife. I say that that knife can afford to pay that duty. If it can be imported at all, it can be imported with that duty and the Government can receive it; and that the Senator says is what the committee desire. It is what I desire.

Mr. CLARK. Both of us are aiming at the same object. The Senator from Connecticut says he desires to obtain the largest amount of revenue; the committee desire to obtain revenue. The committee considered it with that view and only that view, how they could get the largest amount of revenue out of it. The Senator looks at it in that view. Then it is a question between the judgment of the committee, who have maturely considered the subject, and the judgment of the Senator from Connecticut. We think this duty will give us the largest revenue.

Mr. DIXON. I think the committee were wrong.

The amendment to the amendment was rejected.

The amendment of the committee was agreed to.

The next amendment of the committee was in section three, line one hundred and eighty, to strike out "35" and to insert "40;" and in line one hundred and eighty-two to insert the words "of steel" before the word "partially," and also to strike out the words "of steel" after "manufactured;" so that the clause will read:

On all manufactures of steel, or of which steel shall be a component part, not otherwise provided for, 40 per cent. *ad valorem*. *Provided*, That all articles of steel partially manufactured, or of which steel shall be a component part, not otherwise provided for, shall pay the same rate of duty as if wholly manufactured.

Mr. DIXON. I move to amend the amendment of the committee by striking out "40" and inserting "45."

Mr. FESSENDEN. I will simply say that I had some doubt myself whether that tax ought not to be 45 per cent. instead of 40 per cent. *ad valorem*; but we were at considerable pains to investigate the subject; we consulted the proper authorities on the subject, that is to say, people learned in those matters, and we finally came to the conclusion that a tax of 40 per cent. would do, and was a sufficient protection to those engaged in the manufacture of steel in this country. Our judgment may be wrong.

Mr. DIXON. I think when it is seen how much the duty on steel has been raised—

Mr. FESSENDEN. The tax.

Mr. DIXON. And the tax, too; but when it is seen how much the duty on steel has been raised in this bill, and how much the internal revenue tax on steel is, it will be apparent to the Senate that the committee were right when they proposed a tax of 45 per cent. I think they were right then, and I hope the Senate will adopt their first conclusion.

Mr. FESSENDEN. How much has the duty on steel been raised?

Mr. DIXON. It has been raised nearly 50 per cent.; I think just 50 per cent. At any rate, it has been largely increased, more than I propose to raise it here.

Mr. FESSENDEN. The Senator is mistaken about that. It has not been raised 50 per cent. However, I will not make any opposition to it.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was in section three, line one hundred and ninety-two, to strike out the words "2 cents" and to insert "1½," so that the clause will read: "On old scrap lead, fit only to be remanufactured, 1½ cent per pound."

The amendment was agreed to.

Mr. FOOT. I ask the Senate to pass over for the present the fourth and fifth sections of this bill, and for this reason: my colleague, as it is

known, is detained from the Senate in consequence of indisposition. These two sections embrace the subject of wool and woolen manufactures, a subject upon which he has devoted particular attention, and so far as the article of wool is concerned our constituency are particularly and deeply interested. Having spoken to the chairman of the committee on the subject, I understand he has no objection to the postponement of the consideration of these sections until to-morrow. If my colleague shall not be able to be in attendance then, I shall ask no further delay.

The PRESIDING OFFICER. That course will be taken if there be no objection. The Chair hears none.

The Secretary proceeded to read the sixth section of the bill. The first amendment of the committee in that section was in the clause imposing a duty on all manufactures of cotton, in line nineteen, after the word "yard," to insert "if colored, stained, painted, or printed, 5½ cents per square yard;" and in line twenty-one to strike out "15" and insert "20;" so that the clause will read:

On finer and lighter goods of like description, exceeding one hundred threads and not exceeding two hundred threads to the square inch, counting the warp and filling, unbleached, 5 cents per square yard; if bleached, 5½ cents per square yard; if colored, stained, painted, or printed, 5½ cents per square yard, and in addition thereto 20 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in section six, line twenty-seven, to strike out "15" and insert "20;" so that the clause will read:

On goods of like description, exceeding two hundred threads to the square inch, counting the warp and filling, unbleached, 5 cents per square yard; if bleached, 5½ cents per square yard; if colored, stained, painted, or printed, 5½ cents per square yard, and in addition thereto 20 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in section six, line fifty-six, to insert the word "square" before the word "yard."

The amendment was agreed to.

The next amendment was in section six, line sixty-four, after the word "cents," to insert "per dozen;" and in line sixty-five, after the words "*ad valorem*," to strike out the words "on the excess;" so that the clause will read:

Fourth. On spool thread of cotton, 6 cents per dozen spools, containing on each spool not exceeding one hundred yards of thread, and in addition thereto 30 per cent. *ad valorem*; exceeding one hundred yards, for every additional hundred yards of thread on each spool, or fractional part thereof in excess of one hundred yards, 6 cents per dozen, and 30 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in section six, line sixty-six, after the word "frames" to insert "and on all cotton hosing;" so that the clause will read: "On cotton shirts and drawers, woven or made on frames, and on all cotton hosing, 35 per cent. *ad valorem*."

The amendment was agreed to.

The next amendment was in section seven, line seventeen, to strike out "25" and insert "30;" so that the clause will read:

On flax or linen yarns for carpets, not exceeding No. 8 Lea, and valued at 24 cents or less per pound, 30 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in section seven, line nineteen, after the word "thirty" to insert "five;" so that it will read: "On flax or linen yarns valued above 24 cents per pound, 35 per cent. *ad valorem*."

The amendment was agreed to.

The next amendment was in section seven, line twenty-nine, after the word "on," to insert the words "gunny cloth, gunny bags, and;" so that it will read:

Third. On gunny cloth, gunny bags, and cotton bagging, or other manufacture not otherwise provided for, suitable for the uses to which cotton bagging is applied, composed in whole or in part of hemp, jute, flax, or other material, valued at 10 cents or less per square yard, 3 cents per pound.

The amendment was agreed to.

The next amendment was in section seven, line forty-one, after the word "twenty" to insert the word "five;" and in line forty-two to strike out "25" and insert "30;" so that the clause will read:

On jute yarns, 25 per cent. *ad valorem*. On all other

manufactures of jute or Sisal grass, not otherwise provided for, 30 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment of the committee was in section eight, line eight, after the word "on," to insert "spun silk for filling in skeins or cops, and on;" in line ten, after the word "organzine," to strike out "25" and insert "40;" and in line eleven, after the words "floss silks," to strike out "25" and insert "40;" so that it will read:

On spun silk for filling in skeins or cops, and on silk in the gum not more advanced than singles, tram, and thrown or organzine, 40 per cent. *ad valorem*. On floss silks 40 per cent. *ad valorem*.

Mr. VAN WINKLE. I move to amend this amendment—I believe it is in accordance with the views of the committee—by inserting after the word "cops" the words "25 per cent. *ad valorem*." This spun silk for filling is not produced in this country, but it is now used considerably in the manufacture of silk goods, and will be much more extensively used if the duty is brought down to the rate I propose. Under the tariff of 1861 it was an unenumerated article, and paid 60 per cent., which has suppressed the manufacture I believe. I propose to make the duty on spun silk for filling in skeins or cops 25 per cent. *ad valorem*, and then to leave the duty on silk in the gum as the committee reported it.

The amendment to the amendment was agreed to, and the amendment, as amended, was adopted.

The next amendment was in section eight, line seventeen, after the word "vails" to insert "laces;" so as to make "laces" pay a duty of 60 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in section eight, line twenty-two, after the word "value" to insert "including women's and children's dress goods and piece goods in all forms," and in line twenty-four to strike out "50" and to insert "60;" so that the clause will read:

On all manufactures of silk, or of which silk is the component material of chief value, including women's and children's dress goods and piece goods in all forms, not otherwise provided for, 60 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in section nine, line eleven, after the word "China" to strike out the word "and," and after "porcelain" to insert "and Parian;" so that the clause will read:

On China, porcelain, and Parian ware, gilded, ornamented, or decorated in any manner, 50 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in section nine, line fourteen, after the word "China" to strike out the word "and," and after "porcelain" to insert "and Parian;" and in line nineteen, to strike out "40" and insert "45;" so that the clause will read:

On China, porcelain, and Parian ware, plain white, and not decorated in any manner, and all other earthen, stone, or crockery ware, white, glazed, edged, printed, painted, dipped, or cream colored, composed of earthy or mineral substances, and not otherwise provided for, 45 per cent. *ad valorem*.

Mr. TEN EYCK. I believe it to be in order to propose an amendment to the amendment of the committee.

The PRESIDING OFFICER. It is.

Mr. TEN EYCK. I propose to move to strike out the words "forty-five" and to insert "fifty" in line nineteen, on page 27. I will state the reason why I do it. The manufacture of plain white China is an infant business in this country; it is scarcely yet upon its legs; and it requires the fostering care of the Government. I will state a fact connected with this business to show why it should receive favor at the hands of Congress. I am aware of a locality in which there is about \$600,000 of capital invested in this business. The difference in the price of material and the price of labor between this country and England is such that unless considerable protection is afforded to this branch of business, which is likely to reflect not only credit upon ourselves as manufacturers but to be of great benefit to the country, the enterprise must cease. Allow me to call attention to a few of the articles which enter into this manufacture, and to show the contrast between the cost in England and what it is here. China clay, per ton of 2,000 pounds, costs \$9 in Staffordshire and \$30 in this country, more than 300 per cent.

Flint and spar, per ton of 2,000 pounds, cost in Staffordshire \$9 per ton and \$20 in this country. Coal per ton in England, of 2,240 pounds, costs \$2, and where this manufacture is going on \$3 45 per ton. Labor is 200 per cent. higher here than it is in England.

Under these circumstances it seems to me that the mere statement of the great contrast and the character of the business to be thus protected is sufficient to secure an increase of this duty to 50 per cent., which is considered by the persons who are engaged in the business as essential for their protection and the continuation of this useful branch of industry.

Mr. FESSENDEN. All I can say about it is this: these gentlemen came to us and asked us for 5 per cent. additional and said that would satisfy them, and we put it on. How much they ask now through their Senators I cannot tell. I believe there is but one establishment in New Jersey. We gave them just what they asked for.

Mr. TEN EYCK. I fear there is some misunderstanding about this, because the gentleman who called upon me was referred by me directly to the chairman of the Committee on Finance.

Mr. FESSENDEN. You brought him in and introduced him.

Mr. TEN EYCK. I brought him to the door of the committee-room. I not only had it from his own mouth as to the rate of duty he desired, but he also furnished me with a memorandum stating that to be what he considered essential. He did state and has stated in this letter that they could scrape along upon 47½ per cent.; that if I could not succeed in inducing the committee to give them this duty of 50 per cent. *ad valorem*, they could make out with 47½ per cent. Under those circumstances, according to my duty, I proposed the highest duty that they asked. Without undertaking to make any great point on this matter I should like to have the views of the Senate on this question after I have made this statement showing the character of the business.

Mr. JOHNSON. Will the Senator suffer me to ask him what is the present duty? Is it not less than this?

Mr. TEN EYCK. Yes, sir.

Mr. JOHNSON. How have they been going along?

Mr. TEN EYCK. They are going along by industry and enterprise with their business, and will be able to continue it, provided there is an increased duty imposed on the foreign article sufficient to enable them to pay the income tax and the increased price of coal, labor, and all the materials embarked in this business.

The Senator perhaps did not listen to the statement I made and the statistics I gave showing that unless this particular kind of business was protected it must be destroyed, for labor in this country was 200 per cent. higher than it is in England where this manufacture is carried on extensively, and the materials which go to make this mechanism cost more in this country than they do in Staffordshire, England.

Mr. FESSENDEN. The additional duty which we require of them by the internal-revenue bill is 2 per cent. We raised it from 3 to 5. The duty on the foreign article was put up 5 per cent., and we have added 5 per cent. more, thus increasing it to 10 per cent.; and if they got along by industry and frugality before, I think they can scrape along now.

Mr. HENDRICKS. It is a very sad case that the Senator from New Jersey makes. Some of his constituents have gone into a business that is not profitable, where the labor costs 200 per cent. more than in England, and materials 300 per cent. more than they do in England. They have made a bad investment; and in order to make the business profitable which of itself is unprofitable he wants to impose such a tax as will cut off revenue and prohibit competition from abroad, and compel our people, who make some profits in other pursuits, to pay large prices to an unprofitable business to enable them to go on. I think myself that is the basis of the argument of the whole productive system; but it has not been made quite so bare as the Senator from New Jersey has made it.

Mr. TEN EYCK. I trust that my friends do not sustain the character that the Senator from Indiana seems to be disposed so willingly to cast

upon me. I happen to be acquainted with these gentlemen, and know them to be of the highest character and standing in the community where they live; none more so. They have started a new enterprise in this country—one that is calculated to reflect credit and honor upon the mechanism of the country. It is a young and infant branch of business. Being industrious, active, energetic, laborious men, they have been enabled to make this thing work along. Their ambition is embarked in it. Although they are influenced as all other men are to have reasonable gains and accumulations derived from their business, yet still they are not such men as would desire either to preclude a fair competition or to prevent other men keeping the just rewards of their labor in the line of business they are pursuing.

I have brought this matter before the Senate and I have endeavored to commend it to their consideration with the full knowledge that these men would ask no more than they reasonably believed to be necessary for the carrying on of their business. I have proposed the amendment to the Senate, and they can do with it as they see fit.

The amendment to the amendment was rejected. The amendment was adopted.

The next amendment of the committee was in section nine, line twenty-six, after the word "chalk" to insert "and cliffstone;" so that it will read: "On white chalk and cliffstone, \$10 per ton."

The amendment was agreed to.

The next amendment was in section nine, after line twenty-nine, to insert: "On whiting and Paris-white, 1 cent per pound. On whiting ground in oil, 2 cents per pound."

The amendment was agreed to.

The next amendment was in section nine, after line forty-three, to insert the following:

On cylinder and crown glass, polished, not exceeding ten by fifteen inches square, 2½ cents per square foot; above that, and not exceeding sixteen by twenty-four inches square, 4 cents per square foot; above that, and not exceeding twenty-four by thirty inches square, 6 cents per square foot; above that, and not exceeding twenty-four by sixty inches, 20 cents per square foot; all above that, 40 cents per square foot.

The amendment was agreed to.

The next amendment was in section nine, line seventy-two, after the word "plates" to insert the word "not;" so that it will read: "On all cast polished plate glass, silvered, or looking-glass plates not exceeding ten by fifteen inches square, 4 cents per square foot."

The amendment was agreed to.

The next amendment was in section nine, line eighty-eight, after the word "sweetmeats" to insert the word "or."

The amendment was agreed to.

The next amendment was in section ten, line nine, after the word "annatto" to strike out the word "aniline;" in line ten, after the word "of" to insert "barytes," and strike out the word "cliffstone;" and in line twelve, after the word "size" to strike out the word "nickel;" so that the clause will read:

First. On annatto seed, extract of annatto, crude barytes, nitrate of barytes, carmined indigo, crude tica, extract of safflower, finishing powder, gold size and patent size, cobalt, oxyd of cobalt, smalt, zaffre, and terra alba, 20 per cent. *ad valorem*.

The amendment was agreed to.

The Secretary proceeded to read the next paragraph, as follows:

Second. On albumen, asbestos, asphaltum, crocus colcotra, blue or Roman vitriol or sulphate of copper, bone or ivory drop black, nuxetide, rose red, ultramarine, Indian red and Spanish brown, 25 per cent. *ad valorem*.

Mr. FESSENDEN. I move to amend that clause in the sixteenth line by striking out "rose red." That is one of the aniline dyes that is afterwards provided for.

The amendment was agreed to.

The next amendment was in section eleven, line fifteen, after the word "pounds" to insert the words "of lime, 25 per cent. *ad valorem*;" so that the clause will read:

On acetate or pyrolignite of ammonia, 70 cents per pound; of baryta, 40 cents per pound; of iron, strontia, and zinc, 50 cents per pound; of lead, 10 cents per pound; of magnesia and soda, 50 cents per pound; of lime, 25 per cent. *ad valorem*.

The amendment was agreed to.

Mr. FESSENDEN. The "10" in the fourteenth line of that clause should be "20;" so as to read, "of lead, 20 cents per pound." I move that amendment.

The amendment was agreed to.

The next amendment was in section eleven, after line sixteen to insert "on aniline dyes, 35 per cent. *ad valorem*."

Mr. FESSENDEN. The committee authorize me to move to amend that amendment by inserting after the word "dyes" the words "\$1 per per pound, and;" so that it will read: "On aniline dyes \$1 per pound, and 35 per cent. *ad valorem*."

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The next amendment was in section eleven, after line twenty-five to insert: "On opium prepared for smoking, 100 per cent. *ad valorem*."

The amendment was agreed to.

Mr. VAN WINKLE. I call the attention of the chairman of the committee to the clause of this section beginning at the twentieth line:

On articles not otherwise provided for, made of gold, silver, German silver, or platina, of which either of these metals shall be a component part, 40 per cent. *ad valorem*.

I think the word "or" ought to be inserted after "platina."

Mr. FESSENDEN. That is right.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) That word will be inserted if there be no objection.

The next amendment was in section eleven, after line thirty-four to strike out: "On cassia, 25 cents per pound; on ground cassia, 6 cents per pound; on cinnamon, 40 cents per pound."

Mr. FESSENDEN. There are several amendments here to which I feel inclined to call the attention of the Senate, because they are important, and there may be some difference of opinion concerning them. The House of Representatives raised the duty on spices very largely. The Committee on Finance have stricken out all the increased duties on spices. They were not, I believe, originally reported from the Committee of Ways and Means in the House of Representatives, although the committee afterwards moved them. The increased duties in the House of Representatives were put on the ground that these spices are articles of luxury: cassia, cinnamon, peppers, cloves, nutmegs, mace, &c. The Committee on Finance were very much disposed to look upon them rather as articles of necessity in common use than articles of luxury. It is undoubtedly true that, being articles not raised in this country, and articles of which everybody uses a portion, you can lay increased duties upon them without any apparent difficulty; and the duties were accordingly very largely increased by the House of Representatives.

For instance, on cassia, which costs, I think, somewhere about 13 cents a pound, the present duty is 15 cents, more than 100 per cent. The House of Representatives propose to impose a duty of 25 cents. Cinnamon costs about 22½ cents a pound; the present duty is 25 cents, more than 100 per cent.; and the House of Representatives propose to raise the duty to 40 cents a pound. Cloves cost about 7½ cents a pound; the present duty is 15 cents, 200 per cent., and on that they lay a duty of 40 cents a pound. Mace costs 24 cents a pound; the present duty is 30 cents, and that is proposed to be raised to 50 cents. Nutmegs cost about 33½ cents a pound; the present duty is 30 cents, and the House propose to raise it 75 cents. Black pepper costs about 6 cents a pound; the present duty is 12 cents, and that is raised in this bill to 20 cents. Red pepper costs 6½ cents a pound; the present duty is 12 cents, and that is raised to 25 cents. Pimento costs about 5 cents; the present duty is 12 cents, and that is raised to 20 cents. I may not be entirely accurate in my statement of the cost of these various articles, but I speak from a table which has been furnished me, and which I believe to be substantially correct.

Now, you may get a large revenue perhaps out of these articles, calculating that the usual amount will be imported and used.

Mr. TRUMBULL. How much?

Mr. FESSENDEN. I have not calculated it. It is important unquestionably in a revenue point of view. We have been pressed very hard, and

so have the House of Representatives, by letters and articles in newspapers, to raise the duties on spices. We understand the reason of that very well. There is said to be a very large stock on hand in the country, and if we raise the duties at this rate, large amounts of money will be made out of them, and probably there will be no great revenue for a year or two. The Senator from New York [Mr. MORGAN] I suppose is probably aware of that fact.

But the difficulty is this: they are articles all of which can be very easily smuggled; and we know that very great preparations are being made to smuggle all sorts of articles over the border from the British provinces. Take, for instance, a barrel of nutmegs. They can be imported into Canada, and people can bring them here in their pockets. A person could make quite a pretty sum on a barrel of them in that way. It will be seen, therefore, that the temptation for smuggling is very large; and so it is with regard to all these articles. The committee, therefore, on looking at the whole matter, came to the conclusion that for a very considerable period of time, at any rate, we could not get any largely increased revenue in consequence of the amount of those articles in the country at the present time, and it is very doubtful whether, if we put on such large duties, we would at any time get very large amounts, and as the duties are now not less than 100 per cent., I believe, in any case, and in some cases 200 per cent. on articles which were considered to be articles rather of necessity, as they are in common use by everybody, as for instance the article of pepper, we came to the conclusion that it was best not to impose an additional duty on spices. But as it is a question of so much importance, I deemed it my duty not to let it be passed over in the Senate without notice, but to call the attention of the Senate to it, to see whether the views of the committee would be sustained or not.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question is on the amendment proposed by the committee to strike out lines thirty-five, thirty-six, and thirty-seven, on the 32d page.

The amendment was agreed to.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of executive business.

Mr. FESSENDEN. If the Senator will give us ten minutes longer I shall have no objection to his motion.

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. CLARK. Let us go on with the bill.

Mr. HENDRICKS. We cannot get through with it to-day.

The PRESIDING OFFICER. Is the motion to adjourn withdrawn?

Mr. HENDRICKS. If any gentleman wants to say a word I will withdraw it.

Mr. CONNESS. I ask the Senator from Indiana to withdraw the motion until some bills from the House of Representatives on the table can be read, at least, so that they may be referred. There is a joint resolution there of some consequence regarding the overland mail service, and I ask leave to have it read now.

Mr. HENDRICKS. I withdrew the motion to adjourn to enable the Senator from California to call up some bill, but the Senator from Kansas now appeals to me, and says he wants to make a motion, and of course I shall not resist.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of executive business, and while the change is going on these bills can be read.

Mr. CONNESS. Pending that motion I hope those bills will be read by consent.

The PRESIDING OFFICER. The Senator from California asks unanimous consent that the bills on the table from the House of Representatives be read for reference.

Mr. LANE, of Kansas. That can be done while the doors are being closed. I insist on my motion. Let that be done afterwards.

Mr. POMEROY. It is very important that those bills should be referred to the committees to-day, because the committees meet to-morrow morning.

Mr. POWELL. That can be done while we are closing the doors.

Mr. POMEROY. It may be done by unanimous consent.

Mr. CONNESS. Why not have it done now?

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas to proceed to the consideration of executive business.

The motion was not agreed to.

HOUSE BILL REFERRED.

Mr. CONNESS. Now, I call for the reading of those bills.

The joint resolution (H. R. No. 93) to authorize the Postmaster General to extend the contract with the Overland Mail Company was read twice by its title.

Mr. CONNESS. With the consent of the Senate I should like to have that resolution put on its passage. ["Oh, no."] Then I move that it be referred to the Committee on Post Offices and Post Roads.

The motion was agreed to.

PRESERVATION OF PUBLIC WORKS.

The Senate proceeded to consider its amendments to the bill (H. R. No. 450) to provide for the repair and preservation of certain public works of the United States, disagreed to by the House of Representatives; and it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. CHANDLER, Mr. MORRILL, and Mr. MORGAN.

COURTS IN WISCONSIN.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes, disagreed to by the Senate and insisted on by the House; and it was

Resolved, That the Senate insist upon its disagreement to the amendment of the House to the said bill, and agree to the conference asked by the House upon the disagreeing votes thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. TRUMBULL, Mr. COLLAMER, and Mr. POWELL.

Mr. LANE, of Kansas. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to.

Mr. LANE, of Kansas. While the doors are being closed I desire to make a privileged motion, to reconsider the vote on the passage of Senate bill No. 296.

Mr. HENDRICKS. What bill is that?

Mr. LANE, of Kansas. It is a bill abolishing the fees of the marshal of this District. I ask that the vote be reconsidered.

Mr. CLARK. Oh, no; not now.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The motion can be received only by unanimous consent while the order to clear the galleries is being executed on the part of the Senate.

Mr. HALE. I object.

The PRESIDING OFFICER. The motion being objected to, it cannot be entertained.

Mr. LANE, of Kansas. I only want it entered. I believe it is a privileged motion.

The PRESIDING OFFICER. It cannot be entertained while the order of the Senate is being executed except by the unanimous consent of the Senate. The Chair will entertain the motion if there be no objection; but if objected to it cannot be received.

Mr. LANE, of Kansas. I did not hear any objection.

The PRESIDING OFFICER. The Chair understood the Senator from New Hampshire to object to the motion. The Chair, however, will entertain the motion if there be no objection.

Mr. HALE. There is objection.

The PRESIDING OFFICER. Then the motion cannot be entertained.

The Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, June 16, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

FITZGERALD AND BALL.

On motion of Mr. CHANLER the bill (S. No. 244) for the relief of Daniel Fitzgerald and Jonathan Ball was taken from the Speaker's table, read a first and second time, and referred to the Committee on Patents.

Mr. CHANLER moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PROTECTION OF HARBORS, ETC.

Mr. WASHBURN, of Illinois. Last evening the House permitted a bill in relation to rivers and harbors, with amendments of the Senate, to be taken from the Speaker's table and considered. The amendments were concurred in, and the action of the House was reconsidered, and the motion to reconsider was laid on the table. Upon an examination of the amendments there seems to be some doubt in regard to the precise meaning of some of them. I ask the House to take from the table the motion to reconsider, and have the Senate amendments non-concurred in.

The SPEAKER. That can be done by unanimous consent.

There was no objection; and the bill was taken up and the Senate amendments non-concurred in.

Mr. WASHBURN, of Illinois. I move that the House request a committee of conference.

The motion was agreed to.

LEAVE OF ABSENCE.

On request of Mr. PATTERSON, leave of absence was granted for ten days to Mr. ROLLINS, of New Hampshire, on account of sickness.

On request of the SPEAKER, leave of absence for one week was granted to Mr. SPALDING, who was unexpectedly called away.

FEES IN THE DISTRICT OF COLUMBIA.

On motion of Mr. WILSON, a bill (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes, was taken from the Speaker's table, read a first and second time, and referred to the Committee for the District of Columbia.

VOTES RECORDED.

By unanimous consent, Mr. PERRY was allowed to record his vote in the negative on the proposed amendment to the Constitution.

By unanimous consent, Mr. WASHBURN, of Massachusetts, was allowed to record his vote in the affirmative on the proposed amendment to the Constitution.

SECURITY OF PASSENGERS ON STEAMERS.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced a bill to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes," which was read a first and second time, and referred to the Committee on Commerce.

DRAFT—COMMUTATION.

Mr. A. MYERS asked unanimous consent to introduce the following resolution:

Resolved, That the Committee on Military Affairs be requested to inquire into and report upon the expediency of so amending the several acts for enrolling and calling out the national forces as to make the period of each draft for a term not exceeding eighteen months, and raising the commutation to the sum of \$100; and also into the expediency of requiring those drafted but exempt by reason of physical disability, who are able to pay commutation, to do so, and also of permitting colored persons to be accepted as substitutes for drafted white men.

Mr. CHANLER objected.

CIVIL APPROPRIATION BILL.

Mr. STEVENS. I now ask to report from the Committee of Ways and Means a bill making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865, and for other purposes. I will ask that the items of the bill be read now, and if any gentleman

desires to raise points of order he can do it, and then I want it referred to the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. Does the bill include any items of appropriation not authorized by existing law?

Mr. STEVENS. We suppose that we have strictly complied with the rules. We have left out all appropriations for private purposes.

Mr. HOLMAN. Let the bill be read.

Mr. FERNANDO WOOD. Is the bill before the House?

The SPEAKER. It is; the Committee of Ways and Means have a right to report appropriation bills at any time.

Mr. STEVENS. The bill is read now to allow gentlemen to raise points of order.

Mr. HOLMAN. If points of order can be raised in Committee of the Whole on the state of the Union there will be no objection to its immediate reference.

Mr. PENDLETON. I shall object to any consent of that kind.

Mr. STEVENS. I have no objection to either mode of disposing of the matter.

Mr. PENDLETON. I want the bill read now, and the points of order made at once if they are to be made.

The Clerk proceeded to read the bill. The following item was read:

For rebuilding sea-wall, and repair to tower and dwelling at Napat Point light-house, Rhode Island, \$6,000.

Mr. HOLMAN. There may be some law authorizing this appropriation. I hope the law will be shown. I presume there is no law for an appropriation of this character.

The SPEAKER. The Chair overrules the point of order, under the 120th rule, which states that—

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress."

The Chair understands this object to be already in progress.

Mr. HOLMAN. If that is the fact, of course the ruling of the Chair is correct, but I understand that it is not the fact.

The SPEAKER. The appropriation is for the repair of a sea-wall; not for the building of one, but for the repair. The Chair therefore overrules the point of order. The provision conforms strictly to the rule.

The following item was read:

For compensation of two inspectors of customs acting as superintendents for the life-saving stations on the coasts of Long Island and New Jersey, \$3,000.

Mr. FERNANDO WOOD. I would inquire whether these inspectors and their compensation are not already provided for in the general appropriation bill.

Mr. STEVENS. We suppose not; not these two.

Mr. FERNANDO WOOD. You do not know the fact?

Mr. STEVENS. We suppose they are not provided for. We have no knowledge of their being provided for in any appropriation bill. If they are, it is in an amendment which came from the Senate; but I do not think they are provided for anywhere.

Mr. FERNANDO WOOD. I think the number of inspectors is fixed by law. This provides for these two officers and for paying them.

The SPEAKER. That is a matter for debate in Committee of the Whole on the state of the Union. The bill is only being read now for points of order.

Mr. FERNANDO WOOD. I am aware of that, but I make the point of order that this is a double appropriation for the same two inspectors of customs, as they are already provided for.

The SPEAKER. The Chair overrules the point of order. The latter part of the 120th rule states that appropriations "for the contingencies for carrying on the several Departments of the Government" are in order. Whether it is proper to appropriate this money or not is a question for the Committee of the Whole on the state of the Union.

Mr. STEVENS. I desire to say to the gentleman that this cannot very well be elsewhere provided for, for this is the regular light-house bill, and we have only cut down the appropria-

tions in this bill under the rule enforced here now for the first time.

Mr. FERNANDO WOOD. My point is this: that this item provides for paying two officers already provided for over again.

Mr. STEVENS. If the gentleman will refer to our appropriations for the last twelve years—I have not gone further back—he will find the appropriations made in the same way.

Mr. FERNANDO WOOD. Well, it is wrong, and I shall oppose it at the proper time.

The Clerk proceeded with the reading of the bill, not for amendment but that questions of order might be made.

The following paragraph having been read—

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000—

Mr. HOLMAN said: I raise a point of order on that clause. There is no law for it.

The SPEAKER. The Chair overrules the point of order, as the Chair happened to be at the head of the Post Office Committee when the law was reported and passed.

Mr. STEVENS. The act of Congress pledges the Government to pay not exceeding \$40,000 annually to that line.

The following paragraph having been read—

For compensation of the Assistant Treasurer at Philadelphia, \$4,000—

Mr. HOLMAN said: I inquire how this item came into the bill. Is this an office already existing with a salary of \$4,000 attached to it?

The SPEAKER. There are six Assistant Treasurers, one in Philadelphia. Whether the salary is \$4,000 the Chair does not know.

Mr. STEVENS. Without looking at the old law I cannot tell. This is the recommendation of the Department for carrying on that branch of business.

Mr. HOLMAN. If the law fixes the salary at \$4,000 the appropriation should of course be made; but it is very singular that the item should be in this bill.

Mr. STEVENS. I would not undertake to say whether that is the salary fixed in the law. We inserted it on the recommendation of the Department, and as the bill is not to be considered to-day I did not look into it.

Mr. HOLMAN. I raise a point of order on this appropriation.

The SPEAKER. If the gentleman from Indiana will show the Chair that it is out of order, the Chair will so decide.

Mr. HOLMAN. Of course the Chair will presume it to be in order; but the chairman of the Committee of Ways and Means should be able to state whether or not this appropriation is according to existing law.

Mr. STEVENS. Perhaps so; but I confess honestly that I have not looked at the law.

Mr. HOLMAN. I have not the law before me either.

Mr. STEVENS. If the appropriation is wrong, the merits of the question will be open.

The SPEAKER. The Chair overrules the point of order. There are six Assistant Treasurers in the United States. One of them is stationed at Philadelphia. That brings this item within the rule. If the amount is wrong, that is a matter which the Committee of the Whole on the state of the Union can remedy. The item is for compensation of the Assistant Treasurer at Philadelphia, which is according to existing law.

Mr. HOLMAN. I ask the Chair whether any increase of compensation can be authorized in this bill?

The SPEAKER. That would be for the House to determine.

Mr. HOLMAN. This bill itself cannot increase the compensation.

The SPEAKER. That would be a good point.

Mr. WASHBURN, of Illinois. An increase of compensation would be a change of existing law.

Mr. HOLMAN. I ask the chairman of the Committee of Ways and Means to let this clause pass over till we see what the law is.

Mr. STEVENS. I have not the least objection. I am willing that it shall be reserved for consideration.

The following clause having been read—

For additional clerical force in the office of the Assistant Treasurer at Philadelphia, \$4,500—

Mr. WASHBURN, of Illinois, said: This must be a change of existing law.

The SPEAKER. That is true; but the rule states that there may be contingencies for carrying on the several Departments of the Government. If, in the opinion of the Committee of Ways and Means, this is a contingency for carrying on that Department of the Government the Chair thinks it is in order.

Mr. WASHBURN, of Illinois. It is undoubtedly a change of existing laws; and, without this appropriation there cannot be this additional clerical force.

The SPEAKER. The rule is, that no appropriation shall be in order for any expenditure not previously authorized by law, except in continuation of appropriations for such public works and objects as are already in progress, and for contingencies for carrying on the several Departments of the Government. This is one of the two exceptions. The Chair thinks, therefore, that it is in order for the Committee of Ways and Means to report an item in the way of a contingency for carrying on a Department.

Mr. STEVENS. The clause is founded on an express communication from the Secretary of the Treasury.

The bill was then read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEVENS. I move that the bill be made a special order for Monday next after the morning hour.

The motion was agreed to.

BUSINESS OF MILITARY COMMITTEE.

Mr. MORRILL. Inasmuch as to-day, which was by unanimous consent set apart for the consideration of the business of the Committee on Military Affairs, is to be occupied in the consideration of the internal revenue tax bill, I think, therefore, it is but fair that another day should be fixed for the consideration of the business of that committee. I suggest that the first day after the tax bill is disposed of be set apart for the business of that committee.

Mr. STEVENS. I must object to any arrangement that will interfere with the consideration of this appropriation bill on Monday next.

Mr. MORRILL. I do not think it will interfere with that. I hope there will be no objection to the proposition.

Mr. COLE, of California. I object.

Mr. WILSON. If the gentleman will say after the morning hour I think there will be no objection.

Mr. MORRILL. I hope there will be no arrangement made to interfere with the day which has been assigned to the Committee on Naval Affairs.

Mr. MORRILL. Inasmuch as the Committee on Military Affairs was, by assignment of the House, entitled to to-day for the consideration of their business, I trust there will be general consent to the proposition I have made.

The SPEAKER. The Chair will state that to-night, after the morning hour, will still be devoted to the business of the Military Committee, but the Chair presumes that the time remaining of to-day's session will be insufficient to transact the business of that committee.

Mr. MORRILL. That will be of course entirely insufficient to transact the business of this committee, much of which is very important business.

Mr. SCHENCK. There was some misunderstanding in reference to the assignment of this evening to the business of the Military Committee. When the proposition was made to set apart to-day after the morning hour I supposed that it was to include the entire day, but I subsequently learned that by an arrangement that had been made the morning hour was not to commence until the evening session, leaving to us, therefore, only the latter portion of the night session.

Now, this assignment of time will be entirely insufficient for our purposes. That committee has not been called for now some three months. We have our drawers stuffed with reports, some of them of not much consequence, but others of a very important character. I hope, therefore, there will be some arrangement made by which a day may be assigned to us in order to enable

us to relieve ourselves of the very large amount of business before us.

The SPEAKER. The Chair will state the assignments that have been made by unanimous consent for the next few days. The morning hour for this evening is assigned to the consideration of the Pacific railroad bill. To-morrow the entire day, including the morning hour, is set apart for the consideration of private bills. The House has given unanimous consent that to-morrow evening shall be devoted to the business for the District of Columbia. Saturday after the morning hour has been assigned to the Committee on Naval Affairs; and Monday after the morning hour has this day been assigned to the consideration of the civil appropriation bill as a special order.

Mr. STEVENS. I understand that Saturday has been set apart, after the morning hour, for the consideration of the business of the Committee on Naval Affairs. Do I understand that the Pacific railroad bill will come up during the morning hour?

The SPEAKER. It will. The Chair will state, however, that if this internal revenue tax bill should not be disposed of to-day it will come up on Saturday after the reading of the Journal as unfinished business, and there will be no morning hour.

Mr. STEVENS. I do not desire to give consent to anything that will interfere with the consideration of the Pacific railroad bill.

The SPEAKER. The Pacific railroad bill will have the morning hour this evening. It will then go over Friday and come up Saturday immediately after the reading of the Journal, unless the tax bill should go over as unfinished business.

Mr. SCHENCK. I will make one proposition which, although it will bring us very near the close of the session, I am willing to accept, and I hope there will be no objection to it. I propose to set apart Tuesday next after the morning hour.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States was received, by Mr. STODDARD, his Private Secretary, informing the House that he had approved and signed bills and a joint resolution of the following titles:

An act (H. R. No. 383) to incorporate a Home for Friendless Women and Children;

An act (H. R. No. 149) concerning school lands in township forty-five north, range seven east, in the state of Missouri;

An act (H. R. No. 198) making appropriations for the support of the Army for the year ending the 30th of June, 1865, and for other purposes; and

Joint resolution (H. R. No. 55) granting certain privileges to the city of Des Moines, in the State of Iowa.

Mr. SCHENCK. I propose that we postpone the motion until next Tuesday after the meeting of the House and the reading of the Journal.

Mr. STEVENS. I must object. If he says after the morning hour I will agree; but I fear that we will not get through with the Pacific railroad bill in that time.

Mr. SCHENCK. When the Committee of Ways and Means have overridden us so long, it does seem to me, in a time of war, that the Military Committee, being one of some little importance, after three months' delay, should at least have one day. We had this day assigned to us after the morning hour, and we would have it now if the morning hour had not been shoved off until to-night.

Mr. STEVENS. I do not think that the Committee of Ways and Means have done more than their duty.

The SPEAKER. The gentleman from Ohio asks that the entire day next Tuesday be devoted to the reports from the Committee on Military Affairs.

Mr. ANCONA. I object.

CIRCUIT COURT OF WISCONSIN.

Mr. WILSON. I move that the House insist on its amendment to Senate bill No. 55, in relation to the circuit court in and for the district of Wisconsin, and for other purposes, and ask for a committee of conference on the disagreeing votes between the two Houses.

The motion was agreed to; and the Speaker

appointed as managers of said conference on the part of the House Messrs. WILSON, BROWN of Wisconsin, and WOODBRIDGE.

OVERLAND MAIL.

Mr. ALLEY. I call up the motion to reconsider the vote by which the House ordered to be engrossed and read a third time a joint resolution to authorize the Postmaster General to extend the contract with the Overland Mail Company. I withdraw that motion and ask that the engrossed bill be read.

Mr. WASHBURN, of Illinois. The gentleman cannot withdraw the motion to reconsider.

The SPEAKER. The Chair sustains the point of order. The motion to reconsider cannot be withdrawn the second day after it has been entered.

Mr. ALLEY. I hope, then, that the motion to reconsider will be voted down, and that the joint resolution will be put on its passage.

Mr. STEVENS. I hope that the gentleman will not press the matter at this time.

Mr. ALLEY. It is important that the joint resolution be passed at this time. If it is not passed now, it will be too late.

Mr. WASHBURN, of Illinois. Is it important to the contractor or to the Government?

Mr. ASHLEY. The papers of this morning state that this contract has been let for four years. The motion to reconsider was rejected.

The joint resolution having been engrossed, it was read the third time.

The House divided; and there were—ayes 75, noes 19.

So the joint resolution was passed.

Mr. ALLEY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE APPROPRIATION BILL.

Mr. PENDLETON submitted the following privileged report.

The Clerk read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 193) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1865, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from their disagreement to the eighth, twelfth, nineteenth, twenty-first, twenty-second, twenty-third, twenty-fourth, fortieth, eighty-eighth, and ninety-fourth amendments of the Senate, and agree to the same.

That the Senate recede from their ninth amendment. That the Senate recede from their disagreement to the amendment of the House to the twenty-fifth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the thirty-fourth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the ninetieth amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the ninety-fifth amendment of the Senate and agree to the said Senate amendment with amendments as follows: in line two of said Senate amendment strike out the word "annual;" and in line three of said amendment, before the word "messengers," insert the following words: "females and of the;" and in line five of said amendment, after the word "building" insert the following words: "and the Commissioner of Agriculture and at the Capitol;" and in line six of said amendment strike out the following words: "1st day of June, 1864;" and in line seven of said amendment strike out the word "next," and after the word "year" in said line seven insert the following words: "ending the 30th of June, 1866;" and in line nine strike out "approval of this act" and insert in lieu thereof "1st day of June, 1864;" and in line eleven of said amendment strike out the word "nine" and insert in lieu thereof the word "ten," and that the Senate agree to the same.

That the Senate recede from their disagreement to the amendments of the House to the ninety-sixth amendment of the Senate and agree to the same with the following amendment: strike out all after the word "thereof" in line ten of said House amendment to and including the word "one" in line thirteen, and the House agree to the same so modified.

JOHN SHERMAN,
GARRETT DAVIS,
Managers on the part of the Senate.
GEORGE H. PENDLETON,
WILLIAM WINDOM,
ORLANDO KELLOGG,
Managers on the part of the House.

Mr. PENDLETON. Mr. Speaker, I desire to say that there are but two or three important matters contained in this report. A number of recommendations relate to mere verbal amendments as to which there can be no difference of opinion.

There is one proposition that will excite a difference of opinion, and that is in reference to the salary of the Treasurer of the United States. The Senate added an amendment to this bill raising that salary; the House refused to agree to it; and the committee of conference recommend that the House recede from its disagreement and concur in the amendment. I suppose, from my examination of the bill and my knowledge of the House, that that is the only question about which there will be difference in the House.

Another relates to the metropolitan police. We agree to the Senate amendment raising their pay fifty per cent., according to a rate of division which has been agreed upon by the respective corporations who are to pay the salaries.

There is one other point to which I will call the attention of the House. The Senate introduced an amendment into this bill raising the salaries of certain employes in the Departments twenty per cent. The House proposed to raise the salaries about thirty-three and a third per cent. The committee of conference recommend a concurrence in the Senate amendment, and a disagreement with the House proposition.

I think these are the only amendments upon which there will be any difference of opinion.

Mr. HOLMAN. It seems to me that all these amendments agreed upon by the committee of conference ought to be concurred in by the House, with the exception of one, increasing the salary of the Treasurer of the United States from \$5,000 to \$6,000 a year. That subject, when it was before the House, received unusual attention, and upon it there can be no misapprehending the opinion of this House. The other amendments are such as the House might have expected upon the part of the committee, fairly acting in concert with the committee upon the part of the Senate. Therefore I take no exception to the balance of this report.

Now, I ask the unanimous consent of the House—for I suppose it can be done only by unanimous consent—that all these amendments be concurred in with the exception of the amendment by which the salary of the Treasurer of the United States is increased from \$5,000 to \$6,000 a year, and that that one be referred further, if the Senate desire it, to another committee of conference.

Mr. PENDLETON. If that can be done, so far as I am concerned, I have no objection.

Mr. STEVENS. It cannot be done.

The SPEAKER. It cannot be done even by unanimous consent, as this is the report of a joint committee of conference, and must be accepted or rejected as a whole.

Mr. HOLMAN. Of course, so far as these other items are concerned, there will be no diversity of opinion whatever. The House will recede from its disagreement to the extent recommended by the committee, and the Senate, as a matter of course, will recede to the extent recommended by the committee upon their part, leaving out this one item undisposed of. I think after so deliberate an expression upon the part of the House against that increase of salary it ought not to be tolerated at all. The present salary is a very respectable one. This is a time for sacrifices. The high officers of the Government, instead of demanding an increase of compensation, ought indeed to be content with a reduction of their salaries. The Treasurer of the United States—and I say nothing about his qualifications, capacity, and integrity, because all these are above any question—ought not at a time like this, it seems to me, to be willing to receive a compensation beyond that ample compensation which has been paid for many years past. If the House refuses to concur in the report of the committee it leaves to us this one question of the compensation of the Treasurer of the United States open.

Now, it does seem to me to be very unwise upon our part to increase these high salaries. The effect is ruinous, and discourages and destroys the patriotic sentiment of the country. It will create bickerings, heart-burnings, and jealousies among our people everywhere. They already begin to condemn the Administration of the Government and the Government itself, which so far discriminates between those who render one service and those who render another service as to the compensation they receive.

I regret to be compelled again to refer to the

extraordinary service which is being rendered now by nearly a million men, who are giving their time, their talents, their blood, their lives, and everything which pertains to them, for the salvation of this country for a very insignificant compensation. The distinguished gentleman who is the Treasurer of the United States can do no more than this. The country has a right to the benefit of his services, and he has no right to ask, and his friends have no right to ask, that the compensation for those services should be increased to \$6,000 per annum, when so many men just as worthy, just as intelligent, just as devoted to their country, are sacrificing health and life and their all for the salvation of this Republic.

It seems to me, without reference to increasing this salary from \$5,000 to \$6,000, that the precedent which we are setting to the country ought to be at once condemned and repudiated by the representatives of the people who are making sacrifices so unexampled in the history of the country. I hope the House will take a dispassionate view of this subject.

I know the difficulty of reaching a question pertaining to a report of a committee of conference, but we reach a final conclusion upon a single point, and in the event of the non-concurrence in this report, I trust my friend from Ohio [Mr. PENDLETON] will at once move that the House recede from their disagreement to the Senate amendments to the extent that the committee itself has recommended. That disposes of everything except that one point and two or three points from which the Senate has receded. I trust, therefore, that the House, in view of its former action, in view of its duty to the country, will not hesitate to adopt a policy consistent with the very best and highest interests of our common constituency.

Mr. BLAINE. With the permission of the gentleman from Indiana, I wish to state a few facts which are, perhaps, not entirely known to all the members of the House. When General Spinner was appointed Treasurer of the United States his salary was the same that is paid to the chiefs of bureaus, the Auditors and Comptrollers, \$3,000 a year. During this Administration it has already been raised \$1,000, and then another \$1,000, and it is now \$5,000.

Mr. HOLMAN. What was the salary of the Treasurer at the time the present incumbent came into office?

Mr. BLAINE. Three thousand dollars.

Mr. HOLMAN. And it has been increased to \$5,000?

Mr. BLAINE. It has been increased \$2,000 on the top of that, whereas the Second and Third Auditors, who are harder-worked officers, receive still only \$3,000. They have really more claim to an increase than the Treasurer has.

I do not think it will delay the business of the session a single day to have another conference upon this point, and I hope, for the credit of the House, that it will maintain its consistency and keep this salary at \$5,000.

Mr. HOLMAN. I trust that in view of the facts now disclosed, and of which the House is well informed, the report of the committee of conference will not be concurred in, and that some gentleman who represented the House on the committee will, so far as the committee recommends, move that the House recede from its disagreements, which will embrace everything in substance except the ninety-fourth amendment, upon which another committee of conference can be appointed.

The facts are now well understood. Here is an officer—intelligent and competent, to be sure, but not more so than other officers in the employment of the Government—whose salary at the commencement of the present Administration was \$3,000 a year. It was then increased to \$4,000, and then to \$5,000, and now, by this amendment and by the report of the committee of conference, it is proposed to increase it to \$6,000. Here is an increase of salary in three years and a half of \$2,000. No gentleman can say that the responsibilities of the office are increased. The Treasurer of the United States is required to bring his talents, his credit, and his experience to the service of the country at whatever compensation exists at the time he assumes the responsibilities of the office. The present occupant of the office assumed these responsibilities for \$3,000. You have added \$2,000 a year to his compensation

even at a time like this. I do trust that the House will not set an example of further increasing salaries already munificent, in view of the hardships, perils, and privations that are being suffered by thousands and hundreds of thousands of men equally entitled to our consideration at a compensation so inadequate to the services rendered.

I trust, Mr. Speaker, that the House will not overlook the importance of this question, but that we will concur, to the extent recommended by the committee of conference, in all the amendments made by the Senate except this one amendment. After the report of the committee of conference shall have been non-concurred in, which is, of course, the first step, the gentleman from Ohio [Mr. PENDLETON] will undoubtedly propose to recede from our disagreement to the Senate amendments upon all points other than the ninety-fourth amendment, upon which the committee of conference has agreed. The duties of the committee will then be reduced substantially to one point, and upon that point we cannot doubt that the Senate will recede.

Mr. STEVENS. I desire to get a vote on this report pretty soon, and that is why I have risen, and also to correct a matter of fact upon which my friend from Maine [Mr. BLAINE] does not seem to be very well posted. He spoke of the Auditors doing as much work as the Treasurer of the United States. If he had inquired into the matter he would have found that no officer of this Government, I do not care who he is, does one third as much labor in a day or works so many hours in a day as the Treasurer. Scarcely a day passes over his head when he is in bed before midnight. The Assistant Treasurer in New York who does not do half the labor gets \$6,000 a year. The office of United States Treasurer in Washington three years ago was almost a nominal office. There was scarcely anything to do at that time. There passed through his hands, for which he was responsible, less than \$10,000,000 a year. Now there passes through his hands, for which he is responsible, upwards of \$1,300,000,000 a year. And gentlemen talk about \$1,000 a year additional to his pay when the debates in this House of my friend from Indiana, for half the morning hour, to save money, cost a great deal more than this \$1,000 which he is trying to save, and which he says the country will understand.

Mr. HOLMAN. Mr. Speaker, I have heard that argument once before. Will the gentleman from Pennsylvania, inasmuch as it is a matter which will strike the public mind, explain how it occurs that our remaining in session day after day and month after month in deliberating on questions of public concern increases the public expenses so that we had better increase salaries than devote any time to arguments?

Mr. STEVENS. I am not complaining of the gentleman.

Mr. HOLMAN. The gentleman must recollect that we are paid by the year, that our whole year of service is due to the public if required, and that the public officers are all employed by the year.

Mr. STEVENS. I am not complaining of the gentleman. He occupies no more than his fair share of time. I like his vigilance very much. I am only speaking of how small the item now in question is, compared with what we expend every day in our zeal for economy. As to the people seeing and condemning all this, I am afraid the poor people would never have heard of it if my friend from Indiana had not given notice, and I question now whether anybody outside of his own numerous readers will know anything about it. [Laughter.]

But that is not the question. The question is whether, for the responsibility of this billion of dollars that passes through his hands annually, and for those numerous hours in which he is wearing away his life with severe labor, this pitiful advance of \$1,000 is too large an increase of salary. For my part I am sorry that this conference committee cut down the wages of the poor laborers about the grounds here. I regret the parsimony of the Senate which docked these men. But we cannot have everything our own way, and I am willing to concur in the whole report.

Mr. PENDLETON resumed the floor, but yielded to

Mr. FENTON, who said: Mr. Speaker, I have no desire to discuss this question. I only rise to

correct a remark of the gentleman from Maine, [Mr. BLAINE,] who said that the Second Auditor, or some Comptroller, has harder work in his office than the Treasurer has.

Mr. BLAINE. As hard.

Mr. FENTON. That may be. I only desire to say, Mr. Speaker, that there is no officer under the Government who spends more hours in laborious industry than General Spinner does.

Mr. J. C. ALLEN. Mr. Speaker, the sum agreed upon by the conference committee as an increase of the compensation of the Treasurer of the United States is but a small increase compared with the increase of the price of living, and but very small compared with the increase of labor in his office. Believing that this Administration has one man of honesty and integrity in that Department of the Government, one man whose honesty I feel I can indorse, I am ready to vote for paying him \$6,000 a year, or more, if the immense labor thrown upon him justifies it. I hope, therefore, that the report of the conference committee will be concurred in, giving him a reasonable compensation for the labor, the honesty, and the integrity with which he discharges his duty.

Mr. PENDLETON resumed the floor.

Mr. FRANK. I ask the gentleman from Ohio to yield to me.

Mr. PENDLETON. I will yield for a moment.

Mr. FRANK. Mr. Speaker, there is no member of this House more opposed to increase of salaries at the present time than myself; but I think the case of the Treasurer of the United States an exception. His arduous and constant labors, the vast responsibility resting upon him, and the large bonds necessary to be given, all show the justness and propriety of agreeing to the report of the committee of conference.

It was stated a few moments since by the gentleman from Indiana that the salary had been and now was again to be increased without any increase of duty. The gentleman from Maine [Mr. BLAINE] intimated the same thing, although not in as broad terms. Both gentlemen, no doubt unintentionally, have erred as to the facts. We have just heard from the chairman of the Committee of Ways and Means that the business of the office had increased some one billion dollars; but, sir, the increase is even larger than that. I find in the last report of the Secretary of the Treasury the aggregate transactions at the office of the Treasurer amounted in 1861 to \$41,000,000, while in 1863 they amounted to \$2,696,000,000—an enormous and unprecedented increase, requiring enlarged responsibility and care.

The Treasurer is required to give bonds to the amount of \$150,000, making him responsible to that amount for the millions passing through his Department. To a certain extent he is also responsible for the clerks and employes in his office. His responsibilities are greater than almost any other officer of the Government, and few would assume those alone for the entire salary.

In addition to the duties devolving on him heretofore, he now has charge of the United States bonds deposited as security by the national banks, amounting at present to millions, and soon will amount to hundreds of millions of dollars. We can well afford to pay an honest, faithful public servant the sum named, a less one than his services might command in private business, saying nothing of the vast responsibilities resting on him in the transaction of such amounts as have been named. In view of the facts others, as well as myself, have stated it would almost seem unnecessary to urge upon the House for a moment the small increase of \$1,000 asked by this report. It may not be out of place for me to state that since the appointment of the present Treasurer, now more than three years, he has not left the city for a single day, while many gentlemen present know personally that his labors have been the most arduous heretofore known in public business, such as to almost ruin his health.

Mr. BLAINE. I saw him this morning looking very well.

Mr. PENDLETON. I must now insist on my demand for the previous question.

Mr. HOLMAN. I ask the gentleman to withdraw and allow me to submit a motion to non-concur in the report of the committee of conference.

Mr. PENDLETON. I will withdraw the motion for that purpose.

The SPEAKER. The motion to non-concur cannot be entertained now; the question must be put on the motion to concur; if that be decided in the negative the gentleman will then be recognized to make the motion to non-concur.

The previous question was seconded, and the main question was ordered to be put.

On concurring in the report of the committee of conference 52 voted in the affirmative, 55 in the negative.

Mr. UPSON called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 52, nays 74, not voting 56; as follows:

YEAS—Messrs. James C. Allen, Arnold, Ashley, Bailly, John D. Baldwin, Blair, Boutwell, Ambrose W. Clark, Freeman Clarke, Cole, Denning, Dixon, Donnelly, Eliot, Frank, Garfield, Gooch, Griswold, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Kelley, Orlando Kellogg, Knox, Law, Littlejohn, Longyear, Marvin, McClurg, McIndoe, Moorhead, Morrill, Daniel Morris, Morrison, Leonard Myers, Norton, Odell, Charles O'Neill, Patterson, Pendleton, Robinson, Schenck, Shannon, Stevens, Thomas, Upson, Van Valkenburgh, Ward, Webster, Williams, and Woodbridge—52.

NAYS—Messrs. William J. Allen, Alley, Ames, Ancona, Augustus C. Baldwin, Baxter, Beaman, Blaine, Bliss, Broomall, James S. Brown, Chanler, Cobb, Cox, Creswell, Dawes, Dawson, Denison, Eckley, Eden, Edgerton, Eldridge, Fluck, Harding, Harrington, Charles M. Harris, Higby, Holman, John H. Hubbard, Ingersoll, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kernan, Lazear, Le Blond, Loan, Long, McDowell, McKinney, Samuel F. Miller, William H. Miller, Amos Myers, Nelson, Noble, Orth, Perham, Perry, Pike, Price, Radford, John H. Rice, Rogers, James S. Rollins, Scofield, Sloan, Smith, Smithers, Spalding, William G. Steele, Stiles, Strouse, Sweet, Thayer, Wadsworth, Elihu B. Washburne, William B. Washburn, Wheeler, Chilton A. White, Joseph W. White, Wilson, Windom, and Fernando Wood—74.

NOT VOTING—Messrs. Allison, Anderson, Blow, Boyd, Brandegee, Brooks, William G. Brown, Clay, Coffroth, Cravens, Henry Winter Davis, Thomas T. Davis, Driggs, Dumont, English, Farnsworth, Fenton, Ganson, Grider, Griener, Hale, Hall, Benjamin G. Harris, Herriek, Hutchins, Jencks, Kasson, Francis W. Kellogg, King, Knapp, Mallory, Marcy, McAllister, McBride, Middleton, James R. Morris, John O'Neill, Pomeroy, Pruyn, Samuel J. Randall, William H. Randall, Alexander H. Rice, Edward H. Rollins, Ross, Scott, Starr, Stebbins, John B. Steele, Stuart, Tracy, Voorhees, Whaley, Wilder, Winfield, Benjamin Wood, and Yeaman—50.

So the report of the committee of conference was rejected.

During the call of the roll,

Mr. CRESWELL stated that his colleague, **Mr. DAVIS**, of Maryland, was detained from the House by illness.

Mr. HOLMAN. I trust the gentleman from Ohio will move a concurrence on the part of the House in all the recommendations of the committee of conference, except as to the ninety-fourth amendment, leaving that single point for the decision of the future committee of conference.

Mr. STEVENS. I think that cannot be done.

The SPEAKER. The bill is before the House for their action.

Mr. PENDLETON. Then I suggest to the gentleman from Indiana to make the motion himself.

Mr. HOLMAN. I will then make the motion at the instance of the gentleman from Ohio that the House concur in the report of the committee of conference, except so far as relates to the ninety-fourth amendment, and that they further insist upon their disagreement to that amendment, and ask a further conference upon it. Upon that motion I demand the previous question.

The previous question was seconded, and the main question was ordered to be put.

The motion was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

INTERNAL REVENUE.

Mr. MORRILL. I call for the regular order of business.

The SPEAKER stated the regular order of business to be the consideration of amendments of the Senate to House bill No. 405, to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes; and that, according to the understanding of the House, those on which a separate vote is not asked will be considered as concurred in.

The Clerk proceeded with the reading of the amendments.

Two hundred and seventh amendment:

In section sixty-eight strike out the words "the interest of all persons in default in;" so that it will read:

That in all cases in which the duties aforesaid, payable on spirits distilled and sold, or removed for consumption or sale, or beer, lager beer, ale, porter, and other similar fermented liquors, shall not be paid at the time of rendering the account of the same, or at the time when they shall have become payable, as herein required, to the collector or deputy collector of the district, the person or persons chargeable therewith shall pay, in addition, 10 per cent. on the amount thereof; and, until such duties, with such addition, shall be paid, they shall be and remain a lien upon the distillery where such liquors have been distilled.

Mr. KERNAN. That is the same question which we had up last night. It changes the lien from the party in interest to the land; from the party who may violate the law to the innocent owner of the land. I hope that the amendment will not be concurred in.

Mr. MORRILL. I can see no injustice about it. If the owner of a piece of land chooses to allow a distillery upon it he must take the consequences.

The House was divided; and there were—aye 53, nays 43.

The amendment was concurred in.

Two hundred and ninth amendment:

Insert the words "and upon the lot or tract of land whereon the distillery or brewery is situate;" so that it will read:

That in all cases in which the duties aforesaid, payable on spirits distilled and sold, or removed for consumption or sale, or beer, lager beer, ale, porter, and other similar fermented liquors, shall not be paid at the time of rendering the account of the same, or at the time when they shall have become payable, as herein required, to the collector or deputy collector of the district, the person or persons chargeable therewith shall pay, in addition, 10 per cent. on the amount thereof; and, until such duties, with such addition, shall be paid, they shall be and remain a lien upon the distillery where such liquors have been distilled, and upon the brewery where such liquors have been brewed, and upon the stills, boilers, vats, and all other implements thereto belonging, and upon the lot or tract of land whereon the distillery or brewery is situate, until the same shall have been paid.

Mr. KERNAN. I avail myself of this amendment to answer what has been said by the gentleman from Vermont, [Mr. MORRILL.] He said if a person chooses to allow a distillery upon his land it should be liable to be sold in fee for the fault of the distiller. He must know there is a great deal of real estate leased where the tenant has the right to build a distillery upon it, and the landlord cannot prevent it. The distiller may make default and allow his landlord's property to be sold and buy it in himself, for there is to be no notice to the owner. It seems to me that such legislation is not necessary or wise. When we impose the penalty upon the man who makes the default, when we make all his interest in the manufacture liable, I think that is as far as we ought to go. I think we cannot constitutionally, and should not if we could, forfeit any man's fee for the default of another. I hope the amendment will be non-concurred in, so that the whole matter may be revised.

Mr. MORRILL. This is done to remedy an evil in the internal revenue law. Irresponsible parties lease distilleries, distill for a certain time, and then abandon them, defrauding the Government of revenue. I think the case proposed by the gentleman from New York is rare. If there be one the Commissioner of Internal Revenue will have the power to remit the forfeiture.

Mr. BROWN, of Wisconsin, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 65, nays 67, not voting 50; as follows:

YEAS—Messrs. Alley, Allison, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Blair, Boutwell, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Dawes, Denning, Dixon, Donnelly, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jencks, Julian, Kelley, Orlando Kellogg, Knox, Loan, Longyear, McClurg, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Norton, Orth, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Schenck, Sloan, Smithers, Stevens, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wilder, Wilson, and Windom—65.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Brooks, James S. Brown, Chanler, Coffroth, Cox, Dawson, Eldridge, Fluck, Ganson, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Herriek, Holman, Hutchins, Ingersoll, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Law, Lazear, Le Blond, Marcy, McAllister, McDowell, McKinney, Middleton, Moorhead, James R. Morris, Morrison, Leonard Myers,

Nelson, Noble, Odell, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Scofield, Scott, Shannon, Smith, William G. Steele, Stiles, Strouse, Sweet, Tracy, Wadsworth, Ward, Wheeler, Chilton A. White, Joseph W. White, Williams, and Fernando Wood—67.

NOT VOTING—Messrs. Ames, Anderson, Arnold, Blaine, Bliss, Blow, Boyd, Brandegee, William G. Brown, Clay, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Denison, Driggs, Dumont, Eden, Edgerton, English, Fenton, Griener, Hall, Benjamin G. Harris, Kasson, Francis W. Kellogg, King, Knapp, Littlejohn, Long, Mallory, Marvin, McBride, William H. Miller, Charles O'Neill, John O'Neill, Patterson, Pomeroy, William H. Randall, Edward H. Rollins, Ross, Spalding, Starr, Stebbins, John B. Steele, Stuart, Voorhees, Winfield, Benjamin Wood, Woodbridge, and Yeaman—50.

So the amendment was non-concurred in.

LEGISLATIVE APPROPRIATION BILL.

Mr. HOLMAN. A short time since I moved the appointment of a second committee of conference upon the legislative and executive appropriation bill. Inasmuch as it is important to have the bill acted upon speedily, I desire not to be a member of the committee, and to suggest, if it is proper to do so, that inasmuch as the present committee not only understand the subject-matters in controversy, as also the views of the House, which no doubt they will take in the nature of instructions, that it would be better for the public service that the same committee should be reappointed.

The SPEAKER. In accordance with the suggestion made by the gentleman from Indiana, the Chair reappoints the same committee.

MESSAGE FROM THE SENATE.

A message from the Senate, by **Mr. FORNEY**, their Secretary, informed the House that the Senate have agreed to the report of the committee of conference on the bill of the House (No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott.

That the Senate have passed a bill (H. R. No. 521) to amend an act entitled "An act to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863," approved June 1, 1864, without amendment.

That the Senate have passed a bill (S. No. 278) prescribing the terms on which exemptions shall be furnished by the General Land Office; in which the concurrence of the House was requested.

That the Senate have disagreed to the amendment of the House to the bill of the Senate (No. 266) to prevent smuggling, and for other purposes.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 356) requiring proof of payment of duties on foreign salt before payment of the allowances provided for by the acts of July 29, 1813, and March 3, 1819; and an act (H. R. No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1865, and for other purposes; when the Speaker signed the same.

INTERNAL REVENUE—AGAIN.

Four hundred and sixty-first amendment:

In section one hundred and three, line four, strike out "three" and insert "two and a half;" so that the section will read:

That any person, firm, company, or corporation carrying on or doing an express business shall be subject to and pay a duty of 2½ per cent. on the gross amount of all the receipts of such express business.

Mr. HOLMAN. The effect of this amendment of course is easily perceived. It is to diminish the tax upon the gross receipts of these express companies from 3 to 2½ per cent. I do not know any companies in the country who can better afford to pay a large tax than these companies. It seems to me there is no reason for reducing the taxes they are required to pay. Three per cent., indeed, does not correspond with the tax we impose upon other departments of business, and the experience of every member must be that the express companies throughout the entire country make charges for the performance of their services far exceeding almost any other branch of public business. I trust the amendment will not be concurred in.

Mr. MORRILL. Representations were made to the Committee of Ways and Means which satisfied them that 2½ per cent. was a very large

amount of tax to be paid by these companies. They have in the first place to hire and pay the railroad companies for freight cars, and their exhibits show that of their gross receipts they pay out 80 per cent. for expenses of all sorts. So that $2\frac{1}{2}$ per cent. upon the gross receipts is a very large tax.

Mr. HOLMAN. I would like to say one word further in reference to this amendment.

The SPEAKER. The gentleman can only proceed by unanimous consent, as debate is exhausted.

No objection was made.

Mr. HOLMAN. I wish to state a single fact in regard to the extent that these companies can bear taxation. Two weeks ago I wished to send to the city of Cincinnati the remains of a dead private soldier, whose friends desired his remains to rest at their home. The passage of a citizen from here to Cincinnati is \$17. The charges made for the transportation of the body of a dead soldier from this city to Cincinnati, as freight, was the sum of \$40.

I wish to say in this connection, that the State of Pennsylvania is the only State I know of which seems to have a proper regard for the sacrifices which are being made, both by the living, and the affections of the living, for those who fall in our service. That State makes arrangements by which their dead soldiers go to their home for interment.

The express companies, which are here for the favor of paying only $2\frac{1}{2}$ per cent. instead of the 5 per cent. imposed upon other persons engaged in business, charged for the simple service of transporting the remains of a dead soldier from here to a point but a short distance beyond the city of Cincinnati, \$40; and for its transportation a little distance beyond, they charged \$5 where a private individual would have charged 75 cents. Now, I do not see any reason why these companies should be favored. On the contrary, I believe that there is no department of business in the country that pays such enormous profits. I am told by those familiar with the subject that all of these companies have duplicated their stock, and still the stock retains its actual value, the nominal price at which it was originally established. It is profitable beyond all measure, because they are enabled by monopolies to control the transportation throughout the entire country. It does seem to me that there is no reason why this reduction should be made. I call for tellers on concurring in the amendment.

Tellers were ordered; and Messrs. McKINNEY and THAYER were appointed.

The House divided; and the tellers reported—ayes 35, noes 62.

So the amendment was not concurred in.

Six hundred and thirtieth amendment:

Strike out the following section:

SEC. 178. And be it further enacted, That all spirits of domestic production and held for sale on the 1st day of May, 1864, and upon which no tax shall have been paid, shall be subject to a duty of 50 cents per gallon, and all such spirits on hand for sale upon which a prior duty shall have been paid shall be subject to a duty of 30 cents per gallon: *Provided*, That bona fide retail dealers in spirits duly licensed shall not be taxed on their stock on hand whose quantity on hand does not exceed two barrels.

Mr. MORRILL. This question has been so often tried in the House that I suppose hardly any gentleman desires to make up a further record on the subject. I am assured by the friends of the proposition to tax liquors on hand that they have absolutely no hope of its passing the Senate.

Mr. WASHBURN, of Illinois. I would like to know who those friends are.

Mr. MORRILL. I can see no reason for delaying the House on this subject. Every day's delay in the passage of this bill costs the Government at least half a million dollars. I think gentlemen must be satisfied with the record, and must also be satisfied of another thing, that if a tax should be levied on liquors on hand it would not reach the parties who have made most on them.

Mr. FERNANDO WOOD. In reply to the gentleman from Vermont I desire to say that whatever this House or the other House may have done upon this question, there is a great principle involved, and we are not prepared to yield it in consequence of any precedents. I believe that if liquor on hand is taxed the revenue to be derived from it will be three times what it would

have been heretofore. We know that manufactories and stills have been going to an unprecedented extent for the last three months in anticipation of the passage of this bill, and that the quantity that can now be reached by the operation of the amendment of the House is unprecedentedly large. I am surprised, therefore, that the gentleman is not prepared to avail himself of the amount of revenue which can be derived from it. I hope the House will not concur in the amendment of the Senate.

Mr. NELSON. I move to strike out the proviso to the section. This question has been very fully discussed before the House, and the House has, as far as it has been able, on various occasions determined to tax the stock on hand. Upon the one side of the Chamber they tell us that they desire to furnish means to carry on the Government. Upon this side of the Chamber some of us say that we are ready to meet you and aid you to the extent of our power in adding every dollar possible to increase the revenue.

When this question first came before the House, I, with others, voted to tax the stock on hand. I did it because I honestly believed that it would add more money to the Treasury. I honestly believe now that this Government has lost millions of dollars by the debates that have been had and the controversy upon this bill.

One thing further, Mr. Speaker. I find that we upon this side of the Chamber who were willing to aid the Government by all the men and means necessary to quell the rebellion, we who joined with the gentleman from New York in voting with him when the question was first presented, when the issue was presented to the country on the tangible and practical question of adding dollars to the Treasury, every man who was extremely anxious to tax the stock on hand, because, as they said, it would add money to the Treasury, voted against the entire bill.

Mr. Speaker, there is but one single point in the issue, and that point is this: that the taxing of this specific article on hand is out of the ordinary course and rule of congressional action. No other species of property has been taxed as property. The theory and operation of the present bill is that it is a taxation not on property but on manufactures. That being so, I, for one, agreeing with those who desire to bring money into the Treasury, also agree with those who desire to stop this controversy, and to enable the Government to commence the receipt of customs from the proceeds of this business. When the time comes that it will be the policy of a majority of the House to tax property as property and not as manufactures, then will gentlemen who desire to put money into the Treasury join with those who desire to tax the stock on hand. When you tax real estate, when you tax personal property as property, not as manufactures, then we can all join together.

This controversy all arises from one cause. It arises from the opinions of men who are opposed to all taxation. The gentlemen of the House will find one fact, that every single man who is extremely anxious to tax the stock on hand, on the one side of the Chamber, invariably votes against every tax bill presented to the consideration of Congress. It is time that the country was receiving some money from this business; and the quicker we get out of the disagreement among ourselves the better it will be, at all events, for the Government.

Mr. WASHBURN, of Illinois. I rise to oppose the amendment to the amendment.

Mr. NELSON. I ask leave to withdraw the amendment to the amendment.

Mr. WASHBURN, of Illinois. I object to the gentleman withdrawing it. I must say that I was somewhat amused at the grave suggestion of my friend from Vermont [Mr. MORRILL] made to us in reference to this amendment, which is deemed by a majority of the House very vital and important to their constituents who are the taxpayers.

The gentleman from Vermont says that we have made our record. We have. This side has made its record over and over again in favor of imposing a just and proper tax on the stock of whisky on hand. In every instance but one where we have taken a vote there has been a majority in favor of this proposition. And now we are asked by the gentleman who has from the

commencement of this session been the champion of exempting this great speculating and gambling interest from taxation that the friends of this just taxation shall make no further record, and give no further trouble on the subject. I hope the gentleman's appeals will be disregarded. His statements as to what the loss of the Government has been, and what the future loss may be, on account of this delay, fall harmless before me. Let us, as representatives of the people here, the immediate representatives of the tax-payers, do our duty to our constituents and to the country. If the Senate see fit to interpose, let the responsibility fall upon that body.

I hope the House will insist first, last, and all the time, on this amendment. If there be a desire to save time and to let this bill go into operation, let the gentleman from Vermont call upon his friends in the Senate to recede from their action and accept the portion of the bill passed in this House. Let this tax fall upon those men who are so well able to bear it, and let us have the fifteen or twenty million dollars put into the Treasury which we need now most grievously.

Mr. Speaker, I do not care to discuss this question at length. I only desired to express the hope that every man who has stood by this position heretofore, on the grounds of its justice and its policy, will stand so to the end. We can stand on this. I think the country has passed upon it. I think that our constituents at home who have canvassed our action are satisfied that this tax shall be laid.

Mr. NELSON. Can the gentleman name any other article in this bill taxed as property?

Mr. WASHBURN, of Illinois. The gentleman asked that question before, and I am glad that he has again reminded me of it. He says it is unusual to lay a tax of this description. I tell him we have adopted a provision, which is now a law, taxing liquors on hand. We have established the precedent in the revenue bill which passed in the earlier part of the session. We imposed a tax on all foreign liquors on hand, and I want my friend from New York to tell me where is the difference in principle between imposing a tax on foreign liquors on hand and imposing a tax on domestic liquors on hand.

Mr. WILSON. I move the previous question on this amendment of the Senate.

Mr. FERNANDO WOOD. Is not the House acting as in committee? How can there be any previous question?

The SPEAKER. The motion is the same as one to close debate.

Mr. FERNANDO WOOD. Do not the same rules apply as in committee?

The SPEAKER. The House is acting as in Committee of the Whole, and a motion for the previous question is precisely the same as a motion to close debate on an amendment under consideration in committee.

Mr. NELSON. I ask unanimous consent to answer the question of the gentleman from Illinois.

There was no objection.

Mr. NELSON. I reply to the gentleman from Illinois that there is a wide distinction between the two systems of taxation. Our people never before the present time have known such a thing as an internal revenue bill. It has now, however, become indispensable under the circumstances for the American people. The necessities of the Government require it. Congress has adopted a plan of taxation, and I state to the gentleman from Illinois that in that plan we have determined to tax articles, not as property, but as manufactures. Whatever tax may be laid upon all imported articles furnishes no precedent for the taxation of any article under our internal revenue system, because that is an entirely different system. Our internal revenue tax is a system *per se* in itself, and under that system no other article is taxed as property.

Mr. WILSON. I now ask for a vote on seconding the demand for the previous question.

Mr. INGERSOLL. I hope the gentleman from Iowa will withdraw that demand for a moment.

Mr. WASHBURN, of Illinois. If the demand for the previous question is to be withdrawn I desire to be heard in reply to the gentleman from New York.

Mr. INGERSOLL. My constituents are very

deeply interested in this question, and I ask unanimous consent to enable me to say a few words.

Mr. COX. I object.

Mr. WILSON. I insist upon my motion to close debate.

The motion was agreed to.

Mr. NELSON withdrew his amendment to the amendment of the Senate.

Mr. WASHBURN, of Illinois, called for the yeas and nays on concurring in the amendment of the Senate.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 61, not voting 49; as follows:

YEAS—Messrs. James C. Allen, Ancona, Blaine, Bliss, Blow, Brooks, Broomall, Freeman Clarke, Coffroth, Cox, Denison, Eckley, Edgerton, Eldridge, Fenton, Finck, Grider, Griswold, Harrington, Charles M. Harris, Herrick, Higby, Holman, Hooper, Hutchins, Ingersoll, Philip Johnson, William Johnson, Kelley, Law, Lazear, Le Blond, Loan, Long, Marvin, McBride, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Morrill, James R. Morris, Leonard Myers, Nelson, Noble, Charles O'Neill, Orth, Patterson, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, Scott, Shannon, Smith, Smithe, Stevens, Stiles, Strouse, Stuart, Sweat, Thayer, Ward, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Wilder—72.

NAYS—Messrs. Alley, Allison, Ames, Arnold, John D. Baldwin, Baxter, Beaman, Blair, Boutwell, James S. Brown, Chandler, Cobb, Cole, Creswell, Dawes, Dawson, Deming, Dixon, Donnelly, Eliot, Farnsworth, Frank, Ganson, Gooch, Hale, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kahlfleisch, Orlando Kellogg, Littlejohn, Longyear, McAllister, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Norton, Odell, Perham, Pike, Price, John H. Rice, Scofield, Sloan, Spaulding, John B. Steele, William G. Steele, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Webster, Williams, Wilson, Windom, and Fernando Wood—61.

NOT VOTING—Messrs. William J. Allen, Anderson, Ashley, Baily, Augustus C. Baldwin, Boyd, Brandegee, William G. Brown, Ambrose W. Clark, Clay, Cravens, Henry Winter Davis, Thomas T. Davis, Driggs, Dumont, Eden, English, Garfield, Grinnell, Hall, Harding, Benjamin G. Harris, Jenckes, Kasson, Francis W. Kellogg, Kernan, King, Knapp, Kux, Mallory, Marcy, Morrison, John O'Neill, Pomeroy, William H. Randall, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Ross, Schenck, Starr, Stebbins, Van Valkenburgh, Voorhees, Wadsworth, Winfield, Benjamin Wood, Woodbridge, and Yeaman—49.

So the amendment of the Senate was concurred in.

The SPEAKER. The House has now completed the amendments in which the Committee of Ways and Means recommended a concurrence.

Mr. MORRILL. I ask that we shall now be allowed to take a vote on the other amendments—to non-concur in them, except such as gentlemen may indicate a desire to have a separate vote on.

Mr. RANDALL, of Pennsylvania. I object.

Mr. HOLMAN. Does the gentleman propose that there shall be an evening session?

Mr. MORRILL. There is to be an evening session, but it is to be devoted to other business.

The SPEAKER. If the tax bill is not disposed of before half past four o'clock this afternoon, when the House takes a recess, it will not come up again until Saturday morning.

Mr. HOLMAN. Let us have time to look over these amendments and see on which ones we desire to have a separate vote by the House. If we were to let the bill go over till this evening we could examine the amendments in the mean time, and it would not take us an hour to dispose of them this evening.

Mr. MORRILL. We might continue our session until after half past four o'clock, p. m., and until a majority decided to take a recess.

Objection was made.

Mr. HOLMAN. It is manifest but on few of the amendments of the Senate, in which the Committee of Ways and Means recommend a non-concurrence, members will desire to have a separate vote. It is difficult to indicate them at this time. If it is understood that we shall have half an hour this evening, we can, I think, dispose of all the amendments on which members desire a separate vote.

Mr. MORRILL. It will be impossible for us to have any portion of this evening unless some arrangement can be made in reference to the business of the Committee on Military Affairs. That committee has this evening after the morning hour. If there be no objection, as the chairman of that committee requested, we can instead set apart the whole of next Tuesday for that business. If that be agreed to, we can take up the tax bill after the morning hour this evening.

Mr. ANCONA. I object so far as setting apart next Tuesday for the Committee on Military Affairs is concerned.

Mr. STEVENS. I move that the session be continued until five o'clock.

The motion was agreed to.

Mr. HOLMAN. According to the understanding last evening, I ask for a vote on the seventy-fourth amendment.

The Clerk read, as follows:

Strike out the words "one thousand" and insert the words "fifteen hundred;" so that the section will read:

Sec. 24. And be it further enacted, That there shall be allowed to collectors, in full compensation for their services and that of their deputies, a salary of \$1,500 per annum, to be paid quarterly.

Mr. HOLMAN. I have a word to say on that amendment. I stated last evening that if the pay of the principal collector be reduced, and that of the assistant collectors increased, I would not raise any objection to it. I think that more competency is required on the part of the assistant collectors than on the part of the principal collector. We have increased the pay of the principal collector, and now it is proposed to increase the pay of assistant collectors from \$1,000 to \$1,500. We also increase from 2½ to 3 per cent. on the first \$100,000. This will create an enormous salary; and I propose to leave it as it was fixed by the House. The subject has been thoroughly considered by the House; and I presume no further argument is necessary.

Mr. STEVENS. So far as the cities and populous districts are concerned, this is a matter of no importance. The collectors there would get \$1,500 at any rate, but in the sparsely settled districts where little revenue is collected this is necessary. In Pennsylvania is a district from Lake Erie to the Susquehanna, some three hundred miles, a great part wilderness, some counties with not more than four or five thousand inhabitants. The collector must go through that district, and he must have his deputies; \$1,000 would not pay them. I am against these poor districts being discriminated against, and I hope the amendment will be concurred in.

Mr. HOLMAN. I would be glad to have the yeas and nays upon this amendment.

The yeas and nays were ordered.

Mr. MORRILL. I ask the gentleman from Indiana to withdraw the demand for the yeas and nays. The idea of this amendment was to equalize the payment of these collectors, so that the collectors who receive a small sum and whose districts cover a large territory shall receive a little more, and those whose districts cover a small territory and receive a large sum shall receive a little less, so that the entire expenditure will be no more than before. For that reason the committee have recommended a concurrence in the first amendment of the Senate, and a non-concurrence in the second.

Mr. HOLMAN. If you pay the collector, beginning with a thousand dollar salary, and allow him 3 per cent. or even 2½ per cent. upon the amount he collects, he receives a very ample compensation even if he collects but \$50,000. My experience is that the collector does not have to employ deputies in cases where he collects little or nothing, I care not what the extent of his district, and he receives the whole salary. My observation is that the collectors are able under the provisions of this act to employ their deputies, pay them a reasonable compensation, and receive their whole salaries without the rendition of one single particle of service. They can do it well and readily, and there is not an office in the country which pays so well. In my own district, a rural district, the collector receives a salary far beyond that of any office in the gift of the people of my own State—a thousand dollars beyond.

When the House fixed this compensation to begin with at \$1,000, we were doing a great deal, because it will be remembered that under the old law we paid no salary whatever, but only a percentage. Now, the House began by paying \$1,000 as a fixed salary, and without any reference to a percentage; and the argument in favor of it is that we thereby do justice to the collectors of districts where only a small sum is collected—because there may be districts where the amount collected is so inconsiderable that the percentage is very small. But there at least \$1,000 is secured; and it does seem to me that to go beyond

that and give \$1,500 is going beyond all bounds of reason, and will render the law odious on account of the enormous compensation which we will have to pay for the collection of our taxes.

The question was then taken; and it was decided in the negative—yeas 53, nays 69, not voting 60; as follows:

YEAS—Messrs. Allison, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Cobb, Cole, Deming, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Garfield, Gooch, Griswold, Higby, Hooper, Asahel W. Hubbard, Ingersoll, Kelley, Orlando Kellogg, Knox, Loan, Longyear, Marvin, Leonard McClurg, Samuel F. Miller, Moorhead, Morrill, McIndoe, Myers, Norton, Charles O'Neill, Orth, Pendleton, Price, Alexander H. Rice, John H. Rice, Shannon, Smithe, Spaulding, Stevens, Thayer, Upson, Ward, Webster, Williams, Wilder, Wilson, Windom, and Woodbridge—53.

NAYS—Messrs. James C. Allen, William J. Allen, Ames, Ancona, Arnold, Blair, Bliss, Boutwell, Broomall, James S. Brown, Cox, Creswell, Dawes, Dawson, Denison, Eckley, Eden, Edgerton, Eldridge, Fluck, Frank, Ganson, Grider, Hale, Harding, Harrington, Charles M. Harris, Holman, John H. Hubbard, Hulburd, Philip Johnson, William Johnson, Kahlfleisch, Kernan, Law, Lazear, Le Blond, Long, Marcy, McAllister, McDowell, Middleton, Daniel Morris, James R. Morris, Amos Myers, Noble, Odell, Perry, Pike, Samuel J. Randall, Robinson, Ross, Scofield, Scott, John B. Steele, William G. Steele, Stiles, Sronse, Stuart, Sweat, Thomas, Tracy, Wadsworth, Elihu B. Washburne, William B. Washburn, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—69.

NOT VOTING—Messrs. Alley, Anderson, Baily, Augustus C. Baldwin, Blaine, Boyd, Brandegee, Brooks, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Cravens, Henry Winter Davis, Thomas T. Davis, Dumont, English, Fenton, Grinnell, Hall, Benjamin G. Harris, Herrick, Hotchkiss, Hutchins, Jenckes, Julian, Kasson, Francis W. Kellogg, King, Knapp, Littlejohn, Mallory, McIndoe, McKinney, William H. Miller, Morrison, Nelson, John O'Neill, Patterson, Perham, Pomeroy, Pruyn, Radford, William H. Randall, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Sloan, Smith, Starr, Stebbins, Van Valkenburgh, Voorhees, Wadsworth, Winfield, Benjamin Wood, and Yeaman—60.

So the amendment was not concurred in.

During the call of the roll,

Mr. ALLISON stated that Mr. Kasson was detained from the House by sickness.

Mr. MORRILL. I now renew my proposition that the Committee on Military Affairs have Tuesday next set apart for the consideration of business from that committee.

Mr. ANCONA. I withdraw my objection.

No further objection being made, Tuesday next was set apart for the consideration of business from the Committee on Military Affairs.

Mr. MORRILL. I now also propose that the House take a recess until half past seven o'clock this evening, in order to give gentlemen time to examine and indicate any amendments upon which they desire a separate vote, with the understanding that upon reassembling this evening we will take a vote in gross to non-concur in all amendments upon which a separate vote is not demanded, in order that we may dispose of the bill to-night.

Mr. RANDALL, of Pennsylvania. I object to that until the time arrives for the indication of those amendments which we desire to have a separate vote on. I desire to have the club in my own hands.

Mr. WASHBURN, of Illinois. Then I hope we shall go on with the bill.

Mr. HOLMAN. There is a misapprehension on the part of the gentleman from Pennsylvania. It is understood, of course, that when we meet this evening a vote can be insisted on on any particular amendment. That is all the gentleman from Pennsylvania desires.

Mr. MORRILL. The gentleman from Pennsylvania will understand that I do not desire to deprive him of the power to call for a separate vote on any amendment.

Mr. RANDALL, of Pennsylvania. I will withdraw my objection this evening, if I so desire.

The Clerk proceeded to read the amendments in which the Committee of Ways and Means recommended non-concurrence.

Mr. HOLMAN, (interrupting.) I suggest again that we take a recess until half past seven o'clock, and then we can indicate the amendments on which we desire separate votes.

Mr. RANDALL, of Pennsylvania. In objecting to the amendments to this tax bill being considered in gross, I do not wish to interrupt the disposition of the bill this evening, or to interfere in any way with its consideration. All I desire is that if upon the consideration of these amendments we desire a separate vote upon any one, we shall have it without interference.

Mr. MORRILL. That is precisely the proposition I intended to make.

Mr. RANDALL, of Pennsylvania. Then I do not think the gentleman stated it very clearly. Mr. MORRILL. Perhaps not. I now move that we take a recess until half past seven o'clock.

The SPEAKER. The Chair understands, then, that any gentleman can to-night demand a separate vote on all the amendments.

Mr. RANDALL, of Pennsylvania. That is what I desire, and I assure the gentleman from Vermont that, so far as I am concerned, there shall be no factious action. The gentleman will recollect that I voted in favor of this tax bill.

The SPEAKER. The Chair then understands the gentleman from Pennsylvania to reserve the right to claim a separate vote this evening on every amendment.

Mr. RANDALL, of Pennsylvania. The Speaker understands me correctly.

Mr. FENTON. There is to be a separate vote on all those he or any other gentleman indicates, but on all others the vote is to be taken in gross.

The SPEAKER. The gentleman claims a separate vote on such amendments as he desires, indicating them as the Clerk reads them.

Mr. MORRILL. I now press my motion for a recess.

The motion was agreed to; and thereupon (at half past four o'clock, p. m.) the House took a recess until half past seven o'clock, p. m.

EVENING SESSION.

The House resumed its session at half past seven o'clock p. m.

VOTE RECORDED.

Mr. VAN VALKENBURGH. I ask the unanimous consent of the House to record my vote in favor of concurring in the six hundred and thirtieth amendment of the Senate to the internal revenue bill.

No objection was made; and Mr. VAN VALKENBURGH voted in the affirmative.

MICHIGAN LAND GRANT.

Mr. DRIGGS. I ask the unanimous consent of the House to take from the Speaker's table bill of the House No. 227, granting lands to the State of Michigan for the construction of certain wagon roads for military and postal services, for the purpose of concurring in the amendments of the Senate. I will state that although I should have preferred the bill as it originally passed the House, regarding the Senate amendments as not very important, and not being willing to run the risk of losing the bill this session, I, as well as the Committee on Public Lands, am willing to concur. I therefore move to concur.

No objection being made, the bill was taken up, and the amendments of the Senate were concurred in.

Mr. DRIGGS moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

OVERLAND MAIL ROUTE.

Mr. STEVENS. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Postmaster General be directed to inform the House what bids were made for carrying the mails on the overland route to the Pacific, giving each bid, and whether any of the bidders were persons belonging to the present Overland Mail Company; if so, what was his bid; also, what is the amount of the contract with the present contractors.

Mr. BROOKS. I read all that information in the newspapers this morning.

Mr. WASHBURN, of Illinois. Let us have it officially.

Mr. STEVENS. I am afraid there are some things that we do not know.

The resolution was agreed to.

WASHINGTON MARKET BUILDINGS.

Mr. THOMAS, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be instructed to inquire into the expediency of authorizing some arrangement with the corporate authorities of Washington city for the removal of the unsightly buildings used as market-houses, standing between Pennsylvania avenue and the Washington canal, and for the au-

nexation of the ground now occupied by these buildings to the area in which the buildings of the Smithsonian Institution are placed.

PACIFIC RAILROAD.

The House proceeded, as a special order, to the consideration of House bill No. 438, to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862.

Mr. STEVENS. I have one or two amendments which I am directed by the special committee on the Pacific railroad to offer to this bill. I move to amend section twelve by adding after the words "railroad company" the words "now known as the Union Pacific Railroad Company, eastern division;" so that it will read:

That the Leavenworth, Pawnee, and Western Railroad Company, now known as the Union Pacific Railroad Company, eastern division, shall build the railroad from the mouth of Kansas river by the way of Leavenworth.

The amendment was agreed to.

Mr. STEVENS. I move a similar amendment to the same section at the end of the words "the Leavenworth, Pawnee, and Western Railroad Company."

The amendment was agreed to.

Mr. STEVENS. I move to amend the thirteenth section by inserting "one" instead of "two;" so that it will read:

At least one of said Government directors shall be placed on each of the standing committees of said company, and at least one on every special committee that may be appointed.

The amendment was agreed to.

Mr. STEVENS. I move to amend by inserting after the thirteenth section the following:

The next election for directors of said railroad shall be held on the first Wednesday of October, at the office of said company in the city of New York, between the hours of ten o'clock a. m. and four o'clock p. m. of said day; and all subsequent regular elections shall be held annually thereafter at the same place; and the directors shall hold their office for one year, and until their successors are qualified.

The amendment was agreed to.

Mr. STEVENS. I move to amend by inserting after the foregoing amendment the following:

The several companies authorized to construct the aforesaid roads are hereby required to operate and use said roads and telegraph for all purposes of communication, travel, and transportation, so far as the public and the Government are concerned, as one continuous line, and in such operation and use to afford and secure to each other equal advantages and facilities as to rates, time, and transportation, without any discrimination of any kind in favor of the road or business of any or either of said companies, or adverse to the road or business of any or either of the others.

Mr. HOLMAN. I move to amend that amendment by adding the following words:

And that said road shall be a public highway, and shall transport the property and troops of the United States, which transportation thereof shall be required free of toll or other charge.

Mr. STEELE, of New York. That is already in the bill.

Mr. STEVENS. The original charter provides for the transportation of troops and munitions of war. That transportation was to be charged and credited on the interest that the Government may pay on the bonds. The work was not to be done free of charge. The companies were allowed to charge for it, and the charge was to be credited on the Government bonds.

Mr. HOLMAN. I remember the original proposition substantially as the gentleman from Pennsylvania now states it. It provides for the transportation of military supplies of the Government on reasonable terms. The argument against the incorporation of this provision into another bill to construct a road to the Pacific—a northern road—was urged that this bill contained no provision of the kind at all. It has been said, and probably with truth, that no other land-grant road in the country has been constructed without a provision of this kind as a compensation to the Government that the troops and property of the United States shall be transported free of charge. We began that policy, I believe, as early as 1851–52, in the grant of lands to the State of Illinois, and for other roads running from Chicago and Galena on to Mobile; and so far as I am aware there has been no deviation from that policy since. Prior to that there was the same rule as to canals.

Mr. STEVENS. I ask the gentleman whether he knows a single instance in which the troops and munitions of the Government have been transported free; whether all these roads have not charged and received pay?

Mr. HOLMAN. The question which the gentleman asks is easily answered. In 1861, when our difficulties sprang up, and when this subject began to acquire interest, it came up before the House. The question was referred to the Judiciary Committee to inquire into the fact whether these land-grant roads were bound to transport the troops and property of the Government free of charge. The committee reported that the companies were so bound. They reported that the companies were so liable. It was ascertained within the last few months that the Illinois Central railroad, built just as this is proposed to be built, by the Government, by a vast grant of public lands, and other roads had been receiving two-thirds of the ordinary cost of transportation that other roads throughout the country had been receiving. A certain uniform rate was paid to these land-grant railroads by the Secretary of War. The decision was made by the Secretary of War in the fall of 1861 that they should receive two-thirds of the amount paid to the other roads. This House in the month of February last adopted a resolution not only requiring the Secretary of War to cause the amount paid to them to be refunded, but to decline hereafter paying them one cent, because they were liable under the terms of the grant to transport the property and troops of the Government free of charge. That was to be the only benefit received by the whole people for these grants of public lands.

It is true, therefore, that there has been an effort to avoid that provision of these land grants. It was required that the amount paid, some \$700,000, should be refunded, and that no amount should be paid to any one of these roads. That resolution was adopted unanimously by this House. So was the report of the Committee on the Judiciary, that these roads were bound to transport the property and troops of the Government free of charge.

I may say then, sir, that it is the settled policy of this body that corporations receiving these grants of land shall make this transportation without charge to the Government. It is only fair to the Government. These grants of land belong to the whole country, and not to the Territories through which the roads pass. The only compensation to the American people is that these roads become military highways, over which the property and troops of the Government could be transported free of charge. It is the only benefit you receive, and it is one the people demand.

Mr. PRUYN. This amendment to the amendment it seems to me is objectionable in the particular way in which it is put by the gentleman from Indiana, and it ought to be modified. I hope that the gentleman will consent to the modification that the roads shall carry troops and munitions of war without charge to the Government if the Secretary of the Treasury is satisfied that their finances will enable them to do so, or if not, that they shall carry them at cost.

The sixth section of the original charter of this company is as follows:

"SEC. 6. And be it further enacted, That the grants aforesaid are made upon condition that said company shall pay said bonds at maturity, and shall keep said railroad and telegraph line in repair and use, and shall at all times transmit dispatches over said telegraph line, and transport mails, troops, and munitions of war, supplies, and public stores, upon said railroad for the Government, whenever required to do so by any Department thereof, and that the Government shall at all times have the preference in the use of the same for all the purposes aforesaid, (at fair and reasonable rates of compensation, not to exceed the amounts paid by private parties for the same kind of service;) and all compensation for services rendered for the Government shall be applied to the payment of said bonds, and interest until the whole amount is fully paid. Said company may also pay the United States, wholly or in part, in the same or other bonds, Treasury notes, or other evidences of debt against the United States, to be allowed at par; and after said road is completed, until said bonds and interest are paid, at least five per cent. of the net earnings of said road shall also be annually applied to the payment thereof."

Mr. WASHBURN, of Illinois. What is the gentleman reading from?

Mr. PRUYN. The charter of 1862. The gentleman from Indiana thinks that the road should be opened to the use of the Government without charge. The Secretary of War puts the construction that there was nothing in the statute to

compel these companies to furnish men and rolling stock to work these roads free of charge.

Mr. WASHBURN, of Illinois. Who was the Secretary of War?

Mr. HOLMAN. Secretary Cameron. He was vice president of the Northern Central railroad, receiving a salary of \$4,000 from that company and \$8,000 from the Government.

Mr. PRUYN. It does not make a particle of difference who made the decision; the decision was made. The Department decided that the act incorporating the Illinois Central Railroad Company did not require them to furnish rolling stock and men to the Government, but only to give to the Government the right to use the road for that purpose, and that they were entitled to indemnity for their rolling stock and men.

Now, with reference to the report to which the gentleman has alluded, it was introduced into this House without a single member of this House knowing anything about it. It was not discussed; its contents were not stated; the company were not heard; and to the utter surprise of everybody that resolution passed without any officer of the company knowing anything about it.

Mr. HOLMAN. The Secretary of War was called upon by a resolution to state the amount of money paid to the Illinois Central and other railroad companies which had received land grants. That was a public proceeding. He made a report showing the amount which had been so paid. The report, after being read at the Clerk's desk, was referred to the Committee of Claims, and they reported back the resolution to which I have referred, requiring these companies to refund the money, and directing the Secretary of War not to pay anything to these roads in the future.

So the gentleman from New York can scarcely say that so many transactions could have occurred here in such a public manner without attracting public attention, especially as that report embodied the resolution of the Judiciary Committee, reported to this House two years ago, and adopted by this body by a unanimous vote, declaring the principle that these companies were obliged to transport these troops free of charge.

Mr. PRUYN. I do not care what Secretary of War made the decision. The payment was continued down to a recent period, and, for aught I know, it is being made still. I have no interest in that road, and have nothing to do with it; and I heard of this by accident.

With regard to the report of the Committee of Claims, all I can say is this, that while that committee have considered every five hundred dollar case which came before it, it so happened that this subject was brought up, and at the first meeting, at which I was not present, was passed upon without discussion, the members present knowing the gentleman from Indiana was well acquainted with the matter, and relying upon the gentleman's judgment, which they supposed to be perfectly well informed. I have no hesitation in saying that some of them subsequently expressed great regret that the report was made under the circumstances in which it was made.

I hope that the gentleman from Indiana will consent that the bill may be modified in one of the ways I have mentioned, either requiring that the road shall carry the property of the Government without pay, provided the Secretary of the Treasury is of opinion that their finances will justify it, or be required to carry such property at cost.

Mr. STEVENS. I would suggest whether in ordinary legislation it is competent to alter the original charter. The original charter under which those who subscribed to this road acted gave the preference in the transaction of the business over this road to the Government at a reasonable rate, not exceeding that charged by other routes and individuals. But although the Government granted a subsidy of so many bonds a mile, the bill went upon the supposition that that was to be paid back by the company out of the part earnings of the company in doing the business of the Government.

I submit whether it would be fair to alter the fundamental condition upon which this road was established, so as to take away all the profits of the road from the Government business. After this road is built, I have no doubt the receipts from the business of the Government will be very large between its eastern and western empire. It

will go very far, I have no doubt, toward paying the interest upon the Government bonds. I am sure it is not the intention of the gentleman from Indiana, or of any other gentleman in this House, to embarrass this road so as to prevent its construction. I hope every facility will be given by the Government for the building of this road, and least of all, that it will not violate the original law or charter under which this company was organized. I hope, therefore, the amendment will not be adopted. While we should not violate the charter, I do not say we may not amend it, because in the original charter Congress reserved the right to alter and amend, doing justice to the parties. We reserved the right to repeal the original charter, and I suppose that Congress can repeal it if Congress thinks that it is a work of such little benefit to the country. I hope that the bill, if it passes, will pass without the amendment of the gentleman from Indiana. If, when the bill shall have been maturely considered—and I do not ask that it shall not be maturely considered—the House thinks it ought not to pass, that is another thing; but if it is to pass, let it pass in such a way as to be effective.

Mr. HOLMAN. I do not wish to be understood as throwing the slightest obstacle in the way of the passage of this bill. On the contrary, it has struck me from the beginning that every reasonable facility ought to be offered by the Government for the construction of this road; but after all it must be admitted that the benefits of these grants, to a large extent, must inure to certain companies.

Mr. SHANNON. I would like to ask the gentleman whether he thinks that the construction of a railroad, however it may inure to the benefit of the builders in the end, will not materially aid and inure to the benefit of the whole country? Now, I undertake to say, if the gentleman will permit me, that no company will undertake to build this road with such a provision as this amendment in it, and I undertake to say also, and the history of the past will bear me out, that the parties who build the road will be losers in the end.

Mr. HOLMAN. I have not so much confidence in the capitalists of this country at this time in connection with railroad operations as to believe that they are going to make any such venture. I know that in the infancy of the railroad enterprises of the country there were immense investments made upon mere speculation, upon mere calculations, which were never realized, by which heavy losses were sustained. But the hour for that, resulting from the experience of the country, has passed, and men now make their investments with a view to the advantage that they themselves are to derive.

Mr. SHANNON. The gentleman must take into consideration that this railroad is a pioneer operation in advance of the settlement of the country. It is intended to connect two continents together, passing through a strip of country of over one thousand miles that will not be settled up for a great many years, and the road cannot be a paying enterprise; and if you undertake to cripple it by such a provision as this, I am afraid the road will not be built.

Mr. HOLMAN. I have not the slightest apprehension in this matter. I would not on any account, considering the condition of the country, throw any embarrassments in its way. I have seen the calculations of capitalists and of the men engaged in this enterprise. I know exactly what they are relying on, whether their calculations are correct or not, and I know that their data are satisfactory to themselves. If this great thoroughfare be constructed by the aid of the Government and by the bonds of the Government, with the enormous grant of lands by the Government and the great encouragement and favor of the Government, the capitalists of New York and the other great cities on the Atlantic seaboard very properly anticipate an enormous benefit. It must throw the trade of the Indies right across this continent; it must command a trade unexampled in the history of mankind. It is with a view to this that this great work is entered on by capitalists. We look upon this work as a mere national thoroughfare, a mode of uniting the Pacific States with the Atlantic States. We contemplate it as a measure of union, to bridge over, if possible, that vast chasm that lies between the north-

western States and the States of the Pacific; and I never saw an argument in favor of this measure except the argument in favor of union and the necessity of creating fraternal relations between the States east of the Rocky mountains, lying contiguous to and drained by the branches of the Mississippi river, and the far-off golden regions. We look upon it as a mere Union question, uniting the two sections of the country together. Capitalists contemplate it in an entirely different light. With them it opens up the Indies, and Asia, with her wealth, to the traffic and commerce not only of the Pacific coast but of the Atlantic coast. Incorporated companies are to construct this road, and the question is, whether the sacrifices which the people themselves are to make, not simply the grant of lands but of money, are to have any possible compensation from the character of the services which these companies are to render. The companies themselves—looking at the subject as a mere enterprise, a question of dollars and cents—can never compensate us at all for our outlay except in the mode which I have indicated in my amendment—that is, transporting the property and troops of the Government free of charge. We have no other benefit from the road at all. We talk of it as a military road.

Mr. SHANNON. The gentleman is certainly aware of the fact that for every dollar the nation invests in the construction of this railroad it will receive a hundred in return. The advantages accruing from the construction of this road will be equivalent, in a few years, to a thousand dollars to one.

Mr. HOLMAN. I know exactly how it will operate so far as my own State is concerned. I represent an inland State, through which this road will pass. I can conceive how the great cities of New York, Philadelphia, and Boston may be built up by it and receive enormous benefits. But it will be in my State a mere thoroughfare, for the cost of building which my constituents are to bear the burdens of taxation; and I am yet to perceive in what manner my people are to be compensated for this outlay of money. I do not see how it is to be done. I can see how the commerce of the Pacific may be brought across this continent. I can conceive how the wealth of the Indies may be made to flow into the cities of New York and Boston. But I cannot conceive how my own State, which is to be a mere case-ment for the thoroughfare of the great cities of the country, is to be benefited by the tax which it must contribute toward paying this \$95,000,000.

Mr. PRUYN. The whole country will be benefited by it.

Mr. HOLMAN. My friend from New York says, very justly, that the whole country will be benefited by this road. Every part of this nation reciprocates in some sense and feels the prosperity of every other part. But it is very remote. Agriculture receives but very little impulse from the benefits which this road may confer on the great cities of the Atlantic coast.

I hold in my hand a report, made to the Senate on the 11th day of last month, showing the amount of expenditure that the Government will be called upon to make in connection with the bill then pending before that body, and which was substantially the same as the present bill.

Mr. STEVENS. Oh, no.

Mr. HOLMAN. This report shows that the amount to be expended in this work by the Government between 1864 and 1876 is \$95,088,000. That is independent of the grant of lands—the most stupendous grant ever made in the history of mankind. You lose sight of that in the contemplation of the appropriation of over ninety-five million dollars of the public treasure between 1864 and 1876. And for the benefit of whom? For the benefit of these corporations. Whatever view we may have in contemplation of uniting the Pacific States with the Atlantic States, the companies themselves look upon the investment as a mere question of dollars and cents. They are actuated by no other motive. They make no other calculation. We see here every day figuring in this business a gentleman from New York; and if the gentleman from California will take his estimates he will find that the value of this work as a Union enterprise is never taken into consideration at all. The patriotism of this thing does not weigh a feather in the estimation of these

people. It is not the question of connecting the Atlantic coast with the Pacific coast, but it is a question of dollars and cents. It is a question of capital and revenue.

This work is necessary. We consider it to be necessary. We want to unite ourselves by this great thoroughfare. But we are asked to confer everything upon this company and to receive nothing at their hands. We know the avariciousness of the other companies to which these grants have been made. We know the rapacity of the Illinois Central railroad that was willing to take out of the Treasury half a million dollars at a time like this—a road, every inch of which was built by your capital, and the stock of which is in the possession of foreign capitalists. That grant ought to teach us a lesson in reference to the grants of lands made to these corporations, to see that some benefit accrues to the Government. Yes, sir, European capitalists hold the Illinois Central railroad, every inch of which was built by the public land which we granted, and yet they were not willing in a time of war to transport a pound of freight or a soldier without compensation. They did that when every dollar of their profit, every dollar of their original capital, was derived from the munificent grant of land made to them fifteen years ago.

I trust the House will not consent to make these enormous grants in addition to those already made, without requiring that the property and the troops of the United States shall be transported in time of war free of charge. It is all that we get for the immense outlay that we are making.

Mr. STEELE, of New York. Mr. Speaker, it is with regret that I have to occupy for a moment the attention of the House in regard to this important measure. The bill under consideration is a mere amendment to the law passed by the last Congress; and the proposition of the gentleman from Indiana [Mr. HOLMAN] will introduce an entirely new feature; it will substantially and radically change the fundamental law of last Congress. Everybody understands that the whole system of legislation with regard to this great national work has been upon the supposition that it was a great national necessity, that the entire country was interested in it, and that Congress was justified in making large appropriations of land and money for the purpose of carrying it forward.

The last Congress made appropriations of money, and in order to encourage the men who should undertake to build this road with the hope that they may some day repay that money, or at least repay the interest, they provided that the freight for carrying the property of the Government over this road should be applied to the payment of the money which the Government advanced. It seems to me that, in considering a measure which seeks to amend some of the provisions of the act to enable this company to build this great public work, for us to change the entire principle on which the law was adopted is a complete stepping aside of the legitimate objects of legislation at this time. If the amendment of the gentleman from Indiana should be adopted, these companies, instead of being benefited by the legislation which we propose to extend to them, would be a hundred times worse off under this bill than under the law as it now stands. And I cannot understand how so clear-headed a gentleman as my friend from Indiana can expect that anybody will give him the credit of being a friend to this bill when he comes here and proposes that which is utter death to it.

Why was it that the Thirty-Seventh Congress was willing to give such an amount of money and land for the purpose of aiding in the construction of this road? Because it was considered a great public necessity. It was considered that all they could give, provided the road was built, would be repaid in a thousand ways to this great country. In the amendments proposed by the committee we have not granted one single further dollar of Government aid, we have not attempted to make the Government responsible for one single dollar more, but we have tried to give such further assistance in an indirect way as would enable the enterprising men who have undertaken this work to go on with it.

And here allow me to disagree with my distinguished friend from Indiana in the idea that

the men who are engaged in this great public enterprise are engaged only with the hope of making money. I could name to him many patriotic men who have come forward with their ten and twenty thousand dollars to put into this road for the purpose of encouraging the enterprise—and I need not to go out of this House to find some of those examples—without any hope or expectation of ever being pecuniarily benefited by the advance thus made.

Now it was because this was a great public work that the last Congress thought it wise to give this aid. They thought that this company, if it was organized, would be able to pay back this money. And I apprehend that the moment this road is in operation the business of the Government may, and probably would, in time of war particularly, absorb so much of the entire working stock of the road that they cannot go on and pay their expenses except by receiving some compensation for it. And it was thought that if the transportation which the Government received was credited upon advances, it would be equitable and fair. The question was ably and thoroughly discussed in this Hall when the original bill was under consideration; and that Congress in its wisdom thought proper to enact this law, and I do not think it is fair and legitimate now to go back to the original law and attempt to change its entire scope and meaning, and thereby defeat its object, after men have invested their money, relying upon its provisions. Better far that this bill should be defeated; better far no legislation whatever in regard to this great public work by this Congress.

I hope, therefore, that after weeks of anxious labor by the committee, after weeks of careful deliberation and study, with a view only, if possible, of helping forward this great public work, this great national necessity, that we shall be allowed to consider their simple amendments without going back and attempting to root up the law which is the foundation of this enterprise.

Mr. A. MYERS. It is very refreshing, Mr. Speaker, for us to have the privilege occasionally in this House of listening to those who scarcely ever occupy its time. I do not intimate that I am about to refresh this House in any sense at all, but I was very favorably struck with the fact that the honorable gentleman from Indiana had once more risen to give his views upon an important question. We who are in the habit of keeping our seats here nearly all the time know that the honorable gentleman rarely has the privilege of being heard. I presume, sir, it arises from his innate modesty, a bashful merit which usually seeks retirement.

I am inclined to think that some of us must be looking for a renomination, or we would not be offering all things at all times, but never at the right time. I am forcibly reminded of that old amusing allusion to a certain fact which I read when a boy, in a work not exactly proper for a Sunday school, although it was written by a clergyman of the Established church. I allude to a little incident which occurred in the very earliest life, I think, of Tristram Shandy. He tells us he has it by information historical, traditional, or in some other way, that at a certain time the old clock which stood in the corner had run down, or at least at a critical juncture a certain old lady was fearful it (the clock) might stop, and she put this question to the old gentleman: "John, did you wind up the clock to-night?" "Good Lord," says he, "such a question at such a time!" [Laughter.]

Sir, such an amendment to such a law and at such a time is just as inopportune. The gentleman's argument did not apply to the amendment which he offered. The argument was not to show, at least very little of it, that his amendment is legitimate, that it is proper, that it is reasonable, that it is sound, that it is advantageous. If I heard his speech correctly I could only conclude that it was intended more to defeat than carry this bill; that it was intended more for ridicule than to promote legislation. This amendment looks to me as if the gentleman who offered it was opposed to the whole measure, and offered it merely for the purpose of making a speech to gratify his constituents, on the ground that the railroad did run through the State of Indiana, and made that State merely a way station, with nothing but a stopping depot, where the iron horse that started

from the golden sands of the Pacific shores would only stop to breathe a little, take in water, and then start off for Philadelphia and New York. It looks to me as if the gentleman was opposed to the measure for the reason that it will make Indiana only a way station on this great railroad or its connections. From his argument I was almost led to believe he was as fearful of the expediency or propriety of this great national work as that eminent member of the British Parliament who, when the question of constructing a railroad was first agitated in the United Kingdom, got up with all the solemnity of his legislative dignity, with all the wisdom and profundity which he could command, and shaking himself into the proper parliamentary position, said, "Mr. Speaker, it is my deliberate opinion that a railroad could not compete with a canal." [Laughter.] Sir, I consider his argument credulous, and one which looks upon this measure as another innovation upon the venerable system of common carrying by means of pack-saddled horses. He almost intimates that the road will not pay either the people or the Government. He does not say so directly, but he insinuates it by saying that he is afraid that this corporation will be injurious, and hence if we grant them lands we must have some little boon as a consideration for the favor which the Government holds out to it.

I am in favor of this bill. I am pleased to know that there are many members on the other side of the House who are in favor of the main policy of the original bill, and of the amendments as proposed by the committee. Many of us were not here to vote for the original bill as passed by a former Congress. Perhaps the gentleman from Indiana was. I have not hunted up his record. I have not a political scrap-book here to which I can turn on all occasions; but I think that the man who opposes or throws obstructions in the way of the commencement and early completion of this great highway, the Pacific railroad, will not have to live very long, or, in other words, will have to die very soon, not to regret such action. Yet my charity would impel me to hope that the honorable gentleman may long live. But when he or any other person, if there be one other man in the House so curiously constituted, who so habitually retains his seat, or when he does happen to express himself gives vent to such crude ideas as that the great State of Indiana is to be turned back into a wilderness, and blossom no longer in her roses of Democracy or Republicanism!—I say that when a gentleman so rises here suddenly and unexpectedly and speaks in that way, he is to be forgiven, and therefore I hope that the gentleman from Indiana may be spared and may live long enough to ride upon this road from one end of it to the other. All who favor this measure may go home perfectly satisfied with their action. He who supports, not he who opposes, the amendments of the committee will find an approving constituency. Neither will that constituency approve the less from the fact that a resolution urging an early completion of this great work has been made a plank in the platform of the Union party.

Mr. HOLMAN. The gentleman from the iron region of Pennsylvania—

Mr. RANDALL, of Pennsylvania. Oh, no; the oil region.

Mr. HOLMAN. Well, the gentleman from the oil region of Pennsylvania has had a good time generally this evening. He has not told us whether he has received a renomination or not. I suppose he has.

Mr. A. MYERS. Certainly I have.

Mr. HOLMAN. The gentleman is renominated, so that he is able to talk deliberately. There was an intimation, however, made by the member from New York [Mr. STEELE] which is the key-note of all this wonderful flowery declamation of gentlemen on this subject. The gentleman from New York went on to say that certain benevolent gentlemen on this floor, having, of course, no interest at heart except the interest of the country, had certain stock in this road. And it struck me, Mr. Speaker, that instead of the anecdote related by the gentleman from Pennsylvania [Mr. A. MYERS] the anecdote would be more appropriate which is told of a county judge living in the peanut region of his own State, which the gentleman, I believe, represents.

Mr. A. MYERS. No, sir; we have no nuts but hickory nuts up there. [Laughter.]

A MEMBER. His are ground nuts. [Laughter.]

Mr. HOLMAN. A case came before that judge in which a bridge and a road were involved. There was some sort of connection between them, but it did not seem clear to the judge how the connection was. He had no interest in the road, but he had an interest in the bridge. When the case came up for deliberation, he said, "If the court understands herself, and she rather thinks she does, the bridge is all right, but the road is all wrong." [Laughter.] I think it probable that my friend from Pennsylvania, having been engaged in the ground-nut business, or in the peanut war business, or, it may be, in the oil business of that part of the country, sees a chance of speculation, according to the intimation of my friend from New York; and the real source of mortification is this: that the gentleman, in his pleasantry, (which is very cheering indeed, especially, as he says, in a time like this), has been turning argument into ridicule. It may be possible that the gentleman covers up, under fog and amusement, a grave and sober subject of consideration.

I was startled, sir, as a Representative on this floor, when it was stated—at a moment when we are voting away, in effect, \$95,000,000 of the public treasure, and uncounted bodies of the public lands, without any recompense whatever—to hear the intimation made by the gentleman from New York [Mr. STEELE] that benevolent men on this floor had stock in the corporation by which this road is to be constructed.

Mr. STEELE, of New York. I apprehend that the gentleman cannot very well fail, after making an attack of that kind, to yield to me.

Mr. HOLMAN. I yield very freely to the gentleman from New York.

Mr. STEELE, of New York. I think that my friend from Indiana has departed from his usual fairness when he undertakes to pervert what I said in reference to men in this country having subscribed to stock in the Pacific railroad for the purpose of helping on this enterprise, by saying that I had intimated that any member of this House was interested directly or indirectly in this road. What I said on that subject I have no hesitation in repeating. I said that this was looked upon as a great public work, and that after the bill was passed by the last Congress, the men who took an interest in it sought to obtain subscriptions to stock, and that many were induced to subscribe without any idea of ever having a valuable investment in it. They did it as a matter of patriotism. And if the ideas of my distinguished friend from Indiana are so contracted and so belittled by his continual habit of dealing in 'small things' and talking about sixpences while spending dollars, that he cannot appreciate the possibility of a man having patriotism enough to invest in a work of great public necessity for the purpose of encouraging that work, without some idea of dollars in it, then I must confess that my distinguished friend's mind is more belittled and contracted than I supposed.

The SPEAKER. The morning hour has expired.

Mr. STEELE, of New York. Let me say a word further.

Mr. MORRILL. You will have another time. I call for the regular order of business.

INTERNAL REVENUE.

The House resumed the consideration of the amendments of the Senate to the tax bill.

The SPEAKER. The amendments will be read, and those on which a separate vote is not asked will be considered, under the recommendation of the Committee of Ways and Means, as non-concurred in.

Ninth amendment:

Strike out the following:

That for the purpose of assessing, levying, and collecting the duties or taxes hereinafter prescribed by this act, the President of the United States be, and he is hereby, authorized to divide, respectively, the respective States and Territories of the United States and the District of Columbia into convenient collection districts, which he may alter, lessen, enlarge, or merge in other districts, as the public interests shall appear to him to require, and to nominate, and, by and with the advice and consent of the Senate, to appoint, an assessor and a collector for each such district, who shall be residents within the same: *Provided*, That any of said States and Territories and the District of Columbia may, if the President shall deem proper,

be erected into and included in one district: *Provided further*, That the number of districts in any State shall not exceed the number of Senators and Representatives to which such State shall be entitled in the present Congress.

And in lieu thereof insert the following:

The second section of an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," approved July 1, 1862, shall remain and continue in full force.

Mr. STEVENS. The Committee of Ways and Means recommend a non-concurrence in this amendment. I think that we ought to concur in it. The second section of that act provided that the States were to be divided into as many districts as were then represented in Congress, except where by the next apportionment they were increased in this Congress, and they were then to be made according to that apportionment already made. That has been done. If the House section be adopted it would take the apportionment of the present House for all, and New York, Pennsylvania, Maine, and some other districts would lose one district each; it would require a readjustment of all the districts; whereas if the Senate amendment is concurred in it will leave the districts precisely as they are now.

Mr. MORRILL. There would be no difference of opinion in relation to the point stated by the gentleman from Pennsylvania as to the propriety of concurrence with the Senate. It will be noticed that by the original section the committee has the right to alter these districts, and if we take the Senate amendment alone it will not leave that power. Therefore it had better be referred to the committee of conference.

Mr. BOUTWELL. The Senate amendment will throw us back upon the act of 1862. At the time the several States were divided into districts it was found impracticable in Kentucky to make more than three or four districts. Such was the unsettled state of the country that it was deemed unwise to district Missouri and Kentucky according to the number of Representatives they had in Congress. The Attorney General decided that the President had not the power to reconstruct the districts. If we accept the Senate amendment Kentucky and Missouri will be kept as they are now, a provision which is unwise in reference to a state of peace. I think it important that the conference committee should adopt something to give the President power to change these districts. I hope we will non-concur, and send it to the conference committee.

The amendment was non-concurred in.

Seventy-fifth amendment:

Strike out "2½" in the twenty-fourth section, and insert "3," so that it will read:

That there shall be allowed to collectors, in full compensation for their services and that of their deputies, a salary of \$1,500 per annum, to be paid quarterly, and in addition thereto a commission of 3 per cent. upon the first \$100,000.

Mr. PIKE. I hope that this will be concurred in. It is for the benefit of the smaller districts. It is to give 3 per cent. on the first \$100,000. In sparsely settled districts, composed of a number of counties, it is worth more to make collections than in large, populous districts.

Mr. WASHBURN, of Illinois, moved to close debate on the amendment.

The motion was agreed to.

The amendment was non-concurred in.

Seventy-ninth amendment:

In the following, strike out "4" and insert "5" so that it will read:

Provided, however, That the salary and commissions of no collector, except in the cases mentioned in the proviso in the twenty-second section of this act, exclusive of stationery, blank-books, and postage, shall exceed \$10,000 in the aggregate, nor more than \$3,000 exclusive of the expenses for deputies and clerks, to which such collector is actually and necessarily subjected in the administration of his office.

Mr. HOLMAN. I ask for a vote on that amendment.

The balance, from four or five thousand dollars up to \$10,000, is expended for the benefit of the deputies and clerks throughout the district, and the collector himself receives whatever pay we fix, either four or five thousand dollars, as an absolute compensation for the mere responsibility of holding the office. A decisive vote of the House fixing the amount of salary at \$4,000—and which I think is not near low enough—will be considered even at this late moment as indicative of that little legislative body, the committee of conference, of the exact position of the House upon the subject.

Mr. WILSON. I move that all debate be closed upon this amendment.

The motion was agreed to.

The amendment was not concurred in.

Two hundred and fifty-seventh amendment:

On page 93, at the end of line twenty-three, add the following proviso:

Provided, That each savings bank except such as have no fixed capital, and whose business is confined to receiving deposits and loaning the same, and who do no other business of banking, shall be liable to pay \$100 for license as a banker.

Mr. KERNAN. I hope the House will concur in this amendment. It will be observed that a license of \$100 must be paid by all banks using or employing a capital not exceeding \$50,000, and \$2 for each additional \$1,000. Then the Senate adopted this additional proviso, which was read by the Clerk. In other words, all savings banks are to pay a license of \$100, except where they receive money of depositors and loan it out and do no other business. There are some savings banks which are simply agencies created by a Legislature, with directors who have no interest and receive no pay, to receive money and loan it out for humble depositors. As to them it is proposed they shall pay no license. And surely they should not. We might as well levy a tariff upon a charity-box, it seems to me. The proviso is well guarded, so that all those who do a business for a profit shall pay a license.

Mr. MORRILL. If this proviso is suffered to remain some small verbal changes ought to be made in order to render the provision perfectly secure. The expression used is "fixed capital," a phrase liable to different interpretations. These banks are not subject to any income tax upon profits, and they are composed of the deposits of such persons as see fit to make deposits, and they are not taxed in any other way.

Mr. KERNAN. If it will suit the gentleman any better, I will move to strike out the word "fixed," so as to make the proviso apply to banks that have no capital at all. I will say to the gentleman that this provision was drawn, I believe, by a Senator from his own State, and was intended to be so guarded as to exempt only those banks which simply loaned the money of poor depositors.

Mr. RANDALL, of Pennsylvania. It strikes me that the best course to pursue in reference to these savings institutions is to non-concur in this amendment. It is not perfect, as suggested by the gentleman from Vermont, and I would rather trust a committee of conference with it.

Mr. KERNAN. If the House desires to pursue that course, with a view to perfecting the amendment, I will accept it.

The amendment was not concurred in.

Three hundred and seventh amendment:

Strike out the words "miners actually producing shall pay for each and every license the sum of \$10. Every person, firm, or company who shall employ more than one person under him or them in the business of mining coal, gold, silver, quicksilver, copper, lead, iron, zinc, spelter, or other minerals, shall be regarded as a miner under this act," and insert in lieu thereof the following:

Assayers, assaying gold and silver, or either, of a value not exceeding in one year \$250,000, shall pay \$100 for each license, and \$200 when the value exceeds \$250,000 and does not exceed \$500,000, and \$500 when the value exceeds \$500,000. Any person or persons or corporation whose business or occupation it is to separate gold and silver from other metals or mineral substances with which such gold or silver, or both, are alloyed, combined, or united, or to ascertain or determine the quantity of gold or silver in any alloy or combination with other metals, shall be deemed an assayer for the purpose of this act.

Mr. SHANNON. I hope the House will concur in the amendment. The House will remember that this subject was discussed to a limited extent when the proposition was made in the House originally to tax miners and mining. The whole proposition is materially changed by the Senate amendment. The amendment proposes to tax the assayers, those engaged in the business of assaying gold and silver.

Now, my objection to sending this matter to a committee of conference is, that that committee will have no member upon it to lay before them the facts in relation to this proposition.

Now, sir, there is no justice in taxing a man for taking out of the earth a thousand dollars of a material that the civilized world fixes an absolute value upon. It is not like a manufacture, because the tax upon manufactured articles is paid after all by the consumer, and not by the manufacturer.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

SATURDAY, JUNE 18, 1864.

NEW SERIES.....No. 190.

But if I mine out a thousand dollars in gold your Government stamps an absolute value upon it, and I have to pay the tax. There is therefore no comparison between a miner and a manufacturer, and I undertake to say, and I think I know something about this mining question, that the proposition, as originally adopted by this House, to tax the miner 5 per cent. upon the gross proceeds of his mine, would absolutely discourage, cripple, and retard the development of our mineral resources. Sir, it is the most suicidal policy that this Congress or the Government could possibly adopt. That it will lessen the yield of gold and silver is beyond all question. That the tax as originally adopted by the House cannot be paid by the miners is clear, and the proposition of the Senate will certainly yield more revenue. I hope therefore that we shall concur in the amendment of the Senate.

Mr. WILSON. I move to close debate on this amendment.

The motion was agreed to.

The question was put on concurring in the amendment of the Senate; and there were—ayes 57, noes 24; no quorum voting.

Mr. WILSON demanded tellers.

Tellers were ordered; and Messrs. MORRILL and SHANNON were appointed.

The House divided; and the tellers reported—ayes 72, noes 31.

So the amendment of the Senate was concurred in.

Three hundred and eighty-first amendment:

Page 137, at the end of line eighty, insert the following: *And provided also, That naphtha of specific gravity exceeding eighty degrees, according to Baume's hydrometer, and of the kind usually known as gasoline, shall be subjected to a tax of 5 per cent. ad valorem.*

Mr. PIKE. I ask the Committee of Ways and Means if they will not recommend concurrence in that amendment? It is an amendment drawn by the Commissioner of Internal Revenue in the interest of the revenue.

Mr. MORRILL. All the committee desire is to prevent frauds. I dare say this amendment is right, but I have no particular information on the subject.

Mr. PIKE. As the gentleman from Vermont has no doubt the amendment is right, I presume the House will concur in it.

The amendment was concurred in.

Four hundred and tenth amendment:

Page 147, in the three hundred and twenty-four, strike out "50 cents" and insert "\$2" in lieu thereof; so that the proviso will read:

Provided, That when a duty upon the iron from which rivets, nuts, and bolts, as aforesaid, shall have been made, has been assessed and paid a duty of not less than \$3 per ton, a duty only, in addition thereto, shall be paid of \$2 per ton.

Mr. HOLMAN. In this rapid mode of going over the amendments by their numbers only, it is difficult to keep pace with the Clerk, and we have passed several amendments in relation to iron without my attention being drawn to them. I wish, however, to call particular attention to this amendment. Here is an increase from 50 cents to \$2 per ton. Now, I have observed in the press throughout the country that the impression is that the duties levied on iron by the bill as it passed the House are too low. Indeed I think that, so far as the public press is any indication of public sentiment, there has been more complaint upon that one point than any other; that iron, the great interest of certain sections of the Union, has been entirely underrated in its capacity to bear reasonable taxation. This amendment of the Senate presents the subject somewhat fairly, but I understand that the Committee of Ways and Means recommend non-concurrence.

Mr. MORRILL. I will say to the gentleman from Indiana that we propose to non-concur, not for the purpose of reducing the duty, but in order to leave the amendment open that the committee of conference may insert some further words to make the provision perfectly clear.

Mr. HOLMAN. I want to obtain a vote upon this proposition for the purpose of indicating the

sentiment of the House in regard to all these amendments relative to the duties on iron.

Mr. MORRILL. If the House concurs it will preclude the insertion of the words we propose.

Mr. WASHBURN, of Illinois. Does the gentleman from Indiana desire to concur in the amendment?

Mr. HOLMAN. I am in favor of concurring in every one of these amendments of the Senate in regard to iron, but unfortunately we have already passed over three or four of them and non-concurred. They have increased the duty on iron castings from \$2 to \$3 a ton. They have increased the duty on stoves and hollow ware from \$3 to \$5, and so on.

Mr. MORRILL. I will say to the gentleman that it is for no purpose of reducing the duty, but of changing the language as it should be changed.

Mr. HOLMAN. I trust that these amendments will be concurred in for the purpose of instructing the committee of conference. We all know what these committees of conference are. We know that through them legislation is placed practically in the hands of three members from each House, and that in the ordinary course of proceeding the conference committee on this bill will comprise two members of the Committee of Ways and Means. We must legislate on this subject here, or we cannot legislate upon it at all. The public voice is never heard in a committee of conference. It can only be heard here in this House. I therefore move that the House concur in all these amendments, including those in regard to iron. Is that motion in order?

The SPEAKER. The Chair will entertain the motion in regard to all the amendments in this paragraph, commencing at the four hundred and sixth amendment, but not in regard to the paragraphs which the House has passed from entirely.

Mr. MORRILL. The four hundred and seventh amendment is, I think, wrong. It actually reduces the duty. It is to strike out the words "not less than four ounces each in weight" and to insert in lieu thereof the words "exceeding five sixteenths of one inch in diameter."

Mr. WASHBURN, of Illinois. I move to close debate on this paragraph.

The motion was agreed to.

Mr. HOLMAN. I was on the floor.

The SPEAKER. The gentleman's time was up a minute or so.

Mr. HOLMAN. My motion is to concur in the four hundred and eighth, four hundred and ninth, and four hundred and tenth amendments.

These amendments are as follows:

Four hundred and eighth amendment:

Strike out "4" and insert "5."

Four hundred and ninth amendment:

Add the words "not less than."

Four hundred and tenth amendment:

Strike out "50 cents" and insert "\$2," so that the paragraph will read:

On rivets exceeding one fourth of one inch in diameter, nuts and washers not less than two ounces each in weight, and bolts exceeding five sixteenths of one inch in diameter, a duty of \$5 per ton: Provided, That when a duty upon the iron from which rivets, nuts, and bolts, as aforesaid, shall have been made, has been assessed and paid a duty of not less than \$3 per ton a duty only, in addition thereto, shall be paid of \$2 per ton.

Mr. HOLMAN. Mr. Speaker—

The SPEAKER. Debate is exhausted. Two speeches have been made on each side.

Mr. HUBBARD, of Iowa. I think the gentleman from Indiana ought to have more time. [Laughter.]

The question was taken; and there were, on a division—ayes 15, noes 73.

So the four hundred and eighth, four hundred and ninth, and four hundred and tenth amendments were non-concurred in.

Mr. HOLMAN. While I did not expect to have the yeas and nays ordered I desire to call for them.

The SPEAKER. The gentleman from Indiana is too late in calling for the yeas and nays.

Mr. HOLMAN. I rose instantly after the division.

The SPEAKER. The Chair has always ruled that whenever a gentleman makes a speech before calling for the yeas and nays, the call comes too late.

The four hundred and eleventh amendment was read, as follows:

Strike out of the proviso in the foregoing paragraph, in regard to rivets and washers, "\$1 50" and insert "\$3," so that it will read:

Provided further, That all iron and castings of iron of all descriptions advanced beyond pig iron, blooms, slabs, or loops, upon which no duty has been assessed or paid in the form of pig iron, shall be assessed and pay, in addition to the foregoing rates of iron so advanced, a duty of \$3 per ton; and when no duty has been assessed or paid thereon in the form of blooms, slabs, or loops, shall be assessed and pay, in addition to the foregoing rates of iron advanced as aforesaid, a duty of \$3 per ton.

Mr. HOLMAN. I ask for a vote on that amendment, to see whether Pennsylvania overrides all other interests.

Mr. RANDALL, of Pennsylvania. I have a word to say, Mr. Speaker, in regard to that amendment. The gentleman from Indiana has twice said that Pennsylvania overrides other interests. I consider that Pennsylvania has been overtaxed; and yet we are willing to bear every reasonable amount of taxation. But I am not willing to let the gentleman from Indiana rise in his seat and say that Pennsylvania controls this House in so far, at least, as taxation is concerned. On the contrary, we have submitted and are still willing to submit to every taxation that does not place the last straw on the camel's back.

The amendment was non-concurred in.

Four hundred and thirteenth amendment:

Strike out the following:

On gold and silver produced from quartz mines, from beds of rivers, from the earth, or in any other way or manner, a duty of 5 per cent.

The Committee of Ways and Means recommend non-concurrence.

Mr. COLE, of California. I move that the amendment be concurred in. A substitute for this provision is found upon page 153 which contains all the necessary provisions upon this subject. It provides as follows:

On bullion in lump, ingot, bar, or otherwise, a duty of one half of one percent. ad valorem, to be paid by the assayer of the same, who shall stamp the product of the assay as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe by general regulations. And every and all sales, transfers, exchanges, transportation, and exportation of gold or silver assayed at any mint of the United States or by any private assayer, unless stamped as prescribed by general regulations, as aforesaid, is hereby declared unlawful; and every person or corporation who shall sell, transfer, transport, exchange, export, or deal in the same, shall be subject to a penalty of \$1,000 for each offense and to a fine not exceeding that sum, and to imprisonment for a term not exceeding two years nor less than six months. No jeweler, worker or artificer in gold and silver shall use either of those metals except it shall have first been stamped as aforesaid, as required by this act; and every violation of this section shall subject the offender to the penalties contained herein. No person or corporation shall take, transport, or cause to be transported, export, or cause to be exported, from the United States any gold or silver in its natural state, uncolored or unassayed and unstamped, as aforesaid; and for every violation of this provision every offender shall be subject to the penalties contained herein: Provided, That the foregoing subdivision of this section providing for a tax on gold and silver shall only be in force from and after sixty days after the passage of this act.

It will be noticed that this provides all necessary restrictions against the gold going out of the country until a proper tax on it is paid.

It is to be regretted, Mr. Speaker, that not a member of the Committee of Ways and Means is acquainted by experience or observation with gold and silver mining, and that there are few members of the House, not more than two or three outside of the Representatives from the Pacific coast, who know anything about it. Let me say that it is the hardest and most poorly requited business in the country. This is susceptible of proof. I can state that although the State of California has been in need of revenue it has never levied a dollar of tax upon the miners, whereas other employments in the same localities have paid heavy taxes, in some instances more than seven per cent. a year.

This House has passed several measures to keep down the price of gold. Now, let me say that this tax if imposed will have the effect to increase the price of gold beyond any reduction that you will be able to secure by other measures. I hope that the members of the House will take a reasonable view of this matter, and concur in the amendment of the Senate.

Mr. MORRILL. Mr. Speaker, I am the last man in this House to do California or any other State injustice. I am willing to avow my ignorance on the subject of gold mining; and I acknowledge there are other gentlemen in the House as ignorant as I am. I regret that we do not possess some of the information possessed by the gentlemen from the Pacific slope; but I understand that more than one gentleman from that region was willing to accept this provision.

I was precluded from saying anything on the first amendment taxing the license. I would have been willing to exclude those mining for gold, but for what reason should we exclude the tax on all those who are engaged in mining coal, in mining iron, in mining copper, in mining lead, in mining zinc? It seems for no other purpose than to have the gold mines exempt. The proposition is to strike out the tax of 5 per cent. upon all the gold that is mined, and yet the gentleman from California declares that if this tax is imposed it will raise the price of gold!

I am willing to put it in any shape acceptable to California, but I protest against the idea of so large and profitable an interest as this entirely escaping from taxation in such a crisis as that in which the country now is. It should be made to contribute its fair proportion.

I hope my friend who has so much more information will come forward with a better provision. I am not actuated by any feeling of ill nature or spite. I have the greatest kindness for that section of the country. I look upon it as a marvel in our history.

Mr. HIGBY. I move to reduce it to 3 per cent.

Mr. Speaker, when this bill was up before in the Committee of the Whole on the state of the Union each one of the three members from California had five minutes in which to discuss this all-important question. I find, in conversation with all men here upon this subject, that they look upon it precisely as I did before I went to that country and lived fourteen years and had experience there. It is necessary that men should have practical knowledge upon this subject to understand it fully and properly.

I will present three or four considerations to the House which will throw a little light upon this subject. While the State of California has sent out of the State, as an article of exportation, from six to eight hundred millions of gold, the taxable property in 1863 of the whole State was \$160,000,000, and of that taxable property the city of San Francisco had at least one third, and the population of the city was about one fifth the population of the State. Now you may take the population of the mining sections of the State and compare the taxable property there with that in the agricultural and commercial portions of the State, and you will find the preponderance in the agricultural and commercial portions—that the mining district has far less wealth in proportion to population. What deduction is to be drawn from these facts? It is that the laborers in the mining districts receive far less pay than those in the agricultural and commercial districts. It illustrates the idea, which we have tried to show to this House in the few moments we have had, that the labor of the miner receives less pay than that of any other business.

What was the direction of this tax? As the bill went from the House it followed the miner into his claim, and taxed his first and his last dollar he took from it. It is not the amount of taxes you take from the State of California of which we complain, but of the way in which it is taken, the inequality of the burden, and of the persons from whom it is taken. While this subject was before the House I proposed an amendment by which the tax should be imposed upon the earnings of the miner, after deducting \$600 for the support of his family, as you do in all other kinds of business; and immediately members here declared that we objected to being taxed. Why? Because we objected to being taxed differently from other men. We objected because you wanted to tax us

where you do not tax other men. There you follow the laborer down to his first dollar and tax it. Nowhere else in this bill do you find the principle applied to any other class, for in all other cases you have given the laborer a living—you exempted to him \$600 before you began to tax him. But when you go to our coast, and apply the tax to a business which, I tell you, pays less than others, there, for the first time, you impose an extra tax. You would do differently if you could understand this matter as we do. A great deal of gold is taken out of the mines, it is true. But the miners do not get the benefits of it. They are the poorest class in that country, and yet your bill proposes to tax them 5 per cent. upon every dollar their labor produces.

The gentleman from Vermont [Mr. MORRILL] says he has been informed by men from the Pacific coast that they would be satisfied with a tax of 3 per cent. The gentleman never got that statement from me. I say let this taxing of gold alone. Tax all branches of business, but let the miner get out the gold and put it into circulation. [Here the hammer fell.]

Mr. STEVENS. A most remarkable scene, illustrating the old doctrine, "Give him an inch and he will take an ell." By what authority does any miner in California dig gold upon the land of this Government? Not one of them but is a trespasser upon the public lands. No one of them that has paid a dollar for the privilege.

Mr. HIGBY. I would like to hear the gentleman say that to the miners. He says it here, but he would not say it there.

Mr. STEVENS. I say it here and everywhere. I say that not one of them has any title to the land. They are taking the gold out by the permission of the owner of the land. This nation owns every foot of it, and so far she has allowed anybody to go and use it, but when she comes now to ask what all nations on the face of the earth have asked when they suffered their precious metals to be taken from the bowels of the earth, a seigniorage, why, we see as much spirit and energy and indignation shown here as if you were trying to take back from a man the horse he had stolen from you.

Sir, I do not like to say a word against these Californians. They are good men, but they have been indulged until they are spoiled—absolutely spoiled. I do not like to hear this indignation expressed, as though we were robbing men, when we only ask for what does not belong to them at all.

Mr. SHANNON. Will the gentleman from Pennsylvania yield to me for a moment? I know he is very kind and obliging.

Mr. STEVENS. Certainly, I will yield to the gentleman.

Mr. SHANNON. I hope the gentleman from Pennsylvania will not infer from the earnest style of my senior colleague [Mr. HIGBY] that he is indignant. It is only his peculiar style.

Mr. STEVENS. It is his fervor.

Mr. HIGBY. Will the gentleman from Pennsylvania allow me to say to him in what respect he misunderstands me?

Mr. STEVENS. Certainly.

Mr. HIGBY. As I said when this question was originally before the House, my objection is not to your taking a portion of the gold in California, but the objection is to your taxing the men who take it out of the earth.

Mr. STEVENS. I understand that. We are asking a seigniorage for the metal no matter who takes it out. If a man digs in my iron mine I charge him 25 cents a ton. No matter whether he be poor or rich, he must pay me for my own. We are asking but a little trifle for that which belongs to the nation.

Now, I want to have the amendment non-concurred in, and let the subject go to the committee of conference. If 5 per cent. is too much make it 4 or 3 or 2 or 1. But every nation imposes a tax like this, and I hope we are not to be driven from it because we like California so much.

Mr. WASHBURN, of Illinois. I move to close debate on the amendment.

Mr. SHANNON. I appeal to the gentleman from Illinois to allow me two and a half minutes.

Mr. WASHBURN, of Illinois. Well, I will allow the gentleman that time. I cannot refuse him.

Mr. SHANNON. The gentleman from Penn-

sylvania says that the nation owns the mines and the minerals. We have never disputed that fact; but the nation, on the discovery of gold in California and the admission of the State into the Union, positively refused to impose any tax on the people going there to mine; on the other hand, they invited the people of this nation and of the world to go there and dig out the gold; and Mr. Benton well said that the men who dug it out would earn every dollar of it. And that is our experience. The fact is that not half of the men who work in the mines get as much for their daily labor as the people who work in mechanics' shops and upon farms throughout the country; and to tax a man who takes out \$50 a month in the mines 5 per cent. is a proposition which I undertake to say the good sense of the House will at once see the injustice of.

I undertake to say further, and I believe it honestly, that the proposition contained in the amendment of the Senate will absolutely yield more revenue to the Government than you can derive from sending your tax-gatherers into the gulches of the mountains to collect a tax of four or five per cent. from the miners. Why, you cannot reach half the miners by sending your tax collectors to hunt them down. A man's mine is worth nothing. You cannot sell it for anything. He has his money in his pocket and he will not pay the tax. But by the Senate proposition we tax it at the mint or assay office where the miner is obliged to go with his bullion and have it assayed, and you get it there; but you will not get it if you send your tax collectors into the gulches of the mountains.

Now let me tell the House that if you undertake to hunt down the miners you will not get your revenue; you will discourage the development of your mineral resources, and you will do an amount of injury that will far outweigh the petty, insignificant sum that you might expect to realize by this tax.

Mr. RANDALL, of Pennsylvania. I ask that the gentleman from California shall have a few minutes more time.

Mr. SHANNON. I thank the gentleman, but I think that the House understands the proposition.

The SPEAKER. Debate is exhausted.

Mr. HIGBY withdrew his amendment to the amendment.

Mr. SHANNON. I hope the House will concur in the Senate amendment.

The question was taken; and there were, on a division—ayes 66, noes 39.

So the amendment was concurred in.

The four hundred and fourteenth amendment was read, as follows:

To the paragraph "On oil-dressed leather and deer-skins dressed or smoked, a duty of 5 per cent. *ad valorem*," add the following proviso:

Provided, That when leather or skins, upon which a duty has been previously assessed and paid, shall be manufactured into gloves, mittens, or moccasins, the duty shall only be assessed upon the increased value thereof when so manufactured.

Mr. MARVIN. Mr. Speaker, this amendment is a question of great importance to my constituents. The mittens and gloves to be affected by this amendment are almost exclusively manufactured in my district. The skins are imported in a raw or untanned state, paying the required import duty. They are then tanned and dressed in a manner adapting them for the manufacture of mittens and gloves. The factories in my district do the whole of this business. They never sell the skins after being dressed, but manufacture them into mittens and gloves; hence it is unjust to impose a double tax, or in fact three taxes on these articles: first, the import duty; second, the tax on the skins when dressed; third, the tax on the mittens and gloves when manufactured.

The Senate has justly and wisely amended the bill, assessing the tax 5 per cent. *ad valorem* on the increased value when manufactured, and left the principle of taxation the same as in the old law. More than 90 per cent. of the material used in the manufacture of these articles is imported, and pays the Government duties. To levy the tax upon the increased value of the skins, when made up into mittens and gloves, it is plain to see, under the circumstances, is evidently just and proper. We do not ask for any special favor or side legislation, but only that the same principle of taxation may be applied to us that is applied

to other similar interests with which we have to compete. We refer to the article of woolen mittens and gloves. The latter pays a tax on the increased value of the yarn used. All we want, as a competing business, is to pay the same tax on the increased value of the goods we manufacture.

This subject was thoroughly discussed in the Senate, and the yeas and nays being ordered on the passage of this amendment there were but five dissenting votes. These manufacturers are perfectly willing to pay any fair tax that Congress chooses to impose upon them, but they think, as the bill originally stood without this amendment, it would be an act of oppression to them and injustice to their interests.

Mr. Speaker, I leave this question with the House, confident that they will not allow the business of these men to be destroyed by exorbitant and onerous taxation. I trust the House will concur in the amendment.

Mr. MORRILL. I should be very glad indeed to have the House oblige the gentleman from New York, who so seldom troubles us with any impertinent addresses, but I desire to state the facts in this case. The amount of revenue involved in the amendment is very small, but the principle is very important. As I understand there are in a single town in New York parties who tan sheep-skins and deer-skins for gloves, mittens, and moccasins, and they ask to have these fine skins exempted from taxation. There is no more propriety in exempting them than there would be in exempting leather made into shoes or harness. If we are to adopt the principle in this case we furnish a precedent for shoemakers and harness-makers to come here and claim that there shall be no tax on leather that is put into boots and shoes and harness and trunks. I hope the House will keep the bill clear of any such principle as that.

Mr. WASHBURN, of Illinois. I move to close debate on the amendment.

The motion was agreed to.

The question was taken; and the amendment was concurred in, amid much laughter.

The four hundred and seventieth and four hundred and seventy-first amendments were read, as follows:

Strike out "one eighth" and insert "one twenty-fourth." Strike out "half year" and insert "month;" so that the section will read:

That there shall be levied, collected, and paid a duty of one twenty-fourth of one per cent. each month upon the average amount of the deposits of money, subject to payment by check or draft, with any person, bank, association, or corporation engaged in the business of banking.

Mr. HOLMAN. I believe the Committee of Ways and Means recommends non-concurrence in all of these amendments.

The SPEAKER. In all of them.

Mr. PRUYN. I would like to inquire whether there is any difference made between the State banks and the national banks.

Mr. HOLMAN. The House section, as it originally stood, placed the national banks and the State banks on the same footing, but there is a discrimination made between them in the Senate amendments. As the Committee of Ways and Means recommends non-concurrence, there can be no objection to that course.

Mr. GANSON. I call for a separate vote on these amendments. I do so for the purpose of asking the Committee of Ways and Means why it recommends non-concurrence in them.

Mr. MORRILL. For the purpose of offering a substitute for the whole section; with the various amendments it makes a long and rather confused section, which could be drawn better in half the space. The Committee of Ways and Means has also another purpose in recommending non-concurrence. We propose to fix about the same rate of taxation on the State banks and on the national banks, with this difference: banks having a large capital, instead of being restricted in the issue of notes to 90 per cent. of their capital, are to be further restricted by a proportionally large tax on the issue. These banks do not object to this.

Mr. GANSON. Do I understand from the gentleman from Vermont that if these amendments be concurred in the State banks will stand so far as the tax is concerned precisely as the national banks?

Mr. MORRILL. Not precisely.

The amendments were non-concurred in.

Five hundred and twelfth amendment:

Insert:

And upon the annual gains, profits, or income, rents, and dividends accruing upon any property, securities, and stocks owned in the United States by any citizens of the United States residing abroad, not in the employment of the Government of the United States, there shall be levied, collected, and paid a duty of 2 per cent. more than on resident citizens.

Mr. RANDALL, of Pennsylvania. I hope that that amendment will be non-concurred in. The whole section, as amended by the Senate, is crude, and I hope that it will be referred to a committee of conference.

Mr. HOLMAN. I ask for a separate vote, that it may go to the committee of conference as an instruction.

The amendment was non-concurred in.

Five hundred and thirty-sixth amendment:

Add:

Not shall the portion of premiums returned by mutual life insurance companies to their policy holders be considered as dividends or profits under this act.

The Committee of Ways and Means recommended non-concurrence.

Mr. WOODBRIDGE. I hope that that amendment will be concurred in. I think that these mutual life insurance companies should be encouraged. They are already becoming savings institutions in which the poor provide for their families. In England the Government itself has authorized the Chancellor of the Exchequer to issue the highest possible rate of premiums.

Mr. WASHBURN, of Illinois, moved to close debate on the amendment.

The motion was agreed to.

The House divided; and there were—ayes eighty-two, noes not counted.

So the amendment was concurred in.

Five hundred and twenty-sixth amendment:

In the section reciting the various tax laws, strike out the words "and upon the execution of new bonds, or taking anew the oath of office," and insert in lieu thereof the following:

And provided further, That no direct tax whatever shall be assessed or collected under this or any other act of Congress heretofore passed, until Congress shall enact another law requiring such assessment and collection to be made.

Mr. HOLMAN. The one hundred and seventy-fifth section of this act substantially accomplishes the same purpose, and I ask that it be read.

The Clerk read, as follows:

That the one hundred and nineteenth section of an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," approved July 1, 1863, shall remain in full force.

Mr. HOLMAN. It will be observed that the Senate have unintentionally omitted to strike out that section. There is no necessity for retaining that, because it only suspends the collection of the direct taxes for 1865. The amendment before us is an entire repeal of the act of 1862.

I trust that this amendment of the Senate will be concurred in. There is no better way to collect these taxes than by indirection. It approaches nearest to the old mode of securing revenue by duties upon imports. It is not felt to the same extent as a direct tax.

I will say that if anything could give confidence in the financial policy of the Government on the part of the agricultural portions of the Union it would be the fact that we have abandoned the law for the collection of direct taxes, and provided for the imposition of duties in such manner as to be less burdensome to the people. It is like the old policy of raising forty or fifty millions by indirection which the people did not feel at all. We levy the duties on the manufacturers themselves. We have made that the policy as approaching more nearly the old policy.

Mr. WASHBURN, of Illinois, moved that debate be closed on the amendment.

The motion was agreed to.

The amendment was concurred in.

The SPEAKER. The House has disposed of all the amendments of the Senate except those in which the Committee of Ways and Means recommend a concurrence with amendments.

The Clerk proceeded to read the amendments.

Third amendment:

On page 2, line thirty, strike out "and."

The Committee of Ways and Means recommended concurrence in the same, with an amend-

ment inserting in lieu of the word to be stricken out the following:

But the printing of said forms, decisions, and regulations shall be done at the public printing office, unless the Public Printer shall be unable to perform the work.

So that the clause will read:

He [Commissioner of Internal Revenue] may also contract for or procure the printing of requisite forms, decisions, regulations, and advertisements, but the printing of said forms, decisions, and regulations shall be done at the public printing office, unless the Public Printer shall be unable to perform the work.

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

Eighth amendment:

On page 6, strike out the sixth section, as follows:

Sec. 6. And be it further enacted, That the President of the United States be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a competent person, who shall be called the cashier of internal duties, with a salary of \$2,500, who shall have charge of the moneys received in the office of the Commissioner of Internal Revenue, and shall perform such duties as may be assigned to his office by said Commissioner, under the regulations of the Secretary of the Treasury, and before entering upon his duties as cashier he shall give a bond with sufficient sureties, to be approved by the Secretary of the Treasury and by the Solicitor, that he will faithfully account for all the moneys or other articles of value belonging to the United States which may come into his hands, and perform all the duties enjoined upon his office according to law and regulations, as aforesaid; which bond shall be deposited with the First Comptroller of the Treasury.

The Committee of Ways and Means recommended concurrence in the same, with an amendment inserting in lieu of the section to be stricken out the following:

Sec. 6. And be it further enacted, That the President of the United States be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a competent person, who shall be called the cashier of internal duties, with a salary of \$2,500, who shall have charge of the moneys received in the office of the Commissioner of Internal Revenue, and shall pay over the same daily to the Treasurer of the United States, and shall perform such duties as may be assigned to his office by said Commissioner, under the regulations of the Secretary of the Treasury, and before entering upon his duties as cashier he shall give a bond with sufficient sureties, to be approved by the Secretary of the Treasury and by the Solicitor, that he will faithfully account for all the moneys or other articles of value belonging to the United States which may come into his hands, and perform all the duties enjoined upon his office according to law and regulations, as aforesaid; which bond shall be deposited with the First Comptroller of the Treasury.

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

Thirty-eighth amendment:

On page 15, line sixty-four, insert the words "or neglect, except in cases of sickness or absence from the State;" so that the clause will read:

And in case of the return of a false or fraudulent list or valuation, he shall add 100 per cent. to such duty; and in case of a refusal or neglect, except in cases of sickness or absence from the State, to make a list or return, or to verify the same as aforesaid, he shall add 50 per cent. to such duty.

The Committee of Ways and Means recommended concurrence in the same, with an amendment striking out from the words proposed to be inserted, the words "from the State."

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

Fifty-eighth amendment:

On page 24, at the end of section twenty-one, strike out the following:

And said court shall also render judgment against the said assessor or assistant assessor for double the amount of damages sustained in favor of the party injured, to be collected by execution.

The Committee of Ways and Means recommended concurrence in the same, with an amendment inserting the matter proposed to be stricken out, and striking out the word "double" in the second line of said amendment.

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

Sixty-eighth amendment:

Insert after section twenty-two the following as a new section:

Sec. —. And be it further enacted, That if any assessor shall demand of, or receive directly or indirectly from, any assistant assessor, as a condition of his appointment to or continuance in his said office of assistant assessor, any portion of the compensation herein allowed such assistant assessor, or any other consideration, such assessor so offending shall be summarily dismissed from office, and shall be liable to a fine of not less than \$50 upon conviction of said offense in any district or circuit court of the United States of the district in which such offense may be committed.

The Committee of Ways and Means recommended concurrence in the same, with an amendment striking out "\$50" and inserting "\$500."

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

One hundred and fifth amendment:

On page 45, line fifteen, strike out "for" and insert "with."

The Committee of Ways and Means recommended concurrence in the same with an amendment, adding after the word "with" the words "the amount of."

The amendment to the amendment was agreed to. The amendment, as amended, was concurred in.

One hundred and seventeenth amendment:

At the end of section thirty-five strike out the following: And the said court shall also render judgment against said collector or deputy collector for double the amount of damages accruing to the party injured, to be collected by execution.

The Committee of Ways and Means recommended a concurrence in the same with an amendment, inserting the matter proposed to be stricken out and striking out the word "double" in the same.

The amendment to the amendment was agreed to. The amendment, as amended, was concurred in.

One hundred and twenty-second amendment:

At the end of section thirty-seven insert the following: *Provided*, That if any assessor or assistant assessor shall divulge to any party, or make known in any manner other than as provided in this act, the operations, style of work or apparatus of such visited manufacture, said assessor or assistant assessor shall be subject to the penalties prescribed in section thirty-five of this act.

The Committee of Ways and Means recommended a concurrence in the same with an amendment, striking out after the word "any" the words "assessor or assistant assessor," and inserting the words "such officers;" and also striking out the words "such visited manufacture, said assessor or assistant assessor," and inserting in lieu thereof the words "any manufacturer or producer visited by him in the discharge of official duties, he."

The amendment to the amendment was agreed to. The amendment, as amended, was concurred in.

One hundred and sixty-third amendment:

In section fifty-four, in reference to the time when duties shall commence on spirits, strike out "May" and insert "June."

The Committee of Ways and Means recommended concurrence in the same with an amendment, striking out "June" and inserting "July."

The amendment to the amendment was agreed to. The amendment, as amended, was concurred in.

One hundred and sixty-eighth amendment:

Page 64, line thirteen, after the word "gallon," insert the following:

On and after the 1st day of January, 1865, a duty of \$1 50 on each and every gallon. And all spirits which may be in the possession of the distiller on either the 1st day of June, October, or January aforesaid, no duty having been paid thereon, shall be held and treated as if distilled on each of those days respectively.

The Committee of Ways and Means recommended concurrence in this amendment with an amendment, to strike out "June" and insert "July."

The amendment to the amendment was agreed to. The amendment, as amended, was concurred in.

One hundred and ninety-second amendment:

Page 69, section fifty-nine, in line three, strike out the words "of iron, stone, or brick, with metal or other fire-proof, and such warehouse," and insert in lieu thereof, "established in conformity with such regulations as the Secretary of the Treasury may prescribe, and such warehouse;" so that the section will read:

"That the owner or owners of any distillery or oil refinery may provide at his or their own expense a warehouse established in conformity with such regulations as the Secretary of the Treasury may prescribe, and such warehouse when approved by the collector, is hereby declared a bonded warehouse of the United States, and shall be used only for storing distilled spirits or refined coal oil, or naphtha, and to be under the custody of the collector or his deputy. And the duty on the spirits, coal oil, or naphtha stored in such warehouse shall be paid before it is removed from such warehouse, unless removed in pursuance of law."

The Committee of Ways and Means recommended concurrence in this amendment with an amendment, to strike out the word "established" in the matter proposed to be inserted.

The amendment to the amendment was agreed to. The amendment, as amended, was concurred in.

All the amendments of the Senate having now been disposed of,

Mr. MORRILL moved that a committee of conference be asked on the disagreeing votes of the two Houses on the amendments of the Senate.

The motion was agreed to.

And then, on motion of Mr. FARNSWORTH, (at a quarter to eleven o'clock p. m.) the House adjourned.

IN SENATE.

FRIDAY, June 17, 1864.

Prayer by Rev. M. C. BRIGGS, of California. On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal was dispensed with.

PETITIONS AND MEMORIALS.

Mr. FOOT presented five petitions of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were referred to the Committee on Public Lands.

Mr. MORGAN presented a memorial of Grinnell, Minturn & Co., Howland & Aspinwall, and other merchants of New York, praying that the duty on tea may be made specific, and no part thereof *ad valorem*; which was ordered to lie on the table.

Mr. MORGAN also presented the memorial of John Graham, praying compensation for services rendered in the transportation of mail between New Orleans and Key West during the quarter ending July 1, 1855; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of citizens of Philadelphia and New York, remonstrating against the proposed increase of the duty on marble; which was referred to the Committee on Finance.

He also presented two petitions of citizens of Ohio, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were referred to the Committee on Public Lands.

Mr. CHANDLER presented five petitions of men and women of Michigan, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

Mr. DIXON presented a memorial of men and women of Connecticut, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which was referred to the select committee on slavery and freedmen.

REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the memorial of James R. Quinter, praying for compensation for services rendered in recruiting volunteers for the first District of Columbia regiment, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (H. R. No. 461) for the relief of John C. McConnell, reported adversely thereon.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the bill (H. R. No. 393) for the relief of Peter Navarre, reported adversely thereon.

Mr. HENDRICKS, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 60) to refer the case of James H. McCulloch to the Court of Claims, reported adversely thereon.

Mr. HOWE, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 61) referring the case of Charles Wilkes to the Court of Claims, reported adversely thereon.

Mr. COLLAMER. The Committee on Post Offices and Post Roads, to whom was referred the joint resolution (H. R. No. 93) to authorize the Postmaster General to extend the contract with the Overland Mail Company, have directed me to report it back with an amendment. If this resolution is to be passed at all it should be done at once; efficiency depends on its present passage. I am therefore directed to ask for its immediate consideration.

Mr. HALE. I object.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution cannot be considered at the present time.

W. B. MATCHETT.

Mr. HENDRICKS. The Committee on Claims, to whom was referred the joint resolution

(H. R. No. 47) for the relief of Rev. W. B. Matchett, have instructed me to report favorably; and as it is a trifling matter, I ask of the Senate the favor to consider it at the present time.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to direct the Paymaster General to adjust and pay to W. B. Matchett the amount due him as chaplain of the tenth regiment of New York volunteers from the time up to which he was last paid to the time the regiment was mustered out of service.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DISTRICT JUDICIAL FEES.

Mr. LANE, of Kansas. I move to reconsider the vote by which the bill (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia was passed.

Mr. TRUMBULL. I think that motion is too late.

The PRESIDENT *pro tempore*. The record shows that the time allowed by the rules for a reconsideration has elapsed, and the bill has gone to the House of Representatives.

LAND ENTRIES IN MISSOURI.

Mr. BROWN. I move to take up House bill No. 217, which has been pending for a long while. I have not troubled the Senate much, and I should be glad to have this bill passed.

The motion was agreed to; and the bill (H. R. No. 217) to confirm certain entries of land in the State of Missouri was considered as in Committee of the Whole. It proposes to confirm all entries heretofore made under the graduation act of August 4, 1854, in township forty-five north, of range nine west, south of Missouri river, in the district of land subject to sale at St. Louis. This confirmation is not to extend to any entry of land upon which there was an actual settler other than the purchaser at the date of such entry; and it is first to be shown to the satisfaction of the Secretary of the Interior that the entry was made in good faith, and is founded upon actual settlement and cultivation, or is for the use of an adjoining farm.

The Committee on Public Lands had reported the bill with an amendment, which was to insert the following proviso at the end of the bill:

Provided further, That the lands shall be paid for in money or in land warrants to the amount of \$1 25 per acre.

Mr. BROWN. I hope the amendment reported by the committee will not be agreed to, and I will state to the Senate the condition of the bill and of the lands mentioned in it. They were entries that were made under the graduation act, some half a dozen in a county in my State, but it was found afterwards that there had been some defect in bringing the lands into market; that is, they had not been enumerated, perhaps through some clerical error, and the parties who made those entries could not get a title in consequence. It is now proposed to confirm those entries. But the committee have reported that they shall pay the price of \$1 25 an acre as though the land had never been subject to the graduation law. While that might possibly be right technically, I think it would work an injustice to the parties and would not come within the meaning and the intent of the graduation act, for those lands had been there in that condition for a long time; they are just like all the other surrounding lands that have been taken up in this manner. It was simply a clerical error that was not discovered until after they had been occupied, and I do not think there is any need of insisting upon the amendment of the committee. The greatest objection, however, is that if the amendment of the committee obtains it will take the bill back to the House of Representatives and it will be lost for this session. It is one of those things where I think the merit is altogether on the side of the settlers who entered the lands in good faith, and it would be proper for the Senate to pass the bill as it stands. The Senator who reported this bill can state what the ground was upon which the committee acted. The Senator from Indiana I believe reported it.

Mr. HENDRICKS. Perhaps in reference to the amendment which the committee thought it proper to make to this bill it is right that I should

say a word. It was supposed that these lands had been offered at public sale in 1819, but upon an examination of the books of the General Land Office they did not agree with the books in the register's office in Missouri, and it was ascertained that they had not, in fact, been offered at public sale, and therefore were not subject to private entry, and not subject to the graduation law, and no steps have ever been taken by the General Land Office to bring them into market; therefore they were not in fact subject to the graduation entry, and the General Land Office would not confirm these entries. Under the circumstances the committee were of opinion that it would be favorable legislation to these parties to allow them to enter the lands at \$1 25 an acre and not subject them to competition at public sale, in view of the fact that they are actual settlers. It is not an amendment of much consequence, but any amendment at this stage of the session will endanger its passage in the other House. If the Senate think proper to allow the bill to pass without the amendment, I have very little concern about it. I thought the amendment was a proper one.

Mr. HARLAN. In order that this matter may be fully understood by Senators who have not examined the case, I think it ought to be stated that these lands were never in market; they were never subject to sale at public outcry to the highest bidder, nor were they subject to entry at \$1 25 an acre. They have not been offered at any time. They have been lying there until they were surrounded by settlements; but have been surveyed, and in other respects would be subject to the graduation law if they had once been offered. These parties now seek to enter them at twelve and a half cents an acre. It did not appear to the committee that those lands were embraced properly within the purview of the graduation law.

Mr. BROWN. I will state to the Senator that the lands were settled upon and occupied for some time under the impression that they came under the graduation law. It was only upon the discovery of this defect that application was made to Congress to correct the title.

Mr. HARLAN. But the graduation law was enacted originally on the ground that lands which had been in market and subject to sale at private entry for a series of years and had not been entered were probably lands of an inferior quality and would not sell at \$1 25 an acre. Hence they were graduated at \$1 75, fifty cents, twenty-five cents, and twelve and a half cents, depending on the number of years they had been exposed to sale at \$1 25 an acre and had remained unsold. These lands never were subjected to that test. If the amendment proposed by the committee should prevail, it would confer on these parties the right of preëmtors, the right to take them at \$1 25 an acre without involving the necessity of competing in the market with other parties who might be willing to give more than \$1 25 an acre. No facts came to the knowledge of the committee to justify them in the conclusion that these lands were not worth \$1 25 an acre. The lands have been kept in the nature of a reservation; have been excluded from sale, and hence I am very clear in my own mind that they ought not to be sold at twelve and a half cents an acre, and that it is a favor to the parties to permit them to enter them as preëmtors at \$1 25 an acre.

Mr. BROWN. I think the Senator from Iowa is mistaken as to the value of the lands and as to the fact of their being held as a reservation. It was simply a defect that amounts to a reservation; it was not the idea in which they were held, because they are just like all the surrounding lands which were occupied, and it was simply a clerical error by which they were not. They have been occupied now under the graduation bill; and under the idea that this was the case the parties ask simply to have this error corrected and their entries confirmed. I am more desirous that the amendment shall not be put upon the bill because it amounts to a very trifling sum, and it may defeat the bill if it goes back to the House of Representatives. It is a long-delayed act of justice to these parties in which their titles are involved. They are poor persons, and I am anxious to get the matter settled for them.

Mr. HENDRICKS. Perhaps it is right that I should say, in connection with the remarks of the Senator from Missouri, that the settlers acted upon the information that they derived from the

books of the local land office. The books of the local land office showed a public sale, but the books in the General Land Office showed the fact that they had not been offered at public sale, and the settlers acted on the information they derived from the local office.

Mr. HARLAN. It will be observed that this is a general bill and it may embrace any quantity of land. It is not confined to the few cases the Senator from Missouri has in his mind, but is a general law and may sweep thousands and tens of thousands of tracts of land in its purview.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Public Lands.

Mr. HARLAN. I ask for the yeas and nays. The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 17; as follows:

YEAS—Messrs. Anthony, Carlile, Chandler, Clark, Davis, Doolittle, Foot, Foster, Hale, Harlan, Harris, Hendricks, Hicks, Johnson, Morgan, Sprague, Ten Eyck, Trumbull, and Van Winkle—19.

NAYS—Messrs. Brown, Buckalew, Conness, Dixon, Grimes, Howe, Lane of Indiana, Lane of Kansas, Nesmith, Powell, Ramsey, Richardson, Riddle, Saulsbury, Wade, Willey, and Wilson—17.

ABSENT—Messrs. Collamer, Cowan, Fessenden, Harding, Henderson, Howard, McDougall, Morrill, Pomeroy, Sherman, Sumner, Wilkinson, and Wright—13.

So the amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

AGRICULTURAL REPORT.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That twenty thousand copies of the report on agriculture be printed for the use of the Senate.

C. W. SCOFIELD'S COURT-MARTIAL.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to transmit to the Senate copies of the proceedings and findings in the case of C. W. Scofield, a naval contractor, before a naval court-martial now or lately in session in the city of New York.

ARMY NEWS.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the War Department:

WAR DEPARTMENT,

June 17, 1864, 9 o'clock a. m.

SIR: The following dispatches have been received by this Department:

CITY POINT, VIRGINIA, June 15,

via JAMESTOWN ISLAND, 5.30 a. m. June 16, 1864.

Smith with fifteen thousand men attacked Petersburg this morning. General Butler reports from his observatory near Bermuda Hundred that there has been sharp fighting, and that the troops and trains of the enemy were, as he writes, moving across the Appomattox as if retreating. Hancock is not near enough to render General Smith any aid. The Richmond papers have nothing to indicate a suspicion of our crossing the James river. They expect to be attacked from the direction of Malvern Hill.

CITY POINT, VIRGINIA,

June 15, 1864, 7.30 p. m.

Our latest report from Smith was at 4.04 p. m. He had carried a line of intrenchments at Beatty's House, the colored troops assaulting and carrying the rifle-pits with great gallantry, but he had not yet carried the main line. He describes the rebel artillery fire as very heavy. He expected to assault this line just before dark. Hancock is within three miles of Smith.

CITY POINT, VIRGINIA, 7 a. m., June 16, 1864,
via JAMESTOWN ISLAND, 11.45 a. m.

At 7.20 p. m. yesterday, Smith assaulted and carried the principal line of the enemy before Petersburg, taking thirteen cannon, several stands of colors, and between three and four hundred prisoners. This line is two miles from Petersburg. Hancock got up and took position on Smith's left at 3 a. m. to-day. There was heavy firing in that direction from 5 to 6. No report yet.

DONTHARD LANDING, VIRGINIA,
1 p. m., June 16, 1864.

After sending my dispatch of this morning from the heights southeast of Petersburg, I went over the conquered lines with General Grant and the engineer officers. The works are of the very strongest kind, more difficult even to take than was Missionary Ridge, at Chattanooga. The hardest fighting was done by the black troops. The forts they stormed were, I think, the worst of all. After the affair was over, General Smith went to thank them and tell them he was proud of their courage and dash. He says they cannot be exceeded as soldiers, and that hereafter he will send them in a difficult place as readily as the best

white troops. They captured six out of the sixteen cannon which he took. The prisoners he took were from Beauregard's command. Some of them said they had just crossed the James above Drury's Bluff. I do not think any of Lee's army had reached Petersburg when Smith stormed it. They seem to be there this morning, however, and to be making arrangements to hold the west side of the Appomattox. The town they cannot think of holding, for it lies directly under our guns. The weather continues splendid.

CITY POINT, VIRGINIA, June 16, 4.15 p. m.,
via JAMESTOWN, 11.45 p. m.

General Butler reports from Bermuda Hundred that the enemy have abandoned the works in front of that place. His troops are now engaged in tearing up the railroad between Petersburg and Richmond.

The following dispatch does not designate the hour, but it is supposed to be later than the preceding ones:

JAMESTOWN, VIRGINIA, June 16, 1864.

I came down from the pontoon above Fort Powhatan with dispatches for Secretary Stanton. Just as I left Captain Pilkin reported to me that Petersburg was in our possession.

Nothing of a recent date has been heard from General Sheridan, but the Richmond Whig of the 15th contains a dispatch from General Lee stating that Sheridan had been routed in an engagement with Fitz Lee and Hampton, losing five hundred prisoners, and leaving his dead and wounded on the field.

From General Sherman, a dispatch dated last night at 9 p. m. has been received. It only states the relative position of the forces. No serious engagement had yet occurred.

Very respectfully, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. DANIEL CLARK,
President *pro tempore* United States Senate.

PUNISHMENT OF GUERRILLAS.

Mr. WILSON. I move to take up the House bill (No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes.

Mr. POWELL. I hope the Senate will not take up that bill this morning.

Mr. WILSON. We had it up yesterday morning.

Mr. POWELL. I desire to take up Senate bill No. 37, to prevent military interference with State elections. I have been trying now for two months to get it up. Sometimes I can be recognized by the Chair; at other times I cannot. I hope the Senate will not take up the bill proposed by the Senator, but will take up that bill. I will say to the Senate that I am willing to take a vote on it without one word of debate. It was up and discussed some four days two months ago. I have moved half a dozen times since to get it up, always without success. It is one of the most important bills on the Calendar.

Mr. WILSON. I will say we had this bill up yesterday morning, and it is an important bill. I am very anxious to have it settled one way or the other. It is a question of humanity.

The motion was agreed to; and the consideration of the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes, was resumed as in Committee of the Whole.

Mr. DAVIS. When this bill went over yesterday morning I was endeavoring to arrest the attention of the Senator from Maryland [Mr. Johnson] who had made some remarks upon it, with a view to get his particular attention to the character of the bill and to some objections which it was my purpose to make to it. It will be seen from the provisions of this bill that it is intended to punish guerrillas for "robbery, arson, burglary, rape, assault with intent to commit rape, and for violation of the laws and customs of war." These are heinous offenses that strike at the safety of society, and that ought to be certainly and severely punished. But, sir, they are not offenses "arising in the land or naval forces, or in the militia when in actual service in time of war or public danger." It is only offenses that are characterized by the words which I have just read that are amenable, or that can be made amenable, to courts-martial by martial law. The fifth amendment to the Constitution provides:

"No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger."

All the offenses which this bill proposes to declare and punish are either capital or they are otherwise infamous crimes. The question then occurs, do these offenses, as the bill under consideration proposes to define and punish them, arise in the military or naval service of the United States, or

in the militia when in actual service? They do not. They cannot. I suppose it is not our own guerrillas that are proposed to be punished. If it was, and those guerrillas were in the military service of the United States, or in the militia of any State in actual service, the power to try and punish them might be given to courts-martial; but I presume that this bill is intended to punish the guerrillas of the rebels; at any rate its terms will embrace guerrillas, if we can ascertain what a guerrilla is, in the service of the rebels.

Mr. President, the bill under consideration is subject to two insuperable objections in my opinion. The one was assumed by the Senator from Maryland yesterday morning in his objection to the bill, and it is the vague and indefinite import of the term "guerrilla." What is a guerrilla? I am not a Spanish scholar, but the term *guerrero* means warrior, according to my understanding. I suppose that "guerrilla" means a partisan warrior. That is about the best meaning of it I presume. Here is a bill before the Senate of the United States that proposes to punish guerrillas of the enemy—for I assume that to be the meaning—for the commission of robbery, arson, burglary, rape, assault with intent to commit rape, &c. These offenses when perpetrated by the guerrillas of the enemy, however wicked and deserving of punishment they may be, are not cases arising in the military or naval service of the United States Government, nor in the militia of any of the States in that service. Is it competent, then, for a military court to punish such offenses committed by that class of persons by martial law? Is it competent for Congress to confer upon a court-martial such a power? It seems to me that it is only necessary to state the proposition that it may be answered in the negative. Congress cannot confer any power upon a military court; Congress cannot add to the powers of a military court; Congress cannot extend the jurisdiction of a military court. The existence of military courts and all their jurisdiction result from the Constitution and from national law.

Mr. TRUMBULL. Will the Senator from Kentucky allow me to ask him a question?

Mr. DAVIS. Certainly.

Mr. TRUMBULL. I understand the Senator from Kentucky to be arguing as to the jurisdiction of these courts. Now, his argument may or may not be a very good one; but I am quite sure that the bill under consideration confers no jurisdiction whatever to try any case. It does not propose to do it. It is not a bill for that purpose. The object of the bill is merely to allow the sentence pronounced by a court-martial to be carried into execution without its being approved by the President, but it does not confer on a court-martial any jurisdiction, nor purport to do it.

Mr. DAVIS. Mr. President, what is a more important constituent in the jurisdiction of a court than the execution of its judgments and sentences? My position is, that if this bill is intended to confer upon the courts the power to execute their sentences without the intervention or approval of the President, it is a subject over which Congress has no cognizance. What power has the President over the subject of courts-martial, and whence does he derive that power? Not from the legislation of Congress. All the power that he possesses in relation to courts-martial and their jurisdiction and their judgments and sentences, he derives from national law, to the extent and only to the extent that that power of national law is vested in him by the Constitution; and Congress has no authority whatever to enlarge or to modify either the jurisdiction and power of the courts, or to modify or restrict the power of the President over courts-martial.

Now, let me accept the interpretation of the honorable Senator, the chairman of the Committee on the Judiciary, in relation to what is the intention and what is to be the operation of this bill. It then resolves itself into this simple question: has Congress the power by its act or its law to authorize a court-martial to execute a sentence upon an individual over whom it has or has not jurisdiction without the intervention of the President?

Mr. TRUMBULL. That has been done from the foundation of the Government in a certain class of offenses. The law has designated what cases should be reported to the Commander-in-Chief, as

I understand, and what might be carried into execution without reporting to him. It has always been so, I think.

Mr. DAVIS. Whether it has been always so or not, it is improper. It is not within the competency of Congress to interfere with that matter. Show me the evidence. I do not care if there were a hundred laws to that effect, I maintain that it is an interference with a matter over which Congress has no authority whatever.

Sir, whence does the President derive his power in relation to courts-martial? Does he derive it from the law of Congress? Not at all. Congress has no jurisdiction over such subjects. It has no power to enlarge the authority of the President; it has no power to restrict the authority of the President. But here is an objection which I take to this bill that is practical, and that is of essential interest in connection with it, and it is that a court-martial cannot have properly any jurisdiction to try a guerrilla for robbery, or arson, or burglary, or any other offense, unless that offense arises in the military or naval service of the United States. Will the honorable Senator from Illinois, the chairman of the Committee on the Judiciary, will that honorable Senator, who is one of the ablest lawyers in this body, assume the position that a court-martial have a right to try any man for any offense that does not arise in the military or naval service?

Mr. TRUMBULL. If the Senator from Kentucky will allow me, I will state that in 1806 the Congress of the United States revised the rules and articles of war. It was a reenactment pretty much of the rules as they before existed, and in this respect I think it will be found entirely so. Article sixty-five provides who may carry into effect the decisions of courts-martial; it provides:

"Any general officer commanding an army, or colonel commanding a separate department, may appoint general courts-martial whenever necessary. But no sentence of a court-martial shall be carried into execution until after the whole proceedings shall have been laid before the officer ordering the same, or the officer commanding the troops for the time being; neither shall any sentence of a general court-martial in time of peace, extending to the loss of life, or the dismissal of a commissioned officer, or which shall, either in time of peace or war, respect a general officer, be carried into execution until after the whole proceedings shall have been transmitted to the Secretary of War, to be laid before the President of the United States, for his confirmation or disapproval and orders in the case. All other sentences may be confirmed and executed by the officer ordering the court to assemble, or the commanding officer for the time being, as the case may be."

The Senator wanted the evidence that the decision of courts-martial were carried into effect without the approbation of the President. It has been the rule of law and the practice of the Government from the day of its organization.

Mr. DAVIS. Now, sir, concede that I am right and the Senator is wrong on that point—

Mr. TRUMBULL. I do not concede that. I concede you are wrong and I am right.

Mr. DAVIS. I put the cart before the horse. [Laughter.]

Mr. TRUMBULL. You have done that all the way through your argument. You have been arguing something that is not in the bill.

Mr. DAVIS. Now I will endeavor to put the horse before the cart, and I ask the honorable Senator's attention. The Constitution invests Congress with power "to make rules for the government and regulation of the land and naval forces." Now admit that there is authority for the passage of such a law as the Senator has just read, I ask him if it authorizes the passage of this bill? What is this bill? I ask the Senator to answer me this question: has a military court the power under any law, whether it be national law or the articles of war passed by Congress, to punish a man for any offense that does not arise in the military or naval service of the Government of the United States?

Mr. TRUMBULL. I will reply very cheerfully to the question of the Senator from Kentucky when we propose to pass any such law. I have already stated to him that there is not in this bill one single line or word authorizing the trial of anybody. It merely provides for the execution of the judgment of a court-martial or a military commission in cases where they heretofore have had authority to try. It confers no jurisdiction. The military commission or the court-martial under this bill can try no case whatever, either in the military service or out of the military service, that it could not try before the pas-

sage of this bill. There is the answer to the question. The Senator from Kentucky is talking about what is not before the Senate. He had better introduce a bill to repeal some other law, and then his argument would be applicable, but it has nothing to do with this case.

Mr. DAVIS. The honorable Senator evades my question, he does not answer it.

Mr. TRUMBULL. I do not propose to answer a question that is not under consideration.

Mr. DAVIS. I will show that it is under consideration, and it is necessarily involved in the consideration of this bill. I understand the Senator, then, as conceding, though I may be mistaken in assuming that position, that no court-martial in the United States has any power to try a man for a capital or otherwise infamous crime, unless it arises in the land or naval forces, or in the militia in the actual service of the United States in time of war or public danger.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Senator will excuse the Chair; it becomes his duty at this hour to call up the unfinished business of yesterday.

Mr. WILSON. I hope the Senator will be allowed to go on for a few minutes. I desire to dispose of this bill.

Mr. DAVIS. I prefer to go on, if the Senate will permit me. I shall not occupy a great deal of time.

Mr. FESSENDEN. I cannot tell how long my honorable friend from Kentucky intends to continue his remarks, and I do not want the regular order delayed for any considerable time.

Mr. DAVIS. I do not propose to consume many minutes.

Mr. JOHNSON. There is something else to be said.

Mr. FESSENDEN. I understand there is to be further debate on the subject. I think we had better go on with the regular order. I am very anxious to finish the tariff bill to-day, and it is quite important that it should be done if possible.

Mr. DAVIS. I submit myself to the pleasure of the Senate.

THE TARIFF BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 494) to increase the duties on imports, and for other purposes.

The next amendment of the Committee on Finance was after "Cologne water" in line forty-two of section eleven to insert the words "and other perfumery of which alcohol forms the principal ingredient;" so as to make the clause read:

On Cologne water and other perfumery of which alcohol forms the principal ingredient, \$2 50 per gallon, and 50 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was to strike out line forty-five of section eleven: "On cloves, 40 cents per pound."

The amendment was agreed to.

Mr. FESSENDEN. I move to amend the bill by inserting at that point: "On clove stems, 15 cents per pound."

The amendment was agreed to.

Mr. FESSENDEN. I move to strike out line fifty-six of that section. Provision has been made for it elsewhere.

The words proposed to be stricken out are: "On lead, sugar of, 10 cents per pound."

The amendment was agreed to.

The next amendment of the Committee on Finance was after the word "juice," in line fifty-eight of section eleven to insert "and fruit juice;" so as to make the clause read:

On lemons, oranges, pine-apples, plantains, cocoanuts, and fruits preserved in their own juice, and fruit juice, 25 per cent. *ad valorem*.

The amendment was agreed to.

Mr. FESSENDEN. In the next two lines, the committee propose an alteration. After the word "or" in line sixty-one, I move to strike out the words "juice, 10 cents per pound; on licorice in rolls, 12," and insert "rolls, 10;" so as to make the item read: "On licorice root, 2 cents per pound; on licorice paste or rolls, 10 cents per pound."

The amendment was agreed to.

The next amendment of the Committee on

Finance was in lines sixty-three and sixty-four of section eleven, to strike out "On nutmegs, 75 cents per pound; on mace, 50 cents per pound."

The amendment was agreed to.

The next amendment was in section eleven, lines sixty-five, to change the word "oil" to "oils;" after "castor," in line sixty-six, strike out "oil," and in line sixty-eight to strike out "pound" and insert "ounce;" so as to make the clause read:

On oils, croton, \$1 per pound; olives, in flasks or bottles, and salad, \$1 per gallon; cloves, \$6 per pound; cognac or anethic ether, \$4 per ounce.

The amendment was agreed to.

Mr. FESSENDEN. The largely increased duty on cloves having been struck out it will be necessary to change the duty on the oil of cloves as fixed in the item just acted on. I move, therefore, in line sixty-seven, to strike out "6" and insert "3," so as to make the duty on the oil of cloves \$3 per pound.

The amendment was agreed to.

The next amendment of the Committee on Finance was in line sixty-nine of section eleven to strike out "4" and insert "2;" and in line seventy to strike out "6" and insert "3;" so as to make the clause read: "On pea-nuts, or ground beans, 2 cents per pound; shelled, 3 cents per pound."

Mr. SUMNER. I certainly do not wish to enter into this pea-nut war that has been raging for several days about the Capitol, but I long since learned that we here do not choose our duties. A large number of my constituents are interested in this trade, some of whom have called on me and others have written. I have here half a dozen communications on the subject. After gathering all the information that I have been able to gather, I am entirely satisfied that the duty proposed by the House of Representatives was a killing duty, and I incline to the opinion that though the case is improved by the amendment of the Committee on Finance, still their proposition is almost a killing duty.

This is a small article, however, and the time that is taken up by the Senate to discuss it will cost the country almost as much as we shall gain by the proposed duty; but still to these people it is important. "There are one or two houses in Boston at this moment who will suffer very seriously if the duty proposed by the committee is adopted. They have cargoes afloat which have been ordered under the old duty, and in their opinion the article cannot pay the new duty and be reasonably productive."

I said that it was a small article. We all know that it is an article that is chiefly for the poor and the humbler classes. It is rarely met with on the tables of hotels and in society, but it is met with at the corners of streets. It is very generally used in that way, and it is also used to make an oil. I have been led to believe that a duty of 1 cent a pound on the pea-nut itself and of 1½ cents on the shelled would be on the whole best for the Government and for the importers; best for the Government, because in that way we should upon the whole get the most money; and best for the importers, because in that way the trade would not be broken up or discouraged. I fear that if even the tax proposed by the committee should be adopted the trade itself would be broken up. One consequence would ensue at once, that we should no longer be able to send our goods to Africa in exchange. We do not pay for these articles in gold, but we send to Africa productions of our country, and all that is so much clear gain to our commerce. By having the high duty you do interfere with our commerce, and I fear, also, you will interfere with the revenue itself. I therefore propose to make a modification of the amendment by reducing 2 to 1 and 3 to 1½.

Mr. FESSENDEN. All I have to say about it is that we heard these people by their delegates on the subject of pea-nuts at length, both in writing and verbally, and we came to the conclusion to reduce the duty to one half that fixed by the House of Representatives, and we thought that would be about right.

Mr. VAN WINKLE. This is an article which is produced very largely in this country. A great proportion of the supply was drawn from the State of North Carolina before the rebellion. It can be produced there and in other southern States.

In fact, I have grown these nuts in my own garden at Parkersburg. It is a considerable interest here and should be protected, I think, against the imported article, which is of inferior quality. In fact, in former years quantities of these nuts were exported from this country. They were sent to France, as I understand, for the purpose of extracting the oil from them. These imported nuts also enter into competition with various other kinds of nuts that are produced here, and there is no reason that I can perceive why a discrimination should be made, why this article of home production should not be protected as well as many others, and also why a revenue should not, under present circumstances, be derived from it. I understand that the African trade generally is now in the hands of Englishmen; they do the carrying trade in English bottoms; and if articles are sent there in exchange they are probably sent on foreign account. They send to Africa, for the palm oils, pea-nuts, and other articles that they bring from there, English cotton manufactures and not our own. The proposed duty, I think, is not excessive, nor do I think it is out of range with many other duties imposed by the bill. The raising of nuts is a considerable interest here. As I have already stated, the article is largely, and can be still more extensively, produced in this country. It therefore seems to me that it falls under the category of goods which ought to be protected to a sufficient extent.

Mr. JOHNSON. Will the Senator from Massachusetts tell me what pea-nuts and ground-beans sell for now? The importation I am told is a large business in Massachusetts. Are they sold by the pound?

Mr. SUMNER. They are sold generally by the bushel, I understand, except at the street corners, where the Senator knows they are sold in small quantities.

Mr. JOHNSON. Are there any grown in Massachusetts?

Mr. SUMNER. None that I am aware of.

Mr. JOHNSON. I am satisfied.

Mr. SUMNER. I will observe in reply to the Senator from West Virginia who alludes to the fact that pea-nuts are the growth of North Carolina, that we are not now, in the present condition of the country, able to receive any from North Carolina. We are now dependent upon the African trade for them. He then reminds us that the African trade is in the hands of the English. Let me tell him that there is a very considerable African trade now conducted from Salem, Boston, and New York. Interrupted it has been by pirates, but it still goes on. I do not wish to take up time on this matter, for, as I have already said, the discussion costs more than the tax will bring; but I am satisfied from the papers I have examined that the tax proposed by the committee is too much and cannot be advantageous to the Government.

The PRESIDING OFFICER. (Mr. POMEROY.) The question is on the amendment of the Senator from Massachusetts to the amendment of the Committee on Finance.

The amendment to the amendment was rejected.

The amendment of the committee was agreed to.

The next amendment of the committee was to strike out lines seventy-six, seventy-seven, and seventy-eight of section eleven, "On pimento, and black, white, and red cayenne pepper, 20 cents per pound; on ground pimento and pepper of all kinds, 25 cents per pound."

The amendment was agreed to.

Mr. FESSENDEN. After "acid," in line eighty-two, I move to insert "and gallic acid;" so as to make the clause read, "On tannin and gallic acid, and gallic acid, \$1 50 per pound."

The amendment was agreed to.

The next amendment of the committee was to insert after line eighty-seven of section eleven, "On crude saltpeter, 2½ cents per pound."

The amendment was agreed to.

The next amendment was after line eighty-eight of section eleven to insert, "On strychnine and its salts, \$1 50 per ounce."

The amendment was agreed to.

The next amendment was in line ninety of section eleven to strike out "25" and insert "30;" so as to make the item read, "On tagger's iron, 30 per cent. *ad valorem*."

The amendment was agreed to.

The next amendment was to strike out the following item in lines ninety-three and ninety-four of section eleven: "On zinc, oxyd of, dry or ground in oil, 2 cents per pound."

The amendment was agreed to.

The next amendment was in line ninety-eight of section eleven, to strike out "25" and insert "35;" so as to make the clause read:

On wood pencils, filled with lead or other materials, 50 cents per gross, and in addition thereto 35 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was to add to section five:

On playing cards, costing not over 25 cents per pack, 25 cents per pack; costing over 25 cents per pack, 35 cents per pack.

Mr. DIXON. I move to amend the amendment of the committee by striking out "25" in the first item and inserting "20," and by striking out "35" in the second item and inserting "25."

Mr. FESSENDEN. I should like to have the Senator give some reason for that proposition.

Mr. DIXON. I think the duty as fixed by the committee is prohibitory. I think more money will be obtained by the Government by fixing it at 20 cents for the cheaper kind and 25 cents for that costing over 25 cents per pack. That is the reason of my motion.

Mr. FESSENDEN. The internal revenue duties fixed on playing cards at first were 2, 4, 10, and 15 cents, according to their price, and 5 cents on fractional differences. We have raised the 2 to 5, the 4 to 10, the 10 to 15, and the 15 to 30. That is a very large increase. The duties on the imported article before were 15 cents for those costing under 25 cents a pack. We have raised that to 25 cents, and where the existing duty is 25 cents we have raised it to 35. The increase of duty in the tariff does not bear the same proportion as the increased duty which we have laid on the domestic article. I see no reason, therefore, for interfering with the proposition of the committee.

Mr. DIXON. I do not believe that the kind of cards costing not over 25 cents a pack will be imported at all if the duty be put at 25 cents. If the object is to get revenue, the duty had better be lowered. If the object is prohibition and to encourage the domestic article, that is another matter.

Mr. CLARK. We have increased the tax both on the foreign article and the domestic article. I take it that whatever the tax may be there will not be many the less cards used. If we do not get the duty on the foreign article we will get it on the domestic, and if not on the domestic we will get it on the foreign. The committee adjusted the one to the other, and I think we had better let the matter stand as they have adjusted it. If any change be made, it seems to me the duty should be higher.

The amendment to the amendment was rejected. The amendment of the committee was agreed to.

The next amendment was in lines twelve and thirteen of section thirteen, to strike out "manufactured, 25," and insert "unmanufactured, 30;" so as to make the clause read:

On cork, bark or wood, unmanufactured, 30 per cent. *ad valorem*. On corks and cork bark, manufactured, 50 per cent. *ad valorem*.

The amendment was agreed to.

Mr. FESSENDEN. I move to strike out the provision in regard to furs in the fifteenth and sixteenth lines of the thirteenth section, and in lieu of it to insert:

Flatters' furs not on the skin, dressed furs on the skin, 25 per cent. *ad valorem*; furs on the skin, undressed, 10 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment of the Committee on Finance was in line twenty of section thirteen, to strike out "35" and insert "40;" so as to make the clause read: "On gutta percha, manufactured, 40 per cent. *ad valorem*."

The amendment was agreed to.

The next amendment was after "dollar," in line thirty, to strike out "25 cents," so as to make the duty on "marble, white statuary, brocatella, sienna, and verd antique, in block, rough or squared, \$1 per cubic foot, and in addition thereto 25 per cent. *ad valorem*."

The amendment was agreed to.

The next amendment was in line forty-three of

section thirteen to strike out "2 cents" and insert "1 cent," so as to make the clause read: "On palm-leaf fans, 1 cent each."

The amendment was agreed to.

The next amendment was in section thirteen, line forty-six, after "porcelain" to insert "lava," after "pipes" in line forty-seven to insert "and pipe-bowls, not herein otherwise provided for," and in line forty-nine to strike out "50" and insert "75," so as to make the clause read:

On meerschaum, wood, porcelain, lava, and all other tobacco-smoking pipes and pipe bowls, not herein otherwise provided for, \$1 50 per gross, and in addition thereto 75 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in line fifty of section thirteen, after "stems" to insert "tips;" in line fifty-two after "fixtures" to insert "and all smoker's articles," and to strike out "100" and insert "75," so as to make the clause read:

On pipe cases, pipe stems, tips, mouth-pieces, and metallic mountings for pipes, and all parts of pipes or pipe-fittings, and all smoker's articles 75 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment was in line fifty-four of section thirteen to strike out "pipe" before "tips," and insert "pen," so as to make the item read: "On pen-tips and pen-holders, or parts thereof, 35 per cent. *ad valorem*."

The amendment was agreed to.

The next amendment was to insert at the end of section thirteen: "On rice, cleaned and uncleaned, 2 cents per pound; on paddy, 1 cent per pound."

The amendment was agreed to.

The next amendment was in section eighteen, line two, to strike out "aforesaid" and insert "this act shall take effect."

The amendment was agreed to.

The next amendment was in section eighteen, lines five, six, and seven, to strike out "silk, raw or unmanufactured, or not more advanced in manufacture than singles, tram, thrown, or organzine," and insert "raw cotton," so as to make the section read:

SEC. 18. And be it further enacted, That on and after the day and year this act shall take effect there shall be levied, collected, and paid on all goods, wares, and merchandise of the growth or produce of countries east of the Cape of Good Hope, (except raw cotton,) when imported from places west of the Cape of Good Hope, a duty of 10 per cent. *ad valorem*; in addition to the duties imposed on any such articles when imported directly from the place or places of their growth or production: *Provided*, That section three of the act approved August 5, 1861, entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," and section fourteen of the act approved July 14, 1862, entitled "An act increasing temporarily the rates of duties on imports, and for other purposes," be, and the same are hereby, repealed.

Mr. TEN EYCK. I have received a letter on this subject to which I desire to call the attention of the Senate, and as the letter states the matter much better than I can I will read it. My objection is to striking out that portion of this exception which applies to "silk, raw or unmanufactured, or not more advanced than singles, tram, thrown, or organzine." The letter to which I have referred refers to the section as it passed the House of Representatives, and claims that that is right. It says:

"The Senate Finance Committee have reported an amendment to the 'tariff bill' as passed by the House, to make 'tram and organzine in gum pay 10 per cent. additional duty, being shipped from countries this side of the Cape of Good Hope,' the raw material being a growth of countries beyond the Cape of Good Hope. We have been struggling hard for the past three years to manufacture 'bonnet ribbons' in this country, and have succeeded in making them equal in quality to foreign ribbons; but labor being so much lower in England, France, and Switzerland, we cannot compete in price. There are now some twenty ribbon manufacturers in America. If you put this additional duty on tram, organzine, and spun silk, you will ruin every one of us. We pray you to pass the bill as it came from the House, and in a few years you will find thousands of foreign weavers will come to this country, and we shall be able to produce all the ribbons and silk piece goods required for home consumption."

This letter comes from New York from parties with whom I am not familiar and of whom I have no knowledge; but from the facts stated here, it would seem that the section should stand as it was framed by the House of Representatives. I believe the Senator from New York has also some information on this subject, and is in favor of the section as it came from the other House. Under these circumstances I ask that the amendments proposed by the committee be not concurred in. This is a very inferior kind of article, I understand;

it is generally the waste of another kind of article, the silk in the gum, or a portion of it is; and if this amendment be adopted it will be subject to a duty of 10 per cent., and the manufacture of ribbons made from this article will be interrupted and the business ruined in this country.

Mr. HARRIS. I also am opposed to the amendment proposed by the Finance Committee so far as it proposes to strike out the exception made by the House of Representatives. That portion of the amendment which proposes to add "raw cotton" to the exception I have no objection to. Indeed I am in favor of that. I understand that there are in this country now quite a number of silk manufactories; that that kind of manufacture has been growing, increasing in the country; that it is yet in its infancy, that it has to struggle hard with foreign competition. Now it is proposed to place upon the raw silk, the article that they use in their manufactures, a duty of 10 per cent. It is 10 per cent. when imported from England, in fact, and not when imported from beyond the Cape of Good Hope. In fact practically it is 10 per cent. upon the importation of the article. These manufacturers cannot import it from beyond the Cape of Good Hope, and do not. They go to England for their stock. Here is a duty of 10 per cent. imposed upon the raw material that they use in this manufacture. If its effect should be, as I apprehend it may be, to stifle, to crush, to destroy these factories, the Government will be the loser by it. If we allow these factories to go on, if they can be sustained, if they can import this raw material and work it up, they will pay an internal duty of 5 per cent. on their manufactures and we shall get much more by that duty than we shall if we stop these factories or cripple their interests so that they cannot go on. In my judgment, it will be wise, the Government will increase its revenues, to abandon this proposition to put a duty of 10 per cent. upon the raw silk imported.

Mr. CLARK. I think, from the remarks of the Senator from New York and also those of the Senator from New Jersey, they have not considered another interest that there is in the country, and that is the manufacture of this raw silk. If you allow it to come in free from duty you strike at the manufacture of it in this country, which is a large interest. The committee desire to protect both. They desire to put a protection upon the manufacture of raw silk and also on the manufacture of ribbons. The manufacture of the lower kinds of raw silk has gained a considerable foothold, such as would come in under this duty. We had deputations from both branches before us, and while the ribbon manufacturers said they would be stricken down without protection, the silk manufacturers said they would be stricken down unless they were protected. The true way is to lay such a duty as will protect the domestic manufacture against the foreign, and then put an additional duty on the foreign article so as to protect the ribbon manufacturer and let him make ribbons. If Senators will turn their attention to page 26, section eight, they will find that we have already laid a duty of 60 per cent. *ad valorem* on ribbons. That would seem to be enough to protect the ribbon manufacturers in this country. If it is not, the committee will have no objection to make it more.

Mr. HARRIS. The factory that I more particularly know about, is one engaged in importing this raw silk and manufacturing it into patterns.

Mr. CLARK. But then it comes directly in competition with the man who manufactures the raw silk in this country. The ribbon manufacturers also are opposed to the duty, because they want to import the article and make it into ribbons. It is necessary to impose your duty so as to protect them all around. There is another consideration, that if you strike out this exception you encourage our people to import directly from beyond the Cape of Good Hope, and you do not give a protection to those who take the articles from that region into England and other countries and then bring them here. It is very true that our commerce is swept away from those seas to a very great extent now, but the principle is an important one.

Mr. HARRIS. The manufacture is not extensive enough to justify the manufacturers to import from Asia

Mr. CLARK. And yet it may under the fostering care of Congress grow up to be a very large manufacture. So with many foreign wools introduced. We should encourage the direct importation. Now our foreign wools are brought through England to a large extent, but we hope that by and by our interest will be so great that we shall encourage the direct importation.

Mr. HARRIS. I am very much afraid that this will add 25 per cent. and stop the silk manufacturers. The 10 per cent. duty at the present price of gold is equal to 20 per cent. on the importation, and the importers of course will add 5 per cent.

Mr. CLARK. Does the Senator desire to break down those who manufacture the raw silk in this country?

Mr. HARRIS. I do not understand that there is much of it.

Mr. CLARK. Not a very large amount, but it is growing into quite a business.

Mr. HARRIS. My apprehension is that if you add 25 per cent. to the cost of the raw silk imported you crush those who use it as the raw material of their manufacture in this country.

Mr. CLARK. Undoubtedly we do add something, and we do it for the purpose of protecting our own manufacturers.

Mr. TEN EYCK. I think the Senator from New Hampshire designs to do the same thing that I desire to do, to protect the manufacturer of this raw silk. Now, I understand that it is to be done in just this way: by striking out this amendment of the Finance Committee. The manufacturers who use this raw material say that London is the great center for it, that five sixths of all the raw silk that is manufactured in this country has to be procured in London, that it cannot be obtained beyond the Cape of Good Hope in sufficient quantities to answer the demands of the manufacturers. The consequence is that this duty will debar them from having an opportunity of acquiring this material free of duty, and the Senator from New Hampshire by insisting on this amendment is actually crippling the very business that he designs to aid and protect—this young silk manufacture in this country. I am informed by gentlemen of high intelligence engaged in this business that upon this class of material they do not want discrimination, but the very same men ask for the duty on other silks imported which the Finance Committee have conceded to them. They are the identical persons engaged in the same business. I hope the committee will not insist upon their amendment to this section; but if they are not satisfied they can look further into the subject, and we can alter the provision when the bill comes into the Senate.

Mr. CLARK. If we make no amendment but agree to the section as it comes from the other House, the question will be beyond the power of further consideration. Undoubtedly what the Senator from New Jersey says would be true if there were but one variety of manufacture; then they would desire to have their raw material free of duty that they might manufacture it; but there are manufacturers that need protection as well, and so it becomes necessary to protect the whole. It is very similar to the matter of railroad iron.

Mr. FESSENDEN. I think this matter is hardly understood. It will be noticed that for several years our policy has been as a general rule to levy 10 per cent. additional duty upon goods coming from beyond the Cape of Good Hope, when they are imported into this country from places this side of the cape. The English having the ability to import perhaps at a cheaper rate than we can import these eastern articles, our merchants and manufacturers get them from England. To encourage direct importations and the use of our own ships, we have provided heretofore that on all articles the production of countries beyond the Cape of Good Hope 10 per cent. additional duty should be levied when they were imported from places this side of the cape. That operates precisely in the way it was designed to operate; but with reference to two or three articles there have been exceptions. One is this raw silk, and the committee propose to except raw cotton. The importation of raw cotton is not very large, but in the present wants of the manufacturers it is deemed advisable to allow it to be imported without the additional duty.

The 10 per cent. additional which is put on

here is a protection by so much to the silk manufacturers in this country. If we should not make the exception of raw silk, they would have to pay 10 per cent. additional if they chose to deal with England; but by making the exception they get it from England of course without the additional duty. Those who manufacture a certain class of articles are anxious that the exception should continue; but the mercantile interest, on the contrary, is desirous that the exception should not be made. The duty on these articles of which we have been speaking was 25 per cent. Calculating this 10 per cent. additional as so much protection, it would bring it to 35 per cent., but at their suggestion we raised the 25 per cent. to 40 per cent., adding 15 per cent. to the duty by way of protection. They are very anxious in addition to be relieved of the 10 per cent.

The committee on looking at it thought the exception should not be continued. They did not feel particularly anxious, to say the truth, to give English merchants, under existing circumstances, any advantages which we were not required to give for our own interest. We deemed it wise to increase the duties and strike out the exception. The ribbon manufacturers complain, I know; but I do not see how they can reasonably do so, having 60 per cent. protection by the bill on all manufactures of silk not otherwise enumerated. At present the general rate is about 35 per cent., and we have raised it to 60. As we did that, it seemed to me that this exception might very well be struck out. As we have increased the duty on the particular article from 25 to 40 per cent., I thought it would amount to protection enough. It will be of advantage to our trade to encourage as far as possible direct importations where we can do so without interfering with our own interests. It is, however, a matter upon which I have not any very strenuous opinion, and I believe the committee are in the same position. We thought it wisest under the circumstances to make the alteration here proposed and leave it open for consideration afterwards.

Mr. HARRIS. I agree with the Senator from Maine in his views so far as trade with England is concerned. I have no desire to encourage trade with that country any further than our own interest will be promoted by it. In relation to this particular article my conviction is that the manufacturers at present will have to get their stock from England, that the trade is not large enough to justify them in attempting to import directly from beyond the Cape of Good Hope. I am sure that the stock of raw silk for these little manufacturing establishments will have to be ordered directly from England. I am not sure but that the views expressed by the Senator from Maine in relation to it are correct. My belief is, however, that it will operate very severely and very unjustly on these silk manufacturers. Still, I am not disposed to press the matter further here, but I desire to ask the careful attention of Senators who will be engaged upon the committee of conference on this bill to this point. My impression is that the House of Representatives have got it right, and I desire that Senators who may be upon the conference committee shall give it their attention when they come to consider it hereafter.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Finance to the eighteenth section of the bill.

The amendment was agreed to.

The next amendment of the Committee on Finance was in line three of section nineteen to strike out the word "aforesaid" and insert "this act shall take effect;" so as to read:

That all goods, wares, and merchandise which may be in the public stores or bonded warehouses on the day and year this act shall take effect shall be subjected, &c.

Mr. SHERMAN. I think those words, "on the day and year," should be stricken out, so as to read simply, "when this act shall take effect."

Mr. FESSENDEN. The language of the preceding sections is, "the day and year this act shall take effect."

Mr. SHERMAN. Are the new duties to be applied to the goods in warehouse after the day and year the act takes effect?

Mr. FESSENDEN. The act takes effect on a certain day, and it is to apply to everything that is there on that day.

Mr. JOHNSON. I ask the chairman if that will not apply to goods that are in bond and have

been there for some time before the passage of this act?

Mr. FESSENDEN. The provision is that goods in warehouse "shall be subjected to no other duty upon the entry thereof for consumption than if the same were imported respectively after that day." In fact it lessens the duty in a great many cases, because the 50 per cent. resolution increased the duty above this act. It is intended to bring everything within the operation of this act on the day it goes into effect.

Mr. JOHNSON. That I understand; but then goods in warehouse which were responsible only for the duties imposed at the time they were warehoused, and for which, therefore, a bond to that amount was given, will have to pay more, provided the tariff on that class of goods is increased by this bill.

Mr. FESSENDEN. Yes, sir; but the importer has an opportunity between now and then to take them out if he pleases.

Mr. JOHNSON. But the next section continues the joint resolution in force.

Mr. FESSENDEN. Only up to the time this act goes into effect. The importer can take them out under the joint resolution if he desires to do so.

Mr. JOHNSON. By paying 50 per cent. additional. When we come to that I shall have a word to say.

The amendment was agreed to.

The next amendment was after "1846," in line seven of section nineteen, to insert the words "or any other act," and after the words "fire-crackers," in line eight, to strike out "deposit" and insert "or prohibits their deposit;" so as to make the clause read:

And so much of the act of August 6, 1846, or any other act, as requires the sale of fire-crackers, or prohibits their deposit in bonded warehouse, is hereby repealed.

Mr. JOHNSON. Is it meant to authorize the deposit in bonded warehouses of fire-crackers?

Mr. FESSENDEN. That is the intention.

Mr. JOHNSON. Is there not some danger in that? It was prohibited by the act of 1846.

Mr. FESSENDEN. That was under the idea that there was danger; but they say there is not the slightest danger, and the evidence was conclusive to the committee on that point. There is very great inconvenience from the present law requiring them to be sold.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. — And be it further enacted, That on and after the day and year this act shall take effect, it shall be lawful for the owner, consignee, or agent of any goods, wares, or merchandise which shall have been actually purchased, or procured otherwise than by purchase, at the time when he shall produce his original invoice, or invoices, to the collector, and make and verify his written entry of his goods, wares, and merchandise, as provided by section thirty-six of the act of March 2, 1799, entitled "An act to regulate the collection of duties on imports and tonnage," and not afterwards, to make such addition in the entry to the cost or value given in the invoice as, in his opinion, may raise the same to the true market value of such goods, wares, and merchandise in the principal markets of the country whence they shall have been imported, and to add thereto all costs and charges which, under existing laws, would form part of the true value at the port where the same may be entered, upon which the duties should be assessed. And it shall be the duty of the collector, within whose district the same may be imported, or entered, to cause the dutiable value of such goods, wares, and merchandise to be appraised, estimated, and ascertained, in accordance with the provisions of existing laws. And if the appraised value thereof shall exceed, by 10 per cent., or more, the value so declared on the entry, then, in addition to the duties imposed by law on the same, there shall be levied, collected, and paid a duty of 20 per cent. *ad valorem* on such appraised value: *Provided*, That the duty shall not be assessed upon an amount less than the invoice or entered value, any law of Congress to the contrary notwithstanding: *And provided further*, That, on and after the day and year aforesaid, the eighth section of the act entitled "An act reducing the duty on imports, and for other purposes," approved July 30, 1846, and the act amendatory thereof, approved March 3, 1857, be, and the same are hereby, repealed.

Mr. JOHNSON. I should be obliged to the chairman of the committee if he would inform me whether the law now is not pretty much as it will be if this amendment be adopted. I speak from recollection merely; but it seems to me that it is but reenacting the present law, except so far as it repeals at the close a section of the act of 1846.

Mr. FESSENDEN. It makes a little more stringent provision in regard to the time when the correction shall be made, and increases the penalty, I think.

Mr. JOHNSON. I do not think it increases the penalty.

Mr. FESSENDEN. I think it does.

Mr. JOHNSON. I suggest to the honorable chairman that he will find in the act of 1799, perhaps, and in this provision, an apparent inconsistency which may give rise to some questions hereafter. As I read the section, speaking, as I repeat, from recollection, it seems to me very much a reenactment of the present law. Have the Treasury Department seen this section?

Mr. FESSENDEN. Yes, sir; it was drawn at the Treasury to make the law a little more stringent.

Mr. SUMNER. I confess myself unable entirely to see the full bearing of this, or its necessity, and I shall content myself now with making a statement from a gentleman than whom no one in the whole country is a better authority on the whole question; who can have no personal interest in it; a gentleman who in New England is most familiar with the operation of our revenue system, and with the practical construction of our laws. His remark on this provision is that it is "already substantially contained in the revenue laws, and useless, and will only cause litigation." I have not familiarity enough, I confess, with the old revenue laws to verify this statement.

Mr. FESSENDEN. I think the Senator refers to the section succeeding the one now under consideration.

Mr. SUMNER. I think the remark might have been applicable to both. It surely is to this. I quote it here that the committee may have the benefit of it. The gentleman speaking of it, I may say, is an authority. There is no one in the country whose acquaintance with the subject is greater than that of the gentleman I have now quoted. He does not go into any details, to be sure, but he has had occasion practically to become conversant with our revenue laws, and has been relied upon in the custom-houses at Boston and New York as no other man has for a long time.

Mr. FESSENDEN. I think the substantial operation of this section is to change the time when the invoice shall be corrected, and make it the time when the entry is made for duties.

Mr. SUMNER. In line nine of this section there is a reference to the act of March 2, 1799, which I understand is obsolete. I understand also that there is some other incongruity in the line that follows, by the introduction of the words "and not afterwards," but I have not been able to verify the statute myself. My attention was only called to this clause this morning.

The amendment was agreed to.

Mr. FESSENDEN. Before the next amendment is read I wish to make an alteration or two. In the first line the word "fixing" should be "determining," and in the third line, after the word "countries," the words "except as hereinbefore provided" should be inserted.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, was read as follows:

SEC. — And be it further enacted, That in determining the valuation of goods imported into the United States from foreign countries, except as hereinbefore provided, upon which duties imposed by any existing laws are to be assessed, the actual value of such goods on shipboard at the last place of shipment to the United States shall be deemed the dutiable value. And such value shall be ascertained by adding to the value of such goods at the place of growth, production, or manufacture the cost of transportation, shipment, and transshipment, with all the expenses included, from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made to the United States, the value of the sack, box, or covering of any kind, in which such goods are contained, commission at the usual rate, in no case less than 2½ per cent., brokerage, and all export duties, together with all costs and charges paid or incurred for placing said goods on shipboard, and all other proper charges specified by law.

Mr. SUMNER. That is clearly a very important change. It provides that the actual value of the goods on shipboard at the last place of shipment to the United States shall be deemed the dutiable value. That is a change, and I believe it will be found to be inconsistent with the part of the bill relating to wool, which especially provides for a different mode of valuation. It has already been established by judicial decisions that the dutiable value is the bare cost at the port of purchase. Under those decisions, as I under-

stand, it has been the habit to purchase Australian wool in quantities of four or five hundred bales, send it to London, and tranship it there, and that is because it would be too large a venture by the whole cargo to send it directly here. A full cargo would be worth \$500,000. Under the old system that was practicable. Fruits also are sent from Smyrna by steam to England and transhipped to get early into the market. Now, is the Senate disposed to make this change? Is the change sustained by sound policy? If it be, then of course it should be made. I do not myself at this moment appreciate the policy of the change. I should like to know what has influenced the committee to recommend it.

Mr. FESSENDEN. All the view we had was to fix the duty at the place where the article started on its journey to the United States, and to avoid the frauds, if you may call them frauds, the advantages that may be gained by shipping an article to one place, keeping it at that place, and then shipping it to the United States without adding the cost of transportation from the one place to the other. I drew this section on the suggestion of an appraiser, certainly one of the very best in the United States, who stated it ought to be done in accordance with the original intention when the law of 1846 was passed, and I drew it from the regulations under that law. When the law of 1846 went into operation, Mr. Walker issued his directions as to how the duties should be collected, and those directions were substantially as I have drawn this section; but under judicial decisions those directions could not be carried out according to the true construction of the act. My view was to control the decisions of the courts on that subject. The fact that we are interfering with judicial decisions amounts to nothing, because the judicial decisions simply show that we did not happen to accomplish what we intended by the act, and there is no great harm in our drawing another act to see if we can accomplish the purpose. The decision of the courts on one act is only a notification to us that we have not accomplished by that act what we designed to accomplish. My belief is that the operation of this section will be beneficial in defining exactly what is to go into the valuation at the foreign port where goods are shipped for the United States.

I was told this morning that substantially most of those things are included by the mode of proceeding at the custom-house; but the principle of taking the cost at the last port of shipment is not recognized. Take the case of goods imported from India into England, and there transhipped to this country. Where would you put the valuation? On the original cost in India or the valuation at the place where they are shipped to America? That is the question. The committee think it will be a useful change to require the duties to be levied upon the valuation at the last place of shipment.

In regard to the argument of the Senator in reference to wool, I believe wool has always stood on a different footing, and the reason why it stands so is that it is graded, and I have already put in this section the words "except as hereinbefore provided" with the very object of excepting wool from its operation, as I think it ought to be, for the simple reason that if this section applied to wool it would entirely change the grades fixed for wool in another part of the bill.

Mr. GRIMES. Does the Senator propose to establish the same rule in regard to the appraisement of wool?

Mr. FESSENDEN. No; I propose to leave that to the rule which has heretofore prevailed in regard to it, to take the value of the article itself, not on shipboard but free from the charges of putting it there. You have fixed grades; you say that wool costing not over so much a pound shall pay such a duty.

Mr. GRIMES. Costing it where?

Mr. FESSENDEN. At the place from which it is exported to this country.

Mr. GRIMES. But suppose it is brought from Australia to Liverpool in the first place.

Mr. FESSENDEN. I am speaking of the provisions of the section which go on to designate and define what shall enter into the valuation. If the Senator has read the section he will see that it cannot apply to wool. In all acts that have been passed laying duties on wool it is provided that the cost of the article at the port from which

it is shipped to this country shall be taken. That price or cost does not include what I have included on other articles in this section, the expense of putting it on shipboard. We have graded wool at 13 cents a pound, 24 cents a pound, and 32 cents a pound, imposing a different rate of duty on each grade; and if this section were to be passed in such a way as to apply to wool it would entirely change those rates which have been agreed upon, and render a revision of the provision in regard to wool necessary. It could not stand the rates of this bill if this section were applied to it. I design to leave it, therefore, precisely as it was before.

Let me explain to the Senate precisely what this section means. It is that the actual value of goods on shipboard at the last place of shipment in the United States shall be deemed the dutiable value. "And such value shall be ascertained by adding to the value of such goods at the place of growth, production, or manufacture, the cost of transportation, shipment, and transshipment, with all the expenses included, from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made to the United States, the value of the sack, box, or covering of any kind in which such goods are contained, commission at the usual rate in no case less than $\frac{2}{3}$ per cent. brokerage, and all export duties, together with all costs and charges paid or incurred for placing said goods on ship-board."

If you were to add these items to the value of the wool you would change entirely the rates on wool already fixed by the bill. That I do not design to do. I have had some conversation with gentlemen connected with the custom-house this morning, and they say this section will make a great deal of difficulty. I do not know enough about it to say that it will not, but I think we may as well adopt the amendment.

Mr. SUMNER. Of course the Senator is right when he says that there can be no question that we have full legislative power over the matter. We can correct the decisions of the courts. He is right, also, when he suggests that the very fact that the courts have been called upon to decide questions connected with this matter seems to show that it is envired by certain doubts and difficulties. But on the other hand it is possible that those very decisions of the courts may have removed those doubts and difficulties; and now the question that I wish to present to the Senate is one on which I confess I have no strong impression one way or the other myself. I simply wish that the Senate should understand what they are deciding. They are deciding that the value shall be determined by the price at the last place of shipment, instead of at the place of original purchase. The latter rule, as I understand, down to this time has been followed. We are now going to depart from it. Business has unquestionably adapted itself to the latter rule. It is therefore for the Senate to determine whether the good that may be accomplished by the change is sufficient to justify such a change. I do not know but that it is. I confess that I have no positive opinion one way or the other.

The amendment was agreed to.

Mr. JOHNSON. With the consent of the Senate—although the amendment has been agreed to—I wish to make an inquiry of the chairman of the Committee on Finance. I am not entirely certain that I understand the section just adopted. It fixes the place where the last shipment is made as the place where the value of the goods shall be ascertained. What I want to know is this: if a cargo or half a cargo of goods is purchased in London, and the vessel containing them stops on the way, making a round trip, not meaning to come here perhaps at all, unless eventually, but finally comes, having stopped on the way without landing those goods, without having reshipped them, is the dutiable value to be the value as of the time of shipment in London?

Mr. FESSENDEN. The Senator will observe the language: "at the last place of shipment."

Mr. JOHNSON. I looked at that, but I did not know what it meant entirely.

Mr. FESSENDEN. They are not shipped at the port where the vessel merely stops. I should think that could not affect it.

Mr. JOHNSON. "From the last place of shipment" might mean the place from which the ship last came.

Mr. FESSENDEN. That would not be decided.

Mr. JOHNSON. You and I would not decide it so, but I am by no means sure what the Treasury Department may decide.

Mr. FESSENDEN. They will decide sensibly, I suppose.

Mr. JOHNSON. That, like other legal presumptions, is not always correct in practice.

The next amendment was to insert as an additional section:

Sec. —. And be it further enacted, That so much of section twenty-three of the act entitled "An act to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," approved March 2, 1861, as exempts from duty all philosophical apparatus and instruments imported for the use of any society incorporated for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use or by the order of any college, academy, school, or seminary of learning in the United States, is hereby repealed. And the same shall be subject to the rate of duty prescribed by said act for manufactured articles therein enumerated.

Mr. FESSENDEN. I wish to amend the last clause by striking out the words "the rate of duty prescribed by said act for manufactured articles therein enumerated," and inserting "a duty of 20 per cent. *ad valorem*."

Mr. SUMNER. I must confess that I am against that. I am against the amendment and against the original proposition. I am against it in whole and in part.

Mr. FESSENDEN. I hope the Senator will allow me to amend it. As it now stands the duty would be 30 per cent., and I want to fix it at 20.

Mr. SUMNER. Very well.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine to the amendment of the Committee on Finance.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. SUMNER. Now, Mr. President, the first aspect of this proposition appears to me just this: the country will get very little by it, and it will do a great deal of mischief. Little money, much mischief—these are the two first features that present themselves. That we shall get little money is obvious from this circumstance, that the philosophical apparatus and instruments imported by colleges and literary institutions, particularly when exposed to this tax, will not be of great value. Twenty per cent. on their value will not be much for the country. But the detriment that will be done will be that the importation will be discouraged. Now, sir, I wish to encourage such importations. I wish to encourage everything by which these associations may be benefited. Not only the associations will gain by such encouragement, but the whole land will be benefited.

I do not wish to go into any protracted argument on this question, for I have no doubt that the minds of Senators will be made up at once as soon as the question is stated; but I do appeal to Senators not to impose this additional tax upon the education of the country. In your exchequer law you have already shot away from all civilized nations in imposing a tax even on school-books.

Mr. COLLAMER. Allow me to suggest to the Senator that while this tax may be somewhat hard on the colleges and other institutions of learning, the interests of our own mechanics are also to be consulted on the other hand. Let me refer the Senator to the case of that eminent and successful mechanic, Mr. Clark. Would it not be advisable for us to lay such a tax as would encourage such men in this country?

Mr. SUMNER. The case of Mr. Clark, to which the Senator refers—I know him perfectly well—is very exceptional. His achievements in the manufacture of glass employed in astronomical instruments has been unexpected and astonishingly successful. I should be glad to see him encouraged, but I doubt whether in all the country there is another case to take advantage of this section; but the Senator from Vermont will pardon me if I say that I cannot, under this section, look at an individual case.

Mr. COLLAMER. What I meant by the reference was to suggest that it may be of some importance to direct the attention of the mechanics of the country generally to this higher department of mechanism.

Mr. SUMNER. It seems to me that you have

a question, then, between two protections, the protection of the mechanics in what the Senator calls this higher branch of mechanism, and the protection of education at large. Now, sir, I am for that which will be of advantage to the whole country, to society, to the poor as well as the rich, to all, and I believe that advantage will ensue by every opportunity that you give, every encouragement that you afford institutions of learning and science. If I could have my way I would lavish upon them bounties; I would give them a bounty for the importation of every instrument of science or that could be used by one of these associations. I believe that the education of our country would be advanced by stimulating such importations rather than by discouraging them. But there is no question now of stimulating them; the proposition is to discourage them, because when you impose this tax it will be practically a discouragement. I hope it will not be imposed.

Mr. FESSENDEN. I feel bound to say for the committee that their view in regard to this matter was a very simple one. The amount of revenue from this source will not be large; but as there was considerable complaint because of this exception, and as we thought the manufacture of instruments of all kinds in our country, and especially in this department, should be encouraged, and particularly as where we have encouraged them they have attained a very great degree of excellence, we thought it better to do away with the exception. It is said that some of our best men who have made improvements in philosophical apparatus have contemplated going abroad to set up establishments, for the reason that there is now no protection to them, and, with the high rates of labor in this country, they cannot compete with foreign manufacturers. Under the circumstances we thought it best to lay a duty of 20 per cent. on these instruments imported for colleges and educational institutions. It is not a very large tax. We thought it better on the whole to submit them to the general system. It is, however, for the Senate to decide.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 16; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Collamer, Fessenden, Foot, Foster, Grimes, Hale, Harris, Hicks, Howe, Lane of Kansas, Sherman, Ten Eyck, Van Winkle, and Wiley—18.

NAYS—Messrs. Buckalew, Dixon, Harlan, Johnson, McDougall, Morgan, Pomeroy, Powell, Ramsey, Riddle, Saulsbury, Sprague, Sumner, Wade, Wilkinson, and Wilson—16.

ABSENT—Messrs. Carlile, Conness, Cowan, Davis, Doolittle, Harding, Henderson, Hendricks, Howard, Lane of Indiana, Morrill, Nesmith, Richardson, Trumbull, and Wright—15.

So the amendment was agreed to.

Mr. FESSENDEN. I suppose we may as well go back now to section four.

The PRESIDING OFFICER (Mr. POMEROY.) The fourth and fifth sections of the bill which were passed over yesterday at the suggestion of the Senator from Vermont [Mr. FOOT] will now be taken up.

The Secretary proceeded to read the fourth section of the bill.

Mr. FESSENDEN. In the seventh line of the section, after the word "States," I move to insert the words "exclusive of the charges in such ports," to make it conform to the law as it stands.

The PRESIDING OFFICER. That modification will be made, if there be no objection.

The first amendment of the Committee on Finance in the fourth section was in line eight to strike out "12" and insert "13," so that it will read:

SEC. 4. And be it further enacted, That on and after the day and year aforesaid, there shall be levied, collected, and paid on the importation of the articles hereinafter mentioned, the following duties, that is to say: on all wool, unmanufactured, and all hair of the alpaca, goat, and other like animals, unmanufactured, the value whereof at the last port or place from whence exported to the United States shall be 13 cents or less per pound, 3 cents per pound.

Mr. SHERMAN. I wish to call the attention of the Senate to this amendment. The House of Representatives have fixed the duty on all wool valued at 12 cents or less at 3 cents per pound, and so on. They adjusted the duty on manufactured articles to suit that scale, and it would be unjust for us to disturb that arrangement, especially by a reduction of the scale and therefore a reduction of the duty on wool. This is an interest

in which my constituents will be very deeply affected. The effect of this amendment as a matter of course would be to allow wool that was classified as worth 13 cents per pound and over 12 cents to come in at a duty of 3 cents per pound; in other words, it reduces the duty on wool. I am told that the duties on woolen goods have been carefully adjusted in the House of Representatives with a view to meet the duty on wool. We have in the Senate increased the duty on woolen goods. Many articles of woolen goods, I believe most of them, are increased by our amendments; in some cases very considerably. I think, therefore, the duty on wool ought to be allowed to stand at least as favorably to the farmer as it was in the House bill. I believe I heard all that was said in the Committee on Finance in regard to the proposed change from 12 to 13 cents, but I know of no reason why the change should be made, and therefore I hope the amendment will not be adopted.

Mr. FESSENDEN. We have rather reduced than increased the duties on woolen goods.

Mr. SHERMAN. I think not. My impression is that the duties are increased. The Senator will perceive by reference to the 17th page of the bill that the duty is increased from 35 to 40 per cent. *ad valorem* on "woolen cloths, woolen shawls, and all manufactures of wool of every description made wholly or in part of wool, not otherwise provided for." On the 18th page of the bill the duty on "flannels, uncolored, valued at 30 cents or less per square yard," is raised from 18 to 24 cents per pound, and also in two or three other places Senators will perceive the duty on woolen goods is increased in the Senate, and therefore I see no occasion for the reduction of the duty on wool.

Mr. FESSENDEN. The motion to insert "13" instead of "12" in the clause was made in the House of Representatives; but we know how everything passes there, and it was hardly heard. The mere object of changing "12" to "13" was not to reduce the duty in point of fact; but simply to make provision for what the wool importers stated, that this bill would be very likely to increase the rates of wool in foreign ports, so that what now cost them 12 would cost them 13 cents. It was not considered as affecting the rate fixed by the bill materially one way or the other, even by those who are interested in wool themselves. I did not suppose it would, or I should not have agreed to it.

Mr. SHERMAN. I will suggest to the Senator that the amendment already adopted on his motion just now will probably make a slight difference; I cannot tell exactly what.

Mr. FESSENDEN. It leaves the charges as they were before.

Mr. SHERMAN. I know; but under the bill as it came from the Committee on Finance, especially under the last section of the bill, the cost at the port of importation would be added to the cost of the article. That has been changed now, so that the value of wool is fixed at the place of exportation, which would be in South America or some remote port. True, it may touch at several ports on its way home; but as we have amended the bill and imposed the duty on the basis of the importation, deducting from that value the costs and charges at the port of delivery, it seems to me we ought not now to make another discrimination against the wool-grower.

The amendment was rejected.

Mr. FESSENDEN. Now it will be necessary to reject the succeeding amendment.

The next amendment was in section four, line nine, to strike out "12" and insert "13," so that it will read: "Exceeding 13 cents and not exceeding 24 cents per pound, 6 cents per pound."

The amendment was rejected.

The next amendment was in section four, line eleven, after the word "pounds" to insert the words "and not exceeding 32 cents;" so that the clause will read: "Exceeding 24 cents per pound, and not exceeding 32 cents, 10 cents per pound, and in addition thereto 10 per cent. *ad valorem*."

The amendment was agreed to.

Mr. SHERMAN. The Senator from Vermont [Mr. COLLAMER] has some statements to make in regard to the amendment proposed in the thirty-seventh line of this section which, if his

views are adopted, might materially change my vote on this amendment in the thirteenth line on which we are about to act; and I should like to have him make his statement now. I am in favor of this new grade of wool; but after the explanation he has made to me, I doubt very much whether I should vote for the amendment proposed in the thirty-seventh line. I have no objection, therefore, to letting the vote go any way on the pending amendment as to the new schedule of wool, until we can act on the other proposition, but I should like to hear the statement of the Senator from Vermont.

Mr. COLLAMER. Other gentlemen object to my making any remarks about it until it is reached. The portion of the section which I propose to amend is the latter part, which has not been read.

The next amendment of the committee was in section four, line thirteen, after the words "*ad valorem*" to insert "exceeding 32 cents per pound, 12 cents per pound, and in addition thereto 10 per cent. *ad valorem*."

The amendment was agreed to.

The next amendment was in section four, line twenty-two, to strike out "10" and insert "12;" so that it will read:

Provided, That any wool of the sheep, or hair of the alpaca, the goat, and other like animals which shall be imported in any other than the ordinary condition, as now and heretofore practiced, or which shall be changed in its character or condition for the purpose of evading the duty, or which shall be reduced in value by the admixture of dirt or any foreign substance, shall be subject to pay a duty of 12 cents per pound and 10 per cent. *ad valorem*, anything in this act to the contrary notwithstanding.

The amendment was agreed to.

The next amendment was in section four, line thirty-six, to strike out the words "increased in value by being scoured or cleansed" and to insert the words "imported scoured;" and in line thirty-eight to strike out the words "addition to" and to insert the words "lieu of;" so that the proviso will read:

And provided further, That wool which shall be imported scoured shall pay, in lieu of the duties herein provided, double the amount of such duties.

Mr. COLLAMER. I have an objection to that amendment. I do not wish to take up time uselessly, and therefore, if the gentleman from Maine will not object to its rejection, I shall say nothing about it.

Mr. President, last year, under the existing law, the law of 1861, there were imported into the United States in round numbers 71,000,000 pounds of wool. There were produced in this country a little over 80,000,000 pounds. By that law, all wool which cost not exceeding 18 cents a pound paid 5 per cent. *ad valorem*; and all above 18 cents up to 24 cents a pound paid 3 cents a pound; and all exceeding 24 cents was 9 cents a pound. Now, I say there were imported 71,000,000 pounds, and as that wool was entered at the custom-house to pay duties, it averaged 17 cents a pound, falling just one cent short of the minimum price named in the law. They were to pay 5 per cent. on all below 18 cents a pound, and that caused the average of the whole to be 17 cents a pound.

I have a statement of the number of pounds which were introduced at the different rates of duty. There were imported under 18 cents, 61,572,000 pounds; from 18 cents to 24 cents, over 7,000,000 pounds; above 24 cents, 1,114,000 pounds. So you perceive that of the whole 71,000,000 pounds 61,000,000 that came in was in the 5 per cent.

Mr. HOWE. What was the appraised value?

Mr. COLLAMER. There never was an appraisement put upon it. They paid by the cost at the place from which it was imported. Some came in in this way: under our reciprocity treaty with Canada we had something over a million pounds, almost two millions, in that way; but the first point I am at is to show by these tables the amount imported, and in the next place at what rate it came in, and that in point of fact less than half a million of dollars upon the whole 71,000,000 pounds of wool was ever realized into the Treasury. There is no importation into this country, and especially of articles produced in this country, that bears any sort of resemblance to this.

But there is another material thing. The capacity of our woolen manufactories established in this country amounts to about 120,000,000

pounds. Including those who have converted their machinery from cotton to woolen manufacturing they can work about 120,000,000 pounds. The effect is that there remains in the hands of the wool-growers now nearly the whole of their last year's clip. Wool has been brought from abroad in the manner I have shown you, and under the exceedingly low rates now fixed, and the amount used by the manufacturers has been very nearly the same as formerly; where there were 150,000,000 formerly they have worked up about 120,000,000 pounds. Of course, the domestic wool-growers furnished but 50,000,000 pounds to them, and the rest of their clip is on hand and liable to destruction. This is the situation and condition in which the matter stands in relation to the prospects and condition of the wool-growing interest in this country.

There is some fine wool imported which went above the 24 cents before fixed and will go above the 32 cents fixed here, high-priced Saxony wool. There is but very little of the Australian fine wool brought to this country from London. That is very fine wool and very high-priced wool. The Australian wool is worth in London 80 or 90 cents even in their money. We get very little of that, but we do import some of the fine Saxony wool. In relation to the great body of the imported wool, all of the 61,000,000 pounds imported as valued at 17 cents, it is a wool which when cleansed, the dirt all got out of it, and washed and scoured, actually fit to go into cloth, will make about one pound of cloth to four pounds of wool. Out of some of the best of it you will get a pound of cloth to three pounds of wool, and out of some of the worst of it you will not get a pound of cloth out of five pounds; but upon the whole as an average, you may calculate they will make just about a pound of cloth to four pounds of that kind of wool. There are various ways in which that wool is cleansed. There are burring machines which they run it through; and then there are picking machines where it is run through and much of the dry dirt taken out of it. Then there is the washing. Washing will clean it, but if you go through the whole process and actually scour it, by which I understand not only using water but soap by which you scour it so as to be fit to go into the cloth, then I say it will produce about one pound of cloth to four pounds of the original wool. You will observe that the committee and the House too in this very bill recognize the same thing. You will see when you come to the great duties upon cloth in the fifth section:

Second. On woolen cloths, woolen shawls, and all manufactures of wool of every description, made wholly or in part of wool, not otherwise provided for, 24 cents per pound, and in addition thereto 35 per cent. *ad valorem*.

The Committee on Finance propose there to strike out "35" and to insert "40." I would here remark that under this head will be included eight tenths if not nine tenths of all the woollens there are. You will perceive that the duty they lay upon it, is in the first place, on each pound of that cloth, 24 cents; and why? Because they laid a duty of 6 cents a pound on that kind of wool when we imported it, showing you that, as they estimated it, four pounds of that wool went into one pound of this woolen cloth; and hence they laid a duty of 24 cents a pound on the cloth by the pound. Then they laid a percentage of 35 per cent., which makes the great protective distinction between foreign and American manufactures. They laid it upon the wool in the cloth, laying the whole amount of what wool goes into it to make that cloth, being four pounds to one; and the whole arrangement of this bill in all its parts is made consistent with this view which I have been endeavouring to present. It is all in consistency and keeping with that view.

Now, Mr. President, if by any means men who purchase this wool abroad in the condition in which it is ordinarily bought, and hitherto has always been, commence a process upon it there, and especially carry on the process of cleansing up to its highest grade, that of scouring it so as to be fit for cloth, what additional duty should there be on it? Just four times as much. It is worth just four times the money. There should be four times as much duty upon a pound of it. That is all perfectly plain and clear. The provision of the House bill in case it undergoes this

process of scouring prior to its being imported is in these words:

And provided further, That wool which shall be increased in value by being scoured or cleansed shall pay, in addition to the duties herein provided, double the amount of such duties.

That is to say, it shall pay the duty herein provided and twice more in addition thereto. That would make three times the amount of the duty. According to my view, it ought to be four times as much if that cleansing be perfect. What I mean by perfect is, put in that condition in which it would go into the cloth. It should have been four times, but they make it but three because they thought it would be imperfect. They can sort this wool abroad just as well as we do, but this is to prevent their washing or scouring it there. It does not prevent them from doing things as they have been heretofore, bringing it in hereafter as before, sorting or not sorting it as they have done it heretofore; but it is that if they scour it it shall have an increase of duty, which the House said should be three times and our committee say should be only twice. That is, the committee say that the wool which shall be imported scoured shall, in lieu of the duties herein provided, pay double the amount of such duties, whereas the House bill is that they shall pay double the amount in addition to the duties provided.

Mr. FESSENDEN. I desire to know if I understand the honorable Senator's statement Does he mean to say that after it has been thoroughly scoured it takes four pounds to one?

Mr. COLLAMER. I mean that when that wool is scoured and made fit to put into cloth one pound of it will make a pound of cloth.

Mr. SHERMAN. And one pound of scoured wool is equivalent in value to four pounds of ordinary wool.

Mr. COLLAMER. Certainly, that is what I mean.

Mr. CLARK. Allow me to suggest that you not only clean out the impurities of the wool and have your pure wool left, but when you come to sort it you have but one fourth of it to go into one grade.

Mr. COLLAMER. I mean to average your cloth through. I know that when you get it beamed and get it sorted, you generally make three and sometimes four sorts, but those sorts are all made into cloth in the end.

Mr. CLARK. The Senator said the sorting might be done abroad, but I think it is always done here according to the manufactures for which it is sorted.

Mr. COLLAMER. The sorting is a trade by itself.

Mr. CLARK. But each man sorts according to what he is going to use it for and the grade he wants.

Mr. COLLAMER. A man will sort large quantities of wool. The best quality of it he may not use for his cloth, and he will sell it to another manufacturer who makes a different grade. I say that taking the wool and cleaning it, fit to be made into cloth, whether you make it into more or different kinds of cloth, is not a matter of any consequence. It will make four pounds of cloth. That is the ordinary average. Sometimes you may get a little more, sometimes a little less, but I think on the whole it will be about that.

I may further remark that as a general rule our American wool will shrink one half on the average. You may make it into different qualities of cloth by sorting, and when you have averaged through the weight of the cloth you have got out and the wool you had at the beginning, you will find that you have just about one half the weight. While the foreign wool shrinks 75 per cent., ours shrinks 50.

If you run the parallel through you see that in point of fact, if it really be scoured as is here mentioned, fit to be worked into cloth, then it is worth just four times as much by the pound; and of course to equalize the duty it should pay four times as much as the other, because it took four pounds of the dirty wool to make one pound of the scoured wool, and it should pay 24 cents a pound duty instead of 6 cents. If, when you bring it in in the dirt you pay 6 cents, you ought to pay 24 cents when you bring it in cleaned, scoured, finished, fit for cloth. The other House

put it at three times the duty on the dirty wool; that is, 18 cents per pound, and our committee recommend putting it at 12 cents, or twice as much.

For these reasons I object to the amendment of the committee, and hope it will not be adopted.

Mr. FESSENDEN. So far as that part of it is concerned, I will simply say to the Senator, as he has referred to the action of the House of Representatives, that it was at the suggestion of the House committee that we proposed to insert the words "in lieu of" instead of "in addition to." They say it was a mistake.

Mr. COLLAMER. I think I have explained that.

Mr. FESSENDEN. It now reads, "wool which shall be increased in value by being scoured or cleansed." We propose to strike out "increased in value by being scoured or cleansed," and to insert "imported scoured." It may be increased in value in many different ways, by washing on the sheep's back, &c., all the way through, so that it is difficult to make any rule on the subject. If the Senator does not like the rate of duty on the wool imported scoured, I have no objection to his making a change, but I want the words "increased in value by being scoured or cleansed" stricken out, because they are impracticable.

Mr. COLLAMER. I have no objection to making it distinct and clear by inserting the word "scoured." We all understand what that means.

Mr. FESSENDEN. Then I understand there is no objection to the first part of the amendment, which is to strike out the words "increased in value by being scoured or cleansed" and to insert "imported scoured."

Mr. COLLAMER. I have no objection to that, but I think the duty ought to be four times as much on the scoured wool as on the other, instead of double.

Mr. FESSENDEN. Very well; that alteration can be made afterwards.

The PRESIDING OFFICER. The first amendment to this clause is, in lines thirty-six and thirty-seven of section four, to strike out the words "increased in value by being scoured or cleansed" and to insert "imported scoured."

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment is in line thirty-eight, to strike out "addition to" and insert "lieu of."

The amendment was agreed to.

Mr. COLLAMER. Now, I move to amend the clause by striking out the word "double" in line thirty-eight and inserting "four times." This will carry out the views which I entertain, and will leave the matter for a committee of conference.

The amendment was agreed to.

The next amendment was in section five, line sixteen, to strike out the word "five" after the word "fifty;" so as to make the clause read: "On Brussels and tapestry Brussels carpets and carpeting, printed on the warp or otherwise, 50 cents per square yard."

Mr. FOSTER. It seems to me that the duty specified by the House of Representatives in this particular ought not to be changed. The duty of 55 cents per square yard, although it seems large, is not by any means more than it should be, as I think a duty of 55 cents upon the square yard is equal to 41½ cents on the running yard. The neutralizing duties or taxes upon that 41½ cents the running yard are made up in this way: in the first place there are 6 cents on the pound of wool which goes into the manufacture of that running yard of carpet; then there is 35 per cent. duty on a pound and a half of linen yarn, worth 27 cents. That makes 9 45-100 cents. Then the duty on the dyestuffs which go into the running yard of carpeting is 2 cents; then there is 5 per cent. excise tax on \$2, the average price of a yard of this carpeting, which amounts to 10 cents. That makes the total amount of neutralizing duties on a yard of this carpeting 27 45-100 cents. Subtracting that from 41 25-100 cents and it leaves the duty on the running yard 13 80-100 cents. That really is all the duty upon this running yard of carpeting, nominally in the bill 55 cents. That sum of 13 80-100 cents per running yard is about 21 per cent. on the imported article, which costs about 65 cents per yard. That I submit to the Senate is not too much. A duty of 20 per cent. or 25

per cent. is not too high a duty, and has not been so considered in ordinary times, on goods of this description. It is no more than a fair protective duty. I submit that reducing it from 55 cents to 50 cents, when the duty at 50 cents will really be a protection of only about 21 per cent., is not proper.

Mr. SHERMAN. There is an error in the Senator's calculation. In the first place, the wool that enters into this carpet is a cheaper grade of wool, and therefore pays a duty of but 3 cents per pound. We are informed that scarce any of the higher grade of wool is put into this carpeting. It is the cheaper wool costing less than 12 cents in the dirty condition in which it comes to this country that goes into this kind of carpet. Another fact was stated to us, that in this kind of carpet there are but about seven or eight or twelve ounces of wool—I have forgotten the precise number; the great body of it is made up of linen warp. If I do not use the technical terms, the Senator will know what I mean. A very small portion of the material of this kind of carpeting being wool, there is on the linen warp a discrimination in favor of our manufacturers amply sufficient.

Mr. FESSENDEN. We have changed that duty and increased it.

Mr. SHERMAN. Still the discrimination is large, and this is the reason why it was deemed proper to lower the rate of duty on Brussels and tapestry carpeting in order to conform to the corresponding duties on other articles. I remember very well the statements made, both in writing and in person, by very intelligent importers and persons dealing in this business, and they made the impression in our minds that 50 cents per square yard was at least as high a rate of duty on this kind of carpeting as upon the others in proportion to the value of the carpeting and the amount of wool consumed in its manufacture.

Mr. FOSTER. The rate of 55 cents per square yard on this kind of carpeting is no higher than a duty of 80 cents per square yard on the class of carpeting named in the immediately preceding clause of this same section. There the duty amounts—I can give the items which will show it, but it is unnecessary—to 20 per cent., and here 55 cents per square yard on this kind of carpeting amounts to but the smallest fraction more. Fifty-five cents come nearer than 50 cents to making the rate of duty on this kind of carpeting precisely the same as on the class of carpeting mentioned in the immediately preceding clause in the same section; and so it is of the next clause in regard to treble ingrain and three-ply carpeting, &c. If you let this carpeting stand at 55 cents, it will be equal and no more than equal to the other classes of carpeting in the same section. If you put it at 50 cents it will be less.

I have given here a statement of the items which I derived from a manufacturer in whom I have the highest confidence, and I am persuaded that his statement is entirely correct. The wool used, which he says pays a duty of 6 cents per pound, I am sure is wool which pays that duty. The 35 per cent. on a pound and a half of linen yarn which is worth 27 cents, I am persuaded is the kind of yarn that goes into the manufacture; and so of the duty on the dye-stuffs, and the 5 per cent. excise tax on \$2 a yard, the average price of the material. I think I can speak with certainty when I say that the figures which I give here are correct, and that if this duty remains at 55 cents a square yard, it will be a protective duty of only 21 per cent.

Mr. DIXON. The Senator from Ohio is incorrect, and my colleague is entirely correct, I think, in the statement with regard to the duty paid on the wool used in this kind of carpeting. The duty on wool exceeding 12 cents and not exceeding 24 cents a pound in value, as it now stands, is 6 cents per pound. That is the kind of wool which is used in this carpeting, and not the species of wool which is of a price less than 12 cents and which pays a duty of 3 cents per pound. It is within my knowledge, from information received from those in whom I have entire confidence, that the kind of wool used is that which pays a duty of 6 cents a pound.

Mr. SHERMAN. I have now the precise computation of the *ad valorem* duty proposed by this section of the bill. Fifty-five cents on the tapestry carpeting amounts to 83 per cent. of the actual

cost of the imported carpet. I find that on another class of carpeting the duty is 72½ per cent., on another class 70 per cent., on another class 66 per cent.; and on another 60 per cent. The purpose of the committee was by reducing this rate to 50 cents to bring it down to pretty much the same *ad valorem* duty that is imposed on other carpeting. It reduces the *ad valorem* duty to 73 per cent., a protection higher than the *ad valorem* duty on any other kind of carpeting. This statement, I am told, was made up from actual importations, and the gentleman vouches for its accuracy. The cost in gold and paper money and the percentage is given, I have no doubt, accurately.

Mr. FESSENDEN. The committee had considerable discussion about this matter, and were somewhat in doubt in regard to it, but upon the whole came to the conclusion that 50 cents a yard was enough protection on carpeting of this description. Of course the committee will be satisfied with what the Senate do in regard to it. As we are looking for revenue it is not desirable to put on any more duty than it is absolutely necessary to put on for purposes of protection, because we do not want to exclude anything just at present, whatever we may find it proper to do hereafter. I think we had better reduce this duty from 55 to 50 cents, and leave the matter for further consultation with the other House.

Mr. JOHNSON. It will make a wonderful difference to the consumer, because the domestic manufacturers will be sure to carry their price up to within a small fraction of that of the imported article. I have supposed that the object of this bill was rather to raise revenue than to give protection. The protection in point of fact is given already from various causes. A time like this, when each individual citizen is suffering from the additional cost of everything, would seem to be, in my judgment, a very bad time to increase the duties upon foreign importations, when the effect can only be either to exclude the articles altogether or to add very much to the cost of the articles consumed. I do not suppose that at any period of the Government the manufacturers of the United States have been more flourishing than at present under the existing tariff. If the 55 cents proposed by the other House will not exclude this article, then it is certain that the price of the domestic article will go up to nearly the same with that of the foreign article, and we who buy carpets will have to pay for them. There is not a family in the United States that are not anxious to have the best kind of carpeting they can get; they may not want much, but they want some of it, particularly in the parlor. They have to pay now, because of the difference in our currency, very much more than they ever had to pay before; and if you impose a very heavy duty on the foreign article they will have to pay much more hereafter than they are paying now. Just in proportion as you make it difficult for them to meet their own current expenses you take from them the means of meeting conveniently, if able to meet at all, the calls which the Government has made and will be obliged to make upon them in the future. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 14; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Clark, Doolittle, Fessenden, Foot, Harris, Hendricks, Hicks, Howard, Howe, Johnson, Lane of Kansas, Morgan, Powell, Riddle, Saulsbury, Sherman, Trumbull, Van Winkle, and Wiley—22.

NAYS—Messrs. Anthony, Dixon, Foster, Grimes, Hale, Harlan, Lane of Indiana, Pomeroy, Ramsey, Sprague, Sumner, Ten Eyck, Wilkinson, and Wilson—14.

ABSENT—Messrs. Chandler, Collamer, Conness, Cowan, Davis, Harding, Henderson, McDougall, Morrill, Nesmith, Richardson, Wade, and Wright—13.

So the amendment was agreed to.

Mr. FESSENDEN. In line twenty, of section five, I move to strike out "3" and insert "6½," so as to make the clause read: "On hemp or jute carpeting, 6½ cents per square yard."

The amendment was agreed to.

The next amendment of the Committee on Finance was in line thirty-four, of section five, to strike out "35" and insert "40," so as to make the clause read:

On woollen cloths, woollen shawls, and all manufactures of wool of every description, made wholly or in part of wool, not otherwise provided for, 24 cents per pound, and in addition thereto 40 per cent. *ad valorem*.

Mr. SUMNER. There is a discrepancy be-

tween this provision and a provision in a later page. I will call attention to that first.

Mr. FESSENDEN. It is proposed to strike out the provision on page 20.

Mr. SUMNER. That was what I was about to call attention to. Now, I come to the matter of substance, the question as to the tax *ad valorem*. The committee propose to substitute "40" for "35." I take it their object was in order to countervail the excise tax which is imposed on the manufacturer.

Mr. FESSENDEN. That and other additional expenses.

Mr. SUMNER. But especially that. So far as I understand the question, that is one special element which has been recently introduced into the cost of the article. Now, unless I am misinformed, the object of the committee will not be completely accomplished by putting this at 40 per cent. *ad valorem*; they must go still higher, to 45 per cent. I have here a letter from very excellent authority, certainly as good as could be quoted, that makes some explanation of the operation of the different taxes. It comes from a gentleman whose statements and reasoning are entitled to consideration.

Mr. POWELL. Will the Senator tell us who he is?

Mr. SUMNER. As it is a private letter, I prefer not to give the name of the writer. It is from a gentleman entirely familiar with the subject and of incorruptible integrity and character.

Mr. POWELL. If the statements of the letter are to be authority, I should like to know who the writer is.

Mr. SUMNER. After setting forth the details and showing that the amount of tax he will pay on one yard of goods will be 36½ cents, he proceeds:

"Now the importer of manufactured goods will pay duty on similar fabrics at a valuation not exceeding \$1 per yard, and in many cases at a less valuation. But taking the largest valuation and we have the following:

A specific duty of 24 cents per pound, on fourteen ounces, the weight of the goods, 21 cents.....	21
<i>Ad valorem</i> duty of 35 per cent. on \$1, the value of the same.....	35
Making the total amount of duty.....	56

"Deducting from the amount of duty paid by the importer of manufactured goods (56 cents) the amount paid by the manufacturer as duty on his wool and excise tax when manufactured, (36½ cents), and it will show the actual protection which I receive from the tariff, namely, 19½ cents on a yard. From this should be deducted the excess of the cost of importing the wool over the cost of importing the same when manufactured into cloth, say 3 cents, which leaves a protection of only 16½ cents per yard. This is equal to an *ad valorem* duty of 16½ cents with wool free and no excise tax.

"Is not this a less protection than we have ever had? I think it is, while there is paid a higher rate for labor than was ever known in this country before. Will not the result of such legislation be the increase of importations, and the stopping of our own machinery until American wool falls to a price at which we can compete with foreign manufactures?"

"I notice that the specific duty on manufactured goods just covers the duty on wool, but not the excise tax. To cover both, the specific duty will have to be raised to 30 cents per pound, or the *ad valorem* duty to 45 per cent.; and unless this is done the wool-raiser will not be benefited by the proposed changes."

This writer, it will be perceived, goes on the idea that the specific duty is intended as a balance to the excise tax, and in order to make that balance effective he says it must be raised to 45 per cent. *ad valorem*.

Mr. SHERMAN. I should like to have the Senator from Massachusetts tell us about how much percentage that manufacturer made this year on his manufacture.

Mr. SUMNER. I have no means of knowing.

Mr. SHERMAN. I have not the slightest doubt that he has made 50 per cent. I am informed that there is not a woollen manufacturer in the country who does business on a large scale that has not made under the existing duties from 20 to 50 per cent. profit, and in some cases more. The iron manufacturers have made more. The writer admits in his letter, as I understand, that the increased duty is at least correspondent to the amount of the increased taxation, so that he still has the benefit of the old protection.

Mr. SUMNER. I beg the Senator's pardon. He says "the specific duty on manufactured goods just covers the duty on wool, but not the excise tax."

Mr. ANTHONY. I ask the Senator from Mas-

sachusetts to allow me a moment to reply to the argument which has just been made by the Senator from Ohio, and which has been used on this floor a number of times during the session. It is said that large profits have been made by manufacturers. Those profits have been made by the rise in material. The value of the material has been constantly rising. Cotton has gone up from 20 cents to \$1.30. Everything has doubled. From the time the manufacturer takes in his raw material until he turns out his manufactured product everything rises. In many cases if he had kept the raw material without manufacturing it he would have made just as much as he made by turning out the manufactured article. It will not do to take profits made under this exceptional state of things as a rule that may be expected in future.

Mr. FOSTER. Some of the very greatest profits made by manufacturers, to my knowledge, have been made by those who had a large stock of cotton on hand, and who shut their mills and kept their cotton until it rose to the maximum, and then sold it without turning a spindle.

Mr. FESSENDEN. This amendment is about woolen manufactures, not about cotton.

Mr. ANTHONY. Woollens have risen to pretty much the same extent.

Mr. SUMNER. There is an answer that I wish to make to the Senator from Ohio. He asks me if the gentleman whose letter I have read did not within the last year make large profits. I do not know whether he made large or small profits. But suppose he did make large profits, is that any reason why we should compel him to carry on a losing business hereafter, or impose a tax which would make his business a losing one? The question is precisely that, whether the tax we are going to impose will not make his business a losing one. To that it is said that with a smaller tax we shall have large importations which will give a very large income. I am not insensible to that argument at this moment. At this crisis, with me it is next to controlling; but I take it we have gone on the idea with this bill from the beginning of harmonizing the interests of the Government with the interests of individuals.

Mr. FESSENDEN. Let me tell the Senator that here in the first place is a specific duty of 24 cents a pound, which offsets the duty on the wool, taking four pounds of the dirty wool at 6 cents per pound. The additional burden on the domestic manufacturer of which he speaks is 2 per cent. It was 3 per cent. before, it is now 5 per cent. To countervail that we give him an addition of 10 per cent. to the *ad valorem* duty before imposed.

Mr. SUMNER. The question is whether you have given him enough.

Mr. FESSENDEN. Our opinion is that we have given quite enough.

Mr. SHERMAN. If the Senator from Massachusetts would ask us to put a duty of 45 per cent. on woolen goods with a view to gain more revenue and more money to the Government, I should have some respect for his opinion, and some respect for the writer of the letter which he has read; but when he bases it upon the ground that a higher rate of duty is necessary to protect the manufacturer, I have no respect for the reasons of the writer. The present duty on woolen goods is 30 per cent. *ad valorem*, and on wool there is very little duty. We have now levied a duty on wool of the ordinary qualities used for manufacturing of 6 cents a pound, which is equivalent to 24 cents a pound on the wool scoured and ready for use. We have therefore put a specific duty on woolen cloth of 24 cents a pound, so that the duty on wool is offset by the specific duty of 24 cents a pound. Then we have increased the *ad valorem* duty 10 per cent., or one third, from 30 to 40 per cent. We have raised the tax on the domestic manufacture 2 per cent. The writer of this letter who has been paying 3 per cent. on manufactures will now have to pay 5 per cent. in paper money. We give him a protection of 10 per cent. in gold. If that is not enough to satisfy a reasonable demand for protection, I do not know what is.

The purpose of the committee—and it is the reason why I have voted for all these large duties—is simply to get money without regard to protection. All domestic industry in a time of war is protected by the state of war. I do not think any article needs protection now. In voting for these high rates of duty, I am actuated

simply by the desire to get money into the Treasury. In the Committee on Finance I have not objected to any increase of the rates where that increase was made with a view to revenue. If I believed that 45 per cent. on woolen goods would yield us more revenue than the rate proposed by the committee, I should have no objection whatever to it; but when it is put upon the narrow ground of protection, when a manufacturer because of 10 per cent. additional tax put upon him, and because of a little increase he has to pay on his dye-stuffs, demands an additional tax of 15 per cent. in gold on the imported article, I think it is asking rather too much.

Mr. SUMNER. I take it that we are all anxious to have what General Jackson called a judicious tariff, and that no one proposes directly protection; and I agree entirely with the Senator from Ohio that at this period of war the exigencies of the times furnish naturally an adequate protection. All that I presumed to suggest was that we should keep both interests in mind—the interests of our own Treasury and the interests of our fellow-citizens, in this case the manufacturers. Now if it were clear that by a tax of 40 per cent. we could get a much larger revenue without sacrificing the interests of the manufacturers, I clearly should be for that. With the conviction that I have, it seems to me that we should try to harmonize both, and the practical question with me is whether with your tax at 40 per cent. you do harmonize both.

The PRESIDING OFFICER. The question is on the amendment of the committee to strike out "35" and insert "40."

Mr. SUMNER. I move to amend the amendment by substituting "45" for "40."

The amendment to the amendment was rejected. The amendment of the committee was agreed to.

Mr. CLARK. I move to amend the section by inserting after the word "worsted," in line thirty-nine, the words "the hair of the alpaca, the goat, or other like animal;" so as to make the proviso read:

Provided, That goods of like description, composed of worsted, the hair of the alpaca, the goat, or other like animal, and weighing over eight ounces to the square yard, shall be subject to pay the same duties and rates of duty herein provided for woolen cloths.

Mr. SUMNER. I am not familiar enough with the terms employed by the Senator to know whether the words he uses are better than those which I had prepared to be put in this place. I had proposed to move to insert "mohair or goat's hair" after the word "worsted."

Mr. CLARK. I will say to the Senator that I have followed the words on page 15 in the fourth section.

Mr. SUMNER. One of our appraisers called my attention to this clause, and proposed the amendment I now mention.

Mr. CLARK. Mine includes it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New Hampshire.

The amendment was agreed to.

The next amendment was in section five, lines fifty-eight and fifty-nine, to strike out the words "for carpets" after "yarn;" so as to make the clause read: "On woolen and worsted yarn valued at less than 50 cents per pound, and not exceeding in fineness No. 14, 16 cents per pound, and in addition thereto 25 per cent. *ad valorem*."

The amendment was agreed to.

The next amendment was in section five, lines seventy-eight and seventy-nine, to strike out "all manufactures not otherwise provided for, and ladies'," and in lieu thereof to insert "women's and children's;" in line eighty to strike out "wool" before "worsted," and after "mohair" to insert "alpaca;" in line eighty-one to strike out "40" and insert "30;" and in line eighty-four to strike out "40" and insert "30;" so as to make the clause read:

On women's and children's dress goods, composed wholly or in part of worsted, mohair, alpaca, or goats' hair, gray or uncolored, not exceeding in value the sum of 30 cents per square yard, 4 cents per square yard, and in addition thereto 25 per cent. *ad valorem*; exceeding in value 30 cents per square yard, 6 cents per square yard, and in addition thereto 30 per cent. *ad valorem*.

Mr. SUMNER. Before the vote is taken on that amendment I wish to call the attention of the committee to the eighty-second line, where it is provided that the tax shall be 4 cents per square

yard. I have in my hands a communication from one of the appraisers at Boston, in which he says that it will be necessary to provide for manufactures of mohair, or goats' hair, which cannot be estimated at the square yard, which the committee have entirely forgotten to do.

Mr. JOHNSON. Why not? Does he give any reason?

Mr. SUMNER. He does not give any reason, but he is one of the appraisers, and he is therefore an expert. I wish merely to call attention to it, and leave the committee to determine it.

The amendment was agreed to.

The next amendment was in section five, line eighty-seven, to strike out the word "similar," and insert "the last-mentioned;" in line eighty-nine to strike out "40" and insert "30," and to strike out "3" and insert "4;" and in line ninety-one to strike out "40" and insert "30;" so as to make the clause read:

On all goods of the last-mentioned description, if stained, colored, or printed, not exceeding in value the sum of 30 cents per square yard, 4 cents per square yard, and 30 per cent. *ad valorem*; exceeding in value 30 cents per square yard, 6 cents per square yard, and in addition thereto 35 per cent. *ad valorem*.

The amendment was agreed to.

Mr. FESSENDEN. The next four lines, lines ninety-four, ninety-five, ninety-six, and ninety-seven, should be stricken out. I move to strike them out.

Mr. GRIMES. Why?

Mr. CLARK. The matter is provided for in a previous clause of the section.

The words proposed to be stricken out were read, as follows:

On all manufactures of wool, or of which wool shall be a component material, not otherwise provided for, 20 cents per pound, and in addition thereto 35 per cent. *ad valorem*.

The amendment was agreed to.

The next amendment of the Committee on Finance was in line one hundred of section five, to strike out "40" and insert "55;" so as to make the clause read:

On bunting and on all other manufactures of worsted, or of which worsted shall be a component material, not otherwise provided for, 55 per cent. *ad valorem*.

Mr. FESSENDEN. The committee had a good deal of doubt about that matter, and I am satisfied myself that 55 per cent. is more than is necessary. I move to amend the amendment by making the duty 50 per cent. *ad valorem*.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. SUMNER. I wish to make a suggestion in regard to the clause just voted upon. Is there not some incongruity between it and the provision on the 18th page, and is it not necessary that there should be some provision here for the kindred article of mohair or goats' hair? My correspondent, the appraiser of Boston, suggests the introduction of those words here.

Mr. CLARK. The committee have no objection to that.

Mr. SUMNER. Then I propose after the word "worsted," in the ninety-eighth line, to insert "mohair, alpaca, or goats' hair," and to insert the same words after "worsted" in the ninety-ninth line.

The amendment was agreed to.

The next amendment was in section five, after line one hundred, to insert the following clause:

On lastings, mohair cloth, silk, twist, or other manufacture of cloth, woven or made in patterns of such size, shape, and form, or cut in such manner as to be fit for shoes, slippers, boots, booties, gaiters, and buttons, exclusively, not combined with India rubber, 10 per cent. *ad valorem*.

Mr. SUMNER. I do not understand the reason for that clause; and indeed I am told by those who are familiar with the subject that there is no reason for it. It will be perceived that it proposes a tax of 10 per cent. *ad valorem* on certain enumerated articles, "on lastings, mohair cloth, silk, twist, or other manufacture of cloth, woven or made in patterns of such size, shape, and form, or cut in such manner as to be fit for shoes, slippers, boots, booties, gaiters, and buttons, exclusively, not combined with India rubber." Now, the question is, why those articles when woven or made into patterns of size and form for those articles should pay a less tax than they otherwise would pay? They are to pay only 10 per cent. If they did not come in for this purpose they

would pay 40 per cent. What is the reason for the reduction? May not this reduction be made a cover for the introduction of the materials out of which these things are made at a cheaper rate than they otherwise would be? I have my doubts as to whether this clause should be adopted.

Mr. FESSENDEN. These are small articles, which come in competition with nothing at all, and we want to get some duty on them. They are brought in here in order to let them stand as they did before. They are made for this special purpose.

Mr. SUMNER. The Senator will understand me: the point is, that this clause may be used as a cover for the introduction of these materials.

Mr. FESSENDEN. Not at all. It cannot cover anything of the sort. They are cut into patterns, made in a particular way.

Mr. SUMNER. I am told by those familiar with the subject they may be.

Mr. FESSENDEN. Not at all.

The amendment was agreed to.

The next amendment was in section five, line one hundred and ten, after the words "oil-cloth" to insert the words "except silk oil-cloths;" so that it will read:

On oil-cloths for floors, stamped, painted, or printed, valued at 50 cents or less per square yard, 30 per cent. *ad valorem*; valued at over 50 cents per square yard, and on all other oil-cloth, except silk oil-cloth, 40 per cent. *ad valorem*.

The amendment was agreed to.

Mr. FESSENDEN. I think the duty ought to be slightly increased on cordage. I therefore move, in section seven, line twenty-three, to strike out "2½" and to insert "3;" and in line twenty-five to strike out "¼" and insert "½;" so that it will read: "On tarred cables or cordage, 3 cents per pound; on untarred Manila cordage, 2½ cents per pound."

The amendment was agreed to.

Mr. FESSENDEN. We desire and think it necessary to finish this bill to-night, and I rise for the purpose of suggesting that fact to the Senate, and taking the sense of the Senate upon whether we will take a recess until some hour this evening, or go on with the bill now until we get through with it.

Mr. JOHNSON and Mr. SUMNER. Let us go on.

Mr. FESSENDEN. I am perfectly content if it is understood that we are to go on and finish the bill to-night.

Several SENATORS. Oh, no; let us take a recess.

Mr. FESSENDEN. I think that seems to be the voice of the town meeting, and therefore I will make a motion that at twenty-five minutes before five o'clock we take a recess until seven o'clock.

Mr. JOHNSON. Why not take it now?

Mr. FESSENDEN. That is precisely the time now.

The PRESIDING OFFICER, (Mr. POMEROY.) The Chair understands the motion to be that the Senate take a recess from five minutes before five o'clock till seven o'clock.

Mr. FESSENDEN. No, sir; that was not the motion. I said twenty-five minutes to five. However, I will change my motion, and move that the Senate now take a recess until seven o'clock.

The motion was agreed to; and the Senate accordingly took a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 23d of May, a report of the Quartermaster General, exhibiting the amount estimated for the current year to be paid for transporting Government supplies from the Platte country railroad to Fort Leavenworth, and thence, via Fort Kearney and Fort Ridgely, westwardly; which was read, and ordered to lie on the table.

The PRESIDENT *pro tempore* also laid before the Senate a report of the Secretary of the Senate, communicating, in obedience to law, a detailed statement of the payments from the contingent fund of the Senate for the year ending December 6, 1863; which was read and ordered

to lie on the table, and a motion of Mr. Dixon that the report be printed was referred to the Committee on Printing.

PETITIONS.

Mr. FOOT presented six petitions of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were referred to the Committee on Public Lands.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1865; and had receded from its disagreement to the amendments of the Senate numbered eight, twelve, nineteen, twenty-one, twenty-two, twenty-three, twenty-four, forty and eighty-eight, and agreed to the same; that it had receded from its amendment to the ninety-fifth amendment of the Senate, and agreed to the ninety-fifth amendment with another amendment; and it had modified its amendment to the ninety-sixth amendment of the Senate; that the House further insisted upon its disagreement to the ninth and ninety-fourth amendments of the Senate, and upon its amendments to the twenty-fifth, thirty-fourth, and ninetieth amendments of the Senate to the bill; and asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. G. H. PENDLETON of Ohio, Mr. WILLIAM WINDOM of Minnesota, and Mr. ORLANDO KELLOGG of New York, managers at the same on its part.

The message further announced that the House had agreed to the amendments of the Senate to the bill of the House (No. 227) granting lands to the State of Michigan for the construction of certain wagon roads for military and postal purposes.

The message also announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes; and agreed to other amendments of the Senate with amendments; that it insisted upon its disagreements and amendments, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. S. MORRILL of Vermont, Mr. G. H. PENDLETON of Ohio, and Mr. S. HOOPER of Massachusetts, managers at the same on its part.

The message also announced that the House of Representatives had passed the following joint resolutions; in which it requested the concurrence of the Senate:

A joint resolution (No. 80) for the adjustment of the claim of James & O. P. Cobb & Co., of Indiana; and

A joint resolution (No. 94) for the relief of Peter Wheeler.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 227) granting lands to the State of Michigan for the construction of certain wagon roads for military and postal purposes;

A bill (H. R. No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott;

A bill (H. R. No. 356) requiring proof of payment of duties on foreign salt before the payment of the allowances provided for by the acts of July 29, 1813, and March 3, 1819;

A bill (H. R. No. 521) to amend an act entitled "An act to provide for the settlement of claims of Peruvian citizens under the convention between the United States and Peru of January 12, 1863," approved June 1, 1864; and

A joint resolution (H. R. No. 47) for the relief of Rev. W. B. Matchett.

HOUSE BILLS REFERRED.

The following joint resolutions from the House of Representatives were severally read twice by

their titles, and referred to the Committee on Claims:

A joint resolution (No. 80) for the adjustment of the claim of James & O. P. Cobb & Co., of Indiana; and

A joint resolution (No. 94) for the relief of Peter Wheeler.

INTERNAL REVENUE.

The Senate proceeded to consider its amendments to the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, disagreed to by the House of Representatives, and the amendments of the House to other amendments of the Senate to the said bill; and,

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, disagree to the amendments of the House to other amendments of the Senate thereon, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Messrs. FESSENDEN, HOWE, and VAN WINKLE.

LEGISLATIVE APPROPRIATION BILL.

The Senate proceeded to consider the message of the House of Representatives announcing its action on the bill (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th June, 1865.

On motion of Mr. FESSENDEN, it was

Resolved, That the Senate further insist upon its amendments to the said bill disagreed to by the House of Representatives, and upon its disagreement to the amendments of the House to other amendments of the Senate thereon, and that it agree to the further conference asked by the House on the disagreeing votes thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Messrs. SHERMAN, COWAN, and DAVIS.

A. T. SPENCER AND GURDON S. HUBBARD.

Mr. DIXON. I ask the consent of the Senate to take up the bill (S. No. 136) for the relief of A. T. Spencer and Gurdon S. Hubbard. It is a bill merely giving the Postmaster General the right to settle with them on equitable principles. It will take only a moment to consider it.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It instructs the Postmaster General to audit and adjust the account of A. T. Spencer and Gurdon S. Hubbard for carrying the United States mail from Chicago, Illinois, to Mackinac, Sault Ste. Marie, Marquette, Copper Harbor, Eagle Harbor, Eagle River, and Ontonagon, Michigan; La Pointe and Superior, Wisconsin; during the years from 1854 to 1859, inclusive, and allow therefor such amount as to him shall appear just and equitable, not exceeding the amount allowed for the same service to the party who afterwards performed the same under contract.

Mr. GRIMES. I call for the reading of the report.

The Secretary read the following report made by Mr. Dixon from the Committee on Post Offices and Post Roads on the 29th of February last.

The Committee on Post Offices and Post Roads, to whom was referred the petition of A. T. Spencer and G. S. Hubbard, of Chicago, Illinois, praying compensation for services performed in carrying the mails on their line of steamers between Chicago and the ports on Lake Superior, have had the same under consideration, and beg leave to report:

The memorialists represent that they transported, at the request of the postmasters and agents of the Post Office Department, the United States mails, in steamboats, between the city of Chicago, Illinois, and the several ports on Lake Superior, from the year 1854 to 1859, inclusive, during the season of navigation, for which they have not been compensated, and they now pray that Congress will allow them an equitable remuneration for the said service.

They further represent that this service was performed in contemplation of an allowance to be made to them equal to that awarded by the Government for service of a similar character, and the distinct assurance of the agents of the Post Office Department was given them that they would be adequately compensated therefor.

The evidence before the committee of the efficient and faithful character of the service rendered by the memorialists is most clear and satisfactory, and that it was undertaken and performed at the request of the Government officials having charge of the mails.

The committee are satisfied that the steamers belonging to the line owned by the memorialists afforded the most expeditious and reliable means for transporting the mails between the city of Chicago and the several ports on Lake Superior.

The committee, in their report submitted to the Senate

on the 27th of February, 1860, were unanimous in the opinion that the memorialists should receive full and adequate compensation for the aforesaid services.

The proof of the performance of the service is fully substantiated by the testimony of Captains J. E. Turner, John Wilson, and B. G. Sloat, confirmed by the affidavits of the postmasters at Chicago, Milwaukee, Mackinac, Eagle River, Marquette, Ontonagon, and La Pointe.

From all the voluminous evidence, and the statements and explicit affidavits of reliable persons, the committee are confident that the petitioners are entitled to relief, and they report a bill for that purpose, and recommend its passage.

Mr. GRIMES. I should like to ask one question of the Senator from Connecticut. Was this service performed upon a mail route that had been established by the Government?

Mr. DIXON. I think it was; but I cannot be confident. It is now. Whether it was at that time I cannot say. I do not recollect how that was.

Mr. GRIMES. If it was not, then we are placed in this attitude—

Mr. DIXON. I think it was, from the fact that there were postmasters and officials on the route who requested this to be done.

Mr. GRIMES. That does not follow at all, because they are postmasters; for example, in the towns along the Mississippi river and on portions of that river there are no mail routes; and are we going to settle the principle that a postmaster at one of the principal towns on the Mississippi river, if the Government does not choose to establish a route up and down the river, shall have permission to charter steamboats and for four years in succession put us to the expense of maintaining a mail route along on that line?

Mr. TRUMBULL. I knew something about this case formerly. It passed the Senate during the last Congress and went to the House of Representatives, but I believe was not acted on there. The Government has paid for just such services as this. My impression is that there was no established mail route; I know there was no contract; because if there had been an established mail route the Postmaster General could have made a contract. It was during the summer season when the boats ran up to the Lake Superior country and they carried the mails. They carried them under the authority of the Post Office Department. This bill is not establishing any new principle. We have allowed the Postmaster General to pay precisely such claims, and this bill itself passed the Senate during the last Congress. My impression is that there was no established route there; there certainly was no contract; and that is the reason why it has not been paid by the Post Office Department; but there was no mode of supplying those settlements up there with the mails except by these boats which ran up, I do not know how often, once or twice a week. I do not remember the facts connected with it now; but I know we passed this identical bill at a former session.

Mr. DIXON. The Committee on Post Offices and Post Roads have acted on this subject several times for the last four years, ever since 1860, when it was first presented, and always unanimously, as long ago as when the Senator from Illinois was a member of the committee. There can be no doubt about the equity of the case. The man ought to have something; how much is for the Postmaster General to decide. We do not decide that question.

Mr. GRIMES. I am aware that there has been a precedent for this since I have been in Congress. There was a bill passed in behalf of a man by the name of Edwards, I think, in Michigan, the only precedent to be found for it.

Mr. TRUMBULL. This bill has passed the Senate before.

Mr. GRIMES. Neither that bill nor this ever passed with my consent. I do not recognize the propriety of a postmaster establishing for himself a mail route wherever he chooses; and this was not to supply—for it could not have been to supply—any irregularities on the part of the mail, or any non-performance on the part of any mail contractors, for it seems to be intended to pay for carrying the mail from 1855 to 1859, four whole years. There is no evidence, I take it, from that report that Hubbard and Spencer ever applied to Congress or to the Post Office Department to be paid until 1860, five years after they commenced carrying the mail; but when it was discovered that Mr. Edwards had been so successful in prosecuting his claim—

Mr. CHANDLER. McKnight.

Mr. GRIMES. I thought it was Edwards. When it was found that he had been so successful, then comes in this claim in behalf of Mr. Spencer and Mr. Hubbard. Now, sir, I am told that the mails have been carried without expense to this Government by a line of steamboats between the cities of New York and Norwich. They carry them for the benefit of their people at the ends of their route from whom they receive their patronage; and Spencer & Hubbard, doubtless, when they commenced carrying the mails between Chicago and these different points, had not the most remote idea that they were ever to receive any pay.

Mr. TRUMBULL. The report says they were assured by the Department officers that they should be paid.

Mr. GRIMES. It does not say they were assured by the Postmaster General.

Mr. DIXON. Not by the Postmaster General, but the postmaster at the place assured them.

Mr. GRIMES. Some postmaster established it without having any more authority to establish a route than I have, not a particle. A postmaster under the United States has the authority, if there is a non-performance on the part of a contractor, to hire some man to carry the mail to fill up this performance, the deficiency, which is not done by the contractor; but here is a postmaster who goes and makes a new contract on a new line that had never been established by an act of Congress, so far as the committee tell us, and never had been acted upon by the Postmaster General.

Mr. WILSON. I understood that this bill was to take up but a moment, but as it is likely to give rise to debate, I think it had better go over. I desire to make a report from the committee of conference on the bill equalizing and increasing the pay of the armies of the United States, and for other purposes.

Mr. TRUMBULL. I hope that will not be taken up until we dispose of this bill. Nobody wants to discuss it, and I think we can have a vote upon it.

Mr. FESSENDEN. We met here this evening to go on and finish the tariff bill.

Mr. TRUMBULL. I do not suppose anybody wants to say a word more on this bill.

Mr. FESSENDEN. A good many words have already been said, and it is likely to lead to more.

Mr. TRUMBULL. I do not suppose anybody else wants to say anything about it.

Mr. FESSENDEN. I do not know. I suppose the Senator does.

Mr. TRUMBULL. I do not. I merely rose to say that this service was authorized by the agency of the Post Office Department. I do not wish to say anything further.

Mr. DIXON. I only wish to state that these claimants made their application in 1860, and the service closed in 1859; there was only one year's delay in the presentation of the claim.

Mr. GRIMES. But they did not present it until five years after the service had commenced.

Mr. WILSON. I do not think a bill of this kind ought to be passed to-night with such a difference of views in regard to it. I therefore move that it be passed over.

The PRESIDENT pro tempore. Is there any objection to that motion?

Mr. DIXON. I object. I desire to have this bill acted upon now.

The PRESIDENT pro tempore. Then the Chair will put the question on the motion to postpone the bill until to-morrow.

The motion was not agreed to.

Mr. FESSENDEN. I move that we proceed to the consideration of the tariff bill.

The motion was agreed to.

Mr. WILSON. I ask the Senator from Maine to allow me to present and have acted upon to-night a conference report. It will take but a moment, I think.

The PRESIDENT pro tempore. It may be received by unanimous consent.

Mr. FESSENDEN. I have no objection, if it does not displace the tariff bill.

Mr. WILSON. If it takes any time I will give way.

Mr. FESSENDEN. Very well.

PAY OF COLORED TROOPS.

Mr. WILSON, from the committee of confer-

ence on the disagreeing votes of the two Houses on the bill (S. No. 145) to equalize the pay of soldiers in the United States Army, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 145) entitled "An act to equalize the pay of soldiers in the Army of the United States, and for other purposes," having met, after full and free conference upon the proposed Senate amendments to the House amendments to said bill, report as follows:

1. In the fourth and fifth lines of the first Senate amendment strike out the words "regular Army and volunteer and drafted forces in the," and insert the word "military" in lieu thereof.

2. After the word "quartermasters," in the seventh line of said amendment, strike out all down to and including the word "dollars" in the ninth line of said Senate amendment, and insert the following in lieu thereof: "and commissary sergeants of cavalry, artillery, and infantry, twenty-two dollars."

3. After the word "privates," in the fourteenth line of said first Senate amendment, strike out all down to and including the word "corps" in the sixteenth line of said amendment, and insert the following in lieu thereof: "of engineers and ordnance of the first class, eighteen dollars; and of the second class."

4. After the word "dollars," in the twenty-second line of said first Senate amendment, strike out all of said amendment down to the word "sixteen" in the twenty-fourth line, and insert in lieu thereof, "leaders of brigade and regimental bands, seventy-five dollars; musicians." And that the House of Representatives agree to the said Senate amendments with the foregoing amendments.

5. That the Senate recede from its second amendment, to wit, the insertion of section three.

6. That the House of Representatives agree to the third amendment of the Senate, to wit, the insertion of section four.

7. That the Senate recede from its fourth amendment, to wit, the insertion of section five.

8. In the second line of the sixth section of the Senate amendment strike out all of said section after the words "sergeant major" and insert the following in lieu thereof: "who shall be paid thirty-six dollars per month, and one quartermaster sergeant who shall also be commissary sergeant, who shall be paid twenty-two dollars per month." And that the House of Representatives do agree to said amendment of the Senate as amended.

9. That the House of Representatives do agree to the sixth Senate amendment, to wit, the insertion of section seven.

10. Strike out the fourth, fifth, and all of the sixth line down to the word "and" in the seventh Senate amendment, and insert the following in lieu thereof: "the rank, pay, and allowances of a brigadier general and an Assistant Judge Advocate General with the rank, pay, and allowances of a colonel of cavalry."

11. After the word "advocate," in the seventh line of said seventh Senate amendment, insert the word "General." And that the House of Representatives do agree to said Senate amendment as amended.

12. That the House of Representatives do agree to the eighth Senate amendment, to wit, the insertion of section nine.

13. That the House of Representatives do agree to the ninth Senate amendment, to wit, the insertion of section ten.

14. That the House of Representatives agree to the tenth, eleventh, and twelfth of said Senate amendments.

HENRY WILSON,

J. W. NESMITH,

Managers on the part of the Senate.

ROBERT C. SCHENCK,

F. W. KELLOGG,

JAMES S. ROLLINS,

Managers on the part of the House.

The report was concurred in.

TARIFF BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 494) to increase duties on imports, and for other purposes.

The bill was reported to the Senate as amended.

The PRESIDENT pro tempore. The question will be on concurring in the Senate with the amendments made as in Committee of the Whole. Does any Senator desire a separate vote on any of the amendments?

Mr. RAMSEY. I want a separate vote on the amendment imposing a duty of 70 cents on railroad iron.

The PRESIDENT pro tempore. That amendment will be excepted.

Mr. JOHNSON. There is an amendment in regard to the duty on tea which I should like to have excepted.

The PRESIDENT pro tempore. That amendment will be excepted.

Mr. SPRAGUE. I desire to call the attention of the Committee on Finance to a difference which exists in the sixth section of this bill as compared with the corresponding section of the bill of 1861. In the forty-eighth line of the sixth section of this bill I find this proviso:

Provided, That upon all plain woven cotton goods, included or not included in the foregoing schedules, &c.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

SATURDAY, JUNE 18, 1864.

NEW SERIES.....No. 491.

In the bill of 1861 the words "included or" are left out; so that the provision reads:

"That upon all plain woven cotton goods not included in the foregoing schedules, and upon cotton goods of every description, the value of which shall exceed 16 cents per square yard, there shall be levied, collected, and paid a duty of 25 per cent. *ad valorem*."

I do not know whether I shall be able to make myself understood; but the high price of cotton to-day over what it was in 1861 has the effect of bringing all the goods named in this section before the proviso under the duty of 35 per cent., for the reason that all of these goods that are mentioned cost more than 16 cents per yard. That clause was intended to meet a higher class of goods. The items specified were intended to meet a class of goods manufactured in this country. The proviso was intended to meet a higher class of goods that are imported. None of the goods enumerated in this first portion of the fourteenth section of the old bill would amount to 16 cents. Then the Committee of Ways and Means in the other House have left out an additional proviso, to be found in the act of 1861, relative to goods containing more than two hundred picks to the square inch, counting the thread and warp, so that goods containing two hundred and twenty-five might be put in at a less duty than the two hundred picks. I do not know why they left it out. It must have been by some inadvertence. It is in these words:

"And provided further, That no cotton goods having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods which are of that number of threads."

It is very plain that if this provision is not put into this bill as it was in the old one, cloths of a higher kind and intended to be at a higher rate will be put in at a less rate than that enumerated in this new bill. I therefore desire, if I have been able to make myself understood, if there is no objection to it, simply to repeat the clause which is in the old bill.

Mr. FESSENDEN. I hope the Senator will withhold his amendment for a short time until we get through with the amendments that were adopted in committee. After that the Senator will be at liberty to move his amendment.

Mr. SPRAGUE. Very well.

The PRESIDENT *pro tempore*. Does any Senator wish a separate vote on any other amendment?

Mr. TEN EYCK. I wish to except the amendment in section eighteen in relation to the duty of 10 per cent. on raw silk.

The PRESIDENT *pro tempore*. That amendment will be excepted.

Mr. FOSTER. I should like to except the amendment of the committee in the third section, page 12, in regard to the duty on knives.

The PRESIDENT *pro tempore*. That amendment will be excepted.

Mr. MORGAN. I desire to except the amendment of the committee on page 23 in relation to spool thread.

The PRESIDENT *pro tempore*. That amendment will be excepted. The question will now be taken on concurring in all the other amendments made as in Committee of the Whole.

The remaining amendments were concurred in.

The PRESIDENT *pro tempore*. The question now will be on concurring in the first excepted amendment made in committee.

The Secretary read the amendment, which was in section one, line ten, after the word "twenty" to strike out the word "five," and after the word "pound" to insert "and in addition thereto 10 per cent. *ad valorem*;" so that the clause will read:

First. On teas of all kinds 20 cents per pound, and in addition thereto 10 per cent. *ad valorem*.

Mr. MORGAN. Since this amendment was acted upon yesterday, there has been a communication made to the Senate on the subject, a memorial signed by all the importers of tea in the city of New York, recommending a specific duty. I have hardly had time to examine the memorial,

but I believe the members of the Finance Committee have seen it.

Mr. President, it may be well enough for us to look at our legislation in respect to this article of tea. There was a duty of 20 cents a pound on all teas when Congress came together at this session, which duty has existed since 1862. In the latter part of April a joint resolution was passed adding 50 per cent. to the duties on imports. That made the duties on teas 30 cents. That joint resolution was passed pretty suddenly, as Senators all recollect. The Committee of Ways and Means of the House of Representatives in framing this tariff bill reported a duty of 5 cents additional to the former duty on tea, making a duty of 25 cents; and that has been adopted by the House of Representatives. When the bill came to this body, the Committee on Finance reported a duty of 10 per cent. *ad valorem*, making a duty perhaps of 3½ cents, or less than 4 cents. We have therefore in this short session four rates of duty on teas; 20 cents, 30 cents, then back to 25 cents, and now perhaps 23½ cents.

It is very desirable to have our legislation in regard to the duties on imports permanent, stable, that importers may know what to depend upon. They were not disposed to complain of the passage of the joint resolution increasing the duties, provided those were the duties that Congress intended to impose permanently. If the necessities of the Government required that the duty should be 30 cents a pound, there would be no complaint from the importers or others; but what they do complain of is this change of the duty from 20 to 30 cents and then back to 25 and now to 23 cents. I am not disposed to criticise the action of the committee, for I believe they have labored upon this bill to get it right. I know that the Finance Committee were opposed to this large increase of the duties under that joint resolution. They recommended an increased duty of 33½ per cent. Even that would have been more than the duties actually are in the bill upon which we are passing to-day. It seems to me, in view of all that has taken place, we had better look to a little more permanency and stability in our legislation. I think we had better support the specific duty. I am, therefore, in favor of the bill as it passed the House of Representatives, and not in favor of the amendment made to it by the Committee on Finance.

Mr. JOHNSON. I concur in the view taken by the honorable member from New York. The committee propose to strike out a portion of the specific tax proposed by the House of Representatives, and to insert in addition to what they leave of the specific tax an *ad valorem* tax of 10 per cent. I think the Senators from the agricultural States, and particularly the western States, are especially interested in this question, for this reason: in point of fact nearly all the tea that is drunk in those States is green tea, which is not the cheaper kind. The cheaper kind is drunk principally in the Atlantic States. From some cause or other we prefer what are called the black teas, and in point of price they are not estimated as high as the green teas. A specific tax of 20 per cent. on all teas will embrace the green as well as the black.

The argument upon the other side is that perhaps the lower-priced tea would not bear a specific tax of 25 cents, and that the effect would be, even if it could bear it, to throw the additional 5 cents specific upon the consumer; but if the consumer for the most part, as is the fact, is among those who are able to bear it, and the consumers who are comparatively poor are among those who, from taste or habit or from any other cause, use the higher-priced teas, the effect will be that if you reduce the tax from 25 to 20 cents specific, and add an *ad valorem* tax of 10 per cent. you will be increasing just to the amount of 10 per cent. the price of the teas that are drunk in the western States. In the Atlantic States—I believe it is almost universally true; certainly it is, so far as I am advised—nearly every gentleman and his family prefer what are called the black teas, par-

ticularly the English breakfast tea, which is a tea comparatively cheap; and of course he can pay, and will pay without the slightest reluctance or dissatisfaction, an additional tax of 5 per cent.

But there is another reason, as I stated yesterday, and it is not necessary to press it. It is exceedingly difficult to enforce properly an *ad valorem* tax upon tea. Such is the nature of the article, such are the elements which enter into its actual cost in the hands of the importer, that it is very difficult for him to ascertain exactly what that cost should be, and of course it will be more difficult upon the part of the appraiser. If he disregards the invoice, and the appraiser is not obliged to be regulated by the invoice, and will not be, he may subject an importer who has been guilty of no fraud or no purpose to evade the revenue to the additional penalties which are imposed upon him whose invoice is greater than 10 per cent. upon its nominal amount.

I believe, and that is also an additional reason with me for voting against the amendment proposed by the committee, that a specific tax of 25 cents on teas will raise more revenue than a specific tax of 20 cents and an *ad valorem* tax of 10 per cent. For these reasons I hope that the amendment proposed by the committee will not prevail.

Mr. FESSENDEN. I will ask for the yeas and nays on that question.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 22; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Dixon, Donnell, Fessenden, Foot, Howe, Ramsey, Sprague, Van Winkle, and Wiley—12.

NAYS—Messrs. Buckalew, Carlile, Foster, Grimes, Hale, Harlan, Harris, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Powell, Saulsbury, Sherman, Sumner, Ten Eyck, Trumbull, Wade, and Wilson—22.

ABSENT—Messrs. Brown, Collamer, Conness, Cowan, Davis, Harding, Henderson, Hicks, McDougall, Morrill, Nesmith, Richardson, Riddle, Wilkinson, and Wright—15.

So the amendment was non-concurred in.

The next excepted amendment was in section three, line twenty-eight, to strike out "80" and insert "70;" so that the clause will read:

On all iron imported in bars for railroads and inclined planes, made to patterns and fitted to be laid down on such roads or planes without further manufacture, 70 cents per one hundred pounds.

Mr. RAMSEY. I move to amend the amendment by striking out "70" and inserting "60." I will remark, Mr. President, that in the State of Minnesota, speaking for a part of the Northwest, the country west of Lake Michigan and west of the Mississippi river, we have now about eight hundred miles of road under contract in lines of two and three hundred miles each. All of these roads will have to be abandoned unless there is some modification of the tax in this bill. I understand that iron in large quantities has been contracted for in England, which the parties have ordered to be resold, as it will be impossible for them at the present rates of iron in that distant State to continue the work. Iron cannot possibly be laid down in Minnesota under \$140 a ton. In addition to that, ordinary labor in that country is \$2 a day. Unless some relief of this kind is extended to us all these improvements will have to be abandoned. I trust, therefore, that the Senate will concur with me, and consent to this reduction of the tax on railroad iron.

Mr. POMEROY. Mr. President, when this subject was under consideration in Committee of the Whole, something was said, and I believe I said something myself, in reference to this measure as a relief to the railroads; but more mature reflection upon it has convinced me that this amendment ought to be made as a question of revenue, to say nothing of the question as pertaining to the interests of the roads. That the present manufacturing establishments in this country can do anything toward supplying the demand for railroad iron, I believe no one will pretend. We have in the loyal States twenty-five thousand miles of railroad in operation, and in the disloyal States they have about twelve thousand. The average existence of a rail is ten years. In other words, 10 per cent. of the track of every

road must be repaired every year. It takes one hundred tons to the mile. Senators can see at once what an immense amount of railroad iron it takes to supply the wear and tear of our roads that are already made, to say nothing of those that we contemplate constructing. There are at least thirty-five or thirty-eight thousand miles of railroad in this country, 10 per cent. of which must be replaced with new iron every year, at the rate of one hundred tons a mile. In addition to that there are enterprises on hand, parties are constructing roads that will take every ton of iron that can be made by our American manufacturers for a year.

Since this matter was before the Senate yesterday I have received some letters from gentlemen who know much more about it than I do, and who represent to me that they will have to entirely suspend importing iron if this tariff of 70 cents per hundred pounds prevails. I allude to it at this time simply as a question of revenue, and not at all as a question of railroad building. I hold in my hand a letter from one of the largest manufacturers in New York, J. M. Jessup & Co. They say to me:

"We beg leave to state that we represent and have purchased about twenty thousand tons of railroad iron in England for the use of certain railroads in Ohio, Illinois, Iowa, Minnesota, Vermont, and California. None of this iron was bought for resale, but solely for building and repairing railroads in the States above mentioned. It is now coming forward, and will be so increased in cost at this proposed rate of duty that we shall have to suspend the completion of these roads and the repairing of them altogether."

I have also received a letter from E. B. Littlefield & Co., one of the largest firms in this country engaged in buying and laying down railroad iron. These men are not speculators. They are men who are buying railroad iron for a specific purpose. They state in this letter that they have bought in England enough railroad iron for railroads in Minnesota to lay down two hundred and twenty miles, which they will be obliged to stop and not bring to this country at all on account of this prospective tariff.

Let it be understood here that the tariff which we had last year and up to this time has been \$13 50 per ton in gold; that is at the rate of 60 cents per one hundred pounds. That amounts to \$25 in our currency. It depends of course upon the price of gold, but as gold has averaged for the last month it is about \$25 a ton. As I have said, it takes about a hundred tons to the mile, to say nothing of the chairs and spikes, which make about another thousand dollars a mile; so that if this tariff prevails we have got to pay in currency at least \$3,000 a mile to the Government as duty on every mile that we lay down. The effect of that will be to suspend the business; you cannot lay down a mile of new road, and the old roads will be repaired only from necessity.

Let me call the attention of the Senate for one moment to the fact that there are twelve thousand miles of railroad in the States in rebellion that are almost entirely used up. In almost that whole country the railroads will have to be rebuilt. When the rebellion shall be suppressed and peace restored, one of the first and earliest things to be done will be to repair the waste places, to repair the railroads, get up means of communication; and it will create such a demand for railroad iron that the manufacturers of this country will be utterly unable to supply that demand at any price, and it will compel the importation of railroad iron, or else an entire suspension of the work of rebuilding these roads.

Then again we have in some legislation of Congress required a forfeiture of immense enterprises if railroads are not constructed within a given time. We have in fact given them but a few years, and provided for the forfeiture of the whole franchise if the roads are not built within that time; and yet this proposed tax will be an embargo upon the building of those roads. Men who have money will not invest it in railroad iron at these prices. While the proposed tax is perfectly ruinous as a question of revenue it is equally destructive as a question of encouragement to railroad building. Sir, I desire, especially at this time, that every encouragement and every facility consistent with the revenue of the country should be given to enterprises of this character. There would be some excuse for putting on this large tariff if a proper incidental protection to our own manufacturing establishments needed it.

We have got our mountains full of iron ore, as a Senator has said. There is no doubt about that. We have other mountains that are full of gold; but we have not the men to dig it; we cannot manufacture it. We might make all our silk fabrics in this country if we only had the labor; we have got the climate. We might produce all the wool that we needed if we only had the men to engage in wool-growing; but we have not got them, and we import more than we raise. It is so with our iron; and while we do import it, while it is impossible for our manufacturers to supply it, I beg Senators to consider what kind of a tariff will be sufficiently remunerative to the Government and at the same time be a sufficient encouragement for men to build and repair roads. At the present time men who have undertaken to build roads cannot contract for a ton of iron at any American manufactory to be delivered in a year. There is not an American manufacturing establishment in this country that can deliver a ton of iron on a new contract in a year. You cannot get a locomotive in a year from any new contract. It is entirely out of the question for the manufacturing establishments in this country to supply the demand for railroad iron. It is a question, therefore, either of not doing it at all or else reducing the duty on railroad iron so that men will feel encouraged to import.

I know that the Committee on Finance, and especially the chairman of that committee, look at it only as a question of revenue. The great question with them is, what tariff will produce the most money? In my opinion, as a mere question of revenue, a tariff of 60 cents will so encourage the importation, will so stimulate the building, completing, and repairing of roads that you will get more money into the Treasury, and at the same time afford incidental benefit to the whole country, leading to the building up of these waste places and the repairing of old roads, and giving us general prosperity and success everywhere. I consider this one of the most important measures that has been before Congress. I hope the amendment moved by the Senator from Minnesota to make this duty 60 cents per hundred pounds will prevail. I believe the interests of the country demand it. I believe that, as a mere question of revenue, it ought to be adopted; and I know it will afford encouragement to those who have railroads to construct.

Mr. FESSENDEN. I am satisfied, unless we mean to have a perfect irreconcilable difference of opinion with the House of Representatives, on which we will imperil the whole bill, we cannot leave railroad iron alone to stand as it did under the old tariff. It was only raised, as I stated before, about in conformity with the new duties that we imposed in the internal revenue bill; but notwithstanding that, we have, in consideration rather of the pressure of railroad interests, reduced it one half. I think it is too much to ask that merely for the benefit of railroad companies and their interest in it we should leave it entirely as it stood before.

Mr. RAMSEY. It is not for the benefit of the railroad companies; it is for the people.

Mr. FESSENDEN. The people are interested in having railroads built, but, as I stated the other day, they are much more interested in carrying on the war. That is a larger interest, a more general one, and a more important one in every sense of the word.

Mr. POMEROY. I do not see anything that is "irreconcilable" about the matter if this amendment to the amendment should be adopted. It will leave the whole question open in the hands of a committee of conference.

Mr. FESSENDEN. The committee of conference will have the question just as much before them by the amendment proposed by the committee as by the amendment of the Senator from Minnesota.

Mr. POMEROY. They would have it in hand just the same, but the lowest duty to be considered would be a duty of 70 cents; but if the Senate put it at 60 cents then our committee will have an opportunity to compromise with the House committee.

Mr. FESSENDEN. There is opportunity enough, I suppose, either way. I think as much has been done in the way of reducing this duty as ought to be asked. This adding of 10 per cent, *ad valorem*, the difference between 60 and 70 cents,

we are told, will prevent importation and stop railroad enterprises. In my judgment, that is all idle talk. Interests of that sort will not be given up simply on account of this addition to the duties under the circumstances. There is no danger of their stopping. It will cost them more money, but not by any means so much as the Senator from Kansas supposes. As to the revenue to be derived from it, my idea is that it will be precisely the difference between a tax of 60 and 70 cents.

The PRESIDENT *pro tempore*. The question will be on agreeing to the amendment to the amendment.

Mr. BUCKALEW. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. I desire to inquire what the precise question is.

The PRESIDENT *pro tempore*. It is on striking out "70" and inserting "60."

Mr. COWAN. I hope the reduction proposed by this amendment will not be made. I do not see any reason why there should be a discrimination against this particular product more than any other. It was universally agreed that this tariff bill was to be compensatory; that it was to compensate against the additional internal revenue levied upon the several articles embraced in it.

Mr. SUMNER. Made necessary by that.

Mr. COWAN. Certainly; that is the theory. I trust the Senate will not go so far as to leave it without that protection which it deserves, certainly, as one of the great interests of the country.

I wish to correct one thing that the Senator from Kansas has stated. There are 60 pounds of railroad iron to the yard, and there are 1,752 yards in the mile; 120 pounds cover a yard; and it is not very difficult to make the calculation. It will not take 100 tons of that heavy rail to lay down a mile of road.

Again he says it is utterly impossible to procure iron in this country; that you cannot contract for it at the American manufactories. I think there are manufacturers who would very gladly take heavy contracts.

I trust, sir, that this interest will be treated as other interests are.

Mr. HARLAN. What is the internal tax levied on all railroad iron by the bill as it passed the Senate?

Mr. COWAN. Three dollars per ton.

The question being taken by yeas and nays, resulted—yeas 19, nays 17; as follows:

YEAS—Messrs. Brown, Carlile, Dixon, Doolittle, Hale, Harlan, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Pomeroy, Powell, Ramsey, Richardson, Riddle, Saulsbury, and Trumbull—19.

NAYS—Messrs. Anthony, Buckalew, Chandler, Clark, Cowan, Fessenden, Foot, Foster, Harris, Morgan, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wiley, and Wilson—17.

ABSENT—Messrs. Collamer, Conness, Davis, Grimes, Harding, Henderson, Hicks, Howe, Morrill, Nesmith, Wade, Wilkinson, and Wright—13.

So the amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

Mr. SHERMAN. I wish to appeal to the Senate to allow me to offer two or three amendments. I was not present when the bill was reported to the Senate from the Committee of the Whole, and I hope the Senate will allow me to offer them now.

The PRESIDENT *pro tempore*. The Chair will receive them.

Mr. SHERMAN: The first amendment that I shall propose is on page 42, section twenty, line four, after the word "shall" to insert the words "not be deemed to have taken effect until after the 30th day of April, 1864, and shall." I will explain to the Senate that the only effect of this amendment is to delay the taking effect of the joint resolution increasing the duties 50 per cent. one day. It was approved by the President on the evening of the 29th of April. They did not receive notice of it until one o'clock the next day at New York, and at other ports along during the day. Upon consultation it was deemed best to except that day from the operation of the act. That will be the effect of this amendment if adopted.

Mr. JOHNSON. Then it applies the additional duty to all goods that were imported on the 30th.

Mr. SHERMAN. No, sir, not on the 30th;

after the 30th; so that the law really takes effect on the 2d of May.

Mr. JOHNSON. How does that differ from the bill as it stands?

Mr. SHERMAN. By the bill as it stands it takes effect on the evening of the 29th. It was approved April 29, 1864. This section, as it now stands, only terminates the operation of that resolution on the 30th of June. The amendment now offered proposes to fix the time when it shall commence operation.

Mr. JOHNSON. I ask to have the amendment, and the section as it will read if amended, reported from the desk.

The Secretary read the amendment, in section twenty, line four, after the word "shall," to insert the words "not be deemed to have taken effect until after the 30th day of April, 1864, and shall;" so that the section will read:—

SEC. 20. *And be it further enacted*, That the joint resolution "to increase temporarily the duties on imports," approved April 29, 1864, shall not be deemed to have taken effect until after the 30th day of April, 1864, and shall be and remain in force until and including the 30th day of June, 1864.

Mr. TRUMBULL. Why say "until after the 30th?" I thought the dispute was about its taking effect on the 29th.

Mr. SHERMAN. No, sir. I will again repeat the facts. The resolution was approved by the President on the evening of the 29th, the legal effect of which was that it would take effect on that day. Notice was not given. It was not known in the custom-house in New York until half past one o'clock on the 30th. In the mean time many merchants were taking out their goods and paying their duties, and the question occurred whether it should be enforced on the 30th of April.

Mr. TRUMBULL. Let me inquire of the Senator if it was not as to whether it should be enforced on the 29th?

Mr. SHERMAN. That question was raised also; and as they could not divide a day they demanded the additional duties of the persons who had paid in duties on the 29th, but I believe that that demand was not really enforced, because the duties had been paid, and these persons disputed the time when the law took effect, and to have recovered those duties would have required suits. Suits were not commenced. On the 30th the merchants took out their goods and continued to pay the old duties until one o'clock, when the collector stopped them and demanded the increased duties, and then demanded the increased duties on all who had paid that day and the day before. As it was likely to create litigation and trouble, and cause great injustice, as the Senate can readily see, the matter has been suspended from that time to this. A joint resolution was passed by the House of Representatives fixing the time when the law shall take effect, but we have not acted upon it here on account of the dispute as to bonded goods. It was deemed best, therefore, to insert this provision here.

Mr. JOHNSON. The Senator will permit me to ask, what is the difference in this particular between that joint resolution and his amendment?

Mr. SHERMAN. None whatever. The resolution I reported the other day excluded the 30th and this excludes the 30th.

Mr. TRUMBULL. I suppose most of the duties are paid in the city of New York; but if the principle is to be adopted which this amendment establishes I do not know why it should not be extended to San Francisco and to all the cities of the Union where any duties are to be collected, that until they were notified that this law had passed they were only to pay according to the law as it stood before the passage of this joint resolution.

Mr. SHERMAN. I will state to the Senator that they had the same notice in San Francisco that they had in New York. On the 30th a telegraphic dispatch could be and was sent, I think, to every port in the United States, with the exception of New Orleans.

Mr. BROWN. I will state to the Senator that there is a case in point in regard to New Orleans.

Mr. SHERMAN. I know; but we leave that to be provided for by future legislation. At any rate, we could not provide for it now.

Mr. TRUMBULL. But is that principle to be established? Is that to be the operation of laws? Are they to take effect when the parties to be op-

erated upon by them receive notice of their passage? If so, a law of Congress will take effect one day in San Francisco and another day in Washington, one day in New York and another day in St. Louis. Many of the laws of Congress are not telegraphed immediately. I question very much whether the passage of this law was known in San Francisco at the same hour it was in New York; probably not until the next day. I am not informed about that. The Senator from Ohio speaks as if he knew that they were informed when they were paying duties in San Francisco on the 30th day of April. They may have paid duties on the 1st or 2d day of May in San Francisco under the old law.

Mr. JOHNSON. They did.

Mr. TRUMBULL. They are to pay according to this new resolution whether they knew it or not. It seems to me a proposition based upon the time of receiving notice of the law in the city of New York is establishing a very bad precedent.

Mr. JOHNSON. I think you are mistaken as to the effect of this amendment.

Mr. TRUMBULL. I understand the effect of this amendment to be that the law is not to take effect until after the 30th of April.

Mr. JOHNSON. Then there is no increase of duty until after the 30th.

Mr. TRUMBULL. True; but what is the reason for the passage of this law that it shall not take effect until after the 30th day of April? The avowed reason and the only reason is that parties in the city of New York who paid duties on the 30th day of April did not know of the passage of that joint resolution. If that be a good reason in the city of New York it is a good reason in San Francisco, in the city of New Orleans, or in any other city in the Union if when they paid their duties they did not know of the passage of that joint resolution. We thereby establish a principle that parties are not to be bound by a law until they know of its existence. It would render the time when laws were to go into effect entirely uncertain. I suppose most of the duties are paid in the city of New York.

Mr. JOHNSON. I misunderstood the Senator. The Senator, I suppose, desires that the resolution temporarily increasing the duties on imports should go into effect on the 29th, and then the additional duties would be imposed everywhere upon parties whether they had a knowledge of its passage or not.

There were two questions about which there was a difference between the Secretary of the Treasury and the importers under that resolution. The first was whether it embraced goods in bond, which is not before us now, and the other was at what time it became a law. The Secretary of the Treasury supposed, or those who acted there under his supposed order thought, it went into effect on the 29th, that being the day upon which in fact it was approved by the President, and as there is no fraction of a day counted it included the whole of the day. The importers thought, and perhaps they had legal ground for so thinking, that in a case of this description fractions of a day can be counted, and that it would not go into effect therefore until it was actually approved by the President, and as the President did not approve it on the 29th until after the business hours at the custom-house had passed by, the importer had a right to pay under the old tariff. Then the House of Representatives have passed a resolution, and in that respect the amendment of my friend from Ohio conforms to the view taken by the House, that under all the circumstances it ought not to be considered as taking effect until after the 30th.

Mr. TRUMBULL. The 1st day of May.

Mr. JOHNSON. That is the 1st day of May; but the 30th falling on Saturday, it would be the 2d of May. Now, so far as notice is concerned, if notice is deemed to be necessary, as the House think it is, and as under all the circumstances it seems to me to be, as you must fix some time within which you are to presume that notice was given, if you make the bill operative only on the 2d of May there will be plenty of time in San Francisco to have heard of it. They would have heard of it by the telegram of the 29th. It takes only a few hours generally to send a dispatch from here to San Francisco. In San Francisco, if the lines are in order, and they generally are in order, they have the news of the morning here

in their evening papers and always have them in the papers of the ensuing morning.

Mr. POMEROY. The Senator perhaps may not be aware that they get the dispatch in California before it starts from New York. If the lines are all up, and you send a dispatch from New York, they get it, by their time in California, four hours before it starts from New York.

Mr. JOHNSON. They get it during the day.

Mr. POMEROY. They get it, by their time, before it is sent. In my own State, when I am at home, I get a telegraphic dispatch an hour and a half before it leaves New York; that is to say, an hour and a half earlier by our time than it is in New York.

Mr. JOHNSON. You are always ahead of us in everything.

Mr. POMEROY. These dispatches to San Francisco get there, by their time, before they start from New York.

Mr. JOHNSON. I know that; but this particular dispatch could not be sent from here until the bill was passed and approved, and the bill was not passed and approved until the evening of the 29th; so that if it was sent on at once they got it on the 30th; there is no doubt about that.

Now there are some reasons, it seems to me, to show that it is but just that the view taken by the House of Representatives and the view taken by my friend from Ohio is a proper one. The general practice of the Government has been—it has been uniform with the exception of the tariff act to which the chairman of the committee referred the other day, and which was not altogether an exception, because the operation of that act was postponed some two weeks, I think, from the date of its passage; but the general rule has been—with the United States and with other commercial countries not to change the tariff so as to affect any pending order. We are about to change that policy. Perhaps the importers had no right to suppose that that policy would be changed at once, and they therefore were under the impression that they were to pay only the duties which were enforced on the 29th and 30th, and they have acted in good faith.

Mr. SHERMAN. This matter has already consumed a good deal of time; but I will repeat the facts, so that Senators may decide for themselves.

This joint resolution was approved at seven o'clock on the evening of the 29th of April. It was not known in New York until the next morning, and not officially proclaimed in the custom-house or acted upon until one o'clock on the 30th. The Secretary of the Treasury held the law to have taken effect on the 29th, and at one o'clock on the 30th he telegraphed the collector to insist on the payment of the increased rate of duties on all the goods that had been taken out of the warehouses the day before and also on the 30th. Upon that a dispute arose. These merchants contended that as they had paid their duties they were entitled to hold their goods free of any further charge.

Then the question arose as to what time on the 30th the law should take effect, the Secretary insisting that it should apply to the whole of that day, although the collector had not official notice of it until one o'clock, and some goods had been taken out before that time, and other merchants came in and insisted that they should have their goods also at the old rates. As a matter of course the Committee on Finance were desirous of securing the money in the Treasury; but we thought it was very hard indeed to enforce these increased duties on the 29th before the actual approval of the law.

Then the question arose, ought they not to be enforced for the whole of Saturday the 30th? As some merchants had got their goods out on that day before it was known, we thought on the whole it was better to except the 30th also from the operation of the law, and have so reported. If the Senate should think that the merchants ought to pay the increased duties on Saturday the 30th, I have no objection; I shall be very glad to retain the money; but it does seem to me it would be more just, equitable, and proper to allow them the whole of the 30th to pay the old rate of duties.

These are the facts. Every Senator can judge for himself and decide according to his sense of equity. I will say to the Senate there is no legal question involved. There is no doubt that by law the resolution was in force on the 30th of

April. The only question is, will you enforce it on that day?

Mr. HOWARD. I wish the Senator from Ohio would inform us, if he can do so, what amount of duties we shall probably remit by giving effect to the law only on the 30th.

Mr. SHERMAN. I have no information whatever as to the amount on the 30th.

Mr. HOWARD. I have understood that it would be a very considerable amount.

Mr. SHERMAN. I suppose as there was great hurry at that time to avoid the passage of the joint resolution, it would be probably pretty large, but I have no information on that subject.

Mr. TRUMBULL. I suppose there is very little use to try and contend against the report of the Finance Committee on this subject. I believe they have everything pretty much their own way. It is very clear, I think, from the statement made by the Senator from Ohio, that it would be unjust to charge this increased duty on goods that were taken out or entered at the custom-house on the 29th; but because the resolution was not approved on that day, and it would be unjust to charge the increased duties for that day before the resolution was approved by the President, is that any reason why we should not charge the duty on the 30th? That is the question. I apprehend no one would object to exempting from this increased duty the goods upon which duties were paid on the 29th, because in fact the resolution was not approved during the business hours of the 29th, but how that should furnish a reason for not collecting the duties on the 30th I cannot conceive, any more than on the 1st of May, or any more than on the 30th of May. It is competent, I suppose, for Congress to release all the goods from this additional duty which have been entered since the 29th day of April last, but I can see no reason for this exemption on the 30th more than on any other day.

What is the fact about it? The fact about it is they knew and understood perfectly well in the city of New York that these duties were to be increased. They knew all about it on the morning of the 30th; the merchants understood it in New York, and were rushing their goods through the custom-house as rapidly as possible; but the custom-house itself did not officially promulgate it until one o'clock on that day. The Senator from Ohio knows perfectly well that they knew all over New York that this joint resolution was a law before one o'clock. The merchants understood it; but it was not officially promulgated. Well, sir, I do not suppose it would have been officially promulgated in half the nation up to this time.

Mr. SHERMAN. I beg leave to inform the Senator that we did not know it ourselves; I did not know it until it was formally proclaimed after twelve o'clock on Saturday. It is true the President signed it the previous evening, but the fact that it had received his signature was not promulgated here in the Senate until after twelve o'clock on Saturday.

Mr. TRUMBULL. Perhaps Senators did not know it, but the merchants in New York understood it.

Mr. SHERMAN. I doubt very much whether they watched the President's signature; perhaps they did.

Mr. TRUMBULL. My understanding was, from the statement which the Senator made, that they knew it.

Mr. SHERMAN. No; I said the actual fact of the approval occurred at seven o'clock. The House committee sent to the President to ascertain the time when he approved the joint resolution, and he said "seven o'clock in the evening;" but it was not, as the Senator must know, officially promulgated to the Senate here until the next day at twelve o'clock. We do not know anything about the time of the approval of acts by the President until they are sent here, and yet they take effect from the moment of their approval. In my opinion, this is a simple act of equity appealing to the sense of the Senate.

Mr. SUMNER. I have a memorandum of the dates which I should like to read to the Senate. The resolution was approved and became a law on the evening of the 29th of April, at about seven o'clock. It was not made known in New York and Boston until April 30, at thirty minutes past one o'clock p. m. At the port of Salem in Massa-

chusetts—which, as the Senator from Illinois knows, is a considerable importing place—it was not known until the evening of Monday, May 2. On these several days, at these several ports, and probably at others, goods were entered and duties paid under the tariff act of July, 1862; and the first knowledge the importers had (many of whom had sold goods to arrive) of the increased duties, was by notice from the collectors to come in and pay the additional 50 per cent.

Mr. TRUMBULL. The statement read by the Senator from Massachusetts shows the impropriety of adopting this amendment, because in Salem they did not find it out until the evening of the 2d day of May.

Mr. SUMNER. No; I said until the evening of the 30th.

Mr. TRUMBULL. No, sir; you did not read it so; read that portion of it again, if you please.

Mr. SUMNER. "It was not made known in New York and Boston until April 30, at thirty minutes past one o'clock." That was on Saturday.

Mr. TRUMBULL. Go on.

Mr. SUMNER. "At the port of Salem, in Massachusetts, it was not known until the evening of Monday, May 2."

Mr. TRUMBULL. Then if this amendment is adopted, what is the effect of it? The Senator's constituents in Salem, Massachusetts, knew nothing of this joint resolution, and paid their duties on Monday under the old law, and now he is going to compel them to pay over again; but he is going to release the merchants in New York, who paid under the same circumstances, from paying anything except what was required by law prior to the passage of this joint resolution. That is the effect of the legislation. I am very much obliged to the Senator from Massachusetts for reading the dates; it shows the absurdity of the legislation. I have no doubt it will be found that there are numerous cases all over the United States, not only in Salem, but at St. Louis and Chicago and San Francisco and other places, where duties were paid on Monday without any knowledge of the passage of this joint resolution. I do not know how you can refuse with the information we have now got, and I should think the Senator would move to amend his resolution so as to allow the duties which were paid in Salem on the 2d day of May to be paid under the old law. It seems to me he is bound to do it, to act equitably and consistently.

But, sir, I do not suppose that I shall be able by anything I can say to change the views of the Senate. I will move to amend the amendment by striking out the word "after," so that the joint resolution will not take effect until the 30th of April. I think the increased duties ought not to be required on the 29th, because the resolution was not approved during the business hours of that day.

Mr. JOHNSON. Then the resolution will include the whole of the 30th?

Mr. TRUMBULL. Yes, sir.

Mr. JOHNSON. Now, Mr. President, in point of fact most of those goods, in New York particularly, and the large importing places, were actually sold after the duties were paid, and the prices charged to the purchaser by the vendor were regulated by the fact that the goods were supposed to be liable to the duty imposed by the existing act.

Mr. TRUMBULL. The Senator from Maryland will observe that the same thing existed on the 2d day of May.

Mr. JOHNSON. I know, but you must fix some time.

Mr. TRUMBULL. If the law is to go into effect when the notice reaches the port, then make it so; but do not pass a law for the protection of importers in the city of New York, and under precisely the same circumstances deny it in Salem, Massachusetts.

Mr. FESSENDEN. The facts about this matter are very simple. I do not know how it was in Salem. They are fifteen miles from Boston, with a railroad running half a dozen times a day, and a telegraphic communication besides; and if it was known at Boston at one o'clock on Saturday that this joint resolution had become a law, and they did not know it at Salem, fifteen miles off, until Monday night, they ought to pay the duties. [Laughter.]

Mr. JOHNSON. They ought to pay for their stupidity. [Laughter.]

Mr. FESSENDEN. Yes, sir.

Mr. President, the facts are simply these: the joint resolution was signed by the President at seven o'clock on Friday evening. Nothing was known about it, and no notice came into the Senate until after twelve o'clock on Saturday, so far as we were concerned. It was not telegraphed to New York or known in New York until about one o'clock on Saturday. In the mean time the merchants had been paying the old duties, and taking out their goods and selling them, when, lo and behold, under the instructions he received by telegraph—I do not dispute their propriety—the collector of New York said to them, "You who have entered your goods not only to-day but all day yesterday must pay me the amount of duties which you should have paid if it had been known even during the day before the resolution was signed at all, and before you knew anything about it." They had taken them out, paid the duties, sold the goods, and then were called upon to pay the advance duty on a thing they did not know anything about, and in the mean time here was the fact about it.

The Secretary of the Treasury, sharp as he is to get every dollar that it is possible to get, recognizes at once the propriety and justice of declaring that this act shall not go into effect until after the 30th of April under the circumstances, and after the 30th of April carries it over until the business hours of Monday, the 2d of May. That is time enough, unquestionably, to reach every part of this country where there are telegraphic communications; and that is all that I think in justice ought to be done. If we find hereafter that, owing to any accident, there has been any particular injustice anywhere, we can remedy it by legislation; but this is as much as can safely be done now, and this we recommend. It is recommended by the committees of both Houses and by the Secretary of the Treasury.

Mr. MORGAN. I shall support the amendment proposed by the Senator from Ohio, and for this reason: this joint resolution having been previously passed by the House of Representatives, was passed by the Senate on the 28th of April, just before the adjournment. Of course it was known all over the country that the bill had passed both Houses, but it was not known that it had been approved by the President. In New York—I can answer for New York, and I presume it was so elsewhere—the merchants applied to the collector on the 29th and on the 30th to know whether they were to pay the new duties or the old ones, and the collector told them he could take none but the old duties; he knew of none other. That was on the morning of the 30th. He did not know that the resolution had been approved by the President. The merchants thereupon went on and paid their duties up to one o'clock or half past one o'clock on that day. Certainly as far as they paid their duties they ought to be exempted, and it is very clear we ought not to divide a day. I shall therefore vote for the amendment of the Senator from Ohio.

Mr. HOWE. This matter has been so much discussed that it is utterly impossible that anything new can be said about it. I am not going to attempt to say a new thing; but I want to repeat one thing that I said before to the Senate.

I recognize as much as any one the propriety of the principle just asserted by the chairman of the Committee on Finance, that these men who, in ignorance of this law, in the city of New York, entered their goods and paid their duties on the morning of the 29th, without notice of the passage of this resolution, ought to have them remitted. They had settled with the Government; they had taken possession of their goods; many of them had sold them. But I cannot see why the same rule does not apply to merchants in every other port who had in fact acted in ignorance of this law, whether they did it on the 29th or 30th of April or the 1st or 2d day of the succeeding month, or any other. The Government enacted this law; the Government appoints these collectors; the Government ought to advise the collectors of the state of the law and of what duties they should collect on these goods; and therefore, if we concede the propriety of remitting these duties in New York, we should remit them everywhere.

But this proposition as it now stands does not propose to remit the duties to all importers who had settled up in ignorance of the passage of this resolution, but, on the contrary, it proposes to remit duties to some importers who had settled up with the Government after a knowledge of the passage of the resolution, had paid the duty, had sold their goods, and had got the duty back from their customers. The proposition, as it stands, proposes to remit these duties to them, and they are to put them in their pockets, having once received them from their customers. It seems to me, if it were possible to get a rule that would not be justifiable on any principle, the proposition before the Senate is that very rule.

Mr. FESSENDEN. I do not know how we could very well make a law go into operation all over the country on different days; because that is the only position we can take as opposed to this one. We cannot pass a law to go into operation in one place to-day and another place to-morrow and another place the next day, and so on; that is to say, we cannot properly do it. As I stated before, we must fix some day, and this day is ample for notice to be given to all the ports in the United States, with perhaps one exception. If it shall turn out that there are hard cases where injustice is done, which are included within this time, we must remedy that by legislation hereafter.

Mr. GRIMES. If I understand it, the argument is that these parties in New York, who had property in bond, paid the duties upon it and had conveyed and sold it to other parties in many instances in the early part of the 30th. Now it is admitted on all hands, and admitted especially by the Senator from New York, [Mr. MORGAN,] that the resolution was known at that time in New York to have passed both Houses of Congress. It had passed through all the stages here and was known to be in the hands of the President. Does anybody suppose that the shrewd merchants of New York, if they were going to make a sale of those goods, did not add to the price the additional tax which they knew the two Houses of Congress had imposed upon those goods? It is a fair supposition that they did add it. It is not a fair supposition that they supposed the President would veto a resolution of that kind. They knew that it was to become a law either on the 29th or the 30th. They knew that in the ordinary course of legislation it would not lie in his hands longer than that.

Mr. SUMNER. He has several days.

Mr. GRIMES. I know he has several days; but in the ordinary course of legislation where a bill or resolution does not raise any constitutional question, it ordinarily comes back to us in one or two days after it goes to the hands of the President. They knew it had passed through all its stages; they knew it met the approval of both Houses of Congress; they knew that it was in his hands. It seems to me the proposition made by the Senator from Illinois is the right one, to say that this law shall take effect from and after the 29th of April, and let all these men stand upon an equal footing.

Mr. FESSENDEN. I congratulate myself upon one thing: that hereafter the Committee on Finance and the Secretary of the Treasury cannot be accused of being too sharp about laying burdens on the people. We find a great many persons that are so sharp they will not agree to give way even when the Secretary of the Treasury thinks in common justice they ought to do so.

Mr. GRIMES. I suppose the chairman of the Committee on Finance will admit that we have all a right to entertain our own opinions as to what "common justice" is.

Mr. FESSENDEN. Unquestionably.

Mr. GRIMES. I insist upon it that it is not common justice to allow the men in New York who got their goods out on the 30th to be exonerated from the payment of this duty, and to say that the men in Salem or Portland or any other port in the country who were not cognizant of this fact, and therefore did not pay their duties until the 2d of the month, shall be compelled to pay them.

Mr. TRUMBULL. It is even worse than that. It is admitted that at half past one o'clock on the 30th they had notice in the city of New York that the law was approved; and now you propose to exonerate them from the payment of

the additional duty of 50 per cent. while you exact it out of men in other parts of the country who had no knowledge whatever of the imposition of this additional duty, giving a preference to one port over the other parts of the country.

Mr. FESSENDEN. It is no such thing.

Mr. TRUMBULL. We have the evidence here that it is some such thing. The Senator replies to that that if they did not know it they ought to have known it; and then his other answer is, that the Secretary of the Treasury thinks this is but common justice. Are we here simply to register the opinions of the Secretary of the Treasury? Is nobody here to have any opinion about it because the Secretary of the Treasury says it is common justice? We are to make a man who in utter ignorance of the passage of this law paid his duties pay the additional 50 per cent. and exonerate the man who knew all about the law from the payment of that additional duty; and that is a sense of common justice! Well, sir, it is a kind of justice that I do not understand.

Mr. FESSENDEN. The Senator from Illinois is very apt to fly into a flame for fear that somebody is infringing upon his rights, and the Senator from Iowa the same. There is no danger of anybody's trying it with either of them. I merely cited it to show that it was a very good thing that the public interests were so sharply looked after that even in a case where the Committee on Finance, the Committee of Ways and Means, and the Secretary of the Treasury, sharp as they try to look after these money matters, concluded that common justice looked one way, there were those whose eyes were still sharper than theirs. It is a matter that I congratulate the country upon; and I do not know but what we may need this additional amount of money to offset what we lose in certain other respects.

Mr. SHERMAN. I wish to say but one word more. I think the Senator from Illinois has shown a little more feeling than there is any occasion for. This is the first tariff law, I believe, in the history of this Government or perhaps of any Government that took effect on the day of its passage. If there is any other, I should like to have the Senator name it. It has always been the policy of this and every other Government in the world that I have ever read about to make these laws prospective, to take effect in the future.

Mr. GRIMES. I believe the Senate passed that joint resolution under the lead of the Senator from Ohio.

Mr. SHERMAN. I know that I urged it strongly, because I wished to get the revenue, and was very anxious to get increased revenue.

What are the facts? This joint resolution passed this body on the 28th of April, but was not signed by the Presiding Officer of the body until the 29th. It did not go from this Chamber until the afternoon of the 29th. It was then taken to the President, and at seven o'clock that evening he signed it. The next morning its approval was not known in New York, it was not known here.

Mr. TRUMBULL. Is not the Senator from Ohio aware that on the morning of the 29th the New York papers all announced the passage of this resolution through both Houses of Congress?

Mr. SHERMAN. They announced that the Senate had concurred in it, but still it was not then a law. It went to the President, and he might have kept it for ten days. In the meantime these merchants, in the ordinary course of their business, proceeded to withdraw their goods from entry. The Senator says it ought not to take effect on the 29th. Why not? If you enforce the rigid rules of the law, why not enforce it on the 29th?

Mr. TRUMBULL. I have tried to tell the Senator that in point of fact it was not a law until the business hours of the 29th were over, and there would seem to be some equity in not enforcing it retrospectively, although by the strict rule of law, that parts of days are not to be taken into the computation, it is possible a construction might be given to it so as to give the law effect for the whole day. I do not think so, though. I do not think any court would construe this law as being in force through that day. For many purposes courts will divide days.

Mr. SHERMAN. I am informed it has been decided that this law was the law on the 29th, and that probably in law, in the courts, the duties

might have been enforced on the 29th; but it was not known. The law was not proclaimed here in this Senate Chamber until after twelve o'clock on the 30th. It was immediately telegraphed, and the Secretary of the Treasury enforced the most rigid rules. He demanded the duties as due on the 29th, and found himself involved in lawsuits and controversies. Under these circumstances the question came to the two committees of the two Houses as to when this law ought to be enforced. Considering that no other tariff law had ever been enforced on the day of its passage, considering that these men did not know of its passage until one o'clock on Saturday, the 30th, we thought it was not a very harsh thing to say they might have Saturday to take their goods out under the old duties, and that at the commencement of the next week, on Monday, the law should be in force. That is the whole case; and it seems to me it is but justice to give them that day.

Mr. SUMNER. I alluded to a circumstance that the final approval of this law by the President was not known at Salem until the 2d of May; and my friend from Illinois has placed great stress on that. He will now allow me to make a still further explanation with regard to the peculiar circumstance. The approval of the act was not mentioned in the Boston papers on Monday morning, the 2d of May. It was not telegraphed to Salem on Monday morning. The notice from the Secretary of the Treasury of the approval of the act, by a mistake was addressed to the collector of Salem at Newburyport, so that he did not receive it till the next day. On the 2d of May an eminent merchant of Salem, whom I may name—Mr. Bartram—one of the largest importers in this country, received a cargo from Zanzibar, and he went to the custom-house to enter it. The collector told him that under his instructions, the instructions under which he was acting, he could exact from him only the duties of the act of 1862. Mr. Bartram paid those duties on the 2d of May. The next day he received a notice from the collector of the passage of this act, and the exaction of the 50 per cent. So much for the port of Salem.

But allow me to remind the Senator from Illinois that he has confined his criticism especially to New York. He should understand that Philadelphia and Boston are in precisely the same condition. There are those three considerable cities, Boston, New York, and Philadelphia—

Mr. JOHNSON. Why not include Baltimore?

Mr. SUMNER. Perhaps it should be included. I am speaking according to my knowledge.

Mr. JOHNSON. It is somewhat of a city.

Mr. SUMNER. It may be that Baltimore is in precisely the same predicament; but I am speaking of the three cities with regard to which I have information. They were in this predicament: that the approval of the act was not known till half past one o'clock on Saturday. During the morning the merchants at those different places had been to the custom-house and asked the collector what they should pay. His reply was that under the instructions under which he was then proceeding he could exact only what was required by the act of 1862. Mark that, if you please, and consider the consequences. The merchants until after one o'clock at those places paid according to the act of 1862, and they naturally made their contracts with reference to that act; and there you have the precise hardship in the case that, according to the positive requisition of the collector, they paid under the act of 1862, and conducted their business with reference to that act. Now, I take it the object of the amendment of the Senator from Ohio is to meet that hardship.

Mr. TEN EYCK. There is one aspect of this case that I have not heard alluded to, and it is simply to that that I shall confine my remarks. I think there is great propriety, however, in remitting these duties on the 29th, for the reason stated by the Senator from Illinois that the business of the day had all been concluded before the joint resolution was signed by the President; but how should it be with respect to Saturday? You may look at that in two aspects: a portion of the day prior to half past one o'clock, and the remaining portion of the day subsequent to half past one o'clock. It is claimed by the Senator from Massachusetts and others who seek to have these duties remitted on that day that merchants

went to the custom-houses and inquired of the collectors with respect to this law that they read about in the newspapers as having passed both Houses of Congress a day or two before. The collector told them that he had no official notice of the fact, and therefore was not authorized to receive the new duties, and did not require them to pay them. He did rightly; he ought not to have received them. But, sir, after half past one o'clock the merchants in New York, Boston, and Philadelphia did pay their duties, and if you adopt the amendment of the Senator from Ohio in its length and breadth you not only relieve the merchants whom it is sought to relieve from their duty payments prior to half past one o'clock on Saturday, but you will require the Government to refund every dollar of the duty that they received in the afternoon of that day. Where is the propriety of that? Upon what principle can that be excused or remitted? You will excuse the payment of these duties before half past one o'clock on Saturday, because the merchants had not knowledge of the fact. They had sufficient notice to put them on inquiry.

Mr. SUMNER. And they were put on inquiry. They went to the collector, and the collector said he would receive only under the old law.

Mr. TEN EYCK. Exactly. He would only receive under that law then; and if their eyes and ears were open had they not then an opportunity of saving themselves from the effect of this law? A notice of that kind would be sufficient in any court of justice, in any case at law, under any circumstances sufficient to put the party upon inquiry. But after half past one o'clock on Saturday, when the question had been settled between the parties and the Government, you are asked now to relieve them from the effect of that payment and that settlement, and to return to them, for aught I know, hundreds of thousands of dollars which they paid under the law, which they were satisfied with, and which they expected to pay. If you are going to relieve the merchants from the consequences of this act and their want of knowledge this exemption should not extend beyond the period of half past one o'clock on the 30th of April, so far as regards these three cities; and then by the same principle of equality you should settle with the merchants of every other city in this Union up to the time and period when they had notice of the existence of this law. Why, sir, the wisdom and experience of ages have established the soundness of the principle that when an act is passed and becomes a law it is the duty of the citizen to take notice of it, and he must abide by and be bound by it.

Mr. POWELL. Mr. President, I shall vote for the amendment proposed by the Senator from Ohio. I do not think it comports with the dignity and the honor of any Government to exercise these sharp practices upon its business people. I was opposed originally to the passage of the joint resolution under which these duties were collected. I shall oppose any and every proposition operating upon the business people of this country, unless they shall have notice of the law and of the time at which it is to take effect. Every Government legislating upon the business of the country should act in such a manner as to allow all the persons engaged in the business affected to have notice of the law. Common honesty toward the citizen demands that. The passing of a law and having it to operate upon the business men of the country before it is known that it is the law is wrong morally; it is wrong in every aspect of the case. Why, sir, it is a kind of sharp practice that would barely be tolerated by gamblers and business sharpers.

Sir, I would exempt the merchants of New York, Baltimore, and Philadelphia who have gone forward in good faith from the operation of this law. When the agents of the Government did not know that it was the law how could they expect the people throughout the country to know it? When they went forward and paid their duties, first demanding of the proper officer if the duties had been changed and he received their money, he himself not knowing that the law had been changed, is it right that we should collect double duties from them? In my judgment it would be dishonest, and I would give my countenance to no act of my Government that I thought was dishonest; and I think it would disgrace any

business man of respectability in the country to so act with his correspondents and business friends.

The honorable Senator from New Jersey says that everybody should know the law. How could they know the law unless it was promulgated? How could the business men of New York or of any other city know that this law took effect on the 29th day of April when it was approved at seven o'clock in the evening of that day after all business was over? It is utterly impossible that they should. Would you exact this money from them on Saturday the 30th? It was only promulgated to them at one o'clock on that day, when nearly all the business of the day was over.

I will not only vote for this amendment, but I would vote to remit to any merchant this 50 per cent. if he paid it without notice of the passage of that joint resolution after he paid the duty under the law of 1862. I do not care who he was, because the presumption is if this law had been promulgated in such a manner as to cause it to be operative upon the citizen, the law officers of the Government would know it. If the merchant in Salem, to whom the Senator from Massachusetts referred, paid the old duties on the 2d day of May, I would not allow him to pay over again. If the merchants of San Francisco, on the 5th day of May, should pay to the officers of the Government there the duties under the law of 1862, I would ask nothing more from them. The Senator from New Jersey must know that the people cannot know that laws are passed until they are promulgated. He must know that this Government have a great interest in the matter, and the Secretary of the Treasury seems to act with the greatest vigilance and promptitude, and if his collectors did not know it how could he expect the people to know it?

Mr. TEN EYCK. At half past one on Saturday they did know it.

Mr. POWELL. Suppose they did. You collected from them under the operation of this law the day previous. I would refund all that they paid without notice of the law. Why, sir, this kind of practice would place us before the commercial world with that infamy with which Caligula has been handed down, for causing his laws to be written in small letters and placed on high pillars, so that his people could not read his decrees.

Mr. CONNESS. I suppose it would be very difficult in this matter to establish a rule which would provide for refunding the duties paid prior to the notice being given in every case. That would really be the just rule; but I suppose it is impracticable if not impossible to be established; and therefore I think the proposition made by the Senator from Ohio is the nearest approximation to justice both to the Government and to the merchant that we can adopt. I am very much surprised at the views expressed by the honorable Senator from New Jersey, who always holds the scales with so even a hand. Indeed, in his discussion of this little matter it did not appear to my mind from hearing the honorable gentleman that he supposed there was such a place as the city of San Francisco in the United States of America.

Mr. TEN EYCK. I could not have failed to know it, at least since the Senator has taken his seat on this floor.

Mr. CONNESS. If the honorable Senator had such notification as that, and then ignored it, he is in the position of those that are very deaf simply because they will not hear. Does my friend find any justice in a law which has provided notice to the merchant in the city of New York and not provided notice to the merchant at the city of San Francisco, and is he unwilling to admit such a slight extension of time as will enable us to avail ourselves of the erection of the trans-continental telegraph? Surely the rapidity with which, with whatever disabilities or accidents may occur from time to time, news is transmitted across the continent should be allowed us.

I hope, sir, that the amendment proposed by my honorable friend from Illinois will not obtain; but that time will be given until Monday after the passage of the act, as it is, as I before observed, impracticable to fix a period at which each person should have notice, or the collector in each city of the Union should have notice. I hope that the amendment now pending will not obtain.

Mr. FESSENDEN. Let us have a vote.

The PRESIDING OFFICER, (Mr. ANTHONY.) The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

Mr. TRUMBULL. I will offer another amendment to the amendment. I move to strike out all of the first-proposed amendment after the word "until" in the words "after the 30th day of April, 1864, and shall," and to insert "the person paying such increased duty had notice of the passage of the resolution imposing the same."

Mr. JOHNSON. It seems to me that the honorable member from Illinois has disregarded a provision of the Constitution which directs that all duties shall be uniform. You can make no discrimination in favor of one port or one man over another port or another man. The effect of his amendment now proposed is that if an importer in Baltimore had a cargo of goods which arrived on the 30th of April, and he had notice of the increased duty, he would pay one rate, and if an importer of precisely the same kind of goods had a cargo arriving on the 30th at New York and he had not notice, he would pay another rate. Now, I appeal to the honorable member to reflect for a moment if a provision such as he proposes will not conflict with the restraint upon Congress in the Constitution. It seems to me to be very evident; and it is more strikingly to be illustrated by supposing the two cases of Baltimore and San Francisco; the whole is under one Government. The Constitution provides that upon all importations there shall be uniformity of taxation as far as the imposts are concerned. San Francisco is to pay just as much as Baltimore, and Baltimore of course is not to pay more than San Francisco; but according to the amendment of the honorable member if a merchant in Baltimore imported upon the 30th of April a cargo of \$100,000 of any one commodity, to simplify the illustration, he would pay the increased duty of 50 per cent., and the merchant in San Francisco who imported into San Francisco on the 30th precisely the same commodity to the amount of \$100,000 would pay only the duty imposed by the act before the increase of 50 per cent. That would literally be a tax upon knowledge. My merchant would be made to pay 50 per cent. more because he knew, when the merchant in San Francisco would not be made to pay because he did not know. Knowledge in the one case, therefore, leads to the additional taxation; ignorance in the other case exempts from it. Ignorance, therefore, is bliss.

Mr. TRUMBULL. I should like to know if that is not the precise ground on which the Senator from Maryland has been advocating the proposition that has been before the Senate to-night. Has he not been contending here that by reason of the ignorance of the passage of this law when it was a law, these parties should be exempted? Has it not been the basis of the argument of the Senator from Ohio and the Senator from Maryland, and did he not contend in a long speech here that because they did not know in the city of New York of the passage of the joint resolution, and were ignorant of it, therefore they were to be exempted?

Mr. JOHNSON. Certainly.

Mr. TRUMBULL. Then ignorance was bliss, was it?

Mr. JOHNSON. Certainly it was.

Mr. TRUMBULL. Then act consistently, and let ignorance be bliss still, if that is to be the argument.

Mr. JOHNSON. Ignorance on many occasions is bliss. I have felt that often.

Mr. TRUMBULL. It seems ignorance is bliss when it suits the purpose of the honorable Senator from Maryland. When it does not, then it is anything but bliss.

Mr. JOHNSON. The honorable Senator entirely misunderstands me, and he misunderstands, I think, those with whom it is my pleasure to concur. We have said that the additional tax should not be imposed until there was knowledge, or until a time had elapsed when there might be knowledge; but nobody has said that you must make the tax which each importer is to pay depend upon the fact of each importer having knowledge that the increased duty had been imposed. You must select a time; that is all; and selecting a time, then there is no conflict with the prohibi-

tion to make anything but a uniform regulation in reference to revenue.

Mr. TRUMBULL. I apprehend the Senator from Maryland did not hear the Senator from Kentucky. It was the very argument he made, that he would not exact the duty from any man until he had time to hear of the passage of the law.

Mr. JOHNSON. I spoke of my own ignorance. That was all.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois to the amendment.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Ohio.

The amendment was agreed to.

The next excepted amendment was to insert at the end of section twenty the following:

And any duties which shall have been exacted and received contrary to the provisions of this section shall be refunded by the Secretary of the Treasury.

The amendment was concurred in.

The next excepted amendment was in line one hundred and sixty-six of section three to strike out "or" and insert "and;" in line one hundred and sixty-seven after the words "kinds" to strike out "valued at \$3 or less per dozen, 50 cents per dozen, and in addition thereto 25 per cent. *ad valorem*; valued at over \$3 per dozen, 50 cents per dozen, and in addition thereto 40;" and after "40" to insert "50;" so that as amended the clause would read:

On pen-knives, jack-knives, and pocket-knives of all kinds, 50 per cent. *ad valorem*.

Mr. DIXON. I propose to amend the amendment of the committee by adding "and 50 cents per dozen."

Mr. FESSENDEN. That would just cut out the whole concern.

Mr. SHERMAN. This whole matter was thoroughly considered by the Committee on Finance after hearing persons, and I will state that the duty proposed to be levied of 50 cents a dozen on some of these jack-knives would amount to 448 per cent. It is a ridiculous tax.

Mr. DIXON. I do not wish to take up the time of the Senate at this late hour, but I will state that from careful examination myself and from information received from parties well informed, I believe this article will bear this additional duty, and a large increase of revenue may be furnished in that way.

Mr. FESSENDEN. The Senator has received his information one-sided; the committee have received theirs from both sides.

Mr. DIXON. The Senator has received his from importers interested.

Mr. FESSENDEN. We heard both sides.

Mr. DIXON. I have received some also from those interested in the manufacture, I acknowledge. Still they all agree the revenue can be enhanced in this way.

The amendment to the amendment was rejected—ayes eight, noes not counted.

The amendment made as in Committee of the Whole was concurred in.

The next excepted amendment was in section six, line sixty-four, after the word "cents" to insert "per dozen;" and in line sixty-five to strike out "on the excess;" so as to make the clause read:

On spool thread of cotton, 6 cents per dozen spools, containing on each spool not exceeding one hundred yards of thread, and in addition thereto 30 per cent. *ad valorem*; exceeding one hundred yards, for every additional hundred yards of thread on each spool or fractional part thereof in excess of one hundred yards, 6 cents per dozen and 30 per cent. *ad valorem*.

Mr. MORGAN. I called attention to this clause for the purpose of making an inquiry of the committee. I do not know myself much about this duty on cotton thread, but I am informed that it is about 70 per cent. It was formerly 40. I desire to know of the committee whether this is not higher in proportion than the other duties upon cotton articles. Heretofore it has been classed with the other articles of cotton. It is now taken out of that class and made an exception, and charged a little larger duty. It never has been so treated before. I have also looked at the tax in the internal revenue bill, and I find it is but 5 per cent. on cotton thread. I do not suppose it was the intention of the Finance Committee to fix the duty so high upon this article as entirely to exclude it. My information

is that this duty will be prohibitory upon cotton thread; and I have called attention to the subject for the purpose of any explanation that the committee can give.

Mr. CLARK. The committee did give their attention to this matter; and they are not aware that this will be a higher duty than is generally imposed on cotton productions. It probably is known to the Senator from New York, it certainly is to many other Senators, that there are springing up in the country various manufactures of spool-thread cotton. We do not manufacture many kinds, and perhaps not some of the best kinds at present, though we make an excellent article; but it is desirable to encourage it, and we have proposed a sufficient duty both to protect the American manufacturer and to yield revenue. The committee think they have arrived at that point, and desire to keep the duty there.

The amendment was concurred in.

The Secretary read the next excepted amendment, which was in section eighteen, line five, after the word "except" to strike out "silk, raw or unmanufactured, or not more advanced in manufacture than singles, tram, thrown, or organzine," and to insert "raw cotton."

Mr. TEN EYCK. The inserting the words "raw cotton" in line seven was not excepted to. The exception was only with respect to silk, raw or unmanufactured. That is the only question now involved. I did not call for a division on this proposed amendment when we were acting as in Committee of the Whole, because I did not want to delay time by having a division then.

Mr. CLARK. I desire to say that the committee in adjusting the duty on pages 25 and 26 on silk, adjusted that duty with reference to the amendment now proposed to be made here, and if this is stricken out, in the opinion of the committee it would leave that duty too high. I hope this will not be changed, as it is in conformity also with the policy adopted in the section placed on page 45 encouraging the commerce.

Mr. HARRIS. I really hope this proposition will be retained as it came to us from the House of Representatives. From the information I have, I am satisfied that it will operate oppressively on the infant manufacture of silk here, if the manufacturers are obliged to pay a duty of 10 per cent. *ad valorem* on the raw stock that they are obliged to import. I hope, therefore, that the amendment proposed by the Committee on Finance will not be agreed to.

Mr. FESSENDEN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 19; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Conness, Cowan, Fessenden, Foot, Foster, Grimes, Harlan, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Pomeroy, Ramsey, Sherman, and Willey—20.

NAYS—Messrs. Carlile, Chandler, Dixon, Doolittle, Harris, Hendricks, McDougall, Morgan, Powell, Richardson, Riddle, Saulsbury, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, and Wilson—19.

ABSENT—Messrs. Collamer, Davis, Hale, Harding, Henderson, Hicks, Morrill, Nesmith, Wilkinson, and Wright—10.

So the amendment was concurred in.

The PRESIDING OFFICER. This completes the amendments made as in Committee of the Whole. The bill is before the Senate, still open to amendment.

Mr. MORGAN. I desire to offer an amendment to the nineteenth section of the bill, on the 42d page, in the sixth line, by inserting after the word "day:"

And in all cases where the duties exacted by virtue of the joint resolution of April 29, 1864, exceed the duties provided for in this act, the Secretary of the Treasury is hereby authorized and directed to cause such excess to be refunded in the manner provided in other like cases.

Mr. JOHNSON. I think the Senator from New York would find it better located if he made his proposition a separate section to be inserted between the nineteenth and twentieth sections.

Mr. MORGAN. Very well. Let the section be read as it will stand if amended, and then, if there is any objection to it, it can come in some other place.

The Secretary read, as follows:

That all goods, wares, and merchandise which may be in the public stores or bonded warehouses on the day and year this act shall take effect shall be subjected to no other duty upon the entry thereof for consumption than if the same were imported respectively after that day; and in all cases where the duties exacted by virtue of the joint resolution of April 29, 1864, exceed the duties provided for in

this act, the Secretary of the Treasury is hereby authorized and directed to cause such excess to be refunded in the manner provided in other like cases; and so much of the act of August 6, 1848, or any other act, as requires the sale of fire-crackers or prohibits their deposit in bonded warehouse, is hereby repealed.

Mr. MORGAN. I believe there is no objection—I inquire of the Senator from Maryland if he thinks there is any objection—to its appearing in this place.

Mr. JOHNSON. Not at all.

Mr. MORGAN. I do not offer this amendment because the Government has any surplus of money to return to importers, but I offer it because I think it equitable. Let us see what we have done. We passed a joint resolution increasing the duties 50 per cent. The merchants paid those duties. They supposed that to be the law; they supposed that to be the decision of Congress; and so long as it is the decision of Congress there is no objection to it; but it pretty soon appears on the passage of this bill that we are not governed by the joint resolution. Some parties instead of letting their goods go into bond paid their duties, supposing that when the more matured bill which is now under consideration should be passed the duties would be equivalent to the 50 per cent. increase contained in the joint resolution. So far as they in good faith have paid those duties and have their goods on hand, I do not know why they should not be entitled to stand on the footing of this bill precisely as they would if they had let their goods go into bond. I can see no objection to it, no reason why they should not have the increased duties refunded to them if Congress means to act equitably toward the merchants.

Mr. SHERMAN. I think a little reflection will convince the Senator that this amendment is substantially impracticable and unjust. Suppose the Secretary should be required to refund the excess of duties paid under the joint resolution to every person, what would be the result? Many of those persons who have thus paid the increased duties have sold their goods and have realized the increased cost of those goods. Will you carry the same principle to the vendee, and so on? Those goods may have been sold a dozen times; the increased duty and increased price may have been realized by different parties. Would you give to the purchasers of the various forms in which those goods have gone into the market the same right? That would be inequitable.

Then there are other cases. This bill in some cases raises the duties more than 50 per cent. The same principle that the Senator seeks to apply would require those persons who have got the benefit of a lower rate of duty to pay now the addition. On woolens, for instance, we have raised the rate of duty 10 per cent., one third, and we have put a specific duty of 24 cents a pound on woolen goods, so that the aggregate of the increase on woolen goods is more than 50 per cent.—more than the amount imposed by the joint resolution. It is true that there is a corresponding duty on wool which will be paid by the manufacturer. But it seems to me that to carry out such a principle as this would operate unjustly. These parties have paid the duties required by law. There is no reason why the money should be refunded to them. They chose, instead of leaving the goods remain in the bonded warehouses, to take them and put them in market. They took the risk of the increased duty. Not only that; they paid the duties with a full knowledge that the rate of increase would not be so large as the 50 per cent. provided for by the joint resolution. This bill was introduced into the House of Representatives from the Committee of Ways and Means very soon after the joint resolution was passed. All persons engaged in the business of importing knew that the proposed permanent increase was not so great as 50 per cent., and they have acted upon that idea. Some have withdrawn their goods from bonded warehouses and realized, others have allowed them to remain in bonded warehouses.

It seems to me now that to require the increased duty to be refunded would operate unjustly, inequitably. It would be a very severe burden on the Treasury. I do not know how much it would amount to; it would be very difficult to estimate. In the case of woolen goods it would be impossible to estimate whether the 50 per cent. increase under the joint resolution was greater than the

amount imposed by this bill. It would make a difficult and troublesome question to be settled in every particular case. Every importer who has taken out his goods under the joint resolution would assert a demand, and it would be very difficult to ascertain whether the amount of duty imposed by this bill is higher or lower than the amount imposed under the joint resolution. In some cases it is higher, in some cases it is lower. I think it would involve the custom-houses in irretrievable confusion and innumerable losses. I do not think that any injustice has been done to these merchants. They have paid the duties imposed by law, and they have had the benefit of the increased price. They need not have paid the duties when they did unless they chose. They might have let the goods remain in bonded warehouses subject to the future duty. They chose to take them out; they have sold them in many cases and realized profit. To refund the money would be to give these importers an advantage which other dealers have not.

Mr. MORGAN. Mr. President, we must now admit, I think, that the passage of the joint resolution of the 29th of April was an ill-advised measure. It will be recollected when that resolution was before the Senate it was stated that it was not expected that the permanent increase of duties would be 50 per cent. I myself stated that if I thought the increase would be 50 per cent. I would be willing to vote for the resolution, but inasmuch as I did not think the average increase would amount to that, I agreed with the Finance Committee in their amendment to reduce it to 33½ per cent., and probably 25 per cent. would have been better. I do not think, however, that the amount is very large—I do not know how much, but it cannot be very large—of goods entered for consumption on which the increased duty has been paid. I submit to the Senate whether it is just to have a policy that is so unstable as this has shown itself to be. It seems to me that so far as persons have paid these duties, it is only equity to have the money returned to them.

Mr. HENDRICKS. I recollect when the joint resolution was before this body it was proposed by some member of the Finance Committee, I think the chairman, to reduce the increased tax from 50 to 33½ per cent.

Mr. FESSENDEN. The committee recommended that.

Mr. HENDRICKS. And the reason given at the time was that when the new bill would be matured by the committee it probably would not impose a greater tax than 33½ per cent. increase, and that the tax in the mean time ought not to be greater, as a matter of course, than that which would finally become the law. But it was answered, and I think the Senator from California [Mr. CONNESS] made that reply; that we could not impose less than 50 per cent. of an increase running over the whole list; and on that assurance, on that opinion, as I believe, the Senate voted for the 50 per cent. I am very sure from what was said at that time that the Senate would not have voted for the 50 per cent. except for the impression that the permanent law would increase the rate of duties at least that much.

Now, it appears that we do not do so, and the proposition of the Senator from New York seems to me to be just. Suppose that last week an importer has brought in a very large supply of goods, and he has paid the 50 per cent. That 50 per cent. is a part of the cost of the goods to him, or to the wholesale merchant who has purchased from him. To-morrow, after we pass this bill, the same goods are brought into the market of the country at 20 or 30 per cent. less, because of the reduction of the tariff, and one can undersell the other by that much. It is an act of injustice to the commercial community just to that extent. As the Senator from Ohio has said, I think there are practical difficulties about this, but they ought to be met by a Department that asks such unwise legislation as a sixty days' tariff; I do not care if I do impose on that Department some hardships.

Mr. SHERMAN. I will ask my friend what Department asked for it.

Mr. HENDRICKS. The Treasury Department.

Mr. SHERMAN. The Committee of Ways and Means reported it, and we passed it. The Department did not ask for it.

Mr. HENDRICKS. I understood at the time that it was a departmental measure. If Congress, on its own motion, adopted what was a very impolitic measure, as now clearly appears, Congress ought as far as possible to correct it. I think it was impolitic to adopt a tariff for sixty days. The commercial world will be afraid directly to see the Congress of the United States in session. They do not know what laws are going to affect their interests from day to day. We strike a lick at gold one day, and it amounts to nothing; then we strike a lick at the trade of the country, and that amounts to a good deal. I think the proposition of the Senator from New York ought to be adopted, so as to do as near justice as we can.

Mr. FESSENDEN. Gentlemen have remembered a part of what took place, but there is something they have not remembered. The 50 per cent. tariff came from the House of Representatives, adopted as a measure, my friend from Ohio said, in part to stop importations altogether for a particular length of time. The Committee on Finance did not understand that it would have that effect entirely, and they recommended several amendments. Among others they recommended to strike it down to 33½ per cent., and they did so for the reason expressed by them very decidedly that they did not believe that the average of the duties would be raised above that amount. The committee were not quite unanimous upon the subject, it appeared, after it came into the Senate; but the matter was argued, and I stated the belief of the committee upon that subject, and the Senate, acting as in Committee of the Whole, voted accordingly to strike it down to 33½ per cent. But when the matter came into the Senate, my friend from Ohio, a member of the committee, rallied very strongly upon the idea that it was very important not to send the bill back to the other House, that we must pass it at once, and if we made any amendment to it it must go back there, and that idea seemed to take with the Senate; and so, although they were in favor of and believed it to be right, as their vote had shown, to fix the increase at 33½ per cent., such was the fever of laying your hand upon just what you could lay it upon that the Senate on the whole, after discussion, concluded that it was best to put on 50 per cent. as a sweeping measure, and leave matters to be adjusted afterwards.

Now, sir, it turns out precisely as the Committee on Finance supposed it would. I may congratulate myself that in one instance the committee has been found to be right so far as its prediction was concerned. It did not seem to me at that time, from the very little knowledge I had of the subject-matter, that there could be a large proportion of articles upon which any such increase could be made with reference to the question of revenue, and so it seems to be. But, sir, although that was the view I entertained at that time, and although it has turned out to be correct, I by no means agree to the proposition of the Senator from New York, for the simple reason that although the legislation in my judgment was somewhat unwise, yet no sort of complaint can be made by persons who have chosen under the joint resolution as it stood, when it was understood to be a mere temporary measure, to take their goods out of warehouse and pay the additional duty. They could have left them there until this time if they had seen fit to do so.

Mr. POWELL. Allow me to ask the Senator from Maine a question. Suppose a merchant imported his goods and had them in bond, and had made a contract to deliver the goods, could he not be compelled to take out those goods and pay the 50 per cent.?

Mr. FESSENDEN. On that supposition. But when a contract is made, goods are generally taken out at once and the contracts are generally that the purchaser pay the duty. We cannot legislate for all possible cases. We must take the great majority. The goods that were in bond might have remained there; the goods subsequently imported might have been put into bond; and there is no probability that many goods have been taken out unless where it was to the interest of parties to do so, because it was known that before the sixty days when the joint resolution would expire the whole subject of duties would be renewed, and the opinion had been expressed (as any one could see) that on many articles an

increase of 50 per cent. could not possibly be put. Any importer who under such circumstances took his goods out of bond and paid the 50 per cent., did it simply because he had made a sale and the purchaser paid him the duty.

As was suggested by my honorable friend from Ohio, if you take this money out of the Treasury to whom are you to pay it? I ask my honorable friend from New York who has moved this amendment, to whom should the money be paid? If the person who sold the goods, who took them out of bond for the purpose of transferring them to another, (and he is the only person known to the custom-house,) is to receive the money, it is just so much clear profit to him. It is not likely that his purchaser in Maine, or Iowa, or anywhere else would think about it; and it is just putting into his pocket so much over and above the profits of the sale. Some injustice has been done in particular cases, no doubt; but in the great majority of cases the result has been what I have stated, because these men are shrewd business men. Having the opportunity and the right to let their goods lie in bond until they ascertained what the duties under the new tariff were to be, if they chose to take them out it must have been for some very good reason known to themselves, and we shall do nothing like justice to anybody by refunding duties paid under those circumstances; in fact we should do more injustice than justice. I hope the amendment will not be adopted.

Mr. SUMNER. I have already referred to one case this evening which occurred at Salem, and illustrates this very point—the case of the eminent merchant, Mr. Bartram, who, on the 2d of May, entered at the custom-house a cargo from Zanzibar, and paid the duties on that day, according to the requirement of the collector, under the old act of 1862; the next day he received a summons to appear at the custom-house and pay the additional 50 per cent. If he had been aware of the passage of the joint resolution, he would, perhaps, as the Senator from Maine says, have allowed his cargo to remain in bond, and then he could take advantage of the remedy provided by this statute; but he was not in a condition to do that, and therefore he has paid on that full cargo the additional 50 per cent.

Mr. SHERMAN. What was the cargo?

Mr. SUMNER. It was from Zanzibar, in the East Indies. What it was I do not know. I know nothing beyond the fact that he made that payment of 50 per cent.

Now, as to the practical difficulties of carrying this out, on which Senators have placed so much stress, do they really exist? Is it not a matter of every day's experience at the custom-house to pay duties under protest, and then afterwards if it appears that the duties were not rightfully exacted the Government refunds them? Why may they not be refunded now?

Then the Senator from Ohio says it is not equitable to require this refunding; but I appeal to the Senator, what was the original purpose of the joint resolution? Was it not to arrest foreign importations, to prevent the market being glutted under the old statute of 1862 in anticipation of an approaching change of the tariff? I believe that was the single, specific purpose. Very well; that has been accomplished. Now that being accomplished, it only remains that we should remedy any hardships, or abuses if you choose to call them so, which may have occurred under the resolution, and it seems to me that the case indicated by the amendment of my friend from New York is one of those. Indeed, my attention had been called to this hardship before the Senator moved his amendment, and if he had not brought it forward I should have endeavored to do so myself.

I would add one other remark. It seems, by the admission of all, that the original resolution now is considered to have been hasty. I do not think that it commends itself to the judgment of Senators generally. I think all will admit also that it has done us no good abroad; it has not done the national credit any good.

Mr. FESSENDEN. The Senator voted for it and argued for it.

Mr. SUMNER. Certainly I was for it; I do not mean to throw any shadow over those who were, because if so it would fall on myself.

Mr. SHERMAN. If the Senator will allow me, I wish to enter my caveat.

Mr. SUMNER. Just allow me to finish the idea I was upon. It is simply to present, what doubtless has passed through the mind of every Senator already, that the passage of the resolution did not and could not have a beneficial effect on our credit abroad. The effect of it doubtless was to give the idea that our Treasury was perhaps at the last gasp, and that we were almost playing a game of grab, seizing what we could get. Now that we are remodeling the tariff, it does seem to me that the time has come for us to review that transaction, and to repair any hardship that may have arisen under it. The very fact that we do repair that hardship I think will have a tendency to restore our credit so far as it may have been wounded or affected injuriously by the original resolution.

Mr. HALE. I have paid but little attention to this matter; but it strikes me, with all deference to the gentlemen who have urged this proposition, that it is the strangest proposition I have ever heard made in a legislative body. It is utterly impossible to pass any law of a general character affecting a whole nation that will not work individual injustice in some individual cases. No alteration of the tariff, high or low, no law of any kind, general in its character, can be passed without working out individual injustice; and if you establish this precedent it will be one entirely novel; and if you follow it up you will be called upon next session to remedy the injustice that will have been wrought by the passage of this tariff bill.

It is said that the passage of the joint resolution was improvident and unwise, and that it is so admitted. Well, sir, if Congress establishes the principle that the effect of its own improvident and unwise legislation is to be relieved by grants of money from the Treasury, it will tax the Treasury vastly more than it will to carry on the war. It seems to me that the only thing Congress can do is to pass laws general in their character; they may err, they may be unwise, impolitic; but to undertake by grants of money from the national Treasury to remedy the consequences of such legislation seems to me to be improper, unheard of, and not to be tolerated for a moment in the Congress of the United States legislating for the whole country.

Mr. President, we were, as everybody knows, in a crisis that never occurred before; a new state of things presented itself; we were looking around to devise ways and means for raising revenue in every possible manner that we could, consistently with justice and right; we contemplated what has since come, a general change of the tariff; and to prevent individuals speculating on their foresight and making importations in view of this, the joint resolution was passed, and it had to be passed promptly to be of any service. The only thing we can do, whether it was wise or unwise, is to let its burdens fall where in the course of nature, the business of the country, and the providence of God they do fall, and there let them rest.

Mr. CONNESS. I believe that in the case suggested by the Senator from Massachusetts the ship came in on Sunday after the passage of the joint resolution.

Mr. SUMNER. I know nothing about that.

Mr. CONNESS. I believe it is the same case. That is my information. And to get the goods immediately out under the new duties, the party entered them at once on Monday and paid the duty. It appears to me that in place of there being a grab game there on the part of the Government, the grabbing was on the other side; and a special provision to cover such a case, or a special provision illustrated by such a case, is not, to say the least of it, happy in the illustration. I agree with honorable gentlemen who have presented the utter impossibility of applying a provision of this kind. It would simply be erecting the head of the Treasury Department into a court of equity with business enough to occupy him for the next year, without attending to loans or the prosecution of his other ordinary business.

Mr. MORGAN. I think the Senator from New Hampshire need not have told us that he had not paid much attention to this subject. If he had paid attention to it I think he would not have made exactly the statement he has made. It is pretty evident, however, that the amendment which has been offered by me will not be adopted, for the Senate, I judge, is about in the condition that it

was when it passed the joint resolution; it is not in a condition to consider anything. Nevertheless the fact remains that you have advanced your duties 50 per cent. and lowered them within sixty days, and persons who paid the increase have got to pocket the loss. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JOHNSON. When the proposition was first suggested to me by the honorable member from New York who offers it I was in favor of it, but on reflection I think it will be improper to pass it.

The question being taken by yeas and nays, resulted—yeas 8, nays 25; as follows:

YEAS—Messrs. Buckalew, Harris, Hendricks, Morgan, Powell, Sausbury, Sumner, and Wilson—8.

NAYS—Messrs. Anthony, Brown, Carlile, Clark, Conness, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Pomeroy, Richardson, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, and Willey—25.

ABSENT—Messrs. Chandler, Collamer, Cowan, Davis, Harding, Henderson, Hicks, Howard, Howe, Morrill, Nesmith, Ramsey, Riddle, Wade, Wilkinson, and Wright—16.

So the amendment was rejected.

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. FESSENDEN. I hope not. I think we had better get through with this bill to-night.

The motion was not agreed to.

Mr. TEN EYCK. I move to amend the bill by inserting at the end of the third section:

On diamonds, cameos, mosaics, gems, pearls, rubies, and other precious stones, when not set, a duty of 10 per cent. *ad valorem*.

By the internal revenue bill which we have passed we impose a duty of 10 per cent. upon all these jewels; but by a provision connected with that section as it was passed in the House of Representatives we excepted from that tax of 10 per cent. these jewels not set, upon which import duties had been paid. The Senate amended that provision, but the House of Representatives have non-concurred in the Senate amendment, and it is more than probable that the section in the internal revenue bill will stand as it was passed by the House of Representatives. Now, my simple object is to equalize the duties under these two bills. If you except jewels not set which have paid an import duty, that import duty ought to be of the same amount with the duty imposed by the internal revenue bill, to wit, 10 per cent. But by looking at the act of 1862, from which I have framed word for word the amendment I propose, it will be seen that the import duty on these jewels is only 5 per cent.; so that unless this amendment be adopted the effect will be that under the internal revenue bill we impose a duty of 10 per cent. *ad valorem* on all these jewels, except jewels upon which an import duty has been paid, and that is only 5 per cent., making a discrimination in which I see no reason.

The amendment was agreed to.

Mr. SPRAGUE. I move to amend the bill in section six, line forty-nine, by striking out the words "included or;" so as to make it conform to the law of 1861.

Mr. FESSENDEN. The Senator will observe that on the goods included in the schedule before the proviso there is only a specific duty of so much per square yard without any *ad valorem* duty except in one or two instances. This is merely putting on an additional duty if they are of a particular description, so that the words "included or" were put in in order to cover the list of goods in the schedule.

Mr. SPRAGUE. The Senator will see by reference to the old law that this proviso will carry with it all the items that precede it in the section.

Mr. FESSENDEN. It is intended to apply to them because there is no *ad valorem* duty on them.

Mr. SPRAGUE. Then these duties which are specified as being so much per square yard and a percentage in addition need not be mentioned in this section, because they will all come under the 35 per cent. provision; they cannot come in any other way.

Mr. FESSENDEN. If you strike out the words "included or" the duty of 35 per cent. would not apply to the list, and the articles in the list would not be subject to an *ad valorem* duty.

Mr. SPRAGUE. It will apply to the rest of the section.

Mr. FESSENDEN. The Senator is mistaken. If his object is protection, he is striking out the protection he has on the other kinds of goods.

Mr. SPRAGUE. The articles enumerated in this section were enumerated in the act of 1861, but none of them perhaps had then the value of 16 cents a square yard; but now in consequence of the rise in cotton every one of them has that value, and therefore the proviso affects all the descriptions of goods mentioned in the preceding part of the section. I propose only to use the words which were used in the law of 1861, which was gotten up by those who were very capable, and who understood this matter thoroughly. It was done, to protect qualities of goods manufactured in this country that come in competition with English and other foreign goods. They were specified by so many picks to the square inch, and all other goods above a certain number of picks to the square inch were to be taxed at a certain percentage *ad valorem*. The advance in cotton has been so great that the 35 per cent. *ad valorem* will apply to all those goods enumerated here in the first part of the section.

Mr. FESSENDEN. I do not understand it as the Senator does, but I concede that he understands the operation of it better than I do, because he has a practical knowledge on the subject. I have not looked into the section and the operation of it sufficiently to be able to say that it will not have the effect he speaks of; but I can see very readily from the phraseology of the bill what the object of the House of Representatives was. It was to apply this 35 per cent. to all the goods in the schedule and all other goods not enumerated when they were over a certain amount. That may cover the whole.

Mr. SPRAGUE. It will cover every one.

Mr. FESSENDEN. It was intended for that, I suppose.

Mr. SPRAGUE. It was not intended to cover those enumerated in the first part of the section.

Mr. FESSENDEN. Certainly it was, or they would not have put in the words "included or not included in the foregoing schedules."

Mr. SPRAGUE. Then why mention those? Why give them a specific duty? Why name the items?

Mr. FESSENDEN. Because the specific duty is different on different classes of goods.

Mr. SPRAGUE. If the chairman of the Committee on Finance will read the whole bill he will find that in every other respect its descriptive language is identical with the act of 1861, but in this respect it is changed. I do not propose to do more than make the meaning clear by conforming the language of this proviso to that of the corresponding provision in the act of 1861.

Mr. FESSENDEN. The intention was to change it; but inasmuch as the Senator seems to be very positive about it, speaking from practical knowledge of the subject, I shall not object to the amendment, because if the amendment be made it will be considered in the other House, whereas if we should make no amendment to the clause it could not be touched though we might find an error in it. I make no opposition to the amendment.

The amendment was agreed to.

Mr. SPRAGUE. Now I move to insert after line fifty-eight of section six, on page 23, the following proviso:

And provided further, That no cotton goods having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted at a less rate of duty than is provided for goods which are of that number of threads.

The amendment was agreed to.

Mr. SPRAGUE. I now move to amend by striking out the following clause in line five of section six, on page 21:

First. On cotton, raw or unmanufactured, 2 cents per pound.

It seems to me that the condition of the cotton market of the country should have some influence upon Senators in staying further taxation to the people of this country upon that article. They now pay for it 1,000 per cent. in addition to what they were paying before this war. A duty of 2 cents per pound may not appear to increase the price to the consumer, but it does. The Government will receive very little from it. There may be a time—it will not be often, but once in a while it may occur—when the American manu-

facturer may be able to introduce cotton from abroad and work it up into fabric which he can put to the consumer at a less price than if he had to purchase the American cotton.

At a time like this, when the policy of the Government is to gobble up every pound of cotton there is in the South and then to put an embargo upon it here, what are the people of this country going to do? Are you to continue that policy? If so, the poor people of this country will have to pay constantly for the most necessary articles a price which it is impossible for them to endure.

While I am up I wish to say a word as to the cotton manufacturers of this country. It has been said on this floor that they have made a great deal of money during the past year. I know of several of that class of manufacturers in this country; and it is within my knowledge that from the 1st of January, 1863, to the 1st of January, 1864, many of them did not make enough to pay to the Government the tax which it charged. It was so generally with the manufacturers of cotton in Rhode Island, and I believe that in Rhode Island that business is prosecuted, if not more economically, at any rate as economically as in any other part of the country. If they have made money they do not know where it is. I do not know that that amounts to anything on this question; but such is the fact. I can see no reason now why the people of this country should be burdened by an additional tax on cotton. After the war, when the embargo upon the cotton of the South shall be taken away, it will be time enough, in my opinion, to tax this cotton. There is no reason for it now.

Mr. FESSENDEN. We lay an internal duty of 2 cents a pound on our own cotton; and it would be a very singular thing if we did not exact at least as much from imported cotton. There is some cotton imported. We have made an exception in favor of Surat cotton in allowing it to come from England without paying the 10 per cent. additional put upon other products of places beyond the Cape of Good Hope when imported from places this side the Cape. After we have made that exception, to take off the duty when we have imposed 2 cents tax on our own cotton would be very singular action in my opinion.

Mr. SPRAGUE. Nobody wants this cotton protected; it cannot come in competition with American cotton.

Mr. FESSENDEN. It is used largely by manufacturers.

Mr. SPRAGUE. Not this imported cotton. Mr. FESSENDEN. The Senator's colleague [Mr. ANTHONY] has been talking about it several times, and has been very anxious to get the 10 per cent. taken off.

Mr. SPRAGUE. It can be used sometimes, but it cannot be used generally. There may be some cases in the business of cotton manufacturing where it can be used, but it cannot be used generally with the machinery now in use in this country.

Mr. CONNESS. If it is not used much the duty cannot be a very severe burden.

Mr. SPRAGUE. It is a burden; there is no benefit in it.

The amendment was rejected—ayes four, noes not counted.

Mr. ANTHONY. I wish to ask the attention of the committee to an article that seems to have escaped their notice, the article of hair-cloth. That article is manufactured here. I understand the theory of this bill to be that an import duty shall be imposed upon all imported articles equal to the excise duty on similar domestic articles, and taking into consideration also the increased cost of manufacture caused by the tax upon the raw materials that enter into our productions. Imported hair-cloth was taxed 30 per cent. by the tariff of 1861. When we put a tax of 3 per cent. on the domestic manufacture in 1862 there was no increase of the import duty as there was in the case of other manufactures. Now, there is an additional duty of 2 per cent. on the domestic manufacture, and still in this bill there is no increase of the import duty. I think in conformity with the spirit of the bill there should be an increase of the import duty corresponding with the excise tax, and that would be about 10 per cent. The excise tax is 5 per cent., and as all the raw materials that enter into the manufacture are also taxed, I suppose, in accordance with the

spirit of the bill, about double the tax should be imposed on the foreign article as on the domestic. I move therefore to insert, after line seventy-one of section six, "on hair-cloth, 40 per cent. *ad valorem*." The duty is now 30 per cent. I think it ought to be 40 per cent.; but I will take anything the Finance Committee will agree to give.

Mr. FESSENDEN. I think an amendment was made to-day to cover that—an amendment offered by the President of the body.

Mr. ANTHONY. I was not aware of it.

The PRESIDENT *pro tempore*. The amendment referred to was after "bunting," in line ninety-eight of section five, to insert "mohair, alpaca, or goats' hair."

Mr. ANTHONY. This is a different article. This is hair-cloth, such as sofa covers are made of.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Rhode Island that his amendment would come in a better classification by being inserted after line one hundred of section five.

Mr. ANTHONY. Very well. I move to insert at that place: "on hair-cloth 40 per cent. *ad valorem*."

Mr. FESSENDEN. That is a very large duty.

Mr. ANTHONY. It is only 10 per cent. additional. There has been no increase of duty on the foreign article since the excise tax has been laid on the domestic.

Mr. FESSENDEN. Do these manufacturers suffer? No one came before us to complain or ask that any additional duty should be imposed on this article.

Mr. ANTHONY. They are very modest people.

Mr. FESSENDEN. We had no chance to investigate it.

Mr. DIXON. I think the duty is high enough already.

Mr. FESSENDEN. If the Senator from Rhode Island will put his amendment at 35 per cent., I shall not object to it.

Mr. ANTHONY. I will take 35 per cent., because I know I cannot get anything if the Senator from Maine objects.

The PRESIDENT *pro tempore*. The amendment will be so modified.

Mr. ANTHONY. I beg to be allowed to say again to the Senate that the import duty on this article is precisely the same now as it was before there was any excise duty on the domestic manufacture. There is now an excise duty of 5 per cent., and I think according to the spirit of this bill there should be a corresponding increase in the import duty. If there is any reason why there should not be, I am open to conviction and I shall be glad to hear it.

The amendment was rejected.

Mr. CHANDLER. I move that the Senate adjourn.

Mr. FESSENDEN. Senators are continually asking when we can get through the session, and then when we get to work are moving to adjourn.

Mr. CHANDLER. We never shall get through until members stop talking. I insist on my motion.

The motion was not agreed to.

Mr. ANTHONY. The duty on ivory in the tusk is 10 per cent., and the duty on manufactured ivory 50 per cent. There is a kind of ivory imported that is partly manufactured, cut into blocks for billiard balls. I suggest to the committee that that description of ivory should pay an additional duty over ivory in the tusk. I move to insert after line twelve of section twelve: "On ivory blocks for billiard balls, 20 per cent. *ad valorem*." I will say 15 per cent. if the chairman of the Committee on Finance prefers. The duty on it ought to be more than on unmanufactured ivory and not so much as on manufactured ivory.

Mr. FESSENDEN. That is somebody's notion who thinks he can make a little something out of it.

Mr. ANTHONY. I do not know what reason the Senator has to put that imputation on any amendment I move.

Mr. FESSENDEN. Has the Senator any information on the subject?

Mr. ANTHONY. We do not all know as much as the Senator from Maine, but we know something.

Mr. FESSENDEN. I do not profess to know

anything about it. I do not see why we should put an additional duty on the article because it is partially cut into blocks.

Mr. ANTHONY. It is partly manufactured, and weight is taken off.

The amendment was agreed to.

Mr. ANTHONY. I hope the Senator from Maine is good-natured now, because I want to offer a few amendments as to a class of articles. These amendments are in regard to water colors used for the manufacture of paper-hangings. We have put an excise duty on the manufacture; we have put a very large duty on many of the raw materials used in the manufacture; whisky is one of the most important, on which the duty is very large indeed; but we have put no increased duty on the imported article. I desire that the duty on the imported article shall be raised so as to correspond with the excise upon the domestic manufacture. With that view, I move to insert at the end of section thirteen:

On blank ficks, enameled-white, satin-white, lime-white, and all combinations of barytes with acids or water, 3½ cents per pound.

The duty on that is now 2½ cents a pound.

On carmine lake, 35 per cent. *ad valorem*.

The duty is now 25 per cent.

On moist water and mineral colors and paints used in the manufacture of paper-hangings and all colored papers and cards, not otherwise provided for, 35 per cent. *ad valorem*.

The duty is now 25 per cent.

On French green, Paris green, mineral green, mineral blue, and Prussian blue, dry or moist, 35 per cent. *ad valorem*.

The duty is now 25 per cent.

Mr. FESSENDEN. There is 35 per cent. on all water colors.

Mr. ANTHONY. But water colors used for paper-hangings are different. There is an exception of colors used in paper-hangings. I looked at it this morning. All I ask is that there may be an increased duty on the imported article corresponding with the excise tax, and that is the spirit of the bill. A Senator suggests that the duty being paid in gold brings it up. I understand that throughout the difference between gold and currency has not been taken into consideration, because it is a fluctuating element.

Mr. BUCKALEW. Multiply all these duties by two and then make the comparison.

Mr. ANTHONY. But how long is that to last?

The PRESIDENT *pro tempore*. The first amendment proposed by the Senator from Rhode Island will be read.

The Secretary read, as follows:

On blank ficks, enameled-white, satin-white, lime-white, and all combinations of barytes with acids or water, 3½ cents per pound.

Mr. FESSENDEN. The duty is now 35 per cent. What percentage is 3½ cents a pound?

Mr. ANTHONY. The duty is now 2½ cents a pound, and I propose to raise it to 3½.

Mr. FESSENDEN. That is a very large increase, from 2½ to 3½ cents.

Mr. ANTHONY. I will take 3 cents, and I so modify the amendment.

The amendment was rejected.

The next amendment was read, as follows:

On carmine lake, 35 per cent. *ad valorem*.

The amendment was rejected.

The next amendment was read, as follows:

On moist water and mineral colors and paints used in the manufacture of paper-hangings and all colored papers and cards, not otherwise provided for, 35 per cent. *ad valorem*.

Mr. HALE. What is "moist water?" [Laughter.]

Mr. ANTHONY. Here is an article that is produced in this country and is imported from abroad. We lay an excise of 5 per cent. on the domestic production, and we refuse to lay any additional duty on the foreign production. Gentlemen who do not know anything about it content themselves with laughing at "moist water."

Mr. HALE. I wish the Senator from Rhode Island would give us the benefit of his learning on it and explain what "moist water" is. What use is it put to? Is it useful in mechanics or for medicinal purposes? How does it differ from any other water? [Laughter.]

Mr. ANTHONY. It is moist water colors. Water colors may be dry or moist. It does not

follow that a water color must be moist all the time. It may be dry or moist. The article is moist water colors.

The question being put on the amendment, there were, on a division—ayes 13, nays 9; no quorum voting:

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. FESSENDEN. I hope not.

The motion to adjourn was not agreed to.

Mr. ANTHONY. I think there is a quorum here if Senators will vote.

The PRESIDENT *pro tempore*. The Chair will put the question on the amendment again.

The question being put, there were twelve ayes.

Several SENATORS. We give it up.

The PRESIDENT *pro tempore*. Is a further count insisted on?

Mr. HALE. Does that make a quorum?

Mr. HENDRICKS. The last division showed the Senate to be without a quorum.

The PRESIDENT *pro tempore*. The Chair is of opinion that the last vote showing the absence of a quorum, business cannot be proceeded with till the presence of a quorum is ascertained.

Mr. WILSON. I call for the yeas and nays on the amendment of the Senator from Rhode Island.

The yeas and nays were ordered; and being taken; resulted—yeas 12, nays 16; as follows:

YEAS—Messrs. Anthony, Brown, Dixon, Foot, Hale, Harlan, Harris, Hendricks, Richardson, Sprague, Sumner, and Wilson—12.

NAYS—Messrs. Buckalew, Clark, Doolittle, Fessenden, Foster, Grimes, Johnson, Lane of Indiana, McDougall, Morgan, Powell, Ramsey, Ten Eyck, Trumbull, Van Winkle, and Wiley—16.

ABSENT—Messrs. Carlile, Chandler, Collamer, Conness, Cowan, Davis, Harding, Henderson, Hicks, Howard, Howe, Lane of Kansas, Morrill, Nesmith, Pomeroy, Riddle, Saulsbury, Sherman, Wade, Wilkinson, and Wright—21.

So the amendment was rejected.

The next amendment of Mr. ANTHONY was read, as follows:

On French green, Paris green, mineral green, mineral blue, and Prussian blue, dry or moist, 35 per cent. *ad valorem*.

The amendment was rejected.

Mr. HARRIS. I offer the following amendment as a new section:

And be it further enacted, That when any cask, barrel, or other vessel of American manufacture, exported or sent out of the country filled with the products of the United States shall be returned to the United States empty, the same shall be admitted free of duty.

Mr. FESSENDEN. I should like to have an explanation of that.

Mr. HARRIS. I will explain it. There is a pretty large amount of beer and ale exported from the United States to the West Indies and other places, and the barrels and casks in which the article is exported are returned. By a construction of the act as it exists the Secretary of the Treasury feels bound to charge those empty barrels coming back with duty. A different rule has obtained in reference to other articles; for instance, grain bags sent out of the country with grain are returned free of duty; but on application made to the Secretary of the Treasury—I made the application myself—he said he felt bound to apply a different rule to these articles, and he recommended that the matter should be submitted to Congress. I have his letter before me.

Mr. ANTHONY. I desire to amend the amendment by inserting after the word "barrel" the word "carboy." Precisely the same thing is true of oil of vitriol manufactured in this country and sent to Canada; the empty carboy in which it was sent is charged a duty when returning empty; and the effect has been to break up the traffic.

Mr. JOHNSON. Is it the meaning that the barrels shall be returned in the same ship that takes them out?

Mr. HARRIS. Not necessarily.

Mr. JOHNSON. But they are bought in England, and sold in England, and exported by an English purchaser. The barrels go with the ale.

Mr. HARRIS. I do not understand the Senator.

Mr. JOHNSON. The barrel is sold with the ale, and when the ale is disposed of, the buyer there sends the barrel back here as a shipment.

Mr. HARRIS. That is never done; but suppose that to be done, I do not see any difficulty about it. I am, say, a brewer of ale; I send a cargo of ale to the West Indies and I bring back my barrels.

Mr. JOHNSON. That I understand.

Mr. HARRIS. Or I can get my pay for the barrels and the ale, and afterwards buy back the barrels. Should I pay a duty on those barrels when I bring them home empty? I manufacture the barrels here; I send them out for the purpose of selling my ale; I bring them back for the purpose of filling them and sending out another cargo. Should I pay a duty on them?

Mr. GRIMES. Is it right that the man in the West Indies, who has bought the barrels as well as the beer, should send them back and sell them here in the market in competition with our own coopers?

Mr. HARRIS. I do not see any great difficulty about that. What we want is to get our barrels back without paying any duty on them.

Mr. FESSENDEN. Are not the barrels sold when the beer is sold?

Mr. HARRIS. That never is the usage.

The amendment to the amendment was adopted; and the amendment, as amended, was agreed to.

Mr. FOSTER. I wish to call the attention of the Finance Committee and of the Senate to the duty on foreign salt. On the 34th page of the bill, lines eighty-five, eighty-six, and eighty-seven of section eleven read thus:

On salt in sacks, barrels, and other packages, 26 cents per 100 pounds; on salt in bulk, 20 cents per 100 pounds.

It is true that this raises the duty but a trifle, which is, I believe, 24 cents per 100 pounds on salt in casks, barrels, and packages; and 18 cents on salt in bulk. That, however, has been found to be so heavy a duty that since it was laid the importation of foreign salt has very greatly fallen off; and now when the excise tax is but 6 cents per 100 pounds on domestic salt manufactured within the United States, the effect of this duty on foreign salt, I apprehend, will be that the amount of salt imported will be very little, perhaps scarcely any. This duty will amount really to a prohibition. Now, I think we should do no injustice to the home product if we diminished the duty on imported salt, while at the same time we should undoubtedly increase the revenue.

I have not the figures here now, but the fact is that since the duty was raised to its present point the amount imported has diminished very considerably. It cannot enter into competition with domestic salt when that pays only 6 cents on the one hundred pounds. A duty of 20 cents now on salt in the bulk is equivalent to a duty of between three and four hundred per cent. on the invoice cost, an enormous tax on an article of prime necessity every where. I hope, therefore, that the committee and the Senate will agree to a diminution of that duty. I move to amend the bill by making the duty on salt in sacks and barrels 20 cents instead of 26 cents per one hundred pounds, and 18 cents instead of 20 cents on salt in bulk.

Mr. FESSENDEN. I can only say that the change made in the House of Representatives to which we agreed is adding to the duty on foreign salt exactly what has been added to the domestic duty, 2 cents per pound. The tariff before was adjusted not only with reference to revenue, but with reference also to the production of salt in this country. Although I might agree with the Senator that the duty on salt is pretty high considering the nature of the article—

Mr. FOSTER. Higher than on anything else.

Mr. FESSENDEN. Yet I doubt whether anything can be effected by the amendment. It strikes down the duty even below what it is in the present tariff. The duty on the two grades is now 24 and 18 cents, and it is proposed to strike it down to 20 and 18. I should be very glad to have it done individually, but I do not think it can be accomplished. The production of salt in this country is calling for protection, as well as other interests.

The amendment was agreed to—ayes fifteen, noes not counted.

Mr. SUMNER. I wish to call attention again, in the hope of doing something to perfect the bill, to the three sections that were added at the end. I wish to except to them. I believe that they

have been strictly passed upon by the Senate; but I was called to the door when that was done.

The PRESIDENT *pro tempore*. The Chair will remark that those sections have been agreed to.

Mr. SUMNER. Then I must appeal to the Senate to allow me to except to them. I ask my colleague to move their reconsideration.

Mr. WILSON. I move to reconsider; for the purpose of bringing the question before the Senate.

Mr. BUCKALEW. I would like to know what the subject is.

Mr. SUMNER. They are the three sections at the end of the bill.

The PRESIDENT *pro tempore*. It is moved by the Senator from Massachusetts [Mr. Wilson] that the Senate reconsider the vote concurring in the amendments made as in Committee of the Whole, so far as the last three sections are concerned, on the 43d, 44th, 45th, and 46th pages.

Mr. ANTHONY. I suppose the Senator from Massachusetts may as well make his remarks on the motion to reconsider.

Mr. SUMNER. I should like to have a vote on each of those sections. ["Oh, no!"]

Mr. McDougall. I would like to understand what the gentleman wishes to reconsider more particularly before the vote is taken.

Mr. SUMNER. I will proceed to explain.

The Senate may remember that I called attention in the first place to the section on the 43d and 44th pages. I stated that it was imperfectly drawn, that it set forth an obsolete statute, that if it was adopted it would tend to promote litigation rather than anything else. At the same time I stated, however, that I was not so well informed in regard to its character as I should like to be; but since the Senate adjourned this morning I have had an opportunity of informing myself; I have seen a person whose business it is to be thoroughly acquainted with that, and from whom I have derived the necessary information. It seems that in line seven, where it undertakes to set forth what is to be done under a certain statute it fails to set forth another statute under which that is done, which is necessary to the completeness of the statement. The object of the clause will appear from my reading a few words:

That on and after the day and year this act shall take effect it shall be lawful for the owner, consignee, or agent of any goods, wares, or merchandise which shall have been actually purchased, or procured otherwise than by purchase, at the time when he shall produce his original invoice, or invoices, to the collector, and make and verify his written entry of his goods, wares, and merchandise, as provided by section thirty-six of the act of March 2, 1799, entitled "An act to regulate the collection of duties on imports and tonnage," and not afterwards, to make such addition in the entry to the cost or value given in the invoice as, in his opinion, may raise the same to the true market value of such goods, wares, and merchandise in the principal markets of the country whence they shall have been imported.

He is authorized by this section at the time when he produces his original invoice, and not afterwards, to make such addition in the entry to the cost or value as in his opinion may raise the same to the true market value. Now, in point of fact, in this section the only thing that is not borrowed from a previous statute, and in borrowing it that is not stated worse than it is stated in the previous statute, are the simple words "and not afterwards," which in point of fact are simply embodying in the statute an order of the Treasury Department. The Treasury Department has by a circular addressed to the custom-houses limited the time when the declaration can be made to the period of the entry and verification, and not afterwards. All that this section does is to take from the order of the Treasury Department the words "and not afterwards," and embody them in the statute. They are at this moment entirely within the control of the Treasury Department. The Treasury Department may continue them or not as it pleases.

Then, if you go through with this section to the close, it undertakes to cite a statute of a particular year when there is another statute on the same subject which on the whole is clearer; so that the effect of the whole section is to produce one inarticulate jumble, out of which nothing but litigation can ensue. It is much better to leave it all under the old statutes than to attempt this imperfect codification. That is my objection to the first of the three sections.

Then comes the second. The only change provided in the second section is that which regulates

the dutiable value according to the value of the goods at the last place of shipment. I called attention to that when the subject was under consideration before. The Senator from Maine seemed to vindicate that change. The inquiry that I have been able to make on the subject satisfies me that the change is not advisable. How does the Senator propose to ascertain the value at the last place of shipment?

I beg to say that it is with great reluctance that I have undertaken to make this explanation, but having had my attention called to it, and also knowing that the attention of the Treasury Department has been to-day occupied by it, I have felt it my duty to lay it before the Senate. It will be for the Senate and for the chairman of the Committee on Finance to treat it as they see fit.

Mr. DOOLITTLE. I suggest to the honorable Senator from Massachusetts, this being an amendment of the Senate, it will necessarily come up in committee of conference, and if it is not drawn just right it can be there considered. Let us come to a vote to-night on this bill.

Mr. SUMNER. I have not interfered much on this bill, and I will say to the Senator from Wisconsin that I have responsibilities resting on me in connection with it as a Senator, and a Senator from Massachusetts.

Mr. DOOLITTLE. I do not complain of the Senator interfering at all.

Mr. SUMNER. There are three elements which, according to this section, must enter into the value of the goods at the last place of shipment: first, the value of the goods at the place of growth; second, the cost of transportation; and thirdly, the transshipment. Now, in point of fact, I am told that it is impossible to ascertain these elements with any certainty. Take the case to which I called the attention of the Senate this morning, of a shipment from Australia, if you please, to London, and then from London to the United States. Suppose the goods arrive at New York, how are you going to ascertain these different elements that are specified in this section, when the cargo has come by the way of London—the freight, the actual cost of that specific portion of the cargo from Australia to London, the cost of transshipment? I am told by those who are familiar with the subject that practically it is impossible. It cannot be done. Experience and the convenience of trade, therefore, all testify in favor of the rule that has been adopted; and, as the Senator from Maine this morning reminded us, it has been frequently recognized by the courts of justice. That is my objection to the second section.

Then comes the third section, which proposes a tax of 20 cents on philosophical apparatus and instruments imported for the use of colleges and literary societies. I do not wish to debate that, but the Senate will remember that that was adopted only by a majority of one; and I wish to have another vote upon it. The only way in which I can arrive at the result is by taking these propositions separately.

The PRESIDENT *pro tempore*. The question is on the motion to reconsider.

Mr. SUMNER. On the motion to reconsider the first.

The PRESIDENT *pro tempore*. Does the Senator desire a separate vote on reconsidering each section by itself?

Mr. SUMNER. I do.

The PRESIDENT *pro tempore*. The question then will be on reconsidering the vote by which the Senate adopted the first new section, commencing on page 43.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question will now be on reconsidering the vote by which the second section was adopted.

The motion to reconsider was rejected.

The PRESIDENT *pro tempore*. The question now will be on reconsidering the vote by which the last section was adopted.

Mr. BUCKALEW. That relates to philosophical instruments, I believe.

Mr. SUMNER. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SUMNER. I merely wish to make one remark. I do not certainly wish to protract the discussion at this late hour; but I must say that

I think the proposition is not creditable to our country, and I think if adopted it will be mischievous. That is the way it impresses me. I cannot see it otherwise. It is to me a tax on education, and as such odious to an extent which I am hardly willing to characterize. Because we are engaged in a war at this moment, I find no reason in our imposing a tax on education. Let us tax everything else, tax luxuries, tax necessities, but do not tax education. As I said this morning, if need be rather give to it bounty.

The question being taken by yeas and nays, resulted—yeas 9, nays 19; as follows:

YEAS—Messrs. Buckalew, Harlan, Hendricks, McDougall, Morgan, Powell, Sprague, Sumner, and Wilson—9.

NAYS—Messrs. Anthony, Brown, Clark, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harris, Johnson, Lane of Indiana, Ramsey, Richardson, Ten Eyck, Trumbull, Van Winkle, and Wiley—19.

ABSENT—Messrs. Cardie, Chandler, Collamer, Conness; Cowan, Davis, Harding, Henderson, Hicks, Howard, Howe, Lane of Kansas, Morrill, Nesmith, Pomeroy, Riddle, Sausbury, Sherman, Wade, Wilkinson, and Wright—21.

So the motion to reconsider did not prevail.

Mr. SUMNER. I offer the following amendment as an additional section:

And be it further enacted, That before any invoice shall be certified by a consul, vice consul, or commercial agent of the United States as is required by the first section of an act entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," approved March 3, 1863, samples of the goods embraced in such invoice shall be deposited with such consul, vice consul, or commercial agent, except where from the nature of the goods such deposit is impracticable.

The Senate is aware that by the act referred to in the amendment triple invoices are now required to be made before our consuls in Europe. It is a very important function of the consuls indeed, and it has proved to be a very important check upon frauds; but in order to complete its efficacy as a check, something more is needed. Our indefatigable and very able consul in Paris has anticipated the proposition by requiring, so far as he could, the deposit of samples at his consulate, and by that deposit he has in several cases been able to verify the invoices and to detect frauds. But certain of the large merchants, very anxious to avoid that check, have repaired to some of the consuls out of Paris in order to get their invoices authenticated; those consuls not requiring the deposit of samples. My object is simply to put into the law that requisition, so that it shall be applicable to all our consuls, and so that no great merchant in Paris, or in Lyons, or wherever he may be, by repairing to a consul in a smaller place can evade it. The Senate will see at once that if the consul has the samples at hand when he is going over the invoice, he has almost a certain check.

Mr. FESSENDEN. I have heard something about this, and it was suggested to me this morning, but so late that with the attention I was compelled to give the bill before the Senate it was impossible for me to look into it. I think it may be as well to adopt the amendment, and it will then be open so that it can be considered by a committee of conference and looked into further. I will not make any objection to it.

The amendment was agreed to.

Mr. SUMNER. There is another point to which I wish to call attention. On page 38, section thirteen, with reference to rice, I propose to insert between lines sixty-eight and sixty-nine an intermediate class of rice. The proposition as it is now stands thus: "On rice cleaned and uncleaned, 2 cents per pound. On paddy 1 cent per pound." In point of fact there is an intermediate rice which is known as "cargo or uncleaned rice," intermediate between the two specified in the bill. I propose, therefore, to insert between the two the words, on "cargo or uncleaned rice, 1½ cent per pound."

Mr. FESSENDEN. "Uncleaned" in the first line covers that. "Rice cleaned and uncleaned, 2 cents per pound."

Mr. SUMNER. It is not so considered by those in the trade. I have had a telegraphic dispatch in regard to it.

Mr. FESSENDEN. I know they desire to make a distinction, but the committee on examination thought it best to put them both under the same classification.

Mr. SUMNER. If the committee have had their attention called to it, of course I defer to them entirely, but I have in my hand a telegraphic dispatch.

Mr. FESSENDEN. Telegraphic dispatches are a very unsafe reliance.

Mr. SUMNER. "I see that in the Senate amendment rice is 2 cents, and paddy is 1 cent, without any intermediate grade. I insist upon an intermediate grade called cargo." That is from a person engaged in the business.

Mr. FESSENDEN. Undoubtedly they would like to have the distinction made. The committee were satisfied it was best to leave it as it is.

Mr. SUMNER. If the attention of the committee has been drawn to it, that is enough. I withdraw the amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. SUMNER. On page 30, line twelve of section ten, "nickel" has been struck out from the group of articles taxed 20 per cent. *ad valorem*. I do not understand what has governed the committee precisely in regard to "nickel," for I do not find it anywhere else in the bill.

Mr. FESSENDEN. It is in the former bill, and the committee thought it was not necessary to raise the duty on nickel.

Mr. FOSTER. The duty was so high that we could not coin cents from it as it stood.

Mr. FESSENDEN. It will operate very hard to raise the duty. It is used largely in manufactures.

Mr. SUMNER. If the attention of the committee has been called to it I shall not make any motion.

Mr. FESSENDEN. Certainly if our attention had not been called to it we should not have moved to strike it out.

Mr. SUMNER. What is the duty in the old bill?

Mr. FESSENDEN. Ten per cent.

Mr. SUMNER. My informant, who is a gentleman who is interested in it very much, and also has given a good deal of attention to it scientifically, tells me that it ought to pay a specific duty of 50 cents a pound.

Mr. FESSENDEN. That would be destroying a very large class of manufactures for the benefit of one establishment.

Mr. SUMNER. I had proposed to move on the subject of nickel, but the explanation of the Senator discourages me. If the committee have considered it carefully, of course I shall not proceed any further in regard to it.

Mr. HARRIS. I propose an amendment which, if I understand its effect, will add more than a million dollars to the revenue. It is in the article of brimstone on page 31, line twenty-nine of section eleven. There is a duty of \$6 a ton according to the bill as it comes from the House of Representatives. I propose to strike out "\$6 per ton" and to insert "2 cents per pound."

Mr. FESSENDEN. I will say that the duty on brimstone is just double what it was before. It was \$3 a ton before and we now make it \$6.

Mr. HARRIS. I understand that this is an article that is not produced in our own country, that it is used chiefly, eight tenths of the quantity imported is used for the manufacture of sulphuric acid, and that if we put a duty of 2 cents a pound on brimstone it will add less than a cent a pound to the article of sulphuric acid, and it will not be oppressive at all to manufacturers. Another portion of it, perhaps one tenth of the article, is used in manufacturing blasting powder. A pound of brimstone will make eight pounds of blasting powder. It will add very triflingly to the price of powder. In this way we may make the importation of brimstone from Sicily, which is now more than 30,000 tons a year, if we put, as I think we may without injuring anybody, without making it burdensome, a duty of 2 cents a pound on it, pay a revenue of \$1,500,000 without anybody feeling it.

Mr. FESSENDEN. It was only \$1,000,000 a moment ago.

Mr. HARRIS. I said "more than a million." I now say "a million and a half." I do not know that there is any very great discrepancy in these two statements. If the chairman of the Committee on Finance can see it, I submit to the criticism. I think we can get more than \$1,000,000. I am

not sure about it; I do not intend to press it; but I think it well enough for the Senate to adopt it, and the committee of conference can consider it.

Mr. JOHNSON. The Senator proposes \$40 instead of \$6 a ton.

Mr. HARRIS. What harm is that? The thing has been overlooked.

Mr. FESSENDEN. It was discussed in the other House, and a motion was there made in regard to it.

Mr. HARRIS. I do not know what the other House did about it, but it was not discussed in the Finance Committee, I believe.

Mr. FESSENDEN. No, sir.

Mr. HARRIS. If we can get \$1,000,000 out of it I think we ought to try it. I make the motion.

Mr. SPRAGUE. This article of brimstone is used almost exclusively in large quantities in the bleacheries of the country, and I can say to the Senator from New York that the bleachers in his State will find a great deal of fault with his proposition. They are able to get but a very small pittance for bleaching; the price is reduced to almost nothing; and if you increase the duty on the article which enters almost exclusively into that business you will, in my opinion, destroy their efficiency.

The amendment was rejected—ayes nine, noes not counted.

Mr. SPRAGUE. I wish to offer an amendment on page 21 in reference to cotton, and before I move the amendment I will say to the Senate that cotton is sent from New York to France and to England, and in many cases it is brought back. Now, I suppose it is not the intention of the Committee on Finance to tax cotton already taxed, of American production. Therefore I would suggest whether after "cotton" in line five of section six the words "not of the growth of the United States" ought not to be introduced. If there is no objection I move that amendment. I hope it is not the intention of the Senate to tax this cotton when it is once taxed by the Treasury Department, and then when it goes to England and comes back, owned perhaps by the same party.

Mr. GRIMES. What do they take it to England for?

Mr. SPRAGUE. They send it constantly to England as they send it to Boston from New York, or from Boston to New York as there may be a scarcity in New York or Boston. It is not the intention of the Government, it seems to me, to tax cotton that has once paid a tax to the Government of the United States of 2 cents a pound, using the argument of the Senator from Maine, and then when it comes back to the country to tax it 2 cents more. I offer the amendment, and I ask for the yeas and nays on it.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 21; as follows:

YEAS—Messrs. Anthony, Dixon, Hale, Harris, Sprague, Sumner, and Wilson—7.

NAYS—Messrs. Brown, Buckalew, Clark, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Hendricks, Johnson, Lane of Indiana, McDougall, Morgan, Powell, Ramsey, Richardson, Ten Eyck, Trumbull, Van Winkle, and Wiley—21.

ABSENT—Messrs. Carlile, Chandler, Collamer, Conness, Cowan, Davis, Harding, Henderson, Hicks, Howard, Howe, Lane of Kansas, Morrill, Nesmith, Pomeroy, Riddle, Saulsbury, Sherman, Wade, Wilkinson, and Wright—21.

So the amendment was rejected.

Mr. HARRIS. I propose to try the brimstone again. I move to strike out "\$6 per ton" and insert "1 cent per pound."

Mr. FESSENDEN. That is \$20 a ton.

Mr. ANTHONY. It is an enormous increase of duty on a raw material.

Mr. TRUMBULL. It is an article I understand that we can just as well as not get revenue from, and I hope we shall get it.

The amendment was agreed to; there being, on a division—ayes 14, noes 13.

Mr. HARRIS. This amendment requires that the next line should be amended: "brimstone in rolls." I move to strike out "\$10 per ton" and insert "1½ cent per pound."

Mr. WILSON. Call it "1 cent."

Mr. HARRIS. I have no objection to that. I so modify the amendment.

Mr. TRUMBULL. It makes it the same as the other.

The amendment, as modified, was agreed to.

Mr. HARRIS. The article of chicory is provided for on the 32d page. There is a good deal of that article brought into this country. It pays now a revenue of about \$250,000. Here is 120 per cent. on the present rate of duty, which is 2 cents on the root and 3 cents a pound when ground. The bill proposes to charge 4 cents a pound on the root and 5 cents a pound on the ground. It is too much. Those engaged in the business—there are but few—say they cannot sustain themselves with that duty. I propose, therefore, to strike out "4," so as to charge a duty of 3 cents a pound on the root instead of 2, as it is now, and 4 cents a pound on it ground instead of 5, as it is now.

Mr. GRIMES. I should like to amend the amendment by increasing it 2 cents a pound above what the committee report, instead of reducing it, as the Senator proposes. This is one of the articles imported into this country and used solely for the purpose of misrepresentation and deception. After having been imported and prepared it is passed upon the people who finally consume it in the shape of coffee, or called coffee, and as a question of morals as well as of political economy, I think it is the interest of the Government and of Congress to ax it as high as possible.

Mr. DIXON. I ask the Senator from Iowa if he knows what the plant is.

Mr. GRIMES. Yes, sir, I know what it is. I know, too, the word "chicory" cannot be mentioned without bringing to their feet several Senators who live in the neighborhood of some of these ground-coffee men. [Laughter.]

Mr. DIXON. I will inform the Senator that I doubt whether he knows what it is. It is our ordinary dandelion root, neither more nor less. It is a more healthy article than coffee, would be healthier for the Senator to drink, and make him better-natured and more civil. [Laughter.]

Mr. CLARK, (Mr. ANTHONY in the chair.) I want to call the attention of the Senate to this article for a moment, and if they will look into the chemistry of common life, they will find this article mentioned as an article of all articles subject to adulteration, as showing the tricks of the trade. The coffee grinder adulterates his coffee with chicory; the chicory vender adulterates his chicory with venetian red; and the venetian red man puts in brick-dust to make it weigh, and then it is all sold as chicory or coffee. If that article cannot pay 4 cents a pound and we drink it, perhaps the duty had better be struck down.

Mr. HARRIS. I withdraw the amendment.

Mr. GRIMES. I withdraw mine.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. McDougall. There are several gentlemen who propose to discuss this bill, I am advised, and that they may be able to do so conveniently, I move that the Senate do now adjourn. The motion was not agreed to.

The question being taken by yeas and nays on the passage of the bill, resulted—yeas 22, nays 5; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Lane of Indiana, Morgan, Ramsey, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wiley, and Wilson—22.

NAYS—Messrs. Buckalew, Hendricks, McDougall, Powell, and Richardson—5.

ABSENT—Messrs. Carlile, Chandler, Collamer, Conness, Cowan, Davis, Harding, Henderson, Hicks, Howard, Howe, Johnson, Lane of Kansas, Morrill, Nesmith, Pomeroy, Riddle, Saulsbury, Sherman, Wade, Wilkinson, and Wright—22.

So the bill was passed.

ORDER OF BUSINESS.

Mr. WILSON. I move to take up the bill (S. No. 286) to repeal the commutation clause of the enrollment act.

Mr. HALE. I move that the Senate adjourn.

Mr. WILSON. I want to take up the bill so as to have it the order of the day for to-morrow.

Mr. HALE. I do not.

The motion of Mr. HALE was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES

FRIDAY, June 17, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

Mr. J. C. ALLEN moved to dispense with the reading of the Journal.

The motion was agreed to.

The SPEAKER proceeded, as the regular order of business, to call the committees for reports of a private nature.

HANNAH LANDER.

Mr. PRICE, from the Committee on Revolutionary Claims, reported adversely on the claim of Hannah Lander, and the papers in the case were laid upon the table.

REPRESENTATIVES OF ABRAHAM LIVINGSTON.

Mr. PRICE, from the same committee, reported adversely on the petition of the legal representatives of Abraham Livingston, and the same was laid upon the table.

RICHARD CHENEY.

On motion of Mr. HALE, the Committee of Claims was discharged from the further consideration of the petition of Richard Cheney, and the same was referred to the Committee on Private Land Claims.

J. AND O. P. COBB AND CO.

Mr. HOLMAN, from the Committee of Claims, reported back, with the recommendation that it do pass, joint resolution of the House (No. 89) for the adjustment of the claim of J. & O. P. Cobb & Co., of Indiana.

The joint resolution authorizes the Quartermaster General to examine and adjust the claim of J. & O. P. Cobb & Co., of Indiana, for losses sustained by them on the 11th and 12th of July, 1863, by the destruction by military orders of their barges and other vessels employed in the shipment of hay to Memphis, Tennessee, under contract with the Government of the United States, and the hay on board of said vessels, which was being shipped by the said firm in fulfillment of said contract, and other property connected with and being used in the fulfillment of said contract, said property having been burnt or destroyed by United States gunboat No. 33, and the Quartermaster General is directed to allow the claimants the value of said property, not exceeding \$11,000.

Mr. HOLMAN. I rise to call the previous question; but before doing so I ask that the report be read.

The report was read.

Mr. HOLMAN. I now move the previous question.

The previous question was seconded, and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOLMAN. I demand the previous question on the passage of the joint resolution.

Mr. WASHBURN, of Illinois. I hope the gentleman will withdraw that demand.

Mr. HOLMAN. I will for a moment.

Mr. WASHBURN, of Illinois. From the reading of the report it would appear that this is one of that class of cases to which I think the House ought not to give its sanction at this time. It seems to be a claim for the destruction of property by a gunboat on the Ohio river. It is for hay which had not been delivered to the Government. It was to have been delivered at Memphis, Tennessee, and then the Government would have been obliged to pay for it; but before it got there it was destroyed by a gunboat, and hence the case comes within the ordinary damages of war.

Mr. HOLMAN. I hope the House will not misapprehend the character of this claim. If it is understood, I have not a shadow of doubt that the House will approve of it.

Mr. WASHBURN, of Illinois. The gentleman is committed to the principle of this resolution by his vote in the Arnes case.

Mr. HOLMAN. I do not consider the Arnes case as being at all involved in this matter. These gentlemen contracted to deliver hay at a certain point on a certain day. They had got the hay already loaded in the barges ready for shipment.

General Boyle, at Louisville, Kentucky, ordered the destruction of the barges and hay by gunboat No. 33 in order to prevent them from falling into the hands of Morgan in his raid through Indiana and Ohio. Here are barges worth, say \$5,000, which these men had obtained for the purpose of carrying out their contract with the Government to deliver hay at Memphis. They had on board about six thousand dollars' worth of hay which they had purchased, when, on the 11th or 12th of July of last year General Boyle, for the purpose of preventing these barges from being used by the rebels, ordered them to be destroyed.

Mr. HIGBY. I ask the gentleman from Indiana this question: suppose this property had fallen into the hands of General Morgan, would the Government have been liable to pay for it?

Mr. HOLMAN. I think not; but it would not have fallen into the hands of the rebel General Morgan. It was destroyed by our own gunboats.

Mr. HIGBY. I understand that, but I understand also that it was destroyed for the purpose of preventing it from falling into the hands of the rebel General Morgan.

Mr. HOLMAN. That is true, certainly. There can be no misapprehension about the facts. These gentlemen had a contract with the Government to deliver hay at Memphis at a certain time and for a given price; and they did finally fulfill their contract, though in the mean time the price of hay had risen largely.

General Boyle, falsely as the facts finally proved, believed it was necessary to destroy all the boats on the Ohio river between Louisville and Madison, Indiana, and ordered the destruction of all of them. The gunboats did destroy many boats, and especially these barges containing hay which these parties had contracted to deliver to the Government at a certain price. I think if any case could possibly be presented carrying strength with it this is that case. I cannot imagine how any gentleman can controvert it.

Mr. BOUTWELL. I wish to ask the gentleman from Indiana how the case before us differs in the obligation resting upon the Government from a case which might be supposed where these parties had contracted to deliver at Memphis hay to private parties? There was no obligation resting upon the Government there until the hay had been delivered. The parties entered into this contract knowing the liability there was to interference on the river from the public enemy, and they took that risk.

Now, if we pass this bill we establish a principle which lays open the Treasury of the Government to every party whose property has been destroyed by the operations of the Army. These persons, to be sure, did contract with the Government, but they had no claim upon the Government until the contract had been fulfilled, which would not occur until the delivery of the hay at Memphis. It was destroyed, I admit, while on its passage, by order of the Government, to prevent its falling into the hands of the public enemy. But if it had fallen into the hands of the public enemy the gentleman himself admits these parties would have no claim upon the Government.

Mr. MALLORY. Will the gentleman from Massachusetts permit me to ask him how these parties could deliver this property to the Government when it was destroyed on its way by the order of the Government?

Mr. BOUTWELL. I will ask the gentleman from Kentucky how it would have been possible for persons to deliver property on its way to private parties in Memphis if it was destroyed by the Government for the purpose of preventing it from falling into the hands of the public enemy? What I say is that these parties have no better claim against the Government than other parties whose property was destroyed on the Ohio to prevent its falling into the hands of the public enemy.

Mr. HOLMAN. This is the most remarkable case I ever heard of; and the suggestions of the gentleman from Massachusetts are as remarkable. Why, sir, if this contract had been between private parties, the Government would have been bound to reimburse them for property destroyed by the order of its officers. The gentleman will not pretend to deny that.

Mr. BOUTWELL. I do not assume that a private party who should destroy the property of another is not liable. If this contract had been between two private parties, and the Government, having no relation with either, had been put to the necessity of destroying the property, I ask whether they could make a claim on it.

Mr. HOLMAN. The gentleman will admit that if I contract to deliver a lot of hay or anything else at a given point, and the party with whom I contract prevents the completion of it, he is liable. He is liable if he destroys the property himself. I cannot see any possible good ground of objection to the claim; and I trust, Mr. Speaker, it will not be presumed by any gentleman that I would favor the passage of a bill for the appropriation of money except upon some reasonable ground. When these parties contracted in the month of May they had no reason to apprehend difficulty about the shipment of hay to Memphis. They purchased barges, loaded them, and were ready to make the shipment of hay in accordance with their contract. General Boyle, on the part of the Government, destroyed all the craft between certain points, and among them these barges.

Mr. WASHBURN, of Illinois. What was the amount of property destroyed upon the Ohio river during that raid? If this bill passes, for how many millions will it be a precedent?

Mr. HOLMAN. There is not much in that.

Mr. WASHBURN, of Illinois. There is much in it. Gentlemen are not disposed to vote taxes or appropriations of money, and all these things ought to be looked to.

Mr. HOLMAN. I agree with the gentleman on all these points. When we come to examine the amount of property destroyed on the Ohio river during this raid and the Kirby Smith raid, we find it will not reach more than thirty or forty thousand dollars. Boats were destroyed for a distance of some sixty or seventy miles from Louisville to a point above Madison on the Ohio river. The claims before the Committee of Claims will not exceed \$5,000 beyond what we believe has been suffered by these parties. I think that I may say the whole liability growing out of the destruction of property on the Ohio river during the Morgan raid will not exceed \$20,000. I am sorry that it amounts to so much. I speak from my knowledge of the claims before the Committee of Claims. This amounts to \$13,500, taking the hay at the price the Government was to pay and deducting the charge for transportation. We have reduced it to \$11,000, very unjustly I think, but that is the determination of the committee. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 59, not voting 51; as follows:

YEAS.—Messrs. James C. Allen, Ancona, Bailly, Baxter, Beaman, Blair, Bliss, James S. Brown, Chandler, Coffroth, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Griswold, Hale, Harding, Harrington, Charles M. Harris, Holman, Hotchkiss, Hutchins, Ingersoll, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Law, Le Blond, Long, Mallory, Marey, McDowell, McKinney, Middleton, William H. Miller, Moorhead, James R. Morris, Amos Myers, Nelson, Noble, Odell, Charles O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Smith, John B. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Wadsworth, Ward, Whaley, Wheeler, Charlton A. White, Joseph W. White, Windom, Fernando Wood, and Woodbridge—72.

NAYS.—Messrs. Alley, Allison, Ames, Ashley, John D. Baldwin, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Fenton, Garfield, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Morrison, Orth, Perham, Price, Alexander H. Rice, John H. Rice, Scofield, Shannon, Sloan, Smithers, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, and Wilson—59.

NOT VOTING.—Messrs. William J. Allen, Anderson, Arnold, Augustus C. Baldwin, Blaine, Blow, Brooks, William G. Brown, Clay, Cox, Creswell, Thomas T. Davis, Henry Winter Davis, Dumont, English, Farnsworth, Frank, Goeh, Grider, Grinnell, Hall, Benjamin G. Harris, Herriek, Hulburd, Jenckes, Kasson, King, Knapp, Lazear, Littlejohn, McAllister, Leonard Myers, Norron, John O'Neill, Patterson, Pike, Pomeroi, William H. Randall, Edward H. Rollins, Schenck, Scott, Spalding, Starr, Stebbins, William

G. Steele, Stevens, Voorhees, Webster, Winfield, Benjamin Wood, and Yeaman—51.

So the bill was passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ARCHIBALD CRARY.

Mr. STILES, by unanimous consent, reported from the Committee on Revolutionary Claims a bill for the relief of the heirs at law of Colonel Archibald Crary; which was read a first and second time by its title, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

B. D. WILLIAMS.

On motion of Mr. HALE, the Committee of Claims were discharged from the further consideration of the petition of B. D. Williams for pay as Delegate from the Territory of Colorado; and the same was referred to the Committee on Territories.

AMASA L. BURNES.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of Amasa L. Burnes; which was read a first and second time by its title, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

GEORGE CALVERT.

Mr. HALE, from the Committee of Claims; reported a bill for the relief of George Calvert; which was read a first and second time by its title, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

PETER WHEELER.

Mr. HALE, from the Committee of Claims, reported a joint resolution for the relief of Peter Wheeler; which was read a first and second time by its title.

Mr. HALE. I ask to have the bill put upon its passage now. It is a small claim, involving only about fifteen dollars, and about which there is no dispute.

The bill, which was read, directs the Commissary General of Subsistence to audit and allow the accounts of Peter Wheeler for beef furnished to the third regiment of the Excelsior brigade as per certificate of Lieutenant Fry, and approved by General Sickles, the same having been disallowed in consequence of the destruction of Lieutenant Fry's papers by the enemy, from which it became impossible to present the claim.

Mr. HALE demanded the previous question. The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was ordered to be engrossed and read a third time, and being engrossed it was accordingly read the third time and passed.

Mr. HALE moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EGBERT A. THOMPSON.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of Egbert A. Thompson; which was read a first and second time by its title, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

POST ROUTE BILL.

Mr. ALLEY, by unanimous consent, from the Committee on the Post Office and Post Roads, reported a bill to establish certain post roads; which was read a first and second time by its title, and postponed until to-morrow morning.

ARMY NEWS.

The SPEAKER laid before the House the following communication from the Secretary of War:

WAR DEPARTMENT,
June 17, 1864, 9½ o'clock a. m.

Sir: The following dispatches have been received by this Department:

CITY POINT, VIRGINIA, June 15,
via JAMESTOWN ISLAND, 5.30 a. m. June 16, 1864.
Smith with fifteen thousand men attacked Petersburg this morning. General Butler reports from his observatory

near Bermuda Hundred that there has been sharp fighting, and that the troops and trains of the enemy were, as he writes, moving across the Appomattox as if retreating. Hancock is not near enough to render General Smith any aid. The Richmond papers have nothing to indicate a suspicion of our crossing the James river. They expect to be attacked from the direction of Malvern Hill.

CITY POINT, VIRGINIA,
June 15, 1864, 7.30 p. m.

Our latest report from Smith was at 4.04 p. m. He had carried a line of intrenchments at Beatty's House, the colored troops assaulting and carrying the rifle-pits with great gallantry, but he had not yet carried the main line. He describes the rebel artillery fire as very heavy. He expected to assault this line just before dark. Hancock is within three miles of Smith.

CITY POINT, VIRGINIA, 7 a. m., June 16, 1864,
via JAMESTOWN ISLAND, 11.45 a. m.

At 7.30 p. m. yesterday, Smith assaulted and carried the principal line of the enemy before Petersburg, taking thirteen cannon, several stands of colors, and between three and four hundred prisoners. This line is two miles from Petersburg. Hancock got up and took position on Smith's left at 3 a. m. to-day. There was heavy firing in that direction from 5 to 6. No report yet.

DONTHARD LANDING, VIRGINIA,
1 p. m., June 16, 1864.

After sending my dispatch of this morning from the heights southeast of Petersburg, I went over the conquered lines with General Grant and the engineer officers. The works are of the very strongest kind, more difficult even to take than was Missionary Ridge, at Chattanooga. The hardest fighting was done by the black troops. The forts they stormed were, I think, the worst of all. After the affair was over, General Smith went to thank them and tell them he was proud of their courage and dash. He says they cannot be exceeded as soldiers, and that hereafter he will send them in a difficult place as readily as the best white troops. They captured six out of the sixteen cannon which he took. The prisoners he took were from Beauregard's command. Some of them said they had just crossed the James above Drury's Bluff. I do not think any of Lee's army had reached Petersburg when Smith stormed it. They seem to be there this morning, however, and to be making arrangements to hold the west side of the Appomattox. The town they cannot think of holding, for it lies directly under our guns. The weather continues splendid.

CITY POINT, VIRGINIA, June 16, 1864, 4.15 p. m.,
via JAMESTOWN, 11.45 p. m.

General Butler reports from Bermuda Hundred that the enemy have abandoned the works in front of that place. His troops are now engaged in tearing up the railroad between Petersburg and Richmond.

The following dispatch does not designate the hour, but it is supposed to be later than the preceding ones:

JAMESTOWN, VIRGINIA, June 16, 1864.

I came down from the pontoon above Fort Powhatan with dispatches for Secretary Stanton. Just as I left Captain Pilkin reported to me that Petersburg was in our possession.

Nothing of a recent date has been heard from General Sheridan, but the Richmond Whig of the 15th contains a dispatch from General Lee stating that Sheridan had been routed in an engagement with Fitz Lee and Hampton, losing five hundred prisoners, and leaving his dead and wounded on the field.

From General Sherman, a dispatch dated last night at 9 p. m., has been received. It only states the relative position of the forces. No serious engagement had yet occurred.

Very respectfully, your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Hon. SCHUYLER COLFAX, Speaker House of Representatives.

The reading of the communication was followed by loud applause on the floor and in the galleries.

REBELLION LOSSES.

Mr. HALE, from the Committee of Claims, reported back, with a recommendation that it do pass, a bill (H. R. No. 212) to provide for ascertaining and adjusting claims against the Government for injury or destruction of property by the Army of the United States, or by military authority, during the present rebellion.

Mr. HALE. It will be recollected that this bill was before the House some two months ago. It was printed, and I suppose it has been examined by the members of the House. A bill substantially like this was first referred to the Committee on the Judiciary, and that committee reported favorably upon it to the House.

This bill is well understood by the members of the House. It is an important bill. It contains no appropriation of money. It provides merely for an investigation of claims arising against the Government for property destroyed by the Government during this war, and the facts are to be reported to Congress. It does not include any claims for slaves, nor are the claims of any disloyal men to be included. A man must prove his loyalty before his claim can be considered. Commissioners are to be appointed to take testimony

on both sides, and report it to Congress, so that Congress can act intelligently. The bill does not commit Congress to the appropriation of any money. It merely provides for perpetuating the testimony in relation to these claims, and I think the justice and fairness of the bill will commend it to every member of the House. It is a well-known fact that a considerable amount of property has been taken by the Government from loyal citizens for its own use, and has been either destroyed or consumed. We have by express enactment taken away from the Court of Claims jurisdiction in these cases. It therefore becomes necessary that we should create some tribunal where these claimants can be heard, and it seems to me that it is not only wisdom and sound policy but strict justice that we shall at least give to loyal citizens who have lost property by the action of the Government permission to prove their claims before commissioners appointed by the Government.

This bill authorizes the commissioners to take testimony on both sides, and provides that there shall be a solicitor to cross-examine the witnesses for the claimants, and to subpoena and examine witnesses in behalf of the Government. Now, it is a well-known fact that the Committee of Claims are obliged to act very much in the dark in such cases, and in many instances it is impossible for us to get at the truth of a case. We have to rely on *ex parte* testimony. The Government is not represented, and there is no opportunity of cross-examining the witnesses. The object of this bill is to obviate that difficulty and provide for a fair hearing on both sides, so that Congress may know the true state of the case, and be able to act intelligently. It seems to me that now, when the witnesses are still in existence, and the facts are fresh in their recollection, it is certainly the proper time to ascertain the facts, in order that at some future time we may do justice not only to the claimants but to the Government.

These are the principal features of the bill now before the House. Unless some gentleman desires to oppose the bill, I shall move the previous question. I would not do it but for the fact that the bill has been printed and has been discussed heretofore, and its provisions are known to the members of the House.

Mr. FENTON. I desire to ask the gentleman from Pennsylvania to whom these commissioners are to report.

Mr. HALE. They are to be appointed by the President.

Mr. FENTON. To whom are they to make their reports?

Mr. HALE. To the Secretary of War.

Mr. FENTON. Does the bill provide that the Secretary of War shall from time to time submit their reports to Congress?

Mr. HALE. It does.

Mr. FENTON. Is this bill substantially the same as the bill reported by the Committee of Claims of the last Congress?

Mr. HALE. It is the same bill with some modifications.

Mr. WASHBURN, of Illinois. The bill which the last House of Representatives defeated.

Mr. HALE. Let the bill be read.

The Clerk read the bill.

Mr. FENTON. Will the gentleman from Pennsylvania give way to me for a moment?

Mr. HALE. What does the gentleman desire?

Mr. FENTON. I desire to make a proposition. I will take no advantage of any courtesy the gentleman may accord to me.

Mr. WASHBURN, of Illinois. I hope the gentleman from Pennsylvania does not propose to call the previous question on a bill of this magnitude.

INTERNAL REVENUE BILL.

Mr. STEVENS. I want the unanimous consent of the House that a small amendment may be made in the internal revenue bill before it goes to the committee of conference, to define what "pea coal" means. We have not defined it at all in the bill, and I understand that great frauds have been practiced by parties returning as "pea coal," which is exempt from tax, what they afterwards sell as "chestnut coal," which is an article that is taxed.

I simply want to insert a provision that coal which will pass through a five eighths and over a three eighths inch mesh shall be considered as pea coal. That is what it ought to be; that is the way they define it in the trade; but there being no legal definition, they are taking advantage of the fact to defraud the Government. I ask the unanimous consent, therefore, to insert after the word "ton," in the fourteenth line, page 184, the words "that can pass through a five eighths and over a three eighths inch mesh shall be considered pea coal."

Mr. GARFIELD. I wish to suggest to the gentleman from Pennsylvania whether he cannot at the same time put in a sentence fixing the weight of a ton at two thousand pounds instead of the long ton of two thousand two hundred and forty pounds. I have conversed with the gentleman from Pennsylvania on the subject, and I think there is a concurrence between us as to the propriety of that provision.

Mr. STEVENS. I am afraid there will be objection to that. I ask the unanimous consent to introduce the amendment I have suggested.

There being no objection, the amendment was received and adopted.

Mr. PRUYN. I desire to ask a question in relation to one feature of this tax bill, whether there is any provision or reservation in favor of State licenses?

Mr. STEVENS. That is provided for.

Mr. PENDLETON. If the gentleman will turn to page 91 of the bill, he will find this provision:

Provided, That nothing in this act shall be held or construed so as to prevent the several States, within the limits thereof, from placing a duty, tax, or license, for State purposes, or any business matter or thing on which a duty, tax, or license is required to be paid by law, nor shall any law of any State or Territory prohibiting any trade, business, or profession, be held to exempt or excuse any person following or being engaged in any such trade, business, or profession, from the payment of the license tax herein required.

Mr. PRUYN. That covers the ground.

Mr. MORRILL. Since the attention of the House has been directed to this matter, I desire the unanimous consent of the House to make another slight amendment in the tax bill. The six hundred and twenty-sixth amendment of the Senate, which the House has concurred in, contains this provision:

And provided further, That no direct tax whatever shall be assessed or collected under this or any other act of Congress heretofore passed, until Congress shall enact another law requiring such assessment and collection to be made.

This provision applies not only to the loyal States but to the rebel States, and would prevent the Government at any future time from collecting this first direct tax which has not been assessed or collected in the rebel States. I think that was not the object of the House, and for the purpose of reserving the power of modifying the amendment so as to leave the Government at liberty to collect this first tax in the rebel States, I ask the unanimous consent of the House to non-concur in this amendment.

Mr. PRICE. I object.

Mr. WILSON. I ask my colleague to withdraw his amendment for a moment, until I can make a suggestion. I request the gentleman from Vermont to ask the unanimous consent of the House to concur in the amendment of the Senate, reserving the right to collect the direct tax authorized by the act of 1861 in the States in which it has not been collected.

Mr. MORRILL. I will so modify my proposition, and I hope there will be no objection to it. Mr. HOLMAN. I must object. It is impossible to understand its effect.

Mr. MORRILL. I will explain the effect of it. The language of the repealing clause goes too far, and repeals the direct tax not only in the loyal States but in the disloyal also, where it has never been assessed or collected. Now, what I propose is merely to concur in the amendment of the Senate, reserving the right to collect the tax in the rebel States.

Mr. HOLMAN. For fear of misunderstanding, I shall have to insist on my objection.

Mr. WILSON. I ask the attention of the gentleman from Indiana for a moment.

Mr. HOLMAN. I say to the gentleman from Iowa that I shall not for the present give my consent to that amendment.

REBELLION LOSSES—AGAIN.

Mr. FENTON. I desire only to say that I am in favor of the object of this bill, but I am not in favor of all the methods provided for carrying it out. I therefore ask that sections one and two of House bill No. 401 of the last Congress as reported by the Committee of Claims may be substituted for sections one and two of this bill. The bill will then receive my cordial assent. My reasons for these changes are these: the bill of last Congress proposed three commissioners and one solicitor, at a salary in gross of \$12,000, with authority to hold their courts in the different States or localities where it might be found necessary. The present bill provides for five commissioners, with different districts, ten officers in all, with a salary in gross of \$25,000. I desire to avoid this large number of officers and of commissioners. I believe that the business should be intrusted to one general commissioner, with authority and under direction to report to the Secretary of War, as provided in this bill, and for him to submit such reports to Congress from time to time. I therefore have to suggest to the Committee of Claims that this bill will receive a larger support and be more generally satisfactory in my judgment if the amendments which I propose are accepted. I ask the gentleman from Pennsylvania whether he will accept the amendments.

The SPEAKER. The gentleman from Pennsylvania cannot accept the amendments, as the bill is a report from the committee.

Mr. FENTON. I did not wish to take the floor from the gentleman from Pennsylvania to move these amendments without his consent. If he desires to renew the demand for the previous question, of course I will not offer the amendments; but if he does not I will.

Mr. HALE. I am not authorized by the Committee of Claims to accept the amendments suggested by the gentleman from New York.

Mr. FENTON. Will the gentleman yield the floor to me that I may move the amendments?

Mr. HALE. I do not believe that they would be an improvement on the bill. We have made these districts as small as we thought they should be made, so as to have the law efficient. They comprise a large extent of territory, quite too large already; and if we should make the districts larger there would be nothing done under the bill. The committee has considered the bill very carefully; and I hope the gentleman from New York will not press his amendments.

Mr. FENTON. I have no doubt that this whole subject should be under one general commission. I am opposed to this division of labors, and in favor of that uniformity which should characterize the decisions of the commissioners.

Mr. WILSON. I desire the gentleman from Pennsylvania to yield to me that I may suggest two or three amendments to the first section of the bill.

Mr. HALE. I will hear them.

Mr. WILSON. I propose to amend the first section by inserting the word "loyal," so as to make it read, "and one commissioner and one solicitor for those loyal States not included in the foregoing districts." As the section now stands the commissioners will have jurisdiction of all the rebel States, of claims of citizens of all the States in rebellion.

Mr. HALE. The gentleman will see by the last section of the bill that the provision is entirely confined to loyal citizens. Now, a loyal man may be in a rebel State, and may lose his property in a rebel State.

Mr. WILSON. I only want to ascertain the intention of the committee, whether they intend to have the jurisdiction of the commissioners extend to all the rebel States as well as the loyal.

Mr. HALE. Certainly. I ask, why should not a loyal man residing in a rebel State be paid for his losses as well as a loyal man elsewhere?

Mr. WILSON. I do not desire to argue the question now.

Mr. WASHBURN, of Illinois. I rise to a question of order. The gentleman from Pennsylvania [Mr. HALE] cannot yield the floor unless he yields it unconditionally. He has brought in a bill of eight printed pages, and proposes to put it through under the previous question, holding the floor at his own option. Now, unless he yields the floor entirely, I object to his yielding it at all.

Mr. FENTON. If the gentleman yields the floor unconditionally, I will claim it.

Mr. WILSON. As the gentleman from Pennsylvania objects to my amendment, I desire to suggest another.

Mr. HALE. Certainly.

Mr. WILSON. It is to insert after the word "President" in the first section the words "not being residents of the district for which they are appointed," so that it will read:

Who shall severally hold their respective offices during the pleasure of the President, not being residents of the district for which they are appointed.

The object is to have persons entirely disinterested to act as commissioners.

Mr. HALE. I have not the least objection to that amendment.

Mr. WILSON. With the gentleman's permission I will suggest another amendment to which I think no one will object, and that is after the word "salary," in the sixteenth line, first section, insert "at the rate of;" and in the seventeenth line after the words "per annum" the words "for the time actually employed;" so that it will read:

That there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, one commissioner and one solicitor of claims for the district composed of the States of Maryland, Pennsylvania, the District of Columbia, and Virginia; one commissioner and one solicitor for the district composed of the States of West Virginia, Ohio, and Indiana; one commissioner and one solicitor for the district composed of the States of Tennessee and Kentucky; one commissioner and one solicitor for the district composed of the States of Illinois, Missouri, and Kansas; and one commissioner and one solicitor for those States not included in the foregoing districts, who shall severally hold their respective offices during the pleasure of the President, and be entitled for their services to a salary at the rate of \$2,500 each per annum for the time actually employed, to be paid quarterly out of any money in the Treasury not otherwise appropriated, and such other sums as shall be necessarily and unavoidably expended by them for stationery and office rent in the discharge of their duties under this act, and certified as reasonable by the Secretary of War or First Comptroller of the Treasury.

Mr. HALE. I have no objection to the gentleman from Iowa offering his amendment, but it will amount to nothing. I demand the previous question.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. WASHBURN, of Illinois; and HALE, were appointed.

The House divided; and there were—ayes 55, noes 50.

So the previous question was seconded.

Mr. WASHBURN, of Illinois, moved that the bill be laid upon the table.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 73, not voting 52; as follows:

YEAS—Messrs. William J. Allen, Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Brandegee, Chanler, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Dawes, Deeming, Dixon, Eckley, Farnsworth, Fenton, Higby, Ashel W. Hubbard, John H. Hubbard, Hubert, Ingersoll, Julian, Kelley, Orlando Kellogg, Knox, Loan, McClurg, McIndoe, Morrill, Daniel Morris, Anos Myers, Orth, Patterson, Perham, Pike, Pomeroy, Price, John H. Rice, Schenck, Seaford, Shannon, Sloan, Smithers, Stevens, Thayer, Upton, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilison, and Woodbridge—57.

NAYS—Messrs. James C. Allen, Ancona, Anderson, Bailly, Augustus C. Baldwin, Blair, Bijss, Blow, Boyd, Cravens, Creswell, Dawson, Denison, Driggs, Eden, Edgerton, Eldridge, English, Finch, Frank, Ganson, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Holman, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Law, Lazear, Long, Mallory, Marcy, McAllister, McDowell, Middleton, William H. Miller, Moorhead, James R. Morris, Morrison, Leonard Myers, Noble, Odell, Charles O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Rogers, James S. Rollins, Ross, Scott, Smith, John B. Steele, Stiles, Strouse, Stuart, Thomas, Wadsworth, Ward, Whaley, Wheeler, Chilton A. White, Joseph W. White, Windom, and Fernando Wood—73.

NOT VOTING—Messrs. Brooks, Broomall, James S. Brown, William G. Brown, Clay, Coffroth, Cox, Henry Winter Davis, Thomas T. Davis, Donnelly, Dumont, Eliot, Garfield, Gooch, Grinnell, Hall, Benjamin G. Harris, Herrick, Hooper, Jenckes, Kasson, Francis W. Kellogg, King, Knapp, Le Blond, Littlejohn, Longyear, Marvin, McBride, McKinney, Samuel F. Miller, Nelson, Norton, John O'Neill, William H. Randall, Alexander H. Rice, Robinson, Edward H. Rollins, Spalding, Starr, Stebbins, William G. Steele, Sweet, Tracy, Voorhees, Webster, Wilder, Winfield, Benjamin Wood, and Yeaman—52.

So the House refused to lay the bill on the table.

Mr. WILSON moved to reconsider the vote by which the previous question was seconded.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. Wilson and BLAIR were appointed.

The House divided; and the tellers reported—ayes 52, noes 48.

So the vote by which the previous question was seconded was reconsidered.

The question recurred on seconding the demand for the previous question.

Mr. STEELE, of New York, demanded tellers.

Tellers were ordered; and Messrs. CRAVENS and FENTON were appointed.

The House divided; and the tellers reported—ayes 54, noes 65.

So the House refused to second the demand for the previous question.

Mr. FENTON moved to strike out the following:

That there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, one commissioner and one solicitor of claims for the district composed of the States of Maryland, Pennsylvania, the District of Columbia, and Virginia; one commissioner and one solicitor for the district composed of the States of West Virginia, Ohio, and Indiana; one commissioner and one solicitor for the district composed of the States of Tennessee and Kentucky; one commissioner and one solicitor for the district composed of the States of Illinois, Missouri, and Kansas; and one commissioner and one solicitor for those States not included in the foregoing districts, who shall severally hold their respective offices during the pleasure of the President, and be entitled for their services to a salary of \$2,500 each per annum, to be paid quarterly out of any money in the Treasury not otherwise appropriated, and such other sums as shall be necessarily and unavoidably expended by them for stationery and office rent in the discharge of their duties under this act, and certified as reasonable by the Secretary of War or First Comptroller of the Treasury.

Sec. 2. And be it further enacted, That each of said commissioners shall appoint a clerk for his district, who shall hold his office during the pleasure of said commissioner, and perform such duties as may be required of him under this act, who shall receive a salary of \$1,600; and the commissioner may from time to time employ a marshal, at a compensation of four dollars per day for the time actually employed by said marshal in subpoenaing witnesses for the United States, and for such other duties as may be required of him by the commissioner, which salary to the clerk, and compensation to the marshal, shall be paid quarterly, out of any money in the Treasury not otherwise appropriated, on the certificate of the commissioner. And said commissioners, solicitors, clerks, and marshals shall each take and subscribe an oath to support the Constitution of the United States, and faithfully discharge the duties of their respective offices, and shall, in addition, take and subscribe the oath of allegiance required by the act of Congress passed August 6, 1861, which oaths shall be filed in the War Department.

And in lieu thereof insert the following:

That there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, three commissioners and one solicitor of claims, who shall hold their offices during the pleasure of the President, and be entitled for their services to a salary of \$3,000 each per annum, to be paid quarterly out of any money in the Treasury not otherwise appropriated, and such other sum as shall actually be expended or incurred by them for traveling expenses in the discharge of their duties under this act, and certified as reasonable by the Secretary of War, or First Comptroller of the Treasury. Each of said commissioners and solicitor, before entering upon the discharge of his duties, shall take and subscribe an oath to support the Constitution of the United States, and faithfully discharge the duties of said office; and shall also take and subscribe the oath of allegiance required by the act of August 6, 1861; which oaths shall be filed in the War Department.

Sec. 2. And be it further enacted, That said commissioners shall appoint a clerk and marshal, who shall hold their offices during the pleasure of said commissioners, and perform such duties as may be required of them under this act. The clerk shall receive a salary of \$1,600 and the marshal a salary of \$1,000 per annum, to be paid quarterly from the Treasury; and in addition the amount which they shall actually expend for traveling expenses in the discharge of their duties under this act, and which shall be certified as reasonable by the Secretary of War, or First Comptroller of the Treasury. Before entering upon the discharge of their duties, said clerk and marshal shall each take and subscribe an oath to support the Constitution of the United States, and faithfully discharge the duties of said office, and shall in addition take and subscribe the oath of allegiance required by the act of Congress passed August 6, 1861; which oaths shall be filed in the War Department.

INTERNAL REVENUE.

Mr. MORRILL. I move, by unanimous consent, to insert in the repealing section in reference to the direct tax the following:

But this shall not be construed to repeal or postpone the assessment or collection of the first direct tax levied or which should be levied under the act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861, nor in any way to affect the legality of said tax or any process or remedy provided in said act or any other act for the enforcement or collection of the same in any

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

MONDAY, JUNE 20, 1864.

NEW SERIES.....No. 192.

State or States and Territories, and the District of Columbia; but said first tax and any such process or remedy shall continue in all respects in force, anything in this act to the contrary notwithstanding.

There was no objection, and it was ordered accordingly.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate have passed a bill (H. R. No. 217) to confirm certain entries of land in the State of Missouri, with amendments; in which the concurrence of the House was requested.

REBELLION LOSSES—AGAIN.

Mr. FENTON. The gentleman from Iowa appeals to me to allow him to offer an amendment. I yield to him for that purpose.

Mr. WILSON. My first amendment is to insert in line thirteen of the first section of the bill the word "loyal" before the word "States."

The section, as proposed to be amended, will read as follows:

That there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, one commissioner and one solicitor of claims for the district composed of the States of Maryland, Pennsylvania, the District of Columbia, and Virginia; one commissioner and one solicitor for the district composed of the States of West Virginia, Ohio, and Indiana; one commissioner and one solicitor for the district composed of the States of Tennessee and Kentucky; one commissioner and one solicitor for the district composed of the States of Illinois, Missouri, and Kansas; and one commissioner and one solicitor for those loyal States not included in the foregoing districts, who shall severally hold their respective offices during the pleasure of the President, and be entitled for their services to a salary of \$2,500 each per annum, to be paid quarterly, out of any money in the Treasury not otherwise appropriated, and such other sums as shall be necessarily and unavoidably expended by them for stationery and office rent in the discharge of their duties under this act, and certified as reasonable by the Secretary of War or First Comptroller of the Treasury.

Mr. FENTON resumed the floor.

Mr. WILSON. I desire to say a word in reference to that amendment.

Mr. SMITH. I hope the gentleman from Iowa will be permitted to give his reasons for offering that amendment.

Mr. FENTON. I will yield for that purpose.

Mr. WILSON. It will be remembered that when this bill was pending some time ago it was first referred to the Committee on the Judiciary, having been attached as an amendment to a bill reported from the Judiciary Committee, and which was recommitted to the committee. That committee considered the bill and agreed upon a report, which was made some time since by the gentleman from Maryland. The bill which was reported was referred to the Committee of the Whole on the state of the Union. The amendment which I have now offered was one of those which were agreed upon by the Judiciary Committee. The other amendments I shall indicate as I have an opportunity; and in submitting them I but represent the wishes of the Judiciary Committee, to whom the House referred the whole subject, and which made the report to which I have referred.

The object of this amendment is to confine the taking of testimony in relation to these claims against the Government to States which have not been in rebellion against the United States, and which have not passed an ordinance of secession. I think it is fair to allow testimony to be taken only in relation to claims belonging to citizens of States which have not been in rebellion against the United States, reserving other claims to some other time. I hope the amendment will be concurred in by the House. I desire also to offer another amendment to this section.

The SPEAKER. The only way in which that can be done is by calling the previous question upon the pending amendment.

Mr. FENTON. I call for the previous question.

Mr. THOMAS. I would like to say a word or two.

Mr. HOLMAN. I hope the demand for the previous question will be insisted on, as the bill

has already occupied much time, and there is other pressing business before the House.

The SPEAKER. The previous question is called, not upon the bill, but upon the pending amendment.

Mr. FENTON. I take great pleasure in yielding to the gentleman from Maryland.

Mr. THOMAS. I shall occupy less time than the gentleman from Indiana does upon any occasion.

Mr. HOLMAN. Is the gentleman from New York entitled to control the floor?

The SPEAKER. The gentleman can yield for an explanation of the matter.

Mr. FENTON. I yield for an explanation.

Mr. THOMAS. That is what I desire to make.

Mr. HOLMAN. I rise to a point of order. It is that the gentleman from New York is not entitled to the floor. The gentleman from Pennsylvania [Mr. HALE] controls it.

The SPEAKER. There have been several votes since the gentleman from Pennsylvania was upon the floor. When he demanded the previous question he lost the right to the floor. The Chair knows no rule by which a gentleman, after he has demanded the previous question, can be entitled to the floor.

Mr. THOMAS. I simply want to remind the gentleman from New York, who in good faith, I believe, is disposed to apply the law to the parties intended to be affected by this bill, precisely in the same temper and in the same spirit in which Congress has acted in reference to another class of claims—I will remind that gentleman that in the last Congress and in the present Congress we had under consideration a bill intended to remunerate the people of Minnesota and Iowa for depredations committed by Indians in their inroad into that section of country, and we appointed a commission for that one section of territory. Not only so, but that measure passed both branches of Congress without the slightest manifestation of opposition or unfriendliness.

Mr. WILSON. Will my colleague on the committee allow me to make one suggestion?

Mr. THOMAS. Certainly, although I dislike the system of interrupting speakers.

Mr. WILSON. I suggest that the act in relation to the Minnesota claims provided that the money should be paid out of funds belonging to the Indians and forfeited by them.

Mr. THOMAS. I am aware of that, but that is a matter which is easily susceptible of explanation.

Mr. WILSON. I merely state the fact.

Mr. THOMAS. There is no man who was in the last Congress or who is in this who is not cognizant of that fact. I admit that in the case of Minnesota provision was made for a forfeiture of the amount of money due by the Government of the United States to the tribes of Indians by whom the depredations were committed, but who will contend that that amount of money will cover the amount of claims which we have if in contemplation to pay? That is the question. Have we provided that the fund of which we deprive the Indians shall be distributed *pro rata* among the claimants? No, sir; we have authorized the commissioners to examine into the extent of the depredations committed, not only by the Army of the United States, but by the enemy. This bill contemplates no provision for the immense amount of plunder to which the people have been subjected by the enemy in their invasions.

But, sir, if it was really the intention of Congress that no money should be taken from the national Treasury for the purpose of liquidating those claims in Minnesota, why does it not appear on the face of the bill? Why not in the practice of the Government? Have we not paid the claimants in Minnesota as far as we have gone dollar for dollar? Is there any proposition in that case to pay *pro rata*; to wait until a certain aggregate amount of claims is ascertained and then apportion the whole amount of the

money of which you have deprived the Indians among the claimants? No, sir, no such policy has been adopted. No gentleman who is at all cognizant of the facts will pretend for a moment that it was the design of Congress to limit the payment to the amount of money forfeited by the Indians. You have appointed three commissioners for that small territory, a part of Minnesota and of Wisconsin, and you intend no limitation upon the amount you intend to pay, as an honest Government ought to pay every dollar of these claims, no matter what they may amount to. No gentleman can state with accuracy what the amount of those claims will be, but I have seen it stated in the newspapers of the country that the amount will exceed \$5,000,000, while the money forfeited by the Indians will not be more than \$2,500,000.

A large amount was appropriated last year and again this year, already far beyond the amount of the fund reserved for the Indians.

Mr. WINDOM. Will the gentleman allow me to correct him?

Mr. THOMAS. I hope the gentleman will permit me to proceed without interruption. I never interrupted any gentleman in the Halls of Congress in my life. I have always regarded it as one of the first rules of politeness never to interrupt a gentleman.

Mr. WINDOM. I did not suppose the gentleman would desire to misstate a fact; I merely wished to correct him.

The SPEAKER. The gentleman from Maryland declines to yield the floor, and is entitled to proceed without interruption.

Mr. THOMAS. I mean no discourtesy to the gentleman from Minnesota, nor any personal application of the remark I made. One word more and I have done; and I should not have detained the House as long as I have but for the interrogatory proposed to me by the gentleman from Iowa, [Mr. WILSON.] I simply wish to remind the gentleman from New York, who, I believe, has recognized the duty as obligatory upon the Government, resting in vested obligations which no nation on the face of the earth has ever repudiated, that to establish a single tribunal for the investigation of the claims arising out of these depredations would make it physically impossible during the lifetime of the present generation to discharge that duty. The area over which it is proposed these commissioners shall have jurisdiction covers more than one half the territory of the loyal States as we now stand. He proposes that these three commissioners shall perform this duty in Missouri, Kentucky, Ohio, Indiana, Illinois, Kansas, Maryland, Tennessee, and West Virginia. I repeat that it is physically impossible for any three gentlemen to perform that labor within the lifetime of a generation. I say, therefore, to the gentlemen representing the Committee on the Judiciary and the Committee of Claims that if they intend in good faith to recognize as binding and obligatory on Congress to pay these claims whenever the Government is able to pay them, it is nothing more than reasonable that the number of commissioners to be appointed for the purpose of making these investigations should be as large as provided for in the bill before the House. I have now said all I intended to say, which was merely to respond to the gentleman from Iowa. I simply desired to assert the principle in respect to the obligation of this Government, which I have done.

Mr. FENTON. I think sufficient has been said upon this matter. The House is getting tired of this discussion, and I must insist upon the demand for the previous question upon the amendment of the gentleman from Iowa, after which I will submit my own amendment.

The SPEAKER. The Chair will say to the gentleman from New York that if he demands the previous question he cannot hold the floor.

Mr. FENTON. Then I must demand the previous question on both of the amendments.

Mr. HALE. I desire to say a word upon this amendment to insert the word "loyal" before

the vote is taken upon it, and I ask the gentleman to withdraw the demand for the previous question for that purpose.

Mr. FENTON. I can hardly refuse to allow the chairman of the committee which reported the bill to speak if he desires, and I will therefore withdraw the demand and yield to him if he will state the time he wishes to occupy.

Mr. HALE. I think I ought to have one word on the subject of this amendment. I do not want two minutes.

Mr. FENTON. Very well, I will yield the floor to the gentleman for two minutes.

Mr. HALE. The provision contained in the amendment of the gentleman from Iowa is already substantially in the bill. His amendment provides for loyal States. The bill provides for loyal men. I do not know what the term "loyal States" means exactly, and, as I understand it, I think the gentleman will find it very difficult to explain what it means. We know what is meant by loyal men; the term is understood everywhere. Now, I submit to the gentleman from Iowa that when we make the advantages of the bill apply only to loyal men we ought not to go further. I see no reason why a true loyal man who lives in a disloyal State is not entitled to at least as much consideration as a man living in a loyal State.

Mr. WILSON. I will suggest to the gentleman that I see no particular difficulty in describing the meaning of "loyal State." I should say that where a State, by its legal authorities, has engaged its people in rebellion against the authority of the United States, that State is not a loyal State.

Mr. HALE. The gentleman from Iowa says any State that has adopted an ordinance of secession. How would he regard the State of Tennessee? What would he do with the property of Andrew Johnson?

Mr. WILSON. There is a provision by which he puts Tennessee in a special district.

Mr. HALE. Certainly.

Mr. WILSON. He then provides in a special provision that all the other States shall be in another district to be presided over by another commission.

Mr. HALE. What does the gentleman mean by loyal States—those which did not adopt the ordinance of secession?

Mr. WILSON. It will not include Tennessee.

Mr. HALE. We did not believe there were many men in the disloyal States who were loyal, but undoubtedly there are some. I suggest to the gentleman that the provision he proposes to put in is already in the bill. They must be loyal men before their claim can be considered.

Mr. FENTON demanded the previous question on the amendment.

The previous question was seconded, and the main question ordered.

Mr. MALLORY demanded the yeas and nays. The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 70, nays 61, not voting 51; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Dawes, Denning, Donnelly, Eckley, Elliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Higby, Hooper, Asahel W. Hubbard, Hulburt, Ingersoll, Julian, Orlando Kellogg, Knox, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Schofield, Shannon, Sloan, Smithers, Thayer, Tracy, Van Valkenburgh, William B. Washburn, Williams, Wilder, Wilson, and Woodbridge—70.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Bailey, Blair, Blow, Brooks, James S. Brown, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hale, Harding, Harrington, Charles M. Harris, Holman, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Pendleton, Pruyn, Radford, Samuel J. Randall, Robinson, James S. Rollins, Ross, Scott, Smith, Stiles, Stuart, Wadsworth, Ward, Whaley, Wheeler, Chilton A. White, Joseph W. White, Windom, and Fernando Wood—61.

NOT VOTING—Messrs. Arnold, Ashley, Augustus C. Baldwin, Bliss, William G. Brown, Chandler, Clay, Coffroth, Cox, Henry Winter Davis, Thomas T. Davis, Dixon, Briggs, Dumont, Grinnell, Griswold, Hall, Benjamin G. Harris, Herick, John H. Hubbard, Jenckes, Kasson, Kelley, Francis W. Kellogg, King, Knapp, Littlejohn, McKinney, Middleton, Samuel F. Miller, Moorhead, Norton,

Odell, John O'Neill, Patterson, Perry, William H. Randall, Rogers, Edward H. Rollins, Spalding, Starr, Stebbins, John B. Steele, William G. Steele, Strouse, Sweet, Voorhees, Webster, Winfield, Benjamin Wood, and Yeaman—51.

So the amendment was adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WILSON moved to insert after the words "and one commissioner and one solicitor for those States not included in the foregoing districts, who shall severally hold their respective offices during the pleasure of the President," the words "not being residents of the district for which they were appointed."

The amendment was agreed to.

Mr. WILSON moved to insert in the first section the words "at the rate of" and "for the time actually employed," so that these officers shall only be paid for what they do.

The amendment was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question then recurred on Mr. FENTON's amendment.

Mr. FENTON demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. MALLORY demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 70, not voting 59; as follows:

YEAS—Messrs. Allison, Ames, Ashley, John D. Baldwin, Beaman, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Dawes, Denning, Dixon, Donnelly, Elliot, Farnsworth, Fenton, Frank, Gooch, Higby, Asahel W. Hubbard, John H. Hubbard, Hulburt, Ingersoll, Julian, Orlando Kellogg, Knox, Longyear, Marvin, Moorhead, Morrill, Daniel Morris, Amos Myers, Orth, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Schofield, Shannon, Sloan, Smithers, Thayer, Tracy, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Williams, Wilson, and Woodbridge—53.

NAYS—Messrs. James C. Allen, Alley, Ancona, Anderson, Bailey, Augustus C. Baldwin, Blair, Blow, Boyd, Brooks, James S. Brown, Chantler, Freeman Clarke, Cravens, Creswell, Dawson, Eden, Edgerton, Eldridge, English, Finck, Ganson, Garfield, Grider, Hale, Harding, Harrington, Charles M. Harris, Hotchkiss, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Lazear, Loan, Long, Mallory, Marcy, McAllister, McClurg, McDowell, McIndoe, Middleton, William H. Miller, Morrison, Noble, Charles O'Neill, Perry, Price, Pruyn, Radford, Samuel J. Randall, Robinson, James S. Rollins, Ross, Scott, Smith, Stiles, Strouse, Stuart, Thomas, Wadsworth, Ward, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Windom, and Fernando Wood—70.

NOT VOTING—Messrs. William J. Allen, Arnold, Baxter, Blaine, Bliss, William G. Brown, Clay, Coffroth, Cox, Henry Winter Davis, Thomas T. Davis, Denison, Briggs, Dumont, Eckley, Grinnell, Griswold, Hall, Benjamin G. Harris, Herick, Holman, Hooper, Hutchins, Jenckes, Kasson, Kelley, Francis W. Kellogg, King, Knapp, Law, Le Blond, Littlejohn, McBride, McKinney, Samuel F. Miller, James R. Morris, Leonard Myers, Nelson, Norton, Odell, John O'Neill, Pendleton, William H. Randall, Rogers, Edward H. Rollins, Schenck, Spalding, Starr, Stebbins, John B. Steele, William G. Steele, Stevens, Sweet, Upton, Voorhees, Webster, Winfield, Benjamin Wood, and Yeaman—59.

So the amendment was rejected.

During the roll-call,

Mr. WILSON stated that Mr. ECKLEY was paired off with Mr. MORRIS, of Ohio.

Mr. MALLORY moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. FARNSWORTH. I desire to offer an amendment to the fourth section.

Mr. WILSON. I desire to offer one to the third section.

Mr. GARFIELD. I desire to offer an amendment to the first section, and I do not want to lose my right by passing by that section.

The SPEAKER. The House has not yet passed by any section.

Mr. FARNSWORTH offered the following amendment to be added to the fourth section:

And shall also prove by the testimony of disinterested and competent witnesses the extent of his, her, or their loss, and the value of the property taken or destroyed; and the commission shall have power in addition to cross-examine the claimant or claimants upon any matter or thing stated in his, her, or their account.

Mr. THAYER. I suggest that that provision is already contained in the ninth section.

Mr. MALLORY. I rise to a point of order. It is that the amendment of the gentleman from Illinois adds nothing new to the bill. Everything contained in the amendment is in the bill now.

Mr. SPEAKER. That may be a good reason for voting against the amendment but not for ruling it out of order by the Chair.

Mr. FARNSWORTH. The bill provides that the claimant only shall make oath. The bill does not require him to prove by any other person anything except his title and the extent of it. It is important that a provision should be adopted requiring the claimant to prove the extent of his loss and the value of the property taken.

Mr. HALE. I would call the attention of the gentleman to the eighth line of the ninth section of the bill.

Mr. FARNSWORTH. I inadvertently overlooked the fact that the provision in the last clause of my amendment is already in the bill, and I therefore modify the amendment by striking out the last clause.

Mr. HALE. Let it be read as it now is.

The Clerk read the amendment, as follows:

And shall also prove by the testimony of disinterested and competent witnesses the extent of his, her, or their loss, and the value of the property taken or destroyed.

Mr. HALE. I have no objection to that.

Mr. FARNSWORTH. There is no provision of that kind in the bill. It is suggested that I should also modify the amendment by inserting after the word "disinterested" the word "loyal."

Mr. HOTCHKISS. Will the gentleman yield for a suggestion?

Mr. FARNSWORTH. Yes, sir.

Mr. HOTCHKISS. The gentleman's amendment requires that the witnesses shall be disinterested. Now, I apprehend that in most of the States interest does not disqualify a witness, and I do not think it should.

Mr. FARNSWORTH. I prefer to have it just as it is, "disinterested, loyal, and competent."

Mr. HOTCHKISS. This bill provides for the examination and cross-examination of the claimants, and of all parties who know anything upon the subject. I do not object to requiring that the witness shall be loyal, for I do not think a disloyal man is a competent witness; but to say that a man who is interested in a matter shall not be allowed to testify is an exploded theory in this country. It is not the rule in many of the States.

The question recurring on the amendment of Mr. FARNSWORTH,

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

Mr. FARNSWORTH called for tellers on the yeas and nays.

Tellers were ordered; and Mr. BRANDEGEE and Mr. SCOTT were appointed.

The House divided; and the tellers reported—ayes twenty-six—a sufficient number.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 66, nays 59, not voting 57; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Dawes, Denning, Dixon, Donnelly, Briggs, Elliot, Farnsworth, Fenton, Frank, Gooch, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburt, Ingersoll, Julian, Orlando Kellogg, Knox, Loan, Longyear, Marvin, McClurg, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Schofield, Sloan, Smithers, Stevens, Thayer, Tracy, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—66.

NAYS—Messrs. James C. Allen, William J. Allen, Ancona, Anderson, Bailey, Augustus C. Baldwin, Blair, Brooks, Chantler, Dawson, Eden, Edgerton, Eldridge, English, Finck, Ganson, Garfield, Grider, Hale, Harding, Harrington, Charles M. Harris, Holman, Hotchkiss, Philip Johnson, William Johnson, Kalbfleisch, Law, Lazear, Le Blond, Long, Mallory, Marcy, McDowell, Middleton, William H. Miller, Moorhead, Morrison, Nelson, Noble, Perry, Pruyn, Samuel J. Randall, Robinson, James S. Rollins, Ross, Scott, Smith, Stiles, Strouse, Stuart, Thomas, Wadsworth, Ward, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Fernando Wood—59.

NOT VOTING—Messrs. Arnold, Blaine, Bliss, Blow, James S. Brown, William G. Brown, Freeman Clarke, Clay, Coffroth, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Denison, Dumont, Eckley, Grinnell, Griswold, Hall, Benjamin G. Harris, Herick, Hutchins, Jenckes, Kasson, Kelley, Francis W. Kellogg, Kernan, King, Knapp,

Littlejohn, McAllister, McBride, McKinney, James R. Morris, Norton, Odell, John O'Neill, Patterson, Pendleton, Radford, William H. Randall, Rogers, Edward H. Rollins, Schenck, Shannon, Spalding, Starr, Stebbins, John B. Steele, William G. Steele, Sweat, Upson, Voorhees, Webster, Winfield, Benjamin Wood, and Yeaman—57.

So the amendment was agreed to.

Mr. FARNSWORTH moved to reconsider the vote by which the amendment was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. HALE resumed the floor.

Mr. WILSON. I appeal to the gentleman from Pennsylvania to allow me to offer another amendment which has been agreed to by the Committee on the Judiciary.

Mr. HALE. I will hear it.

Mr. WILSON. It is to add to the fourth section the following proviso:

Provided further, That no testimony shall be taken under the provisions of this act until the claimant shall have taken, subscribed, and filed with his claim the oath prescribed by the "act to prescribe an oath of office," approved July 2, 1862, except so much of said oath as relates to the discharge of the duties of office, and every person who shall falsely take said oath under the provisions of this act shall be liable to the penalties prescribed by said act of July 2, 1862.

Mr. HALE. I have no objection to that.

Mr. WILSON. I move the previous question on the amendment.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendment was agreed to.

Mr. WILSON moved to reconsider the vote by which the amendment was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. GARFIELD. As I understand it, the House has adopted an amendment to the first section, inserting the word "loyal" in the thirteenth line.

The SPEAKER. It has.

Mr. GARFIELD. If gentlemen will read the thirteenth and fourteenth lines they will see that the result of that amendment will be to appoint one commissioner and one solicitor for each of those loyal States not included in the "foregoing districts." That is, it appoints a solicitor and a commissioner, with all their clerks, for the States of Maine, New Hampshire, Vermont, Iowa, Michigan, and other States in which no damages of this character have accrued; in other words, we shall have all these officers appointed for districts where there is no business whatever. I think that ought to be amended.

Mr. HALE. I suggest to the gentleman from Ohio that the Delegate from New Mexico states there are a large amount of claims existing in that Territory, and that the bill should be made to apply to Territories as well as to States. I intend offering that amendment.

Mr. GARFIELD. I desire to have stricken out of the first section the words "and one commissioner and one solicitor for those States not included in the foregoing districts."

Mr. HALE. Those words include the States of Iowa and Minnesota, where there are claims of this character.

Mr. WILSON. I will state to the gentleman from Ohio that there are claims coming from his own district every day.

Mr. GARFIELD. My own State comes within the third district.

Mr. WILSON. Then the gentleman wants to cut out other States, so that they shall not derive any benefit at all from the act.

Mr. GARFIELD. The bill, as drawn, is considered as including every State where there are claims.

Mr. HALE. I desire the gentleman from Ohio to designate his amendment.

Mr. GARFIELD repeated the terms of his amendment.

Mr. HALE. I cannot agree to that.

Mr. GARFIELD. I move the previous question on my amendment.

Mr. WILSON. I did not understand the gentleman from Pennsylvania as yielding for the purpose of having that amendment offered.

Mr. HALE. I did not yield.

The SPEAKER. Then the Chair cannot entertain the demand for the previous question.

Mr. HALE. I only yielded to have the amendment read.

Mr. GARFIELD. I have an amendment to offer to the third section.

Mr. HALE. I will yield to hear it read.

Mr. GARFIELD. My amendment is to strike out the words "or by any" and insert "acting under legal;" so that it will read:

SEC. 3. *And be it further enacted,* That said commissioners shall severally have cognizance of all claims against the United States arising in their respective districts, and which shall be presented to them by any person who, during the present rebellion, has sustained, or may sustain, damages by injury to or destruction of any property which has been or may be injured or destroyed by the use or occupation of the Army of the United States, or of any division or portion thereof, acting under legal military authority.

Mr. HALE. I will suggest an amendment which I think will cover the ground—to insert the word "competent," so that it will read "by any competent military authority."

Mr. GARFIELD. I think that will answer the purpose.

The SPEAKER. Does the gentleman from Pennsylvania yield to the gentleman from Ohio to offer his amendment?

Mr. HALE. No, sir; but he will accept the modification which I offer.

Mr. GARFIELD. I think the object can be accomplished by striking out the words "or any;" so that it will read, "by competent military authority." My reason for introducing the amendment is this: as the section now stands, the Government might have to pay for damages done by the rebel army; for it reads, "or by any military authority." I want that so changed as that the Government can only be called upon to pay for damages done by our own Army.

Mr. WILSON. I ask the gentleman from Ohio whether he thinks that the action of the rebels would be construed as being "by military authority" as against the United States?

Mr. GARFIELD. Most certainly it would not be.

The question was taken on Mr. GARFIELD's amendment as modified by Mr. HALE; and it was rejected.

Mr. BEAMAN. I move to lay the bill on the table.

The SPEAKER. The gentleman from Pennsylvania [Mr. HALE] has the floor. When he surrenders the floor that motion will be in order.

Mr. HALE. I ask unanimous consent to correct the sentence by inserting the word "thereof;" so that it will read, "by any competent military authority thereof."

There being no objection, the amendment was agreed to.

Mr. BOUTWELL. I ask the gentleman from Pennsylvania to yield for an amendment which I desire to offer.

Mr. HALE. I will yield to hear it read.

Mr. WADSWORTH. I object.

Mr. HALE. I have another amendment to offer. It is to insert after the words "United States," in the thirty-fourth line of the fourth section, the words "and that he has presented all his just claims arising under this act against the United States."

Mr. GARFIELD. The object of that is to prevent claimants bringing up other claims afterwards.

The SPEAKER. Does the gentleman from Pennsylvania desire a vote on his amendment?

Mr. HALE. I do.

The SPEAKER. Then the gentleman will lose his right to the floor.

Mr. HALE. Then I do not insist on a vote. [Laughter.] I wish to move another amendment.

Mr. WASHBURNE, of Illinois. I make the point of order that there is one amendment pending now.

The SPEAKER. The Chair sustains the point of order.

Mr. HALE. I withdraw that amendment. I move to amend the first section by inserting after the word "States" the words "and Territories."

Mr. WASHBURNE, of Illinois. I call for a division on that amendment.

Mr. HALE. I withdraw the amendment. [Laughter.] And now I will hear the amendment of the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. WADSWORTH. I object.

Mr. BOUTWELL. I ask the gentleman from Pennsylvania to yield to me the floor.

Mr. J. C. ALLEN. I rise to a privileged motion. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The SPEAKER. The gentleman from Pennsylvania has the floor. When he surrenders it that motion will be in order.

Mr. WILSON. I understand that the gentleman from Pennsylvania agrees to offer the amendment of the gentleman from Massachusetts.

Mr. BOUTWELL's amendment was read, as follows:

And provided further, That no inference shall be drawn from this act that the Government of the United States is liable to pay any of the claims that may be presented as herein provided; but said claims shall stand, in all respects, as to the liability of the Government, as if this act had not been passed.

Mr. HALE. There is no objection to that.

Mr. J. C. ALLEN. I object.

Mr. HALE. I am in favor of the amendment, and I think it should be adopted.

The SPEAKER. The gentleman from Pennsylvania [Mr. HALE] can move it himself.

Mr. HALE. Unless the Chair should recognize me again, I would not be entitled to the floor.

Mr. WASHBURNE, of Illinois. I object to bargains. [Laughter.]

The SPEAKER. The Chair can make no bargain with the gentleman from Pennsylvania as to who shall be recognized. The gentleman is now in possession of the floor for the second time today.

Mr. J. C. ALLEN. I object to his yielding for that purpose.

Mr. HALE. I move the amendment, and I move the previous question on the bill and amendment.

Mr. BEAMAN. I move to lay the bill on the table.

Mr. MALLORY. I call for the yeas and nays on that motion. I want a record on this first step in the road of repudiation.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 74, not voting 58; as follows:

YEAS—Messrs. William J. Allen, Allison, Ashley, Baxter, Beaman, Chanler, Ambrose W. Clark, Cobb, Dawes, Dawson, Deining, Dixon, Donnelly, Eden, Eliot, Farnsworth, Fenton, Frank, Gooch, Higby, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Orlando Kellogg, Knox, Longyear, McDouge, Morrill, Daniel Morris, Morrison, Orth, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Robinson, Schenck, Sloan, Smithers, Stiles, Thayer, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Wilson, and Woodbridge—50.

NAYS—Messrs. James C. Allen, Alley, Ancona, Anderson, Bailly, Augustus C. Baldwin, Blair, Blow, Boutwell, Boyd, Brooks, Broomall, Coffroth, Cravens, Creswell, Denison, Driggs, Edgerton, Eldridge, English, Finck, Ganson, Garfield, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Holman, Hooper, Hotchkiss, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Law, Lazear, Le Blond, Loan, Long, Mallory, Marcy, McBride, McClurg, McDowell, Samuel F. Miller, William H. Miller, Moorhead, Amos Myers, Noble, Odell, Charles O'Neill, Pruyn, Radford, Samuel J. Randall, James S. Rollins, Ross, Scott, Smith, John B. Steele, Strouse, Stuart, Thomas, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Windom, and Fernando Wood—74.

NOT VOTING—Messrs. Ames, Arnold, John D. Baldwin, Blaine, Bliss, Brandegee, James S. Brown, William G. Brown, Freeman Clarke, Clay, Cole, Cox, Henry Winter Davis, Thomas T. Davis, Dumont, Eckley, Grinnell, Hall, Benjamin G. Harris, Herrick, Hutchins, Jenckes, Kasson, Kelley, Francis W. Kellogg, King, Knapp, Littlejohn, Marvin, McAllister, McKinney, Middleton, James R. Morris, Leonard Myers, Nelson, Norton, John O'Neill, Patterson, Pendleton, Perham, Perry, William H. Randall, Rogers, Edward H. Rollins, Scofield, Shannon, Spalding, Starr, Stebbins, William G. Steele, Stevens, Sweat, Van Valkenburgh, Voorhees, Williams, Winfield, Benjamin Wood, and Yeaman—58.

So the bill was not laid on the table.

The question being on seconding the demand for the previous question on the engrossment of the bill,

Mr. WILSON called for tellers.

Mr. WASHBURNE, of Illinois. I move that the House do now adjourn.

The SPEAKER. Before putting the question on that motion the Chair will state that if the House now adjourns the evening session which has been set apart for the business of the District of Columbia will not be held.

Mr. WASHBURNE, of Illinois, called for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 48, nays 83, not voting 51; as follows:

YEAS.—Messrs. William J. Allen, Ancona, Ashley, Barker, Brooks, James S. Brown, Chandler, Freeman Clarke, Dawes, Denison, Dixon, Eden, Edgerton, Eldridge, Farnsworth, Fenton, Gooch, John H. Hubbard, Hulburd, Ingersoll, William Johnson, Kabbelsch, Orlando Kellogg, Knox, Leay, Le Blond, Loan, Longyear, McIndoe, Morrison, Amos Myers, Odell, Charles O'Neill, Orth, Pike, Pruyn, Radford, John H. Rice, Robinson, Schenck, Sloan, Slaters, Stiles, Strouse, Thayer, Tracy, Elihu B. Washburne, and Williams—48.

NAYS.—Messrs. James C. Allen, Alley, Allison, Ames, Anderson, Bailey, Augustus C. Baldwin, John D. Baldwin, Beaman, Blair, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Coffroth, Cole, Gravens, Creswell, Dawson, Donnelly, Driggs, Eliot, English, Finck, Frank, Ganson, Garfield, Grider, Hale, Harding, Charles M. Harris, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Philip Johnson, Julian, Kernan, Lazenar, Long, Mallory, Marcy, McBride, McClurg, McDowell, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Pendleton, Price, Samuel J. Randall, Alexander H. Rice, Rogers, James S. Rollins, Ross, Scott, Smith, John B. Steele, Stevens, Stuart, Sweet, Thomas, Upson, Wadsworth, Ward, William B. Washburn, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilder, Wilson, Window, Fernando Wood, and Woodbridge—83.

NOT VOTING.—Messrs. Arnold, Blaine, Bliss, Brandegee, William G. Brown, Clay, Cox, Henry Winter Davis, Thomas T. Davis, Deming, Dumont, Eckley, Grinnell, Griswold, Hall, Harrington, Benjamin G. Harris, Herrick, Hutchins, Jenckes, Kasson, Kelley, Francis W. Kellogg, King, Knapp, Littlejohn, Marvin, McAllister, McKinney, James K. Morris, Nelson, Noble, Norton, John O'Neill, Patterson, Perham, Perry, Pomeroy, William H. Randall, Edward H. Rollins, Seaford, Shannon, Spaulding, Starr, Stebbins, William G. Steele, Van Valkenburgh, Voorhees, Winfield, Benjamin Wood, and Yeaman—51.

So the House refused to adjourn.

During the call of the roll;

Mr. HARRINGTON stated that he had paired with Mr. DEMING, of Connecticut, on all questions affecting the bill before the House, and as this vote might incidentally affect it, he would decline to vote.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles, when the Speaker signed the same:

An act (H. R. No. 290) for the relief of Rhoda Wolcott;

An act (H. R. No. 521) to amend an act entitled "An act to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863," approved June 1, 1864;

An act (H. R. No. 227) granting lands to the State of Michigan for the construction of certain wagon roads for military and other purposes; and

A joint resolution (H. R. No. 47) for the relief of Rev. W. B. Matchett.

REBELLION LOSSES—AGAIN.

The question being on seconding the demand for the previous question, on which tellers had been demanded, tellers were ordered; and Messrs. WILSON and SROUSE were appointed.

The House divided; and the tellers reported—ayes 62, noes 48.

So the previous question was seconded.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on ordering the main question.

The yeas and nays were not ordered.

The main question was ordered—ayes 68, noes 24.

The question being put on the amendment submitted by Mr. HALE, on the suggestion of Mr. BOUTWELL, 68 voted in the affirmative and 24 in the negative.

Mr. RANDALL, of Pennsylvania, called for the yeas and nays.

The yeas and nays were not ordered.

So the amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HALE moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. LE BLOND called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. CRESWELL. I move that the House adjourn immediately after the roll-call on the passage of the bill.

The SPEAKER. The Chair doubts whether that motion will be in order. The gentleman may, if he desires it, move to extend the session after half past four o'clock.

Mr. CRESWELL. I make that motion.

Mr. STEVENS. I demand the yeas and nays on that motion. We have set apart to-night for the consideration of the business of the District of Columbia, and I want to see whether we will break faith with that committee.

The SPEAKER. The Chair will state, so that the House may understand it, what will be the condition of this bill if the House do now adjourn or take a recess. The main question having been ordered on its passage, should the House adjourn it will come up immediately after the reading of the Journal to-morrow morning, and should the House not adjourn but take a recess, inasmuch as to-night has been devoted to the business of the District of Columbia by unanimous consent, that business will take precedence, and this bill will still go over till to-morrow immediately after the reading of the Journal.

Mr. WADSWORTH. I desire to inquire whether this party opposition is to defeat the bill?

The SPEAKER. The Chair cannot answer the question put in that way.

Mr. FARNSWORTH. Is there not a special order for to-morrow?

The SPEAKER. The business of the Committee on Naval Affairs is assigned as a special order after to-morrow morning. During the morning hour the Pacific railroad bill is the business in order. The morning hour, however, will not commence until after the disposal of this bill should it go over to-day's session.

Mr. WASHBURN, of Illinois. I ask the gentleman to postpone his motion for half an hour.

Mr. CRESWELL. As that seems to be the pleasure of the House, I withdraw my motion for half an hour.

Mr. HOLMAN. I move that the House do now adjourn.

Mr. BLAINE. What will be the effect of an adjournment?

The SPEAKER. This bill will come up to-morrow in the morning hour, and there will be no evening session.

The House divided; and there were—ayes 44, noes 61.

Mr. ANCONA demanded tellers.

Tellers were ordered; and Messrs. ANCONA, and Rice of Maine, were appointed.

During the division, the hour of half past four having arrived,

The SPEAKER announced that, under the order of the House, the House would take a recess until half past seven o'clock, p. m.

EVENING SESSION.

The House, at half past seven o'clock, p. m., resumed its session.

CALIFORNIA LANDS.

Mr. HIGBY. I move, by unanimous consent, to take up the amendments of the Senate to House bill No. 179, concerning lands in the State of California, in order that they may be concurred in. They are immaterial amendments, and will give rise to no debate.

There was no objection, and the amendments were taken up and severally concurred in.

Mr. HIGBY moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MILITARY ROAD TO LAKE SUPERIOR.

Mr. DRIGGS. I ask unanimous consent to take up the amendments of the Senate to House bill No. 247, granting lands to the State of Wisconsin to build a military road to Lake Superior, in order that the amendments may be concurred in.

The amendments were read.

Mr. BROOKS. I object. I think the amendments ought to be referred to a committee of this House.

PACIFIC RAILROAD.

The SPEAKER stated that this evening was set apart for the consideration of business relating to the District of Columbia.

Mr. STEVENS. I do not know whether we are entitled to the morning hour for the Pacific

railroad bill. I ask the gentleman from New York, [Mr. STEELE,] who is chairman of the Committee for the District of Columbia, whether he will not have enough time after the morning hour for his business? I think he will, and I ask him to yield to me to call up the Pacific railroad bill.

Mr. STEELE, of New York. I yield for that purpose.

The SPEAKER. The House will resume the consideration of the Pacific railroad bill, on which the gentleman from New York is entitled to the floor.

Mr. STEELE, of New York. I have no further remarks to make.

The question recurred on the following amendment submitted by Mr. HOLMAN:

And said road shall be a public highway, and shall transport the property and troops of the United States, when transportation of them shall be required, free of toll or other charge.

Mr. STEVENS. I have examined very carefully, as any gentleman may do, the original charter of this company, and it was granted on condition that the railroad shall at all times give the preference to the United States at a reasonable rate, which is to be credited on the bonds. I hope the amendment will not be agreed to.

Mr. ANCONA. In the absence of the gentleman from Indiana I demand a division.

Mr. KERNAN. There is not a quorum present. It was the general understanding that District of Columbia business would be considered this evening. I know gentlemen who would be here if they thought this bill would come up, as they have amendments to offer to it.

Mr. STEELE, of New York. I suggest that the bill be postponed until we dispose of the District business. We will not occupy more than an hour.

Mr. STEVENS. With the understanding that it will come up when this business is disposed of, I do not object.

It was so ordered.

ENTRIES OF LAND IN MISSOURI.

Mr. HALE, by unanimous consent, moved to take up and concur in the amendment of the Senate to House bill No. 217, to confirm certain entries of land in the State of Missouri.

The bill was taken up, and the amendment was concurred in.

Mr. HALE moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ALEXANDRIA AND WASHINGTON RAILROAD.

Mr. STEELE, of New York, from the Committee for the District of Columbia, reported back House bill No. 514, to amend an act to extend the charter of the Alexandria and Washington railroad, and for other purposes, passed March 3, 1863, with the recommendation that it do pass.

The bill was read.

Mr. DRIGGS. The bill provides for steam power through this city, and I would like to have further time to consider it.

Mr. STEELE, of New York. I withdraw the report for the present.

METROPOLITAN RAILROAD COMPANY.

Mr. WHEELER, from the Committee for the District of Columbia, reported back Senate bill No. 54, to incorporate the Metropolitan Railroad Company of the District of Columbia, with the recommendation that it do pass.

The bill was read.

The several amendments recommended by the Committee for the District of Columbia to the bill of the Senate were agreed to without division, with the exception of the seventh amendment, which was reported as follows:

Strike out the following proviso at the end of the fourth section:

Provided, That there shall be no regulation excluding any person from any car on account of color.

Mr. MORRIS, of Ohio. Will it be in order to move an amendment to perfect the clause before the vote is taken upon striking it out?

The SPEAKER. It will.

Mr. MORRIS, of Ohio. I move to amend by adding to the proviso the following:

But the said company may place cars upon said route, indorsed on the outside of same in large letters, "White persons admitted."

Mr. WASHBURNE, of Illinois. No objection to that.

Mr. PRICE. I move to amend the amendment by adding thereto the words "provided they are sober."

Mr. UPSON. I demand the previous question. Mr. ELDRIDGE. Is it in order to move an amendment to the amendment of the gentleman from Ohio?

The SPEAKER. It is not, as one amendment to the amendment is already pending.

Mr. ELDRIDGE. I want to move to include also the members from Iowa. [Laughter.]

Mr. PRICE. And the member from Wisconsin too. [Laughter.]

The previous question was seconded, and the main question ordered to be put.

The amendment offered by Mr. PRICE to the amendment of Mr. MORRIS, of Ohio, was agreed to.

The question recurred on the amendment as amended.

Mr. ELDRIDGE. Is it in order now to move my amendment?

The SPEAKER. It is not.

The House was divided on the amendment; and there were—ayes 28, noes 33, no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. MORRIS, of Ohio, and Mr. PRICE.

Mr. BROWN, of Wisconsin. It is evident there is no quorum here, and I suggest that we take up some other matter with which we can proceed.

Mr. STEVENS. There is a quorum here if they are only sober. [Laughter.]

Mr. BROWN, of Wisconsin. They are all in the condition of the gentleman from Pennsylvania.

Mr. STEVENS. Then they are all right.

Mr. ELDRIDGE. I wish to inquire as to the effect of this vote. If we adopt this amendment does it admit white men provided they are sober, and drunken negroes?

The SPEAKER. The Chair cannot answer the question.

Mr. ELDRIDGE. White men sober, and negroes drunk?

The House was then divided; and the tellers reported—ayes sixteen, noes not counted.

So the amendment as amended was not agreed to.

Mr. J. C. ALLEN. I demand the yeas and nays on agreeing with the recommendation of the committee to strike out the proviso.

The yeas and nays were ordered.

The question was put; and there were—yeas 38, nays 45, not voting 99; as follows:

YEAS.—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, Brooks, James S. Brown, Coffroth, Dawson, Eden, Egerton, Eldridge, English, Finck, Grider, Harding, Charles M. Harris, William Johnson, Kernan, Lazear, Long, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Noble, Robinson, Rose, Scott, Smithers, John B. Steele, Stiles, Thomas, Webster, Whaley, Wheeler, Chilton A. White, and Joseph W. White—38.

NAYS.—Messrs. Alley, Ames, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Broomall, Cobb, Cole, Dawes, Dixon, Driggs, Eckley, Eliot, Gooch, Hale, Highy, Asabel W. Hubbard, John H. Hubbard, Ingersoll, Orlando Kellogg, Loan, Longyear, Marvin, McClurg, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, Anos Myers, Charles O'Neill, Patterson, Perham, Price, Scofield, Shannon, Sloan, Stevens, Upson, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, and Windom—45.

NOT VOTING.—Messrs. William J. Allen, Allison, Anderson, Arnold, Ashley, Blair, Bliss, Blow, Boyd, Brandegee, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Clay, Cox, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Deming, Denison, Donnelly, Dumont, Farnsworth, Fenton, Frank, Ganson, Garfield, Grinnell, Griswold, Hall, Harrington, Benjamin G. Harris, Herrick, Holman, Hooper, Hotchkiss, Hulburd, Hutchins, Jenckes, Philip Johnson, Julian, Kalbfleisch, Kasson, Kelley, Francis W. Kellogg, King, Knapp, Knox, Law, Le Blond, Littlejohn, Mallory, Marcy, McAllister, Middleton, Morrill, Leonard Myers, Nelson, Norton, Odell, John O'Neill, Orth, Pendleton, Perry, Pike, Pomeroy, Prun, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Smith, Spalding, Starr, Stebens, William G. Steele, Strouse, Stuart, Sweet, Thayer, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Ward, Williams, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—99.

During the roll-call,

Mr. DAWES stated that Mr. HOOPER was paired off.

Mr. McBRIDE stated that he was paired off. No quorum having voted,

Mr. J. C. ALLEN moved that the House adjourn.

Mr. BROWN, of Wisconsin. I suggest that we take up some other business, and take another vote upon this hereafter.

The SPEAKER. No business can be transacted until a quorum appears.

Mr. BLAINE. If the House adjourns now will this come up as unfinished business to-morrow?

The SPEAKER. It will, as the previous question has been sustained on it.

Mr. STEELE, of New York. I ask the gentleman from Illinois to withdraw the motion to adjourn, that I may ask the House to set another day for the consideration of District of Columbia business.

Mr. J. C. ALLEN. I will do so.

Mr. STEELE, of New York. I ask the House to assign some other time for District of Columbia business.

Mr. BLAINE. Say Monday evening.

Mr. STEELE, of New York. I will ask for Wednesday evening.

The SPEAKER. The same objection exists to that as did to passing to other business, from the fact that no quorum is present.

Mr. J. C. ALLEN. I renew my motion to adjourn.

The motion was not agreed to.

The SPEAKER. The motion of the gentleman from Maine [Mr. BLAINE] that there be a call of the House will now be in order if on an actual count a quorum shall not be found in their seats. The Chair will count the House.

The SPEAKER proceeded to count the House, and ascertained that there were only 91 members present, being 1 less than a quorum.

The question was taken on Mr. BLAINE's motion; and it was agreed to.

So a call of the House was ordered.

The roll was accordingly called; when the following members failed to answer to their names:

Messrs. William J. Allen, Allison, Anderson, Arnold, Ashley, Bliss, Boyd, Brandegee, Chandler, Freeman Clarke, Clay, Coffroth, Cox, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Deming, Denison, Donnelly, Dumont, Farnsworth, Fenton, Frank, Ganson, Garfield, Grinnell, Hall, Harrington, Benjamin G. Harris, Herrick, Hooper, Hotchkiss, Hulburd, Hutchins, Jenckes, Philip Johnson, Julian, Kalbfleisch, Kasson, Kelley, Francis W. Kellogg, King, Knapp, Law, Le Blond, Littlejohn, Mallory, Marcy, McAllister, Middleton, Morrill, Leonard Myers, Nelson, Norton, Odell, John O'Neill, Pendleton, Perry, Pike, Pomeroy, Prun, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Smith, Spalding, Starr, Stebens, William G. Steele, Strouse, Stuart, Thayer, Voorhees, Wadsworth, Ward, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman.

A quorum having now appeared,

Mr. ANCONA moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

So all further proceedings under the call were dispensed with.

The question recurred on agreeing to the amendment reported by the Committee for the District of Columbia.

Mr. WILSON. I suggest that this bill be passed over, and that we take up some other bill about which there is no controversy.

The SPEAKER. That can be done now by unanimous consent. [Cries of "Agreed."]

Mr. STEELE, of New York. There is no objection to that on the part of the committee.

Mr. BLAINE. I object unless this bill, after the other business shall be disposed of, can take the place it now holds in reference to the business of to-morrow.

The SPEAKER. It can if it is passed over by unanimous consent. It will then retain precisely the same position it now occupies.

Mr. BLAINE. Then I make no objection.

The bill was then passed over informally.

LEAVE OF ABSENCE.

Mr. ELDRIDGE. Mr. Speaker, I met the gentleman from Missouri [Mr. KING] at the depot last evening, and he said that he was going home on account of the illness of his wife. He desired that I should ask leave of absence for him indefinitely, and I now do so.

There being no objection, the leave of absence was granted.

LANDLORD AND TENANT LAWS.

Mr. WHEELER, from the Committee for the District of Columbia, reported back, with sundry amendments, and with the recommendation that

it do pass, bill of the Senate No. 138, to regulate proceedings in cases between landlords and tenants in the District of Columbia.

The bill was read, and the amendments reported by the committee were agreed to.

Mr. STEVENS. I should like to hear some explanation of this bill. If I understand it aright, it reverses the whole doctrine of tenancy at will. Tenancy at will is by sufferance generally, and without any contract. Now, if I understand the first section of this bill, tenancy at will can never exist except under express agreement. How that can be tortured into tenancy at will, I cannot understand.

There are two or three other provisions in the bill which are utterly at variance with the principles of the common law, and which may be well enough for the landlord, but very hard for the tenant. I think that the bill ought to be fully and thoroughly examined by the Committee on the Judiciary, and I move its reference to that committee.

Mr. WHEELER. One of the amendments reported by the committee for the District of Columbia, and which has been adopted, provides that the first section shall not apply to existing leases or contracts, and persons who contract hereafter and then lease buildings will contract with reference to the law as it then exists. There is no objection to it if it does change the common law rule on this subject.

The other amendments have been prepared simply for the purpose of adapting the proceedings of justices' courts so as to allow a civil remedy in obtaining possession of property. I think there is no necessity for referring this bill to the Committee on the Judiciary. I hope it will be passed.

Mr. WASHBURNE, of Illinois. I demand the previous question on the motion to refer.

The SPEAKER. The Chair will state that if the previous question is ordered it will extend to the third reading of the bill, if the motion to refer should not be agreed to.

Mr. WASHBURNE, of Illinois. Very well; let us have the previous question.

The previous question was seconded, and the main question ordered to be put.

The bill was referred to the Committee on the Judiciary.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 217) to confirm certain entries of land in the State of Missouri; when the Speaker signed the same.

WASHINGTON AND ALEXANDRIA RAILROAD.

Mr. STEELE, of New York. The gentleman from Michigan [Mr. DRIGGS] objected a short time ago to the passage of House bill No. 514, to amend and extend the charter of the Washington and Alexandria Railroad Company, and for other purposes. He has since examined the bill, and finding that his objections were not well founded is willing to withdraw them. I ask that the bill may be put upon its passage.

Mr. DRIGGS. I desire to state that when I objected to the bill I understood, not having heard it read distinctly, that its object was to extend the privileges of the Baltimore and Ohio Railroad Company instead of the Washington and Alexandria Railroad Company; and I supposed that the right to use steam dummies upon the road was to be independent of any control by the corporation of Washington. I have since read the bill, and finding that I was mistaken in both suppositions, I have no objection to it and hope it will pass.

The bill was passed.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WASHINGTON AND GEORGETOWN RAILROAD.

Mr. PATTERSON, from the Committee for the District of Columbia, reported back House bill No. 522, to amend the charter of the Washing-

ton and Georgetown Railroad Company, with an amendment in the form of a substitute.

The substitute gives the right to the Washington and Georgetown Railroad Company to construct horse railways upon any public highway within the county of Washington, limiting the fare on such roads to ten cents for each passenger, and making the necessary limitations and guards connected with the grant.

The substitute was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REVISION OF THE DISTRICT LAWS.

Mr. BEAMAN, from the Committee for the District of Columbia, reported back without amendment Senate joint resolution No. 59, to provide for the revision of the laws of the District of Columbia.

The joint resolution was read. It states that the revised code of the District of Columbia was prepared under the act to improve the laws of the District of Columbia, and to codify the same, approved March 3, 1855, and published by order of Congress in 1857, and it is believed that said code was a comprehensive, complete, and accurate compilation of the laws of the District at the period of its execution, and that measures should be taken to have the work brought down to the present time and perfected; and enacts that the Committees on the District of Columbia of the two Houses of Congress, respectively, be instructed to cause said code to be so revised, amended, and corrected, and also the laws of Congress for said District passed since the compilation aforesaid, as shall adapt the same to the present condition of the laws, and may employ not more than two suitable persons on the preparation of the work at a compensation of ten dollars per day for the time employed; and the code so prepared shall be printed by direction of the committees in a neat and convenient form for the use of the committees and Congress; and the committees shall report the same to their respective Houses at the next session of Congress for adoption.

The joint resolution was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. BEAMAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

The SPEAKER stated that the business of the Committee for the District of Columbia having been disposed of, the business next in order was the consideration of the Pacific railroad bill.

Mr. STEVENS: I have just learned that the Senate has taken off the duty on railroad iron, which I suppose will enable the Pacific Railroad Company to get their iron so cheaply that no further grant will be necessary. [Laughter.] I therefore move that the bill be postponed till tomorrow.

The SPEAKER. The Chair will state that the bill will come up in the morning hour at any rate.

Mr. STEVENS. Very well, I move, then, that the House adjourn.

The motion was agreed to; and thereupon (at nine o'clock, p. m.) the House adjourned.

IN SENATE.

SATURDAY, June 18, 1864.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

On motion of Mr. ANTHONY, and by unanimous consent, the reading of the Journal was dispensed with.

PETITIONS AND MEMORIALS.

Mr. COLLAMER presented twenty-five petitions, embracing the names of fourteen hundred and eighty-nine citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were referred to the Committee on Public Lands.

Mr. LANE, of Indiana, presented a petition of men and women of Indiana, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which was referred to the select committee on slavery and freedmen.

Mr. FOOT presented three petitions of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were referred to the Committee on Public Lands.

REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the motion to print the report of the Secretary of the Treasury, communicating an abstract of the returns required to be made by banks and associations doing a banking business, as provided by the act of March 3, 1863, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That two thousand additional copies of the abstract of the reports of the banks, associations, corporations, and individuals doing a banking business, made to the Commissioner of Internal Revenue, communicated to the Senate by the Secretary of the Treasury, in response to a resolution passed May 20, 1864, be printed for the use of the Senate.

He also, from the same committee, to whom was referred the resolution submitted by Mr. TRUMBULL on the 13th instant, that five thousand additional copies of the report of the Smithsonian Institution, for 1863, be printed, reported it without amendment; and it was agreed to, as follows:

Resolved, That five thousand additional copies of the report of the Smithsonian Institution for 1863 be printed, two thousand for the use of the Smithsonian Institution and three thousand for the use of the Senate: *Provided*, That the aggregate number of pages contained in said report shall not exceed four hundred and fifty, without woodcuts or plates, except those furnished by the Institution; and that the Superintendent of Public Printing be authorized, if consistent with the public service, to allow the Smithsonian Institution to stereotype the report at its own expense, or to otherwise print at its own expense such additional copies as may be desired, from the type set in the Government printing establishment.

He also, from the same committee, to whom was referred a resolution to print one thousand copies of all Indian treaties, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

He also, from the same committee, to whom was referred the motion to print the report of the Secretary of the Senate, exhibiting a detailed statement of all payments from the contingent fund of the Senate for the year ending December 6, 1863, reported in favor of printing the same; and the report was agreed to.

On motion of Mr. DIXON, it was

Ordered, That the report of the Secretary of the Senate be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. ANTHONY. I am also instructed by the Committee on Printing, to whom was referred the motion to print the report of Lieutenant Colonel J. H. Simpson, on his explorations across the Great Basin of Utah Territory, to report a resolution on the subject. The report is an exceedingly valuable one, and at some time should be printed; but the cost of it will exceed \$100,000, and the committee did not deem it proper to recommend such an appropriation at the present time. They instruct me to report the following resolution, and I ask for its present consideration:

Resolved, That it is inexpedient at present to print the report of Lieutenant Colonel J. H. Simpson, and that the Secretary of the Senate return the manuscripts, drawings, and maps, now on the files of the Senate, to the chief of the engineer corp for preservation.

The resolution was considered by unanimous consent, and agreed to.

Mr. ANTHONY. I am also directed by the Committee on Printing, to whom was referred the motion to print the message of the President of the United States communicating a copy of the record containing the charges, sentence, judgment, and proceedings in the case of William Yocum, to report in favor of printing the same. I ask for its present consideration.

Mr. WILSON. What is the use of printing that?

Mr. COLLAMER. I move that that report lie over under the rule.

The PRESIDENT *pro tempore*. It will lie over if objection be made.

Mr. POWELL. I hope not. It is a very small matter.

Mr. ANTHONY. The cost is very trifling; only some \$50.

The PRESIDENT *pro tempore*. Objection being made, it must lie over.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound on the Pacific coast, by the northern route, reported it with amendments.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 466) for the relief of the widow of C. A. Haun, reported it with amendments, and submitted a report (No. 86) which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 347) for the relief of Martha Jane Skaggs, reported it with an amendment, and submitted a report (No. 87) which was ordered to be printed.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to bring in a joint resolution (S. No. 68) securing payment to the Delaware and Potawatomi Indians for lands sold to the Leavenworth, Pawnee, and Western Railroad Company, now known as the Union Pacific Railway Company, eastern division; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 312) to regulate the compensation of registers and receivers of the land offices in the State of Iowa, in the location of lands by States and corporations under grants from Congress; which was read twice by its title, and referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 313) for the relief of Henry Rudd; which was read twice by its title, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 314) for the relief of James P. Johnson; which was read twice by its title, and ordered to be printed.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 315) in relation to the sale of reservations of the public lands; which was read twice by its title.

Mr. HOWE. The substance of this bill has been sent to me by the Commissioner of the General Land Office. There are some reservations ordered for sale, and he desires that this bill may be passed at this session, otherwise it will not be in season for those sales. I have shown it to the chairman of the Committee on Public Lands, and to one other member of that committee in the Senate, and the chairman of the committee on the part of the House of Representatives. They think it is right; and if there is no objection, I should like to have it considered now. It will lead to no debate.

Mr. WILSON. I object to its consideration.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered to-day.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that he had on yesterday, the 17th instant, approved and signed the following bills:

A bill (S. No. 106) to prohibit certain sales of gold and foreign exchange;

A bill (S. No. 129) to amend an act entitled "An act to authorize the corporation of Georgetown, in the District of Columbia, to lay and collect a water tax, and for other purposes," approved May 21, 1863;

A bill (S. No. 216) to grant the right of preemption to certain settlers on the Rancho Bolsa de Tomales, in the State of California;

A bill (S. No. 223) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States;

A bill (S. No. 282) to amend an act entitled "An act to extend the time for the withdrawal of

goods from public stores and bonded warehouses, and for other purposes," approved 29th February, 1864;

A bill (S. No. 285) to regulate the veto power in the Territory of Washington; and

A bill (S. No. 293) to empower the Superannuated Fund Society of the Maryland Annual Conference to hold property in the District of Columbia, and to take a devise under the will of the late William Doughty.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 145) to equalize the pay of soldiers in the United States Army.

The message also announced that the House of Representatives had agreed to the amendments of the Senate to the following House bills:

A bill (No. 179) concerning lands in the State of California;

A bill (No. 217) to confirm certain entries of lands in the State of Missouri; and

A bill (No. 247) granting lands to the State of Wisconsin to build a military road to Lake Superior.

The message also announced that the House of Representatives had passed the following bills and joint resolutions of the Senate:

A bill (No. 253) to amend the act of 21st December, 1861, entitled "An act to further promote the efficiency of the Navy;"

A bill (No. 270) to amend an act entitled "An act to establish and equalize the grades of line officers of the United States Navy," approved July 16, 1862;

A joint resolution (No. 44) for the relief of the clerks at the Kittery and Philadelphia navy-yards; and

A joint resolution (No. 59) to provide for the revision of the laws of the District of Columbia.

The message also announced that the House of Representatives had passed the following bills; in which it requested the concurrence of the Senate:

A bill (No. 514) to amend "An act to extend the charter of the Alexandria and Washington railroad, and for other purposes," passed March 3, 1863; and

A bill (No. 522) to amend the charter of the Washington and Georgetown Railroad Company.

OVERLAND MAIL.

Mr. COLLAMER. By order of the Committee on Post Offices and Post Roads I reported yesterday morning a joint resolution from the House of Representatives authorizing the Postmaster General to extend the contract with the Overland Mail Company for a year. I suggested then that the value of it depended entirely upon the promptness of action upon it. Unless we can have it passed immediately, it is of no use. I simply wish the Senate to pass upon it, either reject it or allow it, one or the other. I move to take up that joint resolution.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 93) to authorize the Postmaster General to extend the contract with the Overland Mail Company. It authorizes the Postmaster General, in his discretion, to extend the mail contract, No. 10773, with the present contractors, commonly known as the Overland Mail Company, for the term of one year from the 1st of July next, upon the same terms and conditions with the present existing contract.

The Committee on Post Offices and Post Roads reported the joint resolution with an amendment, to add the following:

Except as to schedule time, which shall not exceed sixteen days for eight months of the year and twenty days for the remaining four months.

Mr. COLLAMER. Mr. President, the contract of the Pacific Mail Company expires on the 1st of July. By that contract that company receive \$1,000,000 a year; but \$160,000 of that is taken to pay for carrying the printed matter of that mail by water to California, leaving to them \$840,000 for the overland letter mail for the Territories and for California. The Postmaster General, under authority given by law, advertised for bids for this service at the expiration of

that contract. The bids were put in, but before they were opened (I believe they were opened the day before yesterday) and decided upon, the inquiry arose whether the bids would not be very extravagant and create the necessity for a very great outlay of money, and the House of Representatives passed this resolution which has been read, authorizing the Postmaster General, in his discretion, to extend the present contract for one year. As I understand, those bids have been opened, and the condition of the matter stands thus: there were four bids put in for the letter mail only, the Postmaster General being now authorized to have the printed matter carried by water at the expense of the Department, not exceeding the \$160,000 a year. A Mr. John A. Hiestand bid for this contract at \$750,000 a year; the next was Mr. Holaday, at \$820,000; the next was Mr. Burbank, at \$824,000, and then a Mr. Dinsmore, at \$880,000. The lowest bid was that of Mr. Hiestand at \$750,000, and as I understand he was declared to be the lowest bidder, and by law the Postmaster General is bound to give the contract to the lowest bidder; but immediately upon declaring that bid to be the lowest, the Postmaster General opened a letter which was at his office, and found that this man withdrew his bid and declined to proceed with it, and thereupon Mr. Holaday claims that he is the lowest bidder at \$820,000, which would be about \$20,000 less than the present company receives for that service. They receive \$840,000. The rest of their pay goes to the steamboat service. There is a dispute and a question of law arising whether in point of fact this lowest bidder at \$750,000 withdrew his bid in any regular season, and whether in that state of things he becomes a non-performer; and whether the next lowest bidder is therefore entitled to it remains a question.

The only amendment proposed to this resolution by the committee is one to limit the period of service, that is, the schedule time, to the same that is bid for in these contracts, that is at sixteen and twenty days. At present the time of the company, I believe, is twenty and twenty-three days, but it is proposed to require them to go in sixteen and twenty days, putting them upon the same footing as the present bids. In this condition of things the effect of this resolution if passed would be this: it would leave it optional with the Postmaster General to extend this contract for one year or to accept one of these bids. In the present state of the currency the query is whether it would be advisable to make a contract to extend for four years; or whether it might not be better, in his discretion, to make it for one year. The effect of passing this resolution will be to leave with him and at his discretion either of those courses that he thinks the public service may require.

Mr. President, I have explained the resolution as well as I am able.

The amendment of the committee was agreed to. Mr. NESMITH. If it is in order, I move the indefinite postponement of the resolution.

Mr. CONNESS. I hope that will not be done. As has been stated by the chairman of the committee, this resolution has been fully considered by the committee, and it merely proposes to give the discretion to the Postmaster General to let the contract for one year or for four years and to secure the shortest schedule time. The instruction to him is to extend the service to the men who now perform it, and we do not care as to who shall perform it, but that it shall be performed in a certain way and at a given time. I cannot understand any proper motive for its indefinite postponement, and am very much surprised at the motion.

Mr. NESMITH. I am perfectly indifferent as to who shall perform the service, but I am not perfectly indifferent as to the amount of pay which shall be given for it. I have not been able to comprehend the reason for the passage of this resolution in the House of Representatives. There was perhaps at the time of its introduction some reason for it. It was then supposed that the bids which would be put in under the proposals that were invited by the Postmaster General, might be so exorbitant that they could not be accepted. The Government was paying that company \$1,000,000 for the performance of this service under a schedule of twenty and twenty-three days. The Postmaster General advertised for proposals to carry the mails upon a reduced schedule of sixteen and twenty

days. The House of Representatives then passed this resolution, providing that the Postmaster General may extend the contract under the old schedule, and pay \$20,000 more for the service than is provided for under the new schedule at which the contract was let. As I understand, a bid of \$820,000 has been received. The chairman of the Committee on Post Offices and Post Roads states that that company is now receiving \$840,000 on a twenty and twenty-three days' schedule. A bid is in, and I apprehend it is within the power of the Postmaster General to accept it, reducing that time four days, making it sixteen and twenty days for the sum of \$820,000, \$20,000 less than is now paid. Sir, I cannot conceive of any object for continuing the old contract at \$20,000 per annum more than parties stand willing to accept it for under the new contract. There seems to be no plausible reason presented why it should be done. It may be left with perfect safety, perhaps, to the discretion of the Postmaster General; but I see no necessity for any such discretion in this case, where the exercise of it is to cost the Government \$20,000 per annum.

There is another fact that should be taken into consideration. If this contract is continued at \$1,000,000 a year under the old contract the question will be in a year from now whether we shall be any better prepared to get the service at a lower price. Generally the enhanced price of mail contracts results from the depreciation of the currency. I can see no evidence going to show that gold will be any lower in a year from now than it is at present, and I do not apprehend that the Postmaster General will be able to procure the service at any reduced price. I think it better, therefore, that this resolution be not passed, and that the Postmaster General avail himself of the bid that he now has the power to accept to carry the mail for four years at \$820,000 with a reduced schedule of four days. The passage of this resolution will in no wise affect the reduced time. It merely increases the expense, and does not reduce the time below what other parties have already put in their bids for.

Mr. CONNESS. A very important consideration in this case has been presented briefly by the honorable chairman of the committee, namely, that at this time we cannot tell what the condition of our finances will be in a year from now. Suppose gold should go up to 300, three for one or four for one, would any mail contractors be able to continue their contracts? Would not Congress be called upon for an additional compensation to the contractors in this case? Is it wise not to place a discretion of this kind in the hands of the Postmaster General? Will he abuse it? Is \$20,000 a sufficient sum to avail against placing that discretion in his hands? But sir, I do not wish to continue the debate.

Mr. POMEROY. I agree with what the chairman of the Committee on Post Offices and Post Roads has said about this resolution. I believe that when it was introduced into the House of Representatives and passed by them it was eminently proper, because at that time there was great danger that the Government would have to pay an exorbitant price for this service. No one knew what the bids were going to be, and this resolution, therefore, was eminently proper. I do not think now there is much importance to be attached to it, because Benjamin Holaday, who is perfectly able and responsible, is entitled, as I think, and as the law officers of the Government have given their opinion, to this contract at \$820,000. I do not know of any reason why there should be any effort to put it into the hands of the old contractors at \$840,000. However, as a matter of fact, the contractors either way will be about the same. Benjamin Holaday is a sub-contractor under the old parties, and if he gets the contract they will be sub-contractors under him and run their end of the route. That is all there is to it. He will be the principal where now he is only the deputy. If the resolution does not pass Holaday will get the contract and the Government will save \$20,000 a year. I think it is very important that Holaday should have the contract on one account: if he should come here, as the Senator from California suggests, after additional pay, he will not have the sympathy of Congress as a poor man would, or a man who had not the means to carry it on. Holaday has abundant means, and if the Government currency

depreciates he will be able to carry it out of his own funds.

As we cannot get any shorter service, as we cannot get any reduced price, and as the contractor runs as much risk as the Government about the currency—I consider they both run about the same risk—I think the Postmaster General ought to let it to the lowest bidder, who is entitled to it under the law. I do not believe that Congress ought to interfere by any legislation, when bids are fairly made upon an advertisement.

Mr. LANE, of Kansas. I hope this resolution will not be postponed. The object of the resolution is this, to open up this route to competition by bidders. The time between the period when these bids were made and the 1st of July precluded competition, and the result has been that the old contractor has the lowest bid. If you pass this resolution and allow the Postmaster General to let the contract for a year, when that year expires there will be competitors for the route, and the Government will let it at a reasonable rate. I think it would be suicidal to close this contract for four years at the bid that has been declared the lowest at the present opening. I hope that the resolution will pass, and that we shall open this route to competition to the people of Kansas and to the people of other western States, and thereby greatly economize the outlay to the Government.

Mr. POMEROY. My colleague is mistaken in one or two of his statements. This matter has been open some three months. The bids have been in two months, if not three months; I think three months. Mr. Dinsmore bid for the old contractors.

Mr. COLLAMER. The old contractors did not bid at all.

Mr. POMEROY. Dinsmore bid for them.

Mr. COLLAMER. I do not know whether he bid for them or not. I know they did not bid in their own name.

Mr. POMEROY. He is one of them, and the Department understand that it was for them.

Mr. COLLAMER. They withdrew their bid.

Mr. POMEROY. Mr. Dinsmore, who was the highest bidder at \$880,000, bid for the old company. Now, the proposition is to let it to the highest bidder for one year, that is the party who represented the highest bidder, in preference to the man who put in a bid at \$820,000, who is now a sub-contractor, and runs two thirds of the road to-day. My colleague is mistaken in saying there has not been competition. This thing has been advertised for three months, and the bids have all been in in the regular way, and been regularly opened and published, and a report of them made to the House of Representatives yesterday. There was nothing secret about it.

Mr. LANE, of Kansas. I am not mistaken about the statement that I made. The constituents that I represent are not prepared now to bid upon this contract. The temporary rise in the price of stock and labor has prevented that competition which, in my opinion, we shall have at the end of a year. The question presented to the Senate is this: shall we continue this old contractor at \$820,000 for four years, or shall we give the Postmaster General the privilege of continuing him for one year at \$840,000?

Mr. CONNESS. That is the question exactly.

Mr. LANE, of Kansas. That is the question. As far as my constituents are concerned, we want this limitation so that at the end of the year the contract can be let, and they may become competitors and save to the Government, in my opinion, hundreds of thousands of dollars. Should this rebellion be crushed, as I hope and believe it will within that year, two or three hundred thousand dollars will pay for this same service. The idea of agreeing to pay \$820,000 for four years with this prospect before us is in my opinion most suicidal, and I hope the opinions and desires expressed by the chairman of our committee may be sanctioned by the Senate and this motion defeated.

Mr. NESMITH. It seems to me the constituents of the Senator from Kansas have had fair notice of this matter. This route has been advertised for some time, and I am at a loss to know how hundreds of thousands of dollars are going to be saved to the Government by delay. Before there was any rebellion, and when gold was paid for the transmission of the overland mail, a million dollars in coin was paid for that service. I

do not apprehend that the close of the rebellion within one year is going to raise our paper to such a standard as will enable the contract to be let so much more cheaply as to save to the Government any hundreds of thousands of dollars at all. The probabilities seem to me to be that the currency of the country is liable to become more depreciated. On that, however, I do not pretend to give an opinion. We know that as the war has progressed, the currency of the country has become depreciated; and I suppose it will be a fair inference to reason of what may occur in the future from the past. I do not believe there is going to be any such appreciation of the currency as will enable the Government to save a single dollar.

The question is now presented to the Senate whether this contract shall be let to the lowest bidder or whether the Postmaster General shall be authorized to let it to the highest bidder. The present proposition, which comes from the old contractors, is that the Postmaster General be authorized to let the contract, under this resolution, to the very highest bidders. It proposes to give the Postmaster General the discretionary power to give the contract for one year to the highest bidder to the exclusion of the lowest bidder for four years. That seems to me to be a very anomalous condition of affairs, and a reversal of the ordinary mode of proceedings in such circumstances. I do not believe the Government will save a cent by it. I believe that in a year from now you will not be able to get a bid to carry that mail for less than \$1,000,000. I am anxious, therefore, that it should be closed at the present pending proposition.

Mr. HALE. I happened to be a member of the Committee on Post Offices and Post Roads when this contract was made, and know something about it. I desire to make a short statement in regard to it, and then I will leave it to the Senate.

When this contract was originally made, I think Mr. A. V. Brown was Postmaster General, and the route was run down through Arkansas, instead of going, as the manifest intention of the law was, straight across the country. It was supposed at that time to have been improperly if not corruptly done. At any rate, the contract was made, and the contractors ran it until the symptoms of rebellion began to manifest themselves, and the teams of the parties were seized and it was found impracticable to run it upon the route which was then contracted for. The contractors then came forward and asked to have that contract moved up from the extreme southern route to the route that is now run by this company. A bill was introduced, I think by my friend from Massachusetts, [Mr. WILSON,] giving these contractors \$1,150,000, and the report that was made was that they could not possibly run it short of that sum. I happened at that time, being on the Committee on Post Offices and Post Roads, to know that there were responsible parties in this city who were ready to take it for a very much less sum; and finally, I think it was upon my motion in the Senate, the sum was reduced from \$1,150,000 to \$1,000,000, and they took it. It was represented that it could not possibly be done for that sum; but there were gentlemen in this city at that moment ready to contract for it for a sum much less than \$1,000,000. However, such were the representations made to Congress that it was let to them for \$1,000,000. They have had it, and carried it, and I suppose received for their pay \$1,000,000 per annum.

The fact that I am going to speak of now I do not know of myself; what I have said I know; but I have had it stated to me that in the regular operation of the Post Office laws they have advertised for the letting of this route, and responsible bidders have offered to carry it for \$520,000, and they ought to have the contract. These parties have received \$200,000 a year for four years more than the Government could have contracted for it at the time they took it, for it could have been let at \$800,000 at that time. In the due course of law and the administration of this Department, this contract can be let to responsible parties for \$820,000 a year at a less time than the old contractors have it; and instead of closing with that proposition here is an extraordinary proposition made to give these parties this contract for another year at \$150,000 more than responsible parties stand ready to take it for.

Mr. COLLAMER. You mean \$20,000 more. What they receive is \$840,000.

Mr. HALE. They did have \$1,000,000.

Mr. COLLAMER. But \$160,000 was taken off to pay for carrying the printed matter by water.

Mr. HALE. That I was not aware of. But, sir, why not give it to these parties who have bid for it? Where is the necessity of renewing the present contract?

Mr. CONNESS. My friend from New Hampshire is always very ingenious as well as always able. He says why give \$20,000 more for carrying it for a year than you can get it for four years?

Mr. COLLAMER. Carrying it by the year.

Mr. CONNESS. Carrying it by the year for four years at \$820,000. I will tell the Senator, and I will speak it to the Senator from Oregon, who ought to be well aware of it and doubtless is. The price at which this contract was originally let, it should be remembered by the Senate, was a price based upon its being carried through an unpopulated country, through a country without roads, without population, without incidental business. To-day the overland route to California is the most profitable and the greatest stage route in the world. The whole route teems with population. New Territories and new States are springing up in every direction. Millions of dollars of treasure are offering to be carried at the highest rates by the parties who are to be paid for carrying the mail, and as it is to-day it offers the best opportunity for a colossal fortune to the parties engaged in it of any other operation under this Government or in this country.

Now, sir, why not give the Government the opportunity a year after this time of availing itself of the advantages that these great incidents place in its way? Admitting that currency shall be worth a year from this time just what it is now, does any Senator mean to say or suppose that the service over that great route cannot be let at a less rate than when it was originally let, under the circumstances so graphically and exactly described by the honorable Senator from New Hampshire? Why, sir, it must not be forgotten that it is entirely a different kind of proposition. As I desire in part to hold the Postmaster General responsible as the head of the Post Office Department for this service and for its fair and exact management, I am willing to place in his hand the power to close the contract with these parties for one year longer for \$840,000, or, if he shall elect it, with these other parties for four years at \$820,000. What the honorable Senator from Kansas [Mr. LANE] has said is strictly true. These advertisements, I think, have been but for the short period of two months. There has been no fair opportunity for competition, and it is exceedingly doubtful to my mind whether there has been, but one real bid made.

Another fact in this connection that has not been stated is that the present contractors have already agreed with the Department to continue the service until October next upon the present terms. Why then desire to indefinitely postpone and dispose of this matter, and prevent the Government from availing itself of whatever advantage shall present itself hereafter?

Mr. JOHNSON. I have as much confidence in the discretion of the Postmaster General as the honorable member from California can have; but the reason that operates upon me, as at present advised, in voting against the resolution upon the table, or for its indefinite postponement, I rise simply to state. I do not understand it to be denied that the notice which the law requires for these lettings was in fact given. If that notice is not such as enables all parties concerned to have an opportunity of bidding, the fault is in the law, and should not be visited upon those who do bid.

As I recollect the facts from the debate (and I know nothing of them in any other way) this route was, in the ordinary way and in strict compliance with the law, advertised. There were four bids. Some of those bidders are entitled to the contract. That is very clear. The Postmaster General under certain circumstances has a right to reject a bid; but where the bid is the lowest, and the party is in a condition to satisfy the Postmaster General that he is able to comply with the contract, the Postmaster General is bound by law to give it to him. Now, sir, in

my view, the observance of faith is just as much a duty with nations as with individuals; and if the Government of the United States, by its laws, has told its citizens that if they will agree to do a certain service for a certain specified sum, and they show that they are able to do the service and to secure the Government against the contingency of their not doing the service, it is just as much the obligation of the Government to give them the contract as it would be the obligation of the party offering to perform the service if the contract is given to him to perform it. That would seem to be clear. Now it is proposed to say by legislation that the Postmaster General may give it to somebody else.

Mr. COLLAMER. For one year.

Mr. JOHNSON. For one year; and if you can say that he can give it to some one else for one year, you can say he may give it to somebody else for four years. In other words, you come in by legislation and say to the Postmaster General, "Do not comply with your contract"—which binds the Government, if the Government does not interfere by legislation—"we have changed our mind; we have got the contractor bound, if we think proper to hold him; he thought he had us bound, but we are a Government, and beyond his control, and cannot be sued; and we tell you, however morally bound we may be, and however legally bound it would be held that we were if our obligation could be enforced legally, we will not be bound, and you may give it to somebody else." Without inquiring, therefore, whether the Government will gain in dollars by changing the contract, it seems to me, according to the old-fashioned notion which I have adopted, it is necessary for the public interest that the public faith should be preserved, and that legislation such as is proposed is, if not legally wrong, morally erroneous.

Mr. LANE, of Kansas. My understanding of the rules of the Department does not agree with the statement of the Senator from Maryland at all. There is a rule binding the Department to give the contract to the lowest responsible bidder; but on his failing it is left entirely optional with the Department to give it to the next lowest bidder or not. Indeed, the Quartermaster General's department rules that in such a case there is no binding obligation at all, and that the bidding must be made over again.

I desire the Senate to understand this question fully before the vote is taken. When this contract was let, it was understood to be a wild adventure starting from the western terminus of the Hannibal and St. Joseph road. Within the next year a continuous road will be built from St. Louis to Lawrence, Kansas. We are already discussing the question at Leavenworth and Lawrence of starting an independent line of stages to Denver, expecting to be maintained by the passenger business along the route, a distance of some five or six hundred miles. Believing that this rebellion will be crushed during the next year, believing that that crushing will bring down the price of gold to the same value as our paper money, I believe that next year you will be able to let this contract for one fourth of the present amount, and the passenger business from Denver to Atchison will sustain a line of stages without any contract. I am not conversant with the business on the other side of the mountains, but I am conversant as to the business between Denver and the western terminus of our railroad.

I hope, as a matter of economy to the Government as well as justice to the other lines of railroad that will be completed within the next year, that the Government will not tie its hands for four years. As a matter of economy we have not had a more important question before the Senate.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Oregon that the bill be indefinitely postponed.

Mr. HALE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 12, nays 24; as follows:

YEAS—Messrs. Carlile, Hale, Harlan, Hicks, Johnson, Nesmith, Pomeroy, Powell, Richardson, Saulsbury, Ten Eyck, and Trumbull—12.

NAYS—Messrs. Anthony, Brown, Buckalew, Clark, Collamer, Conness, Davis, Dixon, Foot, Foster, Harris, Howard, Howe, Lane of Kansas, Morgan, Ramsey, Riddle, Spague, Sumner, Van Winkle, Wade, Wilkinson, Willey, and Wilson—24.

ABSENT—Messrs. Chandler, Cowan, Doolittle, Fessenden, Grimes, Harding, Henderson, Hendricks, Lane of Indiana, McDougall, Morrill, Sherman, and Wright—13.

So the motion was not agreed to.

Mr. BROWN. I offer an amendment to come in at the end of the resolution. It is to add: "And except as to the compensation, which shall not exceed the sum of \$520,000."

Mr. JOHNSON. I ask the Secretary to read the resolution as it will stand with that amendment.

The Secretary read it, as follows:

Resolved, &c., That the Postmaster General be, and he is hereby, authorized and empowered, in his discretion, to extend the mail contract No. 10773 with the present contractors, commonly known as the Overland Mail Company, for the term of one year from the 1st day of July next, upon the same terms and conditions with the present existing contract, except as to schedule time, which shall not exceed sixteen days for eight months of the year and twenty days for the remaining four months, and except as to the compensation, which shall not exceed the sum of \$520,000.

Mr. LANE, of Kansas. I think that is right.

Mr. COLLAMER. There is one little difficulty which might arise under that amendment which the gentleman does not seem to have contemplated. The contract existing with the present company is for \$1,000,000; but there is a law providing that they may have the printed matter carried by water at their expense. It is carried by water at their expense; at an expense of \$160,000 a year. I think I can suggest a modification of the amendment which will cover that point and at the same time carry out the object of the gentleman from Missouri. I propose that it shall read in this way: "Not to exceed \$520,000 beyond the amount paid for carrying the printed matter by water."

Mr. BROWN. The intention of the amendment is to confine the compensation to the bid now pending.

Mr. COLLAMER. You understand my suggestion?

Mr. BROWN. Yes, sir, and I accept it.

The PRESIDENT *pro tempore*. Then the question is on the amendment as modified, to insert at the end of the resolution these words: "And except as to the compensation, which shall not exceed the sum of \$520,000 beyond the amount paid for carrying the printed matter by water."

The amendment was agreed to.

Mr. POMEROY. I would suggest another amendment, which perhaps will not hurt the resolution. It is to insert after the word "contractors," in the sixth line, the words "or any other responsible party." That will allow the Postmaster General to contract with the old contractors or any other responsible party.

Mr. CONNESS. It is apparent that there will be no time to contract with new contractors, and I hope the Senator will not persist in offering that amendment.

Mr. POMEROY. I submit that this amendment will not injure the resolution at all. The Postmaster General will then have an opportunity to contract with the old contractors, or with other responsible parties, at his discretion.

Mr. BUCKALEW. No new party can contract for a year.

Mr. POMEROY. It will not do any hurt.

The amendment was agreed to.

Mr. HALE. I wish somebody would tell me—perhaps the chairman of the Committee on Post Offices and Post Roads can—how long this contract runs now.

Mr. COLLAMER. It runs out on the 1st day of July.

Mr. HALE. Somebody told me that it ran until October.

Mr. CONNESS. They can continue the service until then.

Mr. COLLAMER. It is said that there is an agreement that they may run until October; but I do not know anything about it. The contract expires in a few days.

Mr. POMEROY. I think the resolution ought to be still further amended. Instead of saying "one year" we ought to say "not to exceed four years." That will bring it within the law.

Mr. COLLAMER. What law?

Mr. POMEROY. Within the lettings, and if the resolution is now amended so as to say "not to exceed four years," then we have it exactly.

Mr. HALE. I do not see why this resolution should be rushed through here in this way. If

this contract runs until the 1st of October, and they want to make another contract, why not let it be upon advertisements and proposals?

Mr. CONNESS. The contract does not run until the 1st of October. It expires on the 1st of July. They have simply agreed temporarily with the Postmaster General to continue the service until October; but if they get this contract they go on from the 1st of July.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the resolution to be read a third time. It was read the third time, and passed.

Mr. POMEROY. I think the title should be amended so as to read: A joint resolution to authorize the Postmaster General to extend the contract with the Overland Mail Company, or any other parties.

Mr. COLLAMER. It will be the same without amendment as with it.

The PRESIDENT *pro tempore*. The title will remain as it is unless otherwise ordered.

INTER-CONTINENTAL TELEGRAPH.

Mr. CHANDLER. I move that the Senate postpone all prior orders for the purpose of taking up the bill (S. No. 302) to encourage and facilitate telegraphic communication between the eastern and western continents.

Mr. WILSON. I had hoped that that bill would not be moved here this morning. A week ago last Thursday the bill in regard to commutation was taken up here and debated, and then gave way to the Senator from Maine, [Mr. Fessenden.] It was understood that we were to have the present week to act upon other matters; but this week has been consumed mainly by the Committee on Finance with bills under their care. I had to displace the bill of my colleague, and then I gave way to him, supposing I should have time enough to get that bill through this week. We have before us two very important military bills, and I am pressed every day by the Department to have those measures acted upon. I hope the Senator from Michigan will not press the consideration of that bill to-day. I came here this morning supposing as a matter of course that these military bills were to be acted upon. They are public bills of great importance to the country.

Mr. CHANDLER. I do not think the Senate has before it a bill more important than this for the present and future interests of this nation. It will not lead to much discussion, I think; certainly I shall occupy but very little of the time of the Senate in explaining it. The Committee on Commerce has not occupied four hours of the time of this Senate during the whole of this session. There are some four or five very important bills indeed coming from that committee that I desire to have acted upon, and I will promise the Senate I shall occupy as little time as possible in their explanation. I hope the Senate will grant me my request.

Mr. WILSON. I cannot consent to it. I think it of decided importance that we should proceed to the consideration of the measures to which I have alluded. I ask for the yeas and nays upon the motion of the Senator from Michigan.

The yeas and nays were ordered.

Mr. SUMNER. I desire to make one remark with regard to that. I regret very much that the Senator from Michigan has moved his bill to-day, by which he excludes some other measures from the consideration of the Senate on which we have already commenced. My colleague has referred to the measures that he has in charge. There are one or two measures that I also have in charge, which I had hoped the Senate would be willing to act upon to-day and close before sunset. There is the bill for the establishment of a Bureau of Freedmen's Affairs. There is also a bill from the House of Representatives sweeping away all the fugitive slave acts. I do not like to let the opportunity slip of acting upon each of those measures. But the Senator from Michigan has the floor; he has made his motion; he has brought the measure forward; I am sincerely for that measure; I am anxious that no vote of mine shall throw any shadow over it at all; and therefore, under the circumstances of the case, I shall vote for his motion.

Mr. TEN EYCK. Mr. President, of what use will this telegraph line be unless we put down

the rebellion? How are we to put down the rebellion unless we fill up the Army? The first thing in my impression to be done is to keep the Army full through the agency and means of the bill to which the Senator from Massachusetts has alluded, and when that shall have passed; if the Senate can be disposed to encourage the establishment of several thousand miles of line of telegraphic communication, I shall have no objection myself. That bill perhaps will not pass as soon as the Senator from Michigan, the chairman of the Committee on Commerce, seems to suppose. I am not aware of any very great and extended opposition to the bill, but I think it embraces very important features and proposes to confer very extreme and extensive privileges and advantages upon a company which now has very extensive and very extraordinary powers. It cannot be passed without attention, at least, being called to its character, and some amendments being proposed. I hope the bill of the Senator from Massachusetts will be taken up.

Mr. CHANDLER. This it will be noticed is a Senate bill, and if we hope to pass it at this session it must be passed immediately or it cannot be considered in the other House. I deem it a very important measure. I do not think it will lead to any extended debate. As I said before, I certainly shall occupy but a very few moments in explaining the bill. As I presume every Senator has made up his mind precisely how he will vote, I shall merely state the facts in the case, and then leave it to the judgment of the Senate. I see no reason why there should be any extended debate upon it, and I do not believe there will be. I think this measure and the measure the Senator from Massachusetts has in charge and several others can be passed to-day if debate can be avoided, as I think it can.

Mr. BROWN. The reason which has been assigned by the Senator from Michigan for taking up this bill, that it is a Senate bill and that if not acted upon now the chances are it will be lost in the other House, is very conclusive to me that it ought not to be taken up in preference to this military bill in regard to dispensing with the \$300 commutation clause and other features that are seriously agitated in connection with our military system. That is perhaps the most important bill connected with our military affairs, and if the question is raised that we are likely to lose bills now originating in the Senate because of the short length of time which the session is likely to continue, unquestionably we ought to take up those bills that are the most important to the nation. I apprehend that no Senator here will deny but that our first business in hand is to deal with our military affairs, and deal with them as energetically as we may and as speedily as possible. The Senator from Massachusetts gave notice last night that he would move to take up this bill to-day. He has only awaited the getting through of the tariff bill and the tax bill for the purpose of facilitating necessary measures; and it naturally comes up in its proper order as a bill already partially acted upon, and having the precedence by right over the motion proposed by the Senator from Michigan. I trust the Senate will consider this matter calmly, and not be carried away by the mere idea of courtesy in this matter, but that we shall take up those bills which are partially gone through with that are essential to the effectiveness of the military service, and that are connected directly with the prosecution of the war.

The question being taken by yeas and nays, resulted—yeas 19, nays 14; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Davis, Doolittle, Hale, Harlan, Hendricks, Hicks, Howe, Johnson, Lane of Kansas, Nesmith, Powell, Saulsbury, Sumner, Trumbull, Van Winkle, and Wade—19.

NAYS—Messrs. Anthony, Brown, Clark, Collamer, Dixon, Fessenden, Foot, Foster, Grimes, Lane of Indiana, Morgan, Ten Eyck, Willey, and Wilson—14.

ABSENT—Messrs. Carlisle, Cowan, Harding, Harris, Henderson, Howard, McDougall, Morrill, Pomeroy, Ramsey, Richardson, Riddle, Sherman, Sprague, Wilkinson, and Wright—16.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 302) to encourage and facilitate telegraphic communication between the eastern and western continents.

The Governments of Russia and Great Britain have granted to Perry MacDonough Collins, a citizen of the United States, the right to construct

and maintain a line of electric telegraph through their respective territories, from the mouth of the Amoor river, in Asiatic Russia, by way of Behring's straits and along the Pacific coast to the northern boundary of the United States, with a view of thereby uniting the telegraphic systems of both continents and of promoting international and commercial intercourse. The Government of Russia, in furtherance of that object, is now constructing a line of telegraph through its Asiatic territory to unite at the mouth of the Amoor river with the line projected by Collins; and as the Government of the United States desires cordially to cooperate with Russia and Great Britain in the establishment and maintenance of such a line of communication, the bill proposes to grant to Perry MacDonough Collins, of California, his associates and assignees, the right to construct and maintain a line or lines of telegraph from any point or points on the line of the Pacific telegraph, constructed in pursuance of the act of Congress approved June 16, 1860, northerly, through any of the Territories of the United States, to the boundaries of British America, with such branch lines as may be needed to open communication with the various mining districts and other settlements in those Territories. And for these purposes Collins, his associates and assignees, are to have a permanent right of way over any unappropriated public lands of the United States, together with the right to take any timber and stone for construction purposes; and for the purpose of establishing and maintaining those lines and the stations necessary for the repair and working thereof, there is donated to them out of such unappropriated lands, not exceeding one quarter section for each fifteen miles of line constructed; but so much of this section as authorizes the construction of telegraph lines to open communications with the various mining districts and other settlements in those Territories is to be null and void unless the branch lines are completed within five years from the approval of this bill.

The second section of the bill, in order to encourage and aid the construction of the line of telegraph beyond the limits of the United States, authorizes and instructs the Secretary of the Navy to detail for the use of the surveys and soundings along that portion of the Pacific coast, both of America and Asia, where it is proposed to establish the telegraph, one steam or sailing vessel, in his discretion, to assist in surveys and soundings, laying down submerged cable, and in transporting materials connected therewith, and generally afford such assistance as may be deemed best calculated to secure a successful promotion of the enterprise.

The third section provides that if within five years from the passage of this act Collins, his associates and assignees, shall complete and have ready for successful use a line of telegraph from its connection with the Pacific telegraph to the mouth of the Amoor river, the Secretary of State is instructed to contract with the parties owning the line or lines, upon receiving suitable guarantees from them, as in the case of bids for mail contracts, for the use of the same by the Department of State, the Treasury, the War, the Navy, and the Interior Departments, the General Post Office, the legislative and judicial departments, and the respective offices thereof for all public purposes, for a period of ten years next ensuing the date of the contract, the United States to pay for such use at the rate of \$50,000 a year in equal quarterly payments; but if, during any of those fifteen years, the business done for the United States under the contract shall, at the ordinary rate of charge for private messages, exceed the sum of \$100,000, an account thereof, duly authenticated, is to be presented to the Secretary of the Treasury, who is to certify the same to Congress for payment.

The fourth section provides that the Government of the United States shall, at all times, have priority in the use of the line or lines, so far as they are within its territory, and shall have the right, when authorized by law, to connect the line or lines by telegraph with any military posts of the United States, and to use them for Government purposes. In order to secure them from injury by savages or other evil-disposed persons, to the interruption of the public business, the commanders of the military districts or stations and other officers acting under authority of the United

States in the Territories traversed by the telegraph are to use any available force at their command to protect them. Subject to the right of prior use by the Government, the line or lines are to be at all times open to the public for the transmission of messages in the order of their reception, upon the payment of the established charges.

The fifth section provides that the better to accomplish the object of this act, namely, to promote the public interest and welfare, by facilitating international and commercial intercourse between the eastern and western continents, in the construction of the telegraph, and keeping it in working order, and to secure to the Government at all times, but particularly in time of war, the use and benefits of it for diplomatic, naval, military, postal, commercial, and other purposes, Congress may at any time, having due regard for the rights of the parties thereinbefore specified, add to, alter, amend, or repeal the act.

Mr. CHANDLER. Mr. President, I suppose every member of the body has investigated this subject. The maps and drawings, the general plan and general route, have been laid upon the desk of every Senator, I presume. The proposition is to connect Europe, Asia, and China, by telegraph, with the United States. Mr. Collins has made a contract with the Russian Government, by which they agree to extend their line up to a certain point and grant him a large subsidy. Mr. Collins then went to England and made an arrangement to pass the line through the British American possessions. He proposes to build about seven thousand miles of telegraph through British North America, through Russian America, and through Siberia, to connect with this great Russian line, bringing us into direct telegraphic communication with nearly all the nations of Europe. The Committee on Commerce deem it a very great desideratum that this should be done.

In the bill there are three points: first, the granting of the right of way, and every fifteen miles the right to use a quarter section of the public lands for their buildings, stations, &c.; secondly, a ship, either a steam or sailing ship, is granted for the purpose of taking soundings across Behring's straits and around the Russian possessions, which will be very useful to the Government, even if the line should not be built; and next, we are to pay \$50,000 a year for ten years for the use of the telegraph. In my judgment, the Government will use that telegraph to the amount of more than \$100,000 a year every year from the day it is first completed; therefore I consider that no subsidy at all. It simply shows that the United States takes an interest in connecting herself with the rest of the world.

Those are the only points in the bill. We do not pay one dollar, we do not expend one dollar unless the route is completed, and completed within five years. The whole thing falls to the ground at the end of five years unless we are in direct communication with the world. The Committee on Commerce have reported the bill; and with this statement I leave it in the hands of the Senate.

Mr. TEN EYCK. I was in hopes that some one whose attention had been called earlier and doubtless more fully to this subject than mine has would have proposed some amendments to this bill and called the attention of the Senate to its features; but as it appears there is no other person, as I happen to be honored with a position on the Committee on Commerce, which did not report this bill unanimously—

Mr. CHANDLER. I did not so state it.

Mr. TEN EYCK. I know you did not. It may not be amiss for me to call the attention of the Senate to this bill before it shall receive its final action; but still, for the purpose of perfecting it and making it less objectionable, I desire to propose some amendments to it. The first amendment I shall propose is on page 2, section one, line nineteen, to strike out the word "donated" and insert "granted," and after the word "parties" to strike out the word "out" and to insert the words "the use;" so that it will read:

There is hereby granted to said parties the use of such unappropriated lands, not exceeding one quarter section, &c.

The object is to change this from an absolute gift of the land to the granting of the use of the land.

Mr. CHANDLER. I accept the amendment.
Mr. McDUGALL. There is no objection to that.

The amendment was agreed to.

Mr. TEN EYCK. I now move to strike out the whole of the third section, and I ask for its reading.

The Secretary read it, as follows:

SEC. 3. *And be it further enacted*, That if within five years from the passage of this act the said Collins, his associates and assignees, shall complete and have ready for successful use a line of telegraph from its connection with the said Pacific telegraph to the mouth of the Amoor river aforesaid, the Secretary of State is authorized and instructed to contract with the parties owning said line or lines, upon receiving suitable guarantees from them, as in the case of bids for mail contracts, for the use of the same by the Department of State, the Treasury, the War, the Navy, and the Interior Departments, the General Post Office, the legislative and judicial departments, and the respective offices thereof for all public purposes, for a period of ten years next ensuing the date of said contract, the United States to pay for such use at the rate of \$50,000 a year in equal quarterly payments: *Provided*, That if, during any of the fifteen years aforesaid, the business done for the United States under said contract shall, at the ordinary rate of charge for private messages, exceed the sum of \$100,000, an account thereof, duly authenticated, shall be presented to the Secretary of the Treasury, who shall certify the same to Congress for payment.

Mr. TEN EYCK. I shall proceed to state in as few words as I possibly can the reason why this section should be stricken out. I may be allowed to say that I feel less interest in the success of this bill under the course its friends have pursued in endeavoring to force its passage at the expense of a much larger and more important interest to the country now at stake, and that is the passage of the amendment of the enrollment bill.

Mr. McDUGALL. I do not understand the Senator exactly when he speaks of the course of the friends of this bill. We have felt in my part of the country that we were as much concerned as any persons in the Republic in this measure, as it unites us immediately and particularly with eastern Asia. I was not aware when I came in here that this bill had been urged out of its order; but I trust it will receive no prejudice from the fact that it has been urged on the attention of the Senate. It is a simple bill, and I think it can be disposed of promptly, and there is no good reason why it should be objected to, because as a matter of legislation it is now pending.

Mr. TEN EYCK. I was not designing or intending to prejudice the passage of the bill. I was simply stating the reason why I felt less hesitancy in opposing a measure of this kind or interposing objections to its passage than I would have felt under other circumstances, because feeling, as I do, the absolute necessity of an immediate action on the part of Congress to fill up the ranks of our armies, which are now being thinned in consequence of the terrible warfare being carried on, I think I may be justified in at least stating the reasons emphatically and distinctly which influence my mind in opposing the bill in the character in which it now stands before the Senate.

Sir, I can understand as well as any other Senator on this floor, and I trust I am as keenly alive to the honor and glory of rendering efficient aid on the part of the Government in the establishment of a telegraph line which is to encircle the world as any other Senator, or as any person connected with the Government in either of its branches. It is an ennobling enterprise, worthy of the grandest thoughts and considerations of the greatest and ablest men of the country. But, sir, we should regard the position in which we are placed; we should not be captivated and carried away by the excellency of the motive and design, and lose sight of our judgments, and open the public Treasury to any demands which may be made upon it and from any quarter, no matter how respectable that quarter may be, and no matter how respectable the friends may be who come from that direction.

We are asked to aid in the construction of this great work. This bill asks us, in the first place, to grant the right of way, which is a great privilege to a company of this kind, because if the right of way is granted and a work of this kind is established, it will go very far toward preventing any competition hereafter on the part of other persons who have not the vast amount of capital that this company which is asking for these privileges under this bill have. They then ask, and we are willing to give, or at least the bill, as reported, contained an absolute gift of

unappropriated lands not exceeding a quarter-section for each fifteen miles on the line of this telegraph. That at the present moment is no very great gift. The public lands are given upon almost every bill. Our western friends day after day receive donations in every variety of shape to the amount of millions; and I, for one, representing an old State, have made no objection, because I was desirous of doing what I could to contribute toward the progress of these new giants who, I fear, before many years will take entire control of the affairs of this nation; and knowing, too, that, let us do as we choose, the old States would derive but very little advantage from the public domain, as we have in times past derived very little advantage from it. But that is a gratuity. In addition to that this bill proposes that the Navy Department shall fit out and supply this company with a vessel. The second section is in these words:

SEC. 2. *And be it further enacted*, That in order to encourage and aid the construction of said line of telegraph beyond the limits of the United States, the Secretary of the Navy is authorized and instructed to detail for the use of the surveys and soundings along that portion of the Pacific coast, both of America and Asia, where it is proposed to establish said telegraph, one steam or sailing vessel, in his discretion, to assist in surveys and soundings, laying down submerged cable, and in transporting materials connected therewith, and generally afford such assistance as may be deemed best calculated to secure a successful promotion of the enterprise.

This is no small assistance on the part of the Government. A national vessel is to be detailed with its officers at the public expense, without limitation with regard to time for the purpose of enabling this company to establish this great public work.

In addition to all that, this company ask us to subsidize them for a period of ten years, granting them \$50,000 per year, amounting to \$500,000 in the aggregate, in addition to all other privileges which they ask Congress to confer upon them toward the establishment of this line. It should be a very extreme case that should constrain the Government in making all these efforts and granting all these aids toward a company to construct a work of this kind. The Government should be first satisfied that they have the means at hand ready to do it. If we were in a state of peace and prosperity, and it was desired to lend a helping hand to a feeble company, unable to execute this work with their own means and unassisted, it would be a matter for the consideration of Congress; and no Secretary of State could have exceeded the present Secretary of State in his just eulogium upon the character and magnitude of this work and its desirability.

But, sir, if I am not incorrectly informed, this company is one of immense wealth; and my honest and firm conviction from the evidence which has come before me is, that they will gladly complete this work without any such subsidy as \$50,000 per year from the Treasury for ten years, amounting to \$500,000 in the aggregate. I have been informed that the company who ask this privilege, the chief of whom is this Mr. Collins who comes here armed with charters from the different Governments of Europe to build this line over the territory of those Governments, commenced its operations some years ago with a capital of some three hundred thousand dollars, and that is all the capital they have ever had by any charter or by any law.

I repeat, I have been credibly informed that the company now asking for this subsidy and the right to build this telegraph line across the continent, a distance, as the Senator from Michigan says, of several thousand miles, commenced with a capital stock of \$300,000, and by their business tact, by the skill with which they have managed their affairs, and by the purchasing out of other and rival companies and throwing impediments in their way, their capital this day is worth \$9,000,000; their capital stock has increased between three and four hundred per cent. It is stated that there is a prospective purchase in view of the California Telegraph Company, to be estimated at some three million dollars, which, if true, would swell up this capital to the amount of \$12,000,000. I do not vouch for the truth of these statements, because I have no means of personal knowledge; but I have been informed in a way and from a source upon which I place great reliance that such is the fact.

Then, sir, if that be true, here we have a com-

pany with a capital of either \$9,000,000 or \$12,000,000, which has increased faster than any snow ball ever did by rolling it over the surface of the ground; by the increase of its own stock and by the increased value of its lines arising from the manner in which they have conducted business; asking this Government to bestow all these privileges upon them, and to subsidize them to the tune of \$500,000 in order to enable them to construct this line and to carry on their works. I understand, I do not know how true it is, that the gentleman to whom the chairman of the Committee on Commerce has referred, and who has brought the Russian charter here, to which he has referred with commendations, proposes to place that in the charter of this new company at the value of some three million dollars.

It is by these means that the men who are engaged in this originally comparatively small company have become millionaires, it being rather a close corporation, and confined to perhaps not more than a score of men, if they amount to that number. I would not for all this throw any impediment in the way of their constructing this line; nor would I oppose their having the right of way granted to them; nor would I oppose their having granted to them upon which to construct their works the use of a quarter section of land at the distance of every fifteen miles; nor would I, as it is a great national measure and would reflect credit upon our nation, refuse to give them the benefit and advantage of a national vessel to give them credit abroad, and to overawe the Indian tribes and lawless people who might be disposed to interfere with them upon the Pacific coast. I would not oppose any of these things, but would cheerfully and gladly grant them all; but when they come and ask in addition to this a subsidy of \$500,000 to enable them to construct a work which they would in my opinion gladly and joyfully construct without a dollar being granted to them, under the protection of the Government, and the grant of a right of way; in a time of war, when the Committee on Finance with all their ability and all their skill are driven to their wits' ends to keep the coffers of the Treasury full enough even to pay the soldiers in greenbacks, I would hesitate for the time before I would undertake to give this subsidy.

It does not stop there. The chairman of the Committee on Commerce says he has no doubt the Government will require the use of this telegraph line for its business to an amount exceeding \$100,000 a year. What I have to say on that subject is this: I had much rather that the Government should pay as it has its work performed, as every citizen pays, than to undertake such a work under these circumstances, and offer a large sum of money in advance without knowing whether we should require that amount of service to be performed upon this work or not. But the bill does not stop here; there is a very cautious expression at the end of the third section to this effect:

That if, during any of the fifteen years aforesaid, the business done for the United States under said contract shall, at the ordinary rate of charge for private messages exceed the sum of \$100,000, an account thereof, duly authenticated, shall be presented to the Secretary of the Treasury, who shall certify the same to Congress for payment.

As I understand this section we undertake to subsidize them to the tune of \$500,000, at the rate of \$50,000 a year; but if the charges for carrying the messages of the Government should exceed the sum of \$100,000, then we are to pay all the excess of that \$100,000, let the amount be more or less.

Mr. President, I have felt it my duty in moving to strike out the third section of this bill to lay these statements before the Senate that they may see what they are doing at the present time, and to ask them seriously whether in their admiration and regard for so great a work, which is to reflect credit and honor upon the nation, they are willing to throw away \$500,000 in addition to all the other aid and assistance they give this company, when it is manifest from the ability, power, and riches of this corporation, they are not only willing but able to construct this work, and doubtless will construct it without the aid of this third section which I have moved to strike out.

Mr. CHANDLER. The Senator has alluded to the affairs of the American Telegraph Company. I understand they have made a great deal of money, but I do not know anything about the facts that the Senator states, nor do I care. I

only hope that they have money enough to build this line. They propose to go through an inhospitable region, across Behring's straits, and to connect us in five years with the whole of Europe and China. It will be seen by the map which I have before me that the whole of Europe, which is now traversed in every direction by telegraphic lines, would instantly be brought by the construction of this line in telegraphic communication with the city of Washington.

With regard to the former management of that company or its future management I have nothing to say. I deem this a great national work of so much importance that I should be very glad to have them use the money they have made or any other money that they can get in building this line.

If the motion of the Senator from New Jersey to strike out the third section of this bill prevails, in my judgment it will defeat the measure. The Senator talks of the condition of the Treasury. This bill does not take a single dollar out of the Treasury until the completion of this work, and I trust in five years from to-day our Treasury will be in a better condition than it is now. This is not a subsidy. There is not a Senator on this floor who does not know that when this Government shall be placed in telegraphic communication with the whole of Europe and Asia, our telegraphic bill would amount to more than this sum of \$50,000. The Government of Russia has very kindly agreed to subsidize this line in order to bring herself into communication with the United States. Would it be well now for the United States to turn her back upon this great enterprise and coldly say, "We take no interest in the work?" I repeat, sir, this is not a subsidy. It is merely a contract in advance for what you know you will need when the time arrives.

Mr. GRIMES. I rise for the purpose of obtaining some information from the chairman of the Committee on Commerce. I should like to know what is the character of this subsidy that is given by the Russian Government. As I understand it, the Russian Government have agreed to assist in building a line over their own territory as far as a certain point, and that it is now near the mouth of the Amoor river, for the purpose of connecting with this line at that point.

Mr. CHANDLER. Yes, sir; that is so.

Mr. GRIMES. Has the Russian Government ever agreed to build, or to assist in building, or have they subsidized this company so as to enable them to build through the Russian possessions in America?

Mr. CHANDLER. I cannot answer that question. They have granted them a subsidy. Russia owns all her telegraphic lines. She has agreed to give forty per cent. of the receipts from her portion of the line to this line as a subsidy.

Mr. GRIMES. As far as the mouth of the Amoor river?

Mr. CHANDLER. No, sir; through.

Mr. GRIMES. To what point?

Mr. CHANDLER. The capital of Russia, St. Petersburg.

Mr. GRIMES. From the capital of Russia how far west?

Mr. CHANDLER. To the British possessions, I suppose.

Mr. GRIMES. Has the Senator a copy of that contract between the Russian Government and Mr. Collins?

Mr. CHANDLER. I have it not with me.

Mr. GRIMES. It would be very satisfactory to know exactly what are the relations this man holds to the Russian Government.

Mr. CHANDLER. I have seen the contract.

Mr. GRIMES. Can the Senator tell how far the line is completed through the British possessions? How much yet remains to be completed?

Mr. CHANDLER. Yes, sir. Nine thousand five hundred miles remain to be completed.

Mr. GRIMES. In Russia?

Mr. CHANDLER. Oh, no, sir. The Russian Government have agreed to build two thousand five hundred miles, or to the mouth of the Amoor river, to extend her line to the mouth of the Amoor, and from there this Mr. Collins is to take it.

Mr. GRIMES. I call for the yeas and nays on the motion of the Senator from New Jersey. It is a matter of a good deal of consequence.

The yeas and nays were ordered.

Mr. CHANDLER. I will simply remark that

if this amendment prevails it defeats the bill; that is all.

Mr. DOOLITTLE. It seems to me that some gentlemen are falling into a very great mistake if they suppose this is a subsidy of \$500,000. It is simply an agreement on our part that if they will build the line at their own expense and set it in operation, we will pay them for the use of it by this Government to the amount of \$50,000 a year for ten years. We agreed, in order to aid in the building of the Pacific telegraph, to give them \$40,000 or \$50,000 a year; I forget which.

Mr. CONNESS. Sixty thousand dollars.

Mr. DOOLITTLE. Mr. President, that enterprise was undertaken by those gentlemen at a time when the majority of men denounced it as a humbug. It was said it could not be built, and that even if it were you could not keep it up against the Indians. Mr. Benton, who was a very wise man generally, said if such a thing was attempted the Indians would dig up the poles and carry off the wire. But, sir, it was attempted, and by great energy and skill carried through, and it was a success.

Mr. Collins has gone to Russia and obtained from Russia this contract by which the Russian Government grants to him lands for stations, the right to the timber, and assistance in the building of the line, and furthermore, as I understand, has agreed to pay at the rate of forty per cent. of the through business on their line to aid in sustaining the line. What are we asked to do? To give this company for the use of the line by the Government \$50,000 a year. In relation to that provision in regard to certifying the account for payment whenever the amount of Government business exceeds \$100,000, I think that might be amended so as to be more definite and clear as to what is meant by certifying it to Congress for payment. I suppose the facts will be reported to Congress and they can do as they will about it.

Mr. BROWN. I should like to ask the Senator a question. I do not wish to interrupt him.

Mr. DOOLITTLE. If this question is going to give rise to any discussion I do not propose to go into it myself. I want to have the bill acted upon. I do not want it to stand in the way of other business.

Mr. BROWN. I desire to call the attention of the Senator to the fact that the "act to facilitate communication between the Atlantic and Pacific States by electric telegraph," provided in the first place that it should be thrown open to public competition to see who would do it for the lowest amount. In the second place the subsidy was not \$50,000 or \$60,000, but it was "not to exceed \$40,000." I will call the attention of the Senator to the further fact that notwithstanding the large bonuses and grants that have been given to that company, I am informed there is another telegraph company constructing a line across the continent without any bonus at all, on their own hook.

Mr. TEN EYCK. The bill has been reported.

Mr. BROWN. I believe there is one in contemplation going ahead.

Mr. GRIMES. Mr. President, I think my friend, the Senator from Wisconsin, could not have read this bill, or else he would not inform the Senate that all there was in it was what the Senator from New Jersey has denominated the subsidy; that is, the payment of \$50,000 a year for ten years. In the first place the first section declares that this Mr. Collins shall be entitled to the "right of way over any unappropriated public lands of the United States, together with the right to take any timber and stone for construction purposes;" not for the construction of the telegraph line, but for "construction purposes," leaving it in the broadest terms possible.

And for the purpose of establishing and maintaining said lines and the stations necessary for the repair and working thereof, there is hereby donated—

Not the use of, but an absolute donation—

Mr. DOOLITTLE. That has been amended.

Mr. GRIMES. I was not aware that it had been amended. That is the way the bill read as introduced here:

Donated to said parties, out of such unappropriated lands, not exceeding one quarter section for each fifteen miles of line constructed.

The second section declares:

That in order to encourage and aid the construction

of said line of telegraph beyond the limits of the United States, the Secretary of the Navy is authorized and instructed—

He is absolutely required—

to detail for the use of the surveys and soundings along that portion of the Pacific coast, both of America and Asia, where it is proposed to establish said telegraph, one steam or sailing vessel, in his discretion, to aid and assist in surveys and soundings,—

And not in that only—

laying down submerged cable, and in transporting materials connected therewith, and generally afford such assistance as may be deemed best calculated to secure a successful promotion of the enterprise.

Mr. CHANDLER. The Senator will recollect that a few years ago this Government agreed to pay \$70,000 a year for ten years, and to furnish ships to lay the cable across the Atlantic, and to do divers and sundry other things to a much greater extent than we propose to do here.

Mr. GRIMES. Because this Government contracted several years ago to do some very foolish things is no reason in the world why I as a Senator to-day should contract to do what, in my estimation, is an exceedingly foolish thing. I do not know what the contract was, nor what agreement this Government made in regard to the laying of the Atlantic cable. I only know that according to the provisions of this bill, so far as the laying of this cable is concerned through Behring's straits or in the northern Pacific ocean, the Navy Department is required to perform all the duty; first, to make the survey; second, to transport the material for the company; and third, to lay down the cable after they get it there; to furnish the vessels to do it.

Mr. CHANDLER. Only across Behring's straits.

Mr. GRIMES. I suppose that does not follow as a matter of course. Behring's straits are tolerably wide in certain places. We do not know where the cable is going to be laid. It may be laid across the straits in the narrowest point, or it may be laid further south in order to obviate the objections that may arise in consequence of the cold weather, running it from island to island. The very purpose of making surveys is to determine whether or not there may not be some more feasible plan and place of laying it than laying it across the straits; because, if they were going to lay it across the straits at the shortest point, there would be no necessity for putting in this requirement here, that the Navy Department shall survey and sound out the routes across there. I understand from the Senator from New Jersey that the company claim that the most proper point probably for taking the telegraph wire across would be from the Russian-American possessions to the St. Lawrence island, and from the St. Lawrence island over to the Asiatic side. If so, we shall be compelled, under the provisions of this bill, to transport a very considerable amount of material. I am now only alluding to those portions of the bill which were not referred to by my friend from Wisconsin. Now, if he will turn to the fourth section—

Mr. CHANDLER. I stated them all.

Mr. GRIMES. "In order to secure the same"—that is, this telegraph after it shall be established—"from injury by savages or other evil-disposed persons, to the interruption of the public business, the commanders of the military districts or stations and other officers, acting under authority of the United States, in the Territories traversed by said telegraph, shall use any available force at their command to protect the same."

The law requires that our military commanders in California or in Oregon or in Washington Territory or in any other of the Territories through which this telegraph wire shall be laid, shall use the whole available military force within their jurisdictions to see that this telegraph wire is kept unharmed by the Indians. I do not think that at this particular juncture we are prepared to assume any such burden.

Mr. CHANDLER. It is only the force he may happen to have at the spot where danger occurs.

Mr. GRIMES. It may not be convenient to bring up the whole force we may have in any one of these military departments and use it for the benefit of this company or the simple protection of their property. It may be convenient to the company; but there may be higher claims upon us to protect the citizens of some of these Territories or States from the savages than to protect

the telegraph wire of this rich corporation to which, I understand, the benefit of this grant is to inure.

Mr. CHANDLER. The bill, as I stated when I was up, proposes to give either a steamer or sailing vessel, at the discretion of the Secretary of the Navy, for the purpose.

Mr. GRIMES. It is not at his direction; it says expressly, "is authorized and instructed."

Mr. CHANDLER. I said either a steamer or a sailing vessel at the discretion of the Secretary of the Navy. He is to furnish either a sailing vessel or a steamer at his discretion, whichever he prefers. Of course he is instructed to furnish either a steamer or a sailing vessel for this purpose. I stated that fairly at the outset. That is what it does propose to do. That is what I believe this nation would be derelict if it did not do.

The question being taken by yeas and nays, resulted—yeas 17; nays 17; as follows:

YEAS—Messrs. Brown, Canfield, Clark, Fessenden, Foot, Grimes, Hale, Harlan, Hendricks, Johnson, Lane of Indiana, Powell, Riddle, Sausbury, Ten Eyck, Van Winkle, and Wilson—17.

NAYS—Messrs. Chandler, Conness, Dixon, Doolittle, Foster, Harris, Hicks, Howard, Howe, Lane of Kansas, Morgan, Pomeroy, Ramsey, Richardson, Sprague, Sumner, and Wilkinson—17.

ABSENT—Messrs. Anthony, Buckalew, Collamer, Cowan, Davis, Harding, Henderson, McDougall, Morrill, Nesmith, Sherman, Trumbull, Wade, Wiley, and Wright—15.

So the amendment was rejected.

Mr. BROWN. I offer an amendment to come in at the end of the first section:

Provided, That the lands thus set apart for said telegraph company shall always be kept open to settlement and occupancy, and shall be sold to actual settlers in quantities not exceeding one hundred and sixty acres each, at prices not exceeding \$1 25 an acre, under regulations to be established by the Department of the Interior, and patents shall not issue except to the actual purchaser, on proof of payment and compliance with this provision.

The donations that are given to this company are in quarter sections. My object is to prevent the making of a land monopoly out of this company. I desire that if we are to give them the benefit of these lands, while we do so we shall also give the actual settlers of the country the benefit of settling them; in other words, that we shall retain the principle of preemption as far as practicable, and simply give the company the benefit of the money accruing from the sales. My object is to prevent, in other words, a monopolizing of the choice sites and locations along the whole of this route and consolidating them into a great land company upon which to make a banking operation. I am opposed to that system, and therefore move this amendment.

Mr. CHANDLER. If the Senator was present when the amendment was offered by the Senator from New Jersey he would have seen that it is simply the use of a quarter section for a station once in fifteen miles that is granted. They do not own one foot. The word was originally "donated," but that was a mistake. We do not intend to donate them one foot, but we grant them the use of a quarter section for their station, and for other purposes.

Mr. BROWN. In perpetuity?

Mr. CHANDLER. As long as they keep up the telegraph.

Mr. BROWN. I do not see much difference between the use in perpetuity and a donation.

Mr. CHANDLER. It can never be sold or any other use made of it except for a station. I do not see any object in the amendment.

Mr. HARLAN. I should like to hear that part of the bill read with the amendment which has heretofore been adopted.

Mr. CHANDLER. From line nineteen.

The SECRETARY. An amendment has been made in line nineteen of section one, to strike out "donated" and insert "granted;" to strike out the word "out" and insert "the use;" so that the clause will read:

And for the purpose of establishing and maintaining said lines and the stations necessary for the repair and working thereof, there is hereby granted to said parties the use of such unappropriated lands, not exceeding one quarter section for each fifteen miles of line constructed, &c.

Mr. BROWN. I was not aware that this bill had been so changed, and with the permission of the Senate I will withdraw my amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. BROWN. I now offer the following amendment to come in at the end of section three:

Provided further, That it shall not be competent for the

owners or operators of said telegraph line to make any contract for the exclusive transmission of dispatches from any newspaper or newspaper associations upon terms different from those open to the enjoyment of all other newspapers; and in the event of any violation of this provision it shall be the duty of the Secretary of the Treasury, upon proof thereof, to withhold the payment that may be coming to said parties from the Treasury of the United States.

Mr. CHANDLER. I have no objection to that.

Mr. GRIMES. I should like to have that modified and changed, so as to make it apply to the company that we have already got established across to the Pacific coast.

Mr. CONNESS. I can say to the Senator that there is a bill now pending in the Senate on that subject.

Mr. GRIMES. Very well.

The amendment was agreed to.

Mr. GRIMES. I move in the fourth line of the second section, on the 3d page, to strike out the words "and instructed," and to insert in lieu thereof the words "if in his judgment the public interest will be promoted thereby;" so as to read, "the Secretary of the Navy is authorized, if in his judgment the public interest will be promoted thereby, to detail for the use of the surveys and soundings," &c.

Mr. CHANDLER. This clause is in the usual form, and I hope the amendment will not prevail.

Mr. GRIMES. Our Navy, I supposed, was built for war purposes, and not for commercial purposes or for laying down telegraph lines, and if there is any time when we do need it we need it now on our coast and in our rivers for hostile purposes, and not for this purpose. This section provides that the Secretary of the Navy shall have authority to detail either a steam vessel or a sailing vessel; but the concoctors of this bill knew that no vessel would be of the slightest avail there except a steam vessel, and that one of a superior quality. You cannot send a sailing vessel around Cape Horn with the material that it is required to carry for this company and get it there under nine months from the time that she sails from some Atlantic port to be able to deliver it there. Therefore I suppose it was the intention of these parties that the Secretary of the Navy should be required to send a steamer—a steamer of very large capacity she must be, too—in order to carry this telegraphic wire, for she is compelled according to the terms of this bill to transport the "materials connected therewith." This bill would require her to carry not only the wire from the Atlantic ports around to this place, but it would require her to be the carrier of the poles to either side of the St. Lawrence island; or to either side of the straits.

If we are going to give this company the right to build this line and pay them \$50,000, do so, and I am perfectly content that the Secretary of the Navy, if in his judgment he deems the public interest will be promoted thereby, shall send a vessel there to make surveys and soundings. That is legitimate; that pertains to the commerce of the country, although it is on the coast of a foreign nation, and it is fair that if we can detail a vessel at this time for that purpose that we should do a fair proportion toward making charts, laying down the soundings of waters other than those that appertain to our shores, &c. But when you ask the Government to send a vessel from the Atlantic or from San Francisco to the North Pacific to transport all the material that may be necessary to be carried for this company, as well as to make soundings and to lay the cable itself, and to do this in a time of war when you are constantly making complaints because you have not vessels enough on your coast, it is asking a little too much, Mr. President. It is enough for these men to put their hands into the Treasury and take our money, and not take our Navy and make us build vessels for them.

Mr. CHANDLER. It is well known that we have a Pacific squadron. A small vessel can be detached from that Pacific squadron, I apprehend, without any serious detriment to the public service. This vessel might just as well be up at Behring's straits, where we have hundreds of whale ships, as anywhere else. I do not think the public interest can be injured at all by detaching a small vessel from the Pacific squadron for this purpose.

Mr. GRIMES. If that be so, leave it to the Secretary of the Navy. Why do you want to re-

quire him to do it? Let him judge whether it can be safely done or not. I am willing to leave this clause so that he shall be authorized to do it; but it might not be safe to take away all the vessels from Panama and San Francisco and other points along the coast at this time. You may have the most efficient vessel that belongs to that squadron up two thousand miles north of the place where she ought to be, and then if a misfortune should befall our arms, what a clamor would be raised because the Secretary of the Navy did not have his vessel where it ought to have been; and how many men would there be who would excuse him for not having it there because Congress by a solemn act of legislation had required him to send off that vessel and assist in laying the telegraph wire for this company?

Mr. CHANDLER. I do not know what service the Pacific squadron has performed for the last three years. I imagine one of the ships from that squadron can very readily be detailed without detriment to the public welfare.

Mr. CONNESS. I have not been charged with any of the care of this bill, and yet I feel a great interest in it. It appears to me that the honorable Senator from Iowa, if he will excuse me, is rather narrow in his views on this question. Why shall we, as the legislative body of the United States, determine that the construction of this work shall be aided if, in his judgment, the Secretary of the Navy shall determine that it requires aid? Why shall we do that? Why shall we delegate that act to the Secretary of the Navy? Because he stands at the head of that Department. I think it is a question as to whether we shall aid this work or not; and, that question being determined, it is proper for us to say whether that aid or a part of it shall consist in a public vessel being placed at the disposition of this company for the performance of the service required in the construction of this work.

I have been astonished while I have listened to this discussion that gentlemen from the East, gentlemen directly interested in the great whaling interest, should hesitate a single moment to extend a reasonable degree of aid for the purpose of putting their whaling ships in direct connection with their owners in the East. They are not in connection with them now. They cannot connect with them nearer than San Francisco. It appears to me that we are dealing rather illiberally, or proposing to deal rather ungenerously, in connection with this great international work to put a telegraph cable around the world. Very well spoken it was a while since by the honorable Senator that has this bill in charge, when he said that we sent one of our greatest national ships to aid in laying the Atlantic telegraph. There never was such a jubilee in the nation as the celebration of the successful laying of that cable; there was never such a proud step of material progress up to that time as was then made; and there never have been deeper regrets expressed by the American public at large than upon the unfortunate failure of that cable.

Again, American capital, American genius, European capital, European genius, are engaged in an effort to relay that cable and make it a success. It is shrewdly suspected by some that we are making a mistake in the effort we are making to lay a cable from the kingdom of Great Britain to its transatlantic territory; and that notwithstanding any contract or promise that they make to us, in case of war they will use it against us, and I am very much inclined to think it is true. Nay, not very much inclined, but I have no doubt they would do it in an instant. Is it not important in that case that we should have communication with the European world by another means?

Mr. BROWN. This will go to the British possessions.

Mr. CONNESS. So it will, but it will go through a part of the British possessions that at the first sound of the tocsin of war we should seize and make our own. We would seize it by the strong arms that are now concentrating and gathering on the entire Pacific coast, and it would not be in the power of England to prevent the seizure. We cannot seize the transatlantic telegraph. Shall we be then placed at the mercy of Great Britain in the event of war, where our commerce and ourselves would be subjected to all its dire calamities, without giving us this great expedient and means? Shall we deal—Senators

will excuse me, I only speak of their views—in a parsimonious manner with this great enterprise? It has been discussed for half a dozen years past. One of our most intelligent and patriotic citizens has addressed himself to this subject in a manner to make his name a part of the history of our country. The Secretary of State of the United States has sent you a communication that is deep and full of wisdom and meaning, based on the inquiries, the industry, and the great enterprise of that great and distinguished citizen, and he has recommended that the small aid asked for be given, generously given, be given in the spirit of American progress and enterprise.

What shall it avail if we sit here and talk as to whether a vessel may be dispatched or may not from the Pacific squadron to engage in making this survey and these soundings? Shall we spend our time as to the exact point upon Behring's straits upon which this survey shall be made? Have we not the ability to take one single ship and dispatch it upon this great service? I hope that we shall not waste time in such economy. I hope, on the contrary, that our discussions and our acts will partake of the spirit of the enterprise, of its great usefulness, of its great national interest, of its great consequences to the civilization of the entire world.

Why, sir, there is opening up to us in that portion of the earth that will be brought nearer to us by the construction of this line of telegraph, a country that we have little knowledge of, that the enterprise and industry of Mr. Collins have given us the first great and intelligent view of—a country full of trade, full of employment for our ships when peace shall come again. Sir, we are building up exactly opposite on the Pacific coast a community, nay, an empire of itself, composed of a population of the choicest portion of the American people. Shall we not invite neighborhood? Shall we not attempt to make a connection and a commercial fraternization between the two hemispheres in this manner? Shall we hesitate to do it, lest the Secretary of the Navy, under the instructions contained in this act, should employ a steam vessel rather than a sailing vessel? Why, Mr. President, I am ashamed of these views of the case. They bear no parallel to the subject; they in no part commend themselves in the advocacy or in the reasoning of so great a subject as this.

We are told that there are other lines of telegraph, other companies engaged in crossing the continent. Let them cross the continent. Give them aid, such only as you give to this, which is not an expensive aid to the nation. Let these great improvements go on. Shall it be because we are immersed in a great and expensive war that all progress and all efforts on the part of the Government to develop industry shall cease? Certainly not. Either we are able to carry both on, or we are not able to carry one on successfully.

I hope that first we shall give the aid that is asked for; it is very limited indeed; and next, that the aid we shall give will be generously and freely given.

Mr. TEN EYCK. I think the amendment proposed by the Senator from Iowa is eminently just and proper. What do we propose to do by this bill? We propose to put a part, at least, of the Navy of the United States under the control of this telegraph company; and at their bidding, and under their authority, the Secretary of the Navy is bound to detail a vessel for the purpose of carrying on all their operations. In time of peace I would not make the head of the Navy Department subject to the dictation of a telegraph company or any other company, no matter how respectable or how wealthy they might be.

Mr. CONNESS. I call the honorable Senator's attention, with his permission, to the fact that the whole eastern part of the continent is brought pretty much in subjection to a company that runs a railroad line through his own State, and I have not heard the declamation of the Senator against it. There can be no such objectionable monopoly and combination as that to which all of us are subjected who pass backward and forward between New York and the national capital.

Mr. TEN EYCK. When the time comes for that matter to be discussed, perhaps I may have something to say on that subject, but I generally

endeavor to confine my remarks to the subject in hand before the Senate. I can see a very great difference, however, I may remark in passing, between establishing a new exclusive privilege and interfering with one that was established a quarter of a century ago. I respectfully submit, before discussing that subject, that the inquiry of the Senator from California is no argument upon the amendment proposed by the Senator from Iowa.

Mr. CONNESS. It was not offered as such.

Mr. TEN EYCK. Then it was not offered legitimately in the discussion, but for some other purpose. Now, all the declarations of the Senator are very fine in relation to aiding and assisting in this national work. He has taken me captive by the power of his eloquence. I had some faint glimmering or idea of the honor that was to fall on our national character by the establishment of such a work; but I do not think it will add very much to our judgment, our prudence, or propriety as legislators, if we detail a part of our Navy and appropriate a portion of the public treasure for the establishment of a work which beyond all earthly doubt will be maintained and established by the corporation without any control. It was alluded to by the Senator from Missouri that this company, when they first introduced their bill asking for a subsidy, did not pretend to claim more than \$40,000. That was enough; but I suppose on the principle on which other men act, when they go in for a penny they go in for a pound, and finding the disposition of the Senate to be perhaps to encourage these great works under the eloquent appeals of the Senator from California, they would just as soon vote \$50,000 a year as \$40,000, and perhaps \$100,000, for aught I know, because after we get over the limit of \$100,000, then an account is to be kept, and the Secretary of the Treasury is to settle the bill according to the charges they may choose to make.

Now, sir, I am not willing to detail the Navy for this purpose any more than I am willing that this other feature shall stand in the bill which declares that the Army of the United States, or such portions of the Army as may be in the region of country through which this line may run, may, under the order of the company and not under the order of the Secretary of War, be detailed and employed for the exclusive purpose and express design of protecting this long line of several thousands of miles of telegraph from the attacks of savages and every other wrong-doer who may see fit to lay his hand upon it. Why give any more exclusive privileges to this than to any other enterprise of like character for the transmission of intelligence or the transmission of passengers? I had intended to move an amendment on that point, but the floor was taken from me for the purpose of moving other amendments. I have two or three other amendments that I shall move at the proper time. The motion to strike out the third section having failed by a tie vote, I shall move to amend the fourth section so that the Army shall not be subject to be taken at the dictation of this company, or such portions of it as may be in that section, and that the rights and interests and property of the company shall be put upon the same footing in regard to governmental care and protection with the rights and interests and property of every other company and of every citizen in the Union; and that is, in case of their invasion, upon a call being made on the regular constituted authorities, the constituted authorities, if they see fit, appropriate the necessary force for the purpose of keeping the peace and maintaining the laws. I do not know that these gentlemen with their increase of capital in the course of fifteen months from \$3,000,000 to \$9,000,000 should lay the whole power of the United States, the Army, the Navy, and the Treasury to boot, at their hands and subject to their dictation and their call, especially in a time of war which is taxing every energy and straining every sinew in the arms of every loyal, noble, patriotic man within the length and breadth of the Union.

Mr. CHANDLER. The Committee on Commerce spent more than three months in thoroughly investigating this subject; it was before them day after day; and they have recommended that a sailing vessel or a steamer shall be placed at the disposal of the company for this purpose. That

is just what is intended. The Senator from New Jersey is perfectly consistent. If he has not claimed it himself he is an enemy to this bill in all its parts, and he was in committee. Aside from him, the committee were unanimous in every conclusion at which they arrived. The Senator gave us notice that he would fight the bill, and he is doing it manfully; but I want the friends of the bill to vote and not talk. I promised when it was taken up that I would not occupy the time of the Senate. I renew the pledge. I simply ask for a vote.

Mr. TEN EYCK. The Senator from Michigan says that the Committee on Commerce have been engaged three months in perfecting this bill. I happen to be a humble member of that committee.

Mr. CHANDLER. The papers were at the Senator's disposal.

Mr. TEN EYCK. All I was going to say was that if it took three months incubation to hatch a bill of this kind, I do not glory in the achievement.

Mr. McDOUGALL. Mr. President, I have not been particularly pleased by the tone of the objections made by the Senator from New Jersey to this bill. I regret that I should have heard from him the expression of sentiments that have not to do with the security of our own people. He suggested among the considerations governing his action that the people of the older States were not concerned in these great enterprises; that the West calls for large appropriations, great subsidies, the lavishness of the public lands, from which his State of New Jersey derives no benefit. I regret to have heard the suggestion of an antagonism between the West and the East, or between the old and new States, come from the Senator from New Jersey, and mostly for the reason that for him I have a profound respect. I respect his judgment always.

Mr. TEN EYCK. The Senator entirely misunderstood me. I made no attack upon the West. I said it had always afforded us the utmost pleasure to vote for all the measures the West had at heart, asking for the donation of lands; and I do not know of any measure of that kind for which I have not voted except the amendment proposed this year to the Pacific railroad act. I withheld my vote from that on the ground that it was not simply for the building of a Pacific railroad, but proposed to build a great variety of branch roads in different States, and appropriated for that purpose millions of acres of land and additional millions of dollars in bonds, with interest payable in gold instead of in the ordinary currency of the country. That is the only case in which I have not voted in favor of the West in relation to all her measures, without ever expecting a dollar of benefit from the public lands for my State; and I do not now, and yet I shall freely vote for such measures in time to come.

Mr. McDOUGALL. I understood the honorable Senator from New Jersey correctly, as he would have seen if he had allowed me to go on with my remarks. His remark was, that in all these things the older States had no interest. I remember within my own period—and I am not yet as venerable as some of the gentlemen who are about me—when, in the part of the country where the Senator was reared, land was hardly a salable commodity, and certainly did not command as a regular thing five dollars an acre. That same land now commands in the market a hundred dollars an acre. On the development of the West, in her special interests and with her special enterprises, has been dependent to a large extent the growth of New Jersey and her accumulated wealth. To the development and growth of the West is to be attributed to a large extent the development of the manufacturing interest of New England. We are mutually dependent. We could never have built up the great manufacturing cities of New England if it had not been for the labor in the corn and the grain fields of the farmers of Ohio, Indiana, Illinois, Michigan, Iowa, and Wisconsin, and all the West; and they never would have culminated into their present prosperity but for the treaty of Guadalupe-Hidalgo, which secured to us a commanding position on the Pacific coast and developed those gold fields and those hills of silver that now furnish the prominent feature of the exportations of the entire Republic. Properly considered, we have no divided interest.

What is the true interest of the coast of the Pacific is the true interest of the State of Maine, and even her lumber fields have derived benefits from my State, for many a large house have I seen go up on the shores of the Pacific the timber for which had been cut down in the forests of Maine, and sawed in her mills and planed in her shops and framed by her mechanics and shipped by her ship-owners and constructed and put up in my own State.

The enterprise that is now suggested is one that belongs to a common development, in which the enterprising man, the man of capital, particularly the man of commerce, is as much concerned in New Jersey or Connecticut or Massachusetts or Maine as the merchant on my own coast. The subsidy asked for this enterprise is a mere bagatelle as compared to the great benefits it will insure to us. If the great enterprise of a telegraphic line across the Atlantic that failed some years ago, but that we hope yet to see realized, should be a thing accomplished, we should not command it in the event of our having a collision with a European Power, because it starts from Great Britain and lands in Great Britain's dependencies. It is well understood that our nearest relation to Asia and Europe is with Russia in Europe and Asia. The liberality exercised by the northern European Powers, and especially by Russia, should be a lesson to us to show some liberality. The amount of subsidy is of but little consideration; and I am confident that the amount of compensation proposed to be given to these parties is nothing like an equivalent to what would be justly due from the Government for the service it will require, and it is to have the command of the telegraph line.

A word now about this great conspiracy, this great combination, this aggregation of capital which seems to have filled the mind and overcome the vision of the Senator from New Jersey. I may take the liberty of remarking that when Mr. Collins, after making his trip from St. Petersburg to the Amoor river, reported himself in San Francisco, he brought with him the idea of this project; I took the opportunity to converse with him and possess myself as far as possible with his views, and to understand whether or not the enterprise was feasible. From that time until this time it has been more or less within the range of my observation. My fear has always been that we could not secure favor enough from the Government to establish it as a fact. My fear now is that we do not extend favor enough. If this is to be a very great and a very successful enterprise and it is going to embrace large capital, it will be because to carry out the main line of the work a great many accessories will have to be included. I do not believe that a line from San Francisco, taking that as the departing point, running up through Oregon and British America and Russian America, crossing at Behring's straits, and running down then by the coast line to the Amoor river, as an independent proposition can be maintained as a success; but upon a careful business calculation these gentlemen think that by joining with it various other enterprises of the same character, so as to bring the United States in communication with Europe and Asia, running down to China and Japan, it can be made a success; and if it is done at all it will be a great and triumphant success.

I cannot understand how persons having the true interests of the Government in their mind's eye can question the propriety of this action. It will be great economy to us, I believe, as a matter of mere government; it will be a great advantage to us as a matter of commercial regulation; it will give us our true position upon the Pacific, and that has been for years the theater of the greatest enterprises of the great nations of the world. France is in Mexico to get ascendancy there, and France is in Siam to get ascendancy there, and France is occupying positions on the Pacific to get ascendancy there. Russia bestows more attention on her policy on the Pacific than she does on her policy in any of the States of Europe. England is doing the same thing. It is our duty to do it, and we shall fail in duty if we do not look to our great interests, occupying as we do the most commanding position on the Pacific.

Then again, Mr. President, let me remind Senators that the history of England is the history to which we look for our great lessons. Look at

her policy during her great wars with the continental Powers of Europe, including the war she conducted against us when we were called in rebellion, and again after our war of 1812. The course of the English, the stern, enterprising, determined English people, indicates and has established that by a resisting and compelling force that appears to exist in the Anglo-Saxon, the English as they have been assaulted from abroad have risen stronger in their great northern strength; and therefore it is laid down as a truth by the ablest writers that have written upon politico-economical science in England, that instead of those great wars having impaired the wealth and strength of England, they have added both to her wealth and her strength, for two causes: first, their condition led (I am sorry it is not so in this country yet) to economy, private, individual, and particular economy; and second, it led to enterprises to overcome the privations that belonged to war. I might quote Mill, McCulloch, and Richards, as laying it down as a truth demonstrated by figures that England has been stronger by developing her resources even in time of war to overcome her necessities than she would have been if she had passed the same period in a time of profound peace. I say, let not our surroundings frighten us: let us make ourselves as strong as possible, so that when this war shall be over we shall be yet in the tide of prosperity.

Mr. GRIMES. The Senator from California has addressed the Senate very ably on the general subject of communication between the different portions of the world. I have nothing to say in regard to that; I am willing for the present to assent to the truth of everything he has said. The only question now before the Senate, however, is whether we shall make it absolutely imperative on the Secretary of the Navy to send a vessel to the Pacific for the purpose not only of surveying and sounding the waters of the North Pacific, but of transporting the material with which this telegraph line is to be laid, and afterwards of laying it. If a vessel is sent, it must be a steamer. If she is sent, she must be deprived of her armament. Now, are you going to direct, without any opportunity for the Secretary of the Navy to exercise his judgment about it, that in a time of war like this your vessels (and they must be your best vessels-of-war) shall be sent up into the North Pacific unarmed, upon an expedition of this kind, and be liable to capture?

Mr. McDUGALL. Allow me to make a suggestion. There are several vessels, old wooden ships, out there on that coast belonging to the squadron of the Pacific. The Senator knows what they are better than I do. It seems to me that to detail one of them would be no great charge on the Government. We can spare them from the harbor of San Francisco.

Mr. GRIMES. I have no objection to allowing the Secretary of the Navy to do that if he does not believe it will be to the detriment of the Government to permit it to be done; but I do not want to compel him to do it, because it is possible that when this company wants to lay its telegraph wires, or wants to transport its material, it may not be to the interest of the Government to thus detach a vessel for that purpose; and it seems to me somewhat singular that the Senators from the Pacific coast, who are so much interested in the maintenance of that fleet, should be the most anxious to detach some of the vessels from it and send them off on an expedition of this kind. I am willing to leave it exactly as the question always has been left before. It was not, I apprehend, made imperative on the Secretary of the Navy to detach the Niagara at the time the Atlantic cable was laid. The Secretary of the Navy was allowed to do it, and he did it.

Mr. CONNESS. And the nation applauded.

Mr. GRIMES. And the nation applauded it. Very well, that was in a time of peace; but you did not then, in a time of peace, instruct and require the Secretary of the Navy to do it. Now, in a time of war, you propose to require him to send vessels up into the North Pacific, where they will be liable to capture. That is the question that is before the Senate.

Mr. CHANDLER. I ask the friends of this bill to let us vote. I think the subject is fully understood. Each section of the country has an equal interest in it with every other; perhaps the East more than the West. All the commercial

interests of the nation are concerned in this bill, and I hope its friends will let us come to a vote. It is very well understood, I believe.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on the amendment of the Senator from Iowa.

Mr. CHANDLER. We are passing a law in the usual form directing the Secretary of the Navy to furnish a ship. Now the Senator proposes to say that it shall be the law if the Secretary thinks best; if he does not think it best it shall be no law. That is the question.

Mr. GRIMES. I suppose the Senator from Michigan wants to be ingenuous. He does not want to misrepresent.

Mr. CHANDLER. Certainly not.

Mr. GRIMES. Does the Senator say that this is in the usual form?

Mr. CHANDLER. Certainly.

Mr. GRIMES. Does the Senator say that this was the form of the law passed for laying the Atlantic cable, that the Secretary of the Navy was instructed and required to detach the Niagara?

Mr. CHANDLER. I have not read that law.

Mr. GRIMES. That is the only case that occurred, and I think if the Senator will refresh his memory by reference to the law, he will find that it says the Secretary of the Navy may do so.

Mr. CHANDLER. I do not remember that.

Mr. GRIMES. If the Senator has not refreshed his memory by a reference to that law, I do not think he is justified in saying that this is the usual form. The Senator says that the effect of my amendment will be to make it dependent on the Secretary of the Navy to say whether this law is in operation or not. Not at all. The law will be in operation; the subsidy will be given; the Army of the United States, as the bill now stands without amendment, will be put under the control of this company in the departments through which the telegraphic line may be located; but so far as the detailing of a particular ship is concerned, that will be left to the Secretary of the Navy, and there is where it ought to be left. So far as the subsidy is concerned, so far as the grant of land and of the right of way is concerned, the law will stand; but in regard to the action of the Navy Department in detailing a ship, I trust we are not going to instruct the head of that Department absolutely to send a ship, but authorize him to do it if he believes the public exigencies will justify him in so doing.

Mr. TRUMBULL. The Senator's amendment is not "if the public exigencies will justify him in so doing," but his amendment puts it in the discretion of the Secretary of the Navy to determine whether it will be for the public interest of this country to favor this telegraph. That is the form it is in, and I shall vote against it in that form.

Mr. GRIMES. I should like to have the Senator explain how that is.

Mr. TRUMBULL. The amendment says in so many words, "if the Secretary of the Navy shall believe the public interest will be promoted by it."

Mr. GRIMES. By detailing a ship.

Mr. TRUMBULL. I do not believe in asking the Secretary of the Navy whether the public interests of the nation will be promoted or not. If it can be done without detriment to the public service I am for telling him to do it, for I think it is a proper thing to be done.

Mr. MORGAN. I suggest to the Senator from Iowa that he move simply to strike out the words "and instructed," and then I think there will be no objection to the amendment. The effect of that would be simply to authorize the Secretary to detail a vessel.

Mr. GRIMES. I accept the suggestion, and my amendment is to strike out the words "and instructed" after "authorized" in line four of section two.

The amendment was agreed to.

Mr. GRIMES. I propose to strike out all of that section after the word "soundings" in line eight. The words I propose to strike out are:

Laying down submerged cable, and in transporting materials connected therewith, and generally afford such assistance as may be deemed best calculated to secure a successful promotion of the enterprise.

The effect of my amendment will be to leave the public vessel that may be detailed to be employed in making the surveys and soundings, but

not to compel the Government to employ a vessel to transport the materials with which this telegraph company is to build its line.

Mr. TRUMBULL. It does not compel anything; it merely authorizes.

Mr. CONNESS. There is no compulsion about it now with the amendment of the Senator from Iowa.

Mr. GRIMES. Then there is no use in having it in. I am not willing even that the Secretary of the Navy should have power, if he sees fit, to employ a public vessel to transport materials from the Atlantic to the Pacific for the purpose of building this line, when I am assured by men in whom I place the utmost confidence that this line will be constructed if we do not give one single copper by way of subsidy.

Mr. CHANDLER. I hope the amendment will not be adopted.

The amendment was rejected—yeas 14, noes 15.

Mr. GRIMES. In the ninth line of the second section I move to strike out the words "and in transporting materials connected therewith." This will leave the Secretary of the Navy at liberty to use a public vessel, if he sees fit, in laying down the telegraph wire, but not in transporting materials.

Mr. TRUMBULL. I am really sorry to see such objections made here. The Senate has yielded to the suggestions of the Senator from Iowa and has merely authorized the Secretary of the Navy to use a vessel in aid of this object. When he is authorized to send out a vessel, what objection can the Senator from Iowa have to allowing that vessel to take along some of the materials if the Secretary thinks it proper? He is not compelled to do it. You are not willing to authorize the Government of the United States to cooperate in this great enterprise, but you must put it in the law that a naval vessel shall not be permitted to take along an instrument. Certainly no harm can be done by it. I hope the Senate will vote down all such amendments.

Mr. GRIMES. The Senator cannot be any more surprised at me than I am at him. I am surprised that he, a strict constructionist and economist, a man who has always professed to be an extreme economist and strict constructionist, should be in favor of such a proposition as is now under consideration in the Senate. I think I have seen the Senator stickle and higgie on much smaller questions than this. This is a question of granting naval vessels for the purpose of carrying all the materials for this immense company that we are required to pay a subsidy of \$50,000 a year to get it to build this line; carrying them either from Europe, as it may be under this provision, or from the Atlantic coast to Behring's straits or to any other such point as the company may determine to lay down its telegraph wires to. I repeat, I am astonished that the Senator from Illinois should be willing to bestow on the chief of any Department of this Government such extraordinary power as is to be given in this section. I frankly confess that I am unwilling to do it. I thought I sympathized with the Senator from Illinois on all such questions as this. I would not confer any such power on the head of any Department.

Mr. CONNESS. The most prominent point that I see in this connection is the suddenness with which the honorable Senator from Iowa has lost confidence in the honorable Secretary.

Mr. GRIMES called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 19; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Cowan, Fessenden, Foot, Foster, Grimes, Harlan, Hendricks, Lane of Indiana, Pomeroy, Ten Eyck, Wiley, and Wilson—15.

NAYS—Messrs. Chandler, Conness, Davis, Dixon, Doolittle, Hale, Harris, Hicks, Howard, Howe, Lane of Kansas, McDougall, Morgan, Nesmith, Powell, Sumner, Trumbull, Wade, and Wilkinson—19.

ABSENT—Messrs. Buckalew, Carlile, Collamer, Harding, Henderson, Johnson, Morrill, Ramsey, Richardson, Riddle, Suisbury, Sherman, Sprague, Van Winkle, and Wright—15.

So the amendment was rejected.

Mr. BROWN. I desire to offer an amendment to perfect the bill, but before doing so I want to ask the attention of the chairman of the Committee on Commerce. I understand that there was a bill introduced into the Senate on the 31st of May for increased facilities of telegraphic communication between the Atlantic and the Pa-

cific States and the Territory of Idaho. That bill contained in it a clause for a subsidy of \$20,000 per annum. I would inquire of the chairman of the committee whether that bill has been reported back to the Senate with the subsidy stricken out.

Mr. CHANDLER. Yes, sir, it has been.

Mr. BROWN. I should like to ask, then, why there is a subsidy in this bill for this telegraph line to every mineral station in California, and none for that line across the continent to Idaho?

Mr. CHANDLER. I will answer the Senator; because we are already paying a subsidy for the same line.

Mr. BROWN. Not the same company.

Mr. CHANDLER. Not the same company; but the committee did not recommend subsidizing a new company for the same line.

Mr. BROWN. I desire then to call the attention of the Senate to the manifest injustice of the action of this committee. Here they go to work and bring in large subsidies for a corporation or for an individual who is proposed to be endowed with a large amount of land and to have the right of running a telegraphic communication not only across the States of California and Oregon, but to make connections with every mining district in that country; and, if I am correctly informed, the interests which connect this company with the present overland company are very closely allied; and yet when there is a proposition to give us a rival communication between the Atlantic and Pacific it is voted down by the Committee on Commerce, the subsidy is stricken out. I cannot understand where the fairness is in that transaction, nor do I appreciate the ground upon which the chairman has predicated the decision of the committee. I desire to call the attention of the Senate to that feature of the bill in connection with some amendments that I may hereafter offer. At the present time I desire to perfect the bill as far as possible, and I offer this amendment—

Mr. CHANDLER. If the Senator will pardon me, the committee would not recommend subsidizing a new line in the same direction. Congress adopted its policy years ago when it was exceedingly doubtful whether a telegraphic communication could be opened with California, and voted a liberal subsidy. Another competing line now asks for a subsidy, but the Committee on Commerce declined to subsidize a new line on the same route. That is the whole of it. There is no inconsistency or injustice in it. We would not certainly recommend subsidizing another line on the route of this.

Mr. BROWN. The present telegraph across the continent is a close monopoly. I move to amend the bill by inserting after the words "open to the public" in line fifteen of section four the following:

And to any other telegraph company upon payment of the regular charges for transmission of dispatches, and all such dispatches shall be transmitted in the order of their reception, and the answers thereto shall be delivered to said companies for transmission over their lines to the office whence the original message was sent.

Mr. CHANDLER. I have no objection to that amendment.

The amendment was agreed to.

Mr. GRIMES. I move to strike out all of the tenth line of the fifth section and the word "specified" in the eleventh line. It will be observed—I suppose that it has attracted the attention of the chairman of the Committee on the Judiciary—that this is a very peculiar provision, authorizing Congress to alter, amend, or repeal this act. It says that "Congress may at any time, having due regard to the rights of said parties hereinbefore specified, add to, alter, amend, or repeal this act." We have been in the habit, in all charters granted by Congress since I have been here, of putting in an absolute authority to add to, alter, amend, or repeal them; I therefore move to strike out the tenth line and the word "specified" in the eleventh line, so as to let it stand like all other charters we pass. I propose to strike out the words "having due regard for the rights of said parties hereinbefore specified."

Mr. TRUMBULL. I should like to ask the Senator from Iowa if he would repeal a law without having due regard to the rights of parties to be affected by it?

Mr. FESSENDEN. The clause is put in to control the legal right of Congress.

Mr. TRUMBULL. I suppose that it is put in for the judgment of Congress.

Mr. FESSENDEN. Would there not be the same power if the words were out?

Mr. TRUMBULL. Exactly; and I ask the Senator from Maine then if it would make any difference with his vote if those words were out. Would he not just as soon vote to repeal what is granted here with the words in as he would with them out, and would he ever vote to repeal any law without having what he considered due regard to the rights of the parties?

Mr. FESSENDEN. That is not the question. The question is whether these words would not form a limitation on the power of Congress to act, and whether that was not the intention of putting them in. My opinion is that they would, and that that was the design of putting them in, to restrict the right of Congress over the subject.

Mr. TRUMBULL. In my judgment they would not restrict the power of Congress at all. I think it would be in the discretion of Congress to determine what was a due regard to the rights of the parties, and it would not be a judicial question for anybody else.

Mr. GRIMES. Then you have no objection to striking out the words.

Mr. TRUMBULL. I do not suppose it would make any difference with anybody's vote. I have no objection to the striking out, but I do not control the bill.

The amendment was agreed to.

Mr. GRIMES. In the fourth section I move to strike out all after the word "purposes" in the seventh line, down to the word "subject" in the thirteenth line. The words, which are an unusual provision, are:

And in order to secure the same from injury by savages or other evil-disposed persons, to the interruption of the public business, the commanders of the military districts or stations and other officers, acting under authority of the United States in the Territories traversed by said telegraph, shall use any available force at their command to protect the same.

Mr. CHANDLER. I hope that will not be stricken out.

Mr. WILSON. I had prepared an amendment to this clause which I think ought to be adopted, and I hope no one will object to it.

Mr. GRIMES. I withdraw my amendment, then, that the Senator from Massachusetts may offer his.

Mr. WILSON. I think in the form in which it now stands the clause is very objectionable. It is passing a law allowing this company to command our troops, instead of having them under the control of the Government. I simply propose to insert before "commanders," in line nine of section four, the words "Secretary of War is authorized to direct the;" and in line twelve to strike out "shall" and insert "to;" so as to make it read:

The Secretary of War is authorized to direct the commanders of the military districts or stations, and other officers acting under authority of the United States in the Territories traversed by said telegraph, to use any available force at their command to protect the same.

That puts it under the control of the Secretary of War to direct the military, and to use the power of the Government to protect this line, and I think that ought to be accepted.

Mr. CHANDLER. I have no objection to that.

The amendment was agreed to.

Mr. BROWN. I was going to offer an amendment, striking out the grant of a quarter section every fifteen miles, but at the suggestion of one of the Senators who takes some interest in this bill I will modify it. It is thought some little provision may be needed for offices or something of that kind, but there certainly can be no need of one hundred and sixty acres of land. I will move, therefore, to substitute after the words "quarter section," in the twentieth line, the words "ten acres." ["Forty."] Well, I will say forty acres. That is the smallest legal subdivision.

Mr. LANE, of Kansas. I do not see what use they have for forty acres; I would rather say ten acres.

Mr. CONNESS. Forty acres is the smallest legal subdivision, and it is a small matter at any rate. I hope it will be left.

Mr. LANE, of Kansas. I cannot see why the telegraph company should want forty acres of land for a station.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

TUESDAY, JUNE 21, 1864.

NEW SERIES.....No. 193.

Mr. CONNESS. They will not consume it. It will only be given to them to be used.

Mr. LANE, of Kansas. I will agree to ten acres.

Mr. BROWN. That was my original motion, and I think I will let it stand at ten acres.

Mr. HOWE. It does not seem to me worth while to make this enterprise more expensive than is absolutely necessary, and I suppose every Senator knows it will cost the Government four times as much to survey and set out ten acres from a forty acre tract as the forty acre tract is worth to the Government.

Mr. CHANDLER. I hope the amendment will not prevail. The Senator from Iowa [Mr. HARLAN] has a proposition that I will agree to.

Mr. LANE, of Kansas. Ten acres will make a town every fifteen miles on this line. I think ten acres is as much as we ought to give them. If gentlemen fear the expense of survey they can put in a provision that the expense of the survey shall be borne by the company. Ten acres is as large as these stations ought to be, every fifteen miles. I hope the Senate will limit the amount, and I would propose an amendment that the survey of the ten acres, the town, shall be made at the expense of the telegraph company.

Mr. CONNESS. I move to amend the amendment by inserting the smallest legal subdivision, forty acres, instead of ten acres. I hope that will be determined, and that we shall not waste time on so small a matter.

Mr. LANE, of Kansas. Is forty acres accepted on all hands? ["Yes."] If the Senate agree to it all round I will not object.

The PRESIDING OFFICER. The question is on striking out "one quarter section," and inserting "forty acres."

The amendment was agreed to.

Mr. HARLAN. I move to amend the first section by striking out in the nineteenth, twentieth, and twenty-first lines, the words "granted to said parties the use of such unappropriated lands not exceeding forty acres for each fifteen miles of line constructed;" and inserting in lieu thereof:

Granted to said parties the use of so much unappropriated public lands not sold, granted, reserved, pre-empted, nor occupied by homestead settlers, as may be necessary for stations, not exceeding one quarter section for each fifteen miles of line constructed across the public lands of the United States, so long as the same may be used for said purpose.

Mr. BROWN. That has "one quarter section" in it.

Mr. HARLAN. I will suggest to the Senator that out on the plains, a long distance from settlements, it may be necessary for those who watch the stations to cultivate the lands to secure a subsistence; and if they have the use and occupancy of a quarter section of land it may become the nucleus of a new settlement. The fee is not to be enjoyed by the company; they only have the enjoyment of the land as long as they use it for stations. It seems to me no detriment will result to the Government.

Mr. CHANDLER. I have no objection to the amendment.

Mr. BROWN. I submit whether the amendment is in order. The original bill fixed one hundred and sixty acres, and we have just stricken it out and substituted forty acres. Now it is proposed to strike out forty acres and insert one hundred and sixty.

The PRESIDING OFFICER. There are other words to be stricken out with those. This amendment is in order.

Mr. HARLAN. It seemed to me there was some uncertainty in the language of the bill as it stood. It said a quarter section for each fifteen miles of the line. A large portion of the line may not be across the public lands; and it would not be proper, it seems to me, to select public lands for any line not built across the public lands. The language of the bill unamended would convey the use of a much larger quantity of land than this amendment will. This will only convey so much as may be necessary for stations, not ex-

ceeding one hundred and sixty acres. If a less quantity should be necessary they will only be enabled to hold the smaller quantity.

Mr. BROWN. I trust the amendment will not be adopted, because it virtually restores the bill to what it was before. In the first place, I move to amend the amendment by striking out "fifteen miles" and inserting "fifty miles."

The amendment to the amendment was rejected.

Mr. BROWN. I now move to amend it by striking out "one quarter section" and inserting "forty acres."

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Iowa as amended.

The amendment was agreed to.

Mr. TEN EYCK. There is one amendment I wish to propose that has relation to the subsidy in the third section. I move to strike out the proviso at the end of the section. I do not mean to use any words; the reason of it has been discussed and stated, and I trust the Senate will see the propriety of it.

The proviso proposed to be stricken out was read, as follows:

Provided, That if, during any of the fifteen years aforesaid, the business done for the United States under said contract shall, at the ordinary rate of charge for private messages, exceed the sum of \$100,000, an account thereof, duly authenticated, shall be presented to the Secretary of the Treasury, who shall certify the same to Congress for payment.

Mr. FESSENDEN. I have read that over two or three times, but I confess myself at a loss to understand what it means.

Mr. CHANDLER. I move to strike out "\$100,000" and insert "\$50,000." The original bill proposed \$100,000 per annum; and the sum named in the proviso was overlooked when the amount was changed. It should be \$50,000 to correspond with the bill.

Mr. TEN EYCK. It needs something more yet.

Mr. CHANDLER. I will attend to that in a moment.

Mr. TEN EYCK. It now reads, "provided, that if during any of the fifteen years aforesaid,"

Mr. CHANDLER. I will move to strike out "fifteen" and insert "ten."

The PRESIDING OFFICER. The Senator from Michigan moves to amend the proviso by striking out "fifteen" and inserting "ten," and striking out "\$100,000" and inserting "\$50,000."

Mr. TEN EYCK. I do not think it will answer yet according to my judgment. The object is to secure \$50,000 by way of subsidy for ten years as the bill is now amended to this company, after the line shall have been completed. If that be the object and the sole object, why have any account kept to be "presented to the Secretary of the Treasury who shall certify the same to Congress for payment?" Does not that contemplate that we are to pay any amount of charge they may ask? Why say \$500,000 at all?

Mr. CHANDLER. Up to the \$50,000, of course, we shall have paid. Are you not willing if you use the wires to the amount of \$100,000 to pay for it?

Mr. TEN EYCK. That is your object, is it?

Mr. CHANDLER. Certainly.

Mr. FESSENDEN. I was not sure that I understood this before, and it seems that it was not exactly understandable. Now, the amendment makes it look more like something. If I understand it now, and I inquire of the chairman of the Committee on Commerce, we are to pay \$50,000 for ten years, at any rate, whether we have use for it to the extent of five, ten, fifteen or twenty thousand dollars. They are to have that, no matter how small the use of it may be on our part, or if we do not use it at all; but if we use it any more than that, we are to pay the excess on whatever we do use. That is the idea.

One thing more. They are of course to fix their own rate of charges for private messages. Being the only line, having no competitors, they

may charge precisely what they please. They will fix their own tariff of charges; we shall have no control over it. They having fixed that; we are to give them \$50,000 a year at all events, and if at the rate they charge for private messages, notwithstanding all we do for them, they can bring up the charge for Government business to over fifty thousand dollars in any year, we are to pay that excess, whatever they choose to make it. That is the plain construction of it. All I have to say about it is that it is simply monstrous; in the shape of a bargain or anything of that kind we have no advantage, but every disadvantage; and the Government and the public, after it is built, are to be entirely at the mercy of the company.

Mr. CHANDLER. The Senator voted in my presence to pay \$70,000 a year to the Atlantic Telegraph Company under precisely the same circumstances in every respect.

Mr. FESSENDEN. Is the Senator certain that I voted for it?

Mr. CHANDLER. I think so. I did.

Mr. FESSENDEN. You did; that is another matter. The Senator had better go back and look at the record. If I voted for it, I did it very much against my will, and very much against my judgment. I might have been carried away, but my impression is that I did not vote for it.

Mr. CHANDLER. We reserve the right to alter, amend, or take away those privileges.

Mr. FESSENDEN. Undoubtedly, but when do we ever alter, amend, or take them away? The interest that can control this thing so strongly as it evidently does here now can control it then quite as easily, in my judgment. In the first place, how does the matter stand before the Senate? We have a bill reported from a committee, but we have no statement of facts, we have no report, we have nothing from the committee itself. We are told that there are certain contracts, and when the chairman of the committee is inquired of what those contracts are, he says he does not know, he does not remember what they are, and in a few minutes after he says that he has been studying the subject for three months.

Mr. CHANDLER. I gave the substantial facts.

Mr. FESSENDEN. Very well; but it would seem as if the facts upon which the bill is predicated should be familiar at least to the committee. It is the third bill of this kind that ever I saw brought in where a report was not made, and where the papers on which the report was predicated were not brought in for the Senate to look at and see what the facts were.

Mr. CHANDLER. The Senator has had the report on his desk for more than a week.

Mr. FESSENDEN. The report of the committee?

Mr. CHANDLER. Yes.

Mr. FESSENDEN. I have not seen it. Are the contracts printed?

Mr. CHANDLER. No.

Mr. FESSENDEN. Why are not the contracts reported and printed, that we may see what they are? I should like to read the contracts myself, especially as no member of the committee is prepared to tell me what they are.

Mr. McDougall. Allow me to suggest to the Senator from Maine that the proposition now is to do something in the form of a legislative contract between the United States and these parties. What has that to do with other outside contracts, supposing this to be a good contract for the Government under the circumstances?

Mr. FESSENDEN. But I am called upon to help to make this contract, and I should like to see the papers on which the contract that I am called upon to vote for is predicated, or to have somebody tell me what they are.

Mr. McDougall. All that the officers of the Government are authorized to do is contained in the provisions of this bill; and what contracts may have been made with outside persons is foreign to this discussion.

Mr. FESSENDEN. But what I want to know is what contracts have been made with foreign Governments. It is set forth that some have been made.

Mr. McDougall. I do not see the importance of that.

Mr. Fessenden. I do. Because the Senator does not see it, it is no reason why I should not see it so far as I am concerned. I am afraid it is not considered of any consequence, but I should like to know something about it and have the liberty to examine it.

Mr. Howe. What is the importance of knowing what that contract is?

Mr. Fessenden. How do I know but that this story of a contract being made with foreign Governments is all got up?

Mr. Chandler. I tell you we have seen it.

Mr. Fessenden. Why should I not see it?

Mr. Chandler. What would the Senator from Maine think if I were to demand that he should show me every iota of proof of statements made before the Committee on Finance?

Mr. Fessenden. Certainly. I should show it to the Senate without hesitation.

Mr. Chandler. Suppose I were to get up here and ask him to present every single iota of proof before his committee on every bill?

Mr. Fessenden. I always produce papers when called for.

Mr. Chandler. If I were to ask such a thing I should consider it a piece of downright impertinence.

Mr. Fessenden. The Senator has a very queer idea of impertinence. His idea is that he can bring in a bill founded upon papers, tell us what the papers are, and if we call for them say he does not know what is in them.

Mr. Chandler. I did not say any such thing. I told you what was in them substantially. The papers were before the Committee on Commerce for months.

Mr. Fessenden. In answer to a question put by the Senator from Iowa, if I recollect aright, the Senator from Michigan said he could not remember what was in the papers. Does he deny that he told the Senator from Iowa that he did not remember a certain fact in those papers?

Mr. Chandler. I had not them with me, but I stated substantially what was in them.

Mr. Fessenden. Did not the Senator make that answer to the Senator from Iowa? Has the contract been before the committee?

Mr. Chandler. It has been for months.

Mr. Fessenden. The Senator from New Jersey says he never saw it.

Mr. Lane, of Kansas. I am a member of that committee, and I say those contracts were before the committee.

Mr. Ten Eyck. They may have been, but I have not seen them.

Mr. Lane, of Kansas. Our action was predicated upon the contracts made by Mr. Collins with foreign Governments. My action was governed solely by those contracts.

Mr. Fessenden. It is possible, barely possible, that I might have as good an opinion of my ability to construe and understand a contract, and what it meant, as I should have of the ability of the chairman of the Committee on Commerce to do the same thing.

Mr. Chandler. I will inform the Senator that the Committee on Commerce has upon it as able lawyers as he is himself, and that legal talent is there as well as on some other committees. That committee examined it critically. His colleague, if he were present, would explain all the legal points to him quite as well as he could himself if he had been on the committee.

Mr. Fessenden. I have no question about that; and I was not disputing but that the honorable Senator himself was as able as I was to construe a contract. All I said was that perhaps I might have as good an opinion of my ability to construe and understand a contract as I had of his; at any rate, it would be quite as satisfactory to myself. Further, I have a curiosity to see it, and before I act I do not see why my curiosity should not be gratified in relation to the matter, or why, when I call for the production of a paper which I would like to see upon which to predicate my action, I should be told that it is a piece of impertinence to ask to see a contract on which our committee have acted.

Mr. Chandler. I did not say that. I said that if I demanded the same thing from you it would be so regarded.

Mr. Fessenden. I should think the in-

ference was very obvious. It is a new idea to me. I am getting to learn something. I am informed by the Senator from New Jersey that there is not only no contract here, but no report from the committee.

Mr. Chandler. The committee adopted the report of the Secretary of State as their report.

Mr. Fessenden. It may be; but I have not seen it.

Mr. Lane, of Kansas. Did I understand the Senator from Maine to say that the Senator from New Jersey declared that the contracts were not before the committee?

Mr. Fessenden. He said there was no contract that he was aware of.

Mr. Ten Eyck. I stated that I never saw one. I was told by the Senator from Michigan that the contracts were among the papers. I have gone to the desk and looked at the papers, and I see a copy of some paper, but no original, and there is no report from the committee except the letter of the Secretary of State commending this proposed telegraphic enterprise.

Mr. Chandler. Which the committee adopted.

Mr. Lane, of Kansas. Do I understand the Senator from New Jersey to say—

Mr. Fessenden. I am entitled to the floor; but I yield to this conversation, which seems to be very interesting.

Mr. Lane, of Kansas. I stated that these contracts were before the committee.

Mr. Ten Eyck. I say I never saw them.

Mr. Lane, of Kansas. And the originals were there.

Mr. Johnson. The Senator from New Jersey says they are not here.

Mr. Lane, of Kansas. Do I understand the Senator from New Jersey to say that the contracts were not before the committee?

Mr. Ten Eyck. No, sir; you did not. I never was so blind and rash as that. I say I never saw them, and they are not here now with the papers.

Mr. Lane, of Kansas. The contracts were before the committee.

Mr. Hale. Let me inquire of the Senator from Kansas whether the original contracts were in the Russian or in the English language. [Laughter.]

Mr. Lane, of Kansas. The contracts were before the committee, and Mr. Collins was before the committee with the contracts. I do not remember in what language they were. My knowledge of the Russian has become somewhat dull since I studied the language, [laughter,] and it is not likely I could have read them in that language.

Mr. Conness. I think the whole question is very well set forth in the communication from the Department of State, and the question of contract, as it is called, pretty well determined, too, by a paragraph in that communication where the honorable Secretary says:

"The only political difficulty in the way of the enterprise is the fact that it requires concerted aid from three several States, namely, the United States, Great Britain, and Russia. The two last named Powers have already, with enlightened and fraternal liberality toward the United States, made all the concessions which were demanded. Therefore if Congress shall grant the application of Mr. Collins, no political obstacle will remain."

I do not know what the Senators mean by talking of a contract, and predicating their action upon the production of the original papers or certified copies of them between Mr. Collins and the English Government and Mr. Collins and the Russian Government. I think it is rather an exceptionable exception, if the language be permissible. I have in my hand here also the report of the committee of the House of Representatives, which I will not weary the Senate by reading, though it appears as I cast my eye over it to be very clear and concise upon the whole subject, giving its facts. I apprehend that all the facts going to verify and necessary to verify the substantiality of the arrangements made between those two Governments and Mr. Collins are accessible to the honorable Senator from Maine. I have also here in my hand a report made by my predecessor in this body, Hon. Milton S. Latham, made at the second session of the Thirty-Seventh Congress. This appears to be very complete on the subject and very concise.

But without spending more time on this branch of the subject, I adopt the question propounded by the honorable Senator from Wisconsin, [Mr. Howe,] of what consequence is it to us that we shall call for the production of the contracts, as they are termed here—the concessions, perhaps more properly speaking—made by the Governments of Russia and Great Britain to this company or to their agent? The honorable Senator from Maine says it is important to him. I am willing to concede that, but it is not important to me. I am prepared to vote on the information before me. I think the honorable Senator from Maine is not very friendly to this measure. I do not mean to underrate the weight of his arguments nor to try them by that position. But it appears to me that after the length of time which has been spent upon the measure it is, to say the least, a strange mode of opposition.

The honorable Senator, I think, might with great credit to himself—he will permit me to say that—take a prominent part in promoting a measure of this kind. I do not know any measure that has been before this body that is so pregnant with important results to the nation of which the distinguished Senator is so bright an ornament. I have before me, as I before observed, in these communications the necessary facts, I think, to predicate votes and action upon, very clearly and concisely set forth. I will take pleasure, if the Senator desires them, in sending them to his desk.

Mr. Hale. Mr. President—

Mr. Fessenden. I think I cannot give way any longer. I gave way to several gentlemen to hold a conversation when I was discussing the question.

Mr. Conness. I did not know that I was trespassing. I beg the Senator's pardon.

Mr. Fessenden. I was about to say that with reference to my own action in the Committee on Finance, I have always held myself ready to produce any paper upon which our action was predicated, and I have often been called upon and the paper was forthcoming. I never regarded it as anything else than a duty on my part to produce it, and I never regarded it as anything else than a desire on the part of the Senator calling for it to get accurate information, more than I could convey by language, and certainly very proper in itself. That is the view in which I have looked at it, and I was applying the same rule precisely to the case under consideration.

The question about this matter is this: how much would our part of this telegraph, if we had it built, be worth to us unless the other part of it was built? Just nothing at all. Then it becomes us to inquire what the probabilities are and what the binding obligations are. With regard to that, I have frequently found a benefit in understanding a question and seeing what its probabilities were, in looking myself at the papers on which action was proposed to be predicated; and therefore in this case, and in the case of the other telegraph company, I deemed it not improper to comment upon the fact that those papers should be seen by Senators, and ought to be printed for the use of the Senate; that we may examine them before we act upon a question so important as this is. I did not impute any design to any one; far from it; it was a suggestion which I thought an important and a material one, and I am quite sorry that the honorable Senator from Michigan should have taken it in any degree amiss.

I did not intend when I rose to say anything on the main question, having made up my mind originally how I should vote upon it; and my conclusion was that I should not vote for the bill so long as it contained an appropriation of money to the amount of \$50,000 a year for ten years, and an indefinite amount as it would seem afterwards. My view is based simply on this reason: it is an undertaking that can wait; it is not material to the development of the resources of this country that it should be done this year or the next; it can wait; and when we are pressed as we are in every direction by matters which relate to the salvation of the country itself, and as Senators know and complain pressed in every direction in the strongest manner with regard to money, this idea of embarking in a contract which is of no particular importance this year any more than next year, which no public exigency now calls for in any way, seems to me to be unwise.

Another thing. I have seen and heard no testimony whatever in relation to the question whether the amount of money proposed to be appropriated is necessary in order to insure the completion of the work. It has been stated here on this floor that this line would be built without the appropriation of any money at all; that if we give the assistance which is required by the bill of a vessel and certain other privileges which are asked for, and about which perhaps there is no dispute, that would be all that would be required, because the work was of such a character that it would pay for itself, and was in the hands of men that were abundantly able to undertake it. It was stated by a Senator on the floor at first that we shall secure to the amount of \$50,000 the service of this company after the telegraph is built. But it seems we shall be no better off in consequence of the contract than before, because we have got to pay at all events and all hazards at the going rates, whatever the company may choose to call them, for every communication that we make abroad. I think it was the honorable Senator from Wisconsin [Mr. DOOLITTLE] who said that we shall have their services to the amount of \$50,000 a year at all events, and that is all we shall have to pay for ten years. The Senator did not observe that by the bill as it stands we have no security about that. We have got to pay the \$50,000 if we do not use the telegraph to the extent of \$10,000 a year in the way of communication. Gentlemen said it was not a subsidy. Does not that look like a subsidy? They said it was not a bonus. Does it not look like a bonus? We must pay the \$50,000 whether we use the line to the amount of fifty dollars or not; but if the service they do amounts to a dollar over the \$50,000 we must pay the excess; and on what terms? On just such terms as the company itself, perfectly independent, chooses to establish. It will have no rival; it will have no competing line; it may charge one dollar or one hundred dollars for every word it communicates. All the power we have is the power to repeal the charter, but our money will be paid and our expenses incurred.

Mr. DOOLITTLE. As the honorable Senator has referred to me, he will allow me just at this point to say a word in relation to the proviso providing for certifying the excess to Congress for payment. My attention was not particularly called to that provision in the bill until the discussion occurred after I had spoken, and in relation to it I confess there was some ambiguity in my mind as to what it meant. My own opinion is on further looking at the proviso that the intention of the committee must have been to certify the excess over \$100,000 to Congress for payment. The effect, I think, must have been intended to be to pay them \$50,000 a year, provided the Government business should not exceed \$100,000; but if it should exceed \$100,000 the excess over that should be certified for payment.

Mr. FESSENDEN. That was the explanation which was at first given to me, but on looking at it I saw that it did not meet that, and that is the reason of the inquiry I made of the chairman, and then the chairman alters it and puts it in the position it is now, striking out \$100,000 and inserting \$50,000. We are to pay \$50,000 a year for ten years, whether we have little service or much, or none at all, and if we exceed the \$50,000 at the rates they choose to establish, all they have to do is to send in their bill and it is to be certified to Congress for payment, which means that Congress must provide for payment.

Mr. DOOLITTLE. I will say to the honorable Senator that in relation to the charges of this company, I have drawn an amendment which I intend to offer, providing that the amount of charges over this line shall not exceed the ordinary, usual rates for the same service in Europe and in America. I think it is well enough that there should be a limitation on that subject.

Mr. COWAN. I should like to say one word just at this point. How are the public to compel this company after it is chartered to exercise its franchises for their benefit? There are no rates fixed in the bill. If I go to the company to have a telegram carried, what am I to do if they refuse? How am I to tender them the amount to which they are entitled, and compel them to carry the message? This line may be of no use whatever to the community under the present form of the bill.

Mr. FESSENDEN. Mr. President—

Mr. WILSON. I ask the Senator from Maine to yield to allow me to move for an executive session. There are some important matters that ought to be acted upon in executive session to-day.

Mr. FESSENDEN. Very well.

Mr. McDUGALL. The business of yesterday was urged in the Senate, and I may say forced on some Senators. I trust that now those Senators who believe this really to be a measure of great public importance will not leave the position we have been arguing for several hours, when the measure has been resisted, not by public considerations, but by technical exceptions for the purpose of defeating action as it has seemed to me. I will not charge that as having been the motive of any Senator, but so it has appeared to me. I trust we may have a vote on this measure. Either let it be a thing accomplished or let it be defeated.

Mr. WILSON. I do not know that the Senator from California is authorized to make the statement he has made. There have been several amendments proposed to this bill which have been adopted. I understand the Senator from Wisconsin to have another to propose. This is a very important bill and its friends have taken it up to-day and have had the matter considered. It is Saturday afternoon, nearly half past four o'clock, and there are some nominations that ought to be acted upon to-day, and there is one especially that a request was made a day or two ago that we should get through this week, and I supposed we should have an opportunity to do it. That is the reason I made my motion.

Mr. GRIMES. Will the Senator from Massachusetts withdraw his motion to enable me to make a motion to print some of these papers? I find among the papers in this case copies of the Russian and English grants to this telegraph company. I want to have them printed, so that when we come together on Monday we may see what they really are.

The PRESIDENT *pro tempore*. The Senator from Massachusetts has moved an executive session.

Mr. McDUGALL. I will suggest for the information of Senators that, as we have been advised that this is a vast corporation and will make infinite profit, an amendment be made that twenty-five per cent. of the net profits of the whole enterprise be appropriated specifically to, first, the purchase of the New Jersey railroads, and after that for the extinguishment of the fishing bounties on the New England coast.

Mr. WILSON. I withdraw the motion I made, simply to reply in a word to the Senator from California.

The PRESIDENT *pro tempore*. The motion for an executive session is withdrawn.

Mr. WILSON. I do not know what right the Senator from California has to make the suggestions that he has made, or to throw out the insinuations he has thrown out here to-day. Certainly, so far as I am concerned, I have proposed but one amendment to the bill, which the committee accepted, and it was adopted without one word of opposition from any quarter. I do not know why a fling should be made at the State of Massachusetts or Maine.

Mr. McDUGALL. I did not design it as a fling at the State of Massachusetts.

Mr. WILSON. I came into the Senate with the expectation of voting for this bill, and I expect to do it yet; but there have been things brought up on this bill that I had not contemplated, and I want an opportunity to examine it; and propositions are being made to amend it; its very devoted friends tell us that they propose amendments to it. Now, sir, there are some matters in executive session that ought to be acted on.

Mr. GRIMES. I ask the unanimous consent of the Senate to have certain papers printed that are connected with this bill in order to enlighten our understanding—the concessions or grants made by the Russian and British Governments.

The PRESIDENT *pro tempore*. The Chair hears no objection, and the order to print will be made.

Mr. WILSON. I renew my motion for an executive session.

Mr. HALE. I move that the Senate adjourn. The motion to adjourn was not agreed to.

Mr. TRUMBULL. Then I hope we shall not go into executive session, but will try and act upon this bill.

Mr. FESSENDEN. There are papers to be printed.

Mr. TRUMBULL. I know there are; but I understand, I think, the motion to print those papers. For myself, I have no special interest in this bill; I was inclined to look favorably upon something of the kind. I have not examined the bill very carefully—

Mr. WILSON. The motion for an executive session is pending.

Mr. TRUMBULL. I am opposed to going into executive session.

Mr. FESSENDEN. The motion is not debatable.

Mr. TRUMBULL. It is debatable, and it has been so decided, I will inform the Senator from Maine; and as a reason for not going into executive session, I desire to state that I think it would be more advisable to proceed with this bill. I think it would be more advisable to do so because of the character of the opposition which has been made to it, and especially because of some of the allusions which have fallen from the Senator from Maine. In the course of his remarks, when it was suggested by some one that this bill was in the power of Congress and might be repealed at any time, he replied that the same influences could control Congress on the question of repeal as controlled it here now. If the Senator from Maine meant by that to insinuate that improper influences were controlling members of the Senate in their action on this bill, it was unparliamentary; it was out of order; and if he did not mean that, I do not know what he did mean; and I would say to the Senator from Maine that it is quite as probable that improper influences may have controlled those opposing the bill as those who are for the bill; quite as probable that they may have been plied by rival interests as those favorable to the bill.

Mr. GRIMES. What rival interest is there? Mr. TRUMBULL. Lobbyists about here electioneering with Senators to get them to go against this bill.

Mr. GRIMES. What rival interest is there to this bill? That is what I want to know.

Mr. TRUMBULL. I do not choose myself even to insinuate that Senators are governed by improper motives. I never made such an insinuation against any Senator in my life. I endeavor to address myself to the question under consideration if I see anything about it; I never impute improper motives, or attempt to hunt up motives other than those governing the public conduct of men for their actions. I never make those imputations; I do not impute them now; and I am not going to say to the Senator from Iowa that I suppose any improper motive has been brought to bear upon any Senator to oppose this bill, but I say it is just as reasonable to suppose it one way as the other, and I think they are very improper allusions and unparliamentary allusions upon either side.

The object of this bill is not to involve the country in such a great undertaking as to alarm the nation. Possibly it had best not be passed at all. I have been thinking about the bill. I have been favorably inclined toward it, because I thought it was inaugurating a great enterprise with very little expense, and nothing is to be paid unless it is a success, and then but \$50,000 a year to be paid on a contract to be made by the Secretary of State of the United States after this work is completed. It is said there are no limitations in the bill. Perhaps there ought to be some in it. The Senator from Maine is very astute, and in a moment he could have proposed limitations that would obviate any defects of that kind, if any are necessary besides the limitation of interest which will be upon the company of course. They will want to do business. It will be no object for any set of men to construct a telegraph and then do no business upon it; and whatever price they charge individuals they are to charge the Government of the United States. They would have to charge, I presume, reasonable prices to command business; but if it is necessary to fix the rates, that is another consideration. It is perhaps better that they should be fixed.

I desired to make these remarks in opposition

to going into executive session and upon this motion, because I thought it would be better in good temper and without undertaking to impugn the motives of brother Senators here, or insinuate that any improper influences are at work with anybody (for I assume that there are none anywhere,) to go on and finish the bill and vote upon it, either reject it or pass it as may be thought advisable. For myself I prefer to see it passed, but I should have no sort of feeling if the Senate reject it.

Mr. FESSENDEN. I do not choose to take the lecture which the honorable Senator from Illinois has seen fit to read to me, without a word of reply, even at the risk of being considered ill-natured; and the reply that I shall make will be purely in self-defense. I made the careless remark that with regard to the remedy afforded by reserving the right to repeal the bill, it was no remedy at all, and everybody knew it was not, that the same influence—I cannot repeat the exact language—which would pass a bill that was improper would prevent its being repealed. I did not mean to be understood, of course, as imputing corruption or wrong to anybody; but any one who has seen the course upon this bill to-day can see that there is a very strong feeling about it. I do not impute any feeling to the honorable Senator from Illinois, because all of us who know him know that he is always so perfectly calm and self-possessed, and cares so little even for his own opinions, and is always so ready to yield, that anything of that kind would not apply to him of all men in the world.

What I meant is very simply stated. We all know that there has been great interest about this bill, that there have been lobby agents, that members of the Senate have been talked to, and their aid solicited, and their feelings have become interested to some degree, and their opinions have been pretty strongly formed. Can that be denied? I have seen it over and over again in the Senate in different quarters.

Mr. CONNESS rose.

Mr. FESSENDEN. No, sir, I beg not to be interrupted.

Mr. CONNESS. A very queer way to beg.

Mr. FESSENDEN. That is my way.

Mr. CONNESS. It is a very bad way.

Mr. FESSENDEN. That is a matter of taste.

Mr. CONNESS. Well, sir, it is bad taste.

The PRESIDENT *pro tempore*. Order!

Mr. FESSENDEN. At any rate, I do not choose to be interrupted now. I have seen bills here over and over again in which there has been a very considerable feeling exhibited on the part of the Senate. I did not impute corruption or wrong motives to anybody. Look at the circumstances of the case. This morning the honorable Senator from Massachusetts told the Senate, what we knew before, that there were very important bills in relation to military affairs that he desired and that the War Department were very anxious should be disposed of, and we are just at the heel of the session; and yet on a yea and nay vote those bills, pressing as they are, were laid aside for this private enterprise, for the passage of which there is certainly no very great haste. It exhibited to me a pretty strong feeling on the subject and a pretty strong desire to put it through. But in the remark I made I did not mean—and the Senator had no right to draw that conclusion—to impute improper motives to anybody, so that so far as any unparliamentary language or improper insinuation is concerned, it comes from him and not from me. He should wait until I use language that necessarily conveys an impression of that sort, and not that may be tortured into it by one who is disposed to make a speech about it.

That is all I have to say on that particular part of the subject, but one word more to my friend from Illinois. He feels disposed, and he exhibits it on a great many occasions, to take me up very sharply if I by accident say anything that allows him to do it. I have repeatedly explained and repeatedly said to him that he misunderstood me; but there is hardly an occasion, if he is present in the Senate, when I drop a word which can be misconstrued, that my very excellent friend from Illinois does not exhibit the determination to put it in its worst attitude before the Senate. I think he is unjust to me in that particular, and I have gone as far in my explanations to him both in public and in private as I am disposed to do; but

if he is determined to press a quarrel on me, he shall have it.

Mr. TRUMBULL. The Senator from Illinois presses quarrels upon nobody, and never manifests a disposition to misconstrue anybody. The Senator from Illinois protects himself in his own way against the imputations even of the Senator from Maine.

Mr. FESSENDEN. The Senator from Maine has made none.

Mr. TRUMBULL. Or any other person who thinks it in his line of duty to make those insinuations; and the threat of a readiness to quarrel will not deter me at any time from maintaining what I believe to be the just rights of a member of the body or the just rights of the body itself. In my judgment, remarks impugning the motives of Senators are unparliamentary.

Mr. FESSENDEN. Will the Senator allow me to ask—

Mr. TRUMBULL. When I am through, not till then.

Mr. FESSENDEN. I want to ask just here what—

The PRESIDENT *pro tempore*. The Senator from Illinois does not yield the floor.

Mr. TRUMBULL. The Senator will keep his seat until I am through, and then he may make such remarks as he thinks proper. In my judgment, remarks imputing improper motives to members of the body are unparliamentary. I so understand the parliamentary law. In that I may be in error, but that is my view. I am not the only Senator who regarded the remarks of the Senator from Maine as unparliamentary. Senators older than I am and of longer service spoke of them as unparliamentary at the time. The Senator from Maine may not be aware, I do not think he is aware, of the manner—I hardly know what expression to use—he can hardly be aware of the bitterness that seems to be conveyed, not intentionally I hope, by insinuations of this kind. I am not alone in the Senate, I am not alone among the members of this body who think there is hardly an associate of the Senator from Maine that some time or other he has not taken occasion to make remarks that have led to—

Mr. DOOLITTLE. I rise to a question of order.

Mr. TRUMBULL. I will yield the floor when I am through.

The PRESIDENT *pro tempore*. The Senator from Wisconsin rises to a question of order.

Mr. TRUMBULL. I will hear the question.

Mr. DOOLITTLE. My point of order is that the motion to go into executive session is not debatable.

Mr. FESSENDEN. It is too late to raise that question.

Mr. TRUMBULL. The question is made. I ask for a decision on it.

Mr. DOOLITTLE. I raise the question. I think the motion is not debatable, to this extent, at all events.

The PRESIDENT *pro tempore*. In the opinion of the Chair a motion to go into executive session under the practice is debatable to a certain extent, but the Chair will take occasion to say that this debate has been entirely out of order, and beyond the proper range of debate.

Mr. JOHNSON. I move that the Senate adjourn.

Mr. FESSENDEN. I hope not. The Senator from Illinois ought not to be cut off in the middle of a tirade of lecture upon me, and I have no chance to reply to it. That is unjust.

Mr. JOHNSON. The motion to adjourn perhaps is not debatable, but I will say that I want to cut him off; I want to stop the debate.

Mr. FESSENDEN. It is very unjust to me. He is charging me with giving offense to the members of the Senate. I could characterize that thing elsewhere, perhaps, in language that I could not use here.

Mr. HARLAN. I desire to take an appeal from the decision of the Chair, and I ask that the 18th rule of the Senate be read.

The Secretary read, as follows:

"18. On a motion made and seconded to shut the doors of the Senate, on the discussion of any business which may, in the opinion of a member, require secrecy, the President shall direct the gallery to be cleared; and during the discussion of such motion the doors shall remain shut."

Mr. HALE. With great deference to my

friend from Iowa, that rule does not apply. It has no reference to going into executive session. I ask the Senate to indulge me for a moment. The question now before the Senate I believe is debatable.

The PRESIDENT *pro tempore*. The appeal is debatable.

Mr. HENDRICKS. I thought the motion was to adjourn.

Mr. HALE. The question is on the appeal from the decision of the Chair. The rule to which the Senator from Iowa alludes I never saw acted under but once, and many members here will recollect the time. Once Mr. Mason, of Virginia, wanted us to go into executive session. The Senate refused, by a large majority, to go in. He insisted on it; he said it was in his power, under the rules of the Senate, to compel the Senate to shut the doors; and he read that rule, and stated that there was business which required secrecy, and thereupon, without a vote of the Senate, the Chair ordered the room to be cleared. The rule relates to an entirely different case. If, in the course of legislation, any one member of the body has matter to lay before the Senate which he thinks should be debated in secret session, and he so states, he has a right to have the Senate cleared, without any vote; but it has no reference to an executive session.

Mr. HARLAN. I differ with the Senator as to the plain meaning of the language. What is meant by an executive session? I suppose that when construed it means that the doors be closed for the consideration of secret business. It can have no other meaning. There is no other rule for going into executive session.

The PRESIDENT *pro tempore*. The question is, "Shall the decision—"

Mr. JOHNSON. Does this appeal supersede my motion to adjourn?

The PRESIDENT *pro tempore*. The Chair did not understand the Senator as insisting on that motion.

Mr. JOHNSON. I have, in common I think with nearly all the members of the Senate, listened with regret to the difference which, perhaps more from accidental circumstances than anything else, has arisen between the Senator from Illinois and the Senator from Maine. It has been my good fortune to have constant association with the Senator from Maine and to listen to his debates on this floor; and perhaps to have still more association because of the relation in which I stand to him as a member of the committee of which he is chairman, with the Senator from Illinois. I think perhaps they have misunderstood each other. If the Senator from Illinois supposes that it is the impression of the Senate that the Senator from Maine by his course in this body has been so particularly unfortunate as to have placed himself in an offensive attitude to the members of the Senate, I am sure that he is mistaken. We are all of us more or less at times under the control of impulses, and we have all of us at times uttered in a moment of excitement what we afterwards upon cooler reflection much regret. The Senator from Maine will pardon me for saying, as I say it in his presence, that notwithstanding there may be in his temperament or character a tendency to those impulses, there is more than a countervailing quality which he ever exhibits; that is to say, a generous nature which when it is, as it almost always is, manifested, gives to him as a member of this body a character of great fairness and eminent ability. If he ever has offended any member of the body, or wounded his sensibility, it has ever been from a sense of the necessity of vindicating himself, and with no purpose of inflicting a wrong. It is, Mr. President, a part of the nature of an elevated man that, however sensitive he may be to any assault direct or indirect upon his own character, the moment he has defended it all feeling of anger terminates and he appears in the character which Providence has given him. In the instance of the Senator from Maine he has reason and his State and his friends have reason to be gratified with and proud of the character which he possesses in the estimation of the Senate and of the country.

I make the same observations of the honorable chairman of the Judiciary Committee. Mr. President, I have lived a good deal longer than either of these two Senators, and have outlived the excitement to which I was subject in my earlier

years, and up perhaps to the period of life which they have respectively attained. But it is due to him to say that, although I think he has occasionally transcended the bounds which his cooler judgment would have prescribed, he never in any instance has designedly offended any member of this body.

Mr. President, I move that the Senate adjourn.

The PRESIDENT *pro tempore*. Will the Senator allow the Chair, before putting the question on the motion to adjourn, to lay before the Senate some bills from the House of Representatives?

Mr. JOHNSON. Certainly.

Mr. HARLAN. I desire to withdraw my appeal from the decision of the Chair.

The PRESIDENT *pro tempore*. It may be withdrawn if there be no objection. The Chair hears none.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (No. 514) to amend "An act to extend the charter of the Alexandria and Washington railroad, and for other purposes," passed March 3, 1863; and

A bill (No. 522) to amend the charter of the Washington and Georgetown Railroad Company.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LYON, their Chief Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which thereupon received the signature of the President *pro tempore*:

A bill (H. R. No. 179) concerning lands in the State of California;

A bill (H. R. No. 217) to confirm certain entries of land in the State of Missouri; and

A joint resolution (S. No. 59) to provide for the revision of the laws of the District of Columbia.

PREVENTION OF SMUGGLING.

The message further announced that the House of Representatives insisted upon its amendment to the bill of the Senate (No. 266) to prevent smuggling, and for other purposes, disagreed to by the Senate, asked a conference on the disagreeing votes of the two Houses, and had appointed Mr. T. D. ELIOT of Massachusetts, Mr. WILLIAM HIGBY of California, and Mr. N. PERRY of New Jersey, managers at the same on its part.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 266) to prevent smuggling, and for other purposes, disagreed to by the Senate and insisted on by the House; and it was

Resolved, That the Senate insist upon its disagreement to the amendment of the House of Representatives to the said bill, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. MORRILL, Mr. TEN Eyck, and Mr. RICHARDSON.

INDIAN APPROPRIATION BILL.

The message further announced that the House of Representatives had agreed to the forty-third amendment of the Senate to the bill of the House (No. 240) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1865, with an amendment, in which it requested the concurrence of the Senate, and had agreed to all the other amendments of the Senate to the said bill.

Mr. DOOLITTLE. I move that the Senate concur in the amendment of the House of Representatives to the forty-third amendment of the Senate to the Indian appropriation bill. They have made a merely verbal amendment, to strike out the word "Cherokees" in one line, and insert the words "as well as the Cherokees" in the next line, which does not in any way alter the sense.

The amendment of the House of Representatives was concurred in.

Mr. JOHNSON. I renew the motion to adjourn.

Mr. CHANDLER. I should like to have the bill under consideration made the special order

for Tuesday at half past twelve o'clock. ["No, no."]

Mr. BROWN. I object.

The motion of Mr. JOHNSON was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, June 18, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, REV. W. H. CHANNING.

Mr. MORRIS, of Ohio, moved that the reading of the Journal be dispensed with.

The motion was agreed to.

OVERLAND MAIL BIDS.

The SPEAKER laid before the House a communication from the Postmaster General, in answer to a resolution of the House of Representatives of 16th instant, directing information to be furnished as to what bids were made for carrying the mail on the overland route to the Pacific, whether any of the bidders were persons connected with the present Overland Mail Company, &c. The Postmaster General transmits a memorandum of the bids received for the entire or through route, and states that William B. Dinsmore is the only bidder officially known to the Department as connected with the present Overland Mail Company.

The communication was laid on the table, and ordered to be printed.

MILITARY ROAD TO LAKE SUPERIOR.

Mr. McINDOE. I ask unanimous consent to have taken from the Speaker's table the Senate amendment to House bill No. 247, granting lands to the State of Wisconsin to build a military road to Lake Superior.

There being no objection, the amendment was taken up for action.

Mr. SLOAN. I move that the amendment of the Senate be concurred in. It was reported last evening.

The question was taken, and the amendment was concurred in.

Mr. McINDOE moved to reconsider the vote by which the Senate amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PREVENTION OF SMUGGLING.

Mr. ELIOT. I ask to have taken from the Speaker's table Senate bill No. 266, to prevent smuggling, and for other purposes.

There being no objection, the bill was taken up for action.

Mr. ELIOT. I move that the House insist on its amendments to the bill, and ask for a committee of conference.

The motion was agreed to.

MISCELLANEOUS APPROPRIATION BILL.

Mr. STEVENS. I ask leave to report from the Committee of Ways and Means a bill making appropriations for certain miscellaneous expenses of the Government for the year ending 30th June, 1865, and for other purposes.

Mr. WASHBURN, of Illinois. If that is not a general appropriation bill the Committee of Ways and Means has no right to report it.

Mr. STEVENS. These items have been referred to the committee, and therefore we report this bill; but it is not a general appropriation bill.

The SPEAKER. The Committee of Ways and Means has the right to report general appropriation bills at any time; but to report any other bill it must ask consent.

Mr. STEVENS. That is what I am doing now.

Mr. WASHBURN, of Illinois. I object.

PRINTING AGRICULTURAL REPORTS.

Mr. STEVENS. I ask consent to introduce a resolution directing the Committee on Printing to inquire into the propriety of printing a number of copies of the agricultural report for the purposes therein mentioned.

Mr. KELLOGG, of Michigan. I object.

Mr. DAWES. Will the gentleman from Pennsylvania state what are the "purposes therein mentioned?"

The SPEAKER. The gentleman from Michigan objects, and the resolution is not before the House.

POST ROADS.

Mr. COLE, of California, called for the regular order of business.

The SPEAKER stated the first business in order to be the consideration of the bill (H. R. No. 532) to establish certain post roads reported yesterday, and withheld so as to have one or two additional routes inserted.

Mr. ALLEY. I ask leave to have some routes added in New York and Ohio.

There being no objection, the bill was amended.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REBELLION LOSSES.

The SPEAKER stated that the next business in order was the consideration of House bill No. 533, to provide for ascertaining and adjusting claims against the Government for injury or destruction of property by the Army of the United States or by military authority during the present rebellion, on which the main question had been ordered.

Mr. WASHBURN, of Illinois. Has the amendment of the gentleman from Massachusetts [Mr. BOUTWELL] been agreed to?

The SPEAKER. It has been.

Mr. WASHBURN, of Illinois. I ask for the yeas and nays on the passage of the bill.

CALL OF THE HOUSE.

Mr. HARDING. I move a call of the House.

The SPEAKER. That motion is not in order unless it shall be found, upon actual count, that there is no quorum present.

The SPEAKER having counted the House, and ascertained that there were only eighty-seven members present, stated that the motion for a call of the House was in order.

The motion was agreed to.

The roll was then called, and the following members failed to answer to their names:

Messrs. William J. Allen, Allison, Anderson, Arnold, Ashley, Baxter, Beaman, Freeman Clarke, Clay, Coffroth, Cox, Henry Winter Davis, Thomas T. Davis, Donnelly, Driggs, Dumont, Frank, Garfield, Gilder, Grinnell, Hall, Harrington, Benjamin G. Harris, Horrick, Holman, Hulburt, Ingersoll, Jenecks, Kalbfleisch, King, Littlejohn, Mallory, McAllister, McKinney, Samuel F. Miller, Daniel Morris, Morrison, Nelson, Odell, John O'Neill, Orth, Perham, Pomeroy, Pruyn, Samuel J. Randall, William H. Randall, Robinson, Rogers, James S. Rollins, Smith, Spalding, Starr, Stebbins, William G. Steele, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Whaley, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman.

Mr. STILES moved to dispense with all further proceedings under the call.

The House divided; and there were—ayes 40, noes 41.

So the motion was disagreed to.

The list of absentees was called.

Mr. STEELE, of New York. There are one hundred and nineteen members present, and I move that all further proceedings under the call be dispensed with.

The House was divided; and there were—ayes 70, noes 20.

Mr. HARDING demanded the yeas and nays.

Mr. WADSWORTH demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. HARDING and A. MYERS were appointed.

The House divided; and there were—ayes twenty-five, more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 99, nays 19, not voting 64; as follows:

YEAS—Messrs. Alley, Arnold, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Bliss, Blow, Boutwell, Boyd, Brandegee, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Cobb, Cole, Cravens, Dawes, Deming, Denison, Dixon, Driggs, Eckley, Edgerton, Eldridge, Eliot, English, Farnsworth, Fenton, Frank, Garfield, Goouch, Griswold, Hale, Charles M. Harris, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Philip Johnson, William Johnson, Julian, Kassou, Francis W. Kellogg, Orlando Kellogg, Keruan, Knapp, Knox, Law, Le Blond, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Odell, Charles O'Neill, Orth, Patterson, Perham, Perry, Pike, Price, Radford, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Schofield, Shannon, Sloan, Smithers, John B. Steele, Strouse, Thayer, Upson, Van Valkenburgh, Wadsworth, Elihu B. Wash-

barne, William B. Washburn, Whaley, Wheeler, Chilton A. White, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—99.

YEAS.—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Blair, Creswell, Dawson, Eden, Fluck, Ganson, Harding, Hutchins, Long, McDowell, James R. Morris, Noble, Ross, Scott, Stiles, and Thomas—19.

NOT YETTING.—Messrs. William J. Allen, Allison, Ames, Anderson, Ashley, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Cox, Henry Winter Davis, Thomas T. Davis, Donnelly, Dumont, Grider, Grinnell, Hall, Harrington, Benjamin G. Harris, Herick, Holman, Hooper, Hubert, Jencks, Kalbfleisch, Kelley, King, Lazar, Littlejohn, Mallory, Marcy, McAlister, McKinney, Middleton, William H. Miller, Daniel Morris, Morrison, Nelson, Norton, John O'Neill, Pendleton, Pomeroy, Pruyn, Samuel J. Randall, William H. Randall, Robinson, Rogers, James S. Rollins, Smith, Spalding, Starr, Stebbins, William G. Steele, Stevens, Stuart, Sweat, Tracy, Voorhees, Ward, Webster, Joseph W. White, Benjamin Wood, Fernando Wood, and Yennan—64.

So all further proceedings under the call were dispensed with.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (No. 145) to equalize the pay of soldiers in the United States Army; that it had insisted on its disagreement to the amendment of the House to the bill of the Senate (No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes; agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appointed Messrs. TRUMBULL, COLLAMER, and POWELL the conferees on its part; that it had insisted on its amendments, disagreed to by the House, to bill of the House No. 450, to provide for the repair and preservation of certain public works of the United States; agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appointed Messrs. CHANDLER, MORRILL, and MORGAN the conferees on its part; that it had further insisted on its amendments, disagreed to by the House, and also on its disagreement to the amendments of the House to the amendments of the Senate to the bill of the House (No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1865; agreed to the further conference asked by the House on the disagreeing votes of the two Houses thereon, and appointed Messrs. SHERMAN, COWAN, and DAVIS the conferees on its part; and that it had insisted on its amendments, disagreed to by the House, and also disagreed to the amendments of the House to its amendments to the bill of the House (No. 405) to provide internal revenue to pay the interest on the public debt, and for other purposes, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appointed Messrs. FESSENDEN, HOWE, and VAN WINKLE the conferees on its part.

PAY OF SOLDIERS.

Mr. SCHENCK, from the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (No. 145) to equalize the pay of soldiers in the United States Army, submitted the following report:

The committee of conference on the part of the Senate and House of Representatives upon the disagreeing votes of the two Houses on the amendments to Senate bill No. 145, entitled "An act to equalize the pay of soldiers in the Army of the United States, and for other purposes," having met and had a full and free conference upon the proposed Senate amendments to the House amendments to said bill, report as follows:

1. In the fourth and fifth lines of the first Senate amendment, strike out the words "regular Army and volunteer and drafted forces in the," and insert the word "military" in lieu thereof.

2. After the word "quartermasters," in the seventh line of said amendment, strike out all down to and including the word "dollars," in the ninth line of said Senate amendment, and insert in lieu thereof "and commissary sergeants of cavalry, artillery, and infantry, twenty-two dollars."

3. After the word "privates," in the fourteenth line of said first Senate amendment, strike out all down to and including the word "corps" in the sixteenth line of said amendment, and insert in lieu thereof, "of engineers and ordnance of the first class, eighteen dollars; and of the second class."

4. After the word "dollars" in the twenty-second line of said first Senate amendment, strike out all of said amendment down to the word "Sixteen" in the twenty-fourth line, and insert in lieu thereof "leaders of brigade and regimental bands, seventy-five dollars; musicians." And that the House of Representatives agree to the said Senate amendment with the foregoing amendments.

5. That the Senate recede from its second amendment to wit, the insertion of section three.

6. That the House of Representatives agree to the third amendment of the Senate, to wit, the insertion of section four.

7. That the Senate recede from its fourth amendment, to wit, the insertion of section five.

8. In the second line of the sixth section of the Senate amendment strike out all of said section after the words "sergeant major," and insert in lieu thereof, "who shall be paid thirty-six dollars per month; and one quartermaster sergeant, who shall also be commissary sergeant, who shall be paid twenty-two dollars per month;" and that the House of Representatives do agree to said amendment of the Senate as amended.

9. That the House of Representatives do agree to the sixth Senate amendment, to wit, the insertion of section seven.

10. Strike out all the fourth, fifth, and all of the sixth line down to the word "and" in the seventh Senate amendment, and insert the following in lieu thereof: "the rank, pay, and allowance of a brigadier general; and an Assistant Judge Advocate General, with the rank, pay, and allowances of a colonel of cavalry."

11. After the word "Advocate" in the seventh line of said seventh Senate amendment insert the word "General;" and that the House of Representatives do agree to said Senate amendment as amended.

12. That the House of Representatives agree to the eighth Senate amendment, being the insertion of section nine.

13. That the House of Representatives do agree to the ninth Senate amendment, to wit, the insertion of section ten.

14. That the House of Representatives agree to the tenth, eleventh, and twelfth of said Senate amendments.

HENRY WILSON,

J. W. NESMITH,

Managers on the part of the Senate.

ROBERT C. SCHENCK,

F. W. KELLOGG,

JAMES S. ROLLINS,

Managers on the part of the House.

Mr. SCHENCK. Before calling the previous question I will explain the character of this report. The House will recollect that this bill was called "A bill to equalize the pay of soldiers of the Army of the United States" when it came to us first from the Senate, as it was a bill to equalize the pay of colored and white troops. The Military Committee of the House proposed as an addition to that bill an amendment to increase the pay of all the soldiers of the Army, but the original portion of the Senate bill having been afterwards incorporated by the House into a general appropriation bill, which passed and has become a law, all that part of the bill fell to the ground, and the title of this bill has been changed to "A bill increasing the pay of the soldiers of the Army of the United States."

Being a bill of this character, the Senate propose to amend the first section of it as it was passed by the House, and the committee of conference has agreed to that new section added by the Senate with some slight modifications.

The first is the substitution of "military service" in the place of "regular Army and volunteer and drafted forces in the service." The effect of the amendment of the Senate would be not to put the payment of the militia upon the same footing with the volunteer and drafted men or soldiers of the regular Army. The committee of conference have agreed to substitute the general term "military service of the United States," so that the hundred days' men and all others called into the service of the United States shall receive the same pay. To this I apprehend there can be no objection.

The Senate amendment contained the following provision in reference to the amount of pay of the officers therein mentioned:

Sergeant majors, twenty-six dollars; quartermasters' sergeants of cavalry and artillery, twenty-three dollars; of infantry, twenty dollars.

The Senate made the pay of quartermasters' sergeants of cavalry and artillery twenty-three dollars a month, and left the pay of quartermasters' sergeants of infantry at twenty dollars. The committee have agreed to place these officers on the same footing, and make the pay of all twenty-two dollars a month. If the recommendation of the committee of conference is adopted the clause I have referred to will read as follows:

Sergeant majors, twenty-six dollars; quartermasters' and commissary sergeants of cavalry, artillery, and infantry, twenty-two dollars.

Another amendment to that section is made, simply verbal in its character. It provides that privates of engineers and ordnance of the first class and of the second class shall receive sixteen dollars a month.

The next amendment relates to the pay of leaders of brigade and regimental bands. As the

law at present stands, the leader of a regimental band in the regular Army gets \$125 a month, while the leader of a brigade band in the volunteer service gets only forty-five dollars a month. The committee of conference were unable to understand why music played for a whole brigade of volunteers ought to be paid for at a less rate than music for a single regiment in the regular Army; they have therefore put them both at a medium sum, seventy-five dollars.

There was also a difference made between the musicians in the artillery and infantry. The committee have put all the musicians, whether artillery, infantry, or engineer, on the same footing, at sixteen dollars a month, the same as privates. Those are the only changes made in the first section.

The third section provides for a system for the issuing of supplies in lieu of Army rations for soldiers in hospitals. Both the Senate and the House committee were disposed at first to concur in this as a part of the law, but upon subsequent inquiry at the commissary department it was ascertained that it would be attended with great inconvenience and difficulty. We concluded, therefore, to leave the law as it now is, and not to interfere with it for the present.

Another change is this: the Senate conferees have agreed to recede from their fourth amendment, section five, which is the section which provides for extra compensation to those soldiers who are detailed as clerks here in Washington, and at the headquarters of the several departments and military divisions. The conferees on the part of the House, not seeing any sufficient reason for giving a precedence to those employes here or at headquarters over other soldiers detailed for clerk's duty, objected to that, and the amendment was receded from by the Senate.

The next amendment is in the eighth section. The Senate have introduced into this bill a bill which has passed the House establishing a Bureau of Military Justice. They changed the bill, however, as it passed the House, when they came to attach it to this bill, by fixing the salary of the Judge Advocate at \$5,000, and taking away from him all military rank. The objection to that is that inasmuch as all the subordinate judges advocate who are to serve under him have by law the military rank of majors, he, as their military head, having no military rank, could not order the arrest of any officer, or do any other military act over his subordinates. It was therefore thought better to restore the bill and make it precisely as it passed the House of Representatives. The only difference is that the Senate reduced the number of assistants from two to one, to which the conferees of the House agreed; so that the provision stands as it passed the House, except that there is one assistant with the rank of colonel instead of two assistants.

The other amendments are merely formal, not touching in any way the substance of the bill. With these remarks, unless some gentlemen have any inquiries to make, unless I have not made myself clear enough, I move the previous question on agreeing to the report of the committee of conference.

The previous question was seconded, and the main question ordered; and under the operation thereof the report of the committee of conference was adopted.

Mr. SCHENCK moved to reconsider the vote by which the report of the committee of conference was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 179) concerning lands in the State of California; when the Speaker signed the same.

REBELLION LOSSES.

The House then resumed, as the unfinished business of yesterday, bill of the House No. 523, to provide for ascertaining and adjusting claims against the Government for the injury or destruction of property by the Army of the United States, or by military authority during the present rebellion, the pending question being on the passage of the bill.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

be postponed until the morning hour of Tuesday next.

Mr. PRICE. I cannot agree to that, and I hope that the motion will be voted down.

Mr. STEVENS. What will be the effect of the postponement?

The SPEAKER. Tuesday has been devoted to the business of the Committee on Military Affairs, and the morning hour will occur in the evening, if there be an evening session.

Mr. WASHBURN, of Illinois. I hope that the bill will be postponed. I want to be heard on the subject; and I think that it is reasonable we should yield to the business of the Committee on Naval Affairs, as this day was specially set apart for that purpose. I will say to the gentleman from Iowa that that committee will propose several matters of great interest to the West.

Mr. COLE, of California. I object to the postponement. The Naval Committee has already had the attention of the House, and this is the first time that the special committee has had a chance. This bill can be disposed of in a short time. Its provisions are clear and plain. I presume that it can be disposed of this morning.

Mr. WASHBURN, of Illinois. I think not. Mr. COLE, of California. It can unless there be factious opposition.

Mr. WASHBURN, of Illinois. I shall make no factious opposition. I want to be heard, and ask that the bill shall be postponed until Monday or Tuesday next.

Mr. WILSON. The same motion will be made next Tuesday evening, unless in the mean time the tariff bill is disposed of. It will take a good deal of iron to build this line, and I apprehend that this motion will be made and continued until the iron question is disposed of in some way or other. I do not think that there will be any antagonism. The original charter provides that none but American iron shall be used.

Mr. WASHBURN, of Illinois. I want to speak on the Pacific railroad bill, and am not now prepared. I hope that it will be postponed.

Mr. WILSON. I do not think the bill will be passed during this morning hour.

Mr. WASHBURN, of Illinois. If gentlemen do not desire to press the bill to a vote this morning, I have not so much objection to proceeding with it now, though I think the Committee on Naval Affairs ought to have the day set apart for them. There have been two hours of the day already consumed by other business.

Mr. McBRIDE. I desire to say that we have a bill of the Senate before us which differs very materially from the bill of the House, and it is important that this bill should be acted on soon, because there is evidently a disagreement of sentiment between the two Houses which must be reconciled if we expect to pass this bill this session. One thing is certain, this disagreement must be reconciled in some way, and the action of the House should be taken at an early day in order to secure some amendments, which all parties agree ought to be made.

Mr. O'NEILL, of Pennsylvania. I desire to inquire if we are to have an evening session today?

The SPEAKER. There will be, this evening and every other evening unless otherwise ordered; but a motion to adjourn would adjourn the House over until Monday. If the hour of four and a half arrives without any such motion being made, the House will then take a recess until half past seven o'clock this evening.

Mr. WASHBURN, of Illinois. I trust gentlemen will withdraw their objection and let this matter go over.

Mr. RICE, of Massachusetts. I withdraw my motion.

Mr. WASHBURN, of Illinois. I move to postpone the Pacific railroad bill until next Tuesday.

Mr. McBRIDE. If the motion to postpone is voted down, will the Committee on Naval Affairs be entitled to have this evening session?

The SPEAKER. No order of that kind has yet been made by the House.

Mr. WILSON. I would inquire what will be the situation of this bill if the motion of the gentleman from Illinois prevails?

The SPEAKER. It will be postponed until the time indicated—next Tuesday in the morn-

ing hour, which will occur in the evening if there is an evening session. If there be no evening session, there will be no morning hour, as the whole day is set apart for other business.

Mr. STEVENS. I now ask that, by unanimous consent, there be an evening session on Tuesday.

Mr. BROOKS. Is that question debatable? The SPEAKER. It is not.

Mr. BROOKS. I am sorry, because I was going to say, if it was in order, that I hope we shall have no more evening sessions. We have too much time already, and I do not think there will be an acre of the public lands left if we have many evening sessions.

Mr. STEVENS. The evening session is for the consideration of this particular matter.

The SPEAKER. The question is, "Shall there be an evening session on Tuesday for the consideration of the Pacific railroad bill and nothing else?"

Mr. STEELE, of New York. If unanimous consent should be given now for an evening session on Tuesday, could not a majority adjourn over on Tuesday?

The SPEAKER. There must be an evening session if ordered by unanimous consent. If a motion to adjourn should be made Tuesday afternoon and prevail, the House would adjourn to Tuesday night, to the hour which, by unanimous consent, had been fixed for an evening session.

No objection being made, it was ordered that an evening session should be held on Tuesday evening next.

Mr. PRICE. Now I hope the motion to postpone will not prevail.

Mr. WASHBURN, of Illinois. I demand the previous question.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof the motion to postpone was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate have agreed to the bill of the House authorizing the Postmaster General to extend the contract for the overland mail route, with amendments; in which the concurrence of the House was requested.

EFFICIENCY OF THE NAVY.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back without amendment, and with a recommendation that it do pass, an act (S. No. 253) to amend the act of 21st December, 1861, entitled "An act further to promote the efficiency of the Navy."

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

NAVY-YARD CLERKS.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back, with a recommendation that it do pass, joint resolution of the Senate (No. 44) for the relief of clerks at the Kittery and Philadelphia navy-yards.

The resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

GRADE OF NAVY OFFICERS.

Mr. RICE, of Massachusetts, from the same committee, reported back bill of the Senate No. 270, to amend an act entitled "An act to establish and equalize the grade of line officers of the United States Navy," approved July 16, 1862.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WARRANT OFFICERS OF THE NAVY.

Mr. RICE, of Massachusetts, from the same committee, reported back, with an amendment in the nature of a substitute, House bill No. 470, to

authorize assimilated rank to be given to the warrant officers of the United States Navy, and for other purposes.

The substitute was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PROCEEDINGS IN PRIZE CASES.

Mr. RICE, of Massachusetts, from the same committee, reported back, with sundry amendments, bill of the House No. 446, to regulate prize proceedings and the distribution of prize money, and for other purposes.

The amendments reported by the Committee on Naval Affairs were agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. RICE, of Massachusetts, moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

VOTES RECORDED.

Mr. MALLORY. I ask permission of the House to record my vote in two cases this morning. I wish to record my vote in favor of the bill providing for commissioners to take proofs in cases of claims against the Government of the United States for losses occasioned by the Government, and I wish also to record my vote against the bill chartering the Metropolitan Railroad Company.

No objection was made, and Mr. MALLORY recorded his votes as above indicated.

Mr. ROLLINS, of Missouri. I ask the privilege of recording my vote on the same questions as those named by the gentleman from Kentucky, [Mr. MALLORY,] and in the same way.

No objection was made.

Mr. ROLLINS, of Missouri, then recorded his vote in favor of the rebellion losses bill, and against the Metropolitan railroad bill.

Mr. J. W. WHITE asked and obtained leave to record his vote in the affirmative on the bill in reference to rebellion losses.

Mr. SLOAN asked and obtained leave to record his vote in the negative on the same bill.

THE FORT PILLOW MASSACRE.

Mr. HOTCHKISS asked the unanimous consent of the House to offer the following resolution:

Resolved, That there be printed for the use of the members of this House, in addition to the copies already ordered, one hundred and sixty thousand copies of the report of the committee on the conduct of the war relative to the Fort Pillow massacre and the cruelties inflicted upon our soldiers while in the hands of the enemy as prisoners of war.

Mr. JOHNSON, of Pennsylvania, objected.

NAVAL CONSTRUCTORS.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported a bill to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes; which was read a first and second time.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

VOTES RECORDED.

Mr. DEMING asked and obtained unanimous consent to have his vote recorded on the passage of the bill repealing the fugitive slave law. He voted "ay."

Mr. JOHNSON, of Pennsylvania, asked and obtained a like privilege. He voted "no."

Mr. McBRIDE asked and obtained a like privilege. He voted "ay."

Mr. ROLLINS, of New Hampshire, asked and obtained a like privilege. He voted "ay." He also voted "ay" on the Senate resolution to amend the Constitution.

Mr. RANDALL, of Pennsylvania, asked and obtained a like privilege. He voted "no."

CONTRACT FOR IRON-CLADS.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported a joint resolution authorizing the Secretary of the Navy to amend the contract with John Ericsson for the construction of two impregnable floating batteries, the Dictator and the Puritan.

The joint resolution, which was read a first and second time, is as follows:

Whereas the Navy Department on the 28th day of July, 1862, entered into contract with Captain John Ericsson, of the city of New York, for the construction of two impregnable floating batteries, the Dictator and the Puritan; and whereas experience with a similar class of vessels in actual conflict and during a varied service of more than two years has demonstrated that many improvements could be made to render them more complete and efficient as vessels of war; and whereas these improvements have added largely to the cost of construction of each of these vessels, rendering it impossible for the contractor to complete them under existing arrangements; and whereas it is of the utmost importance to the honor and interests of the country that they should be finished and ready for service at the earliest moment: Therefore,

Resolved by the Senate and House of Representatives of the United States of America, That the Secretary of the Navy be, and he is hereby, authorized to amend the existing contract for the construction of these vessels so far as it relates to the Puritan, and to appoint a competent board to ascertain the present value, as far as completed, of that vessel, and of the material on hand deemed actually necessary to her construction, and to pay to Captain John Ericsson, the contractor, the amount of valuation so ascertained, deducting therefrom any sums already advanced toward the completion of said vessel; and that upon said payment being made by the Secretary of the Navy the rights of the contractor to said vessel and material or any portion thereof shall cease and be vested wholly and absolutely in the United States, which shall thenceforth proceed to complete said vessel under such arrangements as may be deemed most advantageous: *Provided, however,* That nothing herein contained shall in any manner affect the contract for the construction of the Dictator, which shall be completed by said contractor upon the same terms and conditions as if this resolution had not been passed: *And provided further,* That no action shall be had under this resolution until said contractor shall have signified to the Secretary of the Navy in writing his acceptance of its provisions, and his willingness to superintend to completion the construction of the Puritan: *Provided further,* That this resolution shall not take effect until the completion and delivery of the Dictator: *Provided, also,* That it shall be the duty of the Secretary of the Navy, in carrying this resolution into execution, to apportion and apply to the Dictator a payment for that vessel only such portion of the gross contract price of \$2,300,000 for the Dictator and Puritan, as the Dictator would justly be entitled to, if both vessels had been completed at the price and in the mode of construction specified in the contract, special reference being had to the difference in cost between the two vessels arising in the difference of their construction provided for in this act.

Mr. WASHBURN, of Illinois. I hope the gentleman from Massachusetts will make an explanation of this act.

Mr. RICE, of Massachusetts. Mr. Speaker, the joint resolution, as the House will see, involves a relief for Captain John Ericsson, who presents a memorial for relief from the terms of his contract for building the iron-clad monitors Dictator and Puritan. The reputation of Mr. Ericsson as a scientific engineer, and the great benefit that he has conferred on the country in the invention of an entirely new class of naval vessels, are too well known to require any recital here.

The House is perfectly familiar with the remarkable encounter of one of his vessels, the original Monitor, with the Merrimac at Hampton Roads, in the early part of 1862, also with the recent encounter between the Weehawken, another of his vessels, and the Atlanta.

At a subsequent period, after the experiments made with the original monitors, it became evident to the Navy Department, to engineers, and to the country, that it was expedient, especially for purposes of harbor defense, that a larger number of vessels of this class should be built. Mr. Ericsson entered into a contract with the Navy Department for the construction of two large-class monitors, having a tonnage of about three thousand tons each, to be guaranteed a speed of sixteen knots an hour, and to be in all respects the most formidable vessels of the class up to this

time constructed. Of course very little experience had been had in this country at that time in building vessels of this class. There were very few valuable results of experience to be derived from other countries. The contract for the two vessels was common to both. The price to be paid for both was \$2,300,000. They were to be alike, except that the Puritan was to be about thirty feet longer than the Dictator, and was to have two turrets, while the Dictator was to have but one. Excepting in these particulars the ships were to be exactly alike.

Mr. Ericsson entered on the execution of his contract. But from time to time various improvements were suggested, either through the inventive genius of the country, through the experience of our own people in the use of naval vessels of this kind, and also from the experience of France and England, which countries had embarked somewhat extensively in the building of monitors. It was, of course, desirable that vessels involving such great expense, and on which such great interests depended, should embody all perfections and improvements. The incorporation of such improvements has delayed the construction of these vessels. In the mean time there has been, as everybody knows, an advance in the cost of labor and material, which has increased the cost of making these alterations.

The contract does not call for the appropriation of a specific sum of money for the relief of the contractors for the building of these vessels. But the proposition involved in the resolution, as those gentlemen who have given attention to it will perceive, is that the Dictator, which is nearly completed, shall be immediately completed without any delay, and without any additional cost to the Government; and that the proportion of the \$2,300,000 which belongs to the Dictator, as the smaller of the two vessels, shall be paid on her completion. It then provides that the Puritan shall be surveyed under the direction of the Navy Department, shall be taken into account and a valuation placed upon her in her present condition, paid for at that valuation, the Government then to go on and finish the vessel itself, on its own plan, with as much economy as possible. That, I believe, is a fair statement of the questions and facts involved in this joint resolution.

Mr. WASHBURN, of Illinois. I have heard the statement of my friend, the chairman of the Committee on Naval Affairs, in regard to this joint resolution which has been introduced here this morning, I believe, for the first time.

He has paid a glowing, and I have no doubt deserved tribute to the genius, and I may say patriotism of Captain Ericsson, who has perhaps conferred a great benefit upon the country by his invention, and it may be that my heart might possibly soften so far as to vote him something if presented in a separate bill for that purpose. But I have not been able to see the propriety of making him the compensation which he desires precisely in this way.

This proposition, as I understand it, from the reading of the resolution itself as well as from the explanation of the gentleman from Massachusetts, the chairman of the Committee on Naval Affairs, "simmers down" to about this: Captain Ericsson made a contract with the Government voluntarily, for the building of two certain vessels, which have been named the Puritan and Dictator—very good names, particularly the former, as I came from that sort of stock myself; and I like the name of the Dictator also, for I trust she will be able to dictate terms to the rebels and to all others who are against us.

Well, sir, this contract having been made, as it appears, for the construction of these two vessels, the party making it now comes forward and asks that the terms of it may be materially changed, or, in fact, I may say that the whole contract for this one vessel is proposed to be abrogated, which, as I understand, will enable the contractor to build the other without loss. It all, as it seems to me, amounts to just this: that this man, Captain Ericsson, says he has made a bad bargain, and that he cannot comply with his contract without losing money. He therefore asks us to come in and relieve him to this extent.

Now, I beg to say that I am utterly opposed to this manner of relieving the Government contractors. There have been a great many contracts during the progress of this war; there has been a

great deal of money made by contractors out of the Government. I believe I remarked this morning to a gentleman that there had been money enough made by them to fill this Hall with greenbacks. We have seen the effect of the money which has been made by these contractors in too many places—in the shoddy operations which are everywhere visible; but in all the vast amount of money which has been so made I have never known any contractor offer to refund any money to the Government in consequence of a good contract. Whenever any one of them, however, alleges that he has lost money, he comes in here and asks us to make up to him the amount he expected to realize from the contract.

Mr. MALLORY. Will the gentleman allow me to ask a question, for I desire to understand the merits of this bill? I understand the gentleman from Massachusetts to state that a contract was made with Captain Ericsson for the construction of both of these vessels, but Captain Ericsson found it impossible to comply with his contract because of interference on the part of the Government. Now, I ask whether when a contract with such a man as Ericsson is interfered with by the Government the Government is not bound to make his losses good in consequence of such interference?

Mr. WASHBURN, of Illinois. As I understand, in regard to that matter, the Government, under the conditions of the contract which it made with Captain Ericsson, had the right to make certain changes, that the Government made those changes, and granted allowances to Captain Ericsson, which were deemed proper. These I understand to be the facts; and that the Government has faithfully carried out its part of the contract which Captain Ericsson deliberately entered into. If I am not right I desire the gentleman to correct me, for I have no intention to do Captain Ericsson injustice.

Mr. RICE, of Massachusetts. The Government has made allowance for some of the alterations which have been made by Captain Ericsson in these vessels. My friend from Illinois will allow me, I hope, to make a suggestion, and that is, not to involve this resolution, in which honorable parties are concerned, in any connection with contracts of a disreputable character, like those to which he has alluded. I am sure he does not mean to apply the language which he has uttered to the particular contract now under consideration.

Mr. WASHBURN, of Illinois. I was merely illustrating the fact that when these contractors make vast sums of money they never divide with the Government, but keep every dollar, however enormous may be their profits. But when they lose, be it ever so little, they ask us to absolve them and to make their losses good. Now, I do not forget the bill that went through last Congress and which I resisted, but in vain. It was for the relief of large contractors, who, as the gentleman from Massachusetts said, had made a bad bargain with the Government—that the articles which they had contracted to furnish had risen in price very much, and that they could not furnish them without a great loss. They had made a contract with the Government and I thought they ought to stand by it. But they came and asked us for relief, and, I am sorry to say, they obtained it. I resisted that application then upon precisely the same ground that I now resist this one.

But, sir, I do not mean to go into any lengthy argument on the subject. Mr. Ericsson made a contract with the Government, fairly and satisfactorily, to build these vessels of war. The Government, as I understand, reserved to itself in that contract the right to make alterations. It has made those alterations, and has given to Mr. Ericsson all that it believed he is entitled to. But Mr. Ericsson is not satisfied with that, and comes here and asks to be relieved in the manner specified.

Mr. THAYER. Does the gentleman from Illinois suppose that the Puritan can be finished in the time specified?

Mr. WASHBURN, of Illinois. If she is not finished by Captain Ericsson, then let the Government come upon his sureties for the damage done by his failure to fulfill the contract. He has given surety. It was the duty of the Government to exact sureties, full and ample,

and if the terms of the contract be not complied with it is the duty of the Government to institute proceedings against these parties.

Mr. THAYER. It may or may not be that the United States may be successful in such a lawsuit; but the point I wish to suggest to the gentleman from Illinois is whether it is not of greater importance that the Government should have the early use of these ships than to enter into a doubtful lawsuit with Captain Ericsson.

Mr. WASHBURNE, of Illinois. Does my friend from Pennsylvania propose, in this and all other like cases, to allow parties who make contracts with the Government go scot-free when they say that they cannot go forward with their contracts, and pay them whatever they demand? Are these men to come here after failing to fulfill their contracts, and to declare that they will not fulfill them, and that unless we vote them an appropriation we cannot have these vessels? Why, sir, it would never do for this House to yield to such a principle, as my friend suggests.

Mr. KELLEY. Abstractly the gentleman from Illinois is right, that the principle is not a good one; but it is a fact that something must be done, or the Puritan and Dictator will remain unfinished. Nothing, sir, that has come before the Naval Committee has been more carefully scrutinized than this; and they have arrived at the judgment, after mature deliberation, that the interests of the country require something to be done.

Mr. WASHBURNE, of Illinois. Then, according to that, the Government is in the hands of this contractor.

Mr. KELLEY. There is no other contractor building such vessels as these. There is no other man in the country who will undertake to-day to build these vessels for fifty per cent. more than Captain Ericsson will get under this contract.

Mr. WASHBURNE, of Illinois. But Mr. Ericsson has contracted to build these vessels, and has given security for the faithful execution of that contract.

Mr. RICE, of Massachusetts. I understand, Mr. Speaker, that Mr. Ericsson has already exhausted the amount appropriated for building these vessels, and that he and his sureties have expended some six or seven hundred thousand dollars besides.

Mr. WASHBURNE, of Illinois. That is their misfortune. Those were matters which they were bound to take into consideration when they made the contract. If my friend from Massachusetts should make a contract for performing a certain thing and he becomes a loser thereby he does not go whining around to be relieved from the effect of his own act; but he comes up and stands to his contract like a man.

Mr. PIKE. The gentleman from Illinois wants to discuss this matter fairly.

Mr. WASHBURNE, of Illinois. I do.

Mr. PIKE. I wish to make one suggestion. The Department has directed some alterations to be made in these vessels.

Mr. WASHBURNE, of Illinois. I understand that.

Mr. PIKE. The Government has paid for those alterations at their cost.

Mr. WASHBURNE, of Illinois. According to the contract and in the manner stipulated in the contract.

Mr. PIKE. But in making them a large delay was occasioned in building the vessels, so that instead of costing \$2,300,000 according to the contract, the cost has been very largely enhanced by the increased price of labor and materials. This delay was occasioned in a great degree by the alterations made in the vessels.

Mr. WASHBURNE, of Illinois. Was not the possible delay occasioned by alterations perfectly understood by the parties? They agreed that alterations might be made.

Mr. PIKE. The gentleman from Illinois does not understand the contract as I do.

Mr. STEVENS. Does not the Government always reserve the right to direct alterations, by paying the cost?

Mr. PIKE. It is not so, so far as I have examined contracts. I think it is not so in this case. I will state the contract as I understand it, and the proceedings under it.

Mr. WASHBURNE, of Illinois. Of course the committee before they made the report had

the contract before them. That becomes a material matter.

Mr. PIKE. The facts are these: there is no provision in the contract for alterations. Mr. Ericsson himself was desirous of producing the most perfect thing possible. He consequently assented to alterations for the purpose of bringing about that result. Those alterations, in consequence of a want of experience in building iron-clads both in this and foreign countries, were very extensive. That caused great delay, and although the Government may have paid the cost of a specific alteration, still the delay enhanced the cost so much that Captain Ericsson is a very large loser, and he should be equitably compensated by the Government.

Mr. WASHBURNE, of Illinois. I ask my friend if the Government has not compensated him in accordance with the terms of the contract. I certainly understood that.

Mr. PIKE. I do not so understand it.

Mr. NELSON. I would inquire whether we could not heal up the injury by granting to these contractors a few millions of public land?

Mr. PIKE. I am not in the land business and cannot answer.

Mr. NELSON. We have been in it so extensively we might keep it up a little while longer. When Ericsson made the contract he undoubtedly thought he should make money, but, as he has not done so, perhaps a few million acres of land, and a few bonds thrown in, will heal the injury.

Mr. WASHBURNE, of Illinois. I was trying to get some information in regard to the nature of this contract. I supposed the committee had the contract Ericsson made with the Government and would produce it to the House before they would ask them to act upon this subject. I desire the chairman of the Committee on Naval Affairs to state what the contract is.

Mr. RICE, of Massachusetts. I have not the contract here.

Mr. WASHBURNE, of Illinois. I understood my friend from Massachusetts to admit that the right was reserved in the contract to make these alterations, upon the Government paying a just compensation.

Mr. RICE, of Massachusetts. That is not the question he put to me. What I understood him to ask me was whether the Government had made any allowance for the alterations, and I answered that they had; and such is the fact.

Mr. WASHBURNE, of Illinois. If the Government has made an allowance they must have made it under the contract. They could not have made it unless there was a contract for it. These are the considerations which have induced me to question very much the propriety of passing this bill.

Mr. MOORHEAD. I wish to ask the gentleman from Illinois if, since the time this contract was made, the prices of material and the rates of labor have not advanced more than a hundred per cent.

Mr. WASHBURNE, of Illinois. That may be; but that is a matter which a party who bids for contracts is bound to take into consideration. Suppose materials had depreciated a hundred per cent., would Mr. Ericsson have come forward and returned anything to the Government?

Mr. J. C. ALLEN. I understand this proposition is to allow Mr. Ericsson something on account of the increased prices of materials.

Mr. WASHBURNE, of Illinois. Yes; that is it.

Mr. J. C. ALLEN. Well, sir, if we allow to him we ought in justice to make the same allowance to all who have contracts with the Government for the manufacture of engines or the building of ships. Others are just as much entitled to it as Mr. Ericsson.

Mr. PIKE. I send to the Clerk's desk a letter from Mr. Ericsson, part of which I ask to have read. It is dated New York, June 12, 1864.

The Clerk read, as follows:

"SIR: The honorable Secretary of the Navy in his reply to your communication of the 20th of May, requesting the views of the Department on the subject of my petition for additional allowance on the contract for constructing the Dictator and Puritan, has been pleased to recommend my case to the favorable consideration of Congress; but the honorable Secretary in his zeal to curtail the expenditure of the Department has not been so liberal in paying for extra work as his communication would indicate, for notwithstanding the positive recommendation of Admiral Gregory to pay the whole amount claimed, and notwith-

standing the award in my favor of two separate boards of naval officers and engineers, more than one third of the work enumerated in my supplemental specification for extra work has been ruled out by the Department under the assumption, most erroneous in my humble opinion, that it formed part of the contract. Nor is this all, for the prices in my supplemental specification were fixed a year ago, since which an increase of thirty per cent. on labor and materials has taken place. Again, the payment of the difference of eight and one third per cent. of the reservation which the honorable Secretary promises when the work on the Puritan shall have advanced as far as the Dictator, namely, when the vessel is nearly ready for trial, will come too late. But the frank statement of the Secretary of the Navy that the memorialist and his associates or sub-contractors are liable and likely to sustain a loss on the vast expenditures that have been made under the original contract is not questioned, together with his forcible remark that 'the work was novel, unanticipated delays intervened, great changes have taken place in our monetary concerns, affecting prices and every business interest.' These statements of the honorable Secretary would appear to be all-sufficient to entitle me to favorable consideration. Congress, I feel confident, will not refuse to grant relief in view of the peculiar merits of the case as set forth by the chief of the Navy Department."

Mr. PIKE. These alterations were made by the consent of Mr. Ericsson, and many of them doubtless at his own suggestion. The Secretary of the Navy has taken the ground that it would be improper for him as an executive officer to do anything more than simply pay the cost of the alterations. All the delay that has been occasioned to the contractors and the consequent expense in keeping up their establishments, and the continually increasing price of labor and materials, have not been compensated for by the Navy Department. I believe the Department concurs with the committee in the belief that this relief should be accorded to these contractors. Certainly the House will be willing to deal at least equitably with Mr. Ericsson, who has conferred such great benefits on this country. They will not treat him in a niggardly spirit and ruin him irretrievably, simply because he has introduced this great naval improvement from which we have profited so immensely. These contracts run to such great amount—between two and three million dollars—that get off the best way he can, Captain Ericsson will suffer a large loss. The proposition in relation to the Dictator is to pay simply the contract price and let him pocket the loss. The proposition in relation to the Puritan is that the Government shall pay only what she is worth, and that is all there is in the resolution. It is so fair and equitable that the House cannot hesitate to adopt it.

Mr. WADSWORTH. I take the side of the Committee on Naval Affairs in this matter, and I want to say just a word in support of it. In my view of the case the Government is much to blame for the increased cost of the vessels. The alterations proposed by the Government necessarily occasioned considerable delay, and during that time material and labor rose greatly in price. The necessities of the Government required heavy internal taxation and increase of the tariff, and articles thus burdened rose in price. Thus the expense was largely increased by the delay necessarily resulting from the alterations required by the Government in the structure of the vessels. Nor must we forget the great decline since the date of the contract in the paper of the Government in which payment is to be made, another serious injury to Captain Ericsson resulting from the delay caused by alterations. I think the citizen should suffer no injury from the action of the Government without appropriate redress; and to be consistent I must vote to indemnify this party against this loss for which the Government itself is largely responsible. The gentleman from Illinois [Mr. WASHBURNE] is consistent in opposing this bill, for he uniformly opposes the payment of losses to the citizen when the Government has directly occasioned them. My friend, the chairman of the Committee on Naval Affairs, [Mr. RICE], is not quite consistent in advocating it in view of some other recent votes; but I let that pass.

But, sir, I base my advocacy of this bill upon another ground. I do not care whether the Government by its action occasioned the loss or whether it arises from too low a bid in the first instance. A great Government like the United States ought not to suffer an injury to fall upon a citizen like Captain Ericsson while employed about its business. If Captain Ericsson was led by a generous enthusiasm for science and uncalculating devotion to the cause of his country to

undertake to perfect certain works of naval architecture, new and difficult, and deemed essential to uphold the honor and interest of the country upon the ocean, and in accomplishing them has been ruined, the Government to which he has devoted his genius, labor, and means, owes it to itself to indemnify him. Sir, this is not to be likened to the case of an ordinary contract, where fraud and cunning have secured an ample margin; there is no shoddy in it; it is the case of a patriotic and devoted man, supposing that he could accomplish certain results by a certain outlay, and in that being grossly mistaken to his ruin. Zeal for the public service and pride in his noble conceptions have made him careless of his pecuniary interest, and a great Government ought to be incapable of taking advantage of this devotion. The Government receives the avails of his labor, the works of his genius, and sends them against the foe. In a critical moment of our history the country was saved by the genius of this man. For this she owes him a debt of gratitude which no sum of money can ever repay. When our fleets and the capital itself were threatened by the success of that monster, the *Merrimac*, this man's genius, like a divine inspiration, steps in and saves us. I should tremble for the result if the Dictator and Puritan went into battle with the ruin of Ericsson engraved on their armor. I do not know how a Government like ours could consent to ruin a man like this because he miscalculates the cost of great works, whose originality and novelty might easily disappoint the public estimates of the greediest contractor.

If I understand the proposition of the committee, it is to put one vessel on the hands of Ericsson and his sureties at whatever loss it may net. In the other case the proposition simply is to take the vessel at what it has cost this public-spirited citizen. Sir, I could go further than that, and indemnify him as to both vessels against any loss. Captain Ericsson is not that description of man who is likely to flourish by contracts. He does not belong to that venal crop of plunderers that have made a merchandise of the tears and blood of a nation, and now bear "the cost of princes on unworthy shoulders." He belongs rather to that notable and noble class of men who in all ages have seen great nations flourish by the discoveries to which their genius gave birth, while themselves linger out a life of poverty and neglect. I hope our country will make a distinction in his case, and take care that he suffers no loss whatever through his devotion to the public service, but rather that his patriot labors do not go unrewarded. He has a claim to a generous recognition of his services at the hands of the national Legislature, and I, for one, am prepared to give it to him.

MR. LE BLOND. I wish to ask the gentleman from Kentucky if there is any controversy in regard to Captain Ericsson having sustained this loss.

MR. WADSWORTH. I understand from the report of the chairman of the Committee on Naval Affairs that he sustained a serious loss in the construction of both vessels; that he and his sureties are willing to shoulder the loss on the Dictator, and only ask to be indemnified by the Government as to the Puritan.

MR. RICE, of Massachusetts. **MR. Speaker,** I believe there is no controversy or misunderstanding between the contractor for these vessels and the Navy Department. But the amount involved is so large that the Department itself did not feel authorized to assume it, and therefore referred the consideration and decision of the subject to Congress which controls the making of contracts as well as the Department itself. The facts are simply that Captain Ericsson has given the country the benefit of his genius and years of his labor and industry, and the results of his skill are incorporated in these vessels, and have become a part and parcel of what the Government will obtain under this contract.

I desire also to remind the House that no appropriation of money is asked for here, but simply a modification of the terms of his contract, so far as that the Dictator, which is nearly completed, shall be finished and delivered in accordance with the terms of the contract; and that the Puritan shall be taken by the Government at a valuation to be made by a commission to be

appointed by the Navy Department itself, and shall be finished under its direction by Captain Ericsson. I believe the matter is sufficiently understood by the House, and now I move the previous question.

MR. ENGLISH. I simply desire to know if there is any difference of opinion in the Naval Committee in reference to this question.

MR. RICE, of Massachusetts. I think there is no difference of opinion upon it in the committee.

MR. WASHBURN, of Illinois. I ask the gentleman if the Committee on Naval Affairs has had any testimony in regard to the facts stated, and whether such testimony has been embodied in any report that will be printed and submitted to the House. The joint resolution has not been printed; and yet we are asked to pass it, without either the report or the bill being printed, and with nothing but the statement of the gentleman from Massachusetts.

MR. RICE, of Massachusetts. I will say to the gentleman that the Committee on Naval Affairs had no witnesses before them, but they had documentary evidence before them which they considered carefully and directed the report to be made without a dissenting voice. I insist upon my demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

MR. RICE, of Massachusetts, demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered to be put.

MR. WASHBURN, of Illinois, demanded the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 36, not voting 61; as follows:

YEAS—Messrs. William J. Allen, Baily, John D. Baldwin, Baxter, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Brooks, Broomall, James S. Brown, Chanler, Cravens, Dawes, Dixon, Driggs, Edgerton, Eliot, English, Ganson, Gough, Griswold, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Philip Johnson, Kelley, Orlando Kellogg, Kernan, Knox, Law, Le Blond, Loan, Longyear, Marcy, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Patterson, Perry, Pike, Pomeroy, Price, Prunty, Radford, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Ross, Scofield, Scott, Shannon, Smithers, John B. Steele, Srouse, Stuart, Sweet, Thayer, Tracy, Upson, Van Valkenburgh, Wadsworth, Ward, William B. Washburn, Wheeler, Chilton A. White, Williams, Wilder, Winfield, and Woodbridge—85.

NAYS—Messrs. Ancona, Beaman, Ambrose W. Clark, Cobb, Coffroth, Cole, Dawson, Denning, Denison, Eden, Eldridge, Finck, Frank, Harding, Charles M. Harris, Holman, Hubbard, Knapp, Long, Mallory, McDowell, Middleton, Morrison, Nelson, Noble, Orth, Perham, Samuel J. Randall, John H. Rice, Robinson, Sloan, Stiles, Thomas, Elihu B. Washburne, Joseph W. White, and Wilson—36.

NOT VOTING—Messrs. James C. Allen, Alley, Allison, Ames, Anderson, Arnold, Ashley, Augustus C. Baldwin, Bliss, William G. Brown, Freeman Clarke, Clay, Cox, Creswell, Henry Winter Davis, Thomas T. Davis, Donnelly, Dumont, Eckley, Farnsworth, Fenton, Garfield, Grider, Grinnell, Hall, Harrington, Benjamin G. Harris, Herriek, Hotchkiss, Hutchins, Jenckes, William Johnson, Julian, Kalbfleisch, Kasson, Francis W. Kellogg, King, Lazear, Littlejohn, McAllister, McIndoe, McKinney, William H. Miller, John O'Neill, Pendleton, William H. Randall, Rogers, Schenck, Smith, Spalding, Starr, Stebbins, William G. Steele, Stevens, Voorhees, Webster, Whaley, Windom, Benjamin Wood, Fernando Wood, and Yeaman—61.

So the joint resolution was passed.

MR. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED RESOLUTION.

MR. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution to provide for the revision of the laws of the District of Columbia; when the Speaker signed the same.

APPOINTMENT OF ADMIRALS, ETC.

MR. RICE, of Massachusetts, from the Committee on Naval Affairs, reported a bill to further regulate the appointment of admirals, to increase the number of line officers in the Navy, and for the appointment of certain volunteer officers to

the regular Navy; which was read a first and second time, recommitting to the Committee on Naval Affairs, and ordered to be printed.

G. M'KAY AND J. B. GROW.

MR. BRANDEGEE, from the Committee on Naval Affairs, reported back the petition of George McKay, J. B. Grow, and others; which was laid on the table, and the committee discharged from the further consideration thereof.

PAY OF NAVAL CONSTRUCTORS.

MR. BRANDEGEE, from the same committee, reported back petition in favor of an increase of salaries of naval constructors; which was laid on the table, and the committee discharged from the further consideration thereof.

GARRETT R. BARRY.

MR. BRANDEGEE. I am instructed by the Committee on Naval Affairs, to whom was referred the petition of Garrett R. Barry, to report Senate joint resolution No. 41, for the relief of Garrett B. Barry, a paymaster in the United States Navy, and ask that it may be put on its passage.

The joint resolution was read. It provides for the release of Paymaster Garrett R. Barry, United States Navy, from his liability as surety of John Debreé, formerly paymaster in the Navy of the United States.

MR. WASHBURN, of Illinois. I hope that will pass unanimously. We have relieved Ericsson from a bad contract with the Government, and I hope this will pass unanimously.

MR. HOLMAN. I ask if there is a report in the case.

MR. BRANDEGEE. We adopt the report of the Senate committee.

MR. WILSON. That resolution came here from the Senate some time ago, in the precise language in which it has been read, was referred to the Committee on the Judiciary, and is now in the possession of the member from Vermont, [Mr. Woodbridge,] as a member of that committee, for investigation. I cannot understand how the same resolution can come from the Committee on Naval Affairs.

MR. WOODBRIDGE. I have here in my desk the original Senate engrossed bill.

The **SPEAKER.** Then the Chair presumes the gentleman from Connecticut reports this as an original House resolution.

EVENING SESSION DISPENSED WITH.

MR. RANDALL, of Pennsylvania, moved that the order in reference to evening sessions be dispensed with, so far as this evening is concerned.

The House divided; and there were—ayes eighty-two, noes not counted.

So the motion was agreed to.

NAVY-YARD FOR IRON-CLADS.

MR. O'NEILL, of Pennsylvania. **MR. Speaker,** it is growing late in the day, and I suggest that the Committee on Naval Affairs put aside for the present the reports upon private cases, which have been under consideration, and bring forward at once the proposition in reference to the establishment of a naval station for building and repairing iron-clad vessels, and for preparing iron armature. So earnestly and frequently has this subject been urged upon Congress for its action by the Secretary of the Navy, as indispensable for proper and efficient naval purposes, and so anxiously are the people of all parts of the country looking to us for prompt efforts to place upon a footing, unexcelled by other countries, our naval power, by building iron-clad vessels and powerful armature, that I cannot but earnestly appeal to the Committee on Naval Affairs, and to the members of this House, to second this suggestion for immediate action.

MR. Speaker, we, who believe with the Navy Department, and with those who have examined the subject without prejudice, that League island, in the river Delaware, is of all places proposed the best suited for constructing our iron-clad navy, by reason of its still and fresh water, its close proximity to the inexhaustible coal and iron regions of Pennsylvania, its nearness to a population incomparable for skill in labor, science, and the mechanical arts, and its entire defensibility from attack, beg of you to pass by all minor matters and now to accept this noble gift of the city of Philadelphia offered to the country, only for its fitness for the purpose proposed.

Mr. Speaker, I urge upon the gentleman from Connecticut to bring this matter at once before the House. If he is anxious to present New London as his choice, let those who are ready to advocate League island have the opportunity of showing its merits. This House has been in possession of facts, through the reports made from the Naval Committee, and should not hesitate now to act, or should not delay action. My colleagues and I want the question fairly before us, and while we from Philadelphia may have a local pride in advocating League island, and the members from Pennsylvania would feel that our glorious old Commonwealth would be honored by locating this great iron naval station within her borders, yet, Mr. Speaker, there is not one member of the delegation who would presume to press upon Congress the acceptance of this generous and patriotic offer, were it not the only location suitable in every respect for the object proposed and having advantages such as do not exist anywhere upon or near the Atlantic seaboard.

Mr. Speaker, I again most respectfully ask that the reports of the committee on iron naval stations be at once considered.

Mr. BRANDEGEE. I do not yield the floor to the gentleman from Pennsylvania. If he had waited he would have found that we would arrive at the subject to which he has referred soon enough. I have a few bills of a private nature which I am instructed to report by the Committee on Naval Affairs, and as they will consume but little time, I propose that they shall be first disposed of.

NAVAL PAYMASTER BARRY—AGAIN.

Mr. WILSON. I rise to a point of order. The gentleman from Connecticut reports back this Senate bill from the Committee on Naval Affairs, when that bill has been referred to the Committee on the Judiciary, and is still in that committee. I insist that the bill has not been in possession of the Committee on Naval Affairs, and that the gentleman has no right to report it.

Mr. BRANDEGEE. I think I can make a suggestion which will obviate the gentleman's objection. This subject was referred to the Naval Committee, and they have instructed me to make the pending report.

The SPEAKER. As soon as attention was called to the fact, the gentleman from Connecticut had the title of the bill changed, and it is now before the House as a House bill.

Mr. WILSON. I make the point of order that this subject has never been referred to the Committee on Naval Affairs, and that they had, therefore, no right to make any report on it.

Mr. BRANDEGEE. It was referred by petition to the Committee on Naval Affairs.

The SPEAKER. Then the Chair overrules the point of order, and decides the committee has jurisdiction of the subject.

Mr. HOLMAN. I ask that the report of the Senate committee be read.

The Clerk read the report.

Mr. BRANDEGEE. Mr. Speaker, if anything could be understood from the reading of the report at the Clerk's desk—and from the confusion which has prevailed I am of the opinion that it was not understood very generally—then these facts would have become apparent to the House. In the year 1857, the applicant for relief, Paymaster Barry, became surety with G. W. Cowdery, of Norfolk, for the faithful performance of the duties of paymaster by John Debreë.

Mr. Debreë faithfully performed the duties of paymaster up to the year 1861. In the early part of that year he was paymaster on board the frigate Cumberland when she arrived at Norfolk. Soon after he was induced to resign, but up to the last moment of his connection with the Government honestly cared for its interests, leaving in the public chest, on board the frigate, very nearly twenty thousand dollars in gold and silver, and a large quantity of clothing and small stores, together with the usual transfer rolls of the officers and crew, containing evidence of very large advances made by him during the cruise, all of which were duly received by his successor, Paymaster Cramer Burt, of the United States Navy.

Mr. Debreë was paymaster on board the Cumberland from October 17, 1860, to June 11, 1861, a period of eight months and twenty-four days. Paymaster Burt, in his sworn statement, says

that he "cannot recollect the amounts in money, clothing, and small stores which appeared upon the roll as having been issued to the officers and crew of the Cumberland," but he "knows that they were very large, the officers in almost every case being paid in full up to the day Mr. Debreë left;" and the Fourth Auditor of the Treasury, in a communication to the committee, says:

"From the complement of that vessel, in officers and men, Mr. Debreë's payments and issues to them, for that time, in money, clothing, and small stores, must have been certainly equal if not in excess of the above stated balance against him of \$45,914 12." * * * "I therefore have not the slightest doubt that had his accounts and vouchers for these payments and issues for that time been received at this office he would not, on settlement, have been indebted to the Government a single cent."

Soon after Mr. Debreë left the Cumberland, the naval engagement in Hampton Roads took place, and all the money and vouchers transferred by Paymaster Debreë to Paymaster Burt, together with Mr. Burt's own vouchers and accounts, went down in the Cumberland, which was sunk by the Merrimac on that occasion. Paymaster Burt was subsequently relieved from the consequences of disaster, and his accounts settled by act of Congress. Paymaster Barry, the surety for Debreë, now applies for the same relief, and the accounting officers of the Treasury say "both Mr. Barry and Mr. Debreë are well known to the accounting officers of the Government for uniform punctuality, intelligence, and integrity, as disbursing officers of the Navy, during a long series of years;" and it is therefore "believed that had not the accounts, rolls, and papers of the Cumberland been destroyed, as stated in the memorial, Mr. Debreë's account with that vessel would have been (as all his former accounts were) satisfactorily settled."

On this state of facts the Committee on Naval Affairs instructed me to report this bill. It is an act of simple justice that Paymaster Barry should be relieved from the consequences of the disaster to the Cumberland. I move, therefore, that the bill be put on its passage.

Mr. WILSON. I think it would be better to have a little more time to look into this matter, and I therefore move that the bill be referred to the Committee of the Whole House on the Private Calendar.

Mr. BRANDEGEE. I have no objection to that.

The motion was agreed to.

TREATY OF 1817.

Mr. GRISWOLD, from the Committee on Naval Affairs, reported back House joint resolution No. 91, in relation to the treaty of 1817, with the recommendation that it do pass.

The joint resolution was read.

Mr. WASHBURN, of Illinois, moved to insert the words "authorized and directed."

The amendment was agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PRUYN. I would inquire if this is a Senate bill, or whether it originated here.

The SPEAKER. It is a House resolution.

Mr. PRUYN. Has it been considered by a committee?

The SPEAKER. It has been considered by the Committee on Naval Affairs, and by them reported to the House.

Mr. PRUYN. I would like to hear some explanation of the necessity for this resolution.

Mr. BROWN, of Wisconsin. The necessity for it grows out of the objections which have been raised to the establishment of a naval depot upon the lakes. There was some doubt in the minds of the Naval Committee, and it seems there was some doubt in the mind of the Secretary of the Navy, as to the application of that treaty to Lake Michigan. There was no question, so far as I could learn, in the minds of the members of the Naval Committee as to the necessity of some preparation for lake defenses, and upon consultation it was deemed much better to give this notice which would free us from all question of an infraction of that treaty than to establish a depot in violation of what some might term the conditions of that treaty.

I took occasion before this resolution was introduced to have some conversation with the Secretary of State upon the subject, and I believe there was no idea that any difficulty would arise out of the action of the House in this matter.

Mr. GRISWOLD. I understand that the Secretary of State has no objection to this course.

Mr. PRUYN. The object I had in view is gained, and with this explanation accompanying it I think such a resolution should pass. I thought it should not go out to the world without explanation, and as indicating a desire for a rupture with Great Britain.

The resolution was agreed to.

Mr. GRISWOLD moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NAVY-YARD AT NEW LONDON, CONNECTICUT.

Mr. BRANDEGEE, from the Committee on Naval Affairs, reported back a bill authorizing a survey at New London, Connecticut, and the establishment of a navy-yard for iron-clad vessels thereat; which was read a first and second time by its title.

The bill authorizes and directs the Secretary of the Navy to appoint a competent engineer to designate and survey the necessary amount of land on the river Thames, at and above Winthrop, near New London, Connecticut, for the establishment of a navy-yard and naval depot for the construction, docking, and repair of iron, iron-clad, and other naval vessels.

The bill further provides that it shall be the duty of the Secretary of the Navy, as soon as the report of said engineer shall have been made to him, and a good title to the land therein designated have been tendered by the city of New London to the United States, to accept of the same for naval purposes for and on behalf of the Government, and to establish thereat a navy-yard and depot for the construction, docking, and repair of iron, iron-clad, and other vessels.

Mr. BRANDEGEE. The committee instructed me to report that bill, and ask to have it put upon its passage. But I understand that the gentleman from Pennsylvania, [Mr. KELLEY,] on behalf of a minority of the committee, has prepared a minority report, and desires to submit a bill, in the nature of a substitute, recommended by the minority. I yield the floor to him for that purpose.

Mr. KELLEY. In accordance with the instructions of a minority of the committee, I send to the Clerk's desk a substitute for the bill just reported by the gentleman from Connecticut.

The substitute, which was read, provides that the Secretary of the Navy be authorized and directed to accept from the city of Philadelphia the title to League island on behalf of the Government, and to establish thereat a navy-yard and depot for the construction, docking, and repair of iron, iron-clad, and other vessels.

Mr. HOLMAN. I rise to a privileged question. I move that the House adjourn.

Mr. KELLEY. I believe I hold the floor with the consent of the gentleman from Connecticut. What would be the condition of this bill if a motion to adjourn prevail?

The SPEAKER. It will come up as unfinished business whenever that class of business is reached.

Mr. KELLEY. I do not yield to such a motion.

Mr. PIKE. I propose to move that this matter be postponed until the second Monday in December next.

Mr. BRANDEGEE. I must decline to yield for that purpose.

Mr. PIKE. Well, at some stage in this discussion when I can obtain the floor I propose to make that motion, as it is now so late in the session that even if the House should act upon the subject its action could not be considered and concurred in by the Senate. I suggest to the gentleman from Connecticut that he may as well test the sense of the House now as after the matter shall have been partially discussed.

Mr. BRANDEGEE. I am not authorized by the Committee on Naval Affairs, whose organ I am so far as this bill is concerned, to agree to any such motion as the one indicated by the gentleman from Maine. However, I am not disposed to press a bill of this magnitude, relating, as I think, to the efficiency of the Navy, against an unwilling House, especially at this late hour of the day and this late day of the week. If the House is of opinion that this measure ought to be

postponed to a day designated next session, I shall not be found forcing myself against a reluctant House. I will therefore yield the floor in order that the sense of the House may be taken on the motion of the gentleman from Maine.

Mr. PIKE. Without making any observations on this matter, as the House understands the position of it very fully, I move that the further consideration of this subject be postponed until the second Monday in December next; and on that motion I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. O'NEILL, of Pennsylvania, demanded the yeas and nays on the motion to postpone.

The yeas and nays were not ordered.

The motion to postpone was agreed to—ayes 70, noes 36.

Mr. BRANDEGEE moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider on the table.

Mr. L. MYERS. The gentleman from Connecticut [Mr. BRANDEGEE] has no faith in his bantling, or he would not have assented to the postponement of a subject so important to the interests of the country. I now demand the yeas and nays on the motion to reconsider and lay on the table.

The yeas and nays were ordered.

PAY OF PAGES.

Mr. DAWSON, by unanimous consent, submitted the following resolution:

Resolved, That boys who have served on this floor as pages during the present session or any part of it, and who have received \$1.50 per day, shall be allowed and paid fifty cents per day additional for the time so employed.

Mr. JOHNSON, of Pennsylvania. I suggest to my colleague that he amend his resolution so as to include the messengers employed about this House. There are men here who receive only the old pay of \$1.50 a day, and they cannot live in Washington city upon that.

Mr. DAWSON. The object of my resolution is only to equalize the pay of these boys.

The resolution was agreed to.

Mr. DAWSON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. HOLMAN moved that the House do now adjourn.

NAVAL STATION ON THE MISSISSIPPI.

Mr. RICE, of Massachusetts. I ask the gentleman from Indiana to yield to me that I may offer a resolution.

Mr. HOLMAN. I yield for that purpose.

Mr. RICE, of Massachusetts, asked unanimous consent to report from the Committee on Naval Affairs a resolution authorizing and empowering the Secretary of the Navy to appoint a commission consisting of one naval officer, one officer of the engineer corps, and one civilian to select the most approved site for a navy-yard or naval station on the Mississippi river or one of its tributaries; and also empowering him, with the approval of the President, to accept or purchase the site so selected on such terms as he shall deem most conducive to the public interest.

Mr. THAYER objected to the introduction of the resolution.

Mr. RICE, of Massachusetts. The resolution is a report from the Committee on Naval Affairs, and the best interests of the country demand its adoption.

Mr. L. MYERS. With the permission of my friend from Massachusetts [Mr. RICE] I desire to know whether a navy yard for iron-clads—which I hope may be located at League island—is not of far greater consequence than the one he now presses so warmly. It is very strange that time can be found to act on the one bill, and the urgent demands of the service as expressed by the Secretary of the Navy and known to the whole country be neglected.

The objection was not withdrawn.

The question was taken on the motion to adjourn; and it was not agreed to.

NAVY-YARD FOR IRON-CLADS.

The question recurred on the motion to lay on the table the motion to reconsider the vote by which the bill in regard to a navy-yard for iron-

clads was postponed; on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 70, nays 44, not voting 68; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ames, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Bliss, Boutwell, Boyd, Brandegee, Ambrose W. Clark, Daves, Denning, Dixon, Eckley, Eden, Edgerton, Eldridge, Eliot, Finck, Ganson, Gooch, Harding, Charles M. Harris, Holman, Hooper, John H. Hubbard, Hulburd, Ingersoll, Orlando Kellogg, Kernan, Knapp, Knox, Law, Le Blond, Long, Longyear, Mallory, McDowell, McKinney, Samuel, F. Miller, Morrill, Daniel Morris, James R. Morris, Nelson, Noble, Odell, Orth, Patterson, Perlman, Pike, Pomeroy, Price, Pruyn, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, Ross, Scott, John B. Steele, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Joseph W. White, Wilder, and Wilson—70.

NAYS—Messrs. Ancona, Bailly, Cobb, Coffroth, Cole, Cravens, Creswell, Dawson, Driggs, Frank, Hale, Higby, Hotchkiss, Asahel W. Hubbard, Philip Johnson, Julian, Kelley, Loan, Marcy, McClure, McClurg, Middleton, William H. Miller, Moorhead, Morrison, Amos Myers, Leonard Myers, Charles O'Neill, Perry, Samuel J. Randall, James S. Rollins, Scofield, Shannon, Smithers, Stevens, Stiles, Strouse, Stuart, Thayer, Thomas, Tracy, Williams, Windom, and Winfield—44.

NOT VOTING—Messrs. Alley, Allison, Anderson, Arnold, Beaman, Blaine, Blair, Blow, Brooks, Brownall, James S. Brown, William G. Brown, Chanler, Freeman Clarke, Clay, Cox, Henry Winter Davis, Thomas T. Davis, Denton, Donnelly, Dumont, English, Farnsworth, Fenton, Garfield, Grider, Grinnell, Griswold, Hall, Harrington, Benjamin G. Harris, Herrick, Hutchins, Jenckes, William Johnson, Kabbelsch, Kasson, Francis W. Kellogg, King, Lazear, Littlejohn, Marvin, McAllister, McIndoe, Norton, John O'Neill, Pendleton, Radford, William H. Randall, Rogers, Schenck, Sloan, Smith, Spalding, Starr, Stebbins, William G. Steele, Sweet, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Chilton A. White, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—68.

So the motion to reconsider was laid on the table.

During the call of the roll,

Mr. WASHBURN, of Illinois, stated that his colleague, Mr. NORTON, was obliged to leave the House through indisposition.

Mr. BOYD stated that Mr. ANDERSON was absent on account of sickness.

NAVAL STATION ON WESTERN WATERS.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported a joint resolution authorizing the Secretary of the Navy to appoint a commission to select a site for a navy-yard or naval station on the western waters; which was read a first and second time.

Mr. RICE, of Massachusetts, moved the previous question on its engrossment and third reading.

Mr. RANDALL, of Pennsylvania. I move to postpone that joint resolution till the second Tuesday in December.

The SPEAKER. The motion is not in order pending the demand for the previous question.

Mr. WASHBURN, of Illinois. I ask the gentleman from Massachusetts to yield for an amendment in the nature of a substitute.

Mr. RICE, of Massachusetts. I yield for that purpose.

Mr. WASHBURN, of Illinois, offered a substitute authorizing the President of the United States to accept from the corporate authorities of the city of Cairo, in the State of Illinois, or from any other person or corporation a site for a navy-yard or depot at or near the city of Cairo, if in his opinion the good of the public service requires it, and to erect such buildings and make such improvements thereon as may be necessary for the construction, repair, accommodation, and supplies of vessels-of-war of the United States; also authorizing the President to purchase any water rights that may be required to propel the machinery and to construct the dockage for such navy-yard, and to receive any donation of lands, water rights, or rights of way which the authorities of the city of Cairo, or any other body-politic, or any person or persons may think proper to grant to the United States for such purposes.

Mr. HOLMAN. What will be the effect of an adjournment upon this proposition?

The SPEAKER. It will go over as unfinished business, to come up whenever business of that class is in order; when that will be the Chair cannot say.

Mr. HOLMAN. Then I move that the House adjourn.

Mr. RICE, of Massachusetts. I hope the gentleman will withdraw that resolution to enable me to report a resolution to which there will be no objection.

The SPEAKER. The Chair will state that if the motion to adjourn is withdrawn the business before the House will be resumed.

Mr. THAYER. I understood the Chair to decide that the vote of the House dispensing with the order for a recess would adjourn the House at half past four.

The SPEAKER. The order of the House only dispensed with the recess for this evening, leaving it to the House to say when it shall adjourn.

Mr. WASHBURN, of Illinois. I ask the Chair to state more distinctly what will be the condition of this business if the House now adjourn. Do I understand that it will come up as unfinished business on Monday?

The SPEAKER. It will not. Monday is assigned for the consideration of the miscellaneous appropriation bills as a special order. The whole of the morning session on Tuesday is assigned to the business of the Committee on Military Affairs; and the whole of the evening session to the Pacific railroad. It may come up on Wednesday, unless some report of a committee of conference or some other question of higher privilege should arise.

Mr. WASHBURN, of Illinois. But unless some question of that sort should arise it will come up naturally as the first business in order on Wednesday morning?

The SPEAKER. It will.

Mr. WASHBURN, of Illinois. Then I suppose the House may as well adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty minutes) the House adjourned till Monday next at twelve o'clock, m.

IN SENATE.

MONDAY, June 20, 1864.

Prayer by Rev. B. H. NADAL, of Washington; District of Columbia.

On motion of Mr. GRIMES; and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

DISTRICT BUSINESS.

Mr. GRIMES. I move that to-morrow at half past four o'clock the Senate take a recess till seven o'clock, and meet again at that hour in order to transact business relating to the District of Columbia.

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a further report of the Secretary of State in answer to the resolution of the Senate of May 25 relative to Mexican affairs; which was referred to the Committee on Foreign Relations.

He also laid before the Senate a message from the President of the United States, transmitting a dispatch of June 10 to the Secretary of State from the acting consul of the United States at Havana, in further answer to the resolution of the Senate of May 28 relative to the delivery to the Spanish Government of a person charged with a crime against that Government; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the 10th of March, information in relation to the officers of the fourth and fifth Indian regiments; which was referred to the Committee on Military Affairs and the Militia.

GEORGE F. NESBITT.

Mr. COLLAMER. I should like to get a little order to attend to some business of the Post Office Committee. I believe the District Committee have had two different days for their business. It is said "every dog should have his day," and so there will be a good many dog days. [Laughter.] I should like this morning to have attention to a couple of private bills from the Post Office Committee, which have been lying here for some time. I think they will not take long. I move first to postpone all the prior orders and take up the bill (S. No. 305) for the relief of George F. Nesbitt.

The motion was agreed to; and the bill was read the second time, and considered as in Com-

mittee of the Whole. It proposes to empower George F. Nesbitt to put an end to his contract with the United States, entered into with the Postmaster General on the 27th of March, 1862, for furnishing the Post Office Department with stamped envelopes and newspaper wrappers, on giving to the Postmaster General sixty days' notice in writing.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CARMACK AND RAMSEY.

Mr. COLLAMER. I move now to take up the joint resolution (H. R. No. 11) in relation to the claim of Carmack & Ramsey.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution; the question being on the amendment reported from the Committee on Post Offices and Post Roads, which was to strike out all after the enacting clause and insert the following:

That the First Comptroller of the Treasury, in auditing and adjusting the claim of Carmack & Ramsey, submitted to him by and under the sixth section of the act of Congress, approved August 18, 1856, entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1857," shall allow only for the expenditures actually made and incurred by said Carmack & Ramsey after the making of their contract with the Postmaster General, and for the purpose of executing the same, and before the close of the next session of Congress after the making said contract, and to the actual loss to said Carmack & Ramsey on said expenditures.

The amendment was agreed to.

Mr. SHERMAN. As this is a very large claim, a very important one, and a very old one, that I examined some time ago as a member of Congress, I should like to understand exactly what is proposed here.

Mr. COLLAMER. The amendment is merely to enable a settlement to be made.

Mr. SHERMAN. The joint resolution, as I understand it, does not simply authorize the Comptroller to examine and adjust the claim according to the principles of equity, but it directs him to allow the amount that was expended by Carmack & Ramsey, and assumes the legality and validity of the contract which was disputed by officers of the Government.

Mr. COLLAMER. The act of 1856, by which this claim was referred to the First Comptroller, is not repealed. He is going on under it, and the only effect of this amendment is to limit him. We do not direct him anything about it; we only say that he shall not allow anything except as we prescribe.

Mr. SHERMAN. Let it be read again, that I may see whether I got the words correctly. It seems to me that it assumes the legality of the contract.

The Secretary read the joint resolution as amended.

Mr. SHERMAN. It is very clear, I think, that the criticism which I took is just: the words distinctly are that the Comptroller shall allow the amount paid on the contract. That assumes that the contract was legal, that the Postmaster General had a right to make it, that Carmack & Ramsey expended money under it, and it directs that that money shall be allowed. It seems to me it covers the whole ground.

Mr. COLLAMER. That was all in the act of 1856 submitted to the First Comptroller of the Treasury, and this provision is that the Comptroller in adjusting the claim submitted to him by that act "shall allow only for the expenditures actually made and incurred by said Carmack & Ramsey after the making of their contract with the Postmaster General." It does not direct him to allow it, but says he shall be confined to that anyway. It is to limit him so that there shall be no extravagant allowance.

Mr. SHERMAN. I prefer that the resolution should lie over that I may look into it, because the claim is a very large one, and I had occasion when a member of the House of Representatives to examine it. I have no objection to having the report of the Comptroller stating the account precisely as Mr. Whitlesey would have stated it under the old law; and I think that the action of the Postmaster General or whoever caused the suspension of that account was probably without cause. I think the Comptroller ought to proceed under the existing law to state the account subject

to the action of Congress. But it does seem to me that this resolution assumes all the disputed propositions and directs the Comptroller to allow so and so. It leaves no discretion to the Comptroller. The question as to the validity of this contract will not be open to him, but he will be required to go on and assume the contract to be valid and then simply to assess the amount paid by Carmack & Ramsey. I should like to have it lie over until to-morrow.

Mr. JOHNSON. I think the honorable member from Ohio is about to defeat his very object. I do not mean to vote on this question, having been professionally concerned as counsel for these parties some years ago. The amount of the claim, however, is very much exaggerated. It was supposed at one time to be a million and a half or two million dollars, and perhaps the agent who was conducting it on the part of the claimants at that time satisfied his own mind that it would properly amount to something like that sum; but the resolution upon the table limits whatever the individuals may be found entitled to to expenses actually incurred; it gives them no claim for damages, and the only question is whether what they actually expended in attempting to carry out a contract which is admitted to have been made ought not, under the circumstances, to be refunded. If the honorable member proposes to leave it to the Comptroller, under the original law, he may have some eighty or ninety thousand dollars to pay instead of some twenty or thirty thousand dollars.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio to postpone the joint resolution until to-morrow.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented a petition of citizens of New York, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which was referred to the Committee on Public Lands.

He also presented a memorial of Eliot C. Cowden and other merchants of New York, praying for an increase of the salaries of the deputy collectors of customs at the port of New York; which was referred to the Committee on Finance.

Mr. FOOT presented ten petitions of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were referred to the Committee on Public Lands.

Mr. SUMNER presented fourteen petitions of men and women of the United States, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

He also presented a petition of citizens of West Newbury, Massachusetts, praying for the repeal of all laws exempting United States stocks from taxation; which was referred to the Committee on Finance.

REPORTS FROM COMMITTEES.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 308) repealing so much of an act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864, and for other purposes, approved March 14, 1864, as appropriates \$25,000 for erecting a naval hospital at Kittery, Maine, reported it without amendment.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 465) for the relief of Deborah Jones, reported it without amendment, and submitted a report, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 380) for the relief of George W. Murray, reported it without amendment, and submitted a report, which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mary C. Hamilton, widow of Captain Fowler Hamilton, submitted an adverse report thereon, which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Reuben Clough, praying to be allowed arrears of pension, submitted a report accompanied by a bill (S. No. 316) for the relief of Reuben Clough. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. POMEROY, from the Committee on Claims, to whom was referred the memorial of J. W. Barnack, praying compensation for swearing in volunteers, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (H. R. No. 431) for the relief of Solomon Wadsworth, reported it without amendment.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 442) to authorize the President of the United States to negotiate with certain Indians of Middle Oregon for a relinquishment of certain rights secured to them by treaty, reported it with an amendment; and he presented a letter of the Secretary of the Interior, addressed to the chairman of the Committee on Indian Affairs, relative to a proposed treaty with certain Indians of Middle Oregon; which was ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia, with amendments; in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

A bill (No. 470) to authorize assimilated rank to be given to the warrant officers of the United States Navy, and for other purposes;

A bill (No. 533) to provide for ascertaining and adjusting claims against the Government for injury or destruction of property by the Army of the United States or by military authority during the present rebellion;

A joint resolution (No. 91) in relation to the treaty of 1817; and

A joint resolution (No. 95) authorizing the Secretary of the Navy to amend the contract with John Ericsson for the construction of two impenetrable floating batteries, the Dictator and the Puritan.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 247) granting lands to the State of Wisconsin to build a military road to Lake Superior; and

A bill (S. No. 145) to increase the pay of soldiers in the United States Army, and for other purposes.

DICTIONARY OF CONGRESS.

Mr. POWELL, from the Committee on Printing, to whom was referred the resolution, submitted on the 15th of March, to print the Dictionary of the United States Congress, prepared by the late Librarian of the House of Representatives, reported it without amendment.

The Senate proceeded to consider the resolution by unanimous consent, and it was agreed to as follows:

Resolved, That there be printed for the use of the Senate fifteen hundred and fifty copies of the Dictionary of the United States Congress prepared by the late Librarian of the House and already ordered by that body; and the Secretary is hereby directed to pay to the compiler the same copyright allowed by the House of Representatives.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 317) providing for bail in certain cases of military arrests; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 318) authorizing the Secretary of the Treasury to sell certain property of the United States when no longer required for the public service; which was read twice by its title, and referred to the Committee on Commerce.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that on the 18th instant he had approved the following act and joint resolutions:

An act (S. No. 291) to amend an act entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;"

A joint resolution (S. No. 59) to provide for the revision of the laws of the District of Columbia; and

A joint resolution (S. No. 64) explanatory of an act entitled "An act extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan."

JUAN MIRANDA.

Mr. CARLILE. I ask the indulgence of the Senate to take up the motion submitted by the honorable Senator from Vermont [Mr. Foot] for a reconsideration of the vote by which the bill (S. No. 238) to settle certain private land claims in the State of California was indefinitely postponed.

Mr. CONNESS. The only question I think is upon a notice given of a motion to reconsider. I do not understand the Senator as wishing to take up the bill, but to have the Senate vote whether or not they will reconsider the vote by which the bill was indefinitely postponed.

Mr. CARLILE. I understand that a motion was made by the Senator from Vermont to reconsider that vote. If am in error he will correct me.

Mr. FOOT. The motion was made.

The PRESIDENT *pro tempore*. The motion is recorded as having been made.

Mr. CARLILE. I learn that by the rules of the Senate, unless the vote indefinitely postponing the bill be reconsidered at this session, the bill will fall at the end of the session. Now, it is not my purpose, if it is not desired by the Senator from California, to enter into any argument on the merits of the bill this morning. I merely wish to put it where it was before the question was taken on the indefinite postponement; and then, when it is convenient, at this session, or, if that does not suit the pleasure of the Senate, at the next session, I will bring it up and explain it. I will consult the convenience of the Senator from California and of the Senate on that point. All I want is to have the benefit of this motion to reconsider, which will fall, as I understand, with the adjournment of this session of Congress if it be not agreed to.

Mr. CONNESS. The motive that I had in making the motion for the indefinite postponement of the bill I stated to the Senate at the time. To us it is a very important question. The very pendency of a bill of this kind here throws a cloud over the title to some very valuable property in which a great many citizens of my State are interested. My object in making the motion to indefinitely postpone the bill was to throw off that cloud, to defeat the bill in that way that we might have an end of it. I was not satisfied to have the vote taken on the passage of such a bill until the facts and circumstances connected with the case were more fully presented than they have been by myself to the Senate, but I have no desire to trespass on the attention of the Senate at this time nor again during the session upon this subject. I hope the motion to reconsider the indefinite postponement will not be carried, and I wish the deliberate vote of the Senate to remain so that the matter may be considered as finally disposed of. I need not add that the State which I in part represent here has instructed its Senators and Representatives how to act on this measure. Those solemn resolutions of the sovereign State have been read from the Senate desk. I ask Senators not to reconsider their vote and put this question upon us again.

Mr. CARLILE. I do not wish to take up the time of the Senate, if I can have this vote reconsidered, by a discussion of the bill upon its merits, and I therefore made the proposition to the Senator from California to allow the vote to be reconsidered and I would consult his convenience as to the time when the bill should be taken up again; but if this is to be made a test vote, I shall feel it my duty to present to the Senate the merits of the proposition, as I understand them.

Mr. CONNESS. I hope the Senator will do it now so that we may dispose of the question.

Mr. CARLILE. I trust the Senate will take the matter up.

Mr. CONNESS. I ask for the yeas and nays on that motion.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Virginia to take up for consideration the motion to reconsider the vote on the bill referred to by him.

The yeas and nays were ordered.

Mr. McDOUGALL. I should like to have this measure reconsidered, not for present consideration, but for full consideration at a convenient time. I did not to any considerable extent participate in the debate on this bill; I did not think it necessary for the advice of the Senate; but before this matter is finally disposed of, I desire as in part representing California and as entirely differing from my colleague, to discuss this matter with all the understanding I have on the subject. I think my acquaintance with the subject is more intimate than that of my colleague. I only wish the discussion to be full and complete on the merits of the bill. Whatever then may be the judgment of the Senate, I of course shall submit to. I trust the vote will be reconsidered, so that the bill may at some proper and convenient time be fully canvassed.

The PRESIDENT *pro tempore*. The question is on the motion to take up the motion to reconsider.

The question being taken by yeas and nays, resulted—yeas 26, nays 13; as follows:

YEAS—Messrs. Carlile, Collamer, Cowan, Davis, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Hendricks, Johnson, Lane of Indiana, McDougall, Morgan, Nesmith, Powell, Richardson, Riddle, Saulsbury, Sherman, Ten Eyck, Trumbull, Van Winkle, and Willey—26.

NAYS—Messrs. Anthony, Brown, Clark, Conness, Dixon, Doolittle, Howard, Howe, Pomeroy, Sprague, Sumner, Wade, and Wilson—13.

ABSENT—Messrs. Buckalew, Chandler, Harding, Henderson, Hicks, Lane of Kansas, Morrill, Ramsey, Wilkinson, and Wright—10.

The PRESIDENT *pro tempore*. The bill is before the Senate, and the question is on the motion to reconsider the vote by which it was indefinitely postponed.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on the motion to postpone the bill indefinitely.

Mr. CARLILE. I now move, if I have the right to do so, that the further consideration of the subject be postponed until the second Tuesday in December next.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Virginia that a motion to postpone indefinitely takes precedence of a motion to postpone to a day certain, so that the motion to postpone indefinitely must first be put.

Mr. CARLILE. Then I trust the Senate will give me an opportunity to make the motion I have indicated, by voting down the motion to postpone indefinitely.

Mr. CONNESS. I would make any concession personally to the honorable Senator from Virginia, but he will excuse me upon this question, which I regard as of so much consequence. I hope that the Senate will determine the matter now by a vote, so that we shall not have the question kept open, to the detriment of a large portion of the people of California. If the Senator desires to make the bill the special order for any day before the end of this session, I have no objection; but I do not wish to have it postponed until the next session, with all its annoyances, and with its injury to the people of my State.

Mr. DOOLITTLE. I voted the other day for the indefinite postponement of this bill, and after the vote was given, in conversation with some gentlemen who had looked into the question, I thought perhaps I had made a mistake. My attention was called to it, and I began to look into the case. In fact a party who is interested, who claims title under Miranda, called upon me and stated orally the ground on which he stood. On looking at the papers and from his statement I found the facts to be substantially these: this man who claims under Miranda made a mistake himself; that is to say he mistook his own rights; the Ortega papers were brought out and exhibited in such form that he was led to believe that Ortega held the title and that his own title was good for nothing. At all events he abandoned his own title by reason of the mistake which he made himself. Then he claims that there was a mis-

take made by the Supreme Court of the United States, in consequence of which he suffered the time to expire within which he could get the benefit of the law so as to prove up his title. If it was simply a question between us and a man claiming so much of the unoccupied public domain, I could listen to this plea and to the force of it; but I understand that on this very grant there has now grown up a town of three thousand or four thousand inhabitants, persons who settled on this very land. To my mind when a man has, whether through his own mistake or through a mistake of the Supreme Court, or the act of God, or in any other way technically lost his right to dispossess three or four thousand people from the public domain, I am not willing to give him a right to come in and show a perfect title which is to eject the population of a whole city from the land on which they live, without at least imposing terms upon him. On the whole I shall vote with the Senator from Virginia, to postpone this matter until the next session, for we cannot at this session go into a discussion of it and ascertain what are the real rights of the case. If I could be prevailed upon to allow this man to intervene, I should impose in the law itself such terms as would secure the rights of the inhabitants.

Mr. CONNESS. I wish for the satisfaction of the Senator to call his attention at this point of time to a fact left out in the oral statement made to him. The withdrawal of this case from the land board by this party was not made on the exhibition of what appeared to be a superior title in the Ortega claimants, but it was made on a written compact, a copy of which I have here verified, between the Ortega men and the Miranda men. This party's name is signed to the document, in which he agreed that he would withdraw his papers and use his best endeavors to confirm the Ortega claim, and then divide the proceeds between them upon terms arranged and understood; and he did not withdraw it innocently; he is not out of court by anything but his own act in agreeing to confirm a title which has since been rejected, and therefore I say he has neither law nor equity. Still, if it is the pleasure of the Senate, (for I do not desire to impose on the Senate,) I will withdraw the motion to postpone indefinitely, as requested by the honorable Senator from Virginia, although I cannot withdraw it without believing that it is an injury to the people of my State. I withdraw my motion so that the Senator from Virginia may present his.

The PRESIDENT *pro tempore*. The motion to postpone indefinitely can only be withdrawn by unanimous consent. The Chair hears no objection; the motion is withdrawn.

Mr. CARLILE. Now I feel bound in good faith to the Senate to make the motion which I suggested a short time ago, to postpone the further consideration of this bill until the second Tuesday in December next.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 446) to regulate prize proceedings and the distribution of prize money, and for other purposes;

A bill (No. 532) to establish certain post roads;

A bill (No. 534) to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes; and

A joint resolution (No. 99) reserving mineral lands from the operation of all acts passed at the present session granting lands or extending the time of former grants.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 533) to provide for ascertaining and adjusting claims against the Government for injury or destruction of property by the Army of the United States, or by military authority, during the present rebellion—to the Committee on the Judiciary.

A joint resolution (No. 91) in relation to the treaty of 1817—to the Committee on Foreign Relations.

A bill to authorize assimilated rank to be given to the warrant officers of the United States Navy, and for other purposes—to the Committee on Naval Affairs.

A joint resolution (No. 95) authorizing the Secretary of the Navy to amend the contract with John Ericsson for the construction of two impregnable floating batteries, the Dictator and the Puritan—to the Committee on Naval Affairs.

Mr. HALE. I desire to say in connection with the bills just referred to the Committee on Naval Affairs that by a vote of that committee I am instructed to ask the Senate to devote a day this week to the consideration of naval matters; and I give notice now that if nothing else interferes I shall move on Wednesday at one o'clock to proceed to the consideration of bills relating to the Navy.

PERFORMANCE OF MILITARY DUTY.

Mr. WILSON. I move to take up Senate bill No. 286, to prohibit the discharge of persons from liability to military duty by reason of the payment of money, and for other purposes.

The motion was agreed to; and the Senate resumed consideration of the bill as in Committee of the Whole.

The PRESIDENT *pro tempore*. The pending question is on an amendment offered by the Senator from Massachusetts.

Mr. WILSON. I withdraw that amendment.

Mr. BROWN. I wish to offer an amendment as a new section:

And be it further enacted, That in any draft which may hereafter take place, all Indian tribes with whom treaties have been made by the United States and who are receiving annuities from the Government shall be required to furnish their respective quota of men; and that the duties of enrollment, or ascertaining the approximate numbers of said tribes, shall, whenever the same is necessary, be performed by the Indian agents as part of their appropriate duty, without further compensation, under instructions from the Provost Marshal General. And in the event that any tribe receiving annuities as aforesaid shall refuse or fail to furnish its required quota, then and in that event the whole or such part of their said annuities as the Secretary of the Interior shall deem adequate to provide substitutes shall be withheld from the annual payment and shall be placed in the Treasury along with the commutation fund heretofore paid for a like purpose: *And provided further*, That the force thus raised may be employed by the Government for the purpose of maintaining peace and protecting from hostile incursion the Indian and other Territories, and of relieving such troops as are now engaged in that duty.

I do not think the amendment I have offered needs any very special comment. It is known to the Senate that we are now paying out large annuities to many of the Indian tribes that are located on our border, and that they are just as capable of furnishing efficient soldiers as any of the counties of any of the States of the Union. I go further and say that for the purpose of the service in which it is designed to employ them, that is the special service in the Indian Territory and the mountain regions, a more efficient corps can be made from that class of persons than from any other in the country. We have now several thousand soldiers employed in these Territories; I believe I should not be overstating it if I were to say ten thousand. These can to a great extent be supplanted by the force which it is here proposed to raise; and from an acquaintance with the habits of many of these Indian tribes, from a knowledge which is acquired on the plains and in the Territories, I feel warranted in saying that they will make a more economical, a more efficient, and a more disposable force than any which we now have employed in these Territories. That will give us a substantial increase to our military force, and I think it will do another thing which is very important: it will lay the basis in our Indian system of disposing of the animosities of these tribes, so to speak, in a manner beneficial to the country. They now employ themselves, employ all their manhood in hostilities with each other. There seems to be some excitement of the sort necessary to them; but by diverting it in a proper channel, by maintaining an efficient soldiery among them, by elevating and educating them militarily, it will lay the basis of a further education which will extend throughout the tribes. I do not think that any reasonable objection can be made to the amendment. It does not propose to increase the expenditures of the Government, for it devolves this duty of enumeration on the

agents who are perfectly able and competent to do it. It will give us that additional force without any additional expense; and that we have a right to make the demand I do not think can be questioned.

Mr. JOHNSON. Mr. President, however advisable it might be to adopt the amendment proposed by the honorable member from Missouri, if we had the power, or if it consisted at all with what has been the uniform policy of the Government, I shall be obliged to vote against it upon both of those grounds. The Indian nations as we found them when the country was colonized, were independent of the rest of the world and each independent of all the others. That individual independence has never been denied on the part of the United States except so far as to prohibit their disposing of their lands where they are situated within the territorial boundaries of the United States to anybody else but the United States. We consider them with that exception as independent nations. We deal with them as such by making treaties with them. We have never attempted to take their lands in any other way than by negotiation consummated by treaty. By the Constitution they are excepted from the taxing power. Now the honorable member proposes that we shall by our laws provide that they shall be compelled to render military service to the United States. Even conceding for argument's sake that strictly speaking such power might be found to exist, which I do not think, yet, as it is wholly inconsistent with the whole practice and policy of the Government, I submit to the honorable member and to the Senate whether it is proper on the part of the United States to abandon that practice altogether, as would be done by adopting the amendment suggested by the honorable member from Missouri.

We have dealt harshly enough, perhaps, with these remnants of former great nations, and perhaps it has been owing to that very harshness that they consist now of but remnants. But while they are with us our duty, it seems to me, is rather to come to their aid than to force them by compulsory legislation to come to our aid in a moment when we ourselves and our institutions are in danger.

Mr. HALE. There is another objection to this amendment that strikes me as a very fatal one; and that is that it is an attempt by an act of legislation to amend the treaties we have with these tribes. We are bound by treaty to pay them certain annuities; it is proposed by this act of legislation to impose additional duties on them, and in default of their performing the duties which you impose upon them by this act of legislation to nullify their treaties. In other words, you break faith with them, and you take the annuity which you are bound by treaty to pay them, and indemnify yourselves by putting into the Treasury that which we are bound by treaty to pay them. It seems to me that of itself is a sufficient answer to the amendment.

Mr. SAULSBURY. Mr. President, notwithstanding I have learned somewhat in history of the cruelties practiced in civil war, it never occurred to my imagination that a proposition could be gravely made in the Senate of the United States to enroll the savages who roam the forests in the military service of the country to take part in this present conflict. There is not a Senator on this floor whose just indignation even in childhood was not aroused when he read of the action of the British Government in the days of our Revolution in bringing savages to fight against the colonists, and no one who has ever read them can forget the burning words of indignation which fell from the lips of Chatham against the employment of such soldiers against civilized men. But, sir, the proposition now is gravely submitted in the Senate of the United States to call into this war the savage tribes, to let them loose upon the people of the South. Sir, if those people had never been united to us; if we had never lived in political communion with them; if they were in the scale of civilization and refinement an inferior race, this proposition would be abhorrent and ought to meet with the just condemnation of not only every humane but of every just man. Sir, I cannot allow myself to speak in language suitable to express my thoughts in reference to this proposition; therefore I forbear further from characterizing it.

But, sir, what need have you of the Indians to fight these battles? Look at the men whom you have called into the field since the commencement of this war, and tell me now, sir, whether you have not had more men in the field since the commencement of this war than you can possibly, under any circumstances, continue in the field. You have men now in all the adhering States that are walking up and down the public roads and in every little country village, at every cross-roads, with the American uniform on, not employed in active service of the country; you have men scattered throughout the country who attend to the business of managing elections, and act as spies and informers against their neighbors, who drag off peaceable and quiet citizens from their homes. I cannot ride three miles from the country village in which I live that I do not find them walking up and down the highways with the United States uniform on; and this day, if you will call those men who have your uniform on and put them in the field, bend your energies against the foe in battle instead of attending to peaceable, quiet citizens at home in States that never raised the standard of revolt, you will find no necessity for the additional calls which this bill contemplates.

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to call up the special order, the hour having arrived for that purpose.

Mr. CHANDLER. I suppose the special order is the unfinished business of Saturday.

The PRESIDENT *pro tempore*. Yes, sir.

INTER-CONTINENTAL TELEGRAPH.

Mr. CHANDLER. I do not wish to antagonize that bill with this, and I move that it be postponed until to-morrow at one o'clock, and that it be made the special order for that hour.

Mr. HALE. I hope there will be no special orders made at this time of the session; you can take it up just as well without making it a special order.

Mr. WADE. A majority can take it up at any time.

Mr. CHANDLER. Very well, I will simply move that the further consideration of Senate bill No. 302 be postponed until to-morrow.

The motion to postpone was agreed to.

Mr. DOOLITTLE. I wish to offer an amendment to the telegraph bill for the purpose of having it printed. It is to come in as a new section:

And be it further enacted, That the rate of charges for public or private messages shall not exceed on said line the average usual rates in Europe and America for the same service, or such rates as shall be ascertained and fixed by a convention between the United States, Russia, and Great Britain.

The amendment was received, and ordered to be printed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. SHERMAN. Before the Senator from Delaware proceeds, I ask him to allow me to make a report from a committee of conference.

Mr. SAULSBURY. Certainly.

Mr. SHERMAN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1885, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their ninth and ninety-fourth amendment.

That the Senate recede from their disagreement to the amendment of the House to the twenty-fifth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the thirty-fourth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the ninety-fifth amendment of the Senate, and agree to the same.

That the Senate agree to the amendments recommended by the report of the previous conference committee to the ninety-fifth amendment of the Senate, agreed to by the House.

That the Senate agree to the amendments of the House to the ninety-sixth amendment of the Senate as modified by the recommendation of the previous committee of conference, and agreed to by the House.

JOHN SHERMAN,
GARRETT DAVIS,
Managers on the part of the Senate.
GEORGE H. PENDLETON,
WILLIAM WINDOM,
ORLANDO KELLOGG,
Managers on the part of the House.

Mr. SHERMAN. I do not know that any explanation is necessary, as the most of the con-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

TUESDAY, JUNE 21, 1864.

NEW SERIES....No. 194.

troverted amendments were disposed of by the first report of the committee of conference; but I will state the result of the second report, which will close the difference between the two Houses. The Senate recede from the amendment providing for an additional publication in newspapers in the border States of the laws of the United States. The Senate also recede from the amendment increasing the salary of the Treasurer of the United States. The Senate agree to the increase of temporary clerks in the Treasury Department, and also to a slight increase of the contingent expenses of the Fifth Auditor's office. The Senate also agree to the increase of twenty per cent. in the compensation of the smaller grades of employes in the Departments, and the increase of the pay of watchmen and messengers. The Senate also agree to certain amendments of the House of Representatives providing for additional clerks in various Departments of the Government. The House of Representatives have receded from nearly all their disagreements to our other amendments.

The report was concurred in.

PERFORMANCE OF MILITARY DUTY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 286) to prohibit the discharge of persons from liability to military duty by reason of the payment of money and for other purposes, the pending question being on the amendment of Mr. Brown.

Mr. SAULSBURY. I did not know that this subject was coming up for consideration to-day. When I was interrupted I was remarking that if those intrusted with the management of our military affairs would only call the men from places where the soldiers they already have are of no earthly use, and put them in the field against the foe, there certainly could be no necessity whatever for calling for more men, and least of all would there be any necessity for calling upon the savage tribes to take part in this contest. But, sir, the statement may perhaps be questioned that there are a great many soldiers thus unemployed. Why, sir, on my way to this city on the same train of cars, in my own State, there were four hundred soldiers in the uniform of the United States, who had been down in the lower part of Delaware and in the lower counties of the Eastern Shore of Maryland on a great military raid—attending to the elections there! There was a foe in the field down South who had arms in their hands, where they could have been legitimately and properly employed. There were peaceful, quiet citizens in the State of Delaware and on the Eastern Shore of Maryland, with no arms in their hands, presuming to approach the polls to cast their votes for those who were to make the laws of their States under which they were to live, and these soldiers, under the direction of their superior officers, instead of being sent to the front to meet armed foes, were sent to the elections to keep peaceable citizens from voting. Now, sir, before any white men even are called into the field more than those we have, much more before the aid of savage tribes is to be invoked, I call upon this Administration to bring to the seat of war the men whom they send into peaceful, quiet States to molest peaceful, quiet citizens, and to put them in the fields of battle, and see when they get them there whether they will not have enough men to meet General Lee and General Johnston. Sir, had this Administration placed in the field the men whom they keep in the adhering States for the purpose of influencing elections and harassing quiet, peaceable citizens simply because they differ from this Administration in party association, and had it united these men with those already in the field, do you believe, sir, does the country believe, does any sane man in the country believe, that there would have been any necessity for calling for another man? No, sir, there is no necessity for this double war upon an armed foe in the field and upon peaceful citizens at home.

But, sir, there is no earthly use for these sav-

age tribes in another aspect of the case. How many men do you suppose you have called into the field, and how many men have worn your uniform since the commencement of this unfortunate war? At least two million five hundred thousand; at least one in ten of your entire population; and yet you are not only calling for more men, citizens, but you are calling upon the savage tribes. Am I mistaken, sir, in this estimate? My attention this morning was called to a well-digested and most admirably written editorial in the National Intelligencer where this subject is treated of; and I will here take occasion to say that it is refreshing in these times to see one public journal at least maintaining the character and dignity which becomes a public journal, not to reflect upon other journals, however. I am indebted to some extent to that paper for the figures which I now present to the Senate. According to the report of Mr. Cameron under the call for 75,000 men first made, there were 77,875 received. In July, 1861, at the extra session, 500,000 volunteers were called for. On the 1st of July, 1862, 300,000 volunteers were called out. In August, 1862, of nine months' militia there were 300,000 men called for. On the 15th of June, 1863, the time when Lee was about invading Pennsylvania, 100,000 militia were called out and the number was afterwards increased to 120,000. In July, 1863, there was a draft for 300,000 men. Since October 17, 1863, according to the speech of the honorable chairman of the Committee on Military Affairs, 700,000 men have been received. I have been informed that there are some 200,000 hundred days' men in addition to all these, and I have seen in the papers that there are about 150,000 negroes. In the whole, not including your home guards which were called out in several States, you have a total of 2,647,875 men. Now, sir, throw away, if you please, 300,000 of these, because I understand that one or two of these drafts were not completed, but I presume the deficiency would not be more than 300,000, and you would have over 2,300,000 men who have been called into the service since the commencement of this war. The highest estimate of your population in the adhering States would be not more than 23,000,000; and thus you would have one in every ten of the inhabitants of the adhering States who have been called into the public service either for a longer or shorter period during this war. I do not pretend to say that all these men are now in the public service, because the time of many of them has expired, the nine months' men, the militia which were called out for temporary emergencies; and I presume, although I am not familiar with the fact—this is simply assumption from the figures already stated—that we must have some 1,200,000 men now with the uniform of the United States on subject to military duty. If that be so, or even if we only have a million, is that not sufficient to put down any rebellion in this country which can be put down? If a million of armed men cannot suppress the existing revolt, then, sir, in my judgment, it is of such gigantic proportions and presents such a power of resistance that you cannot put it down at all. In Alison's History of Modern Europe, speaking of the French conscription, the following passage occurs:

"With respect to the military and naval resources of the empire, the report contained information that could more implicitly be relied on. The population of the French empire, augmented as it now was by Belgium, Holland, the Hanse Towns, and Roman States, amounted to forty-two million, of which twenty eight million seven hundred thousand belonged to Old France. Nor were the military and naval resources of the empire on a scale inferior to the numerical amount of its inhabitants: on the contrary, they greatly exceeded them. The horses it contained were three million and a half, and consumed as much food as thirty million people. The army numbered, in all, eight hundred thousand infantry, a hundred thousand cavalry, and a hundred thousand artillerymen and engineers; in all, a million men in arms; a force, if the quality as well as number of the combatants, and their admirable state of equipment, are taken into consideration, unparalleled in any former age or country of the world. But it was altogether disproportioned to the resources, vast as they were, of the State."

And here, sir, we may gain a very profitable

lesson. It certainly is not wise, as all history proves, for any Government to keep an army in the field disproportioned to the resources of the State, because when the resources of the State fail the support of the army fails.

"But it was altogether disproportioned to the resources, vast as they were, of the State; it was more than double of that which Rome, at its highest point of elevation, maintained out of three times the number of inhabitants; and larger than China supports out of a territory ten times, and a population, according to the lowest estimate, four times as large as those of the French empire. In a word, it implied the permanent absorption of one in forty of the whole population in the profession of arms; whereas it has never been found, by experience, that an empire, how powerful soever, can for any length of time flourish with more than one in a hundred engaged in such pursuits."

Sir, if such be the lesson of history, and if it be true, as this learned historian suggests, that the calling of one in forty of the population of France into the field under Napoleon was such a strain upon the resources of his Government as finally led to disaster and defeat, it is time for those who have the management of military affairs in this country, certainly time for the Congress of the United States, to learn the lesson which it teaches, and see whether they can call into the field one tenth of the inhabitants. I am not saying they have one tenth of the inhabitants in the field now; but I presume they have at least one twentieth, which is twice as many in proportion as Napoleon had during his campaigns. There is a very instructive note appended to the extract which I have quoted:

"Rome, in the time of Augustus, with a population of one hundred and twenty million, had an army of four hundred and fifty thousand; Russia at present, with sixty million, has seven hundred and ten thousand in arms; China, with one hundred and seventy million, has a nominal force of nine hundred and fourteen thousand; but more than half of this immense body are mere militia like the Prussian landwehr, who are only occasionally embodied, and are not permanently withdrawn from the labors of agriculture."

It was not my intention, however, Mr. President, when I rose, to be led into this statistical statement, as I intended when the bill should be on its final passage to submit some remarks. My object in rising was to protest against the amendment offered by the honorable Senator from Missouri to call the Indians into the public service. Sir, we should not let our passions overcome our judgment; we should not forget, if we are engaged in war, and in a civil war, that we are bound by the great laws of humanity and civilization. We should not forget, however just our indignation, however excited our feelings at the attempt to dissolve the Federal Union, that we cannot transgress the great laws of morality and the great principles of humanity with impunity. Call into the field these savage tribes, and what would be the judgment of the civilized world? That we who boast of our superior civilization, and rejoice that we were not only among the first, but perhaps in our vanity that we were the very first among the nations of the earth in the scale of civilized and Christian refinement—that we have fallen from our boasted high estate, and have placed ourselves upon a footing with the English nation in the last century who attempted to set loose upon our fathers the savages of the West. Sir, I protest for one against a policy which must bring down upon us the indignant judgment of the whole civilized world. I know, sir, and you know the burning indignation which fired our breasts in childhood when we read that such a thing was not only attempted but executed against our fathers. Sir, the feelings of childhood were honest; the feelings of childhood were sincere. Let us cling to their purity, not corrupt them by the barbarism which would prompt the invitation of savages to the field.

Mr. BROWN. Mr. President, I do not propose to follow the Senator from Delaware in the line of remark which he has seen fit to indulge, for my object to-day is solely to expedite business, to carry forward and perfect, if possible, the bill under consideration, and not to indulge in general debate. Let me say, however, that I was not prepared to see the amendment which I have offered totally misrepresented in its language, its

character, and its intent. I had supposed that the known charity and courtesy of that Senator would have precluded him from such a style of debate. However, sir, he has seen proper to show his sympathies as exclusively excited in behalf of our public enemies, and it is in their behalf that he protests against this use of an arm that may be rendered an efficient one for military purposes. There is perhaps no reason for any surprise in the premises. I have never heard anything fall from the honorable Senator denouncing the atrocities that have been perpetrated against us by those who are now waging war; I have never heard the first syllable fall from him on that subject; and yet when he puts a hypothetical case where our enemies are to suffer what he denominates a savage tribe may be employed to do, he gushes forth into sympathy that is beyond compare.

I desire to call the attention of Senators to the fact that we have already had an exhibition of the use of Indian troops in this war on both sides. There are now employed on the side of the United States Indian troops, and there are employed on the side of the confederate States Indian troops; and if it were necessary to carry this war into the savagery that the gentleman speaks of it certainly might be justified by the atrocities which have been perpetrated against us. Let me call the attention of the Senator to the latest instance of those in whose behalf his sympathy is expended; it is an extract taken from a paper published in my own State, which I have this morning received, and which bears directly on the point suggested:

"The following particulars of the butchery of thirteen soldiers of the first Missouri State militia has been furnished us by a Government employé, who arrived from Johnson county on Tuesday night.

"On Sunday, June 12, fourteen men of company M, first Missouri State militia, left Warrensburg on a scouting expedition to Holden. When near the latter place they were met by three of Quantrell's men, dressed in Federal uniform and wearing white ribbons in their hats in imitation of the militia. They ordered our men to advance, and in doing so the party was surrounded by eighty men and murdered in the most cruel manner, only one of them escaping. The eyes of our men were torn from their sockets and their throats cut from ear to ear. Quantrell's headquarters are on the Sul river, not far from the Missouri. Our informant says that in Johnson, Lafayette, Clay, Jackson, and Platte counties it is dangerous for a Union man to travel without a strong escort."

Mr. WILSON. I will ask the Senator who committed these atrocities; what class of men?

Mr. BROWN. Confederate troops; the public enemy whom some are so fearful Indian troops may be employed against and may commit some atrocity. I will leave that extract to answer all the Senator has said on the subject of the savagery that it is proposed to introduce into this war. It is perhaps needless to add that I do not approve of any savagery or contemplate that any such will result from the amendment offered.

But to come directly to the point, I said that the Senator has misrepresented the character of the amendment which has been proposed. As it stands it is a proposition to organize in the Indian Territory an Indian force for service there to maintain the peace and order of that Territory. Is it assumed that we shall not be permitted to organize an Indian force to repel atrocities like those of the Sioux Indians that desolated our whole frontier, and that we shall be accused of being a savage nation if we employ Indians to repel hostilities of that kind, and to maintain order along our settled frontiers as against depredations of that kind? Will the Senator insist that instead of availing ourselves of that which is the most effective arm of military service in the Indian country, organized Indian troops, we shall draft citizens from Delaware and other States and carry them there for that purpose, where they cannot compete with the troops proposed, and where regular forces have never been able to suppress these kinds of hostilities? That is the attitude in which the question presents itself, and that is the attitude in which the Senator would have discussed it if he had addressed his argument to the proposition which is presented and not carried himself off into a tirade against imaginary barbarities against rebels in arms.

Now, I desire to say that so far as my own experience goes the employment of Indians for service on the frontiers and in the Territories is far more efficacious than any other class of troops that can be found. Among the tribes that are

drawing annuities from us, the Delawares, the Shawnees, the Pottawatomies, all the tribes that are located in Kansas and Nebraska and along the Missouri river, furnish the best hunters, furnish the best woodsmen, furnish the best riders and scouts on the continent, and they can be made certainly efficacious for the purposes of keeping the peace in their own and adjacent countries. It was for the purpose of organizing such a force to be employed in such quarters that the amendment has been offered, and not for the purpose of an indiscriminate employment in other fields of service.

I am prepared, Mr. President, for my own part to take all the odium that may be visited upon me for the employment of such troops anywhere, at any time, for I believe that, so far from being what the Senator has represented, they will make as good troops as any in the service. They may not endure the hardships that some others endure, they may not have the kind of courage that some others possess, but for certain purposes of warfare, and that the kind especially demanded in the western Territories, they will make better troops than any other that I have ever seen in the service of the United States.

I differ, Mr. President, from the view which has been presented by the Senator from Maryland in regard to the right of the Government to call upon these persons, who are drawing subsidies from us, for military service. I believe that it is in the power and that it is the right of this Government to call upon every man within its borders, unless perhaps it be subjects of foreign Governments, to come forward and give military support to the nation in the hour of its peril. I do not believe that the recognition of the Indian right to the soil, and the payment of treaty stipulations to support them in idleness, necessarily involve a relinquishment of that right to personal service from them in time of war; nor do I recognize as correct that position which the Senator gives to them of independent tribes with whom we can only deal by treaty, and to whom we are bound as we would be to a foreign nation. I have never recognized that as the attitude of the Indian tribes, and I do not believe the Government has ever recognized it. As to the right of the Government to enforce this personal service I assume that if it be that the Government can enforce personal service as against a citizen of Maryland, and require him in default of personal service to pay so much as a commutation, then the same rule will apply to the Indian in Kansas, and the Government is justified in raising that commutation and procuring it from the only source from which it is possible to procure it, their annuities. It becomes in so far the right and the title of the Government to exact it, and they can do so by the mode best known to them, which is the one pointed out in the amendment.

I do not desire to press this question upon the Senate; I have simply moved the amendment, because I am solicitous that we shall have all the assistance that we can and render disposable all the troops within reach. I am anxious that the western country shall be protected as far as possible from the incursions of hostile Indian bands, the wild tribes of the plains with whom we have no treaty stipulations, to whom we give no annuities or anything of the kind, and who make war for the purpose of forcing us to give them annuities; and if I can contribute in this manner to strengthen the arm of the Government to relieve a large number of troops who are now there, and who may be needed and better employed elsewhere, and inaugurate a better method of discipline in our Indian service, I shall have done what was desired in the premises.

Mr. SAULSBURY. I was not aware, when I submitted the few remarks I did, that I had said anything discourteous to the honorable Senator from Missouri; that I had said anything to which he could take any personal exception. It is not my habit. When I wish to do that I know a way to do it, not by indirection but directly; and I shall never avail myself of the privileges of the Senate Chamber to indulge in discourtesy to any member of the body. There is nothing more distasteful to me than a course of that character; but some kind friend has blessed the honorable Senator with a great deal of light. He must have "optics sharp, I ween." He not only can see what is transpiring around, but he can judge of

sympathies; and he talks about my speaking in behalf of those for whom I have sympathy. Sir, I spoke in behalf of humanity and in the cause of civilization, and I have sympathy with their progress. I will take this occasion, Mr. President, once for all, to say that this common mode of meeting an argument by an imputation is a thing which, in my estimation, is too little for me to take any notice of. It is a kind of debate in which I have never engaged in all my life, and which I never expect to engage in so long as I have the presumption to think that I can meet argument with argument, and reasoning with reasoning; and never, sir, until I shall have so far lost my own self-respect as to be unworthy of joining in fair debate. Now, Mr. President, I say no more on that subject.

The honorable Senator says that I did not state correctly, or, to use his own courteous expression, that I misrepresented his amendment. I gathered my impression from the amendment as I heard it read from the desk. The honorable Senator says now that it was intended to be confined exclusively to operations in the Indian country. I do not know whether he meant to say exclusively against the Indians or not. Mr. President, get these Indians into the regular organized service of the United States, and do you suppose they will be confined exclusively to the Indian Territory? I understand that the one hundred days' men were called out under the impression that they were to serve to defend the frontiers of their own States from invasion, and yet we see them marching to the front. I do not complain of this. It is none of my business. The country needs them, and if they are liable to go as soldiers they should go, and as good soldiers they ought to go. Once have these Indians sworn into the regular service, and what power is there to restrain the Commander-in-Chief from transferring them from the Indian country to any point where in his judgment their services may be needed?

But, sir, it is said, and I have heard it frequently before, that there are great atrocities committed on the part of those in revolt. I have no doubt of it. No man condemns them more than I do. I have no doubt there are great atrocities committed also on the part of the Federal soldiery. I approve of one just as much as I do of the other. I approve of neither. But wherever either side violates those great and high principles of honorable warfare which should characterize civilized men, they meet with my just disapprobation. It is no answer to an argument against the perpetration of atrocity to say that atrocities are committed on the other side. Do right; conduct your war, if you must conduct it, upon those high and elevated principles which govern modern warfare and which are recognized in the laws of modern warfare by all civilized and Christian nations. If you do that you will maintain your own self-respect; and let me tell you if there is a just God in heaven whose laws are immutable, the transgression of whose laws cannot take place with impunity, you will be more successful than you will by an attempt to achieve your object by the violation of those laws.

Mr. DOOLITTLE. The Senator from Delaware, it seems to me, could not have listened to the language of this amendment proposed by the Senator from Missouri, for the provision is that the Indian force thus raised "may be employed by the Government for the purpose of maintaining peace and protecting from hostile incursions the Indian and other Territories, and of relieving such troops as are now engaged in that duty." If any ambiguity may grow out of the employment of the word "may," it may easily be amended and the word "shall" substituted, although I understand the whole force of the section to be precisely the same on the War Department in limiting its power in the employment of this force whether the word "may" or "shall" is used, because it authorizes the raising of the troops on condition; and what is that condition? That they may be employed to keep the peace and prevent incursions in the Indian Territory or the other Territories.

Now, Mr. President, what are the facts? In the Indian Territory, before this war began, the Indian tribes were at peace. The rebels, through the instrumentality of their troops and their emissaries, prevailed on the Choctaws, some of the

Chickasaws, the Seminoles, the Washataws, and the affiliated bands, to enter into the rebel service and join the conspiracy. With the aid of some white troops advancing with these Indians as their allies into the Indian Territory, they carried fire and devastation through that Territory, and drove out from it the Creeks and the Cherokees to the amount of more than twenty thousand, fleeing, suffering, in the midst of winter, under circumstances of suffering compared with which there has nothing been like it in this war. In substance this is but a proposition to authorize the Government to employ Indian forces to keep the peace in the Indian Territory and the other Territories where they are liable to just such incursions as these by Indian tribes joined with rebels. With such language as will guard it as to the employment of the force in this way, there can be no objection to the object, which is to enroll into the service of the United States as our allies against the Indian forces that are employed by the rebels, Indian forces. Certainly there is nothing wrong in that. The Senator from Delaware has spent his sympathies in vain, it seems to me, when he appeals to the recollections of our childhood when we read the story of the Revolution and the employment of Indian savages by Great Britain in the war for our independence against us. Sir, there is nothing like it proposed in this amendment of the Senator from Missouri.

But there is force in an objection which was raised by the Senator from Maryland, I think; and that is to say that from our relations to the Indian tribes, treating them as we do as independent tribes and nations, and our relations being with those tribes by virtue of treaty stipulations, and there being nothing contained in those treaty stipulations by which we are authorized to draft them in case of war, that part of the amendment of the Senator from Missouri which proposes to forcibly bring them into the service cannot stand investigation. I suggest to the Senator, therefore, if he will allow me, to amend his proposition so that the effect of it will be substantially that the Indians, members of tribes receiving annuities from us and living in any State, may be authorized to be received into the forces of the State as a part of the quota of the State, and that within the Indian Territory the Secretary of War shall be authorized to use as a part of the force of the United States, such Indians as may be employed for that purpose to keep the peace in the Indian Territory and to carry out the purpose mentioned in the proviso to this amendment. This would avoid all objection to grow out of what may be termed a violation of our treaty stipulations with these Indian tribes, a violation of our recognition of them as independent tribes.

Mr. HENDRICKS. I desire to ask the Senator from Wisconsin whether the Indians are enrolled under the conscription law.

Mr. DOOLITTLE. They are not.

Mr. HENDRICKS. Then I ask the Senator, would not his proposition be this: that persons not subject to the conscription law shall be received in some States against the citizens of the States in other States?

Mr. DOOLITTLE. Perhaps whether they should be credited to the State or not is another question. I can see the force of the objection made by the Senator; but the main purpose is to authorize the Secretary of War to receive and employ them in this service. That is the purpose of the Senator from Missouri. According to my proposition it would be as volunteers and not as conscripts or drafted men.

Mr. JOHNSON. Can he not do that now?

Mr. DOOLITTLE. I am not aware that any law has been passed authorizing the Secretary of War to employ Indians as volunteers. I will appeal to the Senator from Massachusetts.

Mr. JOHNSON. There are some in the service.

Mr. DOOLITTLE. I understand that in point of fact Indians from some of the States have been enlisted as volunteers, and have been accepted as volunteers in the service of the United States. The Senator from New York so informs me in regard to his State.

Mr. HENDRICKS. I will ask the Senator if that is not confined to that class of Indians who, under treaty or law, are made citizens of the States? By the constitutions of some of the northwestern States, and perhaps the constitution of Wisconsin,

Indians are allowed to be citizens of the State, and we have some treaties allowing them to be.

Mr. COLLAMER. It is so with the Brother-ton Indians.

Mr. HENDRICKS. Perhaps that is the tribe. I ask whether any other classes of Indians have been allowed to volunteer.

Mr. HARRIS. The Cattaraugus Indians have been received as volunteers.

Mr. DOOLITTLE. It would seem that in New York some of the Cattaraugus Indians have been accepted as volunteers in the service of the United States; and in Kansas, as I am informed, some Indians have been accepted in some of the regiments, and some in Michigan. But the question which I was considering was whether there has been any legislation on the subject; and I appeal to the Senator from Massachusetts to state. As we have legislated so much on this military question, I am not sure that we have not passed a law authorizing the acceptance of Indians as volunteers in the service of the United States.

Mr. WILSON. There has been no such law.

Mr. LANE, of Kansas. I can state the history of the acceptance of Indian troops. A year before we accepted the services of either Indians or negroes, the rebels had three regiments of Indians fighting our loyal people in the Indian Territory. The Secretary of War accepted three regiments of Indian volunteers in the Indian Territory, officering them with white men. They are now in the service, and have done good service, valuable service in the field.

Now, that the chairman of the Indian Committee may understand exactly the position of this question, I desire to suggest that you cannot without a law providing for enrollment and for drafting get this particular class of troops into the field. The Secretary of War has been willing to accept them for two years, has been trying to get them into the service. The Indian reserves, so far as the State I in part represent is concerned, are not within the boundaries of our State. They are excluded by express legislation in the Kansas-Nebraska act.

Mr. RICHARDSON. And it is so in all the other territorial acts. They are not citizens, but excluded by the action of Congress.

Mr. LANE, of Kansas. By the amendment proposed by the Senator from Missouri we can obtain a very large force of useful troops for the western country, and we can release, instead of ten thousand, as put by the Senator from Missouri, not less than twenty thousand white troops engaged in protecting the Indian country. I feel that by the passage of this amendment we can release all but a very small portion of that force from that service and use them elsewhere in the military service of the United States.

I desire now to say a word in respect to the position taken by the Senator from Maryland. Here is a people whom this country is feeding day by day, men, women, and children; many of them shiftless, fit for nothing under God's heaven but to fight. Situated thus with them, we should not, in a case of this kind, act on a theory which every man of sense in this Senate believes to be a folly, the theory of treating those Indian tribes as independent nations. A treaty is but a burlesque; it is a humbug; and every man knows it who has had anything to do with them. We make the treaties here in the Indian department to suit the wishes of the Government. They are sent out to the Indian tribes; inducements are offered; our Great Father wants the treaty; a bullock or two is killed, and the treaty is adopted. When it comes to the Senate, if we find it does not suit us exactly we change it. The amendments are sent back, and the same kind of appliances are used, including the whisky, and our amendments are ratified.

Mr. JOHNSON. Not the same whisky. [Laughter.]

Mr. LANE, of Kansas. The same sort of appliances are used and our amendments are adopted. They are a weak, feeble, shiftless people, the greater portion of them, yet they will make good soldiers if we exercise the force that we possess in doing with them as we do with our own children, conscripting them into the service of the United States. I think, Mr. President, that

if the Senator from Delaware had been at Lawrence on the 21st day of August last, he would not be condemning our Government for proposing to muster into the service of the United States Indians. Several of those men who committed that raid and that murder and those terrific outrages were rebel Indians who have been in the service from the moment this rebellion commenced. Very soon after this Administration came into power, the President appointed a commissioner and Indian agents, and sent them out to the Indian Territory, and they were the first to turn against the Government, and persuade the Indians that the Government was lost, and induce them to go into the rebel ranks among the first that were in the service in this war. He appointed what he supposed to be loyal men. They went out there and turned against the Government and carried off these Indians, and I repeat, that a year before we called an Indian or a black man into the service, the rebels had three regiments burning and destroying the property of our people.

Mr. JOHNSON. I said the other day, when the condition of the Indians that are now left was brought before the Senate, that the conduct of the people of the United States toward them perhaps could not be justified on moral grounds. I understand the Senator from Kansas now to say that there is not a sane member of the Senate, acquainted with the facts, who would not pronounce all these treaties as the merest folly in the world.

Mr. LANE, of Kansas. The theory of treating with them.

Mr. JOHNSON. There is no folly in the treaties so that we get the land. What he meant to say was that the theory of treating with them, considering the manner in which we get their land by treaty, was a folly; but it is worse than a folly if he states the facts accurately. If we delude these poor Indians, if we seduce them by applying to their weaknesses or their vices, and in that way we become rich and they become vagabonds, the case is rather worse than I thought it was. But we have thought proper to do it, if we have done it at all, at any rate in the form of constitutional measures. We have made treaties ostensibly. The papers, the conveyances by which we got the lands, upon their face profess to be treaties. They are signed by the President of the United States, under the advice and consent of the Senate, as the representative of the United States, and they are signed by those who profess to represent, and who do represent, these several tribes. And in that way we are now, as far as such treaties have been made, the owners of those lands.

Now, the Senator from Kansas states—he may be right; he knows more of the character of the Indians than I do—that they are a lazy, worthless set of men, who do nothing but cumber the earth. Who has made them lazy and worthless, and a cumber to the earth? We, we. Have they not still some redeeming qualities which show that the manhood God gave to their ancestors has not altogether expired? The honorable member tells us that the regiments of Indians who are now in the service of the United States have done as useful if not more valuable service than any other regiments of the same number in the armies of the United States. They then possess some high qualities, and if properly treated they would cease to be wanderers and cumberers upon the face of the earth.

But that is not the question now, Mr. President. The question now is, have we any authority to do what is proposed? What is it? What is supported by the honorable Senator from Kansas? A proposition to force them into the service. Suppose we had the power, I was about to say I should be ashamed to use it. We have done already enough to bring us somewhat in disrepute. We, the white men of the nation, we who constitute the nation, we whose Government this is, which we created, and which we claim to be ours, and which we desire to perpetuate, we have already admitted that we were unable to protect and perpetuate it without calling upon the Africans who happen to be within our limits; and now we are asked to go a step further, to force into the service of the United States some twenty thousand Indians over whom we have no constitutional control; and the object avowed is to save from the danger of death the lives of as many white men. What will the judgment of other

nations be upon it? What judgment will the civilized world pronounce if we declare that with a hundred and fifty thousand black troops and more than a million of white men now in the field, we are unable to maintain ourselves without forcing into the service some fifteen or twenty thousand of the remnant of this race who have been brought into the condition in which they are by us? I forbear, Mr. President, to anticipate that judgment by saying what I suppose it must be.

But the ground upon which I refuse to concur in the proposition offered by the honorable member from Missouri is that as things now are, under the Constitution as it is and according to the well-settled policy of the Government, we have no authority to force these Indians into the service.

A word now upon the amendment suggested by the honorable member from Wisconsin, which is to permit them to be received as volunteers. I have no doubt they may be now. The acts which authorize the bringing into the service of the United States of troops up to the limit to which the Government is authorized to call do not say that they are to be white men; they may be Indians or anybody else. The ship that comes crowded with emigrants to-morrow, capable of making good soldiers; they, without designing to become citizens and without expressing a design to become citizens as a condition of your receiving them into the service of the United States, may be received as volunteers just as legally as the native citizen. And if we can receive the foreigners from all parts of the civilized world who are here and who may offer their services, why can we not receive the Indian? There is but one difference between them, and that, if I may so express myself, is a moral difference. It consists in the fact that perhaps the judgment of the world and the judgment of the reflecting part of our own people would be that it was hazardous to bring into the field troops of this description who fight with the tomahawk.

Mr. GRIMES. Have you any objection to their being used against the Indians who are fighting us in the Northwest?

Mr. JOHNSON. Yes, I object to their being used as soldiers at all, for any purpose. The honorable member from Missouri has given us a statement of an outrage committed by the rebels. I hope it is somewhat exaggerated, though it may be true, for Heaven knows that enormities have been perpetrated on both sides. But he seems to suppose that because these enormities are perpetrated it justifies bringing the Indians into the service of the United States, although in all probability they will be found perpetrating like enormities.

Mr. BROWN. Permit me to say to the Senator from Maryland that on the contrary I expressly disclaimed any such idea at the time; but I stated that if it were designed to show an offset, there would be justification for it. These Indians that are spoken of are not savages; they are, most of them, just as capable of being drilled as soldiers as any of the persons who are taken up under the conscription law here; and it is simply proposed that they, equally with everybody else, shall come in and furnish their quota as they draw their pensions from the Government.

Mr. JOHNSON. I know the honorable member from Missouri well enough to be satisfied that he would not justify the employment of Indians if they were found perpetrating, or it was thought they would be found perpetrating enormities such as the report he read prescribed, because of the perpetration of like enormities on the other side. But how are you going to employ them? What Indians are you going to select? The proposition is to take them by draft.

Mr. BROWN. I would suggest to the Senator from Maryland that there is a large expedition now against the Sioux Indians in which the forces of the United States are engaged.

Mr. JOHNSON. I know.

Mr. BROWN. There are now some five thousand Navajos on the pay-roll of the Government of the United States, fed by the Government, doing nothing, living in idleness in New Mexico.

Mr. JOHNSON. The honorable member did not understand what I intended to say when he interrupted me. He said to me that a great many of these Indians were civilized. I admit it; but a great many are not. If you apply the drafting system to them what security is there that you

will not draft the savage instead of the civilized? If I am told that they are to be employed as against savages, and to use the tomahawk only when they meet savages like themselves in battle, do you think that if they happen to meet other than savages they will stop to inquire whether it is proper to use the tomahawk or not?

Mr. BROWN. Does the Senator understand the tomahawk to be one of the arms in use in the Army of the United States?

Mr. JOHNSON. Certainly, but it is a weapon which will be used by Indians, and it is not a bit worse than the weapon the confederates are using, the bowie-knife; and one enormity produces another. Devastating as the war has been, filling as it has done the land with misery, carrying agony into so many households, in the name of God I trust that we shall adopt no policy which looks to its being conducted upon any other principles than those principles which, according to the modern laws of war, in a manner humanize such conflict.

Mr. WILSON. I hope, Mr. President, the Senator from Missouri will withdraw this amendment. It is doubted by many Senators whether we have the power to do what he proposes, and it is doubted by many whether, if we have the power, we ought to exercise it. I think the debate shows that this amendment ought not to be pressed, and I hope the Senator will withdraw it. I think the Government, under the general laws for the raising of troops, can enlist Indians that are fit to be enlisted, and use them for such service as it deems proper in the Indian country. I trust the amendment will be withdrawn, and that we shall come to a vote upon the bill.

Mr. HOWARD. I concur entirely with the suggestion of the Senator from Massachusetts on this subject. I confess that I greatly doubt the authority of the United States to constrain members of Indian tribes within our limits to do military duty for the United States. I certainly do not wish to be driven to a vote on that very delicate question. It seems to me, sir, that we have too many treaties with the Indian tribes to leave the question very doubtful whether or not the Indian tribes are, in the sense of the laws of nations, independent nations. As to the Government of the United States, they are regarded as merely the wards of the nation, and subject to and entitled to our protection as their superior or suzerain. I do not wish in the face of the world, although our necessities are great, to present such a question as this, whether we shall constrain the subjects of Indian tribes, without the consent of their barbarous government, their chiefs, to do military duty in our behalf. Certainly, the amendment offered by the Senator from Missouri contemplates the coercive employment of Indians in the military service, not leaving it to the option of their chiefs or their own option whether they will serve us or not.

I will say further, now that I am up, that I have no heart for the employment of Indian savages in our wars. We are not yet driven, as I think, to the necessity of asking the alliance of the tomahawk even against the barbarisms of the rebels. I shall wait long and patiently and anxiously before I shall give my vote to associate the tomahawk of the savage with the musket and the sword of honorable, civilized Christian war.

Mr. BROWN. I would ask the Senator from Michigan whether they have not some Indians from his State already in the service of the United States?

Mr. HOWARD. I will answer the Senator: I believe that we have; but it is my duty to say at the same time that a very large proportion of the Indians within the limits of the State of Michigan are not subject to the tribal government, and that the most of them are freemen and citizens of that State and actual voters at the polls. So far as I am informed and as I believe, a vast majority, not to say the whole of the Ojibwas and Chippewas, to whom the Senator has alluded, are citizens of the State of Michigan, and voters.

Mr. McDougall. Mr. President, ever since the war between the colonies and Great Britain with France for the French possessions in the North, ever since the time of the expedition to Fort Pitt, we have employed the services of friendly Indians as against the Indians employed on the opposite side. Indians for certain purposes were employed in the war of the Revolution.

Friendly Indians were employed in the war of 1812. Friendly Indians have been employed in our frontier wars. When Texas was being nearly overwhelmed by the power of the Comanches in the north, the Texans employed the Lipans as friendly Indians to aid them as scouts, guides, and for various purposes to carry on their war and maintain their own frontier. Friendly Indians have been employed in Oregon and elsewhere for like purposes. Their services have never been coerced, but they have been extremely useful. They were employed in the Black Hawk war in the Northwest. Their employment for certain purposes by the Government, I think, can not be objected to, and particularly in frontier war. They may be, to a certain extent, almost necessary. Our war now in Kansas and Arkansas and in the Southwest, and in the Northwest also, requires probably the employment of Indians, and often of organized bands of Indians with proper officers; and certainly the difficulty that occurred in the Cherokee nation and throughout the Creek country shows that it was necessary for us, in order to maintain our position in that part of the Southwest, to give employment to Indians as against Indians. I believe in the proper application of such a policy; but I do not think we have a right to coerce their services, and I think I speak according to the experience of all gentlemen who know anything of the frontier when I say that such Indians as favor our Government, being in treaty with us, to whom we offer service, maintenance in the field, transportation, and other facilities to join with us, would be prompt volunteers without bounties or without any of the extraordinary provisions we offer to our own citizens and the negro population of the South. I am in favor of their employment in and about their proper uses. They are invaluable for many purposes as scouts. They are particularly valuable with the army of the West, and have been used to some extent in the army of the West as scouts and as pioneers, going ahead for the purpose of finding out the position of the enemy. For this nothing like coercive policy is required. I think that it would be well to express here as an amendment perhaps to this bill, a direct authorization—so that it shall not be a mere implied one—a direct authorization to the Government to employ them. I know that Indians whom we employed belonging to the Cherokees, organized as regiments, were unpaid and officers were unpaid, and great complaints arose, and it was because, I think, of some question as to the proper authorization of the Government to employ them.

The chairman of the Committee on Indian Affairs, the Senator from Wisconsin, [Mr. DOOLITTLE,] has prepared an amendment that will meet my full concurrence, and answer all legitimate purposes. I do not think they are people to be coerced. Unless they volunteer freely, and go into our service, their services cannot be relied upon; it will be useless legislation. I do not think, myself, we have the authority to coerce them; I think we have not, as we do not consider them citizens, and as we have treated with them, giving them annuities, &c. It would be inconsistent with the policy we have always pursued toward them, and the true law would follow as the construction of that policy that we have not the right. I should like, however, to authorize their employment.

Mr. HOWE. Two things in this debate have surprised me a good deal: one is that there should be a proposition in the American Senate to conscript members of Indian nations or tribes. I do not believe, Mr. President, you have any more legal or moral right to force an Indian into your armies to fight your battles than you have to force a Mexican or a Canadian. They owe no allegiance to your laws; they do not enjoy the protection of your laws; they are no part of the people for whose benefit your Government exists, and I am surprised that there should be such a proposition brought in here.

That does not surprise me so much as a statement that has been made during the debate, which is that there are already a number of Indians employed in the Army of the United States. The Senator from Kansas, I think, stated that there were three regiments of Indians that he knew of in the West. The Senator from Michigan tells us that there are some from his State. I am not

squameish about this matter of employing Indians and enlisting them if they see fit to volunteer. Any man who will wear your uniform and submit to the discipline of your Army, I do not care what his color is, nor where he was born, will do for service in your armies; that is my judgment; but what occasioned the surprise on my part was this fact: we have in the immediate neighborhood in which I live a small band of Indians who formerly lived in New York, known as the Oneida Indians; they are farmers, they wear our clothing, speak our language, work as we do. In 1861, they were anxious to enlist when we first began to raise volunteers, to be officered, of course, by our own men, and to serve in our own regiments; and at the request of some of them I wrote a letter to the Secretary of the Interior asking permission to recruit a company of those Indians to go into one of our regiments. The Secretary wrote back to me that he saw no objection to enlisting them, but the President was opposed to it, and therefore we abandoned it. Last winter a gentleman in our city wrote me again, saying that these Indians were anxious to enlist, and that he could raise a couple of companies, and wished me again to apply for permission to do so. I applied to the Provost Marshal General, and he told me that he saw no objection to it himself, but the Secretary of War was firmly opposed to it. Two applications, therefore, were made in behalf of a tribe as far advanced in civilization as any I know of still maintaining the tribal character at all, men speaking the language as well as most of us, and following all our habits as closely as they ought to follow them, to speak modestly; they have been excluded. I was therefore very much surprised to learn that Indians had been mustered into the service in other sections of the United States. I think, myself, there is no objection to it if they will submit to our discipline.

Mr. LANE, of Kansas. Let me ask the Senator what it is that constitutes the claim of the Government upon the citizen for service. I understand it to be that the Government protects the citizen; that that is the ground of the claim. Do we not protect these Indian tribes just as we protect white American citizens? Just across the river from where I live is a tribe of Indians whose property is as valuable as ours, who have as large an amount of property *pro rata* as we have. We extend to their homes the same protection that we do to our homes, to their property the same protection as to our property, to their families the same protection as to our families. On this side of the river we conscript our people, and yet on this theory we excuse the Delaware and Pottawatomie Indians who have as much interest in sustaining the Government as we have. They have a fund here I suppose of one or two million dollars besides the land; their homes are as valuable as ours; and yet by this sickly sentimentality we propose to excuse them and call our own people into the service. The power, I insist, is with the Government; the same power that we exercise over our own people we have the power to exercise over them; and the same indebtedness that we owe to our Government they owe to our Government.

Mr. HOWE. I think the Senator from Kansas is entirely mistaken in stating that they owe any such debt as we owe, or that they get any such protection as we get. I do not know how it is with the particular tribe to which he refers. It must be a tribe standing in an attitude entirely different from any other I know of if they get any such protection or owe any such allegiance. If a citizen of Kansas commits an offense within that Territory, he may be amenable to our laws; but if a member of that tribe commits any offense against another member of the tribe or the member of another tribe—if he commits an offense against the regulations of the Pottawatomies, for instance—our Government does not interfere, I take it, does not afford any protection.

Mr. LANE, of Kansas. Certainly they do.

Mr. HOWE. I do not understand such to be the general policy of the Government. They interfere, I suppose, with force to put down an Indian war sometimes.

Mr. LANE, of Kansas. They are tried and punished for murder in our courts, tried and punished for felony, not in our State courts, but in the General Government courts, the district and circuit courts of the United States.

Mr. BROWN. I will say to the Senator from Wisconsin that I have myself defended Indians before the United States courts that were tried for murder.

Mr. WILKINSON. Murdering another Indian?

Mr. BROWN. Murdering a white man. That is the same thing. If you have no jurisdiction, how can you bring them there for trial?

Mr. HOWE. I take it there would be no difficulty under our law in trying and convicting and hanging a subject of Great Britain for murdering an American citizen within the jurisdiction of our laws.

Mr. BROWN. This was on their soil.

Mr. HOWE. We have jurisdiction throughout our whole territory so far as our citizens and subjects are concerned, but we do not have complete jurisdiction over all persons within the territory.

Mr. RICHARDSON. Mr. President—

Mr. DOOLITTLE. If the Senator from Illinois will allow me I was going to suggest to the Senator from Missouri a substitute for his amendment substantially allowing the Secretary of War to accept them as volunteers to be employed in protecting the Indian Territory and the other Territories where any part of the hostile force is composed of Indians.

Mr. BROWN. I will say to the Senator from Wisconsin very frankly that I offered this amendment under a sense of duty, that it was right that we should provide for a conscription there of the able men among them to assist us in our military organization. Believing that we shall only get it by a conscription, and that we shall not attain the end by voluntary enlistment, and believing that the nation has the right to call upon them, I shall decline to withdraw the amendment, and shall decline to accept the amendment proposed to it. I do not wish to protract debate; the Senate can substitute anything for it they see fit.

Mr. RICHARDSON. I do not think you have the power to conscript the Indians; and in reply to the Senator from Kansas I will simply state this: he places it on the ground that you protect their property and are therefore entitled to have their service in defending the Government when it is menaced. His statement proves too much. There are many persons who are subjects of Great Britain, of France, and nearly all the European Powers who own property here, some of them to a very large extent. The Indian is just as liable, and no more so, to do service and be conscripted into your Army as a subject of Great Britain or France who owns property in this country. The Senator cannot apply his doctrine to the subjects of those countries. Why? Because they would not permit it; it is not according to the laws of nations nor our own laws. If you cannot enforce it in reference to them you should not enforce it in reference to the Indians. I presume there is but little question about the fact that they are not citizens of this country. Certainly not, where they have not destroyed their tribal relations and settled inside the States or Territories, where they are not connected with a band with which we make treaties. We make treaties with these Indians every few days; when we go into executive session we have some treaty with them. Do we treat with our own people? The whole argument submitted by the Senator from Kansas would apply just as well to a subject of Great Britain owning property in this country. I am opposed to the amendment. I understand generally that we have the right to accept into our service a foreigner who comes here, and we have a right to accept the Indians. We have the clear right now, and the whole question hinges, as I understand it, on the proposition submitted by the Senator from Missouri, and to that I am opposed. Our good relations, the peace of the frontier settlements, depends upon the fact of our paying the annuities each year, year by year, and month by month as we have agreed to do it, promptly. It is a fair contract and it ought not to be disturbed. The money should be paid in my judgment by this Government without enforcing any such obedience as is here proposed.

Mr. DOOLITTLE. I move to substitute for the amendment of the Senator from Missouri the following:

That the Secretary of War is authorized to receive into the military service of the United States Indians of tribes

in treaty with the United States, to be employed as a part of the military force of the United States for the purpose of maintaining peace and protecting from hostile incursion the Indian Territory and other Territories where the hostile or invading force is in whole or in part composed of hostile Indians.

Mr. HENDRICKS. I do not expect to vote for either of the propositions now before the Senate; but I am not ready to say that the Government has not the power to compel the service of Indians as well as other men. I do not understand that the Indians when in tribes are independent nations. We have, for the purpose of carrying out our policy toward them, recognized them as in respect to ourselves to some extent as independent tribes and nations, but in no other respect. The Indian tribes cannot negotiate a treaty with any other people than ourselves; they cannot make terms with any other people; they cannot sell their lands to any other people; they cannot sell their lands to our individual citizens. We permit them to sell them to us as a people, or rather we by treaty extinguish their possessory right; but we do not recognize them for any other purpose except to carry out our policy toward them as a separate people. I am not prepared to say that our laws might not be made obligatory upon them individually. It is a question that I do not choose to consider in giving a vote on this proposition. I go against it for the simple reason that when the Government of the United States is to be supported in war it should be by the people of the United States. I am not in favor of bringing into the Army of the United States an inferior race. I do not agree with Senators in the expression of opinion so frequently made here that the Indians and negroes are the equal of the white soldiers of the United States. I am very far from agreeing with the Senator from Kansas in saying that any Indian troops have been equal in war to the white troops.

Mr. LANE, of Kansas. I did not say that. I said they had done valuable service.

Mr. HENDRICKS. I understood the Senator to express himself very earnestly, to say that they had done valuable service, as valuable service as any other regiments in the war. If he does not occupy that position I do not desire to make him occupy it. I think there are some qualities required in a soldier that are not possessed by any inferior race. It requires the highest qualities of manhood to make a good soldier; not only physical power and courage, but intelligence, judgment, skill; these are not possessed by an inferior race. I think we should degrade our cause by bringing into our military service the Indian tribes. It is against the sentiment of our people; it is against the history of our country. Upon these grounds I vote against the proposition, rather than upon the grounds of power which have been discussed.

Mr. WILSON. I hope we shall have a vote.

Mr. DOOLITTLE. The whole effect of the amendment I have offered is that they may be accepted as volunteers, and it states the kind of warfare in which they shall be employed in the Indian Territory to keep the peace, or in other Territories where the hostile force is in whole or in part composed of Indians. There is no objection to our employing Indians where Indians are employed against us, certainly.

Mr. LANE, of Kansas. I have no desire to continue this discussion; but I desire to say, as I said last week, that our Indian policy is an utter failure. I said that a portion of these Indians were vagabonds. They have been brought into that condition by contact with the master race. I have lived long enough in the West to know that it is the fact that the inferior is brought into contact with the superior race that debases them. Our policy has not been such as to give them that protection which the inferior race should have.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin to the amendment of the Senator from Missouri.

Mr. BUCKALEW. I vote against this on the ground of expense.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKALEW. I think we shall have a large number of Indian troops that we shall not use under this amendment. That will be its only effect, and I shall vote against it for that reason.

The yeas and nays being taken, resulted—yeas 24, nays 12; as follows:

YEAS—Messrs. Chandler, Clark, Collamer, Conness, Dixon, Doollittle, Foot, Foster, Harlan, Harris, Howard, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Willey, and Wilson—24.

NAYS—Messrs. Brown, Buckalew, Carlile, Davis, Grimes, Hendricks, Johnson, Powell, Ramsey, Richardson, Saulsbury, and Wilkinson—12.

ABSENT—Messrs. Anthony, Cowan, Fessenden, Hale, Harding, Henderson, Hicks, Howe, Morrill, Nesmith, Riddle, Trumbull, and Wright—13.

So the amendment to the amendment was agreed to.

The **PRESIDENT** *pro tempore*. The question recurs on the amendment as amended.

Mr. **WILSON**. I hope we shall reject it.

Mr. **HENDRICKS**. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. **JOHNSON**. I have but a word to say before the vote is taken. The reason why I shall vote against the proposition of the Senator from Missouri on legal grounds I have stated already; but this presents a different question. I have no doubt that these Indians may be received into the service of the United States; but I think it would place us in a very bad attitude in the view of other nations if we should here, at this time of day, when we have a million and a half of men in the field, or liable to go into the field, pass a law upon its face authorizing the Government to call in volunteer Indians. The Indian, as understood abroad, will not be the civilized Indian as we understand it; it will be the savage.

The yeas and nays being taken, resulted—yeas 10, nays 29; as follows:

YEAS—Messrs. Brown, Doollittle, Grimes, Harlan, Lane of Indiana, Lane of Kansas, McDougall, Pomeroy, Ramsey, and Sprague—10.

NAYS—Messrs. Anthony, Buckalew, Carlile, Chandler, Clark, Collamer, Cowan, Davis, Dixon, Foot, Foster, Harris, Hendricks, Howard, Johnson, Morgan, Powell, Richardson, Riddle, Saulsbury, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—29.

ABSENT—Messrs. Conness, Fessenden, Hale, Harding, Henderson, Hicks, Howe, Morrill, Nesmith, and Wright—10.

So the amendment was rejected.

Mr. **WILSON**. I offer an amendment to the bill, to insert as a new section:

And be it further enacted, That every person who shall be drafted and who shall serve honorably for the period of one year shall receive a bounty of \$100, to be paid upon his discharge from the service; and every person so drafted, who shall be honorably discharged after a term of service less than one year, shall receive a bounty proportioned to his term of service, to be estimated at the rate herein prescribed for one year's service.

I desire this section to follow the last section of the amendment presented by the Senator from Vermont, [Mr. **COLLAMER**], which has been agreed to. His amendment allows the Government to draft for a period not exceeding one year. This section provides that if such persons are drafted for a period of one year they shall receive at the end of their service a bounty of \$100. I think, in the present condition of the country, when laboring men can earn four or five hundred dollars a year, it will be an inducement to them to enter the service. I think it but just that at the end of one year's service they should receive something more than simply one year's pay; and I think it will tend to bring men more readily into the service of the country.

Mr. **GRIMES**. I wish to inquire of the Senator from Massachusetts, if, at present, volunteers get \$100 bounty.

Mr. **WILSON**. Yes, sir.

Mr. **GRIMES**. The Senator now proposes that when a man does not volunteer, but holds back and compels the Government to draft him, he shall get exactly the same compensation in the shape of bounty that is paid to the man who comes forward voluntarily when he gets his discharge. I think this amendment ought not to be adopted.

Mr. **WILSON**. I will simply say that we offer a bounty of \$100 to men to volunteer, and we give \$100 to drafted men. We are receiving, I think, about one hundred men per week.

Mr. **COLLAMER**. Permit me to ask the Senator a question: why do they not pay the commutation that they get at the same rate at which they receive it—\$300—as bounty?

Mr. **WILSON**. I suppose they will do so. But we have a law that offers a bounty of \$100

to every man who will enlist, regular or volunteer, and we have a law that any person who is drafted and serves for three years shall receive a bounty of \$100. Now, we propose to draft for a term not exceeding one year, and if a man is drafted for one year and goes into the service he receives no bounty at all; nothing but a bare compensation of sixteen dollars a month, and three dollars and a half for clothing. Sir, almost any man can earn from fifty to one hundred dollars per month. Labor is very high, especially skilled labor in the mechanic arts. What we want is men, men now.

Mr. **JOHNSON**. What do you propose to allow them?

Mr. **WILSON**. I propose that if drafted men serve their time out, at the end of one year they shall receive a bounty of \$100; if called out for a less time, they are to get a proportionate portion of that amount. I think the proposition right and just.

Mr. **GRIMES**. The argument of the Senator may be a very good one in favor of increasing the monthly compensation to be paid to soldiers, but it seems to me it does not apply at all to this proposition as applicable to the question of conscription. He says it is desirable to fill up our Army. That is true; but are you going to fill it up by giving just as great a bounty to a conscript as you do to a man who goes forward voluntarily and enlists? He says there were but one hundred and twenty-two who volunteered last week or the week before. I can assure him we shall not have one hundred and twenty-two volunteers in another week, if the man who holds back, and requires the Government to be at the expense of enrolling and conscripting him, is to receive exactly the same compensation in the shape of bounty that is given to a man who patriotically comes forward of his own accord and enlists. What is a bounty? It is, as I understand it, an inducement to get a man to do something voluntarily in behalf of the Government.

Mr. **CONNES**. A reward.

Mr. **GRIMES**. A reward to induce him to do willingly that which the Government requires him to do. And yet it is now proposed to pay to the man who is conscripted, who will not go into the service, who requires us to coerce him into the service in order to perform his duty to the Government, exactly the same compensation that is paid to the volunteer.

Mr. **CONNES**. Mr. President, I do not know what this enrollment law will be brought to at last. The prospects, I think, are not very good now, so far as its purpose and object may be to put men in the Army.

I have but a very short argument to make against this amendment. If the object of this bill and our object generally is to get soldiers, and the nation can afford to pay \$100 bounty to the men who are drafted, why not, in place of giving the volunteers \$100, as the law now provides, add that \$100 that you propose to give to the drafted man at the end of his period of service, at the time of his discharge, to the bounty of volunteers, and change your law so as to give \$200 to each volunteer? If you are going to spend a given amount of money, spend it to induce men to enter your Army, and render a draft unnecessary.

What becomes of the proposition, which no man questions, that the citizen owes service to the Government? Are you to still further attack that proposition, which is the moral one lying at the base of all this matter of getting an army, by sugar-coating it with an expenditure of \$100 at the period of discharge of a drafted man?

I suggest and advise the honorable chairman of the Committee on Military Affairs to add the amount of money proposed to be given by this amendment to the amount to be offered as a reward for soldiers who are willing to volunteer. Are you going to reduce the period of service to one year, fill up your Army with raw men, and then bankrupt yourself in addition by giving \$100 to each man, as an inducement, I suppose, that he will not desert? I hope, sir, that this amendment will find no favor in the Senate. Of all the lavish propositions that have yet been made in connection with the obtaining of men to carry on this war, there is none, it appears to me, so baseless, so without results, as this would be if adopted.

Mr. **WILSON**. Mr. President, when the war commenced the people of the country with a great zeal and patriotism rushed into the ranks of the Army, and during the first year of the war more than seven hundred thousand men enlisted into the military service of the United States. That was an immense call upon the labor of the country. At the same time the war depressed nearly all kinds of business, and wages were low throughout the country. We paid these men who enlisted into the service thirteen dollars per month and a bounty of \$100 for three years. We found after one year that it would be necessary to make laws to draft men to serve the country in the field. Under all the laws for raising men, we have mustered into the service from the beginning of the war to this time seventeen or eighteen hundred thousand men, averaging three years' service. We have to-day an immense force in the field, a force that occupies vast spaces of territory, almost a continent. We are occupying and holding possession of vast spaces of the country, covering more territory than at any other period; and never did the cause of the country look so hopeful as now. Sir, I have faith in the speedy triumph of our two great armies now in the heart of the rebellion, the army of Grant at Richmond and the army of Sherman in Georgia. We ought to send to those armies all the men that can be spared from every quarter of the country; and I suppose the Government is doing it.

Now, sir, at the present day labor of all kinds receives on an average nearly three times the reward that it received three years ago. Many of the mechanics of the country are earning from seventy-five to a hundred dollars a month, and almost any laboring man can earn fifty dollars a month. We are asking men to enlist into the service for three years. We are offering them a bounty of \$100 to enlist; but they do not enlist for that sum. Some of the States are offering bounties of more than \$300, and townships and individuals are adding to that amount, and still at the present time we are enlisting but very few men. We have undertaken to draft for about 70,000 men. Last October we called for 300,000 men. That included, however, all the men that had enlisted from the 26th of May, 1863. We then called for 500,000 men in February; but that 500,000 included the 300,000 of October, and made an aggregate call of half a million men. Then we called for 200,000 men in March, making an aggregate call of 700,000 men from the 26th day of May, 1863, to the present time. Those men have been raised. Some of the States have raised in the aggregate about 90,000 more men than were called for. Other States have failed to the amount of about 60,000. The returns of the draft ordered are in for 28,000 men who have been drafted, and of that number we hold about 15,000. About 4,400 men are held, 3,000 furnish substitutes, and 8,400 pay the commutation. The draft gives so far more than fifty per cent. of all the men drafted, an immense improvement on the draft of last year, owing to the amendments of the law during this session.

But it is said that law is not bringing us all the men we ought to have. I admit it; but at the same time I believe if we reduce the time to one year, and give a reasonable bounty to the men who are drafted to go into the service at the end of the year, we can raise all the men we want to raise without repealing the commutation. I believe no more odious act could be done by this Congress than to say to the country, "We make a draft; we repeal the commutation clause; we will compel every man to go himself or furnish a substitute." With these calls for eighteen hundred thousand men that have been so patriotically responded to by the people, with the immense pressure that is made upon the country by the various interests of the country for labor, it will be distasteful to the country to repeal the \$300 commutation. If you undertake to enforce such a draft, if you say to the men they shall go into the service for three years, and shall not pay any commutation, you will have a great deal of dissatisfaction all over the country. But, sir, if you fix the period of service at one year and then draft, I believe you can fill your armies easily and rapidly and as fast as they are needed.

I do not make this proposition because of the needs of the country at the present time, or because it may be thought that we are driven to the

adoption of it by the perils of the nation. The present condition of the country as regards this rebellion is a hundred per cent. better than at any other day during the rebellion. Sir, I believe if the nation uses the force properly that it now has and the force it can put into the field before the 1st day of January next, the power of the rebellion will be broken. Let Grant triumph over Lee, or Sherman triumph over Johnson and hold all the Southwest, all the Gulf States at his command, as he would if he triumphs over him, and the power of the rebellion is broken. While we have not the numbers estimated by Senators to-day, we have an immense force in the field. It is true that one fourth or one third of that force is not effective for field service. We have from one fourth to one third of our force who could not be made effective men in the field. Sir, you may raise ten thousand men anywhere in the country and bring them into the field and not put them in battle at all, and in six months, from one fourth to one third of those men, by disease and in one way or another, will drop out of the ranks. Our experience I am sure justifies this declaration.

Mr. CONNESS. I offer the following, which I do not desire to debate, as a substitute for the amendment proposed by the Senator from Massachusetts. It is to strike out all of the amendment after the word "that," and to insert in lieu thereof:

From and after the passage of this act every able-bodied volunteer who shall be accepted, and who shall enter into the service of the United States, shall be entitled to and receive, after one year's service, \$100 in addition to the sum now provided by law.

Mr. McDUGALL. Mr. President, I am opposed to the amendment of the Senator from Massachusetts, and also to the substitute suggested by my colleague. I should like well if we could now, as this subject is being agitated, place ourselves upon sound ground. It is well known to all Senators that we have been paying to the troops in the field not only bounties from the General Government, but bounties from States, bounties from counties, and bounties from towns, until at the expense of the aggregate Government and of the several departments of Government we have had to secure the services in the field of persons who promised service at the expense often of a thousand dollars and more. It was the right of this Government, and certainly it was within her power, to call upon all the citizens of the Republic subject to military duty to render service in the field. From the commencement of this war and from the time this subject was first discussed here I insisted that it was the right of the Government to demand service from all persons subject to military duty, and it was the obligation and duty of all persons subject to render duty; that the true rule for asserting the right on the part of the Government and enforcing the duty as against the citizen was to place them upon exactly the same footing, and to fairly compensate them for the time they were employed by substituting them in the field and rendering to them reasonable compensation.

I remember that at a very early period of the war I suggested a piece of history as illustrative of the duty of our Government and its true policy: that while the French Directory relied upon volunteers at one time, persons who fell into the army under the excitement of the early years of the Revolution, they failed, they could not maintain their own frontier, and until they adopted the regular conscription they had no victories even in France, scarcely, and none beyond the frontiers of France. I undertook then to suggest that in the old republics, in Greece and Rome, the first citizens considered themselves bound in case of a great public exigency to go into the ranks as private soldiers; that they did so; and that from the fact that men of great worth did enter the ranks (for great worth is generally united to great valor) the battles of Plataea and Marathon were won; and from those considerations the great victories of the old Roman republic, in the days of the republic, were won. In those days all citizens who were subject to bear arms were subject to the call, and had to obey the call.

I opposed this \$300 commutation clause when it was first proposed. I opposed the idea of allowing any person on the payment of \$300 to be relieved from service. You can make no distinction among citizens as to who are bound to main-

tain the Constitution and the laws of the Federal Government. If that principle had been adhered to and men subject to service had been called out from the first, we should not have what we now have in the service, a large proportion of mercenary soldiers, not brothers nor sons, not men of our people, perhaps not less gallant for that; but it has resulted in this, that to a large extent our arms are mercenary arms.

There is a wide distinction between the men who have served us in the valley of the Mississippi and those who have served us from the northern and eastern States. There are as gallant soldiers from Massachusetts as from any State; none more gallant than those from the State of Maine or New Hampshire; but a large body of them have been brought into the service who neither belong to the one nor the other, but who follow their standard. Our successes in the West were a marked feature of the early history of the war; and why was it? Every man free to bear arms throughout the West took arms. No one ventured to stay at home. Parents would not permit it; sisters would not permit it; sweethearts would not permit it; and they who went into the field bearing arms had kindred at home, and associations at home, and if they disgraced themselves they dared not return to their own homes. Therefore they fought always gallantly; therefore they were generally successful in their contests.

This is all true of the men of New England, situated as were the old population of the West, for I make no comparison between the two as to the superiority or inferiority of individual gallantry or hardihood. Our American people as a people are all brave; but they are bravest who have something at stake, who represent not merely their individual selves on the battle-field, but who represent fathers, mothers, grandfathers, and all the relations of society.

If we had adhered from the first to the policy of calling for those subject to bear arms and assessed the proper number in the various districts of the States, we could have always had our armies full. If now, without increasing these enormous debts for bounties as against the Federal Government, as against States, as against counties, and as against towns, we adopt the policy of having all those subject to bear arms placed upon the list and properly drafted, and if necessary, if they do not respond, affix such penalties as should be adjudged against those who refuse to serve their country in its peril. If we do this, we will have no necessity for an extraordinary call for troops.

My colleague has suggested an amendment; and in this same connection, by way of embodying my amendment in form, I will now suggest in the form of argument the amendment that I shall propose when I shall have the opportunity to do so. It is to strike out the proviso commencing in the tenth line of the first section:

Provided, That nothing contained in this act shall be construed to alter the provisions of existing laws relative to persons actually furnishing substitutes.

And insert:

And from and after ten days from the passage of this act substitutes shall not be allowed in the place of persons subject to draft and regularly drafted into the service of the United States.

It is nothing for a trader in any of our towns either to pay \$300 or to raise it by borrowing, and he is excused. Take the young artisan, the blacksmith, if you please. His whole blacksmith shop, anvils, hammers, forge, and all, would not bring \$300. He may have a wife for whom, with his unswept arm, he undertakes to win a livelihood; but being unable to raise \$300 he is compelled into the service. The same may be said of the young mechanics and the young farmers; for in the West, with which I am familiar, \$300 is considered a great amount of money, and while the old head of the family might be able to raise it, his seven or ten sons could not do it; they are coerced into the service; whereas the trader in the country town, his neighbor, and no better citizen than himself, could release four or five sons by paying the \$300.

The proposition that I suggest is absolute justice, because they owe a debt to the country that amount of service whenever the Government demands it. I speak of this as an abstract rule of right, and as a rule that should lie at the foundation of our policy. We should have taken all our people who are subject to bear arms, and apportion them out, of course imposing upon their proper proportions, giving them a proper compen-

sation for their services, nothing more; nothing for bounty, nothing for hire, but simply a proper compensation, and then require them to render service, and if they do not render service brand them with a brand that will disgrace them as false children of the Republic.

It is in this spirit that I oppose this amendment offered by the gentleman. It is in this spirit that I have opposed all these propositions. In this spirit I opposed the \$300 commutation clause and the employment of substitutes. I say let every one, let the rich man's son and the poor man's son, let the mechanic and the merchant, let all men who derive benefit from the Government and are protected by the Government and its laws render equal service. Why should not the man in the city of New York, who, at the age of thirty, has built up a colossal fortune under the protection of our laws, go as willingly and promptly into the field to maintain our rights as the young man in the West who has just plowed his first forty acre field? The merchant in New York has attained his fortune from the benefit and protection of our laws; the young man in the West has an opportunity perhaps under our preemption laws or homestead acts to occupy and break his ground for his first spring crop. The first owes the greatest debt, if the accumulation of fortune can be called an obligation conferred, which is doubtful in my mind; but I say that to maintain the true philosophy and theory of our Government there should be none of these exemptions; all persons who are subject to service and are enrolled for service should go into the field, or else instead of being favored they should be punished.

For this reason I am opposed to the commutation; for this reason I am opposed to substitutes; for this reason I am opposed to bounties. Let all men be equal before the law. That is a popular term, and has received the sanction of men eminent in the use of language and in their humanitarian philosophy. Let all men be equal before the law, and as they are all equal before the law, let them all obey the law; let them all, in obedience to law, maintain the Government which enacts and maintains the law. This whole system is wrong from its beginning. I have always been opposed to it, and I enter my opposition now to this movement. I stand by the bill extinguishing the commutation clause, with this difference, that I would say, and I shall move, that there shall be no substitutes hereafter. Let him who is bound to service and is drafted for service serve without distinction of men, and let them all be equal before the law.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California [Mr. CONNESS] to the amendment of the Senator from Massachusetts.

Mr. WILSON. I suggest to the Senator from California to modify his proposition, especially the last part of it before we take a vote upon it, unless he can tell us precisely what it means. The amendment proposes to give to a person who shall volunteer for one year \$100 in addition to what he now receives. I suggest to the Senator to strike out the words "in addition to what he receives," and then let him stand upon the law. The law provides what he shall receive otherwise. I think that would be better, and there would be no misunderstanding in regard to it. In the form in which it is now put, it is in the form of increased pay.

Mr. CONNESS. I call for the reading of both the amendment of the honorable Senator and the amendment that I offered to it.

The Secretary read the amendment, as follows:

And be it further enacted, That every person who shall be drafted and shall serve honorably for a period of one year shall receive a bounty of \$100, to be paid upon his discharge from the service; and every person so drafted and who shall be honorably discharged after a term of service less than one year shall receive a bounty proportioned to his term of service, to be estimated at the rate herein prescribed for one year's service.

The amendment to the amendment was to strike out all of the amendment after the word "that" and to insert:

From and after the passage of this act every able-bodied volunteer who shall be accepted and who shall enter into the service of the United States shall be entitled to receive, after one year's service \$100 in addition to the sum now provided by law.

Mr. CONNESS. I think that is clearly a proffer of \$100—the amount which the Senator in his amendment proposes to offer at the end of the term

of service of the drafted man—to a volunteer in addition to what that volunteer is authorized under present laws to receive. If the Senator can suggest any change in it to make it plainer, I have no objection. I think it is clear as it is.

Mr. GRIMES. I trust the Senator from Massachusetts will withdraw his amendment and let both these amendments fall. He has told us the Government is attempting to draft seventy thousand men, and consequently the bounty which he proposes to pay these conscripts will amount to \$7,000,000.

Mr. WILSON. The Senator will allow me to say that it does not apply to those seventy thousand men who have been called for. They come in under the laws as they now exist. It is to apply to future calls whatever they may be. If we call for one hundred thousand men, of course it is \$10,000,000; if we call for two hundred thousand, it is \$20,000,000.

Mr. GRIMES. I understand there is to be a call made for three hundred thousand men. The Senator can therefore very easily figure up the amount that this amendment will subtract from the Treasury.

This proposition is exceedingly unjust. Here is a State that has fully responded to the calls upon it; it has sent into the field three years' men; and here is another State by the side of it that has not responded to its calls. By another provision in this bill it is proposed by the Senator to reduce the length of the call from three years to one year.

Mr. WILSON. I beg your pardon; it does not apply to any State that is short now. They have got to fill up their quotas under the old calls. The bill is plain on that point.

Mr. GRIMES. That depends upon the construction that will be put upon this provision. According to my reading of it, such will be the interpretation that will be put upon it; and if that interpretation be put upon it, which I think the language admits of, then this will be the case: that this last State that has not responded to the call will draft one man three times in order to fill up its quota to correspond with the single draft that is made in the State that has fully responded, and to each of those drafted men there is to be \$100 paid; so that the Government will pay to the conscript in the one State where the calls are not responded to \$300 in the shape of bounty, while in the other there will be only the bounties that were allowed before. I do not think we are prepared to do this. I do not understand that this amendment is recommended by the War Department, or that it comes from the Military Committee. It is a suggestion of the Senator which I apprehend he has not thought very long about. It strikes me as though there are a multitude of evils that might flow from it if you send your men into the Army as conscripts and give them this misapplied amount of bounty and make them stand side by side with men who last week enlisted in the same neighborhood for the term of three years, but are getting only \$100 bounty. I think the Senator will agree with me there will not be very great harmony in the ranks composed of alternate men who have voluntarily gone and received \$100 for three years and of these conscripts who have held back until they were compelled to go, and then after being coerced into the ranks receive the same amount from the Treasury that the volunteer has received.

Mr. WILSON. Exact equality of course it would not bring; but you have not that now. For instance, you have the old regiments that enlisted three years ago, some of whom are now passing through the city on their way home, and they enlisted for a bounty of \$100 to serve three years. They are now mustered out of the service with a bounty of only \$100. In those same regiments are men who came into the service in 1862 with a bounty of \$200, and in 1863 and 1864 with bounties of \$300 by the United States and \$325 by the States, making \$625, and \$100 or \$200 by the townships or by individuals; men in the army of the Potomac in the same company receive a bounty of \$100 while other men receive a bounty of \$200 or \$300, and other men receive bounties running from \$600 to \$900; and these men now stand side by side, shoulder to shoulder, fighting the battles of the country. Do we have any difficulty about it? Fully one third at least of General Grant's army, that has made

marches and fought battles unparalleled in this century anywhere, have gone into the service during the last eight months. These heroic men are the "mercenaries," as they are called here to-day. They are the men who received the bounty of \$300 or \$400 from the General Government, \$325 from States, and more from the towns, making \$800 or \$900. These men have fought as well and behaved as nobly as any men in the service.

Sir, I think it is wrong in the Senate of the United States, or in the Congress of the United States, to speak of brave men in the service of the country as "mercenaries" because they have taken of their State governments, of their localities, and of the national Government, bounties offered them to go into the service of their country. In the first place they ought to have had a bounty. All kinds of labor are now exceedingly high; the cost of living is high. These men who are fighting our battles have left families behind them as dear to them as our families are to us. They leave them at home and go and peril their lives for the country; perhaps come back maimed and wounded. The man who takes a bounty and uses the money as a man ought to do, to support, protect, and educate his family; that man, who bares his bosom to rebel steel, is just as much a patriot as the man who volunteered for a less sum. It looks to me, in the present condition of the country, that we are expected to pay more for men and ought to pay more than we did in the early days of the war.

Mr. GRIMES. All that is a first-rate argument why the Senator was in error the other day when he introduced his bill increasing the pay of the soldiers. If we do not give them compensation enough, in Heaven's name raise the compensation and give them what they are entitled to. But that is no argument why we should misapply this term and the principle of bounty and give to the conscript what the Senator calls a bounty—give a reward to a man who by law is compelled to perform a duty against his will; for that is the effect of it. We compel the man to go into the Army against his will and perform the duty which he as a citizen is required to perform; and the Senator proposes to reward him exactly as well as he rewards a volunteer.

Mr. WILSON. We do that now.

Mr. GRIMES. No, sir, we do not do it now, and never have done it. The cases the Senator puts were cases where there were volunteers from different States, one State or one county giving to a volunteer who agreed to accept the reward or bounty whatever the county or State might offer, and another one accepting whatever his township or city or county or State might give, and it was a matter of fair understanding and agreement between them and the respective municipal or State or national Governments. But here is a case where you take a man who, perhaps, has been in antagonism to this war, who perhaps has denounced the very men who have gone from his neighborhood to fight our battles for us, who perhaps is known not to be in sympathy either with the Government or the soldiers with whom he is compelled to associate, and the Senator proposes to reward that conscript who is thus forced to go into the ranks as well as he rewards the patriotic and worthy man who voluntarily leaves all the endearments of home and goes into the Army baring his breast in the shock of battle. I say that that is inequitable, that that is not just to the volunteer; and I never will vote for any bill that contains any such provision.

Now, Mr. President, to show whether I was right or not as to the construction of the amendment which the Senator has proposed, I will read it:

And be it further enacted, That every person who shall be drafted—

Not applying to any particular draft—and who shall serve honorably for a period of one year shall receive a bounty of \$100, to be paid upon his discharge from the service.

Is there any limitation in the provisions of this section?

Mr. WILSON. It is designed to come in after the amendment proposed by the Senator from Vermont, [Mr. COLLAMER,] which applies only to future calls, and not to the past at all. This whole bill applies to future calls, and not to the calls of the past.

Mr. COLLAMER. The word "hereafter" should be put in there.

Mr. GRIMES. The Senator from Vermont knew exactly what he was at when he offered his amendment. He was designing to prevent a one year drafted man being set off against a three years drafted man. That is all he sought to attain, and he has accomplished it by the amendment that he proposed. But that is not what is accomplished by this amendment without a change of the phraseology that has been made by the Senator:

That every person who shall be drafted and who shall serve honorably for a period of one year shall receive a bounty of \$100, to be paid upon his discharge from the service; and every person so drafted—

Not under a future draft, not under a draft that may hereafter be authorized, and be made in consequence of an order that may hereafter emanate from the War Department, but under any draft that may heretofore have been directed to be made by the Department as well—

and every person so drafted and who shall be honorably discharged after a term of service less than one year shall receive a bounty proportioned to his term of service, to be estimated at the rate herein prescribed for one year's service.

It seems to me there can be no controversy as to the construction of the language, and there ought not to be any controversy as to the merits of this proposition.

Mr. WILSON. I understood and understand the amendment proposed by the Senator from Vermont to apply this bill to future calls and not any part of it to those already made and that are being filled up. The draft for seventy thousand will be completed probably in the course of ten or fifteen days. I do not want to disturb or touch that in any respect whatever. I propose, however, to modify my amendment so that it shall read:

That every person who shall be drafted under any call hereafter made and who shall serve, &c.

Mr. COLLAMER. That would relieve it from the objection that was made by the Senator from Iowa.

Mr. CONNESS. How can the Senator modify his amendment after an amendment has been offered to it?

The PRESIDENT *pro tempore*. It is competent for him to do so, no vote having been taken.

Mr. HOWE. I wish to know of the Senator from Massachusetts how the bounties are regulated to volunteers now?

Mr. WILSON. We pay to volunteers for three years now \$100. If we draft a man for three years we pay him \$100 bounty. They are both put upon the same footing precisely.

Mr. HOWE. If a man volunteers for three years can he get any bounty unless he serves two?

Mr. WILSON. No; not under the present law.

Mr. HOWE. I had the impression that such was the law; and if it be so it seems to me there is no propriety in this amendment.

Mr. WILSON. But we are not getting any volunteers under the present law, and cannot get them.

Mr. HOWE. This is a proposition to give a bounty to a man for being drafted, not for having volunteered, for it puts a drafted man on a better footing decidedly than you put the volunteer in two respects: you give him the same bounty for one year's service that you give the volunteer for three; and you give the volunteer nothing unless he serves two years; but you give the drafted man the fraction of \$100 if he serves but the smallest fraction of a year. It is really taking away all the grace and all the favor which your past legislation has held out to the volunteer, and making it no longer reputable for a man to volunteer. On the contrary, it is saying that you will do more for those who hold back and will not volunteer than for those who have done so.

Mr. WILSON. Admit that; but the truth is we are getting but few volunteers, only about one hundred a week, and we cannot get them. No volunteers can be obtained now unless you pay five or six hundred dollars.

Mr. HOWE. There is no man out of the service but what has had an opportunity to enter the service with \$100 bounty, and there is no man but has had an opportunity of receiving the \$300 bounty from the Government. They have declined to do it. Your armies want replenishing, and I know of no better way in the world than to draw lots.

Mr. SHERMAN. I suppose this amendment has been reported from the Committee on Military Affairs and the Militia.

Mr. WILSON. No, sir, it has not. I have offered it on my own responsibility.

Mr. CONNELLS. I rise to withdraw the amendment that I offered to the amendment of the Senator from Massachusetts, so as to get a direct vote upon that amendment. I hope it will not be adopted.

The PRESIDENT *pro tempore*. The amendment to the amendment is withdrawn.

Mr. LANE, of Indiana. I shall only detain the Senate a moment. Early in 1863 the conscription law was passed by which it was provided that for the payment of \$300 commutation a drafted man might exempt himself from service. There was an experience of some nine or twelve months under that law. It was found to be wholly inoperative and ineffective. Some months ago a joint resolution was introduced to repeal simply the \$300 commutation clause. That joint resolution was referred to the Committee on Military Affairs, and they reported it back with a recommendation that it should pass. When it comes into the Senate, the chairman of the Committee on Military Affairs moves an amendment that the term of service shall be twelve months instead of three years, and now an additional amendment is proposed that a bounty of \$100 shall be given to the man who is drafted for twelve months. I am simply in favor of repealing the \$300 commutation clause, and so was the committee. The evil intended to be remedied was precisely this; under your previous law you did not succeed in getting men, but in getting the commutation. Now it is proposed to reduce the term of service from three years to one year and give \$100 bounty. If the bill assumes that shape I shall vote against the whole of it, believing that the whole object of the repeal has been utterly defeated and annihilated.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Massachusetts.

The amendment was rejected.

Mr. WILSON. I have another amendment to offer, which I suppose nobody will oppose, because it will cost no money, but save a little. It is to insert as a new section:

And be it further enacted, That the sixteenth section of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, be amended by inserting the word "transportation" in lieu of the words "traveling pay," wherever they occur in said section.

I will state that this amendment is offered on the recommendation of the Department. It has been found that under the words "traveling pay" some frauds have been perpetrated in the country. The word "transportation" expresses the original meaning, and will correct those evils.

The amendment was agreed to.

Mr. WILSON. I have a few more amendments that I should like to offer. I now move to insert the following as a new section:

And be it further enacted, That when a soldier, sick in hospital, shall be discharged from the military service but shall be unable to leave or avail himself of his discharge in consequence of sickness or wounds, and shall subsequently die in such hospital, he shall be deemed to have died in the military service.

I will simply say in regard to this amendment that—

Several SENATORS. We will all vote for that.

Mr. WILSON. There are soldiers in the service who are wounded and are discharged but cannot get away from here, and die after their discharge.

The amendment was agreed to.

Mr. WILSON. I now offer another amendment, to insert as a new section the following:

And be it further enacted, That payments which have been made by paymasters to non-commissioned officers of volunteer regiments from the date of their enlistment and for a time previous to their muster into the service of the United States, shall, if otherwise correct, be allowed in the settlement of such paymasters' accounts.

Mr. GRIMES. I should like to have that amendment explained.

Mr. WILSON. The amount of it is simply this: the sergeants and other non-commissioned officers of a regiment cannot be legally and formally appointed until the regiments are organized; but in raising regiments, having the men in camp, it was found necessary to have such officers, and

certain men were appointed sergeants or corporals, by the persons who were raising the regiments. The paymasters in most of those cases paid those non-commissioned officers from the time of their appointment, although sometimes it was a few weeks before the colonel of the regiment was appointed and they could have their papers. By a ruling of the Department these payments of the paymasters have not been allowed. I think it right that they should be paid.

Mr. RICHARDSON. I desire to ask the Senator from Massachusetts, the chairman of the Committee on Military Affairs, if there is not another class of cases that ought to be provided for. I understand they disallow in the Department here payments that were made to regiments before they were mustered in by the United States. In many instances the commanding officer of a department ordered his paymaster to make the payments and he paid upon the rolls that were furnished him; but I understand they are disallowed here in the Department now to very large amounts, and in some cases where the paymaster could do nothing else but pay. They require some law now to adjust these accounts. I ask the Senator if there is any provision for that class of cases?

Mr. WILSON. I understand there were some complaints of that kind. How far they extend, or how much there is in them, I do not know. It is very likely that some legislation is necessary on that subject.

Mr. RICHARDSON. I understand that the amount is pretty large, especially in the West, and I know that very many of the paymasters are apparently very large defaulters; and it is absolutely necessary that some provision should be made by law by which those accounts should be adjusted.

Mr. WILSON. I will make some inquiry in regard to it, and see whether it is necessary.

The amendment was agreed to.

Mr. McDUGALL. I will now move the amendment that I have indicated to the first section of the bill. In line ten of the first section I propose to strike out the following proviso:

Provided, That nothing contained in this act shall be construed to alter the provisions of existing laws relative to persons actually furnishing substitutes.

And to insert in lieu thereof:

And from and after ten days from the passage of this act substitutes shall not be allowed in place of persons subject to draft and regularly drafted into the service of the United States.

I have advanced my views on this subject, and, not choosing to discuss it further, I simply ask the vote of the Senate upon it. I believe this amendment involves the principle that should either govern or not govern the action of the Government. If the question is well enough understood without discussing it further, I shall content myself with asking for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. WILSON. I rise to express the hope that the Senate will not adopt this amendment. I do not agree to these ideas that have been put forth that the Government ought to cast a drag-net over the nation and say to every man, "Come out; serve the country; you shall have no bounty; you shall pay no commutation; you shall get no substitute." The country is not in any such distressed condition as to require it. We have got the business interests of the country to take care of as well as the military interests. We must get the money to carry on the war, and it is just as necessary to have money to carry on this war as to have the men. We have got to watch and nurse and take care of the agricultural, manufacturing, mechanical, and commercial interests of the country. We have got to look to the condition and interests of the whole country in passing these acts for raising money and men. Sir, after this nation has put at least one million eight hundred thousand men into the field during three years, an amount of men put into war by no nation in Christendom during this generation, to go to the people and say to them, "You shall be drafted into the military service; you shall not get a substitute if one offers," would be deemed oppressive, would create a great deal of ill will toward the Government, and weaken our cause in the country. There is no necessity on earth for such action. If our armies were beaten, if

they were on the retreat, if the nation was, in despair, we might resort to such stringent measures; but we have been and we are on the march to victory, and we were never so strong as to-day. What I want to do is to gather up all the men we have in the service throughout the country and to push them into the front ranks, and to call for men to fill up our wasting ranks. I think there is no need of resorting to any measure that will be regarded as arbitrary and oppressive by the mass of the people who have made so many sacrifices for their country.

Mr. McDUGALL. Mr. President, during all the period that has expired between the 5th of July, 1861, and the present day of the month of June, 1864, we have heard this same thing, that we are on the eve of victory, and that our power was going to compel our enemies into subjection; and although we are now in the neighborhood of Richmond, I am not any more confident that we are on the eve of triumph than I was in July of that year. Nor do I think those things of which we are advised justify us in the opinion that this war may not continue for quite a long period. I am not one of those who believe that the taking of Richmond and Petersburg and Lynchburg is going to solve the problem which is presented to the American people; and this shouting *Io triumphe* before any considerable triumph has been won, in my judgment, is vain talk.

I know we have a great and a gallant Army both in the West and in the East. I know we are advancing against what we have learned to be a body of desperate, determined, and organized men; and I have learned to believe that they do not consider the problem solved with themselves when all Virginia shall be occupied by our troops. It was the first proposition of the cotton States of the South that they should disintegrate themselves entirely in their policy from Virginia, Tennessee, Kentucky, Maryland, and Missouri, and organize a government of their own; and when they shall be forced into the country which they themselves claim particularly, perhaps then may come the hug and the tug of war.

We cannot promise ourselves a conclusion this campaign. I do not think that that man whom I call the best general in our service, an officer who has proved himself the equal of all occasions as far as was within the limits of science and courage—General Grant himself—would pronounce as an absolute conclusion of his own judgment that he could in this campaign coerce even the capital of the rebellion. Let us not have this song of triumph or this shout of courage. It was said in 1861 that individual gentlemen could take twenty thousand men and march from the shores of the Potomac through Richmond to Mobile and New Orleans, and would meet with no equal armies. That has been the weak opinion of uninformed men, although sometimes of men high in office.

Let us look carefully at what we have got before us, and consider that we may have a war not merely of three years but of ten years, and then look to what shall be a sound, proper public policy. I can see no peace, I can see no prosperity, I can see no general happiness, no domestic happiness throughout this land until this war is ended, and it must be ended by some commanding results. Who can promise them to-day? I suppose the Secretary of War, with his great military prescience, might assure us; but who would have confidence in him? I suppose many other men who have occupied many high military positions, such as Major General Butler, might promise us triumph in his aid to Grant's movements in a brief period. We have had no promise from General Grant himself; and the advised judgment of the best men, so far as I have been able to learn, has not been able to promise any definite results within a given period.

It is my firm conviction that until we organize war upon true principles we can have no such definite results as will establish peace. I have differed from the majority of the Senate as to that policy, particularly as to organizing armies. I differ from them now again as the question is again before the Senate. I think it is time for us to consider the experience of the past, to consider whether we should not go to work regularly to produce by a regular system and to bring out that force in the field that should be by every law, moral as well as political, subject to the Government, and who should maintain that Govern-

ment at the peril of life—the proper and legitimate force of the country, irrespective of classes of society, irrespective of the wealth of individuals, regarding every citizen of the Republic, every man owing allegiance to the Government as standing upon the same footing, bound to yield obedience to the laws, having it as a duty to sustain the laws, and having it as a duty to bear arms in the maintenance of the Constitution and the laws.

That I am right in this proposition as a matter of principle, as a policy in Government, that it is an essential element of all free systems of Government, in my mind admits of no possible doubt. All history teaches that I am right. Our past history in this present war has taught that I am right; and if we shall have another and a longer history in the future, that history will teach that I have been right; for the same opinions, the same policy, the same theory I shall maintain as the only true policy of a republican Government—where the individual citizen is one of the sovereigns, and where it belongs to his office to maintain the Constitution and the laws, and that it is particularly charged by our system of Government upon all those capable and bound to bear arms.

Mr. HOWE. I shall certainly vote against inserting the proposition of the Senator from California; but before I know whether to vote for striking out the proviso I should like the Senator from Massachusetts to tell me what the present provisions of law are in reference to furnishing substitutes. What is the effect of furnishing a substitute?

Mr. WILSON. I understand that a person drafted may furnish a substitute provided that substitute is not liable to draft; and if the substitute becomes liable to draft before the three years have expired, then the principal is liable; if not, he is exempted for three years.

Mr. HOWE. I see no reason in the world why those provisions should not be continued. I am as much in favor of abolishing the commutation clause as anybody; but if a man is drafted and is willing to pay a sum which another man is willing to take to go into the service in his stead I do not see the slightest objection the Government can have to allow those two to make the trade.

The question being taken by yeas and nays, resulted—yeas 6, nays 35; as follows:

YEAS—Messrs. Chandler, Doolittle, Grimes, McDougall, Ramsey, and Wilkinson—6.

NAYS—Messrs. Brown, Buckalew, Carlile, Clark, Collier, Conness, Cowan, Davis, Dixon, Foot, Foster, Harlan, Harris, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Pomroy, Powell, Richardson, Riddle, Sherman, Sprague, Sunner, Ten Eyck, Trumbull, Van Winkle, Waide, Wiley, and Wilson—35.

ABSENT—Messrs. Anthony, Fessenden, Hale, Harding, Henderson, Hicks, Sautsbury, and Wright—8.

So the amendment was rejected.

Mr. TEN EYCK. I offer an amendment to insert the following as a new section:

And be it further enacted, That every non-commissioned officer, private, or other person who has been or shall hereafter be discharged from the Army of the United States within two years from the date of their enlistment by reason of injuries received in the line of duty shall be entitled to receive the same bounty as is granted, or may hereafter be granted, to the same classes of persons who are discharged after a service of two years; and all acts and parts of acts inconsistent with this act are hereby repealed.

I can explain in ten or twenty words the object of this amendment. By the act of 1863, the bounty of \$100 which was given to veterans under the act of 1861 who had served two years or during the war was extended to the non-commissioned officers and privates who were discharged within the period of two years by reason of wounds received in battle. According to a construction of the War Department if a man is injured in battle in any other way than by shot or shell, he is regarded as not having received a wound in battle. For instance, if a soldier is injured by his horse falling upon him, or if a shell should strike off the limb of a tree and the limb should fall upon him, he is excluded from the privileges of this act. I understand the construction is so strict that if a man is shot while on picket duty, they will hold that it is not a wound received in battle. I believe they went so far the other day as to refuse the payment of the bounty to a soldier who had a certificate that he had been wounded at Gettysburg because it did not appear that he had been wounded in battle; but still that was a matter that could be easily remedied. The object of my amendment is to meet a class of persons

equally meritorious, who are equally entitled to the bounty, who have been discharged from the service by reason of injuries received in the line of their duty; and that is the whole of it. It extends the provisions of the act of 1863, which, according to a strict construction, is confined to persons who are discharged in consequence of wounds from gun-shot and shell in the actual crash of battle to such soldiers as may have been discharged in consequence of injuries received in the line of their duty.

Mr. HOWE. I wish to inquire if the language employed in the amendment would not cover the case of persons discharged by reason of sickness contracted in the service.

Mr. TEN EYCK. No, sir; the language is, "injuries received in the line of their duty."

Mr. SHERMAN. It ought to be "wounds."

Mr. HENDRICKS. "Injuries or disability."

Mr. TEN EYCK. That might apply to cases of sickness perhaps. That is the objection to that.

Mr. HENDRICKS. I move to amend the amendment by inserting after the word "injuries" the words "or disability." I cannot see the reason for the distinction which the Senator's amendment makes. I think the condition of the soldier who is taken sick and loses his health because of sickness is equally to be regarded by Congress as the condition of the soldier who is wounded.

Mr. TEN EYCK. It seemed to me that perhaps this was going far enough now. The amendment of the Senator from Indiana would open the door to a very great variety of cases, and would admit of very broad construction. It would be very difficult indeed to determine in a great variety of cases whether the sickness to which the Senator from Indiana refers was actually occasioned by the soldier's condition in the line of his duty. I thought perhaps it was far enough to go to embrace the clear, distinct cases of actual injuries received in the line of duty, such as I referred to: a horse falling upon a trooper in the midst of a charge, or a limb shot from a tree by a shell and falling upon a soldier. That is a distinct fact which can be ascertained and established, and about which there can be no doubt or deception. If it should hereafter be considered advisable to extend it, let it be extended. My amendment is in precisely the same language as the act of 1863, inserting the words "injuries received in the line of his duty" in the place of "wounds received in battle." It is not repealing it, but merely extending it.

Mr. SHERMAN. It is rather an invidious task to oppose this class of amendments, but it is well enough for us to consider the effect of extending our bounty system in this case. I do not know how many hundreds of thousands of men would be embraced in it and would receive a bounty of \$100 or \$200 under it. Senators do not seem to care much about the money that it will cost; and probably considering the condition of the soldier we ought not to do so; but now what is the condition of the question? These men enlisted with an understanding that if they served three years and were then discharged, in addition to their pay, pensions, &c., they should get \$100 bounty. Subsequently the law was extended so that if a soldier was wounded in battle and thus disabled he should receive his bounty the same as if he had served for three years. Now it is proposed to extend the payment of this bounty to almost every soldier who has been discharged for any cause whatever. He may have been disabled when he went into the service; his enlistment may even have been a fraud upon the Government; and yet the effect will be, especially if the amendment of the Senator from Indiana be adopted, that in addition to his pay, in addition to all the Government has lost by his enlistment, the Government shall also pay him the additional sum of \$100 or \$300 in bounty. When you consider that from three fifths to three fourths of the men who are discharged from the service are discharged for illness or sickness or disability of various causes and not one tenth for wounds in battle, you see you are now extending the principle of bounties to at least twice or three times the number of cases embraced by the present law. Is it not well worth while for us to consider this matter?

This proposition has never been considered by the Committee on Military Affairs. What is the Committee on Military Affairs for, unless it is to

take up and examine these things *seriatim* and give us the proper language to convey precisely the meaning of the law? The Senator from New Jersey, who, no doubt, is very accurate in his statement, makes his proposition, and we are called upon to vote upon it. It is very hard to resist an appeal in behalf of a soldier disabled in the service; but at the same time this is an extension of the principle of bounty such as was never known in our law before. These soldiers, when disabled by sickness, get their pensions; they get their pay; they get more than they expected to get. It seems to me we ought not to adopt a principle that will be so extensive as this. I shall not vote for it, whatever other Senators may do.

Mr. TRUMBULL. I understood this morning when we proceeded to the consideration of this bill that it was a very important bill in relation to the commutation question, and I, for one, voted to have it brought before the Senate. Now, sir, if we are to perfect the whole military system and the pension system and the bounty system on this bill, we shall never accomplish anything if it is to be done in the Senate in this way. A majority of the Committee on Military Affairs, as I understand, reported a simple proposition which was regarded of very great importance, and we are proceeding here by amendments, first from one and then another, and discussing them, to perfect the whole military system and pension system and bounty system, upon this bill. I know some members of the Senate who are anxious to bring this session to a close, anxious to dispose of the important business before the Senate; but we have passed this day, and we have accomplished nothing so far. I hope that Senators will allow a vote to be taken upon these questions as they shall be proposed, and let us dispose of this bill one way or the other. For one, I desire to say that I shall vote against all these propositions which are brought in upon this bill. I am willing to vote directly upon the bill that is recommended by the Committee on Military Affairs; and unless the amendments offered are germane in some way to perfect that proposition, for myself I shall vote against the whole of them, with a view of getting some action upon what is regarded by the Military Committee as a very important matter.

Mr. HENDRICKS. I do not think the objection made by the Senator from New Jersey to the amendment which I propose is sufficient to control the judgment of the Senate. Is it right because a man meets with an accident, a limb falls from a tree and his leg or arm is broken, that he shall have his bounty? I agree with the Senator that he ought. The illustration is forcible. But suppose he is taken with disease by reason of his regiment being encamped in an unhealthy locality or for any other cause, and that disease may more permanently impair his health than the loss of a limb for the time being, shall he not have his bounty? I do not think the proposition of the Senator from New Jersey is complete and is what it ought to be. I think if a soldier enters the service with the assurance of a bounty, and he is compelled to leave the service before the time expires when he would be entitled to bounty under the existing law, he should have a bounty in proportion to the length of time that he has served. If the amendment I have now proposed should be adopted, then I expect to propose further to amend the proposition of the Senator so as to provide that the bounty to be received shall only be in proportion to the length of time that he has served. If he is entitled to \$100 for three years' service and serves but two years, let him have two thirds of that bounty; if he serves but half the time requisite to obtain the full bounty, let him have half of it. This is fair, and I think Congress ought to adopt it.

Mr. TEN EYCK. I am loth, sir, to add a single word, and were it not that the situations and the services of the persons for whose benefit this amendment is proposed justify me, I should content myself with submitting the amendment to the judgment of the Senate. Now, without appealing to my friend, the Senator from Illinois, for permission to offer an amendment of this kind, or to submit any observations, I trust his patience will be so extensive and long-suffering as to endure for a moment while I submit an additional reason or two or rather make a reply to one or two remarks.

Before doing that, however, I do not pretend to say that my amendment is perfect. My attention was called by an intelligent and worthy gentleman to this state of things: that there were a large number of cases of soldiers who were violently injured and were disabled for life, as effectually prevented from earning a livelihood in consequence of the injuries they had received in the line of their duty as if they had received a shot or a shell in their bodies or lost a leg or an arm. It was with a view to meet that class of cases and extending this bounty to such persons, and such alone, where there could be no danger of fraud or deception or deceit, that I was induced to offer this amendment. It did not come from any committee; but I submitted the amendment to the chairman of the Committee on Military Affairs. It was not requisite that I should do so, but I conferred with him in relation to the matter, and it seemed to him to be just and proper, and it was with his approbation that the amendment was offered. I believe, however, it is not out of order to offer an amendment, even if it has not been submitted to the Committee on Military Affairs; and I think it is the usual course for a Senator to propose upon bills of this description matters which are germane, although they may not be exactly the same identical thing or an elaboration of the bill which is reported by the committee. Otherwise, there would be no such thing as an amendment to a bill.

The reason why I offer the proposition now in the shape of an amendment instead of proposing it as an original bill, as I designed to do, was because I knew that Senators were anxious to have this session brought speedily to a close, and that there would be no other way of passing this measure than in the shape of an amendment to some bill to which it was germane, and that if I attempted to bring it in as an original measure it could not pass both Houses at the present session. That is my apology, if any apology is needed, for being so unreasonable as to undertake to force this amendment at this time upon the attention of the Senate when they are justly wearied by the protracted discussion and by the numerous amendments that have been submitted by divers gentlemen, the chairman of the committee among others, for the purpose of perfecting this bill.

I am perfectly willing myself, if the Senate think well of it, to extend this amendment to meet the case of the soldier who is permanently disabled in consequence of sickness; but it occurred to me that would afford a greater opportunity for fraud and deception. There would be very great difficulty in ascertaining whether the disability in such a case really did arise from sickness actually growing out of the service. The Senator from Ohio says that a person going into the service might be disabled before he went in. If that fact could be established, that person would not come within the provisions of my amendment.

I am not tenacious of the form in which my amendment shall pass the Senate. My object is to extend the provisions of this act, its beneficial effects and aid, toward the support of the disabled soldier whose disability is as permanent and whose merits are as great as those of the soldier who actually happens to receive a gunshot wound or a wound from a shell in the actual conflict of battle, and that men who are risking their lives day and night far out on the front on picket duty, and who lose an arm or a leg in the most hazardous and gallant service, shall not lose, under a construction of the War Department, the benefit of the provision of the law that was meant to apply to their case.

Mr. DAVIS. Mr. President, I never make an apology for expressing my opinions upon any subject at any time. I intend to vote for the amendment and for the amendment to the amendment. I will vote for them together or separately, because I believe them both to be right. I believe that when a man becomes disabled in the service of his country either by casualty, as is proposed to be provided for by the amendment, or by sickness, as is proposed to be provided for by the amendment to the amendment, he is entitled to the same reward as though his disability resulted from wounds in battle; and I believe he is entitled to more consideration, because the man who is disabled in battle has a glorious memory connected with his disability, which he who is dis-

abled by casualty or sickness has not. It is an inspiring memory that carries its solace through life. It encourages and sustains the man who is wounded in the shock of battle throughout all his subsequent life; but the disability that results from the falling of the limb of a tree or from that wasting sickness that disables so many more men in the Army than the shock of battle itself, has no such comforting recollection as that. For that reason I believe that those who lose their health by disease are more legitimate subjects for sympathy and for bounty than those who are disabled even by wounds.

Mr. WILSON. I move that the Senate take a recess until seven o'clock.

Mr. HENDRICKS. I suggest to the Senator to say half past seven. It is rather inconvenient for some of us to get here by seven o'clock.

Mr. WILSON. I will say half past seven if Senators desire it.

Several SENATORS. Oh, no; say seven o'clock.

Mr. WILSON. As that seems to be the general desire I will insist on my original motion, that the Senate take a recess until seven o'clock.

Mr. TEN EYCK. I venture to express the hope, as I feel somewhat interested in it, and I think the debate has closed upon it, that the Senator will allow the vote to be taken on the pending amendment before the recess.

Mr. WILSON. I am afraid that amendment will cover more than the Senator imagines at present, and I desire gentlemen to have an opportunity to look at it carefully.

Mr. HENDRICKS. Is the motion of the Senator from Massachusetts amendable? Can I move to amend it so as to say half past seven o'clock?

The PRESIDENT *pro tempore*. The motion of the Senator from Massachusetts is not amendable, but the Senator can make that motion, and that being the longest time, it will take precedence.

Mr. HENDRICKS. Then I will make that motion. Many of us cannot get here by seven o'clock.

The PRESIDENT *pro tempore*. It is moved that the Senate take a recess until half past seven o'clock.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question returns on the motion of the Senator from Massachusetts, that the Senate now take a recess until seven o'clock.

The motion was agreed to.

EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the committees indicated below:

The bill (No. 446) to regulate prize proceedings and the distribution of prize money, and for other purposes—to the Committee on the Judiciary.

The bill (No. 532) to establish certain post roads—to the Committee on Post Offices and Post Roads.

The bill (No. 534) to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes—to the Committee on Naval Affairs.

The joint resolution (No. 99) reserving mineral lands from the operation of all acts passed at the present session granting lands or extending the time of former grants—to the Committee on Public Lands.

METROPOLITAN RAILROAD.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia; and, on motion of Mr. GRIMES, it was

Resolved, That the Senate disagree to the amendments of the House of Representatives to the said bill, and ask for a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

Mr. MORRILL, Mr. WILLEY, and Mr. WADE were appointed the committee on the part of the Senate.

COMPENSATION OF LAND OFFICERS.

Mr. HARLAN. I am directed by the Committee on Public Lands, to whom was referred

the bill (S. No. 312) to regulate the compensation of registers and receivers of the land offices in the State of Iowa in the location of lands by States and corporations under grants from Congress, to report it back with an amendment, and I ask the unanimous consent of the Senate for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that hereafter in the location of lands by States and corporations under grants from Congress for railroads and other purposes, except for agricultural colleges, in the State of Iowa, the registers and receivers of the land offices in that State in the districts where such lands may be located shall be entitled to receive for their services a fee of two dollars for each final location of one hundred and sixty acres, to be paid by the State or corporation making such location, which fees are to be accounted for in the same manner as fees and commissions on warrants and preemption locations, with the limitations as to maximums of salary prescribed by existing laws, in accordance with such instructions as shall be given by the Commissioner of the General Land Office.

The Committee on Public Lands reported the bill with an amendment to add the following as a new section:

And be it further enacted, That the Burlington and Missouri River Railroad Company may so far change or modify the location of the uncompleted portion of its line, as shown by the map thereof now on file in the General Land Office, so as to secure a better and more expeditious route to the terminus of said line on the Missouri river, said new line to be located within the limits of the land grant made by the United States to aid in its construction; and said change shall not impair the right to nor change the location of their present land grant. A map of the change shall be filed with the Commissioner of the General Land Office within one year after the passage of this act.

The amendment was agreed to.

Mr. RAMSEY. I wish to ask the Senator from Iowa why this bill is not made general, to apply to other States as well as Iowa. It proposes to give compensation for new and additional services.

Mr. HARLAN. It is to compensate them for work which they have heretofore done gratuitously. In Iowa there is very little public land except that embraced in railroad grants, and as the officers receive but \$500 a year salary, and would be compelled to keep their offices open throughout the whole year, it is deemed to be insufficient in that State. In other land States there is other business to be done, homestead entries, and also other entries; so that probably in nearly all the other States, if not all, they are receiving other compensation, besides their salary. In Iowa they will not receive perhaps ten dollars a year in excess of the \$500 salary on account of the passage of the railroad bills which have been passed at this session. The amendment proposed by the committee is to enable one of the railroads in Iowa to change in some trivial respects the line of its road.

Mr. GRIMES. My impression is that two dollars is a little more money than ought to be required as a fee in making those entries for quarter sections. I propose to amend the bill by reducing the fee from two dollars to one dollar; if that will meet the approval of my colleague.

The amendment was agreed to.

Mr. RAMSEY. I desire to move another amendment, to strike out in the sixth line the words "in the State of Iowa;" and in the seventh line to strike out the words "in said State;" and insert "in the several States and Territories," leaving it general in its application. It will then read:

That from and after the passage of this act, in the location of lands by States and corporations under grants from Congress for railroads and other purposes, except for agricultural colleges, the registers and receivers in the several States and Territories in the districts where such lands may be located, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

On motion of Mr. HARLAN, the title was amended so as to read: A bill to regulate the compensation of registers and receivers of the land offices in the several States and Territories in the

location of lands by States and corporations under grants from Congress, and for other purposes.

COTTON SPECULATIONS BY OFFICERS.

The PRESIDENT *pro tempore*. The Senate will resume the consideration of the bill which was under consideration at the time of the recess.

Mr. POWELL. At the request of the Senator from Missouri [Mr. HENDERSON] who is sick in his lodgings, I will ask that the communication of the Secretary of War transmitting the report made by the commission, at the head of which was Major General McDowell, to investigate certain cotton transactions, be printed for the use of the Senate.

The PRESIDENT *pro tempore*. That motion will go to the Committee on Printing.

Mr. GRIMES. I do not want it to go there. When that resolution was introduced by the Senator from Missouri, at my suggestion the Senate amended the resolution so as to call for the testimony that had been filed by General Curtis and others in rebuttal of the charges that had been preferred against them. The Secretary of War has sent here the evidence taken by the commission, but has sent none of those papers in rebuttal; and before there is any order made to print the report of the commission I wish to have a resolution passed drawing out in some way or other the testimony that was filed in vindication of the characters of the men who were assailed by the report of General McDowell.

Mr. POWELL. I have no objection to that testimony being printed; but I hope this motion will be allowed to go to the Committee on Printing. I will vote for the Senator's resolution tomorrow with great pleasure.

The PRESIDENT *pro tempore*. The motion can only be entertained by unanimous consent, another subject being properly before the Senate.

Mr. GRIMES. I prefer to leave the report where it is, and let all go to the Committee on Printing together. I do not know how much it will cost to print this report, but I suppose several thousand dollars; perhaps twenty or thirty thousand dollars. It is a vast amount of manuscript. I have never seen so large a pile brought into the Senate as composed this report.

Mr. POWELL. I will suggest to the Senator from Iowa that this matter had better go to the Committee on Printing, and it will be retained there until he can have time to obtain the other testimony. I am a member of that committee, and I assure him I will not press it until he can have an opportunity to obtain the other testimony.

Mr. GRIMES. I prefer that it should lie in the custody of the Senate until I can get the testimony that is in the Executive Department somewhere in defense of these men.

Mr. POWELL. It will be in the custody of the Senate after it goes to the Committee on Printing, and even if they report in favor of printing it it has to come back before the Senate before the order can be made.

Mr. GRIMES. I think here is the place for it, in the Senate.

Mr. POWELL. Under the rule, the motion will go to the Committee on Printing.

The PRESIDENT *pro tempore*. The motion cannot be entertained at the present time, unless by unanimous consent. Is objection made?

Mr. GRIMES. Yes, sir; I object.

WILLIAM YOCUM.

Mr. DAVIS. I ask the Senate to take up the report of the Committee on Printing in favor of printing the communication from the President of the United States in relation to the charges, judgment, and proceedings in the case of William Yocum. I ask that the order to print be made in conformity to the report of the committee. It will only cost about twenty or thirty dollars, I am told.

The report was considered by unanimous consent, and agreed to.

PERFORMANCE OF MILITARY DUTY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 286) to prohibit the discharge of persons from liability to military duty by reason of the payment of money, the pending question being on the amendment of Mr. HENDRICKS to the amendment of Mr. TEN EYCK.

Mr. TEN EYCK. For the purpose of making it more agreeable to the Senate, and to prevent the improper application of this bounty, I will ask leave to modify my amendment.

The PRESIDENT *pro tempore*. The Senator can modify his amendment, no vote having been taken upon it.

Mr. TEN EYCK. Then I will modify it by striking out the words "injuries received," and inserting "permanent injuries received, or permanent disability contracted in," and after the word "bounty" to insert the words "in proportion to the time he may have served;" so that the amendment will read:

And be it further enacted, That every non commissioned officer, private, or other person who has been, or shall hereafter be, discharged from the Army of the United States, within two years from the date of their enlistment, by reason of permanent injuries received, or permanent disability contracted, in the line of duty, shall be entitled to receive the same bounty in proportion to the time he may have served, as is granted, or may hereafter be granted, to the same class of persons who are discharged after a service of two years; and all acts and part of acts inconsistent with this act are hereby repealed.

The PRESIDENT *pro tempore*. The question will be on the amendment to the amendment submitted by the Senator from Indiana.

Mr. HENDRICKS. The Senator from New Jersey, I believe, has so modified his amendment that I do not care to amend it.

The PRESIDENT *pro tempore*. Does the Senator withdraw his amendment to the amendment?

Mr. HENDRICKS. I wish to ascertain whether I am correct about it. Perhaps it had better be reported again as modified.

The Secretary again read the amendment.

Mr. HENDRICKS. That is not exactly what I desire, but of course I accept that.

The PRESIDENT *pro tempore*. Does the Senator withdraw his amendment to the amendment?

Mr. HENDRICKS. Certainly.

The PRESIDENT *pro tempore*. Then the question is on the amendment of the Senator from New Jersey as modified.

Mr. HENDRICKS. I desire to say one word upon that. I cannot conceive how any Senator can object to the amendment proposed. It proposes to give to the soldier permanently disabled the proportion of his bounty for the time that he has served. If we do not do this act of justice, there is no use of talking here any more about our devotion to the soldier.

The amendment was agreed to.

Mr. WILSON. I have a very small amendment that I wish to offer. I regret to have to offer any amendments to the bill; but I offer this on the suggestion of a very strong letter of the acting Surgeon General of the Army, who states to me that it is impossible to get the work done now at the rates that are paid. It is to insert the following as a new section:

And be it further enacted, That from and after the 1st day of July, 1861, hospital matrons shall be entitled to and receive twelve dollars per month and one ration.

The amendment was agreed to.

Mr. HENDRICKS. I move to strike out the first section of the bill, as follows:

That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and the acts amendatory thereof, as authorizes the discharge of any drafted person from liability to military service by reason of the payment of \$300 for the procurement of a substitute or otherwise, be, and the same is hereby, repealed: *Provided*, That nothing contained in this act shall be construed to alter the provisions of existing laws relative to persons actually furnishing substitutes.

Upon that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FOOT. I will say a word or two, sir, explanatory of the vote I shall give upon this proposition of amendment to strike out the first section of the bill.

The bill under consideration having been so amended as to limit the term of service under the draft to a single year instead of three years, as heretofore, I am disinclined to vote for the repeal of the commutation clause, commonly so called, in the existing law. I am inclined to think we had better let it stand as it is.

I do not apprehend any serious difficulty in raising the requisite number of men under a draft for a single year, even if the commutation clause be left unrepealed. A very large proportion of drafted men who would avail themselves of the commutation provision under a draft for a term

of three years would not be likely to do so under a draft for a single year. The effect of the commutation provision is, and such in part at least was the intent, to restrict exorbitant pecuniary exactions for substitutes; and so far forth its operation has been in behalf of men of small pecuniary ability.

I need spend no time, however, upon this question. The advantages and the disadvantages of the privilege of commutation have been often and fully explained, and are well understood. Practical experience has made its operation familiar to everybody; and no one now attempts to misrepresent or to pervert the effect and intent of the law in this regard.

Believing, then, that we shall be able to raise the required number of men under a draft for a single year, notwithstanding the commutation clause may remain in force, and regarding this provision as a beneficial one in its operation, and one especially which takes away, in a great measure, the oppressiveness and odium of a draft without essentially impairing its effectiveness when the term of service is not to exceed a single year, I am disposed, as at present advised, to vote against the repeal of that provision. Without the amendment which has been adopted in Committee of the Whole, reducing the term of service from three years to a single year, I should have felt constrained to vote for the repeal of that provision for the reasons set forth by the War Department and communicated to Congress by the Executive; but the limitation of the term of service to one year instead of three, in my judgment removes, in a great measure, the objections to this provision, and so far forth obviates the necessity of its repeal.

It is after all a question of expediency depending upon contingencies, of which every member, of course will form and act upon his own judgment. The expediency, I admit, of retaining the commutation clause depends upon reducing the term of service from three years, as by the existing law, to one year, as proposed by the amendment to this bill. Again, the expediency of this reduction depends upon the prospects and the probabilities of an early termination of the war, of which also every member will judge for himself in casting his vote. I give my vote upon these questions upon the assumption, at least with the hope, and with some degree of confidence of an early conclusion of the war, I hope during the present campaign; but as I have already remarked, that is a contingency of which every member must judge and act for himself, and of course they will.

The question was asked, and asked pertinently and with significance, if not with something of sarcasm, by my honorable friend from Indiana, [Mr. HENDRICKS,] the other day, if it was expected this war would terminate during the present or coming year. He asked us the question emphatically, how long is this war, this "horrid war," as he denominates it, to continue? That is a question none of us can answer, Mr. President. The war has already continued much longer than any of us had hoped, and much longer than many of us had anticipated. But if my honorable friend will answer me how long this rebellion, this "horrid" rebellion is to continue, he will furnish us a good criterion by which we can judge how long the war will continue. I think the war will terminate when the rebellion terminates, no sooner and no later; and I think that is the will and the determination and will be the responsive voice of the great body of the loyal, earnest, patriotic American people of all parties and of all sections of the country.

But, sir, I do not mean to allow myself to be betrayed into anything like a partisan or political debate upon these questions in the Senate. I simply rose to explain in a word the reason of the vote I shall give in favor of the amendment moved by the Senator from Indiana.

Mr. McDOUGALL. After the result of the attempt on my part to amend the bill by striking out the provision allowing parties to procure substitutes, and making all the persons subject to draft liable to serve, the voice of the Senate, by a very large majority, being in favor of retaining that provision, it seems to me to follow that there should be some limit placed upon what should be demanded as the price of a substitute. The object of the bill, as I now understand it, is to enable persons to procure substitutes at any price, so that

it shall be a subject for the market. I have been opposed all the time to this method of subsidizing citizens; but if that is to be the rule, then I would like to have the Government make the rule. I shall therefore support the amendment proposed by the Senator from Indiana, to leave the law to stand as it does now. To strike out the commutation clause and enforce the draft would place every person subject to the draft to an ununiform rule, and to great outrage.

Mr. LANE, of Indiana. This motion of my colleague, as I understand it, is to strike out the first section of the bill which repeals the \$300 commutation clause. If that be stricken out, there is certainly nothing in the bill for which any Senator need contend or have the least possible interest. The whole body and soul of the bill is the repeal of this commutation clause. Upon that have been incorporated certain amendments which I think have destroyed the efficiency of the bill as it now stands.

If I understood the position of the distinguished Senator from Vermont, [Mr. Foor,] it was this: that he would vote now against the repeal of the \$300 clause, because the term of draft had been reduced from three years to one year; and he believed that very few would avail themselves of the benefit of that clause because the term had been thus reduced. Sir, we are not without experience on that subject. The draft in the fall of 1862 was only for nine months, and almost as many men paid their commutation then as were brought into the service under that law. And now, when it is more difficult to obtain soldiers, if you retain the \$300 commutation clause and draft for one year, you will not get ten per cent. upon your draft; your armies will be exhausted; and at the end of this campaign you will be in a position of giving up the contest without an army. Sir, if we are to pursue this contest in earnest we should draft, and draft for three years, and make men serve when they are drafted.

It is true, as Senators around me say, that we obtained but seven per cent. of those drafted for three years; but I suppose we shall get no more for one year. The reason why we draft at all is because men are not willing to volunteer. It is an involuntary matter to bring them into the service either for one year or three years, and I cannot conceive that the argument will hold good. We tried the draft for nine months, and we saw how many paid the commutation; we found that the law was an utter failure. If this amendment should be adopted, I care not what other amendment may be adopted, I shall feel constrained to vote against the whole bill, for it is utterly idle and a mockery.

Mr. HENDRICKS. I desire to say one word in reply to my colleague. He forms his opinion as to the result of drafting, retaining the \$300 clause, from the report of the Provost Marshal General made through the Secretary of War, as I suppose. I understand from the chairman of the Committee on Military Affairs in a speech this afternoon that, upon an examination of the whole subject, so far as the drafting has gone, we have realized of the men drafted and of substitutes furnished by drafted men fifty per cent. of the number drafted. There were about eighteen districts selected by the Provost Marshal General in eight different States and sent to the Secretary of War, and that was sent to the Senate to guide its judgment. As soon as it was read to the Senate and I had an opportunity to express my opinion of it, I said the judgment of the Senate could not well rest upon a report like that. It is not worthy of the respectful consideration of the Senate for a moment. That eighteen districts out of eight different States presenting as favorably as possible the peculiar views of the Provost Marshal General should be sent in here is no guide for us, as I thought then and as I am now assured by the statement of the chairman of the committee. The chairman I understand to have examined the whole subject as it now appears from the returns in the Provost Marshal General's office, and to have said in his speech this afternoon that it has thus far resulted in about fifty per cent. instead of seven per cent.

Mr. WILSON. I saw this morning of the number of men who had been drafted through the whole country a list of about 28,000 returned to the office. There were 4,400 in the list held, that is, those who will go or pay the money or obtain

a substitute; over 2,900, in round numbers 3,000, substitutes were furnished, and 8,400 had paid the commutation money, showing that more than fifty per cent. of all that had been drafted had been held to service in some form, either to go themselves, furnish substitutes, or pay the money. If we are to draft only for one year, and the man drafted may go himself or get a substitute, or may pay the \$300, in my judgment we shall get five men for one year easier than we can get one man for three years under this act if the commutation should stand just as it is and we should go on vigorously drafting under it. I believe we would fill up our Army very readily under it with this change of time. That is my judgment.

Mr. LANE, of Indiana. The statement of the Senator from Massachusetts, the chairman of the Committee on Military Affairs, is not that fifty per cent. of the men have been obtained, but that out of 28,000 drafted 2,700 men have been obtained and some 5,000 have paid their commutation.

Mr. WILSON. Eight thousand four hundred paid commutation.

Mr. LANE, of Indiana. Eight thousand four hundred paid commutation and 2,700 have stood the draft.

Mr. WILSON. Three thousand obtained substitutes and 4,400 will get substitutes or pay the money. The time has not yet expired for all of them to report. Over 2,000 of them have not yet reported.

Mr. LANE, of Indiana. What I wish to direct the attention of the Senate to is this: out of 28,000, 2,700 or less have stood the draft, some 8,000 have paid the commutation, 4,000 have hired substitutes, and some others have not reported, as their time is not out; and it will stand in that proportion till the end of time; and if you do not repeal this clause you will get no drafted men under your law.

Mr. WILSON. Twenty-eight thousand men have been drafted. A little more than fifty per cent., about 15,000 of the 28,000 have been held to service in some form; the others were discharged for disability. Fifty per cent. is about all we can hold under a draft. If we draft for 100 men we perhaps can get 50. Out of that 15,000, 4,400 were put down as held to service, 3,000 furnished substitutes, and 8,400 paid commutation. You have, therefore, got the money for 8,400 men, you have got 3,000 substitutes, and you have got between two and three thousand men who report themselves. The balance will either go themselves, pay the money, or furnish substitutes; and that is not yet determined, because their time is not out.

Mr. McDUGALL. If I understand the figures aright, less than one seventh of those who were drafted responded to the draft in person.

Mr. WILSON. There were only 15,000 held in all.

Mr. McDUGALL. I thought there were 28,000.

Mr. WILSON. There were 28,000 drafted, and of them but about 15,000 were held. The remainder were discharged for disability of some kind. Those 15,000 were divided as I have stated. This is a great deal better than we used to do under the old law before we amended it at the last session, fifty per cent. better. With this change of the term of service to one year, I believe we shall easily obtain substitutes for \$300, and we can fill up the Army, in my judgment, very rapidly if the commutation is allowed to stand, and if it is repealed you can do it.

Mr. LANE, of Indiana. I will ask the chairman of the Committee on Military Affairs one question to see that I understand him. Out of 28,000 drafted men 15,000 were held. Now, is it not true that less than 3,000 have answered the draft in person?

Mr. WILSON. Yes, sir.

Mr. LANE, of Indiana. All the rest have hired substitutes or paid commutation. We have got 2,700 men out of a draft of 28,000. That is the whole of it, without going any further.

Mr. JOHNSON. I do not understand it so at all.

Mr. LANE, of Indiana. That is the truth about it.

Mr. JOHNSON. I am not sure that I understand the chairman of the committee. We have drafted 28,000 men; but in relation to that draft

as in relation to all other drafts a certain proportion of the men drafted are found not to be fit for service. Of that 28,000, therefore, only 15,000 were found fit for service. What I want to know of the honorable member from Massachusetts, if he can tell me, is, how many men did we get into the service out of that 15,000 by being personally held to service, by those who furnished substitutes, and by men who were procured with the commutation which was paid into the Treasury? How many men came into the field?

Mr. WILSON. We cannot ascertain exactly, because the time is not yet out for all the men held to report. I will state it again, and I want the Senator from Maryland to listen.

Mr. JOHNSON. I am listening.

Mr. WILSON. We held 15,000 out of the 28,000 who were drafted lately. That number of men are divided in this form in the figures that I examined this morning: 4,400 were put down as held, that is to personal service, 3,000 had furnished substitutes, and 8,400 had paid the money. You received the money for 8,400, you had 3,000 substitutes, and you had 4,400 held, although it is probable that of that 4,400 held to personal service some will obtain substitutes or pay the money in course of time as their time is not out. It will be remembered that not long since, when we had reported here the result of a draft for 14,000 men, just half of this, about 1,200 or 1,300 of that number reported themselves, and about 1,500 or 1,600 obtained substitutes. If the same ratio is preserved now, probably somewhere from 2,500 to 3,000 of these 4,400 men will respond personally. If say 2,500 have responded, then we have got 5,500 out of 15,000, besides what we have raised in money.

Mr. JOHNSON. It is my fault; but I am a little more confused now than I was before. I want to know if the honorable member can tell me how many men under that draft of 28,000 we have got into the field. I understand him to say that there were only 15,000 of the whole number found fit for service; that of that 15,000 2,700 is the amount of those who were willing to render personal service.

Mr. WILSON. Four thousand four hundred were put down as held; but General Fry said that probably some of the 4,400 men put in the column of personal service would pay or would furnish substitutes, as their time was not out, and therefore we have to estimate that number.

Mr. JOHNSON. Then we have got 4,400.

Mr. WILSON. And 3,000 substitutes.

Mr. JOHNSON. I want to see if I understand myself. That is 7,000. Now, I want to know what was the amount of commutation money paid by those who neither furnished substitutes nor entered the service themselves.

Mr. WILSON. Eight thousand four hundred paid.

Mr. JOHNSON. How many soldiers will that get?

Mr. WILSON. Eight thousand four hundred.

Mr. JOHNSON. Then we get 15,000 men.

Mr. GRIMES. That proceeds upon the idea that each commutation of \$300 gets a man; but it does not get a man. Each one of the men that have been obtained has received a bounty in addition to the \$300 to induce him to go into the service.

Mr. JOHNSON. That makes no difference.

Mr. GRIMES. Yes, it does make a vast difference.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana, [Mr. HENDRICKS,] to strike out the first section of the bill.

The question being taken by yeas and nays, resulted—yeas 21, nays 18; as follows:

YEAS—Messrs. Buckalew, Carlile, Clark, Collamer, Cowan, Davis, Dixon, Foot, Foster, Harris, Hendricks, Johnson, McDougall, Morrill, Powell, Richardson, Riddle, Saulsbury, Van Winkle, Wiley, and Wilson—21.

NAYS—Messrs. Anthony, Brown, Chandler, Conness, Fessenden, Grimes, Harlan, Howe, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, and Trumbull—18.

ABSENT—Messrs. Doolittle, Hale, Harding, Henderson, Hicks, Howard, Pomerooy, Wade, Wilkinson, and Wright—10.

So the amendment was agreed to.

Mr. CHANDLER. I move that the bill be laid upon the table. It is now utterly worthless.

Mr. GRIMES. I want to make one effort if the Senator will allow me, to try and retrieve it.

Mr. CHANDLER. Will you renew the motion?

Mr. GRIMES. Yes, sir; if I cannot carry the motion I propose to make I will.

Mr. CHANDLER. Very well.

The PRESIDENT *pro tempore*. The motion is withdrawn.

Mr. GRIMES. I move in the last line of the fourth section to strike out the word "shall" and to insert the word "may," so as to leave it optional with the War Department or the President to call for these men for three years, or one year, or any other time they think proper. That will leave it, as I understand it, optional with the war authorities or the present Commander-in-Chief of our Army and Navy, or whoever the bill vests the power in—the President, at any rate—to determine whether these men may be called for three years or any period between that and one year, or not. The bill as it now stands is absolute. The section, if amended as I propose, will read:

That all calls for drafts hereafter made under the act entitled "An act for enrolling and calling out the national forces," &c., and of any act in addition to or amendatory thereof, may be for a term not exceeding one year.

Mr. SHERMAN. The language of the bill as it now stands will not accomplish the object of the Senator from Iowa. I looked at it with a view to make the same amendment and proposed to offer the same amendment. I ask the chairman of the Committee on Military Affairs whether under the existing law the President has not the right now to call for one year troops?

Mr. WILSON. No, sir, he has not the right in my judgment. This bill provides that the men shall be drafted during the war, not to exceed three years. We enlist men for three years or during the war, and we make a draft "during the war, not to exceed three years." I think the President cannot draft a man for an hour short of three years under the present law.

Mr. SHERMAN. I understand according to the present law that the President can draft for any period less than three years. The only effect of this bill in my judgment is to shorten the period of enlistment. The draft is not compulsory. Any man who can pay \$300 may evade it either for one year or three years. I agree therefore in the general sentiment that we are simply wasting time at this period of the session in considering a bill which, in my judgment, if carried into a law is a surrender of the contest; because the idea of carrying on this war without enforcing a draft, at a time when we cannot procure enlistments, at a time when we have to call for one hundred day men, at a time when a single State has had to furnish nearly all that has been furnished—

Mr. HENDRICKS. I desire to ask the Senator a question. Did the Administration call for one hundred days' men because there was a lack of volunteers under the system that was adopted last winter, or was it not the voluntary action of the Governors of certain States?

Mr. SHERMAN. I am not here the organ of the Administration in regard to military matters. I am not consulted. I only speak from my own view. The Committee on Military Affairs can speak through its chairman. I understand, however, and the facts have proven it, that there was a pressing need sixty days ago for more men, and therefore these one hundred days' men were accepted, because they were absolutely needed, and there was no other way to get them. The Administration never did and never would—why, I cannot say—enforce the draft. In my judgment, two years ago they ought to have enforced the draft. There is no special need for Congress to pass laws on the subject, because they will not execute them; there is no doubt about that. They had a law on the subject two years ago, and they never did and never would execute it. I was in hopes, however, that the Military Committee of Congress would originate a law to compel them to execute a draft, and compel persons to go into the service without paying commutation; but since the majority of the Senate thinks the time has not arrived for this compulsory draft, I for one will vote to lay the bill on the table. I will not submit the motion, because I do not wish to cut off debate.

Mr. GRIMES. I think the Senator from Ohio is mistaken in supposing that this matter cannot be remedied, and vest in the President of the United States the power, if he has not that power

now, to call for any number of men he may see fit, for any period less than three years. I therefore ask that in the amendment which I have moved, I may substitute the word "may" for "shall," also the words "three years" instead of "one year," so that he may call for them for a period not exceeding three years. That will then leave him the option to call for the men during any period of time below the three years.

Mr. WILSON. The eleventh section of the enrollment law reads:

"And to continue in service during the present rebellion, not, however, exceeding the term of three years."

That is the form in which the men are to be drafted, "to continue during the present rebellion, not, however, exceeding three years." I think it means they shall be drafted for three years.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Iowa that the clause to which he proposes his amendment having been adopted by the Senate on the motion of the Senator from Vermont, being an amendment adopted in those words, he will have to wait until the bill comes into the Senate in order to move an amendment to that section. The bill is now in committee.

Mr. GRIMES. I sympathize with my friends here who are opposed to this bill as it now stands and shall vote against it; but let us make an effort to retrieve it. We may benefit it, and I think we can, by putting beyond all controversy this question as to whether the President has a right to draft men for a period less than three years. Let the bill go into the Senate, and let us try to put it in some shape that is satisfactory to the Senate.

Mr. CONNESS. I agree with the Senator from Iowa in regard to this bill, but I go a little further. I believe it is impossible now to make such a bill of it as will meet the demands of the country. I think there is a necessity for some unity of action between the men who act with and for the Administration in this body. Senators will pardon that expression on my part. The men of whom I now speak are responsible for carrying on this war, for the mode in which it has been conducted, for the mode in which it is to be conducted, and I think it is due to them that time should be given now before this bill shall be voted upon any further. I hope the bill will be laid on the table at present, and I make that motion.

Mr. JOHNSON. Is that debatable?

The PRESIDENT *pro tempore*. It is not.

Mr. JOHNSON. I want to know what the motion is.

The PRESIDENT *pro tempore*. To lay the bill on the table.

Mr. JOHNSON. Temporarily, I understood, to postpone it.

Mr. CONNESS. Of course it will be ready to be acted upon whenever the Senate shall choose to take it up again. I ask for the yeas and nays on my motion.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 24; as follows:

YEAS—Messrs. Anthony, Brown, Cullie, Chandler, Conness, Harlan, Howe, Lane of Indiana, Nesmith, Ramsey, Richardson, Saulsbury, Sherman, Sprague, and Trumbull—15.

NAYS—Messrs. Buckalew, Clark, Collamer, Cowan, Davis, Dixon, Fessenden, Foot, Foster, Grimes, Harris, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Powell, Riddle, Sumner, Ten Eyck, Van Winkle, Wiley, and Wilson—24.

ABSENT—Messrs. Doolittle, Hale, Harding, Henderson, Hicks, Howard, Pomeroy, Wade, Wilkinson, and Wright—10.

So the Senate refused to lay the bill on the table.

Mr. SUMNER. I now send an amendment to the Chair, to come in as a new section to the bill.

The Secretary read the amendment, as follows:

And be it further enacted, That in addition to the substitute furnished by a drafted person, or where no substitute is furnished, then in addition to the sum fixed by the Secretary of War for the procurement of a substitute, every such drafted person shall, before his discharge from the draft, be held to contribute a certain proportion in the nature of a title of his annual gains, profits, or income, whether derived from any kind of property, dividends, salary, or from any profession, trade, or employment, whatever, according to the following rates, to wit: on all incomes over \$1,000 and not over \$2,000, five per cent.; on all incomes over \$2,000 and not over \$5,000, ten per cent.; and on all incomes over \$5,000, twenty per cent.; and it shall be the duty of every such person seeking to be discharged to make return, either by himself or his guardian, to the provost marshal of his district of the amount of his income, according to the requirements of the act to provide internal revenue of July 1, 1862; and so much of the act for "en-

rolling and calling out the national forces, and for other purposes," approved March 3, 1863, as is inconsistent with this section, be, and the same is hereby, repealed.

And be it further enacted, That the contributions thus made shall be employed by the Secretary of War as a fund for bounties, to be paid to the men actually drafted and mustered into the service under any call subsequent to the date of this act, whenever they shall be honorably discharged, or, in the case of death, to the widow and minor children of any such man, according to rules and regulations established by the War Department.

Mr. SUMNER. I think the amendment in its two sections explains itself. In the first section it provides that every person, besides supplying a substitute or paying the sum which he pays for the procurement of a substitute, shall contribute a certain proportion ratably according to his income; and in the second section it provides that those contributions shall constitute a fund to be distributed by the Secretary of War among the men actually drafted and mustered into service under a call subsequent to the date of this act, and who shall be honorably discharged. All this is to be in pursuance of rules and regulations made by the Secretary of War. I say, therefore, you have two elements; first, a payment ratably according to property; and secondly, out of that payment the creation of a fund which shall be a source of bounties to the soldier.

Now, sir, this proposition has in its favor two considerations; first, the consideration of justice, inasmuch as it is not just, and I never shall cease to insist upon that proposition, to make the poor man pay for his discharge the same which you make the rich man pay. When a person is drafted into the service as a soldier, and the question is of his ransom from that obligation by a pecuniary contribution, there is no element of equity which is not shocked, according to my sense of justice, if you do not to a certain measure regulate the requirement of money to be paid according to the wealth of the person drafted. What is there which a man will not pay for his life? What is there which a man will not pay who has the means, and who is not disposed to enter into the military service, to be discharged from its perils and anxieties? And yet, sir, by the law as it now stands you compel the poor and the rich to pay the same sum. The rich man is drafted, and he pays \$300, which to him on that occasion is nothing; he puts his hand in his pocket as you put your hand in your pocket to find the change for a newspaper; whereas the poor man perhaps is driven to sell all that he has in order to save himself for his family. Sir, is that just? To my mind it is not.

On a former occasion, in connection with taxation, I read to the Senate what was said by an eminent French writer, Mr. Say, and I now call attention to this again in this connection, because to my mind it bears with more force now than it did then. He says:

"If it be desired to tax individual income in such manner as to press lighter in proportion as that income approaches to the confines of bare necessity, taxation must not only be equitably apportioned, but must press on revenue with progressive gravity." * * *

"Thus, a tax merely proportionate to individual income, would be far from equitable; and this is probably what Adam Smith meant by declaring it reasonable that the rich man should contribute to the public expenses, not merely in proportion to the amount of his revenue, but even somewhat more. For my part I have no hesitation in going further, and saying that taxation cannot be equitable unless its ratio be progressive."

There, sir, is the important proposition in connection with taxation that it "cannot be equitable unless its ratio is progressive." In our tax bill recently passed we have to a certain extent adopted that principle. While recognizing the principle on that occasion, I was not disposed to press it beyond the recommendation of the Finance Committee; but the case is now changed; here there is no question of taxation, but it is a question of how we shall equalize a burden upon the community so that it shall be felt by the rich and the poor alike. Sir, I can find no other way in which it can be equalized except by the graduation which is now proposed. If Senators will point out any other way, I shall be ready to follow them; but until they can point out another way, I hope they will adopt the proposition that I now offer.

Mr. COWAN. Allow me to suggest to the Senator that the general scheme of taxation equalizes burdens.

Mr. SUMNER. The Senator says that the general scheme of taxation equalizes the burdens.

The Senator is mistaken. The question now is how much a man shall pay in order to be relieved from the burden of military service; and I tell the Senator that it is not equality to compel the poor man to contribute his all for that exemption while the rich man contributes what to him is next to nothing. Sir, in that there is no equality. Suppose the Senator himself were drafted, indisposed as he probably would be to military life, what is there that he would not contribute for the exemption? To him, under such circumstances, \$300 would be as nothing; and yet, to the poor man, \$300 is everything. In short, there are many who have it not, there are many who, by calling upon their friends, by ransacking every resource within their reach, are not able to command that small sum. Others perhaps just able to command it, are compelled, in order to obtain the exemption, to burden their families, to deny comfort to wife and child.

Now, sir, the rich man is under no such obligation. If he be drafted under the existing laws, he finds his substitute or he pours into the Treasury his \$300; he draws his check and it is all over; it is nothing to him. Sir, there is no equity in the law as it now stands. But I have said that the proposition has in it two elements; the first is that it seeks justice; the second is that it provides a fund out of which bounties may be distributed by the Secretary of War among the men actually drafted and mustered into the service. In that proposition you have another temptation to the service, or if it be not another temptation it is something which will soften and mitigate its hardships. The soldier, while on the field of battle, while on his march, will bear in mind that when the time of honorable discharge comes, or should he be taken away by death, then for the benefit of his wife and minor children, he may look to the fund created out of these contributions for a bounty which shall be to him or to them something in the way of support. I say, therefore, you will have in that part of the proposition a temptation which all of you confess you now need in order to carry forward your enlistments, or you will have something to soften and to mitigate them.

Mr. McDUGALL. Mr. President, next to that which is right is that which is least evil. I took occasion this afternoon to affirm what I held to be the right rule with regard to the bringing of our troops into the field. It did not meet with the approbation of the Senate. I thought that was altogether right, and I undertook briefly to maintain it as such. Next to that proposition is the one now offered by the Senator from Massachusetts, and I am somewhat surprised that I have come as near to him upon a war proposition as I find myself to-night, for I find myself, in the present condition of this movement, compelled to give him the concurrence of my opinion, not as a matter of the most just legislation, but under the circumstances the most expedient.

We have by our present legislation placed the poorest citizen, with regard to the money that may relieve him, upon the same level with the man of a colossal fortune. That great wrong, to a certain extent, the Senator from Massachusetts has sought to obviate by charging upon those men whose incomes are millions, or hundreds of thousands, or tens of thousands, some proportionate charge when they shall ask that they or their sons or their brothers or their cousins shall be relieved from the responsibilities of war.

I have thought that in a Government like ours there were two distinct forms of taxation, and in this I differ I think with the Senator from Massachusetts. There is a tax charged on the citizen that is paid with his best blood on the battle-field in maintaining the liberty or the integrity of his State or his Government. That is a tax that can only be discharged where armies are arrayed. Then there is a tax charged upon the wealth of the country, its commercial, its manufacturing, its agricultural wealth, with which arms have nothing to do except that they are auxiliary to arms. I have always made according to my theory an exact distinction, and therefore I have said all those who are subject to serve the Republic and to bear arms are bound to obey the call of the Government and to ency themselves in battle whenever battle is challenged and whenever the Government commands. But that view of mine has

been ignored by a most positive vote. Now, the Senator proposes that those persons who have accumulated large fortunes, those men possessed of vast wealth, when they are called upon for the tax where the peril of life is called for, that something which is more valuable than lands or houses or gold or silver, and when men are to be excused from paying that tax, shall contribute that which shall bear some relation to their possessions. The Senator from Massachusetts is right if we permit a compromise between the first great obligation we owe to the Constitution and the laws, the obligation of our service and our lives to maintain them, and the right to the possessions, the property, and the material interests of the country.

He proposes a compromise now between blood and money; and as blood has had no consideration in the argument of to-day and money has borne the palm alone, a compromise, if compromise can be had, is the only thing to be accepted now. I will take the compromise and see how the men of vast fortune who have to be protected, men who have ships upon the seas, men who have great warehouses upon our seaboard, men who have great manufactories in our inland cities, men who have vast farms in the West, men who live amidst abundant luxury—how far they may apportion themselves to sacrifices which demand of the young the red blood of our Republic. If we cannot maintain the right, then I will take the best compromise, and the best compromise comes from the Senator from Massachusetts. I shall therefore go for his amendment.

Mr. GRIMES. I move that this bill be re-committed to the Committee on Military Affairs.

Mr. SUMNER. Why not have a vote on my proposition?

Mr. GRIMES. I am satisfied it will take all the rest of the evening to discuss this single proposition, and I apprehend that the bill will in the end go to the Committee on Military Affairs after we may have adopted it or rejected it.

Mr. JOHNSON. The debate on that proposition is over.

Mr. COLLAMER. I want to have the light of the committee on this very proposition.

Mr. SUMNER. Very well.

The motion to recommit was agreed to.

EXECUTIVE SESSION.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of executive business.

Mr. HENDRICKS. I move that the Senate adjourn.

The motion to adjourn was not agreed to—ayes 17, noes 21.

Mr. CHANDLER. I ask the Senator from Kansas to withdraw his motion for the purpose of allowing me to move to take up the telegraph bill so as to leave it the unfinished business.

Mr. LANE, of Kansas. There are a great many executive messages from the President that ought to be referred to committees, and there is a very important officer in my State to be confirmed. I insist on my motion.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, June 20, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

On motion of Mr. STEELE, of New York, the reading of the Journal of Saturday was dispensed with.

INTRODUCTION OF BILLS.

The SPEAKER stated the business in order to be the call of States for the introduction of bills and resolutions for reference, not to be brought back on a motion to reconsider.

YOUNG MEN'S CHRISTIAN ASSOCIATION.

Mr. STEELE, of New York, introduced a bill to incorporate the Young Men's Christian Association of the city of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

ADDITIONAL COMMITTEES.

Mr. WILSON submitted the following resolution;

which was read, and referred to the Committee on Rules:

Resolved, That the Committee on Rules inquire into the expediency of creating two additional standing committees of the House, namely: the first to be called a Committee on Internal Revenue, which shall consider all matters relating to that subject; the second to be called a Committee on Banking and Currency, which shall consider all matters pertaining to said subject.

Mr. WILSON moved to reconsider the vote by which the resolution was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SABBATH OBSERVANCE.

Mr. PRICE submitted the following resolution, on the adoption of which he demanded the previous question:

Whereas it is and ever has been admitted since the formation of our Government that the prosperity of this nation depended upon and was attributable to our recognition and observance of the laws of God and the consequent protection of an all-wise Providence; and whereas the recent act of Congress compelling the railroad company to run their street cars in this city on the Sabbath is in direct contravention of the divine law and inconsistent with our professions as a Christian nation: Therefore,

Resolved, That the Judiciary Committee be instructed to report a bill repealing the law compelling the running of cars in the streets of this city on the Sabbath day.

On seconding the demand for the previous question, 15 voted in the affirmative and 43 in the negative; no quorum.

Mr. STEELE, of New York. I appeal to the gentleman from Iowa so to modify his resolution as to make it one of inquiry.

Mr. PRICE. No, sir; I want it to be one of instructions.

Mr. MALLORY. I understand that by the law as it existed this company had the right to run their cars on Sunday, but that this new legislation requires them to run.

Mr. PRICE. Exactly.

The SPEAKER. The Chair will remark that the bill to which the gentleman refers in his resolution has passed the House, but is pending in the Senate, and has not, therefore, become a law.

Mr. PRICE. It has become a law so far as this House is concerned, and I want the antidote to follow the poison in quick succession.

The SPEAKER ordered tellers on seconding the demand for the previous question; and appointed Messrs. MIDDLETON and PRICE.

The House again divided; and the tellers reported—ayes 15, noes 50; no quorum voting.

Mr. CRAVENS moved that there be a call of the House.

The motion was agreed to.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. William J. Allen, Allison, Anderson, Arnold, John D. Baldwin, Baxter, Blaine, Brandegee, Brooks, Broomall, James S. Brown, William G. Brown, Clay, Cobb, Coffroth, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Denning, Denison, Donnelly, Dumont, Eldridge, English, Fansworth, Finck, Gausson, Garfield, Grunell, Griswold, Hall, Hubbard, Jencks, William Johnson, Julian, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Knapp, Knox, Littlejohn, McAlister, McBride, Leonard Myers, Nelson, Odell, Charles O'Neill, John O'Neill, Patterson, Pike, Pomeroy, Samuel J. Randall, William H. Randall, Alexander H. Rice, Rogers, Ross, Schenck, Scofield, Smith, Smithers, Spalding, Starr, Stein, William G. Steele, Sweat, Thomas, Upson, Van Valkenburgh, Voorhees, Ward, Webster, Windom, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman.

Mr. CRAVENS. One hundred and four members having answered to their names, I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

The motion recurred on seconding the demand for the previous question.

The SPEAKER stated that no quorum having appeared on the last vote, he would order tellers; and appointed Messrs. HUBBARD, of Iowa, and PRYOR.

Mr. COX moved that the whole subject be laid on the table.

The House divided; and there were—ayes 60, noes 35.

Mr. HALE demanded the yeas and nays.

Mr. PRICE demanded tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

So the motion to lay on the table was agreed to.

ENROLLED BILL.

Mr. McKINNEY, from the Committee on En-

rolled Bills, reported that they had examined and found truly enrolled an act (S. No. 145) to increase the pay of soldiers in the United States Army, and for other purposes; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had agreed to the amendment of the House to the forty-third amendment of the Senate to the Indian appropriation bill.

POTTAWATOMIE LANDS, ETC.

Mr. WILDER submitted a joint resolution securing payment to the Delaware and Pottawatomie Indians for lands sold to the Leavenworth, Pawnee, and Western Railroad Company, now known as the Union Pacific Railroad Company, eastern division, and demanded the previous question.

The joint resolution was read a first and second time.

The previous question was not seconded.

Mr. WILSON moved that the joint resolution be referred to the select committee on the Pacific railroad.

The motion was agreed to.

Mr. WILSON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MISSOURI CONTESTED ELECTION.

Mr. UPSON, from the Committee of Elections, submitted a report accompanied by a resolution that Hon. JOHN G. SCOTT is entitled to retain his seat in this House as a Representative from the third congressional district of Missouri; which was laid on the table, and ordered to be printed.

RESERVATION OF MINERAL LANDS.

Mr. BROWN, of West Virginia, submitted a joint resolution reserving mineral lands from the operation of all acts passed at the present session granting lands or extending the time of former grants; which was read a first and second time.

The joint resolution provides that no act passed at the present session of Congress granting lands to States or corporations to aid in the construction of roads, or for other purposes, or to extend the time of grants heretofore made, shall be so construed as to embrace mineral lands, which in all cases shall be and are reserved exclusively to the United States.

Mr. WASHBURN, of Illinois. That is just, and I hope it will be passed.

Mr. BROWN, of West Virginia, demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. WILSON. I think that the joint resolution ought to be referred to the Committee on Public Lands.

Mr. DRIGGS. It has been considered by that committee, and they are in favor of it.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALLISON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FOREIGN MAILS.

Mr. KINNEY offered the following resolution, on which he demanded the previous question:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of reporting a bill at the present session of Congress repealing so much of the fourth section of an act entitled "An act to provide for carrying the mails to foreign ports," approved March 5, 1861, as prohibits the carrying of newspapers and other printed matter on the overland mail route from Kansas and east from California; and that they report by bill or otherwise.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

Mr. KINNEY moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

AMENDMENT OF POSTAL LAWS.

Mr. NORTON introduced a bill (H. R. No. 476) to amend the postal laws; which was read a first and second time by its title.

Mr. WILSON. It seems to me that is a curious bill to introduce under a call of States for resolutions.

Mr. NORTON. The bill is an important one, and has been thoroughly examined, section by section, by the Committee on the Post Office and Post Roads. The committee has no opportunity to report, and this was the only plan they could see to get the bill before the House.

The SPEAKER. The bill will go over under the rule if discussion arises. The Clerk will read the bill. It is a long one.

Mr. WILSON. I suggest to the gentleman that the vote be first taken on seconding the demand for the previous question. If the previous question is seconded the bill can be read afterwards. I think we shall save time by that course.

Mr. NORTON. How can members know whether to vote for sustaining the demand for the previous question without first hearing the bill read?

Mr. MALLORY. I rise to a point of order. The bill must go over under the rule, as gentlemen are debating it.

The SPEAKER. The gentleman has demanded the previous question, and this discussion is out of order.

Mr. MALLORY. Then my point of order is that the question must be put on seconding the demand for the previous question.

The SPEAKER. The gentleman from Ohio suggested that the bill be read, and the gentleman from Iowa asked that the vote be first taken on the demand for the previous question, as, if that failed, there would be no necessity for reading the bill. Does the gentleman from Ohio accept that proposition?

Mr. NORTON. No, sir.

Mr. WINDOM. Has notice been given of the introduction of the bill?

Mr. NORTON. No, sir. I offered the bill under the call of States, and I suppose I have the right to do so.

The SPEAKER. The Chair will have the rule read which requires notice to be given.

The Clerk read the rule, as follows:

"115. Every bill shall be introduced on the report of a committee, or by motion for leave. In the latter case, at least one day's notice shall be given of the motion in the House, or by filing a memorandum thereof with the Clerk, and having it entered on the Journal; and the motion shall be made, and the bill introduced, if leave is given, when resolutions are called for; such motion or the bill when introduced may be committed."

The SPEAKER. As notice has not been given, the bill is not properly before the House.

Mr. NORTON. The bill was introduced by me when the States were called, on request of the chairman of the committee. It has been well considered by the committee, and ought to be considered. I have no more interest in it than every other member.

The SPEAKER. The bill is not before the House.

ARBITRARY ARRESTS.

Mr. ROSS introduced the following resolution, on which he demanded the previous question:

Resolved, That all persons not in the military or naval service of the United States who have been arrested and imprisoned by the agents of the Government without process of law, and released without trial or examination, are entitled to the same pay and mileage for the time they were deprived of their liberty as members of Congress; and the Committee of Claims are hereby instructed to report a bill at an early day for that purpose.

The House refused to second the demand for the previous question.

Mr. WILSON. I propose to debate the resolution.

The SPEAKER. Then it goes over under the rule.

TRADE WITH REBELLIOUS DISTRICTS.

Mr. INGERSOLL introduced the following resolution, on which he demanded the previous question:

Resolved, That in the opinion of this House all permits heretofore issued by the Treasury Department to any person or persons, allowing such person or persons to trade within the limits of any of the States now or heretofore in rebellion, should at once be revoked and no more issued.

Mr. FENTON. I ask my friend if it would not be well to refer this resolution to the select

committee to investigate the affairs of the Treasury Department, to which this subject has been specially referred?

Mr. INGERSOLL. I prefer that the House should pass upon the subject. If the House sees fit to refer it, I shall not object. I demand the previous question upon agreeing to the resolution.

Tellers were ordered; and Mr. INGERSOLL and Mr. McKINNEY were appointed.

The House divided; and the tellers reported—ayes 55, noes 40.

So the previous question was seconded.

Mr. ASHLEY. I move to lay the resolution on the table.

Mr. W. J. ALLEN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 71, not voting 44; as follows:

YEAS—Messrs. Alley, Anderson, Ashley, Baxter, Beaman, Blair, Boutwell, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cole, Cavens, Creswell, Dixon, Edgerton, Eldridge, Eliot, English, Fenton, Frank, Garfield, Gough, Hale, Benjamin G. Harris, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Julian, Kallfeltsch, Kasson, Kelley, Francis W. Kellogg, Knox, Longyear, Marey, McBridge, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Noble, Odell, Charles O'Neill, Perry, Pike, Price, Pruyn, Radford, Schenck, Scofield, Shannon, Sloan, Smithers, Stevens, Strouse, Thomas, Tracy, Upson, William B. Washburn, Whaley, Wheeler, Williams, Wilder, and Windom—67.

NAYS—Messrs. James C. Allen, William J. Allen, Allison, Ames, Ancona, Arnold, Baily, Augustus C. Baldwin, John D. Baldwin, Blaine, Bliss, Boyd, Brooks, Chandler, Cobb, Coffroth, Cox, Dawson, Denning, Driggs, Eckley, Eden, Elnek, Ganson, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, Hitchins, Ingersoll, Philip Johnson, William Johnson, Knapp, Law, Lazear, Le Blond, Loan, Mallory, McClurg, McDowell, McIndoe, McKimney, William H. Miller, James R. Morris, Morrison, Nelson, Norton, John O'Neill, Orth, Patterson, Pomeroy, Samuel J. Randall, John H. Rice, Robinson, James S. Rollins, Ross, Scott, John B. Steele, Stiles, Stuart, Thayer, Van Valkenburgh, Wadsworth, Edwin B. Washburne, Chilton A. White, Joseph W. White, Wilson, and Winfield—71.

NOT VOTING—Messrs. Blow, Brandegee, Broomall, Clay, Henry Winter Davis, Thomas T. Davis, Dawes, Denison, Donnelly, Dumont, Farnsworth, Grinnell, Hall, Hooper, Jencks, Orlando Kellogg, Kerian, King, Littlejohn, Long, Marvin, McAllister, Middleton, Morrill, Leonard Myers, Pendleton, Perham, William B. Randall, Alexander H. Rice, Rogers, Edward H. Rollins, Smith, Spalding, Starr, Stebbins, William G. Steele, Sweat, Voorhees, Ward, Webster, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—44.

So the House refused to lay the resolution on the table.

During the roll-call,

Mr. DENISON stated that he had paired off with Mr. BROOMALL.

Mr. CRESWELL stated that Mr. Davis, of Maryland, was still detained from his seat by reason of sickness.

Mr. HOTCHKISS stated that Mr. LITTLEJOHN was detained from his seat by indisposition.

The result of the vote was announced as above recorded.

Mr. FENTON. Is it now in order to move to refer the resolution to a committee?

The SPEAKER. It is not, the previous question having been seconded.

Mr. PRUYN. Is it in order to offer an amendment?

The SPEAKER. It is not, for the same reason.

Mr. HOLMAN. I move to reconsider the vote by which the previous question was seconded. The object is simply to provide a mode in which permits may be issued by the Secretary of the Treasury hereafter.

The SPEAKER. The motion is not debatable.

Mr. WILSON. I move to lay the motion to reconsider on the table; and on that motion I demand tellers.

Tellers were ordered; and Messrs. ECKLEY and THOMAS were appointed.

The House divided; and the tellers reported—ayes 59, noes 59.

So the House refused to lay the motion to reconsider on the table.

The question recurred on the motion to reconsider; and being put, there were—ayes 58, noes 40.

So the vote by which the previous question was seconded was reconsidered.

The question recurred on seconding the demand for the previous question.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate

had passed a bill (S. No. 395) for the relief of George F. Nesbitt, in which he was directed to ask the concurrence of the House.

CIVIL APPROPRIATION BILL.

Mr. STEVENS. Has the morning hour expired?

The SPEAKER. It has.

Mr. STEVENS. I move then that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PINE in the chair,) and proceeded to the consideration of the special order, being bill of the House No. 527, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865.

The first reading of the bill was dispensed with.

Mr. HOLMAN. There was a point of order reserved on one clause of this bill which I desire to make now. It is the provision which fixes the salary of the Assistant Treasurer at Philadelphia at \$4,000. I ask for the reading of the provision.

The Clerk read, as follows:

For compensation of the Assistant Treasurer at Philadelphia, \$4,000.

Mr. HOLMAN. Mr. Chairman, I submit my point of order, that in the legislative appropriation bill an appropriation has been made to this officer as Assistant Treasurer of the United States of \$1,000, and as treasurer of the Mint \$2,000.

Mr. STEVENS. That is not a question of order. When we come to that I shall agree that it may be stricken out.

Mr. HOLMAN. Very well; I desire first to state my point of order. The law provides that this officer may receive \$1,000 salary as Assistant Treasurer of the United States, and a salary of \$2,000 as treasurer of the Mint at Philadelphia; making an aggregate salary of \$3,000 to which he is entitled by law. I call the attention of the Chair to the official record, which states the salaries, as I suppose, correctly. My point of order is that you cannot in an appropriation bill increase the salary beyond the limit fixed by law.

Mr. STEVENS. This bill has been referred to the Committee of the Whole on the state of the Union, and it is too late now to raise a point of order upon it.

The CHAIRMAN. The Chair understands the point was expressly reserved.

Mr. STEVENS. Then I will say to the gentleman from Indiana that this salary having been provided for in another bill I shall not ask for the passage of this provision.

Mr. HOLMAN. The two appropriations will make his entire salary \$5,000.

Mr. STEVENS. When I say to the gentleman that I do not ask for the passage of this provision I hope he will be satisfied.

Mr. HOLMAN. Very well; I will not press my point of order now, but will reserve it until the committee shall have reached it in the reading of the bill.

MESSAGE FROM THE PRESIDENT.

The committee here informally rose; and the Speaker having resumed the chair, a message was received from the President of the United States, by Mr. HAY, his Private Secretary, notifying the House that he had approved and signed a bill (H. R. No. 469) extending the time for the completion of the Marquette and Ontonagon railroad in the State of Michigan.

The committee resumed its session, and proceeded again to the consideration of the

CIVIL APPROPRIATION BILL.

The Clerk proceeded to read the bill by paragraphs for amendment.

The following paragraph was read by the Clerk:

For commissions, at two and a half per cent., to such superintendents as are entitled to the same under the pro-

viso to act 2d March, 1851, on the amount that may be disbursed by them, \$10,000.

Mr. ELIOT. I move to amend that paragraph in the last line by inserting after the words "may be" the words "may have been." The object of the amendment is to provide for the payment of sums which may be due from the Government for services rendered. By the language of the paragraph it is prospective only. There are small amounts due for services already rendered which I think should be properly included.

The amendment was agreed to.

Mr. RICE, of Maine. I move to amend, in line one hundred and four, after the word "dollars," by inserting "to pay for ashes purchased by the public gardener three years ago for the public grounds, \$125." This is a small sum which was expended by the public gardener. I am informed by Mr. Nokes, the present gardener, that it is all correct.

The amendment was agreed to.

Mr. RICE, of Maine. I move to amend by adding at the end of line one hundred and thirteen as follows:

To enable the Commissioner of Public Buildings to reconstruct five of the old burnt-out furnaces now under the old portion of the Capitol, \$3,000.

I will merely state that unless these old furnaces are repaired it will be impossible to keep the building warm.

The amendment was agreed to.

Mr. STEVENS moved to amend by adding at the end of line one hundred and nineteen as follows:

For repairing, refitting, and furnishing the President's summer residence at the Soldiers' Home during the sickly season, \$3,000.

On agreeing to the amendment, 51 voted in the affirmative and 42 in the negative; no quorum.

The CHAIRMAN called for tellers; and appointed Messrs. HOLMAN and FENTON.

The committee again divided; and the tellers reported—ayes 51, noes 42.

So the amendment was adopted.

Mr. RICE, of Maine. I move to insert at the same point, "For a day watchman at the President's House, \$720."

Mr. HOLMAN. I rise to a question of order. I submit that there is no law authorizing the office, and therefore an appropriation cannot in this way be made to pay the salary. The number of watchmen is fixed by law, and I take it for granted the salaries of them have been provided for.

Mr. RICE, of Maine. I ask the gentleman to hear me for a moment before he insists upon his point of order. I state to the House that there is no day watchman at the President's House. The curtains about the house have been cut and the hangings and ornaments damaged to a great deal more than the value of the salary of a watchman.

Mr. HOLMAN. It is one of the difficulties that have existed for a great many years, and I think in such a time as this they may remain still longer. I must insist on my point of order.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read, as follows:

For fuel, in part, of the President's House, \$2,400.

Mr. BALDWIN, of Michigan, moved that that appropriation be stricken out of the bill.

The motion was disagreed to.

The Clerk read, as follows:

For lighting the Capitol and President's House, the public grounds around them, and around the executive offices, and Pennsylvania avenue, Bridge and High streets, in Georgetown, Four and a half street, Seventh and Twelfth streets across the Mall, and Maryland avenue west, and Sixth street south, \$63,500.

Mr. HOLMAN. Is this the same amount that was appropriated last year for the same purpose?

Mr. STEVENS. It is the amount estimated for by the Department.

Mr. HOLMAN. Is it the same amount that was appropriated last year?

Mr. STEVENS. I do not recollect.

Mr. HOLMAN. My recollection is that the

sum appropriated last year was \$54,000. The subject of increasing the price of gas has been voted down by a large vote, and I hope that no indirect means will be resorted to for that purpose. My impression is that the amount appropriated last year was less than this, but I am not certain. I move to reduce the appropriation to \$54,000.

Mr. STEVENS. This is the amount required by the Department.

Mr. WASHBURNE, of Illinois. Does this provide for any increase in the price of gas to be paid by the Government?

Mr. STEVENS. It does not.

The amendment was disagreed to.

The Clerk read, as follows:

For repairs of Pennsylvania avenue, and aiding in keeping it clean and free from dust, \$6,000.

Mr. WASHBURNE, of Illinois. Everybody knows that Pennsylvania avenue is constantly full of dust; we could not have more than there is now, notwithstanding this appropriation, and I move that it be stricken out.

Mr. RICE, of Maine. I think it must be patent to every member of Congress and stranger who sojourns in this city, that the dust upon Pennsylvania avenue is a source of great annoyance. The original estimate was for \$20,000 to keep that avenue in repair, and we propose to increase the appropriation to that amount. It is the duty of Congress, by law, to keep that avenue in repair.

Mr. WASHBURNE, of Illinois. Why should not the city keep that avenue in repair?

Mr. RICE, of Maine. The law provides that Congress should keep it in repair. It is a requirement upon the United States. I hope that the amendment will not prevail. If it does not, I shall move to increase the appropriation to \$15,000, so that the avenue may be put in good condition.

Mr. GARFIELD. Is any appropriation now made for the purpose of keeping down the dust on Pennsylvania avenue?

Mr. RICE, of Maine. This is an annual appropriation.

Mr. GARFIELD. I know that the avenue spends a large part of its time in the air, and if there is any way to bring it down I shall vote for it. [Laughter.]

Mr. DAWES. I would like to know whether the gentleman is confident that \$15,000 will accomplish the purpose?

Mr. RICE, of Maine. I ask the Clerk to read an extract from the letter of the Commissioner of Public Buildings and Grounds.

The Clerk read, as follows:

"That bill contains an appropriation for repairs of Pennsylvania avenue \$6,000. In my regular annual estimate I asked for \$20,000, but by some means an error was made in printing the estimate and '\$6,000' instead of '\$20,000' was inserted, and the Committee of Ways and Means, governed, I presume, by the printed estimate, reported \$3,000.

"Every member of Congress who has passed along Pennsylvania avenue for the past six months must have observed the wretched condition of the roadway, and between the Circle and Georgetown it is almost impassable for carriages. The avenue is about four miles long and one hundred and sixty feet wide, and the roadway is paved about half the length of it. The pavement is broken at short intervals, and the sum of \$6,000 would hardly make a show toward mending it; \$20,000 would so far mend it as to make it a comfortable road to travel over. I hope the House will think proper to increase that appropriation."

Mr. BROOKS. I hope that the appropriation will be retained in order that we may prevent dust from being thrown in the eyes of the Representatives of the people, and that they may be able to see clearly all the matters that are here presented for their consideration. [Laughter.] The other side of the House has been very liberal in voting to the President, in addition to his salary of \$25,000 per annum, appropriations for fuel for keeping his house warm, for gas and for servants, to some degree, and I do not see why we who belong to all of the States should not have a clean and dustless avenue between here and Georgetown. It belongs more to the Government than to the owners of private property to keep it in order. The Capitol, White House, Treasury, War,

Navy, and other Departments, depend upon the avenue, and I hope that we shall have no further objection to this appropriation, so that when the war is over and the Union is restored we shall have a clean, pleasant avenue in this city.

Mr. STEVENS. The estimate was \$6,000.

Mr. RICE, of Maine. The estimate by the Commissioner of Public Buildings was \$20,000, but by some mistake it was sent to the committee as \$6,000.

Mr. STEVENS. That was the estimate sent to us.

Mr. RICE, of Maine. That was a mistake.

Mr. STEVENS. I think \$6,000 will do very well.

Mr. BROOKS. The gentleman from Pennsylvania did not hear the communication which was read. The gentleman from Maine said "\$6,000" was a misprint, and that \$20,000 was the estimate sent in.

Mr. STEVENS. That is all the better for my friends over there who are so very economical, and they are very glad of it, I dare say. Those gentlemen over there have been throwing more dust in our eyes than all we have got from the avenue for a great while. [Laughter.]

Mr. RICE, of Maine. I think the judgment of the Commissioner of Public Buildings and Grounds, who has this matter under his entire charge and control, stating that the avenue is not kept in repair—and I am not aware that any change has been made of his inefficiency—admonishes us that we should appropriate more than \$6,000. As, upon the motion of my friend from Illinois the other day, some portion of the avenue is to be paved by the railroad company, I have proposed to deduct \$5,000 from the estimate and to make the appropriation \$15,000. I trust the amendment of the gentleman from Illinois will be voted down, and that we will make an appropriation of \$15,000.

Mr. WASHBURNE, of Illinois. I was surprised to hear the gentleman from New York [Mr. Brooks] propose to increase this appropriation to \$20,000, thereby adding \$15,000 at one fell swoop, because I believe no gentleman in this House has clamored more than he has, except perhaps myself, against the increase of expenses. The sidewalks, which most of us use, are in very good repair, and gentlemen who are able to keep carriages can get along very well. But I am willing to let the amendment stand as it is, provided that the committee will add this as an amendment: "and that the Washington and Georgetown Railroad Company shall contribute an equal amount for this object." There can be no objection to that, and I believe the railroad company should be willing to do it. This company is not bound to keep the street in repair at all. The gentleman's reference is to another company.

Mr. STEVENS. I would be willing to offer that amendment, but the gentleman from Illinois would object, and if he would not, surely the gentleman from Indiana would object to it as out of order on the ground that it would change the existing law; and therefore I dare not offer it.

Mr. WASHBURNE, of Illinois. I am aware it would change the law, but the gentleman knows very well that we can do that by unanimous consent; and I am certain the chairman of the Committee of Ways and Means will not object to an amendment which would save a great deal of money.

The CHAIRMAN. The question is on striking out "six" and inserting "fifteen."

Mr. WASHBURNE, of Illinois. The question is on my amendment.

The CHAIRMAN. The amendment of the gentleman from Maine takes precedence.

The amendment was not agreed to.

Mr. WASHBURNE, of Illinois. I now move to add the words, "the Washington and Georgetown Railroad Company shall contribute an equal amount for this object."

Mr. J. C. ALLEN. I rise to a question of order. It is that the amendment is not in accordance with existing law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WASHBURNE, of Illinois. I trust my colleague from Illinois will not object to such an amendment.

Mr. J. C. ALLEN. I object to all amendments to this bill which are not in order.

The question recurring on striking out the whole appropriation, it was put, and decided in the negative.

The Clerk read the following clause:

For taking care of the grounds south of the President's House, continuing the improvement of the same, and replacing trees destroyed by United States troops there encamped repairing fences and other injuries, \$5,000.

Mr. KELLOGG, of Michigan. I move to amend that clause by striking out "five" and inserting "one." The soldiers are still occupying a portion of those grounds, and the construction of the Treasury building occupies another portion of it; and if these trees are planted they will be again destroyed. Let the grounds remain as they now are until this war is over, when it will be time enough to put everything in order.

Mr. HOLMAN. Unless a larger sum than \$1,000 is appropriated, I do not think there is any advantage in making any appropriation. These grounds are still occupied by our troops. I find that \$2,000 was appropriated for this same purpose last year, but the expenditure of course amounted to nothing, because the same causes of destruction remained. It seems to me, therefore, that the gentleman from Michigan can safely amend his amendment by moving to strike out the entire appropriation. There is a very heavy increase in these appropriations for local purposes.

Mr. STEVENS. I do not think the gentleman is in order. He is not opposing the amendment of the gentleman from Michigan.

The CHAIRMAN. Debate has not been limited on this bill.

Mr. HOLMAN. The gentleman is mistaken. The gentleman from Michigan moves to strike out "\$5,000" and insert "\$1,000." I suppose a motion to strike out the whole appropriation would be a proper one and in order. I should not make the motion if the appropriation of \$1,000 could be expended for any beneficial purpose; but the grounds are still occupied by the troops for the purpose of keeping watch over the President's Mansion, and therefore the appropriation amounts to nothing.

The question was taken on the amendment of Mr. KELLOGG, of Michigan, and it was disagreed to.

Mr. HOLMAN. I move to strike out the entire appropriation. I find that the appropriation for this same purpose last year was \$2,000. The troops are still there; and if there is an appropriation, it ought to be at least \$2,000, as I understand from the intelligent and efficient public gardener; but to appropriate \$1,000 is just to throw that much money away, as any gentleman can see. I therefore move to strike out the whole appropriation.

Mr. STEVENS. It would spoil the grounds in front of the President's House if there was nobody there to take care of them, and if there were to be no repairs made.

Mr. KELLOGG, of Michigan. I wish to ask the gentleman a question. He speaks of the grounds in front of the President's Mansion. This provision refers expressly to the grounds south of the President's House.

Mr. STEVENS. I do not know which you call the front. It is the place where people go to hear music.

Mr. KELLOGG, of Michigan. That is in the rear of the house.

Mr. STEVENS. It is the place where the gentleman from Michigan goes so often to be delighted, and where the ladies always meet one another. [Laughter.] I trust the appropriation will not be stricken out.

Mr. KELLOGG, of Michigan. I think the distinguished gentleman from Pennsylvania is mistaken. These grounds are south of where we have the music, and I do not know any particular necessity of keeping them in repair. I still insist that this amendment to strike out the entire appropriation is a very good amendment, and I can see no propriety in turning the question off in this way. I hope the amendment of the gentleman from Indiana will prevail. I call for tellers.

Tellers were ordered; and Messrs. HOLMAN, and KELLOGG of Michigan, were appointed.

The committee divided; and the tellers reported—ayes twenty-four, noes not counted.

So the amendment was rejected.

Mr. KELLOGG, of Michigan. I move now

to strike out "\$5,000" and insert "\$2,000." It is a useless waste of money.

The amendment was disagreed to.

Mr. COLE, of California. I move to amend the clause by striking out the words "by United States troops there encamped." I presume there will be no objection to that.

The amendment was agreed to.

Mr. RICE, of Maine. I offer the following amendment, to come in after line one hundred and forty-four, on page 7:

To enable the Commissioner of Public Buildings to repair the old Hall of the House of Representatives by removing the old floor and placing the whole generally in a proper condition, \$1,500.

I simply want to say in regard to that amendment that the Commissioner desires this sum, and says that it is absolutely necessary in order to put the Hall in anything like a decent condition, and inasmuch as the appropriation for fitting up the Hall as a hall of statuary, of which I was in favor, failed, I trust that the Hall will be decently repaired, so as not to be an eyesore to everybody.

Mr. WASHBURNE, of Illinois. I move to amend the amendment, so as to provide for the removal of all the fruit stands and things of that kind from the old Hall.

Mr. RICE, of Maine. I accept that as a modification of my amendment.

Mr. STEVENS. I offer the following as a substitute for the amendment:

Be it further enacted, That a marble floor, similar to that of the Congressional Library or the Senate vestibule, shall be constructed in the old Hall of the House of Representatives, using such marble as may be now on hand and not otherwise required; and that suitable structures and railings shall be therein erected for the reception and protection of statuary, and the same shall be under the supervision and direction of the Commissioner of Public Buildings, and so much of the moneys now or heretofore appropriated for the Capitol extension as may be necessary, not exceeding the sum of \$20,000, is hereby set apart and shall be disbursed for the purposes heretofore mentioned; and the President is hereby authorized to invite each and all the States to provide and furnish statues in marble or bronze, not exceeding two in number for each State, of men who have been citizens thereof and illustrious from their historic renown or from distinguished civil or military services, such as each State shall determine to be worthy of this national commemoration, and when so furnished the same shall be placed in the old Hall of the House of Representatives in the Capitol of the United States, which is hereby set apart, or so much thereof as may be necessary, as a national statuary hall for the purposes herein indicated.

Mr. HOLMAN. I rise to a point of order. The moneys appropriated by law for the purpose of the Capitol extension cannot be, in an appropriation bill, diverted from that purpose to another.

Mr. STEVENS. Mr. Chairman, this item has reference to the Capitol itself, and is a part of the work upon the Capitol. Therefore, according to all the rulings, the amendment is perfectly in order. Whether or not it should be agreed to is an entirely different question.

The CHAIRMAN. The Chair overrules the point of order.

Mr. STEVENS. I have offered that amendment because I know that the opposition of the gentleman from Maine to tinkering and patching that floor any more is a proper one. We have marble lying about here quite sufficient, as I understand from the architect, to make that floor. It is thought that it may be done for \$5,000, though the appropriation asked is \$20,000, or so much thereof as may be necessary. But it is believed that \$5,000 will make a good marble floor and put up the railing. We all know how these beautiful columns are being destroyed and defaced by every person who chooses to inscribe a great man's name upon them. They are really becoming ridiculous; and the worst of it is that the names of half the members of Congress are omitted. [Laughter.] I think it time that some pains were taken to preserve these beautiful pillars from dilapidation and ruin; and I think that the marble floor may be made out of the materials now on hand at a cost of no more than I have stated, which is the cheapest way of doing it. It is not adding anything to the appropriation, but merely diverting it.

Mr. RICE, of Maine. Mr. Chairman, I do not contend against this proposition. It is precisely the same as was reported some time since from the committee of which I have the honor to be chairman, and which passed the House.

Mr. PRICE. Mr. Chairman, I know that it is no use to oppose any appropriation here, but I must at least protest against this. There are other appropriations in this bill which I presume could have been dispensed with. I do not, however, know the facts, and therefore did not oppose them. This appropriation, I am satisfied, we can dispense with. We all know that the Government has no money to expend in superfluous matters, for things that can be done without. Therefore I am opposed to the amendment of the gentleman from Pennsylvania, and to all other appropriations that can be dispensed with till this war is over.

A MEMBER on the Democratic side. It is out of order to say anything against an appropriation. Mr. PRICE. It may be out of order.

Mr. WASHBURN, of Illinois. It is undoubtedly out of order to speak against appropriations in this House.

Mr. PRICE. So far as appropriations are concerned I know there are always just enough of votes against any attempt to strike them out to secure the failure of such attempt. I would appeal to the other side of the House to come to the rescue; but unfortunately it is just as extravagant as this side. [Laughter.] I have almost lost all confidence in my friends here. They vote almost universally for such appropriations as are asked. I have not voted for a single appropriation that I knew to be wrong; and where I have voted for such as were superfluous, it has been through ignorance. I presume that some of the appropriations voted in have been wrong, but I do not know it; but I know that we can get along very well without expending money on this old Hall till the war is over if it ever ends. And if it is not to end in a national triumph I do not want to have the work done for Jeff. Davis. I do not know that he is going to get possession of it, but I know that we require every dollar that the Government can get to pay our soldiers in the field, and to keep the machinery of war in operation. I therefore hope that no appropriation shall be made that can be dispensed with until we pay our honest debts to the country and to the soldiers in the field.

Mr. MALLORY. I rise to oppose the amendment of the gentleman from Iowa, and in doing so I may be permitted to express my gratification that the gentleman has at last learned where the true friends of economy are to be found in this House. I think he has paid only a deserved compliment to the Democratic party in saying that he will henceforward call only on that party to aid him against the extravagance proposed by gentlemen on the other side.

Mr. PRICE. I merely wish to correct misapprehension in the mind of the gentleman from Kentucky. I have not at last arrived at the idea of appealing to gentlemen upon the other side to sustain me in matters of economy. I have done it continually, but then there is another misapprehension on the part of the gentleman, which is in the supposition that any heed has been paid to my appeals. I find that they are almost invariably disposed to vote for these extravagant appropriations.

Mr. MALLORY. The statement of the gentleman from Iowa, then, is broader than I supposed. He says now he did not say that he hereafter would call on gentlemen on this side of the House, but that he has all along looked to us to sustain measures of economy. I merely wish to say to him and to other gentlemen on that side that they will do well to follow the lead of this side, not only in respect to voting down extravagant appropriations, but also in respect to great questions of public policy. I can tell the gentleman that he will find a great deal of good help over here if he will apply upon all these questions, and I take his disposition to call upon us as a good arguery. In respect to this particular appropriation, however, I am afraid I cannot go with the gentleman. I confess, in this instance, I am in favor of the appropriation recommended by my honorable—perhaps I ought to say young—friend over there.

Mr. STEVENS. I shall have to rise to a question of order. I desire to know whether it is in order for an old, gray, bald-headed man to call a young man venerable. [Laughter.]

The CHAIRMAN. The Chair sustains the question of order. [Laughter.]

Mr. MALLORY. I beg pardon of the gentleman. Whatever gray hairs I may have are apparent, and if the gentleman's were as much so, perhaps he might not raise the question of order. However, I give him the benefit of the protection he has provided himself with. [Renewed laughter.]

Mr. Chairman, seriously I think this appropriation ought to pass, and I hope the House will not vote it down. It is not extravagant; it is something to which we ought to give a little attention. I will, however, make one suggestion to the gentleman. He provides for permitting each State to place in the old Hall, in bronze or marble, the statues of two of their most eminent living men. I think the amendment ought to say dead men. I think we ought to give these places to the memory of the great men of the nation who are gone, to those who are now dead or shall be at the time these statues are placed there.

Mr. STEVENS. I accept the suggestion of the gentleman, and will modify my amendment so as to say two persons already deceased, or deceased before the statues shall be received.

Mr. MORRILL. This question is not one connected with the question whether we shall continue the appropriations for the Capitol extension or not. If we continue them, then I contend that this is manifestly correct; if we do not continue them, I think this amendment ought to be adopted; it is doing nothing more than we ought to do for the preservation of the building. We have this marble here lying round the Capitol entirely useless; we also have machines so that it can be cut with the utmost facility and with very little delay. The old floor, as every one knows, is in a state of decay, and ought to be replaced. This proposition simply is to provide a marble floor such as now covers most of the rooms and corridors about the Capitol. If the foundation of the floor should prove to be sufficient, the expense would be very little; if that, too, has to be replaced, the expense will of course be something more. It does not necessarily increase the appropriation in the bill at all, and I hope the amendment will be adopted.

Mr. PRICE. In reply to the gentleman from Vermont I want to say first this: I do not propose to vote for the appropriation of \$300,000 to continue the work on this Capitol; and I shall not vote for this, because if this passes it may be considered as a reason for voting for the other. I propose, therefore, to begin here. Now, I desire to say in respect to the gentleman from Kentucky, [Mr. MALLORY,] who, after the speech made by him, declared his intention to vote for it, that, like a great many other men, his talk is good but his practice is bad. He talks economy well, but he votes economy badly. I want men to vote right, and I am not particular whether they talk right or not.

I will say, Mr. Chairman, that there is not a member of this House who, in conscience, would make these appropriations in reference to their own private affairs. I think that we ought to confine ourselves to indispensable appropriations and do without everything that can be dispensed with until we have paid the expenses of this war. I do not want to see widows and orphans and disabled soldiers refused for want of money to pay their just claims while we are passing these appropriations which are entirely unnecessary. I will say that I have only succeeded, after protracted effort, in securing the payment of \$150 due to an Iowa soldier who lost his leg upon the battle-field during this war. While we refuse such paltry sums to our soldiers we vote millions, as if the Treasury were overflowing.

Mr. STEELE, of New York. Mr. Chairman, I do not propose to enter into any extended discussion on this subject, but in my judgment every soldier as well as every man in this country feels a just pride in the Capitol of the nation. The last thing they want to see done is the work upon this building stopped. I hope that it will not be stopped. I hope that we shall go on with the improvements, and that all reasonable and proper expenses will be provided for, so that the work may be continued upon this great work in which the nation takes a just pride. I shall therefore vote for this appropriation as reasonable and proper.

Mr. SCHENCK. Mr. Chairman, I propose to vote for this amendment, and I do it mainly for the reason assigned by the gentleman from

New York [Mr. STEELE] who has just addressed the House. I never pass through the old Hall of the House of Representatives without feeling myself reproached by the spirits that haunt that place. I look around to see where the venerable John Quincy Adams trembled in his seat and voted, and I see a huckster woman selling gingerbread. I look to see where Calhoun sat—for there was a time, when we might speak with reverence even of him—I look to see where he sat, and where Clay sat, and I find a woman selling oranges and root beer. I look around the floor where these men stood and uttered their patriotic sentiments in the day when patriotic sentiments were heard with reverence everywhere and by every man, and I see a floor rotting and trembling under my tread.

Sir, I have none of that narrow feeling of economy of the gentleman from Iowa, [Mr. PRICE.] I believe there are occasions when liberality becomes true economy; and I know that it is important to keep a rallying point here of which we shall all be proud. I feel, with the gentleman from New York, that the expenditure is a proper one for an object that we much need, and that will repay us thousands.

This Capitol is now the rallying point of our patriotism, and every part of it should be made to correspond with the greatness and glory of the Republic. Gentlemen look around in the gingerbread box in which we legislate now and seem to forget everything that ought to be kept in remembrance in connection with the old Hall, which I this day regard as better fitted for our deliberations than the beautiful room in which we now are. There is grandeur, simplicity, character to be found there not to be found here, and from which we are rapidly divesting it by the base uses to which we are suffering it to be put.

Mr. PRICE. I should like to ask the gentleman a question.

Mr. SCHENCK. I cannot yield. I am expressing some sentiments which will induce me to go for the appropriation. The gentleman has addressed the House some three or four times already on the subject.

Mr. Chairman, the condition of that old Hall, I repeat, is a disgrace and a reproach to us. Why, as you enter that old Hall you pass by a bronze door which cost thirty-five or forty thousand dollars, twice as much as is proposed to keep the old Hall in order, and that bronze door opens upon these apple-stands and upon these hucksters. I would drive them all out, as others were scourged in former times from the temples, and I would put in their places, if not the statues of the greatest men of the country, something at least which shall be creditable to this country, either in the shape of a library or works of art, and I would place the Hall in that good order and decent condition which will not make us blush as we pass through that Hall as we go from one end of this gilded building to the other.

I stand, sir, by the old Hall; and for the reason that I wish it thus restored and made as it ought to be and no longer remain a disgrace to us, I shall vote for the amendment proposed by the gentleman from Pennsylvania.

Mr. PRICE. In reply to the gentleman I will say that if he considers the expenditure of money which does not belong to us but belongs to other people as narrow-minded economy, then he and I have read political economy out of different books. It will be time enough to adorn that Hall when we have money to expend, and until that time arrives I shall oppose all amendments to that kind.

The amendment to the amendment was agreed to. The amendment as amended was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and the House received a message from the Senate, by Mr. FORTNEY, their Secretary, informing the House that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House No. 192 making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1865; and that the Senate insist upon their disagreement to the amendment of the House to the bill of the Senate (No. 266) to prevent smuggling, and for other purposes, agree to the conference asked by

the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. MORRILL, Mr. TEN Eyck, and Mr. RICHARDSON the committee of conference on their part.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 247) granting lands to the State of Wisconsin to build a military road to Lake Superior; when the Speaker signed the same.

CIVIL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

For repairs of the basement of the President's House, \$3,000.

Mr. RICE, of Maine. I move to amend that clause by striking out "three" and inserting "five." The Committee on Public Buildings and Grounds visited the President's House and examined thoroughly the condition of the basement, and after that examination, and obtaining estimates from a gentleman competent to make them, came to the conclusion that it would cost \$5,000 to put that basement in a proper state of repair. I hope that sum will be appropriated.

The amendment was not agreed to.

Mr. STEVENS. I move to amend by inserting, after line one hundred and fifty-eight, "for painting the iron railing around the Capitol grounds, \$1,500."

The amendment was agreed to.

The Clerk read the following:

For cleaning and painting the crypt and passages under the rotunda, \$2,000.

Mr. PRICE. I move to strike out that clause. I think we can get along without painting this crypt and these passages for the present—certainly until this war is closed—and therefore I am opposed to this appropriation.

The amendment was not agreed to.

The Clerk read the following:

To pay expenses incurred by the Commissioner of Public Buildings in enlarging bench in Supreme Court room, \$1,214.

Mr. PRICE. I move to amend by striking out that clause. I am at a loss to know why it should cost \$1,200 to enlarge a bench upon which some gentlemen are to seat themselves. There was a bench there before, and this appropriation is not for constructing a new bench but for enlarging an old one. Where I come from we do not understand that kind of economy.

Mr. WASHBURN, of Illinois. This is to prepare a bench for a distinguished judge from the gentleman's own State to sit upon.

Mr. PRICE. I venture to say he will dispense with this appropriation, and if he will not I will pay for the bench myself.

Mr. STEVENS. Pine boards are very high now—remarkably high. If that judge would bring along his own bench we could get along very well without this appropriation; but as we have to make it for him, we need this money.

The amendment was not agreed to.

Mr. PRUYN. I offer the following amendment:

For alterations and improvements in the Senate Chamber and Hall of House of Representatives, to improve the lighting and ventilating thereof, the sum of ———, to be expended under the joint direction of the Committees of the two Houses on Public Buildings and Grounds.

I shall propose to fill the blank with \$50,000 if no other sum be named.

Mr. WASHBURN, of Illinois. I shall have to raise a point of order on that amendment. It is independent legislation on an appropriation bill.

The CHAIRMAN. The Chair overrules the point of order.

Mr. WASHBURN, of Illinois. I should like to know upon what grounds.

Mr. GANSON. On public grounds.

The CHAIRMAN. There is authority for the appropriation.

Mr. MORRILL. I suggest to the gentleman from New York that there is a joint committee now investigating this subject, and perhaps it would be better to wait until that committee reports.

Mr. PRUYN. Does that committee propose to report this session?

Mr. MORRILL. They are now engaged in the investigation, and have power to report at this or the next session. I do not think they will be able to report at this session, because it is a very large subject.

Mr. PRUYN. One chief object I had in view in offering this amendment was to call the attention of the members of the House in this way to the condition of these two Halls. I believe it is universally admitted by every person here that a very great mistake was made, when this extension was planted on this beautiful hill, that the external light and the air of heaven were shut out entirely from these two rooms; and the sooner we commence an improvement, which it is admitted by all ought to be made, the better it will be. What that improvement ought to be we cannot tell until the matter has been thoroughly investigated by architects, but I wish the House now to say that something ought to be done. I hope that by some vote on this occasion they will indicate their opinion that it is an improvement which ought to be made. I am not tenacious about any particular way. I left my amendment in blank, saying that I should propose to insert \$50,000 if no other amount should be named, not that I am informed that that sum is necessary or sufficient, but if expended judiciously it will be at least a wise and judicious expenditure. I should, therefore, like to have a vote upon this amendment.

Mr. MORRILL. I believe it is almost universally conceded that the ventilation of this Hall is defective; but to make an appropriation now, without knowing at all what we are going to do, whether to remove the Hall or to make such improvements as will remedy the defect of lack of ventilation, I think would be unwise. I hope the gentleman from New York will be content to wait until the committee shall have thoroughly investigated the subject, as they are endeavoring to do, and can report.

Mr. PRUYN's amendment was disagreed to.

Mr. BROWN, of Wisconsin. I desire to offer an amendment to come in at the end of page 3.

The CHAIRMAN. The committee have passed that point in the bill, and it is not in order to go back unless by unanimous consent.

Mr. STEVENS. I object to going back.

Mr. BROWN, of Wisconsin. The amendment can be introduced in the miscellaneous appropriations, but it would be more appropriate at the end of page 3. It would have been introduced at that stage of the bill but for the fact that a document in relation to it from the Light-House Board was in the possession of the Committee of Ways and Means, and I could not procure it at that time. I hope the objection will be withdrawn.

Mr. STEVENS. I do not withdraw the objection now. I want to get through this bill. When we have passed through the bill I will not object to the gentleman's offering his amendment.

I now offer the following amendment to come in on page 8, after line one hundred and sixty-five:

For balance due the draughtsman for his services in charge and continuation of the series of maps ordered by resolution of the 4th May, 1843, for part of the fiscal year ending June 30, 1852, \$1,520 33.

Mr. WASHBURN, of Illinois. I desire to reserve a point of order until I hear some statement in regard to that amendment.

Mr. STEVENS. This work was done according to law; but there was no appropriation made to pay for it. That is the whole case.

The amendment was agreed to.

Mr. RICE, of Maine. I offer the following as an additional paragraph:

For repairs to the bridge across the Potomac river at Little Falls \$500, to be expended under the direction of the Commissioner of Public Buildings, who is hereby charged with the care of said bridge.

This is for the Chain bridge, and I will send up to be read by the Clerk a communication from the officer in charge of it.

The Clerk read, as follows:

WASHINGTON, D. C., June 16, 1854.

SIR: The bridge across the Potomac, near the Little Falls, (sometimes called the Chain bridge,) was built under an appropriation made by Congress on a plan furnished by me, and was in part constructed under my superintendence. It was finished about seven years ago, and does not appear to have received any attention since then. Its importance,

especially at this time, is such that I respectfully beg leave to suggest and recommend that you should apply to Congress for an appropriation of \$500, to meet the expense of screwing it up to its original level, and for other necessary repairs of flooring, &c.

Very respectfully, your obedient servant,

GEORGE THOM,

Colonel A. D. C., and Major of Engineers.

B. B. FRENCH, Esq., Commissioner of Public Buildings.

Mr. RICE, of Maine. This bridge is of great military importance. It was originally built by the Government, and now it is asked that it be placed in charge of the Commissioner of Public Buildings.

Mr. SCHENCK. I move to amend the amendment by striking out the words "Commissioner of Public Buildings" and inserting the words "the Secretary of War." Judging from the way in which this building is taken care of I think that that official has just as much on hand as he can attend to, without trying to extend his supervision to outside matters.

Mr. RICE, of Maine. All the other public buildings here are under the charge of the Commissioner of Public Buildings, and there is no complaint that they are not properly taken care of. I trust the amendment to the amendment will not prevail.

The question was taken on Mr. SCHENCK's amendment to the amendment; and it was rejected.

The question recurred on the amendment offered by Mr. RICE, of Maine; and it was agreed to.

Mr. RICE, of Maine. I move the following amendment, to come in at the end of the last paragraph:

To enable the Secretary of the Treasury to provide temporary accommodations for the State Department, and for such of the clerks of the Second Auditor of the Treasury as cannot be accommodated at Winder's building, \$10,000.

I ask to have a letter read from the Secretary of the Treasury.

The Clerk read, as follows:

TREASURY DEPARTMENT, May 9, 1854.

SIR: I transmit herewith copies of two communications from the supervising architect of the Treasury, under dates of the 3d and 5th instant, relative to the immediate necessity of providing accommodations for the State Department, in order that the work upon the north front of the Treasury extension may be proceeded with.

You will perceive from the correspondence that application has been made for rooms in the Patent Office building, and also the Capitol, without success; and that the State Department will require an amount of room nearly equal to that contained in three stories of the south wing of the Treasury extension.

The architect calls attention to the fire-proof building on the northeast corner of Pennsylvania avenue and Seventeenth street as well adapted to the requirements of the State Department. It is now occupied by the quartermaster's department. If this building could be obtained it would not be necessary for any of the occupants of the south wing of the Treasury to remove and seek accommodations elsewhere in order to provide room for the State Department, as has been proposed.

I transmit also a communication from the Second Auditor, urgently representing the necessity for more room for the proper transaction of the business of his office, which is continually falling behind for want of a sufficient clerical force; and though additional clerks have been authorized by Congress there is no accommodation for them; while of those at present employed a considerable percentage are constantly on the sick list, owing to the crowded condition of the rooms where they are located, and the want of means for proper light and ventilation; and on account of these disadvantages the business of the office is still further retarded.

Under these circumstances I respectfully request that an inquiry be made by Congress as to the extent and distribution of accommodation for the clerical force of the several Departments, and that such new arrangement as may be found needful and adequate be made under its direction, or that authority be given to the Secretary of the Treasury to hire such additional rooms as may be required for the business of this Department, and to make such arrangements as may be necessary for the accommodation of the State Department during the building of the north front of the Treasury extension. Should the latter alternative be preferred, an appropriation of \$25,000 will be required.

As the necessity for prompt action is urgent, I trust the matter may be presented for the early consideration of Congress.

I am, very respectfully,

S. P. CHASE,

Secretary of the Treasury.

Hon. J. H. RICE, Chairman Committee on Public Buildings, House of Representatives.

The question was taken; and the amendment was agreed to.

The paragraph in reference to the Potomac water-works having been read,

Mr. BROOKS said: Mr. Chairman, I find that there are \$150,000 of appropriations for the Washington aqueduct in two different forms, and I avail myself of this opportunity to say that I hope the authorities will give to this city purer

and clearer water than they have been giving heretofore, and that some arrangements will be made for filtering it.

Mr. STEVENS. Mr. Chairman, it is to secure the same object which the gentleman from New York has mentioned that we have reported this appropriation. It may not be generally known to members of this House that we have never had one drop of Potomac water come through the aqueduct. When that work was laid out, they commenced to build the conduit pipe at both ends. About three or four miles from town they built what is called the receiving reservoir, by building up a dam between two small hills where there was a stream of water.

The water we get here comes from that stream. It contains the washings of the surrounding country—about four thousand acres of arable land. When they came to build the aqueduct across the Potomac, and ran it up to the upper end of the receiving reservoir, which had been filled some time before, the water became extremely obstinate, and all ran back to the Potomac. [Laughter.] The reservoir, from the surface ten feet down, was drained the moment the water was let in. It all flowed back to the Potomac. [Laughter.] Not one drop of it came this way after that. It became necessary, therefore, in order to prevent the flooding of the Potomac, [laughter,] that a gate should be put in at the upper end of the reservoir, which gate is there now, and preserves the Potomac river from being muddied by this aqueduct, [laughter,] but does not protect us from getting the muddy water this way. What is proposed here is to begin above the reservoir, and make a continuous pipe from there to Washington, avoiding the reservoir altogether, and putting a gate at the lower end of the reservoir, so that none of that water shall come here and pollute the water of the Potomac.

Then we have provided that in case of fire we can get the addition of that foul water to use for the purpose of extinguishing fires, if there should not be enough coming through the conduit. As the aqueduct is now built, the capacity of the pipe was such that the city would be supplied with Potomac water at the rate of twenty-five million gallons in twenty-four hours. When the cut-dam shall have been completed so as to fill that aqueduct full, it will furnish, without any reservoir, a constant stream equal to fifty million gallons in twenty-four hours. That the committee deem sufficient for all ordinary purposes. Leaving the reservoir for the extraordinary purposes of fire, we have thought it best for the present to abandon the work on the distributing reservoir. This will give to the city a reasonable amount of pure water for ordinary purposes, leaving the distributing reservoir to future time. We found that to deepen the distributing reservoir eight or nine feet, covering as it does so large a space, would involve the expenditure of a great deal of money. We have therefore proposed to carry the pipe around it and connect it with the pipe below as I have stated. I may say that the entire work upon the aqueduct up to this time has only been about \$3,000,000.

The Clerk read the following paragraph to the bill:

Botanic Garden:

For grading, draining, procuring manure, tools, fuel, and repairs, purchasing trees and shrubs under the direction of the Library Committee of Congress, \$3,300.

Mr. KELLOGG, of Michigan. I move to strike that whole paragraph out. I cannot see any possible necessity for the appropriation. I believe the plants, seed, flowers, &c., of the green-house are appropriated almost exclusively for the benefit of members of Congress, and I think we can dispense with them very well. For one I should prefer to see these grounds laid out as a handsome park and planted with beautiful trees, instead of this green-house being kept there for the accommodation of members of Congress and their friends. I repeat that I think we can dispense with them very well, and I hope the flowers will be stricken out.

Mr. STEVENS. I hope it will be retained. The gentleman from Michigan I know is a gentleman of delicate tastes, and yet he first endeavors to deprive himself of music and then of flowers. He is surely doing himself great injustice. [Laughter.]

Mr. KELLOGG, of Michigan. I hope the gen-

tleman from Pennsylvania will find some better argument than his delicate ridicule of gentlemen who oppose appropriations for their support if they are to be passed. I certainly think there is no necessity whatever for appropriating money to keep up a green-house for members of Congress.

Mr. WASHBURN, of Illinois. Will the gentleman state how many bouquets he has received from the green-house during this winter? I should like to have him state what became of that great bouquet I saw on his desk the other day. [Laughter.]

Mr. KELLOGG, of Michigan. I have had two or three bouquets during the winter, and I believe every gentleman here is notified that he can have them if he chooses. Members are also notified in the spring that they can have a box of plants, flowers, &c., which are all very desirable no doubt; but is it best to make this very considerable appropriation every year for that purpose? If we want a green-house for national purposes let us have one on a scale that will be worth the name; but rather than to make this appropriation for keeping up this green-house every year for this purpose, I ask gentlemen whether it would not be better to have these grounds laid out as a park, in which people may walk and enjoy themselves if they choose?

Mr. PRUYN. I hope the chairman of the Committee on the Library will explain this matter. [Laughter.]

Mr. STEVENS. I do not think it needs any explanation. My friend from Michigan seems to have been bit by HOLMAN. [Laughter.]

Mr. KELLOGG, of Michigan. I hope my bachelor friend will not get too facetious.

The amendment was disagreed to.

Mr. FRANK moved to increase the appropriation to \$5,345 70 in the following paragraph:

For pay of superintendent of botanic garden, and assistants in the botanic garden and green-house, to be expended under the direction of the Library Committee of Congress, \$5,321 50.

The amendment was agreed to.

Mr. HALE. I move to insert the following:

To pay Lewis Bollman and others for furnishing articles for the agricultural report for 1861, and to pay the claim of Vilmore, Andrews & Co. for acorns furnished the Agricultural Department, the sum of \$3,704.

Mr. WILSON. I make the point of order on that amendment that it is not in pursuance of any existing law.

The CHAIRMAN. If that be the case, the amendment is not in order.

Mr. HALE. Before the Chair makes his decision I wish to say a word in reference to the amendment that I have proposed. It makes an appropriation to pay for articles furnished in 1861 for the agricultural report, which has been published and laid upon our desks. At that time the Bureau of Agriculture was under the Commissioner of Patents, and he employed these men to write these articles for the report for that year. It was done under act of Congress. They were to furnish these articles at a price which was fixed. In the mean time the Bureau of Agriculture was taken away from the Commissioner of Patents, and erected into a separate department under a Commissioner of Agriculture. The Commissioner of Agriculture had no funds, and those which the Commissioner of Patents had had been expended. The consequence had been that these men, who furnished these articles under contract with the Commissioner of Patents, and whose labor we have enjoyed in the agricultural reports which we have distributed throughout the country, have gone ever since uncompensated.

Mr. WILSON. This is nothing more than a private claim, and is not in order to an appropriation bill.

Mr. HALE. It is a just and proper claim, and one which we ought to pay. I hold that it is in order because it provides for a deficiency in the Department of Agriculture.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out.

The Clerk read, as follows:

Columbian Institution for the Deaf and Dumb and the Blind:

For salaries and incidental expenses, embracing, in addition to the objects heretofore provided for in this appropriation, the salary of an additional teacher, construction of a new sewer, and the construction and repairs of fences, \$7,500.

Mr. STEVENS. I move to add to that the following:

For continuing the work for the accommodation of the students and inmates in said institution, in addition to appropriations heretofore made:

For the purchase of a tract of improved land, containing about thirteen acres, bordering on boundary street of the city of Washington, and adjoining the lot now belonging to the institution, to enable it to instruct the male pupils in horticulture and agriculture, and to furnish sites for mechanic shops and other necessary buildings, \$38,000.

For the erection of a building to be used as mechanic shops for the instruction of the pupils in useful labor, and to furnish more convenient and healthful apartments, as well for the instruction as for the sleeping rooms for the male pupils, \$31,445 87.

To bring the Potomac water into the institution from the nearest water mains, or other adequate sources in the city, \$3,200.

Mr. Chairman, the accommodations of that institution are now taxed to their utmost. The reception of deaf and dumb children was limited to those from certain districts, but the children of killed and wounded soldiers in this war are taken wherever they may come from.

Mr. J. C. ALLEN. I make the point that there is no law authorizing this appropriation, and that therefore it is not in order to this bill.

The CHAIRMAN. The point of order comes too late.

Mr. STEVENS. This institution has been incorporated by Congress, and we have made appropriations for it every year. This appropriation is for the purpose of doing what we ought to have done long ago. I will say further that it is under the control of the Department of the Interior by express enactment of law.

The amendment was agreed to.

Mr. FENTON. I am authorized to offer the following amendment:

To enable the Commissioner of Patents to pay for carpenters' work done in the west wing of the Patent Office building, \$5,720 04, or so much thereof as may be found necessary: *Provided*, That said work shall be referred to three commissioners, to be appointed by the Commissioner of Patents, for their inspection and measurement.

Mr. WASHBURN, of Illinois. That seems to me to be a private claim, and therefore not in order to this bill.

Mr. FENTON. It is an appropriation authorized under the act of 1857.

Mr. WASHBURN, of Illinois. If it were authorized under that act it could be paid under that act.

Mr. FENTON. I will ask the Clerk to read the letter of the Commissioner of Patents.

The Clerk read, as follows:

"There was more than a sufficient sum appropriated to pay the full amount claimed by Mr. Davis, but the surplus remaining over after payment to him went back to the general fund of the Treasury. Mr. Davis having presented his claim for payment to your predecessor, Hon. Caleb B. Smith, the Secretary, after careful personal examination of the claim of Mr. Davis, directed me by letter to have the work done by Mr. Davis remeasured by three practical mechanics.

"The measurement was intrusted by me to Messrs. Angus, Downing, and Morsell, who were highly recommended for competency and honesty, and who were selected on my own motion.

"These gentlemen having been duly sworn, reported to me that after careful examination, and making the deductions by the contract, the amount due Mr. Davis was \$17,596 39, making \$5,720 04 more than had been paid him. The appropriation asked for by the Secretary, in his estimate, was for the payment of that amount, which, in my opinion, is justly due him."

Mr. WASHBURN, of Illinois. That is evidently a private claim. It also provides for commissioners, and that is independent legislation.

Mr. FENTON. I am willing to strike out that part of the amendment which refers to commissioners.

The CHAIRMAN. The Chair sustains the point of order that this is a private claim, and not in order to this bill.

The Clerk read, as follows.

For surveying the public lands in the Territory of Idaho, \$15,000.

Mr. RICE, of Maine. I move to reduce that to \$10,000, and to add a similar appropriation for Montana of \$10,000.

Mr. WALLACE. I trust the amendment will not be adopted, for the reason that no public land has been surveyed in Idaho. The bill, as reported, only provides \$15,000 for surveys in that Territory which has an area larger than any other Territory in the United States, and with the Territory of Montana, including an area nearly equal to eight States like Ohio. That Montana should have an appropriation equal to that of any other

Territory must strike the mind of every gentleman upon this floor; but to reduce the appropriation for Idaho strikes me as wrong in the extreme, and as doing injustice to the people of that Territory. For this reason, I trust the amendment proposed will not be adopted.

Mr. RICE, of Maine. I have no ill-will against Idaho, and would do anything I could for her. I moved the amendment because Montana was omitted, and because Montana was carved out of Idaho and should have the benefit of a part of the appropriation. As \$10,000 only was appropriated for some of the other Territories, I supposed the Committee of Ways and Means intended the \$15,000 for the whole Territory of Idaho before Montana was taken out. If that is so, the amendment is just and proper.

Mr. WALLACE. As I understand it, the proposition to organize the Territory of Montana out of Idaho was before the House before this estimate was submitted to the Committee of Ways and Means, and that the \$15,000 was intended for Idaho exclusive of Montana.

Mr. RICE, of Maine. I would inquire of the chairman of the Committee of Ways and Means whether this sum of \$15,000 was intended to cover the surveying for the Territory of Idaho excluding Montana?

Mr. STEVENS. It was intended to cover the whole Territory before Montana was carved out of it.

The amendment was agreed to.

Mr. ASHLEY. I now move to insert after line two hundred and fifty-three the following:

For surveying the public lands in the Territory of Montana, \$10,000.

The amendment was agreed to.

Mr. WASHBURN, of Illinois. I now move to strike out "and" in line two hundred and twenty-nine, and insert after "Idaho" the words "and Montana," so as to make the provision in reference to the general appropriation for surveys complete.

The amendment was agreed to.

Mr. BROOKS. I avail myself of the opportunity in connection with these appropriations amounting to nearly three hundred thousand dollars for surveying the public land, to say that I hope that some gentleman from the western States or Territories will at an early period next session of Congress introduce a bill giving all the public lands to the States and Territories, reserving the right of Congress to insist upon our excellent system of surveying. We are appropriating large sums of money for these Territories, and we have given large portions of the public lands away under the homestead bill, but have taken back a large part under the railroad and wagon road grants which have passed this Congress; so that in point of fact the whole public domain has or is about to become of no value to the people of the United States.

Under the circumstances it seems to me the wisest course we can take is to free ourselves from this railroad, wagon road, and telegraph line legislation in the Halls of Congress, and transfer it to the States and Territories. If the system is to be persisted in—and I suppose it is—of throwing away this immensely valuable domain, and deriving no income from it hereafter to assist in the payment of the public debt, I am quite disposed to second any bill, as at present advised, which may come from the western States or Territories, giving this public domain to the States and Territories.

Mr. KINNEY. I move to amend by inserting, after line two hundred and fifty-three, "for surveying the public lands in the Territory of Utah, \$10,000." My chief object in offering this amendment is to provide compensation for surveying the Indian reservations in Utah, which by act of the present Congress have been vacated, ordered to be surveyed into subdivisions, and sold in fee simple.

I see by the provisions of this bill appropriating money for public surveys that the Territory of Utah is entirely ignored. I cannot think it was intentional on the part of the Committee of Ways and Means to overlook so important a Territory. There is no appropriation in this bill for public surveys in that Territory; but, on the contrary, in a paragraph on the antecedent page the Territory of Utah is excluded from any share in the

benefits of appropriations for surveys of the public lands, while all the other Territories of the United States are provided for. Such seems to be the case from a hasty examination of the bill, never having seen it until this moment. I call the attention of the House to this fact, as I have upon other occasions during the present session when that Territory has been excluded from her just share of appropriations for useful and necessary purposes, and again remind the House that there is such a Territory as Utah, larger in population and agricultural wealth than any other Territory in the United States.

The remarks of the distinguished gentleman from New York, [Mr. Brooks], who has just taken his seat, that the public lands should be donated to the actual settlers of our western Territories, strikes me with much force. Such donations would be but an act of justice to the enterprising pioneers who, as the advance guard in civilization, are forming mighty States upon the western confines of this New World. Especially are the people of Utah entitled in this particular to the most liberal legislation. No Territory has ever been settled under as many weighty discouragements, none where the prospects for agriculture were not more inviting.

Oregon, with her rich valleys, her genial climate and fertilizing showers, was not sufficiently attractive for settlement, until, to induce emigration, Congress made liberal donations of public lands to actual settlers, and then, and not until then, did emigration take up the line of march to that distant Territory.

No such encouraging legislation or fostering care has ever been extended to the people of Utah. Unaided by Congress they have settled a desert, and by their energy have far outstripped in population and prosperity their more favored sister Territories. Manifest your appreciation of their hardships by donating to the people the land they occupy, which but for them, I hesitate not to say, would not have been reduced to intelligent cultivation. I therefore unite most heartily in the sentiment expressed by the gentleman from New York, [Mr. Brooks], and indulge the hope that that gentleman will, at an early day of the next session, propose a bill and lend the influence of his great ability in perfecting a system by which the actual settlers of our western Territories shall receive as a free gift from the Government the lands of the Territories, not only for agriculture, but for schools and colleges, public buildings, and for purposes of general improvement.

But, sir, there is another point intimately connected with the question under consideration. Congress has wisely provided a homestead law for actual settlers upon the public lands. This law can be made available to persons in every Territory in the United States, except in Utah. Do gentlemen ask me how it is that the people of Utah are excluded from the benefits of this law? I will tell you, Mr. Chairman. In the first place there is no land district or land office in that Territory. The settlers cannot make a legal selection, or at least cannot perfect a selection by recording a description of the land selected in the land office, for the very potent reason that there is no office in the Territory where it can be done. In the second place the land must first be surveyed by the Government, the township, section, and quarter section lines established, before the settler can file in the land office a description of the land claimed as a homestead. Both a land office and a Government survey are necessary in order to make the homestead law available. By withholding an appropriation for a survey of the lands in Utah, the people are prevented from taking the first necessary step toward perfecting their inchoate rights under your wise and beneficent homestead law.

Mr. STEVENS. The omission to make surveys in Utah has been entirely for the benefit of the inhabitants of the Territory. As the gentleman, I suppose, is well aware, a good deal of money has been expended heretofore in making surveys in Utah, and yet there has never been an acre of surveyed land called for.

Mr. KINNEY. I will say to the gentleman from Pennsylvania that there never has been a public land office established in the Territory of Utah so that the people could purchase lands.

Mr. STEVENS. They take the land just as well and rather better than if it was surveyed,

and it is because we do not wish to disturb them in their peaceful and harmonious action that this omission has been made. The note of the Land Office to the estimates states that no estimate is submitted for Utah for the reason that there exists no demand for surveyed lands in Utah Territory.

Mr. WASHBURN, of Illinois. I would ask the Delegate from Utah if there is no land office in the Territory.

Mr. KINNEY. Not one; no land office has been established there, and hence we can purchase no lands.

Mr. STEVENS. We had better establish a land office there before we authorize any further surveys. Until that is done, it would be idle to survey more land there. But we cannot by this bill establish such an office there.

Mr. WASHBURN, of Illinois. I would ask the Delegate from Utah if the people or the Legislative Assembly of his Territory have ever petitioned the General Land Office to have the lands surveyed for the purpose of bringing them into market.

Mr. KINNEY. I am not aware that they have. Organizing a land district and establishing a land office was so reasonable and just that it was hardly to be expected that they would petition for it.

Mr. WASHBURN, of Illinois. If the people of Utah wish to have the lands surveyed, they have only to bring the matter to the attention of the Land Office or of Congress. I think we need make no appropriation now. Whenever the people of the Territory come and ask to have their lands surveyed for the purpose of purchasing, I have no doubt the chairman of the Committee of Ways and Means will be very much gratified to report an appropriation to survey the lands.

Mr. KINNEY. The amount of the appropriation proposed in the amendment is very small, only \$10,000; and the lands in the vacated Indian reservations ought certainly to be surveyed; they cannot be sold until they are surveyed, and they cannot be surveyed until Congress makes an appropriation for that purpose. I do not want to press this matter in opposition to the desire of the chairman of the Committee of Ways and Means. He informs me that it is not properly in order here. I therefore withdraw the amendment.

Mr. McBRIDE. I offer the following amendment, to come in on line two hundred and thirty-nine, as follows:

Provided, That in expending these appropriations the Commissioner of the Land Office may, in his discretion, allow a sum not exceeding two dollars per mile in addition to the rate now fixed by law for surveys.

Mr. STEVENS. I should be very glad to have that done, but I must raise the point of order that this is establishing a new rule and changing the law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. PRICE. I move to amend by striking out the clause appropriating \$300,000 for continuing the work on the Capitol extension. Mr. Chairman, when the deficiency bill was before the House last winter, I opposed the item appropriating \$250,000 for this Capitol extension. I attempted to arrest the appropriation, but like almost all other attempts of the same character I have made, it failed. The reason given for the appropriation at that time was that the work needed protection, and that if the appropriation was not made the building would suffer because of the unfinished condition in which it was. I believed then and believe now that a much less sum would have been sufficient to protect the work, and that at least \$225,000 of the appropriation might have been saved. That appropriation was made, however; and now we are asked for an additional sum of \$300,000 for continuing the work on the same building, and the same reason is given for it that was given for the appropriation of \$250,000.

I do hope, Mr. Chairman, notwithstanding the many exhibitions of a determination on the part of the House to pass everything in the shape of appropriations, that this appropriation will not be made, and that so much money will not be expended in this work at this time when there are so many immediate, pressing needs for the money.

Mr. WASHBURN, of Illinois, called for tellers on the amendment.

Tellers were ordered; and Messrs. BLAINE, and WASHBURNE of Illinois, were appointed.

The committee divided; and the tellers reported—ayes 43, noes 50.

So the amendment was rejected.

Mr. PRICE. I move to amend by striking out the appropriation of \$500,000 for the continuation of the north wing of the Treasury building. I ask for a vote upon the amendment without occupying the time of the committee with a speech. I have been charged with occupying much time here with speeches, but I think the Globe will show that I occupy as little time in that way as any member on this floor. I make this motion now because I think it should be sustained, and because the money should be applied to other purposes. I offer the amendment in good faith, and I am only sorry that I have not the power to put gentlemen on the record by yeas and nays on this question.

Mr. SCHENCK. I move to amend the amendment by inserting after the word "Treasury" the word "building," so that it will read "Treasury building extension."

The amendment to the amendment was rejected.

The amendment was rejected.

Mr. LAW. I move to amend by inserting the following:

For the embankment of the Ohio river on the grounds of the Evansville Marine Hospital, (Indiana,) for the purpose of preserving said grounds and hospital from being injured by the floods in said river, \$30,000.

Mr. STEVENS. That is one of the amendments that have been ruled out of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. STEVENS. I will state to the gentleman that we have this item in another bill.

Mr. LAW. I desire to show why it should be in this bill rather than in another. Some ten or fifteen years ago Congress appropriated a large sum of money for building a hospital on grounds below Evansville. The Government purchased a square of land, and appropriated sixty or seventy thousand dollars in the erection of buildings. Owing to the floods in the Ohio river every spring the embankment in front of the building is giving way; and the result is that while the building stood six hundred yards from the river when it was erected it is now only one hundred and sixty yards from it, and the ground is giving way more and more every spring.

Mr. SLOAN. I make a point of order on the amendment.

Mr. MALLORY. I wish to state that this item does not come within the class of cases ruled out of order. I understand this to be an appropriation to preserve a public building at Evansville, Indiana, constructed in pursuance of law. The express ruling on the point of order was that any appropriation to preserve and finish a building was in order, and was a proper item in this bill.

Mr. LAW. An act of Congress was passed and an appropriation made for the building itself, and I say to my friend from Pennsylvania that whatever is done to preserve it should be done quickly; that before the passage of the bill to which he refers I am afraid one half of the work will be destroyed.

The CHAIRMAN. The Chair rules the amendment to be out of order, and he does it on his construction of the following rule:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

Mr. LAW. It is precisely on that rule that I insist that the amendment is in order.

Mr. MALLORY. It is; that is the point I make, that there is a law authorizing this appropriation.

The CHAIRMAN. The Chair has not been able to find any law, and decides the amendment to be out of order.

Mr. LAW. I understood that the point of order had been waived in order to enable me to make an explanation. I think I have a perfect right to explain why this appropriation should be passed now, and I therefore ask the consent of the House to say that for the interest of the Government, as a matter of economy, it is important

that the appropriation should be made immediately, in order to prevent the destruction of the whole property; and I repeat that if it is put in the bill the gentleman from Pennsylvania says he is about to report that before that bill will pass and we are able to get the money probably one half of the property will be destroyed. I understand the gentleman from Pennsylvania to say that there is no objection to the appropriation, and that he has put it in the other bill.

Mr. WASHBURNE, of Illinois. I desire to know what question is before the House.

The CHAIRMAN. There is no question before the committee. The Chair has decided the amendment to be out of order; and the gentleman is speaking by unanimous consent.

Mr. MALLORY. I appeal from the decision of the Chair.

Mr. LAW. I desire to ask the gentleman from Pennsylvania whether this appropriation is not in the other bill to which he refers.

Mr. STEVENS. It is in the bill which I endeavored to report on Saturday, but which I could not report except by unanimous consent, and somebody objected. We shall report it the first opportunity we get.

Mr. MALLORY. I ask the committee to allow me a moment to explain my appeal.

Mr. STEVENS. Oh, no, I think it explains itself.

Mr. MALLORY. I want to say that I do it with great reluctance, and I would not insist on it at all if the gentleman from Pennsylvania did not know the decision was wrong.

On sustaining the decision of the Chair 51 voted in the affirmative and 82 in the negative; no quorum.

Mr. WASHBURNE, of Illinois, called for tellers.

Tellers were ordered; and Messrs. MALLORY and PATTERSON were appointed.

The committee again divided; and the tellers reported—ayes 55, noes 39.

So the decision of the Chair ruling the amendment out of order was sustained.

Mr. WILSON. I desire to ask the chairman of the Committee of Ways and Means to explain the paragraph ending line two hundred and sixty-eight, making an appropriation of \$30,000 for the construction of vaults for the security of the public funds in United States depositories.

Mr. STEVENS. It refers, I suppose, to the sub-Treasuries or perhaps the national banks designated as depositories.

Mr. WILSON. I understand then that this appropriation is for the construction of vaults for the national banks which have been designated as depositories. Now it does seem to me that it is sufficient for us to deposit the money of the United States with these national banks without building vaults for them. I suppose they ought to have vaults for themselves of their own.

Mr. STEVENS. These are vaults for the sub-Treasuries.

Mr. WILSON. I understood the gentleman to say national banks.

Mr. STEVENS. The gentleman knows that there are a good many sub-Treasuries or depositories, and several of them have no safes. This is for the purpose of providing safes for them.

Mr. WILSON. I only wish to be informed in reference to this matter. If the Committee of Ways and Means have any estimates, I should like to see them. I want to know whether this appropriation is for the construction of vaults in banks which have been designated as depositories.

Mr. STEVENS. Let this be passed over for the present.

Mr. WILSON. I agree to that.

The Clerk read, as follows:

For the repair and preservation of custom-houses, marine hospitals, and other public buildings under the supervision of the Treasury Department, \$40,000.

Mr. BROOKS. I move to strike that out. It is another one of the class of wandering appropriations which we ought to put a stop to. Here is an appropriation of \$40,000 for custom-houses and marine hospitals generally. No particular custom-houses or marine hospitals are specified. The Department can spend the money where it pleases.

Mr. WASHBURNE, of Illinois. This is a proper provision, which has been in the appropriation bill every year. There are small repairs

to be made in the custom-houses and marine hospitals which are submitted to the Treasury Department, and this appropriation is necessary to pay them where they are ordered to be made.

Mr. BROOKS. My friend seems to be on the wrong side.

Mr. WASHBURNE, of Illinois. No, sir; this is a just and proper appropriation; it is the usual appropriation.

Mr. BROOKS. It may have been the practice to pass these wandering appropriations within the past six years, but I know that it was not the practice ten years ago. It was then insisted that appropriations should be specific; and loose, wandering appropriations of this character would not be supported by either side of the House.

The motion was disagreed to.

Mr. STEVENS. I move to go back to the appropriation for the construction of vaults. The estimates are as follows:

For building vaults, as an additional security to the public funds in United States depositories, \$30,000.

Mr. WILSON. That is almost the exact language used in the bill. It does not explain what these depositories are. I want to know whether any of these vaults are to be built in any of the banks which have been designated as depositories.

Mr. STEVENS. It refers to the depositories under the sub-Treasury law.

Mr. WILSON. Some of the national banks recently established are now in operation and have been designated as depositories of the public funds.

Mr. STEVENS. Not under the sub-Treasury act.

Mr. WILSON. I do not know that. We have obtained no information on the subject from the estimate which has been read. It is the same as the language used in the bill. Now, unless we have some further information on the subject I shall move to strike the appropriation out.

Mr. WASHBURNE, of Illinois. In order to make it certain I move to amend it so that it will read, for additional security under the sub-Treasury law. I have no doubt that is what it means.

Mr. STEVENS. It ought not to be confined to that.

Mr. BOUTWELL. I shall oppose this appropriation until we know specifically where these vaults are to be built. We had twenty depositories under the law existing at the commencement of this session, and we had not any intimation that there was any deficiency in vaults for the public money. We know that under the act of this session the Secretary of the Treasury has been authorized to constitute various national banks depositories of the public money. We know also that the money received in payment of taxes is at present, against my judgment and protest, deposited in these banks. I am unwilling to appropriate money to build vaults in these banks, and I am unwilling to make this appropriation until we know where these vaults are to be built, and whether they are necessary or not.

The amendment of Mr. WASHBURNE, of Illinois, was agreed to.

The question recurred on Mr. WILSON's motion, and the paragraph, as amended, was stricken out.

The Clerk read, as follows:

For plates, paper, and special dies, and the printing of circulating notes, and expenses necessarily incurred in procuring said notes, including miscellaneous items, \$441,250.

Mr. BROOKS. I must avail myself of this opportunity to ask the chairman of the Committee of Ways and Means one or two questions. He gives us an opportunity to discuss the bills that he reports; but there is another member of that committee who has reported a bill which is now upon our tables, and who never gives us any opportunity for discussion. In that bill there is an appropriation of \$4,000,000 for issuing \$400,000,000 of Treasury notes. I wish to know whether this appropriation is necessary in connection with that \$4,000,000. I would not press the inquiry now if I did not feel quite sure that when that \$400,000,000 bill comes up it will be put through under the operation of the previous question.

Mr. STEVENS. I was not aware that \$4,000,000 were appropriated.

Mr. BROOKS. It is in the eighth section of House bill No. 515, reported by the gentleman from Massachusetts, [Mr. Hooper.]

Mr. STEVENS. It has not been passed.
Mr. BROOKS. It is to be passed, I fear, under the previous question.

Mr. STEVENS. When that bill comes up I hope the gentleman will have an opportunity to discuss it.

Mr. BROOKS. I hope the gentleman will give me that opportunity.

Mr. STEVENS. So far as I am concerned, I will.

Mr. BROOKS. I am quite sure the gentleman will, but I fear other gentlemen may not.

The Clerk read the following:

For compensation of the Assistant Treasurer at Philadelphia, \$4,000.

Mr. STEVENS. I am willing that should be stricken out.

Mr. HOLMAN. It was understood that that should be stricken out, and I make that motion.

The motion was agreed to.

Mr. STILES. I move to amend by inserting, after line three hundred and one, "for additional compensation to the Assistant Secretary of the Interior, \$1,000."

Mr. HOLMAN. I suppose a point of order should be raised on the amendment of my friend. I dislike to raise it upon my friend, and against the gentleman who is intended to be benefited by this amendment, but I must insist upon my objection to this mode of legislation. My point is that the amendment increases the compensation of this officer, and hence is changing an existing law.

The CHAIRMAN. The Chair sustains the point of order, and rules out the amendment.

Mr. RICE, of Massachusetts. I move to amend by inserting after line three hundred and one the following:

For payment of salaries for additional clerks in the Navy Department for the fiscal year ending June 30, 1865, \$9,800.

The amendment was agreed to.

Mr. RICE, of Massachusetts. I move to amend by inserting after the last amendment the following:

To compensate persons on board the United States gunboat Cincinnati, in accordance with the joint resolution, approved February 19, 1864, \$7,200.

The amendment was agreed to.

Mr. COLE, of California. I move to amend by inserting after line three hundred and three the following:

For compensation to the stamp clerk in the office of the Assistant Treasurer at San Francisco, \$2,400, or so much thereof as may be necessary.

When the law providing for the stamping of instruments went into effect the Government furnished that officer all the stamps to be used in that country. He had to sell, distribute, and dispose of them. It was throwing a new burden on him, and it became indispensable to employ an additional clerk for the purpose of keeping the accounts in connection with that branch of business.

Mr. WASHBURN, of Illinois. As it is about time to take a recess, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Pike reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865, and had come to no resolution thereon.

The SPEAKER. The hour of half past four o'clock having arrived, the House, according to order, will take a recess until half past seven o'clock.

The House took a recess accordingly.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

RESERVATIONS IN WASHINGTON.

Mr. STEELE, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be, and they are hereby, instructed to ascertain by what authority or authorities the public reservations, streets, and avenues of the city of Washington are devoted to corporate or individual uses, and what legislation, if any, is necessary to preserve and perpetuate such reservations,

streets, and avenues, to the uses and purposes for which they were originally intended, and to report by bill or otherwise; and for the purposes of this resolution, said committee are hereby authorized and empowered to send for persons and papers and administer oaths, and do and perform such other acts and things as may be necessary and proper in the premises.

COMMUTATION, ETC.

Mr. SCHENCK. Among the reports to be made to-morrow by the Committee on Military Affairs is one in relation to commutation, substitution, &c. I desire to have the bill printed and recommitted to the committee, so that the House may see what it is.

Mr. BROOKS. I object to that unless I can have some understanding as to whether this bill is to be put through to-morrow under the previous question.

Mr. SCHENCK. That depends upon the disposition of the House.

Mr. BROOKS. Does the gentleman propose to pass the bill without any discussion?

Mr. SCHENCK. I suppose the House will understand thoroughly what the measure is.

Mr. BROOKS. Well, I object.

Mr. SCHENCK. I move to suspend the rules for the purpose of reporting the bill with a view to have it recommitted and printed.

The question was put on the motion to suspend the rules, and there were—ayes 21, noes 6; no quorum voting.

Mr. BROOKS. I would certainly desire to see that bill in print, but if it is to be put through, after an explanation from the chairman of the Committee on Military Affairs, and without any discussion of it on the other side, or any proper understanding of it, I would rather have it put through without printing.

Mr. SCHENCK. I withdraw my motion.

CALIFORNIA STATE PRISON.

Mr. HIGBY. I ask the unanimous consent of the House to take from the Speaker's table bill of the Senate (No. 306) to grant to the State of California certain lands for State prison purposes.

No objection was made; and the bill was taken from the Speaker's table and read a first and second time.

Mr. BROWN, of Wisconsin. Will the gentleman from California explain the grounds on which he asks the passage of this bill?

Mr. HIGBY. These grounds are adjacent to the State prison of our State, and the object is to secure the title in the lands to the State.

Mr. BROWN, of Wisconsin. Are there any opposing claims to the land?

Mr. HIGBY. These are protected by this bill. There are no grants there.

Mr. BROWN, of Wisconsin. Then I have no objection to the bill.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. HIGBY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THE PUBLIC PRINTING.

Mr. A. W. CLARK, from the Committee on Printing, reported back, with a recommendation that it do pass, bill of the Senate No. 265, to expedite and regulate the printing of public documents, and for other purposes.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. A. W. CLARK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM YOCUM.

Mr. WILSON, from the Committee on the Judiciary, by unanimous consent, submitted a written report in response to the resolution of the House instructing the committee to inquire into and report all the facts connected with the alleged trial, imprisonment, and pardon of William Yocum, of Illinois, and his detention in prison after his pardon.

The report was laid on the table, and ordered to be printed.

MISCELLANEOUS APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations

for certain miscellaneous expenses of the Government for the year ending 30th of June, 1865; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEVENS. I would like to have Friday next fixed for the consideration of this bill. It will take only about half an hour.

Mr. PENDLETON. This is not a general appropriation bill, and I must object.

Mr. STEVENS. I think there is nothing in the bill to which anybody can object.

Mr. PENDLETON. I dislike to object, and I hope that the gentleman will not press the motion that the bill shall be made a special order.

Mr. STEVENS. I give notice then that I will call it up on Thursday or Friday next.

NAVY-YARD EMPLOYÉS.

Mr. O'NEILL, of Pennsylvania, by unanimous consent, introduced a joint resolution concerning the employés at the United States navy-yards; which was read a first and second time.

Mr. BROWN, of Wisconsin. What does the gentleman propose to do with that joint resolution?

Mr. O'NEILL, of Pennsylvania. I propose to put it on its passage.

Mr. BROWN, of Wisconsin. I object.

Mr. O'NEILL, of Pennsylvania. Then I move that it be referred to the Committee on Naval Affairs.

The motion was agreed to.

Mr. O'NEILL, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be requested to examine into the expediency of repealing all laws or parts of laws which require at stated periods the regulation and fixing of the rate of pay of the mechanics, workmen, and other employés in the different navy yards according to the rates paid in private ship-yards, workshops, or establishments where mechanical or other labor is employed, in the neighborhood of the respective navy-yards; and to report at an early day by bill or otherwise.

YOUNG MEN'S CHRISTIAN ASSOCIATION.

Mr. STEELE, of New York, by unanimous consent, introduced a bill to incorporate the Young Men's Christian Association; which was read a first and second time, and referred to the Committee for the District of Columbia.

INSURRECTIONARY STATES.

Mr. ASHLEY. I ask unanimous consent to present the following joint resolution, which I will agree to postpone that it may be printed:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That when the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President, by force and virtue of the act entitled "An act further to provide for the collection of duties on imports, and for other purposes," approved July 13, 1861, they shall be, and are hereby, declared to be incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress, until said insurrection in said State is suppressed or abandoned, and said inhabitants have returned to their obedience to the Constitution and Government of the United States, nor until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress authorizing the same.

Mr. DAWES. I object.

GIFT OF SOLDIERS' WEAPONS.

Mr. MILLER, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the justice and expediency of providing by proper legislation that every soldier in the military service of the United States who shall keep in his possession during his term of service his musket, rifle, sword, or carbine, without ever losing or surrendering the same, shall on his honorable discharge be presented with such weapon as a testimony of valor and patriotism for himself, and a most precious heirloom for his family, and that said committee have leave to report by bill or otherwise.

FINAL ADJOURNMENT.

Mr. BROOKS. I ask unanimous consent to offer the following resolution:

Resolved, That, the two Houses of Congress being unable to agree upon the time of adjournment, the President be requested to adjourn them to such time as he shall think proper, that time not extending beyond the first Monday of next December.

Mr. STEVENS. I object; and I now move that the rules be suspended and the House re-

solve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PIKE in the chair,) and resumed the consideration of the

CIVIL APPROPRIATION BILL.

The CHAIRMAN stated the pending question to be on the following amendment:

For compensation to the stamp clerk in the office of the Assistant Treasurer at San Francisco, \$2,400, or so much thereof as may be necessary.

Mr. COLE, of California. Mr. Chairman, when the law passed requiring stamps to be affixed to all instruments, they were issued and sent to the Assistant Treasurer of the United States at San Francisco, and the duty was devolved upon him to dispose of them. This rendered it necessary for him to employ a stamp clerk, for whose payment there has been as yet no provision of law. This appropriation is for the payment of that clerk, and I hope it will be passed.

I will state, for the information of members, that the Assistant Treasurer at San Francisco is also superintendent of the mint, and he is burdened with business perhaps more than any other officer of the Government. When this extra duty was imposed upon him it was necessary for him to employ a clerk, and that clerk ought to be paid.

Mr. WASHBURN, of Illinois. I reserved a point of order on this amendment. I ask that it be again read.

The amendment was again read.

Mr. MORRILL. I desire to say that when the business of taxing by stamps first commenced there were no parties in California to whom the stamps could be properly sent for distribution on the Pacific coast, and a special law was passed in order to give the people of California an opportunity to purchase the stamps required to be used in their business, designating this officer to receive them. I suppose it was really necessary for him to employ a clerk and that this amendment was proper.

Mr. STEVENS. Upon the point of order I desire to say that under the rule any amendment that may be necessary for that purpose is in order. This is an amendment for that purpose.

The CHAIRMAN: The Chair overrules the question of order.

The amendment was adopted.

Mr. BROWN, of Wisconsin. I now move as an independent section or paragraph if necessary, in order to make it in order, an amendment making provision for continuing the light-house works at Racine and Milwaukee. The amendment would more properly come in on the 3d page, if there be no objection, although it is in order here. I submit the following:

For completing the light-house works at Milwaukee, in addition to former appropriations, \$12,287 25.

For completing the light-house works at Racine, in addition to former appropriations, \$21,335 25.

I now call for the reading of a communication from the Light-House Board.

The Clerk read, as follows:

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
WASHINGTON, April 12, 1864.

Sir: In compliance with your oral request, I transmit herewith copies of the estimates of amounts of appropriation required to complete the light-house works at Racine and Milwaukee, Wisconsin.

These estimates are approved by the Light-House Board, and it is hoped that the appropriations may be speedily made.

Very respectfully,

W. B. SHUBRICK,
Chairman.

Hon. J. R. DOOLITTLE, United States Senate.

Estimate of amount required for completion of light-house and pier at Racine.

For ten cribs to form piers of protection.....	\$38,477 97
For screw bolts.....	363 00
For foundation of dwelling and tower.....	3,658 10
For tools and appliances.....	2,935 68
For keeper's dwelling with tower.....	8,000 00

\$53,434 75

Deduct present value of materials on hand, and workmanship and labor performed, to include September 30, 1863, balance in hands of Light-House engineer at that date, and also the balance in the Treasury of the appropriation of June 20, 1860, for this work.....

32,099 47

Additional amount required to be appropriated according to present plan.....

\$21,335 28

There being no objection, the amendment was adopted and inserted after the fifty-fourth line on page 3.

Mr. HALE. I move to add the following as a new section:

Sec. —. And be it further enacted, That the proper accounting officers of the Treasury be, and they are hereby, authorized to allow the clerk in the Treasury Department who, outside of his stated duties, prepares the annual estimates of appropriations, the sum of \$250 per annum for each year that he has performed the work, and the amount necessary to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WILSON. I rise to a question of order. That amendment provides for new legislation. There is no law authorizing the payment of this money that I know of.

Mr. HALE. I understand that the chairman of the Committee of Ways and Means will go for this amendment.

Mr. WILSON. I do not know anything about that, but the appropriation is not in pursuance of existing law, and I raise the question of order.

Mr. HALE. It is in order, and in pursuance of law. The law requires this work to be done and this is an appropriation to pay for it.

The CHAIRMAN. The Chair sustains the question of order, and decides the amendment to be out of order.

Mr. PENDLETON. I move to add the following as a new section:

Sec. —. And be it further enacted, That the compensation of the clerk of the Committee of Ways and Means shall be \$2,160 per annum, to commence with the present Congress, and that such an amount as shall be found necessary be, and hereby is, appropriated.

Mr. WILSON. How long is that to last?

Mr. PENDLETON. Till otherwise ordered.

Mr. WASHBURN, of Illinois. I object to that if it is to extend beyond this Congress. If the gentleman will so modify his amendment as to confine it to this Congress, I will not object; otherwise I shall make the point of order that it is new legislation.

Mr. DAWES. I shall be under the necessity of raising a question of order unless the amendment can be so modified as to include the clerk of the Committee of Elections at \$1,800 a year.

Mr. PENDLETON. If there be no other question of order except that raised by the gentleman from Illinois, [Mr. WASHBURN,] I will accept the modification proposed by him.

Mr. DAWES. I shall certainly raise a question of order unless the gentleman will put in the clerk of the Committee of Elections at \$1,800 a year. I make the proposition in good faith, and hope the gentleman will accept it.

Mr. SCHENCK. Well, sir, I shall make a point of order upon the amendment of the gentleman from Massachusetts, [Mr. DAWES,] unless the clerk of the Committee on Military Affairs is also included at \$1,800 a year.

Mr. PENDLETON. Has not the Committee on Military Affairs had a clerk at \$1,800 a year during the whole session?

Mr. SCHENCK. No, sir; but the duties are very heavy, and he ought to be paid that compensation.

Mr. DAWES. The duties of the clerk of the Committee of Elections during the present session have been very important; there is no committee in the House which has had more arduous or continued labors to perform.

Mr. PENDLETON. I submit to the Chair that these questions of order are not debatable.

Mr. DAWES. I raise the point of order, and will insist upon it, unless the concession be made to these two clerks of committees.

The CHAIRMAN. The gentleman cannot raise a conditional point of order.

Mr. DAWES. Then I make it unconditionally. I do not desire to interfere with what is a fair compensation for the clerk of the Committee of Ways and Means; at the same time the Committee of Ways and Means should yield to these two other committees.

Mr. PENDLETON. The question is not debatable.

Mr. DAWES. I withdraw the point of order, and will trust to the House to permit this amendment to be offered for these two clerks of committees. I move to amend by inserting \$1,800 for the clerk of the Committee of Elections.

Mr. PENDLETON. I desire to know if the point of order is withdrawn.

The CHAIRMAN. It has been. The question is now on the proposition of the gentleman from Ohio. Has he modified it according to the suggestion of the gentleman from Illinois, [Mr. WASHBURN?]

Mr. PENDLETON. I prefer not to modify it.

Mr. DAWES. I move to amend the amendment.

The CHAIRMAN. The Chair understands that there is no point of order made on the amendment.

Mr. WILSON. I raise a point of order on the amendment to the amendment.

Mr. DAWES. My amendment is that the clerk of the Committee of Elections and of the Committee on Military Affairs shall be paid for this Congress a salary of \$1,800.

Mr. PENDLETON. I will accept that amendment provided there be no point of order made on it.

The CHAIRMAN. A point of order is made by the gentleman from Iowa, [Mr. Wilson.]

Mr. PENDLETON. It is made on the amendment to the amendment.

Mr. WILSON. Yes, sir.

Mr. PENDLETON. If agreeable to the gentleman from Iowa I will accept the amendment, otherwise I will not.

The CHAIRMAN. The original amendment is received, not being objected to. The amendment to it offered by the gentleman from Massachusetts [Mr. DAWES] is objected to; and the Chair sustains the point of order.

Mr. SCHENCK. Before the vote is taken on the amendment I desire to say that my colleague is mistaken in regard to the state of facts as to the clerk of the Committee on Military Affairs. Owing to the immense amount of work thrown on that committee and its clerk, I proposed, at an early period of the session, to increase the compensation of the clerk to \$1,800 per annum, being the sum which was then and is now paid to the clerk of the Committee of Ways and Means, and to some two or three other clerks of committees. The objection was made that that was too much.

What is not enough now for the clerk of the Committee of Ways and Means was then esteemed too much for the clerk of the Committee on Military Affairs. We had, therefore, to get the best we could, and the salary was reduced, because of that objection, to a per diem payment amounting to much less than \$1,800 for the year, to be paid only during the session. That clerk is allowed nothing except while Congress is in session, which, for the short session, is only about ninety days—and at a per diem. We esteemed it unfair, but it was the best we could get. If the salary of the clerk of the Committee of Ways and Means is to be now increased to a sum so much beyond what he was then receiving, I deem it not unfair to ask for the clerks of these other committees what was thought too little for the clerk of the Committee of Ways and Means. We only ask for them now what the clerk of the Committee of Ways and Means has been all along receiving.

Mr. DAWES. I desire to state that it is absolutely necessary that there shall be prepared a digest of contested-election cases since 1834; and I submit that gentlemen should withdraw any objection to a reasonable allowance to the clerk of the Committee of Elections for preparing that digest.

Mr. WASHBURN, of Illinois. Rather than agree to the proposition of the gentleman from Massachusetts in that shape, I suggest that it shall be put in another shape which will accomplish the same end. I think this digest should be made, and that there should be a small sum allowed to the party preparing it.

Mr. DAWES. I should be very glad to adopt that suggestion if I knew what was a reasonable sum. If the gentleman has any knowledge of what would be a reasonable sum I should be glad to hear it named. The last digest was made up to only 1834. Previous to that it made a volume equal to Brightley's Digest; and since that no digest has been made.

Mr. WASHBURN, of Illinois. I think \$500 would pay him well.

Mr. DAWES. I think a sum not exceeding \$1,000 would be right.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Ohio.

The amendment was agreed to.

Mr. SCHENCK. What became of the amendment to the amendment?

The CHAIRMAN. It was not received.

Mr. SCHENCK. I move to reconsider the vote by which the amendment was agreed to.

The CHAIRMAN. That motion is not in order.

Mr. STEVENS. I move to amend by inserting, after line three hundred and three, the following as a new paragraph:

For compensation of clerks and extra clerk hire, in addition to that already appropriated, in the office of the Secretary of the Treasury, \$100,000.

Perhaps this amendment deserves some explanation, as it appropriates a large sum. On the 20th of last month the Secretary of the Treasury wrote to the Committee of Ways and Means saying that \$100,000 was necessary for this purpose; and we inserted in the legislative bill, I believe, an appropriation of \$100,000, which was then supposed to be sufficient for the increasing business of the next fiscal year. On Saturday last we received another letter from the Secretary in which he says that he requested of the Committee of Ways and Means an appropriation of \$100,000 for compensation of clerks and extra clerk hire, in addition to the amount previously estimated for; that he is now convinced that that sum will not be adequate to the requirements of the Department under the continual and rapid increase of business in its several branches. He states that the several bureaus have indicated the necessity of an addition to their present force, which would require in the aggregate an expenditure of about \$150,000 during the next fiscal year.

I think we have already appropriated \$100,000 in a previous bill, and under that impression I now offer an amendment to appropriate \$100,000 more. If it should turn out that we have not appropriated \$100,000 I shall ask hereafter to increase this amount.

Mr. GANSON. I would ask the gentleman from Pennsylvania whether there is any explanation by the Department why on the 20th of May last they thought \$100,000 would be sufficient, and on the 18th of June they find out that \$150,000 more is necessary? It is a very remarkable circumstance.

Mr. STEVENS. The Secretary states that he has since received reports from all the heads of bureaus showing that business is increasing to such an extent that \$150,000 more will be necessary. I think we have already appropriated \$100,000, and have now moved an additional sum of \$100,000, thinking that, perhaps, may be sufficient.

Mr. HALE. I would like to know under what law this appropriation is asked. I was ruled out of order just now in offering an amendment to appropriate \$3,000 to pay a debt of the Agricultural Department. The Agricultural Department is established by law, as much as the Treasury Department.

Mr. STEVENS. There is an express provision that any amendment necessary to carry on the Department is in order. I am sure my friend would not object because he was ruled out.

Mr. HALE. I merely wished to know what the difference is. There is a difference in the amount, I know, but I do not know of any other difference.

Mr. BROOKS. Is there any estimate showing for what purpose these clerks are wanted, or in what bureaus?

Mr. STEVENS. The letter just read states that the Secretary has received reports from the heads of all the bureaus in which the aggregate amount is \$150,000. We have put it at \$100,000.

Mr. MALLORY. I do not like to see this carp-

ing at appropriations of this sort. The Secretary of the Treasury is issuing money at the rate of one or two millions a day, and I would give him all the additional clerks he wants. We are informed by him that he is calling in circulation at the rate of a quarter of a million a day, and issuing bonds, and he wants this additional clerical force to aid him in the calling-in process. I do not think there ought to be any questioning or carping on this subject. I think we ought to let him have these additional clerks and to appropriate the money to pay these clerks.

Mr. STEVENS called for tellers on his amendment.

Tellers were ordered; and Messrs. GANSON and BEAMAN were appointed.

The House divided; and the tellers reported—ayes 63, noes 29.

So the amendment was agreed to.

Mr. STEVENS. I move to insert the following as a new paragraph:

For payment to Messrs. Little, Brown & Co., for three hundred and ninety-five volumes of the Statutes at Large, at \$3.50 per volume, delivered by order of the Secretary of the Interior, dated February 21, 1863, \$2,765.

Mr. WILSON. I rise to a question of order. That is a private claim against the Government, and is not in pursuance of existing law.

Mr. STEVENS. The gentleman is mistaken. There was a law passed expressly authorizing the publication of these books by Little, Brown & Co. They did publish them, and they sent them here, and they have never received pay, because there was no appropriation to pay them. I guess that if there is an honest firm in the country it is the firm of Little, Brown & Co., of Boston. Nobody, I think, does work better than they do. I do not think there is any printing in the United States equal to that of the Statutes at Large.

The CHAIRMAN. The Chair overrules the point of order.

Mr. BLAINE. Little & Brown have not furnished the kind of index which they stipulated to furnish, and if we have any power over them I think we ought to exercise it by stopping this appropriation.

Mr. WILSON. I appeal from the decision of the Chair.

Mr. WASHBURN, of Illinois. It is apparent that the amendment is out of order.

The CHAIRMAN. The Chair decided in accordance with the statement of the chairman of the Committee of Ways and Means that there is an existing law authorizing this purchase.

Mr. WASHBURN, of Illinois. I should like to have that law read.

Mr. WILSON. The existence of any such law is disputed, and for that reason this claim ought to come in in a separate bill where it can be considered on its merits.

The question was taken on the appeal; and the decision of the Chair was sustained as the judgment of the committee.

Mr. WASHBURN, of Illinois. I should like now to have some explanation of the amendment.

Mr. MORRILL. When the contract was originally made with Little, Brown & Co., it was for two thousand copies of this work. At that time the volumes were not half as large as they are now. I believe it will be conceded on all hands that there never was a work of this kind better executed, on better paper, or more accurately printed than this has been.

Mr. WILSON. I desire to ask the gentleman when those books were delivered?

Mr. MORRILL. After books were no longer distributed to members of Congress, a smaller number was required for the purposes of the Department, and instead of ordering two thousand copies, I believe they first ordered sixteen hundred and five copies and subsequently only three hundred and ninety-five copies. I think that was some time in 1863, and it is for those copies that pay is now asked. They were sent here under orders from the Interior Department.

The question was taken on Mr. STEVENS's amendment; and it was agreed to—ayes 64, noes 28.

Mr. DAWES. I now offer the following amendment, to which I hope no gentleman will object, for I am certain they will see the justice of it:

For compensation to the clerk of the Committee of Elec-

tions for preparing for publication a continuation of the digest of election cases, to be expended under the direction of said committee, the sum of \$1,000, or so much thereof as in the opinion of said committee shall be necessary therefor.

Mr. HOLMAN. I wish to inquire what is the present compensation of the clerk of the Committee of Elections.

Mr. DAWES. He gets only his four dollars per day during the session, the ordinary pay of a clerk, although his duties are very arduous.

Mr. HOLMAN. Through what series of years is it necessary to make this compilation?

Mr. DAWES. There is a digest up to 1834. The design is to continue that down to the present time.

Mr. SCHENCK. I will make a point of order, unless an amendment to the amendment is in order.

Mr. DAWES. I trust the gentleman will not interpose an objection to this.

Mr. SCHENCK. I ask to have an amendment to the amendment read. If that is not in order I will object.

Mr. WILSON. I object to any bargains.

Mr. HALE. I rise to a point of order on the amendment of the gentleman from Massachusetts. I would like to know under what law that is to be appropriated. I just now offered an amendment which was ruled out of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. DAWES. I raised no point of order on the proposition of the gentleman from Pennsylvania, [Mr. HALE.]

Mr. HALE. It was raised over there in your neighborhood. [Laughter.]

Mr. DAWES. If I were responsible for what occurs in my neighborhood I would have a different state of things.

Mr. HALE. A man is known by the company he keeps. [Laughter.]

Mr. DAWES. I appeal to the gentleman from Pennsylvania to withdraw his point of order.

Mr. HALE. The clerk in the Treasury Department who makes out the estimates for appropriations asks for \$250; and the chairman of the Committee of Ways and Means knows he ought to have it.

Mr. STEVENS. I did not object to it.

Mr. HALE. You did not, I know.

Mr. DAWES. I submit that the House should give to the Committee of Elections an opportunity to collect the contested-election cases, so that we may make more reasonable reports. [Laughter.]

The CHAIRMAN. The amendment is out of order.

Mr. STEVENS. I move that the committee rise.

Mr. DAWES. The gentleman from Pennsylvania [Mr. HALE] has withdrawn the point of order on my amendment.

Mr. HALE. I withdraw the point of order.

Mr. DAWES. I now offer my amendment:

For compensation to the clerk of the Committee of Elections for preparing for publication a continuous digest of election cases, to be expended under the direction of said committee, the sum of \$1,000, or so much thereof as in the opinion of the said committee shall be necessary therefor.

Mr. SCHENCK. I propose to amend the amendment, and if my amendment is not in order, I am sure that the gentleman's [Mr. DAWES's] is not. My amendment is to add the following:

And for the compensation of the clerk of the Committee on Military Affairs of the House of Representatives, at the rate of \$1,200 per annum, for the Thirty-Eighth Congress, there is appropriated \$3,600.

Mr. WILSON. I raise the point of order on the amendment of the gentleman from Ohio [Mr. SCHENCK] that it is not in pursuance of existing law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SCHENCK. Then I raise the same point of order on the amendment of the gentleman from Massachusetts, [Mr. DAWES.]

The CHAIRMAN. The point of order is too late.

Mr. SCHENCK. I rose to a point of order on the amendment of the gentleman from Massachusetts, and said that if my amendment to the amendment was not in order then the other was not.

The CHAIRMAN. Did the gentleman from Ohio raise the point of order originally?

Mr. SCHENCK. Yes, and stated it.
The CHAIRMAN. Then the Chair will decide that the point of order is well taken.
Mr. HALE. I now renew the amendment which I offered before:

For the payment of the contributors to the agricultural report for 1861, the sum of \$3,393 26.

Mr. WILSON. I ask the Chair whether this amendment has not been ruled out of order already.

The CHAIRMAN. It has been.

Mr. HALE. Will the gentleman allow a letter from the Commissioner of Agriculture to be read, showing that this was necessary to carry on the Agricultural Department?

Mr. ASHLEY. If the gentleman from Pennsylvania will vouch for the letter being in the handwriting of the Commissioner, I shall be in favor of its being read. [Laughter.]

Mr. STEVENS. The amendment has been ruled out of order. I move that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PIKE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly bill of the House No. 527, making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865, and had instructed him to report the same to the House with sundry amendments and with the recommendation that the bill do pass.

PACIFIC RAILROAD.

Mr. STEELE, of New York. I rise to a privileged question. I move to reconsider the vote by which to-morrow night was assigned for the consideration of the Pacific railroad bill.

The SPEAKER. The motion will be entered.
Mr. WASHBURN, of Illinois. I ask whether that motion is in order. I understood the whole of the evening session of to-morrow was by unanimous consent set apart for the consideration of that bill.

Mr. STEELE, of New York. That is all true; but I, as a part of that unanimous consent, have the right to move to reconsider, which I do.

The SPEAKER. The motion is in order.

CIVIL APPROPRIATION BILL—AGAIN.

Mr. STEVENS. I call for the previous question on the bill.

Mr. DAWES. I ask the gentleman to withdraw his demand for the previous question to enable me to submit an amendment.

Mr. STEVENS. I will withdraw the demand and allow the gentleman's amendment to be reported.

Mr. DAWES. I submit the following:

For compensation to the clerk of the Committee of Elections for preparing for publication a continuation of the digest of election cases, to be expended under the direction of said committee, the sum of \$1,000, or so much thereof as in the opinion of said committee shall be necessary therefor.

Mr. SCHENCK. I move to amend the amendment by adding as follows:

And for compensation of the clerk of the Committee on Military Affairs of the House of Representatives, at the rate of \$1,800 per annum, for the Thirty-Eighth Congress, there is appropriated \$3,600.

Mr. WILSON. I rise to a point of order, and submit that the amendment to the amendment is not in order.

The SPEAKER. The Chair overrules the point of order on the ground that it is a contingency for carrying on an existing branch of the Government. The rule says that "no appropriation shall be reported in such general appropriation bills or be in order as an amendment thereto for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government." In the opinion of the Chair the Congress of the United States is the legislative department of the Government, and however improper the amendment may be in the opinion of gentlemen, the Chair does not think it can be ruled out on a question of order.

Mr. WASHBURN, of Illinois. I shall then raise a question of order on both propositions.

The SPEAKER. The Chair overrules the question of order.

Mr. HALE. I propose to amend the amendment.

The SPEAKER. An amendment and an amendment to the amendment are pending, and no further propositions to amend are in order.

Mr. MALLORY. The gentleman from Pennsylvania, [Mr. STEVENS], however, may withdraw his demand for the previous question until the vote has been taken on the pending amendments, and then the amendment of the gentleman from Pennsylvania [Mr. HALE] will be in order.

Mr. STEVENS. I am afraid we should get matters mixed up. I think I had better insist on my demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

On motion of Mr. MALLORY, by unanimous consent, the amendments reported from the Committee of the Whole were read over, and such as no separate vote was asked on were considered as adopted.

Mr. ELDRIDGE demanded a separate vote upon the following amendment:

Insert as follows:

For repairs, refitting, and furnishing the President's summer residence at the Old Soldiers' Home during the sickly season, \$3,000.

Mr. STILES demanded the yeas and nays upon the adoption of the amendment:

The yeas and nays were not ordered.

The amendment was adopted—yeas 58, nays 35.

Mr. NELSON. Would it be in order to offer an amendment changing the cow pasture in front of the President's House to some other place? [Laughter.]

The SPEAKER. The amendment would hardly be in order at the present time.

Mr. PRICE. I desire to know if it would be in order to demand a separate vote upon any paragraph of the bill.

The SPEAKER. Not unless it was amended in Committee of the Whole.

Mr. WALLACE, of Idaho, called for a separate vote on the amendment reducing the appropriation from \$15,000 to \$10,000 for surveying the public lands in the Territory of Idaho.

The amendment was disagreed to.

Mr. STEVENS called for a separate vote on the following amendment:

Page 12, line two hundred and sixty-six, strike out as follows:

For the construction of vaults, as an additional security to the public funds in the United States depositories, \$30,000.

The amendment was disagreed to.

The Clerk read, as follows:

And be it further enacted, That the compensation of the clerk to the Committee of Ways and Means shall be \$2,100 per annum, to commence with the present Congress; and such sum as may be found necessary to pay the same be, and is hereby, appropriated.

Mr. WASHBURN, of Illinois. I offered an amendment to that, that it should commence and end with the present Congress, which the gentleman from Ohio [Mr. PENDLETON] accepted.

Mr. NELSON. But he afterwards withdrew his acceptance.

The SPEAKER. The Chair supposed that the gentleman from Ohio had accepted it, but he stated to the Chair that he did not do so.

Mr. WASHBURN, of Illinois. It was on the ground of his acceptance of my amendment that I consented to waive my point of order.

The SPEAKER. The Chair will ask the chairman of the Committee of the Whole on the state of the Union, the gentleman from Maine, [Mr. PIKE], what his recollection is of the matter.

Mr. PIKE. My recollection is the same as that of the gentleman from Illinois.

Mr. NELSON. I heard the gentleman from Ohio withdraw his acceptance when objection was made.

Mr. STEVENS. Is not the House controlled by the record?

The SPEAKER. It is; and the record is as it has been read by the Clerk.

Mr. WASHBURN, of Illinois. I insist that the fact is as I have stated it.

The SPEAKER. There seems to be abundant proof on both sides. The gentleman from Ohio, who is absent with a committee of conference, has been sent for.

Mr. WASHBURN, of Illinois. The gentleman from Ohio is now in the Hall, and I ask what is his understanding of the matter.

Mr. PENDLETON. The gentleman objected unless it should be limited to the present Congress. I then accepted or agreed to accept the suggestion of the gentleman from Illinois. At a subsequent period in the discussion, when the gentleman from Massachusetts [Mr. DAWES] offered his amendment, the question of order was raised as to his amendment, and I stated that I accepted it. The question of order was insisted on, and afterwards was withdrawn. At all events the Chair put the question whether I accepted the modification or not, and I stated that I desired it to come in without modification unless the question of order was made. The Chair stated that the question of order was not made, and therefore I did not accept it.

Mr. WASHBURN, of Illinois. I will state how I understand the matter, and the chairman of the Committee of the Whole on the state of the Union will bear me out. The gentleman from Ohio proposed this amendment, which was out of order, and which I objected to; but I stated that I would waive that objection, provided he would accept my amendment; and he did accept it. I knew nothing of his withdrawal of that acceptance, and he had no right to withdraw it.

Mr. STEVENS. I stand by the record.

The SPEAKER. The reporters corroborate the Clerks.

Mr. WASHBURN, of Illinois. If this thing is to be thrust upon us in this way, I hope that it will be all voted down. I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 40, not voting 64; as follows:

YEAS—Messrs. William J. Allen, Allison, Ancona, Ashley, Augustus C. Baldwin, Baxter, Beaman, Blow, Brooks, James S. Brown, Ambrose W. Clark, Coffroth, Cole, Cravens, Dawson, Driggs, Eden, Edgerton, Eldridge, Elliot, English, Gauson, Garfield, Grider, Hale, Herrick, Hooper, Asahel W. Hubbard, Hulburd, Ingorsoll, Philip Johnson, Kalbfleisch, Kelley, Francis W. Kellogg, Knapp, Knox, Longyear, Mallory, Marcy, Marvin, McBride, McClurg, McKinney, Middleton, William H. Miller, Moorhead, Morrill, James R. Morris, Morrison, Nelson, Noble, Odell, Charles O'Neill, Pendleton, Pruyn, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Robeson, James S. Rollins, Ross, Scott, John B. Steele, William G. Steele, Stevens, Siles, Strouse, Stuart, Sweet, Wadsworth, Ward, Whaley, Wheeler, Chilton A. White, Williams, Wilder, and Windom—78.

NAYS—Messrs. Ames, John D. Baldwin, Blair, Boyd, William G. Brown, Freeman Clarke, Cobb, Creswell, Dixon, Eckley, Farnsworth, Finck, Frank, Harding, Harrington, Charles M. Harris, Higby, Holman, John B. Hubbard, Julian, Loan, McDowell, Daniel Morris, Norton, Orth, Perham, Pike, Pomeroy, Price, Edward H. Rollins, Scofield, Sloan, Smithers, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Joseph W. White, and Wilson—20.

NOT VOTING—Messrs. James C. Allen, Alley, Anderson, Arnold, Bailly, Blaine, Bliss, Boutwell, Brundage, Broomall, Chandler, Clay, Cox, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Denison, Donnelly, Dunont, Feuton, Gooch, Grinnell, Griswold, Hall, Benjamin G. Harris, Hotchkiss, Hutchins, Jenekes, William Johnson, Kasson, Orlando Kellogg, Kernan, King, Law, Lazear, Le Blond, Littlejohn, Long, McAllister, Melrose, Samuel F. Miller, Anos Myers, Leonard Myers, John O'Neill, Patterson, Perry, William H. Randall, Rogers, Scheuch, Shannon, Smith, Spalding, Starr, Stebbins, Thayer, Van Valkenburgh, Voorhees, Webster, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—64.

So the amendment was concurred in.

During the roll-call,

Mr. HIGBY stated that Mr. SHANNON was detained at home by sickness, and that Mr. KELLOGG of New York was suddenly called away to attend a wounded son at Fortress Monroe.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate have disagreed to the amendments to the House to the bill of the Senate (No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia, ask a committee of conference on the disagreeing votes of the two Houses thereon, and have appointed Mr. MORRILL, Mr.

WILLEY, and Mr. WADE as such committee of conference on their part.

WAYS AND MEANS.

Mr. HOOPER, from the Committee of Ways and Means, reported back a bill to provide ways and means for the support of the Government, and for other purposes.

Mr. WASHBURN, of Illinois, moved that the House adjourn.

The motion was not agreed to.

Mr. HOOPER. I move that the bill be printed, referred to the Committee of the Whole on the state of the Union, and postponed until Wednesday next.

Mr. WASHBURN, of Illinois. I demand the reading of the bill.

The bill was read.

Mr. HOOPER. I move the previous question upon my motion.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was referred to the Committee of the Whole on the state of the Union, ordered to be printed, and its consideration postponed until Wednesday next.

NORTHEASTERN BOUNDARY.

Mr. RICE, of Maine. I ask unanimous consent to report from the select committee a bill for the defense of the northeastern boundary.

Mr. HOLMAN. I object.

Mr. RICE, of Maine. I move to suspend the rules.

Mr. HOLMAN. I move that the House adjourn.

The motion was not agreed to.

Mr. HOLMAN. Is it in order to ask for the reading of the bill?

The SPEAKER. It is not until after the rules are suspended.

Mr. HOLMAN. The only objection I have is that the character of this bill is not understood.

Mr. RICE, of Maine. My object is to have the bill printed and recommitted. I do not expect action on it this session, but desire to have it printed that members may be enabled to examine it.

The rules were suspended, the bill introduced, read a first and second time, recommitted to the select committee, and, with the accompanying report, ordered to be printed.

Mr. RICE, of Maine, moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. WASHBURN, of Illinois, (at twenty minutes to ten o'clock, p. m.) the House adjourned.

IN SENATE.

Tuesday, June 21, 1864.

Prayer by Rev. B. H. NADAL, of Washington, District of Columbia.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 20th of May, a statement showing the full amount of the public debt of the United States up to the 14th instant; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented the memorial of Alfred Jones, of Missouri, praying for an appropriation to test his invention of a submarine battery for defending the harbors of the country and for rendering more efficient the blockade of the southern ports; which was referred to the Committee on Naval Affairs.

Mr. MORGAN presented a petition of citizens of Wayne county, New York, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated and forfeited estates in insurrectionary districts; which was referred to the Committee on Public Lands.

He also presented a petition of Simeon Draper and other citizens of New York, praying that a

vote of thanks of Congress may be tendered to Commodore W. D. Porter and the officers and crew of the United States gunboat Essex for their gallantry displayed in the destruction of the rebel ram Arkansas on the 6th of August, 1862, and that a bounty may be granted the officers and crew; which was referred to the Committee on Naval Affairs.

Mr. COLLAMER presented nine petitions of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were referred to the Committee on Public Lands.

Mr. LANE, of Kansas, presented a letter of William M. Fishback, claiming a seat as Senator from Arkansas, addressed to him, giving a detailed account of his conduct during the present rebellion, and in defense of himself against charges of disloyalty; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. FESSENDEN presented a letter of the Secretary of the Treasury addressed to the chairman of the Committee on Finance, communicating a copy of a report of the Light-House Board in relation to improvements required in the aids to navigation in marking dangers in the approaches to the harbor of Portland, Maine, and recommending an appropriation for that purpose; which was referred to the Committee on Commerce.

He also presented a petition of men and women of Maine, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which was referred to the select committee on slavery and freedmen.

REPORTS FROM COMMITTEES.

Mr. GRIMES, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 434) to authorize the bailiff of the orphans' court in the county of Washington, and District of Columbia, to serve processes issued by said court and for other purposes, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 255) granting certain privileges to the Guardian Society of the District of Columbia, reported it with amendments.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts, reported it without amendment.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 522) to amend the charter of the Washington and Georgetown Railroad Company, reported it with amendments.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 470) to authorize assimilated rank to be given to the warrant officers of the United States Navy, and for other purposes, reported it with an amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 95) authorizing the Secretary of the Navy to amend the contract with John Ericsson for the construction of the two impregnable floating batteries, the Dictator and the Puritan, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, asked to be discharged from the further consideration of the following subjects, which was agreed to, namely:

A bill (S. No. 5) to amend the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863;

A bill (S. No. 6) to increase the pay of the rank and file of the Army;

A joint resolution (S. No. 10) for the relief of the officers and soldiers of the United States now held captive in the rebel prisons at Richmond and vicinity;

A joint resolution (S. No. 48) concerning appointments in the military service;

A joint resolution (S. No. 49) to provide additional ground for a cemetery at the Soldiers' Home;

A joint resolution (S. No. 56) to authorize the President to call out men by draft for one year;

A resolution of the Senate instructing the committee to inquire into the expediency of making an appropriation for bridging the stream on the military road between Fort Leavenworth and Fort Scott in Kansas, and between Fort Scott and Fort Smith in Arkansas;

A resolution of the Senate instructing the committee to inquire into the expediency of making an appropriation for erecting a bridge across the Republican Fork of the Kansas river between Fort Riley and Junction City;

Sundry petitions of paymasters of the United States Army, praying for an increase of the compensation of their clerks;

Sundry memorials and petitions, praying for an increase of the pay of soldiers and sailors of the Army and Navy of the United States;

Sundry petitions of hospital stewards, praying for an increase of their rank and pay; and

Sundry memorials and petitions, praying that colored troops may be placed on an equal footing with white troops as to pay, bounty, and pension.

HOOR OF MEETING.

Mr. POMEROY submitted the following resolution; which lies over for consideration:

Resolved, That when the Senate adjourns on Thursday, the 23d instant, it adjourn to meet at eleven o'clock on each day for the remainder of the session.

BILL BECOME A LAW.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that the President had approved and signed, on the 20th instant, an act (S. No. 145) to increase the pay of soldiers in the United States Army, and for other purposes.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills of the Senate:

A bill (No. 265) to expedite and regulate the printing of public documents, and for other purposes; and

A bill (No. 306) to grant to the State of California certain lands for State prison purposes.

The message further announced that the House had passed the bill of the Senate (No. 85) to provide for the examination of certain officers of the Army, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House insisted upon its amendments to the bill of the Senate (No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and has appointed Mr. E. WHEELER of Wisconsin, Mr. J. G. BLAINE of Maine, and Mr. J. W. PATTERSON of New Hampshire, managers at the same on its part.

The message further announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 527) making appropriations for sundry civil expenses of the Government for the year ending the 30th June, 1865; and

A joint resolution (No. 101) to provide for the publication of a full Army Register.

The message also announced that the President of the United States had approved and signed on the 18th instant an act (H. R. No. 469) extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 253) to amend the act of December 21, 1861, entitled "An act to further promote the efficiency of the Navy;"

A bill (S. No. 270) to amend an act entitled "An act to establish and equalize the grade of line officers of the United States Navy," approved July 16, 1862; and

A joint resolution (S. No. 44) for the relief of

the clerks at the Kittery and Philadelphia navy-yards.

RICHARD FITCH.

Mr. CARLILE. The Committee on Public Lands, to whom was referred the application of Richard Fitch for a land warrant under the act of 1855, have instructed me to report a bill for his relief. Mr. Fitch rendered military service in the war with Great Britain, and applied for a land warrant under the act of 1855. He could only prove a service of twelve days by record evidence. By parol evidence he has proved an additional service of six days, making altogether eighteen days—four days more than the law required.

Mr. WADE. I hope the bill will be passed at once. I think there is no objection to it.

By unanimous consent, the bill (S. No. 319) to authorize the Secretary of the Interior to issue a land warrant to Richard Fitch, of Ohio, was read three times, and passed.

CARMACK AND RAMSEY.

Mr. COLLAMER. I move to take up the joint resolution relative to the case of Carmack & Ramsey, which was laid over yesterday morning.

The motion was agreed to; and the consideration of the joint resolution (H. R. No. 11) in relation to the claim of Carmack & Ramsey was resumed as in Committee of the Whole.

The joint resolution was reported to the Senate, and the amendment was concurred in. The amendment was ordered to be engrossed, and the resolution to be read a third time. The joint resolution was read the third time, and passed.

INTER-CONTINENTAL TELEGRAPH.

Mr. CHANDLER. I move to postpone all prior orders for the purpose of taking up the bill (S. No. 302) to encourage and facilitate telegraphic communication between the eastern and western continents.

Mr. BROWN. That is a bill which will give rise to a great deal of discussion. We have already devoted one day to it; it has not passed either House, and it is very doubtful whether it will get through at this session. There are bills lying before us here now of great importance to the country and immediate importance connected with the war; and I think it is an outrage upon the condition of the nation that we should devote the last days of the session here to discussing bills of this kind and of this character, in preference to those of national importance that demand our immediate attention. I trust the Senate will not take up a measure that is going to involve us in another day of useless discussion.

Mr. CHANDLER. This bill will lead to no discussion unless the same small, factious opposition appears that appeared when it was up before. The friends of the measure have nothing to say about it. It is a bill to surround the globe with a telegraphic wire. I hold in my hand a dispatch from our minister to France relative to a convention recently concluded at Paris in reference to a telegraphic line from Africa to Brazil. I will read it to the Senate:

PARIS, May 20, 1864.

SIR: I cut the annexed small slip from *Galignani*. It gives you, I presume, the result of the conference held in Paris some months since to a southern line of route between the European and American continents. I wrote you of this conference at the time it assembled, stating the fact that neither England nor the United States were invited to take part in it.

I am, sir, your obedient servant,

WILLIAM L. DAYTON.

To his Excellency WILLIAM H. SEWARD, &c.

Copy of the slip.

"After conferences opened at the Ministry of Foreign Affairs for the establishment of an international telegraphic line, projected by M. Balestrini, between the European continent and America, a convention on the subject was yesterday signed by M. Drouyn de L'Huys, the Brazilian, Italian, and Portuguese ministers, and the *Chargé d'Affaires* of the republic of Hayti."

Those nations have deemed it of sufficient importance to hold a convention by which they pledge themselves to carry a telegraphic wire across the Mediterranean sea down through Africa and thence across the Atlantic ocean by the islands to Brazil, involving an expenditure of many millions. We have now presented to us an opportunity to have direct telegraphic communication with all the civilized nations of the earth, and more, sir, for a telegraphic wire is already extended into India; and at what cost? It is to cost us the use

of a ship-of-war to take soundings in the Pacific ocean; it is to cost us, in every fifteen miles the line goes through the public domain a quarter section of land that is to us entirely useless, or so much of a quarter section as may be needed for the establishment of stations by the telegraph company, and then we promise to pay the company the small sum of \$50,000 a year for that amount of service to the Government for ten years after the line shall have been completed. And, sir, while the nations are holding conventions and resolving nationally to build a line from Europe to Africa and thence to South America across the Atlantic, we, the Senate of the United States, are higgling about a small promise of \$50,000 a year for ten years after the line shall have been completed.

Sir, the friends of this bill have no remarks to make upon it. No statesman will oppose it, and I am astonished that any man representing a commercial State should oppose it. I am not surprised that a northwestern man should oppose it. It is of very little interest comparatively to the Northwest; it only affects that great region in so far as the national aspects of the question are concerned. Sir, the friends of the bill ask for a vote upon it. If its enemies see fit to consume the time of this body as they did on Saturday last, let them do it and take the responsibility. I give notice that I will antagonize this bill against every bill that comes before the body until it is passed. I care not what that bill may be. I simply ask for a vote on this bill.

Mr. BROWN. I like the highway manner in which the Senator demands "Your land and your money or your life" of this Senate in behalf of this corporation. Really, sir, it would seem as if we had nothing else to do but to pour out the public lands whenever any corporation comes forward here and demands them of us, as if we had nothing else to do with the public money but to answer the demands of every corporation that comes and claims it at our hands. Is that the spirit in which the Senator comes here and makes this demand for a corporation which promises to be the most remunerative one in the world? Is that the spirit, sir, in which he comes here and makes this demand for a corporation which, if I am correctly informed, is to be under the control of one that now monopolizes the telegraphic communication across the continent, and is reaping a richer harvest from it than any other corporation in the United States? Is that the spirit, sir, in which he would come forward and make demands of that sort and say what he will antagonize it to all the business of this nation, he will antagonize it to every measure of national importance, to the war, to the finances, to everything that comes up here to save this nation in the hour of its peril? This grasping monopoly, this corporation will come up and say, "Your money or your life, sir." I have no other remark to make as to this demand; I leave it to the Senate to determine now whether they will act in accordance with the best which has been given forth to them here this morning. They, I suppose, understand their duty, and they can act upon it. I ask for the yeas and nays on the proposition to postpone all other business and take up this bill at the demand which has been made in this style and in this spirit.

The yeas and nays were ordered.

Mr. CHANDLER. I desire to say that if I could have this line as a war measure in operation to-day I should be willing to vote \$5,000,000. One single dispatch within the last three years would have been worth more than ten million dollars to this nation. When the Alabama was in the Chinese seas suppose we could have telegraphed, "Keep your vessels in port, the Alabama is around," how many millions would have been saved to the commercial interests of this nation? I therefore say that if I could have the line completed as a war measure I should be willing to vote, and vote it as a matter of economy, \$5,000,000.

Mr. MORRILL. I was not in the other day when this bill was before the Senate, and I regret that the bill should be likely to suffer any prejudice this morning in the impartial and fair consideration of the Senate by the remark from the honorable Senator from Missouri that the bill should not stand in the way of measures which are of public importance. The implication from such a remark is very obvious, that this bill may as well be considered at some other time as the present.

Now, I can hardly conceive that this bill, when looked at in the spirit of candor, as the Senate will of course examine it if it comes up, would be likely to occupy the attention of the Senate for any considerable length of time. The proposition is certainly a very simple one. I do not suppose there is a Senator who does not approve of the undertaking. I certainly need not appeal to the honorable Senator from Missouri, whose public spirit is so well known. The enterprise of constructing a telegraph around the globe certainly would commend itself, I think, to every intelligent gentleman in the country, and that is this proposition, and it is not a thing—and this is all I desire to say on taking the question up—that may be acted upon now or next December without prejudice to the public. It is a thing that the circumstances of the case demand should be acted upon now if you desire to secure the advantages, which I think are of very great public importance, which you may lose if you do not act upon it at once. By the arrangements made with the Russian Government it is necessary that the party acting for the American interest should proceed to secure the advantages of that contract, and actually to commence the construction of this line upon the Russian territory prior to June, 1865. If this bill is postponed until December and then not passed till late in the winter of 1865, it will be seen at once that it will be entirely impracticable to enter upon the construction of the work prior to June, 1865, so as to secure absolutely the benefits of this arrangement. I think that of itself, if the enterprise is considered laudable, desirable, should induce the Senate to take up this measure at the present moment and give it its present consideration.

I hope, therefore, that my friend from Missouri will not invoke the judgment of the Senate against this bill in the first place as one of very little moment. I appeal to the Senate that I can hardly conceive of an object in its character more grand than the one contemplated. That it is one of immediate, pressing importance as applicable to the passing events of the day, I do not mean to argue; but it is important, nevertheless, on that account. I say, therefore, that I hope the Senate will not be prejudged against this bill, and will not refuse to take it up on the statement that this is a case which may be postponed, but that the Senate will be disposed to allow it to come up for consideration now.

Mr. WADE. I have said nothing on this subject; but I have not omitted to speak upon it because I do not feel a very deep interest in the passage of the bill. I know it has been hinted that gentlemen have been tampered with on this subject, but I can say that no person has approached me in regard to it. I saw some years ago that the idea of this great and beneficial project of circumscribing the whole world and bringing us in telegraphic communication with the nations was projected; I have watched its progress with a great deal of interest, and without the least doubt that when it should come before the American Congress for our aid and support it would receive it without argument. I had expected that those engaged in this enterprise would ask of us as our fair proportion toward it much more than they seem to desire. The burden to be imposed upon us to enable us to participate in this great and grand measure is very light indeed; and I am entirely unable to understand why it is that the proposition has elicited so much feeling as has been manifested in the Senate. I should be exceedingly loth to have it go to the eastern continent that the great American nation failed to second this important movement, so beneficial to them, at least as much so as to any other people in the world, because they were so hard pressed with this war. I do not feel that to be so. I know that the war is a great burden to us; but a great and proud nation should never bow its head, even before a storm like this, and show to the world that it does not feel competent to take care of its own concerns in a direction that will be so honorable to it if it second the movement and so shameful if it refuses. Suppose we refuse to participate and stop this great enterprise, how should any of us feel if we were to go to Europe and the fact were mentioned to us?

We are not asked to run any risk. We are only called on for \$50,000 a year, and we are not to pay that until the line is in operation; there is

no contingency about it. It must be in operation usefully, permanently, before we are to contribute a cent. I hope we shall take up the bill and pass it at once. The Senator from Maine has told us why it is necessary to take it up and act upon it now if we are to act at all. We cannot be too quick about it. I did not rise to argue the question, but only to say that presuming there is a majority here that fully understand all the bearings of the question, we may as well pass upon it without further argument as to spend more time in its discussion. One entire day has already been consumed over it, and I presume it was then discussed in all its important bearings, which are remembered now and need not be repeated. I hope, sir, we shall take up the bill at once and pass it without further discussion.

Mr. GRIMES. If the Senators who are the advocates of the passage of this bill suppose they are going to expedite its passage by characterizing the conduct of those who opposed it upon a former occasion as petty and small they may possibly be reckoning without their host. So far as I am concerned, I opposed the passage of this bill from conscientious motives, and I propose to continue to do so; and it is not going to pass to-day without thorough investigation and argument, such argument as shall not only be heard here, but as I intend, so far as I am concerned, shall be heard by my constituents and the country. If the Senator from Ohio and the Senator from Michigan are so anxious that this bill shall pass without any further debate why do they rise here and expatiate themselves upon the merits of the proposition, and why are they joined by the Senator from Maine? Is it supposed that those who act from equally conscientious motives in opposition to the passage of the bill will not say something in their own vindication and to justify their own vote, justify the conduct they have hitherto pursued, and that which they propose to pursue hereafter?

The Senator from Ohio says he should be ashamed to go to Europe if the Senate should hizzle upon a question of this kind. Why, sir, there is not a man in this body who is unwilling to do precisely what the British Government has been willing to do. We are willing to grant the right of way; we are willing to give the lands; we are willing that vessels-of-war should be employed in transporting, if you please, the material with which the construction is to be made, and in laying down the cable and making the surveys and soundings. What I object to is the subsidy, which is not given by either the Russian or the British Government. Why is it that Great Britain is unwilling to give any subsidy when this telegraphic line is to connect her with her own immediate possessions, and that we are asked to give a subsidy when it is only going to connect us with our consuls in Europe?

The Senator from Michigan has told us that this line would have been a saving to the Government of \$5,000,000 if it had only been constructed at the time the Alabama was in the Chinese seas. Will the Senator tell me how far it is from Behring's straits, where it is proposed to lay down this telegraphic line, to the most northern port that the Alabama touched? Thousands of miles. And how could the Senator have had any communication between Behring's straits, or the mouth of the Amoor river, and our vessels-of-war that were at that time in the Chinese waters? No method of communication at all. Then of what advantage would it have been? How would it have saved \$5,000,000 to the Government?

Mr. CHANDLER. Does not the Senator know that England now has a line to Calcutta?

Mr. GRIMES. Calcutta is in the southern part of Asia. England has communication from Europe, through Egypt, down to Calcutta, but that is thousands and thousands of miles from where the Alabama was. She was not at Calcutta at the time the Senator speaks of, and that is thousands and thousands of miles from Behring's straits.

I am not going to be put in a false position in regard to this matter. I do not intend to have it said on my part that I am opposed to granting every reasonable facility for making this line of telegraph. I am willing to do precisely what other Governments have done; I am willing to do exactly what is necessary in order to secure the telegraphic itself; but I know, and I think every man who has conscientiously investigated the subject

knows, that this telegraphic line can be and will be constructed without any subsidy from us. It is in the hands of one of the richest companies on the face of the earth. It does not belong to Mr. Collins. Whatever right Mr. Collins may have derived from the British Government under what is called the concession (which is neither more nor less than a letter from the secretary of the Duke of Newcastle stating the terms upon which the right to construct this telegraph may be secured) he has transferred to the Western Union Telegraph Company, for which he received the sum of \$100,000 down, and \$1,000,000 in paid-up stock of the company, with a stipulation that he should be permitted to receive \$1,000,000 more, for which he is to pay. I hold in my hands a circular issued by the directors of the Western Union Telegraph Company, dated March 24, 1864, and signed by O. H. Palmer, secretary of the company—a circular to the stockholders, informing them what steps had been taken to secure Mr. Collins's interest, the amount of stock they proposed to increase after having secured it, and the manner in which they proposed to dispose of that stock. I will read it:

WESTERN UNION TELEGRAPH COMPANY,
SECRETARY'S OFFICE,
ROCHESTER, NEW YORK, March 24, 1864.

To the Stockholders of the Western Union Telegraph Company:

The grand enterprise of uniting Europe and America by overland telegraphic communication by way of Behring's straits has been inaugurated under the auspices of this company.

Not under the auspices of Mr. Collins.

The great importance of the undertaking, if successfully accomplished, as it is believed it will be, not only to this company, but to the commerce and civilization of the world, can hardly be over-estimated.

For the last eight years Perry McD. Collins, Esq., American commercial agent and acting consul at St. Petersburg, Russia, has been pressing the subject assiduously and indefatigably upon the attention of the Russian Government, and has finally obtained its favorable consideration, and has secured from that Government, as well as from the British Government, highly favorable grants and privileges. These valuable grants and privileges have been made over to your company.

I cannot within the brief limits of a circular give a detailed statement of the rights secured or of the terms of the transfer to this company.

The Russian Government undertakes to construct a line from St. Petersburg to the mouth of the Amoor river, in eastern Asia, a distance of about seven thousand miles, and it has already built the line as far as Irkutsk, on Lake Baikal, nearly three-fourths of the distance. It is to be taken up by this company at the mouth of the Amoor, and continued by way of Behring's straits till it shall intersect the present line of the company at some point between Chicago and the Pacific coast. The action of the British Government in respect to British Columbia has been liberal and honorable. The grants and concessions from the Russian Government are exclusive for thirty-three years.

Mr. Collins retains the right to one tenth part of the new stock created for the construction of the line, free from call or assessment, as paid-up stock; also the right to subscribe for one tenth part, upon the same footing as other subscribers. He is also to receive, as compensation for his services and expenses during the eight years engaged in securing the grants, the sum of \$100,000, which will be a charge upon the fund arising from the creation of the new or extension stock.

Mind you, during these eight years he was the commercial agent and consul of the United States at St. Petersburg, drawing a salary from us.

These terms were believed by the board of directors to be as reasonable on the part of Mr. Collins as justice to himself would warrant.

It would seem that this company thought this grant was of vast value to them, and I apprehend that at the time they gave the \$100,000, and the \$1,000,000 of paid-up stock, they did not think it would be necessary to come to Congress to obtain a subsidy of \$500,000 to enable them to construct the line. The circular goes on:

For the purpose of accomplishing the object aimed at in the most speedy and efficient manner, the board of directors, on the 18th day of March, instant, as authorized by the charter of the company, unanimously adopted the following resolutions:

"1. Resolved, That a special stock of this company, to be denominated the extension stock, and to consist of one hundred thousand shares of \$100 each, be, and the same is hereby, created for the purpose of erecting and constructing a new telegraphic line from some convenient point on the present lines of this company (not east of Chicago) to the mouth of the Amoor river in eastern Asia, and connecting the telegraph systems of the eastern and western continents by the way of Behring's straits."

Now, mark the next resolution:

"2. Resolved, That all persons who shall be shareholders in the Western Union Telegraph Company at the close of business on the 16th day of May, 1864, shall be entitled to receive of the stock hereby created an amount equal to fifty per cent. of the stock then held by them respectively

in the Western Union Telegraph Company, (excluding, for the convenience of distribution and to avoid fractions, all odd shares,) upon the payment by them to this company of the par value of such stock as hereinafter provided. That twenty thousand of said special shares be set apart for Perry McD. Collins, Esq., in pursuance of the agreement made by this company with said Collins, one half of which is to be subject to no further payment or call; and that the residue of said shares be distributed to such persons and in such amounts as in the judgment of this board shall seem best calculated to advance the substantial interests of this company."

What does this mean? They provide that each stockholder shall receive fifty per cent. in the new stock, and that two million of the ten million shall go to Perry McDonough Collins, and then the "residue," after that distribution, shall "be distributed to such persons and in such amounts as in the judgment of this board shall seem best calculated to advance the substantial interests of this company."

"3. Resolved, That the special stock hereby created shall be entitled to no interest or dividend until the completion of said contemplated line, and until a dividend shall be earned thereon, and that the holders of said stock shall have no right to vote thereon at any election of officers of this company until the same shall have been paid up in full or otherwise declared full stock, and shall have been made and declared to be homogeneous with the general stock of this company as hereinafter provided.

"4. Resolved, That upon the completion of the said new line, a separate and distinct account shall be kept of the receipts and expenses for a period of two years from the time it is opened for through business; and that as soon thereafter as the accounts can be examined and adjusted, the special stock hereby created and the general stock of this company shall, by resolution of this board, be merged and united upon the basis of their respective relative net incomes; and the said special stock may for this purpose be increased or diminished accordingly, and from the period of such union all distinction between the several kinds of stock shall cease and determine.

"5. Resolved, That in the final adjustment of the relative value of the extension and general stock of this company, the extension stock shall be credited with a rebate of forty per cent. on the Western Union tariff, upon all the through messages passing over the contemplated new line; and that while said new line is in process of construction, and until the same is completed, the same rebate upon the messages passing over such portions of the new line as shall be finished shall be credited to the said special stock, and accounted for to them as part of the revenue of said new line.

"6. Resolved, That the secretary be directed to give notice by a printed circular to the shareholders of this company, of the rights and privileges secured to them respectively of taking their proportion of the said special stock; and all shareholders who shall neglect to give notice to the secretary of their election to take such stock, on or before the 16th day of May next, shall be deemed to have declined to take the same, and the stock so declined shall be and remain at the disposition of this company.

"7. Resolved, That each person who shall be entitled to, and who shall elect to take the said special stock (except Perry McD. Collins, Esq.) shall, at the time of indicating such election, pay to the treasurer of this company five per cent. upon the nominal or par value of the stock assigned to him, and shall receive a certificate for said special stock, showing the number of shares, the amount paid thereon, the special character of the stock, and stating that the unpaid balance of said share shall be subject to call at the pleasure of this board.

"8. Resolved, That in case any of the parties taking such special stock shall neglect or refuse to pay the said five per cent., or any subsequent installment that may hereafter be called in, for a period of thirty days after the same shall become due and payable, this board shall have the right to declare such unpaid stock to be forfeited, with all previous payments made thereon, if any, and may sell and dispose of the same at its discretion.

"9. Resolved, That the moneys to be paid to Perry McD. Collins, Esq., under the contract made with him by this company, for the transfer of his grants, be charged upon the fund arising from the new stock hereby created."

I give the resolutions entire, as best calculated to impart the information sought to be given by this circular.

As matter of interest to the stockholders, I would also mention that in view of the contemplated construction of the overland European line of telegraph, connecting the two hemispheres, the stock of the Pacific Telegraph Company not owned by the Western Union Company has been merged into the stock of this company, so that we now have but a single interest between the Atlantic and Pacific oceans.

Although the 16th of May is the time fixed for determining as to the distribution of the new stock, yet I shall be glad to receive as early notice of the election to take or not the part of the stockholders as may be practicable.

Respectfully, &c.,

O. H. PALMER,
Secretary.

I have read this communication to show the Senate that Mr. Collins is not the man in interest. It is this immense monopoly known as the Western Union Telegraph Company that has seen fit to buy of Mr. Collins, according to its own declaration, these concessions or whatever they may be (they are evidently exceedingly valuable in its opinion) and to pay him \$100,000 in cash, and to give him in paid-up stock \$1,000,000 and then the right to subscribe, as though he had been an original stockholder in their original company, for \$1,000,000 more. With that showing, do you suppose it is necessary for us to do more than the

British Government has done, more than the Russian Government has done? Do you suppose it is necessary for us to do more than furnish our Navy to survey the route, to transport their materials, and to sink their wires; that more is necessary for us than to give them land, the right of way, the eternal use, for such they get under the bill? If anybody comes to that conclusion, he reaches a vastly different one from the conclusion at which I have arrived.

Mr. MORRILL. The honorable Senator from Iowa does not deal with his usual fairness when he attributes to me a disposition to argue the merits of this cause on the question of taking up the bill.

Mr. GRIMES. I only followed the example of the Senator's associate and himself.

Mr. MORRILL. I caution the honorable Senator not to follow a bad example, when he chooses to apply it to me, for, sir, I forbore to say anything on the merits, and simply invoked the Senator from Missouri not to undertake to prejudice the mind of the Senate against this bill outside of its merits; and I did not suppose that on the question of mere taking up I should be allowed to state the merits of the case very much at large; and I do not purpose to do so now further than I find it necessary to reply to the argument of the Senator from Iowa. But before I reply to him, before I tell the Senate what the mare's nest is that he supposes he has discovered in the circular which he has read, I want to say a word as to what I understood occurred on a former occasion. Then it was said that there was no evidence before the Senate that the American interest had secured any grant from the Russian Government or from the British Government at all, and the papers not being at hand they were demanded.

Now, sir, this question has been before a committee of the Senate, whose duty it was to inform the Senate on some things, to find some facts, and one fact they did find was that the gentleman who represents the American interest had made a beneficial contract with the Russian Government by which he had secured an undertaking on the part of the Russian Government to build a line of telegraph in connection with the European lines down to the mouth of the Amoor river; and a further fact that the Russian Government had conferred upon this American citizen the right, the exclusive right, to extend that line of telegraphic communication to Behring's straits, and thence across the straits to the British frontier; and further that this same American citizen had acquired the right from the British Government to construct in continuation this line to the American boundary. These are prominent facts, important facts in the case; the committee find them and report them to the Senate. If anybody doubts on that subject, here are the documents; here is the original document in the Russian language, and here is the interpretation of it; and here is the document from the British Government, showing in detail that these rights have been secured to this American citizen. I will send them to the Clerk's desk to be read at the proper time if anybody raises a question on that point.

Mr. POMEROY. I dislike to interrupt the Senator, but I think the rules are to very little purpose if we can discuss the merits of a question on a motion to take it up. This discussion has been prolonged to such an extent that I do not know but that it ought to be permitted to go on now; but I supposed the question was on taking up the bill, and I submit whether we can discuss the merits of the bill on that motion.

Mr. MORRILL. I understand the honorable Senator to be quite right about that. I began by saying that it was not my intention to go very far into the merits of the case, and I think I am authorized in what I have said by what has been said on the other side. It is strictly in reply.

Now, a word in answer to the argument of my honorable friend from Iowa, which is calculated—not designed, I know—to create a prejudice against this measure before it is in a condition to be considered by the Senate. That is the tendency of it. He reads a circular here which he thinks prejudices this claim at a time when it is not before the Senate to be considered on its merits.

Now, sir, let us look at it. What are the inferences which the honorable Senator desires the Senate to draw from the circular he has read in your hearing? He says here is an overgrown

monopoly back of this; Mr. Collins is the mere creature in their hands; he has little or no interest in it. Well, it is a monopoly of the American Government; it is a child of your own; if it is odious and hateful it is your fault. But is it so? In what sense is the Western American Union Telegraph Company a hateful monopoly? Where is the evidence of that? That is all assumption, I submit, with all respect to my honorable friend. I have yet to learn that the Western Union Telegraph Company (if that is its name) is a hateful and odious monopoly, at the mention of whose name the legislation of the Senate should stand aghast. I content myself with saying that there is no evidence of any such thing before the Senate.

Mr. BROWN. Permit me to call the Senator's attention to the fact that it has been necessary for us here already at this session to legislate against the abuses of that company—legislate against their abuses in selling at high and exorbitant rates the transmission of news to single papers and associations of papers, exercising a discrimination against others; and that it has won the hostility of almost the entire press of the United States in consequence.

Mr. MORRILL. I think it very likely. The press are a little sensitive on a great many subjects in which I do not sympathize very much. I am not going into that controversy. What is to be apprehended from this monopoly of which the honorable Senator speaks? What calamity is to befall the American people if this monopoly is permitted to build this telegraph line, and so connect with those which are to complete the circuit of the world? That is the question. How is the public interest to be prejudiced or injured by it? Will the honorable Senator be kind enough to explain that to us?

This line, as I understand, is to cost an outlay of at least \$5,000,000. The Secretary of State tells you in his communication to the Senate that probably it will cost an outlay of \$10,000,000. How is that investment to be made? Who is to make it? The telegraph poles are to be set up and the wires to be put upon them at an expense of from five to ten millions. Who is to do it? The Government does not propose to pay a dollar. Mr. Collins, with all the enterprise he has exhibited, and it is of the most commendable character, is not able to do it. Where is the man or the set of men that is to give to the American people this great boon of a telegraph around the globe? Will the honorable Senator tell me that? Oh! he says, it can all be done; there is no trouble about it; it will go itself; if you put up the poles, the line, according to the laws of gravitation or some other great law not explained, economic or otherwise, will range along the poles, and the lightnings will begin to flash some morning when the sun rises. But, sir, telegraphs are not produced in that way; they are not the product of any such law that I ever heard of. If the honorable Senator can tell me who will build this line, who will put in the five or the ten million dollars, I will turn my back on this hateful company that he speaks of, but until he can show me the man or the class of men that has the spirit or the enterprise to undertake to construct a thousand miles of line through a trackless desert a portion of it, and some of it up to the latitude of 63° north, until he can show me the man of spirit and enterprise that has the capital and is willing to do it, I shall continue to think it singular good fortune that the American people have cherished in their midst an institution, if it be an institution, or a company that has the means and the enterprise to undertake the accomplishment of such an object as this.

That is my judgment in regard to it; and instead of invoking a prejudice against this company, I think they deserve our commendation and the thanks of the American people that they are willing to come forward and to second the movements of this citizen of ours, Mr. Collins, who has devoted the last ten years of his life with singular assiduity, with wonderful enterprise, to this great work.

The honorable Senator informs us that Mr. Collins has been commercial agent of the United States during all that time. Does the honorable Senator know what salary he has had? Does the honorable Senator know what pittance he has lived on? Does the honorable Senator know that

the salary paid to him has been merely nominal, mere nothing? During the ten years he has been there he has projected this great enterprise which is to encircle the globe with a telegraphic wire; and he comes and lays it down a boon at your feet. He tells you that he has not only been able to obtain the favor of the great Power of Russia for its encouragement, and to bring the line down to the mouth of the Amoor river, but that Power has given to him, an American citizen, the exclusive right to construct the line to the east and across its possessions; and thence across the British possessions he has the right from the British Government.

This is an enterprise on which the honorable Senator thinks it is worth his while to invoke the prejudice of the Senate. I commend Mr. Collins for his enterprise, his public spirit, his self-sacrificing devotion to a great end; for I stand here to say that among the great things of the last half century none will stand higher in history than this, and I take especial pride in the fact that an American citizen has conceived it and has accomplished it thus far. It needs now, what? It needs for the American Government to say that in the spirit of enterprise, international comity, and commercial unity, they will cooperate with the Russian Government and the British Government, and join hands in putting around the globe an electric circle. On that my honorable friend from Iowa invokes the prejudice—no, I do not know that I ought to say that; but the argument that he submits here is calculated to excite the prejudice of the Senate against the whole enterprise, to postpone its consideration, throw it over to the next session; when I have already admonished him that that is fatal to the whole enterprise, and that to postpone is to defeat.

My honorable friend has read from this circular; he does not favor us with the inferences which he draws, but he states it in a way to leave us to draw the most unfavorable inferences. That is what I complain of. He says that this Western Union Telegraph Company propose to issue ten thousand shares of special or extension stock for the purpose of building these eight thousand miles of telegraphic line from the American possessions to the Russian possessions and the mouth of the Amoor river. What of that? Is there anything wonderful in that? Is there anything that should excite your apprehensions of danger? Is there anything in that fact which would advertise the Senate to be on their guard against conspiracy? Was any company ever organized yet that did not issue stock in a similar way? How is a road or a telegraph ever to be built except upon the issue of stock?

Mr. CONNESS. Will the honorable Senator permit me to suggest to him that we are now organizing just such a company, just such a monopoly, for the building of an overland Pacific railroad, giving them a grant of \$100,000?

Mr. MORRILL. I am quite obliged to my honorable friend.

Mr. BROWN. I would suggest also that it is not customary, though, for committees charged with that business to report against all rival routes.

Mr. MORRILL. I had not the good fortune to hear my friend from Missouri.

Mr. BROWN. I was answering the Senator from California.

Mr. CONNESS. The Senator says his answer was to me. I confess I do not understand him. I understood him to say that committees to whom such subjects were referred were not in the habit of making reports against rival routes. Am I right? I certainly am at a loss to know what the honorable Senator means.

Mr. BROWN. I will explain, with the permission of the Senator from Maine, that to this same committee that has reported the bill granting this subsidy to this line through California and Oregon, another bill was committed granting a subsidy to an overland line from Idaho across; that the committee in making their reports have discriminated against that, have given the subsidies and land grants to this line, and have not only done so but have given it branches all through the Territories of the United States, making it virtually the largest monopoly in the world.

Mr. MORRILL. If I could suppose anybody on earth had any private griefs as to that action

of the committee, I have an abundant answer; but as I do not suppose anybody has, and as it has not the slightest connection with the line of my argument, I beg leave not to reply to it at the present time. I prefer to confine myself to the argument of my friend from Iowa. His statement was that the Western Union Telegraph Company is to issue ten thousand shares of this extension stock. Very well; that is the method of building it. Now, who will take it? That is the question; who will take those ten thousand shares and pay the ten millions of money and build the line? That is the question. How does my honorable friend explain that? Until the shares are taken the line is not built, that is clear. In order to build the line the shares must not only be issued but they must be taken by somebody. Who is to take them? My friend says one thousand shares are to be given to Mr. Collins as a gratuity. Just think of that—a millionaire at once. But let us consider. This man has got in his pocket I assume—I do not know how the fact is, but to make the argument strongest against him I assume he has got a thousand shares of this extension stock in his pocket. What is the par value of it? What is it worth to-day, not a shilling paid in? Who will take it? What is its value? How will you estimate it? There is not a pole up; there is not a mile of line; there is nothing but this general grant in his favor. Now, what is the value of his thousand shares? That is all prospective. My honorable friend estimates that they are worth \$1,000,000. But they are worth one penny or nothing at all just as the enterprise succeeds, and the enterprise succeeds just as they go forward and pay in the money, dollar for dollar; and if the enterprise is a good one, if they can make the line as they expect, if the enterprise is feasible and the route is as feasible as they believe, and it does not cost more than \$10,000,000, then it is a plain proposition; he will have \$1,000,000, and he will thus get a reward for his ten years' labor and enterprise, and connect his name in future history with one of the grandest enterprises of the last fifty years. That will be the result. Who will mourn over that? Seeing that he is an American citizen, is that a thing to weep over? No, it is a matter over which I will rejoice, and so will every patriot in the land; and will rejoice, and none more so than my honorable friend from Iowa.

But the honorable Senator says that the stockholders of this company have really divided among themselves fifty per cent. of the additional extension stock, after deducting what Mr. Collins is to have. Suppose they have, what is that worth? Much or little, dependent on the success of the enterprise. That is, they agree to take so much of the new stock. To-day it is not worth a shilling. When they pay in their money dollar for dollar and build the line, then the stock will be worth par if a success, possibly more, possibly fourfold. I hope so. No harm will come to the public, I trust, if an American company should succeed in that way. But the honorable Senator says there is another very significant fact, and what is it? That the remaining fifty per cent. is to be divided among such persons and in such amounts as the company shall determine. What is the inference to be drawn from that? I suppose it is that that is to be given to the "lobby" to carry this bill through. What then is to be done with that other fifty per cent.? Who has any of it in his pocket? Who has been approached with it? If according to these inferences I were to meet Mr. Collins, I should expect to find his pockets stuffed to repletion with this surplus stock for such persons and in such amounts as would favor this interest! Is that so? Is that the interpretation of the circular? Do men engaged in a great scheme to plunder the Government publish that kind of a record to the country, and then send it here to Congress and put it into the possession of my honorable friend?

Mr. GRIMES. The Senator will permit me to say that the circular did not come to me from the company. It is addressed to the stockholders; I suppose it was not printed for public use; but I would inquire of the Senator what disposition is to be made of that extra stock?

Mr. MORRILL. I will inform the honorable Senator. The inquiry seems to imply that I was not wrong in the inference which I supposed

the honorable Senator desired the Senate to draw, that this surplus fifty per cent. of stock was to be distributed as a gratuity to whoever would help the bill along; and they, with that fact patent on their record, instruct their secretary to notify the stockholders of that fact! It is not a private circular; it is a thing for the world, as their records are open to the world. Does anybody suppose that this fact is susceptible of any such inference as that? What is the honest inference? Here is this telegraph company about to invest ten millions of money, more or less, in this extensive stock, in this grand enterprise of constructing eight thousand miles of telegraph line, the success of which is undetermined. They naturally say, "We vote to each of ourselves the right to take fifty per cent. of the stock that is left after Collins gets his share, and agree to take that amount. But what is to be done with the rest of it? As men desirous to make money, what shall we do with the other four millions?" because, according to the argument of my honorable friend, what is left is worth four millions. "If we can get a subsidy from Congress of half a million, we will give them four millions!" That is the argument. Would not that be a nice speculation, to give away four millions and get in return a subsidy of half a million, payable in installments beginning five years hence? They will never build the line if that is the class of men they are. But what is the rational interpretation? It is this: "Having secured the taking of fifty per cent. by our own stockholders, we will distribute the residue in the Atlantic cities at great points where we can secure the patronage of the public and the favor of the public over our line." To give it away? No, sir, but to sell it, to dispose of it for the construction of the line; and if it is that "big thing" which my honorable friend tells the Senate it is, you will find many a broker, I dare say, advertising the sale of this stock, and you will find men very solicitous to buy it—not men expecting to get it as a gift or a bonus. Now, I submit to the candor of the Senate and the judgment of the Senate; looking at this public circular, looking at these facts spread out on the record, whether it can feel authorized to draw an inference prejudicial to this great enterprise from such a fact.

My honorable friend assumes that this will be a very lucrative enterprise; that these men will make an immense amount of money out of it; that they are very rich now. My first answer to that is, that none but a company that was able could or would undertake such an enterprise or could carry it through; and it is a blessing and not a curse that they are able to carry it through. That is my first proposition. The second is that, instead of its being demonstrable that it is to be "a good thing," there are no facts in the case which authorize any such assumption. If it shall become the great line of intercommunication between the eastern and western continents, when there shall be some two or three hundred million people on this continent, and when telegraphic communication shall become familiar as the alphabet to the American people, as in no remote future I trust it will, then I can conceive that this will not only be one of the grandest enterprises of the century, but will make good returns to the stockholders. I should hope so; I should trust the future of this country would warrant as much as that.

Now, Mr. President, having done thus much, having attempted simply to repel the inferences against this bill, I have done all I desired to do at this stage of the case, and will meet the question on its merits when the subject is before the Senate.

The PRESIDENT *pro tempore*. The question is upon the motion of the Senator from Michigan, that the Senate proceed to the consideration of the bill (S. No. 302) to encourage and facilitate telegraphic communication between the eastern and western continents, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 24, nays 15; as follows:

YEAS—Messrs. Chandler, Cottam, Conness, Davis, Dixon, Doolittle, Harris, Hendrick, Hicks, Howard, Howe, Johnson, McDougall, Morgan, Morrill, Nesmith, Saulsbury, Sprague, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, and Wiley—24.

NAYS—Messrs. Anthony, Brown, Clark, Cowan, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Lane of Indiana, Pomeroy, Sherman, Ten Eyck, and Wilson—15.

ABSENT—Messrs. Buckalew, Carlile, Harding, Henderson, Lane of Kansas, Powell, Ramsey, Richardson, Riddle, and Wright—10.

So the motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

The PRESIDENT *pro tempore*. The pending question is on an amendment offered by the Senator from Michigan [Mr. CHANDLER] to the proviso in the third section, which the Senator from New Jersey [Mr. TEN EYCK] moved to strike out. The amendment of the Senator from Michigan is to strike out the word "fifteen" before "years" and insert "ten," and to strike out "one hundred" and insert "fifty" before "thousand;" so as to make the proviso read:

Provided, That if, during any of the ten years aforesaid, the business done for the United States under said contract shall, at the ordinary rate of charge for private messages, exceed the sum of \$50,000, an account thereof, duly authenticated, shall be presented to the Secretary of the Treasury, who shall certify the same to Congress for payment.

Mr. DOOLITTLE. I suggest to the Senator from Michigan to allow the vote to be taken on these two propositions separately. First, let us vote on reducing the time to ten years.

Mr. CHANDLER. Very well.

Mr. DOOLITTLE. I was going to suggest that the other amendment should not be agreed to, but that the Secretary of the Treasury should only certify the excess over \$100,000.

Mr. CHANDLER. That \$100,000 should be \$50,000.

Mr. DOOLITTLE. Let the question be divided.

The PRESIDENT *pro tempore*. The question is susceptible of division; and the first amendment is to strike out "fifteen" and insert "ten."

Mr. TEN EYCK. I inquire of the Senator from Michigan whether he really thinks that will answer his purpose. There are two portions of time to which this may apply. There are five years given in which to complete the line, and then there are ten years after it is completed during which the subsidy is to run; and that is the reason, I presume, that "fifteen years" was first put in this proviso.

Mr. CHANDLER. No, sir.

Mr. TEN EYCK. My object is to perfect the bill, and not to make war upon it. Will not the amendment, as the Senator now has it, require the subsidy of \$50,000 a year to be paid for the first ten years, including the five years when the line is being constructed?

Mr. CHANDLER. No; there is nothing to be paid until the line is completed.

Mr. TEN EYCK. My impression is otherwise.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The next amendment is in line nineteen of section three, to strike out "one hundred" and insert "fifty" before "thousand."

Mr. JOHNSON. If I understood the remarks made by the mover of the amendment, he intended to reduce the expense of the Government; but I rather think that he has perhaps increased it by this amendment. We are to give \$50,000 a year for the use of the telegraph whether we use it or not; and as the bill stands without the amendment, if we use it to the amount of \$100,000 then we are to pay extra.

Mr. CHANDLER. The bill as originally drawn gave a subsidy of \$100,000 for fifteen years. The committee cut down the time from fifteen to ten years, and the amount from \$100,000 to \$50,000. There was a clerical error, however, in the proviso to this section, in not making that change.

Mr. JOHNSON. Whether this is a proper amendment or not, looking to the view taken by the chairman of the committee and the friends of the bill, is one question. Whether it is such an amendment as the Senator from New Jersey contemplated making, or those who may agree with him, is quite another thing. I understand now that the bill as originally drafted gave to the company \$100,000 for ten years, whether it should be used or not. That is to say, we should have a right to use it until the amount should be \$100,000. Now you have reduced that to \$50,000, which makes the gratuity on the part of the Government, if it can be called a gratuity, \$50,000 instead of \$1,000,000; but when you come to the

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

WEDNESDAY, JUNE 22, 1864.

NEW SERIES.....No. 196.

proviso you say, provided this amendment be adopted, that if we use it to an amount which, according to their rates, will exceed \$50,000, then in addition to the \$50,000 we shall pay for the excess, whereas the bill as it is upon our table only requires us to pay for the excess provided the excess be over \$100,000. I only wanted the Senate to understand what is the effect of the amendment, and to call the attention of my friend from New Jersey to it in order to show him that I think he has proposed an amendment which is not at all in accordance with his purpose.

Mr. TEN EYCK. I hope the Senator from Maryland will not charge me with the responsibility of having moved this amendment. I have resisted it. I have called the attention of the Senate to the peculiar character of this proviso, and I have moved to strike it all out, not designing that there should be any such provision in the bill. After making that motion I stated the difficulties arising out of it, and that I supposed the fair construction of this proviso would be not only that the company should receive the subsidy of \$50,000 a year for the period of ten years subsequent to the time the Government made a contract with the company to transmit their messages, but that it would also require the payment for transmitting all the intelligence over the line which a faithful and accurate account would show exceeded the amount of \$100,000; and I supposed that the design of the persons who were interested in the bill was that between the amount of \$50,000 and \$100,000 there should be no account kept, and that if the Government transmitted messages to a greater amount than \$50,000 and less than \$100,000, there should be nothing paid on account of the excess over the \$50,000, as an inducement on the part of Congress to pass this bill and give this authority. I stated that I was opposed to any subsidy at all, and that I was opposed to paying any amount that might be asked for transmitting messages amounting to \$100,000 in addition to the \$50,000. In consequence of that difficulty, the Senator from Michigan moved to amend the proviso, and he has got it in the present shape which now requires us to pay for all the messages transmitted; and that being so, I see no occasion for putting in "\$50,000," unless it is to require the Government to pay that amount anyhow. That will be the effect of it. If we do not transmit a message or properly make ourselves liable to one dollar's expense during the whole period, according to the provision proposed by the Senator from Michigan we are to pay the \$50,000 a year by way of subsidy, and if we transmit messages to a greater amount than that we are to pay just like private individuals.

Mr. CHANDLER. Allow me to suggest that I have drawn this proviso to satisfy the Senator's doubts:

Provided, That no payment shall be made to said company until the line is built and in working order.

Mr. TEN EYCK. I do not object to the Senator proposing any amendment that he sees fit, but I am opposed to the whole proviso. Of course my motion to strike out must give way to his efforts to perfect the proviso and put it in the shape that he thinks proper and right to effect his object. After he shall have accomplished that I shall still insist upon having the proviso stricken out, because I think the appropriation of \$50,000 a year is under the circumstances improper.

Mr. CHANDLER. I shall not offer the proviso which I just suggested, for I think the clause is now sufficiently guarded.

Mr. JOHNSON. I have no objection to this bill. I should like very much to see the enterprise carried out. The only question is what amount of disbursement we should incur. As it stands now we are to give in annual payments for ten years \$500,000, and for that we are to have the privilege of using the telegraph at the rates which the company may charge, but only until by our use of the line according to those rates we shall have used it to the extent of \$50,000 a year.

Mr. DOOLITTLE. The honorable Senator

from Maryland will excuse me for interrupting him. The amendment which I proposed the other day and which lies upon his table printed has reference to this matter of the rates, and proposes to restrict the rates so that they shall not be at the option of the company.

Mr. JOHNSON. I was not speaking of the rates. I referred to the rates, not for the purpose the Senator supposes, but for a different purpose.

Mr. DOOLITTLE. I understood the honorable Senator to say that the rates would be at the control of the company.

Mr. JOHNSON. I did not say so; but I said that no matter what the rates might be, without inquiring into what they might be or what we may direct that they shall be, whenever we do use the line, and the rates charged to us shall exceed \$50,000 a year, then we are to pay for every dispatch that we send in excess of that amount. Now it seems to me to be a very good bargain on the part of the company, and not unreasonable on the part of the Government, to ask that if we are willing to advance, whether we use it or not, \$500,000, we should not be compelled to pay for every excess that may be caused by our use of the lines. I supposed, therefore, that the bill, as it was printed and as it was placed upon our table, had met with the concurrence of the committee, that the \$100,000 mentioned in the last proviso of the third section was not an error, but that the committee thought we should be at liberty to go on to the extent of \$100,000 in consequence of our agreeing to give, whether we use it or not, \$500,000. If the Senate should be of a different impression, it may be that we shall have to pay for each one of these ten years \$100,000, when we could by properly sustaining the company make a bargain which would authorize us to use the line to the extent of \$100,000, paying only \$50,000.

Mr. MORRILL. It is plain enough what the intent of the framers of the bill was. As it stood originally, it pledged the Government to pay \$100,000 a year for fifteen years, and gave them the privilege of using the telegraph to that amount; provided, however, that if they used it to a larger amount than that they should pay for the excess. The committee amended the bill by reducing the sum to be paid to \$50,000, and the time to ten years, so that the Government by the bill now stand pledged to pay \$50,000 a year for ten years with the privilege of using the telegraph for those ten years; provided, that if they shall use it to a larger amount than \$100,000 they shall pay the overplus. The mistake was in not reducing the \$100,000 in the proviso to the \$50,000 as in the sum granted. That was an oversight on the part of the committee, and now to make the bill symmetrical and harmonious with its original purpose, the \$100,000 in the proviso should be reduced to \$50,000, and then the Government would be on that showing pledged to pay \$50,000 for ten years, and as much more during the ten years as the Government use of the telegraph may amount to. If the Senate think the Government ought to have the entire use of it as provided in the bill for ten years for the \$50,000 a year, then the proviso ought to be stricken out entirely, and the motion of my honorable friend from New Jersey should carry. Otherwise I hope that the proviso will be made to correspond with the sum granted. I am quite indifferent about it myself.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on the motion of the Senator from New Jersey to strike out the proviso as amended.

Mr. MORRILL. Let the proviso be read as it now stands.

The Secretary read it, as follows:

Provided, That if during any of the ten years aforesaid, the business done for the United States under said contract shall, at the ordinary rate of charges for private messages, exceed the sum of \$50,000, an account thereof, duly authenticated, shall be presented to the Secretary of the Treasury, who shall certify the same to Congress for payment.

Mr. CHANDLER. I hope that proviso will not be stricken out.

Mr. TEN EYCK. I do not wish to prolong the discussion lest I should come under the censure of our friends who seem to think that there is a desire here by faction to kill the bill. I am in favor of the general principles and provisions of the bill, and have said so from the beginning; but I do not wish the Government, under all the circumstances that have been stated, to undertake to bind itself to pay a subsidy. I prefer that there should be no such obligation. I think it is unnecessary. I think the Government ought not to undertake that burden now. I am not sure whether the striking out of this proviso will have any very great effect or not; but as I understand the third section, which has been retained in the bill by a tie vote of the Senate, if this line be constructed the Government can contract with the telegraph company for the use of the line for a period of ten years at the rate of \$50,000 a year; and that will be the contract, as I understand, if the section stands without the proviso. Whether the Government transmits messages to the amount of \$100,000 or to the amount of \$5,000 only, the payment is to be \$50,000 a year for the use of the line, if the proviso be stricken out. I think, under the circumstances, this proviso should be stricken out, because I should be opposed to the Government undertaking to pay \$50,000 a year anyhow, and then \$50,000 more if it should turn out by reason of the use of the line that that should be required, after having given to the company the use of the Army and Navy for the purposes stated in the bill, and public lands to the amount of thousands if not millions of acres.

Mr. HOWE. I want to say a word. The reception that this bill has met with in the Senate has astonished me a little. I do not think we meet it with the welcome that it is entitled to. I have never seen Mr. Perry McDonough Collins; I have never seen the Western Union Telegraph Company; I do not know that I ever saw a man who belongs to the Western Union Telegraph Company or has any stock in it; and I have not got any myself. The minister of one of the foreign Powers resident here called my attention to this measure not long since, and I was half mortified and half gratified that a measure of this magnitude that promises such immense results to the world should have first been brought to my notice by the subject of a foreign Power. I did think that a man born in New England and domiciled in the Northwest ought to be up with the times; but I found myself behind time on that occasion. A gratifying fact, however, which goes in some way to offset this is that a citizen of the United States, appointed some years since commercial agent to reside at the mouth of the Amoor river, instead of taking the usual track to his place of destination, took it into his head, acting in the spirit which actuates the American people, if not the American Government, to traverse the Russian empire and finally brought up—I think the first American citizen who made that journey—at the mouth of the Amoor river. Not satisfied with that, after examining the country and its resources and its capabilities, he proposed to the Russian Government and then to the Government of Great Britain the project of building a telegraph line to connect these two continents. He secured readily, it appears, promptly, the cooperation of those two great Powers, and now comes to his own people and to his own Government and asks us for our cooperation; and we object. And what are the objections? First, that Mr. Collins is likely to make something out of the enterprise. I trust he will. I think he ought to do so. Secondly, that somebody else will do it for less, and that the Government need not subject itself to the expenditure which this bill suggests. What is the evidence that somebody else will do it for less? These two continents have lain for several years just as they are now; this route has been open to the world, if it pleased to occupy it, ever since my remembrance, and perhaps some time before that; and none of your other telegraph companies, and

none of your other enterprising citizens have ever proposed the idea of connecting these two continents by telegraph; and now, when the route is surveyed and the capabilities of the countries through which it passes made known to you, you fancy that somebody else, if permitted to step in and take hold of these discoveries, may do the work for less than it is offered to be done for here. I want to see the guarantee. The one fact, I know, is that here is a proposition to build the line without a dollar's cost or a dollar's risk to the nation; and only when it is built, without a dollar's cost or a dollar's risk to the nation, then you are to commence to pay for the use of it, and you do promise to pay absolutely, whether you use the line or not, the sum of \$50,000 a year.

Mr. WILSON. Suppose the line does for us \$60,000 worth of work?

Mr. HOWE. The bill provides that if it does \$60,000 worth of work for you you shall pay \$60,000, and I think the American Government ought to pay for all the work that is done for it, and I believe it is willing to do it. There was a proposition in this bill to give to this company the use of a quarter section of land once in fifteen miles for the use of their agents and stations. I believe it has been reduced to forty acres. The Senate was startled at it as a prodigal flinging away of the public domain. Mr. President, you have already announced to the world that you consider a single settler on any one of your quarter sections of land worth the one hundred and sixty acres, and you offer it as a free gift; and here when a company proposing an enterprise like this ask you to be furnished for use, and not to sell a quarter section of land, you want to cut it down to ten acres.

But getting over that obstacle, circumscribing them to the occupation of forty acres once in fifteen miles, you come next to the proposition whether you are willing to pay \$50,000 per annum for ten years to have the use of this telegraph. You tell us we are at war; we have great need of money. I know the fact: I am not prepared to dispute that. Fifty thousand dollars is a good deal of money, unquestionably; \$50,000, if it be levied *per capita* upon a population of twenty millions, and I suppose ours equals that and will equal it after the war is concluded, amounts to two and a half mills per head. The gross payment for ten years would be two and a half cents to each individual. Now, enormous as that may be, and hard up as I am, I want to say by way of encouraging this enterprise that I am willing to stand it. And more than all that, if the Western Union Telegraph Company can change a five cent note I am willing to pay my two and a half cents in advance, the whole of it, and take the risk of the completion of the line.

Sir, the single question for us to determine, it seems to me, is whether we think it is worth to the American people and the American Government \$50,000 to have the capacity furnished to us of communicating daily with all the courts of the eastern continent. Facts transpire here every few months, the communication of a single one of which to the different courts in Europe, I think, would be worth \$50,000 in cash. The prompt communication of a single fact, as we know from the history of Governments, may often save a war. This much I say in reference to the political importance of this measure. Its commercial importance perhaps outweighs this vastly. I am almost prepared to say that if I knew the Government would not want to use this line for a single message during the first ten years, I should be willing and I should be proud to have the Government make this utterly insignificant expenditure to achieve this vast enterprise.

Now, Mr. President, without saying more, I am prepared to vote against the motion to strike out the proviso. Is it not astonishing that in the Senate it should be objected to that the originators of an enterprise like this, if they should do more work for the Government than the \$50,000 calls for, should be paid the excess by the Government? Is not the laborer worthy of his hire even if he does labor for the Government, and even if he originates the field of his labor in tracks which you never dreamed of occupying until within a very few months?

Mr. WILSON. I take it, Mr. President, that we are all interested in having this telegraph line built, and I suppose we are willing that the Government should make a reasonable contribution

toward its construction, but in giving this aid we are desirous to protect the Government as far as possible. It happens that whenever such questions are presented there are different parties in the country, and some men propose to do what is required to be done cheaper than others; and there is an opinion in the country that such measures are sometimes carried through Congress under corrupt influences. My experience here teaches me that there is very little of corruption in any of these measures that go through Congress; but it is plain to any man who has been here that Congress is often overreached by able and sagacious business men that know more about these matters than we do. I think that when any proposition of this kind comes before us we should give the subject a fair consideration and we should endeavor to protect the Government in all respects.

A few years ago we all desired the construction of a telegraph to the Pacific; it had the sentiment of the whole country in its favor. The Senate passed a bill granting the company certain privileges and a certain amount of money. The bill went to the House of Representatives, and a practical business man of that House took the matter into consideration; his committee referred it to him. It was represented that it would cost \$750,000 to construct a telegraph line to the Pacific ocean. He went into an examination of the subject and demonstrated that it would cost less than four hundred thousand dollars, and he had an amendment made to that bill which saved money to the Government. The line has been built, I understand, for less than four hundred thousand dollars; and its business is such that its stock is worth one hundred per cent. advance at this time. I am glad they have made money; and I hope the parties who embark in this enterprise will make money. I hope the stock will begood; I care not how many per cent. it advances.

I have made up my mind to vote for this bill; I shall vote for it on general principles, because I believe it will accomplish great results; and as the representative especially of a manufacturing and commercial section of the country, I have nothing else to do but support a bill of this kind if it is well and carefully prepared. We have made several amendments to this bill which I think have improved it, and therefore I shall vote for it.

Mr. TEN EYCK. As I mean to move to strike out the whole of the third section when the bill comes into the Senate, and shall then state in a few words my reasons for so doing, I shall abstain from discussing the matter now.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on the motion of the Senator from New Jersey to strike out the proviso to the third section.

The motion was not agreed to.

Mr. DOOLITTLE. I now present, with the leave of the chairman of the Committee on Commerce, the amendment of which I gave notice yesterday. It is to insert as a new section:

Sec. —. *And be it further enacted*, That the rate of charges for public or private messages shall not exceed on said line the average usual rates in Europe and America for the same service, or such rates as shall be ascertained and fixed by a convention between the United States, Russia, and Great Britain.

Mr. CHANDLER. I have no objection to the amendment with the latter clause. The line goes through an inhospitable region, and a little higher charge may be necessary; but the latter clause allowing the rates to be fixed by a convention of the three Powers saves it.

Mr. DOOLITTLE. It is to go through the territory of the United States, of Great Britain, and of Russia, and the provision is that those three Powers may by convention fix and regulate the rates, so that the company cannot oppress the people of either country.

Mr. BROWN. I really cannot see the force of the amendment which the Senator from Wisconsin has offered. I think it is the veriest sham that was ever put upon a bill. I should like to know what the "usual rates" are. I should like to know from the Senator from Wisconsin how they are to be ascertained. I should like to know how they are to be enforced when they are ascertained. And furthermore, I should like to know how they are going to continue as they now are if we give a monopoly of all the telegraphing in the United States to this one company.

Mr. DOOLITTLE. It seems to me so clear that I shall not stop to go into an argument. If we were to authorize the construction of a new railroad and should say that the company in charging its rates of freight and fare should not exceed the usual rates in Europe and America, I think the fact could be ascertained. But lest there might be any difficulty on that subject, lest the company should establish any rates oppressive upon the people either of the United States, Great Britain, or Russia, it is provided that the three countries by a convention can fix the rates and this company has got to comply.

Mr. GRIMES. I think the amendment is in excellent accord with the principle of the bill. It gives to the agents that may be appointed by the British and Russian Governments the power to determine how much this Government shall pay. That is the effect of it.

Mr. CHANDLER. It is the same to all.

Mr. GRIMES. I do not see any such provision in the Russian concession. We do not know what arrangements may be made with this company for the transmission of telegraphic dispatches through British America or through Russia; but so far as we are concerned, this amendment puts the payment that we are to make completely into the hands of men a majority of whom are foreigners.

Mr. DOOLITTLE. Does my friend from Iowa think we can fix the rates of charge of a line in Russia or in Great Britain? This line runs through Russia further than it does through the United States and Great Britain both. As a matter of course, therefore, Russia, Great Britain, and the United States should be consulted; and they together by a joint convention should fix the rates of messages over this line that runs through the three countries.

The amendment was agreed to.

Mr. BROWN. I offered an amendment on Saturday last, which was adopted, requiring that there should be no discrimination by this company against particular newspapers or associated agents of the press, or against other telegraph companies. I now offer an amendment to enforce that provision, to come in immediately after the amendment which was added to the third section on my motion:

And upon proof of any refusal to comply with the provisions of this act, it shall be the duty of the Secretary of the Treasury to suspend all payments that may be due or coming to said parties or their assigns, and any person injured by such non-compliance may sue in any court of the United States having jurisdiction and recover for the damages so sustained.

Mr. MORRILL. There is no objection to that. The amendment was agreed to.

Mr. DOOLITTLE. I desire to ask the Senator from Missouri a question in relation to an amendment which he proposed on Saturday, and which I believe was adopted. His amendment, if I recollect aright, made a direction as to whom the answers to messages should be delivered. I desire to suggest that the provision should be that the answers to dispatches should be delivered to such parties or persons as may be directed by the persons sending the dispatches to receive them. Perhaps, however, it would be more proper for me to reserve the matter until the bill comes into the Senate. I shall then offer an amendment such as I have indicated.

Mr. BROWN. I move to amend the bill by striking out after the word "America," in line nine of section one, the words "with such branch lines as may be needed to open communication with the various mining districts and other settlements in said Territories." I desire by this amendment to strike off from this company, which it is proposed here to subsidize so largely, the power of monopolizing all the telegraphing in the Territories of the United States. I have already called attention to the attempt of other telegraph companies to get authority to construct lines to these mining regions and across the northern portion of the continent on the same terms that were originally granted to the Western Telegraph Company that it seems is going to control this overland line. That has been refused by the Committee on Commerce.

Mr. CHANDLER. No, sir.

Mr. BROWN. It has been refused in the shape in which it was presented with a provision for a subsidy. The committee have stricken out all

subsidy from all enterprises of that character; but now it is proposed to subsidize a line which shall have authority to construct the same branches, and to give this company the right to cover all the Territories with branches and to monopolize, virtually, all the telegraphing and dispatching of the Government of the United States. If it is absolutely necessary that this line shall be constructed as a circuit around the world, let us confine it to that express business, and not give these extensive additional privileges, because I am frank to say that I am interested as far as possible in breaking up the monopolies of these telegraph companies. It is becoming the worst system in the United States for the transmission of news. It affords us the poorest, the most unreliable of all modes of transmission. It is becoming the most remunerative to its owners and the most undesirable to the public that can possibly be imagined, and all as I believe from the process which is now going on, of consolidating in one or two hands all the telegraph lines of the United States. I, for one, am desirous of distributing and breaking that up as far as possible. I am solicitous, therefore, that this amendment shall be adopted which will deprive them of this right.

Mr. CONNESS. One word as to this amendment. I hope it will not be adopted. The Senator says his object is if this line shall be subsidized by the Government to confine it to dispatches between certain points distant from each other, and not to give the company the right to control and monopolize, as he calls it, the telegraphing in the interior of the country.

Now, sir, let us see. The lines of the overland Telegraph Company who are to enter upon the construction of this line as proposed under this bill, at present extend to Salt Lake only. From the Pacific to Salt Lake it is a California line, a California company. The two lines there meet, and by a division of receipts they arrange for the transmission from the East to the West of telegraph dispatches. It is not proposed under this bill to authorize what is called the Western Company to go to California, and I do not understand that they contemplate going to California. They intend, perhaps, and in all probability will strike off from Salt Lake directly westward to the northern Pacific, to the Territory of Washington, or to the northern part of the State of Oregon, perhaps through Idaho, perhaps through Montana, and thus shorten their line to the Russian Possessions.

Now shall we adopt an amendment which will prevent the company, after passing through Montana or Idaho Territory, from running up or down and connecting themselves with the towns and localities along the route? What monopoly, I pray, is there in a company who propose to build a line across the continent and then to make lateral lines wherever there is business enough to pay for their employment and use? If the Senator desires to prevent an abuse of the use of this privilege and of the use of their lines, let him suggest amendments that will compel the company to receive from all parties in the order in which dispatches are offered such dispatches as are offered and at equal rates to all parties, and let him accompany these amendments with either penal provisions or specific rights to whoever is refused to sue and collect from the parties in management so refusing. Let us have safeguards of that kind if necessary. I apprehend the parties who desire the passage of this bill will not object to that. I am in favor of such provisions.

But there is another bill that has been referred to here in the discussion of this measure. It is a bill that authorizes a company connected with what is called the Independent line of telegraph to build a line to the Pacific. I believe that it was introduced by the honorable Senator who now fills the chair, [Mr. POMEROY,] and referred to the Committee on Commerce, and reported back. I am in favor of that bill. Let it be passed. They say, in a communication laid on Senators' desks this morning, that they are able and willing to build the line to the Pacific if you give them the right of way. Very well; give them the right of way: you will certainly not offer them more than they ask for; but when you propose giving them the right of way, are you going to amend their act so as to deprive them of the right of building lateral lines where they shall choose to build them, or where the business of the country de-

mands their being built? Certainly not. But we are told that you propose to subsidize the line proposed by the bill under consideration; and those people are willing to build a line without subsidy. Now, let me see whether the cases are parallel. I undertake to say that they are not. The company whose circular I hold in my hand propose simply to build an independent line to the Pacific. There they stop. Do they propose building a line through Russia? Do they propose connecting with the British or Russian lines? Certainly not. Do they say they have any concession from either of those Governments, or any right to make any such connections? Certainly not. If they had I would as freely vote for and advocate the passage of a bill to authorize them to enjoy these privileges and rights as to any other party. But the privileges that they ask for I, for one, am willing to concede without restriction upon them as to collateral lines. Why shall we propose a restriction or vote to impose a restriction upon this company as to lateral lines? If they start off from Salt Lake or that vicinity through Utah or Idaho to the Pacific ocean, we wish in California to have the privilege of letting them run a line to our State, so as to give us the benefit of all their extensive ramifications by their system of telegraphing.

I make these remarks to show that I think there is no proper room for jealousy as between these companies or between the privileges demanded by either of them. I hope that this measure will pass without a restriction of the kind now proposed, and that then we shall take up the other bill and pass that too. Let them send intelligence wherever they will and establish the means for its communication. I do not entirely agree with my friend from Missouri, that the telegraph is the most unsafe and unreliable means of communication. I know that it is attended with great difficulties; but without it where should we be to-day? If it were possible that anything should happen that would deprive us of the means of communication by telegraph to-day it would come upon the world like midnight. We do not know and cannot estimate what the loss would be until we should again experience it and lapse into our former condition.

Mr. MORRILL. I desire to call the attention of my honorable friend from Missouri to one clause of this bill which I think relieves it of the odiousness of that feature which he ascribes to it. It will be seen that all these branches contemplated are in the unsettled portion of the country and are to connect with the mining districts and such settlements as it may be desirable to connect with, almost entirely now an uninhabited portion of the country. Now, I assume that it is desirable that such communication should be made, that somebody should make it. This is the only company that propose to do it. What is the objection to their having permission to do it? It may be said that you grant them the privilege and they will complete the lines when they please. The bill came to us originally in that form, but if my friend will look at the last clause of this section he will see that a contingency of that sort is provided against; that unless all the branches contemplated by this bill are constructed within five years the power to construct them is null and void; so that they cannot cover over that whole territory against everybody. If they do not perform what is contemplated by this bill within five years, then their right to do it ceases forever. Now, I take it it would be a boon to the American people if they would do it within five years; and as nobody else proposes to do it, why should there be objection to their doing it? I do not see, therefore, the importance of the proposition.

Mr. GRIMES. There is another argument against this proposition of the Senator from Missouri. I understand it to be a fact—I have it from those who know—that if a dispatch is sent over any other line than the Western line or the American line which is connected with it, to Salt Lake, and it reaches the commencement of the Pacific line, it will not be sent thence to California. You cannot send a dispatch through over the Independent line, or in sending a dispatch from the Pacific, it will not be sent over the Independent line, although that may be the only branch that will reach you wherever you may be. If that is the method in which this Western Union

Company conduct business, and you do not allow them to build these various lines through the Territories, the result will be virtually to cut off all these Territories from telegraphic communication, because it will be impossible for them to have communication with the outside world, except over the lines of this Pacific or Western Telegraph Company. I think, therefore, the Senator from Missouri will do a great injury to the people of these Territories if, in consequence of the refusal of this Western Union Telegraph Company to transmit dispatches coming over other lines, he should deprive the people of all opportunity to telegraph, which they so much desire.

The amendment was rejected.

The bill was reported to the Senate as amended. The PRESIDING OFFICER, (Mr. POMEROY.) The question is on concurring in the amendments made as in Committee of the Whole.

Mr. DOOLITTLE. I desire to except an amendment which was adopted on the motion of the Senator from Missouri, [Mr. BROWN,] relative to the persons to whom answers to dispatches shall be delivered.

The other amendments were concurred in.

The excepted amendment was read, as follows:

After the word "public" in line fifteen of section four insert:

And to any other telegraph company upon payment of the regular charges for transmission of dispatches, and all such dispatches shall be transmitted in the order of their reception, and the answers thereto shall be delivered to said companies for transmission over their lines to the office whence the original message was sent.

Mr. DOOLITTLE. I move to amend the amendment by striking out the last clause, beginning "and the answers," and inserting "and the answers to said dispatches shall be delivered to such parties as may be directed by the sender."

The amendment to the amendment was agreed to, and the amendment, as amended, was concurred in.

Mr. TEN EYCK. I now move to strike out the whole of the third section which relates to the subsidy, in accordance with the notice I gave when we were upon the proviso, and as it is thoroughly understood it is hardly worth while that it should be read by the clerk again. It is the section which appropriates \$50,000 a year for ten years, with an additional payment for service rendered the Government in the transmission of messages, and providing for keeping an account if that service shall exceed the sum of \$50,000 a year.

I make the motion and will submit an observation or two, for two purposes: one is that I have a little personal feeling about this matter; it is rather a matter of personal interest to put myself right on this question; and the other is a much more important one, to save if I can the Treasury from a needless subsidy.

It has been said by Senators in speaking on this subject that those who have opposed this bill in some of its features are opposed to the bill itself, and I had the vanity to suppose that the Senator from Michigan alluded to me this morning when he expressed his surprise that a Senator from a commercial State should oppose the bill, though he was not surprised at Senators from the Northwest doing so. Sir, I do not oppose this bill; I am a warm, enthusiastic friend of the bill. No man can glory more than I do in the credit and renown which this country and this Government will gain by being instrumental in establishing so great and magnificent a work as this line of intercommunication which is to surround the globe. Sir, I have been an ardent friend of every species of public improvement from the time I could understand what that meant. It is one of the cardinal principles and doctrines of my creed. But the question is not here whether this work is to be built or not; the question is, how is it to be built, and under what circumstances? and that is the sole question.

I shall not take up the time of the Senate in recapitulating the ability and strength and power and exclusive privileges which have been conferred upon the gentlemen comprising this company; that has been so fully ventilated before the Senate as to attract the eyes of all men in this country to their power, their influence, and their interest. But the question is whether the Government of the United States shall give a subsidy of \$50,000

a year certainly for ten years, and perhaps \$50,000 a year in addition, under the provisions of this bill.

I admit that the Government should pay like an individual for the service which is performed for it. The Senator from Wisconsin [Mr. Howe] seemed to express some surprise that Congress should be indisposed to pay in behalf of the Government for the labor and service that might be rendered for it by this company. I do not occupy that position here. He asks whether, if the transmission of the Government messages should amount to more than \$50,000 a year, the Government ought not to pay for transmitting them. I say certainly it ought, standing alone as a single question; but why should the Government pay \$50,000 if messages are transmitted for it amounting to only \$1,000 or \$5,000 in a year? By that rule, the Senator's logic does not hold good. But he says this subsidy is to encourage this great national project. Does it need this encouragement? He asked, with tones of surprise and rather of indignation, shall this Government be so mean as to withhold a helping hand to aid in this great project? Why, sir, if I understand the general provisions of this bill, the Government is not to withhold its hand; neither is Congress close, mean, or stingy in the assistance it proposes to give to this company in the construction of this work. I need but simply recapitulate that we give them the use of a quarter section of land for every fifteen miles along the route of these telegraph lines, several thousand miles in length, with the wood and timber necessary for their purposes. We authorize the Secretary of the Navy to detail a national vessel for the purpose of making the surveys and soundings, and carrying the very material with which this line is to be constructed. We also put at the disposal of this company a part of the Army of the country to protect them in this work, and to protect the work after it is completed. I think, then, the Government is not parsimonious, the Government is not close, the Government does not throw difficulties in the way of the accomplishment of this great undertaking.

The Senator from Wisconsin asked why we should not act with the liberality of the Governments of Russia and Great Britain. Sir, if we refuse this subsidy of \$500,000 we shall then, under this bill, afford this company much greater advantages and privileges than have been conferred on them either by the Russian or the British Government. I beg leave to refer for one moment to these papers which have been called contracts. They may, according to the faith of kings, amount to contracts, although I have heard it said you should not put your trust in princes. What does the Government of Russia undertake to do by its officer, Lieutenant General of Engineers Melnikoff? It gives no portion of the army to maintain the work in its erection or to secure it after it is erected. It details no portion of its navy for the purpose of soundings, surveys, or carrying materials thousands of miles. It gives no subsidy; not a dollar. It, however, enjoins it upon the company that they shall employ Russians for the purpose of protecting the work, and it insists upon it, too, that they shall be married men, men of families, who are to be taken with their families and established along the line in a district of country that never had any settlements, for the purpose of increasing its power and populating the district of country through which the line shall pass, having an eye to the increase of its strength and its power, and the extension of its population in that section of country. And

"According to the opinion of the same officer, acting as governor general of Eastern Siberia, all workmen, and a portion of the servants on duty along the projected telegraph line, should be Russian subjects; and as many as possible ought to be married men, with their families. This will likewise be important to the company in an economical point of view, as well as in regard to its relations with the Russian Government."

Then, again, it requires by an express stipulation that the Government of Russia shall not in any way be liable to pay these men who are thus taken for the purpose of guarding and protecting this line, if I read it aright. Then, again, we give here a free, uninterrupted, and unrestricted privilege for all time. By this Russian contract it is stipulated that the work shall be commenced, and five years allowed to establish the telegraph, and thirty-three years for exclusive privilege:

"The term solicited by the company, viz: five years in

which to establish the telegraph, and thirty-three years for exclusive privilege of the same, can be granted under condition that if, in the course of the first two years, no beginning should be made, or if, after the expiration of five years, the whole line should not be achieved and put in operation, then the privilege is to cease."

You will observe that by this boasted contract of the Russian Government which is held up in such flaming contrast to the proposition we now make in our bill, this company are restricted in their exclusive use and privilege of this line to the period of thirty-three years, whereas this monopoly which is now sought to be conferred on this company is to last for all time, and it is to have power to run out its lines to mineral lands in all directions, like fingers running from a man's arm.

Sir, I think that with what Congress now proposes to do under this bill if we shall not grant the subsidy of \$50,000 we may compare the liberality of our Government fairly and favorably with the conduct of the Russian and British Governments. The British Government give no subsidy, as will be found by an investigation of this contract or privilege which the secretary of the Duke of Newcastle has conferred upon the gentleman who has been so distinguished in his efforts to procure the concessions from these different Governments.

The Senator from Wisconsin, who, I am sorry to see, is not here, called this a mere pittance on our part. Well, sir, in view of what we undertake to do it is no pittance. He says who will undertake to do it for less? Without going to anybody else, I say this company will do it for less; and I am authorized in so saying because I know that they first asked, when they introduced their bill, only \$40,000 a year instead of \$50,000; and that would be a saving of \$50,000 in ten years, which is no small matter in these times, when we are racking our brain for the purpose of getting money to carry on this war. They will not only do it for \$40,000, but they will do it and can afford to do it without a dollar of subsidy, and ought to do it under the great advantages we offer them for the purpose of enabling them to carry out this work and to have the sole control of a corporation whose capital has risen within the short period of fifteen months, if I am correctly informed, from \$3,000,000 to \$12,000,000, and, as I believe, it will be worth, if this bill should be passed through both Houses of Congress, the snug little sum of \$20,000,000. Oh, but, says the Senator from California, [Mr. Conness,] in reply to an objection raised by the Senator from Missouri, [Mr. Brown,] that another project of a similar kind cannot receive the fostering hand of Congress, he is perfectly willing to vote for that bill; he is perfectly willing to grant the right of way to the new line which it is proposed to start from the Missouri river and run to San Francisco. He says that bill has been reported, as he believes, without any largess or subsidy being offered on the part of Congress.

When that bill was introduced by yourself, sir, [Mr. POMEROY in the chair,] into this Senate, it proposed that Congress should extend to the United States Telegraph Company, in addition to granting them the right of way, a subsidy of \$20,000 a year. I may mention the fact, because it appears upon the records of the Senate that one bill, this huge bill, was reported back from the Committee on Commerce, of which I happen to be a humble member, with the subsidy of \$50,000 allowed, and the subsidy of \$20,000 asked for in the other case was stricken out; from which I feel myself justified in saying that honorable influences, (not corrupt but honorable influences, the weight of character of men of ability, and skill, and wealth, and their persuasions and their arguments, have been able to satisfy the committee and the Senate that a subsidy should be allowed in the one case and not granted in the other. I myself am not able to see the distinction between the two.

Now, sir, having just made this plain, unvarnished statement of the facts of the case as they stand before us on this bill, I submit most respectfully that at this time, a time of war, when we are in a death-struggle to maintain our armies in the face of the enemy, and when we are undergoing such a trial as no nation under heaven did through its public agents and officers to keep the public Treasury in a position to meet the public demands and to defray the expenses of our Army and our Navy, we should not be hasty in pressing this subsidy of \$500,000, when, ac-

cording to my humble judgment, and I think the facts of the case will sustain me, this telegraph line can be built without any detriment to the persons interested in it, without the grant of a single dollar for that purpose. With these comments I trust I have discharged my duty and have done with the discussion of this matter.

Mr. MORRILL. My honorable friend has stated one fact or alluded to a fact which renders it necessary that I should say a word. It is true the record discloses what he states, that one bill comes from the Committee on Commerce with a subsidy, and another bill, proposing a subsidy, with that subsidy denied; but I think my honorable friend undertakes to draw an inference from it which would be prejudicial to the favor of the Senate toward this bill for that reason; and he forgot to say what he will remember when I repeat it, that there was an obvious and distinct reason why the subsidy was denied in the case referred to, and the reason is as patent on the records of the Senate as the fact referred to. It will be remembered by the Senate that some two or three years ago the Congress of the United States granted a subsidy of \$40,000 a year, I think, for the construction of a line from the Missouri river to San Francisco. Having one subsidized line, I think the Senate will understand why the committee should come to the conclusion that it was hardly worth while for the Government to subsidize another line in the same direction and on almost the same route. I hope that is an answer to any inference which might be drawn from the fact alluded to by my honorable friend from New Jersey.

While I am up I want to say another word about the estimate which is put upon the value of this enterprise by my honorable friend from New Jersey. He says it gives a snug little fortune of \$20,000,000 to somebody. If it shall so turn out I shall never weep over it. If we secure the enterprise it will never be a matter of regret to me that the enterprising men who engaged in it and gave it to the country and to the world for all time have made fortunes, if you please, out of it; but that is a speculation, that is a thing to be tried; that is a thing there are no facts to demonstrate. At the present moment it is all speculation. The fact may be so eventually, or it may not.

Whenever any propositions come up for railroads, telegraphs, or what not, somebody who has got a counter-project, or somebody who does not believe in the thing itself, rises and says, "Now only give that thing to me and I will do the public great credit and make a very good thing out of it myself." Have we forgotten what a struggle it was to get a horse railroad chartered along Pennsylvania avenue between Georgetown and the Capitol? When one party proposed it some one who did not want him to have it would come in and offer to make a great deal better terms for the public, and we were told that in it there were immense fortunes for many people. Well, we granted a charter; the enterprise went forward; everybody admits it is a great blessing to the city; the public has been accommodated, and besides that it is said those parties have made money. I hope they have; I may venture to say they have; but what is the result? You are having railroads all over the city; you have got the thing started; the people see the utility of it, and now we are making railroads on streets parallel to it and at right angles to it, and when that is done what is to become of the fortunes of these men? They will not lose, I hope; but that which is a monopoly will be rendered entirely powerless and entirely harmless, and will be only a benefaction forever to the people in the power Congress has over all such subjects to allow competition whenever competition is demanded. Whenever there are others equally enterprising who will undertake similar enterprises the dividends of the existing companies will to a great extent disappear. I think this is a sufficient answer to what has been said by my honorable friend on that point.

It is said that we propose to give this company \$500,000, \$50,000 a year for ten years, if they will go forward with this enterprise. What do we secure to ourselves in the mean time? We secure to ourselves over this telegraph the opportunity for all the Departments of this Government, executive and legislative, the Navy and the War Departments, to have free intercourse with all sections of the eastern world. Is that noth-

ing? If the value of that intercourse shall be \$50,000 a year it will turn out that we do not give the company anything. But in the advance of a great enterprise of this kind, a subsidy is of value inasmuch as it gives credit and character to it and enables the parties to go forward. I submit whether we should stand here and make an argument as to our making a penny more or less by giving this subsidy if we are satisfied that the subsidy will stimulate the enterprise and enable these men to accomplish the result. Suppose the cost of our governmental intercommunication with the other parts of the world comes to a little less than \$50,000 each year, to \$30,000 or \$40,000, who will ever regret that?

Mr. TEN EYCK. I rise just as the Senator from Maine did, simply to correct a statement. The Senator says that I did not state all that applied to the difference between this line and the other one to which I referred. He says that the reason why a subsidy is allowed in the one case and not in the other is that this is on a new route and requires a subsidy, while the other is on a line already occupied and therefore not entitled to a subsidy; and he seemed to say to me, although he did not use the quotation, "Mark how plain a tale shall put him down." Now, Mr. President, the fact turns out to be, if I am not incorrectly informed, that the Senator is mistaken in relation to that matter; that the new line proposed to be established by the bill which you, sir, [Mr. POMEROY in the chair,] introduced in the Senate was not over a beaten track, but through an unoccupied territory, and a portion of it the very territory which it is sought to cover by the additional provisions to be given to this Western Telegraph Company to extend their lateral lines to the mineral lands. By the second section of that bill it was provided:

"That the said United States Telegraph Company, under the direction of the President of the United States, is hereby authorized to erect a line of telegraph from Fort Hall, by Walla-Walla and the Dalles and San Francisco to Portland, in the State of Oregon, and from Fort Hall to Bannock and Virginia City, in the Territory of Idaho, with the same privileges as to the right of way, and so forth, as is provided in the first section of this act; the United States to have priority in the use of said lines of telegraph to Oregon and Idaho, and for such use the United States Telegraph Company shall receive for the term of ten years from the time of its completion, annually, the sum of \$20,000, which shall be in full payment for all messages transmitted."

That was through a new and unexplored country. This company asked this subsidy of \$20,000 to be given to them as an encouragement, for which they undertook to transmit all Government messages. That was stricken out, but the subsidy was retained in this bill, and with this distinction: as the bill stood originally—it is not so now—\$50,000 were to be given for the transmission of all messages, unless they should amount to more than \$100,000, and then payments for the excess of that \$100,000; but now, by the provisions of the bill as it has been amended, we are required to pay \$50,000 a year for ten years whether we do business over the amount of \$100,000 or not, and to pay for all the excess, if any, over \$100,000. I can myself see a very material difference between the two, and much less reason, in my judgment, for the allowance of the subsidy in the case of the Great Western Telegraph Company than in the case to which I have referred.

Mr. CHANDLER. If the Senator will pardon me, both Senators are mistaken as to the original proposition. The original proposition was to pay the same sum to the new company as was paid to the old. That was the original proposition, which we rejected, and then they came in with another proposition.

Mr. TEN EYCK. Why not keep an account and let the Government pay for all messages that it transmits?

Mr. DOOLITTLE. Fifty thousand dollars is the amount we agree to pay this company for the use annually of this line when it is built. When built, it will connect us with all Europe, all Asia, with the lines that are building with Australasia, with the East Indies, and all the civilized world and the semi-civilized world. Suppose there are three hundred working days in a year, and that the dispatches which would be sent on an average would cost three dollars apiece, which is a low estimate, and \$50,000 would be at the rate of about fifty or sixty messages per day between this Government and all our ministers in Europe, all our consuls and consular agents in Europe, in Asia, in

East India, and in Australasia, all the orders that are to be issued by the Navy Department to our vessels, and the messages that will be received from those vessels at every landing in the whole world. In my judgment, men never made so great a mistake in the world as when they suppose that the use of this line to this Government will not amount to this sum on this very low estimate upon these messages of three dollars apiece for a single message. It is more likely to be more than \$100,000 than anything else, in my opinion. We are not agreeing to pay any subsidy, but simply agreeing that we will pay this amount for the use of this telegraphic communication.

Mr. CONNESS. Let me say to the Senator what he cannot be aware of, which strengthens his position much, that his estimate of three dollars a message will not do at all. They charge now, from Chicago to San Francisco, forty-five cents a word, and a message of ten words to that place from this city costs between six and seven dollars, and it is the cheapest telegraphing in proportion to the distance in the world.

Mr. DOOLITTLE. Mr. President, by the amendment which was adopted some time ago to prevent this telegraph company through this country from oppressing either the public or private individuals, it is provided that the Government of the United States and Russia can at any time by a convention between them put down the rates to just what they think is right, because it is a great international affair.

Mr. President, I introduced this petition in behalf of Mr. Collins, and it was referred to the Committee on Commerce. It is said here that the men who are interested in this work, the Western Telegraph Company, have made themselves wealthy in consequence of the building and connection of these various lines. I grant it; there is no doubt of it; but it is a wealth which has grown out of a new creation. They pressed for an opportunity to build this telegraph line when men thought it was a humbug and could never be sustained; but by their perseverance, and energy, and industry they have achieved for this country and for the world a new creation of wealth. If they are rich enough to build this line now through the country where it is proposed to be built, through that portion of Russia, of the British possessions, and a portion of the United States now almost entirely uninhabited except by Indians, I rejoice at the fact that the company is rich and able to carry through the enterprise, and if it should succeed in the creation of still additional wealth to them, to that I have no objection, provided while they are accomplishing wealth for themselves they are accomplishing a blessing to us and to mankind.

Senators have spoken of our granting land to this company. We grant them the use of forty acres of land every fifteen miles for a station. If they build the line and have their stations in these uninhabited regions of our Territories, by giving them the use of this land we confer a greater benefit upon ourselves than we do upon them. The fact that they shall maintain a station at every fifteen miles is a blessing to us in point of wealth, in developing the value of these very Territories through which the line passes.

Senators object that we are to employ vessels in surveys along the coast to aid this enterprise. That is the very business in which we are now employing some of our vessels, in making coast surveys, and taking the soundings, and understanding the geography of the whole earth.

Mr. GRIMES. But our naval vessels do not carry telegraph wire.

Mr. DOOLITTLE. I say so far as this is concerned it is not doing any injury to us.

Mr. President, I do not wish to take up any time. What I desire is that we may come to a vote on this bill, and I shall now give way, although there were some two or three other considerations which have been thrown out in the course of the debate which I thought of noticing, but I shall forbear to do so.

Mr. LANE, of Kansas. I desire to ask the Senator from Wisconsin a question. This bill is to take the balance of the session, as I understand.

Mr. CHANDLER. Oh, no, sir; we shall be through with it in a very short time.

Mr. LANE, of Kansas. I ask the friends of the bill whether the project will be interfered with by postponing it until the next session.

Mr. CHANDLER. That will postpone it forever.

Mr. DOOLITTLE. We propose to come to a vote now.

Mr. LANE, of Kansas. In my opinion we have just commenced the discussion of this question. I move that this bill be postponed until the first Monday in December next, in order that we may get rid of it and go to the general business of the country.

Mr. BROWN. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 27; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Collamer, Cowan, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Lane of Indiana, Lane of Kansas, and Ten Eyck—14.

NAYS—Messrs. Buckalew, Carlile, Chandler, Conness, Davis, Dixon, Doolittle, Harris, Hicks, Howe, McDougall, Morgan, Morrill, Nesmith, Pomeroy, Powell, Richardson, Saulsbury, Sherman, Sprague, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—27.

ABSENT—Messrs. Harding, Henderson, Hendricks, Howard, Johnson, Ramsey, Riddle, and Wright—8.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment moved by the Senator from New Jersey, [Mr. TEN EYCK,] to strike out the third section of the bill.

Mr. GRIMES called for the yeas and nays, and they were ordered.

Mr. BROWN. I desire to call the attention of the Senate to the fact that the advocates of this measure have constantly endeavored to confound the idea of the necessity of a great continental telegraph with the idea of the necessity for this subsidy. There has been no evidence adduced before the Senate that this subsidy is necessary in order to enable this company or its assigns to construct this telegraph. On the contrary all the evidence we have had here to-day has gone directly to show that it is one of the wealthiest associations of men in the nation, that it has made that wealth out of similar enterprises constructed in the same manner, and that therefore the enterprises themselves are the most profitable known in the country; that this amounts really to a monopoly of the transmission of all messages not only over the route through Russia, but also across through California; that its stock has gone up, I believe one Senator stated, from \$3,000,000 to \$12,000,000, and the probabilities are that it will be put up to \$20,000,000 if this bill be passed as it now stands. And yet, sir, in the face of these facts, we are called upon at this time, when the nation is being taxed almost to the verge of resistance, to vote another \$500,000 out of the Treasury as a subsidy to this company, and when we ask why, we are retorted with the question, Why not? Why will you not aid this great enterprise? Why will you not give assistance to this great enterprise that is going to connect the world in a telegraphic circle? I say it becomes them to show that there is a necessity for this donation, for it is virtually a donation from the public Treasury.

But furthermore I desire to call the attention of the Senate to another fact, that the operation of this subsidy, so to speak, commits the Government to the use of this line as its telegraphic agent, and in so far prevents all competition against it. That is one of the worst features connected with it. It has a tendency to discourage all other constructions of the same kind that might compete with it successfully across the plains to California and Oregon, and through the mineral regions of the interior Territories.

It has been said, in reply to one of the suggestions that has been made here, that the committee which has reported this bill and reported it with a substitute in it refused to report another bill for a line to go across another part of the country with subsidies, that it was because they would not bring in a rival line. When it is known that this is owned by the Western Telegraph Company, as has been shown by the paper which was read here by the Senator from California, and when the committee which reports this bill for their benefit, giving them these subsidies, refuses to report a bill for a rival company with the same subsidy, I ask if it is not a discrimination against them? So far from inviting competition the whole tendency of this legislation is to monopolize and to center in a single hand the telegraphing of the nation, and giving them the exclusive privilege of

telegraphing to these mineral lands which they refuse to others.

Sir, I, for one, am not content to vote for this bill in its present shape. I have no objection to giving to this company or to any other company a right of way through the public domain for telegraphic purposes, and to give them, if necessary, a certain amount of public lands for stations; but I will not voluntarily throw \$500,000 into their coffers when there is no earthly need for so doing. I trust that the amendment moved by the Senator from New Jersey will prevail, and that we will at least, in our haste to heap benefits upon this company, save to the Government \$500,000 that are needed now for our Army.

Mr. POMEROY. I would not have said a word on this bill but for the remarks that were made by the Senator from Michigan and the Senator from Maine in reference to the bill which I had the honor of introducing, which has been before the Committee on Commerce, and reported upon favorably by them with an amendment. The remark has been made that the subsidy was stricken out of that bill because it proposed to build a line over a route that had already been built upon under the patronage of the Government, and for which the Government had paid \$60,000 a year. So far from that being true, there is not a word of truth in it. By the bill which I introduced, and which I hold in my hand, the United States Telegraph Company ask for the right of way to build a telegraph line from the Missouri river to the city of San Francisco, in the State of California, on such route as they might select to connect with the lines now constructed. For this purpose the company ask the use of such unoccupied land of the United States as might be necessary for the right of way and for stations, not exceeding one hundred and sixty acres for every fifteen miles. The company ask for the use of such unoccupied land as may be necessary for the right of way and materials, and for the establishing of stations along the line for repairs. They ask for no subsidy, for no money.

In the second section of that bill the company propose to build, under the direction of the President of the United States, a telegraph line from this main line to California up to Oregon by the way of Fort Hall to Walla-Walla and also to Bannock and Virginia Cities in Idaho, and for that purpose they ask a subsidy. They never asked, nor was there any provision in the bill giving them a subsidy for building a line where we had already a line constructed, but only in those unoccupied Territories where we had no line.

Mr. CHANDLER. If the Senator will pardon me for interrupting him for a single moment, I wish to call his attention to the original bill that he introduced. He is under a misapprehension on this subject. The first section of the first bill introduced by him contained this clause:

And said telegraph company shall receive annually for doing the Government business as is now or may be hereafter paid to the lines constructed under the act of Congress of June 16, 1860.

They asked in their original bill the same subsidy that is paid to this other line for a telegraph to San Francisco.

Mr. POMEROY. The Senator is aware that another bill which I hold in my hand was introduced by myself as a substitute for that, and upon that bill we never asked any subsidy at all. The bill which I hold in my hand was introduced by me as a substitute for that bill.

Mr. CHANDLER. That is true.

Mr. POMEROY. Upon this bill we never asked any subsidy for a line over a road already built upon, but only in that portion of the country where we had no line, in Idaho, Oregon, and those western Territories, and I say the subsidy was stricken out of this bill when asked for that portion of the line to cover territory unoccupied by telegraph companies. I do not complain of it particularly. I simply desire that the statement of the fact shall be before the Senate, as it shows that the committee have given a subsidy to one company for building over the very same route that the subsidy was stricken out for another company; that is all. But, sir, this company will be very glad to have this bill passed without any subsidy. They will be very willing and very glad to accept of the bill without the subsidy of \$20,000, and they will undertake to build the line without the subsidy. I only say

that if we give a subsidy to any line over unoccupied territory, there is no reason why it should not be given to this United States Telegraph Company as well as to any other. They do not ask it, and the bill does not provide for it over any portion of territory where we already have a line.

The question being taken by yeas and nays on the amendment of Mr. TEN Eyck, resulted—yeas 21, nays 16; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Carlile, Clark, Collamer, Cowan, Fessenden, Foot, Foster, Grimes, Harlan, Lane of Kansas, Pomeroy, Powell, Ramsey, Sausbury, Sherman, Ten Eyck, Van Winkle, and Willey—21.

NAYS—Messrs. Chandler, Conness, Dixon, Doolittle, Harris, Hicks, Howard, Howe, McDougall, Morgan, Morrill, Nesmith, Sumner, Trumbull, Wade, and Wilkinson—16.

ABSENT—Messrs. Davis, Hale, Harding, Henderson, Hendricks, Johnson, Lane of Indiana, Richardson, Riddle, Sprague, Wilson, and Wright—12.

So the amendment was agreed to.

Mr. CHANDLER. I now move to lay the bill and the amendments on the table. It has been killed in the Senate, and we might as well get rid of it.

Mr. MORRILL. I hope not. I hope the Senator will withdraw his motion.

Mr. CHANDLER. The bill is good for nothing now.

Mr. LANE, of Kansas. If the motion is withdrawn I shall renew it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan to lay the bill on the table.

Mr. LANE, of Kansas. On that I ask for the yeas and nays. ["Oh, no!"] I will withdraw the call.

The motion was not agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HOWARD. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 36, nays 3; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Carlile, Clark, Collamer, Conness, Cowan, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Hicks, Howe, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Pomeroy, Powell, Richardson, Sausbury, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—36.

NAYS—Messrs. Chandler, Howard, and Lane of Indiana—3.

ABSENT—Messrs. Davis, Hale, Harding, Henderson, Hendricks, Johnson, Ramsey, Riddle, Sprague, and Wright—10.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bill and joint resolutions; in which it requested the concurrence of the Senate:

A bill (No. 542) to regulate the pay of paymasters and military storekeepers of ordnance;

A joint resolution (No. 102) for the relief of Captain M. M. Hawes; and

A joint resolution (No. 107) for the relief of Major Morris S. Miller, of the quartermaster's department.

HOUSE BILLS REFERRED.

The following bills and joint resolutions, received from the House of Representatives, were severally read twice by their titles, and referred as indicated below:

A bill (No. 527) making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1865—to the Committee on Finance.

A bill (No. 542) to regulate the pay of paymasters and military storekeepers of ordnance—to the Committee on Military Affairs and the Militia.

A joint resolution (No. 101) to provide for the publication of a full Army Register—to the Committee on Printing.

A joint resolution (No. 102) for the relief of Captain M. M. Hawes—to the Committee on Claims.

A joint resolution (No. 107) for the relief of Major Morris S. Miller, of the quartermaster's department—to the Committee on Military Affairs and the Militia.

EXAMINATION OF ARMY OFFICERS.

The Senate proceeded to consider the amendments of the House of Representatives to the bill

of the Senate (No. 85) to provide for the examination of certain officers of the Army, and, on motion of Mr. WILSON, they were referred to the Committee on Military Affairs and the Militia.

EDUCATION IN WASHINGTON COUNTY.

Mr. GRIMES. At an early part of the session, the Senate passed a bill (No. 26) to provide for the public instruction of youth in the county of Washington and District of Columbia. The House of Representatives have passed the bill with an amendment in the nature of a substitute, substantially the same in every particular as the original bill, except that they have incorporated into it the clause which the Senate struck out on motion of the Senator from Maryland, [Mr. JOHNSON,] allowing to the commissioners or trustees four dollars per day. Under the instructions of the Senate given to us at the time the bill was under consideration, the Committee on the District of Columbia, to whom the amendment of the House of Representatives was referred, have directed me to report that they recommend that the Senate concur in the amendment of the House of Representatives, with an amendment striking out that clause. I therefore make that motion.

The Secretary read the amendment proposed by the Committee on the District of Columbia, which was to strike out the following clause:

8. Each commissioner shall be entitled to receive four dollars per day for every day he shall attend a meeting of the board, and not absent himself without permission, and four dollars per day for every day he shall serve on a committee; and all disbursements shall be made through the treasurer of the school fund on the draft of the president and clerk of said board, drawn by order of said board.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment of the House of Representatives as amended.

The amendment, as amended, was concurred in.

REPORTS FROM COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom the subject was referred, reported a bill (S. No. 329) supplementary to the several acts for enrolling and calling out the national forces, and other purposes; which was read, and passed to a second reading.

Mr. MORGAN, from the Committee on Military Affairs and the Militia, to whom was recommended the bill (S. No. 286) to prohibit the discharge of persons from liability to military duty by reason of the payment of money, reported it without amendment.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1865.

The message also announced that the House of Representatives had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 121) for the relief of Lieutenant William P. Richner, seventy-seventh regiment Ohio volunteer infantry;

A bill (No. 543) to increase the efficacy of the medical corps of the Army; and

A joint resolution (No. 103) for the relief of Mary Kellogg.

REPEAL OF FUGITIVE SLAVE LAWS.

Mr. SUMNER. I now move that the Senate proceed to the consideration of the bill (H. R. No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves.

Mr. HENDRICKS. Mr. President, I suppose every Senator desires an early adjournment if possible. It has been hoped that we should be able to adjourn by the first part, or at the farthest by the middle of next week, and of course there are a great many bills of importance that ought to be considered in the mean time. I think when the session is approaching its close that each class of business should have to some extent its turn, if I may so express myself. The interest represented by the Senator from Massachusetts, I think in all reason, has had enough of the time of this session. For some months during the

first part of the session scarcely a bill was considered at all that did not have some connection with the colored race. The very measure that the Senator now asks to be considered by the Senate has once been considered, I think has occupied nearly one week of the time of the Senate, and the judgment of the Senate upon the different questions has been distinctly pronounced to the effect that the Senate was willing to repeal the law of 1850, but unwilling to repeal the law of 1793. Is it just to the other interests of the country, is it just to the soldiers in the field, is it just to the farmers at home that everything relating to their interests shall give way for the consideration of this bill which has once been considered by the Senate at great length?

If Senators think that this race demands the attention of the body to the exclusion of every other interest of the country, then let us say at once that the Senator from Massachusetts shall have all the balance of the session for his particular measure. His Freedmen's Bureau bill has been pressed upon the Senate, and I supposed when he was calling for the attention of the Senate that it was to press the immediate consideration of that bill. It has been partly debated, and I can see that it is but fair to give the Senator the opportunity to close the discussion upon that bill, and to come to a vote. I should not oppose it, because to some extent the Senate has considered it; and I am in favor, when we consider a bill, of prosecuting that examination until we come to a result.

But now the Senator lays that bill aside, knowing it has some claim upon the Senate, and that it can be claimed as soon as this is disposed of, with a view of taking up this bill, which in my judgment has no claim upon the Senate. Of what practical consideration is the bill that the Senator now proposes to take up? Will the Senator say to the Senate that there is a single fugitive slave now being returned? Will the Senator say that any law upon that subject is now being enforced, or that there has, under the fugitive slave law of 1850 or 1793, been a single slave returned to his master within the last six months? I undertake to say, from my observation and reading, that not a single slave has been returned upon the demand of a claimant since this Congress met, and probably there would not be one within the coming year. The condition of the country precludes it. I find no fault with the Administration for not executing these laws in the present condition of the country. It is practically impossible to do it; but the fact that the laws are for the time being a dead letter upon the statute-book is a reason why the Senator shall not crowd out other business, why the Senate need not prolong the session to take up a bill of no pressing practical importance. The bill that the Senate passed is before the House of Representatives. I am not aware that it has received the consideration of the House. The Senator cannot say that upon any vote of the House that body has declined to concur in the views expressed by the Senate, so far as I have observed the action of the House. Then may we not well wait until the House shall consider our bill, which was sent to that body, as I understand, before this bill came to this body? Am I wrong in that?

Mr. SUMNER. The Senator is wrong. Our bill has never been finally acted upon.

Mr. HENDRICKS. In this body?

Mr. SUMNER. In this body.

Mr. HENDRICKS. Then, Mr. President, I shall not object to the Senator calling up the Senate bill. I was absent necessarily for a few days during the session, and I understood from the reading of the proceedings of Congress that that bill had been finally disposed of, and had gone to the House of Representatives. But if I am wrong in that, then we ought to take up that bill. The Senate has expressed its views upon the contested questions involved in it, and we know just where we stand upon it, and can certainly come to a vote at a very early hour. But if we have got to go over the whole subject, then this bill must occupy a very considerable portion of this week. Then will come up the Senator's bureau bill for the benefit of the freedmen, or, as the Senator from West Virginia [Mr. WILLEY] says, for the purpose of reenslaving the colored people who have become free by the fortunes of war; and thus all the time that Senators in their mind have al-

lowed for the continuance of the session has to be taken up by the peculiar measures of the Senator from Massachusetts.

I have not pressed, before this time, an objection to the consideration of these questions. If the Senator's party can well stand the exclusion of every other business for the consideration of that which relates to the colored people, I think I can try to endure it. I must confess that there are some subjects that would be more gratifying to my tastes; but in a political point of view I shall try to endure it. But I think now, as we have all come to the conclusion that we shall adjourn during the early part of next week, we ought to take up such measures as are important for the machinery of the Government, for the benefit of the Army, for the benefit of the Navy, for the benefit of the civil Departments of the Government, pass them through, and let us go home.

The merits of every other question that the Senator has peculiarly in charge have been considered. He cannot say that the Senate has refused to consider his bills when he has urged them. The Senator has so much determination of purpose about him that it cannot be avoided that his bills shall be considered. Sometimes I have agreed to consider them rather than fight his determined demand. Being zealous in his cause of course is a merit, if his cause is right, which I do not choose to discuss just now; but in view of the fact that we have a bill on this subject to a very considerable extent matured according to the judgment of the Senate, and in view of the further fact that this question has no practical importance, there being no slaves returned to bondage, I insist that the Senate ought not to take up that bill.

Mr. HOWARD. The bill which the Senator from Massachusetts desires to have taken up has passed the House of Representatives. The effect of it, as I understand, is to repeal the fugitive slave act of 1793, and also the fugitive slave act of 1850. The House of Representatives have considered this subject of sufficient importance to justify them in spending a considerable time in the discussion of it, and in finally passing this bill; and yet, sir, we are blessed with the superior judgment of the Senator from Indiana who informs us that this bill is not worthy of our consideration at this time. That seems to be his opinion; and in order to convince the rest of us that it is thus unworthy he spends considerable time in making a very interesting speech to us. I think differently. I think it is high time that the Senate of the United States should take this subject under their consideration and should pass upon the great questions which have so long agitated the people of the United States connected with the rendition of fugitive slaves. I do not say, I will not pretend, that it is the greatest or the most weighty measure that can be presented to our consideration; but I say this, that it is worthy of our immediate consideration and attention, and I hope the Senate will take it up, especially as the House of Representatives have seen fit to send it to us for our consideration.

Mr. SAULSBURY. Mr. President, this is a very practical question indeed. The motion, I believe, is to take up for consideration the bill which proposes to repeal the several fugitive slave acts.

[At this point Mr. MORGAN, by unanimous consent, reported a bill for the repeal of the commutation clause, to be found in another portion of the proceedings.]

Mr. DOOLITTLE. With the leave of the Senator from Delaware I desire to make a motion. I believe the Senate perfectly understands the bill just reported from the Committee on Military Affairs by the Senator from New York repealing the commutation clause, and as it is not necessary to enter into a discussion upon it, I presume we can take it up now and vote upon it.

Mr. SUMNER. There is another question pending.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent.

Mr. DOOLITTLE. Then, with the leave of the Senator from Delaware, I will move to amend the motion of the Senator from Massachusetts by dividing it.

The PRESIDENT *pro tempore*. That is not in order.

Mr. DOOLITTLE. What is the motion?

The PRESIDENT *pro tempore*. To postpone all prior orders and take up the bill indicated by the Senator from Massachusetts.

Mr. DOOLITTLE. I will move that that motion lie upon the table for the purpose of taking up the bill I have indicated.

Mr. WILSON. I hope there will not be an effort made to antagonize these two bills.

The PRESIDENT *pro tempore*. Such a motion is not in order.

Mr. SAULSBURY. I was about to remark that the motion, as I understood, was to take up for consideration a bill from the House of Representatives to repeal the several fugitive slave acts. Of course, under a motion of this kind we cannot enter into a general discussion as to the propriety of the repeal; but it is allowable, I believe, to assign some reasons briefly why the bill should not be taken up for consideration, and I think there are various reasons.

The first reason I shall assign why this bill should not be taken up for consideration is the fact that no practical good can result from it. Everybody in this country who knows anything knows that the interest of no persons in any of the States can be affected by it, except persons residing in three or four border States. It is known to everybody that there is not a slave in any of those States who is not perfectly free to go where he pleases. The military power of this Government is now extended over those States, and at every cross-roads there is one of these sentinels of modern freedom stationed to see that if a negro wants to escape from his master he can escape. No one, I apprehend, has an idea that if a negro was to escape to the delightful garden of Massachusetts, or New England, or any of the free States, that he could possibly under any circumstances be recaptured, notwithstanding the existence of the fugitive slave act. What earthly good then can result to the slave from taking up this bill for consideration and occupying the time of the Senate with it? I presume it is perfectly allowable to discuss it in this shape, because three fourths of all the labors of this body during the present session have been devoted to the consideration of the interests of the negro to the exclusion of the real interests of the white man.

Then, sir, if it were true that there was a slave in any of these border States that could be recaptured if he was to run away, this bill should not be taken up for consideration to repeal the act, because his escape and the prevention of his recapture would be an injury to the slave. What has this modern philanthropy done for the negro slaves? Taken them from happy and comfortable homes, reduced them to want and starvation, and brought them down to the grave by hundreds and thousands. And now, sir, wherever they have an opportunity to return they are returning in flocks, as I have been informed by gentlemen acquainted with the subject.

If the Senate of the United States take this bill up for consideration it must be simply for purpose of agitation, simply for the purpose of making their legislation during this session a little more symmetrical by showing that the paramount interests which they have at heart are the supposed interests of the negro race. Are we to be kept here during the entire month of July to consider questions of this character and to act upon bills of this nature? Is it to be supposed that a bill which ignores all the lessons of the past, which repudiates all the examples of the past, is to be passed through this Senate in a moment or in a day? Is it supposed that if you take it up for consideration there will not be discussion upon it? Have we become so much wiser than our fathers who enacted the fugitive slave act of 1793, that we who believe they acted wisely for the good both of the white and black races are to be expected to sit here quietly and allow the repeal of that law without discussing its merits? If gentlemen so suppose they are very much mistaken. Sir, we should be untrue to the men of the past, to the men who shaped our institutions, the men who made the Constitution of the country and afterwards put that Constitution into operation, if we were to allow without a protest the wisecracks of the present day to declare that their acts were founded in injustice and wrong. When I use that term I do not apply it to any member of this body, because that would not only be discourteous but it is what I do not mean. I speak

of this sickly sentimentality and its advocates in the country.

But, Mr. President, it is hardly worth while for me to detain the Senate. I presume their minds are made up and they will act according to their own judgment.

Mr. DOOLITTLE. It is now four o'clock. There is no sort of possibility or probability in the course of human events that this bill can be acted on to-day; to-morrow we shall have up other questions of actual pressing importance that must be acted upon; and at this late hour in the day it seems to me entirely unnecessary to take it up and go into a discussion which will not come to any result. Therefore, as there is some business in executive session which is necessary to be done, or proper to be done at least, I will move that we go into executive session.

Mr. SUMNER. I hope not. I hope that the Senate will proceed to the consideration of the bill which has come from the House of Representatives, to sweep from the statute-book all statutes or parts of statutes for the rendition of fugitive slaves. I know of nobody who proposes to discuss it, unless it is the Senator from Wisconsin himself, if he proposes to make a plea for slave-hunting. I know of no person here on our side who proposes to undertake any such plea, to occupy the time of the Senate in any way for or against it. All that I ask is a vote.

Mr. DAVIS obtained the floor.

Mr. DOOLITTLE. The Senator from Massachusetts puts a question to me, and says he does not—

The PRESIDENT *pro tempore*. The Chair recognizes the Senator from Kentucky.

Mr. DAVIS. I have merely a remark to make, and I will give way in a moment.

Mr. DOOLITTLE. I hope the Senator will allow me to answer the present question.

Mr. DAVIS. I will make my remark first. I tell the Senator from Massachusetts that I have, as I said some days ago, the sequel of the story of slavery in his State to tell, and I expect to tell it upon this bill. I have no doubt it will be very edifying to the honorable Senator. Probably he is not a very good historian. I recollect that sometime during the last session when the proposition was made in the Senate to employ Indians in this war, I adverted to the manner in which such a proposition had been received in the British Parliament, and to the very indignant and eloquent defense of that measure by Colonel Barré. The honorable Senator depreciated Colonel Barré very much by saying that that was the only speech that he had ever made, and that he took a similar cognomen to single-speech Hamilton.

Mr. TRUMBULL. I rise to a question of order, to know if, on a motion to go into executive session, the history of Massachusetts is in order?

Mr. DAVIS. I am not giving the history of Massachusetts.

Mr. TRUMBULL. Well, the history of Colonel Barré.

Mr. SUMNER. My history.

Mr. DAVIS. I am just stating—

The PRESIDENT *pro tempore*. Does the Senator from Illinois insist on his point of order?

Mr. TRUMBULL. I will not insist upon it after calling the attention of the Senator from Kentucky to it.

Mr. DAVIS. I should have been through by this time if I had not been interrupted.

Mr. GRIMES. The Senator is giving us an interesting account of Colonel Barré, and I hope he will be allowed to go on.

Mr. DAVIS. I shall be through in one moment. Colonel Barré was a frequent and most eloquent debater in the British Parliament during our revolutionary troubles. Lord North himself, at the instance of George III, tendered to him the position of Secretary of War, and he had the principle and the firmness to resist it. Now, I am going to refresh the Senator's knowledge of the history of his own State when this measure comes up.

Mr. SUMNER. Very well, sir.

Mr. DOOLITTLE. Mr. President, on this motion to go into executive session the honorable Senator appeals personally to me, saying that he presumes there is to be no discussion on this question, unless his friend from Wisconsin wants to make a "plea for slave-hunting." Sir, the Sen-

ator from Wisconsin bows to the Senator from Massachusetts. He is learned, learned beyond comparison. I sometimes almost fear that he is so learned he has lost all practical sense. When the Senator from Delaware expressly declares to the Senate that this question must be discussed and shall be discussed, that it cannot pass in an hour nor in a day, and when the Senator from Kentucky, with whom he ought certainly to be somewhat acquainted, and to have some practical sense of his powers of endurance when he comes to discuss this question of repealing the fugitive slave law, I think the honorable Senator from Massachusetts does great injustice in turning upon me and asking if I want to make a "plea for slave-hunting," and that there will be no speaking unless it is by the honorable Senator from Wisconsin. Sir, I have more practical knowledge of the state of affairs in this body, it seems to me, than the honorable Senator from Massachusetts, although I confess I have not one half the learning on these subjects.

Now, Mr. President, this is the state of affairs: it is now, as I have stated, four o'clock in the afternoon; the Senator from Delaware distinctly advises us that if this matter is taken up he is going to discuss it; others around him are to discuss it; the Senator from Kentucky says if it is taken up he shall discuss it; and I say to my honorable friend from Massachusetts that there are some gentlemen upon our side of the Chamber, although I am not one among them, who may desire to say something upon it. So far as my own personal convictions are concerned, I am of the opinion that upon the Constitution as it originally stood, independent of the construction made by courts and others, it did not belong to Congress at all to pass any laws upon this subject; but there are a great many gentlemen on this side of the Chamber who believe that under the Constitution as it stands, and by the decisions of the courts as they are made, they are under obligations and the obligations of their oaths, that there should be some kind of law to enforce that provision of the Constitution of the United States. Does the Senator from Massachusetts as a friend of those gentlemen, associated with them politically, desire to press them to the point of either voting what upon their oaths they have sworn they will not do, or to break with him? I think it is too late in the day, to-day at least, to begin the discussion of this question, and I therefore move that we now proceed to the consideration of executive business.

Mr. SUMNER. The speech of the Senator belongs to the class of what may be called dilatory motions, or a speech to sustain a dilatory motion. He announces to us that there is to be an opposition to this bill, and mentions several Senators who menace speeches. If those speeches are to come, I say let us hear them and be done with them, because that bill from the House must be passed by Congress during this session. The Senator wishes to have it postponed; he wishes to set aside what the House has done; and he thinks that those who press the bill which now has the sanction of the House want practical sense. Sir, permit me to say to that Senator it is himself who wants practical sense. He fails to see the requirements of his country at this hour; he fails to see what is due to the civilization of the age; and in that respect he shows a want of practical sense in the highest degree. Sir, I do not wish to say anything personal to that Senator; but when he makes the suggestion that any one on this floor wants practical sense, I throw it back upon him when he stands up here to arrest a bill that has already passed the House of Representatives to sweep from the statute-book of the land a system of legislation which at this moment is an infamy. If there is anything which now brings upon our cause in foreign lands discredit, and makes it a burden to our friends, it is this very act which at this moment receives indirectly the support of the Senator from Wisconsin; and yet he rises here to taunt us for the want of practical sense. Sir, when he seeks to uphold even indirectly this act he wants practical patriotism as well as practical sense.

Mr. DOOLITTLE. The bill which has just been reported by the Senator from New York, which is a continuation of the bill we had under discussion yesterday relative to drafting soldiers into the Army, is a practical measure, and will

undoubtedly be called up at the very earliest moment. I think it must come up to-morrow morning at least; at all events it ought to come up; for if there be one practical thing which this country now demands, it is that we take care of our Army which is fighting the battles of our country. When the word comes to us, though it is not spoken on official authority, but comes from the mouths of wounded and bleeding men who are coming to us by hundreds telling us of our friends our brothers and our sons who are fighting this battle for the country, practical sense says to every Senator that to take care of this Army, to fill up this Army, to sustain the Army is the practical question.

The Senator charges me with opposition to his measure. He says that I desire to postpone it for the session, or to prevent all action upon it. I have not said any such thing nor done any such thing; but I say if we do not wish to waste the rest of this day in a discussion which will come to no result let this measure go by, and let us take up some measure which has practical importance before the body.

Mr. HALE. I am against taking up both these motions. I am against taking up the fugitive slave bill, and I am against going into executive session, and the reason is this: during the whole of this session I believe I have had but one single day to the interests of the Navy. There are several very important bills relating to the Navy on the Calendar, and I have received urgent and pressing letters from the Secretary of the Navy to call the attention of the Senate to them. I gave notice a day or two since that to-morrow at one o'clock I should ask the indulgence of the Senate to devote that day to the consideration of our naval affairs. I appreciate, I hope as highly as the honorable Senator from Wisconsin, what is due to the Army; but, sir, what would your Army be without a navy? Is it not the Navy that has been the right arm of the nation in all this war? Its demands are pressing, and it is suffering from the modesty of the chairman of the Committee on Naval Affairs of the Senate. I have overcome it so far that to-morrow I shall urge against Army bills, against fugitive slave bills, and against all other bills in the world that the Senate shall give some attention to the consideration of those bills which are from the Committee on Naval Affairs.

Mr. SUMNER. We can finish this to-night.

Mr. HALE. You may finish it at any time; but to-morrow I shall, in season and out of season, every time I get the floor, urge upon the Senate what I think is due to the Navy.

Mr. POWELL. I am opposed to all the motions indicated. I have been trying for months to get up a bill to secure the freedom of elections to the people of this once free but now enslaved country; and I now notify the Senate that every time I can get the floor, in the morning hour or after the morning hour has expired, to the end of this session, I intend to move to take up that bill. All I want is, if the Senate will take it up, to vote upon it without saying one word upon it. I do not believe I shall ever get the floor when anybody else wants it for the purpose of taking up a bill; I am confident of that fact; but if they ever take up a bill I shall instantly move that that bill and all prior orders be postponed for the purpose of taking up my bill. I shall do it in the morning hour and every other time I can get. I tried—and I thought I was entitled to the floor before the Senator from Massachusetts made his motion, but I was so unfortunate as not to be recognized—to make the motion this evening. I think the Senate owe it to themselves to take up this bill, which has been debated some four days, and vote upon it. I do not see what good armies or navies are going to do us if our people have no freedom of elections; and I do know that in many parts of the country they have not had it. I hope that all these motions will be voted down, and then—I know it is not in order now—I shall move to postpone everything in order to take up the bill that I have indicated.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Wisconsin to proceed to the consideration of executive business.

Mr. SUMNER. I hope not.

Mr. HALE. I want to say in a single word why I am not willing to go into executive session. It is this: I am not ready to proceed with the con-

sideration of the unfinished business which was under consideration in executive session when we adjourned yesterday.

Mr. WILSON. We have got but very little business in executive session to attend to, and I hope we shall take up the measure indicated by my colleague.

The motion was not agreed to; there being, on a division—yeas 14, noes 20.

Mr. HENDRICKS. I call for the yeas and nays.

Mr. SUMNER. I suggest to the Senator to take the yeas and nays on my proposition.

Mr. HENDRICKS. I am afraid the proposition will carry.

The PRESIDENT *pro tempore*. Is the call for the yeas and nays withdrawn?

Mr. HENDRICKS. Yes, sir.

Mr. CONNESS. I call for the yeas and nays on the motion of the Senator from Massachusetts. The yeas and nays were ordered.

Mr. HENDRICKS. Is it in order to move to adjourn?

The PRESIDENT *pro tempore*. In the opinion of the Chair it is.

Mr. HENDRICKS. Then I move that the Senate adjourn. ["No!" "No!"] I withdraw the motion.

Mr. TRUMBULL. It is manifest that we can accomplish but very little in ten minutes, and I therefore move that the Senate now take a recess until seven o'clock.

Mr. HOWARD. I hope not. I hope we shall take the yeas and nays on the question now pending before the Senate.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Illinois that the Senate yesterday ordered a recess to-day from half past four until seven o'clock.

Mr. TRUMBULL. But may we not take it before? By a mere vote of the Senate we fixed upon half past four o'clock.

The PRESIDENT *pro tempore*. The Chair is of the opinion that the motion may be put.

Mr. CONNESS. I ask if it is in order while the call for the yeas and nays is pending on another question.

Mr. TRUMBULL. We have not commenced the call.

Mr. CONNESS. I know that. I ask that question of the Chair.

The PRESIDENT *pro tempore*. The Chair, on reflection, is of opinion that the motion is not in order. A motion to take a recess is not like a motion to adjourn. The question is on the motion of the Senator from Massachusetts.

Mr. HENDRICKS. I want to suggest to the Senator from Massachusetts that I presume there will be no objection to his taking up the Senate bill which has been to a very large extent matured according to the judgment of the Senate, and I think that is all at this stage of the session he ought to ask of the Senate. The Senate has decided upon the motion of the Senator from Ohio to repeal the law of 1850 but not the act of 1793. That is the judgment of the Senate. The House of Representatives sends to us a bill repealing both laws. That brings up the whole discussion, and before we reach the point to which the Senate has arrived upon the other bill much of valuable time has to be occupied. Can the Senator from Massachusetts say that Senators after a full debate have given a vote which they are ready to take back? To say that is not respectful to the Senate. He has no right to presume that after a full discussion the Senate is going to take back a decision made a week ago. Then it is due to the Senate, in my judgment, for the Senator to insist upon the completion of the bill which he insisted the Senate should consider a week or two ago. I suggest to the Senator as a fair thing to the Senate, as fair to the rest of us, as due to the body in view of the approach of the adjournment, that we take up the bill which he has already demanded the attention of the Senate upon, and to that I presume there will be no hostility; but to take up this new bill, to go through with the discussion again, I think to that proposition he will find hostility all the time.

The question being taken by yeas and nays, resulted—yeas 25, nays 17; as follows:

YEAS.—Messrs. Anthony, Brown, Chandler, Clark, Conness, Dixon, Fessenden, Foot, Grimes, Hale, Harlan, Harris, Howard, Howe, Lane of Kansas, Morgan, Morrill,

Pomeroy, Ramsey, Sprague, Sumner, Ten Eyck, Wade, Wilkinson, and Wilson—25.

NAYS.—Messrs. Buckalew, Carlile, Cowan, Davis, Doolittle, Hendricks, Johnson, Lane of Indiana, Nesmith, Powell, Richardson, Riddle, Saulsbury, Sherman, Trumbull, Van Winkle, and Willey—17.

ABSENT.—Messrs. Collamer, Foster, Harding, Henderson, Hicks, McDougall, and Wright—7.

The PRESIDENT *pro tempore*. The motion prevails; the bill is before the Senate in Committee of the Whole, and will be read.

Mr. POWELL. I move to postpone the pending and all prior orders for the purpose of taking up Senate bill No. 37.

Mr. SUMNER. I rise to a question of order, whether that motion of the Senator is in order until the motion that has already been acted on by the Senate has been stated from the Chair and the bill read.

The PRESIDENT *pro tempore*. The Chair is of the opinion that the motion is in order to postpone it and take up something else.

Mr. SUMNER. But as I understand, the Senate ordered the taking up of this bill, and the Chair directed the Secretary to read the bill. My point of order is, can there be any interruption to the reading of the bill? Must not that be finished?

The PRESIDENT *pro tempore*. The Chair is of the opinion that the point of order is not well taken; that before the bill is read the motion may be made.

Mr. POWELL. I ask for the yeas and nays on my motion.

The yeas and nays were ordered.

The Secretary proceeded to call the roll, but before concluding it was interrupted by

The PRESIDENT *pro tempore*. The time having arrived at which the Senate ordered a recess, it becomes necessary for the Chair to interrupt the call of the roll and to announce that the Senate will now take a recess until seven o'clock.

Mr. HENDRICKS. Before the Chair makes the announcement, I wish to inquire whether there is a special order for to-night.

The PRESIDENT *pro tempore*. There is: the business relating to the District of Columbia.

Mr. SUMNER. The Senator knows perfectly well that the unfinished business takes precedence.

Mr. HENDRICKS. That is the very question I desire the Chair to decide, whether the order made for to-night does not exclude everything else.

The PRESIDENT *pro tempore*. The Chair will decide that question of order when it arises.

Mr. RICHARDSON. I rise to a question of order, if any business can be interposed during the call of the roll.

The PRESIDENT *pro tempore*. The Chair has announced the recess.

Mr. CONNESS. I ask unanimous consent—

The PRESIDENT *pro tempore*. The Senate is not in session.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

LIMITATION OF DEBATE.

Mr. WADE. I wish to give notice that I shall move the following as an additional rule of the Senate on Thursday next:

Resolved, That during the remainder of the present session of Congress no Senator shall speak more than once on any one question before the Senate, nor shall such speech exceed ten minutes, without leave of the Senate expressly given, and when such leave is asked it shall be decided by the Senate without debate, and it shall be the duty of the President to see that this rule is strictly enforced.

SUSPENSION OF 26TH RULE.

Mr. DIXON. I offer the following resolution, not for the purpose of action now:

Resolved, That the 26th rule of the Senate be suspended during the present session of Congress, except so much thereof as provides that "a motion to suspend or concur in a joint resolution of the House to suspend the 16th and 17th joint rules or either of them shall always be in order, be immediately considered, and be decided without debate."

ORDER OF BUSINESS.

Mr. GRIMES. I move that the Senate proceed to the consideration of House bill No. 255.

The PRESIDENT *pro tempore*. The Senate had under consideration a motion of the Senator from Kentucky [Mr. POWELL] to take up Senate bill No. 37, upon which the yeas and nays were being taken when the recess was announced.

Mr. GRIMES. I move to suspend all prior orders for the purpose of taking up the bill I have indicated.

Mr. POMEROY. Must not the call be proceeded with? I submit whether that motion is in order while the call is being proceeded with.

The PRESIDENT *pro tempore*. The Chair is of the opinion that the motion can only be entertained by unanimous consent, the Senate being in the execution of the order for the call of the yeas and nays. If there be no objection, the motion of the Senator from Iowa will be entertained.

Mr. HOWARD. I object.

The PRESIDENT *pro tempore*. Objection is made, and the call will proceed.

Mr. POWELL. If the Senator from Iowa wishes to proceed with District business I will withdraw the call for the yeas and nays, if I have the power to do so.

Mr. BROWN. What are the yeas and nays on The PRESIDENT *pro tempore*. On the motion of the Senator from Kentucky.

Mr. POWELL. On my motion to take up the bill to prevent military interference with elections; but I will withdraw the call in order to allow the Senator from Iowa to proceed with the District of Columbia business.

Mr. HOWARD. I understood that we were taking the yeas and nays on the motion of the Senator from Massachusetts.

Mr. SUMNER. Oh, no; I beg your pardon; it was the motion of the Senator from Kentucky. Let me explain to my friend. My motion had been carried, and the Secretary at the desk was about reading the bill when the Senator from Kentucky interposed another motion to proceed with another bill, and on that he asked for the yeas and nays; and if that is withdrawn, I take it, it leaves the question of the fugitive slave bill as the unfinished business.

The PRESIDENT *pro tempore*. It would leave that before the Senate.

Mr. SUMNER. It would leave that bill before the Senate.

The PRESIDENT *pro tempore*. The motion of the Senator from Iowa is to postpone all prior business and proceed with the bill indicated by him.

Mr. SUMNER. So I understand.

Mr. WILKINSON. What was the unfinished business?

Mr. GRIMES. The motion of the Senator from Kentucky to take up the bill in regard to military interference with elections. The Senator from Kentucky has withdrawn that motion, and now I suppose it is proper for me to make a motion to suspend all prior orders.

The PRESIDENT *pro tempore*. If there be no objection, the call for the yeas and nays can be withdrawn. The Chair hears none. Does the Chair understand the Senator from Kentucky as withdrawing his motion at the same time?

Mr. POWELL. Yes, sir.

The PRESIDENT *pro tempore*. Then the question will be on the motion of the Senator from Iowa.

Mr. SUMNER. On that I wish merely to remark that I am aware the Senator from Iowa has come here to-night prepared to proceed with several bills in regard to which he has let us know in advance his purpose, and I know the importance of some of them, at least to this District. I do not wish to interfere with his arrangements, although he will understand that I cannot let slip the opportunity of pressing the bill under consideration except with great reluctance and with the understanding that it shall be proceeded with at the earliest possible moment; if possible, that it shall be taken up again this evening.

Mr. POWELL. I wish to make one single remark. The Senator from Massachusetts spoke of having an understanding that we should take up his bill next. I wish it to be understood that we are no parties to anything of that kind. This evening was set apart for the Senator from Iowa. He gave notice yesterday that he desired to call up the business relating to the District of Columbia this evening. I do not wish to encroach upon his time, and with that view I withdrew my motion on which I had called for the yeas and nays.

GUARDIAN SOCIETY.

The motion of Mr. GRIMES was agreed to; and the Senate, as in Committee of the Whole, pro-

ceeded to consider the bill (H. R. No. 255) granting certain privileges to the Guardian Society of the District of Columbia. It proposes to grant the use and occupancy of all that part of reservation numbered seventeen, in the city of Washington, lying west of Second street and east of the easterly line of New Jersey avenue, in perpetuity to the Guardian Society of the District of Columbia, a corporation duly established by act of Congress approved July 1, 1862; but those premises are to be used and occupied exclusively for the proper and legitimate purposes and objects of said Guardian Society; and the Guardian Society are within three years from and after the approval of this act to expend in the erection of buildings upon the premises, suitable for a house of industry and a widows' and orphans' home, the sum of \$20,000 or more.

All permanent buildings and structures upon the premises are to be erected and made in accordance with plans and specifications approved in writing and subscribed by the Commissioner of Public Buildings.

The rates of expenses which are or shall hereafter be adopted by the Guardian Society, or the trustees thereof, for the support and maintenance of the several classes of persons described in the eleventh section of their act of incorporation, are to be approved in writing and subscribed by a majority of the justices of the supreme court of the District of Columbia.

So much of the fixtures and materials in the temporary military erections in the city of Washington, being no longer in use and needful for military purposes, are granted to the Guardian Society, subject to the approval and upon the order of the Secretary of War, for such temporary erections upon the grounds as may be needful while permanent buildings and fences are being erected.

The Committee on the District of Columbia reported the bill with amendments. The first amendment was in section one, lines six and seven, to strike out the words "in perpetuity," and to insert, "for the period of thirty-three years."

The amendment was agreed to.

The next amendment was at the end of the first section to insert "otherwise the said use be forfeited to the United States;" so that it will read:

And provided further, That said Guardian Society shall, within three years from and after the approval of this act, expend in the erection of buildings upon said premises, suitable for a house of industry and a widows' and orphans' home, the sum of \$20,000, or more, otherwise the said use be forfeited to the United States.

The amendment was agreed to.

The next amendment was to strike out the fourth section of the bill, as follows:

Sec. 4. And be it further enacted, That so much of the fixtures and materials in the temporary military erections in the city of Washington, being no longer in use and needful for military purposes, are hereby granted to said Guardian Society, subject to the approval and upon the order of the Secretary of War, for such temporary erections upon said grounds as may be needful while permanent buildings and fences are being erected.

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

ORPHANS' COURT PROCEEDINGS.

On motion of Mr. GRIMES, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 434) to authorize the bailiff of the orphans' court, in the county of Washington and District of Columbia, to serve processes issued by said court, and for other purposes. It provides that the bailiff of the orphans' court, in the county of Washington and District of Columbia, or such person as may be deputed by the register of wills in the county, shall have authority to serve all processes issued by the court, and shall be entitled to a fee of fifty cents for serving citations, and a fee of one dollar for serving attachments and making returns of the same to the court; and there is to be paid to the register of wills for the county, for recording wills and other instruments, fifteen cents per folio of one hundred words.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WASHINGTON AND GEORGETOWN RAILROAD.

On motion of Mr. GRIMES, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 522) to amend the charter of the Washington and Georgetown Railroad Company. It provides that the Washington and Georgetown Railroad Company shall have the right to construct a horse railway on any public highway in the county of Washington, commencing at the present terminus of either of their roads, first having obtained the consent of the levy court therefor; and may charge a fare not exceeding ten cents for each and every passenger conveyed upon any road constructed in the county of Washington outside of the limits of the cities of Washington and Georgetown; but nothing herein contained is to be construed so as to prevent Congress from regulating the fare on either of the roads, or altering or amending the original charter of the company, or this amendment thereto, according to the provisions of the original charter.

The Committee on the District of Columbia reported the bill with amendments. The amendments were in line four, to strike out the words "construct a" and to insert "extend their;" in line six, after the word "roads," to insert "extending north from Seventh and Fourteenth streets, and from the Capitol square to Maryland avenue, and extending north from the eastern extremity of that avenue;" and in line eight to strike out the words "a fare not exceeding ten cents," and to insert "an additional fare of five cents for every three miles on each branch so extended;" so that the bill will read:

Be it enacted, &c., That the Washington and Georgetown Railroad Company shall have the right to extend their horse railway on any public highway in the county of Washington, commencing at the present terminus of either of their roads, extending north from Seventh and Fourteenth streets, and from the Capitol square to Maryland avenue, and extending north from the eastern extremity of that avenue, first having obtained the consent of the levy court therefor; and may charge an additional fare of five cents for every three miles on each branch so extended for each and every passenger conveyed upon any road constructed in said county of Washington outside of the limits of the cities of Washington and Georgetown, &c.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

COLLECTION OF DIRECT TAX.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 321) to authorize the corporation of Washington to levy and collect the direct tax imposed by the act approved August 5, 1861; which was read twice by its title.

Mr. GRIMES. I ask the unanimous consent of the Senate to proceed with the consideration of the bill now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to authorize the corporation of the city of Washington to assess and collect a tax not exceeding the rate of fifteen cents on every \$100 of the value of all real and personal property in the city, and on any and all subjects of taxation as made and returned by the board of assessors of the city, to enable the corporation to pay to the Government of the United States the tax imposed by the act approved August 5, 1861. Any surplus that may accrue from the imposition of this tax is to be deposited and applied to the use of the general fund of the city of Washington.

Mr. GRIMES. Perhaps I ought to say in apology for asking the Senate to consider a bill that has not been under the consideration of any committee of the Senate, that this bill was brought to me by the committee appointed by the city authorities to attend to the District of Columbia business since the Senate convened in the morning. They also brought with them the report made by the committee on finance of one branch of the city authorities, and a resolution instructing the committee to attempt to procure the passage of the bill. It only provides that the city authorities may have power to levy and collect money enough to discharge the direct tax that was levied by Congress upon the different States and Territories and the District by the act of 1861, and if there shall be any surplus over and above that

collected under this bill it shall go into the common treasury of the city.

Mr. HALE. I should like to know where is the necessity for this bill. The Government has provided its own machinery for collecting the taxes assessed by it in all other cities, and where is the necessity of devolving on the city of Washington the authority to collect this United States tax? Why can they not collect it as they do in Boston, New York, Philadelphia, and other cities?

Mr. GRIMES. I think in every State in the Union, probably, the State has assumed the direct tax. It is much cheaper to the States to collect the tax themselves through their own regular tax-gatherers than it is to have any United States officials appointed for that purpose. This is simply to authorize the city authorities of the city of Washington to do what is done in Massachusetts, New Hampshire, Iowa, and elsewhere. They have not paid this tax. It is due from them to the Government. As the amount they are now authorized to levy and collect is limited, this bill gives them authority to levy an additional tax in order to discharge their obligations to the Federal Government. I think the bill ought to pass, and I have the authority of the city council who have passed resolutions and instructed their committee to apply to Congress to procure its passage.

Mr. POWELL. If I understood the reading of the bill from the desk, I think it authorizes the city authorities to levy this tax upon the land.

Mr. MORRILL. Oh, no; "all subjects of taxation."

Mr. POWELL. Then I have no objection to it. I thought it was only upon the land.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WASHINGTON AND GEORGETOWN RAILROAD.

On motion of Mr. GRIMES, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 495) to amend an act entitled "An act to amend the charter of the Washington and Georgetown Railroad Company." The Committee on the District of Columbia reported the bill with various amendments. The first amendment was in section one, line eleven, after the word "shall" to insert the words "be permitted;" so that the section will read:

That from and after the passage of this act the Washington and Georgetown Railroad Company shall, during all sessions of Congress, run one car each way every two minutes between the hours of ten o'clock in the morning and six o'clock in the afternoon on their main line of railway from the eastern front of the Capitol and from Seventeenth street, passing between said points at a rate of speed not exceeding seven and not less than five miles per hour: *Provided,* That on Sundays the said company shall be permitted to run cars at the same intervals of time as prescribed in the original law for the other days of the week.

The amendment was agreed to.

The next amendment of the committee was to strike out the second section, as follows:

Sec. 2. And be it further enacted, That the said railroad company shall keep in good repair and in clean condition the flagstones or crosswalks leading to, upon, and over their tracks at the crossings of the several streets which intersect their railroad, removing therefrom snow and ice, as well as mud, dirt, or other annoyance; and shall further, whenever necessary to render such crossings dry and convenient, raise or elevate the same sufficiently for that purpose, and shall adjust the adjoining pavement so as to make it convenient for carriages to pass said crossings.

Mr. GRIMES. I am authorized by a majority of the Committee on the District of Columbia to say that their views have undergone a change in regard to the propriety of striking out that section since the bill was reported to the Senate. If it remains the provisions of this bill will stand uniform with the provisions of the other bills that have been passed. It simply requires the company to keep the walks at the intersections of the streets clean, so that a person can go from the sidewalks to the car without getting muddy. I therefore hope that the Senate will not concur in the recommendation of the committee to strike out that section.

The amendment was rejected.

The next amendment was to strike out the fifth section, as follows:

Sec. 5. And be it further enacted, That the route of said railroad from the east front of the Capitol square to Pennsylvania avenue east shall be in lieu of the route prescribed by the act of incorporation as follows, viz: commencing at the west front of the Capitol square, and running thence in a northeasterly direction across the public space to the intersection of B street with New Jersey avenue, at which

point one branch of the road shall go down New Jersey avenue to the south side of C street, where it shall terminate, while the main road shall pass along B street to Capitol street north, thence along that street to A street north, thence along A street north to First street east, thence along First street east to Pennsylvania avenue east, there intersecting with the road as it now runs. And the track now running through the eastern park of the Capitol and along A street south shall be taken up and discontinued by the 1st day of May, 1865; and when such change is being made in said route, and after the same shall be completed, the cars required by this act to be run between Seventeenth street and the east front of the Capitol shall run from Seventeenth street to the aforesaid intersection of Delaware avenue and A street north.

Mr. DOOLITTLE. I am not in favor of that change of the route of the road.

Mr. GRIMES. The committee propose to strike out the section and let the route stand as it is.

The amendment was agreed to.

The next amendment was to strike out the sixth section, as follows:

Sec. 6. *And be it further enacted*, That it shall be the duty of said company, within twenty days from and after the passage of this act, to have prepared tickets for passage on their cars, and to keep them at their office for sale by the package of twenty-five, or over, at the rate of twenty-five for the dollar, each of which tickets shall entitle the holder to one passage in any car of the company for any distance upon their main line of railway, or upon either of the branches thereof or between the termini of either of the said branches to any point upon said railway or branches.

The amendment was agreed to.

Mr. SHERMAN. It seems to me a very idle and very foolish thing to require this company to make such a report as is required by the fourth section of this bill. I never saw such a report, and never heard of such a report being made by a railroad or any other kind of company. It requires them to make a report upon thirty-one different items, showing among other things the "number and cost of cars"—you might as well have said of each car—the "number of horses or mules used in the service of the road and cost;" "cost of harnesses and other appointments;" "cost of tools and fixtures, including furniture of offices," and so on. I will ask the Senator from Iowa what is the object of that section.

Mr. GRIMES. This is a House bill; it was sent to us from the other branch of Congress; and I understand that fourth section is a transcript of the provision of the Revised Statutes of New York. I cannot say that it is so, for I have never examined the subject, but I understand that to be the fact.

Mr. SHERMAN. They are also required to report the amount of salaries paid to officers, the amount paid to employees, the amount paid for reconstruction of and repairs to track, the amount paid for taxes, &c. It seems to me it is perfectly idle, a piece of folly, to require a little corporation like this, a street railroad, to make such a report. This is an unreasonable requirement. They are required now by their charter to make a detailed report of all that is material. I move to strike out the fourth section of the bill.

Mr. GRIMES. It is very possible that the advantages of making such a detailed report may not be perceived at this time, but the experience of other States, I think, has demonstrated the propriety of having such reports made. We have the entire legislation on the subject of this company. We have reserved the power to change, alter, modify, or repeal their charter, and if such a report as is required by this bill shall be properly made to us it may enlighten the understanding of future Congresses as to what their duty may be. It can be of no particular harm to the company, for they are required to show nothing other than what their books, if properly kept, will show; and I think, even if it be in relation to a small company here, it is well for us to set a good example to the other States in their legislation in regard to corporations of this description. I understand, however, that in this case the example was set to us by the State of New York, and this section was introduced by a gentleman from New York, a member of the Committee for the District of Columbia in the House of Representatives, and who, I understand, is rather intimately connected with these railroads.

Mr. SHERMAN. If the Senator really thinks it is worth while for this corporation to make such a report as is here indicated I have no objection.

Mr. GRIMES. I can say furthermore that the president of this company was before us with

the bill as it now stands, and he interposed not the slightest objection to this section.

The PRESIDENT *pro tempore*. Does the Senator from Ohio withdraw his motion?

Mr. SHERMAN. Yes, sir.

Mr. SUMNER. I beg leave to offer an amendment to come in at the end of the first section:

And provided further, That there shall be no exclusion of any person from any car on account of color.

I will merely make one remark. Congress has already adopted this proviso with regard to the two other railroads in the District, one running through F street, and the other between here and Alexandria. It ought to make the roads equal in this respect if there were no other reason in favor of the provision; but I borrow an idea from my friend the Senator from Iowa, who has just told the Senate that it is important in bills here that we should set a good example to the whole country; and I think in this provision we shall set a good example to every city throughout the country where there are horse railroads.

Mr. SAULSBURY. I saw an illustration the other day of this "no exclusion from the cars on account of color." It is not often that I ride in them; but it happened the other morning in coming to the Senate I took a seat in one of them. The car was very much crowded. Stopping at a crossing some ladies came into the car. I got up and gave my seat to a lady. Half a dozen other gentlemen got up and gave their seats to ladies. But in one corner sat one of these beautiful free men of African descent, the only negro in the car, too dignified to get up and give his seat to a white lady. That is one of the beautiful advantages resulting from this doctrine of "no exclusion on account of color," a practical illustration of their fitness to ride in cars with white people. I think such an example ought certainly to influence the Senate to vote against any exclusion on account of color.

Mr. WILLEY. Is it in order to amend the amendment?

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) It is in order.

Mr. WILLEY. I do not know that what I desire to propose is proper as an amendment to the amendment or not. I propose to strike out the proviso to that section as it now stands entirely. It reads:

Provided, That on Sundays the said company shall be permitted to run cars at the same intervals of time as prescribed in the original law for the other days of the week.

If it is proper to move as an amendment to the amendment to strike out that proviso I will make that motion.

The PRESIDING OFFICER. The Chair will inform the Senator that that is not now in order, as it is not properly an amendment to the amendment moved by the Senator from Massachusetts. The question will first be taken on the amendment moved by the Senator from Massachusetts, after which the amendment suggested by the Senator will be in order as an independent proposition.

Mr. HENDRICKS. I suggest to the Chair that the motion made by the Senator from West Virginia is in order, but the vote would have to be taken first on the amendment of the Senator from Massachusetts and then on the motion to strike out.

The PRESIDING OFFICER. As the amendment suggested by the Senator from West Virginia does not affect in any way the amendment proposed by the Senator from Massachusetts, the question will first be taken on the amendment proposed by the Senator from Massachusetts.

Mr. HENDRICKS. I had occasion to express my views on this subject to the Senate some time ago, and I do not intend to allude to them again. They are now legislating in respect to a corporation already in existence, that corporation having constructed its work by the expenditure of its money. There is reserved in the original act of incorporation the right to amend, but of course the results that were contemplated by that provision are such as will make the work a more successful one and will not materially take away from the value of the property that has been invested in it.

The Senator from Massachusetts says that this provision is to be found in the charters of the other two companies within this District, and therefore we ought to make them all equal. When per-

sons took stock in the new companies they knew of this provision and they invested their money with a view to it; but the men who have invested in this corporation and whose money is now in the rails, cars, and horses did not do it with the view and expectation of legislation on the part of Congress that would depreciate the value of the property. I think there is no question that this legislation will make this property of less value; and I do not think it ought to be adopted upon general principles. I do not think in amending a charter that we ought materially to depreciate the investments men have made upon the faith of former legislation.

Mr. SUMNER. I will simply remark that I think the value of the stock cannot be affected at all; but even suppose it were the fact, the Senator will see that it will only be on an equality with the other roads.

Mr. SHERMAN. I am told that we have clogged the other roads so that substantially the persons who proposed to build them will not now build them. That is the trouble with all these roads. It seems to me we ought to encourage the building of as many roads in Washington as possible by granting them liberal charters. Every one is willing to pay five cents to go anywhere. We ought to encourage them by liberal charters, without inserting in them provisions that will excite public clamor or public hostility. This thing of tinkering constantly with these little charters, simply because somebody is dissatisfied and has not had his way about it, is one of the most disgusting kinds of legislation. If the people who have embarked in this enterprise make money out of it they are entitled to it; if they suffer losses we never pass appropriations to make them good; and therefore when we pass a charter, although we reserve the power to change it at our pleasure, we do it for the public good. It is not for the purpose of restraining them, limiting them, or depriving them of that which they believe to be their property, or of embarrassing them in their operations, but simply that we may have it in our power to control them, prevent them doing any great public wrong. Therefore I am and always have been opposed to any change or modification of charters unless a company attempts to do that which is not fairly justified or within the purview of its powers. I think, therefore, that all these provisions, especially the fourth section of this bill, requiring a report upon thirty-one different items, and this amendment offered by the Senator from Massachusetts, all tend to embarrass the owners of this property. I think the amendment ought not to be adopted.

Mr. SUMNER. I agree substantially with what the Senator has said; but he very aptly remarks that we are to consult the public good. Now, I submit the public good is consulted by removing all restrictions from the use of the road. If the Senator wants more passengers why impose a restriction?

Mr. TRUMBULL. That is the very question; is there any restriction in the charter?

Mr. SUMNER. No; but practically they make a restriction. We know that, for we have had this question up before.

Mr. HENDRICKS. The company will not make a restriction against their interest. That is the question made by the Senator from Ohio.

Mr. SUMNER. I do not know that. Human prejudice is very powerful, the Senator knows well, and they act according to the prejudices of this place. I do not wish, however, to be betrayed into any discussion on that question. It is perfectly understood.

Mr. WILLEY. I shall vote against this amendment, and I desire to state very succinctly the grounds. This is a matter that we cannot regulate by law, practically. It is a matter to be regulated by the interests of the company, the convenience of the people, and especially the tastes of the people.

But, sir, that is not the principal ground upon which I shall vote against this amendment. There was an inquiry introduced in the earlier part of the session on this very topic, and it was referred to the Committee on the District of Columbia. The committee after due deliberation reported that the law as it now stands does not make any distinction against persons on account of their color; that they have the same right under the original charter of the company to go into any

car as white persons; that there was no distinction in their right to ride in the cars and enjoy all the privileges of that mode of passage and to all the remedies for refusal. Senators deliberately decided that such was the true interpretation of the original charter; and now after a vote of the Senate, after a decision of the question, upon examination in the full form by reference to a committee and report and discussion and vote, why is it necessary to be tacking on to bills an amendment that simply amounts to nothing at all, a provision that has been decided by the Senate not to be necessary? Upon that ground, that the Senate may not stultify itself, I shall vote against this amendment.

Mr. SUMNER. The Senator from West Virginia forgets that after the report of the committee to which he refers the Senate did fasten upon a bill this very provision, and therefore, according to the assertion of the Senator, did stultify itself. I presume the Senator voted against the proposition, for he would not have acted naturally if he had not; and I presume he will now vote against this proposition, for he would not act naturally if he did not.

But the Senator argues that now in point of law colored persons may enter into any car. He knows that in point of fact they are excluded. It is not enough to say they have a remedy at law. They are poor; they are humble; they have not the means to obtain it; and it belongs to us, as Senators, it belongs to the Senator from West Virginia who has the privilege of a seat on this floor, and who from his own observation must know that they are excluded from the cars, when, as he says, in point of law they ought not to be excluded—I say it belongs to us all, and it belongs to that Senator especially, to aid in securing to them their rights. Those rights cannot be effectually secured to them except by such a provision as I now move.

Mr. WILLEY. I do not know whether I am acting more "naturally" in voting against a proposition of this character: I do not know that I have any "natural" inclination to ride in cars with negroes. I suppose that is the "natural" inclination of the honorable Senator from Massachusetts. If it is, he has a perfect privilege, as this Senate has decided, to indulge the inclination of his nature under the law as it now exists. There is nothing in the world to prevent it. He may follow out his natural instincts in that respect and I can follow mine under the law as it now is. He can ride with negroes if he sees proper; so may I; but if I see proper not to do so I shall follow my natural instincts while he follows his.

Mr. WILSON. I shall vote for this amendment, and my own observation in these cars convinces me that justice, not to say decency, requires that I should do so. Some weeks ago I rode to the Capitol in one of these cars. On the front part of the car, standing with the driver, were, I think, five clergymen of the Methodist Episcopal church, dressed like gentlemen and behaving like gentlemen. These clergymen were riding with the driver on the front platform, and inside the car were two drunken loafers conducting and behaving themselves so badly that the conductor threatened to turn them out. I thought that sight was a fair illustration of this exclusion of colored persons from the railway cars. These were men of intelligence and of character, riding on the outside of the car, and a couple of ragged, drunken loafers inside, cursing and swearing, and the conductor threatening to turn them out of the car. You may often see in these cars every sort of person beside you, and well dressed colored people, women too, and on cold and rainy days, thrust out on the front platform with the driver.

We are told that this company has no right to make this distinction. We do not believe they have any such right; but still, in defiance of the law and in defiance of decency, they persevere in this practice. I rode down with some members of the Senate last night in a car, and out on the front part with the driver were respectable, well-dressed colored persons, of both sexes. I shall therefore vote for this amendment, and let this company understand that they are acting not only in defiance of their charter, but in defiance of the will of Congress.

Mr. TRUMBULL. I recollect some years ago when southern influences prevailed in this Chan-

ber, and the legislation of the country was in favor of slavery, and what is called the slave power dominated here, that they sometimes passed laws and put into them provisions that were offensive, for the very purpose, as it seemed to me, of offending the people of the North who did not believe in the divinity of slavery or in the propriety of its spread. I recollect the fugitive slave law of 1850 seemed to have been drawn in that spirit, as if it was drawn by a person not simply to secure the return of slaves who escaped from their masters, but to make it as odious as it was possible to make it to every anti-slavery man in the country. I thought that that legislation was wicked; that it was calculated to alienate one portion of the people from another, to alienate different sections of the country, and produce bad feeling. I believe it did have that effect. I recollect that one of the provisions of that odious law, as I regarded it, was that it should be the duty of every man to assist in catching fugitive slaves, imposing it as a duty on every man to hunt after slaves and return them to their masters—the imposition of an act upon an anti-slavery man which the slave-masters would not do in the South. Slave-masters would not be guilty of going out and hunting after runaway negroes; and yet that law had that odious feature in it, making it the duty of every man in a free State, who wanted to have nothing to do with slavery, to be active and vigilant in catching the runaway negroes. There was no efficacy in that provision. Although the law said it should be the duty of every man to aid in recapturing slaves, no penalty was attached to the requirement; if a man did not exert himself to catch a runaway slave he was subjected to no penalties, and the provision could only have been inserted in the law because it was distasteful to the anti-slavery men of the country.

Now, sir, another party is in power. I am glad that a party is in power which does not believe in the divinity of slavery. But, sir, let us not fall into the same error that the advocates of slavery fell into. It is admitted here by the Senator who moves this amendment that the law now is that there can be no distinction as to color in regard to passengers. It is admitted that the law now is that this company has no authority to exclude a person on account of color. The Senator from Massachusetts admits that to be the law.

Mr. SUMNER. I think so.

Mr. TRUMBULL. Then why do you want to repeat it? So as to make it offensive to somebody? So as to make it distasteful to somebody?

Mr. SUMNER. Because in point of fact—

Mr. TRUMBULL. Because they will not obey the law. Will they obey it any more when you put it into the charter? Does that alter it?

Mr. SUMNER. Yes.

Mr. TRUMBULL. Not at all in a legal point of view. Need I say to the Senator from Massachusetts that the legal rights of the colored man are no greater when this provision is adopted than if it is left out? He has his same remedy with the provision out as he has with it in. Why put it there? It is offensive to some persons, offensive to a great many. I myself have seen within ten days the very state of things stated here to-night by the Senator from Delaware. I was in one of the cars which was tolerably full, and among others sat a negro upon one of the seats. A number of ladies came in. I for one got up and gave my seat to a lady; but that negro sat there and held his seat when man after man got up and gave their seats to the ladies that came in. I am not complaining that that was so. He had just as good a right to retain his seat as anybody else, just as good a right, I admit, as the Senator from Massachusetts—

Mr. SUMNER. Why refer to it?

Mr. TRUMBULL. I refer to it so that you may know that negroes do ride in the cars. It may have been agreeable to the tastes of the Senator from Massachusetts, he may have liked to see it; but I confess I should have preferred to see the negro give his seat to some of those ladies. It may have suited him better that he should not; he had a right to retain his seat and he did retain it.

This provision proposed to be put into this bill can only be put in because it is distasteful to somebody to enact it into a law. I am willing to go for any measure that can accomplish good; but the right of the negro to ride in the cars upon

this city railroad is not affected in the least by the provision offered by the Senator from Massachusetts; and he knows it, he admits it. His right is as perfect and complete without it as with it, just as complete as was the right of the slave-owner to reclaim his slave without putting in the law that odious feature declaring it to be the duty of the Senator from Massachusetts and myself to aid and be vigilant in recapturing the negro slave who was escaping from his master. That did not give any additional strength to that law; it was an odious feature; it ought never to have been inserted in it. This provision can give no additional right to the negro. It is not to remove a restriction.

Sir, the country is being misled by these provisions. Senators speak of them as removing a restriction. I want it to be known that there is no restriction; I want it to be understood by the Senate and the country that under the law as it is the negro has the same right to ride in these cars as the white man, and this amendment of the Senator from Massachusetts has no binding efficacy whatever; it is only out of the abundance of his zeal to put upon the law a provision without a meaning that he offers it here and presses it time and again upon the Senate. I call upon the Senator from Massachusetts to tell me any right secured to the colored man by this provision that he does not have without it. I deny that there is any.

Mr. SUMNER. Mr. President, the Senator from Illinois in former days was a sincere, intelligent, devoted supporter of the Wilmot Proviso. As I understand that proviso it was simply a prohibition of slavery in the Territories. Now, I know not whether the Senator held, as I did, that even without that proviso, by a strict interpretation of the Constitution, slavery could not go into the Territories. I presume he did; most of us did; for myself, I held it resolutely and sincerely. I always regarded the Wilmot Proviso, if the Constitution were properly interpreted, as mere surplusage, as a mere work of supererogation; and yet I never hesitated, in season and out of season, to vindicate it; and I believe the Senator never hesitated in season and out of season to do the same. I remember that my earliest admiration of that Senator was founded on his brave and able vindication of that very prohibition of slavery in the Territories. He was not then deterred from supporting a humane provision because without it, according to his interpretation of the Constitution, slavery could not enter the Territories. Nor was he deterred because the provision might be offensive to certain persons of weak nerves. No, sir; bravely he maintained the principle that slavery must be prohibited. And on the same principle (if I may pass from great things to things which are smaller, I admit, but yet which are not small) I insist that this proviso also should be adopted.

Our experience shows that even if the law is as the Senator from Illinois now expounds it, it is not so accepted by this railroad corporation. The Senator knows as well as I do that colored persons are daily excluded from the cars. Some of the victims of this outrage will compare in respectability of conduct with any whom I now have the honor of addressing. My colleague alluded to colored clergymen that he saw thrust out only the other day. We know of an officer of the United States, wearing the national uniform, thrust out, and the Senator from Illinois will allow all these things to be done and not interfere to prohibit it. He tells us that it is contrary to law, and yet he allows it to proceed under the very eyes of the Senate. Sir, I insist that the Senate when such abuses occur shall show that it has power and is willing to exercise it on the side of justice.

But the Senator reminds us that in old times the fugitive slave act was passed here and made especially offensive, and he pleads with us now not to imitate that bad example by introducing anything that may be offensive. I do not like the comparison of the Senator. Does he not know well that everything introduced into the fugitive slave bill was in the interest of slavery and contrary to every sentiment of humanity, and that it was intended to give offense? The proposition now moved is just in the opposite sense; it is to sustain the principles of humanity, to uphold human rights and human equality, and with no purpose of offense. The illustration of the Senator,

therefore, is entirely out of place. True it is that in those old days we were offended, and it was a part of the hardships to which we were exposed. As in the days which preceded our Revolution the British officers said they would cram the stamps down the throats of the American people, so in the same malignant spirit slavery was in those days crammed down the throats of the Serrate and of the country. There was nothing but brutality then. Slavery is bad in all its features, but one of its odious features is the revolting insensibility to every sentiment of delicacy and humanity which it created in its supporters.

But, sir, the Senator from Illinois knows very well that it is in a very different spirit that propositions like the present are now brought forward. It is always in the interest of human rights; and I need not say to that Senator, so far as I am concerned, with no other purpose except that which is apparent in the proposition itself; with no idea of offending any human being; on the contrary, with a desire to avoid offense to every person if I possibly can. Sir, it is in that spirit that I wish to do my duty on this floor. I would never give offense to any one here if I knew how to avoid it, and I never would give offense to any one abroad if I knew how to avoid it, while I faithfully discharged my public duty.

Mr. TRUMBULL. I shall occupy but a moment. It will be observed that the Senator from Massachusetts has not met the view which I suggested. He does not profess to meet the point of my statement, which was that his proposition does not alter the law at all. He does not contend that it alters the law, that the colored person will have any right under his amendment if it shall be adopted which he has not without that amendment. But he says his amendments are offered in the interests of freedom. Sir, I do not pretend to impugn the Senator's motives. He is zealous in the cause of freedom. He has reason to be so. I am glad that he is so. It is a holy cause; it is entitled to the zeal of us all. But even in a good cause, and in a holy cause, if you can accomplish your object without doing anything that shall excite the hostility or enmity of those who disagree with you, that is surely the better way to do it. Let us win if we can these devotees of slavery. If there is a prejudice here in regard to color let us not make angry those who have that prejudice unless we can gain something to freedom by it. That is the point. Inasmuch as there is no restriction to be removed by the amendment, no object to be accomplished by it, inasmuch as the right of the colored person is the same with or without it, I would not insist upon it, and I shall therefore with the view which I entertain vote against it for the reason that it is wholly inoperative and does not alter in the least the right of the colored person.

Mr. WILSON. I certainly have no objection to the Senator from Illinois voting against this amendment; but I do object to his argument made in support of his vote. That Senator rises and reminds the Senate of the manner in which the slave-masters conducted themselves during the years when they were pressing their aggressive policy on the country, and he then turns round and charges some of us with pursuing the same offensive course. I do not like the comparison, and I do not thank him for making it. It is a strange thing to hear that Senator, in this Chamber, make such an odious comparison. For thirty years the legislation of the country was controlled by the men who are now in rebellion, and by word and by deed they offended the sentiments of our common humanity; and now the Senator from Illinois rises in his place to-night and refers to their words and their acts, and then makes a comparison—a comparison which, if there is anything in it, is a censure of some of us who believe it right always to protect and defend the helpless.

The Senator tells us that the colored people have a legal right to ride in these cars now. We know it; nobody doubts it; but this company into which we breathed the breath of life outrages the rights of twenty-five thousand colored people in this District in our presence in defiance of our opinions. They may act according to their prejudices; and I would not offend their prejudices unless it were necessary to protect the rights of others. I tell the Senator from Illinois that I care far more for the rights of the humblest black child that treads the soil of the District of Colum-

bia than I do for the prejudices of this corporation and its friends and patrons. The rights of the humblest colored man in the capital of this Christian nation are dearer to me than the commendations or the thanks of all persons in the city of Washington who sanction this violation of the rights of a race. I give this vote not to offend this corporation, not to offend anybody in the District of Columbia, but to protect the rights of the poor and the lowly, trodden under the heel of power. In giving this vote I must confess that I do not like to be compared to the bold, arrogant, domineering slave-masters who ruled this country for thirty years and are now endeavoring to destroy it, men whose every voice and every vote was ever against human rights, against liberal legislation, and against their country.

I have seen the time, and so have you, sir, [Mr. POMEROY in the chair,] for you were then a citizen of my State, when railroad corporations undertook to have what we called a Jim Crow car, and to put colored men into it, and to exclude them from riding in other cars. The aroused and enlightened public sentiment of our State righted that wrong. You and I, sir, have seen the time when colored children were attempted to be excluded from some of the common schools, where they had as much right by law as your child or mine. They appealed to the courts and appealed to the Legislature, and the Legislature vindicated their rights, and those rights are now acknowledged and undisputed. We had to fight that battle, and we had the same caution then against encountering the prejudices of certain persons. Sir, I do not desire to go against prejudices; certainly I do not desire to do it when I have to encounter the current of public sentiment as we have here in this case, and generally have in the country on this and kindred questions, but rights are to be protected and defended. I trust we shall protect rights, if we do it over prejudices and over interests, until every man in this country is fully protected in all the rights that belong to beings made in the image of God. Let the free man of this race be permitted to run the race of life, to make of himself all that God intended he should make when He breathed into him the breath of life.

Mr. GRIMES. The Senator from Massachusetts [Mr. WILSON] has told us very truly of the changes that have been going on in the condition of colored persons in his own section of the country and in others, so that they have finally got that they are now permitted to enjoy the advantages of education in common schools and to be transported in railroad cars as white people are. Now, Mr. President, so far as this railroad is concerned that is now under consideration they have all these advantages. It is not denied that a colored man can ride in the cars; he has the same legal right to ride in one of these cars in the District of Columbia that he has to ride in a car in Massachusetts. So says the chairman of our Judiciary Committee, [Mr. TRUMBULL;] so says the Senator from Maryland, [Mr. JOHNSON;] so says the Senator from West Virginia, [Mr. WILLEY;] such was the unanimous decision of the Committee on the District of Columbia. Now, what does the Senator from Massachusetts [Mr. SUMNER] propose to do? Reënact simply what is already the law; what he himself admits to be the law?

Mr. SUMNER. Which is drawn into doubt by the conduct of the corporation.

Mr. GRIMES. Is drawn into doubt by the conduct of nobody, so far as I know. I can tell the Senator that I have seen colored men riding in colored cars, and I have seen them riding in cars devoted ostensibly to white people, and I have ridden in each with them.

Mr. FOSTER. I rode up to-night beside a black woman in a white car.

Mr. GRIMES. It depends very much on the character of the conductors. I have been insulted by some of these conductors myself. The company is unfortunate sometimes in selecting a brute as a conductor. But now I want to know this: are we, every time that there shall be a bill introduced into the Senate in relation to the Georgetown and Washington Railroad Company, to have this amendment repeated, and must we re-enact every session such a provision as this?

Mr. SUMNER. Just do it now. This is the last one, as I understand. We have done it in regard to the F street road; we have done it in

regard to the road between here and Alexandria. It only remains to do it on this line, and then the work will be finished. The Senator need not be afraid; do not be anxious.

Mr. GRIMES. If it is here now, as it is admitted that it is, if such is the law to-night, what is the necessity for repeating it? At the time we passed the bill in relation to the Alexandria railroad and the F street road, it may have been important to include such a provision, because the other provisions of those bills may not have entitled colored men to ride. I do not remember at this moment what were the provisions of either of those bills, but it may be possible that in order to confer this privilege on colored people it was necessary to adopt the amendment which the Senator from Massachusetts proposed to those bills. But the Senator does not claim that it is necessary to do it now to give any legal validity to the rights of colored men; and if it is necessary to-day to repeat what is already in the law, why will it not be necessary to do it every time any bill shall come up in relation to this subject?

Mr. SUMNER. The simple answer to the Senator is, that their rights now, in the absence of any express provision, are merely a matter of inference, a deduction from what I regard as unquestionable principles of law; but it seems that this corporation chooses to outrage the community and the Senate, which has so often declared its opinion on this question of law, by the exclusion of colored persons. I know that there are cars in which colored persons are admitted; and the Senator from Connecticut announces that he had the satisfaction of riding in one of them to-night.

Mr. FOSTER. I did not say the "satisfaction." [Laughter.]

Mr. SUMNER. Very well, he did so; it was in that way that he came to the Senate to-night. But then one example does not prove a rule, the Senator from Iowa knows very well; "one rose does not make a summer," and we all know that there are cars from which they are excluded, and the Senator must be too familiar with the feelings and the sentiments of that oppressed race in this District not to know that they feel it keenly. Several of them have called upon me to explain the grievance as they feel it. I have told them that they might have a legal remedy; they have said that it was vain for them to attempt to get it; some of them had not the means to employ lawyers; and the Senator knows very well that a legal remedy is indefinitely postponed.

Mr. GRIMES. I should like to have the Senator answer me one question. Suppose we pass this amendment, and put it into the law, and the company goes on and does exactly as it has been doing, excluding these men, what are these colored men going to do? Have they not got to go to law then? Will they not be compelled to enforce their rights in court? Will they not be compelled to employ lawyers? If that be so, what advantage will it be to them to adopt this amendment under the present condition of things?

Mr. SUMNER. I will answer right there. Because the company will not dare to continue this outrage in the face and eyes of a positive provision of statute. That is the answer.

Mr. GRIMES. It is just as positive now as it will be after this amendment shall be adopted. There is not any man within the sound of my voice who doubts the perfect right of these colored men to ride in the cars. As to whether the company outrages the public sentiment of the people of this District, that is a question about which there probably would be a diversity of sentiment. But so far as it affects the rights of the colored men, everybody admits that there is no necessity for any such provision. Now let me tell the Senate how I think the colored men are more outraged than in any other way; and that is by the interference of white men with the cars devoted to the exclusive use of colored people. I do not believe that the colored people are desirous—I speak now of the most intelligent and of the best of them—I do not believe that at this time, situated as they are, mixed up and mingled, as the most intelligent and best educated and worthiest of them are, with the contrabands and those who have recently been freed, they think it is to their interest that they should be indiscriminately permitted to ride in these cars; but they should be permitted to occupy undisturbed the cars which the company have

dedicated to their use, and that right they are not permitted to enjoy which they ought to be permitted to enjoy, and the company ought, I think, to exclude entirely white people from these cars and not force the colored people out of the cars that are set apart for them.

Mr. SAULSBURY. Mr. President, there is nothing so important in legislation as symmetry. I always like to see the symmetry of legislation preserved. The other day there was a bill before the Senate to establish a Freedmen's Bureau; I offered an amendment to that bill, the words of which were the words of the Constitution, which is the charter of the liberties of the people of this country. Objection was raised to my amendment by those representing the majority in this body, that it was simply a reaffirmance of that which already existed in the Constitution, and they voted it down because it was useless legislation. They said that the people of this country had the right already to be free in their persons and property, and free from arrest without due process of law, and that my amendment, therefore, was useless. It was further said that if the President of the United States, or those intrusted with the administration of affairs, violated those constitutional rights now, they would violate them after we affirmed them by law. I asked the Senate, notwithstanding that was true, to reaffirm them; and I find my own argument repeated here to-night. I held then that if the Senate of the United States affirmed them by act of Congress, it would be a notification to the President that he must not infract those rights in the future. It was all treated as naught; my amendment was voted down. Now, sir, let there be a little consistency in legislation. We are told by the Senators who favor this amendment to this charter that the negroes have a right to ride in the cars already, and yet some of them say, "Place it in the charter over again." "It is there already," they say; but still they insist that it shall go in the charter again; and we shall see, I am apprehensive, a beautiful specimen of consistency in this Chamber by voting down a reaffirmance of the rights of white men and reaffirming in this charter what they say are the rights of negroes. Poor, helpless, and despised inferior race of white men, you have very little interest in this Government; you are not worth consideration in the legislation of the country; but let your superior, Sambo's interests come in question, and you will find the most tender solicitude in his behalf. It is good sometimes to stir up men's pure minds by way of remembrance; and I have referred to the action of the Senate the other day in reference to my amendment which they voted down upon the very ground that the rights which it sought to affirm were secured already by national charter, by the Constitution, that they may see the consistency of their action when they vote now to reaffirm what they say is the right of the negro already. What a pity it is there is not somebody to lamplblack white men so that their rights could be secured.

Mr. HENDRICKS. I did not design to say another word on this question and would not except for the fact that it seems to be assumed by many Senators that it cannot be that a railroad company can make a regulation like that which has been adopted by this corporation. I understand this corporation to have decided, and carried out that decision, to provide cars for white persons and other cars for colored persons. I understand Senators to say that a regulation of that kind is not consistent with the charter; that such a regulation cannot legally be made. In that opinion I am unable to concur. I think it is such a regulation as a corporation may make, and I think the power to make such a regulation is very fully sustained by numerous decisions of courts of high respectability. How freight shall be carried, how passengers shall be carried, upon what terms, and in what cars, and upon what trains, must be decided by the corporation itself. Of course the power to make these regulations is limited by the public interest; a corporation must make its police regulations in accordance with what is fairly the public interest and the public wants. The courts of course would decide, when any one regulation becomes involved, whether that regulation is fairly within the powers of the corporation in view of the public interest. In some localities I can conceive that a company cannot well make a regulation of this sort; where

there are but very few colored persons, never enough to fill a car, it would be very difficult there to make a regulation of the kind, assigning some cars to colored persons and the rest to white persons; but in the city of Washington it is very different; the negro population here is very large. The negro population, contrabands and all, I suppose is nearly as large now as the white population; and it is very convenient for the company to provide a set of cars for the colored people and another set of cars for the white people. Who shall complain of this? Let the cars that are given to the colored people, as is now the regulation, be exclusively for them without the right on the part of the white people to crowd them out; and on the other hand let the white people have their cars for their own exclusive accommodation. Shall a white man or white lady complain that they are not allowed to ride in the colored people's cars, that they are not allowed to exclude the colored people by crowding them from their own cars? Everybody would say that a white person would not make that complaint. On the other hand, then, shall the colored person complain that he is not allowed to crowd white men and white women out of the cars that according to a reasonable regulation have been assigned to the white people? I have no doubt that the courts would hold that in the District of Columbia, in view of the character of the population in this city, such a regulation is a wise one and within the scope of the power given to the corporation by the charter. Is not this a good regulation for the colored people? If there are cars given to the colored people sufficient for their accommodation, they ought to be content. None but an impudent negro, after that, would wish to crowd into the white men's car. A sensitive negro, such as has been described by the Senator from Massachusetts, well dressed and behaving himself well, with gentlemanly feelings, would want to be among his own people, would not want to come into a car where he was not desired. It seems to me this regulation is a proper one and such as under the law the corporation might establish. I do not desire to occupy any time about this, but would like to have a vote once more on it and see what is the view of the Senate.

Mr. SUMNER. The argument of the Senator from Indiana is a complete answer to the Senator from Illinois and to the Senator from Iowa. Both of those Senators have very ably insisted that the proposition now introduced is unnecessary. The Senator from Indiana shows that in his opinion it is necessary. According to his able statement, in the absence of any such amendment as that I now propose the colored people here in Washington will have no right in the cars. That is the argument of the able Senator from Indiana. He, in my opinion, is not correct in law; but then I give it only as my opinion; other Senators may give it as their opinion: the opinion of the Senator from Indiana is entitled to as much consideration as that of any of us; therefore there is a doubt on the question; it is to meet that doubt and to place the rights of these people beyond all question that I make this proposition.

Mr. POWELL. I had not intended to say a word upon this subject; but it strikes me that the legislation now proposed is most singular. I do not suppose there is a Senator in this Chamber who does not know that persons without regard to color have a legal right to ride in the coaches of this railway company. Why then the necessity of the amendment offered by the Senator from Massachusetts? He might just as well propose to put into the bill that persons shall not be excluded because they are white, or because they are yellow, because they are Indians as because they are black. I have listened to the Senator a great deal on this subject of the negro; and the speech he has made to-night discloses to me one fact, and that is that he is not so very specially regardful of the interests of the poor negro, and I will state the reason by and by why I think so.

I was about to remark that the law as it now stands provides for all classes of people; but I agree with the Senator from Indiana that it is within the power, and I believe it to be the duty, of the managers of this railway to set apart certain cars for the accommodation of certain classes of people. For instance, I believe it would be perfectly legitimate for this railway company to set apart and dedicate certain cars for the use of

ladies, and gentlemen who escort ladies, and to keep gentlemen who have no ladies in charge from those cars. I think it would be perfectly proper for them to set apart certain cars for colored persons and keep white men from them. The company are not compelled to let every man ride in every railway coach. All that the company as common carriers by law are bound to do is to furnish accommodations on their line to those who present themselves as travelers. Every one of us, I dare say, has often been met on attempting to enter a particular coach on a railway train, by some official who says "You cannot enter here, sir, unless you have ladies in charge," and if you have no ladies with you you are shown into another coach. What man of sense ever complained of that regulation? But gentlemen say they have seen rowdies and ruffians, drunkards and loafers inside of these cars, while a negro was on the outside. The conductor of such a car, if he had done his duty, should have put such people out of the car. Drunken loafers ought not to be permitted to ride in the cars where orderly and sober well-behaved people are. Every man is bound to behave himself when he enters a public vehicle. I think it would be wise and proper for this corporation to set apart cars for different classes of persons. If they choose to do it, I can see no harm in it to anybody, but it would be really an accommodation for all. But, sir, it is proposed to provide that they shall not exclude a man from a car because he is black. It would be just as sensible to put in an amendment that there shall be no privileges denied to a man because he is white. I think the remarks which have been made by the Senator from Illinois and the Senator from Iowa fully meet the case.

But, sir, the Senator from Massachusetts tells us that his object is to prevent a down-trodden race from being oppressed. I suppose every man in the Senate Chamber understands the motive of the Senator from Massachusetts. He told us a moment ago that some of these persons came to him and advised him about this matter, and he said to them that the courts were open, and they told him they were too poor to prosecute lawsuits. Now, sir, if the Senator is such a vehement friend of this down-trodden race, as he is a lawyer, why did he not undertake their case, and propose to argue it for them before the courts? That would have indicated that he really felt for the negro. No, sir, he does not do that, but he comes here and tries to put amendments on bills that give the negroes not a whit more privilege than they have now. The Senator shows his devotion to this down-trodden race here and only in words. Really if a down-trodden man of my race came to me with such a case and I had made half the clamor for my race that the Senator has made for the negro, I would have said to him, "My dear sir, I will see that you have redress in the courts; my profession is that of the law; and without fee or reward, except that consciousness which a man always feels in rendering a good action, I will advocate your rights, I will prosecute your case." If the Senator had done that he could have an adjudication of the courts on the question, which would have settled the right. He does not do that, however, and he comes here with his amendments.

Sir, we here all understand this matter. We are all politicians or have been. The Senator's staple is this fanatical idea. He wants this little hobby to ride through Massachusetts on, and to feed a fanatical flame there. He can fool nobody here with this kind of thing. Take the negro out of the Senator's vocabulary, and rich as it is it would be exceedingly barren. Take that staple from him and he would have nothing for the next canvass. I hope he will retire with the laurels he has won in this field. He has assisted bad men in other quarters to bring about a revolution that has drenched the whole land in blood, and clothed millions of our people in mourning. He ought to be satisfied with the results of his labors without still trying to fan the flame further. When one of those down-trodden persons of whom the Senator speaks with such sympathy is encroached upon in his rights, let him tell him that he will be his champion in the courts without any reward if he has not the means to pay. That would look as if he was in earnest.

Suppose you put this amendment in the bill, and a negro after that should be excluded; as the

Senator from Iowa says, he would have to go to the courts. Why does not the Senator from Massachusetts the next time one of his Ethiopian friends comes to complain to him on this subject that he has been wronged and outraged, volunteer to bring an action in the courts and teach this heartless corporation that they must treat these persons properly, and not deny them any of their legal rights?

The Senator seems to think that it is an exceedingly gratification and satisfaction to have the privilege of riding in a car with a negro. He spoke of the remark of my friend from Connecticut as if it was a matter of exceeding satisfaction that he had been riding in a railway coach with a negro this evening. Why, sir, to-day I have ridden between the Capitol and Eighth street three different times, and one car had three negroes in, and another had two negroes, and the third had one; but I did not feel any great satisfaction in it. I felt no very great repugnance about it. The negroes behaved themselves; I did not molest them, and they did not molest me. I am willing, however, to do one thing, and as I suppose the Senator from Massachusetts has accomplished all he desires—he has made a display here to gratify the fanatical feeling of his constituents at home—I am willing to provide that he shall not be excluded from associating with the negroes in railway cars or elsewhere. I thought at one time of moving such an amendment, but on reflection I came to the conclusion that it would look as if it were personal, and therefore I shall not offer it; but if the Senator from Massachusetts will draw up an amendment providing that this railroad company shall pass no rule or regulation that will prohibit him from riding in the cars set apart for colored persons, I will vote for it with a great deal of pleasure, if it will afford him any satisfaction; but I do not think he ought to require other people to have negroes thrust in on them, provided the railroad company chooses to set apart other cars for them.

I have never made any fuss about this matter. When I take my place in a public conveyance, I abide the rules and regulations of the company. If they have certain coaches into which I cannot enter because I have not a lady with me, I say nothing about it. I go to the place assigned to me, and there I try to behave myself as becomes a modest gentleman. If they adopt such a regulation here, and have cars marked "For colored people," I should not put my foot in them, and I never have done so, because I should feel as if I were poaching on the manor of the negro. If they had a car marked "Exclusively for ladies and gentlemen accompanying them," I would not put my foot in it unless I was escorting a lady. I am satisfied to take that coach which the company has set apart for me. I think that is all you ought to require of any of these companies, and if as common carriers they do not do their duty, every person aggrieved has his right of action against them.

I think the Senate ought to vote down this amendment of the Senator from Massachusetts. I suppose he has derived all the benefit from it that he wanted. He has indicated to his fanatical brethren, those people who meet in free-love societies, the old ladies, and the sensation preachers, and those who live on fanaticism, that he has offered it. As he has accomplished that purpose, let us now legislate as becomes sensible Senators, and let us make a law that excludes nobody and that mentions nobody in particular. The Senator might just as well, if a bill were pending to fix a penalty for an infraction of the laws of the United States, propose to amend it by saying that nobody should be excluded from the penalty unless he were a white man, or a black man, or a red man. It would be just as sensible. I want the laws general. I am not in favor of legislating exclusively for one man over another. If I were to do it, I confess that the pride I have in my race, believing them to be superior to the black race, would induce me to legislate in favor of my own race and color; but this bill as it now stands gives preference to none, and I see no reason why we should take up the time of the Senate eternally with squabbling over the Senator's amendments introducing the negro into every wood-pile that comes along.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts.

Mr. SUMNER called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 14, nays 16; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Colamer, Conness, Dixon, Foot, Howard, Morgan, Pomeroy, Sumner, Wade, and Wilson—14.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Foster, Grimes, Hendricks, Johnson, Lane of Indiana, Powell, Riddle, Sautsbury, Sherman, Ten Eyck, Trumbull, and Wiley—16.

ABSENT—Messrs. Doolittle, Fessenden, Hale, Harding, Harlan, Harris, Henderson, Hicks, Howe, Lane of Kansas, McDougall, Morrill, Nesmith, Ramsey, Richardson, Sprague, Van Winkle, Wilkinson, and Wright—19.

So the amendment was rejected.

Mr. WILLEY. I move to amend the first section of the bill by striking out the following proviso:

Provided, That on Sundays the said company shall be permitted to run cars at the same intervals of time as prescribed in the original law for the other days of the week.

I suppose, sir, it is hardly necessary to have such a provision in the bill even for those who desire to have the cars running on the Sabbath day. I noticed that on the last Sabbath the cars were running on the road quite regularly all day. It is apparent, therefore, that there must be no authority to prohibit them from running now under the laws as they exist. The bill as it came from the House of Representatives made it obligatory on the company to do so, whether they desire to do so or not. The Senate committee reported an amendment giving the company the privilege of running the cars on the Sabbath day if they see proper to do so. Now, I hope that if the company run the cars on the Sabbath day they will do so of their own mere motion, without the authority of Congress. There seems to me to be no public necessity, that is no national necessity or very general necessity, for the service of these cars on the Sabbath day. They carry no mails; they render no service to the Government. If they are of any use on the Sabbath day they are simply of private utility.

I believe that this provision is against the Christian sentiment of the city; I believe it is against the Christian sentiment of the country. I know it is directly in the face of the express word of God. And inasmuch as the cars may run upon the Sabbath day without any legislation, without any sanction direct or indirect on the part of Congress, I do not wish to see the Senate of the United States placing themselves in a position that will be in direct violation of the plain mandates of the Scriptures, and, as I think, will be contrary to the Christian sentiment of the country, and will, in point of fact, accomplish no result whatever. The cars now run without permission of Congress; they run without any mandate of the law. Why, then, should we do a thing so unnecessary and to me so abhorrent to the spirit of the age, to Christianity, to the Bible, and I believe to the Christian sentiment of the city?

Mr. GRIMES. The bill as it was passed by the House of Representatives contained the word "required" in this proviso where the word "permitted" now stands; in other words, the company was required to run the cars on Sunday. The Committee on the District of Columbia proposed to strike out the word "required" and to substitute therefor the word "permitted," and that amendment has been agreed to. I think the Senator from West Virginia is mistaken in supposing that the company has the authority to run cars on Sunday unless by some permission granted by Congress or else in consequence of some change that has recently been made in a city ordinance. I am not very well informed upon the subject, but I have understood that when the company was organized it desired and sought an occasion to run the cars on Sunday, but was restrained by the city authorities from doing so. They commenced running last Sunday in anticipation of the passage of this law, after the bill was passed by the House of Representatives; and it may be possible that the city authorities have changed their ordinance on the subject within a short time; but I know that the president of the company told me at the commencement of the winter that the reason he did not run the cars on Sunday was because he was restrained by the city authorities.

While I am up I will state the reasons for this permission. By another bill which we have passed we have authorized this company to construct a suburban railroad running out as far as the limits of the District of Columbia extend. If

this city grows, as every man who is familiar with the country around us and with the condition of public affairs, I think, expects that it must continue to grow, a large population will in a short time gather out on the lines of the various railroads. They will be removed from church. It is exceedingly desirable that they should have some facilities for getting to church. It is even found necessary, I believe, in what some people call the puritanical city of Boston, to run the cars on Sunday to enable the population to go to church. I am told that is the reason which is assigned. It was thought by those who secured the passage of this bill in the other House, as I understand, that as the population extended it would be desirable that the people should have the facilities of coming to the town, to get into it and out of it.

I confess for myself that I am not one of those who would exclude the working man of the city from the privilege of getting into a street car and going out where he can see green fields and green trees on the Sabbath day. I believe that a large portion of the community might worship their Maker quite as acceptably in positions of that kind—in recreations, if you see fit to call them so, relaxations I would call them from the labors of the week—as they would be being cooped up here on the hot pavements of the city. As a sanitary measure I should be willing to permit this company, if they believe it to be their interest and the community demand it, to run their cars on Sunday.

Mr. JOHNSON. A portion of the argument mentioned by the honorable member from West Virginia, if well founded, would with me and with the Senate no doubt be conclusive; and that is that such a permission as we propose to give to this company is against the law of God. I do not exactly know what part of the law of God as revealed to us the honorable member refers to. He has cited no particular passage either from the Old or the New Testament. But one thing I know, or at least I think I know, that it is the duty of every man to go to church and worship God according to his own conscience; and if in the particular locality in which he happens to be he cannot get to church without extraneous help, there ought to be some mode in which he would be able to get to church. My friend from West Virginia, I presume, has lived in the country a great part of his life, as I have during a portion of mine; and in the part of Maryland where I lived perhaps the churches were more numerous than in the portion of Virginia where he lived; but in Maryland in the country the churches are sometimes five, six, or seven miles away from the residence of a great many of the worshippers, and they get to church by calling upon their grooms to bring out their horses, harness them, put them in their coaches, and making their drivers drive them to church. That, I suppose, is not against the law of God; and yet the coachman is made to labor in one sense on the Sabbath; the beasts are made to labor on the Sabbath; everybody who is concerned in enabling the party to get to church labors on the Sabbath; but I never heard it intimated by anybody, not even by a clergyman, that there was anything inconsistent with any prohibition or any principle to be found in the Old or New Testament in a practice of this description; on the contrary, I have always seen that the clergyman liked to have his church as full as he could get it, without reference to the manner in which the people got there.

Now, in this city, which was called in former times, and is still, a city of magnificent distances, the churches are almost as far apart as they are in the country; and if the weather is very hot or very cold, if it rains or if it snows, no man or woman can get to church without some extraneous aid; to walk might be impossible. I submit, therefore, that my friend from West Virginia is perhaps placing too literal an interpretation upon some text in Scripture, perhaps inconsistent with the spirit. It is difficult for us to understand always these scriptural injunctions. We may catch and comprehend their general spirit, and make our conduct conform to such spirit, but a literal construction of many of the injunctions which are to be found in the Old and New Testaments, as I am sure everybody will admit, would be inconsistent with the purpose which the Maker of the world intended to effect; and,

with the Senator from Iowa, (although I am perhaps just as much religiously inclined as he is,) I confess that I do not believe—and I hope that my want of belief is justifiable—there is any scriptural injunction which compels the laboring man, who sweats his twelve or fourteen hours a day at hard work to support his wife and his children, from being with his wife and his children permitted to go out where he can breathe the free and wholesome air of heaven unaffected by the noise and the dirt, and where he can worship his God in that tabernacle which He has furnished—the earth and the sky which covers the earth—forgetting the cares of the week, meditating upon the duties which he owes to his Maker, and determining as far as he may be able to resist the temptations which the life of the week presents. And it is not only good for his health in that particular, his moral and his religious health, it is good for his physical condition. I speak, Mr. President, perhaps with some experience, although not a laboring man in one sense, but in another sense in past years a very hard and incessant laboring man. I have found when Saturday night came, and I had the promise of a Sunday with the privilege of going out unaffected by the cares of office and the engagements of my profession, I was the better physically as well as morally. If it can be done without violating any of the injunctions of Scripture, as I think it can with due deference to the more complete knowledge that my friend from West Virginia may have on the subject, I want that the laboring men of this city who are far apart from each other may be afforded an opportunity of enjoying social intercourse with each other if they think proper to be in the city on Sunday; and they cannot do it in a city of these distances without some such aid as this; and I want them to be permitted to enjoy the pleasures of the country, the green fields of which the honorable member from Iowa has spoken, the silence which is found to reign there, an opportunity to turn their thoughts inward and to vow that thereafter, if they have failed in the past, they will devote themselves to the duty which they owe to their fellow-men and to their God.

Mr. HALE. Mr. President, I did not have the privilege of hearing the theological part of the argument of the Senator from Maryland; it seemed to be addressed to my friend from West Virginia, and I do not know what impression or what conviction it worked on his mind. The physical part of the argument seemed to be addressed to this side of the House, and I heard as much of that as I could. Now, Mr. President, it was poetical also. The "green fields" I think have done their full share in the argument for the legislation that is asked for, and the "meditation" that is induced in these Sunday rides and the inward contemplation "turning the thoughts inward" I think would have been more in conformity to the truth if the Senator had said it was devoted to turning lager beer, instead of thoughts, inwardly [laughter] on that day.

But, Mr. President, I will tell you just exactly where I think this matter ought to be left. It ought to be with the people of this city. We are the legislators for the District of Columbia, and I understand that the cars are or have been heretofore restrained from running on Sunday by the regulations of the city authorities. Am I right?

Mr. GRIMES. I have applied to the mayor since this debate to learn what the facts are in regard to it. He tells me that he decided that some old ordinance which declared that vehicles should not be permitted to run on the Sabbath for hire included the cars.

Mr. HALE. The same authority which made that ordinance can repeal it, and if that city ordinance is in force the railroad cars refrain from running on Sunday in Washington because the city authorities, the representatives of that class who go out on Sunday into the green fields for such reflection as the Senator from Maryland has so poetically set forth, have determined that it is improper and inexpedient.

Sir, I appeal now to my New England friends, men who, if they have no religion, have some pretense to it, [laughter,] and I ask them how they will stand at home if they go home and say that the city of Washington, outside of the Puritan influences of New England, with only such grace as they could attain to under the teachings they had had, had prohibited the cars from run-

ning on Sunday, and the Puritans of New England had come here and compelled them to allow traveling upon their railroads on Sunday. For one, I am not willing to occupy that position. I am willing to leave this matter where it has been left, and where I think it ought to be, and that is, with the city authorities.

Mr. President, while I am up let me say that I think our whole legislative action in regard to this District is wrong. We treat it more like a conquered province than like a community of freemen entitled to the privileges of the American Constitution; and one of the special objects of partisan plunder for every Administration that comes into power here is to bestow the local offices of this city upon their own favorites. We upset the judiciary here since we have been in power and established a new set of judges, and where did they come from? The gentlemen who were appointed were warm personal and political friends of mine, men whom I highly esteem, Judge Olin, of Troy, New York, Judge Carter, of Ohio, &c. The President went to Ohio and New York to get judges for the District of Columbia. There are no gentlemen in the world whom I esteem higher than I do them; but if I had been present—I was not; I was absent from sickness—I should have voted against their confirmation, because I thought it was based upon a wrong principle; and so it has been throughout. The President came here and brought his marshal for the District from Illinois, and a pretty bird he proved, too; and the Vice President brought with him a Navy agent, a very respectable gentleman; and so it is constantly. Why not act on the principle that the city of Washington is composed of men that understand their own interests, and certainly on these local matters?

For that reason I am for striking out this proviso; and, sir, I thank the Senator from West Virginia for the speech that he has made. I think it is the first speech I ever heard made in the many that I have heard in the Senate by a man who openly, boldly, without equivocation or apology, recognized the law of God and the obligations of Christian morality as binding upon him in his legislative capacity. We may have all felt it very deeply and keenly, but we have been so modest and so sensitive upon it that I declare the avowal of the Senator from West Virginia is the first time I ever recollect to have heard on the floor of the Senate the declaration of the obligation of the law of God and of Christian morality as binding upon a man in his legislative capacity. I hope, sir, that the proviso will be stricken out.

Mr. WILLEY. Mr. President, I am exceedingly indebted to my friend from New Hampshire for answering the poetical part of the argument of the honorable Senator from Maryland; but the honorable Senator from Maryland seemed to question whether my recollection of the good Book was not a little at fault, and he seemed to think that it might be hard to find within it any express injunction requiring us to observe the Sabbath day. Well, sir, it has been a good while since I learned my catechism, and the honorable Senator from Maryland, with the distinction of years upon his head, has been longer away from it, I suppose, than I have. And yet, sir, I trusted that even down to the utmost span of man's life, to threescore years and ten, no one in this Christian country would ever forget the lesson his mother taught him when he repeated after her, "Remember the Sabbath day to keep it holy," and not merely that general injunction, but specifying that no man-servant or maid-servant, or any person or thing within the control of the individual, should be allowed to labor on that day.

But then it is necessary in the estimation of the honorable Senator that we should have these cars on the streets upon the Sabbath day in order to get to church. That is to say, in order to obey one injunction of the Scriptures, hardly as plainly taught, I think, in the Bible, we are required to ignore another; in order to get to church we must have two horses and a railroad car, with a driver and a conductor, rattling along the public highway; and not only that, but so eager seems the honorable Senator, as well as my friend from Iowa, to go to church on the Sabbath day, that they must go every five minutes in the day from sunrise to sundown, for that is the requisition of this bill.

Mr. GRIMES. Not "requisition;" the Senator uses a wrong word.

Mr. WILLEY. The bill requires the cars to run as often on Sunday as is prescribed in the original law for the other days of the week.

Mr. GRIMES. Not "requisition;" they are permitted to do that.

Mr. WILLEY. If the Senator will modify this proviso so that the cars shall only run about church hours, I shall make no objection to it. If he will modify it so as to keep from the cars persons who have no church-going propensities whatever I shall not object.

Mr. GRIMES. Perhaps the Senator would want it modified so as to have the people go to his particular church. [Laughter.]

Mr. WILLEY. No, sir; I should be very glad if the honorable Senator would attend any church at all, no matter what. [Laughter.] But, Mr. President, it is seen, it is apparent, it is evident that the object of keeping these cars on the streets has no reference whatever to the accommodation of people going to church, and that the practical result of keeping them upon the streets on the Sabbath day will be to encourage vice, to encourage dissipation, to encourage drunkenness, to encourage the support of the lager beer saloons, as has been intimated here to-night, without accomplishing any practical benefit, for there is no transportation on that day of parties to their business or anything of that kind; it is simply for pleasure; and nine tenths of those who use them will seek their pleasure, not in those intellectual, poetical, sublimated enjoyments so beautifully described by the honorable Senator from Maryland, by going to the end of the railroad and then seeking the shade of the forest where they may be alone, but in places of dissipation and vice and carousal and folly. I hope it will be left to the proper authorities of this city to determine whether they shall have these cars running or not. I hope at any rate that the Congress of the United States will not give even a *quasi* assent or authority to what it seems to me is a palpable violation of the spirit of Christianity as well as the very letter of the Bible.

Mr. SAULSBURY. Mr. President, there are two very good documents which have been referred to in this debate, the Constitution of the United States and the Bible, which I think it is hardly necessary to refer to in a debate arising in this body. We have so persistently and continuously violated the former, the Constitution, that if its authors were alive they certainly would not suppose we had much regard for it, and I do not apprehend that we shall respect the Author of the Bible by simply striking out this proviso.

Mr. FOSTER. I shall vote for striking out this proviso, having, I hope, as much regard for the interests of the laboring men as those who insist that to have it in will be a benefit to them. Why, sir, look at the very large class of laboring men connected with these cars. There is a driver and a conductor on each car. There are a large number of persons employed at the stables where the horses are kept to attend to them, and at various points along the road where there are elevations of the surface, where it is necessary to have additional power, there are men or boys stationed with additional horses to put them on. Under these circumstances we see that there are, to speak within bounds, some hundreds of men and boys connected with these cars. The number may possibly reach even to a thousand. I do not know how many there are, but certainly a very large number.

Now, sir, ought we not to have some reference to letting these men have a Sunday, a day of rest? Why are they not entitled to one day's rest in a week as well as other men? If we allow these cars to run, the consequence is that not one of these men, not one of these boys can have any more Sunday than the heathen have. They work on from early morning until late at night, for almost by daylight some of these cars begin to run and they run until after midnight, and this without intermission day or night continuously. Now, sir, I say that as legislators it is our duty to do something for the benefit of these men, to give them at least one day's rest in seven, and we ought not out of any fanciful regard to somebody else to say that we will compel these men to go on and labor without repose and without rest.

It may be said we do not compel them to do

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

WEDNESDAY, JUNE 22, 1864.

NEW SERIES: No. 197.

it; but do we not, sir? These men are employed by this corporation, and it is not going to employ two sets of hands. If they are employed they will have to labor day after day without intermission. But even if that were not so, and other men were employed on Sunday, who would those other men be? Laboring men; men who have labored six days at some other employment, and they would have no Sabbath. So it comes to the same thing. The amount of it is that we compel hundreds of men to labor without interruption for some fancied good to somebody else.

A word also in regard to the animals ought not, I think, to be entirely superfluous. "The merciful man is merciful to his beast." Why ought the poor animals that drag these cars be compelled to labor without one day, one night of rest? I say it is but fair, it is but liberal, it is but just to allow these men and these animals one day's rest in seven. More can be accomplished, as it is believed, by men and by animals, even men and animals who labor, by giving them their appropriate rest. The Sabbath, although a divine institution, is made for man, and man can accomplish most by observing it—most of all kinds of labor. We gain nothing in mental or in physical labor by going on incessantly—we lose by it. It is a merciful institution that we rest at least one seventh of the time. I trust, Mr. President, that the proviso will be stricken out.

Mr. MORRILL. Mr. President, this bill came to the Committee on the District of Columbia of the Senate with a provision requiring the corporation to run the cars on the Sabbath. It has been modified by the committee so as to permit them to run on the Sabbath. Now it is said that this is a breach of the law of God, that it violates the commandment requiring us to regard the Sabbath day. Suppose we carry that principle a little further: shall we carry it so far as to say that all locomotion on Sunday is a violation of the law of God? May not a man walk for any other purpose or in any other direction than to a church? If he may walk to a church, may he not ride to a church, and if he may ride, how? May he not ride as well in a car as in a carriage? Sir, is all locomotion or travel either on foot or in carriages absolutely a violation of the law of God for any other purpose than to go to church, and will anybody hold that his heavenly Father may not be as well worshiped in traveling in some other direction than to church? I suppose that in the abstract we would none of us adopt such a conclusion. It is lawful, I suppose, according to the good Book, to go to church on foot or in a carriage, or otherwise, as may be most convenient; and I do not know any dogma any where now of the Christian church which prohibits persons from all sorts of innocent exercise in the open air on the Sabbath, either riding or walking.

Now, how is it with this mode of communication, so common in the large cities? The street cars have become now almost the universal mode of traveling for the great bulk of the people in the cities. My honorable friend from New Hampshire starts the question that some of us may find that we are extremely unpopular when we go North and are told that we have voted to permit the people of Washington to run these cars on the Sabbath. Puritan New England, he thinks, will be reproached by an example of that sort. Does not my honorable friend know that the cars run very constantly in the city of Boston on the Sabbath day? I happened to spend a Sabbath there a short time since, and it was the busiest day almost, so far as the cars were concerned, that I saw; but there was perfect order; there were less carriages, less hacks, less coaches, but a thousand fold more people enjoying the Sabbath, going to church and coming from it in that way than I had noticed before. It is tolerated there; so it is in the city of Portland, and in the city of New York, and in the city of Brooklyn; so that I do not see any danger of violating the public sense by what we propose to permit, not require, here.

My honorable friend from New Hampshire suggests the propriety of leaving this matter to the corporationists in the District. How will that work? This road extends from Georgetown on the west beyond the navy-yard, running through, I believe, the limits of three municipal jurisdictions. Suppose the people of Georgetown say, "You may run the cars on the Sabbath," and on the east end the people say the same thing, but the people of Washington say "No," how then? You must have a concurrent vote of the three jurisdictions; so that there seems to be a necessity for Congress to settle the question. I suggest, therefore, that a reference to the people of these cities is not quite practicable. The committee did not suppose they were doing more than following what has come to be very common now in almost all the cities. The Christian sense of the most Christian communities in the land has come to believe that there is no more harm in people riding in street cars on the Sabbath than riding in the public or private coaches, which are of course unrestricted. I shall therefore vote with the committee to retain the clause in the bill.

Mr. CONNESS. I believe the Senator from Maine is not right when he implies that you may ride in a carriage here on the Sabbath day. You cannot do that under the city ordinances, I believe, except it be to attend a funeral. Being in want of a carriage one day I made that discovery.

Mr. MORRILL. I hardly know what the ordinances are. I know what the fact is.

Mr. CONNESS. I suppose the ordinances are about as irregularly observed as the streets are cleansed. I hope this amendment will not be adopted. I think it is too late in the day to enforce pious practices, such as those recommended by the honorable Senator from New Hampshire. I had the privilege of sitting directly under the Senator while he was exhorting the Senate, and I was very glad to find that he had such a degree of regard and respect for the Scriptures, and for the acknowledgment of the Deity. I did not, however, see the appositeness of his argument. I see no rule proper to be observed violated by permitting these vehicles (I will call them such) to be run on the Sabbath day or on Sunday. I hope it will be ordered to be done by this bill. I think it would be a step backwards to have it otherwise. They are certainly the most acceptable part of the city's accommodations, if I am competent to judge. I hope the amendment will not be sustained.

Mr. WILLEY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 14; as follows:

YEAS—Messrs. Brown, Clark, Collamer, Dixon, Foot, Foster, Hale, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sprague, Ten Eyck, Willey, and Wilson—15.

NAYS—Messrs. Anthony, Buckalew, Carlile, Conness, Cowan, Grimes, Johnson, Morrill, Powell, Riddle, Sherman, Sumner, Trumbull, and Wade—14.

ABSENT—Messrs. Chandler, Davis, Doolittle, Fessenden, Harding, Harlan, Harris, Henderson, Hendricks, Hicks, Howard, Howe, Lane of Indiana, McDougall, Nesmith, Richardson, Saulsbury, Van Winkle, Wilkinson, and Wright—20.

So the amendment was agreed to.

Mr. JOHNSON. I move to strike out the fourth section of the bill which requires the company annually on and after January, 1865, to make a return embracing a very large number of items.

Mr. GRIMES. I will inform the Senator that all the items set forth in that section were thoroughly examined by the president and superintendent of the company, and are entirely satisfactory to them, and the committee see no reason why they should not render this account.

Mr. JOHNSON. The honorable member says it is entirely satisfactory to the company. Does he know that positively?

Mr. GRIMES. The president and superintendent of the company were before the committee.

Mr. JOHNSON. The Senate can judge whether it is a compulsory satisfaction or a satisfaction independent of any compulsion. There are thirty-five items which are made the subjects of this

report. One of them—it is but an example—the seventeenth, is "cost of tools and fixtures, including furniture of offices;" and another, the twenty-eighth, is "amount paid for reconstruction of and repairs to track, turnouts, and other structures;" and another, the twenty-sixth, "amount paid to employes, with the number each of clerks, conductors, drivers, station-keepers, and laborers." What is all that for? I never knew such an exaction to be made of any company. I do not see any good to come from it. I move to strike out the section.

Mr. GRIMES. I trust that will not be done; no public interest will be promoted by it.

The amendment was rejected.

The bill was reported to the Senate as amended. The PRESIDENT *pro tempore*. The question is, "Will the Senate concur in the amendments made as in Committee of the Whole?"

Mr. BUCKALEW. I ask for a separate vote on the amendment striking out the clause permitting the cars to run on Sunday.

The PRESIDENT *pro tempore*. That amendment will be excepted.

The other amendments were concurred in.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendment excepted at the request of the Senator from Pennsylvania, the amendment striking out the proviso relative to running the cars on Sunday.

Mr. HALE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 16, nays 14; as follows:

YEAS—Messrs. Brown, Clark, Dixon, Doolittle, Foot, Foster, Hale, Harlan, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sprague, Ten Eyck, Willey, and Wilson—16.

NAYS—Messrs. Buckalew, Conness, Cowan, Grimes, Johnson, Lane of Indiana, Morrill, Powell, Riddle, Saulsbury, Sherman, Sumner, Trumbull, and Wade—14.

ABSENT—Messrs. Anthony, Carlile, Chandler, Collamer, Davis, Fessenden, Harding, Harris, Henderson, Hendricks, Hicks, Howard, Howe, McDougall, Nesmith, Richardson, Van Winkle, Wilkinson, and Wright—19.

So the amendment was concurred in.

Mr. SUMNER. I now move again the amendment which I offered in committee:

Provided, That there shall be no exclusion of any person from any car on account of color.

I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 17, nays 16; as follows:

YEAS—Messrs. Brown, Clark, Conness, Dixon, Foot, Hale, Harlan, Howe, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sprague, Sumner, Wade, and Wilson—17.

NAYS—Messrs. Buckalew, Carlile, Cowan, Doolittle, Foster, Grimes, Johnson, Lane of Indiana, Powell, Riddle, Saulsbury, Sherman, Ten Eyck, Trumbull, Van Winkle, and Willey—16.

ABSENT—Messrs. Anthony, Chandler, Collamer, Davis, Fessenden, Harding, Harris, Henderson, Hendricks, Hicks, Howard, McDougall, Nesmith, Richardson, Wilkinson, and Wright—16.

So the amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read the third time. The bill was read the third time.

Mr. SAULSBURY called for the yeas and nays on the passage of the bill, and they were ordered.

Mr. SAULSBURY. I intend to vote against this bill simply on account of the amendment just adopted.

The question being taken by yeas and nays, resulted—yeas 23, nays 8; as follows:

YEAS—Messrs. Brown, Clark, Dixon, Doolittle, Foot, Foster, Grimes, Harlan, Howe, Johnson, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wade, Willey, and Wilson—23.

NAYS—Messrs. Buckalew, Carlile, Cowan, Hale, Lane of Indiana, Powell, Riddle, and Saulsbury—8.

ABSENT—Messrs. Anthony, Chandler, Collamer, Conness, Davis, Fessenden, Harding, Harris, Henderson, Hendricks, Hicks, Howard, McDougall, Nesmith, Richardson, Van Winkle, Wilkinson, and Wright—18.

So the bill was passed.

HOOR OF MEETING.

Mr. DIXON submitted the following resolution for consideration:

Resolved, That, until otherwise ordered, the daily hour of meeting of the Senate shall be eleven o'clock a. m.

BILL RECOMMENDED.

Mr. FOSTER. I move to recommend to the Committee on Pensions the bill (H. R. No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore Henry W. Morris, with the report in the case. I understand that the parties wish to present additional evidence.

The motion was agreed to.

LEVY COURT.

On motion of Mr. MORRILL, the bill (S. No. 115) for the proper organization of the levy court of the county of Washington, in the District of Columbia, was considered as in Committee of the Whole, the pending question being on the amendment reported by the Committee on the District of Columbia, to strike out all after the enacting clause of the bill and insert the following:

That the first clause of the third section of the act of Congress entitled "An act to define the powers and duties of the levy court of the county of Washington, District of Columbia, in regard to roads and for other purposes," be, and the same is hereby, amended so as to read as follows: "That the said court shall have the care and charge of and the exclusive jurisdiction over all the public roads and bridges in said county, except such roads and bridges as belong to and are under the care of the United States, and except such roads and bridges as shall have been or may hereafter be specially provided for by Congress. And the said court shall have power and it shall be their duty."

Sec. 2. And be it further enacted, That the tenth section of the said act be, and the same is hereby, amended by striking out the words "thirty-first" and inserting the word "thirtieth."

Sec. 3. And be it further enacted, That all cemeteries in the District of Columbia, outside of the cities of Washington and Georgetown, the owners of which sell lots or burial rights therein indiscriminately to those applying therefor, shall be assessed and taxed as other property in the same parts of the said District: *Provided, however*, That all lots in said cemeteries, when actually sold for burial purposes, and any cemetery held and owned by a religious society, having a regular and known place of worship, shall be exempt from taxation.

Sec. 4. And be it further enacted, That hereafter the said court shall have power, and it shall be their duty, to appoint the county surveyor of said county of Washington, to define his duties, from time to time, to fix his compensation, and to remove him whenever they shall deem it proper so to do.

Sec. 5. And be it further enacted, That it shall be the duty of the collector of taxes for said county whenever the owner or keeper of any dog or dogs shall neglect or refuse to pay the tax thereon to kill or cause to be killed every one and all such dogs.

Sec. 6. And be it further enacted, That the time specified by the act of February 21, 1863, within which certain roads in said county shall be surveyed, platted, and recorded is hereby extended to three years from the 1st day of July, 1865.

Sec. 7. And be it further enacted, That the said court shall have power to issue, classify, and tax licenses for taverns, hotels, and restaurants, and for retailing goods, wares, and merchandise in said county, in proportion to the amount of business the person applying for a license is likely to do. The maximum sum to be charged for any one license not to exceed \$250, and the minimum to be so charged not to be less than two dollars.

Sec. 8. And be it further enacted, That all laws and parts of laws inconsistent with this act are hereby repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. MORRILL. I offer this amendment as an additional section:

And be it further enacted, That the notice required to be given by the eighth section of the act of which this is an amendment need not be given when all the parties interested are agreed; and all roads laid out under such agreement without such notice being given are hereby declared lawful highways.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended to read: A bill to amend an act entitled "An act to define the powers and duties of the levy court of the county of Washington, District of Columbia."

POTOMAC FERRY COMPANY.

On motion of Mr. MORRILL, the bill (S. No. 298) to incorporate the Potomac Ferry Company was considered as in Committee of the Whole. It proposes to create and constitute Henry D. Cooke, John B. Hutchinson, H. C. Fahnestock, Thomas Clyde, and William B. Hatch, and their associates and successors, or a majority of them, a body politic and corporate by the name and style of "The Potomac Ferry Company." The capital stock is not to be less than \$100,000 nor more than \$500,000, to be divided into shares of \$100 each. The company is to establish and run a line or lines of vessels, propelled by steam or

other power, between the cities of Alexandria and Washington, and other ports in the State of Virginia, on the Potomac river, Chesapeake bay, or the tributaries of the same. The affairs of the company are to be managed by such officers as the stockholders in general meeting shall elect, and such agents as may be appointed by the board of directors. The persons named, or a majority of them, may call a meeting of the stockholders for the purpose of organizing the company at such a time and place as they may determine upon, after advertising the time and place of such meeting for ten days in one or more newspapers published in the city of Washington. The officers of the company once elected are to hold their offices until their successors are chosen. Each stockholder is to be individually liable for all claims against the company to the amount of the stock held by him at the time such claims accrue.

Mr. HALE. It seems to me that if this bill is to pass it is defective in several particulars. It is defective in not giving to any future Congress the right to repeal, amend, or alter this act as the public good may require; and it has another very objectionable feature in it, to my mind, which is that the officers when once elected hold their places in perpetuity, and no provision is made for any annual or periodical meeting of the corporation. But I have a more solid objection, though I think either of these is bad enough. I do not see any necessity for incorporating a mere coasting company. It is called a ferry company, but it is not a ferry company. It is a mere company to transport passengers and freight from Washington to Alexandria. There is no earthly necessity for any such act of incorporation, and it is not proper to grant one. I hope the bill will not pass; it certainly should not pass until it is materially amended. We are going vastly too far in creating corporations. There is no necessity for any act of incorporation to enable these men to run packets from here to Alexandria or any other place in the world. It is not common, I think, in Maine or anywhere else to incorporate coasters. I think it is better to leave this matter of freighting where it belongs, to private enterprise.

Mr. DIXON. I suggest to the Senator from Maine to let the bill be laid aside for the present, as there is opposition to it, for the purpose of bringing up other business reported by the Committee on the District of Columbia.

Mr. MORRILL. If I were to give way now it would be forever. I think the bill may be open to the objection that there is no provision in it that Congress may amend or repeal it. I have no objection to a section of that kind being added. In my State these corporations are very common indeed. There are several that I could name, from Kennebec to Boston, from Portland to Boston, from Penobscot to Boston, and from Penobscot along the coast. I do not think there is anything unusual in this bill. It is simply associating men together to do what an individual could hardly be expected to do. The power of association, the right of association by corporate act, is one of the most common things in the country, certainly in the North. All that it is the act of associating individuals together to act by the power of association as an individual man might act. I cannot for my life conceive how any harm is to come of it. There is no extraordinary power to be exercised by it. It is simply to run vessels up and down the Potomac river and Chesapeake bay. The bill is pretty well guarded, for it will be seen that it provides that each stockholder shall be individually liable for all claims against the corporation up to the amount of stock held by him at the time the claims arise. I think if the Senator from New Hampshire will examine this bill carefully he will see that it is in conformity with bills of this character, and that it is not open to any particular objection. I have no objection to its being amended in the particular he suggests by reserving to Congress the power to alter and amend it, if there is any doubt about that.

Mr. HALE. I move to amend the bill by adding as an additional section:

And be it further enacted, That Congress may at any time hereafter alter, amend, or repeal this act.

The amendment was agreed to.

Mr. HALE. In the sixth section, after the word "same," in the sixth line, I move to strike out all the rest of the section. The words to be

stricken out are, "to the amount of the stock held by him at the time such claims accrue," so as to make the clause read, "and each stockholder in said company shall be individually liable for all claims against the same."

Mr. MORRILL. That is manifestly improper. Men should not be held after the transfer of their stock for debts that did not accrue while they were members of the company.

Mr. HALE. I will modify the amendment, then, and move to strike out the words "to the amount of the stock held by him."

Mr. SHERMAN. Put it at twice or three times the amount of stock held by him.

Mr. HALE. The Senator from Maine says that this bill is simply to give corporate privileges to individuals to enable them to do business more conveniently than they could without an act of incorporation. If that is so I think they should be individually liable, just as if they did not have an act of incorporation. I move to strike out the words "to the amount of the stock held by him."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

INSURANCE COMPANY.

Mr. DIXON. I move to take up the bill (S. No. 167) to incorporate an insurance company in the city of Washington.

The motion was agreed to.

Mr. POMEROY. That is a long bill; it will be impossible to complete it to-night. I move that the Senate adjourn.

Mr. HALE. Will the Senator from Kansas withdraw that motion to enable me to say a word?

Mr. POMEROY. I withdraw it.

Mr. HALE. I understand this is a pretty long bill, and it may take some time. By adjourning with it up, it will be the special order at one o'clock to-morrow. I want not to be embarrassed by any such proceeding as that. I move to lay the bill aside for the purpose of taking up Senate bill No. 292, to provide for the efficiency of the Navy.

Mr. SUMNER. I hope that the Senate will not take up that bill, but will proceed with the consideration of the bill to repeal the fugitive slave act.

Mr. HALE. I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, June 21, 1864.

The House met at twelve o'clock, m. Prayer by Rev. J. I. FERRIE.

On motion of Mr. FARNSWORTH, the reading of the Journal was dispensed with.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with the resolution of the House of Representatives of the 6th instant, a list of United States steam vessels suitable for carrying the mails to and from foreign ports, &c.; which was ordered to be printed, and referred to the Committee on the Post Office and Post Roads.

MILITARY BUSINESS.

The SPEAKER. By unanimous consent this day has been assigned to the consideration of reports from the Committee on Military Affairs.

PAY OF SOLDIERS.

Mr. SCHENCK. I am instructed by the Committee on Military Affairs to report back sundry petitions relating to the increase of pay of soldiers in the Army of the United States. The subject having been disposed of by legislation on the subject, I move that the committee be discharged from the further consideration of the petitions, and that the same be laid on the table.

The motion was agreed to.

ARMY REGISTER.

Mr. SCHENCK, from the Committee on Military Affairs, reported a joint resolution to provide for the publication of a full Army Register; which was read a first and second time by its title.

The resolution requires the Secretary of War, in connection with the Army Register for the year 1864, to cause to be printed and published a full roll of all field, line, and staff officers of volunteers who have been in the Army of the United States since the beginning of the present rebellion, showing whether they are yet in the service or have been discharged therefrom, and giving casualties and other explanations proper for such a Register. It also provides that in order to defray, in whole or in part, the expenses of this publication an edition of fifty thousand copies of such enlarged Register shall be published, and may be sold to officers, soldiers, or citizens at a price which shall not more than cover the actual cost of paper, printing, and binding, and shall not in any case exceed one dollar per volume.

The resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

AMBULANCE CORPS.

Mr. SCHENCK. I am directed by the committee to report back the memorials of sundry citizens of New York praying for the establishment of an ambulance corps. A bill in reference to that matter has passed both Houses and become a law, and I therefore move that the committee be discharged from the further consideration of the petitions, and that the same be laid on the table.

The motion was agreed to.

FUEL AND SUBSISTENCE.

Mr. SCHENCK, from the same committee, reported adversely upon a bill and sundry petitions asking that citizens of Washington may be allowed to purchase fuel and subsistence from the commissary and quartermaster's stores in this city; which bill and petitions were laid on the table.

VOLUNTEERS IN THE MEXICAN WAR.

Mr. SCHENCK, from the same committee, reported back, with a recommendation that it do not pass, a bill (H. R. No. 112) to provide for the payment of certain volunteer companies in the service of the United States in the war with Mexico and in the suppression of Indian disturbances in New Mexico; and moved that the same be laid on the table.

The motion was agreed to.

CAPTAIN M. M. HAWES.

Mr. SCHENCK, from the same committee, reported a joint resolution for the relief of Captain M. M. Hawes; which was read a first and second time by its title.

The resolution directs the proper accounting officers of the Treasury to credit Captain M. M. Hawes, assistant quartermaster, with the sum of \$1,050 42 upon his cash account with the Quartermaster General's department, and that Hawes be relieved from any further responsibility for said sum of money, the same being for moneys stolen from him without any negligence or fault upon his part.

The resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CITIZEN PRISONERS.

Mr. SCHENCK, from the same committee, reported adversely on the petition of citizen prisoners confined in southern prisons; which was laid on the table.

B. C. FERNALD.

Mr. SCHENCK also, from the same committee, reported adversely on the petition of B. C. Fernald, executor of William Richardson, for the bounty to which said Richardson was entitled; and the same was laid on the table.

PAY OF ARMY OFFICERS.

Mr. SCHENCK also, from the same committee, reported adversely on the petition of certain

officers of the Army for increase of pay; which was laid on the table.

MAIL FACILITIES.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition of sundry citizens of Philadelphia for increased mail facilities between Washington and New York; and the same was referred to the select committee on railroads from New York to Washington.

METROPOLITAN RAILROAD COMPANY.

Mr. WHEELER moved that the House insist on its amendments to the Metropolitan railroad bill, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses on said bill.

The motion was agreed to; and the Speaker appointed Messrs. WHEELER, BLAINE, and PATTERSON the committee of conference on the part of the House.

MARY KELLOGG.

Mr. SCHENCK, from the Committee on Military Affairs, reported a joint resolution for the relief of Mary Kellogg; which was read a first and second time.

The joint resolution provides that the name of Spencer Kellogg be entered upon the rolls of the Navy Department with the rank of fourth master, to date from June, 1862, and that Mary Kellogg, his widow, be put upon the pension roll with the pension incident to the rank of her deceased husband, and authorizes and directs the proper accounting officers of the Treasury to settle and adjust the accounts of the said Spencer Kellogg as first lieutenant of infantry from the 14th of September, 1861, to the 20th of October, 1861, and his accounts as fourth master in the Navy from the 1st day of August, 1862, to the 25th of September, 1863, the date of the execution of said Kellogg at Richmond, Virginia, by the rebels, and to pay any money due him to his widow.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAY OF TROOPS NOT MUSTERED IN.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of a resolution of the House instructing said committee to inquire into the expediency of reporting a bill to pay officers and soldiers in the service who have not been mustered in, and the same was laid on the table.

CHARLES K. DEAN.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the memorial of Charles K. Dean for relief, and the same was laid on the table.

EXAMINATION OF ARMY OFFICERS.

Mr. SCHENCK, from the Committee on Military Affairs, reported back, with sundry amendments, bill of the Senate No. 85, to provide for the examination of certain officers of the Army. The amendments were agreed to.

The bill was then ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAY OF PAYMASTERS, ETC.

Mr. SCHENCK, from the same committee, reported a bill to regulate the pay of paymasters and military storekeepers of ordnance, which was read a first and second time.

The bill provides that paymasters and military storekeepers of ordnance shall have the rank, pay, and emoluments of a captain of ordnance, but without command.

Mr. FARNSWORTH. I wish to inquire of the gentleman from Ohio how much this bill will increase the pay of storekeepers of ordnance.

Mr. SCHENCK. Very slightly. Paymasters

in the Army have the rank of major. These men handle millions of dollars of money, and it is proposed that they shall only rank as captains. They have given bonds, and this will only increase their pay about four dollars a month.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BARDSTOWN TURNPIKE COMPANY.

Mr. SCHENCK, from the Committee on Military Affairs, reported a bill for the benefit of the Louisville and Bardstown Turnpike Company; which was read a first and second time.

The bill was read at length.

Mr. HOLMAN. I do not desire to raise a question of order upon this bill, but I desire to know what is the amount of this claim. I did not understand that there was any amount stated.

Mr. SCHENCK. The amount of the claim is among the papers and will be found in a moment. It is for two bridges over Salt river and Floyd's fork, which were destroyed by order of General Nelson, then in command of the United States troops in that district.

Mr. HOLMAN. From the reading of the bill there does not seem to be any limitation upon the amount except the discretion of the Quartermaster General.

Mr. WASHBURN, of Illinois. I raise the question of order that this bill makes an appropriation, and must be first considered in Committee of the Whole.

Mr. SCHENCK. I ask the gentleman from Illinois if he will not withhold that question of order until I can make a brief explanation.

Mr. WASHBURN, of Illinois. I will hear the gentleman's explanation in Committee of the Whole where I can reply to him.

Mr. MALLORY. If the gentleman from Illinois will withdraw his question of order until he can hear an explanation, I can assure him that he will have no doubt of its justice and propriety. Perhaps, however, that is the reason why he does not want to hear it.

Mr. SCHENCK. It is certainly a very peculiar case, and one which commends itself especially to the judgment of the House.

The SPEAKER. The Chair sustains the question of order, and the bill is therefore in Committee of the Whole on the state of the Union.

EFFICIENCY OF THE MEDICAL CORPS.

Mr. SCHENCK, from the Committee on Military Affairs, reported a bill to increase the efficiency of the medical corps of the Army; which was read a first and second time.

The bill was read. It provides that the medical director of an army in the field consisting of two Army corps or more, or of a medical depot in which there is a United States general hospital having four thousand beds or more, shall have the rank and pay of a colonel of cavalry. Also, that medical directors of United States general hospitals of less than four thousand beds shall have the rank and pay of a lieutenant colonel of cavalry. These appointments to be made, two thirds of them from the surgeons and assistant surgeons of volunteers, and to continue in such rank and receive such pay only while holding such positions.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. SCHENCK. I will state that there are other matters of importance which I desire to report from the Military Committee. I, however, at the request of my colleague [Mr. GARFIELD] will yield to him, hoping that he will not wander off so as to consume too much of the day.

WILLIAM ROLLMAN.

Mr. GARFIELD. I am instructed by the Military Committee to report back the petition of William Rollman, of Baltimore, Maryland, for compensation for property destroyed by United States troops. The committee do not report upon the merits of the case for or against it. They are

of the opinion that in the present condition of the country they cannot pay claims of this character. I move that the petition be laid on the table, and the committee discharged from its further consideration.

The motion was agreed to.

BERKS COUNTY ENROLLMENT.

Mr. GARFIELD. I am instructed by the Committee on Military Affairs to report back the petition of citizens of Berks county, Pennsylvania, asking compensation for the enrolling officers and their clerks for their services in that county. The substantive matter of the petition has been attended to to the satisfaction of the petitioners. I move to lay it on the table, and that the committee be discharged from its further consideration.

The motion was agreed to.

ISAAC HALLEN.

Mr. GARFIELD. I am instructed also by the committee to report back the petition of Isaac Hallen, sergeant major of the Fourteenth Illinois cavalry, asking further compensation. I move that it be laid on the table and the committee discharged from its further consideration.

The motion was agreed to.

THOMAS F. BAYLEY.

Mr. GARFIELD. The committee also instruct me to report back the memorial of Colonel Thomas Bayley, of the United States volunteers, with the recommendation that it be laid on the table and the committee discharged from its further consideration.

The motion was agreed to.

ENROLLMENT ACT.

Mr. GARFIELD. I am instructed also by the committee to report back the joint resolutions of the Legislature of the State of Michigan asking an amendment in the enrollment act. The matter of the resolutions having been acted on in the enrollment act, I move that they be laid on the table and the committee discharged from their further consideration.

VOLUNTEERS IN THE MEXICAN WAR.

Mr. GARFIELD. I am also instructed to report adversely upon the petition of Ohio volunteers in the Mexican war, asking for compensation. I move that the papers in the case be laid on the table, and the accompanying report be printed.

The motion was agreed to.

NATHAN S. BRINTON.

Mr. GARFIELD. I am also instructed to report a joint resolution for the relief of Major Nathan S. Brinton, a paymaster. I will state briefly the circumstances on which the resolution is based. This paymaster sailed, under the direction of the Government of the United States, in the steamer Ruth, with \$2,600,000 in his possession. The steamer was burned eight miles below Cairo, Illinois. The Secretary of the Treasury sent a special agent to the scene of the disaster; the wreck was carefully examined; all the fragments of notes that could possibly be found were obtained by the means of divers; a guard was placed there until the wreck was thoroughly searched; and finally, to make the destruction complete, the hull was blown up. The testimony is complete and satisfactory, as appears in the papers submitted to the Committee on Military Affairs, that the money was actually destroyed. No injury will accrue to the Government by the passage of this resolution, for this money was entirely destroyed.

There were several iron safes on board the steamer when she sank. The money in those safes was not entirely destroyed, but it belonged to other parties. The money which Paymaster Brinton had in his possession was contained in three wooden boxes which were placed upon the cabin deck, and when the steamer was burned they fell through upon the coal and were entirely and completely destroyed.

The evidence on all of these points is clear and satisfactory. This paymaster is charged with the money, and the pending joint resolution is submitted by the Military Committee and asked to be acted on for the purpose of placing the amount destroyed to his credit. A report was made to the War Department on the subject, and approved by the Secretary, relieving this paymaster from all blame.

Mr. LE BLOND. I do not think that this joint resolution ought to pass at this time, and I therefore move that it be laid on the table.

Mr. GARFIELD. I do not yield for that motion. If there be any question in regard to the facts I will be glad to answer it.

Mr. BOUTWELL. As I understand the joint resolution, it merely proposes to credit this paymaster with this amount of money which is charged against him, and which it has been proved has been entirely destroyed. If there is no imputation against his honesty I do not see why that should not be done.

Mr. STEVENS. I know that the Department would willingly credit this amount to this paymaster, but they have not the power to do so.

Mr. WASHBURN, of Illinois. Was not some of this money recovered?

Mr. GARFIELD. Some iron safes were upon the steamer belonging to other parties, and some of their contents were recovered. The money which was in wooden boxes belonged to Brinton. They and their contents were destroyed.

Mr. WASHBURN, of Illinois. Did the court of inquiry, of which Major General Hunter was president, report that this money was destroyed?

Mr. GARFIELD. It did. The report of the special agent also shows that it was destroyed.

Mr. WASHBURN, of Illinois. What will be the effect?

Mr. GARFIELD. Major Brinton has receipted for and is charged with \$2,600,000, and this joint resolution simply proposes to put this amount to his credit, as it has been entirely destroyed.

Mr. ELDRIDGE. Has the evidence in the case been reported?

Mr. GARFIELD. It has been fully presented to the committee.

Mr. ELDRIDGE. Has it been printed?

Mr. GARFIELD. The report of the court of inquiry has been printed, and in the report of that court, of which Major General Hunter was president, this paymaster is fully relieved from all blame.

Mr. ELDRIDGE. Has that been reported to the House?

Mr. GARFIELD. I have just now submitted it.

Mr. SWEAT. At what time does the testimony show that this fire occurred?

Mr. GARFIELD. Before light, on the morning of the 5th of August.

Mr. SWEAT. Does the testimony show that any person or persons were in charge of these boxes when the fire occurred?

Mr. GARFIELD. There was a guard of thirty soldiers over the safes and boxes all the time. Five soldiers were burned.

Mr. HOLMAN. Was Major Brinton on board?

Mr. GARFIELD. He was, and barely escaped with his life. An effort was made to save these boxes, and four or five soldiers were so badly burned that they afterwards died. The fire was not discovered until it had made great headway and burst out through the cabin where the boxes were. The fire enveloped the boxes so rapidly that they could not be got out, and five soldiers lost their lives in the attempt to do so.

Mr. LE BLOND. If my colleague will yield to me, I will make a motion to postpone this bill until the next session.

Mr. GARFIELD. I cannot yield for such a motion.

Mr. LE BLOND. I do it for this reason: the evidence has not been printed, and we do not understand the facts connected with this case fully, as has been disclosed upon the examination made by the military authorities. Under such circumstances we cannot understandingly vote upon the proposition. While we do not wish to kill the bill, we do not wish to vote to cancel that large claim against this individual if it is not proper that it should be done. If it is proper it should be done then we will vote for the bill when the proper time comes, and we have an opportunity to examine it. I think the course I propose would be the prudent and wise one to pursue in this matter. If my colleague will yield to me I will move for a postponement for that reason alone; otherwise I shall move at the proper time to lay the bill on the table.

Mr. GARFIELD. If there was any reasonable doubt of the justness of this case in the mind of

any person who has examined it, I would agree to the request of my colleague. But there is not; and I am sure, if my colleague would read the report, all doubt would be removed from his mind. I demand the previous question.

Mr. NOBLE. I desire to ask my colleague a question.

Mr. GARFIELD. There are three other gentlemen asking the same thing, and I cannot yield.

Mr. NOBLE. I appeal to my colleague to allow me to ask a question in reference to the evidence.

Mr. GARFIELD. We have so many other things on hand that I cannot yield.

Mr. NOBLE. We are voting in the dark.

Mr. STEVENS called for tellers on seconding the previous question.

Tellers were ordered; and Mr. GARFIELD and Mr. LE BLOND were appointed.

The House divided; and the tellers reported—ayes 45, noes 62.

So the House refused to second the previous question.

Mr. HOLMAN. I move to postpone the bill until the second Tuesday of December, and that in the mean time the testimony of the court-martial be printed with the bill.

Mr. STEVENS. I hope it will not be postponed. It ought not to be postponed, because in the mean time this charge embarrasses the officer. He has held over him a charge on the books of the Department to the amount of \$2,600,000, when the clear statement of the commission sent on by the Department shows that this property was on board at the time of the burning, and was entirely destroyed.

Mr. HOLMAN. I rise to a question of order. Debate is not in order.

The SPEAKER. The Clerk will read from Barclay's Digest, page 134.

The Clerk read, as follows:

"The motion to postpone, under the practice, admits of but a very limited debate."

The SPEAKER. The debate must be confined to the propriety of postponing, and must not extend to the merits of the bill.

Mr. WILSON. Will it be in order to move to refer the bill to the Committee of the Whole House upon the Private Calendar?

The SPEAKER. The motion to postpone takes precedence of a motion to refer.

Mr. WILSON. I propose to make the motion so that the report may be printed, and we may reach the case this session.

The SPEAKER. That motion will be reserved until the motion to postpone is decided.

Mr. STEVENS. On the motion to postpone I have a word to say. Here is a man against whom there is not the least whisper of suspicion, and yet he stands charged on the books of the Department with \$2,600,000 on account of an accident or casualty from which he narrowly escaped with his life. The property has all been destroyed and yet it stands charged against him. That embarrasses him and renders it impossible for him to settle his accounts, while it is necessary for him to proceed with his duties, if he remains in the service at all. If he is not entitled to this allowance, say so. If he is entitled to it give him the relief at this time. I trust this great injustice will not be done to this very honest man.

Mr. ARNOLD. I desire simply to say that if we had all had the opportunity which the gentleman from Pennsylvania has had of examining this case, we might have come to the same conclusion. But this is a large sum of money—\$2,600,000—and what I desire is that the evidence which has brought the gentleman to the conclusion at which he has arrived shall be printed, so that we may all see it and vote intelligently. I am unwilling to vote to credit any man with \$2,600,000 without having an opportunity to examine the evidence. I am, therefore, in favor of the motion of the gentleman from Iowa, [Mr. Wilson,] not to postpone this bill until next session, but to refer it to the Committee of the Whole, so that the evidence can be printed and examined, and then we can act upon it at this session.

Mr. STEVENS. If the gentleman will look at the papers in this case he will find that the printing will be a very laborious and voluminous thing. A commission from the War Department has thoroughly examined the case and vo-

luminously reported that there can be no doubt of the destruction of this money, and a military commission has reported that this officer was in no way to blame. What more can anybody want?

Mr. HOLMAN demanded the yeas and nays on the motion to postpone and print.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 66, not voting 47; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Blair, Bliss, James S. Brown, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Law, Lazear, Le Blond, Mallory, Marcy, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Price, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, Ross, John B. Steele, William G. Steele, Stiles, Stuart, Sweat, Thomas, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Winfield—69.

NAYS—Messrs. Allison, Ames, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Broomall, Cobb, Cole, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Garfield, Gooch, John H. Hubbard, Hulburd, Ingersoll, Julian, Kelley, Francis W. Kellogg, Knapp, Knox, Loan, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Stevens, Thayer, Upson, William B. Washburn, Williams, Wilder, Wilson, and Windom—66.

NOT VOTING—Messrs. Alley, Ancona, Blaine, Brandegee, Brooks, Clay, Creswell, Henry Winter Davis, Dumont, Fenton, Frank, Grinnell, Griswold, Hale, Hall, Charles M. Harris, Higby, Hooper, Asahel W. Hubbard, Jenckes, Kasson, Orlando Kellogg, Kernan, King, Littlejohn, Long, Longyear, McAllister, McIndoe, Morrill, Odell, Orth, Patterson, William H. Randall, Scott, Smith, Spalding, Starr, Stebbins, Srouse, Tracy, Voorhees, Ward, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—47.

So the motion was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the motion was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LEGISLATIVE APPROPRIATION BILL.

Mr. PENDLETON. I rise to a privileged question. I desire to make a report from the committee of conference on the disagreeing votes of the two Houses on the bill of the House (No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1865. The House will remember that a report was made by this committee some days ago, and that that report was rejected. But the House concurred in all the recommendations of the report so far as action by the House was concerned, except upon one point. The Senate have already receded from their ninety-fourth amendment fixing the salary of the Treasurer of the United States to which the House objected, and have concurred with the action of the House in all other particulars. This report, therefore, recommends no action by the House.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1865, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their ninth and ninety-fourth amendment.

That the Senate recede from their disagreement to the amendment of the House to the twenty-fifth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the thirty-fourth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the nineteenth amendment of the Senate, and agree to the same.

That the Senate agree to the amendments recommended by the report of the previous conference committee to the ninety-fifth amendment of the Senate, agreed to by the House.

That the Senate agree to the amendments of the House to the ninety-sixth amendment of the Senate as modified by the recommendation of the previous committee of conference, and agreed to by the House.

JOHN SHERMAN,
GARRETT DAVIS,
Managers on the part of the Senate.
GEORGE H. PENDLETON,
WILLIAM WINDOM,
ORLANDO KELLOGG,
Managers on the part of the House.

The report of the committee of conference was agreed to.

Mr. PENDLETON moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LIEUTENANT WILLIAM P. RICHNER.

Mr. GARFIELD, from the Committee on Military Affairs, reported back, with a recommendation that it do pass, bill of the House No. 121, for the relief of Lieutenant William P. Richner, seventy-seventh regiment Ohio volunteer infantry.

The bill directs the Secretary of War to cause to be paid to William P. Richner the pay and emoluments of a first lieutenant from the 31st of December, 1861, to the 31st of August, 1862.

Mr. GARFIELD. This bill passed the House at the last session, but failed in the Senate for want of time. The case is briefly this: This officer was appointed by the Governor of Ohio on the 31st of December, 1861, as a lieutenant. In consequence of orders from the War Department that any person who had resigned his commission should not be eligible to be mustered in and re-commissioned until such disability was removed, he was not mustered and commissioned until the following August. But he performed his duties, and actually led his company in battle. He continued to discharge the duties of his office until his disabilities were removed, and he was mustered in. The Department acknowledged the justice of the claim, but lacked the power to pay. I referred these papers to the War Department, and received that response. It is a perfectly clear case, and I hope the bill will pass.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States informing the House that he had approved and signed bills and a joint resolution of the following titles:

An act (H. R. No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1865, and for other purposes;

An act (H. R. No. 179) concerning lands in the State of California;

An act (H. R. No. 217) to confirm certain duties of land in the State of Michigan;

An act (H. R. No. 227) granting lands to the State of Michigan for the construction of certain wagon roads for military and postal purposes;

An act (H. R. No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott;

An act (H. R. No. 356) requiring proof of payment of duties on foreign salt before payment of the allowances provided for by the acts of July 29; 1813, and March 3, 1819;

An act (H. R. No. 486) to amend an act to provide a temporary government for the Territory of Idaho, approved March 3, 1863;

An act (H. R. No. 504) to authorize the Secretary of the Treasury to sell the marine hospital and grounds at Chicago, Illinois, and to purchase a new site and build a new hospital;

An act (H. R. No. 513) to detach the counties of Calhoun and Branch from the western judicial district and annex the same to the eastern district of the State of Michigan;

An act (H. R. No. 521) to amend an act entitled "An act to provide for the payment of the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863," approved June 1, 1864; and

A joint resolution (H. R. No. 47) for the relief of Rev. W. B. Matchett.

H. C. DEAHNA.

Mr. GARFIELD, from the Committee on Military Affairs, reported a joint resolution to provide for the claim of Colonel Henry Charles De Ahna, for military services; which was read a first and second time.

The joint resolution was read. It provides authority to the accounting officers of the Treasury to settle the accounts of Henry Charles De Ahna, for his services as colonel of infantry, in active service, and that he be considered honorably discharged from the military service.

Mr. HOLMAN. I do not desire to raise a question of order upon that bill until I can hear

some explanation of it; and I will not until I can hear from the gentleman from Ohio.

Mr. GARFIELD. There is a very voluminous report in this case, which I do not desire to detain the House with the reading of, and I will therefore make a brief statement of the facts. This officer has had a very checkered history in connection with the Army, having been once tried by court-martial under General Fremont at St. Louis, and sentenced to be dismissed from the service. But the record of the court having been forwarded to Washington was annulled by the President of the United States as being an illegally organized court, and the sentence being such as he did not approve. He was then ordered back to duty, but by some perverseness by the officer there in command he was ordered back again to Washington. He was again ordered back to duty, but in the mean time his regiment was mustered out of the service, and he was dropped by some indirect means of getting him out of the service. He was then nominated by the President as a brigadier. His case was favorably reported upon by the Military Committee of the Senate, but just about the time his nomination would have been confirmed a telegram was sent by an officer holding a high command in the West, recommending that he be not confirmed, and intimating that there were some very grave things against him. On that intimation he was not confirmed, and it was not until after that that his payment was stopped. Yet he has not been regularly mustered out of service, and possibly ought to be paid down to the present time. But the question is so involved in orders and cross-orders and counter-orders that the committee deemed it best to compromise the matter by reporting in favor of paying him not quite three fifths of the amount that he might possibly be entitled to. It was the unanimous conclusion of the committee that at the very lowest figure he was entitled to the pay of colonel for one year. The resolution is so drawn that the acceptance of that payment by him will waive all his military claims against the Government, and that was considered the best means of adjusting the whole matter.

Mr. FARNSWORTH. I ask my colleague whether this officer was not paid up to the time the regiment was mustered out?

Mr. GARFIELD. Yes, and after that.

Mr. FARNSWORTH. Was he ever in battle?

Mr. GARFIELD. I do not know that he was in any battle. He has been paid by the Government and has been recognized as colonel since his regiment was mustered out.

Mr. FARNSWORTH. I have a number of cases to report to the House where men have served as volunteer aids or in other capacities in the field, without being mustered in or legally appointed. The committee has directed me to report back all of them adversely. Certainly, if these men who were actually in service in the field are not entitled to pay, this man is entitled to nothing after being discharged and while he was not in the service.

Mr. GARFIELD. I hope the gentleman from Illinois will not compel me to go into the whole history of this very unpleasant transaction, which is in every way discreditable to some officers of the Army. I regard him and the committee regards him as a man who has been very grievously wronged, and the least possible recompense that can now be made will be to grant him this claim and settle the question with him.

Mr. NOBLE. Mr. Speaker, I made an application this morning to have an officer who was wounded at the Wilderness, and whose company has been mustered out, continued in his pay until he is able to leave his bed. He is severely wounded, and will not be able to be out of his bed for a long time to come. I was informed that there was no rule by which a man could be kept on the roll after the discharge of his company, and I was referred to a regulation to the effect that when troops are mustered out of service all officers and men, present and absent, who are entitled to be discharged, will be considered as mustered out at one time and place, except prisoners of war, who will be considered as in service until their arrival in a loyal State, with the allowance of time necessary for them to be returned to their respective places of enrollment. This man whom I desired to have kept on the rolls for a

few weeks only has been in actual service and has been wounded in the service. As soon as the term of his regiment expires, just about now, his pay stops, and yet he is on his back, and will be for six weeks to come. Now, if that man is not entitled to pay, certainly a man who has not been in the service and is not wounded is not entitled.

MR. GARFIELD. There is a good deal of weight in what my colleague says. I appreciate it, and I agree with him. At the same time the Government has given no pledge to the officer to whom my colleague refers. It has not decided in his case that he is still an officer, as it has decided in the case of this other party. I put this claim on the ground of the obligation which the Government has undertaken in regard to this officer. Whether justly or unjustly taken, the Government is bound to discharge the obligation on which it has entered. I trust the resolution will be passed. I move the previous question.

The **SPEAKER** ordered tellers on seconding the previous question, and appointed Messrs. **GARFIELD** and **FARNSWORTH**.

The House divided; and the tellers reported—ayes 46, noes 49.

So the previous question was not seconded.

MR. WILSON. I move that the joint resolution be referred to the Committee of the Whole House on the Private Calendar.

MR. SCHENCK. I hope the report will be printed.

The joint resolution was referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

ADVERSE REPORTS.

MR. FARNSWORTH, from the Committee on Military Affairs, reported adversely on the following cases; which were severally laid on the table:

Memorial of citizens of Illinois, praying that hostilities may cease, peace be restored, and a convention of all the States be called;

A bill (H. R. No. 417) regulating the pay of certain officers of the Army of the United States; Memorial of the Legislative Assembly of the Territory of Washington, praying for an appropriation for the construction of a road from the head of navigation on Willopo river to the mouth of Black river;

Petition of Joseph S. Griffin and sixty others, citizens of Michigan, praying Congress to take measures for the relief of the wives and children of freedmen, &c.;

A bill (H. R. No. 271) to promote the efficiency of chaplains in the Army of the United States, and to define their rank, pay, and emoluments;

Memorial for a military road across the Cascade mountains;

A bill (H. R. No. 362) for the payment of field officers of regiments for the time actually employed in organizing their respective regiments; and

Sundry petitions relative to recruiting without authority of law.

MAJOR MORRIS S. MILLER.

MR. FARNSWORTH, from the Committee on Military Affairs, reported a joint resolution for the relief of Major Morris S. Miller, of the quartermaster's department; which was read a first and second time.

The resolution was read.

MR. FARNSWORTH. I will explain the joint resolution in a few words. The papers in the case show that some thirty-seven thousand dollars was paid by Major Miller under the express order of the then Secretary of War and the Quartermaster General. This money was paid by this officer, and this resolution will not take anything out of the Treasury. By some decision of the Comptroller of the Treasury, these sums were not credited to Major Miller, and they stand charged against him although he paid them under the order of his superior officer. This legislation is necessary because the accounts of Major Miller cannot be reopened without an act of Congress.

MR. WILSON. Is there anything in the papers which accompany the joint resolution that will show the ground upon which the Comptroller refused to pass this claim?

MR. FARNSWORTH. I think that that is not shown.

MR. WILSON. I think that there ought to be something in the papers to show that.

MR. FARNSWORTH. This resolution simply authorizes the accounting officers of the Treasury to reopen the accounts of Major Miller and credit him with these sums which he paid under the order of the Secretary of War. If he had refused to pay them he would have been subject to a court-martial for disobedience of the orders of his superior officer. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

MR. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAYMENT FOR HORSES.

MR. FARNSWORTH, from the same committee, reported a bill to amend an act to provide for payment for horses and other property destroyed in the military service of the United States, approved March 3, 1849; which was read a first and second time.

The bill was read.

MR. FARNSWORTH. The object of this bill is to supply a deficiency in the act of 1849. That act provides for paying for horses lost in battle, or which die afterwards of wounds, or which may have to be abandoned, but there is no provision for the payment for horses surrendered to the enemy under an order of a superior officer. A captain who is commanded by his colonel to surrender loses his horse, and if he disobeys the order he is liable to be court-martialed. A man surrenders his horse by order or command of his superior officer, and yet under the act of 1849 he gets no pay for it; while, if his horse is lost by reason of wounds, he would get pay, or if the Government of the United States should not supply sufficient forage and his horse is lost in consequence, he would get pay. I demand the previous question.

MR. KELLOGG, of Michigan. I hope the gentleman will withdraw the demand for a moment.

MR. FARNSWORTH. I will.

MR. KELLOGG, of Michigan. There was a case of a similar kind decided differently by the committee. It referred to the payment of horses of a regiment which surrendered in the State of Missouri by command of their superior officers, and after a very gallant fight too. This bill, as I understand, provides for the payment on the part of the Government of the United States, not now merely, but from the commencement of the war, for horses belonging to officers and privates which were surrendered by command of their superior officers. I know the Department disapproves of any such law as that. I have a letter from one of the officers in the Treasury Department which I send to the Clerk's desk to be read.

The letter was read, as follows:

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE, December 23, 1862.

SIR: I have the honor to return herewith the claims of sundry members of the first Illinois cavalry for the alleged loss of their horses and equipage, surrendered by Colonel Mullan at Lexington, Missouri, which you left with me yesterday. In reply to your inquiry as to the difficulty in the way of settling their claims for horses, stated to have been lost in consequence of said surrender, I have to say that cases for losses accruing by the surrender of commands, or where individual officers or soldiers have been taken prisoner and subsequently their horses taken from them, have been temporarily laid aside in view of some doubt as to whether the law embraced cases of that description, and also for the reason that it was in fact impossible to act on the cases clearly embraced in the law as fast as they were filed in this office.

The law provides compensation for the loss of a horse in battle, or wounded in battle, and which has died or shall die of said wounds, &c., &c., and where said loss is without any fault or negligence on the part of the owner. But it has been doubted whether Congress intended to pay for losses arising from voluntary surrender or where the deprivation of the property resulted from the act of the owner himself or the officer in command.

So far the indemnity has been confined to cases of horses killed in battle, or wounded, and dying in consequence of the wound, except in a few cases of officers disabled by wounds, and of surgeons who under orders were compelled to remain on the field to attend to the wounded and were taken prisoners and thereby lost their horses. It is, perhaps, difficult to draw the line of distinction; but it seems

to me that to allow all cases of losses by surrender would be to open the door to claims not meritorious nor within the intent of the law. As a general rule officers and mounted men take the risk of loss of their horses as one of the incidents of the service, the former furnishing their own horses as part of the necessary equipments, and the latter receiving a money allowance of forty cents per day for the use and risk of their horses.

The act of the 3d of March, 1849, assumes the loss in the cases specified therein, and this office has endeavored to construe it strictly, leaving cases otherwise occurring for future legislation if deemed proper by Congress.

If it be understood that officers or men, by permitting themselves to be taken prisoners in an action or without any combat at all, become entitled to reclamation from the Government for the losses sustained, it is not unreasonable to suppose that advantage will be taken of such an inducement which would operate injuriously alike to the service and to the public Treasury.

I have thus briefly stated some of the points involved in these and other cases of like character. I will add that in my late report to the Secretary of the Treasury I have referred to the cases arising under this law as worthy the attention of Congress. They are becoming very numerous, and upon the strictest construction of the act will involve a large amount of money. I respectfully suggest the presentation of the petitions, and a reference to the Committee on Military Affairs, which will thus appropriately bring the matter before Congress. If it be desired to extend the privileges of the law so as to embrace cases of surrender, a short declaratory enactment would accomplish the object and relieve this office from the difficulties above suggested.

Very respectfully, your obedient servant,

R. J. ATKINSON,
Auditor.

Hon. WILLIAM KELLOGG,
House of Representatives, Washington, D. C.

MR. FARNSWORTH. I must resume the floor.

MR. KELLOGG, of Michigan. I hope the resolution will be laid on the table.

MR. FARNSWORTH. This matter addresses itself to the common sense and justice of every man. If a company of privates are ordered by their superior officers to surrender their horses, they should get pay for them as much as they would if they were injured in battle. You need not pay anything to the officers who order the horses to be surrendered, and thus take away all inducement to make such an order. If an inferior officer loses his property in accordance with the order of his superior officer, he ought to be paid. I move the previous question.

MR. KELLOGG, of Michigan. I move to lay the bill on the table.

MR. FARNSWORTH called for tellers.

Tellers were not ordered.

The motion was not agreed to.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

MR. FARNSWORTH. I move the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was passed.

MR. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by **MR. FORNEY**, their Secretary, informed the House that the Senate had passed an act (S. No. 319) to authorize the Secretary of the Interior to issue a land warrant to Richard Fitch, of Ohio;

Also, that the Senate had passed, with amendments, a joint resolution (H. R. No. 11) in relation to the claim of Carmack & Ramsey;

In which bills and amendments the concurrence of the House was requested.

VETERINARY SURGEONS.

MR. FARNSWORTH, from the Committee on Military Affairs, reported a bill to regulate the rank, pay, and emoluments of veterinary surgeons of cavalry regiments; which was read a first and second time by its title.

The bill provides that from and after the passage of this bill veterinary surgeons of cavalry regiments shall have the rank, pay, and emoluments of a second lieutenant of cavalry, and that they be appointed and commissioned in the same manner as other commissioned officers of such regiment.

MR. FARNSWORTH moved the previous question.

The previous question was seconded, and the main question ordered to be put; and under the

operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. FARNSWORTH demanded tellers on the passage of the bill.

Tellers were ordered; and Messrs. HOTCHKISS and WHEELER were appointed.

The House divided; and the tellers reported—ayes 63, noes 32.

Mr. WILSON demanded the yeas and nays.

The yeas and nays were not ordered.

So the bill was passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

OFFICERS OF INDIAN REGIMENTS.

Mr. FARNSWORTH, from the Committee on Military Affairs, reported back, with an amendment in the nature of a substitute, joint resolution of the House No. 23, for the relief of the officers of the fourth and fifth Indian regiments, appointed and commissioned by the War Department and mustered out of service without pay. The substitute was read. It directs the proper accounting officers of the Treasury to adjudicate and settle the claims of those officers of the fourth and fifth Indian regiments who were commissioned by the War Department and accepted their appointment, for such time as they or either of them were actually performing duty other than as recruiting officers of said regiments, and to pay such claims out of any money in the Treasury not otherwise appropriated; provided, however, that no compensation shall be allowed but the pay and emoluments incident to the respective rank of the several officers.

Mr. FARNSWORTH. I will state that this case was handed to me by my colleague on the Military Committee from Pennsylvania [Mr. McALLISTER] when he left, with the request that I would make the report to the House. It has passed through the Committee on Military Affairs. It is a matter with which I am not personally very familiar. The gentleman stated that it was all right.

The substitute was agreed to.

Mr. RANDALL, of Pennsylvania. I would like to ask the gentleman what is the aggregate amount of money appropriated by this bill?

Mr. DAILY. I am very well acquainted with the facts in this case.

Mr. RANDALL, of Pennsylvania. I do not dispute the facts. I ask only as to the aggregate amount.

Mr. DAILY. It will be, perhaps, three or four thousand dollars for all the officers.

Mr. RANDALL, of Pennsylvania. The amount seems to be exorbitant for eighty men.

Mr. WILDER. These officers were mustered out of service without pay, and this is a just claim.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. FARNSWORTH moved to amend the title so as to read: "Joint resolution for the relief of the officers of the fourth and fifth Indian regiments."

The amendment was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the amendment to the title was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LOSS OF HORSES.

On motion of Mr. KELLOGG, of Michigan, the Committee on Military Affairs was discharged from the further consideration of a resolution referring certain papers relative to the loss of horses by the first Illinois cavalry; and the same was laid on the table.

MAJOR A. SCHWARTZ.

On motion of Mr. KELLOGG, of Michigan, the same committee was discharged from the further consideration of the petition of Major A. Schwartz; and the same was laid on the table.

JOSIAH M. CHRISTY.

On motion of Mr. KELLOGG, of Michigan, the same committee was discharged from the further consideration of the petition of Josiah M. Christy, sutler to the twenty-eighth regiment Pennsylvania volunteers; and the same was laid on the table.

THOMAS H. MILLER.

On motion of Mr. KELLOGG, of Michigan, the same committee was discharged from the further consideration of the petition of Thomas H. Miller to be allowed his pay while serving in the United States Army; and the same was laid on the table.

COMPENSATION OF PAYMASTERS.

On motion of Mr. KELLOGG, of Michigan, the same committee was discharged from the further consideration of the petition of certain paymasters and paymasters' clerks for compensation; and the same was laid on the table.

SUBSTITUTE BROKERS.

On motion of Mr. KELLOGG, of Michigan, the same committee was discharged from the further consideration of a resolution instructing the committee to inquire what further legislation is necessary to prevent substitute brokers from purchasing substitutes; and the same was laid on the table.

A. G. ABEL.

On motion of Mr. KELLOGG, of Michigan, the Committee on Military Affairs was discharged from the further consideration of the petition of A. G. Abel for his relief; and the same was laid on the table.

PERCENTAGE ON COMMUTATION MONEY.

On motion of Mr. KELLOGG, of Michigan, the Committee on Military Affairs was discharged from the further consideration of the resolution of the House instructing the committee to inquire into the expediency of providing a percentage to collectors for receiving commutation money; and the same was laid on the table.

J. M. LANDER.

Mr. KELLOGG, of Michigan. I am instructed by the Committee on Military Affairs to report a bill for the relief of J. M. Lander, widow of General F. W. Lander, deceased. The case is a very meritorious one, but under the peculiar circumstances I think I should allow it to go to the Committee of the Whole House on the Private Calendar, and, with the papers accompanying, be printed.

The bill was accordingly read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying papers, ordered to be printed.

ROCK ISLAND BRIDGES.

On motion of Mr. ODELL, the Committee on Military Affairs was discharged from the further consideration of the resolution of the House instructing the Committee on Military Affairs to inquire into the expediency of purchasing the bridges at Rock Island; and the same was laid on the table.

JAMES LINDSAY.

Mr. ODELL, from the Committee on Military Affairs, reported a bill for the relief of James Lindsay, which was read a first and second time. The bill directs the proper accounting officers of the Government to settle with the claimant for three mountain howitzers, caisson, harness, &c., which by order of General Fiske, commanding United States forces, were turned over to the United States; provided that the payment shall not exceed the sum of \$874 35.

Mr. WASHBURNE, of Illinois. I desire to hear an explanation of that bill.

Mr. ODELL. The applicant in this case was the colonel of a regiment of Missouri militia which was ordered by the Government into service, prior to which he had purchased and paid for these three mountain howitzers at a cost of about \$875. When the regiment went out of service the three guns, caissons, &c., were kept by the Government. The Government has had them in use ever since, and I believe have them now. This is a claim to pay him for the cost of the guns.

Mr. WASHBURNE, of Illinois. Is the cost of the guns shown by competent testimony?

Mr. ODELL. The applicant presented his claim for \$1,000. The matter was referred to me by the committee. I asked Mr. Lindsay for evidence in relation to his claim. He furnished the evidence of Mr. Filley, of St. Louis, who, as I am told by gentlemen who know him, is a man whose word is good for any statement he may make, and his evidence was that the claim was a just one; that the claimant purchased the guns for the amount of about eight hundred and seventy-five dollars, and that they have been efficient and useful in the service of the United States. I think the bill ought to pass, and I move the previous question.

The previous question was seconded, and the main question ordered to be put.

The bill was ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, and passed.

Mr. ODELL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CASSIUS M. CLAY GUARDS.

Mr. ODELL. I have now a report to make to the House somewhat remarkable in its character, and I ask the attention of members to it. I am instructed by the Committee on Military Affairs to report adversely on the petition of Henry F. Johns and others for relief. This is an application for compensation for a company of gentlemen who organized themselves as the Cassius M. Clay Guards about the time the rebellion broke out. A number of gentlemen who happened to be in the city at that time organized themselves into a company, which was stationed, I believe, at Willard's Hotel, and this application is for the pay of that company. It is due to many of the gentlemen whose names are on this roll to say that they have no part in this matter, and I make this statement so that if the matter should ever come up again its character may be understood. There are on the rolls the names of some gentlemen now members of this House, of others who are now ministers abroad, and others occupying prominent positions all over the country. One gentleman, a member of this House—and as I am asked who he is, I presume he has no objection to my stating it; I refer to the gentleman from New York, [Mr. LITTLEJOHN]—has authorized me to say that he had no part in making this application. My judgment and the judgment of the committee is that this is very palpably a job to get compensation for services that were of no value whatever. A majority of these claimants repudiate the matter entirely. I move that the paper be laid on the table.

The motion was agreed to.

ENROLLMENT LAW.

Mr. SCHENCK, from the Committee on Military Affairs, reported a bill to further regulate and provide for the enrolling and calling out the national forces.

The SPEAKER. The bill will be read a first time for information.

The bill was read.

Mr. RANDALL, of Pennsylvania. I object to the second reading of the bill.

The SPEAKER. The question then is, "Shall the bill be rejected?"

Mr. SCHENCK. Mr. Speaker, I propose to submit a brief explanation, to which I desire to call the attention of members of this House before they shall proceed to so decided a vote as that which is now demanded either for or against the rejection of this bill. I understand a proposition to reject the bill at this stage to mean this: that if a bill be of such a character that it is not proper to be entertained, that it is incapable of amendment to put it into a shape so as to render it acceptable, it then becomes necessary to reject it before it comes to a second reading.

What is it that is proposed here to-day? The President of the United States, seeing as he must the necessity for having men and not money only with which to carry on this war against the rebels, and finding the present existing enrollment act does not produce men by a draft, because of the various circumstances attending that enrollment, such as commutation and substitution, and other things which intervene to prevent the procuring of men, has sent to the House a message and communicated a report from the Secretary of War on this subject, inclosing also a letter from the Provost

Marshal General, Brigadier General Fry, all recommending a repeal of the commutation clause. It is not necessary to ask to have those papers read, as they have been printed and very generally read. They will be found in Executive Document No. 97 of this session.

It appears from the facts there disclosed that drafting is insufficient to procure men, and as we have to have men they are only to be supplied by making a law more stringent, and at the same time with such provisions as not to make the law distasteful to the people.

Mr. Speaker, I may add to what is communicated by the President a single illustration in a case that has come to the knowledge of the Committee on Military Affairs. In the fourth district of Maryland it was necessary, under the law, to draft one thousand four hundred and sixty-three men. In one of the subdivisions of that district, Frederick City, where their proportion was one hundred and sixty-nine, they exerted themselves and raised one hundred and sixty-nine volunteers by offering inducements to bring in men, thus saving themselves from the draft. They consisted mostly of colored men, obtained from the city of Baltimore. Of the remaining number subject to draft in that district but fifty-one men were secured. The others were able to raise the \$300 commutation. Two hundred and fifty thousand dollars were received in the way of commutation money, and only fifty-one soldiers were secured for service in the Army; the others, as I have said, having paid commutation money. This is an example of the present law, and under the amendment which we adopted at this session, and which was thought to add to its stringency, and would remove the evils complained of.

Now, sir, while this bill, at first glance, may be considered a most stringent enactment, yet when you come to consider it as a whole, taking one part with another, as a new system to be adopted, there will not be found that hardship which might be supposed.

The first section, following the recommendation of the President, the Secretary of War, and the Provost Marshal General, repeals the commutation clause and provides that no money shall be received in lieu of military service. But if you repeal the commutation clause, and leave it open to persons to get rid of the obligations of military service by furnishing a substitute, those who are able to pay any price for substitutes will run up the market of substitutes so that poor men will be compelled to go themselves because they have lost the protection of the \$300 clause.

And here I remark that none are more clamorous to retain it than the very gentlemen on the other side of the House who saw in it, when it was enacted, nothing but oppression, wrong, and injury to the poor man. The truth is that so far as the \$300 clause operates it operates to the protection of men of limited means, and therefore I say that if you repeal it and go no further you leave them a right to complain that you run up substitutes in the market so as to make it impossible for them to obtain substitutes and compel them to go.

Seeing the difficulty, the committee go one step further, and in the second section propose to repeal the provision allowing substitutes to be taken. In doing that they make this exception, that a man may furnish a substitute, provided that substitute be of his own family—brother, father, or son—following in this respect the system adopted in a number of foreign countries where they have become *au fait* in matters of filling up armies by draft.

But there is a reason for this exception. Perhaps gentlemen would prefer, if there are to be no substitutes, there should be no exceptions at all, and that the whole provision allowing substitutes should be repealed. If a man is thrown upon the necessity of bringing in a substitute, if the opportunity is opened to him of obtaining that substitute from any source whatever, there is presented a case where a man of means will have the advantage over others. The committee therefore propose to limit it so that no man, whether a man of means or not, whether rich or poor, shall in any case get rid of furnishing a substitute unless he be one of his own blood. He must answer either by himself or by his family to this obligation of military service which rests upon every good, loyal citizen of the country.

But this would still leave, it may be supposed, some hardship, and much hardship, and therefore the committee proposes two other sections, palliating, removing, or softening down what would otherwise be considered the stringent character of that clause. By the third section it is provided that the draft need not be for the whole three years, but that the President, in his discretion, may make a draft for a less time, provided it shall not be for less than one year. It is claimed by the War Department that they have now under the existing law the right to draft for less time than three years or during the war. But the committee have thought it proper to remove all doubt upon the subject and to define the power of the President, if he has not already that discretion, by conferring that power upon him, provided he does not go below one year.

Having made that provision, they advance to the fourth section, which seems to me to finish out the system of which the first, second, and third sections were only a part, and to make it no grievous hardship upon any loyal citizen to comply with the obligations and duties under this bill. A man is not permitted to commute for \$300, and cannot send a substitute except one of his own family. But a draft may be brought down to one year. The committee then go on to provide by section four that whenever the President calls for a draft he may, at the same time that he gives notice of a day when the draft is to take place, notify the people of the country that volunteers will be accepted up to that day in lieu of drafted men, and that those volunteers, according to the character of the call, may be for one or two or three years, and that every township and every election district, every county where not subdivided, shall be permitted to make up its quota by volunteers.

Now, let me ask gentlemen what would be the effect of that provision? Its effect would be to make the whole people of the township or county a sort of mutual aid society, to make every man who has any means interested in having a sufficient number of volunteers obtained in order to fill up the quota of his county or township. Every man, no matter how wealthy or how poor, will be equally interested in having the quota filled up, and as a matter of course it is to the advantage of those who have the least means, because the man of the greatest wealth must see that the full quota is made up, or if not he is as liable to be drafted as any other person, and must go himself or send one of his own family. Thus it is that all objection that might be made by men of limited means, because of the cutting off of the commutation, is taken away, and every man in a county or township, or in a ward in a city, as the case may be, is incorporated into a mutual aid society to take care that nobody is drafted.

Then again there is this additional inducement held out, that whatever volunteers are obtained to fill up the quota of a district are credited to the district, and they receive a bounty for volunteering for one year of \$100, for two years of \$200, and for three years of \$300. Thus the Government holds out an inducement to help these men in the mutual aid society. They can offer whatever other inducements they please, and the people of the country have been very liberal in this regard all over the land, and doubtless will be again. They have this bounty offered by the Government as part of a fund to go upon, and they may, if it becomes necessary, add to it, but they must secure volunteering to the full extent of their quota, or the wealthiest man in the community may be required to go and cannot get off.

But it may be asked, what is the necessity for a draft? Simply this: the draft organizes a system and serves as a stimulus on the one side, while the bounty held out furnishes an inducement on the other; and thus whipped forward one way and drawn forward in another, my word for it the people will generally get their township or district or ward out of the scrape by furnishing a sufficient number of volunteers. If they do not, it is admitted that somebody must go, and the provisions of this bill are such that that somebody is just as likely to be the man who considers himself to be at the top of the market as the man in the most humble circumstances.

The two other sections of this bill are designed to remedy defects in the working of the present law. Under the old enrollment act, when a draft

was made, they drew fifty per cent. more names from the box than the number required to fill the quota, in order to make up for deficiencies from exemptions. Under a construction given to the present law by the Provost Marshal General they now only draw the exact number they want, and thus have to keep on drawing to fill the places of all who may be exempted, having no margin to go upon. The War Department asks that we shall go back to what the law was a year ago, and the fifth section provides for that.

In regard to the sixth section, I will say that great impositions are sometimes practiced, and there is always a great deal of trouble in computing the traveling expenses of each drafted man to the place of rendezvous. It may be ten dollars, or only fifty cents, or twenty-five cents, and an immense amount of auditing and examination is necessary for these extremely small accounts all over the country. Instead of that, it is proposed that the Government itself shall furnish and pay for the transportation, which can generally be done by railroad, and not trouble these people to pay their own expenses, and then have their accounts audited and settled afterwards. That is a defect in the present law which is sought to be amended.

The main features of this bill will be found, however, in the first four sections which I have attempted to explain to the House, and which I hope are distinctly understood.

Mr. MALLORY. Does the gentleman from Ohio intend to call the previous question?

Mr. SCHENCK. I shall have no objection to the suggestion of any reasonable amendments, and I would not think of calling the previous question or of hurrying this matter at all but for the fact that we are in the last days of the session, and the passage of some bill of this character is of vital importance.

Mr. RANDALL, of Pennsylvania. It is not my design to follow the argument of the gentleman from Ohio in reference to the necessity or propriety of the passage of this bill. I shall confine myself to two material points involved.

Mr. SCHENCK. I have not yielded the floor. I thought the gentleman from Pennsylvania wanted to make some inquiry.

Mr. RANDALL, of Pennsylvania. I thought the gentleman was through.

Mr. SCHENCK. I am willing to yield for any suggestion or reasonable amendment.

Mr. COFFROTH. If the gentleman from Ohio will permit me, I would like to ask him a question as to the fourth section of the bill.

Mr. RANDALL, of Pennsylvania. I desire to know whether I am in order.

The SPEAKER *pro tempore*. (Mr. STEVENS in the chair.) The gentleman from Pennsylvania [Mr. RANDALL] has the floor.

Mr. SCHENCK. I inquire of the Chair when I yielded the floor.

The SPEAKER *pro tempore*. Some minutes ago.

Mr. SCHENCK. I have not been off my feet, and was about calling the previous question on concluding. But I said I would yield to any member who desired to ask a question or to make a suggestion.

The SPEAKER *pro tempore*. Before that the gentleman had stopped, and the Chair did not know whether he intended to begin again.

Mr. SCHENCK. I did not yield the floor.

The SPEAKER *pro tempore*. The gentleman stopped.

Mr. SCHENCK. I rounded a period, perhaps. [Laughter.] But I never stopped, and never intended to. [Laughter.]

The SPEAKER *pro tempore*. If the gentleman says he did not intend to yield, he still retains the floor.

Mr. SCHENCK. I did not.

Mr. RANDALL, of Pennsylvania. I desire to know whether the gentleman intends to call the previous question on this bill.

Mr. SCHENCK. Yes, sir.

Mr. RANDALL, of Pennsylvania. I think that, under the decision of the Speaker, I have the floor.

The SPEAKER *pro tempore*. The Chair supposed that the gentleman from Ohio had concluded his remarks and yielded the floor; but he says that he had only stopped, intending to renew his remarks; and the Chair takes his word for it.

Mr. HOLMAN. I suppose the gentleman

from Ohio will yield for amendments to the bill. I desire to submit an amendment.

Mr. SCHENCK. I have no disposition to hurry the matter, except on the simple ground of its being a vital matter.

Mr. RANDALL, of Pennsylvania. I know it is vital, and hence we should discuss it.

Mr. SCHENCK. The gentleman from Pennsylvania [Mr. COFFROTH] desires to ask me some question about the fourth section.

Mr. BROOKS. I rise to a question of order. If this bill is not before the House, no question can be asked about it, and no amendments offered.

The SPEAKER *pro tempore*. No amendments can be proposed, but questions may be asked.

Mr. COFFROTH. I desire to ask the gentleman from Ohio a single question. The fourth section provides that volunteers shall be accepted in lieu of such drafted men prior to the day appointed for the draft. Suppose A is enrolled and subject to draft, can he at any time prior to the time of the draft being made, put in a substitute who is not his father, brother, or son, and be released?

Mr. SCHENCK. No, sir; but he can assist his neighbors to fill up the quota of the district.

Mr. COFFROTH. Then, as I understand the gentleman from Ohio, no substitutes can be put in, and the only way to escape the draft is by raising the quota of the town or township.

Mr. SCHENCK. That is the idea—to do away with commutation.

Mr. MALLORY. I rise to a question of order. I wish to know in what stage the bill now is?

The SPEAKER *pro tempore*. The motion is to reject the bill.

Mr. MALLORY. May I inquire who made that motion?

Mr. RANDALL, of Pennsylvania. I objected to the bill.

Mr. MALLORY. Then unquestionably the gentleman from Ohio was not entitled to the floor.

Mr. RANDALL, of Pennsylvania. I desire to know whether my objection to the bill did not give me the floor in reply to the gentleman from Ohio.

The SPEAKER *pro tempore*. It would not give the gentleman the floor as long as the gentleman from Ohio said he was only pausing.

Mr. RANDALL, of Pennsylvania. And where does the effect of my objection come in?

The SPEAKER *pro tempore*. The gentleman from Ohio had the floor when I took the chair, and was making his speech without objection. It is too late to object now.

Mr. RANDALL, of Pennsylvania. I think I have yielded nothing.

Mr. SCHENCK. Objection was made to the second reading of the bill, and the Speaker then occupying the chair decided that the motion to be put was to reject the bill. I ascertained from him that the motion was debatable, stating that I did not wish so important a motion to be put without some explanation.

The SPEAKER *pro tempore*. The Chair will state that the member reporting a bill has the right to the floor upon it, no matter what motion may be made in reference to it.

Mr. SCHENCK. I move the previous question.

Mr. MALLORY. I ask the gentleman to allow me a very few minutes to show why the bill ought to be rejected.

Mr. SCHENCK. You can do that some other time.

Mr. MALLORY. If the motion prevails there will be nothing left to discuss.

Mr. SCHENCK. If the motion prevails, the gentleman will have accomplished his purpose without a speech.

Mr. HOLMAN. I desire to know whether, if the motion shall not prevail, the bill will be open for amendment?

Mr. SCHENCK. It will. I stated in the outset that I proposed to allow opportunity for amendment, and I insist on my demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. STILES demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 75, nays 75, not voting 32; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Amos,

Ancona, Baily, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Harding, Harrington, Benjamin G. Harris, Herrick, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Knapp, Law, Lazear, Le Blond, Mallory, Marcy, McDowell, McKinney, Middleton, William H. Miller, Daniel Morris, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Prayn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Scofield, Scott, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweat, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Winfield—75.

NAYS—Messrs. Alhey, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Kasson, Kelley, Francis W. Kellogg, Knox, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elisha B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—75.

NOT VOTING—Messrs. Allison, Anderson, Brandegee, Clay, Creswell, Henry Winter Davis, Dumont, Grinnell, Hale, Hall, Charles M. Harris, Holman, Jencks, Orlando Kellogg, Kernan, King, Littlejohn, Long, McAllister, McBride, McIndoe, William H. Randall, Alexander H. Rice, Smith, Spalding, Starr, Stebbins, Voorhees, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—32.

The SPEAKER voted in the negative.

So the bill was not rejected.

During the call of the roll,

Mr. STEELE, of New York, stated that Mr. KERNAN had paired with Mr. ALLISON.

Mr. McBRIDE stated that he had paired with Mr. HALL.

The bill was then read a second time.

Mr. BLAINE. Is the bill now open for amendment?

The SPEAKER. It is.

Mr. RANDALL, of Pennsylvania, obtained the floor.

Mr. BLAINE. I ask the gentleman to yield to me for a moment for the purpose of submitting an amendment.

Mr. RANDALL, of Pennsylvania. I will yield to the gentleman for that purpose.

Mr. BLAINE. I move to amend by striking out the first and second sections, and upon that I wish to make a few remarks.

Mr. SCHENCK. Do I understand that I am not entitled to the floor?

The SPEAKER. The gentleman from Ohio did not claim the floor, and the Chair awarded it to the gentleman from Pennsylvania.

Mr. SCHENCK. I rose instantly when the vote was announced.

The SPEAKER. The Chair did not observe the gentleman, or he would have awarded him the floor as the member reporting the bill.

Mr. BLAINE. The sections which I have moved to strike from the bill are as follows, and I ask the attention of the House while I read them, as I wish every gentleman on this floor to understand their full scope and purport. The bill has been so recently placed on our desks that gentlemen may have neglected to observe its provisions:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and of the several acts amendatory thereof, as provides for a commutation in money, to be paid by persons enrolled or drafted for military service, in lieu of actually rendering such military service, be, and the same is hereby, repealed; and hereafter no payment of money shall be accepted or received by the Government to release any enrolled or drafted man from obligation to perform military duty.

Sec. 2. And be it further enacted, That hereafter no person shall be received or accepted to serve in the Army of the United States as a substitute for any other person liable to military duty and who may have been enrolled or drafted for that purpose, unless such substitute be the father, brother, or son of the person so enrolled or drafted, and for whom he proposes to become such substitute.

This stringent and unprecedented measure is called for, Mr. Speaker, by the Provost Marshal General, upon the assumption that the conscription law as it exists now cannot be made an effective agency in recruiting the ranks of the Army. Upon this point, and it is the really vital point in the controversy, I take issue; and I beg the attention of the House while I review and analyze the facts and figures presented in the let-

ter of the Provost Marshal General upon which the proposed legislation is founded.

The results of the draft in eight districts are given, and they may be very briefly summed up as follows: the total number of men examined was 14,741, of whom 7,016 were exempted under the law for physical disability and other causes. This was about fifty per cent., not higher than the average of exemptions in all cases of draft in this war and in former wars. The number thus left liable to service was 7,725, and this was the total number that could be held if the pending bill should become a law. The actual result was that 2,675 men entered the service in person or by substitute, and 5,050 paid the commutation fee. Thus the Department got something more than one third of all the men liable to service, and in addition received more than a million and a half of dollars in money, which can be applied to the payment of bounties for volunteers. This, then, was the net result of the draft in the eight districts so much complained of. And I presume, sir, the Provost Marshal General exhibited the worst districts from which returns had been made; and in saying this I do not mean to imply any unfairness on the part of that able officer, but simply that he desired and intended to present his case in the strongest possible light.

Now, sir, taking the facts as we find them, I submit, as a matter of common sense and sound judgment, that if the draft is kept running in all the districts of the United States with the precise average result attained in the eight districts referred to more men will be obtained for the Army than could be hoped for under the rigorous law that is now proposed. I do not think there is a sensible man on this floor—and we are all sensible men—who believes that the Government, in the exercise of the most ordinary prudence, would proceed to carry out a compulsory draft of the kind now proposed without taking the precaution to distribute a strong military force to maintain order at the various points where the experience of the past admonishes us that disloyal demonstrations and riotous proceedings might be anticipated. And admitting this much, sir, I ask any gentleman if he presumes that this law would have the effect to produce men in as rapid a ratio as the demand for them would be enhanced by its enforcement? For myself I am free to confess my belief that you would not raise enough additional men to supply the police force that would be required at the headquarters of the conscription districts in certain sections that might be named.

I do not speak in this way, sir, because of any apprehension of disloyal conduct in my own district or State. The sentiment of Maine is loyal to the core, and she has shown her loyalty by complying with patriotic readiness to all demands thus far made upon her for soldiers to recruit the Army, or for sailors to man the Navy. But I might well ask in this connection why a State that has been forward among the foremost in the discharge of every duty should have her citizens subjected to so harsh a measure as that now proposed? At least let us have recreancy alleged, if not proved, before we proceed to impose "pains and penalties" upon communities and States that have never yet failed or faltered in responding to all demands made upon their patriotism and their valor. Do not, I pray you, by any action here proclaim to the world that you have no faith in the loyal people of the United States. Do not allow it to appear, even by implication, that the people need to be goaded and driven into the support of the "people's war"—a war waged for "the rights of the people," and which can only be supported by the willing hearts and the strong arms of the loyal citizens of this country, and which will be supported by them until the object for which the contest was undertaken is fully and finally achieved.

A conscription is a hard thing at best, Mr. Speaker, but the people of this country are patriotically willing to submit to one in this great crisis for the great cause at stake. There is no necessity, however, for making it absolutely merciless and sweeping. I say in my judgment there is no necessity for making it so, even if there were no antecedent question as to the expediency and practicability of the measure. I believe the law as it stands, allowing commutation and substitution, is sufficiently effective if judiciously enforced. It will raise a large number of men by

its direct operation, and it will secure a very large amount of money with which to pay bounties to volunteers.

Mr. KELLOGG, of Michigan. The gentleman from Maine has forgotten that the law now prohibits the Secretary of War from paying any more \$300 bounties.

Mr. BLAINE. No, I am aware of that; but it will be very easy for us to change the law in that respect and give the Secretary the requisite authority, much easier, I think, than you will find it to pass the pending bill. If the two hundred districts in the loyal States were gone through with, arriving at results no better than the average of the eight districts presented by the Provost Marshal General, the result would be the enlistment of nearly seventy thousand men and the securing of \$40,000,000 for bounties.

Mr. ODELL. I would call the attention of the gentleman from Maine to the fact that in the draft he gives the result of only the number of men required were placed in the wheel, and not fifty per cent. in addition as provided in the first law enacted; hence there was the greater force in his statement.

The present law now under discussion provides for the addition of fifty per cent. in future drafts.

Mr. BLAINE. Precisely; that fact adds so much to the truth and the strength of what I said, and I am much obliged to the gentleman from New York for the suggestion. His remark brings to my mind a statement which I may as well make in this connection. On the vote taken a few minutes since, on the motion of the gentleman from Pennsylvania, "to reject the bill," I voted with the prevailing side in the negative; and I did so because, in my judgment, all the sections, except those which I have moved to strike out, should be passed, especially those sections which allow the drafting of men for one year and authorize anew the addition of fifty per cent. to the number directed to be drawn. And if my motion to amend by striking out the first two sections shall prevail, I shall then cordially support all the remaining provisions of the bill.

As I occupy the floor by the courtesy of the gentleman from Pennsylvania, and as I agreed to limit my remarks to fifteen minutes, I have no time to go into a full discussion of the many issues presented by the bill under consideration. I have been able only to glance very hurriedly at one of the main points of the question, and with that I must leave it. Before taking my seat, however, I cannot refrain from asking gentlemen around me whether in their judgment the pending measure, if submitted to the popular vote, would receive the support of even a respectable minority in any district in the loyal States? Just let it be understood that whoever the lot falls on *must go*, regardless of all business considerations, all private interests, all personal engagements, all family obligations; that the draft is to be sharp, decisive, final, and inexorable, without commutation and without substitution, and my word for it you will create consternation in all the loyal States. Such a conscription was never resorted to but once, even in the French empire under the absolutism of the first Napoleon; and for the Congress of the United States to attempt its enforcement upon their constituents is to ignore the first principles of republican and representative Government.

Mr. RANDALL, of Pennsylvania. I desire to call the previous question, but before doing so I will yield to the gentleman from Indiana for a word.

Mr. ASHLEY. I ask the gentleman, before he calls the previous question, to permit me to offer an amendment.

Mr. RANDALL, of Pennsylvania. I yield to the gentleman from Indiana, who wishes to say a word.

Mr. HOLMAN. I wish to offer an amendment in the nature of a proviso to the first section of the bill.

Mr. RANDALL, of Pennsylvania. I do not yield for that purpose.

Mr. HOLMAN. I ask to have the amendment read.

The amendment was read, as follows:

Provided, however, That before any general draft shall hereafter be made the President of the United States shall, by partial draft, in such States as have not furnished their

full quota of men, raise the necessary number of men to equalize the number furnished by the several States, according to their respective quotas, excluding from the computation all such persons as have obtained exemption by the payment of \$300, and making the actual number of men furnished the basis of the equalization.

Mr. RANDALL, of Pennsylvania. I do not yield for that amendment.

Mr. CHANLER. I ask the gentleman from Pennsylvania to yield to me.

Mr. RANDALL, of Pennsylvania. Certainly.

Mr. CHANLER. My object in rising to speak to this bill is chiefly to draw the attention of the chairman of the Committee on Military Affairs to the fact that when the present bill, which he seeks now to amend, was before the House a short time since, a strong appeal was made to him to repeal the conscription act, upon the statement that it had been a failure, and that it would continue to be a failure as a means of enrolling and calling out the national forces. The chairman himself now comes forward and acknowledges that it is a failure. Not only does the chairman speak for himself and his committee on this point, but he adds the President and Secretary of War to the number of those who declare the conscription act a failure; and that no doubt may rest on the mind of the country as to the utter failure of this once sovereign remedy for all our losses, we are referred to Executive Document No. 97, on this subject. It is as follows:

To the Senate and House of Representatives:

I have the honor to submit for the consideration of Congress a letter and inclosure from the Secretary of War, with my concurrence in the recommendation therein made.

ABRAHAM LINCOLN.

WASHINGTON, D. C., June 8, 1864.

WAR DEPARTMENT,

WASHINGTON CITY, June 7, 1864.

SIR: I beg leave to submit to you a report made to me by the Provost Marshal General, showing the result of the draft now going on to fill the deficiency in the quotas of certain States, and recommending a repeal of the clause in the enrollment act commonly known as the \$300 clause. The recommendation of the Provost Marshal General is approved by this Department, and I trust that it will be recommended by you to Congress. The recent successes that have attended our arms lead to the hope that, by maintaining our military strength, and giving it such an increase as the extended field of operations may require, an early termination of the war may be attained. But to accomplish this it is absolutely necessary that efficient means be taken, with vigor and promptness, to keep the Army up to its strength, and supply deficiencies occasioned by the losses sustained by casualties in the field. To that end resort must be had to a draft; but ample experience has now shown that the pecuniary exemption from service frustrates the object of the enrollment law by furnishing money instead of men.

An additional reason for repealing the \$300 clause is, that it is contemplated to make the draft for a comparatively short term. The burden of military service will therefore be lightened, but its certainty of furnishing troops is an absolute essential to success.

I have the honor to be your obedient servant,

EDWIN M. STANTON,

Secretary of War.

To the President.

WAR DEPARTMENT,

PROVOST MARSHAL GENERAL'S OFFICE,

WASHINGTON, June 6, 1864.

SIR: In accordance with the amended enrollment act approved February 24, 1864, and your orders on the subject, I am now conducting a draft in various sub-districts for their respective deficiencies on quotas of troops heretofore assigned. The results of this draft, so far as shown by reports to this date, are worthy of attention. They are briefly as follows:

Number of drafted men examined.....	14,741
Number exempted for physical disability....	4,374
Number exempted for all other causes.....	2,632

Total exempted.....	7,016
Number paid commutation money.....	5,050
Number who have furnished substitutes.....	1,416
Number held for personal service.....	1,359

(This last includes some who may yet pay commutation money.)

Total not exempted.....	7,725
-------------------------	-------

These reports come from sub-districts in eight different States. I invite your attention to the small proportion of soldiers being obtained under the existing law. I see no reason to believe that the Army can be materially strengthened by draft so long as the \$300 clause is in force, nor do I think it safe to assume that the commutation paid by a drafted man will enable the Government to procure a volunteer or substitute in his place. I do not think that large bounties by the United States should be again resorted to for raising troops. I recommend that the \$300 clause, as it is known, be repealed.

I am, sir, very respectfully, your obedient servant,

JAMES B. FRY,

Provost Marshal General.

Hon. E. M. STANTON, Secretary of War.

And notwithstanding the provision of the

Constitution which provides fully for furnishing troops and fitting out the armies of the Union in a time of insurrection, the chairman of the Committee on Military Affairs persistently, and in the grasping spirit of centralization, although finding the whole system of the draft a failure, rather than abandon what will lead to a military despotism, now brings this amendment into the House, and under the specious plea that he is going to ameliorate the condition of the people, that he is going to remedy the evils of a draft, he presses more earnestly than before a measure more objectionable than the first.

It gives to the President not only the power under which he has been acting heretofore, but it gives him the right, whenever he may choose, to call for an additional draft, and by this amendment, to use the language of the eloquent and humane gentleman, the chairman of the Committee on Military Affairs, the people are whipped on the one side, and tempted on the other. It is a force measure, brought forward under the very worst auspices, and apparently with the very worst intentions, and consequently cannot fail to produce the most fatal result to the representative system of this Government.

In this connection I feel it my duty to call attention to the fact that a joint resolution which lies over under objection, but which will be brought forward again by the Administration, increases the commutation from \$300 to \$400, with an additional provision that black men may be used as substitutes, thereby seeking to induce the white race to surrender the power of the sword and layonet into the hands of the black. Under that or a similar resolution, and by virtue of the practical working of this bill, I believe the armies of this country will, in the course of time not far distant, be composed of a majority of blacks, organized into a military system under the control of the Executive, to continue this war for political purposes. The whole country may become one scene of carnage and civil strife to gratify the Executive will, whether of the present incumbent or any other adventurer. Such will be the effect of this bill if the third section is adopted.

The gentleman states that the first section is introduced as a poor man's friend, the means by which the poor man will be enabled to find an easy remedy against the operations of the bill which the Administration first forced upon this House some months ago, and which experience teaches the Administration was an error, costly in blood, costly in treasure, costly to our national fame. This section one is as follows:

That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and of the several acts amendatory thereof, as provides for a commutation in money, to be paid by persons enrolled or drafted for military service, in lieu of actually rendering such military service, be, and the same is hereby, repealed; and hereafter no payment of money shall be accepted or received by the Government to release any enrolled or drafted man from obligation to perform military duty.

And the second section, the honorable chairman informs us, is a happy expedient drawn from the laws of foreign nations, who are "au fait" in all matters connected with conscription; and by this section he designs to relieve those who are subject to the exigencies of a draft. The section is certainly foreign to all American freemen. Here it is:

SEC. 2. And be it further enacted, That hereafter no person shall be received or accepted to serve in the Army of the United States, as a substitute for any other person liable to military duty and who may have been enrolled or drafted for that purpose, unless such substitute be the father, brother, or son of the person so enrolled or drafted, and for whom he proposes to become such substitute.

Sir, it is not the first time that the horrid example of the European system of government as shadowed forth in the French Revolution has been quoted upon this floor, nor have we reason to expect that it will be the last, but certainly it is unbecoming a representative body of American citizens to bring forward a measure such as this which outrages all the affections of family and ties of blood. Sir, that is a provision worthy of the Military Committee, but utterly unworthy of the American people. They have at all times during this war, fathers, brothers, sons, come forward willingly under the old system of the Constitution, before these hideous monsters of war were developed under your odious plea of military necessity, and fought in the ranks of the

Army without any such insult to their patriotism and ties of affection as is contained in this section:

SEC. 3. *And be it further enacted*, That the President of the United States may, at his discretion, at any time hereafter, order a draft under the provisions of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, and of the several acts amendatory thereto, for soldiers to serve for a less period than three years: *Provided, however*, That no such draft shall be for a less term of service than one year.

With regard to this third section the chairman of the Military Committee admits that he offers it as a "palliation," to use his own words, to the stringent character of the bill which was previously passed, and which he now seeks to amend by this more cruel enactment. What does it palliate? He proposes to give to the Executive a power unheard of before this Administration came into power. After removing the possibility of any substitutes being furnished except those of the same family, the President is given unlimited control over the lives of every family in the land. In the fourth section he falls back upon the original provision of the Constitution and adopts the old system of volunteering, from which there has never been any reason to depart. But still adhering to the dangerous but favorite principle of centralization, this section assumes a partisan character, and depriving the States of their powers gives extraordinary power to the Executive. It has been fully shown that whatever necessity did exist for resorting to the system of drafting in place of volunteering, it was created by the acts of folly and extravagance of the Administration itself. It is unnecessary to enter into any argument to prove that. The gentleman admits the draft to be a failure. Let us then fall back upon the provision of the Constitution in relation to the raising of troops for the common defense and for the suppression of insurrection. Let us leave to the States the power of organizing their militia for the defense of the country as reserved to them in the Constitution, and do not by an enactment such as is now proposed by this conscription act and the subsequent amendments centralize the whole military power of the nation in the hands of the Executive, and thereby cut off all sympathy and connection between the people of the States and this huge military machine wielded by the General Government. That I maintain to be the great mistake and the great evil of this whole system of draft as inaugurated by this Administration. I am further of the opinion that before the party in power have secured to themselves the conquests and the ends they hope to obtain they will find that the sympathy of the people, which they are now using every means to destroy, will be appealed to in vain, and that the States of this Confederacy, to whom you have offered insult upon insult, and from whom you have taken by usurped authority right after right will in the end demand back from you the rights which you have so outrageously usurped.

Sir, my object in rising will have been accomplished if I have succeeded in presenting a simple and clear view of this subject as it appeared to me upon the statement of the chairman of the Military Committee. This bill strikes down what I and those who think with me believe to be vital in the fundamental law of this country, the right of the States to take part in everything that pertains to their liberties, their existence, and their glory.

Mr. RANDALL, of Pennsylvania, resumed the floor.

Mr. HOLMAN. Will the gentleman from Pennsylvania yield to me for a moment?

Mr. RANDALL, of Pennsylvania. I will yield first to the gentleman from Ohio, [Mr. ASHLEY.]

Mr. ANCONA. I object to the gentleman's yielding unless he yields unconditionally.

Mr. ASHLEY. I desire simply to offer an amendment.

The SPEAKER. Objection being made, the gentleman from Pennsylvania will proceed with his remarks.

Mr. RANDALL, of Pennsylvania. I desire to say one single word.

Mr. A. MYERS. I would like to ask my colleague to let me offer an amendment.

Mr. ROBINSON. I object.

Mr. RANDALL, of Pennsylvania. I am sorry I have not the power to extend the courtesy which my colleague asks. I desire to say but a

single word in reply to the chairman of the Committee on Military Affairs in reference to this bill.

1. At this time this proposition is not called for.

2. The people throughout the country, whose representatives we are, do not desire the passage of this bill.

3. If the bill did pass this House it would not have any force or effect, through failing to receive the concurrent action of the Senate.

These are the three propositions which I have to state, and which I hope will have that weight which common sense and the good judgment of the House must give them. I move the previous question on the adoption of the amendment of the gentleman from Maine, [Mr. BLAINE.]

Mr. A. MYERS. I ask the Chair whether, if the first section be stricken out, it will be in order to offer a section in place of it.

The SPEAKER. It will be after the previous question shall be exhausted, which will be when the vote is taken on the amendment.

Mr. FARNSWORTH. Have I the right to call for a division of the question? The amendment is to strike out the first two sections.

The SPEAKER. The Chair is of opinion that a division of the question may be called for.

Mr. FARNSWORTH. Then I ask for separate votes on striking out the first and second sections.

The previous question was seconded, and the main question ordered, which was first on striking out the first section of the bill.

Mr. SCHENCK. Mr. Speaker, I do not propose to detain the House by adding much to what has been already said. I endeavored when up before to explain in their order these sections. The bill, as I said before, is to be considered as a whole. I think that if passed it should be passed in its entirety.

Mr. HARDING. I rise to a question of order. The amendment was offered by the gentleman from Maine. Does that give the chairman of the Committee on Military Affairs the right to conclude the debate?

The SPEAKER. The gentleman from Ohio having reported the bill, and not having spoken on the second reading, cannot be deprived of his right under the operation of the previous question.

Mr. HOLMAN. Does that right exist on each amendment that may be offered?

The SPEAKER. The Chair will decide questions when they come up. The Chair decides now that the gentleman from Ohio is entitled to the floor.

Mr. SCHENCK. I understand that the question is on the engrossment of the bill.

The SPEAKER. It is on the amendment to strike out the first two sections of the bill.

Mr. SCHENCK. Does the previous question apply to the amendment?

The SPEAKER. It does.

Mr. SCHENCK. The previous question does not apply to the engrossment?

The SPEAKER. It does not. The gentleman has the right to speak one hour, and may do so either now or after the engrossment.

Mr. SCHENCK. The first question will be on striking out the commutation, and the second on striking out the substitution. In regard to the commutation I have nothing to add to what I said before, except to allude generally to the vital necessity of doing something to make the draft more efficacious than it has been.

The gentleman from New York [Mr. CHANLER] who has just addressed the House is mistaken in supposing that I am inconsistent in the positions which I have taken in reference to the existing law and to this proposed law. I have never believed that the old enrollment law passed by the last Congress was perfect. I believed then that in passing it we were doing the best we could at the time, nor did I believe that in amending it during the present Congress we were doing enough. But the conviction is most thorough on my mind, and it is spreading throughout the country, it is admitted by the war-making power as well as by all members of the House who are anxious to do something to obtain men to put down this rebellion, that some more stringent measure is necessary in order to bring about that condition of things by which men shall be obtained for the Army.

Mr. GANSON. I would like to ask the gen-

tleman from Ohio if there are any States that have failed to respond to the calls hitherto made by the President of the United States; whether the State of New York is not four thousand ahead of all calls; and whether there is any necessity for having any more stringent measure.

Mr. SCHENCK. I will answer that by saying that under the call made in the district referred to, there are upward of five thousand out of fourteen thousand who responded to the call by paying their \$300 commutation. And I will go further and remark, as to the gentleman's State, that if they have answered all the calls made hitherto and have an excess so much the better for them, because upon the calls to be made hereafter their excess will be credited upon their quota.

In reference to the commutation clause being stricken out I notice that there are gentlemen here who say they are in favor of striking that out and of still retaining the second section. Well, sir, I am in favor of retaining the second section if the section repealing the commutation is stricken out. It is true, so far as being an assistance to a certain class of men is concerned, it may be desirable to allow drafted men to obtain substitutes, but it is objectionable upon another ground. If you strike out the commutation, and leave the matter of obtaining substitutes open, the price of substitutes will be run up to ten or fifteen hundred dollars, so high that but a small portion of the people can afford to obtain substitutes. It will therefore be no benefit to the larger portion of the people. I am therefore of the opinion that whether this commutation clause is stricken out or not the section providing that there shall be no substitutes hereafter, perhaps on the whole had better be retained, with the provision allowing a substitute in the case of a member of a family stricken out.

But, sir, as I have said to the House, to make the bill of value, to make it efficient, it should be taken as a whole. If gentlemen will look it through as a whole they will find that it presents a most efficient plan for securing volunteers. The effect will be to organize every town, ward, or precinct into a committee to promote volunteering. It makes it directly for the interest of every man subject to draft to encourage volunteering. Every one, no matter what his condition is, will be required to assist to the last man in making up the full quota, because he is subject to draft, and if a draft is held in his town or ward and he is drafted, he has no alternative but to go. I hope, therefore, that gentlemen will look at the bill as a whole; that they will take the section prohibiting substitutes in connection with that striking out the commutation clause, and these sections in connection with the other sections of the bill, and that they will see that to strike out the commutation clause will render all the other sections comparatively valueless. But I think that on the whole, for a bill that provides, if need be, to force men reluctantly and involuntarily into the service of the Government to which they owe allegiance, it is as mild and liberal a bill as can be framed. It provides a condition of things by which almost every town or ward will obtain the requisite number of volunteers, and a draft will be avoided.

I will now yield to my colleague, [Mr. GARFIELD,] who desires to occupy the attention of the House for a very few minutes before the vote is taken.

The SPEAKER. The Chair will say to the gentleman that he cannot yield the floor unless he yields it unconditionally.

Mr. SCHENCK. Then I yield the floor unconditionally.

Mr. ASHLEY. I ask the unanimous consent of the House for leave for my colleague [Mr. GARFIELD] to be heard for fifteen minutes upon this bill.

Mr. ROBINSON. I object.

Mr. GANSON. I desire to ask the Speaker whether this bill will come up in the evening session.

The SPEAKER. It will not. The whole of the evening has, by unanimous consent, been set apart for the consideration of the Pacific railroad bill. If that bill should, however, be disposed of before the close of the evening session, the bill in reference to the establishment of a naval depot at Cairo would then come up; and if that were out of the way, this bill would come up.

The question was taken on striking out the

first section of the bill; and it was decided in the affirmative—yeas 100, nays 50, not voting 32; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Alley, Ames, Ancona, Baily, Augustus C. Baldwin, John D. Baldwin, Blaine, Bliss, Boutwell, Brooks, Broomall, James S. Brown, William G. Brown, Chanler, Freeman Clarke, Coffroth, Cravens, Thomas T. Davis, Dawes, Dawson, Deming, Denison, Eden, Edgerton, Eldridge, Eliot, English, Fenton, Finck, Frank, Ganson, Gooch, Grider, Griswold, Hale, Harding, Harrington, Benjamin G. Harris, Horrick, Holman, Hooper, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Knapp, Law, Lazear, Le Blond, Mallory, Marcy, McDowell, McKinney, Middleton, Samuel F. Miller, William H. Miller, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Odell, John O'Neill, Patterson, Pendleton, Perham, Perry, Pruyn, Radford, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, Scofield, Scott, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Thomas, Upson, Wadsworth, Ward, William B. Washburn, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, and Winfield—100.

NAYS—Messrs. Arnold, Ashley, Baxter, Beaman, Blair, Blow, Boyd, Ambrose W. Clark, Cobb, Cole, Dixon, Donnelly, Driggs, Eckley, Farnsworth, Garfield, Higby, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Julian, Kelley, Francis W. Kellogg, Knox, Loan, Longyear, Marvin, McClurg, Moorhead, Morrill, Norton, Charles O'Neill, Orth, Pike, Pomeroy, Price, John H. Rice, Ross, Schenck, Shannon, Sloan, Smithers, Thayer, Tracy, Van Valkenburgh, Blihu B. Washburne, Wilder, Wilson, and Windom—50.

NOT VOTING—Messrs. Allison, Anderson, Brandegee, Clay, Cox, Creswell, Henry Winter Davis, Dumont, Grinnell, Hall, Charles M. Harris, Jenckes, Kasson, Orlando Kellogg, Kernan, King, Littlejohn, Long, McAllister, McBride, McIndoe, William H. Randall, James S. Rollins, Smith, Spaulding, Starr, Stobbins, Voorhes, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—32.

So the first section of the bill was stricken out.

During the vote, Mr. ALLISON stated that he was paired with Mr. KERNAN.

Mr. MOORHEAD stated that his colleague, Mr. KELLEY, had been called home by sickness in his family.

The vote was then announced as above recorded.

The question then recurred on the motion to strike out the second section.

Mr. SCHENCK withdrew the demand for the yeas and nays.

The motion was agreed to.

Mr. ELDRIDGE moved to reconsider the vote by which the first and second sections were stricken out; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BROOMALL. I submit a substitute for the bill.

The SPEAKER. It will be considered as pending.

Mr. FENTON. I move to amend the fourth section of the bill so that it will read as follows:

SEC. 4. *And be it further enacted*, That the President shall accompany any order for a draft of men for military service with a notice that he will accept volunteers or substitutes in lieu of such drafted men prior to the day appointed for the draft to fill the quota or any part thereof of any town, township, ward, precinct, or election district, or of any county not so subdivided; and every person so volunteering, in lieu of a man to be drafted, shall be credited to such town, township, ward, precinct, or election district, or county not so subdivided; and if he volunteers or is offered as a substitute for a drafted man and is accepted and mustered into the service for a term of one year, unless sooner discharged, shall receive and be paid by the United States a bounty of \$100, and if for a term of two years, unless sooner discharged, a bounty of \$200, and if for a term of three years, unless sooner discharged, a bounty of \$300, one half of which said bounty shall be paid to the soldier at the time of his being mustered into the service, one fourth at the expiration of one half his term of service, and one fourth at the end of his term of service; and the President in any call or order for a draft shall specify the exact time of service for which such draft is to be made, and the volunteers accepted in lieu of the whole or any part of the quotas to be provided under that draft shall be for not less than the term of service for which that draft is ordered.

The amendment was agreed to.

Mr. ASHLEY. I move to strike out in the fourth section the words "be credited to such town, township, precinct, or election district," and in lieu thereof to insert these words:

If subject to enrollment, be credited to the town, township, precinct, or election district in which he may be liable to enrollment. If not so subject, to the town, township, precinct, or election district in which he may have volunteered.

I wish merely to call the attention of the House to the fact that the cities take up nearly all of our volunteers. This is designed to credit them where they reside and are enrolled.

Mr. NELSON. Do not the cities pay higher bounties?

Mr. ASHLEY. They do; and that is the way they get men from the counties and townships to which they properly belong.

Mr. NELSON. If they pay the bounty they are entitled to the credit of these volunteers.

Mr. STEVENS. Does the gentleman mean that the men who go to the towns because they pay higher bounties there, shall receive those bounties and then not be credited to those towns?

Mr. ASHLEY. I want the volunteers to be credited where they reside.

Mr. STEVENS. I hope the amendment will not be adopted.

The House divided; and there were—ayes 64, nays 41.

Mr. L. MYERS demanded the yeas and nays. The yeas and nays were not ordered.

So the amendment was agreed to.

Mr. BOUTWELL moved to add the following to the fourth section:

Provided, That no volunteer or substitute under the provisions of this section, who shall be honorably discharged previous to the expiration of the term of his enlistment, shall be entitled to his full bounty for the time of his enlistment.

The amendment was agreed to.

Mr. INGERSOLL moved to insert in the fourth section, after the word "service," in the eighteenth line, these words:

But in case of his death when in said service, the residue of said bounty shall be paid to his legal representatives, and in case of his honorable discharge from wounds or sickness incurred in the service he shall receive the full bounty.

Mr. FARNSWORTH. I move that the bill and amendments be laid on the table. The bill has been so emasculated that it is evident the House does not mean to pass any measure of this kind.

The motion was disagreed to.

The question was then taken on the amendment, and it was not agreed to.

Mr. GARFIELD. Is it in order to move to amend by striking out the fourth section?

The SPEAKER. It is.

Mr. GARFIELD. I move to strike out the third and fourth sections of the bill. The bill, as my colleague on the committee has said, was presented as a whole, a measure that had no value in it, except the last two sections, unless taken as a whole. The heart is cut out of it, and the head cut off, and with the exception of those two sections I have not only no desire that it should pass, but I believe the mangled trunk would be a deformity, and would seriously injure the efficiency of the present law.

We come before the House to say that the President had informed us, that our own examination of the state of the country also led us to believe, that the Government is in want of men and not of money to fill the ranks of its Army; that the law we have given to the President and the War Department has in the main failed to secure the requisite reinforcements.

It is no longer a question that we cannot retain the commutation clause of the enrollment act and at the same time fill up the Army so as to supply the waste of battle.

Gentlemen, this Congress must sooner or later meet the issue face to face, and I believe the time will soon come, if it has not now come, when we must give up the war or give up the commutation. I believe the men and the Congress that shall finally refuse to strike out the commutation clause, but retain it in its full force as it now is, will substantially vote to abandon the war. And I am not ready to believe, I will not believe, that the Thirty-Eighth Congress has come to such a conclusion.

I think the second section can be stricken out and the bill be serviceable. Perhaps it had better be stricken out. It was not put in to make it palatable to the House, but in the hope that it would be more acceptable to the country.

But when the officers to whom you have committed the safety of the nation ask for adequate instruments to carry on the war, when they tell you the instruments you have given them are not adequate, as the President and the Secretary of War tell you, as the history of the late draft and the one now in progress tells you; when these demands are made and reasons given, if you refuse to grant the aid they need, how have you any

right to hope either success or safety? But if you will not give the needed help, at least preserve intact the law you have already made. I hope, therefore, all the sections will be stricken out except the last two.

The hour of half past four having arrived, the House, in pursuance of a previous order, took a recess until half past seven o'clock.

EVENING SESSION.

The House reassembled at half past seven o'clock.

ENROLLMENT LAW.

Mr. SCHENCK. I ask the consent of the House to have printed the bill which we have had under consideration to-day, together with the amendments already adopted, and those now pending.

Mr. RANDALL, of Pennsylvania. I object unless I can know when action will be taken on the bill.

Mr. STEVENS. I hope my colleague will not object. We can know better, if it is printed, how to act when it comes up for consideration.

Mr. RANDALL, of Pennsylvania. Will this give it any precedence?

Mr. STEVENS. None whatever.

Mr. RANDALL, of Pennsylvania. Then I will withdraw my objection.

No further objections being made, the bill and amendments adopted and pending were ordered to be printed.

LANDLORD AND TENANT IN THE DISTRICT.

Mr. WILSON, from the Committee on the Judiciary, and by unanimous consent, reported back, with amendments, an act (S. No. 138) to regulate proceedings in cases of landlord and tenant in the District of Columbia.

The first amendment was to add to the first section the following proviso:

Provided, That no part of this section, other than that which relates to the attornment of tenant to a stranger, shall apply to contracts made, or to any tenancy existing, prior to the passage of this act, except in case of waste or refusal to pay rent.

The amendment was agreed to.

The second amendment was to insert the following as a new section, after section three:

And be it further enacted, That either party against whom judgment is rendered by a justice of the peace, may appeal from such judgment to the supreme court of the District of Columbia in the same manner as appeals are taken to the said court in other cases; but in cases of an appeal by a defendant, he shall, in addition to the bail required in other cases, recognize in a reasonable sum to the plaintiff, to be fixed by said justice, with sufficient sureties conditioned to pay the intervening damages to the leased property resulting from waste, and intervening rent for the premises; and such appeal shall be tried in the same manner, and further proceedings had therein, as in other cases in said court.

The amendment was agreed to.

Mr. STEVENS. I desire to ask the gentleman whether there is any amendment with regard to the time of giving notice?

Mr. WILSON. The time specified by the bill is thirty days.

Mr. HUBBARD, of Iowa. Does this bill affect contracts made prior to the passage of the bill?

Mr. WILSON. It affects no contracts made and no tenancy in existence except in cases where the tenant permits the property to waste or refuses to pay the rent.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

The House then resumed the consideration of bill of the House No. 433, to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, the pending question being upon the motion of Mr. STEELE, of New York, to reconsider the vote by which the bill was postponed until this evening.

Mr. WASHBURN, of Illinois. I believe the gentleman from Indiana [Mr. HOLMAN] is entitled to the floor.

The SPEAKER. The gentleman from New

York [Mr. STEELE] was upon the floor when the morning hour expired, when the bill was last under consideration. The gentleman from Indiana will be entitled to resume the floor when the gentleman from New York concludes.

Mr. WASHBURNE, of Illinois. The gentleman from Indiana informed me that he expected to resume the floor and make a speech this evening.

Mr. STEELE, of New York. I do not desire to occupy the floor. I will yield it to the chairman of the select committee, the gentleman from Pennsylvania, [Mr. STEVENS.]

The SPEAKER. Does the gentleman withdraw the motion to reconsider?

Mr. STEELE, of New York. I do not desire to move it now.

The SPEAKER. The motion to reconsider is pending.

Mr. STEELE, of New York. Then I withdraw it.

Mr. WASHBURNE, of Illinois. Let us wait until the gentleman from Indiana submits his remarks, and then I hope to have the floor for a few minutes.

The SPEAKER. The right of the gentleman from Indiana will be reserved, and other gentlemen can speak until he comes in.

Mr. PRUYN. I should like to make a brief statement about this matter.

Mr. STEVENS. As there are several amendments to be proposed to this bill, I should like to get the one now pending out of the way.

Mr. WASHBURNE, of Illinois. The amendment is an important one, and will have to be voted upon, and there is no quorum here now.

Mr. WILSON. When this bill was up the other day the gentleman from Illinois suggested that it be postponed till to-night, in order that he might have an opportunity to prepare himself to make a speech on it. Why cannot he make his remarks now, as well as at any other time? Why wait until the gentleman from Indiana comes in?

Mr. WASHBURNE, of Illinois. I do not wish to take the place of the gentleman from Indiana. He will be here in a few moments. I move that there be a call of the House.

Mr. PRUYN. If the gentleman will waive that motion, I should like to make a remark or two.

Mr. WASHBURNE, of Illinois. Well, I withdraw the motion.

Mr. PRUYN. I beg to ask the present position of this question. What is the pending amendment?

The SPEAKER. The amendment of the gentleman from Indiana, [Mr. HOLMAN,] which the Clerk will report.

The Clerk read the amendment, as follows:

Add at the end of section fifteen the following: And said road shall be a public highway, and shall transport the property and troops of the United States, when the transportation thereof shall be required, free of tolls or other charges.

Mr. PRUYN. I understand that it is proposed to offer to this bill several other amendments of an important nature, and it may perhaps be well at this stage of the discussion to inquire of the chairman of the committee what disposition, if any, is intended to be made in this House of the Senate bill which has come in here. Is it intended to act upon that bill and amend it and send it back to the Senate, or are we to pass a new bill and send that up to the Senate?

Mr. STEVENS. This is the bill originally reported by the committee, and which was recommended to the committee with liberty to report at any time. That is the way we got an opportunity of reporting it back. The Senate bill was referred to the committee but that committee will have no right to report it until it is called again; and, in my judgment, and such is the judgment of others, the committee will not be called again this session. It will therefore be impossible for us to report back that bill. We have had no opportunity to report it so far, and we shall have none hereafter unless we are called again.

Mr. PRUYN. Then the Senate will have to act upon a new bill, and not upon amendments to their own bill.

Mr. STEVENS. That is so.

Mr. PRUYN. I think it is desirable, before further action is had on this bill, that all amend-

ments of an important character which are to be offered should be presented to the House and placed before it, so that gentlemen may know what shape the matter will probably assume, and be prepared to discuss it accordingly. There is one cardinal question in the outset which the House is called upon to determine, and that is by what agency this road shall be built. The company chartered in 1862 was authorized to commence operations whenever \$2,000,000 should have been subscribed and ten per cent. or \$200,000 paid in on that amount.

The grant by the Government in aid of the work is divisible into two parts; in the first place, the right of way over the whole territory of the United States, wherever the Government still holds land, and a large land grant to the company in addition; and secondly, and which is the most important present aid, a large issue of Government bonds, which the company are to receive and sell for the purpose of enabling them to build the road. I do not recollect what these bonds would amount to, but I think it is entirely safe to estimate them at \$100,000,000.

Mr. WASHBURNE, of Illinois. Ninety-five million and eighty-eight thousand dollars.

Mr. STEVENS. The sum is to be \$16,000 a mile to the foot of the Rocky mountains, then \$48,000 a mile for one hundred and fifty miles, then \$32,000 a mile to the base of the Nevada mountains, then \$48,000 a mile for one hundred and fifty miles, and then \$15,000 a mile until they reach San Francisco; not exceeding in all \$100,000,000.

Mr. PRUYN. Substantially then the state of the case is this: that in consideration of \$2,000,000 subscribed by individuals, of which ten per cent. has been paid, the Government of the United States gives the right of way and makes a large land grant in aid of this road, and then gives it \$100,000,000 in addition. Now, it will be observed in order to secure the faithful application of this fund as far as these individuals are concerned, looking at it in that point of view and without reference to who the individuals are, and taking it for granted, if you please, that the fund will all be rightly and fairly appropriated, they contribute two per cent. only of the money, and no part, of course, of the real estate. If we consider the whole as an investment of \$150,000,000, it would be a contribution of one and a half per cent., or at \$200,000,000 but one per cent. on the part of the company which undertakes to build this road, toward its construction.

In other words, the Government in fact build the road, and ought to control or own it, and then no land grant could be called for. The Government is the party to be responsible for this outlay when once commenced; and when you begin it you must go through with it, cost what it may, or otherwise lose what you put in. No company can be expected to operate it at a loss.

I believe there is but one opinion—at any rate but little difference of opinion—in this House as to the very great importance of this work, and the importance of constructing it without delay, and in the very best manner. I have looked at it for many years with very deep interest as the great thing to be done to bind together the two extremes of our country. I wish it had been commenced years ago, and it would now have been near completion.

But the question now comes before us to be settled probably at this time, what agency shall we employ which will be the most effective to construct this great work? It is very important as we all know in regard to every enterprise of this kind that it should start right.

The present company has done I believe very little or nothing toward constructing the road. It was not expected when the organization took place that much could be done before this. It was understood quite generally by subscribers to the stock that they were then only to pay in their ten per cent. in order to secure the charter as the time limited by the act of Congress was about to expire, and that the company should do nothing in the way of constructing the road, and should expend nothing that they could possibly avoid, except for the purpose of maps and surveys until Congress should meet, it being admitted on all sides that very important amendments were needed to the charter.

In the shape in which it now stands it is virtually admitted by the company—and I have no doubt it is true—that the company cannot go on and construct this road with the grant in bonds made by the act of 1862. Now, how shall we proceed? Shall we hand this over to gentlemen who contribute one or two per cent. of the amount, with whose appointment we have nothing to do, over whom we have no control except in a very indirect way; shall we hand over this great public work with the large grant attached to it to such a body of men—I care not how wealthy or respectable or influential they may be—or shall we at once in some plain, direct, and efficient manner take charge of it ourselves?

I believe I hazard very little in saying, from conversations with some of the leading men of the country who have taken an interest in this matter, that a board might be organized by the Government, consisting of five, seven, or nine individuals of experience, character, and position, who would, in view of the great public benefits to be conferred by that work, undertake to supervise its construction without any pay. If such a board can be procured, it will work more efficiently, more thoroughly, and more actively than any other organization, at any rate more satisfactorily than any corporate organization such as that which now exists.

It is my purpose, Mr. Speaker, for these reasons briefly stated, with a view of testing the sense of the House as to what the future of this enterprise shall be, how it shall be managed, controlled, and conducted, to offer an amendment to the bill of the character I have suggested. If such an amendment shall be adopted, if the House shall determine that this public work shall be constructed by a board of commissioners to be appointed by the Government, I expect them to move that the bill be referred back to the committee for the purpose of framing it in accordance with the principle thus determined upon. I have not undertaken the labor—for it would be a considerable one—of framing a bill, with all the detail necessary to carry out this principle—wishing the House first to determine whether it will adopt it. If adopted we can very easily frame a bill accordingly.

There is another branch of the matter to which I will refer. If the House shall determine not to adopt this principle but to undertake to amend the charter of the existing company, and give it additional powers and additional grants, it strikes me that some amendment should be made to the present bill with a view of controlling the action of the directors and the future of the company more thoroughly than has been done in the bill before us. I believe I am quite at liberty to state that in these views I am sustained by a number of gentlemen on this floor who have looked at the matter with some care, including those from California. Indeed I may say that at their request I have prepared amendments to this bill calculated—if the principle I have first suggested to the House be not adopted—to carry out the views which I will now very briefly state.

In the first place the present charter, and, I believe, the amendment before us, contemplate that the President of the United States shall fix upon the termini of the road, the eastern end commencing at the one hundredth degree of longitude and terminating at the western end by a connection with the California road.

Now, in the long line of country which this road is to traverse, some sixteen hundred miles, there may be great difference of opinion as to the route which the road ought to pursue. I shall therefore propose an amendment that the President of the United States shall not only fix the termini of the road, but that the maps and surveys of the line shall be submitted to him, and that with the aid and advice of competent engineers he shall fix and determine the whole route or line of the road.

In the next place I am not aware that there has been, and from what has been said I infer there has not been any statement submitted to the special committee showing what this company has thus far done, or whether contracts have been made for the construction of the road, for the purchase of iron, for equipment, or for any other or what purpose. I know nothing of the matter, and have no information in regard to it; but I think it is quite possible that nothing of any im-

portance has been done by the company. Now, it seems to me quite proper that the Government which is about to issue this large amount of bonds to aid in the construction of this road should, in the first place, ascertain what contracts, if any, have been made for the construction of the road; and to meet this point I propose to offer an amendment which shall provide that the company shall submit to the Secretary of the Treasury and Attorney General, before any of these bonds shall be delivered to them, a statement of the contracts, if any, which may have been made for the construction of the road. If they are not satisfactory to those officers I propose to provide that no bonds be issued until the contracts are properly abrogated or modified so as to meet their approval.

Another amendment, and the last which I have thought it desirable to present, is one which authorizes and requires the Secretary of the Treasury and Attorney General to pass upon future construction contracts. The object is that we may thus have some assurance that a corporation which is to receive so large a sum of money from the Government (about ninety-eight per cent. of all they are to expend) are about to expend it in a manner which the donors believe to be judicious. At any rate, it will throw around the matter a judicious and reasonable guard to which, it seems to me, there can be no sound objection.

Such are the amendments which I propose to offer to the bill. They have met the approval of gentlemen who have taken an interest in the matter and at whose request in a great measure I have prepared them. They have received the approval of gentlemen who are more immediately interested in the construction of the road and who feel a deep interest in the speedy and effectual completion of this great work.

With a view, however, of obtaining the sense of the House on the first point to which I called their attention, I propose now to submit an amendment transferring the work to the control of a board of commissioners.

The SPEAKER. There is an amendment to an amendment pending at the present time, and no further amendment is in order.

Mr. PRUYN. I will then have my amendment read as a part of my remarks for the information of the House, and submit it for action hereafter.

The Clerk read the amendment, as follows:

The President of the United States shall, by and with the advice and consent of the Senate, appoint a board of commissioners, to consist of seven persons, who shall have and possess all the powers now vested in the Union Pacific Railroad Company under the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and that said commissioners shall proceed without delay to construct the said railroad and telegraph line as authorized by the said act. The said commissioners shall not be entitled to any compensation for their services, but their necessary expenses, to be audited by the Secretary of the Treasury, shall be paid to them respectively.

Mr. WASHBURN, of Illinois. Mr. Speaker, I propose to say a few words on the bill now before the House for our consideration. Those gentlemen who are familiar with my course in this Congress will not be surprised if I shall advance objections to some of the provisions in this bill. It has been either my misfortune or my fortune to differ with the majority of the House in almost all questions of a character kindred to this. I have been on a different line of legislation to the majority. Recognizing the character of the stupendous struggle in which we have been engaged, and the fact that the last resource of the nation may have to be exhausted to secure the suppression of this hideous and red-handed rebellion, I have felt that all the energies and all the resources of the people should be devoted to that object—that all matters of secondary importance should be subordinated to that great consummation. I am for my country, my whole country, and nothing but my country. I am for it in all its glory, its grandeur, and its power. With the war ended and peace restored, and our country and Government intact, I want to witness no ruin of our national finances and no national bankruptcy; but I hope to see the credit of the nation, as it emerges from this terrific contest with traitors, with its power augmented and its glory still further ad-

vanced. While I have been for every appropriation necessary to carry on the war, I have been equally against other appropriations not necessary to that object. I have believed there never was a time when the faithful representative of the people should more vigilantly guard the public Treasury than at present. While the people must be overburdened by necessary taxation to carry on the war, by no vote of mine shall anything be added to the fearful weight of taxation for objects which are not indispensably requisite. In my judgment it is no light thing for us here to vote away the people's money and impose further and lasting obligations on our constituents. In the unheard-of appropriations we are every day making we become accustomed to reckless voting. Millions are now voted away as readily as thousands before the rebellion broke out. It is said that in arms the laws are silent, and I think it may be added that in time of war the voice of reason and the voice of remonstrance may become silent. When the public attention is so much and so naturally engrossed in the events which are now challenging the attention of the civilized world, when every breeze bears to us the sound of victory or disaster, when the land is filled with suffering and sorrow and anguish, when so many noble men are surrendering up their precious lives on the battle-field, when so many sick and wounded and maimed soldiers and sailors are in all our hospitals, illustrating the ghastly horrors of war, it is no wonder that the public attention is so fixed upon matters of such overwhelming and transcendent interest that it is hard to divert to any other channel. It is therefore the time for bad men to scheme and unprincipled men to plot, for men who are callous to all the obligations of patriotism or honor, who would see the grand old ship of State burned to the water's edge, provided they could plunder her before she went down—men who follow in the wake of power, and

"Crook the pregnant hinges of the knee
Where thrift may follow fawning."

Sir, I have no faith in the noisy patriotism of shoddy contractors and none in the men who in these times of trial and tribulation through which our country is passing are scheming and plotting to fill their own pockets while the nation is verging toward bankruptcy. The sublime and unselfish patriotism of our people, who stand like a wall of adamant behind the Government in its support, a people suffering, bleeding, dying for their country, is in magnificent contrast to the flaunting counterfeit everywhere to be seen.

But, Mr. Speaker, this has but little to do with the real question before us, except as an explanation of the reasons why I feel called upon to scrutinize all legislation of this kind, regardless of the plausible guise in which it may be presented to us country members. What is the bill before us? I want to inquire of honorable members of this House what is it proposed we shall enact into a law? What rights of our constituents are we called upon to vote away to-day, and what additional obligations, if any, are we to load them down with in the passage of this bill? Of course it is to be presumed that we are all familiar with the vastly important subject upon which we are called upon to pass. In the course I am to take in this matter I am not to be misunderstood, and I presume other gentlemen do not wish to be misunderstood. The subject of a Pacific railroad is one of great interest to the public. I am the oldest friend of the measure on this floor. I have been its consistent friend ever since it has been before Congress, and voted for it in every shape in which it has been presented. It has been a plank in the platform of the party to which I have the honor to belong. The great work of uniting the Atlantic coast with the Pacific seas and binding the patriotic, loyal, and enterprising people of the western coast to us on this side I have always considered as worthy of a great nation like ours and of the times in which we live. But as a Representative it is my duty to look well to the means by which the object is to be accomplished. Because I am in favor of building a road it does not follow that I am to squander the means of the Government without any security that the work will be done. The interests involved are of such stupendous magnitude as to demand the most vigilant watchfulness on the part of the Government, and if we here fail to guard them we fail

in a great duty to the country. If we do not place the guards that are necessary for protection of the Government, the whole works will be exposed to successful attacks, and the object of the whole campaign may fail after involving us in a ruinous expense.

Sir, what is the present law; what were the circumstances under which it was adopted? It is a most liberal law, and made so for the purpose of securing the great object in view. It was passed more than a year after the rebellion broke out, and its liberal provisions were adopted with a view to meet the embarrassed circumstances attendant upon war. Capitalists and others made their estimates and declared that the work could be successfully accomplished under that act. It embraced all the provisions asked for. Let us see, for a moment, what some of them are, and what liabilities the Government assumed under the act, and then examine the proposed amendments in the bill before us. In the first place, by section three of the existing law there is granted for the purpose of building this road, and the telegraph line to go with it, five alternate sections of land per mile on each side of the road, being half of the whole amount of land in a strip of ten miles wide. That of itself is an enormous grant. Then by section five it is provided that on the equipment of forty consecutive miles the Government shall issue six per cent. thirty years' bonds to the amount of sixteen bonds per mile, that is, \$16,000, for such section of forty miles. The issue of said bonds and delivery to the company were, *ipso facto*, to constitute a first mortgage on the whole line of road, telegraph, rolling stock, &c. I desire particular attention to this fact, in view of a provision of the amendment to the bill we are now considering. The company is not compelled, in consideration of what the Government does toward building the road, (and it does almost everything,) to carry the troops, munitions of war, supplies, public stores, &c., free of charge or toll, but is to be charged the same price as private parties. The company is required to file assent to the act, designate the route and file their map in two years from the date of its passage. No man can be a director unless he be the *bona fide* owner of five shares of the stock, and there is a prohibition against any one man owning more than two hundred shares of the stock. In the existing law Congress not only provided for the building of the main road, but it granted land to certain railroad companies by name, which were to form connections with it. I refer to the Leavenworth, Pawnee, and Western Railroad Company of Kansas, (to which I will presently make further allusion,) the Hannibal and St. Joseph Railroad Company, and the Central Pacific Railroad Company.

I have stated the provisions of the fifth section of the act, providing bonds at the rate of \$16,000 per mile; but there is a further provision in the eleventh section of the act which gives \$48,000 per mile for three hundred miles of that portion of the road most "mountainous and difficult of construction," and to be issued upon the construction of every twenty miles of the road. And then on another portion of the road for two hundred miles, bonds are to be issued at the rate of \$32,000 to the mile. In the seventeenth section there is a very important provision to the Government, which reserves twenty-five per cent. of the bonds to be issued until the said road should be *entirely completed*. The fourteenth section of the act requires the company to complete one hundred miles of the road in two years after filing their assent to the conditions of the act, and one hundred miles per year every year thereafter until the whole is completed.

In the business transactions of life the prudent man gives his closest attention to his liabilities. It behooves the Government to act with as much circumspection and prudence in all transactions of this character as a good business man would exercise under the circumstances. And before we launch out into other obligations, and hurriedly rush to give up all we so prudently and justly reserved in the existing law, I demand to know what our present obligations and liabilities are as fixed by law. Sir, I hold in my hand an official document (Miscellaneous Document of the Senate, Thirty-Eighth Congress, first session, No. 112) which tells the story. It tells to us the story

of our already existing obligations under the law. Will gentlemen look at the appalling figures, \$95,088,000, being the amount of bonds and interest, besides the untold millions of acres of the public lands granted outright!

A table showing the number of miles of the Pacific railroad to be built; time when; amount of Government bonds to be issued under the law of 1862, and interest thereon; showing also the number of miles to be built annually, and the Government liability for each year until the road is completed, with the final aggregate of indebtedness to the Government.

In 1865.		Miles.
On Council Bluffs line.....	100	
On Atchison line.....	100	
On Kansas line.....	100	
On California Pacific line.....	50	
To be built this year.....		350
On which \$16,000 per mile, Government bonds, are to be issued, is.....	\$5,600,000	

In 1866.		
On Council Bluffs line.....	100	
On Kansas line.....	100	
On California Pacific line.....	50	
		250
On which \$16,000 per mile, Government bonds, are to be issued, is.....	4,000,000	
Interest for 1865 on \$5,600,000 six per cent. bonds, is.....	336,000	

In 1867.		
On Council Bluffs line.....	100	
On Kansas line.....	100	
On California Pacific line.....	50	
		250
On which \$16,000 per mile, Government bonds, are to be issued, is.....	4,000,000	
Interest on bonds issued in 1865 and '66, \$9,600,000, at 6 per cent.....	576,000	

In 1868.		
Main line west of 100°.....	100	
On Kansas line.....	50	
On California Pacific line.....	50	
		200
On which \$16,000 per mile, Government bonds, are to be issued.....	4,000,000	
Interest on \$13,600,000 bonds issued in 1865-66-67, at 6 per cent., is.....	816,000	

In 1869.		
On main line west of 100°, two hundred miles, on which \$16,000 per mile, Government bonds, are to be issued, is.....	\$3,200,000	
On California mountain portion of the line, fifty miles, on which \$48,000 per mile, Government bonds, are to be issued, is.....	2,400,000	
		5,600,000
Interest on \$17,600,000 six per cent. bonds, issued in 1865-66-67-68, is.....	1,056,000	

In 1870.		
On Sioux City line.....	100	
On main line west of 100°.....	50	
		150
On which \$16,000 per mile, Government bonds, are to be issued, is.....	\$2,400,000	
On California mountain portion of main line, and on Rocky mountain portion of the same, one hundred miles, on which \$48,000 per mile, Government bonds, are to be issued, is.....	4,800,000	
		7,200,000
Interest on \$23,200,000 six per cent. bonds, issued in 1865-66-67-68-69, is.....	1,392,000	

In 1871.		
On Sioux City line, one hundred miles, on which \$16,000 per mile, Government bonds, are to be issued, is.....	\$1,600,000	
On California and Rocky mountain portions of the line, one hundred miles, on which \$48,000 per mile, Government bonds, are to be issued, is.....	4,800,000	
		6,400,000
Interest on \$30,400,000 six per cent. bonds, issued in 1865-66-67-68-69-70, is.....	1,824,000	

In 1872.		
On Rocky mountain portion of the line, fifty miles, on which \$48,000 per mile, Government bonds, are to be issued, is.....	\$2,400,000	
On main line between the mountains, one hundred miles, on which \$32,000 per mile, Government bonds, are to be issued, is.....	3,200,000	
		5,600,000
Interest on \$36,800,000 six per cent. bonds, issued in 1865-66-67-68-69-70-71, is.....	2,208,000	

In 1873.		
On main line between the mountains, two hundred miles, on which \$32,000 per mile, Government bonds, are to be issued.....	6,400,000	
Interest on \$42,400,000 six per cent. bonds, issued in 1865-66-67-68-69-70-71-72, is.....	2,544,000	

Amount carried forward..... \$59,552,000

Amount brought forward.....	\$59,552,000
In 1874.	
On main line between the mountains, two hundred miles, on which \$32,000 per mile, Government bonds, are to be issued, is.....	6,400,000
Interest on \$48,800,000 six per cent. bonds, issued in 1865-66-67-68-69-70-71-72-73, is.....	2,928,000

In 1875.	
On main line between the mountains, two hundred miles, on which \$32,000 per mile, Government bonds, are to be issued, is.....	6,400,000
Interest on \$55,200,000 six per cent. bonds issued in 1865-66-67-68-69-70-71-72-73-74, is.....	3,312,000

In 1876.	
On main line between the mountains, four hundred miles, on which \$32,000 per mile, Government bonds, are to be issued, is.....	12,800,000
Interest on \$61,600,000 six per cent. bonds issued in 1865-66-67-68-69-70-71-72-73-74-75, is.....	3,696,000

\$95,088,000

Being the total Government expenditure on the completion of the road in 1876, under the law of 1862, for bonds issued, and interest paid on the same to December 31, 1876, excepting those bonds issued in that year, on which interest would be due December 31, 1877.

Now, Mr. Speaker, it becomes vastly important for us to know how this company stands in relation to the building of the road and in relation to the Government before we act further and before we further commit the country to it. It is an organization of our own creation, and for one I propose to scrutinize the demand which it now makes upon Congress before it has been fairly warmed into life.

What is the present status of the company and the Government under the law? The company is organized. It has its stockholders, its president, directors, and officers. The question of the good faith of its organization has been raised. Has no one man more than the amount of stock limited by law, that is, two hundred shares? Are all the directors owners, *bona fide*, of the amount of stock required? On the other hand, is it not notorious that one single individual owns or controls a majority of the stock, and has organized the company in such a way as to completely control it; and is it not alleged that there are directors in the board who are not *bona fide* owners of a single dollar of stock? And it must be understood that under the existing law parties who have subscribed for \$1,001,000 worth of stock (the whole amount subscribed being only \$2,000,000) can control the whole concern. While the Government is liable for nearly \$100,000,000, and has donated millions upon millions of acres of public land to this great work, yet this entire organization has gone into the hands of parties who have put in but a trifle over one per cent. of the whole amount that the Government is liable for. And the Government is utterly without any controlling voice in the direction of this company, as it has but two directors out of the whole number. Does it not seem, therefore, that the Government is "left out in the cold" in the arrangement as it now stands? But gentlemen point us to the long list of the present board of directors, who are men of well-known integrity and of capital; but I desire to ask what number of these men of integrity and capital who appear in the list as directors are active and managing men controlling and directing the action of the company? Such directors as General Dix, Mr. Opdyke, A. A. Low, W. B. Ogden, Nathaniel Thayer, J. Edgar Thompson, J. F. D. Lanier, George Griswold, J. V. L. Pruyn, and Auguste Belmont, have either resigned their positions or refuse to take any part in the management of the affairs of the company, while the real management is in the hands of a set of Wall street stock-jobbers who are using this great engine for their own private ends, regardless of what should be the great objects of the company and of the interests of the country. Who are the men who are here to lobby this bill through? Have the men of high character and of a national reputation whose names were at an earlier period connected with this enterprise been here, animated by a commendable public spirit and by motives of patriotism, to ask us to pass this bill? I have not heard of such men being here for that purpose, but on the other hand the work of "putting the bill through" has gone into the hands of such men as Samuel Hallett and George Francis Train—*par nobile fratrum*.

What was required to be done under the law

and what has been done? The general route was to be designated in two years, and the map was to be filed in two years from the date of the act. See section seven of the act. The two years will expire on the 1st day of July, ten days hence, and neither of these provisions has been complied with, and the bill we are now considering extends the time for both of these objects for one year more. Section fourteen of the act provides that one hundred miles of road shall be built by the company in two years from the acceptance of the charter, which took place June 23, 1863, one year ago. Though one half of the time has expired not one rod of the main road has been completed, and I am told no contracts entered into for its construction, and all that has been done has been the purchase of iron enough to build ten miles of the road. The company so far has utterly failed to perform its part. Such being the situation of this company and its relations to the Government, I ask the attention of the House to what is demanded of us by this bill in behalf of the said company.

I do not know that I have any objections to the first three sections of the bill, but the fourth section amends the act by doubling the quantity of land to the company. It also provides for amending the seventh section, so that land within twenty-five miles of the designated route shall be withdrawn from preemption, instead of fifteen miles. And now I read the fifth section of the bill before us, and I call particular attention to its provisions:

Sec. 5. *And be it further enacted*, That the time for designating the general route of said railroad, and of filing the map of the same, and the time for the completion of that part of the railroads required by the terms of said act of each company, be, and the same is hereby, extended one year from the time in said act designated; and that the Central Pacific Railroad Company of California shall be required to complete twenty-five miles of their said road in each year thereafter, and the whole of the State line within four years, and that only one half of the compensation for services rendered for the Government by said companies shall be required to be applied to the payment of the bonds issued by the Government in aid of the construction of said roads.

You will perceive, Mr. Speaker, that the time for designating the general route and filing the map is extended one year, but the Central Pacific Railroad Company is only required to build twenty-five miles of road per year instead of fifty, as now required by law; and instead of the compensation due the company for services rendered to the Government being applied to the payment of the bonds issued in aid of the construction of the roads, one half only, by this bill, is to go in that direction, and the other half is to be paid by the Government to the company—a proposition that I cannot agree to. Section six of this bill provides for the absolute repeal of the proviso to the fourth section of the present law, which proviso is as follows:

"That no such commissioners shall be appointed by the President of the United States unless there shall be presented to him a statement, verified on oath by the president of the said company, that such forty miles have been completed in the manner required by this act, and setting forth with certainty the points where such forty miles begin and where the same end, which oath shall be taken before a judge of a court of record."

In lieu of this provision, so necessary to guard the public interest, it is provided by section six of this bill as follows:

And the President of the United States is hereby authorized, at any time after the passage of this act, to appoint for each and every of said roads three commissioners, as provided for in the act to which this is amendatory; and the verified statement of the president of the California company, required by said section four, shall be filed in the office of the United States surveyor general for the State of California, instead of being presented to the President of the United States; and the said surveyor general shall thereupon notify the said commissioners of the filing of such statement, and the said commissioners shall thereupon proceed to examine the portion of said railroad and telegraph line so completed, and make their report thereon to the President of the United States, as provided by the act of which this is amendatory. And such statement may be filed, and such railroad and telegraph line be examined and reported on by the said commissioners, and the bonds may be issued, and the lands may be set apart, located, entered, and patented, as provided in the act of which this is amendatory, upon the completion by said railroad company of California of any portion of not less than twenty consecutive miles of their said railroad and telegraph line, upon the certificate of said commissioners that such portion is completed as required by the act of which this is amendatory.

This section, after repealing the provision for building the President to appoint commissioners until a verified statement is presented to him by the president of the company that forty miles of

road have been completed, provides for a different mode of getting the verified statement, so far at least as the California company is concerned, and requires the oath to be filed in the surveyor general's office of California instead of being presented to the President. But the real gist and animus of the section is to enable the company to get the bonds upon the "construction" of twenty miles of the road *anywhere*, instead of forty consecutive miles, the points of beginning and ending being required to be set forth with certainty, as by the present law.

Now I will ask the House to look over with me the seventeenth section of the present law and see the provision which reserves twenty-five per cent. of the bonds issued in this behalf in the Treasury of the United States, undelivered "until said road and all parts thereof are entirely completed." This wise provision, so just to the Government, is repealed outright by the seventh section of the bill before us, and no portion of the bonds whatever are to be retained but all are to go to the company. The fifth section of the law provides for the issuing of bonds when the commissioners shall certify to the completion and equipment of forty miles of the road and telegraph. Who will contend that this is not a just provision to the Government, and one that ought to be adhered to, if we pretend to look to the interests of the nation? But, sir, mark you how this is got rid of by the extraordinary provisions of the eighth section of the bill before us to-day.

I will read this eighth section, and then scrutinize its provisions:

SEC. 8. *And be it further enacted*, That for the purpose of facilitating the work on said railroad, and of enabling the said company as early as practicable to commence the grading of said railroad in the region of the mountains, between the eastern base of the Rocky mountains and the western base of the Sierra Nevada mountains, so that the same may be finally completed within the time required by law, it is hereby provided that whenever the chief engineer of the said company, and said commissioners, shall certify that a certain proportion of the work required to prepare the road for the superstructure on any such section of twenty miles is done (which said certificate shall be duly verified) the Secretary of the Treasury is hereby authorized and required, upon the delivery of such certificate, to issue to said company a proportion of said bonds, not exceeding two thirds of the amount of bonds authorized to be issued under the provisions of the act, to aid in the construction of such section of twenty miles, nor in any case exceeding two thirds of the value of the work done. The remaining one third to remain until the said section is fully completed and certified by the commissioners appointed by the President according to the terms and provisions of the said act, &c., &c.

Here, instead of having forty miles of your road completed before you let go your bonds, it is coolly proposed that, upon a certificate that the road is prepared for the superstructure, before a rail is laid on any section of twenty miles, the Secretary of the Treasury is required to issue bonds not exceeding two thirds of the amount authorized to be now issued, and not to exceed two thirds of the value of the work done. What does all this mean? It means that the company shall be permitted to go on and do certain grading on the road, not putting it anywhere in the neighborhood of completion, get two thirds of the whole amount of bonds per mile which are authorized by law, and leave the road unfinished, put the bonds into its pocket, and leave Uncle Sam to whistle for his money and his railroad.

I come now to the tenth section of the bill, and I confess to a sort of admiration of the sublime audacity which parties must have to come here and ask Congress to enact such a provision into a law. I have called attention to other provisions of an extraordinary nature, but this proposed enactment throws all others far into the shade, and stands out in bold relief as an indication of the "base uses" that this company have conceived that Congress may be put to in their behalf. I carefully read the section that every gentleman may know its exact meaning and purport:

SEC. 10. *And be it further enacted*, That section five of said act be so modified and amended that the Union Pacific Railroad Company, the Central Pacific Railroad Company, and any other company authorized to participate in the construction of said road, may issue their first mortgage bonds on their respective railroads and telegraph lines to an amount not exceeding the amount of the bonds of the United States authorized to be issued to said railroad companies respectively. And the lien of the United States bonds shall be subordinate to that of the bonds of any or either of said companies hereby authorized to be issued on their respective roads, property, and equipments. And said section is further amended by striking out the word "forty" and inserting in lieu thereof the words "on each and every section of not less than twenty."

Now, it will be recollected that the fifth section of the existing law provides for the repayment of the bonds issued to the company, and declares that the issue and delivery of them to the company shall *ipso facto* constitute a first mortgage on the whole line of road and telegraph, together with the rolling stock. This was the security which Congress had a right to demand of any company that should be organized. It was its duty to require it, unless it was intended to surrender up everything and place the most gigantic interests at the feet of the company without control and without challenge. We donated, as I have before stated, millions upon millions of acres of the public lands for this purpose; then we agreed to give our bonds for the amount, with the interest thereon, of \$96,000,000, and if Congress had required less than a first mortgage as its security, it would in my judgment have been derelict in duty to the country, whose interests in this regard it can alone protect. What is now proposed by this amendment? I demand that gentlemen shall look at it; let the mirror be held up to nature. Nothing less than that the Government, with its liability of a hundred millions, shall relinquish its first mortgage and subordinate its lien to the liens of all the companies created for building the road. The bonds of the United States are to be issued to the company, and the Government is to have no prior lien for its security; but by this provision the company representing as it may but one per cent. or a little over of the amount that the Government is liable for, is to subordinate that Government to its own interests, raise money on the security of the means that the Government has furnished, give a first mortgage for the security of that money, and leave the United States as a second mortgagee, obliged to pay off the first mortgage before it can be in a position to take advantage of any security there might by possibility be as a second mortgagee. But who is wild enough to believe that should the provisions of this section become a law the remaining security of the Government will be worth a straw? It is worse than idle to contend that we shall have any security left for all our liability if this bill shall pass. And further, by the fifth section of the law bonds cannot be issued till forty consecutive miles of the road are fully completed and equipped. It is now proposed by this tenth section to strike out forty and make it twenty. This company, not content with snatching from the Government the security it now holds for the bonds it issues, cannot even wait to finish the forty miles of road at present required before grabbing what is proposed to put into their hands, but they must cut it down so that they can go in on twenty miles. Sir, on my responsibility as a Representative, I pronounce this as the most monstrous and flagrant attempt to overreach the Government and the people that can be found in all the legislative annals of the country. When we look at the original law with all its liberal and just provisions, when we look at the company organized under it and see how far it has failed to meet its proper obligations, and consider the extraordinary amendments here proposed, are we not filled with astonishment at what is demanded of us as the guardians of the people's rights? Indeed may we now exclaim:

"Can such things be,
And overcome us like a summer's cloud,
Without our special wonder?"

I have said I am a friend to the Pacific railroad, and that friendship has been proved by my official action in this House for the last ten years. I want to see that magnificent enterprise completed at the earliest moment, and anything the Government can properly do in this time of war to urge forward the object I am in favor of. But because I am in favor of it I am not going blindly for any projects that may be thrust forward by interested parties; projects that will take the means of the Government and not secure the end desired. I will never consent to yield what is demanded by this bill. I believe the road will never be built under the present management even if the bill shall pass, and I desire to place that conviction upon the record here to-day. I warn the true friends of the road, I warn Congress and the people what will be the result. The present directors of the company hold for three years, and the whole business of the directors is done by an executive

committee of the board who hold for the same time. The real state of the case seems to be that the executive committee is the board of directors, and one man is the executive committee.

I have said I would again advert to the Leavenworth, Pawnee, and Kansas Road Company, to which a grant was made by the existing law, but it is not material to the object I have in view in making these remarks. This has been a separate organization, and the same fate has befallen it as will, I fear, overtake other and like companies. There are, I understand, no less than three different organizations, and everything connected with the road is in the most inextricable confusion, with litigation piled mountains high, different parties fighting over the matter like dogs over a bone.

I believe a different state of things exists with the California company, and it is on that side that nearly all the work has been done, and done in good faith; but the fate and destiny of that company must abide that of the others.

To the first, second, and third sections of the bill I now see no valid objections, and I do not know that I would object to the twelfth and fourteenth sections. The thirteenth section is a great improvement on the existing law, but I do not believe it goes far enough. The objectionable features of the bill are very objectionable, while the others are of but little value. Unless there shall be very material amendments adopted, I shall vote against the bill.

MR. PRICE. I have no speech to make particularly upon this bill, yet I have thought that it might be well enough for some one who is upon the special committee on this subject to make some observations in reference to the operations of this road.

I am a little astonished at the proposition made by the gentleman from New York [Mr. PRYOR] in reference to this matter—a proposition coming from a gentleman professedly a friend of the enterprise, proposing at this day, without so much as "by your leave, sir," to take away the entire franchise from a company which have this matter in charge, who have subscribed the stock, have paid the money contemplated by law, have complied in every respect with the requirements of their charter. I say I am surprised that under these circumstances a proposition should be made to take away at one fell swoop the entire control of the road with all its franchises, and leave them without remedy or redress. I do not know that it is necessary to spend much time upon that subject, for I have not persuaded myself that the proposition was made in good faith, or that it will be seriously entertained. I shall therefore say nothing further in reference to it, for my object is not to kill time, nor to kill the bill by talking it to death, for after what has taken place this evening, if that object is to be accomplished, it will not need help from me or any other friend of the enterprise.

I wish now to pay some little attention to the remarks made by the gentleman from Illinois, [Mr. WASHBURN]. I must congratulate him on the great interest he takes in the condition of the country at this particular time. I am much pleased to find some gentleman upon this floor who is willing at the risk of his life and his honor to guard the Treasury of these United States when there are so many contractors with their arms into it clear up to the shoulder. I begin to believe there is some hope of salvation for the country when I can array on this side of the question such an able advocate as my friend from Illinois.

But there is one strange thing about his course at this time. He proposes to guard the Treasury when there is no attack made upon it. He proposes to stand as sentinel when there is no foe near or far off. He proposes to save money from going out of the Treasury when nobody asks for any money to be taken out of the Treasury. I beg the gentlemen who compose this House to mark well what I say, for there is nothing I say that I cannot prove from the record. The gentleman from Illinois has gone over this bill section by section and paragraph by paragraph, and he has failed to put his finger upon a single item in these amendments to the original charter of the company where we ask for a single additional dollar. I am either right or wrong in the declaration that not an additional dollar is

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

THURSDAY, JUNE 23, 1864.

NEW SERIES.....No. 198.

asked for by this bill. If I am wrong, now is the time and here is the place to correct it. And I wish particularly to call the attention of the House to the fact that there is no attempt here to take a dollar or a dime from the Treasury other than that proposed by the original law.

Now I want to say parenthetically, Mr. Speaker, or in any other way, that these amendments, fourteen in number, are the result of the investigations of the special committee of thirteen for the last six months. That committee of thirteen is composed of some gentlemen who have had some experience of railroading, and who know something about what it takes to build a railroad in time and money. Six months' labor produced these fourteen amendments.

If you believe the gentleman from Illinois these amendments are not only very weak but must be very wicked. If he is right this bill not only will destroy the Treasury but will uproot the very foundations of society and civil government. I overheard a conversation between some gentlemen near me in which it was said that if these things charged by the gentleman from Illinois against this bill are true, then it ought not to pass. I do not wonder at these remarks. If sound goes for sense, any gentleman coming into this Hall and hearing the denunciations of the gentleman from Illinois against these amendments of the committee must have concluded that the committee had been devising ways and means during the entire six months for the purpose of robbing the Treasury and destroying the Government.

Now, I have the idea that the gentlemen who are upon that committee are moderately loyal and moderately honest, and that they do not intend to rob the country or to destroy the Government. That is my idea. There are twelve other gentlemen on the committee, and they can speak for themselves. So far as I know them that is my conclusion, that they are not only men of fair ability but of average honesty, and have no design upon the Government or the Treasury.

The original bill was passed for the purpose of the construction of a Pacific railroad. At the time of its passage it was the impression that the amount of the Government subsidy was sufficient to build that road. I need not say to the members of this House that since the passage of that law the prices of labor and material have gone up from fifty to one hundred per cent. and that an amount of Government subsidy amply sufficient to construct the road at that time is insufficient and inadequate at this time. If the members of the House think it proper under the circumstances not to grant further time and not to grant further facilities to this company for the construction of this road, (for not an additional dollar is asked,) then these amendments must be voted down.

In reference to carrying the troops of the Government, I need only say that the bill contemplates—and, if I am not mistaken, specifies in terms—that the company shall carry the troops and munitions of war of the Government at all times when called upon to do so; and the compensation for doing so shall be credited to the company on the loan the Government makes in these bonds. If I am not right in this, this is the time and place to correct me. It proposes nothing new in reference to that. It leaves that matter, as I understand it, just where it was before, and, as a matter of course, if it was right at the time it was passed it cannot be wrong now.

Now, a word in reference to the honesty of the company that is organized for the purpose of prosecuting this work. I am only acquainted with a part of the company and not very particularly acquainted with any of them. I do not know anything against the honesty of anybody connected with the road. I do know some men who are directors and officers of the company who have the reputation of being honest men, and good railroad men. The gentleman from Illinois, in enumerating certain individuals whom he said had nothing to do with the company, included in that enumeration General Dix. I think he has forgotten or lost a part of the record of the facts

connected with this transaction. I think that General Dix is president of the road now, and if so he must certainly be connected with it, and I presume he is a stockholder. I do not know that he is, and I only state what I know to be facts. I only wish to disabuse the minds of members and let them know that General Dix is connected with the road; and he has had something to do with railroading, and I believe he is esteemed a tolerably honest man. He was the first president of the road elected, and, as I understand it, he is president to-day, so that that part of my friend's objection falls to the ground, and, worse than that, it proves that he is either mistaken about this matter or never knew anything about it, either of which suppositions is fatal to his argument.

The gentleman from Illinois charges against this company (and I am not its attorney and have never seen its books) that one man owns all the stock. He did not tell us how he knew it. He did not tell us that he had seen the books. I undertake to say, without having seen the books, and I say it without fear of successful contradiction here or elsewhere, that that statement lacks the very important ingredient of truth. I do not mean it in an offensive sense. I mean that the gentleman is mistaken about it, or did not state the facts.

Mr. WASHBURN, of Illinois. I did not say that one man owned all the stock.

Mr. PRICE. Well, I understood the gentleman to say so; or at least that one man controlled it; his language, I am told, was, "Is it not notorious that one man owns all the stock?" Suffice it to say that one man does not own all the stock, and until it is proved that one man controls the company I do not think the charge ought to be made here. I believe, although I am not a lawyer, that the principle of law is that a man is presumed to be innocent until you prove him guilty. There is no proof here of that statement, and I have yet to learn that denunciations and assertions and declarations, however loud and emphatic they may be, amount to proof.

But, says the gentleman from Illinois, the maps are not filed and hence the company has not complied with the law. Well, I presume the maps are not filed. I do not know whether they are or are not, but I do know the fact that the time for filing the maps has not yet arrived, and a contract is not supposed to be violated until the time fixed as the limit shall have expired. That time has not expired according to the gentleman's own showing, and yet the company are arraigned here in the high council chamber of the nation for a failure to comply with their contract when the time fixed by the contract has not yet expired! I ask how much fairness there is in such a charge?

But in connection with that statement the gentleman says that the company has done nothing. Now, does he mean what he says? Does he mean that the company has done nothing, or does he use the expression in a qualified sense? If he means that the language shall convey just exactly the meaning that it would seem to me to have on paper, then I say that he has forgotten the facts again and talked around the truth, because the company has done something. It has spent four times as much as the gentleman from Illinois and myself are both worth or ever will be. They had expended three months ago—I do not know how much they have expended since—according to their certified statement, \$800,000. Is that no money? I grant that it would be considered no money according to the practice in this House when we come to vote appropriations; but out in the country where my friend and I live \$800,000 is regarded as a considerable amount of money, even in greenbacks.

The gentleman says there has been no statement filed before the special committee. Now, there are twelve members of the committee here besides myself, and they will bear me witness when I say that there was a statement laid before that committee, and that it was examined by that commit-

tee, showing what the company had done up to the time that statement of facts and figures was laid before the committee. What, then, I ask has become of the statement of the gentleman from Illinois when he says that no statement of the proceedings of the company has been filed?

Mr. WASHBURN, of Illinois. I made no such statement.

Mr. PRICE. I believe the first thing that a lawyer learns is to deny. The gentleman from Illinois says he did not say it, and that is enough. I understood my friend from Illinois to say that no statement had been filed with the special committee.

Mr. WASHBURN, of Illinois. Oh, no, sir; I said nothing of the kind, and I never thought of anything of the kind.

Mr. PRICE. I will take my friend's denial. And I say to the House that there is a statement showing what the company has done from the date of its organization till the time this statement was filed; and it is as plain and fair and honest-looking a paper as any man has ever seen, and the company is entitled to credit for it.

Mr. VAN VALKENBURGH. With the permission of my friend from Iowa I will state that there are eighty miles of the eastern division graded, and twenty miles of it already in running order; that railroad iron for one hundred miles has been purchased at a rolling-mill in Pennsylvania, and is now being delivered; and that on the 4th of July the road from Kansas City to Lawrence—forty miles—will be completed and in running order. I make the statement in answer to the gentleman from Illinois.

Mr. WILSON. I suggest to the gentleman from New York that he should not make such a statement as that, because it will spoil the speech of my friend from Illinois. [Laughter.]

Mr. WASHBURN, of Illinois. I desire to answer what has been said by the gentleman from New York, [Mr. VAN VALKENBURGH.] The road which he says is to be in running order at a given time is not the road that we are talking about. It is the Leavenworth and Kansas road, which is called the eastern division of the Union Pacific road. I know something about that railroad. I know something about its history, and about the litigation that has been going on about it.

Mr. VAN VALKENBURGH. In reply to the gentleman from Illinois, I will say that this road to which the gentleman alludes is recognized in this bill as the eastern division of the Pacific railroad, and is the same that my friend from Illinois has been adverting to in his remarks this evening.

Mr. PRICE. I am glad that gentlemen have come to my assistance in this matter, for it "makes assurance doubly sure." I have had a paper handed to me—and, as I have no written speech, I am very much obliged to gentlemen to furnish me with one—by a gentleman from Missouri, who is not on the special committee and who has nothing to do with the road. This paper says that "twenty-five miles of this road are in running order, and that iron for fifty miles more has been paid for." And yet the gentleman from Illinois says that nothing has been expended. I have just had handed to me the report of the proceedings of the company which was laid before the special committee giving a detailed account of everything that has been done by that company from its organization up to the time the committee first met.

The directors of the company have followed up the preliminary surveys by contracting for rails, ties, locomotives, and cars. And yet, says my friend from Illinois, nothing has been done. The report reads differently. The facts of the case are altogether of a different character. The expenditures for these objects within the period covered by the report amount to \$800,000. I knew I was not mistaken in the figures. I have also seen statements of the surveys on at least two different roads. Yet my friend says that nothing has been done. If that were so the position which he takes might be correct. But if the facts are diametrically opposite to these presentations of the gentleman from Illinois, then the

company is entitled to some consideration for having done what it could do under these circumstances. I am informed on good authority that not only has the company done this, but it has purchased rolling stock and a locomotive for the work. I know that these men have been busy ever since the organization of the company.

The gentleman from Illinois, as a point in his speech, asks why was not this company organized sooner? I have only to say to gentlemen that the subscription books were opened at the time designated by the law, and remained open for the time directed and until the last hour fixed by law for closing them. Then the books were closed, the stock having been subscribed to enable the company to organize under the act.

Now, whose fault is it? I did not take any stock, you did not take any stock. Somebody had to take the stock and pay the money, or nothing would have been done. I undertake to say that no gentleman will controvert the position that the men who took the stock, paid the money, and organized the company, ought to be recognized as the company, and ought to be recognized as the proper persons to receive the bonds and carry on the work. If the gentlemen who were inserted in the original bill as incorporators did not take the stock is it your fault or mine? Is it the fault of the men who did take the stock and organize the company? I think not. It is a well-known fact that men who are in other railroad companies, and who organize them, are not the men who want to take stock. I make the assertion that no gentleman who has ever invested money in a railroad company will be anxious to embark in it again. I do not think any gentleman here will controvert that position. If there be any gentleman here who thinks differently, I will now give way to him to express his dissent. If there is such a man I would like to see the color of his eyes.

Well, I hear no response; and the reason why I hear no response is that there is no one to respond. An investment of that kind does not pay, and men do not generally invest twice in a business that will not pay; that has been my experience on this subject. Now, sir, in reference to the sixth section of these amendments, which proposes to furnish bonds of the Government when twenty miles of the road shall have been constructed instead of forty, if the Government is to be cheated by it the amendment ought not to be adopted. It is a plain proposition, and if there is any reason for not granting it then we ought to vote it down. But I submit whether in these times, when the price of every material has advanced so much, and is advancing, the Government loses anything by furnishing bonds for twenty miles of the road when twenty miles have been constructed? And if there is nothing lost by the Government, then I see no reason why this particular feature should be so violently opposed. If the company had constructed forty miles under the existing law they would be entitled to forty times \$16,000 in bonds. If, under the proposed amendment, they construct twenty miles, they will receive twenty times \$16,000. The Government loses nothing, but the company receives additional facilities for progressing with the work. I see, therefore, no possible objection to this amendment. If the country is going to lose anything by it I hope gentlemen will show it, for then I should be opposed to the amendment myself; but if not, then I am in favor of it.

But the amendment to which the greatest opposition is made, and which without some explanation might seem to be improper, is one which proposes to allow the company to go out into the mountains, construct tunnels, and cut through the rocks, and receive from the Government two thirds of the amount before the road is completed. I would like the attention of gentlemen for a moment to that point, and I will submit a plain statement of the case. It is well known that away out in the mountains there is tunneling to be done, and deep excavations of rocks to be made, which will require two or three years to construct a mile of the road, and I desire to know whether it is good policy, if we expect the road to be completed within any reasonable time, to delay the work of tunneling and excavation until the road has been completed across the plains right up to the mountains? In order to meet the delay that would inevitably occur by adopting that plan, it is proposed to allow the company to go on in advance

and commence the work of tunneling and excavation, and when they have brought the road to its proper grade, to allow them to receive two thirds the amount of bonds to which they would be entitled if the road was completed. Remember, not two thirds of the cost incurred, but only two thirds of the Government subsidy. Is there anything wrong in that? Is it not furthering the work? Is it not enabling the company in less time to complete this great bond of union between the East and the West, between the Atlantic and the Pacific? That is all there is of it.

If we decline to accept the amendment, the company will then be required to build the road several hundred miles across the plains, and when they arrive at the mountains the work will be delayed for many years by the process of tunneling and excavation, which has to be accomplished. I think the amendment is a wise one, that the Government will lose nothing by paying them this *pro rata* compensation in advance of the entire completion of the work. That is a wise provision; any railroad man will tell you so; any business man will tell you so, when he understands what the object of the provision is.

Section seven has been referred to as containing something objectionable. It is provided by that section that—

So much of section seventeen of said act as provides for a reservation by the Government of a portion of the bonds to be issued to aid in the construction of the said railroads is hereby repealed. And the failure of any one company to comply fully with the conditions and requirements of this act, and the act to which this is amendatory, shall not work a forfeiture of the rights, privileges, or franchise of any other company or companies that shall have complied with the same.

If one of these companies fail and the others go on and comply with their contract and build their portions of the road, they are not to suffer by reason of that failure. This is intended to protect those who comply in good faith with the terms of the law. It is intended to protect innocent parties, and that is all there is of it. It is a just provision, and there can be no good ground of objection to it.

I will now refer to these mortgage bonds, and this part of the bill seems to have particularly excited the indignation of the gentleman from Illinois. We propose to repeal that portion of the original law which provided for the reservation by the Government of some of these bonds to be issued for the construction of this road. What security has the Government under the original law that it has not under this amendment? The Government cannot be paid back this loan until the road is built; and when it is built no lawyer will take the ground that they can take the road from the Government until these bonds are paid. The chances of the Government for being paid are not lessened in the least by this amendment. This amendment was deemed necessary, and the committee have therefore reported it.

The committee of thirteen reported this bill unanimously. There was not a dissenting voice. After six months' investigation they came to the conclusion that these amendments were necessary for the success of these companies and for the good of the country in securing the early construction of a Pacific railroad.

I will not detain the House longer. I have said already that I did not want to kill the bill by talking about it. That will be attempted by those who are ready for that business. I have gone over the several provisions hurriedly. I have endeavored to look at this whole matter in a fair, common-sense way. It is a great work which the people and the Government need. I do not believe there is one man in five hundred who will invest his money and engage in building this road as the law now stands, and we must therefore hold out inducements for them to join in the undertaking. We must grant such facilities for going on with the construction of the road as may be needed. That is all we have done in this bill. It does not take an additional dollar out of the Treasury of the United States.

But we are told that it gives some additional lands. What of that? Ask any man who has been on the plains what the land is worth there. He will tell you that the more you have the worse you are off. Any man who has been over the country knows that after leaving the Missouri river seventy-five miles the land is scarcely worth having.

It will be said, if it is such bad land what do these companies want of it? I will answer, that if there is any good land they want to get it to aid them in building this road. If the land is worth nothing the Government will lose nothing. The Government is not selling the land now, and never will sell it unless this road is completed.

We want this road, stretching from the granite hills of New England to the golden sands of California. When completed it will far outshine in grandeur and usefulness the famed Appian Way. It will be the greatest and most useful work done by man. It is needed, and these amendments are necessary for its success; and I therefore hope that the bill will pass.

MR. STEVENS. Mr. Speaker, I have been much edified this evening by the excellently prepared and delivered dissertation of the gentleman from Illinois, [Mr. WASHBURN.] He touched on several subjects in reference to which a useful lesson may be learned—political economy, frugality, and especially morality! It was well done, well conceived, and well uttered. I listened with great pleasure to most of his abstract theories and his disquisitions on them. He was pretty much like an old friend of mine who talked very much about Coke and Littleton, and could make as good an argument on estates tail and contingent remainders as any man, but he never could try a cause, because he got up his law upon the supposition of a certain state of facts, and then it did not make a particle of difference whether the facts failed or not. He would give the law though the facts had no application to it. He once made a long argument on the law in reference to a lost bond, and I reminded him that he had forgotten the fact that it turned out the bond was not lost at all. He said he did not care anything about that; the law was right anyhow. [Laughter.] Just so with my friend here. A most excellent dissertation he has made upon saving money to aid this war against these tedious rebels. He said he had pursued the course, since he has been here, of not voting anything at all which was not directly for powder and ball, as I understood him. The country is to live without anything else, provided there is powder and ball enough. He does not care anything about what becomes of agriculture, or commerce, or navigation, or the intercourse of the country; all these must take care of themselves until after the rebels are put down; then if anybody survives they will be taken care of.

Now, sir, all this denunciation of expenditures has not a fact to ground itself upon in the bill which we have here presented; for if the bill passes, as the gentleman from Iowa [Mr. PRICE] has said much better than I could say it, the Government is not one dollar poorer, at any rate until after this war is ended, than it is now, for there is not a dollar called for within any time which we can conceive this war to last. There is not a single thing asked for which is not in the original bill except some little land; and as to that land, I ask the gentleman what he is going to do with it, how he is going to feed the soldiers on it? It is all given away now in homesteads to anybody who chooses to take it, and every mile of railroad you make gives each odd section, for an emigrant to plant his home upon, worth twenty of those sections without any railroad. Where, then, is anything taken from the national Treasury—anything for which the House are to be rebuked for having robbed this nation? Where is there any ground for the gentleman's indignation which has towered so high here? His speech he must have prepared before we prepared the bill, thinking we were going to steal something; and if we did not, why the law would be right anyhow. [Laughter.]

Now, let me go over this bill with my friend as he did, just as if we were going over the Shorter Catechism together, and see how it applies to his speech. What does this bill propose? It does propose concessions of great value to the railroad company. It proposes to make a work much greater than if it were attempted through or over the Alps. It proposes great concessions for the road to work under, for under the old bill they could not work at all. I admit that the committee did know, and believe, and intend by this bill that the Government should aid this company somewhat more than by the old bill, or it would be idle for us to pass it. The original bill was passed here after a great struggle, and it was a

piece of patchwork. I remember the struggle well. The bill, as passed, had many imperfections, and the company could not work under it. They could not take the right of way over anybody's land under it, and the company properly declined to proceed far, even if they had money enough, until they knew whether they were to have such a bill as they could make the road under, and under which capitalists would invest their money.

Hence it was after the two millions of subscription were taken up by "mercenary" men, by enough men who grasped at the opportunity of putting their ten and twenty thousand dollars into this "mine of gold," which the gentleman thinks is such a great boon to them, hence it was that these men who, I think, from patriotic motives, formed this organization, and put their money into it at great peril, found it absolutely necessary to delay doing much work until they should get some extension to the working features of the bill. Hence it is that to-day, so far from having the road located through the whole route, they have only had surveys made through passes of the mountains. One of those surveys was made by a member of the company, who took \$20,000 of the stock. I will not mention his name, for fear of exciting the ire of the gentleman from Illinois.

Mr. WASHBURN, of Illinois. One of the gentleman's directors, Brigham Young, I suppose.

Mr. STEVENS. That may be; but I venture to say that he never stole any man's money. I know that he is a most remarkable man, although I do not agree with him in his religious opinions. He is certainly a man of great physical power. [Laughter.] Certain it is that upon the California side of the line they have gone into the work with excellent zeal. They have not only completed ten and twenty miles, but to-day there are fifty-two miles of the road made and in running order.

Mr. COLE, of California. Eighty miles.

Mr. STEVENS. Well, a part of it runs up to San José, round the bay of San Francisco; but we may say that the company have completed eighty miles. The company have raised already upon that side of the mountains over fifteen million dollars. They have that money to expend, and they are expending it. They are building a road over the Sierra Nevada into the silver mining region, at a cost of over a hundred and fifty thousand dollars a mile. It was obvious to the committee that upon this side of the Rocky mountains it would cost even more than that. I have no doubt that there are sections of country there where it will cost from three to five hundred thousand dollars a mile. It would be impossible, therefore, for the company, under the old concession, to make this road, and we felt that if it was to be made, something more ought to be done by the United States. The committee thought that nothing which we could carry through the House would be too much to aid in building this great thoroughfare between the eastern and western population of the country; to unite us with California, whose people, whatever they may have been at the start, are admitted now to be among the purest both in politics and morals of any in the United States. We thought it necessary, therefore, to do something to unite us with that people. What could we do? The company asked that we should double the number of bonds, and the Senate actually passed a bill guarantying the payment of interest for twenty years, in coin, on double the amount of bonds which the United States originally granted.

Your committee came at once to the determination not to burden the nation at this time with any further liabilities or obligation. They said to the company, "Take what land you choose; it is worth nothing to the Government; it is not held out for sale; it is worth nothing except as it becomes populated, and as you populate it you do us a benefit; do not ask us for more bonds; we will take off some of the restrictions and make the conditions lighter, so as to enable you to go on with the work." What, then, did we do? We agreed to take off the first restriction, the one fourth, which we had put into the last bill, until the whole road was finished. We thought that unreasonable. We agreed to release that one fourth of the concession for every mile until a

section of forty miles was fully finished. That provision seemed to us to be unreasonable, and we have in this bill submitted to the House the question whether we are right or not. That is one of the flagrant enormities in which the gentleman from Illinois [Mr. WASHBURN] has detected us!

We agreed, also, to double the amount of lands. What lands? Why, the sections on each side of the road! The gentleman lives in the West, and knows all about this matter. He knows that after we get beyond the one hundredth degree of longitude the land is hardly worth holding. From there, for some five hundred miles to the Rocky mountains, the concession of land, except upon some small streams, is merely of nominal value. In the Rocky mountains it is solid land, and yet it is not very valuable. When you get to the other side of the Rocky mountains, to what is called the plains, you find a barren valley that bears nothing but sage of the bitterest kind, and that never can be made fertile for any use whatever. Then you come upon the Sierra Nevada, and when you pass over that range of mountains you find no land worth anything until you get into California, and there the lands have all been taken up long ago.

It is also charged, Mr. Speaker, that we allow this company to issue its own bonds and give a first mortgage. That is true; but that does not take a dollar from the Government now. It does not weaken the Administration in carrying on this war and defraying its expenses. The only doubt is whether this road will bear the two mortgages. It is very clear that unless the second mortgage is to be got in this way the road will never be finished and will never earn a dollar. I doubt not that when this road is finished and the vast travel between the two oceans sets in over it, when the business not only of this country but the commerce of the far East shall be brought across this continent to the population on this side of the Rocky mountains and on its way to Europe, as it will be the only short thoroughfare, the road will be so productive as not only to pay all its liabilities but to make its stock very valuable.

Suppose the road does cost \$200,000,000. The amount of the interest will be \$12,000,000 a year. The Central road of Pennsylvania receives more than half that in tolls. Last year and the year before the railroad between Pittsburg and Philadelphia received \$7,000,000. The Erie canal of New York I believe receives some \$6,000,000 of tolls annually, and I believe the New York Central railroad receives more.

A MEMBER. Ten million dollars a year.

Mr. STEVENS. Ten million dollars I am told. If these lines, on such short distances, have such receipts, I imagine we can hardly figure up the amount that will be received on this great work.

Mr. HIGBY. The freight now from San Francisco to the valley amounts to over five million dollars a year.

Mr. STEVENS. The gentleman from California states that the wagon freight now from San Francisco to the valley is over five million dollars a year. I do not mean to argue this. Everybody who looks over this vast continent and on the world at large must perceive that this work, when once completed, will not only be the most magnificent on earth but the most productive. Then, sir, I say that both these mortgages will be fairly paid, in time; and although the bonds of the Government may be postponed to the others, the Government will receive vast advantages from the very fact that the road is finished and pours the wealth of California into its coffers, besides keeping together the Union as it now is. That was the view that actuated the committee. It was not the motive that our friend, the detective, [laughter,] suspected. He has found out motives which never actuated that committee; which, so far as I know, no one ever dreamed of. But the committee did aspire to look at the question in a statesmanlike point of view.

The gentleman from Illinois says he has discovered "a cat in the meal tub"—[laughter]—I do not know that he used that language exactly, but I am only paraphrasing it—when he found that this bill repealed the proviso of the fourth article of the charter with reference to the appointment of commissioners on the California side. That provides that when any section is finished that fact shall be certified under oath by the president of the company; and the President of the

United States shall appoint a commission of three, who shall examine and report upon it, and who shall certify to him, and then he shall issue bonds for the amount, and so on in succession as fast as sections are finished. Now, the one commission is to be appointed to go through the same operation. It is obvious that on the California side it would take a long time to communicate with the President of the United States and to have all these certificates sent and filed. It would take almost long enough to let so much interest accrue as would help to pay some of the debt which my friend from Illinois is so much afraid of. We provide in this bill that instead of these numerous commissions for each section, the President of the United States shall appoint a set of commissioners so that they shall be ready to examine and give the certificates the same as before; and that in California, instead of waiting till all the papers are filed in the Department of the Interior here, they may be filed in the public land office of the nation in California; and then the commissioners may go on and make their examination. Is there anything in that that looks like murder, or arson, or robbery? [Laughter.] The gentleman from Illinois intended no slight censure when he accused the committee of such a monstrous scheme of robbery as that.

Now, the gentleman from Iowa has very properly called the special attention of the House right here to that part of the bill which allows a portion of the bonds to be furnished to the company before they get the rails laid down—allowing them for two thirds the value of the work. As my friend from Iowa says, there is no man who has been a railroad man, who has been an original stockholder in a railroad, who will care again to invest his money in that way, and especially who would care to undertake the construction of a road through these vast mountains, without compensation until the entire work has been completed. He has properly said that it will delay the completion of the work for years, unless they are allowed to commence the tunneling and excavation of these rocks before the entire work has been constructed up to the mountains, and the committee did not think there was anything unjust or improper in allowing the company to go forward with these tunnels while they were grading the road and laying the track from the Missouri river in that direction. It is well known that in order to cross these mountains there must be excavations of hundreds of feet of solid rock, and I see no objection, when that work has been done, ready to lay the rails, and the rails themselves have not been laid because it was impossible to transport them there, in allowing the company to receive two thirds the amount to which they are entitled in the construction of that part of the road, thus enabling the company to go on more rapidly, and bring the entire work more speedily to its completion.

Mr. Speaker, I do not know that I ought to detain the House any longer. I have touched upon the main points covered by the bill. If this road is to be built there must be some advantage given. The committee have not had an opportunity to report the Senate bill, and I do not think, as I understand the feeling of the committee, they would have reported it. The Senate bill pledged the Government to guaranty the interest in coin upon bonds to twice the amount to which the company is entitled under existing law. Our committee have avoided that throughout.

Now, sir, these gentlemen have subscribed the \$2,000,000 required by the law. They have paid \$200,000, and, as the report before us shows, have expended \$800,000. They cannot, under the present arrangement, go on with the work. They have not put any of it in running order, although many miles of an auxiliary road have been completed, and the question is now whether they shall be allowed to go on or stop. I think, under these circumstances, we have done about as little as we could do if anything at all was to be done to enable them to make this road. I have no hesitancy in saying that the whole question whether the work is to stop altogether depends upon the action of the House upon this bill. It does not provide what the company want, it is not the kind of a bill they asked from the committee, or which has been sent to us from the Senate. I repeat that the committee were not willing to go to the extent of the Senate bill. They were not willing to

burden the Government at present by guarantying payment of the interest in coin as was proposed by the Senate, but they are willing to grant facilities as far as possible without placing the interests of the Government in jeopardy, such as will enable them to proceed with the work.

The gentleman from Illinois complains of the men who compose this company, and mentions the name of some gentleman with whom he seems to be acquainted better than I am. There are some gentlemen whose names appear of whom I have heard. I have heard of General Dix, who takes a strong interest in this road. I learn that his reputation is probably as good as that of most of the persons the gentleman from Illinois would have belong to the company. I learn from some gentlemen that he is a man of talent and is probably president of the company. I believe the company is composed of pure men. I will not say about the committee in that respect. I confess I have some little apprehension about my friend from Iowa [Mr. PRICE] because he makes so loud professions, [laughter,] but I believe this road is managed by pure men.

The gentleman from Illinois has forgotten one thing. He says the directors are in for three years. The gentleman will do the committee the credit, I am sure, of saying they have attempted to avoid that. The section to which the amendment of the gentleman from Indiana is an amendment provides that in the middle of October next a new election shall be held, and that thenceforward they shall be elected annually; that there shall be fifteen directors instead of thirty, and that ten instead of two of them shall be appointed by the Government. I think, therefore, we have done all we could to guard the interests of the Government in that respect. We have directed that the books shall be kept open for subscriptions up to the day of election, so that every man who wishes to participate in the management of the corporation may take part until the entire subscription of \$100,000,000 has been made.

I call for the previous question on the pending amendments, which must be disposed of before any other amendments can be submitted to the bill. I do not propose to call for the previous question on the bill, but to leave it open for amendment.

Mr. WASHBURN, of Illinois. I give notice that at the proper time I will move that the further consideration of the bill be postponed till the next session of Congress.

The previous question was seconded, and the main question ordered.

The question first recurred on the following amendment, offered by the gentleman from Indiana, [Mr. HOLMAN:]

Add:

And said roads shall be public highways, and shall transport the property and troops of the United States, when transportation thereof shall be required, free of toll or other charge.

Mr. HOLMAN. It is now ten o'clock, and I hope that no vote will be taken on this amendment until we have a fuller House.

Mr. STEVENS. The House is full enough, and as we understand the amendment we may as well dispose of it now as at any other time.

Mr. HOLMAN moved that the House adjourn. The House divided; and there were—ayes 33, noes 73.

Mr. HOLMAN demanded the yeas and nays.

Mr. RANDALL, of Pennsylvania, demanded tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

So the House refused to adjourn.

The House divided on Mr. HOLMAN's amendment; and there were—ayes 25, noes 75.

Mr. HOLMAN demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were ordered; and Messrs. MIDDLETON and THAYER were appointed.

The House divided; and the tellers reported—ayes 25, noes 70.

So (more than one fifth of those present having voted in the affirmative) the yeas and nays were ordered.

Mr. HOLMAN moved that the House adjourn. Mr. RANDALL, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were not ordered.

The motion to adjourn was disagreed to.

The question was taken on the amendment; and it was decided in the negative—yeas 39, nays 82, not voting 61; as follows:

YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, John D. Baldwin, Baxter, Cobb, Coffroth, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Farnsworth, Finck, Hale, Harding, Herrick, Holman, Philip Johnson, William Johnson, Knapp, Marcy, Middleton, James R. Morris, Nelson, Norton, Orth, Pike, Samuel J. Randall, Stiles, Thayer, Thomas, Tracy, Elihu B. Washburne, Wheeler, Chilton A. White, and Williams—39.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Beaman, Blair, Blow, Boutwell, Boyd, Brooks, Broomall, Ambrose W. Clark, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, English, Fenton, Frank, Ganson, Garfield, Gooch, Grider, Griswold, Benjamin G. Harris, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Julian, Kasson, Kelley, Francis W. Kellogg, Knox, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Noble, Odell, Charles O'Neill, Perham, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scott, Shannon, Sloan, Smithers, John B. Steele, William G. Steele, Stevens, Stuart, Sweat, Upson, Van Valkenburgh, Wadsworth, Ward, William B. Washburn, Whaley, Wilder, Wilson, Windom, and Winfield—82.

NOT VOTING—Messrs. Anderson, Baily, Blaine, Bliss, Brundage, James S. Brown, William G. Brown, Chanler, Freeman Clarke, Clay, Cox, Creswell, Henry Winter Davis, Deming, Dumont, Grinnell, Hall, Harrington, Charles M. Harris, Hulburt, Hutchins, Jenckes, Kalbfleisch, Orlando Kellogg, Kernan, King, Law, Lazear, Le Blond, Littlejohn, Long, Mallory, McAllister, McDowell, McIndoe, McKinney, William H. Miller, Morrill, John O'Neill, Patterson, Pendleton, Perry, Pruyn, Radford, William H. Randall, Robinson, Rogers, Scofield, Smith, Spalding, Starr, Stebbins, Strouse, Voorhees, Webster, Joseph W. White, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—61.

So the amendment was rejected.

The question then recurred on the following amendment, submitted by Mr. STEVENS:

The several companies authorized to construct the aforesaid roads are hereby required to operate and use said roads and telegraph for all purposes of communication, travel, and transportation, so far as the public and the Government are concerned, as one continuous line, and in such operation and use to afford and secure to each other equal advantages and facilities as to rates, time, and transportation, without any discrimination of any kind in favor of the road or business of any or either of said companies, or adverse to the road or business of any or either of the others.

The amendment was agreed to.

Mr. WILSON. I move to amend by adding after the word "equipments," in the twelfth line of section ten, the following:

Except as to the provisions of the sixth section of an act to which this is an amendment relating to the transmission of dispatches and the transportation of mails, troops, munitions of war, supplies, and public stores, for the Government of the United States.

The sixth section of the law to which this applies is as follows:

"SEC. 6. And be it further enacted, That the grants aforesaid are made upon condition that said company shall pay said bonds at maturity, and shall keep said railroad and telegraph line in repair and use, and shall at all times transmit dispatches over said telegraph line, and transport mails, troops, and munitions of war, supplies, and public stores upon said railroad for the Government, whenever required to do so by any Department thereof, and that the Government shall at all times have the preference in the use of the same for all the purposes aforesaid, (at fair and reasonable rates of compensation, not to exceed the amounts paid by private parties for the same kind of service;) and all compensation for services rendered for the Government shall be applied to the payment of said bonds, and interest until the whole amount is fully paid. Said company may also pay the United States, wholly or in part, in the same or other bonds, Treasury notes, or other evidences of debt against the United States, to be allowed at par; and after said road is completed, until said bonds and interest are paid, at least five per cent. of the net earnings of said road shall also be annually applied to the payment thereof."

Now, sir, I propose to reserve this right of the Government for the transmission of dispatches, and the transportation of troops and supplies, as against the right of any parties into whose hands this road may ultimately pass under the first mortgage provided by this bill.

I call the previous question upon the amendment.

Mr. WASHBURN, of Illinois, moved that the House adjourn.

Mr. HOLMAN called for tellers upon the motion to adjourn.

Tellers were not ordered.

Mr. WASHBURN, of Illinois, demanded the yeas and nays upon the motion, and tellers upon the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion to adjourn was not agreed to.

The question recurring on seconding the demand for the previous question, the House di-

vided; and there were—ayes 75, noes 13; no quorum voting.

Mr. WILSON called for tellers.

Tellers were ordered; and Mr. VAN VALKENBURGH and Mr. PERRY were appointed.

The House divided; and the tellers reported—ayes 78; noes 15.

So the previous question was seconded, and the main question ordered to be put; and under the operation thereof the amendment was agreed to.

Mr. WILSON moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

Mr. WASHBURN, of Illinois. I move to postpone the further consideration of this bill until the third Tuesday of December next.

The SPEAKER. That motion is not in order at this time. A motion to reconsider is pending.

Mr. FARNSWORTH moved that the House adjourn.

The motion was agreed to.

The House accordingly (at forty minutes past ten o'clock p. m.) adjourned.

IN SENATE.

WEDNESDAY, June 22, 1864.

Prayer by Rev. B. H. NADAL, of Washington.

On motion of Mr. MORRILL, and by unanimous consent, the reading of the Journal was dispensed with.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented the petition of Horace Sprigg, a colored citizen of Washington, District of Columbia, praying for compensation for the amount expended by him in the purchase of the freedom of his daughter, to which he claims to be entitled under the provisions of the act emancipating persons held to service in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. SUMNER also presented eight petitions of men and women of the United States, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in any portion of the American Union; which were referred to the select committee on slavery and freedmen.

Mr. LANE, of Kansas, presented the petition of Charles D. Maxwell, praying to be relieved from taxation as contemplated by the act of May 5, 1864, providing for the grading, paving, and cleaning the streets of the city of Washington, so far as it relates to certain lots owned by him in square No. 677 in that city, the same being incumbered with a nuisance, as is alleged, arising from the Government Printing Office and hospitals; which was referred to the Committee on the District of Columbia.

He also presented the memorial of Peter Hays, G. F. Randall, and P. Monseroon, praying to be compensated for loss of clothing and other personal effects, occasioned by the sinking of the United States steamer Sumter, June 24, 1863; which was referred to the Committee on Claims.

He also presented the petition of Jesse F. Gray, praying for compensation for services rendered as clerk in the United States general hospital at Mount City, Illinois, in 1862 and 1863; which was referred to the Committee on Claims.

Mr. JOHNSON. I have had sent to me, with a request that I should present it to the Senate, a memorial signed by some six or seven hundred natives of Poland, most and perhaps all of whom are represented to have been refugees from that kingdom. They state (whether correctly or not I do not know) that although there is no statute or treaty upon the subject, many of their countrymen who have been enlisted into the Army and Navy of the United States, having escaped from what they call the thralldom of Russia, have been delivered up to the agents of the Russian Government by the naval and military authorities, acting as they suppose under the authority of the Executive. They ask that the matter may be inquired into, and relief, if relief can be had, in the future provided by Congress. It is not necessary, Mr. President, to say anything for the purpose of enlisting the sympathy of the American people or the American Senate in behalf of the men of Poland. The services of her sons during the war of the Revolution have always been held in so high an

esteem that they have received, as they were entitled to receive, the national gratitude. I move the reference of the memorial to the Committee on Foreign Relations.

PATENT OFFICE REPORT.

Mr. MORGAN. The Committee on Printing have had under consideration a resolution reported from the Committee on Patents and the Patent Office to print extra copies of the Patent Office report for the year 1863, and have directed me to report it with an amendment, and to ask for its present consideration.

By unanimous consent the Senate proceeded to consider the following resolution:

Resolved, That there be printed for the use of the Senate five thousand copies of the annual report of the Patent Office for the year 1863.

The amendment of the Committee on Printing was to strike out "five thousand" and insert "ten thousand."

Mr. SHERMAN. As I offered the original resolution, I wish to ask if ten thousand is the usual number. I supposed five thousand was the usual number.

Mr. MORGAN. Ten thousand is the number that has heretofore been printed.

Mr. SHERMAN. Then I have no objection. The amendment was adopted, and the resolution, as amended, was agreed to.

ORDER OF BUSINESS.

Mr. NESMITH. I move to postpone all prior orders to take up for consideration the bill (H. R. No. 442) to authorize the President of the United States to negotiate with certain Indians of Middle Oregon for a relinquishment of certain rights secured to them by treaty.

Mr. HALE. We are near the end of the session, and I hope the ordinary course will be pursued. The Committee on Naval Affairs meet to-morrow morning, and I do not know but that it will be their last meeting this session. I desire to introduce a bill to-day for the purpose of reference to that committee. I am opposed to taking up bills in the morning hour till we get through with the morning business.

Mr. HENDRICKS. I desire to call up the pending motion to print a communication from the War Department and the inclosures touching the McDowell investigation. The Senator from Missouri [Mr. HENDERSON] introduced the resolution calling for those papers, and he desires to have them printed. He is not able to be here, and probably will not be able to take his seat again during the session. I wish therefore to call up that motion, and insist upon a vote on the printing of the document.

The PRESIDENT *pro tempore*. The question before the Senate is the motion of the Senator from Oregon to proceed to the consideration of the bill indicated by him.

Mr. HENDRICKS. Will not the Senator yield to me for the purpose of having the papers printed?

Mr. NESMITH. Let the bill be taken up first. Mr. HALE. I simply wish to say that I want to go through with the morning business. I want the privilege of introducing a bill in the morning hour. If I do not get it in this morning it will be too late. I hope the regular order will be preserved. I call for the yeas and nays on this motion.

The yeas and nays were ordered. Mr. ANTHONY. I wish to know if this bill is going to create debate.

Mr. NESMITH. I think not. It is a very brief bill, which has been passed by the House of Representatives, and only requires the sanction of the Senate. I will say to the Senator from New Hampshire that Oregon has occupied but a small portion of the time of the Senate during this session. This bill is of a good deal of importance to us, and I am very anxious to get it through. It would have been passed doubtless before this time if the Senate had taken it up when I made my motion.

Mr. HOWE. Why can we not take up the bill of the Senator from Oregon, and then, by unanimous consent, allow the bill of the Senator from New Hampshire to be introduced?

The question being taken by yeas and nays, resulted—yeas 31, nays 5; as follows:

YEAS—Messrs. Anthony, Brown, Carlile, Clark, Cowan, Dixon, Doolittle, Foot, Foster, Grimes, Harlan, Harris,

Hendricks, Hicks, Howe, Johnson, Lane of Indiana, McDougall, Morgan, Nesmith, Pomeroy, Powell, Richardson, Riddle, Saulsbury, Sherman, Sumner, Ten Eyck, Wade, Wiley, and Wilson—31.

NAYS—Messrs. Chandler, Davis, Hale, Ramsey, and Trumbull—5.

ABSENT—Messrs. Buckalew, Collamer, Conness, Fessenden, Harding, Henderson, Howard, Lane of Kansas, Morrill, Sprague, Van Winkle, Wilkinson, and Wright—13.

So the motion was agreed to.

MONARCHICAL GOVERNMENTS IN AMERICA.

Mr. McDUGALL. Before the bill of the Senator from Oregon is proceeded with, I wish to offer a resolution for the purpose, not of present consideration, but that it may lie on the table to be called up hereafter.

The PRESIDENT *pro tempore*. It requires unanimous consent. The Chair hears no objection.

The resolution was read, as follows:

Resolved, That the people of the United States can never regard with indifference the attempt of any European Power to overthrow by force or to supplant by fraud the institutions of any republican Government on the western continent, and they will view with extreme jealousy, as menacing to the peace and independence of their own country, the efforts of any such Power to obtain new footholds for monarchical Governments sustained by foreign military force in near proximity to the United States.

Mr. SUMNER. Let it lie on the table.

The PRESIDENT *pro tempore*. The resolution will lie over.

Mr. McDUGALL. Mr. President—

The PRESIDENT *pro tempore*. Debate is not in order.

Mr. DIXON. I have objected.

Mr. McDUGALL. I am not about to debate. I claim the privilege of saying to the President, and through him to the Senate, that I have introduced this resolution, which is the same resolution adopted at Baltimore, and that I propose to call it from the table at the earliest possible day, and see whether gentlemen on the opposite side of the Senate will indorse the views of their convention.

Mr. SUMNER. I do not know whether a record of it was made, but I understood the Senator from Connecticut to object to the reception of the resolution of the Senator from California.

Mr. DIXON. I did.

The PRESIDENT *pro tempore*. The Chair did not hear the objection.

Mr. DIXON. The Chair did not hear me, but I objected before the resolution was read.

The PRESIDENT *pro tempore*. The Chair did not hear the objection.

RECIPROCITY TREATY.

Mr. RAMSEY. With the consent of the Senator from Oregon, I wish to offer a resolution, and I ask for its present consideration:

Resolved, That the Committee on Foreign Relations are hereby instructed to consider and report upon the expediency of extending the provisions of the treaty between the United States and Great Britain of June 5, 1854, commonly known as the reciprocity treaty, to central British America or the districts northwest of Minnesota hitherto described as the Selkirk settlement and the territory of the Hudson's Bay Company.

Mr. GRIMES. I have no objection to the consideration of the resolution, but when it is considered, I wish to amend it so as to direct the committee to take into consideration the propriety of abolishing the treaty entirely.

Mr. POMEROY. I object to the consideration of the resolution if it is to give rise to debate.

The PRESIDENT *pro tempore*. The resolution will lie over.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 138) to regulate proceedings between landlord and tenant in the District of Columbia, with amendments; in which the concurrence of the Senate was requested.

The message also announced that the House had passed the following bills and joint resolution:

A bill (H. R. No. 545) to amend an act entitled "An act to provide for the payment of horses and other property destroyed in the military service of the United States;"

A bill (H. R. No. 546) to regulate the rank, pay, and emoluments of veterinary surgeons of cavalry regiments;

A bill (H. R. No. 548) to provide for the relief of James Lindsay; and

A joint resolution (H. R. No. 23) for the relief of the officers of the fourth and fifth Indian regiments.

OREGON INDIANS.

Mr. NESMITH. I ask now for action upon the bill called up on my motion.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 442) to authorize the President of the United States to negotiate with certain Indians of Middle Oregon for a relinquishment of certain rights secured to them by treaty.

The Committee on Indian Affairs proposed to amend the bill so as to insert after the date of the treaty referred to the words "by which they are permitted to fish, hunt, gather roots and berries, and pasture stock in common with citizens of the United States upon the lands and territories of the United States outside their reservation, and to defray the expense of said treaty and to pay said Indians for the relinquishment of said rights."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

MONARCHICAL GOVERNMENTS IN AMERICA.

The PRESIDENT *pro tempore*. The Chair desires the opinion of the Senate upon the reception of the resolution offered by the Senator from California. The Chair did not hear any objection at the time, but he understands now that objection was made, and the question which the Chair desires to submit to the Senate is, shall the resolution be received?

Mr. McDUGALL. I understand the President to refer to the resolution which I introduced.

The PRESIDENT *pro tempore*. Yes, sir.

Mr. McDUGALL. It was settled at the time, and I insist that it was properly settled, and when once settled it cannot be unsettled by any after consideration.

The PRESIDENT *pro tempore*. The Chair will submit the question to the Senate.

Mr. TRUMBULL. I desire to understand what the question submitted is. What is the objection to the reception of the resolution?

The PRESIDENT *pro tempore*. The resolution was out of order at the time, and could not be received but by unanimous consent. The Chair is informed that the Senator from Connecticut made an objection, though the Chair did not understand it, and allowed the resolution to come in and be read, and after it was read the Senator from Connecticut stated that he had made an objection.

Mr. McDUGALL. How long afterwards?

Mr. DIXON. I stated it the moment I could get the floor. I could not interrupt the Secretary in reading the resolution, but I stated at once to the Chair that I had previously objected. I was heard by several Senators around me.

Mr. TRUMBULL. That being the state of the case, and the resolution being receivable only by unanimous consent, as it seems, and as I understand no action is asked for upon it, and as we are in the habit of giving unanimous consent almost every day for the reception of resolutions, I hope my friend from Connecticut will let the resolution be received and lie on the table. The Chair, it seems, did not hear the objection at the moment.

Mr. DIXON. I objected for a reason. I am opposed to the resolution, to everything of the kind, to any action upon it, and I shall always object whenever I can to anything of that sort. I consider it injurious to the public interests.

Mr. TRUMBULL. The Senator from Connecticut is just as well aware as I am that he cannot object so as to prevent its being received. The Senator from California gives notice of it to-day, and then he will have a right to offer it to-morrow, and the Senator from Connecticut cannot help it. I hope he will not persist in objecting to receiving the resolution when the only effect is to take up time.

Mr. DIXON. At this time I have a right to object. What may be the case in the future I do not know.

Mr. McDUGALL. I should like to under-

stand the law for the conduct of business in the Senate. There should be a law about it. There should be at least in the Senate a rule of business. I asked the consent of the Senate for the introduction of a resolution, stating that I did not propose to consider it to-day, but to lay it upon the table for future consideration. No one objecting within the reach of the ear of the President, the President announced that there being no objection the resolution was received. I say that is a final judgment from which there is no appeal if there is any law or any rule governing our business. I did not hear the Senator from Connecticut object. If I had heard him, I should have recognized and yielded to his right.

Mr. POWELL. Will the Senator from California allow me to say one word? If my memory is not greatly at fault, two or three days ago the Senator from California offered this resolution. It was objected to, and he then notified the Senate that he would at a future day offer it. That being the case, I do not think one objection will lay over now, but he has a right to offer it under the rule.

The PRESIDENT *pro tempore*. The Chair is of opinion that that does not alter the case at all.

Mr. McDUGALL. I insist on this proposition, that a conclusion having been announced, no objection being audible enough to reach the ear of the President, and the resolution having been read, that is the end of that piece of business so far as its being before the Senate and subject to the Senate's consideration is concerned. I know upon principle that I cannot be wrong.

The PRESIDENT *pro tempore*. The Chair will take the sense of the Senate under the 6th rule. The question is, "Shall the resolution be received?"

The question being put, the resolution was received.

REPEAL OF FUGITIVE SLAVE LAW.

Mr. SUMNER. I now move that the Senate proceed with the consideration of the bill (H. R. No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves.

Mr. HALE. I gave notice several days since that at this time I should ask the Senate to consider bills reported from the Committee on Naval Affairs, and I hope the Senate will give me that privilege now. I should like also, if I can have it by right or by favor or in any way, to be allowed to introduce a bill for the purpose of having it referred to the Committee on Naval Affairs to be considered by that committee at their next meeting.

Mr. SUMNER. When this bill is taken up there will be no objection to allowing that to be done.

Mr. HALE. I do not choose to ask as a favor what I think is my right. I object to this motion, and I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. Before the vote is called I desire to say that I have agreed with the Senator from Minnesota [Mr. Wilkinson] to pair off with him on all questions in regard to the bill repealing the fugitive slave law. The Senator from Minnesota favors the bill as it is; I am opposed to it.

The question being taken by yeas and nays, resulted—yeas 14, nays 22; as follows:

YEAS—Messrs. Chandler, Clark, Dixon, Foot, Grimes, Harlan, Harris, Lane of Kansas, Morgan, Morrill, Pomeroy, Sumner, Wade, and Wilson—14.

NAYS—Messrs. Anthony, Buckalew, Carlile, Cowan, Davis, Doolittle, Foster, Hale, Howe, Johnson, Lane of Indiana, McDougall, Nesmith, Powell, Ramsey, Richardson, Riddle, Saulsbury, Sherman, Ten Eyck, Trumbull, and Wiley—22.

ABSENT—Messrs. Brown, Collamer, Conness, Fessenden, Harding, Henderson, Hendricks, Hicks, Howard, Sprague, Van Winkle, Wilkinson, and Wright—13.

So the motion was not agreed to.

MILITARY INTERFERENCE WITH ELECTIONS.

Mr. POWELL. I move to take up the bill (S. No. 37) to prevent officers of the Army and Navy and other persons engaged in the military and naval service of the United States from interfering in elections in the States. I will state to the Senate that it is not my purpose to debate the bill; I wish to have a few amendments made to it, and then to have the vote taken.

Mr. TRUMBULL. As the Senator from Kentucky is very persistent about that bill, I hope,

if it is not to be discussed, that the Senate will take it up and vote on it and be done with it.

The motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

Mr. POWELL. I move to amend the bill by inserting after the word "America," in line nine of section one, the words "unless it shall be necessary to repel the armed enemies of the United States;" so as to make it read:

That it shall not be lawful for any military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men within one mile of the place where any general or special election is held in any State of the United States of America, unless it shall be necessary to repel the armed enemies of the United States.

Mr. TRUMBULL. Manifestly that will not do, because in citieshow are you going to determine that? A military force is stationed in a city. Your election precincts are all through the city. You do not put the armed force there for that purpose.

The amendment was agreed to.

Mr. POWELL. In line twenty-two of the same section I propose to strike out after the word "fine" the words "of not less than \$200, and;" and to strike out "twenty" in line twenty-three, and insert "five;" and in line twenty-five to strike out "two years" and insert "three months," and to strike out "twenty" and insert "five;" so as to read, "and on conviction thereof shall pay a fine of not exceeding \$5,000, and suffer imprisonment in the penitentiary not less than three months nor more than five years, at the discretion of the court trying the same." This is to lessen the penalty.

The amendment was agreed to.

Mr. POWELL. In section two, line nineteen, I move to strike out "twenty" and insert "five." The amendment was agreed to.

The bill was reported to the Senate as amended, and the question was stated to be on concurring in the amendments made as in Committee of the Whole.

Mr. POMEROY. I wish to except the amendment which the Senator from Kentucky put in in reference to having the troops stationed a mile from the polls.

Mr. POWELL. The amendment says nothing about troops being a mile from the polls.

Mr. WADE. I wish to inquire whether this bill has been before the Committee on the Judiciary. It seems to be a bill eminently proper to be reviewed by that committee before it comes before the Senate.

Mr. POWELL. It has not been before that committee. I desired to have it sent to the Committee on the Judiciary in the first place, but the Senate by a vote on the yeas and nays refused to send it to that committee, and referred it to the Committee on Military Affairs, which made an adverse report upon it.

Mr. WADE. I move that the bill be referred to the Committee on the Judiciary.

Mr. POWELL. I hope that motion will not prevail. I tried to get it to that committee, but the Senate refused to send it there. To refer it now will prevent a vote upon it at this session. The Senate voted me down on my motion to refer it to the Committee on the Judiciary, and sent it to another committee who reported, and it has been discussed, and I think we had better vote upon it.

Mr. HOWARD. This bill was referred to the Committee on Military Affairs at an early period of the session; it there underwent a pretty full and thorough examination, and the committee reported back to the Senate a mass of facts connected with the bill and recommended that the bill do not pass. The bill, however, was called up by the honorable Senator from Kentucky, I do not exactly remember when; but at any rate he consumed the best part of two days in discussing the merits of the bill and urging his reasons, some of them certainly, why it should pass, and indulging in a very general and as I think a very unjust course of criticism upon the Administration, the President and the military men included, in relation to their alleged interference with elections in the States. I endeavored to reply to the honorable Senator from Kentucky at a subsequent day, and I occupied the best part I believe of two ses-

sions of the Senate in my reply. I was followed by the honorable Senator from Delaware who, if my memory serves me, also occupied the best part of two days in the discussion. I merely state this as the chronological history of the bill and the discussions thereof. I do not think that I shall be able to add anything to what I have already said on this subject, and I rise merely to say in all brevity that the great object of this bill appears to be to prevent the Army of the United States, from giving battle to the enemy at any place within the circle of one mile around a place of election. If this bill shall pass, it will be a penal offense for the President of the United States or any general in command of the Army to have a battle with the rebels at any place within the circle of one mile around the place of an election. It is in short, sir, as I view it, an effort to make the poll in a border State the sanctuary of traitors and the sanctuary of men who are not entitled to vote, and to make it penal for the authorities of the United States to treat rebels, even open rebels, as enemies of the United States, by seizing and arresting them and keeping them away from the polls—a right which it is as much the duty of this Government to exercise as it is or as it ever has been to combat even the foreign enemies of the United States. I do not wish, sir, however, to spend any more time on this bill, and I hope we shall take a vote on it at present.

Mr. WADE. Mr. President—

Mr. POWELL. I hope the Senator from Ohio will allow me to say a single word.

Mr. WADE. I have only one word to say. I find this bill has been discussed, I had forgotten the discussion of this subject at an early part of the session, but it has been discussed, and, as it now appears, considered by a committee. I therefore withdraw my motion to refer it to the Judiciary Committee.

Mr. POWELL. I only wish to say a single word. The Senator from Michigan says that if this bill passes you cannot fight an enemy in arms against the United States within one mile of a place where an election is going on, on the day of election. The honorable Senator is mistaken, for an amendment I have just proposed obviates all that. The section, as corrected, reads, "It shall not be lawful for any military or naval officer, &c., to bring, keep, or have under his authority or control, any troops or armed men within one mile of the place where any general or special election is held in any State of the United States of America, unless it shall be necessary to repel the armed enemies of the United States." So that if there are armed enemies there, the troops of the United States can go and fight them on an election day as well as any other day. There is nothing to prevent any soldier voting in his proper precinct.

Mr. HOWARD. I was not aware of the very insufficient and incomplete amendment which the honorable Senator from Kentucky has offered to the bill until this moment. Owing to the noise in the Hall, or from some other reason, I did not catch his voice; that amendment, however, by no means makes the bill acceptable to me, nor does it cure the very evil which I alluded to.

Mr. JOHNSON. Mr. President, when this bill was before the Senate at an earlier stage of our session, and of course after the report from the Military Committee had been made and laid upon our tables, and the honorable member from Michigan had made a very elaborate, and, as is the case with all his speeches, able speech in support of that report, I procured, with the consent of the Senate, permission to be heard on the subject on a subsequent day. It was my purpose at that time to avail myself of that permission; but the period of the session is now so near its close that I shall forbear from addressing the Senate at large.

Besides the general interest which the subject, presented and upon which I desired to be heard, there was in the report made by the honorable member from Michigan what I considered as rather a reflection upon myself; and, if he will permit me to say so, rather an unparliamentary reflection, and a reflection upon the Governor of my State, whose loyalty I know; it has been tested by every test by which loyalty can be tried; and I proposed to address the Senate in his defense mainly, though partly in defense of myself. The part of the report which affects me person-

ally, and which I have ventured to characterize, with all the respect that I feel for the honorable member by whom it was presented to the Senate, as unparliamentary, is that part of it which alludes to what was said by myself in the Senate in debate on a prior day. And the honorable member, as I am sure, is not its author; it must have come from some other pen, or been suggested by some other mind and adopted without reflection. The honorable member in the report has thought proper to intimate that in the remarks which I made to the Senate upon the subject of this bill I was influenced by disappointment in the elections which were held under, as it was stated, the control of the military. The honorable member, I am glad to say, has already disclaimed any purpose to impute to me any such motives. I hope he knows me well enough to be satisfied that I am incapable designedly, in the consideration of any public measure, of being in any manner controlled or affected by any interested or disappointed consideration. I think I know—I will not ask the honorable member to say whether my thoughts are well founded or not—I think I know whence the imputation comes; and if I am right in my conjecture, where the author of the imputation and myself are equally well known, I am perfectly willing, more than willing, to abide the public judgment.

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator from Maryland to call up the unfinished business of yesterday.

Mr. JOHNSON. With the permission of the Senate and the Chair, I have but a word or two more to say.

The PRESIDENT *pro tempore*. The Senator may proceed by unanimous consent. The Chair hears no objection.

Mr. JOHNSON. Mr. President, we all agree, in the report presented by the honorable member he himself concurs in that opinion, that the military should not be used for the purpose of affecting in any way the free exercise of the elective franchise, and the only question which the case presented upon which the report was made was a question of fact—was or was not the military in the recent election in Maryland so used?

Mr. HOWARD. Will the honorable Senator allow me to interrupt him a moment?

Mr. JOHNSON. With pleasure.

Mr. HOWARD. I do not wish it to go forth to the country that the report to which he alludes goes so far in its defense of the freedom of elections as to allow a public enemy of the United States to vote, or to exercise any political right whatever. The report, so far as it contains argument, is based upon the principle of public law that it is not the right of an enemy of the country to vote or exercise any political functions, whether that enemy be a rebel, a traitor in arms against the country, and hence a domestic enemy, or whether he be a public enemy owing allegiance to a foreign Government. I hold it to be the duty of the military authority of the United States, and so the report holds, (the Senator will pardon me for this recapitulation of the sentiments of the report,) to expel from the polls and exclude from the exercise of all political rights persons who are known to the military authorities to be disloyal to the United States, and hence enemies of the United States. This is the doctrine of the report; but in respect to all persons who are friends of the Government, who wish to uphold the Government, but who may happen to differ upon questions of administration, the report does declare very properly, certainly, that there should be no interference either of the military or other persons in the free enjoyment of that valuable franchise. That is the doctrine of the report, and that is my doctrine.

Mr. DIXON. Is the unfinished business now in order?

The PRESIDENT *pro tempore*. The Senator from Maryland is entitled to finish his speech under permission of the Senate.

Mr. JOHNSON. I have not misunderstood the report.

Mr. POWELL. Will the Senator from Maryland allow me to read one clause of the bill?

Mr. JOHNSON. I would rather finish, because I am detaining the Senate longer than I intended. I have not misunderstood the report; but the particular of which the honorable member now speaks as found in the report was a mat-

ter about which it was not my purpose to say anything. All that I said was that the freedom of election was not to be interfered with at all by the military authority of the United States. Now, I understand the honorable member as saying, and I know his report goes to that extent; that the limit of the authority of the United States, exercised by means of its military, is to keep from voting those whom the military authorities of the United States shall think proper to decide are not entitled to vote. Does not the honorable member see that that is placing the elective franchise of the States of this Union entirely under the control of the Executive of the United States, the military acting under the authority of the Executive of the United States? I say to the honorable member that the constitution of Maryland, and the laws passed in pursuance of it, and the authorities, all of whom are now loyal, are abundantly able to guard against the pollution of the ballot-box by having deposited within it the ballots of disloyal men. But what I protest is, if we are to have any freedom—I do not speak for Maryland alone, but for every State in the Union, for Michigan as well as Maryland—if we are to have any freedom in the exercise of the elective franchise, it is not to depend upon the will of the military authority of the Government.

Mr. HOWARD. Will the Senator allow me to put a query here?

Mr. JOHNSON. Certainly.

Mr. HOWARD. How does it happen that the election officers and agents of the State of Maryland are able to determine with more certainty whether or not a man is an enemy of the country, that is whether he is loyal or not, than the authorities of the United States on the spot? What is it that gives the authorities of Maryland this peculiar aptitude and unerring certainty in the decision of the question of loyalty above the authorities of the United States?

Mr. JOHNSON. I answer the question of the honorable member: the Constitution of the United States which denies to this Government the right to interfere and leaves the exclusive judgment on questions of elections to the State—

Mr. HOWARD. That is a proposition which, with great deference to the learned Senator from Maryland, I absolutely deny.

Mr. JOHNSON. I knew the honorable member did, and it was against the denial that I was protesting.

Mr. HOWARD. I should say in time of war.

Mr. JOHNSON. But I have said all that I designed to say when I rose except this: although for the reason I have stated I forbear now, and shall forbear at any other day during which the present session may continue, to answer the facts or the alleged facts, the law or the supposed law, to be found in the honorable member's report, I shall take an early opportunity, the first opportunity that may be afforded during the recess, to answer it in another form by an appeal to the people of my own State.

The PRESIDENT *pro tempore*. The Senate will resume the consideration of the special order, which is Senate bill No. 167, to incorporate an insurance company in the city of Washington.

Mr. HOWARD. I hope the Senate will indulge me for a moment.

The PRESIDENT *pro tempore*. The Senator can proceed by unanimous consent. ["No objection."] The Senator will proceed.

Mr. HOWARD. It is due to me to say in reference to the report—

Mr. POWELL. If the Senator from Michigan will allow me, I desire to make a verbal amendment to the bill.

Mr. HOWARD. I rose merely to make a personal explanation.

Mr. POWELL. I notify the Senate that I shall ask to have one other verbal amendment made.

Mr. HOWARD. I think, sir, whatever impartial man shall read the history of these times and the history of Maryland, and the politics of Maryland at this time, and shall then read the report which has been so much criticised and denounced by the learned Senator from Maryland, will not be inclined to charge me, who am the author of the report, with having committed a breach of parliamentary courtesy and duty in the language or style of that report. I had occasion heretofore to remark, I did so with pleasure and

repeat it now, that I did not intend to cast the slightest personal imputation against the honorable Senator from Maryland in that report. I believe he has accepted that assurance.

Mr. JOHNSON. Certainly.

Mr. HOWARD. And is satisfied with it. And again, sir, as to the final appeal to which he proposes to resort to determine the great question whether the doctrine of that report is true doctrine or not, his appeal to the ballot-box itself, and to the freemen of the United States, to those who, and whose brothers and fathers, have participated in this great contest, and shed their blood in it, I can only say to him and to his good friends here and elsewhere, that I shall be happy to meet them in the discussion of that question upon the theater which he has thus selected; that is, before the good people of the United States, at the ballot-box, and I will guaranty that I will beat him there if I do not here.

The PRESIDENT *pro tempore*. The special order is before the Senate.

Mr. POWELL. I desire to propose one simple amendment to this bill, and then I hope we may take the vote.

The PRESIDENT *pro tempore*. Is there any objection to the Senator offering his amendment? It can only be done by unanimous consent.

Mr. POMEROY. I have an amendment or two that I want to offer.

Mr. POWELL. I am going to propose the amendment that I think the Senator wants.

The PRESIDENT *pro tempore*. The question is on continuing the consideration of Senate bill No. 37. The Chair hears no objection. The first question is on concurring in the amendments made as in Committee of the Whole, with the exception of the amendment reserved at the request of the Senator from Kansas, [Mr. POMEROY.]

The other amendments were concurred in.

The PRESIDENT *pro tempore*. The excepted amendment will be read.

Mr. HALE. I move to postpone this and all prior orders for the purpose of proceeding with the consideration of Senate bill No. 292, to provide for the efficiency of the Navy.

Mr. POWELL. I hope that will not be done. I think this bill can be disposed of in a minute or two.

Mr. HENDRICKS. I presume that if the Senator from New Hampshire will allow a vote to be taken on this question, which will not occupy more than five minutes, there will then be no objection to taking up his naval bills.

Mr. HALE. If I thought I could consent to allow three days for this bill, and we should then have a vote upon it, I would willingly give way.

Mr. HENDRICKS. Let us try five minutes.

Mr. HALE. Well, I will give five minutes. I withdraw my motion.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment inserting after the word "America," in line nine of the first section, the words "unless it shall be necessary to repel the armed enemies of the United States."

Mr. POMEROY. I wish to amend that amendment by adding to it "or to keep the peace at the polls."

Mr. POWELL. I object to that. It would destroy the effect of the bill. The State authorities can keep peace at the polls.

Mr. SAULSBURY. That is the very pretext on which these outrages were committed in my State, and it is the very same pretext that will be put forward again.

Mr. POMEROY. I have had some experience in reference to military interference at the polls, and I have got some sore places in my history on that subject. When the party represented by the Senator from Kentucky had this Government in their control, in the Territory which is now my State, it was very common for the military authorities to take possession of the polls. The sheriffs in the counties had a way of getting a posse on that day and mustering them into the service of the United States, and surrounding the polls for the ostensible purpose of keeping the peace at the polls, but I have seen the time when I could not get within gunshot of the polls, and you could not get a ballot into the box unless you shot it in out of some revolver. I do not want any military interference at the polls, and I never did want it. I would not have troops there unless in some sensible way to keep the peace and to prevent

contests which might be likely to arise. I think the Senator from Kentucky should be the last man and his party should be the last party to undertake, after what occurred in my State, to prevent men being at the polls to keep the peace and prevent collisions. In an excited political contest, in a new country especially, collisions between parties are very common at the polls, and it is very important that there should be some authority there to preserve peace, not to interfere with the election, not to prevent men from voting, but to see that every man is protected in his right to vote. That is the only purpose for which I want a force at the polls. I do not care to discuss the matter; but that is the most important part of the proposition to me.

Mr. McDUGALL. I am one of those who were taught to think that the weapon of the ballot in the hands of a free citizen was a better weapon than steel of the finest temper. That point of instruction in my youth has become the faith of my maturer years. The ballot, the free ballot, the uncontrolled ballot, is the only power possessed by a free people which enables them to overawe those in authority. Arbitrary power is most expressed by the presence of armed men, and I would not have them where the citizen was exercising this high privilege.

The Senator from Michigan says this bill would make the ballot-box a sanctuary for persons hostile to the Government. Let me say to him that there have been sanctuaries in all times. Among heathen nations there were places of sanctuary; in the old Hebrew times there were places of sanctuary, and in Christian ages there have been places of sanctuary; and if there be a place of sanctuary in a free republic, it should be where the ballot-box is open and where the free ballot of the citizen, uncompelled by force, may express his mind. I do know that force has been employed to control the free voice of citizens, and when it shall be so employed as to accomplish results, that is military despotism.

I say this much. I am for the measure in its substance.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas [Mr. POMEROY] to the amendment made as in Committee of the Whole.

Mr. LANE, of Kansas, called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 16, nays 15; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Foot, Grimes, Harlan, Harris, Howard, Lane of Kansas, Morgan, Morrill, Pomeroy, Ten Eyck, Trumbull, and Wade—16.

NAYS—Messrs. Buckalew, Carlile, Davis, Foster, Hale, Hendricks, Hicks, Johnson, McDougall, Powell, Richardson, Riddle, Saulsbury, Willey, and Wilson—15.

ABSENT—Messrs. Brown, Conness, Cowan, Dixon, Doolittle, Fessenden, Harding, Henderson, Howe, Lane of Indiana, Nesmith, Ramsey, Sherman, Sprague, Sumner, Van Winkle, Wilkinson, and Wright—13.

So the amendment to the amendment was agreed to.

The amendment as amended was concurred in.

Mr. McDUGALL. I move that the bill be indefinitely postponed.

Mr. POWELL. I hope the Senator will withdraw that motion.

Mr. McDUGALL. Very well; if the Senator wishes to press the bill in its present shape, I withdraw the motion.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. FOSTER called for the yeas and nays on the passage of the bill, and they were ordered; and being taken, resulted—yeas 19, nays 13; as follows:

YEAS—Messrs. Buckalew, Carlile, Davis, Grimes, Hale, Harlan, Hendricks, Hicks, Johnson, Lane of Kansas, McDougall, Pomeroy, Powell, Richardson, Riddle, Saulsbury, Trumbull, Wade, and Willey—19.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Dixon, Foot, Foster, Harris, Howard, Morgan, Sumner, Ten Eyck, and Wilson—13.

ABSENT—Messrs. Brown, Conness, Cowan, Doolittle, Fessenden, Harding, Henderson, Howe, Lane of Indiana, Morrill, Nesmith, Ramsey, Sherman, Sprague, Van Winkle, Wilkinson, and Wright—17.

So the bill was passed.

Mr. HARLAN subsequently moved to reconsider the vote by which the bill was passed, and the motion was entered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that

the House had passed a resolution for terminating the present session of Congress by adjournment on Thursday, the 30th of June, instant, at twelve o'clock; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 265) to expedite and regulate the printing of public documents, and for other purposes; and

A bill (S. No. 306) to grant to the State of California certain land for State prison purposes.

TRANSFERS FROM THE ARMY TO THE NAVY.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill (S. No. 167) to incorporate an insurance company in the city of Washington.

Mr. HALE. I move to postpone that and all prior orders for the purpose of proceeding to the consideration of Senate bill No. 292.

The motion was agreed to; and the bill (S. No. 292) to provide for the efficiency of the Navy was considered as in Committee of the Whole. It provides that any person enlisted in the military service of the United States who shall apply to the Navy Department to be transferred to the Navy or marine corps shall, if his application be approved by the Secretary of the Navy, be transferred to the Navy or marine corps to serve the residue of his term of enlistment therein, subject to the laws and regulations for the government of the Navy; but such transfer is not to release the transferred person from any indebtedness to the Government, nor, without the consent of the President, from any penalty incurred for a breach of military law.

Any seaman or mariner, or person who may have served as such, drafted into the military service, may, by order of the President, be transferred to the naval service, to serve therein, subject to the laws and regulations for the government of the Navy, for the term or residue of the term for which he was drafted. All enlistments into the naval service or marine corps during the present war are to be credited to the appropriate township, precinct, or district, in the same manner as enlistments for the Army. Persons hereafter enlisted into the naval service or marine corps during the present war are to be entitled to receive the same bounty as if enlisted in the Army. And the resolution approved February 24, 1864, entitled "A resolution relative to the transfer of persons in the military service to the naval service," is repealed by this bill; but such sums as may have been paid as bounty to persons transferred from the military to the naval service or marine corps are to be charged to and paid out of the proper naval appropriation, or appropriation for the marine corps.

The Committee on Naval Affairs proposed an amendment, which was in line six of section one to strike out the words "Secretary of the Navy" and insert "President of the United States."

Mr. HALE. This amendment is moved by the committee, not from any want of respect or confidence in the Secretary of the Navy, but, as this transfer affects both the Army and the Navy, it was thought proper that the power should be vested in the President of the United States rather than in the head of either the War or the Navy Department.

The amendment was agreed to.

The bill was reported to the Senate, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

BILLS INTRODUCED.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 323) in relation to naval patients in the insane asylum; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 322) to change the name of the steamboat Magnet, of Buffalo, to Home; which was read twice by its title, and referred to the Committee on Commerce.

Mr. HALE asked, and by unanimous consent

obtained, leave to introduce a bill (S. No. 324) prescribing the punishment for enticing or aiding seamen to desert the naval service of the United States; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 325) to repeal the act of the 17th of June, 1864, prohibiting the sales of gold and foreign exchange; which was read twice by its title, and referred to the Committee on Finance.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 70) to authorize the acquisition of certain land for the use of the Government hospital for the insane; which was read twice by its title, and ordered to be placed on the Calendar.

CREW OF THE ESSEX.

On motion of Mr. HALE, the bill (S. No. 273) to compensate the officers and crew of the iron-clad gunboat Essex for the destruction of the rebel ram Arkansas was read the second time, and considered as in Committee of the Whole. It proposes to appropriate \$25,000 to enable the Secretary of the Navy to pay to the officers and crew of the iron-clad gunboat Essex, for the destruction of the rebel ram Arkansas, the bounty provided by the fourth section of the act for the better government of the Navy of the United States, approved July 17, 1862.

Mr. HALE. This bill is reported to enable the Secretary of the Navy to carry into effect a provision of law to be found in the fourth section of an act approved July 17, 1862, in the following words:

"That a bounty shall be paid by the United States for each person on board any ship or vessel-of-war belonging to an enemy at the commencement of an engagement which shall be sunk or otherwise destroyed in such engagement by any ship or vessel belonging to the United States, or which it may be necessary to destroy in consequence of injuries sustained in action, of \$100 if the enemy's vessel was of inferior force, and of \$200 if of equal or superior force, to be divided among the officers and crew in the same manner as prize money; and when the actual number of men on board any such vessel cannot be satisfactorily ascertained, it shall be estimated according to the complement allowed to vessels of their class in the Navy of the United States; and there shall be paid as bounty to the captors of any vessel-of-war captured from an enemy, which they may be instructed to destroy, or which shall be immediately destroyed for the public interest but not in consequence of injuries received in action, fifty dollars for every person who shall be on board at the time of such capture."

A petition, very numerously signed, was presented here, and referred to the Committee on Naval Affairs. That petition was sent to the Secretary of the Navy, and he wrote a letter, which has been published, recommending it, and stating that the law would have been carried into effect, but that they had no appropriation for the purpose, and he asks for this appropriation to enable it to be done.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

NAVY-YARD AT CAIRO.

On motion of Mr. HALE, the bill (S. No. 190) to establish a navy-yard and depot at Cairo, in the State of Illinois, was considered as in Committee of the Whole. It proposes to authorize the President of the United States to select and purchase a site for a navy-yard and depot at or near the city of Cairo, and to erect such buildings and make such improvements thereon as may be necessary for the construction and repair, accommodation and supply, of vessels-of-war of the United States; and also to purchase any water rights which may be required to propel the machinery or supply dockage for the navy-yard, and to receive any donations of lands, water rights, or rights of way, which the trustees of the Cairo city property, or the authorities of the city of Cairo, or any other body-corporate, or any person or persons, may deem proper to make or grant to the United States for the purpose; and \$200,000 is appropriated to the objects mentioned.

The amendment of the Committee on Naval Affairs was in line four, to strike out the words "select and purchase," and insert "accept from the corporate authorities of the city of Cairo, in the State of Illinois, or from any other person or corporation;" and in line seven, before the word "city," to insert "said" after "Cairo;" and in line seven to strike out "in the State of Illinois,"

and insert "if in his opinion the good of the public service requires it," so as to make the bill read:

That the President of the United States be, and he is hereby, authorized to accept from the corporate authorities of the city of Cairo, in the State of Illinois, or from any other person or corporation, a site for a navy-yard and depot at or near the said city of Cairo, if in his opinion the good of the public service requires it, and to erect such buildings and make such improvements thereon as may be necessary for the construction and repair, accommodation and supply, of vessels of war of the United States, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended. Mr. HOWARD. I wish to inquire of the Committee on Naval Affairs whether there has been any examination of the ground at and about Cairo with a view to ascertain the suitability of that locality for such a depot. I am aware that it is in a central situation so far as the valley of the Mississippi is concerned, being near the junction of the Mississippi and the Ohio, but it has always struck me that it was not exactly the place for a naval depot. The land there, I understand, is very low, the climate unhealthy, subject to bilious diseases and to ague, and I have never yet seen any report or examination of that locality, or indeed any other locality in that vicinity, with a view to the establishment of a naval station there.

Mr. HALE. There were several communications made to the committee, and a good deal of evidence before them, and there was talk about the committee visiting the various proposed sites, but the committee thought it was utterly impracticable, and that it was not competent for them to form a correct judgment, and so they amended the bill in this way, leaving it entirely to the President of the United States and the Secretary of the Navy, who, it was supposed, would make such examination as would satisfy them. The committee felt incompetent to make a decision, and therefore they proposed an amendment, which the Senate has adopted, which is that the President is authorized to do this if in his opinion the good of the public service requires it, and we leave it to him, thinking he will order such examination as may be necessary.

Mr. BROWN. I ask the Senator what it specifies in regard to the location?

Mr. HALE. Nothing, but that he is authorized to accept from the corporate authorities of Cairo, or other persons, a site for a navy-yard and depot at or near the city of Cairo. There was some evidence that there was a place a little distant from the city of Cairo, called Mound City, and it was thought by the committee that Mound City was near enough to the city of Cairo to come within the purview of the bill as amended.

Mr. GRIMES. It may seem singular that I should be opposed to the establishment of a navy-yard in my neighboring State of Illinois, especially when my own State has no claim for any such place. As to whether there had better be a navy-yard established on the western waters or not is a question somewhat problematical to me. Perhaps a depot may be sufficient for all the purposes we want connected with the Navy, except during the pendency of the present war; but if it be an established fact that there should be one, I think it is not established that Cairo is the place where it ought to be located. I know very well that the naval officers, from the admiral now in command, so far as my acquaintance with them extends, are opposed to the establishment at Cairo. I have a letter from the admiral on that subject and I have conversed with a great many officers on the subject. I am not going to say where the navy-yard ought to be established, but my impression is, with the lights I now have, that if a yard is to be established at all on the western waters we had better go back to the place where it was originally established, Memphis. Although we professed once to cede away our interest in the navy-yard there, I am told by gentlemen who have examined the subject that the cession is void, and that we have a considerable amount of land there, and that the water is of a sufficient depth at all seasons of the year, as is not the case between Memphis and Cairo.

I do not think it would be wise for us at this session, without any investigation, to undertake to establish a navy-yard anywhere. If we are going to establish one, let us authorize the creation of a commission to go out and examine all the sites, that which is proposed at Carondelet,

that at Mound City, that at Cairo, that at Memphis, and any other point, and let them report to us the facts, and then we shall be able to act intelligently. The proposition now is to leave the whole matter in the hands of the President of the United States, who is a citizen of the State of Illinois. I have no doubt he would exercise his judgment in the matter conscientiously, but I want to know how, and I want to provide by law how his judgment shall be instructed before he proceeds to settle that question. The proper way is for us to appoint a commission. If the Senate decide that we want a western navy-yard, the proper way for us is to authorize the creation of a commission to go there and examine all the questions, for there are hundreds of questions connected with this subject. It is not the mere location of a piece of ground. You want to know exactly the depth of water on all those streams that are converging toward the point where you propose to establish your navy-yard. You want to settle all the questions in regard to the facilities for procuring laborers, skilled mechanics, men who have got to be employed by the Government in keeping up the navy-yard after it shall be established.

I suppose it is not denied that Cairo besides being an unhealthy place is a very small place, and all the citizens and mechanics that are employed there are imported from other places, and only go there for a temporary purpose, returning to their domiciles elsewhere the moment their jobs are over. That is not the kind of place where you want a navy-yard established.

Mr. BROWN. Before the amendments are agreed to, I desire to call the attention of the Senate to the character of this bill and to the character of the amendments. It is known that it has been a matter of a great deal of controversy throughout the West as to where the location of this navy-yard shall be. There are a good many States interested in it. As far as it involves their interests, there are a good many places that are competing for the location of this navy-yard, and that are offering inducements to the Government for its establishment. Yet, if I am correct in my interpretation, this bill proposes to confine it to a single locality, that of Cairo, without laying before the Senate any of the evidence on which that selection has been made, or without giving the opportunity of a fair investigation of the matter. I would propose, if it is in order, to amend the bill before it is passed upon.

The PRESIDENT *pro tempore*. It is in order at the present time to amend the amendment made as in Committee of the Whole, and it will be in order to amend the bill in other respects after that amendment shall have been disposed of.

Mr. BROWN. I should like to hear from the chairman of the committee the ground on which the bill has been predicated. I do not care to object to the amendment, but I desire to offer another as soon as the question is open for it.

The amendment made as in Committee of the Whole was concurred in.

Mr. BROWN. I desire to offer an amendment in the seventh line, after the word "Cairo," to insert "or at any other point on the Mississippi river."

Mr. HALE. That would make the bill rather incongruous. As it now reads it is, "that the President of the United States be, and he is hereby, authorized to accept from the corporate authorities of the city of Cairo, in the State of Illinois, or from any other person or corporation, a site for a navy-yard and depot at or near the said city of Cairo," and the Senator proposes to add "or at any other point on the Mississippi river." It is not likely the city of Cairo will be apt to present a navy-yard elsewhere than at that place.

Mr. BROWN. I think the Senator is mistaken, and that I am correct in the amendment. The amendment of the committee proposes to accept a site from the corporate authorities of the city of Cairo, in the State of Illinois, "or from any other person or corporation," holding out the idea that there is to be a competition, and yet in a subsequent line it confines it to the city of Cairo. Now, I want to make the subsequent line correspond with the preceding line.

Mr. HALE. That was put in in that way by the committee from the idea that there might be land that it would be necessary to occupy if the yard was located at Cairo, owned by some other

ownership than the city; there might be other persons or corporations owning land there that would be necessary for the yard, and that they would give for that purpose. That was the intention of that amendment.

Mr. BROWN. Do I understand the committee to take the ground that the President in making this selection shall not put it anywhere else than at Cairo, if, in his judgment, the good of the public service requires another location?

Mr. HALE. The bill is confined to Cairo or near it.

Mr. BROWN. You do not allow the good of the service then to determine the question at all; it is for the purpose of locating it at Cairo that the bill is introduced.

Mr. HALE. It is easy to misunderstand. The bill is based on the ground that it was necessary to take some action, and Cairo was selected, provided upon a suitable examination it should be found that the public service demanded it. If the public service does not demand it, if a commission reports against it, the whole thing falls to the ground. It does not institute a roving commission to go all over the country.

Mr. BROWN. But it does not authorize the selection of the best place either, does it?

Mr. HALE. The bill speaks for itself.

Mr. GRIMES. Will the Senator from Missouri withdraw his amendment for one moment? I offer the following as a substitute for the bill:

That the President of the United States be, and he is hereby, authorized to appoint a commission of seven officers of the Navy to examine proposed sites for a navy-yard on the Mississippi river, and to report their conclusions at the next session of Congress.

Mr. BROWN. I withdraw my amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa.

Mr. TRUMBULL. I regret that the Senator from Iowa should have thought proper to come forward with this amendment, though it is not unexpected. I have had some conversation with him, and I thought he would probably introduce some amendments which would prevent the establishment of a navy-yard at all during the time it is wanted.

This bill is no new proposition. It is no proposition that has not received examination. It was recommended by the Secretary of the Navy in as strong language as he could use two years ago. His recommendation is repeated in his last annual report, and I can send for those reports and read them for the information of the Senator from Iowa, if he has never heard of them; but I know he is familiar with them all. It has been repeatedly urged upon Congress to establish a navy-yard and depot in the West.

Mr. GRIMES. At Cairo?

Mr. TRUMBULL. On the western waters, and there is evidence to show that Cairo has been examined. The Senator will find this is no new proposition; but the Senator proposes delay; that is the way to defeat a measure indirectly. If this navy-yard and depot is ever needed, it is needed now during this time of war, needed especially now. A navy-yard and depot are needed in the West particularly, because we have now a large fleet upon the western waters, and in the improvements in naval affairs in the construction of naval vessels they are chiefly now made of iron, and these iron-clad vessels corrode very quickly in salt water. We need some place where they can be kept in fresh water for their preservation. We have a fleet upon the western waters at this time consisting of more than two hundred vessels, I think, costing to the Government many millions of money, and I have no doubt, and have so understood from persons connected with the construction of these vessels, that they have cost the Government millions of dollars more than they would if we had had a navy-yard somewhere upon the western waters.

Now, sir, in regard to the location of this navy-yard, the Senator from Iowa asks if Cairo has been recommended. No, sir, not by the Secretary of the Navy; he would not be likely to designate a particular point in his annual recommendation to Congress; but he has urged upon Congress the importance of the establishment of such a yard, the very thing which the proposition of the Senator from Iowa seeks to thwart. The very object of having a navy-yard, and at the earliest moment, is to have a rendezvous for our naval

vessels already constructed and a place to repair them and construct others; and we want it at this time, if ever; but the Senator proposes a commission to make an examination and report. Now, sir, has not the Senate some knowledge of this locality? Is not every member of this body familiar with the Mississippi river? Does not every person here know, without an examination by naval officers, that the Mississippi river never freezes over at Cairo? Does not every member know that it does freeze over above Cairo? Does not every person at all acquainted with the history of the country know, and does it require any naval officer to report it, that only last winter, for weeks and I believe for months, the Mississippi river was hermetically sealed between Carondelet and Cairo, and teams were crossing it upon the ice? Do we not also know that the water between Carondelet and Cairo is so low that the very vessels constructed up at Carondelet have not been able to get down to Cairo for months.

I have before me an official map made by engineers who measured the Mississippi river and its waters, and it shows that the least low-water depth on the bars between the mouth of the Missouri river and Cairo is but two feet. There are times when there is only two feet of water between Cairo and Carondelet on the bars, and some of the vessels now upon the western waters which were constructed at Carondelet were tied up there for months.

We know all this. We know that the Mississippi and the Ohio unite their waters at Cairo, and we know that from Cairo to the Gulf of Mexico there is always a sufficient depth of water at all seasons to float the naval craft which we have upon the western waters. The Senator from Missouri shakes his head. I ask him to furnish me the evidence during this war of a single naval vessel that has been delayed in getting to Cairo by reason of low water.

Mr. BROWN. I call the attention of the Senator to the fact that some of the worst bars in the Mississippi river are below Cairo.

Mr. TRUMBULL. The Senator does not answer my question.

Mr. GRIMES. I can answer it.

Mr. TRUMBULL. Name.

Mr. GRIMES. I can name to the Senator several vessels that struck on the bar just below Helena.

Mr. TRUMBULL. What were they?

Mr. GRIMES. Half a dozen vessels, iron-clads—the Baron de Kalb, the Carondelet, and others. There is one of the worst bars in the neighborhood of Helena that there is in the Mississippi river.

Mr. BROWN. That proves the necessity of further examination before we pass on the question.

Mr. TRUMBULL. Let us see. I have the official report before me. The least low water on the bars between Cairo and Memphis is five feet.

Mr. GRIMES. Our boats draw eight feet of water.

Mr. TRUMBULL. You may have them loaded so that they will draw eight feet of water. But both the Senator from Iowa and the Senator from Missouri have asserted that the worst bars in the Mississippi are below Cairo. Now I have got the official map of the engineers, which shows that there is never less than five feet of water below Cairo, and there are but two feet above it. Then what becomes of that assertion?

Mr. GRIMES. The Senator from Iowa did not assert any such thing as that the worst bars on the Mississippi river were below Cairo.

Mr. TRUMBULL. I misunderstood the Senator, and beg his pardon.

Mr. BROWN. I said that some of the worst bars in the Mississippi river were below Cairo, as every steamboat man knows.

Mr. TRUMBULL. Then it is the Senator from Missouri who asserts it, and he says that every steamboat man knows what the engineers who measured the water and who report officially on the subject do not know. There is three feet more of water on the shallowest place below Cairo than there is above it. As I said, everybody at all acquainted with this locality knows that the river does not freeze below Cairo, that there is no obstruction by ice. I have before me an official report showing that the lowest depth of

water on any of the bars between Cairo and Memphis is five feet.

Mr. BROWN. May I ask the Senator what he reads from?

Mr. TRUMBULL. From the official report of the engineer department. It may be true that there may, at some particular stage of very low water, be a time when some of the gunboats, loaded and armed, might not be able to pass some of the bars. The Senator from Iowa has mentioned such a case. I did not remember that any of the boats had ever been detained by low water below Cairo. It seems there has been such a case. I was not aware of it. I know that it is only in the very lowest stage of water, which very seldom occurs, that a vessel could be detained. If that be an objection to the establishment of a navy-yard at Cairo, it certainly would be an equal objection to the establishment of a yard anywhere above Cairo, and that would lead to the necessity of going below Helena, down, I suppose, to Memphis.

Mr. RICHARDSON. Helena is below Memphis.

Mr. TRUMBULL. Helena is below Memphis. It would then involve the necessity of going still below Helena. Does anybody propose to establish a navy-yard and depot below Helena? I am quite sure the Senator from Iowa would not propose any such thing now, and we want this yard and depot for war purposes. So much as to the question of the depth of water. The Senator from Michigan, I believe, started the objection.

Mr. HOWARD. I do not understand the Senator from Illinois. I have started no objection. He is entirely mistaken.

Mr. TRUMBULL. I understood the Senator from Michigan to assert that this was an unhealthy location, subject to fever and ague. If I misunderstood him I have no reply to make in reference to it. There was, however, evidence before the committee in regard to the health of the locality.

Mr. HOWARD. I was making an inquiry of the Senator from New Hampshire in respect to the qualities of this location, and I said that I had so understood, but I did not urge it as an objection against Cairo. The Senator from Illinois, he must allow me to say, is entirely out of the record when he charges any such thing as that against me.

Mr. TRUMBULL. An inquiry was suggested in regard to the health of the locality. Now, sir, it was in evidence before the Committee on Naval Affairs that so far from being an unhealthy location, Cairo is one of the healthiest locations upon the western waters anywhere. It is at the confluence of the Mississippi and Ohio rivers. There is a large expanse of water and there is always a current of air at Cairo. The medical officers of the Army who for the last three years have been about Cairo, and some of the highest in position, sent letters which were laid before the Committee on Naval Affairs, testifying to the healthfulness of Cairo, and stating that it is one of the most healthy localities anywhere upon the western waters, and going into some reasons to show why it is so in consequence of the particular locality of the place.

The Mississippi river has been repeatedly surveyed. It has been surveyed with reference to improvement upon it. The corps of engineers have made several surveys, and I have now before me a map of the Mississippi river from St. Louis down to the Gulf of Mexico, made under the Topographical Bureau, I believe, some years ago, showing all the bars and the depth of water upon the bars, with a statement of the depth of water at the lowest stages on the bars.

In addition to this, the attention of the country, as I said before, has been repeatedly called since this war began to the establishment of a western naval depot by the Secretary of the Navy. He has called the attention of naval officers to it. I now hold in my hand—and on this alone, if there were no other evidence, I think it is not unreasonable to insist upon this small appropriation—a communication of A. H. Foote, rear admiral United States Navy, dated Washington, February, 1863. He says:

"The importance of a navy-yard at some point on the Mississippi river cannot be over-estimated, especially in time of war."

There is the opinion of one of your admirals,

now deceased; an admiral who served with distinction, who discharged his duties upon the western waters to the satisfaction of the country and to his own credit. He says:

"The importance of a navy-yard at some point on the Mississippi river cannot be over-estimated, especially in time of war."

"Regarding the best location for a navy-yard, I must frankly confess that I am not at present prepared to give an opinion wholly satisfactory to myself, not having visited Memphis, nor given that attention to Carondelet, Cairo, and Mound City, which is requisite in one who is thus suddenly called upon for his views."

He states this with characteristic modesty in the commencement of his communication. He then goes on to speak in reference to the various places, giving the advantages and disadvantages of each as he conceived them to be. He speaks first of Carondelet:

"Carondelet, the first named, has a good water front, of sufficient depth, I believe, at all seasons of the year, for floating gunboats of any draught. The fact of this point having been selected in building four of the first iron-clad boats that were launched on the western rivers, and all the heavy iron-clads at present under contract on the Mississippi river, seems to show that this place contains many important advantages. Here there is no overflow in the highest stage of the river, to say nothing of the advantage of its being in the vicinity of so large a city as St. Louis, together with the great number of iron-clad gunboats constructed, and now being built, at this place."

"On the other hand, the disadvantages of Carondelet arise from insufficiency of water in the autumn and early part of winter, preventing, at times, the large boats from reaching Cairo. This obstacle may exist for three months in the year, as will be seen by the correct tide or water table. Of the tendency of the channel to diverge from its present course, I have no data sufficient to form an opinion. In the month of October, 1861, our four iron-clad gunboats built by contract, as well as the purchased gunboats Benton and Essex, could not be floated over two or three of the shoals until most of the coal, guns, and heavy stores were taken out to lessen their draught to five feet. I believe that during nine months of the year, as a general rule, gunboats of a draught not exceeding seven feet might safely reach Cairo without difficulty from shoal water. The city of Cairo contains many advantages for a navy-yard. It lies at the terminus of the Illinois Central railroad. It can be easily defended against an attack, and has, on the Ohio river part of the town, an extensive water front sufficient to float gunboats of the heaviest draught. But, on the other hand, the soil is alluvial, and in the highest stage of water it is difficult, at times, to prevent the overflow of the levee, involving serious damages of material and stores. This was the case in May last; the powder and shell could only be safely stored aboard of steamers lining the levee, while it affords no safe place for a magazine or even storehouses containing perishable articles."

"Mound City, a distance of nine miles up the Ohio river from Cairo, has rather more elevation than Cairo. Already three iron-clad gunboats have been built there, and this place has 'ways' for hauling up and repairing steamers. Like Carondelet, it also has facilities, though in a lesser degree, for building and repairing steamers. Still the soil here is alluvial also, and it is not well adapted for the preservation of stores. A branch of the Illinois railroad extends to Mound City; but the place is not so well adapted to defense as Cairo."

"I make no reference to the city of Memphis, other than to say I had no opportunity of visiting it, and therefore am unable to appreciate its comparative advantages for a navy-yard."

"If Carondelet should be selected for a navy-yard, a subsidiary or auxiliary yard at Cairo or Mound City is believed to be essential while the water between St. Louis and Cairo is at its lowest stage."

Thus Admiral Foote in any event, even if Carondelet were selected as the place for a navy-yard, says that an auxiliary or subsidiary yard at Cairo or Mound City is believed to be essential. Now, what do we ask in this bill? We ask an appropriation of \$200,000 for a navy-yard at or near Cairo. This bill will embrace Mound City; it was intended to embrace both points; they are only some six or seven miles apart; Mound City is up the Ohio river a short distance. The bill as reported by the committee would authorize the establishment of a navy-yard at either place. We have the opinion of Admiral Foote, who served on the western waters, a man having the confidence of the whole country, modest and unassuming in his report as we see he is, that a yard at one of these places is essential in any event. And yet we find the Senator from Missouri opposing this bill because nobody has made any examination or knows anything about it!

Again, sir, it is said in that report that at Cairo the soil is alluvial and liable to overflow. That is true so far as the natural soil at Cairo is concerned; but most of the Senators know that Cairo which now contains a population of six or seven thousand inhabitants, is surrounded by a levee over which the water never comes. We had in 1844 and in 1849 floods in the Mississippi river unprecedented before that time so far as anybody knew. The highest floods we have ever had since the settlement of the country, or of which there is

any record, occurred in 1844 and 1849. At neither of these periods did the water rise to the top of the levee at Cairo. Before the levee was perfected, water came into Cairo, and I am not sure but that water came into Cairo in 1844; but since the levee was perfected the papers show that the water has never been over the levee at Cairo or within several feet of the top of the levee. It is as well protected from an overflow as any other portion of the country. There is not only the levee, but in building up the city of Cairo they are filling up the streets. In regard to the keeping of ammunition of which Admiral Foote speaks, it would dampen it to keep it in the ground perhaps anywhere there, but there is no difficulty in constructing buildings in Cairo in which to store ammunition. There are structures in the city of Cairo three or four stories high, built of brick, with stone foundations, heavy buildings which have stood there for years. The foundation at Cairo is as solid as anywhere in the country. There is no sinking of the buildings there—no trouble in that respect.

Now, sir, even if the yard were not permanently to be established at Cairo, and one should eventually be established at Carondelet, or any other point, a subsidiary or auxiliary yard is deemed essential in the opinion of Admiral Foote at Cairo. It is but a small appropriation that is asked by this bill, \$200,000, and it is only to be used at the discretion of the President, if in his opinion the good of the public service requires the establishment of a navy-yard there. Without the passage of this bill you have got to expend probably this amount of money and perhaps more in providing the means of repairing your vessels at Cairo. During this war, naval vessels have repeatedly come to Cairo to be repaired and improved; and when there are no conveniences there for making repairs, it is attended with very great expense. It will be a matter of economy to make this appropriation. You will have then some permanent place, and not have to provide at great expense for the repair of each vessel as she comes up.

Besides, sir, the corporate authorities of the city of Cairo propose to donate to the Government forty acres of land for the purposes of this navy-yard and depot. Now, the Government has to pay for the ground it uses, has to rent it, and perhaps pay an extravagant price for it. Let the Government have a location of its own. It is but a small sum that is asked for the purpose. It is at the point where, without any fostering by the Government, all the great expeditions for the Southwest have been fitted out. It is the center of commerce. It is the point of convergence of rivers reaching thousands of miles in different directions. It is the terminus of the Illinois Central railroad. It is convenient to timber, it is convenient to coal, and has all the advantages that could be asked for as a location for a navy-yard or any Government work.

Under these circumstances, I hope the Senate will not adopt the amendment offered by the Senator from Iowa, which amounts to doing nothing at all, which postpones the work at the very time when we want it, puts it off indefinitely, because if we are to wait for the report of a board of naval officers, we cannot get that report until the next session of Congress, and when the report comes we are then to make provision for it, and then another year is to transpire, so that that proposition will require at least two years before we can avail ourselves of the benefit of a naval depot, and I trust this war is to be over sooner than two years.

Mr. GRIMES. Mr. President, it is very natural that both Senators from Illinois should feel a very deep interest in the passage of this bill, because it is the nucleus around which is to be built up a very large establishment that will greatly inure to the advantage of the State which they have the honor to represent.

Mr. TRUMBULL. No more than yours.

Mr. GRIMES. It may not be any more than to mine, as the Senator from Illinois seems to think; but I do not entertain the opinions in that regard that the Senator does. I suppose the Senator does not intend, of course he does not intend, to create any incorrect impression as to the depth of the Mississippi river, nor does he intend to convey a wrong idea when he refers to the map which lies before him and intimates to

us that that is a map published upon the authority of the Engineer Bureau. I think the Senator is mistaken in that; it is not a map published by authority of the Engineer Bureau. The Engineer Bureau never made any such survey as that of the Mississippi river. Colonel Humphreys, now brigadier general, and Mr. Abert made a survey of the Mississippi river, but they never made such soundings of the river as purport to be laid down on that map. All there is on that map which refers to Messrs. Humphreys and Abert is a mere attachment, a piece of paper written and stuck on to it, the map itself being nothing more nor less than Lloyd's map of the lower Mississippi, and they have adopted in that map what are generally understood as the soundings of the river, neither more nor less. They may be accurate or they may not be. It is very important for us to know what the soundings of the river are before we proceed to establish a navy-yard that is to be a permanent institution of the country.

The Senator says that it is a very small appropriation which is asked for. True, the amount is not large as we look at things now, when we are expending money by the million every day; but it is the entering wedge by which the Senator and the friends whom he represents expect to rive the Treasury open hereafter to pour it out to assist in building up the swamp in the neighborhood of Cairo.

Mr. TRUMBULL. Perhaps I ought to have read the letter sent to me from the Department with this map; I see that the Senator from Iowa is laboring under a misapprehension. The Department took this map and marked upon it the depths. Lieutenant Woodruff, who was then in charge, says in his letter:

"The low-water depths on the sand-bars of the Mississippi river from St. Louis to the Gulf will be noted upon the map of the lower Mississippi (Lloyd's) which he delivered to me, and it is sent to you with the information."

Mr. GRIMES. They have taken what are considered and published in the pilots' charts as the ordinary water-marks. The engineers have made no such survey. They do not know what high-water marks or low-water marks are.

Mr. TRUMBULL. I can refer the Senator to the report.

Mr. GRIMES. I have read the report of Colonel Humphreys. They do not profess to tell and no man can tell in a fresh-water stream what the average depth of the water is at particular seasons of the year. You cannot go into the Mississippi river and sound it and come here and speak accurately as to the depth of water as you can in salt-water streams, where the tide ebbs and flows, and you have the same amount of water from year to year.

But, Mr. President, the Senator relies, in his support of the measure, upon a letter written by Admiral Foote. Now, let us see what this letter of Admiral Foote is. First, the Senate will remark that it was written at Washington, after he had retired from the command of the Mississippi flotilla, and after he had had a year and a half's experience in the Mississippi and the confluent streams; and what does he say? He says:

"Regarding the best location for a navy-yard, I must frankly confess that I am not at present prepared to give an opinion wholly satisfactory to myself, not having visited Memphis, nor given that attention to Carondelet, Cairo, and Mound City which is requisite in one who is thus suddenly called upon for his views."

Admiral Foote, after he had been engaged in commanding that flotilla and going up and down those streams for eighteen months, frankly confesses to his correspondent (and this correspondence is published to convince us) that with all his observation and experience he is not able to give an opinion satisfactory to himself; and yet the Senator from Illinois and the Naval Committee of the Senate, without making any investigation at all, except to elicit inquiries from interested people who came here before them, have not any doubt as to the propriety of establishing a naval depot and navy-yard at Cairo. How much reliance can we place on this report and this assumption on the part of the Senator from Illinois, when a man as capable of judging of that question as Admiral Foote, who had had eighteen months' experience running up and down these streams in various kinds of vessels, confessed frankly that he was incapable of coming to a correct conclusion, because his mind had not been directed to the particular subjects of inquiry which it was

necessary for him to pursue in order to reach a correct conclusion?

The Senate will have observed as the Senator from Illinois read this letter that it was written to Hon. J. W. Noell, a member of the House of Representatives. The issue at that time seemed to be between Carondelet and Cairo, and a contrast is drawn in the letter by Admiral Foote between these two points. Now, I wish it to be borne in mind by the Senate that there are other points than Cairo and Carondelet. There are points all along the lower Ohio and on the Mississippi river that ought to be investigated.

When Admiral Foote spoke of the necessity of an auxiliary yard at Cairo if there should be one established at Carondelet, he only spoke of that as being necessary in case the yard was established at Carondelet. He says:

"If Carondelet should be selected for a navy-yard, a subsidiary or auxiliary yard at Cairo or Mound City is believed to be essential while the water between St. Louis and Cairo is in its lowest stage."

But suppose that some other place is selected than Carondelet for the yard of construction, then he does not pretend that it will be necessary that there should be any auxiliary yard at Cairo. It is only in case one of these two rival points shall succeed that he says it will be necessary there shall be two yards, an auxiliary yard to the main one. Admiral Foote's idea was, I suppose, in that connection, that there should be a yard of construction in the vicinity of St. Louis, where mechanical labor could easily be obtained and where there was not dampness, and where timber and material for naval purposes could be kept and stored without deterioration, because he tells us in this letter that the soil at Cairo "is alluvial, and in the highest stage of water it is difficult at times to prevent the overflow of the levee, involving serious damages of material and stores. This was the case in May last."

The Senator told us that the highest water that had ever been known was in 1844 and 1849, and that in neither of those years did the water break over the levee.

Mr. TRUMBULL. Admiral Foote does not mean to say that the water came over the levee, but it was difficult to keep the stores.

Mr. GRIMES. Let us see what he says: "And in the highest stage of water it is difficult, at times, to prevent the overflow of the levee, involving serious damages of material and stores. This was the case in May last?"

I submit that the legitimate conclusion from that language is that it did overflow and did destroy the stores.

Mr. TRUMBULL. He did not mean that.

Mr. GRIMES. He says that.

Mr. TRUMBULL. He says it would be difficult to prevent it, and it was last May.

Mr. GRIMES—

"It is difficult at times to prevent the overflow of the levee, involving serious damages of material and stores. This was the case in May last—the powder and shell could only be safely stored aboard of steamers lining the levee, while it affords no safe place for a magazine or even storehouses containing perishable articles."

And yet this is the place where it is proposed to establish a permanent navy-yard of the United States! Is it not known to every man here that in consequence of the difficulties attending the post of Cairo and the destruction of public property that there has been there in consequence of this dampness and from other causes, the ill-health of the place, it has been necessary to remove the naval depot to Mound City? Is it not known that the whole profession connected with the Navy believe that Cairo is the last place in the world at which to establish it? Has not our own experience found that it was necessary to take it away from there? Why is it that you propose to place it at this point which has been tried by our experience and found wanting, instead of putting it at Mound City where we now have our naval depot? It is said that Mound City may be included in this bill. I do not believe it will be included in the bill. I am perfectly well satisfied if this bill shall pass the yard will be established at Cairo, the very place of all others that the men who have had the most experience in connection with the subject, who know most about it, say is the last place in the world to establish it.

Mr. President, Admiral Foote says:

"The importance of a navy-yard at some point on the Mississippi river cannot be overestimated, especially in time of war."

The Senator dwells with a great deal of emphasis on this declaration of that gallant commander, as though that had something to do with this question as to the particular location of that navy-yard. I admit the truth of this declaration; I assent to every idea embraced in it; I admit that it is absolutely necessary that we should have a naval depot in the West in time of war; but I venture the prediction that if this war were closed to-day and you establish a navy-yard at Cairo, in less than ten years after peace was declared you would abandon it. But in time of war we do need a yard; but how are you going to use it in time of war? How long is it going to take to establish a permanent navy-yard? We are going to appropriate only \$200,000 by this bill. Next year the demand will be for a million, and you will go on increasing and increasing until you have spent millions in establishing a navy-yard there. Before you can make your yard effective to any particular degree I trust this war will be closed, for it will take at least four or five years to make the yard effective. What do you want of a navy-yard? You now are employing mechanics at Pittsburg, at Cincinnati, at Louisville, at New Albany, and at St. Louis to construct your boats. The purpose of a navy-yard is to concentrate as many as possible of these in and about the yard. The Senator has intimated that that was the idea, for he has told us that if this navy-yard had been built the Government would have saved an immense amount of money. Now, I want to know of the Senator how long he supposes it would take to concentrate mechanics, to establish your machine houses, to construct and put in running order the machinery that will be required to turn out the kind of work that is now being turned out by the mechanics at the various points I have indicated. Three or four years would be necessary. Is that a preparation for the conduct of this war, or is it for some future war that the Senator has some idea of overtaking this country, that he proposes to establish a navy-yard at Cairo?

Mr. President, there is nothing unfair in the proposition I have submitted. There is something that is peculiarly fair in it, and the proposition, it seems to me, ought to commend itself to the judgment of every Senator present. It is to authorize seven experts, men who are familiar with their profession, who know what the wants of the Government are, to go upon the ground and there thoroughly investigate the subject, to see what may be the depth of water at the different points in the Mississippi river, to see what may be the facilities with which labor and workmen can be obtained, to see what may be the character of the soil upon which it is proposed to erect the navy-yard, to examine as to the health of the different locations proposed; in a word, to examine everything in connection with the subject, and then report to Congress at its next session. In that way our minds will be enlightened. We shall not further have controversies in regard to the depth of water, or whether Cairo is a bog or not and overflowed. We shall have something authoritative before us upon which to act, and then we can act for the public good and not as at present, in my opinion, for the good of a particular locality.

Mr. BROWN. Mr. President, while this appropriation professes to be a very small one, we all understand that it is the beginning of a very large one; and I submit whether Senators have that information before them, whether they have that knowledge of the adaptability of various points, that will justify them in beginning an expenditure that may amount to millions of dollars before it is done. Let me say furthermore that while I should be glad, representing my own State, to have this establishment so placed as to benefit its mechanics, I am free to say that if such location is not for the good of the service, if it is not best for the service, I do not want it placed there. I value the good of the service as of more consequence than any benefit that we might partially derive from such a location. But I want to call attention to the argument which the Senator from Illinois has made in regard to the urgency of this matter; he says it will not do to put it off and to appoint a commission to find out the best place, because you want it now. If that argument proves anything it proves fatal to the bill, because it is well known that all the vessels which are now

defending your western waters, all your iron-clads and gunboats, have been constructed not at Cairo but at Carondelet.

Mr. TRUMBULL. Not at all.

Mr. BROWN. The iron-clads have nearly all been built at that point, and what were not built there the material has been furnished from the rolling-mills of St. Louis. I call the attention of the Senate furthermore to the fact that the largest works of iron that are used constantly day and night for the equipping and furnishing and constructing of these gunboats are now in operation at the city of Carondelet. If, therefore, it is present necessity that you demand, the proper plan would be to take possession on the part of the Government of these works which are located where you have coal and iron and men and artisans all conjoined, all collected, and not put it in a remote bog where there have been three different attempts to build a city, and all of them have failed. I think that disposes of the urgency of this matter, and if it did not the bill itself disposes of the urgency. As has been well said by the Senator from Iowa, you propose to expend \$200,000; but how far will the expenditure of \$200,000 go toward erecting a navy-yard for the naval purposes of the western waters between this and the time that the commission now proposed could report and have action taken upon its report? It would be nothing; it would not be sufficient to equip a vessel. It therefore really has no bearing on the case at all, and there is no obstacle to a thorough and a scientific investigation of the merits of the various localities on our western waters for such an establishment as is here contemplated.

But, sir, what I want to call further attention to is the manifest injustice of this bill as it stands. The Naval Committee are not content with putting his matter in the discretion of the President, but they are not willing that the President shall use that discretion for the public good; they are not willing, even if his own judgment and the judgment of the head of the Navy Department should say that this is not the most suitable point, that he shall then select others; but he is tied down in the bill to this one particular spot that is buttressed around with a levee to keep out the water. I do not think that that betrays the desire to benefit the service, but rather betrays the desire to benefit the simple locality; and I do not believe that Senators will do justice to the service or justice to themselves if they insist upon the passage of a bill such as this, and refuse an amendment which is so clear in its justice, which is so eminently calculated to produce the best results for the country, and which can be attended with no possible damage to any one or to any section.

I do not desire to enter into the discussion of the relative merits of Carondelet, or of Mound City, or of Cairo. I do not desire to do so for the reason that all that might be offered to the Senate on those points would simply be the expression of opinion from the Senators who might be interested in behalf of the one locality or the other. Now, I do not think that representations of a character like that are those which should determine this body in the disposal of such large amounts of money as are going to be expended by the establishment of a navy-yard on the western waters. I think that Senators of the United States should have more ample detail of fact, more thorough knowledge, and should above all have the judgment and the opinion of those men of the Navy of the United States whose education has fitted them for a knowledge of this subject, and whose honor is interested in making the best selection possible.

So far as the difference of two feet of water between Cairo and Carondelet is concerned, I think it matters very little; because though the Senator insists, with all his accustomed force, that Cairo has a depth of water of five feet always, and I might be disposed to differ with him on that point, yet his own confession is, or rather the confession of a Senator who is on the Committee on Naval Affairs, that these gunboats draw eight feet of water, and I believe if you will refer to the report of Admiral Foote you will find that he confirms the statement that for three months of the year Cairo would not be suitable for this purpose; in other words, he says that for nine months it would be, leaving the inference that for three months it would not be.

I am, of course, solicitous that this matter shall not be pressed through in this shape. I am solicitous in behalf of those I represent, and solicitous in behalf of large interests which have been established and which are being conducted now in view of the prosecution of naval construction in my own State. How far the speedy passage of this bill would go to destroy all those interests, to draw all the artisans who are now employed in naval construction not only from the city of St. Louis but also from the city of Pittsburg and from all other points on the Ohio and Mississippi and western waters which are now isolated, and concentrating them at Cairo, I must leave to the determination of those more familiar with naval matters than myself. But I am very certain that before we do that, before we strip all these western cities of all that business and of all that manufacture, it would be well for us to know whether, when placed at the point proposed, they will not sink into the bogs that have made it a pestilence heretofore.

Mr. RICHARDSON. Mr. President—

Mr. LANE, of Indiana. With the permission of the Senator from Illinois I wish to move an amendment to the amendment proposed by the Senator from Iowa, or a modification of it, to insert simply after the word "Mississippi" the words "or Ohio," so as to embrace an examination of sites on the Ohio river.

Mr. GRIMES. I am willing to accept that.

The PRESIDING OFFICER. (Mr. POMEROY.) The amendment will be so modified.

Mr. RICHARDSON. Both the Senators who have objected to this bill agree that there ought to be a naval depot upon the western waters. They object to the place. They say that this is not the appropriate place. If I understand the argument of the Senator from Iowa, the contest, in his mind, is between Cairo and Mound City, a point six miles distant.

Mr. GRIMES. I did not say or intimate that the issue was between those places.

Mr. RICHARDSON. I was very unfortunate, then, in misunderstanding the Senator's remarks.

Mr. GRIMES. I said this, however, that the Navy officers who were in charge of that depot, at the head of whom was Admiral Porter, had decided that Mound City was infinitely a better place than Cairo, and they had moved their naval depot from Cairo up to Mound City, which is nine miles off, as I understand.

Mr. RICHARDSON. Well, six or nine miles. It is in the immediate neighborhood. So far as the argument goes of the two Senators, the one from Iowa and the other from Missouri, that you cannot take care of stores and munitions at Cairo, it is sufficiently replied to by our own experience. When the boats are constructed at Carondelet, with a very few exceptions, before the armor is put upon them, before the munitions and the cannon are loaded upon them, they are taken to Cairo or Mound City. The Government to-day have to make provision there to take care of those very articles which the Senators say cannot be taken care of there.

The argument of the Senator from Iowa seemed to lean in favor of Memphis. We all understand and have understood for years and years that from Cairo to the mouth of the Mississippi there is one class of water that will float one class of boats. When you approach the Ohio river, then you come to the navigation of another class of stream. Between Cairo and Louisville and Cincinnati, for a large portion of the year, ice obstructs the Ohio river, and when that does not, low water does. So far as the argument that it is as dangerous navigation below Cairo as it is above on the Mississippi river, there is no man who has traveled on the river that does not know that the danger of navigation is between St. Louis and the mouth of the Ohio river.

Mr. BROWN. I will state to the Senate as illustrative of that point that since this discussion began a Senator has stated to me that some time since he had occasion to make a trip to New Orleans, and that on account of low water he was detained five days in getting to Cairo and twelve days in getting from there down. That is the difference between them.

Mr. RICHARDSON. From St. Louis to Cairo it is one hundred and eighty miles, and from Cairo to New Orleans a thousand. The obstruction to the navigation of the Mississippi river is below

Helena, and Helena is one hundred miles below Memphis. There is no obstruction from the mouth of the Ohio river until you approach Helena. You have one class of water, always easy of navigation, never obstructed by low water, never obstructed by ice, for a distance of upwards of four hundred miles from Cairo south, and the same objection that is urged to the navigation in reference to Cairo applies with equal force to Memphis. These are the points, I believe, that are now being discussed.

I state the fact to be that the entire supply of munitions of war, both for the Navy and the Army for the entire western country, has been at Cairo. Gentlemen talk about the overflow and all that sort of thing. Formerly that was true. The construction of the Central railroad to that point, terminating there, resulted in building up a levee high enough to exclude all high water, and when they come to build the city, the foundations for the houses are already excavated and dug.

Mr. GRIMES. Two or three stories deep.

Mr. RICHARDSON. As many as you want. You can go down two or three stories deep, till you get to the rock after a little.

Mr. GRIMES. Pretty deep.

Mr. RICHARDSON. Not so very deep either. If this objection existed, if you could not take care of your munitions of war, your provisions, your ammunition, and everything of that sort at Cairo, why have the Army and Navy both concentrated there for the last three years? That is an argument, I apprehend, that the Senator from Iowa will not undertake to deny. They have had, as I repeat, at Cairo, the provisions, the munitions of war, quartermaster's and commissary's supplies for three years, both for the Army and Navy in the West. Yet the gentleman tells us here, in reply to that very experience that we have all had, that you cannot preserve them there.

Mr. GRIMES. I do not say so. It is Admiral Foote who says so. I recommend the Senator from Illinois to hear what Admiral Foote says. I will refresh his memory with it:

"But, on the other hand, the soil is alluvial, and in the highest stage of water it is difficult at times to prevent the overflow of the levee, involving serious damages of material and stores. This was the case in May last; the powder and shell could only be safely stored aboard of steamers lining the levee, while it affords no safe place for a magazine or even storehouses containing perishable articles."

The Senator must quarrel with the admiral, who is cited here to sustain his side of the case, not with me.

Mr. RICHARDSON. I am not disposed to quarrel either with the admiral or with the Senator from Iowa. I certainly understood the Senator from Iowa to use the argument. I did not look around to see where he found it. I think he was pretty hard pressed to find an argument; he seized upon this and made the most of it. Take to-day the amount you have paid for constructing steamers for war purposes and the amount paid for transporting the munitions you have upon them, and you would have saved money by having a navy-yard at Cairo. You pay every month for such purposes more than the \$200,000 appropriated by the bill; and yet gentlemen insist on going up to a place where you cannot complete your vessels, but from which you now bring them at enormous expense to Cairo to be completed.

I have but a word to say in reference to Memphis. I will not vote a dollar, certainly not now, to construct public works at a place where you must send armies and navies to defend them. I want them certainly in a safer place than that.

If Senators desire to have places in their own immediate neighborhood considered, be it so, and when they are brought before the Senate for consideration I shall endeavor to dispose of them according to the best interests of the country. I certainly do feel some anxiety for the passage of this bill, but not that it will benefit the people of the State of Illinois more than it will benefit the people of the entire country. I hope I have taken a more liberal view than that. I say to the Senator from Iowa now, that if he will show me anywhere a place that combines more advantages than either Mound City or Cairo, a place with the same amount of water and with all the conveniences of timber and everything needed to make up a vessel-of-war, I will vote with him, I care not whether it is in his State or mine. I am not wedded to this particular place. The unanimous opinion of the Senate seems to be that we ought

to have a naval depot on the western waters. In my judgment—and by that I am to be governed—the point named in the bill is the best point at which we can make an expenditure of money for this purpose now. So believing, I am in favor of the bill. If I believed there was a better point, I certainly would go for that. I am not wedded to a particular locality inside of the State of Illinois. I have voted since I have been in Congress for improvements far away from my own State, and I have not asked for anything for my own section of the State.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa.

Mr. GRIMES. On the adoption of my amendment I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 21; as follows:

YEAS—Messrs. Brown, Buckalew, Clark, Grimes, Hendricks, Howe, Lane of Indiana, Lane of Kansas, Pomeroy, Riddle, Sumner, Ten Eyck, and Wilson—13.

NAYS—Messrs. Anthony, Carlile, Chandler, Conness, Dixon, Doolittle, Foot, Hale, Harris, Hicks, Howard, McDougall, Morgan, Nesmith, Powell, Ramsey, Richardson, Saulsbury, Trumbull, Wade, and Willey—21.

ABSENT—Messrs. Collamer, Cowan, Davis, Fessenden, Foster, Harding, Harlan, Henderson, Johnson, Morrill, Sherman, Sprague, Van Winkle, Wilkinson, and Wright—15.

So the amendment was rejected.

Mr. BROWN. I move to insert after the word "Cairo" in the seventh line of the bill the words "or at such other place as may be found best suited to its location." This amendment will at least give the President the opportunity of selecting a site which in his judgment shall be the best. Gentlemen have predicated this bill on the idea of a reference to the President of the United States. If it is going to him for selection, I think he should be unfettered in regard to its selection along the Mississippi river. I can see no reason why, if he is to be intrusted with the duty of selection, he should be confined exclusively to the city of Cairo or near by. I trust the amendment will be adopted. I ask for the yeas and nays on it.

The yeas and nays were ordered.

Mr. CHANDLER. Any one looking at the map can see that there is but one place for this naval depot. The Senator from Missouri proposes just what we do not wish to do. We wish to settle the point ourselves, to place the depot where it belongs, the only spot on either river where it ought to be located. We wish to leave no discretion anywhere, but to put it where we know it ought to be. You might as well put it in a barn-yard or above the falls of St. Anthony as at St. Louis, where there is not water enough to float your steamers one half the year. Let us settle this point, and settle it so that it will stay settled, and leave no discretion anywhere.

Mr. BROWN. I am thankful to the Senator from Michigan for enlightening me on this subject. He professes to know all about it, to have his own mind fully made up, and I have no doubt it is fully made up; but I think it very strange that the Committee on Naval Affairs in determining on so important a matter, upon which each Senator has to pass his judgment, has given us no report of the facts or the grounds or the evidence upon which they arrived at such definite conclusions. It is a very strange proceeding, sir, and I should like to know on what ground it can be justified.

Mr. CHANDLER. On the ground of common sense and a view of the map: that is all that is requisite. We require no report from that or any other committee: a look at the map will settle it.

Mr. BROWN. The Senator seems to monopolize common sense. He ought to give us the benefit of it.

The question being taken by yeas and nays, resulted—yeas 11, nays 21; as follows:

YEAS—Messrs. Brown, Buckalew, Clark, Cowan, Doolittle, Grimes, Harlan, Lane of Indiana, Lane of Kansas, Pomeroy, and Ten Eyck—11.

NAYS—Messrs. Anthony, Carlile, Chandler, Conness, Dixon, Foot, Hale, Harris, Hicks, Howard, McDougall, Morgan, Nesmith, Powell, Richardson, Saulsbury, Sumner, Trumbull, Wade, Willey, and Wilson—21.

ABSENT—Messrs. Collamer, Davis, Fessenden, Foster, Harding, Henderson, Hendricks, Howe, Johnson, Morrill, Ramsey, Riddle, Sherman, Sprague, Van Winkle, Wilkinson, and Wright—17.

So the amendment was rejected.

The bill was ordered to be engrossed for a third

reading; and was read the third time. On its passage Mr. BROWN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 28, nays 3; as follows:

YEAS—Messrs. Anthony, Carlile, Chandler, Clark, Conness, Cowan, Dixon, Foot, Hale, Harlan, Harris, Hicks, Howard, Lane of Kansas, McDougall, Morgan, Nesmith, Pomeroy, Powell, Ramsey, Richardson, Saulsbury, Sumner, Ten Eyck, Trumbull, Wade, Willey, and Wilson—28.

NAYS—Messrs. Brown, Doolittle, and Grimes—3.

ABSENT—Messrs. Buckalew, Collamer, Davis, Fessenden, Foster, Harding, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Morrill, Riddle, Sherman, Sprague, Van Winkle, Wilkinson, and Wright—18.

So the bill was passed.

RELIEF OF SEAMEN OF LOST VESSELS.

On motion of Mr. HALE, the bill (S. No. 246) for the relief of officers, seamen, and others borne on the books of vessels wrecked or lost in the naval service, was considered as in Committee of the Whole.

It proposes to authorize the accounting officers of the Treasury, under the direction of the Secretary of the Navy, in settling the accounts of officers, seamen, and others, borne on the books of any vessel in the Navy, which shall have been wrecked, or which shall have been unheard from so long that her wreck may be presumed, or which shall have been destroyed or lost, with the rolls and papers necessary to a regular and exact settlement of such accounts, to fix a day when such wreck, destruction, or loss shall be deemed and taken to have occurred, and to adjust and settle the accounts on principles of equity and justice.

Whenever the officers, seamen, or others, borne on the books of a vessel of the Navy, shall have lost their clothing or other personal effects by the wreck, destruction, or loss of such vessel, the Secretary of the Navy may appoint a board of three officers of the Navy, including a paymaster, to make a careful examination and scrutiny of claims for losses so incurred, and the board is to have power, with the approval of the Secretary of the Navy, to award to the officer, seaman, or other person, who may have incurred such loss, without neglect or fault on his part, the value of the property lost to an amount not exceeding two months' pay, in the case of an enlisted man, nor one month's sea pay in any other case. The benefit of the act is to be extended to the officers, seamen, and others, borne on the books of any vessel of the Navy wrecked, destroyed, or lost during the present war, whose accounts shall not have been settled, or who have not heretofore been compensated for clothing or other property lost by the wreck, destruction, or loss of such vessel.

The Committee on Naval Affairs proposed to amend the bill by striking out the word "officer," before "seaman," in line ten of section two, and inserting after "person" the words "not an officer;" and in section three by striking out, in line two, "officers," and after "others" inserting "not officers."

Mr. HALE. The bill was prepared at the Navy Department and sent to the committee for the purpose of enabling the Department to settle these matters without coming to Congress for a special act in every case. They inserted the word "officers" so as to extend this relief to officers; but as the uniform practice of the Government has been the other way, against compensating officers under such circumstances, the committee did not deem it advisable to make that departure at this time.

The amendment was agreed to.

The bill was reported to the Senate, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were read twice by their titles, and referred to the Committee on Military Affairs and the Militia:

A bill (No. 121) for the relief of William P. Richner, seventy-seventh regiment of Ohio volunteer infantry;

A bill (No. 543) to increase the efficiency of the medical corps of the Army;

A bill (No. 545) to amend an act entitled "An act to provide for the payment of horses and other property destroyed in the military service of the United States;"

A bill (No. 546) to regulate the rank, pay, and

emoluments of veterinary surgeons of cavalry regiments;

A bill (No. 548) to provide for the relief of James Lindsay;

A joint resolution (No. 23) for the relief of the officers of the fourth and fifth Indian regiments; and

A joint resolution (No. 103) for the relief of Mary Kellogg.

ERICSSON'S FLOATING BATTERIES.

On motion of Mr. HALE, the joint resolution (H. R. No. 95) authorizing the Secretary of the Navy to amend the contract with John Ericsson for the construction of two impregnable floating batteries, the Dictator and the Puritan, was considered as in Committee of the Whole.

It is recited that the Navy Department, on the 28th day of July, 1862, entered into contract with Captain John Ericsson, of the city of New York, for the construction of two impregnable floating batteries, the Dictator and the Puritan; and that experience with a similar class of vessels in actual conflict and during a varied service of more than two years has demonstrated that many improvements could be made to render them more complete and efficient as vessels of war; and that these improvements have added largely to the cost of construction of each of these vessels, rendering it impossible for the contractor to complete them under existing arrangements; and that it is of the utmost importance to the honor and interests of the country that they should be finished and ready for service at the earliest moment; and it is therefore proposed to authorize the Secretary of the Navy to amend the existing contract for the construction of these vessels, so far as it relates to the Puritan, and to appoint a competent board to ascertain the present value, as far as completed, of that vessel, and of the material on hand deemed actually necessary to her construction, and to pay to Captain John Ericsson, the contractor, the amount of valuation so ascertained, deducting therefrom any sums already advanced toward the completion of the vessel; and upon this payment being made by the Secretary of the Navy the rights of the contractor to the vessel and material, or any portion thereof, are to cease, and be vested wholly and absolutely in the United States, which shall thenceforth proceed to complete the vessel under such arrangements as may be deemed most advantageous. The Dictator is to be completed by the contractor upon the same terms and conditions as if this resolution had not been passed. No action is to be had under the resolution until the contractor shall have signified to the Secretary of the Navy, in writing, his acceptance of its provisions and his willingness to superintend to completion the construction of the Puritan; and it is not to take effect until the completion and delivery of the Dictator. That it shall be the duty of the Secretary of the Navy in carrying the resolution into execution to apportion and apply to the Dictator, in payment for that vessel, only such portion of the gross contract price of \$2,300,000, for the Dictator and Puritan, as the Dictator would justly be entitled to if both vessels had been completed at the price and in the mode of construction specified in the contract, special reference being had to the difference of cost between the two vessels, arising from the difference in their construction provided for in the contract.

Mr. HALE. As this resolution provides for a modification of a contract and the advancement of considerable money, I will simply state the facts and then leave the matter to the Senate. A memorial was sent to the Senate by Captain Ericsson asking for relief. That memorial was transmitted by the Naval Committee to the Secretary of the Navy with the request that he would make any suggestions which occurred to him in regard to it. He sent this letter to the committee:

NAVY DEPARTMENT, May 30, 1864.

SIR: I have the honor to acknowledge the receipt of your communication of the 20th instant, inclosing the petition of John Ericsson asking an additional allowance on his contract to construct the Dictator and Puritan, and requesting the views of the Department on the subject.

The memorialist is the well-known inventor of the turreted class of naval vessels which have been recently constructed and which have rendered invaluable service to the country. For harbor and coast defense, the turreted vessels are unequalled, and although but briefly in service, their great strength, wonderful capability of endurance, power of resistance and efficiency have been abundantly proven. The first of this description of vessels, the Monitor, won

for herself a reputation that is since borne by vessels of her class. Tried as an experiment, the success of which was doubted by no inconsiderable portion of those who were deemed competent judges, she nevertheless proved eminently successful, and in conflict with the Merrimac, at a critical and highly interesting moment, rendered memorable service to the country, and acquired for herself historic renown. One of her successors, the Weehawken, also built by the memorialist, performed a feat second only to that of her predecessor, in the capture of the formidable armored steamer Atlanta.

The prowess and success of the Monitor, which was of only about seven hundred and seventy tons burden, led to an arrangement for the construction of two vessels on similar principles, but vastly greater proportions—vessels that could and would in conflict overcome the most formidable armored ships afloat.

The conflict between the Monitor and Merrimac, in Hampton Roads, took place in March, 1862, and on the 28th of July, following, a contract was made with the memorialist for the Dictator and Puritan, (both included in one contract,) whose united burden is six thousand two hundred and ninety tons, and the price for the two vessels was stipulated at \$2,300,000, one to be completed in nine months, and the other in twelve months, from the date of contract.

These vessels, as stated, are of the same general character as those for harbor defense. The memorialist was aware of the different conditions to be fulfilled, the plans and specifications having been deliberately and carefully prepared by himself. In making this contract the Department endeavored, as was its duty, to secure terms favorable to the Government, but without inflicting loss upon the contractor.

So far as the work is completed, it is but justice to say that it is in all respects creditable to the memorialist and satisfactory to the Department; but the memorialist claims that in consequence of the increase in the cost of material and labor, and of the improvements that have been made as the work has progressed, great pecuniary loss has befallen him. Some of the stipulations in the contract cannot be fulfilled until the vessels are completed and tested. Among the stipulations proposed by the contractor, and which is embodied in the contract, is one that the vessels are to make sixteen knots per hour for fifteen consecutive hours. Should this part of the agreement be accomplished it will be a great feat; but only when the work is completed can this important result, one of the essentials to the efficiency of these vessels, be realized.

Alterations and improvements have, as stated in the memorial, been suggested and introduced; but it should also be stated that all which were not embraced in the specifications of the original contract are being paid for as extra as the work progresses. It should also be stated that the Department has not ordered any additional work causing delay, and is not, therefore, in any degree responsible for any advance which may have taken place in the cost of labor or material since the work was commenced.

That the memorialist and his associates, or sub-contractors, are liable and likely to sustain a loss on the vast expenditure that has been made under the original contract is not questioned. The Department, knowing some of the embarrassments attending this great outlay, has extended its favorable consideration to this case. The work was novel; unanticipated delays intervened; great changes have taken place in our monetary concerns affecting prices and every business interest—for none of which, however, was this Department responsible, and could therefore afford no relief. But the reservation on this, as on previous contracts, for the security of the Government and for the faithful execution of the work, is one fourth of the whole amount. In order to aid the memorialist, the Department, in the case of the Dictator, which is nearest completion, has reduced the amount of this reservation to the one sixth part, and has paid over the difference to the contractor. When the remaining vessel, the Puritan, shall have attained a corresponding state of completion, a similar payment will be made on that vessel, provided the sureties, who as well as the Government are interested in the reservation, consent, and are not thereby relieved from their liability.

One of these hulls with its motive machinery, and the turrets for both vessels, are being made by Mr. Delamater, of New York, for the contractor. The hull of the other vessel is built for him by the Continental Iron-works of Brooklyn, and the motive machinery by the Allaire works of New York. Each and all of these are likewise doing other work for this Department under direct contract with it. The Department has no information in relation to these sub-contractors, either as to the price or manner in which the labor is paid—or when or from whom the iron or other material was purchased with which to execute the contract—or whether the losses are to fall wholly on the memorialist or are to be borne in part by the sub-contractors, who, if sufferers, may hereafter appeal to Congress for compensation.

These are matters properly to be considered in connection with the merits of the claim presented in this memorial.

While, as remarked, it is not questioned that in consequence of changes which have taken place since this agreement was made, its completion is hard of fulfillment, it is due to the Department to say that it entered into this contract with the memorialist on terms fixed by himself and considered fair to all, and all work not specifically included in the original specifications proposed by the memorialist himself is paid for as extra by the Department.

There are no professional or technical points involved in the case.

I am aware of no complaint against the Department of severity or illiberality.

The case is one that presents itself to Congress for fair and liberal consideration. The memorialist has been a public benefactor, and in the fullness of patriotic zeal has freely given to his country the productions of his genius and the labors of a remarkable mind. In doing this and undertaking to furnish the Government with vessels that should give it maritime supremacy, he does not appear to

have been influenced by pecuniary motives. His work has been well done and is worthy of the Government and country. The machinery to execute his contract has, to some extent, had to be made by the memorialist in order to construct his vessels, which are themselves novel in naval architecture. These and other causes, partly at least governmental, contribute to make this case an unusual one. Of the wisdom and propriety of making it exceptional, and of extending relief to the memorialist, Congress can alone decide and must be the exclusive judge.

The memorial is herewith returned.
I have the honor to be, very respectfully, your obedient servant,
GIDEON WELLES,
Secretary of the Navy.

Hon. JOHN P. HALE, Chairman Committee on Naval Affairs, United States Senate.

I will now read Mr. Ericsson's statement, and leave the question with the Senate:

NEW YORK, June 12, 1864.

SIR: The honorable Secretary of the Navy in his reply to your communication of the 20th of May, requesting the views of the Department on the subject of my petition for additional allowance on the contract for constructing the Dictator and Puritan, has been pleased to recommend my case to the favorable consideration of Congress; but the honorable Secretary, in his zeal to curtail the expenditure of the Department, has not been so liberal in paying for extra work as his communication would indicate, for notwithstanding the positive recommendation of Admiral Gregory to pay the whole amount claimed, and notwithstanding the awards in my favor of two separate boards of naval officers and engineers, more than one third of the work enumerated in my supplemental specification for extra work has been ruled out by the Department under the assumption (most erroneous, in my humble opinion) that it formed part of the contract. Nor is this all, for the prices in my supplemental specification were fixed a year ago, since which an increase of thirty per cent. on labor and materials has taken place. Again, the payment of the difference of eight and a third per cent. of the reservation, which the honorable Secretary promises when the work on the Puritan shall have advanced as far as the Dictator, namely, when the vessel is nearly ready for trial, will come too late. But the frank statement of the Secretary of the Navy "that the memorialist and his associates, or sub-contractors, are liable and likely to sustain a loss on the vast expenditure that has been made under the original contract is not questioned," together with his forcible remark that "the work was novel; unanticipated delays intervened; great changes have taken place in our monetary concerns affecting prices and every business interest"—these statements of the honorable Secretary would appear to be all-sufficient to entitle me to favorable consideration. Congress, I feel confident, will not refuse to grant relief in view of the peculiar merits of the case, as set forth by the chief of the Navy Department.

The suggestion of the honorable Secretary that sub-contractors "who, if sufferers, may hereafter appeal to Congress for compensation," I deem it my duty to dispose of at once, and to assure you that unless I could show that all claims had been liquidated, I should not have petitioned for relief.

For the satisfaction of the Naval Committee and Congress I have now the honor to transmit acknowledgments from the builders of the ships and machinery, together with their bonds releasing the United States.

I have also the honor to transmit the cashier's statement marked A, duly sworn to, showing that up to June 11 the sum of \$2,415,449 has been paid out in cash for the two ships. In addition to which amount I owe to the sub-contractors \$94,542, (see statement marked B.) together, \$2,509,991. To meet this expenditure I have received from the Navy Department the sum of \$1,819,134, as per statement marked C. It will be seen, therefore, that the cash actually paid out in excess of receipts, together with the money now due to the sub-contractors, amounts to \$690,857. One year's interest on this sum, at seven per cent., would amount to \$48,359. Mr. Babcock has, however, not included in his statement the disbursements attending the negotiations connected with raising funds; but as the building of the vessels has occupied over twenty-two months the outlay on this account will somewhat exceed \$40,000, which, added to the before-named \$690,857, shows the actual outlay in excess of receipts to be \$730,857.

To complete the Dictator agreeable to contract will require, at current rates of materials and labor, \$198,747. The Puritan, with her two turrets, will require \$320,279, as shown by Mr. Delamater's certificates, marked E. The foregoing sums, added together, will amount to \$1,447,833. To meet this outlay, I have the balance to be paid (after completion) by the Navy Department on the original contract, and the balance due on extra work, together \$866,446. (See statement D.) Accordingly there will be a deficiency of \$581,437 to be made good by myself and associates. But as the reservation will not be paid until several months after delivery, and since the two last payments under the contract will not be paid until after delivery of the two ships at the navy-yard, the sum of \$1,447,833 must in the mean time be raised by myself and associates. It will hardly be necessary for me to assure the Naval Committee that it is wholly out of our power to furnish such an amount, and that therefore the ships cannot be furnished unless relief is granted by Congress.

I am, sir, respectfully, your obedient servant,
J. ERICSSON.
Hon. JOHN P. HALE, Chairman of Committee on Naval Affairs, United States Senate.

This joint resolution proposes to grant the relief asked for, which is substantially that he shall go on and perfect the ship that is nearest to perfection, and that the Government shall take the other at an appraisement.

Mr. HENDRICKS. I wish to ask the chairman of the Committee on Naval Affairs whether these vessels form a part of the twenty monitors

that it is understood will not float with the turret and armament.

Mr. HALE. No, sir, these are very different things.

The joint resolution was reported to the Senate, ordered to a third reading, and read the third time.

Mr. ANTHONY. I am in favor of the purpose of this resolution, but I have had some difficulty to understand whether the resolution accomplishes precisely what was intended, or whether it does not go beyond what was intended. No man in the country, I am sure, can have a higher admiration for the genius and patriotism and devotion to country of Mr. Ericsson. I do not think that in this war any man has entitled himself more to the public gratitude. I have no doubt that these vessels have been built faithfully, and that their construction has resulted in great loss to Mr. Ericsson and those associated with him in this work, and I desire that they should be made whole. I desire that the contractors should receive from the Government for these vessels every dollar which they have expended, and which I have no doubt has been well expended, and then I desire that Mr. Ericsson should have a suitable reward for his exertions and discoveries. But I wish to ask the chairman of the Naval Committee a question in regard to the effect of this resolution. These vessels were contracted for two years ago. I suppose the iron and machinery and large portions of the work were contracted for at the prices then prevalent, gold being a great deal lower than it is to-day certainly. Now, are we to take the Puritan at a valuation based on the present prices of materials and labor? I suppose iron is worth now more than double what it was when the iron in this vessel was bought. Is it meant that we are to pay for the vessel what it would cost to build it now, or what it did cost at the time the materials were purchased? The latter, I think, every Senator would be in favor of allowing. I think it would not be fair to the Government to pay what it would cost to build it now.

I feel great reluctance in making this statement, because I am very desirous that Mr. Ericsson and the very honorable gentlemen who have been associated with him in performing a public service should come out of it well. I wish the resolution explained in the particular to which I have referred: I suppose the chairman of the committee can do it.

Mr. SHERMAN. This is a very important proposition. I desire to know if it has any connection with the bill for the relief of the contractors for the double-enders.

Mr. HALE. Not the slightest in the world. This stands by itself; it has no connection with any other bill.

Mr. SHERMAN. There is something in the point made by the Senator from Rhode Island. The appraisement of the present value of the iron alone might give to the contractors an enormous profit. They undoubtedly purchased the iron much lower than the present rates. An appraisement of the vessel now might give them an enormous profit instead of simply making them whole. I am disposed to vote for a proposition to make Mr. Ericsson whole; not to allow him to lose anything, because it was an experiment. I am doubtful whether the resolution as it stands would not give too much. Not being a member of the Naval Committee I am not sufficiently informed to say how that is.

Mr. ANTHONY. I have prepared an amendment to be submitted if it meets the views of the chairman of the Naval Committee, so as to make the joint resolution read thus:

Be it resolved, &c., That the Secretary of the Navy be, and he is hereby, authorized to amend the existing contract for the construction of the Dictator and the Puritan, and to appoint a competent board to ascertain their cost as far as completed, and of the material on hand deemed actually necessary to their construction, and of interest on the same, and to pay to Captain John Ericsson, the contractor, the amount of valuation so ascertained, deducting therefrom any sums already advanced toward the completion of said vessels; and that on said payment being made by the Secretary of the Navy, the rights of the contractor to said vessels and material or any portion thereof shall cease, and be vested wholly and absolutely in the United States, which shall thenceforth proceed to complete said vessels under such arrangements as may be deemed most advantageous: Provided, That no action shall be had under this resolution until said contractor shall have signified to the Secretary of the Navy, in writing, his acceptance of its provisions and his willingness to superintend to completion the construction of said vessels.

And be it further resolved, That upon the completion of said vessels, and their delivery to the Government, and their acceptance, the Secretary of the Navy is authorized and directed to pay to John Ericsson, in addition to such compensation as may be agreed upon for his services in superintending the completion of said vessels, the sum of — dollars.

I do not know that this is exactly right, but I have felt it my duty to suggest it to the Senate. I would rather pass the resolution as it is than not pass any at all, for I think some relief is due to him and his associates. I understand it is their opinion—and they are gentlemen who would make no misrepresentations on the subject—that the resolution does not make them whole; but at the same time they would rather have it than a better one, because it is late in the session and they fear that any amendment adopted here may not be acted on by the House of Representatives. There is also another consideration of very great importance, and that is that the vessels ought to be immediately prosecuted to completion; but still I do not think the Government ought to pay the present valuation of iron and labor that was bought and performed two years ago.

Mr. DIXON. I like the original proposition better than this amendment. It seems to me this complicates the matter, and I do not see that it protects the Government more than the original proposition as passed by the House of Representatives, and reported by our committee.

Mr. SHERMAN. It seems to me that to pay Mr. Ericsson and his associates the present value of these vessels would be to give them a profit of at least one hundred per cent. on the entire cost of the work. That cost was disbursed by them a year or two ago. Probably some of the contracts were made immediately after the contract with the Government. To give them the entire present value would be to give them an enormous profit on their work. They ask for relief. Ordinarily they would not be entitled to relief. They made a contract with the Government which they were bound to perform, and if it were an ordinary case I would not extend any relief to them. But the case of Mr. Ericsson is rather peculiar. Here was a new invention, a species of vessel demanded by the wants of the Government, useful for the Government, and I think the Government ought to bear the burden of the loss, if there has been any, in the experiment. There is no reason why the whole burden should be thrown on Mr. Ericsson and his associates. I am willing to make them whole and allow him a reasonable compensation for his services while superintending these vessels. I have no objection to that; but, under color of estimating these vessels at their present value, to give to the gentlemen who built them an enormous profit, I think would be grossly unjust to the Government. I hope we shall not do so. I am perfectly willing that an account shall be rendered, and that we shall take the vessels off the hands of these gentlemen at their cost, allowing Mr. Ericsson a reasonable compensation for his personal services. I think that is all the relief we can properly render, especially in the present condition of our money affairs.

Mr. HALE. There is no mistake about this matter, and if Senators will give me their attention for a few moments I think I can make them understand it. There is only one vessel to be appraised. The Dictator is nearly done, and Mr. Ericsson is to go on and finish it at his own cost and in his own way. To appraise the other at its actual cost, without taking into consideration its present value, would be no relief at all. Mr. Ericsson states to you that he is actually behindhand in money that he has paid out on these two vessels, over and above what he has received from the Department, without casting interest, over six hundred and ninety thousand, nearly seven hundred thousand, dollars; and he tells you further, that to complete the Dictator, which he has got to complete, will require \$196,000, and upon that there will be an enormous loss. How is it to be made up? The Government does not interfere in the case of the Dictator; he is to go on and complete it, and complete it at an enormous loss. How is that to be made up to him? By taking the other vessel off his hands at its present value.

I do not understand exactly the logic of the Senator from Rhode Island. He says he is willing to make Mr. Ericsson whole, and to pay him

a bonus in addition, which bonus is left blank. One of the gentlemen, of very high respectability, who has been associated with Mr. Ericsson, and is one of his sureties to the Government, stated to the committee that if you passed the resolution in the form in which it now is he would be very glad to be let off with a loss of \$100,000 under the resolution as it now stands. You should remember when you come to estimate the value of these vessels—there are two of them—that there was to be \$2,300,000 paid for them, which would be \$1,150,000 for one, allowing them to be equal.

This resolution proposes simply to give Captain Ericsson for the \$690,000 that he is now actually deficient in money advances what can be made by estimating the value of the vessel at its fair price. That is all the relief proposed. It will not make him whole. Such was the testimony before the committee; but still as it is a great undertaking and involves immense capital he is willing to take this rather than to wait for anything further. Let me ask my friend from Iowa if he thinks it possible that the increase in the price of iron on a vessel that is to cost a little over \$1,100,000 can be such that Mr. Ericsson can make a profit. We know that he is now out of pocket for money actually advanced \$690,000, and nearly \$200,000 are required to finish the Dictator. That will be \$900,000 that he will be out of pocket; and is it possible that he can make that amount or anything like it out of the increased value of the iron which is now in the Puritan? for that is all there is of it. The other vessel we do not interfere with.

It seems to me if we are going to do anything we had better do this. If the amendment of the Senator from Rhode Island should be adopted it will be a total defeat of the measure. It is of immense consequence that these vessels should be prepared and ready for service. The Government wants them, and wants them immediately. If we are going to do anything we had better do it now.

The PRESIDENT *pro tempore*. The question is on the passage of the joint resolution.

Mr. HALE. I thought it was on the amendment.

The PRESIDENT *pro tempore*. The Chair does not understand the amendment to be pressed.

Mr. ANTHONY. I shall not press it. I merely wished to bring the matter to the attention of the Senate.

Mr. SHERMAN. I move to reconsider the vote by which the joint resolution was ordered to a third reading. I simply desire to offer the amendment suggested by the Senator from Rhode Island.

The motion was agreed to.

Mr. SHERMAN. I move to strike out the words "present value" wherever they occur and to insert "actual cost." I am not familiar enough with the amendment of the Senator from Rhode Island to offer it. If he will explain it, I will offer it.

Mr. ANTHONY. That I think will not answer the purpose, because undoubtedly there has been a loss upon the Dictator, and if Mr. Ericsson is compelled to bear the whole loss upon the Dictator and then is only paid the actual cost of the Puritan, he will be largely out of pocket. The amendment I suggested was that he be paid the actual cost of both vessels with interest upon that sum.

Mr. SHERMAN. If the Senator's amendment is prepared and he will hand it to me I will offer it.

Mr. JOHNSON. Is there nothing in the amendment offered by the member from Rhode Island that does not go beyond that?

Mr. GRIMES. Yes; there is another section giving a gratuity.

Mr. JOHNSON. I thought so.

Mr. GRIMES. What do I understand to be the question before the Senate?

The PRESIDENT *pro tempore*. There is no question now before the Senate.

Mr. SHERMAN. I will offer my amendment in order to test the sense of the Senate by inserting the words "actual cost" for "present value" where they occur in the sixth line, and if the Senate should adopt that as the rule it will be very easy then to make it apply to both the Dictator and the Puritan.

Mr. JOHNSON. I may be incorrectly in-

formed, but I learn from gentlemen in whom I think I have every reason to rely, that even with the resolution as it came from the House of Representatives there will be a loss, and if that is so, the amendment proposed by the honorable member from Ohio and included in the amendment suggested by the honorable member from Rhode Island will make that loss the greater.

The facts, as I understand them, are, that in consequence of alterations in the vessels, not included in the original contract, the expense of their construction has been very greatly enhanced, and that that expense has been still more enhanced by the expense of all the material that they have been obliged to purchase in consequence of the depreciation of the currency. The resolution as it came from the House of Representatives assumes that we are to pay for these vessels only what they are worth to us, no more. We do not propose to give anything to Mr. Ericsson or the sureties of Mr. Ericsson beyond the value of the vessels to us, and I submit that if the vessels are worth so much to us, and if by giving that amount to Ericsson we still leave him the loser, that it is exacting a very hard bargain upon him to reduce it by the amendment proposed by the honorable member from Ohio so as to make that loss the greater.

Mr. President, I had some experience in feeling the great boon that Ericsson conferred upon the nation by the discovery of what are called his monitors. The Legislature of Maryland was in session when the Merrimac made her appearance at Fortress Monroe, and when she destroyed two of the finest ships of the Navy, and if she had not been worsted she would evidently have been able to destroy all the rest. There was a great deal of uneasiness at the head of the Chesapeake as to the result. When the morning papers conveyed to us the tidings that that little vessel called the Monitor, under the command of Worden, had met the Merrimac, whose size was double her own and more, and we found that she had been able to drive her back and to save the fleet, there was not a member of that Legislature, if it had been asked as a condition upon which the safety then felt had been procured, would not have voted millions to the inventor of the Monitor.

But these two vessels are not monitors such as is the one of which I have spoken. They are magnificent ships, and he who is destined to command the one, selected by the Department for his gallantry and skill, has told me, not in a spirit of boasting, weeks and weeks ago, when he anticipated to be afloat upon her, that upon this Dictator which we are to get under this resolution he would not be afraid to meet the naval armaments of England and France combined, and I have confidence in his judgment. He may have overrated her ability, but he could not have overrated it to such an extent as not to authorize us in relying upon his judgment that she is more than an equal to any two of the ships that belong to either of the Governments to which I have adverted.

I want them afloat. This resolution puts them afloat; and why are we doubting about it? Upon what ground are we doubting about it? Not upon the ground that the vessels are not worth to us every dollar at which anybody could appraise them now, but because if we give to that inventor who has placed us in a situation to defy the navies of the world what they are worth to us, it is possible that he may gain rather more than he has expended.

Mr. HALE. I want to set the Senator right on that point. He seems to labor under the impression that we are to appraise for both vessels. We only propose to pay for one.

Mr. JOHNSON. I understand that. The honorable member reminds me, and I have not forgotten it, that we are to get the Dictator without any appraisal, and the only one that is to be appraised is the Puritan. Appraised how? By what standard? Appraised by the standard which the appraisers may suppose to be her present value; and should we halt in seeking to enforce a hard bargain, as the result has proved it to be, as between the United States and this inventor, when we must all admit that with those two vessels New York will be safe, and every other port of the United States will be safe as against any incursion of any naval foe coming either from England or from France? I hope not, sir.

Mr. GRIMES. I have not looked into the matters of fact connected with this resolution, but if I understand it the amendment proposed by the Senator from Rhode Island has altogether a different effect from that contemplated by the Senator from Rhode Island. I think it was stated here that Captain Ericsson, if this resolution passed as it came to us from the House of Representatives, would at any rate be the loser to the amount of \$160,000.

Mr. HALE. One hundred thousand dollars.

Mr. GRIMES. If the amendment of the Senator from Rhode Island be adopted?

Mr. HALE. I speak of the particular amendment now before us.

Mr. GRIMES. It is the same one. I believe that the Senator from Ohio adopted it. It would refund to Captain Ericsson every dollar he has advanced, making him entirely harmless, and then he has another amendment which he proposes to put on to pay a gratuity to Captain Ericsson. I will read the resolution, as I understand the Senator from Rhode Island proposes to amend it:

That the Secretary of the Navy be, and he is hereby, authorized to amend the existing contract for the construction of these vessels, and to appoint a competent board to ascertain the actual cost, as far as completed, and of the material on hand deemed actually necessary to their construction, and to pay Captain John Ericsson, the contractor, the amount of valuation so ascertained, deducting therefrom any sums already advanced toward the completion of said vessels; and that upon said payment being made by the Secretary of the Navy the rights of the contractor to said vessels and material or any portion thereof shall cease and be vested wholly and absolutely in the United States, which shall thenceforth proceed to complete said vessels under such arrangements as may be deemed most advantageous, &c.

That applies to both the Puritan and the Dictator. Then it directs the board to examine the accounts of Captain Ericsson and his sureties, see exactly the amount that has been expended for material and for labor and the amount of material that may be on hand, and pay it to him and his sureties. There is no particular loss, as I understand it. If there is, I should like to have some gentleman tell me where. Then it proposes after this has been done, after we have paid to Captain Ericsson everything that he or his sureties have advanced, and paid him for all his labors, that we shall go on and complete the vessels, and the Senator proposes to give him a gratuity besides. It seems to me—I may be rather obtuse and not see it—but if it be true, as no doubt it is, that Captain Ericsson would be the loser to the amount of \$100,000 by the original proposition of the House of Representatives, he will be certainly saved that \$100,000 by the amendment of the Senator from Ohio.

Mr. JOHNSON. Then we should pay more.

Mr. GRIMES. But we do pay more. We want to do justice to Captain Ericsson, I take it; we want to do exactly what is right, and if it costs more let us pay it. It is saving Captain Ericsson harmless, and we are getting our vessels at what they actually cost. That is all there is in the amendment.

Mr. FOSTER. It seems to me, Mr. President, that there are two substantial objections to the amendment, either of which by itself would induce me to vote against it. The first one is that it would produce delay; these vessels would not be completed nearly as speedily as if we passed the resolution reported by the committee; and that is to me a fatal objection to the amendment, for I consider promptness as it regards the completion of these vessels as more important than money. In the next place, I believe the Government would lose money by adopting the amendment. As it stands at present the board to be appointed by the Secretary to estimate the value of the Puritan will not, as I believe, place on her any fanciful but her real value; and that, it seems to me, the Government ought to be willing to pay. No doubt her present value will be somewhat more than she has cost her builders, and if that were the only ship, if it stood there alone, there might by possibility be an objection; but when we take into account that here is the Dictator by the side of the Puritan, which has cost her builders vastly more than the contract price, they having lost upon the construction of that vessel already something near half a million dollars, and that loss is to be borne by the present builders, they to go on and complete the Dictator according to the contract without additional allow-

ances, it seems to me but fair that we should allow something to the contractors on the price of the Puritan. Estimating her at her present value will not by any means be hard upon the Government, while it will certainly not be extra liberal to the builders when we take into account the two vessels.

The principle of the amendment proposed is that we take both the vessels at the present time at their cost, ask these builders to show their accounts for material and labor, and pay them so that they are made whole, and we then take the material which they have on hand necessary for the completion of the two vessels and pay to the builders a fair price for that. We cannot do that as I believe without a greater expenditure of money than the amount which we shall have to pay by passing this resolution. Besides, the more fatal objection is the delay which we shall undoubtedly encounter if we adopt this amendment, making it necessary for the resolution to go back to the House of Representatives and endangering the passage of any resolution as between the Houses between this and the time of the adjournment, and unless something is done these vessels will stop where they are. These builders have gone to the utmost of their ability. They have exhausted their means and exhausted their credit, and there is required a million dollars or thereabouts to complete the vessels, which they cannot raise. The result therefore will be that these vessels will be unfinished, and in that condition they are as useless to the Government as though not a blow had been struck upon them.

Under these circumstances we are, as it seems to me, to decide between a speedy completion of these vessels, with a possible payment, it is true, of a little more money than we might get them completed for, and a delay of their completion an indefinite time. Get them completed speedily is the best policy—the truest economy. The Senator from Maryland [Mr. JOHNSON] has very justly observed upon the obligation of the country to Captain Ericsson. Suppose we go beyond the strict construction of this contract and pay far more liberally than we should be compelled to do, we do nothing more than what we ought to do for a man who has done so much in a time of peril and panic to save large portions of our naval and commercial marine from destruction, and to protect from bombardment and ruin the most flourishing cities along our coast. I shall vote very cheerfully for the original resolution and against the amendment.

Mr. HALE. I ask the unanimous consent of the Senate to submit a motion that the Senate at half past four o'clock take a recess until seven o'clock.

The motion was agreed to.

The PRESIDENT *pro tempore*. The time having arrived at which the Senate has ordered a recess—

Mr. HENDRICKS. I hope we shall suspend action on that for a couple of minutes. I desire to move that the business brought before the body by the Committee on Naval Affairs be the special order for the night session to-night.

Mr. SUMNER. That motion is not in order.

The PRESIDENT *pro tempore*. If such a motion were agreed to it could be repealed the very moment the Senate came together again, and it would be competent for them to take up any other business.

Mr. HENDRICKS. Nobody would think of repealing it after we had all agreed to it.

Mr. WADE. Mr. President, the time fixed for the recess has arrived.

The PRESIDENT *pro tempore*. The Senate will now take a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of May 29, a copy of the preliminary report and of the final report of the American Freedmen's Inquiring Commission; which was referred to the select committee on slavery and freedmen.

PETITION.

Mr. POMEROY presented additional papers

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

THURSDAY, JUNE 23, 1864.

NEW SERIES....No. 199.

in support of the claim of Henry C. De Ahna; which were referred to the Committee on Claims.

GOVERNMENT INSANE HOSPITAL.

Mr. GRIMES. I move that all previous orders be suspended in order to take up a little resolution that I introduced before the recess in regard to a piece of land connected with the insane hospital in this city. It will take only long enough to read it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 70) to authorize the acquisition of certain land for the use of the Government hospital for the insane. It authorizes the Secretary of the Interior to deed to John Perkins a portion of the extreme south point or angle of the farm of the Government hospital for the insane in exchange for two acres of land more or less now owned and occupied by him, and situated near the middle of that side of the hospital farm which fronts upon the public road, but not more than three acres are to be given for one contained in the piece of land belonging to Perkins or in that proportion, on the condition that Perkins is able to give and does give to the United States a good and sufficient title to the piece of land now owned and occupied by him. The Secretary of the Interior is further authorized to defray the expenses of moving the dwelling-house on the present Perkins tract to the tract exchanged for it, and of digging and walling a well out of any appropriation already made or that may hereafter be made for inclosing the grounds of the hospital.

Mr. GRIMES. If any Senator wishes an explanation of the resolution I am ready to give it. The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LANDLORD AND TENANT LAW.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 138) to regulate proceedings in cases between landlord and tenant in the District of Columbia, and

On motion of Mr. MORRILL, it was

Resolved, That the Senate disagree to the amendments of the House of Representatives to the said bill, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. MORRILL, Mr. HARLAN, and Mr. HENDRICKS.

BILL INTRODUCED.

Mr. BUCKALEW asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 326) for the relief of C. F. Johnson, of Alabama; which was read twice by its titles and referred to the Committee on Claims.

EXPORTATION OF ARMS.

Mr. WADE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President, if not inconsistent with the public interest, be requested to communicate to the Senate any orders issued by the Secretaries of War and the Treasury in regard to a general prohibition to export arms and munitions of war from the United States, and especially to the Mexican republic, and any orders in regard to the exportation of articles contraband of war for the use of the French army invading Mexico.

REPORT ON IMMIGRATION.

Mr. POWELL. I offer the following resolution, and ask for its present consideration:

Resolved, That the President of the United States be requested to inform the Senate the reasons why the report of the Commissioner of Immigration has not been transmitted, as requested by the resolution passed on the 25th day of March last.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUMNER. I think the form of the resolution is not according to the usage of the Senate.

Mr. POWELL. If the Senator will allow me, I will suggest that the Senate on the 25th of

March passed a resolution simply requesting the President to transmit to the Senate the report of the Commissioner of Immigration, but I dare say that resolution has been mislaid or overlooked, and this is merely to remind him of it.

Mr. SUMNER. I think the usual words, "if not incompatible with the public interests," ought to be inserted.

Mr. POWELL. I have no objection.

Mr. SUMNER. I think we had better follow the usage.

Mr. GRIMES. I have no objection to following the usage, but that never has been the usage until within the last three years, except in relation to diplomatic correspondence.

Mr. SUMNER. I beg the Senator's pardon. I think always in a call upon the President those words have been inserted.

Mr. POWELL. I have no objection to the words being in.

Mr. GRIMES. I have no objection to their being put in, but I insist upon it that that is not the rule.

Mr. TRUMBULL. I should like to know if this is a call upon the President.

Mr. POWELL. Yes, sir, merely inquiring the reasons why he has not transmitted a report that was asked for by a resolution of the Senate of the 25th of March.

Mr. JOHNSON. I suggest to the member from Kentucky that perhaps he had better alter the phraseology of his resolution. The objection I have to it is that it assumes that the President has designedly omitted to answer that resolution. I think he had better put it in another shape.

Mr. POWELL. I am perfectly willing to put it in any form the Senator may desire. All I want is the report. I will accept any suggestion made by the Senator from Maryland.

Mr. JOHNSON. Let the resolution be read again.

The Secretary read, as follows:

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to inform the Senate the reasons why the report of the Commissioner of Immigration has not been transmitted, as requested by the resolution passed on the 25th day of March last.

Mr. JOHNSON. I suggest that it be amended so as to read in this way:

Resolved, That the President of the United States be requested to transmit to the Senate the report of the Commissioner of Immigration, as requested by the resolution passed on the 25th day of March last.

I do not believe he has known anything about it. Mr. SUMNER. I think it very likely it has been forgotten. The Senate is probably aware that there is a list occupying some fifteen or twenty pages of resolutions passed by this body addressed to the President and never answered.

Mr. POWELL. I suppose that our resolution of the 25th of March has been neglected in that way, and hence I wish to remind the President of it. I am willing to accept any phraseology, I do not care what it is. I am not sticking about the phraseology. I really think, however, that the words "not incompatible with the public interests" are not proper in this resolution, because it is really asking why he has not answered the other resolution; but I will not object to it.

Mr. CARLILE. How did those words get into the resolution? I object to their being inserted.

Mr. HALE. I call for the order of the evening.

Mr. FOSTER. Wait a few moments longer.

Mr. CARLILE. Who can imagine it incompatible with the public interests to publish that report?

Mr. POWELL. Let it go; it does not matter.

Mr. CARLILE. The Secretary has inserted those words in the resolution, and I want the judgment of the Senate whether they will put those words in or not.

The PRESIDENT *pro tempore*. The resolution will be read as modified.

The Secretary read it, as follows:

Resolved, That the President of the United States be requested, if not incompatible with the public interests, to

transmit to the Senate the report of the Commissioner of Immigration, as requested by the resolution passed on the 25th day of March last.

Mr. JOHNSON. I move to strike out the words "if not incompatible with the public interests."

Mr. SUMNER. I suggest to the Senator from Maryland that it has always been the usage in addressing the President to put those words in.

Mr. JOHNSON. Not in relation to such a resolution as this.

Mr. SUMNER. I think so, in every resolution upon a public matter, one affecting the public interest.

Mr. POWELL. The original resolution did not contain those words.

The amendment was agreed to.

The resolution, as amended, was adopted.

ISAAC ALLEN.

Mr. FOSTER. There are two or three pension bills upon the table reported from the Committee on Pensions. They are private bills. They are very short, and I believe meritorious. I do not think they will occasion any debate, and with the consent of the Senator from New Hampshire I move that the Senate proceed to the consideration of House bill No. 453, to increase the pension of Isaac Allen.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Interior to raise the pension of Isaac Allen from a half to a full pension, and to pay him such increased pension from the 26th of April, 1864, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES A. HICHBORN.

On motion of Mr. FOSTER, the bill (S. No. 303) for the relief of Charles A. Hichborn was read a second time, and considered by the Senate as in Committee of the Whole. It authorizes the Secretary of the Interior to place the name of Charles A. Hichborn, of Boston, in the State of Massachusetts, (orphan son of the late Alexander Hichborn, a contract surgeon in the seventh regiment United States infantry, who was killed at the battle of Chancellorsville, on the 3d of May, 1863,) upon the list of pensioners, at the rate of twenty dollars per month, to commence from the 1st of January, 1864, and to continue until he is sixteen years of age.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

C. A. HAUN.

On motion of Mr. FOSTER, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 466) for the relief of the widow of C. A. Haun, which had been reported from the Committee on Pensions with an amendment in line six to strike out the words "with the passage of this act," and to insert "on the 11th day of December, 1861," and in line eight to strike out the words "natural life or," before the word "widowhood;" so that the bill will read:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized to place the name of Mrs. C. A. Haun, of the county of Greene and State of Tennessee, on the pension roll at the rate of eight dollars per month, to commence on the 11th day of December, 1861, and to continue during her widowhood.

Mr. HENDRICKS. I wish to ask the Senator from Connecticut if that is in accordance with the general laws that are applicable to other persons under like circumstances. It seems to me that in relation to the duration of the pension it is not.

Mr. FOSTER. It is "during her widowhood," which is the usual rule.

Mr. HENDRICKS. Or during life if she remains a widow. I thought the law was ten years.

Mr. FOSTER. During widowhood is the rule now.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

MARTHA JANE SKAGGS.

On motion of Mr. FOSTER, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 347) for the relief of Martha Jane Skaggs. It directs the Secretary of the Interior to place the name of Martha Jane Skaggs, widow of Alfred Sykes Skaggs, late a private of company E, of the twenty-seventh regiment of Kentucky, and who died at Elizabethtown, Kentucky, on the 27th of January, 1862, upon the pension roll from that date, to continue during her widowhood.

The Committee on Pensions reported the bill with an amendment in lines ten and eleven to insert the words "at the rate of eight dollars per month."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

SALE OF LAND IN IOWA.

Mr. HENDRICKS. I ask the indulgence of the Senate to take up Senate bill No. 301. It is to provide for a settler in Iowa. It is a Senate bill, and if it should not pass now the probability is that it cannot pass during the session. It will not take a minute.

Mr. HALE. I must insist on the order of the evening. I have given way long enough.

Mr. HENDRICKS. If this occupies more than two minutes I will withdraw from the field.

Mr. HALE. I have given way a great deal, and if I give way now I must give way to others. I am pressed all around.

The motion of Mr. HENDRICKS was agreed to; and the bill (S. No. 301) for the sale of a lot of land in Iowa, in the Fort Crawford reservation, was read a second time and considered as in Committee of the Whole. It provides that it may be lawful for the Commissioner of the General Land Office to cause to be sold after public notice the tract described as lot No. 1, in township ninety-five north, of range three west, of the fifth principal meridian, in the State of Iowa, situated in what is known as the Fort Crawford military reservation, subject to such minimum price per acre as the Commissioner may establish as fair and reasonable, not less than \$2 50 per acre; and in the event of the lot not being disposed of at public sale the Commissioner is authorized to reoffer it at public sale, or after the second offering to dispose of the lot at such minimum as he may establish, and for the sale so made a patent is to issue as in ordinary cases.

The second section provides that if it shall appear that there are any other lots in the reserve not disposed of by the United States it may be lawful for the Commissioner to dispose of them in the manner provided in the foregoing section.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DIRECT TAX OF WASHINGTON COUNTY.

Mr. MORRILL. I move to take up the bill (S. No. 299) authorizing the levy court of Washington county, in the District of Columbia, to levy and collect its portion of the direct tax imposed by the act of Congress of August 5, 1861. It will not occupy a moment.

Mr. HALE. I hope the Senate, if they ever propose to proceed with the order of the evening, will begin some time or other.

Mr. MORRILL. This bill contains but a single section, and can be disposed of in a moment.

Mr. HALE. If I give way to every appeal, I should give way all night and to-morrow too. I call for the order of the evening.

The PRESIDENT *pro tempore*. There is no order of the evening.

Mr. HALE. Then I move that the Senate proceed to the consideration of the unfinished business at the time of the recess.

The PRESIDENT *pro tempore*. That motion is not in order until the motion of the Senator from Maine is disposed of.

Mr. HALE. I hope it will be voted down.

Mr. MORRILL. I hope the Senate will allow this little bill to be taken up and passed now, so that it may go to the House of Representatives for action there.

The question being put, there were, on a division—yeas 13, noes 8; no quorum voting.

Mr. POMEROY. I call for the yeas and nays. The yeas and nays were ordered.

Mr. MORRILL. I will withdraw the bill.

Mr. FOSTER. It will be necessary to call the yeas and nays any way in order to get a quorum.

Mr. MORRILL. Then, as the yeas and nays must be called, I will insist on my motion.

The question being taken by yeas and nays, resulted—yeas 17, nays 16; as follows:

YEAS—Messrs. Brown, Buckalew, Chandler, Clark, Collamer, Fessenden, Grimes, Harris, Hendricks, Howe, Johnson, Morgan, Morrill, Powell, Riddle, Van Winkle, and Wade—17.

NAVS—Messrs. Anthony, Carlile, Dixon, Foster, Hale, Harlan, Howard, Lane of Kansas, Pomerooy, Ramsey, Sausbury, Sumner, Ten Eyck, Trumbull, Willey, and Wilson—16.

ABSENT—Messrs. Conness, Cowan, Davis, Doolittle, Foot, Harding, Henderson, Hicks, Lane of Indiana, McDougall, Nesmith, Richardson, Sherman, Sprague, Wilkinson, and Wright—16.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the levy court of Washington county, in the District of Columbia, to levy and collect, in the same manner as other county taxes in the county of Washington are levied and collected, a sum sufficient to pay the county's proportion of the direct tax imposed on the District of Columbia by the act of Congress approved August 5, 1861, and the expense and cost of collecting the same, and the aggregate of direct tax imposed by that act is to be distributed and apportioned between the cities of Washington and Georgetown, and that part of the county of Washington lying outside the limits of those cities, according to the assessed valuation of property made in the jurisdiction of each by the assessment last prior to the date of the passage of the act of August 5, 1861.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ERICSSON'S FLOATING BATTERIES.

Mr. HALE. I now move that we proceed to the consideration of the unfinished business.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (H. R. No. 95) authorizing the Secretary of the Navy to amend the contract with John Ericsson for the construction of two impregnable floating batteries, the Dictator and the Puritan, the pending question being on the amendment of Mr. SHERMAN, in line six, to strike out the words "present value" and to insert "actual cost."

The amendment was rejected.

The joint resolution was ordered to a third reading, read the third time, and passed.

CONTRACTORS FOR DOUBLE-ENDERS.

Mr. HALE. I now move to postpone all prior orders, and that the Senate proceed to the consideration of Senate joint resolution No. 50.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 50) for the relief of the contractors for the machinery of the side-wheel gunboats known as double-enders, the pending question being on the amendment of Mr. GRIMES to strike out all of the joint resolution after the word "that," where it first occurs, and to insert:

All claims based upon or arising from the contracts of persons who contracted with the United States Government for the machinery and engines of the side-wheel gunboats, commonly known as double enders, be, and the same are hereby, referred to the Court of Claims for examination and adjudication.

Mr. GRIMES. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ANTHONY. I do not see what propriety there is in referring these contracts to the Court of Claims. I do not see how the Court of Claims can take any jurisdiction over them unless we pass a special law on the subject. The Court of Claims can only give them what they are awarded under the contracts. We might as well refer the resolution we have just passed for the relief of Mr. Ericsson to the Court of Claims;

much better, I think. They are entitled to nothing under their contracts but what they have received.

Mr. President, I will state briefly what this case is. These contractors have built the engines for the gunboats known as double-enders. They allege in their memorial to Congress that they did not seek these contracts, but the Department sought them; there was a great necessity for the immediate construction of these engines; and they were told that the engines would be like those of the Paul Jones. They allege that after having agreed to build engines of that construction they were required by the Department to build engines of a very different and more costly character. They ask that if they have built engines more costly than those they were expected to build when they commenced their preparations for building, there may be a board of investigation to decide how much they are entitled to, or rather that is the resolution that the committee report. These contractors came before us as Mr. Ericsson came, and asked for relief; but the Committee on Naval Affairs did not think that they were qualified to judge of the measure of relief, and perhaps not exactly qualified to judge if any relief at all was due. If the allegation of these gentlemen is correct, and I believe it to be correct, because I know some of them and they are highly honorable men, then they have built for the Government different engines from those that they contracted to build, and the difference in cost has all been for the advantage and benefit of the Government. If they had known when they commenced the work what kind of engines they were to build, they would have contracted at a different price, and the Department would have conceded different terms.

The committee, not feeling that they were a proper tribunal to decide this question, have reported this joint resolution proposing that the question shall be left to a board to be appointed by the Secretary of the Navy; not, as usual in the case of referees, one of the referees appointed by the one party and another by the other and an umpire by both, but that the whole board shall be appointed by the Secretary of the Navy; that when the board shall have examined into their allegations, shall have decided, in the first place, if they are entitled to any relief, and, in the second place, how much, they shall report to the Secretary of the Navy, and if the Secretary of the Navy shall approve the finding of the board, then they shall be paid. I ask if that is not fair. I ask if that is not due to men who have contracted with the Government and have performed a work different from what they contracted to perform. I think the good faith of the Government is pledged to this measure.

I hope the amendment proposed by the Senator from Iowa will not be adopted. To send them to the Court of Claims is to send them nowhere, because the Court of Claims can only pay them what is due under a contract. They do not profess to be entitled to anything under a contract.

Mr. GRIMES. I intended to record a silent vote on the passage of this resolution, and to vote against it, but the remarks of the Senator from Rhode Island constrain me to say a few words in opposition, and in explanation of the vote which I shall give.

Some two years and a half ago the Government contracted with certain parties for the construction of twenty-eight different double-enders. Written contracts were entered into with each one of the parties in relation to the construction of each one of those boats. They were told, and told truly, that they were to be built upon the plan of the Paul Jones, which one of these contractors built and furnished to the Government for \$44,000. Specifications were furnished to these contractors at the time the contract was entered into, specifying in detail every particular that was to compose the engines and machinery. They were to receive \$82,000 for each one of these engines—not \$44,000 which was received by Mr. Quintard or Mr. Boardman, I forget which, for building the Paul Jones, but \$82,000, showing that they must have expected to build a different engine from that which was in the Paul Jones. They built exactly similar engines to those in the Paul Jones, save that they built engines corresponding and in compliance with the specifications which required that they should be

made of heavier material. That was the only variation, the only difference.

These contractors now come before Congress and ask us to go behind their written contracts. If you will look at the resolution you will observe that the committee have stricken out the words "contracted for" in the twenty-first line and inserted the words "bargained for." I have conversed with these gentlemen. They have been to see me about it, and I have listened to their stories. They say that some person came to them who represented that he was the friend of the engineer-in-chief of the Navy, and told them they would be required to build under these contracts such and such engines. Although after that time, long after, they say, they entered into a written contract, yet they want to be permitted to go behind that written contract, and they say they ought not to be compelled to fulfill the written contract, because some considerable time anterior to its execution they had some conversation with some other party whom they attempt to identify as being connected with the Navy Department.

Mr. WILSON. Who was that other party?

Mr. GRIMES. Some gentleman, they told me, who they said was a friend of Mr. Isherwood. That is what one of the committee that came on here told me. What do they do? They go before the Committee on Naval Affairs and ask them to report a resolution authorizing the Secretary of the Navy to appoint a commission of three persons who shall go behind these contracts and determine how much is due to each one of them. There are twenty-eight of them, and they now say that the amount that will be due to each one of them will be not to exceed \$20,000 on the average. That would amount to a very round sum; but how much it will be by the time the investigation is closed nobody can tell.

This resolution does not specify any term of office that these commissioners are to hold. It gives them no compensation. It does not require them even to take an oath. It defines no place in which they shall take testimony. It does not specify in what manner the testimony shall be taken. It authorizes them to make a report in this most informal of all manners, and then upon that report the Secretary of the Navy is authorized to pay that amount whatever it may be, without coming to Congress and asking Congress to make an appropriation.

One great objection that I have to this resolution is the precedent that it will establish. I do not know of any reason, if we pass this resolution, why the man who made wagons for the Army, the man who made the hulls into which these engines were put, every man who has done anything for the public service, either the Army or the Navy during the pendency of this war, will not be permitted to come to us and make just as strong a claim, urge it just as forcibly, and be entitled to the same sort of relief that these gentlemen are. I do not think we are prepared to listen to all these gentlemen upon such a basis as this.

It has been said that these contractors were deceived in regard to the work they were to perform. Every man of them had the specifications. They say they had not any drawings. It is not usual to furnish drawings; it never is usual to furnish drawings. The specifications, every particular of each one of the engines was given to them in detail in connection with their contract. As to their building the engines in exact correspondence with those of the Paul Jones, that is sufficiently disproved, first, by the fact that the specifications showed the contrary, and, in the second place, by the fact that they were to receive \$82,000 each for these engines, while for the Paul Jones only \$44,000 was paid; and some of those engines are not delivered to-day.

An attempt was made the other day to show by the letters of Mr. Isherwood that he had extended the time to these men. Let me read the letter that was then read:

NAVY DEPARTMENT,
BUREAU OF STEAM ENGINEERING,
September 12, 1862.

GENTLEMEN: Your letter of the 11th instant has been received, in regard to the time of completion of the machinery of the two paddle wheel steamers.

The Department being fully aware of the difficulties under which all contractors for this species of work now labor, authorizes me to inform you that it will not exact a rigorous compliance with the strict terms of your contract, in regard to time and forfeiture for delay, but, in consid-

ation of this liberality on its part, will expect you to remit no effort and to use all possible means to complete the contracts in the least time practicable.

B. F. ISHERWOOD,
Chief of Bureau.
MESSRS. BOARDMAN, HOLEBROOK & Co., Neptune Works,
New York.

Upon the condition that they will go on and do the best in their power, the Department told them they would not hold them to a strict performance in point of time or in regard to forfeiture for delay. I have here another letter written by the same chief of bureau to Nelson Curtiss, Esq., of the Atlantic Works, Boston. He says, and these, I understand, are the only two letters that have been written on this subject:

NAVY DEPARTMENT,
BUREAU OF STEAM ENGINEERING,
September 18, 1862.

SIR: Some time since you informed me that on further consideration you might decide to build the machinery of a paddle-wheel engine of fifty-eight inches diameter of cylinder and eight feet nine inches stroke of piston.

There still remains one of those engines untaken, and you can have it on the same terms the others have been accepted, namely: seven months time and \$82,000 price. It is proper to add that in consideration of the difficulty of procuring materials and labor, the Department will not be rigorously exacting in the matter of time and forfeiture, provided the parties have faithfully endeavored to execute their contract.

I inclose herewith a blank contract for your information.

B. F. ISHERWOOD,
Chief of Bureau.

NELSON CURTISS, Esq., Atlantic Works, Boston, Massachusetts.

It has been said that the Department was exceedingly anxious to secure the taking of these contracts. You will perceive by this letter how anxious they were. They merely sent the papers with the specifications and with a blank contract and told them if they saw fit to accept it on such terms and such time they could have the contract; if they did not see fit to accept them on those terms they need not do so. They had the contract written out; the specifications were connected with it. There was no trouble then in connection with it.

If I deemed it necessary on this motion I would go on and explain this thing further and analyze what I understand to be the principles upon which the report is based as I am prepared to do it if it becomes necessary; but I trust that the amendment I have submitted will be adopted. If these parties have any claims, any equities at all, I want them to go to the Court of Claims, where is some machinery by which testimony can be taken, where the rights of the parties can be properly adjudicated, and there have it determined. If we have not given that court jurisdiction in such cases, amend the resolution and let them have jurisdiction. I want to deprive no man of his just rights. If these parties are entitled to a single copper, in God's name let them have it, but let us not establish a precedent here that will be, in my opinion, most dangerous to the Treasury.

Mr. ANTHONY. The Senator from Iowa objects that these commissioners have no compensation, have no definite powers, are required to take an oath, and that the mode in which they shall take testimony is not prescribed. I remember that a few hours ago the Senator from Iowa moved to amend a bill by appointing a commission of precisely the same character.

Mr. GRIMES. What bill?

Mr. ANTHONY. The bill to establish a navy-yard at Cairo. The Senator from Iowa moved to amend it by providing for a commission. Nothing was said about compensation, nothing was said about an oath, but it was left to the Navy Department to determine, and that is where it is left by this joint resolution.

It is objected that this establishes a precedent. If it does, I think it is time we established such a precedent. What have been our precedents heretofore? At this very session we have paid away large sums upon the opinions of a committee no better informed than the opinion of the Naval Committee in this case, without the intervention of any board whatever. Not long since we gave, I think it was \$15,000, to a contractor who had furnished Army wagons. The contractor offered the wagons to the quartermaster, who refused to receive them on the ground that they were unsuitable for the Government service, although they had passed the inspection prescribed in the contract. The Government never received one of those wagons, never received one

dollar of value from them, and yet this Senate, by a very decisive vote, in which I fully agreed, paid to the contractor the whole price of his wagons.

Mr. WILSON. It has not passed the House of Representatives.

Mr. ANTHONY. It has passed the Senate. In another case a contractor agreed to deliver a large amount of corn at Baltimore; he brought the corn to Baltimore; the quartermaster refused to receive it; the corn was left on the hands of the contractor; the market fell; and a bill was introduced here and passed, the Senator from Iowa, if I mistake not, advocating it, to pay the contractor the deterioration, which was some thousands of dollars.

Mr. GRIMES. Oh, no; I did not vote for it.

Mr. ANTHONY. The Senator's colleague introduced it, and I thought the Senator always voted with his colleague.

Mr. GRIMES. He is responsible for his acts, and I for mine.

Mr. ANTHONY. I think I may safely say that in this case the Committee on Naval Affairs have no doubt whatever that these men are entitled to relief, but they do not think that they are the proper judges of the amount of relief that should be granted; they do not think they are the best judges of the fact whether they are entitled to relief or not, and they propose to leave it to a board of experts. The board is to be appointed by the Secretary of the Navy, and their award is to be approved by the Secretary of the Navy before any money can be paid out. Can anything be fairer than that?

The statement which the Senator from Iowa makes upon this subject differs in many respects from that which is made by the persons interested in this resolution, whom I believe to be very honorable men, and men who are not willing to deceive the Senate; but if the statement of the Senator from Iowa is strictly true, if he has not been misinformed or mistaken about it, then the board would award nothing, and ought not to award anything. They allege that they commenced all the preparations for the construction of these engines before the contract was drawn up, before the specifications were given, and that they did this at the request of the Department; the Department was in great haste and could not wait; and that when they received the contracts and specifications they had gone so far forward in the work of preparation that to break off would expose them to as much loss as to go on. It is to be taken into consideration also that the value of engines when the Paul Jones was built is very different from the value of engines now.

Mr. GRIMES. But these were contracted for two years ago.

Mr. ANTHONY. After having just passed the resolution previous to this, and I called the attention of the Senate to what I thought was a very faulty provision in it, I do not see how the Senate can refuse to submit to a tribunal of our appointment the allegations of these men. They comprise a large portion of the mechanical skill of the country. They have given their services to the Government expecting in the way of honest business to make a profit, and they have been very useful to the Government. They have been disappointed in their profit, and I do not think they ought to have any; but I do not think they ought to suffer any loss. Although I believe neither these men altogether nor any other men in steam navigation have done anything for the country like what Mr. Ericsson has done, I think, on a bare statement of this contract, allowing nothing to the personal character and services of the applicant, it is a far more meritorious case than the one we have just passed. I would not ask the committee, do not ask the Senate to make any appropriation. They merely ask for a board of our own appointment to examine and decide whether these contractors ought to have anything.

To send them to the Court of Claims is to send them nowhere. You might as well send them to the board of aldermen of the city of Washington. The Court of Claims has no sort of jurisdiction of the case. The Court of Claims could only award to them what they are entitled to under their contract, but that is not what they want. They do not profess to be entitled to anything under their contract, but they allege that they are entitled to something for the services they have rendered the Government. It is not

as in the case of the Army wagons and of the corn to which I have alluded, where we paid men for losses they had sustained in which the Government received no corresponding advantage, but for every dollar that these contractors have expended beyond the amount that they contracted to be paid the Government has the full advantage; or if it has not, then the board will award them nothing and ought to award them nothing.

Mr. CLARK. Will the Senator allow me to interrupt him?

Mr. ANTHONY. Certainly.

Mr. CLARK. I desire to inquire of the Senator from Rhode Island what it is that these men claim, whether they claim that they have done work beyond their contract and not specified in their contract.

Mr. ANTHONY. They do.

Mr. GRIMES. Oh, no.

Mr. ANTHONY. They so claim.

Mr. CLARK. And they have done it by order of the Department?

Mr. ANTHONY. They so allege.

Mr. CLARK. Then I submit if that be so the Court of Claims is ample for their remuneration because it would be a claim founded upon a contract express or implied. They would have a claim for what they had done under the express contract and also a claim for what they had done under the implied contract beyond the express contract, if they prove the work; and if they prove they did it by express order of the Navy Department, though it might not be a written contract it would be an express verbal contract, and the Court of Claims now by law has jurisdiction over all such cases, and there is no necessity for passing this resolution.

Mr. ANTHONY. I think there is a claim equitably, not legally. There is no legal claim whatever.

Mr. CLARK. Then it cannot be on the ground on which the Senator states it and on the ground stated in the resolution. If they claim larger pay for work done under a contract and for which the contract does not provide, and if they, in equity, ought to have that, that is another and a distinct matter; but if that be so I never would allow a commission to be appointed to examine such a number of claims as these, twenty-eight or twenty-nine, and then make their report to the Secretary of the Navy, and if he approve it he shall order the Secretary of the Treasury to pay all those claims.

I think I shall submit a few remarks to my colleague if he is the father of this resolution upon the indefinite appropriation of money. I desire before we appropriate the money or authorize anybody to pay it that we should know what is the amount we are to pay. The most that I would do with a commission of this kind would be this: possibly—I am not certain that I would do that—I would authorize the raising of a commission to examine into these claims and see what in equity and justice these men ought to receive, if anything, beyond their contract, if they have done work beyond their contract, or if they did not have a fair and equitable pay, and then let the board report to the Secretary of the Navy and he send the report to Congress to let Congress determine what is to be paid after we have ascertained what they have done and precisely what they claim.

Now we are in this position, as I understand it, no Senator yet tells us what this claim is. The Senator from Rhode Island first states that the claim is a legal one and then says it is an equitable claim. Before I will consent that this commission shall determine upon that, I want to know what the claim is; I want to have the claim examined; I want them to make a report of what they find to be the facts and the equities of the case, and then let us pass upon it. I do not like this appropriation in advance and then an examination afterwards. I do not think it wise.

I do not mean to prejudge these claims. I do not mean to say that these men are not entitled to something, for I do not know anything about it. If they are entitled to anything under their contract, or for work done by order of the Secretary of the Navy beyond the contract, then the Court of Claims is ample for them. It is a court where testimony can be properly taken, the parties heard, a regular judgment had, and the money paid.

If they claim upon equitable grounds that they

have not been fairly paid for the work they have done, that the work cost them a great deal more than they expected, and claim in such a way that we ought to pay them something, then I want to know the ground of the claim before I vote the pay. I do not want to vote the pay first and examine it afterwards. I want to know how much these gentlemen are entitled to have. An equitable claim of this kind, especially of so large an amount, because there are twenty-eight of them, will take a great deal of money out of the Treasury, and we pass it blindly if we pass this resolution giving them just what this commission on the approval of the Secretary of the Navy shall say they ought to have.

I submit whether they should not first come to Congress and let us see what they are entitled to have and let us pass upon it. I think in a case of this kind we ought to hold the purse-strings and not the Secretary of the Navy. He has made his contracts, the contracts have been executed, and probably paid the contract price. I do not know how that is; but we are asked now for something beyond the contract price on some equitable ground or for some reason or other or these parties would not be here. I desire to know on what ground they stand, what amount they desire, and what their claim is to that amount before I vote it. As I said before I do not know but that they are entitled to it, and I shall cheerfully vote for it if they are. I will not hold any of these men down to any rigid, iron rule, if they have served the country and are deserving, because they unfortunately for themselves made a contract. I will be harsh to no man, but at the same time I desire to see that they do not defraud the Government. Let them state their case fairly and equitably to the Government before we vote to pay it.

Mr. ANTHONY. I must confess my surprise that after the vote we have just passed giving, I suppose, \$600,000 or \$800,000 in addition to the contract price, these objections of every kind, not one of which was raised in the preceding case, should be brought to this. The Senator from New Hampshire says I have stated that the case was both legal and equitable. I do not understand it to be a legal claim at all. I understand it to be purely an equitable claim. For a legal claim they have their legal remedy; for an equitable claim they have no remedy except here. They have served their Government and their country faithfully. They have given their mechanical skill, their capital, and their time to the service of the Navy. Of course they have had a hard contract, as almost any contractors must have for materials and work under the constant depreciation of the currency; but for that they neither ask nor are they entitled to ask for any consideration. But if, as they allege, they have rendered to the Government different and more valuable work from what they agreed to do, I submit that we do not do them justice, we do not do ourselves justice, we do not do the country justice if we turn them from our doors without a hearing.

These parties ask for relief; they ask us to do for them as has been done for Mr. Ericsson, as was done in the case which my friend from New Hampshire [Mr. CLARK] examined, and which I concurred in, for the contractor for the Army wagons, as was done in the case brought forward by the Senator from Iowa [Mr. HARLAN] for the corn contractor; but the Committee on Naval Affairs have not followed those precedents. We have not given them the measure of relief that we think they are entitled to, because we do not think we can fairly estimate it; but we ask that a tribunal of the Government erected for that purpose shall report to the Secretary of the Navy what, after a full examination, in the opinion of experts they are entitled to, and then, if the Secretary of the Navy concurs with that opinion, they may be paid for the amount of work they have furnished to the Government beyond what they agreed to do.

Mr. HENDRICKS. According to the statement of the facts of this case made by the Senator from Iowa it presents just this question for the decision of the Senate: whether, where men have made a contract with the Government during this war, and the contract has not resulted in a profit to them, we will make it up and give them a profit outside of and beyond the contract; in other words, whether the Government insures every

man that contracts with her during this war that he shall make a profit. If the Senate is ready to take that position, which is a plain one and a naked one, then we can vote for this resolution upon the statement of facts presented by the Senator from Iowa.

Mr. GRIMES. Lest I may have been mistaken in my statement of facts, will the Senator allow me to send to the Secretary and have read a letter from the Secretary of the Navy? It will be seen from that whether I am right or whether the Senator from Rhode Island is right.

Mr. HENDRICKS. It can be read in a few minutes. If we take the case as stated by the Senator from Rhode Island it is this: a contract was made between the Government and these parties for the construction of these engines at a stipulated price according to specifications, or at least the engines were to be made of the size and style of a certain engine agreed upon as the model and standard; but after the contract was made the Government required the engine to be larger and a better work. If that be the case, then how do these parties stand? I do not claim that in such a case they would be required to do the work at a greater cost upon a different model than the contract contemplated at the same price; but the law would be simply this: there is an implied contract between them and the Government that they shall have beyond the contract price the difference between the model and the work as required by the Government, but the original contract price shall be the standard so far as it can be applied even to the additional work. That would be the law between individuals. Then if this is an implied contract between the Government and the contractors, as it would be in a like case between individuals, the parties have now under the existing law adequate and complete relief in the Court of Claims, because it is founded upon contract, and jurisdiction is given to the Court of Claims already over claims growing out of a contract; and this is an implied contract between the Government and the parties that the Government will pay for additional work required beyond the model which was the standard in the contract.

I do not think it is necessary even to vote for the amendment proposed by the Senator from Iowa, because these contractors have their remedy in the Court of Claims under the implied contract, and the Court of Claims in numerous decisions, as I understand, although I have not read them—I have received my information mainly from the chairman of the Committee on Claims on that subject—have recognized implied contracts between the Government and citizens that the Government is to pay what a thing is reasonably worth, where, in the same state of facts between individuals, the party benefited would be required to pay. It is plain law. If a man contracts with a mechanic to build him a house according to specifications and plans and drawings, and afterwards by agreement between the parties the house is required to be made of larger dimensions or of a different style of work, the additional cost must be paid, but the price agreed upon is to be the standard so far as it can be applied, and there is an implied contract for the payment of this enhanced price of the work. That applies between the Government and individuals, and it seems to me these parties have adequate relief in the Court of Claims according to the statement of the Senator from Rhode Island.

Then, Mr. President, if they have a relief in the Court of Claims, ought Congress to create an extraordinary tribunal for the decision of their case? Why, sir, the Court of Claims has its machinery by which it can ascertain the rights of the Government as well as the rights of the claimants; it has its solicitors, its means of bringing testimony before it; and I think it is the proper tribunal to try a case where the claim rests upon contract. I am not in favor and do not expect to vote to pay a party by special legislation or to create special and extraordinary tribunals where the party has a complete and adequate remedy in the Court of Claims. Let him go there where the general law sends all citizens.

Mr. JOHNSON. The controversy, as I understand it, between those who support the resolution as recommended by the Committee on Naval Affairs and those who oppose it is not so much against the propriety of making an allow-

ance as in relation to the tribunal which is to decide it. The resolution selects as that tribunal a commission to be appointed by the Secretary of the Navy. Those who oppose it say that the proper tribunal is the Court of Claims. But the opposition, as well as the resolution itself, admit that a state of facts may exist, and possibly does exist, which should entitle these claimants to some relief. Now, so far as the jurisdiction of the Court of Claims is concerned, I do not see, unless you confer it upon them by statute, that the case presented by this resolution is one in which they have jurisdiction. I think the Senator from Rhode Island, speaking in behalf of the committee, has misapprehended the resolution; and the Senator from Iowa and the Senator from Indiana also misapprehended the resolution in that particular. The resolution states that these parties entered into contracts to furnish machinery for the side-wheel gunboats known as double-enders. It does not proceed to say that what they did afterwards was done under any other contract than the original contract; but it proceeds to say that a board of competent persons is to examine the claim of the contractors. What for? "For additional compensation for constructing the same, [the engines,] and to report to the Department what losses have been suffered by said contractors upon their contracts." That is all. It does not assume, it does not state directly or by implication that any other contract has been made than the original contract; but it states that in the execution of the original contract the contractors have sustained losses. If that be so it is perfectly clear that the Court of Claims has no jurisdiction at all.

Mr. HENDRICKS. The Senator does not understand me as assuming that state of facts.

Mr. JOHNSON. I know, but I am saying that that is the state of facts set forth by this resolution. It is not alleged on the face of the resolution that anything was done by the Navy Department as between the Navy Department and the contractors which alters in any way the contract originally entered into, but the resolution states that in the performance of their contract the contractors have incurred losses. The board are first to ascertain if losses have been incurred in point of fact, not whether the United States are bound by contract to make good the losses, but whether in point of fact the contractors have suffered pecuniarily in an honest endeavor to comply with their contract. Having ascertained that, then they are further to ascertain, if there were losses, whether those parties are justly entitled to relief, and what, if any, relief—"what, if any, additional allowances ought in equity to be made to them by the Government;" that is all.

It is an appeal to the equity of Congress, not founded upon the existence of any contract creating in the sense of the law an equity in which a court of chancery, or in which the Court of Claims, if it had chancery jurisdiction, could give any relief, but an equity founded in the justice of Congress, founded upon the fact, if it shall turn out to be the fact, that this contract has been honestly complied with upon the part of the contractors. But it has been complied with by their incurring losses, and whether the Government will indemnify them as against those losses, whether it is just that they shall be indemnified, and to what extent they shall be indemnified, is a matter to be submitted to this board and nothing else; and when that is done the decision of the board is not to be conclusive by this resolution. It is to go to the Secretary of the Navy for his approval. His approval of what? His approval of the decision of the board. First, has the board correctly decided that losses have been sustained? Secondly, have they decided correctly the amount of the losses? And thirdly, have they decided correctly whether under all circumstances in a controversy as between an individual who has rendered a service of this sort to the Government under a contract which has left him a loser, it is just and equitable that the Government should make him good?

I know, Mr. President, that the principle which is involved in this resolution, if carried out in all cases, will lead to mischievous results; but that was equally true of the resolution which we passed just now. We have, by a resolution passed a short time since, discharged the contractor who undertook to build the new vessels, the Puritan and the Dictator, from responsibility under that

contract, and we have gone further and have told him that we will take one of the vessels at its present value; for everybody knows, and the honorable member from Ohio was right in supposing, that the present value of the Dictator, that is to say, the value of her materials as they are now in her, and the value of the workmanship as the workmanship is now in her, is to give these contractors perhaps fifty per cent. more than they were entitled to by their contract price; but yet we have done it. Why? Because a great Government when dealing with its citizens in a matter of this description, where they have aided them in placing them in a condition to meet the exigency in which the country is, will never be influenced by these nice and strictly legal principles which govern contracts as between man and man or govern ordinary contracts as between the Government and individuals.

But how is it as between individuals? I do not now speak of all; but how would it be as between the honorable member from Indiana or the honorable member from Iowa and another person? I assume—I hope the assumption is true in point of fact—that they are millionaires. They enter into a contract with a builder to put up a house. They are strict in the provisions of their contract. It is to be built for \$20,000. It turns out that the builder has expended \$40,000, and that the house which my friend from Iowa and my friend from Indiana, according to the assumption, will be the owner of, is worth \$40,000; would they let the builder who contracted with them be ruined, or would they make an allowance, a generous allowance? And if a generous man would interfere and save the party from ruin, *a fortiori* will a generous nation interpose and prevent a contractor from being ruined.

Mr. GRIMES. The Senator from Maryland has put this matter upon precisely the right ground. It is an appeal to our generosity. He understands the case exactly. There is not the slightest claim on the part of these contractors that there has been the slightest deviation from their contracts. They have not been required to do anything in connection with this machinery that they did not stipulate to do in their contract. They admit it; the Secretary of the Navy says it, and it is true as he has said that this is an appeal to the liberality, the generosity, and the beneficence of Congress. It is also true that if we grant it in this case we shall have appeals made to us day after day and day after day, upon the authority of this precedent, just as we have had appeals made to us because we have already this evening decided in favor of the Ericsson claim, or because on a prior day of the session we decided in favor of some man who furnished the Government corn, and another man who furnished it wagons.

If the Senator from Maryland will permit me, I want to call his attention to some slight difference between the Ericsson case and this. I voted in favor of the amendment proposed by the Senator from Ohio, [Mr. SHERMAN,] but that was unsuccessful; but still there is a vast difference between the Ericsson case and the case now under consideration. In the Ericsson case they were very large iron steamers, sea-going vessels. The iron was the principal article that was used in them. By the direction of the Navy Department very material changes had been made in the construction of those vessels since the original contract was entered into. The term of completion, therefore, has been protracted in consequence of those changes, and the loss that Ericsson and his sureties were likely to sustain, and would have sustained but for the passage of the joint resolution, grew out of and was in consequence of the act of our own Administration in changing the form of the construction of the vessels. But that is not the case in relation to the vessels now under consideration. There has not been the slightest change from the original contract; the specifications have been implicitly followed so far as the machinery has been constructed by the contractors. They have never been required to change them, and they have not changed them in the smallest degree. The Secretary's letter says so, and the contractors themselves say so.

One word in reply to the Senator from Rhode Island. He thinks that I am guilty of a great inconsistency because I proposed to refer the question of the location of a naval depot at Cairo to

a commission of seven commissioned and sworn officers of the Navy to investigate and report and I am unwilling to create a new judicial tribunal (for it is neither more nor less than that) for the purpose of investigating questions in connection with these claims. I think the Senator upon reflection will see that there is all the difference in the world between directing our own servants to go out and investigate a given subject for us and report to us, where there is no money involved, where there is no necessity for taking testimony, where there is no necessity for passing a judicial opinion, but merely to investigate certain physical facts, with which they are supposed to be, as experts, perfectly familiar, and creating a new tribunal to proceed to investigate facts and then render a judgment upon the facts that shall be found.

Mr. HALE. If the statement made by the Senator from Iowa be correct, there cannot be the slightest harm in passing this resolution, for nobody can give them a cent under it under his statement, because it will be seen that the closing provision of the resolution is in these words:

Provided, That such additional compensation shall in no case exceed an amount which, compared with the price stipulated in the contract, shall be in due proportion to the excess in weight of the engines built over such as were contracted for, except for alterations in form or material made by express order of the Government.

That is all they can get.

Mr. COWAN. If the Senator will allow me—

Mr. HALE. I do not give way. I have given way all the evening.

Mr. COWAN. I should like to have an explanation, how it comes that these engines were built of a different size from those contracted for, unless it was by express orders of the Government. Is there any evidence of that?

Mr. HALE. Mr. President—

Mr. GRIMES. The Senator will allow me to observe that I think on his motion the word "contracted" was stricken out and the word "bargained" inserted.

Mr. HALE. Yes, sir, and I will explain the reason why that was done. The reason was this: these contractors went to the Navy Department and made a bargain for the construction of this machinery, but the contract was not reduced to writing, and it never has been and it never is the practice of the Department, as I have been informed, to reduce them to writing. They send out a contract and allow the man who is to perform the work to sign it, and then it is returned to the Department, and they put it on file and keep it; but the contract is never what it purports to be and what it ought to be, a contract signed by two parties. After they made the bargain, before the contract was issued, they went to work and by the time the contract was sent to them for signature they had proceeded so far that they could not back out; they would have to abandon the whole of it; they were at the mercy of the Government; they must either take such a contract as the Government would give them, or else throw up the work, by which they would have lost infinitely more than they now do.

The allegation that they make is that they were to build engines similar to those of the Paul Jones, and their allegation further is that they were assured by the chief of the Bureau of Steam Engineering that the weight of the engines that they were ultimately ordered to make would not exceed the weight of those of the Paul Jones above ten or fifteen per cent. at the most, whereas in point of fact they did exceed them by nearly eighty per cent. This resolution is so constructed that no board can give them a cent over and above the weight of the engines which they did build, over and above those which they contracted to build, except the alterations that were made by the express order of the Government; that is all.

This is not a case of special pleading; it is not a case for legal technical niceties; but it is a fair, equitable, honest claim for the excess in weight of the engines that they built over those they contracted to build, and for alterations made by the express directions of the Government. It is impossible for one of those contractors to contend with the Government. I remember reading of some English judge—I do not remember precisely who, but my friend from Pennsylvania can tell me—when it was proposed in a court of law to send a party to a court of chancery, said, "Would your lordship send a fellow-being there?"

[Laughter.] When these parties come here with such a claim as this, clear and explicit, such as I think will commend itself to the unbiased judgment of every candid mind, are they to be told that they must go and make out a legal case in the Court of Claims? Sir, we are spending money very fast indeed, faster than we can afford; but I tell you we can expend money faster than we can afford to treat these contractors with injustice, with oppression, or even with harshness. They are the men who combine the mechanical skill and enterprise and industry of the country. They are the men we have to rely upon. If we ever make the attempt to construct light-draught monitors that will float, they are the men that have got to do it; and we ought not, to say the least of it, so conduct ourselves toward them that they shall feel that of all places on earth where they will go for business the Government of the United States is the last.

Mr. President, I do not want to be lavish with the public Treasury; I do not want to be liberal at the expense of the public Treasury; but I want to be just; and I think justice requires that we should give them the relief they ask. What do the Navy Department want? Are the Navy Department afraid to trust themselves? We propose that the Secretary of the Navy himself, the man who made the contract, shall appoint the board, and he may take, as the Senator from Iowa says he proposed to take, in his proposition for a commission a short time since, sworn officers of our own. He can have these men sworn just as much as he pleases; but let me say right here I would not give a cent for the oath of any man living. It is not worth the paper upon which it is written. A man whose moral nature does not bind him to what is required and expected of him will not find the sanction of an oath weigh very heavy upon him; and where you have got a man that you think you require an oath of, you have got a man whose integrity you do not fully trust, and for such a man as that an oath has no obligation.

I have no feeling and no interest in this matter except what I think the very best interest of the Government requires. Sir, we cannot afford to quarrel with the mechanical industry, with the mechanical ingenuity, with the mechanical enterprise, and with the mechanical capital of this whole country on such an issue as this. They simply ask that the very Department that has employed them, the Department that knows all about it, the Department that has in its own breast the knowledge of how this transaction is, shall take such means as they see fit by a board to inform themselves of the true state of fact, and then to pay them what they are entitled to over and above their contract, and for what was done by the express order of the Government. It seems to me the Government that is not willing to do that is not willing to do what is right, is not willing to do what is just and equitable between man and man. Having said this much, I leave the subject.

Mr. SHERMAN. The great diversity of opinion among the Senators who have favored this resolution, in my judgment shows that it ought not to pass. The Senator from New Hampshire says it is simply a legal claim growing out of the fact that the Government undertook to change the contract or the specifications after the contract was entered into, by enlarging the character of the work and making it more expensive, and therefore these parties have a right to additional compensation. If that claim is true, the Court of Claims would undoubtedly assess the increased cost of this work caused by the changes made at the Navy Department. But I am told there is a paper upon the Secretary's desk from the Secretary of the Navy, in which he denies that there were any changes made since these contracts were entered into.

Mr. GRIMES. I will read it with the permission of the Senator.

Mr. SHERMAN. I should be glad to have it read.

Mr. GRIMES. I will read for the information of the Senate a portion of a letter addressed by the Secretary of the Navy to the Committee on Naval Affairs on this subject. Speaking of these contracts, he says:

"The contracts in question were made under a public advertisement fully expressing all the requirements, and

all the offers under this advertisement will be found on page 739 of the documents accompanying the President's message of December, 1862."

It will thus be observed that they were made two years ago.

"From that exhibit it will be seen that the Department accepted the offers made by responsible ship-builders who were well acquainted with such matters. Some of the offers were at most exorbitant rates, and the average price, to which the petitioners refer, is no guide as to the value—it happening that the lowest bidders were parties of great experience and known reputation."

Again, he says:

"The hulls were all completed within the time specified in the contract, and none of them were liable from delay. Whatever rise there may have been in materials or labor took place within the time contemplated by them for the execution of the work. All these parties voluntarily accepted the offer of the Department, and applications were made for contracts on the same terms by other parties, after the Department had agreed for all the vessels it wanted. The parties knew the vessels were to be completed in every respect for naval service, and their contract stated, as they say it does, that there were to be no extra bills on that account."

"With regard to the steam machinery of these vessels, it is of a well-known type, and many of the petitioners had already constructed similar machinery for the Department. The specifications were so complete, and the form of machinery so well known, that it is believed the builders in this case, as they did in that first referred to, could without difficulty have made their own drawings. It is well understood that the estimate of cost is always made from the specifications. The advertisement was very full, and the Department has exacted no more than what was expressed in it and the specifications. A considerable number of these engine contracts were taken after the work had been commenced by other parties."

Again, he says:

"The Department makes and sanctions no contract with the understanding that its conditions are not to be complied with, and it always furnishes the fullest information as to the quantity and quality of its work, and the petitioners have on these points only expressed their own views and wishes."

"These contracts were made with care and deliberation for the true interest of the Government, and only reasonable offers of experienced persons well known and competent to do such work were accepted. The Department has not increased the cost of this work by any action of its own, and if by any causes beyond its control these contractors have, as they state, suffered a loss, it is for Congress to exercise such liberality as in its wisdom it may see proper. This Department has no funds and has made no estimate to supply any such cost as this exercise of liberality will occasion, and it is unwilling to assume the position of encouraging additional expenditures after having taken all proper means to obtain the work on the best terms for the public interest."

Mr. SHERMAN. Now, Mr. President, the case made by the Secretary of the Navy shows that these men engaged in this contract with their eyes open; the specifications were written; they were intelligent men, and they knew the character of the work; they had been engaged in similar work; they had built similar engines; other parties agreed to do the same work at the same or similar prices; and other parties did do the same work at the same prices. It is the clearest possible case of a contract not varied in the slightest particular. We have here the statement of the Secretary of the Navy that there was no additional expense put upon these contractors. They were simply required to perform a contract reduced to writing, perfectly familiar to them, they being intelligent men, knowing all about the nature of the business, there being no experiment about it—a simple contract for the building of steam engines; but it seems, or at least they claim, that they have suffered loss. It is purely and simply a claim growing out of a contract not varied in the least.

But suppose what the Senator from New Hampshire claims is true; suppose the contract has been varied by orders of the Navy Department; in such a case the Navy Department are bound by the law and bound by the contract to give additional compensation, according to the well-known rule laid down by the Senator from Indiana; and in such a case, if the Navy Department should refuse to give this additional compensation, it is the duty of the Court of Claims to enforce the contract against the Government, and to render judgment against the Government for the increased expenditures put upon these parties by the change of the contract; so that their remedy is plain.

The truth is the Senator from Maryland very frankly stated the only ground upon which this claim can be justified; and that is, that perhaps they have lost money by their contract. If we are going to act upon such a rule there will be no end to the claims that will be brought before Con-

gress. There is no equity in this claim that cannot be made in favor of every contractor who has contracted with the Government and lost money. I know of hundreds and thousands of contractors who have lost money on particular contracts, but have more than made up that loss on other contracts. I have no doubt these very contractors have had contracts with the Government on which they have made large sums. It is a well-known fact that nearly all the contractors with the Government, especially for this kind of work, have made large sums of money. They select this particular contract on which they claim to have suffered a loss, and they ask the Government to make good that loss; but they will not refund to the Government any of the exorbitant profits they have made on other contracts.

There never was a claim presented in Congress, in my judgment, more groundless than this. There is no equity in it, because these parties simply stand upon their own contract; they have no right to claim anything more. They made this contract with their eyes open, being intelligent men. They were not, like Mr. Ericsson, engaged in an experiment in which the Government have got the benefit of the experiment, but they engaged in a business with which they were perfectly familiar, and every item of their work they could estimate beforehand. I say there is no claim either in law or in equity to these parties; and if you extend this rule now any further, Congress will be flooded from all parts of the country with claims. The man that has sold corn to the Army for a price less, probably, than he could deliver it at, would have a much stronger claim, because he could say that he could not anticipate that the price of corn would rise so much in the market and he would lose by his contract—precisely the same kind of claim.

Mr. ANTHONY. We have paid one such claim at this session.

Mr. SHERMAN. If we have made such a precedent we ought to trample it under our feet. I voted against that case, and against the case of the wagons. There was another wrong precedent. Those wagons and that corn and this contract to-day will cost this Government millions of dollars, because the precedent will not be forgotten. We must correct those precedents. Those precedents, if followed, and this precedent, if followed, would compel the Government to make good the loss of every contractor, whatever might have been the nature of his contract.

Mr. HARLAN. If the Senator will allow me, I think he misapprehends the corn contract.

Mr. SHERMAN. I do not go into it at all, because I do not know the particulars.

Mr. HARLAN. I desire to state, as my name has been coupled with it—

Mr. SHERMAN. I trust the Senator will wait until I get through.

Mr. HARLAN. It will take but a moment. The parties contracted to deliver a large quantity of corn at Baltimore, and they delivered it in pursuance of the contract at the time and place named in the contract; but the Government officers were unable or refused to receive it. The contractors stored it at their own expense for several months, appealing to the head of the Department, but the Government still refused to take it, and they then sold it at the highest price it commanded in the market, and claimed the difference between what it sold for and the contract price, charging nothing for storage or the interest of the money or their time and trouble.

Mr. SHERMAN. That makes a perfectly clear case of claim against the Government; and the only controversy that could arise in such a case would be whether it ought not to have been sent to the Court of Claims. Undoubtedly the Court of Claims would have administered justice. But here is a case where there is no such claim whatever; where the Secretary of the Navy informs us the contract has not been varied to their injury in the slightest degree.

Mr. ANTHONY. I should like to ask the Senator from Ohio a question.

Mr. SHERMAN. Certainly.

Mr. ANTHONY. Suppose it shall appear that the contractors were informed by the Department that the engines would weigh from ten to fifteen per cent. more than those of the Paul Jones, and they undertook the construction of the engines with that understanding, and suppose it

shall appear that the engines really did weigh from fifty to eighty per cent. more than the engines of the Paul Jones, does he deny that there would be any claim on anybody for that, and if there is a claim, on whom?

Mr. SHERMAN. I know the fact, and the Senator knows it, that the specifications for these engines give the size, the length, the form, and the shape; and the Secretary of the Navy informs us that some of these contractors built identically the same kind of engines provided for in this contract.

Mr. ANTHONY. But the contractors had commenced constructing the engines and had committed themselves in the work so far that they could not discontinue without a loss equal to that which they would sustain by completing it, and in which case they would have had no claim on the Government. They had done all this before the contracts and specifications were presented to them. That is their allegation; and if that allegation is not true, if they do not prove that before the board, they will not be entitled to anything; but if they do prove it, they ought to have something.

Mr. SHERMAN. Here is the reply: If they make out the kind of case to which the Senator refers, of a change of contract or even a deception, at any rate a change of contract, we have provided by law a tribunal before whom they can appear. We pay the judges of the Court of Claims, and we have lawyers there to protect us; and shall we for every claim asserted against the Government pay a new tribunal of men who are not provided for by law, with no protection whatever for the Government, no way in which you can obtain the evidence? I think not. How would these commissioners ascertain the claim? You would appoint three commissioners and they would go mousing along the Atlantic coast, wherever these double-enders have been built. How would they ascertain the cost of these double-enders? How would they know that these parties have lost money? How would they know what money they lost by the contract? What rules of evidence would they have? What means of cross-examining witnesses? They would go from port to port, entertained everywhere by the contractors themselves, with no means to examine witnesses, no opportunity to examine even these contractors under oath, no power to administer an oath. It is now proposed to create this wandering tribunal of irresponsible men, without any checks thrown around it by law, to ascertain and adjudicate a claim against the Government, which the Secretary of the Treasury is bound to pay *volens volens*, without any authority of Congress hereafter to supervise their action! Why, sir, it is a monstrous proposition, it seems to me.

Mr. ANTHONY. I beg the Senator's pardon; the Secretary is not bound to pay it.

Mr. SHERMAN. The Secretary is bound to pay it "out of any money in the Treasury not otherwise appropriated."

Mr. ANTHONY. I beg the Senator's pardon. If he will read the resolution he will find that the Secretary of the Treasury is not bound to pay one cent of the award.

Mr. SHERMAN. "The Secretary of the Treasury be, and he is hereby, authorized to pay to said contractors, severally, the sums adjudged to be due them in equity by said board." It is his duty to pay it.

Mr. ANTHONY. If he approves the award.

Mr. SHERMAN. The Secretary of the Treasury has no power over the award; the Secretary of the Navy approves the award.

Mr. ANTHONY. I should say the Secretary of the Navy. Of course the Secretary of the Treasury will pay it on the order of the Secretary of the Navy.

Mr. SHERMAN. Why organize this commission? We have a letter from the Secretary of the Navy on our table stating that these parties have no claim whatever on account of any change of the contract; that they made their bids with their eyes open. Why then appoint this perambulating commission in order to bring up facts to bear on the Secretary of the Navy about it? It seems to me there is no ground for it.

There is another point which seems to me is very strong. Our purpose in inviting bids is to induce competition and to get the lowest responsi-

ble bidder. But if a man can put in a low bid and get a contract with a full knowledge that if he loses money by it he can come to Congress and have a roving commission to examine into the amount of his losses and have those losses repaid, the consequence will be that you will always have fraudulent bidders. They will bid any price whatever, an inadequate price, and they will rely upon the precedent established in this case to come in, and that Congress will make good their losses, that they will vote them a commission, and they will escort them to their factories or foundries and show them their books, and probably mislead them as to the cost of the articles furnished. I tell you, sir, the times are so ripe that we must guard all the avenues which approach the public Treasury.

The Senator from Maryland was very happy and very eloquent to-day about the services of Mr. Ericsson, and moved our pity and our sympathy very much on his account; but he could not excite any pity or sympathy for these contractors who made these bids with their eyes open. He told us that a millionaire would not allow a workman to work for him and lose money. The Government of the United States is not in the condition of a millionaire. It may disburse millions of money, but it borrows all that it disburses now. It is in no condition to be magnanimous or liberal; it must be just, and no more.

I hope therefore this resolution will be referred to the Court of Claims; and if these parties have got any just claims as a matter of course they will there be adjudicated. If that motion should not prevail, I shall submit some amendments I have prepared to the resolution.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The question is on the amendment offered by the Senator from Iowa to the resolution reported from the Committee on Naval Affairs.

Mr. GRIMES. I have modified my proposition, and I ask the Secretary to read it as I now propose it.

The Secretary read the amendment, to strike out all of the joint resolution after the word "that" where it first occurs, and to insert:

All claims based upon or arising from the contracts with persons who contracted with the Government of the United States for the machinery and engines of the side-wheel gunboats commonly known as "double-enders" be, and the same are hereby, referred to the Court of Claims for examination and adjudication; and said court is hereby authorized to examine and report to Congress what amount of work said contractors have done, and what amount of materials they have furnished in addition to their contract, and what is the fair value of the same.

The question being taken by yeas and nays, resulted—yeas 18, nays 15; as follows:

YEAS—Messrs. Clark, Collamer, Cowan, Foot, Foster, Grimes, Harlan, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Powell, Saulsbury, Sherman, Ten Eyck, Trumbull, Van Winkle, and Wilson—18.

NAYS—Messrs. Anthony, Chandler, Dixon, Hale, Harris, Johnson, McDougall, Morrill, Ramsey, Richardson, Riddle, Sprague, Sumner, Wade, and Wiley—15.

ABSENT—Messrs. Brown, Buckalew, Carlile, Conness, Davis, Doolittle, Fessenden, Harding, Henderson, Hendricks, Hicks, Howard, Howe, Nesmith, Wilkinson, and Wright—16.

So the amendment was agreed to.

Mr. JOHNSON. The view I take of this claim is, that if the resolution stands as amended by the Senate, the Court of Claims will have no jurisdiction over the matter at all, and if the honorable member from Iowa will so modify his amendment as to give the court jurisdiction—

Mr. GRIMES. I understand from all the lawyers around me that it does give jurisdiction.

Mr. JOHNSON. The opinion of the court is a very different one, or has been in the past.

Mr. CLARK. I will read the section of the law, with the permission of the Senator from Maryland:

"That all petitions and bills praying or providing for the satisfaction of private claims against the Government, founded upon any law of Congress, or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government of the United States, shall, unless otherwise ordered by resolution of the House in which the same are presented or introduced, be transmitted by the Secretary of the Senate or the Clerk of the House of Representatives, with all the accompanying documents, to the court aforesaid."

I drew the addition to the amendment for the purpose of giving that jurisdiction.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be en-

grossed for a third reading, was read the third time, and passed.

RANK OF WARRANT OFFICERS.

On motion of Mr. HALE, the bill (H. R. No. 470) to authorize assimilated rank to be given to the warrant officers of the United States Navy, and for other purposes, was considered as in Committee of the Whole.

It proposes to authorize the President of the United States to give assimilated rank to the warrant officers of the Navy, namely, boatswains, gunners, carpenters, and sailmakers, as follows: after five years of service to rank with ensigns; and after ten years' service to rank with masters. They are hereafter to be known as "warrant officers in the naval service of the United States," and to be so entered on the Naval Register. The bill also provides that in all cases where it has been or may be found necessary during the present war to detain in confinement persons found on board of captured vessels, the expenses of the detention of such persons, when not chargeable to the proceeds of prize or other fund, shall be paid out of the appropriation for defraying the expenses of suits in which the United States are concerned, and that the expenses of prisoners sentenced by naval court-martial to confinement in a penitentiary shall be defrayed from the same fund. The bill also authorizes the following addition to be made to the clerical force now authorized by law in the Navy Department: Bureau of Provisions and Clothing, two clerks of the third class and two of the first class; Bureau of Ordnance, one clerk of the third class; Bureau of Equipment and Recruiting, one clerk of the second class and one clerk of the first class.

The Committee on Naval Affairs proposed to amend the bill in section one, line three, after the word "authorized," by inserting "if in his judgment it shall be conducive to the interests of the service;" so as to read:

The President of the United States is hereby authorized, if in his judgment it shall be conducive to the interests of the service, to give assimilated rank to the warrant officers, &c.

The amendment was agreed to.

The bill was reported to the Senate, and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

KITTERY NAVAL HOSPITAL.

On motion of Mr. HALE, the bill (S. No. 308) repealing so much of an act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864, and for other purposes, approved March 14, 1864, as appropriates \$25,000 for erecting a naval hospital at Kittery, Maine, was considered as in Committee of the Whole.

Mr. FESSENDEN. I should like to inquire of the Senator from New Hampshire what are the reasons that led the Committee on Naval Affairs to report that bill.

Mr. HALE. I will state them very briefly, for I do not want to go into a long statement. There has been a controversy as to where this hospital should be put; I will not go into that contest. Unfortunately, the chief of the Bureau of Medicine and Surgery had formed and expressed an opinion upon it, that the hospital ought to be built within the precincts of the present navy-yard, and he had further expressed not a very complimentary opinion of the action of Congress in taking a different view of it, as may be found in the letter from which I will read. In a letter dated January 9, 1863, he said:

"It will be noticed the bill locates the hospital legislatively, without reference to the question whether the island be the most or least judicious situation for it, and postpones all work upon the needed improvement until the irrelevant subject of purchase of the island be adjusted. It will thus be seen that all the delay in regard to the erection of a hospital has arisen from the unfortunate commingling of public with private interests, and it will doubtless continue till these interests are separated."

In the deficiency bill this year Congress appropriated \$25,000 for building the hospital; and this Dr. Whelan, who had expressed an opinion adverse to its location on Seavey's island and in favor of building it in the yard, addressed a note to the Secretary of the Navy suggesting to him the appointment of a board to locate the hospital, and that board, he very modestly suggested,

should be composed of himself and two or three surgeons. I will read the letter; it is a very singular letter:—

NAVY DEPARTMENT.

BUREAU OF MEDICINE AND SURGERY, March 18, 1864.

SIR: An act of Congress (No. 24) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1864, appropriates \$25,000 for erecting a naval hospital at Kittery, Maine; and according to the debate in the Senate, as reported in the Daily Globe of the 15th ultimo, it was the understanding that the site was to be selected within or without the limits of the navy-yard, as might be found most judicious and expedient.

As considerable feeling has been manifested on the subject, as the selection of a site may or may not involve additional outlays of money, I have the honor to suggest that this subject may be confided to a board consisting of Commodore John Pope, United States Navy, Surgeon Charles Chase, United States Navy, the surgeon of the navy-yard, Portsmouth, the chief of the Bureau of Medicine and Surgery, subject, of course, to the final approval of the honorable Secretary of the Navy. The board to meet at the navy-yard, Portsmouth, on Friday, the 25th instant.

Commodore Pope and Surgeon Chase are selected because of their long service at Portsmouth station, and consequent familiarity with the topography.

It is important the work should be commenced as early as practicable, to have it completed, if possible, before winter sets in.

Very respectfully, your obedient servant,

W. WHELAN.

HON. GIDEON WELLES, Secretary of the Navy.

Dr. Whelan, having given an opinion on the case, suggests to the Secretary to appoint a board of four members and to put upon it himself and two of his subordinates; and a report was made favorable to his views, which is not at all strange.

The Secretary of the Navy intimates in a letter which I have before me that he will await the action of Congress, and if there is no legislation he will build the hospital within the yard. It is the opinion of those conversant with that yard that that would be injudicious and they would rather it should await the action of another session of Congress; they would rather not have any hospital there than have it built in the present yard, which in effect would destroy the yard. After it was understood what was going on, a memorial was addressed to the Secretary of the Navy in which it was stated:

"We should much prefer seeing the law making the appropriation for the hospital repealed to having it expended. Besides, we cannot conceive what can induce the Government to place this hospital on this particular yard, when it has not been done in any other navy yard, so far as we are advised, in the United States."

That memorial was signed by L. M. MORRILL, Senator from Maine; F. A. PIKE, Representative from Maine; DANIEL CLARK, Senator from New Hampshire; JOHN H. RICE, Representative from Maine; E. H. ROLLINS, Representative from New Hampshire; S. PERHAM, Representative from Maine; J. W. PATTERSON, Representative from New Hampshire; J. G. BLAINE, Representative from Maine; DANIEL MARCY, Representative from New Hampshire, and myself. This remonstrance against building the hospital within the yard was signed by every member of Congress from Maine and New Hampshire, with the exception of Mr. SWEAT, the Representative from the first district of Maine, and the Senator from Maine, [Mr. FESSENDEN.] The latter appended to the memorial the following:

"I am of opinion that no new hospital should be erected within the present limits of the yard, and that the law of Congress should be executed, if it can be, consistently with the best interests of the Government. As, however, it is merely an appropriation, I think the whole matter is within the discretion of the Secretary."

I am authorized by Mr. SWEAT, who at the time this memorial was signed was out of the city, to say that he fully concurred in it, and he wanted to sign it afterwards, but I told him the papers were out of my hands. The members from the two States particularly interested in the work think the public interests will be subserved by postponing the appropriation till the next session of Congress rather than by erecting it within the yard.

The bill was reported to the Senate, and ordered to be engrossed for a third reading.

Mr. FESSENDEN. I do not feel disposed to interfere with the action of the Committee on Naval Affairs, from whom this bill comes, if they have investigated it. In pursuance of my duty as a member of the Committee on Finance I reported the bill containing the appropriation which it is now proposed to repeal. If there had been any land owned by the Government outside of the yard and connected with it on which this hospital could be placed I should have preferred to

limit it in that way, according to the general idea I have on the subject. It was expected that such land might be purchased, and with that view the appropriation was worded as it was, to leave the whole matter in the discretion of the Navy Department to act, they having already authority to purchase certain land outside of the yard if they choose to do so. I have a general opinion—and that was the opinion I meant to express in signing that paper—that it is not good policy as a general rule, especially where a yard is quite limited in its extent, to put a hospital inside of the yard or very near it. I was of opinion, however, that under all the circumstances of this case, an appropriation having been made for the purchase of land outside the yard on Seavey's island and a hospital being needed, it was best to make the appropriation and leave it to the discretion of the Department, they not being obliged to spend the money this year or next year. I so expressed myself in the opinion I appended to the paper which had already been signed by my colleagues, with one exception, I believe, before I saw it, and by the delegation from New Hampshire.

Under these circumstances, I shall interpose no sort of objection to the opinion expressed by the Committee on Naval Affairs, which is perhaps the more proper tribunal to judge of this matter. I leave it to the judgment of the Senate upon the statement that has been made. I think a hospital is very much needed there, especially at the present time. The result of the repeal will be to postpone the erection of the hospital for another year. The Senate can judge perhaps better than I can what it is advisable to do in relation to the matter; but I make no objection to the bill.

The bill was read the third time, and passed.

PUNISHMENT FOR ENTICING TO DESERT.

Mr. HALE. After the Senate met this morning, I received a communication from the United States district attorney for Massachusetts, suggesting an amendment in the criminal law. The bill (S. No. 324) was introduced and referred to the Committee on Naval Affairs. The committee have instructed me to report it back with an amendment, and as it is very brief I ask to have the bill considered now.

By unanimous consent, the bill (S. No. 324) prescribing the punishment for enticing or aiding seamen to desert the naval service of the United States was considered as in Committee of the Whole. It provides that any person who shall entice, or procure, or attempt, or endeavor to entice or procure any seaman or other person in the naval service of the United States, or who has been recruited for such service, to desert therefrom, or who shall in any wise aid or assist any such seaman or other person in deserting or in attempting to desert, or who shall harbor, conceal, protect, or in any wise assist any such seaman or other person who may have deserted from the naval service knowing him to have deserted, or who shall refuse to give up and deliver any such person on the demand of any officer authorized to receive him, shall be punished by imprisonment not less than six months nor more than three years, and by fine not more than \$2,000.

The amendment of the Committee on Naval Affairs was to add to the resolution, "to be enforced in any court of the United States having jurisdiction."

The amendment was agreed to.

The bill was reported to the Senate, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

NAVAL PENSION FUND.

Mr. HALE. I rise now to present the last piece of business which the Naval Committee have to offer. After the meeting of the Senate this morning I received from the Secretary of the Navy a joint resolution relating to the investment of the naval pension fund. It was introduced and referred to the Committee on Naval Affairs, and they have unanimously instructed me to report it back and ask for its present consideration.

By unanimous consent the joint resolution (S. No. 69) regulating the investment of the naval pension fund was considered as in Committee of the Whole. It proposes to direct the Secretary of the Navy, as trustee of the naval pension fund, to cause to be invested in the registered

securities of the United States on the 1st of January and 1st of July of each year so much of the fund then in the Treasury as may not be required for the payment of naval pensions for the then current fiscal year; and the interest, payable in coin, is to be exchanged for legal currency at the current rates of premium on gold, the amount to be placed to the credit of the fund. There is a proviso that nothing contained in the resolution is to be so construed as to interfere with the payment of naval pensions by the Secretary of the Interior as now regulated by law.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

REPEAL OF FUGITIVE SLAVE LAWS.

Mr. SUMNER. I now move that the Senate proceed with the consideration of the House bill No. 512.

Mr. CHANDLER. I will not oppose the Senator's motion to-night; but there are several very important bills from the Committee on Commerce which I shall ask the Senate to consider to-morrow. Some of them have to go to the House of Representatives; others coming from that House are to be perfected, and it is important that early action should be had. I will spend to-night with great pleasure with the Senator from Massachusetts on his bill, but to-morrow I shall demand the day for the Committee on Commerce.

Mr. SUMNER. Very well; let us proceed, then.

Mr. SAULSBURY. I move that the Senate do now adjourn. Let us have one day without the "nigger."

Mr. SUMNER called for the yeas and nays on the motion to adjourn, and they were ordered; and being taken, resulted—ayes 8, nays 23; as follows:

YEAS—Messrs. Carlile, Cowan, Powell, Richardson, Riddle, Saulsbury, Van Winkle, and Wiley—8.

NAYS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Dixon, Foot, Foster Grimes, Hale, Harlan, Harris, Howard, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wade, and Wilson—23.

ABSENT—Messrs. Collamer, Conness, Davis, Doolittle, Fessenden, Harding, Henderson, Hendricks, Hicks, Howe, Nesmith, Wilkinson, and Wright—13.

So the Senate refused to adjourn.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question is on the motion of the Senator from Massachusetts to proceed to the consideration of House bill No. 512.

Mr. SAULSBURY. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. What is the bill?

The PRESIDING OFFICER. The title of the bill will be read for information.

The SECRETARY. "A bill (H. R. No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves."

Mr. JOHNSON. I think the Senator from Kentucky [Mr. DAVIS] had the floor on that bill. I am just informed that he is too sick to be in attendance to-night. I suggest, therefore, to the honorable member from Massachusetts that he ought not to press the bill to-night.

Mr. SUMNER. The Senator from Kentucky has had ample notice. He knew that this bill would be moved as soon as I could get the floor.

Mr. JOHNSON. The honorable member did not hear me, I am sure, or he would not have made such an answer. I said the Senator from Kentucky was sick.

Mr. SUMNER. What he has to say is, as he has announced, a second edition of a speech on Massachusetts. He can make that as well on any other bill as on this.

Mr. JOHNSON. I do not know what he is going to say.

Mr. SUMNER. He announced that yesterday. We understand it on this side.

Mr. WILSON. We shall have up another bill on which the Senator from Kentucky can make his speech.

Mr. JOHNSON. Speaking from an experience of some years before the honorable member from Massachusetts became a member of this body as well as since, I have never known a bill pressed in the absence of a Senator who had

the floor upon the bill and expressed a desire to debate it.

Mr. SUMNER. The Senator is entirely mistaken if he supposes any one had the floor on this bill.

Mr. JOHNSON. The Senator from Kentucky had the floor when it was up before.

Mr. SUMNER. I beg the Senator's pardon.

Mr. JOHNSON. I understand it to be so; and he is sick and unable to be here.

Mr. SUMNER. The public business cannot wait. Again and again has this measure been postponed in deference to the Senator from Kentucky. He was aware when he went away this afternoon that it would be pressed this evening if I could get the floor.

Mr. JOHNSON. That I understand.

Mr. SUMNER. And further, he had the goodness to announce to us yesterday the subject of his speech, which was the second edition of a speech on Massachusetts.

Mr. JOHNSON. Is not Massachusetts a very good subject to make a speech about? All I mean to say is, that I understand that when the Senator from Kentucky was advised that an effort would be made to-night to take up the bill he intended to be here; but since he left the Senate Chamber he has become so sick that he cannot be here. I have no particular desire to hear the Senator from Kentucky or the Senator from Massachusetts debate this bill; I certainly have no desire to debate it myself; but under all the circumstances I think the courtesy which we owe to each other would rather require that the bill should go over until the morning. It will not be a neglect of the public business; there is plenty of other business. I do not think the country will suffer much if the act of 1793 is permitted to remain on the statute-book. It will not be operative; it is a mere matter of sentiment with the honorable member from Massachusetts; the bill can have no practical effect in the world.

Mr. POWELL. In addition to what the Senator from Maryland has said, I will state to the Senate that my colleague left the Chamber unwell this evening, and he requested me particularly, if this bill should be called up (which he hardly expected, supposing the night would be occupied with the bills of the Senator from New Hampshire) to inform the Senate that he was too unwell to remain in the Chamber, that he desired to discuss the bill, and would be ready to proceed with the discussion to-morrow.

The question being taken, resulted—yeas 26, nays 12; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Wade, and Wilson—20.

NAYS—Messrs. Buckalew, Carlile, Cowan, Johnson, Lane of Indiana, Powell, Richardson, Riddle, Saulsbury, Trumbull, Van Winkle, and Willey—12.

ABSENT—Messrs. Collamer, Conness, Davis, Doolittle, Harding, Henderson, Hendricks, Hicks, Nesmith, Wilkinson, and Wright—11.

So the motion was agreed to.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole.

Mr. LANE, of Indiana. I move that the Senate proceed to the consideration of executive business. There are some executive messages on the table which I think should be referred.

Mr. SUMNER. I hope not. I hope the Senate will vote on this bill. Let us settle it, and then we can go into executive session.

Mr. POWELL. You cannot get a vote on it to-night.

Mr. SUMNER. Let us try.

Mr. McDUGALL. I will say to the Senator who has the bill in charge that it is not possible to take a vote on it to-night.

Mr. SUMNER and others. We will try.

Mr. HOWARD and Mr. WADE. We can get it by morning.

Mr. McDUGALL. It cannot be done.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana that the Senate proceed to the consideration of executive business.

A division was called for, and the yeas were 16 and the nays 19.

Mr. POWELL asked for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 22; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Foot, Foster,

Grimes, Johnson, Lane of Indiana, Powell, Richardson, Riddle, Saulsbury, Trumbull, Van Winkle, and Willey—15.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Dixon, Fessenden, Harlan, Harris, Howard, Howe, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Wade, and Wilson—22.

ABSENT—Messrs. Collamer, Conness, Davis, Doolittle, Hale, Harding, Henderson, Hendricks, Hicks, Nesmith, Wilkinson, and Wright—12.

So the motion was not agreed to.

Mr. SAULSBURY. I move that the bill be indefinitely postponed.

The question being put, there were, on a division, 8 yeas and 18 nays.

Mr. POWELL. I ask for the yeas and nays.

Mr. SUMNER. I rise to a question of order.

Is it not too late to call for the yeas and nays after the result has been declared?

The PRESIDING OFFICER. (Mr. FOSTER.) The Chair was announcing the decision at the time the yeas and nays were demanded. The Chair would prefer taking the sense of the Senate as to ordering the yeas and nays rather than refuse to entertain the call.

The yeas and nays were ordered.

Mr. McDUGALL. I ask the Senator from Kentucky whether he was instructed by his colleague to ask for a postponement.

Mr. POWELL. I was requested to announce that he was sick and unable to be here to-night, but would be ready to proceed with the discussion at any time after to-night. I have already so stated to the Senate, but it affords me great pleasure to restate it.

Mr. McDUGALL. I did not understand it before. I think that statement should be sufficient.

Mr. SAULSBURY. All we want is to give the Senator from Kentucky an opportunity to be heard.

The PRESIDING OFFICER. The question is on the motion of the Senator from Delaware to postpone the bill indefinitely.

The question being taken by yeas and nays, resulted—yeas 11, nays 25; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Johnson, McDougall, Powell, Richardson, Riddle, Saulsbury, Van Winkle, and Willey—11.

NAYS—Messrs. Brown, Chandler, Clark, Dixon, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wade, and Wilson—25.

ABSENT—Messrs. Anthony, Collamer, Conness, Davis, Doolittle, Harding, Henderson, Hendricks, Hicks, Lane of Indiana, Nesmith, Wilkinson, and Wright—13.

So the motion was not agreed to.

Mr. LANE, of Indiana. I move that the Senate now proceed to the consideration of executive business.

Mr. SUMNER. I hope not.

Mr. SHERMAN. As the motion is debatable to a limited extent, I desire to say a word. It is manifest that a majority of the Senate desire action upon this bill; it is right that they should have it; the majority should control in all deliberative bodies. The session is drawing so near to a close that unreasonable time ought not to be wasted. If I supposed the debate on this bill would not be prolonged merely for the purpose of exhausting time unreasonably, I should undoubtedly vote to go into executive session for the purpose of giving the Senator from Kentucky a right to be heard at a time when he will be able to be here; but if we are to have a prolonged contest over this bill, and dilatory motions are to be resorted to, we may as well have the contest to-night as at any other time. If Senators who are opposed to the bill, and who desire to vote against it, will say that that is not their purpose, but that they simply desire to secure to the Senator from Kentucky the right to be heard to a reasonable extent, I shall vote with them to go into executive session. If it is proposed to renew this contest again by dilatory motions and the like at a future time after the Senator from Kentucky shall have been heard, we may as well have the contest now. My vote, therefore, will depend entirely on what Senators say about it. If they propose to resort to these parliamentary tactics, these interminable propositions for delay, merely to defeat a vote upon a bill which the majority have a right to pass, I am perfectly willing now to go into a contest of physical endurance; but if they simply wish to secure the right of discussion to an absent member, I will vote with them to go into executive session.

Mr. SAULSBURY. I wish to say that so far as my course to-night is concerned, I am governed entirely by the wishes of the Senator from Kentucky, who desires an opportunity to be heard on this subject. That is my sole reason for my action so far.

Mr. SHERMAN. I ask the Senator from Delaware, then, if after the Senator from Kentucky shall have been heard he desires or intends to resort to any dilatory motions.

Mr. SAULSBURY. I do not. I never dreamed of such a thing.

Mr. WILLEY. I am one of those who voted against taking up this bill. I did so with some reluctance, but I did so simply because I was told by the friends of the Senator from Kentucky that he desired to be heard on this question. I had no other purpose than to afford him an opportunity to be heard. I am not very well versed in such matters; but I had supposed that when a Senator of the age, ability, and standing of the Senator from Kentucky (however much I may differ from him on many fundamental questions) announced through a friend on this floor that he desired to be heard, the ordinary courtesy of the body would require that opportunity should be allowed for that purpose.

I desire to say, however, that I am willing at any time to have this question decided. I do not want to be understood as interposing anything in the way of a speedy decision upon it. The decision has got to come. The majority of the Senate have a right to record their votes, and I do not wish to be understood as interposing any factious opposition to it. Of course I am opposed to the bill on principle. There is nothing practical in it at the present time. It is simply a matter of sentiment, nothing more. If it is now understood to be the sentiment of the majority of the Senate, on the other side of the Chamber, that they do not intend to let the Senator from Kentucky be heard, but intend to press this bill to a vote to-night, I suggest respectfully to those with whom I have acted to submit at once and let that result come now which must inevitably come sooner or later. I do not wish to be understood as standing here to detain the Senate, or contributing by my vote to detain it, from any factious motives. I have been operated upon simply by my sense of obligation and courtesy to the honorable Senator from Kentucky, who, I understood in good faith, had advised his friends on this floor that he desired to address the Senate on this subject. Now, if a majority of the Senate say that this matter is to be pressed to-night, I will yield at once. I see no advantage in protracting a bootless contest.

Mr. SUMNER. I think I can meet the Senators half way. I propose that we shall go on to-night and perfect the bill, but suspend taking the vote on its final passage in order to give the Senator from Kentucky an opportunity of being heard. It seems to me that is fair.

Mr. JOHNSON. Permit me to ask the Senator how he proposes to perfect the bill. It is to repeal the former laws.

Mr. SUMNER. That is all.

Mr. JOHNSON. That is perfect.

Mr. SUMNER. I regard it as perfect, but I did not know but that the Senator from Maryland might have some proposition to offer which might add to its completeness.

Mr. JOHNSON. The Senator from Kentucky might wish to be heard on the amendment if one be offered.

Mr. SUMNER. The bill simply repeals all laws for the rendition of fugitives.

Mr. JOHNSON. Then the bill is perfect in your opinion.

Mr. SUMNER. I regard it as perfect.

Mr. JOHNSON. I thought the honorable member proposed to be permitted first to perfect the bill.

Mr. SUMNER. I have nothing to propose to it; but I asked that the Senate would proceed to-night, take the bill out of committee, and pass it through its stages, leaving the last stage not acted upon in order to give the Senator from Kentucky an opportunity to be heard.

Mr. JOHNSON. There is no objection to that, I suppose.

Mr. SUMNER. I presume there can be no objection to it, and that will get us some way toward the end.

Mr. LANE, of Indiana. I have made no dilatory motion. I have moved to go into executive session because I thought it was important to do so in order to refer some executive messages. I am perfectly ready to vote on this or any other measure precisely when it comes up; but I believe it more important to refer those messages than to waste the night in an idle discussion about this bill when we can get no vote.

The question being put, there were, on a division—17 yeas and 17 noes.

Mr. POWELL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 16, nays 22; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Foot, Foster, Grimes, Johnson, Lane of Indiana, McDougall, Powell, Richardson, Riddle, Saulsbury, Sherman, Trumbull, and Van Winkle—16.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Dixon, Fessenden, Hale, Harlan, Harris, Howard, Howe, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sprague, Sumner, Ten Eyck, Wade, Willey, and Wilson—22.

ABSENT—Messrs. Collamer, Conness, Davis, Doolittle, Harding, Henderson, Hendricks, Hicks, Nesmith, Wilkinson, and Wright—11.

So the Senate refused to go into executive session.

Mr. POWELL. I move that this bill be postponed until the first Monday of December next.

The question being put, a division was called for by Mr. POWELL.

Mr. HOWARD. In order to save time, I call for the yeas and nays. [Laughter.]

The yeas and nays were ordered.

Mr. JOHNSON. I shall not vote for the present motion, because, in the first place, it is apparently a mere dilatory motion, one that cannot be carried; it keeps us here without accomplishing any purpose; and secondly, because, as I understood the Senator from Massachusetts, he is perfectly willing, as far as he is concerned, that the bill shall be to-night put in such a situation as to be called up in the morning, and that then there shall be a vote upon it. If a majority of the Senate are in favor of the passage of the bill, as far as I am concerned I recognize their right to pass it, and I shall interpose, by no vote of mine, any obstacle merely for the purpose of delaying the action of the Senate. I have been governed in what I have done heretofore this evening on this subject by what I supposed to be due in courtesy to the Senator from Kentucky. I hope my friend from Kentucky, who is here, will withdraw his motion and let the course suggested by the friends of the bill be taken; that is to say, that the bill be placed in a situation to be voted upon finally to-morrow, so as to give the colleague of my friend from Kentucky, who is here, an opportunity to be heard.

Mr. POWELL. I think it probable that my colleague may want to move some amendments to the bill. If the bill be put to the third reading now, the opportunity of offering amendments will be cut off. I know there is a controversy as to whether the law of 1793 shall stand.

Mr. JOHNSON. That will be open.

Mr. POWELL. The Senator from Massachusetts proposes to let it go through every stage but its final passage. To that, of course, I cannot consent. The truth is that I wish to teach the Senator from Massachusetts what courtesy is.

Mr. SUMNER. I think I shall not learn much from the Senator from Kentucky.

Mr. POWELL. I have no idea that you will. You have too much to learn.

Mr. RIDDLE. I see that there is no prospect of doing anything to-night, and I move that the Senate adjourn.

Mr. HOWARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 12, nays 22; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Lane of Indiana, Powell, Richardson, Riddle, Saulsbury, Sherman, Trumbull, Van Winkle, and Willey—12.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Dixon, Fessenden, Foot, Hale, Harlan, Howard, Howe, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Ramsey, Sprague, Sumner, Ten Eyck, Wade, and Wilson—22.

ABSENT—Messrs. Collamer, Conness, Davis, Doolittle, Foster, Grimes, Harding, Harris, Henderson, Hendricks, Hicks, Nesmith, Pomeroy, Wilkinson, and Wright—15.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Ken-

tucky, to postpone the further consideration of the bill till the first Monday of December next.

Mr. JOHNSON. Before that vote is taken, I desire to say that I think my friend from Kentucky is mistaken as to what will be the situation of the bill if the course suggested by the Senator from Massachusetts be adopted by the Senate. The bill is now before us as in Committee of the Whole, and all that he proposes, as I understand him, is that it shall be reported to the Senate, and there stop for the night. To-morrow morning, in the Senate, the bill will be open to amendment.

Mr. POWELL. That was not the proposition which the Senator from Massachusetts made to me. He wanted to push the bill through all the readings to its final passage. That I declined. I am perfectly willing to let the bill be reported to the Senate, and then adjourn.

Mr. SUMNER. Very well, then, we are agreed. The proposition I made to the Senator from Kentucky was as he states. I did hope to carry the bill to its last stage to-night; but as the Senator intimates that possibly his colleague may wish to move amendments, I do not desire to carry it to a stage that shall preclude amendment, but I do wish to carry it as far as I can to-night. Therefore I accept the suggestion of the Senator from Maryland.

Mr. POWELL. If the Senator from Massachusetts had made that proposition before, I should have accepted it; but he did not make it, and—

Several SENATORS. He makes it now.

Mr. POWELL. Very well; I accept it. I withdraw my motion.

The PRESIDENT *pro tempore*. The motion can be withdrawn only by unanimous consent, the yeas and nays having been ordered. The Chair hears no objection. The motion to postpone is withdrawn. The bill is before the Senate as in Committee of the Whole, and open to amendment.

Mr. SAULSBURY. I have an amendment to offer.

Several SENATORS. Offer it to-morrow in the Senate.

Mr. SAULSBURY. Very well; I would just as lief do it to-morrow.

The bill was reported to the Senate without amendment.

Mr. BUCKALEW. I suppose there is no further business to-night. I move that the Senate adjourn.

Mr. WILSON. Will the Senator withdraw that motion to let us have an executive session to refer some documents?

Mr. BUCKALEW. Certainly.

Mr. WILSON. I move an executive session. The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 22, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Mr. FERRIE.

The Journal of yesterday was read and approved.

CALIFORNIA LAND TITLES.

Mr. JULIAN asked unanimous consent to report back from the Committee on Public Lands a bill (S. No. 109) to expedite the settlement of titles to land in the State of California.

Mr. WASHBURNE, of Illinois. Let the bill be read.

The bill was read.

Mr. WASHBURNE, of Illinois. That is a very long and a very important bill, and it may be a very proper one. If so, I do not wish to interfere with its passage, and it may be proper to pass it at this session. I propose to the gentleman from Indiana that the bill shall be considered as reported, and that it be printed and recommended to the Committee on Public Lands with liberty to report it back at any time after it is printed. With the gentleman's permission I will make that motion.

The motion was agreed to.

ADJOURNMENT OF CONGRESS.

Mr. STILES, by unanimous consent, intro-

duced the following resolution; which was read, considered, and agreed to:

Resolved, (the Senate concurring,) That the President of the Senate and the Speaker of the House adjourn their respective Houses for the present session on Thursday the 30th of June, at twelve o'clock, m.

PENNSYLVANIA CONTESTED ELECTION.

Mr. DAWES, from the Committee of Elections, to whom were referred the memorial and accompanying documents of Charles W. Carrigan, contesting the seat of M. Russell Thayer, made a report, accompanied by the following resolutions:

Resolved, That Charles W. Carrigan is not entitled to a seat in this House as Representative in the Thirty-Eighth Congress from the fifth congressional district in Pennsylvania.

Resolved, That M. Russell Thayer is entitled to a seat in this House as Representative in the Thirty-Eighth Congress from the fifth congressional district in Pennsylvania.

The report and resolutions were laid on the table, and ordered to be printed.

REPRESENTATION OF ARKANSAS.

Mr. DAWES. The Committee of Elections, to whom were referred the credentials of certain gentlemen claiming to be Representatives from the State of Arkansas, have instructed me to report a joint resolution which I ask may be read, and if in the opinion of the Chair it is a question of privilege, I will call it up at some future day; if not a question of privilege, I shall ask to have its consideration assigned for some particular time.

The joint resolutions were read, as follows:

Resolved, &c., That there be appointed by the President, by and with the consent of the Senate, a commission consisting of three persons, residents of States not involved in the present rebellion, whose duty it shall be during the recess of the present Congress to visit those States declared by the proclamation of the President to have been in rebellion, and which have already taken or may before the next session of the present Congress take measures to establish or reorganize State governments, and after careful examination and hearing testimony report to the President for the information of Congress at as early a day in the next session as possible all such evidence as they may be able to obtain upon the question, whether the loyal people in any such States have succeeded in reestablishing a State government, to what extent such State government represents and has the support of the loyal people in such State, and what is the ability of such people therein to maintain the same against domestic violence.

Resolved further, That until Congress shall be satisfied upon evidence submitted to them that the rebellion has so far been suppressed in any such State that there has been established therein a State government, republican in form, and prohibiting the existence of slavery in the same, and so firmly established as to be able to maintain itself against domestic violence, representation from any such State ought not to be admitted into either branch of Congress.

The SPEAKER. The Chair is in doubt as to whether this is a question of privilege. Various questions of privilege have been decided as such by the House, which are stated in pages 145 and 146 of the Digest. There are no precedents for this case of course, for no similar questions have arisen before. If the gentleman from Massachusetts desires it, the Chair will submit the question to the House whether it shall be entertained as a matter of privilege.

Mr. DAWES. I will state that I do not desire to consider the joint resolution at this time. I merely wished to know whether this was to be considered as a question of privilege. If not, I wish to fix a day for its consideration.

The SPEAKER. The Chair has already decided that in his judgment it is not a question of privilege.

Mr. MALLORY. Then I object to the resolution being entertained, and to any remarks being made upon it by the gentleman from Massachusetts.

The SPEAKER. The Chair thinks it may be submitted to the House whether it will be entertained as a question of privilege. The Digest says that "when a proposition is submitted which relates to the privileges of the House it is his duty [the Speaker's] to entertain it at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege."

Mr. DAWES. I suppose there can be no question but what the Committee of Elections have the right to make the report a question of privilege. It touches the right of certain gentlemen to their seats here, and it only involves a mode adopted by the Committee of Elections to secure the taking of testimony which will enable them more intelligently to determine upon the ques-

tions before us touching what they suppose to be the right of these gentlemen to seats in this House. There can be no doubt, therefore, as to the right of the committee to make this report as a question of privilege. The only difference between this and the ordinary resolutions which are reported is, that this is a joint resolution, inasmuch as the President would not feel himself authorized to constitute such a commission simply upon the resolution of the House. It must be by joint resolution to enable the President to appoint a commission to take testimony touching the right of a member to his seat in this House.

Mr. MALLORY. The Chair has decided that the resolution cannot be entertained as a question of privilege, and I object to debate upon it.

The SPEAKER. The Chair overrules the suggestion of the gentleman from Massachusetts. If the gentleman has the right to report this resolution as a question of privilege he has the same right to consider it as a question of privilege. The joint resolution seems to be prospective in its character, and cannot, in the opinion of the Chair, be brought within the rule which permits the reception of the ordinary reports of the Committee of Elections relative to the rights of members to their seats.

Mr. DAWES. It is a resolution which the Committee of Elections have deemed essential to determine the right of claimants to seats in the House.

Mr. MALLORY. Is this question debatable? The SPEAKER. It is not.

Mr. MALLORY. I object to debate.

Mr. COX. I do not suppose there is any objection to this joint resolution being reported and ordered to be printed, if it is not to be called up as a question of privilege.

Mr. DAWES. This joint resolution as I understand is before the House. I do not desire action upon it at this time, but if it is not subject to be called up as a question of privilege I desire to have it postponed until a day certain, in order that it may be considered and passed during the present session.

Mr. BROWN, of Wisconsin. I rise to a question of privilege. I desire to present a minority report in this case.

The SPEAKER. If the majority report is not in order as a question of privilege, a minority report cannot be entertained as such.

Mr. COX. I hope the report of the minority will be read. The majority report was read, and I ask that the minority report may also be read.

Mr. BROWN, of Wisconsin. I understood there was no objection to the reports of the majority and minority being read and printed. The majority report has been read, and I now ask that the minority report may also be read.

The SPEAKER. The Chair will say that a minority report cannot be received by the House at any time except by unanimous consent. If there be no objection the minority report will be received and read.

Mr. WILSON. Has the morning hour commenced?

The SPEAKER. It has not. The first question will be on the Pacific railroad bill, which is the unfinished business from last evening, and then upon the bill for a naval depot at Cairo, and next on the bill in regard to the conscription. All these will have to be disposed of before the morning hour commences.

Mr. DAWES. I understand that the majority and minority reports have been received and ordered to be printed.

The SPEAKER. That will be considered to be the understanding of the House.

Mr. DAWES. I now ask that some day be set apart for the consideration of this subject.

Mr. WADSWORTH. I object to this thing coming in unless there is a motion to reconsider, and that motion is laid on the table. I do not want it to come in with the understanding that it shall not be acted on and then be brought up on a motion to reconsider and pressed through.

Mr. DAWES. I will vote with the gentleman for that motion.

The motion to reconsider was laid on the table.

Mr. COX. I ask that the resolutions of the minority may be read.

The Clerk read, as follows:

Whereas by article six of the Constitution of the United States it and the laws made in pursuance thereof are de-

clared to be the supreme law of the land, and every act of secession by any State is in direct violation of such supreme laws: Therefore,

Resolved, That the acts of secession by the Legislatures of the several States whose people are now in rebellion are mere nullities, having no force or effect to change the relation either of States themselves or of the people thereof toward the General Government; and that by such acts the people neither freed themselves from the penalties attaching by law to treason nor lost any rights as citizens of the States and United States, except such as may follow upon conviction of crime; that the duty of the people of such States to send true and loyal men to Congress, and the right so to do as consequent upon the duty, still remain by force of the Constitution, requiring no act of the President or Congress to confirm them; that no State can under the Constitution assent to the presence of armed rebels from other States within its borders, and that any act of the authorities of a State giving such assent is a nullity; that the entrance of such armed rebels of one State upon Territories of another is an invasion from which by article four of the Constitution the United States are bound to protect the invaded State; that this obligation of protection on the part of the United States is due to each citizen individually as a consequence of his duty of allegiance, and continues so long as there is a single loyal citizen in a State oppressed by such invasion; that so long as the Constitution and laws of the United States cannot be enforced in any congressional district on account of the presence of armed rebels there can be no free election, and a person claiming a seat through an election under such circumstances should be rejected.

Be it further resolved, That the Constitution in article two determines the qualifications of electors for Representatives, and that any order of the President or act of Congress changing such qualifications would be a usurpation and a nullity.

Be it further resolved, That whenever by pestilence, foreign invasion, or domestic conspiracy, the officers of a State required by its laws to conduct an election have been destroyed or carried off, the State does not thereby cease to exist, nor do its people forfeit their rights as citizens of the States or of the United States, but, from the very necessity of the case, and by virtue of the power implicitly reserved to the people, they may, in a practicable and reasonable manner, supply the deficiency, and hold an election, conducting it, however far as possible, in conformity with the existing laws and constitution of the State; and the duty of Congress in passing upon such an election claimed to be held under such circumstances is limited to ascertaining whether it was a fair expression of a majority of the people, and in the mode of conducting it departed from the general laws of the State only so far as was necessary to supply the deficiency of officers required to conduct the election.

Be it further resolved, That the right of the claimants from Arkansas should be determined by the principles here enunciated; and if they shall satisfy this House that the Constitution and laws of the United States and of the State held peaceful sway over their respective districts, that in their elections they departed in nothing from the Constitution and existing laws of that State, save in supplying requisite officers, and that they received a vote of a majority in their respective districts, then they are entitled to seats, but not otherwise.

Mr. ROSS. The Chair has decided that this is not a question of privilege, and I therefore object to its being brought before the House.

The SPEAKER. The objection comes too late. The reports have been received and ordered to be printed, and a motion to reconsider and lay on the table agreed to.

Mr. DAWES. I now move that the further consideration of the subject be postponed until Saturday next at one o'clock.

Mr. COX. I move that it be postponed till the first Monday in December next.

Mr. MALLORY. This is in direct contravention of the understanding of the House, which was that these reports should be ordered to be printed, and that the subject should not be brought up for consideration.

Mr. WADSWORTH. I only withdrew my objection on the express understanding that the subject should not be brought before us for consideration.

The SPEAKER. The reports were received and ordered to be printed, and a motion to reconsider was laid on the table.

Mr. MALLORY. I have only to say that this is in direct contravention of the unanimous consent of the House.

Mr. COX moved that the whole subject be laid on the table.

The House divided; and there were—ayes 43, noes 63.

Mr. ROSS demanded the yeas and nays.

Mr. NOBLE demanded tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

So the House refused to lay the subject on the table.

Mr. COX. I now demand the yeas and nays on the motion to postpone this subject until the next session.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 78, not voting 54; as follows:

YEAS.—Messrs. James C. Allen, William J. Allen, Ah-cona, Augustus C. Baldwin, Blair, Bliss, Brooks, Chamber, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Finck, Harding, Harrington, Benjamin G. Harris, Herriek, Holman, Philip Johnson, William Johnson, Kalbfisch, Kernan, Lazear, Long, Mallory, Marcy, McAllister, McDowell, James E. Morris, Morrison, Noble, Odell, John O'Neill, Pruyn, Samuel J. Randall, Rogers, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Wadsworth, Wheeler, Chilton A. White, and Joseph W. White—50.

NAYS.—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Benman, Blow, Boutwell, Boyd, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Eckley, Eliot, Fenton, Frank, Ganson, Gooch, Hale, Higby, Asabel W. Hubbard, John H. Hubbard, Ingersoll, Julian, Kason, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Longyear, Marwin, McBride, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smithers, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wilder, Wilson, and Windom—78.

NOT VOTING.—Messrs. Blaine, Brandegee, James S. Brown, Clay, Creswell, Henry Winter Davis, Griggs, Dumont, Eldridge, English, Farnsworth, Garfield, Giddens, Grinnell, Griswold, Hall, Charles M. Harris, Hooper, Hotchkiss, Hubbard, Hutchins, Jones, King, Knapp, Law, Le Blond, Littlejohn, Loan, Melndoe, McKinney, Middleton, William H. Miller, Morrill, Nelson, Pendleton, Perry, Radford, William H. Randall, Robinson, Scott, Shannon, Smith, Spaulding, Starr, Stebbins, Sweat, Voorhes, Ward, Williams, Windfeld, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—54.

So the House refused to postpone the subject until the first Monday of December next.

Mr. DAWES demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the subject was postponed till next Saturday at one o'clock.

PENNSYLVANIA CONTESTED ELECTION.

Mr. SCOFIELD, from the Committee of Elections, submitted a report accompanied by the following resolutions:

Resolved, That John Kline is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the third congressional district of Pennsylvania.

Resolved, That Leonard Myers is entitled to the seat now occupied by him as a Representative in the Thirty-Eighth Congress from the third congressional district of Pennsylvania.

The report was laid on the table, and ordered to be printed.

Mr. DAWES. I do not concur with the majority of the committee in the ruling by which the contestant in this case was denied process to summon witnesses to prove certain allegations in his notice of contest. I am of opinion that when a party has conformed his allegations to the statute he is entitled, as of right, to the production of any legal testimony that will tend to prove such allegations; and that neither the law nor usage of the House requires of him to first show probable cause to believe that his allegation is true before he can have such process as will produce the evidence to prove it so. Whether I should ultimately concur with the committee in the final conclusion to which they have arrived would depend, of course, upon the character of such testimony when produced.

Mr. GANSON. I desire to say that I concur fully with the chairman of the Committee of Elections in the views he has just expressed, and I hope the House will sustain him when they are called upon to act in this case.

Mr. ORTH. I ask unanimous consent of the House to make a report from the Committee on Foreign Affairs.

Mr. WADSWORTH. I object; and I give notice that I will give unanimous consent to nothing.

Mr. COFFROTH. I ask permission that Friday next be set apart exclusively for the consideration of private bills.

Mr. WADSWORTH. I object.

WITHDRAWAL OF PAPERS.

Mr. J. C. ALLEN. I ask the unanimous consent of the House to withdraw from the files of the House the papers in the case of L. J. Rose. They were referred to the Committee on Indian Affairs, but no action was taken on them by the committee, and they were reported back and laid

upon the table. I ask unanimous consent to withdraw them from the files of the House.

Mr. WASHBURN, of Illinois. For what purpose?

Mr. J. C. ALLEN. It is the intention of the petitioner to present his claim to one of the Departments of the Government.

No objection being made, the leave was granted.

Mr. INGERSOLL. I ask leave to offer a resolution for reference to the Committee on Printing.

Mr. MALLORY. I object.

PACIFIC RAILROAD.

Mr. COLE, of California. I demand the regular order of business.

The House resumed, as the regular order of business, the consideration of the unfinished business of yesterday, being bill of the House No. 438, to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, the question being upon the motion to lay on the table the motion to reconsider the vote by which the House agreed to Mr. WILSON's amendment.

The motion was agreed to.

Mr. WILSON. I offer the following amendment to come in at the end of the bill as additional sections:

And be it further enacted, That the Burlington and Missouri River Railroad Company, a corporation organized under and by virtue of the laws of the State of Iowa, be, and hereby is, authorized to extend its road through the Territory of Nebraska from the point where it strikes the Missouri river, south of the mouth of the Platte river, to some point not further west than the one hundredth meridian of west longitude, so as to connect by the most practicable route with the main trunk of the Union Pacific railroad, or that part of it which runs from Omaha to the said one hundredth meridian of west longitude; and for the purpose of enabling said Burlington and Missouri River Railroad Company to construct that portion of their road herein authorized the right of way through the public lands is hereby granted to said company for the construction of said road; and the right, power, and authority is hereby given to said company to take from the public lands adjacent to the line of said road earth, stone, timber, and other materials for the construction thereof. Said right of way is granted to said company to the extent of two hundred feet where it may pass over the public lands, including all necessary grounds for stations, buildings, workshops, depots, machine shops, switches, side tracks, turn-tables, and water stations. And the United States shall extinguish as rapidly as may be the Indian titles to all lands falling under the operation of this section and required for the said right of way and grant of land herein made.

Sec. — And be it further enacted, That for the purpose of aiding in the construction of said road there be, and is hereby, granted to the said Burlington and Missouri River Railroad Company every alternate section of public lands (excepting mineral lands as provided in this act) designated by odd numbers to the amount of ten alternate sections per mile on each side of said road on the line thereof, and not sold, reserved, or otherwise disposed of by the United States, and to which a preemption or homestead claim may not have attached at the time the line of said road is definitely fixed: *Provided*, That said company shall accept this grant within one year from the passage of this act by filing such acceptance with the Secretary of the Interior, and shall also establish the line of said road, and file a map thereof with the Secretary of the Interior within one year of the date of said acceptance, when the said Secretary shall withdraw the lands embraced in this grant from market.

And be it further enacted, *Sec.*, That whenever said Burlington and Missouri River Railroad Company shall have completed twenty consecutive miles of the road mentioned in the foregoing sections, in the manner provided for other roads mentioned in this act and the act to which this is an amendment, the President of the United States shall appoint three commissioners to examine and report to him in relation thereto; and if it shall appear to him that twenty miles of said road have been completed as required by this act, then, upon certificate of said commissioners to that effect, patents shall be issued conveying the right and title to said lands to said company on each side of said road as far as the same is completed, to the amount aforesaid; and such examination, report, and conveyance by patents shall continue from time to time in like manner until said road shall have been completed. And the President shall appoint said commissioners and fill vacancies in said commission, as provided in relation to other roads mentioned in the act to which this is an amendment. And the said company shall be entitled to all the privileges and immunities granted to the Hannibal and St. Joseph Railroad Company by the said last-mentioned act so far as the same may be applicable.

Mr. WILSON. This proposition has been before the select committee on the Pacific railroad, and is concurred in by them. It contains no provision in reference to bonds, but merely the same grant of lands which is given to other companies. There is no obligation upon the part of the Government to issue bonds, or to pay money, or anything of that kind.

I say the amendment has the concurrence of the select committee, as I am informed by the chairman. I demand the previous question upon the amendment.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the amendment was agreed to.

Mr. WILSON moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed acts of the following titles; in which the concurrence of the House was requested:

An act (No. 298) to incorporate the Potomac Ferry Company;

An act (No. 321) to authorize the corporation of Washington to levy and collect the direct tax imposed by act approved August 5, 1861; and

An act (No. 115) to amend an act entitled "An act to define the powers and duties of the levy court of the county of Washington, District of Columbia."

Also, that the Senate has passed bills of the House of the following titles, severally with amendments; in which the concurrence of the House was requested:

An act (No. 495) to amend the charter of the Washington and Georgetown Railroad Company; and

An act (No. 442) to authorize the President of the United States to negotiate with certain Indians of Middle Oregon for the relinquishment of certain rights secured to them by treaty.

PACIFIC RAILROAD—AGAIN.

Mr. LOAN. I move to amend the sixth section by adding thereto the following:

Section thirteen of the act to which this is amendatory is hereby amended by striking out the words "Hannibal and St. Joseph" wherever they occur in said section, and inserting in lieu thereof "St. Joseph and Denver City."

There are several amendments I desire to offer all touching the same question, and with the permission of the House I will state the whole ground upon which the amendments are based in a few brief remarks, so that the House may understand the objects I have in view.

The object of granting aid in the construction of this road, as I understand it, is, as declared in the charter, for the purpose of promoting the general welfare of the country. That being the object had in view, we have provided for the location of a main trunk on the one hundredth degree of longitude west, with branches from that point east to the Missouri river, and have authorized certain railroad companies to construct those branch roads from the Missouri river to the main trunk. In doing this the authority conferred upon these branch roads is in the nature of a trust conferred by the Government upon these corporations for the construction of these parts of this national work, first for the benefit of the public, and, secondly, for the incidental advantages which may result to the roads themselves.

If this supposition as to the object of granting aid in constructing these branches be correct, Congress has the control of the matter at this time, and can direct what corporation shall construct them.

Among other things they have provided for the construction of a branch west by the Hannibal and St. Joseph railroad. They have provided furthermore for the construction of a branch from Kansas City by the Leavenworth and Pawnee road. They have also provided in this bill for the construction of a branch from Leavenworth, intersecting the Pawnee branch, to Lawrence, and a branch from Omaha, intersecting either the main trunk or some branch of it.

Mr. STEVENS. This is a matter with which I am not at all acquainted. I would ask the gentleman if there is such a company chartered as the St. Joseph and Denver Railroad Company.

Mr. LOAN. Yes, sir.

Mr. STEVENS. Where is it to run?

Mr. LOAN. It runs from St. Joseph to Denver City, in Colorado. The company has been organized and a portion of the road has been completed, but the operations of the company have been interrupted by the rebellion, which has thrown

everything in that part of the country into confusion.

Mr. STEVENS. Has the Hannibal and St. Joseph Railroad Company made any portion of the road under this franchise?

Mr. LOAN. So far as I am advised, it has not. I propose speaking upon that point.

Mr. STEVENS. I would like to ask whether this new road is the same one to which it is said the Hannibal and St. Joseph Railroad Company have assigned their franchise?

Mr. LOAN. It is not.

Mr. STEVENS. I will not trouble the gentleman with further questions.

Mr. LOAN. The St. Joseph and Denver City Railroad Company is, like the Hannibal and St. Joseph Railroad Company, a corporation well known in the western country. It has commenced the construction of its road and has graded the road-bed for some twelve miles; it has the track laid down for four or five miles, and has the iron to lay it for more than twelve miles already upon the ground.

But, as I was about saying, Congress, in authorizing the Hannibal and St. Joseph Railroad Company to construct this branch, put into the charter a requirement that it should pass the town of Atchison, in Kansas. This town of Atchison is represented at the other end of the Capitol by Senator POMEROY, who is one of the proprietors of the town, and the member of the Thirty-Seventh Congress from the district which I now represent was, as I have been informed, another proprietor of the town of Atchison. It was necessary, in order to promote individual interests in the town of Atchison, to make a deflection to the south, so that this branch road should run by that town. This rendered the franchise conferred upon the Hannibal and St. Joseph Company entirely worthless to them; it destroyed its entire value; they could not construct the road on the terms proposed, and, considering the franchise of no value to them whatever, they assigned it to the Atchison and Pike's Peak Railroad Company, of which Senator POMEROY seems to be the sole representative. The object of all this was not to promote the public interests or the public welfare in the construction of a branch to the Pacific railroad, but to promote the individual interests of certain gentlemen who propose to construct a road not where the public interests require it, but in such a direction as will put money into their pockets. The franchise being utterly worthless to the Hannibal and St. Joseph Railroad Company, they have assigned it without any consideration, as a mere gratuity, to the Atchison and Pike's Peak Railroad Company, and as they have declined to construct this branch road, I desire that Congress shall give this franchise to a corporation that will construct the road under their charter.

Mr. STEVENS. I desire to ask the gentleman from Missouri one other question. I desire to inquire whether aid for more than a hundred miles is granted by his amendment to this road.

Mr. LOAN. No, sir.

Mr. STEVENS. It is the same as the original grant?

Mr. LOAN. Just the same. What I desire is to get a road that will run west connecting the eastern country with the western country, and not to build a side road for the individual benefit of particular gentlemen who manage legislation here so as to accomplish their own ends. We have a continuous line of railroad now from Philadelphia through Harrisburg, Pittsburg, Columbus, Springfield, and Hannibal, to St. Joseph, all now in running order, except some twenty miles between the Illinois river and the Mississippi river, on which they are laying down the iron at this time.

The general course of the road from St. Joseph lies north of west. But the charter requires a deflection of twelve miles from a direct course south to Atchison, and then a return to the line. Now, sir, no company can afford to build a road with such conditions, and no company will build it.

This amendment if adopted will secure a continuous line of road from Philadelphia west near the fortieth parallel of north latitude to the main trunk of the Pacific road. If this amendment is adopted the St. Joseph and Denver City Company will build the road, and they ask for no additional aid from the Government. They ask for no additional grant, but they do ask the authority to

build this road in a westerly direction instead of a southerly or southwesterly direction.

I ask the House to consider for one moment what will be the effect of building, as is authorized under this bill as it now exists, three parallel roads having their eastern termini on the Missouri river within thirty-two miles north and south, while a stretch of country one hundred and thirty-five or one hundred and forty miles wide is without any branch whatever. Can any gentleman in this House see any public necessity of three parallel branches of this road running within a strip of thirty-two miles wide, while a strip one hundred and thirty or one hundred and forty miles wide above is left without any branch whatever?

And again, the eastern termini of these branches are at Kansas City, Atchison, and Leavenworth, and not one of them has an eastern connection or will have for years to come. The only eastern connection that can be had at present is through the city of St. Joseph, and it is a singular fact that in the bill as now presented the only point by which the road can at present, or for years to come, make a connection with the East is left out of the bill. There is no connection with Atchison, Kansas City, or Leavenworth, and the only means in prospect for such a connection is through the Missouri Pacific railroad, and that will not be completed for years.

The amendment I have offered proposes the only means of remedying that difficulty. It provides for a connection with a point with which a continuous connection with the East has been kept up in spite of the war; a point which, for the last ten or fifteen years, has been the great central point for the outfitting and starting of traders and emigrants across the plains, and has been selected for that purpose because of its very superior advantages for the purpose. Why, sir, within the last forty days not less than two hundred wagons per day have been outfitted and started across the plains from that point.

I submit, therefore, that to make the termini of the branch roads at the points mentioned in the bill not only presents the anomaly of three parallel roads within a strip of thirty-two miles, but that of leaving the whole travel of the West entirely unprovided for far want of an eastern connection. The bill provides for one branch having its terminus at Omaha and one having its terminus at Sioux City. Many years will elapse before the public demand for railroad communication will require any connection with those points.

With this explanation I hope this amendment will be passed, and unless some gentleman desires to be heard upon it I will demand the previous question.

The previous question was seconded, and the main question ordered to be put.

On the adoption of the amendment submitted by Mr. LOAN 37 voted in the affirmative and 35 in the negative—no quorum.

The SPEAKER ordered tellers; and appointed Messrs. LOAN and HURCHINS.

The House again divided; and the tellers reported—ayes 58, noes 38.

So the amendment was adopted.

Mr. DAWES. I move to add to the ninth section the following:

And provided further, That any company authorized by this act to construct its road and telegraph line from the Missouri river to the initial point aforesaid may construct its road and telegraph line so as to connect with the Union Pacific railroad at any point westward of such initial point in case such company shall deem such westward connection more practicable or desirable; and in aid of the construction of so much of its road and telegraph line as shall so be a departure from the route hereinbefore provided for its road, such company shall be entitled to all the benefits and be subject to all the conditions and restrictions of this act: Provided further, however, That the bonds of the United States shall not be issued to such company for a greater amount than is hereinbefore provided; nor shall such company be entitled to receive any greater amount of alternate sections of public lands than are also herein provided.

I do not think there can be any objection to the amendment.

Mr. STEVENS. As I understand it I do not object to it; but I suggest to the gentleman to insert after the word "nor," in the latter part of the amendment, these words:

If the same be united with the Union Pacific railroad on the one hundredth degree of longitude.

Mr. DAWES. I accept that as a modification of my amendment.

Mr. COLE, of California. I think that the great

mistake in reference to the Pacific railroad has been in recognizing so many companies over the same degrees of longitude. If the energy of railroad men had been confined to one line from the Missouri river to the Pacific ocean I am sure that the work would have been much further advanced than it is now. I have always regretted propositions to add on other companies; and I fear that the amendment of the gentleman from Massachusetts will have the same effect.

I cannot perceive how the objection alluded to by the gentleman from Iowa can be available. They may continue a parallel railroad any distance beyond the one hundredth degree of longitude. There is quite a space between Leavenworth and the Platte and Republican fork where the Union Pacific Railroad Company may fix the point; and it will doubtless fix on the road that will reach that point first. It is far out upon the plains, and I see no necessity for allowing these other roads. The parties who are willing to build them are sufficiently accommodated now.

I do not like to oppose a proposition of this kind, but, as a citizen of the Pacific coast, I want to see a road built, and am therefore against anything that will retard the accomplishment of that object.

Mr. DAWES. I am with the gentleman in favor of the object he seeks to attain, and if I thought my amendment would have the effect he suggests I would withdraw it. My amendment is necessary in order to enable these roads to avoid mountains and sharp turns, and to make them upon the shortest line.

Mr. STEVENS. If I understand the amendment I see no objection to it. If a road reaches the one hundredth degree of longitude fifty miles north or south of the initial point, instead of compelling it to turn to the right or left, it permits it to continue on and strike the line in the shortest and best way.

The amendment was agreed to.

Mr. PRUYN. I move to add the following:

The President of the United States shall, by and with the advice and consent of the Senate, appoint a board of commissioners, to consist of seven persons, who shall have and possess all the powers now vested in the Union Pacific Railroad Company under the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and the said commissioners shall proceed without delay to construct the said railroad and telegraph line as authorized by the said act. The said commissioners shall not be entitled to any compensation for their services, but their necessary expenses, to be audited by the Secretary of the Treasury, shall be paid to them respectively.

I had this amendment read last night, and gave notice that I would offer it when I had the opportunity. If the House shall come to the conclusion to adopt it I will then move to refer the bill back to the special committee to make it conform to the amendment and carry out the detail. The Government are to contribute some ninety-eight per cent. of the amount needed for the construction of the road; and the question is substantially whether the work shall be controlled by the Government or by those who only contribute two per cent. of its cost.

Now, my view of the matter is that the Government should, through its own commissioners, build the road directly instead of doing it indirectly, and it will spend no more money in that way than in the present mode, save the comparatively small sum of \$2,000,000, and it would not part with any of its lands. I have no objection to an organization which, by contributing a proper amount for this purpose, would really, in view of the hazard it incurs, become entitled to something—some large grant, even, if you please, from Government—for the expenditure it may make and the risk it may run.

Mr. PRICE. I desire to ask the gentleman a question. I understand him to say he is opposed to the Government adding anything more to the grant already made, or to furnish any other facilities, unless the Government takes control of the work. Now I desire to ask him whether the gentleman from New York did not, after the organization of the Pacific Union Railroad Company, offer a resolution either in the board of directors or stockholders not to do any work toward the construction of the road until they should have additional legislation upon the subject?

Mr. PRUYN. I will answer the gentleman. Before most of the gentlemen who now have the control of this road had anything to do with it, when parties were desirous to save the charter, I, in company with several gentlemen in New York with whom I had been invited to act, endeavored with that view to obtain subscriptions to this stock, or rather my associates did, and it was then understood, not by any agreement in legal form, for that could not be made, that if the necessary amount of capital was subscribed further legislation would be needed by Congress on several points before it would be proper to proceed with the work, and that in the mean time the requisite surveys and examinations for the line of the road should be made. If the legislation of Congress should not justify individual enterprise going on with the undertaking, or if Congress should come to the conclusion that some other mode was desirable to carry it on, then the subscription money paid in should be refunded, deducting any amount which might have been paid for incidental expenses and surveys. Their manifest object in this was to promote the work by procuring the necessary surveys, and again bring the subject before Congress that it might in some way be placed upon a footing which would lead to its being successfully carried through.

Now, sir, if Congress prefer that a private corporation should go on with this enterprise, and that in consideration of \$2,000,000, or of any other amount, they should be entitled to this franchise, with the large land grants proposed, they will say so by adopting the bill before you in the shape in which it is reported. But I wish to ask the House, in view of the facts now before us, and of all the considerations which have been presented in regard to this enterprise, looking to what the Government must do—and it must substantially do everything—whether it is not better at once, if this great work is to be thoroughly prosecuted, that the Government should at once take hold of it. I appeal to every gentleman present whether in case this road will not take care of itself, this company or any other company or any individuals can be expected to contribute from year to year to carry on and support it? If, therefore, the operation be unsuccessful, it must necessarily come back upon the Government. If it be successful, we are parting with a vast domain with a great amount of property for a very trifling consideration.

Now, I lay out of view the fact that in the scheme reported by the committee they propose that the company shall raise \$50,000,000 on its own bonds, for the reason that the Government lien being subordinate to the first lien, it in fact devolves on the Government to take care of the company should any difficulty arise in its affairs. My purpose, as I before stated, if the House should adopt this amendment, is to move to recommit the bill to the committee to reframe it according to the principle which this amendment affirms; and I wish here in view of some things which have occurred during this discussion to say, if I have not stated it fully already, that I have nothing to say in regard to the individuals concerned in the management of this road. In my argument last night I assumed everything in their favor. I am willing to assume it now. I make no attack here upon individuals. I have nothing to say on that score. There is no question that these gentlemen are abundantly able to pay in the capital they have subscribed. I have no doubt they are prepared to go on with the work. But the question for the House to decide is whether, looking at the vast amount involved and the great interests at stake, this is the true way to build this road. I think not, and I hope my amendment will be adopted.

Mr. SWEAT. I did not intend to say anything upon this subject, for I supposed that, being thoroughly understood, there would be but slight opposition to the passage of the bill as reported by the committee. Least of all did I expect opposition from such a gentleman as he who has just taken his seat, [Mr. PRUYN,] a gentleman of liberal views, and who understands the railroad system of this country as well, perhaps, as any gentleman upon this floor; but I can construe his proposition in no other way than this, that it is intended to defeat the passage of the bill now before the House. I wish to ask the gentleman from New York whether this proposition of his

for the appointment of seven commissioners to act without pay to build the Union Pacific railroad to the Pacific ocean is or is not founded upon the idea that the company as now organized are either not trustworthy or are incompetent to carry on the charge to which they have committed themselves?

Mr. PRUYN. Not at all. My whole argument was framed upon an entirely different basis. I laid out of the question the personal character and capacity of the company, and simply claimed that as this is a Government work, for which the Government is to pay, we ought to build it accordingly, and get the benefit.

Mr. SWEAT. The gentleman either wishes to have the Union Pacific railroad built or he wishes it not. I can infer nothing else from his argument than that he is not willing that it should be built under the present organization. Is the gentleman willing that it shall be?

Mr. PRUYN. I declared last evening that I was earnestly in favor of the construction of this road, and had been for years, and that I was one of the parties instrumental in saving the charter; but that I thought we could construct this road, and ought to construct it, in view of the large stake the Government has in it, in another way than that proposed by the committee.

Mr. SWEAT. Has the organization of the company changed since the gentleman interested himself in it by becoming a stockholder?

Mr. PRUYN. That was before the organization.

Mr. SWEAT. It has always been the theory, at all events of gentlemen upon this side of the House, that the Government ought not to appoint their own Federal agents for any great work of internal improvement. That is the doctrine upon which we have all stood, and that is the doctrine upon which the gentleman from New York and his associates have always stood. He now proposes to place the construction of the most stupendous work ever undertaken on the face of the earth in the shape of a railroad in the hands of immediate agents of the Federal Government. Now, does he suppose that men can be found who will carry on this work to a successful termination upon any such basis or theory as he has suggested? If we adopt the proposition of the gentleman all that has been done under the legislation of 1862, the organization that has been formed, all the money that has been subscribed, all the surveys that have been made, everything goes for nothing; we are thrown back to where we were before the legislation of 1862, and must start anew. I trust that that proposition, which is ignoring entirely this bill, will not be entertained for one moment by this House.

Although not anxious to speak on this bill, yet as I am a member of the special committee that reported it, I desire to say a single word. I have served with that committee, and I need not say how faithfully I have done so. But I can assure the House that that committee of fourteen has worked faithfully, honestly, and with as praiseworthy a desire to save the public money as can animate the gentleman from Illinois who spoke last evening, [Mr. WASHBURN.]

One of the first propositions made to the committee was for us to decide whether, in the present embarrassed state of the Government, we would call upon the Government for another dollar of aid to build this road. The committee was unanimous in the decision that, in view of the present demands on the Treasury of the United States, we could not, with propriety, be called upon to embarrass the Government by appropriating one other dollar or one other bond for the road. On examining the bill of 1862 we found in it some provisions that were undoubtedly introduced by the enemies of the bill, who were determined to kill it by such amendments as would prevent the acceptance of the bill by the friends of the road. We felt it our duty to allow certain facilities to the road while refusing a further dollar of aid.

From the attack made on the bill by the gentleman from Illinois last night, a person not understanding this bill as connected with the first one, would well suppose that some heinous crime had been attempted to be committed. I need not say that, in my judgment, the committee are as loyal and as economical of the funds of the Government as is the gentleman from Illinois. Now,

what does the committee propose to do by this bill? Simply to give certain facilities. In the law of 1862 a provision was made that if any one of these roads (and there are various roads connected with this line from the meridian of longitude mentioned to the Pacific ocean) failed in fulfilling and complying with every single condition the whole line should be forfeited to the Government, no matter whether they had expended tens of thousands or millions of dollars. We thought that an exceeding hardship on the company; and this bill provides that the failure to comply with the conditions by a single section or branch shall not work a forfeiture of all that has been done from beginning to end. I submit whether that was not a fair thing to do.

That is one of the horrible things that the committee has done. I wish to ask the gentleman from Illinois, who says he has been a friend of this road longer than anybody else, whether he would justify the committee in that or whether he disapproves of it?

Mr. WASHBURN, of Illinois. I do not know what the gentleman refers to.

Mr. SWEAT. I will repeat the question. The bill before the House provides that the failure of any one company to comply fully with the conditions and requirements of the act shall not work a forfeiture of the road of any other company.

Mr. STEVENS. I suggest to my colleague on the committee that the question is now simply on the amendment, and that he had better leave the merits of the case till we get through the amendment. He is a little out of order.

Mr. SWEAT. I am willing to take the suggestion of the Chair. But as the gentleman from Illinois did offer a proposition a few minutes ago to repeal the tenth section, I trust the House will bear with me a single moment in reference to that, as I do not propose to trouble the House again upon it. The proposition of that section is simply that the company may put on the railroad and telegraph line a mortgage equal per mile to that of the Government bonds. By the bill of 1862 the company was to receive \$16,000 for that part of the road built over the valley, \$48,000 for that part of the road built over the mountains, and \$32,000 for that part built between the mountains, which is in fact a very difficult and mountainous region.

Now, the proposition is that the company shall issue a mortgage to secure their bonds to an equal amount, and that their mortgage shall take precedence over that of the Government.

Now, I submit, as the gentleman who is chairman of the special committee on this subject did last evening to the distinguished economist from Illinois, [Mr. WASHBURN,] that if this road was secure for the loan which was proposed two years ago, it must certainly be secure for the additional amount which it is now proposed to put upon it.

Mr. SHANNON. I ask the gentleman from Maine to allow the previous question to be moved on the amendment pending of the gentleman from New York, and then to allow a vote to be taken upon the proposition of the gentleman from Illinois. The debate upon the general bill may then proceed with less embarrassment.

Mr. WASHBURN, of Illinois. I desire to make a remark just here.

The SPEAKER. The gentleman from Maine [Mr. SWEAT] is entitled to the floor and has not yielded it.

Mr. SWEAT. The gentleman from New York, [Mr. PRUYN,] before me, desires to make an explanation. I will yield to him.

Mr. PRUYN. I desire to ask the gentleman if he heard the remarks I made on this question last evening?

Mr. SWEAT. I did.

Mr. PRUYN. I am surprised, if the gentleman heard those remarks, that he should have indulged in the line of observations which he did this morning. I very briefly referred last night to my interest in the road years since, and I certainly said nothing which ought to lead him or any gentleman to suppose that the remarks I submitted to the House were induced by any other than the strongest interest and desire to see the work succeed. I believe the road will be built sooner, more thoroughly, and more effectually, in the way I have proposed than in any other way, and I submit that my motives should be as liberally and as fairly

construed as those of the gentleman from Maine. My friendship, my active friendship, if you please, for this road, dates many years further back than that of the gentleman from Maine.

One other word in regard to what fell from the gentleman, and I will yield the floor. He says that if my project be adopted all the work that has been done since 1862 will fall. Not at all; the work that has been done would be turned over to the Government after paying for its cost. The surveys which have been made would of course be just as available, and everything would proceed without delay.

The gentleman mistakes when he supposes that persons of high reputation, standing, and character cannot be obtained to occupy positions as commissioners under an act of this kind. Sir, if this proposition be adopted I should have no hesitation in saying that I would be prepared when the proper time came to name gentlemen of such character, position, and standing before the country as no member upon this floor would venture to question, and who would undertake to supervise the construction of this road without being paid a dollar for it.

Mr. SWEAT. Before the gentleman takes his seat I desire to ask him if he supposes this road can be built by the Government under the supervision of these Federal agents for anything like the amount a company composed of gentlemen who are supposed to have some interest in the matter could build it for?

Mr. PRUYN. I will answer the gentleman by saying that I do believe the road could be built by the Government under the supervision of such men as I would have appointed—men outside of all political connection with the Government, and of high standing and character—not only cheaper, but better and more useful for the great purposes for which the road is to be constructed, than any company would be likely to build it, because they would have in view all the great elements of durability and usefulness which should belong to a great national work of this kind to a greater extent than any company could be expected to have.

Mr. SWEAT. One single word more. We ought to exercise a little common sense in this matter, and then we will arrive at a right conclusion. Everybody knows that the great railroad system of this country has been pushed forward not merely by a feeling of loyalty and patriotism, or simply for the improvement of the public domain, but by motives founded on self-interest. Most of the transactions of life are entered upon and urged to their completion by mixed motives rather than by a single one, and railroads are no exception to this truth. My opinion is that names alone will not build the Union Pacific railroad. Money is needed, and I am for intrusting this great work to men who are willing to give their time, energies, and capital to it, and am therefore opposed to breaking up the present organization and giving it to the disinterested gentlemen, acting as agents of the Government, as suggested by the gentleman from New York.

Mr. STEVENS. The morning hour has nearly expired, and I hope that the gentleman will yield to me to demand the previous question.

Mr. SWEAT. I will demand it myself. I demand the previous question on the pending amendment.

The previous question was seconded, and the main question ordered.

Mr. HOOPER. Is it in order to go into the Committee of the Whole on the state of the Union now?

The SPEAKER. It can be done by a majority vote.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 265) to expedite and regulate the printing of the public documents, and for other purposes; and

An act (S. No. 306) to grant to the State of California certain lands for State prison purposes.

LOAN BILL.

Mr. HOOPER. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union to

take up the loan bill which was made the special order for to-day.

The House divided; and there were—ayes 57, noes 35.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and proceeded to the consideration of House bill No. 540, to provide ways and means for the support of the Government, and for other purposes.

Mr. HOOPER. I move that the first reading of the bill be dispensed with.

Mr. HOLMAN. I object.

The bill was read a first time for information, and then the Clerk proceeded to read it by sections for amendments.

The first section was read, as follows:

That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States, \$400,000,000, and to issue therefor coupon or registered bonds of the United States, redeemable at the pleasure of the Government after any period not less than five nor more than thirty years, or, if deemed expedient, made payable at any period not more than forty years from date. And said bonds shall be of such denominations as the Secretary of the Treasury shall direct, not less than fifty dollars, and bear an annual interest not exceeding six per cent., payable semi-annually in coin. And the Secretary of the Treasury may dispose of such bonds, or any part thereof, and of any bonds commonly known as five-twenties remaining unsold, in the United States, or, if he shall find it expedient, in Europe, at any time, on such terms as he may deem most advisable, for lawful money of the United States, or, at his discretion, for Treasury notes, certificates of indebtedness, or certificates of deposit issued under any act of Congress. And all bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal authority.

Mr. HOOPER moved after the word "terms," in the eighteenth line, to insert the words "and conditions."

The amendment was agreed to.

Mr. HOLMAN. I move to strike out the last clause, which is in these words:

And all bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal authority.

It will be observed, Mr. Chairman, that this goes further than any legislation we have had on this subject. This embraces bonds, Treasury notes, and other obligations of the United States. Other obligations will be construed by the courts to mean legal-tender notes. It will also embrace certificates of indebtedness. It would extend to the interest-bearing Treasury notes now out, and to all those authorized by the second section of this act. It will cover the entire floating wealth of the country. It withdraws this large amount of capital from State and municipal taxation.

I am wrong in saying that it will embrace all of the floating wealth of the country. It would not apply to the notes of the national banks, or to the notes issued by the local banks in the country; but it would cover \$450,000,000 of Treasury notes. It would embrace all those now out, and all authorized by the second section of this act.

While it may be an argument in favor of this provision that it is necessary for the bonds themselves to prevent their depreciation as compared with those which have preceded them, still the whole question comes up, and we will be told that the subject is already affected by legislation and that this provision has been applied to loans now in force. Now I never thought that it was in the power of Congress to limit the right of taxation for State and municipal purposes. When we did so it was an unwarrantable assumption of power.

It was not expected the mischief would be so great when the first law was passed; but now the full extent of the evil can be foreseen. I do not believe it does or can inure to the benefit of any other class of people than the large capitalists. The great mass of the people have none of these bonds; they are in the hands of the banks and of the large capitalists. It enables a man to withdraw all of his means from State and municipal taxation, and makes the burden of taxation unnecessarily heavy upon the poorer class of people. The capitalists and those having no investments in real estate and merchandise, the men least beneficial to the country, are thus permitted to escape the just burdens of the Government; and all the burden is thrown upon labor and upon capital invested in real estate and in the common commodities of the entire country.

I trust that the importance of this subject, as it must affect the whole financial interests of the

country, will command the serious consideration of this House, and that the principle, already bad enough, ingrafted upon our legislation connected with these public securities will not at least be extended beyond the limits already established. If this entire provision is not stricken out I hope it will be confined at least to bonds alone, and not extended to Treasury notes and other obligations of the United States.

Mr. HOOPER. I hope that amendment will not be adopted. Every other loan bill under which obligations of the Government are now in circulation contains a similar clause, and I trust we shall not make this bill an exception.

The gentleman says it exempts United States notes issued for circulation. I understand, however, that this provision applies only to the interest-bearing obligations of the Government. If, however, the gentleman thinks that the provision would be safer with an amendment in that respect, I am willing it should be made.

Mr. HOLMAN. These Treasury notes are interest-bearing paper. The difference between them and legal tender is that the one kind bears interest while the other does not. The term "Treasury notes," as made use of here, refers to the notes provided for in the second section of this bill. The language is, "Treasury notes and other obligations of the United States." If "Treasury notes" would not embrace legal tender, the other term, "and other obligations of the United States," of course would embrace all others which the Government has issued.

Mr. HOOPER. Would the gentleman propose that legal-tender notes should be subject to State and municipal taxation?

Mr. KERNAN. I understand the gentleman to ask whether any notes should be subject to State and municipal taxation. Surely they should be; otherwise all that a wealthy man has to do to get rid of State taxation is to convert his property into money, which of all other things is the most tangible wealth, and should be taxed.

Mr. HOOPER. It would be very unfair to subject him to municipal taxation when he has done that, as he would have no income on which to pay a tax.

Mr. KERNAN. If a man is to be taxed on personal estate he is to be taxed upon that which is money, which is personal estate. If I understand this provision, a man who has property in currency would not be taxed at all.

Mr. MALLORY. I will state to the gentleman from Massachusetts that in Kentucky the tax-gatherer asks the tax-payer what he is worth in money after all his debts are paid. If he answers five or ten thousand dollars, he is taxed upon that amount. If you exempt legal-tender notes from taxation, and the tax-gatherer asks me that question and I say I am worth \$10,000 in legal-tender notes, then he is at once prohibited from taxing me, and I am free from taxation of any kind.

Mr. SWEAT. I wish to ask the gentleman from Massachusetts a question for information. Will the gentleman state upon what theory it is thought advisable by the Committee of Ways and Means that bonds, Treasury notes, and other obligations of the Government should be exempt from taxation by State authority?

Mr. HOOPER. In reply I would say that I do not think the committee looked to any theory about it. They found the general practice since the commencement of the Government had been to exempt from taxation the obligations of the Government issued by the United States under loan bills.

Mr. SWEAT. I supposed that the theory was this, that the bonds would be much sooner taken up if they were to be exempt from taxation. If that be the theory I think it is a mistaken one; for it is getting to be so unpopular in many portions of the country for men to hold bonds which are not subject to taxation by State legislation, that men are becoming unwilling to take the odium upon themselves, which they must necessarily do if it be known that they have invested a large portion of their surplus funds in the bonds of the United States. I believe if the bonds were subject to taxation men would be more willing to take them than they are now when they are exempt. I was never more struck with the force of this idea than I was when I heard a remark made by a very distinguished gentleman, a warm friend of this Administration, and I may say, without men-

tioning his name, one of the justices of the Supreme Court of the United States. He said that he, for one, would be unwilling to take bonds that were to be exempt from taxation by the municipal laws of the State where he lived, for the reason that he believed the system would become so odious before many months had gone by that a man would find it difficult to live in a neighborhood where it was known that he had invested his surplus funds in Government bonds, thereby escaping taxation on his personal property.

I think it would work better to let it be known at once that the man who invests his money in Government bonds shall pay State taxes upon the property so invested, the same as upon other property.

Mr. POMEROY. If the indebtedness created by the United States in the conduct of this war is to be taken at home, it is to consume pretty much the entire surplus wealth of the country; it is to be measured by thousands of millions. I say further, that to-day Great Britain with its present debt owned abroad would be bankrupt; because it would have to export gold to pay the interest. Great Britain bears the debt simply because it holds its own debt; and so it is an object for citizens of the United States to hold this debt; but at the same time a proposition to exempt that debt from taxation, State or municipal, is in effect a proposition to exempt it from taxation altogether; because, under the Constitution of the United States, there is no power by which a direct tax can be laid that can reach it. You can only, under a direct tax, reach land and slaves.

Now, I am utterly opposed to this proposition. I have given the last vote I shall ever give in this Congress to exempt from taxation, in any form in which it may be laid on any other species of property, money invested in the securities or indebtedness of the United States. I believe that money invested in the bonds of the State of New York or in the bonds of the United States should be subject to exactly the same taxation as the same money would be if invested in any other securities of whatever nature. I have voted for this proposition heretofore; but I believe the principle is a vicious one. I believe that if the debt is to be paid it is to be paid by subjecting it to taxation like other property. I believe that if the holders of the bonds knew their own interest they would come to Congress and themselves ask to have the exemption from taxation contained in former laws repealed. It is for their benefit, and for that of the whole people, that this property should be subject to taxation. For one, I never will knowingly vote for such a principle hereafter.

Mr. GANSON. The gentleman from Massachusetts, [Mr. Hooper,] in justification of this provision, stated that it had been the uniform custom to exempt obligations of this kind from State and municipal taxation. Now, sir, I think there is nothing in that view of the case that should influence this House in its action in any degree. We all know that prior to the rebellion and the debt it brought upon the country the State taxation, and the municipal taxation, with the exception, perhaps, of the city of New York, was comparatively trifling, but in future the chief part of the taxes to be raised in the States are the direct consequence of the pending rebellion. The State of New York, including county, city, and town obligations, to-day has an indebtedness of \$50,000,000, which was incurred for the purpose of raising soldiers to fill your Army. The taxes to pay that debt should be imposed upon Federal obligations as well as upon other property. There is no sense in exempting Federal obligations from their share of the burden thus imposed. I say, therefore, that when the gentleman from Massachusetts refers to the past practice of this Government he makes a false reference, and one having no weight whatever upon the subject now under consideration.

When hereafter the people come to understand this matter and see that this indebtedness was contracted solely for the purpose of suppressing this rebellion, and when they see that personal property invested in Government obligations is exempt from taxation, the holders of such obligations and the system also will become perfectly odious. It is for that reason that I have uniformly upon this floor opposed exempting the national banks from State or municipal taxation, and for

the same reason I oppose the exemption of these obligations. I hope that the House will cease from this day forward to exempt such obligations from taxation. The people are ready and willing to pay whatever taxes are necessary, but they will insist that taxation shall bear equally upon all classes and upon all kinds of property. Partial legislation in this respect is particularly unjust.

Mr. MALLORY. I move to amend the amendment of the gentleman from Indiana [Mr. HOLMAN] by inserting the words "authorized to be issued by this act," so that it will read, "and all bonds, Treasury notes, and other obligations of the United States authorized to be issued by this act." As an abstract question I agree with both gentlemen from New York [Messrs. GANSON and POMEROY] in all they have said against the policy of exempting United States bonds from State and municipal taxation. Yet I can see how the subjecting the bonds provided for in this bill to taxation—leaving the bonds heretofore issued exempted—would have the effect of embarrassing the Government by rendering their sale in the market difficult. If I could get rid of the impression that a due regard to the honor of the Government would prevent us doing it I would vote now for a proposition to remove the exemption which these bonds enjoy from taxation. But I consider that a closed question. We have adopted that policy. It is settled and fixed. All the bonds of the Government heretofore sold, by which money has been raised to carry on this war, are now, by the provisions of the law, exempt from taxation. And it would be an invidious discrimination against the batch of bonds proposed to be issued under the bill to provide that they shall be subject to taxation. It may be possible, as has been suggested by some persons, that the wary and astute gentleman from Massachusetts [Mr. HOOPER] may aim at something else than the mere exemption of these bonds from taxation by the phraseology used in this bill. I do not charge this upon him. I do not say that I have even a suspicion that he entertains such a purpose. I merely suggest that it is within the range of possibility that such a thing is contemplated.

Mr. HOOPER. When the gentleman from Kentucky offered his amendment I rose to say that I concurred in it, and that I thought it should be put in the bill.

Mr. MALLORY. Then I recant everything that I said, for it is impossible to suspect the gentleman from Massachusetts of any such motive. My proposition would put the matter on the true ground, would put these bonds on an equality with all the other bonds of the Government, and would be nothing but just. I repeat that if I was satisfied that to do so would not be a breach of faith on the part of the Government, I would be willing to go for an act repealing the law exempting these bonds from taxation.

Mr. KERNAN. I ask the gentleman from Kentucky whether, because we exempt some of these bonds from taxation we must go on continuously until, as has been said by my colleague, [Mr. POMEROY], all the wealth of the States shall be exempt from taxation? I ask him whether it would not be better to cure the evil by raising even the rate of interest.

Mr. MALLORY. Perhaps that would be better, but no one has suggested that the rate of interest should be increased in this bill. I take the bill as it stands. My argument is addressed to the existing state of facts. Still I contend that, however desirable it may be to stop this practice, I do not see how, with any propriety, it can be done, unless we go back, retrace our steps, and correct our previous legislation on the subject. But there is an obstacle to that course, which it is very difficult to get over: that is, the plighted faith of the Government. As a member of the House I have voted against every bill exempting Government bonds from State and municipal taxation. The sin, if it be one, does not lie at my door. My skirts are clear. The pledge was given not with my consent but against my remonstrance. But I am unwilling, at this late day, when the Government is in need of the money that is to be raised by this bill, to say to the Government virtually that it may sell these bonds but that its right will be restricted in such a way as to render it impossible to get purchasers for these bonds.

Mr. KERNAN. There is one suggestion that I desire to make in reply to what has been said by the gentleman from Kentucky. All that I could say as to the general policy of the measure has been very well said by other gentlemen. But I may be pardoned for calling attention to this now, as I did it once before, from the fact that I have been personally instructed by portions of my constituents, irrespective of party ties, to try and obviate this which they complain of as a great evil in their midst—the exempting much of the wealth of the district from its liability to municipal and State taxation. Now, it can be remedied without changing the rate of interest. If we strike out this clause all there will be of it will be that the Government will realize just so much less as the State and municipal taxes are estimated at, and it will be better for the Government to sell them at a little less in the market and thus begin to change the character of our bonds in this respect than to go on in the same way because others heretofore issued have been exempted from taxation. If we go on exempting these bonds from State and municipal taxation we shall find hereafter, as has been said, so much irritation, annoyance, and odium attached to holding these bonds in the community that men will hesitate to take them. It will enable a man with \$100,000 invested in Government bonds to enjoy all the privileges and benefits of State and municipal governments without bearing any share of the burdens in supporting them.

Mr. MALLORY. The gentleman from New York will allow me to say that if he will go with me not only in striking out the clause or section which exempts these bonds from State taxation, but will also go with me in inserting an additional section repealing all laws and parts of laws heretofore passed exempting the bonds of the United States from State or municipal authority, the bonds will then all be placed upon the same footing. So far as I am concerned, having protested in the outset against the exemption, I do not feel myself bound by that action of the House. I do not know how gentlemen over on the other side of the House who are responsible for it may feel.

Mr. KERNAN. I will say that in obedience to instructions from my own constituents I introduced a resolution, which was referred to the Committee of Ways and Means, directing them to inquire into the expediency of reporting some plan for the repeal of this legislation exempting the bonds of the Government from taxation by State or local authorities, or in some other way of obviating the injustice which that legislation involves.

Mr. NOBLE. I wish to propound to the gentleman this question. Has the Federal Government any power under the Constitution to exempt any property from State taxation, and if so, where does that power come from?

Mr. KERNAN. The power has been denied; but I did not propose at this time to go into an argument upon the constitutional question, or to place this proposition upon that ground at all. I know it has been said that the power did not exist. I believe, also, that there was a case decided in reference to this matter in which it was held that the Government had the power to exempt from taxation all their bonds.

Mr. MALLORY. The decision was, I think, that they had power to exempt bank franchises from taxation.

Mr. KERNAN. However that may be, I do not propose to place this proposition upon that ground. I think it is better for the Government to make its bonds sufficiently secure; but by placing them altogether beyond the power of State Legislatures, or beyond the power of any local authorities to tax them, there will be attached to them the odium of enabling the capitalists who hold them to avoid their fair share of the burdens of the State and municipal governments under which they live. I am informed that men of wealth are in the habit of purchasing say \$50,000 of these bonds, of holding them just long enough to swear them against their taxes, and then selling them in market. I trust that this clause of the section will be stricken out, and that the bonds we are hereafter to issue will be subject to taxation the same as other property, even if we cannot change the law in relation to bonds heretofore issued.

Mr. HOLMAN. I wish to call the attention

of the gentleman from Massachusetts, who has charge of this bill, to the fact that it has not been heretofore the uniform custom of the Government to exempt its bonds from State and local taxation. From the hasty examination I have been able to give the laws heretofore passed authorizing the issue of bonds, I cannot find that they have been thus exempted prior to the act of February 25, 1862; and even in respect to that act I find the language is materially different from that employed in this bill. That act provides for the exemption "of all stocks, bonds, and other securities of the United States," intending manifestly not to embrace the legal-tender notes, but simply the public securities, such as are described as the permanent debt of the Government.

Mr. HOOPER. What is the page?

Mr. HOLMAN. Page 346 of the Statutes at Large. The language here made use of is strikingly different. The gentleman from Massachusetts says that he is following precedent, and I think I present the first one that can be found in the statutes. It embraces all bonds, stocks, or other public securities, and here the language is bonds, Treasury notes, or other obligations of the United States. It not only applies to those now out, but to those authorized to be issued by this act. You have in circulation about two hundred and fifty million dollars of interest-bearing Treasury notes. I believe that the number of these notes in circulation is not generally known, but it is not much below two hundred and fifty million dollars.

Mr. MALLORY. I thank the gentleman from Indiana for the suggestion. This bill further on authorizes the issuing of additional fractional currency, and my amendment would exempt that from taxation for State and municipal purposes. I withdraw my amendment.

Mr. HOLMAN. It is not alone additional fractional currency, but this bill authorizes the issuing of legal-tender notes to supply the places of those which are withdrawn. It was for that purpose we appropriated the other day \$440,000 for plates, paper, &c.

Beyond all that I wish to call attention to this fact: of these instruments designed to circulate as currency, as legal-tender notes, \$250,000,000 are now out, and \$200,000,000 more are provided by the express terms of this act. All these \$450,000,000 of interest-bearing Treasury notes are exempted from taxation for State or municipal purposes. What then? One half of the currency of the country would be exempt from taxation for State or municipal purposes.

I desire to call attention to a fact independent of that as an argument in favor of striking out this provision or anything of the kind, and that is that it will operate to produce great inequality of taxation. Take the rural portion of the country. There the wealth consists in lands, stock, and farming implements. The lands are made valuable year after year by the labor of our citizens. There everything is taxed for State and municipal purposes as well as for national purposes; not a thing escapes; but in the midst of the large centers of trade, where capital is centralized and where the bonds of the Government are held in the main, there they are to have extraordinary advantages, and wealth is to be exempt from this taxation. It does not operate equally and fairly; it throws the burden of taxation heavily upon the producing classes of our people.

If we committed an error on the 25th of February, 1862, it is desirable that that error should not be perpetuated any longer than is indispensably necessary. I would increase the rate of interest, or sell the bonds for a correspondingly smaller amount rather than produce this inequality of taxation. It would then be relieved from the objection that capital is exempted from its share of the burdens of Government. For if these bonds are exempted from taxation it must excite great indignation on the part of the people in the agricultural regions of the country. I firmly believe that if we strike out that provision in this bill it will enhance the confidence of the people in the beneficence of the Government more than by anything else we can do.

Mr. Chairman, this reaches every citizen. It makes those who do not hold these bonds feel that they are compelled to bear a burden that others are not compelled to bear. For the purposes of my argument I will state a case. I know

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

FRIDAY, JUNE 24, 1864.

NEW SERIES....No. 200.

a citizen, who has no family, who had an estate of \$5,000 which he invested in the recent issue of bonds, realizing enough to subsist a man of moderate expenditure. He is relieved from all taxation. There are unsurmountable objections to the continuance of this policy. The evil is now not so great as it will be by the accumulation of this species of wealth in the hands of a class. It ought not to be continued when we see the extent of the evil. It was first passed on February 25, 1862, at a moment of enthusiasm when we thought the war would speedily be terminated, and the measure was not examined with care. We have reached a point when it is possible for us to understand what must be the extent of the national debt and to what extent these bonds must be thrown upon the country, and therefore it does seem to me that it becomes a special subject of interest, and indeed of absolute, imperative necessity, that the effect of this species of legislation should attract and receive unusual attention.

One other remark; if the House should determine not to strike out this whole language and adopt what some gentlemen think is the wiser policy of letting this species of wealth bear its ordinary burden, certainly a broader principle than that laid down in former acts should not be adopted. If the House refuses to strike out this paragraph, at any rate the gentleman from Massachusetts will himself suggest the propriety of substituting the exact words of former acts, and not make the principle worse and more destructive. I hope we shall attempt to amend the error which has manifestly been committed.

Mr. HOTCHKISS. I shall not occupy the time of the committee with any extended remarks upon the motion of the gentleman from Indiana, but I shall content myself with simply defining my position. What I said when the currency bill was before the House and the committee would perhaps be sufficient to justify me in allowing this opportunity to pass by without saying anything upon the subject; but it is due to a question of the importance of this that the position of every member should be understood not only by this committee but by the country, and it should be known to the country who indorses at this late day such a vicious principle as creating a privileged class of moneyed men in this country—men whose whole wealth is to be exempted by the legislation of Congress from bearing the burdens that we are imposing upon ourselves to carry on this war, and that, too, based upon the idea that we cannot get money unless we raise up such a privileged class in this country, and exempt them from taxation and make them a moneyed aristocracy.

Why, these wealthy men who have this money, and whose favor we want to court by partial legislation, ought to understand that we own the wealth of the country, and that we have not got to beg it at their hands, but have the power any day to take it. The gold in the miser's chest and the cattle on a thousand hills are ours, and it is the millions of this country that are to control that treasure, and not the few that happen to have possession of it to-day.

And I ask gentlemen how they are to go before the country and ask localities, ask counties and States to offer bounties to men to enlist, and to impose taxes upon the people at the same time that they exempt the wealth of the country from taxation, and cast the burden entirely upon the labor of the country. It is about time that this mock legislation, this foolish legislation, should be ventilated before the country, and the class of men who are urging this policy upon the country will regret it to the day of their death. This war is not going to last forever. The time will come when every species of legislation, however ridiculous it may be, cannot be forced upon this country upon the plea that it is necessary to adopt such legislation to carry on the war. The time for paying our debts will come, and then if the poor and the laboring men are the only ones who have to pay the taxes, they will pay them, but

they will be a far happier class in the community than the rich men will be who enjoy this exemption.

Besides, the rich men do not claim this exemption. Men who have wealth to loan to the Government do not claim it. Men loan their money to the Government from patriotic motives—men of small means and men of large means. They know they can employ their money in business to better advantage, but they say they want to loan their money to the Government as a matter of duty, and they do not tell you they want their bonds exempt from State and municipal taxation.

Mr. Chairman, I have said perhaps more than I ought to have said. I only wish to have my position understood. The New York members want laws enacted here that will command the sympathy and support of the people. And, sir, I speak from authority and by authority here. I know what the people want. They do not want such wicked legislation as this. They want to put down the rebellion. They will furnish men and means for that purpose; and I challenge the men who bring forward these laws to compare notes with me to-day. I represent a district that is foremost in this matter. It has got as good a record as any district in the Union. There is but one voice there on this subject, and I will express that voice here, and other men may take care of their own interests. The men who vote to exempt any species of property, United States securities or anything else in this country, from taxation of any kind that the people choose to impose, will have a fearful record to meet hereafter.

Mr. J. C. ALLEN. I had occasion, early in the session, to express my views upon the question now under consideration, and I am glad to find that the House is waking up to the importance of that question. I do not propose now to repeat anything I said on that occasion. I propose to address myself to the suggestion made by the gentleman from Kentucky, [Mr. MALLORY,] that inasmuch as the Government has commenced the system of exempting these Government issues from State and municipal taxation, it is perhaps better to continue it. It seems to me that if the Government was wrong in exempting the first issues from taxation, the sooner we abandon the vicious principle the better it will be for the country.

Mr. MALLORY. The gentleman will do me the justice to say that I expressed a willingness to vote for an amendment to this bill repealing all acts by which this preference is given to the bonds of the United States. I am opposed to the whole policy, and I would vote for a law repealing all the laws now existing exempting the bonds and securities of the United States from taxation.

Mr. J. C. ALLEN. If it could be done without breaking faith with the bond-holders who have taken the bonds under a pledge that they should not be taxed, I would vote with the gentleman from Kentucky to repeal the laws exempting these bonds. But the Government, in violation in my judgment of the true principle, saw fit to exempt by law these bonds from taxation, and men have purchased them under the pledge that they should not be taxed. I am for keeping faith with them. But I am also in favor of placing all future issues under this or any other bill in precisely the same position in respect to taxation as every other species of property.

Mr. MALLORY. I am for keeping all the faith I ever pledged to the holders of these bonds. I never pledged my faith to this system. I have voted against it; and when I said I would vote to repeal all these laws, I did not intend to intimate that gentlemen who voted for this policy could change their course and vote with me. I do not suppose they would do so. But the gentleman from Illinois would not violate any pledge he has made in voting with me, because he has always voted against exempting these bonds from taxation.

Mr. J. C. ALLEN. It is true I voted against it; but a majority of the Congress of the United

States have issued the bonds, and put them in the market with the pledge that they should not be taxed. In my judgment, it would be bad faith to repeal that law now, since the bonds have been purchased under an implied pledge, to say the least of it, that they should be exempt from taxation.

The point I make is that the principle is wrong, I have objected to it heretofore, and I am now satisfied that a majority of the House believe that the bonds ought not to have been thus issued. I am satisfied that a majority of the House believe that bonds issued hereafter ought not to be exempt from taxation, and this is as good a time to change the policy of the Government as any in the future will be. If it was wrong heretofore it would be wrong in the future; and if it is wrong let us set it right now.

I desire simply to add further, that in my judgment this principle of exempting Government securities from taxation has heretofore done more to sap the faith of the masses of the people in the financial policy of the Government than anything else, and that its continuance will engender strife, bitterness, and discord, and throw upon this system of legislation an obloquy from which it can never be relieved.

Mr. BROOMALL. Mr. Chairman, I incline to the notion that it makes very little difference whether the portion of the section proposed to be stricken out be stricken out or not. I think, although I do not speak positively, that even then these bonds would be exempt from taxation. I therefore suggest to the gentleman from Indiana that if he intends really to make these bonds taxable for State and municipal purposes he should convert this provision into one affirmative, making them so taxable, in order that the question may not be left in any doubt.

I will give the gentleman from Indiana one additional reason for making these bonds liable to State and municipal taxation, which probably did not strike him. It is this: if the bonds are made taxable for State and municipal purposes, we will have to give a greater nominal amount of bonds to raise a given amount of money. By our so doing we will be benefiting the loyal States. When the debt comes to be paid, it will have to be paid as well by the rebel States as the loyal States. Hence striking out this provision and putting in one of the opposite character, is to some extent legislating in favor of loyal States and discriminating against those in rebellion. I ask the gentleman to think over that reason, and when, if he thinks proper to do so, he shall modify his amendment so as to make it effectual, I am inclined to think that I shall vote for it.

Mr. NOBLE. I do not propose to detain the committee more than a single moment, but I want to take issue with the gentleman from Illinois, [Mr. J. C. ALLEN,] and I merely rise for that purpose. I contend that from the beginning it was illegal, contrary to the Constitution, in violation of that instrument, for Congress to attempt to exempt any property from State legislation. I contend that the States of the Union have no other means of sustaining themselves from year to year than by the taxation of real and personal property in the hands of their citizens. And I contend that the Congress of the United States has no right or power to exempt any class or portion of the property of individual citizens from its just proportion of State taxation.

I say, therefore, that while I am ready at any time to repudiate such a policy, I claim that in doing so I am not acting in bad faith, for I contend that it was always illegal and unconstitutional for the Federal Government to exempt property from State and municipal taxation. If the Federal Government has a right to exempt bonds owned by individuals from taxation in the States, why might it not extend that power to other classes of property, and thus cut off the means by which a State government is carried on? I merely wish to put myself on the record against the declaration of my friend from Illinois.

Mr. HOLMAN. There seems to be a good

deal of force in the suggestion of the gentleman from Pennsylvania, [Mr. BROOMALL.] Still I hardly conceive that it can be necessary to assert affirmatively that these securities shall not be subject to State or municipal taxation. The provision of the act of 1862 making such exemption is only applicable to the securities issued under that act. It does not seem to me desirable as a question of policy that we shall put on the statute-book a provision that these bonds shall be subject to State and municipal taxation. To avoid the possibility of any mistake there might be a clause inserted providing that the bonds and other securities to be issued under this act shall be subject to State taxation. But I will hold on to my first motion to amend by striking out the last sentence of the first section.

Mr. STEVENS called for tellers on Mr. HOLMAN's amendment.

Tellers were ordered; and Messrs. STEVENS and HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 61, noes 44.

So the amendment was agreed to.

Mr. HOLMAN. I now move to insert at the end of the first section these words, "and that the bonds and other obligations issued under this act shall be subject to State and municipal taxation."

Mr. NOBLE. I move to amend the amendment by substituting the following:

And all bonds, Treasury notes, and other obligations of the United States, shall be subject to State and municipal taxation, on equal terms, the same as other property.

Mr. STEVENS. I suppose the object is to prevent the sale of bonds so as to prevent the further indebtedness of the United States. The vote already taken has been sufficient, I think, to entirely prevent the sale of any one of these bonds. I do not believe that if we adopt that provision, and it comes to be known, by implication even, that States may tax these bonds, one dollar will ever be invested in them.

The policy of the Government has heretofore been not to allow State taxation of the bonds of the General Government for two reasons: in the first place, that they would meet with a readier sale if not subject to State taxation; and in the second place, that the Government might, in a case of extraordinary necessity like the present, monopolize the entire revenue to be derived from this description of taxation.

But it seems that now the gentleman from Indiana proposes directly to grant permission to all the States to tax the bonds of the Government. Sir, no man of any wisdom as a capitalist will ever invest a dollar in bonds of that kind. Why, sir, it would subject the governmental bonds to every whim and every change of politics in every State. If a particular Administration of the Government was unpopular with the authorities of a particular State, and they desired to place themselves in an attitude of hostility to the Government, all they would have to do would be to tax the bonds of the Government out of existence; to tax them to such an extent as would be impossible for the Government to stand. That is the attitude in which honorable gentlemen have placed the country by the vote which has just been taken.

Of course every gentleman has the right to vote as he pleases, but it ought to be known that the effect of it is to place the Government at the mercy of the whims, caprice, and malignity of any political party happening for the time being to be in control of a State government.

Now, sir, if when we come into the House the amendment which has just passed this committee should be adopted, I hope my friend from Massachusetts, who has charge of this bill, will be wise enough to withdraw it, and not attempt to put upon the market bonds which no prudent man will ever buy.

Mr. HOTCHKISS. I regret as much as any member of this House can to differ with the gentleman from Pennsylvania who last addressed the committee, but I must be permitted to remark that during the present session we have heard this same argument against taxing the holders of bank stock based upon Government securities. It was predicted then that the whole scheme would be a failure, that no wise capitalist would invest his money in such stock if it was to be subject to State taxation, and to the malignity of any party that might come into power. Sir, I for one have no fear of the malignity of parties. Parties are

always in the hands of the people, and they will be very apt to so shape their legislation as to suit the people and keep in power unless they are very unwise, and a very unwise party will not remain in power long enough to inflict any permanent injury upon the country.

I only wish to say that in spite of all these predictions of failure, we ingrafted this principle upon the bank bill, and the law to-day is popular, so popular that all the banks will organize under it. It will be a popular system, because it commends itself to the sympathies of the people. It appeals to their sense of justice. It may be an unfortunate time now to adopt any such proposition, but I think not.

Mr. STEVENS. Do I understand the gentleman to say that by the bank law the bonds of the United States are taxable by States?

Mr. HOTCHKISS. In effect they are.

Mr. STEVENS. On the contrary they are expressly exempted.

Mr. HOTCHKISS. By the bank law the full value of shares in these banks is taxable, and that portion of the full value of these shares which is based upon Government securities is taxable the same as that based on any other securities. The whole country, and I believe every branch of the Government, acquiesced in it.

Mr. HOLMAN. I propose by the amendment I have submitted that the bonds and securities authorized to be issued under this act shall be subject to State and municipal taxation. The amendment of the gentleman from Ohio [Mr. NOBLE] proposes that all the bonds and securities issued under this and former acts shall be subject to State and municipal taxation. That is the difference between them.

Mr. KERNAN. I would suggest the following as a substitute for both the pending amendments:

And that the owners of all bonds and obligations issued under and by virtue of this act shall be liable to State and municipal taxation upon the value thereof to the same extent that they are liable to State taxation on any other securities or similar personal estate owned by them.

Mr. NOBLE. My amendment is in the exact words of the act.

Mr. WASHBURN, of Illinois. I ask the gentleman to yield to me that I may move that the committee rise in order to dispense with the evening session.

Mr. HOLMAN. I yield for that purpose.

Mr. WASHBURN, of Illinois, moved that the committee rise.

The committee divided; and there were—ayes 42, noes 43.

Mr. FENTON demanded tellers.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and HOLMAN, were appointed.

The committee again divided; and the tellers reported—ayes 60, noes 28.

So the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 540, to provide ways and means for the support of the Government, and for other purposes, and had come to no resolution thereon.

DISPENSING WITH THE EVENING SESSION.

Mr. WASHBURN, of Illinois. I move that the evening session for this evening be dispensed with.

The House divided; and there were—ayes 60, noes 25.

Mr. WILSON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 64, not voting 47; as follows:

YEAS—Messrs. William J. Allen, Ancona, Ashley, John D. Baldwin, Baxter, Bliss, Boyd, James S. Brown, Chanier, Freeman Clarke, Cox, Cravens, Dawes, Dawson, Deming, Denison, Donnelly, Eden, Eldridge, Elliot, English, Fenton, Frank, Garfield, Gooch, Grider, Harding, Harrington, Herick, Holman, Hooper, Hotchkiss, Ingersoll, Philip Johnson, William Johnson, Julian, Kalbfleisch, Orlando Kellogg, Knapp, Mallory, Marcy, Marvin, Morrill, Morrison, Nelson, Norton, Odell, Orth, Pendleton, Perham, Perry, Pike, Pruyn, Radford, Samuel J. Randall, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Scotland, Smithers, Stiles, Strouse, Stuart, Thayer, Thomas, Tracy, Upson, Wadsworth, Elihu B. Washburne, Webster, and Winfield—71.

NAYS—Messrs. Alcey, Allison, Ames, Augustus C. Bald-

win, Blair, Blow, Boutwell, Brooks, Broomall, Ambrose W. Clark, Cobb, Cole, Cresswell, Thomas T. Davis, Dixon, Driggs, Eckley, Edgerton, Fick, Ganson, Hale, Benjamin G. Harris, Higby, Asahel W. Hubbard, John H. Hubbard, Hubbard, Kelley, Francis W. Kellogg, Kernan, Knox, La-Zear, Loan, Long, Longyear, McAllister, McBride, McClurg, McDowell, McKinney, Samuel F. Miller, Moorhead, Daniel Morris, James K. Morris, Amos Myers, Leonard Myers, Noble, Charles O'Neill, Pomeroy, Price, John H. Rice, Scott, Shannon, Sloan, John B. Steele, William G. Steele, Stevens, Sweat, William B. Washburn, Wheeler, Joseph W. White, Williams, Wilder, Wilson, and Windom—64.

NOT VOTING—Messrs. James C. Allen, Anderson, Arnold, Bailly, Beaman, Blaine, Brandegee, William G. Brown, Clay, Coffroth, Henry Winter Davis, Demont, Farnsworth, Grinnell, Griswold, Hall, Charles M. Harris, Hutchins, Jencks, Kasson, King, Law, LeBlond, Littlejohn, McIndoe, Middleton, William H. Miller, John O'Neill, Patterson, William H. Randall, Robinson, Rogers, Ross, Scheuck, Smith, Spalding, Starr, Stebbins, Van Valkenburgh, Voorhees, Ward, Whaley, Chilton A. White, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—47.

So the motion was agreed to.

WASHINGTON AND GEORGETOWN RAILROAD.

Mr. STEELE, of New York, moved that the House disagree to the amendment of the Senate to House bill No. 495, to amend the charter of the Washington and Georgetown Railroad Company, and ask for a committee of conference on the disagreeing votes of the two Houses.

The motion was agreed to; and the Speaker appointed Messrs. STEELE of New York, PRICE, and WASHBURN of Illinois, as the conferees on the part of the House.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 434) to authorize the bailiff of the orphans' court in the county of Washington and District of Columbia to serve processes issued by said court, and for other purposes; and

An act (H. R. No. 240) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1865, and for other purposes.

Mr. ORTH moved that the House adjourn.

The motion was disagreed to.

LOAN BILL—AGAIN.

Mr. HOOPER moved that all general debate in the Committee of the Whole on the state of the Union on the loan bill be closed in five minutes after its consideration shall be resumed.

The motion was agreed to.

Mr. HOOPER moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the loan bill, on which Mr. HOLMAN was entitled to the floor.

Mr. HOLMAN. I wish to state some points of difference between the pending propositions. My friend from Ohio [Mr. NOBLE] proposes to tax all securities of the United States issued under this or any former law. I do not think that will hold good. While I would be very glad to concur in the views of the gentleman from Ohio, I do not believe the national faith should be impaired in the slightest degree. Further, if the law exempting these bonds from taxation is not constitutional, as my friend contends, as a matter of course we get rid of that embarrassment through the courts of justice; if it is constitutional we are striking a terrible blow at the credit and good faith of the country. That ought to be preserved and retained, whatever errors we ourselves may have committed.

Mr. BROWN, of Wisconsin. I simply wish to say that I entirely dissent from the doctrine that a party who has not voted for a past contract or a past obligation entered into by the Government is not bound by that contract. I believe it is due to the country that every contract we have entered into should be kept in good faith; but I believe, also, that the provision by which these bonds are exempted from taxation is almost fatal to the country, and that now we should depart from our past policy in that respect.

I wish, in addition, to suggest that if it becomes

proper, by the overruling of the other amendments, to offer a proviso which will place this matter in a better shape than the amendments which have been offered to this section, I shall then move to add, by way of proviso, the following:

Provided, however, That nothing in this act contained shall be construed to exempt bonds issued under this act from taxation for State and municipal purposes in the same ratio as other personal property.

Mr. STEVENS. I move to amend by striking out the whole of the first section after the enacting clause, and inserting what I send to the Clerk's desk.

Mr. NOBLE. I rise to a question of order. There are already two amendments pending, and I apprehend they must be disposed of before another can be interposed.

The CHAIRMAN. The gentleman can offer his amendment to strike out an entire section, but the question must first be taken on the motion to perfect the section proposed to be stricken out.

Mr. STEVENS. I will ask to have my amendment read. It is to strike out the first section after the enacting clause and insert what the Clerk will read.

The Clerk read, as follows:

That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States, \$100,000,000, and to issue therefor coupon or registered bonds of the United States, redeemable at the pleasure of the Government after any period not less than twenty nor more than thirty years, and, if deemed expedient, made payable at any period not more than forty years from date, payable in coin. And said bonds shall be of such denominations as the Secretary of the Treasury shall direct, not less than fifty dollars, and bear an annual interest not exceeding eight per cent., payable semi-annually, and the interest on all bonds heretofore issued, payable annually, may be paid semi-annually; and in lieu of such bonds, authorized to be issued, the Secretary of the Treasury may issue bonds, bearing interest, payable semi-annually. And the Secretary of the Treasury may dispose of such bonds, or any part thereof, in the United States, or, if he shall find it may be deemed advisable, for lawful money of the United States, or, at his discretion, for Treasury notes, certificates of indebtedness, or certificates of deposit issued under any act of Congress. And he may also issue in exchange for Treasury notes heretofore issued bearing seven and three tenths per cent. interest besides the six per cent. bonds heretofore authorized, like bonds of the denominations of \$100 and of \$50. And all bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal authority.

The amendment offered by Mr. NOBLE to the amendment offered by Mr. HOLMAN was not agreed to.

Mr. KERNAN offered the following as a substitute for Mr. HOLMAN's amendment:

And that the owners of the bonds and obligations issued under and by virtue of the provisions of this act shall be liable to State and municipal taxation upon the value thereof to the same extent as they are liable to such taxation upon any other securities or similar personal estate owned by them.

Mr. PRUYN. I would inquire of my colleague if that would not be the effect of the law if no such amendment were embraced in it.

Mr. KERNAN. It is thought by some that it would not. The amendment can do no harm. The decisions of some of the courts would leave the matter in doubt.

Mr. PRUYN. It would rather go to show the sense of the House as to the necessity of such a provision. If it is understood that this is merely by way of precaution, I am willing to vote for it.

Mr. HOLMAN. To avoid the consumption of time, inasmuch as the proposition the gentleman from New York has submitted by way of a substitute is the same as the amendment I have submitted, only differing in phraseology, and in this, that mine proposed no limit upon the extent of State taxation, while his limits it by the extent of other taxation imposed by the State, I will accept his amendment.

Mr. HOOPER, upon the amendment as modified, demanded tellers.

Tellers were ordered; and Mr. WASHBURN, of Massachusetts, and Mr. KERNAN, were appointed. The committee divided; and the tellers reported—ayes 56, noes 59.

So the amendment was not agreed to.

Mr. STEVENS. I now desire to offer my proposition. I do not, however, wish to disturb the action of the gentleman who has charge of this bill until he has perfected it, and perhaps he will give me an opportunity to offer the amend-

ment in the House. If so, I will not delay the committee now.

Mr. HOOPER. I will.

Mr. GANSON. I shall have no objection to that provided the proposition last voted upon be allowed to come in in the same way.

Mr. STEVENS. Well, sir, unless the previous question is demanded I shall have a right to offer it in the House, and therefore, as I do not wish to delay the bill now I will not offer it, but will only give notice that I shall propose it in the House.

Mr. BROOKS. I wish to inquire of the gentleman who reported the bill how much money there is appropriated in it? What is the amount of the loan? In order to do that I move to strike out \$400,000,000. By the act of March 3, 1863, there were appropriated \$900,000,000. The act was not exactly clear, but the presumption is that that loan ends with the current fiscal year. I wish to know from the gentleman from Massachusetts [Mr. Hooper] if that loan of \$900,000,000 ends with the fiscal year ending 30th June, 1864.

Mr. HOOPER. If the gentleman will look at the closing paragraph of the third section he will see that if there is any doubt about it this bill settles that doubt.

Mr. BROOKS. The gentleman will permit me to inquire what is the amount of loan provided for in this bill?

Mr. HOOPER. I understand the amount to be about four hundred million dollars, and whatever may remain unused of the loan provided for by the act of March 3, 1863.

Mr. BROOKS. As I read the bill, there are \$400,000,000 in the first section. Then in the fourth section there is a temporary loan of \$150,000,000; and in the third section, to which the gentleman has alluded, there are the \$200,000,000 appropriated under the act of March 3, 1863. That gives a total of \$750,000,000 for the next fiscal year. Am I right?

Mr. HOOPER. The gentleman is not right in this: that there has already been issued, under the act of March 3, 1863, about half of the amount authorized. This bill proposes to authorize the issuing of what remains of that amount. The object in keeping alive that act is that the plates used in printing may be available. Under the fourth section of the bill there is authority to receive temporary deposits, but no authority to make any issue.

Mr. BROOKS. I am desirous of ascertaining the amount of obligation which we shall incur under this bill. I understand now that the first section appropriates \$400,000,000, the section for a temporary loan \$150,000,000, and \$200,000,000 under the act of March 3, 1863, making in all \$750,000,000 for the fiscal year.

Mr. HOOPER. Let me correct the gentleman on one point. The aggregate of the temporary loan is \$150,000,000; but a portion of that has already been taken; it has already reached \$75,000,000.

Mr. BROOKS. Has the gentleman made any calculation sufficient to satisfy his own mind that the loans authorized by this bill will be sufficient to cover the expenditures of the coming fiscal year?

Mr. HOOPER. I prefer to take the authority of the Secretary of the Treasury rather than to rely upon my own judgment, and he is satisfied that this will be enough.

I would again call the attention of the gentleman from New York to the fact that the authority for the temporary loan already exists, and this bill merely increases the rate of interest to six per cent. The former bill limited the rate of interest to five per cent.

Mr. BROOKS. I withdraw my amendment and move to insert in the ninth line the words "payable in coin." Those words are not in this bill, although they are in the bill of the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. HOOPER. The bill of last year—the \$900,000,000 bill—contained these words, but it was not deemed necessary or considered expedient to insert them in this bill. I will send up to the desk and ask to have read, as a part of my reply to the gentleman, a letter from the Secretary of the Treasury which was published some time ago, giving his views upon that point.

Mr. GANSON. I would like to ask the gentle-

man from Massachusetts whether this bill was prepared in view of the fact that gold is going up to 245 under the operation of the gold bill.

Mr. HOOPER. I beg leave to say that this bill was prepared before the great rise in gold, and I suppose that that rise may be ascribed to the opposition of the other side of the House to this bill. I ask that the letter from the Secretary of the Treasury may be read.

The Clerk read, as follows:

TREASURY DEPARTMENT, May 18, 1864.

SIR: Your letter of the 13th instant, making inquiries in regard to the kind of currency with which the five-twenty years six per cent. and the three years seven-thirty per cent. notes are to be redeemed, has been received.

It has been the constant usage of the Department to redeem all coupon and registered bonds forming part of the funded or permanent debt of the United States in coin, and this usage has not been deviated from during my administration of its affairs.

All the Treasury notes and other obligations forming part of the temporary loan are payable and will be redeemed in lawful money: that is to say, in United States notes* until after the resumption of specie payments, when they also will doubtless be redeemed in coin, or equivalent notes.

The five-twenty sixes being payable twenty years from date, though redeemable after five years, are considered as belonging to the funded or permanent debt, and so also are the twenty years sixes into which the three years seven-thirty notes are convertible. These bonds, therefore, according to the usage of the Government, are payable in coin.

The three years seven-thirty Treasury notes are part of the temporary loan, and will be paid in United States notes,* unless holders prefer conversion to payment.

Very respectfully,

S. P. CHASE,

Secretary of the Treasury.

Mr. BROOKS withdrew his amendment.

Mr. HOOPER. I move to amend the second section of the bill by inserting after the word "notes" the words "of such denominations as shall be found expedient," not less than one dollar; so that it will read:

And the Secretary of the Treasury may redeem and cause to be canceled and destroyed any Treasury notes or United States notes heretofore issued under authority of previous acts of Congress, and substitute, in lieu thereof, an equal amount of Treasury notes such as are authorized by this act, or of other United States notes, of such denominations as shall be found expedient.

The amendment was agreed to.

Mr. POMEROY. I move the following as a substitute for the second section of the bill:

SEC. 2. And be it further enacted, That the Secretary of the Treasury may issue, upon the credit of the United States, bonds of any denomination not less than \$100, payable in lawful money three years from the date thereof, and bearing interest not exceeding eight per cent. per annum, payable semi-annually in lawful money, and may receive at par therefor the lawful money of the United States, Treasury notes, certificates of indebtedness, or certificates of deposit issued under any act of Congress. And the Secretary of the Treasury, in addition to the total amounts of bonds authorized by the first and second sections of this act, shall issue at par, in redemption of any outstanding notes, certificates of deposit, or certificates of indebtedness of the United States, bonds similar to those hereinbefore in this second section authorized, in denominations of not less than \$100, or of like denominations similar to those authorized by the first section, and payable five years from date, with interest at six per cent., payable semi-annually. And the Secretary of the Treasury is further authorized to issue, in lieu of any bonds heretofore authorized by law, and not now issued in pursuance thereof, bonds similar to and in the denominations hereby authorized. All outstanding notes, other than United States notes, shall cease to be a legal tender in payment of public or private indebtedness on and after the last day of October, 1864. And no notes, other than United States notes, shall hereafter be issued or reissued. Nor shall the total amount of United States notes issued or to be issued ever exceed \$400,000,000, and such additional sum, not exceeding \$50,000,000, as may be temporarily required for the redemption of temporary loan.

Mr. STEVENS. That is a very important proposition and should not be acted upon this evening. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill No. 540, to provide ways and means for the support of the Government, and for other purposes, and had come to no resolution thereon.

Mr. POMEROY. I ask that the amendment which I have just offered may be printed.

It was so ordered.

And then, on motion of Mr. KELLOGG, of Michigan, (at five o'clock, p. m.) the House adjourned.

* The words "or national currency" should have been inserted.

IN SENATE.

THURSDAY, June 23, 1864.

On motion of Mr. FOOT, and by unanimous consent, the reading of the Journal was dispensed with.

PETITIONS AND MEMORIALS.

Mr. FOOT presented six petitions of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were ordered to lie on the table, the Committee on Public Lands having reported a bill on the subject.

Mr. MORGAN presented a petition of citizens of New York, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which was ordered to lie on the table.

Mr. HARRIS presented two petitions of citizens of New York, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were ordered to lie on the table.

Mr. SUMNER presented four petitions of men and women of the United States, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

REPORTS FROM COMMITTEES.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred joint resolution (S. No. 43) authorizing the settlement of the accounts of the late Captain Daniel Hebard, of the United States volunteers, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 317) providing for bail in certain cases of military arrests, reported it with an amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 45) to enable the Secretary of the Treasury to obtain the title to certain property in Carson City and Territory of Nevada, for the purposes of a branch mint located in said place, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 533) to provide for ascertaining and adjusting claims against the Government for injury or destruction of property by the Army of the United States, or by military authority, during the present rebellion, reported it without amendment, and that it ought not to pass.

He also, from the same committee, to whom was referred the bill (H. R. No. 365) to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished the Army of the United States, asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 103) for the relief of Mary Kellogg, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 546) to regulate the rank, pay, and emoluments of veterinary surgeons of cavalry regiments, reported it without amendment.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the petition of the Miami Indians, praying for the payment of all good enclosures due them, reported a bill (S. No. 327) for the relief of Thomas Richardville, and other Indiana Miami Indians, now residing in the State of Kansas; which was read and passed to a second reading, and the petition and accompanying papers were ordered to be printed.

Mr. HARRIS, from the Committee on the Ju-

diciary, to whom was referred the bill (H. R. No. 274) in relation to the computation of the time within which an indictment may be found against persons charged with crimes against the laws of the United States, reported it without amendment and that it ought not to pass.

Mr. SPRAGUE, from the Committee on Commerce, to whom was referred the bill (S. No. 322) to change the name of the steamboat Magnet, of Buffalo, to Home, reported it without amendment.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the memorial of N. S. Brenton, paymaster United States Army, submitted a report (No. 92) accompanied by a bill (S. No. 328) for the relief of Major N. S. Brenton, a paymaster in the United States Army; which was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of William H. Jameson, paymaster United States Army, reported a bill (S. No. 329) for the relief of William H. Jameson, a paymaster in the United States Army; which was read and passed to a second reading.

SUPPRESSION OF A NEWSPAPER.

Mr. POWELL. I offer the following resolution, which I ask to have considered now, if there is no objection to it.

Mr. CONNESS. Let it be read for information. The Secretary read it, as follows:

Whereas a military order has been recently issued in the State of Kentucky prohibiting the circulation in said State of the Cincinnati Inquirer, a newspaper printed and published at Cincinnati, Ohio; and whereas a free press is essential to maintain the rights and liberties of the people: Therefore,

Resolved, That the President be requested to cause the aforesaid military order to be revoked, and that the President be further requested to issue such orders as will prevent the military authorities from encroaching upon the freedom of the press in the future.

Mr. SUMNER. Let that resolution lie over.

Mr. POWELL. I will ask to have it printed.

The PRESIDENT *pro tempore*. The resolution not having been received, it cannot be ordered to be printed.

Mr. POWELL. It is received, but lies over under the rule.

The PRESIDENT *pro tempore*. The Chair understands objection to be made.

Mr. POWELL. Objection is made to its consideration at the present time. There is no objection made to its reception.

Mr. CONNESS. I called for its reading for information.

The PRESIDENT *pro tempore*. The Chair will inquire whether there is any objection to the reception of the resolution.

Mr. CONNESS. Yes, sir.

Mr. POWELL. I ask the Senator to allow the resolution to be printed and lie over under the rule.

Mr. CONNESS. Very well; I withdraw the objection.

The PRESIDENT *pro tempore*. Then, there being no objection to the reception of the resolution, the question is on the motion that it be printed.

The motion was agreed to.

CLAIM AGAINST HENRY W. DEPUY.

Mr. RICHARDSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to the Senate a copy of the letter of E. B. French, Second Auditor of the Treasury, dated March 15, 1864, and addressed to Henry W. Depuy, late agent for the Pawnee Indians, claiming from Mr. Depuy the immediate payment of a sum of money alleged to be due the United States, together with the evidence upon which said alleged indebtedness was founded. And that the Secretary of the Treasury be further requested to communicate to the Senate a copy of Mr. Depuy's reply to the Second Auditor, dated March 18, 1864, together with a statement of the official action taken thereupon.

EXAMINATION OF ARMY OFFICERS.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom were referred the amendments of the House of Representatives to the bill (S. No. 85) to provide for the examination of certain officers of the Army, have directed me to report in favor of concurring in those amendments, and if there be no objection I should like to have them acted upon now.

There being no objection, the Senate proceeded to consider the amendments of the House of Representatives to the bill.

Mr. WILSON. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

IRISH NATIONAL FAIR.

Mr. COWAN. The Committee on Finance, to whom was referred the joint resolution (H. R. No. 68) authorizing the Secretary of the Treasury to release certain goods from the payment of duties, have had the same under consideration, and have instructed me to report it back with an amendment, which they offer by way of substitute. If there be no objection, I ask for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. The amendment of the Committee on Finance was to strike out all of the original resolution after the enacting clause in the following words:

That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to remit the duties on all goods and articles imported into the United States for, and donated to, any fair held, or to be held, for the benefit of the Sanitary Commission and Christian Association, or either of them; also on all goods and articles imported and donated to the Irish National Fair recently held at Chicago. And the Secretary of the Treasury is also hereby authorized, in his discretion, to release such fairs from payment of auction and lottery licenses for auction and lotteries at such fairs.

And to insert in lieu thereof:

That the Secretary of the Treasury be, and he is hereby, authorized to release and discharge the Irish National Fair recently held in Chicago of and from all liability heretofore incurred for or on account of having sold goods and lottery tickets without license or stamps, and of and from the payment of all license or stamp duties or penalties incurred by reason of the sales aforesaid.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the joint resolution was ordered to be read a third time. It was read the third time, and passed.

On motion of Mr. COWAN, its title was amended so as to read: "A joint resolution authorizing the Secretary of the Treasury to release certain parties from liability or payment of duties and penalties therein mentioned."

MAJOR MORRIS S. MILLER.

Mr. NESMITH. The Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 107) for the relief of Major Morris S. Miller, of the quartermaster's department, have directed me to report it back without amendment, and with a recommendation that it pass. If there be no objection, I should like to have it acted upon at once. It is a matter that will occasion no debate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which directs the proper accounting officers of the Treasury to credit the account of Major Morris S. Miller, quartermaster United States Army, with the sum of about thirty-seven thousand dollars, or so much thereof as was paid by him during the years 1859 and 1860, to the respective firms of Russell, Majors & Waddell, Brown & Russell, and Majors & Russell, upon the orders of the Secretary of War and the Quartermaster General, or either of them.

The joint resolution was reported to the Senate without amendment.

Mr. TRUMBULL. Is there any report in this case? If there is I should like to hear it.

Mr. NESMITH. There is no report in the case. This is a House resolution. I send to the Secretary a letter from the Secretary of War in explanation of it, which I ask to have read.

The Secretary read, as follows:

WAR DEPARTMENT,
WASHINGTON CITY, June 6, 1864.

SIR: In reply to your note I have the honor to state that in my opinion the payments made by Major Miller, assistant quartermaster, under the express order of John B. Floyd, Secretary of War, ought to be credited in the statement of the quartermaster's accounts, and that the accounting officer of the Treasury erred in rejecting such credits. Justice to a subordinate officer who acted in obedience to and under constraint of the orders of the head of the Department to which the officer belongs, requires that author-

ity should be given by act of Congress to reopen the account and make all just credits and allowances.

Your obedient servant,

EDWIN M. STANTON,
Secretary of War.

HON. J. F. FARNSWORTH.

Mr. TRUMBULL. That is not at all satisfactory to me; I do not know how it may be to the Senate. Here is a joint resolution to allow a paymaster some thirty-seven thousand dollars, I believe, and upon what ground? Because a Secretary of War directed him to pay it. If that money was paid contrary to law, if John B. Floyd directed this officer to pay this money for an improper purpose, are we to sanction the principle that Congress will come in and refund the money to him? I do not know why this was paid by this officer, but this letter from the War Department places it entirely upon the ground that this superior officer ordered him to pay it. We are at the mercy of the officers of the Government if that principle is to prevail.

It may be that this was a proper payment; I do not know about that; but the evidence before the Senate and the point of the communication from the War Department is simply this: that John B. Floyd, when Secretary of War, directed this officer to make certain payments; he made them; the accounting officers of the Treasury decide that they were not proper payments and cannot be allowed, and Congress is now to pass a law to refund him that money because John B. Floyd directed him to pay it. It seems to me it will never do to sanction such a principle as that.

I should like to know what this payment was for, and how this order came to be given by John B. Floyd, which the accounting officers of the Treasury will not allow.

Mr. NESMITH. The petition of Major Miller is very short, and I will read it to the Senate.

To the honorable the Senate and House of Representatives:

The petition of Major Morris S. Miller, quartermaster United States Army, respectfully sets forth:

That, in the years 1859 and 1860, he paid certain amounts to the respective firms of Russell, Majors & Waddell, Brown & Russell, and Majors & Russell; that, on the examination of the accounts at the Treasury, certain disallowances were made by the accounting officers, by which an amount of more than thirty-seven thousand dollars (\$37,000) is charged to your petitioner at the Treasury Department; that these accounts were paid by your petitioner on positive and express orders of the Secretary of War and the Quartermaster General, indorsed in writing on the vouchers; that a disobedience of those orders would have disgraced your petitioner if arraigned therefor before a court-martial; that the present Comptroller has decided in writing that in such a case the responsibility should be sought elsewhere; that the President has expressed his opinion in writing that your petitioner should not be made to lose the money, but that he cannot legally and properly interfere; that your petitioner is therefore under the necessity of appealing to Congress.

He therefore prays that the proper accounting officers be, by resolution, directed to reconsider the case of your petitioner and to settle the vouchers referred to in such a manner as to credit to your petitioner such of these payments as were made by the positive orders of the Secretary of War and of your petitioner's immediate superior, the Quartermaster General.

And your petitioner will ever pray.

Very respectfully,

MORRIS S. MILLER,
Major, Quartermaster.

WASHINGTON, D. C., May 25, 1864.

I have here also the opinion of the Second Comptroller of the Treasury, which I will read:

All the disallowed vouchers in Major Miller's account having been acted upon by my predecessor on the same state of facts and evidence as now exist, I am precluded from entertaining an appeal from his decisions. But in my opinion a military officer, one of whose highest duties is obedience, should not suffer for obeying the orders of his superiors, when to have disobeyed would have subjected him to punishment. In such a case the responsibility should be sought elsewhere.

J. M. BRODHEAD,
Comptroller.

SECOND COMPTROLLER'S OFFICE, June 29, 1863.

Mr. TRUMBULL. I really think if Senators will look at this claim they will see the danger of passing this joint resolution. It seems now that it is connected with the famous fraud practiced upon the Government by Majors, Waddell & Co. There are claims pending against this Government now in the Court of Claims, and that have been repeatedly before Congress, amounting to hundreds of thousands, and I do not know but I may say of millions of dollars at this time; claims which the Secretary of War, John B. Floyd, allowed, acceptances which he himself made. Now, here comes up a little claim—a little claim compared with these larger ones, although it amounts to some thirty-seven thousand dollars

—of a paymaster who says that he paid out money in pursuance of an order of John B. Floyd to these men Russell, Majors & Co. The accounting officers of the Treasury say that this money was paid without authority of law, and they refuse to allow it.

The Secretary of War tells us, and one of the Comptrollers tells us in a communication which has been read, that it is not for a subordinate officer to disobey; that he would have subjected himself to court-martial if he had disobeyed, and therefore he must pay out the money. Sir, I deny that proposition. There is no safety if that proposition is to be the law of the land. The subordinate officer, if that order was contrary to law, should have taken the responsibility of disobeying it, and have gone before the court-martial, and the court-martial would have exonerated him. The Secretary of War has no authority to direct a paymaster to pay money to me or to any citizen of the country except in pursuance of law.

I really think this will be establishing a very dangerous precedent. This claim comes from the Committee on Military Affairs. It seems to me it had better be referred to our Committee on Claims, and let them examine it. I only know in regard to it what has appeared here.

Mr. COLLAMER. I have not attended very closely to this resolution, and I wish to ask a question. The business of a paymaster is to pay troops. Was this payment made to any troops?

Mr. TRUMBULL. No, sir; it was made to Russell & Majors, contractors, as I understand the papers.

Mr. NESMITH. The payment was made to Russell & Majors for transportation. It is not a claim appropriating money now. This officer acted in obedience to the order of the Secretary of War and the Paymaster General. The question was not brought before him in any judicial form that he could decide as to the right or the legality of the claim. The vouchers were simply indorsed by these officers that their order to a paymaster should add no discretion in the case to make the payment. He made the payment in pursuance of those orders, and the then Comptroller decided that the payment was improper. The present Comptroller admits the propriety of the then payment, but says that he is precluded from reopening a decision made by his predecessor. All that this resolution asks is that that decision may be reopened.

Mr. COLLAMER. A paymaster can be employed as the agent of the Government in no way on earth to pay any orders whatever except to pay troops.

Mr. NESMITH. This gentleman is not a paymaster, but a quartermaster of the United States Army, who paid a bill for transportation. If I used the word "paymaster" I used it improperly. He is a quartermaster of the United States Army, engaged in making payments in pursuance of the orders of the Secretary of War and the Quartermaster General. The question of the legality or illegality of the payment was not before him at all, and could not properly be brought before him for judicial examination. He only acted upon imperative orders sent from his superiors to disburse a certain amount of money in his hands.

Mr. TRUMBULL. I do not profess to understand this matter except what appears by these papers. If he paid out this money legally there would be no trouble about his claim; it would be allowed. But the Secretary of War in his communication, which has been read at the desk, says that the account of this quartermaster—I thought it was a payment—ought to be opened, and he allowed the sum of \$37,000 which he paid to Russell, Majors & Co., because he paid it in pursuance of an order of the Secretary of War, and that if he had disobeyed that order he would have subjected himself to a court-martial. If that rule is established it settles the principle in these great claims that have been against this Government for years. The persons holding these acceptances of John B. Floyd paid that money over to this same firm of Russell, Majors & Waddell on the express acceptance in writing of Floyd, and we have refused to allow those claims. Now comes up a quartermaster who claims that he should be allowed \$37,000 that he paid to these same contractors for transportation, because he was or-

dered by the Secretary of War to pay it. I should like to have this matter looked into, and I move that it be referred to the Committee on Claims; which is the appropriate committee to examine these things. That is the committee to which these claims have been presented heretofore, and I think it ought to be considered by that committee.

Mr. COWAN. I should like to remind the Senator from Illinois that the cases are entirely different. The parties who purchased Floyd's acceptances were not officers; they were not subordinates of Floyd; they were money-lenders, speculators, and dealers in this species of security. This, I understand, is a payment made by a quartermaster in pursuance of the order of his superior. It cannot be denied that the Government had some kind of dealings with Russell, Majors & Waddell. How was it possible for the quartermaster to know what they were?

Mr. TRUMBULL. Why is it not allowed, then, if it is a legal claim?

Mr. COWAN. I do not know.

Mr. TRUMBULL. The accounting officers decided it to be illegal.

Mr. COWAN. I understand the accounting officer to say that it was legal, but he is precluded from entertaining an appeal from the judgment of his predecessor.

Mr. TRUMBULL. If the Senator will allow me, I do not understand the accounting officer to decide any such thing. He gives that as a reason why he will not open it for reinvestigation.

Mr. COWAN. I understand the Senator from Oregon to say that the present Comptroller is of the opinion that the payment was a good and valid payment.

Mr. TRUMBULL. I do not think the paper shows that.

Mr. COWAN. But that in consequence of the decision of his predecessor he cannot now entertain the appeal from that decision, and this is simply opening the case and allowing him to readjudicate upon it. If that is the case I think it is one in which the claimant is entitled to relief. I do not see why it should be otherwise.

Mr. NESMITH. The letter of Mr. Brodhead states:

"All the disallowed vouchers in Major Miller's account having been acted upon by my predecessor on the same state of facts and evidence as now exists, I am precluded from entertaining an appeal from his decisions. But in my opinion a military officer, one of whose highest duties is obedience, should not suffer for obeying the orders of his superiors, when to have disobeyed would have subjected him to punishment. In such a case the responsibility should be sought elsewhere."

This matter was submitted to the President of the United States, and he gave this opinion:

If it is true that Major Miller made payments under express order of the Secretary of War, as a matter of equity he, Major Miller, should not be made to lose the money; but the accounting officer having settled the matter, I doubt both the legality and propriety of interference by the President.

A. LINCOLN.

May 25, 1864.

There is no parallel at all between the cases referred to by the Senator from Illinois, the acceptances of Floyd, and the payment of this money. That was entirely unauthorized by law and a fraud upon the Government, but this is a payment by a party who is not alleged to have been implicated in any frauds in any way, but who was directed by his superior officer to make a certain payment when disobedience of that order would have dismissed him from the service. I do not think the argument of the Senator from Illinois is entirely conclusive as to what should be the rights and duties under such circumstances of a mere disbursing officer, a quartermaster who has to pay out the funds in his hands. When the question is submitted to his superiors, both the Secretary of War and the Quartermaster General, as to the legality of the payment, they are the parties to decide it, and when the matter is referred to the disbursing officer for payment he has no discrimination in the matter except to pay the order. I appeal to the Senator from Illinois and ask him if he thinks, under these circumstances, the order coming before him indorsed by these superiors, and he having made the payment directly in compliance with that order, this officer should be held responsible for this money, particularly when he had no discrimination in the matter, and the judicial question, or the question of the legality of the payment, could not possibly be brought before him?

The *PRESIDENT pro tempore*. The question is, on the motion of the Senator from Illinois to refer the joint resolution to the Committee on Claims.

The motion was not agreed to.

The joint resolution was ordered to a third reading, and was read the third time.

Mr. TRUMBULL. I ask for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 3; as follows:

YEAS—Messrs. Anthony, Buckalew, Carlile, Clark, Colamer, Conness, Cowan, Davis, Dixon, Foot, Foster, Harris, Hendricks, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Powell, Richardson, Saulsbury, Sherman, Sprague, Sumner, Ten Eyck, Wade, Willey, and Wilson—29.

NAYS—Messrs. Doolittle, Harlan, and Trumbull—3.
ABSENT—Messrs. Brown, Chandler, Fessenden, Grimes, Hale, Harding, Henderson, Hicks, Howard, Howe, Johnson, Pomeroy, Ramsey, Riddle, Van Winkle, Wilkinson, and Wright—17.

So the bill was passed.

POST ROUTE BILL.

Mr. COLLAMER. I am directed by the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 532) to establish certain post roads, to report it back to the Senate with various amendments for the establishment of additional routes. I do not know whether gentlemen would desire to have them printed. If there is no desire of that kind, as the committee propose to insert all the routes which have been applied for which are not already post roads or are not already in the bill, the amendments may as well be acted upon now, and the bill disposed of.

Mr. SUMNER. I should not think it was necessary to print them.

Mr. WILSON. We can act upon the bill at once, and concur in the report of the committee.

Mr. COLLAMER. Then I ask for the present consideration of the bill, and I will move that the amendments reported from the committee be concurred in.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. WILSON. I suggest that it is not necessary to read the bill or the amendments. It is a very plain bill, and we know precisely what it is and what it contains. I think we had better concur in the amendments without reading them, and pass the bill.

Mr. COLLAMER. The bill and the amendments relate to nothing but post routes.

The *PRESIDENT pro tempore*. The reading will be dispensed with, if there be no objection. The question will be on agreeing to the amendments reported by the Committee on Post Offices and Post Roads.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

PAYMENT FOR CAPTURED HORSES.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 545) to amend an act entitled "An act to provide for the payment of horses and other property destroyed in the military service of the United States," to report it back without amendment and recommend its passage. The bill contains but one brief section, and I should like to have it acted upon now if there be no objection.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that the act to which it is an amendment shall, from the commencement of the present rebellion, extend to and embrace all cases of the loss of horses by any officer, non-commissioned officer, or private, in the military service of the United States, while in the line of their duty in such service, by capture by the enemy, whenever it shall appear that such officer, non-commissioned officer, or private was or shall be ordered by his superior officer to surrender to the enemy, and such capture was or shall be made in pursuance of such surrender.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WESTERN MILITARY CLAIMS.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the joint resolution (H. R. No. 87) amendatory of an act to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department or department of Missouri, to report it back without amendment and with a recommendation that it pass; and as it will take but a moment I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It provides that when any person or persons holding any power of attorney or assignment executed subsequent to August 16, 1863, and prior to January 22, 1864, for the sum adjudged due to any officer or soldier by the commissioners appointed under joint resolution approved February 16, 1863, shall have paid any money to any officer or soldier on the faith of such power of attorney or assignment, the paymaster appointed to disburse the funds appropriated by the act approved January 22, 1864, to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department or department of Missouri, shall be authorized and directed to pay to such person or persons the amount thus paid to any officer or soldier, upon such attorney or assignee making and filing an affidavit to the effect that the amount was actually paid to the officer or soldier, and upon the paymaster being satisfied that the amount was actually paid; and the amount paid such attorney or assignee under this resolution is to be deducted from the amount due the officer or soldier, anything in any previous action of Congress to the contrary notwithstanding.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ALEXANDER CROSS.

Mr. WADE. I move that the Senate take up House joint resolution No. 39.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 39) for the relief of Alexander Cross.

Alexander Cross heretofore filed his petition in the Court of Claims of the United States, praying relief on account of certain rents alleged to be due from the United States to him as assignee of one Daniel Saffarans, by virtue of certain alleged contract of lease between Saffarans (who is now deceased) and the United States; and the Court of Claims, on the 24th of January, 1859, rendered a decision adverse to the prayer of the petition, on the sole ground of an alleged technical defect in the assignment of the lease from Saffarans to the petitioner. The joint resolution therefore proposes to remand the cause to the Court of Claims for a further hearing, upon the testimony heretofore filed therein, and such further testimony as either party may take and file pursuant to the rules of the court; and if, upon the further hearing of the cause, it shall appear that the petitioner is the equitable owner of the lease, and in justice and equity entitled to the rents (if any) due thereon from the United States, the court is to be authorized to render judgment therefor in his favor, notwithstanding any technical defect in the assignment of the lease.

The Committee on Claims reported the joint resolution with an amendment to add the following proviso:

Provided, That no money shall be paid out of the Treasury upon any judgment which may be rendered in favor of the petitioner in said cause until he shall have filed with the Secretary of the Treasury a bond, with ample security, in such sum as will fully indemnify the United States against any demand which may be set up and established by or on behalf of the heirs or representatives of the said Daniel Saffarans, deceased, under or by virtue of said contract or lease.

The *PRESIDENT pro tempore*. The Chair calls up the special order of the day at this hour, being the unfinished business of yesterday, House bill No. 512.

Mr. WADE. I hope that will be informally passed over to enable us to take the question on this resolution. It will take but a moment.

Mr. SUMNER. I have no objection to the order being passed over informally to accommodate my friend.

The *PRESIDENT pro tempore*. The Chair hears no objection to continuing the consideration of the resolution which has been before the Senate. The question is on the amendment reported from the Committee on Claims.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed. The resolution was ordered to be read a third time; and it was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill of the House (No. 495) to amend the charter of the Washington and Georgetown Railroad Company, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. STEELE of New York, Mr. PRICE of Iowa, and Mr. WASHBURN of Illinois, managers at the same on its part.

The message also announced that the House of Representatives had agreed to the amendment of the Senate to the amendment of the House to the bill (S. No. 26) to provide for the public instruction of youth in the county of Washington, District of Columbia.

The message also announced that the House of Representatives had passed a bill (No. 550) to establish Colfax street in the city of Washington and District of Columbia; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (H. R. No. 240) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1865, and for other purposes; and

A bill (H. R. No. 434) to authorize the bailiff of the orphans' court in the county of Washington and District of Columbia to serve processes issued by said court, and for other purposes.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed on the 20th instant the following bills and joint resolution:

A bill (H. R. No. 40) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1865, and for other purposes;

A bill (H. R. No. 179) concerning lands in the State of California;

A bill (H. R. No. 217) to confirm certain entries of land in the State of Missouri;

A bill (H. R. No. 227) granting lands to the State of Michigan for the construction of certain wagon roads for military and postal purposes;

A bill (H. R. No. 290) for the relief of Rhoda Wolcott, widow of Henry Wolcott;

A bill (H. R. No. 356) requiring proof of payment of duties on foreign salt before payment of the allowances provided for by the acts of July 29, 1813, and March 3, 1819;

A bill (H. R. No. 486) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863;

A bill (H. R. No. 504) to authorize the Secretary of the Treasury to sell the marine hospital and grounds at Chicago, Illinois, and to purchase a new site and build a new hospital;

A bill (H. R. No. 513) to detach the counties of Calhoun and Branch from the western judicial district, and annex the same to the eastern district of the State of Michigan;

A bill (H. R. No. 521) to amend an act entitled "An act to provide for the claims of Peruvian citizens under the convention between the United States and Peru of the 12th of January, 1863," approved June 1, 1864; and

A joint resolution (H. R. No. 47) for the relief of Rev. W. B. Matchett.

WASHINGTON AND GEORGETOWN RAILROAD.

The Senate proceeded to consider its amendments to the bill of the House (No. 495) to amend

the charter of the Washington and Georgetown Railroad Company, disagreed to by the House of Representatives; and

On motion of Mr. GRIMES, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. WADE, Mr. WILLEY, and Mr. RIDDELL.

HOUSE BILL REFERRED.

The bill (No. 550) to establish Colfax street in the city of Washington and District of Columbia was read twice by its title, and referred to the Committee on the District of Columbia.

REPEAL OF FUGITIVE SLAVE LAWS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves.

Mr. DAVIS addressed the Senate at some length. [His speech will be published in the Appendix.]

Mr. SAULSBURY. I move to strike out all after the enacting clause of the bill, and to insert the following:

That no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due; and Congress shall pass all necessary and proper laws for the rendition of all such persons who shall so, as aforesaid, escape.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SAULSBURY. It will be perceived that my amendment embodies simply the words of the Constitution of the United States, with a declaration that it is the duty of Congress to pass all proper and necessary laws to carry the provision of the Constitution into effect.

I have stated the substance of the amendment that the country may again have an opportunity to observe whether the Senate of the United States is willing to affirm what unquestionably is in the Constitution of the United States. We have been told, sir, by the highest judicial authority of this country, by no less a distinguished jurist than Judge Story, in a celebrated case where the constitutionality of the fugitive slave law was involved, that this provision of the Constitution, recited in my amendment, was one of the compromises of the instrument, without the incorporation of which into the instrument the formation of a Constitution for a General Government, a common Government between the States, would have been impossible. Sir, from the very foundation of the Government after the adoption of the Constitution there was no statesman who ever questioned that a faithful observance of this constitutional requirement was obligatory upon the people of the United States. As we have been told this morning by the distinguished Senator from Kentucky, it was adopted by the Federal Convention without a dissenting voice. The men who framed the Constitution, in 1793 passed an act of Congress to carry this provision of the Constitution into effect. That act met with the approval of the Father of his Country. No one of the men who were witnesses to the establishment of the Government, or participated in that establishment, ever questioned either its validity or its wisdom; and never until these modern days, when it has been discovered, to the amazement of thoughtful minds throughout the world, that the negro is not only the equal but a little better than the white man, was the correctness of their judgment called in question.

Sir, whence comes this spirit to demolish the work of the fathers? By what means is it that men in these modern days have become so much wiser than the fathers that they should now attempt to do away with their work? Are the statesmen of the present day more deeply read in the principles of sound government than were the men who established this Government? Sir, we are but pigmies in comparison with giants, and by such acts as these we only demonstrate that

"Pigmies are pigmies still, though perched on Alps."

But, sir, not only according to the political views of the present day is it wise to do away with all the work of the great men who preceded us; but we have—I had like to have said the audacity—we have the presumption, sir, to publish to the people of this country and to the world that we are not only wiser but purer and better men; that we have studied more deeply and more closely, and I presume we would have it believed that we practice more consistently, the teachings of the divine code than the great, the good, and the wise men who preceded us, and that George Washington and the men associated with him in revolutionary times, and during the period in which this Constitution was formed, were not the good Christians that we of the present day are. Now, sir, if we would believe what is to be met with in every newspaper almost that has liberty to express its opinions, and if we would look in the so-called religious conventions of the present day, that which they approved is contrary to the word of God. I put it to you, sir, and I put it to the country, who believes, even viewing this question in its religious aspect, that your religious synods, conventions, gatherings of ministers, have the same piety, the same reverence for God, and the same respect for man that they had in the early days of this Republic? Sir, I wish to attack no religious denomination, no body of clergymen, but if there are any class of men who since the commencement of our troubles have done injury to the country and disgraced their calling, that class of men are the political preachers who, instead of preaching Jesus Christ and Him crucified, are preaching the equality of negroes with white men. Such men might preach till doomsday, they would never convert a soul or get converted themselves. If infidelity was branded on their foreheads, and they had to go out among the people with such a brand upon them, it would suit them much better than to be agitating in these days of national trouble questions of which they are profoundly ignorant, and to speak in reference to which God never commissioned them. I allude, sir, simply to those gentlemen because much of this sickly sentimentality in the land, much of this disregard of the true teachings of the Bible, which they profess to expound, is owing to their own teachings, and just in proportion as they have forgotten the weightier matters of the law do they deal in such things as abolitionism and negro equality.

Mr. President, while it is not my intention to detain the Senate with anything like a speech on this subject, because the mind of every Senator is made up, because the whole country understands the question, I cannot forbear a further remark. This measure is introduced under circumstances which show that it is done simply for the purpose of keeping up a most unnecessary and most profitless and a most injurious excitement and agitation. There is no one, I presume, that supposes it can have any effect whatever in the States in revolt. It certainly is not intended, at least at present, to operate upon those States, because if it is, we not being in possession of them would be pretty much like Satan was when he took the Saviour up on a high mount and showed him all the kingdoms of the earth and promised them to him if he would fall down and worship him, when the old creature had not a single foot of all the land he promised. It then can only be supposed to operate within the border States. Is there any practical use for its enactment so far as those States are concerned? Is there a single slave in one of those States that cannot escape if he chooses to do so? Have you not, sir, through your military power, held out every inducement that you could promise to them to leave their masters and to come and enjoy the rich blessings of freedom? Have you returned any of them to their masters? Have you not dismissed military officers because you suspected them of a disposition to do it? Is there one slave in all the border States or in the States in revolt who, if he does escape and goes into a free State, can under any circumstances be possibly returned, although these enactments may remain upon your statute-book? No, sir. This intense love for universal freedom which seems to animate a very considerable portion of the northern people, it not the majority, secures perfect immunity from arrest and return of any fugitive who may escape from his master.

Then, sir, why not be still in the troublous times through which we are now passing? Why not wait until tranquillity and peace shall return, and then, with cool heads and calm judgment, apply yourselves to such legislation as the circumstances of the country, as they shall then exist, may demand? Is it wise, I ask, in times like these to be ignoring the fundamental principles upon which your Government was established, to be repealing those early statutes which were enacted by the great and the wise men who preceded you? Is it a time for you by your legislation to teach to the young men of the country who are just entering upon the theater of life that the men who laid the deep foundations of this Government in the principles of constitutional liberty were unfitted for their task, were inadequate to the accomplishment of the purposes which they intended? Is it a time amid the throes of national disruption and revolution for us to sit in judgment upon the work of the fathers? It is presumption, and nothing but presumption.

The question being taken by yeas and nays, resulted—yeas 9, nays 29; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Davis, McDougall, Powell, Richardson, Riddle, and Saulsbury—9.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Dixon, Foot, Grimes, Hale, Harlan, Harris, Hicks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomerooy, Ramsey, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Willey, and Wilson—29.

ABSENT—Messrs. Collamer, Doolittle, Fessenden, Foster, Harding, Henderson, Hendricks, Nesmith, Sherman, Wilkinson, and Wright—11.

So the amendment was rejected.

Mr. JOHNSON. I move to amend the bill by striking out after the word "that," in the third line, the following words:

Sections three and four of an act entitled "An act respecting fugitives from justice and persons escaping from the service of their masters," passed February 12, 1793, and.

So that the bill will read:

That an act entitled "An act to amend and supplementary to the act entitled 'An act respecting fugitives from justice and persons escaping from the service of their masters,' passed February 12, 1793," passed September 16, 1850, be, and the same is hereby, repealed.

The amendment, as the Senate will see, makes this bill like the one that we passed after debate.

Mr. WILSON. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. HENDRICKS. I desire to say that upon this bill, and all peculiar propositions connected with it, I have agreed to pair off with the Senator from Minnesota, [Mr. WILKINSON,] and therefore do not vote, he being in favor of the measure and I against it.

Mr. McDOUGALL. I wish to say that I am governed by the Constitution of the United States and the laws passed under the Constitution, and I shall govern myself accordingly in my votes.

The question being taken by yeas and nays, resulted—yeas 17, nays 22; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Davis, Harris, Hicks, Johnson, Lane of Indiana, McDougall, Powell, Richardson, Riddle, Saulsbury, Ten Eyck, Trumbull, Van Winkle, and Willey—17.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Dixon, Fessenden, Foot, Grimes, Hale, Harlan, Howard, Howe, Lane of Kansas, Morgan, Morrill, Pomerooy, Ramsey, Sprague, Sumner, Wade, and Wilson—22.

ABSENT—Messrs. Collamer, Doolittle, Foster, Harding, Henderson, Hendricks, Nesmith, Sherman, Wilkinson, and Wright—10.

So the amendment was rejected.

The bill was ordered to a third reading, and was read the third time.

Mr. SAULSBURY. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 12; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Dixon, Fessenden, Foot, Grimes, Hale, Harlan, Harris, Hicks, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomerooy, Ramsey, Sprague, Sumner, Ten Eyck, Trumbull, Wade, and Wilson—27.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Johnson, McDougall, Powell, Richardson, Riddle, Saulsbury, Van Winkle, and Willey—12.

ABSENT—Messrs. Collamer, Doolittle, Foster, Harding, Henderson, Hendricks, Nesmith, Sherman, Wilkinson, and Wright—10.

So the bill was passed.

RECESS.

On motion of Mr. MORRILL, it was

Ordered, That at half past four o'clock on to-day the Senate will take a recess until seven o'clock p. m.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills of the Senate:

A bill (No. 115) to amend an act entitled "An act to define the powers and duties of the levy court of the county of Washington, District of Columbia;"

A bill (No. 162) amendatory of an act to amend an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863; and

A bill (No. 279) to amend the act of Congress making donations to the settlers on the public lands in Oregon, approved September 27, 1850, and the acts amendatory thereto.

The message further announced that the House of Representatives had passed the following House bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (No. 537) to incorporate the Young Men's Christian Association of the city of Washington;

A bill (No. 551) to incorporate the Colored Catholic Benevolent Society;

A bill (No. 552) to increase the salaries of the judges and arbitrators appointed under the treaty with Great Britain for the suppression of the slave trade; and

A joint resolution (No. 109) correcting a clerical error in the award of the emancipation commissioners.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore*:

A bill (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1865, and for other purposes; and

A bill (H. R. No. 453) to increase the pension of Isaac Allen.

COURTS IN WISCONSIN.

Mr. TRUMBULL, from the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment, as follows:

Provided, That all executions, processes, or orders issued from the district court of any district in this act mentioned in cases transferred to the circuit court, and in part executed, shall be regarded as having been issued from the circuit court to which each particular case is transferred, and shall be returned thereto. And no writ of execution, or other final process, or power exercised, or proceeding had in accordance with law to enforce any judgment or decree, shall be affected by reason of the transfer directed by this act.

LYMAN TRUMBULL,

J. COLLAMER,

L. W. POWELL,

Managers on the part of the Senate.

JAMES F. WILSON,

JAMES S. BROWN,

Managers on the part of the House.

The report was concurred in.

MILITARY INTERFERENCE WITH ELECTIONS.

Mr. HOWARD. I move to take up Senate bill No. 37, to prevent officers of the Army and Navy and other persons engaged in the military and naval service of the United States from interfering in elections in the States. It is the bill which was passed yesterday, on which there was a motion to reconsider.

The motion to take up the bill was agreed to.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa [Mr. HARLAN] to reconsider the vote by which the bill was passed.

Mr. HOWARD. I beg the indulgence of the Senate for a moment. This bill was passed yesterday, and a motion was made before the close of the session yesterday by the honorable Senator from Iowa to reconsider the vote on its passage. I hope the Senate will reconsider the vote,

for I am not able to see any reason whatever for the passage of such a bill as this. Without spending time upon it, I beg leave to say that by the passage of this bill even in the form in which it now is, the Senate will, seemingly at least, give a *cognovit* to all the charges of improper and corrupt interference on the part of the military authorities of the United States in the State elections of 1863 and 1862. The Committee on Military Affairs have had this matter under very careful consideration, and, as I remarked yesterday, made a very full and ample report on the whole subject, and they came to the conclusion that there was no necessity whatever for the passage of any such bill as this.

As the bill stands, if it be in order for me to say one word in respect to it, the following results will flow from it. As it is now passed it reads as follows:

That it shall not be lawful for any military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State of the United States of America, unless it shall be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.

Giving permission for the employment of the military forces of the United States at elections only in those two cases, where there shall be armed enemies of the United States at the polls, or where it shall be necessary to employ a military force to keep the peace at the polls; and leaving the implication perfectly irresistible that in all other cases it shall not be lawful for the military authorities commanding in the field, or in the district or department, as the case may be, to employ the military forces, although there might be present at a poll, and there might be thronging around that poll hundreds and thousands of rebels who had just left the field of battle, and whose hands were crimsoned with the blood of loyal men; leaving that description of persons to come to the polls quietly and deposit their votes, although notoriously rebels, and excluding, as I remarked, in such a case as that all interference on the part of the authorities. I do not think it is the purpose of the Senate of the United States to pass any law which shall take away from the military authorities in the field that tutelary authority and protection which they have uniformly thus far extended to the Union voters who went quietly to the polls to vote; that authority by which, in repeated instances, under almost all our commanders, rebels, and persons notorious for their disloyalty, have been kept away from the polls by this same military arm, and kept away from the polls, why? Because they were unfriendly to the United States; in short, because they were actual enemies, or so strongly suspected of being actual enemies that it was unsafe to allow them to exercise this description of political rights.

The report to which I have referred contains a recital of a very great number of these military orders given in Missouri by General Schofield; in Kentucky by General Burnside; in Maryland by General McClellan and by General Dix; and in Delaware by General Dix and by General Schenck, the purpose and object of all of which were to protect the Union voter in the quiet enjoyment of his rights at the polls, and to keep away from the polls persons of known disloyalty, or persons who had been known to have engaged in actual hostilities against the United States. It is said that this is a dangerous power to place in the hands of a military man. I admit that it is dangerous, because it is a power easily abused; nobody denies that all power, however necessary, may be abused, and all power is as easily abused, so to speak, as is this military power; but is the fact that it may be easily abused one which should prohibit us from using the power? Is it a reason why we should take away from the military authorities this protective shield which they have held over the Union people in Kentucky, in Missouri, in Maryland, and in Delaware? Is it a reason for stripping them of all authority to expel from the polls men who perhaps yesterday had arms in their hands, and were actually engaged in waging open war, bloody war against the United States? Still, if this bill is allowed to pass as it is, such will be the exact effect of it; it will forbid our military authorities everywhere from arresting or in any way interfering with a rebel

who shall come to the polls without arms, although he may be perfectly well known to have been a rebel, to have been engaged in hostilities against the United States; perfectly well known both to the military authorities and to the judges of the election.

But it is said, Mr. President, that it is the exclusive privilege of the States to protect their polls, to protect their elections, and to prescribe the rules which shall be observed at an election in its conduct as well as to prescribe the qualifications of electors. I am not here to deny the just power of the States in regard to elections and the fixing of the qualifications of voters in a State. I do not deny the power of the State in general terms to prescribe these qualifications and to fix these rules; but I do deny that in a time of war, and this is a time of war, it is competent for any State government to extend to a person who is a public enemy of the United States, and against whom and against whose class or community the United States as a nation is waging war, any political right or privilege whatever, and I do assert that in his capacity of a public enemy he is in all respects and at all times subject to the laws of the United States relating to him as a public enemy, and subject to those laws in exclusion of any conflicting law of the State relating to the same subject. In short, I hold that the laws of the United States on such subjects as upon all other subjects are supreme, and that the State law must yield to them. In a time of peace, I agree, there being no necessity for the exercise of this tutelary authority which I have referred to, it would be incompetent for Congress to pass any law relating to the qualification of electors in a State or in any way regulating their elections. We all know that a state of war and a state of peace are two very different things. The States cannot wage war. A State as a State cannot lawfully be engaged in war; the whole of the war power pertains exclusively to the United States and not to the States. I hope that this bill will be reconsidered.

Mr. JOHNSON. Mr. President, I do not know whether the debate to the extent to which it has been entered into by the honorable member from Michigan is in order upon a motion to reconsider. The bill is not yet before the Senate, I believe.

The PRESIDENT *pro tempore*. The bill is before the Senate.

Mr. JOHNSON. I have but a word or two to say, then, Mr. President. The bill as it has been amended and passed gives to the authorities of the United States the right to use their military power for the purpose of keeping the peace at the polls. It is consequently, if it is not exerted beyond that limit, a power within the competency of the Government provided, and provided only, that assistance shall be asked for by the State. But if the doctrines maintained by my friend from Michigan are to prevail I do not see that it will make much difference whether we put down this rebellion or not.

Mr. HOWARD. I do not quite hear the Senator.

Mr. JOHNSON. I do not see, if your doctrines prevail, what good, as far as personal or individual liberty will be affected, whether we succeed in putting a stop to the rebellion or not. The honorable member tells us what we all know, that upon all subjects over which the United States have jurisdiction their laws are paramount to the laws of the States, even in cases in which the States have over the same subject concurrent jurisdiction. That we all admit; but I never before heard until these recent times that the Constitution of the United States gives to any branch of the Government which it creates an authority to interfere at all with the exercise of the elective franchise.

Mr. HOWARD. Will my honorable friend from Maryland allow me to ask him one question right here?

Mr. JOHNSON. Certainly.

Mr. HOWARD. It is this, whether in a time of war it is competent for a State, acting in its sovereignty as a State if you please, to permit a public enemy of the United States to vote at the polls?

Mr. JOHNSON. Certainly not, but who is to ascertain that? If the member from Michigan should happen to be the incumbent of the presidential chair—and I should not weep at the pres-

ent time to find him there—would it be for him to decide whether, as a citizen of Maryland, I was entitled to vote at an election in my own State? There is but one subject upon which the United States have any authority to interfere with elections. Over the times, the places, and the manner, the Constitution gives to the several States the exclusive authority with two exceptions, that have nothing in the world to do with the manner in which the franchise is to be exercised or the parties who are to exercise it. Upon all other subjects therefore than of time and manner, the jurisdiction of the States is just as paramount and exclusive as it was before the Constitution was adopted. Now, my friend asks, is it possible that in a state of war the States are to have the privilege of deciding for themselves who shall exert the elective franchise? Why not?

Mr. HOWARD. I beg pardon of the Senator from Maryland; I must correct him. I have not made any such statement as that. What I have said substantially is that it was incompetent for a State in a state of war to allow a public enemy of the United States to vote at the polls, and I understand the honorable Senator as admitting the truth of that proposition.

Mr. JOHNSON. Certainly, so far as it is itself concerned; but the honorable member claims for the Government of the United States the right to decide it. I was about to put a case to him. With reference to the question in issue between him and myself there is no difference between a civil war and any other war. A war waged with a foreign nation is a war, and there may be traitors to the Government, by giving aid and comfort to the enemy, who ought not to be permitted to vote; but can the Government carry its armies into the States and say to the States, "We claim the right to decide who is to vote, not you?"

Mr. HOWARD. In just such a case as that, if the Senator will allow me, I do claim the right for the United States to say to the public enemy, "You shall not vote at the polls of the State." If that be not the right of the United States, then the United States is without power for the purpose of determining who is a public enemy. Certainly, it is not for a State to determine who is a public enemy of the United States and to make that decision binding upon the Government of the United States, or who is a friend of the United States and make that binding.

Mr. JOHNSON. In determining on the part of the United States who is an enemy of the United States, does the honorable member mean to say that they can go into the State and take up any individuals that they think proper upon the ground that they are public enemies and incarcerate them in prison without previous proceeding or indictment or trial? I am sure he would not go to the extent of so holding; and yet what difference in principle is there between a case of that description and their claiming a right to go into the States and to say to A, B, and C, who happen to be at the polls, "We pronounce you to be public enemies; you shall not put your ballot into the box, although your State by its laws has provided no test which will exclude you?"

I had thought, Mr. President, that we were in a free land, that if there was a Government upon the face of the habitable globe where the principles of freedom were instilled and incorporated into their institutions, it was the Government of the United States; but the doctrine of my friend from Michigan makes it virtually a military despotism; just as absolute, yes, more absolute than that which is now being wielded by the present Napoleon; and I make bold to say, the history of England will bear me out in the assertion, that such conduct as the honorable member maintains may be used toward the States by the Government of the United States through its military, if resorted to in England under the authority either of Parliament or of the queen, it would cause her time-honored institutions to topple into ruin. Who ever heard in England, in times of the greatest political excitement, when they were passing almost every species of law in order to do what they deemed to be necessary to protect their institutions, that any English statesman or English monarch since the days of Henry VIII claimed to regulate elections in any way by force of military power?

Why, Mr. President, there, under a Government called a monarchy, a Government which

we have proudly considered until recently as not free in comparison with our own; there the use of the military in putting down a riot is regulated by statute, and the officer who undertakes to deviate from it a hair's breadth is brought to summary and condign punishment. We have a Government nominally republican; really republican as far as our Constitution is concerned; free as ever was vouchsafed to man; as admirable as man ever enjoyed; protective of human liberty, if its provisions are carried out into practical exertion, as any ever furnished to human freedom; and yet here, in the Senate of the United States, my honorable friend, imbued as he is with the lore of his profession, and wedded as I have no doubt he is to the freedom which we should enjoy, advocates principles on this floor which will make us, in the estimation of English statesmen, a scorn and a reproach. In the name of God, by the spirits of the departed great who gave us these institutions, who devoted the years of their lives and poured out their blood in achieving the independence which enabled us to have such institutions, I protest with all the seriousness that I can against such doctrines.

One step further—it would indeed not be a step further, it would be but the same step; practically it amounts to the same thing; you claim the right to say who is to vote: tell us then whom we are to vote for. The one, as far as principle is concerned, is identical with the other. A presidential election is close at hand: whom am I to vote for? I ought to exercise my own judgment in passing upon that question; but the military of the United States, some man with the stars upon his shoulders, dressed up in the little brief authority that that gives, wants a particular man elected; it is dependent on my vote whether he can be elected or not; and although he forbears to force me to vote for his candidate, when he finds that I am about to vote for an opposing candidate says, "You shall not vote at all, because you are disloyal." Can such doctrines bear the test of any examination, even the most superficial? Are they not—my friend will pardon me for saying so—abhorrent to every idea which American citizens have heretofore entertained of American freedom? Orders have, however, in the past been issued by military commanders. I know they have. The order issued by General Dix, a man who is a very good judge of such matters, because a statesman in the enlarged sense of the term, and a patriot, limited what the military were to do under that order to the preservation of the peace, just as this bill provides. But the orders that were subsequently issued, and upon which the honorable member's report comments, had this effect: out of a voting population of thirty thousand in the city of Baltimore there was polled less than ten thousand. Does the honorable member suppose that the other twenty thousand were disloyal? I tell him, if he does, he does our people great injustice. More than half of them were as loyal as he is; but they would not vote because, feeling the independence which belongs to the American citizen, and knowing that they had a right to vote independent of any military satrap, they thought it was the lesser evil not to vote at all; and what was true of Baltimore was true of a great portion of the rest of the State.

I regret, Mr. President, that the subject should have been introduced again by my friend from Michigan. I thought we had disposed of it finally. The amendments made and which now form part of the bill go further, I think, than we have a right to go; but in the name of freedom I implore the Senate of the United States not to go a step further, not to make mine, not to make your constituents the slaves of any military man to whom unfortunately for the country the command of the department in which the State is may be intrusted. We hold our rights under the Constitution, consecrated by the blood of our ancestors. We have proved ourselves worthy to enjoy them by meeting the enemies of our country upon the ocean and the field; and we are doing it now. Oh, save us, save us in the name of freedom, save us in regard to the sacred memory of our ancestors, save us from the rule of military despotism.

Mr. HOWARD. Mr. President, the eloquent Senator from Maryland possesses one of the faculties which pertain to an ingenious orator, and that is the using of the figure known to rhetoricians as hyperbole, with very striking effect, so

much so that I fear sometimes it gets the better of his own judgment.

The honorable Senator draws a comparison between our own American Government at this time and the British Government, very much to the advantage of the latter in respect to the preservation of liberty, and he says in the face of the Senate and in the face of the country that if the Government of the United States in the prosecution of this war shall assume to designate for itself who are its enemies and to treat them as its enemies it will or may attract the scorn and contempt of the civilized world, and especially the scorn and contempt of that delightful Government whom it seems to be his pride so much to laud and approve. Has that honorable Senator forgotten the arbitrary laws and edicts of the British Government that prevailed from the commencement of the French Revolution down to its end, and perhaps which are still unrepealed upon the statute-book of England? Has he forgotten the arbitrary conduct of the British ministry in seizing upon scores and scores of innocent, unoffending subjects of the King of Holland, who happened to be residing in England as fugitives from the troubles of the French Revolution, and transporting them by force, without trial, out of the asylum of England and subjecting them to the persecutions and the tyranny of the countries from which they had fled, a proceeding infinitely more arbitrary and tyrannical than anything that has ever been thought of in the course of the Administration of the Government of the United States? And still our own Government at this time, grappling as it is with a gigantic rebellion, with every muscle and every nerve strained to the utmost in carrying on this war, is brought into a disparaging comparison with the conduct of England in reference to the preservation of the liberties of the people. Sir, the honorable Senator from Maryland does not meet the point which I make. I insist that it belongs to the Government of the United States to determine for itself who are the enemies of the Government of the United States, and to deal with them as such; that this power does not pertain to the States, certainly not exclusively, that it is not competent for a State of this Union to pass a law which shall give to a public enemy or to a domestic enemy any right or privilege as a citizen of the United States. This is the very point in which the shoe pinches in this case. He proposes to let every person who may see fit to go to the polls in a loyal State at an election to vote at that poll, if I understand him rightly, and he implores God to protect us against the opposite principle which would exclude rebels, red with the blood of their countrymen, from the enjoyment of those rights.

Mr. JOHNSON. The honorable Senator has misunderstood me. I say that is a matter for the State authorities to decide.

Mr. HOWARD. Suppose the State of Delaware, the State of Maryland, the State of Missouri, or the State of Kentucky should to-day pass a law declaring that any person who may heretofore have been actually engaged in this rebellion, who may have borne arms against the United States and committed treason a thousand times over, might if he saw fit to go to the polls at one of those States and vote, do so. I ask that honorable Senator if such an act as that be within the competency of a State Legislature or of a State acting as a State. Sir, he will not undertake to assert such a doctrine as that. He will not undertake to say that the United States is stripped of all authority to seize upon its enemies wherever it may find them, and to deal with them as public enemies. He will not undertake to say that the State Legislatures may thwart all the legislation and the whole policy of the Government of the United States by suffering traitors to go to the polls and vote, and to keep away if you please Union citizens who are there for the honest purpose of giving loyal votes.

I understand, Mr. President, very well the meaning and intention of this pertinacity for the passage of the bill of the honorable Senator from Kentucky. It is the principal stock in trade of a certain class or party in this country who have acquired a name which it is not necessary and which it might be improper for me here to mention. Their principal political stock in trade is "military interference with elections," "the tyranny of the Black Republican Executive," "the

driving of innocent voters from the polls," "the carrying of elections by the bayonet," and the entire list of denunciations such as these. Well, sir, with whom did this commence? The report to which I have alluded shows that the Secretary of War has never issued any order whatever upon this subject. It shows that our military men in the field have, wherever the occasion has presented itself, interposed for the protection of Union voters at State elections, and for the prevention of rebels and rebel sympathizers from interfering with those elections. And the report shows, also, that the first example, if not the first certainly among the earliest of this kind, was set in the State of Maryland by General George B. McClellan, when he was in command of the department. Let me read that order, so that it may be understood. Let us see what the extent of it is. The honorable Senator has given us to understand and given the country to understand that these orders, or some of them at least, merely looked to the preservation of the peace at the polls. Let us see what view General McClellan took of it. He says, in his order of the 29th October, 1861, addressing General Banks:

HEADQUARTERS ARMY OF THE POTOMAC,
WASHINGTON, October 29, 1861.

GENERAL: There is an apprehension among Union citizens in many parts of Maryland of an attempt at interference with their rights of suffrage by disunion citizens on the occasion of the election to take place on the 6th of November next.

In order to prevent this, the major general commanding directs that you send detachments of a sufficient number of men to the different points in your vicinity where the elections are to be held, to protect the Union voters, and to see that no disunionists are allowed to intimidate them, or in any way to interfere with their rights.

He also desires you to arrest and hold in confinement till after the election all disunionists who are known to have returned from Virginia recently and who show themselves at the polls, and to guard effectually against any invasion of the peace and order of the election. For the purpose of carrying out these instructions you are authorized to suspend the *habeas corpus*. General Stone has received similar instructions to these. You will please confer with him as to the particular points that each shall take the control of.

I am, sir, very respectfully, your obedient servant,
R. B. MARCY,
Chief of Staff.

Major General N. P. Banks,
Commanding Division, Muddy Branch, Maryland.

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to announce that the hour fixed for a recess has arrived. The Senate will now take a recess till seven o'clock, p. m.

EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

PETITIONS AND MEMORIALS.

Mr. FOOT presented seven petitions of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military and naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were ordered to lie upon the table.

HOUSE BILL REFERRED.

The bill (No. 532) to increase the salaries of the judges and arbitrators appointed under the treaty with Great Britain for the suppression of the slave trade was read twice by its title, and referred to the Committee on Foreign Relations.

YOUNG MEN'S CHRISTIAN ASSOCIATION.

The bill (H. R. No. 527) to incorporate the Young Men's Christian Association of the city of Washington was read twice by its title.

Mr. GRIMES. I am instructed by the Committee on the District of Columbia to ask for the immediate consideration of that bill; it will only take long enough to read it.

By unanimous consent, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

EMANCIPATION IN THE DISTRICT.

The joint resolution (H. R. No. 109) correcting a clerical error in the award of the emancipation commissioners was read twice by its title.

Mr. GRIMES. I am instructed by the Committee on the District of Columbia to ask for the present consideration of that joint resolution.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It

proposes to authorize the Secretary of the Treasury to correct a clerical error in entering the amount of the award of the commissioners under the act of April 16, 1862, "for the release of certain persons held to service or labor in the District of Columbia," in the case of Nicholas Bowie, claimed by Martha Manning.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

COLORED CATHOLIC BENEVOLENT SOCIETY.

The bill (H. R. No. 551) to incorporate the Colored Catholic Benevolent Society was read twice by its title.

Mr. GRIMES. I am instructed by the Committee on the District of Columbia to ask for the present consideration of the bill.

By unanimous consent, the bill was considered as in Committee of the Whole. It was reported to the Senate, ordered to a third reading, read the third time, and passed.

FREEDMEN'S INQUIRY COMMISSION.

Mr. SUMNER. The select committee on slavery and freedmen, to whom was referred a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 26th of May, a copy of the preliminary report and also of the final report of the American Freedmen's Inquiry Commission, have had the same under consideration. They find the document one of singular interest and ability, and at this moment of great importance. They have directed me to move that it be printed for the use of the Senate, and that three thousand extra copies be printed.

The motion to print was agreed to; and the motion to print extra copies was referred to the Committee on Printing.

PERFORMANCE OF MILITARY DUTY.

Mr. MORGAN. I move to postpone all prior orders and take up the bill (S. No. 286) to prohibit the discharge of persons from liability to military duty by reason of the payment of money.

Mr. POWELL. I hope that bill will not be taken up until we dispose of the bill which was under consideration when the Senate took a recess to-day, and which is therefore now regularly in order.

Mr. SAULSBURY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 16, nays 10; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Collamer, Foot, Grimes, Harlan, Lane of Kansas, Morgan, Morrill, Ramsey, Sumner, Ten Eyck, Trumbull, Wade, and Wilson—16.

NAYS—Messrs. Carlile, Davis, Dixon, Foster, Johnson, Pomeroy, Powell, Riddle, Sandshury, and Willey—10.

ABSENT—Messrs. Anthony, Buckalew, Conness, Cowan, Doolittle, Fessenden, Hale, Harding, Harris, Henderson, Hendricks, Hicks, Howard, Howe, Lane of Indiana, McDougall, Mc-nith, Richardson, Sherman, Sprague, Van Winkle, Wilkinson, and Wright—23.

So the motion was agreed to.

The PRESIDENT *pro tempore*. When the bill was recommitted to the Committee on Military Affairs several amendments had been made which all fell by the recommitment; and the committee having reported back the original bill, the original bill is now before the Senate as in Committee of the Whole, and open to amendment.

Mr. MORGAN. I move to amend the bill by adding as a new section the second section of an amendment submitted by the Senator from Vermont, [Mr. COLLAMER:]

And be it further enacted, That in calls for drafts hereafter made under the act "for enrolling and calling out the national forces," and the acts in addition to or amendatory thereof, the same may be made for such term of time as the President shall direct, not exceeding one year.

Mr. WILSON. I move to amend the amendment so as to make it read, "shall be made for one year."

Mr. HOWARD. I beg to inquire of the Senator from New York whether the amendment offered by him has been recommended by the Committee on Military Affairs.

Mr. MORGAN. The amendment that I have offered was considered this morning by the Committee on Military Affairs, and was, I believe, approved by the committee. There was no formal vote; but it was understood that the amendment would be satisfactory to the committee as a new section.

Mr. HOWARD. I was not there, and had no notice of a meeting of the committee.

Mr. WILSON. There was no vote; but it was talked over among the members present.

Mr. MORGAN. The amendment as offered authorizes the President to make a draft for a period not exceeding one year.

Mr. WILSON. My motion is to amend the amendment by striking out the words "may be made for such term of time as the President shall direct, not exceeding one year," and insert "shall be made for one year."

Mr. CHANDLER. I hope that will not prevail, as I desire to offer another amendment, leaving it optional with the President and Secretary of War to make the draft for not less than one year nor more than three years. I believe it is not in order for me to move such an amendment now.

The PRESIDENT *pro tempore*. It is not.

Mr. CHANDLER. I hope this amendment of the Senator from Massachusetts will not prevail, and then I shall offer what I have indicated.

Mr. BROWN called for the yeas and nays, and they were ordered.

Mr. HOWARD. At the last meeting of the Committee on Military Affairs which I attended this proposition was brought up before them, and according to my recollection there was a majority of the committee opposed to this limitation of time, opposed to the alteration of the law as it now stands from three years to one year. If there was a meeting of the Military Committee this morning at which they authorized the presentation of the amendment of the Senator from New York, I was not acquainted with it; I was not at the meeting, and know nothing about it. I prefer, therefore, to stand by the decision of a majority of the committee on this subject.

Mr. COLLAMER. I see quite too much of a disposition to undertake to state in the Senate what took place in committee. I wish it to be understood that I object to it altogether. Anything that took place in committee, except the report, cannot properly be referred to in debate.

The PRESIDENT *pro tempore*. It is not in order if objected to.

Mr. WILSON. I will simply say that I desire to have the amendment made plain and simple, so that it may be known precisely what is to be done; and therefore I desire to have it understood that the draft is to be made for one year. I have ever been in favor of the commutation clause of the enrollment act; but I see that there is a strong pressure made to repeal it, and to repeal it unconditionally. A draft for three years, without commutation, I do not think this Congress will authorize. I have not the slightest idea that such a measure can succeed. The votes that have been already taken demonstrate that. Now, sir, I am willing to do anything that furnishes men, and seems to be fair and just, that takes care of the Government, and operates as lightly as possible on the people of the country; and if Senators will agree to fix the time at one year, and then desire to repeal the commutation clause, I shall not resist it. I am ready to take the two propositions together—the repeal on the one hand, and the reduction of the time to one year on the other. Therefore desire to know positively what is to be done, because if we just leave it as it is the Government may call out for three years after the repeal of the commutation clause. If the bill should stand as the Senator from Vermont proposed to amend it, increasing the commutation—

Mr. COLLAMER. I desire to apprise the gentleman that when the committee get the bill as they want it I shall move my amendment as a substitute for the bill.

Mr. WILSON. If it stands in that form it leaves the commutation in the discretion of the Government, and the time at its discretion, and it can adjust them to balance each other—a very fair proposition. But if we are to have the amendment proposed by the Senator from New York adopted, I think we ought to make this other section positive, so that we may know precisely what we are doing.

The question being taken on the amendment to the amendment by yeas and nays, resulted—yeas 12, nays 18; as follows:

YEAS—Messrs. Clark, Collamer, Davis, Dixon, Foot, Harris, Hendricks, Howe, Johnson, Sumner, Willey, and Wilson—12.

YAYS—Messrs. Brown, Chandler, Foster, Grimes, Harlan, Howard, Lane of Kansas, Morgan, Pomeroy, Powell, Ramsey, Riddle, Saulsbury, Sherman, Sprague, Ten Eyck, Trumbull, and Wade—18.

ABSENT—Messrs. Anthony, Buckalew, Carlile, Conness, Cowan, Doolittle, Fessenden, Hale, Harding, Henderson, Hicks, Lane of Indiana, McDougall, Morrill, Nesmith, Richardson, Van Winkle, Wilkinson, and Wright—19.

So the amendment to the amendment was rejected.

Mr. CHANDLER. I now move to amend the amendment of the Senator from New York by striking out "not exceeding one year" and inserting "not less than one nor more than three years."

Mr. JOHNSON. Under that amendment if a sudden exigency should arise and the Government find it necessary to call out men for thirty or sixty days or less to defend us here in the capital it could not do it.

Mr. GRIMES. It will hardly be necessary to draft, I take it, for any such a time as that, and you cannot carry out the machinery of a draft for such a case.

Mr. JOHNSON. Is it confined to drafting?

Mr. GRIMES. Yes.

Mr. JOHNSON. Oh, that makes a difference.

The PRESIDENT pro tempore. The question is on the amendment to the amendment.

Mr. GRIMES called for the yeas and nays, and they were ordered.

Mr. MORGAN. I desire to say that I would have no objection to this amendment if it had not already been acted upon by the Senate. The Senate have already substantially voted upon the proposition. The Senate have already voted upon repealing the commutation clause, and the law as understood by the Department authorizes them to draft for any period not exceeding three years. That is what they now understand to be the law. The object of the amendment that I have offered to-night is that they shall draft for not exceeding one year, leaving it optional within the limit of one year. Believing that that will be more generally satisfactory, I have proposed it, and I shall therefore vote against the amendment of the Senator from Michigan.

Mr. SPRAGUE. As I understand this question the proposition is to limit the time to one year.

Mr. COLLAMER. The lowest time.

Mr. SPRAGUE. The shortest time is one year, and the longest time proposed three years. By this the Senate seem to understand that the Government have not the authority now to draft for one year. Is that the understanding of the Senate, is that the understanding of the Senator from New York?

Mr. MORGAN. This is the amendment of the Senator from Michigan.

Mr. SPRAGUE. The War Department believe that they have the authority to draft for one year under the present law. Notwithstanding the understanding of any Senator, the law as it is at present understood by the War Department is that they can draft to-day for one year. It does not seem to me to be necessary, therefore, for us to make any law on that subject. Whether this amendment interferes with that or not I do not know; but it would seem to me that one year at least would be a sufficiently short time for which to bring men into the field; at any rate the efficiency of the service would not be promoted by any shorter time than that. My own belief is that troops brought into the field for any less time than three years will be of little service to the country; but upon that question of course my opinion is no better than that of any other Senator. I might vote for one year's troops, although I believe that they would be of little service, and I should vote for them on the recommendation of the Department, but there does not seem to be any necessity to give any vote of that kind now.

Mr. COLLAMER. I am somewhat surprised to hear the honorable Senator from Rhode Island urge as an objection to this amendment that it is understood at the War Department that they can draft for below three years now. It would constitute no possible objection to the adoption of this proposition if that were true. As the statute now stands it is very plain. I cannot say what the War Department of this country may think they can do; I know of a great many things they have done which they had to come to us to get ratified, and come of their own accord, too,

acknowledging they had no authority to do them. I do not know but that they may think they can do that in this case; but I really think they cannot do it from the law as it now stands. The law is:

"That all persons thus enrolled."
"And to continue in service during the present rebellion, not, however, exceeding the term of three years."

The power to make the draft under the law is for service during this rebellion, not exceeding three years. Now, can a man tell me that that means one year or two years? It is a perfect violation of common sense and the English language. It is obvious and plain; it is not a subject that will admit of any discussion. A man may say that the Department possess the power to do this thing or that thing or the other thing, as they understand it. I do not know what they understand.

But in the next place if they think that is the law now, what objection is that to adopting this amendment? Others think otherwise. There is doubt about the matter. Why leave it in doubt and dispute? Has the opinion of the Department any such power *ex cathedra* as settles the law? Have they any infallibility about their legal opinion? No more than any other man.

The proposition of the Senator from Michigan is to leave the drafting, as I understand his amendment, to the Executive for three years and for any period less than three years and not less than one year. To say that we shall not adopt it because the Secretary of War or the head of the Provost Marshal General's department thinks so and so constitutes no reason at all. Certain it is they can have no objection to it if that is the law now; and to render it clear and make it certain, why not adopt the amendment? It is important in one respect; that is, it clearly authorizes drafting, and it limits it in its lowest extent. It is hardly worth while to draft for less than one year.

Mr. MORGAN. I desire to limit it still further. I desire to limit it to one year.

Mr. COLLAMER. I understand that.

Mr. MORGAN. My amendment has not been acted on.

Mr. COLLAMER. I thought it had been voted upon.

Mr. WADE. I have been of opinion all the time these laws about conscription have been up that when we have attempted to draft we have made the term altogether too long. I do not believe in any country in the world they ever have conscripted for this length of time. It is a very great hardship to take our young men and put them into the military service for this great length of time. I do not deny that the Army is more efficient the longer the time for which the men go, as I suppose soldiers generally grow better while they are in the Army if they meet with no accident; but it is a great hardship, and it is throwing the burden too much on the class that you get for this great length of time. I know it has been argued here day after day by those that contend for a long time that every man in the Republic owes service to the Government, and ought to be willing to take the burden that belongs to him. I agree to that; and it is because I do agree to it that I am unwilling that we should throw the entire burden on a certain class. I know this reason has been urged over and over and repeatedly, and I do not know that it has been answered. It is made use of as a conclusive argument that because every man owes service to his country and ought to do anything, even render his life in its behalf, therefore you may take a certain class of the people and impose the whole burden of the war on them and exempt all the rest, and this is some gentlemen's idea of equity and equality. It is not mine.

I do not know what the executive authorities would do if we give them the whole power over it. I do not know but that it will be their opinion that the Army will be more efficient if they can get soldiers for three years, and that they will attempt to get them in that way; but I do not agree to that. I am not willing to invest them with this discretion, because I think it is wrong. I am, therefore, in favor of the proposition as it was first proposed by the Senator from New York. I believe it is better than any of the amendments that have been attempted since. We want soldiers; we want them as rapidly as they can be had. I believe if you will fix the time at one year, and limit the Executive to drafting for one year, and

then give such bounties as will render it more equal upon those whom you do draft, you will get soldiers easy, the country will not complain, and it will be more efficient to draft oftener and for shorter terms; and, if it was not for taking time, I would give my reasons for this opinion.

I am opposed to putting men in the Army for such a great length of time. I do not want our citizens, if we can avoid it, to become soldiers merely. If you put a man into the Army and keep him there for three long years he becomes a military man; he loses in a great measure those habits of peaceable times that actuated him before, and he becomes a soldier by profession. I do not believe it is the policy of this republican Government to habituate our citizens to this military rule, if we can avoid it.

Again, I think it is not necessary to draft for these long periods, for the reason that a great many of our men now have been in the military service until they have learned all the duties pertaining to a soldier; and in your short drafts hereafter you never will have any green or unpracticed men; you will have officers enough who understand military affairs very well; you will have old soldiers mixed up with them who will set an example and teach them the business of a soldier much easier than we did at first.

All these reasons induce me to believe that we ought to limit the draft to a shorter period; and that we can get the soldiers more rapidly than we can if we draft for the long period, and men will go with less reluctance, less hardship, and more cheerfully. Therefore I go for the original proposition.

Mr. JOHNSON. Mr. President, I think there are two amendments pending before the Senate now. One is to authorize the Secretary of War to call for a period less than three years, and the other is to restrain him from calling for a period longer than one year. The suggestion made in opposition to the first of these amendments, that the power exists now under previous legislation, involves the construction of the act to which reference is made, and I concur in opinion with the honorable member from Vermont and the chairman of the Military Committee, since I have read the law, that there is no authority now to call for a period short of three years unless the rebellion shall terminate before the expiration of that time. When the subject was before the Senate on a former occasion I was under the impression, from recollection, that the terms of the act were such that as the greater includes the less as a general rule, it was in the power of the Executive to call them out for a lesser period than the longer period he was authorized to call them out for; but upon looking at the act which gives rise to the doubt and to which the honorable member—

Mr. DAVIS. I will ask the honorable Senator a single question. Does or does not the President of the United States assume that he has the power to do any act that promises to bring the rebellion to a close?

Mr. JOHNSON. I do not think that is involved in this discussion. The discussion now is what power he has under this act, not what power he has independent of legislation.

Mr. DAVIS. I do not understand that the power is claimed under the act.

Mr. JOHNSON. Yes, it is; and only claimed under the act. The Senator will recollect that under the original act—

Mr. DAVIS. Will the Senator allow me a word? I know it ought to be claimed under the act, and that there is no other legitimate source of power; but I understand that the President claims a general, indefinite power, resulting from military necessity, to do any act which in his judgment may promise to bring the rebellion to a close.

Mr. JOHNSON. My friend will permit me to discuss the question which is before the Senate now, and that is, what is the construction of this act? I assume, for the sake at least of this discussion, that the President claims no authority on the subject other than that which the act gives, and the inquiry is, what is the authority given by the act? The language of the law is, after providing for the enrollment, that "for two years after the 1st day of July succeeding the enrollment," the persons enrolled may be called into the military service of the United States "to continue in service during the present rebellion."

If the statute stopped there, the only limitation of time to which the authority of the President could be subject would be the continuance of the rebellion. The other words are put in to guard against the contingency that the rebellion will last rather longer than it is advisable to force the same set of men into the field, and it goes on to provide that they are to continue in service "during the present rebellion, not, however, exceeding the term of three years." But they must be called, if the rebellion lasts so long, for three years, and although they are out under the call for three years, their service terminates at the termination of the rebellion.

Now, I agree with my friend from Ohio, who has just spoken—and I was very glad to hear the doctrine, but not surprised to hear it coming from him—that upon considerations of general policy, which are peculiarly applicable and controlling, as I think, in a discussion of this kind, under our institutions it is very perilous to have put into the field as soldiers thousands and hundreds of thousands of men for a period so long as three years. There is nobody who is at all conversant with the soldier's life, either by information obtained by reading or by experience, who does not know that they form an attachment for it in the first place, and, in the second place, that as a general rule it unfits them for other employment.

I understood the honorable member from Massachusetts, the chairman of the Committee on Military Affairs, in his recollection of the number of men that have been called out already, as telling us that there have been called out under the existing laws since the 17th of October, 1863, 600,000 men; that in addition to these 600,000 men there had been obtained in some other way, I do not know how, by reenlistments, I suppose, principally, 48,000 men, who have been sent to the army of the Potomac since the commencement of the present campaign; and that there have been put into the field, if I understand him, in addition to these two numbers, 700,000, making a total of 1,348,000, besides the number of black soldiers and men enlisted for different service from that class of our people, 150,000, making a grand aggregate of 1,498,000. How long these men have been enlisted for or drafted for, except such portion as may consist of a part of the one hundred days' men, I do not know; but assuming that they are all now out under the authority which the existing law gives, we have more than 1,500,000 men who are now in the service for three years, or such portion of the three years as may be unexpired.

Mr. COLLAMER. A large part of them were nine months' militia men.

Mr. JOHNSON. I am not speaking of nine months' men; there have not been any of them since 1863.

Mr. COLLAMER. Yes, sir.

Mr. JOHNSON. There were no nine months' men in 1863.

Mr. HARRIS. Some.

Mr. JOHNSON. Very few, at any rate.

Mr. COLLAMER. They had two brigades of them from Vermont at the battle of Gettysburg.

Mr. JOHNSON. There is quite enough for the purpose of illustration; I do not care whether it is one million and a half or half a million, it is quite enough. Suppose we have half a million of men enlisted in that way, is that not enough? The honorable member from Ohio is right—I have heard it from officers who have been present in some of the leading battles—he is right when he says that those men who are almost fresh from the plow or from the shop, when they are put in association with veteran soldiers and under competent officers, fight nearly as well, if not quite as well, as those who are called veterans.

Mr. SPRAGUE. By the courtesy of the Senator from Maryland, I would ask him why it is that in the returns of the killed and wounded, the new regiments, the regiments that have never been under fire before, show a loss of two, three, and sometimes four times as many as those who have had experience in receiving fire? That is a fact.

Mr. JOHNSON. I do not think it exactly shows that they are not very gallant men, and do not fight very hard.

Mr. SPRAGUE. Undoubtedly they are gallant.

Mr. JOHNSON. I can only conjecture it as

one of the reasons; I suppose it is because being new men they are put in advance, and have not learned to run away.

Mr. SPRAGUE. Because they cannot take care of themselves when they get there.

Mr. JOHNSON. What, in the fight?

Mr. SPRAGUE. It is because they go where they have no right to go. It is because they go where they are not ordered to go. It is because they are not under proper restraint and restriction that they go. It is certainly because they are not disciplined that they do go.

Mr. JOHNSON. One battle would correct that.

Mr. SPRAGUE. No, it does not.

Mr. JOHNSON. I should think it would.

With that natural instinct to which we have had reference here on other occasions, I think one considerable battle would put an end to that; but that is immaterial for my purpose. How long is this rebellion to last? With the power and means we have had, I think it ought to have terminated certainly a year since; and now it would seem if the power in the hands of the Executive is properly wielded—and I have no reason to doubt but that it will be under the present military commander—if the rebellion is terminated at all, it will be terminated in one or two years. Why, then, attempt to go into the country and seek to draft men for three years, and especially to do it after repealing the commutation clause? I say what I believe, I do not think you will be able to execute such a law—not that there is any want of patriotism, not that the ardor of the nation has subsided, but it will be looked upon as unjust that after three years or nearly three years when you have given to those that have been drafted before the privilege of commuting, you take it away now from those whom you are about to draft. If I was a politician in the party sense of the term, and looked to a change of the Administration either in its men or its measures, and I was capable of advocating a policy which I believed would be injurious to the country, I would say, "Repeal the commutation clause, repeal the permission to furnish substitutes, draft for three years;" and then I should be very much surprised if you did not find the public voice of the country spoken in terms which neither the Administration nor the party that supports the Administration would be able to resist.

I hope that the amendment suggested by the honorable member from New York will be adopted as preferable to the one offered by the honorable member from Michigan, and above all, whether it be adopted or not, that the commutation clause be retained.

The question being taken by yeas and nays, resulted—yeas 16, nays 23; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Conness, Grimes, Harlan, Howard, Howe, Lane of Kansas, Pomeroy, Ramsey, Sherman, Sprague, Ten Eyck, Trumbull, and Wilkinson—16.

NAYS—Messrs. Buckalew, Carlile, Clark, Collamer, Davis, Dixon, Doolittle, Foot, Foster, Hale, Harris, Hendricks, Johnson, Morgan, Morrill, Powell, Riddle, Saulsbury, Sumner, Van Winkle, Wade, Willey, and Wilson—23.

ABSENT—Messrs. Cowan, Fessenden, Harding, Henderson, Hicks, Lane of Indiana, McDougall, Nesmith, Richardson, and Wright—10.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from New York.

Mr. COLLAMER. I ask that the amendment be reported before we pass upon it.

The Secretary read it, as follows:

And be it further enacted, That in calls for drafts hereafter made under the act "for enrolling and calling out the national forces," and the acts in addition to or amendatory thereof, the same may be made for such term of time as the President shall direct, not exceeding one year.

Mr. CHANDLER. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CHANDLER. In my judgment the effect of this movement is to destroy your armies. The Senator from Ohio says that he does not wish to throw all the burden upon a few. Now, as we have been informed to-night, more than one million men have already voluntarily assumed that burden, have gone into the war for three years, and fought gallantly; and now you come in at this late day and say the rest who would not go voluntarily shall be drafted for but one year, and shall bear but one third of the burdens of those

who willingly entered early and bore the burden for three years.

The Senator from Ohio says he does not wish to make soldiers of the men in our Army, or words to that effect. Does not the Senator know that there is not a man capable of bearing arms in all the southern confederacy that is not a soldier? Does he not know that every able-bodied man in all the southern confederacy has been conscripted for the war, and cannot go home until the war is ended, and is shot if he attempts to go home until the war is ended? What do you propose to meet these war-worn veterans with? They are soldiers. How do you propose to meet them? You must meet soldiers with soldiers, or you must be prepared to be conquered by soldiers. You cannot meet veterans with raw militia. You cannot change your troops once in twelve months and hope for success in the open field. All the history of war has taught us that lesson. Shall we not avail ourselves of the experience of ages? Shall we come in here now at this late day after three years of hard fighting and say we will meet war-worn veterans of three and four and five years with one-year militia?

Mr. President, I hope this amendment will not prevail. I hope the good sense of the Senate will satisfy them that if you hope to conquer this rebellion you must conquer it with soldiers, for you never will put it down with anything but soldiers.

Mr. WADE. The Senator from Michigan seems to have a hankering after the manners, customs, and habits of the southern confederacy. I do not propose to follow their example very closely. They hunt up conscripts with bloodhounds and put them into the ranks, I understand. I do not know but that the Senator thinks we ought to follow their example close enough for that, and put men in for an indefinite time. But I can tell the Senator that freemen do not like this idea of being conscripted for such a length of time.

He says a great number of men have volunteered for three years. I know it, sir. It shows the patriotism of our people. I wish we could raise all the troops we want in that way, but experience has shown us that we cannot do that, and it was well in the early part of this war to have soldiers as many as we could get, and for the longest term, and now if you will get them by volunteering as the Senator says we have done, and intimates very clearly that we can in the future—

Mr. CHANDLER. Oh, no, sir.

Mr. WADE. If we can do that, let them volunteer, and for the longer time the better. I am agreed with him upon that. But I repeat that when you take a man from his farm or from his workshop and put him into the field for three long years, you cause him to lose his character of a citizen for that of a soldier. I do not know that he is any better soldier for being there three years or for life, than he would if he were there long enough to be accustomed to the habits of military life. I do not believe that our experience has shown us that the longer the soldiers are in the field the better they are. The Senator talks of the war veterans of the South. Well, sir, the war-worn veterans of the South, in my judgment, are very nearly worn out. They are "war-worn," sir, worn clear up, and they never have been able to meet us with any odds in the field. I utterly deny the insinuation the Senator makes that our soldiers are not equal to the veterans of the South that he speaks of.

Mr. CHANDLER. Ours are veterans.

Mr. WADE. Some of ours are veterans and some are not very veteran, and the greenest troops we have had have shown themselves as efficient in battle as those who have been in the ranks. Look at Fort Donelson. Your raw regiments there, just arriving, fought like veterans, and were as efficient as any soldiers we had. Look at Gettysburg. There new recruits coming right in, and one regiment from Vermont, I was told by an eminent man, fought bravely and well, and was in the hardest part of the fight, and never shrank from it. They distinguished themselves among veterans. They had only just got there.

Mr. COLLAMER. They were militia, too.

Mr. WADE. Yes, they were militia. You need not tell me that it adds courage to a man to go about drilling him till he is worn out or a war-

worn soldier. Give me the man with all the spirit and dash that a young man has about him when he goes fresh from home in all the vigor of life. He will never fight better than he does then, and the old idea that a soldier must be in training for several years before he is fit for the field is not at all applicable to our soldiery. A French officer, who had observed our discipline, told me not long since that our raw regiments would learn as much in one month as the European soldier would in one year. They are better educated; they have more elasticity of mind, more adaptation to anything that you will put them to, more self-reliance. There never were on the face of God's earth such soldiers as we have. There is more intelligence in our ranks than there ever before was in the ranks of any army in any country in the world. It does not take long for such men to learn the forms of discipline to make them soldiers. I have no doubt a short period of draft, mixing the recruits with veterans that are trained, will result in your always having an army sufficiently efficient, and you will have in numbers three times as many at any given period as you possibly can get when you go to the repulsive business of calling a man into the military service for three long years. It goes very hard to get soldiers in that way for that term. A young man before he will submit to that and spend the best of his life in the Army often resorts to every means on God's earth to escape it. If you require him to serve for the period of only one year he will go cheerfully forth to his duty; he will perform it well; he will be mixed up with veterans, and you will have a more numerous army, and just as efficient a one in my judgment. Therefore I am for having them for the shortest period. In my judgment it would be of great service if we could call immediately into the field even for a less period than one year one hundred thousand men. Concentrated as the rebellion now is in two centers, and assailed as it is in those two positions by our armies, and the whole rebellion resting on those two armies which are almost surrounded by our own, I believe that if the Administration could call rapidly into the service one hundred thousand men for six months it would end the rebellion. I have no doubt of it. It is not as it was in the beginning, when the force of the enemy as well as our own was scattered over a continent as it were. Then the war was not mapped out. Now it has proceeded, and both sides have been concentrating until they are struggling hand to hand in two places where success on our side would end the war. So fix it then that the Administration may, if they will, call out for a short period a great force to assist the veterans you have got in the field, put them at the decisive points where the struggle is now going on, and turn the scale in our favor at once.

Mr. CHANDLER. The Senator from Ohio in his argument has asserted what I do not deny, that our raw troops are excellent at a charge. Nobody denies that they fight as well as any raw troops on the face of the earth ever did fight. But the Senator says that by mixing them up with our veterans we may get an efficient army. That statement admits the whole question. The object of my amendment was that we should never be without veteran troops. The Senator remembers very well that a distinguished general, perhaps one of the most distinguished in the whole army, said to him in my presence, "Senator WADE, both of these armies have fought so long and are such thorough soldiers that you may repulse either army and give them one hour to reorganize and they will give you a stiff fight at the end of that hour." The Senator will remember that General Hancock said that to him in my presence. There is the difference between veterans and raw troops. Let raw troops be repulsed and you cannot reorganize them; they do not understand reorganizing and recovering from a repulse, whereas if you give veterans one hour you will find them in line of battle and ready to give you as stiff a fight as ever.

Mr. WILSON. Do you call the army of the Potomac a veteran army?

Mr. CHANDLER. It is substantially a veteran army. It is so mixed up with veterans that it is substantially an army of veterans, and I desire always to have enough veterans to make the whole force a veteran force.

Mr. WADE. The army of the Potomac—and a braver and better army never moved in the

field—is to-day composed of more than one half green soldiers who have not been in the service six months.

Mr. SAULSBURY. Mr. President, I confess that I do not profess to know much about military affairs. Indeed, I am as ignorant of them as though I bore a commission as major general in the Army of the United States. [Laughter.] But, sir, I think if we can believe the reports from officers in the field, it does not make much difference for what time a man is put into the service; it will not take him a long time to become a soldier. I recollect hearing read at the desk a few days ago a dispatch from General Butler, in which he spoke of the very gallant manner in which the negro soldiers fought before Petersburg, so much so that they were flanked on the field. Certainly they were not veterans, and it did not take a great while for them to show their bravery.

Mr. HOWARD. I wish the Senator would speak louder. We cannot hear him on this side of the Chamber.

Mr. SAULSBURY. I am very sorry for that, and I think my friend has lost a great deal. [Laughter.] I see, too, that these negroes have another very admirable characteristic for soldiers, much better than those which veterans have. I read in the New York Tribune of yesterday that they not only fight equally as well as veterans, but they have another admirable quality which veterans have not got; they take no prisoners alive.

Mr. SPRAGUE. I wish to state what I know to be the desire of this Government, and that is that the time shall not be restricted to one year for which soldiers shall be enlisted or drafted, for the plain reason that the Government believe they have authority now to draft men for three years or any lesser period, as they may determine. What the Administration desire, what they petition for, what they beg for from Congress, is not that the time shall be limited to one year, but that you will give them men in this emergency. The Government believe to-day that the only way they can replenish their exhausted armies is by striking from the statute-book the commutation feature of the law; and why? It must be plain to every Senator, as it is to every man experienced in enlisting troops, that if you abolish the commutation before the draft, the result will be that while the draft is going on and after men are drafted every citizen in the country will be interested in seeing that your armies are filled, and the efforts of every man and every woman will be to encourage recruiting, to inspire the people wherever they can influence them to go forward and support the languishing and tired men who are thrusting the bayonets and sustaining the cause which the whole country has at heart. But in the other case, who is interested in filling the armies? The mere pittance of \$300 buys a man from the service of his country, redeems him as it were from any service whatever, or from any interest in this Government. Three hundred dollars redeems from the service of his country or from any interest whatever in the efforts which are being made to-day and which we have been making for three years past to maintain and preserve the Government.

Sir, all that the Administration to-day asks of you is to strike the commutation clause from your statute-book and to impose no limitation as to the time men shall serve, for the very reason that there is power now to fix that matter; and why so? Perhaps the Senator from Vermont has read in the statute-book the clause which limits the service of men to three years, but it is within my experience that while that clause has been in existence the Government has called for three months' troops.

Mr. COLLAMER. I read from the law about the draft.

Mr. SPRAGUE. Three months' men have been called for and obtained for emergencies.

Mr. COLLAMER. Volunteers.

Mr. SPRAGUE. This amendment, as I understand it, restricts the Government from obtaining troops for more than one year. It is that men shall not be received for more than one year.

Mr. COLLAMER. They cannot be drafted for more than one year.

Mr. SPRAGUE. The Government have the power now to receive them for a year if it thinks

that the best policy for the interest of the service. They have the right which this amendment of the Senator from New York gives them; but they do not believe it necessary to put such a restriction in the law. All they ask of Congress is authority to obtain troops; and they believe the only way in which they can be obtained is by abolishing the commutation.

Mr. WILSON. I do not think, Mr. President, that Congress is here simply to register the will of the Administration. I am not here for any such purpose; and I want the Senator from Rhode Island distinctly to understand that I am not here to register the will of man; I am here to give this Administration a liberal, generous, and hearty support. But, sir, we frame the laws, and we are to judge what is proper legislation. It belongs to us to say how we will raise armies and support armies.

We are told that the Administration says it has the power to draft men for less than three years under the enrollment act. I desire to say that when we framed the bill for enrolling and calling out the national forces, we intended to put it on the same footing as raising soldiers by volunteering for three years. That was the intention of the committee. Sir, I reported that bill, and I happen to know what the committee intended. I did not suppose there was a man in America who had any other view of it. The idea is as clearly and distinctly expressed as the English language can be made to express a thought. But suppose they have the power, what objection can they have to our putting the provision in this act? We are asked to repeal the commutation clause of the enrollment act. I will not vote to repeal that clause and draft men for three years, and force them into the service for that period. My position is clearly taken on that subject.

Sir, we are told to-night that every man in the rebel States is a soldier forced into service, and what is the result? They have desolated the rebel States, destroyed everything except enough for a bare subsistence; they have no commerce, no mechanic arts, no agriculture, nothing but a bankrupt treasury, a ruined people, and an absolute military despotism. I do not wish to follow that example. I want to fill our armies with true and brave men, men who will fight our battles and win our victories, and I want at the same time to save agriculture, to save commerce, to save the mechanic arts, to save manufactures, to save all the institutions of a prosperous and free people. When we come out of this rebellion I want the loyal States to stand stronger than when we went into it in all the elements of prosperity and power. In filling your armies as in filling your Treasury you must exercise your reason; you must so legislate that while you sustain the Government you foster and protect the interests of the country, and make the war bear as lightly as possible upon the people.

Acting upon that idea, I say the original enrollment act was framed in the spirit of humanity. The \$300 clause was put into the act to make it bear as lightly as possible upon the toiling masses of our countrymen. The other exemptions were put in for the same object. The exigencies of the country have forced us this session to abandon many of the humane provisions of the original act; and if it be necessary, in order to get men into the service, to abandon the other provisions for a reasonable time, I am willing to do it. But, sir, our information, our experience, everything teaches me that in filling our armies we owe it to our neighbors, our friends, our countrymen, to the permanent and enduring interests of our country, to make our laws bear as humanely and as lightly as possible upon our people. Last winter when we were framing the amendatory enrollment law, I proposed to draft men for eighteen months, and I thought then that I believed we could draft and put into service for a year five men easier than we could one man for three years. If we now limit the draft to one year, and the Government will call for vast masses of men and act with vigor, I believe that before the opening of next year the rebel armies will be broken, and the cause of the country assured; and so believing, I contend for a reduction of the time. It is because I believe it will strengthen our cause that I have advocated it, and not, as has been intimated, for the purpose of relieving my State or my section of the country. I know we are will-

ing to bear our burdens, and we have borne them uncomplainingly. A committee from Boston is in Washington now bearing a roll certified and indorsed of six thousand five hundred and twenty-nine men furnished to the Navy, not one of whom are credited to that city. When you count the men in your Army and Navy according to the number of men fitted for service, there are few States ahead of the Commonwealth of Massachusetts.

Sir, I hope that after the vote which has been taken in the Senate, and after the manifestations in the other end of the Capitol of the sentiment there, we shall consent so to adjust and frame this bill as to strengthen the Government and make the act as acceptable as possible to the people of the country who must bear its burdens. Sir, if you tell the people that they cannot pay a commutation, that they must go for three years by draft into the service because other men enlisted voluntarily for three years, it is a hard thing for this Government to say and a hard thing for the toiling masses of our countrymen to bear.

Mr. SPRAGUE. The Senator from Massachusetts does very well perhaps to disclaim any following of the Administration in the propositions which they make relative to carrying on the war, although heretofore I think he has not been behind any man in the Senate or in the country in sustaining the measures and policy of the Administration. The policy of the Government to-day, as indicated by its war officer, the Secretary of War, with the sanction, of course, of the President of the United States, and, as the country understands, of the combined wisdom of the Cabinet, is that the commutation clause shall be abolished from the statutes of the United States, in the further procurement of men for the prosecution of this war. I wish the Senator from Massachusetts and the Senator from Vermont to understand that this is to-day the policy of the Administration, and when they vote contrary to it they vote contrary to what is believed by those whom they sustain in carrying on this war to be the better policy, and until they can get or supply a better head for the government of the War Department of this country, it seems to me that as patriotic Senators they should support this policy. Until the Senate of the United States can resolve themselves into a Council of Ten, and be themselves the Secretary of War, the Secretary of the Treasury, and the President of the United States, they must delegate the execution of their decrees and of their laws to somebody, and that somebody must have their confidence, and if that officer has not their confidence it certainly is due from them to the people of this country that they should indicate that idea. But while that officer sustains to them the position that the Secretary of War does, it certainly seems to me, and I believe it will seem to the people of this country, that they should be governed somewhat by the policy that he indicates. When he says that he believes he has authority to draft men for one year, that that is not the difficulty in this emergency, but that the real difficulty is that he cannot obtain men on account of this drawback, by which men can purchase their service from the country by the payment of \$300, it does really seem to me that in this important exigency, the country being to a certain extent in the hands of the Secretary of War, his views and the views of the President should be in some way regarded.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 25, nays 14; as follows:

YEAS—Messrs. Buckalew, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Foot, Hale, Harris, Hendricks, Howe, Johnson, Lane of Kansas, Morgan, Morrill, Pomeroy, Powell, Richardson, Sumner, Ten Eyck, Van Winkle, Wade, Willey, and Wilson—25.

NAYS—Messrs. Brown, Chandler, Chandler, Conness, Foster, Ginn, Howard, McDougall, Ramsey, Riddle, Sherman, Spangier, Trumbull, and Wilkinson—14.

ABSENT—Messrs. Anthony, Fessenden, Harding, Harlan, Hendrickson, Hicks, Lane of Indiana, Rosmith, Sautsbury, and Wright—10.

So the amendment was agreed to.

Mr. COLLAMER. I offer the following amendment as a substitute for the first section of the bill:

That the thirteenth section of the act entitled "An act for enrolling and calling out the national forces, and for

other purposes," approved March 3, 1863, is hereby so amended that the sum to be paid by a drafted man to the Government for the procurement of a substitute shall not exceed \$500, instead of \$300.

Perhaps the amendment is sufficiently clear without any explanation of it; but still I will say a few words. At present the law stands that a drafted man may pay such sum as the Secretary of War shall fix for the procurement of a substitute, not exceeding \$300. My amendment follows the form of the present law, except in providing that the limitation shall be \$500 instead of \$300. The amendment which I have offered presents the alternative of repealing the commutation clause altogether or amending it. In my opinion, with the amendment which has been adopted limiting the service of the drafted man to one year, the commutation of \$300 will be amply sufficient to procure the men. What is it? Three hundred dollars for one year's service, which a man may offer to a substitute, or the Government may offer if anybody pays commutation. That is equal to paying \$900 bounty for three years. There never has been any such bounty as that paid to any of the men we have procured the past year. The Government has paid the commutation money, \$300, and the local corporations have contributed \$100 or \$200 or \$300, in some cases, but the bounties have not gone beyond \$400 or \$500 or \$600, in any case for three years' service. Now, if you draft for one year and fix \$300 as the price of commutation, it is equal to a bounty of \$900 for three years' service. It is not necessary to repeal the commutation clause for the purpose of securing men for the service under a draft for one year. There is no necessity of resorting to so severe a measure. There is no need of going to the people and saying to them, "We will draft you for one year, and you must go; you shall have no opportunity of commutation." There is no occasion for saying it, because the men will be secured without it; but that there may be no doubt about it, that it may be perfectly safe without repealing the commutation, my proposition is that the Executive may make the commutation \$500 if he pleases in order to secure the men with more perfect and absolute certainty. That is my amendment.

Mr. SHERMAN. Since the Senate have by a decided vote determined that they will not draft men for more than one year, I shall vote against any commutation for military service. It is not a very severe detriment to any man to be called into the service of the country for one year. The country now needs the service, and I would not put the Government to the delay and expense of adopting the plan of hiring substitutes. If a man is drafted for one year, a term which rapidly rolls around, he has the privilege under the existing law of hiring a substitute. If the sum stipulated by the Senator from Vermont is sufficient for that purpose, he can procure a substitute, he can get some one else to assume his place in the Army of the United States, and he is at perfect liberty to do so. If it is not sufficient, the additional expense and the delay caused by looking around for substitutes ought not to be thrown on the Government at this time. It is not a very severe law to say that a man now shall take his chances for a draft, and if drafted shall actually go into the service of the country or hire a substitute. I would not throw on the Government the necessity of employing the substitute.

There is another argument which operates on me to some extent. Owing to fraudulent and inefficient systems practiced throughout the country, perhaps by our own officers themselves, the commutation money has been grossly wasted. In many cases it has been paid out to improper substitutes. I supposed myself originally that the agents of the Government could better be trusted in the employing or hiring of substitutes than the drafted men; but experience has shown that the officers of the Government have been more cheated and defrauded in hiring substitutes than even the drafted man; and the cases are numerous where officers of the Government have employed substitutes for the commutation money and within twenty-four hours afterwards the substitute has deserted: the Government has not only lost the services of the drafted man but of the substitute, and lost the money besides.

Since, now, we have said that men shall be drafted for one year, and no more, I think it is

not a severe act of legislation to say that they shall serve the country during that year, or get for the country an acceptable substitute. If you look at this matter philosophically, there is no obligation on the part of the Government to hire a substitute. There is no reason why, when a person has been designated according to law to serve his country for a year, the Government should be put to the expense and delay and trouble and annoyance and danger of loss of hiring substitutes, by employing its provost marshals and agents for that purpose. On the other hand, the person who avails himself of this privilege ought to be subject to whatever expense and delay are necessary for the purpose.

There is another argument. The value of money in different portions of the country is very different. Five hundred dollars in Massachusetts may be totally insufficient to hire a substitute, while in Iowa \$300 may be sufficient. The value of money in the different States depends upon the richness or poverty of their people. The same sum of money will go much further in some of the older States than in some of the new. A fixed sum of money everywhere is not an equal commutation. The price of labor varies very much. A day's labor in Wisconsin is worth much less than in Massachusetts. I say therefore, then, no sum which you can fix is the proper standard of compensation; and what the Government wants is physical service during one year, and when you establish any standard, however high, you make an unequal standard, because the value of money and the value of personal service are not the same in different portions of the country.

If the question was now as to seizing upon property or the like, the same difference would exist; but now the Government desires one year's service from the citizen. If the citizen of Massachusetts is drafted, he should not avail himself of the benefit of a provision that is more favorable to him than it is to some other citizen in the State of Iowa. The only equal and just mode, in my judgment, now in our necessity, is to enforce the draft strictly and fairly in every portion of the country, without delays or equivocations, without any excuses, without being deterred by mobs or riots or threats, to require the citizen to serve his country for one year, or in case he cannot do it or does not choose to do it, let him do the next best thing, hire an acceptable substitute. That is the only position.

I trust Congress will not adjourn without placing it in the power of the Administration to call into the service of the country every man that is necessary to finish and close up this rebellion. We cannot tell what may be the fluctuations and variations of money in the progress of a great civil war like this, and therefore we ought not to make money the standard of physical service. Physical service is what we want, and we must avail ourselves of this physical service by draft laws. It has been done in all wars, and we cannot afford at this time to substitute money for physical service.

This bill has now been carefully matured by the Military Committee. It has been considered by them for nearly six months, and as now reported it seems to me as just a solution of this whole difficulty as we can arrive at. It repeals the commutation clause, and reduces the term of service to one year, making the draft compulsory, and allowing no evasion and nothing but personal service or the furnishing of a substitute. I wish we could go a little further and compel the authorities at the other end of the avenue to enforce the draft—a thing they have never yet done, under any of our draft laws, and which I fear they will not do. I wish we could compel them to enforce the draft fairly and equally in all sections of the country, so that there could be no complaint about inequality; and then we should have accomplished a great result. We know that this Governor will beg off and that Governor will beg off, and one State will want to take money and go to some other State to hire substitutes. Every section will have its particular plan and mode of doing business. Some will be for doing it through the State authorities, and so on. It seems to me, now, that it is important for us to induce the executive authorities to enforce the draft fairly, so that no section can complain, so that each State will contribute its proportion of one-year men according to its population; and in addition to

that, in my judgment, in hiring substitutes they ought to be confined to the State in which the men are drafted, so that each State will furnish the same amount of physical service in proportion to its population. Then let the draft be enforced fairly, and I think there will be no complaint.

Although my own State especially has been drained of its labor, although forty thousand of the best men of the State have recently gone into the service for one hundred days in addition to furnishing our full share in all the other branches, I believe that in the critical condition of our country, with our armies in the presence of the enemy, having corralled them, if you may so say, around Richmond and Atlanta, the people of Ohio will cheerfully submit to a draft if they are thoroughly satisfied that it will be fairly enforced in all States and sections of the Union. The only complaint about the draft is that it is not enforced. Take my own State for instance. A strong proclamation is issued by the President of the United States calling upon the people to volunteer and avoid another draft. In certain communities they go to work, and with money and the aid of all the people heartily engaged, they furnish their share of men, while an adjoining county has made no effort to procure men, has raised no money, and after a little while the matter drops and the draft does not take place. The consequence is that the loyal portion of the community who are willing to do everything they can do to answer the wants of the Government, who respond in men and money and make up their quota, are drained, impoverished of their labor and of their finest young men, while an adjoining county, composed probably of men hostile to the Government, men who do not do their share either in money or men, contributes nothing. The consequence is that complaints are made, complaints of injustice and unfairness. Sometimes it is carried to States. In one State the draft is enforced, in another State it is not. It leads to a feeling of jealousy, of rivalry, of hostility. In the West it is a common complaint among certain partisans that Massachusetts has not made up her share. The Senator from Massachusetts says she has; but that is the ordinary way in which excitement is got up against the draft, by saying that certain States have not done their share.

I believe that all the people of the United States want a fair draft, equally and honestly enforced. As we need physical service for a short period of time now in the armies of the United States, we should provide by our law for that physical service, and for nothing else. We have provided for money by loan laws and by tax laws. This is no provision for the raising of money. Whether you fix it at \$500 or \$300, it is not what you want, and therefore it is not what you ought to provide for by legislation. I am willing to support the bill as it now stands. It has been carefully and maturely considered, I believe, by the Military Committee. It has now assumed a form that I believe will be satisfactory to the people. It can be easily enforced. The term is short. The service is not so arduous as three years' service under the former draft. Every man will feel that he is justly dealt by. No man can pay his money and relieve himself from the draft. Every man drafted must either go or hire a substitute. Such a law, in my judgment, if fairly enforced, will yield the additional number of men necessary to carry on the war to a successful and triumphant conclusion.

Mr. HOWE. So far as I am concerned I am not carrying on this war for fun. I accepted it as one of the sternest duties ever imposed upon a people, and if one of the sternest, one of the highest, the first one to be met, the first one to be discharged; and if it be a duty at all, I know it is a duty resting as firmly upon one citizen as another. Money will not answer for one man unless it will answer for every man; and we know that with money alone this war cannot be carried on. I voted just now for a proposition to reduce the term for which this draft is to be made to a period not exceeding one year. I voted for that reluctantly, because I do not myself like to vote for a measure which looks toward limiting a time for the duration of this war beyond which we will not go; but I am anxious to get rid of this commutation clause which, I think, has stood in the way of our success from

the beginning of this war down to this time; and if we are going to repeal the commutation clause I want to repeal it during the existence of this war, for after the war closes I am willing it shall stand; and I understood, and it was upon that consideration that I voted for the amendment, that if the Senate would consent to reduce the term for which the draft was to be made, the Senate would also accept the proposition to repeal and not to amend the commutation clause. If I had not so understood I would never have voted for that proposition; and I give notice now that if the commutation clause is not repealed I shall move to reconsider that proposition, for when the last act amending the enrollment law was before the Senate I voted against it; and I gave distinct notice, which I repeat to-night, that I never will, while reason and volition are left me, authorize this Government to draft another man for the military service of the Government while it accepts any sum that can be counted in dollars as an offset for that service. Sir, I beg leave to say just this once that out of all the thousands of men who have perished during this terrible struggle I cannot imagine the sum that I would put against the life of the lowest or the humblest of them.

The Senator from Vermont who has moved this modification of the commutation clause defends it upon just one argument; which if it be true shows conclusively to my mind that there is no occasion whatever for the amendment. He assumes that with \$500 substitutes can always be had. If with \$500 every drafted man can procure a substitute there is no occasion for a commutation clause. I can hire a substitute as cheaply as the Government can; I do not want to employ the Secretary of War to act as my broker; if I am drafted and \$500 will get a man to serve in my place, I can as well do it as the Secretary of War; and your commutation clause never comes into effect except when the time comes that it is not equal to the price of a substitute, and then the drafted man if he can raise the money hands it over to the Government and steps aside from the service. But if \$500 were fixed as the sum at which commutation could be made, and if it were positively known that with that sum substitutes could be had, then there would be an insuperable objection, in my mind, to the adoption of this amendment; because why? Your draft would be made, the whole machinery of the draft would be run out first to get the money into the Treasury, and when you had got the money into the Treasury you would just have authorized the Government to go into the market and pick up the men. That is a work of time, and time is of the very essence of this struggle in which we are now engaged, and it has been for years of the essence of this struggle.

Mr. President, we are in the beginning of the fourth year of this struggle, and we have been here for weeks contending day after day as to whether we would or would not, still, with all our sad experience before us, allow men, with more money than courage, to commute for military service. It has seemed to me that we ought by this time to have already clothed our Government with authority by which they could meet the exigencies of the Army at the instant. The Government ought already to be possessed of all the machinery by which every able-bodied man, if necessary to the achievement of victory final and complete, might be called at the tap of the drum from the field to the camp, the machinery by the operation of which your laborers at home might be brought from their daily labors into line as quick as men can be turned from their camps at the beat of the long roll. That ought to be done, and I shall see no certain signs of victory until that is done.

The first step toward that, I think, is for the Government to say that money is not a substitute for military service and cannot be treated as such; that when the Government of the United States drafts a man it is because it wants a soldier, and wanting a soldier will have a soldier, and it will not take up with anything less than that. If a man who is drafted can get a soldier for a year or for six months, or whatever the term is, for \$500, fork over; if you can get him for \$300, it is your good luck. Unless you can get him, do not palm off this stuff on the Government and claim to stand aside. I would just as lief a draft

should be made at this time for six months as a year. Six months will close the campaign; and if you are going to make a draft for a period less than a year I would just as lief it should be for six months as for twelve. I would be glad to see every man when he does embark for this service embark for the war; but if it be the deliberate judgment of the Senate, as it seems to be, that that point had better be given up for the present, then I say I would just as lief you would draft for a campaign as draft for a year. Make your draft, but when the lot has fallen upon a man see that that man meets the duty to which he is assigned.

Mr. DAVIS. Mr. President I am one that learned in early life, and I still adhere to the principle, that all legitimate government is based on the will of the people. I believe that government in all its operations in peace and war must be conducted upon that grand fundamental principle. I believe that a war cannot be long continued against the feelings and judgment and will of the mass of the people. That is the result of all my reading in relation to war and the manner in which war has been conducted by other Governments of the world. Whenever the hearted will of the people is earnestly in favor of a war there is no difficulty in waging it and keeping it up; but when the people flag in the prosecution of a war and become weary and despondent with the enormous expenditure of treasure and blood that has attended the war and that is promised in its further prosecution, the people shrink back appalled from the contemplation of a continuous prosecution of such a war as that.

Mr. President, I believe that such a change as that has come over the spirit of a majority of the people of the United States and of the loyal people of the United States. It is my observation, it is my conclusion, it is my deliberate judgment that a large majority of the people of the United States at this time are strongly and irreversibly opposed to the further prosecution of this war, and desire to bring it to a close. Sir, that is my own conviction and my own feeling in relation to the war. At the onset I was a coercionist with the mass of the people, and I was so upon the great principle announced by the party in power, and by this Administration, that the war was to be prosecuted simply for the vindication of the Constitution of the United States and the assertion of the laws, and for a reconstruction of the Union, with all the rights and liberties and privileges of the people of the United States intact and inviolate under the Constitution. When that was the lofty and proud and legitimate basis upon which this war was prosecuted, and on which the free sons of America were summoned to the standard of the stars and the stripes, it was only necessary for those in authority to give out their call to their countrymen for that call to be responded to in ranks more serried and numerous than were desired by those who were prosecuting the war.

Mr. HOWARD. Let me ask the Senator from Kentucky one simple question.

Mr. DAVIS. No, sir. Will the honorable Senator excuse me?

Mr. HOWARD. Of course.

Mr. DAVIS. I did not get up to make a protracted speech. When I get through the honorable Senator can respond.

Three years ago and upwards I traveled through a large extent of the loyal States. I found but one sentiment, one principle, one line of conduct in relation to the war, and that was perfectly responsive to the Crittenden resolution, as it was termed, which was proposed in this body by Senator Johnson, from the State of Tennessee, and almost unanimously adopted by this body. When this body spoke, responsive to that sentiment there was but one impulse, there was but one purpose throughout this land in relation to the war, and that was to reduce the insurgents to obedience to the law and to the Constitution. But, sir, a change has come over the dream of this people. They have seen the objects and purposes of the war grossly perverted; they have seen powers usurped by those in authority, not delegated to them by the Constitution, and threatening to subvert their liberties. Many of them now believe, and I am one of the number, that the Constitution and liberties of this country are in more imminent danger now

from their own Government than from the rebellion. I know that that is extensively the conviction and the deep conviction of the people of the United States. Sir, that being their conviction, a change has come over their souls and their purposes in relation to this war, and it is not strange that it should be so.

If the present measures and policy of the Administration, if the powers that it claims, if the subversion of the writ of *habeas corpus*, the establishment of a general military despotism, arbitrary arrests, the detraction of civil courts and of civil law, and the substitution of military courts and martial law in their stead; if the substitution of the tyrannic will of military men for Constitution and law and civil courts had been announced at the start, there would have been no war, the people would have refused peremptorily to go into it. But, sir, that is the present condition of the country; that is the present policy of the Administration; that is the present purpose and exercise of power by the party that now holds possession of the Government; and under that state of case it is not at all strange, with that conviction extensively and deeply and irreversibly imbedded in the public mind, that a change should have come over their dream.

Mr. President, there are two thermometers in relation to this war in the United States; the one is in the Houses of Congress and in the Executive Chamber, and the offices of the heads of Departments; the other is in the country among the people who have to bear the burden of this war, who have already sent millions to its battlefields, and of whom a million have either perished by the sword, or by disease, or been permanently disabled. This day the public debt, acknowledged, recognized in its items, or which would be if they could be produced to the Senate of the United States and the country, must amount to \$2,500,000,000, and this war cannot be conducted another twelve months without adding upwards of \$500,000,000 to that debt. It is now greater than the public debt of England. Independent of this debt recognized, ascertained, claims that cannot be controverted, there is a vast amount of debt and of demands unliquidated, unsettled, unadjusted, held by the people of the United States, by the States themselves, by foreign Governments, and by the subjects of foreign countries, amounting, I have no doubt, to more than \$2,000,000,000. The claims for the use and appropriation of private property, the destruction and the deterioration of the value of property by the armies of the United States, and the claims that the citizens have against the Government growing out of such origination of claims, I have no doubt will amount this day to \$2,000,000,000. I have no doubt that the just claims of my own State in that respect amount to \$300,000,000; and when you come to Missouri and Tennessee and Maryland and Virginia, and to all the rebel States where there was a loyal population possessed of large property, all of which has been swept from the owners and for which they have a just claim against their own Government for its fair and reasonable value, the aggregate will amount to more than \$2,000,000,000. Add that to the \$2,500,000,000 that are now due and it amounts to \$4,500,000,000.

Sir, in the computation of the public debt the Secretary of the Treasury omits one important item. He is in the habit, at the beginning of every session, of making an estimate of the uncalled-for appropriations at the end of the fiscal year. These uncalled-for appropriations on the 1st of July next will amount he estimates to \$350,000,000. On the 1st of July, 1865, at the end of that fiscal year, he estimates them at \$400,000,000. By his own statement these aggregates not only exist as demands against the public Treasury, but have been actually voted to be paid by laws of Congress, and yet he deducts them from the public liabilities because of his reasonable supposition that those amounts will not be called for at the end of the year. Still they are due, and not only that, but they have been actually voted. There is a single item of \$350,000,000 to swell the Secretary's present estimate of the public debt, and there are other very large and important items.

But, sir, I said, and I maintain and believe, that in relation to this war there are two thermometers, the one among men in public office, the other among the people in the country; and I will test

that position now by a supposition. Suppose that every member of Congress was called upon to-morrow inflexibly to consent to peace or to go himself to the front ranks of the battle, to that horrible carnage amid which so many of our gallant and true men who had no hand in bringing on this war have fallen, what would be done? Since the beginning of the present campaign to this moment of time I have no doubt that more than one hundred and fifty thousand of United States soldiers have fallen, killed or wounded, in the various bloody battles that we have had. When that is the storm of death, of iron and leaden hail that a man is to encounter when he goes to the front, is it strange that the people of the United States should shrink from running such a terrible gauntlet? Sir, for one, with all the perversions of the objects of the war, with all the abuses and usurpations of power by the Government, with all the peril to which it has brought the Constitution and the popular rights and liberties of the country, I would prefer peace a thousand fold to the continuance of this war, although I was once as strong a coercionist as any man ought to be.

I maintain that this war and all the operations of the Government are intended for the people, to be subordinate to their rights, their liberties, and their will. The vast number of American freemen still in reserve, who have never yet felt the shock of battle or been in its presence, were created for something else besides. They are entitled to a more glorious destiny; they have a higher mission than to pay taxes in perpetuity, to go to battle to be shot down, and those who survive to vote for the reelection of Abraham Lincoln. I, sir, protest myself, humble as I am, against being made the subject of such an ignoble fate and destiny as that. No man breathes the breath of life who is more devoted to the institutions of his country, to his Government, to his Constitution, to the preservation of the Union according to the bond of that Union, the Constitution, than I am. But when the question is presented to me, "Do you prefer the Union without liberty or liberty without the Constitution?" I say, in the language of Patrick Henry in the revolutionary war: "Give me liberty or give me death." Give me liberty with the Union shivered into a thousand fragments before you give me a Union with a consolidated military despotism, the Constitution struck to the dust, and the liberties of the people utterly overthrown. I believe that the latter fate awaits them. I believe that if the present incumbent is reelected that fate will be irreversibly sealed upon them, or that it can only be removed by civil convulsion, civil war, a frantic precipitation of the sections and of the men of the United States against each other, more horrible, more direful in its bloody and desolating consequences than the world has ever yet seen.

Sir, it is for this reason that I am for subordinating this war to the will of the people. I am for consulting their will in its management. The President has no power to conduct this war except as Commander-in-Chief of the Army. The duty to suppress the insurrection is devolved upon Congress by an express provision of the Constitution. Congress represents the States and the people, and Congress is the only legitimate power to take under its control this vast concern of continuing this war or bringing it to a close. I believe time has demonstrated that civil war is not the proper remedy to restore the Union, and, above all, to preserve constitutional liberty; and therefore I, for one, am for saying to my constituency, to my State, to my countrymen, that the time has come, in view of the bloody and destructive and revolutionary policy which has been inaugurated to carry on this war, for the people, the masters of the Government and of all men who wield authority under it, to rise in their majesty and strength, and to take this affair into their own hands and manage it in their own way.

Mr. HENDRICKS. Mr. President, a few days ago the Senate voted against the proposition to repeal the law that allowed the commutation, and we may as well at once decide whether the Senate is of that opinion still; and to arrive at a vote I propose to amend the bill by striking out all of the first section after the enacting clause, which motion, I suppose, will take precedence of the amendment proposed by the Senator from

Vermont. I am not myself in favor of increasing the commutation allowed by existing laws. I think \$300 for one year is heavy enough. It is three hundred per cent. above that which is in the existing law, because it is equivalent to \$900 for three years. I believe if a proper policy is adopted by the Government it can by the use of \$300 secure a volunteer for a year more readily, with less trouble in the country, with less hostility excited against the Government, than by any draft that can be adopted.

But, sir, I did not rise with the view of making any speech, but hoping to come to some result upon this question, which I presume every Senator thinks has been sufficiently discussed, that we may understand the different propositions. My motion is to strike out all of the first section after the enacting clause.

The PRESIDENT *pro tempore*. The Chair is of opinion that the amendment of the Senator from Vermont takes precedence to perfect the bill before striking it out.

Mr. HENDRICKS. My motion is to strike out more than he proposes to strike out by one word.

The PRESIDENT *pro tempore*. The Chair is aware of that.

Mr. HOWARD. Mr. President, so far as the amendment offered by the honorable Senator from Vermont is concerned, I can only say that I shall be compelled to vote against it. If there be any idea more distinct than any other lying at the bottom of the policy of conscription, in other words, drafting, it is this: to procure the personal services of men fit for military duty in this war, to rely upon their personal services rather than upon their money.

One object of the amendment which has been offered by the honorable Senator from Vermont is to enable any person to purchase his liberation, so to speak, from the draft by paying \$500. I am opposed to that. I think that from the beginning Congress made a mistake in allowing any person to purchase an exemption from the draft by the mere payment of money, and sure I am that the fact that Congress incorporated this idea into the act of 1863 made that bill obnoxious. The party opposed to the prosecution of the war at heart, the men who hate the prosecution of the war, who hate the origin of the war, have opposed the raising of troops by draft under the pretense that Congress had required the poor man to render his military service, to take his musket and go into the ranks and risk his health, his fortune, and his life in defense of the country, while at the same time they had said to the person able to pay \$300, "We exempt you on such payment from undergoing the same perils;" and there was no feature of the statute upon which demagogues exerted themselves more ingeniously or more effectually than upon this particular clause. They made the bill in some localities so odious, so hateful to the people by their misrepresentations of it, and I may say by their stumpefquence, that it almost resulted in civil war and local insurrection. I believe there were cases in the State of Illinois in which there were actual outbreaks of the people in resistance of the draft, growing out of this same argument, if it be worthy of the name of an argument, that the rich man was exempted while the poor man was drafted.

Now, sir, I am for trying the opposite policy. It is very true that I voted for the original bill. I did it with reluctance. Let us try the opposite policy. Let us disable every man capable of doing military duty from procuring his liberation from that duty by the mere payment of money, while at the same time we allow any man who is able to do so to purchase a substitute to take his place in the rendition of the personal service required by the bill.

Sir, I am willing to meet this exigency; I am willing to meet the necessities of this war, let them present themselves in any posture and in any feature they may. I have gone into the support of this war with earnestness, for the purpose of making it successful, for the purpose of subduing and subjecting to the authority of the United States the rebellious districts of the country. I have sons, and so have other honorable Senators sons, engaged in the prosecution of this war, whose lives may be the forfeit of their taking up arms. Sir, I say to them when they go to this war as the Roman mother said to her son, when she passed

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

FRIDAY, JUNE 24, 1864.

NEW SERIES, No. 201.

to him his shield, "Return either with it or upon it," come back victorious or come back a corpse. And, sir, if I understand the nature of the case, unless we who are true to the old Government act with this spirit, act with a determination to conquer or die in this cause, we shall not conquer whether we die or whether we survive.

I am for calling out every able-bodied man whom this draft can reach, whether he be in the social scale high or low. I would say to him, "Render your personal service or put a man in your stead who is able to render the same service to the country in this great exigency;" and let us go on shoulder to shoulder, hand in hand, fearlessly, without faltering, without discouragement, willing to accept occasionally a reverse, a rebuff, or a repulse, not expecting that the course of our cause will forever run smooth, for we know it will not, but bearing up under all reverses with a manly, patriotic, and I may say heroic spirit, never forgetting the immense value of the cause which we have in hand, never faltering, never ceasing to act up to the greatness and the magnitude of the occasion which calls upon us for the exhibition of manly, patriotic, and heroic qualities.

Sir, I have been pained to listen to the speech of the honorable Senator from Kentucky. It grieves me to the heart to witness such an exhibition as he has made of his patriotism here on this occasion. I had the pleasure twenty odd years ago of being quite well acquainted with that honorable gentleman in the other House of Congress, and to admire the steadfastness of his patriotism and the correctness of his political principles, and I regret at this great crisis of the fate of this nation, when we require the exhibition of steadfast and manly qualities on the part of every member of Congress, when especially we require the exhibition of these qualities on the part of Kentuckians, to see him faltering, breaking down, giving up the contest, giving up the hope of the contest, and expressing his willingness to do what, sir? To make terms with the rebels, to come to terms with them, and accept such conditions as they shall see fit to prescribe to us in order to bring this contest to a close!

Sir, is the honorable Senator from Kentucky willing to get down upon his knees before Jeff. Davis and his Congress and say to them: "I am willing to accept any terms which you shall propose for the settlement of this great controversy, in order to prevent the further shedding of blood?" He will say, "No; I will get down on my knees to no man, to no Government." Then I ask that gentleman upon what terms does he expect to settle a peace with the rebel government? Will they listen to any terms from him? Will they agree to come back again into the Union and perform their functions as States of this Union on any known terms or even on any imaginable terms? No, sir. They have not from the beginning shown the slightest disposition to return to their allegiance upon any terms whatever. They insist upon absolute independence, and upon our acknowledgment of their absolute independence as a nation. I ask that Senator, as a loyal man, as a Kentuckian, as a once friend of the immortal Clay, whom he and I alike admired, is he or is any patriotic man, is any sane man at this time willing to accept of any such terms? Would you dismember the United States? Would you surrender up the mouth of the Mississippi or any part of the Mississippi to the rebel confederacy? You would be compelled to do so, if you agree upon any terms that should give them their independence. Will you agree for all time to come to have an independent government on the southern border of the United States, a military government, a turbulent, aristocratic, and in all probability within a short time a monarchical government? Will you agree to have that government as your neighbor; a government full of adventure, full of ambition, necessarily military in its character, because the largest portion of the white population will have no industrial employments, and the Army and Navy will be their

regular home so far as vocation is concerned? Are you willing to run the risk of keeping up a perpetual quarrel and being in a perpetual quarrel or an intermittent quarrel with this nation on the south for the next hundred or the next two hundred years, incurring month after month and year after year the danger of armed collision, and being engaged in armed collisions from time to time, thus spinning out a war which ought to be settled now if it costs any amount of blood and treasure, spinning it out to a century of length, or perhaps two centuries, until finally the one or the other of these nations will exhaust and extinguish its adversary by mere main strength?

Sir, has all national pride forsaken the heart of the honorable Senator from Kentucky? Does he no longer take pride in the fact that the stars and stripes, the emblem of his country's greatness and power both here and abroad, have once been great, and by the blessing of God and by proper assistance on his part and on mine will still continue to be great and grow greater and greater for the next thousand years? Does he desire, is he willing that his posterity and mine shall inherit as their political inheritance a divided empire, a divided power? Sir, is he willing to run the further and more enormous risk of a final division of the northern free States? Is he willing to say to the Pacific States, "Depart in peace, provide for your own security, form a republic upon the Pacific slope, and take care of yourselves; we will discharge you from all liability in the national debt?" Is he willing to say the same thing to the States on this side of the Rocky mountains? What is he willing to say to the old northwest States and the States on the west side of the Mississippi? Is he willing to run the enormous risk of breaking up the whole system of States into half a dozen or a dozen small petty confederacies, and thus disgracing the once proud American name, and humbling the once proud American nation at the foot of the trading throne of British aristocracy and the British manufacturing interest? Is he, is anybody here, in the name of God can there be an American anywhere worthy of the name, with the heart of an American beating in his bosom, who is willing to incur all these risks for the sake of a temporary and delusive peace with these accursed rebels whom we are now meeting face to face, hand to hand, and throat to throat, and whom, with a little patience, with a little forbearance, with a little courage, with a little endurance, we shall certainly subdue, and subdue forever? I will rather believe that my old and honored friend from Kentucky is laboring under a self-delusion, and that he does not really entertain the sentiments which he urges upon the consideration of the Senate. I think that that is by far the more charitable view to take of the position he occupies before the Senate.

But while I say these things of my honorable and ancient friend, I must at the same time in justice to many other gentlemen on this floor say that I do not, because truth will not permit me to do so, ascribe the same sentiments to them. I know something about the value and the potency of the old Democratic name; I know something of the power and prestige of the ancient Democratic party; and I know that up to the commencement of this war and during the war, even up to this moment, the heart and soul of the old Democratic party and the heart and soul of many, very many of its revered and respected leaders, some of whom I am proud to say are members of this body, are true to the Union, true and abiding in the faith of the fathers—hearts which will never faint, but which will in their aspirations for success and national glory pulsate with our own until the last struggle shall finally end in the complete overthrow and suppression of this rebellion.

Mr. President, I have said much more than I expected to say, and I beg pardon of the Senate for occupying so much of their time. I am willing to try the experiment which is presented to us in the bill now before us, and shall vote for it. The only doubt I have had at all upon the pro-

priety of it has arisen from this circumstance: that, possibly, by restricting the term of the conscription from three years to one year we should furnish to the rebels an appearance of being discouraged and beginning greatly to be inclined to give up the contest. I wish to put in my caveat against any such conclusion from the language of this bill. So far as I am concerned, so far as mine are concerned, so far as my constituents are interested, I say it, and say it with confidence and pride, we are in for this war to the bitter end, cost what it may, and when it may.

Mr. RICHARDSON obtained the floor.

Mr. DAVIS. Mr. President, I am bound to the Senator from Michigan by the ties of ancient friendship and of the deepest personal respect, and I never want the golden cords that connect him and myself together to be severed. If separation should ensue, and if this galaxy of States should be resolved into its original elements, and each State should be thrown back upon its original sovereignty, which seems to me to be the destiny that is to come upon the country, one of the poignant sources of my regret would be that the honorable Senator from Michigan and myself were no longer members of the great confederated Republic of free and United States.

But, Mr. President, although I have worshipped the Union, although it has been the sacred fane in which I have kneeled and to which I have poured forth all the aspirations of my heart, and to which I have given all the feeble services that I was capable of rendering to any interest, still there is a matter to which I am infinitely more bound, and which is incomparably dearer to the deep irrepressible emotions and affections of my soul than this Union; and that is, devotion to liberty. I care not who may assault constitutional liberty as it was won by the sword and secured or attempted to be secured by the wisdom and patriotism of Washington and his co-peers, whether it be Jefferson Davis at the head of a wicked and most atrocious rebellion, which, in my judgment, constitutes one of the greatest crimes that has been recorded in the history of man, or whether it results in the wickedness or selfishness or wickedness or charlatanism of Abraham Lincoln, I am equally and uncompromisingly the foe of both assailants of this constitutional liberty. I prefer the perpetuation of liberty to the perpetuation of the effigy of a Union with the Constitution and all the rights and privileges and liberties of the people struck down by a military despotism.

I announced the principle of action at the commencement of my remarks upon which I have based my political opinions and my principles of statesmanship; and it is, that the only legitimate government is founded upon the will of the governed. I will read a sentence or two upon this point, and I will challenge any gentleman present here to dissent from them:

"Any people anywhere, being inclined and having the power, have the right to rise up and shake off the existing government, and form a new one that suits them better. This is a most valuable, a most sacred right; a right which we hope and believe is to liberate the world. Nor is this right confined to cases in which the whole people of an existing government may choose to exercise it. Any portion of such people that can may revolutionize and make their own of so much of the territory as they inhabit. More than this, a majority of any portion of such people may revolutionize, putting down a minority, intermingled with or near about them, who may oppose their movements."

I do not go to that extent, but I challenge any Republican Senator here present to dissent from the sentiments and principles there announced. I pause for a reply. I take it for granted, then, that the principles here announced receive the sanction and the approval of every Republican member of this body. Who uttered those sentiments? The present President of the United States when he was a member of the other House of Congress in the year 1846, and any gentleman who chooses to read them will find them in the Appendix to the Congressional Globe, first session Thirtieth Congress, page 94. Has not the present Executive of the United States then given his deliberate and well-considered sanction to this

revolutionary movement of the South? I dissent from his doctrine. It is more radical and revolutionary and destructive to government and order and law than any doctrine to which I can give my assent.

But, sir, I will read the sentiments of another distinguished gentleman, a member of the present Senate, a man of strong and vigorous and powerful intellect, as he has proved himself in debate to-night; an upright and a downright man, who thinks strongly and correctly, and for whom I cherish the profoundest personal respect and friendship. I will read from his speech that he made in this body a few years ago. I allude to the Senator from Ohio, [Mr. WADE,] who, in my judgment, is a man of about as strong a head, as pure a heart, and as upright intentions as belongs to this or any other body of men; and when I can have the benefit of the illumination of his mind and principles to guide me in the devious political path, I will rush to that bright and burning path that I may tread safely. What does that honorable Senator say?

"But southern gentlemen stand here, and, in almost all their speeches, speak of the dissolution of the Union as an element of every argument, as though it were a peculiar concession on their part that they permitted the Union to stand at all."

I have no doubt such was the spirit of their pride and arrogance, and if I had been present I would have felt a spirit to rebuke it as stern and implacable as that of the Senator from Ohio.

"If they do not feel interested in upholding this Union, if it really trenches on their rights, if it endangers their institutions to such an extent that they cannot feel secure under it, if their interests are violently assailed by means of this Union, I am not one of those who expect that they will long continue under it. I am not one of those who would ask them to continue in such a Union. It would be doing violence to the platform of the party to which I belong. We have adopted the old Declaration of Independence as the basis of our political movement, which declares that any people, when their Government ceases to protect their rights, when it is so subverted from the true purposes of government as to oppress them, have the right to recur to fundamental principles, and, if need be, to destroy the Government under which they live, and to erect on its ruins another more conducive to their welfare. I hold that they have this right. I will not blame any people for exercising it whenever they think the contingency has come." "I say again that they have the same interest in maintaining this Union, in my judgment, that we of the North have. If they think they have not, be it so. You cannot forcibly hold men in this Union; for the attempt to do so, it seems to me, would subvert the first principles of the Government under which we live."

Sir, there is the great corner principle of all popular and legitimate government. It is enunciated in the Declaration of Independence, an extract from which I have before me. That lays it down as one of the fundamental principles of human right that every people who choose have the inherent right to subvert their existing form of government, and to erect upon its ruins one that suits them better. I do not go to the extent of the right of revolution which the present Chief Magistrate of the United States has laid down. I say that no people have a right to revolutionize their Government unless they labor under great and serious oppressions that cannot be peacefully redressed and corrected.

Now, sir, I say it is because the purposes of our Government, the great objects of the Constitution, its great restrictions of power, the rights and liberties and privileges which it gives to the citizen—it is because all these great ends of government for which our Government was formed, and without which it never would have been formed, are being strack down by the party in power and by the present head of the Executive Government that I am determined to give every thought, every energy, every effort of a feeble mind and a feeble body for their ejection from office. In this work I shall engage with as much heartiness and zeal as I would engage against the aggressions of Jefferson Davis upon my State. I never will bow to the rebel chieftain and to the usurpation of power by him or by the southern confederacy; nor will I ever bow to that more dangerous and objectionable and hateful tyranny by which this Administration and the ignoble head of this Administration are attempting to fetter the people in perpetual chains. I never will yield to either of these despotisms. The last pulsation of my life, the last effort of my mind, the last wish of my heart would be to overthrow both, and to that which seemed most threatening, most particularly dangerous to my country, to its Consti-

tution and to the liberties of the people, I would give my first and my chief attention.

Sir, if it was the last word that I could utter in life and I was to be called the next moment to the bar of eternal retribution I would aver this conviction, that the danger of our Constitution, of our liberties, of human liberty and popular government generally is greatly more in danger at this time by the Administration of our own Government than it is by the southern rebellion. Therefore I feel a greater desire to eject this Administration than I do even to put down the rebellion. The way to put down the rebellion, to bring it to utter and complete discomfiture, is to eject the present President of the United States, who is a candidate for reelection from a position the powers of which he is as grossly inadequate to grasp and properly to wield as any man who ever filled an office and wielded great and formidable power.

I beg pardon of the Senate for trespassing on their time.

Mr. POMEROY. I move that the Senate do now adjourn.

Several SENATORS. Oh, no; let us vote on this bill now.

Mr. POMEROY. I do not think we can get a vote to-night. Several Senators desire to speak upon it.

Mr. SHERMAN. We have a great many measures before us, and as Senators are very anxious to get away, I think we had better dispose of this bill to-night.

Mr. HENDRICKS. There were some suggestions made by the Senator from Michigan that we of course expect should be answered. I desire myself to come to a vote.

Mr. SHERMAN. I should like to have the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. McDUGALL. I desire simply to say that I shall vote "yea" for the reason that the Senator from Indiana desires to discuss this question and wants until to-morrow.

Mr. HENDRICKS. The Senator is mistaken.

I do not wish the Senate to understand that I want to discuss it. It is the Senator from Illinois, [Mr. RICHARDSON.]

The question being taken by yeas and nays, resulted—yeas 20, nays 22; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Clark, Col-

lamer, Cowan, Davis, Dixon, Grimes, Hale, Harris, Hen-

dricks, McDougall, Pomeroy, Powell, Richardson, Riddle,

Saulsbury, Trumbull, and Willey—20.

NAYS—Messrs. Anthony, Chandler, Conness, Doolittle,

Fessenden, Foot, Foster, Harlan, Howard, Howe, John-

son, Lane of Kansas, Morgan, Morrill, Ramsey, Sherman,

Sprague, Sumner, Ten Eyck, Van Winkle, Wade, and Wil-

son—22.

ABSENT—Messrs. Harding, Henderson, Hicks, Lane

of Indiana, Nesmith, Wilkinson, and Wright—7.

So the Senate refused to adjourn.

Mr. RICHARDSON. Mr. President, there were some remarks that fell from the Senator from Michigan that merit a reply.

If a person, a stranger to the history of those who passed the conscription bill and placed in it the very clause of which the Senator complains, had heard him to-night he would have supposed that the only Senators who originally voted the commutation clause in the bill were those who belong to the Democratic party. Sir, that is not the fact. The Senator from Michigan himself, if I mistake not, in connection with the party to which he belongs, the Lincoln party, are responsible for the \$300 commutation clause in that bill over all the votes of the gentlemen who coöperate with me in this body. He says that it is a measure calculated to make the poor fight the battles of the country, while the rich can pay and be exempted from that onerous duty. If it is of that character the Senator and those who are associated with him are responsible for placing it in the bill, and they are responsible to that class of people. They placed that clause and every other objectionable one in the bill, and then passed the bill against the votes and protestations of every Democrat and conservative Senator then here.

But, sir, it is true that although the clause was placed in the bill against my vote and against the votes of those who coöperate with me here, yet when a part of the country has been exempted from the operation of the conscription bill by the payment of the money commutation, I am unwilling now at the command of the Senator or the command of the Secretary of War and the

President, or all combined, to change the policy of the country, and let them draw upon the section from which I come with no means to escape from the service. Immediately after the passage of that bill with that clause in it, in whatever of public speeches I made before the people I condemned the bill and the clause now sought to be stricken out. I am now satisfied that it is better to have that provision than to have the conscription with no means of escape, that the peace of the country would be best preserved by it; and hence it is that I have changed positions with the Senator. He has kept it in operation as long as it suited his purpose. Even-handed justice requires that it shall be kept in longer. To this eternal change I am opposed.

Mr. President, this question involves very grave considerations, and we should approach its discussion after mature deliberation, and determine upon our course. The Senator from Michigan says that he is in favor of fighting this war out to the bitter end. Other Senators have said that they mean to fight it as long as they live, and when they come to die they mean to bequeath it to those who come after them. Sir, I am for ending this strife as soon as we can properly. I want to make a manly effort to enforce the laws throughout the extent of this country; and I am for enforcing the laws upon Presidents and Government officers too. They are as amenable and as responsible to the laws as any other class of people. When the President disregards the laws and violates the Constitution and asks me to say nothing about it, to remain silent, not to discuss it, I tell him that that is not the position of either a patriot or a freeman. Mr. Lincoln is a candidate for reelection, and his acts and usurpations of powers not conferred by the Constitution or warranted by law must be discussed fully and freely here and before the people.

This is our right and duty; a right never questioned in this country till his election; a duty imposed by the highest considerations that can influence the action of man.

During the war with Mexico Mr. Lincoln was a member of Congress, and he there exercised the privilege of fault-finding against the President, without ever assailing or condemning our enemies. On the 12th of January, 1848, Mr. Lincoln, then a member of the House of Representatives, said:

"Some of the gentlemen on the other side of the House, if not all of them, who had addressed the committee within the last few days, had, if he had understood them correctly, spoken somewhat complainingly of the vote which was given some week or ten days since in this House, by which it was declared that the present war with Mexico was 'unnecessarily and unconstitutionally commenced by the President of the United States.' He agreed with them, if he understood them properly, so far as to say that such a vote ought not to have been given wantonly; that it was wrong if so given; that no member ought to have given such a vote unless he thought he was voting in accordance with the truth. He was one of those who had voted thus, and he proposed to present some of the reasons which actuated him in so doing.

"When this war first commenced he did not expect it would last so long as it has already done."

I have been during the present contest in the same fix that Mr. Lincoln was then. I did not expect this war would continue near as long as it has done. I do not think it ought to have continued thus long. I think if our counsels had been directed by wisdom, if the Army had been aided by wisdom here, when you had the basis of union in the southern States, you could have put down the rebellion long ago; but we had not that. However, to continue with this speech:

"It was then his opinion that all those who, for the reason of not knowing enough, or of knowing too much on the subject as they understood it, could not conscientiously approve the course of the President of the United States in relation to the commencement of the war, should nevertheless, as good and patriotic citizens, remain silent upon that question until the war should have terminated. And in accordance with that view, he had up to the time he arrived in this city at the commencement of this session never expressed his opinion in relation to whether or not the war was justly commenced on the part of the President of the United States. He had tried to act upon that principle, believing he was doing right in so doing. He found that view had been taken by some with whom he agreed in political sentiment, and especially by Mr. ex-President Van Buren."

He then proceeds to assign the reasons why he did not remain silent. He and myself were both members of the House of Representatives together at that time. He says:

"But, in addition to this, one of his colleagues [Mr. RICHARDSON] came into this House with a resolution in

its terms expressly indorsing the justice of the President's conduct in the beginning of the war."

About that, he was very much mistaken—

"so that he found himself here, if he was inclined to give the President his supplies, and say nothing about the original justice of the war—if he was inclined to go with him, to look ahead and not back—in a position that he could not do so. He should feel compelled to vote on this resolution in the negative. And as the President and his friends would not allow them to do as he wanted to do, and as Mr. Van Buren approved, he had set himself about examining what position was the right one on the justice of the war."

The Senator from Michigan thinks that in time of war no voice should be raised in opposition either to the wisdom of the President of the United States or of his policy. Sir, Mr. Lincoln and he differ upon this point.

Mr. HOWARD. I really hope my honorable friend from Illinois will not impute to me so strange a proposition as that nothing should be said in opposition to the Administration during a war. I certainly never said any such thing, and I am sure I never intended any such thing, whatever mistaken language I may possibly have used. I believe in the utmost freedom of discussion upon every administrative question; but I confess at the same time that I have very little charity for those who are the enemies of my country, whether foreign or domestic. Of course, however, I do not include my honorable friend from Illinois in the latter category at all. I know him too well.

Mr. RICHARDSON. I am bound to accept the Senator's disclaimer. Possibly I misunderstood his argument. But, sir, I know I am not mistaken in supposing that he attributed to some persons somewhere in the country an improper motive for their conduct. I supposed it had application to somebody. I am glad to know it had none.

Now, Mr. President, in my judgment, the discussion involves this whole question. I state to the Senator most frankly and most candidly that I do not indorse his views that we are to make this war perpetual; and in that I plant myself again behind the Executive. In his inaugural address he told us that the war, if commenced, could not last always; that it must terminate at some time; that you had to compromise it at last. The Senator says he would not receive any propositions from the people of the South at all. I do not misunderstand him in that.

Mr. HOWARD. No; I would not receive anything at all—no proposition whatever.

Mr. RICHARDSON. How does the Senator know that they are unwilling to lay down their arms? Would you not receive a proposition from them proposing to do that? The Senator is silent.

Mr. HOWARD. What I intended to say to my friend from Illinois was that I would not receive any proposition from the rebels for a compromise or settlement upon any other terms than these: that they shall unconditionally lay down their arms and submit peaceably, honestly, frankly to the authority of the United States. Those would be my only terms, and unless they should consent to accept those terms I would fight the war until they were sick of it, as sure as the world.

Mr. RICHARDSON. Mr. President, I do not know how you can arrive at those facts unless you are willing to receive propositions from them. The great error on the part of those who have managed affairs has been that they were unwilling to receive any proposition. We know that at one time our armies were successful at every point; we were everywhere victorious; they were suffering as no people had ever suffered upon the face of the earth. What is there degrading to us in proposing to them to lay down their arms and to come back to the old flag and the old Union, such as their fathers made? I know of nothing degrading to us in that. The Senator seems to think there is something very degrading in it. Sir, your minister went with his hand upon his mouth and his mouth in the dust to ask the Emperor of France to receive an apology from the Executive of the United States because the House of Representatives had declared that they wanted no monarchical Government upon this continent fostered by a European Government. The nation was a thousand times more degraded by apologizing to Napoleon for what we had a clear right to do, and had done for years before without question, than to have said to the people of the South, who have

erred, who have done a great wrong, "Return to your duty; lay down your arms." I do not see how that could degrade us. I would a thousand times rather bear such a message and make such a proposition than go to the French emperor and tell him, "It is only the House of Representatives that has passed this resolution."

Mr. President, we have had a proud history upon the subject of the Monroe doctrine. From the foundation of our Government up to this hour Presidents and Congresses have said to Europe and to the world, "You shall plant no colonies, no dependencies upon this continent." This is the first time in our history that we have ever apologized for the assertion of what all parties and all men of all parties have approved. When the gentleman is discussing the question of national degradation he may as well turn his attention to the position that we occupy, humiliated as we have been in our conduct with France.

Mr. HOWARD. Will the honorable Senator from Illinois allow me one word?

Mr. RICHARDSON. Certainly, sir.

Mr. HOWARD. I beg to say that so far as I am concerned—I can speak only for myself, of course—that I do not approve, I never did approve, I do not think I ever can approve the language contained in the dispatch to which the honorable Senator refers. I disapprove of it just as much as he does, and undoubtedly for the same reason that the Senator from Illinois disapproves of it. I will go with him, shoulder to shoulder, in defense of the Monroe doctrine when the proper occasion shall present itself. I will be as ready as he, and I predict that my party will be as ready as his party in the country to assert the true American doctrine. I will go with him if he will go with me, my party will go with his if his party will go with mine when the proper occasion shall present itself, and we will try titles to Mexico with Monsieur Crapeau. I hope the honorable Senator from Illinois is satisfied on that subject so far as I am concerned.

Mr. RICHARDSON. Mr. President, the opinion of the Senator from Michigan is worth nothing to me. He is trying to place the power of this Government in the same hands that have brought about this degradation. He tells me that he is opposed to it. That is a queer way to oppose anything, to try to keep in power those who have thus degraded us. If the Senator is in favor of placing our nation upon her ancient proud position of maintaining the integrity of the entire Union, the Constitution of our fathers, and that Monroe doctrine of which he speaks, he will come out and go with me.

The Senator says when the "proper occasion arises he is for trying titles with France to Mexico;" when France demands to know why the House of Representatives by very tame resolutions protests against the occupation of Mexico, Lincoln degrades us by apology; the time has not come. You cannot defer questions of national honor any more than you can questions of individual honor. When you lower the standard of national position by degrading yourselves to avoid war, you invite aggressions. I know that war is a terrible calamity; but, sir, there is a greater calamity than war to individuals and to nations. National degradation is a greater disaster to any country than war.

Sir, there has been a great deal of fallacy and a great deal of alarm spread among certain people by talking about this question here and elsewhere; but I tell the Senator and I tell other gentlemen that as soon as we place a President in the White House on the 4th of March next we shall receive whatever propositions the people of the South send to us; we shall make to them the proposition of coming back to their duty to the old Constitution and the old Union as our fathers made it, and if they do not come back we will enforce it against them.

Mr. HOWARD. Good, good.

Mr. RICHARDSON. But you will not do it. We will preserve the Union, the Constitution, and civil liberty.

Mr. HOWARD. We will.

Mr. RICHARDSON. No, you will not.

Mr. HOWARD. We will.

Mr. RICHARDSON. You have not done it, sir. You started out in this contest with a majority, or certainly a large minority of those southern people with you. You started out with a

united North, for there were not enough in opposition to make mile posts through the country. You laid down the plan of your campaign, the principles upon which you were going to fight. The distinguished Senator from New York [Mr. MORGAN] the other day enlightened us a little upon this subject of what we really were doing. He was reported as saying in the opening of the Baltimore Convention that nominated Mr. Lincoln that they had been fighting for four years upon the line of abolishing slavery. Do I misrepresent the Senator?

Mr. MORGAN. If the Senator will read my remarks he will find that he is mistaken.

Mr. RICHARDSON. Will the Senator tell me exactly what he did say, for I do not wish to misrepresent him.

Mr. MORGAN. Does the Senator want an answer at this time?

Mr. RICHARDSON. Yes, sir; as I certainly do not wish to do the Senator injustice.

Mr. MORGAN. I stated that the party that was formed in 1856 was formed for the purpose of bringing the Government back to the principles of George Washington and Thomas Jefferson.

Mr. RICHARDSON. And, Mr. President, the Senator from New York to-day voted to repeal a law that was approved by George Washington. He and the Lincoln party passed a bill repealing what Washington approved; and every day they are destroying some or other of the legislation recommended by Washington and Jefferson. They are for destroying all that these patriots have done. If to destroy is to come back to the doctrines of Washington and Jefferson, then they are for it.

I will ask the Senator from New York if this is a correct report in the Chronicle of what he did say:

"Members of the convention. It is a little more than eight years since it was resolved to form a national party to be conducted upon the principles and policy which had been established and maintained by those illustrious statesmen, George Washington and Thomas Jefferson. A convention was held in Philadelphia, under the shade of the trees that surround the Hall of Independence; and candidates—Frémont and Dayton—were chosen to uphold our cause. But the State of Pennsylvania gave its electoral vote to James Buchanan, and the election of 1856 was lost."

"Nothing daunted by defeat, it was immediately determined 'to fight on this line,' not only 'all summer,' but four summers and four winters; and in 1860 the party banner was again unfurled, with the names of Abraham Lincoln and Hannibal Hamlin inscribed thereon. This time it was successful, but with success came rebellion; and with rebellion of course came war; and war, terrible civil war has continued with varying success up to nearly the period when it is necessary under our Constitution to prepare for another presidential election. It is for this highly responsible purpose that you are to-day assembled. It is not my duty nor my purpose to indicate any general course of action for this convention; but I trust I may be permitted to say that, in view of the dread realities of the past, and of what is passing at this moment, and of the fact that the bones of our soldiers lie bleaching in every State of this Union, and with the knowledge of the further fact that this has all been caused by slavery, the party of which you, gentlemen, are the delegated and honored representatives will fall short of accomplishing its great mission, unless among its other resolves it shall declare for such an amendment of the Constitution as will positively prohibit African slavery in the United States."

Mr. MORGAN. That is a correct report.

Mr. RICHARDSON. I leave the speech of the Senator with his acts to go for what they are worth.

But, sir, I resume Mr. Lincoln's speech in Congress in 1848. In speaking of President Polk he says:

"In all this the President showed himself dissatisfied with the conclusions he had assumed. He took up one suggestion and tried to argue us into it, but argued himself out of it; he then took up another, and went through the same process, and returned to the first, showing himself dissatisfied with all, and appearing like a man on a hot shovel, finding no place on which he could settle down."

He said the other day, if I am correctly informed—and if I am not some gentleman will correct me—that he was controlled by events, that he did not control events. In this speech he says Mr. Polk argued himself out of all the positions he had assumed. Suppose I were to turn back and see how many positions he has assumed during these four years and argued himself out of, or allowed events to argue him out of them. No man in any history, certainly none in modern times, has been such a weathercock on the house-top to show the shiftings of the wind in great emergencies where it required a statesman to hold the helm of the ship of State with a firm and manly hand, that he may guide her to port where

the storm can beat against her no more. But he goes on and says:

"Again, in relation to the termination of the war, the President nowhere, if he had read the message right, intimated any opinion as to when this war would come to an end. It did not seem to have occurred to him to say anything about that. Now, if he remembered right, General Scott was thrown into disfavor, if not into disgrace, by the same Administration for intimating, when the war commenced, that peace could not be conquered in less than four or five months. It was now more than twenty months before this last message was written; it had been prosecuted most vigorously; officers and men had done all that it was thought men could do, and hundreds of things never before dreamt of; and the President, who was so impatient at a veteran officer for having expressed the opinion that it would take at least four or five months, came to Congress with a long and elaborate message, in which he did not even express an imaginary conception of his own as to when it would terminate! How is this? Was it not true, as he had said before, that Mr. Polk was lost—that he did not know where he was—that he did not know what to do? He was not satisfied with any position. He forgot to take up the points that arose most obviously out of what he did say. All this went to show that he was most completely bewildered, and he (Mr. L.) should be most happy to be assured that there was not something about his conscience that was more harassing than all his mental perplexities."

Mr. President, I believe the President of the United States told us a while ago, or if he did not his Secretary of State did, that the war was to be over, first, I believe, in ninety days, then it was to be over in the fall campaign, and then in another campaign, and then in another campaign, and we have been told here day after day that the backbone of the rebellion was certainly broken; that it was all gone. We are now told that the President and the Secretary of War want more men; but they do not inform us when the war is to end. They are at fault; they are bewildered; and gentlemen tell us now we must fight it out and bequeath it to our children. I think you have to fight it out during this and certainly another campaign. I do not think the great Powers of Europe that have such vast influence in the affairs of the world will wait longer than one more campaign after this; and notwithstanding the fact that they have been abused here day after day for their interference I will do them the justice to say that upon that subject they have forbore with remarkable forbearance. This country knew of no people struggling anywhere that it did not recognize them as soon as they had won a battle. Our own example, our own history was against us. For nearly four years they have forbore to interfere. I do not think that a recognition would amount to much. So far as the contest between armies is concerned, it would not. But, sir, you have to conquer the armies of the enemy during this campaign or next summer or our people will not be willing to fight any longer. You might as well understand that to-day as at any other time.

Mr. WILSON. I hardly think you are commissioned to speak for the people on that point.

Mr. RICHARDSON. I am certainly, with all deference to the Senator—

Mr. HOWARD. Will my honorable friend yield to me for a moment?

Mr. RICHARDSON. Certainly.

Mr. HOWARD. I suppose he is willing to answer an inquiry. I wish to know upon what authority he speaks when he says that the people, "our people," meaning, I suppose, his own, that is the population of Illinois, will not continue the prosecution of this war beyond another campaign. He must not assume to speak for my people; that is, the people of Michigan. I take it he only means to speak for his own people.

Mr. RICHARDSON. I speak from the Senator himself. He says you cannot get armies unless you force them into the field, and he said so over and over again to-night. He said so repeatedly to you during the last week. He is the witness, not me. The declaration has not only been made by him, but by half a dozen Senators, that you cannot get armies unless you employ force to bring the men into the field.

Mr. HOWARD. Does the honorable Senator from Illinois allude to me when he says that Senators have declared we cannot get men or armies?

Mr. RICHARDSON. I allude to the Senator when I say the Senator said that unless you pass the bill under consideration with the commutation clause out you cannot get armies.

Mr. HOWARD. The honorable Senator will allow me to say that he is totally mistaken so far as I am concerned. I have never said any such thing; I have never intimated it; I do not believe

it; and certainly the honorable Senator will not, in the presence of this denial, undertake to impute such a statement to me.

Mr. RICHARDSON. I have been very unfortunate in understanding the meaning of the Senator. I do not wish to attribute to him words he has not used.

Mr. HOWARD. Of course I know that. If the Senator will pardon me, I believe the people, his people, my people, your people, sir, all loyal people will fight this battle to the bitter end, if that end is not reached until a quarter of a century shall pass. That is my opinion.

Mr. RICHARDSON. Why then all this talk about passing this bill? If you can get armies into the field what do you want to pass it for? You want to pass it for the purpose of getting armies. The proposition to pass the bill is the confession of the fact that you cannot get men without it. I suppose the Senator is in favor of passing this bill; and yet he says we can get plenty of men without it.

Mr. HOWARD. No; I did not say that.

Mr. RICHARDSON. Then I do not understand the Senator, and I do not think he understands himself. The President, the Secretary of War, the Provost Marshal General, urge this bill because you cannot get men without you draft them. The chairman of Military Affairs [Mr. WILSON] has said time and again that General Grant needs men. If you did not need men and could get them any other way except by draft you would not pass this bill.

Mr. LANE, of Kansas. We want to equalize the burden.

Mr. RICHARDSON. Mr. President, I must confess that I sometimes find it difficult to understand the views of gentlemen here. Some of them are so incomprehensible that I doubt whether they understand them themselves. The fact cannot be denied that you cannot this day get men except by draft by force, and gentlemen say the people are furious for war forever.

But, sir, I was drawn off into this episode. I trust it will not be an impertinent inquiry to ask when you do expect to end this war? You say you will not compromise; you will reject all compromise; you will receive no propositions. I know you assume that these people down South will not agree to any terms but independence. I remember in our own history that we said in 1844—and I was one of those who said so—talking to Great Britain about some little possession in the Northwest, we would have up to 54° 40' or fight, and fight forever; we never meant to give it up. But, sir, that was all settled without a fight. We said, during the progress of the war with Mexico, that we must have indemnity for the past and security for the future. I do not think we got either. If you will turn back to the history of nations everywhere you will find that they have said pretty much the same thing, and yet they have compromised. Lay your position firmly down that from the flag no star is to be stricken, from your domain no inch of soil is to be taken away; tell those people South amnesty for the past, the Constitution and Union is our proposition. Repeat at once your confiscation bills, withdraw your proclamation of emancipation, that amounts to no more legally than the last year's almanac; let us try it a while on that line and see if it will not bring peace, Union, happiness, concord, and prosperity to this nation now engaged in civil strife. Try that for three months and you will have no trouble about it.

Sir, you have tried it upon your line for three years; you have sent into the field armies as brave, as courageous, under leaders as skillful, as any the world has ever seen; but you have made but little progress; you are fighting to-day before Richmond. We have progressed about ninety miles. Your policy against a united people involves their destruction. That is what you have to accomplish. Sir, turn back in history, examine it, and tell me where it was that a people united, scattered over three thousand miles of country, with a population of eight millions, have been conquered in war.

Mr. President, I may be mistaken about it, but in my opinion we are going to lick you gentlemen tolerably comfortable in the presidential election. I believe it is for the benefit of the country, for the interest of the whole human race that we should have a change. I believe the people will think

so. When Mr. Lincoln entered the presidential chair and you into power in both Halls of Congress, the sun in its circuit of the earth had never seen such a country anywhere in any period of time. We could feed and fight the world. Wherever your flag floated upon the face of the earth, wherever the breeze of heaven unfurled it, it was honored and respected. No minister of ours was reduced to the sad condition of going with his hat in hand and telling the minister of a crowned head, "This is not the act of my whole Government." Sir, if we had been in power and reduced to that alternative we would have spoken to them through the cannon's mouth upon their own soil, upon ours, or wherever their flag was unfurled on land or sea.

Sir, what is our condition now? It is beyond all controversy that the policy of this Administration is a failure, and has ruined the country and burdened with taxation our people. I may be wrong, but I believe as firmly as I stand here to-day that another policy would have terminated this conflict, and placed us again, if not in as good condition as we were, certainly in an infinitely better position than we are in now.

Before I take my seat I desire to say that I intend to vote against the repeal of the commutation clause. The election of any other person this fall will render all such laws as this and all draft unnecessary, for no man in the land would or could be so mischievous as Mr. Lincoln has been to our cause and country. No other citizen could exhibit such weakness and such imbecility in the management of our affairs. The good of the country requires that we should relieve him from the responsible position that he now occupies. For one I shall do whatever in my power lies to help to relieve him from that position.

It has been sometimes said that Mr. Lincoln was sent to us as a great national blessing. The Almighty has been afflicting this land terribly for the last three or four years, and I do not know but what Mr. Lincoln is the instrument sent to punish us for our sins. No doubt we deserve it all. I shall try to get rid of him. I want him to come back to Illinois, where he can tell his jokes without injury. I am perfectly willing to hear him in the bar-rooms or the court-rooms. He is a very agreeable companion there, and perfectly harmless. But, sir, in great times like these the thoughts of the Chief Executive of the country should be turned upon something else than jokes and anecdotes. If we discharge our duty we can defeat him. We should defeat him for the good of our country, for common humanity. The memories of the past, the hopes of the future, the sad realities of the present all unite in the stern demand, turn the despot, the heartless joker out, leave him to commune with his own conscience as the most awful punishment that earth can give.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont, [Mr. COLLAMER.]

Mr. SPRAGUE. Let the amendment be reported.

The Secretary read the amendment, to strike out the first section of the bill after the enacting clause and to insert in lieu thereof:

That the thirteenth section of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, is hereby so amended that the sum to be paid by a drafted man to the Government for the procuration of a substitute shall not exceed \$500, instead of \$300.

Mr. SAULSBURY. I move that the Senate adjourn.

Several SENATORS. Oh, no, let us vote.

Mr. MORGAN. I call for the yeas and nays on the motion to adjourn.

Mr. SHERMAN. I suggest that it is not necessary to call for the yeas and nays. We can vote it down. I do not think anybody else wants to speak.

Mr. MORGAN. I will withdraw the call.

Mr. McDougall. I want to speak. I renew the call for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWE. I desire to state that I have paired off with the Senator from Indiana, [Mr. HENDRICKS,] who has been obliged to leave the Senate, and for that reason I desire to be excused from voting, except on the question of the pending amendment.

The question being taken by yeas and nays, resulted—yeas 7, nays 25, as follows:

YEAS.—Messrs. Buckalew, Carlile, Davis, Powell, Richardson, Riddle, and Saulsbury—7.

NAYS.—Messrs. Anthony, Brown, Chandler, Clark, Doolittle, Foot, Foster, Grimes, Harlan, Howard, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, Wade, Watkins—25.

ABSENT.—Messrs. Collamer, Conness, Cowan, Dixon, Fessenden, Hale, Harding, Harris, Henderson, Hendricks, Hicks, Howe, Johnson, Lane of Indiana, Nesmith, Sumner, and Wright—17.

So the Senate refused to adjourn.

Mr. FOOT. I am aware, sir, that the hour is late and that the body is weary and impatient of further debate upon this question to-night. I had intended at an earlier hour of the evening to have submitted some few remarks in response mainly to some suggestions made by the Senator from Kentucky, [Mr. Davis,] but I am not in the habit of detaining the Senate in debate at any time, especially at so unseasonable an hour as this, and if the Senate desires to take a vote now upon this question without further discussion, I will not detain them.

Mr. McDOUGALL. If the Senator will allow me, I will move an adjournment.

Mr. FOOT. I ask no adjournment and cannot consent to an adjournment for my accommodation. I shall detain the Senate but a few moments at the outside.

I do not rise for the purpose of speaking now upon the question directly before the Senate; that is, upon the question of commutation. I have already very briefly expressed my opinions on that question. I have no occasion to repeat them, and as yet no occasion to change them.

The Senator from Kentucky dilated at some length, and with much emphasis, upon the cost and the sacrifices of the war in which we are engaged; upon the afflictions, the wretchedness, and the woe that it was bringing upon the country; that the public mind had become tired and weary and in disgust at the manner in which the war had been conducted, and the object for which it was now conducted, all calculated, as it seemed to me, to disparage the war and to disaffect the public mind. It is true, Mr. President, it is but too sadly true, that our country is involved in war, in flagrant, bloody, civil war, but a war, nevertheless, into which it has been driven by the inevitable necessities of self-existence. It is a war of self-defense.

Mr. SPRAGUE. And self-preservation.

Mr. FOOT. It is a war of self-preservation, to repeat the suggestion of my friend. It is a war for the rescue and for the salvation of this Republic, and for the salvation of republican institutions and of republican liberty, against the assaults of a gigantic and causeless and unprovoked rebellion.

Shall we prosecute the war to its final issue, or shall we ignobly and ignominiously surrender our national life and our national being? That is the question before us to-night, Mr. President, and the American people have answered that question for themselves, and for you, and for me. The true and loyal people of the country have long since fully made up their minds upon this whole subject of the war and of the rebellion. They have taken their stand upon it. They have spoken their purpose in relation to it. They have proclaimed it in the face of the nations that this accursed rebellion shall die, and that this Republic of ours shall live, cost what it may: yea, more, as a necessary incident of the war, or, if you please rather to have it so, as an inevitable result of the rebellion and of the war for the suppression of the rebellion, the instigating cause and the sustaining power of the rebellion must die out with it, so as never to rise again to plague this people and to desolate this land of ours. To this great consummation—the suppression of the rebellion, the restoration of the Union, and the salvation of the Republic—the loyal people of our country, like the immortal authors of the Declaration of Independence, have consecrated their lives, their fortunes, and their sacred honor.

Though the trial may be long and severe, though the contest shall wax fiercer and hotter than ever before, though the cost and the sacrifice may be great indeed, it is to be borne in mind all the while that the stake at issue is far greater still. Sir, whatever may be the cost or whatever may be the sacrifice of saving your country, it will be in-

initely less than the cost and the sacrifice of losing your country. If the Republic be saved all else, comparatively speaking, is saved with it. If the Republic be lost all else of this world's goods or of this world's hopes, which are worth living for or worth dying for are lost with it, and lost irrecoverably and forever.

Senators may dilate upon and deplore as they may the cost and the sacrifices of the war. They may expatiate upon and pour out their lamentations over the miseries and the manifold horrors of the war. We concede it all. We have no controversy or disputation with them upon that question. But, sir, who caused it all? Who brought all this horror and misery of civil war upon our country? Who are responsible for this great iniquity that afflicts our land? Who are answerable for it before the tribunals of God and man? The Senator from Kentucky did not answer that question; he did not anticipate that question; he did not anticipate the answer to that question. Treason, rank, bold, audacious treason, plunged your country into all the horrors of civil war. Treason in its madness and in its blindness brought this great affliction upon your country, appealed to arms, fired the first gun, struck the first blow, and forced upon your country the terrible issues of civil war. It left us no other alternative except the still greater calamity of national abasement, of national dishonor, and of national degradation. It challenged us to the wager of battle. From necessity we accepted the issue. By that issue we abide. By that issue treason itself must abide, be the consequences what they may.

There can in the nature of things be no terms of settlement; there can be no terms of compromise; there can be no proffers of negotiation to traitors in arms against your assailed and betrayed country, short of their entire subjection, the complete overthrow of their military power, or their unconditional surrender and absolute and unqualified submission to the authority and the laws of the Government they have attempted to destroy, and with ample sureties for keeping the peace forever thereafter. Would you concede anything more? Would you concede anything less?

Talk of compromise on such a question! Talk of negotiation with such a foe at such a time and under such circumstances! Compromise! Compromise of what, pray tell me? Compromise of the question of our right to exist and to have a being as a nation? Compromise of the question whether we shall subdue the rebellion or whether the rebellion shall subdue us? Compromise of our right to life, liberty, and the pursuit of happiness? Compromise of the question of our right to self-existence and to self-protection as a nation upon the earth? Is that what you mean?

Negotiate! Negotiate with whom—in Heaven's name, with whom? Negotiate with armed traitors in the field who are seeking the life of the very Government that gave them birth and nourished them and brought them up? Negotiate with armed assassins who are seeking to cut your throat, who demand your life or your inheritance? Negotiate with an enemy who spurns and laughs to scorn your every suggestion of settlement? The very consideration of such a proposition at the present time and under the existing condition of things is derogatory, is abhorrent to every loyal and manly and independent and patriotic mind.

Mr. President, there is but one plain and palatable course for us, and that is to prosecute the war with all the vigor and with all the energy and by all the means that God and nature have placed in our hands, and within the recognized limits of civilized warfare to put down this rebellion. Sir, this Republic must conquer the rebellion or the rebellion will conquer this Republic, and there is no other alternative. Trusting that the God of battles, through the agency and the instrumentality of our gallant and heroic officers and men now fighting in the field for the cause of the Union and of free republican government, will soon crown our arms with triumph and give us victory and peace, we wait in patience, we wait in hope and in confidence, the final issue of the contest.

Never despair of the Republic. This rebellion must be put down. This Union must be restored. This Republic of ours, with all its promises and with all its hopes for the future and for the world, must be saved. I repeat, this monster rebellion must be put down; this foul conspiracy against the

life of the best and the most beneficent Government the world has ever seen must be crushed out. We are not at liberty to doubt about it; we are not at liberty to speculate about it; I had almost said we were not at liberty to debate about it. It is simply and only a thing to be done, to be done at all events, to be done at all hazards, to be done at all sacrifices. If more men are wanted to save the Government more men will be had. If more men are needed, whether it be one hundred thousand or two hundred thousand or five hundred thousand to save this Republic of ours, my life upon it, you have only to make that necessity known and they will not be found wanting in the day of their country's peril. They will be prompt to answer the call. They are not yet willing nor yet prepared to give up this Government.

I will speak for my own State; a small and unpretentious State, small in territory, small in population, but large in the spirit of patriotism as the expanse of this Republic, with a courage and fortitude and a fidelity as firm and as immovable as the foundations of her own everlasting hills. Though she has already paid her sacrifice of blood in full measure to the demon of this rebellion, yet if more of her sons are wanted, if the exigencies of the country require it, I, who know them well and whose life-long has been spent among them, tell you the call is only to come, the summons to arms only to reach them, and every man of them capable of bearing arms, if need be, will be prompt to leave his farm, his workshop, his home, his household, and make haste to the red fields of war; yea, and every mother will make haste to lay her last son in the prime and the strength of his early manhood upon the altar of her country's sacrifice, sooner than see the bright orb of this Republic go down in perpetual darkness and night.

That, sir, is the spirit of the green mountain State. That is the spirit of the loyal people of every State in this Union. That is the spirit and that is the determination that is to put down this rebellion, that is to restore this Union, that is to save this Republic; and it is therefore that I say again, this Republic will be saved. Such is my faith, such is my reliance upon the loyalty, upon the patriotism, upon the valor, upon the fidelity, upon the self-sacrificing endurance, and above all upon the unconquerable will and the undying purpose of my fellow-countrymen. Though long and severe and terrible may be the ordeal, yet, God helping them, I believe the strength of the American people will prove equal to the task—that the virtue of the American people will prove equal to this great trial.

Sir, I will detain you no longer. This Republic must be saved, and twenty million responsive voices give back the answer, "This Republic of ours shall be saved."

Mr. SPRAGUE. I have no doubt that almost every Senator believes every word that has been uttered by my honorable friend from Vermont, and I therefore move that the Senate do now adjourn.

The motion was not agreed to.

Mr. McDOUGALL. I have been more than pleased, I have been edified by the old Roman talk that I have heard from the Senator from Vermont, worthy of his experience, worthy of his years, and of his high and well-known character. But, sir, while I indorse all those noble old Roman sentiments that he has so well pronounced, and I know has so strongly felt, I cannot concur with him in his conclusions. I concur with him in the heart of what he says, in the spirit of what he says, and in the will to do all that he would himself, and yet I am compelled to express the opinion that the philosophy of the doctrine which is involved in his conclusions is, in my judgment, altogether unsound. Sir, if we were old Romans or old Greeks, or men of the Republic as it was in 1776 and incarnated in 1787, we would not ask for additional commutation. It is the evil of the whole course of our policy with regard to this war; and I protest again, humble as my opinion may be, or as my judgment may be, or as my position may be as against the Senator from Vermont, that we make a grave mistake in supposing that the citizens of the Republic should be purchased to go into the field.

This is a proposition to increase the price of commutation. We forget the law that lies at the foundation of republican institutions. I do not

propose to discuss the question; and I shall not dare myself to undertake to rebuke the very able and long-experienced Senator who represents the green hills of Vermont. He is always able to teach me, and I bow my head to him for instruction. But, sir, I trust that we shall get back to the true principles upon which armies should be organized, and upon which a republican people should be put into the field of battle. I am confident that I am right on this point, or otherwise I should not be so persistent in repeating my convictions. We should not undertake to carry on war upon the principle involved in the proposed amendment; and if we do not learn it to-day or to-night, if we do not learn it this year, if we do not learn it next year, it will be compelled into our recognition by the experience of years.

I was as highly pleased with the discourse of the Senator from Vermont as by anything I have heard this session. I think it has somewhat elevated my own feelings of patriotism. As regards everything he has said in the form of general remark and appeals to the high sense of the Senate and the American people, I would be proud could I have expressed myself so well and said what I thought in the same form of language. But, sir, I insist, and it will come to be the conviction yet, that it is not the paying of large sums to bring men into the field that will accomplish victory. We commenced with a grave error, and we have got to retrieve that error before we shall be able to establish ourselves perfectly as a strong, commanding power as between ourselves and our adversaries.

Mr. SAULSBURY. I shall detain the Senate for but a few moments. I am not going into any political discussion, or to say who was or who was not the cause of this war, or the terms upon which it can be settled. I rise simply to say a word in reference to the amendment proposed by the honorable Senator from Vermont. As I understand, that amendment proposes to increase the commutation money from \$300 to \$500, and to reduce the term of service from three years to one year.

Mr. FOOT. Let me correct my friend, as my colleague is absent. It is not an absolute sum fixed. It leaves it discretionary with the Department.

Mr. SAULSBURY. Then it is reasonable to presume that the Department, being extremely anxious to obtain men, will fix the rate of commutation at the highest sum, the sum of \$500. In my judgment this is equivalent to saying there shall be no commutation; because where there is one man who is able to pay \$500 commutation money for one year there are fifty who are not able of the class who would be bound. The adoption of this amendment, therefore, is equivalent to saying to the young men of this country who are willing to pay their money in order that substitutes may be obtained, "You shall go into battle; there is no escape."

If I were governed simply by party considerations, and wanted a measure to pass this body simply from party considerations, I should rejoice at the passage of this bill by the dominant party, simply because I believe as firmly as I believe I exist that no Administration who is responsible for the adoption of such a measure as this can possibly meet with public approval in the presidential election; but while I would be most glad to see hurled from power never to return to it those who administer the Government, I cannot allow mere partisan considerations to influence my vote.

I know, sir, that in my own State there are hundreds of young men who are liable to this draft, who are opposed to going into this war, who wish to live in peace and quiet at home, who are willing to sell everything they have got on earth to contribute the money to exempt them from a draft, yet who will ever be unable to raise this amount of money. I believe there are hundreds and thousands of men in this country who will die on their own thresholds before they will ever by the strong arm of power be dragged from their quiet homes simply because they are not able to raise the amount of money which unreasonable legislation imposes upon them.

Now, Mr. President, if it be true, as has been said by the honorable Senator from Vermont, that the loyal people of this country have made up their minds to fight out this war to the bitter

end, if it be true that they have made up their minds to respond to every call which may be made upon them, whence the necessity and why the necessity for this draft? Why be so unreasonable as to fix the price of commutation so high that nineteen twentieths of the men subject to draft will not be able to pay it? Mock them not, sir; you might just as well say at once that every man shall go to the field of battle who is summoned to go. I trust, not only for the benefit of those in whom I am more immediately interested, the people of my own State, but for the peace and harmony of the country, for the purpose of avoiding scenes at which the imagination becomes appalled, that the Senate will neither make the commutation so high that those to be affected by the draft cannot pay it, nor strike out the commutation clause. If your draft is but for a year, \$300 is a very exorbitant price to pay. I have seen the young men in my own State, in the county in which I live, sell the last thing they had on earth, and then call upon their friends, going around with subscription papers to get their friends to contribute their mite to relieve them from going to war even by paying the sum of \$300. I have had mothers come into my office, with tears in their eyes, begging that the humane portion of the community might save to them their only boy. Nobody who does not mingle with the people can tell the amount of suffering and agony that are endured by the parents of this land in the humbler walks of life, when it is proclaimed by the provost marshals that a draft is to be made.

Sir, I invoke the Senate by all the considerations that can move the generous heart and stir the warm generous blood, crush not the last hope of the young man just entering upon the theater of life who desires to spend his days under the paternal roof; drag not away from the agonized mother and the heart-stricken father their only boy, simply because in the providence of God and from the misfortunes of life they are not able to raise the amount which the rich man may well afford to give. In the midst of this desolating war, for almost every house is clothed in mourning and almost every eye is bathed in tears, add not to the moan of the heart-stricken; cause not an additional flood of tears. If for the noble purpose indicated by the honorable Senator from Vermont, the preservation of the Union of these States, in the judgment of those who have the management of political affairs it be necessary to continue this most fratricidal war, mix with the cup of bitterness as much of comfort as you can.

Sir, the speech of the honorable Senator from Vermont awakened in my mind many thoughts and caused it to revert to the history of the past. The speech made by the honorable Senator, with a change of name, a change of date, and a change of theater, was made nearly a hundred years ago. The Parliament of Great Britain rang with such utterances: "No compromise with traitors," "nothing but absolute obedience, perfect acquiescence in the will of the Government;" "the war against the colonies must be fought out to maintain the dignity, the character, and the renown of the British Government." "It would be degradation and humiliation," said the lords and commons, in obedience to the wishes of the king, "to have compromise with rebels;" and then as now the cry was, "Prosecute the war for the preservation of the integrity of the Government;" and yet, in the course of a very short time, taught by the sad lessons of experience, but not half so powerfully or instructively taught as we have been by the awful slaughter and by the dire calamities of this war, even the king upon his throne, and the lords and commons in their Parliament house, sent their propositions of peace if the errant colonies would return. Let me tell honorable Senators to-night that every general you have in the field may continue to fight the battle on this line not only during all the summer, but many coming summers, and unless the teachings of history be a lie you will be no nearer the end upon the policy you are pursuing of "no compromise with rebels and traitors," "no terms to be proposed and no terms to be received," than you were in the beginning. To use the language of another, "Tell me, thou reverend chronicler of the grave, tell me, voice of history, upon what page of your recorded annals is written the example of twelve million people, scattered over a territory of such vast extent, which have ever been subdued, which

have ever been conquered when the cry has been 'war, no compromise,' when the alternative presented has been 'submission with the loss of property and life also,' or the other alternative of 'fighting for your property and your life with the chance of securing both.'" Sir, I know that the utterances of one so humble as myself and of those entertaining similar notions cannot influence legislation here; but the time will come, and those of us who shall be alive to witness it will see the day, when this policy of a vigorous prosecution of the war and summoning reluctant men from their homes to go to the bloody field of strife, and discarding all other means whether as independent or assistant to the obtaining of peaceful results will prove to have been an error; and if a dismembered empire shall be the awful price you pay, if the disintegration of the greatest, the mightiest, and the freest Republic that ever existed shall be the dread price of your legislative and executive folly, when you open your eyes to the dread reality, (which will come if the teachings and lessons of history be true,) say not to us who asked you to profit by those teachings and to learn those lessons that the fault was ours; but in the quietude of your own homes, amid the wreck of constitutional liberty, and a once proud, great, and mighty empire, reflect that you spurned the warning voice of reason, that you imputed improper motives to those who vainly endeavored to persuade you from the suicidal course, and that you, and you alone, have been the authors of a nation's destruction.

Mr. HOWARD. I desire to say one word—

Several SENATORS. No, no; let us vote.

Mr. SHERMAN. If a member of the majority wishes to speak, I will move an adjournment.

Mr. HOWARD. I will take my seat.

Mr. SHERMAN. I withdraw my motion, then; but I will renew it if our own friends seek to consume time.

Mr. HOWARD. Allow me to state that I did desire to say a word in reply to the imputations of the Senator from Delaware against the Union party in this Senate.

Several SENATORS. Some other time.

Mr. HOWARD. Very well.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Vermont, [Mr. COLLAMER.]

The amendment was rejected.

Mr. GRIMES. I now offer as an additional section to this bill the third section of the printed amendment of the Senator from Vermont:

And be it further enacted, That the number of men furnished from any district for the service of the United States beyond and above its quota on calls heretofore made, and the term of service of such men, shall be considered and allowed to said district in calls hereafter made.

The amendment was agreed to.

Mr. WILSON. I send to the Chair an amendment as an additional section.

The amendment was read, as follows:

Sec. — And be it further enacted, That any persons, resident in the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, or Arkansas, who may voluntarily enlist in the military service of the United States for the term of three years or during the war, shall be entitled to the benefits and privileges of existing laws, and such persons shall be mustered into the regiments, or other organizations, of whatsoever State they may elect, or, in the case of colored troops, shall be assigned as now provided by law. And the States, or subdivisions of States, procuring such enlistments, shall receive credit for such persons, in accordance with the laws in other cases; but such enlistments are authorized in any State, under the provisions of this act, shall only continue until such State shall have been made subject to a call for troops.

["No," "No."]

Mr. WILSON. I will not press the amendment, as I see it is distasteful to the Senate, and there is a desire to take a vote on the bill to-night, but I understand that the House of Representatives are determined to put this provision on any bill they pass. I withdraw the amendment.

Mr. GRIMES. I offer as an additional section to this bill the fifth section of the printed amendment proposed by the Senator from Vermont, as follows:

And be it further enacted, That no person drafted on future calls or who shall volunteer to fill the same shall be liable to be again drafted until the existing enrollment shall be exhausted.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time. On its passage,

Mr. BUCKALEW called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 7; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Doolittle, Foot, Foster, Grimes, Harlan, Howard, Howe, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—24.

NAYS—Messrs. Buckalew, Carlile, McDougall, Powell, Richardson, Riddle, and Sausbury—7.

ABSENT—Messrs. Collamer, Conness, Cowan, Davis, Dixon, Fessenden, Hale, Harding, Harris, Henderson, Hendricks, Hicks, Johnson, Lane of Indiana, Morrill, Nesmith, Sumner, and Wright—18.

So the bill was passed.

On motion of Mr. MORGAN, its title was amended by adding the words "and for other purposes."

On motion of Mr. WILSON,

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, June 23, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

YOUNG MEN'S CHRISTIAN ASSOCIATION.

Mr. STEELE, of New York, by unanimous consent, reported back from the Committee for the District of Columbia House bill No. 537, to incorporate the Young Men's Christian Association of the city of Washington.

The bill was read at length.

The bill was ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, and passed.

Mr. STEELE, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COLFAX STREET.

Mr. STEELE, of New York, also, from the Committee for the District of Columbia, by unanimous consent, reported a bill to establish Colfax street in the city of Washington and District of Columbia; which was read a first and second time.

Mr. COX. There is no objection to that bill, Mr. Speaker, none whatever. [Laughter.]

Mr. STEELE, of New York. I will simply say that the bill only changes an alley to a street.

The bill was ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, and passed.

Mr. STEELE, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WASHINGTON PUBLIC SCHOOLS.

On motion of Mr. PATTERSON, by unanimous consent, Senate bill No. 26, to provide for the public instruction of youth in the county of Washington and District of Columbia, was taken from the Speaker's table.

The amendment of the Senate to the amendment of the House, striking out the clause which makes provision for the payment of compensation to school commissioners, was agreed to.

Mr. PATTERSON moved to reconsider the vote by which the amendment of the Senate to the amendment of the House was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CORRECTION OF AWARD.

Mr. PATTERSON. I ask the consent of the House to report from the Committee for the District of Columbia a joint resolution amending the award of the commissioners under the act of the 16th of April, 1862, entitled "An act for the release of certain persons held to service or labor in the District of Columbia," in the case of Nicholas Bowie, claiming for Martha Manning. The object of the joint resolution is simply to correct a clerical error and make the payment correspond

with what was really the award of the commissioners.

There being no objection, the joint resolution was introduced and read a first and second time.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PATTERSON moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SALARIES OF JUDGES OF SLAVE TRADE COURT.

Mr. COX asked unanimous consent to report from the Committee on Foreign Affairs a bill to increase the salaries of the judges and arbitrator of the mixed court under the treaty with Great Britain for the suppression of the slave trade.

Mr. HOLMAN objected.

OREGON LAND GRANT.

Mr. SLOAN, by unanimous consent, from the Committee on Public Lands, reported back Senate bill No. 279, to amend the act of Congress making donations to settlers on the public lands in Oregon, approved September 27, 1850, and the acts amendatory thereof.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. SLOAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PATENT LAWS.

Mr. CHANLER, by unanimous consent, from the Committee on Patents, reported back Senate bill No. 162, amendatory of an act to amend an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863; which was read a first and second time.

The bill provides that any person having an interest in an invention, whether as the inventor or assignee, for which a patent was ordered to issue upon the payment of the final fee, as provided in section three of an act approved March 3, 1863, but who has failed to make payment of the final fee as provided by that act, shall have the right to make the payment of the fee, and receive the patent withheld on account of the non-payment of the fee, provided payment be made within six months from the date of the passage of the act; and provided that nothing therein shall be so construed as to hold responsible in damages any persons who have manufactured or used any article or thing for which a patent was ordered to be issued.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. CHANLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WASHINGTON LEVY COURT.

On motion of Mr. DAVIS, of New York, the House took from the Speaker's table Senate bill No. 115, for the proper organization of the levy court of the county of Washington, in the District of Columbia; which was read a first and second time.

The bill provides that the first clause of the third section of the act to define the powers and duties of the levy court of the county of Washington, District of Columbia, in regard to roads, and for other purposes, be amended so as to read as follows:

That the said court shall have the care and charge of and the exclusive jurisdiction over all the public roads and bridges in said county, except such roads and bridges as belong to and are under the care of the United States, and except such roads and bridges as shall have been or may hereafter be specially provided for by Congress. And the said court shall have power and it shall be their duty.

That the tenth section be amended by striking out the words "thirty-first" and inserting the word "thirtieth;" that all cemeteries in the District of Columbia, outside of the cities of Washington and Georgetown, the owners of which sell lots or burial rights therein indiscriminately to those applying therefor, shall be assessed and taxed as other property in the same parts of the District; provided that all lots in cemeteries, when

actually sold for burial purposes; and any cemetery held and owned by a religious society, having a regular and known place of worship, shall be exempt from taxation; that hereafter the court shall have power and it shall be their duty to appoint the county surveyor of the county of Washington, to define his duties from time to time, to fix his compensation, and to remove him whenever they shall deem it proper so to do; that it shall be the duty of the collector of taxes for the county, whenever the owner or keeper of any dog shall neglect or refuse to pay the tax thereon, to kill or cause to be killed every such dog; that the time specified by the act of February 21, 1863, within which certain roads in the county shall be surveyed, platted, and recorded, be extended to three years from July 1, 1865; that the court shall have power to issue, classify, and tax licenses for taverns, hotels, and restaurants, and for retailing goods, wares, and merchandise in the county, in proportion to the amount of business the person applying for a license is likely to do; the maximum sum to be charged for any one license not to exceed \$250, and the minimum to be so charged not to be less than \$2; and that all laws and parts of laws inconsistent with the act be repealed.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DAVIS, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

POTOMAC FERRY COMPANY.

Mr. MORRIS, of Ohio, moved to take from the Speaker's table Senate bill No. 298, to incorporate the Potomac Ferry Company.

Mr. ALLEY objected.

COLORED CATHOLIC BENEVOLENT SOCIETY.

Mr. TRACY, by unanimous consent, from the Committee for the District of Columbia, reported a bill to incorporate the Colored Catholic Benevolent Society; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TRACY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAYMENT OF BOUNTIES.

Mr. TRACY. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Military Affairs be, and they are hereby, instructed to inquire into the justice and propriety of providing by the immediate enactment of a law for the payment to soldiers who volunteered for a term less than three years and not less than nine months, and who have died or may hereafter die in the military service of the United States in the line of their duty, the same bounty as is now allowed by existing laws to soldiers who volunteered for three years; and report by bill or otherwise.

Mr. FENTON. The Committee on Military Affairs have been already instructed on this subject, but I do not object.

The resolution was adopted.

HUDSON'S BAY COMPANY, ETC.

Mr. ORTH. I ask unanimous consent to report back from the Committee on Foreign Affairs Senate bill No. 187, to carry into effect the treaty between the United States and her Britannic Majesty for the final settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Companies.

Mr. HOLMAN. What are the salaries to be paid to the umpire and commissioner?

Mr. ORTH. Five thousand dollars each.

Mr. HOLMAN. I object unless the salary for each is reduced to \$4,000.

Mr. ORTH. The committee tried to reduce it, and they were unanimous in fixing it at this rate. This is necessary to carry out the provisions of existing treaties.

Mr. HOLMAN. Four thousand dollars is all that we have heretofore paid for like services; and these officers also have their personal expenses paid. I object.

THE SLAVE TRADE.

Mr. COX, by unanimous consent, from the Committee on Foreign Affairs, reported a bill to

increase the salaries of judges and arbitrators of the mixed court under the treaty with Great Britain for the suppression of the slave trade; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. COX moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to:

Mr. COLE, of California. I call for the regular order of business.

Mr. WASHBURN, of Illinois. I believe the regular order is the naval bill.

The SPEAKER. It is the Pacific railroad bill until it is disposed of, and then the naval bill.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate have passed a joint resolution and bills of this House of the following titles:

Joint resolution (No. 95) authorizing the Secretary of the Navy to amend the contract with John Ericsson for the construction of two impregnable floating batteries, the Dictator and the Puritan; and

An act (No. 453) to increase the pension of Isaac Allen.

Also, the Senate have passed an act (H. R. No. 466) for the relief of Martha Jane Skaggs; and an act (H. R. No. 470) to authorize assimilated rank to be given to the warrant officers of the United States Navy, and for other purposes; severally with amendments; in which the concurrence of the House was requested.

That the Senate have also passed joint resolutions and bills of the following titles; in which the concurrence of the House was requested:

Joint resolution (No. 50) for the relief of the contractors for the machinery of the side-wheel gunboats known as "double-enders;"

Joint resolution (No. 70) to authorize the acquisition of certain land for the use of the Government hospital for the insane;

Joint resolution (No. 69) regulating the investment of the naval pension fund;

An act (No. 303) for the relief of Charles A. Hichborn;

An act (No. 308) repealing so much of "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864, and for other purposes," approved March 14, 1864, as appropriates \$25,000 for erecting a naval hospital at Kittery, Maine;

An act (No. 299) authorizing the levy court of Washington county, in the District of Columbia, to levy and collect its portion of the direct tax imposed by the act of Congress of August 5, 1861;

An act (No. 301) for the sale of a lot of land in Iowa in the Fort Crawford reservation;

An act (No. 324) prescribing the punishment for enticing and aiding seamen to desert the naval service of the United States;

An act (No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service; and

An act (No. 190) to establish a navy-yard and depot at Cairo, in the State of Illinois.

WAYS AND MEANS.

Mr. HOOPER. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the loan bill.

The question was put; and no quorum voted.

The SPEAKER ordered tellers; and appointed Mr. COLE, of California, and Mr. J. C. ALLEN.

The House divided; and the tellers reported—ayes 88, noes 10.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the bill (H. R. No. 540) to provide ways and means for the support of the Government, and for other purposes.

The CHAIRMAN. The pending question is on the amendment offered by the gentleman from New York [Mr. POMEROY] to the second section of the bill. The Chair is informed that the amendment under direction of the House yesterday was sent to the printer, and has not yet been

returned. If there be no objection, the second section will be passed over informally until the amendment is returned.

There was no objection.

The third section was read, as follows:

Sec. 3. *And be it further enacted*, That the interest on all bonds heretofore issued, payable annually, may be paid semi-annually; and in lieu of such bonds authorized to be issued, the Secretary of the Treasury may issue bonds bearing interest, payable semi-annually. And he may also issue in exchange for Treasury notes heretofore issued bearing seven and three tenths per cent. interest, besides the six per cent. bonds heretofore authorized, like bonds of all the denominations in which such Treasury notes have been issued; and the interest on such Treasury notes after maturity shall be paid in lawful money, and they may be exchanged for such bonds at any time within three months from the date of notice of redemption by the Secretary of the Treasury, after which the interest on such Treasury notes shall cease. And so much of the law approved March 3, 1864, as limits the loan authorized therein to the current fiscal year, is hereby repealed; and the authority of the Secretary of the Treasury to borrow money and issue therefor bonds or notes conferred by the first section of the act of March 3, 1865, entitled "An act to provide ways and means for the support of the Government," shall cease on and after the passage of this act.

Mr. BROOKS. I move to amend that section by striking out the words "and so much of the law approved March 3, 1864, as limits the loan authorized therein to the current fiscal year is hereby repealed." I move the amendment to enable me to say that the Secretary of the Treasury has laid on our tables, or somebody in his name has, a statement of the amount of the public debt June 14, 1864, and from that I have been able to compile exactly the amount of loans proposed by this bill. It is important that the public should understand it, and therefore I state it. The first section of this bill appropriates \$400,000,000. In the lines to which I am directing attention two other appropriations or loans are made, if I may so speak. Under the \$200,000,000 loan which passed March 3, 1864, \$155,760,750 are yet unused; and of the temporary loan of \$150,000,000, in the fourth section of the bill, \$65,598,501 have been thus borrowed, leaving to be borrowed \$84,401,499. The bill, therefore, provides for exactly \$614,162,249. The gentleman from Massachusetts and myself had some misunderstanding about this matter yesterday, but these are the precise facts. I withdraw my amendment.

Mr. HOOPER. I move to amend the fourth section by striking out in line four the words "one hundred" and inserting "fifty" in lieu thereof; so that the section will read:

Sec. 4. *And be it further enacted*, That the Secretary of the Treasury may authorize the receipt, as a temporary loan, of United States notes or the notes of national banking associations on deposit for not less than thirty days, in sums not less than fifty dollars, by any of the Assistant Treasurers of the United States, or depositaries designated for that purpose, other than national banking associations, who shall issue certificates of deposit in such form as the Secretary of the Treasury shall prescribe, bearing interest not exceeding six per cent. annually, and payable at any time after the term of deposit, and after ten days' subsequent notice, unless time and notice be waived by the Secretary of the Treasury, &c.

The object is to allow smaller sums to be received.

The amendment was agreed to.

Mr. BROOKS. It is provided in the fifth section "that the Secretary of the Treasury may issue notes for the fractions of a dollar as now used for currency," &c. Is it meant by that that he may issue notes for \$1 25 and \$1 50?

Mr. HOOPER. There is a law which prohibits the issuing of any such fractional notes.

Mr. BROOKS. But this law gives him the power.

Mr. HOOPER. There are no such notes issued now, either by the Government or by the banks.

Mr. BROOKS. I think there are some issued by the State banks.

Mr. HOOPER. I think not; certainly none by the Government.

Mr. BROOKS. What I want to understand is whether this provision authorizes the issue of notes for \$1 25 and \$1 50.

Mr. HOOPER. No, sir.

Mr. BROOKS. I move to amend section six by inserting after the word "Secretary," in the ninth line, the words "in a room set apart especially and exclusively for that purpose under the care of some person appointed directly by him;" so that the section will read:

Sec. 6. *And be it further enacted*, That the coupon and

registered bonds shall be in such form and bear such inscriptions as the Secretary of the Treasury may direct, and shall be signed by the Register of the Treasury, or for the Register, by such person or persons as may be specially designated for that purpose by the Secretary of the Treasury, and shall bear, as evidence of lawful issue, the imprint of the seal of the Treasury Department, to be made under the direction of the Secretary, in a room set apart especially and exclusively for that purpose under the care of some person appointed directly by him, &c.

My object in offering this amendment is to rescue the red seal of the Treasury from the printing department of the Treasury. It may not be known to all the members of the House that the whole of these interest-bearing notes are printed in the Treasury Department. The name of the Treasurer, Mr. Spinner, is not written by Mr. Spinner, but printed in the Treasury. The name of Mr. Chittenden is not written by him, but printed in the Treasury building. Indeed, the ten dollar bill which I hold in my hand is manufactured exclusively in the Treasury printing office. The red seal, which was the last guard and protection which the public had, is affixed by print in the very heart and bosom of the printing office in the Treasury. The object of my amendment is to take that red seal from the printing office of the Treasury and place it in a room exclusively set apart for that purpose, under the direct control of an appointee of the Secretary of the Treasury. I do not see any objection that there can be made to the amendment. It will be a great guard to the Treasury, and I hope it will receive the support of both sides of the House.

Mr. HOOPER. I doubt whether that amendment is necessary. It appears to me that the mere offering of the amendment will be sufficient. We have confidence in the Secretary of the Treasury that he will do whatever is necessary to prevent the possibility of any fraud of this character. I doubt the propriety of the House prescribing such a provision as this.

Mr. PRICE. I would ask whether the Secretary of the Treasury ever sees these notes?

Mr. BROOKS. Never, never.

Mr. PRICE. I think there ought to be some check, some guard.

Mr. HOOPER. I have confidence that the Secretary of the Treasury will furnish all necessary checks, and he can do it better than this House can.

Mr. ASHLEY. I trust the amendment will be adopted.

The amendment was agreed to.

Mr. BROOKS. I desire to call attention to this clause of the sixth section:

And the coupons attached to such bonds shall bear the engraved signature of the Register of the Treasury, and such other device or safeguard against counterfeiting as the Secretary may approve; and it is hereby declared that all bonds heretofore issued, bearing the signature of the Register, shall have the same force, effect, and validity as if signed also by the Treasurer, and all bonds bearing the signature of the Register, erroneously described as Treasurer of the United States, shall have the same force, validity, and effect as if his official designation had been correctly stated.

I wish the gentleman who reported this bill would tell me what is the use of that phrase "erroneously described as Treasurer of the United States."

Mr. HOOPER. I understand that there were a number of bonds issued on which the name of the Treasurer of the United States was put in the place where the Register of the Treasury had been in the habit of signing his name. The Register signed those bonds over the printed signature of the Treasurer of the United States. The mistake was not discovered until the bonds had been issued, and the object of this provision is to make that signature legal.

Mr. BROOKS. The explanation is perfectly satisfactory, and this proposed legislation is wise and just; but this illustrates the necessity of the utmost care in the printing of the public money. We are called upon here to correct by public statute an error of the printer. The correction is indispensably necessary.

Mr. HOOPER. Not an error of the printer. The printing was correct, but this signature was written in the wrong place.

Mr. BROOKS. Yes, sir; an error of the printer. The name of Mr. Chittenden was printed in the wrong place.

Mr. HOOPER. The signatures upon these bonds are written.

Mr. BROOKS. No, sir, not a signature is written; they are all printed.

Mr. HOOPER. I understand differently. The printing was correct; but the Register signed his name where the Treasurer should have signed his.

Mr. BROOKS. In order to make the amendment perfect there should be added the words "as before directed."

Mr. HOOPER. There is no objection to that. The amendment was adopted.

Mr. HOOPER moved to amend section eight by inserting in the twelfth line, before the word "issues," the words "or equivalent;" so as to make the amendment read:

Sec. 7. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to issue, upon such terms and under such regulations as he may from time to time prescribe, registered bonds in exchange for, and in lieu of, any coupon bonds which have been or may hereafter be lawfully issued; such registered bonds to be similar in all respects to the registered bonds issued under the acts authorizing the issue of the coupon bonds offered for exchange. And for all mutilated, defaced, or indorsed coupon or other bonds presented to the Department, the Secretary of the Treasury is authorized to issue, upon such terms and under regulations as aforesaid, and in substitution therefor, other bonds of like or equivalent issues.

The amendment was agreed to.

Mr. HOOPER. I move to amend the eighth section by inserting after the word "due" the words "or presented for conversion under any act of Congress."

The amendment was adopted.

Mr. HOOPER. I move to amend further in the same section by inserting in the fifth line, after the word "corporations," the words "other than the person or corporation."

The motion was adopted.

Mr. HOOPER. I move to amend further the same section by inserting in the eighteenth line, after the word "indebtedness," the words "or direct the conversion of the same if convertible."

The amendment was adopted.

The section, as amended, reads:

Sec. 8. *And be it further enacted*, That whenever any bond, Treasury note, or certificate of indebtedness of the United States which shall be presented to the Secretary of the Treasury for payment, being due or presented for conversion under any act of Congress, shall be or shall have been claimed by any person or corporation other than the person or corporation in whose possession the same shall be, by filing a caveat with the Secretary of the Treasury against the payment of the same, the Secretary of the Treasury shall notify such claimant in writing of the fact of such presentation and require him within a reasonable time, to be prescribed by the Secretary of the Treasury, to commence proceedings for the adjudication of the claim before some court of competent jurisdiction, and to transmit a duly certified copy of the bill or complaint to the Secretary of the Treasury. And in case of the failure of such claimant to comply with such requirement, the Secretary of the Treasury shall make payment to the party in possession of and presenting such bond, Treasury note, or certificate of indebtedness, or direct the conversion of the same if convertible, as though no such contesting claim had been made or caveat filed. But this act shall not be construed to compel the Secretary of the Treasury to suspend the payment of coupons detached from bonds by whomsoever presented.

Mr. KERNAN. I will suggest that there should be an amendment in the twelfth line. The bill provides very properly that the person who makes claim for a bond outstanding which he may present, against which payment protest has been made, as I suppose, on the ground that it has been stolen or fraudulently obtained, "shall be required within a reasonable time, to be prescribed by the Secretary of the Treasury, to commence proceedings for the adjudication of the claim before some court of competent jurisdiction, and to transmit a duly certified copy of the bill or complaint to the Secretary of the Treasury." Now, I think there should be inserted after the word "jurisdiction," and I move to insert the words, "and to give satisfactory security to pay any damages occasioned by delay of payment and costs of suit." I think that should be made in order to prevent persons from making fictitious claims from malicious motives to prevent the payment of sums properly due.

The amendment was agreed to.

Section ten was read, as follows:

Sec. 10. *And be it further enacted*, That the necessary expenses of engraving, printing, preparing, and issuing the United States notes, Treasury notes, fractional notes, and bonds, hereby authorized, and of disposing of the same to subscribers and purchasers, shall be paid out of any money in the Treasury not otherwise appropriated; but the whole amount thereof shall not exceed one per cent. on the amount of notes and bonds issued.

Mr. BROOKS. I wish to call the attention of the honorable gentleman from Massachusetts to the last clause of that section, which says that the

whole amount to be paid for the printing of these bonds shall not exceed one per cent. upon the whole amount issued. I think the gentleman from Massachusetts is a little at a loss in his figures here. One per cent. upon \$400,000,000 would be \$4,000,000, or for the \$600,000,000 which in the aggregate is provided for in the bill, there is an amount of \$6,000,000 set apart to pay the cost of printing. Now, I can hardly believe the gentleman intended to set apart so large a sum for that purpose.

Mr. HOOPER. That is as it came from the Department. I had not particularly examined that clause.

Mr. BROOKS. I hope the gentleman will move to reduce the percentage, and will give me the credit of being a useful watch-dog of the Treasury.

Mr. HOOPER. I will then move to strike out the latter clause of the section altogether and leave it at the discretion of the Secretary of the Treasury.

Mr. BROOKS. Oh, no; I hope not. Whatever confidence I may have in the Secretary of the Treasury I would prefer that there should be some limit to these expenses.

Mr. HOOPER. On looking further at the section I will withdraw my amendment altogether. I see that it provides for not only the expenses but all costs of issue and sale, which may amount to perhaps one per cent. I understood the gentleman from New York to say that it was for printing only, and I made my proposition rather upon the gentleman's statement instead of reading the section itself.

Mr. BROOKS. Mr. Chairman, this becomes a most serious matter, and I call the attention of the House to it. The other day in an appropriation bill we appropriated \$440,000, in the very last appropriation bill which went through this House, for the printing of public money. I thought that that sum would be sufficient, but here in this section turns up a provision for the necessary expenses of engraving, printing, preparing, and issuing the United States notes, Treasury notes, fractional notes, and bonds, the whole amount whereof is not to exceed one per cent. on the amount of notes and bonds issued. I repeat that there are \$400,000,000 of bonds to be issued under this bill; there are \$425,760,750 to be issued under the third section of this act; and \$84,401,499 to be appropriated as payment of the temporary loan of \$150,000,000. For issuing those we put at the disposition of the Secretary of the Treasury \$6,000,000; for printing Treasury notes one per cent. upon \$400,000,000 is not \$400,000, but \$4,000,000.

Mr. ASHLEY. This is not only for engraving and printing, but for all the expenses attending them; for disposing of the same to subscribers and purchasers, &c.

Mr. BROOKS. Is it to be that much, \$4,000,000 for \$400,000,000? I will print the public money for one half of that price. If you will remove all of the penalties I will print it for one tenth, and give \$1,000,000 for the privilege. I think that the first impulse of the gentleman from Massachusetts was right. Let us understand whether the expense of printing \$400,000,000 is to be \$4,000,000.

Mr. ASHLEY. It is not that much for printing; it is \$4,000,000 for all the expenses.

Mr. BROOKS. Is it to be \$4,000,000?

Mr. ASHLEY. Does the gentleman know of any way of procuring loans for less than one per cent.?

Mr. BROOKS. If gentlemen are disposed to put \$4,000,000 in this section let it be understood. Let the record be made. I withdraw my amendment.

The Clerk read, as follows:

Or if any person shall print, photograph, or in any other manner make or execute, or cause to be printed, photographed, or in any manner made or executed, or shall aid in printing, photographing, making, or executing any engraving, photograph, or other print or impression in the likeness or similitude of any obligation or other security, or any part or parts thereof, or shall vend or sell any such engraving, photograph, print, or other impression, except to the United States, or shall bring into the United States from any foreign place any such engraving, photograph, print, or other impression, except by the direction of some proper officer of the United States, or shall have or retain in his custody or possession, after a distinctive paper shall have been adopted by the Secretary of the Treasury for obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under authority of the Secretary of the

Treasury or some other proper officer of the United States, every person so offending shall be deemed guilty of a felony, and shall, on conviction thereof, be punished by fine not exceeding \$5,000, or by imprisonment and confinement at hard labor, not exceeding fifteen years, or by both, according to the aggravation of the offense.

Mr. DAVIS, of New York. I move to strike out the words "according to the aggravation of the offense," and insert in lieu thereof these words, "in the discretion of the court." I do that for this reason: according to the bill there is no mode of determining the degree of aggravation, and the whole thing is left to the discretion of the court, and with that discretion it should be invested by the terms of the act.

The amendment was agreed to.

The Clerk read, as follows:

Sec. 12. *And be it further enacted*, That if any person having control, custody, or possession of any plate or plates from which any obligation or other security, or any part thereof, shall have been printed, or which shall have been prepared for the purpose of printing any such obligation or other security, or any part thereof, shall use such plate or plates, or knowingly suffer the same to be used for the purpose of printing any such or similar obligation or other security, or any part thereof, &c.

Mr. ASHLEY moved to insert after the word "prepared" these words, "under direction from the Treasury Department."

The amendment was agreed to.

Mr. DAVIS, of New York. I move to strike out the words "or shall print, or cause to be printed, any letters, figures, or devices with green ink, or with any green color or pigment." I move this amendment for this reason: it is well known in many portions of this country the banks, for a long time past, have printed their notes with this green color. They have gone to great expense to circulate notes of that character; and I think that it would be unjust and oppressive to those institutions to prohibit the use of the notes now existing or which may hereafter be issued.

I do not believe that this is necessary for the protection of the Government. The United States notes are engraved and prepared in a way dissimilar from those issued by State authority. The Government has the entire control of the mode in which these notes are prepared, and this bill provides for the punishment of those who imitate it. The words I propose to strike out are not necessary, and will only operate oppressively upon these institutions.

Mr. BROOKS. The banks of New York and Pennsylvania which have been printing their notes in this green color are to be subjected to heavy penalties under this bill. It is the same species of legislation that took place on the gold bill the other day, in which it was enacted that any person who deals in foreign exchange or gold shall be subjected to a large fine, and if not paid, consigned instantly to prison. There is consistency in this legislation. A large portion of the circulation of New York, and all the circulation of the Pennsylvania new free banking system is in greenback notes; and I would like to see some Pennsylvanians and New Yorkers tried and convicted for circulating them as currency, and some of them doomed to hard labor, some of them to ten years' imprisonment and a fine of \$10,000. There is nothing like consistency in legislation whenever you enter upon this system of legislation in regard to colors, or anything of that kind. By and by you will prohibit ladies from wearing green shawls, green bonnets, or green articles of any kind whatever.

I insist upon it, as it is necessary for me to oppose the amendment, that our legislation throughout be consistent from the beginning to the end; and we are indebted to the honorable gentleman from Massachusetts for his consistency. It is of the same sort and character of his gold bill, and should receive the same sort of support and encouragement. It is legislation against public interest, public feeling, public duty, public customs, public fashions, and public and private rights; and to be consistent this legislation should be thoroughly carried out. I am therefore opposed to the amendment of the gentleman from New York.

The amendment was agreed to.

The bill having been read through, the committee returned to the consideration of the second section of the bill, passed over informally, the pending amendment being the following substitute for the section offered by Mr. POMEROY:

Sec. 2. *And be it further enacted*, That the Secretary of the Treasury may issue, upon the credit of the United

States, bonds of any denomination not less than \$100, payable in lawful money three years from the date thereof, and bearing interest not exceeding eight per cent. per annum, payable semi-annually in lawful money, and may receive at par therefor the lawful money of the United States; Treasury notes, certificates of indebtedness, or certificates of deposit issued under any act of Congress. And the Secretary of the Treasury, in addition to the total amounts of bonds authorized by the first and second sections of this act, shall issue at par, in redemption of any outstanding notes, certificates of deposit, or certificates of indebtedness of the United States, bonds similar to those hereinbefore in this second section authorized, in denominations of not less than \$100, or of like denominations similar to those authorized by the first section, and payable five years from date, with interest at six per cent., payable semi-annually. And the Secretary of the Treasury is further authorized to issue, in lieu of any bonds heretofore authorized by law, and not now issued in pursuance thereof, bonds similar to and in the denominations hereby authorized. All outstanding notes, other than United States notes, shall cease to be a legal tender in payment of public or private indebtedness on and after the 1st day of October, 1864. And no notes, other than United States notes, shall hereafter be issued or reissued. Nor shall the total amount of United States notes issued or to be issued ever exceed \$400,000,000, and such additional sum, not exceeding \$50,000,000, as may be temporarily required for the redemption of temporary loan.

Mr. POMEROY. As this proposed substitute embraces several propositions, I will submit to the House at this time barely a statement of the points of difference between the two sections.

Before proceeding to such statement I will ask permission to make one or two verbal amendments, and to call the attention of those who were not in the last Congress and may not have had their attention directed to it to the technical meaning of the words "United States notes" and "Treasury notes." I desire to insert after the word "outstanding," where it occurs in my amendment in line twenty-two, the word "Treasury;" so that it shall read "outstanding Treasury notes." I also desire to strike out "notes," where it first occurs in line twenty-six, and insert in lieu thereof the words "Treasury notes made legal tender;" so that it will read, "and no Treasury notes made legal tender other than United States notes shall hereafter be issued or reissued."

For the information of the House I will say that by a law of last Congress the original non-interest-bearing greenbacks were denominated "United States notes," and all others "Treasury notes."

The amendments were agreed to by unanimous consent.

Mr. POMEROY. I believe the substitute I have offered brings directly before the House the whole substantial difference of opinion upon the subject of the issue of these bonds and Treasury notes. The policy to be adopted in the negotiation of loans first arose two years ago, in reference to the bonds authorized by the act of February, 1862. The Committee of Ways and Means then recommended to the House a loan of \$500,000,000 upon five-twenty six per cent. bonds, the interest to be payable in legal-tender notes. The Senate amended it, and the bill came back with the interest payable in coin. That amendment was concurred in by the House, and from that day to this I believe that has been conceded by the Secretary of the Treasury, by the Committee of Ways and Means of this House, and by the whole country, to be the established financial policy of this country in raising money. At that time I took occasion to make some remarks to the House upon that question, in favor of proceeding upon the gold basis as to our bonds, and I adhere now to the statements I made then. There is no mode by which the Government can raise money except through loans and through taxation. It cannot make money any more than I can make it. The legal-tender notes then authorized were a simple loan without interest, necessarily made to serve the purposes of currency by the exigencies of the time, protected from depreciation by convertibility into bonds, and were thus made an available instrument in conducting the finances of the country, and have since remained and still are so.

But there must be a limit to this issue of paper by the Government, and the principle on which the Government should act is to make such a limit, and to prevent now and forever the issue of the hybrid legal-tender notes, such as are authorized by the second section of the original bill, paying interest, and still made a legal tender for their face, which, I believe, have produced more financial disaster within the last six months than any one thing that has occurred.

The principal difference between the original

section and the substitute which I propose is that the latter prohibits the further issue of any Treasury notes made legal tender other than the non-interest-bearing United States notes. The original section authorizes the issue of \$200,000,000 in Treasury notes to run not exceeding three years at seven and three tenths per cent. interest, the interest to be accumulated, or to be made payable semi-annually, at the discretion of the Secretary of the Treasury; and if the interest is accumulated, then such notes to be legal tender at their face for all purposes, except the redemption of the currency of national banks. In effect, the Secretary of the Treasury may further inflate the currency by \$200,000,000 more of this mongrel interest-bearing paper.

Now, the amendment I have proposed provides in place of that the issue of bonds of any denomination not less than \$100, to run three years, and at a rate of interest not exceeding eight per cent., payable, principal and interest, in the paper currency of the country, to be issued in redemption of the outstanding interest-bearing Treasury notes, and the other outstanding floating indebtedness of the Government.

It also withdraws all authority from the Secretary of the Treasury to issue or reissue any Treasury notes made legal tender other than the United States notes; that is, it confines him to the "old original genuine Dr. Townsend" greenbacks. It authorizes further the substitution of these bonds for other bonds authorized by other acts and not yet issued, if, in the judgment of the Secretary of the Treasury, it shall be deemed advisable. It further provides that all outstanding Treasury notes other than United States shall cease to be a legal tender from and after the 1st day of October next. The time is immaterial only that some definite time be fixed. The substitute finally provides that the entire amount of United States notes issued or to be issued shall be limited to \$450,000,000. This latter provision is the same as contained in the original section.

Now, Mr. Chairman, the success of the loan authorized by the acts of February and July, 1862, commonly known as the five-twenties, which were six per cent. gold-interest-paying bonds, was unprecedented. The world has hardly ever seen a popular loan thus taken. When Congress met in December last the Treasury was being fully supplied, and so eagerly were the bonds sought after that when the entire amount of \$500,000,000 had been taken, before the telegraph with lightning speed could bring the announcement home to the people that the loan was exhausted, more than \$10,000,000 additional had accumulated in the various agencies authorized to receive subscriptions, requiring subsequent action by this Congress to enable the Government to furnish these additional bonds; and the condition of the Treasury was so easy that you, Mr. Chairman, will recollect that the Secretary of the Treasury was enabled to advance money from the Treasury to prevent a financial crisis in New York.

How is it now? I ask the question of gentlemen around me and of gentlemen upon the other side of the House, for I am speaking of a matter in which we have all a common interest. However much we may differ upon other subjects, I take it that we all agree upon one thing at least, that the credit of the Government must be maintained. This Congress has been in session seven months, and yet no tax bill has been sent to the President for his signature; and during all that time the receipts from taxation have been the merest pittance of our expenditures. This Congress has been in session seven months, and yet in that time no money to any amount has been received into the Treasury from permanent loan except about \$70,000,000 at par from the ten-forty five per cents.; and deficiencies have been largely made up by the issue of these hybrid interest-bearing legal-tender Treasury notes. This condition of things has been well known to Congress. The Secretary of the Treasury is not the party to blame for it. He cannot collect taxes which we have not authorized him to levy. We have no right to ask him to make brick without straw. The principal responsibility rests upon the shoulders of Congress by reason of the delay that has occurred in our legislation. For every hour speech that has been made during this session the Government has lost \$1,000,000. It is

this Congress that is responsible. The Secretary of the Treasury it but its agent. And if he has not been properly conducting the finances of the country, we have known from day to day, and from week to week, and from month to month how he has been conducting them; and it was for us to bring him to account and to establish the policy on which the finances of the country should be conducted.

Deceived by the great success of the popular loan, the Secretary of the Treasury was in my opinion lured into a great mistake, but a mistake which we might at any time have corrected. Instead of following on in the wake of that prosperous loan with another like it, an attempt was made to reduce the rate of interest to five per cent., and the result has been that, money not being procurable at five per cent., an issue of \$150,000,000 additional of legal-tender currency has been made necessary. And there being no taxation adequate to sustain our large expenditures on which to base the national credit, it is no wonder that yesterday on the streets of New York it was hard to tell whether gold was worth 210 or 250. The people as well as the Government have rights involved in this question. Commercial men, manufacturers, all classes of business men, stand aghast at the presentation by us of such a condition of our finances. We have been told, and we have believed, that that was a successful financial plan which was based upon taxation sufficient to meet the ordinary expenses of the Government, and to lay up a small sinking fund to meet the accumulated debt. It is not so; we cannot afford to issue bonds for a dollar of money for which the Treasury does not receive the value of a dollar in gold; and for all gold values funded into debt we can pay interest in gold. What are we doing to-day? For every dollar represented in the twenty year six per cent. loan, which has just been negotiated at a rate less than one hundred and six per cent. in paper, we will be paying, in the legal currency of the country, an annual interest of twenty-four per cent. Calling gold worth two to one of paper, we receive fifty dollars in gold for every \$100 borrowed in paper. On that we are to pay six per cent. in gold, which makes twelve per cent. on every \$100 in gold, or twenty-four per cent. in paper currency. In other words, under the delusion of cheap money we in fact borrowed at a shave of fifty cents on the dollar of principal, and that at twelve per cent. interest, or at the rate of twenty-four per cent. in paper for every real dollar that we now get.

Now, I ask, can the country live under such a state of things? And I ask why is it? I say it is because, while in theory we established gold as a basis three years ago, we have departed from it in practice. And so I now contend that unless the theory thus established is to be followed up in practice, the theory proposed by the distinguished chairman of the Committee of Ways and Means [Mr. STREYER] is unquestionably the policy of the United States; that is, now and at once to repudiate and discard all obligation to pay interest and principal in coin, and to set afloat on the vast ocean of paper money. The gold dollar must be the standard of value, or there can be none, and unless the amount of paper circulation can be proximately fixed, and its value ascertained by that standard, how can taxation be graduated to meet the wants of the Government? Unless the value of the thing in which the tax is to be paid is reasonably ascertained, how can the tax itself be adjusted?

Mr. Chairman, it is still in our power, with the exercise of only ordinary wisdom and ordinary statesmanship, to carry ourselves back over the financial misfortunes of the past seven months to a safe and successful basis. But, Mr. Chairman, in order to do it we must go in practice as well as theory back to the gold basis which was then established. I am myself for fighting the devil with fire, for fighting gold with gold, and not with paper, and for going back to a gold basis; I do not mean a resumption of specie payment, but that every dollar of funded debt shall represent a gold equivalent received by the Government.

[Here the hammer fell.]

Mr. POMEROY. I move to amend, *pro forma*, by striking out the last line. I insist, Mr. Chairman, that the present price of gold is not the result of speculation. It may have been aggravated

by it. It is the result of the want of wisdom in ourselves in not adhering to the theory which we originally proposed to the people. It is not to be encountered and put down with gold bills, by female dress-reform associations, or old-clothes societies. It is to be met and to be overcome by other instrumentalities. The fact of the notes proposed by the Committee of Ways and Means being legal tenders does not add one single iota to their value. We have already \$800,000,000 of banking and national paper in circulation, and you may pour \$200,000,000 more into it and it is worth no more; you may pour in all that the Treasury can issue from this time on to the end of the year and the whole aggregate will be worth no more. The \$800,000,000 is worth only its equivalent in gold. You cannot contend against it except as you take hold of natural laws as strong as the laws of trade themselves, and meet it by a power equal to the power which is already shattering our credit.

I say further, that no nation ever did and no nation ever will pay an indebtedness accumulating at the depreciation at which our indebtedness is accruing at this day. If we are to save our credit we are to save it, as I said before, by getting a dollar's worth of commodities for the Government for every dollar's worth of bonds we issue, and if we cannot do it directly then we must redeem or repudiate the excess of paper money—I care not by which name you call it—through vigorous and energetic taxation. No matter whether it be \$100,000,000 or \$500,000,000, the excess of paper money over the wants of the Government must be persistently taxed out of existence. The act of the rebel congress which excited the horse laughter of the whole North, by which they repudiated through taxation the whole of their national currency was the highest act of statesmanship that I have yet seen as emanating from that confederate congress. We must follow *pro tanto* their example, or eventually we must follow it in *tanto*.

What I maintain, therefore, is, that these disturbing interest-bearing legal tenders which are not needed for circulation, and which were issued in the hope and expectation that they never would get into circulation, shall be retired at the earliest practicable moment, and the limit named by the Secretary of \$450,000,000 of greenbacks be fixed definitely. Then Congress can lay a tax with some expectation as to what will be produced by it, and should lay a tax sufficient not only to meet the ordinary expenses of the Government and lay up a small sinking fund, but also sufficient to pay so much of the extraordinary expenses as shall leave the funded debt to represent an actual equivalent received in gold. The credit of the country will thus be maintained to the extent of its whole resources, and those resources are not yet exhausted nor even impaired.

Now, Mr. Chairman, there is only one other point to which I wish to call attention. One other provision in my proposed amendment is to compel the Secretary of the Treasury on demand to fund into the eight per cent. currency bonds or into the five years six per cent. gold bonds the whole floating indebtedness of the United States. Anybody who holds indebtedness of the United States may then fund it into these securities. It does not leave it discretionary with him. I believe, and I have believed at all times since the original five-twenty bonds were taken, that there was the wealth in the country to take \$500,000,000 more of them as fast as they were needed, and that with a decent measure of taxation prepared in decent time the credit of the Government would have been sustained and gold would now have been below 150. I need not dwell upon the effects of the present inflation. The wealth of the country is in great part a fictitious wealth. There is no wealth except through production. So far as the production of the country has been stimulated by this war, so far we have grown rich, and no further. But that is not the wealth that is spoiling the country to-day. It is a wealth made out of the rise of property through inflation, through the loss of harmony between supply and demand caused by the disjointed nature of the times, and through anticipation of a tax which must be almost universally extended if this Congress ever does its business and goes home. It is, I say, in a national sense, to a large extent a fictitious wealth. Why, every merchant that

had a year ago a stock of goods of the value of \$50,000 in his store might better have turned the key in his door and gone fishing for a year than have sold his goods at the current rates. The advance through loss of supply, inflation, and the fear of taxation has actually raised the price of the goods more than he could have made on them by attending to his ordinary and legitimate business; but no national wealth has been thereby created; and so of the great mass of commodities, foreign and domestic. Through inflation of values from these various causes many individuals have, of course, made great gain, but the home consumer pays it. We are dealing with questions of national wealth and resources.

In conclusion of all I would like to say upon this question at this time, I ask to have read from the Clerk's desk an editorial from the New York Evening Post of April 29, 1864, because it condenses much matter into a small space, more than I could hope to utter from my position on the floor. I need not say that in its arguments I most fully concur.

The Clerk read, as follows:

"THE NATIONAL FINANCES.—It is rarely that in the complicated questions of finance the judgment of the public is so nearly unanimous as in the existing condition of things. The question is one involving momentous interests to the Government and the people. Shall there be maintained an inflation of currency and prices and a consequent depreciation of paper such as will make five per cent. gold bonds relatively valuable enough to be taken by the people? Or shall we have an issue of six per cent. bonds with a contraction of the currency and a reduction of prices?"

"The latter policy is clearly the safe, conservative, and economical one. When the subscription to the last six per cent. loan of four hundred millions was so triumphantly filled up, so great was the eagerness of the people for the bonds that the offerings greatly exceeded the required amount. Had the Secretary of the Treasury then called for subscriptions for two hundred millions more, payable in such installments as would meet his wants—say an average of two millions per day—the whole would have been taken in a week and the inflation would have been avoided, the banks, the currency, prices, and speculation, all would have been held under the steady curb of a constant demand for 'greenbacks' wherewith to make the payments, and the Secretary might have gone on his way rejoicing, printing his bonds, and like a skillful banker reissuing his currency without increasing it.

"An opposite policy has been pursued, with the most honorable purposes, but with what alarming results the people, and none more than the Secretary, see and feel. This country can carry from one hundred and sixty to two hundred millions of bank paper. The lower limit is one of moderate and safe movement in finance and commerce; the higher indicates panic and revulsion. Forty millions is about the range of variation of the bank paper currency.

"Now, with those standards let us attempt to measure the movement of the last three months. To the enormous amount of about four hundred and seventy millions of paper money already outstanding, there has been added in this short period one hundred and fifteen millions of 'legal tender,' making an aggregate of nearly six hundred millions of 'paper money' afloat, besides the now expanded bank circulation, estimated at two hundred millions, making in all not less than eight hundred millions of paper currency. Now, allowing two hundred and fifty millions of this sum to replace an equal estimated amount of gold coin 'demonetized,' and we have still five hundred and fifty millions of paper money, or fully three times the amount under which the banks can maintain specie payments in ordinary times.

"An expansion of one hundred and fifteen millions before the war would have broken all the banks in the Union. Under the 'legal-tender' law the effect can only be shown by depreciation of the paper, under the misnomer of the rise in gold.

"How futile it is to magnify the expansions of the banks, speculations in gold, and other minor causes into importance when these are consequences chiefly of this one cause! Without the over-issue of Government paper, and with bonds valuable enough to absorb the excess of money, bank expansions and over-importation would have been restrained and gold speculation comparatively harmless. Laws to regulate these, sales of gold by the Treasury, and other expedients will at most accomplish no more than they aim at; but they will not reach the grand source of our difficulty. With such an over-issue it is an unprecedented marvel that our paper money should retain so high a value as sixty cents on the dollar. It could not be but for the master power which Congress has so wisely put in the hands of the Secretary—that of funding into gold-bearing bonds. Yet the peculiar value of that power which lies in the ability to limit and regulate the inevitable though baneful paper money, and to keep it near to the value of gold, Mr. Chase seems indisposed to appreciate at its true worth. The natural idea of economizing in interest on an enormous debt, and the delusion that a low rate of interest proves a high credit, (even when the bonds are virtually sold at sixty cents on the dollar), have been allowed to overcome considerations of far greater moment.

"Let us attempt a demonstration. The saving of one per cent. per annum in interest on the loan of two hundred millions now in the market would amount in five years to about ten millions. Now, pending the issue of these bonds, at least one hundred and fifteen millions of 'legal tender' were put out, no part of which need to have been issued if a six per cent. bond had been immediately offered to the eager public. The great advance in prices during this issue is universally recognized. In gold and many other things that advance is not less than twenty or twenty-five per cent. Now, suppose the average increase of the

expenses of the war consequent upon this over-issue should be ten per cent. The loss on one year's expenses (estimated at one thousand millions) would be one hundred millions, against a saving of ten millions in interest. An other words, the loss in increased expenses would be nearly equal to the whole issue. And the nation would have so much added to its ultimate debt without being able to put 'for value received' into its bonds. Add that is the whole case. Beyond a certain point, increase of paper makes no increase of resources, but only piles up debt. That point was passed long ago by the confederates; it has been reached by ourselves. Further increase is simply pouring water into a full pail.

"When Congress gave Mr. Chase the power to make and issue irredeemable paper money, it gave a power which no man and no Government ever yet kept within safe limits. It is almost universally conceded that Mr. Chase has, thus far, and in the main, exercised his powers with splendid ability. But the nation feels and says through the press that it is time to stop. On the one hand Mr. Chase should cease to extend his issues; on the other, Congress should revoke the power and require the funding of all but the greenbacks. The total bank circulation, old and new, should be limited, during the suspension of specie payments, to two hundred millions, that being all that experience shows the country can hold. After resumption, laws stronger than those of Congress will bring them within that limit.

"It is not too late yet to issue a six per cent. bond, allowing an exchange on fair terms to those who have taken the five per cents. Let that be payable by installments as wanted, and the money market and the price of gold will be taken care of by those who know how to do it. Consistency does not require Mr. Chase to persevere in a wrong course, nor does patriotism require the people to help him. Without a change the inflation must be kept up, gold will go higher, and we shall have Mr. Chase back in Wall street to scare away the evil spirit he himself has raised."

Mr. POMEROY. I now withdraw my amendment.

Mr. HOOPER. I hope the amendment offered by the gentleman from New York will not be adopted. I think there is a great deal of danger in accepting amendments in this hasty way to a bill that has been prepared as this has been, at the Treasury Department, with the greatest care and anxiety. I know myself that the Secretary of the Treasury has had sleepless nights over this bill, in considering and preparing its details, and now it is proposed to take a section hastily prepared, and probably without much more reflection than the amendment offered by the gentleman from New York [Mr. DAVIS] to the thirteenth section just now, and which, I am sure, the House would not have adopted if they had understood the effect of it. I wish to call attention to that amendment for a moment, to illustrate the evil of such hasty legislation here, and of the attempts to carry on the Treasury Department by the members upon this floor who have given no special attention to the subject. The amendment of the gentleman from New York [Mr. DAVIS] was to strike out, in the seventeenth and eighteenth lines, the words "or shall print, or cause to be printed, any letters, figures, or devices with green ink, or with any green color or pigment," which has been adopted. As the section now reads, with those words stricken out, it is felony for any one to print, or to cause to be printed, any letter, or figures, pictures or devices, or anything to be used as the representative of value, and intended to be circulated and used for currency, except at the Treasury Department. It will be a felony for any one hereafter, if this becomes a law, to print any bank note except at the Treasury Department, and all the State banks hereafter must come here to the Treasury Department to procure their circulating notes. Now, I cannot believe the House intended to pass such a law; but they must have been dazzled and misled by the eloquence of the gentleman from New York when they adopted his amendment, and I trust he will not insist upon retaining it.

I fear the consequences of the adoption of the amendment of the gentleman from New York [Mr. POMEROY] would be far more objectionable. He says that each speech made in this House costs the country \$1,000,000. But if the effect of his speech should be to induce the House to adopt his amendment in place of the carefully-prepared section of the bill, I fear it will cost the country a great many million dollars. If the gentleman is not more familiar with finance than with figures there will be some danger in adopting his recommendation. He says that the interest on a six per cent. bond of \$100, when bought for fifty dollars in gold, the interest being payable in gold, gives twenty-four per cent. for the annual interest.

Mr. POMEROY. I said at par of gold for the bond.

Mr. HOOPER. I do not understand that. By

no arithmetic that I know of can I get more than twelve per cent. out of it. I will not detain the House, however, but I hope that the amendment will be rejected.

Mr. BROOKS. Mr. Chairman, I rise to reply to some of the remarks of the gentleman from Massachusetts, and for that purpose I move to strike out the last word of the pending amendment.

He wishes to give to this bill the sanction of the Treasury Department. I hold in my hand three distinct bills which came from the Committee of Ways and Means. I wish to know which of them has the sanction of the Treasury Department? Here is a bill introduced by the gentleman from Massachusetts, [Mr. HOOPER,] from the Committee of Ways and Means, which was printed and laid upon our tables, but afterwards withdrawn. Here is another bill, June 20th—

Mr. HOOPER. I never withdrew the first bill I offered. It was not from the committee, but I had it printed and referred to the Committee of Ways and Means.

Mr. BROOKS. Which one has the sanction of the Treasury?

Mr. HOOPER. The original bill came from the Treasury Department, and was concurred in by the Committee of Ways and Means, with some amendments, mostly of a verbal character. The present printed bill is the same one received from the Secretary as it was reported from that committee.

Mr. BROOKS. Has the bill the gentleman introduced here the sanction of the Committee of Ways and Means, and that of the Secretary of the Treasury been repudiated?

Mr. HOOPER. The bill of the Secretary has not been repudiated, as I before stated; it is the bill which has been reported back from the Committee of Ways and Means.

Mr. BROOKS. The bill reported back has two or three additional sections.

Mr. HOOPER. There are several verbal alterations, and a new section in reference to claims for bonds that have been lost or stolen, to protect the rightful owners.

Mr. BROOKS. These are essential changes, as gentlemen will find by examining them.

Mr. HOOPER. I ask the gentleman to point out one essential change.

Mr. BROOKS. Here is one bill from the chairman of the Committee of Ways and Means.

Mr. HOOPER. I beg the gentleman's pardon; there is no such bill.

Mr. BROOKS. Here is one from Mr. STEVENS, chairman of the Committee of Ways and Means.

Mr. HOOPER. Does he report it as chairman of that committee?

Mr. BROOKS. He reports it as Mr. STEVENS, and he is chairman of the Committee of Ways and Means.

Mr. STEVENS. The gentleman refers to House bill No. 515?

Mr. BROOKS. I do.

Mr. STEVENS. That was presented as an amendment I intended to the bill reported by my colleague on the Committee of Ways and Means. I did not agree to the bill as reported, and that was the amendment I gave notice I would offer.

Mr. BROOKS. What I mean to say is that here are three bills from the Committee of Ways and Means. The gentleman from Massachusetts represents that his has the sanction of the Treasury Department.

Mr. SPALDING. I insist that the gentleman shall confine himself to his amendment.

Mr. BROOKS. When members are fairly discussing measures they ought not to be interrupted. I will not detain the House longer.

The question recurring on the amendment to the amendment,

Mr. BROOKS withdrew his amendment to the amendment.

Mr. POMEROY called for tellers on his amendment.

Tellers were ordered; and **Mr. POMEROY** and **Mr. HOOPER** were appointed.

The committee divided; and the tellers reported—ayes 65, noes 42.

So the amendment was agreed to.

Mr. HOOPER moved that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having

resumed the chair, **Mr. BOUTWELL** reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill (H. R. No. 540) to provide ways and means for the support of the Government, and for other purposes, and had directed him to report the same to the House, with sundry amendments.

Mr. STEVENS. I now offer the amendment of which I gave notice in committee yesterday. It is to amend the first section by striking out all after the enacting clause and inserting in lieu thereof what I send to the Clerk's desk.

The Clerk read the amendment, as follows:

That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States, \$400,000,000, for the service of the fiscal year ending June 30, 1865, and to issue therefor coupon or registered bonds of the United States, redeemable, at the pleasure of the Government, after any period not less than twenty nor more than thirty years, and, if deemed expedient, made payable at any period not more than forty years from date, payable in coin. And said bonds shall be of such denominations as the Secretary of the Treasury shall direct, not less than fifty dollars, and bear an annual interest not exceeding eight per cent., payable semi-annually, and the interest on all bonds heretofore issued, payable annually, may be paid semi-annually; and in lieu of such bond, authorized to be issued, the Secretary of the Treasury may issue bonds, bearing interest, payable semi-annually. And the Secretary of the Treasury may dispose of such bonds, or any part thereof, in the United States, or, if he shall find it expedient, in Europe, at any time, on such terms as he may deem most advisable, for lawful money of the United States, or, at his discretion, for Treasury notes, certificates of indebtedness, or certificates of deposit issued under any act of Congress. And he may also issue in exchange for Treasury notes heretofore issued bearing seven and three tenths per cent. interest, besides the six per cent. bonds heretofore authorized, like bonds of the denomination of \$100 and of \$50. And all bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal authority.

Mr. HOLMAN. I rise to a point of order. It is based upon the 110th rule, which provides that

"No motion or proposition for a tax or charge upon the people shall be discussed the day on which it is made or offered; and every such proposition shall receive its first discussion in a Committee of the Whole House."

If anything can be regarded as a charge upon the people, it would be a loan of \$400,000,000.

The SPEAKER. The Chair sustains the point of order made by the gentleman from Indiana under the rule which he has read.

Mr. STEVENS. What tax is laid in this bill?

The SPEAKER. The Chair supposes that the five, six, or seven million dollars of loans authorized by the amendment is a charge upon the people.

Mr. HOLMAN. I desire to say to the gentleman from Pennsylvania that the only object I have in raising the point of order is to get a direct vote upon the proposition with reference to the taxation of these securities by the States. If the gentleman is willing that a direct vote shall be taken upon that in the House, I will withdraw the point of order.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union in order to introduce my amendment.

The SPEAKER. The bill is not in the Committee of the Whole. It is now in the House. The gentleman can move to recommit the bill to the Committee of the Whole.

Mr. STEVENS. I make that motion for the purpose I have indicated, and I would inquire if that motion is debatable.

The SPEAKER. It is.

Mr. STEVENS. I am taken somewhat by surprise by the ruling of the Chair, which, however, I suppose is right; but I suppose I can say what I desire to say upon this motion. I did desire to make one more effort, probably the last I shall ever make upon this subject, for the purpose of arresting what I believe to be the rapid downward course to absolute ruin of our system of currency.

I say I suppose it will be the last, for even if I should happen to survive and be here again, if we do not make the arrest now in our progress, we shall have sunk so deep into this "Avernus" that no prudent man would venture to thrust down his hand to pluck us out. In my judgment, all the difficulties which we are now encountering, from the high price of gold and consequently the high price of everything, has arisen from the cause sustained by the gentleman from New York who criticised it so freely this morning, and

still adheres to, though by his amendment he seems to have contradicted his own theory.

Let me say, while I am upon this point, that the Committee of Ways and Means feel thankful for the censorship of the learned and able gentleman who has rebuked them this morning. He supposes that our calamities result from the tardy reporting of the taxation measure. Now, at the very commencement of the session the committee reported a bill which, if it had been adopted here, would have given us before this time \$10,000,000 of revenue, and that bill was retarded more than two months by those gentlemen who resisted its passage because they were anxious to put a tax on what they call "stock on hand."

Mr. POMEROY. I was not one of them.

Mr. STEVENS. The committee then went on to the general taxation bill, and though I arrogate to myself no part of the credit for their labors, yet the committee generally labored more hours in the day by one half than any committee of this House has ever labored on any other occasion. Seldom did some of them go to bed until twelve o'clock at night. They may not have been rapid workmen, but there were large interests to be examined and more than a hundred committees to listen to before they acted. Of course they did no business before the holidays because there was no time, but coming here in January they reported that voluminous bill in March, and they not only reported it, but passed it, and sent it in that month to the Senate. It is not the fault of the committee if the bill has not finally passed yet. They have done their best according to their ability, and, sir, I shall rejoice, when the gentleman from New York shall be deemed competent to take charge of the business of that committee, to find him laboring more hours and laboring more wisely than the present unfortunate committee, if, in the course of divine Providence, that time shall ever come.

But, sir, I will now proceed at once to the proposition which is before the House. I believe that all our financial troubles arise from the extraordinary demand for gold when gold is not the currency of the country, and the business of the country does not produce it to pay the taxation of the country. I thought so from the first, although it looks like tautology to repeat it every time when this question comes up.

When the Committee of Ways and Means and the House first framed a system of finance which was to continue during the war it consisted of two branches. It provided first for the issue of legal-tender notes. It must be remembered that in the preceding December all the banks of the country had gone into suspension, and there was nothing in circulation but the irredeemable currency of the banks. The committee deemed it wise that the Government currency should be the currency of the nation under these circumstances, because there would be more confidence in its final redemption, and because the profits of the interest would in the mean time inure to the benefit of the nation instead of to the benefit of the banks. Any one who remembers the terrible crisis through which we passed in 1862 knows that the banks had not only ceased to pay specie even for the last loan of \$50,000,000, which was taken upon a specie basis, but that they refused, and that the people refused to lend another dollar payable in anything. We were driven, therefore, to this terrible necessity which is so censured in this House by the wise men in it; we were driven to the legal-tender system; and I venture to say that none has ever worked better in this or any other country. I supposed then, as I suppose yet, that specie payment will not be resumed for the next ten years to come at least. I could not help remembering what history taught us, that during the great Napoleonic war the Bank of England was authorized to suspend, and did suspend her specie payment about 1796, and never resumed it until 1822, seven or eight years after the termination of that war; and who looks for a more speedy resumption of specie payment in this country has not well studied history, and, in my judgment, is doomed to be disappointed.

Then, sir, having taken upon ourselves the responsibility of issuing legal-tender notes as the currency of the country, when it was proposed to make a difference between those who dealt in Government bonds and those who dealt in lands and other bonds, this House, when the vote was

first taken, by a majority of thirty-nine refused to entertain the monstrous proposition. It went to the Senate, and the New York brokers and gamblers and bankers came here and besieged all the branches of the Government, from the Secretary of the Treasury down, until they—I do not say corrupted their judgment, but influenced their judgment to introduce into that bill the fatal clause of paying interest in coin. That came back into this House, and notwithstanding the resistance of those who thought otherwise, it was admitted. Hence all our woes. At that moment we found it necessary, as a small palliation to the Government, to make the duties on imports payable in gold. That is a drop in the bucket. But it still creates a demand for the article to the amount of sixty or eighty million dollars a year, and merchants must buy it from the bullion brokers at their own price. And that amount increases from day to day and from year to year, from the fatal policy which sits like an incubus on this Congress and on this nation; and the price of gold is increasing in proportion, and will go on increasing, until this nation cannot bear the taxation to pay it, and will not bear the taxation to pay it. It is, therefore, to save us from the disgrace of inevitable repudiation that I make one more effort to save the national credit.

Sir, I feel a little on this subject, for I abhor repudiation, and I see it staring us in the face, at no great distance in the future, just as plainly as if I saw it here to-day, if this policy be continued any longer. Everybody will admit that if we had no demand for gold in this country there would be no rise in gold. Wherever there is no demand for an article it bears no value beyond its intrinsic value. Just as in proportion to the increasing demand will be the increasing rise, so in proportion to the smallness of the demand will be the fall in price. And he who charges this rise in gold to the Jews and gamblers in Wall street is but a shallow statesman. Before you undertake to correct that evil by some small salve spread over a raging cancer, before you can expect to regulate this evil by gold-selling and gold-prohibiting bills, you had better take away the demand for gold, for in no other way will you, in my judgment, depreciate gold one per cent.

What are we doing? If the construction of the law given by the Secretary of the Treasury be correct there is to-day a debt of \$337,000,000 bearing interest in gold. That does not include the \$75,000,000 lately bid for, which my amendment excepts, letting it be issued for immediate relief. In that sum, however, is included what the Secretary says is law, but what all the courts of the country say is not law; that is, that bonds given before the war, without any reference to coin, must be paid in coin. The Secretary has said, in a letter sent to the Clerk's desk the other day by the gentleman from Massachusetts, that their interest is payable in coin. Two months after the legal-tender bill was passed I was called upon by a constituent of mine to say whether a debt of \$23,000 which he owed, and which was to be paid in gold, could be paid in legal-tender notes. I gave it as my opinion that it could be. He made the tender, and it was refused. A suit was then brought against him before the proper court in Philadelphia, and it was decided that the tender was an adequate one. It has been so decided in three, at least, of the States since then. In every case, except in one single insignificant *nisi prius* case in New York, it has been held that for all the transactions of this country legal tender was gold. I therefore place but little credit on the hasty opinions of the Secretary of the Treasury on a question of law where he is overruled by all the courts. I know it is contended by gentlemen who hold the old bonds that the interest must be paid in gold, because it enhances their value one hundred per cent.; but it is a fraud on the honest men of the country who have to pay it. There is no reason why a man who holds \$20,000 in bonds issued in 1858 should be paid in gold, or in its equivalent, at the rate of two hundred per cent., any more than there is reason why I who now borrow money should be called upon to pay it in the same way. It is a perversion of the law. It is injustice to the people. It is a favor to a few moneyed men. I do not begrudge the money to the men who hold these bonds, but it is not their right.

Mr. SPALDING. I desire to ask the gentleman if in his judgment the principal of the

\$500,000,000 of five-twenty bonds is payable in gold?

Mr. STEVENS. It is just as clear as anything is clear that the interest is payable in gold, but the principal in lawful money.

Mr. SPALDING. I ask the gentleman if he knows whether that is the opinion of the head of the Treasury Department?

Mr. STEVENS. Well, sir, I have not consulted him. I know that a great many legal gentlemen of distinction agree with me in the opinion I have expressed. I suppose I should bow to the opinion of the Secretary of the Treasury on the subject if I had it and it was right, but I have not.

Mr. PRUYN. I would like, with the permission of the gentleman from Pennsylvania, to ask the gentleman from Ohio [Mr. SPALDING] whether he has any information that the Secretary of the Treasury has decided that the principal of the five-twenty bonds was payable in gold.

Mr. SPALDING. If I may be permitted to reply to the gentleman from New York I will say that I have this morning learned from the Secretary of the Treasury that in his opinion the principal of the five-twenty bonds is payable in gold.

Mr. STEVENS. Then, sir, his opinion is entirely different from the law. These bonds are made payable in money by the express terms of the law, and if legal-tender notes are money then the notes are payable in that. But, sir, if both principal and interest are payable in gold, then the difficulties in which the Government is becoming involved are all the more aggravated.

Mr. WILSON. Was not the statement just now made by the gentleman from Pennsylvania based upon the payment of these five-twenties in gold?

Mr. STEVENS. Upon the payment of the interest in gold. There is no doubt that the interest is payable in gold.

Mr. WILSON. I speak of the principal. I understood the gentleman to say that there were now about eight hundred million dollars of the public debt payable in gold.

Mr. STEVENS. No, sir; the interest is payable in gold. I say that no man who is a lawyer—and I could not say that the Secretary of the Treasury is not a lawyer—who will carefully read the law can possibly come to any other conclusion than that the principal of these five-twenty bonds is payable in currency. The law says expressly that the interest is payable in coin and that the principal is payable in money. The difference in the terms employed is as distinct and definite as if it had been, in so many words, that one is payable in coin and the other in paper currency.

But, sir, I will proceed. I was remarking that we have already \$800,000,000 funded on which we have pledged the Government to pay the interest in coin. With the floating or outstanding indebtedness the entire amount for which the Government is to become obligated at the present day is from \$1,700,000,000 to \$2,000,000,000. And I repeat that if the war goes on for two years our indebtedness will be \$4,000,000,000. It cannot be a dollar less. Instead then of having \$50,000,000 interest payable in gold we shall have \$240,000,000 annually. And I put the question to the House whether if when we have \$50,000,000 payable in gold the brokers can put us in their power and run the price of gold up to two for one for money, what may we expect when instead of \$800,000,000 on which we have to pay interest we have \$4,000,000,000?

Some two years ago I said in this House, very much to the dissatisfaction of some of my friends, that within two years this gold-bearing interest system would bring the price of gold to 175, and that before another year it would go up to 200. It was said then that I was discouraging the people. Sir, I was telling what I supposed to be the truth, and what is now history. I repeat the question, that if this result occurs when we have only \$50,000,000 interest payable in gold beside, what is required for importation, what may we expect when we shall have \$240,000,000? Why, sir, it will go to three hundred per cent., which will give \$720,000,000 in currency to be raised by taxation besides the \$100,000,000 which will be necessary to meet the ordinary expenses of the Government, and this you will have in two

years from this time. You will have \$820,000,000 to pay without reducing the indebtedness of the country one cent, and this to be raised by taxation of the people.

Now, sir, no man will pretend that a nation of twenty million people impoverished by war can bear such a taxation as that. There is not any man here so sanguine as to suppose or expect for a moment that the people will bear it. The loan lately offered, the ten-forties, is made payable in coin, principal and interest. It is the only one issued since 1861 where the principal is made payable in coin. The interest, as I said before, is at present made so. In the bill we are acting on, the principal is payable in money, whatever that money may be.

Now what I propose is this, that we shall reverse this and make the interest payable in currency and the principal in coin by express words. We cannot raise coin now, for there is no circulation of it now. We can pay in currency, and it will answer all the purposes of life as well as gold. We can use it to buy land and everything else—to be sure at a high price, but everything is high now, and this will answer all purposes. The principal, twenty years hence, the holder is to receive in solid money. If the owner dies he leaves to his heirs an amount in gold equal to the amount he paid in paper money. In my judgment these bonds will be better than where the principal is payable in currency and the interest in gold.

The difference between the two systems is as follows:

When the debt shall be \$4,000,000,000:	
Interest in gold.....	\$240,000,000
It must be bought at three for one.....	3
Interest.....	720,000,000
Ordinary expenses.....	100,000,000
	\$820,000,000
In currency.....	\$4,000,000,000
Interest at six per cent.....	\$240,000,000
Ordinary expenses.....	100,000,000
	340,000,000
Difference in favor of lawful money.....	480,000,000

In order to insure a loan I have provided that the interest on these bonds shall be eight per cent. instead of six and eight per cent. in currency. It will leave \$480,000,000 in favor of the system which I propose shall be adopted, and that will afford the greatest relief to the present generation. Thirty years hence it will be no distress, I trust, to pay in coin. This and the next year, and the year after, it will be a constantly increasing distress. My proposition would relieve this generation from the exaggeration in the price of gold. We will have better and happier times when coin will be the currency of the country. Then we can make payment in coin which we now cannot do.

I cannot see, sir, why such a system is not adopted. I have no doubt that any man who has money to lend will lend it at eight per cent., the interest payable in currency and the principal in gold.

I have also provided that there shall be issued the same kind of bonds to the amount of \$500,000,000 to be tendered to the holders of the five-twenty bonds at eight per cent. in exchange. I say that in five years we have the right to pay them off and pay them in money; and that whatever functionary of this Government undertakes to overrule the law deserves the censure of the nation and of the people who are to bear these burdens.

Far be it from me to suggest that in reference to bonds where the interest is payable in coin it shall not be paid to the last farthing. That is to be paid under my proposition; but if they will not convert them, one into the other, in five years, I provide that the five-twenties shall be redeemed by the sale of eight per cent. bonds for lawful money.

The bill of the committee proposes to give these bonds for what? For currency. It proposes to issue them for the present currency, to take that which is worth two hundred per cent. less than that which it gives.

Gentlemen will determine on this finally, for this is the last chance we shall have. They will decide whether this is right or wrong. I have spoken my opinions. I am sorry that so far my

predictions have been fulfilled. If the House in their honest judgment, think I am wrong now they can take a different course, and I only pray that I may prove a false prophet; but I have no doubt myself that I have painted the results in milder colors than the facts will develop.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate have agreed to the amendments of the House to the bill of the Senate (No. 85) to provide for the examination of certain officers of the Army.

That the Senate have passed a bill and joint resolutions of the House of the following titles:

An act (No. 545) to amend an act entitled "An act to provide for the payment of horses and other property destroyed in the military service of the United States;"

Joint resolution (No. 87) amendatory of an act to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department or department of Missouri; and

Joint resolution (No. 107) for the relief of Major Morris S. Miller, of the quartermaster's department.

That the Senate have also passed bills of the following titles; in which the concurrence of the House was requested:

An act (No. 273) to compensate the officers and crew of the iron-clad gunboat Essex for the destruction of the rebel ran Arkansas; and

An act (S. No. 292) to provide for the efficiency of the Navy.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 453) to increase the pension of Isaac Allen; and

An act (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1865, and for other purposes.

WAYS AND MEANS—AGAIN.

Mr. MORRILL. I regret that the distinguished gentleman from Pennsylvania should have felt it his duty to have presented such an argument to the House as he has no doubt felt it his duty to do. If I did not regard it fraught with infinite mischief I should not say a word upon this occasion. It is surprising to me that a gentleman with so clear a head as the gentleman from Pennsylvania, utterly denying that he is proposing anything which will lead to repudiation, should propose the very first step that will inevitably lead to repudiation if it should be adopted by the House.

Now, what do we see in the southern confederacy? They have no demand there for gold. Only a few days ago the congress at Richmond refused to appropriate the sum of \$2,000 in gold to their president, and yet we know the price of gold in Richmond as well as in Wall street. Does the gentleman, while repudiating all extreme legislation in relation to the sale and speculation in gold, (wherein I do not disagree with him,) expect to avoid it by extreme legislation, by which there will be no opportunity to measure the price of gold? Ignore gold as much as you please, it will still exist and have its value. Any other idea is utterly preposterous. If we do not pay our debts in gold, would there not still be a market value for it in every city in the country? It is utterly impossible to prevent the measurement of the value of gold, legislate as we may.

Now, a word in relation to the payment of interest. The parties who negotiate loans with the United States are as keenly alive to what they get as the gentleman from Pennsylvania is. They know now when they loan to the Government, and get six per cent., payable in gold, they get ten or twelve per cent. according to the premium on gold; and does the gentleman suppose that in a time of war like this, when the country is torn and lacerated from center to circumference, that we can obtain a loan for six per cent.? If there is any gentleman of that opinion in the House I pity his intelligence. No nation has ever yet raised money in a long, exhausting, and expensive war at the ordinary rate.

Mr. STEVENS. My bill proposes eight per cent.

Mr. MORRILL. I know it does; but that sum is not equal even to five per cent. in gold; and our Secretary of the Treasury has undertaken, as I think unwisely at such a time as this, to obtain money at five per cent.—much less than the ordinary rate—and the loan has proved less popular than the six per cent. five-twenties. If the gentleman's proposition should carry, what may we probably expect? Why, that the rate of interest would be double or treble, just in proportion as our currency should decrease in value. Then, instead of the small sum we are paying for interest, it would be double, triple, or quadruple. It might be as hard to pay one hundred or one hundred and fifty millions in paper as fifty in gold. This is as plain as any proposition can be, and a result sure to follow an exclusive paper basis.

Again, the gentleman states here that if our war shall continue for two years longer our debt, instead of being as it is now, a little over seventeen hundred million dollars, would amount to \$4,000,000,000; and yet that gentleman is the chairman and head of the Committee of Ways and Means.

Mr. STEVENS. The gentleman will allow me to ask him whether he believes that our whole debt, if collected together, is not two or three thousand millions.

Mr. MORRILL. I do not think it amounts to even two thousand millions at the present time. I take the Secretary of the Treasury's statement as correct, or a little over seventeen hundred millions. Certainly the gentleman from Pennsylvania, as chairman of the Committee of Ways and Means, should know something of what we expect to accomplish by the legislation now before the House and heretofore reported. I think the gentleman from Pennsylvania and other gentlemen in the House must know that they will realize not less than \$350,000,000 of revenue, and if the expenditures should not be more than \$100,000,000 over what has been estimated by the Secretary of the Treasury, our expenses at the end of two years more, with the same aggregate expense in each year, cannot even reach \$3,000,000,000, nor much over \$2,500,000,000.

That is an important error in the gentleman's calculation. We have been over three years in the war, with everything to create for war purposes, and with very little unusual taxation, and now, with all our implements of war on hand and with an enormous increase of taxation the gentleman is pleased to say our debt will increase more for two years to come than in the three years past. I do not expect that we can carry on this war for a great length of time at this extraordinary rate of expenditure. I clearly foresee that the time may come when we may have to stop from sheer exhaustion, but not now, nor next year, nor the year after; but under the proposition of the gentleman from Pennsylvania the war will stop at a much earlier period—a period we can compute. If we should inaugurate a system of paper money and paper bonds, entirely without ballast, I tell you, Mr. Speaker, that they will become as inflated as soap-bubbles, and rise equally light and equally valueless. Our only salvation is in clinging to the solid securities and of paying our interest in gold and paying our bonds in gold.

Mr. WILSON. Mr. Speaker, I think that we should receive from the members of the Committee of Ways and Means declarations prepared with much more care than are dropping from their lips here constantly. The gentleman from Vermont has just made a remark which I think should not have been made by him or any other member of this House; and that is, that we shall have to stop this war from sheer exhaustion. Now, sir, does the gentleman suppose that the resources of the Government of the United States will be exhausted before the same process will bring the rebellion to a close?

Mr. MORRILL. No, sir.

Mr. WILSON. Then I hope that gentlemen occupying the position that he and others on that committee do in this House will be a little more guarded in the expressions which they send to the country from their places here.

Mr. MORRILL. I thought I had sufficiently guarded my statement by the intimation that it would be at a period at a considerable distance from this time, because I said that it would not be this year, next year, or the year after. Not

a time to be apprehended, and yet possible. I think that no other gentleman in the House understood me that it was very near. I only meant to suggest that some time might be reached when it was possible to become exhausted; but I fully agree with the gentleman from Iowa in supposing that the rebels will be likely to be exhausted much sooner than we can be.

Now, Mr. Speaker, I trust that we are not about to adopt this proposition, although the gentleman from Pennsylvania has pressed it with more than his usual emphasis and with his accustomed ability, which has been haunting him, and which has been presented by him on so many former occasions. I trust that we are not at this late period of the session, and in a hasty manner, about to revolutionize our whole system of obtaining loans and maintaining the credit of the country. I should regard it as an error for which, if made, no remedy would remain. I believe that with the revenue measures now pending between the two Houses we have ample security that all the money that we want, beyond the amount that shall be paid in as taxes, will be obtained on our bonds and other securities at reasonable rates, and I trust and believe that it will not hereafter be necessary for the Secretary of the Treasury to issue another dollar of legal tender, but rather that he will be able to withdraw and diminish the amount now in circulation.

Mr. HOOPER obtained the floor.

Mr. FENTON. Will the gentleman yield to me for a moment?

Mr. HOOPER. Certainly.

Mr. FENTON. I had not intended to discuss this question, and I am not prepared to do so now, but if the subject shall go over until to-morrow, I will attempt to answer the gentleman from Pennsylvania as well as I can, and to show that his positions are not only unsound but mischievous to the credit and finances of the Government. I do not wish to ask that action on the bill shall be delayed, but I simply say that if it shall go over I shall seek an opportunity to address the House to-morrow.

The SPEAKER. The pending motion is to recommit the bill with the pending amendment to the Committee of the Whole on the state of the Union.

Mr. HOLMAN. I raised the point of order simply for the purpose of having an opportunity to have a vote in the House on the amendment made in Committee of the Whole on the state of the Union with reference to the taxation by the States of bonds issued under the authority of Congress. I will withdraw the point of order if the gentleman from Pennsylvania will give me the opportunity of submitting that amendment to the House.

Mr. STEVENS. I did not understand the gentleman before. If I have the power, I will give him the opportunity he seeks.

Mr. HOLMAN. I withdraw the point of order.

Mr. HOOPER. I renew the point of order.

The SPEAKER. The Chair sustains the point of order.

Mr. HOLMAN. I move to amend the amendment of the gentleman from Pennsylvania by striking out the words "and all bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal authority."

Mr. HOOPER. I now move the previous question on the bill and amendments.

The SPEAKER. The gentleman from Pennsylvania has moved to recommit the bill to the Committee of the Whole on the state of the Union.

The previous question was seconded, and the main question ordered.

The motion of Mr. STEVENS was agreed to; and the bill was recommitted to the Committee of the Whole on the state of the Union.

Mr. HOOPER. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the loan bill.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the bill (H. R. No. 515) to provide ways and means for the support of the Government, and for other purposes, the question being on the amendment

offered by Mr. STEVENS to the first section, in the nature of a substitute, as follows:

That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States, \$400,000,000, for the service of the fiscal year ending June 30, 1865, and to issue therefor coupon or registered bonds of the United States, redeemable, at the pleasure of the Government, after any period not less than twenty nor more than thirty years, and, if deemed expedient, made payable at any period not more than forty years from date, payable in coin. And said bonds shall be of such denominations as the Secretary of the Treasury shall direct, not less than fifty dollars, and bear an annual interest not exceeding eight per cent., payable semi-annually; and the interest on all bonds heretofore issued, payable annually, may be paid semi-annually; and in lieu of such bonds, authorized to be issued, the Secretary of the Treasury may issue bonds, bearing interest, payable semi-annually. And the Secretary of the Treasury may dispose of such bonds, or any part thereof, in the United States, or, if he shall find it expedient, in Europe, at any time, on such terms as he may deem most advisable, for lawful money of the United States, or, at his discretion, for Treasury notes, certificates of indebtedness, or certificates of deposit issued under any act of Congress. And he may also issue in exchange for Treasury notes heretofore issued bearing seven and three tenths per cent. interest, besides the six per cent. bonds heretofore authorized, like bonds of the denominations of \$100 and of \$50.

Mr. STEVENS. In order to settle the question simply of paying the interest in currency and the principal in coin, I withdraw the rest of my amendment.

Mr. DAVIS, of New York. Mr. Chairman, I regret very much to differ at this time with the views put forward by the distinguished gentleman from Pennsylvania, [Mr. STEVENS.] As the Representative on this floor of a portion of the people of the United States, I have but one question to ask myself, and that is, in what manner I can best and most efficiently sustain the Government. To that I am pledged at all times and under all circumstances. And although I may disagree in my individual opinion with the opinions of those who control the Government, I shall not falter in my support of the Government by reason of that disagreement.

As an original proposition I should have agreed with the views put forth by the gentleman from Pennsylvania. But, sir, we have to take things as they are. We must look to the facts not of the past but of the present. Our Government is committed to a policy in reference to the character and nature of its loans; and although I would have disagreed originally with the policy which the Government has pursued, I am bound now to sustain the policy adopted because I believe we cannot with honor or with safety depart from it.

We hold the Administration and its Departments responsible for carrying on this war; and I am not yet prepared as a Representative to deny them the means, the facilities, the instrumentalities by which alone as they assure us this war can be successfully prosecuted. The time may come when all the predictions of my friend from Pennsylvania may be realized. If so let it come. I am ready to share the destinies of the American people. I am ready to sink under the old flag of the Republic; and, so help me God, I will go to my grave under no other.

I am not so much afraid of the future as some gentlemen upon this floor appear to be. I have confidence in the power and the resources of the country, and if we can properly exercise our power and develop our resources we may look upon the existing liabilities of the country without apprehension.

Allusion has been made in the House to the great national debt of England at the close of the war of 1815, resting as is said as an incubus upon that country.

That, sir, is a comparison unworthy of the American people and the American Republic, even in the present condition of public affairs. What were the resources of England then compared to ours now? We have almost a continental domain which is still loyal, fertile in its soil and inexhaustible in its mineral wealth, containing in its bosom, beyond the Sierra Nevada and in the Territory of Colorado, gold and silver enough to pay the national debt ten times over; and we, like England in her wars with Napoleon, must in our conflict with rebellion look to the development of the agricultural, manufacturing, and mining interests of the country.

We have, then, the means in ample abundance of paying every dollar of debt which the war may impose, if we will avail ourselves of them, and can bring the conflict to a successful close.

If we cannot do this, let us go down like men in a determined and patriotic effort to do our duty as citizens of the great Republic.

I am, sir, for the prosecution of the war in the most vigorous and efficient manner; and to sustain the Government in those financial measures which are found essential to this end I would give to the country and its cause the last dollar, the last man, the last interest to suppress the rebellion and preserve its unity and greatness.

Mr. STEVENS. I will ask the gentleman whether he does not think that with a tax of over \$320,000,000 per year we should not be more likely to put it down than with a tax of \$840,000,000?

Mr. DAVIS, of New York. I answer the inquiry of the gentleman from Pennsylvania [Mr. STEVENS] by saying that what I fear is that the proposition now brought by him before the House, with the statements made by him, will shock the credit of the country; that men will feel that the Government has no confidence in its ability to carry on the war upon the system of finance which the proposition recommends; and that the currency of the country will be so much deranged and its securities so much impaired as to bring us to a position analogous to that which existed in the latter days of the Revolution, and we know from history what was then the worthlessness of all Government securities.

Now, sir, I believe that if we pursue a judicious course, if we draw judiciously upon the resources of the country and make a just and economical application of those resources, we shall be able to derive an income that will be sufficient to pay every dollar of interest upon any obligations we may assume. The people are ready to assume those obligations, they are ready to submit to taxation; and although, as I have said before, I would have approved the scheme of the gentleman from Pennsylvania as an original proposition, I am not ready to do it now, when I know the effect will be to impair seriously the credit of the American Government.

Mr. Chairman, our indebtedness now existing or existing on the 14th of June, 1864, is \$1,719,395,000. That is an amount which I say that we can pay without difficulty if we can only put down this rebellion; and that we can put it down as true as that there is a God in heaven, if we only stand united and firm together, agreeing upon sound measures of policy by which the war is to be prosecuted. I therefore deprecate most earnestly, upon the part of those who claim to be and as I know are the honest friends of the Government, any attempt to favor such measures as will of necessity impair the credit and jeopardize the safety of the country. This is no party question; it involves no party issue; it relates to the whole people and affects the very life-blood of the nation, which is the credit of the Government. On such a question, and at such a time, I am ready to sacrifice my individual opinions to the great public necessity. Sir, there is no sacrifice which is too great; if it be property, the little I have I am willing to offer; if it be life, I am willing to give it for the preservation of my country. It is not then, as I believe, an error or a crime in matters which are not of conscientious obligation to defer my private judgment to the matured opinions of those who are constitutionally charged with the responsibilities of guarding the Republic from danger and of conducting its affairs.

Sir, I hope most fervently that in this House, when we have approached so near the close of this session, which must put it beyond our power to retrieve errors if we now commit them, we shall not adopt the pending proposition, which will prove, I fear, a measure of discord.

Mr. STEVENS. Certainly not a measure of discord if we agree to it!

Mr. DAVIS, of New York. Mr. Chairman, I can see in it nothing but discord, if we force upon the financial Department of the Government a system to maintain and increase our financial strength, which in the judgment of that Department will blight the public credit. We invite the Government to fill up the armies, equipped with all the arms and material for active service. We direct the increase of our Navy, and in a thousand ways we pledge the faith of the Government to redeem the onerous obligations we assume, and then we provide for the payment of these liabilities by authorizing the Secretary of the Treas-

ury to negotiate the bonds of the nation, on which interest shall be paid, not, as before, in coin, but in currency, worth now not half as much as coin.

I am well aware, sir, that the honorable gentleman from Pennsylvania [Mr. STEVENS] offers his proposition with no unpatriotic motive, and with no desire to embarrass or hinder the operations of the Government; but if it shall produce discord between Congress and the Treasury Department; if it shall cripple and take away the power of that Department to do what is necessary to maintain the public credit, how are the Army and Navy to be preserved in their efficiency, or to be increased; in what way is the public credit to be preserved? By what means is the machinery of the Government to be carried on? If we fail in the accomplishment of these purposes, I see before us nothing but disaster, desolation, and bankruptcy, and upon bankruptcy will follow repudiation.

In my judgment this is no time for doubtful experiments, and I believe it for the present safer to continue upon the existing system than to try a new one in which failure would be fatal. It may be safely assumed that upon the basis proposed in the bill before the House the public credit cannot be presently depreciated; indeed, I hope it will be perfectly preserved. At all events, we can learn in a short period what its effect will be, and shall then be better prepared to say who is right and who is wrong. A few months only will bring us to the opening of another session of Congress, and if we in the mean time find by actual experiment that the operation of the bill is unsatisfactory and inefficient we can then with greater reason and with greater confidence try the proposition of the gentleman from Pennsylvania, or any other which may be deemed expedient. I hear my honorable friend from Pennsylvania suggesting some enactment like the "gold bill." I believe we did not differ on that measure. I have always regarded legislation to regulate the value of gold, or any other article of universal value, as utterly idle and worthless; and although I should rejoice to find that any law could arrest speculation in coin, I have no confidence in or expectation of such a result. I did not support the gold bill because I believed, ay, I think I knew that, passed or not passed, the market value of gold would be substantially unchanged. But the measure before us is one of vital importance, and we should ponder well before we determine to overturn the basis on which our finances have hitherto been successfully conducted.

The proposition of the gentleman from Pennsylvania relieves the Secretary of the Treasury from the responsibility of carrying on the war, because we shall have denied to him the means by which he says we can alone carry it on. Sir, I pray that we may unite here and at the other end of the Capitol upon whatever measures of public policy are adopted. I know of no safe, no consistent, no proper way in which we can meet our responsibilities in this regard except by acting in accordance with the wishes and views of the Treasury Department, and in that way I shall give my vote.

Mr. ARNOLD. The House seems to have been very much disturbed to-day by the speech of the gentleman from Pennsylvania, [Mr. STEVENS.] I think we ought to bear in mind that when that gentleman has an object which he desires to accomplish he sometimes chooses to indulge in some considerable extravagance of assertion; and his statements in regard to the political affairs of the country to-day must be taken with some considerable allowance, for we must remember that they were made in this House with a view of inducing the adoption of a particular line of policy other than that we have hitherto pursued. Sir, it has been said that the resources of the country were being exhausted, and that the time would come by and by when they would fail, and it might come before this rebellion was suppressed. What evidence is there apparent to the traveler throughout the loyal portion of the country that we have begun to exhaust our resources? Go where you will, go into the great cities of the North, go into the East, go into the manufacturing portions of New England, go to the great commercial marts, go to the West, and I ask you to tell me what indications there are that the resources of the country are exhausted? Why, sir, you see wealth so lavishly exhibited

and expended that it has no parallel in our previous history.

Talk to the American people to-day about national bankruptcy and ruin! They will not believe it. All that is necessary to sustain national credit is that adequate taxes should be imposed, economy and frugality prevail, and that our armies shall be filled up, and we shall accomplish the end, the suppression of the rebellion. Let the resources of the country be used, be fully and efficiently used to suppress this rebellion; but if the necessity arise, American citizens will rush en masse to arms to maintain the honor and glory of our country. The idea of possible failure or exhaustion is not entertained by the loyal masses.

Allusion has been made to the resources of Great Britain and her ability to carry on the long and exhaustive wars in which she has been engaged. Great Britain is but a small portion of the globe, a small island in the sea, yet we have seen what English pluck and English determination and persistence have done. Let us emulate her action at some periods of her history, in standing by the country, in imposing taxes and placing the resources of the country, of men and money, at the disposal of the Government, and there can be no sort of doubt of the issue of the great contest in which we are engaged.

Sir, the question is between maintaining the Union and bringing to the Government all the resources of the continent, or of vacillation and weakness in the midst of a conflict to break up this glorious Confederacy. The resources of this country developed by labor, as they may be and will be, are greater than those of the continent of Europe.

And I wish to call the attention of the House for a moment to the following statement of the resources of the country to carry on the war:

There are those who doubt whether the resources of our country are adequate to carry successfully through the stupendous work in which we are engaged. In reply, let me suggest one consideration not often adverted to. Our national resources are, when developed, equal to those of the whole continent of Europe. What Europe could do as one nation we can do when united in one great Republic. If all Europe could pay our national debt with ease so can we when national unity is established. Let me illustrate this idea:

If the map of our country, extending from the base of the Rocky mountains to the shores of the Atlantic, were laid over the map of Europe, that portion of the globe which for the last thousand years has engrossed the attention of the civilized world would be entirely covered. It would overspread those monarchies, empires, and nationalities which for ages have been antagonistic, beligerent—the great battle-fields of Europe. The map of the United States would cover the theater of the great wars which have desolated and depopulated again and again the eastern world, from France and Waterloo to Sebastopol. Human beings by the million have been sacrificed in the wars of the Fredericks, of the Louises, of the Philips, and the Charleses, of the Marlboroughs, and of the Bonapartes. Millions and millions of treasure, wrung from the toil of the laboring masses, have been expended in fortifying frontiers and in operations of these wars. Rivers of blood have flowed, so that you cannot take a day's ride in Europe without passing over fields memorable for human slaughter. Shall these scenes of butchery and desolation be reëncacted in our own beloved country? Shall this fair land, lately so peaceful, prosperous, and happy, become disintegrated and broken up into fragments? Shall the Hudson, the Susquehanna, the Delaware, the Potomac, the Ohio, and the Mississippi bristle with fortifications? Shall the Atlantic States contend in battle with the Lencrous West? Shall we ever reëncact upon our fair prairies and broad lakes the bloody pages of European history? God forbid!

Could some divine agency, a thousand years ago, have made of Europe a great nationality, leveling its dividing mountains, and mingling its clans into one great homogeneous people, and made it free, virtuous, and wise enough to maintain unity, what untold misery would have been prevented! No leveling of dividing mountains

is here necessary. God in His goodness has fashioned our country, vast as it is, for unity. He has given us one language, the same laws, and one glorious flag. He has made one great nationality a necessity. He has blessed us with liberty. Let us second God's plans, and aid and strengthen by every generous means the influences which shall hold us together forever.

Let our nationality be once restored and the entire resources of the country brought to the support of the Government, and our debt will be discharged without ruinous taxation.

The duty of to-day is to stand firm. To-day our duty is to fill up the ranks. To-day our duty is to lay taxes upon the people that our national credit shall be maintained until the war is ended. The other day when it was telegraphed over the land that the President had issued his proclamation for three hundred thousand more soldiers to fill up the thinned ranks of our armies, although it turned out to be a forgery, the business men of Chicago, those who have spent their money like water in raising regiments, in taking care of the families of soldiers and in every possible way aided the Government, cheered it upon the exchange because it indicated a determination on the part of the Government vigorously to carry on the war to crush out this rebellion. Every day I am receiving letters from my constituents, urging upon Congress to take every measure to fill up the ranks of our armies. Fill up the ranks, and success is within our grasp. Recently a boy escaping from the city of Richmond into our lines told us that every man in the rebel States between fifteen and fifty-five was pressed into the rebel ranks. How is it here? Go to New England; her operatives are scarcely perceptibly diminished. Travel throughout the country, and you would scarcely believe that such great numbers have gone to the field when such crowds of able-bodied men still remain. Talk to me about the resources of the country being exhausted! Why sir, the wealth of the country and its fighting material are abundantly able, vigorously used, to carry on the war and to crush the rebels. Is this the moment to hesitate, when victory and complete triumph seems within our grasp? Our resources are inexhaustible, and it only needs nerve, and determination, and courage upon the part of the Representatives here to enact laws which will fill up the Army, and impose the requisite taxes, to crown the efforts of our armies with a glorious triumph; and I trust this Congress will not adjourn until such a tax bill is passed as will restore the credit of the country, and such an enrollment bill shall have been passed as will enable the Government to fill up the ranks, and raise all the men the necessities of the Government may require.

One other remark only, for I am not going to consume the time of the House by making a speech. Up to two days ago, during all this war, there never came a communication from the President and Secretary of War asking Congress for men and money, or suggesting any means for carrying on the war, that Congress has not promptly responded to it. Nay, more, up to that time Congress went beyond the calls of the Executive and War Department in voting men and money. But a few days ago the President sent to this House a recommendation, accompanied by the recommendation of the Secretary of War, and a statement of the Provost Marshal General, saying that under the present system the ranks of the Army cannot be filled up as speedily as necessary, and asking Congress to repeal the commutation clause of the law. The House has taken the responsibility of refusing to do that which the Government has asked at their hands. I desire that every member of this House should appreciate the responsibility of that act. If there are any better ways and means of filling up the ranks of our Army, let them be presented and adopted. If there are any better ways, and if Congress fails to adopt those ways, and in consequence of such failure to fill up the Army disaster comes, the responsibility of that disaster will rest upon those who have failed to adopt them, and who have also failed to carry out the recommendation of the President and Secretary of War, those who have the responsibility of carrying on the war.

Mr. KERNAN. I desire information, and I ask the gentleman, on this practical measure, what is the recommendation of those who have charge

of carrying on the Government? Which bill is the right one, of the two bills before us?

Mr. ARNOLD. The question of the gentleman is not in regard to filling up the ranks of the Army, but in reference to a bill upon which I am not now remarking. I was making a general statement in regard to the necessity of filling up the Army, as well as in regard to sustaining the credit of the country. For the answer which the gentleman desires I refer him to the Committee of Ways and Means.

Mr. KERNAN. They differ about it.

Mr. ARNOLD. The gentleman's question is not germane to what I am saying. From the Ways and Means the gentleman must seek an answer to his question.

Mr. GANSON asked a question in regard to this mode of getting men which was not heard by the reporter.

Mr. ARNOLD. I expect and believe if you repeal the exemption clause you will get men more rapidly than heretofore. I expect this because those charged with the execution of this law so advise us. I vote to repeal the commutation clause because the armies must be filled up, and those having the responsibility advise that as the most efficient means of doing it. I can very well understand the vote of those who, voting against that repeal, say they do not desire to fill up the ranks, that they are for peace on any terms. Those gentlemen upon this floor who desire to have the war ended without further fighting, who wish to see our armies withdrawn from the field and to obtain peace on any terms, if such there are, I can understand their votes, and it seems to me their votes upon the proposition are consistent with their views. They do not wish to send any more soldiers to the field, and to withdraw those already there, and therefore they vote against the repeal. But my friends upon this side of the House who voted for continuing the commutation will undoubtedly present some proposition which they deem better calculated to fill up the ranks to enable us to carry on the war to a successful termination. The ranks of the Army must be filled up, and the credit of the Government sustained, and I trust this House will not adjourn until these objects shall have been successfully accomplished. If we do, we assume a fearful responsibility.

Mr. PRUYN. I wish to inquire whether the amendment submitted by the gentleman from Pennsylvania comes from him as chairman of the Committee of Ways and Means, or whether it is his individual proposition.

Mr. STEVENS. It is my own individual proposition. I did not submit it to the Committee of Ways and Means. For three years I have been of this opinion and the committee have been against me.

Mr. PRUYN. Then, as I understand the matter, the gentleman from Massachusetts, [Mr. HOOPER,] representing the Committee of Ways and Means, introduces the pending bill as a measure recommended by the Government, and which he asks this House to pass accordingly. Am I right in this?

Mr. HOOPER. I was instructed to report this bill by the Committee of Ways and Means unanimously, with the exception of the gentleman from Pennsylvania, [Mr. STEVENS,] the chairman, and I think the gentleman from Kentucky, [Mr. MALLORY,] There were no other dissenting voices.

Mr. PRUYN. Then I understand, or perhaps I ought to say I infer, from what the gentleman from Massachusetts has said that it is a bill which meets the approval of the financial head of the Government, the Secretary of the Treasury.

Mr. HOOPER. I have already stated that this bill was prepared at the Treasury Department.

Mr. PRUYN. I had forgotten that. I now recollect it.

Mr. Chairman, the debate of to-day has been, in many respects, one of the most significant, if not the most so, of any which has occurred this session. The charm seems at last to have been broken, and gentlemen on the opposite side of the House have come to the conclusion, at least some of them have, that events are staring us in the face which we ought to consider most carefully and deliberately; and that some of the

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

SATURDAY, JUNE 25, 1864.

NEW SERIES....No. 202.

views, at least, which have been put forward on this side of the House, and by gentlemen throughout the country who hold the views that we do, are worthy of the most serious consideration.

Mr. A. MYERS. I would ask the gentleman what he means by saying that the views entertained by gentlemen opposite are now expressed or entertained by members upon this side of the House.

Mr. PRUYN. I do not wish to go over the whole discussion. That is the inference I have drawn from it. The gentleman may draw another if he thinks any other can be drawn.

Mr. A. MYERS. Have gentlemen on the other side of the House ever taken the position which the chairman of the Committee of Ways and Means now takes?

Mr. PRUYN. I do not refer especially to what the chairman of the Committee of Ways and Means has said. I refer to a great deal which has been said by other gentlemen upon the opposite side of the House.

I will look at the proposition of the gentleman from Pennsylvania [Mr. STEVENS] for a moment. I understand it to be opposed, not because it is wrong in itself, not because the Government should not under any circumstances borrow money on these terms, but because there are other obligations of the Government outstanding which it is insisted are all payable in coin, both principal and interest, and that this will be creating a species of debt which we ought not to initiate, especially in the present condition of our financial affairs. If the Government were asking for nothing else than this amount, if there were no other obligations of the Government in the market, the proposition of the gentleman from Pennsylvania, if enacted into a law, would undoubtedly at once be accepted by many capitalists who would be glad with the present depreciated currency to make an investment by which at some future period they would be certain to receive coin in place of currency for the full amount invested. We all know what has been the inquiry for a year or two past in regard to investments. Every person, when consulted, has advised his neighbor to buy long bonds, those payable twenty or thirty years hence, with the hope that when they mature specie payments will have been resumed, and that they will receive the principal of the debt in coin.

The remarks of gentlemen upon the other side are based, as I understand them, upon the idea that the principal of all the United States bonds now outstanding are payable in coin, and I therefore asked the gentleman from Ohio [Mr. SPALDING] the question which I propounded to him a while ago, for the purpose of ascertaining whether the Treasury Department had come to any definite conclusion as to the mode of payment of the five-twenty bonds. The gentleman from Pennsylvania claimed that under the act of 1862, in pursuance of which the five-twenty bonds were issued, the principal of those bonds is not payable in coin, and that inasmuch as the Government had departed in that instance from the principle of paying everything in coin, there could be no objection on that score to his proposition to pay interest in currency. He claims that under the act of 1862 the Government agreed to pay the interest in coin and the principal in anything it pleased which it might call an equivalent. He now proposes to reverse that, and make the interest payable in paper and the principal in coin.

So far as the construction of the act of 1862 is concerned, my impression is that the gentleman from Pennsylvania [Mr. STEVENS] is right. The act of 1862 contains within itself declarations, and inferences are to be drawn from it, by which it would seem that Congress did intend to make a distinction between the payment of interest and the payment of principal, reserving the right to pay the principal as it pleased; that is, either in coin or in what is called lawful money. It is not necessary now, even were there time, to go into an analysis of the act of 1862. This view is much strengthened by the fact that the bill for the ten-forties contains an express proviso that both prin-

cipal and interest shall be payable in coin, making a clear distinction, so far as the language of the two acts is concerned between the ten-forty and the five-twenty bonds.

I looked somewhat at this point a short time since when called upon by a member of the House, who inquired of me whether I was aware of any difference in the character of the two issues, with the view of determining whether the five-twenties at a premium or the ten-forties at par were the better investment. It then seemed to me that in view of the phraseology of the two statutes the ten-forties were to be preferred, because as to them there could be no question. It has now, however, been announced by the gentleman from Ohio that the Secretary of the Treasury holds that the five-twenties are also to be paid in coin.

But, Mr. Chairman, the question as to what should be done fairly rests with those who represent the Administration on this floor. In a very brief speech which I made on a former occasion, I undertook to point out the great financial errors which I believed the Administration had committed in the outset of the war. I do not propose now to repeat what I then said; but reflection on the subject and the opinions of those in whose judgment I have great confidence have fully confirmed me in the belief that the views I then presented to the House were entirely sound. But a different policy having been pursued by the Administration, we are now launched on an open sea of debt, of paper money, of obligations of all kinds, both near and remote, to a fearful amount; nor are we on this side of the House in a position to control the matter. It is a question which the friends of the Administration have the power to decide, and no doubt will decide as they deem to be most judicious.

I did not expect this debate to-day, nor did I come here prepared to engage in it by offering any substitute for the bill, nor should I have had the slightest hope, after what has occurred on the floor of the House during this session, that any financial plan coming from this side of the House could have met with any favor from the friends of the Administration. However much gentlemen on the other side may differ among themselves in their views of men and of things, we on this side know that whenever any question has come up, understood to be an Administration measure the other side of the House has always been a unit.

I am therefore of opinion, Mr. Chairman, that the proposition of the gentleman from Pennsylvania, [Mr. STEVENS], however objectionable for some reasons, is not so in all the lights in which it has been viewed by those who have opposed it. But it has been claimed that it would interfere with the purposes of the Administration in raising men and money to carry on the war, in which we, on this side, have uniformly endeavored not in any way to embarrass the Government. We therefore have a right to look to the Administration side of the House to inform us definitely which of the plans proposed meets their favor, and which they deem to be most conducive to the interests of the country.

Mr. WILSON. I move that the committee do now rise for the purpose of closing debate.

Mr. HOLMAN. I hope the gentleman will withdraw that motion to enable me to offer an amendment.

Mr. WILSON. I withdraw for that purpose, although I desire that the vote shall be immediately taken.

Mr. HOLMAN. I submit the amendment which I indicated before.

Mr. WILSON. I now renew my motion. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union had had under consideration House bill No. 540, to provide ways and means for the support of the Government, and had come to no conclusion thereon.

ENROLLED RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 95) authorizing the Secretary of the Navy to amend the contract with John Ericsson for the construction of two impregnable floating batteries, the Dictator and the Puritan; when the Speaker signed the same.

LOAN BILL—AGAIN.

Mr. HOOPER. Before moving to go into committee, I move that all general debate upon the loan bill be terminated in five minutes after the committee shall resume its consideration.

The motion was agreed to.

Mr. HOOPER. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the bill of the House (No. 540) to provide ways and means for the support of the Government, and for other purposes; the question being on the adoption of Mr. HOLMAN's amendment.

On the adoption of the amendment 50 voted in the affirmative and 59 in the negative.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Messrs. HOLMAN and HIGBY were appointed.

The committee again divided; and the tellers reported—ayes 58, noes 73.

So the amendment was disagreed to.

The question then recurred on the adoption of Mr. STEVENS's amendment.

Mr. HOOPER. I will suggest to the gentleman from Pennsylvania that he strike out the clause from the twenty-sixth to the thirtieth line as follows:

And the Secretary of the Treasury may dispose of such bonds, or any part thereof, in the United States, or, if he shall find it expedient, in Europe, at any time, on such terms as he may deem most advisable, for lawful money of the United States, or, at his discretion, for Treasury notes, certificates of indebtedness, or certificates of deposit issued under any act of Congress.

The same provision is made in the third section of the bill.

Mr. STEVENS. That is true, and I will strike it out.

Mr. HOOPER. I will suggest, also, that in the ninth line he strike out "twenty" and insert "five," so as to make it read, "redeemable, at the pleasure of the Government, after any period not less than five nor more than thirty years."

Mr. STEVENS. I believe that long bonds always sell better than short ones, but inasmuch as the Secretary of the Treasury thinks otherwise, I am willing to accommodate my amendment to his wishes in that respect, and will strike out "twenty" and insert "five," although I am informed by gentlemen who know a great deal more about this matter than I do, for I have had no money to invest in bonds, that people will much more readily invest their money in long bonds.

Mr. HOOPER. Now, if the gentleman will insert in the fifteenth line, after the words "semi-annually," the words "in coin," I will then very cheerfully support his amendment. The clause would then read:

And said bonds shall be of such denominations as the Secretary of the Treasury shall direct, not less than fifty dollars, and bear an annual interest not exceeding eight per cent., payable semi-annually in coin.

Mr. STEVENS. That would bring it right back to the original bill; however, if the gentleman desires to offer it as an amendment to my amendment, let him do it, and the vote upon it will determine whether the House desire to adopt my amendment or not.

Mr. HOOPER. I would then support the gentleman's amendment very willingly.

Mr. STEVENS. Then I understand that the

gentleman would be willing to pay eight per cent. interest in coin.

Mr. HOOPER. Not at all. It would read "not exceeding eight per cent.," leaving it at the discretion of the Secretary of the Treasury. I will, however, modify my amendment by striking out "eight" and inserting "six."

Upon the adoption of the amendment to the amendment, 61 voted in the affirmative and 64 in the negative.

Mr. HOOPER demanded tellers.

Tellers were ordered; and Messrs. THAYER and HOLMAN were appointed.

MESSAGE FROM THE SENATE.

The committee here informally rose; and the Speaker having resumed the chair, a message from the Senate was received by Mr. FORNEY, their Secretary, informing the House that the Senate have passed a bill and joint resolutions of the following titles, with amendments; in which he was directed to ask the concurrence of the House:

An act (H. R. No. 532) to establish certain post roads;

Joint resolution (H. R. No. 68) authorizing the Secretary of the Treasury to release certain goods from the payment of duties; and

Joint resolution (H. R. No. 39) for the relief of Alexander Cross.

Also, that the Senate have disagreed to the amendments of the House to the bill of the Senate (No. 138) to regulate proceedings between landlord and tenant in the District of Columbia, ask a conference with the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. MORRILL, Mr. HARLAN, and Mr. HENDRICKS the committee of conference on their part.

Also, that the Senate insist on their amendments disagreed to by the House to the bill of the House (No. 495) to amend the charter of the Washington and Georgetown Railroad Company, agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. WADE, Mr. WILLEY, and Mr. RIDDLE the committee of conference on their part.

Also, that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes.

The committee then resumed its session, and proceeded again to the consideration of the

LOAN BILL.

The committee divided; and there were—ayes 72, noes 51.

So the amendment was adopted.

Mr. DAVIS, of New York, moved to insert in section thirteen, line twenty, after the word "medium" the words "with the intention of assimilating the same to the notes, bonds, or other representatives of value issued by the United States."

The amendment was agreed to.

Mr. HOOPER moved that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally, under consideration, and particularly House bill No. 540, to provide ways and means for the support of the Government, and for other purposes; and had directed him to report the same back to the House with sundry amendments.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 545) to amend an act entitled "An act to provide for the payment of horses and other property destroyed in the military service of the United States;"

Joint resolution (H. R. No. 107) for the relief of Major Morris S. Miller, of the quartermaster's department; and

Joint resolution (H. R. No. 87) amendatory of an act to provide for the deficiency in the appropriation for the pay of officers and men

actually employed in the Western department or department of Missouri.

LOAN BILL—AGAIN.

Mr. HOOPER demanded the previous question on the loan bill and the amendments of the Committee of the Whole on the state of the Union.

The previous question was seconded, and the main question ordered.

The question first recurred on the amendment of the Committee of the Whole on the state of the Union adopted on motion of Mr. STEVENS.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 59, nays 81, not voting 42; as follows:

YEAS—Messrs. William J. Allen, Anderson, Bailly, Augustus C. Baldwin, Baxter, Blair, Blow, Boyd, Brooks, Broomall, William G. Brown, Cole, Dawson, Denison, Donnelly, Eden, Eldridge, Farnsworth, Grider, Harding, Benjamin G. Harris, Higby, Holman, Hotchkiss, Asahel W. Hubbard, Ingersoll, Philip Johnson, William Johnson, Kalbfleisch, Knapp, Law, Loan, Long, Marey, McAllister, McClurg, McDowell, William H. Miller, Moorhead, James R. Morris, Morrison, Amos Myers, John O'Neill, Orth, Robinson, Ross, Scott, Shannon, John B. Steele, Stevens, Sweet, Thayer, Van Valkenburgh, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilson, and Winfield—69.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Arnold, Ashley, John D. Baldwin, Beaman, Blaine, Boutwell, Ambrose W. Clark, Freeman Clarke, Cobb, Creswell, Thomas T. Davis, Dawes, Dixon, Driggs, Eckley, Edgerton, Elliot, English, Fenton, Finck, Frank, Ganson, Garfield, Gooch, Griswold, Hale, Herrick, Hooper, John H. Hubbard, Hubbard, Jencks, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Knox, Longyear, Marvin, McBride, Samuel F. Miller, Morrill, Daniel Morris, Leonard Myers, Noble, Norton, Odell, Charles O'Neill, Patterson, Pendleton, Perham, Pike, Pomeroy, Price, Pruyn, Radford, Samuel J. Randall, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Seofield, Sloan, Smithers, Spalding, William G. Steele, Stiles, Strouse, Stuart, Upson, Ward, Elihu B. Washburne, William B. Washburn, Webster, Williams, Benjamin Wood, and Fernando Wood—81.

NOT VOTING—Messrs. James C. Allen, Bliss, Brandegee, James S. Brown, Chanler, Clay, Coffroth, Cox, Craven, Henry Winter Davis, Deming, Dumont, Grinnell, Hall, Harrington, Charles M. Harris, Hutchins, Kasson, King, Lazear, Le Blond, Littlejohn, Mallory, McIndoe, McKinney, Middleton, Nelson, Perry, William H. Randall, Alexander H. Rice, Rogers, Smith, Starr, Stebbins, Thomas, Tracy, Voorhees, Wadsworth, Wilder, Windom, Woodbridge, and Yeaman—42.

So the amendment was non-concurred in.

During the vote,

Mr. ASHLEY stated that Mr. WILDER was paired with Mr. J. C. ALLEN.

The vote was announced as above recorded.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendment was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HOLMAN. What has become of the amendments to the first section of the bill relative to the taxation of these bonds for State and municipal purposes?

The SPEAKER. When that section was stricken out they fell as a matter of course.

The question next recurred on Mr. POMEROY's amendment.

Mr. POMEROY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 44, nays 81, not voting 57; as follows:

YEAS—Messrs. Ancona, Augustus C. Baldwin, Brooks, William G. Brown, Freeman Clarke, Coffroth, Cole, Craven, Creswell, Dawes, Dawson, Edgerton, English, Farnsworth, Ganson, Griswold, Harrington, Herrick, Holman, Hotchkiss, Jencks, Kalbfleisch, Kernan, Law, Marey, Samuel F. Miller, James R. Morris, Morrison, Nelson, Odell, Pike, Pomeroy, Price, Pruyn, James S. Rollins, Ross, Seofield, John B. Steele, Thayer, Van Valkenburgh, William B. Washburn, Whaley, Wheeler, and Wilson—44.

NAYS—Messrs. William J. Allen, Alley, Allison, Ames, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Blair, Blow, Boutwell, Boyd, Broomall, James S. Brown, Ambrose W. Clark, Cobb, Thomas T. Davis, Denison, Dixon, Donnelly, Driggs, Eden, Eldridge, Elliot, Frank, Gooch, Hale, Harding, Benjamin G. Harris, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Philip Johnson, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knapp, Knox, Loan, Long, Longyear, McAllister, McBride, McClurg, William H. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Noble, Norton, Charles O'Neill, John O'Neill, Orth, Perham, John H. Rice, Schenck, Shannon, Sloan, Smithers, Spalding, William G. Steele, Stevens, Stiles, Strouse, Stuart, Tracy, Upson, Elihu B. Washburne, Webster, Williams, Windom, Winfield, Benjamin Wood, and Fernando Wood—81.

NOT VOTING—Messrs. James C. Allen, Anderson, Blaine, Bliss, Brandegee, Chanler, Clay, Cox, Henry Winter Davis, Deming, Dumont, Eckley, Fenton, Finck, Garfield,

Grider, Grinnell, Hall, Charles M. Harris, Higby, Hutchins, Ingersoll, William Johnson, Kasson, King, Lazear, Le Blond, Littlejohn, Mallory, Marvin, McDowell, McIndoe, McKinney, Middleton, Patterson, Pendleton, Perry, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, Scott, Smith, Starr, Stebbins, Sweet, Thomas, Voorhees, Wadsworth, Ward, Chilton A. White, Joseph W. White, Wilder, Woodbridge, and Yeaman—57.

So the amendment was rejected.

The SPEAKER. If there is no objection the question will be taken on the remaining amendments in gross, unless a separate vote is desired upon some of them.

Mr. HOOPER. I desire a separate vote upon the amendment to the thirteenth section, in lines seventeen and eighteen, which was to strike out the words "or device with green ink, or with any green color or pigment."

The question was taken, and the amendment was not agreed to.

The remaining amendments reported from the Committee of the Whole were agreed to in gross.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOOPER demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. GANSON demanded the yeas and nays upon the passage of the bill.

The yeas and nays were not ordered.

The bill was passed.

Mr. HOOPER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LANDLORD AND TENANT BILL.

Mr. WILSON. The Senate has non-concurred in the amendments of the House to the bill of the Senate No. 138, in relation to landlords and tenants in the District of Columbia. I ask unanimous consent to take that bill from the Speaker's table in order that the House may insist upon its amendments and agree to the committee of conference asked for by the Senate.

Mr. HOLMAN. I ask the gentleman to allow that to lay over until morning.

And then, on motion of Mr. DAWSON, (at five o'clock and fifteen minutes, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, June 24, 1864.

Prayer by Rev. B. H. NADAL, of Washington, District of Columbia.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal was dispensed with.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of Adam Gurowski, praying that the horse cars in the city of Washington may be allowed to run on Sundays; which was ordered to lie on the table.

Mr. SUMNER presented four petitions of men and women of the United States, praying for the abolition of slavery, and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

Mr. HARRIS presented a memorial of masters in the Navy not in the line of promotion, and attached to navy-yards, praying to be placed on the same pay with acting masters drawing sea pay; which was referred to the Committee on Naval Affairs.

REPORTS FROM COMMITTEES.

Mr. HENDRICKS, from the Committee on Claims, to whom were referred the memorial of George H. Plant and the memorial of Francis I. Brooke, asked to be discharged from their further consideration; which was agreed to.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the memorial of contractors and builders of the side-wheel gunboats known as double-enders, asked to be discharged from its further consideration, and that it be referred to the Court of Claims; which was agreed to.

He also, from the same committee, to whom

was referred the joint resolution (H. R. No. 103) for the relief of Mary Kellogg, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

He also, from the Committee on Naval Affairs, asked to be discharged from the further consideration of the following petitions:

Petition of citizens of New York, praying a vote of thanks of Congress to Commodore W. D. Porter and the crew of the United States gunboat Essex for the destruction of the rebel ram Arkansas;

Petition of watchmen at the navy-yard at Washington, District of Columbia, praying an increase of pay; and

Petition of Mary L. Watts, sister and sole heir of George Watts.

Mr. COWAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 117) to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion, reported it with an amendment.

Mr. WILKINSON, from the Committee on Revolutionary Claims, to whom was referred the memorial of Haym M. Salomon, submitted a report accompanied by a bill (S. No. 331) for the relief of Haym M. Salomon. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. MORRILL, from the Committee on Commerce, to whom was referred the bill (S. No. 318) authorizing the Secretary of the Treasury to sell certain property when no longer required for the public service, reported it with an amendment.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, reported a bill (S. No. 332) to establish salaries for postmasters, and for other purposes; which was read and passed to a second reading.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the resolution of the Senate of May 27, calling for an account current between the United States and the united bands of Wea, Peoria, Kaskaskia, and Piankeshaw Indians, submitted a letter of the Secretary of the Interior addressed to the chairman of the Committee on Indian Affairs, communicating the amount called for by the resolution; which was ordered to be printed.

He also, from the same committee, to whom were referred a petition of James Storm, of Stockbridge, Wisconsin, and a bill (S. No. 294) for the better protection of the tribal rights and interests of the Indians, moved that they be postponed to the first Monday of December next; which was agreed to.

He also, from the same committee, to whom were referred the following bills, communications, and memorials, asked to be discharged from their further consideration; which was agreed to:

A bill (S. No. 186) for the relief of the Peoria, Piankeshaw, Kaskaskia, and Wea Indians of Kansas;

A bill (H. R. No. 425) for the relief of the Wea, Peoria, Kaskaskia, and Piankeshaw Indians of Kansas;

A bill (H. R. No. 441) providing for the removal of certain stray bands of Indians from the State of Wisconsin;

A message from the President of the United States in relation to the amount of money received by the Government for the sale of the Wea trust lands;

A report of the Secretary of the Interior, communicating the papers and awards of the commissioners appointed under the act of February 16, 1863, "for the relief of persons for damages sustained by reason of depredations and injuries by certain bands of Sioux Indians;"

A letter of the Secretary of the Interior, recommending an appropriation for the Indian service in the Territory of Dakota;

A letter of the Secretary of the Interior, communicating an estimate of the appropriations required to fulfill treaty stipulations with the Chippewas of Red Lake, and the Pembina band of Indians under the treaty of October 1, 1863;

A letter of the Secretary of the Interior, communicating estimates of the appropriations required to defray the liabilities incurred for the subsistence of the Sioux and Winnebago Indians removed from Minnesota to Dakota;

A letter of the Secretary of the Interior recommending an appropriation for the Indian service in New Mexico for the current fiscal year;

A letter of the Secretary of the Interior communicating an estimate of the appropriation required to comply with the treaty stipulations with the Chippewa Indians of the Mississippi;

Resolutions of the Legislature of Kansas in favor of the negotiation of treaties and the enactment of laws for the removal of all the Indians residing in a tribal capacity within that State;

A memorial of the Legislature of Minnesota praying for the early payment of the damages sustained by the Sioux Indian war of 1862;

Resolutions of the Legislature of Kansas in favor of making such treaties with the Indian tribes in that State as will secure their removal therefrom, and allow the State to tax the lands now occupied by the Indians immediately after their sale;

A memorial of John Beeson, L. F. Peaslee, and A. D. Ruggles;

A memorial of John Beeson; and

A petition of settlers in the absentee Shawnee Indian reservation in Douglas county, Kansas.

CIVIL APPROPRIATION BILL.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 527) making appropriations for sundry civil expenses of Government for the year ending the 30th of June, 1865, to report it back with amendments. As these amendments are comparatively few and simple, and this is the last of the appropriation bills, I ask that without printing the amendments the bill be set down as the special order for one o'clock to-day.

Mr. SUMNER. Does the Senator think it advisable to proceed with that bill so soon? Is it not customary to keep it till the very close of the session?

Mr. SHERMAN. It is the last of the regular appropriation bills.

Mr. SUMNER. I understand that, and on that very account it should be kept to the last. We do not know but during the last week it may be desirable to add to the bill.

Mr. SHERMAN. The session has approached such a period that I think the bill ought to be considered in the Senate and sent back to the House of Representatives; it can be kept there, and they can propose amendments to our amendments; so that the matter will be open. As it is a regular appropriation bill, I think it better to act upon it before the revenue bill is reported back.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill to-day. The Chair hears no objection.

Mr. SHERMAN. I now move that the bill be made the special order for one o'clock to-day.

The motion was agreed to, two thirds concurring therein.

PRESERVATION OF PUBLIC WORKS.

Mr. CHANDLER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 450) to provide for the repair and preservation of certain public works of the United States, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their three amendments made to said bill.

Z. CHANDLER,
L. M. MORRILL,
E. D. MORGAN,
Managers on the part of the Senate.
E. B. WASHBURN,
JOHN W. LONGYEAR,
Managers on the part of the House.

Mr. JOHNSON. Do the Senate recede from all their amendments? Why is that, and what were they?

Mr. CHANDLER. There were only three amendments, all immaterial; but there was fuller information before the committee of conference than there was before the Senate Committee on Commerce upon the subject.

The report was concurred in.

CATALOGUE OF REBELLION PUBLICATIONS.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library be instructed to inquire into the expediency of causing a catalogue of all the publications relating to the present rebellion to be compiled.

RECRUITING IN IRELAND AND CANADA.

Mr. JOHNSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to inform the Senate if any authority has been given to any one, either in this country or elsewhere, to obtain recruits in Ireland or in Canada for our Army or Navy; and whether any such recruits have been obtained, or whether to the knowledge of the Government Irishmen or Canadians have been induced to emigrate to this country in order to be so recruited; and if so, what measures, if any, have been adopted to arrest such conduct.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (No. 540) to provide ways and means for the support of the Government, and for other purposes; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 545) to amend an act entitled "An act to provide for the payment of horses and other property destroyed in the military service of the United States;"

A joint resolution (H. R. No. 87) amendatory of an act to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department or department of Missouri;

A joint resolution (H. R. No. 95) authorizing the Secretary of the Navy to amend the contract with John Ericsson for the construction of two impregnable floating batteries, the Dictator and the Puritan; and

A joint resolution (H. R. No. 107) for the relief of Major Morris S. Miller, of the quartermaster's department.

HOUSE BILL REFERRED.

The bill (No. 540) to provide ways and means for the support of the Government, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

BILLS INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 330) to amend an act entitled "An act to establish and equalize the grades of line officers of the United States Navy;" which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 71) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 72) to provide for payment of the claim of Colonel H. C. De Ahna for military services; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

NATIONALITY OF SEAMEN.

Mr. CHANDLER. I desire the Senate this morning to consider some bills which have been reported from the Committee on Commerce, and which ought to be passed promptly. I move first to take up the bill (H. R. No. 519) repealing certain provisions of law concerning seamen on board public and private vessels of the United States.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to repeal so much of an act for the regulation of seamen on board the public and private vessels of the United States, approved the 3d of March, 1813, as makes it not lawful to employ on board any of the public or private vessels of the United States any person or persons except citizens of the United States or persons of color, natives of the United States; and so much of the third, fifth, sixth, and seventh sections of an act concerning the navigation of the United States, approved the 1st of March, 1817, as concerns the crews of vessels therein named; and so much of the first section of an act entitled "An act to repeal the tonnage duties upon ships and vessels of the United States and upon certain foreign vessels," approved the 31st of May, 1830, as makes

discrimination in favor of vessels certain proportions of whose crews shall be citizens of the United States. It is however provided that officers of vessels of the United States shall in all cases be citizens of the United States.

The bill was reported to the Senate without amendment.

Mr. SUMNER. I offer the following amendment as additional sections:

Sec. — And be it further enacted, That no human being shall be held or transported as property in any vessel on the high seas, or sailing coastwise, or on any navigable waters within the jurisdiction of the United States; and every vessel violating the provisions of this act shall be forfeited to the United States; and every master of such vessel consenting to such violation shall be deemed guilty of a misdemeanor, and on conviction thereof subject to the penalties hereinafter provided, one half of the fine to go to the informer; and every human being held or transported as property shall be free.

Sec. — And be it further enacted, That all acts or parts of acts inconsistent herewith, including especially so much of an act approved March 2, 1897, as regulates the coastwise slave trade, are hereby repealed.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Massachusetts that the amendment as offered refers to what is "hereinafter provided," and there is no previous provision in the bill on the subject.

Mr. CHANDLER. I hope the Senate will vote down the amendment and let the Senator put his own bills through, and let those of the Committee on Commerce go through by themselves. I can pass my bills without discussion if gentlemen will let me alone. All I ask is that I may be permitted to go on with my bills.

Mr. SUMNER. I withdraw the amendment. The bill was ordered to a third reading, was read the third time, and passed.

NAUTICAL MAPS AND CHARTS.

On motion of Mr. CHANDLER, the bill (S. No. 310) for the promotion of commerce and the improvement of navigation was read the second time and considered as in Committee of the Whole.

The first section of the bill provides that for the improvement of the mercantile marine, and for the promotion of commerce and navigation, by providing, under the authority of the Government, accurate and cheap nautical charts and books for the use of the naval, revenue, and merchant services, and of navigators generally, the Secretary of the Treasury may publish and sell domestic maps, charts, and nautical books, relating to the coast of the United States, at the cost of printing and paper, and to purchase the plates and copyrights of such maps, charts, and books, when he may consider it expedient to do so, and under such rules and regulations as he may prescribe. By the second section the moneys received from the sale of such maps, charts, and nautical books, are to be returned by the Secretary of the Treasury into the Treasury of the United States, to be used in the preparation of other works of the same character, which are to be sold upon the same terms, and the sum of \$30,000 is appropriated for the objects named. According to the third section, for the purposes mentioned, the Secretary of the Navy is to be authorized to publish and sell maps, charts, and nautical books relating to, and required in, the navigation of foreign seas, and to furnish them to navigators at the cost of printing and paper, and to purchase the plates and copyrights of such maps, charts, and books when he may consider it expedient to do so, and under such rules and regulations as he may prescribe. By the fourth section the moneys received from the sale of such foreign maps, charts, and nautical books are to be returned by the Secretary of the Navy into the Treasury of the United States, to be used in the preparation of other works of the same character, which are to be sold upon the same terms; and that the sum of \$139,640 is appropriated for the objects named in the third and fourth sections.

Mr. GRIMES. I have no doubt this is a very valuable bill, but I wish to suggest whether the word "engraving" should not be inserted, so as to read, "the cost of printing, engraving, and paper." The "printing," I suppose, would only include the press-work. I move in the tenth line of the first section and in the fifth line of the third section after the word "printing" to insert "engraving."

Mr. CHANDLER. I have no objection. The amendment was agreed to.

The bill was reported to the Senate, and the amendment was concurred in.

Mr. HALE. It strikes me that this is a novel business for the Government, to undertake to print and publish maps and books for sale. I know the proposition has been made many times, but it has been universally objected to. I think there is no precedent for it.

Mr. CHANDLER. All other commercial nations do it. The committee had the matter under consideration for a long time, and finally, on the explanations of the Treasury, Navy, and War Departments, decided that it was for the interests of the commerce of the United States that this provision should be made.

Mr. MORRILL. I believe there is a report from the committee.

Mr. HALE. Let it be read.

The Secretary read the following report, made by Mr. SPRAGUE:

The Committee on Commerce, to whom was referred the petition of the American Shipmasters' Association, praying that the Government furnish to their seamen hydrographic books and charts at the cost of paper and printing, have had the same under consideration, and beg leave to report:

That the subject is deemed by the committee to be of such importance that they have thought proper to embody in this report, as partially embracing and expressing their own views, the petition; a report on the subject by the head of the Bureau of Navigation in the Navy Department, with a part of an accompanying communication; and a report on the subject by the head of the Coast Survey in the Treasury Department.

In addition to the views set forth in these papers, the committee would express the opinion that it is of the first importance that our large and increasing naval and revenue service should enjoy the additional facilities for navigation demanded by the commerce of the country.

The committee would, therefore, respectfully urge upon the Senate the importance of an early and favorable action upon the bill herewith submitted, Senate bill No. 310.

AMERICAN SHIPMASTERS' ASSOCIATION,
No. 51 WALL STREET, ROOMS 23 AND 25,
NEW YORK, February 3, 1893.

To the Senate and House of Representatives of the United States:

The undersigned respectfully represent that the Shipmasters' Association was organized for the purpose of advancing the character and efficiency of our mercantile marine by taking measures for the superior education and moral improvement of its officers and seamen, and thereby adding to the safety of our shipping; and as information of a hydrographic character stands prominent as a means of effecting such purposes, and in view of the fact that the Governments of the maritime Powers of the world have prepared and published, for the use of their seamen, hydrographic books and charts to be sold at near their cost, they would solicit similar action on the part of the Government of the United States.

It may be asked why the Government should be called upon to furnish hydrographic rather than any other kind of information; in reply to which they would say that this nation is competing for commercial equality on the ocean with the great maritime Powers of the world; it is therefore necessary to use the same proper means that they use to attain success.

They further represent that the creation and furnishing of nautical information is especially a Government function. All surveys of sea-coasts and the dangers of the ocean have been made at the expense of the Governments of the world; also the astronomical observations necessary for navigation. All the nautical almanacs published by the various nations are furnished at near the cost of printing and paper; the preparation of them by calculations, and the type-setting, are paid for by the respective Governments which issue them.

They therefore respectfully ask that the Senate and Congress will take such steps as may be necessary to carry out the above-named object, namely, the supplying the seamen of our mercantile marine with charts and books at the cost of paper and printing.

E. E. MORGAN,
ROB. T. TAYLOR,
W. C. THOMPSON,
Council.

J. W. UPTON,
Secretary.

The undersigned concur in the above.

J. D. JONES,
President Atlantic Mutual Insurance Company.

M. H. GRINNELL,
President Sun Insurance Company.

LEOPOLD BRURWECH,
President Orient Mutual Insurance Company.

CHARLES NEWCOMB,
Vice President Mercantile Insurance Company.

B. C. MILLER,
President Columbia Insurance Company.

ALFRED EDWARDS,
President Pacific Mutual Insurance Company.

J. P. TAPPAN,
President Neptune Insurance Company.

SAMUEL DRAKE SMITH,
President Commercial Mutual Insurance Company.

T. S. LATHROP,
President Union Mutual Insurance Company.

JOHN H. LYELL,
Vice President New York Marine Insurance Company.

REUBEN E. LATHROP,
Great Western Insurance Company.

Letter to the Secretary of the Navy.

BUREAU OF NAVIGATION, NAVY DEPARTMENT,
WASHINGTON, March 20, 1894.

SIR: The Bureau has had under careful consideration the letter of Hon. Z. CHANDLER, chairman of the Committee on Commerce of the United States Senate, dated February 26, and the petition accompanying it, of the Shipmasters' Association, and of the marine insurance offices of New York, praying that the Government will furnish to our seamen and mercantile marine, books and charts pertaining to the navigation of the high seas, at the cost of paper and printing, and has the honor to submit the following report:

The Bureau has prepared, with mature reflection, the accompanying outline of its views in regard to the extension of its foreign hydrographic labors and duties, and also the accompanying estimates of the cost of establishing an office for this purpose.

The Bureau entertains no doubt whatever that it is desirable (whenever it may be thought by Congress to be expedient and convenient) for our Government to follow the Governments of all the maritime Powers of the world, (Prussia, even, with her small navy and commerce included,) in preparing and publishing, under its own authority and in its own name, all the means and instruments of foreign navigation, and particularly charts.

To show how desirable this is, it may be mentioned that the British admiralty, which has been in the practice of sending copies of their charts and books to several of the public establishments of the country, such as the Coast Survey office, the Light House Board, the Observatory, and Smithsonian Institution, and of sending them also to the distinguished hydrographers, the Messrs. Blunt, of New York, withheld their publications in the autumn of 1881. In the autumn of 1883 the former practice of sending charts and hydrographic books was resumed.

I trust it will be thought that the time has now arrived when we may be able to adopt those measures of care and self-protection which must be adopted sooner or later, if American navigators and seamen are ever to recover the leading position they once occupied. I have endeavored to show in the accompanying outline that the loss of this position has been due in a great measure to the want of a sufficient guardianship on the part of the General Government of the interests of merchants and seamen in the very particulars which form the subject of this petition and correspondence.

I have the honor to be, very respectfully, your obedient servant,

C. H. DAVIS,

Chief of Bureau.

Hon. GIDEON WELLES, Secretary of the Navy.

Outline of views in regard to the extension of the hydrographic duties pertaining to the Bureau of Navigation.

GENERAL CONSIDERATIONS.

1. The commercial interests of the country require that the Government should assume a more active and extensive care and supervision over all the means and instruments of foreign navigation.

2. The benefits which would thence accrue to the mercantile community in general are exemplified by the Coast Survey, which has rendered invaluable service within the sphere of its action.

3. The General Governments alone capable of grappling with the subject in its whole scope, because it requires unrestricted communication with foreign Governments, the services of national vessels, uniformity of method, singleness of responsibility, and vast research.

4. This responsibility is one of the most important views bearing on the subject. For want of a proper responsibility erroneous charts are published, and charts of an old date, which have long been imperfect, if not worse, are kept in circulation, and are imposed upon the unsuspecting.

5. The navigator is now subjected to great and unnecessary expenses in supplying himself with charts; one of the consequences of which is that he frequently goes to sea unprovided with the requisite means of safe conduct.

6. It is very desirable that the ignorance and neglect of seamen in these particulars should be corrected; they should be taught to know, and encouraged to use, the best books of navigation, sailing directions, and charts.

7. This can only be done by the Government, which must publish these various works on its own responsibility, and furnish them to the merchant and seaman on the terms prescribed in the proviso to section one of the act making appropriations for the naval service, &c., approved March 3, 1859, as follows: "That the Secretary of the Navy may, when in his opinion the interests of navigation would be promoted thereby, cause any nautical works that may, from time to time, be published by the hydrographical office, to be sold at cost, and the proceeds arising therefrom to be placed in the Treasury of the United States."

8. By doing this, the Government will drive out of the market the spurious publications of irresponsible persons, and substitute in the place of them the most accurate and reliable works.

9. The character of our merchant service has already begun to suffer from our failure to perform our duty in these respects; the more so, that our neglect finds the strongest contrast in the conduct of the British, French, and Russian Governments, all of which have taken the entire charge of the foreign hydrography of their respective countries. Our officers and ships, which in a report of a committee of the House of Commons (1836?) were once acknowledged to be superior to any, are now regarded as inferior to the British; and that inferiority proceeds in part from the imperfection and insufficiency of the means of navigation.

10. The publication of hydrographic works is contemplated and provided for by several acts of Congress, which, however, were designed for the most part to meet special cases; the obligation has been recognized, but the sphere of action has hitherto been too limited.

11. The course pursued by other commercial nations renders it expedient that we should no longer leave it to private enterprise, knowledge, and fidelity to create the means by which the wide and increasing commerce of the

country is conducted in safety over the great oceans. To continue to do so will be to endanger the best interests of that commerce, to imperil life, and to accept for our merchants and seamen an inferior position among the traders and travelers upon the sea.

PLAN OF PROCEEDING.

- In reference to charts, maps, drawings, views, plans, photographic illustrations, &c.
- In reference to works of instruction and information; as sailing directions, descriptive tracts, tables of geographical position, current and tide tables, general and special memoirs relating to the sea, &c.
- In reference to books of navigation, properly so called, and of nautical astronomy.

In reference to charts, &c.

- In order that the Government may enter, as soon as possible, into the exercise of a beneficial control over the foreign charts of the country, it must begin not only to engrave its own charts, but to purchase engraved plates.
- The process of engraving is slow; the establishment and complete organization of a hydrographic office from the resources now in the hands of the Government is impossible.
- But the Government is in possession of much useful information which may be turned to account when it begins to print and publish on its own authority.
- The Government commands very valuable resources for the improvement of foreign hydrography, in its cruising vessels, which would be systematically developed.
- The hydrographic reports, records, and data of all kinds, surveys included, will be brought together and applied to the best use.
- Communications will be opened with the offices of hydrography of other nations.
- Compensation will be paid for valuable information, and by this means investigations, surveys, and observations will be stimulated.
- The stamp of the Government, or its mark of authentication, will be put on all charts published by it.
- A list of its charts will be published from time to time in a way in which it will be most likely to fall under the eye of the seaman, and keep him informed of what he is to ask for.
- The original plates will be carefully preserved, and the printing will be made from electrotype copies.
- The ultimate object will be wholly to supply the foreign cruiser and trader with charts either actually made by the Government and sold in compliance with the terms of the law above quoted, or with charts made under its sanction by private individuals, stamped with its authority, and sold with its permission.

In reference to books of information and instruction.

- All such books of merit will be collected in a library for consultation and study.
- Books of sailing directions and those relating to the geography and physical science of the sea will be published by the Bureau of Navigation or under its direction, as the means and occasion offer.

In reference to books of navigation, properly so called.

- The use of books of navigation is so intimately connected with the use of charts and sailing directions, that the former cannot be conveniently separated from the latter.
- If they are all under the same control they can be made so to correspond as to be of mutual help to each other.
- The Government ought, therefore, to either acquire a right to the Navigator in common use among American seamen, or else to publish a Navigator of its own.
- With the Nautical Almanac, the Treatises and Manuals of Navigation, and the foreign charts under its control, it will be able to carry forward each one in its own peculiar path of improvement, and make them all harmonize together.
- The Government would then be at liberty to publish such manuals as it might think proper, without interfering with private property.
- All that has been said concerning the effect upon our commercial prosperity, and upon the standing of our mercantile marine, to be produced by supplying our seamen with the best charts, applies with equal force to the Manuals of Navigation.
- Those improvements in navigation which proceed from the application of the highest science enter chiefly into the Navigator and Nautical Almanac.
- The Navigator and Nautical Almanac are inseparable companions at sea; they are complements of each other and they must be used together and can only be used together. Having the latter, the Government would find it expedient to acquire possession of the former.

Estimates for preparing and purchasing charts, plates, books, and copyrights, for the purposes of navigation, and for the publication thereof; and for the organization of an office of Foreign Hydrography in the Bureau of Navigation.

For the purchase of three printing presses.....	\$2,300
For the purchase of finished plates.....	30,000
For the purchase of new plates, and of paper, ink, linen, and other printing materials, and for the cost of printing and backing charts...	20,000
For electrotyping plates.....	3,000
For the purchase and preparation of sailing directions.....	10,000
For the purchase and preparation of books of navigation.....	50,000
For salaries of engravers.....	6,000
For salaries of hydrographer and draughtsmen...	8,000
For salary of book-keeper.....	2,000
For salary of clerk.....	1,500
For pay of messenger.....	840
For pay of laborer.....	600
For rent of building.....	3,000
For fuel and light.....	500
For drawing tables and office furniture.....	500
For instruments and office stationery.....	500
For contingent.....	1,000
Total.....	\$139,640

The sale of the charts and books of sailing directions and navigation, under the existing law, will repay the expense of printing and publication. The amount here estimated for the finished plates and books will in course of time be refunded; the actual cost of these charts and books for the Navy will hereafter be very much less.

COAST SURVEY OFFICE, February 25, 1863.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, inclosing a letter from the chairman of the Committee on Commerce of the Senate, and the memorial of the Shipmasters' Association of New York, as to the necessity of providing by law hydrographic books and charts to be sold at near their cost for the superior education and moral improvement of American officers and seamen engaged in commerce.

The Treasury Department has, as already stated in my report to you of December 19, 1852, made a beginning in this direction by its action in the matter of the charts of the coast, prepared at this office. It has also done the same in its sale of charts of the United States exploring expedition.

It has also, in the same liberal spirit, provided by regulations that the results of the coast survey may be communicated to any one desiring a copy, provided that the communication is duly acknowledged, and that no expense be incurred in copying, &c.

It happens, however, as a drawback to the usefulness of this rule, that there is no security that this information may be used in an approved form, or even correctly given to the public, and the very acknowledgment may seem to make the survey responsible for work inaccurately set down, or even not at all executed by it.

The fact is, that this is a business which should be carried on exclusively by the Government, which can alone give to mariners the guarantees for accuracy which are needed.

If the survey of the coast had been left to hap-hazard private enterprise the work would have failed utterly, being partially executed, and only in certain favored localities, and in these even would not have commanded the respect and confidence of navigators, without which the enterprise would have proved quite useless.

The experience of all nations agrees in this. So in regard to the publication of charts experience speaks not less loudly.

By act of June 3, 1844, the Secretary of the Treasury was authorized to dispose of the maps and charts of the survey of the coast of the United States, and to present copies to foreign Governments, Departments of our own Government, and literary and scientific institutions. The Department adopted the principle that the price at which the maps and charts should be sold should be nearly that of the cost of paper and printing, with a margin for general expenses, as commissions, and the like.

By the regulations of 1844 the sale of the charts at such prices as would pay for the cost of the printing and paper was authorized, so that the publication is without expense to the Government, and the mariners who purchase have the benefit proposed by the Shipmasters' Association to be extended to all charts whatsoever and to nautical books.

The maps and charts of the Coast Survey, required for the use of the Army and Navy, are furnished free of cost from the Coast Survey office to the War and Navy Departments, and a certain distribution authorized by the Treasury Department is made to literary and scientific institutions in all parts of the United States. In 1850, prior to the war, sixty-two hundred charts were thus distributed, and since the war there have been fifty-five thousand distributed to the Army and Navy.

The head of the Bureau of Navigation in the Navy Department has the sanction of the head of the Department to prepare and publish foreign charts, as recommended by the Shipmasters' Association.

Justice would seem to require, if this publication interferes with existing private enterprises, that an appropriation be made to pay for the property thus injured, and that, as far as convenient, it be converted to public and general use under the new plan.

The Navigator, first planned and executed by the eminent mathematician, Doctor Nathaniel Bowditch, and used by our Navy and mercantile marine, should belong to the Bureau of Navigation of the Navy Department, the primary object being the supply of the Navy with tables, &c., for purposes of navigation, while the Coast Pilot, originating with the elder Edmund Blunt, should be issued under the sanction of the Coast Survey, which alone has the necessary information for its improvement. No nation but ours depends upon private enterprise to furnish a Coast Pilot. At no place within the control of the Government can such a work be so well prepared as at the Coast Survey office, where the materials for its preparation are all to be found. The printing will be made under the general law, or by special resolution, as may be thought best. The details of publication could be arranged without cost.

A simple resolution like the following would enable the execution of the views of the Shipmasters' Association:

Resolved, That it is desirable for the improvement of the mercantile marine, for the promotion of commerce and navigation, by providing accurate and cheap charts and nautical books under the control of Government authority, and for the use of navigators generally, and of the naval and revenue service, that the Secretary of the Treasury should be authorized to publish and sell domestic charts and nautical books relating to the coast at the cost of printing and paper, and that the Secretary of the Navy should be authorized to publish foreign charts and general nautical books for the use of the Navy and of navigators, to be sold at the cost of printing and paper merely; and said Secretaries are so authorized accordingly.

Resolved, That the sum of ——— dollars be appropriated for the execution of this resolution, and that the moneys received for the sale of maps, charts, and books be turned over by the Secretaries of the Treasury and Navy to the Treasury of the United States for the preparation of other

works for the same purposes, and to be sold on the same terms.

I return the papers inclosed to me.
Very respectfully, yours,
A. D. BACIE,
Superintendent United States Coast Survey.
Hon. S. P. CHASE, Secretary of the Treasury.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

TELEGRAPH TO THE PACIFIC.

On motion of Mr. CHANDLER, the bill (S. No. 290) for increased facilities of telegraph communication between the Atlantic and Pacific States and the Territory of Idaho was considered as in Committee of the Whole. It proposes to authorize the United States Telegraph Company, and their associates, to erect a line or lines of magnetic telegraph between the Missouri river and the city of San Francisco, in the State of California, on such route as they may select, to connect with the lines of that company now constructed and being constructed through the States of the Union. The company is to have the use of such unoccupied land of the United States as may be necessary for the right of way, and materials, and for the establishing of stations along the line for repairs, not exceeding at any station one quarter section of land, and the stations not to exceed one in fifteen miles on the average of the whole line, unless the lands shall be required by the Government of the United States for railroad or other purposes; but no right to preempt any lands under the laws of the United States is to inure to the company or their agents, or any other person or persons whatsoever.

The second section authorizes the United States Telegraph Company, under the direction of the President of the United States, to erect a line of telegraph from Fort Hall, by Walla-Walla and the Dalles and San Francisco to Portland, in the State of Oregon, and from Fort Hall to Bannock and Virginia City, in the Territory of Idaho, with the same privileges as to the right of way, and so forth, as is provided in the first section; the United States to have priority in the use of the lines of telegraph to Oregon and Idaho, and for such use the United States Telegraph Company is to receive for the term of ten years from the time of its completion, annually, the sum of \$20,000, in full payment for all messages transmitted.

According to the third section, the company is to send and receive dispatches on payment of the regular charges for transmission of dispatches over any line that may now or hereafter be constructed by the authority or aid of Congress, to connect with any line or lines authorized or erected by the Russian or English Governments, and all dispatches received by the line are to be transmitted in the order of their reception, and the answers thereto to be delivered to the United States Telegraph Company for transmission over their lines to the office whence the original message was sent.

The fourth section provides that the several railroad companies authorized by act of Congress July 1, 1862, may enter into arrangements with the United States Telegraph Company so that the line of telegraph between the Missouri river and San Francisco may be made upon and along the line of that railroad and branches as fast as the roads and branches are built, and if such arrangements be entered into and the transfer of the telegraph line be made in accordance therewith to the line of the railroads and branches, such transfer shall, for all purposes of the act referred to, be held and considered a fulfillment on the part of the railroad companies of the provision of the act in regard to the construction of a telegraph line; and, in case of disagreement, the telegraph company are authorized to remove their line of telegraph along and upon the line of railroad therein contemplated, without prejudice to the rights of the railroad companies.

The Committee on Commerce had reported the bill with an amendment, which was to strike out the following clause in the second section:

And for such use the United States Telegraph Company shall receive for the term of ten years from the time of its completion, annually, the sum of \$20,000, which shall be in full payment for all messages transmitted. And the Secretary of the Treasury is hereby authorized to pay to the United States Telegraph Company, in quarterly payments, the amount above stated; but no payment shall be made until said lines are completed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. CONNESS. I see that there is a section contained in the bill authorizing this company to make an arrangement with the railroad companies. I think it is substantially the provision contained in the Pacific railroad act. I do not understand why it is inserted here.

Mr. CHANDLER. It is granting the same privilege to this other company that is already granted to the existing company.

Mr. POMEROY. The old Pacific railroad act as passed gave the right to the American Telegraph Company, but not to any other. This is simply to extend it to this other company. The new Pacific railroad bill has not yet become a law, and we do not know exactly what shape it will assume.

Mr. CONNESS. This, then, I understand is to permit another line of telegraph on the line of the railroad.

Mr. CHANDLER. That is all. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

INTERCOURSE WITH DISLOYAL STATES.

Mr. CHANDLER. I move now to take up the bill (S. No. 232) in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property and the prevention of frauds in States declared in insurrection.

The motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

Mr. SUMNER. I wish to call the attention of my friend from Maine [Mr. MORRILL] to the first two sections of the bill as originally introduced. The committee recommended that they be struck out; but I suggest that they be allowed to stand.

Mr. MORRILL. I have some amendments first to propose by way of perfecting the bill, and then I will listen to the suggestion.

Mr. SUMNER. Very well.

Mr. MORRILL. I move in section six, line six, to strike out the words "hereby repealed," and insert:

Except so far as may be necessary to authorize supplying the necessities of loyal persons residing in insurrectionary States, within the lines of actual occupation by the military forces of the United States, as indicated by published order of the commanding general of the department or district so occupied; and also, except so far as may be necessary to authorize persons residing within such lines to bring or send to market in the loyal States any products which they shall have produced with their own labor or the labor of freedmen or others employed and paid by them, pursuant to rules relating thereto, which may be established under proper authority. And no goods, wares, or merchandise shall be taken into a State declared in insurrection or transported therein except to and from such places, and to such monthly amounts as shall have been previously agreed upon in writing by the commanding general of the department in which such places are situated and an officer designated by the Secretary of the Treasury for that purpose.

Mr. BROWN. What is the effect of that?

Mr. MORRILL. At the request of the Senator from Missouri I will explain the design of this amendment. It will be seen by examining the sixth section of this bill that it repeals the proviso to the fifth section of the act of July 13, 1861, which proviso authorizes the President in his discretion to license and permit commercial relations with any State or section the inhabitants of which have been declared to be in a state of insurrection. I now propose, instead of repealing the proviso, to restrict that authority of the President to grant licenses in the manner specified in the amendment. That is the general effect of the proposition. By the act of 1861, all commercial relations between the States in insurrection and the loyal States were absolutely prohibited, with this saving clause in the fifth section. Now, if we repeal the saving clause, the statute of course would stand in its absolute character and be a prohibition of all commercial intercourse between the States in insurrection and the loyal States. By the amendment proposed, the authority of the President to grant licenses for trade will continue, but will be further restricted.

Mr. BROWN. Do I understand that this amendment is assented to by the Committee on Commerce?

Mr. MORRILL. I have offered it. The proposition of the committee was an absolute repeal. I have one other amendment to submit in order that it may be printed and go over with the bill until to-morrow.

The amendments were received and ordered to be printed.

Mr. MORRILL. As this bill has been several times before the Senate, and if it is passed at all must be passed soon in order to insure action on the part of the House of Representatives, I hope the Senate will indulge me in making the bill the special order for to-morrow at one o'clock. I make that motion.

The motion was agreed to by a two thirds vote.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 133) for the relief of William Sawyer and others, of the State of Ohio; and a joint resolution (H. R. No. 110) to declare the construction of a joint resolution for the relief of W. B. Matchett, approved June 20, 1864.

The message also announced that the House had passed the bill (S. No. 187) to carry into effect the treaty between the United States and her Britannic Majesty for the final settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Companies.

PROPOSED INTRODUCTION OF A RESOLUTION.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The hour of one o'clock having arrived, it becomes the duty of the Chair to call up the special order, which is the civil appropriation bill.

Mr. DAVIS. I ask to suspend all prior orders to enable me to offer a joint resolution.

The PRESIDING OFFICER. It requires the unanimous consent of the Senate. Is there objection?

Several SENATORS objected.

Mr. DAVIS. On my motion to suspend the prior orders, I ask for the yeas and nays.

Several SENATORS. What is the resolution? Let it be read.

Mr. SHERMAN. What is the motion?

The PRESIDING OFFICER. The Senator from Kentucky asks the unanimous consent of the Senate to introduce a resolution. The reading of the resolution for information is called for. Is the reading objected to?

Mr. SHERMAN. I have no objection to its being read for information.

Mr. DAVIS. I moved to suspend all prior orders that I may be enabled to offer a joint resolution, and on that motion I have asked for the yeas and nays.

Mr. CONNESS. I first call for the reading of the resolution for information.

The PRESIDING OFFICER. The reading of the resolution is first asked for. Is the reading of the resolution objected to?

Mr. TRUMBULL. Yes, sir, I object to its reading or reception at all.

The PRESIDING OFFICER. It cannot be read without the consent of the Senate, there being another subject before the Senate.

Mr. SHERMAN. I trust we shall proceed with the special order, the civil appropriation bill, and go on regularly.

Mr. DAVIS. I rise to a question of order. Is it in order for me to ask a suspension of all prior orders to offer a joint resolution?

The PRESIDING OFFICER. In the opinion of the Chair it is.

Mr. DAVIS. That is the motion I make, and upon that motion I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair did not so understand the Senator from Kentucky. The Chair understood the Senator from Kentucky to ask the consent of the Senate to introduce a resolution. Common consent was requisite for that. The Chair put the question to the Senate, and the Senator from California asked that the resolution be read for information. The Chair asked if there was objection to the reading, and the Senator from Illinois objected to its reading. The Chair then ruled that it being objected to it could not even be read, there being another subject pending before the body. If the Senator from Kentucky, however, moves that that subject and all prior orders be postponed, it is a motion, in the opinion of the Chair, in order, and will be so entertained.

Mr. DAVIS. That is my motion, and on that I ask for the yeas and nays.

Mr. CONNESS. Before that be done, so that I can know how to vote, I ask for the reading of the resolution.

Mr. TRUMBULL. The reason for my making the objection to the reading of the resolution was this; I understand that no member of the Senate has a right to introduce a resolution at any other time except when resolutions are in order, unless by unanimous consent. I understood that the Senator from Kentucky could not introduce this resolution without unanimous consent. The time had arrived for the consideration of the appropriation bill fixed by order of the Senate. The appropriation bill was before the Senate, the Chair having called for its consideration. If the Senator from Kentucky can by a majority vote introduce a resolution at any time, unanimous consent need never be asked; it depends then on a vote of the Senate. Now, I suppose that when the Senator from Kentucky out of order asks to introduce a joint resolution, he cannot do it by a vote of the Senate. For instance, this bill is before the Senate and has been once read. I believe the rules provide that it shall be read on different days; but a bill is often read three times upon the same day. Can a majority of the Senate direct it to be read three times upon the same day, or must it not be by unanimous consent? The rule requiring unanimous consent amounts to nothing in this body if a majority may control such a matter. Suppose I wish to introduce a bill, I deny that it is competent for me, when the introduction of bills is not in order, to move to suspend all other orders to allow me to introduce a bill, and then take a vote on that, and if a majority of the Senate so decide, introduce my bill; and it seems to me a joint resolution stands on the same footing. The practice of the Senate I know has been to ask if unanimous consent was given.

Mr. DAVIS. The motion I make is made every day and entertained, if I understand aright the uniform proceedings of the Senate. It is always in order, when there is not a pending subject being acted upon by the Senate, to move to suspend all prior orders to take up any particular business; and it is optional with the Senate (and they exercise that power every day or nearly every day) to dispense with all previous orders and take up any business which a majority deem proper to be considered.

Mr. TRUMBULL. I know we every day suspend one order of business and take up another species of business before the Senate; but I never knew, since I have been a member of the Senate, a motion made to suspend all prior orders and all business before the Senate to introduce a resolution into the Senate, and I think it is not in order except by unanimous consent.

Mr. POMEROY. If consent had been obtained to introduce the resolution, I think it would then have been in order to suspend all other business so as to consider it; but it took unanimous consent to introduce the resolution, and as that was objected to, and as the resolution, therefore, could not be before the Senate, we cannot now by a majority suspend the rules to consider it when it took unanimous consent to introduce it.

Mr. DAVIS. When the Senate decide to suspend all pending orders, there is no business whatever then before the Senate, and it is in perfect order for the member who makes that motion then to offer to introduce business in any form or any class. It is only necessary to state the position that it may receive the assent of all minds who have any knowledge of parliamentary law. When the Senate have determined to suspend all business, the Senate then is a blank; there is nothing pending; and it is in order for a Senator to offer any business whatever. But the Senate have first to decide whether they will suspend all prior orders or not. If they refuse to suspend all prior orders, of course there is no chance of getting the resolution before the body.

Mr. CONNESS. The proposition of the Senator from Kentucky may be correct, but his question is not in that position. As I understand it, the honorable Senator rose, not when all prior orders were suspended, but when the Senate was in the process of considering the business before it in the order in which that business was before it, and he asked leave to present a resolution. I desired to grant the Senator leave to introduce a resolution for one; but I first desired to know whether

the resolution was a fit one or not, and I desired to govern my vote by my opinion on that subject. I did not believe, and do not now, that he had the right to offer the resolution at the time he did, as stated by the Senator from Illinois, without unanimous consent, and before I would yield my consent I called for its reading. The Senate are presumed as yet, of course, to be entirely ignorant of the contents of the resolution. I would not yield my consent to consider it, as I have been to the desk to examine its contents. I may be permitted to state that it is the same resolution which was attempted to be offered on another day some time past by the honorable Senator concerning propositions of peace with rebels, or a suspension of the war. When the question was up before, it will be remembered that I suggested that I should like to have the question voted upon in this form, whether the Senate would receive such a resolution or not. I totally object, for one, to the reception of such a resolution in this body.

Mr. SHERMAN. I rise to a point of order.

Mr. CONNESS. I am done.

Mr. SHERMAN. I suppose that, as we are acting under a special order, a question of this kind cannot be raised. We are acting under a special order of the Senate to take up and consider a certain bill; and surely a Senator cannot now introduce a resolution when the rule of the Senate is imperative that it cannot be considered if there is a single objection. The Senate is acting under a special order; it is proceeding with the consideration of a bill that was made a special order for the time designated. He certainly cannot interpose by offering a resolution and then raising a point of order upon it, and then getting up a debate and delaying the business of the Senate. I insist, therefore, that the special order shall be proceeded with.

The PRESIDING OFFICER. The point of order made by the Senator from Ohio the Chair thinks is susceptible of easy decision. The special order was before the Senate, having been announced by the Chair when the hour arrived. The Senator from Kentucky then asked leave to introduce a resolution—

Mr. DAVIS. No, sir. The Chair misunderstands the motion that I made.

The PRESIDING OFFICER. The Chair will state the motion as the Senator now makes it, then.

Mr. DAVIS. And I made it in those terms at first.

The PRESIDING OFFICER. The Senator from Kentucky moves to postpone the present and all prior orders to enable him to introduce a resolution.

Mr. CONNESS. I object until the resolution is read.

The PRESIDING OFFICER. The objection to the reading in that state of things is premature, because the primary question is, will the Senate consent that the Senator from Kentucky shall offer the resolution? The objection to its reading is therefore premature, because the Senate must say in the first place whether they will receive it even for the purpose of being read.

Mr. CONNESS. Is it not the privilege of a Senator before he shall vote as to whether another shall have the right to introduce a resolution, to know its contents?

The PRESIDING OFFICER. That may be, but the question asked by the Senator from Kentucky is a vote on his motion to suspend the present and all prior orders to enable him to introduce a resolution—a naked motion.

Mr. CONNESS. Unless the resolution be read, I object.

The PRESIDING OFFICER. That is perfectly proper, and each Senator has a right to vote on the motion as he sees fit. In the opinion of the Chair the special order is under the control of the Senate, and may be postponed by a major vote of the Senate. It is before the Senate, but may be postponed by a major vote. The motion of the Senator from Kentucky the Chair regards as in order, but of course it is subject to the decision of the Senate upon the motion whether they will postpone all previous orders to enable him to introduce a resolution, the contents of which are wholly unknown to the body.

Mr. HENDRICKS. I will vote to allow the Senator to introduce his resolution without reference to the contents of the resolution. I do not

know what the resolution is, but as the Senator desires to introduce a resolution I will give him by my vote an opportunity to do so.

Mr. DAVIS. The gentlemen who object to my motion confound two separate motions that are entirely distinct. They confound a motion to present a resolution with a motion to suspend all prior orders to give an opportunity to present a resolution. The motion that I make is not to present a resolution. I have no doubt my honorable friend from California will vote against the presentation of the resolution; I expect it; but I have not made that motion. The motion which I make, and which is the only question before the Senate, is this: will the Senate suspend the pending and all prior orders so as to give me an opportunity to make that motion, or not?

Mr. CONNESS. Then I understand that the honorable Senator's resolution is not now before the Senate.

The PRESIDING OFFICER. It is not in the possession of the body at all.

Mr. DAVIS. On this motion to suspend I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is that the Senate suspend the present and all prior orders to enable the Senator from Kentucky to offer a resolution, and on that motion the Senator from Kentucky asks for the yeas and nays.

The yeas and nays were ordered.

Mr. CONNESS. Now before the vote be taken, if in order, I ask for the reading of the title of the resolution that the Senator proposes to offer.

The PRESIDING OFFICER. In the opinion of the Chair the resolution is not before the Senate, neither the substance nor title, and neither can be read.

Mr. TRUMBULL. I am so well satisfied that such a practice as this would lead to the entire subversion of business in this body that I am constrained to appeal from the decision of the Chair. It cannot be, it seems to me, that a member can move to suspend a special order, made so by a two-thirds vote, for the purpose of introducing a thing that is out of order except by unanimous consent when he has done it. He cannot introduce his resolution except by unanimous consent after this motion is passed. His motion is to suspend the pending and all prior orders to take up, what? Not something that is before the Senate, but to allow him to bring in something. I insist that such a rule as that is subversive of the business of the Senate, and I am constrained to appeal from the decision of the Chair.

Mr. DOOLITTLE. We are called upon to vote whether we will postpone—

The PRESIDING OFFICER. The question now is on the appeal of the Senator from Illinois from the decision of the Chair. The Chair decides to entertain the motion. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. DOOLITTLE. The original question was to determine whether we would lay aside the regular order to allow the Senator from Kentucky to bring in his resolution. How can we judge whether we prefer to lay aside the special order and act on the resolution unless we know what the resolution is?

Mr. DAVIS. Will the honorable Senator permit me to make just a single suggestion? The question is not whether the Senate will suspend the pending and all prior orders to take up my resolution. It is simply whether they will suspend the present and all prior orders or not; and if they decide to suspend the pending and all prior orders they have the right to take up my resolution or any other business that the majority of the Senate may determine to take up. The motion to take up my resolution is not a part of the question at all.

Mr. DOOLITTLE. It seems to me that the Senator is utterly mistaken. The question surely is not whether we shall suspend the special order without any purpose. It is not very probable that the Senate will suspend it without any purpose. If they suspend the special order they suspend it for a purpose, and the purpose is to take up something else; and if in the judgment of the Senate we think that something else had better be taken up than the special order, then we say so. But how can we say so unless we know in some way or other what it is that is proposed?

It is clear to my mind that when a Senator is called on to vote whether he will lay aside the special order to take up something else, or allow something else to come up, it is necessary to his forming the opinion whether he ought to do it or not that he should know in some way or other, by the reading of the title or the statement of the title or the statement of the contents, what it is proposed to take up. That seems to me so clear that I apprehend the Chair, on further consideration, will see that it is absolutely necessary that that should be so; and this whole matter of the decision of the Chair, and the appeal from the decision of the Chair, might be acted upon by the Chair without going to the trouble of an appeal. I think an appeal to those who are accustomed to and acquainted with the order of business herein the body will show that it always has been the case that if you move to lay aside one thing, you must move to lay it aside for some purpose. Now, what is that purpose? We want to know in some way or other the object of laying aside.

Mr. TRUMBULL. If the Senator from Wisconsin will allow me, I want to suggest that he is a little mistaken in the statement that he makes. It is not to take up a resolution. That is not what the motion is. It is to allow the Senator from Kentucky to offer a resolution, and that is the reason we cannot have it read. It is not before us. The motion of the Senator from Kentucky was to postpone the pending business and all prior orders. Now, prior to what? Prior to this time. Not to take up anything, but for the purpose as he stated of introducing a resolution which he sent up to the table. I know the Senator undertakes to deny now that he had any such purpose as introducing a resolution, though—

Mr. DAVIS. I have not denied it. Do you say I deny it?

Mr. TRUMBULL. I understood the Senator from Kentucky to say a moment ago that his motion was simply to suspend the pending business and all other prior orders without avowing what his purpose would then be—

Mr. DAVIS. I did not make any such statement.

Mr. TRUMBULL. Then I misunderstood him. I stand corrected. I did not mean to state him wrongly. The Senator from Kentucky knows I would not intentionally state him wrongly. Then, if I understand him now, he couples it with the permission to introduce a resolution—

Mr. DAVIS. I do not couple it now with any such permission.

Mr. TRUMBULL. Then I do not understand the Senator.

Mr. DAVIS. I will make myself understood.

Mr. TRUMBULL. I will give way for the Senator to state his proposition. I understood him so.

Mr. DAVIS. I stated that my proposition was to suspend the present and all prior orders.

Mr. TRUMBULL. Simply?

Mr. DAVIS. I stated at the same time that it was my purpose to offer a resolution, but I also stated that the only question before the Senate was whether it would suspend all prior orders or not. If it decided to suspend all prior orders it could refuse to take up my resolution or permit me to introduce it, and could take up what business it pleased, and I say the parliamentary rule is so administered in every deliberative assembly.

The PRESIDING OFFICER. Does the Chair understand the Senator from Kentucky now to make a motion simply to suspend all prior orders? Is that the motion?

Mr. DAVIS. That is the motion; I avowing my purpose, if that motion is sustained by the Senate, to offer my resolution.

The PRESIDING OFFICER. The Chair has misunderstood the motion of the Senator from Kentucky, and is very clear that the motion as now stated cannot be entertained. A motion to suspend the present and all prior orders must connect with it some ulterior purpose on which the Senate can act. It is an indivisible thing, like a motion to strike out and insert. The Chair cannot entertain the motion as now stated.

Mr. DAVIS. Will the Chair permit me to make a suggestion in a word?

Mr. SHERMAN. If it is not in order I must object. I am in charge of a bill.

Mr. DAVIS. I appeal from the decision of the Chair.

Mr. SHERMAN. Very well.

The PRESIDING OFFICER. The decision of the Chair is that the motion of the Senator from Kentucky as stated cannot now be entertained, the question being the bill reported by the Senator of Ohio, which was made the special order for one o'clock. From the decision of the Chair the Senator from Kentucky appeals, and the question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. McDUGALL. Is it not within the power of the Senate to conduct its order of business? Although the Senator from Ohio may have a bill pending now and under consideration, is it not within the power of the Senate to take up any new subject-matter by a majority vote?

The PRESIDING OFFICER. It is so, in the opinion of the Chair, but no such motion has been made. At least the Senator from Kentucky does not make such a motion.

Mr. DAVIS. May I be allowed to say a word upon the appeal?

The PRESIDING OFFICER. The question is on the appeal from the decision of the Chair.

Mr. DAVIS. The motion that I made was to suspend the pending and all prior orders, avowing the purpose that, if that motion was sustained, I wished to offer a resolution. Now, I maintain that that motion is in strict order, and has been entertained from time immemorial in every parliamentary body.

Mr. McDUGALL. I desire to ask a question of the Senator.

Mr. DAVIS. I yield for the purpose of receiving the question.

Mr. McDUGALL. I desire to ask the Senator from Kentucky if he has sent his resolution to the table.

Mr. DAVIS. Certainly I have.

Mr. McDUGALL. And offered it to be read at the desk?

Mr. DAVIS. I sent it to the desk before I made my motion. Now, Mr. President, I merely want to state the point of parliamentary principle and practice without any argument about it. I made the motion in the form in which the motion is universally made, in which form only it can be legitimately made. I did not make, without avowing any purpose, a motion to suspend the pending and all prior orders, but I made a motion to suspend the pending and all prior orders, avowing that it was my purpose to offer a resolution, which was the inducement with me to make that motion. Now, sir, I maintain that the parliamentary practice in every deliberative assembly is that such a motion is always made in that form, and if it is sustained by the body to which it is made, it does not bring up necessarily nor at all the resolution or the business that was connected with the motion. On the contrary, the Senate may decide to take up any other business, and I have known the House of Representatives and the Senate to have such a motion made to them hundreds of times, the House of Representatives particularly, and the motion to be sustained to suspend the pending and all prior orders, and then I have known three or four distinct motions to be suggested, and all to be pending before the Senate or House at one time and each competing with the other. The determination of the Senate or of any deliberative body to suspend the pending and all prior orders does not necessarily bring up the resolution or the business that is connected with it by the person making the motion. When the House or the Senate has so acted, it is just as free to take up any other business as the business that has been mentioned in connection with the motion, and that is the parliamentary law.

Mr. HALE. I move to lay the appeal on the table.

Mr. DAVIS. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The decision of the Chair was that the motion of the Senator from Kentucky could not be entertained. From that decision the Senator from Kentucky took an appeal, and the question was, "Shall the decision of the Chair stand as the judgment of the Senate?" The motion now is to lay that appeal upon the table. Those who are in favor of laying the appeal upon the table will, as their names are called, answer "yea," and those opposed will answer "nay."

Mr. JOHNSON. Before voting I wish to know exactly what the decision of the Chair is. I will state what I understand it to be. The member from Kentucky—

Several Senators. You are not in order.

Mr. SHERMAN. It is my duty to insist on order.

The PRESIDING OFFICER. The motion to lay on the table is not debatable.

Mr. JOHNSON. I understand that; I am not going to debate it; I only want to understand what the question is. I cannot vote without it except by a guess. I only wish to know what it is. The member from Kentucky has moved to suspend all prior orders, and does not accompany it with any purpose as a part of his motion to take up other business. It is simply a proposition to suspend all prior orders. I understand the Chair to say that that cannot be received.

The PRESIDING OFFICER. That is the decision of the Chair.

Mr. McDUGALL. I should like to have advice. I do not understand exactly the reason of the rule laid down by the Chair. I should like to have the Chair, for the information not only of myself but of other Senators, to state the reason of the decision. I do not understand it myself. I hope the Chair will be kind enough to state the reason of the rule, and what the rule is exactly.

The PRESIDING OFFICER. In the opinion of the Chair such a motion cannot be entertained, because it would leave the body without business. The Senate would simply vote that they suspend business, and there it would stop. In the opinion of the Chair no motion of that sort is a parliamentary motion.

Mr. McDUGALL. I understood the resolution had been brought to the table here, and that the motion was to postpone all prior orders to take up the resolution sent to the Chair.

The PRESIDING OFFICER. That is not the motion. The motion is not so made.

The question being taken by yeas and nays, resulted—yeas 26, nays 6; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Collamer, Conness, Cowan, Dixon, Grimes, Hale, Harlan, Hicks, Howard, Howe, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Willey, and Wilson—26.

NAYS—Messrs. Buckalew, Davis, Hendricks, Powell, Riddle, and Saulsbury—6.

ABSENT—Messrs. Carlile, Clark, Doolittle, Fessenden, Foot, Foster, Harding, Harris, Henderson, Lane of Indiana, Ramsey, Richardson, Sprague, Van Winkle, Wade, Wilkinson, and Wright—17.

So the appeal was ordered to lie on the table.

MILITARY INTERFERENCE WITH ELECTIONS.

The PRESIDING OFFICER. The special order is before the Senate.

Mr. POWELL. I move to suspend the order under consideration for the purpose of taking up the motion entered by the Senator from Iowa [Mr. HARLAN] to reconsider Senate bill No. 37. I do not desire to say one word on the subject; I merely wish to take the vote by yeas and nays.

Mr. SHERMAN. I hope we shall not postpone the appropriation bill for that purpose. I simply ask for the question.

The motion was not agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed the bill (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes, with amendments; in which the concurrence of the Senate was requested.

The message also announced that the House had passed a bill (H. R. No. 435) concerning location of lands in the State of Missouri; a bill (H. R. No. 553) to facilitate the repayment of depositors at the assay office in New York; and a bill (H. R. No. 534) to provide for the improvement of the grounds of the Government hospital for the insane by an exchange of land.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes.

The message also announced that the House insisted on its amendments to the bill (S. No.

130) to regulate proceedings in cases between landlord and tenant in the District of Columbia, agreed to the conference asked by the Senate, and had appointed Mr. J. F. Wilson of Iowa, Mr. T. T. Davis of New York, and Mr. E. Wheeler of Wisconsin, managers at the conference on its part.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 26) to provide for the public instruction of youth in the county of Washington, District of Columbia;

A bill (S. No. 85) to provide for the examination of certain officers of the Army;

A bill (S. No. 115) for the proper organization of the levy court of the county of Washington, in the District of Columbia;

A bill (S. No. 162) amendatory of an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863;

A bill (S. No. 279) to amend the act of Congress making donations to settlers on the public lands in Oregon, approved September 27, 1855, and the acts amendatory thereto; and

A bill (H. R. No. 537) to incorporate the Young Men's Christian Association of Washington.

PERSONAL EXPLANATION.

Mr. HOWE. Mr. President, I desire to make a personal explanation. Last evening the Senator from Indiana [Mr. HENDRICKS] being compelled to leave the Senate, I agreed to pair off with him in the vote upon the measure then pending to repeal the commutation clause. The first vote that was taken was upon a motion to adjourn, and I then stated the arrangement that I had made with that Senator and declined to vote; but the final vote was not taken until after twelve o'clock, and by that time I had entirely forgotten the arrangement, and when my name was called I voted and immediately left the Senate Chamber, and the mistake I had made did not occur to me until I had got some way down the avenue. I ask leave, therefore, with this explanation, to withdraw my name.

The PRESIDING OFFICER. (Mr. FOSTER.) The Senator from Wisconsin asks to withdraw his name from the vote of last evening.

Mr. HENDRICKS. Of course I care nothing about that. It is not necessary that the name be withdrawn, for it does not change the result. All I desired was that it should appear that my vote was compensated by the withdrawal of another vote.

Mr. HOWE. If the Senator is satisfied, I do not insist upon the request.

The PRESIDING OFFICER. The Senator from Wisconsin then makes no motion.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were read twice by their titles and referred as indicated below:

A bill (No. 133) for the relief of William Sawyer and others of the State of Ohio—to the Committee on Claims.

A bill (No. 435) concerning locations of lands in the State of Missouri—to the Committee on Public Lands.

A bill (No. 553) to facilitate the repayment of depositors at the assay office in New York—to the Committee on Finance.

A bill (No. 534) to provide for the improvement of the grounds of the Government hospital for the insane by an exchange of land—to the Committee on Public Buildings and Grounds.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865.

The first amendment of the Committee on Finance was in lines one hundred and thirty-four and one hundred and thirty-five of section one to strike out "during the sickly season" after "Home," so as to make the clause read: "For repairs, refitting, and furnishing the President's summer residence at the Soldiers' Home, \$3,000."

The amendment was agreed to.

The next amendment was in line one hundred and forty-three of section one, after the word "Potomac," to strike out "navy-yard;" so as to read: "For repairs of the Potomac and upper bridges, \$6,000."

The amendment was agreed to.

The next amendment was to strike out section two from the enacting clause to and including line twenty-four, in the following words:

That a marble floor, similar to that of the Congressional Library or the Senate vestibule, shall be constructed in the old Hall of the House of Representatives, using such marble as may be now on hand and not otherwise required, and that suitable structures and railings shall be therein erected for the reception and protection of statuary, and the same shall be under the supervision and direction of the Commissioner of Public Buildings; and so much of the moneys now or heretofore appropriated for the Capitol extension as may be necessary, not exceeding the sum of \$24,000, is hereby set apart and shall be disbursed for the purposes hereinbefore mentioned. And the President is hereby authorized to invite each and all the States to provide and furnish statues, in marble or bronze, not exceeding two in number for each State, of deceased persons who have been citizens thereof and illustrious for their historic renown or from distinguished civic or military services, such as each State shall determine to be worthy of this national commemoration; and when so furnished the same shall be placed in the old Hall of the House of Representatives, in the Capitol of the United States, which is hereby set apart, or so much thereof as may be necessary, as a national statuary hall, for the purposes herein indicated.

The amendment was agreed to.

The next amendment was after line thirty-six of section two to insert:

To enable the Commissioner of Public Buildings to inclose Franklin square with a wooden fence, and to grade the same and plant it with trees and shrubbery, \$3,000.

The amendment was agreed to.

The next amendment was to strike out from line forty-eight to line fifty-three of section two, as follows:

For balance due the draughtsman for his services in charge and continuation of the series of maps ordered by resolution of May 4, 1843, for part of the fiscal year ending in 1862, \$1,520 38.

The amendment was agreed to.

The next amendment was after the word "dollars," in line fifty-five of section two, to strike out "to be expended under the direction of the Commissioner of Public Buildings, who is hereby charged with the care of said bridge;" so that the clause will read: "For repairs to the bridge across the Potomac river at Little Falls, \$500."

The amendment was agreed to.

The next amendment was to strike out the words "penitentiary and" before "jail" in line sixty-three of section two.

The amendment was agreed to.

The next amendment was to strike out lines eighty-three and eighty-four of section two, which contain the following item for the Government hospital for the insane:

For continuation of the wall inclosing the grounds of the hospital, \$10,000.

Mr. GRIMES. I inquire of the Senator from Ohio why that clause is to be stricken out.

Mr. SHERMAN. The only reason I can give is that the wall is now in a condition, with the fence which is also there, to make a very good inclosure around the hospital for the insane, and we thought it better not to continue the work on the wall at this time when the expenses of materials, &c., are so very high. We thought it was a work that might properly be postponed.

Mr. GRIMES. There is a good deal of work that might be postponed. The appropriation of \$3,000 for Franklin square might be postponed with quite as much propriety as this. The Government has undertaken to construct a brick wall around the hospital grounds, and it is partially built, and this appropriation merely proposes to continue the work so as to complete it. Where the brick wall is not completed there is a mere temporary board fence that does not confine patients at all. The purpose is to allow the patients to have the range of the grounds and keep within the wall, the wall being so far away from the grounds as not to be observable by the patients until they come right to it. I do not see the propriety of striking out the appropriation.

Mr. SHERMAN. The \$10,000 here appropriated will not be sufficient to make the inclosure complete by a great way. It will take a great many more thousands besides these \$10,000. This is simply to continue a work that is now completed around the front and main sides of the hos-

pital, as I am told. This brick wall will only supersede a fence that is now sufficient as a fence, which they have got along very well with for many years. The price of brick has advanced far beyond the ordinary advance of other materials, and we thought it best to postpone the construction of this work for the present.

Mr. HARLAN. I hope retrenchment will be made in some other direction. The object of this appropriation seems to be to enable the superintendent of this institution to permit the patients to go a little at large. If the wall is not built, they will be restrained as prisoners. It is well known to all those who have had the care of such patients that they do not recover so rapidly when they feel that they are confined as prisoners; but restraint must be thrown off, what mind is left must be at its ease. The fact that it will require a longer period than one year to complete the work is to my mind a reason in favor of the appropriation. If retrenchment is necessary I think we ought to make it in some other direction, and not punish the insane patients who are in the hospital.

Mr. HALE. I listened to the suggestion of my friend from Iowa with a good deal of pleasure, and I beg to suggest to him that continuing this brick wall around there would give the appearance of confinement and imprisonment which he deprecates so much, and in that way would be deleterious to the patients. I think we had better leave the fence. That will not look so bad.

Mr. COWAN. The reason given for the continuation of this brick wall utterly fails. If it was a continuation of it entirely around the grounds of the hospital there would be force in the argument in favor of the appropriation; but it is only partially around it; it still leaves the patients in, the same condition they were before, because as long as there is any fence there over which they can climb the wall amounts to nothing as a preventive to their excursions. If the appropriation was to complete the wall entirely, there would be great force in what has been said in favor of it, and I should be inclined to vote for it; but as it is, I think the reason which influenced the committee is controlling, and that we had better not appropriate money to continue this wall until we can complete it all the way round, so as to make it effective in restraining the inmates of the establishment.

The question being taken on the amendment, there were, on a division—ayes 12, noes 11; not a quorum voting.

Mr. SHERMAN. We had better have the yeas and nays so as to get a quorum.

The yeas and nays were ordered.

Mr. GRIMES. It seems to me that the suggestion of my colleague [Mr. HARLAN] is a wise one, that if we are going to commence retrenchment and reform we had better begin that work somewhere else than in connection with this institution where the unfortunate inmates are deprived of their reason. We have undertaken to take care of the people of this District, and persons connected with the Army and Navy who may be deprived of their reason, and the asylum has become full; it is almost over-running. It is necessary to the health and convenience of the patients themselves that they should be permitted to occupy the grounds.

The Senator from New Hampshire says that it would not look so much like a prison if you had not the fence. The fence, it is known to most of the Senators here, is beyond sight from the asylum except at one place; the inmates are obliged to walk a considerable distance before they can see it. The purpose is to have it as far as possible from the asylum; but when they have reached that point, it is necessary to have some obstruction so that they shall not be able to escape.

The fact that this appropriation will not complete the brick wall, is to my mind a very substantial reason against making the appropriation. I think it is a reason why we should make the appropriation so as to get it more advanced toward completion. I would infinitely rather strike out the appropriation for the Botanic Garden, which is only designed to furnish members of Congress with flowers, and strike out the appropriations for decorating the squares of the city, setting out trees in them, paving in front of them, and fencing them, than to stop where we are and allow this work, instead of being completed, to go to decay as it will if we do not make an appropria-

tion. I was not aware that the Committee on Finance had any such proposition in contemplation. If I had known it, I suppose the Committee on the District of Columbia, who have some charge of this subject, would have taken counsel in regard to it, and would have attempted to prevent it.

The question being taken by yeas and nays, resulted—yeas 8, nays 24; as follows:

YEAS—Messrs. Anthony, Buckalew, Carlile, Cowan, Hale, Howe, Sherman, and Trumbull—8.

NAYS—Messrs. Brown, Collamer, Conness, Davis, Dixon, Foot, Foster, Grimes, Harlan, Harris, Johnson, Morgan, Morrill, Pomeroy, Powell, Ramsey, Richardson, Riddle, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, and Willey—24.

ABSENT—Messrs. Chandler, Clark, Doolittle, Fessenden, Harding, Henderson, Hendricks, Hicks, Howard, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Saulsbury, Sprague, Wilson, and Wright—17.

So the amendment was rejected.

The next amendment of the Committee on Finance was to strike out the following items from line eighty-eight to line ninety-nine of section two:

For constructing the Washington aqueduct from a point between the White House and the receiving reservoir, to unite with the aqueduct at a point near the station-house, below said reservoir, without passing through the said receiving reservoir, and to defray the expenses incident to managing said Washington aqueduct, \$100,000.

For the purpose of completing the cut-stone dam across the Potomac river, and constructing a telegraph line from the fire department, in the city of Washington, to the said station-house below the receiving reservoir, \$50,000.

Mr. MORRILL. Having devoted some attention to this subject under the direction of the Senate in the early part of the session, I am in some doubt whether these appropriations ought to be stricken out. I do not know what disposition the Senator from Ohio proposes to make of the subject; but unless the Committee on Finance have some facts which I have not been able to gather, I doubt exceedingly the propriety of striking out these appropriations. If the Senate will indulge me, I will state in a few words why I think there is a necessity for the appropriations.

At an early period of the session the Committee on the District of Columbia were instructed by the Senate to investigate the subject of this aqueduct. The enterprise of bringing water into this city from the Potomac was started, I believe, something like ten years ago or more. A survey was made, and finally a plan for bringing water into the city from the Great Falls, about sixteen miles above the city, was agreed upon. A plan for the construction of the work was submitted to Congress, and an appropriation made. Appropriations have been annually made from that time to the present, amounting now, I believe, to about three million dollars, and the work is still incomplete; and it is incomplete in the two particulars intended to be covered by these two appropriations; and without going into other details I will state the incompleteness which is intended to be covered by these two specific appropriations.

About ten miles out from the city, the water taken from the Potomac river at the head of Great Falls, seven miles beyond, and which is brought down in the main conduit, some nine feet in diameter, is poured into what is called a receiving reservoir, which receiving reservoir is constructed by a high dam across a natural ravine making a large basin, the shore line of which, I believe, is some sixteen thousand feet, and with a capacity of about two hundred million gallons. Through this ravine runs a stream which is the natural drainage for about one hundred thousand acres of land. The dam being thrown across that stream, it is found that whenever there is a storm, the whole country being drained by that natural basin, which now, by the method of constructing this work, is the receiving reservoir for all the water that is brought from the Potomac above, the water is disturbed and rendered impure; and the engineer reports that the city may never expect to have the water in that state of purity in which it is when it is taken from the Potomac at the head of Great Falls unless you devise some method of avoiding this receiving reservoir. The object of the receiving reservoir was to create a supply from that natural stream which would serve the city when by reason of any failure in the aqueduct above, or from other cause, the general supply should fail.

All the water brought from the Potomac is brought down seven miles in the conduit and

poured into this natural ravine, the consequence of which is that by the time it gets here it is muddy water. The first of these two items of appropriation is to cover the expense of continuing the conduit around this natural ravine or receiving reservoir and connecting it with the pipes below, so that the city may have what was originally designed, its fountain in the Potomac river. I had the honor to be delegated by the chairman of the Senate Committee on the District of Columbia to make some examination, and I went upon the spot and found the facts; and I believe the committee on the part of the House of Representatives made a similar examination and came to a similar result. I am satisfied that the city will never have anything like what was contemplated, water from the Potomac river, in the condition in which it is received into the conduit, until there is some way provided of avoiding this natural ravine, which was the original purpose in the plan first submitted.

The next item is an appropriation of \$50,000 for "completing the cut-stone dam across the Potomac river, and constructing a telegraph line from the fire department in the city of Washington to the said station-house below the receiving reservoir." Now, in dry time, when the river is low, no water runs into the conduit. You have now spent about three million dollars, and in the dry season, according to our examination, there is not over a foot and a half of water in that fountain, and it was not expected that there would be without a dam thrown across the river. The original plan contemplated a dam across the entire river, not a solid masonry dam like this, but an embankment of rubble stone, broken stone, which it was supposed would raise the water to a sufficient height to fill the conduit. I believe a subsequent examination has satisfied the engineers—at any rate they so report in a very elaborate document submitted at the commencement of the session and again later in the session—that a great saving may be made, instead of throwing an embankment across the whole river, by constructing a solid stone masonry dam to an island just about one third across the river; and they believe from surveys and measurement made that we shall get by that dam a sufficient supply of water; not enough to fill the whole conduit nine feet, but what will be for the present a sufficient supply. The estimate is that we shall get a depth of water equal to about seven feet in the conduit, and that is equal to the whole supply for the city of New York at the present time.

It strikes me that unless the Government have come to the conclusion that this work had better be abandoned, or had better be thrown upon the city, there is a necessity for our continuing it until it is completed.

Mr. GRIMES. Not exactly agreeing with my colleague upon the Committee on the District of Columbia so far as I have examined this subject, I want to say a single word. I think this proposition involves much more than is apparent on the face of it. Several years ago, as has been said by the Senator from Maine, Congress made provision for, and commenced the construction of water-works to bring into this city water from the Potomac river, seventeen miles above here. After the water was brought over Cabin John creek down to the receiving reservoir of which the Senator from Maine has spoken, which is a natural ravine, it was then contemplated to bring the water into a distributing reservoir which embraces a large number of acres and is nearly completed. The original design, and it was a pretty expensive design, was to have the banks of this distributing reservoir macadamized. Sometime after this Administration came into power, Mr. Silas Seymour, of New York, was appointed the engineer of the Potomac water-works, and he has proposed to build a conduit through this receiving reservoir, and bring it down past the distributing reservoir, so as to avoid the muddy condition of the water which is said to be caused by the rains and snows that flow into the receiving reservoir. I think that the policy of the Government was to have gone on and completed the distributing reservoir as originally designed; but instead of doing that, the engineer proposes a much more expensive method, by paving all the sides. The original design was to use macadamized stone on the sides. Instead of that they have gone to work now at great increase of ex-

pense—I am not prepared to say how much, but perhaps the Senator from Maine is informed as to the expense—to pave all these banks, and in order to wait for the completion of that work and to obviate the trouble arising from the muddy water in the receiving reservoir, it is proposed to build this conduit right through the receiving reservoir and make no use of that reservoir. Not exactly concurring in that view of the engineer, after the most patient investigation I could give it with him on the ground, I am not prepared to vote for the proposition as it is in the bill to make this new conduit and change the original plan of the work. If we are going to do anything, I think we had better go on and complete it as originally designed. This will add very materially to the expense of the work. I do not suppose that the \$100,000 proposed to be appropriated here will complete the conduit. It will only partially complete it. I think we ought to go on and complete the work according to the original design. If that had been done, we should now have the benefit of it.

Mr. SHERMAN. I will state to Senators the reason why the committee proposed to strike out these items. There is no doubt that the appropriation as it now stands should be stricken out; it provides for a change of the work, and it does not seem to be recommended by any one. I hold in my hand a letter signed by S. Seymour, chief engineer of the Washington aqueduct, in which he informs the Committee of Ways and Means of the other House officially that the appropriation in the bill as it now stands will not answer the purpose. Perhaps I had better read it, as it is brief and shows the reasons why the appropriation as it stands certainly ought not to remain:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE WASHINGTON AQUEDUCT,
WASHINGTON, D. C., May 24, 1884.

DEAR SIR: Referring to our conversation yesterday respecting the proposed appropriations for the Washington aqueduct, during which you informed me that the Committee of Ways and Means would include in the miscellaneous appropriation bill an item of \$100,000 for the new conduit around the receiving reservoir and \$50,000 for the Potomac dam, I will take the liberty of suggesting for your consideration that if the appropriation be made in the precise form above stated it will be impossible to use any portion of the amount for engineering, superintendence, repairs, or other miscellaneous expenses, except those directly chargeable to or connected with the above-named two items.

It has always been found necessary to keep a superintendent with eight or ten men employed upon the line between the distributing reservoir and Great Falls in cleaning out drains, repairing banks, &c., and also a force of four or five men between the navy-yard and the distributing reservoir for the purpose of supervising the pipe line and the distribution of water, repairing leaks or breaks, &c., &c., all which amounts with other miscellaneous expenses to ten or fifteen thousand dollars per year, and should be provided for in the appropriation. There are also several thousand dollars due for percentage on unsettled contracts and other accounts, which should be paid out of the next appropriation.

If the item in the bill should read, "for continuing the work upon the Washington aqueduct, \$150,000," (or any other amount the committee might think proper), the difficulty would be removed, and the money would be "expended under the direction and supervision of the Secretary of the Interior," as provided for in the joint resolution of Congress which transferred the work from the War to the Interior Department. (See page 3 supplemental report.)

I had hoped that Congress would feel justified in appropriating a sufficient amount, in addition to the items above named, to complete the upper section of the distributing reservoir to a depth of eleven feet. This will cost less than fifty thousand dollars, and would be of great service in purifying the water. A large amount of the materials are on hand, and the work can never be completed so economically as now.

With an appropriation of \$233,000 for the whole work, I have no doubt that all the items mentioned on page 19 of the supplemental report may be completed within one year from the date of the appropriation.

I have the honor to be, very respectfully, your obedient servant,

S. SEYMOUR,
Chief Engineer.

HON. THADDEUS STEVENS, Chairman Committee Ways and Means, House of Representatives.

This is the only official document we had before us in regard to the appropriation; and the engineer says distinctly that the appropriation as made in the bill will not answer the purpose; that it is not in the right language to cover the indispensable expenses of engineering, &c., nor is it of an amount sufficient, nor is it in the form desired. On reference to the general estimates, I find submitted to us in the annual estimates this item: "For completion of the Washington aqueduct, in accordance with the report and estimate of the engineer in charge, \$401,383 62." The

objection to the appropriation as it stands in the bill is that it proposes a radical change in the original plan, proposes the construction of a new conduit, and yet we have no designation of that change. The engineer evidently does not approve it. We have no information as to what the Committee of Ways and Means acted upon in putting in this appropriation. We have no plans or estimates. It proposes a radical change in the construction of the work without giving us any plans, estimates, or details. It seems not to have been contemplated either by the Department or by the chief engineer in charge. I have not the slightest doubt, therefore, that whatever the Senate may think about the matter, we should strike out the words which the committee propose to strike out, and then, if Senators desire to submit a well-considered amendment to continue the work on the Washington aqueduct, I shall have no objection if the work cannot very well be suspended, but my impression is that as Washington is now deriving the benefit of a large supply of water, although not in very good condition, we might suspend the work at present without any very great harm. But if it is necessary to continue the work it ought to be continued in the old manner, according to the old plan, or according to some fixed plan, and we ought to have information on the subject to enable us to vote definitely before changing the plan or character of the work.

Mr. MORRILL. If it is thought wise to stop this work here, and let it be suspended in its present incomplete condition, and the enterprise to which the Government has contributed \$3,000,000 entirely fail, for I suppose nobody acquainted with the condition of the aqueduct will call it a success at the present moment, then we may afford to deny all appropriations and suspend the work. But the method pursued by my honorable friend from Ohio strikes me as a little remarkable. He assumes that the appropriation asked for is not the proper one for the reasons stated by him, and inasmuch as that is not proper no appropriation is proper.

Mr. SHERMAN. The Senator will allow me to say that I do not, as an individual, object to an appropriation sufficient to preserve and carry this work forward if it is deemed necessary; but it is manifest that this appropriation is not in the proper form, and the Committee on Finance, not having clear information on it, as a matter of course proposed to strike it out. If the Committee on the District of Columbia have an amendment to propose, very well.

Mr. MORRILL. I do not think it is true, as the Senator supposes, that there is no information before the Senate of the United States in regard to it. That there was no evidence before the Committee on Finance was not the fault of the Committee on the District of Columbia to whom this matter perhaps more particularly belongs; but if my friend had looked to the report of the Secretary of the Interior he would have seen this work and these appropriations commended; and more than that, he would have found the report of the chief engineer who recommends this work in detail; and there, too, he would have found the plan of the work, the present and prospective demands upon it in the future, all set out in detail; and more than that, the subsequent report of the engineer within the last thirty days, made on the application of the Committee on the District of Columbia who have had this subject under consideration, repeats that and enforces it very elaborately, and that report was certainly accessible to the Committee on Finance.

With all these facts within reach of the Committee on Finance, it does not seem to me to be quite the thing that, because the whole matter is not specifically set out in this appropriation, the appropriation should be stricken out wholly, unless some one else to whom the subject was not referred should come forward with a specific plan. It will be found by reference to the report of the Secretary of the Interior and the chief engineer that the wants of this work were specifically set forth at the commencement of Congress and repeated in a report to the Senate within the last thirty days, in which not only these two items were stated as quite indispensable, but other items calculated to cover the incidental expenses referred to in the communication of the chief engineer which has been read and which was certainly before the committee, and from

which it was very easy for the committee, rather than propose to strike out the appropriation, to add those miscellaneous items which the chief engineer thinks indispensable.

It is said that this contemplates an expenditure for a purpose not contemplated in the original plan. I do not so understand it. Whoever is familiar with the original plans knows that this reservoir of which I have spoken, denominated the receiving reservoir in the plans, was the first source or fountain for the supply of the city while the work was in progress beyond. The work having been completed up to that point, a dam across that ravine gave a supply of water until the river should be reached at the Great Falls some seven miles beyond. The distributing reservoir spoken of by the Senator from Iowa and the Senator from Ohio was contemplated in the original plan.

Mr. GRIMES. But not this conduit between the receiving reservoir and the distributing reservoir, if I understand aright.

Mr. MORRILL. It will be found in the original plans that precisely the same plan for the preservation of the water and the distribution of the water from a point some five miles above was proposed as is proposed at the present time; but it is true, as stated by my friend from Iowa, that in regard to the construction of the distributing reservoir there has been a variation in the execution of that work.

Mr. GRIMES. That is in regard to the pavement; but then I want to know of the Senator from Maine if, in the original plan, it was contemplated that there should be any such conduit as that.

Mr. MORRILL. I will come to that in a moment. I want to say that in regard to the distributing reservoir there is no proposition before the Senate. None of the appropriations here asked for are for the completion of the distributing reservoir. It is true that the present chief engineer proposes to finish the distributing reservoir on a plan different from that originally proposed, and in this respect I should like to submit a word to the good sense of the Senate, whether the original or the present plan is the more feasible and the more rational. The distributing reservoir into which the water was to be poured, and the design of which was that the water should have a chance to rest and there be purified prior to its distribution to the city, was, according to the original plan, to be made of a high embankment, on high land, some four miles above us, one hundred and fifty or one hundred and sixty feet above high water in the Potomac at this place, by an excavation in that high land and an earth embankment. That was to constitute the distributing reservoir. It is true that the banks were to be partially protected by what is called rubble work, small stone broken and placed upon the exterior banks, which were to extend a third of the way down to the base of the reservoir; and that, it was supposed by the engineer, would be sufficient to protect the embankments, and also give the water that rest which would lead to its purification prior to distribution into the city. Upon an examination of all the reservoirs in the country it was found that not one was constructed in that way. I have seen the reports of them all. The reservoirs at Baltimore, Philadelphia, New York, and Boston are all constructed in the manner proposed by the present engineer; and if you will consider that this reservoir covers a surface of some forty acres, into which the water is to be poured from the Potomac, coming in a current, the object being that it shall there remain in a state of rest for purification, that the water is poured into a reservoir the average depth of which is from six to eleven feet only, and then consider that that is on the high land, and that the waves would be disturbed and the water get motion by every breeze, I submit whether it is at all rational to suppose that water thus situated would be in a state of rest favorable to purification. The engineer has very properly, I think, on this part of the subject, reported that this distributing reservoir should be deeper, and that the embankment should be protected by stone work; but, as I said before, that is not the subject before the Senate. There are only two propositions before the Senate, the first of which is whether you will make an appropriation to build a conduit around the natural ravine, which is denominated in the plan

the receiving reservoir; and it seems very singular that it should ever have entered into the head of anybody to suppose that you could have anything like pure water by taking water from the Potomac and bringing it down and pouring it into a natural ravine, the shore line of which is over fifteen thousand feet, and is entirely unprotected, that ravine being the natural sewer of a country of some fifty thousand acres, into which, whenever there is a storm or shower, the whole wash of that country pours.

Mr. GRIMES. My friend will allow me to say that they never contemplated any such thing. They expected that the water would be brought into the distributing reservoir and there it would settle, and from there it would be distributed to the city. What I object to is that they do not go on and complete the distributing reservoir, instead of resorting to this temporary expedient of building this conduit.

Mr. MORRILL. I am sorry to say that the remark of my honorable friend shows that he has not the slightest comprehension of this work. It is only by reason of this conduit that it is possible to get the water into the distributing reservoir. What my honorable friend conceives to be proper is precisely the proposition of the engineer. It is found that by taking the water from the Great Falls and bringing it down seven miles and pouring it into this natural ravine, you make what I should call in common parlance, aside from all technical phrases of engineers, one mammoth mud-puddle. The object is to avoid that. The object is to avail yourselves of the first idea, water from the Potomac river, and not water from this natural ravine. In order to get that you must complete your reservoir, and in order to do that you must take this conduit from above the reservoir below it, and then take it from thence into the distributing reservoir, which is some four miles below, and then you avoid that ravine and get a supply of water directly from the Potomac at the head of Great Falls. That is the proposition.

Now, I do not wish to go into the question of the construction of that natural ravine as a reservoir, whether it was good sense or bad sense; I do not feel called upon to notice that; but unless the Senate of the United States have come to the conclusion that after the expenditure of three million of money to, in the language of the original bill, carry out this enterprise of supplying the cities of Washington and Georgetown with good, wholesome water, it seems to me you must make from time to time such reasonable appropriations as are necessary to complete the work, and that these two things are absolutely necessary to be done, and are not a departure from the original plan but are in harmony with it, and by subsequent development are shown to be absolutely necessary. I have not the slightest doubt of it from the best information I can get from the report of the Secretary of the Interior to which I refer the honorable Senator from Ohio, and also the report of the engineer accompanying it, and also a subsequent report made to the Senate within a very short time. In all these reports these appropriations are urged specifically and the necessity of them stated.

Mr. SHERMAN. My friend still does not reach the point I desired to present to his mind. It is true the Secretary of the Interior has submitted his estimates, and I have read them; but they do not correspond with the appropriation made by the House bill. I have also read a letter from the engineer in charge of the work stating that the form in which the House of Representatives have put this appropriation is not the proper one, and suggesting that \$150,000, or whatever sum may be deemed proper, should be appropriated merely for continuing the Washington aqueduct.

Mr. MORRILL. I will explain that. The engineer said that here was an appropriation of \$150,000 for two specific objects, as if there were no other objects but two, and he reminded the committee that while these things were indispensable, there were other things to be done; there were contingent expenses; there were some bills due for work from last year; and therefore he says, "If you appropriate \$100,000 for the specific object of continuing the conduit, and \$50,000 for the completion of the dam, you will leave me with no means whatever to meet those miscellaneous

demands," and therefore he suggests an appropriation in addition.

Mr. SHERMAN. I beg the Senator's pardon. He not only says that the money is not sufficient, but he objects to the two items, and he says:

"If the item in the bill should read 'for continuing the work upon the Washington aqueduct, \$150,000,' (or any other amount the committee might think proper,) the difficulty would be removed, and the money would be expended under the direction and supervision of the Secretary of the Interior."

Mr. MORRILL. He was for applying it just as is proposed here.

Mr. SHERMAN. There seemed to be no difference of opinion in the committee as to the necessity of striking out the appropriation in the House bill. Whether another appropriation should be inserted in the form this gentleman suggests is another question. The difficulty is, that as it stands in the bill it is limited to two items, and to those exclusively. That is evidently improper.

Mr. MORRILL. What should be done undoubtedly is that there should be an amendment adding, as the engineer suggests, \$50,000 for other objects in addition to those named.

Mr. SHERMAN. But he recommends an appropriation in lieu of that in the bill.

Mr. MORRILL. Not in lieu of it, as I understand. The difficulty laboring in the mind of the engineer, and which he produces to the committee, is that he is confined to two objects, and he can make no expenditure except for those two objects as the bill stands. He says that the mistake which has been made is in saying that he may expend \$100,000 on one particular object and \$50,000 on another particular object; there are several other things to be provided for, and he tells you what they are. He says he is in arrears for work of last year, and he says there are contingent expenses. He suggests, therefore, that instead of being limited to an appropriation of \$150,000 to these two objects, he ought to have at least \$150,000 for the continuation of the work, and then he will be at liberty to apply it according to the necessities of the case; but if the Committee on Finance would adopt his other suggestion, let this appropriation stand for these two objects, and then give him an additional appropriation of \$50,000 for the other objects he mentions, the whole difficulty would be relieved. I think that unless the Senate come to the conclusion that the whole work had better be abandoned, we cannot afford at this time to take off the force and give up this enterprise.

Mr. CLARK, (Mr. POMEROY in the chair.) I do not understand that the striking out of these two specific appropriations involves the abandonment of the work. The House of Representatives have made two appropriations here, one of \$100,000 for building a certain conduit or pipe leading from the main reservoir to the distributing reservoir, and the other of \$50,000 for building a stone dam across the Potomac. The Committee on Finance judged that neither of these two things was necessary, and they propose to strike them both out, and that is all that this amendment involves. It does not involve the question of appropriating a certain sum to the preservation or the continuance of the work; but it is saying on the part of the Committee on Finance that it is not well to make an appropriation of \$100,000 for building this additional aqueduct and altering the plan, or \$50,000 for a new stone dam. If it is necessary to make an appropriation of \$50,000 to the general objects of the work, to continue it, we must make that appropriation; but if we let these two provisions stand here, I submit to the Senate that not one dollar of either of those sums so appropriated can be used for the general preservation of the work; so that this amendment does not involve the consideration suggested by the Senator from Maine.

But, Mr. President, I have had some acquaintance with this reservoir and with this aqueduct, and I want to state to the Senator from Maine what I know to be a fact. The city first took the water from this creek or receiving reservoir before the water was let into it from the Potomac river. They dammed up this hollow, ravine, or creek, or brook, whatever you call it, and took water from that in the first place for the city. They afterwards completed this aqueduct from the falls into that receiving reservoir, and took the water through in that way. Now, I want to

say to the Senator, that the water in that receiving reservoir was purer before they let the water into it from the river than it is now; and so far from the river water having been disturbed or made impure by water washed from the receiving reservoir, the latter is disturbed by its connection with the Potomac, and the water we get is muddier now than it was before they put the Potomac water into that reservoir. I know the fact, for I have used the water on both occasions. You are not going to remedy the turbidness of your water by changing the plan. The water in the Potomac is actually dirtier than that in the receiving reservoir before it was put into it.

Mr. MORRILL. The Senator does not know how accurate he is on that subject. It is a subject that was investigated by the committee; we were on the spot; and I have got a couple of bottles of water which I brought down, one from the Potomac at the Great Falls and one out of this receiving reservoir. The one taken at the Great Falls is what would fairly be called pure water. The one taken at the receiving reservoir is puddle water. That is the difference upon actual observation.

Mr. CLARK. I have got a much better test than taking a little water from these two reservoirs at a time. That would be just as you happened to find the reservoir or happened to find the river at the given time. If the river was comparatively pure when you got the water from the river and the other was turbid, you would have exactly the difference. I can tell the Senator that I have a better test. I used the water from the receiving reservoir all winter.

Mr. MORRILL. This winter?

Mr. CLARK. No, winters ago; and I have used the water from the river this winter, and I say it was better before than it has been since you have put the water from the river into it.

Mr. MORRILL. I am told that is so, and I can readily give the explanation. If you compare the water in the receiving reservoir now with the water in the receiving reservoir two years ago, the water in the receiving reservoir to-day is not so good, is not so clear as it was two years ago. What does that prove? That it is better than the water in the Potomac? No. It proves that the water to-day in the receiving reservoir is not so pure as it was two years ago. The Senator assumes that it is by reason of having impure water from the Potomac let into it. The fact is, and such was the evidence before the committee, that since the water from the Potomac has been poured into the receiving reservoir, the water has not been so pure, and the reason is that a strong current is created by the water from the Potomac running into the water in the reservoir, and the current forces up the mud from the bottom. It creates a current against the exterior surface, which is an unprotected surface, a bank surface, clay bank principally, of about fifteen thousand feet. The effect of this strong current coming in from the Potomac undoubtedly is to stir it up, and that accounts for precisely the state of facts to which the Senator from New Hampshire bears testimony; but it does not account for the fact, which I found upon examination, that the water in the Potomac when there has been no recent storm is not turbid, it is clear water. The water in the receiving reservoir undoubtedly when it had time to rest would ordinarily be tolerably clear water; but I do not think it needs an argument to show that when a natural ravine is turned into a receiving reservoir into which you force two hundred thousand gallons of water a day, and subject that to the flow of the water which comes from the surface of the country, you cannot expect pure water from such a fountain as that. Now, the object of the engineer is, and it is exactly in harmony with the old plan, having reached the fountain, no longer to be compelled to rely on this ravine, but just to take your fountain around it, so that when the water in the Potomac is pure you take it directly from the Potomac and never pass it through this receiving reservoir. In that way you allow time to fill your distributing reservoir and allow time for the water to rest. I think the honorable Senator will find if he examines the matter as closely as I have done that these are the facts.

Mr. CLARK. I do not know but that I have examined it as closely as the Senator, though it is very true that I have not got the water in a bot-

tle. But we have got one fact by the admission of the Senator from Maine, and that is that from some cause or other the water in the receiving reservoir was purer before the Potomac was let into it than it is now. He says that letting the water from the Potomac into the receiving reservoir has stirred the water up and made it turbid. Where does the Senator propose to have it come in by his new plan?

Mr. MORRILL. Not at all into the receiving reservoir.

Mr. CLARK. Into what reservoir?

Mr. MORRILL. The distributing.

Mr. CLARK. And what is that? Is not that all a ground bottom? Will it not stir that up just as much?

Mr. MORRILL. That is protected by the sides.

Mr. CLARK. Protected by what? Nothing but earth sides and earth bottom.

Mr. MORRILL. That shows how little comprehension the honorable Senator has of the work. That is all I can say.

Mr. CLARK. Will the Senator tell me?

Mr. MORRILL. I have stated twice particularly in reply to my honorable friend from Iowa how it stands. He complained that the distributing reservoir was designed to be walled in entirely, so that the wash of the water and the movement of the water are not to disturb the earth at all. The design is to make it a reservoir, to make it, in the common acceptance of the term, a place of rest for the water, and there is to be no current in it, no stream in it from the outside.

Mr. CLARK. I understand that. Is it walled in at the present time?

Mr. MORRILL. No, sir.

Mr. CLARK. Is it not earth unprotected now?

Mr. MORRILL. There is no water in it.

Mr. CLARK. It is merely a place dug out of the earth.

Mr. MORRILL. There is no water in it, and never has been.

Mr. CLARK. Now, suppose we pave the bottom of that, make it as the Senator designs—

Mr. MORRILL. Not pave the bottom of it.

Mr. CLARK. I understand it is to be walled in, and he proposes also to pave the bottom of it.

Mr. MORRILL. No.

Mr. CLARK. At any rate, he proposes to rubble the sides. Now, suppose you let the water come first into the receiving reservoir and stand there holden by the gates; if there settles somewhat, and then you let it out into the distributing reservoir; will it not settle there just as well as though you took it right from the Potomac if you adopt the plan they propose? Now, if the place where the water comes into the receiving reservoir is not properly protected, so that the water casts up the dirt, you can protect it so that it will not wash, you can bring it into your receiving reservoir where it comes now, according to the original plan, and then you can take it into the distributing reservoir. In my judgment this is nothing but a scheme of an engineer to expend \$200,000, nearly a quarter of a million, on some new plan which will in the end bring the water into the same reservoir.

Mr. HENDRICKS. Will the Senator allow me to ask him a question?

Mr. CLARK. Certainly.

Mr. HENDRICKS. Is it contemplated to abandon the Potomac as the source of supply?

Mr. CLARK. Not at all in any case.

Mr. HENDRICKS. I thought that was the argument of the Senator.

Mr. CLARK. Not at all. The water from the Potomac comes into what is called the receiving reservoir. It is to be taken from that, according to the original plan, into the distributing reservoir, and there settle. This proposition is to take it from the Potomac directly into the distributing reservoir without going into the receiving reservoir in the first place, as I understand it.

But the main point, Mr. President, without arguing as to the receiving reservoir one way or the other, is that we have expended \$3,000,000 to supply water to this city, and we have got an abundant supply, such as it is, for the purpose of extinguishing fires, for the purpose of washing the streets, and for many other purposes; and that being the case I submit to the Senate—and that is the consideration which forced itself upon the Committee on Finance—whether it is wise now

to expend \$150,000 to change the plan at the present time. Have we not done enough already, and is it wise in the present condition of the country to expend \$150,000 for what may be at least a doubtful experiment? That is the point. The committee thought it was not wise to do it. The committee do not design to throw any obstacle in the way of the final completion of the aqueduct or of any attempt that may be made to give us good water; but as we have expended \$3,000,000 already the committee say that it is not wise at the present time to expend \$150,000 this year for what may be at least problematical.

The Senator from Maine says the Potomac is low in the summer season. That may be very true; but had we any difficulty last summer? If these reservoirs are in proper situations will it not afford an abundant supply of water such as it is? and is there any necessity for building a stone dam for the purpose of getting water at this time? The question is upon these two items, whether we will appropriate \$100,000 to make this alteration and \$50,000 for this dam, or whether we will appropriate \$50,000 or some other proper sum to continue the work. I hope the amendment of the committee will prevail.

Mr. JOHNSON. We have spent, I believe, \$3,000,000 and we have a supply of water; but no one who has been here this year can fail to be satisfied that it is not such water as we expected to get, and all those who know anything about the Potomac river must also be satisfied that the Potomac river is capable of supplying us with very good water. Now, I do not understand that it is proposed to abandon the enterprise. The Senator from New Hampshire is satisfied with what we have and is not disposed to expend any more money in trying to improve what we have at this time.

Mr. CLARK. I have not said that I was satisfied with what we had. I think it is not wise to expend money to make this alteration at this time.

Mr. JOHNSON. I mean the Senator is satisfied under the circumstances; he will not try to make it better.

Mr. CLARK. Not by this expenditure.

Mr. JOHNSON. I understood the Senator from Ohio (and in that it seems to me he is perfectly correct) as objecting to the appropriation as it comes from the House of Representatives on the ground that it will not answer the purpose for which the appropriation is asked, and he founds that opinion upon a communication made from the engineers since the appropriation was made by the House of Representatives, dated May 24, 1864, in which the engineer says very correctly that as the appropriation made by the House is \$100,000 for one specific purpose, and \$50,000 for another specific purpose, it will not answer the needs of the work, because there are a good many other expenditures that are to be met in order to keep the work in a proper and useful condition; superintendents are to be provided for, watchmen are to be provided for, outstanding accounts unsettled are to be paid, none of which can be done under the appropriation in the form in which it is made by the House of Representatives. I give notice, therefore, to my friend from Ohio and to the Senate that if the Senate shall strike out the appropriation as made by the House of Representatives, as I think should be done, I shall then propose to insert as an amendment these words:

For continuing the work on the Washington aqueduct, \$150,000.

Mr. CONNESS. I suggest to the honorable Senator that as I understand the rules his amendment will not be in order unless it be proposed by a committee, and therefore we had better adhere to the appropriation as it stands in the bill.

Mr. JOHNSON. The honorable member is mistaken. The amendment that I suggest will not increase the appropriation. It is to amend an appropriation, and therefore perfectly in order.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Finance.

Mr. CONNESS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 14; as follows:

YEAS—Messrs. Buckalew, Clark, Collamer, Cowan, Fessenden, Foot, Grimes, Hale, Harlan, Hendricks, Howe, Johnson, Lane of Kansas, Pomeroy, Powell, Richardson, Sherman, Sumner, Trumbull, and Wade—20.

NAYS—Messrs. Anthony, Conness, Dixon, Foster, Har-

ris, Hicks, Morgan, Morrill, Ramsey, Riddle, Saulsbury, Ten Eyck, Van Winkle, and Willey—14.

ABSENT—Messrs. Brown, Carlile, Chandler, Davis, Doolittle, Harding, Henderson, Howard, Lane of Indiana, McDougall, Nesmith, Sprague, Wilkinson, Wilson, and Wright—15.

So the amendment was agreed to.

Mr. JOHNSON. I wish now to move an amendment making an appropriation for continuing the work on the aqueduct.

Mr. SHERMAN. That will come in more regularly after the amendments of the Finance Committee shall have been acted on.

Mr. JOHNSON. Very well.

The PRESIDING OFFICER. (Mr. POMEROY.) The next amendment proposed by the Committee on Finance will be read.

The next amendment was read. It was to increase the appropriation for pay of superintendent of botanic garden and assistants in the botanic garden and green-houses from \$5,945 80 to \$6,145 80. The amendment was agreed to.

The next amendment was to strike out the following items from the appropriations for the Columbian Institution for the Deaf and Dumb and the Blind:

For continuing the work for the accommodation of the students and inmates in said institution, in addition to the appropriations heretofore made; for the purchase of a tract of improved land, containing about thirteen acres, bordering on Boundary street of the city of Washington, and adjoining the lot now belonging to the institution, to enable it to instruct the male pupils in horticulture and agriculture, and to furnish sites for mechanic shops and other necessary buildings, \$26,000.

For the erection of a building to be used as mechanic shops for the instruction of the pupils in useful labor, and to furnish more convenient and healthful apartments, as well for the instruction as for the sleeping rooms for the male pupils, \$31,445 87.

And in lieu thereof to insert:

For the purchase of a lot next westerly of said asylum, adjoining Boundary street, containing about eighty-two thousand five hundred feet, with the buildings thereon, \$7,000.

The amendment was agreed to.

The next amendment was to insert after line one hundred and eighty-nine of section two the following item:

For the purpose of building a new custom-house at Portland, in Maine, on the site owned by the United States, \$50,000.

The amendment was agreed to.

The next amendment was in section four, line four, before the word "Congress" to insert "session of;" so as to make the clause read:

That the compensation of the clerk to the Committee of Ways and Means shall be \$2,100 per annum, to commence with the present session of Congress; and such sum as may be found necessary to pay the same be, and is hereby, appropriated.

The amendment was agreed to.

The next amendment was to strike out from line seventeen to line twenty-two of section four, as follows:

For payment to Messrs. Little, Brown & Co. for three hundred and ninety five volumes of the Statutes at Large, at \$3 50 per volume, delivered by order of the Secretary of the Interior, dated February 21, 1833, \$2,765.

Mr. SUMNER. I should like to know the ground for striking it out.

Mr. SHERMAN. It is sufficient to say that it is purely a private claim. The other House excluded from the bill every claim of that character except this one. We wish to preserve this bill, if we can, free from all private claims.

Mr. SUMNER. But is this a private claim?

Mr. SHERMAN. It is simply money claimed to be due to a private firm, on very doubtful legal authority.

Mr. SUMNER. Is it not on account of an alleged order from the Department?

Mr. SHERMAN. Yes, on account of an alleged order, which creates a dispute as to the authority. We had it in one other appropriation bill, and both Houses struck it out. If these parties have a proper claim, let a bill be introduced to pay them and let it be referred to the Committee on Claims, where it can be investigated.

Mr. SUMNER. I ask the Senator if the course now taken does not make a distinction between this case and other cases? Is it not the habit to put on this bill or other appropriation bills or a deficiency bill, I will not call them claims, but accounts or bills like this?

Mr. SHERMAN. No, sir; and if this be kept in the bill it will be the only private claim which

has been put on it; all others have been excluded. If the Senate desire uniformity and justice they will exclude this, because if this is allowed to go on the bill there will be efforts to put on all kinds of claims.

Mr. GRIMES. Would not this be a legitimate and proper item if the name of the firm, Little, Brown & Co., was stricken out and the appropriation was to pay for certain books purchased by the Secretary of the Interior, in pursuance of a law of Congress?

Mr. SHERMAN. That is the very question. It is disputed, in the first place, whether he had any authority, under the law, to buy the books.

Mr. GRIMES. This I understand to be the same case we had before the Senate on a previous occasion.

Mr. SHERMAN. The Senate struck it out then.

Mr. GRIMES. From the facts developed at that time I have not any sort of question that the contract was a binding obligation on the part of the Government to pay for these books. There is not a firm in America of better reputation than Little, Brown & Co., with whom I have been acquainted by reputation for many years. When the issue was raised before, I had not any doubt as to the question between Little & Brown and the authorities here, and I had not any doubt then what the final result would be, and when the developments were made I was satisfied the claim was correct. It seems to me perfectly legitimate to put it on this bill.

Mr. FESSENDEN. I have looked into this matter somewhat more than I did at the time it was up before, and I think I can make the question (about which I propose to give no opinion) clear to the Senate, so that they can understand what they are voting upon. I do not regard this as a private claim, and I do not see that there is any legal claim existing. Whether it is advisable to purchase these books and make an appropriation for that purpose is a question for the Senate to decide. Originally the arrangement made was that Little & Brown should publish the laws and should furnish a certain number of copies, a thousand copies. Afterwards it was found that we wanted more, and, as I understand, another contract was made. At the time the original contract was made, the custom was and the law was to give each member of Congress a copy of the volume published. Some half dozen years ago we provided that that should no longer be done. Little & Brown, however, although they understood it was no part of the contract, supposed that that usage would be continued, that each member of Congress would be furnished with a copy of the laws. That custom was changed, and the result was a call for a less number of copies. We appropriated an amount sufficient to purchase two thousand copies of the laws. It was an appropriation; no contract was made, but we appropriated the amount necessary at the rate fixed to purchase two thousand copies. The Government wanted for the purpose of distribution under the law but one thousand six hundred and five copies of each of the last two volumes, and they took only one thousand six hundred and five. Little & Brown, however, published the whole two thousand copies, and they think that they have a fair claim upon Congress to take the two thousand copies of the tenth and eleventh volumes as the appropriation mentioned that amount, and they supposed that they would be taken.

What goes, perhaps, to add somewhat to their equity is the fact that with regard to the eleventh volume which has been published, they might, if they had seen fit, have divided it into two; and it has cost them a very much larger sum of money than they receive per volume in payment, as it is in the first place a very large volume, containing the proceedings of the two last Congresses, and in the next place the cost of paper and binding, &c., has been very much increased. They think that as they have published that volume, notwithstanding their loss on it, which undoubtedly is considerable, and have complied with their contract fully, the Government ought to take the two thousand copies which, under the appropriation made, was specified.

The objection to taking them is that at present a considerable number of them may not be wanted, and we should have the three hundred and ninety-

five copies of each volume on hand, and they would remain on hand for a considerable time. They were sent on; but it having been found out that there was no authority to take them, the Secretary of the Interior not having paid for them did not take them, and notified Little & Brown to take them away; and the question now is whether the Government will take the full number of two thousand copies, according to what Little & Brown conceive to be, on certainly apparently plausible grounds, to say the least, the equity of the case between them and the Government.

It may be said that they are unquestionably highly honorable men, and at a loss have gone on to execute their contract faithfully and ably and admirably, I may say, in all particulars, and they think they ought not to suffer the loss of the three hundred and ninety-five volumes of each of the tenth and eleventh volumes, and the Government ought to take them on the implied obligation arising from the fact that we made an appropriation for two thousand copies, although there is no legal obligation whatever on the Government to take that number, in my judgment. That is the simple state of the case. I do not regard it as a private claim. It is simply a question whether Congress will take the volumes or not.

Mr. SUMNER. If it be not a private claim, then the question is open on its merits, and it seems to me that on its merits Congress ought to carry out what Little & Brown supposed was the original understanding. The Senator from Maine very properly pays a tribute to the character of this house. Perhaps there is no house in our country more truly honorable than that of Little & Brown, and in the publication of the Statutes at Large I believe they have done the country a good service with very little profit to themselves. If you go over the history of that publication from the beginning down to the present time I believe you will find it has been of much more advantage to the country than it has been to the booksellers. It has not been a profitable publication. It was very costly in the original outlay. Of course it is stereotyped. Plates cannot be made for nothing, and the editorial care and labor that have been bestowed upon it have required a very considerable additional outlay of money. For all that there has been thus far, as I understand, a very slender return, so that the publication has been in no respect advantageous to the booksellers.

Under these circumstances, considering the meritorious character of the publication and the excellent manner in which these booksellers have performed their part of the business, it seems to me rather hard that they should be called to endure this additional loss, for it is an additional loss. They have manufactured these books—I use the language of the trade—and actually sent them on to Washington, as they imagined, in the performance of a contract. When the books arrived here they were disappointed; the books were not received.

Mr. COLLAMER. There is somehow an impression that there was one other thing. They were not more books than we called for by the appropriation; but they got them here at a time when it was said the appropriation had lapsed after the two years had expired. So I am told.

Mr. FESSENDEN. The Senator does not exactly understand it. The Government were in the habit of calling for books as they were wanted; they called for the number they wanted, and these additional copies were in the hands of Little & Brown, and remained so long without being called for that the time lapsed, so that although they had the books, they were not in the hands of the Government. The only question that occurs to me as raising any trouble about it was that one case was as long ago as 1855, I think, when the tenth volume was published. I asked Mr. Little why the matter was suffered to lie so long, why the volumes were not called for and delivered. He did not seem to give any definite explanation except simply that he thought the order would come in due time.

Mr. SUMNER. I believe, in regard to that, the firm had implicit confidence in the Government. They felt that their relations with the Government, which had been going on for some twenty years, were so thoroughly established that there could be no difficulty. They knew

that they themselves were performing their part of the contract honorably and completely, and they did not suppose that on the part of the Government there would be anything which could be regarded as a favor. Now, sir, if this firm had been hard in their bargain, if they had failed in any respect on their part, if what they had done had not been advantageous to the Government, and I may also add advantageous to the profession, to ourselves, to all who have occasion to consult the Statutes at Large, then I should think they would not be in a condition to bring forward the present claim. But they are in every respect blameless. There are no persons who could come before us with a case, or with a claim, or whatever you may choose to call it, I submit, who could, so far as their own conduct is concerned, be more absolutely above criticism. I do not know that there is any suggestion of criticism, but I submit that that is an essential element in the case, for if we are dealing with meritorious persons, we certainly do not wish, or we ought not to wish, to have the hardness begin on our side. I think if we throw out this claim of theirs, our course will be what you may properly characterize as hard.

The Senator from Maine suggests that there is no occasion for the books now.

Mr. FESSENDEN. For all of them.

Mr. SUMNER. If there be no occasion for all of them now, yet if in any respect the Government may be considered to be bound to take them, if it be proper or honorable for the Government to take them, then I should hardly go into the consideration whether there will be occasion for all of these copies. But we all know that at this moment, with the large increase of our offices everywhere throughout the country, there must be an increased supply of these very volumes needed. I should say—I speak, of course, only according to general information—that there would be an immediate demand for all of these copies, and, indeed, for a great many more, by sending them, if you please, to the new Territories; there are our provost marshals, there are our collectors, there are a great many officials created recently by recent statutes that must be without these volumes, and if the Government should have them on hand it might undertake to supply them. I hope the clause will not be struck out.

Mr. COLLAMER. This item was inserted in the House bill, and the proposition now is to strike it out, not that there is any demerit in it, but that the form of it is not liked in this bill, because it is regarded as a private claim. When we come to examine it and the chairman of the committee explains it to us, it is no private claim, or is no claim to go before the Court of Claims or any committee, but it is a question whether we ought to buy the books. I do not see, therefore, any sufficient ground to strike that out which upon the merits the House put in.

Mr. FESSENDEN. I think it is best to amend this clause before the vote is taken, and I move to insert after "three hundred and ninety-five" the words "copies of the tenth and eleventh."

Mr. SHERMAN. Why amend it at all? The date of the order is prescribed, and the amount of books, and number of books.

Mr. FESSENDEN. It says three hundred and ninety-five volumes. There are in fact three hundred and ninety-five copies of the tenth and eleventh volumes. It now reads "three hundred and ninety-five volumes of the Statutes at Large."

Mr. SHERMAN. Just strike out the numbers, and say, "for the Statutes at Large, at \$3 50, delivered by order of the Secretary of the Interior." That will accomplish the Senator's object.

Mr. FESSENDEN. It is better to say "three hundred and ninety-five copies of the tenth and eleventh volumes each."

The PRESIDING OFFICER. The amendment of the Senator from Maine, being to perfect the clause, is first in order before the motion to strike out is put.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the motion of the committee to strike out the clause.

The motion was not agreed to.

The next amendment of the Finance Committee was at the end of section four to insert:

To supply a deficiency in the appropriation for miscellaneous items for the Senate for the fiscal year ending June 30, 1864, \$12,730.

For deficiency for the Congressional Globe for the present session, \$25,065 12.

The amendment was agreed to.

Mr. SHERMAN. I am instructed by the Committee on Finance to offer the following amendment, to come in after line two hundred and sixteen of section two:

To supply a deficiency in the appropriation for the cost, charges, and expenses properly incurred by the State of Minnesota in suppressing Indian hostilities in the year 1862, the sum of \$117,000: *Provided*, That only so much of said sum shall be paid the State of Minnesota as is allowed by the proper accounting officers under the twenty-second section of the act approved March 3, 1863, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1864, and for the year ending the 30th of June, 1863, and for other purposes."

The amendment was agreed to.

Mr. CLARK. The Committee on Finance direct me to move to amend the bill by inserting after line one hundred and twenty-three of section one:

To change Tiber creek where it runs through the botanic garden into a sewer, \$10,150, to be expended under the direction of the Commissioner of Public Buildings.

Mr. GRIMES. I should like to have some explanation of the amendment.

Mr. CLARK. This expenditure is made necessary for the purpose of covering that sewer on account of the offensive state in which it has become for two or three years past, especially in the spring and the dry season, and it is recommended by the person in charge of the grounds and also by the city surveyor. I will send to the Chair a letter from the person in charge of the grounds which I desire to have read.

The Secretary read the following letter:

BOTANIC GARDEN,
WASHINGTON, January 4, 1864.

DEAR SIR: I would most respectfully call your attention to the importance of asking Congress for an appropriation to cover up the open sewer that passes through the botanic garden, known as Tiber creek. Since the introduction of Potomac water this always filthy, sluggish stream performs the functions of the night-cart for about one-third the city. The sewerage of the Capitol deposited in the canal, and other filth, is regularly washed back by the tide and left for a time to pollute the atmosphere, generating disease and death, and rendering the grounds anything but agreeable, and only thoroughly cleansed by a fresher.

An arch of the same capacity as that on Pennsylvania avenue, with a wooden floor, stone abutments, and eighteen inches of brick in the arch, might be built from Pennsylvania avenue to the center line west of the Capitol for \$10,000. This would cover the head of tide-water, and prevent to a great extent the generating by the solar rays of aerial poison and obnoxious effluvia immediately in front of the Capitol, and adjoining that great thoroughfare Pennsylvania avenue. The other portion could be done when something definite is arranged by the corporate authorities about their open sewer, the canal.

Most respectfully yours,

WILLIAM R. SMITH,
Superintendent of Botanic Garden.

Hon. B. B. FRENCH, Commissioner of Public Buildings.

Mr. CLARK. In addition to that, the Commissioner of Public Buildings and Grounds recommends that this should be done. The committee are satisfied that in the offensive state in which that sewer is, it should be done.

The amendment was agreed to.

Mr. CLARK. I move a further amendment, to insert after line one hundred and seventy-one, on page 14, the following:

For carrying on the work of the commission appointed to act under the first article of the reciprocity treaty with Great Britain, \$8,000.

The amendment was agreed to.

Mr. WADE. I am directed by the Committee on Territories to move to amend the bill on page 14, line one hundred and sixty-two, by striking out "fifteen" and inserting "five;" so that the clause will read:

For surveying the public lands in the Territory of Dakota, \$5,000.

And then to add at the end of the clause the following:

For the survey of a military road from Sioux City, Iowa, to Fort Randall, Dakota Territory, and from Niobrara, Nebraska Territory, to Fort Randall, and to bridge the Dakota and Vermilion rivers and other streams, \$15,000.

This amendment will add \$5,000 to the appropriations that the House of Representatives have made for the Territory of Dakota. It proposes to take \$10,000 from the appropriation made by

the House for surveying the public lands in Dakota and applying it to other purposes in the Territory. The Delegate thinks that \$5,000 will answer that purpose. It is said to be exceedingly important that this appropriation of \$10,000 should be made for the purpose of bridging their streams and making a military road. It will only add \$5,000 to the amount appropriated by the House of Representatives. It is said that these streams in the spring of the year are almost impassable, and it is absolutely necessary for the convenience of travelers that this appropriation should be made. The amendment was agreed to.

Mr. JOHNSON. I offer an amendment to insert on page 11, after line ninety-nine, the following:

For continuing the work upon the Washington aqueduct, \$150,000.

The amendment was agreed to.

Mr. MORRILL. I am instructed by the Committee on Commerce to move the following amendment, to come in on page 4, at the end of line sixty-eight:

For the erection of a light-house on Point Peninsula, between Big and Little Bay De Noquet, in the State of Michigan, \$15,000.

Mr. SHERMAN. I will state to the Senate that this bill, with a single exception, contains no appropriation for new works. There is another bill pending in the House of Representatives making various appropriations of this sort, to which this amendment might be attached; but if it is now adopted on this bill it will open the door to about fifty amendments providing for the construction of new works. We might as well have the question decided now on this amendment.

Mr. MORRILL. I will withdraw the amendment if there is another bill coming to us to which it can be more properly attached. I have no choice about the bill upon which it shall be placed.

Mr. SHERMAN. The House of Representatives struck out of this bill some thirty or forty appropriations for new structures, with a view to leave it without any such appropriation. It is for the Senate to say whether or not they will embark upon this subject and load this bill down. If the amendment of the Senator from Maine prevails, as a matter of course it will be followed by many others for new structures. I hope, therefore, the Senate will exclude it. If they are to be attached to any bill let them be attached to a bill that is now pending in the House of Representatives, when it shall come to us, providing for new structures. I forget the title of the House bill, but there is a bill reported from the Committee of Ways and Means which contains very many items of this kind.

Mr. MORRILL. If this is the proper bill, I desire to urge these amendments; if it is not, of course I do not. I do not know how that matter is. I am instructed by the Committee on Commerce to move some three or four amendments of this description applicable to the western lakes. They are all recommended by the proper Departments, and were found to be proper by the committee.

Mr. FESSENDEN. I do not wish anybody to be misled about the condition of the bill to which the Senator from Ohio has referred. I will state to my colleague that the committee in the House of Representatives have reported another bill in which many of these things are put, but it is not probable that that bill will be acted upon. The chance of putting these amendments on that bill, therefore, will be very slight, as it is very doubtful whether it will be reached. We have already taken some things out of that bill and put them on this. I should like to hear the pending amendment read, as I did not hear it before.

The Secretary again read it.

Mr. FESSENDEN. I should like to hear the reasons for that amendment.

Mr. MORRILL. I have the papers here from the Light-House Board, and also from the Secretary of the Treasury, recommending it. We have no information beyond that that I know of. It is recommended both by the Light-House Board and the Secretary of the Treasury.

Mr. FESSENDEN. I deem it but fair to state to my colleague that the only chance for passing the amendment is to put it upon this bill. I do not believe there is any other bill coming from the House upon which it can be put; and therefore if it is a matter of necessity it ought to go on here.

Mr. SHERMAN. If the Senate put on this amendment we might as well put on thirty or forty more, and I shall call for the yeas and nays to test the sense of the Senate upon it. There are many cases of this kind for new works, and in my judgment no new work ought to be entered upon at the present time without at least having a full estimate of the cost and the specifications provided for by law.

Mr. MORRILL. I have them here.

Mr. SHERMAN. The Senator has told us that he has three more amendments of the same sort, and there are others I know.

Mr. HALE. I want the Senator from Ohio to tell us the difference between this proposition and the appropriation of \$50,000 for the custom-house at Portland.

Mr. SHERMAN. I know that was reported from the Committee on Finance. The reasons for it were not stated to the Senate, but I have no doubt if they had been stated they would have been entirely satisfactory to the Senator from New Hampshire and to the Senate. I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. TRUMBULL. I shall vote against this appropriation upon the ground suggested by the Senator from Ohio. If we commence making appropriations for new works, unless it is some very special case, I know that a great many motions of this kind will be made. Several years ago an appropriation of \$50,000 was made for a court-house and post office at Springfield in my State. That money has never been expended; the appropriation has been suffered to lapse; and there are parties who desire to have a movement in that behalf again. Similar appropriations were made for custom-houses at other places. I agree that this is not the time to make appropriations of this character. I recollect very well that at the time this appropriation was put on for Springfield in Illinois there were quite a number of places designated as proper points for the erection of court-houses, custom-houses, and post offices. I think there were a dozen put upon one appropriation bill at one time. We shall have the same thing over again now if we commence it; and as I know nothing peculiar about this case, I trust the Senator will not put any of these appropriations on this bill.

Mr. HOWE. I think if the Senator from Illinois understood the facts in reference to this proposition he would change his vote. There is something peculiar about it. Some seven years ago Congress appropriated a sum of money to build a light-house at this very point; but at that time the only business at that point was lumbering business. The Government thought that a light-house there would serve only a local and to some extent a private interest, and therefore they did not make the expenditure. At the present time, however, a railroad is nearly completed from this point, Point Peninsula, to Lake Superior; it will be completed during the next month, and then a line of boats will be put on to run nightly between the northern terminus of the Northwestern railroad and the southern terminus of the Peninsula road, and without the advantages of these lights that navigation will be very dangerous. In view of this new and absolute necessity, the Light-House Board have recommended the erection of this light and one or two others; one at the mouth of the Fox river, I understand, and one at a point close by this.

Mr. MORRILL. The whole expenditure for all the light-houses proposed by the Committee does not exceed \$40,000 or \$45,000.

Mr. HOWE. The moment the road to which I have alluded is opened, that is to be a thoroughfare for a large travel, and the whole of it must be attended with great risk unless there can be some lights erected there to guide the boats to the landings.

Mr. GRIMES. I should like to know what the issue is in this case? I understand the proposition is to authorize the construction of three more light-houses at an aggregate expense of about forty-five thousand dollars. I think it is a vast deal more important that we should furnish facilities for commerce on the western lakes than it was for us to pass an appropriation a little while ago of \$750,000 to build fortifications on the northern lakes.

Mr. FESSENDEN. We have not done that.

Mr. GRIMES. I am happy to hear it. This is something that is necessary, I understand, from the authority of the Treasury Department, to promote the commerce of that region of country which is being more and more increased and developed every year. New harbors are being opened, and large amounts of agricultural products are being sent off from places that hitherto have furnished no commerce at all. I am prepared to vote for such a proposition, especially in view of the fact stated by the chairman of the Committee on Finance that this is the only bill upon which a proposition of this kind can be attached. I understand from the Senator from Maine who represents the Committee on Commerce that all the appropriations that he has for purposes of this kind, that is, peaceful and commercial purposes, amount to about forty-five thousand dollars. I think the Senate cannot do better than agree to it.

Mr. CHANDLER. The Committee on Commerce examined every application for a light-house very closely, and out of the very numerous applications they selected only those which were indispensable in the opinion of the Department. I think out of perhaps twenty or thirty applications they selected five. They examined very carefully every single one, and would not recommend a single one that could possibly be dispensed with for a single year. I trust there will be no votes cast against this amendment. I shall be very much surprised if there is a single one.

Mr. HOWE. I desire merely to say to the Senator from Ohio that he is advised now by the Committee on Commerce that they have only three or four or five, at the outside, propositions of this kind to submit, and these are recommended by the Light-House Board and indorsed by the Secretary of the Treasury; and because the Senate sees fit to adopt these amendments coming from the standing committee of the Senate and from a Department of the Government, it does not follow that the Senate will be obliged to accept every proposition that comes from individuals. The Government itself—that Department of the Government which has charge of these expenditures—asks for this appropriation; and there is no reason for refusing this appropriation that does not exist for refusing every single appropriation in the bill. The necessity for making this appropriation, and the two others that are to follow it, I personally know is as great as for making any appropriation in this bill.

Mr. SHERMAN. It is very manifest that I shall be voted down on this proposition; and as I simply wish to make my caveat against the erection of new works being put upon this appropriation bill unless in special cases and for special cases, I will withdraw the call for the yeas and nays. I do not wish to consume the time of the Senate by making an issue upon which I am manifestly in the minority.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The call for the yeas and nays can only be withdrawn by unanimous consent. The Chair hears no objection. The question is on the amendment moved by the Senator from Maine.

The amendment was agreed to.

Mr. MORRILL. I propose the following amendment, to follow the amendment that has just been adopted:

For beacon light on Sand Point on the west side of Little Bay De Noquet, in the State of Michigan, \$5,000.

The amendment was agreed to.

Mr. MORRILL. I offer another amendment, to come in at the same place:

For beacon light at the mouth of Fox river, in the State of Wisconsin, \$5,000.

The amendment was agreed to.

Mr. MORRILL. I offer another amendment, to follow the others:

For removing and reconstructing beacon light on Cape Henlopen, \$17,500.

The amendment was agreed to.

Mr. MORRILL. I have another amendment to offer, to insert the following:

For erecting a light-house on Cape Arago, in the State of Oregon, \$15,000.

The amendment was agreed to.

Mr. MORRILL. I am instructed by the same committee to offer the following amendment:

For additional aids to navigation to facilitate the entrance to Portland, Maine, by suitably marking Alden's

rock and Bulwark shoals, or otherwise, as may be found necessary, \$20,000, or so much thereof as may be found necessary.

I send to the Chair two communications on this subject, which I ask to have read:

The Secretary read them, as follows:

TREASURY DEPARTMENT, June 16, 1864.

SIR: I have the honor to transmit herewith a copy of a report from the Light-House Board upon petitions referred to them for the improvement of the aids to navigation required to mark dangers in the approaches to Portland.

I fully concur in the views of the committee as to the necessity of a special examination by the board, and respectfully ask the attention of your committee to the matter, and also its favorable action in regard to the appropriation of \$20,000 recommended by the board.

I am, very respectfully,

S. P. CHASE,

Secretary of the Treasury.

Hon. W. P. FESSENDEN, Chairman Finance Committee, United States Senate.

TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
WASHINGTON CITY, June 15, 1864.

SIR: I have had the honor to receive the letter of Hon. W. P. FESSENDEN, of the 13th instant, with accompanying papers, in reference to additional aids to navigation required to mark dangers in the approaches to Portland.

In view of the direct testimony of shipmasters as to the necessity of marking Alden's rock and Bulwark shoal, this board is of opinion that the importance of the subject demands a careful personal investigation by one or more of its members, and it is proposed to enter at once, with the sanction of the Department, upon the examination.

In the mean time it is respectfully recommended that application be made to Congress for an appropriation of \$20,000 for properly marking Alden's rock and Bulwark shoal, or such other measures for facilitating the entrance to Portland harbor as, after a close scrutiny, shall be found necessary.

Very respectfully,

W. B. SHUBRICK,

Chairman.

Hon. S. P. CHASE, Secretary of the Treasury.

Mr. MORRILL. I desire to say in a single word that the papers show that this was the point where the Bohemian was lost recently, and that fact I suppose contributed to the general examination and inquiry which led to this application.

Mr. TRUMBULL. This case simply amounts to this: the attention of the Light-House Board is called to the propriety of marking some obstruction or rock near Portland, and they answer that in view of the testimony of shipmasters they think a critical examination ought to be made. They do not say that it is necessary, but that a critical examination should be made; and in the mean time they recommend that \$20,000 be appropriated, if it should be found necessary, to accomplish this object afterwards. It seems to me that is a very singular case to put on an appropriation bill at this time. The examination has not been made. It is asking it in advance. If you make the appropriation in advance, and send out the Light-House Board to see whether they can expend it, I have no doubt they will do it.

Mr. FESSENDEN. I can explain this whole matter, I think, to the satisfaction of the Senator himself. These papers were sent to me a few days since. I sent them to the Secretary of the Treasury without any comments whatever, but merely wrote him a note calling his attention to them. He sent them back to me with the papers that have been read, calling the attention of the Committee on Finance to the subject. I did not consider that the Committee on Finance was the proper committee to investigate the subject, nor did I wish it to come before a committee of which I was a member for fear of the inferences that might be drawn with reference to my own action. I therefore sent them to the appropriate committee, the Committee on Commerce, and the Committee on Commerce have unanimously reported in favor of the appropriation. The reason why the Light-House Board say that an examination should be made is, not that they have any doubt that something should be done, but that until the examination is made they cannot tell precisely what should be done, whether Bulwark ledge and Alden's rock should be marked, or whether only one of them should be, or what kind of aid to navigation should be placed there.

Mr. SHERMAN. If the Senator from Maine will allow me, I will submit the ordinary motion to take a recess at twenty minutes to five o'clock until seven o'clock this evening.

Mr. FESSENDEN. Let us dispose of this first.

Mr. SHERMAN. I wish to dispose of this matter, and my motion gives ten minutes to do it in.

Mr. FESSENDEN. I hope the Senator will

defer his motion until we get through with this particular item.

Mr. SHERMAN. I have no objection. I withdraw the motion.

Mr. FESSENDEN. Alden's rock and Bulwark ledge are at the entrance of the harbor, about three or four miles out. The harbor, it is well known, is one of the finest harbors in the world; but the entrance to the harbor, at some seasons of the year, is dangerous, on account of these ledges and rocks, especially at those seasons when fogs prevail, and they have occasioned a good deal of difficulty. A few years ago we had a light-vessel stationed at Alden's rock; that is, a stationary vessel with a light. What kind of a vessel it is best to put there now they do not know. That was carried off and lost in a great storm, and it has not been replaced. Since that period the navigation of Portland harbor has become very much more important than it ever was before, on account of the fact that we have so many English steamers coming there. During the last season we had two lines of steamers there. There was a steamer every week, or two or three times a week; I do not know which. In a letter written to me by the agent of those steamers it was stated that they contemplated putting on two additional lines of steamers next season, one from London and the other from Liverpool. It is a fact that the English steamers coming into the harbor during fogs have repeatedly touched upon one or the other of these places and incurred danger; and during the last season, as we all know, the Bohemian was lost there with a cargo worth \$1,500,000. She struck on one of these places and went to pieces.

It becomes absolutely necessary, therefore, with reference to navigation that something should be done before the next season commences. What exactly should be done cannot be ascertained until the Light-House Board visit it and decide. They are perfectly satisfied that something should be done with reference to it; what that shall be they will ascertain; and they recommend that this appropriation be placed to their account in order that it may be made when they have, as they propose to do at once, decided on the course of action. I have no doubt it recommends itself to every man who has looked at it as a matter exceedingly necessary.

The amendment was agreed to.

Mr. SHERMAN. I now submit a motion that the Senate take a recess until seven o'clock.

Mr. POMEROY. Before that motion is put, I ask the unanimous consent of the Senate to introduce a bill that it may be printed and referred to a committee.

Mr. DIXON. I object.

The PRESIDENT *pro tempore*. Objection being made, it cannot be received. The question is on the motion of the Senator from Ohio.

The motion was agreed to; there being, on a division—ayes 15, noes 14; and the Senate accordingly took a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

NOTICE OF A BILL.

Mr. DAVIS gave notice of his intention to ask leave to introduce a joint resolution to establish peace among the people of the United States.

BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 333) for a grant of lands in the Territories of Colorado, New Mexico, and Arizona, to aid in the construction of a railroad and telegraph through said Territories; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. RIDDLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 73) to allow Senators and Representatives to visit forts, military prisons, and hospitals within their respective States.

Mr. RIDDLE. If any Senator desires it, I shall not object to the reference of this joint resolution, but I do not think there can be any possible objection to it.

Mr. WILSON. I move its reference to the Committee on Military Affairs and the Militia.

The motion was agreed to.

TREATY WITH COLOMBIA.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Foreign Relations be requested to consider if any legislation be needed in order to carry into execution any treaty with the United States of Colombia, with leave to report by bill or otherwise.

W. B. MATCHETT.

The joint resolution (H. R. No. 110) to declare the construction of a "joint resolution for the relief of W. B. Matchett," approved June 20, 1864, was read twice by its title.

Mr. HENDRICKS. I ask the unanimous consent of the Senate to put that resolution upon its passage at once. It will take but a moment. It is merely explanatory of a joint resolution which was passed a few days ago.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs that the joint resolution indicated in its title shall be construed to direct the Paymaster General of the United States to adjust the account of W. B. Matchett, chaplain of the tenth regiment New York volunteers, and pay him the amount of pay and allowances of a chaplain for and during the periods that regiment was in the service of the United States and up to the time it was mustered out of the service, deducting the amount heretofore paid him as such chaplain.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PENSION LAWS.

Mr. FOSTER. There is a bill reported from the Committee on Pensions on the Calendar—House bill No. 406—and a bill which I trust every Senator feels an interest in. The committee of this body has amended the House bill, somewhat diminishing the amount which the bill would call from the Treasury. I move that the Senate proceed to its consideration. It will take perhaps five or eight minutes to read the bill. I do not think it will provoke debate.

Mr. SHERMAN. I do not think there are any more material amendments to the civil appropriation bill, and the Senator can call this bill up afterwards.

Several Senators. Let it be passed now.

Mr. SHERMAN. Very well.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862, which had been reported from the Committee on Pensions with amendments.

The Secretary proceeded to read the bill.

The PRESIDENT *pro tempore*. The Chair will put the question on the amendments of the committee as the reading is proceeded with, if there be no objection.

The first amendment of the committee was to strike out the fourth section, as follows:

Sec. 4. *And be it further enacted*, That section twelve of the act to grant pensions, approved July 14, 1862, is hereby repealed. And the Commissioner of Pensions is authorized and empowered to detail, from time to time, clerks in his office to investigate suspected attempts at fraud on the Government through the Pension Office, and to aid in prosecuting any persons so offending, with such additional compensation as is customary in cases of special service.

The amendment was agreed to.

The next amendment was to strike out all of the fifth section after the seventh line, in the following words:

And in all other cases of total and absolute disability of any non-commissioned officer or private soldier, resulting from wounds received or disease contracted in the service in the line of his duty, the pension of such non-commissioned officer or private soldier shall be eleven dollars per month, to continue during such absolute and total disability.

The amendment was agreed to.

The next amendment was to strike out the ninth section, as follows:

Sec. 9. *And be it further enacted*, That those persons, not enlisted soldiers in the Army, who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or where persons otherwise volunteered and rendered service in any engagement with rebels or Indians since the 4th day of March, 1861, shall, if they have been disabled in such temporary service, be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents of any such persons as may have been killed in the temporary service

afterward shall be entitled to pensions in the same manner as they would have been had such persons been regularly mustered: *Provided*, That no claim under this section shall be valid unless presented and prosecuted to a successful issue within three years from and after the passage of this act. All such claims shall be adjudicated under such special rules and regulations as the Commissioner of Pensions may prescribe, most effectually to guard against fraud.

Mr. RAMSEY. I hope the Senate will not agree to this amendment of the committee. I think the provision as it came from the House of Representatives is eminently just and proper. There seems to be no reason why this discrimination should be made against those who are called into the service suddenly upon an emergency where there happens to be no United States mustering officer present to muster them into the service. I know that such was the case in the Indian war in western Minnesota, in 1862, when the militia were called out. I know, too, that several volunteer United States companies were there who had enlisted in the service, but there being no mustering officer there at that time they were not regularly mustered into the service. Many of those men were killed and many of them seriously wounded. I can see no reason why this discrimination should be made against those persons. I trust, therefore, the Senate will not consent to this amendment.

Mr. FOSTER. Mr. President, the amount of applications to the Pension Office under this ninth section, if it should be adopted, I apprehend no Senator can really imagine. It is true, there have been a great many cases of meritorious service which that section would relieve, and that Congress at a proper and fitting time will relieve; I have no doubt about that. But if we pass this section now it will place men who simply went out for a day, when the rebels or Indians were in their neighborhood, and were injured, upon precisely the same ground as the men who enlisted for three years and were near the close of their service when injured, if their applications are made at the same time. If a man who has enlisted for three years has been injured, it will be, according to the present condition of the office, something near a year before his case can be reached. I think his case should not be postponed longer than that in order to let in those who volunteers simply for the occasion and do not join any regularly organized force; for this section goes much further than the Senator perhaps on a first reading would imagine. It takes in a class of persons who may have "volunteered and rendered service in any engagement with rebels or Indians since the 4th day of March, 1861."

I do not think that a man who renders service in an engagement, for instance, helping to bring away a wounded man or rendering any other service on the field, and, under those circumstances being injured, stands on the same ground with those who enlist, who are mustered into the service, and who serve year after year, and who meet with the same or a greater or less injury. I think there is a distinction between the cases so far forth as this, that those who come in casually ought not, by having their applications filed at the same time, to postpone action upon the cases of those who have borne the burden and heat of the day for two or three years, and thus postpone action in their cases until they may be dead or hope deferred so long that it is about as bad as death. I think the men who have enlisted and who have performed this long service ought to have their cases heard first, and I appeal to the Senator from Minnesota to consider that.

Mr. RAMSEY. I have no objection to their cases being heard first.

Mr. FOSTER. But there is no mode of deciding that question without examining the whole; and if we adopt this section, if these applications go in together, the Commissioner, after having examined the one case or the other, will of course and might as well of course pass on the one as on the other. There is an immense amount of business now in the Pension Office; all these cases are behind months and months, the amount of business to be performed being so great it accumulates daily in the office; and if we pass this section there will be such an accumulation of business that these persons who, I think, are the most meritorious, cannot have their cases heard perhaps for eighteen months. I think that is too hard. I think we ought first to dispose of these cases which were provided for by law; for these men

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

SATURDAY, JUNE 25, 1864.

NEW SERIES.....No. 203.

of whom I speak went into the service under a law which gave them these pensions. I think the Government ought to keep good faith with them.

The Senator from Minnesota does not propose that we should violate our faith; but he proposes to let in on the same platform men who are meritorious I agree, but who did not come into the service under any law other than that of patriotism, which is, I agree, the higher law. Still, under these circumstances I do not think they should now be on a level so as to exclude and keep back those who are clearly entitled by law to a pension, and the widows of such as have died in the service. I think we ought to let the bill pass without this section; and then at another session, or within a short time, we may be able, and I trust shall be able, to do ample justice to these persons. Let us at least get through with the cases of those who went into the service under the law and relieve them before we so incur the office as that they cannot be relieved in any considerable time. I go with the Senator in my desire, sincere and strong, to aid these men, because I believe they have a just claim; but I do not think their cases should be interposed so as to prevent action on the cases provided for by law.

Mr. RAMSEY. I take it the honorable Senator from Connecticut imagines a difficulty that really does not exist. I take it that this section of the House bill would not probably admit more than one per cent. of the present number of persons who apply for pensions. Then again there is a class of men that we certainly should admit who are entitled to pensions equally with those who are already provided for by law. A large number of persons have been enlisted suddenly, in the exigencies of the service, and marched off to meet the enemy and brought into an engagement before they were regularly mustered into the service.

Mr. FOSTER. The bill provides for all such cases.

Mr. RAMSEY. This section which it is proposed to strike out certainly does.

Mr. FOSTER. There is another section that does.

Mr. RAMSEY. I propose then to amend this section which is proposed to be stricken out, by striking out the word "not" in the second line, and after the word "enlisted" adding the words "and not regularly mustered into the service."

Mr. FOSTER. If the Senator will allow me, the eleventh section of the bill provides for just that class of cases. It is in these words:

Sec. 11. *And be it further enacted*, That all enlisted soldiers in the Army who shall have become disabled in the service, whether they shall have been regularly mustered in or not, shall be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents entitled to pensions by law, as prescribed by the act of July 14, 1862, of any such soldier who may have been killed, or shall have died, or shall hereafter die, by reason of any wound received or disease contracted while in said service and in the line of duty, shall be entitled to the same pension as though such soldier had been regularly mustered into the service.

Mr. RAMSEY. I will withdraw my amendment. I had not time to read the bill through to see whether it covered those cases.

Mr. FOSTER. It covers the whole class of cases alluded to by the Senator.

Mr. RAMSEY. I trust the Senate will refuse to strike out the ninth section.

Mr. GRIMES. I will say to the Senator from Minnesota that there are two or three regiments in my State in exactly the same condition as those he speaks of in Minnesota, who were called off into Missouri, and some of them have been wounded and killed; yet I know that safety to the Treasury requires that we should adopt the suggestions of the Committee on Pensions, and let each one of these cases stand on its own merits. That is the only way.

Mr. RAMSEY. That is a poor argument to the soldier or his family.

Mr. GRIMES. It is the position they stand in now; it is the position they have been in for the last sixty years; and we might just as well

abandon all control over our Treasury as to adopt the suggestion of the Senator from Minnesota.

Mr. RAMSEY. I admit that has been the law; but here is a proposition from the House of Representatives to amend the law so as to cover their cases, and it is now proposed to reject that amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee to strike out the ninth section of the bill.

The amendment was agreed to.

The next amendment of the committee was to add as an additional section the following:

Sec. 13. *And be it further enacted*, That the widows and children of colored soldiers who have been, or who may be hereafter, killed, or who have died, or may hereafter die of wounds received in battle, or who have died or may hereafter die of disease contracted in the military service of the United States, and in the line of duty, shall be entitled to receive the pensions now provided by law, without other proof of marriage than that the parties had habitually recognized each other as man and wife, and lived together as such for a definite period, not less than two years, to be shown by the affidavits of credible witnesses: *Provided*, That if such parties resided in any State in which their marriage may have been legally solemnized, the usual evidence shall be required.

Mr. FOSTER. I will say a word in regard to this amendment.

The law now gives to black soldiers the same pensions that white soldiers are entitled to; there is no distinction now in our service as it respects the soldiers themselves; but there is this unfortunate distinction between the widows and children of white and black soldiers: the blacks who come from the slave States, and who probably were slaves before they entered the service, although they had wives and children, were not, according to the laws of the States within which they lived, legally married, and of course if they were killed in the service under circumstances which would entitle their wives and children to ever so much consideration from the Government, they could not by law be recognized as the wives or widows and children of the persons thus killed. We thought that this was unjust. We thought that the widows and children of the black men who were killed at Fort Pillow, and since that the men who have been killed at Petersburg and elsewhere, fighting as gallantly and as bravely as any men under the flag, be their complexion what it will, should be recognized by the Government and should have the little pension that the law provides.

We therefore, in this section, provide for that contingency, saying that the marriage shall be sufficiently proved if the parties are shown to have lived together for a definite period, recognizing each other as man and wife for a period not less than two years. That is to be esteemed as proof of marriage that shall entitle the widow to a widow's pension and the children born under those circumstances to such pension as is provided for the children of those who die in the service. There is a proviso to the section that where these persons come from States where their marriages could have been duly solemnized, the requisite proof of marriage shall be had. In cases, however, where by the laws of the State in which these parties lived they could not legally contract marriage there was a necessity of course to provide what should be evidence of marriage; and this the committee deemed to be sufficient evidence, for in almost all those cases it is all the evidence that can be furnished. I appeal to the Senate, therefore, to pass this section in order that this class of persons—and they are numerous—may be relieved.

Mr. SHERMAN. I trust the Senator from Connecticut will allow this bill to be laid aside, as it evidently will lead to debate, and allow us to proceed with the appropriation bill.

Mr. FOSTER. If it is likely to be debated at any length, as the Senator yielded to me, I shall not press it; but I have been waiting for a long while to have it considered.

Mr. SHERMAN. I know from the remarks by Senators about me that this will excite discussion, and I trust we shall go on with the bill which

is the special order. This bill was allowed to come in rather informally. I move that it be postponed until to-morrow.

The motion was agreed to.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865.

Mr. HALE. On the 11th page, after the eighty-sixth line, at the end of the appropriations for the "Government hospital for the insane," I am instructed by the Committee on Naval Affairs to move the following amendment as additional sections:

And be it further enacted, That the Secretary of the Navy is hereby authorized and required to set apart from the pay of any officer of the Navy or of the marine corps who may be under treatment by his order in the Government hospital for the insane, such portion of the monthly pay of said officer as may be needed for his personal use and comfort in addition to the ordinary resources of that establishment.

And be it further enacted, That the superintendent of the Government hospital for the insane shall recommend the portion of the pay of such officer of the Navy or of the marine corps that shall be set apart in the manner and for the purposes described in the preceding section, but the Secretary of the Navy may in his discretion increase or reduce the sum so recommended to be set apart.

And be it further enacted, That the said sum set apart for the personal benefit of any officer of the Navy or marine corps under treatment in the Government hospital for the insane by order of the Secretary of the Navy, shall be paid to the said superintendent of that institution by the paymaster having charge of the said officer's accounts, and the receipt of said superintendent for the sum which is authorized by the Secretary of the Navy to be drawn from said paymaster shall be equivalent to the receipt of the legal guardian of said officer, or to that of the officer himself. The said superintendent shall disburse the money thus set apart and drawn by him, and he shall account for it in the quarterly statements to the Fourth Auditor of the Treasury.

I suppose this amendment sufficiently explains itself. There are some officers in the hospital who require some luxuries or something of that sort that they have always been accustomed to, but there is no provision for it; their whole pay is paid to their guardians; and this amendment proposes to authorize the Secretary of the Navy to set apart such sum as he shall think necessary to be paid to the superintendent for the comfort of those patients and taking care of them. That is the whole of it. It is recommended by the superintendent of the institution and by the Committee on Naval Affairs.

The amendment was agreed to.

Mr. LANE, of Kansas. I offer an amendment, to insert at the end of page 14, under the head of "Miscellaneous," the following:

For the construction of a bridge across the Republican river on the military road at Fort Riley, \$10,000.

Mr. SHERMAN. I will ask the Senator if he is authorized to offer that amendment from any committee.

Mr. LANE, of Kansas. I am authorized to offer it from the Committee on Territories. The road where it crosses the Republican fork is on the fort reserve, on the Government lands.

Mr. SHERMAN. Has there ever been a bridge there?

Mr. LANE, of Kansas. I think there has been a bridge there until very recently. Fort Riley stands in the fork of the Kansas and Republican rivers. Trains going west are very frequently detained there for days by the want of this bridge.

Mr. GRIMES. I do not think there has ever been a bridge there.

Mr. LANE, of Kansas. I think there has been.

Mr. GRIMES. There has been a ferry there.

Mr. LANE, of Kansas. I think there has been a bridge. I have never seen the bridge, but I saw the remains of one. My colleague knows all about it.

Mr. POMEROY. The Government built a bridge there some years ago.

Mr. GRIMES. How long did it stand?

Mr. POMEROY. I think it stood about a year. During a freshet it was carried off; but it would

not have been carried off if it had been built high enough. It was built from the bottom lands, and the bottoms overflow there at high water; and the Government built the bridge and made it so low that when the freshet came it lifted the bridge up and took it off. I crossed on it myself before the freshet, and crossed very well. I think the trains that go from Fort Riley to New Mexico, and all the long trains that go that way, have to cross this Government reserve. It will be a matter of great convenience to the Government to have a bridge there, and it will be particularly convenient to our people, while it would be at the same time convenient to the Government.

Mr. LANE, of Kansas. My colleague is aware that this is on the Government reserve, on the fort reserve.

Mr. POMEROY. I have already stated that it is on the fort reserve, and that is the reason my State is not allowed to build the bridge, simply because it is on the Government land. We have to go that way; but we cannot build the bridge, as I have said.

Mr. SHERMAN. I have no doubt we can accommodate the Senators from Kansas entirely on this subject by authorizing the State of Kansas to build a bridge there on the Government land. I suppose that will be satisfactory. It is rather unusual for us to build bridges within the States. I have heard of building bridges in Territories where there were remote settlements with very little population, where the Government used the road; but to build a bridge within a State strikes me as a novel proposition. I think it is in violation of the Democratic platform to make such improvements, at least within the States.

Mr. POMEROY. There have been a great many petitions on this subject sent to Congress, not only from the people of my State, but from the officers of the Government.

Mr. ANTHONY. I think the Senators from Kansas had better accept the proposition of the Senator from Ohio, because if they wait he will be for taxing the bridge at least five per cent. [Laughter.]

Mr. POMEROY. The officers of the Government have reported in favor of building this bridge many times, and have signed petitions for it, and I think it is very desirable to have it. If the first bridge that the Government built had been built high enough, and as high as they might have built it, it would have remained to this day, but they built it so low that a freshet took it off.

Mr. LANE, of Kansas. I do not recollect now how far this river is from the fort, but it is very high.

Mr. POMEROY. Not a quarter of a mile.

Mr. LANE, of Kansas. It is right at the fort. There is no way to get west from the fort without this bridge, and it is on Government land. It seems to me if the Senator from Ohio were successful in giving us the right to build the bridge, it would be unjust for us to make the improvement on the Government land in a Government reservation.

Mr. SHERMAN. If my friend will allow me, I have no doubt that in a year or two we shall either give the State of Kansas this fort reservation, or sell it at a very low price to somebody. That has always been the custom. There are no more Indians there, and we shall have no occasion for the fort shortly. The Missouri raiders do not get up so high as Fort Riley, and there are no Indians there to trouble the people; so that I have no doubt this reservation will be in a short time ceded to the State or sold; and there is no reason for the Government building a bridge at that point because the fort is there. The fort probably has performed its functions and will cease to exist in a very short time.

Mr. LANE, of Kansas. The Senator from Ohio the other day in a discussion said that he thought the improvements on Fort Leavenworth cost the Government \$30,000, whereas they have cost about thirty million dollars; and I suppose the Government has buildings and improvements at Fort Riley to-day that have cost five or ten million dollars. Now, to ask the State of Kansas to build a bridge on a Government reserve and within a quarter of a mile of a fort belonging to the Government seems to me to be discriminating against the State that my colleague and myself represent. I have voted here for improvements

upon the lakes and improvements upon the Atlantic coast. When Senators say to me that an improvement is necessary for the Government I vote for it. I say here, and my colleague has said, that this improvement is necessary for the Government. To be sure it will be a convenience to our people; but here are vast trains passing westward and coming eastward that are detained at this river, and I venture to say that by building this bridge the Government would save more every year than the cost of building it.

Mr. SHERMAN. I will ask the Senator from Kansas if he has called the attention of the War Department to this matter, and if there is any recommendation from them about it. It is usual to base such appropriations on the recommendation of the proper executive officer.

Mr. LANE, of Kansas. My colleague has stated that the attention of the Government has been called to this question. There are numerous petitions on the subject.

Mr. HENDRICKS. Do you mean from the Secretary of War?

Mr. LANE, of Kansas. No; I mean the officers of the fort and officers of the Government—quartermasters, &c.; but I do not know that there have been any this session. I crossed this river just before I came here, and saw the necessity of this bridge for the Government.

Mr. POMEROY. The probability that the Senator from Ohio speaks of, of Fort Riley being abandoned, does not strike those who are acquainted with the facts favorably. That the fort at Leavenworth may be abandoned and ultimately moved up to Fort Riley when the cars get running there is very probable; but that Fort Riley will be abandoned within any reasonable period no one believes. Fort Riley is a frontier post. Leavenworth is not a frontier post any more; and as soon as we build a road from Leavenworth to Fort Riley, I have no doubt the Government will move everything up there, and it will become the largest post in the West, because it is a frontier post and will be the great distributing point for New Mexico and all of the Southwest, and that will pass over this very branch of the Kansas river.

I notice that the Senator from Ohio moved that \$150,000 be paid to the State of Minnesota for expenses that she had incurred in defending herself, and it passed readily. I was very glad to have it passed. Senators all voted for it on this very bill. We in Kansas have carried on a war for years against Indians, against border ruffians, and against rebels, and we have never yet been able to get one dollar of that whole account. Year by year our people have sent in their petitions and had them referred to the Committee on Finance or the Committee on Military Affairs, and every one of them has been reported adversely. We have carried on this war at the expense of the State, at the expense of individuals, sometimes at the expense of counties; we have sometimes issued county bonds, and we have sustained ourselves. Our people to-day are left destitute because sixteen full regiments from my State are taken out of the State. Most of them have gone under General Steele in Arkansas. We are left there defenseless; we are left almost destitute. Notwithstanding the advances we have made, we have never been able to get a dollar out of this Government. To be sure, a bill has come here from the House of Representatives to pay the accounts of some officers of our Indian regiments that have served a year or two and have not received a cent. The bill is now lying on the table. If that should be passed it will be the first of the series of bills that we have brought forward, every one of which has failed, and no committee has ever considered them.

Mr. SHERMAN. I wish to correct the misapprehension into which the Senate might fall in regard to this Minnesota matter to which the Senator from Kansas has alluded. Two years ago we passed a law directing the proper accounting officers to adjust the expenses of the State of Minnesota in suppressing Indian hostilities. That law was operative and imperative indeed upon the Committee on Finance, and all we had to do was to ascertain the amount allowed by the accounting officers and appropriate the money for it to carry into execution an existing law. That was provided for, and the money was appropriated for that purpose.

I need not be told that Kansas is a very good State, a very loyal State, a very patriotic State; but that does not prove that we must therefore build bridges across her streams.

Mr. POMEROY. We only ask for the Government to build a bridge where we are not allowed even to cut a stick of timber. We are not allowed on that Government reserve so much as to take a tree. We only ask the Government to build at a small expense a bridge on a Government reserve, within a stone's throw of a military post. And, by the way, when you passed the law last year for Minnesota, you appropriated \$200,000, and the \$150,000 that you appropriated this year is only the balance that they incurred over and above what you appropriated last year. That makes \$350,000.

Mr. HARLAN. The Senator from Kansas is in error in saying that we appropriated \$200,000. I think the language might lead the Senate astray. The Congress of the United States at the last session authorized the Department to take out of the Indian annuities \$200,000 to pay for depredations committed by the Indians, whose annuities were thus used in the State of Minnesota. It was not money appropriated from the Treasury of the United States, but money taken from the Indian annuities and paid out for depredations which these same Indians had committed on the white people of Minnesota, in pursuance of a law and usage which have been followed for half a century. I felt it due to the Congress of the United States that this explanation should be made.

Mr. LANE, of Kansas. The Senator from Iowa knows well that we had it in our power to confiscate those annuities and that it would have been but just to do so, and he knows further that the money was taken out of the Treasury of the United States when there was no binding contract to pay those Indians for many years to come.

I should like to ask the Senator from Ohio what is the difference between giving \$15,000 on the motion of his colleague a few moments ago, for a military road in Dakota, and giving \$10,000 for the construction of a bridge on a Government reserve in the State of Kansas that we say to you is not only necessary but indispensable?

Mr. SHERMAN. I will answer distinctly. In the Territories we have always built military roads. We built them in Kansas. We built this very road that he now speaks of. We built a bridge across the very stream that he now speaks of; but it appears that it has been swept away by a flood. Does it therefore follow that now, after the State has been settled, and they have a State organization formed and in operation, we must keep up that bridge merely because the Government has some property in a fort on a reservation near by? As a matter of course I do not care how much the Senator gets the Senate to allow him; but I think the principle is wrong. So far as I know we have never built bridges within a State unless the construction of a national road be considered an exception. If there has ever been any case in which the Government of the United States built a bridge across a small stream within a State I am not aware of it, unless it was in the construction of the national road, a work of great national importance.

Mr. HENDRICKS. That was sustained on the ground that it passed through a number of the States.

Mr. SHERMAN. That was sustained on the ground that it passed through several States. Bridges and military roads have been constructed in the Territories; and when my colleague submitted the usual motion that \$15,000 be appropriated to build a military road in Dakota, it was nothing more than has been done with regard to every other Territory, and especially Kansas when it was a Territory.

Mr. LANE, of Kansas. I say to the Senator from Ohio there has never been a foot of military road built in the Territory or State of Kansas by the General Government—not one foot.

Mr. SHERMAN. Was not Lander's road built while it was a Territory?

Mr. LANE, of Kansas. No, sir; that road and every other road of the sort was built before the passage of the Kansas-Nebraska bill.

Mr. SHERMAN. It was built while it was a Territory, but while it was called the Territory of Nebraska. That is the whole difference. The whole of that western country was once Ne-

braska, and Lander's road, as it was called, and several other military roads were built while it was in that condition. Kansas was the new name given to this portion of the Territory in the Kansas-Nebraska bill.

Mr. LANE, of Kansas. There was no territorial government for the Territory now the State of Kansas until the passage of the Kansas-Nebraska bill. It was Indian country. There was no territorial government there. There were no white men there at that time to be benefited by the construction of that road. But here is a reserve belonging to the Government that we are prohibited from going upon, the value of which is to be increased by the erection of this bridge. The Committee of Ways and Means of the House of Representatives two years ago reported that this Government owed Kansas \$600,000, but, as my colleague has said, we have not received a dollar for the losses that we suffered during our territorial existence when we were contending against the Government of the United States. Sir, Kansas had hoped that when the Republican party came into power she would be treated as a kind mother treats her child. So far we have received land grants, railroad grants, but when we come here and say to you that this small appropriation is for the benefit of the Government, we think you should give it to us, especially when we are voting appropriations all around us.

The amendment was rejected; there being, on a division—ayes eight, noes not counted.

Mr. SUMNER. I offer the following amendment to come in as a new section:

And be it further enacted, That sections eight and nine of the act entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States from and after the 1st day of January, in the year of our Lord 1808," which said sections undertake to regulate the coastwise slave trade, are hereby repealed.

Mr. SHERMAN. I would not oppose the amendment of the Senator from Massachusetts on an ordinary bill. I have read the two sections referred to in this amendment, and I feel disposed to repeal them; but I ask the Senate if it is proper to incur this bill with a matter that is in no way connected with the appropriations in the bill, which is in no way connected with any item contained in the bill, which has no pertinence to any existing appropriation—a matter simply of commercial regulation, regulating the coastwise slave trade? Is it wise, I repeat, to incur an appropriation bill at this stage of the session with a controverted point of this kind, which has no connection with the business before the Senate, no connection with any appropriation, which does not come from any committee? However, as it does not contain an appropriation it is not subject to the rule on that point, but it is subject to the discretion of the Senate. I trust, therefore, that the Senate will keep this bill free from these disputed, extraneous, political questions.

Mr. SUMNER. I am sorry that the Senator from Ohio [Mr. SHERMAN] objects to this proposition on the present occasion. It is true, his objection is one of form; but no such objections should be made to such a proposition, especially at this stage of the session.

In moving it now on an appropriation bill, I follow approved precedents. There is no rule of order against it; nor is there any rule of usage. On the contrary, it is in conformity with order and with usage.

The Senator wishes to keep the appropriation bill free from extraneous matter. But this is not a sufficient reason for excluding my proposition, unless the Senator is ready, for the sake of form, to sacrifice the substance. If it be important that my proposition should prevail, and if at this late stage of the session it may be difficult to carry it otherwise, then am I clearly right in moving it as I now do, and the Senator is wrong in opposing it. An appropriation bill is like a "through train," and while its special office is to appropriate money, yet it may carry any proposition required by the public good.

Why, sir, there is hardly ever an appropriation bill that is not compelled to carry passengers in this way. It has been done during the present session repeatedly; and if the Senator will read our statutes-at-large he will find that the usage has prevailed for years. It is no new thing. I do not begin it now.

If it were necessary to furnish examples, I might point to my friend the Senator from New

Hampshire, [Mr. HALE,] who won one of his proudest triumphs in this Chamber, which secured to him the sympathy and gratitude especially of sailors, by moving on an appropriation bill the abolition of the lash in the naval and commercial marine of the United States. Had he been compelled to wait the passage of a special act for this purpose I fear that he would have been waiting to this day. And this example of the Senator has been followed by the Senator from Iowa [Mr. GRIMES,] who, on an appropriation bill, moved and carried the abolition of grog in the Navy.

But I am not without personal experience under this head. I hope that I shall not take too great a liberty if I adduce it even in detail. I was chosen to the Senate for the first time immediately after the passage of the infamous fugitive slave act of 1850. If at that time I received from the people of Massachusetts any special charge, it was to use my best endeavors to secure the repeal of this act. I began the work in the first session that I was here. Disappointed in various efforts to bring the question directly before the Senate on a bill or resolution, I ventured at last—on the advice of eminent Senators who differed from me in sentiment, but who appreciated candidly the obligations of my position—to move the repeal on an appropriation bill. A debate ensued which lasted till late in the evening. It may not be uninteresting to know that on the ayes and noes there were but four votes in the affirmative, as follows: Mr. Chase, Mr. Hale, Mr. Sumner, and Mr. Wade. This was 26th August, 1852. Such was the weakness of our cause at that time.

But it must be remarked that throughout the protracted and sometimes acrimonious debate, it was not for a moment suggested that the proposition was not "germane to the bill," or that it was not completely in order. Had any such idea been tenable, had there been the least apology for it, had it not been utterly unreasonable, be assured, sir, it would have been made the excuse for stifling the discussion. The two political parties had just made their nomination for President. Franklin Pierce was the candidate of the Democrats, and Winfield Scott of the Whigs. Both parties had united substantially on platforms declaring the compromise measures, including the fugitive slave act, "a finality" not to be opened or discussed. But they were opened and discussed on that day.

Mr. Hunter, of Virginia, was at the time chairman of the Committee on Finance. He was in many respects a remarkable person, with a mind enlarged somewhat by study and long experience in public affairs, and with a temper not easily disturbed. Looking back upon his conduct of the business intrusted to him in this Chamber, there can be no question of his ability or fidelity. There was neither weakness or indifference in that mildness of sway. He understood completely the duties of his position, was a jealous guardian of the appropriation bills, and was, moreover, a most determined thick and thin partisan of slavery in all its pretensions. But I do not recollect that he interposed any objection to the time or place of my motion; and, though the fugitive slave bill was a part of his political and social creed, I am sure that he allowed the debate to close without any criticism upon my course, or a single impatient word. All this now belongs to history, and I mention it as a precedent for the present hour.

My motion on that day was discussed on its merits, and I trust my motion to-day will be discussed in the same way.

I propose to remove from the statute-book odious provisions in support of slavery. Whoever is in favor of those provisions, whoever is disposed to keep alive the coastwise slave trade, or whoever wishes to recognize it in our statutes, will naturally vote against my motion. And yet, let me say that I am at a loss to understand how at this moment, at this stage of our history, any Senator can hesitate to unite with me in this work of expurgation and purification. But at all events, I trust that the Senator from Ohio will not set up an objection of form to prevent the success of this good work. He must not be more severe against freedom now than was the representative of slavery who occupied his place when I moved the repeal of the fugitive slave bill.

Mr. SHERMAN. I do not know what the

Senator from Massachusetts means by the remarks that he has just made. In presenting this bill, in reporting it from the Committee on Finance and managing it here, I am simply performing a duty assigned to me by the Senate. In my judgment, no legislative measure of this kind should ever be attached to an appropriation bill unless it bears a relation to or has a direct connection with an appropriation contained in the bill. That is a correct principle not to be departed from, and which was not departed from in the historical cases alluded to by the Senator from Massachusetts. In the case of the abolition of flogging in the Navy, where an appropriation is made for the pay of the officers and sailors and marines in the Navy, it is proper to connect with it a regulation as to the mode and manner of treatment of those sailors. So, in regard to the appropriations for the Navy and for the custody and care of the sailors, it is proper to stipulate that no grog shall be given to them. Both those propositions were pertinent and relevant to the bill to which they were proposed. In all the historical cases referred to by the Senator from Massachusetts the amendments were proper and connected with the subject-matter of the appropriation.

But here is a matter wholly extraneous, having no connection whatever with any single item contained in this bill, dragged and lugged in here without any pertinency whatever; an amendment which, if adopted, will tend to embarrass the passage of this bill, will create political controversies on a mere appropriation bill. It seems to me it ought not to be adopted by the Senate. In resisting it I simply resist what I consider to be a bad practice, and I hope the Senate will sustain me in this matter. Every member of the Senate is interested in confining the appropriation bills simply to what they declare themselves to be, appropriations to carry into effect existing laws. If the members of the Finance Committee were to pursue a different policy and allow these bills to be loaded down, they would assume the direction and control of the whole legislation of Congress. If the Senate allow this measure to be put on this bill, and the example of the Senator from Massachusetts is followed, every Senator interested in some particular proposition will seek to have it fastened upon an appropriation bill, being certain that the weight of that appropriation bill will carry it through. Thus these bills, which were intended simply to furnish means to carry on the ordinary operations of the Government, will be made political bills containing disputed items, controverted items. Instead of being what they are, or what they ought to be, they will be made to carry political loads. I trust, therefore, that the Senate will not vote this proposition upon this appropriation bill and thus create embarrassment and delay in its passage and a long discussion about it.

Mr. JOHNSON. I suppose the law, two sections of which the Senator from Massachusetts proposes to repeal, is the act of March, 1807. That is it, is it not?

Mr. SUMNER. Yes, sir.

Mr. JOHNSON. He proposes to repeal the eighth and ninth sections of that act. Now, independent of the objection taken by the honorable member from Ohio, which, in my judgment, should be conclusive with the Senate, that such a measure, although it may be a proper one in itself, is not one proper to be inserted upon a bill of this description, I submit to the honorable member that perhaps he will overshoot his own mark if he succeeds in having his amendment adopted. I take it for granted everybody will admit that however the opinions of individual Senators may be upon the subject, there is nothing in the Constitution of the United States which prohibits slaves from being transported in vessels from one port of the United States to another port.

Mr. SUMNER. If the Senator will allow me, I think it is utterly unconstitutional myself. I have no doubt about it.

Mr. JOHNSON. I excluded you in what I said.

Mr. SUMNER. I beg the Senator's pardon.

Mr. JOHNSON. Certainly I excluded you. If I am right, that is to say, that the courts hold that that act is not unconstitutional, the honorable member proposes to repeal the eighth and

ninth sections of that act, and I inquire of him whether he has looked, with the acuteness which he always brings to the consideration of questions of that character, to the effect of his amendment. If the Constitution of the United States of itself would authorize a slave to be carried from one port of the United States to another port of the United States, then they may be carried, except so far as Congress under the commercial power may think proper to restrain it, and the object of the two sections he proposes to repeal is to restrain it. The eighth section prohibits their being carried in vessels of a less tonnage than forty tons. That he proposes to repeal. Then if I am right—and I am sure I am right—in the judgment of the courts they may be carried in vessels of a less amount of tonnage than that. The ninth section, the other one which he proposes to repeal, provides for the manner in which they may be carried in vessels of forty tons or more than forty tons; and for the purpose of protecting one who is claimed to be a slave but who may be free against being sold into captivity in a State where he may not be able to establish his freedom by evidence, certain regulations are prescribed by Congress for the protection of the freeman, who, because he is black, when he gets into a State where slavery exists, may be sold and may be held in slavery forever thereafter.

If the honorable member repeals that section, what is the result? The result is, that in all vessels of any amount of tonnage slaves may be carried, no matter at what hazard to the slave, no matter at what hazard of life or liberty, provided I am right, and I repeat I know that I am, and the courts will hold, that under the Constitution of the United States there is nothing to prohibit it except in the power which it confers upon Congress to regulate commerce between the States and foreign nations, and consequently, in the absence of such regulation, these people may be carried. If I wanted to accomplish the object which the honorable member supposes southern men in the past, at any rate, were anxious to accomplish, to open this trade entirely, to permit the slaves to be carried from one port to another without restraint, I would join hands with him and repeal these two sections of the act of March, 1807. Nothing is clearer in my judgment than that they may be carried in a vessel of any amount of tonnage, and they may be carried in any manner in which the master of that vessel and the master of the slave think proper to have them carried, if those two sections are repealed. Instead, therefore, by this particular measure, of accomplishing the purpose which the honorable member says he always has in his mind's eye; of striking at the institution of slavery wherever it exists, he will grant a larger license to the institution than our ancestors granted, and a license which they intended to restrain by the very sections which the honorable member proposes to repeal.

Mr. SUMNER. Of course I differ radically from the Senator from Maryland [Mr. JOHNSON] on the merits of this proposition. He is always willing to interpret the Constitution for slavery. I interpret it for freedom. And yet he is anxious lest the repeal of the two obnoxious sections regulating the coastwise slave trade should leave it open to unrestrained practice. I do not share his anxiety.

Where will the slaves come from? Not from the rebel States, for emancipation is the destined law there. Not from his own State, for emancipation will soon be the law there. But even should slaves be found for this traffic (which, thank God, cannot be the case) I am unwilling that Congress should continue to regulate the ignoble business. Our statute-book should not be defiled by any such license. Remove this license and the Constitution, rightly interpreted, will do the rest.

It is here that the difference arises between the Senator and myself. He proceeds as if those old days still continued when slavery was installed supreme over the Supreme Court, giving immunity to slavery everywhere. The times have changed, and the Supreme Court will yet testify to the change. To me it seems clear that, under the Constitution of the United States, no person can be held as a slave on shipboard within the national jurisdiction, and that the national flag cannot cover a slave. The Senator thinks differ-

ently, and relies upon the Supreme Court; but I cannot doubt that this regenerated tribunal will yet speak for freedom as in times past it has spoken for slavery. And I trust, should my life be spared, to see the Senator from Maryland, who bows always to the decisions of that tribunal, recognize gladly the law of freedom thus authoritatively pronounced. Perhaps he will be astonished that he was ever able to interpret the Constitution for slavery. If he is not, others will be.

But my special purpose now has been to remove odious provisions, and I have contented myself with words of repeal, in the hope of presenting the proposition in such a form as to unite the largest number of votes. My own disposition has been to go further, and to add words of positive prohibition. But, at the present moment, I am willing to waive this addition, and content myself with the simple repeal, that our statute-book may no longer be degraded, trusting that the Constitution rightly interpreted will do the rest. And yet the positive prohibition, which the Senator seems to invite or to challenge, would not only purify the statute-book, but effectually guard against the future, so that both Constitution and law would be arrayed against an infamous traffic. Clearly this ought to be done; and if I have not moved it, do not set it down to indifference or inattention, but simply to my desire that the proposition, moved as it is on an appropriation bill, should be limited to the necessity of the occasion. To do less than I propose would be wrong. I should be glad to do more.

Mr. HENDRICKS. I am surprised that any Senator should oppose the proposition of the Senator from Massachusetts, for we all know that eventually it will be adopted. The objection as to its materiality or proper connection with this measure is but an objection of time. No gentleman can question that the Senator from Massachusetts will eventually carry his proposition. Why, sir, about two weeks ago this body after full discussion deliberately voted that the Constitution imposed a duty upon Congress and the President of the United States; the present incumbent of the presidential chair in his inaugural address said that duty rested as an oath upon the conscience of every Senator to see that there was an efficient and adequate law for the return of fugitive slaves; and yet under some process, not the force of argument, but through some influence that the uninitiated cannot understand, after the Senate had rejected the proposition in its original form, it was carried through yesterday by a large vote.

Why then contest the matter longer? Let the Senator bring in his propositions. The Senator from Ohio [Mr. SHERMAN] made an effort to stay the progress at one point upon the Constitution, and did for a while save the act of 1793 and the signature of George Washington; but the Senator from Ohio finally failed yesterday and it all went by the board. He may for this hour and in this debate, upon a technical point, prevent the adoption of the measure of the Senator from Massachusetts upon this bill; but that it will come in this body I have no doubt. It may as well come now as at any time. Let it be understood that all the positions assumed by our fathers touching the relations of these States are to be wiped out at once, and then I suppose the Senators that accomplish so much will undertake the work of reconstruction or the formation of a new Union!

Sir, I regret to see this. Every law put upon the statute-book by our fathers with a view of carrying out the provisions of the Constitution, or in pursuance of the spirit of the union between the States, I regret to see wiped out; but we have witnessed it, and I think the effort to delay is useless. We may just as well let it come now as at any time. If misfortune comes of it I am not responsible, and there are other Senators who are not responsible. I believe this Union is to be restored upon the Constitution, if it is ever restored, and I do not believe there is wisdom or patriotism or virtue enough now to make a new Union, and if we do not come back again upon the old Union substantially and upon the basis of the Constitution I do not hope for a new Union.

Mr. President, I am not satisfied that the true friends of the Union are the men who are breaking all the bonds that our fathers made to hold the States together. One ligament after another

gives way in the presence of the sentiment of the hour; and yet Senators who will adopt these measures call themselves specially Union men, and upon some occasions doubt the fidelity to the Union of Senators who oppose this policy. I claim to be a Union man, because I stand upon the bond of the Union, the covenant that brought these States together; and if I go outside of that covenant I cannot well claim to be a Union man.

I do not suppose this law that the Senator proposes to repeal is important in any respect, but it simply shows the purpose that is to be successful in this body—whether in the House of Representatives or no I cannot say—of breaking down all the institutions that our fathers established based upon the relations that exist between the States and within the States. If in the end, some years from this time, we find a broken Union, some States gone South, some States gone off by the Pacific, some States gone to the West, some perhaps in the East, it will not be charged upon the men who stood day after day and year after year upon the Constitution; but true history will write it down that the responsibility is with that class of politicians who from day to day weaken the bonds that hold these States together.

Sir, at the commencement of this war the North was a unit and the South was divided. Now the North is divided and the South is a unit. Why? Let Senators that ask for success in the war answer the question, why? Because here in this Senate you said to the honest people of the country that this war should be to preserve the Union and the Constitution and not to break down the institutions of any of the States, and the people believed you, and they rallied from the wheat-fields and the corn-fields and shops everywhere to make a glorious army. You did not have to send provost marshals after the young men then, for they rushed forward themselves, and the question was who should get into the first regiment. Now the bloodhounds of war have to be sent upon the track of the young men of the country to bring them into the Army; and why? Because faith has been broken with the people, not by the statesmen with whom it is my pride and pleasure to think and to act, but by Senators and Representatives who have attempted to take advantage of this convulsion in our country to break down the institutions of the States. The country had a right to demand of the Senate, the country had a right to demand of Congress and of the President faith to the Crittenden resolution, the highest faith, because you asked the people for their money, you asked them for their blood, and you said it should be upon that proposition. I put it to the honor of any Senator, has it been upon that proposition? Has not every possible opportunity been taken advantage of to strike at the peculiar institution of one section of the country? I have never considered, as a public man, the question of slavery in a moral aspect. Our fathers have agreed to it; they wrote it down in the Constitution that it should be respected and protected in certain regards; and as they have covenanted in respect to it, so I have looked to it. To stand upon that covenant and agreement I felt to be my highest duty as a citizen, and especially when I took an oath to respect the Constitution that they made.

Sir, I did not intend to discuss this question, but rose merely to make these suggestions. I hope to see this Union restored; I hope to see it restored with the Constitution preserved; but I say to Senators that I have no hope of the Union that will bring us greatness or prosperity outside of the compact that our fathers made. Is there any Senator here willing to say in his place that the virtue and intelligence of this day are superior to the virtue and intelligence of the revolutionary day? I presume not. Is the public mind now in the proper condition to make a new Government, to bring these States together again? Sir, our only hope is to go back again upon the old Constitution—the Union as it was, the Constitution as it is. Because I believe that is the only hope of our country, I oppose all propositions like that presented by the Senator from Massachusetts. They do no practical good, but every such measure as that says to the Union men of the South, "You cannot rely upon the North."

The southern men were encouraged to secede upon the argument presented by southern demagogues or statesmen, whichever you choose to

call them, that the North could not be trusted, that a sectional party controlled the North, and that if they remained with the North in the Government their rights would be trampled under foot. Has any occasion been let slip in the Congress of the United States to make good that assurance of the southern statesman and demagogue? Has not every prediction that they made to the people to fire their minds against the Government been made good by the action of Congress?

Will any man be good enough to state how it is that the cause of the North is strengthened and that of the South weakened by dividing the North and uniting the South? It was a hard thing to conquer this rebellion when it was true, as Mr. Lincoln said in his message of July, 1861, that in all the States of the South, except perhaps in South Carolina, there was a Union majority. We had enough work to do then. Congress even then, with that assurance given it in the President's message, thought fit to call out half a million men and to appropriate \$500,000,000 to carry on the war—to carry on the war against a rebellion that did not contain within it one-half of the people of the South—to carry on the war against a divided South, the majority of the South being against the rebel cause. But after that, when you have united the South, what force does it require? The contest of this year shows us. As was suggested so well by the honorable Senator from Illinois, [Mr. RICHARDSON,] you have so united the people of the South as to bring the women into the field. This is the change that has been brought about within a short three years. I submit to you, sir, was that change brought about by any sentiment of the Democrats of the North when they asked that the Constitution and the Union should stand as our fathers made them with every compact remaining inviolate? You know, every Senator knows, that if we had stood by that assurance the Union party of the South would have been strengthened instead of weakened; the South would have been still further divided instead of being united, and the North would have continued as a solid wall in this war.

But if Senators think they promote the good of the country, if they think they strengthen the arm of the Government by voting down the laws which our fathers established, which our fathers thought but reflected the true relation between the States; if Senators think that this is for the good of the country, of course they will vote for these propositions. I shall do my duty by voting against all such schemes, and hope some time to see the day when there will be a sentiment in this country that will bring us back again to the sentiments of the fathers and the times that we have turned our backs upon.

Mr. SUMNER. I propose to add a few words to the section, so that there shall be even nothing of seeming force in the argument of the Senator from Maryland. I propose to add at the end, "and the coastwise slave trade is prohibited forever;" so that the effect of the amendment will be to repeal the two sections of the statute of 1807 that undertake to regulate the coastwise slave trade, and then there is the general provision that the trade shall be prohibited forever.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The amendment will be so modified.

Mr. COLLAMER. I always regret that I should feel it my personal duty to detain the Senate by any remarks of mine; but occasionally such a point and crisis arises. I desire to make a few remarks about the amendment that is now proposed.

I have nothing to say about the propriety of proposing it at this time. I do not think it calls for any. It is here; the amendment is offered; we must vote for it or vote against it; and inasmuch as I always vote on questions of this kind on their merits, and expect to vote for this on the same ground, I desire briefly to state the reason why I shall so vote.

Mr. President, the clause of the Constitution in relation to the power of Congress to regulate commerce is, I believe, in these words:

"The Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

Some have thought that inasmuch as it was couched in the same phraseology the measure

of this power was the same in relation to each of these subjects. I think otherwise. I do not believe that Congress has the same power without limitation in relation to regulating commerce between the States that it has in relation to commerce with foreign countries. I do not believe that Congress has power to lay an embargo upon any State. I think Congress has power to lay an embargo upon the whole country as to foreign nations, regulating foreign trade, but I deny that Congress has any power to prohibit by way of embargo, if you please, the trade of any State. I merely mention that as an illustration, a distinct one, I think, showing that there is not the same measure of power existing in the two cases.

In the next place I would observe that this statute which is now proposed to be repealed is an attempt to regulate the slave trade. I forget precisely the term of expression used, but it is called the internal slave trade commercially regulated. It regulates how they may be carried in ships, how they shall make duplicate manifests, &c.; in short, both those sections are an attempt to regulate the commerce and trade in slaves by water. My impression is that Congress has no such power. If Congress can regulate it they can prohibit it. That the Supreme Court very fully decided in the case of the Embargo. If they can prohibit it, they can allow it, license it anywhere and everywhere. I believe it was very fully decided in the Merriman case that when goods were imported under an act of Congress the man importing the goods and paying the duties had the right to sell and dispose of those goods in spite of any law the State could make.

Mr. JOHNSON. In the original package.

Mr. COLLAMER. Well, I take it that is the way negroes are generally sold. [Laughter.] I think they are sold in the original package, if at all.

If it be true that Congress can prohibit the carrying of slaves as articles of commerce from one State to another they can allow it from one State to another, and the State cannot prevent it. I say if they can prohibit or regulate it they can allow it and license it, and no State can prevent it. If they can prohibit the carrying of slaves, if you please, black persons, as articles of commerce in regulating commerce, as these sections of the law of 1807 do, by water to Maryland, they can prohibit the carrying of wheat from Illinois; they can prohibit the carrying of wool from my State, Vermont, down into Massachusetts to be manufactured. I do not grant the existence of any such power.

Again, if they can prohibit it, as I before said, they can license and allow it, and no State can prevent it. Is it true, then, that you can take slaves, if Congress had a mind to allow it, and carry them from Virginia and Massachusetts and sell them in the original package, to be used there and held there, and Massachusetts cannot help it nor prevent it? I deny it utterly. I therefore deny that they can authorize, I deny that they can prohibit it, I deny that they can regulate it; for regulating it, as the Supreme Court says, includes the power to prohibit it altogether or to license it altogether.

What is the great difficulty in regard to it? It is this: they are not articles of commerce; they are not articles of trade and merchandise; they do not go into the category of articles which Congress can legislate about in that way, and in the exercise of that power given in the Constitution to regulate commerce. That is the difficulty that lies at the foot of it all. The moment you grant that Congress may make regulations of commerce which shall cover this subject-matter, that is, blacks, negroes, you grant that they are articles of commerce, which is a position that has been utterly denied from the beginning to the end; it has always been held that they were persons and not things.

But you say to me, inasmuch as the power given in the Constitution to regulate commerce with foreign nations, and among the States, and with the Indian tribes, is all in the same words, where did Congress get the power to prohibit the foreign slave trade? I think it is perfectly easy to answer that question. The power to regulate commerce, &c., relates to subject-matters of commerce, articles of trade, and merchandise, goods and chattels, but the jurisdiction which the Congress of the United States has over the foreign

slave trade, if you please, over persons, comes from entirely a distinct part of the Constitution. The Constitution provides that "the migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808." I take it, the plain English of that clause is that after 1808 they shall have power to prohibit it. It does directly grant the power. There is, as every lawyer knows, what is called a negative pregnant, than which nothing can be more sure; that to say you shall not do such a thing in such a time is to say you may do it after that time. Every court has decided that over and over again, not about these particular words that I have mentioned, but in relation to every such provision. Congress did exercise the power immediately in 1808; and if that was not a grant of power how came they then to have any right to do that at all? Certainly they were not articles of commerce. They did not come within that clause. Congress did it within that grant of power in relation to the importation of certain persons: "the migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited," &c., meaning slaves. There is no doubt of that in any candid mind. There can be no doubt that that meant and intended to mean slaves, and all the legislation subsequently shows it conclusively, and it is an equivocation to try to get rid of it in any other way. These attempts to make it out that in these three or four clauses the Constitution did not use the word "slave," and therefore did not mean slave, is all a quibble, an equivocation, pettifoggery. It is unworthy of any man standing up here seriously. They evidently meant slaves.

But some persons say, "I know they meant slaves, but they did not get it in there." If that man is a lawyer he ought to know enough to know that what was intended to be in a contract and agreed to be in a contract, in law and chancery is in the contract; and further, if it is not there already the chancellor will order it to be put there by reforming the contract, and will enjoin persons from setting up anything to the contrary. Every court of chancery does it. Therefore, as the thing was intended to be in and the persons who framed it thought it was in, it is totally immaterial whether it is in or not; that puts it in, and it is in.

Now, Mr. President, in my judgment, all laws, I do not care when they are attempted to be made, nor when they were made, that undertake to deal with slaves, who are persons under the Constitution and our laws, as articles of merchandise in any form under any regulations of trade whatever, are unconstitutional; and I believe to make a law now to prohibit the carrying of slaves from one State to another for sale is totally unauthorized. You might as well undertake to prohibit the carrying of any kind of property from one State to another; but more particularly is it bad because it undertakes, under the power to regulate commerce, to deal with slaves as articles of commerce, trade, merchandise, chattels, which they are not. Therefore, inasmuch as the sections of the law to which our attention is now called and which it is proposed to repeal are of that character and attempt to deal with the subject as of that character, I say repeal them.

Mr. JOHNSON. Perhaps there is no statesman or jurist in the country to whose remarks I listen with more confidence of being instructed than the honorable member from Vermont, and I have not in this instance failed to listen, but without being instructed for once.

Before I proceed very briefly to state the reasons why I differ from the honorable member, one thing is certain, that if he is right he cannot vote for the amendment proposed by the Senator from Massachusetts as it now stands. The honorable member evidently seems to suppose that the amendment as it now is before the Senate is to repeal merely the eighth and the ninth sections of the act of March, 1807; but it is not in that situation now. The Senator from Massachusetts has annexed to that amendment a provision forbidding what is called the coastwise slave trade; and if my friend from Vermont is right in supposing that the subject of the carrying of slaves coastwise from State to State is a matter with which Congress has nothing to do, then Congress has no

authority to prohibit it. His argument is, that an authority to regulate, if it involves an authority to prohibit, involves the authority to allow; and as he has come to the conclusion that there is no authority in this instance to allow, he must admit, to be consistent with himself, that there is in this case no authority to prohibit; and coming to that conclusion, instead of voting for the amendment proposed by the member from Massachusetts as it is now upon your table, he must vote against it.

Mr. President, it is not the first time I have heard my friend announce the opinion—it is the first time I have heard him attempt to support it by anything like a detailed argument—that under the commercial power Congress had no authority to regulate or to prohibit the foreign slave trade, and the ground upon which he has stated it in conversation with me and has now stated it to the Senate is, that the power over the foreign slave trade which Congress has is a power derived from that clause in the Constitution which takes from Congress the power to prohibit the foreign slave trade at any time prior to 1808. The honorable member has stated as a rule of interpretation with which every lawyer is familiar that a prohibition of that description contains what is called a negative pregnant, and that it carries with it therefore the authority, after the time limited, to do what is prohibited until the time limited shall have elapsed. That I admit; but he insists that because the Constitution says the migration or importation of certain persons, which he concedes very fairly and very candidly, and every lawyer concedes, to mean slaves—I say every lawyer that I have heard speak upon the subject, unless my friend from Massachusetts claims to be a lawyer after having been out of practice, I believe, more years than I should care to mention.

Mr. SUMNER. I make no claim of the kind.

Mr. JOHNSON. No.

Mr. SUMNER. I yield everything of that sort to the Senator.

Mr. JOHNSON. There is nothing in that which the honorable Senator would like to have, because there is everything in it inconsistent with the principles which he avows. But if my friend from Vermont is right that Congress has no authority at all over the subject of what has been termed the foreign slave trade except what is to be implied in the denial to Congress of a power to interfere with it before 1808, then it would follow, as I think, and I submit to my friend from Vermont, that when 1808 arrived Congress had no authority to do anything else but prohibit it. That is true; but then it would follow—a consequence which I think the honorable member from Vermont has not clearly seen—that if Congress after 1808 had not prohibited the slave trade it might have been carried on. I suppose nobody will doubt that. If carried on what would it have been? Commerce between foreign nations and the United States.

The honorable member supposes—there is nothing in the Constitution which shows it—that slaves are not articles of commerce at all. If he be correct in that statement, then if Congress had passed no act after 1808 they could not have been imported; but I do not think he will come to that conclusion.

Mr. COLLAMER. Not under the word "migration."

Mr. JOHNSON. But under the power, whatever it is. He would not have come to that conclusion, and if not, why not? Only because in the view of the Constitution in relation to this particular trade slaves are subjects of trade over which Congress has control, either because of the authority with which they are vested by the clause to which the honorable member has referred, or by the other clause which gives to them the power of regulating commerce as between foreign States and the United States.

If I am right, therefore, (and with all the respect that I entertain for the better judgment in almost everything, and the better judgment which I recognize as existing in almost everything relating to legal questions of the honorable member from Vermont,) it was because of the legislation of Congress after 1808 that the importation of slaves into this country was prohibited, and if you repeat that statute to-day they may be imported again as merchandise, as subjects of trade. I submit further to my friend from Vermont that

the very clause upon which he relies as showing that Congress has no such power as has been claimed for it was inserted evidently because the Convention believed that in the absence of such a clause they would have had the power. Why insert it? What was the state of things at the time the clause was inserted and adopted? Slaves were being imported into every State in the Union where slavery existed; the vessels from almost every port in what are called the free States and what were the free States, were engaged in that trade; and the clause was inserted at the instance of southern men, and especially the representatives in the Convention from Georgia, to deny to Congress the right to regulate the trade or to prohibit it from the adoption of the Constitution to the expiration of the period limited, 1808. But why put it in, I repeat? Only because—and if my friend will consult the debates of the Convention he will find that I am right in my recollection—only because it was the opinion of the Convention, of every member of the body, that Congress would have had the authority to prohibit it before 1808, by virtue of the power conferred upon them to regulate commerce with foreign nations.

But I am not to rest alone upon my own view of the Constitution of the United States in this particular. The Supreme Court of the United States, in every instance in which the question has been presented, and the commentators upon the Constitution, and particularly that commentator, himself, for so many years, to the honor of the country and to his own honor, a member of that bench, maintained the existence of the power under the power to regulate commerce with foreign nations. There is a view, however, of the power, supposed to be identical, conferred upon Congress to regulate commerce as between the States, taken by the Supreme Court, to which I was never able to give my assent, although bowing to it as the decision of the ultimate tribunal upon all such questions. I have always thought that as the powers to regulate commerce between foreign nations and between the several States were conferred upon Congress in precisely the same words, Congress could do in relation to the slave trade what Congress by the court was decided to be competent to do in relation to the foreign slave trade; but the court have taken a different view.

My friend says that slaves, persons, are not the subjects of trade, and besides that it never was intended by the clause to which I am now referring to put it in the power of Congress to regulate the trade between the States so far as relates to the articles which may be the subject of the trade. He says that Congress has no authority to prohibit the citizens of Illinois or the citizens of any other State from bringing from the State of Illinois into any of the other States of the Union the cereals which that State may grow; in other words, that the power to regulate commerce conferred upon Congress in relation to the several States of the Union is not the same power with that conferred upon Congress in relation to foreign States, because under the latter it has been held that Congress may prohibit altogether.

The honorable member I think is mistaken in coming to that conclusion. That view was taken by nearly all the men of legal reputation at the North, among whom towered high Webster. The existence of the embargo in Mr. Jefferson's time excited the northern mind almost into a condition of political frenzy. They assailed the constitutionality of that legislation on the very ground that instead of being a regulation of commerce it was a prohibition, and that it was an absurdity in terms to say that a power which was evidently given in order to encourage by regulating foreign commerce, carried with it a power to prohibit foreign commerce. But my friend will find if he looks to the decisions of the Supreme Court in which that question was presented and where the power was held to exist, that the Supreme Court put it mainly upon the ground of the war power; that if not a regulation of commerce, as it was not because it was to say that commerce should not be carried on, it was what Congress had the authority to do, they being the exclusive judges at the time in which it was done, when we were upon the eve apparently of a war with England, and as a measure to avoid the last resort of hostilities, and Congress with a view to bring these

anticipated belligerents to their senses had a right to say that all commercial intercourse between themselves and us should be put an end to.

But that is not the question here. Slaves are recognized as property in the slave States. Everybody will admit that; and until lately it never has been questioned that it was a property with which Congress could not interfere. Then, being recognized as property, it constituted, so far as the business of the particular State was concerned, a subject of trade, and being a subject of trade it was a matter according to my view, as I stated just now, with which Congress could interfere by regulating, and Congress have regulated. Before 1808, when the power was constitutionally vested in Congress for the first time, by legislation, to prohibit the foreign slave trade, Congress passed laws regulating and prohibiting the introduction of slaves into the Territories. How did they do it? Under what authority? They prohibited domestic slaves being carried into the Territories. How was it done? Not done under the clause to which my friend adverts, which takes from Congress the authority to interfere until 1808, but done under the power to regulate commerce between the States and foreign nations and the Territories of the United States. For the soul of me, if the authority in Congress to interfere at all is to be found in the clause referred to by my friend from Vermont, as that clause has no reference to the domestic slave trade, to any trade in slaves carried on within the territorial limits of the United States. I cannot see how Congress had the authority to prohibit slaves being carried into the Territories, or to regulate the trade if they permitted them to be so carried.

I have felt it due, Mr. President, to the opinions which I entertain, with the great respect in which I ever hold the opinions of the honorable member from Vermont, to state thus briefly the reasons on which I am compelled to differ from him. But, sir, at last we are brought back to the question, why should this measure be put upon this bill? We have seen the effect already. The bill would have passed an hour ago in this body but for it. How long will it be before we pass it if this amendment is to be persevered in? And after we have passed it, if we shall, and it goes back to the House of Representatives, how long do you suppose it will be there before it is finally disposed of? Suppose they dispose of it differently from us by rejecting the amendment, then the bill comes back here and the honorable member from Massachusetts will at once be found upon his feet again trying once more to strike that last blow at slavery—which I thought by the by, he said the other night he had done when he got the fugitive slave law repealed—which he is so very anxious to strike that he may stand in that respect as he is entitled to stand, not only fair in the opinion of his particular constituents, but fair in the estimation of the world where slavery is held in so much detestation.

Mr. COLLAMER. Mr. President—

Mr. SHERMAN. I ask the Senator to give way to a motion to adjourn. I remained here until past twelve o'clock last night and do not feel able to stay here any longer to-night, and as it is evident that we are to have a long discussion, I move that the Senate do now adjourn.

Mr. GRIMES. Let me first take up the resolution to meet at eleven o'clock.

Mr. SHERMAN. Very well.

Mr. SUMNER. I hope not. There are committee meetings to-morrow morning.

The PRESIDING OFFICER. (Mr. POMEROY.) Is the motion to adjourn withdrawn?

Mr. SHERMAN. Yes, sir; and with the consent of the Senate—I wish to consult their wishes—I move that on and after Monday next the daily hour of meeting shall be eleven o'clock, a. m.

Mr. SUMNER. I think we had better determine that matter to-morrow, not to-night. A committee of which I am a member meets on Monday.

Mr. SHERMAN. Let that committee do as the Committee on Finance have done for months, meet at half past nine o'clock, and that will give them an hour and a half before eleven o'clock.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio.

The motion was agreed to.

Mr. WADE. I move to take up the resolution I offered a few days ago limiting debate.

Mr. COLLAMER. I gave way to a motion to adjourn.

The PRESIDING OFFICER. The Senator from Ohio [Mr. WADE] is now entitled to the floor.

Mr. WADE. I cannot yield. I want that resolution taken up.

Mr. DOOLITTLE. I understand that the Senator from Vermont was on the floor about to speak, and gave way for a motion to adjourn. The Senator from Ohio was not in his place then, and did not see what occurred.

The PRESIDING OFFICER. The motion of the Senator from Ohio can be entertained only by unanimous consent.

Mr. RICHARDSON and Mr. HENDRICKS objected.

Mr. SHERMAN. I renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, June 24, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Mr. FERRER.

On motion of Mr. FENTON the reading of the Journal of yesterday was dispensed with.

LANDLORD AND TENANT.

The SPEAKER. The first business in order is the question of privilege pending when the House adjourned yesterday, being the motion of the gentleman from Iowa, [Mr. WILSON,] that the House insist upon its amendments to the bill of the Senate (No. 138) in relation to landlords and tenants in the District of Columbia, disagreed to by the Senate, and agree to the committee of conference asked for by the Senate on said disagreeing vote.

Mr. WILSON. Upon that motion I call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion was agreed to.

Mr. WILSON moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER subsequently appointed Mr. WILSON, Mr. DAVIS of New York, and Mr. WHEELER, as such committee on the part of the House.

SUPREME COURT OF DISTRICT OF COLUMBIA.

Mr. WILSON, from the Committee on the Judiciary, by unanimous consent, reported back with amendments an act (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes.

The first amendment reported by the committee was to insert in line seventeen of section one the words "more than" after the word "Interior;" so that the clause will read, "subject to appeal to the Secretary of the Interior, more than six thousand dollars per annum."

The amendment was agreed to.

The second amendment reported by the committee was to strike out "six," in the seventeenth line, and insert "four;" so that the clause will read, "the sum of \$4,000 per annum."

The amendment was agreed to.

Mr. FENTON moved to amend by adding to section two the following proviso:

Provided, That nothing in this act contained shall apply to the provisions of sections eleven and twelve of the act to prevent and punish frauds upon the revenue, approved March 3, 1863.

The amendment was agreed to.

Mr. WILSON demanded the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM B. MATCHETT.

Mr. HOLMAN. What is the regular order of business?

The SPEAKER. It is the consideration of private bills.

Mr. HOLMAN. Under that order I suppose the Committee of Claims will be called?

The SPEAKER. On the last call of committees for private bills the Committee of Claims had the floor for two days, and their right to report under the call was thereby exhausted.

Mr. HOLMAN. I ask permission to make a brief statement. On the 20th of this month the House passed a joint resolution furnishing relief to the chaplain of a New York regiment. Since its passage, however, it has been found that it does not accomplish the purpose for which it was passed. I now hold in my hand a joint resolution declaratory of the construction of that legislation. It is a very meritorious claim, and I hope there will be no objection.

Mr. ORTH. I object.

Mr. HOLMAN. It is a mere explanatory resolution. I hope there will be no objection.

Mr. ORTH. I object.

WISCONSIN FIVE PER CENT. FUND.

Mr. HALE. I ask the unanimous consent of the House to report back from the Committee of Claims Senate joint resolution No. 8, for the relief of the State of Wisconsin.

The joint resolution was read at length.

Mr. WILSON. I object to that bill.

HUDSON BAY CLAIMS.

Mr. ORTH, from the Committee on Foreign Affairs, by unanimous consent, reported back Senate bill No. 187, to carry into effect the treaty between the United States and her Britannic Majesty for the final settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Companies.

The bill was read at length. It confers upon the President of the United States the power, by and with the consent of the Senate, to appoint a commissioner to act conjointly with the commissioner appointed by her Britannic Majesty's Government in determining the claims of the Hudson's Bay Company and of the Puget Sound Agricultural Company against the Government of the United States under the treaty of July, 1863, with authority on the part of the commissioner to appoint a clerk at a compensation of eight dollars a day. It fixes the compensation of the commissioner at \$5,000 in full for his services and personal expenses, and appropriates the sums necessary to pay such compensation, the share of the contingent expenses of the commission on the part of the United States, and of the compensation of the umpire chosen under the convention. It further authorizes the commissioner on the part of the United States, in conjunction with the commissioner on the part of Great Britain, to make all needful rules and regulations for conducting the business of the commission; such rules and regulations not contravening the Constitution of the United States, the provisions of this act, or the stipulations of the treaty. It also authorizes the Secretary of State to transmit to the said commission such papers or records relating to the business of the commission as he may deem proper or as may be called for by the commissioner; and requires at the close of the commission, and of the duties of the umpire, that all the records, documents, and all other papers which may have been presented on behalf of the United States shall be returned to the Department of State.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. ORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

W. B. MATCHETT.

Mr. HOLMAN. I again ask the consent of the House to report a joint resolution declaratory of the construction of the joint resolution passed by this Congress for the relief of W. B. Matchett.

There was no objection, and the joint resolution was reported and read a first and second time.

The joint resolution was read in full. It con-

strues the joint resolution on the same subject heretofore passed to require the Paymaster General of the United States Army to adjust the accounts of W. B. Matchett for the time the regiment to which he was attached was in service.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TRANSFERS IN NEW YORK ASSAY OFFICE.

Mr. KASSON, by unanimous consent, reported from the committee on a uniform system of coinage, weights, and measures a bill to facilitate the repayment of depositors at the assay office in New York; which was read a first and second time.

The bill was read at length. It provides, for the purpose of speedy payment to depositors, that the provisions of the act of May 23, 1850, allowing a bullion fund to be retained at the Mint and branch mints of the United States, be extended to the United States assay office in the city of New York.

Mr. KASSON. I desire that a letter from the Secretary of the Treasury on this subject may be read.

The letter was read, as follows:

TREASURY DEPARTMENT, May 18, 1864.

SIR: Much complaint exists on the part of depositors of bullion at the New York assay office at the delay to which they are subjected before receiving returns for their deposits in coin. Under the existing laws this delay appears to be unavoidable, inasmuch as depositors are obliged to wait for their bullion to be refuted at the assay office for its transmission to the Mint at Philadelphia, its coinage there, and its return to the assay office, before the certificates issued to them upon its receipt are redeemable in coin; whereas, at the Mint and branch mints, which are allowed a "bullion fund," under the act of May 23, 1850, depositors may receive the value of their bullion in coin as soon as ascertained.

With a view to remedy the existing difficulty and thereby afford the same facilities to depositors at the assay office as are enjoyed by those who deposit at the Mint and branch mints, I transmit herewith the draft of a bill providing that the act of May 23, 1850, shall apply to the assay office in question as well as to the Mint and its branches.

The allowance of such a fund as is proposed to the assay office will not at any time incommode the Treasury, inasmuch as the existing law permits the Secretary of the Treasury to withdraw such fund from the Mint and branches whenever occasion may require. I trust the matter may be presented for the early attention of Congress.

I am, very respectfully,
S. P. CHASE,
Secretary of the Treasury.

Hon. JOHN A. KASSON, Chairman Committee on Coinage, House of Representatives.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, informing the House that the Senate have passed without amendment House bills and a joint resolution of the following titles:

An act (No. 519) repealing certain provisions of law concerning seamen on board public and private vessels of the United States;

An act (No. 539) to incorporate the Young Men's Christian Association of the city of Washington;

An act (No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves;

An act (No. 551) to incorporate the Colored Catholic Benevolent Society; and

Joint resolution (No. 109) correcting a clerical error in the award of the emancipation commissioners.

Also, that the Senate have passed a bill (No. 286) to prohibit the discharge of persons from liability to military duty by reason of the payment of money, and for other purposes; in which he was directed to ask the concurrence of the House.

WISCONSIN DISTRICT COURT.

Mr. WILSON, from the committee of conference on the disagreeing votes of the two Houses

on Senate bill No. 55, in reference to the circuit court in and for the district of Wisconsin, and for other purposes, reported that the committee had met and had agreed to recommend to their respective Houses that the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

Provided, That all executions, processes, or orders issued from the district court of any district in this act mentioned, in cases transferred to the circuit court and in part executed, shall be regarded as having been issued from the circuit court to which each particular case is transferred, and shall be returned thereto; and no writ of execution or other final process or power exercised or proceeding had in accordance with law to enforce any judgment or decree shall be affected by reason of the transfer directed by the act.

The report was adopted.

Mr. WILSON moved to reconsider the vote by which the report was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CALL OF COMMITTEES.

Mr. NOBLE. I move that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of House bill No. 203.

Mr. SPALDING. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports of a private character, beginning with the Committee on the Post Office and Post Roads.

INSANE ASYLUM GROUNDS.

Mr. PATTERSON, from the Committee for the District of Columbia, introduced a joint resolution to improve the grounds of the United States insane asylum; which received its several readings, and was passed.

Mr. PATTERSON moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LAND LOCATIONS IN MISSOURI.

Mr. THAYER, from the Committee on Private Land Claims, reported back, with a recommendation that it do pass, House bill No. 435, concerning certain locations of lands in the State of Missouri.

The bill was read. It relinquishes all of the right, title, and interest of the United States in and to all of the lands within the respective boundaries of certain described locations in township forty-five north, of the base line, in range seven east, of the fifth principal meridian line, in the State of Missouri, made by virtue of certificates issued under the act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes, approved February 17, 1815; provided, nothing contained in the act shall, directly or indirectly, comprehend, include, extend to, grant, relinquish, or convey, the whole or any part of any lot, tract, piece or parcel of land in said township which has heretofore been confirmed and surveyed by the United States to any person or persons, or to the legal representatives of any person or persons; and provided, that nothing in the act shall in any manner abridge, divest, impair, injure, or prejudice, any adverse right, title, or interest of any person or persons in or to any portion or part of the lots, tracts, pieces or parcels of land which are granted, relinquished, or conveyed by the act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. THAYER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM SAWYER AND OTHERS.

Mr. THAYER, from the same committee, reported back, with a recommendation that it do pass, House bill No. 133, for the relief of William Sawyer and others, of the State of Ohio.

The bill recites that, by the treaty of St. Mary's with the Miami Indians of October 6, 1818, the west half of section No. 26, the east half of section No. 28, and section No. 27, in the county of Auglaize, and State of Ohio, were reserved and

granted to Joseph Richardville and Joseph Richardville, jr.; that all of the lands have since been sold in several parcels to divers persons by the United States and by the State of Ohio, under and by virtue of a grant from the United States; and that, by virtue of a judicial sale upon a judgment rendered against Joseph Richardville, jr., survivor and sole heir-at-law of Joseph Richardville, sr., the title granted to Joseph Richardville, sr., and Joseph Richardville, jr., by the treaty, in all of said lands, has become vested in Madison Sweetzer, the purchaser at the sale; and that Madison Sweetzer has established his title to the lands by sundry judgments in ejectment, recovered in the circuit court of the United States for the northern district of Ohio, against the tenants in possession, holding under titles derived, directly or indirectly, from the United States. It therefore authorizes and requires the Secretary of the Interior to cause the unimproved value of the tracts of land to be ascertained, by the valuation and assessment of a commissioner to be appointed by him for that purpose, and which commissioner shall, before he proceeds to the assessment and valuation of the same, take an oath faithfully and impartially to perform his duties as such commissioner; and that when the Secretary of the Interior shall thus ascertain the unimproved value of the lands he shall report the same to the House of Representatives at the earliest practicable moment.

Mr. WASHBURN, of Illinois, called for the reading of the report.

The report was read, as follows:

"By the treaty of St. Mary's with the Miami Indians, of October 6, 1818, the west half of section twenty-six, the east half of section twenty-eight, and the whole of section twenty-seven, all in township five south, in range four east, of first meridian, in Ohio, and situated in Auglaize county, in that State, were granted by the United States to Joseph Richardville and Joseph Richardville, jr.

"By a paper executed by Joseph Richardville, who was a half-blood Miami Indian, dated August 28, 1827, the said Joseph Richardville undertook, in consideration of the sum of \$3,000 and in pursuance of another treaty made October 23, 1825, to recover these lands to the United States. Subsequently the United States and the State of Ohio, under a grant from the United States, at various times sold these lands. A portion of them is still held by the original purchasers, and other portions by persons claiming under the original purchases from the United States. One Madison Sweetzer, of Fort Wayne, Indiana, who was a creditor of Joseph Richardville, jr., having obtained a judgment against him, levied upon a portion of these lands, sold them by due process of law, and bought in his title at that judicial sale. Joseph Richardville, sr., in the mean time had died, and whatever title he had, and which did not pass to the United States by the paper of August 28, 1827, had vested in his son and heir-at-law, the said Joseph Richardville, jr. In the year 1855 said Sweetzer brought actions of ejectment in the circuit court of the United States for the northern district of Ohio against several of the parties in possession under the title derived from the United States. The said actions were regularly tried and defended, and resulted in verdicts and judgments in favor of the said Madison Sweetzer, the court holding that the papers seized by Joseph Richardville, sr., and purporting to be dated August 28, 1827, passed no title to the United States. Thus his interest had, consequently, upon his decease, passed to his son, the said Joseph Richardville, jr., who thus became the holder of the entire title, and thus the judgment and judicial sale therein made by Sweetzer had vested the whole title in him. By this means honest purchasers from the United States, who paid for their lands, are deprived of them, and are liable to be turned out of their homes, unless some satisfactory arrangement is made with Sweetzer by the Government of the United States. The bill proposes to remedy this injustice by authorizing the Secretary of the Interior to cause the unimproved value of the said tract of land to be ascertained by the valuation and assessment of the commissioner to be appointed by him for that purpose, which commissioner shall be duly sworn faithfully and impartially to perform his duties. When the value of the lands is thus ascertained, the Secretary of the Interior is to report the same to the House of Representatives. When his report shall be made, it is of course contemplated that Congress shall by some future action indemnify Sweetzer in some suitable manner for his relinquishment of his title, and thus relieve the bona fide purchasers from the United States from the injustice which they would otherwise suffer by the failure of the title which they have acquired from the United States. The committee recommend the passage of the bill."

Mr. WASHBURN, of Illinois. I suggest an amendment by inserting a provision that the amount shall not exceed the minimum price of the public lands.

The SPEAKER. Does the gentleman from Pennsylvania yield for that purpose?

Mr. THAYER. I cannot.

Mr. WILSON. I desire to ask the gentleman whether he knows the precise amount paid to the Government for these lands.

Mr. WASHBURN, of Illinois. The phraseology of the bill is peculiar.

Mr. THAYER. The Legislature of the State of Ohio has passed a joint resolution requiring Congress to take this action. The Committee on Private Land Claims has given the matter a full investigation, and is convinced that the passage of the bill is a matter of simple justice, and at all events can do no possible harm. It simply authorizes the Secretary of the Interior to ascertain what was the unimproved value of these lands, leaving the whole subject open for the future action of Congress.

Mr. WASHBURN, of Illinois. It seems to me that the object which the gentleman seeks to attain is not accomplished by the bill. He says that all they desire or expect is a repayment of the amount originally paid, but the bill does not fix it in that way. If the gentleman will look at it carefully he will see that the bill does not carry out his idea. I suggest that he add this proviso:

Provided, That a greater amount shall not be allowed than what the Government received.

Mr. THAYER. The bill only proposes that the unimproved value of this tract of land shall be ascertained by the assessment and valuation of a commission, to be appointed by the Secretary of the Interior. I submit to the gentleman from Illinois that it will be time enough to restrain any improper action when a bill is reported for the compensation of the parties.

Mr. WASHBURN, of Illinois. The gentleman will not object to this proviso:

Provided, That in no event shall the Government be liable to pay a greater amount than they received for said lands.

Mr. THAYER. I am afraid my bill will not be of much use if that amendment is incorporated in it. At any rate, I have no right to accept it. I hope the bill will be allowed to pass in its present shape, because no possible injury can accrue to the Government. I must therefore decline to yield to the gentleman to offer the amendment.

Mr. WASHBURN, of Illinois. The gentleman need not accept the amendment, but he can allow me to offer it, and the House to take a vote upon it.

Mr. THAYER. I do not think I should be justified in doing so.

Mr. LE BLOND. I hope the amendment of the gentleman from Illinois will not prevail, and I think that if he will look at the matter for a single moment he will see that his proposition would destroy the efficiency of the bill, and for this reason: the object of the bill is not to pay Mr. Sweetzer, but for the purpose of indemnifying the parties who were the purchasers under the Government. I suppose these parties paid \$2 50 an acre for their lands, for a portion of them had been given to the State of Ohio for the purpose of building a canal. Ohio retained the alternate sections. A part of the lands were bought from the Government directly at \$2 50 an acre. The balance of the lands, was purchased from the State at the same rate. Now, if Mr. Sweetzer's judgment creditor, who can now oust the parties in possession, is willing to accept \$2 50 an acre, that will be perfectly satisfactory to the present holders of these lands. They do not care anything about it, but Mr. Sweetzer, I apprehend, would be unwilling to take that; and why? Simply because he would be receiving \$2 50 an acre when the lands are really worth more. The object of the bill is to have these parties in possession of the lands which they have already improved. I think it is but simple justice on the part of the General Government to make these parties whole, and let them retain the lands they have already improved. The Government, in the first place, sold the lands when they had no title to them and ought not to have sold them. But having sold them and got \$2 50 an acre, the gentleman proposes to pay back that sum without even interest. It seems to me that that would be injustice to these parties, and that the amendment ought not to prevail. I hope the bill will pass in the shape in which it comes from the committee, and when the commission shall have gone upon the land and assessed the value of it in an unimproved condition, the case will come before the House for future action in making an appropriation.

Mr. THAYER. I demand the previous question.

The SPEAKER ordered tellers; and appointed Messrs. WASHBURN, of Illinois, and LE BLOND.

The House divided; and the tellers reported—ayes 85, noes 30.

So the previous question was seconded.

The main question was then ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. THAYER demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. THAYER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MISSOURI CONTESTED ELECTION.

Mr. UPSON. I rise to a question of privilege. I call up the report of the Committee of Elections in the case of Lindsay vs. Scott. I ask for the reading of the resolution reported by the committee.

The Clerk read the resolution, as follows:

Resolved, That John G. Scott is entitled to retain his seat in this House as a Representative from the third congressional district of Missouri.

Mr. UPSON. Mr. Speaker, I do not intend to detain the House by any speech on this case. Mr. Scott is not present, owing to sickness in his family; and at this stage of the session it is not necessary to postpone the case on his account. The Committee of Elections were unanimous in this report. I will say that if the contestant had prepared his evidence in better shape and more precisely, the result might have been different. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. UPSON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DAWES. I am directed by the Committee of Elections to submit the following resolution:

Resolved, That there be paid out of the contingent fund of the House to James Lindsay, in full for time spent and expenses incurred in contesting the right of John G. Scott to a seat in this House as a Representative from the third congressional district of Missouri, the usual mileage of a member for one session, and like monthly compensation from the commencement of the session to the date of the passage of this resolution.

Mr. HOLMAN. I wish to inquire of the gentleman from Massachusetts whether there was any division of the committee in this case?

Mr. DAWES. The committee were unanimous in the report made in this case; but the committee were also unanimous that the contestant acted in good faith, and that there was good ground for contest.

Mr. HOLMAN. I think that this resolution ought to go to the Committee of Elections.

Mr. DAWES. I am directed by the committee to submit this resolution.

Mr. MALLORY. I ask the gentleman from Massachusetts to yield to me for the purpose of moving to insert the name of John S. Sleeper, of Massachusetts.

Mr. DAWES. I do not know that I can yield, acting as I am under the instructions of the Committee of Elections.

Mr. MALLORY. Does not the gentleman know that there was more ground for Mr. Sleeper contesting the right to a seat of his colleague, Mr. Rice, than for Mr. Lindsay to contest the seat of Mr. Scott, of Missouri?

Mr. DAWES. I was in favor of granting compensation to Mr. Sleeper, and I urged his case upon the House, but the House rejected the resolution. I can hardly permit the amendment to come in now.

Mr. STEVENS. Has not the Sleeper case been adjudicated?

Mr. DAWES. It strikes me so. I wish the House had voted differently.

Mr. GANSON. As a member of the Committee of Elections I ask the gentleman from Massachusetts to let the amendment come in.

Mr. MALLORY. If the gentleman will withdraw the demand for the previous question I will renew it.

Mr. DAWES. If I were not situated as I am

I would permit the amendment to come in. My opinion is that the House did not do right by Mr. Sleeper. If the House desires to vote on the amendment it can vote down the demand for the previous question.

The House divided; and there were—ayes 44, noes 57.

Mr. WILSON demanded tellers.

Tellers were ordered; and Messrs. Dawes and Mallory were appointed.

The House again divided, and the tellers reported—ayes thirty-nine, noes not counted.

So the previous question was not seconded.

Mr. MALLORY. I move to insert the name of John S. Sleeper, of Massachusetts, and that he shall receive both pay and mileage up to the date of the decision of his case.

Mr. FRANK. Mr. Speaker, I will say a word with the permission of the gentleman from Kentucky. It seems to me these contested-election cases should be settled differently and definitely. As it is these contestants receive more pay than the members who sit here during the entire session. I do not object to compensating a man who has a good case of contest, but I would not pay them more than members who come here and remain every day for six and seven months. If we are absent we have eight dollars a day deducted from our pay during that absence. Take the case of Mr. Sleeper. He has not been here for many months. So with the contestants whose cases were acted upon the other day. They receive pay whether they are here or not. There should be a different plan adopted in regard to them. They have been here thick and fast at this Congress, and they may be thicker at the next Congress, and we are paying these congressional districts for two members more than the compensation that we receive. If this resolution could be amended in such a way that a fair amount shall be paid to them, I shall have no objection.

Mr. MALLORY. I ask for the reading of the resolution as I propose to amend it.

The Clerk read the resolution, as follows:

Resolved, That there be paid out of the contingent fund of the House to James Lindsay and John S. Sleeper, in full for time spent and expenses incurred while contesting the right of John G. Scott and Alexander H. Rice to seats in this House of Representatives, respectively, from the third congressional district of Missouri and the third district of Massachusetts, the usual mileage of a member for one session, and like monthly compensation from the commencement of the session to the date of the passage of the resolutions declaring them not entitled to seats.

Mr. MALLORY. That is the shape in which I wish the resolution submitted to the House. I will say to the gentleman from New York, before I call the previous question, that I would cheerfully agree to any arrangement by which justice and fairness could be arrived at in every case of this kind. I think, myself, we have acted precipitately in many cases, and have sometimes given more than the individuals were entitled to properly, and in some cases less. If the Committee of Elections will introduce some resolution prescribing a rule for the action of the House in cases of this kind, I will very cheerfully consider that resolution in the light of the best information I can bring to bear upon it.

Mr. WILSON. I would suggest to the gentleman from Kentucky that he modify his amendment so as to require the same deduction to be made for absence as is made in reference to members of Congress.

Mr. MALLORY. I do not suppose that matter could very well be arrived at. These gentlemen certainly were not in the House every day. Their presence in the House is not required at all. They may have been in Washington, but out of the House, preparing testimony in their cases, and working as industriously as if they had been in the Hall.

Mr. WILSON. It would be considered as constructive presence if they were engaged in preparing their cases. In one of the cases from Missouri—the case of Price vs. McClurg—Price received a very large amount, and yet he was not here attending to his case one third of the time for which he was paid. I do not think we ought to give full pay in cases of that kind.

Mr. UPSON. I wish to say that in the case of Scott and Lindsay the parties were engaged one or two months in taking testimony during the session, and since that time Mr. Lindsay has been here, I believe, in attendance up to within

a very few days. By a stipulation between him and the sitting member the time for taking testimony was extended, so that January and February were consumed in that matter. In that manner it happened that testimony was taken during the session.

In reference to the case of Sleeper, I voted to pay him when the matter was formerly before the House, considering that he made the contest in good faith, as I think Lindsay did. I conceive that had Lindsay prepared his case with more care, and made it more specific, he might perhaps have produced a different result, but as the evidence stood there was no other conclusion to which the committee could come. The committee, therefore, consider that he prosecuted his claim in good faith, and is entitled to the compensation under the rule, which is to pay mileage and a monthly compensation of \$250 from the commencement of the session. I believe Lindsay reduced the majority of the sitting member down to sixty, thus making it a very close case.

Mr. STEVENS. I raise a point of order on the resolution. I think we have a rule of this House explicitly providing that when a subject has been once acted upon it shall not be again acted upon by the same Congress.

The SPEAKER. The Chair would state that that rule applies to a resolution indefinitely postponed. That could not be called up and acted upon by the House, but it could if it came up in a different shape. This resolution provides a different compensation from the former one.

Mr. MALLORY. I demand the previous question on the amendment.

The previous question was seconded, and the main question ordered, being first upon Mr. MALLORY's amendment.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 66, not voting 48; as follows:

YEAS—Messrs. William J. Allen, Aucona, Baily, Augustus C. Baldwin, Blaine, Bliss, Brooks, James S. Brown, William G. Brown, Chanler, Coffroth, Cravens, Dawes, Dawson, Eden, Edgerton, Eldridge, Finck, Ganson, Gooch, Grider, Griswold, Hale, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, Marvin, McAllister, McDowell, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pruyn, Radford, Samuel J. Randall, Robinson, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Thayer, Thomas, Tracy, Upson, Ward, William B. Washburn, Webster, Joseph W. White, and Fernando Wood—68.

NAVS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blair, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Denning, Dixon, Donnelly, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Higby, Hochkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jencks, Julian, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Longyear, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perlman, Pike, Pomeroy, Price, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Stevens, Van Valkenburgh, Elihu B. Washburne, Williams, Wilson, and Win-dom—66.

NOT VOTING—Messrs. James C. Allen, Anderson, Brandegee, Clay, Cox, Creswell, Henry Winter Davis, Denison, Briggs, Dumont, English, Grinnell, Hall, Charles M. Harris, Hooper, Hutchins, Ingersoll, Kasson, Kelley, King, Loan, McBride, McClurg, McIndoe, McKimney, Middleton, William H. Miller, Morrill, Pendleton, Perry, William H. Randall, Alexander H. Rice, Rogers, James S. Rollins, Scott, Smith, Starr, Stebbins, Voorhees, Wadsworth, Whaley, Wheeler, Chittion A. White, Wilder, Winfield, Benjamin Wood, Woodbridge, and Yeaman—48.

So the amendment was agreed to.

The question recurred on agreeing to the resolution as amended.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 59, not voting 52; as follows:

YEAS—Messrs. William J. Allen, Aucona, Baily, Augustus C. Baldwin, Blaine, Bliss, Blow, Brooks, James S. Brown, William G. Brown, Chanler, Coffroth, Cravens, Dawes, Dawson, Denison, Eden, Edgerton, Eldridge, Ganson, Gooch, Grider, Hale, Harding, Benjamin G. Harris, Herrick, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Knapp, Knox, Law, Lazear, Long, Mallory, Marcy, Marvin, McAllister, McBride, McClurg, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pruyn, Radford, Samuel J. Randall, John H. Rice, Robinson, James E. Rollins, Ross, Shannon, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Thayer,

Thomas, Tracy, Upson, Ward, William B. Washburn, Webster, Whaley, Winfield, and Fernando Wood—71.

NOTES.—Messrs. Alley, Allison, Ames, Anderson, Atwood, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Brownell, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Deming, Dixon, Donnelly, Eckley, Eliot, Furnsworth, Finck, Frank, Garfield, Higby, Hotchkiss, Asabel W. Hubbard, John H. Hubbard, Hurlbut, Jenekes, Julian, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Pike, Pomeroy, Price, Edward B. Rollins, Schenck, Scofield, Sloan, Smithers, Spalding, Stevens, Van Valkenburgh, Elihu B. Washburne, Williams, Wilson, and Windom—59.

NOT VOTING.—Messrs. James C. Allen, Blair, Boyd, Brandegee, Clay, Cox, Creswell, Henry Winter Davis, Briggs, Dumont, English, Fenton, Grinnell, Griswold, Hall, Harrington, Charles M. Harris, Holman, Hooper, Hutchins, Ingersoll, Kasson, Kelley, King, Le Blond, Loan, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Morrill, Patterson, Pendleton, Perham, Perry, William H. Randall, Alexander H. Rice, Rogers, Scott, Smith, Starr, Stebbins, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Wilder, Benjamin Wood, Woodbridge, and Yeaman—52.

So the resolution was agreed to.

Mr. MALLORY moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAY OF CONTESTANTS.

Mr. ODELL asked the consent of the House to introduce the following resolution:

Resolved, That the Committee of Elections be instructed to report a bill which shall fix a proper scale of compensation for contestants to seats in this body, the provisions of which shall fully indemnify for expenses actually incurred in presenting their claims to seats, but not to affect any who may now be claimants.

Mr. STEVENS. I object.

PRIVATE BUSINESS.

The SPEAKER stated that the business in order was the call of committees for reports of a private nature.

Mr. STEVENS. I move that private business be dispensed with for the balance of the day for the purpose of taking up the Pacific railroad bill.

MILITARY OFFICERS IN CONGRESS.

Mr. DAWES. I rise to a question of privilege. I call up the report of the Committee of Elections upon the military appointments of members of this House. I ask that the resolutions reported from the committee may be read.

The resolutions were read, as follows:

Resolved, That Robert C. Schenck, having resigned the office of major general of volunteers, which he then held, on the 13th day of November, 1863, whose resignation was accepted November 21, 1863, to take effect December 5, 1863, was not, by reason of having held such office, disqualified from holding a seat as a Representative in the Thirty-Eighth Congress, whose first session commenced on the 7th day of December, 1863.

Resolved, That Francis P. Blair, jr., by continuing to hold the office of major general of volunteers, to which he was appointed November 29, 1862, and to discharge the duties thereof till January 1, 1864, the date of his resignation, did thereby decline and disqualify himself to hold the office of Representative in the Thirty-Eighth Congress, the first session of which commenced on the 1st Monday in December, 1863.

Mr. DAWES. I now ask the previous question on the resolutions, unless some gentleman proposes to debate them.

Mr. STEVENS. It seems to me that a very important principle is involved in the resolutions which have been reported from the Committee of Elections, reversing the established practice of the House heretofore. I do not know at any rate why the committee should have brought before the House the case of the gentleman from Ohio, [Mr. SCHENCK.] There is no contest in reference to the seat held by him here. His name has not been mentioned at all in this connection except in a communication from the President incidentally, as coupled with that of another gentleman, but there has no question been raised in reference to his seat. Now, as to the other question which has been decided by the Committee of Elections, that the seats of members of this House should be vacated in consequence of holding military commissions, I had supposed that the principle had been followed that a person elected as a member of this House could properly continue to hold a commission as an officer in the volunteer force until he was sworn in as a member of Congress, or that he might hold it until he had made his election whether he would hold the commission or the seat, but that when he came here and took

his seat as a member of Congress he would vacate his commission.

Mr. FARNSWORTH. I ask the gentleman from Pennsylvania if he does not think a man makes his election when he exercises the duties of his office?

Mr. STEVENS. I do. I think the very moment a man takes his seat here in the House he is no longer a major general.

Mr. FARNSWORTH. Suppose he was exercising the duties of major general on the 4th of March when the Congress commenced, would that vacate his right as a member of Congress?

Mr. STEVENS. I will reply to the gentleman if I can have the opportunity.

Mr. DAWES. Let me say to the gentleman from Pennsylvania that the report of the Committee of Elections upholds his opinion precisely. The gentleman will excuse me for saying that if he had read the report of the committee he would not object to the resolutions we have reported.

Mr. STEVENS. I did not know that it was to be called up to-day, and have not read the report.

Mr. DAWES. I do not want to press this report against the wish of the House, if the gentleman from Pennsylvania or any gentleman desires its postponement.

Mr. STEVENS. I would prefer that some time should be given for its consideration. It involves a great principle.

Mr. DAWES. It does involve a great principle, and one that ought to be settled.

Mr. STEVENS. I should prefer time to consider for a few days.

Mr. DAWES. I do not know when that few days will end at this stage of the session. If the House will grant a reasonable time to dispose of the matter hereafter, that is all I want.

The SPEAKER. The Chair will say that the gentleman from Massachusetts can call his resolution up any time as a question of privilege.

Mr. DAWES. Very well, I will call it up on Monday at one o'clock.

PACIFIC RAILROAD.

Mr. STEVENS. I now move to dispense with private business for the remainder of the day for the purpose of taking up the Pacific railroad bill.

PENNSYLVANIA CONTESTED ELECTION.

Mr. SCOFIELD. I rise to a question of privilege. I call up the contested-election case of Kline and Myers. I suppose it will consume but little time in disposing of it, and the parties are both anxious to have it disposed of.

Mr. STEVENS. Does that prevent a motion before the House from being put?

The SPEAKER. It does. It is a question of privilege affecting the right of members to their seats in this House.

Mr. SCOFIELD. I ask that the report and resolutions may be read.

The Clerk read, as follows:

The Committee of Elections, to whom was referred the memorial of John Kline, contesting the right of Hon. Leonard Myers to a seat in the Thirty-Eighth Congress as a Representative from the third district of the State of Pennsylvania, and praying to be admitted to the same himself, having considered the same, and the evidence submitted in reference thereto, respectfully submit the following report:

The contestant, by his own acknowledgment, has failed to substantiate the specifications or charges contained in his notice of contest by any evidence he has been able to lay before the committee, and it is therefore unnecessary to make any statement of the facts in the case. He, however, furnishes satisfactory evidence that he had made an unsuccessful effort to procure a recount of the ballots within the sixty days allowed for the taking of depositions, and before the officers selected for that purpose. And upon his showing this fact, and upon his further suggestion that the result of a recount might possibly differ from the first, he bases an application for an order from this House to send for the boxes and recount the votes.

The committee were of opinion that such an application should be founded upon some proof, sufficient, at least, to raise a presumption of mistake, irregularity, or fraud in the original count, and ought not to be granted upon the mere suggestion of possible error. The contestant failed to furnish such proof. On the contrary, so far as appeared by the evidence presented to the committee, the election was conducted with perfect good order and fairness throughout the day, and at the close the votes were carefully and accurately counted, the officers participating therein being nearly equally divided in their political alliances. The list of voters, tally papers, and returns were properly made out and disposed of according to law. There is nowhere in the evidence a reasonable suspicion of wrong. To adopt a rule that the ballot-boxes should be opened upon the mere request of the defeated candidate would occasion more fraud than it could possibly expose. The number of ballot-boxes in each congressional district is seldom less

than fifty, and often more than two hundred. They are usually left in the care of a magistrate or some township officer, by whom they are deposited in no safer place than an upper shelf in a public office.

The opportunities of tampering with the boxes thus scattered through the district would be abundant; and if it was known in advance that a second count could be had without discrediting the first, the temptation to do so would be strong. It makes no difference in settling the rule, that in this particular case the votes had been carefully guarded by the mayor and recorder, under a special law for the city of Philadelphia. That fact would only strengthen the confidence in the result of a recount in this case, but does not show the propriety of establishing a general rule authorizing a recount whenever asked. It should be remembered that the fact sought is not what the ballot-boxes contain six months or a year after the election, but what they did contain after the last vote was deposited on the day of election. Certainly an impartial, accurate, and public count, then, by the sworn officers of the law, would be better evidence of that fact than any subsequent count not more impartial and not presumed to be more accurate than the first, and after the boxes had been long exposed to the tampering of dishonest partisans. The adoption of such a practice would be equivalent to setting aside the first count altogether, and it ought on that principle to be dispensed with, and the ballots sent to this House instead of certificates.

The rule adopted by the committee is in accordance with the universal practice of courts of justice, where a new trial or a rehearing is never granted except upon proof of probable error in the first, in accordance with the rulings in several contested-election cases decided in the courts of the State from which this contest comes, and believed not to be in conflict with any precedent of this House.

The committee therefore recommend the adoption of the following resolutions:

Resolved, That John Kline is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the third congressional district of Pennsylvania.

Resolved, That Leonard Myers is entitled to the seat now occupied by him as a Representative in the Thirty-Eighth Congress from the third congressional district of Pennsylvania.

Mr. RANDALL, of Pennsylvania. I ask my colleague [Mr. SCOFIELD] whether he designs to allow discussion on these resolutions.

Mr. SCOFIELD. I propose to move the previous question after the parties have said what they may have to say. I do not intend to discuss it myself.

Mr. RANDALL, of Pennsylvania. I cannot allow this report to be passed upon by the House without expressing my dissent from the position assumed by the Committee of Elections. There is a law in Pennsylvania for the safe-keeping of the ballot-boxes, and they have been so guarded under that law. The only manner in which the contestant could possibly prove the frauds which he alleges, and which a large portion of the community believe were committed, was in examining these boxes; and the committee refused to give him that privilege. Hence the committee cut off the only means by which he could prove his case. There was in this election only a majority of 45 or 46; and I doubt not that if the contestant had had the opportunity he would have been able to show that he was duly elected, and was clearly entitled to his seat. This being denied him, I must offer my protest thereto.

Mr. STILES. Mr. Speaker, the report of the committee is predicated on the statement that no preliminary evidence had been submitted to the committee authorizing it to direct a recount of these ballots. I dissent entirely from the opinion of the committee. I understand that the committee was not unanimous on this question. The act of Congress regulating contested elections was complied with by the contestant, and entitles him to a recount of the ballots without preliminary evidence. In this case the contestant complied with the act of Congress by giving the necessary notice of contest, which, in my judgment, was all that the law required him to do. The laws of Pennsylvania made the mayor and recorder of Philadelphia the joint custodians of these boxes, and the mayor refused to furnish them.

It was argued before the committee by the sitting member that it should be proved, before a recount was ordered, that some mistake or error had been committed, or proof that there was fraud. In deciding the question the committee has assumed the position of the sitting member, and has decided that it could not go into a recount of the ballots without preliminary evidence. I dissent entirely from the views of the committee. The act of Congress requires no such evidence. It simply requires notice to be given of the contest; and notice having been given, the contestant is entitled to the examination of all the papers and ballots, and that has been the uniform course of the committee in contested-election cases. I protest

against the conclusion to which the committee has arrived. The report says:

"It should be remembered that the fact sought is not what the ballot-boxes contain six months or a year after the election, but what they *did* contain after the last vote was deposited on the day of election."

When we remember that the boxes in this case are as secure now as they were when closed by the officers, the position of the committee has not the semblance of argument.

There is another thing in the report of my colleague which I think is not justified by the evidence and facts in the case. It is, that the contestant waives the other matters of contest, besides the question as to the boxes. I did not understand that the contestant waived any point of contest.

Mr. SCOFIELD. I understood the chairman of the Committee of Elections to ask the gentleman who now has the floor, speaking for Mr. Kline, whether he desired to be heard on any other point than in regard to the ballot-boxes, and I understood the gentleman to say he did not.

Mr. STILES. I told him that I desired to present no other point until this point was decided. The chairman of the Committee of Elections will bear me out as to what I said.

Mr. SCOFIELD. That is the way I understood you.

Mr. STILES. I have no doubt that you so understood me. I find no fault. The act of the Legislature of Pennsylvania, passed specially for the city of Philadelphia, enjoins the mayor and recorder of the city to be the custodians of the boxes containing all the ballots cast for all the officers voted for. The boxes were placed in the hands of those officers. They were summoned to appear before the judge who took the testimony. The recorder was willing to have the ballots recounted; but the mayor declined, giving as a reason that the Committee of Elections was the proper tribunal to call for the production of the ballots. I will not read his testimony because it is somewhat lengthy. The question was referred by the mayor to the Committee of Elections, and that committee have declined to open the boxes, upon the ground, as I have said before, that we laid no preliminary ground. I submit that there is evidence in this case which shows some ground for suspicion of fraud at this election.

There is another point to which I desire to call the attention of the House. These judges assembled and for the purpose of getting the returns from the prothonotary's office they adjourned and some of them left. Immediately afterwards a peremptory mandamus was served upon the judges present and they gave the certificate to the sitting member. That circumstance was sufficient itself to cast suspicion upon this election and return. In addition to that a paper was submitted to the committee, though not an official paper, that the returns of one precinct was omitted, whether intentionally or by mistake I do not know. The slightest evidence of fraud ought to suffice, even if the view of the committee is adopted.

I think that a recount was a matter of justice to the contestant as well as to the sitting member, and I do not see why he should have objected to it.

The gentleman who presented the report of the Committee of Elections referred to the manner in which the ballot-boxes are generally kept in that State. Now the thing complained of was corrected by the law of 1861. The ballot-boxes are so kept there that there is no possibility of tampering with them. No person is allowed to go into the vault where they are kept. The mayor cannot go in there himself without the consent of the recorder. The keys of that vault are held jointly by them. There is nothing therefore in the argument that these boxes may have been tampered with. They may be kept there forever without any probability of their being tampered with. I do not desire to detain the House or I would read the testimony of the mayor. He testifies that these boxes have been safely kept and that they have not been touched since they were deposited there. I would like to know whether the statement in this report is meant to be general, or only to refer to this particular case.

Mr. SCOFIELD. If my colleague had noticed the report he would have had his answer. The committee say that it "makes no difference in settling the rule, that in this particular case the votes

had been carefully guarded by the mayor and recorder, under a special law for the city of Philadelphia." The committee have decided against the abstract propriety of counting votes over and over again whenever anybody wishes it.

Mr. STILES. The report seems to go upon the ground that these boxes have been tampered with. I will read from the report:

"To adopt a rule that the ballot-boxes should be opened upon the mere request of the defeated candidate would occasion more fraud than it could possibly expose. The number of ballot-boxes in each congressional district is seldom less than fifty, and often more than two hundred. They are usually left in the care of a magistrate or some township officer, by whom they are deposited in no safer place than an upper shelf in a public office. The opportunities of tampering with the boxes thus scattered through the district would be abundant; and if it was known in advance that a second count could be had without discrediting the first, the temptation to do so would be strong."

I submit that that does not apply to this case at all. Under the law of 1861 these boxes were kept where they could not be tampered with. The mayor so testifies.

In deciding to refuse to allow a recount the committee has decided the whole case; and I suppose no argument here could reverse the report in this House. Mr. Kline is satisfied he was duly elected, and that upon a proper investigation of the case this fact would appear. Protesting for him against the conduct of the mayor of Philadelphia in refusing to do his duty, and protesting against the action of the committee, I submit the case for the decision of the House.

Mr. SCOFIELD demanded the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolutions were agreed to.

Mr. SCOFIELD moved to reconsider the vote by which the resolutions were adopted; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The question recurs on the motion of the gentleman from Pennsylvania to dispense with private business during the remainder of the day.

Mr. STILES. I hope my colleague will yield a moment.

Mr. STEVENS. I had hoped this would be the last time I should be asked to yield. This has been a very unlucky day for me. I hope we shall proceed with the Pacific railroad bill now.

The House divided on the motion; and no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. STEVENS and Mr. STILES.

The House divided; and the tellers reported—ayes 55, nays 37.

So the motion was agreed to.

The SPEAKER. The first business is the Pacific railroad bill; the previous question has been called upon the pending amendments thereto.

PENNSYLVANIA CONTESTED ELECTION.

Mr. DAWES. I rise to a privileged question. I call up the contested election case of Carrigan vs. Thayer.

The SPEAKER. The gentleman cannot call that case up now, as the House is now engaged in the consideration of the Pacific railroad bill.

Mr. DAWES. I ask the gentleman from Pennsylvania to yield for that purpose.

Mr. STEVENS. What is the case?

Mr. DAWES. Carrigan vs. Thayer, upon which I propose to call the previous question.

Mr. STEVENS. If it will not occupy any time, and the gentleman will call the previous question and stick to it, I will yield.

Mr. DAWES. I propose to do so.

Mr. STEVENS. Upon that condition I yield. Mr. STILES. I ask leave, on behalf of Mr. Carrigan, the contestant, that he may be permitted to print the remarks he has prepared, as he is not present.

Leave was granted.

The following are the remarks:

Mr. CARRIGAN. Mr. Speaker, I embrace this opportunity to present to this honorable body over which you preside with impartiality and ability my sincere acknowledgments for the courtesy of the floor, pending the contest about to be decided, and for the privilege accorded me of addressing the House in my own behalf. The

honorable Committee of Elections, after a patient hearing, have, by their report, made me responsible for a defect in the law of 1851, prescribing the mode of taking evidence, which defect excludes the great mass of testimony adduced. Construing the law with judicial nicety, the decision of the committee may be right; but viewing the equities, as well as the great latitude invariably allowed in cases of this kind, I think the committee, without straining their delegated authority or assuming any more than the usual responsibility, might have admitted the whole of my testimony. In their judgment they have decided otherwise; to it I respectfully submit, but not without my earnest protest.

At an earlier period in the session I would have spoken at length upon this point, as well as the merits of my case, prepared at the cost of much time and labor; but in view of an early adjournment, which all desire, and the unfinished business of much more importance to the public and this House than any remarks I might make, I waive the right you have accorded me, ask leave to print what I may desire to say, and await with submission the judgment of the House on the resolutions reported from the committee.

Mr. DAWES. I call the previous question upon the resolutions reported by the committee.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof the following resolutions were agreed to:

Resolved, That Charles W. Carrigan is not entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the fifth congressional district in Pennsylvania.

Resolved, That M. Russell Thayer is entitled to a seat in this House as a Representative in the Thirty-Eighth Congress from the fifth congressional district in Pennsylvania.

LEAVE OF ABSENCE.

On motion of Mr. W. J. ALLEN, indefinite leave of absence was granted to Mr. J. C. ALLEN.

QUARTERMASTER'S DEPARTMENT, ETC.

Mr. SCHENCK. I ask the gentlemen from Pennsylvania to give way a moment to allow the Committee on Military Affairs to report back two Senate bills that they may be printed and recommitted to the committee. One is a bill to reorganize the quartermaster's department, and the other the engineer department.

Mr. STEVENS. I have no objection to that. Mr. SCHENCK. I ask leave to report the bills for the purposes I have mentioned.

Mr. HOLMAN. With the understanding that they are not to be brought back by a motion to reconsider, I shall not object.

Mr. SCHENCK. That is an independent question. I am going to ask unanimous consent to be permitted to report them back at some given time.

Mr. HOLMAN. Are there two bills or one? The SPEAKER. Two.

Mr. HOLMAN. I withdraw my objection.

Mr. SCHENCK thereupon, from the Committee on Military Affairs, reported back with amendments the following bills, which, with the amendments, were ordered to be printed and recommitted to the committee, namely:

An act (S. No. 154) to provide for the better organization of the quartermaster's department; and

An act (S. No. 151) relating to enlistments, and for other purposes.

Mr. SCHENCK. I ask unanimous consent that the Committee on Military Affairs may be permitted to report back these bills at such time as suits the convenience of the House and the committee.

Unanimous consent was granted.

BOARD OF HEALTH FOR THE DISTRICT.

Mr. DRIGGS. I ask the gentleman from Pennsylvania to allow me to present a petition for the establishment of a board of health for this District.

Mr. STEVENS. Oh, no; it is too hot for that. [Laughter.]

Mr. DRIGGS. I merely wish to have it referred to the committee.

Mr. STEVENS. Very well.

Mr. DRIGGS thereupon, by unanimous consent, presented the petition alluded to, and the same was referred to the Committee for the District of Columbia.

PACIFIC RAILROAD.

The House then proceeded to the consideration of House bill No. 438, to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862.

Mr. STEVENS. I move the previous question on the bill.

The SPEAKER. That supersedes the previous question on the amendments.

Mr. WASHBURN, of Illinois. Is the amendment entered which I offered the other evening to strike out the tenth section?

The SPEAKER. That amendment is entered.

Mr. ALLISON asked and obtained unanimous consent to offer the following amendment:

Provided, That no bonds shall be issued or land certified by the United States to any person or company for the construction of any part of the main trunk line of said railroad west of the one hundredth meridian of longitude and east of the Rocky mountains until said road shall be completed from or near Omaha, on the Missouri river, to the said one hundredth meridian of longitude.

The previous question was seconded, and the main question ordered.

The question was taken first on the following amendment offered by Mr. PRYNN:

Insert as follows:

The President of the United States shall, by and with the advice and consent of the Senate, appoint a board of commissioners, to consist of seven persons, who shall have and possess all the powers now vested in the Union Pacific Railroad Company, under the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and the said commissioners shall proceed without delay to construct the said railroad and telegraph line as authorized by the said act. The said commissioners shall not be entitled to any compensation for their services, but their necessary expenses, to be audited by the Secretary of the Treasury, shall be paid to them respectively.

The amendment was rejected; there being, on a division—yeas 20, nays 72.

The question was next on the following amendment offered by Mr. PRYNN:

Add as a new section:

And be it further enacted, That the surveys which may be made for the line of the railroad of the said Union Pacific Railroad Company, and any branches or side lines to be constructed by said company, and the maps and profiles thereof, shall be submitted to a commission of three skillful and impartial engineers, to be appointed by the President of the United States, who, or a majority of them, shall, subject to the approval of the President, fix upon and determine the termini and route or line of said road, and of any and every side line or branch thereof above referred to, and the said road, side lines, and branches shall be constructed on the said several routes or lines so determined upon; and if at any time the directors of the said company shall desire to change any part of the route or line of the said road the provisions hereinbefore contained shall apply to such proposed new line, and the route thereof shall be settled and determined upon in like manner as is above provided with regard to the original line or route of said roads. All determinations of the said commissioners shall be reduced to writing, and be subscribed by them, or a majority of them, in duplicate, one to be filed with the Secretary of the Treasury, and the other to be delivered to the said company.

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were not ordered.

The question was taken, and the amendment was rejected.

The question was next on the following amendment offered by Mr. PRYNN:

Add as a new section:

And be it further enacted, That before any of the bonds of the United States, authorized by this act to be issued to the said company, to aid in the construction of its road and works, shall be issued or delivered to the said company, the directors thereof shall submit to and file with the Secretary of the Treasury a statement of all contracts, if any, made up to that time by the said company, relating to the survey, location, or construction of its said road and works, and to the purchase of iron rails or rolling stock therefor; when statement shall be verified by the oath of the President and a majority of the directors of the said company, or in such other manner as the Secretary of the Treasury and Attorney General may require, and unless the Secretary of the Treasury and the Attorney General shall be satisfied that the said contracts are fair and bona fide, and that it is for the interest of the said company, and of the United States, that the same should be carried into effect, the said Secretary shall withhold the issue and delivery of said bonds until such contracts, or such of them as may not be approved, shall be properly annulled or modified, to the satisfaction of the said Secretary and Attorney General. And from and after the passage of this act, no contract which may be entered into by the said company for the purchase of real estate or iron rails, or in any way for or on account of the construction of its road or works, or the purchase of rolling stock therefor, shall be of any force, effect, or validity, until the same shall have been approved by the said

Secretary and Attorney General. But the said Secretary and Attorney General may at any time give such limited authority to the said company to make contracts for the purchase of such real estate as it may need for the line and accommodations of its road, subject to such terms as they may deem proper, and to the final approval of the said Secretary and Attorney General, and the said Secretary and Attorney General may at any time require the services of any officer or officers, or the engineer or topographical corps to be detailed on their requests by the Secretary of War, to aid them in the discharge of the duties hereby conferred to them; and if the said company shall construct or equip its road and branches, or any part thereof, by its own officers or agents, it shall from time to time, and as often as the Secretary of the Treasury and Attorney General may require the same, and at least quarterly yearly, report to the said Secretary and Attorney General, in writing, under the oath of its president and treasurer, and at least three of its directors, as to the extent and character of the work in which it is engaged, and the cost thereof, classified by items, with all such particulars as the said Secretary and Attorney General may require; and if the said Secretary and Attorney General are not satisfied with the proceedings of the said company in the premises, the said Secretary shall not issue or deliver to the said company any further amount of the bonds authorized to be issued in aid of the said company as aforesaid, until the said company shall have done such acts and conformed to such arrangements and requirements as may be satisfactory to the said Secretary and Attorney General.

The question was taken, and the amendment was rejected.

The question was next on the amendment of Mr. WASHBURN, of Illinois, to strike out the tenth section of the bill, as follows:

SEC. 10. *And be it further enacted*, That section five of said act be so modified and amended that the Union Pacific Railroad Company, the Central Pacific Railroad Company, and any other company authorized to participate in the construction of said road, may issue their first mortgage bonds on their respective railroads and telegraph lines to an amount not exceeding the amount of the bonds of the United States authorized to be issued to said railroad companies respectively. And the lien of the United States bonds shall be subordinate to that of the bonds of any or either of said companies hereby authorized to be issued on their respective roads, property, and equipments. And said section is further amended by striking out the word "forty" and inserting in lieu thereof the words "on each and every section of not less than twenty."

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 38, nays 81, not voting 63; as follows:

YEAS—Messrs. Ancona, Arnold, Baily, John D. Baldwin, Boutwell, Cobb, Crosswell, Dawson, Donison, Eden, Edgerton, Farnsworth, Hale, Harding, Harrington, Herrick, Holman, William Johnson, Orlando Kellogg, Kernan, Law, Marcy, McDowell, Morrison, Nelson, John O'Neill, Orth, Rogers, Edward H. Rollins, Seefeld, Sloan, Spalding, Stiles, Thayer, Tracy, Upson, Elihu B. Washburne, and Joseph W. White—38.

NAYS—Messrs. Allison, Ames, Anderson, Ashley, Baxter, Beaman, Blaine, Blair, Blow, Boyd, Brooks, Broomall, Ambrose W. Clark, Cole, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eldridge, Eliot, English, Finck, Goeh, Griswold, Benjamin G. Harris, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Julian, Kelley, Francis W. Kellogg, Knapp, Knox, Le Blond, Littlejohn, Long, Lougyear, Marvin, McBride, McClurg, Samuel F. Miller, Morrill, Daniel Morris, James K. Morris, Amos Myers, Leonard Myers, Noble, Norton, Charles O'Neill, Perham, Pomeroy, Price, Samuel J. Randall, John H. Rice, James S. Rollins, Ross, Schenck, Scott, Shannon, Smithers, John B. Steele, William G. Steele, Stevens, Stuart, Sweat, Van Valkenburgh, Ward, William B. Washburn, Webster, Winkley, Wheeler, Williams, Wilson, Windom, Winfield, and Benjamin Wood—81.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Augustus C. Baldwin, Bliss, Brandegee, James S. Brown, William G. Brown, Chandler, Freeman Clarke, Clay, Coffroth, Cox, Cravens, Henry Winter Davis, Dumont, Fenton, Frank, Ganson, Garfield, Grider, Grinnell, Hall, Charles M. Harris, Hooper, Hutchins, Ingersoll, Jenckes, Philip Johnson, Kalbfleisch, Kasson, King, Lazar, Loan, Mallory, McAllister, Melndoe, McKinney, Middleton, William H. Miller, Moorhead, Odell, Patterson, Pendleton, Perry, Pike, Prunty, Radford, William H. Randall, Alexander H. Rice, Robinson, Smith, Starr, Stebbins, Strouse, Thomas, Voorhes, Wadsworth, Chilton A. White, Wilder, Fernando Wood, Woodbridge, and Yeaman—63.

So the amendment was rejected.

The question was next on the amendment offered by the gentleman from Iowa [Mr. ALLISON] above reported.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time.

Mr. HOLMAN called for the reading of the engrossed bill.

The SPEAKER. The bill is not yet engrossed. The bill will go to the Speaker's table.

Mr. STEVENS. I move to reconsider the vote by which the bill was ordered to be engrossed.

Mr. WASHBURN, of Illinois. I move to lay the motion on the table.

Mr. WILSON demanded the yeas and nays. Mr. STEVENS. I withdraw the motion. Mr. BROOKS. I renew the motion.

NAVY-YARD AT CAIRO, ILLINOIS.

The SPEAKER. The motion will be entered on the Journal. The business next in order is the unfinished business of the Committee on Naval Affairs, being the joint resolution in reference to a navy-yard for iron-clads in the western waters.

Mr. WASHBURN, of Illinois. The chairman of the Committee on Naval Affairs is not present. I offer as an amendment to the joint resolution the bill on the same subject passed by the Senate.

Mr. W. J. ALLEN. I suggest to my colleague to ask to have that bill taken from the Speaker's table and put upon its passage.

Mr. WASHBURN, of Illinois. I adopt that suggestion.

There being no objection, Senate bill No. 190, to establish a navy-yard and depot at Cairo, in the State of Illinois, was taken from the Speaker's table, and read a first and second time.

Mr. WILSON. I rise to a question of order, that the bill contains an appropriation, and it must first be considered in the Committee of the Whole.

Mr. WASHBURN, of Illinois. That point of order comes too late.

The SPEAKER. The point of order the Chair thinks comes too late. This bill was by general consent substituted for the House bill.

Mr. WILSON. I rose as soon as the bill was read, and could not know that it contained an appropriation until it was read.

The SPEAKER. The Chair will state that the matter came up in the first place as unfinished business. The suggestion was made very audibly to the House that the Senate bill should be taken up instead of the House bill. The question was put to the House, and no objection was made. The Chair thinks, although the bill had not been read, as it was taken up by unanimous consent it is now too late to raise an objection.

Mr. WILSON. I move to lay the bill on the table.

Mr. WASHBURN, of Illinois. The gentleman will have to wait until he gets the floor before he makes that motion.

LEAVE OF ABSENCE.

On motion of Mr. GOOCH, by unanimous consent, leave of absence was granted for two days to Mr. RICE, of Massachusetts.

NAVAL DEPOT.

Mr. FENTON. With the leave of the gentleman from Illinois, I desire to know how, in accordance with his practice, that gentleman can possibly vote to expend all this money. I understood him to say the other day in the House that he would not consent to spend any money of the Government that was not absolutely necessary.

Mr. WASHBURN, of Illinois. That is precisely my line of legislation, and this legislation is precisely in that line. If the gentleman from New York is as consistent, I do not think his reputation will suffer.

Mr. FENTON. I do not anticipate any damage to my reputation in comparison to that the gentleman from Illinois will suffer in advocating this bill.

Mr. SPALDING. I ask the gentleman to yield to me for a moment.

Mr. WASHBURN, of Illinois. I will yield to the gentleman presently.

Mr. Speaker, the proposition which the House has now before it is one which has been considered most elaborately by the Senate, and which passed that body with only three dissenting votes. I need not tell the House what every member here must know, that the establishment of a naval depot on the Mississippi river or some of its tributaries is absolutely necessary. It is well known that we have some three or four hundred naval vessels on that river; we are building more, and there must be some place for repairs to be made. Everybody, I believe, agrees to the proposition that we must have a naval depot on the Mississippi river.

Now the only question which arises is, as to the best method of establishing it, and as to the point to be selected. The proposition of the Naval Committee of the House was to authorize the ap-

pointment of a naval commission by the Secretary of the Navy, to be composed, as I now recollect, of one civilian, one Navy officer, and one Army officer, whose duty it should be, after making proper investigations, to determine upon a site, their decision to be final.

Now I take it for granted that this House will prefer to hold the power in its own hands, and not to abdicate its authority in favor of any commission. The whole question came up in the Senate in regard to the proper course to be pursued, whether a commission should be appointed by the Secretary of the Navy, or whether Congress itself should determine upon the locality, and that is the only question before the House, for I do not believe there can be any doubt that we must have a naval depot somewhere on the Mississippi river; and taking that for granted, I cannot conceive there can be any doubt that Cairo, or some point in its neighborhood, is the only suitable point there can be for its location. There is always water enough for ordinary-sized boats there. There is never ice to interfere with the operations. Cairo and Mound City are both healthy, and I believe there is no reasonable objection to its location at that point.

Mr. WILSON. I desire to ask the gentleman from Illinois whether, if this bill passes, there is any possibility of the location of this naval depot at Mound City?

Mr. WASHBURN, of Illinois. The bill says "at or near Cairo."

Mr. WILSON. I think it says "at Cairo." Mr. WASHBURN, of Illinois. "At or near Cairo" is the language of the bill. I ask the Clerk to read it.

The Clerk read from the bill.

Mr. WASHBURN, of Illinois. I ask the gentleman if he is not satisfied that I am right.

Mr. WILSON. If the gentleman will permit me to answer his question I will say that I am aware of the fact of there being a heavy lobby influence at work in both Houses to secure the passage of this bill, in order that the location may be fixed at Cairo; and that if the bill must pass it is a foregone conclusion that Cairo is the point at which it will be fixed. I know that those who are best acquainted with the locality of Cairo declare that it is entirely unfit for the establishment of a naval depot, and therefore I desire the appointment of a commission.

I ask the gentleman, before he attempts to put this bill through under the previous question, to allow a fair opportunity for the discussion of the merits of the question involved.

Mr. WASHBURN, of Illinois. The gentleman has made a charge in regard to the lobby. I desire to ask him who the lobby are and what measures they have taken to force this bill for Cairo through Congress. Let him give us the names of the lobby members.

Mr. WILSON. I do not propose to give any names to the gentleman from Illinois. I propose to meet him exactly as he has met other questions.

Mr. WASHBURN, of Illinois. The gentleman has charged that there is a very heavy lobby to get the naval depot located at Cairo. He says he knows the fact. I ask him to give us the names of some of the parties who are here lobbying.

Mr. WILSON. I do not propose to do any such thing.

Mr. WASHBURN, of Illinois. Then the gentleman had no right to make such a statement.

Mr. WILSON. I am doing exactly what the gentleman has done on other occasions.

Mr. ELDRIDGE. I rise to a point of order. I insist that it is not in order for two gentlemen to talk at the same time.

The SPEAKER. The Chair sustains the point of order.

Mr. WASHBURN, of Illinois. The gentleman from Iowa has failed to make good the charge which he has made here before the House. He says that he has only done the same as I have done on other occasions. Sir, I have made no charges upon any bill which I have not been prepared to meet. When I make charges and I am called upon to stand up to them I never take the back track. I do not say my friend does.

Mr. WILSON. I do not do so either.

Mr. WASHBURN, of Illinois. I desire to say that I offered the amendment to the bill introduced by the gentleman from Massachusetts

for the reason that my colleague, [Mr. W. J. ALLEN,] in whose district Cairo is, and who, therefore, feels a deeper interest in the matter than I do, was absent. I will yield now to my colleague.

Mr. W. J. ALLEN. It was not my purpose to have said a single word upon this question, deep as is the interest I feel in its decision by this House. That the House should be informed as to the character of the entire question, at an early period of the session I took the trouble to have laid upon the desk of every member a memorial in regard to this matter, and evidence as to Cairo being the proper location for a depot and navy-yard. With this I expected to be content and bow submissively to any conclusion the House might reach. Remarks have been made, however, by the gentleman from Iowa [Mr. WILSON] and others that would seem to require a passing notice from me. I represent the district where this depot is proposed to be located. I understood the gentleman from Iowa to say that there had been a very heavy lobby interest at work for the purpose of passing this bill. Now, if that is the fact, I desire to state that it is wholly unknown to me. I think I know almost every prominent citizen in Cairo. I live within fifty miles of the place, and I do not think there have been half a dozen citizens of Cairo in Washington during the present session. If any one had been here lobbying in regard to this matter I rather think they would have approached me upon the subject. If any one has approached the gentleman and attempted to influence his action, or has approached any member of the House for that purpose, I should like to know the names of the persons who have done it.

I understand him to say that Cairo is not the proper place for the location of a depot of this character. That may be his opinion, but I hope such opinion will not be binding upon this House. All I have to say to the gentleman is that in expressing that opinion he comes in direct conflict with Commodore Foote, and very many other gentlemen who are perfectly familiar with the location of Cairo, and all the facilities at that point necessary to carry on successfully a navy-yard depot. I have the written opinion of Commodore Foote and of other naval officers based upon their actual knowledge, as well as upon surveys made, which refute any such judgment as that pronounced by the gentleman from Iowa. I heard it remarked in the Senate the other day that overflows of the Ohio river could not be prevented in, at, or near Cairo, and some gentlemen here are echoing the statement. Now, I desire to say that that is quite a mistake. Since the present levee, including fifteen hundred acres of land, was constructed it has never been overflowed. At one time there was a break in the levee where it was not protected, but this was soon repaired, and Cairo is as safe from overflow to-day as if the banks of the two rivers were forty feet higher. The floods of 1844 and 1849 ought to have tested satisfactorily the question as to the sufficiency of that levee. At each of those floods the levee remained unimpaired; and the rapidity with which capital is seeking an investment at that point, the vast improvements which every day develop there in buildings and business of every description, show that the public have some confidence in Cairo, even if the honorable gentleman from Iowa has none.

Mr. WASHBURN, of Illinois. Will my colleague yield to me?

Mr. W. J. ALLEN. Certainly.

Mr. WASHBURN, of Illinois. My friend from New York says that he understands it overflows during the year—that for a large portion of the year it is under water.

Mr. W. J. ALLEN. What friend is that? I should like to have his explicit statement.

Mr. WASHBURN, of Illinois. I presume the gentleman from New York wants the truth in regard to this matter.

Mr. DAVIS, of New York. I said that I had known of the Mississippi overflowing the lands at Cairo. I have not known that fact within the last two years, but I have known it in years gone by. I have known it within the last eight years, not from personal observation, but from those who bought land there, that they had to take a boat and a long pole to find those lands. [Laughter.]

I will say that I have had some little personal experience with the Mississippi river. I once bought a farm of one hundred and forty-five acres, lying upon the banks of the Mississippi river. It was a beautiful farm, nice location, but the next time I went to see it it was fourteen feet under water. And I went back to Chicago to find the man who screws up whole blocks in that city to know whether I could not make a contract to have my farm screwed up. [Laughter.]

Mr. ASHLEY. I desire to say that I have resided on these rivers and have known the Ohio river to fall forty-five feet. All the lands adjacent to the table lands were inundated, but I take it that did not destroy the value of most of the fine town sites.

Mr. W. J. ALLEN. I desire to say to the gentleman from New York, if he will allow me, that there is no question but what the land at Cairo flooded before the levee was constructed. There is no sort of doubt about that, else there would have been no use of a levee; but I hardly think my friend will have the temerity to say that it has been overflowed since the levee was built. If he were to hazard that statement it would be reckless, to say the least of it. That the Mississippi overflows at many places, and that the gentleman's fine farm was inundated, I am ready to believe; but that has nothing to do with the question we are considering. There are other gentlemen upon this floor who are so much more familiar with the facts of the case—I do not include myself—than the gentleman from New York, that I hope for his own sake he will not repeat the statements he so unadvisedly indulged in a few moments since. I repeat, whatever the gentleman has to say in respect to the Mississippi river I have nothing to reply. I suppose, as I before remarked, that it does overflow in many places. But the point where it is proposed to locate this naval station is about two and a half miles up the Ohio river, where it seldom overflows without there being any protection afforded by a levee. There may have been instances of overflow, but I think they have rarely occurred. When it is remembered that the proposed site of the navy-yard is about thirty-five feet above ordinary low water, and about seven below extreme high water, as determined by a competent and careful engineer, the fears afflicting gentlemen so seriously from overflow will, I hope, be allayed. Gentlemen talk about the cost, &c., at this time of national trouble.

I will remark upon this point that the Cairo City Company offers the Government forty acres of land, if that quantity should be necessary, at a place having abundance of water, with ample anchorage to float the largest vessels, only two miles and a half from the city of Cairo on the Ohio river, not the Mississippi. That company also owns the river front for four miles up the Mississippi and four miles up the Ohio, and it gives the Government the right to select any place deemed most advantageous upon either river, and as much land wherever the selection is made as may be necessary for this naval yard and depot.

Mr. DAVIS, of New York. What has been the average rise of the Mississippi at Cairo? What has been the highest flood there?

Mr. W. J. ALLEN. I cannot answer the first question with certainty; indeed, a feeling of trepidation comes over me by the sad attempt made by the gentleman himself a short time ago. In regard to the second, I have just stated that the site indicated on this chart [holding it up] for the navy-yard, two and a half miles above the confluence of the Ohio and Mississippi rivers, is seven feet below extreme high-water mark.

Mr. DAVIS, of New York. Is it between five and six feet?

Mr. W. J. ALLEN. I cannot pretend to say that, or be more precise than I have, unless I follow the example set me by the gentleman, and I have a repugnance to doing that.

Mr. DAVIS, of New York. I wish to corroborate the statement of my friend from Ohio in regard to the Ohio river. I have seen the same thing.

Mr. FENTON. I understand there is a letter from Admiral Porter in the possession of my friend from Maine, which I hope will be read.

Mr. PIKE. When the gentleman from Illinois closes his remarks I wish to say a word.

Mr. FENTON. Have this letter read.

Mr. PIKE. Has the gentleman from Illinois concluded his remarks?

Mr. W. J. ALLEN. I understand the gentleman desires to read a letter, and as I have heard a great deal about Admiral Porter's disinterested action with reference to this matter I yield for the purpose of having it read.

Mr. PIKE. If the gentleman from Illinois has concluded his remarks I will read it.

Mr. WASHBURN, of Illinois. The gentleman from Illinois holds the floor by my consent, and if he is through I will yield it to the gentleman from Ohio, [Mr. SPALDING.]

Mr. WILSON. I want to ask the gentleman a question. I understand the gentleman to say that the particular point at which it is intended to locate this yard is never inundated. I ask the gentleman to state where that particular point is?

Mr. W. J. ALLEN. I have said very rarely did it overflow. I favored no particular point myself for the location of this yard. But the point where I suppose it is intended to locate it is about two and a half miles above Cairo, outside of the levee, on the Ohio river. I had simply supposed that was the point from marks and indications upon the maps and charts. Soundings have been taken there, and the depth of the water ascertained and marked. The depth of the water is shown to be amply sufficient, and the current is only one and a half mile an hour. It is adjacent to the railroad; coal, iron, and timber of every character necessary in abundance. These, with various other reasons, induced me to suppose that that particular point would probably be selected.

Mr. WILSON. My object was to show that Mound City was entirely out of this ring, and that Cairo was already determined as the point.

Mr. W. J. ALLEN. I desire to say to the gentleman that I represent Mound City as well as Cairo, and I did not know till he was kind enough to inform me that it was entirely out of the ring.

Mr. WILSON. I supposed so, for the reason that the gentleman named a point only one and a half mile from Cairo.

Mr. W. J. ALLEN. Mr. Chairman, I take much interest in Mound City, and in every other locality in my district. This bill only authorizes the President to locate this yard, if he wishes, at or near Cairo, and I suppose Mound City is entirely within the terms of the bill, and if the President deems that the best place he will have the navy-yard located there.

Mr. WILSON. But it seems to be understood that it is to be located only a mile and a half from Cairo.

Mr. W. J. ALLEN. These maps and charts were prepared with reference to the location of the navy-yard at Cairo. This I do not controvert, and the reason for it was the supposition that Cairo was the proper point; yet I have no objection or desire that Mound City should not have a fair and honorable competition with Cairo, and the naval depot located there by the President if it is thought to be the better place. I do not believe the people of Cairo think it is, nor do I believe that the people of Mound City think Cairo the better place. The people in neither place, so far as I know, have objected to the course I have pursued in reference to this matter. I think Mound City is near enough to Cairo to come within the terms of the bill, if it is thought to be the better place. I do not propose to put it out of the ring, or put it in, but to leave its merits and the merits of Cairo to be passed upon by the President. I hardly think my constituents at Mound City, even though dissatisfied with me as their Representative, would exhibit such folly as they would manifest by calling on the gentleman from Iowa, [Mr. WILSON], to represent them. They have shown in the past a degree of intelligence and energy precluding any such an idea. No, sir. That gentleman is a volunteer in this matter.

But, Mr. Chairman, let all this go. That gentlemen from Iowa, from Missouri, from Indiana, and other portions of the country would like to have this great national improvement within their respective States is not to be wondered at. I beg of them, however, not to blame Cairo, because that point is the head of navigation on the Mississippi for vessels of the largest class. Above it and between it and St. Louis you have low water and sand-bars and innumerable difficulties in summer and autumn, rendering navigation difficult even

for small steamers, and in winter you often have ice for periods embracing many weeks, suspending navigation altogether.

The objections to locating a depot for naval purposes high up on the Ohio at Evansville, at New Albany, or any intermediate point, are still more insuperable if possible. Gentlemen, do not let your State pride drive you into opposition to a measure which the President and Secretary of the Navy have both told you is of vital national importance at this time.

I want the location near Cairo, it is true. I have taken a deep interest in trying to get this Congress to fix upon that as the place, but whether gentlemen believe me or not, I will say that if I thought there was a better place for the location of this depot, intended to strengthen the main arm of the public service, even though that place was outside of my State, I would go for it cordially, and contribute everything in my power looking to its success. Holding the floor as I do, by the courtesy of my colleague, [Mr. WASHBURN,] I reluctantly yield it to him.

Mr. WASHBURN, of Illinois. I now yield to the gentleman from Ohio.

Mr. SPALDING. It will be recollected by the House that some weeks ago the Committee on Naval Affairs of the House asked permission to go and explore the western country and select a suitable site for this navy-yard. The House refused to grant that permission. In that decision of the House the Naval Committee acquiesced, and then, from the best lights before them, made a report to this House recommending the appointment of a commission to go, examine, and select a suitable site for a navy-yard. So much for the action of the committee.

Now, a bill comes into this House from the Senate, locating the navy-yard at or near Cairo, in Illinois. It is asked that this bill may be committed to the standing Committee on Naval Affairs of this House. Is it to be refused? Is it to be expected that this bill, so very important in its character and consequences, will be passed through this House with every member of the Naval Committee voting against it, for such will be the case unless the bill is committed? I do not speak here in my place against Cairo or Mound City, much less do I wish to be considered as committed individually against either point. I am as well prepared to vote, or shall vote, in favor of Cairo as Mound City, or perhaps any other place to be suggested. But there are some other points, some on the Mississippi, some on the Ohio, that deserve consideration.

The Committee on Naval Affairs have had petitions in abundance referred to them from points in Indiana, as well as from Illinois, and from points in Missouri as well as from Indiana and Illinois, and it is no more than proper that those petitions and memorials shall be considered.

Now, is this House prepared to say that Cairo, and no other point but Cairo, is the place for the establishment of the depot? As a member of the Naval Committee, I most respectfully protest against it; and I ask that the House will commit this bill to the Naval Committee for its consideration and report, or else amend the bill by the substitute reported from the Committee on Naval Affairs appointing a commission to select a suitable site. If the bill be pressed to a vote now, without submitting it to the consideration of the Naval Committee, or without the amendment of that committee, I shall feel constrained to vote against it.

Mr. WASHBURN, of Illinois. I will yield now to the gentleman from Maine, [Mr. PIKE.]

Mr. PIKE. Some of the gentlemen who have spoken in regard to this resolution know what this site is from personal observation. In that respect they are better informed than I am. I can only speak from what I hear; but I supposed that Cairo was always liable to overflow at the periods of high water in the Mississippi and Ohio rivers. One gentleman who represents a western district told me yesterday that he was there two years ago, and found it so overflowed that they could only get into the second story of the houses there by paddling a boat and getting in through the windows.

Mr. WASHBURN, of Illinois. What member was that?

Mr. PIKE. Mr. LAW, of Indiana. The proposition of the Naval Committee is to refer the

matter to a commission, to report a suitable site; and the question before the House is between that proposition and the Senate bill, which fixes the site at Cairo. A letter from Admiral Foote has been quoted by the gentleman from Illinois [Mr. W. J. ALLEN] as being in favor of fixing the site at Cairo. I hold in my hand the letter he refers to, dated February 9, 1863, and I ask the attention of the House to his description of Cairo. He says:

"In relation to Cairo, the soil is alluvial, and in the highest stages of water it is difficult at times to prevent the overflowing of the levee, involving serious damage of material and stores."

That is Admiral Foote's opinion. I hold in my hand another letter, one from Admiral Porter, and I call attention to it because something has been said of a lobby, about which I know nothing. I understand in relation to Cairo, and have always understood, that it was an eastern speculation, and a very bad speculation at that. I ask the Clerk to read the letter of Admiral Porter.

The Clerk read, as follows:

MISSISSIPPI SQUADRON, FLAG SHIP BLACK HAWK, CAIRO, February 21, 1864.

DEAR SIR: I see by the papers that a resolution has been offered in the House of Representatives to vote \$500,000 for a navy-yard at Cairo. This is only a move of speculators, and I hope that no place will be specified in the West without the matter being examined by a competent board of naval officers. Cairo is not the place, anyhow. I do not know that we want any navy-yard appropriation just yet. I have fitted out the largest squadron in the Navy with a few old Fremont mortar-boats converted into blacksmith shops and a few floating carpenter shops, and can now get along very well.

I thought it right to inform you of this matter, as there is no use to waste any more money than can be helped.

Very truly, yours,

DAVID D. PORTER,

Rear Admiral.

Hon. J. W. GRIMES, United States Senate, Washington, District of Columbia.

Mr. PIKE. Now, the question is whether the House knows so much about this situation at Cairo as to fix definitely a navy-yard there against the opinion of these distinguished naval officers, rather than submit the matter to a board, to be appointed by the Secretary of the Navy, who shall go out there and examine, and after examination pronounce an opinion as to the best site for this purpose. I have no personal interest in this matter, nor have my constituents. But we wish two things: we wish to get the best place for a navy-yard, and we wish to save the public money. If it be a fact, as suggested by Admiral Porter, that there are speculators at the bottom of this matter, that is an additional reason why this bill should not now be passed by the House. But throwing that out of consideration, the House has no information on which it can say to-day that Cairo is the best place for a western navy-yard, and a commission can decide where the best place is.

Under these circumstances I hope the amendment will not prevail. My friend from Pennsylvania [Mr. MOORHEAD] has a letter in relation to this subject which I wish he would have read.

Mr. MOORHEAD. Will the gentleman from Illinois yield to me to have the letter read?

Mr. WASHBURN, of Illinois. I will.

Mr. MOORHEAD. I ask then that the letter which I send up, from the chief engineer of the Navy Department, be read.

The Clerk read, as follows:

ST. LOUIS, MISSOURI, February 17, 1864.

DEAR SIR: I have just returned here from taking one of the gunboats to Admiral Porter's fleet, and received your letter of the 8th instant.

I regret not being prepared to give you an opinion regarding the proper location for a navy-yard at the West. It is a subject requiring careful investigation and consideration. It seems to me that the only safe and sure action for Congress is to cause a commission or board of competent persons to be appointed to thoroughly examine and report upon the points by them deemed best suited to the purpose. This should be a mixed board of some five members. Say two naval officers, two from the Coast Survey, and one engineer.

There will doubtless be influence brought from many points, and all kinds of representations of the claimants regarding the superiority of their different localities.

So far as my observation and experience have extended I consider Cairo or Mound City totally unfit for such an establishment, and any place on the Mississippi above Cairo should not be considered at all, because there is not sufficient depth of water from here to Cairo for more than ninety days in the year to float a vessel of eight feet draught of water. As an illustration of what might be expected if a navy-yard were located here, I will state that the gunboat Ozark, drawing only six feet of water, has been here since August last, until a few days ago, awaiting the water to rise so that she could be taken to Cairo, and that several

vessels have been on the stocks here, ready for launching, several months, awaiting the rise in the river, and their launching draught is only five feet.

The location for a navy-yard should be where vessels of any required draught used for naval purposes could reach it every day in the year.

Yours, truly,
J. W. KING,
Chief Engineer United States Navy.

Hon. J. K. MOOREHEAD, M. C.

Mr. WASHBURNE, of Illinois. I will now give way to the gentleman from Maine to offer the resolution of the Committee on Naval Affairs as an amendment to this resolution.

Mr. PIKE. I offer that amendment.

Mr. WASHBURNE, of Illinois. I am a little surprised, I must confess, at the hostility which gentlemen on the Naval Committee manifest to this great western interest. I am surprised that my friend from Maine, [Mr. PIKE,] from a part of the country which has been for many years the recipient of aid from the Government in the way of fishing bounties, and which has been also receiving millions and millions for coast fortifications, should come in here and make an argument, the effect of which is, as he must know, to prevent the people of the Mississippi valley from being adequately defended.

Mr. PIKE. With the permission of the gentleman from Illinois I wish to clinch this matter of fishing bounties. The fishermen of Maine do not receive really one cent at the hands of the Government, for they pay back to-day day by day as duty on the salt which they consume every dollar that is paid them as fishing bounty.

Mr. WASHBURNE, of Illinois. I hope my friend will not get into a passion about the cod fisheries.

Mr. PIKE. Not at all.

Mr. WASHBURNE, of Illinois. There are other people besides the recipients of fishing bounties who pay duty on salt and do not get it back. If I read aright the report of the Secretary of the Treasury there is about \$350,000 paid annually by the Government to these fishermen.

Mr. PIKE. They pay it back.

Mr. WASHBURNE, of Illinois. They pay it back the same as I do when I put a little salt in my porridge. [Laughter.]

Mr. PIKE. You will admit that under the reciprocity treaty codfish is brought in from Nova Scotia free of duty, salt and all.

Mr. WASHBURNE, of Illinois. I admit nothing, Mr. Speaker. [Laughter.] I know there is no disposition on the part of the House to do a great act of injustice to the people of the valley of the Mississippi. I do not see why it is that in the present position of our affairs the gentleman from Maine, [Mr. PIKE,] and the gentleman from Ohio, [Mr. SPALDING,] object to legislation which is absolutely necessary for our protection. Is it because they do not want to have the Mississippi river open? Do they not wish the Government to have some point on the western waters where it can have our gunboats repaired which are to keep open the great channel of communication with the ocean, so that the farmers of the Northwest can have an easy and cheap access to market instead of having their products subjected to the tolls of railroads in getting to the Atlantic coast?

No gentleman has controverted the fact that there is a necessity for a naval depot in the West. But the object seems to be to delay action here until it shall be too late to accomplish anything. A letter has been read here, addressed to a Senator from Iowa, who resisted the passage of this bill in the Senate to the utmost extent of his ability, but ineffectually. That is the letter in which Admiral Porter speaks of this as being a project of speculators. Who are the speculators that Admiral Porter refers to? The gentleman from Iowa [Mr. WILSON] spoke of a lobby from Cairo.

Mr. WILSON. I beg leave to correct the gentleman.

Mr. WASHBURNE, of Illinois. Well, a lobby in the interest of Cairo. I tell that gentleman and the House that no man outside of this House has ever mentioned to me the subject of a navy-yard at Cairo. No man has approached me in reference to it; and I am sure that no one has approached the gentleman from Iowa, because if they knew him as well as I do they would know his incorruptibility and the vigilance with which he guards the public Treasury, and they would not come near him.

Mr. WILSON. They would find out before they got through how foolish it was to lose their time in that way.

Mr. WASHBURNE, of Illinois. That is what I thought, and therefore I thought it strange they would so lose their time. The gentleman from Maine [Mr. PIKE] has alluded to the communication of Admiral Foote, and has tried to put a construction on the bill, I think unfairly, that the navy-yard is to be located at Cairo. There is no such provision in the bill. It is left open. It may be located either at Cairo or at Mound City; and if there are the objections to Cairo which the gentleman suggests, there are no such objections at Mound City. It has all the advantages of Cairo, with the additional one of being on high rolling ground.

Mr. WILSON. With the permission of the gentleman from Illinois I desire to ask him whether he will consent to have the Senate bill so amended as to read, "at or near Cairo or Mound City?"

Mr. WASHBURNE, of Illinois. I will.

Mr. WILSON. That will help the matter some.

Mr. GRISWOLD. I ask that the joint resolution of the House may be read for information.

The joint resolution was read by the Clerk.

Mr. PIKE. I have not the slightest objection to the gentleman from Illinois boasting of the Northwest as often as he pleases; I like to hear him boast of the great Northwest, whether it is once a week or twice a week. I have no objection to his flying the flag of the West as his colleague did last session, but in doing that he need not take the trouble to talk about Maine. We ask no odds of the great Northwest; we can take care of ourselves as well as the Northwest can.

Mr. WASHBURNE, of Illinois. Does the gentleman from Maine know what he is talking about?

Mr. PIKE. I know very well—

Mr. WASHBURNE, of Illinois. I say does the gentleman from Maine know what he is talking about when he proposes to pit little Maine against Illinois? [Laughter.]

Mr. PIKE. I do not pit Maine against anybody. I know very well what I am talking about, and I know what the gentleman is talking about when he speaks of "our Northwest" and of "opposing the great northwestern interests." I have heard him say that several times before, and sometimes he means by "Northwest" a ship canal, and sometimes a sunken strip of land at Cairo. What is the question here? It is the question of a little town sometimes under water and sometimes out of water, owned, as I understand, by speculators in eastern States; and that is "the great northwestern interest" the gentleman from Illinois talks about; and for the sake of that little town the gentleman from Illinois proposes to declare war against the little State of Maine—

Mr. WASHBURNE, of Illinois. Oh, no. I cannot yield the floor any further. The gentleman from Maine is getting so excited for this warm weather that I really must be excused.

Mr. BLOW. I hope the gentleman will not call the previous question before some other positions have been brought to the attention of the House.

Mr. WASHBURNE, of Illinois. I hope my friend from Missouri will keep cool and he will have an opportunity to be heard in due time.

Mr. STEVENS. I hope everybody will keep as cool as the gentleman from Illinois. [Laughter.]

Mr. WASHBURNE, of Illinois. I am as cool as a calm summer's morning. I say to the gentleman from Missouri that I do not propose to call the previous question. I know that my friend is interested in another locality, and it is proper that he should be heard. He does not differ with me as to the importance of this great Navy improvement.

Mr. CRAVENS. Will the gentleman yield to me a moment? I desire to say a word in behalf of another locality.

Mr. WASHBURNE, of Illinois. The gentleman will have an opportunity after I get through.

Mr. CRAVENS. Is it the intention of the gentleman to call the previous question?

Mr. WASHBURNE, of Illinois. Oh, no, I have just informed two gentlemen that I did not

intend to call the previous question at all. I am for a free fight on this question, and if the House prefer to take the amendment which has been offered by the gentleman from Maine, I shall be compelled to be satisfied, as I am always satisfied, as the House knows, with its action. [Laughter.]

Mr. STEVENS. I did not know the gentleman was entirely satisfied about the canal last year.

Mr. WASHBURNE, of Illinois. I was about as well satisfied with the action of the House about the canal as the gentleman from Pennsylvania was last night with its action upon the loan bill, I imagine. I think we may as well pair off about that matter. I do not see any ground for a quarrel. [Laughter.]

Mr. STEVENS. I do not quarrel with anybody.

Mr. WASHBURNE, of Illinois. Now, Mr. Speaker, the gentleman from Maine in reading from the report of Admiral Foote did not read the entire document, and it sometimes happens that to read a particular portion of a document torn from its context will produce an entirely different impression from the document read as a whole.

I will ask that the letter of Admiral Foote may be read, so that his opinion may be shown in regard to all of the localities that have been mentioned. The House will see then what he thinks of Mound City and the other localities where this naval depot may be located under this bill.

The Clerk read, as follows:

BUREAU OF EQUIPMENT AND RECRUITING,
WASHINGTON, February 5, 1863.

SIR: Your letter of the 4th instant, to the Secretary of the Navy, in reference to the advantages of a navy-yard on the Mississippi river, has been referred to me by the Navy Department.

The importance of a navy-yard at some point on the Mississippi river cannot be over-estimated, especially in time of war.

Regarding the best location for a navy-yard, I must frankly confess that I am not at present prepared to give an opinion wholly satisfactory to myself, not having visited Memphis, nor given that attention to Carondelet, Cairo, and Mound City, which is requisite in one who is thus suddenly called upon for his views.

I presume that my opinions are wanted more in reference to the physical condition of the site for a yard than the political state of its locality, or even, perhaps, of its accessibility and facility in procuring the material for construction and equipment of vessels. While at the West, in improving the gunboat flotilla, there were only three points which struck me as adapted for navy-yard purposes. These were, Carondelet, near St. Louis; Cairo, at the junction of the Mississippi and Ohio rivers; and Mound City, on the Ohio river, nine miles above the city of Cairo.

Carondelet, the first named, has a good water front of sufficient depth, I believe, at all seasons of the year, for floating gunboats of any draught. The fact of this point having been selected in building four of the first iron-clad boats that were launched on the western rivers, and all the heavy iron-clads at present under contract on the Mississippi river, seems to show that this place contains many important advantages. Here there is no overflow in the highest stage of the river, to say nothing of the advantage of its being in the vicinity of so large a city as St. Louis, together with the great number of iron-clad gunboats constructed, and now being built, at this place. On the other hand, the disadvantages of Carondelet arise from insufficiency of water in the autumn and early part of winter, preventing, at times, the large boats from reaching Cairo. This obstacle may exist for three months in the year, as will be seen by the correct tide or water table. Of the tendency of the channel to diverge from its present course I have no data sufficient to form an opinion. In the month of October, 1861, our four iron-clad gunboats built by contract, as well as the purchased gunboats, Benton and Essex, could not be floated over two or three of the shoals until most of the coal, guns, and heavy stores were taken out to lessen their draught to five feet. I believe that during nine months of the year, as a general rule, gunboats of a draught not exceeding seven feet might safely reach Cairo without difficulty from shoal water.

The city of Cairo contains many advantages for a navy-yard. It lies at the terminus of the Illinois Central railroad. It can be easily defended against an attack, and has, on the Ohio river part of the town, an extensive water front sufficient to float gunboats of the heaviest draught. But, on the other hand, the soil is alluvial, and in the highest stage of water it is difficult at times to prevent the overflow of the levee, involving serious damages of material and stores. This was the case in May last; the powder and shell could only be safely stored aboard of steamers lining the levee, while it affords no safe place for a magazine or even store-houses containing perishable articles.

Mound City, a distance of nine miles up the Ohio river from Cairo, has rather more elevation than Cairo. Already three iron-clad gunboats have been built there, and this place has "ways" for hauling up and repairing steamers. Like Carondelet, it also has facilities, though in a lesser degree, for building and repairing steamers. Still the soil here is alluvial also, and it is not well adapted for the preservation of stores. A branch of the Illinois railroad extends to Mound City, but the place is not so well adapted to defense as Cairo.

I make no reference to the city of Memphis, other than to say I had no opportunity of visiting it, and therefore am

unable to appreciate its comparative advantages for a navy-yard.

If Carondelet should be selected for a navy-yard, a subsidiary or auxiliary yard at Cairo or Mound City is believed to be essential while the water between St. Louis and Cairo is at its lowest stage.

This paper has been drawn up entirely from impressions one would naturally receive on visiting the different places, but without any notes or data to refresh the memory.

I have the honor to be, very respectfully, your obedient servant,

A. H. FOOTE,

Rear Admiral United States Navy.

Hon. J. W. NOELL, Naval Committee House of Representatives.

Mr. BLOW. I ask the gentleman from Illinois to yield to me.

Mr. WASHBURNE, of Illinois. I yield to the gentleman from Missouri for a few moments.

Mr. BLOW. Mr. Speaker, I think that in this discussion gentlemen of the House have had their minds drawn off from a proposition which would be equally fair to every portion of the country now claiming this navy-yard. I know the adroitness and eloquence of my friend from Illinois, [Mr. WASHBURNE,] who started out by making an explanation which will fall to the ground. He referred to the action of the Senate. Now, every gentleman upon this floor knows that for the last eighteen months before the Naval Committee have appeared the best men in the country, with surveys and reports of more than six different places; that the city of St. Louis and the city of Carondelet have had depositions here, expended large sums of money on plats and surveys, and pressed their claims before the Naval Committee; yet I very much doubt whether in the Senate a single one of these propositions has been considered. I know that St. Louis and Carondelet have not.

I had the honor, sir, early in this session to introduce a bill which at the last Congress received the sanction of the Naval Committee. I was particular to introduce it early in the session. It was a fair proposition. It provided that every point on the western waters making claim to the consideration of this body should be examined by a commission to be appointed for that purpose, and that it should report whether the statements made to this body were right or not, and should select the most judicious point for the public interests.

The gentleman from Illinois [Mr. W. J. ALLEN] had to admit, when questioned by the gentleman from Iowa, that the navy-yard under this bill is to be above the levee at the city of Cairo; and that admission amounts to this, that it is to be where there is an overflow every time there is a flood on the Ohio river. If the Senate bill is adopted, hundreds of thousands of dollars will have to be expended to protect it against the waters of the Ohio and Mississippi.

If there was a particle of fairness in the proposition I would expect the House to consider it; but there is something so unfair and so ungenerous in the proposition of the gentleman from Illinois [Mr. WASHBURNE] that it should fall of itself. I think that the Senate have done great injustice to the Representatives of the people in passing thus hurriedly upon this point when propositions for other points have never come before them. I ask the gentleman from Illinois whether he is prepared to say that the claims of the cities of Carondelet and St. Louis were considered by that committee?

Mr. WASHBURNE, of Illinois. I infer they have, or they would not make this report.

Mr. BLOW. I assert positively that they have not. The voluminous documents on the subject have never reached them, or never been asked for by them so far as I know.

We have some claims at St. Louis and Carondelet, yet I would scorn to refuse any other place a just consideration by the House. This is a national work, and it should be placed where the Government is to be most benefited. If St. Louis is not the best place and Cairo is, put it at Cairo. We have built at and near St. Louis more iron-clad vessels than at any other point in the Union. We have more mechanics and machinery, I was going to say, than the whole of the gentleman's [Mr. WASHBURNE's] State. I insist that St. Louis is worthy of more consideration than the Senate of the United States was willing to give it.

Mr. WASHBURNE, of Illinois. The gentleman cannot get up any controversy between me

and Missouri; the relations between the people of Missouri and my State are too intimate for that.

Mr. BLOW. I very well recollect that when we made an effort some ninety days ago to have this point examined by the Naval Committee, or a committee of the Naval Department, the gentleman himself threw every obstacle he could in the way.

Mr. WASHBURNE, of Illinois. Entirely true; but the opposition was not directed against St. Louis any more than against Cairo.

Mr. BLOW. I have nothing more to say in reference to this matter; and I appeal to both sides of the House to pass the resolution reported from the Committee on Naval Affairs. It is just and reasonable. It secures action, and does justice to those points which are pleading for consideration at your hands.

Mr. CRAVENS. I concur fully in the remarks of the gentleman from Missouri who has just taken his seat. This is a matter of great national importance, and I think the public interest will be best subserved by adopting the amendment proposed by the gentleman from Maine, [Mr. PIKE,] and I am disposed to favor it. In order to show that there are other localities entitled to consideration I propose to have read, as a part of my remarks, a memorial from a committee of the city of New Albany, who are making application for the location there of the national navy-yard, if one is to be located in that part of the country. It is addressed to the Naval Committee, and it is proper that it should be read on this occasion to show that there are other localities entitled to consideration. While I have no remarks to make against Cairo, I desire that every point shall be examined.

The Clerk read the memorial, as follows:

To the honorable gentlemen of the Naval Committee of the House of Representatives of the Congress of the United States:

GENTLEMEN: The people of the city of New Albany, in the State of Indiana, understanding that it is in contemplation by the Congress of the United States to establish a navy-yard for the construction of vessels-of-war at some suitable point in the western States, do by the undersigned most respectfully represent to your honorable body that said city is situated on the northwestern bank of the Ohio river immediately below the foot of the falls of said river; that it is one of the healthiest localities in the western States; that it is celebrated for the building of the finest steamboats that float on the western waters, and has up to the commencement of the rebellion built a majority of all boats navigating the southern rivers and many for St. Louis; that a large proportion of its population are mechanics of the first grade in their line of business; and that although we build a large number of steamers there are still workmen sufficient in number and skill to do a large amount in addition if it was required; that a few miles distant near a railroad leading into the city are large bodies of excellent timber that can be transported on cars to the city; that near the river a few miles below the city are large bodies of good timber that can be transported in barges by water to the city; that there has been for a long series of years annually delivered in the various building yards of the city a large amount of excellent timber hauled from the surrounding country in wagons, and which supply can be continued for many years to come; and that by the river above large quantities can be brought to the city in rafts; that from these various sources of supply above named the best quality of lumber can be procured here at as low a rate as any suitable building point in the western States. Iron can be procured in any quantities that may be desired at the usual prices in the country bordering on the Ohio and Mississippi rivers. All other building materials can be had in any quantities desired at fair rates, and provisions of all kinds are abundant. We have foundries, machine shops, spike machines, tilt-hammer forges, saw mills, planing mills, blacksmiths' shops, and other necessary mills, machinery appliances, and the workmen to do the work required for the purpose. Coal for the purpose can be had by railroad from the interior or brought by water from mines both up and down the river. We have railroad communication with all the important points in the Union, and facilities by water with all western and southern rivers and the Gulf of Mexico, obstructed only by rebel enemies. We would further state that we have plenty of suitable ground for a building yard with space for the buildings necessary therefor, that can be bought at a fair price, situated on the river bank opposite a depth of water in the river sufficient for the use of floating docks; and that although during extreme low water there is a trade more depth of water in the Mississippi river between the mouths of the Ohio and Missouri than there is in the Ohio, yet as the difference between high and low water in the Ohio is much greater than that of the Mississippi, whenever there is a sufficient depth in the Mississippi for a vessel of great draught of water to descend from St. Louis down, there is also a sufficient depth for the same vessel to descend the Ohio to the Mississippi. Also in consequence of the Mississippi river being frozen longer during extreme cold weather than the Ohio is from its mouth to the falls, the Ohio is generally navigable longer during the year for vessels of large draught than the Mississippi is above the mouth of the Ohio, and that almost invariably when the river is frozen the Ohio is navigable a week or two earlier in the spring than the Mississippi is, and that whenever the Ohio is navigable any dis-

tance of importance from its mouth it is navigable as far up as New Albany. For verification of the above facts we would respectfully ask your honorable body to make such examination and obtain such evidence as may to you seem proper and satisfactory.

All of which is respectfully submitted for your consideration.

D. M. HOOPER,

J. M. WILSON,

E. NEWLAND,

Committee for the city of New Albany.

Mr. WASHBURNE, of Illinois. I desire to make a suggestion. I intended to offer an amendment to the original resolution reported from the Committee on Naval Affairs. In the objections I made to that resolution, I stated that I was not prepared to abrogate the authority of Congress over this matter, and the gentleman from Pennsylvania on my left has drawn up an amendment similar to the one I intended to prepare, and which reaches the same object. It provides that the proceedings of the board of examination shall be reported to Congress at the next session. If that amendment is adopted, I am willing the amendment of the gentleman from Maine [Mr. PIKE] shall be adopted, and I think that will be satisfactory to all parties. I think the gentleman from Indiana [Mr. CRAVENS] will agree with me in that. I ask to have the amendment reported.

The amendment, which was read, was to strike out "and that he be further empowered, with the approval of the President, to accept or purchase the site so selected, upon such terms as he shall deem most conducive to the public interest," and insert in lieu thereof "and report to the next session of Congress."

Mr. WASHBURNE, of Illinois. Instead of the action of the commission being absolute, it compels them to report to Congress. If that amendment is adopted, it will satisfy all parties.

Mr. PIKE. That amendment I accept.

Mr. CRAVENS. I think the statements made in that memorial to the Committee on Commerce are substantially true, and perhaps the advantages of that locality might be elaborated. In addition to that, there are other localities on the Ohio which are entitled to consideration. For instance the citizens of Evansville believe that that locality would be favorable for the location of a navy-yard. There is also a location lower down and nearer Cairo and Mound City, which abounds in coal, iron ore, and everything which makes it desirable for the location of a navy-yard. The people of that locality have the opinion that they are entitled also to consideration. For these reasons I am in favor of the amendment proposed by the gentleman from Maine, [Mr. PIKE.]

Mr. MALLORY. I do not wish it understood by my silence that I have forgotten the claims of Louisville and of Portland—not Maine Portland, but Portland, Kentucky—to this navy-yard. They have merits, and will speak for themselves when they have an opportunity.

Mr. ROLLINS, of Missouri. It is very seldom that I rise for the purpose of attempting to enlighten the House, and I do not know that I am entirely competent to do it upon this occasion; but Illinois and Indiana and Maine and Iowa are not the only States interested in this question. I think it must be obvious that the grand mistake which has been committed by this House during this session in regard to this subject has been the refusal to allow the Naval Committee to go to the West for the purpose of selecting the most appropriate location for this depot. If the services of that important committee had not been regarded as desirable here, we could have had all the information necessary to act at this time upon this important question, and it is very evident that this House is not now prepared to pass upon so important a proposition as the claims of these respective localities. Half a dozen places have been already mentioned, and a dozen more which might be mentioned have not been investigated, either by a committee of the House or by members individually. What do we know about the city of New Albany or these other interesting places mentioned by my friend on the left, [Mr. CRAVENS,] and in reference to which he shed a little light on the subject a moment ago? Who ever heard of Portland, in Kentucky, as a place for this depot?

EVENING SESSION DISPENSED WITH.

Mr. SPALDING. With the permission of the gentleman from Missouri, I move to dispense

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

MONDAY, JUNE 27, 1864.

NEW SERIES... No. 204

with the recess for this day, so that we may have no evening session.

The motion was agreed to.

WESTERN NAVY-YARD—AGAIN.

Mr. ROLLINS, of Missouri. I desire to inform the House that in addition to the places which have been mentioned on the Ohio and Mississippi rivers, there is another *small river* out there in the West and which borders upon my district about two hundred and forty miles, along which I think it entirely probable that a scientific commission might find a proper location for this naval depot; it is known, sir, as the Missouri river! Its claims have been entirely slighted on this occasion. I want it understood that if this proposed commission is ever instituted the claims of that river and of different localities upon it will be put in and urged according to their respective advantages for the location of this depot.

Mr. MALLORY. With the permission of the gentleman from Missouri, I will say that it seems to me that there would be no difficulty in finding a *low-cality* anywhere along the Missouri river, but it is very desirable to find a *high-cality* for this purpose out there. [Laughter.]

Mr. ROLLINS, of Missouri. That is a cruel blow at my friend from Cairo, [Mr. W. J. ALLEN.] I do not take it to myself, because the locality which I should prefer, and the locality which I think will be finally selected, is the place referred to (Carondelet) by my honorable colleague, [Mr. BLOW.]

Mr. Speaker, we have had a similar question to this up during this session, in reference to the location of a naval station for the building of iron-clads on the eastern waters. The Naval Committee have been all over the eastern country hunting a site or location for that depot. We have been to Marcus Hook, Chester, and League Island, Long Island, and to New London, and to Boston, and *all along the shore*; and yet, with all the light of scientific exploration, with all the light shed upon the subject by commissions appointed in years gone by, only a few days ago the House postponed until next session the consideration of the question of the location of a naval station upon the eastern waters! And yet my friend from the Galena district of Illinois [Mr. WASHBURN] comes forward now and most vehemently urges the passage of a bill for the location of this depot at Cairo, without any light being shed upon the subject at all, excepting the scanty information which is furnished here in a running debate of an hour or two in this House.

Sir, I protest against the passage of this bill; and I presume the gentleman from Illinois [Mr. WASHBURN] has gained pretty much all he desired in reference to this bill. It was to give him a solid political foothold in that part of the great State of Illinois known as "Egypt," and in which Cairo is a favorite city. I understand—and I am gratified to know it—that he is now the most popular man in northern Illinois, and that the "lick" will be the means of making him the most popular man in southern Illinois, with the exception of my excellent friend before me, [Mr. W. J. ALLEN.]

Mr. WASHBURN, of Illinois. I hope my friend from Missouri does not pass over my colleague near him.

Mr. ROLLINS, of Missouri. I have excepted him, for I think he is even entitled to be a more popular man both in northern and southern Illinois than yourself. [Laughter.]

Mr. WASHBURN, of Illinois. We will try titles in the north. [Laughter.]

Mr. ROLLINS, of Missouri. Now, if the House has any confidence in my judgment—and I have not yet found that it has not [laughter]—I can indicate the precise point where this naval depot should be located. It is at Carondelet, that beautiful little city, rising on the western bank of the Mississippi river, just south of St. Louis, and distinguished again as being the residence of my friend and colleague, [Mr. BLOW,]

who has just presented its claims so fairly and impartially.

Mr. WASHBURN, of Illinois. Will the gentleman inform us of the depth of water at Carondelet?

Mr. ROLLINS, of Missouri. Not quite so deep as at Cairo, especially on shore, [laughter,] but a good deal purer. According to a letter just read from Admiral Foote, that accomplished and observant gentleman, who passed a good many months at Carondelet in superintending the building of iron gunboats, early in the rebellion, there is sufficient depth of water there to float ordinary iron vessels and carry them out into the Mississippi river. And this is all that is needed. It is well known, and has been stated by my friend from Carondelet, that the locality is near St. Louis, where there are manufactories and a large supply of skilled labor. That subject was thoroughly discussed when we had up the League Island and New London questions. In the vicinity of Carondelet are to be found coal mines, mountains of iron, timber, good health, railroad connections, everything that has been described in the memorial sent to the Clerk's desk by the gentleman from Indiana, [Mr. LAW.] It has every possible advantage, not even excepting depth of water, according to the statement of Admiral Foote. Unlike Cairo, it is above high-water mark, has a permanent and solid rock foundation, and presents, in my view, far more advantages for this naval depot than any other point on the Mississippi or its tributaries. Let it be carefully examined by skillful men, and I believe the opinion which I express will be fully sustained.

But, sir, we do not ask it at the present time. It is simply because we do not desire it unless it be the best locality. In its selection the interests of the whole country should be consulted. This is to be a great national institution, and it ought to be selected at the best possible point, no matter where, whether on the banks of the Missouri, the Mississippi, the Illinois, or the Ohio. It is a national question; and he who would desire to have the navy-yard located at this or that particular point simply because it happened to be in his district or in an adjoining district, takes a very narrow view of the question.

I am opposed, therefore, to any action on the Senate bill at this time; and I favor the amendment proposed by the gentleman from Maine, [Mr. PIKE,] to let the matter go over, to be determined by a commission to be appointed by the Secretary of the Navy.

Mr. WASHBURN, of Illinois. I stated that if the gentleman from Maine would accept the amendment that I offered I would agree to his amendment. I think the gentleman from Missouri and I are together on the subject.

Mr. ROLLINS, of Missouri. I am very glad to hear that we are together. If the gentleman from Illinois would just come *with me*, we would be together all the time, and I am very sure it would be far better for him and for the country. [Laughter.] I have no objection to the amendment of the gentleman from Illinois, that the commission should report to this House at its next session.

But, Mr. Speaker, as there has been a good deal said on this subject here I desire to have such information as can be given to us by my venerable friend who sits just before me, [Mr. LAW.] He is an old western pioneer. I remember when I was a school-boy, thirty years ago, that he was presiding with equal dignity and ability on the bench of the circuit court of the State of Indiana. He has navigated all these western waters in every variety of craft, from the bark canoe to the magnificent steamboat. He has slept with the Indian in his wigwam, and long before the age of turnpikes and of railroads he has followed the trail of the buffalo and the Indian through the forests and prairies of Indiana, Illinois, and Missouri. He has witnessed with his own eye the marvelous change which American enterprise aided by the power of steam has

wrought in causing the wilderness to be converted into a beautiful garden, and the desert to blossom as the rose. No man in this House, and few men in the country anywhere, has realized so vividly the truth that

"Westward the course of empire takes its way."

as my venerable friend from the Evansville district. He knows it all by heart like a book, and I shall be very glad indeed if on this question he will enlighten the House in reference to his experience fully upon these western localities, not only in respect to Cairo, but Mound City, St. Louis, Carondelet, New Albany, and other points. I should like especially if he would tell us about some of his sad experiences at Cairo; and in this connection I would be glad if he would speak upon the mosquito question. If I remember correctly, on one occasion he told me of passing down the Ohio to that far-famed city, and of the boat on which he was riding being landed next to the third story of one of the fashionable hotels in that celebrated watering place. [Laughter.] My friend here says it was the second story. Well, sir, I may have got one story too high, but I am certain he told me that in the very heart of the city the cry of the faithful boatman was "No bottom!"

Now, sir, hoping that the amendment of the gentleman from Maine may be accepted I will not detain the House longer at this time.

Mr. CRAVENS. I now desire to yield the floor for one moment to my friend from the Evansville district.

Mr. LAW. I must confess that I have been somewhat astonished at the views which have been expressed by the gentleman from Illinois upon the question now before the House, especially in consideration of the fact that it is well known there are various localities on the western waters which desire an examination with the view of an establishment of a navy-yard. I am surprised that, under these circumstances, he should propose to shut off all investigation at the outset and confine himself to a single point. I know of no fairer method of proceeding in this matter than that a commission should be appointed by the Navy Department, which should examine and take into consideration the advantages possessed by each one of these points, and their report, I have no doubt, would probably settle the question.

There are certain facts in connection with the establishment of a navy-yard upon our western waters which may probably have been forgotten. Some fifteen or twenty years ago a commissioner was appointed by Congress to locate a navy-yard upon our western waters. After full examination the location was fixed at Evansville. That point was selected in preference to Cairo for the reason that at that time the whole country about Cairo was inundated.

Mr. WASHBURN, of Illinois. I want to ask my friend from Indiana whether, if a navy-yard had actually been established at Evansville, it might not have been in about the same condition now as the marine hospital there for which he wanted \$38,000 the other day to preserve it from immediate destruction?

Mr. LAW. That does not follow. I do not know where a commission to be appointed would locate this naval depot. The only thing I ask is that the location shall be determined on after an investigation into the merits of these different points. The circumstance alluded to by my friend from Indiana was one which did substantially occur. I recollect very well the boat which I was on landing at the second story of a cabin at Cairo where we took our breakfast. The whole country about there was inundated at that time. Very great improvements have been made there, however, since, and it may be that a naval depot might be properly located there. I am not going to say anything in derogation of the town of Cairo. I have some very good friends there for whom I have very great respect. The only thing I ask is that the proposition of the Committee on Naval

Affairs shall be adopted, so that everybody may have a hearing.

Mr. WASHBURN, of Illinois. The gentleman from Indiana will recollect that this proposition comes from the Senate. It is not my proposition. If the House sees fit to adopt the amendment which has been submitted by the Committee on Naval Affairs I have no objection.

Mr. LAW. I do not care where it comes from. It is a local measure that ought not to be considered by the House.

Mr. WASHBURN, of Illinois. The gentleman from Indiana will remember that I have agreed that the proposition of the gentleman from Maine may be adopted, and give Evansville and every other place a chance.

Mr. LAW. What objection, I desire to know, is there to the appointment of a commission?

Mr. WASHBURN, of Illinois. I have said over and over again that I have no objection to it, and I presume there will be no objection to it if we can have a vote on it.

Mr. STEVENS. I move that the evening session be set apart for the purpose of debating this question after it is disposed of. [Laughter.]

Mr. LAW. If it is understood that the proposition of the gentleman from Maine is to be adopted, I will not detain the House by further remarks. Before yielding the floor, however, for the purpose of allowing the claims of Evansville to be placed before the House I will ask that the memorial of the citizens of that place may be read.

The Clerk read the memorial, as follows:

MEMORIAL.

Evansville, the chief commercial city of Indiana, the best site for the western navy-yard.

The mayor and common council of the city of Evansville, Indiana, respectfully request the congressional committee charged with the duty of locating a western armory and navy-yard to visit Evansville, for the purpose of considering its superior advantages over all other sites for the above works.

We take the liberty, in a spirit looking to the general welfare, to suggest the more striking advantages and facilities presented by Evansville for the location of the proposed navy-yard and armory. We also take great pleasure in tendering to the committee the hospitalities of the city and its inhabitants during their sojourn with us, pledging ourselves to furnish every facility for a fair and candid investigation.

Situation of Evansville.

Evansville is the principal commercial city of Indiana. It is situated on the Ohio river, in latitude 38° 8' north, and 87° 29' west. The altitude at Evansville of the Ohio river, at low-water mark, is three hundred and twenty feet above the level of the Gulf of Mexico at the outlet of the Mississippi.

The city is situated on an elevated plain, or second bottom of the Ohio river, and is entirely above the highest flood.

Geographical and geological location.

The geographical and geological location of Evansville is extremely favorable to a large commercial and manufacturing city, and peculiarly adapted for the site of the proposed national works. It is situated about equidistant from the falls of the Ohio and the mouth of the river, about two hundred miles each way. It is almost the center of the great valley of the Mississippi, and consequently of the Union. It is above all serious obstructions in the Ohio river, which is always navigable for boats of all classes from Evansville to the mouth. It possesses a river front unsurpassed in beauty of location and in excellence of harbor. Just below the city, at various points, are locations accessible to the largest boats, perfectly adapted to a navy-yard. Here vessels of any size may be launched with perfect safety. In all stages of the river there is always fifty feet of water in the channel.

Population, schools, living.

The population of Evansville is now about twenty thousand, and is steadily on the increase. Its progress has been remarkable. In 1847 a city charter was obtained, and in 1850 the population was about five thousand; in 1857 it was twelve thousand two hundred and fifty; to-day it is twenty thousand.

The people of Evansville are industrious, enterprising, intelligent, and patriotic. The existing war has brought many excellent citizens hither from Kentucky, Tennessee, Arkansas, Mississippi, and other States. Evansville is noted for its excellent public schools, being the only city in the State which now enjoys this priceless advantage. The operatives of the navy-yard could, at reasonable rates, secure comfortable residences, and their families could enjoy, without charge, the inestimable benefit of a superior education. The rates of living here are as cheap as in any city of the West.

Lines of transportation.

Evansville is the southern terminus of the great Wabash and Erie canal. This is the longest canal in the world—four hundred and sixty-two miles. Its northern terminus is Toledo, Ohio. It opens an outlet which, under proper control and management, would most cheaply and conveniently transport the products of the South to the northern lakes.

The Evansville and Crawfordsville railroad, completed to Rockville, Indiana, and passing through Terre Haute, is one hundred and thirty-eight miles long. It connects

with the Ohio and Mississippi road at Vincennes, and with the Terre Haute and Alton and the Terre Haute and Richmond railroads at Terre Haute, which connections furnish a railroad communication in every direction. This road will shortly be extended to Attica, giving a through connection, with the Wabash Valley road, to the lakes, and thence to New York. The Evansville, Indianapolis, and Cleveland Straight-Line railroad is graded to the crossing of the Ohio and Mississippi railroad, and, it is understood, will soon be completed to that point, opening up a rich country, abounding in mineral wealth and the most desirable timber. Green river penetrates the State of Kentucky several hundred miles, and, with its tributaries, is navigable, at all seasons, two hundred and ninety miles. Its mouth is nine miles above Evansville and its trade finds here its natural depot.

Evansville is also the natural depot for the Wabash river. It empties into the Ohio forty miles below, and the cargoes transported down it are transhipped here for New Orleans or New York.

Mineral and geological advantages.

Evansville is situated on a bed of coal. Just below the city extensive mines have been opened, which furnish coal, in ordinary times, at seven or eight cents per bushel. Coal is found all along the Ohio from Cannellton to Tradewater, and all along the Wabash and Erie canal for a hundred miles, and all along Green river from its mouth to its fountain. At Adria, on Green river, sixty miles by water, is established one of the largest iron works in Kentucky. Near Bloomfield, on the Wabash and Erie canal, is "Richland Furnace," the largest iron works in Indiana, and surrounded by the largest deposits of iron ore in the State. The slaty clays found along the southeastern and southwestern margins of the Ohio river contain extensive deposits of clay ironstone, an ore easily smelted into pig iron. Valuable and extensive deposits of hydrated brown oxyd of iron also exist in various places. Limestone is abundant in the whole region, and its importance cannot be overrated.

Hemp.

To a navy-yard, hemp is an important and indispensable article. Kentucky probably raises more hemp than any other State. The natural depot of this article for the most productive part of the State is here. It comes to us in its raw state, and is hence sent to Boston, New York, Philadelphia, and Norfolk, for manufacture. Why should not the freight on this bulky article be saved by the Government, by its manufacture here? The hazard and cost of transportation would be saved to the grower, while the Government would save the cost of transportation between the manufactured article and the raw material. No city furnishes greater advantages for securing this article than Evansville.

Timber.

The region around Evansville abounds in the finest timber for naval purposes. Along the banks of Green river is found oak, chestnut, and hickory in inexhaustible quantities; and these timbers, of the best quality, abound all through southern Indiana. Timber can be floated to this point from Green river and points above on the Ohio at small cost, and can also be brought by rail and on the Wabash and Erie canal.

Manufactories and machine shops.

Evansville is noted for the enterprise and skill of its manufacturers and machinists. Here are many extensive saw-mills and vast founderies and machine shops. Every species of work can be turned out here as cheaply and as well as anywhere on the continent. Skilled mechanics can be had in any branch of labor.

Conclusion.

Your memorialists, in conclusion, suggest for your consideration the fact that the great West, on which this Government now leans for support, has never received from the Government its proper share of national works. The time has arrived when its rights, in view of the public interest, cannot longer be disregarded. The State of Indiana has not been an unimportant beggar at the national Treasury. While she has fulfilled every obligation and performed every duty, she has pressed no claim and received no favor. Her chief commercial city speaks her voice to-day when she proclaims that her people are loyal, patriotic, and devoted to the Union. In the name of the State of Indiana we ask that her services and rights may be recognized, and that the public interest, in which she has so vast a share, may be served by the establishment of a navy-yard at this her chief commercial emporium. We do not wish to disparage the claims of other cities of Indiana; but it is plain that their locations are so far above the mouth of the Ohio, and communication with them is so precarious, that the location of such works at any one of them is impracticable. At this point, so convenient to Kentucky, so accessible to all points on the Tennessee, Cumberland, and lower Mississippi rivers, at this geographical center of the United States, at this point, in our opinion, these works should be located. It is apparent that at this time, and in view of the probable future course of events, here is the place for the western navy-yard. We invite your candid attention to this point, and we are confident of your favorable judgment.

WM. BAKER, Mayor.

Attest: ADOLPH PFAFFLIN, Clerk.

WM. DEAN,
JOSEPH P. ELLIOTT,
JOHN A. BIRKELBUSH,
JONATHAN NEWMAN,
HENRY SCHMUTTE,
JOSEPH OVERELL,
H. A. HOELSCHER,
FRED. W. COOK,
WM. MIDLS,

Members of the Council.

State of Indiana, Vanderburgh County,
City of Evansville, ss:—

I, Adolph Pfafflin, clerk of the common council of the city of Evansville, do hereby certify that the foregoing

memorial was adopted and signed by the mayor and common council of said city, on the 1st April, 1864.

Witness my hand and the seal of said city, hereto [L. s.] affixed, this 1st day of April, 1864.

ADOLPH PFAFFLIN, Clerk.

Mr. BROOMALL. I desire to amend the amendment of the gentleman from Maine by adding after the word "tortuous," the words "and also the most approved site for a navy-yard and naval station for iron-clad vessels on or near the Atlantic coast."

Mr. WASHBURN, of Illinois. I rise to a question of order, that the amendment of the gentleman from Pennsylvania is not germane to the amendment now to the bill.

The SPEAKER. The Chair sustains the question of order.

The amendment submitted by Mr. FIFE was adopted.

The bill, as amended, was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAY OF CONTESTANTS.

Mr. STILES. I ask unanimous consent to submit the following resolution:

Resolved, That the Clerk be authorized and directed to pay out of the contingent fund to John Kline and Charles W. Carrigan, contestants and claimants for seats in this House, whose claims have been adversely decided, the usual pay and mileage up to said adverse decisions, respectively.

Objection was made.

And then, on motion of Mr. STEVENS, (at half past five o'clock, p. m.,) the House adjourned.

IN SENATE:

SATURDAY, June 25, 1864.

Prayer by Rev. B. H. NADAL.

On motion of Mr. COLLAMER, and by unanimous consent, the reading of the Journal was dispensed with.

PETITIONS AND MEMORIALS.

Mr. MORRILL presented a memorial of citizens of Washington, residents and owners of property on C street north, between Second and Sixth streets west, remonstrating against the proposed charter for a double track street railroad between the Baltimore and Ohio railroad depot and the steamboat landing, running through the limits of C street above described; which was ordered to lie on the table.

He also presented a petition of Rev. Byron Sanderland and others, citizens of Washington, praying that the running of street cars and the sale of newspapers in the streets of Washington on Sundays may be prohibited; which was ordered to lie on the table.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of March 12, 1863, a statistical and general report upon the value and present condition of our foreign and domestic commerce, including that of the Pacific coast; and a motion by Mr. MORGAN that the report be printed and that five thousand additional copies thereof be printed was referred to the Committee on Printing.

REPORTS FROM COMMITTEES.

Mr. FOSTER. I am directed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 445) to regulate prize proceedings and the distribution of prize money, and for other purposes, to report it without amendment, and recommend that it pass. I will say, with the leave of the Senate, in regard to this bill, that it consolidates most of the acts now in force upon the subject-matter of the bill, and is deemed by the Navy Department, and by all who are conversant with the subject, as being of importance. It will save a great deal of money if it can be passed during the present session. It has passed under the supervision of the Department, and also under the very close supervision of the judge of the district court and the attorney for the district of the State of Massachusetts, both of whom

are very familiar with the administration of prize law. I shall call it up with the permission of the Senate at an early day, and hope to have action upon it before we adjourn.

Mr. SUMNER. I am directed by the Committee on Foreign Relations, to whom was referred the bill (H. R. No. 552) to increase the salaries of the judges and arbitrators appointed under the treaty with Great Britain for the suppression of the slave trade, to report it without amendment, and with a recommendation that it pass. As this is a House bill, I think perhaps it had better be acted upon now so that it may be taken from our Calendar. It will take no time.

Mr. GRIMES. I hope not.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. SHERMAN. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill cannot be considered to-day.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 549) to provide ways and means for the support of the Government, and for other purposes, reported it with amendments.

HENRY W. DIMAN.

Mr. ANTHONY. I am instructed by the Committee on Naval Affairs, to whom was referred the joint resolution (S. No. 66) to provide for the adjustment of the accounts of Henry W. Diman, to report the same back without amendment and recommend its passage. I ask for its present consideration. It will create no debate and no opposition.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs the accounting officers of the Treasury to adjust the claims of Henry W. Diman, late acting assistant paymaster in the Navy, whose books and papers were sunk and lost in a transport steamer in July, 1862, in the Mississippi river, according to the principles of equity and justice.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 190) to establish a navy-yard and depot at Cairo, in the State of Illinois, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and

A joint resolution (No. 111) authorizing the Secretary of the Interior to reclaim and preserve certain property of the United States.

NAVY-YARD AT CAIRO.

The Senate proceeded to consider the amendments of the House of Representatives to the bill of the Senate (No. 190) to establish a navy-yard and depot at Cairo, in the State of Illinois; and on motion by Mr. HALE they were referred to the Committee on Naval Affairs.

HOUSE BILL REFERRED.

The joint resolution (No. 111) authorizing the Secretary of the Interior to reclaim and preserve certain property of the United States, was read twice by its title and referred to the Committee on the District of Columbia.

SALARIES FOR POSTMASTERS.

Mr. COLLAMER. I move to dispense with all previous orders for the purpose of taking up the bill in relation to the Post Office Department which I called up the other day for consideration. I fancy there will be no debate about it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 332) to establish salaries for postmasters, and for other purposes.

It proposes that the annual compensation of postmasters shall be at a fixed salary, in lieu of commissions, to be divided into five classes, exclusive of the postmaster of the city of New York. Postmasters of the first class are to receive not more than \$4,000 nor less than \$3,000; postmasters of the second class are to receive less than \$3,000 and not less than \$2,000; postmasters of the third class are to receive less than \$2,000 and not less than \$1,000; postmasters of the fourth class are to receive less than \$1,000 and not less than \$100; postmasters of the fifth class are to receive less than \$100. The compensation of the postmaster of New York is to be \$6,000 per annum, to take effect on the 1st of July, 1864. The compensation of postmasters of the several classes named are to be established by the Postmaster General under the rules hereinafter provided. Whenever the compensation of postmasters of the several offices (except the office of New York) for the two consecutive years next preceding the 1st of July, 1864, shall have amounted to an average annual sum not less than \$3,000, such offices are to be assigned to the first class; whenever it shall have amounted to less than \$3,000, but not less than \$2,000, such offices are to be assigned to the second class; whenever it shall have amounted to less than \$2,000, but not less than \$1,000, such offices are to be assigned to the third class; whenever it shall have amounted to less than \$1,000, but not less than \$100, such offices are to be assigned to the fourth class; and whenever it shall have amounted to less than \$100, such offices are to be assigned to the fifth class. To offices of the first, second, and third classes are to be severally assigned salaries in even hundreds of dollars, as nearly as practicable in amount the same as, but not exceeding, the average compensation of the postmasters for the two years next preceding; and to offices of the fourth class are to be assigned severally salaries in even tens of dollars, as nearly as practicable in amount the same as, but not exceeding, such average compensation for the two years next preceding; and to offices of the fifth class are to be severally assigned salaries in even dollars, as nearly as practicable in amount the same as, but not exceeding, such average compensation for the two years next preceding. Wherever returns showing the average of annual compensation of postmasters for the two years next preceding the 1st of July, 1864, shall not have been received at the Post Office Department at the time of adjustment, they may be estimated by the Postmaster General for the purpose of adjusting the salaries of postmasters herein provided for. It is to be the duty of the Auditor of the Treasury for the Post Office Department to obtain from postmasters their quarterly accounts, with the vouchers necessary to their correct adjustment, and to report to the Postmaster General all failures of postmasters to render such returns within a proper period after the close of each quarter.

The second section provides that the Postmaster General shall review once in two years, and in special cases upon satisfactory representation as much oftener as he may deem expedient, and readjust on the basis of the preceding section, the salary assigned by him to any office; but any change made in such salary is not to take effect until the first day of the quarter next following such order. And all orders made assigning or changing salaries are to be made in writing and recorded in his journal, and notified to the Auditor for the Post Office Department.

The third section provides that salaries of the first, second, and third classes shall be adjusted to take effect on the 1st of July, 1864, and of the fourth and fifth classes at the same time, or at the commencement of a quarter as early as practicable thereafter.

The fourth section provides that at offices which have not been established for two years prior to the 1st of July, 1864, the salary may be adjusted upon a satisfactory return by the postmaster of the receipts, expenditures, and business of his office; but fifty per cent. of the gross revenue of such office is to be in all cases the largest amount allowed to such postmasters for their salaries, respectively, except in cases where it shall be a separating or distributing office, as provided for in the sixth section of this bill.

The fifth section provides that at the post office of New York and offices of the first and second

classes, the Postmaster General shall allow to the postmaster a just and reasonable sum for the necessary cost, in whole or in part, of rent, fuel, lights, and clerks, to be adjusted upon a satisfactory exhibit of the facts. At offices of the third, fourth, and fifth classes, such expenses are to be paid by the postmaster, except as provided in the sixth section; it being intended that such allowances shall be made in accordance with existing usages.

The sixth section provides that the Postmaster General may designate certain convenient offices, at the intersection of mail routes, as distributing offices, and certain others as separating offices; and where any such office is of the third, fourth, or fifth class of post offices, he may make a reasonable allowance to such postmaster for the necessary cost, in whole or in part, of clerical services arising from such duties.

The seventh section provides that all postages and box rents at post offices, and all other receipts and emoluments at a post office, shall be received and accounted for as a part of the postal revenues; and any part thereof which the postmaster ought to have collected but has neglected to collect is to be charged against him in his account, and he is to be liable therefor in the same manner as if it had been collected; and he is to receive no fees or perquisites beyond his salary.

The eighth section provides that the uniform rate of United States postage, without reference to distance, upon letters and other mailable matter addressed to or received from foreign countries, when forwarded from or received in the United States by steamships or other vessels regularly employed in the transportation of the mails, shall be as follows, namely: ten cents per single rate of half an ounce or under, on letters; two cents each on newspapers; and the established domestic rates on pamphlets, periodicals, and other articles of printed matter; which postage is to be prepaid on matter sent, and collected on matter received; but these rates are not to apply to letters or other mailable matter addressed to or received from any foreign place or country, to and from which different rates of postage have been or shall be established by international postal convention or arrangement already concluded, or hereafter to be made.

The ninth section authorizes the Postmaster General to sell, or cause to be sold, to individuals, corporations, and business firms, postage stamps, in quantities of not less than \$100 in value, at a discount not exceeding five per cent. from the face value of such stamps, and to sell, or cause to be sold, stamped envelopes, in packages containing not less than five hundred envelopes, at a discount not exceeding five per cent. from the current prices thereof when sold in less quantities.

The tenth section proposes to amend the twenty-eighth section of the act entitled "An act to amend the laws relating to the Post Office Department," approved March 3, 1863, by the addition of the following clause, namely: And when any letter bearing a request for its return to the writer, in case of its non-delivery, shall have been so returned to the office at which it was originally mailed, then, and in that case, it shall be obligatory upon the person to whom such letter has been returned to receive the same, and to pay therefor the postage specified by this section; and in default of said writer to receive and pay for the letter so returned, he shall be subject to a penalty of ten dollars, to be recovered in any court of competent jurisdiction.

The eleventh section provides that if any person not authorized by the Postmaster General shall set up or profess to keep any office, or any place of business bearing the sign, name, or title of post office, every such person shall forfeit and pay the sum of \$500 for every such offense.

The twelfth section provides that if any person employed in any of the departments of the post office establishment shall unlawfully detain, delay, or open, any letter, packet, bag, or mail of letters, with which he shall be intrusted, or which shall have come to his possession, and which are intended to be conveyed by post, or to be carried or delivered by any mail carrier, mail messenger, letter carrier, route agent, or other person employed in any of the departments of the post office establishment of the United States, or to be forwarded or delivered through or from any post office or branch post office established

by authority of the Postmaster General of the United States, if any such person shall secrete, embezzle, or destroy, any letter or packet intrusted to him, and which shall not contain any security for or assurance relating to money, every such offender, being duly convicted, shall, for every such offense, be fined not less than \$300, or imprisoned not less than six months, or both, according to the circumstances and aggravations of the offense. If any person so employed shall secrete, embezzle, or destroy any letter, packet, bag, or mail of letters, with which he or she shall be intrusted, or which shall have come to his or her possession, and are intended to be conveyed by post, or to be carried or delivered by any mail carrier, mail messenger, letter carrier, route agent, or other person employed in any of the departments of the post office establishment of the United States, or to be forwarded or delivered through or from any post office or branch post office established by authority of the Postmaster General of the United States, such letter, packet, bag, or mail of letters, containing any note, bond, draft, check, revenue stamp, postage stamp, money order, certificate of stock, or other pecuniary obligation, or Government security of any description whatever, issued, or that may hereafter be issued by the United States, or by any officer or fiscal agent thereof, any bank note or bank post bill, bill of exchange, warrant of the Treasury of the United States, note of assignment of stock in the funds, letters of attorney for receiving annuities or dividends, or for selling stock in the funds, or for receiving the interest thereof, or any letter of credit, or note for, or relating to, payment of moneys, or any bond, or warrant, draft, bill, or promissory note, covenant, contract, or agreement whatsoever, for, or relating to, the payment of money, or the delivery of any article of value, or the performance of any act, matter, or thing, or any receipt, release, acquittance, or discharge of, or from, any debt, covenant, or demand, or any part thereof, or any copy of any record of any judgment, or decree, in any court of law, or chancery, or any execution which may have issued thereon, or any copy of any other record, or any other article of value, or any writing representing the same; or if any such person shall steal, or take, any of the same out of any letter, packet, bag, or mail of letters, that shall come to his or her possession, whether such letter or packet, bag or mail of letters shall have come or been placed in his or her possession to be forwarded or delivered in the regular course of his or her official duties, or shall have come or been placed in his or her possession in any other manner, and provided that such letter or packet, bag or mail of letters shall not have been delivered to the person or persons to whom it is directed, such person shall, on conviction for any such offense, be imprisoned not less than ten years nor exceeding twenty-one years; and the fact that any such letter or packet, bag or mail of letters shall have been deposited in any post office or branch post office established by authority of the Postmaster General of the United States, or in any other authorized depository of mail letters, or in charge of any postmaster, assistant postmaster, clerk, carrier, agent, or messenger employed in the post office establishment of the United States, is to be taken and held as evidence that the same was "intended to be conveyed by post" within the meaning of this statute; and if any person who shall have taken charge of the mails of the United States shall voluntarily quit or desert them before such person delivers it into the post office kept at the termination of the route, or some known mail carrier, or agent of the General Post Office, authorized to receive them, every such person, so offending, is to forfeit and pay a sum not exceeding \$500 for every such offense; and if any person concerned in carrying the mail of the United States shall collect, receive, or carry any letter or packet, or shall cause or procure the same to be done, contrary to this act, every such offender is to forfeit and pay, for every such offense, a sum not exceeding fifty dollars.—Section twenty-one, act of March 3, 1825.

The thirteenth section provides that dead letters containing valuable inclosures shall be registered in the Department; and when it appears that they can neither be delivered to their address nor to the writers, the contents, so far as available, are to be used to promote the efficiency of

the dead letter office, according to the provisions of the seventh section of the act approved February 27, 1861, entitled "An act to establish certain post routes;" and the amount is to be shown in the annual report, and be subject to reclamation by either the party addressed or by the sender for four years from registry, careful account being kept of them. All other letters deemed of value or of importance to the party addressed, or to the writer, and which it appears cannot be returned to either destination, are to be disposed of as the Postmaster General shall direct.

The fourteenth section provides that letter-carriers shall be employed at such post offices as the Postmaster General shall direct, for the delivery of letters, in the places, respectively, where such post offices are established; and for their services they are severally to receive a salary to be prescribed by the Postmaster General, not exceeding \$800 per year; but, on satisfactory evidence of their diligence, fidelity, and experience as carriers, the Postmaster General may increase their respective salaries from time to time to any sum not exceeding \$1,000; and each of the carriers is to give bond, with sureties, to be approved by the Postmaster General, for the safe custody and delivery of all letters, packets, and moneys received by him.

The fifteenth section provides that all expenses for the letter-carriers, branch offices, and receiving boxes, or incident thereto, shall be entered and reported in a separate account from the ordinary postal expenses of such post office, and shall be shown in comparison with the proceeds of the postages on local mail matter at each office, in order that the Postmaster General may be guided in the expenditures for that branch of the postal service by income derived therefrom.

The sixteenth section proposes to repeal the eighth, eleventh, fourteenth, seventeenth, and eighteenth sections of the act entitled "An act to amend the laws relating to the Post Office Department," approved March 3, 1863, the provisions of which have been modified and incorporated in this bill.

The seventeenth section provides that the special agent of the Post Office Department in the Pacific States and Territories shall receive as compensation five dollars per diem.

Mr. HALE. I understand that the bill which the Secretary has been reading is printed as an amendment to a House bill. I do not understand it.

Mr. CONNESS. I will say in explanation to the Senator that when the post route bill was pending in the Senate, at the instance of the chairman of the Committee on Post Offices and Post Roads in the House of Representatives, I presented this measure, which was a House bill reported unanimously from that committee, that it might be referred to the proper committee of this body, and offered as an amendment to the post route bill. The rules of the House made it quite impossible for them to take it up there as an original bill at this time. The committee of this body, of which the Senator from Vermont [Mr. COLLAMER] is chairman, concluded not to join the two bills together, and reported the post route bill and it passed the Senate, and then concluded upon full consideration of this measure to report it as an original bill by the committee, it having been previously considered by the corresponding committee of the other House and unanimously reported to that body, so that it stands as an original bill, having been fully and carefully considered.

Mr. WILSON. I desire to ask the chairman of the committee if this bill increases the compensation of postmasters or increases the expenses of that Department.

Mr. COLLAMER. I do not understand it as increasing the expenses. It is resolving commissions into salaries. They are to receive salaries which are to be fixed by ascertaining how much their receipts have been during the past two years, and the salaries are to be averaged by that.

Mr. CONNESS. I will say in addition to the Senator that the plan it proposes is this: it makes all postmasters salaried officers in lieu of being paid by commissions, and it classifies the postmasters according to the business done at their offices. The amount to be paid as a salary will be ascertained from the average compensation by commissions for the past two years. If, however,

the business of any particular office should decrease, the office is to be taken from the higher class that it was in and placed in a lower class. If it should increase, it will be taken from the lower class in which it was in and placed in a higher class, this being subject to a regulation of the Department and not requiring congressional action. It is not intended to increase or diminish the salaries of the postmasters, but it fixes a round sum for their salaries as near as can be ascertained. It is also intended to supersede the necessity of the keeping of the accounts upon which the present salaries are based, and to simplify the whole proceedings. It is a bill in substance such as passed this body two years ago. It has been carefully matured by the Postmaster General. It has been agreed to, as Mr. ALLEY, the chairman of the Committee on the Post Office and Post Roads in the House of Representatives has informed me, unanimously by that committee, and they believe it will not only simplify the business, but very much cheapen the cost of the Department without in any manner injuring the public service.

Mr. HALE. I should like to ask the chairman of the Committee on Post Offices and Post Roads what is the advantage in paying these postmasters a salary instead of a commission.

Mr. COLLAMER. It will simplify the keeping, rendering, and settling of their accounts. If any gentleman will examine into the form of the blanks furnished for the keeping of the accounts in the various post offices in the United States, the great number and complication of those accounts which are sent up quarterly and the account of labor required in the examination of those accounts in the Department here, and the great number of men employed in it, he will find that three fourths of all that work is done merely to get at the commissions of the postmasters, and if you give them a fixed salary you dispense with all that machinery. That is the great object.

Mr. HALE. It may be so, but I confess I do not see it so, because the bill imposes upon the Postmaster General the necessity of ascertaining what the amount of the compensation of each postmaster shall be. For instance, the second section provides:

That the Postmaster General shall review once in two years, and in special cases upon satisfactory representation as much oftener as he may deem expedient, and readjust, on the basis of the preceding section, the salary assigned by him to any office.

How will it be possible for the Postmaster General to examine this matter every two years and to readjust the compensation unless he keeps an account of the commissions as he did before?

Mr. COLLAMER. Under this bill establishing the salary system, the postmaster of course is required to keep an account of his receipts, all he receives and all he pays out, and to render that account quarterly. He will not have to make up these complicated accounts, but a record simply of receipts and expenditures. The accounts that will be required by this bill of the postmasters are pretty much all kept now, inasmuch as the business is done by the prepayment of letter postage or stamps. It is not therefore requisite for the postmaster to keep such accounts as were formerly kept. The former necessities for them have been reduced simply to the keeping of those accounts with all their complications to get at the commission of the postmaster. Now if he will keep an account simply of what he has received and what he has paid out for each quarter, that will furnish to the Postmaster General the element or material out of which he can see whether the business and duties of that office have increased, and therefore he can arrange it in the proper class by means of the new improvements which are thus required to be furnished under this bill.

Mr. WILSON. I desire to ask the chairman of the committee if this bill increases the discretion of the Postmaster General over this subject further than that discretion now exists under the present law. I thought by the reading of the bill that there was a great deal of discretion left to him in regard to this compensation, and in regard to the consideration of cases that might be brought up before him. For one, I do not wish to increase that discretion. We have an immense number of postmasters in the country. I think they are always under the control, more or less, of the Postmaster General, and I do not wish to increase his

discretion over everything. I wish to fix these salaries by positive law. It seems to me that this arrangement of postmasters into classes is an admirable arrangement if it is made the positive duty of the Postmaster General to adjust them every two years. I do not like to leave anything to the discretion of any of the Secretaries more than can be helped.

Mr. CONNESS. There is not any.

Mr. COLLAMER. The inquiry of the gentleman properly is, whether it leaves more to the discretion of the Postmaster General, not whether it increases the measure of discretion already existing in him. He is directed, to be sure, by this bill to fix these salaries according to the income of the past two years, but he may hereafter, and it is his duty as often as every two years, to divide them and arrange them into classes according to the increase or the diminution of the receipts of the offices. It is true, in doing that there is a measure of discretion, and, although he cannot now change the amount of a postmaster's income by any order he can make under this bill, provided the information furnished to him by the quarterly returns of the post office showed that the postmaster was doing a larger amount of business, he could increase it. The mode and measure by which he would govern his discretion in making that new classification of them from time to time would depend entirely upon regulations to be fixed by himself; so that you may say there is rather more left to his judicial discretion than there is now.

Mr. HALE. I observe that there is a provision here requiring the postmasters to account for all the box rents, and I wish to ask whether that is not an alteration of the present law. Is that the present law?

Mr. COLLAMER. It is in some cases. In large offices where they are able from their commissions to pay all the expenses of the offices and a great deal more, as in Philadelphia and New York, they return everything they receive, box rents and all; but generally in post offices they do not. The postmasters set up the boxes themselves and take the pay for them. At present it is part of the emoluments of their office, they being at the expense of putting up the boxes, and they take that themselves. But it will be observed that under this bill the Postmaster General is to ascertain the total receipts and expenditures of each office for two years past, and to fix the salary of the postmaster by that standard, so that he receives the pay for the box rents in the estimate of his salary for the coming time; that is if he renders an account of those box rents, as I suppose it is understood he would. That is the way I understand the bill.

Mr. HALE. I think that is rather an unwise provision, for in the small towns, where the incomes of the offices are very small, the postmaster puts up these boxes as a matter of convenience to the inhabitants, and he puts the pay and emoluments from that source in his own pocket and does not return them as part of his compensation. It is a convenience to those who frequent the post office quite as much or more than it is to the postmaster. The result will be that in these small places where the compensation is but very slight, if you compel the postmaster to account for these boxes, the boxes will not be furnished. That will be the result, it seems to me.

Mr. CONNESS. If it were to result in that way in the small towns it would be a great benefit indeed to the service. In the small towns there is no use for boxes in fact at all, if there is a prompt and ready delivery. I have known instances myself frequently where boxes were established and they were made to discriminate against the general delivery. There was only one person to deliver and no man could get out a letter until the customers of the postmaster for boxes had helped themselves.

Mr. HALE. That may be so in San Francisco.

Mr. CONNESS. Not at San Francisco. I would have the Senator understand that the post office at San Francisco is as well regulated an office and one of larger revenues than any in his State, perhaps as large as all of his State put together.

Mr. HALE. If the Senator will allow me, some years ago when I was on the Committee on

Post Offices and Post Roads, that was one of the allegations made against the postmaster at San Francisco.

Mr. CONNESS. I have known it as an abuse very general in small offices where boxes were really not necessary at all, yet they were resorted to as a means of increasing the revenue and compensation of the postmaster when he could have delivered promptly at the window every letter in a short time, and let all the citizens take their chances or come in rotation as they made their appearance. This little system of perquisites is really a nuisance in many of the small towns, and is founded on nothing in the world but the cupidity of the postmaster. Where the business of an office amounts to a sufficient sum to require the establishment of boxes for any useful purpose, then it is perfectly right that a record of the box rents should be kept, and then it should enter perhaps into his proper perquisites. But if the tendency of this change should be to rule out the system of boxes where they are not needed, there could be no greater improvement. I have seen the people constantly dissatisfied because when their mail came they could not be waited upon until those who had paid an extra compensation to the postmaster had first been provided for. It is a great wrong.

Mr. HALE. The system of boxes as I have seen it practiced is very different from anything like that. I could illustrate it by the town in which I live. I think the postmaster there has something like two hundred boxes; I cannot give the exact number.

Mr. CONNESS. That is a large office.

Mr. HALE. Oh, no, it is not. He has something like two hundred boxes. As fast as the mail is received it is placed in these boxes; every man knows his own box because he knows his number; and it is a great advantage. If there is anything in his box he sets it and goes to the window and takes it, and everything is delivered at one general delivery. There is no difference between those that have boxes and those that have not in regard to the delivery. The advantage is in notifying the people outside that go to the office that there are letters there for them, and they get them. There have never been any complaints of the system that I ever heard of, and it is a very great accommodation indeed.

Mr. CONNESS. There could be no difficulty about the arrangement that the Senator speaks of. He now contemplates what are called "lock boxes" that may be opened from the outside. Those cannot be furnished in small offices. They cost too much to set them up. This provision does not apply to boxes as large and considerable as where there are two hundred boxes. That is a very large office with an extensive business. But this system of boxes, I will suggest to the Senator, is very often carried on having boxes in the shape of pigeon holes on the inside; there is no access to them from without; and the postmaster cannot attend to the general delivery while he is attending to the box delivery.

Mr. DIXON. I desire to ask whether it takes any longer time to deposit the letters in these pigeon holes, as they are called, than in any other receptacle.

Mr. CONNESS. Not at all.

Mr. DIXON. Then their being placed in boxes is no inconvenience. The Senator from New Hampshire is perfectly right about that.

Mr. CONNESS. The only difficulty is in regard to the delivery.

Mr. HALE. But there is not the slightest difficulty in the delivery. If this seventh section were amended so as not to include the rents for lock boxes I should have no objection to it, but it is so broad now that it covers all these boxes. The result would be that the postmasters in all these towns where they have twenty-five, fifty, one hundred, or one hundred and fifty boxes would discontinue them, simply because you take away the pay. It would be no benefit to the Government and a great disadvantage to the community. I will move to amend the seventh section in the second line, by striking out the words "and box rents at post offices;" so that the section will read:

That all postages and all other receipts and emoluments at a post office shall be received and accounted for as a part of the postal revenues, &c.

Mr. COLLAMER. If those words are stricken out the postmasters of our large cities where there

are very large amounts received for box rents, enough to pay their salaries four or five times over, will not be required to account for them.

Mr. HALE. Name some figure. I would be glad if the Senator would make the proper amendment to carry out my object.

Mr. COLLAMER. I cannot do that. This is a bill reported from my own committee, and I do not think it necessary to amend it.

Mr. HALE. I move that the bill lie over until to-morrow. It is an important measure making a total change in the policy of the Government from its foundation. We have always paid commissions to postmasters.

Mr. CONNESS. Mr. President, this measure has been very deliberately considered; as much so as the Senator considers naval bills in the Committee on Naval Affairs, and it has been considered by two committees, the Committee on Post Offices and Post Roads in this body, and the same committee in the other House. It is the deliberate product of the Department. There has been no bill before this body that has been more carefully considered. Because the Senator from New Hampshire does not understand its operation in one particular, he asks that it lie over at this stage of the session. I appeal to the Senator not to take that course in reference to business that comes from other committees of this body.

Mr. HALE. I did not know that there was any comity due to committees against a further examination and discussion of their bills. I am willing to give every committee of the body all that is due to them; but certainly the Senate take the liberty, sometimes, of overruling the decisions of committees, and I think I have had as much of that sort of experience as anybody.

Mr. CONNESS. Perhaps you deserved it.

Mr. HALE. I do not doubt that I deserved it. All I ask of my brother Senators who are favored with clearer intellects and greater capacity is that they allow some of their measures to be examined that we may see what they are. I do not want to make any factious opposition.

Mr. COLLAMER. I am sure the gentleman has no thought of that kind. I wish to make a single remark about box rents. Among the provisions of this bill is one very important one, contained in one of the latter sections, providing for the personal delivery of letters. The Postmaster General has commenced that system in the larger cities and is going on with it very successfully; but there was a limitation in the former law that he should not employ carriers and make these deliveries unless the local business of the office in that neighborhood would pay the expense of it. We never can expect the local business to pay the expenses in the beginning of the system. But in this bill that limitation in regard to the local business of the office is taken off, and it is the present intention of the Department to deliver letters in even the small-sized villages of the country, to carry them to the house of the person to whom they are addressed and deliver them personally all over this country. He believes he can do it successfully and make it pay its way. Not in the very scattered settlements where they never use any boxes, but in all those places where they would be likely to use boxes, it is expected that there will be established in the course of a year or two a system of personal delivery of letters to almost everybody, if you will let this bill pass at the present time. Boxes then will be a matter of very little consequence.

Mr. HALE. Do you mean that the postmaster or letter-carrier is to deliver the letters without additional postage?

Mr. COLLAMER. I do mean just that. I will undertake to assure the gentleman with the utmost confidence that if this bill is passed the Department will not merely in the city of Dover, where he resides, deliver letters at his house twice a day, but in all our considerable villages and towns throughout the country there will be at least one delivery a day without any additional expense whatever; and the Postmaster General can make money by it, as he says. I do not vouch for that, but I think he will make the delivery.

Mr. HALE. I confess I do not know enough about this matter to put my objections against the superior experience of the Senator from Vermont.

Mr. COLLAMER. That is what we want this bill to try.

The *PRESIDENT pro tempore*. Is the motion to postpone the bill withdrawn?

Mr. HALE. Yes, sir; I will withdraw it.

The *PRESIDENT pro tempore*. The question now is on the amendment offered by the Senator from New Hampshire to the seventh section of the bill.

Mr. HALE. I will withdraw that and move to insert in the third line of that section after the word "post office" the words "where the rent of boxes shall exceed \$200;" so that it will read:

That all postages and box rents at post offices, and all other receipts and emoluments at a post office, where the rent of boxes shall exceed \$200, shall be received and accounted for as a part of the postal revenues.

Mr. DIXON. That will defeat one of the objects of the bill, which is to simplify the accounts and to render any accounts of that description unnecessary. I trust, therefore, that the Senator will withdraw the amendment.

Mr. HALE. He has to keep an account of the box rents now to make up the amount of his compensation.

Mr. COLLAMER. Mr. President, the experiment which is intended to be entered upon more fully under this bill, it seems to me, will be put in jeopardy by any such amendment as this. Take the villages of New England, if you please, even as large as those that have \$1,000 income, and I do not believe the box rents amount to \$200, or anything like that. If the Postmaster General chooses to establish a personal delivery by carriers in that village, you dispense entirely with the use of boxes and box rents. I do not want the postmaster at the place of delivery, who is himself interested in doing so, to frustrate that plan, and if you let him keep his box rents up to the amount of \$200 without accounting for them he will be slow to aid the experiment of delivering the letters personally to those to whom they are addressed. He will want to keep up his boxes so that he can make money out of them, instead of having the system which the Department desire to establish; that is, the system of personal delivery. I hope, therefore, that the amendment will not prevail.

Mr. DAVIS. I think the bill as reported disposes of the subject of boxes very properly. I think the revenue resulting from boxes ought to be reported as a part of the revenue of the Department. In my little town the postmaster has boxes in the form of pigeon-holes with glass in front, each one numbered, and it is just as easy for him to distribute his mail among those boxes to each man's number as it is in any other form, and for his own economy of time and his own convenience he establishes these boxes without any compensation or charge for them; and that is the way it operates. It operates for his convenience and his economy of time, and for the convenience of the public.

The *PRESIDENT pro tempore*. The question is on the amendment offered by the Senator from New Hampshire.

The amendment was rejected.

Mr. ANTHONY. I desire to ask the chairman of the Committee on Post Offices and Post Roads a question with regard to making the letter-carriers salaried officers instead of receiving their pay for carrying it. I believe that is a rule that has been lately adopted.

Mr. COLLAMER. Yes, sir.

Mr. ANTHONY. I have heard numerous complaints—I do not know how well founded they are—that there has been a marked decline in the diligence with which letters have been delivered since that system was adopted. People do not get their letters nearly as promptly or nearly as certainly as they did when the letter-carrier depended upon his postage for compensation.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GOVERNMENT INSANE HOSPITAL.

Mr. GRIMES. The Senate passed a few days since a little bill in regard to the Insane Asylum, an exact transcript of which has been passed by the House of Representatives, but with a different title. I ask the Senate to take up that House bill in order to put it through the legislative forms. There is not the slightest deviation in the bill from the bill which we have already passed. It is House bill No. 554, to provide for the improve-

ment of the grounds of the Government hospital for the insane by an exchange of land.

The *PRESIDENT pro tempore*. The Chair is informed that that bill has not yet been reported.

Mr. GRIMES. I am authorized to report it from the Committee on Public Buildings and Grounds.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The *PRESIDENT pro tempore*. The hour of one o'clock having arrived, the Chair calls up for consideration the special order of the day, being the civil appropriation bill.

Mr. GRIMES. I move that that bill be passed over informally by common consent until we dispose of this little bill.

The *PRESIDENT pro tempore*. The Chair hears no objection, and House bill No. 554 is before the Senate.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PREVENTION OF SMUGGLING.

Mr. MORRILL, from the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (No. 266) to prevent smuggling, and for other purposes, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (No. 266) to prevent smuggling, and for other purposes, having met, after a full and free conference report and recommend as follows: 1. That the Senate recede from their disagreement to the amendment of the House of Representatives, and agree to the same with the following amendment, that is to say: In section second of the bill as amended by the House, strike out the word "consular" before the word "officer," so that it will read, "may apply to any officer of the United States duly authorized to act in the premises."

2. That the House of Representatives agree to the above amendment to their amendment of the Senate bill.

L. M. MORRILL,

JOHN C. TEN EYCK,
Managers on the part of the Senate.

THOMAS D. ELIOT,
W. HIGBY,
Managers on the part of the House.

INTERNAL REVENUE.

Mr. FESSENDEN. The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill of the House (No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, having met, after full and free conference have agreed upon a report which I send to the desk and ask to have read.

Mr. SHERMAN. I really think it is hardly worth while for that long report to be read, because the amendments will be simply indicated by their numbers and we cannot understand it. If the Senator will explain to us how eight or ten of the leading topics have been disposed of, I believe it would be much more satisfactory.

Mr. FESSENDEN. If the Senate feel disposed to dispense with the reading of the report—the report I believe is correct so far as it expresses the conclusions to which the committee came—I am perfectly ready to answer any question that any gentleman may ask, or to make any explanation with regard to the particular subjects contained in it. It would be almost impossible to take up that long report and undertake to make an explanation of each particular item.

Mr. GRIMES. Will the Senator explain to us what the committee have determined to do in relation to incomes, spirituous liquors, beer, and other necessities of life? [Laughter.]

Mr. FESSENDEN. I will explain. With regard to incomes the Senate made an amendment by which they put 5 per cent. on all incomes over \$600 and not exceeding \$5,000; 7½ per cent. upon the excess over \$5,000 and not exceeding \$15,000, and 10 per cent. over that. The committee have changed it by putting the 7½ per cent. upon all incomes over \$5,000 and not exceeding \$10,000, instead of \$15,000. That is the change that is made there.

Mr. ANTHONY. The principle is preserved of putting the additional tax only upon the excess, and not upon the whole, as under the present law.

Mr. FESSENDEN. Precisely.

With reference to the tax upon whisky we put \$1 50 on all that is manufactured after the 1st day

of July and between that day and the 1st day of February next, and \$2 upon all that is manufactured after the 1st day of February, 1865. That is the change made there. Instead of having three grades there are but two.

With regard to the beer tax we leave that at \$1 a barrel. The Senate fixed it at \$1 25. The committee put it at \$1.

With regard to the tax on banks and banking that has been put into a new draft, preserving the exact relative proportions of the bill as it passed the Senate, but changing the form; one half of 1 per cent. on deposits, one half of 1 per cent. on capital, and 1 per cent. on circulation, and making provision that all the circulation over 90 per cent., or over the average of circulation for six months next preceding the 1st day of July next, shall be 2 per cent. additional. We retain also the amendment proposed by the honorable Senator from Vermont, [Mr. COLLAMER,] exempting savings banks having no fixed capital.

Mr. HENDRICKS. I ask the Senator to state again what is the provision with respect to the bank tax. I did not hear it.

Mr. FESSENDEN. The tax is precisely the same. The only change in it is a slight one with regard to the excess of circulation. In our bill two years ago or one year ago we had a provision diminishing the amount that could be issued by banks with a large capital. Smaller banks, banks with no more than \$100,000 capital, were permitted to issue up to 90 per cent., and the rate was diminished as the capital of the bank increased. That provision was left out in this bill. It was thought by the committee that if we left it precisely as it is now, at 90 per cent., applicable to the very large banks, for instance in the city of New York, the vacuum that would be caused by the small banks withdrawing their circulation might be filled up by the larger ones. We have therefore inserted a provision putting the tax on the excess over 90 per cent. over the average of the circulation of the six months preceding the 1st day of July next. It was stated—and I suppose it is true—that the smaller banks have out a circulation largely over 90 per cent. of their capital. We did not intend that advantage should be taken of the tax in that way, and so we made that alteration. That is the way it stands or was intended to stand, and I have no doubt it is correctly drawn. It was examined by my friend from West Virginia, [Mr. VAN WINKLE,] who was a member of the committee of conference, and he says it expresses correctly the decision which the Senate came to on a former occasion on the subject.

With regard to the income tax, the five hundred and tenth amendment of the Senate was to strike out "twenty-five" and insert "fifteen," in the fifteenth line of the one hundred and fifteenth section of the bill, so as to make the clause read: "And a duty of 7½ per cent. per annum on the excess over \$5,000, and not exceeding \$15,000." The report of the committee of conference on that amendment is as follows:

That the House recede from their disagreement to the five hundred and tenth amendment of the Senate and agree to the same with an amendment as follows: strike out all of said amendment and insert the word "ten."

So that it will read: "and not exceeding \$10,000." The five hundred and eleventh amendment of the Senate was, carrying out the same idea, in line sixteen of the same section to strike out "twenty-five" and insert "fifteen," so that the clause will read: "And a duty of 10 per cent. on the excess over \$15,000." The committee report on that amendment:

That the House recede from their disagreement to the five hundred and eleventh amendment of the Senate and agree to the same with the following amendment: strike out "fifteen" and insert "ten."

That will put a tax of 10 per cent. on the excess of all incomes over \$10,000.

With regard to banks, the bank section as originally drawn in the Committee of Ways and Means applied only to deposits and capital. The House of Representatives amended it by inserting a tax on circulation. We have gone over the whole ground a second time and put it into a new draft. The object was to get it into shape and we think the whole thing is now properly fixed. It is drawn in a way that will be somewhat difficult to understand by a mere reading of the report.

Mr. JOHNSON. State what it is.

Mr. FESSENDEN. If the Senator will turn to page 175, section one hundred and nine of the bill, he will observe that the four hundred and seventieth amendment of the Senate was to strike out "one eighth" and insert "one twenty-fourth," and the four hundred and seventy-first amendment was to strike out the words "half year" and to insert the word "month;" so as to make the section read:

That there shall be levied, collected, and paid a duty of one twenty-fourth of 1 per cent. each month upon the average amount of the deposits of money, subject to payment by check or draft, with any person, bank, association, or corporation, engaged in the business of banking, &c.

The report of the committee of conference on the four hundred and seventy-first amendment is as follows:

That the House recede from their disagreement to the four hundred and seventy-first amendment of the Senate, and agree to the same with the following amendment: after the word "draft," in line five, page 175, insert "or represented by certificate of deposit, or otherwise, whether payable on demand or at some future day," and after the word "association," in line six, insert "company."

That is a more accurate description.

Mr. JOHNSON. That leaves our amendment substantially as it stood.

Mr. FESSENDEN. It merely changes it so as to make it more specific. Then the Senate recede from the four hundred and seventy-second amendment.

Mr. JOHNSON. Why did you recede from that?

Mr. FESSENDEN. Because it is in another part of the bill. The four hundred and seventy-first amendment of the Senate was in line seventeen, section one hundred and nine, to strike out the word "its" before the words "capital stock," and after those words to insert "invested in such business beyond the amount invested in United States bonds;" so as to make the clause read:

And a duty of one twenty-fourth of 1 per cent. each month as aforesaid, upon the average amount of capital stock invested in such business beyond the amount invested in United States bonds.

The report on that amendment is as follows:

That the House recede from their disagreement to the four hundred and seventy-fifth amendment of the Senate and agree to the same with an amendment as follows: strike out in lines seventeen and eighteen, page 175, "capital stock;" strike out "invested in such business," in line eighteen, and insert "the capital of any bank, association, or corporation, or person engaged in the business of banking."

Then the report proceeds, putting a number of amendments all together:

That the House recede from their disagreement to the 476th, 477th, 478th, 479th, 480th, 481st, 482d, 483d, 484th, 485th, 486th, 487th, 488th, 489th, and 490th amendments of the Senate, so far as it is proposed to strike out words, and agree to the same with an amendment, as follows: strike out all that is proposed to be inserted by said Senate amendments respectively, beginning with the word "and" in line nineteen, page 176, down to the word "repealed" in line one hundred and five, page 179, inclusive, and insert in lieu thereof the following:

And a duty of one twelfth of 1 per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed, or on deposit for said bank. And an additional duty of one sixth of 1 per cent. each month upon the average amount of such circulation issued as aforesaid beyond the amount of 90 per cent. of the capital of any such bank, association, corporation, company, or person, and upon any amount of circulation beyond the average amount of the circulation that had been issued as aforesaid by any such bank, association, corporation, company, or person for the six months preceding the 1st day of July, 1864; and on the first Monday of August next, and of each month thereafter, a true and accurate return of the amount, &c.

I suppose it is unnecessary for me to read any further of that. It goes on to provide for banks with branches. Then there is a proviso that this section shall not apply to the associations that are taxed under the other bill. It then exempts saving banks having no capital stock and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking, the same provision that was inserted in the first part of the section on the motion of the Senator from Vermont. It was intended that this should be a redraft putting it in a better shape, retaining all the substantial provisions of the original section.

Mr. JOHNSON. The Senator will permit me to ask what is done with the four hundred and seventy-fifth amendment of the Senate on page

175 which proposes to insert the words "invested in such business beyond the amount invested in United States bonds," in the clause providing for a tax on the capital stock of the banks. Have you made that exception?

Mr. FESSENDEN. I think I read that.

Mr. JOHNSON. No, you did not; at least I did not hear you.

Mr. FESSENDEN. That was intended to be in.

Mr. JOHNSON. It is not in what you read.

Mr. FESSENDEN. Here it is:

That the House recede from their disagreement to the four hundred and seventy-fifth amendment of the Senate and agree to the same with an amendment as follows: strike out "capital stock" in line seventeen, page 175; strike out "invested in such business" in line eighteen, page 175, and insert in lieu thereof "the capital of any bank, association, company, or corporation or person engaged in the business of banking."

Then the bill goes on: "beyond the amount invested in United States bonds," &c.

Mr. JOHNSON. Is that there?

Mr. FESSENDEN. That was not struck out. We struck out the words "capital stock invested in such business," and inserted the words I have read; so that the clause will read:

And a duty of one twenty-fourth of 1 per cent. each month as aforesaid, upon the average amount of the capital of any bank, association, company, or corporation, or person engaged in the business of banking, beyond the amount invested in United States bonds.

Mr. JOHNSON. Then, as I understand, a long amendment proposed by the committee of conference comes in.

Mr. FESSENDEN. There you stop. Then the House recede from its disagreement to all the rest of the amendments of the Senate in that section, and agree to the same with an amendment, as follows:

Strike out all that is proposed to be inserted in said Senate amendments respectively, beginning with the word "and" in line nineteen, page 176, down to the word "repealed" in line one hundred and five, page 179, inclusive, and insert in lieu thereof the following:

And a duty of one twelfth of 1 per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, &c.

Then we go right on with the amendment that I have read. I believe it is right. It was examined very carefully by the Senator from West Virginia.

Mr. JOHNSON. I have no doubt it is right.

Mr. FESSENDEN. Now, with regard to the liquor tax, which will be found in section fifty-four, page 63, the House recede from their disagreement to the one hundred and sixty-fourth amendment of the Senate, which was to strike out "January" and insert "October," and agree to the same with an amendment to strike out "October" and insert "February;" so that it will read, "and prior to the 1st day of February."

Mr. JOHNSON. There is a previous amendment striking out "May" and inserting "June." What was done with that?

Mr. FESSENDEN. "June" was altered by the House to "July," and that alteration was concurred in by the Senate committee. That was the one hundred and sixty-third amendment. The one hundred and sixty-fourth amendment, as I have already stated, was agreed to with an amendment striking out "October" and inserting "February." The House recede from their disagreement to the one hundred and sixty-fifth amendment of the Senate, and agree to the same with an amendment striking out "4" and inserting "5," so that it will read, "February, 1865." Then the committee propose to insert after the word "dollar," in line eight of section fifty-four, the words, "and 50 cents." That will be a duty of \$1 50 on all spirits from July up to February next. Then the House recede from their disagreement to the one hundred and sixty-sixth amendment of the Senate, and agree to the same with the following amendment: before the word "on" in line nine, page 64, insert "and," and in the same line to strike out "October" and insert "February." Then the House recede from their disagreement to the one hundred and sixty-seventh amendment of the Senate, and agree to the same with the following amendment: strike out all of said amendment, and in lieu thereof insert "4," and after the word "of" in line twelve—

Mr. JOHNSON. "Four" is what we put in.

Mr. FESSENDEN. That the House recede from their disagreement to the one hundred and

sixty-seventh amendment of the Senate, and agree to the same with the following amendment: strike out all of said amendment, and in lieu thereof insert "4," and after the word "of" in line twelve, page 64, strike out all down to and including the word "cents" in the same line, and insert in lieu thereof "42." It will then read "and on and after February 1, 1864," that cannot be right.

Mr. JOHNSON. You have got that wrong.

Mr. FESSENDEN. If the Senate will allow me, I will discontinue the making of the report and take it into the committee-room.

The PRESIDENT pro tempore. The Senate will resume the order of the day.

Mr. POWELL. I will ask the consent of the Senate to take up the motion to reconsider the passage of Senate bill No. 37, and let us take the vote. Nobody wishes to speak upon it.

The PRESIDENT pro tempore. The Senator from Kentucky asks the unanimous consent of the Senate to consider the bill indicated by him.

Mr. POWELL. I hope the Senate will allow us to dispose of it. The Senator from Michigan [Mr. HOWARD] I believe does not wish to speak further upon it, and I do not want to say a word. I merely ask that it be taken up, and that the Senate vote upon it.

Mr. HOWARD. I hope not. The Senate is not full enough at present to vote upon it.

The PRESIDENT pro tempore. Objection being made, it cannot be considered at the present time.

Mr. HENDRICKS. Before the report of the committee of conference on the tax bill passes from the attention of the Senate, I desire to move that it be printed.

The PRESIDENT pro tempore. It has already passed from the consideration of the Senate.

Mr. HENDRICKS. It ought to be printed, because it will then take less time when we come to consider it.

Mr. FESSENDEN subsequently said: I am now prepared to continue with the consideration of the report of the committee of conference.

The PRESIDENT pro tempore. The report will be proceeded with unless there be objection. The Chair hears none.

Mr. FESSENDEN. The House recede from their disagreement to the one hundred and sixty-fourth amendment of the Senate, and agree to the same with an amendment as follows: strike out "October" and insert "February." The House recede from their disagreement to the one hundred and sixty-fifth amendment of the Senate, and agree to the same with amendments, as follows: strike out "4" and insert "5," and after "dollar," in line eight, section fifty-four, insert "and 50 cents." The House recede from their disagreement to the one hundred and sixty-sixth amendment of the Senate, and agree to the same with the following amendment: before "on," in line nine, page 64, to insert "and," and strike out "October" and insert "February."

Mr. JOHNSON. The difficulty was in the one hundred and sixty-seventh amendment.

Mr. FESSENDEN. I know it; but that is right so far. The House recede from their disagreement to the one hundred and sixty-seventh amendment of the Senate, and agree to the same with the following amendment: strike out all of said amendment and in lieu thereof insert "5," and after the word "of," in line twelve, page 64, strike out all down to the word "cents" in the same line, inclusive, and insert in lieu thereof "42." The House recede from their disagreement to the one hundred and sixty-eighth amendment of the Senate, and agree to the amendment with the following amendment: strike out all of said Senate amendment, and also the words "which duty," in line nineteen, page 64, and insert in lieu thereof, "and all spirits which may be in the possession of the distiller or in public store or bonded warehouse, on either the 1st day of July or February aforesaid, no duty having been paid thereon, shall be held and treated as if distilled on those days respectively, and said duties." That is the report of the committee in regard to the liquor tax.

Mr. SHERMAN. The effect, then, I believe, is to impose a tax of \$1 50 after the 1st of July, and \$2 after the 1st of February, 1865.

Mr. FESSENDEN. Yes, sir; and we have inserted a provision retaining the same duties that now exist until this act goes into effect.

Mr. SHERMAN. Does the increased duty

apply to goods in warehouse, on the 1st of July next?

Mr. FESSENDEN. It applies to all that may be in the possession of the distiller, or in bonded warehouse, or removed, where the duties have not been paid. If there is any other matter which any Senator wishes me to explain I am ready to do so. If not, I move that the Senate concur in the report of the committee of conference.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (No. 266) to prevent smuggling, and for other purposes.

The message also announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House (No. 450) to provide for the repair and preservation of certain public works of the United States.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865; the pending question being on the amendment of Mr. SUMNER to add the following as an additional section:

And he it further enacted, That sections eight and nine of the act entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States from and after the 1st day of January, in the year of our Lord 1808," which sections undertake to regulate the coastwise slave trade, are hereby repealed, and the coastwise slave trade prohibited forever.

Mr. SHERMAN. I base my opposition to this amendment simply on the ground I stated last night, and which I will not repeat. I hope the Senate will keep legislative matter off this appropriation bill. If I am overruled in that I shall submit with deference to the Senate. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. COLLAMER. I believe I had the floor last evening on this amendment. The condition of my health is such, and particularly my powers of utterance are so affected at this time, that I cannot make any elaborate reply to the honorable Senator from Maryland, [Mr. JOHNSON], but I desire to say a very few words which are called for by the present aspect of this amendment. My attention at first was called merely to the repeal of the two sections mentioned in the proposition. My attention was not then called to the latter proposition which is now inserted in the proposed amendment to prohibit the coastwise slave trade. My attention was first called to it by the honorable Senator from Maryland.

Mr. President, I shall content myself simply with reading the opinion of the Supreme Court in the case of *Groves vs. Slaughter*, reported in 15 Peters. In that case the State of Mississippi had inserted in its constitution a provision that slaves should not be brought into that State for sale. Some slaves were brought in and sold and a note was taken up and sued in the circuit court. The defense was that the note was unlawfully made. Various points arose in the case, and among others this one: whether that was an attempt on the part of the State to regulate commerce between the States, and if so whether it was an encroachment upon the power of Congress to regulate commerce between the States; because the power to regulate commerce between the States does not exist in the alternative, with the States or with the General Government, as each may choose to exercise it; but it is an exclusive grant of power to Congress. In considering that point, Judge McLean says:

"In the case of *Gibbons vs. Ogden*, (9 Wheat., 185,) this court decided that the power to regulate commerce is exclusively vested in Congress, and that no part of it can be exercised by a State.

"The necessity of a uniform commercial regulation, more than any other consideration, led to the adoption of the Federal Constitution. And, unless the power be not only paramount but exclusive, the Constitution must fail to attain one of the principal objects of its formation.

"It has been contended that a State may exercise a commercial power if the same has not been exercised by Congress, and that this power of the State ceased when the

Federal authority was exerted over the same subject-matter."

He goes on to repudiate that, and says:

"Can the transfer and sale of slaves from one State to another be regulated by Congress under the commercial power?"

I ask gentlemen to pay attention to this.

"If a State may admit or prohibit slaves at its discretion, this power must be in the State and not in Congress. The Constitution seems to recognize the power to be in the States. The importation of certain persons, meaning slaves, which was not to be prohibited before 1808, was limited to such States, then existing, as shall think proper to admit them. Some of the States at that time prohibited the admission of slaves, and their right to do so was as strongly implied by this provision as the right of other States that admitted them.

"The Constitution treats slaves as persons. In the second section of the first article, which apportions Representatives and direct taxes among the States, it provides, 'The numbers shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.' And again, in the third section of the fourth article, it is declared that 'no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.'

"By the laws of certain States slaves are treated as property; and the constitution of Mississippi prohibits their being brought into that State by citizens of other States for sale, or as merchandise. Merchandise is a comprehensive term, and may include every article of traffic whether foreign or domestic which is properly embraced by a commercial regulation. But if slaves are considered in some of the States as merchandise, that cannot divest them of the lending and controlling quality of persons by which they are designated in the Constitution."

"The constitution of Ohio declares that there shall be neither slavery nor involuntary servitude in that State except for the punishment of crimes. Is this provision in conflict with the power in Congress to regulate commerce? It goes much further than the constitution of Mississippi. That prohibits only the introduction of slaves into the State by the citizens of other States as merchandise; but the constitution of Ohio not only does this, but it declares that slavery shall not exist in the State. Does not the greater power include the lesser? If Ohio may prohibit the introduction of slaves into it altogether, may not the State of Mississippi regulate their admission?"

After arguing this at some length he comes to this conclusion:

"The power over slavery belongs to the States respectively. It is local in its character and in its effects; and the transfer or sale of slaves cannot be separated from this power. It is, indeed, an essential part of it.

"Each State has a right to protect itself against the avarice and intrusion of the slave dealer; to guard its citizens against the inconveniences and dangers of a slave population.

"The right to exercise this power by a State is higher and deeper than the Constitution. The evil involves the prosperity and may endanger the existence of a State. Its power to guard against or to remedy the evil rests upon the law of self-preservation, a law vital to every community, and especially to a sovereign State."

Chief Justice Taney on this same point said:

"In my judgment, the power over this subject is exclusively with the several States; and each of them has a right to decide for itself whether it will or will not allow persons of this description to be brought within its limits from another State, either for sale or for any other purpose; and also to prescribe the manner and mode in which they may be introduced, and to determine their condition and treatment within their respective territories; and the action of the several States upon this subject cannot be controlled by Congress, either by virtue of its power to regulate commerce or by virtue of any other power conferred by the Constitution of the United States."

Now, Mr. President, I consider that that case has decided that this subject of the introduction or passage of slaves from one State to another is entirely within the power of the several States; that it does not fall within the power given to Congress to regulate commerce between the States; and for the main reason which I have given before. It was essentially for this: that if we can prohibit it we can all-w it, and if we can allow it we can defeat the purpose of the State altogether. The great point in the case is that they are, as Judge McLean says, persons, not property, not articles of commerce and trade, and therefore do not fall within this delegated power that is given to Congress. I say, therefore, that the sections of the law of 1807 which it is proposed to repeal ought to be repealed, because they attempt to regulate it. I must say further, I consider any attempt by Congress to prohibit, or allow, or regulate this subject is to treat these persons as property, articles of merchandise, and to endeavor to exercise the power of Congress under that delegation of power to regulate commerce as covering it contrary to the decision of the Supreme Court. This last clause which the honorable Senator had added to his amendment prohibiting the coast-

wise slave trade is an attempt to exercise this power, and I therefore shall be obliged to vote against the amendment.

Mr. SUMNER. I merely wish to make one remark as to the question of power. I say nothing as to whether Congress under the Constitution may undertake to regulate the trade in slaves between the States on the land. I waive that question. The proposition before the Senate simply undertakes to prohibit the coastwise slave trade. Now, sir, I hold in my hand Brightley's Digest. By turning to that you will find there is one head entitled "coasting trade," containing no less than forty-eight different sections, each section being in the nature of a regulation by Congress on that subject. I turn, then, to another head entitled "passengers." There I find seventeen sections, each section being in the nature of a regulation on that subject; and in point of fact it is well known to the Senate that Congress has, by most minute regulations, determined the conditions on which passengers shall be carried in ships. It is known that those regulations are applied especially on board the California steamers, and also the steamers between this country and Europe. In the one case the steamers are foreign; in the other they are domestic; or the trade, if I may so say, is domestic. In view of this minute and ample legislation of Congress on the subject of passengers and of the coasting trade, I submit there can be no question that Congress can go further, and by a final regulation declare that in that coasting trade there shall be no such thing as the slave trade.

The question being taken by yeas and nays, resulted—yeas 13, nays 20; as follows:

YEAS—Messrs. Conness, Grimes, Harlan, Howard, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sprague, Sumner, Wade, and Wilson—13.

NAYS—Messrs. Buckalew, Cardie, Clark, Collamer, Cowan, Davis, Harris, Hendricks, Hicks, Howe, Johnson, McDougall, Nesmith, Powell, Richardson, Riddle, Saulsbury, Sherman, Trumbull, and Van Winkle—20.

ABSENT—Messrs. Anthony, Brown, Chandler, Dixon, Doolittle, Fessenden, Foot, Foster, Hale, Harding, Henderson, Lane of Indiana, Ten Eyck, Wilkinson, Willey, and Wright—16.

So the amendment was rejected.

Mr. COLLAMER. I am requested to move a couple of amendments from the Committee on the Library. At the end of the first section we move to insert the following:

To enable the Joint Library Committee to purchase a collection of early American maps and plans, chiefly manuscript originals, illustrative of the French war and the war of the Revolution, for deposit in the Library of Congress, \$1,000.

Mr. President, this is a small matter, but it is a matter of great interest to any gentleman having any historical curiosity. Here are about one hundred plans and maps, which were obtained a few years since from the royal geographer of England. A large part of them are original drafts, illustrative of the Braddock expedition, of the French war, our revolutionary war, and of the early periods of our history. They are works of very great interest and curiosity. They were original drafts put into the hands of the royal geographer from which some plates were made, the originals remaining in his hands. They were sold some few years since, and a gentleman in Boston obtained this selection of plans and drafts made by British officers. For instance, here are seven plans showing the progress of the Braddock expedition in 1756, from stage to stage, as it went on, and plans of the different parts of the country as he passed through. Here are the plans of the expedition to Lewisburg. Here are a set of plans of the attack and defense and the whole proceedings of the Bunker Hill fight, and Boston and vicinity. Here are the plans for the attack on Charleston, in the Revolution, drawn by British officers of the topographical engineers. Here are the operations of Sir William Howe, and his plan for the attack on West Point, in 1777. Here are the original plans, made by officers at the time, of all the operations before Yorktown, and the progress of the siege. Here is the original plan of the attack upon Quebec under Wolfe, and of all that region of country. There are one hundred of them, all of great public interest, which we can make a purchase of at the present time. I have no doubt the gentleman now possessing them could sell them at once to our historical societies for a great deal more money. Little as there may be in these drafts and plans, poor as I am, I would give \$100

to see them. We desire to secure these original maps and plans for the Library.

Mr. JOHNSON. Can they be got for the sum indicated in the amendment?

Mr. COLLAMER. They can be got for \$1,000, and we desire to make a portfolio of them for the use of the Library, and we ask for this appropriation for that purpose:

The amendment was agreed to.

Mr. COLLAMER. I have one other amendment to offer:

To pay Henry R. Schoolcraft for one hundred copies of two additional volumes to complete his work entitled, *Information respecting the History, Condition, and Prospects of the Indian Tribes of the United States*, to be paid under the direction of the Joint Library Committee whenever he shall deliver to them the said number of copies, printed and bound in as good style as the volumes already published under authority of Congress, to be done within three years, \$10,000.

Mr. Schoolcraft was employed in making this great national work. It took him a number of years to collect the material and to publish it; and appropriations were made for it from time to time until the present volumes were completed. He had gathered the elements and materials for two other volumes to complete the work. He is now in that condition that he is incapable of moving about; he has lost pretty much the power of locomotion; but possesses all the powers of his mind fully, and writes by an amanuensis. Out of the material which he has collected, he has prepared these two additional volumes to complete the work. He wants aid now to publish them, and the committee, after full consideration, recommend that there be paid to him \$10,000 if he will deliver one hundred copies of each of those two volumes when completed if he completes them in the same style as the former volumes.

Mr. HALE. I will ask the Senator who has reported this bill if the attention of the committee was called to a conflict about the title to the maps and plates that were made by Major Eastman and Schoolcraft.

Mr. COLLAMER. No, sir.

Mr. HALE. There is a contest about them.

Mr. COLLAMER. Some three or four years ago, I believe, at the application of Mr. Schoolcraft, Congress passed an act delivering over those plates, which had been executed by the Government in making out these volumes, to Mrs. Schoolcraft for him, with authority to use the copyright of those volumes.

Mr. HALE. Yes, sir. I do not remember now precisely what the character of it was. It is possible you may, Mr. President. I do not know how that is, and it has been out of my mind ever since; but at that time I know Major Eastman complained that he had been very unfairly and harshly dealt by, and that he was very materially injured by the resolution that was passed by Congress.

Mr. COLLAMER. That has nothing to do with this.

Mr. HALE. Yes, sir, it has a good deal to do with it. The very plates used in the six volumes that have been published—

Mr. COLLAMER. This is for two additional volumes and has nothing to do with them. They are a continuation of the work on the Indians of America. Every one has seen the work. These two additional volumes will complete the work. Those plates to which the Senator refers related to the six volumes that the Government has already published. This amendment is in relation to two additional volumes and has nothing to do with those plates.

Mr. HALE. I am satisfied that we have done great injustice to Major Eastman, who was a meritorious artist, who made those plans. He expected to use them for his own benefit, but afterwards, by act of Congress, they were all transferred to Schoolcraft, when in fact the great merit, if there was any merit in them, belonged to Major Eastman. The major felt deeply wronged by the action of the Government in that transfer of the plates to Schoolcraft.

Mr. JOHNSON. I do not know how. I never heard before of any contest between the officer spoken of and Mr. Schoolcraft. Congress in 1857 or 1858, I forget which, when I suppose the contest alluded to was before Congress, passed an act giving all the plates to Mr. Schoolcraft. As has just been stated by the chairman, the two volumes which the Committee on the Library pro-

pose now to provide for are volumes in which there are no maps or plates of any description, and of course, therefore, so far as they are concerned, the whole claim upon the Government, if there is any claim upon the Government, is the claim of Mr. Schoolcraft.

Mr. SHERMAN. I remember something about this resolution in the House of Representatives. It is Mrs. Schoolcraft that we are dealing with, not Mr. Schoolcraft. He is unable to be about. I have seen him often. Mrs. Schoolcraft complained that the plates and maps accompanying the manuscript and papers of her husband were not published by Congress, and that there were two volumes that Congress refused to publish. The work was to be completed with the sixth volume. Thereupon a resolution was introduced for her benefit, and she was given the plates and property of the United States, consisting of all the engravings, drawings, and diagrams, estimated to be worth from fifteen to twenty thousand dollars, in distinct satisfaction of all claim that she asserted against the United States for the failure to publish all the manuscript that had been collected together by her husband. That resolution was understood by both Houses, at least by the House of Representatives, and the debates will show it, as an entire relinquishment and disconnection of the United States with the publication of Schoolcraft's *History of the Indians*. There is no doubt about these facts.

Now it is proposed in this time of trouble and difficulty to appropriate \$10,000 for two hundred additional volumes, or fifty dollars a volume, of this work. We have got the cream of them all published in six volumes that have already been printed. We have surrendered over to Mrs. Schoolcraft not only the property of the United States, but have delivered to her the property of Major Eastman. I remember that claim very well. Major Eastman had just as much right to a portion of those plates as Mrs. Schoolcraft, but we gave the whole of them to Mrs. Schoolcraft. Under these circumstances, without further debate, I am not disposed to publish these two volumes, and especially at such an enormous expense as fifty dollars a volume.

Mr. GRIMES. I should really like to know how old this Mr. Schoolcraft is before I am called upon to vote on this amendment, because I should like to know what the probability is of the duration of this continual annuity being paid to him, or something approaching an annuity, in the shape of appropriations of this description.

Mr. SHERMAN. We settled with him once, and got a full quitance, as we supposed, with the Schoolcraft Indians.

Mr. COLLAMER. This is not put on the ground of a claim, but to finish the work.

Mr. GRIMES. Let us have the yeas and nays on this proposition. I shall vote for no new books.

The yeas and nays were ordered.

Mr. JOHNSON. This is not a claim, as the honorable Senator from Iowa seems to suppose.

Mr. GRIMES. I know it is not a claim.

Mr. JOHNSON. Because whatever has been done before has been settled for by the Government; but there is now in the possession of this gentleman, and which must have been the result of materials collected before, what will constitute two volumes. The Committee on the Library believe it will be very beneficial to the country to have them printed. There is no mode of getting the history of the Indians complete other than the one which the committee provide. It is not, therefore, upon the ground that there is any claim, direct or indirect, on the part of Mr. Schoolcraft, or anybody else, for \$10,000, but upon the ground that under all the circumstances it is advisable that we have the work.

Mr. GRIMES. I did not understand that anybody had put this in the shape of a claim upon Congress, except a claim upon the gratitude and the benevolence of Congress. It was said that this gentleman was a very infirm man, and that statement, I suppose, was made in the way of inducement to cause us to continue this business of publishing books, or assist in the publication of these books, upon the ground that they are to be a history of the Indians.

Mr. JOHNSON. The honorable member does injustice to the Library Committee, and particularly to my friend the chairman of that committee. He has not mentioned, nor have the Library

Committee considered it at all as a reason why we should buy these books, that Mr. Schoolcraft was bedridden. He happened to say that he had not seen Mr. Schoolcraft because he was bedridden from paralysis, and had been bedridden for some time, but his mind, always of the highest order before he was paralyzed, remains, as we understand, just as powerful now as it ever was. He can use an amanuensis, not for the purpose of preparing the work in any other way than an amanuensis can be said to prepare anything written by a master mind. The only question with the committee was, not a question of gratitude, not a question of sympathy, not a question of benevolence, but whether the work itself was one which the Government ought to have, and we came to that conclusion, believing as the committee or the majority of the Joint Committee on the Library did, that it was advisable that the Government should get this work if it could be obtained for \$10,000, and they are not to pay a dime until it is printed and it turns out that in point of fact these two volumes are prepared in the same way and in the same style with the volumes for which we have already paid.

Mr. COLLAMER. Mr. Schoolcraft asked for a considerably larger amount and proposed to deliver more volumes, but we did not think it necessary in order to secure the work that we should buy any more than the number indicated in the amendment. We thought that would be sufficient to insure the publication.

Mr. GRIMES. Does this finish the work, or are we not to continue this work or assist in the publication, so long as this man may live?

Mr. JOHNSON. This finishes it.

Mr. SHERMAN. We finished it once before.

Mr. GRIMES. That is the reason why I wanted to know the age of this man, because I wanted to know how long it was probable on a computation of the duration of his existence we might be called upon in this same way by the Committee on the Library to finish the work by an additional appropriation.

Mr. WILSON. Mr. Schoolcraft is certainly, I think, not a very old man, and if he had good health he might do something in the future. I understand that he is broken down by paralysis and confined to his room, but his intellect is as clear as ever, and he has been able to prepare these volumes with assistance in regard to labor. That is what I understand to be the fact, and that this is the completion of what he intended to do; I, therefore, shall vote for it.

Mr. TRUMBULL. I should like to inquire how much a volume it is proposed to pay?

Mr. SHERMAN. Fifty dollars.

Mr. TRUMBULL. Fifty dollars a volume?

Mr. COLLAMER. The idea was this: that he was to receive this contribution to enable him to complete the work.

Mr. HOWARD. I beg to say one word in reference to Mr. Schoolcraft, the author of this great work upon Indian antiquities. He has spent a very large portion of his life in the neighborhood of Indians, and indeed with Indians, in the examination of their antiquities, their language, and their manners and customs, and it is probable that there is no living man who in these respects can at all compare with Mr. Schoolcraft. Although, if it were a new question whether to afford a subsidy to him or anybody else for the purpose of preserving these curious records, I might be disposed to vote against it and probably should be disposed to vote against it, still, as we have got, as the saying is, our foot in it, I do not see but we must face it until we come to the end. Without these volumes, if I understand it, the work will be left in a very imperfect state.

Mr. SHERMAN. If my friend from Michigan will allow me, the last volume published is a very valuable and interesting one, a general résumé of the whole work, and is really a completion of it, and a very proper completion. The whole work is bound and completed at the end of the sixth volume, which is a general résumé of the whole history, character, and language of the Indians, and that was intended to be the end of the work so far as Congress was concerned. Then Congress gave over to Mrs. Schoolcraft—for it was Mrs. Schoolcraft that was negotiating with Congress—all the materials belonging to the Government, the maps, plates, engravings, &c., because the work was supposed to be completed.

Mr. HOWARD. I will inquire of my friend from Ohio whether this subject has not been referred to a committee, and been reported upon.

Mr. SHERMAN. The majority of the Committee on the Library have agreed upon it.

Mr. HOWARD. Undoubtedly it may be true, as the Senator from Ohio remarks; that it was supposed when he had come to the end of the sixth volume he had finished his labors; but he discovered his mistake, and he only verified the truth of what Byron says—

Mr. COLLAMER. If the Senator will allow me, Dr. Schoolcraft never said that the work was completed at any time. He had not finished the materials which he had collected by order of the Government; but Congress then stopped the work.

Mr. HOWARD. I do not know what may have been the opinion of Mr. Schoolcraft. At all events, authors are apt to verify the lines of Byron that there is nothing so difficult as a beginning in poetry unless perhaps the end. That is probably true in this case, and it is by no means certain that the work will be brought to a close even by this appropriation; but, as I remarked before, as we have purchased the others, let us dispose of him as well as we can. I think I shall vote for this appropriation.

Mr. SUMNER. The Senator from Michigan has anticipated very much what I proposed to say. I rose at the same time he did. If this were a new question I should not see my way to vote for the appropriation; but we have already begun and gone far with this work. It has become almost a national monument. Perhaps no publication of our country has been regarded with more interest by the scientific world abroad than these volumes relating to the North American Indians. Mr. Schoolcraft was recognized everywhere as a master of all the knowledge relating to the aborigines of our country. He is now in a sad condition, but he has accumulated materials which, I understand, with assistance he will be able to compile. As we have begun the publication of this work I am disposed not to stop until it is finished, although if the question were now whether we should begin I should not see my way clear in voting for it.

Mr. HARLAN. When the Government of the United States appoints an officer to make a survey or exploration there is an official reason for publishing his report at the expense of the Government. Having been appointed to investigate any particular subject, scientific or otherwise, the object of the appointment cannot be fully realized without the publication of the result of his researches, and hence Congress has from time to time made appropriations to pay for books of this character, purely scientific in their nature, and not directly connected with the ordinary machinery of Government; but that had grown to be a terrible abuse, and a few years ago there was an effort made to discontinue publications of that kind. To illustrate: when Congress originally ordered the publication of the report of the Pacific railroad surveys, I suppose no one contemplated that it would consist of more than one quarto volume of five or six hundred pages, and yet we now have twelve quarto volumes, enormous books, on that subject, and I think the publication is not ended yet. We ordered the publication of the Stevens report. I think it was stated when the publication was ordered that it would constitute one additional volume of the usual size. One volume was printed; then they have printed part one and part two and part three of the usual size, and whether the work has been completed or not I apprehend no member of the Senate knows. Whether part four will not be found on our desks at the next session of Congress, printed, bound, and embellished, is a question that I am not prepared to decide, and I apprehend nobody is. When you once order a work it seems to be impossible to get to the end of it.

Now, to come to the question more directly before the Senate, Congress originally ordered the publication of certain papers collected by Mr. Schoolcraft connected with the history, manners, and habits of the Indian tribes in North America. The work was sent to the printer, and one enormous volume was published, then another and another and another, from year to year, until six vast volumes were completed. It was then understood that the whole work was at last ended,

and, as has been stated here to-day, the plates and lithographs, and everything of that kind that had been connected with the publication, although Government property, were donated to the author. It was in the beginning a purely private enterprise, of no possible consequence to the Government or any one of its officers. But since the Government decided to end its connection with this work it seems that these parties profess to have collected other papers and additional information on that subject of Indians, and this provision proposes an additional appropriation to pay for their publication. Why so? If the proposed work is valuable, why can it not be published by a book publisher? It certainly would sell in the market if the information be desirable. If the information is not desirable the work would not sell, and it would not be profitable to a private publisher, and hence the necessity of coming to Congress for a subsidy. No author would dream of coming to Congress for a subsidy to him to publish a work that he expected would attract the attention of intelligent readers, because the profits in that case would probably be enormous to the publisher.

But the reason for the proposed appropriation in this case seems to consist in the fact that the authors themselves are unable to find a private publisher with whom they can make a contract to publish their work. The private publishers, looking at the character of the collections or compilations, believe that it will not be of sufficient interest to justify the publication. Hence they come to Congress, and the Library Committee propose to saddle the expense on the nation. If it were the report of an officer of this Government detailed to make an investigation, to explore the country, or to collect information under the laws of the United States, he would be unable to procure a copyright, and hence would hardly be able to interest the trade sufficiently to secure the publication, however important or popular; hence the necessity, it seems to me, for publishing it at the public expense to realize the object of the Government in making the appointment; but in this case we have never authorized the collection of these additional papers, and clearly intimated to the parties that all connection of the Government with the enterprise was ended and the whole thing concluded; but these parties, prompted by private interest, have collected other papers; and finding no publisher willing to risk the success of the new books in the market to defray expenses, the authors have been hanging around Congress here for two or three years to obtain the aid of the Government. This is not a new thing. The parties in interest have been hanging around this body lobbying to secure the sympathy and votes of members for several years in order to get a subsidy to enable them to publish a work that they believe will not command sufficient interest in the country with the reading public to justify a private publisher in printing the work. If we take up works of this kind and print them at the public expense I cannot see any end to it. If Mr. Schoolcraft needs help, and the Government is under any obligations to support him, give him a pension at once and avoid the hypocrisy of ordering the publication of new books for the use of the Library which nobody wants and which consequently nobody will publish, when the real object is to grant assistance to an indigent old man whose friends importune for aid on the ground of charity.

Mr. SPRAGUE. I hope this amendment will not be adopted. I hope that at this time there will be no \$10,000 or \$1,000 appropriated for any such purpose. I think that the necessities of this people and of this Government are sufficiently tried in the expenditure of money without appropriating it to such a purpose as can do nobody any good at this time certainly. I cannot see that the Government or people of this country are to be benefited by the appropriation.

There is another point about it. I am told by Senators that the persons who are to receive this money are not altogether loyal. That would be a sufficient reason with me to vote against the appropriation at this time. The fact that they are not loyal, that the appropriation is not necessary to carry on the war, and that the people of the country will not be benefited by it, are to me sufficient reasons why the appropriation should not be made.

Mr. SAULSBURY. I presume that if these persons, about whom I know nothing either personally or by reputation, are not loyal, there is some evidence accessible to Congress to prove that fact. Perhaps there is some judgment of a court of competent jurisdiction that has tried that question and ascertained that they are not loyal. If such a record exists anywhere, perhaps it would be proper to produce it. I know of no way of determining the loyalty of persons except that mode which the law points out. That is by judicial process, by a judgment of a court having competent jurisdiction, where the charge is made in a legal form and determined on legal principles; but if any individual's private judgment is to be the standard of loyalty of everybody else, I think it is a very unsatisfactory mode of determining it.

Mr. SPRAGUE. I presume there are many ways of testing the loyalty of people, and I presume that in this case loyalty might have been tested in a way that I would have tested a case yesterday. Yesterday in riding in the cars of the horse railroad from this Capitol to the Treasury Department, an incident occurred which may perhaps be a sufficient illustration as to the test of loyalty. A rebel prisoner under charge of a sentry stepped into the car. He was very dirty and very wild and very haggard; he evidently put on as desperate a look as it was possible for a man to put on. His countenance, his whole appearance was daring, belligerent. He created some attention but no one spoke until finally a well-dressed man stepped in from the street and sat opposite this prisoner. He looked at him for a moment or two, and just before I found myself at my destination he asked the sentry a question which I did not hear. He then asked the prisoner "From what regiment are you?" The reply was, "I am from the second." "Second what?" "The second Virginia cavalry." "Have you any money?" "I have ten dollars in confederate money." "Have you any greenbacks?" "I have one dollar." "Do you want some money?" "Yes." He took out his pocket-book and tendered the man ten dollars. He handed it in a way to attract the attention of every person in that car, and his manner was defiant. He was a citizen of this town, receiving its protection.

I presume that no Senator will think that I was not justified in believing that the man who gave money to that prisoner in that way sympathized with the rebellion, and I presume that Senators who have spoken to the lady that is to receive this money, when they have tested her by her conversation, find that the impressions left on their minds are that she is not loyal, and they certainly have a right to believe that without an investigation of the matter in a court of law.

The question being taken by yeas and nays, resulted—yeas 19, nays 18; as follows:

YEAS—Messrs. Buckalew, Carlile, Collamer, Davis, Foot, Harris, Hendricks, Howard, Howe, Johnson, Morrill, Pomeroy, Powell, Ramsey, Richardson, Riddle, Saulsbury, Sumner, and Wilson—19.

NAYS—Messrs. Anthony, Brown, Clark, Conness, Dixon, Grimes, Hale, Harlan, Hicks, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Sherman, Sprague, Trumbull, Wade, and Wilkinson—18.

ABSENT—Messrs. Chandler, Cowan, Doolittle, Fessenden, Foster, Harding, Henderson, McDougall, Ten Eyck, Van Winkle, Wiley, and Wright—12.

So the amendment was agreed to.

Mr. TRUMBULL. I am instructed by the Committee on the Judiciary to offer the following amendment as an additional section:

And be it further enacted, That the Attorney General be, and he is hereby, authorized to contract on behalf of the United States for the printing and publishing of the unpublished Opinions of the Attorneys General of the United States delivered since the 4th of March, 1837, on the terms following, namely: the said Opinions to be published in as many volumes as may be necessary, which shall be, as to the quality, the paper, printing, and binding, of uniform style and appearance with the eighth volume of said Opinions, published by Robert Farnham in the year 1858, and as nearly as possible of uniform size with said eighth volume, and which shall be numbered in regular order after the said eighth volume, the copyright thereof to be taken out by and to be for the use of the publisher, who shall deliver to the Attorney General for the use of the United States, within one month after the publication thereof, three hundred sets of said volumes at the price of four dollars per volume, payable after they are so delivered. And the Attorney General is hereby authorized to employ a competent person to edit and prepare the said Opinions for publication as aforesaid, with proper head notes and indexes, and to supervise the said publication. When the said three hundred sets shall have been delivered for the use of the United States, the Attorney General shall cause them to be distributed as follows: for the President of the United States, two sets; for the Department of State, ten sets; for the Department of the

Treasury and the heads of bureaus thereof, twenty-five sets; for the Department of War and the heads of bureaus thereof, twenty-five sets; for the Department of the Navy and the heads of bureaus thereof, fifteen sets; for the Department of the Interior and the heads of bureaus thereof, twenty sets; for the Department of the Post Office, ten sets; for the Attorney General's Office, ten sets; for the judges of the Supreme Court of the United States, one set each, and the library of said court three sets; for the judges of the Court of Claims, the solicitor, and assistant and deputy solicitor of said court, one set each; for the Library of Congress, fifty sets for the use of both Houses of Congress; the residue of said three hundred sets to remain at the future disposal of Congress. And the sum of \$30,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay for the editing of the said Opinions and the price of the said three hundred sets, which money shall be disbursed on vouchers approved by the Attorney General.

This is a provision, carefully guarded I think, to bring up the Opinions of the Attorneys General, which have not been published since 1857. It is supposed they will make about four volumes.

The amendment was agreed to.

Mr. WILSON. I propose this amendment as a new section to come in after the fourth section of the bill:

And be it further enacted, That the Secretary of War shall be authorized to appoint a book-keeper for the national armory at Springfield, whose compensation shall be \$1,200 per annum; and the compensation of the clerks at said armory shall be \$1,000 per annum each.

We now pay \$800 to the chief book-keeper at the Springfield armory and to the clerks employed there. The business there has increased immensely, as we all know. Mr. Dyer, who is the superintendent, recommends an increase of these salaries, and says he cannot get along well without it. General Ramsay, of the ordnance department, strongly recommends it, and so does the Assistant Secretary of War, Mr. Watson. In fact they recommended \$1,400 for the chief book-keeper and \$1,200 for the clerks, but the Committee on Military Affairs have fixed the chief book-keeper at \$1,200 and the clerks at \$1,000, making an increase of \$400 to Mr. Winchester, who has had the care of the books of the armory for many years, and of \$200 each to the clerks. There is an immense number of men employed at the armory; the business done at the institution is very great, and I think this small increase of pay is justly due to these officers.

Mr. SHERMAN. I am opposed to this class of amendments, not because I have any information that will enable me to say that the salaries proposed are too high, but simply because I desire to keep this bill free from extraneous matter. There is no appropriation in this bill for the armory at Springfield; there is nothing whatever in the bill in relation to the armory at Springfield or to carrying on the war, and if we commence receiving propositions to raise salaries as amendments to this bill, I do not know where we shall end. Let the Senator attach the amendment to some military bill; he has those bills under his charge. It has no connection with this appropriation bill, and I must therefore oppose it.

Mr. WILSON. I do not wish to engage in a contest that may lead to a judgment against this proposition, which is so just in itself, by trying to force it upon this bill. I made the proposition because I thought it would be as well to put it on this bill. It is a small thing, any way, though to the persons concerned it is a large matter. I will withdraw it now and offer it on some military bill before the end of the session.

Mr. SHERMAN. I do not contest the merits of it, but I wish to keep this bill free from extraneous matter.

Mr. WILSON. I withdraw the amendment, because I will not run the risk of getting a judgment of the Senate against it by insisting upon it as an amendment to this bill.

Mr. BUCKALEW. I offer this amendment, to come in at the end of the second section of the bill:

For plans and detailed drawings for proposed changes in the Capitol wings to secure improvements in the ventilation, heating, and acoustics of the Halls of Congress, the sum of \$1,500, or so much thereof as may be necessary; the said outlay to be authorized and approved by the joint select committee of the two Houses upon the ventilation, &c., of the said Halls, and to be paid out of the aforesaid appropriation for the Capitol extension.

I am authorized by the committee to offer the amendment. I presume it explains itself. It is not necessary to make a speech in its favor.

The amendment was agreed to.

Mr. SPRAGUE. I am authorized by the Committee on Commerce to offer an amendment, to come in after line one hundred and one of section one:

For construction and repair of light-boats, to be expended under the direction of the Secretary of the Treasury, \$150,000.

I will state to the Senator from Ohio that this item has been received from the chairman of the Committee on Commerce of the House of Representatives; the estimate was received by that committee too late to insert it in this bill; if it had been received in time it would have been placed there by the other House. It is an appropriation, not to construct anything new particularly, but to preserve the light-boats and keep them in order.

Mr. SHERMAN. Do I understand that it is reported from the Senate Committee on Commerce?

Mr. SPRAGUE. Yes, sir; and it was received from the House Committee on Commerce with a request that it should be put upon this bill.

Mr. SHERMAN. Very well.

Mr. SPRAGUE. I have a communication on the subject from the Secretary of the Treasury and the Light-House Board which can be read if desired.

The amendment was agreed to.

Mr. FOOT. I rise to move the reduction of a very small appropriation, but it seems to be more than is needed. In line fifty-five of section two there is an appropriation of \$500 for repairs to the bridge across the Potomac river at Little Falls. I move to strike out \$500 and insert \$250; and I will state that some weeks ago I received a communication from the mayor of Georgetown, calling my attention and desiring me to call the attention of the Committee on Public Buildings and Grounds to the necessity of a small appropriation for the repair of this bridge. In his letter he says this:

"The bridge at the Little Falls of the Potomac, about three miles from this place, and which was erected by Congress, has been so much used by Army trains and other vehicles during the last three years as to very much wear out the flooring, and is in great need of early repairs. I have had its condition carefully examined by an experienced mechanic, who thinks that the sum of \$250 would be adequate to the cost of the work and materials which would be required to put it in proper order."

I move, therefore, to amend the bill by reducing this appropriation from \$500 to \$250.

The amendment was agreed to.

Mr. LANE, of Kansas. I move to insert after line one hundred and sixty of section two, where there is an appropriation for surveying the public lands in Kansas and Nebraska, the following clause:

And the consent of Congress is given to the construction, under the authority of the State of Kansas, of a toll-bridge across the Republican river, near Fort Riley, with the perpetual use of the land necessary for said bridge and toll-houses, and with the further privilege to take stone and timber for the construction of said bridge from the fort's reserve.

Mr. SHERMAN. It is manifest that a provision for a toll-bridge in Kansas should come before us in a well-considered proposition from the Military Committee, or the Committee on Public Lands. Every Senator can see the effect of such legislation on the appropriation bills.

Mr. LANE, of Kansas. Last night I asked that the Government should appropriate \$10,000 for the construction of a free bridge on the Government fort reserve. It was decided that the citizens of the State of Kansas should erect the bridge. We are not in the habit ourselves of making free bridges; but I think we can erect a toll-bridge. Our tolls are low; they will be regulated by the State. If we are to build bridges for the Government, I propose that we shall build them on the same terms that we build other bridges.

Mr. CONNESS. There is no regulation here by the State. They can charge what they please.

Mr. LANE, of Kansas. But a company has to be chartered for the purpose by the Legislature, and the Legislature will fix the tolls.

The amendment was rejected.

Mr. ANTHONY. I am instructed by the Committee on Printing to offer the following amendment as an additional section:

And be it further enacted, That the salary of the foreman of the Government bindery hereafter be \$1,800 per annum.

Mr. SHERMAN. The same objection applies

to this as to the amendment of the Senator from Massachusetts. I hope all propositions to increase salaries will be kept off this bill. The same arguments could be urged in favor of increasing the salaries of other employes as the employe named by the Senator from Rhode Island. This bill makes no appropriation for printing; it is confined to appropriations for the light-house system, surveying the public lands, and miscellaneous expenses; it has no connection with the legislative or executive departments or the printing office.

Mr. ANTHONY. I will just state the case and submit it to the judgment of the Senate. The foreman of the composing room at the Government printing office receives \$1,800 a year, while the foreman of the bindery receives but \$1,500 a year. There is no reason why they should not both have the same sum. The Superintendent of Public Printing recommends that the increase be made, and I submit it to the Senate at his suggestion. I believe it is only a fair price for the skill and ability required in this place, and I think the same price may be obtained elsewhere.

The amendment was rejected.

Mr. SUMNER. The third section of this bill appropriates \$100,000 in order to aid the administration of justice, especially in order to bring to conviction persons engaged in counterfeiting Treasury notes, bonds, or other securities of the United States, as well as the coin of the United States. In order to accomplish that result something more than an appropriation of money is needed; an amendment of the law of evidence is necessary; and I send to the Chair an amendment by way of proviso to the third section.

The Secretary read the amendment, which was to add to the third section of the bill the following proviso:

Provided, That in the courts of the United States there shall be no exclusion of any witness on account of color.

Mr. SUMNER. There is an amendment which surely is germane. The objection of form, urged by the Senator from Ohio, to my other proposition is without any shadow of support here. It is proposed in the bill to appropriate \$100,000 to "bring to trial and punishment" counterfeiters. The object is important, especially at this moment when we are putting in circulation national securities on so large a scale. But suppose that the counterfeiter, in a State where the testimony of colored persons is excluded, chooses to employ such persons to aid him. How can you bring him to punishment? All this large appropriation will not help in such a case. It will be of no avail. The counterfeiter surrounded by his colored accomplices may mock your laws. But admit the testimony of these accomplices, and then will justice be done. I refer to this class of cases because your bill provides especially for them, and thus testifies to the importance of precautionary effort.

But the hardship and absurdity of this rule, apparent in the case of a counterfeiter surrounded by colored accomplices, will arise in every other case of crime. How justice can be administered where such a rule prevails, I am at a loss to understand. Now that slavery is disappearing, this rule ought to disappear also.

This subject has already been discussed at length during the present session in an elaborate report which I have had the honor of making from the select committee on slavery and freedmen, so that I need not occupy your time. Besides, the case is too plain for argument. But I have in my hands letters from gentlemen in Virginia, showing the practical necessity of admitting the testimony of colored persons there. Here is one:

HALL OF THE CONVENTION,
ALEXANDRIA, VIRGINIA, March 17, 1864.

I address thee as friend, although having no personal acquaintance, but have long known thee by reputation as a friend to the human race. Having been connected with the reorganized government from its beginning, naturally feel a strong interest in its welfare.

We have in convention abolished slavery in the organic law of the State, and it would at first sight seem as if our fondest hopes were realized. But another difficulty now stares us in the face, which, in the present state of public opinion, we cannot conquer. I allude to the subject of allowing the freedmen to give testimony in our courts. This will not be allowed where the interests of whites are involved. The result that will follow any one can foresee, that their persons and property will be at the mercy of every vagabond who may happen to have a black heart instead of a black skin.

While they were slaves their masters were a protection

to them against others; although there was not much law looking that way, their owners being of the all-powerful class in the communities in which they lived, their influence answered the end very well. My object in writing was to make those acquainted with the probable future position of these people, thinking it might be possible to ameliorate their condition by some Federal legislation. While I speak of Virginia I have no doubt but that the same will be true of the whole South, and will be a gigantic evil that may lead to the most disastrous results. The negro after this war will not be the same man as before: breathing the air of freedom, trained to arms, understanding the power of combination, and familiar with blood, it will be tampering with a volcano to deny him protection of person and property.

Please consider this as private as far as my name is concerned.

I do not give the name of this writer, because he is unwilling that it should be known. But you will observe, from the date of the letter, that he was a member of the Virginia convention. His testimony will speak for itself. The other letter, as you will see, is from the district judge of Virginia:

UNITED STATES DISTRICT COURT,
ALEXANDRIA, VIRGINIA, March 22, 1864.

DEAR SIR: Some time since I saw by the papers that you were urging the admission of our freedmen as witnesses in all United States courts.

In several confiscation cases now pending in this court, such testimony will be of the greatest importance. Indeed, I am told by the United States assistant attorney in this court that from his knowledge in the preparation of these cases, the prosecution will probably fail and the Government be subjected to costs unless such testimony is allowed in several cases now on our docket. You will therefore see the necessity of a speedy change of the law corresponding to the change which has taken place in the condition of the freedmen.

Your obedient servant,

JOHN C. UNDERWOOD,
District Judge.

HON. CHARLES SUMNER, United States Senator.

This is practical testimony. Let me add to it words from another. Sir Samuel Romilly, whose great fame as a lawyer was enhanced by humane labors in Parliament, has furnished his testimony on this very point:

"The laws of the colonies are said to be humane; but by those laws a child of five or six years old may receive for a slight offense or for no offense, at the caprice of the master or overseer, no less than thirty-nine lashes with what is termed a cat-whip. To this dreadful extent the law authorized the infliction of punishment by individuals. But even in cases where the law conveys no authority, where wanton cruelty is lulled in defiance of the law, how easy it must be to escape detection, when the testimony of a negro, or a thousand negroes, would not avail against a white man! And with what force must this argument strike when we reflect on the proportion which the white bear to the black inhabitants of the island. What security could we expect in our passage even through the streets of London if ninety-nine people out of a hundred, or even nine out of ten, were incompetent to give evidence in a court of justice?"—*Speeches of Romilly*, vol. 1, p. 25.

Mr. President, in presenting this measure, I waive for the present all questions of right, and, if you please, all sentiments of humanity. I ask attention plainly and directly to the practical failure of justice which must arise without its adoption. Those may be seen under two different heads: first, with regard to colored persons; and secondly, with regard to white persons.

If colored persons cannot testify against white persons, what protection can they have against outrage? The white person may perpetrate any brutality upon colored persons with impunity. There is nothing in the dreary catalogue of crime, from a simple assault to murder itself, which may not be committed with impunity by a white person if no other white person be present. The bare statement of this case is enough. Surely at this moment there should be no delay in preventing such a failure of justice.

But the same failure may occur in the case of white persons. Let a white person be assaulted or murdered, if you please, by another white person, but only in the presence of colored persons, and justice cannot be administered. The criminal will continue at large unpunished.

Therefore, for the administration of justice, that it may not fail to the colored person, and then again that it may not fail to the white person, there should be no exclusion of any citizens on account of color.

Let the witness be admitted always to testify, leaving the jury to be the judges of his credibility. If his story on its face seems improbable, or if there be anything in his manner or conduct or past life to excite distrust, the jury will be able to measure the just weight of his testimony.

It is hard to be obliged to argue this question. I do not argue it. I will not argue it. I simply ask for your votes. Surely Congress will not

adjourn without redressing this grievance. The king, in Magna Charta, promised that he would deny justice to no one. Congress has succeeded to this promise and obligation.

Mr. SHERMAN. I trusted that after the experience of last night, when the thermometer here rose to ninety-three degrees, I think, and we were all exhausted by a debate on irrelevant matter, the Senator from Massachusetts would not introduce upon this appropriation bill a topic of this kind. I think we have voted this amendment on two other bills during this session. Have we not?

Mr. SUMNER. No. It has been reported by two different committees, the Committee on Post Offices and Post Roads and the select committee on slavery and freedmen, but it has never been definitely acted upon, and for the reason that I have not been able to bring it to a vote by itself. If I had been, I should not move it on this bill; but regarding it now as entirely germane to the subject, feeling unwilling that Congress should separate and leave that injustice to go on so that society may suffer from it, I deem it my duty to take this opportunity to bring the matter before the Senate.

Mr. SHERMAN. My impression is distinct that it has not only been introduced here, but that it is now the law in the bill organizing the supreme court of this District.

Mr. SUMNER. It is so; I moved it myself. I can state to the Senator the different occasions on which it has prevailed. It prevailed on the statute emancipating slaves in this District, but on that statute it was only applicable to cases that should arise in determining question of freedom. It was next applied to the statute regulating the judicial system of the District of Columbia, and was made applicable to proceedings in the courts of the District. But it has not been applied beyond that. I have sought to apply it generally; I have moved it more than once on other bills and have failed, and the measure is now pending as a bill by itself reported by the select committee on slavery and freedmen, and it is also pending as a section of another bill reported by the Senator from Vermont [Mr. COLLAMER] from the Committee on Post Offices and Post Roads. The proposition, therefore, has the sanction as a general proposition of two separate committees of this body; as a proposition applicable to the District of Columbia it has had the sanction of the Senate twice over, and now I plead with the Senate not to arrest it here.

Mr. SHERMAN. So far as I am concerned I have always voted and always will vote to make no distinction in the color, condition, form, or nature of a man as a witness. In my own State black men and white men can testify. If I lived in a slave State I would insist on slaves being allowed to testify. But I beseech the Senator from Massachusetts not to load down this, the last of the general appropriation bills, with amendments that are likely to create discussion or controversy between the two Houses. The Senator has accomplished his object in regard to all the courts of this District; but when you propose to change the law of evidence in the different States you make a controverted question that gave rise to a long debate some time since when it was proposed on a post office bill, and that may give rise to debate here. Without going into the merits of the proposition, in which I entirely agree with the Senator from Massachusetts, I hope the Senate will exclude this class of amendments, and keep all general legislation off this appropriation bill. The appropriation to which this proviso is sought to be attached is an appropriation to enable the Secretary of the Treasury to detect counterfeiters; that is all.

Mr. SUMNER. And to bring them to trial and punishment.

Mr. SHERMAN. I submit that there is no pertinency between the two. This is general legislation in an appropriation bill. It does not qualify the appropriation; it does not relate to the appropriation; it is only likely to create a long discussion on this the last of the appropriation bills. I hope the Senate will exclude it from this bill; and at the proper time I, for one, will join with the Senator from Massachusetts in allowing everybody that is human—and I would include animals who could show signs that could be understood—to testify in a court of justice. I believe the only true way of administering justice

is by appealing to evidence from any class of persons who may know the facts, and some celebrated cases have been gained even from the testimony of animals. I agree with the Senator in the general principle entirely; but I hope he will not press the proposition as an amendment to this bill, for I know it will create discussion.

Mr. SUMNER. I believe it is always time to do an act of justice, and I think this Congress ought not to separate now without doing this act of justice. It ought to do it for the sake of the administration of justice. I have not put this case, you will bear witness, on any grounds of sympathy or sentiment or humanity; I plead for it now as essential to the administration of justice, and for one, as a Senator, I cannot willingly abandon the opportunity that is afforded me by my seat here of making this motion, of making this effort to open the courts of my country to this evidence, without which justice must often fail.

Mr. CARLILE. I dislike at this period of the session, with the thermometer, as it is, I believe, at 87°, to take a part in any of the discussions of this body, and I do not intend to detain the Senate longer than a moment or two. I would appeal to the Senator from Massachusetts to withdraw the amendment and allow this subject to rest at least until the next session of Congress. He reads a letter from a judge of the United States court for Virginia, a gentleman known to me and known to the Senate not to be a Virginian, a gentleman who has been educated and reared under a different system from that which has always prevailed in Virginia, and who I have no doubt is sincere and honest in the opinions which he has given in that letter which has been read to the Senate. But, Mr. President, the Senator from Massachusetts knows very well, as the Senate well know, that we who have been raised under a different system from that which he now proposes to inaugurate, are not prepared at this time for so important a change as he seeks to make. I cannot conceive of anything that would more outrage the public sentiment in a slave State than the fact that the property of one of its citizens had been confiscated upon negro testimony and negro testimony alone; and it is because of some proceedings which have already been initiated in the United States court in Virginia that this legislation is urged in the letter which the Senator from Massachusetts has read.

I know that I differ with many Senators on that subject; but I think we should do nothing that is not absolutely demanded by the emergencies of the times to alienate the feelings of a people whom we seek to bring back within the fold of the Union, and whose loyalty, if they have ever had it, needs more the strengthening influence of this Government than that which is calculated to destroy and paralyze it.

I therefore trust that the Senate will not adopt at this time this proposition. No one knows better than the Senator from Massachusetts how easy it would be for an unscrupulous man, governed alone by his love of gain, to prevail on persons as ignorant as the Senator from Massachusetts has admitted this class of people to be to go into a court of justice, without having impressed on them the necessity of being governed by the strict line of truth, and testify to that which their imaginations may have conjured up and which really has no foundation in fact. If these people are as incapable as the Senator from Massachusetts has admitted them to be by the bill he has now on your table providing for their care and protection, commonly known as the freedmen's bill, if they are incapable of making contracts for themselves, if they are incapable of asserting for themselves their rights in a court of justice, if, because of their ignorance and the dependent situation which they have always occupied in this country, they are in a state not fit to assert the rights that belong to man in a cultivated condition, surely it would be unwise, and I believe it would be inhuman, to place them in the power of unscrupulous knaves by whom they might be induced to commit perjury, and be subjected to the punishment and the pains and the penalties inflicted upon the perjurer. I ask for the yeas and nays on the adoption of this amendment.

The yeas and nays were ordered.

Mr. BUCKALEW. As this is a proposition in relation to the laws of evidence, I offer an

amendment to cover the whole subject; I move to add, "or because he is a party to or interested in the issue tried."

Mr. SUMNER. I am in favor of that proposition taken by itself, but I do not wish to see it put upon this.

Mr. BROWN, (to Mr. SUMNER.) That is just what other people say about yours. [Laughter.]

Mr. SUMNER. I understand that, but I wish to secure this justice.

Mr. BUCKALEW. I wish to secure the additional justice provided by my amendment.

Mr. SUMNER. Well, I will vote for the Senator's proposition by itself. Let him move it when mine is carried.

Mr. SAULSBURY. I do not wish to say anything about the "nigger" aspect of this case. It is here every day, and I suppose it will be here every day for years to come, till the Democratic party comes into power and wipes out all legislation on the statute-book of this character, which I trust in God they will soon do. But, sir, I will speak on the general principle of allowing a party to testify. The rule of the common law, as we know, prevented parties to the issue from testifying. In my not very extensive practice at the bar I have found that the more strictly the principles of the common law and the rules of evidence as established by the common law are adhered to, the more is justice promoted and the better are the rights of parties secured. I shall vote perhaps for this amendment as an amendment to the "nigger" proposition, but standing independently, I should not vote for it, for I think it is a most unwise species of legislation.

As to this question of negro testimony, the settled policy of the States where negroes are to be found has regulated it from time almost immemorial, and every one acquainted with that species of population knows the absolute danger there is in its admission. Uncultivated, barbarous almost, brought for the first time into court with all the temptations they have to testify falsely, with none of that clear perception of the truth or the consequences attaching to the statement of falsehood; the imagination can scarcely conceive the deplorable results that would follow from the admission of such testimony.

Mr. HOWARD. We already have a statute which has been in force about two years, if my memory serves me, allowing parties to be sworn in proceedings in the circuit court of the United States, and I think in the district court. My honorable friend from Illinois shakes his head. I have to inform him that we have such a provision, and that I have practiced under it myself.

Mr. TRUMBULL. There is no such United States law.

Mr. FOSTER. I believe the law is in that regard that the same practice shall obtain in the district and circuit courts of the United States as prevails in the courts of the State where the district and circuit courts are held. If the courts of the Senator's State allow it to be done, of course the district and circuit courts of the United States would follow the same rule.

Mr. TRUMBULL. There is no law of the United States about it.

Mr. HOWARD. It would be more satisfactory far for me to see that provision incorporated in a separate bill or act. Allow me to say one word on this subject. The honorable Senator from Delaware appears to be full of apprehension of evil to arise from the admission of colored people as witnesses upon the stand. He seems to think that they are entirely unfit to present themselves as witnesses or to be listened to as witnesses. They are entirely ignorant according to him; too ignorant to be admitted upon the stand as witnesses according to his idea; and not only too ignorant but too much inclined to tell lies, if I understand him aright, too much inclined to falsehood to be admitted to testify in courts of justice.

Now, sir, I shall not deny that the great mass of colored people, of a certain grade of colored people at least, are ignorant; but I shall not admit, for I think truth would not justify me in admitting or in asserting, that colored persons of a certain grade are any more inclined habitually to falsehood than white persons are. That has not been my experience. And certainly we do not reject witnesses in courts of justice because they

are ignorant. It is a rule of the common law, to be sure, that if a person is so ignorant as not to know the existence of a God he is not allowed to testify until he has been properly instructed. That rule, however, we have never introduced in practice in the United States. The general principle is that every person may be used as a witness who has arrived at years of discretion, and it is for the court to determine upon examination of the witness whether the witness has arrived at years of discretion, whether he is able to distinguish between truth and falsehood, and whether his memory has become so mature and strong as to be likely to retain an accurate picture of the facts as presented to his mind. That is the rule, and the only practical rule which exists, I believe, now; and after all, the true test to be submitted to a court or a jury is, is it probable under the circumstances that the witness has told the truth; is the witness of sufficient credit to be believed, taking into consideration his knowledge, his opportunities to observe the fact, and his character for truth and veracity?

I can see no objection in any case that can possibly arise to a black witness being placed in these respects upon precisely the same grounds with a white witness. Is it to be presumed at the outset that because a man has a black skin he either cannot or will not tell the truth in court? It seems to me that those persons who object to the examination of black persons as witnesses on the ground that they are black put it upon this most unphilosophical and I may add most inhuman and cruel presumption, that a negro either cannot or will not tell the truth in any case. I shall be guilty of presuming no such thing. I will put the case upon the same ground upon which the case of every white witness is placed by the common law; and that is that the jury, if the case be one before a jury, is to judge of the credibility of the witness and of the amount of credit to be given to his whole story.

Mr. WILKINSON. If the Senator from Pennsylvania will modify his amendment so as to have it apply only to civil actions, I will vote for it. I cannot vote for a proposition to allow a party charged with counterfeiting in a criminal action, or any other felony, to be a witness in his own case; but if he will confine his amendment to civil actions I will vote for the proposition, for I am in favor generally of parties testifying in courts.

Mr. BUCKALEW. I have no objection to inserting the words "in civil actions."

Mr. CARLILE. I object to that modification. The PRESIDENT *pro tempore*. The Senator from Pennsylvania has the power to modify his own amendment, no vote having been reached nor the yeas and nays ordered on it.

The amendment of Mr. BUCKALEW, as modified, was read, as follows:

Nor in civil actions because he is a party to or interested in the issue tried.

Mr. SUMNER. I hope that will not be adopted. I hope we shall approach the decision of the other question by itself, vote yeas and nays on the other question.

The amendment to the amendment was agreed to—yeas twenty-one, nays not counted.

The question being taken on the amendment as amended by yeas and nays, resulted—yeas 22, nays 16; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Colman, Comess, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, Lane of Kansas, Morgan, Morrill, Pomeroy, Sprague, Sumner, Wade, Wilkinson, and Wilson—22.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Harris, Hendricks, Hicks, Johnson, Nesmith, Powell, Richardson, Salsbury, Sherman, Trumbull, Van Winkle, and Wiley—16.

ABSENT—Messrs. Dixon, Doolittle, Fessenden, Harding, Henderson, Lane of Indiana, McDougall, Ramsey, Riddle, Ten Eyck, and Wright—11.

So the amendment was agreed to.

Mr. WILKINSON. I am instructed by the Committee on Territories to offer the following as an additional section:

And be it further enacted, That section eleven of an act entitled "An act for the release of certain persons held to service or labor in the District of Columbia," passed April 16, 1852, and also that part of the first section of an act entitled "An act making supplemental appropriations for sundry civil expenses of the Government for the year ending June 30, 1853, and for the year ending June 30, 1852, and for other purposes," passed July 2, 1852, which reads as follows: "To enable the President to carry out the act of Congress for the emancipation of the slaves in the District of Columbia, and to colonize those to be made free by the probable passage of a confiscation bill, \$500,000, to be re-

paid to the Treasury out of confiscated property, to be used at the discretion of the President in securing the right of colonization of said persons made free, and in payment of the necessary expenses of their removal," be, and the same are hereby, repealed: *Provided, however*, That this section shall not be construed so as to interfere with any expenditure that may have been incurred by carrying into effect the parts of acts above repealed, or any expenditure necessary to fulfill existing engagements in relation thereto.

This section simply repeals two appropriations that were made in 1852, one of \$100,000 and the other \$500,000, and the money placed at the disposal of the President to aid in colonizing all negroes that were made free by the emancipation act in the District of Columbia. I will state also that I submitted this proposition to the Secretary of the Interior here last evening and he said it was right and ought to be passed.

Mr. SHERMAN. I will ask the Senator if the appropriations have not already lapsed and if there is any occasion for the repeal now. Two years have transpired since the appropriations were made.

Mr. WILKINSON. The law has been partially carried out and they have a commissioner here who is drawing a large salary; an establishment is kept up. There is a man by the name of Mitchell, I believe, at the head of it, who is the commissioner of colonization, and he is paid out of this very appropriation.

Mr. HENDRICKS. I should like to ask the Senator from Minnesota what is the salary paid to the Rev. Mr. Mitchell. What is the amount? He speaks of it as very large.

Mr. WILKINSON. I know nothing of the amount. I only know there is such an officer.

Mr. HENDRICKS. I do not know what is the salary given to Mr. Mitchell, but I believe it is the salary given to a clerk.

Mr. WILKINSON. I presume it is \$1,800.

Mr. HENDRICKS. I hardly think it is so large as that, though I do not undertake to say. I wished to correct the impression made by the Senator. It is not a large salary. I do not know whether his services are worth that amount or not.

Mr. WILKINSON. It is very legitimate to save expense to the Government whenever we have an opportunity to do so.

Mr. LANE, of Kansas. When the bill which is now offered as an amendment came up a few weeks ago, I objected to its consideration for the reason that we had called on the President for information as to the situation of the fund. Some three months ago the Senate passed a resolution introduced by the Senator from Kentucky, [Mr. POWELL,] calling upon the commissioner of emigration for a report as to the situation of this fund. We have received no report. Yesterday or the day before the Senator from Kentucky renewed his resolution asking for a report of the commissioner of emigration, which has not been answered.

Mr. HENDRICKS. If the Senator from Kansas will allow me to interrupt him a moment, I will state in respect to the question he is now discussing that I know but very little about it myself; I do not know what are the duties of the Rev. Mr. Mitchell, but I received a letter from him yesterday on the subject of this report which was called for. I suppose this was the resolution. He copies it:

"Resolved, That the President of the United States be requested to furnish the Senate the report of the commissioner of emigration for 1863, with his account of existing contracts, and other necessary information on the question of emigration."

Mr. Mitchell says:

"It is due to the Senate and writer to say that this resolution, although called for and the call regularly forwarded to the Department of the Interior, has never been sent to me for a report."

It has never come to him.

"I have such a report as my imperfect files would enable me to make, the most valuable files, such as those relating to the Chiriqui and other contracts, having been withdrawn from this office. With your permission I will publish the report at the opening of the next session."

It amounts to just this, that the resolution has never gone to him, nor has he been called on to make a report. Of course it would come from his office, but he has never been required to furnish the report.

Mr. LANE, of Kansas. It is true that the Rev. Mr. Mitchell is commissioner of emigration, at a salary of \$1,500. He has an office in the Patent Office building. I should like very much to have an account of this fund. If, however, it

is thought best to repeal the appropriation before getting that report, I will not enter any objection; but it is due to the Senate, after having twice called for this report; that they should have it and let us know what it is.

Mr. NESMITH. I ask whether the repeal of the appropriation would not necessarily repeal the commissioner and prevent him making a report.

Mr. LANE, of Kansas. That is a question I prefer to submit to the Senate. By the repeal of the law he will of course go out of office. But the resolution referred to was a call upon the President to furnish a report from the commissioner of emigration. The repeal of the law abolishes the office of the commissioner of emigration. Now, while I think the salary of the commissioner should stop, I should like very much if the office could be continued so as to get a report from him.

Mr. WILKINSON. There is a very able report made by the Secretary of the Interior in answer to a resolution that I offered long ago, and those papers were referred to the committee on freedmen, and they are so voluminous that the committee, I suppose, did not propose to have them printed. I have looked through them, looked through all that part that was interesting so far as relates to this proposition.

Mr. WILSON. I hope the amendment proposed by the Senator from Minnesota will be sustained by the Senate, and that we shall here and now get rid of this idea of colonization. We have paid I do not know how much, for we do not seem to be able to find out, for that folly. Let us save the balance that has not been thrown away on it. We sent a few persons out of the country and they came back again in the most wretched possible condition. I think the whole idea of it, to men of comprehension who had studied this subject in the country, was a folly when it was tried. It now exploded.

I believe last summer a member of the Cabinet, when Washington was menaced by General Lee's army, went all the way to Concord, New Hampshire, to tell ten or fifteen thousand people of New England that we ought to colonize the freedmen. It received but little support there, and received little support anywhere else. The whole idea has exploded. We have lost several thousand dollars on it. Now let us save the balance by adopting the amendment proposed by the Senator from Minnesota.

Mr. LANE, of Kansas. I agree with the Senator from Massachusetts that the idea of deportation is exploded, but I do not agree with him as to the separation of the two races. I am one of those who believe that we shall be compelled to arrange for the colored people a separate community, that they cannot live and enjoy equal liberty with us where we are the majority race. I have a bill, as is known to the Senate, disposing of this very fund, converting it to the acquiring of western Texas and opening up western Texas as a home for the colored race. I believe that that will be the policy which will be finally adopted by our Government, not to use any force, but to give to the colored race the voluntary opportunity of separating from us and going where they can be the majority race, where we can under a territorial form of government care for them until they can so far improve as to govern themselves.

That to which I wish to call the attention of the Senate is this: while I think this proposition ought to be adopted perhaps, I do not wish to lose the opportunity of getting a report from the commissioner of emigration, Rev. Mr. Mitchell, whose character for integrity is unimpeached and unimpeachable. I do not wish to prevent his being able to make a report to the Senate as to the disposition that has been made of so much of the fund as has been used.

Mr. WILKINSON. I should like to ask the Senator from Kansas how the adoption of this amendment would prevent an inquiry into the expenditure of the money that has been already expended.

Mr. LANE, of Kansas. I have said that it abolishes the office.

Mr. GRIMES. The records will be there.

Mr. LANE, of Kansas. I submit to the Senator from Iowa whether we should not amend the amendment in some way to retain that power over the commissioner of emigration.

Mr. GRIMES. In all human probability the Senator and the Senate will be able to reach the very facts that he desires to reach more adequately and with more dispatch if we abolish the office under the amendment of the Senator from Minnesota, than he would be able to secure it under the law as it now stands. If we adopt the amendment, although we abolish the office, we do not abolish the records, we do not destroy them, we do not destroy any of the vouchers that are in the hands of the accounting officers of the Treasury, and all the Senate has to do is to get transcripts from those vouchers.

Mr. JOHNSON. I think this law should be repealed as proposed by the amendment of the Senator from Minnesota. I think it was ill advised in the first instance; but under the circumstances in which we were at that time it was quite natural that it should be done. From what has occurred since, as stated by the honorable member from Massachusetts, [Mr. WILSON,] it is now manifest that that advice was in point of fact unauthorized, the whole thing was wrong. But when my friend from Massachusetts states that it was wrong, perhaps the public would suppose that the error was in the legislative branch of the Government alone. Now, if I recollect aright, the proposition came from the President of the United States. I do not think I am mistaken as to that. The mistake, therefore, if it has turned out to be a mistake, as I think it has, is a mistake that had its origin in that quarter; and the Congress of the United States was but seduced into the error by the judgment of the Executive of the nation, upon whose judgment at that time it was in the habit of placing implicit reliance, and among other members of Congress who relied implicitly upon that judgment, I think perhaps there was no one who was more remarkable in that particular than my friend from Massachusetts. He has found out since that it was rather an unsafe reliance. I thought so then; I think so now—not that the President of the United States meant to do anything wrong, not that he had not exercised all the judgment which he possesses, but that he like most men fell into error. All that I object to is that we should apparently—or rather my friend from Massachusetts, because I was not here to be seduced—be made to suffer almost exclusively for the errors of judgment of the gentleman who was the incumbent of the presidential chair at that time, and whom my friend and his friends have selected to be the incumbent of the same chair for some four years hence. My hope is that the tendency to error which exhibited itself in this particular will not exist during the next four years, provided—I cannot help saying provided, because I do not think it certain—provided he is reflected for four years more.

Now a word or two in answer to the suggestion made by the honorable member from Kansas. He agrees that this foreign colonization as contradistinguished from the domestic colonization to which he adverts ought to be put a stop to, but he is in favor of the domestic colonization. He is in favor of it upon the ground that the two races cannot live together. Now, in one respect, and only in one respect, do I agree with the honorable member from Kansas. They cannot live together in social and political equality. The legislation of the free States I think illustrates that. New York, as far as political equality is concerned, by an overwhelming vote decided that they could not be admitted to the enjoyment of the elective franchise. Illinois, one of the now large and still growing States of the West, has decided the same thing. Ohio has on her statutes a variety of laws which say substantially the same thing. And socially, without law, it seems to me to be obvious that no equality is to be had. I think, to use a phrase very common with the honorable member from Massachusetts farthest from me [Mr. SUMNER,] that is a matter which is decided by instinct. If it be an instinct, of course it is a natural feeling, not a prejudice, unless Providence has thought proper to instill into us for our moral ruin such a prejudice. That I do not believe. But I believe that as they have lived among us in the past in a state of slavery without either social or political equality, and as those who have been made free have lived among us quite prosperously, in the enjoyment of a great deal of individual happiness, and of social happiness too, after they shall have been all set free

they may remain among us still in the enjoyment of the same prosperity and happiness individually and socially. They will mix with each other; they will supply the demands of labor which have always been great in the past and will be greater in the future; they will be the laboring population of the country, and an excellent laboring population they are if they can be made to be contented; and if they are left alone they will be contented.

I think, therefore, differing in that particular from my friend from Kansas, that numerous as they are and let them all be set free, four million of them, in a white population which, according to my theory, will be the dominant population, of thirty-two million, to be doubled and quadrupled after a few years, they will find employment enough, valuable to themselves, valuable to the whites of the country, and not only valuable in a material sense, but accompanied with all the social happiness which it is possible for them in my view to attain when they are continuing among us.

Mr. LANE, of Kansas. I want to ask the Senator from Maryland a question. Having been raised in a slave State he is presumed to have a better knowledge of this question than one raised in a free State. I had the privilege of discussing this question at length before the Senate some months ago. I will put a case to him. Suppose this rebellion is crushed out and amnesty and pardon extended to the rebels now in arms against the Government with their slaves freed: in his opinion could those slaves freed remain in the community in immediate intercourse with the masters that formerly owned them, they being free against the will of the master?

Mr. JOHNSON. I answer the honorable member that those who have been made free in the past have lived there without the slightest obstruction, and not only lived there without disturbance, they have been protected; and I say what I know, that in the South there never has been a controversy involving the right to the freedom of a negro in which the whole feeling of the men of the South, if the case was one in which freedom was really the right of the individual claiming it, has not been in favor of the application; and they have never failed to obtain professional aid, not by the ordinary means in which professional aid is acquired, but gratuitously.

Mr. LANE, of Kansas. Is it not within the Senator's knowledge that most of the slave States, if not all of them, have required by law that the emancipated slaves be removed from within the boundaries of the States?

Mr. JOHNSON. I know. But when? Only lately. And why lately?

Mr. LANE, of Kansas. Let us not differ as to facts. I remember a society that is called a colony in my old congressional district in Indiana that were settled there, being required by the law of the State from whence they came to remove from that State.

Mr. SHERMAN and others. Let us vote.

Mr. JOHNSON. I have no desire to continue the debate, and what I have said was not because I supposed there was any danger of the amendment proposed by the Senator from Minnesota meeting with any serious opposition in the Senate, but merely for the purpose of correcting what I supposed to have been an error, so far as responsibility was concerned, into which the honorable Senator from Massachusetts had fallen, and for the purpose of expressing the opinion which I entertained that these people may reside among us but not in a condition of social and political equality.

Mr. GRIMES. I desire to say one word. Here we are discussing this amendment that I undertake to say there is not to exceed one member of the Senate, and I doubt if there is any one opposed to, at four o'clock in the afternoon with the thermometer at ninety degrees. I beseech Senators, if they do not want all of us to get sick, to take a vote on this proposition.

Mr. HOWARD. I wish to make a motion that at four and a half o'clock the Senate take a recess until seven o'clock.

Several SENATORS. No, no.

Mr. HOWARD. My reason is this: the Pacific railroad bill has been sent to us from the other House, and I am very anxious in the course of

this evening to take it up and act upon it in the Senate. We shall have some amendments probably. I wish to send it back to the House of Representatives soon, so as to have a committee of conference at as early a day as practicable.

Mr. SHERMAN. I do not think that after our several evening sessions this week we ought to do more than pass this bill to-day. We are about through with amendments; there is no opposition to the amendment of the Senator from Minnesota, I think. Let us vote, pass the bill, and then adjourn. I think we are all tired enough.

Mr. SUMNER. There will be no necessity for evening sessions if we can have an honest, fair understanding that we shall stay here quietly until the business of the country is finished, if it be till the middle of August.

Mr. GRIMES. I rise to a question of order. I desire to know what is the question before the Senate.

The PRESIDING OFFICER. The Senator from Michigan [Mr. HOWARD] asked unanimous consent to interpose a motion that at half past four o'clock to-day the Senate take a recess till seven o'clock.

Mr. GRIMES. I object.

The PRESIDING OFFICER. The motion being objected to, it cannot be entertained while there is another subject before the Senate.

Mr. HOWARD. I beg the Senator from Iowa to withdraw his objection.

Mr. GRIMES. I do not withdraw it; let us go on quietly; we have got plenty of time.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Minnesota [Mr. WILKINSON] to the civil appropriation bill.

Mr. HICKS. I do not wish to consume the time of the Senate, but I desire here to raise a voice of warning to extremists on both sides of this Chamber. There are those here who on all occasions, if it is possible to wake up and bring in the negro, never fail to do it; and on the other hand there are those who with or without propriety endeavor to wake up the corpse of Democracy. I say to these extremists, beware; you are treading on dangerous ground. Gentlemen on the other side (with most of whom I generally act in this Chamber) seem to act as if the rebellion were put down, while gentlemen on this side of the House seem to think that nothing is more certain than that the Democratic party will soon again come into power, and that then all the clouds of war will disappear and the clear sunlight of peace again illumine our path. If gentlemen will drop these exciting questions as to the colored population, remain quiet, and let things take their natural course, in my opinion the country will soon be restored to quiet and peace. As to bringing into power again the Democratic party, I am entirely unable to decide as to which would be the greater calamity, the success of the rebellion or the resurrection of the Democratic party. I believe the one would be about equally ruinous with the other. In the early years of my life, in the days of Jeffersonian Democracy, I was a Democrat, I voted the Democratic ticket; but I never belonged to the modern Democracy, and God forbid that I ever should unless there shall be a perfect regeneration of it, which I do not expect.

But, Mr. President, my object was to protest against the introduction of these irrelevant propositions. What relevancy this amendment can have to the bill under consideration I have not been able to discover. We are now, I hope, approaching the close of the session; but if the course indicated by some gentlemen were pursued I doubt whether we should get away from here before the 3d of March next. We should get along much better in these halls of legislation if gentlemen would only be quiet and let the negro alone for a while; it would be better for us, better for the country, better for the negro himself. Only yesterday the convention assembled to revise the constitution of the State of Maryland passed an ordinance of emancipation. No man is more gratified at the action of that body than myself; but it seems to me that as Senators we have something else to do here besides continually talking on the slavery question. I am decidedly in favor of the establishment of a Freedmen's Bureau. I desire to see these poor creatures protected and taken care of in the best possible way.

I differ with the Senator from Kansas as to the feasibility of sending them and colonizing them in a hurry. It may be done at last, and I would rather see it done provided they can be comfortably taken care of in that way. But if you hasten that question and mix it up with the effort to put down the rebellion I fear the result. Time is consumed, injury is done, the people become disaffected, many conservative loyal Union men are driven away from the ranks of the Union party by the continual effort of some gentlemen here not only to render as odious as possible the slaveholding population, but to place the negro suddenly and at once upon an equality with the white man. I read in my Bible that the Creator took six days to create the heavens and the earth. Some gentlemen appear to think that they can work out this great problem in twenty-four hours. I think it will take a long time to legislate suitably and properly to protect and take care of the colored population. I have no idea that we ought to pass such a bill as was under consideration a few days ago. I have let a portion of my slaves go into the Army and the rest go free. I want to see the slaves in the whole country emancipated; but I do not want them to be practically reduced to slavery again; I do not want negro-drivers to go from the North or the middle States or the border States or anywhere to control and make money out of my negroes; I want them to go free and have the benefits of their labor for themselves. As my colleague has properly remarked, we get along with the free negroes in Maryland very well. Leaving out Baltimore-city, there are more in my county than in any other county in the State, and they get along very well; we have no trouble with them. They are employed by the whites; some own land, some rent land, and they are a useful class. Some of our white people will not labor always when they have a chance, but these colored people are constantly employed generally, and they live happily, comfortably, and respectably. They do not want your interference on their behalf. But some gentlemen, from the time they wake up in the morning until they go to bed at night, it seems to me, think of nothing except the negro.

Mr. SAULSBURY. I desire to say to the honorable Senator from Maryland [Mr. HICKS] that there is no necessity in my judgment for his announcement that he would not join the Democratic party. Let me tell him, with all kindness and respect, that we have got about all we want down in his neighborhood, and we have put up the gate, so that if he wanted to get in he is a little too late. The Democratic party is going to succeed, notwithstanding the awful apprehensions the gentleman has, and it is going to succeed without any more additions to it from the locality where he resides. If he had made application some eight or ten years ago, and had proved by his works that he was a sound convert to the faith, we should have no objection to letting down the bars; but as it is, we cannot take him in; we have enough without him.

Mr. HICKS. Let me say to my friend from Delaware that whenever I make application to be admitted into that party I have no doubt they will take me in readily.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Minnesota, [Mr. WILKINSON.]

The amendment was agreed to.

Mr. HARLAN. I offer the following amendment, to come in after line one hundred and seventy-five of section two:

To enable the Commissioner of Agriculture to pay a debt incurred by the Commissioner of Patents in preparing the agricultural report for 1861, and transferred to the account of the Agricultural Department, in pursuance of an opinion of the Attorney General, of September 18, 1862, \$3,704 05.

Mr. SHERMAN. Is that in order?

The PRESIDING OFFICER. It is if the amendment comes from a committee.

Mr. JOHNSON. Does it come from a committee?

Mr. HARLAN. The Committee on Agriculture have directed me to propose the amendment.

The amendment was agreed to.

Mr. HARLAN. I offer the following amendment as a new section:

And be it further enacted, That until otherwise directed by law the Territory of New Mexico and the Territory of

Arizona shall constitute one surveyor general's district; that the Territory of Idaho shall constitute and be a part of the surveyor general's district of Colorado; that the Territories of Nebraska, Dakota, and Montana shall constitute one surveyor general's district; and that there shall be but one office of the surveyor general for each surveyor general's district; that the provisions of this section shall be executed under such rules and regulations as may be prescribed by the Commissioner of the General Land Office; and that all acts and parts of acts in conflict with the provisions of this section are hereby repealed.

Mr. LANE, of Kansas. I move to amend the amendment by striking out "Nebraska," where it occurs. Kansas and Nebraska are now one surveying district, and have been for years.

Mr. HARLAN. I have no objection.

The PRESIDING OFFICER. Does the Chair understand the Senator from Iowa to agree to that modification of his amendment?

Mr. HARLAN. Yes, sir.

The PRESIDING OFFICER. It will be so amended by the consent of the mover.

Mr. CONNESS. I should like to ask the honorable chairman of the Committee on Public Lands what district Utah is in.

Mr. HARLAN. I think Utah is now a part of the district of Colorado.

Mr. CONNESS. Are you certain?

Mr. HARLAN. I think it is so.

Mr. CONNESS. Then I suggest to the chairman to add Nevada to Utah and Colorado, and make it a part of that district. There is every reason for making that arrangement and not continuing it as it is now by a very unwise provision, as I think, part of the California district. In the first place the district of California is sufficiently large for any one surveyor general, with its thousands of questions, involving complications and surveys, and in the next place Nevada is divided from California by the greatest range of mountains in the country. There is really no reason for ever having placed it there, and I hope that Nevada by this act will be transferred to those two Territories. It immediately adjoins Utah Territory, and they have direct communication, their people are spreading from the one to the other, the general complexion of the country is the same, and it will contribute to order and regularity, and I think be very much more acceptable to the community. I make that motion as an amendment, that "Nevada" be added after "Idaho," so as to say "Idaho and Nevada."

The amendment to the amendment was agreed to. The amendment, as amended, was adopted.

Mr. MORRILL. I am instructed by the Committee on Commerce—

Mr. RAMSEY. With the consent of the Senator from Maine, I should like to offer a resolution of inquiry.

Mr. SHERMAN. I hope we shall get through with the bill.

Mr. RAMSEY. Resolutions have been passed over all this week, and there is no possibility of getting them in unless irregularly.

Mr. SHERMAN. We are just at the close of this bill, and we can have it reported to the Senate in five minutes if Senators will wait. I do object to everything that is out of order.

The PRESIDING OFFICER. The resolution cannot be received, being objected to.

Mr. MORRILL. I am directed by the Committee on Commerce to offer an amendment as a new section:

And be it further enacted, That the Secretary of War be authorized and directed to cause a survey to be made of the harbor of Frankfort, in the State of Michigan, with an estimate of the cost of erecting piers at said harbor suitable for the protection of vessels engaged in commerce and for vessels of war; and the sum of \$1,000 is hereby appropriated for said purpose, to be paid from any moneys in the Treasury not otherwise appropriated.

There was an application before the Committee on Commerce for an appropriation of \$50,000 for the improvement of this harbor on Lake Michigan; but the evidence was deemed insufficient by the committee to justify such a recommendation. From the best information we could get on the subject from the War Department, the people in that vicinity regard this improvement as of very great importance to the commerce of the lake, and they have done something in the way of improvement by erecting piers by private enterprise, and there were plans and specifications for the improvement, but they had not been adopted by the War Department, and we cannot get sufficient information from the War Department to justify

a recommendation for an appropriation for these improvements. But as it was rendered somewhat probable that the improvements contemplated would be of importance to the commerce of that lake, the committee deemed it not improper to make the present recommendation, which would authorize the Secretary of War to make a survey of the harbor and of the improvements which have been made by voluntary contribution and private enterprise, and report the facts to Congress for a future appropriation. I believe that is all there is of the case.

MR. SAULSBURY. I hope this amendment will not be adopted, and I wish to state my reasons, in all kindness to my friend from Maine. I tried to get the Committee on Commerce to report an appropriation for building a pier near the mouth of the Delaware bay, at Lewes, in Delaware, where any person acquainted with the location knows it is absolutely necessary, necessary for the benefit of the shipping interests of the country, and in time of war absolutely necessary, because for a considerable portion of the winter the Delaware river is frozen over. We have a railroad extending very near that place, designed to go to that place. It would be for the advantage not only of local interests but of great national benefit to erect a pier there; but the Committee on Commerce have persistently refused to make such a recommendation. If they refuse these benefits to one section of the country and to one location where they are absolutely necessary, I hope the Senate will not sanction favoritism by voting for appropriations for another section of the country where they would be less beneficial.

The amendment was rejected.

MR. WADE. This bill has entirely omitted to make any appropriation to pay the salaries and expenses of the government of Montana. I believe the usual appropriation for the Territories for paying the officers and legislative purposes has been about \$50,000.

MR. SHERMAN. Twenty thousand dollars. There is an appropriation generally for the other officers specifically, and then \$20,000 for the Legislature. The Senator will find it in the legislative bill.

MR. WADE. I will change it to \$30,000, if that is the proper sum.

MR. SHERMAN. I will furnish my colleague with the amount in the legislative bill for the other Territories, and just hand it to him after the bill is reported to the Senate.

MR. WADE. Very well. It ought to be provided for.

The bill was reported to the Senate as amended.

THE PRESIDENT pro tempore. The question is on concurring in the amendments made as in Committee of the Whole.

MR. GRIMES. I desire a separate vote on the appropriation of \$10,000 for the purchase of Schoolcraft's Indian books.

MR. DIXON. I wish a separate vote on the item of \$12,000 to make up a deficiency in the contingent expenses.

MR. HENDRICKS. I ask a separate vote on the provision on the subject of testimony in the courts of the United States relative to the competency of witnesses.

THE PRESIDENT pro tempore. The amendments named will be excepted.

The other amendments were concurred in.

THE PRESIDENT pro tempore. The amendments excepted will be read in their order.

The Secretary read the first excepted amendment, which was to insert:

To pay Henry R. Schoolcraft for one hundred copies each of the two additional volumes to complete his work entitled Information respecting the History, Condition, and Prospects of the Indian Tribes of the United States, to be paid under the direction of the Joint Library Committee whenever he shall deliver to said number of copies printed and bound in as good style as the volumes already published under authority of Congress, to be done within three years, \$10,000.

The amendment was non-concurred in.

The next excepted amendment was

To supply a deficiency in the appropriation for miscellaneous items for the Senate for the fiscal year ending June 30, 1864, \$12,730.

For deficiency for Congressional Globe for the present session, \$25,065 12.

MR. DIXON. I did not except to the last item, but to the first. I move to amend by striking out "\$12,730" and inserting "\$15,000," and I will

state the reason for this amendment. Since the original amount was furnished to the Committee on Finance, some bills have been presented which have swelled the sum necessary to be appropriated to \$15,000—about three thousand dollars of bills.

The amendment to the amendment was agreed to; and the amendment as amended was concurred in.

The remaining excepted amendment was to insert at the end of section three:

Provided, That in the courts of the United States there shall be no exclusion of any witness on account of color, nor in civil actions because he is a party to or interested in the issue tried.

MR. SUMNER called for the yeas and nays; and they were ordered.

MR. SHERMAN. It is due to myself to say in explanation that I voted against and opposed this amendment for the sole ground as I stated that it ought not to be put upon this bill. That is my deliberate conviction yet; but as the Senate have by a majority vote decided to put the amendment on the bill in spite of my remonstrances and resistance, I feel bound now to vote according to my conviction on the merits of the proposition.

The question being taken by yeas and nays, resulted—yeas 29, nays 10; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Dixon, Doollittle, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Wade, Wilkinson, and Wilson—29.

NAYS—Messrs. Buckalew, Carlile, Hendricks, Hicks, Nesmith, Powell, Salsbury, Trumbull, Van Winkle, and Wiley—10.

ABSENT—Messrs. Collamer, Cowan, Davis, Harding, Henderson, Johnson, McDougall, Richardson, Riddle, and Wright—10.

So the amendment was concurred in.

MR. SUMNER. I now renew the proposition which I made in committee in the shape of a new section:

And be it further enacted, That sections eight and nine of the act entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States from and after the first day of January, in the year of our Lord 1808," which sections undertake to regulate the coastwise slave trade, are hereby repealed, and the coastwise slave trade prohibited forever.

I have but one observation to make. It seems to me this Congress will do wrong to itself, wrong to the country, wrong to history, wrong to our national cause if it separates without clearing the statute-book of every support of slavery. Now, this is the last support that there is in the statute-book, and I entreat the Senate to remove it.

MR. SAULSBURY. I move that the further consideration of this bill be indefinitely postponed.

The motion was not agreed to.

THE PRESIDENT pro tempore. The question recurs on the amendment proposed by the Senator from Massachusetts.

MR. SUMNER called for the yeas and nays; and they were ordered.

MR. DOOLITTLE. I voted against this amendment before on the ground that I did not like to vote for such measures on appropriation bills; but two or three others have been put on, and if this is to be legislated upon, as I am in favor of the abolition of the coastwise slave trade, I shall vote in the affirmative.

The question being taken by yeas and nays, resulted—yeas 23, nays 14; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Conness, Dixon, Doollittle, Fessenden, Foot, Harlan, Harris, Howard, Howe, Lane of Kansas, Morgan, Morrill, Pomeroy, Sprague, Sumner, Ten Eyck, Wade, Wilkinson, and Wilson—23.

NAYS—Messrs. Buckalew, Carlile, Clark, Hendricks, Hicks, Johnson, Lane of Indiana, Nesmith, Powell, Richardson, Salsbury, Sherman, Trumbull, Van Winkle, and Wiley—14.

ABSENT—Messrs. Collamer, Cowan, Davis, Foster, Grimes, Hale, Harding, Henderson, McDougall, Ramsey, Riddle, and Wright—12.

So the amendment was agreed to.

MR. WADE. I offer the following amendment to come in after the appropriations for the "survey of the public lands."

Montana:

For salaries of Governor and superintendent of Indian affairs, chief justice, two associate judges, and secretary, \$9,200.

For contingent expenses of said Territory, \$1,000.
For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, \$20,000.

This is taken from the legislative bill for Nevada; the same appropriation was made for that precisely.

MR. CONNESS. There is only one objection that I have to this appropriation, and that is it proposes to pay the salary of a number of gentlemen who have been without employment, I presume, until recently in the East. They were sent out into the West to fill some very high offices and govern a people that they never saw before. In that respect I think it is against the genius of our institutions, and I do not hesitate to say in addition that it is against a good and wise administration. I suppose, as they have been appointed, it is only just to them that they should be paid. I do not know that these reasons will control my vote on the subject, but it is the only objection I have to the amendment.

MR. WADE. The amendment has no reference whatever to the time they have served. I suppose we have a rule with regard to that, and this appropriation does not control that subject at all. It leaves the appropriation to be paid when they have earned their salary according to law. That is all.

MR. CONNESS. The honorable chairman of the Committee on Territories misapprehends the nature of my objection. My objection lies to the selection of Governors, judges, and officers of western Territories from eastern States, a practice more honored in the breach than the observance.

The amendment was agreed to.

MR. LANE, of Kansas. I am directed to offer an amendment to come in between lines one hundred and sixty and one hundred and sixty-one of section two:

To aid the State of Kansas in constructing a free bridge across the Republican river on the Fort Riley reserve, \$5,000.

That is leaving the State to pay one half and the Government the other. I hope it will be done. I shall be compelled to ask for a division on this question, but before doing so I desire to state that this bridge is right close to Fort Riley and on the reserve, and the Government will use it fully as much as the people, and the proposition now is that the State pay one half the expense to build a bridge on the Government land and the Government the other half.

The amendment was rejected—ayes five, noes not counted.

MR. CHANDLER. I move to reconsider the vote by which the amount of money appropriated for the surveying of lands in the Territory of Dakota was reduced from \$15,000 to \$5,000, in line one hundred and sixty-one of section two. I believe the Committee on Finance understood what they were doing when they reported the proper sum, and it ought not to have been reduced.

MR. WADE. I moved that amendment from the Committee on Territories, and it was placed there by that committee on the statements made by the Delegate from that Territory, who informed us that \$5,000 would be sufficient for the purpose; that it was a mountainous region, that the arable land was very small, and they would not want to present a very large amount for surveying, while for bridging the streams of the Territory there was eminent necessity for a larger appropriation. He advised us to reduce the appropriation for surveying and apply the money to the other purpose of building bridges and the like, for he informed us that during the fall and winter season there were streams there which it was all but impossible for people to get across so as to have communication from one place to another. I do not know anything more about it than that. Whether the amendment lessened the amount for surveying too much, I do not know. I leave it to the Senate to say.

MR. WILKINSON. I hope this motion to reconsider will not succeed. I believe that the action of the Senate in committee was correct. I do not believe that the requirements of that Territory demand that more land than would be surveyed under this appropriation should be surveyed during the coming year; and I think it is of infinitely more importance to the Territory that these roads should be opened through it. There is not a great quantity of very good land in the Territory of Dakota; it is confined to the country bordering on the streams. It is generally destitute of

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1st Session.

MONDAY, JUNE 27, 1864.

NEW SERIES... No. 205.

timber, and is composed of arid sandy plains. To make an appropriation to survey those vast plains at this time, in my opinion, would be unwise and uncalled for, and I hope, therefore, that this motion to reconsider will not prevail.

Mr. HOWARD. I received a few days since a letter from the surveyor of the Territory, Mr. Hill, who is an acquaintance of mine, in which he expresses his most sincere wish that the appropriation may not be reduced, in which he states that there is just as much need there now as there ever was in any Territory to proceed with the public surveys. I know him very well. He is an intelligent, active, vigorous, enterprising man, a man upon whose judgment I should rely in such matters with the greatest respect, and I know that he is opposed to this reduction of the amount appropriated to carry on the public surveys. I believe that this reduction from \$15,000 to \$5,000 has been upon the suggestion of a gentleman, the Delegate from that Territory, who is very unfriendly, personally, as I understand, to Mr. Hill, the present surveyor. What motive he can have for this interference is more than I can say; but I believe that the reduction has been recommended chiefly at his instance. It is sufficient for me, however, to follow the suggestions of Mr. Hill, the present surveyor, who understands the necessities of the Territory much better than any of us, and certainly as well as the present Delegate from that Territory.

Mr. WILKINSON. I should like to ask the Senator from Michigan how long the surveyor general has been in Dakota, and where he went from.

Mr. HOWARD. He went from the State of Michigan. He is a citizen of my State, and has been in that Territory for I think three years. He has been home to his residence once or twice during that time.

Mr. CHANDLER. I understand that there are no estimates of the cost of these bridges, and I understand that it is a mere thieving proposition to come in and propose to build bridges without estimates, and steal money. That is what I understand to be the fact in the case. There are no estimates, no propositions from any source; but the Delegate comes in and says we want some bridges. Very well. You know how we build bridges out West. We generally lay a corduroy log and put a little earth on top, and it is a bridge.

Now, sir, I understand this proposition to be to take off \$10,000 from the honest surveys of that Territory, and put it into a stealing fund, so that they can build bridges without estimates, without requisitions, and without being wanted, and somebody will pocket the money, and that is all there is to it. I want these lands surveyed, so that honest men can go in and take up the lands and pay for them like honest men, and I do not want any stealing. I want this thing done honestly, fairly, squarely, upon estimates, upon fair propositions, and I hope that vote will be reconsidered, and that the Committee on Finance will be sustained. I stand by the Committee on Finance.

Mr. WADE. It is exceedingly easy to talk about stealing and all that. I might with exactly the same propriety say that the surveyor wanted a job there to survey these sterile, barren mountains that will probably never be occupied in the world, for there is very little good territory there, and survey it as often as you please it will never be taken up for any purpose I know of. There may be some mining regions there that are good; but all the good lands that want surveying and where settlers will go for a long time to come are along the rivers and water-courses that run through that Territory. The idea of going into a general survey of that mountainous, sterile region now is preposterous. Is it not as necessary that you put the Territory in a condition so that settlers may get into it across the rivers and occupy properly that portion of it which is good for anything as it is that the barren mountains that never will be inhabited should be surveyed?

Sir, it looks more like stealing to get a great job under the pretense of surveying these barren mountains. That looks to me more like stealing. I can conceive very well that an honest settler moving in there with his wagon and his family in order to cross these perilous streams wants a bridge, and he wants a road; but what in God's name he wants of a survey where a catamount cannot get over, I do not understand. The stealing is all on the other side. The Senator is contending for surveying land that will never be sold if you do survey it, and there will be time enough twenty years hence to survey it if anybody is fool enough to want it.

Mr. TEN EYCK. I have not said a word on this bill. I think we have made a great mistake in admitting this Territory at all. It seems to be in position to steal either one way or the other. That is the whole object from what we now hear. I am sorry to hear that people steal in the way of surveying public lands and building bridges. I should like to have the vote establishing that Territory reconsidered.

Mr. WADE. I do not like to be charged in this way. There is considerable good arable land there, but the country is more valuable for mining purposes than any other. That is the fact about it; and it is settling up with that view. The agricultural country where settlers are to come in and occupy the land and want it surveyed for that purpose is along the water-courses, but there is no necessity for surveying the mountains.

Mr. TEN EYCK. My object was simply to change the current of the debate, with a hope that we might get a vote.

Mr. HARLAN. I have doubt whether this appropriation should be reduced from \$15,000 to \$5,000; and then an additional appropriation is proposed to build bridges on a military road. We all know that the Commissioner of the General Land Office is very careful in his estimates; he has been attempting to cut down these appropriations to the lowest figure possible consistent with the public service. In every surveyor general's district the attempt has been made to reduce it to the very lowest cent that will survey the lands that will be needed by settlers during the coming year, and I think it is more safe to rely on his judgment in the matter than to rely on the statement of the Delegate who comes here for a year or two years, and asks to have a change made from surveys to bridges.

Mr. RAMSEY. I will suggest to the Senator from Iowa that a large tract of country has been acquired by treaty this winter on the west side of the Red river; the best settlements they have; and they have a home population that do want surveys undoubtedly.

Mr. POWELL. I move that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is, will the Senate reconsider the vote on concurring in the amendment suggested by the Senator from Michigan?

The motion to reconsider was rejected—ayes seven, noes not counted.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. POWELL. I demand the yeas and nays on the passage of this bill. I want to vote against it. I think there is iniquity enough in it to contaminate the nation.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 4; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Conness, Dixon, Doolittle, Fessenden, Foot, Harlan, Harris, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sprague, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Winkie, Wade, Wilkinson, Willey, and Wilson—32.

NAYS—Messrs. Carlile, Hendricks, Powell, and Saulsbury—4.

ABSENT—Messrs. Collamer, Cowan, Davis, Foster, Grimes, Hale, Harding, Henderson, Hicks, McDougall, Richardson, Riddle, and Wright—13.

So the bill was passed.

BRIDGE OVER REPUBLICAN RIVER.

On motion of Mr. LANE, of Kansas, it was

Ordered, That the Committee on Military Affairs and the Militia be discharged from the further consideration of the resolution of the Legislature of Kansas in favor of the construction of a bridge over the Republican river on the Government reservation at Fort Riley, and that it be recommended to the Committee on Public Lands.

WASHINGTON AND GEORGETOWN RAILROAD.

Mr. WADE, from the committee of conference on the disagreeing votes of the two Houses on the bill of the House (No. 495) to amend the charter of the Washington and Georgetown Railroad Company, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill of the House (No. 495) to amend the charter of the Washington and Georgetown Railroad Company, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows, namely:

That the House of Representatives recede from their disagreement to the first amendment of the Senate and agree to the same.

That the House of Representatives recede from their disagreement to so much of the second amendment of the Senate as proposes to strike out the fifth section of the bill, and agree to so much of the said amendment.

That the Senate recede from so much of their said amendment as proposes to strike out the sixth section of the bill.

B. F. WADE,

W. T. WILLEY,

Managers on the part of the Senate.

H. PRICE,

E. B. WASHBURN,

Managers on the part of the House.

Mr. WADE. I can inform the Senate in a moment of all there is in it. The House of Representatives passed a bill requiring the cars to run on Sunday the same as on other days. The Senate struck it out. The House agree to the amendment of the Senate on that subject. Then there was an amendment to the effect that no person should be excluded from riding in the cars on account of color. That is retained, the House agreeing to the Senate amendment. Then there was a section of the bill providing that the location of the railroad through the Capitol grounds might be changed running to certain points that it would take some time to explain to the Senate. Believing that it was not necessary, at this time at all events, to change the location of the road or indeed until the grounds were laid off, so that we may know really where it ought to be, we struck that section out, and the House of Representatives agree to that amendment. Then there was a further proposition in regard to running the cars, that tickets should be sold at four cents a ticket where a dollar's worth was purchased. The Senate struck that out, but the Senate recede from that amendment, and that section stands as part of the bill.

Mr. LANE, of Kansas. Does that leave the cars run on the Sabbath day?

Mr. WADE. It leaves them just as it finds them. They may run for all we know. There is no law against it that I know of, and it does not compel them to run on the Sabbath. We make no enactment on the subject.

Mr. HENDRICKS. I call for the yeas and nays on the adoption of the report of the committee of conference.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 11; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Conness, Dixon, Foot, Foster, Grimes, Hale, Harlan, Harris, Howe, Johnson, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sprague, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, Willey, and Wilson—26.

NAYS—Messrs. Buckalew, Carlile, Davis, Hendricks, Hicks, Lane of Indiana, Nesmith, Powell, Richardson, Saulsbury, and Van Winkle—11.

ABSENT—Messrs. Anthony, Collamer, Cowan, Doolittle, Fessenden, Harding, Henderson, Howard, McDougall, Riddle, Sherman, and Wright—12.

So the report was concurred in.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint reso-

lutions, which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes;

A bill (S. No. 187) to carry into effect the treaty between the United States and her Britannic Majesty for the final settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Companies;

A bill (H. R. No. 450) to provide for the repair and preservation of certain public works of the United States;

A bill (H. R. No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves;

A bill (H. R. No. 519) repealing certain provisions of law concerning seamen on board public and private vessels of the United States;

A bill (H. R. No. 551) to incorporate the Colored Catholic Benevolent Society;

A bill (H. R. No. 554) to provide for the improvement of the grounds of the Government hospital for the insane by an exchange of land;

A joint resolution (H. R. No. 109) correcting a clerical error in the award of the emancipation commissioners; and

A joint resolution (H. R. No. 110) to declare the construction of a joint resolution for the relief of W. B. Matchett, approved June 20, 1864.

INTERNAL REVENUE BILL.

Mr. HENDRICKS. I move to reconsider the vote by which the Senate concurred in the report of the committee of conference on the tax bill.

The PRESIDENT *pro tempore*. The motion will be entered.

Mr. FESSENDEN. I should like to have the question taken now.

The PRESIDENT *pro tempore*. The Chair is informed that the bill has gone from the possession of the Senate, and therefore the motion cannot be received.

Mr. FESSENDEN. And the report has been concurred in by the other House. I should like to have the Senator state his reasons, and act on it now. It is too late in the session to reconsider for light reasons.

Mr. HENDRICKS. I do not desire it to be understood that it is for light reasons at all. While the chairman was present I asked to make a motion that the report be printed. It is the most important legislative measure of this session; it is to affect the people that I represent very much to their injury in my judgment. I thought it was out a reasonable thing that I should be allowed to make a motion to print, but I was answered that the bill which has just now passed was then before the Senate, and that motion could not be made. I gave the subject no further attention, but in four or five minutes some gentleman came to me and told me the tax bill had passed, much to my astonishment, for I had some suggestions to make against the report of the committee. These are the circumstances under which I feel it to be my duty to make a motion to reconsider.

The PRESIDENT *pro tempore*. The motion cannot be entertained without a previous order of the Senate to send for the papers.

Mr. HENDRICKS. A motion to reconsider, I suppose, is always in order.

The PRESIDENT *pro tempore*. The Chair will cause the rule to be read. It cannot be entertained after the papers have gone.

The Secretary read the 20th rule, as follows:

"20. When a question has been once made and carried in the affirmative or negative it shall be in order for any member of the majority to move for the reconsideration thereof; but no motion for the reconsideration of any vote shall be in order after a bill, resolution, message, report, amendment, or motion upon which the vote was taken, shall have gone out of the possession of the Senate announcing their decision; nor shall any motion for reconsideration be in order unless made on the same day on which the vote was taken, or within the two next days of actual session of the Senate thereafter."

Mr. HENDRICKS. Where is the report of the committee?

The PRESIDENT *pro tempore*. It has been sent to the House of Representatives, and concurred in there as the Chair is informed.

Mr. HENDRICKS. When will the papers be here so that I can make the motion which I have a right to make as a Senator?

The PRESIDENT *pro tempore*. They will not be here again. They go to be enrolled.

Mr. HENDRICKS. Does the report to the Senate never come back to the body in the course of business?

The PRESIDENT *pro tempore*. It may in some instances, but not in a case of this kind. It is the final action of the Senate.

Mr. FESSENDEN. I suppose the Senator can move that a message be sent to the House requesting the return of the papers.

The PRESIDENT *pro tempore*. Undoubtedly. Mr. HENDRICKS. I will see on Monday about what I shall do.

HOUSE BILL REFERRED.

The bill (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, was read twice by its title, and referred to the Committee on the Pacific Railroad.

SALE OF RESERVED LANDS.

Mr. HOWE. The other day I presented a bill at the request of the Commissioner of the General Land Office, which it is very important should pass at this session. The chairman of the Committee on Public Lands and the Senator from Indiana, [Mr. HENDRICKS,] who is also on that committee, have seen it; and the chairman of the Committee on Public Lands in the House of Representatives has seen it and has agreed to get it passed there at once if we pass it. I move to take it up. It is a bill in reference to the sale of public reserves.

The motion was agreed to; and the bill (S. No. 315) in relation to the sale of reservations of the public land was considered as in Committee of the Whole. It provides that whenever any reservation of public land shall be brought into market under existing laws the Commissioner of the General Land Office may fix a minimum price, not less than \$1 25 an acre, below which the land shall not be disposed of.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

OBSTRUCTIONS TO WASHINGTON STREETS.

Mr. RAMSEY submitted the following resolution, which was considered by unanimous consent, and agreed to:

Whereas obstructions on the streets and reservations of Washington by buildings or other constructions were declared by the Government authorities in 1859 to be violations of law because not authorized by the charter of the city; and whereas said obstructions have not been removed, but others are added which mar the appearance of the city, interrupt light and ventilation, and add to the nuisances already existing at the canal: Therefore,

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire and report whether any provisions of law additional to that approved June 12, 1858, be necessary to enforce the removal of said obstructions by the Commissioner of Public Buildings and Grounds, said law making it his duty to cause obstructions of every kind to be removed from streets, avenues, and sidewalks in the city of Washington as have been or may be hereafter improved in whole or in part by the United States, and to keep the same at all times free from obstruction; also "if any person shall place any obstruction upon the streets, avenues, or sidewalks aforesaid, such person shall pay the cost of removing the same, and shall moreover be subject to a penalty of ten dollars, to be recovered as other debts are recovered in the District of Columbia, for each and every day the said obstruction may remain after the Commissioner shall have given notice for its removal."

FEES OF DISTRICT JUDICIAL OFFICERS.

On motion of Mr. TRUMBULL, the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes.

Mr. TRUMBULL. I suppose we might as well concur in the amendments, though I should prefer that the amendments had not been made. The principal amendment limits the aggregate fees of the clerk of the supreme, circuit, and criminal courts in this District at \$4,000, instead of \$6,000 as we passed the bill. It is a very laborious office, and I would have left it the same as the other offices; but the House of Representatives has limited it to \$4,000. The general law

limits the fees of all marshals, district attorneys, and clerks throughout the United States to \$6,000, including the clerk in this District. The House of Representatives amends this bill by limiting the clerk in this District to \$4,000 a year, and also by putting in a proviso that the district attorney shall be allowed two per cent. in revenue cases in addition to the \$6,000. I think \$6,000 is enough, but I shall not make the point if the Senate think proper to concur.

The amendments were concurred in.

DIRECT TAXES IN INSURRECTIONARY DISTRICTS.

Mr. HARRIS. I move that the bill (S. No. 171) further to amend an act entitled "An act for the collection of direct taxes in insurrectionary districts within the United States," approved June 7, 1862, be taken up for consideration, with a view of leaving it as unfinished business for Monday. I am informed by officers of the Treasury Department that in their opinion this bill will affect the revenues of the Government several hundred thousand dollars. The bill must go to the other House to be passed there; I have been endeavoring for a fortnight to get it up here, but have failed altogether. I wish to have it taken up now so that it may be left as the unfinished business to come up on Monday. I think it will not occupy over fifteen minutes.

The motion to take up the bill was agreed to.

EXECUTIVE SESSION.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, June 25, 1864.

The House met at twelve o'clock, Mr. Prayer by Rev. JAMES FREEMAN CLARKE, of Boston.

On motion of Mr. STEELE, of New York, the reading of the Journal of yesterday was dispensed with.

UNITED STATES PROPERTY.

Mr. STEELE, of New York, by unanimous consent, from the Committee for the District of Columbia, reported a joint resolution authorizing the Secretary of the Interior to reclaim and preserve certain property of the United States; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEELE, of New York, moved to reconsider the vote by which the joint resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

Mr. BROOKS. I rise to a privileged question, to call up the motion to reconsider the vote by which the House ordered the Pacific railroad bill to be engrossed and read a third time, and withdraw that motion.

The bill being engrossed, it was read the third time.

Mr. BROOKS demanded the previous question on the passage of the bill.

The previous question was seconded.

The House divided on ordering the main question; and there were—ayes 39, noes 11; no quorum voting.

Mr. DAWSON moved that there be a call of the House.

The SPEAKER stated that, having counted the House, and no quorum being present, the motion was in order.

The motion was agreed to.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. James C. Allen, William J. Allen, Anderson, Arnold, Ashley, Baxter, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cox, Cravens, Henry Winter Davis, Driggs, Dumont, Eckley, Eldridge, Farisworth, Finck, Frank, Gough, Grinnell, Hall, Harrington, Charles M. Harris, Herreck, Holman, Hutchins, Ingersoll, William Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, King, Lavy, Long, McAllister, McClude, Middleton, Samuel F. Miller, William H. Miller, Daniel Morris, James R. Morris, Leonard Myers, Nelson, Norton, Perry, Samuel J. Randall, William H. Randall, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Scott, Smith, Spalding,

Starr, Stebbins, William G. Steele, Strouse, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Ward, Whaley, Wheeler, Williams, Wilder, Woodbridge, and Yeaman.

Mr. STEELE, of New York. A quorum has answered, and I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

The main question was ordered to be put.

Mr. DAWSON demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 70, nays 33, not voting 74; as follows:

YEAS—Messrs. Allison, Ames, Ashley, Augustus C. Baldwin, Beaman, Blaine, Blair, Blow, Branderage, Brooks, William G. Brown, Ambrose W. Clark, Coffroth, Cole, Cresswell, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Eliot, English, Fenton, Garfield, Griswold, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kalbfisch, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Moorhead, Morrill, Morrison, Amos Myers, Noble, Odell, Charles O'Neill, Patterson, Perham, Pomeroy, Price, John H. Rice, Ross, Schenck, Shannon, Sionn, Smithers, John B. Steele, William G. Steele, Stevens, Stuart, Sweet, Thayer, Upson, Webster, Wilson, Windom, and Benjamin Wood—70.

NAYS—Messrs. Ancona, Bailly, Bliss, Boutwell, Chandler, Dawson, Denison, Eden, Edgerton, Gooch, Grider, Harding, Harrington, Benjamin G. Harris, Holman, Philip Johnson, Kernan, Knapp, Law, Le Blond, Mallory, Marcy, McDowell, McKinney, John O'Neill, Orth, Radford, Robinson, Rogers, Edward H. Rollins, Scofield, Stiles, Thomas, Elihu B. Washburne, William B. Washburn, Chilton A. White, Joseph W. White, and Fernando Wood—33.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Arnold, John D. Baldwin, Baxter, Boyd, Broomall, James S. Brown, Freeman Clarke, Clay, Cobb, Cox, Cravens, Henry Winter Davis, Driggs, Dumont, Eckley, Eldridge, Farnsworth, Finck, Frank, Ganson, Grinnell, Hall, Charles M. Harris, Herrick, Hotchkiss, Hutchins, Ingersoll, William Johnson, Kasson, Kelley, Francis W. Kellogg, King, Lazear, Long, McAllister, McIndoe, Middleton, Samuel F. Miller, William H. Miller, Daniel Morris, James R. Morris, Leonard Myers, Nelson, Norton, Pendleton, Perry, Pike, Prynn, Samuel J. Randall, William H. Randall, Alexander U. Rice, James S. Rollins, Scott, Smith, Spalding, Starr, Stebbins, Strouse, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Ward, Whaley, Wheeler, Williams, Wilder, Winfield, Woodbridge, and Yeaman—74.

So the bill was passed.

During the vote,

Mr. PRUYN stated that he was a stockholder in this company, and therefore would refrain from voting.

The vote was then announced as above recorded.

Mr. COLE, of California, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes.

CONSCRIPTION BILL.

Mr. SCHENCK. I call for the regular order of business.

The SPEAKER stated the regular order of business to be the unfinished business, which was House bill No. 75, further to regulate and provide for the enrolling and calling out of the national forces, and for other purposes.

Mr. HOLMAN. Does not the bill lose its place?

The SPEAKER. It does not. The Clerk will read the 56th rule.

The Clerk read, as follows:

"The consideration of the unfinished business in which the House may be engaged at an adjournment shall be resumed as soon as the Journal of the next day is read, and at the same time each day thereafter until disposed of; and if, from any cause, other business shall intervene, it shall be resumed as soon as such other business is disposed of. And the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules."

Mr. SCHENCK. When the bill was before the House formerly amendments were offered and voted on, and among other amendments the second section was stricken out. Some other amendments were adopted, and also another amendment was offered by the gentleman from New York, I believe, which is yet pending. However that may be, all these amendments have been printed, and there has been printed another amendment in the shape of a substitute

for the whole bill, offered by the gentleman from Pennsylvania, [Mr. BROOMALL.] The amendment I offer is a substitute for that substitute. It is to strike out all after the enacting clause, and to insert what I send to the Clerk's desk and ask to have read.

The substitute was read, as follows:

That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and of the several acts amendatory thereof, as provides for a commutation in money, to be paid by persons enrolled or drafted for military service, in lieu of actually rendering such military service, be, and the same is hereby, repealed; and hereafter no payment of money shall be accepted or received by the Government to release any enrolled or drafted man from obligation to perform military duty.

Sec. 2. *And be it further enacted*, That the President of the United States may, at his discretion, at any time hereafter order a draft for soldiers to serve for a less period than three years: *Provided, however*, That no such draft shall be for a less term of service than one year.

Sec. 3. *And be it further enacted*, That the President shall accompany any order for a draft of men for military service with a notice that he will accept volunteers in lieu of such drafted men prior to the day appointed for the draft, to fill the quota or any part thereof of any town, township, ward, precinct, or election district or of any county not so subdivided; and every person so volunteering, in lieu of a man to be drafted, shall be credited to such town, township, ward, precinct, or election district, or county not so subdivided; and if he volunteers and is accepted and mustered into the service for a term of one year, unless sooner discharged, shall receive and be paid by the United States a bounty of \$100; and if for a term of two years, unless sooner discharged, a bounty of \$200; and if for a term of three years, unless sooner discharged, a bounty of \$300, one half of which said bounty shall be paid to the soldier at the time of his being mustered into the service, one fourth at the expiration of one half his term of service, and one fourth at the end of his term of service. And in case of his death when in service, any portion of his bounty then remaining unpaid shall be paid to his legal representatives; and in case he is honorably discharged from wounds or sickness incurred in the service while in the line of his duty he shall receive the full bounty. And the President in any call or order for a draft shall specify the exact time of service for which such draft is to be made, and the volunteers accepted in lieu of the whole or any part of the quotas to be provided under that draft shall be for not less than the term of service for which that draft is ordered.

Sec. 4. *And be it further enacted*, That drafted men, substitutes, and volunteers, when mustered in, shall be organized into or assigned to regiments, batteries, or other organizations of their own States, and, so far as practicable, shall, when assigned, be permitted to select their own regiments, batteries, or other organizations, from among those of their respective States which at the time of assignment may not be filled to their maximum number.

Sec. 5. *And be it further enacted*, That the twentieth section of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, shall be construed to mean that the Secretary of War shall discharge minors under the age of eighteen years, under the circumstances and on the conditions prescribed in said section; and hereafter if any officer of the United States shall knowingly enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged, and such recruiting or mustering officer shall be dismissed the service, with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court martial may direct.

Sec. 6. *And be it further enacted*, That section three of an act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, be, and the same is hereby, amended so as to authorize and direct district provost marshals, under the direction of the Provost Marshal General, to make a draft for fifty per cent. in addition to the number required to fill the quota of any district, as provided by said section.

Sec. 7. *And be it further enacted*, That, instead of traveling pay, all drafted persons reporting at the place of rendezvous shall be allowed transportation from their places of residence; and persons discharged at the place of rendezvous shall be allowed transportation to their places of residence. That any persons, resident in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, or Arkansas, who may voluntarily enlist in the military service of the United States, for a term of not more than three years or during the war, or not less than one year, shall be entitled to the benefits and privileges of existing laws, and such persons shall be mustered into the regiments, or other organizations, of whatsoever State they may elect, or, in the case of colored troops, shall be assigned as now provided by law. And the States, or subdivisions of States, procuring such enlistments shall receive credit for such persons, in accordance with the laws in other cases: *Provided*, That such enlistments are authorized in any State, under the provisions of this act, shall only continue until such State shall have been made subject to a call for troops: *And provided further*, That no enlistments shall be made of any soldier, either in or out of any State, except those enumerated herein, unless full credit is given to the State to which the enlisted soldier belongs.

Mr. ODELL. I would like to ask the gentleman from Ohio one question. I ask him whether this substitute as it has been read and proposed as a substitute for the original substitute is reported from the Military Committee.

Mr. SCHENCK. It is not reported from the Military Committee. I have offered it after consultation with the Military Committee, and with many members of the House. And if gentlemen, instead of asking me questions, will permit me to go on and briefly explain what I have offered, perhaps I shall anticipate all their questions, and answer them. I request as a special favor that gentlemen will not interrupt me, because I am scarcely able to be here to-day to make what remarks I desire to present.

Mr. HOLMAN. I ask the gentleman whether he proposes to allow amendments to be offered to the bill, or will he call the previous question.

Mr. SCHENCK. This amendment is itself an amendment to an amendment, and no amendment in the third degree is in order.

Mr. HOLMAN. I mean after that amendment is acted on.

Mr. SCHENCK. The regular business is open to amendment, I understand. This is a substitute, and, being in the nature of an amendment to an amendment, cannot be itself amended.

The SPEAKER. But the motion of the gentleman from Ohio [Mr. GARFIELD] to strike out the third and fourth sections can be amended by an amendment germane to it.

Mr. STEVENS. Is the original bill open now so that a substitute can be moved?

The SPEAKER. It is not, because a substitute is already moved as an amendment to a substitute. The bill is pending, and a substitute offered by the gentleman from Pennsylvania, [Mr. BROOMALL], and an amendment to that, by way of a substitute, offered by the gentleman from Ohio, [Mr. SCHENCK.]

Mr. COX. Is this bill substantially the same bill the House has voted against already, and rejected?

The SPEAKER. The House has not as yet rejected any bill, as the Chair is informed. They have amended a bill but not rejected it.

Mr. COX. What is the precise position of this bill?

The SPEAKER. The bill stands as it was, except the second section, which was stricken out by the House. The gentleman from Pennsylvania [Mr. BROOMALL] moved a substitute, and now the gentleman from Ohio [Mr. SCHENCK] moves another substitute. The bill itself has not been rejected.

Mr. ELIOT. I rise to a question of order. It is to inquire of the Speaker at what time it will be in order to offer an amendment to the original bill.

The SPEAKER. If the gentleman from Ohio [Mr. SCHENCK] does not demand the previous question on the motion to amend the amendment, an amendment to the original bill will be in order.

Mr. SCHENCK. I hope I shall be permitted to proceed to explain what I propose to do. I do not propose to call the previous question when I shall have got through with my explanation. I propose to leave the original bill open to amendment. It may become necessary, at this late hour of the session, to close debate, and if the debate be protracted I may seek to do so. In the mean time I want this substitute for the substitute offered by the gentleman from Pennsylvania [Mr. BROOMALL] to be before the House, that we may after a while have a vote upon it as a whole. Being a motion to strike out and insert, it is not divisible. The House will have to take the whole of it together, or to reject it altogether. Under these circumstances I shall proceed to explain as briefly as I can the character of the substitute which I offer.

I have preserved in it as its first section the idea of dispensing with commutation—that there shall be no commutation in money in lieu of service. I have left out the provision that there shall be no substitution, that seeming to be the will of the House. My impression has always been that if we dispense with commutation we had better also dispense with substitution, for the reason that substitutes would run up in price beyond the reach of men of limited means. That, however, does not appear to have been the sense of the House, or of the Senate, if I may judge from the bill on the Speaker's table from that body. I accommodate myself to that view, seeking to correct it by subsequent provisions of the bill to encourage volunteering, and thus to take away much, if not all, of the difficulty that arises from permitting substitutes.

I repeat, my amendment dispenses entirely with commutation; it leaves the law in reference to substitutes to stand as it now is. It also retains a portion of the third section of the original bill as printed, providing that the President may, in his discretion, order a draft for a less period than three years—for one year. With some verbal amendments the third section is the same as in the printed bill, with the addition of an amendment already voted on and adopted in the House to the original bill, to come in at the end of the eighteenth line of the fourth section. After providing that bounties should be paid—\$100 for one year, \$200 for two years, and \$300 for three years—it is further provided that in case of the death of a soldier in service any portion of his bounty then remaining unpaid shall be paid to his legal representatives; and in case of the honorable discharge of a soldier from wounds or sickness incurred in the service while in the line of his duty he shall receive the full bounty.

The sixth and seventh sections of this substitute, being the same as the fifth and sixth of the original bill, are still left, and I believe they are not objected to. They provide for adding, as the old law did, fifty per cent. to the number drawn, so as to leave a margin, and not necessitate the frequent repetition of the draft. They also provide for paying transportation to persons going to and from the place of rendezvous when they have been drafted.

Then I introduce three sections that are not, in any shape, or the matter of them, in the bill before the House. I propose to introduce as the fourth section a provision that drafted men, substitutes, and volunteers, when mustered in, shall be organized into, or sent to, regiments, batteries, or other organizations of their own States, and shall, so far as practicable, select their own regiments or batteries from among those of their own States which at the time of the assignment may not be filled to their maximum number.

The object of the amendment is to keep, as far as possible, drafted men, substitutes, and volunteers, within the organizations of their States. Of course it will be impracticable to put them into an organization of their own selection if this organization was full. It provides, moreover, that into whatever regiments they are placed they shall be kept within their own State organizations. They are not to be carried into the regiments of other States even as substitutes or drafted men.

The fifth section provides for an amendment of the twentieth section of the enrollment bill passed by this Congress. The twentieth section of that bill contains a clause placing it in the discretion of the Secretary of War to discharge any minor under eighteen years of age who shall have enlisted without the consent of his parents or guardians.

There seems to have been some difficulty in the practice under this law because of the discretionary power placed in the Secretary of War, who held that inasmuch as the old law held the minor to service when he had sworn to his age, and did not permit any proof to be given that he was under eighteen years, and that he had not the consent of his parents or guardians, he had no power to discharge such enlisted man. The committee regarded the question in relation to the minor under eighteen years of age as one between the Government and his parents or guardians, and not as between the Government and the minor.

The law in the several States of this Union, I believe without an exception, recognizes twenty-one years as the age of majority for a man, and under all ordinary circumstances the parent or guardian has a claim upon the services of the minor under twenty-one years of age. But military law, overriding that, has declared the age of military service to begin at eighteen, and the minor over eighteen years, although not twenty-one years of age, is of course held by the military service, although the consent of his parent or guardian may not have been given. The question then arises in relation to minors between eighteen and twenty-one years of age is one between the Government and the man, but when he is found in the service under the age of eighteen it then becomes a question between the Government and the parents and guardians of the man.

I hold, therefore, that the construction which,

because of the oath of the minor under eighteen years of age, notwithstanding the consent of his parents or guardians has not been given, continues him in the service against the will of his parents or guardians is wrong. I hold, and the Military Committee hold, that it should be construed as intended by the committee in the first instance, and as I believe the House intended, to require such minor to be discharged if required by his parents or guardians. This section, therefore, provides that if upon proof that the minor under eighteen years is in the service against the consent of his parents or guardians, and upon the payment by them back to the Government of his bounty and advance pay—upon compliance with all these conditions it shall be imperative upon the part of the military authorities to discharge such minor. Notwithstanding the fact that the boy may swear that he is over eighteen, if the proof is that he is under that age his parents or guardians may require his discharge.

There is another clause in this section, and the two constitute the whole section itself, which provides that if hereafter any officer shall knowingly enlist into the service a boy under sixteen years of age, with or without the consent of his parents or guardians, such person so enlisted shall be immediately and unconditionally discharged from the service, and such mustering officer shall be dismissed from the service with forfeiture of pay and allowances, and suffer such additional punishment as a court-martial shall direct. The law prohibits the enlistment of such minors, and we have thought it proper to make it a crime for any mustering officer knowingly to enlist such boys into the service.

We have incorporated into our amendment, too, the provisions of a bill which was introduced into the House in the early part of the session by Mr. Blair, of Missouri, referred to the Committee on Military Affairs, reported by them, and passed by the House on the 20th of February last without dissent, authorizing the recruiting and obtaining of substitutes or volunteers in States in rebellion, to be mustered into the regiments of those States obtaining the recruits.

Gentlemen are all familiar with the provisions of this bill, and I need not repeat them. The Clerk has read it at the desk as a part of my substitute. Gentlemen will find it as bill No. 261, and I have proposed it, slightly modified, as a separate section of my bill.

Having thus explained the bill I have but a remark or two more to make. The bill presented now is a bill by which I have sought to remove objections, and to commend it to gentlemen who seemed to be opposed to the bill in its original form; and though I have stricken out, as a matter of vital necessity, in the present condition of affairs as we have good reason to believe and know, that feature recommended as an amendment to the law by the President, the policy of commutation, yet in other respects the sections of the bill following, I think, are of such a character as will commend it to the consideration of gentlemen who were opposed to the bill as originally introduced.

I have left in the provision allowing substitutes, but I have proposed a system which will encourage volunteering, and by which the people of a particular neighborhood will, as I remarked once before, be encouraged to act as a mutual aid society to avoid the necessity of a draft by making up a sufficient number to fill their quota. And to enable them further to do that, I have proposed that when the President makes a call for one year he may accept volunteers for one year, and pay \$100 bounty in addition to whatever inducements may be held out by the neighborhood.

Then I go further, and take away some of those features of the bill which seemed to be harsh because they permitted minors to be held to service. I offer a provision, too, to save the objection which has been made that persons might be taken away from regiments of their own State, or separated from men enlisted or drafted from their own neighborhood. The provision requires that they shall, so far as possible, be put together in regiments by themselves, with men from their own neighborhood, as well as in companies of their own States.

Then to meet the other difficulty about filling up the quota of States where it is said the male population is exhausted, I add bill No. 261 as a part of this, a bill which has already commended

itself to the House, and been passed by a large majority, but permitted to sleep upon the table of the Senate.

I might occupy the time of the House in speaking of the essential importance of acting upon this subject speedily, firmly, and decidedly, so as to sustain the Administration of the Government in its attempts now to carry on this war to a successful termination. I repeat only, however, the conviction of my own mind, and it must be that of most gentlemen here, that the President would not make his application to us without reason.

It is essential, on account of the expiration of the term of service of persons now enlisted, and who by regiments are continually going out of service, and because of loss in battle and otherwise, to make some stringent legislation to fill up the ranks of the Army, or even to keep up the Army to its present standard. For one, I am not satisfied with that, but that is essential, and to do that this bill is essential. It is equally essential not only to keep the ranks full, but to go beyond that, and to put and keep in the field a force so much superior to any the rebellion can muster in order to put down as speedily as possible this rebellion. For this rebellion must be put down; if not this year, the next, if not next year, one year, ten years, twenty years hence, no matter how long, for the simple reason that a peace made to-day upon terms proposed by some gentlemen upon this floor, as every sensible man must know, would be a peace that would not last thirty days. If we ever recognize this southern confederacy as a distinct nationality from these United States, they living upon that side, and we upon this, of a border line extending from the mouth of the Potomac to Mexico, thousands of miles, we may expect a marauding guerrilla warfare, and murders and robberies, and everything else which can disturb the peace of a nation. Nothing but an effectual putting down of the rebellion will put peace upon such ground that peace can only stand on. And I would not give a farthing for peace made upon any other terms than the effectual crushing out of this unholy rebellion.

Mr. Speaker, I go even further than that. Time was when I, conservative in my party, believed that we might live with the people over the border, they having their peculiar institution of slavery, and we not; time was, not only when I believed, but, believe now, that this war was commenced on their part, not upon ours, entered on and prosecuted on our part not with any view to put an end to slavery, not making that the object of the war, although that would be the inevitable consequence; but when, dissatisfied with the guarantees of the Constitution and the laws passed under it, the South threw the sword into the balance; when they said that these guarantees of the Constitution and the laws were not sufficient for them, but that the sword should give them stronger and further privileges, and enable them to make a slavery crusade; when war came upon these terms, I say that although the war was not made to put down slavery, the consequence was as inevitable as fate that the result would be that slavery would be ended. As the war has progressed from month to month, we have seen that that is the inevitable result.

I do not believe that peace now made upon any other terms than that this shall be a free republican country throughout all of the States which compose it will last. I do not believe if a slave were to escape from one of those States and should come into a State which did not recognize slavery that there would be a possibility of reclaiming that slave. It is natural to expect that those who recognize that property would not be satisfied with that condition of things, and would attempt by force to do that for which there is no law. If the guarantees of the Constitution and the laws passed under that Constitution were not sufficient when we were together as one nation, surely it will not be expected that when separated by war we could accomplish by treaties, or compromises, or mutual arrangements as between independent nations, what we could not peacefully do and maintain between States of the same Government. Therefore I say that I believe no peace would last unless based upon the submission of the rebels in these States to the Constitution and the laws of the land, and that submission accompanied by doing away with that which has led to it all,

with the institution of slavery which has been the source of all the evil.

With the convictions I have received I would no more attempt to heal up the wounds of the body-politic leaving that irritating cause there, than I would expect effectually to cure the body of one of our poor soldiers shot by a rebel bullet leaving the ball in to fester and irritate and fever the physical condition of the man. I do this because I think it right and proper to have it understood why I believe it essentially important to strengthen the Army; to keep its ranks full; to be sure of putting down the rebellion; for until the rebellion is put down upon such conditions, your compromises, your peace, your armistices founded upon any other understanding will not be worth the paper on which they are written.

Mr. ODELL. Mr. Speaker, I feel that it devolves upon me, as a member of the Committee on Military Affairs, and in the minority in regard to the repeal of the commutation clause, which is the question now before the House, to occupy the attention of members for a few moments. I ask the chairman of the Committee on Military Affairs whether I understood him rightly in stating that there was no provision in his proposed amendments for substitutes.

Mr. SCHENCK. It leaves the law in regard to substitutes just as it is now. It does not dispense with substitutes.

Mr. ODELL. I have listened attentively to the remarks of the gentleman from Ohio in relation to the amendments he proposes to this bill of the committee. I know of none to which I object, unless those relating to the striking out of the first and second sections of the original bill, which repeal commutation, and allow no substitutes except father or brother of the person drafted.

Mr. Speaker, I am opposed to the repeal of the commutation clause; and I have many reasons which are satisfactory to my mind for my opposition to it. I know very well the position which I occupy in being now in favor of retaining that which two years ago I voted against; liable to the charge of inconsistency I know I will be. I am free to say that, as a member of the last Congress, when the first conscription was passed, I voted against it, because it contained this commutation clause. I must in candor say that when I went home to my constituents and mingled with them I found I had made a mistake. The provision which I thought discriminated against the poor man was regarded favorably by the poor man, and the operation and enforcement of the law demonstrated this truth.

Gentlemen on the other side will probably refer to that vote. But the provision is found to be acceptable to the people. In many portions of the country, in my own city and State, there are thousands of men who have exempted themselves from military service for three years by paying the \$300 commutation, as provided by the act approved March 3, 1863, section thirteen, and they have in their pockets the certificate of the Government. But the bill presented by the chairman of the Committee on Military Affairs deprives those who may be hereafter drafted from having the same privilege as those already drafted have had. The State of New York and many other States have furnished their quotas. Many States have had no draft, and therefore the enactment of this law would be a discrimination against them. The gentleman from Indiana says that his State will be in that condition. So will Illinois and New Jersey and many others. I think we ought to legislate in this matter so as to let the people understand that we have a fixed principle and purpose about this thing.

Another serious objection to the proposition to repeal the commutation provisions of present laws, and which further proposes that no substitutes shall be furnished outside of the drafted man's family, is in the fact that in the operation of such a law it would be most destructive in its tendency to the commercial and mechanical interests of the country. While we should legislate to reinforce our armies in the field, and pass such laws as shall do it speedily and efficiently, yet it is only the part of wise statesmen to do it with as little oppression to the business of the country as may be. The bill proposed would not rapidly, as experience has shown, fill up our armies, and would tend to destroy our commercial and industrial interests. The authorities

have tried both systems, drafting and volunteering, with bounties, and my conviction is the latter has proved the more efficient mode of raising men.

I know that the gentleman has told the House that this bill is absolutely necessary for reinforcing the Army. I do not fall one whit behind that gentleman, and I am surrounded by men on this side of the House who feel as earnest and anxious as he or any other man can be that the Army shall be reinforced and the Government sustained. The State which I in part represent was among the first in this war, and will be the last out of it. The appeal made by the gentleman from Ohio [Mr. SCHENCK] to pass this bill, and thus to indicate that we mean to sustain the Government, falls without effect upon me and upon others by whom I am surrounded, and upon the thousands whom I represent.

The gentleman's colleague, [Mr. GARFIELD,] and my colleague on the Committee on Military Affairs, stated, a few days ago, that the vote given here—which was against the repeal of commutation, and a very decided one it was in its majority—was a vote to stop the war. I should like to know from the gentleman from Ohio what right he has to criticize the votes of gentlemen on that occasion, and from whom does he obtain his authority to lecture the members thus voting. I disclaim his right to say that we are for stopping the war. I am no more in favor of stopping the war until the rebellion is subdued than either of the gentlemen from Ohio. But I believe there is a better way to reinforce the Army than is now proposed by the chairman of the Committee on Military Affairs. I believe that the third and fourth sections of the bill which provides for a draft for one year, and pays bounty of \$100 for one year, \$200 for two years, and \$300 for three years, will do all we need done in the way of reinforcing the Army. It will be done by voluntary enlistment, with the bounty which the bill provides. I have not the facts and figures which the gentleman from Maine [Mr. BLAINE] presented here the other day; but all that he said about them was true. They were the worst cases that the provost marshal could pick out. The State of New York stands to-day four thousand men ahead of the demands of the Government. The city of New York, with its large Democratic majorities, which is often referred to by gentlemen on the other side, not in terms of commendation for loyalty, is nineteen hundred men ahead, to-day, of the demands of the Government.

There are now organizations recently formed of the best men of the city of New York, men of influence and wealth, for the very purpose that the Army may be reinforced, that men may be induced to volunteer, and that a draft may be avoided. So also with the city of Brooklyn, from which I come. The people of that city are willing and anxious to aid the Government in every possible way, as they have been from the beginning of this wicked rebellion. Our municipal and county authorities are both ready and willing to coöperate with the General Government in this laudable work of adding men to our armies in the field. They are ready with labor and means both to aid the President and Secretary of War. But we have our opinions about this matter. It may be unwise, I hope it will not be considered unpatriotic, that we differ with the President, with the Secretary of War, and with the Provost Marshal General of the United States; but, sir, my conviction is as clear as it can be upon any question that if our armies are to be reinforced by such men as the Government want, and by such as all of us desire to have in the field, they will be reinforced by volunteering under such inducements by bounties and compensation as may be necessary to accomplish that purpose.

The House clearly indicated its sentiments upon this subject the day before yesterday, and I hope we shall stand fast to the position we then assumed and not be forced into concurrence with the position which is now assumed. I have no fears as to what the result may be if that position is adhered to, in my own State nor in any other State in this Union. The men will be furnished. It is down deep in the hearts of the people of this Union that this Government is to be sustained, that it is to be saved, and with none stronger than with the party with whom I act. There is no party in this country more earnest in their desire

or determination to sustain this Union than the Democratic party. We are for carrying on this war until the rebellion is put down; and, as the gentleman from Ohio remarked, let it be long or let it be short, the war must go on until it reaches a successful result. New York will be found ranged side by side with Ohio and every other State that is ready to place all the men, all the money, and all the power of the country at the disposal of the Government rather than fail in the accomplishment of that object. This Union is to be preserved. Ay, sir, and we believe that we have men enough and money enough, ships, shot, and shell enough to put down this rebellion. You may rest assured it will be done.

Mr. GARFIELD. Mr. Speaker, the honorable gentleman who has just taken his seat [Mr. ODELL] has seen fit to refer to a remark which I made on the last occasion when the proposed repeal of the commutation clause was before the House. I do not think he intended to misrepresent me, yet he did so.

I did not take it upon myself to criticize the individual acts or votes of any member of this House. But, sir, it is my right to animadvert upon the action of this House, and the effects of its policy. This right I have hitherto used in such manner as I deemed proper; and while I have the honor of a seat in this body I shall continue to use it. On that occasion I did, as the gentleman states, declare it as my opinion that we had reached a point in the progress of events where we must decide to repeal the commutation clause or give up the successful prosecution of the war. I did not then believe, nor do I now believe, that the vote then taken was such a decision; but I did believe, and I yet believe, that if the policy indicated by that vote shall be persisted in, if the commutation clause be permanently retained in the law, if no more efficient law be passed this session for filling up our armies and supplying the waste of battle and disease, the rebellion cannot be put down during the lifetime of the Thirty-Eighth Congress.

I go further. If this Congress shall leave the law as it now stands and the next Congress repeals the folly, I do not believe the rebellion will be put down during the continuance of the next Congress, nor at all while the incubus of commutation weighs down the present law. In my judgment that clause stands directly in the way of filling up our armies.

Mr. Speaker, it has never been my policy to conceal a truth merely because it is unpleasant. It may be well to smile in the face of danger, but it is neither well nor wise to let danger approach unchallenged and unannounced. A brave man, like a brave man, desires to see and measure the perils which threaten it. It is the right of the American people to know the necessities of the Republic when they are called upon to make sacrifices for it. It is this lack of confidence in ourselves and the people, this timid waiting for events to control us when they should obey us, that makes men oscillate between hope and fear; now in the sunshine of the hill-tops, and now in the gloom and shadows of the valley. To such men the morning bulletin which heralds success in the Army gives exultation and high hope; the evening dispatch announcing some slight disaster to our advancing columns brings gloom and depression. Hope rises and falls by the accidents of war as the mercury of the thermometer changes by the accidents of heat and cold. Let us rather take for our symbol the sailor's barometer, which faithfully forewarns him of the tempest and gives him unerring promise of serene skies and peaceful seas.

No man can deny that we have grounds for apprehension and anxiety. The unexampled magnitude of the contest, the enormous expenditures of the war, the unprecedented waste of battle bringing sorrow to every loyal fireside, the courage, endurance, and desperation of our enemy, the sympathy given him by the monarchies of the Old World as they wait and hope for our destruction, all these considerations should make us anxious and earnest, but they should not add one hue of despair to the face of an American citizen, they should not abate a tittle of his heart and hope. The specters of defeat, bankruptcy, and repudiation have stalked through this Chamber, evoked by those gentlemen who see no hope for the Republic in the arbitrament of war, no

power in the justice of our cause, no peace made secure by the triumph of freedom and truth.

Mr. Speaker, even at this late day of the session I will beg the indulgence of the House while I point out some of the grounds of our confidence in the final success of our cause, while I endeavor to show that though beset with danger we still stand on firm earth, and though the heavens are clouded, yet above storm and cloud the sun of our national hope shines with steady and undimmed splendor. History is constantly repeating itself, making only such changes of programme as the growth of nations and centuries requires. Such struggles as ours, and far greater ones, have occurred in other ages, and their records are written for us.

I desire to refer to the example of our ancestors across the sea, in their great struggles at the close of the last and the beginning of the present century, to show what a brave nation can do when their liberties are in danger and their national existence is at stake. There were two periods in the history of that contest when England saw darker days than any we have seen, or, I hope, ever shall see. Consider her condition in 1797. For ten years the tide of mad revolution had been sweeping over Europe like a destroying pestilence, demolishing thrones and principalities, and, while many evils were swept away, chaos and anarchy were left in its track. In 1792 France declared war against the world; and in February, 1793, specifically declared war against England. At that time the British debt was \$1,268,663,045, and its annual interest \$45,225,304. The population of the United Kingdom was less than twelve millions, including Ireland—Ireland then as now "the tear in the eye of Great Britain," a source of weakness rather than strength. The spirit of revolution pervaded the kingdom from collieries to court. The throne distrusted the people, and the people were jealous of the power of the throne. In 1794 the *habeas corpus* act was suspended against an opposition in Parliament more determined and far abler than its suspension met in our Congress two years ago. In 1796, three and a quarter million Catholics in Ireland were organized to revolt against the Government, to be aided by a French fleet of forty sail with twenty-five thousand French soldiers on board. But for the storm which dispersed the fleet the revolt must have been successful.

In the same year the naval power of England was threatened with dissolution by a wide-spread mutiny in the fleet. Ship after ship deserted the fleet off Cadiz and in the North sea. The Channel fleet ran up the red flag of mutiny from almost every mast-head, and was drawn up in line of battle across the mouth of the Thames, prepared to bombard London if the demands of the mutineers were not acceded to. It required all the firmness of the king and his Government to save the city and the navy. In 1797, oppressed with financial disaster, the Bank of England suspended specie payment, and paper money (an immense circulation of which crowded the country) was the legal currency for twenty-two years thereafter. In that fifth year of the war, Alison says:

"Everything seemed to be filling at once. Their armies had been defeated, the bank had suspended payment, and now the fleet, the pride and glory of England, appeared on the point of deserting the national colors." * * * * *

"Public creditors apprehended the speedy dissolution and the cessation of their wonted payments from the treasury. De-pair seized upon the boldest hints, and such was the general panic that the three per cents were sold as low as forty-five after having been nearly one hundred before the opening of the war. Never during the whole contest had the consternation been so great, and never was Britain so near the verge of ruin."—Volume 4, page 235.

All this time France, with frenzied activity and enormous power, was dealing deadly her blows. In Parliament the great Fox was leading a powerful opposition against the Government. (Though we have no Pitt to lead us, we at least have no Fox to lead our enemies in this Congress.) The record of their divisions would answer for our own. Alison says:

"So violent had party spirit become, and so completely had it usurped the place of patriotism or reason, that many of the popular leaders had come to wish anxiously for the triumph of their enemies. It was not a simple disapprobation of the war which they felt, but a fervent desire that it might terminate in the disadvantage of their country, and that the republican might triumph over the British arms. They thought there was no chance of any parliamentary reform being carried, or any considerable addition to democratic power acquired, unless the ministry were dispossessed; and to accomplish this object they hesitated not

to betray their wish for the success of the malarious enemy of the country. These animosities produced their usual effects of rendering the moderate or rational equally odious to both parties: whoever deplored the war was a reputed foe to his country; whoever pronounced it necessary was deemed a conspirator against liberty, and an abettor of arbitrary power."—Volume 4, page 141.

Against such an opposition and such discouragements, the like of which we have not yet seen, England with a brave king, a wise ministry, and a courageous Parliament, rose to the level of the great occasion, passed laws both for volunteering and draft, filled the ranks of her army and navy to more than three hundred and fifty thousand men, poured out her wealth with a lavish hand, renewed the great contest, and continued it, not four years, but five times four years longer.

But England saw darker days than those of 1797. In the beginning of 1812 Napoleon had risen to the height of his marvelous power. The continent of Europe was at his feet. By victorious diplomacy and still more victorious war he had founded an empire which seemed to defy human power to successfully assail it. Every coalition against him had been broken; every alliance had failed. More than half the nations of Europe followed his conquering eagles. From the Vistula to the pillars of Hercules, except the rocky triangle of the Torres Vedras, where Wellington was held at bay by five times his number under a great marshal of France, the continent presented an unbroken front against England. Russia remained in frozen isolation, a spectator of the contest. Only Prussia and Austria followed the lead of England.

Let us consider her condition at this second crisis of her fate. Her population, including Ireland, was about seventeen millions. Her debt had been more than trebled since the beginning of the war, and now reached the enormous sum of \$4,000,000,000. Specie payments being still suspended, her paper currency was more than ever expanded. In the beginning of the war she raised from her mines and coined annually about \$30,000,000 in gold. But the revolution which swept over South America had stopped the working of the mines, so that before the close of the war the annual British coinage was less than \$12,000,000. Her navy was crippled by the war, her commerce ruined by the French decrees and the non-importation act of the United States. Her imports exceeded her exports by \$65,000,000, and the balance was paid in gold. For two years her harvests had failed, and in 1812 she paid \$21,000,000 in gold for foreign grain to feed her people at home. In that year alone her exports declined \$140,000,000. The heavy subsidies to her allies and the payments to her own armies on the Continent were to be in gold. In 1812 she sent \$30,000,000 in gold, for which she paid thirty per cent. premium, to Wellington's army in the Peninsula. Her bonds had so depreciated that a loan of £60 increased her debt £100. A short time previous, in the midst of increasing disaster, the reason of the king gave way, and he sat a lunatic on the throne of a kingdom which seemed ready to go down with him in the general ruin. This event added a new and complicated question to the distractions of Parliament, and gave a new weapon to the Opposition.

It is not necessary for my present purpose to inquire whether justice leaned to the side of England or her adversary. It is enough to know that she believed it was on her part a struggle for self-existence and for the constitutional liberty of the world. Inspired with this conviction she stood like a giant at bay, in high debate reasserted the justice of her cause, summoned anew, not the frantic energy of despair, but the inexhaustible reserve of calm Anglo-Saxon courage, the unfathomed resources of English faith and English pluck—a proud share of which I trust this nation has inherited—and, in the face of unexampled discouragement and appalling disaster, summoning to the uttermost the resources of her realm, went out again to meet the man of destiny, whose victories were numbered by hundreds, and whose eagles were followed by half the world. Increasing both taxes and loans, she raised and expended for that year \$550,000,000. She filled her navy to one hundred and twenty-five thousand men, and before the year ended six hundred and forty-eight thousand men were arrayed under her banners. Seconded by the indomitable spirit of her people, her armies emerged from the gloom of that

nineteenth year of the war, and, marching with unflinching step through three more bloody years and the carnage of Waterloo, she planted her victorious standards on the battlements of Paris, and gave peace to Europe.

And can we, the descendants of such a people, with such a history and such an example before us, can we, dare we falter in a day like this? Dare we doubt? Should we not rather say as Bolingbroke said to his people in their hour of peril:

"Oh, woe to thee when doubt comes; it blows like a wind from the north and makes all thy joints to quake. Woe, indeed, be to the statesmen who doubt the strength of their country and stand in awe of the enemy with whom it is engaged."

At that same period one of the greatest minds of England declared the three things necessary to her success:

1. To listen to no terms of peace till freedom and order were established in Europe.
2. To fill up her army and perfect its organization.
3. To secure the favor of Heaven by putting away forever the crime of slavery and the slave trade.

Can we learn a better lesson? Great Britain in that same period began the work which ended in breaking the fetters of all her bondmen. She did maintain her armies and her finances and she did triumph. We have begun to secure the approval of Heaven by doing justice, though long delayed, and securing to every human being in this Republic freedom henceforth and forever.

Mr. Speaker, it has long been my settled conviction that it was a part of the divine purpose to keep us under the pressure and grief of this war until the conscience of the nation should be aroused to the enormity of its great crime against the black man, and full reparation should be made. We entered the struggle, a large majority insisting that slavery should be let alone, with a defiance almost blasphemous. Every movement toward the recognition of the negro's manhood was resisted. Slowly, and at a frightful cost of precious lives, the nation has yielded its wicked and stubborn prejudices against him, till at last the blue coats cover more than one hundred thousand swarthy breasts, and the national banner is borne in the smoke of battle by men lately loaded with chains but now bearing the honors and emoluments of American soldiers. Dare we hope for final success till we give them the full protection of soldiers? Like the sins of mankind against God, the sin of slavery was so great that "without the shedding of blood there was no remission." Shall we not secure the favor of Heaven by putting it completely away? Shall we not fill up our armies? Shall we not also triumph? Was there in the condition of England in 1812 a single element essential to success which we do not possess to-day?

Observe the contrast. Her population was less than seventeen million. Ours to-day is twenty-five million in the loyal States alone.

Her debt was more than \$4,000,000,000, its annual interest \$161,000,000; ours is \$1,720,000,000, and its annual interest \$71,000,000.

The balance of imports was \$65,000,000 against her. In 1863 the balance was \$79,621,872 in our favor.

She bought grain from foreign nations to feed her people. We feed our own and send an immense surplus to foreign markets.

Her mines yielded from twelve to fifteen millions of bullion annually; ours are now yielding \$120,000,000 a year. More than half of all her payments were made in coin purchased at a heavy premium; we pay nothing in coin but \$50,000,000 of our interest and the salaries of our ministers and consuls abroad.

She crossed the sea to meet her enemy on foreign soil; we on our own soil, in a country that has been ours since the foundation of the Republic.

She fought to maintain her rank among the nations of Europe; we fight to maintain our existence among the nations of the earth, and to preserve liberty and union for ourselves and our children's children.

If the example of England fails to inspire us, let us not, I beseech you, forget our fathers of the Revolution. We have seen no day so dark as were whole years in their struggle. We have seen no captures of Philadelphia; no winter quar-

ters at Morristown, no blood-stained snows at Valley Forge. Out of a population of three millions, one quarter of whom adhered to the enemy, they sent to the field three hundred and ninety-five thousand eight hundred and ninety-two men; one for every seven women and children in the colonies. Were we to double our armies to-day we should still fall far behind that proportion.

Who can compare their resources with ours and not blush at the mention of failure, the suggestion of defeat? Do we, with power almost unlimited, with resources as yet untouched, the balance of trade in our favor, every branch of industry flourishing, and everything in its proper place except the Congress of the United States, do we talk gloomily of the issue of this contest?

I believe, sir, that the worth and manhood of a nation must be tried by the same standard that tests the worth and manhood of individual men. We can never know what stuff a man is made of till we see him brought face to face with some desperate issue, some crisis of his life in which he must peril all in one noble effort or shrink ignominiously away into the coward's oblivion. If, summoning all his untried manhood, and flinging into the scale his honor, his fortune, and his life, he goes down to the trial, we know that to him "there's no such word as fail." So, sir, a nation is not worthy to be saved if in the hour of its fate it will not gather up all its jewels of manhood and of life, and go down into the conflict, however bloody and doubtful, resolved on measureless ruin or complete success.

"Si fractus illabatur orbis,
Impavidum ferient ruina."

But no ruin awaits such a nation. The American people have not yet risen to "the height of the great argument," nor will they until those who represent them here are ready with unselfish devotion to walk in the rugged path that leads to victory.

If we will not learn a lesson either from England or our revolutionary fathers, let us at least learn from our enemies. I have seen their gallantry in battle, their hoping against hope amid increasing disaster, and, traitors though they are, I am proud of their splendid courage when I remember that they are Americans. Our Army is equally brave, but our Government and Congress are far behind them in earnestness and energy. Until we go into the war with the same desperation and abandonment which mark their course we do not deserve to succeed, and we shall not succeed. What have they done? What has their government done—a government based in the first place on extreme State rights and State sovereignty, but which has become more centralized and despotic than the monarchies of Europe? They have not only called for volunteers, but they have drafted. They have not only drafted, but cut off both commutation and substitution. They have gone further. They have adopted conscription proper—the old French conscription of 1797—and have declared that every man between sixteen and sixty years of age is a soldier. But we stand here bartering blood for money, debating whether we will fight the enemies of the nation or pay \$300 into its Treasury.

Mr. Speaker, with this brief review of the grounds of our hope I now ask your attention to the main proposition in the bill before the House, the repeal of the commutation clause. Going back to the primary question of the power to raise armies, I lay it down as a fundamental proposition, as an inherent and necessary element of sovereignty, that a nation has a right to the personal service of its citizens. The stability and power of every sovereignty rest upon that basis. Why can the citizen claim the protection of the Government? Because rights and duties are reciprocal, and the Government owes him protection only as he gives sanction and power to the law by his personal service and the contribution of his wealth. Hence in the name of law he can demand protection. Hence, also, in the name of law his Government can demand his personal service and a contribution from his purse. There are two great muscles that move the arm of sovereignty, the Treasury and the Army.

If a nation has the right to protect itself it must have the right to use these two powers. It may therefore take money from the citizen in accordance with the forms of law. It may take every dollar of every citizen if so much should be necessary in order to support and maintain the Government.

If the nation has the right to the citizen's money, has it not equally the right to his personal service? Coercion accompanies the tax-gatherer at every step. The law of revenue rests upon coercion. Without that same coercive power no Government could put a soldier into the field. As well might we claim that the legal basis of the Treasury is a contribution-box, as that the legal basis of the military power is the volunteering system.

I go a step further. Every nation under heaven claims the right to order its citizens into the ranks as soldiers. Great Britain has always held that power behind her volunteering system. In 1798 she made a law first to offer bounties to volunteers, and then to draft her enrolled citizens into the army. No such thing as commutation was known.

Gentlemen talk as though the right to pay \$300 in lieu of personal service was one of the inalienable rights guaranteed to us by the Constitution. They forget that until the 3d day of March, 1863, there was never known on this continent such a thing as paying money in lieu of personal service.

Mr. ELDRIDGE. Will the gentleman let me ask him a question?

Mr. GARFIELD. Certainly.

Mr. ELDRIDGE. I understood the gentleman from Ohio to state that England always went with the power to draft. I want to know whether she ever did make a draft; whether she ever conscripted or forced her men into the army?

Mr. GARFIELD. She never conscripted, but she did provide for a draft. Under the law of 1798 she raised her militia for local purposes, and drafted from the militia into the regular army in the field.

Let us look for a moment at our own history in regard to this subject. How were the three hundred and ninety-five thousand men raised for the war of the Revolution? Every colony had laws for calling out its militia and compelling them to serve. By a statute of Maryland a citizen was liable to a fine of £10,000 for a refusal to obey the command when ordered into the field. By a statute of Massachusetts as early as 1693 severe punishments were provided for those who refused to turn out for military duty when ordered. The spirit of personal independence and the protection of individual rights were at least as carefully guarded by the founders of the Republic as they are by this generation, and yet they never doubted the power of the colonies to compel the citizen to serve in the field. It makes no matter whether it be done by the President or a Governor of a State, the same principle is involved.

I affirm again that every one of the colonies raised men by draft. It was a presumed common law right. The Constitution of the United States recognizes the same principle by declaring that "Congress shall have power to provide for calling forth the militia to execute the laws of the Union;" and on the 29th of September, 1789, an act was passed (the second military law under the Constitution) giving to the President full power to call forth the militia. That law was extended by the act of May 2, 1792, so as to give him the power to send the militia beyond the limits of their States. In 1795 (February 28) his power was still further extended, and a heavy penalty was affixed for disobedience of the law. In the case of *Houston vs. Moore*, 5 Wheaton, and also *Martin vs. Mott*, 12 Wheaton, the Supreme Court decided that the law was constitutional, and that the President had the constitutional power to compel a citizen to do military duty.

In the war of 1812 the President called on the States for troops, and when a sufficient number did not volunteer they were obtained by draft. In 1839, when the dispute occurred between this country and England in reference to the boundaries of the State of Maine, a law was passed March 3, 1839, authorizing the President to call forth one hundred thousand men for six months, a period double the length allowed by former laws.

Mr. BOUTWELL. I would ask the gentleman whether the law for drafting in 1812 allowed substitutes.

Mr. GARFIELD. Certainly it did, but not commutation. The bill before us permits drafted men to obtain substitutes but not to pay commutation.

I say, then, since the beginning of the Government, still further, since the beginning of the Revolution, still further, since the founding of the colonies, the right of sending citizens into the military service has been repeatedly asserted and exercised; and up to the 3d of March, 1863, such a thing as a payment of money in lieu of military service was never known on this continent. Gentlemen must, therefore, abandon the claim that in repealing this clause we are interfering with immemorial usage and inalienable rights.

Even the law of 1863 did not regard the \$300 as an equivalent for military service. It provided that the \$300 should be paid "for the procuration of a substitute," and was supposed to be a sum sufficient for that purpose. It is now far from sufficient, and the law is even more unjust than at first. If the \$300 would always procure a substitute, the military service would not suffer by retaining the clause.

But what are the facts? The President, the Secretary of War, our own knowledge of affairs, tell us if it be retained it will be impossible to fill the places of the eighty-five thousand hundred days' men who will go out of service in a few weeks; and of the three years' regiments whose terms of service are every day expiring. Moreover, we must allow something for the waste of battle, the waste of disease, and all the incidents of war. And now, while our armies are advancing gloriously, while our campaigns are prosperous, while there is no immediate cause for alarm, let us look into the future and provide for its emergencies; let us hold up the hands of the President and remove this obstacle from the law, as he recommends. Gentlemen doubt what the people will say and how they will feel. I have learned that the people are braver than their Representatives. I would much sooner take the counsel of the American people, and especially of the American Army, than of the timidity of their Representatives when an election is at hand. Would to God there were no presidential election to cast its shadow over this battle summer, and no congressional elections overshadowing this House. Perhaps we might then see with clearer vision the interests of the country, and strike toward them with bolder hands.

This I do know, that the loyal people have laid up a great oath on the altar that they will never rest till the rebellion is overthrown, and they will take all necessary means to hew their way through to this purpose. I know that the people whom I represent have united their destiny with the destiny of the Union, and will share its fortunes whatever betide it. I have not asked them, but I believe they will respond cheerfully to this measure. But whatever they may do, I shall strive to remove all obstacles from the increase of the Army.

I ask gentlemen who oppose this repeal why they desire to make it easy for citizens to escape from military duty. Is it a great hardship to serve one's country? Is it a disgraceful service? Will you, by your action here, say to the soldiers in the field, "This is a disreputable business; you have been deceived; you have been caught in the trap, and we will make no law to put anybody else in it?" Do not thus treat your soldiers in the field. They are proud of their voluntary service; and if there be one wish of the Army paramount to all others, one message more earnest than any other which they send back to you, it is that you will aid in filling up their battle-thinned ranks by a draft that will compel lukewarm citizens who prate against the war to go into the field. They ask that you will not expend large bounties in paying men of third-rate patriotism while they went with no other bounty than that love of country to which they gave their young lives a free offering, but that you will compel these eleventh-hour men to take their chances in the field beside them. Let us grant their request, and by a steady and persistent effort we shall in the end, be it near or remote, be it in one year or ten, crown the nation with victory and enduring peace.

INTERNAL IMPROVEMENTS.

Mr. WASHBURNE, of Illinois, from the committee of conference on the disagreeing votes of

the two Houses on House bill No. 450, for the repair and preservation of certain public works of the United States, reported that the committee after full and free conference had agreed to recommend to their respective Houses as follows: that the Senate recede from its three amendments to the bill.

The report was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the report of the conference committee was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PREVENTION OF SMUGGLING.

Mr. ELIOT, from the committee of conference on the disagreeing votes of the two Houses on Senate bill No. 266, to prevent smuggling, and for other purposes, reported that the committee had met, and after full and free conference had agreed to recommend to their respective Houses as follows:

1. That the Senate recede from its disagreement to the amendment of the House of Representatives, and agree to the same with the following amendment:

Strike out the word "consular" before the word "officers," so that the clause will read, "may apply to any officer of the United States duly authorized to act in the premises."

2. That the House of Representatives agree to the amendment of the amendment.

Mr. BROOKS. I wish the gentleman from Massachusetts to put into English that report of the conference committee, for I confess that I never can understand the report of a committee of conference.

Mr. ELIOT. I will state in reply to the gentleman from New York that the bill as now agreed to is precisely the same bill passed by the House the other day, with the exception of one word, that is the word "consular." There is a provision in the bill for the examination of goods before they come into the country, that they are to be examined by a consular officer of the United States. But there seemed to be some little question when the consul recently appointed may come into full official life, and it was thought better to leave out the word "consular," so that now any officer of the United States duly authorized for that purpose may do the work which had been assigned to the consular offices.

Mr. BROOKS. It is substantially the House bill?

Mr. ELIOT. Exactly.

The report was agreed to.

Mr. ELIOT moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, notifying the House that the Senate have agreed to the report of the committee of conference on the bill of the House (No. 450) to provide for the repair and preservation of certain public works of the United States.

Also, that the Senate have passed without amendment a joint resolution (H. R. No. 110) to declare the construction of a joint resolution for the relief of W. B. Matchett, approved June 20, 1864.

Also, that the Senate have agreed to the report of the committee of conference on the bill of the Senate (No. 266) to prevent smuggling, and for other purposes.

Also, that the Senate have passed a bill of the House (No. 554) to provide for the improvement of the grounds of the Government hospital for the insane, by an exchange of land, without amendment.

Also, that the Senate have passed a joint resolution (S. No. 66) providing for adjustment of the accounts of Henry W. Duman.

CONSCRIPTION BILL—AGAIN.

Mr. MALLORY. During the last Congress, when this subject was first introduced into this House, I availed myself of the opportunity to express somewhat at length my views upon it. Those views are now recorded in the Globe, and I hope the House will now pardon me for a moment if I refer to what I said on that occasion.

I took the ground then and I entertain the opinion now, that the very worst policy which this Government could adopt is the policy of attempt-

ing to enforce a conscription instead of calling for voluntary enlistments, and the result of your experiment proves the correctness of that opinion. About the time when I uttered that conviction, or a short time before, a distinguished member of the Senate of the United States, the chairman of the Military Committee of that body, had stated that volunteering was progressing so rapidly in the United States it must be stopped, and the Government did stop it.

At that time the policy of the Government was well known. It was a policy which my venerable colleague, at that time sitting here by my side, had expressed in a resolution known as the Critenden resolution, which was almost unanimously adopted by this House in 1861, and upon which policy we all understood the Government was determined to live or die. It was upon that policy that volunteering was progressing so rapidly that the distinguished leader of the Military Committee in the Senate declared it must be stopped. And what was that policy? Was it that which was so significantly and forcibly pointed out by the gentleman from Ohio, the chairman of the Military Committee of this House, [Mr. SCHENCK], in the remarks which he submitted to this body this morning? Was it the cruel and bloody policy which he indorses, and in which he wants the Government to persevere against the people of the South? Was it the policy of despoiling the white people of the revolted States of every dollar they have on earth, reducing them to beggary and absolute want? Was it the policy of saying to that people, "We deny to you the right of self-government even if you lay down your arms and submit to the Constitution and laws of the United States; we strip you of everything you possess, we will deprive you of every privilege, of every right which freemen do and ought to hold sacred?" Was it the policy of exterminating or driving from their homes the entire white race of the South, and supplying its place with a free black race? Was that the policy? No, sir, it was one of conciliation and love. It was one tending to teach these people that this Government still regarded them as brethren, as men worthy of being free citizens of a free Government; it was a policy which required that degree of coercion necessary to cause them to yield obedience to the Constitution and laws of the United States, but which when that was accomplished was to be abandoned and conciliation and kindness practiced instead. It was a policy which accompanied the power of arms with the declaration made and reiterated that, "If you will lay down your arms and yield willing obedience as citizens to the Constitution and laws, you shall have every right you ever enjoyed under the Constitution of the United States and your own States as perfect and as intact as though you had never engaged in this rebellion."

Sir, I assert here that that was the policy proclaimed by the Government when the people of this nation rushed as one man to the rescue of our flag and the vindication of our Constitution and laws. Does any man deny that fact? It is history, sir; it cannot be denied; it cannot be evaded; it is truth. Yes, sir, it was when under that policy volunteers were pouring in to the Government in a steady stream in numbers so great that fears were entertained for the Treasury, that they were stopped, stopped that the Government might not be taxed to maintain more soldiers than it had need for. It was not long after that time that a set of factious Governors of northern States, after having, in conjunction with leading radical traitors, in vain urged and pressed the President to change this policy, met at Altoona, in the State of Pennsylvania, and informed the President that unless his policy was changed, unless the extermination of slavery was made the object and purpose of the war and not the restoration of the authority of the Constitution and laws over the rebellious States, that if slavery was not put in process of extirpation they would stop the war, that not one of their States would rally to the standard we had raised for the purpose of vindicating the Constitution and the laws. Then, as if by magic, the policy of the Government changed.

Mr. FARNSWORTH rose.

Mr. MALLORY. I cannot yield. I have but a short time to speak, and I decline to be interrupted.

Mr. FARNSWORTH proceeded to address the House, but was interrupted by cries of "Order!"

Mr. MALLORY. I claim my right to speak, and call the gentleman to order.

I say, Mr. Speaker, that it was that meeting of factious Governors at Altoona, and the pressure they then brought to bear, and had previously with others brought to bear, on the President of the United States—who is weaker than a man ought to be who sits at the head of our Government and holds the reins of power in a nation like the United States—that caused him to abandon his original policy, which was successful, which was admirable, and to take up that other policy which has failed, and which gentlemen on the other side acknowledge to have failed.

Sir, the policy we are now acting on, that cruel and relentless policy, was the one substituted for that noble and Christian one upon which the Government had been proceeding. The policy upon which we are now acting is that policy which the gentleman from Ohio [Mr. SCHENCK] said must be persisted in, even if it lead to extermination, ruin, and everything that is horrible.

The other gentleman from Ohio [Mr. GARFIELD] sung a very different song to-day from that which he gave us a few days ago when this subject was up. He declared boldly at that time that if this clause allowing commutation money was not stricken out of the bill you would cease to fill your armies, you would cease to have soldiers, that Grant would come to a deadlock at Petersburg and Sherman at Atlanta; and that if you determined upon this policy you might as well determine to give up the war and recognize the southern confederacy. That was his declaration then, but he has pondered the matter since and become more prudent. He now says that he believes it will not stop the war to insist on the commutation clause, but that it will go on more languidly than it is now progressing.

He uttered a declamatory tirade about the glory and power of this Union and the glory and power of England. He spoke of the struggle of England under an able ministry against Napoleon. He extolled the skill and valor of the leaders and statesmen of that little empire, in all of which I heartily concur. He spoke of the opposition then waged against that ministry under the lead of the great Fox; and triumphantly exclaimed, "You have no Fozes on that side of the House!" Well, sir, is there a Pitt on his side of this House? Is there a Pitt in the presidential chair, or in the Cabinet? If there be a Pitt among you, where is he, and who is he? Is the gentleman who claims to represent the other side on this question the Pitt of this day and hour? During the whole time that contest was maintained in the British House of Commons that great leader never made such an admission as that gentleman made the other day upon this floor, that if a certain act was not passed just as he wanted it, the war would cease, and an inglorious peace be concluded. I go further, and say that that great leader never proposed such a scheme as that offered by the other gentleman from Ohio [Mr. SCHENCK] to this House to-day.

Notwithstanding what the gentleman from Ohio has said on the subject, I assert that England during all the wars she has carried on down to the present time has never resorted to the practice of conscription. That was introduced by Napoleon. He was the inventor of the system. England never practiced it before, and never has since, and did not practice it for the purpose of filling up her armies which were exhausted by her wars with Napoleon.

Sir, I go further, and say that this system upon which this Government is now acting was never practiced by it before in its history. During the whole long struggle of the revolutionary war, when the powers of three million people were taxed to their utmost to resist the power of twenty millions, when Britain was throwing her legions upon our shores to compel the submission of her colonies, the Congress never resorted to conscription for the purpose of filling up the armies. There were drafts in some of the States to a limited extent, it was a draft of the militia of those States, but the power was never asserted by the Congress, even under the plea of a military necessity, or because it was "indispensable to save the nation," during the whole of that war, to con-

script its citizens and force them to become soldiers in the Army.

That power was never exercised during the war of 1812 by the General Government. It was then denied that it existed under the Constitution of the United States at all; it was acknowledged to exist in the States. They drafted from their militia and furnished to the Government of the United States the soldiers so drafted; but when that was done they were commanded by officers commissioned by the Governors of the several States.

I admit that in the Constitution power is given to Congress to call into the service the militia of the several States; but when that is done the Constitution expressly reserves to the Governors of the several States the right to officer the militia. In the war of 1812 the Government acted upon that principle and acknowledged it. An attempt was made during its continuance by the Federal Government to conscript or draft; but the effort, as gentlemen from the New England States know full well, was given up; and if my memory serves me correctly, it was done upon the remonstrance of leading statesmen of that region. Mason of New Hampshire was a violent opponent of the scheme. It was reserved to this day, for this Congress, for this Administration, as I have charged, to resort to that system of raising armies, and that, too, not long after the leader of the Government in the Senate, the chairman of its Committee on Military Affairs, had announced that soldiers were volunteering and being enlisted so rapidly that it must be stopped; and it was stopped. You abandoned a policy under the operation of which volunteer soldiers were obtained in such numbers that you had to stop them and resorted to another and entirely antagonistic one, under which volunteering ceased, your armies rapidly diminished, and to replenish them you resorted to forced levies.

Well, sir, how have you fared since? You have changed your conscription act of the last Congress to one less mild passed early this session, and now propose by this bill to make it still more rigorous; and are still in pressing need of more volunteers. I tell you you would not have need for so many soldiers at this time if you had not adopted the malignant policy now practiced by the Government, which has made the entire people of the South a unit in opposition to the Government of the United States and in support of the rebellion. Ay, it not only made the people of the South a unit in their determination to adhere to the rebellion and sever the Union, but it destroyed everything like unity of sentiment in the loyal States.

From that time you have had difficulties and dissensions. Up to that time men of all political parties and of every class united in a common effort to bring into the armies of the United States voluntarily as many soldiers as that Government indicated that it wanted. Since then you have found that interest flagging and falling back and back. The promise of the Governor of Massachusetts to the President that if he would utter the emancipation decree hundreds of thousands of men from the valleys and the hills of that State would rush to his standard, has not been realized. Those obtained from him have not rushed from the valleys and hills of Massachusetts, it is said, but have been procured by influences other than patriotic ones from other hills and valleys than those of that State, and in numbers not commensurate with the boastful promise of that high official. Numbers of negroes have been furnished by that old State in lieu of her white men, not "native and to the manner born," but enticed by bounties from other States that ought to be credited with them, while her white men have been carefully kept at home to pursue the more profitable and safe paths of commerce, and manufacture, and agriculture—a shift very creditable to the shrewdness and love of gain of the sons of the Bay State, whatever may be said of its honesty, patriotism, and bravery.

Mr. DAWES. Will the gentleman allow me?

Mr. MALLORY. No, sir, the gentleman must excuse me. I respectfully decline yielding to the gentleman from Massachusetts. I have said nothing of a personal character.

Mr. Speaker, it is not by conscription that you are going to end this war. You will never do it. You have made the necessity of increasing your

Army by this cruel and relentless policy you have proclaimed against the revolted States of the South; and now you turn around and on the recommendation of the President and Secretary of War and the chairman of the Military Committee of this House propose to lay your hand upon the people of the loyal States as heavily and relentlessly as you have laid it upon the people of the rebel States. You seem to regard this, not as a Government of the people, but as something created by some power superior to the people and having rights over them which they have never conceded to it.

The gentleman from Ohio [Mr. SCHENCK] went so far as to say that he would prosecute this war with fire and sword for thirty years if necessary, if every man had to yield up his life and every particle of his property to the United States to carry it on; and another gentleman backed him up by the declaration that the Government had a right to the life of every man and to every dollar, ay, to every cent which any one owned within the limits of the United States. I would like some able political economist to compute the value of a Government in human life. Is the Government as it exists to-day worth the lives of all its people? Is it worth the lives of half its population? When a war has been prosecuted to save a Government until the lives of all its citizens are lost who will be left to enjoy it; to whom will it be of value? I say to the gentleman from Ohio [Mr. GARFIELD] that this Government is one created by the people and administered by officers sent here by them to carry it on for their own good; and the man who undertakes to tell the people of this country that they shall not control their Government, but shall be the victims and subjects of it, cannot stand before their just indignation.

Mr. Speaker, the iron hand of oppression, of cruelty, of deprivation of property and life to utter extermination, has been laid upon the South by your unconstitutional legislation, and the armies by which you are executing it. The same system of despotic oppression is now proposed boldly and openly by the member from Ohio [Mr. GARFIELD] to be applied to the free and loyal citizens of the United States. He says to them, "You have no right to refuse to serve in the Army; we not only deny you the right so to refuse, but we require you to be willing slaves to the edicts and orders of this Government." The theory of the gentleman from Ohio is that this Government has a power of inherent and absolute authority, not derived from the people, but which sprang into existence by some *hocus-pocus*, some magic or miracle, and that it is authorized to tyrannize over the people and use them for every and any purpose which it may think proper. He seems to think that the great mass of our people were born with saddles on their backs, and the privileged few who administer the Government, booted and spurred, to ride them legitimately by the grace of God. I deny the theory. I will not argue against it; it is not worth an argument. The simple statement of it carries with it its refutation.

Sir, you cannot succeed on this theory. You are disposed to rule and control with a ruthless hand the people of the United States. You are disposed by this and other stringent tyrannical laws to deny them the right to exercise any discretion in the matter of serving in the Army. Every man conscripted must shoulder the musket and march. You change the *willing* volunteer, who carries an earnest spirit into the contest, for the *forced* conscript, who goes into it "like the whipped slave scourged to his dungeon." You have denied to the people's Representatives on this floor the right to indicate, even if it were necessary, their desire that the war shall stop and the southern confederacy be established. You want by this bill to deny them any right or choice to evade military service. The time may come soon, if this power is exercised without protest, without resistance, that the entire people of the country, almost without regard to age, will be levied *en masse*, and marched down to be hurled on those legions that have already destroyed so many precious lives. I tell you, sir, the day of reckoning is approaching. I warn that side of the House that on the ides of November the people will rise in their majesty and right and say to every public servant here who has refused to acknowledge this as their Government, created for

their benefit, "Depart from us. We never knew you." The people will hurl you from positions of trust which you have abused. They will hurl from power the Administration in whose hands you want to perpetuate it, and put in its place men who appreciate the Government and understand the rights of its free citizens.

Mr. Speaker, another cause of the necessity for this conscription, of the reluctance of the free citizens of the United States to enter the Army, and of the necessity for this resort to absolute force to make them enter the Army, arises from a persistent effort made by the party on that side of the House and by the Administration to raise the negroes of the country to a level with white men; the negro soldiers to equality with the white soldiers, and even to a superiority over them. I do not believe that the free white soldier of the land will be satisfied that you, in the plenitude of your power and might over all the citizens of the United States, bond and free, shall place alongside of him, with equal rations, and equal pay, and equal privileges, and equal dignities, the sable son of Africa, with all his essential attributes. I charge that that is the effort which this party and this Administration have engaged in, to elevate the negro. And I charge that since the time that system was commenced you have obtained scarcely any volunteers. That, perhaps, is the reason why the promise of the distinguished Governor of Massachusetts, that if the emancipation and negro equality policy were adopted the citizens of Massachusetts would march by thousands from every valley and hill-top, was not observed. I assert now that for every slave or negro you place in the Army of the United States you have lost the services of at least ten white volunteers. What an exchange! The compelled, reluctant, stupid negro for the willing, free, intelligent white man!

Now, I feel that the service of the white man is equal to that of the negro. I believe that the white man is the equal of the negro. I do not believe that we can afford to lose a white man for every negro enlisted in the Army of the United States. How can you afford to make the exchange? In this contest victory has not always perched on your standard when you presented your best and bravest, because willing, white men to the opposing forces of the enemy. Do you increase your chances of success when you substitute the reluctant, compelled conscript for the volunteer? Do you not lose all chance when you supplant the white man with the negro, without his courage and without his intelligence? You have not only decided on this change and enlisted the negro, and by so doing diminished the ardor of the white man to engage in his country's service, but you have changed and deepened that reluctance into disgust by the persistent effort of the Administration for months past by every means in its power, not only to blazon the deeds of the negro soldier and assert his equality with the white in all that makes the soldier admirable, but to elevate him *above* the white soldier in all soldierly qualities. I protest against this in the name of the free white, patriotic soldier. I protest against this insult to the manhood and history of the white race. The Administration has exhibited this partiality in favor of the black race in a manner most marked and disgraceful.

When the Army was sent into Virginia under Grant, to take possession of Richmond, and to destroy the army of General Lee, which was to be done in so summary a way, there was attached to Burnside's corps a large number of negroes. You all remember their triumphal march through this city, and the plaudits showered upon them by the radicals, with the President at their head. Burnside did not use them in battle. He kept them behind him to guard the camp, to take care of the baggage trains, and to fill other subordinate positions of that sort. He did not believe them quite as good as the white soldier, not so brave, not so efficient as soldiers; he curbed their ardor, and held them back.

Grant moved from the Wilderness to Chancellorsville, after long-continued and bloody fighting, in which thousands of our brave white soldiers sealed their devotion to their country with their blood, and thousands were brought back to Washington to languish under painful wounds. We looked and listened in vain for some news of the daring of our sable soldiers. He fought despe-

rately at Spottsylvania Court-House, on the North Anna, at the Chickahominy. Still the question was asked in vain, what have the negroes done? Grant knew their true value, and placed no confidence in them where cool courage and skillful maneuvering were required, and kept them back. Butler, it is true, from below Richmond, sounded their praises occasionally, but these blasts from his bugle-horn were few and far between, and of course nobody believed him. Grant had crossed the James, and still no glory won by the black cohorts. Petersburg was attacked; and the first bulletins of our operations before that city contained the long-desired laudations of the negro soldiers, and caused the hearts of the abolitionist, negro-loving miscegenators to bound with joy. The negro had at last been put in front; he had at last been allowed an opportunity to exhibit the great qualities that were in him, and vindicate his claim to be regarded the model soldier of the present age. The black soldiers had been led to the assault of the first line of redoubts and trenches in front of Petersburg, and driven the enemy from them, and occupied them after deeds of courage and skill that would hand down their names to immortality. The dispatches were transmitted by the Secretary of War to the Speaker of this House, and read by the Clerk, amid scenes of disorderly applause and cheering by the other side.

Time passed, and gradually the truth of history was vindicated. It turned out that these terrible defenses that were represented as so strong and formidable, and defended by the rebels with desperate valor, were occupied only by pickets, or at least by a mere handful of men, who did not defend them, but retired and left them after a mere show of resistance to be taken possession of by the negro soldiers. We have waited and looked in vain for the terrible list of killed and wounded in this desperate fighting. The authorities give us nothing on this point; proof positive that they have nothing to give. If casualties had occurred, as they would have occurred if any such fighting had taken place, the long list of the sable patriots killed and wounded would have been spread by Stanton over the whole country, and the War Department and White House perhaps been draped in mourning. The only report we have is from some newspaper correspondent. He makes the killed one, the wounded twenty. But these laudatory dispatches sent by the Secretary of War to this House and to Dix in New York were not the dispatches of Grant. I defy the Administration to produce his name to any such dispatches. His love of truth and appreciation of the true value of the white and black race preclude the idea that he could be made the agent to elevate the black at the expense of the white soldier. This thing had to be done; the Administration had determined on it; and as the commander-in-chief could not be used, some dirty tool had to be selected to do the dirty work, and among the numbers of that sort who cumber the offices under this Administration one was readily found to do it for the dog's pay. He was sent to the army at Petersburg to make up these dispatches, and he did it; such is my theory of this matter.

Well, sir, we had another exhibition of this prurient desire on the part of the Administration, as well as on the part of gentlemen on the other side of the House, to aggrandize the negro and to parade his brilliant achievements before the world as being not only equal but superior to those of the white soldiers, in connection with the invasion of my own State by John Morgan. The gentleman from Maine [Mr. BLAINE] rose in his place a few days since and had a dispatch which had been handed to him read by a gentleman from New York, showing how bravely and gloriously some black patriots had behaved during the attempt of John Morgan to take the city of Frankfort; how with their fists and pocket-knives—being unarmed—they had retaken a gun which had been captured by the rebels. Sir, that dispatch was sent by some person in Kentucky, whose name I have not been able to ascertain, some person in Kentucky employed perhaps by the War Department to do such dirty work, some man who, regardless of truth, undertook to accomplish a particular purpose. He telegraphs the Secretary of War that these negroes in the fortifications at Frankfort having no arms rushed upon the soldiers of John Morgan, drove them back, and recaptured this gun. That dispatch was

sent to Secretary Stanton, who, when he had received it, immediately transmitted it to my colleague from the Covington district, [Mr. SMITH,] who handed it to the gentleman from Maine, by him it was handed to the gentleman from New York, [Mr. MORRIS,] and read suddenly to the House as evidence of negro prowess and negro bravery. Gentlemen on the other side of the House clapped their hands, and shouted out, "What do you say to that, MALLORY?" "Will not you withdraw your slanders of the negro now?" I was satisfied at the time that there was no truth in it, and I now assert that the whole thing from beginning to end was an absolute fabrication. I have before me an authentic denial of it in a letter I have just received this morning from the Governor of Kentucky. He speaks of the gallantry of the defense of Frankfort against Morgan's men, and speaks of the improvised soldiers as having behaved with a courage that would have become veterans of a hundred battlefields, and adds, "They were all white." He says further:

"The negroes we had employed in constructing rifle-pits and redoubts very precipitately fled, in great confusion, at the commencement of the assault. General Lindsey and myself, having just reached the ground, had some difficulty in arresting their headlong flight, and so soon as they could be reduced to order they were sent away under cover of the hill to town."

They not only did not behave with any gallantry, but they shrank and fled at the first discharge of rebel musketry, and were sent back under the cover of a hill to Frankfort. And I tell you, sir, when we come to find out the whole truth in relation to these black soldiers at Petersburg we shall find that they distinguished themselves as highly and in somewhat the same way as did those negroes at Frankfort.

My friend from Maine, [Mr. BLAINE,] who seems to be listening so attentively, lived in Kentucky once, and knows the negro and his attributes, and he knows, if he will tell you what he knows, that they won't fight.

Mr. BLAINE. From a residence of five years in Kentucky I came to the conclusion from what I saw of the negroes that there was a great deal of fight in them.

Mr. MALLORY. Was the gentleman ever attacked by them?

Mr. BLAINE. And if the gentleman has ever resided a little further south than Kentucky, on the larger plantations of Louisiana and Mississippi, I would ask him if the perfect terror of those regions is not a runaway negro hid in the cane-brakes?

Mr. MALLORY. Well, sir, he would do for a bugaboo to frighten negro children and white children into propriety.

Mr. BLAINE. Well, I know it to be a fact. The gentleman from Kentucky will acquit me of having had anything to do with getting up that dispatch to which he has alluded.

Mr. MALLORY. Certainly I do.

Mr. BLAINE. I have entire faith—and if I had not I would never vote a dollar of appropriation for these negro troops—that well-trained and disciplined negroes will make good troops. I do not believe they will make as good troops as white men, and I do not value any white man's opinion who does think so. But I have one fact which I desire to state. Some three weeks ago I had a conversation with Mr. Charles Hale, of Boston, who has just set sail for Egypt as consul of the United States to that country, and where a year or two ago he spent some time. I asked him what was the connection between Egypt and the Sublime Porte. He said the Sublime Porte only exercised a sovereignty so that when Turkey was engaged in war she could call upon Egypt for a contingent of troops; that she did that the last time during the Crimean war, and that Egypt furnished fifteen regiments of negroes of pure blood, unmixed from the foundation of the world, and as good troops as ever marched upon European soil.

Mr. COX. They were Abyssinians. [Laughter.]

Mr. BLAINE. They were Abyssinians whom my friend from Ohio found to be so surpassingly grand in their ecclesiastical attainments, and they are equally grand in their military attainments.

Mr. MALLORY. I will resume the floor.

Mr. BLAINE. One moment more. Those negroes, I am reminded here, were not Abyssin-

ians. The Abyssinians are a race of a religious turn, but these were Nubians—naked black Nubians.

But enough of that. Now I ask the gentleman from Kentucky if he believes that a thousand white men of the Kentucky race—and I believe that no more gallant race than Kentuckians ever lived—unarmed and undrilled would have stood any better before the rebel musketry than the negroes themselves did.

Mr. MALLORY. Oh, Mr. Speaker, that is another question altogether.

Mr. BLAINE. I will tell you what I believe.

Mr. MALLORY. I cannot yield. I will tell the gentleman what I believe. I believe that if there had been nobody but white soldiers in the case no dispatch would have been sent; but that anything whatever—although it might bear upon its face the evidence of its own falsity—is now seized upon to parade before the House and have it go to the country to show that the bravery and gallantry of the negro is superior to that of the white soldier. I acquit the gentleman from Maine of any such opinion and any such purpose.

In relation to these soldiers furnished the sultan by the Pacha of Egypt, let me say that they are an entirely different race from the blacks we have in this country. If they were Egyptians, they belong to a race which for thousands of years have had among them men and women distinguished for intellect and beauty. The Ptolemies and the dusky mistress of Antony, Cleopatra, that woman of loveliness and fascination, belonged to that race. If they were Nubians, they belong to a race with a great history, and are far superior to the Congo and other tribes further down in Africa from which our negroes sprang. History is a blank with regard to them. So much for the statement of the gentleman about the Egyptian troops furnished the sultan during the Crimean war.

Mr. Speaker, I did not intend to occupy the attention of the House for so long a time when I rose. I have been drawn into discussion of matters I did not design to refer to; I rose merely to oppose the amendment of the gentleman from Ohio, the distinguished chairman of the Military Committee, for the reason that it is presented as a substitute, as an entirety. If for no other reason, I would oppose it on that ground. We cannot divide the question; we cannot take one part and reject another; the House is compelled to act upon it as a whole and to adopt it or reject it as a whole. It will not, therefore, receive my support, and I certainly hope the House will not adopt it.

Sir, if we are to have a conscription bill, if we are to have a bill under which the Government may lay its hands ruthlessly upon every white man of a lawful age in the United States, let us have one which we can examine in detail. Let us have one which we can take up clause by clause and suggest such amendments as may seem to us desirable to perfect the measure. Do not let us be compelled to accept as a whole a measure which its distinguished author presents to the House and says must be crammed down our throats without change or modification. Let us reject it. That is my voice. I have serious objections to a part of it, but it is impossible to consider it in detail now, for it has not been printed or read by the members of the House. As I gather from the reading of it by the Clerk, a portion of it authorizes the authorities of the States to go into the rebel States where our armies have progressed and procure soldiers by enlistment, black men as well as white men, to be credited to the quotas of the States so subsidizing and enlisting them; in other words, the black men enlisted in Louisiana by Massachusetts agents are to be credited to the quota which Massachusetts will owe to the Government. I understand that to be a provision of this bill. I protest against it.

Sir, if these men are to be brought into the Army from the rebel States, if we are to take white men and black men from those States and put them into our Army, let them be accredited to the Government of the United States. Let them be recruited as United States forces, let them be recruited by United States officers, and not incite States in the North who do not furnish the requisite number of men from their own citizens to send their agents down there and make up their quotas in that way. Sir, this provision of this substitute, notwithstanding the exclusion

of the commutation clause, may catch the votes of the New England men, who want the Army filled and strengthened, but not by their men. The States of the North, where capital is concentrated, may agree to this bill by which the rebel States can be subsidized by them; but the western States, where the money cannot be raised to procure these subsidies from the South, from Louisiana and Arkansas, will never consent that the blood of their free white men shall be mingled on your battle-fields with that of the negro of the South, bought with New England money.

The gentleman from Ohio [Mr. SCHENCK] made a most singular, and I must be permitted to say a most inconsistent declaration when he asserted "that the people of his State and of all the loyal States were far in advance of the Government in zeal and anxiety to put down the rebellion, and are for more energetic means for its suppression than the Administration and Congress are willing to adopt." I understand him to claim that they are eager for the fray, consumed by a burning desire to enter the Army, to see that Army powerful and effective, and therefore he wishes to pass this bill to force them into the Army, and denying them the privilege of commuting their service with money. Sir, are they denied the privilege of volunteering by existing laws? No, sir; yet he argues as though they were. They want, says he, to enter the Army, have the privilege to do so, and are enticed to do so by large bounties, yet do not do it; and the gentleman to-day proposes to force these willing men into the Army with an iron hand. Have this Government and its supporters got to love the cruel exercise of power for its own sake, even when no object is to be secured by it? Has the habit of command bred a preference for enforced to willing service? It would seem so. It would seem that, maddened by the exercise of power as the tiger is by the taste of blood, they must feed their appetite for destruction by the annihilation of all constitutional guarantees, all law, all State governments, and all private right. May God arrest them in their mad career!

Mr. SCHENCK. Instead of occupying our time in trying to amend the bill we are running into a general debate. I therefore demand the previous question.

Mr. MALLORY. The bill then will not be subject to amendment.

Mr. MORRILL. I rise to a privileged question. I desire to make a report from a committee of conference.

Mr. STEVENS. Before the gentleman does that I desire to present an amendment which I will offer if the previous question be voted down. I do not think we shall have a vote on this bill to-night, and I will therefore ask that my amendment be printed.

Mr. MORRILL. I have also an amendment which I design to offer and would like to have printed.

Mr. ELIOT. I, too, have an amendment in reference to which I make the same request.

The several amendments were by unanimous consent ordered to be printed.

Mr. WASHBURNE, of Illinois. Has not the previous question been demanded?

The SPEAKER. It has; but these amendments have been presented on the hypothesis that the previous question will not be sustained.

INTERNAL REVENUE BILL.

Mr. MORRILL. I now present the report of the committee of conference upon the internal revenue bill, and I desire to state that after the report has been read, if any gentleman requires any explanation of any part of it, I shall be happy to answer any question, and then I propose to call the previous question.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 405) "to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses, as follows:

That the Senate recede from their amendments numbered 112, 12, 53, 73, 199, 201, 288, 295, 301, 340, 374, 376, 377, 382, 405, 419, 427, 429, 430, 461, 472, 492, 500, 506, 512, 519, 535, 537, 539, 581, 582, 611, 613, 615, 617, 619, 635, and 637.

That the House recede from their disagreement to the amendments of the Senate, numbered, 1, 3, 5, 10, 11, 15, 45, 46, 53, 57, 61, 64, 65, 66, 70, 71, 76, 77, 78, 80, 81, 83, 103, 153, 155, 156, 157, 169, 200, 203, 227, 232, 291, 295, 331,

347, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 389, 390, 391, 392, 397, 399, 400, 401, 402, 403, 404, 407, 408, 410, 412, 415, 416, 418, 420, 421, 422, 423, 424, 425, 431, 432, 435, 444, 445, 446, 447, 448, 449, 450, 451, 452, 452½, 454, 456, 457, 458, 459, 460, 462, 467½, 468, 469, 470, 473, 473½, 474, 493, 498, 499, 507, 508, 509, 525, 526, 527, 528, 541, 564, 571, 573, 574, 575, 591, 597, 598, 603, 604, 605, 607, 608, 609, 612, 614, 616, 618, 620, 624, 625, 627, 628, 629, 631, and 634.

They recommend that the Senate recede from their disagreement to the amendment of the House to their third amendment and agree to the same with amendments, as follows: strike out the words inserted by said Senate amendment and insert in lieu thereof the word "and;" and the House agree to the same.

They recommend that the Senate recede from their disagreement to the amendment or the House to their eighth amendment, and agree to the same with the following amendment: strike out all of said amendment of the House, and insert in lieu thereof the following: "That the cashier of internal duties, who shall hereafter be called cashier of internal revenue, and whose annual salary shall be \$2,500, shall perform such duties as may be assigned to his office by the Commissioner of Internal Revenue under the regulations of the Secretary of the Treasury, and shall give a bond with sufficient sureties, to be approved by the Secretary of the Treasury and by the Solicitor, that he will faithfully account for all the moneys or other articles of value belonging to the United States which may come into his hands, and perform all the duties enjoined upon his office according to law and regulations, as aforesaid; which bond shall be deposited with the First Comptroller of the Treasury;" and the House agree to the same.

They recommend that the Senate recede from their disagreement to the amendment of the House to their thirty-eighth amendment, and agree to the same.

They recommend that the Senate recede from their disagreement to the amendment of the House to their fifty-eighth amendment, and agree to the same.

They recommend that the Senate recede from their disagreement to the amendment of the House to their sixty-seventh amendment, and agree to the same.

They recommend that the Senate recede from their disagreement to the amendment of the House to their one hundred and fifth amendment, and agree to the same.

They recommend that the Senate recede from their disagreement to the amendment of the House to their one hundred and seventeenth amendment, and agree to the same.

They recommend that the Senate recede from their disagreement to the amendment of the House to their one hundred and twenty-second amendment, and agree to the same.

They recommend that the Senate recede from their disagreement to the amendment of the House to the one hundred and sixty-third amendment of the Senate, and agree to the same.

They recommend that the Senate recede from their disagreement to the amendment of the House to their one hundred and ninety-second amendment, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to their six hundred and twenty-sixth amendment, and agree to the same with the following amendment: before their said six hundred and twenty-sixth amendment insert the following:

And provided further, That whenever the duty imposed by any existing law shall cease in consequence of any limitation therein contained, before the respective provisions of this act shall take effect, the same duty shall be, and is hereby, continued until such provisions of this act shall take effect. And when any act is hereby repealed, no duty imposed thereby shall be held to cease in consequence of such repeal until the respective corresponding provisions of this act shall take effect: And provided further, That all manufactures and productions on which a duty was imposed by either of the acts repealed by this act, which shall be in the possession of the manufacturer or producer, or of his agent or agents, on the day when this act takes effect, the duty imposed by any such former act not having been paid, shall be held and deemed to have been manufactured or produced after said date; and whenever by the terms of this act a duty is imposed upon any articles, goods, wares, or merchandise, manufactured or produced, upon which no duty was imposed by either of said former acts, it shall apply to such as were manufactured or produced and not removed from the place of manufacture or production prior to the day when this act takes effect.

They recommend that the House recede from their disagreement to the fourth amendment of the Senate, and agree to the same with the following: Insert in lieu of the words stricken out by said Senate amendment the words:

Sec. 2. And be it further enacted, That it shall be the duty of the Commissioner of Internal Revenue to pay over daily to the Treasurer of the United States all public moneys which may come into his possession, for which the Treasurer shall give proper receipts and keep a faithful account; and at the end of each month the said Commissioner shall render true and faithful accounts of all public moneys received or paid out, or paid to the Treasurer of the United States, exhibiting proper vouchers therefor, and the same shall be received and examined by the Fifth Auditor of the Treasury, who shall thereafter certify the balance, if any, and transmit the accounts, with the vouchers and certificate, to the First Comptroller for his decision thereon; and the said Commissioner, when such accounts are settled as herein provided for, shall transmit a copy thereof to the Secretary of the Treasury. He shall at all times submit to the Secretary of the Treasury and the Comptroller, or either of them, the inspection of moneys in his hands, and shall, prior to the entering upon the duties of his office, execute a bond, with sufficient sureties, to be approved by the Secretary of the Treasury and by the First Comptroller, in a sum of not less than \$100,000, payable to the United States, conditioned that said Commissioner shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in obedience to law and in compliance with the order or regulations of the Secretary of

the Treasury, all public moneys which may come into his hands or possession, and for the safe-keeping and faithful account of all stamps, adhesive stamps, or vellum, parchment, or paper bearing a stamp denoting any duty thereon; which bond shall be filed in the office of the First Comptroller of the Treasury. And such Commissioner shall, from time to time, renew, strengthen, and increase his official bond as the Secretary of the Treasury may direct.

They recommend that the House recede from their disagreement to the ninth amendment of the Senate and agree to the same with the following amendment: add at the end of said Senate amendment the words, "and the President is hereby authorized to alter the respective collection districts provided for in said section as the public interest may require."

They recommend that the House recede from their disagreement to the thirteenth amendment of the Senate and agree to the same with the following amendment: insert in lieu of the words stricken out the words "who shall be a resident of the district of said assessor."

They recommend that the House recede from their disagreement to the fifty-seventh and a half amendment of the Senate, and agree to the same with an amendment as follows: after the word "Government" in said Senate amendment strike out the words "of the United States."

They recommend that the House recede from their disagreement to the sixteenth amendment of the Senate and agree to the same with the following amendments: in line twelve of said Senate amendment strike out "two" and insert "one;" in the fifteenth line of said Senate amendment strike out "two" and insert "one;" and in the seventeenth line of said Senate amendment strike out "fourth" and insert "fifth."

They recommend that the House recede from their disagreement to the sixty-first and a half amendment of the Senate, and agree to the same with an amendment, as follows: transpose said Senate amendment to come in at the end of the words "per annum," in the thirtieth line, on page 25 of the bill; and the Senate agree to the same.

That the House recede from their disagreement to the sixty-second amendment of the Senate, and agree to the same with the following amendment: in line forty-five, page 26, strike out the last letter in "affidavits," strike out the words "of his" and the letter "s" in "clerks;" in line forty-eight, same page, strike out the letter "n" in "nor;" in line forty-nine strike out "n" in "nor," and after "in" insert "any;" in line fifty, same page, strike out "n" in "nor."

They recommend that the House recede from their disagreement to the seventy-fifth amendment of the Senate, and agree to the same with an amendment, as follows: Strike out from the word "and" where it occurs the second time in line seven down to the word "one" where it occurs the second time in line eight, inclusive; and the Senate agree to the same.

They recommend that the House recede from their disagreement to the seventy-ninth amendment of the Senate with the following amendments: strike out all from the word "except" in the twenty-fifth line, page 30, down to the word "act" in the twenty-seventh line, page 31, inclusive; and after the word "for," in the twenty-ninth line, page 31, insert "rent, stationery, blank-books, and postage, and pay."

They recommend that the House recede from their disagreement to the eighty-second amendment of the Senate, and agree to the same with the following amendments: after the word "year," in the eighth line, page 31, insert "in consequence of a new apportionment;" strike out, in line eleven, page 32, the words "so as to allow to each his just proportion thereof;" after the word "to," in the twelfth line, same page, insert "the;" and after the word "collected," in the same line, insert the words "by them."

They recommend that the House recede from their disagreement to the one hundred and second and a half amendment of the Senate, and agree to the same with the following amendment: insert in lieu of the letter stricken out the words "in full;" and after the word "department" in the fourteenth line, page 44, insert the following: "on the 1st day of January and July, and at such other times as;" strike out the words "as often as he," in the fourteenth line, page 44; and strike out the word "and" where it first occurs in line fifteen, page 44.

They recommend that the House recede from their disagreement to the one hundred and third amendment of the Senate so far as it proposes to strike out words, and agree to the same, striking out the words inserted by the Senate, and the Senate agree thereto.

They recommend that the House recede from their disagreement to the one hundred and forty-fourth amendment of the Senate, and agree to the same with the following amendment: add after the word "taxes" in said Senate amendment the words "duties and licenses."

They recommend that the House recede from their disagreement to the one hundred and fifty-fourth amendment of the Senate, and agree to the same with the following amendment: after the word "all" in said Senate amendment insert "cases arising under the."

That the House recede from their disagreement to the one hundred and sixty-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out "October" and insert "February."

That the House recede from their disagreement to the one hundred and sixty-fifth amendment of the Senate, and agree to the same with amendments, as follows: strike out "4" and insert "5;" and after "dollar," in the eighth line of section fifty-four, insert "and 50 cents."

That the House recede from their disagreement to the one hundred and sixty-sixth amendment of the Senate, and agree to the same with the following amendments: before "on," in the ninth line, page 64, insert "and," and strike out "October" and insert "February."

That the House recede from their disagreement to the one hundred and sixty-seventh amendment of the Senate, and agree to the same with the following amendments: strike out all of said amendment and in lieu thereof insert "5;" and after the word "of," in line twelve, page 64, strike out all down to the word "cents," in the same line, inclusive, and insert in lieu thereof "\$2."

That the House recede from their amendment to the one hundred and sixty-eighth amendment of the Senate, and agree to said amendment with the following: strike out all of said Senate amendment, and also the words "which duty" in line nineteen, page 64, and insert in lieu thereof, "and all spirits which may be in the possession of the distiller or in public store or bonded warehouse, on either the 1st day of July or February aforesaid, no duty having been paid thereon, shall be held and treated as if distilled on those days respectively, and said duties;" and in line twenty-four, page 64, strike out the word "duty" and insert in lieu thereof "duties;" and at the end of said section (numbered fifty-four) add the following: "Provided, That any person who shall distill spirits and use the same in the manufacture of any other article without having taken out a license and paid such duties as are prescribed by law in relation thereto, shall, in addition to all other penalties and forfeitures, be liable to pay one hundred per cent. additional duties thereon."

That the House recede from their disagreement to the one hundred and ninety-third amendment of the Senate, and agree to the same with the following amendment: after the word "any" in line twelve, page 74, of said Senate amendment, insert "one;" and after the word "collector," in line forty-two, page 76, of said amendment, insert "of internal revenue for the district in which the warehouse is situated."

That the House recede from their disagreement to the two hundred and first and a half amendment of the Senate, and agree to the same with amendments, as follows: strike out said Senate amendment, and after the word "gallons" insert "when the duty has not been previously paid on the liquors contained therein."

That the House recede from their disagreement to the two hundred and third amendment of the Senate, and agree to the same with the following amendment: after the word "or" in said amendment insert "other competent."

That the House recede from their disagreement to the two hundred and twenty-eighth amendment of the Senate, and agree to the same with an amendment as follows: after the word "manufacture" at the end of line twenty-four, page 87, insert "or at their principal office or place of business: *Provided*, No goods, wares, and merchandise, shall be kept for sale at such office."

That the House recede from their disagreement to the two hundred and fifty-seventh amendment of the Senate, and agree to the same, with the following amendment: strike out all of said Senate amendment after the word "that" in the twenty-third line, page 93, and insert in lieu thereof "any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning the same for the benefit of its depositors, and which does no other business of banking, shall not be liable to pay for a license as a banker."

That the House recede from their disagreement to the two hundred and eighty-fourth amendment of the Senate, and agree to the same with the following amendment: strike out the word "or" where it occurs the second time in said amendment.

That the House recede from their disagreement to the two hundred and eighty-fifth amendment of the Senate, and agree to the same with the following amendment: insert in lieu of the words stricken out "the third class shall pay fifteen dollars for each license, when traveling."

That the House recede from their disagreement to the two hundred and ninety-sixth amendment of the Senate, and agree to the same with the following amendment: strike out said Senate amendment and insert in lieu thereof "and concert halls."

That the House recede from their disagreement to the three hundred and thirteenth amendment of the Senate, and agree to the same with an amendment as follows: insert in lieu of the words stricken out "or at the principal office or place of business, as provided in section seventy-three of this act."

That the House recede from their disagreement to the three hundred and thirty-ninth amendment of the Senate, and agree to the same with an amendment as follows: to the word "expense" add the letter "s," and insert thereafter the words "of sale."

That the House recede from their disagreement to the three hundred and seventy-fifth amendment of the Senate, and agree to the same with an amendment as follows: before the word "consumed," line twenty-three, page 131, insert "or."

That the House recede from their disagreement to the three hundred and eighty-third amendment of the Senate, and agree to the same with an amendment as follows: in the last line of said amendment strike out the word "six" and insert "five."

That the House recede from their disagreement to the four hundred and ninth amendment of the Senate, and agree to the same with the following amendment: after the word "nuts" in the three hundred and twenty-first line, page 147, insert "washers;" and strike out the words "been assessed and" in the three hundred and twenty-second line, same page.

That the House recede from their disagreement to the four hundred and eleventh amendment of the Senate, and agree to the same with the following amendment: after the word "that" in the three hundred and twenty-fifth line strike out the words "all iron and" and insert after the word "iron" in the three hundred and twenty-sixth line the words "and iron;" and strike out all after the word "iron" in the three hundred and thirty-first line down to and including the word "ton" in the three hundred and thirty-fourth line; and insert after the word "iron" in line three hundred and twenty-eight the words "blooms, slabs, or loops."

That the House recede from their disagreement to the four hundred and twenty-fifth and a half amendment of the Senate, and agree to the same with the following amendments: in line four hundred and ninety-six, page 154, strike out "seven" and insert "five" at the end of line four hundred and ninety-eight. Same page add "and all cigarettes in tin of tobacco, enclosed in a paper wrapper, valued at over five dollars per hundred packages, as aforesaid, shall be subject to the same duties herein provided

for cigars of like value;" in line five hundred and one, same page, strike out "six" and insert "five;" in line five hundred and three, same page, strike out "six" and insert "five;" strike out all from line five hundred and fourteen down to line five hundred and twenty-seven, inclusive; after "and" in the five hundred and twenty-eighth line, same page, strike out "what?" after "every" in the five hundred and forty-second line, page 156, strike out from "cigar maker" down to "persons" in the five hundred and forty-third line, inclusive, and insert in lieu thereof the word "person;" strike out the first "s" in "person" in line five hundred and forty-seven; strike out the word "fifty" in the five hundred and forty-ninth line, and insert "twenty-five;" after "every," in the same line, strike out from "cigar makers" down to "persons" in the five hundred and fiftieth line, inclusive, and insert in lieu thereof the word "person;" strike out from "cigar maker" down to the word "other," inclusive, in the five hundred and sixtieth line; after "assessor" in the five hundred and sixty-fourth line insert "and;" strike out from "cigar" in the five hundred and seventieth line down to "apprentice" in the five hundred and seventy-first line, inclusive, and insert "person;" after the word "him," in the five hundred and seventy-fourth line, insert "or her;" strike out "than himself" in line five hundred and seventy-five; after "person," in line five hundred and seventy-six, insert "or persons;" after "his," in line five hundred and seventy-seven, insert "or their;" after the second "and" in line five hundred and seventy-seven, strike out "such person;" after "district" in line five hundred and seventy-nine, insert "if required by him;" after "he" in line five hundred and eighty-three, five hundred and eighty-four, and five hundred and eighty-nine, insert the words "or she;" after "he" in line five hundred and ninety-three, page 158, insert "she;" after "he" in line five hundred and ninety-five, insert "she;" after the word "States" in line six hundred and two, insert "one fourth to the informer;" and after "other" in the same line, insert "fourth."

That the House recede from their disagreement to the four hundred and twenty-eighth amendment of the Senate, and agree to the same with the following amendment: insert in lieu of the words stricken out "value of the bullion used in the manufacture of silver ware, silver bullion rolled or prepared for plates" use exclusively."

That the House recede from their disagreement to the four hundred and thirty-third amendment of the Senate, and agree to the same with the following amendments: after the word "sales" in the thirteenth line, page 164, insert "and contracts for sales;" after "stocks," in the same line, insert "and;" after "bonds," in same line, insert "one twentieth of 1 per cent. on the par value thereof, and of."

That the House recede from their disagreement to the four hundred and thirty-seventh amendment of the Senate, and agree to the same with an amendment as follows: before the word "who" in the eighteenth line, page 164, insert "or wholesale or retail dealers."

That the House recede from their disagreement to the four hundred and fifty-third amendment of the Senate, and agree to the same with an amendment as follows: strike out the words "buy and" in the fourth line in said amendment.

That the House recede from their disagreement to the four hundred and sixty-fifth amendment of the Senate, and agree to the same with an amendment as follows: insert in lieu of said amendment "school exhibitions."

That the House recede from their disagreement to the four hundred and sixty-seventh amendment of the Senate, and agree to the same with an amendment as follows: strike out from "steamboat" in the third line, section one hundred and eight, down to "bridge," inclusive, in the fourth line, same section, and insert in lieu thereof "canal, steamboat, ship, barge, canal boat, or other vessel, or any ferry, toll road, or bridge, as enumerated and described in section one hundred and two of this act."

That the House recede from their disagreement to the four hundred and seventy-first amendment of the Senate, and agree to the same with the following amendment: after the word "draft" in line five, page 175, insert "or represented by certificates of deposit or otherwise, whether payable on demand or at some future day;" and after the word "association" in the sixth line, same page, insert "company."

That the House recede from their disagreement to the four hundred and seventy-fifth amendment of the Senate, and agree to the same with amendments as follows: strike out "capital stock," in line seventeen, page 175, and strike out "invested in such business," in line eighteen, and insert in lieu thereof "the capital of any bank, association, company, or corporation, or person engaged in the business of banking."

That the House recede from their disagreement to the four hundred and seventy-sixth, four hundred and seventy-seventh, four hundred and seventy-eighth, four hundred and seventy-ninth, four hundred and eightieth, four hundred and eighty-first, four hundred and eighty-second, four hundred and eighty-third, four hundred and eighty-fourth, four hundred and eighty-fifth, four hundred and eighty-sixth, four hundred and eighty-seventh, four hundred and eighty-eighth, four hundred and eighty-ninth, and four hundred and ninetieth amendments of the Senate, so far as it is proposed to strike out words, and agree to the same with an amendment as follows:

Strike out all that is proposed to be inserted by said Senate amendments, respectively, beginning with the word "and" in line nineteen, page 176, down to the word "repended" in line one hundred and five, page 179, inclusive, and insert in lieu thereof the following: "And a duty of one twelfth of 1 per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank or redeemed and on deposit for said bank; and an additional duty of one sixth of 1 per cent. each month upon the average amount of such circulation issued as aforesaid beyond the amount

of 90 per cent. of the capital of any such bank, association, corporation, company, or person, and upon any amount of such circulation beyond the average amount of the circulation that had been issued, as aforesaid, by any such bank, association, corporation, company, or person, for the six months preceding the 1st day of July, 1861. And on the first Monday of August next, and of each month thereafter, a true and accurate return of the amount of circulation, of deposit, and of capital, as aforesaid, for the previous month, shall be made and rendered in duplicate by each of such banks, associations, corporations, companies, or persons, to the assessor of the district in which any such bank, association, corporation, or company may be located, or in which such person may reside, with a declaration annexed thereto, and the oath or affirmation of such person, or of the president or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amount of circulation, deposits, and capital, as aforesaid, subject to duty as aforesaid, and shall transmit the duplicate of said returns to the Commissioner of Internal Revenue, and within twenty days thereafter shall pay to the said Commissioner of Internal Revenue the duties hereinafter prescribed upon the said amount of circulation, of deposits, and of capital, as aforesaid; and for any refusal or neglect to make or to render such return and payment, as aforesaid, any such bank, association, corporation, company, or person so in default, shall be subject to and pay a penalty of \$200, besides the additional penalty and forfeitures in other cases provided in this act; and the amount of circulation, deposit, and capital, as aforesaid, in default of the proper return, shall be estimated by the assessor or assistant assessor of the district, as aforesaid, upon the best information he can obtain; and every such penalty, together with the duties, as aforesaid, may be recovered for the use of the United States in any court of competent jurisdiction. And in the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of each branch, severally, and the amount of capital of each branch shall be considered to be the amount allotted to such branch; and so much of an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863, as imposes any tax on banks, their circulation, capital, or deposits, other than is herein provided, is hereby repealed: *Provided*, That this section shall not apply to associations which are taxed under and by virtue of the act "to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof;" nor to any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking. *And provided further*, That any bank ceasing to issue notes for circulation, and which shall deposit in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary of the Treasury may prescribe, shall be exempt from any tax upon such circulation."

That the House recede from their disagreement to the five hundred and fifth amendment of the Senate, and agree to the same with an amendment as follows: add to said amendment "unless otherwise provided."

That the House recede from their disagreement to the five hundred and tenth amendment of the Senate, and agree to the same with an amendment as follows: strike out all of said amendment and insert "10."

That the House recede from their disagreement to the five hundred and eleventh amendment of the Senate, and agree to the same with the following amendment: strike out "15" and insert "10."

That the House recede from their disagreement to the five hundred and thirteenth amendment of the Senate, so far as it proposes to strike out words, and agree to the same with the following amendments: strike out the matter inserted and insert in lieu thereof the following: "Provided, That only one deduction of \$600 shall be made from the aggregate incomes of all the members of any family composed of parents and minor children or husband and wife, except in cases where such separate income shall be derived from the separate and individual estate, gains, or labor of the wife or child. *And provided further*, That net profits, realized by sales of real estate purchased within the year for which income is estimated, shall be chargeable as income; and losses on sales of real estate purchased within the year for which income is estimated shall be deducted from the income of such year."

That the House recede from their disagreement to the five hundred and fourteenth amendment of the Senate, and agree to the same with an amendment, as follows: after "when" in the third line, page 187, insert "the national;" and after "income," same line, insert "tax."

That the House recede from their disagreement to the five hundred and twentieth amendment of the Senate, and agree to the same with the following amendments: insert in lieu of the word "railroad," stricken out by said Senate amendment, the word "such;" and strike out the words "joint stock," line twenty, page 187.

That the House recede from their disagreement to the five hundred and twenty-third amendment of the Senate, and agree to the same with the following amendment: strike out the words "by said" in the twenty-second line, page 187.

That the House recede from their disagreement to the five hundred and twenty-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out all of said amendment, including the word "companies" in line twenty-four, page 189, and the Senate agree to the same.

That the House recede from their disagreement to the five hundred and twenty-ninth amendment of the Senate, and agree to the same with an amendment, as follows: insert in lieu of said amendment, "and the gains, and profits of all companies, whether incorporated or partnership, other than the companies specified in this section, shall be included in estimating the annual gains, profits, or income

of any person entitled to the same, whether divided or otherwise."

That the House recede from their disagreement to the five hundred and fortieth amendment of the Senate, and agree to the same with an amendment, as follows: insert in lieu of said amendment the word "passing."

That the House recede from their disagreement to the five hundred and fifty-third amendment of the Senate, and agree to the same with the following amendments: insert in lieu of said amendment the words "the 1st day of August, 1864;" and in line three of section one hundred and fifty, page 216, strike out "July" and insert "August," and the Senate agree to the same.

That the House recede from their disagreement to the five hundred and sixty-eighth amendment of the Senate, and agree to the same with an amendment, as follows: strike out "duty" in line twenty-four, page 224, and the Senate agree to the same.

That the House recede from their disagreement to the five hundred and sixty-ninth amendment of the Senate, and agree to the same with an amendment, as follows: strike out all of said amendment and insert in lieu thereof "the Commissioner of Internal Revenue be, and is hereby, authorized to sell to and supply collectors, deputy collectors, postmasters, stationers, or any other persons, at his discretion, with adhesive stamps, or stamped paper, vellum, or parchment, as herein provided for, in amounts of not less than \$50, upon payment, at the time of delivery, of the amount of duties said stamps, stamped paper, vellum, or parchment, so sold or supplied, represent, and may allow, upon the aggregate amount of such stamps as aforesaid, the sum of not exceeding 5 per cent. as commission to the collectors, postmasters, stationers, or other purchasers; but the cost of any paper, vellum, or parchment shall be paid by the purchaser of such stamped paper, vellum, or parchment as aforesaid: *Provided*, That any proprietor or proprietors of articles named in schedule C who shall furnish his or their own die or design for stamps, to be used especially for his or their own proprietary articles, shall be allowed the following commission, namely: on amounts purchased at one time of not less than \$50 nor more than \$500, 5 per cent; on amounts over \$500, 10 per cent. The Commissioner of Internal Revenue may from time to time make regulations, upon proper evidence of the facts, for the allowance of such of the stamps issued under the provisions of this act as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been paid in error or remitted; and such allowance shall be made either by giving other stamps in lieu of the stamps so allowed for, or by repaying the amount or value, after deducting therefrom, in case of repayment, the sum of 5 per cent. to the owner thereof; but no allowance shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner of Internal Revenue, or until satisfactory proof has been made showing the reason why said stamps cannot be so returned: *Provided*, That the Commissioner of Internal Revenue may from time to time furnish, supply, and deliver to any manufacturer of friction or other matches, cigar lights, or wax tapers, a suitable quantity of adhesive or other stamps, such as may be prescribed for use in such cases, without prepayment therefor, on a credit not exceeding sixty days, requiring, in advance, such security as he may judge necessary to secure the payment therefor to the Treasurer of the United States within the time prescribed for such payment. And upon all bonds or other securities taken by said Commissioner, under the provisions of this act, suits may be maintained by said Treasurer in the circuit or district court of the United States, in the several districts where any of the persons giving said bonds, or other securities, reside or may be found, in any appropriate form of action.

That the House recede from their disagreement to the five hundred and seventy-second amendment of the Senate and agree to the same with the following amendment: transfer said amendment to come in after the word "affixed." In the eighth line, page 228.

That the House recede from their disagreement to the five hundred and seventy-sixth amendment of the Senate, and agree to the same with an amendment as follows: add at the end of line twenty, section one hundred and sixty-two, page 248, *Provided further*, That any power of attorney, conveyance, or document of any kind, made, or purporting to be made, in any foreign country to be used in the United States, shall pay the same duty as is required by law on similar instruments or documents when made or issued in the United States; and the party to whom the same is issued or by whom it is to be used shall, before using the same, affix thereon the stamp or stamps indicating the duty required."

That the House recede from its disagreement to the five hundred and eighty-fifth amendment of the Senate, and agree to the same with the following amendments: after the word "such," in (line nine, page 234,) said amendment insert "imported," and strike out from the word "by" in said ninth line down to "thereof," inclusive, in the line following.

That the House recede from their disagreement to the five hundred and eighty-sixth amendment of the Senate, and agree to the same with an amendment as follows: strike out all of said amendment, and in lieu thereof insert the following: "In any collection district where, in the judgment of the Commissioner of Internal Revenue, the facilities for the procurement and distribution of stamped vellum, parchment, or paper, and adhesive stamps, are or shall be insufficient, the Commissioner as aforesaid is authorized to furnish, supply, and deliver to the collector and to the assessors of any such district, and to any Assistant Treasurer of the United States, or designated depository therefor, or any postmaster, a suitable quantity or amount of stamped vellum, parchment, or paper, and adhesive stamps, without prepayment therefor, and shall allow the highest rate of commissions allowed by law to any other parties purchasing the same, and may in advance require of any such collector, assessor, Assistant Treasurer of the United

States, or postmaster, a bond, with sufficient sureties, to an amount equal to the value of any stamped vellum, parchment, or paper, and adhesive stamps which may be placed in his hands and remain unaccounted for, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment, monthly, of all quantities or amounts, sold or not, remaining on hand. And it shall be the duty of such collector to supply his deputies with, or sell to other parties within his district who may make applications therefor, stamped vellum, parchment, or paper, and adhesive stamps, upon the same terms allowed by law, or under the regulations of the Commissioner of Internal Revenue, who is hereby authorized to make such other regulations, not inconsistent herewith, for the security of the United States and the better accommodation of the public, in relation to the matters hereinbefore mentioned, as he may judge necessary and expedient. And the Secretary of the Treasury may, from time to time, make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all such stamped vellum, parchment, paper, and adhesive stamps."

That the House recede from their disagreement to the five hundred and ninety-second amendment of the Senate, and agree to the same with amendments as follows: strike out from the beginning of line forty-six, page 237, down to "thereof," in line forty-seven, page 237, inclusive, and insert in lieu of the words stricken out "where the money ultimately recoverable thereupon is \$1,000 or less."

That the House recede from their disagreement to the five hundred and ninety-third amendment of the Senate, and agree to the same with amendments as follows: insert in lieu of said amendment, "when the money ultimately recoverable thereupon exceeds \$1,000, for every additional thousand dollars, or fractional part thereof, in excess of \$1,000, 50 cents. Bonds for the due execution or performance of the duties of any office, \$1."

That the House recede from their disagreement to the six hundred and first amendment of the Senate, and agree to the same with an amendment as follows: insert in lieu of said amendment, "Receipts for the payment of any sum of money, or for the payment of any debt due, exceeding \$20, not being for the satisfaction of any mortgage or judgment or decree of any court, and a receipt for the delivery of any property, 2 cents."

That the House recede from their disagreement to the six hundred and twenty-first amendment of the Senate, and agree to the same with the following amendment: strike out of said amendment the letters in the word "acts," in line thirty-four, page 247; strike out in line fifty, page 248, "revenue" and insert in lieu thereof "duties."

That the House recede from their disagreement to the six hundred and twenty-second amendment of the Senate, and agree to the same with an amendment as follows: insert in lieu of the matter stricken out by said Senate amendment "duties and licenses."

That the House recede from their disagreement to the six hundred and twenty-third amendment of the Senate, and agree to the same with the following amendments: strike out "on" in line sixty-eight, page 248, and insert in lieu thereof "or;" strike out "of" in the sixty-ninth line, same page, and insert in lieu thereof "for."

That the House recede from their disagreement to the six hundred and thirty-third amendment of the Senate, and agree to the same with an amendment as follows: strike out from "or," in the ninth line, page 232, down to "incurred," in the tenth line, inclusive, and the Senate agree to the same.

That the House recede from their disagreement to the six hundred and thirty-sixth amendment of the Senate, and agree to the same with the following amendments: after the word "that," in the first line of said amendment, insert "\$400,000 or;" and after the word "much," in the same line, strike out "money" and insert "thereof."

W. F. FESSENDEN,

T. O. HOWE,

P. G. VAN WINKLE,

Managers on the part of the Senate.

JUSTIN S. MORRILL,

GEORGE H. PENDLETON,

S. HOOPER,

Managers on the part of the House.

Mr. MORRILL. Perhaps the most important subjects connected with this bill, in the estimation of the House, are the taxes upon beer, liquors, and tobacco. The committee of conference agreed that the tax on ale and beer should remain at \$1 a barrel, and that the tax on liquor should be \$1 50 a gallon from and after the 1st of July to the 1st of February, 1865, and after that \$2 per gallon.

In relation to newspapers we retain the provision of the old law that those having a circulation of less than two thousand shall not be taxed on advertisements.

We have agreed to the Senate's amendment taxing passports \$5 each.

The income tax we have arranged so that all incomes exceeding \$500 up to \$5,000 shall be taxed 5 per cent.; between \$5,000 and \$10,000, 7½ per cent., and above \$10,000 10 per cent.

The tax in relation to banks has been so amended as to be precisely the same as that upon the national banks; that is to say, 1 per cent. on the average circulation, ½ of 1 per cent. on capital, and ½ of 1 per cent. on deposits. In addition to this 2 per cent. or 3 per cent. as a whole is placed upon any excess of circulation over 90 per cent. of capital, or over any average circulation which existed in the six months prior to July 1, 1865.

Mr. DRIGGS. What has been done with the Senate amendment with regard to salt?

Mr. MORRILL. The matter in which I suppose the gentleman from Michigan is interested is in the tariff bill, and not in this bill. So far as this bill is concerned the tax remains as it was when the bill passed the House.

Mr. HOLMAN. I desire to know what disposition has been made of the seventy-fourth and seventy-ninth amendments of the Senate.

Mr. MORRILL. The House recedes from its disagreement to the seventy-fourth amendment.

Mr. HOLMAN. That is in reference to the salaries of collectors?

Mr. MORRILL. Yes, sir.

Mr. HOLMAN. How about the seventy-ninth amendment?

Mr. MORRILL. That is agreed to, with an amendment reducing the amount to not over \$4,000, and the percentage of commissions on some of the largest amounts was reduced half of one per cent.

Mr. GANSON. I understand that there is a tax upon the gross receipts of vessels and canal boats of 2½ per cent. I would ask if it is in order to have a separate vote upon the different clauses of the report.

Mr. MORRILL. That amendment, I have been informed, was introduced by a Senator, for whom I have great respect, from the gentleman's own State, and after discussion was adopted by a large vote in the Senate, and the conferees on the part of the Senate were unwilling to yield the point. My own opinion is that the tolls paid might very well be deducted from the gross receipts.

Mr. GANSON. I ask again whether it would be in order to have a separate vote on this amendment.

The SPEAKER. It would not; the report of a committee of conference must be voted upon as a whole.

A MEMBER. Will the gentleman from Vermont state what is recommended in regard to the matter of cigars, and particularly as to inspections?

The SPEAKER. The House recedes from that amendment.

Mr. MORRILL. In regard to the tenth section, a considerable number of alterations were made. The clause requiring manufacturers of tobacco to have it inspected and to have each package labeled has been struck out. In relation to the other amendment a permit will be required from all cigar makers; but they will not be required to go to the assessor every month with a statement and deliver it to him under oath. They will be required, however, to keep an account of the cigars they manufacture which may be called for whenever the assessor may deem it necessary.

Mr. KERNAN. I would inquire what has been done with the amendment adopted by the Senate in regard to savings banks that have no capital and pay no profit except to depositors.

Mr. MORRILL. These we exempt from taxation.

Mr. DAVIS, of New York. I desire to make a suggestion in reference to the tax on railroad companies. That tax is imposed on the gross receipts without deducting the running expenses. Now, according to the report of the State engineer of New York, the running expenses of the railroads of that State average a little over sixty-six per cent. of the gross receipts, leaving less than thirty-four per cent. for dividends to stockholders and to pay interest on the debt. The payment of a tax of five per cent. on the gross receipts will leave but little to be paid to the stockholders. I know of one road in the State of New York and of many roads in other States that never can divide one cent under this system of taxation. I think it unjust.

Mr. ODELL. I would like to ask what disposition is made of the section providing for the sale of stamps?

Mr. MORRILL. The Senate amendment is rejected and that of the House adopted, leaving the matter as it is now; or so that collectors, postmasters, stationers, or any other persons may keep them for sale.

Mr. ODELL. That is satisfactory.

Mr. MORRILL. Stamps will be distributed as heretofore all over the country in the hands of postmasters and other officers of the internal revenue.

others who have not been counted, it will make a surplus of over 5,000. I annex a statement showing this surplus:

Tabular statement of Major Clarke, Acting Assistant Provost Marshal General, June 4, 1864, showing a deficiency of.....1,598
But he charges us.....38,170
General Fry charges us.....37,236

934

Deficiency.....664
Three years' volunteers from April 1, to May 31, 1864, (Major Vincent's return,).....2,423
Enlistments in regular Army same time.....291

2,714

Surplus June 1, 1864.....2,050
To which should be added reserve corps enlistments since May 1, naval enlistments since same time, and enlistments of colored troops since April 15, 1864, estimated at.....3,000

Actual surplus.....5,050

We have not done any more.

Mr. COX. What proportion were enlisted in Massachusetts? What proportion were colored men? How many were enlisted in Maryland? How many in Ohio? How many in Canada? How many in this city where there is now an agency for the purpose of recruiting men for Massachusetts?

Mr. DAWES. I have just now stated that this did not include any colored troops since the 1st day of April. Before that time we had enlisted no great number of colored troops, except our fifty-fourth regiment, which has won laurels of which even an Ohio regiment might be proud.

Mr. BOUTWELL. My chief purpose in desiring to obtain the floor is to state to the House the reasons by which I have been controlled thus far in refusing to vote for the proposition to repeal the commutation clause of the enrollment act. In the first place, I have given the vote in deference to what I suppose to be the public sentiment of the country. I understand that substantially—not exactly, perhaps—but substantially the calls for troops by the President have been met. I thought, to be sure, from the observations of the gentleman from Ohio, [Mr. GARFIELD,] made this morning, that he supposed that because the Representatives on this floor from Massachusetts had refused to support the repeal of the commutation clause as recommended by the Military Committee, they were prepared to indorse the observation which that gentleman made on the previous day when this subject was under discussion; an observation which I thought unfortunate; an observation which I thought calculated to alarm the country; an observation which I thought calculated to give strength, courage, and confidence to its enemies; an observation which, if my memory served me, to the very last words and the very last letter used, I would not repeat here or elsewhere, even in the way of quotation. And to-day I thought when he was referring to Massachusetts that he supposed, inasmuch as we took the responsibility of differing from the judgment of the Military Committee, that therefore we were prepared to abandon this war, to sacrifice the country, and to involve it in irretrievable ruin. If it was his intention to suggest to the House and the country that Massachusetts or a man of hers who has a right to speak on her behalf here or elsewhere had come to any such conclusion, then he misunderstood if he did not intentionally misrepresent that State.

Mr. GARFIELD. Do the gentleman's remarks apply to me?

Mr. BOUTWELL. To no other man upon this floor.

Mr. GARFIELD. I wish to say that I have made no reference whatever to Massachusetts; have never in my life intimated by any word I have uttered that Massachusetts was derelict of duty, for if I love any State in the Union better than my own it is Massachusetts, and I trust the gentleman from Massachusetts will not do me the wrong of intimating that I intentionally or unintentionally said anything upon this floor disrespectful to that State. What I said in my closing remarks before the House when this subject was last up, and which have been referred to this morning and criticised, I believe to be true. The same thing has been declared in higher places than mine, and we have got to meet it. It is courageous to meet it, and cowardly not to meet it.

Mr. BOUTWELL. I judge no man, but I

was able to connect the observations made upon one occasion with those made upon another. The gentleman recollects the remark made the previous day, which was an expression of his opinion of the effect of a certain vote given, in which vote the delegation from Massachusetts participated; and I recollect that to-day he called the special attention of this House and of the country to the previous history of Massachusetts and to her conscription act of 1693. I may have erred in the inference to be drawn from those remarks, and if I have so erred I have done injustice to the gentleman; if not, the remark I made is but just.

Now, sir, the position of Massachusetts as I understand it is this: she does not desire a rigid conscription either of her own citizens or of the people of the country, so long as this war can be prosecuted vigorously and with reasonable hope of success by other means. What we say and what we present to the House and the country is the great fact that thus far we have substantially complied with the requisitions of the President for men and money. If there has been no failure under such circumstances as to indicate, as a consequence of that failure, our inability to prosecute the war, then we ought not to inaugurate a policy which gives offense even to one man. Not merely should we hesitate to inaugurate the policy proposed in deference to opinion upon this side of the House, but we are bound to consider the sentiments even of those who differ with us upon matters of public policy, but who are in favor of prosecuting the war. When the country is no longer able to carry on the war without a rigid conscription we shall not hesitate to accept the necessity as the means of restoring the Union and preserving the national life. But at the same time I say here, what I have already said to many of my constituents—and it is a declaration by which I mean to be bound so long as I have a voice either as a citizen or a Representative—that nothing in men, or money, or means, shall be withheld from the Government; all shall be yielded according to the necessity existing.

Sir, if the gentleman from Ohio [Mr. GARFIELD] had read the whole history of Massachusetts he would have known that in the Indian war of 1675 and 1676, we sacrificed one twentieth of our inhabitants, and that every twentieth building in the colonies of New Plymouth and Massachusetts was laid in ashes. Be it ever remembered that that war ended without a treaty of peace. It is the only war on this continent that was ever brought to a conclusion without such a treaty. The children of the men who made these sacrifices for the defense of their homes will make equal sacrifices for the defense of the nationality of this country; looking to a termination of this war when there shall be no treaty of peace. When I say there shall be no treaty of peace I do not wish to be understood that this is a war of extermination either of the blacks or whites. I believe that only one thing is necessary on the part of the southern people, and that is that they shall abandon the institution of slavery. When they shall have laid down their arms and abandoned that institution, which, as I believe, was the source and is the support of this war, then we shall yield to them their positions in this Union, accord to them all their local and State rights, and maintain their position and rights in this Union as we maintain our own. But, sir, until this war is ended there can be no compromise, no arrangement, no treaty.

Now, sir, I am not disposed to despair at all of the Republic, or of the power of the Government to maintain itself. The gentleman from Kentucky [Mr. MALLORY] said this morning that the whole policy of the country was changed by the proclamation of the President, and he attributed that proclamation to the meeting of the Governors of certain States at Altoona. I am not here to be put upon the witness-stand, but it so happens that I have the means of knowing that the proclamation of September, 1862, was entirely independent of and antecedent to the meeting of the Governors at Altoona. The meeting of the Governors had no connection with the proclamation. The gentleman from Kentucky should remember that prior to the issuing of that proclamation we had met with but few successes, and that we had endured many, many reverses. Lee had battled for four days under the fortifications of the capital, and

had finally crossed the Potomac into Maryland. It was not until the country put itself on the side of justice that it had a right to expect the favor of Divine Providence, or any of those successes which have rendered this war glorious in the cause of freedom, truth, and justice.

Mr. MALLORY. Will the gentleman state when that convention of Governors assembled at Altoona?

Mr. BOUTWELL. I think it assembled at Altoona previous to the 22d of September, but I assert as within my own knowledge that the issuing of the proclamation was determined upon previous to the meeting at Altoona.

Mr. MALLORY. Can the gentleman inform me when the issuing of that proclamation was determined upon?

Mr. BOUTWELL. I cannot go far in this matter. I assert distinctly the fact which is within my own knowledge that the President previous to the meeting of the Governors at Altoona had decided in a certain contingency, which happened upon the Wednesday preceding the 22d of September, to issue the proclamation, and therefore the inference I draw is in contravention of the declaration of the gentleman from Kentucky that that proclamation was the result of the meeting of the Governors at Altoona.

Mr. MALLORY. Will the gentleman tell us the contingency on the happening of which that proclamation was to be issued?

Mr. BOUTWELL. I said, Mr. Speaker, when I mentioned this fact, that I was not to be put upon the stand as a witness. I have made a statement as of a fact within my own knowledge, and history will confirm the statement.

Mr. MALLORY. If the gentleman from Massachusetts does not wish to answer the question or to state the fact I will not insist.

Mr. BOUTWELL. I have done nothing more than this—to put my statement of a fact, which I assert to be within my own knowledge, against the declaration of the gentleman from Kentucky, that the proclamation of emancipation, or the monitory proclamation of emancipation, was issued in consequence of the meeting of Governors at Altoona.

Mr. MALLORY. We know that the President himself stated on the 13th of that month that he had no idea of issuing such a proclamation, and that he argued against issuing it. I want to know from the gentleman from Massachusetts whether it was between the 13th and 22d, and if so, at what point between these two periods, the President had prepared the proclamation and had determined to issue it upon a certain contingency. I would also like to know what that contingency was.

Mr. BOUTWELL. The gentleman from Kentucky is good at questioning, but I have to keep myself within the position which I stated.

Mr. DAWES. Courtesy is an exchangeable commodity.

Mr. BOUTWELL. I trust I shall lose nothing by my courtesy.

Mr. MALLORY. Of course not. I decline to ask any more questions.

Mr. BOUTWELL. The gentleman from Kentucky has made some observations in disparagement of negro troops. I have entertained the opinion in relation to this whole question of emancipating the negroes and putting them into the service of the Government, that it was a legitimate means of diminishing the power of the enemy and of augmenting our own. I have never thought it necessary to inquire how far the loss of a negro slave diminished the power of the rebels to carry on this war. I dare say the gentleman from Kentucky has been called upon seriously to contemplate that question. I have only felt that in some degree, I cannot say how great, it diminished the power of the rebels to carry on the war. Therefore, I said to myself, dismissing entirely the question of justice and humanity, if you please, that it is perfectly within the policy of the Government to emancipate the slaves as a means of diminishing the power of the rebels. When the question arose as to using the emancipated negro in the service of the country, I said to myself, it is not possible that a negro who has contributed to the support of the South should be unable to do something for the enlargement of the powers and for the augmentation of the resources of this Government.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

TUESDAY, JUNE 28, 1864.

NEW SERIES.....No. 206.

consent of the Chair this business of interruption is at an end.

Mr. PENDLETON. Certainly I will not persist in my interruptions if not agreeable to the gentleman.

Mr. BOUTWELL. To gentlemen on that side of the House, and especially to the gentleman from Kentucky, and those who have been engaged with him in this hopeless struggle to perpetuate the institution of slavery, I submit for their consideration in this hour of their grief that we have not only had the preliminary proclamation of September, 1862, but also the great charter of liberty upon this continent, the proclamation of 1863; and whether there be peace or whether there be war, whether there be victory or whether there be defeat, whether there be union or disunion, that decree is eternal for this continent; and the gentlemen from Kentucky who still hope to resuscitate the institution of slavery, whether they give a timid and uncertain support to patriots struggling for the preservation of the Union, or whether they attempt to withhold from the Government the physical and moral power of the slave element upon this continent, are still doomed to disappointment, and to disgrace, permit me to say, without personal reference to any man. It will stand upon the page of history as a foul blot that the fairest portion of the North American continent, that Kentucky, blessed with a soil rich and a climate inviting, a State of all the States which should have buckled on the armor, and with the ancient warlike energy of her people rallied to the support of the Government in the hour of its trial, that she, I say, deliberately bowed the knee to slavery and rendered the issue of the contest for a time uncertain. Devastation has already wasted her land, and she will yet be an object of pity to the people of this continent and of the world. And I now offer my sympathy in anticipation of the inglorious future which awaits that State, if her present policy be pursued, tendered with some hope that she may—

Mr. MALLORY. We scorn and despise your sympathy. [Loud cries of "Order!"]

Mr. BOUTWELL. With the hope that she may yet redeem her honor.

Mr. MALLORY made some remark amid tumultuous cries of "Order!"

Mr. BOUTWELL. But I anathematize her no longer. Kentucky has already upon this floor some men true to liberty, and if my voice could pass beyond these walls and reach those other sons of hers misguided, unfortunate, but not yet lost to the Constitution and the Union, I would invite them, in common with the people of this country, to abandon the institution of slavery, to rally to the support of the Union and the Constitution, and thus help to make this continent the home of the free, where there shall be neither slave nor master any more.

Mr. FERNANDO WOOD obtained the floor.

Mr. MALLORY. Will the gentleman from New York yield to me a moment?

Mr. FERNANDO WOOD. Certainly.

Mr. MALLORY. I do not reply to the miserable tirade uttered by the gentleman from Massachusetts in the spirit in which it was uttered. I would be acting in a manner unbecoming this House and myself if I were to do so. The only fitting answer is that elicited from a man's heart by the first impulse of feeling under such an infliction as we have had from that member in the shape of abuse of my State, and an impudent expression of pity for her.

It well becomes him, a member now of this House, to denounce the institution of slavery, and to speak of God's smiles and God's blessing on those engaged in an attempt to extirpate it, in the full blaze of the fact that as a Democrat before he became an apostate, he was one of the most violent pro-slavery men in the State of Massachusetts, and abused without stint his former abolition allies; a man who, while acting as Governor of his State, as I am informed, agreed to surrender fugitive slaves to those infamous scoundrels, their masters, as he now terms them, in the slave States.

Mr. BALDWIN, of Massachusetts. That is not so.

Mr. MALLORY. That is the previous history of the apostate of Massachusetts, but he has sold himself since to the enemies of slavery, as he chooses to call them now. And now he gets up in the face of this history of his in connection with it and denounces slavery as one of the blackest crimes, and stigmatizes the owners of slaves, those who have owned them heretofore, and who own them now, as sinners, as scoundrels, as miscreants, and everything abominable.

Sir, I have always heard that "one renegade was worse than ten Turks," and I find it true in the case of the member from Massachusetts. He, a renegade pro-slavery Democrat, is more denunciatory now of slavery and slaveholders than any of the old-time, true-bred abolitionists on the other side of the House.

Mr. A. MYERS. Will the gentleman allow me to ask him a question?

Mr. COX. I object to the gentleman from Kentucky being interrupted.

Mr. MALLORY. Pennsylvania is not involved in this controversy at all, and I have the floor only by the permission of the gentleman from New York.

Mr. COX. I object to any interruption. We have had insults enough from that side of the House.

The SPEAKER. If the gentleman from Ohio [Mr. Cox] objects to any yielding of the floor, the gentleman from Kentucky cannot proceed, because the gentleman from New York has yielded to him.

Mr. COX. In that case I withdraw the objection. The Chair knows that I never meant that.

Mr. MALLORY. I have but a word or two more to say in the time allowed me by the gentleman from New York. The gentleman from Massachusetts [Mr. BOUTWELL] charges me and other members from Kentucky with whom I act with being engaged in a covert effort to thwart the Government and fetter it in its action. He happens to be engaged in the same effort that we are, and all the reproach that he heaps upon our head falls upon his own. We are opposed to striking out the commutation clause of the conscription bill. The gentleman from Massachusetts is opposing the same thing, and he is doing it in the face of the declaration of the gentleman from Ohio, [Mr. GARFIELD,] one of the military leaders of the House, and the confidential exponent of the views of the Administration, that if we strike out that clause we paralyze the arm of the Government, stop the war, and eventually acknowledge the southern confederacy. The gentleman has placed himself in this dilemma, and there I leave him.

Mr. GARFIELD. I recollect that in the introduction to one of Cooper's novels he speaks of having opened a magazine which criticised him about certain matters, and then he opened another magazine that praised him for the very same thing, and he said that he felt like a donkey between two loads of hay and did not know which he should eat. But he finally concluded that he felt like a load of hay between two donkeys. I do not make the application to any gentleman here personally, but that expresses my own feelings on this occasion. I am charged on the one hand of having said unwise and unjust things, and with having attacked the State of Massachusetts, which I never have attacked.

Mr. WASHBURNE, of Illinois. I rise to a point of order. The gentleman from New York [Mr. FERNANDO WOOD] is entitled to the floor, and if he yields to the gentleman from Ohio he must yield to others.

Mr. GARFIELD. If there is any objection, certainly I will not proceed.

Mr. FERNANDO WOOD. Mr. Speaker, if this discussion had been confined to the immediate question before the House I should not have participated in it.

Mr. BROWN, of Wisconsin. Will the gentleman from New York yield to a motion to adjourn? [Loud cries of "Oh, no!" from the Democratic side of the House.]

Mr. FERNANDO WOOD. I have but a few words to say, and shall detain the House but ten or fifteen minutes. I repeat that had this discussion been confined to the immediate question under consideration I should not have prolonged this debate at all, because, however other gentlemen may view it, in my opinion it does not involve very serious considerations or principles as some gentlemen seem to suppose.

The law as it now stands exempts by commutation or substitution. The amendment reported by the Committee on Military Affairs proposes to abolish the commutation and leave substitution only. Practically, in my judgment, it amounts to very little. I do not think so far as the condition of the country is concerned and the grave questions which are now forcing themselves upon the American people that it matters much how you may amend the conscription law, what modifications you may make in it, what reforms you may attempt in it. The principle of conscription is anti-republican and anti-American. When you resort to force to fill your ranks you violate the fundamental principles upon which the Government is founded; when you resort to coercion or bribery by bounty to fill your armies it is not necessary to predict the result against a foe whose cause, in their own judgment, whether right or wrong, involves their lives, their liberties, and their property. Armies raised by such methods cannot successfully subjugate a foe thus marshaled in arms against it.

So far as the conclusion of this war is concerned, I do not care what system of finance you may adopt, I care not how you attempt to patch up the present rotten policy of the Government either in its military or its financial department, the die is cast and your war is a failure. Expedients or subterfuges cannot avoid the catastrophe. It has been my practice in life to meet every question like a man, to meet it face to face, and to call things by their right names. When the Almighty designs to circumvent the wrong objects of man He has His own way for accomplishing His inscrutable purposes. When He decreed that the tower of Babel should not approach the heavens He sent a confusion of tongues, as He has sent a confusion of tongues and of ideas and of policies among the advocates of the war in this House; and in these differences, in these dissensions, in this confusion and conflict of ideas and of designs and of propositions I see a hope for my country. "Those whom the gods seek to destroy they first make mad."

Now, sir, I repeat I care little whether this proposition be adopted or not. I care not whether you pass a bill for an additional loan of \$400,000,000, or of \$1,000,000,000. I care not whether you pass your gold bills or other bills having for their object an avoidance of the impending calamity. I care not under what policies you prosecute the war; it is wrong in its objects, destructive in its tendencies, and must fail of restoring the Union. The way to restore this Union has not yet been adopted or attempted by the Government or by the party in power. Until some Administration of the American Government adopts a policy of reconciliation and of concession, and returns to the principles on which our Government was founded and on which the institutions of the country were erected, the Union cannot be restored. If the war continues we shall adopt one expedient to another in the down-hill course to destruction and national disintegration.

Mr. WARD. Will my colleague yield to me? Mr. FERNANDO WOOD. No, sir. I say, Mr. Speaker, that until we return to the paths of peace; until the olive-branch is extended; until an attempt at reconstruction by the civil, not the military department, is attempted, you cannot and you should not accomplish your purpose.

The chairman of the Committee on Military

Affairs, in opening the debate to-day, said that there was but one way of success, and that that was coercion. He advocated this proposition solely on the ground of the necessity of filling our armies to continue in this bloody crusade against our own countrymen. All of the speeches made in behalf of this proposition had that one idea, that one object in view. That was the avowed design. Sir, I am for restoring this Union. I would lay down my life and the lives of all my posterity, so far as I have power over them, to restore this Union, and it is because I am in favor of the Union that I am opposed to war. War is disunion, disintegration, annihilation, and destruction. It has been repeated so often, until honest men have come to believe it, that there is no other way than coercion; that we are now in for the war and must prosecute it; that it is cowardice to retract; that any man who speaks of peace is called a traitor or an unconditional submissionist; and the idea is scoffed at that those States now in rebellion against the Federal Government can be induced to return to their allegiance except by being whipped into submission.

Sir, "the whipping will not be done." We have already expended more blood and treasure in the three years this war has been in existence than it can accumulate for such a purpose in the next twenty-five years. The fact that you are resorting to measures of this character shows that the people are against the war. Why is it that you compel men to fight if the war is popular?

Sir, it requires no argument, no elucidation to show that when republics are compelled to resort to force to obtain men and adopt coercive measures to create armies, whether the cause be right or wrong, whether it be patriotic or unpatriotic, so far as popular opinion is concerned it has ceased to commend itself to the popular support and popular approval.

Mr. Speaker, I desire to take this occasion to say that, in my opinion, all the States of this Union, all the States upon the American continent, can once more be gathered under one common Government, established by our fathers, without the firing of another cannon or the shedding of another drop of blood. I propose to prove this assertion. At the commencement of this war, the demand of the confederate States was for recognition and nothing else. Their demand was that their independence as a nation should be recognized. They held to that position firmly, determinedly, and fought for it. I think there has been a modification of this position. It appears to me that a union may be effected on a constitutional basis. I propose now to read a very brief extract from the address issued in February last by the confederate congress, and ask the House to bear in mind that this address passed unanimously—every senator and every member of the house of representatives at Richmond signed it. That address, after recapitulating the history of the war from its commencement down to the present time, presents their ultimatum to the people of the United States; and what is it?

"Until some evidence is given of a change of policy on the part of the Government, and some assurance is received that efforts at negotiation will not be spurned, the congress are of opinion that any direct overtures for peace would compromise our self-respect, be fruitless of good, and interpreted by the enemy as an indication of weakness. We can only repeat the desire of the people for peace, and our readiness to accept terms consistent with the honor and integrity and independence of the States, and compatible with the safety of our domestic institutions."

Sir, the independence of the States is a Democratic doctrine. Any man who reads and studies the history and theory of this Government from the Declaration of Independence down to the present time will find that the independence of the States was guaranteed in the Constitution by the framers of the Constitution, and has been a principle of the Government recognized ever since the adoption of the Constitution, so that when the southern confederacy decides that they are willing to make peace whenever the United States grant them terms consistent with their honor, consistent with the safety of their domestic institutions, and consistent with the independence of the States, I hold that it is the duty of every man who loves the country to extend to the people of the South the right hand of fellowship, and let them come back into the Union upon terms of that conciliatory and constitutional character.

Governor Brown, of Georgia, in his message of March last, says:

"In view of these difficulties, it may be asked, when and how is this war to terminate? It is impossible to say when it may terminate; but it is easy to say how it will end. We do not seek to conquer the northern people, and if we are true to ourselves they can never conquer us. We do not seek to take from them the right of self-government, or to govern them without their consent." And they have not force enough to govern us without our consent, or to deprive us of the right to govern ourselves. The blood of hundreds of thousands may yet be spilt, and the war will not still be terminated by force of arms. Negotiation will finally terminate it. The pen of the statesman, more potent than the sword of the warrior, must do what the latter has failed to do.

"But I may be asked how negotiations are to commence, when President Lincoln refuses to receive commissioners sent by us, and his Congress resolves to hear no proposition for peace? I reply, that in my opinion it is our duty to keep it always before the northern people and the civilized world, that we are ready to negotiate for peace whenever the people and Government of the northern States are prepared to recognize the great fundamental principles of the Declaration of Independence, maintained by our common ancestry—the right of all self-government and the sovereignty of the States."

"Let it be repeated again and again to the northern people that all we ask is that they recognize the great principle upon which their own Government rests—the sovereignty of the States; and let our own people hold our own government to a strict account for every encroachment upon this vital principle. Herein lies the simple solution of all these troubles."

Gentlemen will also remember that in May last resolutions were also introduced into the confederate congress proposing to appoint commissioners to treat with the Government of the United States for reunion upon the basis of the Constitution. Among other resolutions the following was then proposed:

"Resolved by the congress of the confederate States, That the delegates from each State, acting in its sovereign and independent character, for the purpose of adding moral to our physical force, and placing ourselves properly before the civilized world, do most earnestly appeal to the president, by and with the advice of the senate, to appoint commissioners whose duty it shall be to propose an armistice of ninety days to the proper authorities of the Federal Government, preliminary to negotiation upon State sovereignty and independence; and the said commissioners shall report in writing to the president the answer received from the Federal Government upon the subject."

Therefore I repeat, Mr. Speaker, and I defy contradiction, that the southern States are ready to negotiate for reconciliation, and in my judgment no party can succeed in the coming presidential election, and that no party should succeed, that does not meet these propositions fairly and squarely.

Sir, the people are tired of this war. A brave, noble, generous people are not for continuing the war under the circumstances, with its terrible results, and carried on for conquest, and upon a policy utterly destructive, inhuman, and bloody. In my judgment the American people should pass upon this war in the November election. Had I the power I would have but two candidates before the people, one for war and the other for armistice, negotiation, reconstruction, and reunion. I would be willing to stake all that is mine in the present and future that the peace candidate would succeed by an overwhelming majority.

The time is rapidly approaching when a reaction will take place which will not only sweep war men from power but will make them so obnoxious that the men who compose this Administration will flee the country for protection. I go further, and strike deeper than your amendment to the conscription law. Sir, that is but an incident. It is a matter of trifling importance compared to the greater question, when shall this bloody crusade cease? When shall these marshaling hosts lay down the sword and return to the honest, legitimate avocations of peace, to union, fraternity, and prosperity? When shall this excitement be followed by sober second thought? Not until we suppress this war spirit and put out of power those who pursue a policy utterly wrong, utterly anti-American, utterly anti-Christian, utterly anti-humane, and antagonistic to all of the principles of republican government.

Mr. Speaker, I had not intended to have participated at all in this debate, but believing this was a fitting occasion to present these views I sought the floor. They are my individual opinions, for which my party must not be held responsible. On this question I stand independent of party. While I am thus independent I will not become the victim of any party in withholding opinions entertained, and which involve the life, liberty, and unity of my country.

Mr. SCHENCK. I will make another proposition to the House. It has never been my desire to prevent gentlemen offering amendments to perfect the original bill; but I do want to close this general debate. I propose that we shall proceed with the consideration of the bill by unanimous consent, each gentleman offering his amendment to perfect the original bill, which is open to amendment, and that we limit ourselves to the five minutes' discussion. That will afford every opportunity to members on both sides of the House.

Mr. ROSS. I object.

Mr. WASHBURN, of Illinois. I want to know from the gentleman from Ohio, who has charge of this bill, whether he proposes to have this debate go on interminably, or to call for the previous question?

Mr. SCHENCK. My desire from the beginning was that a fair opportunity should be afforded to gentlemen on both sides of the House to debate the bill and to offer amendments before the vote was taken on the substitute. For that purpose I proposed we should fix an hour on Monday when we should proceed to vote. That was objected to. I found we were drifting into a general debate on politics, and I called for the previous question. The previous question was seconded, but the House refused to order the main question to be put. I have made another proposition which has also been objected to.

Mr. WASHBURN, of Illinois. Why not have a vote on the bill at the present time? The gentleman from Ohio seems to have given up the control of the bill.

Mr. SCHENCK. I decline to call for the previous question so soon after it has been voted down.

Mr. MILLER, of Pennsylvania. This is a question of vital importance to every man's constituents, and there are a number of gentlemen who desire to be heard on it.

Mr. WASHBURN, of Illinois. I want to know when the House will come to a vote on this question. [Cries of "Now!" "Now!"]

Mr. STROUSE. Is it in order to move to adjourn?

The SPEAKER. It is not, as the gentleman from Illinois is upon the floor.

Mr. WASHBURN, of Illinois. The gentleman from New York [Mr. KERNAN] appeals to me, and I yield the floor to him for a few moments upon the condition that when he is through he will demand the previous question.

Mr. KERNAN. I will return the floor to my friend after a few moments.

Mr. WASHBURN, of Illinois. Let the gentleman renew the demand for the previous question.

Mr. FARNSWORTH. I object to any bargaining.

Mr. WASHBURN, of Illinois. I yield the floor.

Mr. KERNAN. I would not detain the House at all except that I differ from my colleague [Mr. FERNANDO WOOD] who said he did not care what this House did in reference to the subject under consideration. I do. I feel a deep interest in our legislation, and I care much in reference to everything which is done here affecting the welfare of our constituents and of the country.

It is a misfortune that in civil wars, in times of public calamity and disorder such as exists in our country, men of extreme views on the one side and the other obtain too much control. In the excitement and passions which prevail, conservative and moderate men seem to have no influence in connection with public affairs. Thus it has been in other countries, and this now appears to be the case in our own. While we are surrounded by calamities so great that thoughtful men stand almost paralyzed with apprehension as to what will happen next to the country, extreme men on one side or the other really shape public policy and control as to public measures. I do not think that it is well that such men should have their way. I believe that if they do, on the one side or the other, we shall go down in ruin as surely as events pass on. On the one side are men like my colleague, [Mr. FERNANDO WOOD,] who stand up here under the circumstances which surround us and tell us there ought not to be another gun fired, that we can have peace and union without

it. Oh! sir, if he could only show us that there is the least reasonable chance of restoring this Union and preserving this Government without any further bloodshed every man who loves this country should strive to do that which he says can be done.

Sir, it seems to me that we are deceiving ourselves and others when, under existing circumstances, we say that we can now have the Union and peace without firing another gun. To cry peace and an abandonment of the war in my judgment at this time means an acquiescence in the independence of the southern confederacy and a dissolution of the Union. I can understand that amid carnage, amid blood, amid sorrows and sufferings such as exist among our people, if a man can make himself believed as an advocate of a practicable peace, he would have great weight. But I ask my colleague [Mr. FERNANDO WOOD] how we can have peace to-day with a restoration of the Union? Where will you withdraw your armies to? What will you do with Kentucky, the majority of whose people have stood for this Union under trials such as we have never endured? Will you withdraw your armies and leave to the mercies of the secession leaders every man in the border States who has dared to stand up for the flag and endeavored to perpetuate the union of the States under the Constitution? Are you prepared to leave to extermination those who trusted in our good faith and power to maintain the old Government? Will you allow them, with their families, to be driven as outcasts into our northern States? In my judgment peace is attainable now only by agreeing to separation and abandoning the Union men of the border States to these calamities.

Where is the proposition for peace based upon the perpetuity of the Union which has ever been rejected by our people? There has been no proposition for peace by those in rebellion that was not based upon the idea of a destruction of the Union which our fathers gave us, and which they charged us to maintain and hand down to our children, if we would be faithful to liberty and free government.

Mr. FERNANDO WOOD. Will my colleague yield to me?

Mr. FARNSWORTH. I object.

Mr. FERNANDO WOOD. I merely desire to answer the question of my colleague.

Mr. KERNAN. I have no objection to my colleague asking me any question.

Mr. FERNANDO WOOD. I do not propose to ask him any question. I want only to answer the question he propounded.

The SPEAKER. The gentleman from Illinois objects to the floor being yielded, and under the rule which has just been read it can only be yielded for explanation of the pending measure.

Mr. FERNANDO WOOD. I desire only to say upon my responsibility as a member of this House that there have been three efforts for peace made which have been rejected by this Government.

Mr. KERNAN. One of those efforts I suppose was the one made before Fort Sumter was fired upon; and at that time my colleague from New York city was one of the strongest advocates for putting down the rebellion. It was popular then, and my colleague helped to raise the great Mozart regiment to aid in putting down this rebellion.

Mr. FERNANDO WOOD. I stated in the presence of my colleague that I aided to raise that regiment which was intended to protect the capital and not to invade the southern States, and that gentleman knows it well enough, and he has no right to repeat here statements about me which he has heard me deny on this floor, and which he cannot prove.

Mr. KERNAN. I know that in 1861 and 1862, when the popular current in the State of New York was in favor of raising men to protect this capital and to defend and perpetuate the Constitution and the Union, my colleague was not the man to raise his voice against it. [Laughter and applause.]

Mr. FERNANDO WOOD. I denounced the war in 1861 and 1862 as strongly as I do now.

Mr. KERNAN. I was a member of the Democratic State convention in New York in 1861. The politicians with whom my colleague was connected and acted came to that convention and were not admitted. That convention passed res-

olutions denouncing secession and declaring that they were in favor of employing the necessary force to suppress the rebellion. They further declared that conciliation should be added to force to bring the southern people back to obedience to the Constitution, and, by what was known as their ninth resolution, they protested against the unconstitutional measures of the Administration, against its arbitrary arrests, against the suspension of the *habeas corpus*, and against martial law in States where no insurrection existed.

The gentleman's political friends went home; they denounced us for embarrassing the Administration in the prosecution of the war; they then went for the Union ticket, and the Democracy were beaten.

Mr. MILLER, of Pennsylvania. I rise to a question of order. I would like to know what is the subject-matter now under consideration by the House.

The SPEAKER. The conscription bill.

Mr. MILLER, of Pennsylvania. I would like to ask the Speaker whether the debate to which we have been listening for the last twenty minutes is pertinent to the subject before the House.

The SPEAKER. The Chair is of opinion that it is. This bill is one to raise troops to carry on the war for the Union, and this debate seems to be relevant to that.

Mr. KERNAN. It is suggested to me by those who know better than I do, that this Mozart regiment, which my colleague says was sent to defend this capital, was a regiment for three years or the war. My colleague [Mr. ODELL] is my authority, and I appeal to him to substantiate this statement.

Mr. ODELL. The statement made by my colleague is exactly true. [Applause.]

Mr. ELDRIDGE. I rise to a point of order. I submit that the raising of a regiment in New York has nothing to do with the measure now pending. [Laughter.]

Mr. ODELL. This regiment to which I refer was raised under the auspices of the "Union Defense Committee," of which I believe my colleague [Mr. FERNANDO WOOD] was a member; at any rate he acted in entire harmony with that committee in sending troops to the war.

Mr. FERNANDO WOOD. The mayor of the city was the member. [Laughter.]

Mr. ODELL. Yes, sir, the mayor of the city.

Mr. FERNANDO WOOD. Member *ex officio*, by virtue of his office.

Mr. ODELL. One word further, Mr. Speaker, with the permission of my colleague, [Mr. KERNAN,] on this subject. Tammany Hall promptly came forward in its patriotism and devotion to the country to raise a regiment of soldiers to support the Government. Mozart Hall, under the patronage and auspices of my friend from the New York district, could not consent to be behind in that work, and asked permission through the honorable gentleman to raise a regiment also; and my friend from New York is the man who did the work, and in the canvass of 1862, when he and I were elected to our seats in this body, I remember that he came out in a card in the papers and said that he had raised that regiment at an expenditure to himself personally of over six thousand dollars. [Laughter.] And here let me say a braver regiment, a more gallant set of men never left home to defend their country than that same Mozart regiment. It has written its name historically on almost every battle-field in which the brave army of the Potomac has fought; it has been under a constant baptism of fire and blood. The remnant of it has, I believe, reenlisted, and the day before yesterday the colonel of that regiment, Colonel Egan, as gallant a man as ever drew a sword, was brought into this city and is now in a dangerous condition. These are the men whom my colleague claimed to have sent forth to fight for and defend the institutions of the country, and I am astonished, amazed, sir, that he should rise in his place to-day and say that the regiment came here to defend the capital and to serve within the confines of the fortifications of this city.

It is not so, sir. They enlisted for the war; they were mustered in for three years or the war, and they enlisted to go wherever the authorities of the country should send them, and they have been sent up and down the Peninsula. Their fortunes have been linked as warriors with their

comrades of the Potomac army. They fought at Yorktown, at Williamsburg, at Antietam, Fredericksburg, Gettysburg, and now again in the Wilderness; and to their eternal honor be it said, their fighting at Cold Harbor was of that character that they lost twenty-two line officers and some three hundred men, and their dead have been buried upon those fields side by side with those of the brave men from my own district who belong to the same brigade and division. They there sleep the sleep that knows no waking. I know all about them, sir, and I should be sorry, indeed I would, sir, had I been instrumental as my colleague has been in sending them to the war, to forego for political reasons the credit of doing so. I tell you, Mr. Speaker, that no man in this House is more responsible for sending men to this war than my colleague from New York is. [Laughter.] Why, sir, on the 20th of May, 1861, I was present and on the platform with him, when at Union square, New York city, he exhorted and urged men to go by thousands to the foot of Canal street, in the city of New York, and there to embark for the war. At that time he was mayor of the city, as such was in position of great power, and he having great personal influence in addition, both were without reserve thrown upon the side of the Union to the gathered thousands attendant at that memorable meeting. Now, sir, my colleague closed his speech by saying—

"My friends, it has been already announced by the chairman of this meeting that the steamer Baltic and other vessels at the foot of Canal street are ready to take five thousand men to-morrow to the capital at Washington. I urge a hearty response to that call that New York may speak trumpet-tongued to the people of the South."

Surely, Mr. Speaker, this does not look much like only defending the capital. The people of the South, to whom my colleague wanted them to speak, were not around the capital but "in regions beyond." If I, like him, had held the position and had exerted his power and influence to send so many men forth to fight the battles of the country, I would not, as he does to-day upon this floor, repudiate them; no, never, never. I would, sir, rather as a patriot and lover of my country cherish fondly the memory of the dead, and stand for the defense and support of the living. [Laughter and applause on the floor.]

Mr. KERNAN resumed the floor.

Mr. FERNANDO WOOD. I hope my colleague will allow me the opportunity of replying.

Mr. KERNAN. I yield to my colleague from New York.

Mr. FERNANDO WOOD. Mr. Speaker, were it true, as is alleged by my colleague, [Mr. ODELL,] that I deserved all of this praise for having raised such a noble regiment, which has lost so many men and spilled so much blood in this war, may the Almighty forgive me for the sin and error I have committed. [Hisses on the floor.] Now, sir, briefly, candidly, clearly, and deliberately, I desire to repeat in a very few words what I have said on previous occasions in this House in reference to this question. In the spring of 1861, at the breaking out of this war, when the Administration called for troops to protect the capital, when the rebel armies were within cannon range of the building in which we are seated, I did use whatever influence I possessed, whatever funds I could spare, and all the power I had to raise a regiment of soldiers—noble, true, Mozart Hall Democrats—to come down here to protect the capital. It is also true that after that regiment was raised, and when it was beyond my control, it was mustered into the service of the United States, and was prostituted to other purposes. Whether its enrollment was for three days or for three years was a subject over which I had no power, and for which it is not right to make me responsible.

Now, Mr. Speaker, it may or may not be true, and admitting it were true that at the commencement of this war, when the whole American people rallied as it were like one man for the protection of the Union, I did exert myself actively in raising troops, I can say with entire consistency that after the war has been diverted to another and wholly unconstitutional purpose, in which the men and money we have given have been used in a fruitless and unsuccessful contest for wicked and partisan purposes, I say it is entirely consistent with my present position when I now say that I am opposed to the continuation

of a war which it has become apparent to the American people cannot and should not succeed.

Mr. KERNAN. I beg it to be understood that I have no desire to fix upon any gentleman the charge of inconsistency; but I do desire to call the attention of the House to one or two facts which will show that, however much we may desire peace, any man who says to-day that there should not be another gun fired must be willing to acquiesce in the dissolution of the Union of the States, and to negotiate a peace upon that basis. In my judgment this result can be averted now only by employing adequate force to overcome those in armed rebellion against the authority of the United States Government, and at the same time adopting a policy of moderation and conciliation toward the people of the rebellious States which will tend to bring them back to the Union. I admit that mere force of arms cannot restore and preserve the Union; it will not be desirable if it is to be held together only by bayonets; I admit that notwithstanding all the armed power we may exert, disunion, with all its consequent disasters, may come by pursuing a false and unconstitutional policy as to the objects of the war, by permitting extreme fanatical men to push us into a position which we should not as a Government occupy; but I believe that no matter what party were to-day in power, we could not have peace with the Union preserved except by showing that we have power to put down armed resistance to its legitimate authority. Not that I believe or ever have believed that the great mass of the southern people, if satisfied that their rights under the Constitution are to be respected and secured to them, desire to destroy the Union; but, sir, I have believed and do believe that, in the language of their own vice president, Stephens, whom I call as a witness, ambitious men, who believed they could form a government in which they could rule supreme, have seized upon the power of those States, and have bound together the mass of the people against the Union by pointing to acts and declarations by portions of the people of the North which indicated that the people of the southern States were to be deprived of their constitutional rights. During this session speeches have been made in this Hall, resolves and laws passed, the tendency of which was to unite the people of the southern States as one man against the restoration of the Union and in favor of an independent confederacy.

Sir, disunion may be accomplished, but I for one mean at least to have the satisfaction of being able to say that I was one of those who resisted it by my voice, by my counsel, and by everything I could properly do. If this misfortune is to happen, whether it occurs soon or after several years, our people must go through a terrible ordeal. If they fail to maintain the union of the States there is no future for us but bankruptcy and anarchy, until, after years of suffering, some subsequent generation may build up wisely, as our fathers did, another Union, and, profiting by our misfortunes and follies, provide against the causes by which the old Union shall have been destroyed.

To secure any chance of preserving our present Government and of restoring the union of the States under the Constitution, I believe that we must have armies, not to exterminate, not to subjugate, not to desolate needlessly, but to make the Constitution and laws of the Union to be respected and submitted to. When this is done, I am one of those who are willing to say that we are ready to do everything which generosity and fraternal feelings could suggest toward the people now in rebellion, but with whom we hope to live peacefully under the same Government, sitting together at the same council-table. This I believe to be the sentiment of the mass of the Democratic party.

Sir, I have said, and I repeat it, that there are extremists whose influence has been felt and is felt in the policy of this Administration, nay, who control it, and which policy if persisted in will, in my deliberate judgment, destroy all hope of restoring the Union. It is to be regretted that there are extreme men on each side of this House, and it is with earnestness, but with respect and kindness, that I appeal to reasonable men on both sides of the House to act with moderation; to adopt needlessly no harsh or extreme measure. Unlike my colleague from New York [Mr. FERNANDO WOOD] I take an interest in the law pro-

posed to be enacted. I desire that it shall not be made needlessly oppressive; that it shall not be made more harsh or unbearable than is necessary. I hope that the reasonable men in this House will not permit extreme men on one side or the other to control the action of the House.

Do you believe these measures of confiscation, of extermination, these bloody resolves, and these harsh statutes which have been proposed, and some of which have been passed, can be enforced? Would we enforce them if we could? Do you not know that these measures and the wasting of the time of the national Legislature in discussing them tends to prevent the restoration of this Union and the bringing of these people back again to live under a common Government? Do they tend at all to preserve this Government? They do not. Since we met seven months ago the hearts of many of the true patriots of the land have grown sad from what has occurred here. One of your own party, a zealous party man, said to me on a recent occasion, when I visited my home, that with the dead and wounded lying around us in Washington, twenty or thirty thousand, how men could spend time here arguing about amending the Constitution, about repealing dead laws and statutes, excited his wonder and indignation; that it appeared to him that those intrusted with administering the Government occupied themselves with everything else than that which would do good to the cause of the Union, with measures which might do evil, might disturb and distract the North, which could not do good at this time, and that his heart failed him when he saw there was so strong a disposition to attend to everything else than the putting down of this rebellion and the restoration of peace.

I put it to every man's judgment, does he think that these measures do good? Sir, when this war broke out our people in the North were united. Why? Because it was said and believed throughout the land that it was not to be a war on our part of subjugation, that it was not to be a war of extermination, that it was not a war to compel the States to regulate their local affairs different from what they wanted themselves, but that it was a war for the defense of the Constitution and for maintaining the just authority of the Government under it. At that time, when the President called for seventy-five thousand men, more than one hundred and fifty thousand stepped forth. Again, in 1861 when he called for three hundred thousand men a response came at once from the people to more than the number asked. So it was in 1862. What does this prove? That we do not require harsh and coercive laws. The gentleman from Ohio [Mr. GARFIELD] said in reference to raising men, that the Government should be able to lay its royal hand upon every man. Thank God we have no such Government in this country. We have no Government that can lay its royal hand upon the people. We have the Government of law, and every man should submit to the law.

When the war was prosecuted for the purposes and object I have alluded to, the people stepped forward freely. There was no want of soldiers. Do gentlemen believe that now we will not get men unless by a harshly coercive draft? I prefer reasonable laws. Appeal to the people to put down resistance to their own Government, a Government which they themselves have established, and which if maintained they are to maintain. I prefer to do that instead of making a law by which we command them as though they were our servants to step forth to the battle-field and fight our battles instead of their own.

I trust gentlemen will judge what should be the law from experience. In the State of New York we have raised and put into the field up to the 31st of December last, two hundred and sixty-three thousand and eighty-nine three years' men, and twenty-nine thousand militia, which were marched out for a short time. All the calls down to and including those of July and August, 1863, were filled up. In the spring of 1863, as stated by the gentleman from Kentucky, [Mr. MALLORY], the chairman of the Committee on Military Affairs, Mr. WILSON, of Massachusetts, declared that we must put a stop to recruiting; that the volunteering system gave us more men than we wanted. They afterwards passed the conscription act, and what is the result? In New York we raised two

hundred and seventy thousand three years' men by the volunteering system, without expense to the Government, and then with the conscription act, and an army of office-holders, and three months of effort in 1863 raised only nine thousand one hundred and seventy-six drafted men and substitutes. Does not this show we ought to make reasonable laws and appeal to the people to sustain their own Government?

I understand some insist that they would rather that the Union should be dissevered than that slavery should not be abolished. If the people of the North are to believe that this is not a war for the Union under the Constitution, not a war to put down the rebellion, but to carry out a moral idea in reference to the institutions of the States, you will need coercive laws indeed, and then you will not get soldiers. The people of the North will fight to maintain the Union made by the men of the Revolution, but they will not wage war to impose their views as to local institutions on the people of any one of the States.

Mr. Speaker, I will detain the House but for a few minutes longer—

Mr. WASHBURN, of Illinois. I yielded to the gentleman, supposing that he wanted the floor for a few minutes only.

Mr. KERNAN. Still, my friend would not expect me to define my position on the one side and not on the other. In my judgment we should leave the commutation clause as it is, and we should call upon the people, not in the spirit of coercion and power which is talked about so much, but in language like this: "This is your Government, and if defended and maintained you have got to do it; we have passed a law by which men are to be raised, and a portion of you are required to enter the service or find substitutes." Address the people in this spirit and you will find them in every town raising their quota and putting them into the field. But unduly stringent laws will not accomplish the object.

Mr. Speaker, I have been by various Democrats requested to say—and I believe it is true—that the suggestions I have made express the general views of most of the Democratic members of this House. We are in favor of putting down this rebellion and restoring the authority of the Constitution, and we are in favor of using all the force necessary to do it, superadding to force at all times conciliation. We are against waging a vindictive and exterminating war against any portion of our people. We would carry on this war which is forced upon us in the spirit in which a father would chastise and restrain a son to prevent him from accomplishing any wicked purpose toward the peace and integrity of the household, and who, after having made him desist and obey, would invite him again to become a member of a united and happy family with all his rights and privileges. While we would act in this spirit toward the mass of the people, we would punish the guilty leaders in this rebellion for their treason according to laws which they have wickedly violated.

Mr. Speaker, the Democratic conservative party is in favor of peace, but it is a peace based upon the union of the States under the Constitution, not purchased by and based upon disunion. Such a peace would be obtained by ignoring the teachings of its founders, and all the traditions, instincts, and affections of those who constitute that party. The Democratic party has been ever faithful to the Union and opposed to secession and all the isms and agitations which endangered the perpetuity of that Union. In 1860 and 1861, when the danger of disunion was imminent, when men of extreme views North and South seemed to cooperate to produce it, the Democratic party and the conservative men of other parties who today act with the Democracy, strove to maintain peace and preserve the Union, to avert the civil war which now exists. And, sir, if that party shall again be intrusted with the administration of the Government they will strive to restore the Union, and I hope with success. They will exert the physical power of the Government and all the moral power of right, justice, and conciliation to restore and perpetuate union and peace.

Mr. WASHBURN, of Illinois. I demand the previous question upon the bill and amendments.

Mr. SCHENCK. I wish it understood that if the previous question is voted down as now

demanded, I will move the previous question upon the pending amendments only.

Mr. WASHBURN, of Illinois. I would inquire of the Chair what would be the position of the bill before the House in that event?

The SPEAKER. If the previous question is seconded, and the House adjourn, this bill will come up the first thing after reading the Journal on Monday; if not seconded, and the House adjourn, the Chair cannot state when it will come up.

Mr. WASHBURN, of Illinois. I will modify my proposition, and call the previous question upon the pending amendments only.

The previous question was seconded, and the main question ordered to be put.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the main question was ordered to be put, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. SCHENCK, (at half past five o'clock, p.m.) the House adjourned.

IN SENATE.

MONDAY, June 27, 1864.

Prayer by Rev. B. H. NADAL.

On motion of Mr. ANTHONY, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented a petition of citizens of New York, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which was ordered to lie on the table.

Mr. SUMNER presented five petitions of men and women of the United States, praying for the abolition of slavery, and for such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

He also presented two petitions of citizens of the United States, praying for such an amendment of the Constitution as will expressly recognize the obligations of the Christian religion, and that slavery may be abolished throughout the United States; which were referred to the Committee on the Judiciary.

Mr. POMEROY presented the memorial of John J. Anderson and John W. White, praying compensation for cotton used for fortification purposes in the city of Nashville, Tennessee, in 1862; which was referred to the Committee on Claims.

BILL RECOMMENDED.

On motion of Mr. BUCKALEW, it was

Ordered, That the bill (H. R. No. 162) for the relief of Nathaniel McLean, Richard G. Murphy, and Charles E. Flandrau be recommended to the Committee on Indian Affairs.

REPORTS FROM COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the joint resolution (S. No. 62) for the recognition of the free State government of the State of Arkansas, reported adversely thereon.

He also, from the same committee, to whom was referred the resolution submitted by Mr. SUMNER on the 27th of May, declaring that a State pretending to secede, and battling against the national Government to maintain that pretension, is not entitled to representation in the Senate until it has been readmitted into the Union by a vote of both Houses of Congress, reported adversely thereon.

He also, from the same committee, to whom were referred the credentials of William M. Fishback and of Elisha Baxter, claiming to have been elected Senators of the United States by the Legislature of the State of Arkansas, submitted a report, accompanied by the following resolution:

Resolved, That William M. Fishback and Elisha Baxter are not entitled to seats as Senators from the State of Arkansas.

The report was ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the report of the Secretary of the Interior in relation to reports

made by a commission consisting of Messrs. Day, White, and Wattles, appointed in 1861, and communicating copies of all correspondence between those commissioners and the Secretary of the Interior and the Commissioner of Indian Affairs, asked to be discharged from its further consideration; which was agreed to.

Mr. SPRAGUE. The Committee on Commerce, to whom was referred the bill (H. R. No. 510) further to regulate the carriage of passengers in steamships and other vessels, have directed me to report it back to the Senate. This bill relates to the line of steamers between New York and Aspinwall and the connecting line from Panama to San Francisco. The committee have received statements from the agents of those lines, but have received no information from those who favor the bill; but they believe it is a bill which should receive the consideration of the Senate; and if there is any light, it will come by their reporting favorably on it.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. No. 73) to allow Senators and Representatives to visit forts, military prisons, and hospitals within their respective States, reported adversely thereon.

Mr. RIDDLE. I give notice that I shall contest that report.

AGRICULTURAL REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print twenty thousand copies of the report on agriculture, have instructed me to report it back with an amendment. I ask for its present consideration.

The Senate proceeded to consider the following resolution:

Resolved, That twenty thousand copies of the report on agriculture be printed for the use of the Senate.

The amendment of the Committee on Printing was to strike out "twenty thousand" and insert "fifteen thousand," and after "Senate" to add "and seven thousand for the use of the Department of Agriculture."

Mr. LANE, of Kansas. I should like to ask the chairman of the Committee on Printing how that agrees with the number heretofore printed.

Mr. ANTHONY. The number heretofore printed I believe has been twenty thousand for the use of the Senate and some for the use of the Commissioner of Agriculture. The Commissioner of Agriculture did not obtain from the House of Representatives this year the number that he has usually had, and he desired, therefore, that the Senate should give him ten thousand copies. Upon consultation with the Committee on Agriculture, to whom the Committee on Printing thought this resolution more appropriately belonged, it has been reported with this amendment. The Department had twenty thousand last year, and this year it will have seventeen thousand according to our report. The Senate, I believe, had twenty thousand last year, and will now have fifteen thousand. We have cut down the number somewhat.

Mr. LANE, of Kansas. It was that to which I desired to call the attention of the chairman. I understand that this volume is much more valuable to the agriculturists of the country and much more interesting than any volume that has preceded it. I should like to have at least the usual number printed, that being the case.

Mr. ANTHONY. The Committee on Agriculture rather agreed with the Senator from Kansas; but in the midst of the general extravagance we thought there ought to be one economical committee, and we did not know any other committee to attend to it, and so the Committee on Printing have been very economical this session.

Mr. LANE, of Kansas. I move to amend the amendment of the committee by putting in twenty thousand for the use of the Senate instead of fifteen thousand.

The question was put; and the amendment to the amendment was declared to be rejected.

Mr. LANE, of Kansas. I ask for the yeas and nays. ["Oh, no."]

Mr. ANTHONY. I think the Senator from Kansas had better allow the resolution to pass as it is, and he can move for the printing of an additional number when the Senate is fuller than it now is and take the sense of the body on the question.

Mr. LANE, of Kansas. Very well.

The amendment of the committee was agreed to; and the resolution, as amended, was adopted.

FULL ARMY REGISTER.

Mr. ANTHONY. The Committee on Printing, to whom was referred a joint resolution (H. R. No. 101) to provide for the publication of a full Army Register, have directed me to report it back without amendment, and recommend its passage. I ask for its present consideration.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to require the Secretary of War, in connection with the Army Register for the year 1864, to cause to be printed and published a full roster or roll of all field, line, and staff officers of volunteers who have been in the Army of the United States since the beginning of the present rebellion, showing whether they are yet in the service or have been discharged therefrom, and giving casualties and other explanations proper for such Register. To defray in whole or in part the expenses of this publication, an edition of fifty thousand copies of the enlarged Register is to be published and sold to officers, soldiers, or citizens, at a price which shall not more than cover the actual cost of paper, printing, and binding, and shall not in any case exceed one dollar per volume.

Mr. HALE. I wish to ask the chairman of the Committee on Printing if this postpones the small edition of the Register until all this additional matter is printed?

Mr. ANTHONY. No, sir.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

FREEDMAN'S COMMISSION REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print three thousand additional copies of the report of the Secretary of War, communicating the reports of the American Freedman's Inquiry Commission, have instructed me to report it back without amendment, and to recommend its passage. I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the following resolution:

Resolved, That three thousand additional copies of the report of the Secretary of War, communicating the reports of the American Freedman's Inquiry Commission, be printed for the use of the Senate.

Mr. TRUMBULL. I should like to inquire what will be the expense of that publication.

Mr. ANTHONY. Between seven and eight hundred dollars.

Mr. COWAN. I am really constrained to say that I think this is going too far in the condition in which we are at present, to throw money away by the handful for the publication of papers that nobody supposes will ever do the country any good whatever. It may be well enough and proper enough in time of peace, when we have the means; but now when we have not the means, when our finances are in such a condition that the most hopeful almost despair of them, to throw away this money is eminently improper. I suppose, however, it is hardly worth while to make an objection.

Mr. SUMNER. I think that the Senator from Pennsylvania is not informed in regard to the nature of this document.

Mr. TRUMBULL. Is it a public document?

Mr. SUMNER. I will state. The Secretary of War some time last summer constituted a commission, compose of three eminent gentlemen, Robert Dale Owen of Indiana, James McKay of New York, and Dr. S. G. Howe of Boston, to consider the condition of the freedmen under the acts of Congress and the proclamation of the President. That commission has been laboriously occupied during this whole year. It has taken a vast amount of testimony, from General Halleck and General Butler down to agents and superintendents in Louisiana and at Hilton Head. In short, it has spared no pains to arrive at accurate information with regard to the condition of freedmen about whom we are now legislating. That commission has gathered together the results of all this testimony. It has summed it up in a very elaborate report, mainly from the pen of the chairman, Mr. Owen. I have had an opportunity of looking into the report, and I have no

hesitation in saying that it is one of the most able contributions to this question that has ever appeared in our country or in any other country. It sheds great light on the present condition of the freedmen of our country and on our duties in regard to them in the future.

Now, sir, it has been reduced to writing. It is not a verbal report. It has been formally communicated to the Secretary of War, and the Secretary of War has formally communicated it to us. Now, shall the document be allowed to rest in the office of the Secretary of the Senate, where of course it will be accessible to comparatively few—perhaps no person will look it through there—or shall it be imparted to the public? This commission will have been constituted in vain, I may say literally in vain, if we do not communicate the result of its inquiries to the public. I hope there will be no hesitation in agreeing to the motion to print.

Mr. COWAN. I did not object from any special reason arising from the nature of the publication proposed, but my opposition was general, intended to apply to all publications which we could do without at this time. That is my motion. I think there should not be a single dollar expended except on the ground of necessity. Everything that could be avoided at this time especially should be avoided. I would ask under what law these commissioners were appointed, and by what authority they have gone to all this pains to make this elaborate report, and whether, if it be such a valuable report as is here supposed, it cannot be put before the country in some other way than by the expenditure of the public money. In this age of publication, when every table in every house is loaded with information of all kinds and on all subjects, when the whole country is flooded with newspapers desirous and anxious to obtain that particular species of information which would interest the people, I should think there was machinery enough in existence which would gratuitously give to the people all they desire to know on this subject.

Mr. ANTHONY. I wish to say a word on the general remark of the Senator from Pennsylvania. This particular resolution I shall leave to the Senator from Massachusetts who introduced it, and who is more familiar with the subject than I am. It has been the object of the Committee on Printing at this session to reduce the public printing to the lowest possible amount, and we have been oftener voted down by the Senate increasing the number we proposed to print than by diminishing it. A bill has just been passed by both Houses which was reported by that committee, and which I think will materially reduce the cost of the public printing, and eventually lead to the documents being furnished to the public with very little expense to the Government, to be purchased by persons who really want them and care for them, and who will pay the cost of printing and paper. That will be the ultimate result. This particular publication will cost between seven and eight hundred dollars. The matter was considered of sufficient importance to be intrusted to a commission consisting of very able and distinguished men, and in some form or other the results should be laid before the public.

Mr. COWAN. Was there any law authorizing the commission?

Mr. ANTHONY. That was a matter which we did not investigate because it was not within our province. Our province was to ascertain what this publication would cost, and to judge whether it was worth the cost. We thought it was, but at the same time we are not at all strenuous upon the point.

Mr. COWAN. I think the committee should have confined themselves to printing that which was authorized by law.

Mr. HALE. I want to inquire of the chairman of the Committee on Printing whether the usual number of this document has been ordered to be printed.

Mr. ANTHONY. The usual number has been ordered.

Mr. HALE. I should think that was enough. Mr. ANTHONY. The extra number will cost nothing for type-setting. It will merely cost the expense of press-work and paper. It will cost much less proportionally to print three thousand copies than to print the usual number, which is one thousand five hundred and fifty.

Mr. HALE. I suppose that is not one of the peculiarities of this report.

Mr. ANTHONY. No, it is general.

Mr. HALE. Then I think the usual number is enough.

Mr. SUMNER. I ask for the yeas and nays on the resolution.

The yeas and nays were ordered.

Mr. WILLEY. I wish to inquire of the chairman of the Committee on Printing whether this commission was authorized by law under any act of Congress to make this report.

Mr. ANTHONY. That question was asked before. The Committee on Printing did not investigate that subject. They did not consider that within their province, nor have the committee read the report.

Mr. WILLEY. On this side of the House we heard scarcely any of the discussion in consequence of gentlemen on the other side speaking so low. My impression is that the question of the freedmen is going to be a very important question hereafter; and if this information comes under authority of law in a shape that would throw light on the subject in any official form I should be glad to have it; but we should not authorize the publishing of mere fugitive productions.

Mr. ANTHONY. This report was officially communicated to Congress by the Secretary of War, and we presumed of course that he had authority for doing it. We did not go behind the act of the Secretary of War. It would hardly be proper for us, I conceive, to examine into the legality of the commission or of the proceedings which have resulted in any report that is submitted to us. I believe some of the Senators think that the Department of Agriculture is unconstitutional, but we did not take that matter into consideration when we reported the resolution to print copies of the agricultural report.

Mr. HENDRICKS. I wish to ask the chairman of the committee a question, and that is whether the commission which has been making these investigations was raised pursuant to any authority of law.

Mr. ANTHONY. I think gentlemen on the other side of the House must hear very indistinctly to-day, for I have just answered that question, and I answered it twice before. The committee know nothing about this report except that it was officially communicated to the Senate by the Secretary of War. They presumed, of course, that he had a right to do it; and as the Senate accepted it and referred it to the Committee on Printing, the only question the committee took into consideration was, how much it would cost to publish it and whether the information it contained was of sufficient value to make the publication advisable, and on that they rather took the opinion of the Senator from Massachusetts and others who had read the report than their own judgment. None of us read it unless perhaps the Senator from Kentucky, [Mr. POWELL.] He may have gone through it, but I am sure no other member of the committee has. He can answer for himself.

Mr. HENDRICKS. I shall certainly not vote to go to the expense of publishing every document that comes before the Senate. I think it is a violent presumption on the part of the Committee on Printing that everything done by the War Department is done pursuant to law. The Senator from Rhode Island presumes that without examining any statute on the subject. Here is a document that comes before us from a commission not known to any law as far as I am aware. The commission was organized by some Department of the Government. Whether the members are paid or not, I am not prepared to say, but I presume they are not working without pay. The committee report to us that this document has not been read by any member of the committee. Whether it is worth anything or not, whether it is worth any portion of the cost to the Government or not, the committee are not prepared to say. The committee say that they get some information from other gentlemen; but is the Senate to incur a cost to the Government on information like that? It does not come from any body of men organized pursuant to law; it has not been read by the committee; but simply now, as the committee assure the body, because the Senator from Massachusetts has told the committee that

it is a document worthy of publication, we are to go to the expense of publishing it.

When a document comes here pursuant to law, I do not ask the question whether it is valuable or not; it ought to be published that we may know what the Departments of the Government are doing; but this document does not come before the Senate with that force. It is not the report of the proceedings of any Department of the Government, or of any commission organized pursuant to law, but it is, as I understand it, an irregular proceeding outside of law; and we are asked to publish it, for what purpose? Not to see what the Government is doing, not to see what the opinion of any Department of the Government is in respect to any great question, but to see what facts and arguments a certain set of gentlemen, irresponsible so far as law is concerned, have seen fit to present in some communication which they have made to the War Department. When such a document is asked to be printed at the expense of the Government by the Printing Committee, that committee ought to have examined it and to be able to state to the Senate that it is worthy of this expenditure of the public money. If it was an account of the doings of the Secretary of War or of any officer under him, I grant that it being reported here in pursuance of law the presumption would be that the people ought to know it; but when the War Department sees fit to send here facts collated and arguments presented by certain gentlemen not authorized by law to collate the facts or present the arguments, the committee ought to have examined the document so as to be able to inform the Senate whether intrinsically it is worthy of publication at the public expense. If it is such a document as Senators wish to go to the country, let them meet the expense out of their own pockets and not ask the Government to bear it unless the document comes here from some Department according to law.

It is suggested to me by a Senator near by that we published General McClellan's report. That was a public document. It related to the proceedings of the Army in an important period of our history, and the doings of a Department of the Government. It was proper to publish it upon general principles. If this is a document worthy of publication let it seek the channels that other private enterprises have to seek. If it will pay for the expense of its publication let the publishers of the country take hold of it and present it to the people.

Mr. CONNESS. It is perhaps a little unfortunate—it is strange at least, if not unfortunate—that nothing can be introduced here involving the poor, miserable negro, that is not either illegal or unconstitutional. Why is not this report made in pursuance of law? Has the President as the Executive of this Government not the right to institute a commission to inquire into the administration of affairs, and this particular branch of administration that the country has taken charge of? Surely he has. There can scarcely be a question raised on that point. The other day a report came here, one of the ablest I am told ever made from the Treasury Department, and it was officially stated that that report was prepared by three distinguished gentlemen; but there was no question about its being the act of the head of the Treasury Department, and I apprehend there is no question either about this report being the act of the President. He speaks through the commission that he has appointed. They have collected facts and collated them and presented them to the War Department, and through that Department they are transmitted to this body, and the question is, shall they be published; shall a certain number of copies be printed? It involves an expense of about seven hundred dollars, I believe, and it is immediately discovered to be unconstitutional and void for want of legal authorization! I hope, sir, we shall have a time when this whole negro subject will be disposed of, and when we can take up some subject and vote upon something without its impeding the progress of public business.

Mr. HENDRICKS. Allow me to ask the Senator from California a question. The Senator says objection has been made to this because of its want of constitutionality. I did not hear that objection made. I wish to ask the Senator whether the head of a Department has the right to appoint officers not known to the law, to appoint

a commission of three men and pay them salaries, and have the report made by them regarded as an official report, when no such commission is known to the laws of the land?

Mr. CONNESS. I do not understand that this commission was appointed by any Department, but by the President of the United States, who is charged with the administration of the laws and with the conduct of the Government.

Mr. ANTHONY. I think the Senate is precluded from inquiring into the official character of this document. Senators forget that this document was communicated to the Senate by the Secretary of War, in obedience to a resolution of the Senate. On the 26th of last month the Senate passed a resolution calling on the Secretary of War to communicate to us this report. The Secretary has done so, and now the question is whether we shall print it or not. I admire very much the theory of the Senator from Indiana, that it is the duty of the Committee on Printing not only to read at length and critically examine every document presented to them, but also to go into the legality and constitutionality of all the proceedings of the officers by whom a document is communicated. If it was not so very near the close of the session, I should certainly move that the Senator from Indiana be added to the Committee on Printing, and we should endeavor to keep him very fully occupied during the whole time. Next session I hope that the committee will consist of four, and that the Senator will be added for that particular purpose. I hold in my hand the communication from the Secretary of War, which I will read. It is very brief.

WAR DEPARTMENT, June 22, 1864.

SIR: In compliance with the resolution of the Senate, dated May 26, 1864, I forward herewith a copy of the preliminary report, and also of the final report of the American Freedman's Inquiry Commission, which comprise all the papers deemed proper for publication.

Very respectfully, &c., E. M. STANTON,
Secretary of War.

Hon. DANIEL CLARK,
President pro tempore United States Senate.

That is the report the committee have recommended shall be printed.

Mr. SAULSBURY. I believe this is a proposition to print a report made by Robert Dale Owen. I once read a book published by that distinguished gentleman called Footfalls on the Boundary of Another World, and I think that anybody who has ever read that book and been cheated out of \$1 25 will never want to read anything else coming from the pen of Robert Dale Owen. Such a conglomeration of infidelity and nonsense was never before published to the people of this country, and I apprehend that the man who could write such a book as that is not capable of writing anything that is worthy of the perusal of any member of the Senate, and therefore I shall vote against this resolution.

Mr. WADE. I have taken occasion to read this document all through; and if I favored the institution of slavery in any of its forms, I would oppose its publication to the last, for I know of no document in the English language that sets forth the deformities of that institution in practice more vividly than does this document. I have no doubt it is truthful in every word. I know some of the gentlemen who were on the commission; and I say again that if I favored the institution of slavery and wished to cover up its deformity, I would vote against this publication and if I could get rid of it by technicalities or by pettifoggery I would do it. I think these suggestions about this being unauthorized are afterthoughts. I think gentlemen have probably read the document. Why did they not oppose sending it to the committee? If we have no jurisdiction over it and nothing to do with it, why was not the objection made then? It seems to me strange that an objection of this kind comes at this late hour after we have called on the Secretary of War to give us this report, and in compliance with our request he has sent it here and we have referred it to a committee for the very purpose of ascertaining whether it ought to be printed and they have reported that it ought to be.

The question being taken by yeas and nays, resulted—yeas 24, nays 8; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Collamer, Conness, Foot, Foster, Grimes, Harris, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—24.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Hendricks, McDougall, Saulsbury, and Van Winkle—8.
ABSENT—Messrs. Chandler, Dixon, Doolittle, Fessenden, Hale, Harding, Harlan, Henderson, Hicks, Howard, Johnson, Nesmith, Powell, Richardson, Kiddle, Willey, and Wright—17.

So the resolution was agreed to.

ELIPHALET BROWN, JR.

Mr. ANTHONY. The Committee on Naval Affairs, to whom was referred the memorial of E. Brown, jr., praying for additional compensation for his services as artist in the naval expedition to Japan under Commodore Perry, have instructed me to report a bill for his relief. It is a very small affair, and I ask for the present consideration of the bill.

By unanimous consent the bill (S. No. 334) for the relief of Eliphalet Brown, jr., artist in the Japan expedition, was read twice, and considered as in Committee of the Whole. It provides for the payment to E. Brown, jr., of \$1,800 per annum as artist of the late Japan expedition during the time he was actually employed in that service, deducting the amount already paid him as master's mate on the expedition.

The bill was reported to the Senate.

Mr. COLLAMER. I should like to hear some reason for passing the bill.

Mr. HALE. I will state the case to the Senator from Vermont. When the expedition of Commodore Perry was started he wanted some artists to take sketches, &c., but there was no provision in the law for doing it. He employed three or four of them, and agreed with them that they should go as masters' mates, and that if the thing succeeded he would recommend to Congress that they should be paid a certain salary. They went; the expedition was successful; and every one of them has been paid except Eliphalet Brown, jr., who was one of the most eminent of them. He was absent from the country when the others were paid.

Mr. COLLAMER. Was there a special act of Congress for paying the others?

Mr. HALE. There was.

Mr. CONNESS. I should like to inquire additionally if there is any statement from Commodore Perry.

Mr. HALE. Yes, sir; there is a letter from Commodore Perry among the papers; he speaks very highly of this man.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

WILLIAM P. RICHTNER.

Mr. WILSON. The Committee on Military Affairs and the Militia have directed me to report back the bill (H. R. No. 121) for the relief of Lieutenant William P. Richter, seventy-seventh regiment Ohio volunteer infantry, and recommend its passage.

Mr. SHERMAN. As that bill involves only five or six hundred dollars, six months' pay clearly due, as everybody will see on hearing the report, I ask that it be acted on now.

By unanimous consent, the bill was considered as in Committee of the Whole. By it the Secretary of War is to cause to be paid to William P. Richter, first lieutenant company H seventy-seventh regiment Ohio volunteer infantry, the pay and emoluments of a first lieutenant from the 31st day of December, 1861, to the 31st day of August, 1862.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ARREST OF H. F. ZIMMERMAN.

Mr. SAULSBURY submitted the following resolution for consideration:

Resolved, That the Secretary of War be directed to inform the Senate whether Henry F. Zimmerman, of the city of Washington, has been arrested and imprisoned by any order of the War Department, and if so, for what cause, and under what form of process.

NAVY-YARD AT CAIRO.

Mr. HALE. The Committee on Naval Affairs, to whom were referred the amendments of the House of Representatives to the bill of the Senate (No. 190) to establish a navy-yard and depot at Cairo in the State of Illinois, report that the Senate disagree to the amendments and ask for a committee of conference on the disagreeing votes of the two Houses.

Mr. GRIMES. I wish to know as a matter of order whether a motion to concur in the amend-

ment of the House of Representatives does not take precedence of the motion to disagree?

The PRESIDENT pro tempore. The Chair is of opinion that it does.

Mr. GRIMES. I move, then, that the Senate concur in the amendment made by the House of Representatives, and I desire to say one word. When this bill was before the Senate the other day I stated that, so far as my knowledge extended, there was not a single individual familiar with the subject who was in favor of the establishment of a navy-yard at Cairo, but on the contrary that every individual connected with the Navy who had been in the western flotilla was opposed to it. I stated furthermore that I had a letter from Admiral Porter, who I suppose is more familiar with the subject than anybody in the country, a letter volunteered by him adverse to the proposition of establishing the navy-yard permanently at any place by act of Congress, but saying that if it was necessary to establish one—of which he seemed to entertain some doubt—a commission should be appointed of officers to examine the various points. I had not that letter with me then. I have it now, and I propose to read it. As I have said, it is not a letter which was called out from Admiral Porter by anything I wrote on the subject to him, or that any other individual did, but was volunteered by him in view of what he believed to be the public interest in this connection.

MISSISSIPPI SQUADRON, FLAGSHIP BLACK HAWK,
CAIRO, February 21, 1864.

DEAR SIR: I see by the papers that a resolution has been offered in the House of Representatives to vote \$500,000 for a navy-yard at Cairo. This is only a move of speculators, and I hope that no place will be specified in the West without the matter being examined by a competent board of naval officers. Cairo is not the place anyhow. I do not know that we want any navy-yard appropriation just yet. I have fitted out the largest squadron in the Navy with a few old Fremont mortar boats converted into black-smith shops, and a few floating carpenter shops, and can now get along very well.

I thought it right to inform you of this matter, as there is no use to waste any more money than can be helped.

Very truly yours, DAVID D. PORTER,

Rear Admiral.

Hon. J. W. GRIMES, United States Senate, Washington,
District of Columbia.

I have nothing further to say except that this is a letter from a gentleman who is more conversant with this subject confessedly than any other man in the country, who has had experience for a year and a half in that flotilla, who has built it up almost entirely; and in his opinion I think every gentleman who is connected with the profession in the West fully concurs. I have nothing to say in regard to the particular place at this time, but I trust the Senate will adopt the amendment of the House of Representatives, which authorizes the President of the United States to establish a commission of naval officers to go and investigate, first, whether we need a naval depot and navy-yard upon the western waters, and, second, where it ought to be. I call for the reading of the amendment of the House of Representatives.

The PRESIDENT pro tempore. The amendment will be read.

The Secretary read the amendment of the House of Representatives, which was to change the title of the bill to read, "A bill authorizing the Secretary of the Navy to appoint a commission to select a site for a navy-yard and naval station on the western waters, and for other purposes;" and to strike out all of the bill after the enacting clause and insert the following:

That the Secretary of the Navy do, and he hereby is, authorized and empowered to appoint a commission, consisting of one naval officer, one officer of the engineer corps, and one civilian, to select the most approved site for a navy-yard and naval station on the Mississippi river, or upon one of its tributaries; and to report to the next session of Congress.

Mr. TRUMBULL. The only objection I have to concurring in the House amendment is the delay that will be occasioned by it, and the necessity there is for establishing a navy-yard at an early day and during the war. I should have no sort of objection in any other point of view, for I have no doubt that the board would select Cairo as the proper place, or somewhere in that vicinity; for notwithstanding the Senator from Iowa has said that everybody knows that Cairo is not the place, I differ with him altogether. I think everybody acquainted with the western waters knows that Cairo is the point where commodities exchange, where the different classes of steamboats

change their cargoes. It has been made the point now by the war.

Mr. GRIMES. No.

Mr. TRUMBULL. It is the great point, let me tell the Senator from Iowa, whence all the expeditions have started to the Southwest. That is where Foote went from, that is where Grant went from, that is where Sherman concentrated his army.

Mr. GRIMES. Does not the Senator know that the Navy Department and the officers in command there found it necessary to move everything away from Cairo and take it to Mound City, nine miles distant? They could not get along at all at Cairo.

Mr. TRUMBULL. I know that one of the officers has moved off to Mound City, and perhaps Mound City is the proper place. The bill says "at or near Cairo," and was designed to embrace Mound City. I think that was a mistake of the particular naval officer. My judgment is, if I were to express an opinion—I have seen both places—that there is a great misapprehension in regard to Mound City. It has a name that carries with it the impression that it is higher ground than Cairo. That is not true. Mound City is just as much subject to overflow as Cairo, and it derives its name Mound City from a little artificial mound not more than forty feet square, about as big as a hay-stack. The name, Mound City, has created, I have no doubt, in the minds of many who do not know about Mound City, a false impression as to its elevation. The ground overflows there the same as at Cairo and has to be protected at both places by levees. Now there is no protection at Mound City as there is at Cairo.

In regard to this letter of Admiral Porter, addressed to the Senator from Iowa, he regards that as conclusive of the opinions of the Navy. Admiral Porter very modestly goes on to question whether we should have any naval depot or not. The Secretary of the Navy, who consults with all the admirals, and to whom it is the duty of Admiral Porter to report, and to whom, doubtless, Admiral Porter did report, on examination of all the reports has recommended year after year the establishment of a navy-yard and depot in the West; but Admiral Porter, forsooth, has written a letter to a member of the Senate, in which he doubts very much whether any yard is necessary or not. That is his opinion about it. I have been informed, notwithstanding what Admiral Porter says in regard to his fitting up the gunboats in the West and the character of the boats we have there, that we have expended many millions of dollars in constructing a navy upon the western waters, and I have been further informed that we should have saved millions of dollars already if we had had a navy-yard and depot in the West.

We have appropriated at this very session of Congress more than two million dollars for the purpose of simply repairing navy-yards all over the country in the East. We appropriated \$100,000 or more for repairs of the Norfolk navy-yard. It was proper, I presume, that it should be appropriated. I suppose it was done on the recommendation of the Department. Now we have a large fleet on the western waters where we have got no navy-yard all. Why is this opposition to having a navy-yard upon the western waters any more than upon the Atlantic coast, and especially why does it come from the Senator from Iowa? Admiral Porter doubts if any navy-yard is necessary. Perhaps Admiral Porter doubts if any is necessary on the Atlantic coast or anywhere else; and is his doubt to govern the Senate?

But, sir, I do not wish to argue this matter over again or to take up time in reference to it. The only objection I have to this commission arises out of the fact that if you appoint a commission to make this investigation you put the thing over at the very time when it is desirable that we should commence this work and have the benefit of the navy-yard. I know no reason why the Senate should defer to this volunteer opinion of Admiral Porter. I do not know that Admiral Porter knows more than all the rest of the Navy in regard to this matter. I do not know that he knows more than the Secretary of the Navy. The annual communication of the Navy Department which is sent to Congress comes through the Executive, and that contains the suggestions of the head of

the Department. This is the first time, I believe, in my experience here that subordinate officers in the Army or Navy have come in with recommendations in opposition to the head of the Department. What are we coming to if such a practice is to prevail? Shall each general in the Army write a report in opposition to the recommendations of the War Department and send it here and the Senate take up its time in reading what each captain or colonel or general may recommend? We had better alter our laws and make it a part of the act of Congress that in addition to the annual reports from the heads of Departments all the subordinates in those Departments shall give their opinions. The Senator from Iowa would have us overrule the Secretary on this volunteer opinion, and not only a volunteer opinion sent to Congress to control its action in opposition to the report of the Secretary of the Navy, but it would seem to me an impertinent interference of a subordinate officer with the recommendations of the head of the Department. I can regard it in no other light. I shall vote for the report of the Committee on Naval Affairs, and I trust the Senate will sustain that report and let a committee of conference meet, and if they think proper after consultation with the House committee to agree upon a commission, as I said, there is no sort of objection on our part to it except simply the delay that will be thus occasioned.

Mr. GRIMES. The Senator is astonished that the opposition to this bill should come from me. I will tell the Senator why I am opposed to it. It is because I know Cairo, and I know it as well as the Senator does. I am satisfied that it is the place where the Government can sink the most money with the least advantage to it and to the service that can be found on the habitable globe, at any rate that can be found on this continent. It is because I love the Navy, and I want to protect it.

Mr. TRUMBULL. I understood the Senator just now to favor Mound City. I should like to know if Mound City has any advantage over Cairo?

Mr. GRIMES. The Senator is very apt to draw wrong conclusions and to make garbled statements which create false impressions, as I shall show before I am through. I have not said that I was in favor of Mound City. I have said in private conversation, though not in the Senate, that if the navy-yard were established at any place in that vicinity it ought to be at Mound City rather than at Cairo, and that I did not believe the provision of the bill as it was passed by the Senate providing for the establishment of a yard "at or near Cairo" would include Mound City.

The PRESIDENT *pro tempore*. The Chair must interrupt the Senator to call up the unfinished business of Saturday, which is Senate bill No. 171, relative to the collection of direct taxes in insurrectionary districts.

Mr. GRIMES. I suppose we might as well dispose of this question.

The PRESIDENT *pro tempore*. The special order will be informally laid aside, if there be no objection. The Chair hears none. The Senator from Iowa will proceed.

Mr. GRIMES. The Senator from Illinois says that the letter of Admiral Porter is impertinent because it conflicts with the recommendation of the Secretary of the Navy. It does not conflict with the recommendation of the Secretary of the Navy at all. The Secretary of the Navy has proposed that a navy-yard should be established in the West. Admiral Porter says he entertains a doubt as to whether we need an appropriation at this time for this purpose. He says, "I don't know that we want any navy-yard appropriation just yet;" and he says also, "Cairo is not the place anyhow." In regard to that matter he has had some experience. He has been two years on the western waters; for a large portion of that time he has been stationed at this very place, Cairo. He found, and the officers in conjunction with him all unanimously found, that it was to the public interest and to the personal advantage of every person connected with the fleet to make the transfer to Mound City.

The Senator says that Mound City is not higher than Cairo, and that the only elevation at Mound City is an artificial mound. Do you suppose that Admiral Porter, who has been there two years,

does not know whether Mound City is not higher than Cairo is? Do you suppose that he transferred the naval depot from Cairo to Mound City merely because there happened to be a little artificial mound in the vicinity of Mound City or in the rear of it, not bigger we are told than a hay-stack? Is that the basis on which Admiral Porter acted? He acted, I suppose, from the highest considerations of public interest, and he believed that the health of his squadron would be promoted and that the public interest would be subserved by moving the depot to Mound City; and yet it is now proposed by act of Congress to fasten it permanently at Cairo.

The Senator says he would consent to the proposition made by the House of Representatives if it were not for the length of time that it will take to establish the navy-yard. Does the Senator suppose that we are going to establish this navy-yard, and get workshops erected, and machinery put into them, and mechanics assembled around it, so as to live conveniently and healthily, within the next summer or within the next two years even? I apprehend not.

I know Cairo; I know that the levee which keeps the water out of it is required to be as high as the top of a two-story house; and I know, and I think the Senator does, that although it is only at extreme high water, occurring once in from three or four to ten years, that the water breaks over the levee, yet every year in the season of high water it slips through the levee so as to make inside of the levee from five to ten feet of stagnant water. Knowing as I do that more money can be expended there than at any other place on the Mississippi or Ohio river with less advantage to the Government, I did feel alarmed when I saw the Senate make the appropriation contained in the original bill on a day when gold was 256 in New York, and I did desire that the appropriation should be defeated. I wanted a commission of skillful officers appointed to go and determine where this navy-yard should be established, and not by an act of Congress, without any recommendation from anybody, absolutely fix it at Cairo.

The Senator wants to know whether we are going to accept the opinion of Admiral Porter in opposition to the opinion of everybody else in the Navy. Will the Senator tell me who else in the Navy is in favor of Cairo? Can he name one officer? Not one. He lugs in here the name of the Secretary of the Navy as being in favor of it. Has the Secretary of the Navy proposed to establish a navy-yard at Cairo? I have never seen any recommendation of that kind from him. The Senator seems to think that it was improper that Admiral Porter should write me a letter on this subject. What was it that the Senator quoted the other day? Did he not parade a letter of Admiral Foote, addressed to a member of Congress from Missouri, a private letter as this is, no more public than this?

Mr. TRUMBULL. I presume the Senator from Iowa does not mean to be inaccurate. That was a case where a letter was addressed by Mr. Noell, I think, to the Navy Department, and by the Navy Department referred to Admiral Foote.

Mr. GRIMES. No, sir. That was a letter addressed by Admiral Foote to Mr. Noell, a member of Congress from Missouri. A copy of it seems to have got into the Navy Department and was called for by the House of Representatives. That is my recollection of it.

Mr. TRUMBULL. Let us not have a dispute about a matter of fact. The letter of Admiral Foote was transmitted to the other House by the Department:

NAVY DEPARTMENT, March 7, 1864.

SIR: I have the honor to acknowledge the receipt of the resolution of the House of Representatives, passed on the 29th ultimo, requesting the Secretary of the Navy to "communicate to the House, if not incompatible with the public interest, a copy of Commodore Foote's report on the necessity of establishing a navy-yard and depot for naval purposes on the western waters, and the point where the same should be established, which report was addressed to Hon. John W. Noell, of the Committee on Naval Affairs, and dated February 5, 1862," and, in compliance therewith, to transmit herewith a copy of the report indicated.

Very respectfully, &c.,

GIDEON WELLES,
Secretary of the Navy.

HON. SCHUYLER COLFAX,
Speaker of the House of Representatives.

Mr. GRIMES. Now let us look at this. This is a letter of Admiral Foote in answer to a letter

from Mr. Noell, a member of the Naval Committee of the House of Representatives, written on the 5th of February, 1863, and, as appears on its face, written without any stimulation or direction of the Naval Committee. It is simply a letter, neither more nor less, although it is called in the resolution of the other House calling for it a "report." The only difference between the letter of Admiral Foote from which the Senator read when the subject was under consideration the other day and the letter of Admiral Porter is that the letter of Admiral Foote was called out by a letter addressed to him by a member of the House of Representatives, and the letter of Admiral Porter was not called out, but was volunteered by him. I submit that it is hardly fair for the Senator from Illinois to condemn Admiral Porter for writing to me, and at the same time use a letter from Admiral Foote written under very similar circumstances.

Mr. TRUMBULL. There is no importance in this matter, but it is better to be accurate and correct, and I do not wish any wrong impression to go out. The document which I read was a public document, communicated to Congress by the Secretary of the Navy as the report of Admiral Foote. It may have been made at the instance of a member of Congress; I do not know how that was. The paper which the Senator from Iowa has read is a private letter addressed to him, and never saw the Navy Department, I presume. I should have doubted whether Admiral Porter would be guilty of such insubordination, as I call it, as to write a communication of that kind at variance with the report of the Secretary of the Navy—not the report of the Secretary of the Navy in favor of establishing a navy-yard at Cairo; the Senator from Iowa misunderstood me if he understood me to say that the Secretary of the Navy recommended the establishment of a navy-yard at Cairo; but what I said was that the Secretary of the Navy recommended the establishment of a navy-yard on the western waters, and he has recommended more than once. Admiral Porter takes issue with him; he doubts the propriety of a yard at all. That was the point to which I called attention.

Mr. HALE. I rise simply to state the view the committee took. I have no feeling in this contest. The Senate, by a very decided vote, I think four or five to one, passed the bill to establish a navy-yard at Cairo. The House of Representatives adopted an amendment, not the one that was proposed here, to commit the subject to a board of naval officers, but to commit it to one naval officer, one engineer, and one civilian. The Committee on Naval Affairs thought that this was a third proposition, and that it was better to let the bill stand as it is and send it to a committee of conference who may probably agree on something that will be acceptable to both Houses.

Mr. BROWN. I trust the attention of the Senate will not be diverted from the merit of this case by the side-issue that is got up here as to Admiral Foote and Admiral Porter. It will be remembered that when this matter was before the Senate the other day the propriety of establishing a commission to investigate it before proceeding precipitately as had been recommended by the Naval Committee of this body was urged. The House of Representatives, it seems, by a very large majority, a majority so large that the opposition could not even get enough to call the yeas and nays, has decided in favor of that proposition and determined upon appointing a commission to investigate the various localities prior to any such establishment. The question is whether we shall do so. I trust that those who concur in that view will vote for the proposition which is made in the shape of an amendment by the House of Representatives. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 9; as follows:

YEAS—Messrs. Brown, Carlile, Clark, Collamer, Conness, Cowan, Fessenden, Foot, Grimes, Harris, Howe, Lane of Indiana, Lane of Kansas, Pomeroy, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wilkinson, and Wilson—22.

NAYS—Messrs. Anthony, Chandler, Davis, Hale, McDougall, Morgan, Powell, Trumbull, and Wade—9.

ABSENT—Messrs. Buckalew, Dixon, Doolittle, Foster, Harding, Harlan, Henderson, Hendricks, Hicks, Howard, Johnson, Morrill, Nesmith, Ramsey, Richardson, Saulsbury, Willey, and Wright—18.

So the amendment was concurred in.

CONVENTION WITH COLOMBIA.

Mr. SUMNER, from the Committee on Foreign Relations, who were instructed by a resolution of the Senate to inquire if any legislation is needed in order to carry into effect any treaty with the United States of Colombia, reported a bill (S. No. 335) to carry into effect a convention between the United States of America and the United States of Colombia.

Mr. SUMNER. As this is a matter of practical interest and must be acted upon by the other House during this session, I ask that it may be proceeded with now.

By unanimous consent, the bill was read three times, and passed. It proposes to renew, reenact, and apply to the convention with the United States of Colombia of February 10, 1864, the first eight sections of the act to carry into effect conventions between the United States and the republics of New Granada and Costa Rica, approved February 20, 1861.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that the President of the United States had approved and signed on the 25th instant the following bills and joint resolution:

A bill (S. No. 26) to provide for the public instruction of youth in the county of Washington, District of Columbia, and for other purposes;

A bill (S. No. 85) to provide for the examination of certain officers of the Army;

A bill (S. No. 115) to amend an act entitled "An act to define the powers and duties of the levy court of the county of Washington, District of Columbia;"

A bill (S. No. 162) amendatory of an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863;

A bill (S. No. 253) to amend the act of the 21st December, 1861, entitled "An act to further promote the efficiency of the Navy;"

A bill (S. No. 265) to expedite and regulate the printing of public documents, and for other purposes;

A bill (S. No. 270) to amend an act entitled "An act to establish and equalize the grade of line officers of the United States Navy," approved July 16, 1862;

A bill (S. No. 279) to amend the act of Congress making donations to the settlers on the public lands in Oregon, approved September 27, 1850, and the acts amendatory thereto;

A bill (S. No. 306) to grant to the State of California certain lands for State prison purposes; and

A joint resolution (S. No. 44) for the relief of clerks at the Kittery and Philadelphia navy-yards.

RAILROAD TO THE PACIFIC.

Mr. HOWARD. The Committee on the Pacific Railroad, to whom was referred the bill (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, have instructed me to report it back with an amendment, which amendment is a substitute for the House bill, and is the Senate bill that was passed by this body several days ago, with a few verbal and inconsiderable alterations; and the committee have instructed me to ask for the present consideration of the bill.

Mr. FESSENDEN. I cannot consent. I must insist upon taking up the loan bill.

Mr. HOWARD. This bill has been discussed in all its clauses, and I really do not believe it will occupy the time of the Senate for more than a few minutes. If it were likely to consume much time I would not ask to have it taken up now.

Mr. FESSENDEN. It is very important to pass the loan bill to-day, and I cannot consent that anything shall come up now that will lead to debate.

The PRESIDENT *pro tempore*. Objection being made, the bill reported by the Senator from Michigan cannot now be considered.

WAYS AND MEANS.

Mr. FESSENDEN. I move to postpone all prior orders and take up the loan bill.

The motion was agreed to; and the bill (H. R.

No. 540) to provide ways and means for the support of the Government, and for other purposes, was considered as in Committee of the Whole.

The first amendment of the Committee on Finance was to strike out the eighth section of the bill, which was as follows:

Sec. 8. And be it further enacted, That whenever any bond, Treasury note, or certificate of indebtedness of the United States which shall be presented to the Secretary of the Treasury for payment, being due, or presented for conversion under any act of Congress, shall be or shall have been claimed by any person or corporation other than the person or corporation in whose possession the same shall be, by filing a caveat with the Secretary of the Treasury against the payment of the same, the Secretary of the Treasury shall notify such claimant in writing of the fact of such presentation and require him within a reasonable time, to be prescribed by the Secretary of the Treasury, to commence proceedings for the adjudication of the claim before some court of competent jurisdiction, and to give satisfactory security to pay any damages occasioned by delay of payment and costs of suit, and to transmit a duly certified copy of the bill or complaint to the Secretary of the Treasury. And in case of the failure of such claimant to comply with such requirement, the Secretary of the Treasury shall make payment to the party in possession of and presenting such bond, Treasury note, or certificate of indebtedness, or direct the conversion of the same if convertible as though no such contesting claim had been made or caveat filed. But this act shall not be construed to compel the Secretary of the Treasury to suspend the payment of coupons detached from bonds by whomsoever presented.

The amendment was agreed to.

The next amendment was in the eleventh section to strike out the word "alter" and insert "utter."

The amendment was agreed to.

The next amendment was to add the following proviso to the thirteenth section:

And provided further, That the foregoing provisions of this section shall not be held or construed to deprive any person of the right to retain in his custody and possession and use for any lawful purpose any engraved or transferred plate, block, or electrotype, or any die, roll, or other original work as aforesaid which had been, or by him in printing or engraving bank notes or other obligations before being used in printing any obligation or other security authorized to be issued by any act of Congress; nor shall any of said foregoing provisions be held or construed to prohibit or restrain the lawful use by any person of any ink, color, or pigment the exclusive right to which has been secured to any such person by letters patent which are still in force.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. FESSENDEN. The Secretary of the Treasury has sent me an amendment in order to meet a possible difficulty that may arise. It is to insert after "stated," in line twenty-one of section six the following words:

And all coupons bearing the engraved signature of the Register of the Treasury in office at the time when such signatures were authorized and engraved shall have full force, validity, and effect, notwithstanding such Register may have subsequently ceased to hold office as such, when issued in connection with bonds duly authorized and signed by or for the successor or successors of said Register.

The amendment was agreed to.

Mr. FESSENDEN. At the end of the third section I move to insert "except so far as it may affect \$75,000,000 of bonds already advertised."

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

ROOMS FOR THE AGRICULTURAL DEPARTMENT.

Mr. SHERMAN. I am directed by the Committee on Agriculture to report back a joint resolution (H. R. No. 32) to grant additional rooms to the Agricultural Department, and I ask that it be put upon its passage now.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It recites that the space assigned to the Department of Agriculture in the Patent Office building, included between the central crypt and the west wing in the first story on the south front, is entirely inadequate to the necessities of the Department, two of the rooms within these limits being used as furnace-rooms for the Patent Office, one as a chemical laboratory, and another having recently been taken for the use of the Land Office, leaving but five rooms, with one small store-room, for the business of the Department; and that additional rooms are indispensably necessary for the convenience of the Commissioner, for the accommodation of clerks engaged in the collection and compilation of statistics and in other official duties; for the better accommodation of the op-

erations of the chemist in making agricultural tests, analyses, and experiments, and for the arrangement and exhibition of pomological, entomological, and agricultural specimens, models, and paintings; and it is therefore provided that, in addition to the rooms now occupied by the Department of Agriculture, there shall be assigned to that Department the suite of rooms upon the first floor included between the southwest corner and the western entrance of the Patent Office building.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

NORTHERN PACIFIC RAILROAD.

On motion of Mr. HARLAN, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound on the Pacific coast by the northern route, which had been reported from the Committee on Public Lands with amendments.

The first amendment was in line forty-four of section one to strike out "Edward" and insert "William," so as to make the name of one of the incorporators "William Leighton" instead of "Edward Leighton."

The amendment was agreed to.

The next amendment was after the word "be" in line sixteen of section two to insert "consistent with public policy and the welfare of the said Indians;" so as to make the clause read:

The United States shall extinguish, as rapidly as may be consistent with public policy and the welfare of the said Indians, the Indian titles to all lands falling under the operation of this act, and acquired in the donation to the road named in this bill.

The amendment was agreed to.

The next amendment was in section three, line seven, after the word "of" to insert "public;" after "land" in line eight to insert "not mineral;" after "title" in line fourteen to insert "not reserved, sold, granted, or otherwise appropriated;" after "fixed" in line seventeen to insert "and a plat thereof filed in the office of the Commissioner of the General Land Office;" after the word "been" in line nineteen to insert "granted;" after "sold" in line twenty to insert "reserved, occupied by homestead settlers;" after "preempted" in line twenty-one to insert "or otherwise disposed of;" and after "sections" in line twenty-three to insert "and designated by odd numbers;" so as to make the section read:

That there be, and hereby is, granted to the Northern Pacific Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores, over the route of said line of railway, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the Territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any State, and whenever, on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from preemption or other claims or rights, at the time the line of said road is definitely fixed, and a plat thereof filed in the office of the Commissioner of the General Land Office; and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or preempted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections.

The amendment was agreed to.

The next amendment was in section three, line twenty-six, to strike out "same" before "line;" after "line" to strike out "upon which" and insert "of;" after "any" in line twenty-six to insert "other;" after "route" in line twenty-seven to strike out "within the State of Minnesota;" before "general" in line thirty to insert "same;" after "amount" in line thirty-one to strike out "now;" and after "granted" in line thirty-two to insert "by this act;" so as to make the proviso read:

Provided, That if said route shall be found upon the line of any other railroad route to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act.

The amendment was agreed to.

The next amendment was to strike out the following proviso in section three:

Provided further, That all mineral lands be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands nearest to the line of said road may be selected as above provided.

The amendment was agreed to.

The next amendment was after the word "lands" in line twelve of section four to insert "situated opposite to and continuous with said completed section of said road."

The amendment was agreed to.

The next amendment was to insert the following provisos at the end of section four:

Provided, That not more than ten sections of land per mile, as said road shall be completed, shall be conveyed to said company for all that part of said railroad lying east of the western boundary of the State of Minnesota, until the whole of said railroad shall be finished and in good running order, as a first-class railroad, from the place of beginning on Lake Superior to the summit of the Rocky mountains: Provided also, That lands shall not be granted under the provisions of this act on account of any railroad, or part thereof, constructed at the date of the passage of this act.

The amendment was agreed to.

The next amendment was in section five, line seventeen, after the word "built" to insert "by the United States or;" so as to make the clause read:

And it shall be the duty of the Northern Pacific Railroad Company to permit any other railroad which shall be authorized to be built by the United States or by the Legislature of any Territory or State in which the same may be situated, to form running connections with it, on fair and equitable terms.

The amendment was agreed to.

The next amendment was after the word "company" in line nine to insert "as provided in this act."

The amendment was agreed to.

The next amendment was to strike out lines twenty-five, twenty-six, twenty-seven, and twenty-eight of section seven, in the following words:

And shall also deduct from the damages to be awarded to the applicant for the same any increase in the value due to the construction of the road of the premises retained by him, provided such premises formed a portion of those taken.

The amendment was agreed to.

The next amendment was in line seventy-seven of section seven to strike out "and may" and insert "but the judge of the court hearing said suit shall."

The amendment was agreed to.

The next amendment was to insert "he" before "may" in line eighty of section seven.

The amendment was agreed to.

The next amendment was in line eighty-three of section seven to strike out "three" and insert "six;" so as to make the clause read:

But in case no claimant shall appear within six years from the time of the opening of said road across any land, all claims to damages against said company shall be barred.

The amendment was agreed to.

The next amendment was after the word "for" in line two of section fifteen to insert "the period indicated in the by-laws of said company not exceeding;" so as to read:

That the president, vice president, and directors shall hold their offices for the period indicated in the by-laws of said company, not exceeding three years, respectively, and until others are chosen in their place, and qualified.

The amendment was agreed to.

The next amendment was to insert the following as a new section:

Sec. 21. And be it further enacted, That before any land granted by this act shall be conveyed to said company or party entitled thereto under this act, there shall be first paid into the Treasury of the United States by said company or party in interest the gross cost of surveying, selecting, and conveying the same, which amount shall, without any further appropriation, stand to the credit of the proper account, to be used by the Commissioner of the General Land Office for the prosecution of the survey of the public lands along the line of said roads, and so from year to year, until the whole shall be completed, as provided under the provisions of this act.

The amendment was agreed to.

Mr. HARLAN. There is a clerical error in the eighth line of section seven. The word "its" should be "his."

The PRESIDENT pro tempore. That alteration will be made.

Mr. CONNESS. I offer a short amendment to come in at the end of the third section, simply to define the word "mineral" where it occurs in

the bill, and to conform to the definition given in the general Pacific railroad bill:

And provided further, That the word "mineral," where it occurs in this act, shall not be held to include iron or coal.

The amendment was agreed to.

Mr. LANE, of Kansas. In line twenty-six of section one I move to strike out "John E. Perley" and insert "Ellsworth Cheeseborough," and in line twenty-seven to strike out "F. W. Emery" and insert "James S. Emery."

The amendment was agreed to.

Mr. RAMSEY. I propose to amend this bill by adding to the fifth section the following clause:

And that for the purpose of aiding the construction of such railroad connections with the navigable channel of the Mississippi river, the grants of lands hitherto made to the State of Minnesota and now vested in the Winona and St. Peter Railroad Company and in the St. Paul and Pacific Railroad Company, are hereby enlarged to ten alternate sections of land per mile on each side of the said railroad lines, to be selected and allotted to said railroad companies in the manner and under the conditions prescribed by this act.

Mr. HARLAN. That proposition has not been considered by the Committee on Public Lands, and I am unprepared to say just how it would affect the communications with this road. Congress has at this session enlarged the grants to two roads running jointly entirely across the State of Minnesota. The bill now pending, without the adoption of this amendment, gives a large grant of land to Minnesota virtually to aid in the construction of another line across the State from east to west, across the whole breadth of the State; and I think it would be better not to add this amendment at this time without consideration.

Mr. RAMSEY. I think that my suggestion really would perfect the bill, as it seems to me somewhat defective as it is. In the winter when ice has closed Lake Superior with a coating of about five or six feet of ice there will be no outlet for the business of this road unless it be furnished through the communication mentioned in my amendment, so as to give an opportunity of getting down to the railroad systems of Wisconsin and Minnesota. Without it the bill is worth nothing, and for six months in the year no transportation can be had on the road; but by the assistance which I propose, the extension of the grants from six to ten miles on each side of the two railroads I have named, those roads will be enabled to hurry on their connections with the Northern Pacific railroad, and make it available at an early day. I think if the Senate will reflect on the importance of these connections they will not hesitate about adopting the amendment.

Mr. CONNESS. There is no greater obstruction to the passage of Pacific railroad bills than a disposition to connect with them collateral questions. I hope this amendment will not be agreed to. When a standing committee of this body shall declare that the ice in the lake is as thick as the Senator states, though I have no reason to doubt his statement, and when it shall be officially stated by a committee that the grant of land made to the railroad companies in Minnesota should be increased to ten sections a mile, I shall have no objection to voting for it; but I hope that no branches and no collateral questions will be allowed to be fastened upon our Pacific railroad bills. Let us consider them as great propositions. My friend from Minnesota, generous in his nature, is also very generous in his applications for the appropriation of public land for railroads. One would suppose that he would be content with the amount already appropriated this year to his State or to companies within his State. I am sure that I cannot now count the number of such bills that I have voted for, or the number of millions of acres included in all the grants made. I hope that we shall stop for this session, and next year when we shall have time to examine the subject more thoroughly we may grant to Minnesota for the purpose of keeping communication open with the rest of the world some additional millions of acres of land.

Mr. RAMSEY. Senators, with a view of prejudicing these grants that are proper in themselves, are in the habit very much of exaggerating the benefits we receive from grants of land made to our State. The grants made this winter do not amount to more than a million acres in all, and they extend over five or six hundred miles of country. But, sir, the position of the Senator from California is somewhat surprising. He has

been the earnest advocate of the Central Pacific railroad with half a dozen branches as it approaches the Mississippi river, and not merely land appropriations, but large indorsements of their bonds on the part of the Government.

Mr. CONNESS. Allow me to correct the Senator. I have not advocated any branch to that road but the branches which were established by the law of 1862 under which rights had vested. There was a unanimous vote of the Committee on the Pacific Railroad of this body that no additional branch should be added.

Mr. RAMSEY. Besides the liberal grant to the Central Pacific railroad I think there are some five or six or seven radiating branches, each of which participates in the general grant and the indorsement of bonds by the Government to the extent of \$24,000 a mile; but here, when we come to ask for this trifling increase of the land grants to these two roads so as to make connection with the Northern Pacific railroad, we are met with this objection. It is unreasonable, I think, and especially unreasonable on the part of the friends of the Central road. Without these branches this road will be really valueless.

Mr. HENDRICKS. The bill before the Senate proposes to encourage the construction of a very important railroad to connect the waters of Lake Superior with the waters of the Pacific ocean. Everybody can see at a glance that it is a work of national importance. It proposes to grant lands in a northern latitude where without the construction of a work like that the lands are comparatively without value to the Government. No person acquainted with the condition of that section of country supposes that there can be very extensive settlements until the Government shall encourage those settlements by the construction of some work like this. I do not think that a work of such national importance ought to be embarrassed in its passage through this body and through the House of Representatives by amendments proposing works that are comparatively local. I have favored a grant of lands to the State of Minnesota where I thought it was right. I was in favor of a grant of lands to aid the road from St. Paul up to Lake Superior. Let that road be made; that forms a connection between the capital of the State of Minnesota and that great body of water, and also, if this road is constructed, with this road; and that is a sufficient connection I think for the interests of the State of Minnesota. The Committee on Public Lands has not been prepared, so far as I understand the views of that committee, to recommend as separate propositions the amendment proposed by the Senator from Minnesota. We did recommend a grant of ten sections per mile on each side of the road from St. Paul to Lake Superior for reasons peculiar to that work; a similar extension of the grants was made to some of the roads in Wisconsin because of peculiar reasons; but the Senate has not yet agreed that all the grants of a local sort shall be extended as is proposed by the Senator from Minnesota. I am not prepared to say that as a separate proposition I could give the amendment of the Senator from Minnesota my support. There are some reasons that govern my judgment both ways. His proposition ought to be considered separately. One of the roads that he proposes now to increase the grant to, has no connection with the Pacific railroad and never can have except by other roads.

Mr. RAMSEY. What road does the Senator refer to?

Mr. HENDRICKS. The Winona and St. Peter road.

Mr. RAMSEY. It is intended to carry it west.

Mr. HENDRICKS. The Winona road runs from Winona westward to St. Peter or to Mankato on the Minnesota river, and thus westward with a view of reaching the western boundary of the State of Minnesota—a road that does not and cannot touch the Pacific railroad at all. The other road perhaps may touch the Pacific railroad at some point away to the northwest; but there is not much probability of a road ever being constructed so far north as that, which shall intersect with the proposed road from Lake Superior to Puget sound. But, sir, without reference to the merits of the local railroads in the State of Minnesota, I suggest to the Senate that it is not proper to burden a great national enterprise with amend-

ments such as are proposed by the Senator from Minnesota.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. HARLAN. Perhaps it is my duty to call the attention of the Senate to the difference between this grant and other land grants that have been made heretofore to aid in the construction of railroads. There is no material difference except in this, that this bill grants four times as much land per mile to the road west of the western boundary of Minnesota as Congress hitherto has ever granted to aid in any other road. It will amount to about twenty-five thousand acres to the mile. The Committee on Public Lands agree to report this bill favorably on account of the vast consequence that will attach to the completion of the road. The land is to be conveyed to the company only as the road progresses. The committee were of opinion that if the road should be built, the Government could well afford to give one half the land, for the distance of forty miles on each side of the road, to secure its completion. If it should not be built, no lands will have been conveyed. Congress never has heretofore granted to exceed ten sections to the mile to aid in the construction of any road. I have felt it my duty as chairman of the committee to call the attention of the Senate to the fact that this bill proposes to grant four times the usual quantity of land per mile to aid in the construction of this road westward of the western boundary of Minnesota to the terminus.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

RAILROAD TO THE PACIFIC.

Mr. HOWARD. I move to take up House bill No. 438.

Mr. HARRIS. I hope the Senator from Michigan will allow me to call up the bill that was the unfinished business this morning. I move that the Senate proceed to the consideration of Senate bill No. 171.

The PRESIDING OFFICER. (Mr. POMEROY.) The question is on the motion of the Senator from Michigan.

The motion was agreed to.

Mr. HARRIS. I ask the consent of the Senator to let us proceed to the consideration of the bill to which I have alluded.

Mr. HOWARD. If it will not consume any time I shall not object.

Mr. HARRIS. I do not think it will take long. It is the bill in relation to the collection of taxes in insurrectionary districts. It is a bill that will be required to be passed by the House of Representatives; and it is regarded at the Treasury Department as a very important measure.

Mr. HOWARD. I cannot yield for that purpose, I regret to say.

The PRESIDING OFFICER. The bill (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, is before the Senate as in Committee of the Whole.

Mr. HOWARD. I beg to say that House bill No. 438 is a bill to amend the Pacific railroad act which was passed in 1862. In many respects the bill is a very good one, and in many respects I think it defective. The Senate Committee on the Pacific Railroad had the bill before them this morning and instructed me to offer as an amendment or substitute for it the Pacific railroad bill as it passed the Senate a few weeks ago. In respect to this last Pacific railroad bill, I beg to say that after it passed the Senate and was taken to the House of Representatives it was referred to the committee on the Pacific railroad of that House. They had the bill under consideration, and I suppose in point of fact they have it under their consideration now in committee, because since the reference of it to them that committee have not been able to make any report to the House in consequence of the peculiarity of the rules of the House, so that it is impossible for the committee on the Pacific railroad of the House of Representatives to report back to the House the

bill which passed this body. Now, if it be not out of order, I ask to dispense with the reading of the House bill No. 438, which has not been read at length in this body, for the purpose of offering my amendment, which is the substitute recommended by the committee.

Mr. SHERMAN. If I understand the Senator from Michigan, the amendment he proposes to offer is simply the bill already passed through this body after mature consideration.

Mr. HOWARD. Yes, Mr. President, with a few amendments which I will briefly mention.

Mr. SHERMAN. I do not think it is worth while for us to spend two hours to read that bill.

Mr. HOWARD. Of course not.

Mr. SHERMAN. I suggest to the Senator that he just move the amendment, and if any Senator desires information in regard to it he can state it. It is the same bill we acted on before.

The PRESIDING OFFICER. The reading will be dispensed with by unanimous consent. The Chair hears no objection.

Mr. HOWARD. Now I beg to say, in regard to the amendment which the Committee on the Pacific Railroad have directed me to offer, that it differs from the Pacific railroad bill as it passed the Senate only in the following respects, and to these little matters I beg the particular attention of the Senate.

In the first place, it provides specifically that the present directors of the corporation known as the Union Pacific Railroad Company shall cease to be such on the second Wednesday of October, 1864, and that on that day there shall be an election of a full board of directors of that company, consisting of twenty-one. Lots are to be cast for the purpose of ascertaining what seven of those twenty-one directors shall go out of office one year from that time, and so on to the end of three years. At present the number of directors of the company as now organized is thirty. The committee have thought it unreasonable that there should be so many. The original bill as it passed the Senate provided for only twenty-one, but it did not happen to provide very specifically for the election next October. That is the first change, to which, I presume, there will be no objection.

The second alteration of the Senate bill consists in this: the committee do not include in the amendment which they now offer to the House bill the clause requiring the payment of the interest of the guaranteed bonds to be made in gold and silver; that clause we strike out and allow the interest on the guaranteed bonds to be paid in the legal-tender notes of the United States, or anything else which is declared to be money; and I understand from some very respectable gentlemen who are connected with the Union Pacific Railroad Company, and who are interested in the enterprise, that they will, upon the whole, be content to accept these guaranteed bonds upon the payment of interest in legal-tender notes; they waive their claim for the present to the payment of interest in gold and silver. This will be a very great relief to the United States in the present disturbed state of the currency, and especially at the present moment when gold is at so very high a price.

The third alteration is a merely verbal alteration and does not make any change whatever in the tenor of the bill as it passed the Senate. With this explanation I move that this be substituted for the bill.

Mr. CLARK. I desire to inquire whether the committee in this amendment have included any of the provisions which the Senate struck out of the original bill.

Mr. HOWARD. No, sir; not one.

Mr. SHERMAN. This is a very important bill, and I wish we should all understand it. I was present at the meeting of the committee, but I have not seen the detailed amendment. I understand it is the bill as it passed the Senate previously with the modification that interest is to be paid in paper instead of gold and silver, the modification that there shall be an election next October of all the directors, and that new books shall be opened for the subscription of stock.

Mr. HOWARD. All the other provisions of the bill remain precisely as we passed it.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Michigan.

Mr. LANE, of Kansas. The chairman says he has consulted with the parties interested. Has he consulted with the company that has constructed forty miles of the road? Are they willing to accept the bonds with interest payable in legal-tender notes instead of in gold?

Mr. HOWARD. I have not consulted that company.

Mr. LANE, of Kansas. It is the company that is constructing the Kansas branch. That is the only company that has made any portion of the road under the old bill.

Mr. HARLAN. Under the old bill interest is payable in lawful money only and not in gold and silver.

The amendment was agreed to.

The bill was reported to the Senate and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

PRIVATE BILLS.

Mr. CLARK. I desire the Senate at some time when it may be convenient—I will not ask for it to delay public business—to give me a little time for a few private bills which come from the Committee on Claims. ["Agreed!"]

PRIZE PROCEEDINGS.

On motion of Mr. FOSTER, the bill (H. R. No. 446) to regulate prize proceedings and the distribution of prize money, and for other purposes, was considered as in Committee of the Whole.

Mr. FOSTER. In line sixteen of section eight, I move to strike out "marshal" and insert "auctioneer."

The amendment was agreed to.

Mr. FOSTER. In line nineteen of that section I move to strike out "he" and insert "the marshal."

The amendment was agreed to.

Mr. FOSTER. On page 15, section sixteen, line nine, I move to strike out the word "by," and insert the words "in their accounts with." It now reads:

And the persons entitled to share therein shall be severally credited by the Navy Department with the amounts to which they are respectively entitled.

It should read, "in their accounts with the Navy Department."

The PRESIDENT *pro tempore*. That amendment will be made if there be no objection.

Mr. FOSTER. On page 16, section sixteen, line twenty-three, I move to strike out the words "officered, manned, and." It now reads:

Provided, That in case of vessels not of the Navy, but officered, manned, and controlled by any Department of the Government, the whole amount decreed to the captors shall be divided among the ship's company.

It should read, "but controlled by any Department of the Government."

The PRESIDENT *pro tempore*. That amendment will be made if there be no objection.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed.

PUBLIC PROPERTY IN WASHINGTON.

Mr. MORRILL. I am instructed by the Committee on the District of Columbia, to whom was referred the joint resolution (H. R. No. 111) authorizing the Secretary of the Interior to reclaim and preserve certain property of the United States, to report it back to the Senate without amendment and with a recommendation that it pass; and as it is a matter of importance, I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs the Secretary of the Interior to prevent the improper appropriation or occupation of any of the public streets, avenues, squares, or reservations in the city of Washington belonging to the United States, and to reclaim the same if unlawfully appropriated, and particularly to prevent the erection of any permanent building upon any property reserved to or for the use of the United States, unless plainly authorized by act of Congress; and to report to the Congress, at the commencement of its next session, his proceedings in the premises, together with a full statement of all such property, and how and by what

authority the same is occupied or claimed. Nothing herein contained is to be construed to interfere with the temporary and proper occupation of any portion of such property, by lawful authority, for the legitimate purposes of the United States.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

STEAMBOAT MAGNET.

The PRESIDENT *pro tempore*. The Senate will resume the consideration of the bill which is the special order of the day, Senate bill No. 171.

Mr. SPRAGUE. With the permission of the Senator from New York [Mr. HARRIS] who has charge of that subject, I will ask the Senate to take up Senate bill No. 323. It is a bill reported from the Committee on Commerce, simply proposing to change the name of a vessel.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 323) to change the name of the steamboat Magnet, of Buffalo, to Home.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DIRECT TAXES IN INSURRECTIONARY DISTRICTS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 171) further to amend an act entitled "An act for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862, the pending question being on the amendment of Mr. TEN Eyck to strike out all of the first section of the bill after the enacting clause in the following words:

That in any case in which a sale of lands or tenements has been or shall be made by a board of tax commissioners, appointed pursuant to the act of which this is an amendment, and a certificate of sale issued by the board to the purchaser or purchasers of said lands or tenements, it shall and may be lawful for the tax commissioners to issue, in such form as the Secretary of the Treasury shall prescribe, a writ, directed to the marshal of the district in which said lands or tenements are situated, commanding him to put the said purchaser or purchasers forthwith into possession of the said lands or tenements, and to make return of his proceedings under the said writ within thirty days to the commissioners, who shall keep a record of their proceedings in the matter, and who may, in case of any failure on the part of the said marshal to execute the first writ, issue alias and pluries writs, as the circumstances may to them seem to require. In case the marshal of the district shall be unable, either by himself or by deputy, to execute such writ, or in case there shall be no marshal of the United States within the said district at the time of the issuing of said writ, the same may be executed and returned by any fit person, to be specially appointed by the said board of tax commissioners for the purpose, which appointment shall be in writing and indorsed on the said writ: *Provided*, That where the lands or tenements so sold shall, at the time of such sale, be occupied by the United States authorities for hospital or other purposes, the issuing of such writ shall be suspended during such occupancy, and the purchaser or purchasers of such lands or tenements shall be entitled to and receive such rent or compensation for the use of such lands or tenements as the Secretary of the Treasury, under regulations prescribed by him, shall order or direct.

The motion to strike out was rejected.

Mr. HARRIS. I offer the following amendment to come in as a new section:

And be it further enacted, That when any lands, tenements, parcels, or lots of land which have been selected under direction of the President for Government use, or which have been purchased at any sale made by a board of tax commissioners for the United States, have been entered upon by persons claiming preemption rights thereon, with the consent or by the authority of the board of tax commissioners, and in accordance with instructions heretofore issued by the President of the United States, such persons shall be taken and deemed to have acquired rights of preemption in said land; and all certificates that have been issued or that shall hereafter be issued by the said board of commissioners to such persons shall be valid and effectual as though issued pursuant to the act of which this is amendment.

The amendment was agreed to.

Mr. HARRIS. I offer another amendment to come in as a new section:

And be it further enacted, That boards of tax commissioners shall give such notice by advertisement of sales of lands to be made by them by authority of law as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, shall order and direct.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that

the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 266) to prevent smuggling, and for other purposes; and

A bill (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes.

ENCOURAGEMENT OF IMMIGRATION.

Mr. SHERMAN. I ask the Senate to postpone all prior orders with a view to take up House bill No. 411, to encourage immigration. It will take but a moment.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Agriculture with an amendment in the nature of a substitute.

Mr. SHERMAN. I do not know that it is necessary to read the bill or the amendment at large. The Senate unanimously passed a bill on this subject at an early stage of the session, which was very maturely considered by the Committee on Agriculture, and sent it to the House. Shortly after that the House passed another bill on the same subject, and sent it to the Senate, the two bills never having been brought in contact with each other. The Committee on Agriculture have reconsidered the whole matter, and we came to the conclusion that the Senate bill as we passed it was all the aid that Congress ought now to render. We propose to strike out the whole of the House bill and insert the Senate bill, which has already received the sanction of the Senate.

The PRESIDENT *pro tempore*. The reading will be dispensed with, if there be no objection. The question is on the amendment reported from the Committee on Agriculture.

The amendment was agreed to.

Mr. COWAN. I should like to know what the provisions of the bill are.

Mr. SHERMAN. It can be read if desired. It is not very long. The provisions are very simple. The bill has been once acted upon by the Senate. I will state to the Senator that the first section of the bill provides for a Commissioner of Immigration; the second authorizes the Commissioner of Immigration, in order to encourage immigration, to distribute information to the countries from which the immigrants come, and makes an appropriation for that purpose, the whole amount being \$50,000 per annum. The bill is on a modest scale to commence with. We believe that the organization of such a bureau might properly facilitate immigration at this time, and probably avoid the difficulties and frauds that are practiced on immigrants.

The PRESIDENT *pro tempore*. Is the reading of the bill desired?

Mr. COWAN. No, sir.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

FREEDMEN'S BUREAU.

Mr. SUMNER. I now move that the Senate proceed to the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. POWELL. I hope the Senate, before it proceeds to the consideration of that bill, will take up the motion to reconsider the vote passing Senate bill No. 37. There will be no debate upon it at all.

Mr. SUMNER. I suggest that the Senator from Michigan [Mr. HOWARD] is not now in his seat. I do not think the Senate ought to proceed with that subject in his absence.

Mr. POWELL. I wish to have that motion voted upon. I do not want the bill to be kept here by this motion to reconsider so that if it should finally pass there will be no time for action upon it in the House of Representatives. I suppose the Senator from Michigan is in the Capitol, and can be here in a moment.

Mr. SUMNER. As he is not in his seat I should not deem it right for that motion to be taken up in his absence. I think we can proceed with the bill I have indicated, and with a few amendments that I propose to make bring it to a close.

Mr. DAVIS. I ask for the yeas and nays on the motion of the Senator from Massachusetts.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 8; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Foot, Harlan, Harris, Howe, Lane of Indiana, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Wade, Wilkinson, and Wilson—20.

NAYS—Messrs. Carlile, Cowan, Davis, Hicks, Nesmith, Powell, Riddle, and Saulsbury—8.

ABSENT—Messrs. Buckalew, Collamer, Conness, Dixon, Doolittle, Fessenden, Foster, Grimes, Hale, Harding, Henderson, Hendricks, Howard, Johnson, Lane of Kansas, McDougall, Richardson, Ten Eyck, Van Winkle, Willey, and Wright—21.

So the motion to take up the bill was agreed to.

BAIL IN CASES OF MILITARY ARRESTS.

Mr. TRUMBULL. Before proceeding with that bill I will ask the Senator from Massachusetts to allow me to take up a little bill, by unanimous consent, that will take but a moment.

Mr. SUMNER. If my bill can be passed over informally, without losing its place, I shall have no objection.

Mr. TRUMBULL. It is Senate bill No. 317, providing for bail in certain cases of military arrests.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. TRUMBULL. The Committee on the Judiciary have reported the bill, with an amendment in the nature of a substitute. I suggest, therefore, that the amendment only be read.

The PRESIDENT *pro tempore*. That course will be pursued if there be no objection.

The Secretary read the amendment, to strike out all of the bill after the enacting clause, and to insert in lieu thereof the following:

That upon all arrests under section sixteen of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, bail shall be allowed, and such bail on demand of the party so arrested may be taken before the chief or any associate justice of the Supreme Court of the United States, of the District of Columbia, or of any Territory of the United States, any judge of a district court of the United States, or commissioner of the circuit court authorized to take bail, who shall exercise their discretion therein regarding the nature of the offense and the evidence and usages of law.

Mr. TRUMBULL. I desire to offer one or two amendments to the amendment, merely to correct the phraseology, not altering the meaning. In the first line of the amendment I move to strike out the words "all arrests under," and to insert, "the arrest of any contractor charged with the commission of any offense specified in."

The PRESIDENT *pro tempore*. That amendment will be made if there be no objection.

Mr. TRUMBULL. In line six, after the word "bail," I move to insert "for his appearance to answer before the court-martial."

The PRESIDENT *pro tempore*. The amendment will be made if there be no objection.

The amendment, as amended, was agreed to.

Mr. POWELL. I move to amend the bill by adding the following as an additional section:

And be it further enacted, That any officer in the executive, military, or naval service of the United States who shall arrest, or cause to be arrested, any person or persons not engaged in the military or naval service of the United States, and who is not engaged in the rebellion against the United States, shall immediately hand the person or persons so arrested over to the civil authorities to have their case investigated and the parties so arrested tried according to law. Any officer engaged in the executive, naval, or military service of the United States, who shall violate this section shall be deemed guilty of felony, and upon indictment and conviction thereof in any court of the United States having jurisdiction to try and punish such cases, shall be punished by a fine of not less than \$500 and not exceeding \$10,000, or confined in the penitentiary not less than one year nor more than five years, at the discretion of the court trying the same: *Provided*, That nothing in this section shall be so construed as to prevent any person who shall make an unlawful arrest from being prosecuted in a civil suit for damages for such unlawful arrest.

Mr. President, the bill before the Senate provides that contractors and that description of persons who, by virtue of the statute of 1862, are to be tried by military law, shall be allowed bail. The amendment of that law proposed by the committee I think is very proper. But there is another class of cases that requires, in my opinion, the attention of the Senate. The amendment that I propose requires every officer engaged in the executive, military, or naval service of the United States, when he arrests a citizen, a person who is not engaged in the military or naval service of

the United States, and who is not engaged in the rebellion, to hand him over to the civil authorities to be tried and punished, if found guilty, for his offense. In the event that they refuse to do that they are to be deemed guilty of felony, and are to be indicted, fined, and imprisoned for the offense. We have a law upon our statute-book requiring certain persons who have charge of civilians who have been arrested, to hand them over to the courts, and punishing them with fine and imprisonment if they fail to do so. That alludes to the jailor, the subordinate officer who has the immediate custody of the party; but there is no law punishing your higher officers who order the arrest and who order the imprisonment of those persons for thus confining them. It strikes me as being eminently proper that the officers of this Government when they lay their hands upon a citizen and imprison him should at once hand him over to the civil authorities to have the case investigated, and if he is guilty, let him be tried and punished; if he is innocent, let him go free.

We know, sir, that the officers of this Government have, without any authority of law whatever, arrested persons, thrown them into prison, detained them there for months, and then turned them out without any investigation of the charge against them after keeping them confined such a length of time. That is manifestly wrong. If the officers of the Government arrest one who is not guilty, it is certainly due to the citizen that he should be handed over to the civil tribunals so that he can be tried, and enlarged if innocent. If he is guilty, it is the duty of the officers of the Government to see that he is tried and punished. If, however, the officer fails to prove the accusation, if he makes an unlawful arrest, he ought to be tried as a felon and punished as a felon. I hope the amendment will be adopted, and I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. TRUMBULL. Before the vote is taken I desire simply to say that we considered the amendment which the Senator from Kentucky has proposed to the bill under consideration in the Committee on the Judiciary, of which he is a member, and we thought it ought not to be adopted. I do not wish to enter into a discussion or to say anything to provoke discussion about it, because it is only by the courtesy of the Senator from Massachusetts that I have been able to get the bill up. The Senator from Kentucky himself has no objection to the bill which we have reported; in fact, he is in favor of it. I wish we would not insist upon the attempt to put this amendment on the bill, and if he does I trust the Senate will vote it down.

Mr. POWELL. The Senator from Illinois is very correct when he says this amendment was rejected in the Committee on the Judiciary. It was so rejected. He is also correct when he says I favor the bill as it is. I do. I think the bill as it is eminently proper, but I think this amendment is quite as proper as the bill, and more so. It punishes a class of persons who have been guilty of the most flagrant and unconstitutional outrages upon the right of the citizen, and in my judgment we should adopt it.

The bill reported by the committee had its origin in this: certain persons in the North who were engaged as contractors have been arrested by military authority, those persons having been by virtue of a statute made amenable to military laws; they have been confined; a long time has elapsed; they cannot get out of prison, and there is no law authorizing bail in their cases. This bill reported by the Committee on the Judiciary, in my judgment very properly allows those parties bail. That is eminently proper; it is in accordance with the spirit of our institutions. But, sir, while we are relieving those persons in the North, who by virtue of the law are liable to be punished by military law, we ought to punish those persons who are constantly, daily, and hourly depriving citizens of their liberty without any authority of law; and that is the object of the amendment that I propose. If any officer of this Government thinks that a citizen has been guilty of any crime, and he chooses by virtue of his office to arrest him, either with or without authority of law, let him hand that man instantly over to the civil authorities and have the case investigated. That is all that the section I propose

requires him to do. It says that if he lays his hand upon a citizen and charges him with crime, he shall hand him over to the authorities and let the case be investigated, and let him be punished if he is guilty. No man can say that is not right. If an officer arrests a man and does not thus hand him over to the civil authorities to have his case adjudicated and have him punished if guilty, then the amendment declares that officer to be guilty of a felony, and provides for punishing him accordingly. That is all there is in it.

Mr. DAVIS. Mr. President, I think there has been no more important proposition offered during this session than that covered in the amendment of my colleague. One of the most amazing and incomprehensible matters to me that distinguishes the extraordinary times in which we live is the perfect indifference of the Congress of the United States to the personal rights and liberties of the people, and not only the apathy with which they permit them to be outraged, but the legislation which they are disposed to adopt to encourage these outrages and violations of the personal liberties of the people, and to relieve those who are guilty of such infringements upon the most invaluable rights of the citizen from all punishment or accountability. I repeat, I am amazed at the course of the Congress of the United States in relation to this subject of arbitrary military arrests. We scarcely read a newspaper that does not inform us of some instance of the kind.

I read yesterday an account of the arrest of a citizen of Detroit who was in the city of New York engaged in making purchases probably for a mercantile establishment. He was touched upon the shoulder by a man who slipped up behind him and requested him to go with him. He did so. He had not walked far before he found himself in the presence of a military guard. That guard took him to prison. He demanded to know what offense he had committed, what charges had been preferred against him, under what authority he was arrested and held in imprisonment, and where he was to be taken to. There was no information whatever given him upon any of these points. He was dragged to a distant prison and confined for some time, and then was unlocked and told he might go thence, without a word of explanation in relation to the course that had been taken concerning him for his confinement.

Sir, are we in Russia? Are the free people of the United States in Turkey? Are we in some dark despotic Government where nothing like human liberty or the forms of law which protect human liberty and the existence of courts and the administration of justice according to law prevail? It would seem so. There is not a man who hears my voice, who has two ideas of law and constitutional liberty, but what will concede that such conduct as that is such an outrage upon any citizen as that that citizen is authorized instantly to slay the man who is guilty of it. Why, sir, the rights of personal liberty, the great rights that distinguish either general or perfect or qualified liberty in any country, are more respected, are asserted with more independence, are enforced with a more regular administration of the law in England by all odds than they are in the United States since the commencement of this rebellion. I will read a passage from an argument of Lord Denman, late Chief Justice of England, bearing upon these points. He said:

"He believed that all Westminster Hall, including the judicial bench, were unanimous in holding the opinion expressed by the noble earl!"

Alluding to a speech of the Earl of Aberdeen, then British Secretary of State for Foreign Affairs, on the subject—

"and that, in this country, there was no right of delivering up, indeed no means of securing persons accused of crimes committed in foreign countries. The matter was under discussion frequently when the alien bill had been year after year before the House of Commons, and the lawyers of all parties had come to the same conclusion."

Nor were these opinions confined to the lawyers of Europe; great lawyers of America, men distinguished by their profound erudition, whose decisions are so highly respected among us, and whose valuable works on great legal questions are studied and consulted in this country with the highest advantage, held the same doctrine. Indeed,

"Chancellor Kent, in his Commentaries on American Law, (1836) appears to incline to the opinion of Grotius and Vattel, against that of other eminent jurists, that persons accused of crimes ought to be delivered up to the country where they are accused, and one case appears to have been decided by himself when he held his office in

conformity with that doctrine. But it may be remarked that the peculiar constitution of a federal Government, comprehending many States with various laws, renders any decision, however respectable, of less extensive application, at least till all the particular provisions existing when it was made are fully canvassed. But Justice Story in his more recent edition of the *Conflict of Laws*, (1841) concludes a discussion on this subject by citing the passage from Lord Coke, adding, in terms, one chief justice in America has adhered to the same doctrine in a very elaborate judgment; that the reasoning of another chief justice, in a leading case, leads to the same conclusion, and that it stands indirectly confirmed by a majority of the judges of the Supreme Court of the United States, in a very recent case of the deepest interest.

"Therefore, although distinguished jurists may feel a desire for some arrangement for the surrender of foreign criminals, it would seem that the municipal law of America rests on the same principles as our own, which, as he had already stated, recognized no right and provided no machinery by which the subjects of another State seeking refuge here could be given up to the country to which they belonged."

The argument was made in a case involving the right to seize a criminal in England who was the citizen of another country, and to surrender him up. But here are some general principles that bear upon the points now in debate:

"He had, therefore, come prepared respectfully to warn Secretaries of State, if it had not been rendered unnecessary by what had passed, that they could not seize or detain aliens seeking refuge here without subjecting themselves to actions for damages for false imprisonment, and without further incurring the risk of a still heavier and more awful responsibility; for if a man attempted to seize an alien under such authority he might resist, and if death ensued he would be justified in inflicting it, while those who ordered his arrest and detention would be liable to be tried for murder. He agreed with his noble and learned friend that the comity of nations might be properly employed in considering of treaties and laws which would allow nations to seize and give up to each other their respective criminals. But this could only be done on the supposition that the laws of all nations should be reasonable and just, for no country could be justified in enforcing those laws which it believed to be founded on injustice, oppression, and cruelty. Some few great criminals had possibly been given up without notice; but he believed that the United States of America had refused to give up an English subject charged with forgery, because they disapproved of the punishment of death for that crime, and until the internal law of all countries was such that each would have no objection to adopt it, he feared that this desirable object could not be accomplished. He indulged a hope that those distinguished persons, the judges and jurists in America, who had been referred to, would, in common with those of other countries, apply their minds to these considerations."

That is the law of England pronounced by the Chief Justice and administered uniformly and rigorously in a country whose Government we condemn as despotic. That principle is stated by Lord Chief Justice Denman.

Mr. SUMNER. Was it not Justice Hobart the other day?

Mr. DAVIS. No, sir; Chief Justice Denman.

Mr. SUMNER. It is not a recent decision.

Mr. DAVIS. It was made a few years ago. He is a recent judge, as we all know, of one of the highest courts of judicature in England. What does he lay down the law of England now to be? That if a foreigner, such as Arguelles, is seized by an officer of the law in England without authority, he may resist the arrest to the point of slaying the man who attempts to arrest him, although he is a regular officer of the law, and if in his attempt to resist he is himself slain, the officer of the law stands guilty of the crime of murder. That is the law not only of England but of this country.

What is the amendment offered by my colleague? It is this, that where a man who is not subject to military arrest or to be tried by military courts is arrested, those who make the arrest shall be held to commit a felony. Is there any act, any wrong, any outrage which one citizen can offer to the person or to the rights of another that ought to be more sternly characterized as a felony and punished as such than that? Why, sir, our Constitution provides expressly the cases in which courts-martial shall have jurisdiction; and they are cases that arise in the military or naval service of the United States or in the militia when the militia is in the service of the United States. In every other case or class of cases where any provost marshal, any military man clothed with a little brief authority, attempts to make an arrest, he is not only guilty of an infraction of the personal rights of the party whom he attempts to arrest, but he is flagitiously guilty of violating one of the most important liberties guaranteed by the Constitution to the citizen; and all the authorities of our own country and of England establish the position and the principle that

the man who is thus about to be arrested may resist, and if it be necessary for him to prevent the arrest he may resist to the point of slaying the party who attempts to make the arrest; that if a scuffle, an encounter, ensues, and the party attempted to be arrested is slain in the contest, the party who is thus attempting illegally to make the arrest is guilty of the crime of murder.

We had a famous case in the State of Ohio not long ago. A gentleman, formerly a distinguished member of the other House, for the use of language in a speech, which was no violation, which amounted to no crime or no offense, was seized in his own domicile in the dead hour of the night by a military posse sent for the purpose by a general in the service of the United States, against law, in violation of the Constitution, dragged before a military court, tried by military law, and a sentence of banishment entered up against him, and that sentence put in the course of execution. Sir, there was not a step in the proceeding against Vallandigham that was not an outrage upon his political rights, his liberties, and his rights of person secured to him by the Constitution of the United States. If he had had the physical power—and before Heaven I wish he had had the physical power—to resist those who arrested him in his own house, his own castle, and to strike them low in the dust, he would have been perfectly justifiable in doing so. The men who arrested him, the men who tried him, the men who sentenced him to banishment, the men who aided in carrying that sentence into execution, were all trespassers and criminals; they were guilty of a conspiracy; they were guilty of acts of lawless violence that would have fully justified him, if he had had the physical means, in slaying the whole of them, and he would have stood upon his proper and full legal defense for such acts if that had been the result before any independent court in the United States.

Everything of the kind must come to an end, and I think this course of military tyranny and military despotism has about run out. If it has not, then the people are ready to bow their heads in abject slavery and allow the iron heel of every little military despot to trample their necks to the dust. But, sir, the people are beginning to know their rights, their constitutional rights, their rights of resistance against oppression and tyranny and military despotism. They are awaking to the importance of vindicating these great principles of human liberty. This Congress by passing the amendment of my colleague would create a statutory provision that would have the effect of restraining the lawless oppression, the outrageous tyranny of the military authorities of this country, and in that way would avert the occasions and the causes of that violent but just and constitutional resistance to which the people will eventually be driven, and which will result in a general scene of blood and carnage and violence, authorized by the Constitution on the part of the people to prevent themselves from being enslaved by a military despotism.

Mr. HARLAN. I have listened from day to day to these denunciations of the Government on this subject, and I wish now not to enter into an examination of the constitutional right to make these arrests, but to call the attention of the Senator from Kentucky to the fact that in the very case he cites to illustrate the enormity of which he complains, there was an appearance before a Federal judge. In the case of Vallandigham of Ohio, the question of the right to make the arrest was raised before the judge of the southern district of the State of Ohio, and he was heard by an eminent lawyer of the State of Ohio, formerly a member of this body. The question of the right to make the arrest was raised before the court, and the court decided that the President had the right to make the arrest, and there is the end of the whole thing.

My friend from Massachusetts [Mr. WILSON] says that the question was then brought to the Supreme Court of the United States here at Washington, and the Supreme Court decided that they had no right to interfere with the arrest. Now what comes of all these long speeches on the subject? It is the Senator from Kentucky against the judiciary of the United States, and that is the whole of it.

Mr. DAVIS. One word in reply to the honorable Senator from Iowa. I think he is utterly

mistaken—at least that is my recollection—in the statement that the judge of the southern district of Ohio decided the question. On the contrary, if I recollect aright, he expressly refused to decide the question; but if he had decided it, the party against whom he decided it would have been entitled to appeal to a higher court. But I deny, so far as I know or believe, that there is any respectable court in America that has ever decided that a civilian, disconnected with the Army or Navy of the United States, is liable to arbitrary military arrest without a warrant charging a legal offense. Sir, when that principle is decided our liberties are gone; they are struck down. I believe that the rights and liberties that were violated in the person of Vallandigham are a thousand fold more important to the people of the United States than the subjection of the rebel States and their retention in the Union, and of Massachusetts thrown in. If these great cardinal, essential rights of person for which all government is formed, and which were intended to be secured by the Constitution, are to be struck down in this way, our Government is not worth the parchment upon which it is written.

Gentlemen may sneer now, but there are many ups and downs in this life, and the time may come when the tables will be turned upon them. If this war had been made against Mr. Buchanan when he was in power, and the very measures and usurpations that characterize the party now in power had been adopted by him and his friends, there is not one of these gentlemen, in my opinion, but what would have stood up in uncompromising opposition to them, and they ought to stand up against them. Sir, I am for preserving the Constitution and the great rights and liberties which it secures to the people against all parties, against all factions, against Republicans or Democrats or Whigs, and against every power that would infringe those rights and liberties. If it be right for these arrests to be made, there is no harm in submitting the question of their regularity and validity to the courts. The courts are the proper tribunal to try the question. All that my colleague asks, all that I would desire myself would be that the way should be open for these questions to be taken to the courts with the highest intelligence and jurisdiction, and there be decided for the regulation of military officers and for the protection of the citizen generally.

Mr. HARLAN. The question has been decided. The President suspended the right to the writ of *habeas corpus*. The arrest was made because that right had been suspended by the President of the United States under the provision of the Constitution of the United States giving to this Government the right to suspend it. It was denied that he had the right to suspend it. An arrest had been made of a man of the name of Vallandigham in Ohio. He alleged that the President had no right to suspend the writ, and attempted to sue out a writ before the Federal court, the district judge of the southern district of the State of Ohio, raising the question of the right of the President to suspend the writ. The party having Vallandigham in custody pleaded the action of the President in the premises under the Constitution of the United States, and the question was thus raised of the right of the President to suspend the writ and permit these arrests to take place; and the judge decided the question distinctly that he had no right to issue a writ of *habeas corpus* on the demand of a citizen because the President of the United States, exercising his constitutional prerogative, had suspended the right to sue out such a writ. The fact had escaped my observation, but my friend from Massachusetts [Mr. WILSON] tells me, and I have no doubt it is true, that the question was then brought from that tribunal to the Supreme Court of the United States, and the Supreme Court of the United States sustained the district judge in the decision that he made.

Mr. WILSON. If the Senator will allow me, it was not brought as an appeal from that judge, but the case was brought up at the last session of the court, and the court ruled, as the court has always ruled, that it had no power to revise the action of a military commission or of a court-martial. They are just as much acknowledged as the courts by the whole legislation of Congress and by the action of the President. During Mr. Jefferson's administration Congress passed a law

of that kind, and Jefferson's name is attached to it. All the decisions of the courts and the whole action of the Government recognize courts-martial and military commissions as a part of the law of the country in the country, and it goes with every vessel of the country wherever it goes over the globe.

Mr. HARLAN. Then I suppose an application was made for a writ of mandamus from the Supreme Court of the United States to compel the judge of the district court for the southern district of Ohio to issue a writ of *habeas corpus*; and thus the question, I apprehend, was raised here; that would be the regular mode of raising it; and the Supreme Court decided in effect that he had ruled correctly, that the President had constitutionally suspended the writ of *habeas corpus*, or the right to sue it out in that case; and there is the whole of it.

I apprehend these speeches are made merely for political effect, and I will remind the Senator from Kentucky, if so, the question has been decided before the populace. That question was raised in the State of Ohio, and the freemen of Ohio decided by a majority of more than one hundred thousand that the judge of the district court of the United States for the southern district of Ohio ruled rightly and that Vallandigham was properly arrested; so that the people have decided in Ohio as well as the judiciary of that, the proper district, and the supreme judiciary of the United States.

All of these questions are raised for mere clap-trap. I can hardly believe that the Senator himself is serious. He may, however, argue himself into a serious mood, because I know he has said here on the floor of the Senate that he considers there are two great evils in this country: one, the lesser evil, is the rebellion headed by Jeff. Davis; the other, and the greater evil, is the existence of this Administration. He is desirous of putting them both down, but as the greater one is nearer home and more pressing he is more anxious to put it down; he is more desirous to crush out the Administration than he is to crush out the rebellion; and hence the facility with which he argues himself into a serious mood when he is discussing these questions which are intended to affect the minds of the people at home.

I suppose these questions have been passed over by the majority of the Senate, not because there is not a sufficient answer to the whole of them, but because the time of the Senate has been occupied with the practical legislation necessary to carry on the machinery of the Government. When the proper time comes for further discussion, I notify the Senator that all these cavils will be answered fully hereafter as they have been heretofore, to the satisfaction of the people of this country. These questions were raised on the stump all over the loyal States last year, and what was the result? Overwhelming majorities in favor of the course pursued by the Administration; and I do not risk anything in predicting that this will be the result at the approaching election.

Mr. DAVIS. I read the opinion of Judge Leavitt on the application of Vallandigham, and I deny that he made any such decision as the Senator from Iowa states. He merely declined to act in the premises, when it was his duty to have issued a writ of *habeas corpus*.

Mr. HARLAN. If the Senator will allow me, that was the very point. He decided that it was not his duty to do so. If the arrest had been made improperly and unconstitutionally it would have been his duty to do so, but he decided it was not his duty to do so in the case raised, and hence the inference follows irresistibly that the arrest was constitutionally made.

Mr. DAVIS. The judge did not decide the question at all. On the contrary he expressly waived a decision of the question. I controvert the position, taken by whom it may be, that any respectable court in America has ever decided that a military arrest of a civilian may take place without a warrant charging an offense. It never has been done, and it never will be done. All the decisions in England are to the contrary, and all the decisions in this country are to the contrary, so far as I have read.

The Senator from Iowa says that the question was made before the people of Ohio and decided against Mr. Vallandigham. Well, sir, if it was made and decided every year for ages, it is so

important a principle that there would be an appeal from one year to another, and from the people acting this year to those acting hereafter through ages and centuries until such a despotic principle was overthrown. I deny that a man who is not in the Army, not subject to military law of any kind, can be arrested, without warrant, without any charge of crime or offense, taken (against the express provision of the Constitution) from the district in which offense was charged to have been committed, taken to a distant community, immured in a dungeon, tried by a petty court-martial, and be deprived of having the charges preferred against him and a presentment for his trial upon them, be deprived of trial by jury, be deprived of the intervention of a civil court administering the civil law, be deprived of every vital constitutional right in trials of this kind secured to him by the charter of our liberties. Neither the Senator from Iowa nor any other Senator can adduce a case in which all these rights and privileges of a party under trial have been violated in which a court has held that he was properly deprived of them because he was arrested by military order.

Sir, the provision of the Constitution guaranteeing those rights is in the form of an amendment. It was proposed by Massachusetts herself, in nearly the terms in which it is incorporated in that instrument. There is no more invaluable, inappreciable right which a freeman can enjoy in a country that pretends to liberty than to have a trial according to Magna Charta and according to the amendments to the Constitution. It is because the conduct of these military men clothed with a little brief and accidental authority strikes down all of these important, vital, constitutional rights, without which Government would be a farce and would not be worth the money to keep it up from day to day it is because of these wrongs and outrages that are perpetrated with impunity from day to day that the Congress of the United States ought to legislate for the redress of such wrongs and such oppressions.

Mr. SHERMAN. I do not wish to prolong this debate unless Senators desire to press a vote on this amendment. If they do I will say what I have to say in regard to the case of Mr. Vallandigham which has been referred to.

Mr. WILSON. I think we had better settle this question now as we have got it up.

Mr. TRUMBULL. I will say to the Senator from Ohio I had no expectation of this debate on this bill.

Mr. SHERMAN. I will give way to the Senator from Massachusetts if he desires to go on with the other bill.

Mr. TRUMBULL. I was in hopes of getting a vote on this bill.

Mr. SHERMAN. Mr. President, I have carefully read the amendment of the Senator from Kentucky. The general principle of constitutional law proclaimed by both the Senators from Kentucky is not disputed by any member of the Senate; that is, every man has a right to a fair trial before a jury of his peers in the mode prescribed by the Constitution. That is a right so sacred that our ancestors five hundred years ago engaged in civil war to enforce it; and I think the people of this country would, if necessary, engage in another civil war to maintain it. When the Senator from Kentucky [Mr. POWELL] endeavors to frame a criminal code for the purpose of preventing military officers from making improper arrests, he recognizes what I believe to be the true principle. If a person simply talks against the constituted authorities, simply arraigns them, as the Senator from Kentucky [Mr. DAVIS] does every day in the most violent language, as long as he confines himself to words in debate, although they are violent, entirely too violent for a deliberative body, no one can stop him; he is simply exercising a constitutional right in an intemperate way. But, sir, there is one thing which no man can be allowed to do, either in a free Government or in a despotic Government; and that is, he must not render direct and positive aid to a public enemy engaged in war. This is a principle the Senator will not controvert, and the only difficulty is in drawing the line between excusable abuse of the Government and actual aid to a public enemy.

Mr. DAVIS. Will the honorable Senator allow me to ask him a question?

Mr. SHERMAN. I would rather not answer any questions, because I wish to get through. I will state briefly my points. It is too late now to enter into a general discussion.

I repeat, sir, that no man in this country, however free we claim to be, can be allowed to do any act that will aid the public enemy. I do not speak now of free discussion, mere talk or personal or party railings. The people of Ohio understood the distinctions I name just as well as the Senator from Kentucky can state them; and they recognized this principle: that when any citizen of Ohio or of any other portion of the United States engaged in acts of hostility against the Government of the United States, by aiding a public enemy either in a civil or foreign war, that person subjected himself to the military authorities to be punished by military law; and that was the principle applied to the case of Mr. Vallandigham.

Mr. SAULSBURY. Mr. President—

Mr. SHERMAN. I hope I shall not be interrupted. I believe this is the first time I have alluded to this subject of military arrests in the Senate, and I prefer to close without question.

This is the distinction. If the act of the accused tends to aid the public enemy, was intended to aid the public enemy; was designed and entered into with the purpose of aiding the public enemy in a time of war, he is guilty of a military offense to be punished by military law. This whole matter was discussed in the canvass in Ohio last year by lawyers, by judges, and by all classes of citizens. The arrest of Mr. Vallandigham was justified by me and by others who engaged in that discussion, solely on this ground, that he did, with intent to aid the public enemy, go to a neighborhood where actual resistance to the constituted authorities had sprung up and engaged in a combination to aid the public enemy in time of war. Mr. Vallandigham had gone over the State of Ohio and had made speeches much more violent even than those made in this Senate Chamber—speeches which he had a right to make. He had, from the time this war was entered into, opposed the war, engaged in all kinds of opposition to the war, denounced the constituted authorities, denounced every man engaged in upholding the authority of the Government. He did it in the other House; he did it wherever he raised his voice, and no one interfered with him. He exercised the freedom of speech as much as any man could or dare, as much even as the Senator from Kentucky [Mr. DAVIS] has done over and over again, and as he has a right to do although we differ with him. Mr. Vallandigham had exercised without objection or restraint all the right of opposition to this Government that one man could exercise; but when he took that one step further, then he was arrested by the military authority. I say here, Mr. President, that in the judgment of the people of Ohio Mr. Vallandigham did take that step, he did with intent to aid the public enemy go to a place near by where resistance to the constituted authorities had assumed the form of riot and open resistance, and there engaged in acts directly aiding the public enemy. His acts it is said were mere words, but they were words directly connected with and tending to open resistance, and were as much acts of war as the words of an officer, unarmed though he might be, who incited a military force to assault a work or fight a battle.

Those were the things for which Mr. Vallandigham was arrested. Mr. Vallandigham violated even this proposition, because the amendment of the Senator from Kentucky upon which he wishes us to vote contains this provision:

That any officer in the executive, military, or naval service of the United States who shall arrest or cause to be arrested any person or persons not engaged in the military or naval service and who is not engaged in the rebellion against the United States, shall immediately hand the person or persons so arrested over to the civil authorities, &c.

Now, Mr. President, for the Senator from Kentucky to say that no man not engaged in the military or naval service of the United States can be arrested by the military authority is an absurdity. Upon that principle you could not arrest an open rebel, because he was not engaged in the military or naval service of the United States; you could not arrest a spy who was actually engaged in open war. Why, sir, under and by the military authority in time of war you have the right to arrest any man engaged in aiding the

PUBLIC ENEMY. These words are clearly defined by our Constitution and laws; not that aid which violent talk and declamation makes, because a man may utter vile words if he chooses against the constituted authorities even in time of war; but when he aims the public enemies with intent to contribute to and promote their cause, he is liable to be arrested by the military authorities; and if this aid is rendered during war he may be tried and punished by military law and tribunals. The constitutional provisions in favor of the trial of traitors only applies when the hostile force is overthrown or has been abandoned.

What were the alleged facts in the case of Mr. Vallandigham?

Before proceeding to state them, however, I ought to say that in my judgment there have been cases of arrest in the United States which were not justified either by the Constitution or the laws; and I never will, my party relations or any other obligation to the contrary, seek to justify an open infraction of the Constitution and laws of the country. I believe there have been foolish arrests made; and I have said so over and over again. Latterly there have been very few, and when the cases have been examined they have generally come within the rule of law which justifies the military authorities in making the arrests.

What is the case of Mr. Vallandigham? A riot had sprung up in the county of Holmes in the State of Ohio. The militia were called out to suppress the riot, and the men engaged in it were arrested and indicted by the civil authorities, and were then held arraigned for trial for the crime of treason, for open resistance to the laws of the United States, to the execution of the conscription law. Under these circumstances, Mr. Vallandigham went to the adjoining county where a large company of people had been gathered, and among them some of the very men engaged in this riot, and there he made a speech tending and directly inciting them to armed resistance against the authority of the United States. There, in the presence of men who were under indictment for treason, he used language the plain tendency of which, although cunningly covered up by words, as construed by any fair-minded, patriotic man, was advice to engage in armed resistance to the authorities of the United States. This language was used in the presence of excited men who had been engaged in this resistance, and who were then under indictment—the very language that a demagogue would use to stir up civil war in a community. Does the Senator from Kentucky say that in time of war we have no power to prevent these things?

There would have been no objection to Mr. Vallandigham or any one else engaging in the ordinary political discussion of the country. He had been all over the country engaging in those discussions; but when you take into consideration the surrounding circumstances, when you take the intent, when you take the obvious meaning of his words, the obvious effect of his words upon an excited audience, some of whom themselves had been engaged in treason, it was a plain and palpable commission of a military offense for which he was liable to military trial. If a spy should come from the southern States into the State of Ohio and go around among our peaceful communities stirring up resistance to the laws, would the military authorities be compelled to wait the slow process of civil tribunals? Not at all. The military authorities have a right to seize upon any one who is engaged in resistance to them; and this principle of law is laid down even by Lord Mansfield, who was said to be the guardian of liberty. It is laid down in the English law-books; it is laid down in books on international law; it is plainly stated by General Halleck; it is laid down in every book on the laws of war. Any man who throws obstacles in the way of the constituted authorities in prosecuting war, either civil or foreign, is liable to be arrested and suppressed (if I may use the expression) by the military authorities. That is laid down as a principle of law, and it is a correct one.

General Burnside, having full information of this matter, having the report of a man who attended the meeting and took down short-hand notes of the speech of Mr. Vallandigham and the circumstances by which he was surrounded, ordered his arrest, and, to prevent any disturbance,

the arrest was made at night. He was brought to Cincinnati. He was cared for with the greatest humanity. It was complained of that the arrest was made at night. Was not that advisable under the circumstances to prevent a mob, a riot, or a civil war? The very mob that Mr. Vallandigham had stirred up to resist the constituted authorities might have exposed their lives in the unholy cause of preventing a legal arrest. He was arrested by the military authority. He was taken to Cincinnati. There he was kept, and a commission was organized, composed, I believe, of thirteen members, every one of whom, if I remember correctly, belonged to the political party to which Mr. Vallandigham belonged. Some of them were officers of high rank in the regular Army, of unblemished character and unblemished reputation, men who had no party feeling in the matter, or if they had any it was against what was called the Republican party. Mr. Vallandigham was taken before this tribunal. All the forms of a military trial were gone through with. Witnesses were brought up and examined before the court. Mr. Vallandigham was asked if he had any rebutting witnesses. He had the benefit of able counsel. My predecessor on this floor (Mr. Pugh) appeared in his behalf. The whole matter was investigated and gone over before this military tribunal. They gave him a fair and impartial military examination, and they reported him guilty of the written charges against him. I am sorry I have not the papers before me so that I could lay the case more fully before the Senate.

Then Mr. Vallandigham expressed a desire to have the case brought before the courts of the United States. He had three tribunals or judges open to him. He might have gone to Chief Justice Taney in Baltimore and presented his case to him by an application for a writ of *habeas corpus*; he might have gone to Judge Swayne, then in Columbus, Ohio, and one of the judges of the Supreme Court of the United States, and have had the case brought before him; but he took Judge Leavitt, who was the judge of the district court for the southern district of the State of Ohio, the district in which Mr. Vallandigham lived. I ask Senators whether there was anything in the antecedents or character of Judge Leavitt that would make him hostile to Mr. Vallandigham and friendly to the Administration? As is well known, Judge Leavitt was appointed by Andrew Jackson; he had been a judge for thirty years; he held an office for life, beyond the power or control of any man. Mr. Vallandigham selected this judge to try the question whether he was legally held by the constituted military authorities.

I need not tell the Senator from Kentucky that the only question before Judge Leavitt was, whether or not Mr. Vallandigham was legally held? On a writ of *habeas corpus*, or an application for one, there is no other question except this, is the cause of commitment legal? If it was illegal, Judge Leavitt was bound by his oath of office, by the sacred obligations of the Constitution of the United States, to discharge him.

Mr. Vallandigham, then, had a fair trial before a judge of his own selection; an old, able, and experienced man, beyond the power of the President, beyond the power of the people; a man who, from his position, was as free from prejudice or party bias as any human being can be. Counsel were heard for and against him. Mr. Perry, an able lawyer, spoke in behalf of the Government, and Mr. Pugh made in behalf of Mr. Vallandigham a very able and eloquent speech, in which he cited all the English and American authorities to bear upon the subject. The case was put upon this ground by Mr. Perry: that Mr. Vallandigham was held for actually aiding the public enemy in a time of war, and was therefore to be adjudged by the military and not by the civil authority. The question was argued at great length, and Judge Leavitt gave his opinion after full consideration, and that opinion covers the whole ground in the case. If I had before me I should be glad to read an extract from it; but it goes to the extent, first, that he has no power to supervise the examination of the military tribunals, and next that Mr. Vallandigham was legally held upon the charges made before the military tribunal, and the judge goes on to say substantially that upon the facts stated he had no inclination to discharge him from that custody.

The military tribunal decided that Mr. Vallandigham, for the safety of the country, ought to be put in a military prison. That was the only way in which a military court could properly enforce its sentence. If the facts justified it, he might have been sentenced to be shot, or he might have been put in a military prison, subject, however, to the supervision of the President of the United States. This military court, after the full hearing that I have mentioned, decided that he should be confined in one of the military prisons of the United States during the existence of the present rebellion.

The case then came on to the President of the United States. It was examined by him; and I am informed was fully and fairly considered by the Attorney General. There was no real doubt about the legality of the trial or the legality of these proceedings; but the President of the United States, with a humanity that sometimes is his weakness, although he is so bitterly denounced by his opponents, varied his sentence and ordered him to be taken beyond our military lines into the presence of the men whom he was aiding. That was the result of it.

He has recently come back among us. I have no doubt he will be allowed to remain there, unless he should again violate that law which declares that no citizen of the United States shall aid a public enemy in a time of war. If he does violate that law, I say to Senators there will be power enough in this Government to put him down by the same authority precisely that we will put down Jeff. Davis and all the armed conspirators who are now fighting against the Government of the United States.

The Senator from Kentucky will mark that I draw a broad and deep line of distinction between the man who aids a public enemy and the man who only talks opposition to the Government. The latter ought to be encouraged, although it may sometimes be carried to excess. Free speech is the great safety of a free community, and where a man is arrested simply for exercising his right of free discussion, although it is carried on intemperately, I agree with the Senator from Kentucky that it is a gross offense that ought to be punished by the civil courts; but where a man goes beyond this free discussion, beyond this opposition to administrative measures, beyond the simple denunciation of the authorities, and actually aids the public enemy in a time of war, by stirring up riots, by acting as a spy, by shouldering a musket, or in any other way, he ought to be punished not only by the civil but by the military authorities, because, in a time of war, this kind of an offense, where it amounts to something more than talking, is not sufficiently redressed by the slow process of the civil courts. They are made for times of peace. They are made to punish men who violate the civil laws. They are not made for men who engage in an armed rebellion, or in a war against their country. Upon those men the military authorities have the undoubted right to enforce military law.

The only doubt there can be in the case of Mr. Vallandigham is this: whether his speech at Mount Vernon, made under the circumstances that I have narrated, made with the intent that was found against him by the military authorities, amounted to a military or a civil offense. Upon that point we have the judgment, first, of General Burnside, who thought it was a military offense; next, we have the judgment of an impartial military tribunal, who thought it was a military offense and so considered it; next, we have the judgment of Judge Leavitt, one of the purest and ablest of the judges of our country, a man who was never denounced by any party until after this event, a man who took his seat on the judicial bench and performed the judicial function with a purity of character and with an independence that no man can challenge. Besides that, you have the opinion of the Attorney General of the United States and the President of the United States. You have the opinion of all these concurring authorities, that this trial of Mr. Vallandigham was for a military offense, committed in aid of the public enemy in time of war; and you have nothing against it except the party clamor of dissatisfied men, who wish to make something out of that inherent love of human liberty which is implanted in the heart of every American citizen. They wish to make this man, engaged in

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

TUESDAY, JUNE 28, 1864.

NEW SERIES.....No. 207.

aiding the public enemy, a patriot, a man who is persecuted for his opinion's sake. Senators, I tell you there was nothing of the kind in this case. The case of Mr. Vallandigham was for a military crime in aid of a public enemy and not a mere civil wrangle against the authorities.

Mr. President, I trust that the military authorities will never have occasion to arrest men in the northern States or in the States where the enemy is not in open force. If I had any power in the matter I would forbear a great way before I would arrest any one not wearing the uniform of the rebels or engaged directly in the presence of the enemy. But as a principle of law it cannot be denied that where a man aids a public enemy in the presence of a civil war, or under circumstances which make him an actual contributor to that civil war, the President is bound to arrest him and to try him by military authority.

Mr. SAULSBURY obtained the floor.

Mr. DAVIS. Will the honorable Senator from Delaware allow me five minutes?

Mr. SAULSBURY. Certainly.

Mr. DAVIS. No one will deny that any man who places himself in military array against his Government while he is found in that position is liable to be shot down by the army that is operating for the Government. No one will deny that any third man who is present giving aid and comfort to a man who is thus making war against the Government is liable to be shot down just like the man who is making the war himself. I concede all that; but I have recently read the speech of Mr. Vallandigham, and, according to my recollection, it is not obnoxious to the exceptions taken to it by the honorable Senator from Ohio.

I differ from the honorable Senator in my recollection of another fact. My recollection is that Judge Leavitt did not decide that the arrest of Mr. Vallandigham was legal and constitutional. I will not put up my recollection on that point against that of the honorable Senator, but I think if he will recur to the opinion rendered by Judge Leavitt on that occasion he will find that Judge Leavitt decided that it was not a case in which he was authorized to issue a writ of *habeas corpus*, because it was a military arrest and the party was in the custody of the military authorities. It struck me at the time that his excuse was wholly insufficient, that it was not based upon any correct principle, and that he ought not to have hesitated at once to intervene the great writ of liberty, the writ of *habeas corpus*, and have Vallandigham brought up before him there to investigate upon the legality and the sufficiency of the cause of his imprisonment.

I was disposed to ask my honorable friend from Ohio, but he conceded it in effect, if it was legitimate in this country to oppose the measures of an Administration? Is it legitimate in this country to question the policy, the wisdom, the justice, or the constitutionality of the measures of a President or of his party? Some men seem to occupy the negative of that position strenuously and uncompromisingly; but the honorable Senator from Ohio conceded the principle, and very properly. Why, sir, how else can a mischievous, unconstitutional, wicked Administration, whose measures are destructive of popular liberty, be overthrown than by the most perfect freedom in the investigation of its measures? That is one of the great rights and liberties of the people of the United States that are guaranteed to them by the Constitution, and that is a right and liberty which I contend for, and for nothing beyond. But, sir, here is a provision that was offered as an amendment to the Constitution by the State of Massachusetts, or this branch of it at least, which State offered some of the wisest and most valuable amendments to that instrument that were considered by the Congress and the various conventions of the States, and adopted as parts of the Constitution:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

Here is the proposition upon which the honorable Senator and myself differ: I deny that any man can be held amenable to a military court or by martial law unless he comes within the definition which I have just read from the Constitution. Every man charged with an offense who is outside of the reasonable and sensible scope of those words of the Constitution is not amenable to military law or military courts at all. I say to my honorable friend that if he will review the speech for which Vallandigham was arraigned, tried, and convicted, he will find that the words which he uttered contained no offense violative of the laws of the United States, or of the State of Ohio, and that that language did not bring him into the category of adhering to the enemies of the country, giving them aid and comfort. Whenever the words are scrutinized they will be found, in my humble judgment, to fall far short of that mark. If that question of law was submitted to the courts in Westminster Hall, or to the judges of the Supreme Court free from prejudice, or to the enlightened judges of any State court, in my opinion they would unanimously decide in favor of the position that I have assumed.

The principle which I laid down was simply this: Vallandigham was not in the military or naval service of the United States; he was not in the militia in the service of the United States; he was not engaged in open war against the United States. All the words that he uttered fell far short of adhering to the enemies of his country, giving them aid and comfort. My honorable friend will allow me to state this further position: if a person by words gives the enemies of his country aid and comfort, it is not a military offense unless it is committed by a man who is in the military or naval service, or in the militia when in actual service in time of war. If it is committed by a man who does not belong to either of those classes of service, it is but a civil offense, and he is, by the express language of the Constitution, exempt from trial for it before a military tribunal, and he is to be tried according to the forms and the course of the common law. That is the law, and when that principle of law is struck down, liberty expires. I deny, in opposition to the point of the Senator from Iowa, that the suspension of the writ of *habeas corpus* authorizes a military arrest of a man not in the military service.

Mr. SHERMAN. I will simply say that the question of the suspension of the writ of *habeas corpus* did not enter into this case at all. The writ of *habeas corpus* was not suspended in the State of Ohio, but Mr. Vallandigham was treated just like any other enemy who had committed acts of hostility against the United States, precisely as if Jeff. Davis had come into the State of Ohio and attempted to stir up insurrection among us, carrying out the general purpose and intent of the rebellion. It was not put on the ground of the suspension of the writ of *habeas corpus* at all.

Mr. DAVIS. Mr. President, I was combating a position assumed by the honorable and learned Senator from Iowa, that the suspension of the writ of *habeas corpus* authorized a military arrest. I deny that position wholly. The only effect of the suspension of the writ of *habeas corpus* is to deny to the party who sues it out the benefit of that informal and summary trial which it is the great object and purpose of that writ to give him, and it deprives him of no other right or privilege whatever. It gives no additional power against him except to withhold from him that writ. He is not subject to military arrest; he is not subject to be seized except by a warrant charging crime, sued out upon oath; he is not deprived of his right to have the charge against him furnished to him; he is not deprived of the right of being confronted with the witnesses against him face to face; he is not deprived of the right of trial by jury; he is not deprived of the benefit of counsel; he is deprived of one sole, single, solitary right, and that is the right to have a writ of *habeas corpus* sued out for his immediate and summary trial, and that is all that he is deprived of.

I assume that any man who is not in the mili-

tary or naval service of the United States or in the militia, who is about to be arrested by the military in this way, even though he has committed murder or any other heinous crime, has the perfect constitutional right to resist such an illegal and unconstitutional arrest. All the courts of England have so decided in every case in which the question ever came up. It is the law here, and it is an express provision of our Constitution, that he shall be exempt from such an arrest, and that is the uniform judgment of that principle of law which our courts have rendered. Each and every one of all the men who have thus been arrested during this war, by the plain reading and meaning of the Constitution and by the principle of liberty as it has been sustained by the English and American courts, had the right to resist such an arrest to the death of the party who attempted to make it, and if the party attempting to make the arrest persists and slays the party sought to be arrested, he commits murder, and would be punished by an independent and enlightened court and jury as a murderer. In my judgment there is no man read even in the horn-book of the law who can controvert these positions.

I know how impatient gentlemen are at having their party chief questioned, or their line of policy questioned; but this thing of human reason and human judgment and conclusion resolves itself very much into this alternate proposition: was it my ox that was gored by your bull or was it your ox that was gored by my bull? Whenever the assailant is changed, and these men are placed upon the defensive, if I then live and have the faculty of speech, and they resist the enforcement of the same abuses or usurpations of power that may then be attempted to be enforced against them by any dominating power or party that may have got into power, they will find me arrayed with them shoulder to shoulder, and I will resist with the same zeal and with whatever little ability I have, if I then possess it, the outrage upon their rights and their constitutional liberties that may be perpetrated by the Democratic party in power, the Whig party in power, or any other party in power. I go for the Constitution of my country; I go for the great personal rights of liberty which it guarantees to the citizen. That cause I have sworn to support, and I shall go forward to the end of life that remains to me and support it, totally reckless of all the consequences that may come to me.

Mr. SAULSBURY. Mr. President, the bill before the Senate is a bill providing for bail in certain cases of military arrests. My friend from Kentucky proposes an amendment to it providing that the person so arrested shall be taken immediately before a judge. It is an amendment designed to secure the personal liberty of the citizen. I shall vote for it; but I shall vote for it with some hesitation, simply because it seems to recognize by implication the validity of the arrest. If this was a bill to authorize any man not engaged in the military or naval service of the United States who was arrested to shoot down upon the instant the man that should attempt to arrest him it would do my soul good to vote for it; because of all the outrages that have ever been perpetrated in this country upon the rights of free American citizens, of all the violations of the Constitution of the United States, of all the violations of the principles of civil liberty, of all the crimes that have gone up from earth to heaven to invoke the vengeance of Almighty God, this crime of arbitrarily and without due process of law arresting quiet, peaceful citizens and dragging them from their homes is the greatest. Sir, I mean to speak what I feel. I would welcome any thunderbolt, whether it came from heaven or from hell, that should strike to the earth any power which, in violation of the chartered rights of the American people, should attempt such an exercise of arbitrary power.

Mr. President, it may be considered by some that the language I use is strong; that the feeling I manifest is unreasonable; but I happen to live in that unfortunate section of the country where

these things are of daily occurrence. Mr. Vallandigham, who has been referred to, was a distinguished member of the Democratic party, a politician known to the country, and when he was arrested it created great excitement throughout the land, simply because he was known throughout the land. In the quiet little village where I reside such scenes happen almost daily. I have known as many as four in a day carried off; not informed of the charge against them; dragged from their families and their homes; not allowed a hearing, and by the order of your General Schenck, or Skunk, whichever is most applicable to his character, banished beyond the lines. I have had the young wife come to my house and with tears in her eyes ask me whether anything could be done, anything could be said, to call back her young husband to take care of his infant children. I have witnessed such scenes for the last two years. They are men in the humble, quiet walks of life, and the attention of the country is not called to their cases; but when a distinguished gentleman like Mr. Vallandigham was arrested great meetings were called and great indignation expressed. It is just that those meetings should be called, and that indignation should be expressed; but, sir, the people of this country know nothing from such cases of the barbarous tyranny of this Administration. When a man of elevated position is dragged from his home they know it; but hundreds and thousands of people in the quiet walks of life are dragged from their families and their homes and the country know nothing of it. Sir, if the tears shed by the faithful and devoted wives and the worse than orphaned children in this country who have suffered from the oppression of this Administration could be bottled up as witnesses in that great and final day when a just judgment shall be rendered against men for the iniquities done in life, they would be piled mountain high upon the heads of Abraham Lincoln and his unconstitutional advisers.

Go with me to my own State, and I will take you to one single neighborhood where almost one third of the inhabitants have been dragged from their homes, not because they have done anything, not because they have ever raised an arm against this Government, not because they have ever resisted the execution of any Federal law, but because they were politically obnoxious to the party in power; and the scuff and scum of creation, men whom gentlemen would not admit into their kitchens, have the commissions of provost marshals to go into gentlemen's houses and drag them off to Baltimore before a General Schenck, who, not by any authority of the Constitution of the United States, is to sit in judgment upon those men and decide whether they shall live peaceably and quietly in their homes where they have been in the habit of living, and where their fathers have lived, or whether they shall be banished to a hostile shore.

Mr. President, I do not mean to say anything offensive to anybody; neither do I mean to say anything unbecoming my position as a member of this body; but I thank God that Clement L. Vallandigham has returned to the United States. I clipped out of a newspaper the order for his banishment, which was by telegraph. Great God! a free American citizen, living under a country the people inhabiting which are secured in their rights by a fundamental charter, a charter which secures trial by jury and freedom from arrest except by due process of law; a citizen of such a country as that arrested by telegraph, a telegraphic dispatch from the seat of the emperor at the other end of the avenue, stating, "You will send him beyond your lines, and if he returns within the lines, then you will arrest him and keep in confinement during the term of his sentence!" Now, sir, let them execute it. He has returned, thank God. The issue is made; the issue will be met. I know that two orders have been made—at least I am very well informed of that fact; I do not know it; I was not present—for his arrest; but I am informed on the same authority that they were revoked. I am also informed that a military officer has been here from Ohio for the last several days waiting hour by hour the command of the man who sits enthroned at the other end of the avenue.

Sir, I invoke not the spirit of revolution. I want peace; and hence on all occasions when questions of this character have come before the body I have always advocated a legal, peaceful

remedy. I have invoked Senators from the beginning of this contest to give us the protection of law; for if this unhappy war shall continue I want to see it confined to its present location. I do not want to see civil strife in the adhering States; and hence upon all occasions have invoked the interposition of this body to preserve us from outrages that might lead to unfortunate collisions in the adhering States. I have done so even upon the subject of military interference with elections—a right secured to us by the fundamental charter of our liberties, a right dear to freemen, and a right which nobody but a tyrant despises. But even our appeal for the free exercise of the ballot has been disregarded. We have invoked you upon all occasions to give us legal security for our rights. We ask no privileges for ourselves that we do not accord to you. We say to you, "As free American citizens go to the polls, cast your votes freely for the man of your choice, even if it is for Abraham Lincoln, the man of all other men on the face of God's earth most unfit to administer the affairs of this Government, and if the popular judgment in a fair election is against us we will quietly submit and say it is the voice of the people."

But, sir, we ask the same privileges for ourselves. We of the border for the last two years have had no free exercise of the elective franchise. You have enjoyed it; boys who coincide in opinion with you have enjoyed it; people not living in our States have enjoyed it when they came into our States; convicted felons have enjoyed it; but we, simply because we are Democrats, are not allowed it. By the help of Almighty God we will be allowed to do it hereafter; and I now advertise the party in power, as an humble member of the Democratic party, we will have the freedom of election and freedom from arrest unless by due process of law, peaceably if we can; but, by the eternal gods! if we cannot get it peaceably we will have it forcibly; and you may make the most of it, if that be treason. We have submitted just as long as we intend to submit.

I say this not to offend anybody; I say it not in the spirit of bravado; but I say it in the cool, calm, deliberate determination of a man who is a member of a party of like sentiments with himself. When the convention meets at Chicago one plank in its platform will be "freedom of elections and freedom from arbitrary arrests;" to which every man, in my judgment, will pledge his life, his fortune, and his sacred honor, in the same spirit that his fathers pledged themselves in the revolutionary times in the assertion of their right of independence.

Mr. POWELL obtained the floor.

Mr. WILSON. Will the Senator allow me to make the usual motion in regard to a recess?

Mr. POWELL. Yes, sir.

Mr. WILSON. With the leave of the Senator, I move that the Senate at half past four o'clock take a recess until seven o'clock.

The motion was agreed to.

Mr. POWELL. Mr. President, I had no idea when I introduced this amendment that it would involve an investigation of the arrest of Mr. Vallandigham; neither did I suppose that it would lead to the protracted debate to which it has led; but as three or four Senators in the Opposition have given their views upon the arrest of Mr. Vallandigham and his case, I hope I may be indulged for one minute in giving my views upon that subject.

The honorable Senator from Iowa and the honorable Senator from Ohio do not seem to agree as to the issues that were before Judge Leavitt. The Senator from Iowa declared, if I understood him, that the judge held that the writ of *habeas corpus* having been suspended by the legal authority of the President of the United States, he would not issue the writ to have Mr. Vallandigham brought before him. The Senator from Ohio, as I understood him, said the writ of *habeas corpus* never having been suspended in Ohio, it had nothing to do with the case. One of the honorable Senators is mistaken. I have looked over the proceedings of the case of Mr. Vallandigham, and I regard the whole proceeding as a gross outrage and an infraction of the rights of a citizen of the United States.

I cannot agree with the honorable Senators who have eulogized Judge Leavitt so much. I have

no denunciations to make of Judge Leavitt. I do not know that judge. I know nothing of his legal capacity except what I gather from the reading of his opinion in the case of Vallandigham; but taking that as the evidence, whatever may be his integrity, whatever may be his knowledge, he is certainly a very weak judge, in my opinion, for I think he is wholly wrong throughout.

I do not agree with the honorable Senator from Iowa when he asserts—and I believe the Senator from Massachusetts concurred in that opinion—that the Supreme Court of the United States, upon an appeal to that tribunal, sanctioned or affirmed the decision of Judge Leavitt. Why, sir, the case of Vallandigham was never before the Supreme Court.

Mr. WILSON. Will the Senator allow me a single word?

Mr. POWELL. Yes, sir.

Mr. WILSON. The case was attempted to be brought before the Supreme Court on a certain writ, and the Supreme Court made this ruling, that he was tried by a military commission; that that military commission was not a judicial tribunal; and that the court had no right to review, revise, or correct its action, and they therefore ruled it out.

Mr. POWELL. The proceeding in the Supreme Court, as I understand it, was this: Mr. Pugh applied to that court for a *certiorari*, to have the proceedings and the finding of the court below brought up before them; but they held that there was no such court as a military commission known to them under the Constitution, and hence they refused it. That was all there was of it. They never did sanctify, affirm, or review the opinion in any way whatever. Therefore, when the Senator from Iowa says it has been sanctified by the judgment and finding of the Supreme Court he is greatly in error.

The Senator from Ohio, however, places it upon different grounds. He says that the military authorities have a right to arrest any one whom they may regard as a public enemy, as I understand him, and to try him before a military tribunal.

Mr. SHERMAN. I suppose the Senator from Kentucky does not wish to misrepresent me.

Mr. POWELL. Certainly not.

Mr. SHERMAN. I say that any man engaged in acts of actual hostility in aid of the public enemy in time of war may be arrested by the military authorities. The question as to whether the acts are sufficient must first be determined by the military tribunal by which he is to be tried, and that military tribunal is always subordinate to the President of the United States, under a writ of *habeas corpus*. I have not the slightest doubt about it, and in this case it was held subordinate. If Judge Leavitt had decided against this arrest, Mr. Vallandigham would no doubt have been discharged, and there would have been an end of it.

Mr. POWELL. If I understand the Senator's position now, it is this: when any person is actively engaged assisting the enemy in time of war a military tribunal has a right to arrest him, and consequently to try and punish him for that offense. In the first place, I deny that Mr. Vallandigham's case was such a one as comes within the definition given of these offenses by the honorable Senator from Ohio. Was Vallandigham actively engaged in any form in assisting the public enemy? The Senator makes some discriminations between actual support and mere words. I read most carefully the speech made by Mr. Vallandigham for which he was arrested, and for which he was tried and for which he was punished, illegally, in my judgment, and there was nothing in that speech but what a commoner of England could have spoken on every hustings in the empire, and that, too, with the utmost impunity from arrest. Mr. Vallandigham never encouraged resistance to the laws. He always advised obedience to them; and when that harsh and cruel decree was entered up, I believe that a noble, honest, liberty-loving, and Union-loving patriot was stricken down and banished from his country by the harsh edict of a usurper. I believe there never was a man since civil society was organized more ruthlessly, more wrongfully, and more unconstitutionally convicted.

The Senator from Ohio said a moment since that if an arrest by military authority is wrong you have a right to review it by the civil authori-

ties. Has that been the practice of the Administration now in power? I aver that it has not. But Senators on the other side say that because jurisdiction attached to these military tribunals the civil authorities had no right to interfere with it. Did Judge Leavitt grant the writ of *habeas corpus*? I understand not. If I am rightly informed, the whole of those proceedings were upon a motion for a writ of *habeas corpus*, to have the body of Clement L. Vallandigham, a citizen of the State of Ohio and of the United States of America, brought before that judge for the purpose of inquiring into the fact as to whether he was lawfully or unlawfully deprived of his liberty. That was the question. The judge did not grant the writ, and consequently the proceedings were never inquired into by the judge except incidentally upon the motion.

Sir, how differently are the laws of Great Britain administered! I remember some years ago of producing to this Senate a decision of a celebrated judge in England that took place during the Irish rebellion, that rebellion that brought the illustrious and eloquent Robert Emmet to the scaffold. There was a person engaged in that rebellion taken in open arms, who bore a commission from France upon his person. He acknowledged it; he was tried by a military court; he was sentenced to be hung or to be shot, I forget which, but the sentence was death. That distinguished Irish counselor and illustrious citizen of Britain, Mr. Curran, rose in the court of king's bench and moved for a writ of *habeas corpus* to bring this person before the court. The sheriff came in a little while and told him that they were about to lead the man to execution. He made that fact known to the judge, and the judge instantly entered an order to serve notice, verbally, upon the military authorities not to touch that man and to bring him before that court to have the whole matter investigated; and that order of the court was obeyed.

This man, Judge Leavitt, acts very differently; but I am sure there is no principle in the Great Charter, there is no principle in the Bill of Rights, there is no principle in the Petition of Right, there is no statute of Great Britain, that secures the personal liberty of the citizen more distinctly and securely than does the Constitution of the United States. A grosser outrage never was committed upon the person of a citizen than this upon Mr. Vallandigham. It has not received the authority of any respectable court, because he was refused the writ. The court of appeals have never revised that finding at all, because they refused the process to bring the case before them.

If the military authorities have a right to try a citizen for that offense as being a public enemy, I ask the Senator if they have not a right to carry the sentence into effect by shooting or hanging him? Certainly they have. Who is to judge as to whether the citizen is a public enemy or not, unless he is engaged in the military service of those who are at war with the Government? Why, sir, the guarantees of the Constitution, which we thought threw a strong and broad shield around the liberties of the people, say that it must be done by judicial process; but nothing of that kind was done in the case of Mr. Vallandigham.

I ask the worthy Senator from Ohio if the finding of that court-martial was correct, which I utterly deny, sentencing Mr. Vallandigham to confinement at the Dry Tortugas during the war, under what law and by what authority did Abraham Lincoln, President of the United States, revoke that decree and banish him from his country? Sir, the President of the United States is but a magistrate, obedient to the laws. He exercises all of his functions by virtue of authority vested in him by the law. He cannot transcend the Constitution and laws of his country any more than any other citizen. If he does, he is a criminal infractor of the law. And yet, sir, that magistrate, without authority of law, undertook to reverse and modify the finding of this military tribunal so far as to banish Mr. Vallandigham from his country. I should like to know by what authority of law he did that. He assumes to do what the Athenians did in their public assemblies by virtue of their laws, to send a man into banishment.

I have said as much as I intended to say about Mr. Vallandigham, and I regret that that matter was brought into this debate, for I have heretofore given my opinions upon the manner in which

that illustrious citizen has been treated. But if he was decreed to banishment in obedience to law why do they let him come back to the country now? Has that decree ever been revoked? I suppose not.

But, sir, the object of the amendment I propose is calculated to ameliorate the condition of those who are subjects of arbitrary arrest. The object is to compel the persons who assume to make these arrests, all of which arrests are contrary to law, to hand those arrested over to the civil authorities for the purpose of being tried, and, if they are guilty, punished. That is the sole object of the amendment. My friend from Delaware is mistaken in one thing. He said he should vote for the amendment, but he regretted it somewhat because it implied that they had the right to make the arrest. If the Senator had read the whole of the amendment he would have found that he was mistaken, for there is a proviso attached to it that nothing in the section contained shall relieve the party making such arrest from being prosecuted in a civil action for it, which was put in there expressly to avoid any such conclusion.

Mr. SAULSBURY. I will take your word for it. I know you are always right.

Mr. POWELL. What harm can result from this amendment? I have the statute before me, of which this bill is an amendment, punishing certain subordinate officers with fine and imprisonment in the event that they do not, in obedience to the statute, release parties from confinement. My amendment merely proposes to carry that law further and punish with fine and imprisonment those who order those arrests unless they instantly hand the persons arrested over to the civil authorities to be tried and punished. There certainly can be no wrong in that. Nobody can say that you cannot arrest a rebel under my amendment. It only provides that when any person in the executive, naval, or military authority shall arrest any party, he shall instantly hand him over to the judicial tribunals to have the case investigated. I am sure there is no Senator who appreciates civil liberty but will support such a proposition as that.

I regret that men are wicked and depraved enough to require a penal code; but we know that they are so. I regret that those who are clothed with high official position so disregard the Constitution and laws of their country as to require laws to punish them for breaches of faith; but we know that men are so organized that they commit wrong; they commit crime; and hence it is but just and proper that those who are charged with the legislation of the country should make laws to punish them, and thus to secure the rights of the injured citizen. That is all that I propose. I wish to screen no man from punishment. If he be guilty, try him before the courts and punish him. My own opinion is that the higher the magistrate the greater the criminal if he violates the laws of the land. Why punish the jailer, the custodian, as you do by the law of March 3, 1863, if he refuses to deliver up the party, and allow to go free the high official who orders this wrong to be inflicted upon the citizen? If any one escapes punishment it should be the sub-official who has to obey orders. The higher the official who infracts the law the greater the criminal, because it is his duty to see that the laws are faithfully executed.

Mr. President, it is not my purpose to detain the Senate upon this matter. The amendment is one that appeals so directly to the sense of the Senate that I do not believe it will be voted down. Why do you arrest men? You certainly do it for the purpose of trying them and punishing them for their crimes. If they are guilty of crimes, hand them over to the legal tribunals and punish them speedily and promptly. That is what a humane and just Government should do. I wish to screen no man from punishment. If the Government, through its agents, lays its hand upon a citizen without warrant of law and imprisons him, deprives him of his liberty for a great length of time, and does not try him, if that person is not guilty of any offense the Government agents are themselves criminals. All that I desire is that the parties arrested shall be handed over to the courts to be tried and punished if found guilty. I ask nothing more by this amendment. We have the principle settled in the very law that I have

mentioned in regard to the sub-officials. Then why not punish those who order and decree the arrests? Why punish the contemptible agent and leave the principal free? It is wrong upon every principle.

If any Senator will take up this amendment and show me where it can work any injury to the country I shall be willing to accept any amendment to meet the objection; but I think when they come to dissect it they will be unable to find anything in it save and except providing that those who are arrested for crime shall be speedily tried and punished if guilty, and then to punish the officials who arrest them unless they do hand them over to the courts for trial. That is the whole of it.

The PRESIDENT *pro tempore*. The Senate will now take a recess pursuant to its order until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock, and, on motion of Mr. MORRILL, proceeded to the consideration of executive business. After a quarter of an hour spent in executive session, the doors were reopened.

DANIEL HEBARD.

On motion of Mr. FOSTER, the joint resolution (S. No. 43) authorizing the settlement of the accounts of the late Captain Daniel Hebard, of the United States volunteers, was considered as in Committee of the Whole. It provides in the settlement of the accounts of the late Captain Daniel Hebard, of the United States volunteers, an assistant adjutant general on the staff of General Gorman, the Secretary of War shall allow and pay for the whole time that officer was actually employed and on duty in the military service of the United States, whether before or after the date of his commission.

The joint resolution was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

BUREAU OF FREEDMEN'S AFFAIRS.

On motion of Mr. SUMNER, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. SUMNER. I offer an amendment to come in at the end of section four of the amendment of the committee:

And every such freedman shall be treated in every respect as a freeman, with all proper remedies in courts of justice; and no power or control shall be exercised with regard to him except in conformity with law.

The amendment was agreed to.

Mr. SUMNER. I move also in line two of section five to insert after the word "authority" the words "under the direction of the Secretary of the Treasury."

The amendment was agreed to.

Mr. SUMNER. In the fifth section, third line, after "real estate" I move to insert "belonging to disloyal persons."

The amendment was agreed to.

Mr. SUMNER. In line thirteen of the same section I move to strike out the words "held to service" and insert "employed."

The amendment was agreed to.

Mr. SUMNER. These amendments meet substantially some of the objections which have been made.

Mr. GRIMES. I move in the sixth section, in the seventh and eighth lines, to strike out the words "and that on their part they perform their duty under any contract entered into by them."

Mr. SUMNER. If the Senator from Iowa thinks that will increase the security of the freedmen I shall make no objection to it.

Mr. GRIMES. I do think so.

The amendment was agreed to.

Mr. GRIMES. I move to strike out in the thirteenth line of the fifth section the words "and such freedmen may agree;" so as to make the clause read:

Then to cause the same to be cultivated or occupied by the freedmen, on such terms in either case and under such regulations as the Commissioner and such freedmen may agree.

Mr. SUMNER. I accept that.

The amendment was agreed to.

Mr. GRIMES. In the third line of the fourth section I move to strike out "all freedmen" and insert "confiscated and abandoned lands;" so as to make it read:

That the Commissioner, under the direction of the Secretary of the Treasury, shall have the general superintendence of confiscated and abandoned lands throughout the several departments, &c.

I dislike the present phraseology, "the general superintendence of all freedmen." It implies control.

Mr. SUMNER. Allow me to make a suggestion to my friend, that I may have the benefit of his judgment upon it. It seems to me that his proposition makes the estates the principal thing and treats the freedmen somewhat as the incident or as auxiliary. Now, the very title of the bill is "to create a Bureau of Freedmen;" and it seems to me that it would be better and more consistent with the idea of the bill to keep the freedmen prominent as the main object of the bill, whereas the proposition of the Senator would bring forward the care of the abandoned and confiscated lands as the main object. I submit that to him.

Mr. GRIMES. That very idea of which the Senator speaks is what I object to, because looking on them as really freedmen I do not very much admire the idea of creating a bureau to take care of them. I would rather appoint a bureau to take care of the confiscated and abandoned estates, and let the care of the freedmen so far as they shall be cared for be an incident of the establishment of the bureau and of the care that shall be exercised over these estates. The amendment that I propose does not change the character of the section. It gives the same power to these commissioners to take charge of the freedmen that is given by the section as it stands, but it obviates some technical objections in my mind that I admit are not of very great importance, though it seems to me they ought to be regarded in framing a law of this description.

Mr. SUMNER. I think the proposition of the Senator interferes somewhat with the idea and with the harmony of the bill. I do not wish to make a question with the Senator; I regret that he moves the amendment; I should prefer to have the bill stand in this respect as it is. I do not think that his proposition improves it.

Mr. GRIMES. I want to get it into a shape in which I can vote for it.

Mr. SUMNER. I hope the Senator will not press this amendment.

Mr. GRIMES. I withdraw the amendment, though I think it ought to be adopted.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. GRIMES. I now move in the eighth line of the second section to strike out the words "Secretary of the Treasury" and insert "President, with the advice and consent of the Senate." As it now reads, each department is to be under an assistant commissioner, with an annual salary of \$2,000, "to be appointed by the Secretary of the Treasury." I propose to change it so that these assistant commissioners shall be appointed by the President, with the advice and consent of the Senate. They are much more important officers than Indian agents and have larger salaries, and I think the Senate ought to be permitted to know who they are that are to be intrusted with such important powers.

The amendment was agreed to.

Mr. GRIMES. In the eighth, ninth, and tenth lines of the seventh section, I move to strike out the words "and such agents shall have the same powers in the premises as are given herein to assistant commissioners." This refers to the Treasury agents, as will be seen by looking at the section, and if I understand the phraseology in the bill as it now stands, it continues the power of the Treasury agents.

Mr. SUMNER. It continues it merely until what they are doing, and the papers and property they have in hand, can be transferred to the assistant commissioners and superintendents. It is intended merely to provide for the transition period from one system to the other; and the Senate will observe that both of them are in the Treasury Department, under the direction of the Secretary of the Treasury; and the object of this section is merely for convenience' sake to enable the present agents acting under the Secretary of the Treasury to wind up their business, and to

transfer the papers and lands of which they may have the custody to these newly appointed officers. I think the Senate will find that there can be no evil in the clause.

Mr. GRIMES. It will be observed that it is provided in the preceding clause of the section—

That leases heretofore made by the supervising special agents of the Treasury Department, under the authority of the General Order 331, of the Secretary of War, dated October 9, 1863, and in accordance with the regulations of the Treasury Department, shall have the same effect as if made by assistant commissioners under this act.

I do not know that there can be any valid objection to that. If these agreements or leases have been made in strict conformity with the law and the regulations of the two Departments established under the law, they ought to stand. But then the section goes on and says, "And such agents," those appointed by the Treasury heretofore, "shall have the same powers in the premises as are given herein to assistant commissioners." We have already provided by a preceding amendment which I submitted and which the Senate has adopted that these assistant commissioners shall be appointed by the President of the United States and confirmed by the Senate, and that the Secretary of the Treasury may designate the number of districts and therefore the number of assistant commissioners. Now, suppose that he does not choose to divide Louisiana and Mississippi into departments and have the President appoint the assistant commissioners and send their names to the Senate for approval, may he not carry on the business with his Treasury agents? That is what I wish to avoid, and I want the responsibility attached to these Commissioners which we have already provided shall be attached. I do not know that these Treasury agents give bond. They certainly are not appointed by the President; they certainly are not confirmed by the Senate. It strikes me that we should have unity in this system, and we should not have a Treasury agent performing duties under this bill in one State without being appointed by the President, without holding any commission, without being confirmed by us or known to us, while in an adjacent State we have a commissioner who has been appointed by the President and confirmed by us and who has executed bonds under this law.

Mr. SUMNER. Let me call the Senator's attention to the proviso that follows the words which he has moved to strike out:

Provided, That no leases shall be made by them—

These agents—

for a longer period than one year, and that immediately upon the organization of any department of freedmen such agents shall cease to execute their functions within such department, and shall deliver over to the assistant commissioner thereof all property and papers held by them as agents.

The Senator will therefore see that this provision is merely transitory; it is to cover the period intervening between the old system and the new system. The proposition of the Senator, it seems to me, while it would take from these agents some of the powers they otherwise would have, would also take from them some of the opportunities of usefulness which this bill aims to secure. For instance, they could not do as much for the protection of the freedmen as they might if they were invested with these powers and authorized to act as the assistant commissioners. If, however, the Senator still perseveres in his criticism on that point, I do not wish to make a strenuous objection.

Mr. BROWN. It strikes me that the criticism of the Senator from Iowa is perfectly just. There is no necessity for giving these Treasury agents any more power. If they have authority under present laws by their appointment by the head of the Treasury Department to conduct the business in which they are now employed, they can go on under that authority and do it. There is no rhyme or reason why we should give them additional powers such as are mentioned here in this bill; and I am free to say that for my own part I shall be unwilling to confer such powers upon many of the Treasury agents who are now down there in that employ.

Mr. GRIMES. I think I can satisfy the Senator from Massachusetts himself that I am right about this matter. The clause to which he has called my attention, succeeding that which I have moved to strike out, reads: "that no lease shall

be made by them" (the Treasury agents) "for a longer period than one year, and that immediately upon the organization of any department of freedmen such agents shall cease to execute their functions within such department." The agents are to cease to act when the departments are organized. When are the departments to be organized? Only at the will of the Commissioner, approved by the Secretary of the Treasury. Suppose that the Commissioner does not choose to organize these departments, or if he does that the Secretary of the Treasury does not choose to confirm his action, I ask the Senator do not the Treasury agents still stand in their office exercising the powers conferred on the assistant commissioners under this bill?

Mr. SUMNER. Very well; I shall not insist. The amendment was agreed to.

Mr. BUCKALEW. I wish to offer a small amendment to which I suppose there will be no objection. In the seventh and eighth lines of the fourth section I move to strike out the words "in the spirit of the Constitution." They are in bad taste and quite unnecessary.

The amendment was agreed to.

Mr. SUMNER. I doubt whether those words had better go out. The language is "and generally, by careful regulations, in the spirit of the Constitution, to protect these persons in the enjoyment of their rights, to promote their welfare," &c.

Mr. HOWARD. The words objected to do not affect the meaning.

Mr. SUMNER. They do not affect the legal obligation one way or the other; but the introduction of the words there does suggest that these people are to have over them the Constitution, and that whatever is done in regard to them is to be done in the spirit of the Constitution. Naturally it must be so, but still it seemed to the committee not unimportant, under the circumstances, to introduce these very words, so that everything that is done shall, according to the requirement of the text, be brought at once to the touchstone of the Constitution, and so that it shall appear that we intended that specifically.

The PRESIDENT *pro tempore*. Does the Senator desire a division? The Chair decided that the amendment was agreed to.

Mr. SUMNER. I will not make any question about it.

Mr. BUCKALEW. I move an amendment to come in at the end of the fifth section, to prevent a conflict between the courts and the officers under this bill:

But nothing in this section contained shall be construed to prevent the due execution of process against the real estate and personal property before mentioned issuing in due course of law from courts of competent jurisdiction.

The amendment was agreed to.

Mr. BUCKALEW. I have but a single other amendment. In the third line of the first section I move after the word "office" to insert "to continue during the existing war."

Mr. WILSON. I move to amend that by adding "and two years thereafter."

Mr. POWELL. I doubt whether that is in order; there is already an amendment to an amendment.

The PRESIDENT *pro tempore*. It is an amendment in the third degree, and not in order. The question is on the amendment of the Senator from Pennsylvania, which is an amendment to the amendment of the select committee.

Mr. BUCKALEW. I move this amendment in order to test the sense of the Senate in reference to the duration of this measure, to ascertain, if it be possible, whether the intention is that this measure shall accompany the war, and be considered as an incident of the war, or on the other hand a settled policy in the civil administration of our Government without reference to our present difficulties. The statement of it indicates my intention without an argument.

Mr. SUMNER. I have said often in the discussion of this question that I regarded it as a transition measure calculated to serve a temporary purpose, to bridge over, if I may so express myself, the period from slavery to freedom. That, I think, was the idea of the committee. I believe the Senator from Pennsylvania was no stranger to it, as we had the honor of numbering him on our committee. But while that certainly is my

idea, I should be unwilling to insert in the bill a limitation positively closing the activity of this bureau with the war. I think it is too much to suppose that the exigency out of which it arises will have passed over with the war. I think it may continue longer. With the modification proposed by my colleague, continuing it two years after the war, I should have no hesitation in agreeing to the amendment. I hope the Senator from Pennsylvania will accept that modification.

Mr. BUCKALEW. There is not the slightest pretense of power in the Government of the United States to administer such a system except in connection with the war, and by virtue of the power which this Government possesses in its prosecution. My amendment is to test that most plain, most evident, most indisputable principle, about which no member of this Senate can be ignorant.

Mr. POMEROY. The intention of the committee, as the chairman will bear witness, was that this measure should be a temporary one. It is obvious to every one that we cannot carry on this system within States in the Union represented here in Congress. These freedmen are to be citizens of the States, and when States come back into the Union we cannot undertake to exercise control over them. I regard this as a temporary measure that should be dispensed with at a very early day, within a year or two years after the restoration of the Union. I am very clear that it is a system which we should not undertake to perpetuate at the South when those States are restored to the Union. I should like to have a limitation in the bill.

Mr. WILLEY. The amendment of the Senator from Pennsylvania meets an objection which I mentioned the other day, a very fundamental objection, it seemed to me, to some extent; but I desire to call his attention to the operation of the amendment, for I think it involves a great principle. It is not without the range of possibility that this war may last several years yet. In the prosecution of it it may be that in the States of Arkansas, Tennessee, and Virginia the rebellion may be overcome before the war is thoroughly ended and the rebellion crushed elsewhere; and those States freed from the power of the rebellion may one after another be reorganized and come back to their allegiance and their true position in the Federal Union. That may be two, three, four years before the war is ended. When one or two of these States, or more, as the case may be, shall have been fully restored to the Union, their State governments fully reorganized and in operation according to the terms of the amendment as it now stands, the States thus restored must be subject to the operation of this law and this system of machinery until the war is ended everywhere.

Mr. BUCKALEW. I rise to explain. My amendment relates to the first section of the amendment proposed by the committee, which simply organizes the bureau. My amendment is that the duration of the bureau shall be measured by the war. With reference to discrimination as between the different States which are now in rebellion, that is quite another question.

Mr. WILLEY. What I desired was to call the attention of the Senator from Pennsylvania to that question. I cordially concur in the necessity of some limitation of time, but I think provision ought to be made to meet the case of States in the condition I have named.

Mr. BUCKALEW. That is a subsequent question.

The amendment was agreed to; there being, on a division—ayes 17, noes 9.

Mr. HENDRICKS. I have one or two amendments which I wish to propose, though I do not expect to support the measure. I move, in the seventh line of the first section of the amendment of the committee, to strike out "\$4,000" and insert "\$3,000." This I understand to be a bureau officer in the Treasury Department, who is provided for in this section which proposes to give him \$4,000 salary for a year. I cannot see the propriety of giving that salary to this bureau officer, while the same salary is denied to other bureau officers. In the Interior Department all the heads of bureaus get \$3,000, except, I believe, the Commissioner of Patents, and he is paid out of a fund which comes from the persons who are benefited by the operations of that office. The Commissioner of the General Land Office, who has

charge of an immense interest of the country, the Commissioner of Pensions, who now has charge of a very large interest, and a growing interest, affecting a very large portion of the people of the country, and in the Treasury Department the different Auditors, among whom I may mention the Second and Third Auditors, whose business now covers millions upon millions every month—these officers, having charge of the most important questions of the Government, get a salary of \$3,000 per year. Here is created in this section an officer of like rank, with no greater responsibilities, to say the least, than these other officers have. I think a discrimination to the prejudice of the men who now so acceptably fill the positions of heads of bureaus should not be made. Therefore I move to make it \$3,000, the ordinary salary of bureau officers.

Mr. SUMNER. My single objection to it is this: the hope of those who have taken a part in bringing this measure forward has been to secure in this office a first-class man, a person who by character, by education, and by sympathy would be the best fitted possible for the responsible duties we are about to impose on him; and on inquiry it did not seem to us that we could obtain such a man, or that we could invite such a man to enter upon these duties unless we were ready to offer him the salary specified in the bill. I hope the Senate will adhere to the original salary as proposed by the committee. It seems to me that in cutting it down, as the Senator from Indiana proposes, they will perhaps make it necessary to take a second-rate man when we wish to have, if I may say so, a first-rate one.

Mr. HENDRICKS. The Senator says we should secure a man with proper qualifications. I admit that. The second point is that he should be of right sympathies. We know what it costs to get qualifications. We know that by the salaries paid to the men now at the head of bureaus. I presume, though I am not acquainted with very many of them, that they are men qualified for the high and very responsible duties they discharge. Three thousand dollars has commanded the proper ability in the Pension Office, in the Land Office, in the Second and Third Auditors' offices. So with the Assistant Secretary of the Interior, the Second Assistant Secretary of the Treasury, and the Assistant Secretary of War, officers that stand next to the heads of Departments. We are supposed to have given a salary sufficient to secure high talent, and these men have to act upon questions involving hundreds of millions of dollars per annum.

How much the sympathy should cost I do not know. That is a question with which the Senator from Massachusetts is much more familiar than I am. I presume, however, the fact that a man had a very earnest sympathy in behalf of the population that is to be benefited by this measure would not make him charge more, because he was going to take an office to benefit them, than if he did not have that sympathy. So I think the proposition is not right. I would be in favor, if that were the pleasure of the Senate, of raising the salaries of all the bureau officers, and all the clerks here. I think it should be done. I am not able to see how some of them live, at the present enormous cost of living, on what they get; some get only \$1,200 a year. I do not understand it. But the Senate has declined upon a square vote to raise the salaries of the different Assistant Secretaries and of the heads of bureaus. While the Senate is taking that position in reference to the interests of the Treasury, I think we ought not to depart from it in one single instance and thus make an invidious discrimination.

Mr. SUMNER. The Senator says that we have adopted a rule not to raise salaries. We are now creating a new office, and the question is whether we shall not do that justice to this new officer which the Senator says in his opinion ought to be done to the old officers. Now, I take the Senator at his word. Here is no proposition with regard to an old officer; here is a new creation; and the committee is fixing the sum at \$4,000 felt that they were doing something to give the office that solidity of foundation which, considering its importance, it ought to enjoy. I hope the salary will not be reduced.

The amendment was agreed to.

Mr. HENDRICKS. In the fifth section I move to strike out in the fourth and fifth lines the

words "and all real estate with the houses thereon liable to sale or confiscation;" so that the clause will read:

The assistant commissioners shall have authority, under the direction of the Secretary of the Treasury, within their respective departments, to take possession of all abandoned real estate belonging to disloyal persons, or to any claim of title by the United States, &c.

The first part of this section provides for taking the possession and control of abandoned real estate. What is an abandoned estate is a matter of fact that can be judged of only by observation, and I presume that the commissioners would be competent to make that observation and decide the question of fact. But in the fourth and fifth lines it is provided that these commissioners shall take possession also of lands and houses liable to sale or confiscation. I suppose this contemplates a liability to sale or confiscation under the confiscation laws of the United States. What property is liable to confiscation and sale under those laws is a judicial question which can be decided only by the courts. I am not able to say what are the circumstances that must be established in proof before lands can be confiscated during the life of the owner; I should have to turn to the statutes; but there must have been an act of rebellion with an intent, and all those circumstances must be proved to the satisfaction of a court before lands can be declared confiscated. Now, I submit to the Senate that this judicial question, properly referable to the courts, ought not to be referred to an assistant commissioner to be decided by him. He cannot tell by observation whether lands are liable to confiscation, as he can tell whether lands have been abandoned. The one is a matter of observation; the other involves a question of judicial investigation which these assistant commissioners have no machinery or opportunity of determining. I think this provision ought to be stricken out.

Mr. SUMNER. I hope the amendment will not prevail.

Mr. HOWARD. I do not understand the clause as being of the import ascribed to it by the Senator from Indiana. I understand the real estate referred to here to be real estate which has been abandoned by the owner, which is left without anybody in possession of it in the name or on behalf of the owner, property that has been given up and that has been quitted, left by the owner.

Mr. COWAN. And "all other real estate."

Mr. HOWARD. I suppose it cannot refer to any real estate except such as has been abandoned and given up by the owner. I do not understand this as authorizing the commissioner to enter into real estate and take possession of it by the strong hand and take it from the owner, though the owner may be a rebel, without due process of law. I certainly should not think it proper to give him such power as that, and I do not think, properly construed, this clause does authorize it.

Mr. HENDRICKS. If the Senator from Michigan be right, there is no necessity for these words, because if the lands be in fact abandoned the first paragraph will cover the cases that the Senator admits ought to be provided for; but as the committee have reported this bill with these two clauses, the one case is "abandoned real estate," the other lands "liable to sale or confiscation." Now, does the Senate intend to give to these commissioners without the opportunity of investigating the question the power to turn men out of the possession of their lands, and to take possession of them simply upon the decision of a commissioner? Whether lands ought to be confiscated is a question that ought to be tried by the courts, and not in this irresponsible mode.

Mr. SUMNER. I should like to understand precisely the bearing of the Senator's amendment. It seems to me that the sentence will not be accurate unless there is another word inserted. As I understand, the Senator proposes to strike out "all real estate with the houses thereon liable to sale or confiscation," so as to make it read, "to take possession of all abandoned real estate belonging to disloyal persons, or to any claim of title by the United States."

There ought to be words "or subject," so as to read, "or subject to any claim of title by the United States." Let that word come in and I have no objection then, because I think the language that remains would be broad enough to cover all practical cases.

Mr. COWAN. Say "belonging to the United States."

Mr. SUMNER. Add the word "subject" after "or."

Mr. HENDRICKS. I am afraid that would be rather broad. What I want to avoid is this: I do not think the commissioners, not acting under any judgment of a court, ought to be authorized to enforce a claim of the United States and take possession from the occupant. If the claim of the United States has been established by judicial proceedings, such as would be required, I should have no objection; but this is conferring judicial as well as executive power upon the commissioner. Suppose that the land is in the possession of the former owner, and the Government asserts some claim to it, would it be the pleasure of the Senator from Massachusetts to confer upon the commissioner, upon his own investigation of the subject, the power to turn a party out of possession without a judicial proceeding and investigation? I should be afraid that the word would be too comprehensive; indeed, I think the whole of that where it rests merely on a claim ought to be left to be enforced like other claims of the Government.

Mr. SUMNER. The obvious purpose of this language was to meet a class of cases where the real estate with the houses thereon were openly and clearly liable to sale or confiscation; in the first place for the non-payment of taxes, and in the next place because the owner was a rebel. That was the object of the language, and I think if the Senator bears that in mind the language will not be obnoxious to his criticism: "all real estate with the houses thereon liable to sale or confiscation or to any claim of title by the United States."

Mr. HENDRICKS. Let me ask the Senator if these words would be satisfactory to him: "to take possession of all abandoned real estate."

Mr. SUMNER. "All abandoned real estate belonging to disloyal persons."

Mr. HENDRICKS. "And all estates to which the United States have title." Then that would give them the control of the Government property; that would obviate what I think is a very serious objection to the present language of the bill.

Mr. SUMNER. Still the Senator leaves out two operative words there, "sale or confiscation." I should like to have those words remain in some way.

Mr. HENDRICKS. Now, I will read the amendment as I propose. I propose to strike out the words as I did before in the fourth and fifth lines, "and all real estate with the houses thereon liable to sale or confiscation or to any claim of title by the United States," and insert "estates to which the United States have title."

Mr. SUMNER. It would be better to preserve the first part of the sentence, and then say "and all other estate, with the houses thereon, to which the United States, for non-payment of taxes or confiscation, have title."

Mr. HOWE. I desire to suggest to the Senator from Massachusetts that it seems to me he does not want to include in this clause estates liable to sale for non-payment of taxes, because it strikes me that must create a conflict of jurisdiction between the tax commissioners and the officers to be appointed under this law.

Mr. SUMNER. But the Senator understands the tax commissioners report at the Treasury Department.

Mr. HOWE. They report to the Treasury Department, but the law under which they act directs them in the case of non-payment of taxes to sell the property, and if they sell the property somebody purchases it, and the purchaser will be entitled to possession. This law directs the Commissioner appointed under this act to take possession and lease it. Thus the lessee of this Commissioner and the purchaser under the law for the collection of taxes would be litigant claimants to the same estate. I think we should not interfere with the operation of that law.

Mr. HENDRICKS. I ask that my amendment be reported as modified.

The Secretary read, as follows:

In lines four and five of section five strike out "and all real estate, with the houses thereon, liable to sale or confiscation, or to any claim of title of the United States," and to insert "and estates to which the United States have

title, and estates of which the United States have possession."

Mr. SUMNER. I would suggest to allow the first part to stand, and then say "and all estates, with the houses thereon, to which the United States have title." That substantially adopts the idea.

Mr. HENDRICKS. Yes; and I have added, "and estates of which the United States have possession."

Mr. SUMNER. Very well.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from Indiana.

Mr. SUMNER. I think the Senator had better leave the language of the bill, "all real estate with the houses thereon," so that there shall be no question about the houses.

Mr. HENDRICKS. I have no objection to that; but I would not want to be the author of that language, because houses are part of the real estate; I would not like to use language that was not exactly professional myself. If the Senator desires to put that in, I have no objection; but let it be on his own motion.

Mr. SUMNER. Then say "all real estate to which the United States have title, or of which they have possession."

Mr. HENDRICKS. That is substantially what it is.

Mr. SUMNER. But there may be some real estate where they are out of possession.

Mr. HENDRICKS. Then if they have title the Commissioner will take possession.

Mr. SUMNER. Very well; then it should be "or," and not "and;" "all real estate to which the United States have title, or of which they may be in possession."

Mr. HENDRICKS. Very well, put it in that shape; I have no objection.

The amendment was agreed to.

Mr. POWELL. I move to strike out in the third line of the fifth section the words "all abandoned real estate," and leave the words that have just been put in.

Mr. SUMNER. The language here is, "all abandoned real estate belonging to disloyal persons."

Mr. POWELL. I do not think the words "abandoned real estate" ought to remain in the bill, because it will be impossible for these commissioners to determine or adjudicate to whom an abandoned estate does belong. They cannot decide whether the owner is loyal or disloyal. There are thousands of abandoned estates in that region of country that belong to loyal men. These commissioners are not the proper tribunal to decide whether they are loyal or disloyal. They could go there under this bill and take possession of the estate of any individual if they found it abandoned. They are not the proper tribunal to try the question of loyalty. That matter must be submitted to the courts. There is no mode or means pointed out in the bill by which the commissioners are to adjudicate the question. They go there and they see a farm, for instance, that has no occupant upon it, and they seize it and call it "an abandoned estate belonging to a disloyal man." I think the question of loyalty should be settled by some judicial finding, particularly before you seize property. In the confiscation bill passed some time ago you authorized the President to have property seized and taken by an action *in rem* and sold for the benefit of the Government, and the money to go into the Treasury where the property belonged to disloyal persons. You will see at once the confusion that will arise from the conflict of these laws. This bill allows the commissioners when they go down there to take possession of a farm which they find without anybody upon it. They are to institute no inquiry as to whether it belongs to a loyal person or not. Really, the bill makes them a kind of grabbers, a kind of land-sharks and land-pirates, to go through the country and where they find a farm or house unoccupied to seize upon it. You authorize them by law to go and commit a trespass on the rights of every citizen that is not in actual possession of his estate. The Senator certainly has not looked to the broad power that he is conferring here. Thousands of loyal men in the southern country have gone off and left their farms unoccupied; and you, by your law, vest a commissioner with power to go and seize that

property, provided, in his opinion, he thinks it belongs to a disloyal man. I hope the provision will be stricken out.

Mr. SUMNER. I hope the words will not be stricken out. If they are stricken out there will be very little in the way of land for the commissioners to occupy themselves with. We have already introduced into the bill the limitation moved by the Senator from Pennsylvania confining the bill to the duration of the war. I have said again and again that it is a transition measure. It partakes, therefore, of the incidents of the time. It is not a permanent measure. If it were so, the criticism of the Senator from Kentucky would be perfectly in place; but as it is for the war, as it is temporary in character, as it is to meet the precise exigencies of the hour, the criticism of the Senator, permit me to say, is entirely out of place. Still further, in point of fact, during the last year the Secretary of the Treasury, under an order from the War Department, has been taking possession of all the abandoned plantations of disloyal persons wherever our armies have gone; and the object of this section was simply to reduce to the form of a statute that order from the War Department under which the Secretary of the Treasury for more than a year has been acting. If you take from the Secretary that power you leave little or nothing for the agents there to do. Why, sir, the vast proportion of all this land is abandoned, and has in time past belonged to disloyal persons. There must be discretion lodged somewhere. In this case it is under the supervision of a Commissioner who himself is under the supervision of the Secretary of the Treasury. The discretion is as well guarded as it can be, and it is a discretion which it seems to me is essential to carry out the purpose of the bill.

Mr. POWELL. The Senator says it is a part of the exigencies of the time to clothe these commissioners with power to go and seize property that belongs to loyal men. I know that that has been the practice to some extent, and it is being practiced in my State now. The Senator says the Secretary of the Treasury has issued an order to have his agents take possession of abandoned estates throughout the South. If he has issued any such order it is void for want of legal authority.

Mr. SUMNER. It is a military order.

Mr. POWELL. I do not care whether it is a military or a civil order. Because a man is clothed with military authority that is no reason why he should be clothed with the power of a robber to take the property of a loyal man. A military man can be a rogue as well as a civilian, as we unfortunately know in these times. There is a law on the statute-book passed by Congress, a law the passage of which I opposed with all the power I could command, your confiscation law, which requires the President to have the lands of disloyal men taken by a proceeding *in rem* and disposed of for the benefit of the United States, the money to go into the Treasury; and if the Secretary of War or the Secretary of the Treasury or both of them have undertaken to make other appropriations of such property, they have not only acted in violation of the law but transgressed any powers they have under any law of the land.

The amendment that I propose should be adopted. Has the Senator put in his bill any provision that if the abandoned estate of a loyal man is taken possession of, the Government shall pay him rent for it? None. In my opinion the whole scheme is inaugurating robbery. It should not be passed. Certainly all possible safeguards should be put in it. You appoint a Commissioner under this bill with a large salary and he goes down South and seizes abandoned estates. There are hundreds and thousands of men now at the North, loyal men who have fled from their plantations in the South. Indeed, their very loyalty has driven them from them. Their property may be taken possession of under this bill without the consent of the owner. The man who does it is a trespasser. It ought not to be allowed. You should have some judicial investigation to find out whether the owner of the property is loyal or disloyal. Do not send your commissioners there with wholesale power to jump upon and take possession of everything they may find when the owner is not upon it. You might as well appoint a commissioner to go through the country and take possession of every abandoned horse or

every piece of abandoned personal property the owner of which is not at hand. It would be just, as honest as this provision of this bill to send a roving commissioner down South to take possession of everything that the owner is not actually possessed of.

Mr. HARLAN. If I understand the purpose of this bill, it is not to affect the title to the land one way or the other, but to take possession of land that is unoccupied by the owner, whether loyal or disloyal, for the purpose of putting the contrabands to work to enable them to become self-sustaining.

Mr. POWELL. Let me ask my friend from Iowa what authority this Government has to take possession of his farm for the purpose of putting a contraband on it to make him self-sustaining. There is no such power.

Mr. HARLAN. I suppose that the question of the Senator from Kentucky was hardly propounded in earnest. If the Government has a right to take the property of an individual, a subsequent question may arise whether the Government would not become liable to the individual for the use of the property, and that is the only question that could arise. That the Government may take my property, or the property belonging to the Senator, or anybody else, would not be called in question here seriously I apprehend, but the practical intention of the framers of this bill is to relieve the Treasury of the United States from the support of persons who fall into the hands of our armies as they go through the country. I have heard speeches, I think, of the Senator from Kentucky, denouncing these people as lazy and a burden upon the Treasury. He thinks it better to let them remain in the hands of their rebel masters than permit them to fall into the hands of the armies of the United States. For the purpose of avoiding this burden, the committee have framed this bill, directing a proper officer, contemplated in the bill, to take under their control these contrabands, and lands that have been abandoned, that are in the possession of no one, and put these colored people to work, and thus make them self-sustaining, permit them to earn their own bread by the sweat of their own face. This is necessary to preserve them from destruction as well as to preserve the Treasury from unnecessary expenditures.

The amendment was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following joint resolutions; in which it requested the concurrence of the Senate:

A joint resolution (No. 113) to settle and pay the accounts of John S. Phelps, of Missouri, as a member of the Thirty-Seventh Congress;

A joint resolution (No. 114) authorizing the Secretary of the Navy to expend a portion of the contingent fund for enlarging the Navy Department building; and

A joint resolution (No. 115) to continue in force the joint resolution entitled "A joint resolution to increase temporarily the duties on imports," approved April 29, 1864.

The message also announced that the House had passed the bill (S. No. 199) relating to the compensation of pension agents; and the bill (S. No. 335) to carry into effect a convention between the United States of America and the United States of Colombia.

DUTIES ON IMPORTS.

Mr. SHERMAN. I ask the Senate to take up the joint resolution just received from the House of Representatives, extending the joint resolution to increase temporarily the duties on imports. It is deemed necessary that it should be acted on to-night. The sixty days provided for by the joint resolution of April 29 expire to-day, and the tariff bill is not yet in force, and will not be for a day or two yet, and therefore the resolution extends the operation of the joint resolution of April 29 until the 1st day of July, by which time the new tariff law will take effect.

Mr. SUMNER. Let the pending bill be passed over informally for that purpose.

Mr. SHERMAN. Certainly.

By unanimous consent, the joint resolution (H. R. No. 115) to continue in force the joint

resolution entitled "A joint resolution to increase temporarily the duties on imports," approved April 29, 1864, was read three times, and passed.

HOUSE BILLS REFERRED.

The joint resolution (No. 113) to settle and pay the accounts of John S. Phelps, of Missouri, as a member of the Thirty-Seventh Congress, was read twice by its title, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The joint resolution (No. 114) authorizing the Secretary of the Navy to expend a portion of the contingent fund for enlarging the Navy Department building was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the following bill and joint resolution of the House:

A bill (No. 532) to establish certain post routes; and

A joint resolution (No. 68) authorizing the Secretary of the Treasury to release certain goods from the payment of duties.

THE TARIFF BILL.

The message also announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill of the House (No. 494) to increase duties on imports, and for other purposes; and asked a conference on the disagreeing votes of the two Houses thereon; and had appointed Mr. J. S. MORRILL of Vermont, Mr. R. E. FENTON of New York, and Mr. S. S. COX of Ohio, managers at the conference on its part.

Mr. SHERMAN. I move that the Senate insist on its amendments, disagreed to by the House of Representatives, to House bill No. 494, the tariff bill, and agree to the conference asked for by the House of Representatives.

The motion was agreed to.

The PRESIDENT *pro tempore*. How shall the committee be appointed?

Mr. SHERMAN. By the Chair, I suppose, in the usual mode; but I think it indispensable to have the occupant of the chair upon the committee, and therefore, perhaps, the matter had better lie over till the morning.

The PRESIDENT *pro tempore*. That course will be taken.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the enrolled joint resolution (H. R. No. 115) to continue in force the joint resolution entitled "A joint resolution to increase temporarily the duties on imports," approved April 29, 1864; and it was thereupon signed by the President *pro tempore*.

BUREAU OF FREEDMEN'S AFFAIRS—AGAIN.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. HENDRICKS. In the fourth section I move to strike out the following words in the fifth, sixth, and seventh lines: "proclamations and military orders of emancipation, or in any way concerning freedmen." The first part of the section provides that "the Commissioner, under the direction of the Secretary of the Treasury, shall have the general superintendence of all freedmen throughout the several departments, and it shall be his duty especially to watch over the execution of all laws." Now, if we can thus delegate a part of the President's power to this Commissioner, let it be to watch over the execution of the laws; but this section goes further, and provides that he is also to watch over the execution of "proclamations and military orders of emancipation, or in any way concerning freedmen." It is to provide by law that this officer shall see to the enforcement of the proclamations and military orders of emancipation; in other words, it is by Congress to recognize the validity of the proclamation of the President declaring certain persons to be free. For myself, I do not believe the President of the United States had any power to make a slave a free man, or a free man a slave. No such power

is conferred upon him by the Constitution of the United States. I do not choose to discuss now how far the operations of the Army, in breaking up the relations between the master and his slave, may cause the freedom of the slave; but I speak now simply of the legal effect of the proclamation of the President of the United States. This bill proposes to recognize as valid and of sufficient power to have the effect of producing the freedom of the slave the proclamations issued by the President of the United States.

I think that the President himself and the Secretary of State have both most clearly announced the proposition that no such power was possessed by him, and the Secretary of State in his foreign correspondence intimated that if the President should undertake to exercise such a power the Supreme Court of the United States would declare such effort on his part to be invalid and void. These not having any force except perhaps a moral or rather a demoralizing force, I do not propose to vote for any law that shall direct any executive officer of the Government to put them in force. If the President as the head of the Army directs the generals, as he has already done, to see that his proclamations are enforced, we have no control over that and no connection with it; but this proposition is that Congress shall recognize as constitutional and valid proclamations which I think no Senator really believes the President had the power to enforce; I mean to say that the President had not the power to make men free by his proclamation. If they were slaves, it was by virtue of State laws over which the Federal Executive has no control. I do not propose to sanction by legislation a proclamation that I believe to be invalid.

Mr. SUMNER. I am grateful to the Senator for his frankness. He states his objection so that we can all understand it. He does not believe in the proclamation of emancipation. Now, sir, I do, and I think the Senate believe it, at least a majority of the Senate.

I simply add one other remark. It is already provided that this bill is to be only for the war. Therefore, what is more natural than that the officers whom we create should watch over the military orders for the benefit of these freedmen during the war, and especially that greatest order by which their freedom has been assured?

Mr. POWELL called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 5, nays 29; as follows:

YEAS—Messrs. Carlile, Davis, Hendricks, Powell, and Riddle—5.

NAYS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Doolittle, Foot, Grimes, Hale, Harlan, Harris, Hicks, Howard, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Wilkinson, Willey, and Wilson—29.

ABSENT—Messrs. Buckalew, Collamer, Cowan, Dixon, Fessenden, Foster, Harding, Henderson, Johnson, McDougall, Nesmith, Richardson, Saulsbury, Trumbull, and Wright—15.

So the amendment was rejected.

Mr. HENDRICKS. I beg the patience of the Senate while I offer one more amendment. I move to strike out all of section seven down to and including the word "provided."

The words proposed to be stricken out were read, as follows:

That leases heretofore made by the supervising special agents of the Treasury Department, under the authority of the General Order 331, of the Secretary of War, dated October 9, 1863, and in accordance with the regulations of the Treasury Department, shall have the same effect as if made by assistant commissioners under this act: *Provided*.

Mr. HENDRICKS. If the Secretary of the Treasury had authority of law to make these leases and they be valid, they do not require to be made valid by any act of Congress; but if they be not valid for want of legal authority to make them, it is for the consideration of Congress whether they ought to be approved by Congress. I will not discuss the question in the first aspect, whether the Secretary of the Treasury had legal authority to make these leases, for if he had we need not act upon the subject, but his leases stand. If the Secretary of the Treasury had not authority to make these leases my vote shall not go to affirm them. I would be very slow to vote to confirm an important act of a Department of the Government which act was not sanctioned by law, and I could not be induced to take that step at all if the act was covered up by fraud. The management of these estates in the South for the last

year has been a matter of public notoriety. A system of favoritism, it is charged, has prevailed to such an extent as to disgust the country. If the reports on that subject be true, a thorough investigation has not been made. It ought to be, but it has not been made, and we must act in respect to this question upon what is generally known, publicly rumored; not very satisfactory information I am free to say, but it is enough to make us distrust ourselves when we propose to ratify that which is charged to have been done. I can scarcely express myself just as I desire. I do not want to say that the Secretary of the Treasury has had any connection with fraud; I will not say that; but that his agents have made fraudulent arrangements in respect to these lands and in respect to these leases is so generally rumored that Congress ought not to affirm them. Why the necessity of affirming them? Why not leave them where the Secretary of the Treasury under his regulations has left them? If valid, they stand; if invalid, let them fall, and let other leases be made under this law, and then they will have the force and sanction of a legal arrangement.

Mr. SUMNER. The clause which the Senator proposes to strike out was rendered necessary by the actual condition of affairs. The Secretary of the Treasury has proceeded by virtue of an order from the War Department in leasing plantations, and he has established a considerable series of rules and regulations governing such leases; but he has felt all along the necessity of the sanction of law for what he was doing in the premises. Thus far he has had no sanction of law; he has only had the military sanction under the order from the War Department; and the object of this language was simply to cover with the protection of law those leases that have been made by the Secretary during the last year. The Secretary himself asks to have that done; he thinks it ought to be done; he thinks it is essential to the business of his Department; and the committee, after the most careful inquiry into it, agreed with the Secretary. I hope the clause will not be disturbed.

Mr. GRIMES. I believe it is first in order to amend the clause proposed to be stricken out.

The PRESIDENT *pro tempore*. It is.

Mr. GRIMES. Then I move after the word "act" in the eighth line to insert:

Provided, Such leases shall not continue beyond the period of one year from their date.

This section does, as the Senator from Indiana supposes, ratify and confirm the leases that have been made by the Treasury agents heretofore appointed by the Secretary of the Treasury. So far as I am concerned, I am willing they shall stand, provided they do not extend beyond the period of one year. The Senator from Massachusetts will observe that the sixth section provides that the commissioners appointed under this act shall only lease for one year. I wish to put them all on terms of equality, and therefore I move this amendment.

Mr. HENDRICKS. If the amendment proposed by the Senator from Iowa shall prevail the interest will not be so very important, and I withdraw my motion.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa.

Mr. SUMNER. I suggest that it had better begin with "but" instead of "provided that."

Mr. GRIMES. I accept that modification.

The amendment was agreed to.

Mr. TRUMBULL. I move to add the following as an additional section:

And be it further enacted, That the last clause of a joint resolution explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862, be, and the same is hereby, repealed.

The words proposed to be repealed are, "nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life." As this bill provides for the occupancy of confiscated estates, I desire to repeal this clause of the joint resolution limiting the confiscation to the natural life of the offender.

Mr. SUMNER. I must ask my friend not to introduce that on this bill. The Senator knows very well that if it is introduced on this bill, when it goes back to the House of Representatives it will interfere with its passage there.

Mr. TRUMBULL. I trust not. The other House has passed a joint resolution on this subject.

Mr. SUMNER. I think it is incongruous to this bill; it does not belong to this bill. Here is a bill which is confined absolutely to one subject, a Bureau of Freedmen, and I entreat my friend not to load it down with anything else.

Mr. SHERMAN. I congratulate my friend from Massachusetts on his discovery. I had charge of a bill the other day, and it became my duty under the rules and usages of the Senate to attempt to exclude from it all legislative amendments. I had to separate myself from my political associates and vote against my own convictions on one or two propositions, simply to carry out a duty, as I supposed, to the Senate itself, to keep off of the appropriation bill incongruous amendments. There was a proposition to let Indians and negroes testify in the courts of justice, and propositions to survey the public lands, &c. I congratulate him now on knowing how such propositions affect a bill of which he has charge. He is now begging off. He is the last man to complain about an amendment of this character. As I think the amendment is a very important and proper one, I am rather disposed to vote for it.

Mr. SUMNER. The Senator from Ohio will pardon me. I think the other night he was clearly wrong, and I think now I am clearly right. I think the difference is all the world between an appropriation bill and a measure like this. An appropriation bill is made to carry weight; an appropriation bill is a through train; and the Senator who has charge of an appropriation bill must expect to take a passenger or two on the way. A measure like this is in no sense a through train.

Mr. HOWE. I hope the Senator does not mean to suggest that this is likely to stop. [Laughter.]

Mr. SUMNER. I hope not. I think my friend from Illinois had better withdraw his proposition.

Mr. CARLILE. I ask for the yeas and nays on the amendment of the Senator from Illinois.

The yeas and nays were ordered.

Mr. HENDRICKS. I wish to ask the Senator from Illinois if the resolution referred to in his amendment is the resolution that in express terms restricted the confiscation of real estate to the life of the owner.

Mr. TRUMBULL. Yes, sir. The object of the amendment is to repeal the last clause of the joint resolution which was passed after the passage of the confiscation act. The Senator from Indiana may remember that a joint resolution was passed explanatory of the confiscation act, the last clause of which was as follows:

"Nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

My amendment proposes to repeal those words, and leave the confiscation to extend to life or to be absolute as the Constitution may be decided to provide. I propose to leave it where the Constitution has left it.

Mr. McDUGALL. I desire to ask the Senator from Illinois how he can reconcile his position with the provisions of the Constitution.

Mr. TRUMBULL. I reconcile it with the Constitution in the same way that I reconcile with it the right to shoot a traitor, to destroy him, to destroy his property and everything that he has for the purpose of putting down this wicked rebellion. When we are engaged in war we have a right to do whatever is necessary to accomplish the just ends and objects and purposes for which the war is waged, and in order to put down this rebellion we may take the lives of men, their property, and everything else.

Mr. McDUGALL. Then I understand that although the Senator has often taken the oath to support the Constitution of the United States and the laws made under it, and although he took that oath on entering upon his present office, and although his right to his present place in the Senate is dependent upon that oath, nevertheless he thinks himself justified in trampling upon a plain provision of the Constitution.

Mr. TRUMBULL. I say no such thing. I say it is as constitutional to take the rebel's property as his life; and does the Senator from California sit there and pretend that we may not take the life of the rebel without going to a court? What sort of a war would that be which should be prosecuted by jury trials and constables, when

your armies are opposing each other, and when hundreds of thousands of men are arrayed against the Government? I am not to be put in any such position as that of advocating an unconstitutional measure. It is clearly and palpably constitutional, and as clearly and palpably right, in my opinion, as it is to exert the power of this Government in any other way to suppress this wicked rebellion.

Mr. McDUGALL. Mr. President, the provision of the Constitution to which I have called the attention of the Senate was adopted by men who were just out of the struggles of the Revolution, where for a time they occupied the position of rebels against English authority, subject to the laws of attainder and confiscation as they existed under English rule. With the lessons learned in the struggles of the Revolution, they said then for themselves and for the periods that were to come after them, that the law confiscating the property of persons in arms, guilty of treason, if you please, or rebellion, is an oppressive and unjust law. In affirming this opinion they but repeated the expressed judgment of the great teachers of moral, social, and governmental ethics. They laid down the constitutional rule of law with exact reference to questions such as the one now pending, and made it part of the fundamental law of the Republic. It is so plain that he who runs may read it. It cannot be misunderstood; it cannot be misconstrued.

The Senator says that the law of force, the law of the field of battle, shall be the law in legislative halls, shall be the law in courts of justice. For that law of the field of battle he goes back into the old Roman times, into the barbarous ages, to the practice that existed before any law on the shores of the Mediterranean and in western Europe. Such a doctrine has not been advocated by intelligent, well-advised, and just men in any period of history, and has been distinctly repudiated by all writers and thinkers since public law has engaged the attention of the civilized or semi-civilized world. I am astonished that a Senator who is, as a general rule, a strict adherent to the Constitution, and who must, from the exactness of his memory, remember the oath taken by himself, and which has to be taken by all Senators, should find in the law of the battlefield, in the midst of arms, the governing rule for legislative or judicial action. I am astonished at it, and I choose to take the occasion here now to express my astonishment.

Mr. CONNESS. Mr. President, my colleague, whether right or wrong in his law, is not truly representing the sentiment of the people that he represents here, by stating this as his position. The people of California are in favor of the confiscation of rebel property; they are in favor of destroying rebels, and, in the terse language of the Senator from Illinois, they are in favor of destroying everything the rebels have. By their legislative resolutions they have spoken, and I believe they have instructed my colleague to support and sustain this very identical proposition. There is no voice in the Union more determined, more clear, or more emphatic than the voice of California for destroying rebels and their property, for carrying on this war, not as the Romans did, not according to the declarations of my colleague before he was made Senator by the people of California. I had the pleasure in the Legislature of California to cast a vote for my colleague's election to this body; but I am very free to say that it would not have been cast upon such a declaration of opinions as he has made here-to-night. Those opinions did not prevail then in that State and with the loyal men of that State. There was an intensity connected with their loyalty that was given it by patriotism, and I understood my colleague to join in that sentiment and to give expression to it.

Sir, I would not come into this debate with these few remarks but that I wished that that State and its opinions upon this particular subject should be represented here. It may be that my colleague does not believe in the right of instruction. Perhaps we shall hear from him upon that. I hope that this amendment will be adopted; and I will close by reminding the honorable Senator from Massachusetts that by the very system now proposed by the distinguished Senator from Ohio some of the honorable Senator's greatest triumphs have been achieved in this body. I am very glad

that the amendment has been moved, that there shall be no question as to the opinion of the country and the right of the country to take possession of as much of the land as is occupied by its enemies.

Mr. McDUGALL. Mr. President, I believe that it has not heretofore happened that I have been forced into collision with my colleague. He has on several occasions offered the opportunity, but I have been indisposed to accept his gage for prudential reasons, first regarding the interest of my constituency and then again disliking his Puritan system of warfare. I regret that the occasion has now been forced upon me; and as it has come I do not feel that it is occasion for the splintering of lances. If I have occasion to handle one it will be one with an unpointed head.

The Senator, my colleague, has informed the Senate that I do not represent the opinion of the people of California on this subject. Sir, that is a question which will have to be tested hereafter. It has not been demonstrated as yet. I think that when the question comes to be tried in the State from which we come, and the voice and judgment of the people shall be expressed and pronounced, the Senator, my colleague, will find himself unsupported by the judgment. Such is my opinion.

The Senator has taken occasion to say that my opinions as expressed in California before I had the favor of his vote in the Legislature of that State were different from those which I have expressed here in my place. I will not say that this statement is false; to state this would do wrong to the dignity of this body; but I will say that I have never said in my place here anything inconsistent with what I avowed as my opinions in the State of California, on public occasions or in private conversation, in either spoken or written words. The individual who undertakes to maintain the contrary will undertake to maintain a falsehood.

Sir, I have heard such things, and many other such and worse things, said through those animal vehicles whose office it is to convey the poison of detraction and who secure their subsistence by the distribution of venom, the poisonous venom furnished by those who crawl where they dare not climb.

I have not the presumption to name the great Senator from Massachusetts in connection with myself, but I remember that on one occasion he gave expression to his indignation aroused by some of the class of men of whom I speak. In writing to citizens on the Kennebec river, he says:

"I know no passion more appropriate to devils than the passion for gross misrepresentation and libel." * * * "In classical times there were a set of small but rapacious critics, denominated *capitales verborum*, who snatched and caught at particular expressions, expen- ded their strength on the *disjecta membra* of language; birds of rapine who preyed on words and syllables, and gorged themselves with feeding on the garbage of phrases, chopped, dislocated, and torn asunder by themselves, as flesh and limbs are by the claws of unclean birds."

Sir, there are worse than these, more like the harpies of ancient fable, who with the fair faces of women but with the maws of vultures robbed and defiled the feasts set for the gods.

I have been made subject to many assaults springing from such sources. I do not think, however, the venom inflicted by such assaults will prove mortal. So far as the just-made statements of the Senator, my colleague, are concerned, I defy him or any other person to place his finger upon a word ever used by me inconsistent with my whole conduct and with the sentiments I have always expressed. Sir, it happened to be my fortune, I am proud of it, that the first man on the shores of the Pacific who raised the standard of the Union and made battle for it called himself by my name. The Senator, my colleague, was present and witnessed it. The speech is in print. It was made in the hall of the House of Representatives in California. Every word of it was the truth in my judgment then, and I indorse it now. Then, at a time of peril, when and where the free expression of opinion was perilous, I invited open and full discussion, particularly on the part of those aspiring to the senatorial office. The hall of the House was assigned for the purpose. Of the list of aspirants I found myself the only one willing and ready to maintain the cause of the Union. I did all that was within my power to maintain the cause of my country, as a duty I owed to myself, my family, my country, and to Him who is the ruler of men and nations.

The Senator, my colleague, heard every word I expressed. Let him refer to that speech, let him quote it sentence by sentence, term by term, word by word, and he will find that I have lived up to every word of it, ay, and more. It does not become the Senator, my colleague, to say that I have failed in my loyalty, or to affirm that I maintain opinions here which I did not there. If he will satisfy Senators, or show to the satisfaction of anybody, the simplest person, that I have been in my course inconsistent, I will thank him, for I should like to correct such an inconsistency.

I did not come here, Mr. President, as a member of the Republican party. I never sought to establish such party relations. I never was anywhere or at any time suspected of any such intention. I was then, am now, and through my life have been a Democrat, and as I have lived so I expect to die. I came here as a true lover of my country, the whole country, the undivided Republic. After bestowing upon the subject careful study, I was compelled to conclude that even a friendly stipulation for separation would be nothing other than a contract for continuous war. I was unwilling to leave this continuous war as a legacy for my children. I came here to strengthen the hands of the Government, to lend it such aid as I could render toward the proper subjection of the citizens of the United States in rebellion against its Government. My own conscience approves me for what I have done. I shall do what I may do to achieve reunion, a consolidated Union, the Union of our fathers.

I do not know why the Senator, my colleague, should have taken occasion here to make this wild assault. If he desired to assault me for the inconsistency of my past position in California and my present position here, I think it would have been at least graceful for him to produce the testimony of the fact, and allow me to see why he affirms that which I undertake to say is without foundation in truth. I put this to his conscience, assuming that he in common with others of the human family possesses such a quality. The Senate will bear me witness that I have not spoken of the Senator from California, my colleague, in any unkind way. I may have had and think I have had occasion, but I do not think it becomes persons representing the same constituency to do any such thing. We have the interests of our coast to take care of, and I shall always be pleased to act with him in the promotion of the great interests of the Pacific. I do not desire, I have desired to avoid, controversy with him even when I have differed from him in opinion.

The Senator, my colleague, has made the remark that I have been instructed upon this subject, and suggested that I cannot possibly believe in the right of a State Legislature to instruct the Senators representing the State.

In the first place, the Legislature of the State of California have not undertaken to instruct me as to this subject-matter; in the second place, no Legislature can instruct me into the violation of the oath I have taken to support the Constitution of the United States. Independent of these considerations, however, permit me to say that I have but small respect for those who, occupying high place, selected for reason of their presumed capacity, are mere followers of opinion; I mean followers of uninformed opinion. A man fit to be a Senator is fit to be a leader of opinion, and the duty of leadership is as much imposed upon him in his place and sphere as upon him who leads the division of an army in battle. Of this, enough. I shall do what I think the voice of duty prompts.

Now, allow me to say, Mr. President, that I hope, I sincerely hope, this will be the last time that I shall have occasion to rise with the *animus* that has governed my present remarks. I have served in both Houses of Congress—this is my sixth session. This is the first time I have had a controversy forced on me by a colleague. It has been thought that duty, the great interests represented by us, forbid such controversies. During the two years I had the honor to serve the State of California on the floor of the House of Representatives, the record will show that I never on any occasion made what may be called a political or partisan speech; and why? I thought the interests of the Pacific coast demanded all my attention, and I could not engage in party politics. During the time I have occupied a place on this floor, I think I may justly say that I have never

engaged in any form in what may be called partisan politics. I desire to avoid them. I think that we of the Pacific have great interests of our own, and I trust that the time will again come when the California delegation, as a unit, without wasting vain words of controversy, will direct their attention to the development and progress of those great interests that gather and cluster about our possessions on the Pacific and centralize in the noble bay of San Francisco.

Mr. CONNESS. Mr. President, I should have not one word to say in reply to the Senator, but that what he has said will go into print, and I will now confine myself to a very few words indeed. The instructions of which the Senator has spoken so lightly were nearly unanimously passed by both branches of the California Legislature. They were the most deliberate expression of opinion ever passed by that body. The Senator has tortured what I have said into a personal attack. I beg the Senator not to so consider it. The report of the remarks that I made will relieve it of that impression entirely, and I trust relieve the Senator. I spoke but for the cause. The Senator, my colleague, had spoken upon a subject vital, as I believe, or considered vital by the people of California, and I felt it my duty to speak for that reason.

The Senator might have contented himself without having described the speech that he made on occasion when he was a candidate for United States Senator, the office that he now fills.

Mr. McDUGALL. Will the Senator allow me one moment?

Mr. CONNESS. Certainly.

Mr. McDUGALL. Speaking of that, I should like, as the Senator has alleged in the presence of the Senate that I said there other than what is consistent with my conduct here, to have him refer to it on this or some other occasion, so that Senators may know.

Mr. CONNESS. I shall not undertake to put my colleague on trial here; but I will repeat now to him and for his benefit, and that the State of California may hear it, that he could not with the expression of opinions made by him here this evening on the proposition now before the Senate have received my vote nor the vote of the people of the State of California for Senator. The Senator is scarcely aware perhaps of the opinion of the people of that State at the present time. I think my colleague has not made a visit to the State since he got his election, which is now in the fourth year. The speech that my colleague refers to that he made before the Legislature of the State of California, when he was a candidate for the office of United States Senator, abounded with determination to resist the aggression made and making by the South upon us; and in that speech—I have it, I believe, in my possession, not at present in the Senate—there was contained, only diffused, everything contained in the proposition before the Senate to-night. It was a very able speech; my colleague always makes very able speeches. It was on the side of his country. It was for coercion. It was for resistance of the aggression made against us; and no other position than that would have secured him the vote of that Legislature. My colleague need not have boasted that he was the only man who came forward to speak a word for the Union. There were other candidates besides him for the office of Senator, but they were generally men deeply tinctured with secession and treason, and hence my colleague's election. Bold words, words that made opinion in the State, were spoken before my colleague ever spoke them upon this subject. My colleague I do not wish to underrate, but he has not been the foremost man in positions of danger with us, and he should not claim it here, in my opinion. I leave the people of California to judge upon that between him and myself, not setting myself up, however, against my colleague in this respect.

My colleague labors under a delusion, a delusion that somebody—myself, I believe, if I understood my colleague aright—has engaged in his detraction. God forbid, sir, that I should detract from my colleague. I have never engaged in the filthy business of detraction, much less against my colleague. I am very much obliged to my colleague for his generous offer to assist me or permit me to assist him here in developing the great interests of the Pacific coast. I am sure that with the

friends of both of us our State can scarcely fail to be well taken care of and well represented.

I have not sought any quarrel with my colleague. I have not made any quarrel with my colleague. I have but sat here from day to day attending to plain matters of fact and business. If an occasion should arise when my colleague should place himself in a position that would deserve a quarrel I am not certain that I would retreat from it very far, but such an occasion has not arisen, and I trust never will arise while my colleague and myself are here. There is no member of the Senate and no person in the country who has a kinder personal feeling to himself than I have, and whether I get credit from my colleague for possessing that feeling toward him or not is a matter of very slight consequence indeed. But, sir, I will not sit here silently and quietly while war is made upon us when I know that the opinions that my colleague utters are not those that are acceptable to the loyal heart of California. My colleague refers to a trial of these opinions before the people of California. I should like to add my persuasive influence and request to my colleague to return to that State and make the trial there. That is the place for it. I will agree with my colleague that if the trial be against me in the succeeding election if he will go there with me I will resign my seat without instructions. Will my colleague say as much? I will bear him company; I will see that he is well treated and taken care of; I will aid in ushering him upon his constituents and in developing their opinions of him and myself, and in giving the people an opportunity to pass upon them. I hope my colleague will be induced to this fair mode of settlement, and I can see no loss that would result from it except in case my colleague should agree to the arrangement, and the people of California deciding against him, I should then be deprived of his great influence here in developing the interests of the Pacific coast. If it were decided otherwise, the State would suffer nothing, because I could be spared from the Senate Chamber without any injury to her interests.

Mr. McDUGALL. Mr. President, my brain has been agitated in endeavoring to determine from what particular source the Senator, my colleague, derived his humor, or whether or not wit was not the most marked quality he has exhibited; and then, again, what was the true distinction between sarcastic and sardonic. I thought of Swift, Sterne, Butler, and the Hudibrastic. Upon all these questions that have agitated me so much I am still in the fog of doubt; perhaps it is well that I should be so. There is one peculiar and noticeable feature about the Senator which may furnish the key-note to his remarkable qualities. Somewhere about the apex of the cranium or the superior posterior portion of his head appears a prolongation backward and upward; this I have no doubt forces him to think, and induces him to try to compel others to think, that he stands in the shoes of all the wisdom of ancient times and modern ages, with their wit to boot.

These peculiar manifestations, while they may not have made him the cynosure of all eyes, have, to at least a limited extent, made him the observed of all observers. His peculiarities will grow upon acquaintance. He will be found to have wit enough for a town meeting, jests enough for a ward meeting, and cant enough for any camp meeting. I have said too much about so unworthy a subject. The little quillits projected from across the Chamber have hardly reached so far as the place I occupy; they certainly have not reached to hurt. I must observe, however, a pleasant part of the remarks of the Senator, my colleague. If I did not misunderstand him, he informed the Senate that he has been or is my very good friend, and has used terms in speaking of me that a very ignorant person might construe into the language of compliment. This does not tempt me to say, beware of the beauty of the serpent, there is venom in its fangs; the comparison is not apposite; but I could not help but think of that Ithuriel who with the point of his spear revealed the serpent in the garden. It would take no Ithuriel to reveal the true spirit of the kind remarks of the Senator, my colleague. I think I could do it easily without even a javelin in my hand.

I beg the pardon of the Senate for engaging their time in saying profitless things; but I trust something may be permitted to just indignation.

Mr. CARLILE. I confess, Mr. President, that I was not prepared for the proposition submitted by the Senator from Illinois, because, if my recollection is not at fault, that Senator, in the discussion of this subject when it was before this body at the last Congress, maintained the ground that real estate could not be confiscated beyond the life of the owner. That is my recollection of the discussion of this subject when it was before the Senate. The Senator will correct me if I am wrong.

Mr. TRUMBULL. The Senator from Virginia is wrong so far as the confiscation of property in the rebel districts of country where there are no courts is concerned. I always maintained that the clause in the Constitution limiting the effect of a conviction for treason had nothing in the world to do with the waging of war in a district of country governed by the military power, and where there were no civil tribunals. I agree now that if in any of the loyal States an individual were arrested and tried for treason, convicted, and hung, that would be a sufficient punishment; and his real estate, if he had any, might go to his descendants. But I always insisted that the provision of the Constitution applied only to trials in courts of law, and had nothing to do with the prosecution of war where there were no courts of law, and nothing to do with the estates of persons who were not brought to trial in courts of law and could not be. I always insisted that a traitor who escaped from the country, like Slidell or Mason, and left real estate behind, could not therefore escape the punishment of the confiscation of his property because he was beyond our reach to be tried for treason.

Mr. CARLILE. Mr. President, I should like to know from the Senator where he gets his authority to confiscate the property of traitors or anybody else, unless he derives it from the Constitution.

Mr. TRUMBULL. I do get it from the Constitution.

Mr. CARLILE. The proposition is now by law, not by armies, not by virtue of the military power of this Government, but under the forms of law to deprive not the traitor, not the rebel, of his property, because the Constitution gives you the power to do that, but it is to take from the innocent child that he may have left, or from the injured wife of his bosom, the means of support which the framers of the Constitution designed should be left to them. They were too familiar with proceedings of this sort; they themselves had just before the formation of that instrument been rebels; success made them patriots. It is only from the Constitution that the Senate derives any power on this subject. The Senate can in conjunction with the other House declare war, and they can make rules and regulations for the Government of the land and naval forces; but they have no power through the forms of law and by virtue of their legislative character to transcend the limits of the Constitution which expressly forbids the confiscation of the estate of any one guilty of treason beyond the traitor's life. There is no exception in favor of the suspension of that provision of the Constitution in time of war. No department of this Government is ever relieved from its obligations to maintain the Constitution, which it solemnly swears to do before it enters on the discharge of its duties. The Executive is as much governed by the Constitution in time of war as he is in time of peace. So is the Congress of the United States. The oath that members of Congress take to support the Constitution has in it no exception that it shall not be obligatory in time of war; but, wisely looking forward to what those men knew must occur in the history of the Government that they were forming, they declared in the instrument itself the powers that this Government should exercise in war as well as in peace.

The Senator speaks of his right under the Constitution to shoot down a rebel. Sir, I deny him such right. He cannot go out in the street to-day and shoot down a rebel without being guilty of murder. Not in his capacity of Senator is he justified in shooting down even a rebel. Were he in the armies of the country, then it would become his duty to do so.

Mr. President, I have forbore from troubling the Senate with any remarks upon many propositions which have been acted upon by it during

this session as well as the last, contenting myself with a silent vote. I know that nothing I can say here will change the purpose of the majority of this body, and I do not care to throw myself upon them as an unwilling opposer merely for the purpose of consuming time. If I believed that anything that I could say could arouse the people of this country and fix their eyes steadfastly upon the action not alone of this body but also of the Executive, their servant under the Constitution as well as we are their servants, I might possibly have said more than I have; but I have an abiding faith in the intelligence of the people of this country, in their sense of justice, in their patriotism, ay, sir, if I may use a word that is so often used in this body for other purposes, and I think very much misapplied, in the civilization of this people; and if I am right in that opinion, there is not in any State in this Union a public sentiment that will sustain you in the act that you propose to do by the adoption of this amendment.

This amendment proposes to repeal a part of a resolution which Congress adopted in order to obtain the signature of the President to the confiscation bill. It was made known to Congress, if I am not mistaken in the history of that resolution, and if I am the Senator will correct me—it was made known to Congress that that bill could not receive the approval of the President, and could only become a law by the passage of this very joint resolution, a portion of which is now proposed to be repealed, and that portion, too, which the President required should be adopted before he would approve it.

Now, sir, what is the position in which you will place your Executive? Well may the Senator from Massachusetts, who feels a deep interest in the passage of this scheme, ask the Senator from Illinois not to load his bill with this proposition. Unless the President has reread his constitutional duties, unless he understands now differently his constitutional oath from what he did when he affixed his signature to that resolution, he never can sign this bill with this proposition in it. There might have been some excuse for such a proposition at that time. Then it was urged on Congress as an auxiliary in the suppression of the rebellion. Now it cannot be urged for any such purpose.

I do not intend to prolong this discussion; I regret that I have felt it my duty to say what I have said; but my object was to call the attention of Senators to it, for I cannot believe, until I see it by a vote, that the Senate has changed its position within the last two years, and that gentlemen read their constitutional powers now differently than they did two years ago.

Mr. COWAN addressed the Senate. [His remarks will be published in the Appendix.]

Mr. TRUMBULL. Mr. President, no one shall exceed me in devotion to the Constitution, and I think I am as little disposed as the Senator from Virginia or the Senator from Pennsylvania to disregard the obligations of the oath I have taken to support it. It is an easy thing for Senators, in the confidence of the correctness of their own opinions, to give a particular construction to the Constitution and denounce as violators of their oaths and as disregards of the Constitution all who do not agree with them. It is as clear to my mind that the provision in the Constitution in regard to the forfeiture of property not extending beyond the life of the traitor has no application to the confiscation bill which we have passed as it is that the provision of the Constitution which guarantees to every person who is charged with crime an impartial trial by a jury of the vicinage has nothing to do with the protection of persons engaged in war against the United States. The power to make war, to raise and support armies, to provide and maintain navies, is as clearly given in the Constitution as the power to summon a jury to try a criminal in ordinary times. Both these powers exist; they are both constitutional; and the question is, when may this war power be exercised? for nobody would contend that you must impel a jury to try a rebel in arms against you before you could slay him.

As to when and where these powers are to be exercised without interfering with each other, are questions about which Senators differ. I have argued this question at some length heretofore with the Senator from Pennsylvania, and I am

sorry that he to-night manifests so much feeling on this subject. It seems there is a sore place that has been left from the discussions we have heretofore had as to the right to confiscate enemies' property, which has broken out again to-night.

Mr. COWAN. I beg leave to disclaim anything of that kind. I hope the gentleman will not charge that upon me. I am not in the habit of entertaining any such feelings.

Mr. TRUMBULL. I am very glad if the wounds that he seems to have felt are all healed, and I hope they may never break out again.

But, sir, while I shall not go into a discussion with him over again upon these questions, which were elaborately discussed here two years ago, I will so far trespass upon the time of the Senate as to read a sentence or two from a decision of the Supreme Court of the United States when it was presided over by Chief Justice Marshall, which I think refutes absolutely and completely the position which the Senator has taken that there is an international law prevailing in times of war higher and above the sovereign power of the State. As I said to the Senator when I interrupted him, I have never contended that we should carry on this war contrary to international law. I hold that the right to confiscate enemies' property is part and parcel of the international law. But, sir, if it were not, it would be perfectly competent for the Congress of the United States, the sovereign power, to confiscate enemies' property; and no court ever decided in this country that a law of the sovereign power was unconstitutional because it violated what that court might suppose to be the international law. International law, the usage of nations, higher and above the Constitution and the sovereign power of a State! Why, sir, the idea is preposterous. Let us see what Chief Justice Marshall says on that very subject.

Mr. COWAN. Will the honorable Senator be good enough to read the circumstances of that case, the facts?

Mr. TRUMBULL. The case extends through one hundred pages of the volume that I hold in my hand, and I am not to be drawn off from the point.

Mr. COWAN. Read the facts.

Mr. TRUMBULL. I will read the decision of the court. It was in reference to confiscation. The point of the case was this: the Executive had undertaken to confiscate property without authority of the sovereign or war-making power, without authority of an act of Congress, and the court decided that that could not be done; it needed legislative action; and here is what the court say:

"There being no other act of Congress which bears upon the subject, it is considered as proved that the Legislature has not confiscated enemy property which was within the United States at the declaration of war, and that this sentence of condemnation cannot be sustained."

"One view, however, has been taken of this subject which deserves to be further considered."

And this is the very view that the Senator takes here to-night.

"It is urged that, in executing the laws of war, the Executive may seize and the courts condemn all property which, according to the modern law of nations, is subject to confiscation, although it might require an act of the Legislature to justify the condemnation of that property which, according to modern usage, ought not to be confiscated."

"This argument must assume for its basis the position that modern usage constitutes a rule which acts directly upon the thing itself by its own force and not through sovereign power."

That is exactly what the Senator contended for.

"This position is not allowed."

That is the language of the Supreme Court of the United States.

"This usage?"

What usage? This law of nations, which is but a usage of nations—

"This usage is a guide which the sovereign follows or abandons at his will. The rule, like other precepts of morality, of humanity, and even of wisdom, is addressed to the judgment of the sovereign; and although it cannot be disregarded by him without obloquy, yet it may be disregarded."

That is the language of the Supreme Court of the United States, delivered by Chief Justice Marshall; and yet the Senator rises here and disputes it all.

As I have said, I am not disposed to go into this argument and take up the time of the Senate in discussing a question which occupied weeks of its time some two years ago. But the Senator

says it is a monstrous proposition to think of stripping the whole people of the South, and that the suggestion of such an idea has driven them together. Sir, who ever suggested it? Nobody that I ever heard except the Senator from Pennsylvania. I have heard in this Chamber or elsewhere nobody suggest the idea of stripping the whole people of the South of all their property; but what did we suggest? We suggested stripping the rebels and the traitors of their property. Did that make traitors of loyal men? Did that make them all unite together? That is a beautiful species of loyalty which runs into treason the moment we take the property of the traitor.

Mr. COWAN. I beg pardon of the Senator for interrupting him. I shall not interrupt him oftener than he interrupted me. I should like to know whether he does not hold that all the people of the South who have been engaged in this rebellion, who have borne arms, who have obeyed, in other words, the *de facto* government, are rebels?

Mr. TRUMBULL. No, sir; if they have been coerced into it they are not rebels. It is only those who have willingly committed treason that I would punish, or ever proposed to punish, or that the confiscation act ever proposed to punish. The Senator from Pennsylvania takes this most extraordinary view of the subject; he says that when there was a large portion of the South loyal and true to the Union, and we undertook to aid and sustain them, we must do it by helping the rebels. These Union people down there, these loyal people that he talks about, were offended with us because we proposed to punish the traitors that were oppressing them. Is not that reasonable? Is not that human nature? That is his argument. He states it differently, because he talks about stripping all the people of the South of their property, a proposition that no mortal man ever advocated or advanced.

Our confiscation act that we passed two years ago did not amount to much; it has never been enforced. The Senator has had his own way.

Mr. COWAN. You did not get the bear, and of course you could not confiscate the hide.

Mr. TRUMBULL. We never have confiscated it where we had the power.

Mr. COWAN. Oh, yes; all around here.

Mr. TRUMBULL. To but a very limited extent. We have never taken the property of rebels except during their lives.

We have a bill now pending before us which the Senator from Massachusetts has brought forward, providing that where these traitors in the South have abandoned their property and gone off to fight us in the rebel army, to slay your son and mine, our relatives and friends, and overturn our Government, the freedmen of the South, the slaves, may take possession of this abandoned property, and it may be leased to them for one year. The Senator from Pennsylvania contends that when the rebel master who owned that plantation is in the army fighting us, if some of our brave boys should happen to slay him before Petersburg, the moment that we killed him the freedmen whom the Senator from Massachusetts placed on the plantation must leave it; and why? Because you can only forfeit the property of that traitor for life, and inasmuch as one of our brave boys slew him in battle you must take your freedmen off from his plantation and give it up to some traitor relative that will furnish the avails of it to fight you still longer. I believe in no such policy. I would offer no reward to preserve the life of a traitor. Why, sir, the freedmen placed upon these plantations would all be interested in preserving the life of the rebel owner if they had to give up the plantation when the crop was made in case the rebel owner was slain.

This amendment, therefore, is directly pertinent to this bill. In my judgment, had we passed an efficient confiscation law two years ago instead of one which was of very little value had it been executed and of no value when unexecuted, we should have made far greater progress in this war than we have. I would have divided out these plantations among loyal men long ago. I would not have allowed rebel generals who have been fighting us for the last three years to hold estates in the North from which they derive large incomes with which to furnish munitions of war to contend against us. I never believed in such a policy. We tried it under the auspices of the

Senator from Pennsylvania and persons like him for two years. We attempted to fight these rebels so as not to hurt them. Our brave boys went down to the South, and when we drove the rebel armies before us, they were stationed around rebel plantations to guard and protect them; and, sir, when in the vicissitudes of the war they were driven back from the positions they had occupied, the very females whom they had protected shot at them from the houses they had guarded. In my judgment, war means desolation; it means death; it means destruction; and if I could have my way, these rebels should have all three, death, desolation, destruction, and I had almost said damnation. Sir, we can make nothing by undertaking to win them back. I would not touch the hair of the head of a loyal man. I would encourage him; I would reward him for his loyalty and protect him in it; and no true loyal man will ever turn traitor because you refuse to protect and uphold the traitor who oppresses him.

Mr. WILSON. I hope this amendment will be withdrawn, and I hope so for the reason that I think it fatal to the bill we now have under consideration. I do not think we have a great deal more time to devote to this bill. We are talking of adjourning this week. If we give up that idea and devote ourselves to them we can give time enough to this bill and some others and pass them. This is a measure of humanity, a temporary measure to last during the war, to aid the freedmen, and I trust that we shall not take up more time by undertaking to force upon it the amendment now pending. Let us pass this bill, and then take up what I consider one of the great bills of the session, the bill to give the confiscated lands to our soldiers, and then upon that bill put a proposition of this kind if Senators desire to do it. There is a great measure that has passed the House of Representatives, a measure that secures to the men who are fighting the battles of the Republic the confiscated rebel lands and the lands sold or to be sold for the non-payment of taxes; and such an amendment as the one now pending belongs to a measure of that kind, and not to the bill now before us. This bill has already occupied the attention of the Senate for four days before to-day, and unless we act upon it to-night I doubt very much if we can pass it. I hope therefore that this amendment will be dropped.

But, sir, I desire to say a single word to the Senator from Pennsylvania before I sit down. I was sorry to hear him say here to-night what is said so often without the semblance of being sustained by the facts before the country, that the emancipation policy of this Government had united the South and divided the North. There is not the shade of a shadow of truth about it. The South is more divided to-day than it was three years ago, and everybody knows it. How was it in Delaware three years ago to-day? It was doubtful if the loyal men had the State at all. How was it in Maryland? She was held by twenty or thirty thousand men, held only by the military power of this nation, and all her leading influences were in favor of the rebellion; and to-day Maryland is for the country and for the Government, a free State of this Union. How was it with West Virginia? West Virginia was then divided and struggling in civil war; now she is a free State, and for the country. How was it in Kentucky? Kentucky three years ago was under the control of men who were talking about armed neutrality, and rolling back the armies of the Union and the armies of the rebellion, and dictating a peace when both parties were exhausted by war. Kentucky is more united to-day than she was three years ago for the country. How is it in Missouri? She is almost as united for the Government to-day as any free State in the Union, and three years ago she was overrun and held by rebel influences. How is it in Tennessee? How is it in Arkansas? How is it in Louisiana? How is it even in North Carolina? There is not a slave State in this Union to-day that is not more divided and where we have not more real supporters of the Government of the United States than we had two or three years ago. That is God's truth, and every man knows it; and yet men get up here and tell us that our policy is uniting the South and dividing the North! Why, sir, the loyal men of the South are stronger for the Government to-day than ever before, and they are for emancipation. I do not know a man for slavery in this country

who is really for this Government. I have yet to see one.

How is it with the North? I know that when the firing took place upon Sumter, when the people rose in their majesty, there were men in the country who bowed to the storm, bowed to the current; but, sir, at the first opportunity, and even before your confiscation bill or your emancipation proclamation, they were everywhere in their party lines, under their party flags; and when the emancipation proclamation was issued to the country these very men had taken almost all the States of the North under their control. That emancipation proclamation had hardly gone to the country before the people began to comprehend it and to understand it. They rose in their majesty, and they hold to-day the control of almost every free State of this Union. They are stronger to-day for this policy in every State of the Union; and I say here now there is not a loyal State in this Union where naked, raw abolitionism is not stronger than any political party in that State. The Republican party or the Union party in no portion of the country is so strong to-day as is the anti-slavery party; and the men who march square up to that policy are the men who will guide, direct, and control, and be supported by the people.

I tell Senators that such speeches as we have listened to on this floor to-day, accompanied by threats and predictions of what is to take place, will strengthen Abraham Lincoln more than any speeches that could have been made by gentlemen on this side of the Chamber. I thank the Senators for making them. I tell them further that in my judgment this political question is settled. When slavery has plunged this nation into the fire and blood of civil war, and filled tens and tens of thousands of graves, and a great party of this country straps slavery to its back, as the Democratic party has done by its vote in the House of Representatives on the constitutional amendment, and undertakes to stagger under the load in the blazing light of this day, when the flashes from the battle-fields are upon it, they will find they are carrying a load that no human power can carry to victory. That vote settled the result of the presidential election.

But, sir, I do not wish to enter into that subject. I am tired of this talk about the policy of emancipation being a policy that has weakened this country. It has strengthened us on every square rood of God's green earth. There is not a country in Christendom where our cause is not stronger for it; in England, France, Europe, everywhere all over the globe as well as at home. We are stronger with the people; we have befriended us the mighty moral influences of the universe, and, we believe, the blessing of Almighty God, because we have put ourselves right, and we are certain to triumph. I entertain no doubt about it.

Mr. HALE obtained the floor.

Mr. COWAN. I hope the Senator will allow me to say a word.

Mr. HALE. Yes, I have no doubt about it. [Laughter.] I got the floor about two hours ago to say a word or two, but the whole talk with my friend from Illinois, [Mr. TRUMBULL,] and my friend from Massachusetts, [Mr. WILSON]—I do not know whether my friend from Pennsylvania joined with them—was, "Let us have a vote, let us have a vote." In obedience to that universal expression of opinion I sat down, expecting a vote; but I found that the fair rendering of the question was, "Oh, Hale, you sit down; let me talk." [Laughter.] And thereupon I believe about everybody who asked me to sit down has made a long speech; and the Senator from Massachusetts—

Mr. WILSON. I did not ask you.

Mr. HALE. Yes, you did.

Mr. COWAN. Nor I.

Mr. HALE. The Senator from Massachusetts evinced the sincerity of his purpose by getting up to take a vote, whereupon he made a long speech.

Mr. HENDRICKS. Mr. President—

Mr. HALE. I shall not give way.

Mr. HENDRICKS. I want to ask whether the Senator will not make his speech to-morrow. We will listen to him with pleasure then.

Mr. HALE. I would rather make it to-night, and I will tell you why. I have taken a comfortable nap while these gentlemen were talking, and

I am now ready to talk. [Laughter.] I do not want to say a great deal; but I have heard more nonsense upon this simple clause of the Constitution which I propose to read than I thought it was in the power of human ingenuity to gather together upon any one subject; and that clause is this:

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained."

My friend from Pennsylvania is a man, whatever may be said of his politics, of remarkably clear intellect; and where he has not suffered his intellect to be led away by the absurdities of black-letter English law, I have no doubt is a good lawyer; but, sir, there is a natural delusion upon this subject. We are in more absolute dependence to-day upon Great Britain than we were before the Revolution of 1776. We have got all the offensive and odious provisions of her constitution fastened upon us. This idea of the independence of the judiciary, and that there must be a life-tenure to our judicial officers, is an inheritance from England that we cannot get rid of; and the same is true—it is not declared in express terms, but is practically so—making a life-tenure in our officers in the Army and the Navy. That is another of those sad inheritances that come down to us from the original sin of our ancestors being born under the monarch of Great Britain. Notwithstanding our fathers gave utterance to some of the sublimest truths that ever fell from human lips in the Declaration of Independence, we have not begun to act upon the first principles, the first elements of the doctrines which they enunciated.

My friend from Pennsylvania has confounded two things that are as different as it is possible for two things to be. The one is, what the sovereign power of the United States may do, and the other is what it has delegated to its courts to declare. The Constitution of the United States, in the clause I have read, does not undertake to limit nor measure nor control in the slightest degree what the sovereign power of the nation may do, but it simply declares what the sovereign power has delegated to its courts to do, and it says that "no attainder of treason," that is, an attainder of treason judicially declared, "shall work corruption of blood, or forfeiture except during the life of the person attained." Instead of that measuring the sovereignty, it measures what the sovereignty has delegated to the courts; and yet the American mind has got so befogged by English precedents that it does not construe that right either. There was a great struggle in England on this subject, where the Government was oppressive, and convictions of treason were easily obtained, and for very trifles. The humanity of the English heart, working through acts of Parliament, was constantly ameliorating that, and introducing provisions tending to restrain the ferocity of such judges as Jeffries.

Now, take the proposition we have before us. What do we find all over the country? I was at a clam-bake at Newport a few years ago; and, by the way, had a very pleasant time. I see that my friend from Rhode Island [Mr. SPRAGUE] has gone. But what did I see in that beautiful city of Newport besides the clam-bake? By the way, I was induced to go to the clam-bake because I thought of all the festive occasions that could ever be got up eating clams was one that could be done without making a speech, but I was mistaken. [Laughter.] A long speech was a part of the entertainment of the clam-bake. Well, sir, at that time when I was in Newport I saw some of the most magnificent residences, spacious and large, evidently the production of great wealth and taste in the town of Newport, and I inquired who lived there, who owned such a house; and they told me it was a traitor or rebel in Georgia, another one in another State, another one in another State; and I found that a very large portion of that beautiful city of Newport was owned by traitors in arms against this Government, and I presume it is to this day; and I do not believe there has been one of them confiscated or touched. Probably they rent higher than they used to do, for Newport is becoming more fashionable every day, and the fashionable people that go to Newport—my friend from New York, [Mr. MORGAN,] with his great wealth, when he has occasion to go

there and spend it very probably hires a cottage or a house or palace, and pays the rent which goes to fight his own country, because we have not confiscated them. This corruption of blood and attainder and these hard words that are in this clause that I have read have frightened the officials of the United States from carrying into execution the plainest provisions of the law that we have made, and they not only will not confiscate this property, but they will not take it during the man's natural life, and there it is. I presume what is true of Newport is true of the country all over.

The argument of humanity of the Senator from Pennsylvania goes just exactly as hard against confiscating the life estate as against confiscating the whole. The question of humanity is just as much valid in the one case as in the other. If we have no right to take the property and take the fee, we have no right to take the use of it—not the slightest. Now, sir, what is this right? It seems to have been considered by most of the gentlemen who have addressed the Senate that all the powers this nation has got it gets under the Constitution. No such thing, sir. If that were the case we should be in the condition of the Episcopal minister who was called upon to pray with a man who had been gored by a bull. He turned the prayer-book over and over from end to end and found no prayer for a man gored by a bull, and he told the man he could not pray for him, as there was nothing of that sort in the prayer-book. [Laughter.] Just so it is here. We suppose that all the powers that this nation has got are prescribed in the Constitution. Have we no necessary powers as a nation, as a sovereignty, for our own preservation, and must we have a form prescribed for us before we can move? Can we not pray unless there is a set form given us, and all the circumstances set out? Why, sir, in my humble judgment, and I speak it with great deference to the wiser men around me, a more absurd and nonsensical proposition never was uttered. I tell you, sir, there are hardly any of the powers of this nation to be found in this Constitution. This Constitution is a covenant or agreement among the different members of the Confederacy to constitute them as one people, and telling how the power shall be exercised.

Mr. McDOUGALL. Allow me one moment.

Mr. HALE. To-morrow morning, not to-night. This doctrine that we cannot take the estates of rebels, that we cannot confiscate them, would result in this absurdity: take for instance these handsome estates in Newport; their owners are fighting against us, taking their rents to arm armies to destroy the nation, overthrow our liberties, and ruin the country; and according to this doctrine we must preserve their estates, see that the tenants do not commit waste upon them, hold them safe, not touch them, and if by and by the rebellion should happen to be over and the country should be saved, we must institute a commission to roam anywhere and everywhere to find out where are the descendants of these traitors, that they may come and take this property and hold and enjoy it, and we must not exercise this power because there is no such case as this exactly put down in the Constitution. That is what this doctrine would lead to.

Mr. President, the Constitution never contemplated such a time, such an occasion, such circumstances as we are now living in. Instead of consulting the precedents of a dead past for wisdom to guide us in contingencies which they never thought of, we ought to be making precedents to guide our children in coming generations for just such a time as this if it should ever come again. We ought to see, to meet, to understand and appreciate our condition, and when an emergency occurs consult common sense clear and plain, instead of hunting in the musty folios of the dead past to gather wisdom for a state of things that the dead past never dreamed of.

I heard a great deal said on this subject when it was up before; and when we undertook to legislate in regard to the manner in which this war should be carried on, I believe my learned friend from Pennsylvania, as well as some other gentlemen not now members of the Senate, undertook to limit the powers of Congress in that respect, because the Constitution said the President should be Commander-in-Chief of the Army and Navy. So he is. How much authority does that confer upon

the President? Just exactly as much as that article in the constitution of the State of Maine which says the title of the Governor shall be "his excellency," and no more. The mode by which the Commander-in-Chief was to be appointed or chosen was settled in the Constitution. Suppose the Constitution had said that the Senate should appoint a Commander-in-Chief of the Army and Navy, and the Senate had appointed him. Does the fact that the Senate appointed him exclude Congress from exercising control over him, saying what he shall do and what he shall not do, measuring his duties and prescribing them? Not in the least. Suppose it had said that the Commander-in-Chief of the Army and Navy should be chosen by joint vote of the House of Representatives and Senate, would Congress be prohibited then from legislating and making rules and regulations for him and governing him just as they would any other officer? Not the least. All that the Constitution does is simply to come in and say to Congress and the President and the Senate, "We will relieve you from this trouble, and whoever the people choose for President shall, in virtue of that election, be Commander-in-Chief of your Army; but you may limit and prescribe his duties, regulate and restrain them just exactly as much as if he was chosen in any other possible way that you can imagine."

Mr. President, I suppose we shall get through this rebellion, because there has never been a war in the world before that has not ended some way or other, and I suppose that this will end some time or other; and when it ends, if we find ourselves independent of these absurd dogmas and ridiculous constructions of the Constitution that we have inherited as a sort of heir-loom from our English ancestors, I shall think we have done a great deal, perhaps not quite so much as the Senator from Massachusetts thinks we should have done, if we get rid of negro slavery; but I tell you we shall have done a great deal if we can come up to the standard of independent, sensible, clear-minded, thinking men.

It seems to me that the amendment now before the Senate is exceedingly plain, and that this is a good place to put it on. If it hurts the feelings of my friend from Massachusetts to have his bill saddled with something he does not think germane to it, let him remember that he has practiced that same thing a great many times this session on some other bills, and has put measures on bills that some of our friends did not think entirely and totally germane to the subject. But, sir, this is germane. If you are in earnest, do something, and do not pretend that you are doing something when you are doing nothing. If you mean to keep property for these rebels, I suggest to my friend from Massachusetts to put another section in his freedmen's bill, and have a bureau to take care of the estates of traitors, and keep them safe during the war, so that when the war is over they may be handed over without waste to the widows and children that my friend from Virginia feels so much for, and that these commissioners shall be called upon to render a true account of their stewardship, to see that they have kept safely the trust that was committed to them.

Mr. President, I do not know that I have talked as well as my friend from Massachusetts or my friend from Illinois; I do not think I have; but we all have our way; we all talk according to the light that we have; and, as an old Quaker woman once said to me, "If we do not all have light alike each must walk in his own light," [laughter.] and that is the course I have determined for myself. I do not mean to say anything personally offensive, but I must say, with great deference to others, that more arrant nonsense was never uttered on any subject on earth than has been uttered upon this construction of the Constitution of the United States.

Sir, we are at war. A great many people do not believe that yet. I remember that less than two years ago my friend from Maine [Mr. Morrill] made one of the most eloquent speeches that he ever made—and that is saying a good deal, for he always makes eloquent speeches—to prove that we were actually at war. Gentlemen did not believe it then, and they hardly believe it now. They think there is a sort of insurrection, or subordination, or something of that sort going on down South, they do not exactly know what. But, sir, I will tell you, and then I shall

sit down and let the Senate adjourn, if they want to do so.

Mr. SUMNER. Vote.

Mr. HALE. Or vote, either; but I shall expect a speech now from my friend from Massachusetts, because he says "vote." [Laughter.]

I tell you, sir, if the North would wake up to the fact that we were at war, if the northern heart and the northern mind were all united in the only purpose that should govern men and patriots in this crisis of our fate, if they would come up to the first duty of patriotism in this struggle, it would be but an insurrection, and we could hand it over to the constables and sheriffs and grand juries before the frosts of autumn had seared the leaves of the forest that are now green around us. It has attained its present dimensions because we are not united, because our enemies know that we are not united; they calculate upon it; and our divisions are their strength.

Mr. President, there is a presidential election soon coming on. God only knows what the result will be. We can all hope and trust. None of us know what it will be, but I wish here to state my position. Perhaps it is of very little consequence for anybody to know. Those who do not want to know may go home and go to bed. [Laughter.] Sir, if this Administration should be overthrown at the coming election, the labors of no inconsiderable portion of my life would be gone, the dream of my life would be over, the hope of my life would be blighted, and I should feel, however it might be with others, that to me life had been a mistake in one of the great elements of my action.

But, sir, sad as it would be to all my hopes, blighting as it would be, I would rather see that than see the overthrow of constitutional liberty in this land. I trust that when we see the great stake for which we are contending, the immense issues that are pending, the tremendous consequences that are to affect not only us but the generations that are to come after us; when we see that we are trying to-day the great issue of human existence, solving the great problem which God in His providence has given to man to solve at this time, we may have more energetic, more earnest, more united counsels than we have ever had, and that with renewed energy of purpose we may buckle on our armor for the great contest which we have hardly yet appreciated.

Having said this I owe an apology to the Senate for having spoken when they all wanted to speak themselves instead of hearing me. [Laughter.] I say I owe an apology for having detained them so long at this late hour of the night.

Mr. HENDRICKS. The clock tells us that it is about time to adjourn, I should suppose, and the speech of the Senator from New Hampshire I think also tells us that we ought to adjourn. That Senator says that while the able speeches we have heard were being made he took a good sound sleep, and yet he went on to say that he had never heard so much nonsense in all his life. [Laughter.] I am sure the Senator would not have used that language if he had been awake all the time; and I account for his expression from the fact that while he was asleep he was dreaming, and his speech, which was a very interesting one, was an answer to his own dreams. [Laughter.] I move that the Senate do now adjourn.

Mr. SUMNER. I hope the Senator will withdraw that motion and let us vote.

Mr. HENDRICKS. It is not probable that we can close this matter to-night. There is something more to be said about it.

Mr. SUMNER. I hope we shall not adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, June 27, 1864.

The House met at twelve o'clock, m. Prayer by Rev. JAMES FREEMAN CLARKE, of Boston.

On motion of Mr. GANSON, the reading of the Journal of Saturday was dispensed with.

ORDER OF BUSINESS.

The SPEAKER. The House is acting under the operation of the previous question ordered on Saturday evening on the enrollment bill. As the House is thin the Chair would suggest, if there is no objection, that we proceed with the regular order of business for Monday morning,

until the gentleman from Ohio sees fit to call up the enrollment bill.

Mr. SCHENCK. I have no objection to that.

The SPEAKER. The regular order of business this morning is the call of committees for reports, to be referred, and not to be brought back by a motion to reconsider.

Mr. DAWES. I would suggest that we might possibly dispose of the questions of privilege from the Committee of Elections during the morning hour, and that would keep them out of the way of more important business after the morning hour.

The SPEAKER. The House is now acting under the previous question, and if the gentleman from Ohio does not call up the enrollment act, the only business in order this morning is the call of committees for reports.

Mr. DAWES. My suggestion was only for the concurrence of the House. It is a matter of no particular interest to me personally.

The SPEAKER then proceeded to call the committees for reports, to be referred and not brought back by motion to reconsider.

HEIRS OF JOHN E. BOULIGNY.

Mr. HARRINGTON, from the Committee on Private Land Claims, made a minority report on the petition of the heirs of John E. Bouligny; which was referred to the Committee of the Whole House, and ordered to be printed.

CONGRESSIONAL POWER OVER FOREIGN POLICY.

Mr. DAVIS, of Maryland, from the Committee on Foreign Affairs, submitted a report, accompanied with the following resolution:

Resolved, That Congress has a constitutional right to an authoritative voice in declaring and prescribing the foreign policy of the United States, as well in the recognition of new Powers as in other matters, and it is the constitutional duty of the President to respect that policy not less in diplomatic negotiations than in the use of the national force when authorized by law; and the propriety of any declaration of foreign policy by Congress is sufficiently proved by the vote which pronounces it, and each proposition while pending and undetermined is not a fit topic of diplomatic explanation with any foreign Power.

The report and resolution were laid on the table, and ordered to be printed.

Mr. DAVIS, of Maryland. On the first occasion that presents itself I shall ask for a vote on the resolution.

The SPEAKER. It is not in order at this time. The resolution goes upon the Calendar.

Mr. COX. When will it come up?

The SPEAKER. It will only come up by a motion to suspend the rules.

Mr. FERNANDO WOOD. Will it be open to discussion on the motion to suspend the rules?

The SPEAKER. That would depend entirely on whether the gentleman from Maryland should move the previous question after the rules were suspended.

Mr. FERNANDO WOOD. I would inquire whether it is the purpose of the chairman of the Committee on Foreign Affairs to move the previous question.

Mr. DAVIS, of Maryland. It is my purpose to ask a vote on the resolution, which can only be done by a motion to suspend the rules.

Mr. COX. I would like to know whether the gentleman expects to allow any debate on this subject.

Mr. DAVIS, of Maryland. I shall interpose no objection to it; but I suppose the House will probably be too impatient to give it much consideration, although I am very anxious to hear what my honorable friend from Ohio has to say upon it.

HORACE YATES.

Mr. MILLER, of Pennsylvania, from the Committee on Invalid Pensions, reported a bill for the relief of Horace Yates; which was read a first and second time by its title, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

PRINTING OF AN AMENDMENT.

Mr. SCHENCK. I rise to make an explanation. When we were about to adjourn on Saturday, the enrollment bill being under consideration, the gentleman from Illinois [Mr. Washburne] moved the previous question on the bill and amendments. I then made the suggestion that the previous question should be applied to the amendments only, and I requested that they

might be printed. I find that everything has been printed except the principal amendment pending, my substitute for the bill. I am informed by the Clerk that perhaps it can be printed in an hour, and it seems to me important that it should be printed before we proceed with any action on the bill.

The SPEAKER. The recollection of the Chair is that some hours before the previous question was moved the gentleman from Pennsylvania [Mr. STEVENS] and some other gentlemen suggested that various amendments, which they designed to offer, in case the previous question should not be called on Saturday, should be printed, and that understanding was had. The Chair does not recollect any other order to print.

Mr. SCHENCK. I certainly understood that all the amendments were to be printed; I myself suggested to the gentleman from Pennsylvania that they ought to be printed. I now move that they be printed and returned in one hour.

The SPEAKER. The order to print will be made, but the Chair cannot say how soon they will be returned.

EZEKIEL DARLING.

Mr. ROSS, from the Committee on Invalid Pensions, reported a bill granting a pension to Ezekiel Darling; which was read a first and second time by its title, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOSEPH PIKE.

Mr. ROSS, from the same committee, reported a bill granting a pension to Joseph Pike; which was read a first and second time by its title, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SAMUEL S. BINGHAM.

Mr. ROSS, from the same committee, reported back the petition of Samuel S. Bingham, and moved that the committee be discharged from the further consideration thereof, and that it be laid on the table.

The motion was agreed to.

E. WOODWARD AND G. CHORPENNING.

Mr. NELSON, from the Committee on Indian Affairs, reported back, with the recommendation that it do pass, joint resolution for the relief of Elizabeth Woodward and George Chorpennning; and the same was referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

On motion of Mr. WHALEY, the Committee on Invalid Pensions was discharged from the further consideration of the several petitions of John Logan, Thomas K. Corn, Sarah Smith, of Missouri, Henry Silver, Frederick Sheridan, Mrs. James Yates, and William Wallace; and the same were laid on the table.

TREASURY PERMITS.

The SPEAKER announced the business next in order to be the call of States for resolutions, under which the resolution submitted on Monday last by Mr. INGERSOLL would come up for consideration.

The resolution was read, as follows:

Resolved, That in the opinion of this House all permits heretofore issued by the Treasury Department to any person or persons, allowing such person or persons to trade within the limits of any States now or heretofore in rebellion, should at once be revoked and no more issued.

Mr. WASHBURNE, of Illinois. I move to postpone that resolution for ten days.

The SPEAKER. The previous question was seconded and the main question ordered on Monday last. The vote ordering the main question was however reconsidered subsequently, and the question now recurs on ordering the main question. If the main question shall be voted down, the motion to postpone will then be in order.

Mr. WASHBURNE, of Illinois. I hope the main question will be voted down.

The main question was not ordered.

Mr. WASHBURNE, of Illinois. I now move to postpone for ten days.

On the motion to postpone, 50 voted in the affirmative and 41 in the negative.

Mr. MALLORY demanded the yeas and nays.

Mr. WASHBURNE, of Illinois. I propose

to withdraw the motion to postpone and debate the resolution.

The SPEAKER. The Chair will state that this resolution having been presented on Monday last, the rule which requires resolutions presented under this call and debated to go over does not apply.

Mr. WASHBURNE, of Illinois. I will then insist on the motion to postpone.

Mr. MALLORY called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. ELDRIDGE, and WASHBURNE of Illinois, were appointed.

The House divided; and the tellers reported—ayes thirty, a further count not being demanded. So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 60, not voting 50; as follows:

YEAS—Messrs. Alley, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, James S. Brown, Ambrose W. Clark, Cole, Cravens, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Edgerton, Eliot, Garfield, Grider, Harding, Harrington, Benjamin G. Harris, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Jencks, William Johnson, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Law, Littlejohn, Marvin, McBride, McDowell, McIndoe, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Patterson, Pike, Pomeroy, Radford, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Spalding, Stevens, Strouse, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Wheeler, Wilder, and Windom—72.

NAYS—Messrs. William J. Allen, Ancona, Arnold, Bailly, Augustus C. Baldwin, Blaine, Boyd, Brooks, Chanler, Coffroth, Cox, Dawson, Denison, Eckley, Eldridge, Finck, Ganson, Griswold, Hale, Charles M. Harris, Herriek, Holman, Hutchins, Kerman, Knapp, Lazear, Le Blond, Loan, Long, Mallory, McClure, McKinney, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Orth, Pendleton, Pruyn, Robinson, Rogers, Ross, Scofield, John B. Steele, William G. Steele, Stiles, Stuart, Van Valkenburgh, Wadsworth, Chilton A. White, Joseph W. White, Williams, Wilson, Winfield, Benjamin Wood, and Fernando Wood—60.

NOT VOTING—Messrs. James C. Allen, Anderson, Blair, Bliss, Blow, Brandegee, Broomall, William G. Brown, Freeman Clarke, Clay, Cobb, Thomas T. Davis, Driggs, Dumont, English, Farnsworth, Fenton, Frank, Gooch, Grinnell, Hall, Hubbard, Ingersoll, Philip Johnson, Kabiselsch, Kasson, King, Longyear, Marey, McAllister, Middleton, Leonard Myers, Perham, Perry, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, James S. Rollins, Scott, Smith, Starr, Stebbins, Sweet, Voorhees, Ward, Webster, Whaley, Woodbridge, and Yeaman—50.

So the resolution was postponed for ten days.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was postponed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSCRIPTION ACT.

Mr. SCHENCK. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the conscription bill, but the Chair will state to the gentleman from Ohio that at his request the substitute presented by him has been sent to the printer. If, therefore, when the House arrives at that point, the amendment of the gentleman is not here, a vote cannot be taken on it.

Mr. SCHENCK. I will then for the present withdraw my call for the regular order.

PAY OF CONTESTANTS.

Mr. ROBINSON introduced the following resolution, on the adoption of which he demanded the previous question:

Resolved, That the Clerk be authorized and directed to pay out of the contingent fund, to Charles W. Curigan and John Kline, contestants and claimants to seats in this House, whose claims have been adversely decided, the usual mileage and salary to date of such adverse decisions respectively.

The previous question was seconded, and the main question ordered to be put.

Mr. WASHBURNE, of Illinois. I call for the yeas and nays upon the adoption of the resolution.

The yeas and nays were ordered.

Mr. MOORHEAD. Is it in order to call for a division of the question, so that the vote may be first taken on the case of Mr. Carrigan?

The SPEAKER. As the resolution is drawn it would not be in order.

The question was taken; and it was decided in the affirmative—yeas 75, nays 61, not voting 46; as follows:

YEAS—Messrs. William J. Allen, Ancona, Bailly, Augus-

tus C. Baldwin, Blair, Bliss, Brooks, James S. Brown, William G. Brown, Chanler, Coffroth, Cox, Cravens, Creswell, Dawes, Dawson, Denison, Edgerton, Eldridge, Ganson, Griswold, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herriek, Holman, Hutchins, Philip Johnson, William Johnson, Kabiselsch, Kerman, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marey, Marvin, McAllister, McDowell, McKinney, William H. Miller, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Shannon, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thayer, Thomas, Wadsworth, Ward, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, and Fernando Wood—75.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Cole, Henry Winter Davis, Deming, Dixon, Eckley, Eliot, Farnsworth, Fenton, Gooch, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jencks, Julian, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, McBride, McClure, McIndoe, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smithers, Spalding, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilson, and Windom—61.

NOT VOTING—Messrs. James C. Allen, Blaine, Blow, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Thomas T. Davis, Donnelly, Driggs, Dumont, English, Finck, Frank, Garfield, Grider, Grinnell, Hale, Hall, Hotchkiss, Ingersoll, Kasson, Kelley, King, Longyear, Middleton, Moorhead, James R. Morris, Leonard Myers, Perry, Price, William H. Randall, John H. Rice, James S. Rollins, Scott, Smith, Starr, Stebbins, Stevens, Voorhees, Webster, Wilder, Woodbridge, and Yeaman—46.

So the resolution was adopted.

Mr. ROBINSON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CLERK OF THE MILITARY COMMITTEE.

Mr. FARNSWORTH submitted the following resolution, and demanded the previous question on its adoption:

Whereas the House of Representatives did on the 22d day of March, 1864, authorize the Committee on Military Affairs to increase the compensation of their clerk: Therefore,

Resolved, That said increase shall commence with the present session and be paid to said clerk while actually employed.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. FARNSWORTH moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

FORT PILLOW REPORT.

Mr. NORTON, by unanimous consent, submitted the following resolution; which was read, and, under the rules, referred to the Committee on Printing:

Resolved, That there be printed for the use of the members of the House, in addition to the copies already ordered, one hundred and sixty thousand copies of the report of the joint committee on the conduct of the war relating to the Fort Pillow massacre and the cruelties inflicted upon our soldiers while in the hands of the enemy as prisoners of war.

ILLINOIS QUOTA.

Mr. MORRISON submitted the following resolution, and demanded the previous question on its adoption:

Whereas the people of the several States not in rebellion have equal interests in the attainment of every legitimate aim and purpose of the existing war, and should therefore bear equally the burdens of its prosecution; and whereas the State of Illinois has fully complied with all demands of the Government of the United States by promptly furnishing all quotas of troops called for, with many thousands in excess, and further demands will greatly prejudice her agricultural and other industrial interests: Therefore,

Resolved, That it is the judgment of this House that until the other States have furnished troops in their just proportion to the number furnished by the State of Illinois, no further demands for troops ought to be made upon said State.

Mr. BROWN, of Wisconsin. I would like to have Wisconsin included.

Mr. HOLMAN. I would also like to have Indiana included.

The House divided on seconding the demand for the previous question; and there were—ayes 25, noes 66.

So the previous question was not seconded.

Mr. WILSON proposed to debate the resolution, and it went over.

DISABLED SOLDIERS.

Mr. HOLMAN submitted the following reso-

lution, and demanded the previous question on its adoption:

Resolved, That the officers of this House having authority to employ others connected with the House ought to give the preference in making their appointments, other things being equal, to disabled soldiers, who have been permanently disabled while in the military service of the United States in the line of duty, and honorably discharged; and that the officers of this House in making future appointments be governed by the principle above expressed.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

JOHN S. PHELPS, OF MISSOURI.

Mr. MORRILL, by unanimous consent, introduced a joint resolution to settle and pay the accounts of John S. Phelps, of Missouri, as a member of the Thirty-Seventh Congress; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was according read the third time, and passed.

Mr. MORRILL moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LIST OF SURGEONS.

Mr. LAW submitted the following resolution:

Resolved, That the Secretary of War be, and hereby is, directed to furnish to this House a list of the surgeons and assistant surgeons of the Army and of surgeons of volunteers holding commissions from the President, together with such statements as will show how long they have severally served in the field since 1861, in what positions they have so served, and what positions they now hold; also, if having previously served as surgeons or assistant surgeons under commissions from Governors of States, the length of such service.

Mr. WASHBURNE, of Illinois, objected, and the resolution went over.

DIGEST OF ELECTION CASES.

Mr. DAWES submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk of the House of Representatives be authorized to place at the use of the person employed by the Committee of Elections to make a digest of election cases a set of the Congressional Globe for the period of time covered by said resolution.

EMPLOYÉS OF CONGRESS.

Mr. GANSON moved that the rules be suspended in order to introduce a joint resolution giving additional compensation to the employés of the two Houses of Congress.

The House divided; and there were—ayes 45, noes 52.

So, two thirds not voting in favor thereof, the rules were not suspended.

NEW YORK CUSTOM-HOUSE.

Mr. ROLLINS, of New Hampshire, introduced the following resolution; which was referred, under the rules, to the Committee on Printing:

Resolved, That thirty-five hundred extra copies of the report on the New York custom-house be printed for the use of the members of this House.

LAND CLAIMS IN LOUISIANA.

Mr. HARRINGTON asked unanimous consent to introduce the following resolution:

Resolved, That the Clerk of the House be and is directed to procure copies of the field-notes, maps, lines, and surveys of Andry, surveyor general of Louisiana, contained in a record of the office of the clerk of the Supreme Court of the United States in the case of the United States vs. D'Autrieve *et al.*; and that such copies be attached to the minority report in this case; and that the expenses be paid out of the contingent fund of the House.

Mr. HARRINGTON. I desire to say one word in reference to that resolution. A majority report has been filed in the case of the heirs of John E. Bouligny, claiming half a million acres of land. The minority have filed a minority report. In the majority report the surveys of Andry, surveyor general of Louisiana, are not referred to at all, and the minority understand that those surveys settle the case against the claimants. It is impossible to come to a correct conclusion without those surveys, and hence I ask that they be obtained and attached to the minority report.

No objection being made, the resolution was introduced, and agreed to.

SALARIES OF POSTMASTERS.

Mr. ALLEY. I ask unanimous consent to

take from the Speaker's table and put upon its passage an act (S. No. 332) to establish salaries for postmasters, and for other purposes.

Mr. STEVENS objected.

Mr. ALLEY. I move to suspend the rules for that purpose.

The rules were not suspended.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had agreed to the amendments of the House to the bill of the Senate (No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes.

That the Senate had also agreed to the report of the committee of conference on the bill of the House (No. 495) to amend the charter of the Washington and Georgetown Railroad Company.

That the Senate has passed bills and joint resolutions of the House of the following titles:

An act (No. 121) for the relief of Lieutenant William P. Richner, seventy-seventh regiment Ohio volunteer infantry;

Joint resolution (No. 101) to provide for the publication of a full Army Register; and

Joint resolution (No. 32) to grant additional rooms to the Agricultural Department.

That the Senate has passed an act (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865; and an act (H. R. No. 540) to provide ways and means for the support of the Government, and for other purposes, severally with amendments; in which the concurrence of the House was requested.

That the Senate also had passed bills of the following titles; in which the concurrence of the House was requested:

An act (No. 315) in relation to the sale of reservations of the public lands;

An act (No. 334) for the relief of Eliphalet Brown, jr., artist in the Japan expedition; and

An act (No. 335) to carry into effect a convention between the United States of America and the United States of Colombia.

Mr. NOBLE asked unanimous consent to report back with an amendment from the Committee on Patents, a bill (S. No. 112) for the relief of the heirs of Almond D. Fisk, deceased.

Mr. WASHBURNE, of Illinois. Let the bill be read.

The bill, which was read, authorizes Phebe Ann Fisk, as executrix of Almond D. Fisk, deceased, who obtained a patent for a new and useful improvement in coffins, dated November 14, 1848, for fourteen years, which has now expired, to apply to the Commissioner of Patents for an extension of the patent for seven years, under the rules and regulations now in force for the extension of patents, as if she had made application previous to its expiration, as required by law; and the Commissioner is directed to investigate and decide the application for extension on the same evidence and in the same manner as other applications for extension are decided, notwithstanding the surrender and reissue of March 6, 1850, provided the application for extension be made within thirty days from the approval of the act, and the decision of the Commissioner be rendered within ninety days from the filing of the application in the Patent Office; and provided also that nothing in the bill shall be so construed as to hold responsible in damages any persons who may have manufactured coffins containing the aforesaid improvements between the expiration of the patent and the approval of the act.

Mr. WASHBURNE, of Illinois. I desire to know if that is not a bill for extending the patent of a metallic coffin, thus putting an additional tax upon the blood and ashes of our soldiers. I object to it.

Mr. NOBLE. I move to suspend the rules to allow me to report it back.

The rules were not suspended.

NAVY DEPARTMENT BUILDING.

Mr. RICE, of Massachusetts, by unanimous consent, introduced a joint resolution authorizing the Secretary of the Navy to expend a portion of the contingent fund for enlarging the Navy Department building; which received its several readings, was engrossed, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CARMACK AND RAMSEY.

Mr. HALE asked unanimous consent to take from the Speaker's table a joint resolution (H. R. No. 11) in relation to the claims of Carmack & Ramsey, with Senate amendments thereto.

Objection being made,

Mr. HALE moved to suspend the rules.

The rules were not suspended.

TARIFF BILL.

Mr. STEVENS. I ask leave to report back from the Committee of Ways and Means the amendments of the Senate to the tariff bill for action in the House now.

No objection was made, and the report was received.

Mr. STEVENS. The Committee of Ways and Means recommend concurrence in some of the amendments, non-concurrence in others, and concurrence in others with amendments. The amendments have been printed, and I suggest that in order to save time the Clerk read over the amendments, and that in the case of those upon which separate votes are not demanded the recommendation of the Committee of Ways and Means be considered as concurred in.

The SPEAKER. If there be no objection that course will be pursued.

No objection was made.

The amendments of the Senate were then read over, and the recommendations of the Committee of Ways and Means in regard thereto were concurred in, except in the cases in which special action was called for, and which are indicated below.

Seventeenth amendment of the Senate:

Page 7, line twenty-eight, strike out "80" and insert in lieu thereof "60;" so that the clause will read:

On all iron imported in bars for railroads and inclined planes, made to patterns and fitted to be laid down on such roads or planes without further manufacture, 60 cents per one hundred pounds.

The Committee of Ways and Means recommended non-concurrence.

Mr. WILSON. I call for a separate vote on that amendment.

Mr. LITTLEJOHN. I demand the yeas and nays on the amendment.

Mr. MORRILL. The House understands this amendment. By the bill as it passed the House a duty was laid upon imported railroad iron equivalent to the tax imposed by the internal revenue bill upon the domestic manufacture. The Senate propose to reduce the duty, so that there will actually be a less duty upon it than the tax imposed upon the domestic article.

I know that it is contended that the railroad iron establishments are not able to produce enough to supply the ordinary demand, but it seems to me that that is not an argument for the reduction of the duty. So far as I am informed, I believe that a reduction of the duty would not be for the benefit of railroad companies that are building new roads at the West at the present time, but for the benefit of the contractors who have engaged in them, and that it will merely enhance the profits of those contractors. I think it would be manifestly unfair and unjust at this time, when we are imposing burdens upon those who produce railroad iron at home, that we should reduce the duty on the iron that comes from abroad.

I thought in 1861 that the tax placed on railroad iron was a high one; but experience has proved that it has not prevented the introduction of foreign iron into this country. A large amount has been imported under that tariff; and if the rate as proposed by the House should be adopted, it will only be the same amount of competition that existed prior to the levying of the internal tax, and prior to the last modification of the tariff.

Mr. LITTLEJOHN. I hope the House will concur with the Senate in their amendment to this bill. It should be remembered by every member of the House that in fixing our policy of taxation upon the great interests of the country, we should not so burden them as utterly to overturn and destroy any of the great interests which are called upon to contribute to sustain the Government.

Now, sir, but for the construction of the New York and Erie canal in the first place, and but for the construction of the great railroad lines from the Atlantic coast to the great West, the States of Iowa, Minnesota, and their sister States in the West would not have been in existence to-day. It is for the interest of the Government to build up that mighty West; it is for the interest of the Government to build up and create new States and new interests of taxation. That result cannot, however, possibly follow if the provision of the House bill virtually prohibiting the importation of iron is adhered to.

Now, sir, I do not propose to detain the House long upon this question. It is one of great importance, one that affects the whole country, and one which largely affects the revenues of the Government. Who does not know that with one hundred and twenty or one hundred and thirty dollars a ton duty upon railroad iron the construction of railroads in this country, except so far as contracts have been made, must be stopped, for it will be impossible to import a ton of iron under such a duty. The whole system of new railways in the far West must be stopped; ay, sir, the Pacific railroad itself will be suspended if iron is to cost from \$130 to \$160 a ton.

If railroads in the past have been able barely to divide six per cent. upon their stock when iron was bought at \$60 per ton, I ask any man in the House to inform me how a railroad can be constructed with iron from \$130 to \$160 per ton.

Now, sir, the entire capacity of the rolling mills of the country does not exceed three hundred thousand tons a year, an amount not at all beyond what is required for the roads already constructed; for on the average ten per cent. of track has to be relaid every year. The entire manufacture of the country will therefore be required by the roads already constructed, to keep them in running order.

I hope, therefore, for the reasons I have mentioned, and for the additional reason that I believe the House should not prohibit the importation of any article, and particularly the article of railroad iron, so much demanded and needed to forward great interests of the country, that the amendment of the Senate will be concurred in.

Mr. STEVENS. The gentleman who has just addressed us shows how much he knows upon the subject. I have here the returns of the rolling mills of the United States, showing their exact capacity, which I obtained last week, supposing that some gentleman might volunteer an assertion of this kind. They show that when the war commenced the capacity of the rolling mills of the country was one hundred and forty-eight thousand tons a year. To-day it is not less than six hundred and fifty thousand tons. So much for the fact which the gentleman knows. If it had not been for this duty upon the imported article there would not have been a rolling mill now in operation. And now when our citizens have gone into this description of manufacture, increasing by threefold the capacity of the mills of the country, it is gravely proposed here—and a majority of the Senate have voted for the proposition—to destroy that entire branch of industry and give the whole trade to the European market. I am aware that some gentlemen from the State of the member who has just taken his seat, large importers of iron, have been here lobbying and have induced the Senate to vote for this amendment. But, sir, if you are to take the duty off from railroad iron why not take it off from all other manufactured articles? During the present session we have laid an additional tax upon the iron manufactured in this article of \$6 per ton, and now it is proposed to change the duty upon the imported article so as to make it actually less than it is under the old law.

Sir, the adoption of the amendment of the Senate, while it consults the interests of a few importers, strikes down a great branch of industry, and will not advance the interests of the railroads one dollar. These rolling mills were started upon the faith of the Government that a sufficient duty should be levied for their protection; and if this amendment is to be adopted it were better that they had never been called into existence. While we are giving every encouragement that we can to these railroads, we ought to take care that other great interests of the country are not affected and broken down.

The gentleman, in another point, has shown that he is not able to consider this question. He says that if the Senate amendment be not concurred in the Pacific railroad will not be able to proceed. Now, the Pacific railroad, by its unchanged original charter, is obliged to use American iron. It must use American iron or it cannot be built at all. How then is it to be affected by this provision?

Mr. LITTLEJOHN. As we advance foreign iron do we not advance American iron?

Mr. STEVENS. You will break down the American rolling mills, and thus advance the price of foreign iron.

I know that there are some railroads who desire this amendment; but why should railroads with \$5,000,000 of capital be more favored than the farmer who buys his plowshare, or the mechanic who buys his tools? I will say that this is a proceeding not calculated to bring the railroads into much esteem in this Government.

As it seems to be the wish of the House, I call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 65, not voting 35; as follows:

YEAS—Messrs. William J. Allen, Allison, Arnold, Augustus C. Baldwin, Blair, Bliss, Brooks, James S. Brown, William C. Brown, Chandler, Freeman Clarke, Cobb, Cravens, Dawson, Donnelly, Eden, Edgerton, Eldridge, English, Farnsworth, Fenton, Finck, Ganson, Garfield, Harding, Harrington, Charles M. Harris, Herriek, Holman, Asahel W. Hubbard, Hubbard, Ingersoll, Kalbfleisch, Knapp, Law, Le Bond, Littlejohn, Long, Mallory, Marey, Marvin, McDowell, McIntosh, McKinney, Daniel Morris, James R. Morris, Morrison, Nelson, Noble, Norton, Odell, John O'Neill, Patterson, Perlman, Pike, Pomeroy, Pruyn, Samuel J. Randall, John H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Schenck, Sloan, Smith, Spaulding, William G. Steele, Stuart, Sweet, Thomas, Van Valkenburgh, Elihu B. Washburne, Webster, Wheeler, Chilton A. White, Joseph W. White, Wilson, Windom, Winfield, Benjamin Wood, and Fernando Wood—82.

NAYS—Messrs. Alfrey, Ames, Ancona, Anderson, Ashley, Bailey, John D. Baldwin, Baxier, Beaman, Blow, Boutwell, Boyd, Ambrose W. Clark, Coffroth, Cole, Creswell, Henry Winter Davis, Dawes, Denning, Denison, Dix, Briggs, Eliot, Frank, Gooch, Griswold, Hale, Higby, Hoar, John H. Hubbard, Hutchins, Jenckes, Julian, Kelley, Orlando Kellogg, Keruan, Knox, Loan, McAllister, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Pendleton, William H. Randall, Alexander H. Rice, Scofield, Shannon, Smithers, John B. Steele, Stevens, Siles, Strouss, Thayer, Tracy, Upham, Wadsworth, William B. Washburn, Williams, and Wilder—65.

NOT VOTING—Messrs. James C. Allen, Blaine, Brandegee, Broomall, Clay, Cox, Thomas T. Davis, Dumont, Eckley, Grider, Grinnell, Hall, Benjamin G. Harris, Hotchkiss, Philip Johnson, William Johnson, Kasson, Francis W. Kellogg, King, Lazar, Longyear, Middleton, William H. Miller, Perry, Price, Radford, Rogers, Scott, Starr, Stubbins, Voorhees, Ward, Whaley, Woodbridge, and Yeaman—35.

So the amendment was concurred in.

Mr. LITTLEJOHN moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS. I move to add the following to the Senate amendments:

Provided, That while the present duty remains upon railroad iron no internal tax shall be collected thereon.

Mr. WASHBURN, of Illinois. I make the point that the amendment is not in order; this is the tariff and not the tax bill.

The SPEAKER. If there is anything in the bill or amendments of the Senate relating to the collecting of internal revenue the amendment would be in order, but not otherwise.

Mr. STEVENS. I withdraw it until we come to one of those provisions.

Mr. WASHBURN, of Illinois, demanded the previous question on the Senate amendments. The previous question was not seconded.

Thirty-second amendment:

Strike out all after the word "kinds" down to and including "forty," and insert in lieu thereof the word "fifty," in the following clause:

On pen-knives, jack-knives, and pocket knives of all kinds, valued at \$3 or less per dozen, 50 cents per dozen, and in addition thereto 25 per cent. *ad valorem*; valued at over \$3 per dozen, 50 cents per dozen, and in addition thereto 40 per cent. *ad valorem*.

The committee recommended non-concurrence.

Mr. O'NEILL, of Pennsylvania. I ask for a separate vote on that amendment.

Mr. BROOKS. I hope there will be a concurrence in the amendment.

Mr. STEVENS. I have no objection if the gentleman desires it. The committee only intended that the amendment should go to a committee of conference, where we could agree to the Senate amendment, except that we would make the *ad valorem* duty a little lower.

The amendment was concurred in.

Forty-third amendment:

On page 16, line thirty-nine, strike out "double" and insert "four times;" so that the clause will read:

That wool which shall be imported scoured shall pay, in lieu of the duties herein provided, four times the amount of such duties.

The committee recommended non-concurrence.

Mr. MOORHEAD. I hope that amendment will be concurred in.

Mr. MORRILL. The original bill provided an increased duty of 50 per cent. upon scoured wool, and it was amended in the House so as to double the duty. I think that certainly is sufficient. If the wool is scoured its increased value is from 30 to 40 per cent., and if the duty is increased four times, it will manifestly be entirely prohibitory. Therefore I hope the amendment will not be concurred in. Under former laws importers have had the right to import wool in the ordinary washed state. The object of this amendment was to exclude its being scoured entirely free from grease. Wool when washed shrinks 30 or 40 per cent., and when it is scoured it shrinks 30 or 40 per cent. more; so that a double duty will cover the case.

Mr. MOORHEAD. I do not think a double duty is sufficient, and I will move to amend the Senate amendment by inserting "three times" in place of "four times."

The amendment to the amendment was not agreed to.

The amendment of the Senate was non-concurred in.

Fifty-ninth amendment:

Strike out the following:

On all manufactures of wool, or of which wool shall be a component material, not otherwise provided for, 20 cents per pound, and in addition thereto 55 per cent. *ad valorem*.

The committee recommended concurrence.

Mr. MORRILL. I move to amend the Senate amendment by inserting in lieu of what is proposed to be stricken out the following:

On shirts, drawers, and hosiery, of wool, or of which wool shall be a component material, 20 cents per pound, and in addition thereto 35 per cent. *ad valorem*.

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

Seventieth amendment:

Insert on page 23, after line fifty-eight, the following: *And provided further*, That no cotton goods having more than 200 threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods which are of that number of threads.

The committee recommended non-concurrence.

Mr. NELSON. I move to amend the Senate amendment by adding thereto the following proviso:

And provided further, That 50 per cent. of all duties and rates of duty imposed by the provisions of this act may be paid in legal-tender or Treasury notes.

Mr. MORRILL. I rise to a point of order. The amendment is not germane to the subject-matter under consideration.

The SPEAKER. The Chair thinks the amendment is in order. In this bill the Chair thinks the House might change the whole system of paying duties, and provide that they all shall be paid in the lawful money of the United States instead of gold and silver.

Mr. NELSON. I offer this amendment for the simple reason that the people and Congress have endeavored to their utmost to lower the price of gold in the public market.

We are at all times told that if the demand for any particular article be decreased, its price in the open market will necessarily be reduced. The great reason of the increase in the price of gold is that the merchants of New York and other ports require gold to pay their import duties. If they could pay them in the public money of the United States—paper money—the price of gold would be depreciated in proportion, for gold is to-day nothing but a commodity in this country.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

WEDNESDAY, JUNE 29, 1864.

NEW SERIES....No. 208.

It may be suggested, Mr. Speaker, that the adoption of this proviso would reduce the rates of duties imposed by this act. That is true; but that difficulty may be obviated by an amendment to the amendment which I propose, providing that all duties provided in this bill shall be increased 25 per cent. I have not much knowledge of finance, but it strikes me that the payment in gold of one half the customs duties will supply the wants of the Government, and that the receipt of the other half in paper money will decrease the demand for gold and diminish its price, while the Government can obtain an equal amount of revenue by an increase of the rates.

Mr. MORRILL. Mr. Speaker, notwithstanding the inexperience of my friend from New York, I think there is enough in his argument to require something to be said in opposition to his amendment, and to show its impropriety. In the first place it would be necessary to go through the entire bill and alter all the rates of duties.

Mr. NELSON. That can be done by a general provision.

Mr. MORRILL. Mr. Speaker, the proposition is mischievous in another direction. If it should be adopted we would, of course, have to abandon all idea of paying the interest on our public securities in coin; for unless the Government obtained coin in payment of duties it would be utterly impossible to fulfill the obligations already incurred by law. I trust that, at this late hour of the session, the labor will not be imposed upon us of going through the entire tariff and revising it so as to fit it to the amendment proposed by the gentleman from New York. I move the previous question.

The previous question was seconded, and the main question ordered; which was first on Mr. NELSON's amendment to the amendment.

The amendment to the amendment was rejected.

Mr. COX. I move to amend the amendment by inserting as follows:

That the legal currency of the United States shall be received in the collection and payment of all duties imposed by this bill, and by all other existing laws to raise revenue.

Mr. NELSON. To meet one of the objections raised on the other side, I will move to amend by adding "and that the rates of duties imposed by the provisions of this act are hereby increased 100 per cent."

Mr. COX. I am opposed to the amendment of the gentleman from New York. My object is to cut down the protective points of this bill. The duties are now payable in gold and silver. I want to have them made payable in gold and silver, or else to have the rates cut down. I have already addressed the House on this subject. I believe that the rates of duties in this bill range from 90 to 250 per cent. If the duties are made payable in paper money it will be a saving of some 150 per cent. to the people, which now goes into the pockets of a special class. That is the object of my amendment. Of course it will be voted down.

Mr. NELSON. I withdraw my amendment for the present.

Mr. MORRILL. I make the point of order on the amendment of the gentleman from Ohio that it is the identical amendment passed upon before.

The SPEAKER. It is not the same. The other was that half the duties should be paid in legal tenders.

Mr. MORRILL. Mr. Speaker, it is rather too warm to make speeches for buncombe, and I suppose that the very absurdity of the proposition will be enough to insure its rejection.

Mr. COX. Mr. Speaker, I did not propose to make a speech; and the gentleman from Vermont does not treat me with much courtesy when he insinuates that I speak for buncombe. I made my speech the other day. I offered my amendment for the purpose of striking out the immense bounty allowed now to a special class—the manufacturers of the United States. I do not wish to make any speech now for any special purpose of buncombe. I simply ask the vote of the House on this proposition, and I state plainly that my object is to strike off this large protective bounty

for the benefit and encouragement of a special class of manufacturers. I will leave to the gentleman from Vermont any buncombe he can make out of this sort of business.

Mr. MORRILL. I call the previous question.

Mr. COX. That is the most sensible thing he has done this session.

Mr. WARD. Will the gentleman from Vermont allow me to ask the gentleman from Ohio one question?

Mr. MORRILL. I will yield for one question.

Mr. WARD. I will ask him if this proposition would not operate disadvantageously to those gentlemen who have imported largely and paid the duties in gold?

Mr. COX. I would say to the gentleman that the proposition is not made for the benefit of any class of importers. It is made in the interest of the great masses of the people of the United States, who are the consumers of all the commodities imported into the country. I stand here for the poor man, although that may be accounted buncombe. I stand here for the great masses of the people, who have to pay these taxes indirectly and insidiously into the pockets of these manufacturers. I stand here to defend that class of people who cannot combine to send delegations to Congress to make known their interests.

Mr. MORRILL. I desire now to satisfy the gentleman from Ohio by repeating the only sensible thing I have done. If I could with equal truth say that he had done a single sensible thing, I would do so. I call the previous question on the amendment.

The previous question was seconded, and the main question ordered; being first upon the amendment proposed by Mr. Cox to the amendment of the Senate.

Mr. LE BLOND demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 34, nays 107, not voting 41; as follows:

YEAS.—Messrs. William J. Allen, Augustus C. Baldwin, Bliss, Chandler, Coffroth, Cox, Dawson, Eden, Eldridge, Finck, Grider, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, William Johnson, Knapp, Law, Le Blond, Mallory, Marcy, William H. Miller, James R. Morris, Morrison, Nelson, John O'Neill, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Chilton A. White, and Fernando Wood—34.

NAYS.—Messrs. Allison, Ames, Ancona, Anderson, Arnold, John D. Baldwin, Baxter, Beanman, Blaine, Blair, Blow, Buntwell, Boyd, Brandegee, Brooks, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Deming, Denison, Dixon, Donnelly, Eckley, Edgerton, Eliot, English, Fenton, Frank, Ganson, Garfield, Gooch, Griswold, Hale, Harrington, Higby, Hooper, Hotchkiss, Samuel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Kernan, Knox, Littlejohn, Long, Loon, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Noble, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Pruyn, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smathers, Spalding, John B. Steele, William G. Steele, Stevens, Strouse, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Ward, Elihu B. Washburne, William B. Washburn, Webster, Williams, Wilder, Wilson, Windom, and Winfield—107.

NOT VOTING.—Messrs. James C. Allen, Alley, Ashley, Bailly, Broomall, Clay, Cravens, Thomas T. Davis, Dawes, Driggs, Dumont, Farnsworth, Grinnell, Hall, Philip Johnson, Kalbfleisch, Kasson, Orlando Kellogg, King, Lascar, Longyear, McDowell, McKinney, Middleton, Pendleton, Perry, Price, Scott, Starr, Stebbins, Stiles, Stuart, Sweet, Voorhees, Wadsworth, Whaley, Wheeler, Joseph W. White, Benjamin Wood, Woodbridge, and Yeaman—41.

So the amendment to the amendment was disagreed to.

The question recurred on the amendment of the Senate.

Mr. NELSON. Is a further amendment in order?

The SPEAKER. It is not; the main question having been ordered.

The amendment of the Senate was agreed to.

Mr. WINFIELD. I move to reconsider the vote by which the House agreed to the amendments of the Senate numbers thirty-one and thirty-two, in regard to pen-knives and jack-knives.

Mr. O'NEILL, of Pennsylvania. Is that motion debatable?

The SPEAKER. The Chair thinks it is.

Mr. MORRILL. I suggest to the Chair that those amendments were agreed to under the operation of the previous question, and that therefore debate is not in order.

The SPEAKER. The gentleman is mistaken as to that. The previous question was not called on those amendments.

Mr. WINFIELD. My only desire is that those propositions shall be committed to the committee of conference, if there is to be one. Certain amendments were proposed when the bill was before the House, which met with my assent, and I desire now that this matter may go to a committee of conference in order that these amendments may be considered by them, and I am willing to be bound by the judgment of that committee. I hope, therefore, in order to correct what I think was a misunderstanding this morning, that the motion to reconsider the vote by which the House concurred in the amendment of the Senate will be adopted.

Mr. O'NEILL, of Pennsylvania. Mr. Speaker, the gentleman from New York, I have no doubt, regards it as a very pleasant thing to dispose of this amendment by getting it before a committee of conference, and practically beyond the reach of the House. But, sir, the House has passed upon this question, has acted upon it deliberately, and has concurred in the Senate amendment, and I do not think there will be any fairer or better understanding of it by going back and acting upon it again. This may seem to some a matter of no importance, but, sir, pen-knives are an article of universal use, and the duty imposed by the House bill upon a knife costing two, three, or five cents, would amount to two, three, or four hundred per cent. And when the consumption of this article is so great that it cannot be supplied by the manufacturers in this country, I can see no reason why the House should reconsider its vote for the purpose of laying a heavier tax upon it.

There is one other point in connection with this matter: I presume the gentleman from New York has had an opportunity of being before the Senate committee, and perhaps of being before the House committee, and of representing there the action he desired in this respect. I presume the matter has been looked into and considered not only by the committees of the two Houses but by the House itself. The Committee of Ways and Means made no objection to concurring in the Senate amendment, and for the purpose of disposing of the matter I will now move to lay the motion to reconsider on the table.

Mr. WINFIELD. I ask the gentleman to withdraw that motion to allow me to say a single word.

Mr. O'NEILL, of Pennsylvania. No, sir; I think the subject is exhausted. [Laughter.]

The motion to reconsider was laid on the table—ayes 57, noes 41.

The following amendment, in which the Committee of Ways and Means recommended non-concurrence, was read by the Clerk:

Sec. —. And be it further enacted, That before any invoice shall be certified by a consul, vice consul, or commercial agent of the United States as is required by the first section of an act entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," approved March 3, 1863, samples of the goods embraced in such invoice shall be deposited with such consul, vice consul, or commercial agent, except where, from the nature of the goods, such deposit is impracticable.

Mr. BROOKS. I wish to call the attention of the Committee of Ways and Means to this amendment, which requires samples of goods to be imported to be deposited with the consul, or vice consul, or commercial agent of the United States at the port from whence it is shipped. I can hardly understand the object of that amendment. I think it must have been suggested by some consul at Paris, at Lyons, or at Geneva, by a consul

perhaps at Paris whose wife wanted a silk dress deposited, or by a consul at Geneva who wanted a deposit of a gold watch, or by a consul at Canton who wanted a deposit of a Cashmere shawl of two, three, or five hundred dollars value. I can scarcely imagine any object in it except as a matter of speculation for consuls. I am very glad the Committee of Ways and Means have recommended non-concurrence; and I hope the committee of conference will second their recommendation.

Mr. STEVENS. The committee, after examining into the matter, came to the conclusion that it must have been recommended by the wives of consuls who wanted to secure some patchwork for themselves, and the committee determined not to recognize patch-work.

The amendment was non-concurred in.

The following amendment, in which the Committee of Ways and Means recommended non-concurrence, was read:

Sec. — And be it further enacted, That so much of section twenty-three of the act entitled "An act to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," approved March 2, 1861, as exempts from duty all philosophical apparatus and instruments imported for the use of any society incorporated for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use or by the order of any college, academy, school, or seminary of learning in the United States, is hereby repealed. And the same shall be subject to a duty of 20 per cent. *ad valorem*.

Mr. HOLMAN. It seems to me that this amendment of the Senate embodies a very wise provision. I know of no reason for the exemption from the burdens of taxation of a certain class of our citizens, engaged in a very beneficial employment to be sure, but not more so than that of the laboring classes of the country. This exemption applies to a very large class of cases, to a very large amount of importations of philosophical apparatus, and it seems to me the exemption should not remain. It is not, as a general thing, for the benefit of the poorer classes of scientific institutions; it applies to a class of men who as a body are as able to pay as any other class of our citizens. I hope, therefore, the amendment of the Senate, which I think to be a very wise one, will be concurred in.

The amendment was non-concurred in—ayes 24, noes 68.

The amendments of the Senate having been disposed of,

Mr. MORRILL moved that a committee of conference be asked for of the Senate on the disagreeing votes of the two Houses on the bill.

The motion was agreed to.

The SPEAKER appointed Mr. MORRILL, Mr. FENTON, and Mr. COX as such committee on the part of the House.

COMPENSATION OF PENSION AGENTS.

Mr. WASHBURN, of Massachusetts. I ask unanimous consent to take from the Speaker's table an act (S. No. 199) relating to the compensation of pension agents.

Mr. HOLMAN. I move that the House proceed to the consideration of business on the Speaker's table.

Mr. WASHBURN, of Massachusetts. This is but a short bill.

The SPEAKER. The Chair thinks the request of the gentleman from Massachusetts takes precedence.

No objection being made, the bill was taken up for consideration.

The bill provides that there shall be paid, over and above the compensation now allowed by law, to every pension agent disbursing \$50,000 annually, not exceeding \$500 per annum for clerk hire, rent of office, and office expenses; and to every agent disbursing \$100,000 annually, not exceeding \$750 per annum; and for every \$50,000 additional, not exceeding \$250 per annum for the purposes aforesaid; provided, that in no case shall the amount of compensation to any one agent exceed the sum of \$4,000.

Mr. BROOKS. It seems to me that this pension business should be transacted without any charge to the Government. During the existence of the old United States Bank this business was done through its agency, and it seems to me it should now be transacted through the national banks.

Mr. WASHBURN, of Massachusetts. When

the House understands this matter it seems to me there will be no objection to it. Under the present state of our pension business the amount paid out in our large cities, for instance New York, Albany, Cincinnati, Philadelphia, Boston, &c., has largely increased, and the amount paid out in Boston this year will not probably be less than \$500,000. As the law has been, no pension agent received over \$2,000 salary per annum, and had to give bond for \$50,000. But at present the amount paid out has so increased that bonds have now to be given for from one hundred thousand to one hundred and fifty thousand and in some cases to two hundred thousand dollars. It requires now, to transact this business in the large cities, not less than six clerks, so that the agents in the large cities who give those heavy bonds have left, after paying clerk hire, &c., only three or four hundred dollars. Under the increased business this year the \$2,000 will not be enough to pay clerk hire, and the result will be that the pension agents will resign, and the business cannot be transacted.

As to the idea of managing this matter through the banks, I will say to the House that that matter has been brought to the attention of the committees of both the Senate and House, and they came to the conclusion that the banks could not manage the matter so well as these pension agents. For two months in the spring and two months in the fall the agents in the large cities will be compelled, in order to transact the business to the satisfaction of the community, to employ five or six clerks. And by this bill we simply provide for the payment of these clerks, office rent, &c., by providing that the agents shall be paid according to the amount of business transacted. We do not increase the salaries of the pension agents at all.

Now, the simple question is, are the pension agents in these large cities, who give bonds for from a hundred to two hundred thousand dollars, who transact all the business, furnish their own rent, and pay five or six clerks, to be procured for the simple salary of \$2,000 a year? There is not a pension agent in any one of these large cities who would not have to resign within a very short time if we did not do something to furnish them with clerks. Scarcely a week passes but letters are received from parties in the cities, who have business to be transacted with these agencies, complaining that they cannot get it done without great delay. The Commissioner of Pensions says that it is impossible, under the provisions now made for their expenses, for the agents to furnish clerks to transact the business expeditiously. This bill has received the sanction of the Pension Committees of both Houses, and the Commissioner of Pensions approves it. I think no gentleman who examines the subject can object to it.

Mr. COX. I will ask the gentleman whether the pension agents themselves have in their control and possession the money which they pay out.

Mr. WASHBURN, of Massachusetts. They do, and they have to give bonds for it.

Mr. COX. They keep it and use it.

Mr. WASHBURN, of Massachusetts. No, they cannot use it.

Mr. COX. They put it on deposit.

Mr. WASHBURN, of Massachusetts. The gentleman is mistaken. The money is not long in their hands. The money is never in their hands for more than sixty days, and if they have sufficient force, and the business is done as it ought to be, it is all paid over in thirty days.

Mr. BROOKS. I do not intend to oppose this bill if the existing system is to be kept up. I have no doubt that from the increasing number of pensions and the increased responsibilities devolved upon the agents an additional compensation will in that case be necessary. I comprehend all that. I comprehend also that at this late period of the session it may be difficult, if not impossible, to introduce a new system. My main object, then, in calling the attention of the House to the subject was to suggest that prior to the next session of Congress some gentleman upon the other side of the House should prepare a bill by which the national banks shall be made responsible for this whole system of disbursing money in lieu of pension agents. The banks receive the public deposits without making any return therefor, and in addition to that they hold public bonds on which the people are paying large sums of money.

Mr. WASHBURN, of Massachusetts. The banks do not receive this pension money.

Mr. BROOKS. But the money should be deposited with the national banks. Under the old United States Bank system the pension disbursements were made through the old United States Bank with little or no expense to the Government. It is evident that in the future the disbursements will be much larger on account of the increased number of pensions, and hence the expense and responsibility will be much enhanced. I hope, therefore, that the whole system will be taken into consideration by gentlemen upon the other side of the House, and that during the next session a new system will be prepared and inaugurated.

Mr. WASHBURN, of Massachusetts. It is impossible that any such arrangement can be made now. This bill has been very carefully considered, and I hope the House will pass it. I move the previous question.

Mr. COX. I hope that will be voted down. I desire to move to postpone the bill until Monday next.

The SPEAKER. That motion is not in order at this time.

Mr. COX. Then I move to lay the bill on the table.

The question was taken; and the House refused to lay the bill on the table—ayes 24, noes 75.

The previous question was seconded, and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time.

Mr. WASHBURN, of Massachusetts, demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

APPROPRIATION BILLS.

Mr. STEVENS. The Senate has sent back, with amendments, the civil appropriation bill and the fortification bill. I ask unanimous consent to have them referred to the Committee of Ways and Means.

There was no objection, and it was so ordered.

The SPEAKER. Does the gentleman desire to have the amendments printed?

Mr. STEVENS. No, sir; it is hardly necessary.

PAY OF CONTESTANTS.

Mr. WILSON. I move that the rules be suspended to enable me to offer the following preamble and resolution:

Whereas the House on this day adopted the following resolution: "Resolved, That the Clerk be authorized and directed to pay out of the contingent fund, to Charles W. Carrigan and John Kline, contestants and claimants for seats in this House, whose claims have been adversely decided, the usual mileage and salary up to the date of such adverse decisions respectively;" and whereas said resolution authorizing the payment of the salary of said contestants from the 4th of March, 1863, to the date of the decisions in their respective cases is in conflict with the usual rate of compensation paid to contestants: Therefore, Resolved, That the resolution above recited be, and the same is hereby, rescinded.

Mr. HOLMAN. Why not modify the resolution?

Mr. WILSON. If I can have the consent of the House I will state the object of this.

Mr. ELDRIDGE. I object.

Mr. WILSON. Then I move to suspend the rules for the purpose of introducing the resolution.

Mr. DAWES. I think that gentlemen on the other side should not object to a suspension of the rules. I do not see why there should be any departure in these two cases from the usual practice in regard to the pay of contestants. I certainly voted for the resolution but did not suppose it to be a departure from the usual rule.

Mr. JOHNSON, of Pennsylvania, called for the yeas and nays on the suspension of the rules.

Mr. RANDALL, of Pennsylvania, called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. COX. I ask unanimous consent to make a statement.

Mr. JOHNSON, of Pennsylvania. I object.

The SPEAKER. Debate is not in order. The question was taken; and there were, on a division—ayes 89, noes 42.

So, two thirds voting in favor thereof, the rules were suspended, and the resolution introduced. Mr. WILSON moved the previous question on the resolution.

Mr. ODELL. I wish to make a simple statement that will be satisfactory to the House.

The SPEAKER. Unanimous consent has been refused by the gentlemen from Wisconsin and Pennsylvania, [Messrs. ELDRIDGE and JOHNSON.]

Mr. ODELL. I ask that objection may be withdrawn.

Mr. JOHNSON, of Pennsylvania. If anybody is to make a statement I want to make one myself.

The previous question was seconded, and the main question ordered.

Mr. STILES. I ask leave to modify the original resolution.

The SPEAKER. That cannot be done except by unanimous consent.

Mr. STILES. I ask that unanimous consent. Mr. BALDWIN, of Massachusetts. I object.

The question was taken on the resolution, and it was adopted, there being, on a division—ayes 84, noes 11.

So the resolution was passed.

Mr. WILSON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

Mr. COX. Before that question is taken I hope the resolution will be modified by unanimous consent, so as to make it conform to the pay of other contestants. Nothing else is desired.

Mr. A. MYERS. I object.

The motion to reconsider was laid on the table.

Mr. COX. I now move that Messrs. Carrigan and Kline be paid the same as has been paid to other contestants at this session; that is, from the first Monday in December to the time when their claims were decided adversely.

Mr. A. MYERS. I object.

Mr. BLAINE. I think that simple good faith requires us to agree to this.

Mr. COX moved to suspend the rules.

Mr. COFFROTH called for tellers.

Tellers were ordered; and Messrs. NORTON and Cox were appointed.

The House divided; and the tellers reported—ayes 86, noes 32.

So, two thirds voting in favor thereof, the rules were suspended.

Mr. COX. I now move the resolution which I have indicated, and move the previous question.

The previous question was seconded, and the main question ordered; which was on the adoption of the resolution.

Mr. ROLLINS, of New Hampshire, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—ayes 83, nays 62, not voting 37; as follows:

YEAS—Messrs. William J. Allen, Ancona, Baily, Augustus C. Baldwin, Blaine, Blair, Bliss, Blow, Brooks, James S. Brown, William G. Brown, Coffroth, Cox, Cravens, Dawes, Dawson, Denison, Eden, Edgerton, Eldridge, English, Ganson, Garfield, Grider, Griswold, Hale, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Francis W. Kellogg, Kegan, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, Marvin, McAllister, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Thayer, Thomas, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilson, Windom, Winfield, and Fernando Wood—83.

NAYS—Messrs. Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boyd, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Deming, Dixon, Driggs, Eckley, Eliot, Farnsworth, Frank, Gooch, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Ingersoll, Jenckes, Julian, Kelley, Knox, Littlejohn, Loan, McClurg, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smithers, Spalding, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburne, and Williams—62.

NOT VOTING—Messrs. James C. Allen, Boutwell, Brandegee, Broomall, Chanler, Freeman Clarke, Clay, Creswell, Thomas T. Davis, Donnelly, Dumont, Fenton, Finck, Grinnell, Hall, Hooper, Kasson, King, Longyear, McBride, Middleton, Morrill, Leonard Myers, Perry, Price, William

H. Randall, Scott, Shannon, Smith, Starr, Stebbins, Stevens, Voorhees, Wilder, Benjamin Wood, Woodbridge, and Yeaman—37.

So the resolution was adopted.

Mr. COX moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSCRIPTION BILL.

Mr. SCHENCK. I now call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the enrollment bill, on which the main question has been ordered on the pending amendments.

Mr. RANDALL, of Pennsylvania. I move that the House adjourn.

The motion was disagreed to.

Mr. STEVENS. I rise to ask a question. The amendment immediately pending I understand to be that of the gentleman from Ohio, [Mr. GARFIELD.] If that be voted down will it be in order to move further amendments to the bill, or must all the amendments to the bill be voted down before any other amendment can be offered?

The SPEAKER. The Chair will state the questions which are before the House. The question first to be taken is on the motion of the gentleman from Ohio, [Mr. GARFIELD,] to strike out the third and fourth sections. There are then pending the substitute of the gentleman from Pennsylvania, [Mr. BROOMALL,] and the substitute for the substitute offered by the gentleman from Ohio, [Mr. SCHENCK.] If both should be voted down it will then be in order to offer amendments to the bill. If either be adopted, however, it will not be in order to move to strike out anything that has been inserted. Motions may be made to add or to qualify, but no part of that which has been inserted can be stricken out.

Mr. STEVENS. If the substitute of the gentleman from Ohio be voted down, will it then be in order to offer another substitute?

The SPEAKER. Another substitute would be in order except for the previous question, which will not be exhausted until all the amendments pending shall have been disposed of.

Mr. STEVENS. But if both are voted down, then further amendments will be in order?

The SPEAKER. Further amendments will then be in order either as a substitute or to perfect the original bill.

Mr. SCHENCK. But if my amendment be adopted, other amendments will still be in order by way of addition?

The SPEAKER. They will, but it will not be in order to move to strike out.

The amendment submitted by Mr. GARFIELD was disagreed to; and the question recurred on the substitute offered by Mr. SCHENCK; which was read, as follows:

Strike out Mr. BROOMALL's substitute, and insert the following in lieu thereof:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and of the several acts amendatory thereof, as provides for a commutation in money, to be paid by persons enrolled or drafted for military service, in lieu of actually rendering such military service, be, and the same is hereby, repealed; and hereafter no payment of money shall be accepted or received by the Government to release any enrolled or drafted man from obligation to perform military duty.

Sec. 2. And be it further enacted, That the President of the United States may, at his discretion, at any time hereafter, order a draft for soldiers to serve for a less period than three years: *Provided, however,* That no such draft shall be for a less term of service than one year.

Sec. 3. And be it further enacted, That the President shall accompany any order for a draft of men for military service with a notice that he will accept volunteers in lieu of such drafted men prior to the day appointed for the draft, to fill the quota, or any part thereof, of any town, township, ward, precinct, or election district, or of any county not so subdivided; and every person so volunteering, in lieu of a man to be drafted, shall be credited to such town, township, ward, precinct, or election district, or county not so subdivided; and if he volunteers and is accepted and mustered into the service for a term of one year, unless sooner discharged, shall receive and be paid by the United States a bounty of \$100, and if for a term of two years, unless sooner discharged, a bounty of \$200, and if for a term of three years, unless sooner discharged, a bounty of \$300, one-half of which said bounty shall be paid to the soldier at the time of his being mustered into the service, one-fourth at the expiration of one-half his term of service, and one-fourth at the end of his term of service. And in case of his death when in the service, any portion of his bounty then remaining unpaid shall be paid to his legal represent-

atives; and in case he is honorably discharged from wounds or sickness incurred in the service, while in the line of his duty, he shall receive the full bounty. And the President in any call or order for a draft shall specify the exact time of service for which such draft is to be made; and the volunteers accepted in lieu of the whole, or any part, of the quotas to be provided under that draft shall be for not less than the term of service for which that draft is ordered.

Sec. 4. And be it further enacted, That drafted men, substitutes, and volunteers, when mustered in, shall be organized into or assigned to regiments, batteries, or other organizations of their own States, and as far as practicable, shall, when assigned, be permitted to select their own regiments, batteries, or other organizations from among those of their respective States which at the time of assignment may not be filled to their maximum number.

Sec. 5. And be it further enacted, That the twentieth section of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, shall be construed to mean that the Secretary of War shall discharge minors under the age of eighteen years, under the circumstances and on the conditions prescribed in said section; and hereafter, if any officer of the United States shall knowingly enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged; and such recruiting or mustering officer shall be dismissed the service with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

Sec. 6. And be it further enacted, That section three of an act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, be, and the same is hereby, amended so as to authorize and direct district provost marshals, under the direction of the Provost Marshal General, to make a draft for fifty per cent. in addition to the number required to fill the quota of any district, as provided by said section.

Sec. 7. And be it further enacted, That, instead of traveling pay, all drafted persons reporting at the place of rendezvous shall be allowed transportation from their places of residence; and persons discharged at the place of rendezvous shall be allowed transportation to their places of residence.

Sec. 8. And be it further enacted, That any persons resident in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, or Arkansas, who may voluntarily enlist in the military service of the United States, for a term of not more than three years, or during the war, or not less than one year, shall be entitled to the benefits and privileges of existing laws; and such persons shall be mustered into the regiments, or other organizations, of whatsoever State they may elect, or, in the case of colored troops, shall be assigned as now provided by law. And the States, or subdivisions of States, procuring such enlistments, shall receive credit for such persons, in accordance with the laws in other cases: *Provided,* That such enlistments as are authorized in any State, under the provisions of this act, shall only continue until such State shall have been made subject to a call for troops: And provided further, That no enlistments shall be made of any soldiers, either in or out of any State, except those enumerated herein, unless full credit is given to the State to which the enlisted soldier belongs.

Mr. SCHENCK. I call for the yeas and nays on the adoption of that amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 62, nays 91, not voting 29; as follows:

YEAS—Messrs. Allison, Anderson, Arnold, Ashley, Baxter, Beaman, Blair, Blow, Boyd, William G. Brown, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Dixon, Donnelly, Driggs, Garfield, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Ingersoll, Jenckes, Julian, Kelley, Knox, Littlejohn, Loan, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Pike, Pomeroy, William H. Randall, John H. Rice, Schenck, Shannon, Sloan, Smith, Smithers, Spalding, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, Wilder, Wilson, and Windom—62.

NAYS—Messrs. William J. Allen, Alley, Ames, Ancona, Baily, Augustus C. Baldwin, John D. Baldwin, Blaine, Bliss, Boutwell, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawes, Dawson, Deming, Denison, Eden, Edgerton, Eldridge, Eliot, English, Finck, Frank, Ganson, Gooch, Grider, Griswold, Hale, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Orlando Kellogg, Kerian, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Patterson, Pendleton, Perham, Pruyn, Radford, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Ross, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweat, Thomas, Wadsworth, William B. Washburne, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Winfield, and Fernando Wood—91.

NOT VOTING—Messrs. James C. Allen, Brandegee, Broomall, Freeman Clarke, Clay, Thomas T. Davis, Dumont, Eckley, Farnsworth, Fenton, Grinnell, Hall, Hooper, Kasson, Francis W. Kellogg, King, Longyear, Middleton, Perry, Price, Scofield, Scott, Starr, Stebbins, Voorhees, Ward, Benjamin Wood, Woodbridge, and Yeaman—29.

So the amendment was disagreed to.

During the call of the roll,

Mr. VAN VALKENBURGH stated that Mr.

FENTON had been called out of the House by important business.

Mr. FARNSWORTH stated that he had paired with Mr. J. C. ALLEN.

The SPEAKER. The question recurs on the substitute offered by Mr. BROOMALL.

Mr. RANDALL, of Pennsylvania. I move that the evening session be dispensed with.

The motion was not agreed to.

The hour of half past four having arrived, the House took a recess until half past seven o'clock.

EVENING SESSION.

The House resumed its session at half past seven o'clock.

INTERNATIONAL TELEGRAPH.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to take from the Speaker's table, for action, an act (S. No. 302) to encourage and facilitate telegraphic communication between the eastern and western continents.

The bill was read for information.

Mr. F. CLARKE objected.

POST ROUTE BILL.

On motion of Mr. ALLEY, the Senate amendments to the bill of the House (No. 532) to establish certain post roads were taken from the table, and concurred in.

Mr. ALLEY moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

FOREIGN AND DOMESTIC COMMERCE.

Mr. CHANLER introduced the following resolution; which was referred under the rule to the Committee on Printing:

Resolved, That the chairman of the Printing Committee be, and hereby is, directed to cause to be printed for the use of this House ten thousand copies of the report of the Secretary of the Treasury, made in pursuance of the resolution of the Senate of the United States, dated 12th March, 1863, and relating to our foreign and domestic commerce, including, as well, that of the Pacific coast.

REMISSION OF DUTIES.

On motion of Mr. ARNOLD, the Senate amendment to the joint resolution (H. R. No. 68) to release certain goods from the payment of duties was taken from the Speaker's table for consideration.

The amendment of the Senate was to strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Treasury be, and is hereby, authorized to release and discharge the Irish national fair, recently held at Chicago, and of from all liabilities heretofore incurred for or on account of having sold goods or lottery tickets without license or stamp, and of from the payment of all license fees, stamp duties, or penalties incurred by reason of the sales aforesaid.

The amendment was agreed to.

Mr. ARNOLD moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TREATY WITH COLOMBIA.

Mr. COX. I ask unanimous consent to take from the Speaker's table a bill of the Senate (No. 335) to carry into effect the convention between the United States of America and the United States of Colombia. It will take but a moment to pass it. I understand from the chairman of the Committee on Foreign Affairs of the Senate that they have passed upon it, and that it is necessary that it should be passed this session.

There being no objection, the bill was taken up for consideration.

The bill provides that for the purpose of giving effect to the convention signed by the plenipotentiaries of the United States of America and the United States of Colombia on the 10th of February, 1864, extending and renewing the provision of the convention with the republic of Nicaragua of the 10th of September, 1857, the first eight sections of the act to carry into effect the convention between the United States and the republic of Nicaragua and Costa Rica, approved February 20, 1861, be renewed, reenacted, and made applicable to the said convention of the 10th of February, 1864.

The bill received its several readings, and was passed.

Mr. COX moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NORTHEASTERN BOUNDARY.

Mr. RICE, of Maine, by unanimous consent, introduced the following resolution; which, under the rule, was referred to the Committee on Printing:

Resolved, That three thousand copies of the report of the special committee on the northeastern boundary be printed for the use of the House.

PATENTS FOR CERTAIN LANDS.

Mr. SLOAN, by unanimous consent, reported from the Committee on Public Lands a bill to authorize the issuing of patents for certain lands in the town of Stockbridge, State of Wisconsin, and for other purposes; which was read a first and second time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SLOAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

POTOMAC FERRY COMPANY.

Mr. MORRIS, of Ohio. I ask unanimous consent to take from the Speaker's table a bill (S. No. 298) to incorporate the Potomac Ferry Company.

Mr. WASHBURNE, of Illinois, objected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed bills of the House of the following titles, severally with amendments, in which the concurrence of the House was requested:

An act (No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route; and

An act (No. 411) to encourage immigration.

AGRICULTURAL REPORT.*

Mr. WINDOM, by unanimous consent, introduced the following resolution, which, under the rule, was referred to the Committee on Printing, namely:

Resolved, That ten thousand additional copies of the report of the Commissioner of Agriculture, for the year 1863, be printed for the use of the Agricultural Department.

CONSCRIPTION BILL—AGAIN.

Mr. SCHENCK. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill known as the conscription bill, the pending amendment being the substitute offered by the gentleman from Pennsylvania, Mr. BROOMALL.

The substitute was reported, as follows:

That hereafter no person shall be received or accepted to serve in the Army of the United States as a substitute for any other person liable to military duty and who may have been enrolled or drafted for that purpose.

Sec. 2. *And be it further enacted*, That the term of service of all soldiers hereafter volunteering or being drafted shall be one year unless sooner discharged, and that, in lieu of all bounties, their pay shall be thirty dollars per month.

Sec. 3. *And be it further enacted*, That all persons hereafter volunteering shall be credited to the city or county in which they are liable to draft, if so liable, and if not, then to the city or county which they shall elect.

Sec. 4. *And be it further enacted*, That the payment of commutation money under existing laws shall exempt the person paying it from draft for one year, unless within that period all persons liable to draft in his city or county shall be drafted and mustered into service, or shall pay commutation money, in which case he shall be again liable to draft.

Sec. 5. *And be it further enacted*, That section three of an act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, be, and the same is hereby, amended so as to authorize and direct district provost marshals, under the direction of the Provost Marshal General, to make a draft for fifty per cent. in addition to the number required to fill the quota of any district, as provided by said section.

Sec. 6. *And be it further enacted*, That, instead of traveling pay, all drafted persons reporting at the place of rendezvous shall be allowed transportation from their places of residence; and persons discharged at the place of rendezvous shall be allowed transportation to their places of residence.

The substitute was not agreed to.

Mr. STEVENS. I would now inquire what there is left to act upon?

The SPEAKER. All of the original bill except the first two sections.

Mr. STEVENS. I offer as a substitute for the bill what I send to the Clerk's desk.

The substitute was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized to call into military service not exceeding five hundred thousand men, in addition to those already called for, to serve for two years, unless sooner discharged, and that if not otherwise obtained a draft may be ordered as the President may direct.

Sec. 2. *And be it further enacted*, That any person who is liable to draft and has been regularly enrolled, may purchase exemption from draft for the term of two years or until the roll is exhausted, by paying \$300 at any time not less than ten days before the time fixed for such draft. Any person who may be drafted may purchase the like exemption by paying \$500 at any time not less than ten days after he shall be duly notified that he is drafted. The commutation money thus paid shall go into the Treasury for the purpose of paying the bounties herein provided for.

Sec. 3. *And be it further enacted*, That to enable the several States to raise the number of troops allotted to them respectively, the Governors of said States may appoint such number of recruiting officers as they may deem proper, and when companies and regiments shall be enlisted, shall commission such company and regimental officers as shall be deemed competent.

Sec. 4. *And be it further enacted*, That when, in the judgment of the President, the regiments of the Army are so reduced as to require consolidation, they may be consolidated, and the supernumerary officers may be detailed for the purpose of raising new companies and regiments.

Sec. 5. *And be it further enacted*, That if the requisite number of soldiers shall not be raised at the first draft, a second draft may be ordered to take place within ten days, or any longer period which the President may deem proper, of the men remaining unenlisted and undrawn, and may be repeated from time to time until the full number shall be obtained.

Sec. 6. *And be it further enacted*, That every person who shall volunteer as a soldier and be regularly enlisted, shall receive a bounty of \$500, one half thereof to be paid to him when mustered into the service of the United States, and the other half at the end of his term of service, or if honorably discharged; or if he shall be killed or die in the service before the expiration of his term of enlistment, it shall go to his widow, if there be one, and in case there be no widow, then to his children, and in case there be no widow or children, then to his personal representatives.

Sec. 7. *And be it further enacted*, That it shall be lawful for any of the States to send recruiting agents into any of the rebel States to enlist soldiers, who shall be credited to the State that may procure their enlistment, and it shall be the duty of the Secretary of War to approve the appointment of agents by the Governors of the respective States.

Sec. 8. *And be it further enacted*, That enrolled men may furnish substitutes either before or after they may be drafted according to the present law, who shall be accepted without regard to color, if otherwise competent.

Sec. 9. *And be it further enacted*, That the law with regard to persons conscientiously opposed to bearing arms shall not be altered or affected by this act, except so far as it regards the amount of money to be paid for exemptions.

Sec. 10. *And be it further enacted*, That it shall be lawful for the President, if he shall deem it expedient, to accept the services of any number not exceeding fifty thousand volunteers, between the ages of forty-five and fifty-five, to be used for post or garrison duty, who shall be called the "Old Guard." Such soldiers, when enlisted for two years, unless sooner discharged, shall be entitled to receive \$100 bounty, one half to be paid when mustered into service, the other half at the expiration of their term, if honorably discharged; and if they should be killed or die in the service of the United States, it shall be paid to their respective widows, children, or personal representatives, in the same manner as is provided in section six of this act; and they and their heirs shall be entitled to such pensions as are now provided by law for other soldiers. When a drafted man shall claim exemption on account of physical disability the surgeon shall examine into the degree of disability. If found unfit for active field service, and fit for garrison or post service, he shall be certified accordingly and placed into the "Old Guard."

Mr. CHANLER. Is it the intention of the gentleman to reduce the amount of commutation?

Mr. STEVENS. The substitute says that commutation may be had, if paid before a draft, for \$300; if not until after draft, for \$500. But I am willing to do what the House thinks right.

Mr. CHANLER. I would suggest that if the gentleman will retain the commutation provision as it now stands, there seems to be no objection to his substitute. An increase of the commutation will most likely be fatal to the measure.

Mr. ELDRIDGE. I desire to ask the gentleman from Pennsylvania a question. I understood the gentleman from Ohio, the chairman of the Military Committee, to say that it was men and not money that the Government wanted.

Mr. STEVENS. That is not asking a question of me.

TEMPORARY DUTIES ON IMPORTS.

Mr. MORRILL. I ask the gentleman to give way to allow me to offer a joint resolution to which I presume there will be no objection.

Mr. STEVENS. I yield for that purpose.

Mr. MORRILL. The joint resolution imposing fifty per cent. additional duties upon imports will expire to-day. It was expected the tariff bill would have passed and become a law ere this. I therefore ask unanimous consent to offer a joint resolution to continue in force the joint resolution entitled "A joint resolution to increase temporarily the duties on imports," approved April 29, 1864.

There being no objection, the resolution was introduced and read a first and second time by its title.

The resolution continues in force the joint resolution increasing temporarily the duties on imports, approved April 29, 1864, until the 1st day of July next.

The resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MORRILL moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSCRIPTION LAW—AGAIN.

The House resumed the consideration of House bill No. 549, further to regulate and provide for the enrolling and calling out of the national forces, and for other purposes.

Mr. STEVENS. I desire, at the suggestion of several gentlemen, to modify my amendment further, by striking out \$600 in the second section, and inserting in lieu thereof \$500; so that it will read:

Any person who may be drafted may purchase the like exemption by paying \$500 at any time not less than ten days after he shall be duly notified that he is drafted. The commutation money thus paid shall go into the Treasury for the purpose of paying the bounties herein provided for.

Mr. HOTCHKISS. I desire to have this provision so plain that exemptions by enrolled men will not be purchased up for two years. It would be a very easy matter to exhaust the enrollment in any neighborhood. The gentleman from Pennsylvania thinks he has it so provided for now. I have my doubts about it; but I shall not insist upon it.

Mr. WASHBURNE, of Illinois. Let us have a vote.

Mr. ELIOT. I have caused to be printed two sections which I desire to offer as additional sections; and, with the consent of the gentleman from Pennsylvania, I will offer them now.

Mr. STEVENS. If my amendment be adopted, it will still be open for additions?

The SPEAKER. It will.

Mr. STEVENS. Then the gentleman from Massachusetts can offer his as additions.

Mr. A. MYERS. I would like to see whether I understand my colleague. If his substitute be adopted in place of that offered by the chairman of the Committee on Military Affairs, will we then have the privilege of offering amendments to each section?

The SPEAKER. If the substitute be adopted amendments cannot be offered striking out any part of it; but additions or qualifications can be made to it.

Mr. SCHENCK. I beg leave to inquire where we are, and whether the substitute has been offered or not?

The SPEAKER. The pending question before the House is the original bill.

Mr. ELIOT. I understand that the gentleman from Pennsylvania does not object to my offering these sections as additions to his substitute. I therefore ask leave to do so.

Mr. STEVENS. I have no objection.

Mr. ELIOT offered the following as additional sections:

Sec. —. *And be it further enacted*, That all persons in the naval service of the United States who have entered said service during the present rebellion, who have not been credited to the quota of any town, district, ward, or State, by reason of their being in said service and not enrolled prior to February 24, 1864, shall be enrolled and credited to the quotas of the town, district, or State in which they respectively reside.

Sec. —. *And be it further enacted*, That if any person duly drafted shall be absent from home in prosecution of his usual business, the provost marshal of the district shall cause him to be duly notified as soon as may be, and he shall not be deemed a deserter, nor liable as such, until notice has been given to him and reasonable time allowed for him to return and report to the provost marshal of his district; but such absence shall not otherwise affect his liability under this act.

Mr. BEAMAN. I desire to call the attention of the gentleman from Pennsylvania to an amend-

ment to the sixth section of his substitute. My impression is that it does not exactly produce the effect which he intended. It is in reference to the disposition of the bounty in case of the death of the person in service. It provides that in case of his death the bounty shall go to his widow or children, without determining which, and in case there shall be no widow or child, then to his personal representatives. The suggestion I make is this; that it should read thus: "To his widow, if there be one, and in case there be no widow, then to his children, and in case there be no widow or child, then to his personal representatives."

Mr. STEVENS. That is better; that makes it clearer. If the gentleman will write it out, I will adopt it in my substitute.

Mr. BLAIR. I desire to offer an amendment to the original bill.

Mr. STEVENS. If it is in order, I will yield.

The SPEAKER. An amendment to the original bill is in order.

Mr. BLAIR. I offer the following amendment to the original bill as an additional section:

That hereafter no person shall be received or accepted to serve in the Army of the United States as a substitute for any other person liable to military duty, and who may have been enrolled or drafted for that purpose.

Mr. KELLOGG, of Michigan. I propose to amend the substitute by reducing the bounty from \$500 to \$300.

The SPEAKER. That will not be in order unless the gentleman from Pennsylvania accepts it.

Mr. STEVENS. I cannot agree to that.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate have agreed to the amendment of the House to the bill of the Senate (No. 190) to establish a navy-yard and depot at Cairo, in the State of Illinois.

Also, that the Senate have passed bills of the House of the following titles, severally with amendments; in which he was directed to ask the concurrence of the House:

An act (No. 411) to encourage immigration;

An act (No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound on the Pacific coast, by the northern route; and

An act (No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862.

Also, that the Senate have passed, without amendment, a joint resolution (H. R. No. 111) authorizing the Secretary of the Interior to reclaim and preserve certain property of the United States.

CONSCRIPTION BILL—AGAIN.

Mr. GANSON. I should like to offer an additional section to the substitute of the gentleman from Pennsylvania.

Mr. STEVENS. If it be in order I shall not object.

Mr. GANSON. I should like to offer the following as an additional section:

The commutation money realized under this act and the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and the act amendatory thereof and supplementary thereto, shall be used by the War Department to procure volunteers for the district where such money was paid, and volunteers so procured shall be credited to such district.

Mr. STEVENS. There is already an amendment pending after mine, offered by the gentleman from Massachusetts, [Mr. ELIOT,] and I do not see how the amendment of the gentleman from New York can be received at this time. I will say, however, that if my amendment should be adopted it will then be in order to move any additional sections that are pertinent to the subject. If, however, my amendment fails, then the gentleman does not want to attach his to it.

Mr. GANSON. But if the gentleman's amendment should be adopted, I should like to have mine go with it.

The SPEAKER. The Chair will suggest to the gentleman from Pennsylvania that it is within his power to accept the amendment of the gentleman from New York if he desires it.

Mr. STEVENS. I know that; but I would, I think, prefer that the vote should be taken upon

my amendment. I hardly understand the amendment of the gentleman from New York.

Mr. JOHNSON, of Pennsylvania. I would like to suggest a modification to the sixth section of the substitute of the gentleman from Pennsylvania. I would like to add something like this:

Or to such person or persons as he shall by his last will and testament in writing, proved by two witnesses, direct.

I desire to say that I have a case within my knowledge where a man who was suffering, had a sister who came there and attended upon him for some six or eight weeks. The chaplain and surgeon thought he might by will leave his bounty to her. He executed such a will, which of course the accounting officers of the Government could not recognize or enforce; but I see no reason why we may not permit such a man to control his bounty money if he die in the service.

Mr. STEVENS. I may say that is departing from the whole practice of the Government upon the subject. We have no reason, as long as the relatives of the soldier do not receive it, to give to a stranger the bounty which is designed personally for the soldier. That is the reason why I would not like now to accept the amendment of the gentleman from Pennsylvania.

Mr. JOHNSON, of Pennsylvania. But if the bounty is paid to him, he may dispose of it as he pleases, so that it may after all go to a stranger.

Mr. STEVENS. I will merely say that the whole practice of the Government has been different, and for that reason I would not like to venture the change in this amendment.

Now, sir, if no one else desires to suggest an amendment, I will make a very few remarks and then yield the floor to see what is to be said in opposition to my amendment.

The SPEAKER. The gentleman has half an hour remaining.

Mr. STEVENS. Mr. Speaker, I will now explain briefly the points of the substitute which I have offered, and my reason for offering it. In the first place I do not think the time has come when it is absolutely necessary, arbitrarily, without recourse, to sweep our whole population into the Army as is done in the South. I believe that by voluntary action, if we are sufficiently liberal and wise, we can obtain sufficient money to raise an army and to supply all the deficiencies that may arise between this and a year hence. Hence it is that I oppose, and shall continue to oppose, the repeal of the commutation clause; but I desire that a bill shall be passed that shall be so effective, so seductive if you please, as that within the shortest possible time a large army of five hundred thousand men can be raised.

I believe, sir, that two of the chief reasons why we have not been able to raise volunteers as we did at first are these: in the first place, the Government has refused to put enlistments under the supervision of the Governors of the States, who should appoint recruiting officers and regimental officers. Our people cannot be got to go to recruiting offices and enlist to be sent they know not where, and among associates whom they do not know; whereas if they knew the officers to be their neighbors they would be much more ready to enlist. I am entirely certain that such is the case in my neighborhood. I admit that raw recruits are not quite so useful in new regiments as they would be if placed in the old regiments. But you must get recruits before you put them anywhere. And if you can get them for two years you will soon have them so mingled that they will be as useful as the old soldiers. The nine months' men, long before their term of service expired, were equal to any.

Now, what does my bill provide for? I will explain it. The first section provides for the calling out of five hundred thousand men for two years, if so long needed, and that if they are not obtained by the other means provided for in the other sections of the bill before forty days from this time, a draft shall be ordered for the purpose of obtaining them.

It provides that any man who is enrolled and liable to draft may, at any time between this and ten days before the draft, purchase exemption from that draft, or from service for two years, unless the roll shall sooner give out, when all shall be put in again, and the draft be repeated. Any man by paying \$300 before the draft can purchase exemption; but if he stands the draft, if he takes his chance of being hit and is hit, he

must pay \$500 for the purpose of buying the same exemption.

Now, sir, there are something more than three million of national forces borne on our enrollment list. Of these, three millions and upwards, it is proposed to draft one sixth, with fifty per cent. additional, making seven hundred and fifty thousand men to be ordered to be drafted. It seems to me that a large proportion of those who wish to escape the draft will pay their \$300 before the day of draft, and I have no doubt that out of the three million enrolled men, at least half of them will pay the \$300 bounty before the day of draft. There may be some who will take the chance and pay the \$500.

But suppose the whole million and a half pay for their exemption before draft, that will produce \$450,000,000; and suppose that enough of them pay after draft to yield \$50,000,000 more, there will be a fund of \$500,000,000 raised, not by general taxation, but by a levy on those who are eager to pay their money, and that fund will be devoted by this bill to paying volunteers.

Mr. WILSON. I desire to ask the gentleman whether he provides in his bill that the payment of \$300 before a draft shall exempt for the term of two years?

Mr. STEVENS. Unless the roll shall be sooner exhausted. That is added to my substitute, although it is not in the printed copy. They are to be exempted for two years, or until everybody else whose name is in the box has been drawn out; if the box is exhausted, the names of the men thus exempted are to be put into the box again, should another draft be needed.

I provide then that there shall be paid out of this fund, which I estimate at \$500,000,000, a bounty of \$500 to every man who will voluntarily enlist, one half when he shall be mustered into the service and the other half when he shall be discharged; or, if he be killed, then to those who represent him. Now, sir, let us see how that will operate. In the first place, the bounty of \$500 will be a great inducement to men of moderate means to enlist—men who may be anxious to buy a little home for themselves, and to leave a little money with their families, and who may wish to escape the chance of being drawn; for, if drafted, their bounty will be but \$100 under the existing law, while if they volunteer their bounty will be \$500. Now, I put it to the common sense of all around me whether a provision of that kind held out to the community would not bring flocks of volunteers to our standard? I have no doubt that it would.

But it is further provided that if you do not obtain a sufficient number of volunteers in this way and a sufficient number of drafted men to serve, then within ten days after that draft shall be completed you shall go on and draft again to fill up the quota of five hundred thousand men, and so on, *toties quoties*, until the whole number is drawn. In my judgment, forty or fifty days would be a long time for it to take, under such circumstances, in which to raise the number of men provided for in this bill. I believe that this great inducement of \$500 would lead men of moderate means to leave their homes for two years, and thus secure exemption from compulsory service for two years, and especially when in so enlisting they would be under the command of their own neighbors, and in companies composed of their own neighbors. It is a great inducement to men who are called upon to go forth to fight these battles that they can go with their friends and associates and neighbors. Everybody who has noticed what has taken place in the community knows that that is very often a great inducement to a man to enlist when he would not otherwise do it.

I have provided further, that when the President deems that old regiments are exhausted, he may consolidate them and send back the supernumerary officers into their neighborhoods to raise new companies and regiments, and thus a large number of drilled and disciplined officers will be retained in the service.

Mr. WILSON. I would ask the gentleman why it would not be as well to enlist men in the neighborhoods where their original companies went from to be placed in the same companies, and thus keep up the old regiments?

Mr. STEVENS. I have already said that I believe that if you send officers into a neighbor-

hood to recruit men, without the men knowing by whom they are to be commanded, or with whom they are to be associated, you cannot get them to go, and I have seen it tried over and over again.

Mr. WILSON. My suggestion is that if sent home to recruit, they shall recruit men for the old regiments—that is, the regiments in which they hold commissions—so that the old regiments may be kept full. All your troops have a pride in the old regiments, and desire to keep up those organizations. It seems to me better to provide that men enlisted in neighborhoods from which the old companies went shall go into those companies.

Mr. STEVENS. There may be differences of opinion about these minor points. I do not expect that we can all agree about the question as to how we can raise an army in such a way as will do it quickest and do it most consistently with the genius of our Government, the feelings of our people, and with a support of the Administration. I have done the best I could in pointing out in this bill what I verily believe is the best policy that can be adopted for securing these great objects. I believe that if the men are raised so that they shall be under the command of the officers who may raise the companies or regiments, they will take a pride in it, and many of those who have been discharged from service will reenlist. For instance, there are the Pennsylvania reserves, many of whom are in my district. There are colonels and captains there, and they would at once set to work and raise companies and regiments as they did before from the same neighborhoods, adding, of course, many others to them. If there can be a better system suggested, and one which does not savor of that tyranny that our people do not like, I shall be willing to adopt it. I do not say how much the people would bear; but I fear they would bear but ill the harsh measures, as it seems to me, which are proposed in the original bill.

Now, sir, I have explained nearly all the provisions of my substitute. I have added a new feature to it which I have submitted with great deference to the House; and I should have felt a good deal less confidence in it if I had not seen the same principle contained in the amendment proposed by my friend from Vermont; [Mr. MORRILL.] It is this, that the President shall be authorized to accept fifty thousand men between the ages of forty-five and fifty-five, who are to receive a bounty of \$100, and are to be called the "Old Guard," and be employed for garrison and post duty. I know there are a great many men within my own knowledge, sound, hearty, good men, very nearly as young as I am, [laughter,] who would be very willing to serve on those conditions, and who, I think, would take a pride in it. Perhaps they would not be able to march; some of them may be a little defective in some limb, and yet they are active for all the common purposes of life, and for garrison purposes, I venture to say, would do as well as any man could. This, however, is left optional with the President; and if he thinks it a prudent measure, I think it will be very useful.

I provide still further by an amendment, which is in manuscript only, and therefore gentlemen may not have seen it, that when men are drafted and come to be examined for physical disability, the surgeon shall examine as to the degree of their disability, and although he may pronounce them unfit for field duty, for marching, yet if he deems them fit for garrison duty, if they have that kind of disability only which makes them unfit to march, he shall so certify, and without regard to their ages they are to be placed in the "Old Guard" to serve with those who are laboring under the weight of years. I think in that way that a great many men may be made available who have been discharged, who are every day about their business as actively as any man, but who have yet some blemish about them invisible to the naked eye, and never known until they were drafted. They might be very serviceable in places of this kind, and if they do not choose to serve they ought not to be allowed to escape without paying commutation.

I think, sir, that in this way an army may be raised in less than forty days, certainly in less than sixty days, which will be all that is required, and swell our Army above half a million.

I know, sir, that between now and next spring the term of service of a great many men will expire. I do not know how many, and perhaps if I did it would not be prudent to state the number. It will be necessary between then and now to fill their places for another year. If there be anything in this substitute of mine which is harsh or improper I should be glad to have it amended. I am so much opposed to raising an army at the trigger or at the point of the bayonet that I am very solicitous that this plan should be tried. There is another very important consideration connected with this matter, and that is that you should so conduct the raising of this army as not to alienate the affections of the people or provoke their hostility. I am not going to say that there would be anything like actual resistance to this law. That is a matter about which there may be difference of opinion. In some localities there would be ill feeling created and I should fear in other localities something worse. But so long as it is unnecessary to try this experiment, I beseech you not to put the people to the trial. It may be that even this measure of mine, with these high bounties, may fail to secure the requisite number of men. I do not so believe. I believe that you can get the men quicker and more satisfactorily in this way than in any other. If the number of men should pay commutation that I estimated in the first instance, then after you had paid \$500 to every man of the half million, amounting to \$250,000,000, you would still have \$250,000,000 in the Treasury to be applied as a fund for further volunteering. I believe that of the commutation money raised under the last drafts, although the Secretary of War has been using the money profusely, paying \$300 bounties and in some instances \$400 bounty, there yet remains, after paying all those bounties, over five million dollars of that money in the Treasury.

Now, sir, I have submitted, candidly I trust, and as clearly as I can, my ideas upon this subject. It is an important question, and one upon which I hope no man will act factiously. I believe no man will. I believe all who are here will act with a sincere desire so to recruit our Army and so to sustain our Government as if possible to suppress this terrible rebellion and stop the bloodshed.

[Here the hammer fell.]

Mr. SCHENCK obtained the floor.

Mr. HOTCHKISS. I ask the gentleman to yield to me for a moment to have read an amendment which I wish to offer if I can to the substitute of the gentleman from Pennsylvania.

Mr. SCHENCK. I have no objection to the amendment being read for information.

Mr. HOTCHKISS. I propose, when opportunity shall occur, to offer the following as an additional section:

Sec. 5. And be it further enacted, That the twentieth section of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, shall be construed to mean that the Secretary of War shall discharge minors under the age of eighteen years, under the circumstances and on the conditions prescribed in said section; and hereafter, if any officer of the United States shall knowingly enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged; and such recruiting or mustering officer shall be dismissed the service with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

ENROLLED RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolution (H. R. No. 115) to continue in force the joint resolution entitled "Joint resolution to increase temporarily the duties on imports," approved April 29, 1864; when the Speaker signed the same.

CONSCRIPTION BILL—AGAIN.

Mr. SCHENCK. The House will pardon me if I should appear not in every respect to understand precisely the substitute of the gentleman from Pennsylvania. He has received and accepted so many modifications, that I may not have kept the run of them; adopting so many changes, indeed, that the printed matter before us does very little to indicate the amendment as it now stands. I shall therefore, before I sit down, offer a substitute for the gentleman's amendment.

The SPEAKER. The Chair will state that an amendment is pending to the substitute, offered by the gentleman from Massachusetts, [Mr. ELIOT,] and no further amendment is in order.

Mr. SCHENCK. Without reference, then, to the course which may hereafter be pursued, I shall offer a few remarks upon the character of this new bill—for the substitute of the gentleman from Pennsylvania is in the nature of an original bill—now before us.

I was somewhat struck with the course of the gentleman's remarks in which he went into a calculation to show that it was a bill by which he could raise four hundred and fifty or five hundred million dollars, while he provides in it also for expending some two, three, or four hundred millions of that sum in carrying out his system. It seemed to me while he was making his calculations that such a proposition came very appropriately from the chairman of the Committee of Ways and Means. There is this radical difference between his view of the subject and that which I take. In representing as best I can the Committee on Military Affairs, in all my calculations and provisions it has been my object to raise men, while the chairman of the Committee of Ways and Means seems to have devoted himself to framing a bill by which he is to raise a large amount of money, through which he hopes to obtain men.

Mr. STEVENS. Allow me to say I remarked that while my substitute would raise this money, in my opinion it would raise more money in a shorter time than any other.

Mr. SCHENCK. It was so I understood the gentleman, and therefore it was that I could not help being struck with the large money calculations contained in the bill and the propriety there was in its coming from the chairman of the Committee of Ways and Means as contradistinguished from the efforts which it seems to me we should rather be making in aid of those who are wielding the war power of the Government to raise men for the present emergency.

Now, sir, I propose to look a little into the details of this bill as far as I can gather them, although in consequence of the numerous alterations or modifications made I may not be able in every respect to state its provisions correctly. In the first section, at the very threshold, I find something which I am unable to understand, and to which I ask the attention of the gentleman from Pennsylvania, that he may, if he pleases, explain to us what it means. This first section provides for calling "into military service not exceeding five hundred thousand men, in addition to those already called for, to serve for two years, unless sooner discharged, and that, if not otherwise obtained, a draft may be ordered to take place within forty days, or at such time thereafter as the President may direct."

I would inquire of the gentleman when those forty days are to begin and end. Forty days from when? From the time of the passage of the bill, or from the time when a draft is attempted to be made and the effort has been found to be a failure?

Mr. STEVENS. Well, sir, I desire to have it construed as a lawyer would construe it. In a bill of this kind, where time is designated in this way, it is always construed to mean from the date of the passage of the bill.

Mr. SCHENCK. Then if the men are not otherwise obtained the draft may be made in forty days.

But suppose instead of containing that clause, as its connection and the remainder of the bill would seem to require, that is, first to exhaust all efforts for recruiting and then to resort to the forty days' notice, you should count the forty days from the passage of the bill. Now, this bill cannot possibly become a law, passed by Congress and approved by the President, before about the 4th of July. Forty days from that date will bring you to the 13th or 14th of August. Is the gentleman aware that between the 5th and 25th of August the term of service of most of the hundred days' men expires? Then what does the gentleman present to us? A system for obtaining men after the time and exigency have gone by for which the men are wanted. And the chairman of the Committee of Ways and Means, differing from the President, differing from the Secretary of War, differing from all concerned in

administering the Government in carrying on the war, says they are entirely mistaken in regard to what the emergency is, or how it is to be met; and he would have us adopt his slow and halting manner of getting men. His bill, if it gets men at all, sets out with a plan for getting them only after the time when the pressing need for them will have come, and when we shall be involved in the very emergency for which they are required.

But let us proceed. The bill says that "any person who is liable to draft and has been regularly enrolled, may purchase exemption from draft for the term of two years by paying \$300 at any time not less than ten days before the time fixed for such draft." As your law now stands—the enrollment act of the last Congress, amended at the present session—the payment of \$300 on any draft that may be called for secures an exemption of the party paying that sum for that call only, provided, however, that under no circumstances shall exemption be thus purchased for more than one year. Instead, therefore, of giving us a more rigorous law, the gentleman from Pennsylvania in this second section proceeds to relax the rule by which even money instead of men is to be secured. He doubles the time for which exemption can be purchased by the payment of \$300. He makes the time two years absolutely instead of one. This would be helping the Government with a vengeance! Instead of a more rigorous law, the present system is to be made doubly lenient, while at the next step the gentleman would destroy the possibility of obtaining either men or money within any desirable period.

Mr. STEVENS. The gentleman has overlooked my modification, which provides that the exemption shall only continue until the roll is exhausted.

Mr. SCHENCK. If it is so it is not so expressed in the bill. There is no such limitation, and at any rate the language used is open to loose construction hereafter. But I will pass this objection now as if removed by more precise specification in the amendment to be made.

Again, the gentleman speaks in relation to his third section as if a new discovery had been made. He says the Governors shall commission the officers of these various regiments, all field and line officers. That is a novelty indeed. Pray, who commissions them now? Who but the Governors of the several States? But the gentleman says he has improved on the existing law by providing for getting officers and men from the same neighborhood or locality. Where, I would ask him, are they now taken from except from their own proper States and neighborhoods?

So far, then, from this plan he has presented to the House being something new, it contains nothing but a reenactment of that which is the law and the fixed practice of the Government at the present time. The gentleman seems to have forgotten that, with the exception of staff and general officers, all the officers of volunteers are commissioned now by the Governors of the several States.

Mr. STEVENS. Am I to understand that under these drafts now made the Governors appoint the officers?

Mr. SCHENCK. Certainly. The men drafted under the present law and regulations are assigned to the regiments of their respective States. Those regiments have been raised in the several States and have field and line officers commissioned by the Governors of those States. But the gentleman says that he makes provision by which they shall be kept together. What is that provision? Why, that when, in the judgment of the President, regiments are so reduced as to require consolidation, they may be consolidated and the supernumerary officers may be detailed for the purpose of raising new companies and regiments. Is that another discovery? What do the nineteenth and twentieth sections of the existing law provide for now, except for consolidation? Only that consolidation, instead of being wholesale and of regiments, is confined to the consolidation of companies in regiments from the same State. So far, then, from this being an improvement upon the present law in this respect, the gentleman only touches it to make it more crude, more vague, and to work with more hardship on the individuals concerned. If the gentleman will take the trouble to look at those

sections, nineteen and twenty of the original enrollment act, he will find consolidation provided for by specific enactment; not the consolidation of regiments, but of companies within regiments, and those to be regiments only of the same State, and that consolidation to take place when regiments have been reduced below the minimum standard.

I repeat that the gentleman only touches the subject to make it harder on the soldier, more vague, cruder and more indeterminate. The present law upon this subject better covers the ground, and it seems to me that the gentleman can hardly have read it. By his bill he provides that whenever, in the judgment of the President, it becomes necessary, any regiments in the Army which have become depleted may be consolidated; thus, a Michigan regiment may be consolidated with one from Massachusetts, or an Iowa regiment with another from New York. There is no restriction. Whenever the President thinks proper he may bring together incongruously the remnants of any of the volunteer regiments in the Army. So far from this being an improvement in the law, the very object the gentleman professes to have in view would be thus defeated; for he would give the President the broad, unregulated, unrestrained, unlimited power to put together at his discretion any regiments in the whole Army obtained from any quarter—even those from the most remote States—if he think proper to do so. I say that I suspect the gentleman has drawn his bill without looking to see what the law now is.

I may here remark upon the whole system of the gentleman for obtaining troops. His policy, as developed by his remarks, and as vaguely indicated in his substitute, is to raise a new set of regiments in the States, beginning the provision for the war, as it were, anew, and leaving the old regiments just as they are. What is to be the consequence of that? We have now probably about four hundred brigades in the Army. Multiply that by four and you have six hundred regiments; certainly the number will not probably fall below fourteen hundred. Those regiments are to be left to be decimated and reduced to one hundred and fifty men, or fifty, or forty, or twenty-five, while we raise an Army of raw troops. That is the gentleman's expedient for meeting the demands of this great emergency, for building up the Army for future purposes, and keeping it up to its present standard. I protest against his scheme. I say that no better plan could be devised for crippling our military force, retarding the vigorous prosecution of the war, and preventing it being brought to a speedy conclusion. I repeat, that the whole theory and system of the gentleman is the getting up of a new and raw Army, beginning as it were entirely anew, commencing as we did in 1861, and as though the hard experience which we have had since that time had taught us nothing.

It is true the gentleman provides for recruiting officers, but they are to be entirely independent of the Government into whose service the troops are to be mustered when raised. He provides that when regiments are consolidated the supernumerary officers shall be sent out to recruit, but he does not even say that they shall be sent to their own States. They are to be sent off to recruit new men. Thus you will have men brought together in regiments, not from the same States, but a mixed, incongruous mass drawn from different parts of the country. What is to be done with these other men when raised? We have no positive intimation whether they are to be formed into his new regiments or are to be put into the old regiments. That feature of the bill again is entirely vague.

As to consolidation I will say this: even in consolidating companies of the same regiment, or different regiments from the same State, according to the provisions of the nineteenth and twentieth sections of the enrollment law, it has been found to work so unjustly, to be so oppressive upon officers who have borne the brunt of the war, and who are covered with scars, that in practice it has been virtually abandoned by the Government. If a specific plan of consolidation of companies in the same regiment, and of regiments from the same State, has been found not to work well, but to be oppressive on officers and men, how much more unfairly will this loose, vague, uncertain mode of consolidation provided for in

the substitute of the gentleman from Pennsylvania operate against both officers and men! So far as there is anything new in the matter, it is a discovery in use before the gentleman's bill. So far as there is anything practical in it, a more specific and a better law has been found to work badly. And now the gentleman, under the pretext of having introduced something entirely different from what has been in practice and has operated so ineffectively, would resort to consolidation, with a looseness and vagueness that would make it ten times more oppressive than anything of the kind yet tried on the part of the Government.

The substitute offered by the gentleman from Pennsylvania proposes to give a bounty of \$500. It is well that the gentlemen went into calculations to show how, like pigeons flocking to the dove-cote, everybody liable to draft would be rushing forward to pay his \$300. He proposes to give \$500 bounty to each of his five hundred thousand men. A very little arithmetic will show that that would amount to \$250,000,000, to be paid for bounty for two years' service, which would be equal to \$750,000,000 for three years. It is not to be wondered at that I should have looked at this as a bill coming most appropriately from a member of a committee which is accustomed to deal with figures representing enormous sums of money to be raised and expended, and not from any one who has taken a practical view of the working of a military bill or the military necessities of the Government.

And here let me remark in this sixth section another instance of looseness in this substitute. It is provided that these bounties shall be paid in certain proportions to the representatives of those who "shall be killed or shall die in the service" before the expiration of their terms of enlistment. Heretofore, in all similar legislation, we have thought it proper and sufficient to provide that if a man should die of wounds received or of disease contracted in the service while in the line of his duty, his widow or heirs should receive this bounty. Liberal as the Government is disposed to be, it has never gone beyond that. But this provides that if any one is killed in the service—that is to say, if he be mutinous and attempt to strike his officer and be shot down—the bounty is to be paid. If he deserts, and should die in some hovel where he is hiding himself from the officers charged with the detection of deserters, the bounty is still to be paid; because, in the contemplation of the law, a man is in service so long as his name is borne on the Army roll. Under this substitute a man who is convicted of murder or desertion and is executed by military law would be entitled to have the bounty paid to his representatives.

The gentleman has done me the credit to suppose that I know a little about law. Well, not a great deal; but I certainly know enough to comprehend that a loose, uncertain, vague provision of this kind—and it is of a character with the other provisions of this bill—can hardly be depended upon for carrying out a measure in reference to which too much care cannot be exercised to have all points made clear and precise.

The eighth section—and I only take time to go into a hurried and cursory review—which allows enrolled men to furnish substitutes, either before or after the draft, is simply a reenactment of the present law; and I am not aware of anything which now prevents white drafted men from furnishing colored substitutes. Certainly there can be nothing doubtful on that point since the equalization of the footing of the white and black soldiers. It seems to me, therefore, that the eighth section contains nothing whatever not already and fully provided.

I now come to the tenth section, and here there appears the same difficulty, on which I have already commented, in regard to those who may be killed or die in the service, without its being required to be while in the line of their duty. I may remark that there is in this tenth section the germ of a good idea, very much better developed, however, and set forth, I beg leave to suggest, in the amendment to be proposed by the gentleman from Vermont, [Mr. MORRILL,] which is printed and before us. That amendment has a like provision to this tenth section for the formation of an "Old Guard," not subject to the same objection for looseness in the manner in which it is drawn and framed.

But how is this whole plan of the gentleman from Pennsylvania to work? Suppose you call for your five hundred thousand men, and suppose not getting them you proceed with your draft. The gentleman provides that immediately after enrollment and before any draft takes place, any man who can may come forward and get off on payment of \$300. Who are the men who will first come forward? It will not be the poor man, the man of slender means who will have to scratch about for a good while before he can raise his \$300; but the men of abundant means, those who are flush of funds, will take advantage of the offer and pay up at once after enrollment without waiting for the draft. Everybody enrolled, except the poor or those in straitened circumstances, will therefore purchase exemption before the draft, so that when you come to find it necessary to make your draft it will be made almost exclusively from one class of persons, from those who are either so poor that they cannot raise \$300 at all, or else prefer to take their chance of having to pay the \$500 in future if drafted rather than \$300 in advance and as a certainty. I repeat that when the draft comes the men who will then have to pay \$500 or go will be the poorest class in the community, on whom the lot will fall the hardest. I defy any man to show that that is not the inevitable result of the plan which the gentleman from Pennsylvania has now brought before us.

Your man who is rich, with whom greenbacks are plenty, who is full in pocket, finding himself upon the roll, will at once rid himself of the chance of being drafted and of having to pay \$500 by advancing as he can easily do his \$300, while the real burden of the whole thing will rest upon those who are least able to bear it.

Now, sir, it has been objected to the substitute which I proposed, and which provides for repealing the commutation clause altogether, that it is too radical in its character; that it will create popular disturbance. The gentleman from Pennsylvania thinks that it will provoke physical resistance to any attempt to enforce it. He says he hopes it will not; but that in some sections of the country there is great danger of its being resisted. Now, sir, my friend from Pennsylvania has a poorer opinion of the people than I have. I hold that the soldiers and citizens of the country have been in all these matters far ahead of the Administration and far ahead of Congress. I hold that there is nothing for which they ask, nothing they long for so much as the infusion of vigor into the Administration. Give them a law stringent in its character; a law that they see will certainly possess sufficient strength to procure men to fill up our armies to such an extent as will bring this national struggle to the speediest close; that is what the soldiers want and what the people want.

Mr. STEVENS. If the gentleman will allow me to state upon what I founded my opinion in respect to possible resistance to such a law as he proposes, he will see that it was not upon any theoretic distrust of the people. He will recollect that during the last summer it was necessary to send several regiments of troops into the upper mining portions of Pennsylvania to enforce the draft, and hence it was that I was desirous of avoiding any such possible necessity in the future.

Mr. WILSON. I desire to ask the gentleman from Pennsylvania a question.

Mr. WADSWORTH. I object.

The SPEAKER. The gentleman from Ohio has a right to yield to the gentleman from Iowa for an explanation of the pending measure.

Mr. WILSON. I desire an explanation in regard to this matter. In the section of country in which I reside there are loyal people enough not in the Army to see that that law is enforced, and to see that those who are drafted obey the summons, and I hope there are loyal people enough in Pennsylvania to enforce the draft there, without calling a single man from the Army. I know it is so in the northwestern States, and I hope it is so in Pennsylvania and other States east.

Mr. STEVENS. I do not rise to say anything in reference to any other of the States. That kind of remarks do not help us at all. They are not in good taste and do not help us at all.

Mr. SCHENCK. I was saying that so far as my observation goes, if there has been dissatisfaction among the masses of loyal people of this country, that dissatisfaction arises more from a want of vigor and energy, the want of a firm, de-

cided, and determined course, pursued in order to obtain means and men to carry on with thoroughness this war in which we are engaged, than from any supposed too rigid and active course taken by the President or by Congress. We have oftener fallen short of than gone beyond the desire and hope of the great mass of our people in this respect. Show them good results and they never quarrel with you about effective means.

Who does not remember the history of this \$300 exemption clause? When that provision in relation to the payment of that amount by which exemption was to be procured first became a feature of the law it was made a political question all over the land, and there was scarcely a young Democrat in the Union who did not howl upon every stump he could mount against that oppressive, that aristocratic, that damnable clause in the enrollment act by which the poor man was to be compelled to go to war while the rich man was saved by paying his commutation. And now we have these gentlemen here, claiming to represent the Democratic sentiment of the country, voting in a body to keep it in. Why is this? Because it was thought at the time that the clause might possibly be held, or thought, or suspected by the people to bear oppressively upon them; and seizing on that idea, it was made by politicians of that class a means for opposing the carrying on of the war, and for condemning the Administration and Government. But now, when it is discovered that the people cannot be so influenced, that what the great body of loyal men really want is something efficacious, and that incumbered by this commutation the law falls short of its design, the entire programme is changed. I tell you you will find that those who are opposed to our stronger legislation, those who are allied more or less to the peace party of the country, are the men who are opposed because such legislation may be made too vigorous, because it will work, because it will get men, because it will get money, because it will furnish the means of carrying on this struggle of ours against a great, unholy rebellion which we are determined to put down.

But the loyal and best men of the country you need not be afraid of. Whenever they find that the law works vigorously; that it does get money; that it does sustain and uphold the hands of the Administration and enable it to prosecute the war, you will find them all over the land rallying to the support of the Government, and approving and defending us for infusing new force into the system of military resources. That is my judgment of the spirit of our people, and it differs widely from the croaking predictions of the gentleman from Pennsylvania.

How has it been in my own State? In 1862, when the people thought the Administration was pursuing rather a timid policy, when, if there was not absolute disaster everywhere to our arms there was at least doubt felt as to a vigorous and thorough conduct of military plans, we five members only on this side of the House were returned to represent districts of that State, while fourteen on the other side came here representing hostility to the war. But how was it in 1863? In that year, when our arms had been crowned generally with success, when more vigor had been infused into the national councils, when the rebellion was more firmly grappled with, and it was understood that the war was to be fought through at every cost to a glorious ending, what sort of a blaze swept over our noble State? When the great popular judgment was summed up it was shown that these colleagues of mine, these fourteen Democratic gentlemen, are but political accidents! They are not representative men. They owe their presence here to the absence of their constituents from the polls; for they came partly because the soldiers were away in the Army, as well as partly on account of the temporary discouragement and depression on the minds of the voters at home. They slipped in at the back door and took possession while the inmates and owners of the house were abroad or sleeping. But at the succeeding election, when the people were awake and in good cheer, and when our brave soldiers could take part, how different was the result! Not one of these gentlemen can rejoice in a Democratic majority. With a single exception, (and I am not even sure of that,) if the soldiers' vote be counted, not one of them, I believe, can claim to have a constituency remaining

which would back their votes here against the earnest prosecution of the war and in favor of sustaining slavery. Mark thus upon the calendar the difference in two years taken from the history of a single State. It is the difference between halting doubt and active, hopeful earnestness.

Sir, I trust the people and I trust the soldiers. You have nothing to fear from them. I have spoken of the people. How is it with regard to the soldiers? Do you ever find them complain of your sending too many men to the field or that you are pursuing too vigorous a policy? You hesitate as to how somebody will regard your votes here and whether they will receive sanction at the polls at home. But go to the battle-field and stand beside some poor dying brave fellow there. Hear what he has to say. Learn, if you can, what he thinks about all this; and I tell you he will put all your doubting and hesitation to shame. If you look at the last feeble glimmering of that man's glazing eye, and speak to him about the chances of his country's cause, you will see even in his dying moment his face light up with a smile as he whispers faintly to your bending ear that his fate is as nothing if only his surviving comrades can be sustained in their endeavors to carry the loved old flag on to victory. Go to the hospitals, and what do you see there? Walk among the beds of the wounded with their shattered limbs and mangled bodies, and you will find nothing but cheerfulness, nothing but resignation; and the most you can draw from a poor fellow who is crippled in a leg or arm is that his greatest desire is to be up and at the cursed rebels again, if the Government will only furnish abundant means to go ahead effectively and prosecute the war to a complete and triumphant conclusion.

Sir, I am not afraid of the judgment of the soldiers or of the citizens. But even if I were, if I thought I might lose my nomination if I cared for it, or my election if I cared for it, it is enough for me to know that the war-making power, to which we have intrusted this whole matter, has said that we must infuse more vigor into this law by making the change which we were asked to make, and the pressing necessity for which my own judgment approves. And you, my Union friends here, you have voted down, once, twice already, a wholesome amendment by which we are to make the law give us men rather than money; but I venture to predict that you are bound to pass it yet in some form before we shall adjourn. It is enough for me to know that a change in the law is demanded for the safety of the country, and that my own information and conviction satisfy me that such a change is needed and right, to give it my support with all the power I have.

With the expression of these views, I intend to leave the subject. The gentleman from Pennsylvania has been heard in favor of his substitute and I have spoken against it. I think he has framed his bill with about as much crudeness and hastiness as I have thrown off my remarks. I propose now to offer a substitute for his entire bill; and with the consent of the gentleman from Massachusetts [Mr. ELIOT] I will accept his amendment as a part of mine, if he will withdraw it as an amendment to that which was offered by the gentleman from Pennsylvania. In order that he may determine whether he will do so or not, I will send my substitute to the Clerk's desk to be read for information; and I will just remark that it is substantially the bill which has passed the Senate, embodying also the leading propositions contained in the bill which I offered and which was voted down this morning. If we adopt it in place of the substitute of the gentleman from Pennsylvania, we can then, after the previous question shall have exhausted itself, add to it any further provisions we please which may commend themselves to the favor of the House.

The Clerk read Mr. SCHENCK's substitute, as follows:

Be it enacted, &c. That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and the acts amendatory thereof, as authorizes the discharge of any drafted person from liability to military service by reason of the payment of \$300 for the procuration of a substitute or otherwise, be, and the same is hereby, repealed: *Provided*, That nothing contained in this act shall be construed to alter the provisions of existing laws relative to persons actually furnishing substitutes.

Sec. 2. And be it further enacted, That in calls for drafts hereafter made under the act for enrolling and calling out

the national forces, and the acts in addition to or amendatory thereof, the same may be made for such term of time as the President shall direct, not exceeding one year.

Sec. 3. And be it further enacted, That the number of men furnished from any district for the service of the United States beyond and above its quota on calls heretofore made, and the term of service of such men, shall be considered and allowed to said district in calls hereafter made.

Sec. 4. And be it further enacted, That no person drafted on future calls, or who shall volunteer to fill the same, shall be liable to be again drafted until the existing enrollment shall be exhausted.

Mr. ELIOT. Mr. Speaker, in case I withdraw my amendment, and the substitute offered by the gentleman from Ohio be not accepted, will it not be in order to offer my amendment again?

The SPEAKER. It will be.

Mr. SCHENCK. I propose to call the previous question only on the pending amendment. One word now by way of explanation in reference to this substitute. It is the Senate bill on the Speaker's table. With becoming modesty, I regard the Senate bill as not being so good as my bill, which was voted down this morning. [Laughter.] Still, it contains two features which were the leading points of that bill. It abolishes the commutation clause and preserves that for the procuration of substitutes. Thus, it sets out with precisely the principle of the bill voted down this morning. It contains some other provisions that are not at all unacceptable, I believe, to any gentleman. Then it omits certain provisions contained in the fourth, fifth, sixth, and seventh sections of the bill rejected this morning, in regard to enlisting men in the rebel States, in regard to providing that children shall not be mustered into the service or held, in regard to assigning men to regiments from their own States, and permitting them to select their own regiments or companies. By moving the previous question on the amendments alone, if the House conclude to adopt the Senate bill as an amendment in lieu of the substitute offered by the gentleman from Pennsylvania, we can go on and add any of these provisions which the House may think proper to adopt. With these remarks, I move the previous question on my substitute.

Mr. STEVENS. I ask leave to modify my amendment.

Mr. SCHENCK. I have no objection to the gentleman's modifying it.

Mr. STEVENS. The gentleman from Ohio has been very polite and courteous in all his criticism. He has criticised my substitute in the mildest manner.

Mr. SCHENCK. I have been associated so long with my friend from Pennsylvania that I could not help it.

Mr. STEVENS. It is lawful to learn from the enemy. The criticism might have been contained in harsh language; but, mild as it was, it penetrated my sensibility and I will adopt it. I will modify my substitute in reference to the payment of bounty by making it payable in case the soldier shall die while in the service, or of disease contracted or wounds received in the service while in the line of his duty. I will also add to my substitute the fifth section of the bill reported by the gentleman from Ohio, as follows:

And be it further enacted, That the twentieth section of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved February 24, 1864, shall be construed to mean that the Secretary of War shall discharge minors under the age of eighteen years, under the circumstances and on the conditions prescribed in said section; and hereafter, if any officer of the United States shall knowingly enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged; and such recruiting or mustering officer shall be dismissed the service with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

Mr. SCHENCK. The gentleman's bill and mine differ radically from each other. I have a great many good things in my bill besides the radical point. I do not know why I ought to lend him matter in this way.

Mr. BLAIR. I modify my previous amendment to the original bill, and offer it as follows:

That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and of the several acts amendatory thereof, as provides for a commutation in money, to be paid by persons enrolled or drafted for military service, in lieu of actually rendering such military service, be, and the same is hereby, repealed; and hereafter no payment of

money shall be accepted or received by the Government to release an enrolled or drafted man from obligation to perform military duty: *Provided*, That hereafter no person shall be received or accepted to serve in the Army of the United States as a substitute for any other person liable to military duty and who may have been enrolled or drafted for that purpose.

Mr. MALLORY. Before the gentleman from Ohio demands the previous question I desire to suggest to the gentleman from Pennsylvania a modification of his substitute. The seventh section of his substitute reads that it shall be lawful for any State to send out recruiting agents. I propose that he modify it so as to make it read that it shall not be lawful for any of the States to send recruiting agents, and that no State shall be credited with enlisted men who are not citizens of the State claiming the credit, or foreigners who do not owe allegiance to the United States.

Mr. STEVENS. I will say to the gentleman that if my substitute shall be adopted it will then be open to amendment again. The previous question will only apply to the amendments.

Mr. MALLORY. If the gentleman would adopt my amendment with his substitute at once, so that we should be sure it was there, some of us might vote for it, while we might not upon the chance that it would not be inserted afterwards.

Mr. STEVENS. I desire of course to obtain all the support I can for my substitute, and if it will satisfy the gentleman I am willing to strike that section out altogether. Do I understand that the gentleman wishes me to insert what he has read in place of the section?

Mr. MALLORY. Yes, sir.

Mr. STEVENS. Well, sir, I do not think I can do that, and on the whole I will allow the section to remain as it is.

The question being on the adoption of the amendment of Mr. BLAIR to the original bill, 25 voted in the affirmative, and 93 in the negative.

Mr. WILSON called for the yeas and nays.

Mr. BLAIR called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The amendment was disagreed to.

The question being next on the substitute offered by Mr. SCHENCK,

Mr. SLOAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 58, nays 92, not voting 32; as follows:

YEAS—Messrs. Allison, Anderson, Arnold, Ashley, Baxter, Beaman, Blair, Blow, Boyd, Ambrose W. Clark, Cole, Creswell, Dixon, Donnelly, Driggs, Eckley, Garfield, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Knox, Littlejohn, Loan, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Pike, Pomerooy, William H. Randall, John H. Rice, Schenck, Shannon, Sloan, Smithers, Spalding, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, Wilson, and Windom—58.

NAYS—Messrs. William J. Allen, Allen, Ames, Aneona, Bailly, Augustus C. Baldwin, John D. Baldwin, Blaine, Bliss, Boutwell, Brooks, James S. Brown, William G. Brown, Chanler, Coffroth, Cox, Cravens, Dawes, Dawson, Denton, Eden, Edgerton, Eldridge, Eliot, English, Fenton, Finck, Frank, Ganson, Gooch, Grider, Griswold, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herlick, Holman, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Francis W. Kellogg, Orlando Kellogg, Kernan, Knapp, Law, Lazenby, Le Blond, Long, Mallory, Marey, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Paterson, Pendleton, Perham, Prayn, Radford, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, Edward L. Rollins, James S. Rollins, Ross, Seefeldt, John B. Steele, Williams G. Steele, Stevens, Stiles, Strouse, Smart, Sweet, Wadsworth, Wurd, William B. Washburn, Webster, Wileley, Wheeler, Chilton A. White, Joseph W. White, and Winfield—92.

NOT VOTING—Messrs. James C. Allen, Branderage, Broomall, Freeman Clarke, Clay, Cobb, Henry Winter Davis, Thomas T. Davis, Deming, Dumont, Furnsworth, Grinnell, Hale, Hall, Hooper, Kasson, King, Longyear, Perry, Price, Scott, Smith, Starr, Stebbins, Van Valkent, Voorhes, Williams, Wilder, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—32.

So the amendment was disagreed to.

During the call of the roll, Mr. SCOTT stated that he had paired with Mr. PRICE.

The SPEAKER stated the question to be next upon the adoption of the substitute by Mr. STEVENS.

Mr. SMITHERS. Is it now in order to offer a substitute?

The SPEAKER. It is not while the House is acting under the previous question.

Mr. STEVENS called for the yeas and nays on his amendment.

The yeas and nays were ordered:

The question was taken; and it was decided in the negative—yeas 23, nays 120, not voting 39; as follows:

YEAS—Messrs. Alley, Ames, Baily, Boutwell, William G. Brown, Eliot, English, Ganson, Griswold, Hale, Hotchkiss, Kernan, Lazarus, Loan, Orin, Alexander H. Rice, Edward H. Rollins, Ross, Scofield, William G. Steele, Stevens, Webster, and Wilder—23.

NAYS—Messrs. William J. Allen, Allison, Ancona, Anderson, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blair, Bliss, Blow, Boyd, Brooks, Chandler, Ambrose W. Clark, Coffroth, Cole, Cox, Cravens, Creswell, Dawes, Dawson, Denison, Dixon, Donnelly, Driggs, Eckley, Eden, Edgerton, Eldridge, Fenton, Finck, Frank, Garfield, Gooch, Grider, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Higby, Holman, Hubbard, Hutchins, Ingersoll, Jenckes, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Le Blond, Littlejohn, Loug, Mallory, Marcy, Marvin, McBride, McClurg, McDowell, McIndoe, McKinney, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Nelson, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Pendleton, Perham, Pike, Pomeroy, Pruyn, Radford, Rogers, James S. Rollins, Schenck, Randall, John H. Rice, Rogers, James S. Rollins, Schenck, Shannon, Sloan, Smithers, Spalding, John B. Steele, Stiles, Strouse, Stuart, Sweet, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Wadsworth, Ward, Elihu B. Washburne, William B. Washburne, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilson, Windom, and Winfield—120.

NOT VOTING—Messrs. James C. Allen, Blaine, Brandegee, Broomall, James S. Brown, Freeman Clarke, Clay, Cobb, Henry Winter Davis, Thomas T. Davis, Deming, Dumont, Farnsworth, Grinnell, Hall, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Longyear, McAllister, Amos Myers, Leonard Myers, Patterson, Perry, Price, Robinson, Scott, Smith, Starr, Stebbins, Voorhees, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—39.

So the amendment was disagreed to.

Mr. SMITHERS. I now offer a substitute for the original bill.

The substitute was read; as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States may at his discretion, at any time hereafter, call for any number of men as volunteers for the respective terms of one, two, and three years for military service, and any such volunteer, or in case of draft, as hereinafter provided, any substitute, shall be credited to the town, township, precinct, or election district toward the quota of which he may have volunteered or engaged as a substitute, and every volunteer and substitute who is accepted and mustered into the service for a term of one year, unless sooner discharged, shall receive and be paid by the United States a bounty of \$300, and if for a term of two years, unless sooner discharged, a bounty of \$300, and if for a term of three years, unless sooner discharged, a bounty of \$400, one half of which bounty shall be paid to the soldier at the time of his being mustered into service; one fourth at the expiration of one half of his term of service, and one fourth at the expiration of his term of service, and in case of his death while in service, the residue of his bounty unpaid shall be paid to his widow, if he shall have left a widow, if not, to his children, or if there be none, to his legal representatives, and in case he is honorably discharged by reason of wounds or sickness incurred in the service he shall receive full bounty.

Sec. 2. And be it further enacted, That in case the quota or any part thereof of any town, township, ward, precinct, or election district, or of any county not so subdivided, shall not be filled within the space of sixty days after such call, then the President shall order a draft for one year to fill such quota or any part thereof which may be unfilled; and in case of any such draft, no payment of money shall be accepted or received by the Government as commutation to release any enrolled or drafted man from personal obligation to perform military service.

Sec. 3. And be it further enacted, That it shall be lawful for the Executive of any of the States to send recruiting agents into any of the States declared to be in rebellion to recruit volunteers under any call under the provisions of this act, who shall be credited to the State and to the respective subdivisions thereof which may procure the enlistment.

Sec. 4. And be it further enacted, That drafted men, substitutes, and volunteers, when mustered in, shall be organized into or assigned to regiments, batteries, or other organizations of their own States, and, as far as practicable, shall, when assigned, be permitted to select their own regiments, batteries, or other organizations from among those of their respective States which at the time of assignment may not be filled to their maximum number.

Sec. 5. And be it further enacted, That the twentieth section of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, shall be construed to mean that the Secretary of War shall discharge minors under the age of eighteen years, under the circumstances and on the conditions prescribed in said section; and hereafter, if any officer of the United States shall knowingly enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged; and such recruiting or mustering officer shall be dismissed the service with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

Sec. 6. And be it further enacted, That section three of an act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, be, and the same is hereby, amended so as to authorize and direct district provost marshals, under the direction of the Provost Marshal General, to make a draft for fifty per cent in addition to the number required to fill the quota of any district, as provided by said section.

Sec. 7. And be it further enacted, That, instead of traveling pay, all drafted persons reporting at the place of rendezvous shall be allowed transportation from their places of residence; and persons discharged at the place of rendezvous shall be allowed transportation to their places of residence.

Sec. 8. And be it further enacted, That all persons in the naval service of the United States who have entered said service during the present rebellion; who have not been credited to the quota of any town, district, ward, or State, by reason of their being in said service and not enrolled prior to February 24, 1864, shall be enrolled and credited to the quotas of the town, ward, district, or State in which they respectively reside.

Sec. 9. And be it further enacted, That if any person duly drafted shall be absent from home in prosecution of his usual business, the provost marshal of the district shall cause him to be duly notified as soon as may be, and he shall not be deemed a deserter, nor liable as such, until notice has been given to him and reasonable time allowed for him to return and report to the provost marshal of his district; but such absence shall not otherwise affect his liability under this act.

Mr. SMITHERS. I have no disposition to press this substitute to a vote to-night. I desire simply to have it printed that gentlemen may at their leisure examine it. I am aware that it is impossible to understand properly an instrument merely read at the Clerk's desk. I do not design to take any advantage of the House and press this measure without allowing time for examination, and for that purpose I desire to have the amendment printed, and the vote taken to-morrow. [Cries of "No!" "No!"] Then I move the previous question.

Mr. BLAIR. I move that the House adjourn.

The motion was not agreed to.

The previous question was seconded, and the main question ordered to be put.

Mr. STEVENS. I move that the House do now adjourn.

The motion was not agreed to.

Mr. KELLOGG, of Michigan, called for the yeas and nays upon the substitute.

Mr. STEVENS called for tellers on the yeas and nays.

Tellers were ordered; and Mr. SMITHERS, and Mr. MORRIS, of Ohio, were appointed.

The House divided; and the tellers reported—ayes thirty-nine; a sufficient number.

So the yeas and nays were ordered.

Mr. SHANNON moved that the House adjourn.

The motion was not agreed to.

The question was taken; and it was decided in the negative—yeas 75, nays 77, not voting 30; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Ambrose W. Clark, Cobb, Cole, Creswell, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, Fenton, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orin, Patterson, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Tracy, Upson, Elihu B. Washburne, William B. Washburne, Williams, Wilder, Wilson, and Windom—75.

NAYS—Messrs. William J. Allen, Ancona, Baily, Augustus C. Baldwin, Blair, Bliss, Brooks, James S. Brown, William G. Brown, Chandler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazarus, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Thomas, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Winfield—77.

NOT VOTING—Messrs. James C. Allen, Blaine, Brandegee, Broomall, Freeman Clarke, Clay, Henry Winter Davis, Thomas T. Davis, Deming, Dumont, Farnsworth, Frank, Grinnell, Hall, Kasson, King, Longyear, Perry, Pike, Price, Scott, Smith, Starr, Stebbins, Van Valkenburgh, Voorhees, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—30.

So the substitute was not agreed to.

And then, on motion of Mr. STEVENS, (at eleven o'clock p. m.) the House adjourned.

IN SENATE.

TUESDAY, June 28, 1864.

Prayer by Rev. B. H. NADAL.

On motion of Mr. WADE, and by unanimous consent, the reading of the Journal was dispensed with.

PETITIONS AND MEMORIALS.

Mr. COLLAMER presented seven petitions of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the naval or military service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was recommended the bill (H. R. No. 162) for the relief of Nathaniel McLean, Richard G. Murphy, and Charles E. Flaudreau, reported it with an amendment.

INDIAN REGIMENTS.

Mr. MORGAN. I am instructed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 23) for the relief of the officers of the fourth and fifth Indian regiments, to report it back without amendment and recommend its passage.

Mr. LANE, of Kansas. I ask to have that joint resolution put on its passage now. I am sure it will not lead to debate.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It proposes to direct the proper accounting officers of the Treasury to adjudicate and settle the claims of those officers of the fourth and fifth Indian regiments who were commissioned by the War Department, and accepted their appointments, for such time as they or either of them were actually performing duty other than that of recruiting for the regiments. No compensation is to be allowed beyond the pay and emoluments incident to the respective rank of the several officers; nor is any claim to be considered or allowed except accompanied by the official certificates or orders of the commanding officer of the regular or volunteer officers of United States Army assigning them to such duty.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

VILLAGE OF DEPOSIT.

Mr. HARRIS. I am instructed by the Committee on the Judiciary, to whom was referred the bill (H. R. No. 497) in relation to the village of Deposit, Delaware county, New York, to report it back and recommend its passage; and as it is a purely local bill to which there can be no objection, I desire to have it considered now.

By unanimous consent the bill was considered as in Committee of the Whole. It provides that the village of Deposit, which is situated partly in the county of Delaware and partly in the county of Broome, in the State of New York, shall, for all the purposes of the postal laws and regulations of the United States, and the publication of the laws of the United States, and notices and other publications in pursuance of those laws, be regarded as within the county of Delaware.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

THOMAS J. GALBRAITH.

On motion of Mr. WILKINSON, the joint resolution (S. No. 67) for the relief of Thomas J. Galbraith was considered as in Committee of the Whole. It purposes to direct the proper accounting officers of the Interior and Treasury Departments to settle and adjust the money and property accounts and claims of Thomas J. Galbraith, as agent of the United States for the Sioux Indians of Minnesota, upon principles of equity and justice; and to allow him, upon such settlement, credit for all moneys and property actually expended by him, in good faith, in and about the affairs of his agency, and for the use of the Indians, upon his affidavit or affidavits, duly sworn to, of such expenditure; and he is to be discharged from all liability for or on account of Indian trust property, which, by his affidavit or affidavits, shall clearly appear to have been destroyed or taken and carried away by hostile Indians, or by the

troops or citizens of the United States, or of the State of Minnesota, against his will, and without his fault or connivance. In addition to these affidavits, the accounting officers may, in their discretion, require corroborative, countervailing, or explanatory evidence of the matters and statements set forth and sworn to in them.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed:

THE TARIFF BILL.

Mr. FESSENDEN. I understand that the bill (H. R. No. 494) increasing duties on imports, and for other purposes, came from the House of Representatives last night, with a request for a conference, which was agreed to by the Senate, but the committee was not appointed. I move now that the Chair be authorized to appoint that committee.

The motion was agreed to by unanimous consent; and the President *pro tempore* appointed Messrs. FESSENDEN, MORGAN, and POMEROY the committee on the part of the Senate.

COMPENSATION OF EMPLOYÉS.

Mr. CARLILE submitted the following resolution; which was read twice, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That there be added to the salaries of the employés of the Senate, whose compensation does not exceed \$1,200 per annum, twenty-five per cent. for the year ending the 30th of June, 1864, to be paid out of the contingent fund of the Senate.

INTERCOURSE WITH DISLOYAL STATES.

Mr. MORRILL. I move to postpone all prior orders, and take up the bill (S. No. 232) in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, to provide for the collection of captured and abandoned property and the prevention of frauds in States declared in insurrection.

The motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

Mr. MORRILL. I move to amend the bill by inserting after the word "delay," in line thirteen of section seven, the following:

Any officer of the United States, civil, military, or naval, or any sutler, soldier, marine, or other person, who shall violate any provision of this act, or who shall take or cause to be taken into a State declared to be in insurrection, or who shall transport or sell, or otherwise dispose of therein, any goods, wares, or merchandise, whatsoever, except in pursuance of license and authority of the President, and under rules and regulations of the Secretary of the Treasury, as provided in said fifth section of the act of July 13, 1861, aforesaid, and any officer or other person aforesaid who shall make any false statement or representation upon which license and authority shall be granted for such transportation, sale, or other disposition, and any officer or other person aforesaid who shall, under any license or authority obtained, transport, sell, or otherwise dispose of any other goods, wares, or merchandise than such as are in good faith so licensed and authorized, or shall transport, sell, or dispose of the same, or any portion thereof, in violation of the terms of such license or authority, or of any rule or regulation prescribed by the Secretary of the Treasury concerning the same, shall be liable to indictment as for a misdemeanor, and fine not exceeding \$5,000, and to punishment in the penitentiary not exceeding three years, before any court, civil or military, competent to try the same. And it shall be the duty of the Secretary of the Treasury, from time to time, to institute such investigations as may be necessary to detect and prevent frauds and abuses in the trade and other transactions contemplated by this act or by the acts to which this is supplementary. And the agents making such investigations shall have power to compel the attendance of witnesses and to make examinations on oath.

Mr. BROWN. I supposed that the Senator from Maine contemplated making some explanation in regard to this amendment and its bearings on the bill, before the vote is had. I feel disposed to facilitate the carrying into effect of the Treasury regulations and the regulations of other Departments of the Government; but I think it is a matter of very doubtful propriety whether we should make the violation of any order of the Secretary of the Treasury a penitentiary offense. I think that is carrying the matter rather further than the interest of the service demands or than will be found practicable in operation. This amendment, as I understand it, while going to the point of prohibiting any traffic or trade or transportation or sale of supplies or anything of the kind in any of the States now declared to be in insurrection, at the same time provides that for any "violation of the terms of such license or authority or of any rule or regulation pre-

scribed by the Secretary of the Treasury concerning the same," a person "shall be liable to indictment as for a misdemeanor, and fine not exceeding \$5,000, and punishment in the penitentiary not exceeding three years." I can very readily understand in the laxity of Treasury operations in my own section of the country especially how such violations might happen, how in fact it would be almost impossible to comply with every regulation and order of the Secretary of the Treasury, and how probably one half of the persons who might be engaged in trade in some way or other would find themselves liable to indictment for a penitentiary offense. I doubt very much the policy of making such an amendment.

I should be very glad to hear from the Senator from Maine in connection with this amendment; but let us proceed with some degree of caution. It is a question in which a very large proportion of the people of my State and other States adjoining are very much interested; they may become liable to these heavy fines and these penitentiary offenses; and I should be glad to know where the necessity exists for making this provision so general in its terms, so exacting and so penal in its character.

Mr. MORRILL. The amendment under consideration provides simply for the enforcement of the law, and is designed to prevent the perpetration of frauds by the officers both of the Army and of the Navy, and also by all persons connected with the service. It has been found in practice that very great frauds have been perpetrated under the licenses which have been granted under the Treasury Department, both by the agents and the officers connected with the service. Now, as the amendment applies entirely to those connected with the service, it seems to me that it is not open to the objection taken by the Senator from Missouri. You can hardly exercise over that class of persons who are thus brought into contact with this property too great a degree of scrutiny and care. I think the provision is pretty well guarded.

Mr. BROWN. Is the amendment offered by the Senator from Maine subject to amendment?

The PRESIDING OFFICER, (Mr. ANTHONY.) It is.

Mr. BROWN. I move to amend the amendment offered by the Senator from Maine by striking out in line twenty-three the words "and to punishment in the penitentiary not exceeding three years."

This amendment contemplates that there shall be authority given to persons in the insurrectionary districts to sell their produce and bring in supplies for themselves and families; to do a variety of things in the way of trade, subject, of course, to the general supervision and regulation of the Treasury Department; but it goes on to provide that any person acting under any authority of the Treasury Department and bringing in supplies or taking out supplies, or anything of the kind, or purchasing for himself, who shall violate any order or any rule or regulation prescribed by the Secretary of the Treasury, shall be liable to indictment and three years' imprisonment in the penitentiary.

Now I cannot conceive it possible that there is any necessity for any such penal clause, for any such regulation. It is making light and making sport of the whole penal code of the nation. It is confounding those who are guilty and those who are innocent, those who may simply violate a regulation of which they have never heard with those who may go to work systematically to defraud the Government. I would invite some little scrutiny into that clause and into its bearings. However it may strike the Senator from Maine, I can state to him that from some knowledge of the intercourse that has existed between merchants and others of my own State and adjoining States with the State of Arkansas and the State of Tennessee, a clause like this would probably place one half of those doing business in the category of being liable to a three years' term in the penitentiary.

Mr. MORRILL. It seems to me that something of this sort ought to prevail in this bill. It applies only to the class of persons who apply to the Government for permits and are permitted to trade.

Mr. BROWN. I understood the Senator to say that the purport of the whole bill is to put

everybody that gets anything in the shape of supplies or anything else in that country under the regulation of the Treasury Department. It is in contemplation to abolish all trade and all intercourse with those districts except so far as it may be regulated and authorized by the Treasury Department for certain specific purposes, and now it is provided that under those operations those engaged in that specific purpose shall all be liable to this penalty.

Mr. MORRILL. I do not see the hardship of that. By no possibility will these provisions apply to any man who conducts himself honestly. Unless you are willing to license the wholesale fraud which has been carried on in that country, it seems to me you must attach a penalty to infidelity. This bill proposes to grant certain permission to license for limited trade. These persons are to have the privilege to carry on in that country trade upon a limited scale. Under what penalty? Under the penalty of being liable first to a fine upon conviction before any civil or military court. But any one will see that a fine in such a community, and under such circumstances, would be a very inadequate remedy against persons who should conduct themselves improperly. There is superadded to the fine, what is very common in all penal statutes, a punishment by confinement, and somewhat at the discretion of the court, not exceeding, however, three years.

Then the whole thing comes to this: under the peculiar circumstances of the case, to prevent the great frauds which have been perpetrated in the last two or three years under the authority to permit trade, it has been found necessary further to restrain the trade, to limit the power of the President somewhat to authorize trade in those districts, and, with a view of remedying the evil which everybody has seen, it is found necessary to be a little more severe in the way of penalty. What are the penalties? They are the ordinary penalties resorted to to enforce fidelity in all bills where fraud is attempted to be provided against. I really do not see, if there are to be any penalties at all, that these penalties are excessive or immoderate. I hope the amendment will be adopted.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri to the amendment of the Senator from Maine.

Mr. MORRILL. I suggest whether that is in order. My amendment is an amendment to an amendment proposed by the Committee on Commerce as the seventh section of the bill.

Mr. DOOLITTLE. I suggest to the Senator from Maine whether he could not by a brief sentence make a distinction between simple violations of the orders of the Treasury Department and those offenses which amount to embezzlement, misappropriation of funds in their hands, or any act of a felonious nature. Let them for felonious offenses be subject to this imprisonment and fine on conviction summarily before a court-martial; but as to mere misdemeanors in violating the Treasury orders, limit the punishment to fine.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Maine to have proposed an amendment to the bill—

Mr. MORRILL. The Chair will perceive that the original bill was reported back by the committee with certain amendments. One of those amendments was to insert a new section as section seven. That amendment I have moved to amend, and the Senator from Missouri proposes to amend that, which would be an amendment in the third degree.

Mr. BROWN. Have the amendments of the committee not yet been acted on?

Mr. MORRILL. I think not. If the Senator's objection is to the words "or of any rule or regulation prescribed by the Secretary of the Treasury concerning the same," I shall not object to a modification of the amendment so as to make it apply to a violation of the license.

Mr. TRUMBULL. Why not strike out those words?

Mr. MORRILL. I have no objection to striking them out, so that it would stand that a person who took a license and who should violate it should be subject to these penalties.

The PRESIDENT *pro tempore*. If the Chair understands the question rightly, the amendment of the Senator from Missouri is in order. The

amendments reported by the committee were agreed to, and became part of the bill. The Senator from Maine proposed to amend the bill, and that amendment is open to amendment.

Mr. MORRILL. I did not understand that the amendment proposed by the committee as the seventh section of the bill was agreed to.

The PRESIDENT *pro tempore*. The Chair understands that it has been agreed to. If not, the amendment of the Senator from Missouri would not be in order. The Chair will refer to the record to ascertain the fact.

Mr. MORRILL. I raise no question.

Mr. BROWN. I hope the Senator from Maine will, at all events, amend his amendment by striking out the words "or of any rule or regulation prescribed by the Secretary of the Treasury concerning the same."

The PRESIDENT *pro tempore*. The record shows that the amendments of the committee were agreed to. The Senator from Maine now proposes to add new matter; the Senator from Missouri proposes to amend the amendment; that is in order.

Mr. MORRILL. To make it acceptable to the Senator from Missouri, I modify my amendment by striking out, in the nineteenth and twentieth lines, the words "or of any rule or regulation prescribed by the Secretary of the Treasury concerning the same."

Mr. BROWN. If the amendment were to apply only to licensed traders, and were intended to operate only in cases of fraud, I should have no objection to it; but if I understand the tenor of this amendment, and also of another amendment which the Senator proposes to offer, it is to make every person who buys his family supplies stand in the attitude of a person acting under license and authority from the Secretary of the Treasury; and if that is the case I should be sorry to affix such a penalty as this that would be indiscriminate in its application to cases of mistake and cases of error, and not simply to cases of embezzlement and of fraud.

Mr. MORRILL. By no possibility would it apply to the case supposed by the Senator from Missouri. It applies simply to officers in the service, and to those persons who connect themselves with the Government by procuring a license to trade, and wantonly violate that license.

Mr. BROWN. "Or other person."

Mr. MORRILL. "Any officer of the United States, civil, military, or naval, or any sutler, soldier, marine, or other person."

Mr. CHANDLER. This amendment is intended to meet a peculiar class of cases. The committee on the conduct of the war ascertained that from Memphis alone between twenty and thirty million dollars' worth of supplies have gone into the hands of the rebels. I drew up an amendment much more severe than this, making the penalty death. I thought that death was a light penalty for licensed officers of the Government who furnished the rebels with military supplies. But the Committee on Commerce saw fit to modify my amendment, and they have made the penalty in my judgment altogether too light. I do not think imprisonment for three years is any punishment for a man guilty of such a crime. I certainly would impose the death penalty, and take from the President in such a case the pardoning power, if that were possible. This is a light, mild proposition of the Committee on Commerce, and I trust it will not be made less by any change.

Mr. TRUMBULL. I understand the objection of the Senator from Missouri is not so much to a severe penalty on really guilty parties as it is to the creation of an offense in such terms that persons not really guilty may be subject to punishment, to which of course the Senator from Michigan would be as much opposed as any one. I wish to suggest to the Senator from Maine a few alterations that may obviate these difficulties, and render the proposition acceptable to the Senator from Missouri perhaps. I suggest that in the seventh and eighth lines of the amendment the words "and under rules and regulations of the Secretary of the Treasury" be stricken out; and then in line fifteen, after the word "obtained," that "willfully and knowingly" be inserted; and that the words "willfully and knowingly" be inserted after "shall," in the fifteenth line.

The objection of the Senator from Missouri, as I understand, is rather that innocent persons

might be involved in this punishment. Of course the Senator from Maine does not mean to impose this penalty on anybody unless he has been willfully and knowingly guilty of the offense. I presume the court would hold that to be necessary at any rate if the words were not in; but I can conceive of a case of a steamboat captain transporting goods which might be in violation of this license, without any knowledge that they were on board. It is only those persons who are seeking to violate the law, and really aid the enemy, that anybody desires to punish. I make the suggestion to the Senator from Maine, and if it be acceptable—I do not know that it will be—it will perhaps relieve the matter of difficulty.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Maine that the section which he proposes to amend, being itself an amendment which has been agreed to, it may be doubtful whether, according to parliamentary rules, it is now open to amendment; but the Chair will, if there be no objection, regard the vote on it as reconsidered, and treat the proposition of the Senator from Maine as an amendment to it.

Mr. MORRILL. Looking to the objection of the Senator from Missouri, I was about to propose to insert the word "willfully" in the second line, but I have no objection to its coming in where the Senator from Illinois proposes.

Mr. TRUMBULL. Then I understand the Senator from Maine will modify his amendment by inserting the words "willfully and knowingly" after "obtained" in the fifteenth line, and the same words after "shall" in the seventeenth line.

Mr. MORRILL. I so modify my amendment.

Mr. TRUMBULL. I would make a further suggestion to the Senator from Maine, that he strike out the words "and under rules and regulations of the Secretary of the Treasury" in the seventh and eighth lines.

Mr. MORRILL. That would seem to be in harmony with the amendment already made in the nineteenth and twentieth lines.

Mr. TRUMBULL. Then let those words go out if the Senator from Maine will accept my proposed modification.

Mr. MORRILL. I accept it.

Mr. DOOLITTLE. I desire to insert an additional provision. I wish to insert "or shall be guilty of any act of embezzlement, of willful misappropriation of public or private money or property, or of keeping false accounts, or of willfully making any false returns, or of any other act amounting to a felony," just before the words "shall be liable to indictment," in line twenty-one. It will be remarked that in that section of the country where these persons go, there are no regular civil tribunals.

Mr. MORRILL. I accept that modification.

Mr. BROWN. I suggest to the Senator from Maine the insertion of a few words in the fourth line. It reads "or who shall take or cause to be taken into a State declared to be in insurrection." I move to insert after the word "insurrection" the words "or to any other point to be thence taken into such State." I simply desire to cover the case of those who ship goods to points in Canada and elsewhere for the purpose of their being run into confederate ports.

Mr. MORRILL. There is no objection to that. I accept it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine as modified.

Mr. BROWN. I believe my amendment has not been voted upon.

The PRESIDENT *pro tempore*. That amendment fell by the action regarding the amendment proposed as the seventh section as reconsidered.

The amendment of Mr. MORRILL as modified was agreed to, as follows:

Insert after "delay" in line thirteen of section seven: Any officer of the United States, civil, military, or naval, or any sutler, soldier, marine, or other person, who shall violate any provision of this act, or who shall take or cause to be taken into a State declared to be in insurrection, or to any other point to be thence taken into such State, or who shall transport or sell, or otherwise dispose of therein, any goods, wares, or merchandise whatsoever, except in pursuance of license and authority of the President, as provided in said fifth section of the act of July 13, 1861, aforesaid, and any officer or other person aforesaid who shall make any false statement or representation upon which license and authority shall be granted for such transportation, sale, or other disposition, and any officer or other person aforesaid who shall, under any license or authority obtained, willfully or knowingly transport, sell, or

otherwise dispose of any other goods, wares, or merchandise than such as are in good faith so licensed and authorized, or shall willfully and knowingly transport, sell, or dispose of the same, or any portion thereof, in violation of the terms of such license or authority, or shall be guilty of any act of embezzlement, of willful misappropriation of public or private money or property, or of keeping false accounts, or of willfully making any false returns, or of any other act amounting to a felony, shall be liable to indictment as for a misdemeanor, and fine not exceeding \$5,000, and punishment in the penitentiary not exceeding three years, before any court, civil or military, competent to try the same. And it shall be the duty of the Secretary of the Treasury, from time to time, to institute such investigations as may be necessary to detect and prevent frauds and abuses in the trade and other transactions contemplated by this act or by the acts to which this is supplementary. And the agents making such investigations shall have power to compel the attendance of witnesses and to make examinations on oath.

Mr. MORRILL. I now move to amend the bill by striking out at the end of section six the words "is hereby repealed," and inserting:

Except so far as may be necessary to authorize supplying the necessities of loyal persons residing in insurrectionary States, within the lines of actual occupation by the military forces of the United States, as indicated by published order of the commanding general of the department or district so occupied; and also, except so far as may be necessary to authorize persons residing within such lines to bring or send to market in the loyal States any products which they shall have produced with their own labor or the labor of freedmen or others employed and paid by them, pursuant to rules relating thereto, which may be established under proper authority. And no goods, wares, or merchandise shall be taken into a State declared in insurrection or transported therein except to and from such places and to such monthly amounts as shall have been previously agreed upon in writing by the commanding general of the department in which such places are situated and an officer designated by the Secretary of the Treasury for that purpose.

Mr. GRIMES. I should like to have the Senator from Maine give us some explanation of that proposition. I have not had an opportunity to read it. I should like to know whether it leaves the designation of the different points where trade can be had, and the persons with whom it can be had, to the military commander or the Secretary of the Treasury. I do not understand it.

Mr. MORRILL. By the act of 1861 all intercourse with States declared to be in insurrection by the proclamation of the President was illegal except that by a proviso in that act the President was authorized to grant licenses. It has been found in practice that the exception has come to be the rule and the trade is very general. The committee balanced between the idea of repealing the proviso altogether and making all trade illegal and the idea of further restricting it. The effect of this amendment is that all intercourse between the loyal States and the States or parts of States which have been declared to be in insurrection is illicit and prohibited by the statute, except that the President, under such rules and regulations as the Secretary of the Treasury may propose for his ratification and he agree to, may allow such trade, and such only, as may be necessary to supply the necessities of persons residing in the insurrectionary States within the lines of actual occupation by our military forces. Therefore if the bill shall be passed with this amendment, the result will be that all intercourse with those States will be absolutely prohibited, except that the President may authorize a trade designed to supply the necessities of loyal persons who are actually within our lines.

Mr. GRIMES. Who is to determine whether they are loyal?

Mr. MORRILL. The President is to grant the permits, and there must necessarily, I suppose, be some discretion as to that. The persons who are to be authorized to trade are to trade with loyal persons and none other, and they are to do that under the penalties which we have just been providing; they are to act at their peril. If they trade with disloyal persons knowingly and wittingly, they will be subject to the penalty provided for by the section just adopted. The exact state of the law, as I understand, will be that all commercial intercourse as a general proposition is entirely prohibited, but this provision authorizes the President to allow loyal persons to be supplied with the necessities of life within our military lines. That, I believe, to be the extent of it.

Mr. GRIMES. I think the amendment goes a little further than to authorize a mere delivery and sale of necessities. It says that trade shall be cut off "except so far as may be necessary to authorize persons residing within such lines to bring or send to market in the loyal States any

products which they shall have produced with their own labor or the labor of freedmen or others employed and paid by them, pursuant to rules relating thereto, which may be established under proper authority."

All sorts of agricultural products, cotton, sugar, molasses, all the articles in which it is said speculation has been indulged in to so great an extent, can be brought in and sold. And then the amendment goes on to provide:

And no goods, wares, or merchandise shall be taken into a State declared in insurrection or transported therein except to and from such places and to such monthly amounts as shall have been previously agreed upon in writing by the commanding general of the department in which such places are situated and an officer designated by the Secretary of the Treasury for that purpose.

They can take in anything, provided the officer who is designated by the commanding general and an agent of the Treasury Department shall so determine. As I understand it, it only adds another officer whose opinion and consent are to be obtained to the present regulations on that subject, to wit, a military officer. Now we have the agent of the Treasury Department. I do not see that we are going to gain a great deal by the adoption of the amendment.

My own impression is that either there should be an absolute, unqualified, and unconditional exclusion of trade, or else every man should be permitted to trade who chooses to do so. I do not believe in the theory of allowing trade to be carried on under the direction of anybody; but either have absolute, unqualified, unconditional exclusion, an embargo, or else give everybody an opportunity to trade as he sees fit.

Mr. CARLILE. With the permission of the Senator from Maine, I wish to offer a resolution requesting the House of Representatives to return House joint resolution No. 32, which passed the Senate yesterday. It is the resolution granting additional rooms to the Agricultural Department, and I understand this morning that it takes rooms that are occupied by the Land Office and are indispensable.

Mr. SHERMAN. The resolution passed the House of Representatives early in the session after full debate. I object to the resolution.

The PRESIDENT *pro tempore*. It cannot be received, objection being made.

Mr. SHERMAN. It has been fully considered by the proper committee of this body.

The PRESIDENT *pro tempore*. It cannot be received, objection being made.

Mr. CARLILE. I am satisfied if the Senator understands what would be the effect of the resolution he would not oppose giving me an opportunity to have the matter reconsidered.

The PRESIDENT *pro tempore*. It cannot be received without unanimous consent, and is not open to debate. The question is on the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. MORRILL. I believe—

The PRESIDENT *pro tempore*. The Chair must call up the special order of the day, which is the unfinished business of yesterday.

Mr. SUMNER. Allow me to ask whether that comes up at twelve or at one o'clock.

The PRESIDENT *pro tempore*. At twelve o'clock, after the morning hour.

Mr. MORRILL. I hope it will be laid aside.

Mr. SUMNER. I have no objection to its being informally passed over.

The PRESIDENT *pro tempore*. Senate bill No. 232 will be proceeded with, if there be no objection. The Chair hears no objection.

Mr. MORRILL. I should like to inquire whether the first amendment to this bill as reported by the committee—it was to strike out the first section—has been acted on.

The PRESIDENT *pro tempore*. All the amendments have been acted on.

Mr. MORRILL. I desire to move a reconsideration of the vote.

The PRESIDENT *pro tempore*. The Chair will suggest that it will be open when the bill comes into the Senate, and the question will then be again taken.

Mr. MORRILL. Very well, then let the bill be reported.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. Does any Senator desire a separate vote on any amendment made as in committee?

Mr. SUMNER. I wish to call the attention of the Senator from Maine for one moment to the amendment to the first three sections. I wish to know whether those have been struck out.

Mr. MORRILL. I will state to the Senator that they were stricken out in Committee of the Whole. I wish to state to the Senate the position of those sections. Those three sections which were stricken out on an amendment proposed by the Committee on Commerce relate to the management of abandoned plantations. When the Committee on Commerce had this bill under consideration it was known that that subject had been confided to a special committee of the Senate who had reported upon the subject. It being under the consideration of another committee, the Committee on Commerce, to whom this bill had been committed, considered that it more properly belonged to that committee, and for that reason they were of opinion that they had better amend the bill in this way. But now, since it is pretty obvious from the discussions of yesterday, and the near approach of the end of the session, that no provision at all is likely to be made in that direction, I think a majority of the committee, and I do not know but all of them, would feel that if no other provision of law is to be made at this session of Congress it would be well to retain these three sections. As the matter now stands, there is no law upon the subject; the whole matter of freedmen and the supervision of abandoned plantations and property in that region of the country is conducted upon a joint order of the War and Navy Departments; and the whole business of conducting that branch of enterprise in the insurrectionary States rests entirely on the orders of the Secretary of War and regulations based thereon by the Secretary of the Treasury. That is imposing a responsibility on these Departments which they ought not to be compelled to bear; and perhaps it is a responsibility which the Senate of the United States ought not to be willing that they should assume. I think it is a justice to these Departments that there should be a statute upon which their authority should rest; and I do not think the state of things existing in the insurrectionary districts is one that the Senate of the United States can afford to put aside. It is upon us. The care of these freedmen and the care of these plantations and this property are really upon the Government of the country to a greater or less extent; and being so, it seems to me that it ought to rest upon a statute of the United States, and not upon the orders of any Department. These provisions are very general in their character. These three sections follow in effect the orders of the War and Navy Departments and the regulations of the Treasury which exist at the present time, leaving the care and management just where the War, Navy, and Treasury Departments together have chosen to put it. I therefore suggest that the Senate non-concur in this amendment.

The PRESIDENT *pro tempore*. Does the Senator desire a separate vote on that amendment?

Mr. MORRILL. I desire a separate vote on the amendment striking out the first three sections of the bill, and also on the amendment striking out the eighth section.

Mr. LANE, of Kansas. I want a separate vote on the amendment opening up trade in specified cases.

Mr. MORRILL. That is the amendment to the sixth section.

The PRESIDENT *pro tempore*. The question is on concurring in all the amendments made as in Committee of the Whole, except those which have been reserved for a separate vote.

The amendments were concurred in.

The first excepted amendment was to strike out the first three sections of the bill, as follows:

That sales of captured and abandoned property under the act approved March 12, 1863, may be made at such places in States declared in insurrection as may be designated by the Secretary of the Treasury, as well as at other places now authorized by said act.

Sec. 2. And be it further enacted, That in addition to the captured and abandoned property to be received, collected, and disposed of, as provided in said act, the said agents shall take charge of and lease for periods not exceeding twelve months the abandoned lands, houses, and tenements within the districts therein named, and shall also provide, in such leases or otherwise, for the employment and general welfare of all persons within the lines of national military occupation within said insurrectionary States formerly held as slaves, who are or shall become free. Property, real or personal, shall be regarded as abandoned when the lawful owner thereof shall be voluntarily

absent therefrom, and engaged, either in arms or otherwise, in aiding or encouraging the rebellion.

Sec. 3. And be it further enacted, That all moneys arising from the leasing of abandoned lands, houses, and tenements, or from sales of captured and abandoned property collected and sold in pursuance of said act or of this act, or from fees collected under the rules and regulations made by the Secretary of the Treasury, and approved by the President, dated respectively the 28th day of August, 1862, the 31st day of March and the 11th day of September, 1863, or under any amendments or modifications thereof, which have been or shall be made by the Secretary of the Treasury and approved by the President, for conducting the commercial intercourse which has been, or shall be, licensed and permitted by the President, with and in States declared in insurrection, shall, after satisfying therefrom all proper and necessary expenses to be approved by the Secretary of the Treasury, be paid into the Treasury of the United States; and all accounts of moneys received or expended in connection therewith shall be audited by the proper accounting officers of the Treasury.

The amendment was not concurred in.

The next amendment was to strike out the eighth section, in the following words:

Sec. 8. And be it further enacted, That it shall be lawful for the Secretary of the Treasury, with the approval of the President, to authorize agents to purchase for the United States any products of States declared in insurrection, at such places therein as shall be designated by him, at such prices as shall be agreed on with the seller, not exceeding the market value thereof at the place of delivery, nor exceeding three fourths of the market quotations known to the city of New York at the latest quotations known to the agent purchasing: *Provided*, That no part of the purchase money for any products so purchased shall be paid, or agreed to be paid, out of any other fund than that arising from property sold as captured or abandoned, or purchased and sold under the provisions of this act. All property so purchased shall be forwarded for sale at such place or places as shall be designated by the Secretary of the Treasury, and the moneys arising therefrom, after payment of the purchase money and the other expenses connected therewith, shall be paid into the Treasury of the United States; and the accounts of all moneys so received and paid shall be rendered to and audited by the proper accounting officers of the Treasury.

The amendment was not concurred in.

The next excepted amendment was at the close of section six to strike out the words "is hereby repealed" and insert:

Except so far as may be necessary to authorize supplying the necessities of loyal persons residing in insurrectionary States within the lines of actual occupation by the military forces of the United States, as indicated by published order of the commanding general of the department or district so occupied; and also, except so far as may be necessary to authorize persons residing within such lines to bring or send to market in the loyal States any products which they shall have produced with their own labor or the labor of freedmen or others employed and paid by them, pursuant to rules relating thereto, which may be established under proper authority. And no goods, wares, or merchandise shall be taken into a State declared in insurrection or transported therein except to and from such places and to such monthly amounts as shall have been previously agreed upon in writing by the commanding general of the department in which such places are situated and an officer designated by the Secretary of the Treasury for that purpose.

The amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HENDERSON. I ask the Senator from Maine if the eighth section is now retained in the bill?

Mr. MORRILL. It is.

Mr. BROWN. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 14; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Doolittle, Foot, Foster, Hale, Harlan, Harris, Hicks, Howard, Howe, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—27.

NAYS—Messrs. Brown, Buckalew, Carlile, Cowan, Davis, Grimes, Henderson, McDougall, Morgan, Nesmith, Powell, Riddle, Saulsbury, and Ten Eyck—14.

ABSENT—Messrs. Conness, Dixon, Fessenden, Harding, Hendricks, Johnson, Richardson, and Wright—8.

So the bill was passed.

ARMY NEWS.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the War Department:

WASHINGTON, June 28.

A dispatch from General Grant, dated yesterday, the 27th, at 3.30 p. m., at his headquarters, reports no operations in front, except from our own guns, which fire into the bridge at Petersburg from a distance of two thousand yards.

The dispatch gives the following intelligence from the rebel papers:

A Petersburg paper of the 25th states that Hunter is striking for Jackson river depot, about forty miles north of Salem, and says that if he reaches Covington, which they suppose he will, with most of his forces, but with loss of material, he will be safe.

The same paper accuses Hunter of destroying a great amount of private property, and stealing a large number of wagons, horses, and cattle.

The same paper also states that Wilson destroyed a train of cars, loaded with cotton and furniture, burned the depot building, &c., at Burkesville, and destroyed some of the track, and was still pushing south.

All the railroads leading into Richmond are now destroyed, and some of them badly.

A dispatch from General Sherman, received this morning, reports that yesterday, June 27, an unsuccessful attack was made by our forces on the enemy's position, which resulted in the loss of between two and three thousand. The following particulars are given:

"Pursuant to my order of the 24th, a diversion was made on each flank of the enemy, especially down the Sandtown road. About 8 a. m. McPherson attacked at the southwest end of the Kenesaw, and Thomas at a point about a mile further south. At the same time the skirmishers and artillery along the whole line kept up a sharp fire. Neither attack succeeded, though both columns reached the enemy's works, which are very strong.

"McPherson reports his loss about five hundred, and Thomas about two thousand. The loss is particularly heavy in general and field officers, among them General Harker; also Colonel Dan. McCook, commanding a brigade; Colonel Rice, of the fifty-seventh Ohio, very seriously; Colonels Barnhall, fortieth Illinois, and Augustine, of the fifty-fifth Illinois, are killed. General Harker is reported mortally wounded.

"McPherson took a hundred prisoners, and Thomas about as many, but I do not suppose we inflicted a heavy loss on the enemy, as he kept close behind his parapets."

No other military intelligence has been received by the Department.

EDWIN M. STANTON,
Secretary of War.

Hon. DANIEL CLARK,
President of the Senate *pro tempore*.

MILITARY INTERFERENCE WITH ELECTIONS.

The *PRESIDENT pro tempore*. The unfinished business of yesterday is now before the Senate as the special order.

Mr. POWELL. I move that that and all other orders be postponed so as to take up the motion to reconsider the vote on the passage of the bill (S. No. 37) to prevent military and naval officers and other persons in the service of the United States from interfering in elections in the States.

Mr. SUMNER. I hope not.

Mr. POWELL. I desire to state to the Senate that if the motion to reconsider shall be voted down, it should be done speedily, so that the bill may be sent to the House of Representatives in time to be acted on there during the present session. There will be no debate on the question; it will merely occupy the time required to take the vote. I understand that the Senator from Michigan does not desire to discuss it further; I do not; let us take it up and vote.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Kentucky.

Mr. POWELL called for the yeas and nays, and they were ordered.

Mr. TRUMBULL. Can we not by unanimous consent take the vote on the reconsideration by yeas and nays in the place of this vote?

Mr. POWELL. That is all I wish.

Mr. TRUMBULL. I hope that will be done.

The *PRESIDENT pro tempore*. The Senator from Illinois suggests that, by unanimous consent, the vote be taken by yeas and nays on the reconsideration now. Is there any objection? The Chair hears none. The question is, will the Senate reconsider the vote by which Senate bill No. 37 was passed?

Mr. HOWARD. I shall not detain the Senate a moment on this bill further than to state the posture of the question. The Senate a few days ago, in the absence of eleven Senators, who, I presume, would have voted against this bill if they had been present, passed the bill that had been introduced at an early period of the session by the honorable Senator from Kentucky, the object of which bill was to prevent, in his phrase, the interference of the military authorities with elections. The bill underwent considerable amendment before it was put upon its final passage, by which amendments many of the obnoxious clauses contained in the original bill were expunged. Nevertheless, if this bill is passed, it will stand as a censure of the Senate upon the military authorities against whom these charges have been launched by the Senator from Kentucky and his friends in this Chamber, a severe and lasting censure, for which I will never vote. That is all I have to say. I hope the motion to reconsider will be carried in order that the bill may then be laid on the table.

Mr. POWELL. It is not my purpose to discuss the question; but the passage of this bill will not be any censure upon the military authorities

more than any penal law we have passed during this session is a censure on some civil officer who may have committed frauds on the Government. I hope the bill will not be reconsidered.

The question being taken by yeas and nays, resulted—yeas 19, nays 23; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Doolittle, Foot, Foster, Howard, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Ramsey, Sprague, Sumner, Ten Eyck, Wilkinson, and Wilson—19.

NAYS—Messrs. Brown, Buckalew, Cadile, Cowan, Davis, Grimes, Hale, Harlan, Harris, Henderson, Hendricks, Hicks, McDougall, Nesmith, Pomeroy, Powell, Riddle, Saulsbury, Sherman, Trumbull, Van Winkle, Wade, and Willey—23.

ABSENT—Messrs. Dixon, Fessenden, Harding, Howe, Johnson, Richardson, and Wright—7.

So the Senate refused to reconsider the vote passing the bill.

METROPOLITAN RAILROAD.

Mr. MORRILL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate agree to the first amendment of the House.

That the Senate agree to the second amendment of the House, amended so as to read as follows: In section one, strike out all after the word "west" where it last occurs in line twenty-five down to and including the word "west" in line twenty-nine, and the House agree to the same as amended.

That the Senate agree to the third and fourth amendments of the House.

That the House recede from its fifth, sixth, and seventh amendments.

That the Senate agree to the eighth amendment of the House with the following amendment, to wit: strike out all after the words "provided further that," and in lieu thereof insert "no person shall be allowed to subscribe for more than \$15,000;" and the House agree to the same as amended.

That the Senate agree to the ninth, tenth, eleventh, and twelfth amendments of the House.

That the Senate and House agree to an amendment striking out the words "ninety working days" in section seventeen, and inserting in lieu thereof the words "four months."

L. M. MORRILL,
B. F. WADE,
W. T. WILLEY,
Managers on the part of the Senate.
EZRA WHEELER,
J. W. PATTERSON,
J. G. BLAINE,
Managers on the part of the House.

The report was concurred in.

VISITATION OF FORTS, ETC.

Mr. RIDDLE. I move that the Senate postpone all prior orders and take up the joint resolution (S. No. 73) to allow Senators and Representatives to visit forts, military prisons, and hospitals within their respective States.

Mr. SUMNER. I hope not.

Mr. RIDDLE. I think it will lead to no debate.

Mr. SUMNER. I think it cannot pass without debate; and I hope the Senate will proceed with the order of the day.

Mr. McDUGALL called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 24; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Cowan, Davis, Henderson, Hendricks, Hicks, Howe, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Pomeroy, Powell, Riddle, and Saulsbury—17.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Doolittle, Foot, Foster, Grimes, Hale, Harlan, Harris, Morgan, Morrill, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—24.

ABSENT—Messrs. Conness, Dixon, Fessenden, Harding, Howard, Johnson, Richardson, and Wright—8.

So the motion was not agreed to.

ORDER OF BUSINESS.

Mr. CARLILE. I now offer a resolution requesting the House of Representatives to return to us the joint resolution granting additional rooms to the Agricultural Department, in order that I may make a motion to reconsider the vote by which the resolution was passed. I am sure the Senator from Ohio will not object to my submitting the proposition.

The *PRESIDENT pro tempore*. The Senator from Virginia desires unanimous consent to submit a resolution at the present time.

Mr. SHERMAN. I shall object undoubtedly and resist the proposition.

The *PRESIDENT pro tempore*. Objection being

made, the resolution cannot be received. The bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs is before the Senate as in Committee of the Whole.

Mr. HARLAN. I understand that the object of the Senator from Virginia is to enter a motion which is regarded as privileged.

The *PRESIDENT pro tempore*. That question is not debatable.

Mr. HARLAN. But it is in order to state what is proposed.

The *PRESIDENT pro tempore*. The Chair will hear the Senator by the consent of the Senate.

Mr. HARLAN. The Senator from Virginia desires to move a reconsideration of a vote that was taken yesterday.

Mr. CARLILE. I understand that I have a right to make the motion to reconsider as a question of privilege. It does not require unanimous consent to do it.

Mr. SUMNER. I take it the Senator has a right only to enter the motion.

Mr. SHERMAN. The joint resolution is not here, but has gone to the other House.

The *PRESIDENT pro tempore*. The motion to reconsider is not in order, the joint resolution not being in possession of the Senate.

Mr. COWAN. I move to postpone all prior orders and take up the bill (H. R. No. 117) to reimburse the State of Pennsylvania for expenses incurred in calling out the militia of said State during the recent invasion, which I reported a few days ago from the Committee on Finance.

Mr. SUMNER. I hope that will not be taken up to interfere with the order of the day. Let us proceed to vote on that, and then we can take up the Senator's bill.

Mr. SHERMAN. I am in favor of the bill of the Senator from Pennsylvania; it was examined by the Committee on Finance; it ought to be passed; but I think we had better proceed in order. I shall vote against taking it up now out of its order.

Mr. COWAN. I am very much oppressed in regard to this bill; it is considered important in our State; I have yielded and kept it back for a long time, and I trust I shall now be able to have it taken up and passed. It will not occupy much time.

Mr. SUMNER. I think the Senator makes a mistake in antagonizing it with another bill which has been discussed several days and which seems to be approaching a close.

Mr. TRUMBULL. I hope the Senator from Pennsylvania will not press it now.

Mr. SUMNER. I hope the Senator from Pennsylvania will withdraw his motion; we are for his bill.

Mr. COWAN. Well, I withdraw the motion now.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill of the House (No. 540) to provide ways and means for the support of the Government, and for other purposes; and that it had passed a bill (No. 558) to authorize the issuing of patents for certain lands in the town of Stockbridge, State of Wisconsin, and for other purposes; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 121) for the relief of Lieutenant William P. Richner, seventy-seventh regiment Ohio volunteer infantry;

A bill (S. No. 190) authorizing the Secretary of the Navy to appoint a commission to select a site for a navy-yard and naval station on the western waters, and for other purposes;

A bill (S. No. 199) relating to the compensation of pension agents;

A bill (S. No. 335) to carry into effect the convention between the United States of America and the United States of Colombia;

A joint resolution (H. R. No. 32) to grant additional rooms to the Agricultural Department;

A joint resolution (H. R. No. 68) authorizing the Secretary of the Treasury to release certain parties from liabilities or payment of duties and penalties therein mentioned;

A joint resolution (H. R. No. 101) to provide for the publication of a full Army Register; and

A joint resolution (H. R. No. 111) authorizing the Secretary of the Interior to reclaim and preserve certain property of the United States.

BUREAU OF FREEDMEN'S AFFAIRS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs; the pending question being on the amendment of Mr. TRUMBULL to insert as an additional section:

And be it further enacted, That the last clause of a "joint resolution explanatory of 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,'" approved July 17, 1862, be, and the same is hereby, repealed.

The question being taken by yeas and nays, resulted—yeas 23, nays 15; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Conness, Foot, Grimes, Hale, Harlan, Harris, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Sherman, Sprague, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—23.

NAYS—Messrs. Carlile, Clark, Collamer, Cowan, Davis, Doolittle, Henderson, Hendricks, Hicks, McDougall, Powell, Riddle, Saulsbury, Ten Eyck, and Willey—15.

ABSENT—Messrs. Buckalew, Dixon, Fessenden, Foster, Harding, Howard, Johnson, Nesmith, Ramsey, Richardson, and Wright—11.

So the amendment was agreed to.

Mr. HARLAN. I offer the following amendment to be added as a new section:

And be it further enacted, That the Commissioner, assistant commissioners, local superintendents, clerks, and other employés of the United States, or any one of them, under the provisions of this act, shall not be interested either directly or indirectly in the proceeds of any property occupied, possessed, or cultivated under the provisions of this act, other than as the agent or agents of the United States; and should any such person appropriate to his own use any such property, or the proceeds of the sale or rent of any such property, or any property or means derived from the cultivation thereof, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding \$10,000, or by imprisonment for a period not longer than ten years, or by both such fine and imprisonment, and shall be forever disqualified from holding office under the Government of the United States.

Mr. DOOLITTLE. I do not understand that that section provides before what court he is to be tried. I have prepared an amendment bearing very much on the same subject, and I will read it; perhaps there may be in some portions of the section I have drawn a more definite statement of how he is to be tried.

Mr. SUMNER. The words "before any court of competent jurisdiction" might be added.

Mr. DOOLITTLE. In all those States where we are going to send these officers, or in several of them, at all events, there are no civil tribunals; there is nothing there but the tribunals which are established by the war power. I will read the section which I had drawn:

And be it further enacted, That all assistant commissioners, local superintendents, and clerks, as well as the supervising special agents appointed within the States within which the insurrection exists and the authority of the civil tribunals is overthrown, shall be so far deemed to be in the military service of the United States as to be liable to trial by courts-martial, to be ordered by the commanding general of the military department within which they act as such assistant commissioners, local superintendents, clerks, or supervising special agents; and for all offenses amounting to a felony, for any act of embezzlement or willful misappropriation of public or private property, for any willful act of oppression of any freeman or of any loyal inhabitant, for any act of taking or receiving, directly or indirectly, any money or thing of value for any act done or omitted by them in their official capacity, or for being in any manner interested in any purchases of cotton, tobacco, sugar, or any other article produced upon any lands leased or worked under the provisions of this act, or in carrying on any business, or in being in any manner, directly or indirectly, interested in any business carried on under the supervision of the officers appointed under this act, or for any other willful and gross violation of their official duties, upon conviction thereof, shall be subject to punishment by fine not exceeding \$10,000, or imprisonment at hard labor for a period not exceeding five years, or by both such fine and imprisonment.

This provides for the trial of these officers, where the civil tribunals are overthrown, by courts-martial. If you do not provide for this by courts-martial they are subject to no trial, and these men would go there really irresponsible, with such immense powers in their hands that I fear the temptations would be too strong for human nature, and they would be almost like an army of robbers, oppressing the freedmen and trampling

on the loyal people at the same time; and therefore I agree entirely in the spirit of the amendment offered by my friend from Iowa. I have drawn this up with a view to make them triable by courts-martial in those places where the civil authorities are overthrown.

Mr. WILSON. I suggest to the Senator from Wisconsin to make a slight modification so as to say "court-martial, or military commission."

Military commissions generally try such cases. Mr. DOOLITTLE. To that I have no objection.

Mr. CONNESS. I wish to call the attention of the Senator from Wisconsin to some portion of the language in the latter part of his amendment. It says, "any willful or gross violation." The term "or gross" cannot be defined legally very easily, I apprehend, and a tribunal would have to determine whether an act was a gross act; otherwise there could be no punishment. It is enough to say "for any willful violation of duty."

Mr. SUMNER. I was about to make the same suggestion to the Senator from Wisconsin. Then I would suggest to my friend from Iowa to accept the proposition of the Senator from Wisconsin as a substitute for his. They are both in the same sense; they have the same idea; they look the same way; only the proposition of the Senator from Wisconsin is more elaborate and careful.

Mr. DOOLITTLE. I have no objection to the suggestion of gentlemen to let the language stand simply "willful violation of their official duties."

Mr. HARLAN. I inquire of the Senator from Wisconsin if the phraseology that he has proposed is applicable to any other country than that where the civil tribunals have been overthrown.

Mr. DOOLITTLE. I suppose it would not be. It would not make them triable by courts-martial anywhere else.

Mr. HARLAN. It seems to me it ought to embrace all parties appointed under the authority of this act, whether in places where the civil authority is restored or not. It may be desirable to restore civil authority for the very purpose of trying them.

Mr. DOOLITTLE. It might be well to have an additional clause or section stating that where the civil authorities are not overthrown they shall there be liable to be tried on indictment, and on conviction punished.

Mr. HARLAN. At the suggestion of the chairman of the committee who has this bill in charge, I withdraw my proposed amendment to enable the Senator from Wisconsin to offer his.

Mr. DOOLITTLE. I offer mine.

Mr. HARLAN. Let it be read as it now stands.

The Secretary read, as follows:

And be it further enacted, That all assistant commissioners, local superintendents, and clerks, as well as the supervising special agents appointed within the States within which the insurrection exists, and the authority of the civil tribunals is overthrown, shall be so far deemed to be in the military service of the United States as to be liable to trial by courts-martial or military commissions to be ordered by the commanding general of the military department within which they act as such assistant commissioners, local superintendents, clerks, or supervising special agents; and for all offenses amounting to a felony, for any act of embezzlement or willful misappropriation of public or private property, for any willful act of oppression of any freeman or of any loyal inhabitant, for any act of taking or receiving directly or indirectly any money or thing of value for any act done or omitted by them in their official capacity, or for being in any manner interested in any purchase of cotton, tobacco, sugar, or any other article produced upon any lands leased or worked under the provisions of this act, or in carrying on any business, or in being in any manner directly or indirectly, in any business carried on under the superintendence of the officers appointed under this act, or for any other willful violation of their official duties, upon conviction thereof shall be subject to punishment by fine not exceeding \$10,000, or imprisonment at hard labor for a period not exceeding five years, or by both such fine and imprisonment.

Mr. HENDRICKS. I sympathize with the general purpose of this amendment; I think there should be some guard like it in the bill, but I cannot vote for the proposition of the Senator from Wisconsin, for I do not think a vote of Congress makes a man a part of the military or naval service of the United States when in fact he is not. A man is appointed under this law to go down South and take charge of some of the property of the Government; he is not in the Army, and we cannot put him there by our vote. It is suggested to me by a Senator for whose

opinion I have great respect, that by a declaration of Congress he may be regarded as a part of the military service with a view to punishment; but the Constitution provides that a man guilty of a crime shall be tried by a jury, unless for offenses committed in the military and naval service of the United States. Now, it is a question of fact, will these officers of necessity be a part of the military or naval service?

Mr. GRIMES. Suppose we put them under the Secretary of War instead of the Secretary of the Treasury?

Mr. HENDRICKS. It is in fact placed under the charge of the Treasury Department.

Mr. WILSON. That is the frame of the bill now; but I intend to offer an amendment to put this bureau under the War Department.

Mr. HENDRICKS. I intended to allude to that as a matter of illustration, but it really does not affect my judgment about the question. Whether these officers shall respond to the War Department or to the Treasury Department does not really change the character of their office and the nature of the duties imposed on them by the law. Are they military officers? Do they discharge military duty?

Mr. DOOLITTLE. Allow me to suggest to the Senator from Indiana that this whole bill is a kind of war measure, a war necessity. If peace existed in these States, if there were no insurrection in these States, no one pretends or could pretend that we could exercise any such power, either over the people of these States or over the property within these States. It is of necessity temporary in its character. When peace comes and the States are restored, the States will assume jurisdiction over their own people and over their own property as a matter of course. But this is a temporary measure growing out of the war necessities, and the Senator will see that I have carefully confined the trial by courts-martial to those very districts where the war exists, where the civil tribunals are overthrown, and where there is an absolute necessity, if we do not want to have these men go without any responsibility, to be like a band of robbers almost, to prey both upon the freedmen who are put under their superintendence and upon the loyal people of that country, that we should establish a tribunal which shall hold them responsible; and they are engaged in the military service to that extent.

Mr. HENDRICKS. I think, indeed, the evils that the Senator so forcibly describes ought to be prevented; and it is because of those evils that I am going to vote against this bill, among other reasons. But to avoid one evil I am not willing to run against the provisions of the Constitution as I understand it. I think these officers are likely to go down into that country and become a set of public plunderers; I believe that is probably to be the result; and I have never seen a law framed under which there could be such outrages and plundering, in my judgment, as this bill will produce in the region of country in which it is to be put in operation. Although I desire to see accomplished what the Senator from Wisconsin desires, and to check and prevent this evil as far as possible, still I am not willing by a law to say that a man is part of the Army or part of the Navy, when in fact he is not. These men are not in the Army; they are not responsible to military authority; no military officer can command them. The duties they discharge are not of a military character. The duties they discharge are in relation to a particular class of people not in the Army, and in relation to the property of the Government. This certainly does not constitute them officers or privates in the Army, or in any way connected with the Army. The fact that it is temporary makes no difference. The question is, are they military officers, are they connected with the Army, are they in the military or naval service? If not, how can you punish them by court-martial?

Mr. WILSON. I think the Senator from Indiana is certainly mistaken. In 1866, when Congress enacted the Articles of War, in Mr. Jefferson's Administration, they provided by the fifty-sixth and fifty-seventh articles for trying by court-martial and punishment any person in the United States for doing certain things. The Senator and myself are liable to be tried by court-martial if we do certain things, and that under the laws of the country made nearly sixty years

ago. By the fifty-sixth Article of War it is provided:

"Whosoever shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor or protect an enemy, shall suffer death or such other punishment as shall be ordered by the sentence of a court-martial."

The language includes every man, woman, and child in the United States who does that act. The fifty-seventh Article of War is:

"Whosoever shall be convicted of holding correspondence with or giving intelligence to the enemy, either directly or indirectly, shall suffer death or such other punishment as shall be ordered by the sentence of a court-martial."

The Thirty-Seventh Congress provided that spies who before were tried by court-martial should be tried by military commission, and that the sentence might be executed by a general in the field without going to the President for approval. A general in the field may take up any person he chooses to consider as a spy, try him before a military commission, prove him to be a spy, and execute him without appealing to the President. By a law of the same Congress every contractor in the Army and Navy of the United States is considered for the purposes of punishment as in the military or naval service, and may be tried and punished by court-martial; and there is no power in the country to revise it or correct it. We are trying and executing men nearly every day under these laws. The man who rode up to the ambulance in which General McCook was lying very sick and murdered him, has been tried and convicted and condemned to suffer death, although he afterwards joined the rebel service, but has since been taken prisoner. We are trying guerrillas and punishing them. In fact in the rebel country in our possession there is nothing else but military law administered by courts-martial and military commissions. They are trying people everywhere there and punishing them in all forms except death, imprisoning them, fining them, and there is no court in this country that can set aside their action.

Mr. SUMNER. If the Senator from Indiana will allow me to call his attention to the precise words of one of the statutes to which my colleague has referred he will see, I think, that there is a precedent for the proposition of the Senator from Wisconsin. I refer to the act of Congress approved July 17, 1862, the sixteenth section, relating to the punishment of contractors:

"That whenever any contractor for subsistence, clothing, arms, ammunition, munitions of war, and for every description of supplies for the Army or Navy of the United States shall be found guilty by a court-martial of fraud or willful neglect of duty, he shall be punished by fine, imprisonment, or such other punishment as the court-martial shall adjudge."

Mr. HENDRICKS. When I rose before I intended merely to suggest the objection which I knew would be appreciated at once whether there was force in it or not, and now I desire to say just one word in addition. I do not think the Articles of War to which the Senator from Massachusetts [Mr. Wilson] has called the attention of the Senate furnish a precedent in favor of the proposition of the Senator from Wisconsin. Those articles provide for cases where men actually engage in war and become a party to the war, not in the Army of the United States directly, but being traitors furnish by overt acts aid to the enemy. The other statute of 1862 which declares contractors a part of the Army and the Navy as they may be furnishing supplies I had occasion to examine in a trial before a military commission last fall, and I then had some doubt about the constitutionality of that provision. But there is a reason why a contractor may be regarded as part of the Army or Navy that would not apply to these officers, and that is that by their own act, after the passage of the law, they go on to furnish the Army with its supplies, and they agree to be a part of the Army by accepting a contract after that time, and going on to furnish the Army itself.

Mr. GRIMES. Do not these men?

Mr. HENDRICKS. Yes, but the duties are different. The one furnishes the Army; he is to some extent a quartermaster. Suppose a quartermaster went out and in market overt purchased supplies for the Army, he is a part of the Army. A person without being actually appointed does the same duties. His duties are military in their character.

Mr. GRIMES. The quartermaster was a non-combatant, and he was not made amenable to military law until the act of 1812.

Mr. BUCKALEW. He is as much a combatant as a drummer.

Mr. GRIMES. He is a non-combatant and got regarded as a combatant in the Army, and was not made amenable to military law until 1812. Neither quartermasters nor commissaries were, and then were made so only by special act of Congress. But when a man accepted his commission under a law which made him amenable to the military law there was a perfect understanding, and there was no injustice done to him and no injustice to the Government. I do not see any distinction between a quartermaster who is to act under the direction of the Secretary of War and these commissioners who are to act under the Secretary of War, if we change this bill from the Secretary of the Treasury to the Secretary of War.

Mr. HENDRICKS. Let me suggest to the Senator from Iowa two cases. Under the act of 1863 a contractor agrees to furnish to the Army suitable supplies and provisions. Instead of doing so he furnishes horses that are not fit for the service, or supplies that are not fit for the men. Here is a violation of his contract, and not only a violation of his contract but a violation of his duty as defined by the law. He is furnishing the Army, directly in the public service, in direct connection with the Army. He is tried under a military commission for that offense, because in his direct and immediate connection with the Army he has not done his duty. But suppose that under this act one of these officers in the southern States takes possession of a piece of land that belongs to the Government and he has it cultivated and receives from the proceeds of that land \$1,000, it is his duty to account for that money to the Treasury. He fails to do so. It is the receipt of money from Government property which he ought to pay into the Treasury and he fails to do it, and you propose for that which is in no sense military to try him in a military court. It seems to me there is a very broad distinction in the two cases.

Mr. GRIMES. Suppose on the other hand that this commissioner or this agent who is acting under the authority of the Secretary of War is directed to work a thousand hands to accomplish a specific purpose in aid of the Army by the direction of the Secretary of War, who is the chief both of the agent, of the commissioner, and of the Army; he fails to obey that military order that he received from his superior, the commander-in-chief: ought he not to be amenable to military law?

Mr. HENDRICKS. I think not, unless he is connected with the Army, or his duties are of a military character.

Mr. GRIMES. We choose to connect him with the Army, and he accepts his commission as an attaché of the Army. We connect him with the Army if we see fit to change this bill to that effect. We connect him with the Army because we authorize him, under one of the provisions of this bill, to call the Army to his assistance whenever it may be necessary, because we believe that the Army may under some circumstances be necessary to protect these officers and the men under them, and because we believe that under some circumstances these commissioners and the men who are laboring under them may be of advantage to the Army. Such a thing may occur as to require all of the men who may be working upon these estates to be taken into the public service and used as soldiers for the time being. Now, should not the commission who has the general superintendence of these workmen whom under some circumstances it may be necessary to convert into soldiers, be held responsible to the War Department for the fulfillment of the order of the War Department to that effect? It seems to me he should. There cannot be any injustice about it. The men take their offices with the distinct understanding that they are to be responsible to the Rules and Articles of War. Where is the wrong, where is the hardship?

Mr. HENDRICKS. I do not want the Senator to think I put it upon the ground of hardship. I do not put it on that ground. It is entirely a constitutional ground that troubles me.

Mr. DAVIS. The Constitution establishes this distinct, broad, deeply founded principle: that a civilian under no state of case is to be put on trial for any offense by a court-martial and by martial

law. I am opposed to this amendment because it violates, in my judgment, that great and essential principle of liberty. I approve heartily of the spirit in which this amendment has been drawn up by the honorable Senator from Wisconsin. It is a laudable and proper purpose, I have no doubt, that has prompted him with so much care and particularity to prepare this amendment. My only regret is that I have not the power according to my judgment to vote for it. If I had I would vote for it with alacrity and with a great deal of pleasure. I have no doubt that that system of thieving and plundering and robbing which he expects the men that will be engaged in the execution of this freedmen's bill will indulge in in the South will be more than realized; and I only regret that summary, condign, and perfectly legal and legitimate punishment cannot be brought to bear on them at once to make them signal examples of the iniquity of their acts and of their crimes. But in my disposition to have such infamous characters brought to punishment I never will consent to vote for a measure that in my opinion would infract the Constitution, as I believe this would.

The Constitution provides that "no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces." For any man to be subjected to a military court, to trial by martial law, and to military punishment, and to be abstracted from trial and sentence and punishment under the civil courts, he must belong to the military or naval forces, or he must be of the militia of a State in the actual service of the United States. The question is simply this, in relation to every man or class of men who would be embraced by this or any similar provision, is he a part of the military or naval forces of the United States, or is he a part of the militia of any State in the service of the United States? If you answer this question in the affirmative you make him subject to military tribunals. If you answer it in the negative, you cannot subject him to such courts and such trial by martial law without a flagrant and most mischievous infraction of the Constitution.

Now, sir, there are two codes that bear upon this subject under our form of government. The first is the Constitution and the civil laws passed under its authority; the other is the law of nations applicable to military affairs and military courts so far as they are adopted by our Constitution. So far as this branch of national law infringes or is in conflict with our Constitution it falls and has no effect whatever. But there are certain classes of men that may be punished by courts-martial under the military law of nations, spies for instance, or persons giving information to the enemy; they may be punished by courts-martial, because the branch of national law regulating military affairs authorizes all such descriptions of persons to be punished by courts-martial. But, sir, all the persons who are excluded by the provisions of the Constitution which I have read from trial by courts-martial and by military law, cannot by any legislation of Congress be subjected to such tribunals and to such law. You must clearly, indisputably bring every man that you subject to trial before a military court within the description of persons that belong to the military or naval forces or the militia of a State in the service of the United States before you can make him amenable in the least degree to military law and military courts.

For these reasons, although I applaud the object and the spirit of the honorable Senator from Wisconsin in presenting this amendment, and although I would feel so entirely willing to give him all the aid which my opinion of the latitude that would be allowed by the Constitution would authorize me to give, I feel myself imperatively restrained from voting for this amendment by this direct provision of the Constitution.

Mr. WILLEY. I suggest to the honorable Senator from Wisconsin whether in some other section of the bill a provision cannot be inserted making this Commissioner and his subordinates in point of fact a part of the military service of the country. There seems to me to be very great force in the opinion which the honorable Senator from Kentucky has urged, as well as the honorable Senator from Indiana; but in point of

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

WEDNESDAY, JUNE 29, 1864.

NEW SERIES.... No. 209.

fact it seems to me that the service is so related to that of the military branch that by some provision of the bill recognizing them as part of the military service the objections which have been urged against the amendment might be obviated. It is very certain that this amendment in some form or other ought to be adopted. It will take away one of the fundamental objections which I mentioned to the bill at first, and impose some restraints on the most stupendous system of fraud that ever was devised.

Mr. DOOLITTLE. One Senator from Massachusetts [Mr. Wilson] has announced his purpose to move to have this whole matter under the War Department, while the Senator from Massachusetts having charge of the bill [Mr. Sumner] is desirous that it should remain under the control of the Treasury Department. That is a question upon which the minds of Senators may be divided, and I do not know what the sense of the Senate may be when it comes to a vote. But independent of the decision of that question, it seems to me that whether it is to be left to the Treasury Department or put into the War Department, when we come to look at it as it is, these officers may just as well be declared in the military service of the country, so far as this matter is concerned, though the Treasury Department is the Department to which they make their returns, as if they were in the War Department. The truth is, the theory of our Administration is that the Executive is a unit. All is done under the President as the Commander-in-Chief. The various Secretaries are but the clerks of the President, doing his business; and whether the Executive speaks through the Secretary of the Treasury or the Secretary of the Navy or the Secretary of War, it is the President of the United States, the Executive, the Commander-in-Chief, who executes the laws, and therefore, whether the Senate shall determine that this shall remain under the Treasury Department or go to the War Department, it seems to me there is no valid foundation in the objection to the amendment that I have offered, which provides that in those districts where our power is military, where the civil authority is overthrown, the officers whom we appoint may be regarded as acting under military authority to the extent that we can bring them to punishment by military law, for we have no other authority to punish them for their offenses there. That is my reply to the honorable Senator from West Virginia.

When the question comes up as to which Department shall have the control of this matter, I may, perhaps, vote with the honorable Senator from Massachusetts [Mr. Wilson] upon the idea that it is more harmonious to have the whole thing in the military districts controlled by one head rather than by two, although the theory of our Government is that it is all controlled by one head, and that is the President of the United States, though nominally you may say the Secretary of the Treasury issues an order in the one case and the Secretary of War in the other.

The amendment was agreed to.

Mr. SUMNER. I move an amendment which is little more than verbal, to bring the bill into harmony with an amendment already made. In section seven, lines ten and eleven, I move to strike out "provided that no lease shall be made by them for a longer period than one year," and then in the eleventh line to strike out the word "that."

The amendment was agreed to.

Mr. WILLEY. I propose to offer this amendment as an additional section:

And be it further enacted, That whenever the said Commissioner cannot find abandoned real estate on which to employ all of the freedmen who may come under his care and control by virtue of this act, it shall be his duty, so far as may be practical, to provide for them homes and employment with humane and suitable persons at fair and just compensation for their services; and that in order the more effectually to accomplish this purpose the said Commissioner shall open a correspondence with the Governors and the various municipal authorities of the different States requesting their cooperation in this behalf.

It is very obvious that at this time there are very few plantations, however many of them may be abandoned, on which it would be safe or profitable to place these freedmen and to employ them. There is no district in the country coming within the scope of this bill where taking possession of the real estate now abandoned and placing upon that real estate any given number of these freedmen, it would not be necessary also to employ more or less of the military forces to protect them while they were cultivating the farms. Take Virginia for illustration. About half the State is now within our lines, I mean on this side of our main army; and yet there is not a farm anywhere where it would be safe to place any of these freedmen, where they would be allowed to work a month, much less a year so as to raise a crop, without strong military protection. Mosby's guerrillas would hunt the hands off any farm almost anywhere in our lines within Virginia. I imagine the same state of things exists elsewhere. It is obvious, and the fact has indicated the necessity of this bill, that there is a large number of freedmen now unemployed, and scores and hundreds and thousands of them are dying for the want of care and employment within our lines and under our control. I suggest to the friends of this bill, I respectfully suggest to the friends of freedmen, whether it be not perhaps the best provision, if it can be incorporated in this bill, to extend the Commissioner's authority so that he can do some practical good at the present time and hereafter by opening a correspondence with the Governors of States, the municipal authorities of the States, with the various manufacturing establishments, and farmers and mechanics. Homes might be provided for them, and they might not only find good homes, but humane persons and employment at fair compensation, and it might supply in those districts that lack of labor which has been occasioned by the withdrawal of laboring men into the ranks of our armies.

It seems to me this would be a beneficial feature to incorporate in this bill. I begin to take some interest in the bill. It is very little now like what it was when first introduced. Restrictions are being thrown around it to prevent many of the evils that would necessarily have grown out of the operation of the bill. I take it for granted that it will pass, and if so, I should like to see it made as operative for good as possible. It seems to me that here is a proposition which will accomplish more good for the freedmen, find them more homes and better compensation and with a great deal less trouble and expense, than the whole machinery when it is in its fullest operation will ever find for them upon the abandoned plantations of the South.

Mr. SUMNER. It is with great reluctance that I object to the proposition of the Senator, but he will allow me to say that it seems to me it goes too far. There is also language in it which I should regret to see in the bill. He speaks of the freedmen "under the care and control of the Commissioner." In drawing the bill, I am sure the committee had no idea that any freedman would be under the control of the Commissioner. I know that has been suggested.

Mr. WILLEY. I am willing the Senator shall choose any other language. I noticed in the original bill they were called "held to service," but I believe that has been stricken out. If the honorable Senator will suggest any other language to accomplish the purpose, I shall have no objection to it.

Mr. SUMNER. I have examined carefully the proposition of the Senator, and I beg him to understand that the idea which he seems to aim at is entirely in harmony with the bill, only, as I said before, by his language it seems to me he goes too far. I have just made a sketch in the nature of a substitute for his proposition which I will read to him if he will have the kindness to listen to it:

That whenever there is no plantation real estate on which to employ the freedmen, it shall be the duty of such assistant commissioners and superintendents, so far as may be practicable, to aid such freedmen in obtaining homes

and employment with humane and suitable persons at fair and just compensation for their services.

I believe that is substantially the idea. It differs from the proposition of the Senator in that it says nothing about "control," and then it does not go as far in this respect; his proposition says that it shall be the duty of the Commissioner, so far as may be practicable, to provide for them homes and employment. It would seem to follow from that language that he must assume an obligation to find homes for them, and that possibly might throw upon the Government some pecuniary responsibility. I believe that the idea of the Senator will be carried out fully, by my substitute, but as for opening communications with the Governors and other officers, it strikes me that all that more properly comes under the head of "rules and regulations," which it is understood are to be prepared by the Department in which this bureau is organized.

Mr. WILLEY. I have no objection to the Senator's amendment of the language if he will incorporate with it the provision soliciting the cooperation of the various authorities in the different States. I think it will amount to very little unless that is done. There must be some agency with whom this Commissioner or the assistant commissioners can cooperate in various quarters where labor is required, in order to enable them to accomplish anything. How can these assistant commissioners in the insurrectionary districts, where they ought to be—whether they ever will be employed there personally or not is very questionable to me—how can they while employed there, engaged in superintending, taking care of, or whatever language the honorable Senator may indicate to designate their management of these freedmen—how can they, while in the discharge of that duty, make any efficient arrangement in providing homes or aiding the freedmen in procuring homes in those districts where labor is so much needed? The operation would be very much facilitated, it seems to me, by securing the cooperation of the authorities of the loyal States, especially those States where labor is so much needed, in order to procure for the freedmen employment and homes there where they will have the benefit of laws, and not be subject to raids as they will be on these farms; where they will have the benefit of free institutions, the benefit of kind and humane society, the benefit of the benevolence that would surround them, in aiding them to elevate themselves to independence and real freedom. It seems to me that there would be nothing so conducive to carry into effect one of the objects which the honorable Senator seems to have in view, and in which I heartily sympathize, that is, in elevating these freedmen, as to place them in the midst of the free States, where they would not be under the necessity of submitting their rights to the arbitrary will and pleasure of these superintendents and assistant commissioners, but where they would be equal before the law, subject to the same law, and having the same rights to redress of grievances that any other citizen in the community would have. It seems to me that the provision that the honorable Senator suggests does not accomplish the object fully; but if he will modify it so as to make it efficient in diffusing this population wherever labor is wanted in the midst of organized free communities, I will accept it, for that is one of the main objects I had in view.

Mr. BUCKALEW. This amendment contemplates the distribution of this population throughout the whole country and in our northern States, by the action of the Federal Government. Sir, I think our States in the North may well object to any such exertion of power or rather perversion of power by this Government.

Mr. WILLEY. The Senator misunderstands entirely. It is only to be done "so far as practicable" and where persons living in the northern States or elsewhere may desire this labor, desire to employ these laborers. There is no compulsion about it.

Mr. BUCKALEW. Certain of the northern States prohibit the introduction of this element of

population within their borders, and I think they have a perfect right to establish and maintain their own policy on that subject. Now, you propose to take into the hands of the Federal Government the business of distributing this population among the States, and according to your policy and not according to theirs. I think the proposition, upon the mere statement of it, is so monstrous and in its effects so pernicious that it ought to receive no favor or indulgence from this body. At all events, for one I shall vote against it. I conceive that public policy, the best policy that can be adopted by our States in the North requires that, instead of encouraging the migration of this population, they shall discourage its introduction altogether. If you organize a system of this kind by Federal power, if you establish a bureau for the purpose of diffusing this population, under the pressure of existing exigencies, on account of the lack of labor in our communities, perhaps a large element of this sort may be introduced; and when the war is over, when our laboring population are restored to their homes and to their employments, when their participation in the war is no longer necessary, when they are laborers again at home, they will find this element which had been introduced during the pressure of the present time an element of competition against them, and we shall have trouble and difficulty in our domestic policy in the northern States from this cause.

But, sir, whether it be a policy in its nature good or evil, nothing appears to me more manifest and certain than that the exercise of such a power by this Government is wholly unwarranted, and that just and general objection against it will arise in all our northern States, and it will be another element of difficulty, of division, of trouble, of passion, and debate in our communities and in our political contests.

Mr. MORRILL. I should like to ask the honorable Senator from Pennsylvania whether he makes a distinction as to the question of authority, of constitutional power, between the measure now proposed and that which received the sanction of the Senate yesterday; I refer to the bill for the organization of a Bureau of Immigration to encourage migration from the populations of Europe, by authority of the General Government, the distribution of which is contemplated by the bill to be made in all sections of the country. I submit to the honorable Senator whether the power in that case is not as extensive and is not liable to the same objection there as here.

Mr. BUCKALEW. I not only did not participate in the debate upon the measure to which the Senator alludes, but I was not present when it was considered. I am speaking upon this measure with reference to its own merits and with reference to the considerations which apply to it, and I am not to be drawn off into a debate upon the question of the power of this Government to regulate immigration into the country from abroad, a perfectly distinct question and resting upon considerations that are not applicable to this measure. If the Senator desires my views upon the subject to which he refers, on the proper occasion when a measure of that description is before the Senate, if he conceives that I can afford him any information, to the best of my ability and power it shall be at his service.

Mr. MORRILL. Of course I did not wish to draw the Senator out, nor to do more than suggest that the power contemplated by this provision is precisely that which Congress exercised in establishing a Bureau of Foreign Immigration.

Mr. BUCKALEW. I will state to the Senator that of course the General Government has power to regulate the immigration of persons from abroad. There are clear powers applicable to that subject. Whether the General Government can enter upon the business of inviting persons from abroad and after they have entered into the country regulate their distribution in our communities is quite a different question, and one upon which I pronounce no opinion, though the inclination of my mind is against it.

Mr. MORRILL. That is precisely the question raised and settled in the bill to which I refer. The bill contemplates the encouragement of immigration from the old countries, and then takes the direction of the distribution of the population thus introduced, and it takes it without the slightest reference to consulting the States upon the sub-

ject. If it be conceded that the Federal Government has that authority to regulate the distribution of foreign immigration into this country, necessarily I submit it embraces the power indicated in this amendment.

Mr. SUMNER. The proposition of the Senator from West Virginia, as I read it, is different from the proposition as expounded by himself. As I read it, I supposed he simply intended to throw upon the assistant commissioners and local superintendents an additional duty to this extent, of finding homes in the neighborhood, where abandoned plantations could not be found. I thought his purpose was charitable. I entered into it. I so said, and I was disposed to accept his proposition in that sense; but when I learned from his speech that he proposed to organize a system of migration, of transportation, of colonization in different States of this Union, under the auspices of the proposed bureau, I must confess I saw his proposition in entirely a different light. It seems to me the whole idea is entirely untenable; but even if it were at all tenable, it is out of place on this bill. I hope, therefore, that it will be voted down, and that we shall proceed with the bill.

Mr. WILLEY. I perceive the honorable Senator does not understand my proposition yet. There is nothing compulsory in any of its provisions. It expressly says that he shall perform the duty prescribed to him in the section I propose, "so far as may be practicable;" and the design of the section is simply this: that he should ascertain where labor is wanted, both in the insurrectionary States and out of those States; in Massachusetts, in Tennessee, in any other State; ascertain where labor is wanted, where the people desire to employ laborers of this character, and if, in his judgment, the person wishing it would be a suitable person, and the home would be a suitable one, and the compensation would be fair and just, to aid in that way he could within the scope and spirit of his appointment the freedman in getting to this home and in securing the employment. It is not my design to organize a system of compulsory emigration; it is not my design, nor will the section bear the interpretation, that these commissioners are compelled necessarily to force upon any community that does not desire this kind of labor these freedmen. The whole design and spirit of the section is that it shall be a matter of mutual consideration between the three parties, the commissioner, the freedman himself, and the person who desires to employ him and secure the benefit of his services; and I did think that such was the obvious advantage to the freedman himself in securing a home where he would obtain the protection of the law, the kindly sympathies of the people around him, and good labor at fair compensation, that there could hardly be an objection from any quarter to it.

Mr. SAULSBURY. I could not vote for the amendment of the Senator from West Virginia as an independent proposition; but as an amendment to an obnoxious bill, with a view of perfecting the bill if it is to pass, I shall vote for the amendment. As the Senator from West Virginia has explained, there is no compulsion about it, and therefore it is not liable to the objection urged against it by the Senator from Pennsylvania. No State whose laws preclude the immigration of this class within its limits will be bound to receive them; but there are many free States that have no provision in their constitution or laws to prevent such persons entering those States. I think the amendment of the Senator from West Virginia presents a great question of practical benevolence to those States who have been most clamorous for this class of people. They have it in their power now to exhibit to the world and to an admiring world an example of the truth of the doctrines which they preach and profess. At a distance, thousands of miles from where this population was, they have shed crocodile tears over the barbarism of slavery and the inhumanity of slave-owners. Nothing has stirred their passions so much, awakened their sympathies so much, or caused so persistent efforts on their part for the relief of human suffering, as the situation of the poor, oppressed, down-trodden African. Now, by the operation of the military arm of the Government they have thousands of these people in their charge, a species of population who will be worthless to their former owners

under any circumstances, a species of population who if they remain where they are must, under any circumstances, upon the return of peace be the greatest sufferers from the operations of this war—they have the power to take these poor creatures home among them and to see that those who have been wretched all their days, who have suffered naught but oppression at the hands of the white race, shall enjoy all the blessings of this sublime theory of theirs, "universal freedom and equality before the law."

Sir, tell me not, tell not the honest people of this country that the professions of the abolitionists are sincere; that they are honest in their efforts to set free this race unless they are willing to take them home, and give a practical illustration to the world of their sincerity by admitting them to an equality of rights among themselves. I am surprised that any man or any party professing to have at heart so much the interests of the negro race should refuse to avail of the privilege offered by the amendment of the Senator from West Virginia. Sit not quietly in your homes and shed crocodile tears over the barbarism of slavery and the inhumanity of southern slaveholders when you have the opportunity to go and take this oppressed race not only to live in your midst, but to take them to your heart and to cherish them as philanthropic men should cherish the object of their pity. Sir, it would be one of the most sublime spectacles ever witnessed on the face of the earth; it would be one of the strongest proofs that could possibly be furnished to the people of this country and the people of other lands if the abolitionists of this country now, in evidence of the sincerity of the doctrines which they have preached, would say, "Yes; we have a beautiful heritage up here in the North; our mountains are green; our valleys are fertile; our towns furnish innumerable workshops where this species of labor can be employed; our political institutions are free; we know no inequality among God's children; after preaching equality, we now evidence our sincerity by throwing open to you our own States and the enjoyment of the same political and social advantages which we ourselves enjoy." If this amendment be rejected by such votes as I have indicated, I apprehend that it will be impossible hereafter to make even the most stupid believe that modern abolitionism is anything else than absolute hypocrisy.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from West Virginia.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 15; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Davis, Doolittle, Foot, Grimes, Harlan, Harris, Henderson, Hicks, Howe, Lane of Indiana, Ramsey, Riddle, Saulsbury, Sprague, Van Winkle, and Willey—19.

NAYS—Messrs. Buckalew, Comess, Cowan, Foster, Hendricks, Lane of Kansas, Morgan, Morrill, Powell, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—15.

ABSENT—Messrs. Carlile, Chandler, Collamer, Dixon, Fessenden, Hale, Harding, Howard, Johnson, McDougall, Nesmith, Pomeroy, Richardson, Sherman, and Wright—15.

So the amendment was agreed to.

Mr. HOWE. I have not been able to attend the discussions that have taken place on this bill, and I do not know now its precise shape. I have three or four suggestions of amendment to make; but I do not know whether some of them may not already have been adopted. The Senator from Massachusetts probably knows as near what shape the bill is in as anybody.

Mr. SUMNER. I have tried to follow it.

Mr. HOWE. I wish to amend the fourth section by inserting after the word "departments" in line four the words "who may apply to him or to either of his assistants or local superintendents for relief;" so as to give the general superintendency of all freedmen who may apply for the benefit of it, rather than to force it upon all freedmen irrespective of their ability to take care of themselves.

Mr. SUMNER. I think the idea of the Senator is anticipated by an amendment which I have already moved. I have not the exact words of it here, but to the effect that the freedmen are in every respect to be treated as freemen, and that no power or control is to be exercised in regard to them except in conformity to law.

Mr. HOWE. I should like to have that section read as it now stands.

Mr. SUMNER. Will the Secretary be good enough to read the clause inserted on my motion at the end of the fourth section?

Mr. HOWE. Let the whole section be read as it stands.

The Secretary read the fourth section, as follows:

SEC. 4. And be it further enacted, That the Commissioner, under the direction of the Secretary of the Treasury, shall have the general superintendence of all freedmen throughout the several departments, and it shall be his duty especially to watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen, and generally, by careful regulations, in the spirit of the Constitution, to protect these persons in the enjoyment of their rights, to promote their welfare, and to secure to them and their posterity the blessings of liberty. And every such freedman shall be treated in every respect as a freeman, with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him except in conformity with law.

Mr. HOWE. Of course all control over these persons consistent with the language of the first part of the section is "in conformity with law," because that becomes a part of the law. Now, we have a large body of these freedmen all through the country; many of them are worth handsome properties, and a large majority of them are making a good living. I know that almost every northern man who comes North from the South, if he can, brings with him some of this labor: it is in demand in our part of the country. I have listened with great surprise to the intimations thrown out here that we are going to overburden our communities with this kind of labor by bringing it in there. I have a profound belief that the great necessity of every portion of our country is labor; and I have never listened with any patience whatever to the intimation, let it come from what source it may, that this Republic can tolerate the proposition to export this labor or any portion of it, which is really one quarter of the net value of the whole Republic as shown by your last census. But then, Mr. President, a great deal of this labor is managing itself, and I do not want to interfere with it, and I do not want this bureau to interfere with it.

Mr. SUMNER. I cannot grasp the idea of the Senator; that is probably my misfortune; but I do not see what interference there can be from this Bureau with any such person as the Senator describes.

Mr. HOWE. Because it is given by the first clause of this section the "general superintendence" over all freedmen.

Mr. SUMNER. The President of the United States has general superintendence over all citizens of the United States, bound by his oath to see that all the laws are executed; and that is all that is implied here.

Mr. HOWE. I think if the Senator will reflect a moment he will see that the President has no superintendence over anybody, except as Commander-in-Chief of the Army and Navy he has superintendence over those persons in the military and naval service; but outside of them he has simply a superintendence over the laws. You have superintendents under your Indian laws. What are their duties? They are charged with the general superintendence over the officers appointed by the Government to execute the laws in relation to the Indians. They have not general superintendence over the Indians composing the Indian tribes; they cannot command a single one.

Mr. SUMNER. Can these superintendents command a single one here?

Mr. HOWE. I should think so.

Mr. SUMNER. By no means. That was discussed very thoroughly the other day, and I thought we arrived at a conclusion.

Mr. HOWE. I ought, perhaps, to concede that the Senator knows better the force of this language than I do; and yet I am profoundly impressed with the belief that it does give to the Commissioner the right to control the action and the efforts of all these freedmen.

Mr. SUMNER. In what one particular, even to determine one single thing? His duty is to see that the laws and the proclamations and the military orders for the benefit of the freedmen are faithfully executed; and then still further he is to find, if possible, employment for the freedmen on land. Then still further he is to act as an advisory guardian. Then still further he is to be an arbitrator. But in no respect is he to exercise

any power of control over the freedmen. The Senator finds it in the word "superintendence," but we only yesterday passed a bill creating a bureau or department or office of immigration, and creating an officer entitled the Commissioner of Immigration. What power or control will that give to that officer over immigrants? None at all. It will be his duty to watch over the laws with regard to immigrants for the public good and for the welfare of the immigrants; but there is no power of control over the immigrants conferred by the bill that we passed yesterday, I think unanimously, and there is no power or control here.

Mr. HOWE. I am entirely content to know that the Senator from Massachusetts desires no more from the operation of this bill than I do myself in this respect, and if he thinks the language employed here is sufficiently restrictive, I shall not insist on my amendment.

Mr. SUMNER. I say most sincerely to the Senator that I feel sure on that point.

Mr. HOWE. I withdraw my amendment, and propose another in the fifth section to strike out in the tenth line the word "cause" and insert "permit."

Mr. SUMNER. Is the Senator aware of the amendment already made in that section?

Mr. HOWE. I am not. I desire to be informed.

Mr. SUMNER. The amendment which has been made on the motion of the Senator from Iowa [Mr. GRIMES] is to strike out the words "may determine," at the end of that sentence and insert other words so as to make the clause read, "or in case no proper lessees can be found, then to cause the same to be cultivated or occupied by the freedmen, on such terms in either case and under such regulations as the Commissioner and such freedmen may agree." I think that carries out the idea of the Senator from Wisconsin.

Mr. WILSON. I wish to suggest to the Senator from Wisconsin that I have prepared an amendment to the fifth section that will perhaps meet his views. I propose to strike out all after "and" in the seventh line down to the word "provided" in the thirteenth line, and in lieu of the words thus stricken out to insert:

To permit the freedmen to occupy, cultivate, and improve such real estate or any part thereof with the personal property aforesaid, or to rent, or lease, or act as inspectors of the same.

I am for some change in this section. As it stands it looks to me very much as though it was to take care of the plantations instead of the freedmen. The House bill had a provision in it to permit the freedmen to occupy, cultivate, and improve these lands; and this section proposes to do it if nobody can be found to whom to lease them; but if there is anybody who wants to lease the lands, they are to be leased. Now, I think the policy should be to have the freedmen independently take possession of, occupy, and improve these lands. We have in and about Washington and vicinity some twenty-five thousand freedmen who have been slaves. At Alexandria, at Hall's cross-roads, and elsewhere where they are cultivating land themselves they are prosperous and independent and are improving, while the twenty-five hundred who are under the Government organization across the river are the poorest off of any and are not improving, and the system there is a wretched system and ought to be broken up as speedily as possible. It is only a temporary measure, I trust. It is not intentionally badly managed; but the effect on these people is exceedingly bad; they are discontented and they have a right to be. A certain amount is deducted from their wages and they are held there under a rule that is irksome to them. But throughout the vicinity, where the freedmen have taken up little pieces of land and worked them for themselves they are improving and are independent; their schools are improving. I want this section changed so that in the first place it shall be the object of the Government to permit the freedmen to cultivate and improve these plantations, and then if the freedmen do not do it you may lease any plantation you have to somebody, but let that be the last thought.

Mr. SUMNER. My colleague understands that a plantation may be leased to a freedman. That was the idea of the committee. The language here is that they are to "rent or lease all

such real estate, or any part thereof, with the personal property aforesaid." It does not say to whom they are to rent or lease it. It may be to a freedman, or it may be to a white person, if you will. It was felt that it would not be expedient to have any limitation on the power of the commissioners in that respect. It was thought better to leave open to them to determine on the spot to whom, all things considered, it would be best to lease the plantation; it might be to a freedman, or it might be to a white person; and I think on the whole that is the more prudent course. I think that my colleague has perhaps been misled by supposing that the language was exclusively applicable to white persons, but it is not so applicable. The language is general, and it was intended to cover the case of leases, whether to freedmen or to white persons. Then of course it goes on and says "or in case no proper lessees can be found;" that is, where they cannot find a freedman or a white person of sufficient responsibility to enter into a contract of lease, "then to cause the same to be cultivated or occupied by the freedmen, on such terms in either case and under such regulations as the Commissioner and such freedmen may agree."

Mr. HOWE. Now let me suggest to the Senator that the real force of that last clause is to authorize the Commissioner of Freedmen, an agent of the United States, to go to farming down there. By the language of this section as it was reported he was to go to farming, and I think to compel the labor of these freedmen, to cause them to occupy and cultivate these lands; but with the amendment which I am informed has been adopted on the motion of the Senator from Iowa, it becomes necessary for him to contract for the labor of the freedmen, and then hiring the labor he goes on to cultivate the lands on behalf of the United States.

Mr. SUMNER. I have no objection to the Senator's word "permit" instead of "cause."

Mr. HOWE. I think that simple change will effect what the Senator from Massachusetts [Mr. Wilson] and myself are aiming at, but his own proposition does no more than that.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin.

The amendment was agreed to.

Mr. HOWE. I move further to amend the same section by adding to it an additional proviso:

And provided further, That no lease and no permit to be given under the provisions of this act shall continue for a longer term than one year without renewal, nor shall any such lease or permit bind the United States to pay damages for any dispossession by title paramount to that of the United States.

Mr. SUMNER. I have no objection to that.

Mr. GRIMES. I move to insert there before the word "dispossession" the word "military," and before "by" the word "or."

Mr. SUMNER. We are not liable anyway for military dispossession.

Mr. GRIMES. You will have an infinite number of cases set up for military dispossession after a while if you do not have a distinct understanding.

Mr. HOWE. I have no objection if the Senator from Massachusetts has not.

Mr. SUMNER. I have no objection to it.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin modify his amendment?

Mr. HOWE. Yes, sir, I so modify it that the latter clause shall read:

Nor shall any such lease or permit bind the United States to pay damages for any military dispossession or because of paramount title to that of the United States.

The amendment was agreed to.

Mr. HOWE. I move to amend the tenth section by striking out in line five the word "quarterly" and inserting "monthly," striking out the words "of their proceedings" in the sixth line, and inserting after the word "commissioner" the words "of the names, ages, and respective conditions of all freedmen applying to them or to their local superintendents for relief, and of the disposition made of such applicants, which reports the Commissioner shall cause to be published in such newspapers, not exceeding one in each State, as he shall select."

Mr. SUMNER. I ask my friend whether that is not going to impose too much, and does not what he requires more properly come under the

head of "rules and regulations" to be digested by the head of the Department? The Senator is perhaps not aware that the Secretary of the Treasury, who thus far has had the charge of the abandoned plantations, has prepared a very elaborate series of rules and regulations applicable to the management of these plantations and of the freedmen upon them. Those rules and regulations enter into a great many details. They were examined carefully by the committee in preparing this bill, and it was felt that in the bill we ought to avoid as much as possible going into details, leaving to the Secretary in his rules and regulations to do all that. It was thought that if we should attempt too much in this bill we might fail in everything, and we also felt that there was a certain difficulty in introducing into an act of Congress details, some of which might not be perfectly within our knowledge, in regard to which we might not be perfectly informed.

Now, I am not sure whether what the Senator requires by his amendment could be conveniently carried out; that is, a monthly report of all who apply. Suppose a very large number apply, or suppose the service is in cases where there is no strict application; for instance, suppose a large number, as some of the testimony shows is often the case, some five hundred or a thousand or more freedmen appear in a particular locality, and it becomes important for the Government to enter at once into the care and superintendence of that large number, would the Senator have the local officer at once report to the Department here the names of all those persons who thus present themselves? I do not know that it would not be desirable, but I doubt the expediency of requiring it in the bill. I think it is one of those details that had better be left to be regulated by the head of the Department.

Mr. HOWE. I am very sure that if we insert this clause there will be still enough of detail left for the consideration of the head of the Department which shall take charge of this work. I am quite aware that the Secretary of the Treasury has considered and published a large number of rules and regulations in reference to the management of these abandoned lands. I have seen but very few or none in reference to the management of these abandoned persons. He has not had much to do with them, and I do not know that the Government has had much if anything to do with them. Their former owners and masters have run away from them in some cases; in other cases they have run away from their former masters and owners, and they have come upon our hands, and we have held them in our hands, precisely how we do not know, and we never shall know until we take some pains to be informed. The Senator from Massachusetts stated, when he first introduced this bill, precisely what he wanted to do with it, and he stated what I thought to be precisely the right idea, to aid them in this transition state between bondmen and freedmen, not doubting, as I know the Senator does not doubt any more than I do, that in a very short time they will become in the fullest sense of the word freedmen, not only men with the right to take care of themselves, but men with the ability to take care of themselves, because only such men are free.

If that be the purpose of this bill, of course all they want is an opportunity to labor and permission to labor. Permission they get by the act of emancipation from whatever source it springs; opportunity they can get only by finding some chance to labor or somebody to employ them. I think it very essential that as often at least as once a month these agents of ours who shall take charge of these persons shall make public a list of all the persons they have on their hands unemployed, and shall also tell the country what distribution they have made of those who have been employed, and then we can see precisely the action of this bureau of ours; we shall know when it is doing and when it fails of doing the good that this act designs should be accomplished, and I am sure that no possible harm can spring from it in the world. The head of the Department, whichever Department takes charge, will I have no doubt provide much fuller information than this amendment that I propose does; but I thought it was due to the law itself that it should go so far as to provide this much of information.

Mr. SUMNER. The Senator observes that the very section which he proposes to amend

closes with these words, "and also such other special reports as from time to time may be required." We supposed of course that in the administration of the Department experience might be acquired which would lead to requiring reports different from those which we would anticipate in this bill. If the Senator desires the amendment, I shall not press opposition to it.

The amendment was rejected.

Mr. WILSON. I propose to strike out the word "Treasury," in the third line of the first section, and to insert "War," and to make the corresponding change every where throughout the bill; and I will very briefly state the reasons why I think this change ought to be made.

The bill, as it came from the House of Representatives, placed the care of the freedmen under the War Department, and placed this bureau in the War Department. I have listened to what has been said here in favor of changing it to the Treasury Department, and I have read on both sides whatever I could find which would throw light upon that subject, and I must say that every moment's reflection satisfies me that this bureau ought to be in the War Department. Every amendment which has been made to the bill goes to show that the bureau belongs properly to the War Department. The amendment proposed by the Senator from Wisconsin, [Mr. DOOLITTLE,] and sustained by the general sentiment of the Senate, I think especially shows that this bureau ought to be in the War Department.

In the first place, the Treasury Department has no power in all this region of country except what it borrows. The Treasury Department has no power in the rebel States except what it gets from the Army and the Navy, and whatever has been done with the freedmen by the Treasury Department has been done with the leave of the War and Navy Departments. The Treasury Department has no power to use a soldier to fire a shot to protect or defend these freedmen, unless by the leave of the War Department or the officers serving under the authority of that Department. This bill is to operate in States in rebellion, which, so far as we govern them, are governed by the Army and by military law. Wherever our armies go, the freedmen follow the flag. They do not gather around the Treasury Department agents; they do not flock to those agents for protection. They gather around the flag of the country and the Army and Navy of the country for protection, and this is the only protection they have been able to find heretofore in this war, and it is the only protection they will find during the war. In the rebel States the military power is the only power that has any authority or respect from any quarter. It is a fact, as I am informed by General Thomas, the Adjutant General, who has been weeks and months up and down the Mississippi river, in Kentucky, in Tennessee, in Arkansas, in Mississippi, in Louisiana, who knows all about this subject, that the only protection the freedmen have is that which they derive from the military power, and that all the efforts of the Treasury Department have failed, and the very persons who have been under the charge of the Treasury agents are coming and begging for the protection of the military power.

The Army is needed to protect the freedmen while at work upon the plantations, and the Army is of course under the direction and guidance of the War Department. If another and independent organization exists to lease plantations and control the freedmen, an organization not connected with the Army, not under its protection and control, the result will be that men will be gathered together, will undertake the employments of industry, and then all at once your armies move off, and the men are left to the mercy of the guerrillas or the armed bands of the enemy. No man can deny the correctness of this, and General Thomas tells me that it is indispensable to the success and the protection of the freedmen that this bureau should be in the War Department, and I have met no man who I think understands this question so well as he does, and no man whose heart is more earnestly in the work.

Then there is another thing to be considered. The War Department can conduct this business with a great deal less expense than the Treasury Department. The War Department has its commissaries, its quartermasters, its means of support; and wherever the Army goes these persons

flock to the Army for support and for protection. The Senator from Wisconsin [Mr. HOWE] told us that the Secretary of the Treasury had the care of these plantations, but he could not find that he had the care of many freedmen. Certainly he has none; and why have not the freedmen rushed to Mr. Chase's plantations and gathered around Mr. Chase's agents? Because those agents have no power to protect them and cannot protect them, and cannot even feed them. They went to the Army in the first place because the Army had the power to protect them. They went to the Army in the next place because the Army had the means to feed them and clothe them, and the Army can feed and clothe them much cheaper than these new agents can do.

I say, therefore, that as a matter of protection to these colored people, I deem it indispensable that this bureau shall be in the War Department, and as a matter of economy on the part of the Government I think the argument is all in favor of putting the bureau in the War Department, that has all the organized machinery to carry it on. I do not know a single consideration in favor of putting it in the Treasury Department, except that it is said that the Treasury Department would like to have it. That I do not understand to be a reason why it should go there. We are told that the Treasury Department has charge of the lands. That is true, but those lands are under the control of law and under the direction of Congress, and to-day the freedmen who are cultivating those lands are there by the consent of the War Department, and are protected by the War Department; and wherever such is not the case, except on some of the islands on the coast of South Carolina, the thing is an utter failure, and I fear it will be a failure in this case.

I have moved this amendment because in my judgment it is better in every aspect in which the case can be viewed that this bureau should be in the War Department, because the War Department controls the armies; the rebel States are divided into military departments, and all the law we administer there is military law, and all the government we exercise over them is military government. Why we should take these people who now flock to the Army and have gathered around it for protection and support, from under the control of the War Department, and put them under the control of speculating Treasury agents, is a thing I cannot comprehend.

Mr. SUMNER. I do not like to take up time, but the Senate will pardon me if I utter one or two words in reply. So far as concerns the accusation brought by my colleague against the Treasury Department, that all its efforts in connection with the plantations have been a failure, I shall content myself with reading a sentence or two from a letter addressed to the Senator from Minnesota, [Mr. RAMSEY.] It is written by an agent at Newbern, in North Carolina. It is as follows:

"Some three weeks since I reported to Mr. Chase that I had \$80,000 ready to pay over for the benefit of the troops. I can now report that I can command \$100,000 for this purpose, all collected and saved through the machinery of our agency. If the policy and plans already adopted in relation to the plantations referred to are not interrupted, the result next fall will be of the most gratifying character. Let me earnestly ask that these facts may be fully considered by Senators in due season."

I will not discuss further the accusation of failure on the part of the Treasury Department. As I have said, I am reluctant to say anything. I have already more than once in this debate argued the question in which Department this bureau should be placed; I have stated that I began the inquiry fully as strongly inclined as my colleague now appears to be in favor of the War Department. I was impressed by the other arguments which he has now put forth, and until I had carefully examined the question I was not able to answer those arguments; but just in proportion as I made myself familiar with it, I saw that those arguments were very easily answered. Sir, unless you wish to make this bill a torch of discord, you must place the care of the freedmen in the Treasury Department or you must go still further and take from the Treasury Department the care of the abandoned plantations. If my colleague would couple with his motion the further proposition that the care of the abandoned plantations should also be transferred to the War Department, I should have no objection. My

object in all that I have done in this matter has been practical utility. That I feel would be sacrificed to a name if the motion of my colleague were adopted. Sir, there could be no practical utility from this bill if you place the care of the freedmen in the one Department and the care of the plantations in the other. By the logic of the case, by the humanity of the case, by the common sense of the case, those two must be placed in the same Department unless you wish in advance to sow discord and strife not only between the two Departments, but between the several local agents of each respectively.

I, sir, am not alone in these views. All those who have had occasion to consider the subject carefully and practically, whatever may have been their impression at the beginning, have been conducted to the same precise result. There is one cardinal principle which must be followed in determining where this bureau shall be lodged. You cannot depart from it without sacrificing the whole case. It is simply this: the care of the abandoned plantations and the care of the freedmen must go together; they cannot be separated. As Congress by successive acts of legislation has placed the care of the abandoned plantations in the Treasury Department, it must logically now place the care of the freedmen in the same Department. Why, sir, only this morning you have passed a bill almost unanimously which continues in the Treasury Department the care of the abandoned plantations, and couples with it also to a certain extent the care of the freedmen. It is as follows:

"That in addition to the captured and abandoned property to be received, collected, and disposed of, as provided in said act, the said agents shall take charge of and lease, for periods not exceeding twelve months, the abandoned lands, houses, and tenements within the districts therein named, and shall also provide, in such leases or otherwise, for the employment and general welfare of all persons within the lines of national military occupation within said insurrectionary States formerly held as slaves, who are or shall become free."

Under that provision the Treasury Department will be confirmed still further in the care of the abandoned plantations, and it will also have associated with those plantations, as I have already said, to a certain extent the care of the freedmen; and yet it is proposed by my colleague by his amendment to transfer the care of the freedmen to the War Department. What then can the Secretary of the Treasury do for the freedmen; and, sir, if this bill becomes a law which has already passed this body to-day, I ask on the other side what can the Secretary of War do for the plantations? The Secretary of War cannot touch them, and yet he ought to be able to manage them in order to become the efficient benefactor of the freedmen.

My colleague dwelt on the power of the War Department, through its military agencies, as the natural protector of the freedmen. Sir, cannot the War Department, through those agencies, continue to exercise that protection? There is nothing in this bill to interfere with it; on the contrary, it is invited. Conferring the care and the superintendence upon the Treasury Department does not take from the War Department the duty or the power of protection.

Still further, I have already said on former occasions that if we look at the great body of freedmen we shall find that they are divided into two classes, those that may be called the military class, and the other those that may be called the predial class, the farm laborers. The military class, constituting perhaps one half at this moment, embracing those enlisted as soldiers or as laborers in the national forces, are naturally under the care of the War Department. They do not require the protection of this bill. But it is the other class that I have called the predial class or the farm laborers that require the protection of this bill, and that protection can be adequately afforded through the plantations. Whoever undertakes to protect them must be able to bring them in some way or other on to the plantations. Unless that can be done, nothing is done. I hope, therefore, the proposition of my colleague will not be adopted. I say frankly, that if it should be adopted I shall consider the bill worse than nothing. The bill that has already been passed by the Senate to-day will be far better than the bill as my colleague would make it, and I should be perfectly content with that if his proposition should prevail.

Mr. WILSON. My colleague says that the abandoned plantations and the freedmen ought to go together under the same Department. That may be true; but because we have put the plantations under the control of the Treasury Department I do not think it follows that we should put the freedmen under that Department. I think the freedmen ought to be put before the plantations. In the valley of the Mississippi the Treasury Department has signally failed and is failing to-day in protecting the plantations that have been leased and the freedmen that are upon them; and the persons who have rented estates are pleading and begging with the War Department for its protection. I admit that on the Atlantic coast, under the guns of our Army, the Treasury agents have been able to take care of a certain number of freedmen, and have been able to do it very well; but they could have done just as well even there if they had been agents of the War Department instead of the Treasury Department.

Now, sir, look at the condition of things. Our Army advances into Georgia, Mississippi, Alabama, and the freedmen gather around the Army, welcome the Army, rally around the flag, and we enlist the able-bodied men as soldiers, or use them in the quartermaster's department or as laborers; but then there are the old men and the women and the children, those incapable of laboring, who are to be disposed of, taken care of. Is the Treasury Department able to do it? Are its agents there able to do it? Must they not for weeks, perhaps months, be supported by the Army? No doubt of it.

I am of the opinion still, notwithstanding the views of my colleague to which I am accustomed to pay great deference on this as on other questions, that this bureau should be in the War Department. My colleague tells me that everybody who has examined this subject thinks otherwise. I think he must certainly be mistaken about that. I have seen letters from some very clear-headed, practical, earnest men, maintaining the view which I have presented. I went to General Thomas, when he was recently here in Washington from the Southwest, and laid the matter before him. I went to him for information; I put the case before him, and asked him to give me information, and give me his opinion, which he did fully. I asked him on two subjects, one on the conduct of the colored men as soldiers, on which he wrote me a letter, and the other in regard to this bureau, and he expressed his opinion in the strongest manner in favor of putting this bureau in the War Department, and on the ground of the protection of the freedmen and economy to the Government.

Mr. SUMNER. My simple proposition was that the plantations and the freedmen must go together. I am perfectly willing that the freedmen should go to the War Department if my colleague will see that the other matter is placed there also. He must not consider me as opposed to the War Department; he must only consider me as bowing to the exigency of the case, bowing to its logic, to its reason. I have not followed my partialities or my prejudices, for those would have carried me with my colleague. I have simply hearkened to what seemed to me to be unanswerable reason. For instance, here are the words of General Banks:

"The assignment of the abandoned or forfeited plantations to one Department of the Government, and the protection and support of the emancipated people to another, is a fundamental error, productive of incalculable evils, and cannot be too soon or too thoroughly corrected."

Then the freedmen's commission, composed of Mr. Owen, Colonel McKay, and Dr. Howe, after reviewing some of the reasons bearing on this question, conclude:

"After the most thorough investigation, I am authorized in saying that this is the deliberate judgment of the commission."

That was the cardinal idea which guided the committee in preparing the bill; and it was because they did not feel authorized to propose to the Senate to take from the Treasury Department the care of the abandoned plantations that they felt it their duty to propose to place the care of the freedmen in that Department.

Mr. WILSON. I have made this motion and stated my reasons for it, and my judgment is not convinced by anything my colleague has said; but I have this feeling: this subject has been committed to him, he has examined it; he has brought forth this bill; he strenuously maintains this po-

sition. I think it an error; I do not believe in the position. I believe it would be better to have the freedmen under the War Department and have the lands there too.

Mr. SUMNER. Very well.

Mr. WILSON. But there seems to be a difficulty in bringing that about at this moment. I do not wish to take the responsibility of giving a turn to this bill contrary to the wishes of my colleague, who has had the direction of it; and having stated my judgment and opinion, and they remain unchanged, I withdraw my amendment.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the select committee on slavery and freedmen, as it has been amended.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. SUMNER. I wish to except to two of the amendments to the amendment made in committee.

The PRESIDENT *pro tempore*. The Chair will state that but one amendment comes up for concurrence, and that is the amendment of the committee as amended, a substitute for the original bill. The Senator can move to amend that amendment before it is concurred in.

Mr. SUMNER. Then I move to amend the amendment by striking out in line eight of section two the words "the President of the United States, by and with the advice and consent of the Senate," and inserting "the Secretary of the Treasury." That was the original form of the bill. My objection is in the first place that it causes at once a discord between this bill and the bill which the Senate has passed to-day relating to abandoned property and plantations. In that bill the Secretary of the Treasury is authorized to appoint agents who are to enter into possession of the abandoned lands, houses, and tenements, and to proceed also to find, as far as practicable, employment for the freedmen. I was aware of that bill while this was pending, and one or two amendments which I introduced into this bill were to bring it completely into harmony with that, so that the two bills should work together. But the proposition which was moved by the Senator from Iowa, and which I now propose to amend, causes a discord. If the Senator from Iowa will look at it, he will see that the very service which by the bill now under consideration is to be performed by an assistant commissioner to be appointed by the President by and with the advice and consent of the Senate, under the other bill may be performed by an agent who receives his appointment from the Secretary of the Treasury alone. I wish to bring the two bills into harmony. That is my single object. But for that I should not make the proposition. The Senator from Iowa will remember that I did not oppose his amendment when he offered it yesterday; but now that the Senate has passed the other bill, in order that both of them may work well, that each may perform its function properly and without any discord between the two, I ask that my bill shall be brought back to its original character by striking out the words introduced on the motion of the Senator from Iowa and inserting "the Secretary of the Treasury."

Mr. GRIMES. If there was anything that could astonish me more than the original proposition in this bill authorizing the appointment of these officers at the mere *ipse dixit* of the Secretary of the Treasury, it would be the suggestion of the Senator from Massachusetts, after the subject has been thoroughly discussed and a conclusion arrived at by the Senate, to restore the provision as it was originally in the bill. What are these commissioners? As the bill now stands, two of these commissioners are to be appointed for each State. As an example, take the States of Mississippi and Louisiana. Each of those States is to be divided into two departments; each commissioner will probably have the superintendence of two or three hundred thousand colored men. They are to have, each of them, the superintendence and charge of the renting, the disposing, the leasing, the receipt of the rents for one half of all the plantations within the State. Millions of dollars probably in a year will pass through their hands. And yet it is proposed to

us by the Senator from Massachusetts that we shall not direct these commissioners to be appointed, as in ordinary cases, by the President of the United States and to be confirmed by the Senate of the United States, but that they shall be appointed by the Secretary of the Treasury, and be mere tenants at his will. I am unwilling to confer any such power as that on any Secretary, or upon the President of the United States himself, without there being the constitutional check upon him of a confirmation by the Senate of the United States. What are we here for but to give our advice and consent to the appointment and confirmation of such responsible officers as these? We have declared here this session that every acting master in the Navy, to whom you pay the small sum of \$1,000 a year, shall be appointed by the President and sent here to be confirmed by us, men who are merely required to perform watch duty on the decks of your men-of-war, through whose hands not one dollar of money is to pass, to whom is confided no such great trusts as are confided by the provision of this bill to your commissioners. The names of such men as these, by the action of the Senate and doubtless by the vote of the Senator from Massachusetts, are required to be sent to the Senate for our advice and approval; and yet it is seriously proposed that these commissioners, who are to have the control of hundreds of thousands of human beings, of whose character for humanity and discretion and wisdom we know nothing and can know nothing, who are to have the control of hundreds of thousands and doubtless millions of property in the course of a year, are not to be sent to the Senate for us to advise and consent to their confirmation. We are not to be permitted to know anything in regard to their character; they are to hold their offices not by any regular tenure of office, but to be appointed by the Secretary of the Treasury, and to hold during his good will and pleasure.

Mr. President, I confess to the Senator from Massachusetts that I have been anxious to vote for his bill. I told him at the beginning of the consideration of it that several amendments must be made to it before I would vote for it, and this is one of the amendments that must be made before I will vote for it. I never will consent, so long as I occupy a seat in this body, to agree to place in the hands of any officer of the Government, I care not where he is—I have as much respect for the Secretary of the Treasury as any man has, but I never will consent to place in the hands of any Government officer the overwhelming power that is being placed in the hands of this public officer by the proposition of the Senator from Massachusetts. I want to know the character of these men. I want to know the character they have maintained hitherto. I want to know whether they are humane men, whether they are Christian men, whether they are honest men and will do their duty to the men, women, and children who are committed to their charge, and if the Senator's proposition is adopted I unhesitatingly say that I will vote against the bill.

Mr. SUMNER. I hope the amendment will be adopted, though I shall regret very much to lose the Senator's vote.

The amendment to the amendment was rejected.

Mr. SUMNER. I move now another amendment. I move to strike out the proposition which was moved by the Senator from West Virginia. It is in the following words:

And be it further enacted, That whenever the said Commissioner cannot find abandoned real estate on which to employ all of the freedmen who may come under his care and control by virtue of this act, it shall be his duty, so far as may be practicable, to provide for them homes and employment with humane and suitable persons at fair and just compensation for their services; and that in order the more effectually to accomplish this purpose the said Commissioner shall open a correspondence with the Governors and the various municipal authorities of the different States requesting their cooperation in this behalf.

Instead of moving to strike out, I will send to the Chair a substitute, to strike out all after the word "that," and insert:

Whenever there is no abandoned real estate on which to employ the freedmen, it shall be the duty of the assistant commissioners and local superintendents, so far as may be practicable, to aid the freedmen in obtaining homes and employment with humane and suitable persons at a fair and just compensation for their services.

Mr. WILLEY. That amendment, as I understand it, proposes to confine its operation simply

to the insurrectionary States. If that be the correct understanding of its operation it amounts to nothing at all, as the bill itself will amount to nothing at all. Allow me to suggest to Senators that if the bill is to have any practical effect whatever it will be in the provisions contained in the amendment which I had the honor to offer and which the Senate some time ago adopted. You cannot find any place in the insurrectionary States where these assistant commissioners can put these freedmen where they can remain safely and work a plantation for one year unless they are protected by a large military force. There is not a section of the country of any considerable extent anywhere in the insurrectionary States where the freedmen would be allowed to remain long enough to raise a crop without being destroyed by guerrillas, by those roving bands of ruffians who are ready for blood and plunder wherever they can find an opportunity of indulging their propensity in that behalf, and who are especially exasperated against these freedmen and would take special pains to destroy them. The result then of the amendment of the Senator from Massachusetts, if it should be adopted, as I humbly conceive, would be to strike from the bill the only practical provision in it that can affect these freedmen for any benevolent or judicious purpose.

Mr. President, allow me to say that the practical result of this bill without my amendment will be to organize a corps of well-paid office-holders who dare not go into the districts in which it is proposed that they shall operate, to have them paid at the expense of the United States for remaining at home, and to have them paid for duties which they dare not and cannot execute. I beg Senators to reflect a moment and ask themselves the question where, at this time, there is a plantation within the whole scope of the insurrectionary territory of the United States on which it would be wise or expedient or possible to place any number of these freedmen, and to keep them there for six months? Where is the section or territory in which it can be done? If there be any such I do not know it. Perhaps in the vicinity of our forts and a little distance from them, where they are under the protection and under the eye of the military authorities, this can be done; but yet we have reports almost daily that bands of guerrillas seize these men and murder them or carry them off to a worse slavery than they have ever endured.

But here is a proposition that has something practical in it, that has something benevolent in it, that will take these freedmen from the miserable condition in which they are now placed, that will secure them homes where no such danger exists, that will secure them homes where they are not under the arbitrary control of these commissioners and assistant commissioners, but where they are under the protection of the laws and courts, where they are in the midst of a benevolent community who will see that they suffer no wrong, where they are in the reach of our judicial tribunals and the executive officers of the law to protect them in their rights and redress their grievances. All that my amendment proposes is that these freedmen shall, with the assent of the people of the free States and under the direction and with the approbation of these commissioners, have homes provided for them in those States, nothing more. There is nothing compulsory in it. It is provided that it shall only be done where it is practicable and so far as it is practicable. If the laws of any State prohibit the introduction of free negroes, then it is impracticable and my amendment does not apply. If the people do not want them in any of the free States then my amendment does not apply, for it is not practical except by the consent of the parties who wish to employ them.

I ask Senators, then, whether they are willing to mutilate the only practical and beneficial provision that there is in the bill under existing circumstances, by striking from it the part of it that would render the remaining portion utterly nugatory. If we sincerely desire, as I do and as I trust every Senator does, to be good to these freedmen, really to provide homes for them, really to advance their condition, really to do a good act toward them, I beg the Senate not to strike out this provision; for it does seem to me that it is the only practical provision in the whole bill that will operate for their good under existing

circumstances. If it be the pleasure of the Senate to strike it out and let the bill be without any practical effect, so be it. The result, I assure Senators, will be simply to create a corps of well-paid officers and impose them upon the finances of the country, without any other practical effect than that. I think this is not a time when we can afford the money to do it.

Mr. WILSON. I have no doubt the Senator from West Virginia makes this proposition in good faith and for the good of the freedmen; but I think there is this error in it; he proposes not only to empower these commissioners to secure employment for these freedmen at a fair compensation, which is all very well, but that they shall open a correspondence with the Governors of States and the municipal authorities of the States on the subject. I think if that provision remains in the bill it is liable to be misrepresented throughout the country. Suppose an application is made by these officers to the Governor of some State, and that Governor gives consent or makes any arrangement; then there will be fault-finding, misrepresentation, and denunciation. Suppose he declines to do it; then another class of men will denounce him for it. It seems to me that this opening of a correspondence with the official authorities for the employment of these freedmen will have a tendency to weaken the bill before the country, to weaken the workings of the measure, and to weaken the Government. It is liable to misrepresentation throughout the country, and therefore I hope it will not remain in the bill in that form.

The first half of the amendment, it seems to me, has no harm in it, and may do a great deal of good. Under it a great many persons, farmers, mechanics, business men, persons wishing to obtain the services of these freedmen, may apply to the commissioners for their services, and they can make such arrangements as they please. I am willing that that provision shall go on the bill, giving the commissioners power to make such an arrangement with any persons, and then leave it free to those persons to apply to them for the services of the freedmen. But to open this correspondence with the Governors of the States, and with the municipal authorities of cities and towns, will, in my judgment, have a bad influence in the country, and I do not think it will tend to secure the employment of these persons. If the Senator would abandon the latter half of his measure, and stand upon the first part of it, I certainly would not object to it; but in the form in which it now is, it seems to me it subjects this whole policy to the carping misrepresentation of a class of men in this country who seem to think they elevate themselves by treading upon an oppressed race.

Mr. BROWN. Mr. President, it seems to me that this bill must stand or fall upon its own merits, and it will not be affected one way or the other by the carping misrepresentations to which the Senator alludes. I confess that the amendment which has been placed upon the bill by the Senator from West Virginia strikes me as being one of the most beneficial that has yet been added to it. I think it will do more to give unity and direction to the sentiment of the country in regard to the improvement and, so to speak, the dispersion of this labor in those localities where it is most needed, where it can be most serviceable, than any other feature of the bill.

So far as the mere correspondence is concerned, I do not see very well how those who are in charge of these persons are to understand where they can get homes for them, or obtain the information in regard to where their labor will be most in demand, unless they do it by correspondence; and they have got to do it either by correspondence with unofficial persons, with persons of whom they can have no specific knowledge, or else with those who are interested directly in assisting the development of the labor of their respective communities. The amendment of the Senator from West Virginia does not confine this correspondence to the Governors of States and the municipal authorities, but all those throughout the land who may be desirous of getting labor of this kind, or of assisting in this work, are invited to come forward and let it be known. I believe the Senator from Massachusetts has been as solicitous as any other Senator on this floor to obtain the assistance of these freedmen in one department of the service, that is, the military department of the

service, and that not alone for the United States but for the State of Massachusetts, and not alone for the State of Massachusetts but for the various localities that have to fill up their quota under the draft. If that system applies as regards furnishing them for the military service, why should it not be extended to filling up the ranks of industry in other walks of life? I trust that nothing that has been said in regard to the mere correspondence which may be preliminary to finding homes for these people will be suffered to interfere with or to prejudice the amendment which has already been adopted.

Mr. BUCKALEW. I believe this motion to strike out and insert is not divisible.

The PRESIDENT *pro tempore*. It is not.

Mr. BUCKALEW. I desire to inquire if this motion fails whether it would be in order then to make a motion simply to strike out the same amendment.

The PRESIDENT *pro tempore*. The Chair is of opinion that it would be.

Mr. POMEROY. I believe the amendment moved by the Senator from West Virginia is moved with the very best of intentions, and has, apparently, a very benevolent aim; and yet I doubt very much the propriety or the policy of putting into this bill a provision that the commissioners who are to be appointed under it shall open a correspondence with States and municipal authorities, who have not had anything to do with this question of the freedmen, to see if they cannot find places and employment for them. I think it goes on a wrong supposition altogether. I do not think that these people, when freed, are in our hands, or in the hands of any commissioner, or in the hands of anybody, to be controlled or bargained for. This control that is to be put over them by this Freedmen's Bureau bill should be as light as possible. Many of them, most of them, probably, can take care of themselves, and the less we do with them the better. I do not propose to inaugurate a system here that shall be thrown over the land like a net, and gather up these freedmen and take the guardianship of them. I take it, when they are free, they are men like us, and they have just about as much right to come and take us into custody and see if there is not somebody that will give us places, as we have to take them in charge and open a correspondence to find them places.

There are some, I admit, who while they are undergoing this process from slavery to freedom should have some guardianship. There are some who are very aged; others who are degraded and ignorant. I think there is a necessity for this bill to some extent, but we should make it as little and as light as possible and get out of it as quick as we can. If we are to exchange slavery in this country for a sort of guardianship established by law to be perpetuated year after year, then I am sick of it. I do not propose to do any such thing. I look upon this only as a temporary arrangement for a year or two till these people can take care of themselves; and the less we legislate, the less we put into this bill about providing for them and taking care of them in the future, I think the better—the better it will suit me at any rate. I want as little correspondence with States where there are prejudices against them as possible. If this Commissioner was to open a correspondence with the Governor of almost any State in the Union proposing to find places for them in that State, although the Governor might be in favor of it, yet there is always a political party to make a fuss about it, and it will become an unpopular thing. I do not believe that West Virginia would allow them within her limits. I know that Illinois, Indiana, and most of the northwestern States would be entirely opposed to it. I do not believe the thing ought to be shadowed forth in the law. It should not look as if we intended to take these people into our custody and provide for them as if they were children and wards. The great majority of them should never be touched. The great majority of them can take care of themselves, and have always taken care of themselves and their masters too, and this system should only be applied to the few unfortunate ones who may be ignorant, degraded, or aged.

Mr. WILLEY. I must say that I concur in most of what the honorable Senator from Kansas has said. I myself, as the Senate will remember, objected to this bill because it was throw-

ing a control over these freedmen which I did not consider justifiable or right; but that is the principle of the bill. The bill itself, without this provision in it, contains the very objectionable feature mentioned by the honorable Senator from Kansas. It does assume a guardianship and a very great control over these freedmen. They cannot, under the provisions of this bill, make a contract without the assent of these commissioners, and in various respects by the provisions of the bill independent of the section which I have offered they are placed under the control, direction, care, supervision, and management of these commissioners and assistant commissioners. The fundamental principle of the bill is one of control over these freedmen. Although I object to that principle, and object to the bill on that ground, yet the amendment which I have offered, and which the Senate adopted, was in strict conformity with the spirit and principles of the bill, and it was designed to carry out the bill in its spirit and fundamental principle, as I thought, in a manner more beneficial than any other provision of the bill.

The Senator from Kansas misinterprets the effect of that portion of the amendment which it is proposed to strike out. It does not propose that the freedman shall, without his consent, be carried into a free State, or be placed in the management of any individual anywhere. It simply proposes to ascertain where there may be homes and employment found for the freedman which, with his consent, he may be provided with, and through the aid and influence of these commissioners may be secured in the enjoyment of a home and employment, all with his own free consent and under the same provisions of control only that are contained in the other portions of the bill. Let it be understood that it is no part of the proper effect of this amendment, nor of my design in offering it, to impose any more constraint over the person, the labor, or the rights and liberties of the freedman than the other provisions of the bill inevitably exert over him. It is simply to carry out the design of the bill under the machinery provided in other parts of it so as to secure him a better home and better wages in a community where he will receive better treatment and be better protected by the laws than he can be upon the abandoned plantations of the South.

I put it to every Senator here candidly to say whether, if it be so that these freedmen can have homes thus provided for them and can have employment thus provided for them in the free States, under the protection of law, in communities where they will thus be placed, thus secured by the law and by the spirit of the community in which they live, it would not be better for them than to find them employment on these plantations where they will be subject to the attacks of guerrillas, to the arbitrary control of these assistant commissioners, where there is no law to protect them, where there is no public sentiment to protect them, but a public sentiment bitter and persecuting existing against them, that will seize all occasions and pretexts and opportunities to embarrass them. That is just the view of the case; and this being the fact, which I think cannot be denied, that such homes as I propose to find for them would be better for the freedmen, and their security of life and property and liberty would be more certainly secured to them, I ask the honorable Senators from Massachusetts why it is, under this state of facts, that they object to this section of the bill. I ask, if it be better for the freedmen that they should thus find homes and employment in the North, why do those Senators object to the operation of this section, and to its remaining in the bill?

Our common design is to benefit the freedmen. Our common design is to secure them the best employment and the best wages. Our common design is to secure to them that position that will elevate them more speedily and readily to a proper platform, where they will be, in point of fact, more equal before the law. I put it to every honorable Senator to say whether a position on the farms or in the shops of the North, under the protection and shadow of law and surrounded by such a community as live there, would not be better for them than to leave them loose under the arbitrary control and will of these Commissioners in the South, surrounded by prejudices and passions, and liable to the incursions of guerrillas and dangers of all kinds? If so, is it not inconsistent

that objection should be interposed to prevent the greater benefit to these freedmen that this section will most certainly secure to them?

Mr. CONNESS. I examined this amendment when it was first offered, and there occurred to my mind some serious objections to it. If I was right in the cursory examination that I gave it, it proposes a correspondence with the Governors of the free States with the view of providing homes for the freedmen in those States. My first objection to it is that we have sufficient excitement, we have sufficient discussion, we have sufficient of the subject of negro slavery and the freedom of negroes, as the matter now stands, without enlarging the area of that excitement and increasing it by attempting a special correspondence and discussion with the Executives of all the States on the subject. How will it be with the State of Illinois? Can there be an issue made there, where they do not wish free negroes in their State and the law prohibits them?

Mr. WILLEY. With the leave of the honorable Senator, it does seem to me that the effect of this section is, I was going to say persistently, misunderstood. It only proposes to find homes for these freedmen where it is practicable, and so far as it may be practicable. Where the constitution or the laws of the States prohibit the introduction of this class of population, it is not practicable, and therefore the section does not apply.

Mr. CONNESS. That was my impression of it exactly. How can you know where it is practicable to find homes for them without an inquiry to that end? It is that very inquiry that seems objectionable to me. Why shall the negroes be deported or changed from the southern States, where they were born and bred, where their labor has heretofore been expended, where they are, if you please, acclimated? Why shall we institute a system by a provision of law providing for such deportation or change, or instituting inquiries to that end?

Mr. BROWN. Will the Senator permit me to interrupt him for a moment?

Mr. CONNESS. Certainly.

Mr. BROWN. I will call the attention of the Senator to the fact that the amendment is predicated, and so states, upon the idea that it is only where employment cannot be found for them and suitable provision made for them in their present localities, that the commissioners are to open this correspondence with a view of finding them employment elsewhere.

Mr. CONNESS. I so understand it, and it is implied by that very predication that homes and employment cannot be found for them in the southern States. Is that true? I take it it is not true. I think the whole amendment is based upon this idea, which is entirely repugnant and objectionable to me, the common expression we so frequently hear, "Now that you have freed these negroes, take some of them to your own homes and take care of them; take them to your own States; take them to your own doors, and see how you like them;" and the advocates of the system of negro slavery go so far as to say, "Take them to your own parlors, take them into your families, take them to your beds." I do not think that this class of expressions even deserves a response or a reply; but it is a sentiment that prevails very widely. Men who have been educated in accordance with the system of human slavery feel themselves at once attacked and agitated when you talk of freeing slaves. In many instances, gentlemen who have freed their own slaves feel that they have a right to do as they please, they have a right to free their slaves, and they have a special right to discuss the question of slavery in all its forms, but they do not concede as free a right in such discussion to us who were not educated in slavery or with it. They think they understand it all, and that no other persons can understand it as well as they; and when we enter upon the discussion of the question now so deeply affecting our nation's interests, indeed vitally affecting them, we are very generally responded to by being told, "You are trenching upon our proper sphere and ground; you are without your proper bounds;" and we are told within and without the Senate, "Take these people to your States, take them to your homes, take them to your firesides." We are now asked in this amendment to pass a law by

which we shall say to the Governors of the States, "How many of these people can you take?" I object to the very groundwork of the amendment. I object to the basis upon which it is placed and predicated. I object to the incorporation of such an amendment into this bill, and I hope Senators will not so vote.

It is not surprising that my honorable friend from Missouri should differ widely from me upon a proposition of this kind or any other, but I thought when I read it that he had taken a mistaken view of it, or did not clearly understand the basis upon which it was predicated. I say the implication that homes cannot be found for these men who are able to work and labor in the States where they were born and bred is not true, cannot be true. If indeed pending a condition of war many of those persons shall be found without employment, is it any wonder? Shall they not bear their part of the burden? Shall they not make their partial sacrifices pending this war? Shall we undertake to deport them to other States pending war? Why, sir, it is a proposition very near akin to the system we entered upon at the beginning of this war, or soon after it, of deporting the negroes to other countries and climes. I hope the amendment will not be adopted for the reasons I have stated.

Mr. BROWN. I desire to say, sir, that I do not entertain the antipathy which the Senator from California seems to feel to the presence of this class of persons among us.

Mr. CONNESS. The Senator will permit me right here to say that I think I have said nothing from which he could deduce the existence of any such antipathy.

Mr. BROWN. Well, I misunderstood you. Mr. CONNESS. I wish then to be clearly understood, with the Senator's permission.

Mr. BROWN. Then I will correct myself by saying I have none of the antipathy which the Senator from California seems to think other people have to having these persons among them.

Mr. CONNESS. That will do. I did not attribute any to the Senator.

Mr. BROWN. For my own part I have seen them performing labor all my life, and my objection has been, not to them or their labor, but to the institution of slavery. It is that that I have been fighting, and not the negroes.

Now, sir, I will state that, so far as my own experience goes, the demand is very great in large sections of our country for labor; there are hundreds and thousands of persons who would be glad to give homes to these freedmen, and there are hundreds of localities in which their labor would be far more serviceable than congregated as they are upon the very narrow strip of land that is held by us on the banks of the Mississippi. There is scarcely a steamboat that comes from the lower Mississippi and lands in my own city that does not bring up hundreds of these freedmen. They are congregated there, and there is a demand for them, not only in my own State and in my own city and county, but in the neighboring States along the Mississippi river. I think that that dispersion should be encouraged. I am certainly sure that in cases such as are contemplated in this bill, cases of suffering, cases where there is no ample provision made for their sustenance or labor, where there is such an accumulation and redundancy of them that they must either suffer or be dispersed into more favorable localities, it is wise and well for us to assist and facilitate them in seeking and procuring homes.

I do not apprehend much danger from this clamor that has been spoken of; but if it is to come, let us meet that clamor as we have met every other clamor on this subject; let us meet it and face it and fight it out and fight it down, and I think the country will be the better for it, and we shall be the better for it.

Mr. HICKS. I do not desire to prolong this discussion. I wish only to say a word or two upon it.

Mr. President, I am opposed to this whole measure. If we propose to free the slaves of the country, let them be free indeed. I, for one, am unwilling that my slaves when freed shall become the slaves of others. As my friend from West Virginia has very well said, the commissioners and assistant commissioners to be appointed under this bill will be, in fact, nothing but overseers and slave-drivers, and the result will be that the

negroes will be as much slaves under this arrangement as they are now. I suppose none of us of the South will be considered as qualified to act on such a subject, and so we shall have gentlemen from the North to act as commissioners. My experience goes to show, and I have had not a little experience in that way, that the hardest slave-drivers we have ever had in the slave States have been northern men—men who have come from the free States and married women owning a number of slaves. I know that to be the case. Therefore, if we have to turn our slaves loose—and I pray God it may be done at the very earliest possible moment; I love my Government more than I do slavery—if they are to become freedmen, let them be free men in fact as well as in name.

Senators seem to suppose that these people are not capable of taking care of themselves. We have, as I said the other day, a larger population of free colored people in the county from which I come than any county in Maryland. The city of Baltimore has a larger population of them. We have as many industrious, honest, worthy colored people as are to be found anywhere. There are none of them who will labor who cannot make a comfortable living, who are not serviceable not only to themselves and their families but to those who employ and hire labor. Many of them are in a vast deal better condition than a very considerable portion of our white people.

But, sir, no regard seems to be paid now to any other than the colored race. Where is the difference in allowing these people to remain as they are, where they were born and raised, where all their early attachments and the attachments that have grown up with them exist, and putting them under the new overseers and drivers proposed by this bill? I wish it to be distinctly understood that I do not want them to remain in their present condition. I disclaim all feeling of that sort. I am as decidedly in favor of emancipation as any Senator on this floor. But, sir, it is now proposed to take our slaves away from us and put them upon plantations under the management of cruel drivers; and yet the poor creatures are said to be free! I do not think that will be a beneficial change; I cannot see any reason for pursuing such a course; and therefore I am opposed to the whole thing. Let these people be made free; I am in favor of that; and if they strive to do so they can live just as well in the places around which all their native attachments cluster, and where they desire to remain, as they can any where else. Rent out your desolated farms if you choose to do so, and let the men who take them pay the rent and employ and pay for the labor necessary to the carrying on of their farming operations.

Sir, I believe that by this measure you are really taking these people out of the frying-pan and putting them into the fire. I think the whole thing wrong, and I shall vote for no bill of the sort. I am for freeing these people entirely, and teaching them to rely upon their own resources for a livelihood. I know there are many worthless creatures among them, very poorly calculated to take care of themselves and their families; but let them learn; let us educate these people to labor and to take care of themselves. There are many of them who are sensible enough to know that by their own conduct and their own course they are to gain reputation. There seems to be a disposition, however, among Senators who claim to be the special guardians of these people to put them again under drivers just as they are now; and yet they talk about the equality of the races, and claim to be the particular friends of the colored race! Many of the free States, by enactments of their Legislatures, have refused to allow people of color to come into their States. I maintain that these gentlemen have no right to take our slaves away, or, when we make them free, put them upon farms and use them probably with much more severity than their masters used them when they were slaves. I think the whole thing is wrong, and I shall vote against the whole of it.

The PRESIDENT *pro tempore*. The question is on the amendment submitted by the Senator from Massachusetts.

Mr. SUMNER. I propose to withdraw the amendment which I submitted, and ask that a direct vote may be taken on the proposition of the Senator from West Virginia, and on that I shall content myself with one remark.

The Senator insisted that his amendment was to carry out the object of the bill. I would not say anything except respectfully and kindly of the Senator, but I cannot recognize him as an interpreter of the object of the bill. There are those on this side of the Chamber who might better perform that office. I do not recognize his amendment as carrying out the object of the bill. I think its introduction into the bill will be mischievous. I do not mean to suggest that the Senator offers it with any such purpose, but we all know that the Senator did not begin this discussion in any friendly spirit toward the bill. He may have changed now; but I am sure that this proposition if adopted will do the bill no good. I hope it will be rejected.

The PRESIDENT *pro tempore*. The Senator from Massachusetts modifies his amendment, so that the question now is simply on striking out the words indicated.

Mr. SUMNER. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ANTHONY. I should like to have the amendment reported.

The Secretary read the words proposed to be stricken out, as follows:

And be it further enacted, That whenever the said Commissioner cannot find abandoned real estate on which to employ all of the freedmen that may come under his care and control by virtue of this act, it shall be his duty, so far as may be practicable, to provide for them homes and employment with humane and suitable persons at fair and just compensation; and that in order the more effectually to accomplish this purpose the said Commissioner shall open a correspondence with the Governors and the various municipal authorities of the different States requesting their cooperation in this behalf.

Mr. ANTHONY. The motion I understand is to strike out those words?

The PRESIDENT *pro tempore*. They were inserted in Committee of the Whole and now stand in the bill, and the question is on striking them out in the Senate.

Mr. WILLEY. If it be at all more acceptable to Senators on the other side, I have no objection to modify the section in the latter part of it, so as to make it read as follows:

And that in order the more effectually to accomplish this purpose the said Commissioner shall open a correspondence with such persons and municipal authorities in the different States as will most cordially cooperate with him in this behalf, requesting their assistance.

I have no objection to modify it in that form. Mr. SAULSBURY. Is it competent for the Senator so to modify the amendment if there is an objection to that modification?

The PRESIDENT *pro tempore*. It is not competent for the Senator from West Virginia or the Senator from Delaware to modify the amendment of the Senator from Massachusetts.

Mr. SAULSBURY. The Senator from Delaware does not wish any modification. The Senator from Delaware simply rose to ask whether the Senator from West Virginia could modify an amendment which has been adopted by the Senate, without unanimous consent.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts to strike out a portion of the amendment which has been adopted in Committee of the Whole, and that is competent and proper.

Mr. SAULSBURY. I hope the Senate will not adopt that amendment. The amendment adopted in Committee of the Whole brought the direct issue before the American people whether the States not interested in slavery, but who have so persistently advocated the policy of slavery, were willing to receive into their midst this species of population, and the proposition to test their sincerity was to be made by the highest official of their States. The amendment now suggested by the honorable Senator from West Virginia would lead to this result, that communication might be opened up with "such persons"—abolition societies perhaps—"and municipal authorities as will cordially cooperate in this behalf." I object to that because I want the question put directly to those who exercise power and who administer government in those States. I wish to know whether they will evidence the sincerity of their professions by, in their official character, agreeing to accept their proportion of this population, that they may live in their midst and enjoy the blessings of their philanthropy.

Mr. WILLEY. I suppose it would not be in

order for me now to offer this as an amendment to the amendment of the Senator from Massachusetts?

The PRESIDENT *pro tempore*. The Chair is of opinion that it would not be.

Mr. WILLEY. If the honorable Senator from Massachusetts will withdraw his proposition to amend by striking out the whole section, until it can be seen whether the Senate will incorporate this instead of a portion of what is proposed to be stricken out, I will offer it as an amendment.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from West Virginia that if the Senate refuse to strike out the section it will be in order for the Senator from West Virginia to move to amend by striking out and inserting something else.

Mr. WILLEY. Suppose they do strike out, would it then be in order to insert this amendment?

The PRESIDENT *pro tempore*. The Chair cannot decide that without seeing the amendment; probably it might be.

Mr. WILLEY. The amendment is to insert the words I have read.

The PRESIDENT *pro tempore*. The Senator might offer it as a new section.

Mr. HOWE. I suppose it is in order to move an amendment with a view to perfect a clause before the vote is taken on striking it out.

The PRESIDENT *pro tempore*. Simply for the perfection of the clause, not to strike out and insert something else.

Mr. HOWE. The motion is to strike out the whole clause.

The PRESIDENT *pro tempore*. That is the motion of the Senator from Massachusetts.

Mr. HOWE. And the motion of the Senator from West Virginia is to amend the clause which it is proposed to strike out. That motion is in order, I take it.

The PRESIDENT *pro tempore*. It is not now in order, being an amendment in the third degree. There are two amendments pending before the Senate. The bill itself on which the Senate is acting is an amendment.

The question being taken by yeas and nays, resulted—yeas 14, nays 14; as follows:

YEAS—Messrs. Buckalew, Chandler, Clark, Conness, Hendricks, Morgan, Morrill, Pomeroy, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—14.

NAYS—Messrs. Brown, Davis, Foot, Grimes, Harlan, Harris, Hicks, Johnson, Lane of Indiana, Powell, Ramsey, Sautsbury, Van Winkle, and Wiley—14.

ABSENT—Messrs. Anthony, Carlile, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foster, Hale, Harding, Henderson, Howard, Howe, Lane of Kansas, McDougall, Nesmith, Richardson, Riddle, Sherman, Sprague, and Wright—21.

So the amendment to the amendment was rejected.

Mr. JOHNSON. When this subject was before the Senate on a former day I opposed that portion of the bill which transfers the power which the bill professes to give, to the Treasury Department, being satisfied it ought to be in the War Department. I move therefore to amend the bill by striking out the word "Treasury" in the third line of the first section and substitute the word "War," and also the same amendment in the third line of the second section. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. CONNESS. I suppose the Senator means to strike out the word "Treasury" wherever it occurs.

Mr. JOHNSON. If this amendment should be adopted, that will follow, as a matter of course.

Mr. CONNESS. But it may all be included in the same motion.

Mr. JOHNSON. My amendment proposes to strike it out in two places.

The PRESIDENT *pro tempore*. The first question will be on striking out the word "Treasury" and inserting "War" in the first place named, the third line of the first section. If that should be adopted, the others will follow as a matter of course to make the bill conform to the action of the Senate.

The question being taken by yeas and nays, resulted—yeas 15, nays 20; as follows:

YEAS—Messrs. Buckalew, Carlile, Clark, Collamer, Cowan, Foot, Grimes, Hicks, Johnson, Lane of Indiana, McDougall, Morgan, Ten Eyck, Van Winkle, and Wiley—15.

NAYS—Messrs. Anthony, Brown, Chandler, Conness, Davis, Hale, Harlan, Harris, Howe, Pomeroy, Powell, Ram-

sey, Sautsbury, Sherman, Sprague, Sumner, Trumbull, Wade, Wilkinson, and Wilson—20.

ABSENT—Messrs. Dixon, Doolittle, Fessenden, Foster, Harding, Henderson, Hendricks, Howard, Lane of Kansas, Morrill, Nesmith, Richardson, Riddle, and Wright—14.

So the amendment to the amendment was rejected.

Mr. McDOUGALL. I desire to state that my design was to vote just the opposite of the way my vote is recorded. I suppose it is too late now to change it, the vote having been announced, but I wish it understood that my intention was to vote exactly the opposite way.

Mr. WILSON. I move to amend the amendment adopted on motion of the Senator from West Virginia, by striking out all after the word "services" in the following words:

And that in order the more effectually to accomplish this purpose, the said Commissioner shall open a correspondence with the Governors and the various municipal authorities of the different States, requesting their cooperation in this behalf.

I will simply say that the first portion of that amendment which has been sustained by two votes of the Senate authorizes the Commissioner to secure places of labor for these freedmen anywhere in the country where he can find them. The authority, therefore, is vested in him, and he may exercise his discretion in having a correspondence with anybody. The people of the whole country may write to him if they choose. Why therefore insert in this bill a provision that he shall open a correspondence on this subject with the Governors and municipal authorities of the States? Take many of the States or cities, and suppose he opens a correspondence with the authorities. If one set of men have control, they will have nothing to do with it, whereas in those communities there may be thousands of people who as individuals would be very glad to get this labor and treat these people kindly and educate them. If another set of men be in power they will be afraid to do it, perhaps, on account of the opposition it will excite. I think all that is desired for the good of these colored people will be found in the first part of the proposition of the Senator from West Virginia, and this matter of correspondence ought to be abandoned.

The amendment to the amendment was agreed to.

Mr. POMEROY. I ask the consent of the Senate to submit a motion that the Senate at half past four o'clock take a recess until seven o'clock this evening.

Mr. SUMNER. We had better pass this bill first.

The PRESIDENT *pro tempore*. The Senator from Kansas desires the unanimous consent of the Senate to submit a motion in regard to a recess.

Mr. GRIMES. I object.

The PRESIDENT *pro tempore*. Objection being made, the motion cannot be received.

Mr. COLLAMER. I am somewhat unwell, and am compelled to leave the Senate. I have two or three little nominations for post offices and some business in my department in hand, and I will request the favor of a short executive session so as to dispose of them.

Mr. SUMNER. Let us pass this bill.

Mr. WILSON. It is very important to pass this bill to-day. I suggest to the Senator to place that business in the hands of some other Senator. I am sure there is no Senator but would be very glad to attend to it for him. I am aware of the condition of his health, but it is very important to get this bill out of the way before we adjourn.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont to proceed to the consideration of executive business.

Mr. SUMNER. I hope the Senate will dispose of this bill before it does anything else; it has been pending a long time, and I really wish to get it off the table.

EXECUTIVE SESSION.

The motion of Mr. COLLAMER was agreed to; and after some time spent in the consideration of executive business, the doors were reopened.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States transmitting, in answer to the resolution of the Senate of the 24th instant, requesting information in regard to the alleged enlistment in foreign countries of recruits for the military and

naval service of the United States, reports from the Secretaries of State, of War, and of the Navy, respectively, on the subject; which was referred to the Committee on Foreign Relations, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 23d instant, correspondence between E. B. French, Second Auditor of the Treasury, and Henry W. De Puy, late agent of the Pawnee Indians, relative to a certain sum of money alleged to be due by the said De Puy to the United States; which was ordered to lie on the table.

HOUSE BILL REFERRED.

The bill (H. R. No. 558) to authorize the issuing of patents for certain lands in the town of Stockbridge, State of Wisconsin, and for other purposes, was read twice by its title, and referred to the Committee on Public Lands.

REPORT FROM A COMMITTEE.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (H. R. No. 346) for the relief of Dr. Charles M. Wetherill, reported it without amendment.

WASHINGTON GAS-LIGHT COMPANY.

Mr. GRIMES, from the Committee on the District of Columbia, to whom the subject was referred, reported a bill (S. No. 336) to amend the act incorporating the Washington Gas-Light Company, and for other purposes; which was read, and passed to a second reading.

Mr. GRIMES. As I presume there can be no objection to the bill, and it will lead to no discussion, I will ask that it be put upon its passage.

By unanimous consent, the bill was read a second time, and considered as in Committee of the Whole. It provides that from and after the 1st day of July, 1864, the Washington Gas-Light Company shall not receive (exclusive of the excise tax collected for the United States) from consumers more than thirty-three and one third cents per hundred cubic feet of gas furnished by it, subject to a discount of not less than ten per cent. on all bills for gas, if paid at the office of the company within five days from their rendition, provided all arrears have been paid.

Mr. MORRILL. I move to amend the bill by adding the following:

And the Washington and Georgetown Railroad Company are authorized to charge two cents for each transfer ticket on said road or its branches.

Mr. GRIMES. That will kill the bill.

Mr. MORRILL. I wish to say one word in regard to this amendment. The charter of this road was amended by the House of Representatives so as to reduce its rate of fare. The Committee on the District of Columbia in the Senate disagreed to it, thinking there was no occasion for the reduction; but in a committee of conference the reduction was agreed to, by which their fare is reduced to four cents. There was some testimony before the committee showing that these parties are subjected to some imposition in the transfer of passengers from the branch road to the main stem, and so vice versa; and at the solicitation of some friends who think the road has been unfairly dealt by I have offered this amendment.

Mr. WILKINSON. I hope the amendment will not prevail. I am satisfied this company is now making seventy-five per cent.

Mr. GRIMES. I do not know what they are making, but I hope the amendment will not be put on this bill.

Mr. SHERMAN. I wish to make a statement from the president of the road in regard to this subject. The Senator from Minnesota is greatly mistaken. The president of the road, who is a responsible man, Mr. Gideon, told me that he was willing to take his books before any committee and show that this story about exaggerated profits is totally unfounded. This company is required by its charter to carry passengers over both branches of the road for five cents. There is no such charter or no such law in the United States. It requires a street railroad to carry passengers so many miles for five cents, and then the Senate, without knowing precisely what was done, reduced the rate of fare to four cents. The president says he is able to prove to any intelligent man that it is utterly impossible to pay the ex-

penses of transporting passengers at four cents. It seems to me, when we induce men to embark in a little enterprise of this kind, to reduce their fare from five to four cents, it is a class of legislation that I cannot characterize. I did not know anything about it at the time the conference report was made, and I believe I voted for it.

Mr. GRIMES. Our past legislation may have been all improper, but I think there is an impropriety in putting this amendment on this bill.

Mr. SHERMAN. I wish to say also that the president stated that besides this twenty per cent. reduction on the gross receipts, they carried three thousand persons over branch roads without receiving anything for them, and they give to all the public employes passes. That is equivalent to about ten per cent. It seems to me that to legislate in this manner against a little railroad created by Congress is acting unfairly; and if we now have an opportunity to do them justice by allowing them to charge two cents for a transfer ticket, I think we ought to do it.

Mr. GRIMES. If the Senator is going to insist on his amendment I will tell him what Mr. Gideon told me.

Mr. HENDRICKS. Do not go into the merits of it.

Mr. GRIMES. As Mr. Gideon has been heard on one side, we may as well have him on the other. Mr. Gideon confessed to me, and he confessed what was tantamount to that before the whole committee, that upon the amount of cash paid in of this stock, the company had divided thirty per cent.

Mr. SUMNER. I think we had better proceed with the order of the day. There is evidently a difference on this subject. It was said there would be no discussion upon it.

Mr. GRIMES. I did not suppose there would be.

Mr. SUMNER. If we can have a vote I have no objection.

Mr. GRIMES. I hope we shall have a vote on the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed; and, on motion of Mr. MORRILL, its title was amended by adding the words "and for other purposes."

RECESS.

Mr. SUMNER. I hope we shall now resume the consideration of the order of the day.

The PRESIDENT *pro tempore*. The bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs is before the Senate.

Mr. SUMNER. I move that the Senate at five o'clock take a recess until seven o'clock in the evening. ["Oh, no."]

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to submit the motion.

Mr. POWELL and others objected.

Mr. HENDRICKS. I move that the Senate do now adjourn.

Mr. SUMNER. I hope not.

Mr. HENDRICKS. I hope we shall.

The motion was not agreed to; there being, on a division—yeas ten, nays not counted.

Mr. SUMNER. I hope we shall now go on and finish the bill.

Mr. TRUMBULL. I move that the Senate take a recess until seven o'clock. I hope there will be no objection to that, and then we shall be able to get through with this bill.

Mr. CONNESS. I object. I hope we shall go on and sit now, if we are going to sit at all.

Mr. HENDRICKS. Then I move to postpone all prior orders with the view to make the motion that the Senate take a recess until seven o'clock.

Mr. FOOT. I presume there will be no objection to the consideration of the motion for a recess without postponing prior orders.

The PRESIDENT *pro tempore*. The Chair hears no objection to the consideration of the motion, and the question now is on the motion that the Senate take a recess until seven o'clock.

Mr. SPRAGUE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 12; as follows:

YEAS—Messrs. Brown, Clark, Doolittle, Fessenden,

Foot, Foster, Harlan, Hendricks, Lane of Indiana, McDougall, Morgan, Riddle, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Willey, and Wilson—19.

NAYS—Messrs. Anthony, Buckalew, Conness, Davis, Grimes, Howe, Morrill, Powell, Ramsey, Saulsbury, Sprague, and Van Winkle—12.

ABSENT—Messrs. Carlile, Chandler, Collamer, Cowan, Dixon, Hale, Harding, Harris, Henderson, Hicks, Howard, Johnson, Lane of Kansas, Nesmith, Pomeroy, Richardson, Wilkinson, and Wright—18.

So the motion was agreed to; and the Senate accordingly took a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

CLAIMS FOR BOUNTY LANDS.

Mr. HARLAN. There are two or three small bills that I have charge of, as chairman of the Committee on Public Lands, that will not occupy, I think, to exceed two or three minutes each, and I will ask the indulgence of the Senate to take them up and pass them. The first one is a bill (S. No. 228) providing for satisfying claims for bounty lands, and for other purposes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the act to provide for satisfying claims for bounty lands for military services in the late war with Great Britain, and for other purposes, approved July 27, 1842, and the two acts approved January 27, 1835, therein and thereby revived, and also the two acts to the same intent and purpose, respectively approved June 26, 1848, and February 8, 1854, shall be renewed and continued in force and effect, without restriction or limitation as to the time of location of the warrants issued in virtue of those acts.

The second section provides that all warrants for bounty lands heretofore issued in virtue of any of the several acts named, may be located at any time subsequent to the passage of this act, in conformity with the general laws in force at the time of such location; and all entries and locations heretofore made with such warrants are to be as valid and effectual as if those several acts had not expired at the time of such entry and location, any law to the contrary notwithstanding.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LAS ORMIGAS AND LA NANA GRANTS.

Mr. HARLAN. I now ask the Senate to proceed to the consideration of House bill No. 205.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 205) authorizing the issue of patents for locations made with certificates granted under authority of the act of Congress approved March 17, 1862, allowing floats in satisfaction of lands sold by the United States within the limits of the Las Ormigas and La Nana grants, in Louisiana. It provides in the case of all locations made with certificates issued under the act of Congress approved March 17, 1862, authorizing floats to issue in satisfaction of claims against the United States for lands sold by them within the Las Ormigas and La Nana grants, in the State of Louisiana, it shall be lawful for the Commissioner of the General Land Office to cause patents to issue for such locations, where the same may be found *bona fide* and satisfactory to him.

Mr. DAVIS. I ask the unanimous consent of the Senate to offer a resolution with the view to have it referred to the Committee on the Judiciary.

Mr. HARLAN. This bill will occupy but one or two minutes.

Mr. DAVIS. This resolution will not occupy more than two minutes. I shall object to the bill unless I get consent to offer my resolution now. I merely wish to have it read and referred.

The PRESIDENT *pro tempore*. If no amendment be offered, the bill will be reported to the Senate.

Mr. DAVIS. I object to its being reported to the Senate.

The PRESIDENT *pro tempore*. One objection does not carry it over. It has been taken up by unanimous consent.

Mr. DAVIS. I ask for a division upon the question whether it shall be reported to the Senate.

Mr. BUCKALEW. I hope the Senator from Kentucky will not persist in stopping the action

of the Senate. We can pass several bills now to which no objection can be made.

Mr. DAVIS. I am not disposed to be captious. I make a reasonable request, and if the Senators present will signify their disposition to grant me my request I shall make no objection to this or any other bill; but unless I am to receive that degree of courtesy and justice which every other Senator in this body can obtain I will impede the progress of business as much as I can.

The PRESIDENT *pro tempore*. The bill will be reported to the Senate.

Mr. DAVIS. I object to that.

The PRESIDENT *pro tempore*. One objection does not prevent the action of the Senate.

Mr. DAVIS. There is no quorum of the Senate present.

The PRESIDENT *pro tempore*. That fact has not been ascertained.

Mr. HENDRICKS. I appeal to the Senator from Kentucky to allow this particular bill to pass. It is of no general interest, and has been reported from the Committee on Public Lands.

Mr. DAVIS. I will withdraw the objection for the present; but as soon as this bill is disposed of I shall persist in offering my resolution.

Mr. HENDRICKS. That is what I was going to suggest to the Senator.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM YOCUM.

Mr. DAVIS. I now ask the permission of the Senate to introduce a resolution in relation to William Yocum, with a view to have it referred to the Committee on the Judiciary, and not to say a word about it.

The PRESIDENT *pro tempore*. The Senator from Kentucky desires the unanimous consent of the Senate to present a resolution at the present time. Is there any objection?

Mr. GRIMES. Let the resolution be read at length, so that we may know what it is.

The Secretary read it, as follows:

Whereas William Yocum, a citizen of the United States and a resident of Cairo, in the State of Illinois, was on the — day of — convicted by a military commission of the United States of the offense of kidnapping and abstracting an employé of the United States from the military service thereof; and whereas Lucien Anderson, Brutus J. Clay, William H. Randall, S. L. Casey, and Green Clay Smith afterwards presented their written petition to Abraham Lincoln, President of the United States, asking him to pardon said William Yocum for said offense and his conviction of it and his sentence "to be confined at hard labor for the term of five years in the penitentiary at Albany, New York, or in such other place as the Secretary of War may direct;" and whereas the said Abraham Lincoln thereupon pardoned the said William Yocum and wrote the pardon on the back of the said petition in these words: "William Yocum, within named, is hereby pardoned."

"A. LINCOLN."

Therefore, *Be it resolved*, That the indorsement aforesaid by the President of the United States on the petition aforesaid, is a pardon of the said William Yocum from the conviction and sentence aforesaid, which entitles him to be discharged from further imprisonment thereunder.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DAVIS. I move that it be referred to the Committee on the Judiciary.

Mr. TRUMBULL. The Senator does not expect any action upon it at this session.

Mr. DAVIS. Not at all.

The motion was agreed to.

PRINTING OF INTERNAL REVENUE BILL.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That four thousand copies of the internal revenue act last passed by Congress, with an index, to be prepared under the direction of the Secretary of the Treasury, be printed for the use of the Senate.

PETITIONS AND MEMORIALS.

Mr. WILSON presented a petition of persons employed as laundresses at the general hospitals of the United States in the city of Baltimore, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of B. B. French and Delphine P. Baker, in behalf of the National Literary Association, praying for an appropriation to aid in the support of a National Home for totally disabled soldiers and sailors; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Washington city, District of Columbia, praying for the passage of the bill (H. R. No. 186) to incorporate the Baltimore and Washington Depot and Potomac Ferry Railway Company; which was referred to the Committee on the District of Columbia.

Mr. GRIMES presented the petition of Emerentiana Bowden, Sister Superior in charge of Saint Matthew's Academy in the city of Washington, praying for an appropriation for the purpose of laying the side footwalk on the north side of New York avenue between Seventeenth and Eighteenth streets west; which was referred to the Committee on the District of Columbia.

RICHARD G. MURPHY.

Mr. BUCKALEW. I ask the consent of the Senate to take up House bill No. 162, which was reported this morning, and which will take but a moment.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 162) for the relief of Nathaniel McLean, Richard G. Murphy and Charles E. Flandreau. The Committee on Indian Affairs reported the bill with an amendment, to strike out all after the enacting clause, in the following words:

That there be paid, out of any money in the Treasury not otherwise appropriated, to Nathaniel McLean the sum of \$916 50; to Richard G. Murphy the sum of \$1,700 32, and to Charles E. Flandreau the sum of \$189 32, for additional pay for their services as agents for the Sioux of Minnesota during the respective periods when each served in that capacity after the treaty of July 23, 1851, with said Indians, until the 3d of March, 1857, at which last date the pay of that agency was raised by law to \$1,500 per annum.

And to insert in lieu thereof:

That there be paid, out of any money in the Treasury not otherwise appropriated, to Richard G. Murphy, of Minnesota, formerly Indian agent, for services and expenses in the removal of Sioux Indians, in the year 1853, the sum of \$600.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

On motion of Mr. BUCKALEW, the title was amended so as to read: "A bill for the relief of Richard G. Murphy."

RESERVATION OF MINERAL LANDS.

Mr. HENDRICKS. I am directed by the Committee on Public Lands, to whom was referred the joint resolution (H. R. No. 99) reserving mineral lands from the operation of all acts passed at the present session granting lands or extending the time of former grants, to report it without amendment, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which provides that no act passed at the present session of Congress, granting lands to States or corporations, to aid in the construction of roads or for other purposes, or to extend the time of grants heretofore made, shall be so construed as to embrace mineral lands, which in all cases are reserved exclusively to the United States.

Mr. McDUGALL. I should like this resolution to define exactly what are called mineral lands, otherwise it will make very great difficulty in our legislation.

Mr. HENDRICKS. The Senator asks why the Committee on Public Lands do not define what is meant by "mineral lands" in the sense in which it is used here. The committee favored this resolution as a practical measure. There have been no grants made this winter in which the reservation has inadvertently been omitted except upon a proposition making a grant of land in the region of Lake Superior, and there were no minerals except copper and iron. It was thought best to except them from all grants made in that region of country.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

B. F. KENDALL.

Mr. DOOLITTLE. I desire the unanimous consent of the Senate to call up House bill No. 414, for the relief of the estate of B. F. Kendall, who was formerly superintendent of Indian af-

fairs in the Territory of Washington. While the Secretary is looking for it, I can state in a moment what it is.

The PRESIDENT *pro tempore*. The first question is whether the Senate will proceed to its consideration, and that question will be put when the Secretary has found the bill.

REPORTS FROM COMMITTEES.

Mr. TRUMBULL. While the Secretary is looking for that bill, I ask leave to make some reports from the Committee on the Judiciary. The Committee on the Judiciary, to whom were referred the following bills, have directed me to report them back without amendment and adversely:

A bill (S. No. 13) to amend an act entitled "An act to define and punish certain conspiracies," passed July 31, 1861, as also the twenty-fourth section of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," passed March 3, 1863;

A bill (S. No. 29) to provide for the revision and consolidation of the statutes of the United States;

A bill (S. No. 68) to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes; and

A bill (S. No. 72) supplementary to an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

He also, from the same committee, to whom were referred a resolution to amend the first joint rule of the two Houses of Congress; a resolution relating to the revision of the United States statutes; and two petitions of citizens of New York, praying for the creation of a new district court of the United States, to be held at the port of New York, reported adversely thereon.

He also, from the same committee, to whom were referred a bill (S. No. 304) in relation to the circuit courts of the United States, and a joint resolution (S. No. 26) proposing certain amendments to the Constitution of the United States, reported in favor of postponing their further consideration to the first Monday in December next; which was agreed to.

He also, from the same committee, to whom were referred two petitions of citizens of the United States; a petition of the citizens of Pennsylvania; a memorial of the representatives of a mass convention of Christian people held in Alleghany city, Pennsylvania, on the 27th and 28th of January last; a petition of citizens and soldiers of the United States; and a memorial of a committee in behalf of the Synod of the Reformed Presbyterian Church in the United States, praying for such an amendment of the Constitution of the United States as will recognize the obligations of the Christian religion; also two resolutions of the Chamber of Commerce of the city of Milwaukee, Wisconsin, praying for the passage of a general bankrupt law; also a memorial of the Board of Trade of Philadelphia, remonstrating against the passage of a bankrupt law; also a memorial of the members of the bar of the District of Columbia praying for an increase of the salaries of the judges of the supreme court of the District of Columbia; also a memorial of the United States district judges of the States of Illinois, Iowa, Wisconsin, and New Jersey, praying for an increase of their salaries; also a petition of citizens of Brooklyn, New York, praying for the passage of a law declaratory of certain terms used in the Constitution of the United States; also a memorial of the German Radical Club of Philadelphia, a memorial of citizens of Boston, Massachusetts, and a petition of citizens of Boston, Massachusetts, remonstrating against the plan of reconstruction of the Union proposed in the proclamation of the President of the United States; and also the petition of Jane P. Thurston, praying to be indemnified for alleged maladministration of the estate of her late husband, asked to be discharged from their further consideration; which was agreed to.

CONTINUATION OF BUSINESS.

Mr. SUMNER. I ask leave to offer a resolution in order to facilitate the public business. It is a resolution that has been drawn in conformity with the practice of former sessions:

Resolved, That all subjects before the Senate at the close of the present session, including those before committees, shall be continued to the next session, and shall then be proceeded with in the same manner as though no adjournment of the Senate had taken place; and the papers which

have been referred to the committees and may be in their possession at the close of the session shall be returned informally to the Secretary and by him restored to the committees when appointed at the next session.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McDUGALL. That resolution antagonizes with one that I was about to offer myself if I had had an opportunity of addressing the Chair and being permitted to introduce the resolution. By way of objection I will read the resolution which I hold in my hand, which is somewhat confirmatory with the proposition presented by the chairman of the Committee on Foreign Relations:

Resolved, That the answer from the Department of State to the Senate resolution No. 47, in relation to Mexican affairs, be printed for the use of the Senate.

I suppose I am at liberty to say a word upon it.

The PRESIDENT *pro tempore*. Debate is in order so long as it is confined to the subject in hand.

Mr. McDUGALL. I mean to confine myself to the subject in hand exactly, and oppose the proposition advanced by the Senator from Massachusetts. I shall try to bring myself within the common rules of order.

I take this occasion to say that on the motion of the Senator from Ohio, [Mr. WADE,] a resolution was passed in this Senate asking information from the State Department, as far as could be obtained, as to our relations with Mexico, the condition of Mexico, of Central America, and the South American republics, so far as we were concerned, and our relations and their relations with Europe. The resolution was passed by the one voice of the Senate. The inquiry simply was of an Executive Department of the Government to furnish us such information as was consistent with public policy. We received that information, which was placed upon the table of the Senate and by the Senate referred to the Committee on Foreign Relations, where it has lain buried, not five fathoms deep, but certainly as well buried as if it had been put into the tombs of the Capulets. I have sought for this information. I asked for it. The Senator from Ohio asked for it in his place in the Senate Chamber. The Senate conceded it. The State Department has sent us this information. It has been referred to the Committee on Foreign Relations, and they hold it as their personal property, as if they were not mere agents of this senatorial body for a specific purpose; that is, to receive it and give it its proper order. When the Senate asks for a piece of information it is not to get a body of manuscript to be hid in one of the committee-rooms of this Senate, but it is asked for for the information of Senators and Representatives and the country. I am compelled to say, and it is my duty to say it, that several things sent to that same committee, of which I am an unworshipful member, have been held there against all the laws of parliamentary usage and against the right of every individual Senator.

What is the office of a committee? To receive the subject-matter referred to it and give the judgment of the committee upon that subject-matter to the Senate for its just, or it may be its unjust, judgment. This is not the only subject that has been buried in the vaults of the Committee on Foreign Relations. The chairman of that committee now asks for the passage of this resolution, and while I do not feel myself able to resist the tide of his power here in the Senate Chamber by the power of votes I have a right as a Senator to protest against such conduct as against parliamentary law, and against my rights individually as a Senator.

The most grave and important question that we have before the country, before the Senate and the House of Representatives, is our relations with the sister republic—I still call her such—on our southern border. The Senator from Ohio sought information upon it. The Senate gave him the privilege of informing himself and informing us. The information has been sent to us from the State Department. I have asked in humble language in the committee-room to which I belong that it might simply be published, that I might have the opportunity myself to read it, and that other Senators might have an opportunity to read it, and members of the House of Representatives might do it, that they might be

wise in legislation. These opportunities have been denied by the policy *festina lente*, as understood by some; but whether he hastens slowly or hastens at all is a question in my mind. The information is needed for legislation. It is needed for general information. I need it. Every Senator upon this floor needs it.

The resolution now offered by the Senator involves the retaining in the committee-room down stairs of a public document sent here from the State Department under our orders for public information. The Senator says now that the publication of these things, and other questions of equally grave import, should be postponed until the next session of Congress. For myself, I am not so wise as not to need instruction, and I cannot find the full measure of instruction upon this floor upon questions foreign to our immediate business. I cannot find the full measure of instruction here as to our relations with Mexico, which is admitted to be a grave question to this Republic; at least it was thought in the Baltimore convention that it was a grave question. It was thought so in 1824 under President Monroe; it was thought so subsequently under President Adams; it has been thought so also by the American people; and, as I have remarked, it has been thought so lately by the Republican convention that met at Baltimore. To understand exactly all these relations, what we have done, what is being done, and what shall be done with regard to the American States outside of the old Union, is a matter of grave import.

As this resolution is now before us, I believe I have the privilege of offering an amendment to it, and by way of testing the sense of the Senate, I will move to strike out all of the resolution after the word "resolved" and to insert—

That the answer from the Department of State to the Senate resolution No. 47, in relation to Mexican affairs, be printed.

Mr. SUMNER. Mr. President, I am surprised by the question that has been raised by the Senator from California. The resolution that I have offered to-night has been one rather of form, belonging to the order of business, and according to the usage of the Senate. It was prepared at my request by one of the gentlemen who are habitually seated at the desk in conformity with the precedents of this body, and its object was simply to facilitate public business at the close of the session. It was not, so far as I was concerned, pointed in any respect at any particular pending measure. Its object was to facilitate the transaction of all the business of the body. The Senator now interposes a proposition as a substitute which is pointed at a particular pending measure. He proposes that the Senate should intervene and should summarily direct the publication of an important series of papers now at this moment on the table of the Committee on Foreign Relations, and with regard to which they have as yet come to no definite conclusion. The Senator knows very well that those papers have been under consideration at least at two different sittings of the committee. He knows also that the committee has been positively convened to meet to-morrow partly to consider what should be done with regard to those very papers.

Mr. McDUGALL. I was not aware of it. I was at the committee-room at its last meeting I think as early as any other member except the chairman. I remained there for some time. I was there long after eleven o'clock. I did not hear any proposition to take the subject up again as a question for consideration.

Mr. SUMNER. I had supposed the Senator must have received a notice at his desk this afternoon that there would be a meeting of the committee to-morrow morning at ten o'clock. Certainly I ordered one.

Mr. DAVIS. I received one.

Mr. FOSTER. I also received one.

Mr. SUMNER. Here are two Senators who have received notice.

Mr. McDUGALL. I do not question your veracity at all, but I did not hear it. I know that I urged the question upon the committee, which was simply a question of printing what had been sent to us from the State Department and the committee declined acting upon it, which I took to be, as I have found it on other occasions, a positive negative.

Mr. SUMNER. I think the Senator hardly

does justice to the committee; but still I do not wish to go into any statement of the course of the committee.

Mr. McDUGALL. I will withdraw my amendment.

The PRESIDENT *pro tempore*. Then the question is on the resolution offered by the Senator from Massachusetts.

Mr. WADE. I believe I offered the resolution that called out these papers. I did not know until lately that the answer had come in. It was in my absence, or at least it did not come to my notice, or I should have moved and endeavored to have those papers printed, and I am very glad to hear that they will probably be printed.

Mr. McDUGALL. I hope the Senator will allow me to make a statement while it is in my mind. I took occasion to say to the committee this morning—and therefore it is no breach of the etiquette of the committee-room—that I should feel it my duty to call attention to the matter on the floor of the Senate. There is, therefore, no violation of the courtesy of the Senate.

Mr. WADE. I presume those papers will now come to light and be printed. I called them out for the purpose of information, for myself at all events, whether anybody else wanted them or not, and I hope they will not be lost entirely in that committee-room. I do not suppose they will be. I presume they will be reported back and printed.

Mr. SUMNER. Allow me to say in all frankness to my friend, he can be assured that they will not be lost, if, in the opinion of the committee, after the best attention they are able to give to them, they seem, all things considered, proper to be published at this time, and with reference also to considerations of economy. They are a very large mass of papers. If published they would occupy two large volumes; and one question that has presented itself to the committee on the threshold was, whether upon the whole at this time it was expedient to enter upon the publication of so large a mass of correspondence as that, with regard to which we had no very clear idea. I have given such attention as I could to the correspondence since it has been laid before the committee. Indeed I occupied the chief part of the time of our recesses in my committee-room perusing that correspondence. It is very extensive, and it is not easy to take its whole character in the limited opportunities that I have had.

Mr. GRIMES. Why is it not here?

Mr. SUMNER. The Senator asks, why is it not here? Because we did not suppose it ought to be published.

Mr. McDUGALL. The Secretary of State advised that it might be published.

Mr. SUMNER. I beg the Senator's pardon. I have had no advice from the Secretary on the subject.

Mr. McDUGALL. You had a talk with the Secretary on the subject.

Mr. SUMNER. But the Secretary never gave me any advice on the subject; I never asked his advice on the subject.

Mr. McDUGALL. Did you not say so in the committee-room?

Mr. SUMNER. I never intended to say any such thing. The whole question is still pending before the committee, and awaits their action. What they may say with regard to it, whether on grounds of economy or on grounds of policy it will be expedient to publish that correspondence or not, remains to be seen.

Mr. WADE. I am not entirely satisfied with that explanation of the matter. When I called these papers out from the Executive, I intended myself to have the privilege of looking them over, and I did not expect that I should be compelled to submit entirely to the judgment of any committee; but if I had to submit the question whether these documents should be printed to any committee, it would be the Committee on Printing, and not the Committee on Foreign Relations. The Senator has told us very truly that the Committee on Foreign Relations are so much occupied with important business that they have not time to look into these voluminous documents and ascertain whether the matter contained in them ought to be printed or not, and consequently the Senate has not intrusted them with jurisdiction over that question. I suppose they ought to go to the Committee on Printing, and let them judge

whether their importance entitles them to be published. I do not think that any committee have a right to investigate these public documents that are called out by a Senator and at their election suppress them altogether, so that he who calls for them shall never see them if the committee shall think they are not proper for publication. I think that is a great extent of jurisdiction in the committee. I do not think they are intrusted with that question at all. I think the papers ought to be handed back to the Senate. Perhaps it would be proper, as these are executive documents, for the committee to look into them far enough to see whether it would be best that they should be printed in confidence for the Senate in executive session; but I do not believe that that committee have such entire jurisdiction over this subject that if they think these documents are not proper for publication, I, who called them out, am not to see them. I want to have something to say about that. It may be that their judgment is very good, but I am not entirely satisfied with an implicit confidence in any committee. I want to see the documents myself.

Mr. SUMNER. This voluminous mass of correspondence was received some time last week. I think the committee has made reasonable haste with regard to it, and the whole question will be before the committee again to-morrow morning.

The PRESIDENT *pro tempore*. The question is on the resolution submitted by the Senator from Massachusetts.

The resolution was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House of Representatives had passed a bill (No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes; in which it requested the concurrence of the Senate.

B. F. KENDALL.

Mr. DOOLITTLE. I now move to call up House bill No. 414, for the relief of the estate of B. F. Kendall.

Mr. SUMNER. I hope we shall go on with the order of the day.

Mr. DOOLITTLE. I had the floor half an hour ago, and made this motion, and yielded to gentlemen simply because the Clerk, in a mistake, could not find the bill. It will take but a moment to consider the bill.

Mr. CHANDLER. I object to it.

Mr. DOOLITTLE. Then I move to postpone all prior orders, with a view to take up the bill I have indicated.

Mr. CHANDLER. I object to that motion and shall vote against it. I desire to take up House bill No. 307, to regulate commerce among the several States. In other words, I wish to kill the Camden and Amboy railroad monopoly, and I want it taken up now. I desire to antagonize that to the bill of the Senator from Wisconsin.

Mr. SUMNER. Let us finish the Freedmen's Bureau bill. I ask the Senate to proceed to the consideration of the order of the day.

Mr. HENDRICKS. I ask that the question be put on the motion of the Senator from Wisconsin.

Mr. DOOLITTLE. Before these gentlemen came in I had the floor and moved to take up the bill I have indicated, and it was passed over informally, and all this discussion about Mexico has intervened. I ask the Senate to take it up now. It will take but a moment to dispose of it.

Mr. SUMNER. I hope we shall not take it up and thus put aside the order of the evening.

Mr. DOOLITTLE. Let it be laid aside informally. I wish to have this bill disposed of.

Mr. SUMNER. Why not finish the order of the day?

Mr. DOOLITTLE. Why not dispose of this, which will take but a moment?

Mr. CHANDLER. I withdraw my objection.

Mr. DOOLITTLE. I understand the objection is withdrawn. I hope the special order will be passed over informally.

Mr. SUMNER. There is no objection to its being passed over informally. By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 414) for the relief of the estate of B. F. Kendall. It authorizes the proper ac-

counting officers of the Treasury Department to allow, in the settlement of the accounts of B. F. Kendall, deceased, late superintendent of Indian affairs for Washington Territory, the sum of \$2,108 30, being the amount shown to have been disbursed by him in his lifetime, and for which no vouchers were to be found.

Mr. DOOLITTLE. I will state that this bill makes no appropriation out of the Treasury. Mr. Kendall was killed, shot in his office, and on his person were found memorandums in his handwriting, and the agent and his administrator have appeared before the committee and stated to them that this amount of money was paid out by him; but no voucher was found in his possession. He died in that way, and the administrator wants to settle the account. The administrator has closed every other item of the account but this, and he has paid over to his successor nearly six thousand dollars in cash. There is no doubt that it is just, and the bill should pass.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HOUSE BILL REFERRED.

The bill (No. 549) further to regulate and provide for enrolling and calling out the national forces, and for other purposes, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

FREEDMEN'S BUREAU.

Mr. SUMNER. Now I call for the order of the day.

Mr. CHANDLER. I move to postpone all prior orders and take up House bill No. 307, to regulate commerce among the several States.

The PRESIDENT *pro tempore*. The order of the day is before the Senate, but the Senator from Michigan moves to postpone all prior orders for the purpose of proceeding to the consideration of the bill indicated by him.

Mr. SUMNER. Let me finish my bill.

Mr. CHANDLER. I hope the Senator will give way and let me take up this bill. It is very short.

Mr. SUMNER. I cannot. I am for that bill of the Senator from Michigan, but I desire to dispose of the bill now before us.

Mr. CHANDLER. I withdraw my motion. The Senate resumed the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. BUCKALEW. A portion of the amendment of the Senator from West Virginia was stricken out. That portion, as I understand, was what related to correspondence with the Governors and municipal authorities of the States.

Mr. WILLEY. The Senator is in error about the motion to strike out. The vote was a tie and therefore the motion failed.

Mr. BUCKALEW. There was a motion to strike out the whole of the amendment, which failed by a tie vote of 14 to 14.

The PRESIDENT *pro tempore*. The Chair is informed that a motion to strike out a portion of the amendment of the Senator from West Virginia was agreed to.

Mr. BUCKALEW. Then I was correct in my recollection.

Mr. WILSON. I ask to have it read as it now stands, so that the Senate may understand it.

The Secretary read it, as follows:

And be it further enacted, That whenever the said Commissioner cannot find abandoned real estate on which to employ all of the freedmen who may come under his care and control by virtue of this act, it shall be his duty, so far as may be practicable, to provide for them homes and employment with humane and suitable masters at fair and just compensation for their services.

Mr. BUCKALEW. That portion of the amendment which remains contains the substance of the whole. The portion struck out was unimportant, in my opinion, so far as substance is concerned, because, under the clause as it will now stand if adopted, the very correspondence contemplated in the portion that has been stricken out may be carried on by these officers, and the very same things may be done by them which could have been done or would have been done under the proposition as it stood in its original form. I

desire to call attention to this point distinctly, that it may be understood, if we pass this bill in the form in which it stands, that we are now indorsing the substance of the whole proposition of the Senator from West Virginia, involving all the characteristics which I endeavored to describe in my remarks in the session of to-day. If it be in order I desire now to submit a motion that so much of the amendment as remains in the bill be stricken from it.

The PRESIDENT *pro tempore*. The Chair is of opinion that that motion is not in order, the Senate having refused to strike it all out.

Mr. BUCKALEW. The motion to strike out the whole of the matter failed. Subsequently a motion to strike out a part of it prevailed. I had some doubt in my own mind with regard to the regularity of a motion to strike out the remaining portion of the amendment.

The PRESIDENT *pro tempore*. The Chair is of opinion that it is not in order.

Mr. BUCKALEW. In that case what I have to observe is this: the bill standing in this form with the retention of this objectionable matter ought not, in my opinion, to be sanctioned by gentlemen on either side of the Chamber, those who are in favor of the bill as it originally stood as well as those who were opposed to the proposition in the form in which it was embodied by the committee. I think we should reject the bill in its present form, or reconsider that portion of it.

The amendment made in Committee of the Whole was concurred in.

The PRESIDENT *pro tempore*. The question now is on ordering the amendment to be engrossed and the bill to be read a third time.

Mr. DAVIS. I propose to say something in opposition to this bill being ordered to a third reading.

Mr. President, the first passing political event of which I read was the burning of Moscow, and I have lived until a great Republic is about to fall into ruins. This great Republic had its origin, its birth in the principle of liberty asserted by the white man, the Caucasian race. To escape from European tyranny, our ancestors fled to a new world and founded their homes, their country, and their Government in a wilderness. Some considerable time after the infant colonies had been founded what is called the African slave trade sprang up, and our mother country, England, and all of her colonies of the New World entered into that trade and imported African slaves into their respective countries, the mother-land as well as the colonies.

Among the earliest colonies to enter upon this trade and to introduce this servile population of a distinct race into their midst was the colony of Massachusetts. The first example of a fugitive slave law that I have ever seen in my life was passed by her for the government of her own slaves. The earliest, the most complete and rigid slave code that I have ever read was passed by that State. She, and the traders and shippers of other New England colonies, entered early and extensively into this slave trade. They brought the sable sons of Africa from the homes of their fathers into their States, and much more largely into the southern States, where their labor was more necessary and profitable than it was in the barren soil and the rigid climate of the North, and sold them to southern planters for gold. At the dawn of the troubles between the mother country and the colonies, every one of the thirteen colonies was slaveholding. They all recognized the African slaves as property. They had laws regulating the transfer of that property by sale, by devise, by descent. African slaves were as much the subject of contract and of the transactions of all the societies of the thirteen colonies as any other species of property.

The troubles with the mother country commenced, not by reason of any conflict with the rights of the negro, not by reason of any infringement upon his liberties or upon his inalienable right to freedom, but wholly irrespective of the slave, of his condition, and of his destiny, exclusively in consequence of aggressions upon the white man and with a view to assert the rights and the liberties of the white man alone, ignoring and not paying the least regard to the condition and rights and liberties of the slave.

Before the Articles of Confederation were formed a sort of revolutionary government was first agreed

upon by the colonists. The parties to that preliminary government were the white colonists acting in their respective colonies. It was made for the purpose of vindicating the colonists from the burdens and the effects of the legislation of the imperial Parliament in imposing excise and stamp duties and other measures. That first government existed about two years, and was then superseded by what were called the Articles of Confederation. They were proposed, according to my recollection, in 1774 or 1775, I am not certain which, and about three years after, some time in the year 1777, they were agreed to by the thirteen colonies.

The colonies entered into that struggle for independence; they entered into that struggle for personal liberty; they entered into that struggle for the assertion of the great principle that taxation and representation were correlatives; they entered upon the struggle to vindicate their immunity from the burdens of taxation imposed upon them by the mother country and its Parliament while they were deprived of the privilege and the right of representation. The war then commenced upon the basis and for the assertion of the rights of the white man exclusively, as I have related, and the negro, in the whole of the contest, was as much ignored and as entirely exempt from it, from the causes that produced it, from its events, and from its consequences and fruits, as though he had been in Africa.

Mr. WILKINSON. Will the Senator permit me to ask him a question right there?

Mr. DAVIS. Yes, sir; but upon this condition, that I shall answer no other question.

Mr. WILKINSON. The Senator states that during the Revolution the negroes were entirely ignored; that they were thrown out of the question entirely. I want to ask him if General Washington did not call upon the State of Rhode Island to furnish negroes in the battles of the Revolution?

Mr. DAVIS. I admit that he did; but I deny that it was for the assertion of a solitary right of the negro that that struggle commenced. I deny that the success of that struggle in a military or a political point of view insured to the benefit of a solitary negro, or to the liberation of one from slavery.

But, Mr. President, I will proceed with my narrative. This struggle lasted for seven years, nine months, and one day; and during the whole of that time, in all of its features, in all of its fruits, and in its final consummation, it was a struggle for the white man, for his own rights and liberties against the oppressions of the mother country, and in no sense and in no effect, neither in theory nor practice, was it a struggle or a contest for the rights of the negro. These thirteen colonies, every one of them then holding to slavery, united as slave colonies against the common oppression of the mother country.

For something like two years they carried on the war as colonists, seeking simply a redress of their wrongs, and with a purpose of returning to the mother country. But, sir, the policy of George III and Lord North was the policy of Abraham Lincoln toward these southern States. They assumed the position, and held it inflexibly for about six years of the war, that they would offer no terms of conciliation; they would accept no propositions of compromise; they would have submission and subjugation—nothing else, and nothing short of it.

In 1781 the King of England sent his speech to Parliament, and, in response to that speech, Parliament, by its address, adopted sentiments responsive to the determination of George III and of Lord North to subjugate the colonists, by a majority of ninety-seven votes. About six months afterwards General Conway, who had steadily opposed the war of the mother country for the subjugation of the colonies, proposed a resolution condemning the further prosecution of the war, and insisting upon peace with the colonists. Upon a division, that resolution was carried by a majority of ten or twelve. In obedience to that changed sentiment of Parliament and of the people of England George III sent a communication to Parliament that favored peace; that breathed the spirit of peace and of the recognition of the independence of the colonists; and upon the motion of the same General Conway an address responsive to that address, to its pur-

pose and to its pacific spirit, and thanking the king for his change of sentiment in relation to the colonists, passed the House of Commons without a division. I have read recently the letters from George III to Lord North, or extracts from them. They may be found in one of Brougham's sketches, and they may be read with much profit and instruction by the men of our day.

The perfect similarity of sentiment and of policy between George III and his ministry, and especially Lord North, toward the colonists, and that of Abraham Lincoln and his Cabinet toward the southern States, runs a parallel on all fours. There was this difference between Abraham Lincoln and George III: both were weak men; both obstinate men; but the one was entirely honest and sincere in his purposes; the other was of an opposite character: Lincoln flexible, but still obstinate, enthroned now a monarch at the other end of the avenue, almost as much so as Louis Napoleon, and wielding the power that was constructed by the fathers of our country for George Washington.

Sir, the United States now is in the condition of Sinbad the sailor, and here is Abraham Lincoln the old man of the sea. He has persuaded Sinbad the sailor to take him upon his shoulders, and his long legs are wound around the neck of Sinbad. He is making Sinbad trot him off from day to day and from year to year, never relaxing his grip; and this old man of the sea is now trying to persuade Sinbad the sailor to let him hold his seat for another term. But, sir, Sinbad the sailor got a stimulant which he administered to the old man of the sea that intoxicated and enervated him and relaxed his nerves, and he fell from his seat. Our old man of the sea has his stimulant, the stimulant of a weak intellect, of inordinate vanity, of the delusion that he is a great man and a great statesman, and that he knows more about the public sentiment and the public business of the people of America than any living man; and under this excited vanity and the delusions which it has produced, he is cutting high fantastic tricks before the people of America that will impel them to the performance of the same office that Sinbad performed: they will hurl this old man of the sea from their shoulders and their necks.

But, Mr. President, the war of the Revolution preceded. There never was a question made in relation to the slaves, and for this, among other reasons, that every colony held to slaves, every colony by its laws admitted property in slaves, and every colony had laws and regulations for the better control and government of that property.

Our independence was acknowledged at length in 1783—not the independence of the negro, not the freedom of the negro, not the right of the negro to self-government, not the partnership of the negro with the white man in the independence and liberty and self-government for which our fathers had waged this long and arduous and bloody contest. The negro was ignored. He was no party to the transaction. All of its struggles, all of its privations, all of its fruits were for the white man, and not for the negro. When independence was declared all the colonies were slaveholding as they had been at the dawn of the struggle. In 1780 Massachusetts formed her State constitution, and afterwards, about 1783, her courts declared that one of the provisions of that constitution abolished slavery.

But, sir, the old Articles of Confederation formed a feeble Government. They were incapable to hold together and to govern, as a free people should be governed, the thirteen colonies; and when the bonds of their union seemed to be falling to pieces, and the colonies were about to be resolved into their original elements, some of the wise and great men of the nation conceived the idea of forming a new Government and a more perfect Union. They got together, and they sent the wise and the great men of the Revolution, the most virtuous and the wisest men that ever adorned humanity, to reform their Government and establish a more perfect Union to secure the blessings of liberty to them and to their posterity forever. Who were they? The people of the United States—the white men. The negro was not represented in the Convention of 1787. He had no voice in the formation of that Government and in laying out its great and immortal principles. Its rights, its liberties, its investment and restrictions of power were not by him or for

him. They were by the Caucasian race, and for the Caucasian race alone.

Gentlemen have relied upon the effect of the Declaration of Independence. It has been said a thousand times and truly that the Declaration of Independence did not comprehend the negro. It did not relate to him. When it spoke of the equality of men it meant the white man and not the negro. The consequence was that the Declaration of Independence never ameliorated the condition of the negro, much less discharged one from slavery and thralldom. It never added one iota to his rights or liberties. He was not thought of as a subject of that Declaration of Independence or of the Government which was formed in 1787 any more than the wild Indian of the forest. He was no more a party to our political partnership of Union and of Government than the Indian. He had nothing to do with it. Its language, its voice, its sentiments, its principles related not to him but to the white man alone. The same is true of the Constitution. When the Constitution was formed it was made by white men and it was made for white men alone. The negro had nothing to do with it, no more than the Indian of the forest, or even the beast of the field. He had no agency, no power, no influence directly or indirectly in its formation.

Mr. SUMNER. May I interrupt the Senator for a moment?

Mr. DAVIS. Certainly.

Mr. SUMNER. I merely want to remind the Senator of a historical fact which has evidently escaped him. At the close of the revolutionary war an address was put forth from the Continental Congress to the world written by James Madison which contains this very striking and important passage. It says that the people are never to forget that in the war that has now closed the rights for which they contended were the rights of human nature.

Mr. DAVIS. And what did he mean by "human nature?"

Mr. WILKINSON. White human nature. [Laughter.]

Mr. DAVIS. Yes, sir; he meant the white man, and nothing else but the white man. Is not that proved by the result? Is not that proved by the event? Is not that proved by the consequences that ensued in the Revolution? Was it made for the Indian? How did that ameliorate the condition of the Indian? How did it affect the Indians of the forest who were then more numerous than the negroes within the limits of the United States? How did that make him a party to our political Government? How did it invest him with any citizenship, with any political power, with any rights under the Government? How did it make him a party to the Government? Not at all; nor did it make the negro any more a party or a subject or a beneficiary of the Declaration of Independence and the Constitution than it did the Indian, and not so much so.

The honorable Senator from Massachusetts, who is deeply read in history and especially in our revolutionary history, knows this fact full well, as every man does: that a proposition in that Convention to admit negroes into our political partnership, to make them parties to our Government, and to give them freedom and liberty and rights under the Constitution, would have scattered that Convention of wise men engaged in the great business of forming a new Government, and they never would have formed any Government at all. Why, sir, there was a revolutionary war of upwards of seven years, desolating the thirteen colonies; there were three distinct forms of government made for the purpose of securing the fruits of that Revolution and the liberties for which the war was waged; and the negro was never heard of in the whole of this varied drama; never himself in person or by his representative seen or heard in any of the councils, civil or military. There was not a single article or provision of either of these Governments referring to him, touching or affecting him. He never received a right, much less his liberty under all or either of them. And in view of all this, for gentlemen to get up and contend that the negro is embraced by these great and solemn transactions that were conducted by the Caucasian race alone in the fulfillment of their own destiny and to secure their own rights, is one of the most absurd positions I think that well read and sensi-

ble men could ever give their consent to. I repeat that if there had been any movement in the Convention to make the negro a party to our Government, or to give him any of the rights and privileges and liberties which it secured to the white man, there would have been no Government formed, and every intelligent man knows it.

We moved along, *e pluribus unum*, the United States of America, in a grand and glorious destiny, that destiny controlled by the white man, and the object of the machinery by which that destiny was upheld and controlled being for the white man alone, and not the negro or the Indian. The last people, as I have said before so often, that gave up the slave trade after the formation of the Constitution were the people of Massachusetts, and they extended the time for importing slaves into the United States for twenty years. They availed themselves of the privilege of trafficking in that property all the time, and some of their illicit traders still prosecuted the trade after the law which had been previously passed took effect in 1808.

Mr. President, I have read with emotions of patriotism, of glowing pride and sentiment that I have no language to describe, the development of our nation, of our people, the aggregation of our numbers, our wealth, our power, and our grandeur as long as its great and fundamental principles were observed by the different States and parties to the Government. What was one of those principles? It was this, and it is the very corner-stone upon which this imperial republican Government was reared, that each State should have the exclusive control and management of its own domestic affairs.

We have been told thousands of times that slave States and free States could not exist under the same Government, that there was a principle of antagonism and of mutual aggressions that rendered it impossible. Sir, from about the year 1640 up to the year 1830 these colonies first, and then States, existed together in harmony for a large portion of the time under that blended system, and there was no disturbance among them; there was no cause of quarrel; the fraternity of the States was never disturbed; and why? Because all the States acknowledged and acted upon practically the great corner principle of our Government, that each State was to regulate its own domestic concerns. But, sir, in an evil hour the men who had been deprived of the right of importing slaves any longer into the United States and selling them to the South, turned upon their own principles, their own laws, their own practices, the institution of slavery which they had aided the South to build up. After selling those slaves to the South for gold and lucre they wanted, in violation of the Federal Constitution and of the State constitutions and laws, to deprive the purchasers of this property which they had sold to them, without making compensation for it.

Mr. President, I have traced this history for the purpose of deducing one great practical conclusion from it. The thirteen colonies were comparatively a small country to what the great Republic embraced at the commencement of our present troubles. We acquired Louisiana from France. A northern navigator in the enterprise of his nature coasted along the Pacific coast and entered the mouth of the Columbia river. Afterwards the post of Astoria was established, and by discovery and settlement our country acquired the vast Pacific slope, whose mineral wealth now knows no calculation. After that we acquired Florida by treaty, adding another vast country to our already grand and augmenting territory. After that we undertook to filibuster for Texas, and a war was commenced, as I then believed and as I still believe, by the then President of the United States against the Constitution, in defiance of the power of Congress, while that body was in session. He proclaimed in his message that American blood had been shed upon American soil; but the contrary of the proposition was true: Mexican blood was shed upon Mexican soil by the American soldiery; for that portion of what was then called Texas was never any part of the province of Texas while it was a Spanish province. I denounced that war in the other end of the Capitol in terms as bold, and, if the Senator from Ohio [Mr. SHERMAN] were here, I would say as violent and denunciatory as I have denounced the measures and usurpations of power

on the part of this Administration. I never was called in question for that free and manly expression of disapprobation of the measures of the party and the President then in power. There were other men who denounced them in as free and in as unequalled terms as I did; and no man ever dared then to arraign, to denounce, or to attempt by threats and intimidation to awe the freedom of debate either with myself or with any other person.

Why, sir, how was it in the revolutionary war? Read the thundering and eloquent philippics of the elder Chatham, of Fox, of Burke, and others in the British Parliament against the iniquity and the oppressiveness of the course of the Government of the mother country toward the colonies. There is there a boldness, a manliness, a freedom of condemnation, and a lofty strain of eloquence and invective that no speakers of this day can reach, either in power of oratory, in manliness of just rebuke, or even in the bitterness of invective. If the speeches that were enunciated by those men, whose opposition to the tyrannical policy of George III and Lord North has given them a history before which even Grecian and Roman eloquence pales, and made the age in which they lived and spoke renowned for the height and depth and power of its oratory—if these very sentiments had been expressed in this Chamber against the violations of the Constitution, the usurpations of power, and the unjust and iniquitous measures of this Administration, a tool of power would have sprung to his feet and offered resolutions for the expulsion of those who uttered them.

Why, sir, toward the close of the American war there was a resolution introduced into Parliament thanking Sir Henry Clinton and Sir Guy Carleton, two of the most renowned leaders in the British army, for their eminent military services in their efforts to reduce the colonies to obedience. What did these great men of the Opposition do; these lights of liberty and of human rights; these bold geniuses who were the noblest and truest and most efficient sentinels on the towers of human liberty that have ever graced humanity? They opposed the resolution of thanks upon the ground, expressed in glowing eloquence of invective and denunciation, that they would not thank men who had engaged in an oppressive and unjust war in murdering the colonists of England. I might be impelled possibly to use the same language in regard to the present war, but if I were, every consideration of prudence for safety in my seat here would restrain me. Sir, if I were to use the same language in my place in this Chamber which I hold under a free Constitution, with the freedom of speech expressly guaranteed to me by a provision of that Constitution, and which has been exercised so liberally, licentiously, and flagrantly by the men who are now denouncing its exercise, or by their fathers, I am certain I should lose my seat.

Sir, if the same principle and measure of justice that has been attempted to be meted out to men in the Opposition here had been practiced in the eastern States during the war of 1812 one half of Massachusetts would have been condemned and executed, or punished as disloyal. And what would have been the fate of hundreds and thousands of others of active Federalists, not only in New England, but scattered all over the United States, in Baltimore—Hansard, Williams, Linden, and others—who had fought and suffered in the revolutionary war, but who denounced the Administration and the war of 1812 with a vehemence and with an intensity of language and of passion that I never could approximate? What would have become of your Ouses, your Strongs, your Chittendens, and the other men who opposed this war? Sir, you may get their speeches and their writings and contrast them with the speeches and writings of this day against the usurpations of our Administration which is threatening the utter and final overthrow of our constitutional liberties, and they far transcend them in violence, in ability, and in fierceness of invective. Why, sir, was not the war against Mexico condemned with the same freedom, with as much passion, with as unsparing invective by all who opposed the war as the administration and usurpations of Abraham Lincoln are now condemned? Certainly.

But, Mr. President, this is the practical lesson

to which these remarks tend, or to which at least I contemplated they should tend. The young giant of the West, the great Republic not only of this generation but of all the ages of the world, felt his power, and like any power that is felt it made the possessor who was conscious of its possession and exercise insolent. We recollect that some score of years or something like that period of time, Charles X, a Bourbon, was driven from the throne of France. He was the successor of Louis XIII and Louis XIV. He was the hereditary monarch of an absolute Government; that is to say, he was a branch of the then reigning family, and he succeeded, in truth, Louis XVIII. For less of despotic power, for less of abusive authority, for less of arbitrary and oppressive acts than the present President of the United States and his administration have perpetrated under our free and limited Constitution that monarch, Charles X, was driven from his throne by his subjects, on whose necks the yoke had sat from the time of Clovis and Charlemagne.

Under his rule, if I recollect aright, the Government of the United States had set up claims against that of France for spoiliations upon our commerce, and a treaty of peace had been made by which the Government of France undertook to pay to the United States for the benefit of her citizens whose commerce and property had been despoiled by the French cruisers \$5,000,000. But Charles X was deposed and Louis Philippe ascended the throne in his stead, and when he ascended the throne he or his ministry made hesitancy and rather refused to pay the debt which the French Government under his predecessor had agreed to pay the United States. Old Hickory, the lion of the Hermitage, was then President, and his majestic roar was heard resounding through our land and across the sea even in the palace and recesses of the Tuilleries. He threatened war against France unless this stipulated sum in five installments, I believe, was paid by the French Government. It was a maxim of the old hero, as he said, that he never contended for anything that was not right and never submitted to anything that was wrong. The effect of the warlike position which he assumed, of his great force of character, of the military reputation which he had won during the war of 1812, and the mighty power of the young giant of the West toward France into submission and obedience to her covenant, and the money was paid.

After a while the Powers of Europe threatened to intervene in relation to Cuba. They wanted to take Cuba under their pupillage, to be a sort of special guardians, as this bill proposes to create special guardians for the freedmen, as they are called. Our Presidents frowned upon that intervention of the Powers of Europe. Previous to that, however, when the allies had put down the greatest military conqueror of earth, and had bound him like an imperial eagle upon the rock of St. Helena, and the French army, under the Duke de Angouleme, marched into Spain and reinstated Ferdinand VII upon his throne, the allies of Leybach and Vienna, the Holy Alliance of Europe, threatened to intervene in the affairs of the nations of the continent for the purpose of staying the march and establishment of free principles. They threw out some feelers to George Canning, who was then the British Secretary of Foreign Affairs, and he wrote a dispatch to the Foreign Minister of the Spanish Government, in which he entered his caveat against any such interference with the recently established independence of the South American Governments. Mr. Canning was an able statesman, devoted to a free monarchical Government against the aggressive tyranny of the Holy Alliance. He immediately opened a correspondence with the American Government; and James Monroe, a patriot and a soldier of the Revolution, whose blood was shed in that sacred cause, in a message which he sent to the Congress of the United States, declared what has since been proudly claimed by every free-hearted American as the Monroe doctrine, the chief principle of which was that this continent would no longer be held to be open for the establishment of colonies from the European Powers.

After a while came on the British intermeddling with the Mosquito coast, as it was called, and the island of Ruatan. England was trying to take under her protection and guardianship a breechless negro barbarian on the coast of Ruatan

and to claim that negro barbarian, as her property, and that she was bound by treaty to this naked negro savage to hold him in his dominion and in his power. But our Government interposed in such terms as to induce the haughty mistress of the seas to relax her hold and to let go of the Mosquito king.

In a little while came along the dispute about a town on Vancouver's island called San Juan. The line of forty-nine degrees intersected that island and cut off a section of it that was left to the south, the greater portion of it being to the north. England claimed the whole of that island. She claimed that her line across Tuca straits struck that large island of Vancouver and ran along its sinuous coast a military league from the shore, and gave her the ownership of the whole island. One of our Presidents dispatched a military and naval expedition, which took possession of the territory that of right and by treaty belonged to us.

The manner in which we thus displayed our power and made England, Spain, and all the Powers of Europe respect and acknowledge and concede our rights, excited their envy, their apprehensions, and their fears for our growing strength and power. They reasoned thus: if the young and infant Republic, while even in its swaddling-clothes, can display the courage and power and resources that carried it through the Mexican war in such rapid triumph, ending in such a blaze of glory under the lead of one of the greatest military captains of his age, what have we to expect from its power and its spirit of aggression when it becomes of mature years? Sir, the French and especially the English statesmen are wise; they have a long forecast; they are always true to interest. The guiding star, the light that blazes upon the path of England on land and on ocean is her self-interest. Sir, we did hector over that Power, we did it over Austria also. The exploit of Lieutenant Ingraham in the Bay of Smyrna where he cleared his frigate for battle and compelled the captain of the Austrian craft to surrender Kosztia, who had only taken the preliminary oath to become a citizen of the United States, admonished even the leaden despot of Austria in the very midst of Europe of the danger that even so remote and sequestered a Power as Austria had to expect from us.

It then became the object and the policy of all Europe, in obedience to their envy, their fears, and their jealousy of our power, to watch its growth and development, and to sear that power whenever and wherever they could. We were an offshoot from England. We spoke her language. We had her great principles of liberty and of civil jurisprudence. She was almost as familiar with our history and our institutions, and looked forward to our destiny with as clear a vision, as the most sagacious statesman of America. She saw that in a few years she would lose the trident of the seas; that Britannia would no longer rule the waves. Our mercantile marine had already grown to and surpassed her own gigantic commercial marine; and it was only necessary to apply our vast resources to make our military marine as great and greater than the Power who claimed to have more ships of war than all the world beside. She knew that the growth and development of population and riches and power in the United States could not be safely endured for her; that by some act or policy or strategy it must be checked, else she, by the side of this gigantic and colossal young Republic of the New World, would be dwarfed into an insignificant Power of the earth.

She looked at our institutions. She saw the one fatal source of discord, of division, of dismemberment of this imperial Republic, and that point of discord was the slave subject. She saw the fanaticism and hypocrisy of the people of the North in relation to the slave institution which they had themselves built up. She saw that avarice, and pride, and fanaticism, and false philanthropy, and every other vicious and delusive motive of action of the human heart could be enlisted and frenzied in favor of the abolition of slavery. On the other hand, she saw that the value of the southern States depended upon the continuance of that institution and of that labor; that the southern owners of rice and cotton and sugar fields, if deprived of their slaves, would feel that they had lost their heritage and no longer had a possession.

As Eve opened to earth the fatal apple of discord, so the sagacious and far-seeing statesmen of England who understood so well the human heart and all its motives of action looked forward to this question as the fatal rock upon which by her management and guidance our great ship of State might be made to strike and forever sink in the depths of an unfathomable ocean.

The honorable Senator who has brought forward this measure and so many cognate measures at this session, a man of ability, of learning, of high traits and attractions as a gentleman, visited England under the prestige of persecution, and cruel and brutal persecution, from the South. His case had gone before him across the water; it was read by the reading public of England. They received him sympathetically, with open hearts and open arms; they caressed him; they gave him their attention and their hospitality; they indoctrinated him, (because I learn that he never was an abolitionist till 1846,) though from entirely different motives and considerations, with deep, implacable, obdurate, unappeasable hostility to slavery. The war that you, Mr. President, and your associates have waged against the Constitution, infringing the rights of the people of another section, has been fanned and impelled and exasperated and energized by the machinations of English statesmen and English politicians, and all with the great, cardinal, main object of dissolving the Union on that fatal sectional rock. You, sir, are as much responsible for this as any living man. If the Crittenden compromise resolutions had been accepted by you and your associates this civil war would never have occurred, this disruption of our Union never would have taken place. If the previous agitation of the slave subject, if the previous infringement and aggressions upon the rights of slaveholders by the people of the North had never taken place, we should not be in this lowering and dark day when our liberties and all the hopes of the world in free government seem about to founder. If you had practiced the same forbearance in relation to slavery in the southern States that you did in relation to slavery in Cuba and Brazil; if you had not meddled yourselves with the subject; if you had ceased to read about it, to talk about it, to lecture about it, to sermonize about it, to excite and madden ignorance, passion, and frenzy about it; if you had performed this office of forbearance and fraternity and constitutional duty, this terrible day would never have come upon the country.

But, sir, England knew the Puritan race; it had originated with her; we know the Puritan race here. It has some of the highest properties that belong to any family or class of men; but it will not let other people's business alone. It had agreed that the States should be the exclusive managers and have the exclusive control of all their domestic institutions and affairs. All that was asked was that it should practice upon that great and fundamental principle of the Constitution; but England impelled and spurred it forward to submit to no such thing; and why? England knew that in proportion as this question was raised, as it aggregated, as it grew in strength and occupied the hearts and the souls of the people South and North, it would as a subject of discord, of division, of disruption, become resistless in its force and certainly produce that dissolution of the Union which she desired as the greatest of all results.

I admit that many men in England are opposed to slavery. The British Government liberated the slaves in the British West India islands. They were not liberated by their owners; they were liberated by men who had no interest in or ownership of them. Whenever slaves' labor can be employed profitably to their owners, the owners will not liberate them. It is because men have the power to liberate and no interest in the continuation of the institution that slaves are liberated. The history of the world proves that. I admit that Bright and some of the Quaker philanthropists of England, in obedience to the tenets and principles and traditions of their order, may be opposed to slavery, but what care the British statesmen, the politicians, the men of the world, the men who clutch office and power, and whose every energy and effort and purpose is still further to advance and develop the power of England, the fast-anchored isle, about slavery? Nothing. All the interest they feel in it is that

it shall be the fatal rock of the great Republic upon which our ship of State shall strike and by which it shall go down.

I have no doubt that Louis Napoleon two years ago, and at any time within that period that he could have procured the consent and the coordinate action of England, would have recognized the independence of the rebel States, and, if necessary, would have interfered by the power of his fleets and his armies, combined with those of England, as they were combined against Turkey, for the purpose of establishing the independence of the rebel States. I do not doubt now that the vast preponderance of the sympathy of the people of England and France, and of Europe generally, of their rulers, of their statesmen, of their politicians, is that this fatal schism between the North and the South, sectionally, (against which the Father of his Country raised his warning voice in such wise and prophetic terms,) never shall be healed. They want the North and the South to proceed on in the fight of the Kilkenny cats; they want the two combatants to be eaten all up to their tails, and whenever one is likely to eat up the other they will intervene. Even before that point in the combat is reached, Louis Napoleon will intervene, I have no doubt, as France intervened in the revolutionary war between the struggling colonies and the mother country. They will never permit the South to be subjugated. It is not their interest to do so. It is not their policy to do so. All Europe is opposed to the reunion of this Confederation, except Russia, and Russia is neutral. We have a part of the sympathies of that Government merely on account of our relative geographical locations. We are so far apart from each other that no collision of interest, of ambition, of empire, or of trade, can ever cause any serious difficulty between the two countries.

Now, Mr. President, I will conclude by reading a short extract from a letter written by Mr. Webster in 1851. If Mr. Clay and Mr. Webster had not been living in 1850, disruption would probably then have taken place. It was only their genius, their eloquence, their statesmanship, their intellectual power, and the moral influence they exercised over the people of the United States that then prevented it. Mr. Webster lost caste at home and sacrificed much of his popularity by the course he took in favor of the compromise measures of 1850, and in favor of that very fugitive slave law against which the Senator from Massachusetts has been thundering all his formidable caliber. In a private letter to some gentlemen in New York, to be found in his Private Correspondence, volume two, page 424, he says:

"If I have attempted to expound the Constitution, I have attempted to expound that which I have studied with diligence and veneration from my early manhood to the present day."

Sir, if gentlemen here would scoff less, and listen with a little more attention, and give the truths enunciated by Mr. Webster, if not himself, a little more respect, they would be quite as decorously and profitably engaged as they are now.

"If I have endeavored to defend and uphold the Union of the States, it is because my fixed judgment and my unalterable affection have impelled me and still impel me to regard the Union as the only security for general prosperity and national glory. Yes, gentlemen, the Constitution and the Union! I place them together."

I say, the Constitution and the Union now and forever; I say, down with and death to all their enemies, whether internal or external, whether in the form of Jeff. Davis or Abraham Lincoln, or in any other form. The people of the United States owe it to themselves, they owe it to their great Government which their fathers formed for them, they owe it to their posterity, they owe it to the best and dearest hopes of mankind to defend the Union and the Constitution to their last and their latest breath. The Constitution and Union cannot be separated. It is more impossible to do it than to separate the Siamese twins, and I am told by anatomists that it would be impossible to sever the ligament that binds them together without causing their mutual destruction. Certainly the Union and the Constitution of the United States are bound together more vitally, more indissolubly than the Siamese twins.

"Yes, gentlemen, the Constitution and the Union! I place them together. If they stand they must stand together; if they fall they must fall together. They are images which present to every American his surest reliance and his brightest hopes."

"If they perish in my day or afterwards, I shall still leave

in the history of the times my own deep, heartfelt, and engrossing conviction that they are among the greatest political blessings ever bestowed by Providence on man; and that if in any course of disastrous events, such as may happen to all human institutions, they should become severed and broken, even their history and their memories will constitute a track of light upon which all lovers of human liberty in after times may gaze with admiration. Yes, gentlemen, Union and the Constitution!

"Fortunati ambo! Se quid mea carmina possunt,
Nulla dies unquam memori vos eximet aeo,
Dum domus Ence Capitolii immobile saxum
Accolet imperiumque pater Romanus habebit."

"I was not unaware, gentlemen, on the morning of the 7th March, last year, that I was entering upon a duty which, as you suggest, might bring into peril that favor which has so long shown me by that political party whose general principles I had for a long time steadfastly maintained."

"A crisis had arrived in which it did not become me, as I thought, to be indifferent and to do nothing. Still less did it become me to act a part, which should inflame sectional animosities, and tend to destroy all genuine American feeling and shake the fabric of the Government to its foundation. I was willing to trust, and am still willing to trust, for the vindication of my motives to the intelligent men of my party and of all parties. I should indeed have been wholly unworthy of that character which it is my highest ambition to maintain among my countrymen if I had allowed any personal peril to bear with the weight of a feather against my profound sense of public duty."

"Whatever may now happen, I shall meet it with a clear conscience and firm purpose; and while acting in full cooperation with the great mass of our fellow-citizens who hold the same sentiments that you hold, I shall fear nothing."

Mr. WILKINSON. Mr. President, if the Senator from Kentucky who has just taken his seat were to go back to the Legislature that elected him, in my humble judgment he would have to wear a label or a card upon his back upon which should be written, "I am Garrett Davis, the Union Senator from Kentucky," in order that those who sent him here might recognize him. When the honorable Senator took his seat here, the first speech that he made was in favor of expelling one Jesse D. Bright, because he had, as I think, treasonably written and acted in support of this rebellion. He next drew up a resolution to expel his own colleague because he had expressed sympathy in favor of the southern rebellion and was not heartily in sympathy with the present Administration, which he was bound to uphold and defend. In the course of the discussion on that resolution the honorable Senator made a very fierce attack on his honorable colleague, which I regret to state was responded to in language which went to show that if his colleague was a traitor the honorable Senator who has just taken his seat was a much greater traitor.

But, sir, the Senator from Kentucky did more; he drew up and urged here the most ultra confiscation act that ever was presented to the Senate; and yet, sir, for the last eighteen months he has been traducing and abusing every man who stands on the same platform on which he stood when he entered the Senate. He has been so absorbed with a passion for nullification that he thrusts it upon the Senate whether the occasion be opportune or not, and not one man in the crowded galleries who had not heard the subject announced from the Chair could conceive from his tirade what question was really before the Senate. Tonight, again, sir, for two hours, the honorable Senator, without a moment's interval devoted to any practical topic, has abused the Government of these United States and the constituted authorities. He commenced with a comparison between George III, of England, and the Abraham Lincoln, President of the United States, and between the Cabinet of the President and the ministry of the king. Mr. President, three years ago Judah P. Benjamin, then Senator from Louisiana, now secretary of state in the cabinet of the rebel chief, stood on the other side of this Chamber and drew the same parallel in the course of the speech with which he closed his senatorial office here to take up arms against the Government which had honored and supported him. But there the parallel ends. Judah P. Benjamin, Robert Toombs, and Jefferson Davis boldly maintained their sentiments; they had the courage to take up arms against the Government, and were willing to abide the issue. The honorable Senator from Kentucky comes into this Chamber this day under the folds and the protection of the stars and stripes, and utters the same treasonable sentiments, draws the same treasonable parallel, but pursues not the same bold course of responsible daring in treason. He finds it safer garrulously to reiterate forty-times uttered speeches, the staple of which is abuse

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

THURSDAY, JUNE 30, 1864.

NEW SERIES.....No. 210.

of those in authority and denunciation of those who would serve and preserve the Union.

The honorable Senator is not only the vilifier of his compeers, but he assumes to be the interpreter of the designs of the Deity. This country, he oracularly proclaims, was made by God Almighty for white men; but he did not find it convenient to explain how the great Creator of worlds showed His determination to set this apart as a white man's domain through the red skins with which He peopled this continent. [Laughter.]

The white man came, and the honorable Senator is not satisfied yet; he would amend the immortal Declaration of Independence to read thus: "We hold these truths to be self-evident, that all white men are created equal." [Laughter.] Jefferson falls beneath his censure for the omission of the word "white;" and his exquisite critical acumen discovers defective expression in the commandment and the sacred law. A certain lawyer once approached the Saviour of mankind and asked Him a question, tempting Him, and saying:

"Master, which is the great commandment in the law?"
"Jesus said unto him, thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind."

"This is the first and great commandment."

"And the second is like unto it, Thou shalt love thy neighbor as thyself."

"On these two commandments hang all the law and the prophets."

The honorable Senator from Kentucky perhaps questions the accuracy of the translation or the correctness of the text, for he cannot believe that He who spake as never man spake propounded the law other than

"Thou shalt love thy white neighbor as thyself."

With him all but the white are excluded from human sympathy; but I, Mr. President, am disposed with undoubting faith to take the law and the prophets as I find them. I am disposed to follow them rather than to follow my sympathizing secession friend from Kentucky. Every effort which he has made during this session, with all my private personal regard for him, I am compelled to assert has been to block and retard the wheels of Government. Assuredly he has raised no arm against this rebellion, he has uttered no war cry against treason, he has not lifted up his voice in defense of the constituted authorities of the country, nor has he given utterance to one single idea calculated to strengthen the power and authority of this Government; not one. All he has done has tended to destruction and ruin, and the long vista of desolation in Kentucky may be traceable in its causes to some extent to the spirit and the influences of the Senator from Kentucky. Every man who joins Morgan in his raid, every sympathizer of that black-hearted robber and traitor, may appeal to that honorable Senator for strength and support and countenance in his work of destruction. Can it be supposed, sir, if the honorable Senator from Kentucky and his colleagues here and in the House of Representatives had stood up manfully in support of this Government we should have seen such developments of treason in Kentucky as we have beheld? No, sir.

The honorable Senator has spoken by the hour and by the day against negro troops who are fighting for the suppression of the rebellion, and yet we learn that the Governor of Kentucky was cooped up the other day in Frankfort, and never could have got out if it had not been for the armed negro soldiers of Kentucky who valiantly went from Lexington to Frankfort and by their gallantry and their valor released him from the rebel blockade which surrounded him. It is all well enough for negroes to protect the Governor of Kentucky, it is all very well for them to fight the battles of Kentuckians; but they have no interest in this Government and are only fit to be sneered at in every speech which the honorable Senator makes upon this floor!

The Senator has iterated and reiterated a hundred times upon this floor that if we had passed the "Crittenden compromise" we should have

had no war. That honorable Senator knows as well as any man knows that at the session of Congress when the Crittenden compromise was introduced to the Senate of the United States there was a majority, a large majority, of Democratic members upon the other side of this Chamber. He knows well that Jefferson Davis could at any time on any single proposition have carried a majority of the Senate; and yet when those men, regardless of their obligations to the country, determined upon open rebellion, determined that neither that nor any other proposition should save this Union, left the Senate Chamber, though they had the control of it, he turns round and charges it upon the minority of this body. Is it fair? Is it manly? Is it statesmanlike? Is it honorable?

Why, Mr. President, the truth is, the honorable Senator is, upon this question at least, wrong at heart. He looks at President Lincoln precisely as Judah P. Benjamin looks at him, and he quotes the letters of Lord North just as Judah P. Benjamin quoted them. He has adopted their line of argument, and has exhausted it over and over again.

But, Mr. President, I did not wish to discuss this question; I rose simply to say that if that honorable Senator had adhered to the sentiments which he enunciated when he first came into this Senate, if he had run the race, if he had kept the faith, Kentucky, in my humble judgment, would this day have raised up a wall of fire against this rebellion, which would have rolled it back with a power such as you would have seen perhaps in no other State. But it has not been so, and there is nobody that regrets it more than I do.

Mr. HENDRICKS. Mr. President—

Mr. DAVIS. Will my honorable friend from Indiana allow me a few minutes?

Mr. HENDRICKS. I desire to say to the Senator from Kentucky that it is my purpose to say something on the bill that is before the Senate; but if the Senator from Kentucky insists on my yielding, as he has not occupied any of the time of the Senate to-night, I suppose I shall have to yield.

Mr. DAVIS. I wish to say a few words personal to myself.

Mr. TRUMBULL. As it is manifest now that no business can be done to-night, I move that the Senate adjourn.

Mr. HENDRICKS. I have not yielded the floor to the Senator from Illinois.

Mr. TRUMBULL. I rise to a question of order, that it is not competent for the Senator from Indiana to yield the floor to particular persons. He must give up the floor altogether or retain it.

Mr. HENDRICKS. If the Senator from Illinois is right of course I shall not insist. I care but very little about the matter; but I wish to say something about the bill before the Senate.

The PRESIDENT *pro tempore*. The Chair decides that by the practice of the Senate the Senator from Indiana has not lost his right to the floor.

Mr. TRUMBULL. I wish to say, if the Senator from Indiana will allow me, as the Chair rules him to be entitled to the floor, that I have no sort of objection to his proceeding, and I should not have suggested an adjournment but for the fact that we have been detained here two hours to-night by a speech in reference to other matters than the question before the Senate, and an attempt is made to continue it, and for one I do not desire to sit here and hear it. But if the Senator from Indiana desires to address the Senate—he never addresses it except upon occasions and in language pertinent to the question under consideration—I have no wish to make a motion to adjourn.

Mr. DAVIS. I ask the courtesy of the Senator from Indiana to allow me a few minutes to repel a personal attack upon myself.

Mr. HENDRICKS. If I yield the floor for a purpose of that sort, do I abandon it?

The PRESIDENT *pro tempore*. The Chair is of opinion that a Senator yielding to another Sen-

ator to make a speech thereby loses the right to the floor.

Mr. HENDRICKS. Will the Senator from Kentucky, then, insist upon it when I inform him that I wish to discuss the bill that is before the Senate?

Mr. DAVIS. With the least opposition on the part of the Senator from Indiana I shall not insist; but I merely ask a courtesy that has never been refused to any Senator, according to my observation, to say a few words in reply to a personal assault.

Mr. HENDRICKS. Very well, I give way.

Mr. DAVIS. Mr. President, it is not true that I have changed a solitary opinion since I have come into the Senate, or a solitary principle. It is not true as asserted by the Senator from Minnesota [Mr. WILKINSON] that I have reversed my position and my principles and my course since I took my seat in the Senate, and I challenge him or any man whatever to prove the contrary by a production of my speeches. In the speech to which he refers, which was not the first but the second that I made in the Senate, I condemned as unsparingly then the course of the abolitionists as I have done to-night, or as I ever have done in my life; and I said distinctly that if I had the power I would hang the rebels and the abolitionists in pairs, and if I had the power to-night I would do the same, and among them I would hang the Senator from Minnesota. [Laughter and applause in the galleries.]

The PRESIDENT *pro tempore*. Order! There must be no applause in the galleries.

Mr. DAVIS. Mr. President, I never did introduce the most stringent confiscation bill that has ever been proposed in the Congress of the United States. There was an unconstitutional, unjust, and iniquitous confiscation bill introduced, which received the unqualified and hearty support of the Senator from Minnesota and other Senators; and with a view of getting a better one I introduced another bill that subjected every case to trial by jury according to the forms of the common law and of the Constitution. I have been reproved once before in the same terms substantially with which the Senator now reproaches me, and I then showed the charge was untrue, that I never had introduced a confiscation bill of anything like the character of the one that was afterwards passed. Sir, if that confiscation bill which I introduced as a substitute for an unjust and an unconstitutional measure be looked at it will be found that no man was to be punished, and no man was to be deprived of his property, personal or real, unless on presentment by a grand jury, and a trial in civil courts according to the civil law, by the judgment of his peers, and I would vote to-night for such a bill.

The honorable Senator has said that I have never uttered a word in favor of sustaining the Government at this session. When I came here I found the Crittenden resolution setting forth the principles and policy upon which the war was to be conducted. I read the yeas and nays in favor of that resolution and of those principles, and I found the name of the Senator from Minnesota recorded in its favor, if I recollect aright.

Mr. WILKINSON. I wish to ask if the Senator alludes to what is known as the compromise resolutions of Mr. Crittenden.

Mr. DAVIS. No, sir. I allude to the resolution offered by Mr. Johnson, of Tennessee, that was understood to have been drawn up by Mr. Crittenden, the resolution which asserted the purposes, the grounds, and the principles upon which this war was to be conducted; that it was not to be conducted in a spirit of vengeance, that it was not to be conducted with a view to deprive the people of the southern States of any of their rights or in hostility to any of their institutions, but to leave intact all the dignity and power of the States. The Senate is familiar with the terms and principles embodied in that resolution. Sir, in obedience to that resolution Mr. Lincoln wrote to our ministers to Russia and to Paris; in obedience to that resolution he called the members of Congress

from the border slave States into friendly conference with him, and he there pledged himself, his word, his honor, his faith, which in a President of the United States and the successor of Washington ought to be held sacred, that he had neither the power nor the inclination, as he had before asseverated in his message, to interfere with slavery in the States. It is the Senator himself who has proved false and recreant to his solemn and recorded opinions. If he had adhered to them he would have found me sustaining the war conducted upon the policy and principles of the Crittenden resolution.

I defy the honorable Senator and I defy any man to search the record and to read the many speeches which he says I have made and reiterated so often, and to find the least inconsistency of principle between my present position and the position I avowed when I took my seat on this floor and for long years before.

The Senator speaks of my disloyalty. I tell him that if loyalty is to be faithful to the Constitution and all its principles and all its compromises, I am loyal; and if to be false to the Constitution and to all its principles and to all the liberties it secures to the people be disloyalty, the honorable Senator is one of the greatest criminals in this land. I can arraign him before any enlightened men; I can take his speeches and votes and mine, and I can prove my perfect consistency, and rectitude, and truth, and adherence to constitutional duty, and I can refute him in every particular of that kind.

Mr. WILKINSON. When this war commenced I had no idea of doing anything but save this country; I had no idea to oppress the people of the South, or to adopt any measures which were considered by anybody harsh or severe. But, sir, as this war has progressed, as the rebels have starved our prisoners, as they have butchered our captives, as they have slaughtered in cold blood our prisoners whom they have taken, I am for desolation, and I am for subjugation, and I am for the exercise of all the power that will crush these infernal, damnable fiends under our feet.

Mr. POWELL. The Senator from Minnesota a few minutes ago, relying no doubt upon a false statement read to the House of Representatives the other day, said that negroes had lately defended the capital of Kentucky. That is not so. Even the Administration paper in Frankfort, the Commonwealth, denies it. It has been denied by the Governor of Kentucky. It was a lie out of the whole cloth. The capital was defended by the Governor with a very few troops and citizens; the school-boys came out. The Senator no doubt took his statement from a telegram which went forth.

Mr. WILKINSON. I will simply say that I saw a dispatch in the papers stating that Governor Bramlette had got a messenger through from Frankfort to Lexington and that some negro regiments were marched from Lexington to Frankfort, and that through their efforts he was released.

Mr. POWELL. The telegram was read in the House of Representatives the other day, and it was there denied and refuted, and a letter was presented from the Governor denying it. It was a lie out of the whole cloth.

Mr. HENDRICKS. Mr. President, I have not been in favor of the bill before the Senate in its general purposes or in its special provisions; but I have felt it to be my duty to do what I could during the progress of its discussion to make it as near an acceptable and proper measure as possible. My purpose now is to state some general objections that I have to the measure, and some reasons why I shall feel it to be my duty to vote against the bill.

In the first place, I am not able to perceive how Congress possesses the power to enact the measure as proposed by the committee that has reported this bill. I am aware that some of the provisions of the bill may be enacted by Congress; as, for instance, that portion of the bill which authorizes certain officers to take possession of Government property and Government lands and manage them for the benefit of the Government. I do not question that it is proper for Congress to provide a set of officers to take charge of the public property; but that portion of the bill is not the main purpose and feature of the meas-

ure. The purpose of the bill is shown in the first section, from which I will read a few words:

That an office is hereby created in the Treasury Department to be called the Bureau of Freedmen, meaning thereby such persons as have become free since the beginning of the present war, under the care of a Commissioner, &c.

This indicates the purpose of the bill. It is to provide a bureau to take charge of such persons as have become free since the beginning of the present war. I ask the Senator who is the author of this measure—I mean of the substitute reported by our committee—what is the condition and status of persons who have become free during the war? I dare say he will reply that they are citizens of the United States. In that opinion I do not concur. I know the Attorney General has expressed that opinion, and in that I think he has reflected less credit upon his ability and learning as a jurist than in many other opinions which it has become his duty to deliver. The Supreme Court of the United States, however, has decided that they are not and cannot become citizens of the United States. But without reference to that question, which I do not now choose to discuss, for the purpose of the argument, assuming that the position of the Senator is correct and that they become citizens of the United States as soon as they are made free, what then is their relation to the Federal Government? Why shall Congress take charge of them, their property, their interests, and their contracts? The Senator replies that they are ignorant, unable to take care of themselves, that they are to some extent wards upon the General Government, and therefore it is proper, inasmuch as they have just come out of a state of servitude and ignorance into a state of freedom, not competent to take care of themselves, that the Government of the United States shall provide in these many respects for them. I am not able to see how the Government of the United States can discharge this duty toward any citizen or any inhabitant who is not a citizen. Is the Government of the United States the parent of all the people in that sense that the Government of England is the parent of all the people of the British empire? By no means. Each State government has toward its inhabitants that relation. Can the Government of the United States appoint a guardian to take possession of the property and to take charge of the person of one who, because of tender years or because of want of intellect, is not competent and able to take care of himself or his property? The Senator will not insist upon that. That is a power which belongs exclusively to the States of the Confederacy and not at all to the General Government.

Then, sir, upon the ground on which the Senator has maintained this measure, I am not able to see that under the Constitution Congress may enact such a measure as this. Is it replied that Congress takes charge in a very similar manner of the Indians and that we provide for them? That answer will not do. There are many reasons why Congress may legislate in respect to the Indians which do not apply to a measure like this. The Indians occupy toward this Government a very peculiar position. They were in possession of the public domain; they had what the Government recognized as a possessory right, a right that was to be extinguished by treaty with them; by treaty between the Government and the tribes the possessory right of the Indians to a portion of their land at least has been extinguished, and for that the Government has agreed to pay annuities and has assumed a guardianship over the Indians. They occupy the public Territories not within the jurisdiction of the States; and because they occupy the Territories and because they are to some extent not fully tribes, nations, people, we legislate as we have legislated in regard to them.

Mr. President, I do not believe that the Congress of the United States has the power to take the charge of a portion of the community simply because that portion of the community is not competent to take care of itself. Such a power would swallow up to a very large extent a very important portion of the powers enjoyed by the States. But I do not choose to discuss that question further. I have some other objections to this bill to which I will very briefly allude. It is a ponderous measure. What it is, where it will carry us, and to what extent it will become a burden on the

national Treasury, no Senator can now say. It has its seat of power in the Treasury Department according to the present framework of the bill—a Commissioner, assistant commissioners, and a suitable number of clerks. That may not be very much; the Treasury without serious embarrassment may bear that burden; but I ask the attention of Senators to the consideration of the second section:

Sec. 2. And he it further enacted, That the Commissioner shall have authority, under the direction of the Secretary of the Treasury, to create departments of freedmen.

A new division of the country! Congress has recognized the Confederacy as an aggregate—States, counties, and other political subdivisions made by enactments of Congress or by the provisions of the State constitutions and laws; but here is a new division of the country into “departments of freedmen.” The States are to be cut up and to be placed under the charge of commissioners. I believe the number of these commissioners is now limited in the bill to two for each State. Am I right in that respect?

Mr. SUMNER. Not more than two.

Mr. HENDRICKS. Then each State is to be divided, so that there shall be two departments with a commissioner over each:

And each department shall be under the supervision of an assistant commissioner, with an annual salary of \$2,000, to be appointed by the Secretary of the Treasury, and with authority to appoint local superintendents and clerks, so far as the same may be needed, at a compensation not exceeding the ordinary rate for similar services.

Mr. SUMNER. That has been amended.

Mr. HENDRICKS. So as to fix the salary, but not in respect to the number of superintendents, I think.

Mr. SUMNER. As to the number also; “not, however, to exceed four in each district.”

Mr. HENDRICKS. That is, four local superintendents to each department, but how many clerks I am not informed.

Mr. SUMNER. Not to exceed four in each district in the whole of local superintendents and clerks.

Mr. HENDRICKS. Then allow me to say to the Senator that if he has thus limited the number of superintendents they will be unable to accomplish the work that he designs. Here is to be a government within a Government, the Government of the United States to be over the white people and the colored people alike, according to the philosophy of the Senator, and within that Government is to be another government over a portion of the community, over a class of the inhabitants, having its seat of power in the Treasury Department, and its arms extending into each State of the southern portion of the Confederacy, with two commissioners in each State, and under each of these four superintendents and a suitable number of clerks; and all these are to constitute a government over inhabitants amounting to at least three millions and perhaps approaching near to four millions, if the final purpose and policy of the Senator from Massachusetts be carried out and emancipation be the result.

This, sir, is a remarkable spectacle, that within the government and independent of the States and almost independent of the ordinary machinery of the Federal Government, there shall be a government established for the control of the inhabitants of a particular class. I should not favor a measure of this sort even if the Constitution conferred the power.

But, sir, consider the enormous expense of this measure. I know very well that at the end of a year it will be said that four superintendents in each district, or eight superintendents in a State to take charge of so large a number of freedmen, to see to the contracts of each, to attend to the lawsuits of each in every court, are entirely inadequate; and the Senator will then change his measure so as to have it read as it did in the first place, “local superintendents and clerks so far as the same may be needed.” That will be finally the measure if the policy and purpose of the Senator is intended to be accomplished and secured. A magnificent scheme, establishing a government for a portion of the inhabitants of the country at great cost to the Federal Treasury! I am not in favor of it.

I desire, then, to call the attention of the Senate to the enormous powers that are to be conferred on this new government, this government within a Government. In the first place, these

officials are to take charge of the persons of between three and four million people. The Senator first said that they must do this according to the spirit of the Constitution; but feeling that that was rather ridiculous, when it was suggested by the Senator from Pennsylvania, he abandoned that, and he now leaves the colored people that may become free to be under the supervision, to a large extent, under the control, of these superintendents and I suppose such agents as they may employ. And yet they are to be free! But what are these superintendents to do in respect to these colored people? They are certainly to have a superintendence over them. They are to see to their contracts; they are to see how they shall labor; they are to see how they are treated by other persons, not only in respect to the colored people themselves, but in respect to their relations with the white people these superintendents are to be over them and above them. Does the Senator like a government of that kind where even the contracts that are to be made by the colored people with the white people are to be supervised by these superintendents? If the white people treat them unkindly or not, according to law, the Government of the United States through these superintendents is to appear in the courts as the representative of this particular class of people. This is a new feature in our legislation. I think we have had nothing like it before. I know that the States, following the example of England, have provided for the representation in courts by competent persons of poor people; but has it ever occurred to the Senate of the United States that this Government should assume to represent in the courts of the United States every person who was not able to represent himself? That is one of the duties of these superintendents, to appear in court to manage the lawsuits and perhaps to employ attorneys to represent these colored people whenever their interests shall be controverted and contested in the courts of the country.

Then, sir, the control of the persons of this class of inhabitants, the control of their lawsuits, the control of their contracts, the control of their property, the control of their time, the control of their labor is to be placed in the hands of these superintendents.

Again, Mr. President, no measure of this kind can be so carried out as that it will not lead to oppression and fraud. I admit that some guards have been thrown around this measure since its introduction. The amendment of the Senator from Wisconsin [Mr. DOOLITTLE] is a guard that will perhaps to some extent prevent abuse and fraud; but surely Senators know very well that it will not accomplish very much. Even the terror of a military court, the highest terror that can be addressed to the mind of man in this country; a terror almost equal to the Inquisition, which shocked us all when we were more youthful as we read of it—even that terror will not be sufficient to prevent the frauds. Why, sir, what have we heard within the last two years of the transactions down the Mississippi river by officers in your Army; by men that were amenable to court-martial; by men that were liable to be disgraced; by men that were liable to have their offices taken from them, and to be punished in the severest manner possible? Do not Senators know that when the temptation was presented, more officers fell before that temptation than any of us expected? Cotton speculation to a certain extent has corrupted your Army, and it has been charged to have been the cause of a defeat of a very important branch of the Army. A military court with the terror of its punishment has not been sufficient to prevent speculation and fraud even among officers of the Army.

Then, sir, if officers who stand upon honor, who generally are honorable men, fall before this temptation, what do you expect of these irresponsible agents of a Department—men who are appointed because they are local or cross-road politicians—men who never can secure a high and honorable office, but wish to get down South that they may speculate and plunder? What do you expect from that class of men who will take an office like this? If honorable men, if the men of your Army who are controlled by the highest sentiment of honor, have fallen, until it has become to some extent a disgrace to the whole country, what do you expect from the politicians,

the men who pull the wires for party, who are appointed to offices as partisan rewards? What do you expect of them when they get down into the southern country, far removed from the eye of the Department, where the Secretary of the Treasury can know very little about their transactions?

What check is there upon them? You say they are sworn. A man that will steal pays but little attention to his oath. You say they will be punished by court-martial. By whom will you prove all this? Suppose they are guilty of frauds; do you expect to prove it by the negroes that surround them? Those negroes within three months will fall under their control and be as afraid of them as they were of their former masters. You might as well expect to prove a crime against the master by the testimony of his slave as to convict one of these superintendents by the testimony of the colored people under their control. By the white population do you expect to convict them? What population? By whom will they be surrounded? When one of these superintendents goes upon a plantation that is being worked for the Government and takes the bales of cotton from that plantation and disposes of them and makes no fair and honest return to the Treasury Department of the proceeds, by whom are you to prove all that? The negroes do not go with him to the market. Will you prove it by the rebels in the neighborhood? The rebels in the neighborhood take no interest in the question whether the cotton is accounted for or not. Will you prove it by the loyal people in the neighborhood? It is my opinion you will not find many of that sort of people in the neighborhood. This provision that was intended to prevent fraud and plundering will be found practically to accomplish nothing.

But, sir, not only do you place the control of three million people under a set of new officers sent from the North down to manage a class of people that they are not acquainted with, not accustomed to, and that are not accustomed to them, but you place the Government property of the southern portion of the country in the hands of these men to manage and to conduct. It is my purpose simply to allude to, without elaborately discussing, these different features of the bill and to call the attention of Senators to them and to ask Senators if they are going to support a measure containing so many dangers and so few virtues.

Mr. President, there is a provision in this bill as it now stands to which I wish to advert very briefly. It has been very maturely discussed in the Senate, but I would not feel that I had done my duty did I not allude to it. I refer to the amendment adopted on the motion of the Senator from Illinois, [Mr. TRUMBULL.] Two years ago next month a law was passed providing for the confiscation of the property of rebels. That confiscation, if Senators will recollect, was not to be enforced by the Army. The officer that took possession of a section of country could not enforce that confiscation. It was by a judicial proceeding; and I will call the attention of Senators to the provisions of the bill. By the fifth section of that law it was provided that "to insure the speedy termination of the present rebellion it shall be the duty of the President of the United States to cause the seizure of all the estates and property, money, stocks, credits, &c., of the persons hereinafter named." This section of the bill provided for the seizure of the property of persons connected with the rebellion; but that was not sufficient; a seizure did not vest in the Government a title. Then the seventh section provided:

"That to secure the condemnation and sale of any of such property after the same shall have been seized, so that it may be made available for the purpose aforesaid, proceedings in rem shall be instituted in the name of the United States in any district court thereof, or in any territorial court of the United States."

So that Senators will observe that the confiscation was the result of a judicial proceeding, that the seizure did not confiscate, but it became confiscated upon the judgment of the court. When that bill went to the President of the United States he was not satisfied to approve it. That bill did not provide in express terms that the judgment of a court should cause a forfeiture of the estate in fee, but it did not limit it to the life of the rebel, and the President of the United States said he would sign no such bill; and before the signature of that bill Congress, I suppose, understanding

the condition of the Executive mind, sent to the President a joint resolution explanatory of the bill, amending it, and among other things providing:

"Nor shall any punishment or proceeding under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

Before the President returned the confiscation bill to the House of Representatives with his veto this joint resolution explanatory of the act went to him, and he, signing them both, sent them both to the Senate and House of Representatives at the same time with his message. Now, I wish to call the attention of the Senate to the message of the President:

Fellow Citizens of the Senate and House of Representatives,

Considering the bill for "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," and the joint resolution explanatory of said act, having substantially one, I have approved and signed both.

Before I was informed of the resolution, I had prepared the draft of a message stating objections to the bill becoming a law, a copy of which draft is herewith submitted.

ABRAHAM LINCOLN.

JULY 17, 1862.

The President of the United States would not sign the bill until he signed the joint resolution, and in this message to Congress he said that he regarded the joint resolution and the bill as one measure, constituting one act, the joint resolution modifying the bill so as according to his judgment to remove the constitutional objection. In the veto message which the President said he had prepared, after giving many objections to the measure, approving some of the sections of the bill and disapproving some, he said:

"That to which I chiefly object pervades most part of the act, but more distinctly appears in the first, second, seventh, and eighth sections. It is the sum of those provisions which results in the divesting of title forever.

"For the causes of treason and ingredients of treason, not amounting to the full crime, it declares forfeiture extending beyond the lives of the guilty parties; whereas the Constitution of the United States declares that 'no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained.' True, there is to be no formal attainder in this case; still, I think the greater punishment cannot be constitutionally inflicted in a different form for the same offense.

"With great respect I am constrained to say I think this feature of the act is unconstitutional. It would not be difficult to modify it."

It was modified by the joint resolution, and then received the approval and signature of the President. With Senators in the majority this ought to have weight. Two years ago the Senate yielded to the judgment of the President on this subject. Has the Constitution been since changed? I know that the Constitution has been since trampled upon, but in form that provision remains yet, that attainder of treason shall not work forfeiture of the estate beyond the life of the traitor. The President said that in no form of proceeding, whether in rem or in personam, could you reach the estate of the person guilty beyond his life, and that after that it must go to his children. If I were of the majority I should not wish to present a question like this to the President of the United States. Senators when they support this measure are presumed to expect the executive approval. Do Senators who say that it is my duty to support the Executive feel justified in presenting to him a measure which they know he must veto? Do Senators do right in presenting to the Executive that which they know in advance he must of necessity veto in a time like this, and especially a war measure? If the President vetoes it there is a clash between him and the Congress; either congressional influence is weakened before the country or the position and influence of the President are weakened before the country, neither of which, in a time like this, is to be desired. Then are Senators of the majority willing to send to the President a bill that they know in advance he must veto?

But if he approve the bill, what then? More unfortunate still, because then he approves a bill which he has said was unconstitutional, and by his own evidence he stands before the country approving an act which the Constitution forbids when he stands before God and man pledged in the most solemn manner to protect and defend the Constitution. Are Senators of the majority then willing in a time like this for no good purpose, in my judgment, to force the Executive into a position like that? It would be quite bad enough for

one of us of the minority that perhaps do not feel quite so great a responsibility as the gentlemen of the majority—it would be quite enough for us to press on the President a thing like that. I recollect once—I was too young to know very much about these questions and too careless about them to care much—that the Democracy in Congress vindicated themselves before the country in voting for the Wilmot proviso on the ground that they intended to test President Taylor on that question. I never could see the morality of it; I never could see the right of it; but I did feel afterwards, when I knew more about public affairs than I did then, that it was a heavy blow on the head of the Democracy when they gave that vote. It never does good to try to place any department of the Government in a false position before the country. I do not think the minority here have that right; and it is upon my conscience to treat the President of the United States in these times fairly and honestly.

Two years ago the majority, when they found the President could not, upon his conscience, say that there should be a forfeiture beyond the life of the owner, yielded to that, although the majority had not then said in plain terms by law that it should go beyond the life; they accommodated the conscience of the President upon that question, and came to the letter of the Constitution and said the forfeiture should not be beyond the life, and they got the approval of the President. After getting his approval by a joint resolution, have you a right now to strike that joint resolution out which secured his approval? I put it to you as honorable men. Two years ago you secured his approval, by this joint resolution, of a measure that, upon his conscience and under his oath, he said he could not approve standing alone; and having secured his approval, have you a right now to strike that joint resolution from under him? It is for gentlemen of the majority to decide that question. I shall stand by what I believe to be the Constitution and the right. If there were no constitutional question in this, if my feet were not at all fettered by the provision of the Constitution, yet knowing the fact that Congress had secured an executive approval by a joint resolution, I would not vote to strike that joint resolution from under his feet. You said he might stand upon it, and you have no right to take that platform from underneath him. It is fair to let him stand there. He has said deliberately to the country this is his conscience on the subject, and will you pay no regard to his conscience upon it? You did two years ago, and why not now? Have your hearts become more cruel that you will not stop where you did then? What did the majority say two years ago in this law? That to insure the speedy termination of the present rebellion the President shall seize the property of rebels for the purpose of confiscation; the case shall go into the court as a proceeding *in rem*, and the judicial proceedings shall result in a judgment, and judgment in sale, and thereby confiscation. That is what you said, not merely as a matter of punishment, but as a law to be held *in terrorem* over the rebel.

"That to insure the speedy termination of the rebellion." That was the purpose of the law as declared in its own letter. To secure a speedy termination of the rebellion you passed this law, and how? By threatening rebels that if they do not come back within a certain time after the proclamation of the President is issued they shall be liable by a forfeiture of their estates for life, not as a punishment after it is all over. And although my party associations do not make me a very ardent admirer of General Frémont, yet I must say that on this subject of confiscation I think he has expressed better philosophy than almost any gentleman of his party. In the commencement of a rebellion it may be well and wise to deter men from going into it, to say to them "If you do it you do it under the liability of losing your estates;" but when the rebellion is nearly through or quite through, as a matter of mere punishment it is not to be respected. Forfeiture as a matter of punishment is not a favorite idea in America; it never has been, and I pray to God it never may be. We can see something of its work, if we read the history of England, in the civil broils and strifes that for so many years rent that country, especially during the wars of the Roses, when the victor of to-day might be the

captive of to-morrow, and estates were being confiscated. The effect upon society of the confiscation was anything but good, as all readers of the history of that country very well know. And when our fathers came to frame this Constitution they said that the sins of the father should not be visited upon the children; and is there a Senator here that will not respond from his heart to that sentiment of our glorious fathers? Who wants to pursue the child for the sin of the father? The infidel world for centuries has carped at that passage in the decalogue in which it is said that the sins of the father are visited upon the children to the third and fourth generations, because that was not well understood. In my judgment, the effect of the sins of the fathers is to fall upon the children; but I do not think it is a decree of Heaven that the child shall be punished for the sins of the father.

But without reference to that, is any Senator here willing to say that the position assumed by our fathers in the Constitution was wrong? And now leaving out the letter what is the spirit of the Constitution? I choose to be governed by the spirit when it is plain and manifest. It is that when the traitor is brought into court and is tried and by his peers condemned his estate shall not be forfeited beyond his lifetime. That is the letter. If we take his property without taking his person, and upon an *ex parte* proceeding, a proceeding *in rem* alone will decree a forfeiture of his estate, can that proceeding go further than if there were the full investigation of the merits of this conduct in court? It is absurd to say it. It is not a proper construction of the Constitution.

Mr. President, I have said very nearly all upon this subject that I desire to say. I felt that there were these serious objections to this measure. It is a measure of very considerable consequence to the country, and I did not feel that I could give my vote against it without making these brief remarks. I regret that I have felt it my duty at so late an hour of the night to occupy the attention of the Senate at all. It is a grave question, especially the question presented by the amendment of the Senator from Illinois. Does any Senator believe that this rebellion is to be put down by laying his hand upon the property of the children for the crime of the fathers? I do not believe such cruelty will ever be blessed by Heaven. It is not according to the course of Providence that it should be blessed.

When we come to settle this great account about this rebellion, I know now very well how it will be settled if it is ever settled upon a basis of reunion. It will be settled by no such principles as are found in the amendment of the Senator from Illinois. And while the counsels such as are incorporated into this amendment prevail I look for no peace, I look for no restoration. The Senator says that he wants to see the rebel killed, destroyed, destruction all over his land, and he had almost said that he wished he was visited with damnation. Senators, if you want to settle this great question, will you send the Senator from Illinois to settle it? Who here takes counsel of his hatred? In this body we represent not only the present but the future. It may be for the time that we would gratify a passion of the hour, but when we look to the future, full of consequences to our children, we certainly are not willing to be governed by the sentiments that the Senator says animated him when he presented this amendment. Mr. President, I will move to strike from the amendment of the committee the amendment proposed by the Senator from Illinois, and upon that motion at the proper time I shall ask for the yeas and nays.

The PRESIDENT *pro tempore*. The amendment proposed by the Senator from Indiana will be reported.

The Secretary read, as follows:

Strike out the following section:

And be it further enacted, That the last clause of a joint resolution explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862, be, and the same is hereby, repealed.

Mr. CHANDLER. Mr. President, I will not stop to answer the Senator from Indiana, [Mr. HENDRICKS,] because I do not think that the line of policy which he has adopted since he became a member of this Senate is such as to warrant the belief that he is thoroughly, heartily devoted

to the cause of the Government in this contest, nor should I infer, either from his speeches or his votes, that he is very deeply enlisted in the cause for which our brave soldiers are fighting and suffering and dying on the battle-field.

But I rise to speak in regard to the Senator from Kentucky, [Mr. DAVIS.] The Senator from Kentucky when he first came into this body came upon my motion: I moved to expel John C. Breckinridge, and upon my motion a vacancy was made that the Senator from Kentucky fills. I am sometimes inclined to regret that motion. I believe that John C. Breckinridge could not have rendered as much aid and comfort to the rebels in arms as his successor has done, and I sometimes regret that I moved his expulsion; but I did it, and I have no remarks to make about it. John C. Breckinridge was known to be a traitor to his Government; John C. Breckinridge was in arms against his Government; John C. Breckinridge has been fighting against the Government like an honest man, if a traitor can be an honest man.

Several SENATORS. You mean an honest rebel.

Mr. CHANDLER. So far as the rebels are concerned, fighting like an honest man. But John C. Breckinridge has not rendered one tithe of the aid and comfort to rebels that his successor has done. He has fought perhaps, and fought well. I do not know. He is a traitor; an open, an avowed, a bold traitor; but he has done very little in my estimation to injure the Union cause. I moved his expulsion. Very soon after the arrival of the Senator from Kentucky he called upon me and desired me to move the expulsion of his colleague. I was disposed to do it because I believed his colleague and John C. Breckinridge were alike in their sentiments; but after a time I changed my views, and my friend from Minnesota [Mr. WILKINSON] did move the expulsion of the Senator's colleague, and I did not. A discussion of loyalty ensued, in which both the Senators from Kentucky engaged, and I was convinced by both of them that each was a traitor, and I said to the Senator from Minnesota, "If you will include both in your resolution I will vote to expel them both. I will not vote to expel either one of them unless you include both;" and I call upon the Senator from Minnesota to say if I did not say that to him.

Mr. WILKINSON. That is so.

Mr. CHANDLER. Their arguments were both conclusive. There was no dodging either of their arguments. Each Senator proved his colleague to be a traitor beyond any peradventure whatever. I did not vote to expel the Senator from Kentucky, [Mr. POWELL,] and I made a mistake in stating the other night that I did vote to expel him. I had forgotten it. I thought I did, but I did not. I did not vote at all; I dodged the vote; but, sir, I would have voted to expel both, if my friend from Minnesota had done what I asked him to do, but he did not do it. We have been sitting here for three years listening to treason, absolute treason, nothing more nor less. The very men who elected the Senator from Kentucky have assured me that the State of Kentucky never would have sent him here if they had known his sentiments. Mr. President, I wish to be parliamentary in my language; I accuse no man on this floor of being a traitor.

Mr. DAVIS. Do you make that accusation against me?

Mr. CHANDLER. No, sir, I do not; I say I accuse no man.

Mr. DAVIS. You did it a few minutes ago.

Mr. CHANDLER. I accuse no man of being a traitor.

Mr. DAVIS. You accused me of being a traitor.

Mr. CHANDLER. I tell the gentleman I accuse no man of being a traitor; but if you want to make a personal contest with me you can have it.

Mr. DAVIS advanced toward Mr. CHANDLER's desk.

Mr. HALE. Order.

Mr. CHANDLER. I say I accuse no man on this floor of being a traitor, because every man has taken an oath to support this Government, and I accuse no man on this floor of being a traitor. I assume that no man can take the oath to support the Constitution of the United States and support this Government and be a traitor. But I say that no man can support and sustain the

southern confederacy by his votes, by his speeches, by his action, by his whole course, and be a worthy member of this Senate of the United States. That is what I say; that is what I mean; that is what I affirm.

I believe, sir, that this rebellion is to be crushed, is to be exterminated, and I believe that every man who favors it, whether he be a member of this body or a member of the southern army, is to be crushed and to be exterminated unless he repents. That is what I believe. I believe, sir, that this rebellion is to-day upon its last legs. No matter for our little reverses, no matter for our repulses, no matter what may occur, I believe that this Government is to be sustained and maintained, and carried through to eternity. That is what I believe. I do not care whether you believe in the "nigger" or not; the Government will stand, "nigger" or no "nigger." Sir, this Government was more bitterly menaced on the 4th day of March, 1861, than it has ever been since. At that time Captain Buchanan, afterwards commanding the rebel monster Merrimac, was in command of our navy-yard here, was in command of our naval and military supplies, and every man in command in this District was a traitor to the Government, and John C. Breckinridge, your predecessor, was here sustaining every man of them. Sir, this Government went through its hour of peril in 1861. It had traitors in every single Department of the Government, every one; traitors in the navy-yard, and a traitor in command of the police of this Capitol, who is to-day an officer in the rebel army; traitors in every Department of this Government, traitors in your Treasury, traitors in your War Department. The rebel traitor Lee was in your War Department on the 4th of March. Thompson, of Mississippi, a traitor and a thief, was in the Interior Department; Floyd, a traitor and a thief, in your War Department; all traitors and thieves in command in the prominent positions under your Government. Well, sir, we got rid of traitors and thieves. To-day we have loyal men in command of our armies; we have loyal men in our Departments; we have loyal men in the Senate of the United States; we have loyal men in every Department of this Government, and we no more rely upon the Lees or the Buchanans to fight our battles. In 1861 we had disloyal men in command of our armies, traitors; to-day they are all either dismissed or laid on the shelf, every one of them. To-day we have loyal men; men who will put down this accursed, damnable rebellion at the point of the bayonet, no matter who stands up in this Senate for it.

Mr. President, I thank God that it is so. I thank God that we are to-day very nearly at the end of this accursed rebellion. I thank God that this nation has risen to the point of using every implement that the Almighty and common sense have put in it, hands to crush the rebellion. To-day we have more loyal men in the southern States than there are disloyal traitors. Through the disasters of this war, the rebels have lost many men and they have brought every man that can be brought into their ranks into them; and there are more loyal black men than there are disloyal traitors in the whole southern confederacy to-day, and I thank God for it; and I am in favor of doing as they have done, bring every loyal man throughout the whole South in to save this great Government, bring every man who is to-day raising pork, and corn, and cotton, to fight the battles of the Union, bring every man who can shoulder a musket to crush and utterly destroy this accursed rebellion. Sir, the elements are there, the men are there, the implements are there; we do not need another man from the north of the Potomac. Let us bring the loyal men of the South in to put down treason in the South, and there are men enough and more than enough to do it. Sir, we have heard enough about not using black men to put down this rebellion. I would use locomotives, I would use mules, I would use jackasses, I would use every single thing that God and nature had put in my hands to put down this rebellion; but first I would use the black element, bring every negro soldier who can fight into the Army. A negro, Mr. President, is better than a traitor. I say this advisedly, that I consider a loyal negro better than a secession traitor either in the North or the South. I prefer him any where and everywhere that you please to put him. A secession

traitor is beneath a loyal negro. I would let a loyal negro vote. I would let him testify; I would let him fight; I would let him do any other good thing, and I would exclude a secession traitor.

Now, Mr. President, I have said more than I intended to say. I simply got up to make one remark, but I have been led into three or four. I say this deliberately, that in Kentucky, in Tennessee, in Alabama, in Louisiana, in South Carolina, in every single rebel State I consider a loyal negro better than a secession traitor, and I will treat him better. Make the most of it.

Mr. DAVIS and Mr. McDUGALL sought the floor, which was awarded to Mr. McDUGALL.

Mr. WILSON. I hope we shall now take a vote on this measure. We have spent five or six days on it and we shall have no time to devote to it after to-day. I hope we shall certainly finish it to-night.

Mr. McDUGALL. Not with my consent while I have the floor.

Mr. DAVIS. Will the Senator from California allow me a minute?

Mr. McDUGALL. Not a moment.

Mr. DAVIS. I will have it after you are done. I intend to answer this man. [Pointing to Mr. CHANDLER.]

Mr. McDUGALL. Mr. President, the remarks of the Senator from Michigan [Mr. CHANDLER] do not, in my judgment, demand a particular reply, but concerning his vehement discourse and its value, if the Senator ever could have been the subject of prophetic vision it might be supposed that an ancient poet and seer had him in his mind's eye when he said or wrote:

"A wise man, when he has occasion fair to speak his mind,
Finds words that promptly flow to grace his argument.
There are those who have the volubility of wisdom
But not her power. A dangerous man
Is that audacious sounding Senator whose loose-cast words
Lack all the qualities of judgment."

We have heard from that Senator many sounding words; no particular thought. He would perform the seven labors of Hercules if words were equivalent to the work; but words are but wind; they have not even the substance of which shadows are made.

I do not intend to discuss this question at length. If time permitted I would be pleased to do so. If I thought anything I could say would be of present practical service I should feel bound to venture upon a careful and full discussion. It is one of immense magnitude. I do not think that the experience, history, or policies of the world ever had to do with such a proposition as is now distinctly presented. It is now proposed that by legislation we shall provide for the particular administration of the personal affairs of four million persons.

Who, Mr. President has ever heard or read of any attempt at such an undertaking? Men who have been dealing with abstractions, the theorists and ismatics of the day, must now look stubborn facts in the face and realize the fact that this is a concrete rather than an abstract world; that conditions exist and must be considered as they exist.

If in regarding abstract speculations more than palpable apprehensible human verities they have evoked a condition more terrible than the tempest, would it not be well if they should pause and inquire how they may control that condition? To me it seems that there is a reckless, headlong disposition to rush wickedly and willfully into ruin. I do not mean that Senators moving this measure advisedly contemplate great wrong, but I am compelled to think that either from prejudice or ignorance they persistently ignore the right. What is evil for all must be evil for them, and ere long they will hear the thunder and witness the lightning.

The daring attempt to control the interests and administer the particular affairs of four million individuals scattered over a large division of a great continent never came within the conception of any reasonable being, without in that category we include the class of mad enthusiasts of the day. The enthusiasts have provoked the occasion, it is well that they should now look it in the face. They have invoked the demon of the threshold. They are not able to command or control his threatening countenance, and they will be compelled to return with trembling.

I have looked for this time, this development of the policy of the Administration. This measure is the full culmination of the policy indicated for

the last two years. I have looked for its production with sad apprehension. I have thought that it could not, but I hoped it might be otherwise. And now with an earnest and kind regard for every person whose surface is colored by the hot sun and burning sands of Africa, I say to them, farewell to hope. The bondage of the legislative and governmental tyrants which this policy will inaugurate will be more terrible than that of any system of taskmasters the world has known since Israel was captive in Egypt. For your redemption it will require a Moses and many miracles.

Mr. President, it is impossible for a Government, as such, to administer the particular affairs of four million people. It is a social as well as a mathematical absurdity. Most particularly is this true in a free Government. It is possible under some order of kingship, the king being absolute and crafty. I said it was possible. I withdraw the observation; I do not think it could be done under the ukase of the czar.

Mr. President, the substance, force, and effect of this bill is to not merely subject but to subordinate the African race in all the States in rebellion. They are called freedmen.

Mr. President, the term "freedman" is a delusion. The law forces the so-called freedman beneath the condition of the slave in the South, the peon in Mexico, and the red man of the wilderness. The law if executed is the expression of a merciless power. Let those who propose to extinguish all of African blood give it their support. My love for the entire human family will not permit me to join with them.

Mr. President, I have already remarked that I was a friend to the people of the African race. I am too good a friend to willfully see them wronged. It may be the policy of the friends of this measure to extinguish the African as we have been extinguishing the red men. With the history of the destruction of the aboriginal tribes all are familiar. It may be thought by my humanitarian friends that it would be well to dispose of the African population in the same way. It is a very prompt process. The exact manner I am not familiar with, but I have observed some of the results. In the year 1849 there were in the valley of Napa, the beautiful valley of Napa, twenty-five thousand Indians, quiet, well-ordered, healthy, and strong; there are to-day less than two hundred and fifty, and they the mere wrecks of Indians. What is true of the tribes in the valley of Napa has been true of all the tribes that have come in the way of white oppression since the arrival of Columbus and the war with the Narragansetts.

The policy proposed by this bill is an outrage upon Christianity and humanity, and as such, with a severe sense of duty, I denounce it. A set of Government appointees to command, control, and govern four million people, they to fix the value of their labor, and the surplus over and above the value of their labor to be paid into the Federal Treasury; they to be a special source of Federal revenue. The now slaves being called freedmen are to be placed under hired political taskmasters to make bricks for the Republican tower of Babel. Taskmasters are bad; hired taskmasters are worse; hired political taskmasters are worst. Senators, all pray for the poor negro!

The term "freedman" was a term of value in the old Roman times. It has no value now. Then it indicated the next thing to a Roman citizen; it now indicates the subject of the smallest subaltern. The duty of a soldier and his loyalty are by our law to be ascertained, or rather determined, by the oath he is called upon to affirm.

Mr. President, it seems to me to be an interesting question, not for the first time presented, whether or not an oath has any binding obligations. In the less informed periods of Christian civilization the adjuration which invoked God to witness was held to be a binding obligation. Other theorists may have found out that any oath that promotes a present purpose is justifiable, and is in all respects correct, so that it effects its purpose, and may rely upon Mr. Bentham for authority.

I heard not long since in this Chamber that some gentlemen were afflicted with "Constitution on the brain." Allow me to say that when we come up to the Great Gate and ask for Peter's keys, that Constitution on the brain will not be as dangerous a disease as perjury on the con-

science. The Constitution provides "Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted." This is simple language. It was well understood when it was written, and no man can by any artful conceit deceive himself as to its true meaning. There are men ingenious in trying to deceive themselves, and who being convinced against their will are of the same opinion still, I have met many of them. No system of logic would have any effect upon them as against their foregone conclusions. Here is simple language applied at a particular time, with the history that surrounded it. This history belongs to the present age. The reason why this rule was made is a part of our own almost immediate history, recorded in our own annals, and the language is so plain, that he who runs may read. Oaths, I think, are not summer clouds or fleeting shadows, or mere indefinite things. In ancient times the gods were solemnly called upon to bear witness to that which was attested by an oath, and we call upon our own God, and He has been called upon to witness the solemn oath made by every one of us, that we should and will maintain the Constitution of the United States as it came to us from our fathers. This oath we have all taken, and now it is affirmed that there is no binding obligation in an oath; that we may violate an oath as against an enemy in arms, and that we may do it as well in the Senate Chamber as "in the midst of arms." Mr. President is there no such thing as law? Is there no such thing as Christian charity? Is there no such thing as the duty of our offerings to the Most High?

What is the language of the Constitution? "Congress shall have power to declare the punishment of treason." The Senate, the House of Representatives, and the President may declare the punishment of treason; and what is treason? It is the conduct and *animus* of a traitor, the highest crime known to governmental law. This is language of grant: "Congress shall have power to declare the punishment of treason," but it shall not go beyond a certain extent. The provision then was made for traitors. What more than traitors can you call the men in rebellion? Will some ingenious gentleman who advocates the opposite position find me a word that has ever been used in the English language that will go beyond treason and traitor in describing the status of rebels? The power to punish is granted and limited by the express terms of the Constitution. It is a matter about which there is no room for argument. This provision of the Constitution we have sworn to support. It will be the saddest day of my life, and to me the heavens will be hung with black, when I shall find that Senators can consciously trample upon their oaths, and in this or any other respect trample upon the Constitution. It may be possible that some gentlemen can make it consistent with their views of public policy, but it must be those who believe there is neither a God in heaven, nor truth on earth, nor any just government among men.

Mr. President, I take no pleasure in discussing the pending question; but, sir, I do not feel myself at liberty to let ignorance run wild or to permit presumption to occupy the place of wisdom. Ignorant and ill-advised men have undertaken the administration of a vast policy. By reason of their ignorance and want of proper advice we must all suffer. I will endeavor to bear my share of this suffering; and do my best to induce my fellow-citizens to endure the evils cast and thrust upon them, with the assurance that there will yet be a brighter day. If that day is not found in this land it will be found in that quiet land,

"A place of broad rivers and streams,
Wherein shall go no galley with oars,
Neither shall gallant ship pass thereby."

Mr. DAVIS. Mr. President, the Senator from Michigan [Mr. CHANDLER] has spoken of my applying to him to offer a resolution for the expulsion of my colleague, and he has expressed his regret that he had any agency whatever in placing me in the position formerly occupied by the traitor John C. Breckinridge. I say to that Senator that on that point his regret cannot be half so poignant as mine that he should have had any possible agency under the sun in putting me into this or any other position of honor.

The Senator has alluded to my application to

him to offer a resolution for the expulsion of my colleague. I will explain that point. My colleague knows from my information that I left the State of Kentucky under a pledge to move a resolution to that effect. My course in relation to my colleague and the greater light I have since had in relation to his sentiments and principles I distinctly expressed in the Senate some two or three months ago, and I think to his satisfaction. I made a clean bosom of it. When I came to this city my friend and deceased colleague of the other House, Mr. Crittenden, knew the obligation under which I had come before I left the State of Kentucky to offer a resolution for the expulsion of my colleague or have it offered; and Mr. Crittenden informed me that the Senator from Michigan wished to confer with me upon that subject.

Mr. CHANDLER. Certainly.

Mr. DAVIS. In obedience to this information from Mr. Crittenden I waited upon the Senator at his room, and he told me that he had been appointed by a meeting to take charge of the case of my colleague, and expressed his willingness to offer the resolution.

The Senator has intimated strongly my disloyalty. Sir, my loyalty is to the Constitution of the United States, not to Abraham Lincoln, or any other living man, whether he is President or not. My oath is not to support Abraham Lincoln, but to support the Constitution of the United States. My obligation, my patriotism, and my office is to support the Constitution, and not Abraham Lincoln who is endeavoring to overthrow it; and in that respect my measure of loyalty is altogether different from and in direct contrast with that of the Senator from Michigan. It is as much my duty, it is as much my sworn obligation, it is as much what I owe to patriotism, to my country, and to the Constitution, to check and defeat and oppose, at least to the extent of my ability, the assaults of Abraham Lincoln upon the Constitution of my country which I have sworn to support as it is for me to resist the attacks of the rebels upon it.

I know that the Senator from Michigan has an entirely different estimate of patriotism, and of support of the Constitution, and of respect and adherence to his oath to support the Constitution. He voted for the Crittenden resolution. His conduct and votes since have falsified every principle and every point in that resolution and in his vote to support it. Sir, men who are familiar with their own infractions of the Constitution, who disregard habitually their obligations to sustain and support it, their oaths to do so, men whose souls are stained with treason to the Constitution and perjury in their oaths to support it, may brand me as a traitor; but no man whose soul is unstained by crimes will make any such aspersion or accusation against me.

The Senator from Michigan says he has been informed by one of my colleagues in the House of Representatives that I have abandoned the principles upon which I was elected. I want the Senator to tell his informant that he is a falsifier, a slanderer, and a poltroon. That informant, that base recreant to truth and honor, was elected upon the platform of Kentucky of 1863. I occupied that platform. I now maintain every principle and every position that I brought with me to the Senate. I maintain every one of the positions in the Kentucky platform. I have none in opposition to it; I have none in addition to it. The base and calumnious informant of the Senator pledged himself deliberately, publicly and repeatedly, to sustain the principles of that platform, and after his election upon those professions and declarations he, with a perfidy that is dishonorable to human nature, betrayed his State and his party and the Constitution of the United States, and disregarded his oath to support it. I want the Senator to make this report to his informant.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Indiana.

Mr. HENDRICKS called for the yeas and nays; and they were ordered.

Mr. POWELL. I desire to state that the Senator from Illinois [Mr. RICHARDSON] is absent from the Senate in consequence of indisposition. He is sick and confined to his room.

The question being taken by yeas and nays, resulted—yeas 13, nays 16; as follows:

YEAS—Messrs. Buckalew, Carlile, Clark, Cowan, Davis,

Doolittle, Hendricks, McDougall, Powell, Riddle, Ten Eyck, Van Winkle, and Willey—13.
NAYS—Messrs. Anthony, Chandler, Conness, Foot, Harlan, Howe, Lane of Indiana, Morgan, Morrill, Pomeroy, Ramsey, Sprague, Sumner, Trumbull, Wilkinson, and Wilson—16.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Foster, Grimes, Hale, Harding, Harris, Henderson, Hicks, Howard, Johnson, Lane of Kansas, Nesmith, Richardson, Saulsbury, Sherman, Wade, and Wright—20.

So the amendment was rejected.

The amendment was ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. BUCKALEW. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 9; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Doolittle, Foot, Foster, Harlan, Howe, Lane of Indiana, Morgan, Morrill, Pomeroy, Ramsey, Sprague, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—21.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Hendricks, McDougall, Powell, Riddle, and Willey—9.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Grimes, Hale, Harding, Harris, Henderson, Hicks, Howard, Johnson, Lane of Kansas, Nesmith, Richardson, Saulsbury, Sherman, Ten Eyck, and Wright—19.

So the bill was passed. Its title was amended so as to read: "A bill to establish a Bureau of Freedmen."

DAY OF NATIONAL HUMILIATION.

Mr. HARLAN asked, and by unanimous consent obtained, leave to bring in a joint resolution (S. No. 74) requesting the President to appoint a day for national humiliation and prayer; which was read twice by its title, and ordered to be printed.

QUARTERMASTER'S DEPARTMENT.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed the bill of the Senate (No. 154) to provide for the better organization of the quartermaster's department, with amendments; in which it requested the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives; and on motion by Mr. WILSON, it was

Resolved, That the Senate disagree to the amendments of the House of Representatives to the said bill, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. WILSON, Mr. TRUMBULL, and Mr. POWELL.

PUNISHMENT OF GUERRILLAS.

Mr. WILSON. I move now to take up the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes.

Mr. COWAN. I hope that bill will not be taken up. I yielded this morning with the express understanding that the bill for the payment of troops who have been in the service of the country should be taken up next after the Freedmen's Bureau bill.

Mr. WILSON. We can take that up to-morrow morning.

Mr. COWAN. I have no disposition to be factious, but I should like to have that bill taken up.

Mr. WILSON. I have given way for several days past.

Mr. DOOLITTLE. It is necessary that we should informally go into executive session for the purpose of having some printing ordered. I move therefore to go into executive session.

Mr. WILSON. Let this bill be first taken up. We must have all day to-morrow and the next day for the consideration of military bills.

Mr. COWAN. I think we can as well order the printing of documents in open as in secret session. I see no difficulty about that.

Mr. DOOLITTLE. I move that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is upon the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes.

Mr. CARLILE. I move that the Senate do now adjourn.

Mr. DOOLITTLE. I hope the Senator will allow us to have a short executive session for the purpose of having a document printed.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, June 28, 1864.

The House met at twelve o'clock, m. Prayer by Rev. JAMES FREEMAN CLARKE, of Boston. The Journal of yesterday was read and approved.

ENROLLED BILLS.

Mr. POMEROY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 190) authorizing the Secretary of the Navy to appoint a commission to select a site for a navy-yard or a naval station on the western waters, and for other purposes;

An act (S. No. 199) relating to the compensation of pension agents; and

An act (S. No. 335) to carry into effect a convention between the United States of America and the United States of Colombia.

LAND TITLES IN CALIFORNIA.

Mr. JULIAN, from the Committee on Public Lands, reported back Senate bill No. 109, to expedite the settlement of titles to lands in the State of California, with the recommendation that it do pass.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING OF THE SMITHSONIAN REPORT.

Mr. A. W. CLARK, from the Committee on Printing, submitted the following resolution, on which he demanded the previous question:

Resolved, That five thousand extra copies of the report of the Smithsonian Institution be printed; three thousand for the use of the Institution, and two thousand for the use of the members of the House.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THE CENSUS REPORT.

Mr. MORRILL. Mr. Speaker, I desire, by unanimous consent, to make an inquiry. I notice that we have one volume of the census report already printed and delivered. By reading the introduction I discover that it is the purpose of the Superintendent of the Census to have at least five volumes, and perhaps more. It is stated that it is the design of the Superintendent to arrange the several parts so that each of the great interests shall be represented fully and completely by itself. This one is in reference to population; then there will be one for agriculture, another for manufactures, and so on.

I am ready to concede that the work appears well prepared, but if it is to be extended, involving as it does so large a sum, I submit that it is a question which ought to be decided by Congress and not by the Superintendent. It involves a large outlay of expenditure, much larger than ever before; and if we are to allow it to go on in this way we shall only be able to take a centennial instead of a decennial census. It is now four years since the census was taken, and we have but one volume of the report printed. I ask the chairman of the Committee on Printing whether I am correct.

Mr. A. W. CLARK. In answer to the gentleman from Vermont, I will say that Mr. Kennedy, the Superintendent, proposes to publish the census report in four volumes:

1. Population, (printed); 2. Agriculture, (in press); 3. Manufactures; 4. Mortality, Education, Taxes, Crime, Wages, Religion.

Mr. MORRILL. The introduction states, if I can understand it, that there are to be five vol-

umes. I think it is as likely to exceed six as to fall below five. I call the attention of the House to the fact and there leave it, so that it may take whatever action it pleases.

Mr. ENGLISH. I hope we will have a report from the Committee on Printing on the subject.

NEW YORK CUSTOM-HOUSE REPORT.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That three thousand five hundred extra copies of the report on the New York custom-house be printed for the use of the members of this House.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT ON NORTHEASTERN DEFENSES.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That three thousand extra copies of the report of the special committee on the northeastern defenses be printed for the use of the House.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING INTERNAL REVENUE LAW.

Mr. A. W. CLARK, from the same committee, reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed for the use of the members of this House two thousand extra copies of the internal revenue bill as it passed, with marginal notes.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, informed the House that the Senate agreed to the amendments disagreed to by the House to the bill of the House No. 494, to increase the duties on imports, and for other purposes, agreed to the conference asked by the House, and had appointed Messrs. FESSENDEN, MORGAN, and POMEROY the committee of conference on the part of the Senate.

LOAN BILLS.

Mr. HOOPER. The bill of the House (No. 540) to provide ways and means for the support of the Government, and for other purposes, has been returned from the Senate with a few amendments of an unimportant character. I ask that the bill be taken up that we may act upon the amendments of the Senate at this time.

No objection was made, and the bill was taken from the Speaker's table.

The first amendment of the Senate was read, as follows:

On page 4, at the end of line fifteen, add:

Except so far as it may affect the \$75,000,000 of bonds already advertised.

Mr. PRUYN. I observe that it is stated in the proceedings of the Senate that the \$75,000,000 referred to, I suppose, in this amendment is not exempted from State and Government taxation.

Mr. HOOPER. That is a mistake in the report. This has nothing to do with that subject. It is an amendment to the third section.

Mr. HOLMAN. I move to amend the amendment of the Senate by adding to it the following proviso:

Provided, That nothing in this act shall impair the right of the States to tax the bonds, notes, and other obligations issued under this act.

I hope that the amendment of the Senate will be concurred in with that amendment.

Mr. BROOKS. I wish to inquire if this \$75,000,000 comes out of the \$900,000,000 appropriated by the last Congress, under the act of March 3, 1863, or comes out of the loan of \$400,000,000 that is created by this bill.

Mr. WASHBURN, of Illinois. I call for the reading of the amendment.

Mr. HOLMAN. I wish to modify my amendment.

Mr. HOOPER. Is the amendment of the gen-

tleman from Indiana in order? Both Houses have acted on the first section of the bill, the last paragraph of which is that all bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal authority.

The SPEAKER. The Chair doubts whether the amendment is in order, but the point of order should have been made when the amendment was introduced. It was not made, however.

Mr. WASHBURN, of Illinois. I called for the reading of the proviso for the purpose of making the point of order.

The SPEAKER. The amendment was read audibly by the Clerk, and was debated by the gentleman from Indiana, [Mr. HOLMAN,] and by the gentleman from New York, [Mr. BROOKS.] The Chair does not think the amendment is in order, but the point of order comes too late.

Mr. HOLMAN. I modify my amendment by adding to it the words "as other property shall be taxed."

The SPEAKER. The amendment is before the House.

Mr. WASHBURN, of Illinois. I intended certainly to make the point of order before there was any discussion upon it.

Mr. HOOPER. I understood that the gentleman from New York [Mr. BROOKS,] rose only to ask me a question.

The SPEAKER. The Chair thinks the point of order was made too late. It might have been good at the time the gentleman from Indiana offered the amendment, but the amendment was debated before the gentleman from Illinois called for the reading of it.

Mr. BROOKS. The gentleman from Massachusetts will oblige me by answering my question, whether this \$75,000,000 loan comes under the \$900,000,000 act of the last session, and is to be credited to that, or is it a part of the new loan of \$400,000,000 created this session.

Mr. HOOPER. A large portion of this \$75,000,000 loan has already been taken.

Mr. BROOKS. When?

Mr. HOOPER. It was issued under the act of last session. I move the previous question on the amendment.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN called for the yeas and nays on his amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 71, nays 77, not voting 34; as follows:

YEAS—Messrs. William J. Allen, Ancona, Bliss, Brooks, James S. Brown, Chandler, Coffroth, Cox, Cravens, Dawes, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Holman, Horchies, Hutchins, Philip Johnson, William Johnson, Kahleisch, Kernan, Knapp, Law, Lazard, Le Blond, Long, Mallory, Marcy, McDowell, McKinney, Middleton, Samuel F. Miller, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Perry, Pomero, Prayn, Radiator, Samuel J. Randall, Robinson, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Thomas, Tracy, Van Valkenburgh, Wadsworth, Ward, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Winfield—71.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Broomall, William G. Brown, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Denning, Dixon, Donnelly, Driggs, Eckley, Elliot, Fenton, Garfield, Goech, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubard, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Alexander U. Rice, John H. Rice, Edward B. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smothers, Spalding, Stevens, Thayer, Upson, Elihu B. Washburne, William B. Washburn, Webster, Williams, Wilder, Wilson, and Windom—77.

NOT VOTING—Messrs. James C. Allen, Ashley, Bailey, Augustus C. Baldwin, Brandegee, Ambrose W. Clark, Freeman Clarke, Clay, Dumont, Farnsworth, Frank, Grinnell, Hall, Benjamin G. Harris, Kasson, King, Knox, McAllister, Morrill, Nelson, Odell, Patterson, Pice, William H. Randall, Rogers, James S. Rollins, Scott, Starr, Stebbins, Voorhees, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—34.

So the amendment was disagreed to.

During the call of the roll, Mr. A. W. CLARK stated that he had paired with Mr. ROGERS.

The first amendment of the Senate was then concurred in.

Second amendment:

At the end of the clause, "that the coupon and registered bonds shall be in such form and bear such inscriptions

as the Secretary of the Treasury may direct, and shall be signed by the Register of the Treasury, or for the Register by such person or persons as may be specially designated for that purpose by the Secretary of the Treasury, and shall bear, as evidence of lawful issue, the imprint of the seal of the Treasury Department, to be made under the direction of the Secretary of the Treasury, in a room set apart, especially and exclusively for that purpose, under the care of some person appointed directly by him," add as follows:

And all coupons bearing the engraved signature of the Register of the Treasury in office at the time when such signatures were authorized and engraved, shall have full force, validity, and effect, notwithstanding such Register may have ceased to hold office as such, when issued in connection with bonds duly authorized and signed by or for the successor or successors of said Register.

The amendment was concurred in.

Third amendment:

Strike out all of section eight, as follows:

Sec. 8. And be it further enacted, That whenever any bond, Treasury note, or certificate of indebtedness of the United States which shall be presented to the Secretary of the Treasury for payment, being due, shall be or shall have been claimed by any person or corporation in whose possession the same shall be, by filing a caveat with the Secretary of the Treasury against the payment of the same, the Secretary of the Treasury shall notify such claimant in writing of the fact of such presentation and require him within a reasonable time, to be prescribed by the Secretary of the Treasury, to commence proceedings for the adjudication of the claim before some court of competent jurisdiction, and to transmit a duly certified copy of the bill or complaint to the Secretary of the Treasury. And in case of the failure of such claimant to comply with such requirement, the Secretary of the Treasury shall make payment to the party in possession of and presenting such bond, Treasury note, or certificate of indebtedness, as though no such contesting claim had been made or caveat filed. But this act shall not be construed to compel the Secretary of the Treasury to suspend the payment of coupons detached from bonds, by whomsoever presented.

The amendment was concurred in.

Fourth amendment:

Page 9, line twenty-two, strike out the word "alter" and insert the word "utter."

The amendment was concurred in.

Fifth amendment:

Page 9, line twenty-three, strike out "alter" and insert "utter."

The amendment was concurred in.

Sixth amendment:

Page 9, line twenty-five, strike out "alter" and insert "utter."

The amendment was concurred in.

Seventh amendment:

Page 9, line twenty-six, strike out "alter" and insert "utter."

The amendment was agreed to.

The eleventh section, as amended by the fourth, fifth, sixth, and seventh amendments, reads as follows:

Sec. 11. And be it further enacted, That if any person or persons shall falsely make, forge, counterfeit, or utter, or cause or procure to be falsely made, forged, counterfeited, or altered, any obligation or security of the United States, or shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or shall bring into the United States from any foreign place with intent to pass, utter, publish, or sell, or shall have or keep in possession, or conceal, with intent to utter, publish, or sell, any such false, forged, counterfeit, or altered obligation, or other security, with intent to deceive or defraud, or shall knowingly aid or assist in any of the acts aforesaid, every person so offending shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine not exceeding \$5,000, and by imprisonment and confinement at hard labor not exceeding fifteen years, according to the aggravation of the offense.

The amendment was concurred in.

Eighth amendment:

At the end of section thirteen add as follows:

Provided further, That the foregoing provision of this section shall not be held or construed to deprive any person of the right to retain in his custody and possession and use for any lawful purpose, any engraved or transferred plate, block, or electrotype, or any die, roll, or other original work as aforesaid, which had been used by him in printing or engraving bank notes or other obligations, before being used—in printing any obligation or other security authorized to be issued by any act of Congress; nor shall any of said foregoing provisions be held or construed to prohibit or restrain the lawful use by any person of any ink, color, or pigment, the exclusive right to which has been secured to any such person by letters patent which are still in force.

Mr. HOOPER. I move to amend the amendment of the Senate by striking out the words, "the right to retain in his custody and possession, and use for any lawful purpose," and inserting in lieu thereof the words "any claim to just compensation for."

Mr. BROOKS. I hope that will not be agreed to.

The SPEAKER. The gentleman from Massachusetts is entitled to the floor.

Mr. HOOPER. The object of that amendment is to secure to the Treasury Department the right

to the plates which have been made for them, and which they have paid for. But if the bank note companies have claim on them this provides for them just compensation. The object is to secure the notes against counterfeits.

Mr. BROOKS. I hope the amendment of the Senate will be non-concurred in without amendment. The provision of the House for these fines and imprisonments has been stricken out, and now if the House will concur in this amendment of the Senate I think the bill will be right. These dies used by the bank-note companies, it will be remembered, are not used alone for engraving these Treasury notes; they are used for bank notes for all parts of the world. The printing for the banks of Canada, Nova Scotia, and New Brunswick is done by the bank-note companies of this country. I hold in my hand a note printed in Greek, for a Greek bank in Athens, the seat of arts, the high court of architecture and skill. Athens pays to this country the high tribute of sending to our artists and using our bank notes and dies. It is an art that should be encouraged.

Here is another of these notes which I wish gentlemen to see. It is printed here for the Bank of Athens, Greece. There are notes printed in the United States in the Russian and Slavonic tongues and other languages. Our artists now have the high honor of printing bank notes for almost all the countries of the earth. The Senate has presented to us an amendment that allows our artists to continue their work. That amendment is right and should pass. It is simply to allow the bank note companies the use of their dies and engravings. If I had supposed this discussion would come up I could have brought to the observation of the House bank notes printed for banks in Canada, Colombia, Peru, Russia, and almost all countries. They send to our bank note companies because the work is performed better by them than anywhere else in the world. It is a high tribute paid to our artists, and the benefit of it should not be taken from them. I hope the Senate amendment will be concurred in without any alteration whatever.

Mr. HOOPER. Mr. Speaker, I do not propose to prolong this discussion. I have two other amendments to offer, one to confine this to the printing of notes and bonds, the other to make compensation to parties who have any interest in patents that are affected by it. I now move to amend by inserting after the word "person" the words "except on notes or bonds."

The amendment was rejected.

Mr. HOOPER. I move to amend the amendment of the Senate by inserting at the end thereof the words "and if such ink, color, or pigment shall be used by the United States, such patentee or his assignee shall have just compensation for the same."

The amendment was rejected.

Mr. HOOPER. I move to amend the amendment of the Senate by striking out the words "the right to retain in his custody and possession and use for any lawful purpose" and inserting instead thereof "any claim to just compensation for."

The amendment was rejected.

The question recurred on the amendment of the Senate; and it was concurred in.

Mr. HOOPER moved to reconsider the votes by which the various Senate amendments were disposed of; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. HAY, his Private Secretary, announced that he had approved and signed bills and joint resolutions of the following titles:

Joint resolution (H. R. No. 109) correcting a clerical error in the award of the emancipation commissioners;

Joint resolution (H. R. No. 115) to continue in force the joint resolution entitled "A joint resolution to increase temporarily the duties on imports," approved April 29, 1864;

An act (H. R. No. 554) to provide for the improvement of the grounds of the Government hospital for the insane by an exchange of lands;

An act (H. R. No. 450) to provide for the repair and preservation of certain public works of the United States;

An act (H. R. No. 519) repealing certain provisions of law concerning seamen on board public and private vessels of the United States;

Joint resolution (H. R. No. 110) to declare the construction of a joint resolution for the relief of W. B. Matchett, approved June 20, 1864;

An act (H. R. No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves;

An act (H. R. No. 551) to incorporate the Colored Catholic Benevolent Society; and

An act (H. R. No. 539) to incorporate the Young Men's Christian Association of the city of Washington.

PERSONAL EXPLANATION.

Mr. A. W. CLARK obtained the floor.

Mr. TODD. Will the gentleman yield to me for a personal explanation?

Mr. A. W. CLARK. I yield for that purpose.

Mr. TODD. Mr. Speaker, I rise to a personal explanation. On the 11th instant the House decided that I was the legally elected Delegate for the Territory of Dakota after a somewhat extended debate. During this discussion the late sitting Delegate asked and obtained leave of the House to print the speech he had prepared, but which he did not deliver. In that I find the following paragraph, and ask the Clerk to read it:

The Clerk read, as follows:

"As to any personal allusions the contestant has seen proper to make, or any attempt to connect me with any of the fraudulent voting, I have only this to say, that it is wholly false; and I may as well say that I have too much respect for my character to notice, care, or concern myself about any such attempts at slander, coming from a man who resigned his place, so says report, from fear of being dismissed from the Army for cowardice; coming from a man whose name the domestic influence of the White House has three times induced the Executive of the United States reluctantly to send to the Senate for confirmation as a brigadier general, and who has three times met with a prompt refusal by the Senate. I should scorn to notice any personal remarks coming from any one bearing the name of the contestant, (Todd,) a family somewhat notorious for their love of office. If they cannot get office under President Lincoln, they take it under Jeff. Davis."

Mr. TODD. The gentleman waxes very indignant at being charged with bribery or an attempt to connect him with any fraudulent voting, and boldly pronounces the accusation false; yet the proof is conclusive and comes from four different witnesses, in different parts of the Territory, who had no collusion and no motive for false swearing. His denial, unsupported by any evidence, is what might be expected from one detected and exposed as he has been. He took advantage of the indulgence of the House to utter imputations which have no foundation in fact, and which he dared not express in his place, and then had the discretion to leave the city before the Globe containing it was published. At the time it made its appearance I was confined to my room by illness, and, as it has all the merits of a covert and clandestine attack, I have deferred noticing it until I have felt well enough to do so.

He brings a grave charge against me, and bases it upon report. On what report, and how supported? Nothing, absolutely nothing, but the most vague and indefinite rumor, of which he is the author, and to whom the responsibility belongs. The charge is that I resigned from the Army from fear of being dismissed for cowardice. Sir, the good name of a long service in the Army of the country is not, I trust, to be sullied by the malignant voice of detected fraud and disappointed ambition.

Appointed from the State of Illinois, I graduated at the Military Academy at West Point in 1837. In the fall of that year I joined the Army in Florida, and continued in that arduous and thankless service until 1842, when the Seminole war was closed by General Worth. From that period I served upon the frontiers of Texas and Arkansas, until the campaign opened before Vera Cruz, and only terminated with the fall of the City of Mexico, through which I served. I then on the return of the Army to the United States was stationed on the Upper Mississippi, in Minnesota, until 1854, and in 1855 I took an active part in the campaign of General Harney against the Sioux Indians of the Plains, and in the following year, 1856, when all was peace, I resigned my commission in the Army after twenty years' service, and settled in Dakota, where I have resided ever since.

Let us see what opinion General Harney held

of my services during my last campaign previous to my leaving the service; what my record is at the War Department, and how the case stands before the Senate Military Committee touching this infamous charge, which should forever condemn me in the minds of all honorable men if true, or consign to everlasting infamy the man who recklessly makes it if false. I ask the Clerk to read the correspondence which I send to his desk.

The Clerk read, as follows:

HOUSE OF REPRESENTATIVES,
WASHINGTON CITY, June 20, 1864.

SIR: The accompanying extract is taken from a speech of Mr. Jayne, late sitting Delegate for the Territory of Dakota, published in the Globe of the 16th instant, but which was not delivered in the House, he having asked permission to print.

Mr. Jayne left the city before the issue of the Globe. The attack is so direct and personal that I beg to ask your attention to it, and to inform me whether the charge of cowardice was ever alleged against me either to yourself or the Military Committee, while my name was pending before it for confirmation as a brigadier general, or that the fear of dismissal from the Army on this account was the cause of my resignation.

You will greatly oblige me by an early reply and place me under obligation to you.

I am, very respectfully, your obedient servant,

J. B. S. TODD.

Hon. HENRY WILSON, United States Senate.

SENATE CHAMBER, June 21, 1864.

SIR: In reply to your note just received, asking me if the charge of "cowardice" was alleged against you when your name was before the Military Committee for confirmation as a brigadier general, or if the fear of "dismissal" from the service on that account was the alleged cause of your resignation, I have to say that I am sure "cowardice" was not alleged against you, nor was it ever represented to the committee that the fear of "dismissal" caused your resignation.

Yours truly,

HENRY WILSON.

Hon. J. B. S. TODD.

HOUSE OF REPRESENTATIVES,
WASHINGTON CITY, June 20, 1864.

SIR: The inclosed extract is taken from a speech of Mr. Jayne, published in the Globe of the 16th instant, but which was never delivered in the House of Representatives. Mr. Jayne left the city before it made its appearance, and before I had the means of knowing what it contained.

The charge brought against me is a very grave one, and if true, the records of the Adjutant General's office will establish it.

I beg to ask your attention to the marked passage, and to request that you will inform me if such a charge exists against me in your office, or whether the fear of dismissal from the Army for cowardice was the cause of my resignation in the year 1858.

I hope you will be explicit, and will favor me with an early reply.

I am, very respectfully, your obedient servant,

J. B. S. TODD.

Colonel E. D. TOWNSEND, Assistant Adjutant General,
United States Army, Washington City.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
WASHINGTON, June 25, 1864.

SIR: In reply to your letter of the 20th instant, inclosing a slip from a newspaper, and asking if charges exist against you in this office, or whether the fear of dismissal was the cause of your resignation in 1858, I have respectfully to inform you that I can find no record of any charges against you, and am not aware that any have ever been filed in this office. There is no evidence connected with the record of your resignation to show that it was tendered under any fear or pressure whatever. The regulations of the Army require that when an officer resigns under charges a copy of the charges shall be filed with his resignation. There is certainly no such document with your resignation, nor any evidence that such a one ever existed.

In General Harney's report of the battle with the Indians near Ash Hollow, Sioux country, in September, 1855, you are mentioned with your command in high terms of commendation among "the company commanders whose position, either in the engagement or pursuit, brought them in closest contact with the Indians."

I am, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,

Assistant Adjutant General.

Hon. J. B. S. TODD, House of Representatives.

Mr. TODD: I ask the Clerk to read so much of General Harney's report of the battle of Ash Hollow as applies to the charge.

The Clerk read, as follows:

"Immediately after his [Little Thunder's] disappearance from my view I ordered the infantry to advance, the leading company [Captain Todd's] as skirmishers, supported by company H, sixth infantry, (under Lieutenant McCleary,) the remaining companies of the sixth being held in hand for ulterior movements. The skirmishers under Captain Todd opened their fire, crowned the bluffs on the right bank of the stream (where the Indians had taken up their last position) in a very spirited and gallant manner, driving the savages therefrom into the snare laid for them by the cavalry."

"The company commanders, whose position either in the engagement or in the pursuit brought them in closest contact with the enemy, were Captain Todd, of the sixth infantry, Captains Steele and Robertson, of the second dragoons, and Captain Heth, tenth infantry."

Mr. TODD. Sir, what can be more conclusive than these letters refuting this charge? And surely the commendation of so eminent and long-tried a soldier as General Harney is worthy of consideration, and should have shielded me from so cruel an accusation. What shall be thought of the man who knowing the truth dares choose the falsehood, and then shirks the responsibility that attaches to all honorable men when they assume a charge, be it true or false? It is true I received the appointment of brigadier general shortly after the breaking out of this cruel internecine war, and accepted it with pride and pleasure. An élève of the Government, educated at its great national school, fostered by its care, and honored with its trusts, I owe all to it, all of manhood I possess, all I am and all I hope to be. In its school were nurtured and cultivated and elevated the germs of loyalty and truth implanted within me under the sacred roof-tree that guarded my youth; under the inspiration of that venerable and venerated old man upon whose head rests the weight of three quarters of a century, and whose deepest reproach would be the dishonor of his son. Inspired by these teachings and holding the sentiments thus early taught and long maintained, I held it my duty to place myself again at the disposition of the Government, and on being ordered to the field repaired to my post with as true a heart and prompt alacrity as any one of the million men who rushed to arms in its defense.

The command of the sixth division of the army of the Tennessee was intrusted to me by the recent and continued by the present Commander-in-Chief of the Army. These eminent soldiers were the companions of my youth and comrades in maturer years; and certainly they are not the men to confide the well-being and safety of an important division to a man who would have been so unworthy of that honor had there been even the semblance of truth attaching to such an atrocious imputation. This command I held until the close of the session of Congress in 1862, when my commission expired by limitation; since which time I have not been in service. The following winter I was again nominated to the Senate, but for reasons known to itself was not confirmed. At the time I was in the field I was also a Delegate to the Thirty-Seventh Congress, and I am the man that Mr. Jayne declared both in Dakota and Springfield, Illinois, should not be confirmed unless I vacated my seat on this floor. I scorned the threat and fell the victim to his vindictiveness. Governor of the Territory, with potential friends and relatives in high places, he brought to bear upon me his boasted power, and only too truly succeeded in carrying out his threats.

The influences used to procure this appointment were simple and quite foreign from those alleged. They were simply a tender of the services of an old soldier, occupied in the avocations of civil life, and accepted by the War Department as generously as they were freely offered. No domestic influences were invoked to urge a reluctant Executive to make the appointment; none other than the desire on either part to render a service to a Government imperiled, and which needed the services of all her sons.

One word in regard to the name I bear and I have done. From the early settlement of Kentucky to the present day it is honored wherever known. On the bloody field of the Blue Licks, where the flower of Kentucky fell, three brothers were engaged and one of them there laid down his life, the eldest, commanding the troops on that disastrous day. From that time until the close of the war of 1812, the representatives of this name were found upon every western battle-field, and the heritage of its glory has been handed down to the younger members as the most priceless boon they could inherit. None of the name have held civil appointments or have been applicants for them in my immediate branch for thirty years. The position I hold is by the voice of the people I represent, and my youngest brother is a soldier in the army operating in Georgia, and in times like these it is certainly no reproach for him to bear arms. But a single branch of this family are in the southern confederacy; three brothers were in its military service, and, however erroneous their opinions may be, it will not be denied that they had the manhood to maintain their opinions, since two of the three have found soldiers'

graves. Cowards do not seek the posts of danger, and the imputations of this slanderer fall harmless uttered by one upon whose garments the smell of gunpowder has never rested, and upon whose brow the dishonor of a blow remains undressed.

FOREIGN AND DOMESTIC COMMERCE.

Mr. A. W. CLARK. I now resume the floor and offer the following resolution, on which I demand the previous question:

Resolved, That there be printed for the use of this House eight thousand extra copies of the report of the Secretary of the Treasury made to the Senate on the 12th of March, 1863, relating to our foreign and domestic commerce, including as well that of the Pacific coast.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was agreed to.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSCRIPTION BILL.

Mr. SCHENCK. I call for the regular order of business.

The SPEAKER. The regular order of business is the unfinished business on which the House was engaged last evening, being the conscription bill.

Mr. BLAIR. I move to reconsider the vote by which the House last evening disagreed to the proposition of the gentleman from Delaware [Mr. SMITHERS] on the enrollment bill.

Mr. HOLMAN. I move to lay the motion to reconsider on the table.

Mr. BEAMAN. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 73, nays 85, not voting 24; as follows:

YEAS—Messrs. William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Biles, James S. Brown, William G. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Denton, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchesin, Philip Johnson, William Johnson, Kabisch, Kerban, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, James S. Rollins, Ross, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweat, Wadsworth, Ward, Webster, Whaley, Whitton A. White, Joseph W. White, and Winfield—73.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blair, Blow, Boutwell, Boyd, Broomall, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Briggs, Eckley, Elliot, Feinton, Garfield, Gooch, Higby, Hooper, Hottelkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McCurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Williams, Wilder, Wilson, and Windom—85.

NOT VOTING—Messrs. James C. Allen, Blaine, Brannegge, Brooks, Ambrose W. Clark, Clay, Dumont, Farnsworth, Frank, Grinnell, Hall, Kasson, Kilg, Price, Rogers, Scott, Starr, Stebbins, Voorhies, Wheeler, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—24.

So the House refused to lay the motion to reconsider on the table.

During the roll-call,

Mr. BLAINE stated that when the vote was taken last evening on the substitute offered by Mr. SMITHERS, he was paired with Mr. PIKE; that he (Mr. BLAINE) would have voted against it, while Mr. PIKE would have voted for it.

Mr. BLAIR: I move the previous question on the motion to reconsider.

The previous question was seconded, and the main question ordered to be put.

ARMY NEWS.

The Speaker laid before the House for information the following communication from the Secretary of War:

WAR DEPARTMENT,
WASHINGTON CITY, June 28, 1864.

SIR: A dispatch from General Grant, dated yesterday, 27th, 3.30 p. m., at his headquarters, reports no operations in front, except from our own guns, which fire into the

bridge at Petersburg from a distance of two thousand yards. The dispatch gives the following intelligence from rebel papers:

"A Petersburg paper of the 25th states that Hunter is striking for Jackson River Depot, about forty miles north of Salem, and says that if he reaches Covington—which they suppose he will do—with most of his forces, but with loss of material, he will be safe.

"The same paper accuses Hunter of destroying a great amount of private property and stealing a large number of wagons, horses, and cattle.

"The same paper also states that Wilson destroyed a train of cars loaded with cotton and furniture, burned the depot building, &c., at Burkesville, and destroyed some of the track, and was still pushing south. All the railroads leading into Richmond are now destroyed, and some of them badly."

A dispatch from General Sherman, received this morning, reports that yesterday (June 27) an unsuccessful attack was made by our forces on the enemy's positions, which resulted in a loss to us of between two and three thousand. The following particulars are now given:

"Pursuant to my orders of the 24th, a diversion was made on each flank of the enemy, especially down the Sandtown road, at 8 a. m. McPherson attacked at the south-west end of Kenesaw, and Thomas at a point about a mile further south, at the same time. The skirmishers and artillery along the whole line kept up a sharp fire.

"Neither attack succeeded, though both columns reached the enemy's works, which are very strong. McPherson reports his loss about five hundred, and Thomas about two thousand. The loss is particularly heavy in general and field officers. General Harker is reported mortally wounded; also, Colonel Dan. McCook, commanding a brigade; Colonel Rice, fifty-seventh Ohio, very seriously. Colonels Burnhall, fortieth Illinois, and Augustine, fifty-fifth Illinois, are killed.

"McPherson took one hundred prisoners, and Thomas about as many, but I do not suppose we inflicted heavy loss on the enemy, as he kept close behind his parapets."

No other military intelligence has been received by the Department.

EDWIN M. STANTON,
Secretary of War.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolutions of the following titles when the Speaker signed the same:

An act (H. R. No. 121) for the relief of Lieutenant William P. Richner, seventy-seventh regiment Ohio volunteer infantry;

Joint resolution (H. R. No. 101) to provide for the publication of a full Army Register;

Joint resolution (H. R. No. 68) authorizing the Secretary of the Treasury to release certain parties from liabilities or payment of duties;

Joint resolution (H. R. No. 111) authorizing the Secretary of the Interior to reclaim and preserve certain property of the United States; and

Joint resolution (H. R. No. 32) to grant additional rooms to the Agricultural Department.

CONSCRIPTION BILL—AGAIN.

The question recurred on reconsidering the vote by which the House rejected the amendment offered by Mr. SMITHERS.

Mr. ANCONA demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 83, nays 71, not voting 28; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blair, Blow, Boutwell, Boyd, Broomall, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburt, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seofield, Shannon, Sloan, Smith, Smathers, Spalding, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilbur, Wilder, Wilson, and Winfield—83.

NAYS—Messrs. William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Blaine, Bliss, James S. Brown, William G. Brown, Chandler, Coffroth, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hale, Harding, Harrington, Benjamin G. Harris, Charles H. Harris, Herick, Holman, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, James S. Rollins, Ross, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Winfield—71.

NOT VOTING—Messrs. James C. Allen, Brandegee, Brooks, Ambrose W. Clark, Clay, Cox, Dumont, Farnsworth, Fenton, Frank, Grinnell, Griswold, Hall, Kasson, Kernan, King, Morrill, James R. Morris, Price, Rogers,

Scott, Starr, Stebbins, Voorhees, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—28.

So the motion to reconsider was agreed to.

During the roll-call,

Mr. BROOKS stated that he was paired off with Mr. MORRILL, who was absent on a conference committee.

The question recurred on agreeing to Mr. SMITHERS's substitute.

Mr. SMITHERS. Before the question is put to the House, I desire to make a slight modification of the first section of my substitute. I move to insert after the word "service," in the last line, the words "in the line of his duty." The effect of that modification will be to require that the party shall have been wounded or that his discharge shall have been incurred in the line of his duty.

Now, sir, I have no desire to discuss this question. I suppose the proposition is well understood by every gentleman upon this floor. The alteration I have made in my substitute is a plain and simple one, and in order that the question may be at once taken upon the substitute I demand the previous question.

Mr. MALLORY. Will the gentleman from Delaware allow me to make a suggestion to him before he demands the previous question?

Mr. SMITHERS. Gentlemen around me generally desire that the question shall be taken at once. I must, therefore, decline to yield.

Mr. STEVENS. I should like to have an opportunity to offer a small amendment.

Mr. BROWN, of Wisconsin. Will the gentleman from Delaware allow me to ask him a single question about his substitute?

Mr. SMITHERS. I cannot do it.

Mr. THAYER. I would inquire whether, if the previous question is sustained, it will be competent to move to add a section to the bill as amended?

The SPEAKER. It will be in order if the House should adopt the substitute. It will not be in order to strike out any part of it, but it will be in order to add additional sections.

Mr. ANCONA demanded tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. ANCONA and SMITHERS were appointed.

The House divided; and the tellers reported—ayes seventy-six, noes not counted.

So the previous question was seconded.

The main question was then ordered.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 75, not voting 26; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blair, Blow, Boutwell, Boyd, Broomall, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburt, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seofield, Shannon, Sloan, Smith, Smathers, Spalding, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Winfield—81.

NAYS—Messrs. William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Blaine, Bliss, James S. Brown, William G. Brown, Chandler, Coffroth, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Frank, Ganson, Grider, Griswold, Hale, Harding, Harrington, Benjamin G. Harris, Charles H. Harris, Herick, Holman, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Robinson, James S. Rollins, Ross, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Thomas, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Winfield—75.

NOT VOTING—Messrs. James C. Allen, Brandegee, Brooks, Ambrose W. Clark, Freeman, Clarke, Clay, Cox, Dumont, Farnsworth, Fenton, Grinnell, Hall, Kasson, King, Morrill, Odell, Price, Rogers, Scott, Starr, Stebbins, Voorhees, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—26.

So the substitute offered by Mr. SMITHERS was agreed to.

During the roll-call,

Mr. MCKINNEY stated that Mr. Cox had paired off with Mr. FEXTON.

Mr. BROOKS stated that he had paired with Mr. MORRILL.

The result of the vote having been announced as above recorded,

Mr. SMITHERS moved to reconsider the vote by which the substitute was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS. I offer the following as an additional section:

And be it further enacted, That nothing contained in this act shall be construed to alter or in any way affect the law relative to those conscientiously opposed to bearing arms.

Mr. WASHBURN, of Illinois. I move the previous question on the amendment to the bill.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. LAZEAR and McBride were appointed.

The House divided; and the tellers reported—ayes 73, noes 70.

So the previous question was seconded.

Mr. HOLMAN demanded the yeas and nays on ordering the main question.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 73, nays 78, not voting 31; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Broomall, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Fenton, Garfield, Gooch, Higby, Hooper, Hotchkiss, John H. Hubbard, Hulburt, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Pomeroy, Alexander H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smathers, Spalding, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Winfield—73.

NAYS—Messrs. William J. Allen, Ancona, Bailly, Augustus C. Baldwin, Blair, Bliss, James S. Brown, William G. Brown, Chandler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Harding, Harrington, Benjamin G. Harris, Charles H. Harris, Herick, Holman, Asahel W. Hubbard, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Knapp, Lazear, Long, Mallory, Marcy, McAllister, McDowell, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perham, Perry, Pike, Pruyn, Radford, Samuel J. Randall, John H. Rice, Robinson, Ross, Seofield, Smith, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Thomas, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Winfield—78.

NOT VOTING—Messrs. James C. Allen, Dianne, Brandegee, Brooks, Ambrose W. Clark, Freeman, Clarke, Clay, Dumont, Farnsworth, Frank, Grinnell, Hall, Kasson, King, Law, Le Blond, Morrill, Leonard Myers, Price, William H. Randall, Rogers, James S. Rollins, Scott, Starr, Stebbins, Sweet, Voorhees, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—31.

So the House refused to order the main question, and the bill and amendments were therefore relieved of the operation of the previous question.

Mr. SCHENCK. I move the previous question on the amendment offered by the gentleman from Pennsylvania.

Mr. PIKE. I wish to offer an amendment to the amendment.

Mr. SCHENCK. I withdraw the previous question for that purpose.

Mr. PIKE. I move to amend the amendment by adding as follows:

And be it further enacted, That hereafter, persons between the ages of forty-five and fifty years shall be enrolled and subject to draft in the same manner as persons between the ages of twenty and forty-five.

Mr. WASHBURN, of Illinois, moved the previous question on the bill and amendments.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Messrs. ROLLINS of New Hampshire, and MIDDLETON, were appointed.

The House divided; and the tellers reported—ayes 77, noes 63.

So the previous question was seconded.

Mr. O'NEILL, of Ohio, called for tellers on ordering the main question.

Tellers were ordered; and Messrs. DAWES and O'NEILL of Ohio, were appointed.

The House divided; and the tellers reported—ayes 78, noes 62.

So the main question was ordered.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the main question was

ordered; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. CRAVENS. I move that the House do now adjourn.

The motion was not agreed to.

The question being on Mr. PIKE's amendment to the amendment.

Mr. COFFROTH. I suggest a modification to the amendment.

The SPEAKER. It is not amendable.

Mr. PIKE called for the yeas and nays on his amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 102, not voting 33; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Augustus C. Baldwin, Baxter, Blow, Broomall, James S. Brown, Chaffee, Freeman Clarke, Coffroth, Creswell, Henry Winter Davis, Dawes, Denison, Donnelly, Garfield, Gooch, Griswold, Hale, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Julian, Littlejohn, Marvin, McBride, McClurg, Moorhead, Daniel Morris, Nelson, Orth, Patterson, Pendleton, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Smith, Stevens, Tracy, Van Valkenburgh, Wadsworth, Elihu B. Washburne, and Chilton A. White—47.

NAYS—Messrs. William J. Allen, Ancona, Bailly, John D. Baldwin, Beaman, Blaine, Blair, Bliss, Boutwell, Boyd, William G. Brown, Cobb, Cole, Cravens, Thomas T. Davis, Dawson, Denison, Dixon, Driggs, Eckley, Eden, Edgerton, Eldridge, Eliot, English, Finck, Frank, Ganson, Grider, Harrington, Benjamin G. Harris, Charles M. Harris, Higby, Holman, Hooper, Hotchkiss, Hulburd, Hutchins, Jencks, Philip Johnson, William Johnson, Kalbfleisch, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Knapp, Knox, Law, Le Blond, Loan, Long, Longyear, Mallory, Marcy, McAllister, McDowell, McIndoe, McKinney, Middleton, Samuel F. Miller, William H. Miller, James R. Morris, Morrison, Amos Myers, Leonard Myers, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Perham, Perry, Pruyn, Radford, Samuel J. Randall, William H. Randall, Robinson, James S. Rollins, Ross, Schenck, Shannon, Sloan, Smithers, Spaulding, Stiles, Strouse, Stuart, Thayer, Upson, Ward, William B. Washburn, Webster, Whaley, Wheeler, Joseph W. White, Williams, Wilder, Wilson, Windom, and Winfield—102.

NOT VOTING—Messrs. James C. Allen, Anderson, Brandegee, Brooks, Ambrose W. Clark, Clay, Cox, Dumont, Farnsworth, Fenton, Grinnell, Hall, Herrick, Kasson, King, Lazarus, Morrill, Price, Rogers, Edward H. Rollins, Scofield, Scott, Starr, Stebbins, John B. Steele, William G. Steele, Swont, Thomas, Voorhees, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—33.

So the amendment was disagreed to.

The question recurred on the amendment proposed by Mr. STEVENS.

Mr. MALLORY. I rise to a question of order. Will this amendment enable everybody who is opposed to the war to become exempt? Will it apply to peace Democrats?

The SPEAKER. That is not a question of order.

Mr. MALLORY. Then it is a question of information. I want to know.

The SPEAKER. The question is in the nature of debate.

Mr. ANCONA. I call for the yeas and nays on the adoption of the amendment of the gentleman from Pennsylvania.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 64, not voting 39; as follows:

YEAS—Messrs. Alley, Ames, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Broomall, Chaffee, Creswell, Thomas T. Davis, Dawes, Dawson, Denison, Dixon, Donnelly, Driggs, Eckley, Edgerton, Eliot, Fenton, Finck, Frank, Ganson, Gooch, Grider, Griswold, Hale, Charles M. Harris, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hutchins, Ingersoll, Jencks, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, Knox, Loan, McAllister, McClurg, Middleton, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Perham, Perry, Pike, Radford, Alexander H. Rice, John H. Rice, Edward H. Rollins, Sloan, Smithers, Spaulding, Stevens, Stuart, Swear, Thayer, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, Webster, Wheeler, Wilder, Wilson, and Windom—79.

NAYS—Messrs. William J. Allen, Allison, Ancona, Augustus C. Baldwin, Bliss, James S. Brown, William G. Brown, Freeman Clarke, Clay, Cobb, Coffroth, Cole, Cravens, Denison, Eden, Eldridge, English, Garfield, Harrington, Benjamin G. Harris, Herrick, Holman, Hulburd, Philip Johnson, Kalbfleisch, Knapp, Law, Le Blond, Littlejohn, Long, Longyear, Marcy, Marvin, McDowell, McIndoe, McKinney, Samuel F. Miller, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Orth, Pendleton, Pomeroy, Samuel J. Randall, Robinson, James S. Rollins, Ross, Schenck, Shannon, Smith, William G. Steele, Stiles, Strouse, Tracy, Wadsworth, Ward, William B. Washburn, Whaley, Chilton A. White, Joseph W. White, and Williams—64.

NOT VOTING—Messrs. James C. Allen, Anderson, Arnold, Blair, Boyd, Brandegee, Brooks, Ambrose W. Clark, Cox, Henry Winter Davis, Dumont, Farnsworth, Grinnell, Hall, William Johnson, Kasson, King, Lazarus, Mallory,

McBride, Morrill, Nelson, Odell, Patterson, Price, Pruyn, William H. Randall, Rogers, Scofield, Scott, Starr, Stebbins, John B. Steele, Voorhees, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—39.

So the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time.

Mr. ANCONA. I call for the reading of the engrossed bill.

The SPEAKER. The bill has not been engrossed, and goes therefore to the Speaker's table.

ADMIRALTY PROCEEDINGS.

The SPEAKER. The business first in order is the bill of the House (No. 184) to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes, reported from the Committee on the Judiciary.

CONSCRIPTION BILL—AGAIN.

Mr. SCHENCK. I move to reconsider the vote by which the enrollment bill was ordered to be engrossed.

The SPEAKER. The motion will be entered.

QUARTERMASTER'S DEPARTMENT.

Mr. SCHENCK. I now call up the motion to reconsider the vote by which Senate bill No. 154, to provide for the better organization of the quartermaster's department, was referred to the Committee on Military Affairs. I withdraw the motion to reconsider, and report the bill back to the House.

MILITARY OFFICERS IN CONGRESS.

Mr. DAWES. I desire to call up the report of the Committee of Elections in the case of the military appointments of Mr. Blair and Mr. SCHENCK.

The SPEAKER. The gentleman can only call up the report by unanimous consent, two matters of business being already before the House.

Mr. DAWES. I hope there will be no objection to this report being called up now. I propose to call the previous question on the resolution.

Mr. MORRIS, of New York. I desire to know if the admiralty bill cannot be called up now.

The SPEAKER. The Chair called it up, but the gentleman from Ohio called up a question of higher privilege—a motion to reconsider. If there be no objection the resolution of the Committee of Elections will be reported and voted on as if under the operation of the previous question.

Mr. WADSWORTH. I object.

QUARTERMASTER'S DEPARTMENT—AGAIN.

The question recurred on Senate bill No. 154, to provide for the better organization of the quartermaster's department, with the amendments of the Committee on Military Affairs.

Mr. SCHENCK. Mr. Speaker, the amendments are some thirty-odd in number, and before they are read perhaps the House should have some explanation of them.

The first amendment is to strike out the words "under such rules as may be prescribed by the Quartermaster General, with the approval of the Secretary of War," and in lieu thereof to insert the words "under the direction of the Quartermaster General;" so that it will then provide—

"That there shall be established in the office of the Quartermaster General of the Army, to exist during the present rebellion and one year thereafter, the following divisions, each of which shall be placed in the charge of a competent officer of the quartermaster's department, to be assigned to such duty by the Secretary of War, who shall, under the direction of the Quartermaster General, transact the business of such division as hereinafter provided, &c."

The object of that is to leave the Quartermaster General at the head of his department as now, with a general supervision on the part of the Secretary of War, without calling on the Secretary of War for assignment of each officer who is to serve at the head of any division in that department.

The Committee on Military Affairs propose to strike out the second section of the Senate bill, for whatever is provided in that section is contained in other sections of the bill, with this difference: that section provides that "such officers of the quartermaster's department so authorized to make purchases, shall not inspect, measure, weigh, or receive the articles purchased or contracted for by them, but such inspecting, measuring, weighing, and receiving, shall be performed

by the quartermasters attached to the commands or depots for whose use the articles are purchased or contracted for." The effect of that will be to render it difficult, impossible even, to carry out the law under which supplies can be furnished at all to the Army. It will prevent contracts and prevent competition. For instance—and I can explain myself better by illustration—if a quartermaster purchases supplies from a contractor at Cincinnati, that contractor furnishes them to the officer at the point where they are to be sent, so that the contractor would have to wait until they went down to Chattanooga or Marietta or some other distant point, and would have no settlement, no payment, no adjustment of his contracts, and there would be no adjustment of the quartermaster's own accounts until return was made from the inspector at one of those points.

The only argument in favor of the Senate bill in this particular is that it may be said here is a check, the purchase being made at one place and the inspection at another. The Committee on Military Affairs of the House have thought the only proper way is to secure the good conduct under proper inducements and proper penalties of the officers themselves. They have extended to inspectors the penalties which apply to other officers. They are held liable to trial by court-martial, and punishable in the same way as contractors. This has not been the case in regard to inspectors. It leaves the inspectors to act and exercise their functions at the places where the purchases are made. They are held to a stricter accountability, and these checks are thrown around them.

In this third section it will be discovered that the word "by" is stricken out and the words "under the direction of" inserted. This may seem to be an unimportant amendment, as it is merely to strike out a single word and insert four others; but instead of being unimportant it is the key to all of the amendments proposed by the committee of the House to the Senate bill. That bill contemplates the idea that the head of each division in the quartermaster's department shall live here at Washington, where all the purchases are to be made. In other words, the scope of the Senate bill is for centralizing the whole matter at Washington. The Committee on Military Affairs of the House believe, and they have come to that conclusion after conference with the Quartermaster General, who agrees with them, that centralization in Washington will be to build up a great monopoly or controlling company to supply everything, and which would put down every sort of competition. They have preferred, therefore, instead of this centralizing system which the Senate bill contemplates, to rely on the system which now prevails of having the purchases made near the places where the farmers bring in their supplies. The drovers, and those who raise or are the purchasers of cattle, will have convenient access to those who make contracts, and they may have an interest in contracts of small amount without being subject to the overshadowing influence of central monopolies which would take possession of the whole system at the seat of Government.

The Committee on Military Affairs regarded this as a very important change in the general features and principles of the bill, and if gentlemen will take the trouble to run through the bill, they will find that most of the amendments of the Senate merely provide for the restoration of that principle by which contracts and purchases may be made near the place of production. This attempt to centralize the whole matter here as the Senate bill would do is broken up; in other words I might say that the tendency of the Senate bill is centripetal, while the tendency of the amendments of the House committee are centrifugal. We wish to drive off professional contractors and to get contracts where the farmers and producers and manufacturers of goods can enter fairly into competition with others, and where they will not be subjected to the overshadowing and grasping power of any central company that may be built up at the seat of Government. Following up that idea, in the latter part of the same section it is provided that depot quartermasters shall retain the contracts, but they are required to report all contracts to the head of division and to keep a check hereafter on all contracts that may be made; not only the contracts, but all the

bids are to be sent here, so that in case it is alleged in regard to any contract that there has been unfairness in opening the bids, or that there has been something corrupt or wrong in the manner in which the contract has been made, the thing can be traced and discovery effectually made. The Senate propose that all contracts shall be made here, and that all outstanding contracts shall be sent here. The House committee prefer a middle course; and that is that there shall be an opportunity to all citizens who have supplies to furnish to furnish them near the place where they live, and without competition with the large and overshadowing monopolies here at the center. The officer making the contract is not only required to report the contract, but to report every bid and proposal made to the quartermaster's department here, so that we will have on file every portion of the testimony and all parts of the evidence which go to show how, when, and with whom any particular contract was made. We have thought it very advisable that this sort of check should be held, so that any investigation demanded by Congress or by the Department might be made.

There is one other amendment to which I desire to direct the attention of the House, and it is to be found in section seven, on page 12. We propose to insert a section there to cure this evil: as matters now stand, every contractor for furnishing supplies for the Army is liable to be tried for any fraud or corruption. What has been the custom? A contractor makes a contract, and then shuffles it out of his hands, and, although contracts are not legally assignable, yet the Department have been accustomed to permit other persons, assignees or those who have got possession of the contracts, to fill the contracts.

Now, when it is discovered that there is something fraudulent in the manner in which a contract has been filled by a United States contractor, he replies, "I have no interest in it whatever; I made a contract, it is true, but I have committed no fraud and incurred no punishment as a fraudulent contractor." You must go to the person who undertook to fill the contract, and he will say, "I am not a contractor of the Government, and do not come under the provisions of your law; and therefore, whatever fraud I may have committed, I am not responsible for it under your law."

This amendment, as proposed by the committee, provides that all persons who have become the assignees of contractors, or others who undertake the filling of contracts, shall be held liable for frauds committed, the same as contractors. Now, it has been one of the crying evils of the times that men, either through political influence or in reward for political services, have had contracts awarded to them when it was well known that they would go out and resell those contracts. I have known an instance—it has come before the Military Committee of the House at this session of Congress—where an Illinois lawyer contracted to deliver several hundred thousand bushels of corn. He broke up his contract into little fragments of some hundred thousand each. The contractor had probably never bought or sold a grain of corn in his life. He did not get his contract with any view of ever filling it. But he went out and found a number of produce purchasers who could fill such a contract; and he transferred his contract to them for a bonus from each of some eight or nine hundred dollars. And this very Congress has voted to reimburse one of these innocent persons to the tune of two or three thousand dollars, to make good his loss by a contract which should never have been made, or if made should never have been assigned, or if assigned should have been followed with all the consequences of non-fulfillment.

The tenth section provides that the Secretary of War is to designate the newspapers in which advertisements for bids are to be published. The Committee on Military Affairs thought it best to strike that out, because there is no special reason for such a provision unless it be for the purpose of political patronage. The best way is to allow the quartermasters to go on and publish advertisements for bids in papers of the largest circulation, without leaving it to the Secretary of War or any one else to designate what papers they are to be published in.

There are a number of other amendments which

explain themselves. I will answer any question that may be put to me, and give any further explanation. The committee recommends the striking out of the thirteenth section, and has introduced a section providing for a graduation of the rank and pay of persons in the quartermaster's department of the Government. That provision seems to be a fair one. It allows a quartermaster for a large army, consisting of various Army corps, or for a military district, consisting of different departments, to have the rank of brigadier general. The quartermaster of an army in the field, consisting of two Army corps, is to have the rank of colonel. Quartermasters for only one corps are to rank as they do now, as lieutenant colonel. Quartermasters of divisions are to rank as majors, and all others as captains. If, for instance, a quartermaster serving with the rank of captain is assigned to the charge of a division or corps, his rank is increased from the time at which he commences to perform such service. The moment he is relieved and ceases to perform these services he falls back again to his lineal rank; that is, to his rank as quartermaster proper. The object is to afford, in the first place, distinctive grades of rank with a view to the proper government of the quartermaster's department. Another and very important object is to save to the service a large number of quartermasters, who are now daily resigning, because, having entered at the commencement of the war, and having no chance of getting above the grade of captain, with its comparatively small pay, they are not willing to hold such position, exercising such important functions, and with the immense responsibility of disbursing millions of property, without corresponding rank or compensation.

To show that there is no mistake in this, I have a communication received yesterday from the War Department on the subject of the resignation of quartermasters. Sixty-seven quartermasters, many of them the best in the Army, with the rank of captain, have been forced to resign since the month of February last; and many others are but holding back to see if there is to be no change in the present system.

But, passing on from this point, the committee have in one respect enlarged somewhat the scope of the bill as it came from the Senate. They have been impressed with the large proportion of officers in the regular Army who are assigned to these more important positions of quartermaster. Since the commencement of this war, with rare exceptions, all the quartermasters holding positions of any considerable importance have been from the regular Army. It has been considered essential that a man should be educated at West Point before he is able to pass upon and purchase clothing, whisky, or corn. He must have had an education at West Point before he is able to purchase horses or contract for cattle. And so with various other things.

Now, sir, it is well known that in the present organization of the Army those from the regular Army form a very small proportion of the whole body of quartermasters and commissaries. Nobody will pretend to deny that there are men in the volunteer corps who, from their commercial education and their habits of business long before as well as since their connection with the service, are as well if not better qualified to judge of all these articles than those who have received a military education exclusively.

We have provided, therefore, in our amendments to this bill that the assignments to these different positions, as quartermaster of divisions, armies, Army corps, &c., shall be at least two thirds from the volunteer corps. That proportion is not at all comparable to the aggregate number of quartermasters from the volunteer corps with those of the regular Army. In other words, we provide that of the quartermasters assigned to divisions, corps, &c., a certain number of whom now have the rank of lieutenant colonel, not more than one third shall be from the regular Army.

I have now gone hastily through the most important of the amendments reported by the Committee on Military Affairs. I am ready, however, to answer any inquiries which gentlemen may see fit to make in regard to them.

Mr. TODD. I would like to ask the chairman of the Military Committee why it is that he has put in a proviso limiting the number of quartermasters who shall be staff officers to a particular

corps. The gentleman has had some experience in military affairs, and surely that experience has taught him that it is better to leave the selection of the staff officers of a department or Army corps to the commanding officer or to the Secretary of War or to the President of the United States rather than to undertake on the part of Congress to say they shall be selected from a particular class.

Mr. SCHENCK. I will answer the gentleman, for I desire to be distinctly understood in regard to this matter. A law was passed by the last Congress providing for the appointment of an extra number of staff officers in the commissary department, reorganizing that department, giving increased rank to the head of the department, with rank to his subordinates, running down to the grade of captain. Well, sir, when that law came to go into operation it seemed to have been the opinion of the appointing power that no man was fit to discharge the duties of commissary unless he had had a West Point education, and all the patronage under that law was bestowed exclusively upon officers of the regular Army.

Now, inasmuch as the regular Army does not muster anything like one third the quartermasters in the entire Army, and inasmuch as these officers are only to continue in office for the war, and these volunteer officers are in for the war, it has been thought that, while giving the privilege of selecting one third of the quartermasters from the regular Army, it is but a small favor to ask that two thirds shall be taken from among the skilled officers of the volunteer corps, who number, I suppose, not less than ten to one of the regulars. And it is with a view to control by legislation of Congress the assignment of these officers that this amendment is reported. I state frankly to the gentleman that I do desire that Congress shall prescribe, not that particular persons shall be selected, but shall prescribe certain limits within which the assignment shall be made.

Mr. TODD. It is a very singular assertion of the chairman of the Committee on Military Affairs that Congress or this House should prescribe to the Executive of the Government who its appointees shall be. It is certainly in conflict with that provision of the Constitution which places that power in the hands of the Executive of the United States. It makes an invidious distinction. There can be no doubt that the Executive of the Government of the United States and the head of the War Department, with all the lights before them, are the best judges of who shall be the purchasers of Army supplies, and who shall be disbursing officers of the Government. Members of Congress do not know who these men are or their qualifications or fitness for the appointments. It is an invidious distinction which takes from the Executive and the War Department the just powers conferred upon them by the Constitution of the United States.

Mr. SCHENCK. Congress does not attempt to indicate to the Executive who the appointees shall be. They do not indicate the individuals, but leave him with the whole corps of volunteers and with the whole corps of quartermasters in the regular Army to select from. They only provide that in making selections he shall make the selections from particular corps. To indicate the appointees is to prescribe the particular individuals. The committee all say that would be wrong, and they do not undertake to say who shall be appointed, but only that those appointments shall be made within particular limits constituting the great body of the Army. It is most liberal to the regular Army.

Mr. TODD. I understand the point the gentleman makes. In this instance the appointments are limited to two branches of the service. But who better know how to make these appointments than the President himself? This bill imposes upon the President a delicate task, and there should be no limitation to the appointing power. If the proposition prevails that one third of these men are to be appointed from the regular Army and two thirds from the volunteer forces, at once you limit the appointing power, and thus cut off men who would otherwise be the proper persons to be appointed.

Mr. DAWES. I desire to offer an amendment to the seventh section of the bill by adding a proviso. The seventh section, which is itself an amendment recommended by the committee,

very properly extends the provisions of the act passed July 17, 1862. What I desire is, to add this proviso:

Provided, That any person arrested for a violation of the provisions of this section, and of the act to which it is an addition, shall be admitted to bail to answer the charges made against him before any court-martial constituted to try him, in such sums and with such sureties as shall be designated and approved by any judge of the district court where the arrest is made or the offense charged to have been committed, or any commissioner appointed by such court.

Mr. SCHENCK. There is already a general bill providing for that.

Mr. DAWES. No such bill has passed into a law. It may have passed this House, but I am confident it has not passed both Houses, because of certain experience I have had in attempting to procure bail for certain gentlemen arrested in a most remarkable manner, under the provisions of that act, and I am informed that those gentlemen are to be admitted to bail or not at the caprice of those who arrested them.

Mr. SCHENCK. I have no particular objection to the amendments. I demand the previous question upon the amendments.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof the amendment to the amendment was agreed to, and the amendment, as amended, was agreed to.

The bill as amended was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. HOLMAN moved to dispense with the evening session for this evening.

The House divided; and there were—ayes 35, noes 61.

So the motion was disagreed to.

Mr. BROOKS. I will say that I think all objection will be withdrawn on this side to the engrossment of the enrollment bill. We have no disposition to postpone action on the subject.

ABOLITION OF SLAVERY.

Mr. HOLMAN. I wish to know whether the gentleman from Ohio, [Mr. ASHLEY,] who entered the motion to reconsider the vote by which the House rejected the bill proposing an amendment to the Constitution providing for the abolition of slavery throughout all the States and Territories of the United States, proposes to call that motion up during the present session.

Mr. ASHLEY. In reply to the gentleman from Indiana, I will say that I do not propose to call up that motion during the present session. When I changed my vote from yea to nay and entered a motion to reconsider, I did hope to get a vote upon the proposition at this session. I did think that on the other side, on sober second thought, gentlemen enough on that side of the House could be brought to support this just constitutional amendment to carry it, but I have been disappointed. Those who ought to have been the champions of this great proposition are unfortunately its strongest opponents. They have permitted the golden opportunity to pass. The record is made up, and we must go to the country on this issue thus presented. When the verdict of the people is rendered next November I trust this Congress will return determined to ingraft that verdict into the national Constitution. I therefore give notice to the House and the country that I will call up this proposition at the earliest possible moment after our meeting in December next.

EVENING SESSION DISPENSED WITH.

Mr. WASHBURN, of Illinois. Let us pass the enrollment bill and then adjourn.

Mr. SCHENCK moved to reconsider the vote by which the House refused to dispense with the evening session for this evening.

The motion was agreed to.

The question then recurred on the motion to dispense with the evening session.

The House divided; and there were—ayes 66, noes 30.

So the motion was agreed to.

CONSCRIPTION BILL—AGAIN.

Mr. SCHENCK called up the motion to re-

consider the vote by which the House ordered the conscription bill to be engrossed, and then withdrew it.

The bill being actually engrossed, was read the third time.

Mr. SCHENCK demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. ANCONA demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 77, not voting 23; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blair, Blow, Boutwell, Boyd, Broomall, Freeman Clarke, Cobb, Cole, Creswell, Thomas T. Davis, Daves, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Feuton, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburt, Ingersoll, Jencks, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smith, Smithers, Spalding, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Winfield—82.

NAYS—Messrs. William J. Allen, Ancona, Bailey, Augustus C. Baldwin, Blaine, Bliss, Brooks, James S. Brown, William G. Brown, Chandler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerston, Eldridge, English, Finck, Frank, Ganson, Grider, Griswold, Hale, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, William Johnson, Kalbfisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McDowell, McKim, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, James S. Rollins, Ross, Scofield, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Thomas, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, and Winfield—77.

NOT VOTING—Messrs. James C. Allen, Brandegee, Ambrose W. Clark, Clay, Henry Winter Davis, Dumont, Grinnell, Hall, Harrington, Kasson, King, Price, William H. Randall, Robinson, Rogers, Scott, Starr, Stebbins, Voorhees, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—23.

So the bill was passed.

Mr. SCOTT stated that he was paired with Mr. PRICE, otherwise he would have voted in the negative.

Mr. STEELE, of New Jersey, stated that his colleague Mr. ROGERS was paired with Mr. A. W. CLARK.

Mr. FARNSWORTH stated that on the previous votes he was paired with his colleague, Mr. J. C. ALLEN; and that on the latter vote, Mr. ALLEN was paired with Mr. DAVIS, of Maryland.

Mr. KNAPP stated that his colleague, Mr. ROBINSON, had been called from the House by the illness of Senator RICHARDSON; and that if present he would have voted in the negative.

The vote was then announced as above recorded.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. STEVENS. I move to take up and non-concur in the amendments of the Senate to the Union Pacific railroad bill, and ask for a committee of conference.

Mr. HOLMAN. I object.

JAMES DOTY.

Mr. GANSON, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the committee on the conduct of the war investigate the charge contained in the petition of James Doty relating to the treatment of himself and other persons arrested as alleged deserters.

ADMIRALTY PROCEEDINGS.

The House proceeded, as the regular order of business, to the consideration of the bill (H. R. No. 184) to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes, laid over as unfinished business from a previous day, on which Mr. MORRIS, of New York, demanded the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was passed.

Mr. MORRIS, of New York, moved to reconsider the vote by which the bill was passed; and

also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PACIFIC RAILROAD BILL.

Mr. STEVENS. I ask unanimous consent to take from the Speaker's table the Pacific railroad bill, in order to disagree with the Senate amendments, and ask a committee of conference.

Mr. WASHBURN, of Illinois, objected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORTNEY, their Secretary, informed the House that the Senate had passed, without amendment, a bill and joint resolution of the following titles:

An act (H. R. No. 497) in relation to the village of Deposit, Delaware county, New York; and Joint resolution (H. R. No. 23) for the relief of the officers of the fourth and fifth Indian regiments.

Also, that the Senate had passed a joint resolution of the following title; in which the concurrence of the House was requested:

Joint resolution (S. No. 67) for the relief of Thomas J. Galbraith.

ALEXANDER CROSS.

Mr. HALE. I ask unanimous consent to take from the Speaker's table joint resolution for the relief of Alexander Cross, for the purpose of concurring in an unimportant amendment of the Senate.

Mr. KELLOGG, of Michigan, objected, and moved that the House adjourn.

The motion was agreed to; and the House accordingly (at five o'clock and fifty minutes, p.m.) adjourned.

IN SENATE.

WEDNESDAY, June 29, 1864.

Prayer by Rev. G. H. SMYTH, of Washington, District of Columbia.

On motion of Mr. ANTHONY, and by unanimous consent, the reading of the Journal was dispensed with.

IRON-CLAD GUNBOATS.

Mr. HALE submitted the following resolution, which was considered by unanimous consent, and agreed to:

Resolved, That the committee on the conduct of the war be instructed to inquire what progress has been made in the construction of the iron-clad steam gunboats contracted for in the year 1862; by whom the contract was made on the part of the Government; who planned the models of the same, and who is responsible therefor. Have any of them been launched? If so, what was the condition of the vessel after she was launched? Are the other vessels contracted for to be built on a plan or model similar to the *Chino* lately launched at Boston? And all information which may be had touching said gunboats.

REPORTS FROM COMMITTEES.

The PRESIDENT *pro tempore*. If there be no petitions, reports from committees are in order.

Mr. WADE. I move to postpone all prior orders and proceed to the consideration of House bill No. 244, to guaranty to certain States whose governments have been overthrown a republican form of government.

The PRESIDENT *pro tempore*. Reports are in order.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 394) for the relief of Mary Seales Accardi, reported it with amendments, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 319) for the relief of the legal representative of Betsey Nash, reported it with an amendment and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 442) to grant a pension of eight dollars per month to Harris Welch, reported adversely thereon.

Mr. VAN WINKLE, from the Committee on Finance, to whom was referred the petition of the Adams Express Company, submitted a report accompanied by a bill (S. No. 337) authorizing the payment to the Adams Express Company of the amount of certain Treasury notes destroyed or irrecoverably lost while in their custody. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. MORRILL, from the Committee on Claims, to whom was referred the petition of Charles A.

Pitcher, submitted a report accompanied by a bill (S. No. 338) for the relief of Charles A. Pitcher. The bill was read, and passed to a second reading, and the report was ordered to be printed.

LAND LOCATIONS IN MISSOURI.

Mr. HENDRICKS. I am instructed by the Committee on Public Lands to report back the bill (H. R. No. 435) concerning certain locations of lands in the State of Missouri and recommend its passage; and as it is a local matter of no general concern, and will probably excite no contest, I ask to have it put on its passage now.

By unanimous consent the bill was considered as in Committee of the Whole. It provides that all of the right, title, and interest of the United States in and to all of the lands within the respective boundaries of certain described locations in township forty-five north of the base line, in range seven east of the fifth principal meridian line, in the State of Missouri, made by virtue of certificates issued under the act of Congress approved February 17, 1815, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes," shall be granted, relinquished, and conveyed by the United States, in fee simple and in full property, to the persons for their respective legal representatives in whose names the locations were severally made.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COMMERCIAL REPORT.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the motion to print five thousand copies of the report of the Secretary of the Treasury upon the value and present condition of our foreign and domestic commerce, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 12th of March, 1863, a statistical and general report upon the value and condition of our foreign and domestic commerce, be printed; that five thousand additional copies be printed for the use of the Senate, and that two thousand five hundred copies be printed for the use of the Treasury Department.

COTTON SPECULATIONS BY MILITARY OFFICERS.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred the resolution to print the report made by the military commission, of which Major General Irwin McDowell was president, on certain alleged frauds in the Western department, to report it back without amendment, and recommend that it pass, and also to ask for its present consideration.

The PRESIDENT pro tempore. Is there any objection to its present consideration?

Mr. GRIMES. I have no objection to its consideration, but I am opposed to its passage, and I wish to state the reason.

Mr. COWAN. If it leads to debate I shall object.

Mr. ANTHONY. I think it had better be disposed of now.

Mr. HENDRICKS. Before we pass from the subject of that resolution, I feel it to be due to a very gallant officer of the State of Indiana, Colonel Slack, of the forty-seventh regiment, to say that I understand in the papers accompanying the report of that investigation he is charged to have been connected with some cotton speculations. I have known Colonel Slack for a number of years, and a desire to make gain is no part of his character so far as I have known him. I believe him to be a high-minded and honorable gentleman, as he has proved himself to be a very gallant officer. I introduce this subject for the purpose of enabling my colleague to have one or two letters read to the Senate, that those letters may go to the country in connection with this report. They cannot, of course, be printed with the report, but they can go upon the records of the Senate and thus go to the country. I yield to my colleague for the present.

The PRESIDENT pro tempore. The Chair will suggest that the resolution having been passed over, nothing in relation to it can be received except by unanimous consent.

Mr. HENDRICKS. I presume, as this affects the character of a very gallant officer, no Senator

will object to it. To read the letters will not occupy more than a few minutes.

Mr. LANE, of Indiana. I shall detain the Senate but a moment. My only object is to have two letters read which will show that great injustice has been done to Colonel Slack of my State by the report of this commission of which General McDowell was president.

The PRESIDENT pro tempore. The Senator from Indiana desires unanimous consent to make an explanation and read the letters he proposes to read. Is there any objection?

Mr. GRIMES. I trust the Senate, by unanimous consent, will give us an opportunity to dispose of this whole question now. There are other officers implicated in the same way with Colonel Slack, many of whom have been killed gallantly fighting for the country since this report was made, who never knew that there was the slightest breath of slander uttered against them in this connection, and I want to have this whole thing disposed of in justice to the other officers as well as to Colonel Slack.

The PRESIDENT pro tempore. Is there any objection to the Senator from Indiana making his explanation?

Mr. GRIMES. And having the question disposed of?

The PRESIDENT pro tempore. The question is not before the Senate. Objection was made to the consideration of the resolution, and that has passed away.

Mr. CONNESS. I object.

The PRESIDENT pro tempore. Objection being made, the matter cannot be considered.

Mr. COWAN. I withdraw the objection.

The PRESIDENT pro tempore. The Chair understood the Senator from California to make the objection.

Mr. CONNESS. If the question can be decided without debate I shall not object, but if it is going to occupy the morning hour I shall.

Mr. LANE, of Indiana. I shall not debate it, but I wish to have two letters read in vindication of a gallant officer who is aspersed by that report. The telegraphic account of it has gone all over the country implicating him in these cotton speculations. I wish simply to have his letter read and the letter of his commanding general, which show that great injustice has been done to him.

Mr. CONNESS. If it be understood that it will not be debated, but considered without debate, I have no objection.

Mr. LANE, of Indiana. I have no doubt the investigation was as fairly conducted as under the circumstances it could be; but it was *ex parte* in its nature. Men were charged who were miles off on distant service and knew nothing whatever of the charges against them until telegraphic reports were sent all over the country that they were implicated in cotton speculations. I shall oppose the printing of any such *ex parte* report as this, and I ask to have these two letters read as part of my speech to show the reason why no such report should be printed by the Senate and go out with the sanction of the Government.

The PRESIDENT pro tempore. The papers will be read, if there be no objection. The Chair hears none.

The Secretary read the following letters:

CARROLLTON, LOUISIANA, June 17, 1864.

Sir: My attention has just been called to the publication of what purports to be an extract from the report of the McDowell investigating committee. One publication says it was established before that committee that "Colonel Slack, forty-seventh Indiana volunteers, was engaged in cotton speculations." Another is, "Colonel Slack, forty-seventh Indiana volunteers, captured some silver-ware in Mississippi, which Mrs. Cogswell complained had not been all returned." I quote from memory, and may not use the precise language as published, but the idea. Were the quotations given ordinary newspaper flings they would receive no attention from me, but they purport to be given to the country in a more reliable form, and come to me in a shape that I hardly know how to meet them. That they are false in every particular, not the remotest shadow to justify, mitigate, or excuse such a conclusion, I can most truthfully say, and ask you in some shape in my behalf to say before the Senate of the United States, and challenge the most rigid and searching investigation. I venture the expression without the fear of contradiction, there is not an officer in the Army with whom I have served but that will say the first they ever heard of such charges were the publications I have referred to. I never had, directly nor indirectly, anything to do with a fiber of cotton in my life, and if anything was testified to before that committee implicating me therein, it was as base perjury as was ever uttered from a lying scoundrel's throat. The matter in reference to the silver-ware was simply this: I was put in

command of three companies of infantry and one section of artillery to visit the town of Commerce, Mississippi, about fifty miles below Memphis, on the Mississippi river, arrest all the men I could find, and burn the town. It was known to be a harbor for guerrillas, and they had the day before fired into the steamer Mill Boy, killed Dr. Lindsay of Memphis, a soldier from Wisconsin, I think, and wounded one or two others. I acted as directed, burned the town, and arrested every man found within two miles.

Some property was captured. Along with it was the box of silver ware alluded to. I did not see it. Was taken possession of by an officer of my command, rescued from a burning building, reported to me, and I was asked what he should do with it. I ordered him to take charge of it and keep it safely, that it was private property, and unless it was subject to confiscation would have to be returned to the owner. Subsequently it was stolen from the lieutenant who had it in charge, and when Mrs. Cogswell came for it the lieutenant was unable to produce it. Afterwards it was discovered, having been taken by a sergeant in company B of the forty-seventh regiment, and buried in the ground. Was dug up and placed in my possession for safe keeping, the first time I ever saw it, and in a few days was restored to Mrs. Cogswell just in the form that I received it. Whether any of it was taken before it reached me, I cannot say. It was understood by those who knew Mrs. Cogswell that no reliance could be placed in anything she might say; was a bitter rebel, and wholly unreliable. I have given you a general idea of the matter hurriedly written, and ask you in my behalf to place the matter before the Senate and the country in some shape that will vindicate me against the slanderous outrage. Had I been summoned before that committee I could have explained the whole thing, but never knew until the publication I have referred to that my conduct in any particular was to be criticised by it. Permit me to ask you to show this to Mr. Hendricks, and between you do whatever you may think best to perfectly vindicate me from the foul and false aspersion. General McGinnis, who was with me all the time at Helena, and constantly with me for the past two years, has promised me a letter to you which I will enclose if it reaches me in time. Shall anxiously wait to hear from you and learn the result of your action.

I have the honor to be, very respectfully, your obedient servant,
J. R. SLACK,

Colonel Forty-Seventh Regiment Indiana Volunteers.
Hon. HENRY S. LANE.

NEW ORLEANS, LOUISIANA, June 17, 1864.

DEAR SIR: I notice in the papers that the McDowell cotton court has implicated Colonel J. R. Slack, of the forty-seventh Indiana, in cotton speculations at Helena, Arkansas. I was very much astonished at this, from the fact that during an association of two years with him in the Army I have never heard him accused or suspected of having had anything to do with cotton.

I am fully satisfied that this charge has been trumped up against Colonel Slack for the purpose of shielding and withdrawing attention from larger game.

I do not believe that Colonel Slack could have engaged in that business and have kept it secret from all the Indiana officers stationed at Helena at that time.

Among the Indiana officers at Helena during the time that the heavy cotton operations were going on, were Brigadier General A. P. Hovey, Colonel Conrad Baker, first cavalry; Colonel Shunk, eighth Indiana; Colonel Washburn, eighteenth; Colonel Spicer, twenty-fourth; Colonel Cameron, thirty-fourth; Colonel McLean, forty-third; Colonel Fitch and Bringham, forty-sixth; Colonel Slack, forty-seventh; and myself, of the eleventh. I met these officers frequently, and we hardly ever met without discussing the merits of officers reported to be engaged in cotton speculations, and they were generally very well known. During all of our discussions upon that subject the name of Colonel Fitch was the only one that was ever mentioned of Indiana officers who were engaged in speculations of any kind, and it was generally understood and believed that no other Indiana officer was so engaged, especially no other Indiana colonel.

Colonel Slack could not have engaged in cotton speculations without some of us knowing something about it. I believe that every officer whose name I have mentioned will sustain me in the above assertion.

In regard to the silver-ware said to have been captured by Colonel Slack, and "all of which has not been returned," I never heard of the affair until a few days since I read of it in the papers in connection with the cotton speculations. Upon inquiry, I am reminded of an expedition, under Colonel Slack, to a point between Helena and Memphis, with orders to burn certain houses in the neighborhood, as a punishment to the residents for permitting our boats to be fired upon by the rebels. The box of ware was taken from the burning house by an officer under Slack's command, and without his knowledge. It was brought to Helena, and kept by the officer, until claimed by the pretended owner, when it was returned through Colonel Slack's headquarters.

The fact that the woman claiming the silver-ware bore a notoriously bad character is sufficient, in my opinion, to give the lie to her assertion that the whole of it had not been returned.

Colonel Slack has always proved himself a faithful, earnest, and patriotic officer. I believe that gross injustice has been done him by the McDowell court, and as it is almost impossible at this time to organize a court composed of officers who were at Helena at the time and acquainted with the facts, who would, I have no doubt, acquit him of all such charges, I think that he should have the benefit of a public denial in open Congress, and I know of no man better able to do justice in the matter than yourself, provided you believe Colonel Slack guiltless.

I am, sir, very respectfully, your obedient servant,
G. P. MCGINNIS,

Brigadier General Volunteers.
Hon. H. S. LANE, United States Senate.

Before the reading was concluded,
Mr. TRUMBULL. I move to dispense with

the further reading of these papers. It seems to me that it will not do to bring in papers of this character to be read to the Senate at this stage. Every officer in the Army will be sending letters here.

Mr. LANE, of Indiana. Will the Senator from Illinois pardon me? The letters are read as part of my speech on this resolution to print, and I have a right to have them read, and go into the Globe, and that was my object in having them presented to the Senate.

Mr. TRUMBULL. I was not aware that they were being read as part of the Senator's speech. I suppose he has a right to read as part of his speech what he pleases. I was not aware that they came in that shape. But the Senator from Indiana will perceive what the result will be. I get many letters complaining, and if I have them read, every officer, the moment it is learned that such a practice prevails, of course will send his defense here. It will lead to very great abuse, I think. I was not aware the Senator was making a speech, and having letters read as part of his speech. I concede his right to do that.

Mr. LANE, of Indiana. It is not only a part of my speech, but all of my speech, and I sent them up to be read, because the Clerk could read quicker than I could.

Mr. TRUMBULL. If these papers are the Senator's whole speech, I object to the further reading, because he cannot make a speech by merely reading the letters of others. I move to dispense with the further reading.

Mr. LANE, of Indiana. The Senator will pardon me again. I commenced my remarks and stated the case, and stated that I wished these two letters read as part of my speech; but if the Clerk will return them to me, as I have the floor I will read them myself.

Mr. CONNESS. I hope the Senator from Illinois will permit them to be read. I objected to the proceeding; but on the understanding that there would be no debate, and only the mere reading of the letters, I withdrew the objection. The Senator from Illinois was not in then.

Mr. TRUMBULL. I do not want to interfere with any arrangement that has been made in the Senate; I was not aware of any such arrangement; but I am sure the Senator from Indiana will see that this is a very bad practice.

The Secretary concluded the reading of the letters.

Mr. GRIMES. I now move that the resolution from the Committee on Printing, directing that the proceedings of this military commission be printed, be indefinitely postponed.

Mr. TRUMBULL. I think we ought to see the document. The committee report in favor of printing it.

The PRESIDENT *pro tempore*. The motion of the Senator from Iowa will be entertained, if there be no objection. The Chair hears none.

Mr. GRIMES. If Senators want to know something about this, I will tell them. The Secretary of War, the President of the United States, or some military chief or authority here, appointed a military commission to go out into the western country and examine into the conduct of military officers. It was wholly an *ex parte* commission; they took nothing but hearsay testimony; and in that testimony a great many officers were implicated who never knew anything about their names having been connected with it, some of whom have fallen gallantly fighting for the country without knowing up to the hour of their death that their names had been at all connected with it. When it was known by some of the officers that their names had been thus implicated, they were permitted to take *ex parte* testimony to refute the charges, and among that number was a citizen of my own State, General Curtis. When the resolution was first introduced calling for the proceedings of the McDowell military commission, I moved to amend it so as to call for the testimony that had been furnished by any officer in rebuttal of the charges against him, but that testimony has not been sent in connection with the testimony against them. I move that the resolution to print these proceedings be postponed indefinitely.

The motion was agreed to.

MARY KELLOGG.

Mr. FOSTER. The Committee on Pensions,

to whom was referred House joint resolution No. 103, for the relief of Mary Kellogg, report favorably. This resolution was first referred to the Committee on Military Affairs. They were discharged, and it was then referred to the Committee on Naval Affairs. They were discharged, and it was then referred to the Committee on Pensions. There is an item in it which is appropriate to each of these committees. This widow is the widow of a man who was hanged at Richmond by the rebels a short time since as a spy. This joint resolution proposes to pay her the amount due to her husband at the time of his death for services in the Army and in the Navy, and also to give her the pension appropriately belonging to her as his widow. I think under the circumstances it ought to be passed, and passed now. It is short, has been passed by the House of Representatives, has been before three committees of the Senate, and is therefore pretty well understood.

By unanimous consent, the joint resolution (H. R. No. 103) for the relief of Mary Kellogg was considered as in Committee of the Whole. It provides that the name of Spencer Kellogg be entered upon the rolls of the Navy Department, with the rank of fourth master, to date from June 1, 1862; and that Mary Kellogg, his widow, be put upon the pension list with the pension incident to the rank of her husband. It also directs the proper accounting officers of the Treasury to settle and adjust the accounts of Spencer Kellogg, as a first lieutenant of infantry, from September 14, 1861, to October 28, 1861, and his accounts as fourth master in the Navy from August 1, 1862, to September 25, 1863, the date of his execution at Richmond, Virginia, by the rebels; and to pay any money due him to his widow, Mary Kellogg.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

MEXICAN AFFAIRS.

Mr. WADE. I renew my motion to take up House bill No. 244.

The PRESIDENT *pro tempore*. Reports are still in order.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred a message of the President of the United States, communicating, in compliance with a resolution of the Senate of the 28th of May, information relative to Mexican affairs, have had the same under consideration, and have directed me to report that accompanying the message is a large mass of documents embracing correspondence and other papers relating to our affairs with Mexico, and the pending questions between Mexico and France; the collection is very voluminous. So far as the committee have been able to examine it, they feel unable to affirm that it is at this moment of sufficient importance to justify its publication. Under the circumstances, they have directed me to report it back to the Senate with a recommendation that it be referred to the Committee on Printing. There is in connection with this publication naturally a question of economy with regard to which the Committee on Foreign Relations felt that the Committee on Printing would be the best judge.

Mr. ANTHONY. I hope that reference will not be made. I believe the Committee on the Judiciary is the proper committee when it is desired to get rid of something that nobody else wants. How is the Committee on Printing to go through this mass of documents at this session? If the Senator from Indiana [Mr. HENDRICKS] were on the committee I should at once assent to the reference.

Mr. HALE. I concur with the remarks made by the Senator from Rhode Island. I think this matter peculiarly belongs to the Committee on Foreign Relations, and if they have not been able to decide whether this correspondence ought to be printed, it is unfair to turn it over to the Committee on Printing. I ask for a division of the question. I have no objection to discharging the Committee on Foreign Relations, but I think the Committee on Printing should not be called on to decide a question which the committee to whom it appropriately belongs have not been able to decide.

The PRESIDENT *pro tempore*. A division of the question being called for, the first vote will

be on discharging the Committee on Foreign Relations.

Mr. CONNESS. Is it proper to move to lay the whole subject on the table?

The PRESIDENT *pro tempore*. It is.

Mr. CONNESS. I make that motion.

Mr. WADE. I hope not. I called out these documents.

Mr. CONNESS. I withdraw the motion.

Mr. WADE. I have no question in my own mind that these papers contain information as valuable and infinitely more so than two thirds of all those which we have printed at this session. I do not know but that there may be State secrets mixed up in these papers that some gentlemen feel tender-footed about; but they relate to great national affairs. I do not know how many of them are important; but that matters of importance are contained in them I have not the least doubt; and why they should be made a special exception to all that has been done in the way of printing, and why this particular spasm of economy in regard to that matter has come over this body just now, I cannot understand. I hope these papers will be printed; I hope the world will be allowed to know what there is in them. If there is anything contained in them which is worthy of investigation and which the people should know, the best way is to print them as we usually do. If I am mistaken about them, if they contain nothing valuable, it is worth while to print them to let the people understand that that is the fact. In either case, no satisfactory result will be arrived at in regard to these papers unless we resort to the ordinary course and order them to be printed. If you suppress them, you may give rise to a suspicion of something wrong when there is nothing wrong. If there is anything important in them, the people ought to know it. I hope they will be printed.

Mr. SUMNER. I have but a word to say. I said that there was a question of economy in connection with the printing of this vast mass of papers. If printed, they will occupy at least two volumes as large as the report of the committee on the conduct of the war. The Committee on Foreign Relations have no connection with the Superintendent of Printing which would enable them to obtain estimates of the expense of such a publication. Those estimates are habitually obtained by our Committee on Printing. It was felt, therefore, that it belonged properly to that committee to consider whether, under the circumstances, it was expedient, after ascertaining what the expense would be, to authorize the publication.

Mr. WADE. Let me ask the Senator how much the expense would be.

Mr. SUMNER. I do not know. I have not the honor of being upon the Committee on Printing.

Mr. DAVIS. I am in favor of printing these papers. I think they ought to be printed. I agree with the Senator from Ohio that they are infinitely more valuable to the country and have more permanent importance than three fourths of all the matter that is ordered to be printed by the Senate.

Mr. COWAN. I hope these papers will not be printed for two reasons, either of which, it strikes me, would be ample. In the first place, if they are printed nobody will read them; and in the second place, if people do read them nobody will care anything about them. We have something else to think about at present than the consideration of any such questions as arise in this case.

Mr. CONNESS. Is not a motion to print the usual number in order?

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The present motion before the Senate is to discharge the Committee on Foreign Relations from the further consideration of the subject.

Mr. CONNESS. I hope that question will be taken.

The motion to discharge was agreed to.

Mr. CONNESS. Now, I move that the usual number of these papers be printed for the use of the Senate.

Mr. WADE. I wish to inquire of the chairman of the Committee on Printing what will be the probable expense of printing the usual number of this document.

Mr. ANTHONY. It is hardly possible for me to tell.

Mr. WADE. How much?
Mr. ANTHONY. I should think somewhere between six hundred and a thousand dollars.

Mr. WADE. I think the publication is worth that.

The PRESIDING OFFICER. The motion to print the document must be referred to the Committee on Printing.

Mr. CONNESS. Is that the case where the motion is to print the usual number only?

The PRESIDING OFFICER. It is. The motion will go to the Committee on Printing under the rules.

SENATORS FROM ARKANSAS.

Mr. TRUMBULL. I rise to what I suppose to be a question of privilege, to ask the Senate to consider the resolution reported by the Committee on the Judiciary, declaring that Messrs. Baxter and Fishback, whose credentials were referred to that committee, are not entitled to seats as Senators from the State of Arkansas. I will state to the Senate that the conclusion of the committee was unanimous; there was no disagreement in committee, and I do not suppose it will lead to discussion in the Senate. I think it due to the gentlemen who have presented themselves here that we should vote upon the question and settle it, and as there was no difference in the committee, I trust it will not lead to any extended remarks in the Senate.

The PRESIDING OFFICER. The Chair will put the question on the motion of the Senator from Illinois to take up the resolution indicated by him.

The motion was agreed to.

MILITARY RAILROAD TO EAST TENNESSEE.

Mr. WILSON. I ask to be allowed to make a report.

The PRESIDING OFFICER. The Chair will receive it, if there be no objection.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 83) authorizing the President to construct a military railroad from the valley of the Ohio to East Tennessee, reported it without amendment.

Mr. POWELL. I hope the Senator from Massachusetts will ask for the present consideration of that joint resolution.

Mr. TRUMBULL. I cannot give way for that purpose.

Mr. GRIMES. I move that the letter of the Secretary of War addressed to the chairman of the Committee on Military Affairs and the Militia, with the inclosed letter of General Halleck on the subject of that joint resolution, be printed for the use of the Senate.

The motion was agreed to.

BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 339) to repeal a joint resolution to grant additional rooms to the Agricultural Department, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 340) to provide for the survey and sale of the mineral lands, and to extend the right of pre-emption thereto; which was read twice by its title.

Mr. CONNESS. I wish to say that this is a bill of great consequence to the State which I represent here and to the country generally, and my purpose in introducing it now is that it may be made the subject of public consideration.

The bill was referred to the Committee on Public Lands, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills of the Senate:

A bill (No. 203) authorizing a grant to the State of California of "Yosemite Valley" and of the land embracing the "Mariposa Big Tree Grove;" and

A bill (No. 226) to aid in the settlement, sub-

sistence, and support of the Navajo Indian captives upon a reservation in the Territory of New Mexico.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (No. 184) to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes;

A bill (No. 559) to quiet the titles to lands within the Rancho Laguna de Santos Calle, in the State of California; and

A bill (No. 561) to authorize the United States to acquire land in Wallabout bay, belonging to the city of Brooklyn, and to authorize the exchange of other lands therefor.

The message also announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route, asked a conference on the disagreeing votes thereon, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. L. D. M. SWEAT of Maine, and Mr. IGNATIUS DONNELLY of Minnesota, managers at the same on its part.

BILLS BECOME LAWS.

The message also announced that the President of the United States had approved and signed, on the 25th instant, the following acts and joint resolutions:

An act (H. R. No. 192) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1865;

An act (H. R. No. 240) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1865, and for other purposes;

An act (H. R. No. 247) granting lands to the State of Wisconsin to build a military road to Lake Superior;

An act (H. R. No. 434) to authorize the bailiff of the orphans' court in the county of Washington and District of Columbia to serve processes issued by said court, and for other purposes;

An act (H. R. No. 453) to increase the pension of Isaac Allen;

An act (H. R. No. 545) to amend an act entitled "An act to provide for the payment of horses and other property destroyed in the military service of the United States;"

A joint resolution (H. R. No. 87) amendatory of an act to provide for the deficiency for the pay of officers and men actually employed in the Western department or department of Missouri;

A joint resolution (H. R. No. 95) authorizing the Secretary of the Navy to amend the contract with John Ericsson for the construction of two impregnable floating batteries, the Dictator and the Puritan; and

A joint resolution (H. R. No. 107) for the relief of Major Morris S. Miller, of the quartermaster's department.

And on the 23th instant, the following acts and joint resolutions:

An act (H. R. No. 450) to provide for the repair and preservation of certain public works of the United States;

An act (H. R. No. 512) to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves;

An act (H. R. No. 519) repealing certain provisions of law concerning seamen on board public and private vessels of the United States;

An act (H. R. No. 537) to incorporate the Young Men's Christian Association of the city of Washington;

An act (H. R. No. 551) to incorporate the Colored Catholic Benevolent Society;

An act (H. R. No. 554) to provide for the improvement of the grounds of the Government hospital for the insane by an exchange of lands;

A joint resolution (H. R. No. 109) correcting a clerical error in the award of the emancipation commissioners;

A joint resolution (H. R. No. 110) to declare the construction of a joint resolution for the relief of W. B. Matchett, approved June 20, 1864; and

A joint resolution (H. R. No. 115) to continue in force the joint resolution entitled "A joint res-

olution to increase temporarily the duties on imports," approved April 29, 1860.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that he had approved and signed, on the 27th instant, the following acts:

An act (S. No. 55) in relation to the circuit court in and for the district of Wisconsin, and for other purposes;

An act (S. No. 187) to carry into effect a treaty between the United States and her Britannic Majesty for the final settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Companies;

An act (S. No. 266) to prevent smuggling, and for other purposes; and

An act (S. No. 296) in relation to the fees and emoluments of the marshal, attorney, and clerk of the supreme court of the District of Columbia, and for other purposes.

NORTHERN PACIFIC RAILROAD.

The Senate proceeded to consider its amendment to the bill of the House (No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route.

On motion by Mr. HARLAN, it was

Resolved, That the Senate insist upon its amendment to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be, appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. DOOLITTLE, Mr. HARRIS, and Mr. NESMITH.

NAVAL SUPPLIES.

Mr. HALE. I ask unanimous consent to make a report at this time. ["No objection."] The select committee on naval supplies have instructed me to make a report, which I submit and move to have printed.

The PRESIDING OFFICER. The question is on the motion to print the report.

Mr. CONNESS. Just such a motion a little while ago the Chair decided should be referred to the Committee on Printing.

The PRESIDING OFFICER. The report of a committee can be printed for the use of the Senate without that reference.

Mr. CONNESS. Was not the report of the Senator from Massachusetts [Mr. SUMNER] a report from the Committee on Foreign Relations?

The PRESIDING OFFICER. He did not report a motion to print, but reported back certain papers from his committee; a motion to print them was made, and that motion went to the Committee on Printing.

Mr. BUCKALEW. I desire to accompany this report by a motion to print two thousand extra copies, which motion I suppose will go to the Committee on Printing.

The PRESIDING OFFICER. It will.

Mr. DOOLITTLE subsequently said: In my absence this morning I understand that the Senator from New Hampshire assumed to make a report as coming from the committee of investigation in regard to certain matters connected with the furnishing of naval supplies. When that Senator comes in I shall have something to say on that subject. I will only say now that by the understanding of the committee no report has yet been made; and I shall wait until the Senator comes in before I venture to allow myself to speak what I think in relation to what has occurred.

SENATORS FROM ARKANSAS.

The PRESIDING OFFICER. The resolution taken up on the motion of the Senator from Illinois [Mr. TRUMBULL] will be read.

The Secretary read, as follows:

Resolved, That William M. Fishback and Elsha Baxter are not entitled to seats as Senators from the State of Arkansas.

Mr. LANE, of Kansas. I move to postpone the consideration of the resolution until the first Monday of December next.

The question was put; and it was declared that the motion was not agreed to.

Mr. LANE, of Kansas. I rose in time to ask for the yeas and nays on the postponement of the resolution and addressed the Chair.

Mr. TRUMBULL. Will it not suit the Senator just as well to take the yeas and nays on the

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

THURSDAY, JUNE 30, 1864.

NEW SERIES.....No. 211.

adoption of the resolution? I have no objection to the yeas and nays on the postponement if he desires them.

Mr. LANE, of Kansas. I will state what my object is. I do not want to say anything or do anything to discourage the Union men of the State of Arkansas. They have a State government in motion; they have sent their Senators here, and I hope by the meeting of the next session of Congress they will be able to satisfy the Senate that their Senators are entitled to seats. I desire, therefore, to record my vote, if I am the only one, in favor of postponing the question until December next.

The PRESIDING OFFICER. The Chair will entertain the call for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to postpone.

Mr. NESMITH. I hope this resolution will be postponed. I am not prepared at present to vote either for the admission or the rejection of these claimants, for the reason that the matter has not been presented to the Senate and investigated here, and I have had no opportunity to read the report of the Committee on the Judiciary. I think it is a subject of sufficient importance to be pretty thoroughly investigated. If it be deferred till December, no injury can arise from the postponement, and I would much prefer that course. I do not like to vote to receive or reject Senators until I have had an opportunity to investigate all the circumstances of the case.

Mr. HALE. If there is a single question that this Congress ought to settle before it adjourns it is this and questions cognate to it affecting the presidential election, for they are pregnant with great danger to the peace of the country. If Congress adjourns and goes home leaving them unsettled it will, I think, neglect its plainest duty. If the state of the poll at the coming presidential election should be such that the question who is to be President of the United States would depend upon the votes of States in the situation of Arkansas and Louisiana, if the votes of States thus situated should be such as to decide the result, do you believe, sir, does the Senate believe that in the present state of the country the party who would have elected their President but for the admission of those votes would submit to such a result? I believe that this question is pregnant with civil war, and that if such a state of things should occur we should be in very great danger of having another rebellion on our hands. We can settle it now without difficulty, without embarrassment; and I think we owe it to the country, we owe it to ourselves, that the simple question of what are States of the Union for the purposes of the next presidential election should be settled by law or joint resolution before we separate.

Mr. TEN EYCK. If there is any person in this body who feels a stronger anxiety and desire that the loyal men of these States who have been under the pressure of rebellion should be recognized and encouraged, fostered and protected, I should like to see that man; but, sir, we must not suffer our feelings to get the better of our judgment. We cannot disregard the fact which is admitted by the gentlemen asking seats on this floor, that the State of Arkansas is still in a condition of rebellion. We cannot disguise the fact that the President of the United States has, in pursuance of a law of Congress authorizing him so to do, published his proclamation declaring this State, among others, in a state of insurrection and rebellion. And while that statute and this proclamation exist, I myself, notwithstanding my anxiety and my desire, my most earnest wishes, cannot see my way clear in voting to admit these respectable gentlemen to seats upon this floor. That, and that alone, restrains my hand and controls my vote.

I think, sir, we need some authoritative act on the part of Congress or the President—I do not myself go so far as to say that it is necessary to have an act of Congress—declaring the condition

of these States. I think the same power which binds can unloose, so to speak. I think that as we authorized the President by his proclamation to declare certain States under certain circumstances to be in rebellion, and to intermit or prohibit intercourse and trade with those States, when such a state of facts shall exist under the progress of our arms as to authorize the President of the United States or the Congress (as may be determined) in declaring that the rebellion has been put down, and when the loyal people in those districts or States, they being in my opinion still in the Union, have organized a new constitution, or organized themselves under a constitution having a republican form of Government secured by it, then, and then for the first time, can we as a Senate under the law admit to seats on this floor persons appointed or elected as Senators from those States.

I do not mean to take up time, but, with my feeling strongly biasing me, I am yet restrained by my consciousness of what the law is to vote for the resolution as it came from the Committee on the Judiciary, and I think we ought to decide it now. I agree with the Senator from New Hampshire that it is one of the most important and engrossing subjects that can occupy the attention of this body, and calls for our action now over and above anything else, save the stern, severe duty of passing bills to appropriate money and raise men for carrying on the war.

Mr. NESMITH. As I said before, I am not prepared to vote on this question. I do not know that I shall vote for the admission of the gentlemen claiming seats from Arkansas under any circumstances. For the admission of one of them I certainly would not vote if the statement which has been made here be corroborated in relation to his vote for secession. I have never believed in the legality of secession; I have never been disposed or inclined to recognize it in any way; I have never believed and I do not believe to-day that the State of Arkansas or any other State of this Union has gone out of the Union. I have never recognized the doctrine that a convention of disorganizers and rebels could legitimately assemble within the boundaries of any State and abolish the Constitution either of the State or of the United States. I believe that the State of Arkansas is to-day as much a State of this Union as the State of New York, and there is no power, in my opinion, that can place her beyond the pale of the Union. If I am correct in that doctrine (and I do not think it can be controverted) as to the illegality of a State going out of the Union, if the State is in the Union she certainly has a right under the Constitution to representation in Congress, and whenever that representation presents itself here under the forms prescribed by the Constitution of the United States it should be admitted if there is no objection to the men; and when I say objection to the men, I mean they must be men who have not committed acts which would preclude them from taking the oath necessary to be taken in order to entitle them to seats on this floor. I intend to vote for the admission of Senators under every circumstance when they come here as authorized by the Constitution. What may be embodied in the report of the Committee on the Judiciary in this case I do not know. I certainly should have very great respect for anything emanating from that committee, but I have not had time to read it, and I merely present this as my own view of the question.

Mr. TRUMBULL. Mr. President—
The PRESIDING OFFICER, (Mr. FOSTER.) The Chair must announce the fact that the hour has arrived for the consideration of the special order, being the unfinished business of yesterday.

Mr. TRUMBULL. This being a question of privilege, in reference to the seat of members on the floor, I suppose must be continued.

The PRESIDING OFFICER. A question relating to the constitution of the body is a question of privilege, and, unless the Senate otherwise order, the discussion will proceed on this question. It was, however, the duty of the Chair under the

rule to state the fact that the hour had arrived for the consideration of the special order.

Mr. TRUMBULL. I shall detain the Senate but a single moment, and I would not that long but for some remarks which fell from the Senator from Oregon. The Committee on the Judiciary were aware of this controverted question as to whether Arkansas was a State in the Union or out of the Union, and as to what would be necessary to put a State in the Union if it were out, and they have avoided the expression of any opinion on such points. The committee have confined themselves entirely to the question referred to them, the credentials of the gentlemen claiming seats from the State of Arkansas, and the question discussed by the committee was simply this, whether they were elected by the Legislature of Arkansas; and the committee state that from the facts before them they are not satisfied that the body which returned these gentlemen here is in a legal sense, in the constitutional sense, the Legislature of Arkansas which would have authority to elect Senators. The report was laid on the tables of Senators yesterday, and I am sorry the Senator from Oregon has not looked it over. Although there was some difference as to whether a law was necessary in the first instance before a Legislature could be organized that could elect Senators, the committee forbore to express any opinion upon that; but whether a law is necessary in the first instance, the joint action of Congress, to organize a Legislature which would be authorized to elect Senators, or whether it is not, the body sending these gentlemen here, the committee were of opinion, was not such a Legislature as was authorized to elect Senators to the Senate of the United States, because the committee from the facts before them did not believe that the body of men who assumed to elect these gentlemen was a body of men selected by the loyal inhabitants of Arkansas entirely unrestrained by military authority; and we were of opinion that until a state of things existed in Arkansas so that the loyal inhabitants could have an opportunity freely to express their opinions in the selection of a legislative body no legislative body could convene having authority to elect Senators. However anxious we all were to encourage the loyal sentiment of Arkansas, yet knowing the fact that part of that State is in the possession of hostile armies, that those armies exercise supreme authority over a considerable portion of the State at this time, a large portion of the State being in the possession of the enemy, the President's proclamation declaring the inhabitants of the State to be in a state of insurrection being unrecalled, we were of opinion that the body which assembled there and the government which had been set up by it was not that republican form of government which the Constitution requires the United States to guaranty to each State in the Union; that to be a republican form of government such as the Constitution contemplates, it must be a civil government paramount and not subordinate to military authority.

These were the considerations in a general view that occurred to the committee as conclusive upon the right of these gentlemen to seats. I forbear to go into a general discussion of the question. I was in hopes we could have a vote without discussion, because we have sought to avoid in the report the controverted point to which the Senator from Oregon has alluded, whether Arkansas be a State in the Union or a State not in the Union.

Mr. NESMITH. I will state to the Senator from Illinois that I merely suggested that point as a reason why action should be deferred until the next session. I stated that I was not prepared to vote for or against the admission of these gentlemen at present. I did not raise it with a view of provoking any discussion whatever.

Mr. TRUMBULL. I only wish to say that it would matter not whether Arkansas were in the Union or out of the Union; if in either event she has not such a body of men as a Legislature as would be entitled to elect Senators, the persons

sent here could not be admitted. That is the general ground on which we have acted.

Mr. WADE. If it is in order, I move to postpone this and all prior questions, and take up House bill No. 244. The House of Representatives at an early period in the session with great deliberation and labor had this whole subject under consideration, and undertook to provide in this bill for just such cases as this as they shall arise. The bill of the House is pending before us now on this very subject, covering the whole ground, and it seems to me better that we should take that up first, which will set a rule by which all these questions may be finally decided, instead of taking up each case and arguing the whole question on each case as it shall arise. It would be doing the House of Representatives great injustice for us not to consider this bill at this session of Congress. It was reported by a very able committee of that House, who deliberated long upon this subject. That bill has been referred to a committee of this body who have had it long under consideration, and I have been seeking an opportunity for many days when more pressing questions should not be pending to bring it up and if possible settle it here, not only for this case but for all other cases that may arise of a like character. I hope the Senate will conclude with me that it is better that we should postpone this question for the present and take up the bill which covers the whole ground, and if we should agree with the House of Representatives it will form a rule deciding not only this question but all others of a like character.

Mr. TRUMBULL. It was precisely because of the view taken by the Senator from Ohio that I desired to get action upon the right of these gentlemen to seats. The Senator from Ohio has charge of a very important bill, as he says, involving the question of the reconstruction of the States. That is a question which will give rise doubtless to great debate; a very important question, one which Congress ought to settle. Admit all this; the gentlemen claiming seats from Arkansas have a right to have the question decided. It is the duty of the Senate to decide it. It is a question of high privilege. The Senator's bill may pass or may not pass; but whether it passes or not, this case will have to be decided. This case is not dependent upon that bill. If the Senate and House of Representatives should come to the conclusion that the State of Arkansas was in the Union, and had a perfect right by its Legislature to elect Senators, still, in the opinion of the Committee on the Judiciary, the body which elected these men was not such a Legislature as could elect; and your bill does not settle that. We have avoided these controverted questions; and I think if the Senator from Ohio will let his bill lie we may be able to get a vote on this case. I did not suppose there would be any discussion on it, and I am not aware now that there will be.

Besides, this question does not interfere with his bill. It is a very appropriate forerunner to the bill, it seems to me. Let us get a vote on this question, and then take up his bill and decide that. It is enough for us to decide on these credentials if the Senate is prepared to act upon them that the gentlemen claiming to be Senators are or are not entitled to seats here. The committee tried to place it on such grounds as would not provoke discussion in the Senate on controverted points, and I think we have done so; and I trust the Senator from Ohio will let us take a vote on the resolution.

Mr. WADE. If I did not think, if indeed I did not know, that the question raised by the Judiciary Committee in regard to the admission of the gentlemen claiming to be Senators from Arkansas involved all the points contained in this bill and would call them all out in argument before the Senate, I should be very willing to let the resolution be first acted upon; but I have not the least idea that the question of their admission here will be settled without as thorough an investigation of all the points involved in the passage of this bill as there would be if we considered the bill itself. I think the only result of taking up the resolution first will be that we shall be detained here to hear all the arguments on each subject. Every one of them is involved in each case and properly within the range of legitimate and fair debate. The question, what is the character of a seceded State, what is its relation to the Federal

Government now, does it exist as a State or is it annihilated by the rebellion? these are questions that I can already see will be agitated in the debate as to the admission of these Senators. The question involves every point that is involved in the bill. It is to save time that I have made the motion to lay aside the resolution and take up the bill which I believe will settle the whole controversy; it is because I wish to escape as much debate as possible. I leave the matter for the decision of the Senate. I cannot withdraw my motion.

Mr. LANE, of Kansas. I hope the motion of the Senator from Ohio will prevail. I am as anxious as any Senator to settle this whole question, but the passage of the resolution proposed by the Committee on the Judiciary does not settle anything. I am one of those who believe that the State government belongs to the loyal people of a State without reference to their number. The loyal people of Arkansas have elected a Legislature and that Legislature has sent Senators here. There was no doubt in the hearts of those men that these Senators would be received, and they had reason to believe that they would be received. Here is a law of the Congress of the United States, admitting the State of Arkansas and agreeing that she should have two Senators upon this floor, standing on the statute-book unrepealed. In that condition of affairs, the Committee on the Judiciary comes forward with a resolution that the State of Arkansas is not entitled to two Senators without repealing the law giving her two Senators. It settles nothing.

It is enough that we are fighting with people for seceding, without fighting with them for trying to get back into the Union. I want to extend to them the helping hand, believing, as I do, that the only way the loyal people of any of the seceded States can successfully fight secession is by organized State governments. Here is a State government that has been recognized by the executive department of this Government, and although I have not determined for myself whether to vote for the admission of these two gentlemen or not, I am exceedingly desirous that the question shall not be settled at this session against the loyal people of Arkansas.

Let us pass the bill proposed by the House of Representatives, and which the Senator from Ohio has moved to take up. That will advertise the loyal people as to what course they are to pursue, but let us not dampen their ardor or discourage them by a refusal to admit their two Senators regularly elected. If it be true that the government of a State belongs to the loyal people of that State, here is a legitimate election, with credentials regular, in the usual form, with the law upon the statute-book giving the people of Arkansas two Senators unrepealed, and I believe the Judiciary Committee do not suggest a repeal of that law. It will not do, in my opinion, as a politician, to say to the people of this country by a solemn vote that the State governments of the seceded States do not belong to the loyal people of those States without reference to their numbers.

Mr. TRUMBULL. The Senator, I presume, is aware that the committee say no such thing.

Mr. LANE, of Kansas. There is no other reason, in my opinion, for the Judiciary Committee deciding that these Senators are not legally elected. The reason of the decision is that the traitors in arms did not join in the election of members of the Legislature.

Mr. TRUMBULL. Not a word of it.

Mr. LANE, of Kansas. Those members were regularly elected by the loyal people of the State, all of them joining in the election.

Mr. TRUMBULL. I think the Senator cannot have read a part of the report. Let me read this portion of the report to him:

"The number of persons in Arkansas who voted for President in 1860 was fifty-four thousand and fifty three, less than one fourth of whom, as appears from the statement of the claimants, took part in the reorganization of the State government. This, however, would not be fatal to the reorganization if all who were loyal to the Union had an opportunity to participate, and the State was free from military control."

Now, does the Senator pretend that the Committee on the Judiciary said that traitors must have an opportunity to vote? We say expressly it is not fatal to the reorganization of the State government that a majority did not vote, or that less than one fourth only voted, if all the loyal

people had an opportunity to vote free from military control.

Mr. LANE, of Kansas. The loyal people who were in the State of Arkansas at the time had the opportunity to vote and did vote. Does the Senator from Illinois mean to say that it was indispensable for a legal organization that loyal men of the State of Arkansas who were outside of the State should have participated? We do not know that they will ever return. We do know that the loyal people who were within the borders of the State of Arkansas had the opportunity to participate and did participate. And I say here it will not do to declare that the loyal people of one of the seceded States, without reference to numbers, have not the right to take upon themselves the State government that has been suspended by the rebellion. There is but one voice among the loyal men of this country on that question, and that is, that any number, however few, of the loyal men of a State, have a right to take upon themselves the burdens and receive the benefits of the suspended State government. These loyal people have done so at the earliest possible moment; they have assumed the duties and responsibilities of a State government, they have elected their Senators under a law upon your statute-book, and sent them here with regular credentials. I hope the resolution of the Senator from Illinois will be superseded by the bill of the Senator from Ohio, and I say to the Senator from New Hampshire and the Senator from New Jersey that the way to settle this great question is not in parts but as a whole. Let us grapple with the whole question, take up the bill passed by the other House and pass it here, and not wound the loyal hearts of the gallant men of Arkansas by rejecting and spurning from our doors their legally elected Senators.

Mr. SAULSBURY. I hope the motion of the Senator from Ohio will not prevail. No more important question can be presented to the consideration of the Senate than is presented by the report of the Committee on the Judiciary. Entertaining the views I do, I want to see it settled now. I hold, with the great mass of the Democratic party to which I belong, that Arkansas is a State in this Union; that South Carolina is a State in this Union; that their ordinances of secession are void, not only voidable but absolutely void. Every one of those States which has assumed to secede, is *de jure* a State of this Union, although *de facto* they may be out of the Union; and, sir, in the course of a few brief months a party I hope will be installed in power which will recognize the correctness of this principle and will apply themselves to the greatest task ever committed to mortal man, the reconciling of these differences and bringing back into willing obedience to the Constitution and the laws of the land the States which have assumed to go out of the Union.

While I hold to this principle, and while the party to which I belong holds to it, and while every honest effort they can make will be made for the accomplishment of the objects I have indicated, we do not hold to the doctrine that any State can be represented in this body except by the free, unbiased choice of its people. These gentlemen present themselves as Senators, not under the constitution or laws of the State of Arkansas as that State existed before it assumed to discontinue its relations to the Federal Government, but they appear here as the representatives of a new-made State, new-made not by the voice of the people of Arkansas, but new-made by the voice of the man who sits enthroned at the other end of the avenue; a State made by proclamation!

Sir, what is the attitude in which these gentlemen present themselves to the Senate of the United States for admission into this body? Do they come pretending that by the voice of the people of Arkansas they are sent here? Do they come pretending that according to the constitution and laws of the State of Arkansas, when it assumed to cease its connection with the Federal Union, they are here? No, sir; but they come, agencies of a presidential proclamation, asking for admission here.

No more important question can be presented to the American Senate or to the American people than this: is it within the power of a Federal Executive to make or unmake a State? More important consequences depend on the proper

solution of the question than gentlemen apprehend. If it be true that according to the theory of our Government a President can make a State or reduce a State into a territorial dependency, then, sir, have we misread the teachings of the fathers; then have the illustrations of our system of Government proved false; then, indeed, shall we be reduced not to the condition of a Federal Union, but of an absolute, central, consolidated Government. I wish the Senate of the United States to determine this question now and immediately, and not take up the bill reported by the honorable Senator from Ohio, because it is utterly impossible to get through with the discussion of that bill at least during the present week. The questions which it raised are so momentous in their consequences that it is impossible for the friends of the Federal Union to sit here quietly and allow it to be passed without discussion.

Sir, when peace, heavenly peace, shall return—for peace descends from heaven; war springs from hell—when the days of peace shall return, what is the attitude that the present Executive of the United States will find himself in? Suppose that this bogus government in the State of Arkansas be recognized; suppose that the President of the United States attempts by the military arm to cause the behests of such a government to be executed, what is the position in which he places himself? When peace returns and law prevails and the courts of justice are open, he is liable to trial for treason for levying war against the United States of America, and because Arkansas is a constituent member of that Government, liable to an indictment for treason in making war upon a sovereign State of this Union by attempting the establishment of a government unknown to the constitution of that State and unrecognized by the Constitution of the United States.

I protest, therefore, in the face of the American people against a policy destructive not only of our State but of our Federal system. When you get possession of the State of Arkansas, if you ever shall, it will be time enough then to recognize their representatives in this body. While that State, through all the forms of legislation known to a State, discards your authority, although you and I know that by so discarding it they violate their duty to the Federal Government, admit no representative into this Chamber or into the House of Representatives coming from them; but when like erring members of the Federal system, by the voluntary action of their people they come and recognize your authority, recognize the supremacy of the Federal Constitution and Federal laws, admit them into participation in your councils; but until they do so recognize your authority, admit them not here to participate in your debates or in your counsels.

Sir, Arkansas rightfully, constitutionally, legally, by all the honorable ties that can bind a State to this Union, is in the Union, and no ordinance of secession on their part and no action of the Federal Congress can give validity to any assumption on their part that they are not members of this Union, and by no vote of mine will I ever recognize the right of a State to secede; but I will say this: the flag of my country has a right to wave over every foot of our territory, and you have got no right to discard that relation of the State to the Federal Government; you have no right to treat them as out of the Union as you will do if you admit these Senators from that State. You have got no right constitutionally to recognize the validity of a presidential proclamation which substantially treats them as out of the Union, and undertakes to readmit them as States. I know there is a provision of the Federal Constitution that new States may be admitted into this Union. What does it mean? New States may be admitted out of territory that was not originally a State; but how do you reduce an original State into a territorial dependency, a territorial condition? No such provision exists, and I charge upon the majority of this body, if they do admit these men, that they recognize the doctrine of secession, they proclaim by their votes that it is in the power of a State of this Union to dissolve its connection with our Federal system; and they go further, they assert the power of making a new State out of an existing State, and to make it by a presidential proclamation. I protest against such a doctrine.

The PRESIDING OFFICER. The Chair

will take occasion to remark that the motion before the Senate is the motion of the Senator from Ohio to postpone all prior orders for the purpose of proceeding to the consideration of House bill No. 244; and a motion in regard to the order of business does not open the merits of either question for consideration. The remarks of Senators should be confined to reasons stated as briefly as may be, according to the rule previously laid down by the Chair, for proceeding with the one or the other, not discussing the merits of either question.

Mr. CONNESS. I hope the Senator from Ohio will withdraw his motion and let us get a vote on the resolution before the Senate. It has been discussed to the end; there can be no question as to the manner in which the Senate will decide it, and I hope we shall have a vote this morning on it.

Mr. WADE. If I had any indication that the question of the admission of these Senators would not be further debated, I would withdraw my motion. I do not believe it.

Mr. TRUMBULL, and others. Try it.

Mr. WADE. Very well, I withdraw my motion; but if debate arises I will renew it.

The PRESIDING OFFICER. Does the Chair understand the motion of the Senator from Ohio to be withdrawn?

Mr. WADE. No; I stand by it. I think on reflection I had better insist on my motion.

Mr. BUCKALEW. Mr. President, by the Constitution the Senate is made the sole and exclusive judge of the election, returns, and qualification of its members. An application is made in regular form, in the usual manner, on behalf of two gentlemen from the State of Arkansas, who claim that they have been duly chosen members of this body by a competent Legislature of that State. This subject was debated in the Senate upon both sides with much of earnestness and at length. It was then referred to the law committee of this body, has been considered by it, and reported upon at length; and by that report it is shown that this case can be rightfully determined without going into the general question of the status of the seceded States with reference to the Union.

Now, sir, at this stage of the proceeding, when a judicial question over which we have constitutional jurisdiction, and over which we alone have jurisdiction, is made up, when the discussion has taken place, when a committee has considered it and reported upon it, and when every public interest and every consideration of private right involved demand its discussion, what is proposed by the Senator from Ohio, [Mr. WADE?] That we should abdicate this judicial function committed to us by the Constitution, and in connection with the House of Representatives enter upon our legislative functions, upon the discussion of a general measure involving not the decision of this case at all, involving no determination of any point connected with this inquiry, but launching us abroad upon the general ocean or upon the wide public field of debate in which political considerations and considerations of expediency are mainly involved, instead of those which legitimately pertain to this question.

Sir, we are sitting, so far as the present point is involved, in a judicial character, and we are to decide this case, not upon considerations of expediency or of policy, but upon the principles of justice and of legal right as applied to these claimants. The bill which it is proposed to substitute for this measure is prospective. It relates to the future. If it establish anything it will establish a law, a rule for our future conduct. It will have no application to the question of the rightfulness of a past act as to the regularity or lawfulness of the proceeding in the State of Arkansas by which these gentlemen were chosen. That is a question upon which the legislative department cannot pass by bill or by joint resolution. It pertains to the judicial function of this body with reference to its members and of the House of Representatives in a similar capacity with reference to application for seats in that body. I say, therefore, sir, that as I view this subject it is our appropriate business, nay, it is our duty, a duty charged upon us by the Constitution, to proceed to determine this case now as all the preliminary steps necessary to its decision have been taken.

The Senator from Kansas [Mr. LANE] pro-

poses to postpone this subject until the month of December next. I shall proceed, in addition to what I have already said, to state two considerations which stand opposed to that motion. In the first place, I presume the only practical result, so far as these claimants are concerned, would be that the Treasury of the United States would be obliged to make compensation to them for a year. If we keep them dancing attendance upon us, waiting our sovereign pleasure in regard to their cases, we cannot afterwards very well resist an appeal to compensate them for the time expended and expenses incurred by them; and I suppose that is really the only point involved in the motion to postpone. That motion raises the question whether we shall charge these gentlemen on the Treasury of the United States for this additional period, or by determining their case now conclude that interesting point.

Mr. LANE, of Kansas. I beg to interrupt the Senator from Pennsylvania. The idea of remunerating these gentlemen for the time between now and December never entered my mind, and I presume has not been entertained by them.

Mr. BUCKALEW. I spoke not of motives; I spoke of results; and the result which I have indicated will probably be the only effect of the motion of the Senator from Kansas, to keep this question of membership open until December next. It will then be decided precisely as we shall decide it now if we proceed to its decision.

But, sir, there is a general consideration which stands opposed to this dilatory motion, and opposed also to the proposition made by the Senator from Ohio; in short, which stands opposed to all motions and to any action of the Senate by which the immediate decision of this important question will be avoided. Sir, do you desire to interject into the debates of this year throughout the United States another and a most dangerous element? Do you desire to fix public attention and to arouse public passion by an issue of the description which will be presented by the proposition now before the Senate? Does it comport with the public interest that you should send that issue down to the people to agitate and to disturb them when they are engrossed with other questions legitimate and proper for their decision, and when this is really your business and your question upon which the Constitution commits power exclusively to you, and which it demands that you should decide? It seems to me that this consideration controls the case, and should rule the action which is taken upon it by the Senate.

We know, sir, that this is a most dangerous question in certain possible aspects of the future. I hope, for one, that the Senate by proceeding to decide it now will relieve the debates of the present year from this question. There is no difficulty in deciding it now. I do not doubt what the Senate will do if they proceed to its decision at this time. But leave it open, allow the passions of the country to take hold of it, and allow the party interests of the country to become connected with its decision at some future time, and no man can foresee the consequences, no man is entitled to pronounce with certainty and assurance of mind that a contested presidential election will not be the source of civil war and convulsion in this country, as it has been in every other republic which has been established in the New World. I have been in the South American republics; I have contemplated their career; and of all the questions which can divide a population in a republic, which can lay the foundation of civil war and convulsion and debauch the whole political society permanently, a disputed presidential election is chief and foremost. Sir, the slightest possibility of such a condition of things in this country should cause Senators to decide at the earliest moment the question out of which such difficulties may arise, to decline any permission to any party or interest to raise such an issue before this people.

Mr. WADE. From the argument of the Senator from Pennsylvania, I am a little at a loss to know whether he is in favor of taking up my measure or the other. He says these questions are exceedingly dangerous, some of them. Now, sir, what is the question? Here is a bill that has been pending longer than almost any bill before the body. It was passed very early in the House of Representatives; it has been a long time before us here. The other question has been a long time

pending before us as to the admission of Senators from Arkansas, and it has lain very quiet; there has been no attempt to press that subject until I came in this morning to get up this bill. Having in my charge a bill that is admitted to be one of the most important that has been before Congress during this whole session, if I lay still and permitted everything else to be done and did not call it up it seemed to me I should be derelict in my duty and unfaithful to the trust that the Senate had reposed in me. I delayed it as long as I felt that I could do so consistently with my duty. I delayed it while all your tax bills, while all your revenue bills, while all your appropriation bills were pending, while all your war measures were undisposed of; but when they are all through, when nothing more remains to be done on those pressing measures, I deem it my duty to bring forward this great measure of the session. I gave notice more than a week ago that on the first occasion that I could get the floor I should earnestly press this question on the consideration of the Senate, and the first opportunity that I thought I had I embraced; and then what is the result? The Senator from Illinois [Mr. TRUMBULL] rises to antagonize this measure with mine at once. He had not shown any very great impatience to get it up until I made my motion. Why attempt now to embarrass the great measure of the session with this question of the admission of these members? I admit it is important to act on such a question; it is a privileged question, I believe, that may be taken up over anything else, but I do not understand why Senators who have lain so quiet up to this time should be so impatient the moment I rise to get up my measure.

I would not feel very anxious upon this question if I did not hear it all around me stated that we were about to adjourn. I think we ought not to adjourn as long as there is any important question that can arise before us. I do not know that it is the intention of the Senate to adjourn soon; but I hear it from all quarters that at all events we must adjourn this week. If so, whoever is charged with an important measure would not be justified if he did not endeavor to bring it to the notice of Congress at once. I hope we shall not adjourn leaving one single important measure behind. If we do so we cannot justify ourselves before the American people. In a time like this, when the nation is struggling with its fate, to manifest a childish impatience to withdraw from the councils of the nation is unworthy of an American Senator. I do not know that any member harbors any such intention; but I am alarmed by hearing it, side-bar, everywhere that we are just going to adjourn. I do not believe it. I do not believe there is a member of this body who has not a better opinion of the duty he owes to the nation in times like this than to meditate adjourning and leaving before we are through with everything that anybody can say is important. If I had an assurance that we should have patience to do up all our business before we leave you would not find me rising in my seat to antagonize this with anybody's measure. I would not care a straw then which of these questions you took first. If the Senator from Illinois is impatient to have this question of his tried, he may test it; I am sure it is an important question whether Senators shall have a seat on this floor or not, and one too that ought to be decided, and promptly decided. But when I see that the question arises in such a form that the debate upon it will involve all the points necessarily involved in the passage of the bill that will make a general principle for all like cases, it does occur to me that it is better to take up the bill and settle the general principle before we take up the particular questions that will involve just as much controversy. I know the Senator from Pennsylvania thinks otherwise. He says they are entirely distinct from each other. The peculiar questions are separate, but the principles involved are about the same.

I know that the passage of this bill does not affect the right of these gentlemen to seats here; but it establishes the principle that will be drawn into the argument all over the Senate. My friends around me believe that the question of the admission of these members can be taken without any further debate. I do not believe it. I believe that every principle involved in the passage of this bill will be argued in the Senate and debated by every gentleman who sees fit to de-

bate it, during the pendency of the resolution of the Senator from Illinois.

I have no doubt that the Senate will stay here and determine all these questions, because I will not believe that there is a Senator in this body who would turn his back upon the great councils of the nation under circumstances like these, while anybody was urging a question upon its consideration that he believed important. When I say this, I admit that no Senator is more anxious to get out of the city and go home than I am myself, but I would as soon desert the camp of the soldier and run away; and I should feel myself now infinitely more disgraced by leaving the councils of the nation before everything was done than I would were I a soldier in the Army deserting my colors and running home. The world may not consider it so, but one would be as eminently disgraceful as the other. Let us take these questions up, then, and settle them all. I do not understand that the gentlemen from Arkansas who are here, or who have been here, are pressing their case on the consideration of the Senate. I do not know but that they are. If they are it would have the effect upon my mind of inducing me to yield to their case, to permit it to be decided; but I do not understand that they are here urging immediate decision. Therefore I must stand by my own motion. I have given fair notice of it. I intended to make it this morning; it was very well understood that when reports were over the bill would be taken up. I believe everybody on this side had reason to suppose so, and yet it was antagonized immediately by this other question which had not been stated before.

I will make no further remarks; I hope the vote will be taken. I do not think there is any very special reason why I should be superseded in the attempt to get up the reconstruction bill now; but if the Senate think there is, let them go on with the other question. I prefer that the question I have made should be settled by the Senate, because I do not believe I can justify myself to my constituents, or to the House of Representatives who have sent this bill here for our action, if I consent to further delay, unless the Senate so direct, and I shall stand by their verdict. If they say this other question is the most important and must be settled, so be it, but let them decide it.

Mr. HOWE. I rose some time ago to say to the Senator from Ohio that my own judgment is that the question arising on the report of the Judiciary Committee had better be first decided. The view that I take of these questions I apprehend is peculiar to myself; but it is such a view that while I have no reason to doubt but that I shall support the bill moved by the Senator from Ohio, the action of Congress on that question would not affect my judgment, if I understand the character of that bill aright, upon the question presented on the report of the Judiciary Committee, and I think the Senate will concede that if the gentlemen who are presented here as the representatives of Arkansas really have a right to seats here, that right ought to be declared and they put in possession of it before we act upon the measure moved by the Senator from Ohio. If they have an interest to be affected by the action of the Congress of the United States upon any question whatever, they have an interest in being represented on that question. There is probably no one measure that they would feel so anxious to be represented upon and to be heard upon as the very measure moved by the Senator from Ohio.

For these reasons I think we had better pass upon their right first. That right is an existing thing, if there be any such right; it is to be determined upon the law as it is to-day, and not upon the law as we make it after to-day. The Senate can see that whatever might be the fate of that bill it would not affect the right of these candidates. In addition to this, I might say that it is understood to be a question of privilege itself, having the right of precedence by the law of the Senate. It is so ruled.

Mr. WADE. I have moved to postpone it, and that is in order.

Mr. HOWE. I do not undertake to declare the law, but for myself I understand the law to be so declared that it is a question of privilege, and therefore in acting upon it first we simply act in the order of business that the law has fixed.

Mr. WADE. If that be so, my motion is not in order.

Mr. HOWE. I do not know that a motion to postpone even a question of privilege cannot be entertained.

Mr. WADE. Let the question be taken as to which we shall take up.

Mr. LANE, of Kansas. In answer to a suggestion made by the Senator from Pennsylvania, [Mr. BUCKALEW,] I desire to state that I differ from him entirely as to the decision of this question being the same at the next session as it will be if the vote is taken now. If by the help of God we are able to clear Arkansas of rebels by the next session, there will not then be half a dozen Senators who will not be willing to admit these men. The only difficulty now in their admission is the fact that a portion of the State of Arkansas is in possession of the rebels.

Mr. WADE. Will the Senator answer me a question? Are these Senators pressing for a decision of their case? Are they anxious for its immediate decision?

Mr. LANE, of Kansas. On the contrary they are desirous as their people are to have the question postponed until the next session of Congress. I remember that my seat was contested, and we permitted it to go over to the next session.

Mr. TRUMBULL. I am astonished at the statement made by the Senator from Kansas. It is a very strange proceeding for gentlemen to present themselves with credentials and ask for seats when they do not wish seats at all and desire the question to be postponed for six months. I understood distinctly that they did desire to have their case decided. It is a very strange proceeding for persons to claim seats in this body and then desire not to have them.

Mr. LANE, of Kansas. Let me correct myself. They believe as I do that a decision against them would be discouraging to their people. That is what I meant to say, that it would be a stroke at the Union organization in the State of Arkansas.

In answer to another suggestion made by the honorable Senator from Pennsylvania, I will say that the people of this country have already decided this question, and I so stated when I was up. The people have no sympathy with the opinion that these States are not in the Union. They recognize them as in the Union, and they recognize the loyal people, however few they may be, as having the right to reorganize or revive their State governments. I hope the Senator from Illinois understands these two applicants. They hope that a decision may not be made against them, for the reason that it will discourage their people.

Mr. FESSENDEN. I was very forcibly struck by the remarks made this morning upon this question by the Senator from New Hampshire, [Mr. HALE.] I think it is very important that this question should be settled one way or the other before we adjourn, and the sooner we settle it the better. I am myself of the opinion, and have been from the beginning, that the question of reconstruction as it is called, the question of what is and what is not a State entitled to be represented here, should properly be settled by Congress, and cannot be settled by any other power than Congress in any possible way. I am of the opinion which is expressed, I believe, in the report, though my attention has not been specifically directed to it, that so far as the power to be represented here is concerned, a State which has been proclaimed in insurrection, which has been in the power of the enemy, and which has deliberately, so far as we may judge from its action in a certain way, pretended to join another confederacy, is not entitled to be represented here until she returns to her allegiance. It is not enough that a small portion or even a considerable portion of that people sustained by our military authority in the State declare themselves to be a State. We must first declare it by the admission of Senators or the admission of Representatives, and we ought to put an end at once to all these questions which have been raised with reference to the coming presidential election, because I think, as was stated by the Senator from New Hampshire, that very serious consequences may follow if we leave them undetermined.

With regard to the bill which my honorable friend from Ohio proposes to take up, I have always been of opinion that before we attempt the business of reconstruction we should have something to reconstruct, something in our power;

at any rate, it will not be too late to act upon that subject when we can make our action efficient. I do not wish now, however, to express any opinion whatever upon the details of the bill, or on the bill itself, because I have not studied it with sufficient care to form an opinion upon which I could rely. The other question, however, I deem of very great importance, and I think we, as a body, ought to settle it at once; and the wishes of the gentlemen who claim seats, if they have any wishes, are not to be consulted, or even the wishes of our friends there, in view of the very great importance of the question itself and the serious consequences that might possibly follow if we left anything with regard to it undetermined.

I did not rise, Mr. President, for the purpose of making an argument, but simply to state my views in accordance with those which have been expressed by others, and I hope the resolution of the committee will be acted upon so that we may settle the question.

Mr. SUMNER. In my opinion each of these questions is of great importance. Each ought to be settled by the Senate before we part. I am reluctant to give a precedence to one over the other; but, from the nature of the case, we must give a precedence to one over the other in order that business may be transacted. Now, by what rule shall that precedence be determined? The Senator from Illinois obtained the floor and moved to proceed to the consideration of the resolution of his committee with regard to the Arkansas Senators. That motion was agreed to. That resolution was the question before the Senate. Then it was that my friend from Ohio moved to postpone the resolution of the Senator from Illinois in order to proceed to the consideration of the measure which he has in charge. I am free to say that if the Senator from Ohio had been in the place of the Senator from Illinois, and had obtained the floor so as to make the motion to proceed with the consideration of his measure, I should have sustained that motion; but as the case is just reversed, as the floor was given to the Senator from Illinois, I shall deem it my duty to sustain his proposition. I do not think it right that two propositions which are of great importance, even if they are not of equal importance, should be antagonized with each other. I think, therefore, the business of the Senate and the harmony of our proceedings will be best consulted by going on with the question which was first moved.

Mr. WADE. The Senator from Massachusetts perhaps did not attend to this question when it was first started. Very early this morning I moved to take up this bill. The President decided that reports of committees must come in first. I had the floor, and I supposed according to custom I should be awarded it when reports were over. The Senator from Illinois understood that I was to have the floor, and I believe everybody here understood that I was to have this bill taken up this morning as early as possible. But before the reports were through, the Senator from Illinois rose to a question of privilege and moved to take up this resolution, and of course I could not get in the bill. As the resolution had lain quiet so long I did not see why it should be antagonized with the measure that I had in charge. I thought that as it had waited for months it might wait another day just as well, and I did not suppose that I should discharge my duty to this body if I did not insist upon taking up the bill; and yet I am told by the Senator from Massachusetts that I antagonized this measure with the other. The fact is right the other way.

Mr. SUMNER. Let the record settle it.

Mr. WADE. I do not care about the record; I am never great on technicalities. I thought my measure might as well go on; and besides, if the adjournment is to take place immediately, I intend to stand by this measure. I want my motion decided by the Senate and I shall be satisfied.

Mr. COWAN. I suppose every member feels it his duty at the close of the session to make a speech on every possible occasion when there is a chance to say a word; and it is impelled by that desire to do my duty that I rise to say that I agree entirely with the Senator from Massachusetts in preferring that the resolution of the Judiciary Committee should be acted upon immediately, believing in the maxim *prior est in tempore potior est in jure*. I am ready to vote upon that resolution; and I am ready to vote upon it with-

out any regard whatever to the fate of the bill which the Senator from Ohio has in charge, and I cannot conceive for my own part the most remote connection between the two. I think it is due to ourselves that we should determine the question arising on the report of the Judiciary Committee, and determine it immediately one way or the other. I hope, therefore, the Senator from Ohio will not succeed in his motion to displace it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

Mr. WADE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 5, nays 28; as follows:

YEAS—Messrs. Clark, Hurlan, Lane of Kansas, Sherman, and Wade—5.

NAYS—Messrs. Anthony, Brown, Buckalew, Carlile, Chandler, Conness, Cowan, Davis, Fessenden, Foot, Foster, Grimes, Harris, Hendricks, Hicks, Howe, Johnson, McDougal, Morgan, Powell, Ramsey, Riddle, Sumner, Ten Eyck, Trumbull, Van Winkle, Wiley, and Wilson—28.

ABSENT—Messrs. Collamer, Dixon, Doolittle, Hale, Harding, Henderson, Howard, Lane of Indiana, Morrill, Nesmith, Pomeroy, Richardson, Saulsbury, Sprague, Wilkinson, and Wright—16.

So the motion was not agreed to.

Mr. LANE, of Kansas. I made a motion to postpone the resolution until December next; but this vote settles that question; and I desire, with the consent of the Senate, to withdraw that motion.

The PRESIDENT *pro tempore*. That motion being withdrawn, the question is on the passage of the resolution reported by the Committee on the Judiciary.

Mr. HOWE. I trust the Senate will indulge me for a few minutes while I state, or try to state, the reasons which will compel me to vote, I presume by myself, against the resolution reported by this committee. I suppose from what I know of the opinion of the Senate that, with the exception of my vote, this resolution will receive the unanimous support of the Senate. I understand it is reported here as the unanimous opinion of the Judiciary Committee of the Senate, a body combining, as we all know, a vast amount of learning and general ability; a body which I very well understand came to the consideration of this question with minds as unprejudiced and with as fixed a resolution to come to a correct conclusion as ever a body of men did take up a question; and therefore it cannot but be that I should have a great deal of hesitation in dissenting from the conclusion at which they have arrived. And yet, Mr. President, I beg leave to say, with the utmost respect, with the utmost deference to the character of that committee, and to the character of the body in which I stand, which I suppose to be unanimously against me, that there is not a single faculty and there is scarcely a single fiber in me that does not dissent from the doctrines stated in this report. I never can state to the Senate by any possibility the emphasis with which I believe this resolution is wrong.

The other day, when the question of referring these credentials to this committee was before the Senate, I read that clause of the Constitution which tells us what composes the Senate of the United States, and I read that act of Congress which admitted the State of Arkansas as one of the States of the Union. I reminded the Senate then that neither that Constitution nor that act of Congress had been repealed. The fact is so today. They have not been repealed; and therefore I cannot help but believe that if we exclude from their seats these gentlemen who are sent here from Arkansas we do nullify by the authority of the Senate alone and abrogate a statute of the United States and an essential clause in the Constitution of the United States. I hear Senators say all about me that the question of the status of Arkansas and of her relations to the Union is not presented upon this report; that whether she be a State of the United States or not the conclusion of the committee is yet the correct one, that these gentlemen are not entitled to their seats. How that can be possible I do not understand. If there be any political right given to a State it is the right to be represented in the Congress of the United States.

Mr. TRUMBULL. If the Senator will allow me, the point is this: not that Arkansas is or is not entitled to a representation, but the Constitution says each State shall be entitled to two Senators, to be chosen by the Legislature thereof. The

committee have come to the conclusion that there was no Legislature which elected these two gentlemen. Whether there is a valid Legislature in Arkansas or not is not a question that we acted upon. The same question arose some years ago in Rhode Island, as is stated in the report, and the Senate decided that one of the bodies was not the Legislature and that the other was, and selected one of the two men. We thought the body which sent these gentlemen here was not the Legislature of the State of Arkansas; that is the point.

Mr. HOWE. I understand that the committee charged with the authority of looking into and passing upon the returns of these candidates for seats here went away back of that, and really did look at and pass upon the returns of the members who convened at Little Rock, in Arkansas, and undertook to act as the Legislature of that State; and while they concede that upon the face of the credentials these gentlemen are entitled to seats here, they do substantially decide that the constituents who sent them here had no right to sit in Little Rock, and to officiate as the Legislature of Arkansas. They not only decide upon the claim of these gentlemen to seats here, but they decide upon the claim of representatives and senators who convened in the capital of that State, and undertook to act as the Legislature of that State.

I am not going to argue this question, for I am not prepared to argue it. It seems to me that a few statutes and a few very elementary principles settle the whole question. If it be conceded that Arkansas is a State of the Union and that she is entitled to a representation here, then I wish to look to this other statement presented by the committee, namely, that the constituency which elected these gentlemen was not a Legislature. Upon what evidence is that statement? So far as the proofs are concerned, the committee present us no evidence that there was any other Legislature for Arkansas than the very one which elected and returned these gentlemen. If you go outside of the proofs and look at the probabilities, I think we morally know that there was no other Legislature. What, then, was the objection to this body? Not that it was not loyal, nor that it did not represent the loyal people of Arkansas—

Mr. COWAN. Will the Senator allow me? As I understand, the committee find that the people were not represented, that they were in duress and did not exercise their free will in the selection of a Legislature. I think that is the very point. Whether that is well found or badly found I cannot say.

Mr. HOWE. I do not understand the report to controvert but what this Legislature was loyal, the members composing it were loyal, nor to controvert but what they represented the loyal people of Arkansas. It does intimate, it does perhaps state that only a portion of the people of Arkansas united in the choice of them, and it does perhaps state, and the fact may be that a portion of the loyal people did not participate in the election of these members; but how does that affect the question of the legitimacy of that Legislature? Suppose one, or ten, or one hundred, or one thousand, or fifty thousand men are held in duress at a given point of time, that being the only difficulty in the way, does that disqualify the residue and remainder from exercising all the functions, asserting all the rights which belong to them as citizens? While I am permitted to think and to speak and to act for myself in the State of Wisconsin, I do not know how my rights as a citizen of that State can be abridged by any duress that can be imposed upon all the rest of the people about me. So that the simple fact that a portion of the loyal people did not engage in this election, did not vote at it, it seems to me will not be contended by any one as being a reason for bastardizing the Legislature itself. It is not asserted by the committee as a reason why they deny to that body the character of a Legislature; that is not the reason upon which they ground their conclusions; but the reason they present is that Arkansas was at that time occupied by military force.

“At the time when the body which chose the claimants was elected, when it assembled, and at this time, the State of Arkansas is occupied by hostile armies which exercise supreme authority within the districts subject to their control. While a portion of Arkansas is at this very time, as the committee are informed, in the actual possession and

subject to the control of the enemies of the United States, other parts of the State are only held in subordination to the laws of the Union by the strong arm of military power. While this state of things continues and the right to exercise armed authority over a large part of the State is claimed and exerted by the military power, it cannot be said that a civil government, set up and continued only by the sufferance of the military, is that republican form of government which the Constitution requires the United States to guarantee to every State in the Union."

The mistake into which I think the committee have fallen is the mistake of asserting that this civil government which was set up in Arkansas exists only by the sufferance of the military power. I showed you the other day, and you can see for yourselves if you look into the statute, that it existed by the express permission of the civil power of the United States, the legislative power of the United States, by virtue of an act passed many years ago still existing in full force. It is by the permission of that act of ours that that civil government was set up in Arkansas. It was not by the sufferance of the military power, but, on the contrary, that portion of the military power which permitted this civil government to exist there, was there only by permission of the same authority which permitted that Legislature to convene.

The committee seem to argue that because that civil government cannot stand alone, because it can only abide by the aid and support of the military force, therefore it ought not to be allowed to exercise the prerogatives and functions of a State. I think if that were true it would prove a great deal too much for us. We exist here to-day only by the aid and support of an army of a million men. True, they are not mustered about the capital. But remove your military from the field, and you will remove from this capital in a very short time. You have not a day's tenure of your power and authority here except through the aid and support of this very military force; and precisely the same military force that upholds your authority here in Washington upholds the authority of the Government which sent up these gentlemen from Arkansas, and upholds the power which sends Senators from Wisconsin and from New York. It was operating more immediately in the field from which these gentlemen come than it is in that from which I come; but it is precisely the same military force that upholds the civil authority in each of the States and in the United States from which all our powers spring.

Mr. President, there was a time when I think there was no Legislature in Arkansas, no power that could elect Senators, and when, of course, Arkansas could not have had a representation here; but that time I think passed by when a body did convene in the capital of the State, delegated by the people of the State, who chose and who did participate in the election of a Legislature. Then they had a Legislature, then they did present the features of a State. Prior to that time the people of Arkansas were either subject to an alien government, and one hostile to us, or they were without any government except what your captains and your colonels saw fit to furnish them. I think that those men who declared the independence of Arkansas destroyed the government of Arkansas as an American State; and I think when they destroyed that, if they did not wipe out of existence at the same time every particle of loyalty in the State, the duty devolved upon the supreme authority of the United States to furnish to whatever loyalty there was in the State a civil government and not a military government. That power we refused to exercise. That duty we utterly neglected to discharge. We left the loyal people of Arkansas without any protection or government except what they could get from the rebel government, and what they could get from military forces, until the military power of the United States drove the rebel forces from the State; and then the people, still resting under the authority of these statutes of the United States to which I have referred you, gathered themselves together, not deterred by any hostile power, and undertook to exercise precisely the functions, precisely the political rights that you had delegated to them and never had taken away from them. Now, is it fair to say to that people who have been true to you, that you will neither give them a civil government yourselves nor allow them to establish one for themselves? Is it right to say to a community, I care not how small it is, that because a large portion of their neighbors have be-

come traitorous and rebellious, therefore they shall have none of the rights of American citizens? I hold that they have a right to a civil government. I hold that when the prerogatives of a State are destroyed, and the authorities of a State become openly hostile to the United States, it is our duty to interfere and to provide civil government for that portion which is true; but if we refuse that until the force which sustains the rebel authority is driven without the State, then I think we should permit to the loyal people remaining within the State the exercise of all those rights which we have delegated to them by these sanctions.

I am entirely conscious, Mr. President, that I have not made anything like a distinct and intelligible exposition of my own views on this matter. I believe them very thoroughly. I believe that to exclude these gentlemen from the seats they claim here will be the most serious political mistake we have made or that we can make. I do not fear what others seem to fear, that it will operate disastrously upon this one great cause in which we are engaged. I believe it will be a profound mistake; it will be a very dangerous precedent; I think it will operate to some extent to discourage what I understand to be the growing sentiment of loyalty in the State of Arkansas as well as in other States which have heretofore declared their independence of the United States; but we can correct that by some proper measures hereafter, so that I do not look for fatal results even from such a mistake as I think the Senate is about to make; but that it will be a mistake, I believe, as I said when I got up, with my whole mind and strength.

The PRESIDENT *pro tempore*. The question is on the passage of the resolution reported from the Committee on the Judiciary.

Mr. TRUMBULL. I think we had better have the yeas and nays on the resolution.

The yeas and nays were ordered.

Mr. CARLILE. Mr. President, entertaining the views that I have heretofore expressed in relation to the rights of the States in the anomalous condition in which they were placed by the act of those who attempted to destroy their connection with this Government, it may be supposed that a vote for this resolution would be inconsistent with those views. Impelled, however, by a sense of duty, not only duty to the Constitution and the obligations which I owe to the Federal compact, but by a sense of duty that I think we owe to the loyal people residing in these States, I cannot but concur with the committee in the resolution which they have submitted and which is now before the Senate.

It will be remembered by Senators that the act of secession itself was an overthrow of the then existing State governments within the States attempting to pass the ordinance of secession. It was necessary to repudiate the constitutions, the organic laws of the several States, in order to make secession effective, for in each and every one of them their existence as members of the Union was recognized, and obligations to the Constitution and laws of that Union were imposed by the several State constitutions. Therefore the constitutions of the States in existence at the secession have been overthrown by those who have usurped the power within those States.

Now, sir, what is the condition of Arkansas? The loyal people of Arkansas who have participated in the movement by which it is claimed Senators have been sent here to represent that State in this body, which is the representative of the States peculiarly in our system, did not resist the overthrow of their State constitution by those in rebellion, did not uphold and maintain that constitution, do not come here claiming to be a State with their constitution as it was prior to its overthrow or attempted overthrow by the secessionists, but they resort to the same revolutionary means as were resorted to by the secessionists to effect their purpose. A State in the sense in which we understand it, in other words in the constitutional sense, is not a mere district of country defined by boundaries with inhabitants upon it; but there is no such thing as a State known to us and to our system of government unless it has a written constitution that must be republican in form; and how can it be republican in form unless it proceeds from the great body of the people and is their act? By what right can twelve thousand people in Arkansas assume to

deprive other loyal citizens, and for aught we know there may be double that number of loyal men deprived by this act of their government as it existed prior to the rebellion?

In what condition would the Senate of the United States find itself placed in the event of its coming to a different conclusion from that of the Committee on the Judiciary to whom this subject was referred? Suppose the rebellion should be extinguished in Arkansas by the next meeting of Congress, and suppose twenty-four thousand instead of twelve thousand loyal citizens of Arkansas should in accordance with the constitution as it existed prior to the rebellion elect at the times prescribed by law members to the Legislature of Arkansas, and that Legislature should attempt to elect Senators to fill the vacancy caused by the expulsion of their former Senators, Messrs. Mitchel and Sebastian, and claimants under that election should present themselves here as candidates for seats in the Senate of the United States, what would the Senate do with the gentlemen now here as the representatives of a revolutionary State government, for it is not pretended, I gather from the report of the Committee on the Judiciary, that this change in the organic law of Arkansas was made in pursuance of constitutional provision. The constitution of Arkansas as it existed prior to the rebellion provided the means and the manner for its own amendment and change. From the necessity of the case, from the condition in which these people were placed at the time this movement organizing and creating a State government by means not known to the constitution and laws of Arkansas occurred, no such means could be resorted to as the constitution contemplated. Therefore this is not a case like any that has heretofore come before the Senate for its determination. It is not a case of a loyal people (for I hold that the State governments belong to the loyal people within the States, and in that I concur with the Senator from Kansas) coming here claiming representation under that State government which was adopted by the body of the people and which that act made republican in form, a State known to the Constitution and the constituted authorities of the Government of the United States; but it is a claim on the part of gentlemen to represent a State assumed to be a State, created by less than one fourth of the people of the State, and which if recognized by this Government deprives the remaining people within that State of representation; assuming them to be loyal to their Government as it existed prior to the rebellion, and which they have a right to maintain unless they prove to be the minority ascertained in accordance with the constitutional provision as it existed before the change was made.

I cannot therefore consent by an act of mine to do that which may deprive the body of the people of Arkansas of their representation in this body under a State recognized and known to the Constitution of the United States and the authorities of that Government. I concur with the Senator from Wisconsin that each State in this Union has a right to claim its representation here. It has the right under the Constitution. Arkansas has that right by having been admitted into the Union upon an equal footing with the original States. The question is not whether the State of Arkansas is entitled to representation on this floor or not, but it is whether the gentlemen who claim to have seats and to be the representatives of the State of Arkansas are entitled to seats in this body. I maintain that the evidence before us shows that they are not and they cannot be. They come here, not as the representatives of the State of Arkansas as it existed; they come not here as the representatives of a State government which has been recently reorganized and changed by constitutional legal enactment; they come not here proceeding as the representatives of the great body of the people of the State of Arkansas, who alone can constitute a State government. I presume no Senator will contend that a State government set up within any of the States of this Union by less than one fourth of the inhabitants of that State, less than one fourth of the constitutional voters in a State, is a government republican in form. No matter what may be the provisions of its constitution, or however acceptable they may be, to constitute a government republican in form within the sense of the Constitution of the United

States it must emanate from the body of the people; and no government constituted outside of law, in violation of law, by revolutionary proceedings, can be a government such as the Constitution of the United States recognizes as necessary for a State in the Union.

If these gentlemen had come here as the select representatives of the Legislature which met under the constitution as it existed, and which was adopted and ratified by the people of Arkansas, it would have been another and a very different question, and I imagine there would have been very little difference of view as to their right, so far as that question is concerned, to admission to seats in this body; but they come here as the representatives of a pretended government erected by less than one fourth of the people of the State they claim to represent—a government claiming the right, and if we admit and recognize it here will have the right, to be represented in this body to the exclusion of those who may be selected hereafter in that State under the constitution as it existed, by a much larger vote than that by which the constitution was adopted.

These reasons, Mr. President, compel me to vote for the resolution introduced by the Judiciary Committee. I cannot aid one fourth of the people of a State in overthrowing their State constitution. The end that is arrived at is the same whether it be done by those who are acting in rebellion or whether it be done by others who would resist a rebellion. Both accomplish the overthrow of the government which the people had established, and which the people have a right to claim at the hands of this Government that they shall be protected in the enjoyment and protection of. That is the meaning of the constitutional provision which we have that the Government of the United States shall guaranty to each State in this Union a republican form of government. It supposes a fore-existing government. It does not authorize the Government of the United States to create a State government. It supposes a State government created by the people for themselves, and it makes it the duty of the Federal Government to protect the people in the possession and enjoyment of that State government.

From the report of the committee in this case it appears that there were but twenty counties represented in this so-called convention which it is claimed has changed the organic law of Arkansas and established for these people a constitution other than the one which they have heretofore lived under and which they adopted for themselves. It further appears that there are fifty-four counties in the State; that there were fifty-four thousand electors in 1860, and that but twelve thousand votes were cast under this new constitution and for it. Thirty-four counties were without representatives.

Mr. TEN EYCK. There were forty-six counties represented in the Legislature.

Mr. CARLILE. Yes, sir. I go behind that Legislature. I am speaking of the revolutionary proceeding under which this Legislature was hatched. Twenty counties out of the fifty-four were represented in that convention. We do not know the number of votes given for the members who were sent to that convention. It does not appear from the report of the committee whether in all these twenty counties elections even were held; but for all that appears citizens of those several counties may have met at Little Rock and Fort Smith and elected delegates from the several counties even to this convention. We have been told that at Little Rock or Fort Smith, or probably at both of those places, at Little Rock certainly, I believe, several gentlemen called there by business or pleasure were elected to represent counties in which they had resided and in which elections could not have been held.

But, sir, the position in which the Senate would be placed by the recognition of the Legislature is the great controlling fact with me, and to which I have already referred. If this rebellion, so far as Arkansas is concerned, if not in the other States, should be suppressed by the next meeting of Congress, and the people of Arkansas, to the number of fifty-four thousand, or forty thousand, or thirty thousand, or twenty thousand should insist upon retaining their government as it existed prior to the rebellion, and should go on under it and elect a Legislature, and that Legislature should send

Senators here, what would be the condition of the Senate? Would the Senate not feel bound to admit representatives under the government as it had existed, and how could they do it with the places filled by the representatives here of this revolutionary government set up by one fourth of the people of the State?

Mr. HOWE. I beg leave to say that in my own view I do not hold these gentlemen to be representatives of the revolutionary government in Arkansas, but I hold them to be representatives of that government which is not revolutionary in Arkansas.

Mr. CARLILE. I deny the fact. The report of this committee says otherwise. The report of this committee says that gentlemen assuming to represent but twenty of the fifty-four counties of Arkansas met at Fort Smith, I believe, and there assumed to organize a State government. They assumed, not to organize a government under the government that the people of Arkansas had adopted, but they assumed to enact for the entire State of Arkansas and its entire population a new constitution, a new organic law, and create under that new constitution and new organic law a Legislature.

Mr. LANE, of Kansas. The committee is mistaken or the Senator is. The convention amended the old constitution and submitted the amendments to the people.

Mr. CARLILE. The old constitution can only be amended in one way; the Constitution of the United States can be amended in two ways; but suppose an attempt was made to amend it in any other mode than that provided in the instrument itself and you recognize it, would not such an amendment and such new constitution be a revolutionary government? Most unquestionably. Just so it is in Arkansas. The constitution of Arkansas provides the manner in which it shall be amended. If it is not a new government, but an amended constitution, the case of the Senators is much worse than I had supposed; for the constitution of 1836, which is the constitution for the State of Arkansas to-day, provides the mode in which it can be amended. It can be amended in that mode and in no other.

Mr. LANE, of Kansas. Let me ask the Senator a question. Suppose the States of the Union without any action of Congress should get together of their own accord and amend the Constitution of the United States and adopt the amendments, does he deny that those amendments would be in force?

Mr. CARLILE. That is exactly what these rebellious States have done. Eleven of them have got together, and they adopted your Constitution almost literally, word for word, with fewer amendments, making much less important alterations and changes than this so-called convention has done with regard to the State of Arkansas.

Mr. LANE, of Kansas. But if all the States join in it, how then?

Mr. CARLILE. If all the people of Arkansas had got together, if all the counties had been represented, or if all of them could have had representation there and adopted a new organic law, it would have been a very different thing. That, however, would have been a proceeding outside of the State government then existing.

Mr. LANE, of Kansas. I understand the Senator from Virginia to admit the correctness of my position that the government of Arkansas belonged to the loyal people.

Mr. CARLILE. Certainly.

Mr. LANE, of Kansas. If all the loyal people participated in this proceeding, can he doubt its legality, if there were only twelve thousand out of fifty-four thousand loyal?

Mr. CARLILE. That is a question which we cannot settle here. We have no data. For aught that appears, three fourths of the loyal people did not and could not participate in this so-called convention. For aught that it appears those who elected these very delegates to this so-called convention were not qualified electors under the constitution of Arkansas. I take it for granted that they were not, because one of the provisions of the constitution of Arkansas is that no one employed in the military or naval service of the United States shall vote; and we are told in this very report that every citizen of Arkansas that could be received, and was not excluded because of bodily infirmity, had gone into the military ser-

vice of the United States; and I take it for granted they are the loyal people of Arkansas. The constitution of the State of Arkansas expressly excludes them in the military or naval service from the right of electors. I do not intend to approve, it is not my purpose to approve, any such constitutional provision or to condemn it. There it is. We are maintaining the constitution and laws of the country. We are resisting by all the military power of the country revolution and rebellion. It is because these men have attempted to resist constitutional authority that it has become necessary for the Government of the United States to employ its military power to enforce obedience to constitutions and laws. For aught that we know, for aught that we can know, more than twelve thousand of the loyal people of Arkansas may claim the rights secured to them under the constitution which they had adopted, and to preserve which, as well as the Constitution of the United States, they have resisted the power of those who controlled their State; they may claim under that constitution representation in this body; and the Senate of the United States ought not, under the circumstances, when they see that the representation they would now grant would be a representation springing from a government other than that which existed at the beginning of this rebellion, a government organized, not by the body of the people, but by less than one fourth of the people, to place themselves, by recognizing that government, in the situation to exclude from representation upon this floor those who have the right to demand it.

Mr. HOWE. Allow me to ask the Senator whether the right to representation in this body is given to the people of Arkansas by the constitution of that State or by the Constitution of the United States?

Mr. CARLILE. The right to representation in this body is given by the Constitution of the United States, but to whom? To the State. What is the State? The loyal people of the State, those who have a right to demand that their own State government shall be preserved to them by you as well as that your Government shall be preserved to them by you. Are you going to place yourself in a situation to exclude for aught you know three fourths of that loyal people by recognizing a government set up against their will? For we have a right so to suppose, as they were not represented in the convention that assumed to make it, and have never had an opportunity to ratify or reject it by a vote upon it. That is the question that I put to the Senator.

Mr. HOWE. I wish simply to say that I do not think the validity of the election of these gentlemen depends upon the character of that convention which assembled at Fort Smith. All the rights I claim for these gentlemen and all the rights I claim for the loyal people of Arkansas are in them by the Constitution of the United States and the laws passed in accordance with it. Those laws, if they secure any political right, secure the right of representation, and that right is given to men who are in allegiance to the Government of the United States, and not to those who are in arms against it. To the one the character of citizens and the prerogatives of citizens are given; to the other, simply death.

Mr. CARLILE. Does not the Constitution of the United States provide that that representation shall be secured here, by and through the action of the Legislature of the State?

Mr. HOWE. Yes, sir.

Mr. CARLILE. Then it is the duty of the Senator from Wisconsin to show that the body which has sent these gentlemen here is the constitutional Legislature, the legal Legislature of the State of Arkansas.

Mr. HOWE. The broad seal of the State of Arkansas I suppose was, if not conclusive, at least *prima facie* evidence of that fact, and a person who signs himself as the Governor of Arkansas, using the seal of Arkansas, certifies that these men were elected by the Legislature of Arkansas to be Senators of the United States, and I know of no evidence to disprove or to dispute the truth of this certificate.

If there be such an organization as the State of Arkansas, which seems to be conceded by this report as well as by almost all the Senators who have spoken upon it, they had the right to elect a Legislature, and that right was confined exclu-

sively to the loyal portion of that population. To the disloyal portion there was no political right whatever reserved. It is not intimated either by the committee, or by the Senator from Virginia, or by any one else, that there was any fraud practiced in the election of this Legislature. It was free to all the loyal people of Arkansas. They all participated in it who chose to do so, unless some portion of them were deprived of that privilege by a hostile force. The Senator from Virginia intimates that there might have been three fourths of the loyal people of Arkansas deprived of the privilege of participating in that election by this hostile force. There is no evidence of that, and if the fact were so, does that fact deprive the loyal portion of the prerogatives of citizens?

Mr. CARLILE. I wish to call the Senator's attention to the point I endeavored to make. The Legislature of which the Senator speaks was not a Legislature under the constitution of Arkansas; it was a Legislature organized by the representatives of twenty counties, as we are told, under what was called a constitution adopted by less than one fourth of the voters of Arkansas. That is the point to which I wish to call the Senator's attention. I would concur with the Senator if this Legislature had been the Legislature of the State, if the loyal people had a right to elect delegates to it, and had a right to claim representation under it; but it is because it is not the Legislature of the State of Arkansas, as we are informed, that I object to it.

Mr. HOWE. My point is that every American State has the right to a Legislature. We are bound to assume that there was by the laws of Arkansas some day fixed on which the choice of a Legislature should be made, and we have no evidence but that this choice was made on the very day fixed by the Legislature.

Mr. CARLILE. You have right the reverse. The constitution of Arkansas prescribes the day when the Legislature shall meet.

Mr. HOWE. I will not go into a discussion of what is the constitution of Arkansas. You concede that Arkansas is a State. I say that one of her prerogatives as a State is that her people shall be represented in a Legislature, and one of the prerogatives of the Legislature is the choice of Senators. We are not here to settle what is the organic law of Arkansas; we are to settle only what is the organic law of the United States, and the statutes passed in accordance with that organic law. But, as I said before, there is not a particle of evidence but that every loyal man who chose to participate in the choice of this Legislature did participate in it. If anybody was prevented he was prevented not by the authorities of the United States, nor the loyal authorities of Arkansas, but by authorities or by forces disloyal to both Arkansas and the United States; and I say the duress imposed by one citizen upon one hundred citizens, or upon one thousand citizens, cannot do anything to deprive others upon whom that restraint is not imposed from exercising all the prerogatives of citizens.

Mr. POWELL. The Senator from Indiana [Mr. HENDRICKS] is paired on this question with the Senator from Iowa, [Mr. GRIMES.] He would, if here, vote "yea."

The question being taken by yeas and nays, resulted—yeas 27, nays 6; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Carlile, Chandler, Clark, Cowan, Davis, Fessenden, Foot, Foster, Hale, Harlan, Harris, McDougal, Morgan, Morrill, Powell, Ramsey, Riddle, Salsbury, Sherman, Sumner, Ten Eyck, Trumbull, Wade, and Wilkinson—27.

NAYS—Messrs. Doolittle, Hicks, Howe, Lane of Kansas, Nesmith, and Pomeroy—6.

ABSENT—Messrs. Collamer, Conness, Dixon, Grimes, Harding, Henderson, Hendricks, Howard, Johnson, Lane of Indiana, Richardson, Sprague, Van Winkle, Willey, Wilson, and Wright—13.

So the resolution was agreed to.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary be instructed to pay out of the contingent fund of the Senate the usual mileage of Senators to Eliha Baxter and William M. Fishback respectively as claimants for seats in the Senate from Arkansas at the first session of this Congress.

TARIFF BILL.

Mr. FESSENDEN. The committee of conference on the disagreeing votes of the two Houses upon the amendments to the bill (H. R. No. 494)

to increase duties on imports, and for other purposes, after full and free conference, have agreed upon a report which is signed by all the members of the committee of both branches. The report can be read by the Secretary, if desired, or I can answer any questions that Senators may feel disposed to ask me in reference to it.

Mr. ANTHONY. I hope the Senator will give us an account of the state of the bill. We can never understand it by merely hearing the action on the various amendments by their numbers read.

Mr. FESSENDEN. The report is voluminous; a great many of the amendments were merely verbal, and none of very serious importance.

The PRESIDENT *pro tempore*. Is the reading of the report at large desired by any Senator? The Chair hears no request for it; the reading will be dispensed with.

Mr. FESSENDEN. I will answer any question with pleasure.

Mr. JOHNSON. How is it with our amendment in regard to the duty on railroad iron?

Mr. FESSENDEN. That amendment was agreed to by the House of Representatives and therefore is not in the report of the committee of conference. I suppose my friend from Rhode Island wished to know in regard to the exception of raw cotton.

Mr. ANTHONY. I wished to make that inquiry.

Mr. FESSENDEN. It stands as the Senator desires.

Mr. ANTHONY. I should like to ask how brimstone stands.

Mr. FESSENDEN. The Senate recede from that amendment.

Mr. ANTHONY. And clove stems?

Mr. FESSENDEN. The two points to which the Senator's questions relate were of some consequence. The Senate made a very large increase in the duty on sulphur. From that amendment the Senate recede and the committee on the part of the Senate felt obliged to recede. My honorable friend from New York, [Mr. HARRIS,] who moved to put on the additional duty, was convinced by the facts which appeared before the committee of conference that it would not be wise to put on a larger duty than was imposed by the House of Representatives. The reason is that sulphur enters into the composition of an immense number of articles, all the acids, &c., besides being used very largely in manufactures. The result would be that if we made the change proposed by the Senate we should have to go over the bill and remodel it in many particulars, and not only that, but have to impose additional duties on a great number of articles with regard to which we had not the necessary information to act, and it is so late in the session that we cannot think of doing that. These views were satisfactory to my honorable friend from New York. With regard to myself, I was before of opinion that we could not properly do more than double the present duty, which was done by the House bill.

With reference to the spices, the Senate recede to a certain extent. A small additional duty is imposed, I think about five cents a pound on most of them, on some a little more. Cloves are put at twenty per cent. additional and clove stems at ten, which was all we supposed they could bear. The other spices were raised about in proportion; nutmegs a little more. Nutmegs stood before at thirty cents; the House of Representatives proposed seventy-five; the committee fix them at fifty.

My friend from Iowa [Mr. GRIMES] asks in regard to cutlery. I only remember that the subject was not before the committee of conference, and hence whatever action was in regard to it, it was concurred in by the House of Representatives.

Mr. FOSTER. I should like to ask the honorable Senator how the duty on salt is regulated.

Mr. FESSENDEN. The duty on salt is not exactly as either House proposed. It is fixed at twenty-four cents a hundred pounds in sacks and eighteen cents in bulk.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that

the House had agreed to the amendments of the Senate to the bill of the House (No. 446) to regulate prize proceedings and the distribution of prize money, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill of the House (No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. C. COLE of California, and Mr. J. W. McCLURG of Missouri, managers at the same on its part.

The message also announced that the House had disagreed to the amendment of the Senate to the bill of the House (No. 411) to encourage immigration, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. E. B. WASHBURN of Illinois, Mr. W. WINDOM of Minnesota, and Mr. J. E. ENGLISH of Connecticut, managers at the same on its part.

The message also announced that the House had disagreed to the amendment of the Senate to the joint resolution of the House (No. 11) in relation to the claim of Carmack and Ramsey, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. W. S. HOLMAN of Indiana, Mr. J. B. ALLEY of Massachusetts, and Mr. R. B. VAN ALKENBURGH of New York, managers at the same on its part.

RAILROAD TO THE PACIFIC.

The Senate proceeded to consider its amendment to the bill (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, disagreed to by the House of Representatives, and

On motion of Mr. HARLAN, it was *Resolved*, That the Senate insist upon its amendment to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. HARLAN, Mr. FOSTER, and Mr. CONNESS.

NAVAL SUPPLIES.

Mr. DOOLITTLE. I desire to call the attention of the Senate to the same subject-matter to which I alluded before; the so-called report made by the Senator from New Hampshire [Mr. HALE] from the select committee on naval supplies. I intimated to the Senate when I was on the floor before that I was taken entirely by surprise by the report having been made when it was made. As I understand, no report on the subject was to be made until to-morrow morning when the views of all the members of the committee could be submitted together. The Senator from New Hampshire and myself have had a conversation on this subject, and he asserts that he understood he was to be permitted to put in his report this morning, and that the views of the Senator from Pennsylvania [Mr. BUCKALEW] and my own views were to be submitted to-morrow morning. With this assurance of the Senator, I forbear to make any further statement on the subject, as the Senator has agreed to withdraw the report for the present, there having been a misunderstanding on the subject, and to-morrow morning the views of the different members of the committee will be presented together with the bill upon which the committee have agreed.

Mr. HALE. I was not in when the Senator from Wisconsin first spoke on this subject, but it was reported to me that he said I was not authorized to make any such report from the committee. The report is the report of the committee; but I have no choice whether it be made to-day or to-morrow, and therefore I move that it be recommitted.

The motion was agreed to.

PENSION LAWS.

Mr. FOSTER. I move to take up the bill (H. R. No. 406) supplementary to an act entitled

"An act to grant pensions," approved July 14, 1862.

Mr. COWAN. I hope that motion will not prevail, and for a reason which I shall proceed to state. Last year, at the time that General Lee invaded Pennsylvania, the President of the United States issued his proclamation calling for emergency men for the occasion to repel that invasion. That was followed by the proclamation of the Governor of Pennsylvania calling on the people of that State to furnish a certain number of men for the same purpose. There was no provision made at that time to pay those troops; but patriotic citizens and institutions of the State, the banks especially, came forward and advanced the money on the express agreement made with the Secretary of War that the proper appropriation should be made by Congress in order to refund and repay them the money actually advanced. The House of Representatives have passed a bill for that purpose, and it is now before the Senate, and has been for some time. I desire that that bill be taken up. I do not think it will provoke debate, because there is no difficulty about the accounts; the money has been paid; the accounts have been filed in the proper office here and audited by the proper officers, and there is no possible dispute about that part of the case. I desire an opportunity to take up that bill, and I think the Senate ought to grant me that privilege. I have not been in the habit of delaying the action of the body either by long-winded speeches or by capricious objections to anything; and I think now that I ought to be entitled to this privilege. Certainly, coming from the State we do, representing three million people, my colleague and I together have taken up less of the time of this body than those who represent States not larger than one of our counties.

Mr. FOSTER. The State which I have the honor in part to represent certainly is not nearly as large as that represented by the Senator from Pennsylvania, and his claims as representing so large a population are undoubtedly worthy of great consideration. I do not know that his other remarks in regard to the reticence which he and his colleague have observed during the session reflect any more severely upon my colleague and myself than upon members from other States; and I do not know under the circumstances, although our State is smaller, that I am not entitled in this instance to just about the same consideration that the honorable Senator from Pennsylvania has. But if I were not, and if this question stood with reference to the interest of Pennsylvania alone, I make bold to say, in the presence of the Senators from that State, that the bill which I have moved to take up concerns that very State more than the bill which the honorable Senator urges. There are more mained brave men whom my bill will relieve belonging to Pennsylvania than there are men who cannot afford to wait that will be relieved by his bill. There are more widows and orphans in Pennsylvania whom my bill will relieve than there are who will be gladdened by the passage of his. The State of Pennsylvania is a great State, a powerful State, and she has sent her hosts to this war; few States, perhaps none, have sent more men than Pennsylvania. The bill which I now ask the Senate to take up proposes to provide for those who have been mained in this war, and for the widows and children of the men who have died, and who have been left houseless and penniless. I know it will not provide for them as much relief as I would be glad to provide, but still it will provide some. The bill as proposed to be amended by the Committee on Pensions does not propose to go as far as the original House bill; but it goes so far that there are fifteen thousand cases pending before the Pension Bureau which it will enable to be relieved.

Mr. BUCKALEW. I desire, with the Senator's permission, to make a remark.

Mr. FOSTER. Certainly.

Mr. BUCKALEW. It will be a great pity if we waste our time in debating the order in which business shall be transacted. I think there is time to pass both these bills; and as the Senator who has the floor made his motion first, I think the better mode of proceeding would be to take up his bill and pass it, and then take up the other bill, and get both through without wasting time.

Mr. FOSTER. I can accede to the suggestion readily, and I will also say that this bill has been

up and has been amended, so that I think we can pass it without much more discussion.

Mr. COWAN. When the Senator from Connecticut made his motion, I had no idea of the kind of bill he wished to take up. I could not hear what he said. I did not know whether it was a general bill or a private bill. I have yielded, I think at least half a dozen times heretofore to other gentlemen to bring up their bills; and I desire now to say that I shall insist hereafter that at least some portion of the time of the Senate shall be devoted to the consideration of business in which I am interested.

The motion of Mr. FOSTER was agreed to; and the consideration of the bill (H. R. No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862, was resumed as in Committee of the Whole.

Mr. FOSTER. When the bill was under consideration before all the amendments reported by the Committee on Pensions were adopted except the last, and the question is now on its adoption.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The pending amendment will be read.

The Secretary read the amendment, which was to insert the following as an additional section:

And be it further enacted, That the widows and children of colored soldiers who have been, or who may be hereafter, killed, or who have died or may hereafter die of wounds received in battle, or who have died or may hereafter die of disease contracted in the military service of the United States, and in the line of duty, shall be entitled to receive the pensions now provided by law, without other proof of marriage than that the parties had habitually recognized each other as man and wife, and lived together as such for a definite period, not less than two years, to be shown by the affidavits of credible witnesses: *Provided,* That if such parties resided in any State in which their marriage may have been legally solemnized, the usual evidence shall be required.

The amendment was agreed to.

Mr. FOSTER. There is one amendment reported by the committee which I feel it my duty to move a reconsideration of. It is the amendment striking out the fourth section of the bill. Perhaps, however, it will be better to wait until the bill gets into the Senate.

The bill was reported to the Senate as amended.

Mr. FOSTER. I wish to reserve from the general vote of concurrence the amendment which I have indicated.

The other amendments were concurred in.

The excepted amendment was to strike out the fourth section, as follows:

SEC. 4. *And be it further enacted,* That section twelve of the act to grant pensions, approved July 14, 1862, is hereby repealed. And the Commissioner of Pensions is authorized and empowered to detail, from time to time, clerks in his office to investigate suspected attempts at fraud on the Government through the Pension Office, and to aid in prosecuting any persons so offending, with such additional compensation as is customary in cases of special service.

Mr. FOSTER. The committee reported that it was advisable to strike out that section; but the Commissioner of Pensions is very decidedly of opinion that the section ought to remain. He thinks that the appointment of an agent which costs the Department some \$2,500 a year in salary and expenses can be dispensed with, not only without detriment but perhaps with advantage to the office, because the clerks who discover the frauds in the documents before them can more readily detect those concerned in them than a third person who is not conversant with them. By non-concurring in this proposed amendment the bill will be left in this respect as it came from the other House, which I am satisfied will be better than to strike out the section.

The amendment was not concurred in.

Mr. HENDRICKS. I propose this amendment to come in at the end of the seventh section:

That in all cases of second marriage the same construction shall be given to the Navy as is given to the Army pension laws; and divorce for fault of the husband shall be no bar to the claim of any applicant if she be otherwise entitled.

I have consulted with the Senator from Iowa who is familiar with this question, and he sees no objection to the amendment. I did not understand the subject quite well enough to frame the amendment to my entire satisfaction, and so I left it to him. I think it is right. I will state what it is to provide for.

In Army pension cases, if the widow marries

her pension is suspended during the coverture, but in the case of the death of her second husband so that she becomes a widow again, her pension is restored to her; but that provision does not extend to the case of Navy pensions given to widows. In the case of a Navy pension to a widow, if she marry again her pension is gone forever, and even if her second husband should die she has not the benefit of a restoration of the pension as in the case of an Army pensioner.

The latter part of the amendment is to provide for those cases both in the Army and Navy where the widow having married again becomes a *femme sole* by divorce from her second husband for the fault of her husband. It seems to me to be an equitable right, and I can see no objection to the provision.

Mr. FOSTER. I think there should be uniformity, but I doubt whether it be advisable to change the law so that after a widow becomes a widow the second time she should be restored to the pension list as before. I think the law is pretty liberal in providing for the widow while she remains a widow, the presumption being that if she marries again her support will be otherwise provided for. The death of her second husband or her subsequent divorce I do not think should restore her to the pension list. There may be good reasons in some cases why it should be done, and there may be equally good reasons why in other cases it ought not to be done. I doubt whether we should improve the law by the alteration.

Mr. HENDRICKS. The number of cases in the Navy is exceedingly small as compared with the Army cases, and I cannot see why the same rule should not apply to both. It may be that this privilege ought not to be given to a widow in the case of an Army pension, but if it ought to be, then clearly it ought to be in the case of the Navy pension also.

Mr. GRIMES. It is very important to settle this question first as to what the law now is in regard to military pensions. If the Senator from Indiana is right in that regard, I think his amendment is manifestly proper. My friend, the chairman of the Committee on Pensions, seems to entertain a doubt on the subject as to whether that is the law or not.

Mr. DAVIS. That is the law. I have examined it and I have had it executed many a time.

Mr. FOSTER. In all cases of our private bills we always say that we grant a pension to the widow for such an amount to continue during her widowhood. In case of her remarriage that pension stops, and in case of the death of her husband it does not revive.

Mr. GRIMES. That applies to pensions that are granted by special act of Congress, but they are as one sand on the sea-shore in comparison with the number that are granted under the general law. If it be true that under the general law a widow who is entitled to a pension and is drawing it, and marries again and again becomes a widow, is then entitled to the renewal of her pension, it seems to me the same rule ought to apply in the Navy.

Mr. FOSTER. It is very certain that whether the law be so now or not, such a provision as this introduced by the Senator from Indiana would be inconsistent with this bill, the sixth section of which provides:

That on the remarriage of any widow receiving a pension, such pension shall terminate, and shall not be renewed should she again become a widow.

The amendment would be inconsistent, therefore, with the body of the bill.

Mr. GRIMES. That settles it.

Mr. FOSTER. I think the amendment ought not to prevail.

Mr. HENDRICKS. I had not noticed that provision of the bill.

Mr. FOSTER. I think if such a construction has been put upon the law it is a vicious one, and this law will correct it.

Mr. HENDRICKS. If the committee insist upon that change with respect to that class of pensioners, of course I do not intend to interfere with what the chairman of the committee thinks is right.

Mr. FOSTER. I do think it right.

Mr. HENDRICKS. Then I withdraw my amendment.

The bill was ordered to a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 184) to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes—to the Committee on the Judiciary.

A bill (No. 559) to quiet the titles of lands within the Rancho Laguna Santos Calle, in the State of California—to the Committee on Public Lands.

A bill (No. 561) to authorize the United States to acquire land in Wallabout bay, belonging to the city of Brooklyn, and to authorize the exchange of other lands therefor—to the Committee on Naval Affairs.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which thereupon received the signature of the President *pro tempore*:

A bill (H. R. No. 497) in relation to the village of Deposit, Delaware county, New York;

A bill (H. R. No. 540) to provide ways and means for the support of the Government, and for other purposes;

A bill (H. R. No. 532) to establish certain post roads;

A joint resolution (H. R. No. 23) for the relief of the officers of the fourth and fifth Indian regiments; and

A joint resolution (H. R. No. 103) for the relief of Mary Kellogg.

EXPENSES OF PENNSYLVANIA MILITIA.

Mr. COWAN. I now move to postpone all prior orders and take up House bill No. 117.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, the first section of which proposes to appropriate the sum of \$700,000 to reimburse the institutions and individuals who advanced the money to pay the Pennsylvania soldiers who were called out by the proclamation of the President of the United States and the Governor of Pennsylvania to repel the invasion of Maryland and Pennsylvania by the rebel forces under General Lee in the summer of 1863, and who were in actual service of the United States, to be paid to the Governor of Pennsylvania in trust for the above-mentioned purpose; but the expenses of none of the militia of any State are to be paid under this act who refused to be mustered into the service of the United States.

The Committee on Finance reported the bill with an amendment to strike out the second section, as follows:

SEC. 2. And he it further enacted, That to defray the expenses incurred in raising, equipping, transporting, and paying the militia men, militia, and volunteers called out in actual service of the United States, whether regularly mustered in or not, in repelling rebel raids and invasions of the States of Pennsylvania, Maryland, and the other loyal States and Territories, the sum \$15,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, said expenses to be settled upon proper vouchers to be filed in the proper offices in the Treasury, and passed upon by the Second Auditor.

The amendment was agreed to.

Mr. TEN EYCK. I wish to offer an amendment in the nature of a substitute for the whole bill. It is to strike out all after the word "that" and to insert:

To reimburse the States, institutions, and individuals who advanced the money to pay the Pennsylvania, New York, and New Jersey soldiers who were called out by the proclamation of the President of the United States, or at the request of the Secretary of War, by the Governors of the said States respectively, to repel the invasion of Maryland and Pennsylvania by the rebel forces under General Lee, in the summer of 1863, and who were in actual service of the United States, whether regularly mustered in or not, the sum of \$1,200,000, of any money in the Treasury not otherwise appropriated, or so much thereof as may be necessary, is hereby appropriated to be paid, upon the settlement of the accounts for such service in the proper Department, to the Governors of Pennsylvania, New York, and New Jersey in trust for the above-mentioned purpose.

I simply offer this as a substitute for the bill introduced by the Senator from Pennsylvania to reach the whole case. The first section, and the only section now in the bill, provides for the reimbursement of Pennsylvania for money paid to her own troops called out to repel the invasion

of last year. Troops were called out from the State of New York and the State of New Jersey under the orders of the War Department and upon the request of the Governor of Pennsylvania, and the object of my amendment is in one bill to secure the payment of the troops from each of these States for the services they rendered on that occasion as well as to the troops of the State of Pennsylvania alone.

Mr. COWAN. I certainly have no objection in the world that the troops from New Jersey and New York shall be paid equally with those of Pennsylvania; and if my honorable friend desires to attain that result and will put it in the shape of a separate section to be added to this bill I shall have no objection to offer; but the cases are different. In the case of Pennsylvania, troops were called upon by the President and by the Governor, but there being no appropriation to pay for them, certain banks and individuals came forward and advanced the money upon the promise of the executive department of the Government that they would ask for an appropriation to pay it. The money has been paid, the accounts have been audited, and almost the precise sum fixed for that purpose.

It will be observed by the Senate that there is a proviso to the first which is now the only section of the bill proposing to pay the Pennsylvania troops, that no troops shall be paid unless they were mustered into the service of the United States, or rather that no troops shall be paid who refused to be mustered into the service of the United States. Now, as the Pennsylvania troops were actually mustered in and have complied with all the requisitions of the General Government to entitle them to be paid by it, it would be perhaps improper, and I might also say unfair, to ask me to blend with this section a proposition from other States whose troops may have refused to be mustered in, because it might endanger the passage of the whole in the other House.

Mr. TEN EYCK. I am sure I have no other motive in introducing this amendment by way of substitute than to see that fair and even-handed justice is done. The Senator from Pennsylvania prefers that this claim on the part of the States of New York and New Jersey should come in the shape of a separate section. He thinks there is a difference between the claim raised on the part of the State of Pennsylvania and the claim on the part of the two States of New York and New Jersey, and that the claim on the part of his State is rather more meritorious for the reasons that he has stated. I might say in advance that I do not understand exactly how that could come from the mouth of the Senator from Pennsylvania, when we seek to have the troops from these two other States paid for services rendered out of their own States and in the State of Pennsylvania, upon the most urgent request and appeals that our troops should go there for the purpose of rescuing the State from the invasion of the rebel army.

Mr. COWAN. I hope the Senator from New Jersey will not misrepresent what I have said. I have not said that the services rendered by the Pennsylvania men were more meritorious than those of New York or New Jersey. On the contrary, I think I expressed a very different idea; but what I meant to say was that the claims were different. The troops called out by the Governor of Pennsylvania were mustered into the service of the United States. I do not know whether the troops that came over from New Jersey and New York were mustered in or not; they may have been or may not have been; but I observe that the House of Representatives tacked this proviso to the section which I desire to pass, and it is from that indication of the mind of the House that I am fearful if these claims are blended with that of Pennsylvania the whole may fail—not that I desire the troops from New York and New Jersey not to be paid or those States indemnified. I do not know how the fact may be as regards the mustering-in of their troops.

Mr. TEN EYCK. My object was simply to bring this matter before the Senate, and to show in a very few words why I thought if any payment was to be made at this time on account of these services, which were so essential during the last year in stopping the progress of the rebel army northward, the appropriation should be ap-

plied at the same time to the payment of the troops of the States of New York and New Jersey, who went to defend Pennsylvanians upon their own soil, and the most of whom, I believe I can say without boasting, were on the ground before the troops of Pennsylvania were there. I do not complain of it; but it certainly would have been more graceful on the part of the constituted authorities of Pennsylvania, who made that appeal to our troops during that period, when they presented these claims for settlement, not to have left us out in the cold.

But the Senator sees a distinction or difference between the claims. In the first place, with respect to the Pennsylvania troops, the money to pay the expenses incurred in calling them into the field, was loaned to the State, and advanced by individuals and institutions; in the case of New York and New Jersey they paid the money directly out of the State treasury. I cannot see any distinction or difference or any equity in the claim on the part of Pennsylvania over the claims of the States of New York and New Jersey in this respect. It matters not, so far as the money is concerned in this particular, whether the money was advanced to the government of Pennsylvania by individuals, and was paid over by the government to defray the expenses of her own troops, or whether New York and New Jersey took the money immediately out of their own treasury, and advanced the money necessary to fit out these troops who were called out and went to the protection of the State of Pennsylvania. I see no equity in the case of Pennsylvania that will override the equity of the claim on the part of the States of New York and New Jersey in this respect.

But the Senator sees another difference. He thinks there is a difference between the merit of the claim on the part of Pennsylvania and the two other States to which I have referred, because in the case of the Pennsylvania troops they were actually mustered into the service of the United States, and he does not know how it was with regard to the troops of New York and New Jersey. I may perhaps be pardoned for referring for a few moments to copies of some of the documents on this subject for the purpose of informing the Senator as to the true state of the facts with respect to my own State at least; and I have no doubt they are precisely the same in the case of New York. I have no doubt, the telegraphic dispatches being sent under the same circumstances and under a pressing exigency to the Governors of New York and New Jersey, that they were identically the same. I desire to read those dispatches to the Senate:

HARRISBURG, June 15, 1863.

Governor JOEL PARKER:

This State is threatened with invasion by a large force, and we are raising troops as rapidly as possible to resist them. I understand there are three regiments of your troops at Beverly waiting to be mustered out. Could an arrangement be made with you and the authorities at Washington by which the service of those regiments could be had for the present emergency? Please advise immediately.

A. G. CURTIN,

Governor of Pennsylvania.

The regiments here referred to were regiments that had come back from the front of battle with decimated and thinned ranks, and many of the men bearing the scars of battle upon their persons, and all of them anxious to return to their homes and families. Here is the answer of the Governor of New Jersey:

EXECUTIVE CHAMBER,

TRENTON, NEW JERSEY, June 15, 1863.

His Excellency A. G. CURTIN,

Governor of Pennsylvania, Harrisburg:

Your dispatch is received. One regiment has already volunteered and no doubt others can be sent. Where shall they report and to whom? To whom shall they apply for transportation from Philadelphia? Answer.

JOEL PARKER.

Here is a dispatch from the Secretary of War to the Governor of New Jersey:

WASHINGTON, June 16, 1863.

His Excellency Governor PARKER:

The movements of the rebel forces in Virginia are now sufficiently developed to show that General Lee with his whole army is moving forward to invade the States of Maryland, Pennsylvania, and other States. The President, to repel this invasion promptly, has called upon Ohio, Pennsylvania, Maryland, and Western Virginia, for one hundred thousand volunteers for six months unless sooner discharged. It is important to have the largest possible force in the least time, and if other States would furnish militia for a short time to be credited on the draft, it would greatly advance the object. Will you please inform me immedi-

ately what number, in answer to a special call of the President, you can raise and forward of militia or volunteers without bounty, for six months, unless sooner discharged, and to be credited on the draft of your State?

E. M. STANTON,
Secretary of War.

EXECUTIVE CHAMBER,
TRENTON, NEW JERSEY, June 15, 1863.

Hon. EDWIN M. STANTON, Secretary of War, Washington:
Your dispatch is received. Every means will be taken to ascertain how many men can be raised for six months. You will be notified as soon as it is ascertained. In the mean time am I authorized to delay the muster out of nine months' men at present in this State, and send them to Governor Curtin to assist in repelling the invasion of Pennsylvania? These regiments have been sent to be mustered out, but are volunteering to go to Pennsylvania for the emergency, and Governor Curtin is anxious for them. Answer immediately.

JOEL PARKER.

WASHINGTON, June 16, 1863.

Governor PARKER:

Your telegram received. You will please forward to Pennsylvania all the troops you can, directing them to report to Major General Couch, commanding the department, for Governor Curtin.

EDWIN M. STANTON,
Secretary of War.

HARRISBURG, June 16, 1863.

Hon. JOEL PARKER, Governor:

Please instruct colonels of regiment to procure transportation by Pennsylvania railroad, Philadelphia, to Harrisburg. The colonel's requisition and receipt to railroad company will be sufficient. Send all you can immediately to this point, and telegraph superintendent Pennsylvania railroad, Philadelphia. Permit me to thank you for prompt attention.

A. G. CURTIN,
Governor of Pennsylvania.

TRENTON, NEW JERSEY, June 16, 1863.

His Excellency Governor CURTIN,
Harrisburg, Pennsylvania:

The nine months' regiments now in the State awaiting discharge will be forwarded as fast as possible. I issue proclamation to-morrow for citizens to organize for assistance of Pennsylvania, and will send them to you for the present emergency as State militia. Can I promise them United States pay and rations until they can be replaced by six months' volunteers? If so, must they be mustered into United States service, and for how long a time? I hope to be able to send you some twelve thousand men.

JOEL PARKER.

HARRISBURG, June 16, 1863.

His Excellency Governor PARKER:

The people of this State are under obligations to you for your promptness and energy in organizing and forwarding men to this place. General Couch will have the best possible care taken of them. The question of details of which you inquire will have to be determined by the War Department at Washington. Telegraph orders from Secretary of War to General Couch this evening seem to cover all the points you refer to.

A. G. CURTIN,
Governor of Pennsylvania.

Here is a dispatch from the adjutant general of New Jersey to the adjutant general of Pennsylvania:

TRENTON, June 17, 1863.

General H. L. RUSSELL,

Adjutant General, Harrisburg, Pennsylvania:

The twenty-third New Jersey regiment (returned volunteers) left for Harrisburg at five o'clock p. m. to-day, three hundred strong. Two companies of the State militia go at nine a. m. to-morrow. The others will be forwarded by companies as fast as they can be equipped. I thought best not to delay for regimental organization, but will perfect that in the field. Members of the twenty-third on furlough will be forwarded to join the regiment.

R. F. STOCKTON, Jr.,
Adjutant General New Jersey Militia.

HARRISBURG, June 19, 1863.

R. F. STOCKTON, Jr., Adjutant General:

I arrived with my command at this city at twelve o'clock last night. Company B, Captain Marshall, arrived at three o'clock this morning.

W. R. MURPHY.

TRENTON, NEW JERSEY, June 20, 1863.

His Excellency Governor CURTIN,
Harrisburg, Pennsylvania:

I have been informed that the urgent need of a volunteer militia force to aid in repelling an invasion of your State has passed, and that you do not wish any more State militia organized for temporary service. Please inform me if this is so, as in that case I will detain the troops that are now preparing to start and will proceed to organize six months' or three years' troops for the United States service.

JOEL PARKER.

HARRISBURG, June 20, 1864.

His Excellency JOEL PARKER, Governor:

The rebels are still in the State, and are on our border in force. I think you should not discontinue your preparations. Send troops to this point, unless the authorities at Washington direct otherwise.

A. G. CURTIN.

HARRISBURG, PENNSYLVANIA, June 20, 1863.

His Excellency JOEL PARKER:

Will it be possible for your troops to remain with us during the present emergency whatever its duration may

be? If not, for what time will they be mustered into service? Our militia are being mustered to serve during the present emergency, its termination to be fixed by my order, and the arrangement is approved by the War Department. I assure you I will not detain them longer than the necessity for their presence exists.

A. G. CURTIN.

PITTSBURG, June 20, 1863.

Hon. JOEL PARKER, Governor:

My regiment en route home volunteered in Pennsylvania's defense, were accepted, and are now at Wheeling. Will be home shortly.

G. W. MINDIL,

Colonel Twenty-Seventh New Jersey Volunteers.

HARRISBURG, June 23, 1863.

Governor JOEL PARKER:

Have seen Governor Curtin. Enemy advancing in heavy force. He wishes to retain the services of the men now here as militia of New Jersey and will subsidize them. Captain Murphy protests not to go home under the circumstances, as also the men. Governor Curtin will answer your letter fully and I will return with it at one p. m. to-morrow. Answer what I shall do with the order.

S. M. DICKINSON,
Buckhart House.

HARRISBURG, June 24, 1863.

His Excellency JOEL PARKER:

I answer by your Secretary. Meantime the enemy is advancing. He is now at Shippensburg in force, and I trust you will continue to raise troops. I send messenger to Washington to ask that your troops be received for limited time or for this emergency, and if possible without mustering into the service of the United States.

A. G. CURTIN,
Governor of Pennsylvania.

There is the point. Here is the answer:

HARRISBURG, June 26, 1863.

His Excellency Governor PARKER:

The enemy is in possession of the State from Carlisle to the Maryland line. He occupies the country in force. I trust you will not relax your efforts to help a sister State and kindred people.

A. G. CURTIN.

I will not say that in framing this bill and bringing it here for settlement he has forgotten "a sister State and kindred people" who went to their assistance, but whose names are not included in this bill for payment and satisfaction of their services. But here is another dispatch from Governor Curtin to Governor Parker:

HARRISBURG, June 27, 1863.

His Excellency JOEL PARKER, Governor New Jersey:

General Couch has been authorized to take into service in his department any troops whatever, mustered into United States service or not. The rebels are here in force, and we certainly need troops.

A. G. CURTIN.

WASHINGTON, June 28, 1863.

His Excellency Governor PARKER:

General Couch is authorized to receive any troops that may be offered to serve under his command whether sworn into the United States service or not. Please send any militia or other force at your disposal.

E. M. STANTON,
Secretary of War.

HARRISBURG, PENNSYLVANIA, June 29, 1863.

His Excellency Governor PARKER:

We have most reliable information that the enemy reoccupy the north portion of this State with a force of not less than ninety thousand men, with over two hundred pieces of artillery, as counted by trustworthy persons. Lee is in the State. We are expecting an attack at this point hourly. We now certainly require the aid of the people of New Jersey. Do not relax your efforts to arouse your people. Let me hear from you.

A. G. CURTIN,
Governor of Pennsylvania.

HARRISBURG, July 2, 1863.

His Excellency JOEL PARKER, Governor of New Jersey:

How soon will you send forward more troops? I cannot magnify the necessity for their presence at the earliest possible moment.

A. G. CURTIN,
Governor.

TRENTON, July 2, 1863.

His Excellency Governor CURTIN, Harrisburg:

I am doing all I can to raise troops. They are coming in slowly. I will send as fast as possible by companies.

JOEL PARKER.

After reading these dispatches which show the urgent appeals of the Governor of Pennsylvania upon the Executive of the State of New Jersey for troops to come forward to aid in repelling that invasion, when we see the inquiries made on the part of the Executive of New Jersey of the Executive of Pennsylvania and the Secretary of War whether these troops could be received for a temporary period without being actually mustered into the service of the United States, and when we see that Governor Curtin asked for, and the Secretary of War directed, that these troops should be sent and should receive pay without being mustered into the United States service and actually sworn into that service, although they

were sworn to serve during the period of their enlistment, I ask whether I need add another syllable to show that the claim on the part of the States of New York and New Jersey is at least as strong and meritorious as the claim on the part of the State of Pennsylvania to have their troops paid under a bill of this kind?

The expense to which the State of New Jersey has been put amounts to between fifty and sixty thousand dollars, as appears by a letter which I have here from the quartermaster general of the State. This account has not yet been audited and adjusted in the War Department; but I provide in the substitute I have offered that these troops shall be paid an amount not exceeding such a sum as may be found due upon an account being taken in the proper Department. Surely there can be no harm arising from the passage of a bill so framed; and surely there can be no justice in requiring this matter to go over until the next session of Congress because the accounts have not actually been adjusted. If we do not present our accounts, and they are not properly settled and adjusted, we can have no benefit under the bill as I propose to amend it.

With respect to the argument that the whole bill may be defeated if we tack on the claims of these two States to the claim of the State of Pennsylvania, I submit most respectfully to my friend from the State of Pennsylvania under the circumstances of this whole case as contained in this record, I should not think he would want his own troops paid before the troops of the States of New York and New Jersey, who were on the ground before the troops of the State of Pennsylvania.

Mr. SHERMAN. This bill was referred to the Committee on Finance. The second section of the bill, which makes an appropriation of \$15,000,000 for various purposes, gave rise to a great deal of discussion. I examined the matter at that time for the purpose of getting at some rule about it for the satisfaction of the claims of the States of New York, New Jersey, and Pennsylvania. There is no doubt that the militia of those States ought to be paid for the services actually rendered by them in the invasion of General Lee. They were services patriotically, efficiently, and properly rendered in time of great public danger, especially on the part of the State of New York. I believe her volunteers were sooner at Harrisburg than those of any part of Pennsylvania, and deserve the highest credit. With a view, therefore, to avoid the objection made by the Senator from New Jersey that the bill confines the appropriation to the State of Pennsylvania, I have drawn an amendment which satisfies my mind and perhaps will satisfy his. It will cover the three States and all the militia called out by them. I propose to offer three amendments. If they should be adopted the bill will read in this way:

That to pay the militia duly called out to repel the invasion of Maryland and Pennsylvania by the rebel forces under General Lee in the summer of 1863, and who were in actual service of the United States, the sum of \$700,000, of any money in the Treasury not otherwise appropriated, is hereby appropriated to be paid to the said militia, or, where they have been paid, the Governor of the State to which such militia belongs, in trust for the State, institutions, or individuals who advanced the money to pay the same: *Provided*, That the expenses of none of the militia of any of the States shall be paid under this act who refused to be mustered into the service of the United States: *And provided further*, That only so much shall be allowed and paid to such militia as would have been allowed and paid to other military forces in the service of the United States of the same grade.

I think that will cover the case. The same rule has been applied, I believe, to every State where our militia have been paid.

Mr. TEN EYCK. I cannot accept that, and I think if the Senator from Ohio had listened to the dispatches which I read he would not be willing to exclude from this payment the troops who were in the service and did the duty which was required of them, although they happened not to be actually mustered into the service of the United States. That was the condition of our troops.

Mr. SHERMAN. I heard those dispatches, but I think New Jersey ought to be punished a little for having a Governor who, if I am correctly informed, refused to allow the militia of New Jersey to be mustered into the service of the United States, if that is the case.

Mr. WILKINSON. I move to amend the amendment of the Senator from New Jersey by

striking out the words "whether regularly mustered in or not."

Mr. SHERMAN. I suppose the first question comes up on perfecting the part to be stricken out. My amendment is to apply to the original bill, which I propose to perfect before the question is taken on the amendment of the Senator from New Jersey.

The PRESIDENT *pro tempore*. The Chair did not understand the Senator to move it as an amendment.

Mr. SHERMAN. Yes, sir, I did move it.

The PRESIDENT *pro tempore*. It will be in order to perfect the original bill before the question is taken on striking it out.

Mr. TEN EYCK. The Senator from Ohio said a moment ago that New Jersey ought to be punished because her Governor refused to allow the troops of the State to be actually mustered into the service of the United States. Well, sir, a man must go away from home to learn history and to learn the facts respecting his own State and his own people. I am under the impression that the Senator from Ohio is in error on that subject. But suppose he were correct; suppose it were true that the Executive of the State of New Jersey had refused to allow the troops of that State to be mustered into the service of the United States, but yet in pursuance of the urgent call of the Governor of Pennsylvania and the request of the Secretary of War and the Government here to send forward the troops from that State, after inquiry had been made whether they would be required to be mustered into the service of the United States or not, and the Governor of Pennsylvania had urgently appealed to him to send them on, although they might not have been, and the Secretary of War had stated that he desired they should come notwithstanding they were not mustered into the service of the United States, and that they should receive the same pay and the same consideration as troops that were, should they not be paid? I do not know whether the Senator from Ohio paid any attention to the telegrams on that subject or not.

Mr. SHERMAN. I did not hear the telegram from the Secretary of War read.

Mr. TEN EYCK. I beg the indulgence of the Senate while I read them again. They are very short. Inquiry was made by the Executive of the State of New Jersey both of the Governor of Pennsylvania and the Secretary of War upon this subject, with respect to the length of time service was to be required of the troops they called for, and with respect to the fact whether they were to be actually mustered into the service of the United States. Now, see what Governor Curtin says in his telegram of the 20th of June, 1863, to Governor Parker:

HARRISBURG, PENNSYLVANIA, June 20, 1863.

His Excellency JOEL PARKER:

Will it be possible for your troops to remain with us during the present emergency whatever its duration may be? If not, for what time will they be mustered into service? Our own militia are being mustered to serve during the present emergency; its termination to be fixed by my order; and the arrangement is approved by the War Department.

That was the way the troops of New Jersey were sent. They were to remain under the arrangement that had been made by the Governor of Pennsylvania with the Secretary of War, as long as he should approve:

I assure you I will not detain them longer than the necessity for their presence exists. A. G. CURTIN.

Here is a dispatch from Mr. S. M. Dickinson, who was an official acting for the Governor, to Governor Parker:

HARRISBURG, June 23, 1863.

Governor JOEL PARKER:

Have seen Governor Curtin. Enemy advancing in heavy force. He wishes to retain the services of the men now here as militia of New Jersey, and will subsidize them. Captain Murphy prefers not to go home under the circumstances, as also the men. Governor Curtin will answer your letter fully, and I will return with it at one p.m. to-morrow. Answer what I shall do with the order.

S. M. DICKINSON,
Buchert House.

Here is the next dispatch from Governor Curtin to Governor Parker:

HARRISBURG, June 23, 1863.

His Excellency JOEL PARKER:

I answer by your secretary. Meantime the enemy is advancing. He is now at Snippenburg in force, and I trust you will continue to raise troops. I send messenger to Washington to ask that your troops be received for limited

time or for this emergency, and if possible without muster into the service of the United States.

A. G. CURTIN,
Governor of Pennsylvania.

Mr. SHERMAN. What was the reply of the Secretary of War to that?

Mr. TEN EYCK. I will read it. Here is another dispatch from Governor Curtin to Governor Parker:

HARRISBURG, June 26, 1863.

His Excellency Governor PARKER:

The enemy is in possession of the State from Carlisle to the Maryland line. He occupies the country in force. I trust you will not relax your efforts to help a sister State and kindred people.

A. G. CURTIN.

Now I ask the Senator to listen to this dispatch:

HARRISBURG, June 27, 1863.

His Excellency JOEL PARKER, Governor of New Jersey:

General Couch has been authorized to take into service in this department any troops whatever, mustered into United States service or not. The rebels are here in force, and we certainly need troops.

A. G. CURTIN.

Now comes the dispatch from the Secretary of War to Governor Parker, dated Washington, June 28, 1863, about a week before the battle of Gettysburg:

His Excellency Governor PARKER:

General Couch is authorized to receive any troops that may be offered to serve under his command, whether sworn into the United States service or not. Please send any militia or other force at your disposal.

E. M. STANTON,
Secretary of War.

This was under the terrible exigency of the tramp of Lee's armed legions, when the whole North were not affrighted but aroused, and saw the necessity of placing every man upon the Susquehanna to meet the enemy face to face and foot to foot; and yet my friend from Minnesota proposes now to strike out the provision which would authorize payment to be made to the State of New Jersey to the extent of about \$50,000 to satisfy the outlay the State was at in sending those troops to perform the service that was asked of them during that exigency. That is the return which my friend from Minnesota makes for my votes cast uninterruptedly and uniformly in behalf of his suffering people who were attacked not many years since by savages. He has always had my support and my desire that his people might be remunerated, so far as it was possible, for the expense they had been put to and the property they had lost in consequence of those attacks.

Mr. WILKINSON. I wish to ask the Senator from New Jersey whether in that terrible exigency, for I think it was a most important crisis in the history of this country, the Governor of New Jersey refused, when Lee's army had invaded the State of Pennsylvania, to permit the militia of New Jersey to be mustered temporarily into the service of the United States? I want the Senator to answer that question.

Mr. TEN EYCK. I say in all frankness that if the Governor of New Jersey ever did that thing it is utterly unknown to me, and I think I ought to know something about it. But I answer furthermore, if the fact were so in its length and breadth and according to the broadest position in which the Senator puts it, should the treasury of the State, which was burdened to the extent of a few thousand dollars—and I wish the Senator to understand we can get along without it and can pay the expense and would have done it cheerfully and willingly—but should the treasury of the State be subject to this burden because the Governor of the State may have taken that position or did take it, if he did take it? Should the troops who went into Pennsylvania, some of whom were in the front and others placed in fortifications and performed guard duty while veterans were sent forward, be ignored and the services they rendered? Many of them left their homes at half a day's warning and remained away for weeks. Should they be turned adrift and come under the discrimination of the Senator from Minnesota because the Governor of the State may have taken that position, which I do not admit, and which I never heard of? I submit it now to the candor and sense of justice of the Senator, would he discriminate against the troops of New Jersey when he knows from the dispatches I have read that the Governor of the State of Pennsylvania appealed to them as a kindred people to come and aid his State in its distress, that they should be regarded as troops and be entitled to payment,

and when the Secretary of War telegraphed to the Governor of New Jersey that they should be put upon that footing although they were not actually mustered into the service.

Would the Senator from Minnesota have these regiments that had been down in the front and had fought at Fredericksburg and had lost fully one third of their numbers and had just returned, their times having expired, and were waiting in camp to be paid off and mustered out of the service—would he have those troops turned adrift and refused payment because they were not willing then under these circumstances, if they were unwilling, to be mustered into the service of the United States and to be kept as long as the Governor of Pennsylvania or the Secretary of War might see fit to keep them, without limitation and restriction as to time? Why, sir, it would have been a gross act of injustice, and to take such a position now and exercise it with regard to those men, I submit, is treating war-worn veterans, who have the scars of battle upon them, with indignity and injustice.

Mr. WILKINSON. So far as the soldiers of the State of New Jersey are concerned, those who are in the Army and those who volunteered to go into the State of Pennsylvania, I think I would be as liberal toward them as anybody else. When this invasion of Pennsylvania by the rebel General Lee was going on, I was in Minnesota, nearly two thousand miles away from this place, and I then saw in the telegraphic dispatches in the newspapers that the Governor of New Jersey, after having sent forward some troops, refused—and this is what I wanted the Senator from New Jersey to answer me a little while ago—to allow this militia of the State of New Jersey, when their border State was invaded, to be mustered into the service of the United States. While it is hard to visit upon the brave soldiers of New Jersey the effect of the conduct of their chief Executive, I say to the Senator that that State, as long as they elect such a Governor, must abide by the consequences of his official act. It is unfortunate for that State, perhaps, and for those soldiers, that they elected such a Governor, but having elected him and he having refused to allow those men to be mustered into the service for more than one month to defend the State of Pennsylvania and perhaps the State of New Jersey, they ought not to be paid one dollar, in my humble judgment, not because any punishment should be visited upon the men, but the State of New Jersey should suffer the penalty of having elected a copperhead Governor.

Mr. SHERMAN. A sufficient reply to the Senator from Minnesota is this: that pending the emergency, the Secretary of War, by a telegraphic dispatch which has been read to us, expressly stipulated that this militia should be received as militia of the State of New Jersey without being mustered into the United States service. Perhaps his argument might do very well if there was no special agreement to the contrary; but the dispatch read by the Senator from New Jersey shows that before the battle of Gettysburg, before this militia left the State of New Jersey, the Secretary of War stipulated that, without being mustered into the service of the United States, they should be treated like other forces.

Mr. WILKINSON. I do not understand that dispatch in that way.

Mr. SHERMAN. Let it be read again.

Mr. WILKINSON. I understood the dispatch to say that General Couch might command any troops that should be sent to him, whether mustered into the service of the United States or not.

Mr. SHERMAN. The only way to settle it is to have it read again. I had the same objection to this measure until that dispatch was read.

Mr. TEN EYCK. I will read it again.

WASHINGTON, June 28, 1863.

His Excellency Governor PARKER:

General Couch is authorized to receive any troops that may be offered to serve under his command, whether sworn into the United States service or not. Please send any militia or other force at your disposal.

E. M. STANTON,
Secretary of War.

Mr. WILKINSON. I want this thing understood before I can vote for this proposition. I understood that the Governor of New Jersey, after sending those troops into Pennsylvania, absolutely refused to permit them to be sworn into the service of the United States for any length of

time whatever. If he did that, I am opposed to paying those troops; let the State of New Jersey pay them. The Senator from New Jersey can answer that question.

Mr. TEN EYCK. I ought, in justice to the Executive of my State, to say a word in relation to this newspaper report which the Senator refers to as having read two thousand miles off, and upon the faith of which he is willing to refuse justice to the State of New Jersey, and to blacken the character of a man who, although he is a Democrat, is a true and loyal War Democrat.

Mr. WILKINSON. Will the Senator explain the charge to which I have referred?

Mr. TEN EYCK. Yes, sir. With regard to his refusal to send aid, perhaps I had better read one of these dispatches from Governor Curtin.

Mr. WILKINSON. I did not say he refused to send aid. I say he refused to allow those troops to be mustered into the service of the United States. I do not want the Senator to misrepresent me.

Mr. TEN EYCK. I do not think the Senator was in the Chamber when this discussion commenced and when I read these numerous dispatches. If any Senator feels interest enough in the question to take them up from beginning to end he will ascertain from the history detailed by them that no such conclusion can be drawn from these dispatches as the Senator from Minnesota has drawn unfavorable to the character of the Governor. I will again read one of these dispatches for the purpose of showing that the Governor of Pennsylvania did not regard the Governor of New Jersey as occupying so improper a position as the Senator from Minnesota seems to think, for as early as June 16, 1863, he says in a dispatch to Governor Parker:

"The people of this State are under obligations to you for your promptness and energy in organizing and forwarding men to this place. General Couch will have the best possible care taken of them."

I stated when I was up before—and so it appears in the first dispatch from Governor Curtin to Governor Parker—the appeal to Governor Parker was to send these veterans who had been in at least two bloody fights, on the heights of St. Mary and at Fredericksburg, who were then in the vicinity of Trenton, the center of the State, and one of them at Beverly, commanded by the gallant Colonel Grubb, to send them back to the front of battle instead of seeking their homes and families, as the small remaining portion who had returned in health and strength had hoped to do. The appeal was to send these men, used to war and fresh from the field of battle, back into Pennsylvania to meet Lee's legions, and to engage in that strife which was a play for empire. These men naturally would be indisposed to be sworn into the service of the United States without limitation as to time or description of place to which they were to go; and it would have been an act of peculiar hardship for the Governor to insist or appeal to them to do that. Perhaps they would have done it. That is an answer and a reason why he should endeavor to get those men accepted upon other terms, that they should go and serve as long as they were needed in the State of Pennsylvania to repel this invasion. That was the object of the call. He knew and we knew that the men who had proved their loyalty and bore the evidence of their devotion to the country upon their wounded bodies needed no oath to muster them into the service of the United States in order to secure their services in the place where they were wanted.

I think the deduction which the Senator from Minnesota has drawn from the action of the Executive of the State upon that occasion is unjust in view of all the circumstances. I suppose the Senator did not fully understand them, as he failed to understand or perhaps did not hear the full scope and effect of the telegram from the Secretary of War, which shows the character of the service they went to perform and the method in which they were mustered into the service.

I trust, sir, with a modification of the amendment of the Senator from Ohio that I shall propose that this bill may be allowed to pass. I will move to strike out the proviso at the end of the section, which will have the effect of authorizing the payment to be made to troops whether mustered into service or not.

The PRESIDENT *pro tempore*. That motion is not in order at the present time. The Senator

from Ohio will indicate where he will have his amendment put in the bill.

Mr. SHERMAN. I have reduced it to writing. There are three several amendments that will have to be considered separately.

Mr. HARRIS. I was not aware till this bill was called up that such a bill was pending in Congress, and I must confess that the very title of the bill struck me with some surprise. It is a bill to reimburse the State of Pennsylvania for expenses incurred by that State in calling out the militia to repel an invasion, leaving the sister States who so promptly and patriotically came to her aid to take care of themselves as they might.

Mr. COWAN. This censure is wholly and entirely unjust, for under that title the honorable Senator will remember the House of Representatives passed an appropriation of \$15,000,000 to cover all the States and everybody.

Mr. HARRIS. Mr. President, this is the shape in which the bill presents itself to the Senate for consideration. I do not blame the State of Pennsylvania for seeking reimbursement. Perhaps it is her right to do it. I do not deny that it is. Whether it was in good taste for her to do it just at this time is a different question. The State of New York, that sent a large number of militia to the aid and protection of Pennsylvania, has never asked, and if my counsels shall prevail, she never will ask, and while I am glad to accept the amendment of the Senator from Ohio which covers the expenses incurred by New York in case that State shall ask it, I am not in favor of having New York come to the General Government for reimbursement for the expenses incurred upon this extraordinary occasion. New York incurred some four or five hundred thousand dollars of expense in this sudden emergency in relieving her sister and neighbor State of Pennsylvania. If I could control it, I would have New York make that a present to the Government. For her patriotism and her courage I would ask no remuneration. But if Pennsylvania must come here to be remunerated for the expenses of calling out her militia to defend her own soil, I do not know why New Jersey and New York should not also participate in that remuneration. I, therefore, am quite willing to accept the amendment proposed by the Senator from Ohio, which also proposes to remunerate those States; but I would prefer that no bill should be passed on the subject. Let Pennsylvania and New Jersey and New York for the present and in the present emergency of our Government bear these expenses, and by and by, when the proper time comes, when the General Government is more able to remunerate those States, let it be done. That would be my choice.

Mr. COWAN. Certainly the honorable Senator from New York does not understand the claim here. This is not a claim on the part of Pennsylvania. This is a claim on the part of private individuals and private corporations who came forward and advanced their money, and that money has been paid over to the troops, under an express agreement with the President and Secretary of War that they would recommend an appropriation of this kind. Nobody is proposing the reimbursement of New York and New Jersey that I know of. I cannot conceive that it is necessary when a Senator rises to defend some claim of his that he should assail other people. If the State of New York and the State of New Jersey did not succeed in having their claim attended to in the other House it was not because they were not well represented there. New York has more members in that House than any other State. New Jersey has several members. I cannot conceive why there is matter for reproach in the peculiar shape in which the bill comes here. I am sorry to be obliged to notice these things, particularly from my honorable friend from New York, who is usually so just, so temperate and mild in everything that he says and does.

I may say, too, that this was not done for the invasion of Pennsylvania. Pennsylvania was not singled out as the object of Lee's invasion because she was Pennsylvania, but because she lay in his pathway to the great State of New York, because she lay in his way to New England States, because she was in his way to the New England States. Senators should thank their fortunes that Pennsylvania did lie in the way, that they might be protected from calamities of this kind.

The PRESIDENT *pro tempore*. The question will be on the first amendment proposed by the Senator from Ohio to the bill, which will be read.

The Secretary read the amendment, in line three after the word "to" to strike out the words "reimburse the institutions and individuals who advanced the money to pay the Pennsylvania soldiers who were called out by the proclamation of the President of the United States and the Governor of Pennsylvania," and to insert "pay the militia duly called out;" so that it will read:

That to pay the militia duly called out to repel the invasion of Maryland and Pennsylvania, &c.

Mr. HICKS. Mr. President, I must say that there is no necessity for any division or difficulty between the honorable Senators from the States of Pennsylvania, New Jersey, and New York on this subject. I think I understand this case. This bill proposes to reimburse certain private individuals and institutions who now ask to have returned to them money advanced by them in an emergency that not only tried the souls of the men of Pennsylvania but of New Jersey, New York, and Maryland. I trust that all these men will be paid. I think they should be. It was an emergency and an occasion on which, it seems to me, every man, every Union-loving man at least, should have had all his feelings aroused against an approaching foe.

But, sir, I do not see the necessity for clogging the bill proposed by the Senator from Pennsylvania by amendments covering other claims. It is either an honest claim, a claim which should be paid, or it is not an honest claim. I believe it to be a fair claim presented for men called into service to meet an emergency in which certainly New Jersey and New York were equally interested with Pennsylvania. Why? Because Pennsylvania then formed the bulwark protecting them. The rebel troops had to pass through Pennsylvania before they could reach either New Jersey or New York. If the rebels had succeeded in passing through Pennsylvania and entering either or both of those States, as a matter of course they would have wanted the troops of Pennsylvania to follow on and aid them.

Under the circumstances, I think the best way would be for us to pass this bill as it came to us from the House of Representatives, and then at some subsequent time another bill can be presented providing for the payment of New York and New Jersey, either together or separately, as they choose. Sir, we may have occasion again to call troops suddenly together to repel an invading foe. I trust in God it may never be necessary again; but, sir, it may be, and if difficulties of this sort are thrown in the way of their payment, it will discourage men, and perhaps on another occasion they will not come forward so readily and unite with those who are engaged in the effort to drive back the invading foe.

As I before remarked, I cannot see that there is any necessity for a difficulty between the honorable Senators from those three States. I hope this bill will be passed and this claim paid, and I hope that New Jersey and New York will have their men paid. I care not what may have been the views of the Governor of New Jersey, these men came forward like men and rendered service, and therefore I think ought to be paid.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio. The amendment was agreed to.

The next amendment of Mr. SHERMAN was in line twelve to strike out the words "Governor of Pennsylvania" and to insert, "said militia, or where they have been paid then to the Governor of the State to which the said militia belongs in trust for the State or the institutions or individuals who advanced the money to pay the same;" so that the clause will read:

The sum of \$700,000, of any money in the Treasury not otherwise appropriated, is hereby appropriated, to be paid to the said militia, or where they have been paid then to the Governor of the State, &c.

Mr. WILKINSON. I agree fully in every word that was uttered by the Senator from New York in regard to this appropriation. I do not wish to vote against an appropriation to pay the soldiers from any State who have fought or volunteered in a particular emergency to repel the invasion of any northern State. But I wish to say just one word in answer to the Senator from Pennsylvania who spoke about his Pennsylvania

nia militia standing in front of this army of Lee to prevent their marching up into New York and other northern States.

Mr. COWAN. It is inconceivable to me why Senators will persist in misrepresenting what has been said upon the floor here. I said nothing about the Pennsylvania militia standing in front of Lee. I said that the State of Pennsylvania lay between Lee and the States of New York and New Jersey and New England, and that that was why she was invaded—not because she was specially the State of Pennsylvania, but because it was necessary to invade her in order to get at the rest. I said nothing about the militia of the State of Pennsylvania, what they did or what they did not do.

Mr. WILKINSON. All I have got to say is that Minnesota lost pretty nearly a hundred men at Gettysburg, and I doubt whether there were one hundred of the militia of the whole State of Pennsylvania killed during that invasion. I very much doubt whether one hundred of the Pennsylvania militia were killed, but pretty nearly one hundred Minnesotians lie in the graveyard in the national cemetery at Gettysburg.

Mr. COWAN. I certainly should be the last man in the world to detract from the bravery of the soldiers of Minnesota. I believe they are as good soldiers as there are in the world; but I do not believe they are any better than those of other States, although the honorable Senator takes every possible opportunity to tell us something about what the brave soldiers of Minnesota have done. Mr. President, our soldiers are all Americans; they do not belong to this State or that State or the other State; and the man who attempts to make capital or to make himself fame by drawing these lines of distinction and by calling them by these sectional names is not helping to strengthen the Union or the great American cause. Let us avoid it.

Mr. WILKINSON. The Senator will do me the justice to say that I alluded particularly to the militia, not to the regular soldiers from Pennsylvania. The regular soldiers from Pennsylvania I admit were in that fight. I merely alluded to the militia which are referred to in this bill. I think the seventh regiment from New York was sent down to Pennsylvania. I believe other regiments that were not mustered into the service of the United States were also down there. I do not know whether they were in the fight or not; but they were ready, as well as the militia of Pennsylvania, to go into the fight if it was necessary. I do not allude to the regular soldiers from the State of Pennsylvania, for they have been just as brave as any soldiers in the United States.

Mr. COWAN. I think that any allusion whatever to the soldiers of any particular State by name, particularly by way of sinister disparagement to other soldiers, is unfortunate, improper, not calculated to do any good, but calculated to provoke on the other hand the same kind of improper eulogy and detraction. I think we should sedulously avoid it. I have observed that line of conduct for myself. I never eulogize the soldiers of Pennsylvania, for fear it might be thought that by singling them out for my eulogy I reflected upon those of some other States, and I know of no reason for doing it. If I were asked to-day what State I believed produced the best soldiers of the Union I could not say. I could neither say it upon my honor nor my oath. I think they have all behaved very well, not only from the loyal States but from the disloyal. So far as soldiering is concerned, a man might be proud of his connection with either of them as an American.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Ohio.

The amendment was agreed to.

The next amendment of Mr. SHERMAN was to add the following additional proviso:

And provided further, That only so much shall be allowed and paid to such militia as would have been allowed and paid to other military forces in the service of the United States of the same grade.

The amendment was agreed to.

Mr. TEN EYCK. The adoption of the amendments of the Senator from Ohio, as I understand it, renders it necessary to move to strike out the proviso at the end of the first section, and I move to strike out that proviso, which is in these words:

Provided, That the expenses of none of the militia of

any State shall be paid under this act who refused to be mustered into the service of the United States.

Mr. WILKINSON. I hope that amendment will not be stricken out. If in such an emergency as that soldiers refuse to be mustered into the service, I am unwilling and I will not vote to pay them.

Mr. TEN EYCK. I do not know how that question could fairly come up. There were some of them who were not mustered into the service of the United States under the express provision and stipulation of the Secretary of War. It may be said that they refused to be sworn in, and yet it may never have been offered to them to refuse or not. I do not know whether it will apply to any of the troops from the State of New York or not; I do not know whether they were mustered in or not; but I know that some from my State were not actually mustered into the service of the United States. They were that class of troops to whom I have referred, who came back from their long service in the field and went to the assistance of Pennsylvania in the exigency of the case under the urgent request of the Governors of the two States and the Secretary of War, without ever going home to their families. They did all the service required of them, although they were not actually mustered into the service of the United States as United States soldiers. They were militia-men of the United States, and are entitled to just as much pay, and having received the pay, the State is entitled to receive remuneration just as much as if they were sworn into the service. I hope the amendment will be adopted.

Mr. WILKINSON. I call for the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. SHERMAN. There is one objection to the amendment of the Senator from New Jersey that he certainly has not considered. I wish to have it considered. I should like to know from the Senator from New Jersey how the United States can tell what militia to pay if they were not mustered into their service. Have we got to go to the rolls of New Jersey to ascertain who actually served? I ask the Senator how can he solve that difficulty? How can we tell who have served in the service of the United States unless we have the mustering-in rolls of the Department regular in form?

Mr. TEN EYCK. Can there be any difficulty about that? How were the accounts of the militia-men of the State of Pennsylvania made out? By the muster-rolls brought down here. Every man who was mustered in in the State of New York or in the State of New Jersey was mustered into a regular company, and took an oath to obey his officers and to perform service and duty as a soldier for that exigency. There is a record of them in the Adjutant General's office of each of these States. These accounts will have to be adjusted of course by the Government, and they can learn them just as well from the muster-rolls in those States as they could from the muster-rolls of the United States. Sir, I think this is rather a sharp point to take. How is it to be discovered what men served? It was discovered when they were called upon to go to the relief of the country generally that they were on the ground, and every man of them was reported to the Executive of the State of Pennsylvania, and, for aught I know, to the Government here; but whether they were or not I take it for granted the Government here will make provision to ascertain that fact, for the Government here appealed to the Executive of the State of New Jersey to send troops, stating that they should receive the same pay and rations as if they were sworn and mustered into the service of the United States.

Mr. SHERMAN. I feel bound to vote for the amendment of the Senator from New Jersey for this reason: the Secretary of War by telegram expressly accepted all the militia of the State of New Jersey, and waived their mustering into the service of the United States; but I hope it will never be done again. It was done under the emergency, and an emergency put upon the Government by the Governor of the State of New Jersey.

Mr. TEN EYCK. Pardon me—

Mr. SHERMAN. It must have been so. The rule was applied to New York. The regiments of militia from the State of New York were mustered into the service of the United States, as I

understand; and the same is true of the militia of Pennsylvania.

Mr. TEN EYCK. Will the Senator pardon me for one moment? We had no regular militia system perfected in New Jersey as they have in the State of Ohio. The invasion of Pennsylvania by the rebel army under General Lee occurred just about the time that a number of our regiments that had been in the service of the United States were about being disbanded. They had returned home, but were still in camp waiting to be mustered out. The whole effort was to get those men to retrace their steps, and go into the service again during that emergency. It would have been a severe thing to insist upon it that those men should be sworn in for any length of time. The great object was to obtain the services of those men. One of those men would be equal to at least three green men called into the field upon an emergency like that. That is the reason why there was a difficulty. These men were willing to go; they were willing to serve; they were willing to help to repel this invasion; but the probability is they were unwilling as a body to go off immediately and be mustered into the service without limitation as to time. I have given the Senate the reason why it was, and it seems to me rational, and I think we can understand it. Although we may hope it may never take place again, I hope we may never have an occasion like it again.

Mr. LANE, of Kansas. I move that the Senate take a recess until seven o'clock.

Mr. HARLAN. Before that motion is put I should like to call up a resolution that I know will not be objected to by any member of the body. It is Senate joint resolution No. 74.

Mr. SUMNER. It can be done by unanimous consent.

Mr. COWAN. I will not object unless it displaces the order of business.

The PRESIDENT *pro tempore*. It will not in the opinion of the Chair.

DAY OF NATIONAL HUMILIATION.

On motion of Mr. HARLAN, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 74) requesting the President to appoint a day for national humiliation and prayer. The resolution is as follows:

Be it resolved, &c., That the President of the United States be requested to appoint a day for humiliation and prayer by the people of the United States; that he request his constitutional advisers at the head of the Executive Departments to unite with him as the Chief Magistrate of the nation, at the city of Washington, and the members of Congress, and all magistrates, all civil, military, and naval officers, all soldiers, sailors, and marines, with all loyal and law-abiding people, to convene at their usual places of worship, or wherever they may be, to confess and to repent of their manifold sins; to implore the compassion and forgiveness of the Almighty, that, if consistent with His will, the existing rebellion may be speedily suppressed, and the supremacy of the Constitution and laws of the United States may be established throughout all the States; to implore Him, as the Supreme Ruler of the world, not to destroy us as a people, nor suffer us to be destroyed by the hostility or connivance of other nations, or by obstinate adhesion to our own counsels, which may be in conflict with His eternal purposes, and to implore Him to enlighten the mind of the nation to know and do His will; humbly believing that it is in accordance with His will that our place should be maintained as a united people among the family of nations; to implore Him to grant to our armed defenders and the masses of the people that courage, power of resistance, and endurance necessary to secure that result; to implore Him in His infinite goodness to soften the hearts, enlighten the minds, and quicken the consciences of those in rebellion, that they may lay down their arms and speedily return to their allegiance to the United States, that they may not be utterly destroyed, that the effusion of blood may be stayed, and that unity and fraternity may be restored, and peace established throughout all our borders.

Mr. HALE. Does that resolution come from any committee?

The PRESIDENT *pro tempore*. The Chair is informed not. It was offered on leave by the Senator from Iowa.

Mr. HALE. I hate to differ from a gentleman for whom I have so much respect as I have for the Senator from Iowa; but I confess that to my perception it is not a resolution which the Senate ought to pass. There are many reasons for it to my mind. I shall not state them all, because some of them might possibly be offensive to the Senator from Iowa, for whom I have the highest respect and the kindest feeling.

I believe in the efficacy of prayer, I think, as much as the Senator from Iowa; but in my opinion there is very little of it that is aided or benefited by legislative enactments, and I believe that

the less display of it that is made the better. I think that one of the worst things in the inaugural address of General Pierce was the allusion to the peculiar affliction with which Providence had visited him. I believe we have all of us need enough for prayer and need enough for divine blessing; but I confess I do not think that those things are best expressed in legislative enactments or resolves. This is a matter that rests in the discretion of the President, and whenever he sees fit to issue his proclamation I trust the good people of the Union will give as much attention to it as it deserves.

There is another view of the case that to my mind is a reason why such a resolution as this should not be adopted. We are in the midst of one of the most critical campaigns that has occurred since the commencement of this rebellion; we are in the midst of a campaign which many people suppose and believe is to be decisive of the conflict in which we are to be engaged; and such an expression as this taken at this time might indicate to the nations of the world, and to those with whom we are contending, that our fortunes are desperate; that we felt at this time as if all human resources were about failing us, and we had nothing to do but to throw ourselves, where of course we must always throw ourselves, upon the mercy and the goodness of God. I think we can as appropriately pray, and worship with as much effect, without any legislative or executive action as with; and the last reason which I have named is conclusive in my mind against the propriety of the resolution at this time. I hope, therefore, that it will not be adopted.

Mr. HARLAN. I desire to ask the Senator who has just taken his seat if he takes exception to the phraseology or purview of the resolution?

Mr. HALE. I did not notice anything offensive in it in that particular, though I must confess I did think that, for a suggestion, it was rather minute and directory in regard to the subject-matter that was to be prayed for. There are a great many very enlightened Christians in this world who do not believe that it is consistent with rational piety to pray specifically for the divine aid in any particular transaction or event, but that a more enlightened piety prays for such a course of events as the wisdom and goodness of God may deem best for us and for the nation, without pointing out directly the mode and manner by which these blessings are to be conveyed, and the way in which they are to be vouchsafed to us. But I take no exception to the language of the resolution. The resolution itself does not meet my idea of the needs of the country at this time.

Mr. HARLAN. The reason why I asked the question was, that if the objection was to the phraseology or scope of the resolution I then would have moved to refer it to a committee for the purpose of amending it; but if that is not the foundation of the objection I content myself by a vote taken on the resolution at this time.

Mr. McDUGALL. I do not like the tone, the temper, or the spirit of the remarks of the Senator from New Hampshire. It is my firm conviction that the more humbly we bow ourselves before that Almighty Power that controls the universe the stronger we are; and that when any proposition of that kind is made it does not and cannot deserve rebuke.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LEAVE OF ABSENCE TO SENATORS.

Mr. FOOT. Mr. President, I move that my colleague, Hon. JACOB COLLAMER, have leave of absence from the Senate for the residue of the session, including this day. I make the motion in pursuance of the resolution of Congress of July 17, 1862, the section of which upon this point I will read, and ask the attention of Senators to it for their own benefit:

"Sec. 2. And be it further resolved, That when any Senator or Representative shall hereafter withdraw from his seat in anticipation of the adjournment of Congress and before the adjournment, and does not return, he shall, in addition to the sum now deducted from each day, forfeit a further sum equal to the mileage now allowed by law for his return home, and it shall be deducted from his compensation unless where said withdrawal is with the leave of the Senate or House of Representatives respectively."

My colleague has left the city for his home without the expectation or purpose of returning

to the city or to the Senate again during the residue of this session, and in consequence, as is well known to all Senators, of his somewhat severe and protracted indisposition.

The PRESIDENT *pro tempore*. The question is, "Shall leave of absence be granted to the Senator from Vermont?"

Leave was granted.

Mr. TRUMBULL. At the request of the Senator from Iowa, [Mr. GRIMES,] who informs me that there is a necessity for his leaving the city to-morrow, I move that leave of absence for the residue of the session be extended to him.

Leave was granted.

REPORTS FROM COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 559) to quiet the titles to lands within the Rancho Laguna de Santos Calle, in the State of California, reported it without amendment.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes, to report it with amendments; and as it is necessary to consider the bill this evening I propose that we now take a recess until seven o'clock.

Mr. COWAN. Let me get through with my bill.

The PRESIDENT *pro tempore*. The motion for a recess has already been made. The question is on the motion of the Senator from Kansas [Mr. LANE] that the Senate now take a recess until seven o'clock.

The question being put, there were, on a division—ayes 14, noes 9; no quorum voting.

Mr. TRUMBULL. I ask for the yeas and nays in order to get a quorum.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 5; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Conness, Cowan, Doolittle, Foot, Foster, Harlan, Harris, Howe, Lane of Kansas, McDougall, Pomeroy, Ramsey, Riddle, Ten Eyck, Trumbull, Willey, and Wilson—20.

NAYS—Messrs. Buckalew, Carlile, Hendricks, Powell, and Van Winkle—5.

ABSENT—Messrs. Chandler, Collamer, Davis, Dixon, Fessenden, Grimes, Hale, Harding, Henderson, Hicks, Howard, Johnson, Lane of Indiana, Morgan, Morrill, Nesmith, Richardson, Salsbury, Sherman, Sprague, Sumner, Wade, Wilkinson, and Wright—24.

So the motion was agreed to; and the Senate accordingly took a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

LAW OF EVIDENCE IN THE DISTRICT.

Mr. FOSTER. I ask the unanimous consent of the Senate to take up a little bill reported from the Committee on the Judiciary in regard to the law of evidence in the District of Columbia, being Senate bill No. 271.

There being no objection, the bill (S. No. 271) relating to civil actions in the District of Columbia was considered as in Committee of the Whole.

Mr. FOSTER. As the Committee on the Judiciary have reported a substitute for the bill, I ask that the substitute only be read.

The PRESIDENT *pro tempore*. The reading of the original bill will be dispensed with, if there be no objection.

The Secretary read the amendment, which was to strike out all of the bill after the enacting clause and to insert:

That on the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding in any court of justice in the District of Columbia, or before any person having by law, or by consent of parties, authority to hear, receive, and examine evidence within said District, the parties thereto, and the persons in whose behalf any such action or other proceeding may be brought or defended, and any and all persons interested in the same, shall, except as hereinafter excepted, be competent and compellable to give evidence, either *in vivo* or by deposition, according to the practice of the court, on behalf of either or any of the parties to the said action or other proceeding: *Provided*, That nothing herein contained shall render any person who is charged with any offense in any criminal proceeding competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband, or in any proceeding instituted in consequence of adultery; nor shall any husband be compellable to disclose any communication made to him by his wife

during the marriage, nor shall any wife be compellable to disclose any communication made to her by her husband during the marriage.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: "A bill relating to the law of evidence in the District of Columbia."

SUPPRESSION OF CINCINNATI ENQUIRER.

Mr. POWELL. I move to take up the resolution I offered some days since in regard to prohibiting the circulation of the Cincinnati Enquirer in the State of Kentucky.

The Secretary read the resolution proposed to be taken up, as follows:

Whereas a military order has been recently issued in the State of Kentucky prohibiting the circulation in said State of the Cincinnati Enquirer, a newspaper printed and published at Cincinnati, Ohio; and whereas a free press is essential to maintain the rights and liberties of the people: Therefore,

Resolved, That the President be requested to cause the aforesaid military order to be revoked; and that the President be further requested to issue such orders as will prevent the military authorities from encroaching upon the freedom of the press in the future.

Mr. CONNESS. I object to its consideration.

Mr. POWELL. I move that all prior orders be postponed for the purpose of proceeding to its consideration, and I ask for the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. GRIMES. No man here, I suppose, knows the circumstances under which this paper was suspended. It may have been preaching treason and sending its circulation all through the Army of the United States in Kentucky. It may have been the imperative duty of the officer to issue the order which he did issue, if it has been issued at all. The Senator should certainly furnish us some evidence, first, that the order has been made, and second, that it has been improperly made, before calling on us by solemn resolution of the Senate to pronounce that act invalid and improper, and call upon the President to revoke an order of a military commander in the field.

Mr. POWELL. I will state that the Cincinnati Enquirer is a Democratic paper published in that city, the character of which I suppose is well known to every Senator in this Chamber. The military authorities in Kentucky issued an order preventing the circulation of that paper in that State. It is more largely taken by the people of Kentucky, the Democratic people at least, than any other paper outside of the State. I have seen and read the order. It simply prohibits its circulation in the State. It does not allege any reason for it. I am a daily reader of that paper. I get it every day. It is a leading political journal of the Democratic party in the State of Ohio. We have recently, during the last year, been very badly treated in the matter of our elections in the State of Kentucky, and now, thus early in the campaign, the circulation of that paper, which is opposed to the policy of the President, is stopped in that State. The resolution simply requests the President to require that order to be revoked, and to issue orders to protect the freedom of the press in the future.

I will state to the Senate that the order simply says that the paper shall not be circulated in that department. That is all there is of it. It does not assign any reason for the order. It looks to me as if it was an effort in advance to reenact what was enacted last year in that State by striking down freedom of the press and freedom of the ballot; and I want to resist it at the threshold. The resolution condemns nothing; it simply requests the President—it is in the mildest form, perhaps, in which it could be presented—to revoke an order to prevent a paper issued in a neighboring State being circulated in the State of Kentucky. It strikes me that all who are for a free press and free political action in this country will vote for the resolution. It censures nobody. It merely states the fact that such an order has been issued, and then asks the Commander-in-Chief to direct his subordinate to revoke it, and not issue such orders in the future.

Mr. POMEROY. I wish to make a report from the Committee on Public Lands.

Mr. CONNESS. I hope the Senator will withhold his report until this question is disposed of.

Mr. POWELL. I yield.

Mr. McDOUGALL. There can be no objection to it.

Mr. POMEROY. The Committee on Public Lands, to whom was referred House bill No. 558, have had that matter under consideration, and have made no amendment to it, and directed me to report it back and ask for its present consideration. It is a small matter relating to a land claim in California.

Mr. COWAN. I object.

The PRESIDENT *pro tempore*. Objection is made, and it cannot be considered. The question is on the motion of the Senator from Kentucky.

Mr. COWAN. I am going to vote for the resolution of the Senator from Kentucky. I do not know anything about the Cincinnati Enquirer. I do not know, to the best of my knowledge, that I have ever read a copy of that paper; I do not know what it says nor what it advocates, and I do not care; but I have come to the conclusion for the future to endeavor to do all I can to prevent the exercise of that arbitrary power which, in my judgment, is doing more mischief to the cause of the Union to-day than almost all other things put together. Why, Mr. President, is it possible that anything can be more absurd, under the theory of our Government, than that anybody should undertake to suppress a newspaper, particularly in loyal States? This, sir, is a Government of the people. In the people the sovereignty is presumed to be lodged. The fabric is built upon their presumed intelligence, their presumed good sense in understanding what will be good for themselves, and they are also presumed to be equal in every respect to their rulers.

Now, sir, although I am not a Democrat in name, I am so far a Democrat and so far a Republican that I trust the people. I trust the people because they are sovereign; I trust the people to say what they will, to read what they will; not to do what they will, but to say what they will, and to read what they will. If we cannot trust the people, if it has come to this, that a man clothed in a little brief authority arrogates to himself the intelligence, the good sense, and the sovereignty of the people, and undertakes to direct what the people shall say, and what the people shall read, and what the people shall think, then I say there is not only an end of the Union but there is an end of a democratic, republican form of government, and you cannot disguise it. You may sit quiet; you may try to doctor it, and to cobble it, and to hold it forth to the world as a free Government, but it is a skeleton; it will fall about your ears, and you will find yourselves swept away by a despotism and a tyranny which it will be too late, perhaps, to resist when resistance in the opinion of all good men will become necessary.

Why, Mr. President, what do these papers say? Is there a Senator present who can satisfy himself, much less anybody else, that these papers that talk what is called treason, criticising the Administration, croaking, misrepresenting, if you please, have converted anybody? The truth is they do more harm to the cause they advocate than they do to the cause they oppose. But suppress them, suppress free speech and free thought and free criticism and free examination, and what then? Then the power that does it weakens itself; then the power that does it is recreant to the trust confided to it; and that is the thing which will make it enemies and finally overthrow it.

I know, sir, that in a time like this, when the minds of men are agitated and disturbed, and when people are apprehensive, they are apt to resort to expedients of this kind in the hope that out of them, in some way or other, they may secure their safety; but if there is one lesson which the world has taught, which has come from a past experience, more impressive than any other, it is that these expedients are not only fallacious, not only useless, but mischievous and subversive of the very end they were adopted to attain.

I therefore hope that the Senate will express to the President and to his officers that it disapproves of this kind of proceeding. I trust the Senate will say to the President and his officers that it is the representative of the American people, not its master, and that we choose to trust the

people we represent; that we will rely upon their prudence, upon their loyalty, upon their good sense to listen to any kind of speaking and to read any kind of reading without having their faith shaken or their loyalty destroyed. I think that is the manly way to treat this matter; and I think I may say in all safety that there has hardly been a case where the exercise of this power has not been mischievous to our cause. What better weapon among a free people could you put in the hands of the Opposition than acts of this kind? I cannot conceive of any. Certainly, gentlemen on this side of the Chamber, some of whom have been a long time in opposition, would have been exceedingly glad if the power they resisted had furnished them with capital to trade upon like this. I therefore trust we will meet this thing as men, as men worthy of the position we occupy, worthy of those whom we succeed, and relying upon the people and trusting the people with this which it is their peculiar prerogative under our institutions to enjoy.

The PRESIDENT *pro tempore*. The Chair will take occasion to state that at this period of the session the Chair will hold the rule pretty strictly. It is not in order to debate the general merits of a question on a motion to take it up, because the time of the Senate would be consumed in that way. The motion is to take up the resolution.

Mr. LANE, of Indiana. I think the ruling of the Chair is perfectly correct; but it does seem to me that after two speeches in favor of the resolution a simple statement of the circumstances under which this order was issued should be tolerated by the Senate and by the Chair.

Some two weeks ago, I think, I saw a telegraphic dispatch that General Burbridge, of Kentucky, had suppressed the circulation of the Cincinnati Enquirer in the State of Kentucky. I have never seen the official order, but I doubt not it was issued, and I doubt not it was issued upon sufficient and good authority. General Burbridge is a native Kentuckian, a gallant Kentuckian, commanding that department, and commanding it with distinguished ability, fidelity, patriotism, and success. When this order was issued Kentucky was being invaded by John Morgan and his forces, and he supposed that the circulation of this paper in his department gave aid and comfort to the enemy; and I have no doubt of it, although I did not see the particular number to which exception was taken; but from the general tone of the paper I have no doubt it was calculated to give aid and comfort to the enemy and to do more to overturn and deluge in blood that noble Commonwealth than all the soldiers of John Morgan. I have no doubt he had abundant cause to issue this order.

Now, had he the authority to issue it? Will any gentleman contend, will the Senator from Pennsylvania contend, that a man shall go into the Union armies and make speeches calculated to excite insurrection and insubordination in the Army of the United States without being liable to be arrested by the commander of the Army or the commander of the department? Will any Senator contend that such a speech could be tolerated in the presence of the Army and in the face of our troops without the man being guilty of inciting mutiny and insurrection? If a man cannot do it in person in the presence of the Army, has he a right to make that speech in Cincinnati and fulminate it throughout the Army, having precisely the same effect?

I think myself that neither proposition contemplated in this resolution should pass. The first is, that the President shall be requested to revoke an order made by the commander of the department of Kentucky. That order was suppressing a newspaper which he believed was giving daily aid and comfort to the enemy. He is there to protect the people of Kentucky, to uphold the Government and the supremacy of the laws. This is one of the means, in his opinion, of accomplishing precisely that object. He is clothed, as the commander of that department, with discretionary power. He chooses his means. He orders a regiment here and a battery there; he orders a spy to be hung; and if incendiary documents are published in his camp he is recreant to his duty and unworthy of his command if he does not instantly suppress it; wholly unworthy of the public confidence if he should fail in his duty in this

particular. I think that the power is complete and ample and the discretion is properly lodged in the commander of the department.

The other proposition of the resolution is that the President shall be requested in the future to prevent all such orders interfering with the free circulation of papers in our Army. Suppose, if you please, an emissary of Jeff. Davis, a spy, should go into General Burbridge's camp and print an open secession paper, publishing treason every day. If you pass this resolution you have no power to touch him. The President would have at least our opinion upon it that we had no power to touch him. He might go into the very camp of your Army and publish a secession paper if you pass this resolution, and the President has it, as our opinion, that the freedom of the press protects him!

What is the freedom of the press? To give aid and comfort to the enemy? No, sir. The freedom of the press is like the freedom of an individual: it is liberty regulated by law; and where-soever the military law comes in conflict with this freedom of the press it must succumb. There is an order issued to suppress the Cincinnati Enquirer; and without knowing precisely what the article was or what the order is, Congress are required to volunteer their advice to the Commander-in-Chief of your Army, and ask him to revoke that order in the dark, without knowing why or wherefore it was issued, and to ask him in future to say that no such order shall be issued. I am not prepared to vote either that he shall revoke this order or that in future he shall make no such order.

But I have no doubt the order was issued upon good and sufficient grounds; and hereafter, where-soever a traitorous editor shall fulminate his treason in the face of your soldiers, I say it is the duty of the commander-in-chief and the President to suppress it, and they are unworthy of their position if they do not suppress it. We may as well give up the Government if you are to offer a premium upon treason and a license to traitors and invite them into your Army to publish what-soever they please. This is no time to tamper with any subject like this. The people are interested in this matter and the whole people; and I strike in defense of the Constitution, for without the Government the Constitution is nothing. We have dealt too leniently with traitors; we have dealt too leniently with this treasonable press; and no other Government upon earth contending for existence would have suffered as long as we have such utterances to be made to our Army.

Mr. COWAN. Mr. President, I have a single word to say in reply. I am exceedingly sorry that my honorable friend has not taken a correct view of this question. What kind of a compliment does he pay to our Army? What is the purport of his speech here in the Senate of the United States as regards an American soldier, one holding in his hands a part of the sovereignty of the nation, one in possession of political power, one who under the flag of his country is ready to peril his life every day in order to save and preserve it? What does my honorable friend say to him? "You are not fit to read this paper; you ought not to read it; it will poison you; it will destroy the soundness of your principles; it will sap your loyalty; it will endanger the fidelity that you owe to your Government." Why, Mr. President, if I was a soldier in the American Army I would say to the honorable Senator, "Senator as you are, who made you my master; who made you a judge as to what I shall read and what I shall not read? Have you any more stake in the country than I have? Is there any presumption of law that you are a better judge of the matter which my brain is to digest?"

Mr. GRIMES. But the military commander has that power by military law.

Mr. COWAN. I will come to that in one moment. I am putting the very strongest possible case. I say that the soldier, under the theory of our Government—mark that—has a right to say, "I am competent to read and think for myself, particularly in all matters that pertain to governmental policy, inasmuch as I myself am intrusted by the American people with a portion of its sovereignty, and I am here defending it." If this were an army in the Old World, where the soldier was not the recipient of political power, where he was not trusted with any portion of the sov-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

THURSDAY, JUNE 30, 1864.

NEW SERIES.....No. 212.

ereignty, where he was a subject, where he was not allowed to think and to act on behalf of the community, where he is to be turned, in order to make him a good soldier, into a machine, in the language of military men, then I have no doubt the Senator would be right, because he proceeds upon the assumption that these men are not to be safely intrusted with this kind of information. That is the basis of it. In monarchical Governments the same theory is held. But what I said at the outset was that all that is inconsistent with our theory of government. I said I put the case where the paper goes into the camp of the commander, and I say that upon principle in this country particularly by those who contend for the principles of liberty, free speech and free thought and free action, it cannot be justified in that case; but I do not propose to go so far.

As I understand, nobody complains where a military commander keeps out of his camp seditious papers, mischievous papers if you please, papers which are not in the interest of the Administration. Nobody complains of that; at least I do not. If General Burbridge, or whatever his name may be, excluded the Cincinnati Enquirer from his camps, I have no objection. But that is not the complaint. General Burbridge has gone further; he has not only undertaken to decide what the soldier shall and what the soldier shall not read, but he casts the mantle of his military authority over the whole of his district. He has said to the people of his district, those who are not in the service, those who are not bound by the military rules and regulations necessary to the discipline of the camp, "You shall not read the Cincinnati Enquirer."

Mr. President, I cannot conceive of any proposition which to me is so much at war with the fundamental principles for which we have been struggling for three quarters of a century. The very principle on which the Revolution rested, the very principle on which this Republic based itself, and the principle that we have proclaimed to all the world, said to them, "You have been mistaken; you thought that the press would have to be restrained, that it ought not to publish this, that, and the other; you thought that the people could not listen to all kinds of speeches. You are mistaken; they can; they have as much sense as any of you; we trust them in the United States of America, and trusting them, see how we have prospered."

Mr. President, this is all timid feeling on the part of our rulers. We are far safer if we trust the people than if we attempt to restrain them. We are far safer when we rely on their loyalty, on their good sense, and upon their understanding themselves of what is their best interests than if we undertake by these means to say to them, "You shall not enjoy the rights which your ancestors bequeathed to you and which they won for you at such a cost just because we decide that we will trample them under foot." Why should not this be? Are we afraid of the people? Are we afraid of the people of Kentucky? If we are afraid of the people of Kentucky, do you suppose you can make them loyal by closing up the avenues of communication between them and Cincinnati? Do you suppose you can purge a man's brain of treasonable thoughts, treasonable sentiments, and treasonable intentions by saying he shall not read a favorite newspaper? If I wished to aggravate his tendencies to treason, if I wished to make a rebel of a disaffected man, I would treat him exactly according to that diet and regimen; but if I desired to make him loyal I would throw myself on his good sense, on his knowledge of what was his own interest and the interest of the community, and if that did not succeed, if that is not the true theory, then, as I said before, our Government and our system is all a delusion and a snare.

I have no fears about this thing. I live in a district of country where newspapers are published—well, I should say according to the modern slang phrase, of the bitterest copperhead caste. I have never found that they produced

the slightest effect whatever upon the people; but I am very sure that if to-day one of those papers were suppressed a very serious effect would be produced, and hundreds and thousands of men would resent it as an insult to them who now laugh at these things and treat them as the idle and passing wind. Does not this arise out of an apprehension, a timid political apprehension of trouble and difficulty as the result of it rather than treason? Will not the world put that construction upon our conduct if we sanction these things? Will they not say you are afraid that these people will become politically the opponents of the Administration rather than that they shall become enemies of the Government and desiring its overthrow? I should be fearful of it, and as a matter of policy, apart from the principle involved in the thing, I would deprecate very much that our rulers should ever so far forget the source of their power and whence it springs as to resort to expedients of this nature.

Mr. FESSENDEN. Mr. President, this is a very fine subject for declamation; and as I have been exceedingly engaged in dry business for a considerable number of days and weeks I have had no opportunity to participate in the exciting debates of the Senate. I should like very much to improve the occasion to make a speech upon it myself; but I am warned not to do so by the fact that I am inquired of about forty times a day by gentlemen, some of whom are in the habit of making speeches here pretty often, when we can adjourn, regretting that we are compelled to sit here when we ought to be away, especially at this period of the year. Under these circumstances, and believing that we ought to be approaching very nearly the end of the session, and knowing that we have important business yet to be transacted, especially a bill upon the table which has come from the other House in relation to conscription, enlistments, &c., with a view to fill up the ranks of the Army, and being very anxious that that bill shall be taken up, I will forbear and restrain the strong impulse that is upon me to speak on this occasion and move that the subject be laid on the table.

The PRESIDENT *pro tempore*. The Chair is of opinion that the motion to lay on the table is not in order. There is nothing to lay on the table. It is a mere motion to take up the resolution.

Mr. FESSENDEN. Then there is no way to stop debate.

The PRESIDENT *pro tempore*. The way to stop debate is for the Chair to restrict debate to the motion to take up.

Mr. FESSENDEN. I hope the Chair will do so for the future.

The PRESIDENT *pro tempore*. The Chair will do so if sustained by the Senate.

Mr. FESSENDEN. I give notice that I shall call any gentleman to order who wanders beyond the proper limit of debate.

Mr. POWELL. It is not my purpose to detain the Senate. Indeed, I did not suppose I should say one word on this motion. I thought the subject was one which would meet the approval of every Senator here. My friend from Indiana, however, speaks of the Cincinnati Enquirer as a treasonable paper. Why, sir, I have read that paper for the last four or five years—

The PRESIDENT *pro tempore*. The Chair will not allow the Senator to wander from the question of taking up.

Mr. POWELL. Will the Chair allow me to set the Senator from Indiana right?

The PRESIDENT *pro tempore*. The Chair will not allow the debate to wander.

Mr. POWELL. It will only take one moment to do it.

The PRESIDENT *pro tempore*. The Chair will not allow the Senator a moment.

Mr. POWELL. I regret that I am the only one who is put under that rigid rule.

The PRESIDENT *pro tempore*. Under the expression of the Senate the Chair feels bound to enforce the rule.

Mr. POWELL. I do not know that the Senate has made any such expression. If the Senator from Maine is the Senate the Senate have made an expression.

The PRESIDENT *pro tempore*. The Chair will call the Senator to order, and he may take an appeal, and the matter will be decided.

Mr. POWELL. I do not care to take an appeal. I should have got through by this time all I had to say if I had not been interrupted.

The PRESIDENT *pro tempore*. The Chair only desires to expedite the business of the Senate.

Mr. POWELL. The Senator made another statement that this order was issued by General Burbridge. I saw it stated in the Cincinnati Enquirer to-day that it was issued by a General Ewing, whom I do not know. The order when issued was signed by authority of a lieutenant colonel by the name of Farley.

The PRESIDENT *pro tempore*. The Chair must again call the Senator to order. It is unpleasant to the Chair to have a controversy, but the Chair must enforce the rule of the Senate.

Mr. POWELL. I regret that I am the only Senator who is put under this rule; and while I have great confidence in and consideration for the Senator from Maine, I regret that he is the Senate. If I am not to be allowed to correct the misstatements or misapprehensions relative to this resolution, I will take my seat and simply say to the Senate that the object of this resolution is to give to this country freedom of the press. We are about entering upon a political canvass, and the military authorities, under the command of the President, who is a candidate for reelection to that high office, have chosen to strike down and prevent the circulation in one of the sovereign States of this Union of a Democratic paper.

The PRESIDENT *pro tempore*. The Senator will come to order, and will take his seat, and will not proceed without the consent of the Senate.

Mr. POWELL. I will take my seat.

Mr. HENDRICKS. I appeal from the decision of the Chair.

The PRESIDENT *pro tempore*. The Senator from Indiana appeals from the decision of the Chair.

Mr. HENDRICKS. And I desire to speak upon that.

The PRESIDENT *pro tempore*. The Senator will state his point of order.

Mr. HENDRICKS. The point of order is that the Senator from Kentucky is urging upon the Senate reasons why this body should immediately consider the resolution which he has introduced, and upon that question I desire to be heard.

The PRESIDENT *pro tempore*. The question will be, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. HENDRICKS. Mr. President, when the Senator from Kentucky was called to order, from which action of the Chair I appeal, he was discussing the present condition of the country, and the approaching political contest, and the importance of freedom of debate, and of freedom of the press under our institutions during a great political contest. These are considerations addressed to the judgment of the Senate why the Senate should express its opinion against, in times like these, an act of the Government in suppressing the freedom of the press. I think that the argument pursued by the Senator from Kentucky is legitimate upon the question whether the Senate ought to take this resolution up. That is the question that is before the Senate. Shall the Senate take the resolution from the table and consider it now? The resolution of the Senator which he proposes to take up is to this effect: that the freedom of the press ought not to be interfered with by military officers; and he urges to the consideration of the Senate for its immediate action, that now above all times we ought to have a free press in this country; and in that judgment I concur with the Senator from Kentucky.

I am in favor of restricting ourselves properly in debate, and I would not wantonly appeal from the decision of the Chair unless I thought it too strictly restricted the freedom of debate. No Senator, I think, will say that I have departed from the questions that were before the body when I have addressed it. I did not appeal when the Chair first decided that the Senator from Kentucky was out of order. I then thought that he was pursuing a line of argument in answer to my colleague which perhaps was not addressed to the question before the body; but now when the Senator was called to order he was discussing the importance of an immediate expression of the opinion of the Senate against conduct on the part of officials which restricted if it did not strike down the freedom of the press. Is that not proper for the consideration of the Senate in deciding the question whether the resolution shall be taken up? I have the greatest respect for the Chair, as the Chair personally knows, for him personally, and for him in his official capacity; but I thought that the argument of the Senator from Kentucky on this very question that is before the body was legitimate and within the proper range of debate.

Mr. WILSON. Is it in order to move to postpone the consideration of the present and all prior questions to take up a bill? I desire to take up the bill reported by the Committee on Military Affairs this afternoon.

The PRESIDENT *pro tempore*. The Chair is of opinion that it is in order to postpone the appeal and all prior orders.

Mr. WILSON. I make that motion.

The PRESIDENT *pro tempore*. It is moved by the Senator from Massachusetts that the motion before the Senate be postponed, and that the Senate proceed to the consideration of the bill (H. R. No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes.

Mr. CONNESS. I ask the Chair whether the motion of the Senator from Massachusetts is not a debatable question.

The PRESIDENT *pro tempore*. It is, within limits.

Mr. CONNESS. Then I ask him to withdraw it that I may move to lay the appeal on the table.

Mr. HENDRICKS. At the suggestion of the Senator from Kentucky and the Senator from Ohio and others, with a view of an immediate vote on the proposition of the Senator from Kentucky, I withdraw the appeal. He informs them that he does not care about forcing the debate.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts withdraw his motion?

Mr. WILSON. No, sir. I desire that the question be put. The appeal is withdrawn.

The PRESIDENT *pro tempore*. The Chair is of opinion that if the appeal can be withdrawn and is withdrawn, the motion of the Senator from Massachusetts would not be in order, because it would be piling one motion to proceed to the consideration of a bill upon another. The motion of the Senator from Kentucky must first be determined.

Mr. WILSON. Is it not in order for me to move that the consideration of the subject pending be postponed?

The PRESIDENT *pro tempore*. It is nothing but a motion to proceed to some other business.

Mr. WILSON. The motion I want to make is to postpone the consideration of the pending question which is moved by the Senator from Kentucky and all other questions, to take up the House bill reported by the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The Chair understands the motion of the Senator from Massachusetts, and is of opinion that the only way to be rid of the motion of the Senator from Kentucky is to vote on it.

Mr. SHERMAN. There is one other way, I think. I think the Senate can always command its own time. I move to lay the proposition of the Senator from Kentucky on the table.

The PRESIDENT *pro tempore*. The Chair has already decided that to be out of order. It is done in the House of Representatives by rule. The Senate has no such rule. There is nothing to lay on the table.

Mr. POWELL. I only desire to say that I think it is very clear that I am not to have free-

dom of debate here. I am willing that a vote shall be taken upon the resolution without another word, and at some other time I will discuss the matter.

Several SENATORS. Take a vote.

The question being taken by yeas and nays, resulted—yeas 8, nays 25; as follows:

YEAS—Messrs. Buckalew, Carlile, Cowan, Davis, Hendricks, McDougall, Powell, and Riddle—8.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Doolittle, Fessenden, Foot, Foster, Grimes, Harlan, Harris, Howe, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, and Wilson—25.

ABSENT—Messrs. Brown, Collamer, Dixon, Hale, Harding, Henderson, Hicks, Howard, Johnson, Morgan, Nesmith, Richardson, Saulsbury, Wilkinson, Willey, and Wright—16.

So the motion to take up the resolution was not agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 109) to expedite the settlement of titles to land in the State of California.

The message also announced that the House of Representatives had passed the following House bills; in which the concurrence of the Senate was requested:

A bill (No. 517) to incorporate the National Union Insurance Company of Washington; and

A bill (No. 560) to amend an act of Congress entitled "An act to grant the right of preemption to certain purchasers on the Socol Ranch in the State of California."

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes; and had also agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia.

The message further announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill of the House (No. 527) making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1865; that it had agreed to the twenty-third amendment of the Senate to the bill, with an amendment, in which it requested the concurrence of the Senate; that it insisted upon its disagreement and amendment as aforesaid, asked a conference on the disagreeing votes of the two Houses, and had appointed Mr. THADDEUS STEVENS, Mr. GEORGE S. BOUTWELL, and Mr. W. P. NOBLE, managers at the same on its part.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (S. No. 226) to aid in the settlement, subsistence, and support of the Navajo Indian captives upon a reservation in the Territory of New Mexico;

A bill (S. No. 203) authorizing a grant to the State of California of the Yosemite valley and of the land embracing the Mariposa Big Tree Grove;

A bill (H. R. No. 414) for the relief of the estate of B. F. Kendall; and

A bill (H. R. No. 205) authorizing the issue of patents for locations made with certificates granted under authority of the act of Congress, approved March 17, 1862, allowing floats in satisfaction of lands sold by the United States within the limits of the Los Ormigas and the La Nana grants in Louisiana.

AMENDMENT OF CONSCRIPTION LAW.

Mr. WILSON. I now renew my motion to take up House bill No. 549, further to regulate and provide for the enrolling and calling out the national forces, and for other purposes.

Mr. CHANDLER. That is a very bad bill, and I do not agree to take it up. There is nothing good in it. I move to take up House bill No. 307.

The PRESIDENT *pro tempore*. The Chair is obliged to rule that such a motion is not in order.

Mr. CHANDLER. Then I move to lay the Senator's motion on the table.

The PRESIDENT *pro tempore*. The Chair must rule that to be out of order. A mere motion cannot be laid on the table.

Mr. CHANDLER. How can I get up the Camden and Amboy railroad bill?

Mr. WILSON. By voting me down. [Laughter.]

Mr. CHANDLER. I hope the Senate will vote him down.

The motion of Mr. Wilson was agreed to; and the bill (H. R. No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes, was considered as in Committee of the Whole. It provides that the President of the United States may, at his discretion, at any time hereafter call for any number of men as volunteers for the respective terms of one, two, and three years for military service; and any such volunteer, or, in case of draft, as subsequently provided in the bill, any substitute, is to be credited to the town, township, precinct, or election district, toward the quota of which he may have volunteered or engaged as a substitute; and every volunteer and substitute who is accepted and mustered into the service for a term of one year, unless sooner discharged, is to receive, and be paid by the United States, a bounty of \$200; and if for a term of two years, unless sooner discharged, a bounty of \$300; and if for a term of three years, unless sooner discharged, a bounty of \$400; one half of which bounty is to be paid to the soldier at the time of his being mustered into the service, one fourth at the expiration of one half of his term of service, and one fourth at the expiration of his term of service. In case of his death while in service, the residue of his bounty unpaid is to be paid to his widow, if he shall have left a widow; if not, to his children, or if there be none, to his legal representatives. In case he is honorably discharged by reason of wounds or sickness incurred in the service in the line of his duty, he is to receive full bounty. In case the quota, or any part thereof, of any town, township, ward, precinct, or election district, or of any county not so subdivided, shall not be filled within the space of sixty days after such call, then the President is to order a draft for one year to fill such quota, or any part thereof, which may be unfilled; and in case of any such draft no payment of money is to be accepted or received by the Government as commutation to release any enrolled or drafted man from personal obligation to perform military service.

It is to be lawful for the Executive of any of the States to send recruiting agents into any of the States declared to be in rebellion to recruit volunteers under any call under the provisions of this act, who are to be credited to the State, and to the respective subdivisions thereof, which may procure the enlistment; and drafted men, substitutes, and volunteers, when mustered in, are to be organized in, or assigned to, regiments, batteries, or other organizations of their own States, and, as far as practicable, shall, when assigned, be permitted to select their own regiments, batteries, or other organizations from among those of their respective States which at the time of assignment may not be filled to their maximum number.

The twentieth section of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, is to be construed so as to mean that the Secretary of War shall discharge minors under the age of eighteen years under the circumstances and on the conditions prescribed in that section; and hereafter, if any officer of the United States shall knowingly enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited is to be immediately and unconditionally discharged; and such recruiting or mustering officer is to be dismissed the service, with forfeiture of all pay and allowances, and be subject to such further punishment as a court-martial may direct.

Section three of an act entitled "An act to amend an act entitled 'An act for enrolling and

calling out the national forces, and for other purposes," approved February 24, 1864, is to be amended so as to authorize and direct district provost marshals, under the direction of the Provost Marshal General, to make a draft for fifty per cent. in addition to the number required to fill the quota of any district as provided by that section.

Instead of traveling pay, all drafted persons reporting at the place of rendezvous are to be allowed transportation from their places of residence, and persons discharged at the place of rendezvous are to be allowed transportation to their places of residence.

All persons in the naval service of the United States who have entered the service during the present rebellion, who have not been credited to the quota of any town, district, ward, or State, by reason of their being in the service and not enrolled prior to February 24, 1864, are to be enrolled and credited to the quotas of the town, ward, district, or State in which they respectively reside.

If any person duly drafted shall be absent from home in prosecution of his usual business, the provost marshal of the district is to cause him to be duly notified as soon as may be, and he is not to be deemed a deserter, nor liable as such, until notice has been given to him and reasonable time allowed for him to return and report to the provost marshal of his district; but such absence is not otherwise to affect his liability.

Nothing contained in this act is to be construed to alter or in any way affect the law relative to those conscientiously opposed to bearing arms.

The Committee on Military Affairs and the Militia reported the bill with several amendments. The first amendment was in section one, lines six and seven, after the word "volunteer," to strike out the words, "or, in case of draft, as hereinafter provided, any substitute;" so that it will read:

That the President of the United States may, at his discretion, at any time hereafter, call for any number of men as volunteers, for the respective terms of one, two, and three years, for military service; and any such volunteer shall be credited, &c.

Mr. FESSENDEN. I should like to know why the committee propose to strike out those words.

Mr. WILSON. I will state the reason. The bill proposes to give to any person who will enlist within sixty days for one year, a bounty of \$200, \$300 for two years, and \$400 for three years, and it provides that then the President may draft, and the drafted person for one year has no bounty whatever, but if he gets a substitute the substitute is to have a bounty of \$200. What we want to do is to encourage personal service and not encourage a man to get a substitute. The provision is clearly wrong and ought to be stricken out.

Mr. FESSENDEN. But the person will be entitled to procure a substitute after this draft.

Mr. WILSON. He may procure a substitute and pay for him instead of the country paying him \$200.

Mr. FESSENDEN. That is all right.

The amendment was agreed to.

The next amendment was in line eight of section one, after the word "township," to insert the words "ward of a city;" and in line nine, after the word "district" to insert "or of a county not so subdivided;" so that the clause will read:

And any such volunteer shall be credited to the town, township, ward of a city, precinct, or election district, or of a county not so subdivided, toward the quota of which he may have volunteered or engaged as a substitute.

Mr. WILSON. That is to make the bill conform to the existing law.

Mr. HOWE. Will it be in order to move to strike out that whole clause after this amendment is made?

Mr. WILSON. Certainly.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Chair thinks it will be in order.

The amendment was agreed to.

The next amendment was in section one, line nine, after the word "volunteer," to strike out the words "or engaged as a substitute;" and in the same line after "volunteers" to strike out the words "and substitute."

The amendment was agreed to.

The next amendment was in section one, line seventeen, to strike out the words "one half" and insert "one third;" and in line nineteen to strike out "one fourth" and insert "one third;" and in

line twenty to strike out "one fourth" and insert "one third;" so that the clause will read:

One third of which bounty shall be paid to the soldier at the time of his being mustered into the service, one third at the expiration of one half of his term of service, and one third at the expiration of his term of service.

The amendment was agreed to.

The next amendment was in section one, line twenty-four, after the word "representative" to strike out the following clause:

And in case he is honorably discharged by reason of wounds or sickness incurred in the line of his duty he shall receive full bounty.

Mr. HOWE. I should like to know why these words are stricken out.

Mr. WILSON. By the existing law a soldier who is honorably discharged from the service for wounds received in battle receives his bounty; but this provision it was believed would disorganize the present Army and those that would be put into it. It provides that persons discharged by reason of wounds or sickness incurred in the line of duty shall receive full bounty. The tendency of such a measure will be demoralizing on the existing Army. That is the unanimous opinion of the officers in the service, and there is no justice in it. The law takes care of the wounded now, and sickness is so indefinite a term, so uncertain, that it will not do to put it in here. A man may be sick and discharged from the line of service and be as well within a week afterwards as ever he was.

Mr. HOWE. I entirely agree that this provision for paying bounties to those who are discharged by reason of sickness is wrong; but if you strike out the words "or sickness" you would affect—

Mr. FOSTER. Wounds are provided for by law.

Mr. HOWE. I know there is a law providing for paying bounties existing under former laws.

Mr. FOSTER. It covers all during the war.

Mr. HOWE. If there is no doubt about that this would be unnecessary.

Mr. WILSON. There is no doubt about it.

Mr. HOWE. I have looked at the law and I thought there was some doubt about it.

The amendment was agreed to.

The next amendment was in section two, line two, after the word "ward" to insert the words "of a city."

The amendment was agreed to.

The next amendment was in section two, line four, before the word "days" to strike out "sixty" and insert "forty;" so that it will read:

That in case the quota, or any part thereof, of any town, township, ward of a city, precinct, or election district, or of any county not so subdivided, shall not be filled within the space of forty days after such call, then the President shall order a draft, &c.

The amendment was agreed to.

The next amendment was to strike out the fifth section, as follows:

Sec. 5. And be it further enacted, That the twentieth section of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, shall be construed to mean that the Secretary of War shall discharge minors under the age of eighteen years under the circumstances and on the conditions prescribed in said section; and hereafter if any officer of the United States shall knowingly enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged, and such recruiting or mustering officer shall be dismissed the service, with forfeiture of all pay and allowances and shall be subject to such further punishment as a court-martial may direct.

Mr. HENDRICKS. Some portions of this section I desire not to see stricken out. I think this provision of the section ought to remain:

And hereafter, if any officer of the United States shall knowingly enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged; and such recruiting or mustering officer shall be dismissed the service, with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

A person under the age of sixteen years is not fit to do military duty. It is certainly not the interest of the country that the children should be brought into the Army.

Mr. WILSON. I will say to the Senator that the latter part of the section beginning with the words "and hereafter" I should be willing to have

stand, to punish any officer who should muster into the service any child under sixteen years of age; but the first part of it is believed would demoralize the service.

Mr. HENDRICKS. I was going to suggest to the Senator from Massachusetts to strike out the word "knowingly." It is not important whether the officer knows it or not. It is against the true interests of the country to have children in the Army. Then I suggest to him to strike out that part which punishes the officer. That ought not to be in a law like this. Then the section will stand merely directing the discharge of any person under sixteen years of age unconditionally.

The PRESIDING OFFICER. It will be in order to amend the section before the question is taken on striking out.

Mr. WILSON. Do I understand the Senator's proposition to be to preserve the latter part of this section, beginning at the word "hereafter" in the eighth line, and to abandon the other parts? The first part of the section, the first eight lines, down to the word "and" I think it very important should go out of the bill.

Mr. HENDRICKS. I do not understand that part.

Mr. WILSON. By existing law the Secretary of War can discharge from the service any minor on the representation to him that he ought to be discharged. He has got the power; it is confided to him. The minor has to swear that he is eighteen years old or our officers are forbidden to muster him into the service. If we should pass this section as it comes from the House of Representatives we should have a clamor for the dismissal of men; and I have no doubt many men twenty-two or twenty-three years old would be dismissed from service under it. The previous law was so framed as to prevent that very thing. We found that persons had been mustered out of the service, and the Secretary of War had discharged as minors persons who afterwards proved to be over twenty-one years of age. I should be willing to retain that part of the section in reference to boys under sixteen years old.

Mr. HENDRICKS. I move to strike out the word "knowingly" in the ninth line; and in the thirteenth line after the word "officer" to insert the words "who shall knowingly."

Mr. FESSENDEN. Who shall knowingly what?

Mr. BUCKALEW. Who shall knowingly enlist boys under sixteen years of age.

Mr. HENDRICKS. Here is the point that I make to the Senator from Massachusetts: I think the boy ought to be dismissed from the service on considerations of public policy, if he is under sixteen years of age, whether the officer knew his age at the time he enlisted him or not. That is the ground I take. I do not want it to be restricted in this way. My attention was called to this matter yesterday. I received a letter from a very intelligent citizen of Indianapolis, informing me that without his knowledge his child under fifteen years of age was enlisted and was going down to the army of the Cumberland, and he wanted me to appeal to the Secretary of War for his discharge. I called upon the Secretary of War and he merely replied to me that he would not discharge anybody.

Mr. FESSENDEN. I suggest to the honorable Senator that he can carry out his idea, in the thirteenth line, by saying "any recruiting or mustering officer who shall knowingly muster into the service any person, &c., shall be punished."

Mr. HENDRICKS. I move to strike out the word "knowingly" in the ninth line.

Mr. WILSON. Then the section would read in this way:

That hereafter if any officer of the United States shall enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged; and such recruiting or mustering officer who shall knowingly enlist or muster him into the service, &c., shall be dismissed the service.

Mr. HENDRICKS. Yes, sir.

Mr. WILSON. I think that would be right. We should strike out all of the section down to the word "hereafter" and then take the amendment suggested by the Senator from Indiana.

Mr. SHERMAN. And strike out the word "hereafter."

Mr. HENDRICKS. Let that be included in the motion.

Mr. WILSON. Very well; strike that out too. The PRESIDING OFFICER. Does the Senator from Massachusetts so modify his amendment?

Mr. WILSON. Yes, sir.

The PRESIDING OFFICER. The amendment will be read as modified.

The Secretary read the section as proposed to be amended, as follows:

And be it further enacted, That if any officer of the United States shall enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged; and such recruiting or mustering officer who shall knowingly enlist any person under sixteen years of age shall be dismissed the service, with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

Mr. FOSTER. I move to amend by adding after the words "unconditionally discharged" the words "upon repayment of the bounty received."

Mr. HOWE. I am really very sorry to have the first part of the section stricken out. I insist upon it that the Government has no right to hold a person under the age of eighteen years, enlisted without the consent of the parent or guardian, in the military service. They are not capable of making any kind of contract by your law, and yet you allow them to make this contract.

Mr. GRIMES. We can make a law to take them.

Mr. HOWE. But all the wisdom that has gone before us has decided that they ought not to be allowed to make contracts; and here you allow them to make a contract the most damaging to themselves that is possible to conceive of, and you hold them bound by that contract. I think it is morally wrong; and then again I think it is economically wrong. I do not believe that these boys under eighteen years of age can do the duty of a soldier or earn the pay of a soldier. You, however, allow them to take the place of a soldier, to count in filling up the quota of a town or a district, and to take the full pay of a soldier. It is wrong to the Government as well as to the child and to society.

The Senator from Massachusetts says that if you do not strike out this provision persons will be discharged from the Army who are twenty-three or twenty-four years old. I cannot understand how any such consequence is to follow or ought to be anticipated. The age of a person can be established almost invariably, and the possibility that some youth can be found whose age cannot be established and proved satisfactorily ought not lead us to countenance an act of this kind. I recollect when the question of enlisting young men under twenty years of age was first mooted here in the Senate, when you decreed that you would only enlist those who were upwards of twenty, it was then said by the honorable Senator from Massachusetts, and it was said, I think, by the judgment of nearly the whole Senate, that a man not twenty years of age was not fit to serve, his constitution was not firm, was not established; he could not endure the hardships of military life, and that it was demoralizing the service to take such young men into it. I am surprised now to hear the same Senator insist upon holding men in the service two years younger than that.

Mr. GRIMES. If this were a question as to whether we should conscript or authorize volunteer of the age mentioned in this section, I am not clear but that I should vote with the Senator from Wisconsin. But that is not the question. The question here is, whether or not we will so change the law by allowing this section of the bill to stand as to deplete our Army by drawing from it such persons as may claim to be under this age of eighteen. The question, therefore, is whether we, as the representatives of the States, at this particular juncture are prepared to throw discord, as I think it would be, into the Army by declaring that from the time this bill shall pass into a law, every person who is below the age specified in this section shall be immediately discharged by the Secretary of War. I think the Senator's ideas are right as an original proposition, and that young men ought not to be enlisted until they are capable of enduring fatigue. Those who are now in the Army and under the age specified in this section have shown that they are capable of en-

during the hardships of a campaign; and I think it would not be wise in the Senate for us to declare that all those men shall be permitted to leave the Army at this time. I think, on the other hand, it was wise on the part of the Committee on Military Affairs to strike out from the House bill the section which they propose to strike out, or this part of it.

Mr. CARLILE. I do not understand that the section if adopted, as proposed to be amended, would have the effect which the Senator from Iowa supposes it would; that is, the effect to discharge persons now in the Army under the age of eighteen years. If the first part of the section had been retained it would have had that effect.

Mr. GRIMES. That is the very question that the Senator from Wisconsin was arguing about.

Mr. CARLILE. But I understand the Senate to agree to strike out the first part.

Mr. GRIMES. The Senator from Wisconsin objects to striking out this part; and that is what I was talking about.

Mr. CARLILE. I desire to accomplish the purpose which the Senator from Wisconsin has in view by allowing the first part of the section to be stricken out, and so amending the latter part as to insert "eighteen" instead of "sixteen" years; so that it will read:

If any officer of the United States shall enlist or muster into the military service any person under the age of eighteen years he shall be discharged, &c.

I propose that amendment to strike out "sixteen" and insert "eighteen." The first part of the section being stricken out, the adoption of this amendment requiring persons under eighteen to be discharged can only apply to those hereafter enlisted under this bill. This bill cannot have a retroactive effect.

The PRESIDING OFFICER. The Chair understands the Senator from Virginia to move an amendment.

Mr. TRUMBULL. We cannot pile up amendments in this way. The first amendment was to strike out the whole section; then an amendment was made to strike out a part of the section; and now we have another motion to strike out a part of the portion retained. It seems to me that cannot be done. The Senator can move his amendment at some subsequent stage of the proceedings, but it seems to me we have too many amendments now.

The PRESIDING OFFICER. The Chair is of opinion that the proposition of the committee to strike out the whole section does not preclude amendment. That has been amended to a certain extent, and the amendment is still amendable.

Mr. TRUMBULL. I understand that there is an amendment to the amendment pending now.

The PRESIDING OFFICER. No.

Mr. TRUMBULL. Then I do not understand the condition of the section. I understood the Senator from Indiana to propose an amendment to this amendment of the committee, and that has not been acted upon yet.

Mr. HENDRICKS. I think there was a vote on that.

Mr. TRUMBULL. We voted on the amendment proposed by the Senator from Connecticut, but we have voted on no other.

Mr. HENDRICKS. The one I offered was adopted.

Mr. TRUMBULL. I did not so understand it. The Secretary can ascertain.

The PRESIDING OFFICER. The question before the Senate is on agreeing to the amendment as amended.

Mr. WILSON. I think the question stands in this way: the committee reported in favor of striking out the entire section. The Senator from Indiana moved to amend to preserve the part of the section from the word "and," and proposed an amendment to that, which was adopted. Then the Senator from Connecticut moved to add other words, so that the latter clause of this section is complete now, I believe. Now the question is on striking out the first eight lines of the section down to and including the word "and."

Mr. TRUMBULL. If that be so, clearly the amendment of the Senator from Virginia is not in order, because he does not propose to amend the words proposed to be stricken out, but another part.

The PRESIDING OFFICER. The amend-

ment of the Senator from Indiana has not yet been acted upon. That is the first motion before the Senate.

Mr. TRUMBULL. I should like to know what that amendment is.

The PRESIDING OFFICER. The section as proposed to be amended will be reported.

The Secretary read it, as follows:

And be it further enacted, That if any officer of the United States shall enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged upon repayment of the bounty received; and such recruiting or mustering officer who shall knowingly enlist any person under sixteen years of age shall be dismissed the service, with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

Mr. TRUMBULL. I have not ascertained yet what the question is.

The PRESIDING OFFICER. The question is on that section as amended.

Mr. TRUMBULL. On adopting it as amended?

The PRESIDING OFFICER. On adopting it as amended.

Mr. TRUMBULL. I should like to know if the amendment of the Senator from Indiana after the word "officer" in the thirteenth line has ever been acted upon.

The PRESIDING OFFICER. That is the very amendment now before the Senate to be acted upon.

Mr. TRUMBULL. Then the question is not on agreeing to the amendment as amended, but on agreeing to the amendment proposed by the Senator from Indiana.

The PRESIDING OFFICER. There are several amendments. The question will be on agreeing to the several amendments made to this section.

Mr. WILSON. I think the whole trouble grows out of the fact that the question has not been put on striking out the first eight lines of the section. When those are stricken out, what is left is what the Senator from Indiana desires.

The PRESIDING OFFICER. That will be accomplished by adopting the amendment moved by the Senator from Indiana.

Mr. TRUMBULL. What is it? Will the Chair direct the Secretary to report the amendment of the Senator from Indiana? He has read to us the section as amended. I want to know what is the amendment proposed, if I can ascertain.

The SECRETARY. It is proposed to amend section five after the word "that" in the first line by striking out down to the word "hereafter" in the eighth line inclusive.

Mr. TRUMBULL. I do not understand the Senator from Indiana to move that.

Mr. HENDRICKS. That part of my amendment I will withdraw. We will perfect the latter part of the section first.

The SECRETARY. In line nine it is proposed to strike out the word "knowingly."

Mr. BUCKALEW. I ask for a separate vote on each amendment. We shall get through sooner in that way.

The PRESIDING OFFICER. The first question will be on striking out the word "knowingly."

The amendment was agreed to.

The next amendment was in line thirteen after the word "officer" to insert the word "who."

The amendment was agreed to.

The next amendment was in line thirteen after the word "shall" to insert "knowingly enlist any person under sixteen years of age shall."

The amendment was agreed to.

Mr. CARLILE. I now move to strike out in the tenth line the word "sixteen" and insert "eighteen."

Mr. HENDRICKS. I want to call the attention of the Senator from Virginia to the effect of his proposition. The act of February last provided as follows:

"That the Secretary of War may order the discharge of all persons in the military service who are under the age of eighteen years at the time of the application for their discharge when it shall appear upon due proof that such persons are in the service without the consent, either express or implied, of their parents or guardians."

That authorized, and I think, giving the proper construction to the word "may," directed, the Secretary of War to discharge any minor under

eighteen years of age who was enlisted without the consent of his parent or guardian. If the parent or guardian has given the consent, then between the ages of eighteen and sixteen the enlistment would be held good as we have amended this section.

Mr. CARLILE. That is exactly what I wish to avoid. The same reason that requires the discharge of one under sixteen years of age requires the discharge of one under eighteen.

Mr. WILSON. Will the Senator withdraw that for a moment to allow the question to be settled on striking out the first eight lines?

Mr. CARLILE. I withdraw it for that purpose.

Mr. WILSON. I now move to strike out all after the word "that" in the first line down to the word "if" in the eighth line.

Mr. HOWE. That is precisely the amendment that I do not want made. If these boys ought to render military service, they ought to be drafted just as much as anybody else. If you mean to hold them as soldiers, you must hold them because it is their duty to do the duty of soldiers or because they agree to it. I say you ought not to base any obligation upon their contract, for it is not the policy of the law to allow them to make contracts. They are not capable of making contracts. They have parents or they have guardians; if not, the State is their guardian; and you ought not to allow them to make such contracts. I put it to the Senate, and to the Senator from Massachusetts, that there is no possible way of proving that a person is under eighteen that does not exist for proving he is under sixteen.

Mr. WILSON. This applies to the future.

Mr. HOWE. Very well. You can prove just as well what the age of a person is who enlisted last year as the age of a person who shall enlist next year. It is the fact of age that is to be established, and the facility of proving it does not depend on the time when he enlisted, nor does it depend on whether he is eighteen or sixteen. You can prove one age as well as another.

Mr. TRUMBULL. I trust these words will not be stricken out. I cannot see how their retention is to demoralize the Army, or have any such bad effect; and I am really quite surprised that the Senator from Massachusetts does not agree to retain them. I think the Senator from Indiana is correct in his construction of the law, that it is the duty now of the Secretary of War to discharge these persons who are enlisted under eighteen years of age. I know that recruiting officers have gone out in the country, and, in their anxiety to get recruits, have induced boys to enlist without the consent of their parents, and that there has been no remedy. It has been very difficult to get those boys discharged. The Senator from Massachusetts objects to this clause because he says it will demoralize the Army, and persons twenty-five years of age will be discharged. Not at all. The law is very carefully guarded. Let me read it. The words proposed to be stricken out, it will be observed, refer to the twentieth section of the act of February 24, 1864. The twentieth section of that act is as follows:

"That the Secretary of War may order the discharge"—

The word "may" is used here, and all the change proposed is to make it "shall"—

"may order the discharge of all persons in the military service who are under the age of eighteen years at the time of the application for their discharge, when it shall appear, upon due proof, that such persons are in the service without the consent, either express or implied, of their parents or guardians: And provided further, That such persons, their parents or guardians, shall first repay to the Government, and to the State and local authorities, all bounties and advance pay which may have been paid to them, anything in the act to which this is an amendment to the contrary notwithstanding."

What must be done under this law if these words are retained in the fifth section of this bill in order to obtain the discharge of a minor under eighteen years of age? He must make an application to be discharged; he must satisfy the Secretary of War, on due proof, that he is under eighteen years of age at the time he makes his application; he must also prove to the Secretary of War that he enlisted without the consent of his parent or guardian; he must further refund all the bounty he has received, whether paid by the Government or local authorities, and all advance pay which he has received. Is it going to demoralize the Army for the Secretary of War to

do that? There ought not to be any such person in the Army under eighteen years of age when he makes the application, no matter what his age may have been when he enlisted. He must show to the satisfaction of the Secretary of War all these things before he can get a discharge; and we are told that will demoralize the Army! No such person should be in the Army, or else our laws are all wrong. I have known instances; several have come under my personal observation; I have seen in this city a gentleman all the way from my State, more than a thousand miles, who has come here with the proofs showing that his son, under eighteen years of age, had been seduced away from home and enlisted or volunteered, though the boy denied that he had ever volunteered, yet he was reported as having enlisted and gone into the service, and he could get no redress. Such things ought not to be. Our law is based upon the idea—and the Senator from Massachusetts wants it that way; he does not propose to change it—that it is disadvantageous to have in the service persons under eighteen years of age. You agree to that. They cannot get out if these words remain, unless the Secretary of War is satisfied of all these things. It is left to him—

Mr. WILSON. It is there now.

Mr. TRUMBULL. No; he does not act. He construes this to be discretionary, and he refuses to act. Now we want it obligatory on him, when he is satisfied of all these facts, when the application is made, and he is satisfied that the age of the applicant is under eighteen, and he is further satisfied that his parents and guardians knew nothing of his enlistment, and is further satisfied that the bounty and advance pay he has received is all paid back, then there is no use in holding that boy in the service. It is prejudicial to the service, and he ought to be discharged. Why not, then, let these words remain, and let him be discharged?

Mr. WILSON. I ask the Senator if in his opinion, this will not discharge minors under eighteen years of age who enlisted with the consent of their parents.

Mr. TRUMBULL. Not one, because it is provided expressly here, "when it shall appear on due proof that such persons are in the service without the consent, either express or implied, of their parents or guardians." The law is very carefully worded. It must appear that there was no implied consent for them to enlist.

The motion to strike out was not agreed to.

Mr. CARLILE. I now move the amendment I submitted a short time ago to strike out "sixteen" and insert "eighteen" in line ten.

Mr. TRUMBULL. I hope not.

The amendment was rejected.

The PRESIDING OFFICER. This section is now perfected, and the question will be on striking out the section as amended.

Mr. HOWE. I take it, of course the Senate will not strike out the whole section when they have agreed not to strike out a part. ["No," "No."]

The motion to strike out was rejected.

The next amendment of the Committee on Military Affairs was in section six, line eight, to strike out "fifty" and insert "one hundred;" so that it will read:

That section three of an act, &c., be, and the same is hereby, amended, so as to authorize and direct district provost marshals, under the direction of the Provost Marshal General, to make a draft for one hundred per cent. in addition to the number required to fill the quota of any district.

Mr. WILSON. I will simply say that under the original act the draft may be for fifty per cent. more than the amount called for. By the construction of the act of February 24, 1864, it is thought you can draft for only the number called for. Experience proves that we hold just about fifty per cent. of the men, and by drafting one hundred per cent. additional, the thing is all done at once, and a great deal is saved of the expense of traveling of the officers, of giving notice, &c., and a great deal of time is saved too, because we have to draft over and over again if we fall short. Therefore by drafting one hundred per cent. additional it was thought you would hold the number wanted, and save a great deal of time and expense to the Government and no harm would be done to anybody.

The amendment was agreed to.

The next amendment was to insert as a new section the following:

And be it further enacted, That from and after the 1st day of July, 1864, hospital matrons shall be entitled to and shall receive twelve dollars per month and one ration.

The amendment was agreed to.

The next amendment was to insert the following as a new section:

And be it further enacted, That section twelve of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, be, and is hereby, so amended that the notice to be served on drafted men may be served within ten days after such draft and at any time within six months therefrom.

The amendment was agreed to.

The next amendment was to insert as a new section the following:

And be it further enacted, That payments which have been made by paymasters to non-commissioned officers of volunteer regiments from the date of their enrollment and for a time previous to their muster into the service of the United States, shall, if otherwise correct, be allowed in the settlement of such paymasters' accounts.

Mr. HENDRICKS. I am opposed to that amendment because it is not germane to the bill. I think it is bad enough for the rest of us to throw into a bill incongruous matter without the chairman of the committee attempting to do it.

Mr. WILSON. The committee unanimously agreed to these sections a week ago, and they are on a bill now pending before the House of Representatives; but we thought we could put them on this bill and save all trouble.

Mr. HENDRICKS. Will it save taking up the other bill altogether?

Mr. WILSON. That was what I intended to do; but I will withdraw the amendment if anybody thinks it will embarrass this bill.

Mr. HENDRICKS. The objection is this: when persons examine laws and inspect them they look to the title, and do not expect to find under one title things relating to another; and they are often ignorant of the law because of this kind of legislation.

Mr. WILSON. I withdraw the amendment and all the amendments that I intended to propose as new sections, even the one agreed to.

Mr. FESSENDEN. Those agreed to are all right; but I suggest to the Senator to keep off this bill everything which does not relate to the subject-matter of the draft.

Mr. BROWN. Do I understand the chairman to withdraw those amendments?

Mr. WILSON. I withdraw them all.

Mr. BROWN. I desire to say in behalf of myself and of other members of the Committee on Military Affairs that while they have not deemed it necessary to make a minority report on this bill, and while they concur in the amendments that have been presented by the chairman, they do not approve of the bill as it stands. On the contrary, they believe that this measure, if passed in its present shape, will be fatal to the military system of the United States. I do not desire to enter into any protracted discussion of the various propositions which are embraced in the bill, because we have already considered at length most of the points involved, but I will present some considerations that I think ought to be laid before the Senate.

Sir, what is the object of this bill? Is it to raise white troops or is it to raise colored troops? If the object be to raise colored troops, then it will perhaps accomplish the end designed, but accomplish it at a far more extravagant rate than could be done under the present law. And that such will be its result whatever may have been the design must be very apparent. That section of the bill which authorizes the several Governors of the loyal States to send agents into those States declared to be in insurrection and there recruit to fill their quotas will give nothing but colored troops as that quota, and the persistency with which that feature of it is adhered to shows that that is the main point in the bill. It is to provide for changing the Army from its present form into one composed of freedmen put in as substitutes. But if you go into the insurrectionary districts and there enlist freedmen under this bill, you are required by this bill to give them a bounty of \$400. Let Senators consider, however, that under the law as it now stands, it is competent for the Government of the United States to enlist all the colored troops that it can find access to, all the freedmen in the insurrectionary districts who are

willing to enlist, and the bounty is \$100 for three years' service. Where the advantage, then, of this bill, which provides a bounty of \$400 for three years' service and a proportionate amount for any less period of actual service? I say, therefore, that if it is intended by this bill to raise colored troops, it will be a far more expensive system than the present one which we now have in operation. It is a fact that will be attested by many Senators here, that we have had petition after petition coming to us from officers in the Army now engaged in the southern States, asking for permission to recruit their regiments and brigades under the present law, and that those permissions have not been freely granted; on the contrary, it has been with difficulty that any such permits have been obtained, and the Government instead of exerting all its power, all its efforts, all its zeal to bring in this class of recruits has rather been hesitant in its action. It was perfectly within the power of the Administration to have had three hundred thousand colored troops now in the service if it had so determined and had carried out its resolution with any degree of vigor. Does then the Government now want such troops? Is the appeal which it makes to us to amend the enrollment law simply with a view of such a recruitment of our armies? Thus the first consideration of the important sections of this bill returns us upon the inquiry whether the object be to raise colored troops.

I say, then, that in view of the evident practical working of the bill now under consideration, which is to authorize the States to appoint agents to go and get from those districts which are in insurrection colored recruits who are to be put in as substitutes to fill their quota, and who, when they come in as substitutes, will be entitled under the first section of the bill to a bounty of \$400, according to the term of service, it will be a far more expensive system than if the Government were now to require its agents and officers to recruit for the Army of the United States in those districts and pay the bounty as provided by law, which amounts to only \$100 altogether. I cannot see, therefore, in what shape or in what manner this bill is going to be a benefit to the Government, and I do see how it is going to be an immense charge upon the Treasury of the United States.

But it has been argued by some in the course of informal discussions which have taken place on this subject that the bounty of \$400 here contemplated will produce white enlistments more certainly than the present law. I very much doubt this, even if the recruitment were confined to white troops. I call attention to the fact that, under the law as it stands, we provide for a bounty of \$100, and exact from those failing to serve a commutation, which is \$300. The Government has in its possession that sum also for the purpose of getting a substitute, so that the \$100 and the \$300 together give to the Government \$400 in cash, being a more effective means of obtaining a white recruit and of filling its armies through the system of bounty, than the present bill can by possibility give; because the whole amount of \$300 under the old law is to be paid down in cash in hand and the \$100 only withheld in part, whereas this bounty of \$400 proposed in the bill before you is to be distributed over a period of three years. Therefore, so far as the question of procuring white recruits from the bounty which is here spoken of is concerned, it will be impossible to get them with the same facility that we can get them under the present law.

But let us look a little more closely at the financial aspect of this new measure of enrollment and calling out the national forces. The bill as it came from the House called for a draft, and then required the Government to pay a bounty to substitutes in place of those who refused to respond to the draft. Here is the proposition which ought to be preserved as a memento of how a great nation proposes to save itself in the hour of mortal combat:

SEC. L. * * * * and any such volunteer (or, in case of draft, as hereinafter provided, any substitute) shall be credited to the town, township, precinct, or election district, toward the quota of which he may have volunteered or engaged as a substitute; and every volunteer (and substitute) who is accepted and mustered into the service for a term of one year, unless sooner discharged, shall receive, and be paid by the United States, a bounty of \$200; and if for a term of two years, unless sooner discharged, a bounty of \$300; and if for a term of three years, unless sooner discharged, a bounty of \$400; one half of which bounty shall

be paid to the soldier at the time of his being mustered into the service, one fourth at the expiration of one half of his term of service, and one fourth at the expiration of his term of service.

But the Senate has stricken the word "substitute" out, and I therefore shall leave the proposition to the ridicule of the country. The element of it, however, which proposes to reintroduce on the part of the Government a large system of bounties is one that if carried out and practicable would very soon settle all the financial embarrassments of our nation in bankruptcy. Where is this money to come from? Why do you resort to draft if you can get volunteers by a \$400 bounty? You abolish commutation, which was held to furnish the means of paying bounties for volunteers or substitutes, and provide no other mode of raising the money. Is the Treasury so flourishing that it can go on with an experiment which, if I am rightly informed, has been the real cause of present difficulties in the Treasury Department? Is it simply intended to give this \$400 to all the colored troops the Governors of the several States may get to fill their quota, and then draft white citizens without paying any bounty to make up the number of the quota that may not be quite filled? Is it that the United States shall pay \$400 apiece bounty to all the freedmen the Governors shall get into the service, and that the people of those States who thereby escape the draft shall pay nothing? That would be a shrewd dodge indeed. Let me illustrate. In Illinois the draft is enforced and furnishes thirty thousand men. It is compulsory service and no bounties paid. In Massachusetts thirty thousand freedmen are got in South Carolina to fill her quota; the United States pays out \$12,000,000 in bounties to those so-called volunteers, and no draft is enforced. It will not do to say that Illinois can do the same, because that brings you directly down to the idea on which I wish to rivet attention—that you will bankrupt the Government. Every hundred thousand men thus raised will cost you forty or fifty million dollars; and where is the money to come from, or if supplied by new issues where will be the limit to the depreciation of the currency?

I need not dilate on the question whether this clause will be taken advantage of by the States and their Governors or not. It must be transparent to every one that under so broad a provision for furnishing "substitutes" under the disguised name of "volunteers," and making the Government pay the cost of getting them, it must be transparent to every one that the States that can raise the trifling advance of money needed to secure such colored troops will promptly send their agents and draw their quota from the States that are in insurrection; in other words, that their quota will come in the shape of the enlisted freedmen of the South, and not in the shape of white soldiers. There is another grave consideration that should be reflected upon. If the quotas are to come in that shape, if all these Governors are going to run a race and these thousands of agents are going into the process of kidnapping and crimping and bribing to get these substitutes down at the South, I ask you how are you going to fill up your old regiments of white troops that are now wasting away along the lines below Richmond? Will you fill them up with these freedmen? Your regulations provide that they shall not go into the same regiments. How then are you going to fill up those old regiments? Are you going to let your white brigades waste away? Are you going to let them dwindle down to a mere skeleton of officers, and have your quotas altogether made up of this class of troops? That is going to be the effect of it in spite of all that can be done. You see all the Governors of States, all the politicians of the country, every man who is electioneering for an office, to the work of inciting the filling up of the Army quotas with this class of recruits or substitutes, to be gathered from the South; and how many do you suppose will be found among the citizens at home to volunteer when it is represented to them that for a trifling sum they can get a substitute of this kind? Will it not totally destroy all volunteering on the part of the white citizens?

Mr. President, I venture to say that if this bill is adopted it will be the most fatal blow that has yet been struck at the prosecution of this war, and the most fatal blow at the military power of the Gov-

ernment. It is not alone that you cannot put your system of drafting, as it is called, into force for forty days no matter what the emergency, but even when put into force it will prove a sham system, that simply encourages substitutes hired or caught or brought from the southern States.

Mr. President, I desire simply to vindicate the protest which the minority, if I may so call an equally divided committee, have thought proper to enter against the passage of this bill. For my own part I have stood here from the beginning of this session contending all the while that if we are to make our armies effective we must come down to the absolute draft and repeal all commutation clauses. I affirm that we have no right to sacrifice the military power of this Government to the exigencies of a political campaign, for that is the meaning of this sugar-coating. I say that I have contended from the time of taking my seat in this body that such decision is the supreme requirement of the conflict, and I have seen nothing to change my view in any of the events that have transpired or the necessities which have accumulated upon the Government. What was predicted four months since—that before this session ended you would be compelled to repeal this commutation clause—has come to pass; and now when the necessity is upon us, when we feel the need of men and not of money, when the demand comes up from the armies, amid the turmoil of lost or sanguinary battles, for the best soldiers of the land, and the recruiting of all the regiments of the different States and the filling them up to their maximum with the bone and sinew of the country, we are presented not with an intrinsically strong, compact, energetic measure, but with one that is nothing but a sham, under pretense of which it is hoped to tide over a presidential campaign.

I have given as far as able every vote that I possibly could in this assembly to carry on an energetic military administration. I propose to do so still. I am willing to-day, to assure a strong, vigorous conduct of this war, to vote money and vote men; but I am not willing to vote for a measure that produces no men such as we most need, but that spends millions of money that we have not got. Colored troops are a very valuable auxiliary force in this war, they can be put to great uses and their organization should be warmly encouraged, but it does not and the people of this nation will never consent that this war shall rest for its prosecution exclusively or even principally on their substituted valor. When it comes to that the civilized world will accept the foregoing conclusion that the struggle is ended.

Mr. President, the whole character of this bill discloses itself in the section on which I have commented, and I have therefore passed by minor matters that might otherwise claim consideration. Let me add one word, however, as to the general scope of the bill and the spirit in which it was conceived and passed in the other branch of this Congress.

I venture to say that if there be one measure which more than any other is calculated to interrupt and destroy the harmony and the confidence which during the progress of this war has existed between the eastern and western States, that measure is this one. It is known that one section of the country is poor comparatively—a newly populated section and drained of its agricultural labor by the war—the other is wealthy, with large manufacturing and other interests and dense populations; and the moment you adopt that system, the moment it is known that half the States that are engaged in carrying on this war are contributing nothing in the shape of men but are going down to procure their substitutes by purchase, then you will arouse feelings in the western States that it will be impossible for politicians or platform-makers to put down. The people of the West will feel that it is an injustice; they will feel that it is no longer a common cause; they will feel as if the gauntlet had been thrown down by the eastern or capital States to this effect, that the war if fought out at all must be fought out by their money and what it will fetch by colored soldiers alone, and not by their sons and brothers; and I tell you when that gauntlet is thrown down the men of the West will not stand to any such distribution of the burdens of this conflict. They are willing, yea, resolute to go forward as we have gone forward; but they require that we shall adopt

measures of energy, measures of equal bearing all over the country to sustain this war as they have sustained it heretofore. You must not make what will appear to them an invidious discrimination between wealth and their own contributions in the shape of men or it will arouse a sectional jealousy which may prove fatal to the cause of freedom on the continent.

Mr. President, I move to amend the bill by striking out the third section.

The Secretary read the section proposed to be stricken out, as follows:

SEC. 3. *And be it further enacted*, That it shall be lawful for the Executive of any of the States to send recruiting agents into any of the States declared to be in rebellion to recruit volunteers under any call under the provisions of this act, who shall be credited to the State, and to the respective subdivisions thereof, which may procure the enlistment.

Mr. GRIMES. If the Senate should decide not to strike that out, will the section be susceptible of amendment?

The PRESIDENT *pro tempore*. It will, in the opinion of the Chair. It can be amended before or afterwards.

Mr. SHERMAN. I wish to vote with the Senator from Missouri, but I think if he will allow the section to be modified in the way that I propose it will carry out his views.

Mr. BROWN. Certainly. I will withdraw the motion temporarily.

Mr. SHERMAN. I do not ask it to be withdrawn unless the amendment meets his views. I propose to make the section read in this way:

That it shall be the duty of the President to send recruiting agents into any of the States declared to be in rebellion to recruit volunteers under any call under the provisions of this act, to be organized, armed, and equipped as United States volunteers, according to existing law, and who shall receive the pay, bounty, and pensions provided for other troops in the military service of the United States.

There are a large class of people, both white and black, in the southern States who ought to be enlisted. They have not had opportunities to enlist in many cases, because the authorities would not or could not afford them proper facilities; but as we now propose to give them large bounties I have no doubt they can be enlisted and mustered in as United States volunteers.

Mr. BROWN. That is just what I want, and I will accept the amendment.

Mr. HENDRICKS. I ask the Senator from Ohio if the President has not that power now.

Mr. SHERMAN. He has power to pay a bounty, but it is limited to \$100. By the first section of this bill the bounty will be increased very largely.

Mr. WILSON. The President now has all the power embodied in the amendment.

Mr. SHERMAN. Except the power to pay the bounty.

The PRESIDENT *pro tempore*. The Chair will state that the Senator from Missouri proposes to strike out this section, and the Senator from Ohio proposes to modify it in a certain way.

Mr. BROWN. I accept the modification of the Senator from Ohio.

The PRESIDENT *pro tempore*. The Chair desires to call the attention of the Senator from Missouri to that point. It is not in his power to accept a modification of a bill before the Senate without a vote of the Senate.

Mr. BROWN. I suppose I can withdraw my motion.

The PRESIDENT *pro tempore*. The Senator can withdraw his motion to strike out.

Mr. SHERMAN. It is not necessary to do that. I can move to amend before the Senator's motion is put. That will end the matter perhaps.

The PRESIDENT *pro tempore*. That can be done.

Mr. SHERMAN. I move to strike out in the second line of the third section the words "lawful for the Executive of any of the States" and to insert the words "the duty of the President;" in line four to strike out the words "under any call;" and then in line five, after the word "be," to strike out the residue of the section in these words, "credited to the State, and to the respective subdivisions thereof, which may procure the enlistment," and insert "organized, armed, and equipped as United States volunteers according to existing law, and who shall receive the pay, bounty, and pension prescribed for other troops in the mili-

tary service of the United States. The section will then read:

That it shall be the duty of the President to send recruiting agents into any of the States declared to be in rebellion to recruit volunteers under the provisions of this act, who shall be organized, armed, and equipped as United States volunteers according to existing law, and who shall receive the pay, bounty, and pension prescribed for other troops in the military service of the United States.

Mr. WILSON. I will say a word or two in explanation of this section of the bill from the House of Representatives.

In the early part of the session, believing it to be of great importance to enlist into the service of the United States the poor white men of the rebel States and also the black men, believing that we could raise thousands of these poor white men and tens of thousands of black men by interesting the people of the States who have raised nearly all the soldiers raised during this war in their enlistment, I proposed this measure. I proposed it because I believed it would weaken the enemy and give strength to our country; that it would be for the benefit of Union men in the rebel States who were poor and oppressed, and that it would bring into the service tens of thousands of colored men whose labor was now used in support of the rebellion.

Last autumn, when the Government was doing very little to raise colored troops, although they had been authorized from July, 1862, an earnest, determined man went before the people, raised \$60,000 in money, and went into the State of Tennessee and some other parts of the country and organized sixteen regiments and put them into the service of the United States, and not a man of those counted to the people who had contributed the money, and the man who raised them gave all his time and spent several thousand dollars besides. I believed that the men who were in favor of raising this class of troops and who would give money to do it would be further encouraged by allowing the men they raised to be credited to the community that made the contribution. I never dreamed that it would excite one portion of the country against the other, but I supposed that the patriotic men of all sections of the country would hail and welcome every man raised by the labor or the money of any section or portion of the loyal States. I believe that if such a proposition as this had been adopted six months ago it would have put at least one hundred thousand men into the service of the United States who have not been put there. I know it would harm no section of the country; it would weaken no section of the country. It might excite some prejudices, but they would be prejudices that would be excited for no reasonable cause.

When I made this proposition here it received but little support in the Senate, and it went over. I hoped that there would be a change of sentiment and that the measure would yet receive the sanction of the Senate. But, sir, a member of the House of Representatives, a major general in the Army of the United States—I mean General Blair—the Representative of a State west of the Mississippi river, came to me and asked for the bill. He took the bill, made such modifications in it as he saw fit, and offered it in the House of Representatives. A gentleman from Ohio, who himself had been a major general in the service of the United States and who had raised troops, said the first white troops raised in Tennessee were refugees from Alabama, and when that bill was pending he said it was the most important measure to strengthen the country that had been proposed in the House of Representatives. He might have erred in judgment, but that was the opinion he expressed. The House of Representatives passed the bill by a vote of about two to one. The Military Committee of this body reported in favor of it, and I have tried to obtain a vote of the Senate upon it, but never brought it up at any time when it appeared to me I could get a majority of the Senate for it; and so it has passed on from that time to this.

This very principle in other language has been embodied in this bill by a vote of the House of Representatives. It is here before us to-night, and we must pronounce upon it. The Senator from Missouri thinks it will be a source of weakness. If I thought so I would vote against it. I do not think so. I see no reason why any man should object to it. I see this: that although the

Government of the United States wants men we have raised but very few colored men since the 1st of January last. There are some reasons why we do not. In the first place this long, long dispute about the pay of these soldiers has kept tens of thousands of them, in my judgment, out of the service. Then the barbarities of the rebels, their cruelties, which we cannot protect these men from, have doubtless deterred many of them from enlisting; and then comes this fact, that the Federal Government is a very poor agent to enlist men. That is my judgment about it. Although we have our provost marshals up and down the country, nineteen twentieths of the men enlisted are really enlisted through the influence of the people of the localities of the men, of the wards, the towns, the districts, and not by the positive toil and labor of the national Government officers. That is the truth about it. We all know it. They are doing and have done but very little to raise colored troops during the last six months. I think we could have had, and ought to have had, a quarter of a million of them in the field; and if we had we should have no occasion for this bill, no occasion for any change of our laws. We have in the service many thousands of them now. They are probably not increasing, and have not increased in four or five months. They are holding important points. They are doing duty faithfully. If this section remains in the bill the people of the cities, towns, counties, and States will use their influence to enlist white men and black men everywhere they can find them, putting of course the black men into black regiments and the white men into the regiments already in the field. I think that provision will put a great many thousand men into the Army.

But now I come to another point. We have so amended this bill that when the President issues a call for troops these volunteers must volunteer in forty days. If the quota is not filled up in forty days, then the President is directed to make a draft to fill up the balance, and when the men are drafted they have ten days to report by themselves or by substitutes, the commutation clause being abolished. They have but ten days to do it, and they must report themselves or report by substitute in that time, and of course they have no great time to search the disloyal States for any class of men. I think that this section, which I understand has a very earnest and strong support in the House of Representatives, if it is permitted to remain in this bill, will add many thousand men during six months to the military force of the United States, and it will relieve to that extent a class of men in the country necessary to its productive industry.

Mr. GRIMES. We are at length, Mr. President, in one of the very last days of the session, approaching the consideration of the most momentous subject that has been or that can be considered during this session of Congress. We are to determine to-night, or at any rate while we consider this bill, whether or not the treasure that has thus far been spent and the blood that has hitherto been spilled in this controversy are to be wasted and sunk into the ground, or whether they are to accomplish the purpose that the country desires; that is, the restoration of the Union. We are, in a word, to decide whether or not we are to have an army, or whether we shall suffer the forces that are now in the field to be frittered away, to be devastated by war, and nothing be substituted in the place of the men now standing in the ranks.

Mr. President, the bill now under consideration as it came to us from the House of Representatives is a most extraordinary one. I confess that I never was called upon to pass a judgment upon a bill that so much surprised and perplexed me. It would be exceedingly difficult for me to determine in whose interest the bill was designed to be passed into a law. In my conviction, if enacted into a law as it was presented upon our tables, I agree perfectly with the Senator from Missouri there would not be a single white soldier added to our Army under it, and probably very few colored soldiers.

I need not say that I have always been opposed to commutation for military service. I have believed that every citizen of the country owed his property, his service, and his life to the country if it was necessary, and I have always there-

fore steadily voted against commutation. The Senate passed a bill that was tolerably acceptable, I believe, to those who have entertained the views that I have entertained on that subject, and sent it to the House of Representatives. It has come back in the shape in which it now stands upon our table; and one of the provisions which now is under consideration the Senator says is recommended to us from the fact that it was proposed by a member, I believe, from a slave State and adopted at his instance. If that be so, the whole bill is commended to us upon the same consideration, for I understand that the whole bill was drafted by him.

Now, what was the bill as it stood when we commenced acting on it? It declared that any person who might be drafted under its provisions might furnish a substitute; that that substitute should, if he were enlisted for one year, be paid \$200 bounty, for two years \$400 bounty. The third section, that being the section now under consideration, allowed recruiting from the rebel States of colored men. I suppose that if the man who was drafted in the State of Massachusetts or Iowa could go to Louisiana or Mississippi and find the man who claimed the title to a colored man there, he could get a fee simple title to him for fifty dollars. All then that would be necessary for him to do under the provisions of this bill, which is thus commended to us as having been drawn by a gentleman from a slave State, would be to enlist this man to the service, the title to whom he had secured for fifty dollars, draw his \$400, and make \$350 by the operation. That is the bill which is commended to us as having been drawn by a member of Congress from a slave State!

I do not propose to enter into a criticism at this time of various other sections of the bill other than the third section now under consideration. This section as it now stands authorizes the Executives of the several States to send recruiting agents into the States in rebellion, there to recruit colored men with which to fill up the quotas of their own States. I object to that. In the first place, I believe it is an inhuman provision. I do not doubt that by some State Executives it may be properly exercised; but are not the transactions last autumn in the city of New York fresh in the recollection of the Senator from Massachusetts, the chairman of the Committee on Military Affairs? Do not you remember that it was impossible for a gentleman to send his butter to the market, and that man not be captured, and the first thing that the master would know of his servant he would find him with a uniform on at Riker's island? Are you willing that Mr. Seymour, or some of the other Governors of States, shall send their emigrant-runners down into Mississippi, and that there upon common ground, within the lines of your armies, there shall be a cloud of emigrant-runners, of these recruiting officers, each contesting and appealing against the other attempting to secure recruits to fill up your quota? How will it affect your quartermaster's department? How will it affect the men in your commissary department? Do you suppose it will be possible for you to secure laborers? It is complained constantly that we are not recruiting as many colored men into the ranks of the Army as we ought. I am told by those familiar with the subject that we have a very considerable army. I think the Senator from Massachusetts said we had one hundred and fifty thousand of them the other day.

Mr. WILSON. That was a misunderstanding, I think. I said I thought we had one hundred and forty or one hundred and fifty thousand in the employment of the United States, about eighty or ninety thousand of them being soldiers, and the rest laborers in the quartermaster's department and commissary department. We have a great number there, but less than we want. I was told by the Secretary of War the other day that he would be glad to get forty thousand of these men as laborers.

Mr. GRIMES. That was just the point I was going to come at. I am told by officers of the Army who are familiar with the subject that there are as many men in the employment of the medical department, of the quartermaster and commissary and ordnance departments of the Army as there are enrolled in the regiments; that there are somewhere in the neighborhood of ninety thousand men thus enrolled; and that there is not more

than half enough to supply the demand for laborers in these various departments. Now, would it be wise, I ask Senators, to allow the Governor from my State, from Ohio, and from the various other States to send their agents down within the lines of the Army and there, without any restrictions—for this section does not even declare that this recruiting shall be done under the superintendence or in accordance with the rules and regulations to be established by the Secretary of War; the power is put completely in the hands of the Governors; there is no power reserved anywhere to regulate the manner and the terms on which this recruitment shall be made—will it then, I say, be discreet and wise for us to authorize the Governors of these States to go down within the lines of your Army, and there to use all the blandishments, all the threats, all the oppressions that these agents choose to use in order to procure recruits to fill up the quotas of the respective States? It occurs to me that a more wild and suicidal, and I would say ridiculous scheme could not be devised. I trust that it is hardly necessary for me to pursue the subject further. I judge from the countenances of Senators around me that all are prepared to vote for striking out this section, or else to vote for the substitute proposed by the Senator from Ohio.

Mr. TEN EYCK. I wish to say in a word that I shall vote for the amendment proposed by the Senator from Ohio. There have been many important considerations urged in its favor, and I shall not recapitulate them. There is, however, one consideration that presses itself upon my mind, and that is the national honor. I believe there is such a thing yet left as the national honor. The purpose of this section, if I understand it, or at least the effect of it, will be to fill up our armies in the time to come entirely, or almost entirely, with black men, and to enable the white men of the North to remain at home in the pursuit of their ordinary business, some to devote themselves to their merchandise, others who may have bought yokes of oxen to work them, and others to marry wives, and all to grow rich by the increase of prices under the necessity of the times. Why, sir, under the circumstances growing out of this war and the increase of prices, there is scarcely a man in business, in agriculture, merchandise, or pursuing any of the industrial active pursuits of life, who in one week, if not in one day, cannot make money enough to purchase some half dozen of these substitutes, or to furnish means to acquire half a dozen of these substitutes.

I will not say, as the Senator from Missouri has said, that this will be likely to lead to kidnapping, but I fear it will lead to the enactment of the ancient disgraceful scenes over the auction block, which have brought infamy and disgrace on this country abroad. I fear if the loyal, patriotic white men of this country are to be left at home in the pursuit of their lawful money-making business and the battle is to be finally fought by colored men exclusively, that battle which we expected to have been won will be lost and our credit and our character sullied forever.

That, sir, is one of the reasons why I shall support the amendment of the Senator from Ohio, national honor being involved in this question, and shall oppose the third section of this bill as proposed by the Senate Committee on Military Affairs.

Mr. SPRAGUE. Mr. President, before there is further discussion I desire to state a little of the history by which this bill has been thrust in its present state upon the Senate. I cannot sit in my seat here, as one of the Military Committee, and be charged with having given my consent to its being presented in the form in which you find it. If I understand it correctly, at any rate so far as my information goes, this bill was taken up this morning in that committee, and received but a slight attention. There was an earnest dissent from almost all its provisions expressed, I think, by almost every member of that committee, but by the courtesy of the committee it was permitted to lie over and to go to the authorities, and there receive some investigation, with the understanding that it was, to-morrow, to be discussed by the committee. This afternoon a very few of the members of the committee were taken together, and amendment proposed to it putting it in its present shape, and here we have it before the Senate.

Mr. WILSON. I hope the Senator will allow me to say a word. I am surprised at such a remark as that.

The PRESIDENT *pro tempore*. The Chair will suggest that it is out of order to refer to the proceedings of a committee.

Mr. WILSON. Not only is it out of order, but it is not true.

Mr. SPRAGUE. I beg the Senator's pardon if I am out of order, or if it is not true.

Mr. WILSON. It is not true nor just.

Mr. SPRAGUE. But, sir, here is one of the most important measures coming before the Senate stamped with the approval of the Military Committee, by a majority of them, when if I am correctly informed it does not come with their assent. It may come with their tacit assent. I have no doubt the chairman of the committee feels that he has their assent, and felt it when the question was presented. I have no doubt of that. But, sir, when a measure so important as this to the interests of the country, so important to the interests of the military service and to the cause, comes before the Senate, and the members of that committee receive the strictures by which Senators have met the bill, I cannot rest in my seat without at any rate suggesting to the Senate the manner in which it has been presented.

Mr. WILSON. I am rather surprised at the statement made by the Senator from Rhode Island. I dare say the Senator wishes to put himself right and to do injustice to no other member of the committee, but he has certainly done so in the remarks that he has made. I know that it is hardly proper to speak of what took place in the committee. I will say, however, that the bill came up and no vote whatever was taken upon it and no expression of opinion that would indicate precisely how the committee would vote, if a vote did take place. There were Senators who expressed themselves against it, others expressed themselves against it unless amendments were made. It was thought best that this bill, so important to the country, should have a careful examination, and that the War Department should see the bill, and we should hear any suggestions that might be properly made from the Department. I left my place in the Senate to-day, which I very seldom do, because I was pressed up from all quarters; everybody said we must act on this measure at the earliest moment; and I went to the War Department, and my name stands upon the record as being absent on a vote to-day, and that is a thing that rarely takes place in the Senate. I read the bill to persons whom I knew understood something about this matter; the points were discussed over; and I marked them down. I came back to the Senate and proposed to members to hold a meeting of the committee this evening at six o'clock in order to pass upon it so as to bring it in this evening. It was suggested by the Senator from New York [Mr. MORGAN] and the Senator from Indiana [Mr. LANE] that we had better act promptly and hold a meeting then. I looked about the Senate. The Senator from Rhode Island was not present; but the Senator from Missouri, the Senator from Indiana, the Senator from New York, and myself held a consultation in the committee upon this bill, all who were present or could be found about the Capitol, and the amendments that have been proposed to-night were the result; and I think everybody will admit that they were generally improvements, for they have been generally sustained.

Mr. BROWN. I suppose the Senator does not mean to imply that I assented to the bill?

Mr. WILSON. No, sir; but I say a majority of the committee reported these amendments, and the Senator concurred in the amendment, but said he was opposed to the bill.

Mr. BROWN. Yes, sir.

Mr. WILSON. The Senator from New York, the Senator from Indiana, and myself reported in favor of the bill, being a majority of the committee present. If the Senator from Rhode Island had been present at the meeting, and I am sure I should have been glad to have every member of the committee present, the vote would have been the same and the bill would have been reported. There was no effort made by any member of the committee to take a snap judgment, but an honest desire to get the best measure we could, and to consult those who would have the administration of it to some little extent, and to get the matter

at the earliest moment before the Senate on account of the pressure of business.

Mr. CONNESS. It is hardly in accordance with the rule adopted this evening—a very good one—by the Chair to discuss all these questions, and thus keep us until twelve o'clock before we can come to a vote. I should like to make a speech, but I cannot afford it, and do not think the Senate can afford it.

Mr. POWELL. Mr. President, it is not my purpose to detain the Senate more than a very few minutes. I wish very briefly, as I intend to vote against the third section of this bill, to assign my reasons for it.

I do not think there could be introduced into the laws governing the military service of the country a section more disastrous to the service than the one under consideration. I very fully concur with Senators who have spoken against that section. The section authorizes the Executive of any State in the Union to send agents into any or all the States declared by proclamation of the President to be in rebellion, and there to recruit from white persons or black persons men enough to fill their quota. In my judgment it is manifestly wrong to allow any State in the Union to go into the rebellious districts for the purpose of filling its quota. There is but one equitable and just mode in which this thing should be done. Each and every adhering State in the Union should be required to fill the quota allotted to it out of its own population. If you pass this section the result will be that the men of the western States, most of whom have filled their quotas heretofore by volunteering, where no draft has been executed, that are rich in men and patriotism, but not so rich in money as other older States of the Union, will be fighting the battles of the country alongside of negroes that are purchased by recruiting officers from the rich, wealthy northern States, from the cotton, sugar, and rice plantations of the Carolinas, and Louisiana, and Mississippi. That is not right.

If we go into the rebellious States for the purpose of enlisting men in the Army they should be credited to the United States and to no particular State. It would be manifestly unjust that they should be credited to any one State, for the reason that many of the western and northwestern States have not got the money, even if they chose to do it, to go down into that region of country and buy men by giving high bounties to take the place of their own citizens. It would be highly demoralizing, as has been fully stated by the Senator from Iowa, the Senator from New Jersey, and the Senator from Missouri.

The true and equitable principle, and the only one that should obtain is, that on each call that is made upon the people of the State, when a proper and just allotment is made, each State should furnish its number from the people that are resident within that State. Massachusetts, New York, or Connecticut should not be allowed to go into any other State of the Union for the purpose of filling up their quotas. The people of Wisconsin, Minnesota, Kentucky, Illinois, or Indiana should not be allowed to go beyond their borders to recruit soldiers to fill their quotas. Each State out of its own population should fill its quota. That is the only equitable mode in which the burdens of this war can be equally distributed among the people. Then, if you go outside, in these rebellious districts, to recruit one hundred thousand or ten thousand or one thousand or any other number of men, when you come to make the next call you will want that many less men, and consequently the draft will fall lighter upon every State. If you obtain one hundred and fifty or two hundred thousand men in the rebellious districts, when you come to make your next call on the States you will want that many less men from the States. Credit that two hundred thousand or whatever the number may be that you enlist in the rebellious States, and then make your call upon the States for the balance that you need, and then it will fall upon each State equally and equitably. There can be no doubt that there is no equity in this proposition.

But, sir, if you allow the States that have great wealth to send their enlisting officers and their ten thousand agencies into the rebellious States for the purpose of enlisting those persons you will find that every description of fraud and wrong will be committed. You will by that means not

only get inferior soldiers, but there will be very great prostitution in procuring them. We all know the kind of villainous frauds that have been committed in the city of New York lately by this description of agents. They seized men, drugged them, made them drunk, and took them to the recruiting stations for the sake of procuring high bounties. Some of them were utterly unfit for the military service. I saw it stated in the journals of that city that gray-headed men had their hair dyed or painted to give them a youthful appearance, and they were taken into the service and the bounties paid, and they would be utterly worthless as soldiers. In my opinion, the same sort of practices will be carried on under the third section of this bill.

Sir, I do not believe that the negroes you will obtain from the cotton, rice, and sugar plantations of the South will be as good soldiers as the white men of the North, the South, the East, or the West. I am utterly opposed to a policy that will allow a few of the wealthier States, in consequence of their having money, to go there and put that description of population into the Army for the purpose of filling up their quotas, when the brave gallant West will have to give their own sons to the strife. Sir, it is not right. If you do that you will have an Army that will be worthless. If I wanted to aid this rebellion I would vote for that section, for by it you will get a worthless Army. Who believes that these poor degraded negroes would make soldiers equal to the white men of New York, Massachusetts, Indiana, or Illinois? No man believes it.

It will be seen that if you adopt this section, and these States go down there with their money bags to buy these people into the ranks in order to take their own population out of the strife, you will make the burdens fall harder upon those States that fill their quotas by giving to the Army their own children. Some of the rich States of the North, instead of having their own sons in the ranks, will have them filled up by these miserable negroes, and they will be brought to fight alongside of the gallant men of Illinois, Indiana, Wisconsin, Minnesota, Kentucky, and other western States. You may rest assured that the regiments coming from those rebellious States would never be put in the front. They have always been kept back. A good general never puts a worthless soldier in the front when the enterprise is hazardous and desperate. No, sir; the whole burdens of this strife will fall upon the flower of the western youth. It will be so with the States of Pennsylvania and New York and those States that send their children into this war; they will be slaughtered, while the sons of other States, who fill their quotas with hired substitutes and miserable negroes, will not be in the strife at all.

Sir, it is a monstrous proposition. It is one calculated not only to weaken the Army and destroy the efficiency of the military service, but it is unequal, iniquitous, and unjust to the States. In no aspect of the case can I be induced to vote for any such proposition. It is not my purpose to detain the Senate. I know it is getting late, and I desire a vote on this question.

Mr. McDUGALL. Mr. President, it is some time since that I became somewhat sick of the discussion involving the subject-matter now in controversy. I cannot please myself with the pleasant reflection that perchance I might be able by such remarks as I might address to this Senate to maintain any conclusion, no matter how clearly in my own mind's eye that conclusion was justified by the strictest rules of right or the severest rules of logic. But, sir, as I have an office here I am not willing that grave matters shall be gravely disposed of as it is supposed they will be in a grave Senate, unless, when I think them utterly wrong, they have at least the protest of my voice.

Mr. President, power is exercised in multitudinous forms. Power is often expressed by the term tyranny, where it is unjustly and wrongfully exercised by one or many as against the multitude. Probably the highest and most particular exercise of the power of the tyrant is where he closes the portals of the mouth, where he shuts the ivory gates through which man communicates with his fellow-man; where, without the aid of art, man mingling with his fellow-man, they learn from each other, and by mutual contact they become wiser and better and stronger. Perhaps the

next exercise of tyranny is that when power is exercised to prevent the use of that great communication between man and man which art furnished to us in the fourteenth century and to which we claim ourselves to be indebted for our modern civilization—that we shall not print or write to each other. But of all tyranny that tyranny is the greatest, that tyranny is the most terrible, that tyranny is the most fearful, that tyranny which has more to do with trampling down men and nations than any other, is the tyranny of force asserted in the name of liberty; where that sacred name is invoked that it may command the sword; where that name is invoked that it may command legislation, and where it can control men in the name of liberty.

In the history of nations there has been nothing like such legislation as we have had and as is now proposed, this being part and parcel of the whole. In the name of liberty we are wielding a power to compel, subjugate, and destroy a race of men. What does this third section mean? And allow me to observe that I am opposed to the section and its amendment. In the name of liberty, it provides—

That it shall be lawful for the Executive of any of the States to send recruiting agents into any of the States declared to be in rebellion to recruit volunteers under any call under the provisions of this act, who shall be credited to the State, and to the respective subdivisions thereof which may procure the enlistment.

What does that mean? The language might be considered ambiguous out in the timber; it might not be understood in the Caw nation; the Sioux might not understand it; there might be some doubt about it in the Territory of New Mexico; but no man here can dare to say that he misunderstands it. Translated into a more direct vernacular it means simply this: any State may send an agent into the States in rebellion and may engage the negro population, and put them under arms, and being placed under arms, that State shall be credited with them. That is a simple statement of the proposition, naked and bare, as it was designed, as it cannot be disguised; and the section does not even disguise it except as to how the matter shall be credited. In the name of liberty, then, by virtue of the power that we possess as legislators, the President as the Executive, the Commander-in-Chief of our armies, with generals, colonels, captains, lieutenants, and corporals, Ohio men, Massachusetts men, New Hampshire men, New York men, Pennsylvania men, Illinois men—I will not say California men because we have no occasion of the kind—are to go and find in the South negro laborers in the field to take the place of the men whose office it is to fight the great battle of the North. Those negro laborers are to be made the sacrifices. Is it true that upon us sins have so accumulated that we have to find some special subjects for sacrifice, that you are to make hecatombs of all the negro population of the South by withdrawing them from their present position and placing them in the front of battle to maintain the liberties won by our fathers in the noble fields of the Revolution?

Mr. President, I must say to you and to all Senators that this kind of legislation degrades the great North. A better, nobler, braver race of men never occupied a portion of the round world than the people of the free States of this Republic. They have upon a hundred battle-fields poured out their blood like water. They will do it to-morrow, when the drum sounds the call or the bugle its notes; they will do it to-morrow a month; they will do it to-morrow a year; for I am one of those who hold that the Union must be reestablished. I have always asserted and shall always try to maintain it. But I say we degrade the dignity of those men to whom belongs the business of war and battle by such a proposition as this. The proud pine trees of Maine will crouch their heads in shame, the tall trees that grace the green hills of Vermont will bend their heads to think that sons of theirs are not able in an honorable, manly, self-relying fight to maintain the integrity of the inheritance of their fathers.

This may be called mere declamation; this may be called valueless discourse. Underlying all this common talk are sentiments that belong to the great heart of the nation. I think I am somewhat akin to that great heart, and as it pulsates I think my heart pulsates. I think this prop-

osition to bring, in place of the true men of battle, persons not legitimate to the field, to substitute for the men who are bound to conquer, if conquering we shall ever be, persons of whom we know nothing, men who have been servile all their lives, of a race foreign to our own, not intelligent, and whom we, in the name of liberty, have undertaken to maintain—such a proposition is as false as that for which Nathan, if I remember history correctly, rebuked David.

Do you propose to exterminate the black race? If that be the proposition, if that be the policy, let it be avowed. I can consider that there will be some philosophy in that; let it be avowed; but do not, in the name of liberty, indulge in a tyranny by bringing forward these people from whom you propose to strike the shackles that now enchain them, and putting them in the front of battle to fight out the great cause in which we are engaged, the suppression of the rebellion. Sir, I say it is absolute tyranny, and a tyranny exercised in the name of liberty. How false, O ye gods!

The PRESIDENT *pro tempore*. The question will be upon the amendment submitted by the Senator from Ohio.

The amendment was agreed to.

Mr. SHERMAN. I now submit the amendment of which I gave notice this morning. It is to insert the following as an additional section:

Sec. —. *And be it further enacted*, That for the purpose of paying the bounties and of enforcing the draft provided for in this act, there be levied and collected, in addition to the duties imposed by law, a special duty of ten per cent. on all incomes exceeding \$600, accruing during the year 1864, which duty shall be assessed and collected in the mode and according to the provisions, penalties, and restrictions provided in the act approved —, entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes." And this duty shall be payable on the 1st day of October next, and the Secretary of the Treasury is authorized to prescribe such rules and regulations as to the time and mode of assessment as will secure the collection of this special tax.

Mr. President, I regret as much as any man can the necessity of proposing so large a tax upon our people as this amendment now proposes; but I do think that the first section of this bill proposing a new system of bounties, in the present state of our finances, is mere madness. I cannot characterize it by any word less marked or less distinct. The idea of proposing to raise troops at this period of the war by a system of bounties ranging from two hundred to four hundred dollars, when gold is at 250, when loans cannot be had, without any provision for raising this money, is the wildest legislation I have ever known in any legislative or deliberative body. I cannot characterize the action of the House of Representatives in this respect in any milder language.

I have no objection to the system of bounties if we provide the money to pay them, but there is no money to pay them unless we provide additional taxes to meet them. I believe that nearly all our financial distress and trouble at this moment has arisen out of the system of bounties inaugurated at the beginning of the present session. We were able to raise and keep very large armies in the field by the aid of State, local, and city bounties. But when the Government of the United States, in addition to the expense of paying, arming, equipping, and clothing our soldiers undertook to pay these large bounties, it undertook more than it could accomplish. I offer this amendment with a serious determination to press it and make it a part of this bill.

I believe, even if we do not insist upon this large system of bounties, that an additional war tax will be a wise measure at the present time. It is a measure not novel. It has been adopted in many other countries. England has several times adopted a special war tax for one year only; and this is for one year only. The income tax raised during this year is three per cent. on incomes between \$600 and \$5,000, and I believe five and seven and a half per cent. on incomes above that amount. This amendment proposes to levy a special tax of ten per cent. on all incomes. It is a very severe tax; but I believe it is better for our people to pay this money than to embark in any more debt.

Besides, this tax will fall on a class of people who will not volunteer, and who, if drafted, will hire substitutes. The men who pay the tax on incomes exceeding \$600 are the men who are able

to pay taxes; they are the men who are not found in the ranks of our Army; or if they are found in the Army they are found in the condition of officers. The great body of our Army is made up of laboring men who have no fixed incomes, and therefore do not have to pay any portion of this tax. The tax will only fall on those who have accumulated property, and who therefore have the means to pay it. I believe it will equalize the burdens of the war as well as can be done in any other way.

If it were not for the difficulty of adjusting our system of duties on imported goods to meet it, I would propose an additional tax on manufactures; but a tax cannot be imposed on domestic manufactures without revising the tariff and making modifications which we are not now prepared to do, and there is no other immediate source of revenue out of which these bounties can be paid, unless it be from incomes. I do not know any other article that will bear an increased rate of taxation.

Mr. HENDRICKS. I believe the people of the United States can bear perhaps as heavy burdens as any people on the face of the globe; but there is a limit to their ability to pay. I speak now especially for the people that I, in connection with my able colleague, represent in this body. We are cut off for the present from a southern market, and have exceeding great difficulty in transporting our heavy and bulky productions to the eastern markets; and under the circumstances I would regard the proposed tax of the Senator from Ohio as exceedingly oppressive.

But, sir, I think there is a constitutional objection to the amendment proposed by the Senator from Ohio which he cannot meet. The first clause of the seventh section of the first article of the Constitution provides:

"All bills for raising revenue shall originate in the House of Representatives."

We cannot originate a revenue bill here. The bill under consideration is not a bill to raise revenue. It is a bill to amend the conscription law, a bill regulating the bringing of forces into the field, and not at all a revenue measure. Is it possible, when we have in this body a bill upon one subject coming from the House of Representatives, it is competent for us to tuck to that a revenue measure, a very important revenue measure indeed, a revenue measure that I had almost said was not equal upon the people? If this can be done, then may we very well and successfully evade the provision of the Constitution of the United States. It was intended by the framers of the Constitution that when the people are to be taxed that tax shall first be considered by their immediate Representatives, the men whom they elect, and that the Senate, elected by the Legislatures of the States, shall not originate a tax upon them. It seems to me the objection is conclusive against the proposition of the Senator from Ohio.

Mr. GRIMES. I wish the Senator from Ohio would withdraw his amendment until I could offer as a substitute for the bill now under consideration the bill which was adopted by the Senate a few days ago on the same subject. It will be observed that the House of Representatives did not choose to act upon the bill which we sent to them in regard to conscription, but adopted an independent proposition of their own; entirely ignoring the one which we sent to them, and thus we get no committee of conference, which I suppose they desire to avoid. I should like the question put fairly and squarely upon the bill which we sent to them; let them have an opportunity to vote for it or to vote against it; and then if there is a disagreement between the two Houses let those questions of disagreement go to a committee of conference. In this way we shall obviate this new question that is going to be thrust upon this bill of attempting to raise revenue with which to defray these bounties.

Before voting on the proposition of the Senator from Ohio, I should like to be able to cipher a little in regard to it. I should like in the first place to know how much this tax will raise if we adopt the proposition of the Senator. According to my recollection the amount that will be appropriated under this bill for three hundred thousand men would be \$120,000,000. Does the Senator expect to get enough by the imposi-

tion of an income tax of ten per cent. to pay off these bounties amounting to \$120,000,000? I apprehend not. Where is the balance of the money to come from?

Mr. SHERMAN. It shows the madness—I cannot use any other word—of the House of Representatives in this period of the session proposing to us to raise bounties amounting to more than a hundred million dollars. I do not know any way to meet that sum except by issuing more paper money, and thus more and more derange our financial system, or by levying taxes. I do not know any source of taxation except upon incomes now open to us.

I examined the point raised by the Senator from Indiana. I am satisfied the Senate have the power, under the power to propose amendments, to say they will not agree to the proposition to appropriate this money except by adding a special tax to meet it. Two or three cases of that kind have occurred already in our history. I am not prepared now to give the Senator the precedents; but I am informed it has been done in two or three cases. One case occurred during the Mexican war when a tax proposition was added to a loan bill. At any rate, this point can only be raised by the House of Representatives as against the Senate. There is no doubt that the Senate, under the power to amend, might insert any kind of an amendment on a House bill. The House might object to the amendment of the Senate, and might defeat it on the ground taken by the Senator.

Mr. HENDRICKS. If the House agreed to our tax would it be a revenue bill originating in the House of Representatives?

Mr. SHERMAN. Then that point could not be made. It would be a tax by the two branches of the Government.

Mr. HENDRICKS. We have individually to meet the point.

Mr. SHERMAN. I say it has been met already. It is true, we have no right to originate a bill raising revenue, but we have a right to propose amendments to any bill. This is a bill providing for the payment of a large sum of money, and I think we can add to that a mode of raising that money.

Mr. GRIMES. I agree fully with the Senator from Ohio as to the folly of the bill that comes to us from the House of Representatives at this stage of the session, after we have established our financial plans, after we have levied our tax and established our tariff, making an appropriation—for that is the effect of it—of \$120,000,000. I think the only possible way in which we can extricate ourselves from the dilemma in which we are placed is to return them the bill which we have already sent to them as an amendment to their bill, and then we shall get to a conclusion. I do not see how we are going to get to a conclusion otherwise.

Mr. SHERMAN. I have no objection to adopt the proposition of the Senator if he will add the section I now offer as an amendment to it, and then have that before the committee of conference; so that if the House bill should be finally adopted we may have the tax also.

Mr. GRIMES. I am willing to do that, but it seems to me it is rather a large amount if we do not keep in these bounties.

Mr. SHERMAN. The Senator himself admits that it is not enough to raise the money to pay these bounties.

Mr. GRIMES. I do not suppose it will raise more than one third; but if we do not keep in the bounties, if we again determine here after mature deliberation that we will not pay these bounties, and that we will, in fact, have a conscription and a draft, which we ought to have had long ago, there will not be a necessity for raising quite so much, and five per cent., it seems to me, would be ample. It is a matter in which I have very little interest. I have no income. If the Senator will consent that my proposition shall be voted upon, I am satisfied that his proposition shall be.

Mr. SHERMAN. I am perfectly compliant in a matter of that kind. I will withdraw the amendment for the present, and let the Senator from Iowa try the strength of his proposition if he chooses.

Mr. GRIMES. I now propose my amendment. It is unnecessary to read it. It is the

Senate bill on this subject precisely as it passed the Senate before.

Mr. POMEROY. I think that is the best thing we can do.

Mr. WADE. So do I.

Mr. SPRAGUE. I hope that course will be adopted.

The amendment was agreed to.

Mr. TEN EYCK. I ask leave to offer an amendment as a substitute for the eighth section. It is to perfect that section.

Mr. SHERMAN. The whole of the House bill has just been stricken out.

Mr. TEN EYCK. Then I will offer it as an additional section to the substitute which has been adopted. Senators will see the propriety of it on hearing it. It is to insert as an additional section:

And be it further enacted, That all enlistments that have been made into the naval service or marine corps of the United States, since the passage of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863,'" approved February 24, 1864, and which shall hereafter be made into the naval service or marine corps, shall be allowed and credited to the appropriate township, precinct, or district, on account of which such enlistments have been or may be made, in the same manner as enlistments for the Army are allowed and credited to the several townships, precincts, or districts.

Mr. GRIMES. I think this amendment is right. It only carries into effect one of the provisions of the enrollment law passed at the commencement of this session, and which, in consequence of some defective wording, has not been executed, and it only applies to the enlistments made into the service since the commencement of the present session of Congress.

Mr. TEN EYCK. It puts these enlistments in the marine corps and naval service exactly on the same footing as enlistments in the Army.

The amendment was agreed to.

Mr. SHERMAN. For the purpose of sending my amendment to the House of Representatives, or to the committee of conference on this bill, I will again move the amendment that I offered a short time since, striking out "ten" and inserting "five," so as to impose a tax of five per cent. It will then read:

Sec. — And be it further enacted, That for the purpose of paying the bounties and of enforcing the draft provided for in this act there be levied and collected, in addition to the duties imposed by law, a special duty of five per cent. on all incomes exceeding \$600 accruing during the year 1864, which duty shall be assessed and collected in the mode and according to the provisions, penalties, and restrictions provided in the act approved —, entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes." And this duty shall be payable on the 1st day of October next, and the Secretary of the Treasury is authorized to prescribe such rules and regulations as to the time and mode of assessment as will secure the collection of this special tax.

Mr. HENDRICKS. I call for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 7; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Doolittle, Foot, Foster, Grimes, Hale, Harlan, Howe, Lane of Indiana, Lane of Kansas, Morgan, Pomeroy, Rainey, Sherman, Sprague, Sumner, Ten Eyck, Wade, Wilkinson, Wiley, and Wilson—25.

NAYS—Messrs. Buckalew, Davis, Harris, Hendricks, McDougall, Powell, and Riddle—7.

ABSENT—Messrs. Carlile, Collamer, Cowan, Dixon, Fessenden, Harding, Henderson, Hicks, Howard, Johnson, Morrill, Nesmith, Richardson, Sautsbury, Trumbull, Van Winkle, and Wright—17.

So the amendment was agreed to.

Mr. WILSON. I desire the unanimous consent of the Senate to make a slight amendment in the substitute that has been adopted for the House bill. We have adopted an amendment to-night allowing the Department to draft for one hundred per cent. more than they desired. The substitute only allows them to draft fifty per cent. additional. I want to change that to one hundred per cent. in accordance with the vote already given by the Senate.

Mr. GRIMES. There will be no objection to that.

Mr. WILSON. If there is no objection I will move to change the word "fifty" in the second section to "one hundred;" so that it will read:

And shall make a draft of the required number and one hundred per cent. in addition.

The PRESIDENT *pro tempore*. That change will be made, if there be no objection.

Mr. POWELL. I offer the following amendment as an additional section:

And be it further enacted, That no officers or persons engaged in the military service of the United States shall enlist, recruit, or muster into the military service of the United States any person in any State of the United States to fill the quota of any State in which the person so enlisted, recruited, or mustered into the service of the United States does not reside. Any recruiting or military officer who shall violate this section shall be dismissed from the service of the United States with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

The sole object of the amendment is to require these recruiting officers to recruit from their own people to fill their quotas. I know that recruiting officers have gone from some of the northern States into the West and there recruited the citizens of the West for the purpose of filling their quotas. They offered high bounties in the North. I remember that when Indiana had filled her quota by volunteering these persons appeared there from the North offering high bounties. They also appeared in the State of Illinois. The Governor arrested one or more of them and ordered them out of the State. Some of them have been in my State; and I dare say they have been in the States further west. This amendment but carries out the principle that each State must fill its quota from its own people. It only has reference to the quotas of the States. Of course it has nothing to do with enlisting for the regular Army. That they can do everywhere all over the country. The amendment is certainly proper. The latter portion of it imposes a penalty on those who violate it, that they shall be dismissed from the service and receive such further punishment as a court-martial may inflict.

Mr. CLARK. I suggest to the Senator from Kentucky that his amendment goes a little too far in one particular. It would not allow the enlistment of those persons who have not any particular residence in any State, and a good many such people have been obtained.

Mr. POWELL. I think not. That was not my intention.

Mr. CLARK. I suppose it was not his intention.

Mr. POWELL. If the Senator will suggest any modification that will cover those cases I will accept it with pleasure; but I do not think the amendment is liable to that objection. I suggest to the Senator, however, that the objection could be obviated by inserting the words "or any resident of any State." If a man is going about loose in the world you can take him anywhere. My only object is to protect the people of my State, of the West, and every State in the Union from the encroachments of high bounties from other States. I desire Kentucky in this war to furnish her full quota from her own people. I do not want her to go elsewhere, or other people to come there. I desire the amendment for our neighboring western States and for all the States.

Mr. ANTHONY. If I understand the amendment of the Senator from Kentucky, the State laws already afford sufficient protection against that.

Mr. POWELL. Not at all, sir. There are no State laws on the subject in many of the States.

Mr. ANTHONY. It is in the power of any State to pass laws to prevent recruiting for other States within their borders.

Mr. POWELL. But the Legislatures of many of the States are not in session. The Governor of Kentucky not long ago ordered one of these agents out of the State, and Governor Morton of Indiana and Governor Yates of Illinois have done the same thing; but still they go about there and try to buy up the people.

Mr. ANTHONY. I understand it is in the power of any State to prevent the very thing which the Senator from Kentucky seeks to provide against by this amendment.

Mr. HENDRICKS. But the Legislatures are not in session.

Mr. ANTHONY. It seems to me it is useless for us to legislate to protect States when they have ample power to protect themselves.

Mr. POWELL. I will say to the Senator it is our duty to punish the officers of the Army of the United States who violate a State law, if there is one; and this amendment does that.

Mr. ANTHONY. Provided it is against the State law.

Mr. POWELL. No, sir; it punishes any person who does this; but in some States there are no laws against this recruiting.

Mr. ANTHONY. Then I understand if it is convenient for the authorities of Kentucky to recruit within the State of Tennessee and the government of Tennessee is willing that they shall do it, they are prohibited from doing it by this amendment.

Mr. GRIMES. It only applies to States not declared in rebellion.

Mr. ANTHONY. Then if the authorities of Connecticut choose to recruit within the State of Rhode Island and the State of Rhode Island is willing they should do it, I understand this amendment prohibits them from doing it.

Mr. POWELL. I do not believe Rhode Island would be willing to allow any such thing.

Mr. ANTHONY. Very well. Rhode Island will protect herself, and will not ask the General Government to do it.

Mr. POWELL. Has not Rhode Island sent out agents to recruit in other States?

Mr. ANTHONY. Not where she was forbidden by the laws of those States from doing it.

Mr. POWELL. Connecticut has, I know, sent agents to Indiana.

Mr. WILSON. To carry out the Senator's idea, suppose a citizen of Rhode Island goes into Connecticut and offers to enlist there, what then?

Mr. POWELL. My amendment will not affect him. It says he must be recruited in the State. It does not affect him at all if he goes into another State and offers to enlist.

Mr. BROWN. I believe the only object of offering this amendment is for the purpose of letting it go to the committee of conference that will undoubtedly be appointed upon this bill. It is not necessary to perfect it here. The committee will take it under advisement, and if they see fit to act upon it they can do so. Let us then add on this amendment if it is desirable and send it to the committee along with the bill. In that way we may get through with this thing and be done with it.

The PRESIDING OFFICER, (Mr. Foster in the chair.) Does the Senator from Kentucky propose to modify his amendment?

Mr. POWELL. I will let it stand as I offered it, and adopt the suggestion of the Senator from Missouri, and let it go to the committee of conference.

Mr. ANTHONY. I hope the amendment will not be adopted.

Mr. GRIMES. I hope it will be adopted.

Mr. HOWE. I second the hope of the Senator from Iowa.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed and the bill to be read a third time. It was read the third time.

Mr. WILSON. I am very clearly of the opinion that our work to-night will come to nothing. I believe, after the many votes that have been taken in the House of Representatives, that the amendment that has been put upon this bill will not be agreed to. I think we have thrown away our time this evening for nothing. There seems to be a strong disposition here, however, to make these amendments; they are on the bill. In my judgment the House of Representatives will not concur in them; but still the amendments are on the bill; it will not do for us to kill it here; we shall have to pass it, and let it go to the House of Representatives.

The bill was passed.

CIVIL APPROPRIATION BILL.

On motion of Mr. SHERMAN, the Senate proceeded to consider its amendments to the bill (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865, disagreed to by the House of Representatives, and the amendment of the House to the twenty-third amendment of the Senate to the said bill; and,

On motion of Mr. SHERMAN, it was Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, disagree to the amendment of the House to the twenty-third amendment of the Senate thereto, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SHERMAN, Mr. COWAN, and Mr. RAMSEY.

ENCOURAGEMENT OF IMMIGRATION.

The Senate proceeded to consider its amendment to the bill of the House (No. 411) to encourage immigration, disagreed to by the House of Representatives; and,

On motion of Mr. POMEROY, it was

Resolved, That the Senate insist upon its amendment to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SHERMAN, Mr. ANTHONY, and Mr. LANE of Kansas.

CARMACK AND RAMSEY.

The Senate proceeded to consider its amendment to the joint resolution of the House (No. 11) in relation to the claim of Carmack & Ramsey, disagreed to by the House of Representatives; and,

On motion of Mr. POMEROY, it was

Resolved, That the Senate insist upon its amendment to the said resolution disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. WADE, Mr. RAMSEY, and Mr. CARLILE.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in compliance with the resolution of the Senate of the 16th of last month, requesting information in regard to the maltreatment of passengers and seamen on board ships plying between New York and Aspinwall, a report from the Secretary of State, to whom the resolution was referred; which was ordered to lie on the table; and a motion by Mr. CONNESS that it be printed was referred to the Committee on Printing.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 560) to amend an act of Congress entitled "An act to grant the right of preemption to certain purchasers on the Socol Ranch in the State of California"—to the Committee on Public Lands.

A bill (No. 517) to incorporate the National Insurance Company of Washington—to the Committee on the District of Columbia.

BILLS INTRODUCED.

Mr. HALE asked, and by unanimous consent obtained, leave to bring in a joint resolution (S. No. 75) declaring what States of the Union are entitled to vote at the approaching presidential election; which was read twice by its title, and referred to the Committee on the Judiciary.

LEAVE OF ABSENCE TO A SENATOR.

Mr. WILSON. I desire to move that the Senator from Missouri [Mr. Brown] be excused from further attendance in the Senate during this session after to-morrow, owing to the condition of his health.

Leave was granted.

RANCHO LAGUNA DE SANTOS CALLE.

Mr. POMEROY. I ask the Senate to postpone all prior orders and take up House bill No. 559, reported from the Committee on Public Lands.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business, so that we can make some reports.

Mr. CONNESS. I hope the Senator will withdraw that motion for a while. It is of very great importance to the people of California that the bill indicated by the Senator from Kansas should be passed at once. It is a House bill; the delegation from the State are agreed upon it, and the Committee on Public Lands have unanimously reported it. It will not occupy a moment of time.

Mr. WILSON. I will not press my motion for the present.

The motion of Mr. POMEROY was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 559,) to quiet the titles to lands within the Rancho Laguna de Santos Calle, in the State of California.

It provides that it shall be lawful for all purchasers from the grantees or their assigns of lands within the Rancho Laguna de Santos Calle, in the State of California, to file, within twelve months from its passage, with the register of the land office at Maysville, applications describing the lands so purchased by them respectively, with proofs of *bona fide* purchase from the grantees or their assigns; and, upon such proofs being found satisfactory, the purchasers are to be permitted to enter, according to the lines of the public surveys, at \$1 25 per acre, the lands so purchased within the limits of the rancho, as described in the petition presented to the board of commissioners under the act of March 3, 1851, entitled "An act to ascertain and settle the private land claims in the State of California," to the extent to which the lands so purchased have been reduced to possession, and are now held by them; but any person who shall avail himself of the provisions of this act is to be thereafter debarred any further claim under the grantee in the event of a final confirmation of the grant.

Where any additional surveys may be found necessary to give full effect to this act, the Commissioner of the General Land Office is to cause such surveys to be made at the cost of the purchasers, as provided by the tenth section of the act of May 30, 1862, entitled "An act to reduce the expenses of the survey and sale of the public lands of the United States;" but no entry of mineral lands or lands reserved for military or other public uses is to be permitted under this act, nor are any rights acquired under the preemption laws of the United States to be affected by it.

It is to be the duty of the register and receiver of the proper land office to receive all applications in cases presented under this act, pursuant to such instructions as may be prescribed by the Commissioner of the General Land Office, and to adjudge all such cases as preliminary to a final decision in due course of law.

Mr. DOOLITTLE. Is that bill reported from any committee?

Mr. McDUGALL. Yes, sir; it is reported by the Committee on Public Lands, who examined it very carefully.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COMMITTEE ON ENROLLED BILLS.

Mr. WILSON. I renew the motion for an executive session.

Mr. HOWE. I hope the Senator will allow me to make a suggestion with reference to the Committee on Enrolled Bills. I desire to have a member appointed on that committee, if he will allow that to be done.

Mr. WILSON. That can be done by unanimous consent.

Mr. HOWE. I suppose it can only be done by unanimous consent in any event. One of the members of that committee is disabled from rendering any service by reason of an accident which has befallen him, and now the business of the committee is getting very laborious as the session draws to a close, and it is essential that another member should be appointed.

The PRESIDENT *pro tempore*. An additional member may be appointed by the unanimous consent of the Senate. The Chair hears no objection, and the Chair will appoint the Senator from Pennsylvania, [Mr. BUCKALEW.]

EXECUTIVE SESSION.

Mr. WILSON. I must now insist on my motion for an executive session.

Mr. HENDRICKS. I wish to inquire of the Senator from Massachusetts whether he contemplates doing anything more than making reports in executive session.

Mr. WILSON. That is all.

The motion was agreed to, and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 29, 1864.

The House met at twelve o'clock in the afternoon. On motion of Mr. HIGBY, the reading of the Journal of yesterday was dispensed with.

VOTES RECORDED.

On motion of Mr. BROOMALL, leave was granted him to record his vote in the negative on the amendment of the Senate to the tariff bill reducing the duty on railroad iron, and in the affirmative on the passage of the same bill.

RANCHO LAGUNA DE SANTOS CALLE.

Mr. HIGBY, by unanimous consent, reported back, with a recommendation that it do pass, a bill to quiet the titles to lands within the Rancho Laguna de Santos Calle, in the State of California; which was read a first and second time by its title.

The bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

CARMACK AND RAMSEY.

On motion of Mr. HOLMAN, the House took from the Speaker's table the joint resolution (H. R. No. 11) in relation to the claim of Carmack & Ramsey, with a Senate amendment, non-concurred in the same, and asked of the Senate a committee of conference on the disagreeing votes thereon.

The SPEAKER subsequently appointed Mr. HOLMAN, Mr. ALLEY, and Mr. VAN VALKENBURGH as such committee on the part of the House.

UNION PACIFIC RAILROAD.

On motion of Mr. COLE, of California, the House took from the Speaker's table the bill (H. R. No. 438) and the Senate amendments thereto to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, non-concurred in the said amendments, and requested of the Senate a committee of conference on the disagreeing votes of the two Houses thereon.

The SPEAKER subsequently appointed Mr. STEVENS, Mr. COLE, and Mr. MCCLURG as such committee on the part of the House.

NORTHERN PACIFIC RAILROAD.

On motion of Mr. STEVENS the House took from the Speaker's table the bill (H. R. No. 483) and the Senate amendments thereto, granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route, non-concurred in the said amendments, and requested of the Senate a committee of conference on the disagreeing votes thereon.

The SPEAKER subsequently appointed Mr. STEVENS, Mr. SWEAT, and Mr. DONNELLY as such committee on the part of the House.

ENCOURAGING IMMIGRATION.

On motion of Mr. WASHBURN, of Illinois, the House took from the Speaker's table the bill (H. R. No. 411) and the Senate amendments thereto, to encourage immigration, non-concurred in the said amendments, and requested of the Senate a committee of conference on the disagreeing votes thereon.

The SPEAKER subsequently appointed Mr. WASHBURN, of Illinois, Mr. WINDOW, and Mr. ENGLISH as such committee on the part of the House.

CONTESTED ELECTION IN MISSOURI.

Mr. DAWES, from the Committee of Elections, reported back the testimony taken in the contested-election case of Scott vs. Noell, and the same was ordered to be returned to Mr. Scott, the contestant, the case having been decided by the action of the House.

BIG TREE GROVE, CALIFORNIA.

Mr. HIGBY, from the Committee on Public Lands, reported back, by unanimous consent, the bill (S. No. 203) authorizing a grant to the State of California of the Yosemite Valley, and of the land embracing the Mariposa Big Tree Grove.

Mr. BROOKS. Where does this bill come from?

Mr. HIGBY. It is the Senate bill reported back by the Committee on Public Lands.

Mr. BROOKS. How much land is there granted by it?

Mr. HIGBY. Well, it is about a mile; it is a gorge in the mountains.

The bill was ordered to a third reading, and was accordingly read the third time.

Mr. BOUTWELL. Is there any stipulation in the bill for the preservation of the trees?

Mr. HIGBY. There is.

Mr. BOUTWELL. I cannot find such stipulation in the bill.

Mr. COLE, of California. The State will take good care of these big trees; the object of this bill is to prevent their being cut down or destroyed.

The bill was passed.

PRIZE CASES.

Mr. RICE, of Massachusetts, moved that the House concur in the amendment of the Senate to the bill of the House to regulate prize proceedings and the distribution of prize money, and for other purposes.

The motion was agreed to.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the amendment of the Senate was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THE SOSCOL RANCHE.

Mr. SLOAN, by unanimous consent, reported a bill to amend an act of Congress entitled "An act to grant the right of preemption to certain purchasers on the Soscol ranche in the State of California."

Mr. BROOKS. How many acres are there there subject to preemption?

Mr. SLOAN. The bill only authorizes certain purchasers of invalid Spanish claims to enter their lands. The whole amounts to about five thousand acres.

Mr. BROOKS. Has this bill been examined by the committee?

Mr. SLOAN. It has been fully examined and discussed before the committee.

The bill was passed.

NATIONAL UNION INSURANCE COMPANY.

Mr. TRACY, from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, bill of the House No. 57, to incorporate the National Union Insurance Company of Washington; which received its several readings, and was passed.

EMPLOYMENT OF REBELS.

Mr. COLE, of California, asked unanimous consent to offer the following resolution:

Whereas the Committee on Military Affairs, on the 30th day of May, 1864, by resolutions of this House were, among other things, instructed to make inquiry whether any disloyal persons are employed as clerks in any of the Departments of the Government, and if so, who are responsible for such employment;

Resolved, That said committee be further instructed to inquire whether or not persons lately in the rebel army, or disloyal to the Government, are employed in any capacity under the Government, or hold places of trust and profit and draw pay from the United States; and that the committee be authorized to sit during the recess.

Mr. MALLORY objected.

MILITARY OFFICERS IN CONGRESS.

Mr. DAWES. I now call up the resolutions reported by the Committee of Elections in reference to the appointment of General Blair. I ask that they be read, and upon them I demand the previous question.

The resolutions were read, and are as follows:

Resolved, That Robert C. Schenck having resigned the office of major general of volunteers, which he then held, on the 13th day of November, 1863, which resignation was accepted November 21, 1863, to take effect December 5, 1863, was not, by reason of having held such office, disqualified from holding a seat as a Representative in the Thirty-Eighth Congress, whose first session commenced on the 7th day of December, 1863.

Resolved, That Francis P. Blair, jr., by continuing to hold the office of major general of volunteers, to which he was appointed November 29, 1862, and to discharge the duties thereof till January 1, 1864, the date of his resignation, did thereby decline and disqualify himself to hold the office of Representative in the Thirty-Eighth Congress, the first session of which commenced on the first Monday in December, 1863.

The previous question was seconded, and the

main question ordered; and under the operation thereof the resolutions were agreed to.

Mr. DAWES moved to reconsider the vote by which the resolutions were adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

NAVAJO INDIAN CAPTIVES.

Mr. PEREA. I ask the unanimous consent of the House that the Committee on Indian Affairs be allowed to report back a Senate bill in which the Territory of New Mexico is interested particularly.

There was no objection.

Mr. WINDOM, from the Committee on Indian Affairs, reported back Senate bill No. 226, to aid in the settlement, subsistence, and support of the Navajo Indian captives upon a reservation in the Territory of New Mexico, with the recommendation that it do pass. The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REPRESENTATION FROM REBELLIOUS STATES.

Mr. DAWES. I now call up House joint resolution No. 108, in relation to representation from States which have been declared by proclamation in rebellion, reported by me from the Committee of Elections.

The Clerk read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be appointed by the President, by and with the advice and consent of the Senate, a commission consisting of three persons, residents of States not involved in the present rebellion, whose duty it shall be during the recess of the present Congress to visit those States declared by proclamation of the President to have been in rebellion, and which have already, or may before the next session of the present Congress take measures to reestablish or reorganize State governments; and, after careful examination and hearing of testimony, report to the President for the information of Congress at as early a day in the next session as possible all such evidence as they may be able to obtain upon the question whether the loyal people in any such State have succeeded in reestablishing a State government, to what extent such State government represents and has the support of the loyal people in such State, and what is the ability of such people therein to maintain the same against domestic violence.

And be it further resolved, That until Congress shall be satisfied, upon evidence submitted to them, that the rebellion has been so far suppressed in any such State that there has been established therein a State government, republican in form and prohibiting the existence of slavery in the same, and so firmly established as to be able to maintain itself against domestic violence, representation from any such State ought not to be admitted into either branch of Congress.

Mr. DAVIS. I have no desire to occupy the attention of the House for a single moment on the pending joint resolution. The gentleman from Wisconsin [Mr. Brown] has a substitute for the joint resolution, and when that is submitted I propose to call the previous question on the whole subject.

I wish to state that the gentlemen from Arkansas are desirous of asking the indulgence of the House that one of their number may be heard for some fifteen minutes in behalf of their people. This resolution is in such form that they will not be permitted to be heard, and I offer this resolution so that they may be heard:

Resolved, That the Committee of Elections be instructed to report forthwith upon the credentials of certain gentlemen claiming to be Representatives from the State of Arkansas.

I must have the unanimous consent of the House to consider these resolutions together.

Mr. BROWN, of Wisconsin. I wish to submit some remarks to the House on my substitute. I will not take up much time.

Mr. SCHENCK. I desire to ask the gentleman from Massachusetts one question. Is this to be accompanied by a resolution to give these gentlemen from Arkansas more pay and mileage than are received by members of Congress?

Mr. DAWES. That is an ungracious question to put to the Committee of Elections, which has never reported one of the resolutions of that character. They have come from other gentlemen. Of course the gentleman from Wisconsin will not be precluded by any motion I will make. I do not wish to be heard unless remarks be made

which may require it. I want the House to allow these gentlemen from Arkansas to be heard for fifteen or twenty minutes in behalf of their people. That is all I ask.

Mr. COX. I object to their being heard.

Mr. DAWES. I yield to the gentleman from Wisconsin to offer his substitute. I regret that the gentleman from Ohio has not had patience to hear these gentlemen from Arkansas.

Mr. COX. I do not wish to hear these gentlemen from Arkansas, as I see no reason in hearing them unless action be taken; and I do not believe the House or the country is ready for the question before us. I understand that this resolution is to pave the way for the admission of these gentlemen.

Mr. DAWES. The object of the resolution is simply to obtain reliable information for the House at the next session, so that the House may have some foundation upon which to act. All the facts that we have in reference to Arkansas have been obtained from the gentlemen presenting themselves for seats upon this floor. We do not say that credence should not be given to what they say, but under the circumstances attending such a case the Committee of Elections do not think that the whole action of the House on such an important subject should depend entirely upon the verbal statements of these gentlemen, however high may be their character. It appears to the committee that such grave circumstances as those which surround the State of Arkansas and those which are like it, justify this course of proceeding for the appointment of an impartial commission to go down there and reproduce before both branches of Congress the real state of things for the information of the House.

Mr. COX. I desire to say that I do not make this objection from any factious spirit. It is a matter of grave concern to the House and to the country as to whether or not this state of Arkansas shall have even a *quasi* recognition—I mean this new State got up under auspices which I will not discuss. There is a fear upon the part of many members of the House that the State of Arkansas as at present organized may be used for some bad purpose at the next presidential election, and I submit to my friend from Massachusetts, who I do not think desires any such abuse of the electoral college, whether or not we do not now, without any commission being sent down there to inquire, know all about the condition of this bogus State proposed to be recognized here. I am, therefore, opposed to taking the first step for the recognition of this so-called State.

Mr. DAWES. Nothing can be done under the resolution I have proposed here that will contribute or can possibly contribute to anybody's design, either in creating or in preventing an electoral vote to that State. I agree with the gentleman from Ohio that it is a matter of grave concernment to this House and to the country what course shall be taken with that State organization or with the old State organization.

Mr. BLAIR. I ask the gentleman from Massachusetts to give way to me for a few minutes.

Mr. DAWES. I stated to the gentleman that I would yield to him if he would be patient.

As near as I can understand the gentleman from Ohio, he is battling with one thing while I am asking another. I do not think he understands the measure before the House. Every member of this House should recognize the fact that there is a grave state of things existing in that State, and States situated like it, which requires at our hands some evidence here as a matter of record upon which we can act with that solemnity and gravity which become so grave a question. Every gentleman can vote for these resolutions. They commit no gentleman to any one theory. They postpone necessarily the question about the admission of those gentlemen from Arkansas as Representatives until a report comes in at the next session. They do not touch the great question as to the electoral college for two or three reasons: first, it was not within the jurisdiction of the Committee of Elections to report on that; and further, that was a matter which we were conscious would elicit great debate and difficulty here; and therefore it was the desire of the committee so to submit these resolutions as that every one would recognize just what the gentleman from Ohio has stated here,

that there is such a state of things down there as leads us all to hesitate what course we should pursue. This is a measure by which it is hoped some new light will be cast upon the subject before the next session of Congress.

What I asked for a moment ago, and what the gentleman from Ohio objected to, is another thing. There are three gentlemen sent here from Arkansas. They have been here waiting the action of this House for several months. They recognize the fact that no definite action can be taken this session. All they ask is that they may speak in behalf of their people some fifteen or twenty minutes. That is all I ask, but if it is objected to of course I must pursue the original plan.

Mr. BLAIR. I rise to express the hope that my friend from Ohio will withdraw the objection he has made. Now, sir, it is bad faith to reject the members from the State of Arkansas and other States who have been duly elected to seats upon this floor, and it does seem to me it is aggravating that injury to refuse to allow them to be heard upon this floor without reference to the condition of their States and constituents. I am sorry that the gentleman from Massachusetts did not offer such a resolution as would bring this House to a direct vote upon the question whether these States are to be regarded as States out of the Union.

I would like to know how many members there are upon this floor who are willing to recognize at this time the principle that the southern States constitute a foreign nation and are not a part of the United States. I want to know whether they are not still to be recognized as parts of this glorious Union of ours. The settlement of that question cannot be postponed much longer. It must be determined one way or the other. If it is the intention of this House to exclude the southern States from all representation upon this floor it will certainly save a great deal of time and trouble to determine that question now.

But, sir, I do hope that these gentlemen who are here from the State of Arkansas will at least be allowed to be heard before their claim is rejected and they are excluded from the House. I appeal to the gentlemen before me to give these claimants an opportunity of presenting their own case, and I hope the resolution of the gentleman from Massachusetts will be modified so as to accomplish at least that purpose. Unless the gentleman is extremely anxious to coincide with Jeff. Davis as to the position of the southern States, he will not decide without a hearing that all representation from these States shall be denied to them.

Mr. COX. I do not know whether the gentleman is talking in order or not, but I think he is extending his remarks a little beyond what common decency would suggest from a man coming from West Virginia.

Mr. DAWES. I resume the floor.

Mr. BLAIR. I hope the gentleman will allow the member from Ohio to finish his remarks.

Mr. COX. The remarks I made comprehend about what I have to say.

Mr. DAWES. I resume the floor and decline to yield further.

Mr. BLAIR. I have no doubt—

The SPEAKER. The gentleman from West Virginia is not in order.

Mr. BLAIR. I say I have no doubt the gentleman from Ohio would be very glad ["Order!"] to exclude West Virginia from representation. ["Order!" "Order!"]

The SPEAKER. The Chair will say to the gentleman from West Virginia and to the House that if gentlemen insist upon speaking after they have been decided to be out of order he will be compelled at this stage of the session to exercise the power which has been vested in him to enforce order.

Mr. COX. I hope the Chair will excuse the gentleman from West Virginia. He is evidently laboring under unusual excitement. [Laughter.]

Mr. MALLORY. I hope the Chair will direct the reporters for the Globe not to take down anything a member may utter while speaking in defiance of the ruling of the Chair.

The SPEAKER. That was the rule adopted in the last Congress, but it has not before been suggested in this Congress.

Mr. WADSWORTH. The rules permit the Chair to decide questions as they arise. I object

to his telling the House how he is going to decide questions that have not arisen in the future.

The SPEAKER. The Chair responds to the gentleman frankly that he has the right to state his construction of the rules, and to notify gentlemen in advance, that no one can complain of partiality.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 532) to establish certain post roads; when the Speaker signed the same.

REPRESENTATIVES FROM ARKANSAS.

Mr. BROWN, of Wisconsin. I now present the substitute reported by me on behalf of a minority of the Committee of Elections, and ask the Clerk to read it.

The Clerk read the substitute, as follows:

Whereas by article six of the Constitution of the United States it and the laws made in pursuance thereof are declared to be the supreme law of the land, and every act of secession by any State is in direct violation of such supreme law: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the acts of secession by the Legislatures of the several States whose people are now in rebellion, are mere nullities, having no force or effect to change the relations either of the States themselves or of the people thereof toward the General Government, and that by such acts the people neither freed themselves from the penalties attaching by law to treason or lost any rights as citizens of the States and United States, except such as may follow upon conviction of crime; that the duty of the people of such States to send true and loyal men to Congress, and the right so to do, as consequent upon the duty, still remain by force of the Constitution, requiring no act of the President or Congress to confirm them; that no State can, under the Constitution, assent to the presence of armed rebels from other States within its borders, and that any act of the authorities of a State giving such assent is a nullity; that the entrance of such armed rebels of one State upon territory of another is an invasion, from which, by article four of the Constitution, the United States are bound to protect the invaded State; that this obligation of protection on the part of the United States is due to each citizen individually, as a consequence of his duty of allegiance, and continues so long as there is a single loyal citizen in a State oppressed by such invasion; that so long as the Constitution and laws of the United States cannot be enforced in any congressional district, on account of the presence of armed rebels, there can be no free election, and a person claiming a seat through an election under such circumstances should be rejected.

Sec. 2. And be it further resolved, That the Constitution, in article two, determines the qualifications of electors for Representatives, and that any order of the President or act of Congress changing such qualifications would be a usurpation or a nullity.

Sec. 3. And be it further resolved, That whenever, by pestilence, foreign invasion, or domestic conspiracy, the officers of a State required by its laws to conduct an election have been destroyed or carried off, the State does not thereby cease to exist, nor do its people forfeit their rights as citizens of the State or of the United States, but from the very necessity of the case, and by virtue of the power implicitly reserved to the people, they may, in a practicable and reasonable manner, supply the deficiency and hold an election, conducting it, however, as far as is possible, in conformity with the existing laws and constitution of the State; and that the duty of Congress in passing upon such an election, claimed to be held under such circumstances, is limited to ascertaining whether it was a fair expression of a majority of the people, and in the mode of conducting it departed from the general laws of the State only so far as was necessary to supply the deficiency of officers required to conduct the election.

Sec. 4. And be it further resolved, That the right of the claimants from Arkansas should be determined by the principles here enunciated; and if they shall satisfy this House that the Constitution and laws of the United States and of the State held peaceful sway over their respective districts; that in those elections they departed in nothing from the constitution and existing laws of that State, save in supplying requisite officers, and that they received the vote of a majority in their respective districts, then they are entitled to seats, but not otherwise.

Mr. DAWES. I understand the gentleman from Wisconsin to offer that as a substitute for the joint resolution reported by me.

Mr. BROWN, of Wisconsin. I do.

Mr. ASHLEY. I ask the gentleman from Wisconsin to allow me to offer an amendment, which I am sure three fourths of that side of the House will vote for.

Mr. GRISWOLD. I object.

Mr. BROWN, of Wisconsin. All the resolutions of the minority of the committee depend upon article six of the Constitution. That article provides that

"The Constitution of the United States and the laws made in pursuance thereof, &c., shall be the supreme law of the land," * * * "anything in the Constitution and laws of any State to the contrary notwithstanding."

For the purpose of sustaining the views of the minority it is not necessary to discuss the question

of the relative powers of the national and State governments, or whether, by the Constitution, the Federal authority was, in the language of John C. Calhoun and of many of his republican followers, "a compact" or a Government. It is enough that by "the compact" the Constitution and laws of the United States are supreme, notwithstanding State enactments. It follows by legal and logical deduction that every State enactment in violation of or destructive to this Constitution or compact, (I shall not quarrel about terms,) is void as in conflict with the supreme law of the land. It will be remembered that the supreme law is that which overrides and is superior to all other laws. The next proposition of the minority resolutions is a corollary from what I have stated. The acts of secession of the several southern States being in violation of the Constitution, or destructive to "the compact," are, as opposed to "the supreme law of the land," void. That a void act is in law no act is a proposition which hardly needs authority to sustain it. The learning of lawyers and the common sense of the public will equally assent to the doctrine. On that small middle class who have just law-learning enough to destroy their common sense I will not waste argument.

The next proposition of the resolutions is that these void acts of secession (being no acts in the law) neither change the status of the several States nor the relations of their citizens to the State and General Government. This also is a deduction from what has been previously stated. The conclusions from these various propositions are most important and entirely at variance with the resolutions reported by the majority. The acts of secession being void and the status of the States being preserved, each State remaining in the Union is entitled to its constitutional representation. No proclamation by the President, no recognition by Congress is necessary to restore that to the Union which never has departed from it.

Nor do any practical difficulties arise from this doctrine; on the contrary, practical difficulties are obviated. The individual who has engaged in rebellion cannot protect himself from the consequences of treason behind his allegiance to his State and its act of secession; the loyal citizen of a State who has been overpowered by the force of rebellion loses no rights from the inability of Government to protect him against the crimes of his fellow-citizens. There is no danger of crowding Congress with traitors, because the traitor would or should be at once arrested and held to answer for his past crimes; if the person accused, loyal in thought, had only yielded to the vis major of the rebellion, he will be acquitted; if guilty, he will be condemned. No really objectionable person would dare to offer himself as a representative; he would not thus challenge the hostility of a victorious Government.

The resolutions then refer to the duty of protection which Government owes to the citizen in return for his allegiance.

If it be a crime on the part of the citizen to plot treason against Government, it is a violation of duty on the part of Government to allow the disloyal to force the loyal into rebellion. We have the authority of the President of the United States, which, as known to all the members of this House, I need not quote, for the fact that the majority of the people of the southern States did not assent to the rebellion but were hurried into it by the fraud or force of leaders. This declaration, having the high sanction of the President, repeated by almost all the leading journals and politicians of the Republican party, and fortified by our own knowledge of the condition of the southern States, proves that the majority of those who, under the majority resolutions, are deprived of citizenship, driven out of the Union, and, as being a conquered race, subjected to the arbitrary will of Congress, are in fact more sinned against than sinning.

It is, however, in point of justice and law immaterial how extensive the loyal sentiment may be in those States; so long as there is one loyal man looking to us for relief and protection we are bound by the great charter which unites us to furnish him that protection.

The resolutions of the minority cite article four of the Constitution, by which the United States guaranty each State against invasion and domestic violence. As the last refers to an insurrection

against State authority by persons within the State, it perhaps has no application here; but invasion is the entrance of an armed force from without upon the territory of the State. Against such violence we are bound to protect a State without an appeal to us for that purpose either from the State Executive or any one else. Therefore, because every assent given by State authority to the entrance of armed rebels upon its soil is void as violating the supreme law of the land, there is an invasion from which each citizen may claim protection whenever armed rebels from one State enter upon the territory of another.

For Government to take advantage of its wrong to strip citizens of their property and rights because it had failed to discharge its duty in protecting them, is an injustice which nothing save moral obliquity or the fanaticism of party could suggest.

Again, neither Congress nor the President has a right to prescribe the qualifications of voters in either of those States. The qualifications of voters for Representatives to Congress are determined by the Constitution, (article one, section two,) and therein declared to be the same as for electors of the most numerous branch of the State Legislatures.

As the status of the State remains unchanged by the rebellion, and its constitution and laws intact, you must look to them and ascertain what qualifications they prescribe for electors; and, by the provision of the United States Constitution referred to, to add to or take from them in the slightest degree would be usurpation.

I come to the next excuse for infractions of constitutional law referred to in the minority report. We are told that by the events of the war the officers necessary to conduct an election are removed, and therefore an interference of Congress is necessary. It might be sufficient to answer that such interference should be limited to obviating that necessity, and we could not under that pretext attack the local institutions of any State. But the General Government is one of delegated powers, having no reserved powers; and to obviate the difficulty referred to its provisions are as wise and exhibit as great forethought as in everything else touched upon by its great framers.

By article ten of the Amendments of the Constitution, "all powers not delegated to the United States, &c., are reserved to the States respectively or to the people." Thus we have, by express enactment, a principle enunciated (which I should have acknowledged in the absence of such enactment) providing for the very difficulty before us. The question is, where, in case all the offices of a State are vacated by pestilence, war, or accident, or (as we might call this case) by illegal combination of all election officers to resign, is the reserved power of supplying the deficiency? My answer is that the above article denies it to the President and to Congress and recognizes it as in the "people." In the case of James II the English Parliament held that by levying war upon the Commons and by his flight to France he had vacated the throne; and we may well hold that officers of a State government who have levied war upon the United States have vacated or resigned their offices.

And I may suggest parenthetically that the same doctrine originated in the sturdy English idea of liberty, implying a resignation from gross abuse of official power, might well be applied to some of our national officers not engaged in the rebellion.

The people of a State have therefore the right, in case of a general resignation of their public servants, to supply their places. The liberties of the people cannot be lost nor they be converted to alien enemies by a conspiracy of State officers to resign.

So long as Arkansas is under rebel control there can be no election, because the people cannot freely act as loyal citizens. But whenever the rebel forces are driven away and the Constitution and laws of the United States have resumed their peaceful sway, the people may by virtue of their reserved rights supply the places of the resigned officers and thus set in motion the machinery of State government.

But in exercising this power reserved *ex necessitate* they must be strictly limited to meeting that contingency for which they have no law, that of filling the vacancies in the State offices.

In everything for which they have a law, in the time and manner of elections, in those forms with which they can comply, they must follow their existing laws. If they believe their constitution or laws to be wrong they must amend them in the same manner and with the same formalities as were before required.

The necessity for officers gives no power beyond that.

Applying this reasoning to the Arkansas case, we shall find the conclusion of the minority to be strictly justified. Arkansas is a State in the Union, with its constitution and laws unimpaired. Its public officers have engaged in treason, and therefore have in legal effect resigned. If in any congressional district the laws of the United States are again peaceably recognized, then the people of such district who under the constitution and laws of Arkansas were entitled to vote "for the most numerous branch of the State Legislature" are entitled in some practical mode (receiving the assent of a majority of themselves) to supply the deficient offices and select a Representative to this House. They cannot change their constitution, they cannot amend their laws, except in the mode provided in their constitution as heretofore recognized by the United States; nor can we impose any condition or restraint upon their exercise of this right.

It is most singular to find the majority of the committee (representing that party which is now making war upon southern men and denouncing them as traitors for claiming the power to go out of the Union) themselves recognizing in their report John C. Calhoun's doctrine of nullification and secession.

I am well aware that the honorable chairman of the committee, who in this has followed the ideas announced by the gentlemen from Maryland [Mr. Davis] and from Pennsylvania, [Mr. Stevens,] would deny most warmly that he entertained such belief. But, skillfully as he has covered up his reasoning, we must hold him to the results announced. He declares that the people of Arkansas must frame a State government, republican in form and prohibiting slavery, before they can be represented here. He utterly ignores the State with its constitution and laws. Now, either the act of secession was valid or not; if valid, we are waging an aggressive war in violation of the Constitution; if not valid, it did not affect the status of the State, and its constitution and laws as heretofore recognized by Congress are in full vigor.

We find sustaining this absurd doctrine of secession, or State suicide, or nullification, or whatever else the fancy of its votaries choose to call it, an odd combination.

First come the peace men, who, believing in a fancied state of human perfection, in the free will of States and citizens, scorning the trammels of law and the use of preserving force, would have no bond of union, no force of government beyond the free will or caprice of any minority of the governed. Shrinking in horror from the bloody declarations of Republican members, from the oppression and cruelties of such false disciples of union as Butler, and from that fearful carnage made necessary by the disregard on the part of our rulers of constitutional obligations, they fly to a false interpretation of the State-rights doctrines as a means of escape from civil war. They deny any coercive power contained in the Constitution, and would make an assent to rebellion a condition of being regarded as true to the Constitution.

Next come a class of the Republicans who, either desirous of a permanent separation of the States in order to establish a northern confederacy, are seeking to drive the South to desperation, and force them to the fiercest resistance, or who are willing to put down the rebellion, but desire to do so not because rebellion is wrong, but because they hope to lay the rebellion and the Constitution in one common grave, and to establish on the ruins of our present glorious Government a consolidated despotism.

To these may be added fanatical anti-slavery men, who, looking only to the occasional cruelties practiced by slaveholders and to the real sin of the institution, hold the destruction of slavery to be an end which justifies every means, however false or foul, to accomplish it.

In this connection I hardly need to allude to

those camp-followers, the shoddy contractors, office-holders, and politicians who, seeking plunder, are willing to change their opinions as frequently as the wind its direction, if they can only know whither popular madness tends.

There are, it is true, a few whom you cannot locate, too honest to be suspected of indirection, and too intelligent to be suspected of being dupes; their opinions are the freaks of mind you cannot account for.

I am pleased to believe that the majority who reported the secession resolutions were both honest and able. It is for them to account for their position.

Both the peace men who desire no war, and the advocates of despotism who would war as well against the Constitution as the South, agree that the Constitution gives no sufficient power to the General Government to suppress the rebellion.

The first say you cannot coerce a State or force it back into the Union, and therefore must abandon the war; the last say as you have not power under the Constitution you are by necessity justified in every violation of it. To the first I say that we do not propose to coerce a State; that a State remains unalterably in the Union, every act to get it out being void. We do not, therefore, propose to coerce it, but to put down by every necessary appliance an outbreak as well against the valid laws and constitution of the State as against the United States. We care not how extensive the rebellion, the force to suppress must be equal to the extent.

To the last I say that the Government can protect its officers in the execution of its laws, and can punish for treason. The President certainly has as much power to call forth an armed force in case of armed resistance to United States laws as a Governor as chief magistrate has as to State insurrections, or as a sheriff would have, or, if you would still further diminish the respectability of the power, as two justices of the peace would have under the laws of Wisconsin. This power was exercised in Boston by protecting Burns against rescue, in Pennsylvania in the whisky insurrection, and in Massachusetts during the Shay riots. It is a power not directed against States, but against people in insurrection. But it is not left to inference. In section eight of the Amendments of the Constitution, authority is given to make all laws necessary for carrying into execution the powers given. What so necessary for executing the powers of the General Government as the suppression of a rebellion? It goes further, however, and not only is the General Government able to protect itself, but by the provisions heretofore cited is bound to protect the State, both against domestic insurrection and foreign invasion.

Without infringing the Constitution you can find every power necessary to uphold the integrity of State and national governments.

But leaving the argument, so far as it depends upon the Constitution, I will meet the gentlemen of the other side upon their own ground of necessity. I insist that we should follow the Constitution in its true spirit, as I have explained it, for two reasons:

1. Because a departure from it in the manner proposed by the Republicans makes this a war of almost extermination, which, decided in our favor, leaves us in men exhausted and helpless.

2. Because, although you may conduct a defensive war with the patriotism of the people as your sole capital, to an offensive war public credit is absolutely necessary; and our credit is through blundering and mismanagement in a most critical condition.

The first reason I shall dispose of in a few words. The rebellious South contains a white population (without consulting the census or pretending to accuracy) of about seven millions. With all their faults they are of a material to make good soldiers. This is a body of men which (true to themselves) have never been subjugated. History furnishes no instance of the kind. Divided nations, effeminate nations have been conquered, but no seven millions of united and brave people ever submitted to such a fate.

We must therefore, in the *morale* of our cause, and in the objects which we propose, seek to make this an exception. We must weaken the moral power of our adversaries and divide their councils by our own fidelity to the Constitution, and the

greater hopes of prosperity which their return to the Union holds out over even successful resistance. Men are frequently carried away by fanaticism or are temporarily blinded by their own passions, but in the long run they seek to advance their own interests. Even the Republican leaders may some time to their sorrow find this to be true, when returning reason shall come to their followers. But what motive of interest, of passion, or of prejudice to excite the southern mind against our cause has the dominant party left untried? You have destroyed our moral power by abandoning and scoffing at the Constitution, in whose name you first waged war. The quotation, "Thrice is he armed who hath his quarrel just," is often repeated and rarely believed. But the great interpreter of nature never uttered a truer sentiment. My own simplicity prefers to believe thus with the unlettered people rather than doubt with the Republican philosophers. To the master you have said, "We will free your slaves;" to the poor man you have said, "The odious and pampered rival of your labor, the foul and lazy reviler of your humble state shall not only be your equal, but we will exalt him far above you; we have charity for the blacks but none for the suffering white." And no feature of this war is more striking than the self-sacrificing zeal with which the non-slaveholding southern laborer fights for the rebellion. The interests and prejudices of the slave-owner yield to his domestic affection for the negro who has been reared with him, but no such tie softens the antipathy which exists between the white laborer and the black. In violation of that constitutional provision which requires indictment and trial before punishment for crime you have passed your confiscation laws. You have done more; in despite of that wholesome constitutional restraint upon victorious cupidity, which limits forfeiture to the guilty, you have attempted to plunder innocent children. It was not enough to say to the southerner, (whether a rebel or only yielding to the *vis major* of the rebellion;) "Your own means of support are gone," but you point him to his children, and say to him "You must fight or them, too, we will rob." You have passed laws giving to the negro the homestead from which you drive the wife and children of his white master. In short, you have hardened into iron the tender sinews of youth and lent fire to the chilled veins of age. The myriad graves of our brave northern soldiers which fill the soil of Virginia are monuments to your patriotism and wisdom.

If Jeff. Davis himself had controlled the action of this House on many of the most important bills of this session, he could hardly have made it more beneficial to himself.

Mr. DRIGGS. Do I understand the gentleman to say this Congress has not passed a single act that Jeff. Davis would not approve? Would he approve of our military laws?

Mr. BROWN, of Wisconsin. I think Jeff. Davis would prefer the amendments you have passed this session to the military law to allowing the law to remain as it was before. I think Jeff. Davis understands how much power there is in infusing soul, heart, and spirit into an army. I think he understands the difference there is between an army made up of men who feel that they are fighting for their homes and their loved ones, their liberty, their country, and all they hold dear on earth, and of men who merely fight from compulsion.

Mr. DRIGGS. The gentleman from Wisconsin will excuse me for interrupting him again. He seems to have a better understanding of Jeff. Davis's views than I pretend to. I desire again to inquire if I understand the gentleman to say that the amendment to the enrollment law which provides for an absolute draft, after sixty days, of men in sufficient numbers to put down the rebellion, is such a measure as Jeff. Davis will approve?

Mr. BROWN, of Wisconsin. Yes, sir; I think it is the greatest folly of these acts of fanaticism, of all the acts of oppression which mere power has enabled gentlemen on the other side to pass for their own political destruction. Oh, it is strange that

"Man, proud man!
Drest in a little brief authority,"

"Plays such fantastic tricks before high heaven,
As make the angels weep."

According to the statement of Senator WILSON, chairman of the Senate Military Committee, we have raised seven hundred thousand men within the past year. Every order that the President has made for men has been complied with. If he has not men enough it is his own fault for not having said so. The complete success of our system of raising troops is the wonder of the world. And still our brave and patriotic northern people are ready voluntarily to furnish more men and money. In Wisconsin we have not only filled our quota but have voluntarily given hundred-day men in addition, for whom we receive no credit on the next draft. Other western States have done the same thing. And, under the circumstances, for any one to say that we cannot trust to the free spirit and patriotism of the people, but under conscription laws must hunt them out from their homes as wild beasts from their lairs, and drag them into the fight as a brutal master does his unwilling dog, is a foul libel upon a brave and generous people; it is ingratitude for their past sacrifices.

Let me entreat you, in the name of our soldiers, in the name of sorrowing mothers and weeping children, in the great name of our country, an inheritance from our fathers, return to your allegiance to the Constitution. Allow the southern voters and soldiers to feel that even more than victory defeat is desirable, as it restores them to the protection of the American Constitution.

Thus far I should hardly do injustice to leaders of the Republican party by calling them recruiting sergeants for Jeff. Davis. I do not know about the truth of a current story as to an interview between our Secretary of State and Lord Lyons; but this is certain, that fatal bell has never rung without sending an additional regiment to the army of rebellion. The gates of our Republican bastille have never turned upon their hinges without giving new power to Lee. Let us remember that constitutions are not made for peace. Peace and prosperity do not subvert Governments, although they may corrupt the people and unfit them to maintain liberty. It is amid fierce popular passions and in civil war that constitutions are necessary. Then we have a test of the capacity of the people for self-government; then with Argus eyes we should watch the slightest infraction of the charter of our liberties.

But our financial policy has been, if possible, even more unfortunate than our military. I should describe it in two words, tax and squander. I know of scarcely anything that enters into the actual necessities of life which has not been subjected to the Government crucible, except perhaps air and water. And yet, notwithstanding this, so wasteful has been our policy, so unwise our interference with the laws of trade, that Government credit has gradually been on the wane, and during this session of Congress we have seen the premium on gold increase from fifty per cent. to over one hundred. By our own bank bill, so unfortunate and so wicked, we not only made war on State banks, State credit, and State taxation for the benefit of a few unworthy dealers in stocks and Government securities, but as the issue authorized was founded solely on Government credit, we gave away the interest on the \$350,000,000 which might have been saved to the Treasury, and then with blind confidence in penal law, with that disposition eternally to legislate which is a curse to this country, we terrify the people with gold bills, as if we could frighten them into parting with rather than keeping their gold. It reminds me of that old king who tested the flattery of his followers that he was omnipotent by ordering the waves to recede.

When will politicians learn that the laws of nature and of trade will yield to neither king nor Congress?

But my object is not to find fault, but to convince, to show from our present financial condition the necessity of adopting those true maxims set forth in the minority report, of taking to our aid every moral support, and of making this a contest to vindicate outraged laws and not an offensive warfare of subjugation. There is a class whom I do not hope to convince, politicians who live on politics, who have patriotism on their lips but not in their hearts. The irrepressible patriot is a curious study; he sees the sore need of the Government and says, "Tax this western interest; loyal men in these times ought not to object

to taxation; it is necessary to put money in the Treasury;" but, *sotto voce*, he adds, "Let me have this large contract;" his sympathies are with the great bleeding heart of humanity as represented by the African, but he thinks the stealings of his particular friend should be overlooked; he is the advocate of the writ of *habeas corpus*, but thinks its principles apply to quiet times, when it will seldom be needed; he is the friend of the soldier, and believes in giving him the right to vote as his officers shall command, but not in giving him fair pay; he is in favor of economy, but advocates every wild scheme of internal improvement which promises fat pickings from the public Treasury as the very means of saving the country. His advice to the people is as disinterested as that of honest Iago to Rodrigo:

"Put money in thy purse; follow these wars; defeat thy favor with an usurped beard; I say, put money in thy purse. It cannot be that Desdemona should long continue her love to the Moor; put money in thy purse; nor he his to her; put but money in thy purse," &c.

But there is another class of earnest, honest, men whom I would reach; men who desiring the country's good, feel deeply both the wrong of slavery and the crime of rebellion; men who, swept along by the strength and depth of their own conviction, have unconsciously to themselves been instruments of their wily political associates. The undertaking, however, to convince such is difficult for in their own prejudices, in their strong desire to punish rebels all other objects are buried. And nowhere do our own desires and passions become so dangerous as when some fancied duty gives them in our own eyes the appearance of a virtue. In olden times religion waited at the stake, and converted horrible murder into a holy office; in these times a fancied humanity is endeavoring to convert this war for national integrity into a crusade of extermination and plunder against the South.

And this process of self-deception, too, accounts for Quaker persecution to which my friend from Ohio so often alludes in his assaults upon the old Puritans; but he will pardon me for saying that the old Puritans were men of destiny; to them belonged no whining sentimentalities; they came here to found an empire, and in attaining that end all obstacles were removed; before their iron tread the Indian race disappeared; they had no tears to shed as in accomplishing their commercial greatness their ships rescued the negro from the bloody altars of African idolatry and bore him to the milder fate of southern slavery. Individuals should be absolutely and in every case just; but in the creation of empires, as in the mighty processes of nature, evil must be commingled with the good. The hurricane which purifies the atmosphere, sweeps not the forest alone, but involves the hut which shelters the poor man and the waving grain which feeds his children; the lightning strikes the just and the unjust; and the mighty waves of old ocean, when lashed into fury to prevent stagnation, involve in one common destruction the navies of nations and the frail bark to which the mariner has been driven to relieve the necessities of life. Thus the old Puritans regarded the duty before them; and the Puritan women were worthy of the men. They did not deserve the sarcasm which Juvenal pronounced upon Roman women in the days of Rome's corruption; their shining eyes were never suffused with tears at the death of a sparrow; they belonged to no Barioboola-Gha society, but they were helpmates for the men; they aided in laying the foundation of empires. My friend from Ohio complains of the bigotry of the Puritans, but I will point him to churches not far from the harsh rock of Plymouth, established by sons who have apostatized from the faith of their fathers, in which the gentleman may learn how much more disgusting than the cant of religion is the cant of infidelity. But I apologize to the House for digressing so far from the resolution.

I am one of those who believe that this rebellion may be crushed out by force, and that we may meet all national liabilities necessarily arising from the war. But in order to accomplish this, there should be as much of wisdom, moderation, and economy in the measures of this House as of skill and bravery in the field. The financial task before us is no slight one. About \$1,719,000,000 of indebtedness have, according to the report of the Treasurer, already been ascertained; \$900,000,000 are a small estimate for debts and liabilities

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

FRIDAY, JULY 1, 1864.

NEW SERIES.....NO. 213.

which have not yet assumed so definite a shape as to be extended on the books of the Treasury Department; so that we have now a debt of about \$2,619,000,000, which, at six per cent., will make our interest \$155,140,000 per annum upon our debts up to this time. Instead of six per cent., Government is paying over twelve, allowing for the difference between gold which it pays and the legal-tender notes. We can hardly hope that with the greatest success of our armies, and even if politicians will let them alone, we can finish the war without the expenditure of \$1,000,000,000 more; so that at six per cent., in the happiest condition of things, we must pay an annual interest of \$247,140,000. But revolutions rarely move backwards, and although that wasteful extravagance which now marks the Administration will doubtless, and must through mere necessity, be checked in the future, still, taking into consideration our largely increased Navy, the necessity for an Army of some magnitude, and the additional expenses arising from the numerous officers necessary to collect your additional internal revenue and import duties, \$150,000,000 are a small estimate for future annual expenses; and therefore, including interest, those expenses cannot be less than \$397,140,000. To this must be added still another item of no inconsiderable magnitude, but as to which I have not the data to make even a rough estimate. You cannot abandon the sick and wounded soldiers, and care for them must be an additional charge upon the Treasury; at least two hundred thousand wasted frames and broken arms and legs will be a monument to that party which at Chicago a few years ago inaugurated the era of free speech, free soil, and free press.

But even without this large item, it will be seen that \$397,000,000 is the annual amount which the industrial interests of this country must give to the Government. I am not convinced even by the eloquence of the honorable gentleman from New York, [Mr. STREBENS,] to which I listened early in the session, that we can pay that amount in any other way than by the labor of the country.

We all love to hug a pleasant delusion, and would gladly turn from the contemplation of opposing armies and bloody battle-fields in the South, and of dull figures and giant debts here, to the Arcadia of the past and the Utopia of dreaming philosophers. I listened with intense delight the other day to the honorable gentleman as he described in glowing language the fertile prairies of the West and rich mines of California and the Territories out of which these debts were to be paid. Under the magic of his voice, the charmed senses already began to behold the golden peaks of western mountains glitter in the sunlight, and to see the cloud-compelling god descend upon the quickening earth, like Jupiter upon Danaë, in a shower of gold, so that we would need only to gather her wealth from the lap of rich and beautiful nature. But unfortunately the gifts of the gods become valuable to man only under the touch of labor, and these golden visions are as baseless as fancy stocks in Wall street. The mines of the far West cannot be made directly available in payment of our debts; they require for their development too much skill, capital, and labor. The hardy miner must traverse a trackless wilderness, exposed to the inclemency of the weather and the hostility of man; and almost without shelter, frequently without food, he must toil on in his painful enterprise; he is fortunate, indeed, if the results in precious metal are more valuable than would be the result of like exertion either in the cultivation of fields or in the workshop of mechanics.

I have been informed by gentlemen of great intelligence from California, and their statement has been confirmed by my own limited experience, of persons who have gone from Wisconsin that while an occasional fortunate adventurer becomes rich among the mines, still, if you take the average of one thousand persons engaged in mining, they are not better paid than for like labor in other pursuits. Where, then, is the margin of profit of which Government may avail itself? Be-

sides, for the discovery of mines, individual enterprise, stimulated by hope of gain, is necessary. Some percentage upon actual earnings Government may perhaps require; but the chief influence of these mines in diminishing the public debt will be indirect. As they are developed and vast sums, multiplied in effect by means of the paper currency system, go into circulation, the value of property will increase with the extension of the standard by which value is determined; and while the number of dollars which we owe will not be less, the burden and importance of it will be less by the increased value of that out of which it is to be paid. Much of the enormous increase of wealth in this country from 1850 to 1860, as shown by the tables, &c., is due to this cause, and is therefore only apparent and not real.

I have thus discussed this question, and endeavored to show that all those vast sums owing by Government are a charge upon the industrial interests of the country, in order to demonstrate the necessity of greater economy and of more caution in the creation of debts. If we, to encourage the spirit of wild speculation and cram the coffers of those already rich, give away the millions necessary for a war of extermination, to that extent we mortgage the bones and sinews of the laborers of the country out of whose sore earnings the debt must be paid; our action must be responded to by sorrowing hearts and aching limbs. Let no one suppose that because Government taxes and national wealth are not immediately paid by the hand of the laborer that they do not come from him. All large national debts are a system by which capital robs labor, a system which changes the natural relation of mutual dependence and strict alliance between them to the reverse, and places capital as a burden upon labor, like the old man of the mountain upon the shoulders of Sinbad the sailor, and we must get rid of the idea that the North is now prosperous and growing rich. It amounts only to this, that by resort to a strictly paper currency we have more than doubled the circulating medium, and with it the apparent value of property. Contractors are scattering their easily-won wealth of notes among the people; everybody has his pockets full of paper. Everybody is disposed to enjoy the new riches; workshops and farms are deserted, and there is a general rush for cars, hotels, and watering-places. Insolent vulgarity flaunts in brocades and jewels; upstart wealth, the fungus of a night, rolls in its chariot; railroad monopolies show increased earnings; the stock market is up and Wall street in a fever. But this is not real prosperity; it is as delusive as that bestowed by Mephistopheles and Faust upon the Kaiser, and fully as fatal to the best interests of the country.

In the mean time, in the far South, the work of destruction is going on. Our brave soldiers, the bone, the sinew, the life-blood of the country, are gradually wasting in battle or yielding to disease. Let me not be misunderstood. A divided country would be certain destruction; the rebellion must be suppressed at every cost of blood and treasure. Nor do I have any faith in peace propositions made directly to Jeff. Davis and his armed hordes; but I would inscribe upon every banner, so that all the world might see and know it, "the Constitution as it is," without an additional t crossed or i dotted. There is not a line in that Constitution which is not worth a whole generation of modern politicians. Then, sir, peace propositions should be read on a line of glittering bayonets, should be thundered forth from the cannon's mouth, and the cry of "Onward!" should be echoed from the whole North again united, and no politicians should again stay the course of our victorious armies or rescue the rebel capital from the hands of our generals. I recognize the principle that the relation of master to slave must yield to the higher relations of subject to Government, and that as our armies progress the shackles of slaves of disloyal masters should be broken and the slave become forever free. The advance of our armies should be stayed just where military opposition

ceases. When, however, the battle has been won, and our erring brethren of the South are ready to return to their allegiance, we should have wisdom and generosity enough to make a conquest, (necessary to give value to victory, but more difficult than that over their armies,) a conquest of their reason and hearts. And especially, having assumed in vindication of the Constitution the highest power which man can assume from his Creator, that of taking human life, we should show by our own regard for that instrument that such assumption was not hypocrisy.

But the majority of those in power seem to have adopted the maxim that propositions from the other side looking to a restoration of Government and cessation of hostilities should not be received, and that this war should continue for the freedom of the slave and confiscation of southern property; or, in other words, it is to be a war of extermination so far as the war material of the rebellious States is concerned, because it is not to be supposed that they will submit to such terms so long as any one is left to fight. As the North has a majority, with the sacrifice of a like number of northern lives, it may succeed in the war even on this basis. What, then, will be the condition of the country? The fictitious prosperity will disappear and a prostration proportionate to the intensity of the stimulus under which it had before been, and to the tremendous efforts it has made, will extend over the whole country. It is idle to hope the reverse, as it is the universal law of nature; each man feels it in his own system as the effect of over-exertion. The soldiers on both sides are taken chiefly from the industrial classes, and constitute the very life of the nation; of these, according to the programme of these revolutionists, all belonging to the South and a like number from the North will have been sacrificed.

Where, then, will be the labor to cultivate your fields, supply your workshops, and keep in operation your factories? Who will pay the debt? A Government which hitherto has been known solely for the blessings of wealth and protection it has brought will then be known chiefly through the tax-gatherer. Discontent will follow taxation, jealousy between different sections and interests as to the proportion of the national burden each shall bear will follow discontent. Utterly exhausted in this terrible struggle, we shall be exposed alike to foreign and domestic foes. The Mormons have not forgotten their persecution either in Illinois or Missouri, nor have they forgotten the desire for separate sovereignty of which their conduct has given so many evidences. Quietly seated in his remote fastnesses, through whose mountain barriers not even streams can find an outlet, but sink into the earth, where a few thousand can defend themselves against a host, Brigham Young is watching the process of mutual destruction going on among us. He will not fail to seize the opportunity of national exhaustion.

The Pacific States, now so true and loyal, if cut off by Utah rebellion from overland communication with the East may begin to consider whether they receive more of taxation than protection; may they not look at the central Government, so changed from its Federal form as to be almost a consolidated one, a Government trebly inconvenient for States so remote from the center, and conclude that it was the Constitution and Government which our fathers so wisely framed to which they had given their hearts? And as you make new requisitions upon them may they not exclaim, in view of their changed relations to the central Government, *Non hæc in fœdera veni*. These evils I do not believe will arise; they may be absolutely avoided, but the way to avoid danger is not by closing our eyes to its existence, but by looking it boldly in the face and taking wise precautions against it. The first duty of Congress relates to national finances; the money and credit of Government should be considered a sacred trust for the immediate and pressing necessities of the whole nation; not a dollar should be drawn for any purpose not ab-

solutely demanded by good faith in national exigencies. Taxation, which is just when the results are applied to objects of vital importance to the nation, becomes mere robbery when the moneys are thrown away upon local schemes or political favorites. Let us reject every proposition of the kind, and render lighter and less annoying the burden of taxation by showing that the whole nation is benefited by each dollar paid into the Treasury; that nothing is wasted. Our next duty is a similar one; we have tried our credit long enough; and it is time we should begin to pay. Every subject of taxation should pay its fair proportion; no one should attempt or be permitted to attempt to throw its obligations upon the shoulders of others. The members of Congress should consult together in the spirit of candor, justice, and moderation. Those efforts of sections to escape from sharing the national burdens, which have produced so much discontent, ought to be discountenanced, and all should be willing not only to demand justice but to do justice. In considering the amount of taxation which each branch of business can bear we ought also to consider the indirect advantages which it derives from our financial system; because no one should be permitted to speculate upon the miseries of the country. We should abandon the system inaugurated by this Congress of sacrificing in taxation the interests of the Treasury to building up local interests and advancing private speculations.

Above all, those animosities created by political ambition and love of office (always indicating an entire want of true patriotism) should disappear. Near the graves of the mighty dead, in the presence of a country which in its death-struggle and in its terrible agony is dropping blood from every pore, let the passions and clamor of parties be hushed.

Think of President-making during a nation's sorrow, while one half of the North is clothed in mourning, fathers lamenting the death of sons, children calling in vain for a father, sisters bending over a brother's grave, and mothers weeping for their children, and, like Rachel, refusing to be comforted, because they are not! Let us approach each subject pertaining to the safety of the country with the reverence of one treading on holy ground. This House is powerful for good or evil; its influence either to excite or allay the fierce and destructive spirit of faction goes forth to the country increased a thousand-fold through the mighty agencies of the press.

If in this House moderation and justice, union and harmony prevail, the effect will be felt in the most remote portions of the North; it will give new energy to enlistments and a new spirit to the Army; and while it will not subdue armed foes, it will secure to us the fruits of victory; it will not capture the rebel capital, but after our armies have taken that stronghold of rebellion it will make it the stronghold of loyalty. Under such an influence, aided by the valor of our troops, peace will again return to our land, the Constitution and law be triumphant over brute force, and the capacity of man for self-government be vindicated from those doubts which the circumstances of this war have thrown around it.

The huge debt which now overshadows us will be felt, it is true, as a punishment for past transgression, but its bulk will gradually be diminished before the skill of our artisans and the vigor of our laborers, aided by economy and prudence here. Then we may do something more than utter vain threats against the infringement by foreign Powers of the Monroe doctrine—we may make our threats good. The old dream of empire extending from the Arctic ocean to the Isthmus may return; and the armies of the Union may again plant our banner resplendent with stars upon the walls of Mexico, and this time not as conquerors, but deliverers.

"But," says the priest of Moloch who has intruded himself before the altar of God; "but," says each petty Robespierre, ambitious on American soil to introduce the bloody shambles of revolutionary France; "but," echoes each driveling politician; "but," repeats the fat office-holder, who, having belonged to every party and betrayed each in turn, and, always upon the crest of the wave of popular passion, never had and never expects to have clothes to his back or food for his stomach not paid for out of the public Treasury; "but," exclaim the hordes of contractors, pay-

masters, Army sutlers, and petty officials; "but slavery is the cause of the war, and it will not answer to have peace and union and national life again without destroying this cause." Like a thousand other things popularly repeated as truisms, this is false. Slavery is not the cause of the war. The North was opposed to slavery, and in the North there was none. The South desired slavery, and the South had it. The slaves themselves were quiet. Even now, hearing the notes of the Union trumpet and seeing the flash of Union cannon, three million slaves, guarded by old men, women, and children alone, utter no sound of discontent, and prefer slavery to one blow for freedom. Politicians are the cause of the war, politicians North and South; who, unable or unwilling to win office and power by honest means, have sought them by fomenting sectional jealousies and factions. To their aid came the pulpit, which in the South taught the divine right of human bondage, and in the North the Christian duty of cutting slaveholders' throats. Slavery was the effect, but was no more the cause than property is the cause of robbery or life the cause of murder.

If, then, it be proposed to abolish the true cause, "politicians," not only will an "Amen" go up to heaven from the entire nation, but with their removal peace and union would be restored without another battle. "Slavery is dead," exclaim another class of patriots. Then why not bury it by the highway as other dead dogs are buried; why bring it into this House or throw its carcass as a stumbling-block in the pathway of our armies? Slavery is not dead, but has inflicted upon itself a fatal wound. Let it alone, and in a restored Union it will die of wounds inflicted by its own hands, without a subversion of Government and without a violation on our part of the oath we have taken to support the Constitution. It will die off fully as rapidly as we can discover the means of disposing of the emancipated slaves. In West Virginia, in Missouri, in Maryland, and Delaware, it is substantially destroyed. And Kentucky, too, generous Kentucky, the home of patriots and orators, Kentucky, which, never clamoring for aid to itself from the General Government, has always come to the rescue of New England when it asked protection for its manufactures or bounties for its fishermen; Kentucky, abused and persecuted by the radicals, will itself soon see its interest in getting rid of the incubus of slavery, provided the meddling abolitionists will allow its people time to reflect. But whatever of truth there may be in these views, our duty in the matter before us is a simple one: it is to observe our oaths of office and look to the Constitution in its true spirit as our rule of action.

Mr. DAWES. I now call the previous question upon the joint resolution.

Mr. STEVENS. I ask the gentleman from Massachusetts to allow me to offer an amendment. I will not detain the House by commenting upon it.

Mr. DAWES. I will withdraw the demand for the previous question to hear what the amendment of the gentleman is.

Mr. STEVENS. If the gentleman will not allow me to offer an amendment unless it should exactly suit him, I suppose it is hardly necessary to have it read.

Mr. DAWES. If the gentleman will not allow me first to know what his amendment is I will renew my demand for the previous question.

Mr. STEVENS. I hope the House will vote down the demand for the previous question.

Mr. DAVIS, of Maryland. I move to lay the whole subject on the table.

Mr. DAWES. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 46, not voting 56; as follows:

YEAS—Messrs. William J. Allen, Allison, Ancona, Augustus C. Baldwin, Beaman, Blair, Bliss, Blow, Boyd, Brooks, Broomall, James S. Brown, Cole, Cox, Henry Winter Davis, Thomas T. Davis, Dawson, Deming, Denison, Dixon, Driggs, Eden, Edgerton, English, Finck, Griswold, Hale, Herrick, Higby, Holman, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jencks, William Johnson, Kalbfleisch, Kelley, Francis W. Kellogg, Kernan, Knapp, Law, Lazarus, Loan, Longyear, McAllister, McDowell, McIndoe, McKinney, Samuel F. Miller, Moorhead, James K. Morris, Morrison, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Pendleton, Perham, Perry, Radford, Samuel J. Randall, Robinson, Ross, Schenck,

Shannon, Sloan, Smith, Smithers, William G. Steele, Stevens, Stiles, Strouse, Stuart, Thayer, Webster, Chilton A. White, Joseph W. White, Williams, and Winston—80.

NAYS—Messrs. Alley, Ames, Anderson, Ashley, Bailey, John D. Baldwin, Blaine, Boutwell, William G. Brown, Chandler, Cobb, Dawes, Donnelly, Eckley, Eliot, Farnsworth, Ganson, Gooch, Harding, Benjamin G. Harris, Charles M. Harris, Hooper, Hutchins, Julian, Knox, Littlejohn, Long, Mallory, Marcy, McClurg, Morrill, Odell, John O'Neill, Pike, Pomeroy, John H. Rice, Edward H. Rollins, James S. Rollins, Scofield, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, and Winfield—46.

NOT VOTING—Messrs. James C. Allen, Arnold, Baxter, Brandegee, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Cravens, Creswell, Dumont, Eldridge, Fenton, Frank, Garfield, Grider, Grinnell, Hall, Harrington, Hotchkiss, Ingersoll, Philip Johnson, Kasson, Orlando Kellogg, King, Le Blond, Marvin, McBride, Middleton, William H. Miller, Daniel Morris, Nelson, Noble, Patterson, Price, Pruyn, William H. Randall, Alexander H. Rice, Rogers, Scott, Spalding, Starr, Stebbins, John B. Steele, Sweet, Tracy, Voorhees, Wadsworth, Ward, Wheeler, Wilder, Wilson, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—56.

So the whole subject was laid on the table.

During the call of the roll, Mr. DENISON stated that Mr. MILLER, of Pennsylvania, was confined to his room by sickness.

Mr. NOBLE stated that he had paired with Mr. GARFIELD.

Mr. MARVIN stated that he had paired with Mr. HARRINGTON.

The vote was then announced as above recorded.

Mr. DAVIS, of Maryland, moved to reconsider the vote by which the subject was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MAJOR DAVID H. HASTINGS.

Mr. STILES, by unanimous consent, introduced an act for the relief of Major David H. Hastings; which was read a first and second time, and referred to the Committee of Claims.

CIVIL APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported back the Senate amendments to House bill No. 527, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865, and for other purposes.

The SPEAKER. Is there objection to considering these amendments in the House?

Mr. KALBFLEISCH. I object.

The amendments were referred to the Committee of the Whole on the state of the Union.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PENLETON in the chair,) and proceeded to the consideration of the amendments of the Senate to the bill (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1865, and for other purposes.

Mr. STEVENS. I suggest that where there is no objection to the recommendation of the Committee of Ways and Means, it will be considered agreed to.

The recommendations of the Committee of Ways and Means on the various Senate amendments were agreed to without division, except in the following cases, where special action was taken:

Eighth amendment of the Senate:

To change Tiber creek, where it now runs through the botanic garden, into a sewer, \$10,150, to be expended under the direction of the Commissioner of Public Buildings.

The Committee of Ways and Means recommended concurrence.

Mr. HOLMAN. Mr. Chairman, that is one of the items which was in this appropriation bill when first reported. But it was struck out then. It appropriates over ten thousand dollars to a purpose that is not essentially necessary. We have got along with this classical stream in its present condition a great many years, and it seems to me that the usual argument that this is no time for this expenditure applies to this appropriation. I hope this appropriation will not be made, and that no more money will be expended about this

Capitol that is not actually required for the public service.

Mr. STEVENS. Mr. Chairman, this arching of the Tiber so as to prevent infection from it has been recommended for years. It was in the original bill presented here, but it was supposed to be out of order in consequence of an ancient rule that was revived. Anybody who will look at it will see at once that to all those who live here and do not expect to die pretty soon this is a material improvement. The whole stream, sluggish everywhere, becomes putrid there, and is to-day as green as any pool ever seen. It is to arch that stream below the garden that this appropriation is asked for. It has been always recommended, and I hope it will be agreed to.

The amendment of the Senate was concurred in.

Eighteenth amendment:

For continuing the work on the Washington aqueduct, \$150,000.

The Committee of Ways and Means recommended non-concurrence.

Mr. BROOKS. There seems to be some misunderstanding between the two Houses on the subject of clear water in Washington. I consider it a matter of prime importance that we have pure water before we go into further expenditure. I am not sufficiently informed on the subject to form an opinion about it. I listened the other day to the chairman of the Committee of Ways and Means with much interest in his explanation of the subject. The Senate has arrived at a very different conclusion. In my judgment, the whole matter should be left to three intelligent commissioners, such as constructed the water-works of Philadelphia, New York, Cincinnati, and other cities of the Union.

Mr. STEVENS. Mr. Chairman, the House recommended that the work shall be done in a particular way, so as to avoid the present mud hole, called the reservoir, and to bring the water direct from the Potomac. We found that although \$3,000,000 had been expended the city never yet had received one drop of water from the Potomac, and that when the water was let into the upper end of the receiving reservoir it all ran back into the Potomac, very much to the annoyance of the people below, who found the water too filthy to use. We therefore thought it best to say how the rest of the money should be expended so as to be sure to bring the Potomac water into the city. The engineer or some one of the architects, after the bill was reported, asked us to give them the money and that they would expend it properly. The committee and the House thought they knew the mode in which it should be expended as well as those who expended \$3,000,000 to no valuable purpose. We therefore, when we came to reconsider it, thought it right to let the subject go to a committee of conference, and if they can convince the committee of conference that it is better to leave \$150,000 to these men I have no objection. I do not see what objection there could be to letting this go to the committee of conference.

Mr. BROOKS. I am willing to let the subject go to the committee of conference, and after \$3,000,000 have been wasted on these works, if we trust the committee of conference with the finality of action, we will have the right to hold them responsible in reference to further appropriations hereafter and the introduction of good water into this city.

Mr. PRUYN. A few days before the question was voted on by the House I visited the aqueduct and upper reservoir very much with reference to looking at the condition of things there in regard to the impropriety of making this appropriation. I agree with the gentleman from Pennsylvania, [Mr. STEVENS], so far as the facts were placed before me, that very important improvements can be made in the water-works at that point, but I should be sorry to see the House disagree and refuse to let this subject go to a committee of conference. I hope the course suggested will be agreed to, and that the subject will be referred to the committee of conference.

The CHAIRMAN stated that the Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

MESSAGE FROM THE SENATE.

The committee informally rose, and a message

was received from the Senate by Mr. FORNEY, its Secretary, notifying the House that that body had adopted the report of the committee of conference on the tariff bill.

CIVIL APPROPRIATION BILL—AGAIN.

The committee resumed its session.

The next amendment of the Senate was read, as follows:

Insert:

For plans and detailed drawings for proposed changes in the Capitol wings to secure improvements in ventilation and the acoustics of the Halls of Congress, the sum of \$1,500, or so much thereof as may be necessary; said outlay to be authorized and approved by the joint select committee of the two Houses on ventilation &c., of the said Halls, and to be paid out of the aforesaid appropriation for the Capitol extension.

Mr. BROOKS. I would like to have some explanation of that.

Mr. STEVENS. We have two or three architects employed, and if they are competent they ought to do it without extra pay.

Mr. BROOKS. This is the only opportunity for me to say that I believe this is an unfit place to do business in, especially when the furnaces are going. I trust that something will be done to ventilate this place so that we may be able to stay here and do business. I do not expect myself to be here more than three months longer, but for the great mass of individuals who are to come to this place hereafter to do public business, I do hope that something will be done for the ventilation of this Hall. Thousands and tens of thousands of dollars have been thrown away here. It is impossible to stay in this House any length of time without going out to seek the fresh air. That is one of the causes of disorder. It is impossible to sit here and devote attention to the business that is going on. Members must breathe, they must have fresh air. Here the air is artificial and the light is artificial. Let the architects who have control of this matter prepare some plan for remedying the evil.

Mr. STEVENS. The gentleman says that this is an unfit place to live in, and I do not think it is a very clever place to die in. [Laughter.] Whether \$1,500 is necessary to employ new architects I do not know. Gentlemen can concur or non-concur in the Senate amendment as they please.

Mr. PRUYN. I take it for granted that the regular architects employed upon this Capitol are fully occupied with that regular work, and that you will find it necessary to employ somebody who shall give special attention to this subject, and somebody, if you please, not connected with the building heretofore. I think it would be wise to go outside for the purpose of procuring proper plans for this purpose, and therefore I hope the House will agree to vote this \$1,500.

Mr. MORRILL. In consequence of other duties I have been able to attend but one meeting of the select committee upon this subject. I desire to ask my colleague upon the committee, from Connecticut, [Mr. ENGLISH], whether any action of that committee has been had relative to this expenditure, and whether that committee deem this expenditure important, and have requested it or not.

Mr. ENGLISH. As a member of that committee I desire to state to the House that Mr. Anderson appeared before this committee with the original plans which he devised for this edifice. The plans have been of some service to the committee in their examinations in regard to the ventilation of this Hall as originally contemplated by Mr. Anderson. There has been no action taken by the committee in regard to compensation.

Mr. MORRILL. Another question; is this \$1,500 to be appropriated for plans to be made hereafter, or is it to be made as a compensation for those already made and exhibited before the committee?

Mr. ENGLISH. The whole matter is new to me, and no action has been taken by the committee; but the committee have consulted the plans during one evening.

Mr. RICE, of Maine. I would ask the gentleman from Connecticut whether the select committee recommend this appropriation.

Mr. ENGLISH. No action has been taken by the committee.

Mr. RICE, of Maine. I desire to say that a bill has been reported appropriating \$7,500 for Mr. Anderson. That is, I understand, for the

plans which he has produced heretofore, and for services for which he has been paid.

Now, one word in reference to this appropriation. I believe that to appropriate \$1,500 will be to throw away just so much money, because everybody knows that it cannot accomplish anything toward the ventilation of this room. The Committee on Public Buildings and Grounds, to which I have the honor to belong, have investigated this subject to some extent. They investigated it in connection with the claims of Mr. Anderson, and we gave it considerable time and attention, but no member of the committee will say he is prepared to urge our views upon the House in this connection. I simply mean to say that the committee agree in saying that \$1,500 would be a mere bagatelle toward accomplishing the great purpose in view. Seventy-five thousand dollars would be the least amount required.

Mr. PRUYN. This appropriation is for plans. Mr. RICE, of Maine. This joint committee should make a thorough investigation of this matter. It is composed of able gentlemen, who are amply able to investigate this subject, and therefore I hope this appropriation will not be made, but that the joint committee will have time during the interim between the two sessions to thoroughly look into the matter. If that committee do now recommend this expenditure I have not a word now to say; but in the absence of any such recommendation I am opposed to it.

So far as the plans of Mr. Anderson are concerned, I would say that he has already been paid for them by pending legislation, and they are now at the command of that committee.

Mr. WASHBURN, of Illinois. Has this appropriation any connection with the claim of Mr. Anderson?

Mr. RICE, of Maine. I do not know anything about it. If it has it ought not to have.

Mr. WASHBURN, of Illinois. I desire to state that I am in possession of some facts in relation to the claim of Mr. Anderson to six or seven thousand dollars.

Mr. RICE, of Maine. I will say nothing for the present about that claim. It will not come up for action during this session of Congress.

Mr. WASHBURN, of Illinois. I understand that Mr. Anderson has already been paid everything he claimed, and has, besides, got his plans.

Mr. MORRILL. From the information already before the committee it is obvious that this appropriation is not needed. I therefore hope it will be non-concurred in.

Mr. BROOKS. I would ask the gentleman from Maine what he proposes to do now. Why put off all this matter? Why legislate for posterity instead of for the present?

Mr. RICE, of Maine. I think something should be done now, but the matter was taken out of the hands of the appropriate committee and given to this joint committee. When that joint committee will report and recommend any feasible plan, I will certainly give it my hearty concurrence, but until we do get some report from an appropriate committee I am opposed to this appropriation.

Mr. BROOKS. Will the Clerk read the Senate amendment again?

The amendment was again read.

Mr. BROOKS. Mr. Chairman, I do not see that the \$1,500 would do the least good; and I quite concur in the remark made that it would be so much money thrown away. But I propose to submit something practical as a substitute for the Senate amendment, to the effect that a sub-committee of four from the joint committee on ventilation be directed to execute some plan for the ventilation of the two Houses of Congress, and that \$25,000 be appropriated therefor. This sub-committee can sit during the recess and devise and execute some plan which will give us good ventilation hereafter. Acoustics are of minor importance. We can do without hearing, but we cannot do without breathing.

Mr. PRUYN. I suggest to my colleague to use the word "authorized" instead of "directed."

Mr. BROOKS. I accept that modification.

Mr. MORRILL. I hope that duty will not be imposed on the committee already raised. It seems quite enough responsibility to impose upon them a recommendation to the two Houses of Congress to adopt some plan. If a plan be adopted

\$25,000 will not be by any means sufficient. I am opposed to authorizing a committee to act on their own judgment, their own taste, their own information alone in making important changes in these Halls. I trust the subject will be properly and thoroughly investigated, and that this recommendation will be subjected to the scrutiny and examination of the two Houses, to be by them adopted if approved of.

Mr. BROOKS. I would ask the gentleman from Vermont if he ever expects that one hundred and eighty or two hundred members of Congress will ever take the time to investigate any plan of ventilation. I know nothing about the theory of ventilation or of acoustics, but there is one fact palpable to me every day and every hour, and that is that this is not a place fit to breathe in, and that no natural breath can be inhaled by persons here. In the end this is to be done by some engineer or architect; but why not devolve this duty on a sub-committee? Why not give that committee power now? Why not have a properly ventilated Hall next session of Congress? Some architect, some engineer, some committee will have to direct and execute some plan finally, for a body of two hundred men has neither the time nor the capacity to act upon and approve any plan.

The time is now or never. The same debate would occur next winter, and nothing will be done. The same debate will occur the winter after, and nothing will be done. The whole tendency and management of the public business is to throw it out of the hands of the House and necessarily into the hands of a few committees, for necessarily the great body of the members of the House are not physically able to remain within these walls hour after hour. They must go out of doors to seek pure air. There is nothing I have desired so much during the night sessions we have had here as to escape from this Capitol. It would have been better that the two Houses should have their sittings out under the trees where we could have the pure air of heaven rather than to have been confined within these walls. Our business is to a considerable extent transacted by unanimous consent. Why, sir, this morning ten or fifteen gentlemen pressed through bills involving thousands, tens of thousands, hundreds of thousands, if not millions of dollars, that the great body of the House will know nothing of until they read them in the published acts of Congress. It cannot be otherwise in this Hall as at present arranged, for it is impossible to sit here. I have been as constant in my attendance here and as constant in my attention to what was going on as my capacity would admit during the present Congress; but it is impossible for any member to know what goes on. Why, sir, our tenement houses in New York, some of them fifty, sixty, or one hundred feet under ground, some of them ten or twelve stories high, are better supplied with air; their tenants enjoy better ventilation than we who live within these gorgeous rooms, in this magnificent Capitol, amid this gold, surrounded by these pictures, reposing upon these luxurious seats. Sir, I would rather sit upon a broken bench under some leafy tree in the open air in some wild woods than to submit to the miserable confinement within this Hall.

Mr. MORRILL. The gentleman's denunciation of this Hall should perhaps be taken with some grains of allowance. I believe it is conceded by all that it is improperly ventilated, but the question arises whether we shall adopt the plan of the present architect, which involves no great amount of expenditure, or provide for some new plan. I believe the architect assumes that he can give any amount of ventilation required very easily without any change of the present plan. Gentlemen who understand anything of the construction of this building know that to go into a reconstruction of this Hall would involve an expenditure of hundreds of thousands of dollars.

Under these circumstances, I think it is no more than proper that we should exercise a considerable amount of caution, judgment, and discrimination before we authorize any committee, without the plan being submitted to Congress, to enter upon a work which may involve so grave consequences. I trust this committee will not adopt the amendment of the gentleman from New York, at least until the architect has had the opportu-

nity of ascertaining whether a proper amount of ventilation cannot be secured under the present plan.

Upon the adoption of Mr. Brooks's amendment 70 voted in the affirmative, and 29 in the negative. Mr. RICE, of Maine, called for tellers.

Mr. BROOKS. Let me suggest that if gentlemen upon the other side of the House do not like my amendment let them change it to suit themselves. I do not care how it is done, I only want some plan adopted to give us pure air.

Mr. MORRILL. I move to amend the amendment of the gentleman from New York by adding thereto:

Provided, That no greater sum shall be appropriated under this appropriation than is necessary to increase the ventilation sufficiently upon the plan now in existence.

Mr. KALBFLEISCH. I object to that amendment. The gentleman from Vermont and I differ upon many subjects, and I think upon the subject of ventilation. I do not know what these plans may be. [Laughter.]

Mr. MORRILL. All I desire is that we shall not be involved in an expenditure of half a million dollars without knowing what we are about.

Mr. FRANK. I presume there is no objection upon the part of any one to a proper investigation being made in regard to ventilation; but if any change is undertaken in the plan of this Hall there is no question but a very large amount of expenditure will be involved.

Mr. BROOKS. I am willing to limit the expenditure to \$25,000.

Mr. FRANK. That is very well, but the gentleman will find that the expenditure of \$25,000 will be but the entering wedge of appropriations of hundreds of thousands.

Mr. BROOKS. I am willing to add the proviso that there should be no change in this structure of the Halls of Congress. I do not care for the heat, but I want to breathe the fresh air of heaven. I am willing to endure this miserable artificial light, but I want to breathe. I do not ask for any change in the structure of the Hall; I only ask that some plan of ventilation may be adopted that will enable us to sit here and attend to the public business.

Mr. STEVENS. I want to move to amend still further.

The CHAIRMAN. Farther amendment is not in order.

Mr. MORRILL. I desire to add a proviso that no greater sum shall be expended under this appropriation than shall be necessary to increase the ventilation upon the plans now in use.

Mr. STEVENS. I understand the gentleman from New York accepts that amendment.

Mr. BROOKS. Certainly.

Mr. MORRILL. The object of my amendment is to give the architect an opportunity to increase the ventilation upon his own plan, which he says he can do, and without any large expenditure of money. That can be done during the recess of Congress, while to make an entire change will require a year or more.

Mr. BROOKS. I want added the words "that there shall be no change in the Halls of Congress."

Mr. MORRILL. I am willing to agree to that.

The amendment, as modified, was agreed to.

The Senate amendment, as amended, was non-concurred in.

Mr. BROOKS. How does the question stand now?

The CHAIRMAN. With the Senate amendment non-concurred in.

Mr. BROOKS. What has become of the amendment of the Committee of the Whole on the state of the Union?

The CHAIRMAN. The question fell with the non-concurrence.

Mr. BROOKS. I demand a division.

Mr. MORRILL. We are willing that the gentleman shall have a vote on the amendment in the House.

Mr. BROOKS. I agree to that.

Mr. HOLMAN. There is nothing before the House, and I object.

Mr. BROOKS. I move to insert \$2,499.

Mr. STEVENS. I make the point of order that there is nothing before the House on which to hang the amendment; the Senate amendment has been disposed of.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BROOKS took an appeal from the decision of the Chair, but subsequently withdrew it.

The next amendment of the Senate was read, as follows:

Insert:

Provided, That in courts of the United States there shall be no exclusion of any witness on account of color, nor in civil actions because he is a party to or interested in the issue tried.

Mr. MALLORY. I ask that the section may be read to which that is proposed to be attached.

The Clerk read, as follows:

Sec. 3. And be it further enacted, That the sum of \$100,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of meeting any expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, or other securities of the United States, as well as the coin of the United States.

Mr. MALLORY. I make the point of order that the amendment of the Senate is not germane to the bill before the House. I cannot for my life see what right the Senate of the United States has to incorporate into a bill of the House distinct and substantive legislation. This is a bill to appropriate money, and emanates from the Committee of Ways and Means. It was reported from that committee, acted on by the House, and sent to the Senate. It has been returned with this amendment which has no reference to the object of the bill at all. It is distinct and substantive legislation, and on a subject of great importance, and which should not be acted upon in this light and hurried manner.

Mr. STEVENS. While that may be a good argument against adopting the amendment, the question of order cannot prevail. The same rules do not affect the Senate that affect the House, and they may add what amendments they please to the bill. This is a question of expediency and not a question of order.

The CHAIRMAN. The Chair overrules the point of order of the gentleman from Kentucky.

Mr. MALLORY. I rise to another point of order. It is that the whole amendment, that adopted by the House as well as the Senate amendment thereto, is out of order; that that section itself, which is the action of the House, and which by the admission of the gentleman from Pennsylvania and of the Chair is subject to the orders and control of this House, is out of order inasmuch as it is a distinct matter of legislation not connected with the appropriation of money, and it ought not to have been, under the rules of the House, introduced into an appropriation bill by the Committee of Ways and Means.

The CHAIRMAN. The Chair decides that the point of order comes entirely too late after a bill has passed from the possession of the House and been sent to the Senate.

Mr. MALLORY. I hope then—and that is the last thing I can resort to—that the committee will not concur. I think the whole thing is vicious and wrong in itself. I think that even if it is in order—and I am bound to believe it is not after the decision of the distinguished chairman—it is wrong for this House in so summary a manner as this, without consultation, without reflection, on the spur of the moment, and nearly at the close of the session of Congress, to take up and adopt an amendment offered by the Senate of the United States which changes the law of the land so vitally as that does. It is a subject which should have been sent by this House to its able Judiciary Committee to have been thought over, pondered on by them, adjusted by the committee, and reported from that committee to the House before action should be taken by us.

I have not time now, nor do I wish, to enter into a discussion of the merits of this case. I do not wish to show the reasons why negroes should not be admitted in the courts of the United States as witnesses, nor why they should be. My ground is that we are not now in a condition to settle this question. It comes on us too suddenly, and we have not the time to deliberate upon it which we should take to reflect upon a matter of this importance before it is settled.

Mr. STEVENS. I presume this is a question which every man who is deemed fit to have a seat in this House has thought on more than once. It is not suddenly raised now for the first time, nor is it suddenly presented to any man's mind.

The laws of the different States throughout the United States are various upon that subject; some of them go to the whole extent of the amendment, and some of them reject it. The object of the amendment is to make the matter uniform as to United States courts.

Mr. MALLORY. I will offer an amendment to the Senate amendment so as to make it uniform, as the gentleman claims that to be the object of the amendment. The gentleman says some States allow it, and some do not. If it was allowed in all the courts of the United States as is proposed by the provisions of this bill, he will see that the uniformity will be abolished and destroyed. I move to amend the Senate amendment by adding thereto the following:

That such testimony shall only be taken in the courts of the United States in those States where such testimony is allowed by the laws of the State.

That will make the matter uniform as the gentleman proposes.

Mr. STEVENS. That would make it uniform if the laws of all the States were alike; but if they are different I do not see where the uniformity is.

Mr. MALLORY. That makes it regularly irregular.

Mr. STEVENS. But the law will not be uniform if the State laws are different. I do not wish to spend any time on this matter. Gentlemen can have a vote on it in the House, and call the yeas and nays upon it. I will simply say that this system of allowing parties to a suit to testify has been tried in England and in many of the States of the Union, and every witness's testimony is allowed such weight as it is entitled to. That is the substance of the proposition before the House.

Mr. MALLORY. Will the gentleman accept my amendment to the Senate amendment?

Mr. STEVENS. I will give the gentleman an opportunity to offer it in the House.

Mr. KALBFLEISCH. The gentleman does not speak for me.

Mr. STEVENS. I speak for myself, for nobody but the chairman of the committee has the floor when the bill comes before the House. I will say to the gentleman from Kentucky that I will give him an opportunity to offer his amendment before I call the previous question.

Mr. KALBFLEISCH. The amendment can as well be voted on in the House after being admitted here.

Mr. STEVENS. Undoubtedly.

Mr. KALBFLEISCH. Then why not admit it here?

Mr. HOLMAN. It is agreed that the amendment of the gentleman from Kentucky shall be offered now and reported to the House.

The CHAIRMAN. Does the gentleman from Kentucky offer his amendment at this time?

Mr. MALLORY. Yes, sir.

Mr. STEVENS. I agree that the amendment may be offered in the House.

Mr. MALLORY. I withdraw the amendment at this time, and will offer it in the House.

The Senate amendment was concurred in.

Thirty-ninth amendment:

Add the following as an additional section:

And be it further enacted, That sections eight and nine of the act entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States from and after the 1st day of January, A. D. 1808," which said sections undertake to regulate the coastwise slave trade, are hereby repealed, and the coastwise slave trade is prohibited forever.

The Committee of Ways and Means recommended concurrence.

Mr. BROOKS. I would suggest to the members from New England the danger of interfering with the coastwise trade. I would suggest to gentlemen living on Lake Erie and Lake Ontario that when the public begins to direct its attention to this coastwise trade a great many things may be thought of. The coastwise trade is now exclusively in the hands of American ship-owners. No British vessel can go from Nova Scotia to Eastport and from Eastport to Portland, Maine; no British or French vessel can go, under our coasting-trade laws, from New York to Boston. The coastwise trade is now a monopoly in the hands of New England men. The greatest protection that can possibly be given to any interest is now given to the commercial and coastwise trade of the country under our existing laws; and that protection to the coastwise trade on Lake

Erie, Lake Ontario, and on the river St. Lawrence is exceedingly expensive to this Government because it enhances freights. The trade on Lake Erie, Lake Ontario, and the St. Lawrence could be done by British and Canadian vessels at a good deal cheaper than it is now done. The British, the Danish, and the French vessels, with their illy-paid sailors, could do the whole coastwise trade of the country twenty-five per cent. cheaper than it is done at present, and fifty per cent. cheaper than under the coming tariff and revenue bills.

I therefore suggest to gentlemen from the lakes and from New England that the less the people think of the coastwise trade of the country, the less that subject is debated, the less attention that is given to it in the Halls of Congress, the better it will be for the commerce of the country. The whole coastwise trade of the country, from the Atlantic coast to California, is now exclusively in American hands, and the expenses of transportation are therefore twenty-five per cent. greater than if the trade were free, and will be fifty per cent. greater under the new system of taxation. I do not know from what quarter that amendment came in the Senate; but the man who drafted it and had it ingrafted on this appropriation bill is an enemy to our trade and commerce and an enemy to New England. He is threatening the commerce of the country; he is endangering the monopoly which is now in American hands, solely for a wild, fanatical, troubadour, rhetorical theory about the negro. No coastwise trade of any kind exists now between New York and Charleston, or between Charleston and New Orleans or anywhere else. But once you open the coastwise trade of the country, and not only the Atlantic coast, but all the lake coast and the Ohio and Mississippi may be lined with the cheap steamers of the British provinces. Sir, if we are commercially wise, if we are thinking men, we shall not allow these wild, romantic, humanitarian ideas of the negro to set the people of the country to thinking upon the subject of the coastwise trade, now the fast friend of the ship-building interest of New England.

Mr. DAVIS, of New York. I believe, Mr. Chairman, the honorable gentleman from New York has mistaken the nature of that amendment. If I understand it, it does not propose at all to interfere with the coastwise trade, except so far as to prohibit the transportation of slaves in that trade. It interferes with nothing else whatever.

Mr. BROOKS. It refers to the coastwise trade.

Mr. DAVIS, of New York. The coastwise slave trade; nothing else. The entire commerce of the country, so far as relates to the coasting business, except for the slave trade business, remains untouched in any way by the provisions of this bill, and I trust the honorable gentleman from New York is disposed to put a check upon the transportation of slaves anywhere within or without the Republic. The argument of the honorable gentleman, therefore, in my judgment, falls to the ground. I do not know a man, even a border State man, upon this floor who is not opposed to the extension of the slave trade of the country.

Mr. MALLORY. I cannot really understand what the gentleman from New York [Mr. DAVIS] means when he speaks of a coastwise slave trade. I understand the President's proclamation, as claimed by the other side of the House, has abolished slavery in every one of the rebel States. Slavery has been wiped out in Missouri by the gradual emancipation process which is going on. Gentlemen on the other side claim that slavery has been abolished in Maryland by the convention now in session in that State. Kentucky is, therefore, according to the theory of gentlemen upon the other side, the only State remaining where the institution of slavery has not been removed.

Now, I simply ask, if slavery exists nowhere in the country except in the State of Kentucky, what is there for this bill to act upon? How can there be any trade from Kentucky when all the rest of the country is free, or how can there be trade to Kentucky if the theory of gentlemen on the other side be correct? No, gentlemen, you must either give up your legal opinions in regard to the status of slavery, or you must confess that your slave-trade coastwise bill with nothing for it to apply to is simply an absurdity.

Mr. DAVIS, of New York. I desire to ask the honorable gentleman from Kentucky whether he is in favor of the slave trade.

Mr. MALLORY. No, sir, I am not; but let me say to the gentleman from New York that those who concur with him do not stand in the same position in which they did in years gone by. There was a time when the abolition leaders of the country would not consent to the prohibition of the African slave trade under the Constitution of the United States until 1808. If they could make anything by it, if they could see profit in it, if they could fill up their coffers and build up colossal fortunes by it you would not see this proposition advocated by members on that side of the House.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, informing the House that the Senate have agreed to the report of the committee of conference on the bill of the Senate (No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia.

Also, that the Senate have disagreed to the amendments of the House to the bill of the Senate (No. 154) to provide for the better organization of the quartermaster's department, ask a conference with the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. WILSON, Mr. TRUMBULL, and Mr. POWELL the said committee on their part.

Also, that the Senate have passed, without amendment, a joint resolution and bills of the following titles:

An act (H. R. No. 435) concerning the location of lands within the State of Missouri;

Joint resolution (H. R. No. 103) for the relief of Mary Kellogg;

An act (H. R. No. 414) for the relief of the estate of B. F. Kendall; and

An act (H. R. No. 205) authorizing the issue of patents for locations made with certificates granted under the authority of the act of Congress approved March 17, 1862, allowing floats in satisfaction of lands sold by the United States within the limits of Las Ormeigas and La Nana grants, in Louisiana.

Also, that the Senate have passed bills of the following titles with amendments, in which he was directed to ask the concurrence of the House:

An act (H. R. No. 162) for the relief of Nathaniel McLean, Richard G. Murphy, and Charles E. Flandreau; and

An act (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Also, that the Senate have passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (No. 228) providing for satisfying claims for bounty lands, and for other purposes; and

An act (No. 336) to amend the act incorporating the Washington Gas-Light Company, and for other purposes.

CIVIL APPROPRIATION BILL—AGAIN.

Mr. WADSWORTH. My colleague has answered his question. They want to abolish it because it has ceased to be profitable to them.

Mr. DAVIS, of New York. I desire to say that the answer which the gentleman has attempted to make fails to reach its object. Those who are opposed to the extension and perpetuation of slavery are not opposed to it for the reason that they can no longer make a profit out of it. I do not know what motives may have influenced men in times past. I speak of my own convictions.

Mr. MALLORY. I made no imputations upon the gentleman.

Mr. DAVIS, of New York. I did not suppose the gentleman did. I speak of my own convictions. I have been opposed to slavery from the beginning. My opposition arose not so much from its effect upon the slave population as from its effect upon the white race. There, I think, is the greatest, deepest, most damning crime of slavery. We in this country have suffered because slavery has created sentiments and feelings in a portion of the country which, as we now see, have tended to the overthrow of the American Government, the only home of freedom on the face of the globe; and therefore I am opposed to slavery. I am opposed to it upon the ground that it has attempted to subvert and destroy this, the best of Governments. I do not believe any gentleman from Ken-

tucky or elsewhere upon this floor will rise here and say that that has not been the effect, and that that is not now the object of the institution.

If the gentlemen from Kentucky are opposed to the slave trade, as they say, and I believe they are, if, as they also claim, this is nugatory, I ask in God's name what harm will it do? Let us obliterate at least from our statute-books any recognition, even by implication, of the right to transport slaves from one State to another, either from Kentucky or any other State, north, south, east, or west. I am in favor of any provision which will secure so desirable an end as to prevent the carrying of slaves or the existence of slavery in any part of the country.

Mr. BLAINE. Mr. Chairman, I was not so much provoked by the opposition of the gentleman from New York to the amendment of the Senate as to the tone of taunt, as I may call it, in which he advised the members from the commercial districts not to discuss this coastwise trade in any respect, lest it should be brought to the attention of the country, and in the end be all abolished. I understood him to suggest that abolishing the coastwise slave trade will lead to the abolition of the coastwise trade. I venture to say that there is not a Representative from any place in the country, unless from the seceded States or the city of New York, who would make that suggestion, or really desire to abolish the coastwise trade.

Mr. COX. I will move an amendment for the abolition of these navigation laws that give you men of New England the monopoly of the carrying trade along the coast.

Mr. BLAINE. Do the New England States enjoy any greater monopoly than the States which border upon the lakes? If you cut off the commerce of the lakes and the commerce along the coast what would become of the country? As a commercial people the city of New York seem to entertain the sentiment universally that it would be the great emporium upon this continent even if local interests were broken down. Strike down the navigation interest of the country, throw our carrying trade into the hands of the pauperized sailors of Europe, and I ask where the greatness and commerce of that city would be?

Mr. BROOKS. I have no doubt that if the free trade system existed for the city of New York, if it were a free port with free powers everywhere, and without any protection given to coastwise trade whatsoever, disincumbered of tariffs and of penalties, instead of being a city of a million people, in twenty years it would have three million inhabitants.

Mr. BLAINE. Yes, sir, by begging the rest of the country. That is a favorite idea with some gentlemen, and I think it was first broached by the gentleman from New York not now in his seat, [Mr. FERNANDO WOOD.] I think when secession was rampant in 1861 he took that ground in New York, and proposed that New York should be made a free port. I do not understand that the gentleman who has just spoken favors that idea. I believe, however, a favorite idea among the members of the peace party of New York is that the rest of the country, including the commercial districts of the East and the manufacturing and agricultural districts, can be made tributary to the greatness of New York in any and every event. Sir, there never was a grander or greater mistake, and I am surprised that a gentleman born and nurtured on New England soil should come here, and by his language become the mouthpiece and exponent of that unpatriotic and un-American foreign influence which dominates in New York. To-day in New York the sentiment is anti-American, and were it submitted to the voters of the city of New York now whether they would have Jeff. Davis President or a loyal Republican Union man North, Jeff. Davis would have thirty thousand votes ahead. [A VOICE: "What of that?"] What of that? Just this: if gentlemen suppose that the whole country will contribute to the prosperity and growth of the city under such circumstances, they are under a profound delusion. Let the gentleman who said "What of that?" stand up and let me look upon him.

Mr. COX. Nobody said "What of that."

Mr. BLAINE. Yes, he did.

Mr. COX. I will tell what he meant by it.

Mr. BLAINE. Did the gentleman say it?

Mr. COX. I did not say it, but I will tell what the gentleman meant by it.

Mr. BLAINE. Let the gentleman explain for himself what he meant when he said "What of that?"

Mr. COX. I suppose the gentleman understood that was said in an ironical way to show how utterly absurd the gentleman's proposition was.

Mr. BLAINE. It seems the gentleman from Ohio must come forward and apologize for everything said on that side.

Mr. COX. I do not apologize to the gentleman.

Mr. BLAINE. I stand here to reproach the gentleman from New York [Mr. Brooks] for the unpatriotic suggestion that the great and wise navigation laws of the country which have made it so great among all the nations of the earth should be restricted in order that one great metropolitan city may be built up.

Mr. COX. One word. The gentleman makes an attack upon a member from New York who is now absent from the House.

Mr. BLAINE. I have not attacked him at all.

Mr. COX. You say he was in favor of withdrawing the city of New York from the Union. Now the gentleman must have heard the statement of the member from New York, when he said the other night that his object was to separate the city of New York, not from the Union, but from the legislation of the State of New York itself, because of some collision between the State authorities and the city. And moreover the only gentleman who made any proposition in this Congress for the secession of the city of New York is now a major general of the United States, appointed by Mr. Lincoln, and is now traveling from one end of this country to another. I mean Major General Sickles, a man who has proved himself a brave man.

Mr. BLAINE. I should infer from the detailed manner in which the gentleman spoke, saying that if the arrangement could be made so and so, such and such would be the result, and that New York would become so great a city—I say I should infer from all those details that the subject had been considerably canvassed in the city of New York.

Mr. RANDALL, of Pennsylvania. I hope the gentleman will not overlook Philadelphia.

Mr. BLAINE. Philadelphia is a mere outpost to the city of New York. I understand the gentleman used the language "What of that?"

Mr. RANDALL, of Pennsylvania. No, sir, and the gentleman who prompted you ought to have known better.

Mr. BLAINE. The gentleman from Ohio speaks about offering an amendment to let in all the British shipping on an equal footing with our own. Let him just appeal to the House on that. I want him to go before the great trading interest of the Northwest on that question. I want him to say to his constituents who border Lake Erie, and to all his political associates on the northwestern lakes, that the cheaply built British and Canadian vessels are to be admitted to a free participation in the grain trade of that immense region.

Mr. COX. The gentleman from Maine will not hold still, [laughter,] no matter how I try to restrain him; and I will have to ask some member over there to restrain him. [Laughter.] I believe this is an attempt, through an appropriation bill, to repeal the eighth and ninth sections of an old law of 1794, with reference to the coastwise trade and to the slave trade. That is a law comprising thirty-two sections, each section interlaced with others, and all bound up in the same bundle, making a sort of code on that subject; and this is an attempt to repeal it by a sweeping clause that does not even state the date of the approval of the act. Such legislation I cannot approve of.

Mr. BLAINE. And to improve upon that which is so very crude the gentleman rose and stated he would offer an amendment to abolish all navigation laws on the subject.

Mr. COX. I am coming to that.

Mr. BLAINE. That is a very fine rider.

Mr. COX. The only reason why I do not propose an amendment of that kind is—

Mr. BLAINE. That is a second thought; you said you would do it. [Laughter.]

Mr. COX. If the gentleman from Maine would keep still—

Mr. BLAINE. You said you would introduce such an amendment. Now do it.

Mr. COX. You do not come from a coastwise State at all. You come from Washington county, Pennsylvania. [Laughter.]

Mr. BLAINE. And I am not ashamed of my birthplace.

Mr. COX. I ask the gentleman to hold still while I explain my object. At the proper time and in the proper way I will move to strike down all restrictions upon commerce. The interests of agriculture which I represent are coincident with those of commerce. I want the largest and freest exchange of all commodities. I want the right to buy where men can buy the cheapest, and to sell where they can sell the dearest. We will make money in that way, and will not make money in any other way. We do not make it by your protective bounties, by your monopolies, by your marine or commercial restrictions. I am for striking them all down, and for giving the largest reins to commerce the world over, because I believe that thus only will agricultural interests be enhanced and aggrandized. I believe that then we would get our commodities cheaper, because it will cost less to bring them to market. I would not cut off a steamboat from trading on the Ohio river because it happened to be owned in Kentucky; and on the same principle, based on the everlasting principles of political propriety, I would allow vessels from Nova Scotia to trade to Maine or to Chicago or Milwaukee. This was a monopoly enjoyed by the New England States.

Mr. BLAINE. Who gave it to us?

Mr. COX. Who gave it to you? In early times it was given you by a compromise with southern men. You have broken your part of the contract and then hold the consideration.

Mr. BLAINE. Mr. Speaker, I think the gentleman has had about enough of my time.

Mr. COX. I think you have had about enough of it.

Mr. BLAINE. Oh, you may go on, if you have not exhausted yourself.

Mr. COX. I think I have about exhausted my subject, and with it myself also.

Mr. BLAINE. I yielded to the gentleman from Ohio to offer an amendment abolishing these coastwise restrictions.

Mr. COX. I have not the time or patience to draw up an amendment, and it would be committing the same error which the amendment under consideration involves if I were to undertake in this hasty manner upon an appropriation bill to legislate upon so important a subject.

Mr. BLAINE. If I may be allowed the remark, I think the gentleman jumped a little too quick. When he started out he saw nothing but Yankee skippers and New England bottoms, but when he came to find that his proposition would also strike at the coastwise trade of the northern lakes, that it would affect Lake Erie and the coast of Ohio on which is a large and prosperous trade, he concluded he would not bite off his nose to spite his face. In other words, the sober second thought of the gentleman from Ohio has brought him to the reflection that the Northwest enjoys quite as much immunity from the present laws as the Northeast does.

But, sir, I rose to respond to the insinuation of the gentleman from New York, [Mr. Brooks,] which has been so indusiously taken up by the gentleman from Ohio. I have heard about enough of this great protection which is extended to the New England States, and of these threats to leave New England out in the cold. I suppose in the councils where the gentleman from Ohio associates the new western confederacy is a part of their policy.

Mr. COX. I have never advocated such a thing. It is a gratuitous slander, and the gentleman knows it.

Mr. BLAINE. The gentleman may say this, but when I hear gravely discussed the proposition to break up this Government, and leave out in the cold the entire East, it occurs to me that it is a game we can stand quite as well as the West can. Now, sir, let me say, and I speak it with all due respect for the great and prosperous West, that for her to undertake to set up as an independent Power without access to the ocean in any direction, it can only be mentioned to be laughed at.

You could not exist a year as a separate Power. You would either become tributary to Jeff. Davis, or else you would ask to come back to your connection with the East. You have got to secure a commerce upon the ocean, the highway of the world, before you can amount to anything. You must either have access to the ocean through the Mississippi or to the Atlantic coast; and I tell gentlemen that when every single interest of the State I represent cannot challenge scrutiny and investigation at the hands of the gentleman from New York, or at the hands of any other gentleman, strike it down. And if the gentleman from Ohio will oblige me by offering his amendment I will vote for it, and do what I can to enable him to have the opportunity of recording his vote upon it in the House.

Mr. BROOKS. I had no idea when I offered the few remarks I made relative to meddling with the coastwise trade regulations of the country, that it would lead to such a fiery, ardent debate as has taken place. It struck me then and it strikes me now that when a people are enjoying great blessings, a great monopoly, out of which they are making large sums of money, in a particular trade, nothing is so unwise as to cause attention to that trade or provoke discussion upon it. Hence, I threw out the idea that New England and the lakes, which now enjoy the greatest monopoly a people ever enjoyed in any country, the greatest protection that could be afforded, could not wisely or properly undertake upon a mere appropriation bill to adopt a provision leading to suggestions, thoughts, and amendments in respect to any part of the coastwise trade of the United States. I think the suggestion was a proper one, and if there was anything in it to excite the feelings of gentlemen it must have been my mode of argument and manner of addressing the House, rather than the suggestion itself.

Many years ago, when there was a cry of liberty throughout the world, when the southern members upon this floor fell prostrate before Louis Kossuth, the idol of liberty from Europe, I rose here and called the attention of those southern members to the fact that they held four million slaves, and that the people who lived in glass houses should not throw stones. I rise now to tell the people of New England and of the lakes that, living as they do in a glass house in reference to the coastwise trade, they should be careful how they throw stones at the glass houses of any other people.

Mr. ARNOLD. My friend from New York some time ago startled the House and country by announcing that slavery was dead. I ask him whether he still thinks that institution is dead?

Mr. BROOKS. My opinions are in the speech I made on that occasion. There they are, and the opinions I then entertained I entertain now. But I am no undertaker, no grave-digger. I am not going to dig the grave in which to bury the dead body of slavery.

Mr. ARNOLD. If the institution of slavery is in fact dead, for which we must thank God, why would the gentleman continue the slave trade?

Mr. BROOKS. No slave trade exists with the South. Why should we fight shadows?

Mr. ARNOLD. I want to see the statute-book swept clear from every relic, every word that can give sanction to the institution of slavery. I wish that the declaration the gentleman has made were true, that slavery is dead. But we have only to witness the proceedings of the House to know and feel that the institution still lives, and that it has its friends here who are determined that it shall not perish. It yet lives. It has not only friends in the American Congress, but it has friends and armies yonder confronting the Union hosts. And so long as Jeff. Davis is able to marshal his army in defense of slavery, so long as the institution can marshal friends here, we cannot yield to the declaration that slavery is dead.

Mr. BROOKS. This should be introduced fairly by itself in a proper manner, and not be injected into an appropriation bill.

No slave trade has existed in the southern States since the war, and before that it was by the lines of railroad. It was not the custom in the South for ten years before the outbreak of the civil war to transport slaves by sea, even from Virginia to Louisiana. The transportation was mostly by land and by the Ohio and Mississippi rivers. Such legislation as this is unnecessary

and uncalled for; and it is introduced here merely as a contribution to the excitement in the country in order to draw off public attention from the great cause of the white man's liberty. It is not necessary, and if it were necessary this is not the right way to bring it before the House.

But I have said enough on that branch of the subject. I rose to make some few remarks in reply to my honorable friend from Maine, [Mr. BLAINE.] No man has ever proclaimed aid and comfort to the enemy so effectually as he has done at this day and this hour. No man has ever been so guilty of moral treason as he has this day and this hour in the House of Representatives. The words he has uttered here will be caught up by the Richmond press and rung and rerung from the capital to Louisiana and the Rio Grande in one prolonged, continued echo.

The sentiment which the gentleman from Maine [Mr. BLAINE] has uttered, and for which he ought to be censured, is that in the great commercial metropolis of the continent, a city which has poured forth soldiers by thousands and hundreds of thousands, that city which has poured forth millions and tens of millions of dollars into the public Treasury, that city whose seamen line the coasts of the Atlantic and Pacific, protecting our commerce and blockading the ports of the enemy; in that city, he proclaimed here upon the floor of this House that if a vote were taken to-day there would be thirty thousand majority for Jeff. Davis, the president of the confederate republic of the southern part of the United States of America. I have too much respect for the honorable gentleman to call even that a slander. I will not characterize it by the plain adjective with which it deserves to be characterized, for in the heat and fervor of debate he may have made that proclamation without consideration. Nothing could be more unjust to my constituents. No people are more loyal; not to Abraham Lincoln, not to the Executive, whoever he may be, but no people on earth are more loyal to the Constitution of the United States than the people of the city of New York.

Mr. BLAINE. Let me ask the gentleman, as bearing upon that point, if the question were to-day submitted to the vote of the city of New York, whether they would take Jeff. Davis and the Montgomery constitution or Abraham Lincoln, whom would they vote for?

Mr. BROOKS. The people of the city of New York are more interested in the preservation of the Union than any other portion of the country.

Mr. BLAINE. I ask you if they would not take Jeff. Davis and the Montgomery constitution?

Mr. BROOKS. The question has been answered over and over again. There are fifty thousand majority now in the city of New York opposed to Abraham Lincoln, and yet they have contributed their money freely, their votes freely, their actions freely for the support and maintenance of this Government, and of Abraham Lincoln, its executive head.

Mr. BLAINE. The gentleman accused me of moral treason for making a certain assertion in regard to the probable vote of the city of New York, and I asked him his judgment as to the result were the question submitted to a vote to-day whether they should have Jeff. Davis and the Montgomery constitution or Abraham Lincoln and a prosecution of the war.

Mr. BROOKS. We want no new constitution.

Mr. BLAINE. Answer my question.

Mr. BROOKS. The Constitution we want is the Constitution of our fathers, and no other Constitution whatever. Under that we have prospered, by that we have lived, and by that, under the blessing of God, we will restore the Union. The Constitution of our fathers, the Constitution of our country is what we are struggling for, and this is the reason and the only reason we are opposed to Abraham Lincoln.

Mr. FRANK. I simply ask my colleague if he will not allow us to go on with the business of the House, and let this matter be postponed until next session?

Mr. BROOKS. Why, sir, if the gentleman thinks this discussion unprofitable I will sit down.

Mr. MORRILL. I move that the committee rise for the purpose of closing debate on the pending amendment.

Mr. COX. I appeal to the gentleman from

Vermont to allow me to have the eighth and ninth sections of this bill read.

Mr. MORRILL. I cannot yield.

Mr. COX. I rise to a point of order. I have a right to have the sections read which are proposed to be repealed by this legislation. We do not know what we are repealing.

The CHAIRMAN. The Chair overrules the point of order.

The motion of Mr. MORRILL was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PENDLETON reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly a bill (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865, and had come to no conclusion thereon.

ENROLLED BILLS.

Mr. STEELE, of New Jersey, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolutions and bills of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 23) for the relief of the officers of the fourth and fifth Indian regiments;
Joint resolution (H. R. No. 103) for the relief of Mary Kellogg;

An act (H. R. No. 497) in relation to the village of Deposit, Delaware county, in the State of New York; and

An act (H. R. No. 540) to provide ways and means for the support of the Government, and for other purposes.

CIVIL APPROPRIATION BILL—AGAIN.

Mr. MORRILL. I move that all debate on the pending amendment to House bill No. 527, making appropriations for sundry civil expenses of the Government, be closed in one minute after its consideration shall have been resumed in Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. MORRILL. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PENDLETON in the chair,) and resumed the consideration of House bill No. 527, making appropriations for sundry civil expenses of the Government, the question being on the amendment of the Senate in reference to the coastwise slave trade.

Mr. MORRILL. Mr. Chairman, I believe that in 1808 all our foreign slave trade was abolished. That did not destroy our foreign commerce. If we should abolish the coastwise slave trade I do not think our coasting trade would be in any very great danger.

Mr. COX. I would like to have the eighth and ninth sections of the act read.

The CHAIRMAN. The time for debate has expired.

The question was taken on the Senate amendment, and it was concurred in.

Mr. STEVENS. I move that the committee rise and report the bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PENDLETON reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the Senate amendments to House bill No. 527, making appropriations for sundry civil expenses of the Government, and had directed him to report the same back to the House, with a recommendation that some of the amendments be concurred in and that some be non-concurred in.

Mr. STEVENS. I now yield for some two amendments to be offered.

PROPOSITION AS TO RECESS.

Mr. WASHBURN, of Illinois. I move that this evening's recess be dispensed with.

The yeas and nays were demanded and ordered. The question was taken; and it was decided in the negative—yeas 56, nays 64, not voting 62; as follows:

YEAS—Messrs. Ancona, Anderson, Arnold, Bliss, Co-

roth, Cox, Cravens, Dawson, Deming, Denison, Dixon, Eden, Edgerton, Eldridge, Farnsworth, Finck, Gooch, Harding, Benjamin G. Harris, Herriek, Holman, John H. Hubbard, Jenckes, Philip Johnson, Kalbfleisch, Knapp, Le Blond, Mallory, Marcy, McIndoe, McKinney, Middleton, James R. Morris, Morrison, Leonard Myers, Noble, John O'Neill, Pendleton, Samuel J. Randall, Alexander H. Rice, Robinson, James S. Rollins, Schenck, Smith, Spalding, Stiles, Strouse, Stuart, Sweet, Thayer, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Webster, Chilton A. White, and Winfield—56.

NAVY—Messrs. Allison, Ames, Ashley, Bailly, Baxter, Beaman, Blair, Broomall, William G. Brown, Cobb, Cole, Thomas T. Davis, Dawes, Donnelly, Driggs, Elliot, English, Fenton, Frank, Ganson, Garfield, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Ingersoll, Julian, Kelley, Orlando Kellogg, Kernan, Knox, Lazear, Littlejohn, Longyear, McBride, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Perham, John H. Rice, Edward H. Rollins, Ross, Scofield, Shannon, Sloan, Smithers, John D. Steele, William G. Steele, Stevens, Thomas, Tracy, Upson, William B. Washburn, Whaley, Wheeler, Joseph W. White, Wilder, Wilson, and Windom—64.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Augustus C. Baldwin, John D. Baldwin, Blaine, Blow, Boutwell, Boyd, Brandegee, Brooks, James S. Brown, Chauler, Ambrose W. Clark, Freeman Clarke, Clay, Creswell, Henry Winter Davis, Dumont, Eckley, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Charles M. Harris, Higby, Hurlbut, William Johnson, Kasson, Francis W. Kellogg, King, Law, Loan, Long, Marvin, McAllister, McDowell, William H. Miller, Morrill, Nelson, Odell, Patterson, Perry, Pike, Pomeroy, Price, Pruyn, Radford, William H. Randall, Rogers, Scott, Starr, Stebbins, Voorhees, Ward, Williams, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—62.

So the evening session was not dispensed with.

LEAVES OF ABSENCE.

Mr. PENDLETON asked and obtained leave of absence for Mr. McDowell, on account of sickness in his family, and stated that Mr. McDowell was paired with Mr. McIndoe.

Mr. LOAN asked and obtained leave of absence for the rest of the session for Mr. Anderson.

Mr. HOLMAN asked and obtained like leave of absence for Mr. Harrington, who was paired.

PRINTING OF A BILL.

Mr. FENTON asked and obtained an order to have Senate bill No. 232 printed, with a view to its being acted on to-morrow.

CIVIL APPROPRIATION BILL—AGAIN.

Mr. MALLORY. I now offer to the bill the amendment which I sought to offer in committee.

Mr. STEVENS. The amendments of the gentleman from New York and the gentleman from Kentucky being in, I demand the previous question upon the Senate amendments.

The previous question was seconded, and the main question ordered to be put.

The SPEAKER. If there be no objection, the recommendations of the Committee of the Whole on the state of the Union will be adopted on all the amendments except those on which a separate vote shall be asked.

There was no objection.

Mr. BROOKS and Mr. MALLORY demanded separate votes upon their amendments.

The SPEAKER stated the question to be first upon the amendment of Mr. Brooks, which was to strike out the thirtieth amendment of the Senate and insert in lieu thereof the following:

That the joint committee on ventilation be authorized to execute some plan for increasing the ventilation of the two Houses of Congress not involving a change in their structure, and that the sum of \$25,000 is hereby appropriated, or so much thereof as shall be necessary, to carry into effect any plan that may be agreed upon by the committee aforesaid or by a sub-committee thereof.

Mr. HOLMAN. I rise to a question of order. That amendment makes an appropriation, and is not in order to be offered in the House.

The SPEAKER. The Chair overrules the question of order on the ground that it is germane to the Senate amendment.

Mr. MORRILL. I ask the consent of the House to continue the session until this bill has been disposed of.

Mr. HOLMAN. I object.

The hour of half past four having arrived, the House took a recess till half past seven o'clock.

EVENING SESSION.

The House reassembled at half past seven o'clock.

NEW YORK CUSTOM-HOUSE.

Mr. HULBURD, by unanimous consent, in-

troduced the following resolution; which was read, considered, and agreed to:

Resolved, That the members of the committee on public expenditures who have hitherto conducted the New York custom-house investigation have leave to sit during the recess of Congress for the purpose of taking testimony, with the same powers and authority as heretofore possessed by said committee in said investigation.

BUSINESS OF COMMITTEES.

Mr. SCHENCK. I send up the following resolution, and ask unanimous consent for its adoption:

Resolved, That all subjects before the House of Representatives at the close of the present session, including those before the committees, shall be continued to the next session, and shall then be proceeded with in the same manner as though no adjournment had taken place; and papers which have been referred to committees, and may be in their possession at the close of the session, shall be returned informally to the Clerk of the House and by him restored to committees when appointed at the next session.

Mr. WASHBURN, of Illinois. Is not that already provided for by the rules of the House?

The SPEAKER. Under the present rule it is substantially provided for. Rule 136, found on page 33 of Barclay's Digest, embraces all that is embraced in the gentleman's resolution, except House resolutions referred to committees.

Mr. BROOKS. Then I will object to the gentleman's resolution.

ENLISTMENTS IN THE ARMY.

Mr. SCHENCK. I rise to a privileged question. I call up the motion to reconsider the vote by which Senate bill No. 151, relating to enlistments, and for other purposes, was referred to the Committee on Military Affairs. I withdraw the motion to reconsider to report the bill back with various amendments.

If it be the pleasure of the House, instead of having the amendments read I can abridge the labor very much by explaining the amendments, the printed bill being in the hands of gentlemen. The bill as originally introduced and passed in the Senate was a bill to promote enlistments in the Army of the United States, and for other purposes. It came to the House of Representatives and was referred to the Committee on Military Affairs, where it has been amended from time to time. It has now become necessary to strike out several of the sections of the bill for the reason that the Senate at one time and another have incorporated nearly everything in the original bill as amendments to other bills. We strike out the first section of this bill as it has been already passed, I believe, in the very words in the Army appropriation bill. It provides that—

All enlistments hereafter made in the regular Army of the United States, during the continuance of the present rebellion, shall be for the term of three years.

The second section has also been passed in the soldiers' pay bill. It provides that—

All non-commissioned officers and privates in the regular Army serving under enlistments made prior to July 22, 1861, shall have the privilege of reenlisting for the term of three years in their respective organizations until the 1st of May next; and all such non-commissioned officers and privates so reenlisting shall be entitled to the bounties mentioned in the joint resolution of Congress approved January 13, 1864.

The third section has also been passed in the soldiers' pay bill. It provides that—

Officers absent from duty, with leave, for a period not exceeding ten days, shall be entitled to receive full pay and allowances for such period; and so much of section thirty-one of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, as is inconsistent herewith, be, and the same is hereby, repealed.

It passed providing that the aggregate absence of an officer, with leave, should not be more than thirty days in any one year.

The fourth section provides that—

Section thirty-five of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall not be construed to prohibit enlisted men at the Military Academy from receiving the extra pay theretofore allowed by law to enlisted men when employed at constant labor of not less than ten days, nor to apply to enlisted men employed as clerks and messengers in the military offices in Washington and at the several geographical divisions and department headquarters.

Those four sections having all been the subject of legislation are stricken out.

Then comes the section we propose to insert in reference to the battalion of engineers. It provides that—

The officer in command of the battalion of engineers in the regular Army be allowed the pay and emoluments of a

lieutenant colonel of engineers, and that there be allowed to the said battalion one adjutant, one quartermaster and commissary of subsistence, to be selected from the lieutenants on duty with the battalion, with the same compensation as is allowed to regimental quartermasters and adjutants respectively.

I will explain that in a few words. There were four companies of engineer soldiers in the old or regular Army, consisting of one hundred and fifty men each, and one company of one hundred men for the topographical engineers. By the legislation of last session the topographical engineers and the engineers proper were brought together to make a battalion. There being one hundred and fifty men in the engineer companies and only one hundred men in the topographical company we have provided in the third section of the substitute that—

The President shall be authorized to recruit the fifth company of said battalion of engineers, which was transferred from the topographical engineers, up to the full number of the other companies of the battalion, being a maximum of one hundred and fifty men to the company.

The battalion will then consist of five companies of one hundred and fifty men each, and it is provided that the commander of that battalion of seven hundred and fifty men shall have the pay and emoluments of a lieutenant colonel. That is only fair and just.

The next section of the bill provides that—

There shall be added to the battalion of engineers one sergeant major and one quartermaster sergeant, who shall also be commissary sergeant, and each shall have the pay of a sergeant of engineers.

We propose to strike that out, it already having become a law in the soldiers' pay bill.

The Senate bill next provides that—

In addition to the cavalry, infantry, and artillery provided for by the act approved July 22, 1861, "to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," there be added regiments of volunteer engineers in the proportion, as the President may direct, not to exceed one company to each brigade of infantry, and to be organized or established by existing regulations, have the same pay and allowance of engineers in the regular Army, and be subject to the rules and articles of war.

The Committee on Military Affairs propose to strike that out. It proposes to raise a company of engineers for each brigade of infantry. There are now three or four hundred brigades of infantry in our armies, and that would authorize the raising of four hundred companies of engineers, which would be equivalent to forty regiments of men, who are to be paid higher than any other branch of the service. We did not think that forty regiments of engineers were necessary. In lieu of the Senate bill we have provided in the substitute that—

The President shall be authorized to raise regiments of volunteer engineers, not exceeding in all ten regiments, including those now in service and already authorized by law, which regiments shall be organized in the same manner as is provided by existing laws and regulations for engineer regiments, and put upon the same footing as to pay and allowances: *Provided, however*, That the officers and soldiers of such regiments of engineers shall be exercised in infantry tactics and drill, and may be employed at any time at the discretion of the general commanding in the field to serve as infantry.

The next section of the substitute provides that—

For the performance of topographical and such other duties as by their commanding officers shall be required of them, the President is authorized to appoint the following staff officers to serve during the existing rebellion: for each division in the field, one engineer, with the rank, pay, and emoluments of a captain of cavalry; for each corps in the field, one engineer, with the rank, pay, and emoluments of a major of cavalry; and for each army in the field, consisting of more than one Army corps, one engineer, with the rank, pay, and emoluments of a colonel of cavalry, and all with the rank, pay, and emoluments of a captain of cavalry; the engineer officers thus provided for to be appointed by the President, on the recommendation of the commander of the army to which they are first assigned, from the Army or from civil life, in the same manner as heretofore provided by law for the appointment of aids-de-camp to a corps commander, and any enlisted man so appointed shall be discharged by such promotion.

The next section provides—

That commanding officers may detail from their commands such non-commissioned officers and privates, as draughtmen and assistants to their engineers, as they may deem necessary, who shall receive, while on such duty, the pay and allowances authorized by law to sergeants of engineers: *Provided*, That no engineer shall be entitled to more than three and no corps engineer to more than four such assistants.

This whole subject of the engineer corps was thoroughly considered, and consultation was had with the head of that corps and the Secretary of War. The committee concluded to limit the force,

as I have already shown, to ten regiments, those to include the regiments already authorized; and it is deemed sufficient to increase the number to ten regiments instead of swelling the whole number to about forty regiments, as provided by the Senate amendment.

Mr. HALE. I desire to call the attention of the gentleman from Ohio to the language of the fifth section. It reads as follows:

SEC. 5. *And be it further enacted*, That for the performance of topographical and such other duties as by their commanding officers shall be required of them, the President is hereby authorized to appoint the following staff officers to serve during the existing rebellion: for each division in the field, one engineer, with the rank, pay, and emoluments of a captain of cavalry; for each corps in the field, one engineer, with the rank, pay, and emoluments of a major of cavalry; and for each army in the field, consisting of more than one Army corps, one engineer, with the rank, pay, and emoluments of a colonel of cavalry, and all with the rank, pay, and emoluments of a captain of cavalry; the engineer officers thus provided for to be appointed by the President, on the recommendation of the commander of the army to which they are first to be assigned, from the Army or from civil life, in the same manner as heretofore provided by law for the appointment of aids-de-camp to a corps commander, and any enlisted man so appointed shall be discharged by such promotion.

I think the words "and all with the rank, pay, and emoluments of a captain of cavalry" must be a mistake, and that the words ought to be struck out.

Mr. SCHENCK. They are evidently a misprint, and ought to be struck out. I make that motion.

The motion to strike out was agreed to.

Mr. SCHENCK. I move to amend by striking out section two.

Section two was read, as follows:

SEC. 2. *And be it further enacted*, That there be added to the battalion of engineers one sergeant major and one quartermaster sergeant, who shall also be commissary sergeant, and each shall have the pay of a sergeant of engineers.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

METROPOLITAN RAILROAD COMPANY.

Mr. WHEELER, from the committee of conference on the bill (S. No. 54) to incorporate the Metropolitan Railroad Company, submitted the following report:

The committee of conference of the two Houses on the disagreeing votes of the two Houses on the bill (S. No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate agree to the first amendment of the House.

That the Senate agree to the second amendment of the House, amended so as to read as follows: in section one, strike out all after the word "west" where it last occurs in line twenty-five down to and including the word "west" in line twenty-nine, and the House agree to the same as amended.

That the Senate agree to the third and fourth amendments of the House.

That the House recede from its fifth, sixth, and seventh amendments.

That the Senate agree to the eighth amendment of the House, with the following amendment, to wit: strike out all after the words "provided further that," and in lieu thereof insert "no person shall be allowed to subscribe for more than \$15,000," and the House agree to the same as amended.

That the Senate agree to the ninth, tenth, eleventh, and twelfth amendments of the House.

That the Senate and House agree to the amendment striking out the words "ninety working days" in section seventeen, and inserting in lieu thereof "four months."

L. M. MORRILL,

B. F. WADE,

W. T. WILLEY,

Managers on the part of the Senate.

J. W. PATTERSON,

J. G. BLAINE,

Managers on the part of the House.

Mr. WASHBURN, of Illinois. I would inquire of the gentleman how the conference committee have regulated the matter in reference to allowing colored persons to ride on the cars.

Mr. WHEELER. That is just as the House left it.

Mr. WASHBURN, of Illinois. How is it in reference to commutation?

Mr. WHEELER. That is as the House left it. I demand the previous question on agreeing to the report.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof the report was agreed to.

Mr. WHEELER moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WASHINGTON AND GEORGETOWN RAILROAD.

Mr. WASHBURN, of Illinois, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 495) to amend the charter of the Washington and Georgetown Railroad Company, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 495) to amend the charter of the Washington and Georgetown Railroad Company, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the first amendment of the Senate, and agree to the same.

That the House of Representatives recede from their disagreement to so much of the second amendment of the Senate as proposes to strike out the fifth section of the bill, and agree to so much of the said amendment.

That the Senate recede from so much of their said second amendment as proposes to strike out the sixth section of the bill.

B. F. WADE,

W. T. WILLEY,

Managers on the part of the Senate.

H. PRICE,

E. B. WASHBURN,

Managers on the part of the House.

Mr. WASHBURN, of Illinois. Mr. Speaker, I will explain in a word the report of the conference committee. The provision of the bill to which the Senate first disagreed was that which required the company to run its cars on Sunday. The Senate struck that provision out and inserted in its place a provision that there shall be no exclusion of persons from the cars on account of color, making the bill conform in that regard to that which has just passed the House under the report of a committee of conference in reference to the Metropolitan Railroad Company.

Mr. HALE. Does this report change the provision requiring the company to run cars on Sundays?

Mr. WASHBURN, of Illinois. The committee of conference agree to strike that out and to insert in lieu of it a provision that colored persons shall not be excluded from the cars, making this bill conform precisely to that just passed under the report of a committee of conference.

Mr. MORRIS, of Ohio. There was no disagreement on that point between the Senate and the House in the bill referred to, and consequently the committee of conference could not reach that point.

Mr. WASHBURN, of Illinois. I saw there was no disagreement. The House has just passed a bill, by concurring in the report of the conference committee made by the gentleman from Wisconsin, [Mr. WHEELER,] providing that colored people shall not be excluded; and I am happy to find that my friends on the other side are found now in favor of such a measure.

Mr. COX. This side of the House never voted that way.

Mr. STEELE, of New York. I desire to correct the gentleman from Illinois.

Mr. WASHBURN, of Illinois. The gentleman from New York [Mr. STEELE] was on the committee and I will certainly yield to him after I get through.

Mr. COX. I want to understand the first point.

Mr. WASHBURN, of Illinois. If my friend from Ohio will be quiet for a moment I will explain it so that even he, I think, can understand it.

Mr. COX. I want to understand it before you pass from this point. Do I understand that you have struck out the clause requiring the company to run their cars on Sundays?

Mr. WASHBURN, of Illinois. Yes, sir.

Mr. COX. And inserted another clause in reference to colored people? I understood the gentleman to say that only colored people can ride on Sundays.

Mr. WASHBURN, of Illinois. I presume the gentleman can have no objection to that, as he has just voted for a bill permitting colored people to ride in the cars.

Mr. COX. I never voted for it in my life, and I will vote now to table this report.

Mr. WASHBURN, of Illinois. The fifth section provided that the route of the railroad past the east front of the Capitol should be changed, and that the cars should in future run round two

sides of the square. This section was struck out by the Senate, and the committee of conference agree to that.

The last difference was in the sixth section, which simply provided that the company should commute its tickets, selling twenty-five for one dollar. This was considered a just provision, and it is one that was inserted in the Metropolitan railroad bill just passed. It was considered right and proper that a franchise of such immense wealth and making so much money should commute. It was not thought that that would be onerous on the company, as the number of passengers who would purchase tickets would not be very large in comparison with the whole number of passengers.

In regard to this provision about running the cars on Sundays, it was not considered a matter of any importance whatever, because the railroad company has, with the permission of the city authorities, put the cars on and run them on Sundays. I was in favor of that permission, and should be in favor of it if the company had not already, under the existing charter, put on the cars on Sundays. Now I will hear the gentleman from New York, [Mr. STEELE.]

Mr. STEELE, of New York. I should not have detained the House with any remarks, although I am opposed to this bill in its present form and hope it will be laid on the table, except for the unfairness of the gentleman from Illinois in stating that this side of the House had just voted for the clause that there should be no distinction on account of color.

Now, if the gentleman had examined the other bill which has just been acted on, and the report of the committee of conference on it, he would have found that that subject was not committed to the conference committee at all. Both Houses had agreed upon that subject, and consequently the report of the conference committee would not have interfered with that subject in any way whatever.

This bill has been agreed to by the conference committee in such a way as to yield substantially everything the House claimed. We might as well have had no committee of conference at all. The only points which were regarded by the House as of any importance have been insisted on by the Senate committee and have been yielded by the House committee. I am opposed to the bill in its present form.

Mr. DRIGGS. I understand the provision allowing the cars to run on Sunday passed this House by an overwhelming majority, while that provision was stricken out in the Senate by a majority of only one, on a very small vote; and I think the House committee would have been right in insisting, as the feeling was so preponderating here and so nearly equally divided in the Senate, on the Senate concurring in the action of the House. I would prefer that the whole bill should be rejected than to adopt this report, and I move to lay the bill and report on the table.

The SPEAKER. The gentleman from Illinois is entitled to the floor, and the motion cannot therefore be made at this time without his consent.

Mr. ELDRIDGE. I rise to a question of order. The gentleman from Illinois yielded the floor to the gentleman from New York. The gentleman from New York took his seat; several gentlemen rose and among them the gentleman from Michigan, who was recognized. I do not think the gentleman from Illinois has a right to retain the floor.

The SPEAKER. The gentleman from Wisconsin did not probably hear the Chair when he recognized the gentleman from Michigan. The Chair inquired of the gentleman from Illinois whether he yielded the floor to the gentleman from Michigan. The gentleman from Illinois made no reply, and the Chair supposing silence implied consent allowed the gentleman from Michigan to go on.

Mr. ELDRIDGE. I certainly understood the gentleman from Illinois in closing his remarks to say, "I now yield the floor to the gentleman from New York," and then to take his seat.

The SPEAKER. The Chair did not understand the gentleman from Illinois to give up his right to the floor. The gentleman knows that it is not the custom for the gentleman having charge of the bill on which he intends to move the previous question to give up his right to the floor.

The Chair decides that the gentleman from Illinois is entitled to the floor.

Mr. STEVENS. I desire to know whether the rate of fare was changed in the original bill?

Mr. WASHBURN, of Illinois. The sixth section of this bill requires that the company shall sell tickets at the rate of twenty-five for one dollar. It was thought that would not work a very great hardship upon the company, and that it would be a great favor to the poor people of the city, mechanics and others, who have to travel from one end of the city to the other in going to their daily avocations. The Senate, however, inserted an amendment allowing the company to charge an addition of two cents upon every passenger for a transfer ticket, probably about one third of the whole number of passengers.

Mr. SCHENCK. If the gentleman will yield to me I desire to make one or two remarks.

Mr. HIGBY. I hope the gentleman from Illinois will first be allowed to finish his statement of what the committee have done.

Mr. WASHBURN, of Illinois. I believe I have stated the action of the committee.

Mr. SCHENCK. I desire to know what the action of the committee was in respect to the running of the cars on Sunday—whether they abandoned that?

Mr. WASHBURN, of Illinois. I seem to have been very unfortunate in making myself understood. I stated that the committee abandoned that for the reason that the company already have the right to run on Sunday and are running under the present law.

Mr. SCHENCK. I desire to know whether the adoption of this report would not stop their running on Sunday.

Mr. WASHBURN, of Illinois. Of course not; why should it?

Mr. SCHENCK. I made the inquiry because I think the subject is one of importance. As far as I am concerned I would require them to put on twice the usual number on Sunday.

Mr. WASHBURN, of Illinois. I am asked by a gentleman on my left whether we have allowed the company to charge two cents additional for transfer tickets. Not at all; we have required them to sell twenty-five tickets for one dollar. The Senate put in a provision allowing the company to charge two cents additional for the transfer, but the committee did not allow it.

Mr. SCHENCK. I understood that the introduction and passage by the House of the bill requiring the cars to be run on Sunday was considered by the company as instructions; that they would not otherwise have commenced running on that day. Now if we disagree to the Senate amendments and do not compel them to do it, they will drop back into their old practice. Those who want to go to church or have a breath of fresh air cannot be gratified.

Mr. WASHBURN, of Illinois. The gentleman from Ohio knows well enough that this company has the right to run on Sunday.

Mr. SCHENCK. But they have never done it until we took action on the subject. When this amendment was introduced and the House passed it they considered that an instruction to them. They had the power before, but they never ran the cars on Sunday. They only commenced running when we passed this amendment; and if we now pass the bill in this shape they will consider it an instruction to them not to run on Sunday.

Mr. WASHBURN, of Illinois. In order that the House may have an opportunity of deciding on the question, I will yield the floor to the gentleman from Ohio to move that the House further insists on its disagreement to the amendments of the Senate, and asks for another committee of conference.

Mr. SCHENCK. I make that motion.

Mr. WASHBURN, of Illinois. I now demand the previous question.

Mr. RANDALL, of Pennsylvania. I ask the Chair whether the municipalities of Washington and Georgetown have granted to this company the right to run on Sunday?

The SPEAKER. Debate is not in order, the previous question having been called, and the Chair can only answer parliamentary questions.

Mr. RANDALL, of Pennsylvania. Then I declare that they have not given this company any such authority.

Mr. COX. I move that the report of the committee of conference be laid upon the table.

The House divided; and there were—ayes 71, noes 31.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

So the report of the committee of conference was laid upon the table.

Mr. WASHBURN, of Illinois, moved to reconsider the vote just taken.

Mr. COX moved that the motion to reconsider be laid upon the table.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. WASHBURN of Illinois, and Cox, were appointed.

The House divided; and the tellers reported—ayes 76, noes 21.

So the motion to reconsider was laid upon the table.

CIVIL APPROPRIATION BILL.

The SPEAKER stated that the question recurred on the following amendment of the gentleman from New York [Mr. Brooks] to the civil appropriation bill:

That the joint committee on ventilation be authorized to execute some plan for increasing the ventilation of the two Houses of Congress, not involving a change in their structure, and that the sum of \$25,000 is hereby appropriated, or so much thereof as may be necessary, to carry into effect any plan that may be agreed upon by the committee as aforesaid or by a sub-committee thereof.

The House divided; and there were—ayes 43, noes 50.

So the amendment was not agreed to.

Mr. MALLORY. I now submit the amendment which I had unanimous consent to offer.

Add:

Provided, That negro testimony shall only be taken in the United States courts in those States the laws of which authorize such testimony.

The House divided; and there were—ayes 41, noes 57.

Mr. MALLORY demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 47, nays 66, not voting 69; as follows:

YEAS—Messrs. Ancona, Augustus C. Baldwin, Blair, Bliss, Brooks, William G. Brown, Chanler, Coffroth, Cox, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Hale, Harding, Benjamin G. Harris, Charles M. Harris, Herick, Holman, William Johnson, Kernan, Knapp, Lazear, Le Blond, Mallory, Marcy, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Perry, Robinson, Ross, William G. Steele, Stiles, Strouse, Stuart, Thomas, Wadsworth, Ward, Webster, Whaley, Wheeler, and Joseph W. White—47.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Beaman, Blaine, Boutwell, Boyd, Broomall, James S. Brown, Cole, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Higby, Hooper, Hotchkiss, Hulburd, Ingersoll, Jencks, Francis W. Kellogg, Orlando Kellogg, Knapp, Littlejohn, Loan, Longyear, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—66.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Baxter, Blow, Brandegee, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cravens, Creswell, Henry Winter Davis, Dumont, Eckley, English, Ganson, Garfield, Grider, Grinnell, Griswold, Hall, Harrington, Asahel W. Hubbard, John H. Hubbard, Hutchins, Philip Johnson, Julian, Kalbfleisch, Kasson, Kelley, Kernan, King, Law, Lazear, Long, Marvin, McAllister, McDowell, McIndoe, McKinney, Middleton, Samuel F. Miller, William H. Miller, Nelson, Odell, Orth, Pike, Pomeroy, Price, Pruyn, Radford, Samuel J. Randall, William H. Randall, Rogers, James S. Rollins, Scott, Sloan, Smith, Starr, Stebbins, John B. Steele, Stevens, Sweat, Voorhees, Chilton A. White, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—69.

So the amendment was rejected.

The question recurred upon concurring in the amendment of the Senate, which was to add the following proviso:

Provided, That in the courts of the United States there shall be no exclusion on account of color, nor in civil action because he is a party to or interested in the issue tried.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in

the affirmative—ayes 67, nays 47, not voting 68; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Beaman, Boutwell, Boyd, Broomall, Cobb, Cole, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Fenton, Frank, Garfield, Gooch, Higby, Hooper, Hotchkiss, Hulburd, Ingersoll, Jencks, Francis W. Kellogg, Orlando Kellogg, Knapp, Littlejohn, Loan, Longyear, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Windom—67.

NAYS—Messrs. Ancona, Augustus C. Baldwin, Blair, Bliss, Brooks, William G. Brown, Chanler, Coffroth, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Harding, Benjamin G. Harris, Charles M. Harris, Herick, Holman, William Johnson, Knapp, Le Blond, Mallory, Marcy, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Perry, Samuel J. Randall, Robinson, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Thomas, Tracy, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, and Joseph W. White—47.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Baxter, Blaine, Blow, Brandegee, James S. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cox, Cravens, Creswell, Henry Winter Davis, Dumont, English, Ganson, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Asahel W. Hubbard, John H. Hubbard, Hutchins, Philip Johnson, Julian, Kalbfleisch, Kasson, Kelley, Kernan, King, Law, Lazear, Long, Marvin, McAllister, McDowell, McIndoe, McKinney, Middleton, Samuel F. Miller, William H. Miller, Nelson, Odell, Orth, Pike, Pomeroy, Price, Pruyn, Radford, William H. Randall, Rogers, James S. Rollins, Scott, Smith, Starr, Stebbins, Sweat, Voorhees, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—68.

So the amendment was concurred in.

During the roll-call,

Mr. L. MYERS stated that Mr. KELLEY was paired off with Mr. ODELL.

Mr. FARNSWORTH stated that Mr. J. C. ALLEN was paired off with Mr. DAVIS, of Maryland.

Mr. INGERSOLL stated that Mr. MORRISON was paired off.

Mr. MORRILL moved to reconsider the several votes taken on the Senate amendments; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS moved that the House insist upon its disagreement to the Senate amendment to the bill, and request a committee of conference on the disagreeing votes thereon.

The amendment was agreed to.

TARIFF BILL.

Mr. MORRILL. I rise to make a report from the committee of conference on the bill (H. R. No. 494) to increase duties on imports, and for other purposes. As the report is lengthy I will not ask to have it read, but I will make a statement of what has been done by the committee of conference, and then if gentlemen desire to ask any questions upon any point I will answer as far as I am able.

One of the first amendments upon which the two Houses disagreed was that in relation to wood screws. The internal tax levied upon that article was 10 per cent. or 5 per cent. higher than upon anything else save jewelry. The Senate, therefore, saw fit to raise the tariff upon them to something like 2½ or 3 cents per pound. The tariff was fixed in the House on the idea of a tax of only 5 per cent. per pound. The conference committee agreed to reduce the amount 1 cent per pound.

The amendment of the Senate on old scrap iron was \$7 in lieu of \$9 per ton. The conference committee agreed upon \$8. The Senate amendments in relation to wool were all agreed to with one single exception. Their amendment in relation to scoured wool placed the duty at four times the rate provided for other wool. It was fixed at three times.

The Senate amendment increasing the duty upon silk, singles, tram, thrown, and organzine, was reduced from 40 to 35 per cent. *ad valorem*.

The Senate amendment striking out the exception of raw silk to the 10 per cent. addition upon goods the production of places east of the Cape of Good Hope when imported from places west of the Cape of Good Hope was not agreed to, but the provision was left so that raw silk, singles, tram, thrown, and organzine, and raw cotton were excepted from the general rule of 10 per cent. addition upon all goods imported from other and

different places than those of their growth east of the Cape of Good Hope.

Quite a number of the amendments of the Senate were non-concurred in for the purpose of inserting other articles not enumerated in the bill. Those articles have been inserted and a duty provided for them; such as paints, carmine dyes, percussion caps, artificial flowers, wooden toys, and other articles.

On the subject of spices it will be recollected that the Senate struck out all the increase of duties made by the House. The committee of conference agreed to a slight increase on all the present rates, but not so much as was in the original bill. On cassia, cinnamon, cloves, there is an increase of 5 cents per pound, and on nutmegs the duty is increased 20 cents per pound, on mace 10 cents, on pepper and pimento 3 cents.

The reduction on statutory marble made by the Senate is acquiesced in by the committee of conference, striking out the 25 per cent. *ad valorem* in addition to the specific duty.

In regard to rice we agreed to a duty of 2½ cents a pound on clean rice, 2 cents on uncleaned rice, and 1½ cents on paddy.

The one hundred and fifty-eighth section, inserted by the Senate, allowing cans, carboys, and casks when exported to be returned free of duty, was amended by providing that it should be subject to such rules and regulations as the Secretary of the Treasury may prescribe.

There are two additional sections in place of the last section which was struck out. The section providing for samples being deposited with consuls abroad was not agreed to, it being believed that such a plan would be attended with infinite difficulty and would embarrass business. That was therefore abandoned, and two other sections were agreed to, in which I think the sense of the House will concur. One of these allows persons coming here from abroad to deposit such portion of the baggage as may be liable to duty with the collector, and to receive it back on his departure without paying duty upon it. This will relieve travelers coming here for temporary purposes by giving them the privilege of leaving the dutiable part of their baggage, if any such they have, with the custom-house officers, and receiving it again exempt from the payment of any duty.

Another section was added requiring all of the weights and measures of merchandise when imported to be the same as are used in the countries from whence the goods are brought. This is to produce uniformity. It is generally practiced by merchants now, but there are some exceptions. It was thought advisable there should be entire uniformity.

If gentlemen desire any further information in respect to any item in the bill I will answer any question so far as I can.

Mr. BROOKS. I would like to hear these two last sections of the bill read.

The Clerk read the sections. The first enacts that where officers of the customs or other salaried officers of the United States shall have been appointed by the Secretary of the Treasury to carry into effect the license rules and regulations provided by the fifth section of the act of July 13, 1861, such officer shall be entitled to receive \$1,000 per annum for his services under that act in addition to his salary or compensation under any other law, provided that the aggregate compensation of any such officer shall not exceed \$5,000 in any one year. The other section provides that any luggage or personal effects of a person arriving in the United States in transit to any foreign country may be delivered by the parties having it in charge to the collector of customs, to be by him retained, without payment or exaction of any import duty, and be delivered back to such parties on their departure for their foreign destination, under such rules, regulations, and fees as the Secretary of the Treasury may prescribe.

Mr. BROOKS. I would like to ask the gentleman from Vermont what are his views in reference to this luggage section.

Mr. MORRILL. It refers merely to articles that are subject to duty.

Mr. BROOKS. That is, he may make a mistake by bringing articles that he supposes to be free.

Mr. MORRILL. Yes, sir. I am desired to state what the action was in regard to salt. The

Senate had reduced the duty below even the present rate. It was agreed by the committee of conference to restore the duties so that they shall be what they are at the present time, which will be an increase on the tariff of 1861 just equal to the amount of internal tax imposed on salt.

I am also asked to state what the action was in relation to brimstone. The Senate receded from their amendment upon that, leaving it as passed by the House, \$6 upon the crude article and \$10 upon the refined. It was found that if we raised the duty upon brimstone at all there were more than twenty articles upon which the duties would also have to be increased—such as chromate of lead, nitrate of potash, nitrate of soda, and various other chemical articles.

Mr. Speaker, this is among the last bills upon which the House will be called to act in relation to taxation. I desire to say a word or two in order to give expression to my own confidence, at least, that this House has done all that duty requires in relation to taxation. The tariff bill, as now agreed upon, will largely increase the revenue upon tea, adding a duty of 5 cents, which puts a duty of 25 cents in lieu of 20 cents per pound. It will also increase it upon iron, upon spirits, upon wine, upon crockery and china-ware of every description, upon spices, and upon various other articles. There is no sort of question that upon all these articles this tariff will very largely increase the revenue. I believe I am not generally over-sanguine in my estimates relating to the result of financial measures, and I venture to say that the amount of increase that will be received upon this bill, over and above what would have been received under previous legislation, will be not less than fifteen to twenty million dollars.

It may be supposed that some of these duties are prohibitory, but I do not think there are many such, if any, for the reason that we tax our own people on the production of similar articles. Take, for instance, the article of iron; the cost of its production has been very largely increased from the scarcity and price of labor and also from the internal tax which we impose, and so with nearly every article of manufactures. The cost of production from various causes has thus been so largely increased that it will be impossible for our manufacturers to continue their business if the duty upon foreign merchandise was not largely augmented. I believe, therefore, there is no doubt but this bill will largely increase the revenue derived from imports.

In the next place, in relation to the internal tax bill we have sought out many new sources of revenue. The whole business of the country is made tributary to the Treasury of the Government. In addition to the taxes we have heretofore imposed upon railroads we have added a tax upon all freights of lake, river, and coast, of vessels, canals, and steamboats; all of these have to contribute a certain percentage from their gross receipts. Not a passenger or a pound of freight will now be taken without toll to the Government. In the next place, we have increased the duty upon iron so that I believe we shall collect under this bill more than four times what we collected under the last bill.

We have increased the duty upon tobacco, snuff, and cigars so that we shall collect somewhere about three times as much as was levied under the former law, and have so much improved the machinery that we shall realize not less than six times the amount heretofore actually collected. We have increased the duties upon liquors so that we shall collect something like ten times as much in the end and seven and a half times as much at once as we have collected heretofore. We have largely increased the duties upon molasses, sugar, and cotton. The duty of 2 cents upon cotton alone will yield a large sum. We also provide for a large increase upon the subject of licenses, not only increasing the number but increasing the amount—requiring a license upon almost every description of business transacted. The \$1 upon the sales of wholesale dealers for every \$1,000 in excess of \$50,000 will immensely increase the revenue. Besides all this we have a general sweeping clause in relation to licenses, so that every man whose receipts amount to \$1,000, be he whom he may, working-man, trader, miner, or professional man, is to contribute something for the support of the Government.

Then we have very largely increased the amount

of the revenue we are to receive from stamps, both in their amount and scope enlarging and increasing. Even the little article of friction matches may be expected to add over a million dollars to the revenue. We have also increased the amount we are to receive upon ale and beer from 60 cents to \$1 a barrel.

We have provided for largely increasing the revenue to be derived from banks. Every bank in the country, whether national or State, will contribute hereafter 1 per cent. upon its circulation, a half of 1 per cent. upon its deposits, and a half of 1 per cent. upon its capital. In addition to that, for the purpose of keeping the circulation of the banks within bounds, we levy a further tax of 2 per cent. upon all circulation above 90 per cent. of their capital. We also levy a tax upon all their circulation beyond the average of the past six months. This will very largely increase the amount of revenue to be received by the Government. Then we have included several other corporations not included before, such as turnpike companies. And we have increased the tax upon express companies, the business of which is prosperous, and they are sure to make good returns.

In addition to that we have not only included a tax upon legacies of personal property, but we have included tax upon successions, so that every estate which now passes from a deceased person, whether by will or otherwise, is sure to contribute something to the revenue of the country.

We have also increased the income tax, increasing it in amount, and, by the way, providing a law that can be more completely executed. And let me say here that there was some defect in the law, or those who executed it were not efficient, or we should have received a larger amount of revenue from this source than we have. I know of one man who has been forced to pay within the last few weeks \$55,000 on one article manufactured in the city of New York, it having been found that he had defrauded the Government of that sum. On further search it was discovered that he had not paid enough and he was compelled to pay \$14,000 more, and while this examination was going on he tried to defraud the Government of \$1,100 more, which he has also been compelled to pay. This man first returned, under oath, an income of \$25,000, and when he was hard pushed by the revenue officers he returned, under oath, an income of \$113,000. If the provision now incorporated in relation to income be faithfully executed there will be a heavy increase of the revenue from this source.

Mr. Speaker, all these subjects were thoroughly and fairly considered. I will say that they were fairly considered by the House as a whole. And I think that we shall raise by this bill, when fairly in operation, not less than \$1,000,000 a day for every day in the year, Sunday included, so that we can retire "greenbacks" to that extent from the time these measures go into effect, or soon after. When that is done I shall look to see our credit put upon a firm foundation. I desire to say for one, as a member of this House, as an American, that we shall pay every dollar of our debt; that any man who takes the Government bonds is just as sure of his pay as he would be with a mortgage of \$100 on the best estate of \$10,000 in the country.

Mr. Speaker, when this is done if a succeeding Congress finds it necessary they can raise other taxes. I wish to say that the resources of the country are yet wholly untouched. Why, sir, our first tax bill raising \$100,000,000 was, if I may be allowed the expression, but a flea bite. If need be we could pay our war expenses dollar by dollar as we go. We have accumulated a large amount of material, and I do not think that we shall be likely hereafter to employ so large an army as heretofore; we have already driven the enemy into much narrower limits and fewer men will be required; but if necessary to increase our receipts we have vast resources now wholly untouched. We have scarcely touched a single agricultural production as yet—nothing that I remember with the exception of cotton, sugar, and tobacco; and when it comes to that we can find a vast number of articles subject to tax and a proper tax, especially if my friend from New York [Mr. WARD] will consent to a repeal of the reciprocity treaty.

Mr. COX. I would like to know how much

we will raise by this increased tax and how much by other increased duties on imports.

Mr. MORRILL. I have not entered into a calculation for that. For the last few weeks I have not kept track of our importations or of the duties collected. The 50 per cent. joint resolution will, I presume, diminish the amount of revenue we shall receive this year. That is my judgment. If it had not been for that my computation would have been \$100,000,000.

Mr. BROOKS. I want to ask the gentleman a question. There are rumors that the Committee of Ways and Means are likely to ask for an additional tax of \$100,000,000. Is there any truth in that?

Mr. MORRILL. So far as I know there is not.

Mr. STEVENS. Since my friend has been speaking documents have come to the Committee of Ways and Means asking for \$85,000,000. Whether the committee will report it or not is another question.

Mr. BROOKS. Let me ask the honorable gentleman from Pennsylvania if the source from whence that income is to be derived is recommended.

Mr. STEVENS. The sources are designated.

Mr. BROOKS. Is one source the real estate of the country?

Mr. STEVENS. I do not think that is mentioned among them. I have not looked over the papers except while my colleague has been speaking.

Mr. BROOKS. Has the committee taken any action on that subject?

Mr. STEVENS. I do not think the committee have come to any conclusion upon the subject. The committee have as yet no information in their possession.

Mr. MORRILL. I am fully confident that the measures we have already perfected will place the finances of the country in a sound and substantial condition.

Mr. ELDRIDGE. Have the committee acted upon that question at all?

Mr. STEVENS. They have not. The communication only came in since I have been sitting here.

Mr. COX. I want to know how much the gentleman would probably, in his estimates, deduct from the amount to be raised by this tariff in consequence of the passage of the 50 per cent. resolution, as it is called.

Mr. MORRILL. I have not watched the amount of importation and the amount paid since the resolution went into effect, and therefore am not able to give him the statistics.

I call the previous question upon the report.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the report of the committee of conference was agreed to.

Mr. MORRILL moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

QUARTERMASTER'S DEPARTMENT.

Mr. SCHENCK moved that the House insist upon its disagreement to the amendments of the Senate to the bill (H. R. No. 154) to provide for the better organization of the quartermaster's department, and request a committee of conference of the Senate.

The motion was agreed to.

HARBOR DEFENSES.

On motion of Mr. STEVENS, the House proceeded to the consideration of the amendments of the Senate to the bill (H. R. No. 207) making appropriations for the construction, preservation, and repair of certain fortifications and other works of defense for the year ending 30th June, 1865.

First amendment:

Strike out the following:
For sea wall of Great Brewster's island, \$10,000; for repairs of sea walls on Deer and Lovell's islands, \$10,000.

The committee of conference recommend non-concurrence.

The amendment was non-concurred in.

Second amendment:

Strike out the following:
For repairs of sea wall at Buffalo, \$37,500.

The Committee of Ways and Means recommend concurrence.

Mr. GANSON. I hope the House will non-concur. This is precisely such a case as that of Massachusetts. The appropriation is recommended by the Secretary of War, and it is a matter of absolute necessity for the protection of that harbor and the general benefit of the West. We have nothing now which we can export but the products of the West, and a large portion of that comes through the harbor of Buffalo.

The breach in this wall was made in January last, and the engineer who examined the work says there is danger that the balance of the wall will be destroyed by the first storm. We have made an appropriation of \$250,000 for the benefit of the lakes and of the sea-coast, but that appropriation will not be sufficient to do the necessary work.

Mr. DAVIS, of New York. I desire to ask the gentleman whether it is not a fact that the citizens of Buffalo have been obliged to raise a fund from private sources for the purpose of protecting that wall.

Mr. GANSON. Certainly they have; but this appropriation is for the Government property, and the citizens of Buffalo have no right to go there to make permanent repairs.

The amendment was non-concurred in.

Third amendment:

On page 21, after the word "dollars" insert the following:
For land defenses of San Francisco, \$177,000: *Provided*, That no portion of the same shall be expended on fortifications now in progress there.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Mr. STEVENS moved to reconsider the several votes upon the Senate amendments; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The title was amended by adding thereto the words "and for other purposes."

Mr. STEVENS moved that the House insist upon its disagreement to the several amendments of the Senate, and request a committee of conference on the disagreeing votes thereon.

The motion was agreed to.

BUSINESS ON SPEAKER'S TABLE.

Mr. WILSON. I move that the House do now proceed to the business on the Speaker's table.

Mr. WASHBURN, of Illinois. I ask unanimous consent that bills be taken up for reference only.

Mr. RANDALL, of Pennsylvania. I object. The question was taken on Mr. WILSON's motion, and it was agreed to.

OVERLAND MAIL CONTRACT.

The first business on the Speaker's table was the Senate amendments to the joint resolution (H. R. No. 93) to authorize the Postmaster General to extend the contract with the Overland Mail Company.

Mr. ALLEY. I move to concur with the amendments of the Senate; and I move the previous question.

Mr. STEVENS. I hope the gentleman will not press the previous question until we are heard on this matter.

The SPEAKER. Does the gentleman from Massachusetts insist on his demand for the previous question?

Mr. ALLEY. I will withdraw it for the purpose of explanation.

Mr. STEVENS. This is a question of much importance and in which there is a great fraud, and I wish to be heard on it.

Mr. ALLEY. I think the matter is very well understood.

Mr. STEVENS. I understand it very well, but I do not think the House does.

Mr. ALLEY. If the gentleman wants any explanation—

Mr. STEVENS. No. I want to give some explanation.

Mr. ALLEY. It is a bill to authorize the Postmaster General—

Mr. STEVENS. Oh, I know very well what it does.

Mr. ALLEY. I do not like to refuse to allow members to speak on this question, but I think it is a matter which the House understands.

Mr. STEVENS. Then I will move to lay the bill on the table.

Mr. ALLEY. This matter was fully discussed in the House the other day, and if the proposition is right in itself I think that all will agree that the Senate amendments are very proper and should be concurred in.

Mr. STEVENS. It is not right in itself.

Mr. ALLEY. I know the gentleman from Pennsylvania stated the other day that it was not right in itself, but he failed to convince the House of that. The House decided against his view of the case by a very large majority, as I believe it would do now on a discussion of the case.

The amendments adopted by the Senate are such as the House will agree to, and I think that the gentleman himself [Mr. STEVENS] will make no objection whatever to them. His objection lies to the original proposition that has passed the House by a very large majority on a full, thorough, and fair discussion. For one, I should be exceedingly glad now to discuss the whole question; and I think I could convince every disinterested man in the House that by the adoption of this proposition the Government will save at least a million dollars. But I do not think that it is worth while to consume the time of the House at this late stage of the session on a proposition which is so well understood, which has been so thoroughly discussed, on which the House has already decided by so large a majority, and which the Senate adopted by an almost unanimous vote, adding to it these amendments. Now, if the gentleman from Pennsylvania desires to ask me any question—

Mr. STEVENS. I want to discuss this matter. The other day the gentleman refused to allow discussion and moved the previous question.

Mr. ALLEY. Not at all. The gentleman is mistaken.

Mr. STEVENS. And when I asked for a postponement of the matter till Monday he refused it. I think the evidence shows it to be a fraud from beginning to end. I do not mean to say that the gentleman knows it to be so.

Mr. ALLEY. I stated to the House at the time my convictions of what would take place; and the result of the whole thing has proved that all I stated was correct.

Mr. STEVENS. The gentleman stated it before a bid was opened, and I want to know how he happened to know about it. Unless there is an opportunity to amend this bill I hope it will be laid on the table.

Mr. WILSON. I hope the gentleman from Massachusetts will not insist upon the demand for the previous question. The gentleman from Pennsylvania says he has some information upon this subject which is not in the possession of the House, and I think he should have the opportunity to give it. I hope the gentleman from Massachusetts will withdraw his demand for the previous question.

Mr. ALLEY. Certainly, I will withdraw the demand. So far as I am concerned I would desire above all things to discuss this question most fully. Notwithstanding the assertion of the gentleman from Pennsylvania I think I can establish most clearly to the satisfaction of the House that he is entirely mistaken in this matter. My only object in declining to yield the floor for the purpose of going into a general discussion was to save the time of the House, and not because I declined at all to avoid a full and fair discussion. The bill has been considered very fully in the House; it was discussed fully in the Senate, and received the almost unanimous assent of that body. The House also passed it by a very large majority, although opposition was made at the time by the gentleman from Pennsylvania. The amendments of the Senate are, I think, a decided improvement upon the original proposition, and I think every gentleman here will concur with me in that opinion. I now give way to the gentleman from Pennsylvania.

Mr. STEVENS. I desire to offer the following amendment.

Mr. ALLEY. I cannot yield for the purpose of having an amendment offered.

Mr. STEVENS. If I cannot have the floor with full rights to it I do not desire it at all.

Mr. ALLEY. If the gentleman will allow his amendment to be read the House can judge of its propriety.

Mr. STEVENS. The gentleman will not hear my amendment unless he will yield the floor for me to offer it and speak upon it.

The SPEAKER. The Chair desires to know whether the gentleman from Massachusetts desires to yield the floor.

Mr. ALLEY. Yes, sir, I will yield the floor and hear what the gentleman from Pennsylvania has to say.

Mr. STEVENS. I move to substitute the following for the first amendment of the Senate:

Provided, That the lowest bidder at the recent letting shall decline or refuse within twenty days after the passage of this act to enter into a contract, with good and sufficient sureties, to perform the said mail service.

Mr. ALLEY. I have no objection to that amendment being offered, and if I cannot convince the House that it would be a most unwise policy to adopt it I will not quarrel with the decision.

Mr. STEVENS. Now, sir, when this bill was up before it was some days before the bids had been opened. There had been regular advertisement, and sealed bids had been received and were in the Department. Their contents were unknown to anybody in point of law before the gentleman introduced his bill. He brought before the House a bill to continue the contract with the present contractors another year at the old price of \$1,000,000.

Mr. ALLEY. I beg the gentleman's pardon if he will allow me to correct his statement; the price was \$550,000.

Mr. STEVENS. Well, sir, it was the old price.

Mr. ALLEY. It was, but not \$1,000,000.

Mr. STEVENS. It was \$1,000,000 in the first place, but it was finally arranged to send a portion of the mail around by water, and I believe \$150,000 which was deducted from the overland contractors was paid for sending a portion of the mail by water. The gentleman's bill was to continue the contract with the same contractors for another year.

Mr. ALLEY. I ask the gentleman to allow me to correct his statement again. It was not for a year but for nine months. The contract was to continue from the 1st of October next to the 1st of July following.

Mr. STEVENS. Very well, it was to continue up to the time of the regular mail-letting. Well, sir, at that time I did not know that there was a single bid in. I knew the bill was an extraordinary one, I knew something of the contractors; I had information that a man from my town was to put in a bid, but I had no knowledge of any other bidder at that time, and I begged of the gentleman to allow the measure to be postponed until the Monday, following when the bids were to be opened. The gentleman did not think it proper, but said that the Government would have to pay \$1,000,000 more by this postponement. I understand him now to change by saying that the Government can get it for half a million dollars less.

Mr. ALLEY. The gentleman will allow me to correct him again. I then said that the Government I thought would save several hundred thousand dollars, and perhaps a million. My judgment is that by the adoption of this joint resolution, if the Postmaster General shall act on it, we shall save a million dollars. I think I shall be able to show that, if not to his satisfaction, at least to the satisfaction of the House.

Mr. STEVENS. At that time the House believed from what the gentleman said that unless we acted on it then, as everything was increasing in price, we would have to pay an enormous sum for carrying this mail at private contract. Hence he advocated giving it to the old contractor at the same price.

When the bids came to be opened it turned out that one of them, a responsible party from my own county, had offered to do it for \$750,000, \$100,000 less than the amount contained in the resolution. Another bidder, one of the sub-contractors for two thirds of the route, offered to do it for \$820,000. Some days after the bids were opened somebody connected with the Post Office Department, with the authority of the Postmaster General no doubt, intimated to the lowest bidder at Lancaster that he had better withdraw his bid—that something was going on that would make it desirable. He telegraphed to the Department

to withdraw his bid. In answer he received from the Department a notice dated Washington, June 15, 1864, the day after the bids were opened. I believe that it was the next day.

I may say here that by law no man is allowed to withdraw his bid after the bids have been opened. After that the sureties are liable if the contractor fails to fulfill the contract for all the damages that may be sustained in consequence.

After what I have stated took place Mr. Hiestand, the lowest bidder, received from the Post Office Department a communication that the Postmaster General had accepted his proposal under the advertisement of March 22, 1864, for carrying the United States mail from the 1st of October, 1864, to September 30, 1868, on route No. 42626, between Atchison, Kansas, and Folsom, in the State of California, at \$750,000 a year, with celerity, certainty, and security.

Mr. ALLEY. The gentleman states that that was the day after the day on which the bids were opened. That letter was written the afternoon of the day that his proposal was accepted. The next morning a telegram was received from the party withdrawing his bid.

Mr. STEVENS. The advertisement was, I think, that they should be opened on the 13th. It does not make any difference. The bids ceased on the 14th.

Mr. ALLEY. They were received up to the morning of the 15th, and after the bids were opened this letter was sent to this party.

Mr. STEVENS. It does not make any difference. It goes on to say that the contract should be executed by himself and security, and sent on immediately. Service was to begin promptly on the 1st of October, whether the contract be executed or not. Mr. Hiestand, as soon as he received that notice from Assistant Postmaster General McLellan, wrote the following letter:

WASHINGTON, June 21, 1864.

DEAR SIR: Having received a notice from George W. McLellan, Esq., Second Assistant Postmaster, that I was the lowest bidder for the overland mail service, and that the same has been awarded to me for the sum of \$750,000, I am here prepared to execute the necessary bonds for the performance of the service.

Awaiting your pleasure, respectfully yours, &c.,

JOHN A. HIESTAND.

Hon. Mr. BLAIR, Postmaster General.

Address No. 25 Willard's Hotel.

Now, sir, the Senate amended that after it went there authorizing it to be given to the old contractors at that price, or to any other responsible bidder. Now, there is but one responsible bidder for \$820,000. This has been done when the lowest bidder has been notified that he will be held whether he gives bond or not. Is this thing to be got up for the benefit of these people in this way?

If, as the gentleman says, it can be taken for less, why was it not bid for at a less price? And if it cost more, Mr. Hiestand is notified that he will be held to his contract, whether he executes a new contract or not. He had given two sureties, and the three are worth more than all the difference between that bid and the sum at which it is now to be given away. I say this thing is extraordinary, unparalleled, unjust, and suspicious, to say the least of it.

I do not wish to detain the House long, but I do wish to have them understand exactly how this thing has been carried on. This legislation was not introduced because Mr. Hiestand declined to take the contract, because it was introduced weeks before. The bill passed this House before the bids were opened at all. The chairman of the Committee on the Post Office and Post Roads refused to give time until the next Monday until the bids should be opened, because, he said, of the enormous losses which would be inflicted upon the Government if we did not pass it instantly; and it was rushed through on account of the known integrity of the gentleman and the reliance which could be put on his word. Had anybody else taken that course it would have been considered suspicious.

Mr. ALLEY. I did withdraw the previous question to allow the gentlemen from Pennsylvania to say what he desired to say. The House was convinced by the statements made, and it was upon the statements and arguments presented that the House pursued the course they did.

Mr. STEVENS. I only asked that the bill should be postponed until the following Monday,

but the gentleman insisted that great wrong would be done the country unless the bill was passed then. I did not have the facts before me then, and did not know who had put in bids; but still I thought the proceedings strange. Nobody would know the bids if the matter was honestly conducted in the Department. Nobody had the right to suppose that the Government was going to lose anything, and to come here and say so, because the contract was not let, and the bids should have been a secret in fact to everybody.

I say this is a most alarming species of legislation, without regard to the question of the loss of fifty thousand or of a half million dollars. It is the most alarming species of legislation I have ever seen introduced into Congress, and I have seen very strange things here.

Mr. ALLEY. I hope I shall have the attention of the House to this matter for a few moments, for it is all in a nutshell. I will begin at the commencement and show the House the precise state of the case. It is very well known to the members of the House that this overland mail contract is a big one, that it requires a large outlay, and considerable time to arrange for the fulfillment of the contract. The Senate early in the session passed a bill which came to the House and was referred to the Committee on the Post Office and Post Roads of the House, authorizing the Postmaster General to contract with this overland company for four years upon the same terms that they had had it for the last four years. I thought, for one, that it was a very exorbitant sum to pay for the services rendered. I thought then, and I believe now, that those services can be rendered for less than half a million dollars and be amply remunerative to the contractors.

I have examined the subject most thoroughly, and have been over every item of expense with the parties in interest, with these contractors and with others, and I have listened patiently to all they had to say. I have made a multitude of figures in connection with estimates upon it, and I believe I know as much about it as any other person; and it is my deliberate and firm conviction that whoever gets this contract for \$500,000 gets a contract which will be not only amply remunerative, but that he will make a large fortune out of it, upon a basis of anything like a sound currency. Therefore I was opposed to the Senate bill. In consequence of that Senate bill, and of the action of the House on this matter, a note was sent to the Postmaster General by a member of the Post Office Committee in the Senate, requesting him to withdraw the advertisement for a new contract on account of this pending legislation, and stating that the note was written by the authority of the Post Office Committee. The Postmaster General acted in good faith, as I believe, and in accordance with that request withdrew the advertisement. Some weeks subsequently to this a new advertisement was published soliciting new bids, and from conversation with parties in interest, parties who were original bidders under the former advertisement, from the dissatisfaction expressed by parties all around, and from the opinion of the Postmaster General, without any definite previous knowledge in reference to the bids, I became convinced that the Government would be placed in the power of a few individuals, and that unless some action were taken immediately, the prospect was that the Government would be obliged to pay \$1,000,000 or more for this service for the next four years, which was not in my opinion worth half the money.

What was to be done? The business of the House was so blocked up for weeks and months that the Post Office Committee could not get in any report. I tried once, twice, thrice, and again to get in a report, but could not succeed. The time had almost expired. Under these circumstances, after conference with the Post Office Department, seeing the exact state of things, and knowing that the Government would be liable to be grossly cheated unless some action were taken, I did propose that action, and I begged the House to pass that joint resolution. The House listened attentively, was convinced by my reasons and arguments, notwithstanding the opposition of the distinguished gentleman from Pennsylvania, and adopted my proposition.

The gentleman from Pennsylvania says he did not know anything about the bids, and he resisted the measure. He told me in conversation that it

should not be done; that friends of his were interested in the bids. He actually went so far as to say, although I supposed it was said ironically, that he himself had an interest in the matter. [Laughter.]

Mr. STEVENS. I beg leave to say that I never said such a thing.

Mr. ALLEY. I did not suppose it was said in earnest. I supposed the gentleman was speaking ironically.

Mr. STEVENS. I never said so.

Mr. ALLEY. I supposed it was said in a Pickwickian sense. [Laughter.]

Mr. STEVENS. No, sir. I never said it at all.

Mr. ALLEY. Those who know the gentleman from Pennsylvania know very well that he is apt to speak in that way. I did not suppose that the gentleman had the slightest interest in it. Nevertheless, that was the reply he made to me when I went to him to induce him to withdraw his objection. He said, "Oh no, nothing of the kind. This is the best way."

Mr. STEVENS. When was this—before or after the opening of the bids?

Mr. ALLEY. This was at the time you made the objection to the joint resolution. I went and explained the matter to you and tried to convince you, but you would not listen to a word, and said that there were parties in interest whom you knew very well, and who were bidding.

Mr. STEVENS. That was after the bids were opened.

Mr. ALLEY. No, sir.

Mr. STEVENS. I never said such a word before, for I did not know a party that had bid.

Mr. ALLEY. Well, I did not suppose you did. It will be recollected by the House that the gentleman stated that the joint resolution should be postponed for a week. I said, "No, do not postpone it for a week, for then it will be too late. To-morrow or next day the time will expire; and if nothing is done previous to that time the Government will be bound to accept these bids, and it will be in the power of two or three individuals." I said that in my judgment some of them were straw bidders. I believe so now. I believe that the gentleman's constituent was a straw bidder. I think the reason why he came in subsequently was that he must have been bought off. It seems to me susceptible of no other reasonable solution; but, whether bought off or not, he saw he was in a very bad predicament, and that it was necessary for him to come forward and renew his bid to protect himself from the consequences of its withdrawal. He had telegraphed to the Department that he would not take the contract, and he afterwards found it necessary to come forward and offer to take it, and bring forward his sureties; for he was liable to be held for the difference between the amount of his bid and the amount which the Government might have to pay—the difference between \$750,000 and \$820,000, the next bid.

Now, Mr. Speaker, from all the information I can get, and I have talked with all the parties in interest, every one of them, that is my opinion of the state of the case. But no matter for that. Grant for the sake of argument that the parties all acted in perfect good faith, that they meant all they said, that they were not acting in collusion with each other, but were really in honorable competition with each other and intended everything just as it appears upon the record in perfect good faith; grant all that for the sake of argument, and how does the case stand? The overland mail company agree to carry the mail over this route for four years at \$220,000 per year. This constituent of the gentleman from Pennsylvania, who by the way is a very responsible party, as I understand from the gentleman, though I am informed by very good authority that he has no such pecuniary responsibility as to warrant him in taking this contract—

Mr. STEVENS. Will the gentleman inform me who is his authority for that statement?

Mr. ALLEY. You know the man, and I ask you if he is responsible. I will take your word for it.

Mr. STEVENS. I know a great many liars; but I do not know the man who is the gentleman's authority for that statement. [Laughter.]

Mr. ALLEY. I ask you whether you do not know that townsman of yours who made the bid?

Mr. STEVENS. I do know him as well as I know anybody else.

Mr. ALLEY. Now, will you state from your own personal knowledge—and of course that is sufficient for me; and if you state differently I will withdraw my statement—that the person who made this bid is a gentleman of such pecuniary responsibility as would warrant him in entering into a contract involving an outlay of \$750,000?

Mr. STEVENS. I can promise the gentleman from Massachusetts that he is a man who would not undertake what he is not able to carry out; he is a man who was lately a senator in the Legislature of Pennsylvania, and could obtain any amount of security required.

Mr. MOORHEAD. He is responsible; I will vouch for that.

Mr. RANDALL, of Pennsylvania. This man varies in politics from me, but I desire to state notwithstanding that fact that he could obtain security for \$1,000,000 any day if he needed it, and that he will carry out everything he undertakes to do.

Mr. ALLEY. I will then take it for granted that that is all so. Then what are the facts in the case? These overland mail gentlemen agree to take this contract for \$820,000 a year. This party from Pennsylvania agreed to take it for \$750,000 a year. He then notified the Department that he could not take it, but subsequently came forward and offered to take it at \$750,000 a year.

Mr. STEVENS. I thought the gentleman said the bid of the Overland Mail Company was \$880,000.

Mr. ALLEY. No, \$820,000.

Mr. STEVENS. I thought it was a sub-contractor who bid \$820,000.

Mr. ALLEY. I refer to Mr. Halliday. He is the chief man in the concern, and he offered to take it for \$820,000. This Pennsylvania, as I have said, offered to take it for \$750,000 for four years. Now, as I have already stated, I believe that any man who gets the contract at \$500,000 will make a fortune out of it.

Well, sir, the Government is now in a position, in view of all these circumstances and in consequence of the action of these parties, where it may pass this resolution as amended by the Senate without doing any injustice to anybody and without just complaint of dishonorable action from any one in the slightest degree. The question then arises, what is for the interest of the Government? Is it for the interest of the Government to give \$615,000 for nine months, or \$750,000 a year for four years for services, which, in my opinion, are not worth \$500,000?

In this connection, Mr. Speaker, I wish to read a telegram from the postmaster of St. Joseph, Missouri, the eastern terminus of this overland route. This telegram was sent for another and entirely different purpose, and the party who received it showed it to me for another and different object, but it was so proper and pertinent in the case that I asked him to give me the original and retain a copy for himself, so that when the question came up I could, if it became necessary, read it to the House for the purpose of showing how much actual service was rendered for this sum of money. We are only receiving \$75,000 net for what for four years we have been paying \$1,000,000. Here is the telegram:

NEW YORK, June 17, 1854.

C. C. WOOLWORTH:
Average weight daily letters, one hundred and fifty pounds; franked, one hundred pounds; printed, nine hundred and fifty pounds. Letter by mail.

JOHN L. BITTENDER, Postmaster.

About nine hundred and fifty pounds is distributed in the Territories, and all the other mail matter is about one hundred and fifty pounds per day. So that the carrying of one hundred and fifty pounds of mail matter daily to California and one thousand pounds to the intervening points costs and has cost the Government for the last four years \$850,000 per annum.

I say, sir, that the House ought to adopt the resolution and refuse to agree to the amendment of the gentleman from Pennsylvania, which, if adopted, gives this contract to his constituent at \$750,000 per annum for four years, to carry to California such a small amount of mail matter. What I have stated agrees with the statistics at

the Department and the information I have received from all quarters.

I think, under the circumstances, I have said enough to explain to the House the exact condition of things in reference to this matter. The only question is whether you will give \$615,000 for nine months or \$750,000 a year for four years. Such is the position of things that we cannot help ourselves sooner. One thing or the other has to be done. I say that it is better to give \$615,000 for nine months than to give \$750,000 each year for four years.

Mr. McBRIDE. I understand that this contract was advertised for in the month of August last. After being advertised for several months, the Postmaster General withdrew it with a view to legislation by Congress. Subsequently a new advertisement was issued and these bids were offered under that advertisement. Now, after that contract was offered to the lowest bidder, now nearly seven or eight months afterwards, it appears, according to the gentlemen and others, that this is an extraordinary compensation for this service.

Mr. ALLEY. I cannot yield any further. These points have been all gone over and over again, and I think they have been explained to the satisfaction of the House. I think that further discussion is unnecessary, and I therefore demand the previous question.

Mr. McBRIDE moved that the whole subject be laid on the table.

The motion was disagreed to.

The previous question was seconded, and the main question ordered.

The question recurred on Mr. STEVENS's amendment.

The House divided; and there were—ayes 35, noes 60.

So the amendment was disagreed to.

The amendments of the Senate were concurred in.

Mr. ALLEY moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. LE BLOND asked that leave of absence be granted to his colleagues Messrs. J. W. WHITE and McKINNEY.

There was no objection; and leave was granted accordingly.

DISTRICT OF COLUMBIA GUARDIAN SOCIETY.

On motion of Mr. RICE, of Maine, the House took from the Speaker's table the amendments of the Senate to an act (H. R. No. 255) granting certain privileges to the Guardian Society of the District of Columbia; and they were concurred in.

Mr. RICE, of Maine, moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

QUARANTINE AND HEALTH LAWS.

Mr. WASHBURN, of Illinois. I have received a letter from the Secretary of the Treasury transmitting a draft of a bill for the more efficient execution of the third section of the act respecting quarantine and health laws. I ask unanimous consent to introduce that bill.

There was no objection, and the bill was introduced and read a first and second time. It authorizes the Secretary of the Treasury to purchase or erect suitable warehouses and other conveniences for the storage of goods and merchandise imported in any vessel, subject to quarantine or other restraint pursuant to the health laws of the city of New York, at such convenient place or places within or near the port of New York as the safety of the public revenue and the observance of such health laws may require, and appropriates \$20,000 for that purpose.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate had passed an act (S. No. 271) relating to the law of evidence in the District of Columbia; in which the concurrence of the House was requested.

COST IN PRIZE CASES.

Mr. GANSON asked unanimous consent to introduce a resolution reciting that the costs of proceedings in the case of the prize steamer *William Bagley*, condemned at New Orleans, as charged by the district attorney, marshal, register, prize commissioner, and attorneys for captors, were exorbitant, and directing the Attorney General of the United States to investigate the proceedings and examine into the accounts of fees charged therein, and to report to the House the items of the various bills, whether in his opinion they are legal, and if not, wherein they are illegal, and whether any further legislation is requisite to guard against exorbitant charges in prize suits.

Objection was made.

WASHINGTON AND GEORGETOWN RAILROAD.

The next bill taken from the Speaker's table was a bill (H. R. No. 522) to amend the charter of the Washington and Georgetown Railroad Company, with Senate amendments.

Mr. WASHBURN, of Illinois. I move that the House non-concur in the Senate amendments.

Mr. ELDRIDGE. I move that the House adjourn.

The SPEAKER. Before that motion is put, the Chair would like to know whether this order of business is to be continued to-morrow morning.

Mr. WASHBURN, of Illinois. I suppose it falls with the adjournment.

Mr. FENTON. I hope that, by unanimous consent, it will be continued to-morrow morning.

Mr. HOLMAN. I object.

The motion to adjourn was not agreed to.

The question recurring on concurring with the Senate amendments,

The SPEAKER ordered tellers; and appointed Mr. WILSON and Mr. ENGLISH.

The House divided; and the tellers reported—ayes 62, noes 30.

So the amendments were concurred in.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

Mr. FENTON. If the gentleman will give way I will move that the House adjourn.

Mr. WILSON. I would suggest first that the pending order of business be continued to-morrow morning.

Mr. WASHBURN, of Illinois. I object.

The motion to reconsider was laid on the table.

MRS. C. A. HAUN.

The next business taken from the Speaker's table was an act (H. R. No. 466) for the relief of the widow of C. A. Haun.

ADJOURNMENT.

Mr. COX moved that the House adjourn.

Mr. WADSWORTH called for the yeas and nays on the motion to adjourn; and also tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion was agreed to.

The House accordingly (at ten o'clock and forty minutes, p. m.) adjourned.

IN SENATE.

THURSDAY, June 30, 1864.

Prayer by Rev. B. H. NADAL.

On motion of Mr. COWAN, and by unanimous consent, the reading of the Journal was dispensed with.

PETITION.

Mr. JOHNSON presented a petition of Polish refugees and citizens of the United States, praying that Polish refugees serving in the United States Army may be protected from arrest as subjects of the Russian Government; which was referred to the Committee on Foreign Relations.

BILL INTRODUCED.

Mr. COWAN asked, and by unanimous con-

sent obtained, leave to bring in a joint resolution (S. No. 76) to enable the Commissioner of Patents to pay for work done under act of March 3, 1857; which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

EXPENSES OF PENNSYLVANIA MILITIA.

Mr. COWAN. I now move to postpone all prior orders and proceed to the consideration of House bill No. 117, to reimburse the State of Pennsylvania for expenses in calling out the militia of that State during the recent invasion. It is the bill which we had under consideration and partially proceeded with yesterday.

The motion was agreed to.

LEAVE OF ABSENCE TO SENATORS.

Mr. GRIMES. With the permission of the Senator from Pennsylvania, I wish to ask leave of absence after to-day for the Senator from Oregon, [Mr. NESMITH,] who is necessarily compelled to leave.

The motion was agreed to.

Mr. CHANDLER. I ask the unanimous consent of the Senate to move that leave of absence be granted to my colleague [Mr. HOWARD] who is necessarily absent, called home by sickness in his family.

The motion was agreed to.

Mr. NESMITH. My colleague [Mr. HARDING] has been called home. I move that he have leave of absence for the residue of the session.

The motion was agreed to.

FINAL ADJOURNMENT.

Mr. CARLILE. I ask the consent of the Senator from Pennsylvania to allow me to offer a resolution.

Mr. COWAN. I have no objection if it does not displace the order.

Mr. CARLILE. I offer the following resolution, and ask for its present consideration:

Resolved by the Senate, (the House of Representatives concurring therein,) That the President of the Senate and Speaker of the House of Representatives do adjourn their respective Houses sine die on Saturday next, the 2d day of July, 1864, at twelve o'clock m.

Mr. CHANDLER. I object. I do not want that resolution acted upon now.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered.

ORDER OF BUSINESS.

Mr. WADE. I move to postpone all prior orders and take up House bill No. 244, to guaranty to certain States whose governments have been usurped or overthrown a republican form of government.

Mr. COWAN. I think I am entitled to the floor upon House bill No. 117, which was taken up by universal consent, and I only yielded to allow some formal business to be done.

The PRESIDENT *pro tempore*. The Chair is of opinion that the motion of the Senator from Ohio is in order, several matters having been entertained by the unanimous consent of the Senate, which is equivalent to a unanimous vote of the Senate.

Mr. COWAN. I hope, then, that the motion of the Senator from Ohio will be voted down in order that we may dispose of the bill that we considered yesterday and very nearly finished. It will not take, I should think, ten minutes at the outside. I trust the courtesy of the Senator from Ohio will be extended to me in this case. Certainly his bill will take a long while. It is likely to provoke extended discussion.

Mr. WADE. I do not know that it will; but if that is the case, it admonishes me that it ought to be acted upon the sooner.

Mr. COWAN. Still it is sufficient for us to try to get everything else out of the way.

Mr. WADE. I hope we shall dispose of this bill. I have given way so often and the adjournment is so near at hand that I cannot, consistently with my duty to the House of Representatives, who sent it here, or the committee of which I am chairman, consent to postpone it any longer unless the Senate should do it by a vote. If they see fit to do it it is their act not mine. I must stand by the bill.

Mr. COWAN. I can only undertake to say to the Senator from Ohio that I shall throw no obstacles whatever in the way of his bill by occupying the time of the Senate if I am allowed to

take up this bill. I hope, therefore, the motion will not prevail.

Mr. WADE. I ask for the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. COWAN. I have just a word further to say. Yesterday a bill was considered and almost matured. I cannot conceive it possible that it will require ten minutes in order either to pass it or reject it. It is one of considerable importance to the State which I represent, and of some importance, I apprehend, to States represented by some other Senators. I could have insisted yesterday upon its continued consideration, but I yielded to other business. I hope the Senate will allow it to be taken up and finished this morning. The bill which antagonizes with it is a bill in the charge of the honorable Senator from Ohio, which involves great questions, questions perhaps lying at the foundation of the very organization of our Government, and which will no doubt provoke an extended discussion upon the part of Senators.

Mr. DOOLITTLE. I hope my friend from Ohio will allow the Senator from Pennsylvania to dispose of his bill, which will take but a few minutes, in the morning hour, and then his bill can come up at any time. I think the Senator from Pennsylvania ought to be allowed to have his bill voted upon as I understand it will take but a short time.

The question being taken by yeas and nays, resulted—yeas 11, nays 17; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Grimes, McDougall, Morgan, Pomeroy, Sumner, Wade, Wilkinson, and Wilson—11.

NAYS—Messrs. Carlile, Cowan, Doolittle, Fessenden, Hale, Harris, Hicks, Johnson, Lane of Indiana, Nesmith, Powell, Ramsey, Richardson, Riddle, Ten Eyck, Van Winkle, and Wiley—17.

ABSENT—Messrs. Brown, Buckalew, Collamer, Conness, Davis, Dixon, Foot, Foster, Harding, Harlan, Henderson, Hendricks, Howard, Howe, Lane of Kansas, Merrill, Saulsbury, Sherman, Sprague, Trumbull, and Wright—21.

So the motion was not agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the following bills and joint resolution of the House:

A bill (No. 255) granting certain privileges to the Guardian Society of the District of Columbia;

A bill (No. 442) to authorize the President of the United States to negotiate with certain Indians of Middle Oregon for a relinquishment of certain rights secured to them by treaty;

A bill (No. 522) to amend the charter of the Washington and Georgetown Railroad Company; and

A joint resolution (No. 93) to authorize the Postmaster General to extend the contract with the Overland Mail Company.

The message further announced that the House of Representatives had passed the bill of the Senate (No. 151) relating to enlistments, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to some and disagreed to other amendments of the Senate to the bill of the House (No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1865, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. ALEXANDER H. RICE of Massachusetts, and Mr. JOHN GANSON of New York, managers at the same on its part.

The message further announced that the House of Representatives insisted upon its amendments to the bill of the Senate (No. 154) to provide for the better organization of the quartermaster's department, disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SCHENCK, Mr. DEMING, and Mr. WARD managers at the same on its part.

The message also announced that the House of Representatives had passed a bill (No. 563) in addition to the act respecting quarantine and health laws, approved February 25, 1799, and for

the better execution of the third section thereof; in which it requested the concurrence of the Senate.

EXECUTIVE SESSION.

Mr. COWAN. I now move to take up House bill No. 117, to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion.

The PRESIDENT *pro tempore*. The bill is already before the Senate. The pending question is on the motion of the Senator from New Jersey to amend the bill by striking out the following proviso:

Provided, That the expenses of none of the militia of any State shall be paid under this act who refused to be mustered into the service of the United States.

Mr. SHERMAN. I submit a motion that the doors be closed for the purpose of having a short executive session.

The motion was agreed to; and after some time spent in the consideration of executive business the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House of Representatives had passed the following bills and joint resolution of the Senate:

A bill (No. 242) to establish Portland, in the State of Oregon, and Leavenworth, in the State of Kansas, ports of delivery;

A bill (No. 264) for the disposal of coal lands and of town property in the public domain; and

A joint resolution (No. 38) explanatory of the tenth section of an act to reduce the expenses of the survey and sale of the public lands in the United States, approved the 30th day of May, 1862.

The message further announced that the House of Representatives had passed the following House bills; in which it requested the concurrence of the Senate:

A bill (No. 564) for the relief of Eliza Cass Woodbridge;

A bill (No. 565) granting a pension to Rachel Mills, widow of Peter Mills, deceased, late a major in the United States Army; and

A bill (No. 566) for the relief of Francis Paterson.

The message further announced that the House of Representatives had passed the following bills of the Senate, with an amendment to each; in which it requested the concurrence of the Senate:

A bill (No. 233) making an additional grant of lands to the State of Kansas to aid in the construction of railroad and telegraph lines; and

A bill (No. 302) to encourage and facilitate telegraphic communication between the eastern and western continents.

The message further announced that Mr. PENDELTON had been appointed a member of the committee of conference on the bill (H. R. No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1865, in the place of Mr. STEVENS, who declined to serve.

The message also requested the Senate to return to the House of Representatives the bill of the Senate (No. 151) relating to enlistments, and for other purposes, with the amendments of the House thereto, for the purpose of correcting a clerical error in the engrossment of the amendments.

AMENDMENT OF CONSCRIPTION LAW.

The message further announced that the Clerk of the House was directed to return to the Senate the bill of the House (No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes, with the amendments of the Senate thereto; and to communicate to the Senate a resolution of the House of Representatives in the following words:

Resolved, That the amendment of the Senate (section No. 12) added by the Senate to House bill No. 549, in the opinion of this House contravenes the first clause of the seventh section of the first article of the Constitution of the United States; and is an infringement of the privileges of this House; and that the said bill with the amendments be respectfully returned to the Senate with a message communicating this resolution.

The Senate proceeded to consider the message of the House of Representatives returning the bill (H. R. No. 549) further to regulate and provide for the enrolling and calling out the national forces,

and for other purposes, with the action of the House on the amendments of the Senate thereto.

Mr. GRIMES. I move to reconsider the vote on the passage of the bill, with a view of striking out the clause which is objectionable to the House of Representatives.

The motion was agreed to.

Mr. GRIMES. I now move to reconsider the vote ordering the amendment to be engrossed and the bill read a third time.

The motion was agreed to.

Mr. GRIMES. I suppose it will be necessary also to reconsider the vote by which the amendment made in Committee of the Whole was concurred in in the Senate, and I make that motion.

The motion was agreed to.

The PRESIDING OFFICER, (Mr. Foot in the chair.) The question now is on concurring in the amendment made in Committee of the Whole, and that is open to amendment.

Mr. GRIMES. I move to amend the amendment by striking out the following section:

And be it further enacted, That for the purpose of paying the bounties and of enforcing the draft provided for in this act there be levied and collected, in addition to the duties imposed by law, a special duty of five per cent. on all incomes exceeding \$600, accruing during the year 1864, which duty shall be assessed and collected in the mode and according to the provisions, penalties, and restrictions provided in the act approved —, entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes;" and this duty shall be payable on the 1st day of October next, and the Secretary of the Treasury is authorized to prescribe such rules and regulations as to the time and mode of assessment as will secure the collection of this special tax.

The amendment was agreed to.

The amendment, as amended, was concurred in and ordered to be engrossed; and the bill read a third time. It was read the third time, and passed.

LAND GRANT TO KANSAS RAILROADS.

Mr. LANE, of Kansas. I move to take up the bill (S. No. 233) making an additional grant of lands to the State of Kansas to aid in the construction of railroad and telegraph lines, which has just been returned from the House of Representatives with an amendment, with a view of concurring in the amendment. It will take but a moment.

There being no objection, the Senate proceeded to consider the amendment of the House of Representatives, which was to add the following proviso to the first section of the bill:

Provided, That said railroad shall be a public highway, and shall transport troops and munitions of war of the United States free of charge.

Mr. POMEROY. I doubt very much the propriety of that amendment. I know that such a proviso used to be inserted in the land grant bills making land grant roads, but we have constantly been paying those roads just the same as though that clause were not in the bills. The Illinois Central railroad had a land grant.

The PRESIDING OFFICER. The Chair must arrest the consideration of this bill. The doors were reopened temporarily to receive a message from the House of Representatives, and by common consent this was taken up with the understanding that it would lead to no debate at the time. The Senate are in executive session, the doors having been opened only by unanimous consent to receive a message.

Mr. POMEROY. Will not this be the unfinished business of the legislative session?

The PRESIDING OFFICER. It will not.

Mr. POMEROY. Then I will let the bill go through rather than object to it.

Mr. SUMNER. I should like to have the amendment read again.

The PRESIDING OFFICER. The bill will be laid aside and the doors closed according to the order of the Senate in executive session.

EXECUTIVE SESSION.

The Senate resumed the consideration of executive business; and after some time spent therein the doors were reopened.

BILL RETURNED TO THE HOUSE.

The Senate proceeded to consider the resolution of the House of Representatives requesting the return of the bill (S. No. 151) relating to enlistments, and for other purposes, with the amend-

ments of the House of Representatives thereto; and it was

Resolved, That the Secretary return the said bill and amendments to the House of Representatives agreeably to its request.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to law, the accounts of George A. Cutler, E. H. Caruth, Isaac Colman, G. C. Snow, and E. P. Elder, Indian agents under the southern superintendency, having in charge the refugee Indians for the first quarter of 1864; which was read, and ordered to lie on the table.

The PRESIDENT *pro tempore* also laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of the 17th of May, a copy of the record in the case of Commodore Wilkes's recent trial before a naval general court-martial; which was ordered to lie on the table; and a motion by Mr. HALE that the report be printed was referred to the Committee on Printing.

The PRESIDENT *pro tempore* also laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of the 17th of May, a copy of the proceedings and findings of the naval court of inquiry in the case of Commodore Charles Wilkes; which was ordered to lie on the table; and a motion by Mr. HALE that the report be printed was referred to the Committee on Printing.

LAND GRANT TO KANSAS RAILROADS.

Mr. TEN EYCK. I move to take up Senate bill No. 303, just returned from the House of Representatives with an amendment, for the purpose of concurring in the amendment of the House.

Mr. LANE, of Kansas. I hope not. When the doors were closed I had a similar motion under consideration to dispose of the amendment of the House of Representatives to Senate bill No. 233, and I hope that may be disposed of first.

Mr. TEN EYCK. This will not take a second.

Mr. LANE, of Kansas. Neither will the other. The PRESIDING OFFICER, (Mr. Foot in the chair.) The bill taken up on the motion of the Senator from Kansas which was unfinished at the time the Senate resumed its executive session will be first in order; and the question is on agreeing to the amendment of the House of Representatives to add at the end of the first section of the bill the following proviso:

Provided, That said railroad shall be a public highway, and shall transport troops and munitions of war of the United States free of charge.

Mr. POMEROY. I desire to make just one remark upon that amendment. It is a new provision that never was in any land grant before. We have heretofore made railroads public highways for the Government to transport troops over free of charge, but the construction has been that the Government should furnish its own locomotive and its own cars. There is not a railroad in the world that would ever agree to carry them free of expense and furnish its own locomotive, its own cars, and its own fuel. In all the other land grant bills it has been provided that the Government might use the roads, but the Government must furnish its own rolling stock.

The House of Representatives have inserted a proviso in this bill that we shall carry troops and munitions of war free of any expense to the Government. It is a new provision which ought not to be in the bill. It never was in any other bill that I had anything to do with, and ought not to be in this. I have no objection to making the road a public highway, and if the Government wishes to put on locomotives, and cars, and rolling stock, and engineers to carry its troops, it may do so; but we do not propose to build roads for the Government and furnish all the rolling stock and everything else, and then carry troops and munitions of war for nothing. It never was required of any other railroad company that I know of, and ought not to be required of this company.

The amendment was concurred in.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 564) for the relief of Eliza Cass Woodbridge—to the Committee on Pensions.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

FRIDAY, JULY 1, 1864.

NEW SERIES.....No. 214.

A bill (No. 563) in addition to the act respecting quarantine and health laws, approved February 25, 1799, and for the better execution of the third section thereof—to the Committee on Commerce.

A bill (No. 565) granting a pension to Rachel Mills, widow of Peter Mills, deceased, late a major in the United States Army—to the Committee on Pensions.

A bill (No. 566) for the relief of Francis Paterson—to the Committee on Pensions.

INTER-CONTINENTAL TELEGRAPH.

Mr. TEN EYCK. I now renew my motion. The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate (No. 302) to encourage and facilitate telegraphic communication between the eastern and western continents. The amendment was to add at the end of the bill the following:

Provided, That it shall not be lawful for the owners or officers of said telegraph line to make any contract, either directly or through any intervening party or parties, for the transmission of dispatches for any newspaper or newspaper association upon terms different from those open to the enjoyment of all other newspapers or newspaper associations.

The amendment was concurred in.

Mr. FOSTER subsequently said: I move that the Senate reconsider its vote concurring in the amendment made by the House of Representatives to Senate bill No. 302, to encourage and facilitate telegraphic communication between the eastern and western continents. I do it at the request of the Senator from New Hampshire, [Mr. HALE,] who wishes to make a statement in regard to it.

The PRESIDING OFFICER. The question will be on the motion to reconsider.

Mr. CONNESS. I want the statement to be made first before that question is put.

Mr. HALE. I wish to make a statement, and that is all. If I am in error the Senator from California will correct me, and I will not press the motion. The amendment of the House of Representatives is as follows:

Provided, That it shall not be lawful for the owners or officers of said telegraph line to make any contract, either directly or through any intervening party or parties, for the transmission of dispatches for any newspaper or newspaper association upon terms different from those open to the enjoyment of all other newspapers or newspaper associations.

There is a very extensive association in this country known as the associated press, who pay very large sums for the transmission of their news, and they are enabled, having so much telegraphing done, to make a contract with the telegraph companies to do their telegraphing at a less rate than they charge individuals; and it is nothing but fair and right that they should, having so much to do, be allowed to make a special contract. This amendment, as I understand it, prohibits any such arrangement as that. I will ask the Senator from California if that is not the operation of it?

Mr. CONNESS. I know nothing about the origin of this amendment in the House of Representatives, but I suppose it was put in there by some of the members from the Pacific coast to meet this condition of things. As stated by the Senator from New Hampshire, there is such an institution as the general associated press on this side of the continent. It is an association open to all newspapers who see fit to join it and pay a *pro rata* proportion for the news that they collect. That is all fair and right. Then there is on the Pacific slope what call themselves an associated press. It consists of three newspapers—the Sacramento Union and two papers published at San Francisco. The so-called associated press there make a contract with the associated press here and the telegraph company for the transmission of the news collected here by the associated press to be conveyed to the Pacific, and it is sent there at a certain rate, which the Pacific associated press pays.

The Pacific associated press have made themselves a close corporation. They will allow no membership but the three present papers. They

will allow no other paper to enter into the partnership. The result is, they have, over a line subsidized both by the General Government and the State of California, the entire control of all this great war news, and everything that excites the world, for the benefit of their papers, and thus they crush every other paper that attempts to come into competition with them. There is an instance now existing. A daily paper, a Union paper and a very able one, published in San Francisco—I wish I had the dispatch received within a few days from the proprietor of the paper to read—has not only offered to pay a *pro rata* proportion for the news, but has offered in addition to give a bonus of \$5,000, and made a tender of it, to be allowed to enter the association; but they would not accept it at all simply because they desire to keep the monopoly of the news.

The people there are full of excitement upon each day to learn what transpires on this side of the continent, much more than Senators here can appreciate, because you get it here every hour of the day and by all sorts of instrumentalities. Sometimes the telegraph line is interrupted for a day or two days, and then the excitement becomes intense. There is no medium through which the news can reach the people there except through those three papers, and they will not permit any other medium to be established. It is totally different from the associated press on this side of the continent, which is liberal and enlightened in the greatest degree. They accept any partnership that is respectable, and allow them to remain just as long as they see fit to remain in it, and when they conclude not to remain any longer they allow them to decline and go out and cease paying.

This amendment of the House is intended to prevent this telegraph company from permitting that kind of arrangement. It is not only inconsistent with the institutions under which we live and with all fair dealing, but it is making use of an instrumentality for which the Government of the United States pay \$40,000 a year and the State of California is now paying \$6,000 a year as subsidies to carry out this system. I suppose no Senator will object to the corrective that is proposed to be applied.

Mr. HALE. I see the evil of which the Senator complains, and would do anything in reason to rectify it that would not inflict greater evil upon others. But in attempting to remedy that evil the Senator is inflicting an evil on the whole associated press. He says the associated press on this side are liberal and do what is right. If this amendment prevails, however, they are entirely cut off from this arrangement.

Mr. CONNESS. Not at all.

Mr. HALE. Let us see:

That it shall not be lawful for the owners or officers of said telegraph line to make any contract, either directly or through any intervening party or parties, for the transmission of dispatches for any newspaper or newspaper association upon terms different from those open to the enjoyment of all other newspapers or newspaper associations.

Mr. CONNESS. That is under this bill. This is a new project which is to control the news between the two continents; not across one continent, but between two. I have a bill before this body to apply to this line across the continent, and when that question comes up it will be in order to discuss it; but this amendment contemplates the prohibition of any arrangement of this kind under this bill.

Mr. HALE. What is it?

Mr. CONNESS. It is the Collins Russian and American telegraph bill.

Mr. HALE. It strikes me that if this amendment should be adopted the result will be this: they will be prohibited from making any contract with any associated press for the transmission of intelligence at a less price than is paid by an individual newspaper.

Mr. CONNESS. I have made an effort to suppress the abuse existing over the present line, which does not apply to this bill, as I have stated. I have made this kind of effort that I will now

state. In the first place, the Overland Telegraph Company have been applied to to interfere and stop this condition of things, to refuse to let the news pass over their line unless it shall be given freely to each newspaper alike who shall pay a proportional price for it. They say they cannot do it. Why can they not do it? They say they cannot do it because they have a contract with the associated press here to carry their news; the news is their property, and they have a right to send it where they please, and they have a right to sell it to whom they please. They say, "We cannot help it; we have simply to accept the news that is given to us and receive the compensation that we agreed to take it for and pass it over our lines." That sounds very fair on the part of the telegraph company. We then went to the associated press at New York and made a statement of the condition of things that exists to them, and they refused point blank to interfere. Now, how shall we have a free transmission of news, and how shall the entire public receive it over the lines that are subsidized by the Government, and who will interfere to prevent the correction wherever the correction is applied?

The PRESIDING OFFICER. The question is on the motion to reconsider the vote concurring in the House amendment.

Mr. CONNESS. I hope it will not be reconsidered.

The motion was not agreed to.

FORTIFICATION BILL.

The Senate proceeded to consider its amendments to the bill of the House (No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th day of June, 1865, disagreed to by the House of Representatives; and

On motion by Mr. POMEROY it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SUMNER, Mr. TEN EYCK, and Mr. CONNESS.

ENLISTMENT OF INDIANA VOLUNTEERS.

The PRESIDING OFFICER. The Chair will lay before the Senate a communication from the Governor of the State of Indiana which will be treated as a memorial from the Executive of Indiana.

The Secretary read it, as follows:

EXECUTIVE DEPARTMENT,
INDIANAPOLIS, INDIANA, June 21, 1864.

To the President of the Senate and Speaker of the House of Representatives, Congress of United States:

I desire to present to you, and through you to the Senate and House of Representatives, an important question growing out of the enlistment of recruits anterior to the 1st of January, 1863, for three years' regiments then in the field.

The men thus recruited in Indiana had the understanding that they were enlisted for the unexpired term of the regiments into which they went, and would be discharged along with them. This understanding grew up from several causes:

1. From the general impression which prevailed that the country would not require their services after the expiration of the term of the regiment, which would be from about the middle to the close of the year 1864.

2. Because the recruiting was carried on for particular regiments, and not for the general service, carrying with it the idea that the recruit was to serve in that regiment and no other, and it not being known then that the regimental organization would be extended beyond the first three years by the reenlistment of veterans or any other process.

3. Because this understanding was universally encouraged and presented by recruiting officers, and was agreed to and concurred in by United States mustering officers, as I am informed and believe, then on duty.

4. From the general reading, though perhaps not critical, of several orders issued by the War Department, providing for and regulating recruiting for the old regiments, apparently proceeding on the hypothesis that the recruiting was of a regimental character, and not for the general service, and that the recruits would be held only for the unexpired term of the regiments, and would be mustered out along with them.

But from whatever cause the understanding may have arisen, or however erroneous it may have been, it is absolutely certain that it existed, and so full was it that in the

month of October, 1862, many of the men who had been drafted in Indiana for the period of nine months volunteered into old regiments for the unexpired term with the assurance that they would be held no longer; and I most respectfully submit that good faith requires that it should be strictly carried out.

Nor was this understanding, as I am advised, confined to Indiana, but prevailed extensively in other States. It is undoubtedly true that the rolls which the men signed described an enlistment for three years, or during the war, but this was explained, as I learn, as the necessary technical form of the enlistment, and did not disturb the conviction in their minds that they would be held only for the unexpired term of the regiment.

The question has been presented to the War Department, and by it decided that from the form of the enlistment the men would be held for three years from the date of enlistment, and without regard to the expiration of the term of the regiment into which they volunteered. Although it may not be in the power of the War Department to grant the relief sought for, yet it is undoubtedly within the power of Congress, and I respectfully but earnestly call their attention to it as alike demanded by justice, good faith, and sound policy.

O. P. MORTON,
Governor of Indiana.

The communication was referred to the Committee on Military Affairs and the Militia.

LAND TITLES IN THE DISTRICT.

Mr. FOSTER. I move that the Senate postpone the present and all prior orders and proceed to the consideration of the bill (S. No. 91) to quiet titles in favor of parties in actual possession of lands situated in the District of Columbia. It is a bill reported from the Committee on the Judiciary and is deemed of some importance by the inhabitants of the District.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

All deeds heretofore recorded in the land records of the District of Columbia, which have been executed and acknowledged by *femmes covert* (their husbands having signed and sealed them) for conveying any real estate, or interest therein, situated in the District; and all acknowledgments of deeds heretofore recorded, which have been made by *femmes covert* (whether they have executed the deed or not) for the purpose of releasing their claims to dower in the lands described therein, in which acknowledgments the form prescribed by law has not been followed; and all deeds heretofore recorded, which have been executed and acknowledged by an attorney-in-fact, duly appointed for conveying real estate situated in the District; and all deeds heretofore recorded, executed, and acknowledged, or only acknowledged by such attorney-in-fact for conveying real estate situated in the District, as to which the acknowledgment was made before officers different from those before whom proof of the power of attorney was made, and as to which the power of attorney was proved before only one justice of the peace; and all deeds heretofore executed and recorded for the purpose of conveying land situated in the District, acknowledged out of the District of Columbia, before a judge of the United States court, or before two aldermen of a city or the chief magistrate of a city, or before a notary public; and all deeds heretofore executed and recorded for the purpose of conveying land situated in the District, acknowledged by an attorney-in-fact, duly appointed, or by an officer of a corporation, duly authorized, who has acknowledged the same to be his act and deed, instead of the act and deed of the grantor or of the corporation; and all deeds heretofore executed and recorded for the purpose of conveying land situated in the District to which there is not annexed a legal certificate as to the official character of the officer or officers taking the acknowledgment, are declared to be of the same effect and validity to pass the fee simple or other estate intended to be conveyed, and bar dower in the real estate therein mentioned in favor of parties in actual possession, claiming under and through such deeds, as if such deeds had been by such *femmes covert* executed and acknowledged, or acknowledged in a case of a dower right, in the form heretofore prescribed by law; as if such deeds had been executed and acknowledged by the grantor in the deed; as if such power of attorney had been proved before the officer or officers taking the acknowledgment; as if such power of attorney had been proved before two justices of the peace; as if such acknowledgment had been made before any judge of a State court, or before two justices of the peace; as if such attorney-in-fact or officer of a corporation had acknowledged the deed to be the deed of the grantor

or of the corporation; as if such deeds had thereto annexed a certificate, in legal form, that the officer or officers taking the acknowledgment were really what they purport to be; but the certificate of acknowledgment by a *femme covert* is to show that the acknowledgment was made "apart" or "privily" from her husband, or use some other term importing that her acknowledgment was made out of his presence, and also that she acknowledged or declared that she willingly executed or that she willingly acknowledged the deed, or that it was her voluntary act, or to that effect; and when the power of attorney shall have been executed by a *femme covert* it is to be effectual and sufficient if there shall have been such an acknowledgment of it as would be sufficient, under the provisions of this act, to pass her estate and interest therein were she a party executing the deed of conveyance, the record and a copy thereof of any deed recorded to be evidence in the same manner and to have the same effect as if such deed had been originally executed, acknowledged, and recorded according to law.

The second section repeals and abrogates all exceptions in favor of parties beyond the District of Columbia, which may by existing laws be replied or relied on in any action or proceeding brought in the District, but this section is not to affect the right of parties in actions now pending, and such as may be brought within one year from the passage of this act.

The third section provides that in all actions hereafter brought to recover possession of lands situated in the District of Columbia, if it shall be made to appear, by the party claiming the same adversely, that the lands have been assessed on the tax list of the levy court of the county of Washington, or on the tax books of the corporation of Georgetown or of Washington city, to him and those through whom he claims, for the space of twenty years, and that he and they have paid taxes on them during that space of time, then such payment of taxes on lands so assessed is to be taken and considered as sufficient evidence to prove an adverse possession.

The fourth section provides that the acts of Congress, approved May 31, 1832, and April 20, 1838, in reference to the acknowledgment and record of deeds of land situated in the District, shall be taken and construed as cumulative with the acts of Maryland on the same subject in force at their passage; and that an acknowledgment made and certified in compliance with any one of those acts, and before any officers authorized by either of the acts to take an acknowledgment, (whether in or out of the District of Columbia,) shall be good and effectual; and if it shall appear that the grantor "acknowledged said deed," it is to have the same effect as if he or she acknowledged the deed to be his or her act and deed. And any acknowledgment made by a *femme covert* under either of those acts of Congress (which shall be sufficient under the provisions of this act) of any deed executed by her husband, and heretofore recorded in the District of Columbia, is to be good and effectual to bar all claim on her part to dower in the lands described therein, situated in the District, although she shall not have executed the same.

The Committee on the Judiciary reported the bill with several amendments. The first amendment was in section two, line seven, to strike out the words "one year" and insert "three years;" so that the proviso will read:

Provided, That this section shall not affect the right of parties in actions now pending, and such as may be brought within three years from the passage of this act.

The amendment was agreed to.

The next amendment was to strike out the third section, as follows:

That in all actions hereafter brought to recover possession of lands situated in the District of Columbia, if it shall be made to appear by the party claiming the same adversely, that said lands have been assessed on the tax list of the levy court of the county of Washington, or on the tax books of the corporation of Georgetown or of Washington city, to him and those through whom he claims, for the space of twenty years, and that he and they have paid taxes on the same during said space of time, then such payment of taxes on lands so assessed shall be taken and considered as sufficient evidence to prove an adverse possession.

The amendment was agreed to.

The next amendment was in section four, line four, to change the word "record" to "recoordin-"

The amendment was agreed to.

The next amendment was in section four, line seven, after the word "force" to insert "in said District;" so that it will read:

That the acts of Congress approved May 13, 1832, and April 20, 1838, in reference to the acknowledgment and recording of deeds of land situated in said District, shall be taken and construed as cumulative with the acts of Maryland on the same subject in force in said District at the passage thereof.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the following bills and joint resolution of the House:

A bill (No. 466) for the relief of the widow of C. A. Haun;

A bill (No. 470) to authorize assimilated rank to be given to the warrant officers of the United States Navy, and for other purposes; and

A joint resolution (No. 39) for the relief of Alexander Cross.

The message also announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WHALEY, Mr. W. B. WASHBURN, and Mr. A. W. HUBBARD managers at the same on its part.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (S. No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia;

A bill (S. No. 109) to expedite the settlement of titles to lands in the State of California;

A bill (H. R. No. 255) granting certain privileges to the Guardian Society of the District of Columbia;

A bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes;

A bill (H. R. No. 435) concerning certain localities of lands in the State of California;

A bill (H. R. No. 442) to authorize the President of the United States to negotiate with certain Indians of Middle Oregon for the relinquishment of certain rights secured to them by treaty;

A bill (H. R. No. 446) to regulate prize proceedings and the distribution of prize money, and for other purposes;

A bill (H. R. No. 522) to amend the charter of the Washington and Georgetown Railroad Company; and

A joint resolution (H. R. No. 93) to authorize the Postmaster General to extend the contract with the Overland Mail Company.

JOHN S. PHELPS.

Mr. HARRIS. I move that the Committee to Audit and Control the Contingent Expenses of the Senate be discharged from the further consideration of House joint resolution No. 113 to settle and pay the account of John S. Phelps, of Missouri, as a member of the Thirty-Seventh Congress, and that the Senate proceed to the consideration of the bill. I will state in a word the circumstances. This is a resolution to settle the accounts of John S. Phelps, a member of the last Congress. It has passed the House of Representatives and been referred to the Committee on Contingent Expenses in the Senate. Two of the members of that committee are absent and will not return at the present session. The Senator from New Hampshire, [Mr. CLARK,] the other member of the committee, has given me authority to ask that the committee be discharged—I believe he is satisfied with the justice of the resolution—and to ask that it may be considered. The reading of the resolution of itself will show that it is proper. It is merely to adjust his accounts.

Mr. CLARK. I have not the least objection

to the committee being discharged, because I am alone and have no authority and cannot act. It is proper that some consideration should be given to it.

The PRESIDING OFFICER, (Mr. FOOT.) The first question is on discharging the committee from the consideration of the subject indicated.

The motion was agreed to.

Mr. HARRIS. I now move that the Senate proceed to the consideration of the resolution.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 113) to settle and pay the accounts of John S. Phelps, of Missouri, as a member of the Thirty-Seventh Congress. It directs the proper officers of the Treasury to settle and pay the balance due to John S. Phelps, of Missouri, as a member of the Thirty-Seventh Congress, for salary and mileage, deducting any amount which he may have received thereon, or which he may have received as military governor of Arkansas.

Mr. POMEROY. I wish to inquire whether Mr. Phelps was military governor of Arkansas while he was a member of the Thirty-Seventh Congress. Perhaps the Senator from New York can inform us whether he was military governor of Arkansas and a member of Congress at the same time.

Mr. HARRIS. I understand the facts to be that at the request of the President he acted as military governor for a little while; but whatever he received as military governor he is to be credited on this account. He had no commission, no appointment as military governor. He merely acted at the request of the President.

Mr. POMEROY. I thought he had an appointment.

Mr. HARRIS. No, sir; no commission, no office.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DR. CHARLES M. WETHERILL.

Mr. HOWE. I move that the Senate proceed to the consideration of the bill (H. R. No. 346) for the relief of Dr. Charles M. Wetherill. It will take but a moment. It is a very small matter.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Treasury to pay to Dr. C. M. Wetherill the sum of \$750 in full for his services as chemist of the Agricultural Department.

Mr. HALE. Let the report be read.

Mr. HOWE. I can state the facts quicker than the Secretary can read the report, perhaps. Dr. Wetherill was appointed chemist in the Agricultural Department. About the 4th of April last, at the request of the President, he was detailed by the Commissioner of Agriculture and ordered to report to a gentleman in Philadelphia to conduct some chemical experiments upon gunpowder. He was detailed for one month. Some time after the expiration of the month the gentleman under whose direction he was laboring there requested the President to have him detailed for a further period of time; and thereupon the Commissioner or the chief clerk of the Commissioner wrote to him to remain there until further orders. He remained until the 1st of October, and then the Commissioner discharged him from his office as chemist for the Department.

Mr. HALE. Why do they not pay this claim there?

Mr. HOWE. The Commissioner declines to do it. Dr. Wetherill was at work the whole time.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NAHAM WARD.

Mr. SHERMAN. I move that the Committee on Claims be discharged from the further consideration of the joint resolution (H. R. No. 90) to refer the claim of Naham Ward back to the Court of Claims. It is a simple resolution authorizing the Court of Claims to examine into the validity and legality of the claim. The Court of Claims under the former law passed upon the claim and allowed the petitioner a portion of his claim.

Mr. CLARK. I have no particular wish about

the discharge of the Committee on Claims; but before that is done, and before the resolution is passed upon, I think it my duty to bring to the knowledge of the Senate the character of this claim.

It is a claim over eighty years of age, and involving from sixty to one hundred thousand dollars. Seven years ago there was a favorable report from the Committee on Claims upon it, allowing over sixty thousand dollars. That report has sometimes been before Congress, but has never been acted upon so as to give the claimants the sum awarded by the committee. They now desire and the House of Representatives has passed a resolution referring them back to the Court of Claims. They have had one judgment in the Court of Claims under the old law, and the report was made to Congress for the action of Congress upon it, but Congress has never acted upon it; and, it having been reported here late in the session, the Committee on Claims have not had time at this session to examine it and to see whether there ought to be a judgment on that report, or whether it is better to refer it to the Court of Claims or not. It was deemed proper that there should be action on the report by one branch of Congress or the other, and I desire to submit to the Senate the character of the claim.

Mr. WILSON. I think we had better postpone it.

Mr. SHERMAN. I believe I can make a statement that will satisfy the Senate. When the Senator from New Hampshire is through I wish to make a statement in regard to this claim. I think it is a matter of sheer justice.

Mr. CLARK. I think the claim should be brought to the attention of the Senate and the Senate should fully understand what they are doing before they send it back again to the Court of Claims after they have had one judgment there.

Mr. SHERMAN. I am not familiar enough with this claim to know whether it ought to be passed by the Senate or not; but I have examined the papers sufficiently to make this statement of facts, which the Senator from New Hampshire will bear me out in.

Naham Ward, an old citizen of Ohio, asserted this claim before Congress, and it was frequently reported by committees of both branches of Congress. It was a claim for the proper payment of certain notes. The history of those notes was clearly traced in the papers connected with the case. It was presented and allowed by committees of both Houses of Congress, but never during the same Congress so that he could get relief. He died. It was presented then to the Court of Claims when that court was organized. That court allowed the claim; and I have read a portion of the decision of the court, in which they say it is perfectly clear that this claimant has a right to this remedy under the law. That judgment of the Court of Claims was brought to Congress, after full examination by the court, and I believe both Houses since that have passed resolutions to pay him the money.

I know that an attempt to pass a resolution paying the heirs of Naham Ward \$60,000 on an old claim of this kind would probably give rise to so much discussion and elicit so much controversy, that they probably could not have a hearing before the Senate, or even one of the committees of the Senate; it would take too much time. This resolution which has already passed the House of Representatives simply refers this claim back to the Court of Claims, without any advantage from the previous decision, for the consideration of the court under the present law. In other words, it puts these claimants precisely where they would have been if no judgment had been rendered in their favor by the old Court of Claims. If these parties had not presented their claim in the old Court of Claims, and had not got a favorable judgment from that court, they would have a right to apply to the present Court of Claims for the very relief they now ask.

Under these circumstances, I ask whether it is fair to deny them a hearing before the Court of Claims now, or to make a favorable judgment in the old Court of Claims operate as a bar to them presenting their claim to the present Court of Claims? That is I believe a statement of the case, if I understand the papers correctly. I looked over them just sufficiently to inform myself of

these leading facts: If the Senator from New Hampshire had the time and would take the time to examine the case, and would pass his judgment upon the merits of the claim, I would not ask to have his committee discharged from its further consideration. All I ask is that these heirs of Naham Ward, deceased, who are known to me personally as constituents of mine, shall have the same right as any other citizen to present their claim to the Court of Claims established by us; and I think the mere fact that they have already got a favorable decision of that Court of Claims should not deny them that jurisdiction. I am told that is the trouble with them now. They cannot present a petition in the Court of Claims because it is barred by the favorable decision of that court. That is the effect of it, if I am correctly informed.

Mr. CLARK. I have no doubt that will be the legal effect in the Court of Claims. I have no doubt if they were to go there, without coming through both Houses of Congress, the former judgment would be pleaded in bar.

Mr. SHERMAN. Although in their favor.

Mr. CLARK. But the Senator is not quite correct, I think, though he means to be so, when he says they have a favorable report. The inference would be that they had a favorable report to the extent of their claim.

Mr. SHERMAN. No; I did not so state.

Mr. CLARK. The Senator did not so state; but that would be the inference of the Senator's language, perhaps. It should be stated that the court did not allow anything like the full value of the claim. The original certificates were valued at, I think, \$400, and the court valued them at less than \$300; but then it should be stated that the court was divided when they gave a judgment even for that amount, two of the judges being in favor of the claim and the other judge being very decidedly against it. But here is the point: they had the report from the Court of Claims; they then come to the House of Representatives; they do not ask judgment on that report.

Mr. SHERMAN. The Senator is mistaken there, for I looked at that. They do ask judgment upon that report; but the committee in the House of Representatives said they had not time to go into this controversy, and the committee, against the wishes of these heirs, reported this resolution to send the claim back to the Court of Claims. They do not want anything more than is allowed by that Court of Claims; they do not claim anything more; they consider the judgment as conclusive against them except as to the amount found due to them in the Court of Claims; and they say even if the Senate committee were now to give them a favorable judgment for \$60,000, they would have to go back to the House of Representatives, and the House would say, "We will not agree to this now; we will send it to the Court of Claims." They want one thing or the other. They ought either to have that judgment affirmed and the money paid, or else they should be allowed to go before another tribunal and have another chance where the judgment will amount to something.

Mr. CLARK. I do not understand the matter to be precisely as stated by the Senator from Ohio, though I have no doubt he understands it so, because in talking to one of these parties he did not so represent it to me. I asked him why he did not take a resolution for the amount of that judgment. He said there was some difficulty in the action of the House of Representatives under the rule; I could not understand what; and I told him I did not see why he could not just as well have his resolution passed for the amount of the report of the Court of Claims as to have this new resolution passed.

Mr. SHERMAN. I can tell the Senator that. Under the rule of the House—

Mr. GRIMES. Will the Senator allow me to make a motion that the Senate at half past four take a recess until seven o'clock?

Mr. CLARK. We can finish this in a moment and then have a recess.

Mr. SHERMAN. Let us settle this question first. Under the rule of the House of Representatives, a bill containing an appropriation cannot be acted on unless it goes to the Committee of the Whole. The Committee of Claims in the House of Representatives said they could pass a resolution referring the claim back to the Court of

Claims without a reference to the Committee of the Whole. That technical rule of the House was put up against my constituents to prevent them from having the justice that the committee said they ought to have. The Senator probably is not very familiar with those rules.

Mr. CLARK. I am not familiar with the rules of the House of Representatives. I desire to inquire of the Senator, if he represents the claimants, whether they will take the resolution with an amendment providing that the judgment of the court shall not exceed the former judgment.

Mr. SHERMAN. I have not the slightest objection except that that would send the resolution back to the House of Representatives, and would involve them in some trouble.

Mr. TRUMBULL. There can be no harm in sending it to the Court of Claims.

Mr. CLARK. I think they should take one of two tribunals: they should either allow Congress to act upon the old report of the Court of Claims, or it should be referred back to the court with a proviso that their judgment shall not exceed the former one. If they will agree to that, I shall have no objection to the resolution.

Mr. SHERMAN. But if an amendment is made the resolution will have to go back to the House of Representatives, and they will be unable to obtain action during this session at least. I hope the Senator will allow them to go before the present Court of Claims with the same rights and authority they would have had if they had never presented their case to the old Court of Claims. That is all they ask.

Mr. CLARK. I heard the same objection once made to a bill that I was pressing, and an amendment was proposed on the outside to limit it to \$40,000. I did not claim but about \$30,000; but I think the Secretary of War allowed \$66,000, and I afterward moved its repeal. I do not think it is a sufficient answer in a claim of this kind involving \$100,000, that an amendment would delay it a little while in the House of Representatives. I do not think we should be in such hot haste to vote money out of the Treasury. I think it should be examined.

Mr. SHERMAN. Let us take it up, and if a majority of the Senate think the amendment ought to be made I shall not object, although I think it would be unjust to do it.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on the motion of the Senator from Ohio to discharge the Committee on Claims from the further consideration of the resolution indicated by him.

The motion was agreed to.

Mr. GRIMES. I move that the Senate at half past four o'clock take a recess until seven o'clock.

Mr. SHERMAN. I move to amend the motion by saying twenty minutes to five o'clock. I desire to dispose of this matter. I am on a committee of conference and may not be able to attend to it this evening.

The PRESIDING OFFICER. The Chair will put the question on the longest time named first. The question is on the motion of the Senator from Ohio, as a separate motion, not an amendment.

The motion was agreed to.

Mr. WILSON. I move to postpone the present and all other orders for the purpose of taking up House bill No. 511.

Mr. SHERMAN. I have now succeeded in getting this resolution before the Senate, and it might as well be acted upon at once.

Mr. WILSON. If we can take a vote I shall not object; but I desire to have the bill I have indicated taken up now, so that it may be disposed of this evening.

Mr. SHERMAN. I shall not object to that after this resolution is disposed of.

Mr. DAVIS. I object to it.

The PRESIDING OFFICER. It is in the power of a majority of the Senate to control the question.

Mr. CLARK. I understand the Senator from Ohio is willing to accept the amendment to the resolution that I have indicated. If he is willing to agree to that I shall withdraw all opposition to the resolution and let it be disposed of.

Mr. WILSON. If he is willing to do that I have no objection; but we should not at this period of the session be spending hours upon a private claim.

The PRESIDING OFFICER. Does the Senator withdraw his motion?

Mr. WILSON. Yes, sir; if it is understood that we can have action on the motion of the Senator from Ohio.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Ohio to take up House joint resolution No. 90.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 90) to refer the claim of Naham Ward back to the Court of Claims.

Mr. CLARK. I move to amend the resolution by adding the following proviso:

Provided, That said court shall allow no larger amount than the sum heretofore allowed by said court.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed and the resolution to be read a third time. It was read the third time, and passed.

PENSION LAWS.

The Senate proceeded to consider its amendments to the bill of the House (No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862, disagreed to by the House of Representatives; and,

On motion of Mr. FOSTER, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. FOSTER, Mr. TEN EYCK, and Mr. WILEY.

PUNISHMENT OF GUERRILLAS.

Mr. WILSON. I now move to take up House bill No. 511, to provide for the more speedy punishment of guerrillas, and for other purposes, with a view of leaving it as the business in order after the recess.

The motion was agreed to; and the Senate resumed the consideration of the bill.

Mr. WILSON. I hope we shall now take a recess until seven o'clock, and I will make that motion.

The PRESIDENT *pro tempore*. The recess has already been ordered.

GENERAL FRANK P. BLAIR, JR.

Mr. TRUMBULL. I desire to call the attention of the Senate to a matter that I presume we can get a vote upon before the time fixed for the recess arrives. I do not suppose it will lead to any debate. It is the resolution reported by the Committee on the Judiciary on the papers referred to it in reference to the cases of Generals Schenck and Blair. I ask the Senate to proceed to the consideration of that resolution. If it leads to debate I shall not press it.

There being no objection, the Senate proceeded to consider the following resolution reported by Mr. TRUMBULL from the Committee on the Judiciary on the 15th of June:

Resolved, That an officer of the United States whose resignation has been duly accepted and taken effect, or who, having been elected a member of either House of Congress, qualifies and enters on the discharge of the duties of a member, is thereby, in either case, out of the office previously held, and cannot be restored to it without a new appointment in the manner provided by the Constitution.

Mr. TRUMBULL. I think we had better have the yeas and nays on the adoption of the resolution.

Several SENATORS. Oh, no; we shall be without a quorum.

Mr. TRUMBULL. Very well; let it pass without the yeas and nays.

The resolution was adopted.

SALARIES OF SLAVE TRADE OFFICERS.

Mr. SUMNER. I ask the Senate to take up a little bill that will not take three minutes. It is House bill No. 552, to increase the salaries of the judges and arbitrators appointed under the treaty with Great Britain for the suppression of the slave trade, reported from the Committee on Foreign Relations.

Mr. HALE. I hope that bill will not be taken up now.

Mr. SUMNER. I hope the Senate will hear what I have to say on the subject.

Mr. HENDRICKS. If it is to increase salaries I object to it.

Mr. DAVIS. I think we had better abolish the judges and other officers.

The PRESIDENT *pro tempore*. Objection being made, the motion cannot be entertained at the present time.

EXTENSION OF LAND LAWS TO KANSAS.

Mr. HARLAN. I ask the unanimous consent of the Senate to take up Senate bill No. 193, to extend the eighth section of an act entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preemption rights."

There being no objection, the bill was read a second time, and considered as in Committee of the Whole. It proposes to extend the provisions of the eighth section of an act to appropriate the proceeds of the sales of the public lands, and to grant preemption rights, to Kansas. Nothing in this bill or the act mentioned is to be so construed as to prevent the State of Kansas from using the lands when selected under the direction and subject to the approval of the Secretary of the Interior, or the proceeds of their sale, as a permanent fund, the rent or interests of which to be applied for the support of common schools in the State.

Mr. HARLAN. There are one or two clerical amendments that should be made to the bill. In line five of the first section, after the words "preemption rights" I move to insert the words "approved September 4, 1841."

The amendment was agreed to.

Mr. HARLAN. In line six of the same section I move to strike out the word "that" and insert the words "the State;" so that it will read, "shall be extended to the State of Kansas."

The PRESIDENT *pro tempore*. That amendment will be made; and the Senate, in pursuance of its order, will now take a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

PETITIONS AND MEMORIALS.

Mr. SUMNER presented a petition of citizens of the United States, praying for such an amendment of the Constitution as will expressly recognize the obligations of the Christian religion; which was referred to the Committee on the Judiciary.

He also presented seven petitions of men and women of the United States, praying for the abolition of slavery and such an amendment of the Constitution as will forever prohibit its existence in any portion of the Union; which were referred to the select committee on slavery and freedmen.

COLFAX STREET IN WASHINGTON.

Mr. GRIMES. I am instructed by the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 550) to establish Colfax street in the city of Washington and District of Columbia, to report it back without amendment and recommend its passage, and I ask for its immediate consideration.

Mr. POMEROY. When the Senate took a recess it was just about to vote on the passage of a bill which was then under consideration. I desire to have that bill disposed of, and then I shall have no objection to taking up this bill.

The PRESIDENT *pro tempore*. Does the Senator object to the consideration of this bill?

Mr. POMEROY. We had better dispose of the bill we were considering at the time the Senate took a recess.

Mr. GRIMES. What was the bill?

Mr. POMEROY. A bill extending the act of Congress passed in 1841 relative to the public lands to my State. It was read and considered as in Committee of the Whole and just about to be put on its passage when the time fixed for the recess arrived.

The PRESIDENT *pro tempore*. If objection be made this bill cannot be considered at the present time.

Mr. POMEROY. I do not want to object.

The PRESIDENT *pro tempore*. No objection being made, the bill reported by the Senator from Iowa is before the Senate as in Committee of the Whole.

The Secretary read the bill, which provides that from and after its passage the alley, which

is sixty feet wide, across square seven hundred and twelve, and which connects L and M streets north, and the west line of which is two hundred and twelve feet east of the east line of First street east, shall be known as Colfax street.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXTENSION OF LAND LAWS TO KANSAS.

The *PRESIDENT pro tempore*. The Senate will now resume the consideration of the bill which was under consideration at the time the Senate took a recess, being the bill (S. No. 193) to extend the eighth section of an act entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preemption rights."

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM SAWYER AND OTHERS.

Mr. WADE. I move to take up House bill No. 133.

The *PRESIDENT pro tempore*. The Chair is informed that that bill is not on the Calendar, and has never been reported from the committee.

Mr. WADE. I was going to ask that the committee be discharged. It was sent to the Committee on Private Land Claims, I believe, and they intended to send it to the Committee on Claims, but I do not know whether they did or not. I move that the Committee on Private Land Claims be discharged from its further consideration, and that the Senate consider the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 133) for the relief of William Sawyer and others, of the State of Ohio. By the treaty of St. Mary's with the Miami Indians, of October 6, 1818, the west half of section No. 26, the east half of section No. 28, and section No. 27, lying in the county of Auglaize and State of Ohio, were reserved and granted to Joseph Richardville and Joseph Richardville, jr. All of those lands have since been sold in several parcels to divers persons by the United States and by the State of Ohio, under and by virtue of a grant from the United States; and by virtue of a judicial sale upon a judgment rendered against Joseph Richardville, jr., survivor and sole heir-at-law of Joseph Richardville, sr., the title granted to them by the treaty in all of those lands has become vested in one Madison Sweetzer, the purchaser at the sale; and he has established his title to the lands by sundry judgments in ejectment, recovered in the circuit court of the United States for the northern district of Ohio, against the tenants in possession, holding under titles derived, directly or indirectly, from the United States. The bill, therefore, requires the Secretary of the Interior to cause the unimproved value of those tracts of land to be ascertained, by the valuation and assessment of a commissioner to be appointed by him for that purpose, and which commissioner before he proceeds to the assessment and valuation of the same is to take an oath faithfully and impartially to perform his duties as such commissioner. When the Secretary of the Interior shall thus ascertain the unimproved value of the lands he is to report it to the House of Representatives at the earliest practicable moment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE A. SCHREINER.

Mr. FOSTER. I move to take up for consideration Senate bill No. 240, for the relief of George A. Schreiner; a bill reported from the Committee on Pensions.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of George A. Schreiner, of the county of Wyandotte, State of Kansas, upon the list of pensioners, at the rate of eight dollars per month, to commence the 1st of January, 1864, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN T. JONES.

Mr. POMEROY. I move to take up the bill (S. No. 251) for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons upon his property in Kansas Territory.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs that there shall be paid, under the direction of the Commissioner of Indian Affairs, to John T. Jones the sum of \$6,700, in full for depredations committed upon his property by white persons, that being the amount adjudged by the Commissioner to be the value of the property destroyed.

Mr. GRIMES. I call for the reading of the report in that case.

Mr. DOOLITTLE. I will state to the honorable Senator from Iowa that this bill has passed the Senate once before, and there is no written report connected with the bill as it is presented to the Senate at the present time. There was a report at some previous session. The committee were familiar with the case. There is no doubt of the justice of the claim. We under treaty were bound to pay for depredations committed by white persons; and the amount of destruction of this property clearly appeared. The Senator from Kansas knows personally much of the circumstances.

The bill was reported to the Senate without amendment.

Mr. GRIMES. I wish to inquire of the chairman of the Committee on Indian Affairs if this man lived with his tribe at the time these depredations were committed.

Mr. DOOLITTLE. Yes; he was at the time connected with the tribe, and has always been connected with them.

Mr. POMEROY. He is a chief of the tribe.

Mr. DOOLITTLE. He is a very respectable man in the tribe, one that they look up to.

Mr. GRIMES. Has the tribal organization been kept up?

Mr. DOOLITTLE. It was at that time, and I think is still.

Mr. LANE, of Kansas. Since then the land has been divided.

Mr. GRIMES. I should think if at the time these depredations are said to have been committed the tribal organization existed the appropriation should be for the benefit of the tribe, for they owned all things in common as long as that organization did exist.

Mr. LANE, of Kansas. No; he had separate property—a very fine house and store.

Mr. POMEROY. Mr. Jones was burnt out in 1856, and his claim as audited at that time was \$16,000; but the bill passed the Senate some two years ago for this amount, \$6,700. Mr. Jones thought he ought to have \$16,000, and told the committee of the House of Representatives that he would not take the bill as it passed the Senate. It was then defeated in the House; that is, it was not called up; it was defeated by not being called up. But now Mr. Jones, as a patriotic man, has sent word to me that in the condition of the country he is willing to take anything. Though he considers this sum only about one-fourth of what he ought to have, he is willing to take the bill as reported from the Committee on Indian Affairs. The Senator's colleague [Mr. HARLAN] investigated the matter very fully, and is very well posted in regard to it.

Mr. DOOLITTLE. The truth is, the original claim involved speculative damages.

Mr. GRIMES. Who perpetrated those outrages?

Mr. DOOLITTLE. The border ruffians who invaded Kansas.

Mr. LANE, of Kansas. The army that destroyed Ossawatimie destroyed his property. I was within a few miles at the time.

Mr. HENDRICKS. I wish to inquire of the Senator from Kansas if there are any precedents in the legislation of Congress for paying a claim like this. It seems to me questionable whether it comes within any principle heretofore established.

Mr. POMEROY. We have frequently paid claims of this very character. In the last few years there have not been any such depredations committed; they have all been the other way.

We have paid for depredations committed by Indians on whites. We have always paid those claims, and when we have made treaties with the Indians generally we have made direct appropriations to the whites for depredations committed by the Indians. But this is a case where the border ruffian army in 1856 destroyed Mr. Jones's property. Mr. Jones is a man who graduated at Hamilton College, New York. He is a distinguished citizen of my State, liberally educated, and no man in the State stands better. He was rich until his property was destroyed. Since then he has been a poor man.

Mr. HENDRICKS. This is a hard case, unquestionably; but what I want to know is, whether Congress has paid claims for property destroyed in the border troubles in Kansas.

Mr. DOOLITTLE. If the Senator will allow me I will state that at the time these depredations were committed the law in relation to the intercourse in the Indian country and between white citizens and the Indians was then in existence and unrepealed, by virtue of which it was provided that if white persons committed depredations on the Indians and their property and it could not be ascertained who they were that had committed them, the Government of the United States should reimburse the Indians for these depredations. When these border ruffians were out there in Kansas and went to Ossawatimie, as they passed along back they passed through this reservation and burned Jones's house and destroyed his property. He was a rich, well-to-do Indian and the chief and leading man of the tribe. We rejected the speculative damages and confined it to what was estimated to be the real damage suffered by the destruction of the property.

Mr. HENDRICKS. That explanation is satisfactory to me. I only wanted to know on what ground it stood.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

AGRICULTURAL DEPARTMENT.

Mr. HARLAN. I move that the Committee on Public Lands be discharged from the further consideration of Senate bill No. 339, and that the Senate proceed with its consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 339) to repeal a joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department," and for other purposes. It proposes to repeal the joint resolution to grant additional rooms to the Agricultural Department. It further directs the Secretary of the Interior to assign for the temporary use of the Commissioner of Agriculture such rooms in the Interior Department suitable for the business of the Commissioner and necessary to enable him to perform efficiently the business of the office as can be so appropriated with the least inconvenience to the transaction of other public business.

It also appropriates \$100,000 for the purpose of erecting a suitable building for the use of the Department of Agriculture, on any unoccupied public grounds of the United States in the city of Washington, to be indicated by the President, and to be expended under the direction of the President; but the whole cost of the erection of the building is not to exceed that sum.

Mr. POMEROY. I move to amend the bill by striking out the third section appropriating \$100,000 to build a new building. I do not suppose the Senate want to commence the work of erecting any new building at this time. That is the point with me. The other parts of the bill provide that the Secretary of the Interior shall give any spare rooms he may have to the Agricultural Department, but I cannot believe that the Senate will consider at this time a proposition to appropriate \$100,000 to build a new building.

Mr. HARLAN. I have no doubt but that it would be true economy to do so. The Department is now renting buildings all around through the city for the occupation of the clerks, and to enable them to get along with the business of the Government. The clerks of the Pension Bureau and other bureaus of the Interior Department are now occupying the buildings around that square and other places, and I have no doubt it would be true economy to put up a small building. The

necessity of the first and second sections will be manifest if the Senate will hear a statement of the Commissioner of the General Land Office, which I ask to have read.

I think I ought also to state that the chairman of the Committee on Agriculture is satisfied with the passage of the bill, if the third section shall remain. He is impressed with the necessity of providing for this Department somewhere where its business will not interfere with the business of other Departments.

The Secretary read the following memorandum:

The Virginia, Ohio, and revolutionary military rooms, and the rooms west of the passage, which includes the swamp land division and the military division, under the acts of 1847, 1850, and 1853, occupy of floor surface, in square feet..... 4,000

East of the passage, which is also claimed, contains our military warrant files, under the aforesaid acts, part of the swamp land clerks, and the returns office..... 1,800

Total floor surface, in square feet, (equal to one fourth of the entire office)..... 5,800

West of the passage our file cases occupy every available space, and present a frontage of 1,736 square feet, which at cost eight years ago, when they could be built at about half of present prices, cost per foot, \$4..... \$6,944

In the military division of Virginia, Ohio, and revolutionary claims, our cases have 600 feet of frontage, at \$4..... 2,400

In the passage the cases have a frontage of 1,296 square feet, at \$4..... 5,184

East of the passage a frontage of 1,324 feet, at \$4..... 5,296

Total original cost of cases, at prices little more than half their cost at this time..... \$19,824

We cannot do business without these files for our books and papers. They contain not less than six million title papers and records, any one of which is liable to be called for any day, and many of which are called for every day.

The removal and retiling of these, even if we had other rooms and cases, would be an immense labor, and it would be years before the office could recover from the displacement of more or less of these, which would necessarily take place.

The mere locality of particular files is a part of the education in the office, which will cost years of labor to acquire if they be disturbed.

It is tearing down one fourth of our office, which can never be perfectly rebuilt, to make room for another office; to build an office, and force us to build a new one also. It is the expense and loss of tearing away a perfect structure, that two imperfect ones may be constructed at great cost.

It may be said that our cases can be removed. To this it is answered:

1. They are exactly where they are wanted now, and will not occupy less room anywhere else.

2. There is no other suitable room in the building, and none, to our knowledge, elsewhere.

3. There are rooms in the building which will be equally as good for the Agricultural Department, now unfurnished, and which may be fitted for that purpose as cheaply as ours, thus saving our present furniture.

4. The cases are fitted to the building.

The Secretary of the Interior has been repeatedly requested to assign these rooms to the Agricultural Department, but, after careful examination of their use, refused.

We have already surrendered to the Pension Office and other offices eleven rooms, covering a floor surface of over six thousand feet, and we can surrender no more without dividing the office, endangering its archives, and rendering the transaction of its business expensive and irregular.

The seeds and fruits brought into this building by the Agricultural Department are filling it with vermin, which endangers our files and records, and to place these in the very center of the office will render the whole mass of valuable title papers, upon which depend the estates of millions of our people, insecure.

I will not extend this memorandum, though objections to the act are but half stated. For it there is not one valid reason.

Respectfully submitted, J. M. EDMUNDS.

Mr. SHERMAN. This matter about the rooms for the Agricultural Bureau has given the Department of Agriculture and the Department of the Interior a great deal of trouble. The rooms assigned to the Agricultural Department are totally inadequate in space and in location for the business of that Department, as well as its preservation; and therefore a joint resolution was introduced in the House of Representatives to appropriate two rooms belonging to the Land Office to the use of the Department of Agriculture. It was considered, examined, and deemed necessary to assign these two rooms to the Department of Agriculture, and a resolution of that kind was finally passed. The Commissioner of Public Lands now informs us that it is impossible for him to do without these two rooms that are proposed to be assigned to the Department of Agriculture; and the Secretary of the Interior also says that the crowding of the various rooms in the Department is very troublesome; indeed, the

increase of clerks in the Pension Bureau has compelled him to take several rooms belonging to the Land Office and use them for the purposes of the Pension Office, and the whole building is crowded to excess. Besides, he represents that the seeds introduced by the Commissioner of Agriculture necessarily introduce with them vermin, mice, &c., which endanger valuable papers.

On the whole, therefore, I think it is better for us to rent a building for the Department of Agriculture or erect one. It is impossible now to rent a suitable building, and I think it would perhaps be best to build a small building of reasonable size for that purpose. The Department of Agriculture is now crowded in an inconvenient and improper place and must have more room. If the Senator from Kansas wishes to economize, probably it might be better to rent a building for the present; but I am satisfied it will be a great deal cheaper in the end to take some of the unoccupied space around Washington and build a plain brick building for the Department of Agriculture. That will then give to the Pension Office and to the Land Office the rooms now occupied by the Department of Agriculture, and will give them the whole building, and probably save the Government in rent the cost of the building in a very short time.

Mr. HENDRICKS. At first I thought this third section ought not to be adopted; I was of the opinion of the Senator from Kansas; but on reflection, and especially on hearing the communication from the Commissioner of the General Land Office read, I think it is better to pass the bill as reported by the Senator from Iowa. The Senate will observe that the Commissioner of the General Land Office states the fact that the accumulation of seeds in the Department brings vermin into the building and is injuring the important documents of the Land Office and perhaps of the other offices. Anybody can see, I should think, at a glance that this Agricultural Bureau ought not to be in connection with bureaus of the Department of the Interior having very valuable files. We all know the value of the files of the General Land Office. They are the foundation of the titles of whole States; and if vermin are introduced into that part of the building and these files are destroyed, as is stated by the Commissioner, it is a very strong reason for providing elsewhere for the Agricultural Bureau.

I thought myself that the General Land Office had little enough room. I had some opportunities of knowing about that. It was a beautiful office, well arranged, all the furniture fitted to the building, where it ought to remain permanently, at very heavy cost to the Government. It is one of the best fitted up offices of the Government, and it is so arranged that all the files are immediately accessible and very secure indeed. I cannot conceive of a much better arranged office than it was. But I understand that since the business of the Pension Office has increased so very much since the war, eleven rooms have been taken from the General Land Office and given to the Pension Office, and still the business of the Pension Office is not sufficiently provided for in rooms. I know that you cannot take more than these eleven rooms from the General Land Office without very materially interfering with the business of the people. That is the people's office, most emphatically. The people from many States have business in that office every day in the year; and I am very reluctant to see the files so disturbed that they cannot be turned to immediately, and with great convenience and certainty.

Let the Bureau of Agriculture be provided with a building. It need not be an expensive building. The files of the Agricultural Bureau will never be of much value. Its business completes itself each year. It gathers seeds and gathers information, &c., and it cannot have very valuable files such as belong to the General Land Office and the Pension Office. A cheap building, therefore, I suppose, it need not even be fire-proof, I suppose. There are gardens down here, as has been suggested, sufficient to furnish ample room for a building of that kind, where the Commissioner of Agriculture, a very accomplished and elegant gentleman as he is, can have his baronial mansion in the center of his grounds, and may superintend the whole thing admirably. One hundred thousand dollars I understand will build a very ele-

gant house for him. Let him have it; let him have his seeds and rats all to himself; and there need be no more trouble in the Interior Department. I hope the bill will pass as reported.

Mr. POMEROY. I do not desire to make any factious opposition; but I do insist that to enter upon the work of erecting a new building at this time, with prices as they are now, is at least a piece of folly, if not of wickedness. The Commissioner of the General Land Office has very well said, in the communication which has been read, that it will cost twice as much to build a building now as at any other time. This appropriation of \$100,000 will build about as much as \$40,000 would in ordinary times. At a time like this, when labor is almost impossible to be had, when prices have gone up to fabulous figures, the proposition comes in and is coolly made here for this Department now to have appropriated to it \$100,000 to build a new building, as if Washington had no buildings.

I do not insist that this bureau or Department shall be in the Interior Department building. I am anxious to repeal the resolution that was passed which the first section of this bill proposes to repeal. I am willing to agree to the first section. I would not insist on taking rooms from the Land Office if they cannot be appropriately spared; but I object to the third section which appropriates \$100,000 to erect a new building, and I think that is an appropriation which it would be at least unwise to make at this time. That is all I have to say about it. If Senators think this a good time to commence erecting buildings they will so vote. I like to discharge my public duties as I would my private duties. I would not undertake to build for myself a building now in Washington or anywhere else with prices and labor and the condition of the country such as they are. We are able to stay here in Washington because we have got a standing Army, and we have kept it so for three years; and now, just at such a time as this, when our currency is going the Lord knows where, we are proposing to appropriate \$100,000 to build a new building for the Agricultural Department. When the Department was created we were assured it would not add expense to the Government. That I recollect was one of the arguments used in the Senate when the measure was introduced to have a separate Department. I will not prolong the debate. I only want to vote against this third section of the bill.

Mr. HENDRICKS. I wish to suggest to the author of the bill to amend it in the third line of the third section by inserting the words "when the President shall direct," so that the building need not be erected immediately.

Mr. HARLAN. I have no objection to that.

Mr. HENDRICKS. Then I move to amend the bill in the third line of the third section after the word "agriculture" by inserting the words "when the President shall direct."

Mr. McDUGALL. I should like to ask the Senator from Indiana, who has been a Commissioner of the General Land Office, whether when the resolution was passed giving rooms in the Department of the Interior to the Agricultural Department there were not rooms in it not used and whether they are not now vacant, having no particular present employment and never have had any.

Mr. HENDRICKS. The Senator from California asks me whether at the time rooms were assigned in the Interior Department to this Agricultural Bureau there were not unoccupied rooms in the General Land Office.

Mr. McDUGALL. No; in the part of the building heretofore assigned to the General Land Office.

Mr. HENDRICKS. On the second and third stories that are peculiarly appropriated to the General Land Office there were none, and there was a want of room after the eleven rooms were assigned to the Pension Office; but there is a basement story that the General Land Office cannot use. It was used to some extent to store away seeds, I believe, some time ago. The valuable files I think were never safe to be put down so low as that, and I do not think so now. Perhaps that may do for the Agricultural Department.

Mr. POMEROY. I learn that there are now six good rooms in that basement story that are not used at all.

Mr. HENDRICKS. Those are not the rooms that have been taken from the Land Office. The rooms that have been taken are those that were fitted up at the cost of many thousands of dollars for the files, and now it is proposed to take those files out of their places, provided at great cost, and use the rooms to put seeds and such things in. So far as the basement story is concerned, I take no interest in it. I do not think it is fit for the Land Office.

Mr. McDUGALL. I object to the entire third section of the bill; that is, the construction of a new building. We have now twice as much room as can be profitably employed in and about the business of the Government; and we have twice the number of persons in and about these rooms that are required in the transaction of their different departments of business. The idea of making a new structure at this time to accommodate a Department of the Government when we have, properly used, plenty of room, looks to me as a piece of, inexcusable extravagance. For that reason I am opposed at the present time to commencing the erection of a building with an appropriation of \$100,000, which may, as buildings have in the course of business here, cost \$500,000, or \$500,000 multiplied by two.

Then again I differ with the notions expressed by the Senator from Indiana. Whatever he may think of the merits of the present Commissioner who has charge of the Bureau of Agriculture, or whatever I may think, or any other gentleman may think, it was a Department contemplated in the organization of our Government—one which, if well conducted, would be of immense value with proper and legitimate adjuncts. That the material they have for preservation is or should be of great value no one who regards the development of the great paramount interest of the country, that is, that interest which belongs to the soil, can for a moment doubt. The man who says the preservation of the material that belongs to the improvements in the way of production, not only by the distribution of seed but by everything that belongs to the earth and is produced from it—that their preservation, that their organization, that their being put in intelligent form and in intelligent form communicated to the people, and the knowledge obtained preserved, is not of the first value, does not understand what lies at the foundation of the true prosperity of any people.

The Bureau of Agriculture, wisely and well administered, would be of infinite value to all the people of all this country. They have been collecting together not merely all the fruits of the earth and the germs that produce all the fruits of the earth, that they may be distributed and used among our people, but they have been gathering together all the minerals that lay hid throughout our whole country, whether they were of gold, or silver, or iron. Everything developed in the country has found in that Department a place, an office where they can be received, where they can be generalized, and where they can be made accessible to the people of our country, and where, having been not only generalized and made accessible, but put in proper form, may be exhibited so as to become a part of the popular knowledge of the country. The bureau properly is one of the most beneficent offices that exist under our system of Government. I thought so when it was first organized. Whether it has been well administered, whether the person who is chief of the bureau is fit to administer it, is a question foreign to the merits of any question involving legislation on our part.

I myself think that the rooms assigned, as far as I have been advised, in the Department of the Interior by the resolution which it is now proposed to repeal, were assigned for the reason that they were not demanded by the General Land Office. Such is my information. I know that there is a little angry quarrel—I have heard so, at least; I do not know it—between the Commissioner of the General Land Office and the Commissioner of Agriculture, and we have been surrounded by quarrels in and about gentlemen belonging to the Departments and executive offices; but these things should not disturb the course of business, and certainly not demand from us legislation.

I am satisfied that the resolution referred to

should not be repealed, and most certainly convinced that a bill making an appropriation such as filled the conception of the Senator from Indiana, a beautiful edifice where the Commissioner of Agriculture should sit and dwell surrounded by his own gardens, the fruit of his own genius, that he might cultivate—that that should be done by an appropriation of \$100,000, to be multiplied by ten is, in my judgment, a most unsound proposition.

Mr. HARLAN. I regret to say a single word in addition to what I have said, for I know that the patience of the Senator from Massachusetts [Mr. Wilson] is well-nigh gone now; but I wish to say that I examined the rooms to which the Senator from Kansas refers, and no one of them, in my opinion, is fit for a clerk to occupy. The Commissioner of Agriculture is now in the basement of the building, and these rooms are still below those that he occupies.

In reply to the remark made by the honorable Senator from California, I will say that this appropriation is to complete the work. The section contains this proviso:

Provided, That the whole cost of the erection of said building shall not exceed the sum appropriated in this act.

I am on both committees, the Committee on Public Lands and the Committee on Agriculture, and I perceive no other way of arranging this matter satisfactorily to the parties in interest and in such a way as to promote the public welfare. More room is needed; and although it may cost a little more to erect a building of the same size now than it would have done years ago, rents are high in proportion, and if we were to rent a building we should have to pay in excess of former prices also, and thus soon use up the whole appropriation in paying rent for a building large enough for the purpose. I think the bill ought to pass. I do not desire to occupy any more time.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana to the third section of the bill.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on the motion of the Senator from Kansas to strike out the third section as amended.

The motion was not agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. FOSTER. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 8; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Conness, Davis, Doollittle, Harlan, Hendricks, Lane of Kansas, Nesmith, Powell, Ramsey, Richardson, Riddle, Sherman, Ten Eyck, Van Winkle, Wade, Wilkinson, Willey, and Wilson—21.

NAYS—Messrs. Fessenden, Foot, Foster, Harris, Howe, Morgan, Pomeroy, and Trumbull—8.

ABSENT—Messrs. Anthony, Buckalew, Carlile, Collamer, Cowan, Dixon, Grimes, Hale, Harding, Henderson, Hicks, Howard, Johnson, Lane of Indiana, McDougall, Morrill, Saulsbury, Sprague, Sumner, and Wright—20.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the following bills of the House:

A bill (No. 162) for the relief of Nathaniel McLean, Richard G. Murphy, and Charles E. Flandreau; and

A bill (No. 347) for the relief of Martha Jane Skaggs.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (No. 111) for the relief of Major John A. Whitall, paymaster in the United States Army, on account of lost or stolen vouchers;

A bill (No. 203) for the relief Jacob Weber; A bill (No. 567) granting a pension to Elizabeth B. Seppien; and

A bill (No. 563) for the relief of John Williams.

The message further announced that the House

of Representatives had passed the following bills and joint resolutions of the Senate:

A bill (No. 272) to facilitate trade on the Red river of the North;

A bill (No. 273) to compensate the officers and crew of the iron-clad gunboat Essex for the destruction of the rebel ram Arkansas;

A bill (No. 289) for the relief of Ida Hoffman;

A bill (No. 292) to provide for the efficiency of the Navy;

A bill (No. 298) to incorporate the Potomac Ferry Company;

A bill (No. 299) authorizing the levy court of Washington county, in the District of Columbia, to levy and collect its portion of the direct tax imposed by the act of Congress of August 5, 1861;

A bill (No. 301) for the sale of a lot of land in Iowa in the Fort Crawford reservation;

A bill (No. 305) for the relief of George F. Nesbitt;

A bill (No. 308) repealing so much of an act to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1864, and for other purposes, approved March 14, 1864, as appropriates \$25,000 for erecting a naval hospital at Kittery, Maine;

A bill (No. 312) to regulate the compensation of registers and receivers of the land offices in the several States and Territories, in the location of lands by States and corporations under grants from Congress, and for other purposes;

A bill (No. 319) to authorize the Secretary of the Interior to issue a land warrant to Richard Fitch, of Ohio;

A bill (No. 321) to authorize the corporation of Washington to levy and collect the direct tax imposed by act approved August 5, 1861;

A bill (No. 324) prescribing the punishment for enticing or aiding seamen to desert the naval service of the United States;

A bill (No. 332) to establish salaries for postmasters, and for other purposes;

A joint resolution (No. 8) for the relief of the State of Wisconsin;

A joint resolution (No. 40) for the relief of Carlisle Doble;

A joint resolution (No. 66) providing for an adjustment of the accounts of Henry W. Diman;

A joint resolution (No. 69) regulating the investment of the naval pension fund; and

A joint resolution (No. 70) to authorize the acquisition of certain land for the use of the Government hospital for the insane.

COMMERCE AMONG THE STATES.

Mr. CHANDLER. I move to postpone all prior orders for the purpose of taking up House bill No. 307. It is a very short bill, which has passed the House of Representatives, entitled "A bill to regulate commerce among the several States."

Mr. WILSON. Before the recess, on my motion, a House bill which is a more important one than this was taken up, and I do not like to give way. I hope the Senator will let us pass that and then I will go with him to take up the bill he mentions.

Mr. CHANDLER. I do not ask the Senator to give way. I ask to have the bill taken up. It is a very short bill which has passed the House of Representatives, and I pledge the Senate that I shall occupy no time in debate. All I ask is a vote. I see no reason why it should delay the Senate five minutes. I hope the Senate will stand by me in taking it up, and I hope they will vote upon it and pass it, and I expect they will.

Mr. BROWN. Do I understand the bill the Senator proposes to take up to be that in regard to the railway?

Mr. CHANDLER. Yes, sir; the bill in regard to the Camden and Amboy railroad.

Mr. BROWN. Does he suppose that can get through without debate?

Mr. CHANDLER. Certainly. I am not going to talk about it.

Mr. BROWN. Nobody else does.

Mr. CHANDLER. I hope the Senate will take it up and vote upon it.

Mr. BROWN. Without debate?

Mr. CHANDLER. Of course. I have nothing to say about it. I believe every Senator in this body understands it perfectly, and I certainly

shall not say anything about it. I hope it will be taken up and voted upon.

Mr. HENDRICKS. I have been anxious to have an adjournment within the course of a couple of weeks at least; but if we are to take up this sort of measures at the close of the session it is impossible; and certainly this bill will not pass without some debate. The Senator ought not to expect that.

Mr. CHANDLER. I pledge the Senator from Indiana that no discussion will take place on the part of the friends of this measure. If its enemies see fit to occupy the time of the Senate, I cannot help that; but I do not think they will. I am going to let them talk themselves out in short time, and I am not going to give them food for a relash of the same speeches. I am going to keep quiet.

Mr. CONNESS. How long is this discussion to go on before the vote is taken?

Mr. CHANDLER. I call for the yeas and nays on my motion.

The yeas and nays were ordered; and being taken, resulted—yeas 9, nays 19; as follows:

YEAS—Messrs. Chandler, Conness, Howe, Morgan, Pomeroy, Ramsey, Sumner, Wade, and Wilkinson—9.
NAYS—Messrs. Brown, Carlile, Clark, Davis, Doolittle, Fossenden, Foot, Foster, Grimes, Hendricks, Lane of Kansas, Nesmith, Powell, Sherman, Ten Eyck, Trumbull, Van Winkle, Wiley, and Wilson—19.

ABSENT—Messrs. Anthony, Buckalew, Colamer, Cowan, Dixon, Hale, Harding, Harlan, Harris, Henderson, Hicks, Howard, Johnson, Lane of Indiana, McDougall, Morrill, Richardson, Riddle, Saulsbury, Sprague, and Wright—10.

So the motion to take up the bill was not agreed to.

PUNISHMENT OF GUERRILLAS.

The PRESIDENT *pro tempore*. The Senate will now resume the consideration of the bill which was before it at the time it took a recess.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes.

Mr. WILSON. There is an amendment pending, I believe, to strike out the word "and" in the eleventh line.

The PRESIDENT *pro tempore*. That has been agreed to.

Mr. WILSON. It is my purpose to detain the Senate but for a single moment in stating the object of this bill.

Some months ago General Sherman wrote a very pressing letter to General Holt, urging some action in regard to this question. He said that humanity required some legislation; that at least a thousand lives in his department would be saved by the adoption of his suggestions. He stated that the country was infested by guerrillas; that they were committing crimes that made humanity blush; that they were continually arresting these men and trying them before military commissions and convicting them, but the sentences had to be sent on to Washington before they could be executed, and it took an average of six months before any answer came back; and during that time, not having prisons in which to put these persons, many of them escaped; it made the punishment of guerrillas uncertain; and the result was that the people, where they had the strength, were taking the power into their own hands, and were retaliating upon these guerrillas; that our soldiers when they captured them, now very often, to use a phrase of the soldiers, "lost them in the swamps," or "they fell off a log," and were "lost in bringing them in." He said it was necessary that these guerrillas should be put on the same footing as spies, as murderers, and that class of men, be tried and convicted, and the sentence carried into effect by the general commanding the department.

This bill was prepared by General Holt, was sent to the committees here, reported in the House of Representatives, passed that body, and is now before us. An amendment has been adopted to it; and I trust the bill will receive the support of the Senate. I believe as a question of simple humanity that it ought to be passed. The intelligence that comes to us now from every quarter of the country is that these guerrillas are more active and more fiendish than ever. If we want to check them they must be speedily punished, and if we want to prevent the people whom they are

attempting to murder or the soldiers in the field from executing upon them summary punishment, we must, when we arrest them and try them, punish them promptly, and let all parties see that it is a great crime that must be speedily and swiftly punished. We are convicting them. I saw an account that there were five executed the other day in the West. The guerrilla that shot General McCook has been taken, and although he joined the rebel army since, he has been tried, convicted, and sentenced to be executed, and execution will undoubtedly follow. I hope that the bill will pass without any opposition.

A word in regard to the definition of "guerrilla." General Holt tells me that it is just as well understood as the word "spy," and as clearly defined and understood in his office and in the court-martials and military commissions, and they are tried just as regularly as though they were mutineers or murderers or spies. I hope, therefore, that the Senate will pass the bill.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. DOOLITTLE. I should like to hear the bill read as it now stands.

The Secretary read it, as follows:

Be it enacted, &c., That the provisions of the twenty-first section of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, shall apply as well to the sentences of military commissions as to those of courts-martial; and hereafter the commanding general in the field or the commander of the department, as the case may be, shall have power to carry into execution all sentences against guerrillas for robbery, arson, burglary, rape, assault with intent to commit rape, and for violation of the laws and customs of war, as well as sentences against spies, mutineers, deserters, and murderers.

Sec. 2. And be it further enacted, That every officer authorized to order a general court-martial shall have power to pardon or mitigate any punishment ordered by such court, including that of confinement in the penitentiary, except the sentence of death or of cashiering or dismissing an officer, which sentences it shall be competent during the continuance of the present rebellion for the general commanding the army in the field, or the department commander, as the case may be, to remit or mitigate; and the fifth section of the act approved July 17, 1862, chapter two hundred and one, be, and the same is hereby, repealed, so far as it relates to sentences of imprisonment in the penitentiary.

Mr. HENDRICKS. The Senator from Pennsylvania [Mr. BUCKALEW] had prepared an amendment to the first section, and I thought it was a very proper amendment, and as he is not in I will offer it. It is to add the following proviso:

Provided, That this section shall be confined in its application to the States in which insurrection has been declared to exist, and the term "guerrillas" herein contained shall not be held to include persons employed in the authorized military service of the enemy.

Mr. WILSON. I think that amendment had better not be put in the bill. I am very well satisfied on inquiry of those who understand this subject, who know all about it and have it before them every day, that it would be a great disadvantage to do it. Take, for instance, the State of Missouri; all the accounts are that portions of the State are overrun with guerrillas. There is no other power to arrest and try them but the military power. They are doing that. They are trying these men; and they executed five out there a few days ago. They are imprisoning and fining them according to the enormity of their offenses on the loyal people. They are a class of men that work in daytime and are out murdering during the night. They are now committing terrible ravages on the country. Perhaps at no period of our history have the guerrillas been so formidable and so cruel as at the present time.

There will be no sort of trouble come from this bill. These men are now tried wherever found, whether they are in Kentucky, or Tennessee, or in Missouri, or any of the other States that are in the war regions of the country; of course not in the regions of the country where there are not some raids or liability to raids. I think the bill is just what it ought to be; and I am sure that the Senator from Indiana, if he had devoted any considerable time to the subject in consultation with those who have the administration of it and examined the letters of military officers from the field, would be satisfied that the passage of this bill will have a tendency to check these crimes and prevent people taking the power into their own hands. One of the worst features of war anywhere is when people undertake to avenge their own wrongs; and when soldiers become accustomed to arrest

bad men and they find they are allowed to make their escape or are not punished, they make up their minds they will not take them prisoners, but will shoot them on the way. It is a very bad thing and ought to be checked.

Mr. WILLEY. I have some doubt about the operation of this bill, arising out of the fact that however well the term "guerrilla" may be understood in the Departments here, I myself have no very definite idea of its application. But I rose principally to state that if we are to have this bill passed, I should regret, if it is to have any beneficial effect, that it should be confined simply to the States declared to be in insurrection. If the Senator from Indiana had had some of the experience that we have had in West Virginia he would be very glad to avail himself of any remedy which would have a tendency to prevent the murderous, diabolical cruelties and depredations of these worse than fiends. Men shoot down our farmers on the highway going to mill; drag ministers out of the pulpit and hang them on the trees in front of their churches, or take them away and shoot them a short distance off. They commit every species of inhumanity and diabolical cruelty. That kind of cruelty and depredation is yet to some extent prevalent in a considerable portion of West Virginia. I imagine it is the same in Kentucky, and the intelligence is that it prevails to a very great extent in Missouri. If this bill is to be passed, and if it is to have any beneficial effect, these are the very States—Missouri and West Virginia and Kentucky—where these benefits would be most felt, because it is in those States I imagine that the greatest depredations are committed by these guerrillas. Within the lines of the enemy themselves there is not much of it, or even in those portions of the States within our lines that are declared to be in insurrection there is not so much of it as there is in the States of Missouri, Kentucky, and West Virginia.

Mr. HENDRICKS. As the Senator having the bill in charge and the Senator from West Virginia take exception especially to the first part of the proviso, and as the Senator from West Virginia represents one of the States which would be excepted by the proviso, I am willing to strike that out of the amendment.

So far as I am myself concerned, the principal purpose I had in offering the amendment was to prevent troublesome questions arising during the prosecution of the war. If we, under such a law as this, execute persons because they are found in small bands, when they in fact belong to the army of the enemy, we shall find ourselves met with retaliation on the part of the rebels. Senators recollect the case that grew up in Kentucky where two officers of the regular army of the enemy were executed under an order of General Burnside. One of my own townsmen, a captain in the Army, whom I esteemed very highly indeed, was selected at Richmond by lot to be put to death because of that, and barely escaped, though he finally did, and is at home now. But such questions ought not to arise if we can avoid them.

I understand it is the policy of the Government to treat the regular forces of the South as belligerents. The last part of the proviso simply applies to that; that the term "guerrilla" shall not be construed to include persons who are in the regular service of the rebel army. By that proviso we shall avoid very disagreeable and embarrassing questions which can do the service no good. If I have the authority to do it, I modify the proviso by striking out the first clause which excludes the States not in insurrection.

The PRESIDENT *pro tempore*. The Senator modifies his amendment, and it will be read as modified.

The Secretary read the amendment as modified, to add to the first section the following proviso:

Provided, That the term "guerrillas," herein contained, shall not be held to include persons employed in the authorized military service of the enemy.

Mr. TRUMBULL. If the Senator from West Virginia will look closely at this bill he will see that it does not provide for punishing anybody who is not to be punished by existing laws. That is not the object of the bill. The object of the bill is simply to do away with the necessity of sending to the President the finding of the court

for his approbation, and to let the finding be carried into execution without sending to the President for an approval of it. That is the law now as to many offenses. The department commanders have authority by existing laws to carry into execution the findings of courts-martial and military commissions in a number of instances; but the department commanders have not authority to carry into execution the judgments of the courts in other cases. The object of this bill is not to create a new offense, not to punish anybody as a guerrilla or otherwise who is not punishable by existing laws, but simply to do away with the delay occasioned by sending all the findings of these courts to Washington to be approved of by the President before the finding is carried into execution. That is the whole of it. There is no creation of a new offense by this bill. The first seven lines have reference to an existing law, and the eighth line commences in these words:

And hereafter the commanding general in the field, or the commander of the department, as the case may be, shall have power to carry into execution all sentences against guerrillas for robbery, arson, burglary, rape, assault with intent to commit rape, and for violation of the laws and customs of war, as well as sentences against spies, mutineers, deserters, and murderers.

The only change from existing law is to allow the department commander to carry into execution the finding of the court in the cases named, as well as in the case of spies and deserters.

Mr. WILLEY. I so understood the bill. The Senator from Illinois misinterpreted me if he supposed I was opposing the bill. I was opposing that portion of the amendment of the Senator from Indiana which proposed to exclude my State for instance—I spoke for that only—from the operation of the bill.

Mr. CONNESS. I propose to amend the amendment of the Senator from Indiana by adding, "and whose operations shall be conducted according to the laws of war." I hope the Senator will accept that.

Mr. JOHNSON. What the laws of war are in cases of this description there are a variety of opinions about. The rebel authorities suppose (and I regret to say that in some instances I think they are right) that some of our officers and soldiers have not conducted themselves according to the laws of war; and if we permit ourselves to judge of what are the laws of war under the amendment proposed by the Senator from California, and we are found executing those who are doing what they are being tried for doing under the authority of the confederate government, they will do the same thing as against our men, and the result will be retaliation on both sides. I think it would be better, if the honorable member would concur with me, that he should withdraw his amendment and let the bill stand as proposed to be amended by the Senator from Indiana.

Mr. TRUMBULL. I should like to inquire of the Senator from Maryland what necessity there is for the proviso of the Senator from Indiana. This bill does not create any offense. I have not understood that there was any complaint or any trouble as to the character of the offense; and why not leave that just as the law now stands? It is not proposed to amend it at all. We have not understood—at least I have not—that there has been any difficulty which this proviso would settle.

Mr. JOHNSON. I am told there has been difficulty in point of fact. Two or three men have been hung or shot who it was said should not have been treated in that way. I am as willing to leave it to the authorities as anybody else; but although it may be that the Judge Advocate General understands what a guerrilla is, it is by no means true (because the honorable member from Massachusetts has not told us what the understanding of the Judge Advocate General is) that his understanding of it is our understanding; and it is still less probable that his understanding of it will be found to be the understanding of the several commissions who are to try these offenses. There is nothing in this bill, however, which authorizes the trial of any offenses which could not be tried before. As I understand it, it gives to the military commission the authority to try the same offenses as court-martials could try now. The difference between what the law now is and what it will be in addition to that particular is, that the sentence is to be carried out, although it

may be capital, without the consent of the President. Upon that there is no difference of opinion, I understand, in the Senate.

Mr. TRUMBULL. I do not think there is any objection particularly to the amendment of the Senator from Indiana; I do not see any myself; but inasmuch as this bill did not create any new offense, I thought it was just as well to leave it as it was, and not undertake to put on a limitation now unless there had been some difficulty in the practical operation of the existing law, and I was not aware that there was any, which this amendment would be likely to obviate. My understanding of the bill is that it is not intended to apply to the cases of persons who are in the regular organized service of the rebels.

Mr. WILSON. That is the understanding of it certainly. I do not know that it will do any harm to put it in here in the shape of a proviso, although I do not think it necessary.

Mr. JOHNSON. It is safer to put it in.

Mr. WILSON. It may be safer, but it is certainly understood to refer to persons not regularly in the service of the confederate States in the army. One person who was in that service, the murderer of General McCook, was captured as a prisoner and has been tried and ordered to be executed. The Government has taken this ground: the offense was committed before he was in the service, when he was acting as a guerrilla, without authority; and he has been tried, although he belonged to the rebel army when captured, and has been sentenced, and is awaiting simply an examination by the President to order his execution.

Mr. VAN WINKLE. I should like to ask the chairman of the Committee on Military Affairs if he is not aware that these guerrillas are organized in the rebel service, that they are organized as partisan rangers and commissioned as such. We have had some of them twice captured and twice paroled, and among them one of the most notorious guerrillas in our neighborhood. They are for the most part men who were scoundrels before the war, timber thieves, as we call them in the country, men who had plenty of pork in the winter and no hogs in the summer. [Laughter.] And yet these men, who are constantly committing their depredations within thirty or forty miles of where I live, in northwestern Virginia, are under regular commission as partisan rangers. We passed a law in our State to punish them, but when they are taken the United States claim them as prisoners of war, and to avoid difficulty in the exchanges they have generally been given up. If some amendment like that which has been offered by the Senator from California could be adopted, to add if necessary a new description here, I think it would be of service. So far as regards these partisan bands who roam about and do these things which the laws of war do not warrant, we ought to have the privilege, when we can catch them, of putting them where they will do so no more.

Mr. CONNESS. Such has been my understanding in regard to these partisan bands. My opinion is that they have been authorized by the so-called confederate government. I think there is scarcely a doubt about that. The Senator from Massachusetts says a good many of them are. I think there is no doubt but that they have placed them under orders for the very purpose of saving them, and in case we should punish them for their infamous crimes and excesses making a claim against us for the act.

I agree with the Senator from Massachusetts and the Senator from Illinois that there is no necessity for the amendment of the Senator from Indiana; that there is no new crime created by this bill. There is simply a mode provided for punishing crimes of a scandalous and heinous character, violative of all the laws that govern civilized warfare. The courts that are to try these offenses will understand the question, understand the laws of war, understand the jurisdiction given them by this bill. But if you are going to add the proviso of the Senator from Indiana and adopt it, that no matter what crime these guerrillas may commit, no matter in what manner they may carry on the war, or what acts they may perpetrate, if they are under orders by the so-called confederate government they are not to be subjected to trial and punishment, then I think you should amend the language so that they should

be held, if under orders, to observe the laws of civilized warfare. Those are well understood. The military commission into whose hands they would fall for trial or be brought before will understand the entire case. I hope the amendment I have proposed will be adopted.

Mr. HENDRICKS. I wish to call the attention of the Senate to the fact that I have modified my amendment at the suggestion of the Senator from Illinois by inserting the word "regularly" before "authorized," so as to say that the term guerrilla shall not be understood to include persons who are in the regularly authorized force of the rebellion. I certainly have no sympathy with the class of persons who are to be punished, but I do have a sympathy for our own soldiers who are in the field who are likely to suffer if we by law or otherwise depart from the usages and principles of war. I shall not vote for the amendment of the Senator from California, because I think it is likely to cause troublesome questions. Suppose that one of our soldiers were taken from the regular service a prisoner by the South; they put him to death; refuse to treat him as a prisoner, and then when we call on the authorities there to know about it and proceed to retaliate for it, we are told that the soldier was not conducting himself as a soldier ought, that his operations were not according to the usages of war. Would we receive that as a sufficient answer? I do not know how this question is, but the Government has treated the army of the South as a belligerent, that the persons taken in war are to be treated as prisoners of war. That has been decided. Now the question is, whether we ought to say that any of the soldiers of the South taken in acts not authorized by the usages of war shall be put to death because of that. I think it is a doubtful question, and perhaps will give some trouble. The Senate can do as they like about it. I have but little care about it.

Mr. CONNESS. It is not proposed to put them to death. Their punishment will entirely depend on the degree of excesses they may commit.

Mr. HENDRICKS. I should like to know from the chairman of the committee whether he understands the view of the Administration to be that a soldier who is a regular soldier, authorized by his Government, taken in an act not authorized by the usages of war, may then be treated otherwise than as a prisoner of war. To illustrate: I noticed in a letter which was read by my colleague yesterday from a gallant colonel from Indiana, that he spoke in the course of his letter of having been directed to burn a town, and the soldiers went into one of the private houses and took the silver-ware. It was afterwards charged before the McDowell investigation that the silver-ware was not accounted for by Colonel Slack. He says in his explanation that it was taken by the soldiers, and by some lieutenant was hid in the ground. Certainly this thing of making war on private property, stealing private property on either side, is not according to the usages of war; but if a soldier be taken doing an act not authorized by the usages of war, is he to be treated as a criminal or as a prisoner of war? That whole question ought to be understood when we vote upon the amendment of the Senator from California.

Mr. WILSON. I understand that the Government, as stated by the Senator from West Virginia, treats even these wandering bands of robbers and murderers who are regularly in the service as prisoners of war when they were captured. They have been delivered up as such. When we have captured men belonging to Mosby's gang we have treated them, I think, as prisoners of war. We have so treated similar bands in other parts of the country. These guerrillas are a class of men who are fighting on their own hook, who fight their own battles. They are generally men who are acting from revenge or from the desire to plunder, and they are committing all sorts of offenses. At the present time they are exceedingly formidable in middle Tennessee, overrunning everything, murdering men everywhere. They are very strong in portions of Kentucky, and they are strong in Missouri. Undoubtedly mixed with them are some persons who are regularly in the rebel service; but I suppose it is the practice of the Government when it finds that

class of men—necessity imposes it on them—to recognize them as soldiers of the confederate States.

Mr. McDOUGALL. It is not ten years since the term "guerrilla" was a popular term in our country, when the people of all the States of the Union I think without exception, and the people of England as well, thought that that was an honorable term. When Wellington fought the Peninsular campaign, and when the people of Spain joined the standard of England, or England lent her assistance to Spain for the purpose of establishing the rights of Spain as against French aggression, the guerrillas of the mountains in Spain challenged and commanded the admiration of the free people of the world. They were guerrillas. They were fighting for their homes, their native land, and their independence of French subjugation.

We have heard of guerrillas again since that time, and we understand that there is a guerrilla warfare carried on now by the people of Mexico as against French aggression in their country. They, with their party chiefs, occupy the mountain passes in particular locations, and when they acquire sufficient force pounce down like the falcon upon their game; and so far as I know, in such conduct they have the admiration of the American people. They are guerrillas.

In the war of the Revolution there were partisan bands invited by our own Government; and who has challenged more of the admiration of the young men that now have grown to be old men and the young men who are still young and the lads growing up in the land than Marion, a partisan leader, and in the same sense a guerrilla?

I am charitable enough to believe that the people of various portions of the South, certainly many persons of the South, think they are right in maintaining this war against our Government; and there are chiefs of counties, and, if you please, lords of mountains, who can bring about them crowds of men willing to follow their arms for the purpose of making war upon the enemy.

There are these things we all know, for we have had the severe experience of the fact. We know that their conduct in this respect has been invited by their government; and so it would be by our Government were we in the same position with them, on the defensive. There never has been a war of invasion that, with the general consent of the public authority of the invaded party, the people have not been allowed to meet together, band themselves together, choose their leaders, and make partisan war. Such has been our own history. Such has been the history of similar wars in Europe. Such is a part of the history of this war. The partisan leaders who now disturb us on the banks of the Mississippi are only carrying out the policy that has belonged to defensive war always. They have done it with the consent of the authorities of their government.

It is true that in old and barbarous times the partisan leader, the chief of a clan, the lord of a house was drawn and quartered if he was made captive in battle. Long since such a rule was ignored as a rule of the laws of war. Mankind have pronounced such proceedings inhuman since the time Montrose walked to the scaffold in the city of Edinburgh.

There may be such persons as are described by the Senator from West Virginia—men who have no hogs in the summer and plenty of pork in the winter; there may be those men who live in the bush by day and about the house at night; but they furnish no more foundation for law than did the Foresters of the time of Richard for the laws of England.

If we regard the well-established laws of war and the rules of Christian civilization as they have incorporated themselves into the modern laws of war, we must recognize certain principles, and among them is this, that while we may conquer and subject those who are in arms against us as a body of people, being our enemies, when we have captured their persons they have that kind and charitable right that does not authorize the execution of a belligerent either on the gallows or by the ax.

Since the time of the French Revolution, and even in that time, such doctrines did not obtain. I trust that no such doctrine will obtain in this country as this, that when we find an enemy in

arms and he does not have in his pocket a commission, or his captain commanding has not a commission from the chief of the confederate government, he being opposite and adversary, he is to be hung like a felon and his head cut off and placed on the steeple of the nearest town. These things have been done but a century gone. The barbarism of past ages I do not wish to see repeated in the age to which I belong. The barbarism of ruder Governments I do not wish to see repeated in a Government where we profess to be an enlightened people, highly civilized, and with the light and instruction of the Christian religion.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on the amendment of the Senator from California [Mr. CONNESS] to the amendment of the Senator from Indiana, [Mr. HENDRICKS.]

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question returns on the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. SUMNER. I want to call the attention of my colleague to the word "guerrillas." It is not an accurate expression, though it is a common expression, and I think it ought not to pass into our legislation. "Guerrilla" is a Spanish word meaning "a little war;" and it first came into use in the English language after what is known as the Peninsular campaign in Spain when the French soldiers were pursued by partisan bands or guerrilla bands, and the engagements that were incident to such pursuits went under the name of "guerrillas" or "little wars." I have in my hand a Spanish dictionary which I sent for into our Library, and I will read the definition of this word:

"Guerrilla: a diminutive; a war of partisans; predatory warfare; skirmish; a slight engagement."

It is not a term describing the men or the parties who are engaged in this business, but it describes the business. Therefore to be accurate there ought to be some other word associated with it, as for instance "marauders." I would suggest wherever the term "guerrilla" occurs you add "marauders," so as to read "guerrilla marauders." "Guerrilla" should be the qualifying term and "marauder" would be the noun denoting the men or the parties engaged. That would be an accurate phrase; the other, I think all agree, is not an accurate phrase though it is a very common one; we use it familiarly every day. I think it would be better both in the title of the bill and then in the first section where the phrase occurs. My colleague says he has no objection, and I move where the term "guerrillas" occurs there be substituted the words "guerrilla marauders."

The amendment was agreed to.

Mr. WILSON. There are one or two amendments that we agreed to on another bill, and when I proposed last night to put them on the bill for the amendment of the enrollment act it was objected to. We, however, reported them, and they are very important provisions—very little things, but important in their way. I offer this amendment as a new section:

And be it further enacted, That when a soldier in hospital shall be discharged from the military service, but shall be unable to leave or to avail himself of his discharge in consequence of sickness or wounds, and shall subsequently die in such hospital, he shall be deemed to have died in the military service.

The amendment was agreed to.

Mr. WILSON. I offer the following amendment as a new section:

And be it further enacted, That payments which have been made by paymasters to non-commissioned officers of volunteer regiments from the date of their enrollment and for a time previous to their muster into the service of the United States shall, if otherwise correct, be allowed in the settlement of such paymasters' accounts.

Mr. CONNESS. What has this amendment got to do with the punishment of guerrillas? It seems to me you make very queer acts.

Mr. WILSON. The title reads, "and for other purposes."

The amendment was agreed to.

Mr. WILSON. I offer another amendment, to come in as a new section:

And be it further enacted, That the Secretary of War shall be authorized to appoint a book-keeper for the national armory at Springfield, whose compensation shall be

\$1,200 per annum, and the compensation of the clerks at said armory shall be \$1,000 per annum.

Mr. DAVIS. I move to suspend the pending and all prior orders to take up House joint resolution No. 83.

Mr. WILSON. I think we can get through with this bill very soon now.

The PRESIDING OFFICER. The Senator from Kentucky moves to suspend all prior orders and proceed to the consideration of House joint resolution No. 83, authorizing the President to construct a military road from the valley of the Ohio to East Tennessee.

Mr. WILSON. Give us three minutes and we can get this bill through. I have no more amendments.

Mr. GRIMES. I hope this amendment will not be adopted.

Mr. WILSON. I withdraw the amendment, as I find it is objected to.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky.

Mr. DAVIS. I withdraw my motion.

Mr. GRIMES. I should like to have the amendment in regard to paymasters explained before we pass the bill.

Mr. WILSON. Paymasters have paid men in regiments who were selected as non-commissioned officers and acted as such prior to their being mustered into the service. They could not be regularly appointed until the colonel of the regiment was appointed, and he could not be commissioned until the regiment was full. Some of them acted a few weeks and have been paid as sergeants and non-commissioned officers; but when the accounts came before the Comptroller, Mr. Brodhead, they were not allowed. They ought to be adjusted. It prevents the settlement of a great many accounts, making great embarrassment. After all the examination I can give it I think the amendment ought to be adopted.

Mr. LANE, of Indiana. I wish to move an amendment to the amendment that has just been adopted on the motion of the Senator from Massachusetts, to add the following as a new section:

And be it further enacted, That when a soldier in any hospital shall be discharged from the military service, and shall be unable to leave or to avail himself of the discharge in consequence of sickness or wounds, and shall subsequently die in such hospital, he shall be deemed to have died in the military service.

I wish to go back and cover precisely similar cases where soldiers have already died in hospitals. Several such cases have come under my notice. I move to amend it so as to make it apply to the case of every soldier who shall have died or shall hereafter die in hospital, making it retrospective.

Mr. WILSON. There are several cases of that kind.

The Secretary read the amendment, which was in line two of section five after the word "hospital" to insert the words "shall have been discharged or;" so that it will read, "that when a soldier in any hospital shall have been discharged or shall be discharged," &c.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

The title was amended so as to read: "A bill to provide for the more speedy punishment of guerrilla marauders, and for other purposes."

CLAIMS FOR ARMY SUPPLIES.

Mr. JOHNSON. I ask that all other business be suspended for the purpose of taking up House bill No. 305.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 305) to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States, which had been reported from the Committee on the Judiciary and the committee discharged from its further consideration.

Mr. JOHNSON. The reason why the committee was discharged was because they had before them Senate bill No. 259, upon the same subject, and they made a report upon that bill with amendments. It is too late to act upon the amendments

to the Senate bill at this stage of the session, but a few words by way of amendment in the House bill will make the House bill precisely the same with the bill reported by the Committee on the Judiciary. I ask, therefore, that that bill be now considered.

THE PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole, and will be read.

The Secretary read the bill, which provides that the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States growing out of the destruction or appropriation or damage to property by the Army or Navy, or any part of the Army or Navy, engaged in the suppression of the rebellion from its commencement to its close. All claims of loyal citizens for quartermaster's stores actually furnished to the Army of the United States may be submitted to the Quartermaster General of the United States, accompanied with such proofs as each claimant can present of the facts in his case; and it is to be the duty of the Quartermaster General to cause such claim to be examined, and, if convinced that it is just, and that the stores have been actually received or taken for the use of the Army, then to report each case to the Third Auditor of the Treasury, with a recommendation for settlement. All claims of loyal citizens for subsistence actually furnished to the Army may be submitted to the Commissary General of Subsistence, accompanied with such proof as each claimant may have to offer; and it is to be the duty of the Commissary General of Subsistence to cause each claim to be examined, and if convinced that it is just, and that the subsistence has been received or taken actually for the use of the Army, then to report each case for payment to the Third Auditor of the Treasury with a recommendation for settlement. The action of the Quartermaster General and of the Commissary General of Subsistence, as the case may be, and of the accounting officers of the Treasury is to be final and conclusive upon such claims, which may be paid either by special requisition and warrant, or by a disbursing officer of the quartermaster and subsistence departments as the case may be, or as may in each case be most proper or convenient; and the officers paying are to be released from all liability for or on account of the property so paid for; but no claim is to be examined, audited, or allowed under the provisions of this act until the claimant shall have taken, subscribed, and filed with such claim the oath prescribed by "An act to prescribe an oath of office," approved July 2, 1862, except so much of the oath as relates to the discharge of the duties of office; and every person who shall falsely take the oath under the provisions of this act is to be liable to the penalties prescribed by the act.

MR. FESSENDEN. I think it will not do to pass such a bill as that at this hour of the night. It is a bill that needs a great deal of consideration. It involves very important principles and a great deal of money.

MR. JOHNSON. The Senator will permit me to perfect the bill in the way it is proposed to be amended. The bill has been pending here for some time. It will not involve much money. It only applies to stores actually furnished.

MR. FESSENDEN. We do not know what the amount is. It is a bill that needs careful and deliberate consideration. It makes a very large draft on the Treasury.

MR. JOHNSON. It has been before the Judiciary Committee and considered. I move to amend the bill by inserting after the word "citizen," in the second line of the second section, these words, "in the States not in rebellion."

MR. FESSENDEN. I ask whether that is reported by the Judiciary Committee.

MR. JOHNSON. This of itself is not. We have reported a Senate bill. This bill has passed the House of Representatives.

MR. FESSENDEN. I understood that the Committee on the Judiciary were discharged from its further consideration.

MR. JOHNSON. Yes, because they reported the Senate bill which corresponds with it.

MR. TRUMBULL. I will state the precise condition of this matter if Senators will allow me.

There were several bills to provide for the payment of damages and claims growing out of the

war which were before the Committee on the Judiciary. We took up one of the bills and struck all of it out but two sections, which we agreed to report, and we reported it to the Senate, striking out everything but two sections. In the mean time the House of Representatives passed a bill something like our two sections which we had reported; and that coming into the Senate, the Senator from Maryland now takes up the House bill and proposes, as I understand, to amend it so as to correspond with the bill which we have reported from the Judiciary Committee of the Senate. It is for the Senate to consider what shall be done with it.

MR. BROWN. I desire to have an opportunity to call the attention of the Senate for a moment to what I believe has been a mistake that has been made in regard to the enrollment bill which has been sent to the House of Representatives. When the bill was under consideration here, the motion made was to substitute in place of it the bill that passed the Senate and it was so voted; but if I am correctly informed that was not the amendment which was sent from the desk to the House of Representatives; so that there is a mistake in regard to the bill which has been sent there. The bill which has been sent to the House of Representatives as the amendment adopted by the Senate is a bill that did not pass this body and does not contain the sentiment of the Senate. I think it is a matter that is worthy of consideration as the House of Representatives is acting upon it and acting upon it under that mistaken impression. I submit it to those who are more familiar with the affairs in the Senate as to how it can be best remedied. I believe the House of Representatives have already acted upon the bill which they supposed we sent them.

MR. JOHNSON. If so, I suppose that can wait until this bill is disposed of.

MR. GRIMES. I think there is no trouble about it. I understand the House of Representatives have non-concurred in our amendment, and if that is so, if there was a mistake in the substitution of the original bill, the committee of conference can carry out the views of the Senate.

MR. BROWN. I do not know whether they have concurred or non-concurred.

THE PRESIDING OFFICER. (Mr. POMEROY.) The question is on the amendment of the Senator from Maryland to the second section of the bill before the Senate.

The amendment was agreed to.

MR. JOHNSON. I move the same amendment, in the second line of the third section to insert, after the word "citizens," the words "in the States not in rebellion."

The amendment was agreed to.

MR. McDOUGALL. I move to strike out all after the first section of the bill. I think the first section is a wise provision. I am inclined to think from my recollection of the law that the Court of Claims would not have jurisdiction to pronounce judgment in the case of the claims mentioned in the first section; but if they have any such authority I think it should be withheld.

With regard to the quartermaster and commissary departments we have laws governing the transaction of their business; we have an abundance of quartermasters and an abundance of commissaries; we have more I think than occasion has demanded. Persons furnishing the quartermaster's or commissary's department anything called for by either department would have vouchers, and all that would be required of them at the Third Auditor's office would be to have their vouchers in proper form. I do not believe there is a detached part of the Army that cannot put their quartermaster and commissary accounts in proper shape. If we give this wide license for a court to be established by the Commissary General and a court to be held by the Quartermaster General to undertake the settlement of disputed accounts that they may report them to the Third Auditor, it would give more business to those two departments than could be discharged if we multiplied those two offices by ten. It would give rise to an infinite amount of claims. This bill would make the Quartermaster General's office and the Commissary General's office courts where they would require about twelve judges, each sitting by himself, to determine what should be returned

to the Third Auditor. I do not believe any of them should go into such a business; I therefore move that the second and third sections be stricken out of the bill.

The amendment was rejected; there being, on a division—ayes twelve, noes not counted.

THE PRESIDING OFFICER. If no further amendments be offered the bill will be reported to the Senate.

MR. FESSENDEN. I have no objection to the bill being reported to the Senate, but I must strenuously object to further action on it to-night. The Senate is very thin and this bill involves a large amount of money. It is the first time my attention has been called to it, and I wish to look into it further.

MR. JOHNSON. There will be no objection to that.

The bill was reported to the Senate as amended, and the amendments were concurred in.

MR. FESSENDEN. I move that the bill be postponed until to-morrow.

MR. POWELL. I hope the bill will not be laid aside. It is a matter of very great importance to the border States which have been traversed by these armies. We have been trying to get something through, and this is not really half what we ought to have. It is a matter of very great importance. The House of Representatives passed this bill and sent it to us, and it is the only thing we can get, I suppose.

MR. FESSENDEN. I want a chance to prepare some amendments to it if it is to be finally acted upon at this session. I cannot consent, without making a long fight on it—which I do not want to do here to-night without knowing more about it—at this late hour to see a bill of this sort passed, which involves an immense amount of money, as I see it does. I want time to look at it. I cannot sit down here now and examine it when my attention is for the first time called to it.

MR. POWELL. I ask, then, that it be made the special order for to-morrow at one o'clock or twelve o'clock. ["No," "No."]

MR. FESSENDEN. It will not do to make special orders at this period of the session.

MR. JOHNSON. We can call it up to-morrow on motion.

MR. TRUMBULL. Before the bill goes over I desire to say that on comparing the bill which is under consideration with the two sections which the Committee on the Judiciary agreed to, I find there is some difference between them. The two sections agreed to limited the claims to cases where the officers of the Government had taken for commissary or quartermaster purposes the property of a loyal citizen in some of the States not in insurrection for the use of the Army. It must have been taken by an officer for the use of the Army in a loyal State and have been received and actually used by the Army. I do not see why those claims should not be paid, at any rate, it seems to me, where the proper officer took the property, where it is confined to property taken by officers. If a quartermaster or commissary goes out and takes a load of hay from a loyal citizen in a loyal State and gives him a receipt for it, is not the Government bound to pay? I think it ought to pay. These are the limitations in the bill which was agreed to by the Judiciary Committee. This House bill, however, even as it has been amended by the Senator from Maryland, is not so closely guarded; it is not confined as I can see to property actually used by the Army.

MR. JOHNSON. Yes, it is. Such is my understanding of it.

MR. TRUMBULL. No, sir; the second section of the House bill states, "and that the stores have been actually received or taken for the use of said Army." The Senate bill goes on to say "and used by the Army." But the House bill does not put in those words. It is enough if some officer takes them, whether the Army ever got them or not.

MR. JOHNSON. It is furnished to the Army. I suppose it to be equivalent. If the Senator will permit me I will offer a further amendment by saying "furnished to and actually used by the Army." I consider the phraseology as identical, and after that let the bill go over.

MR. TRUMBULL. Then the whole of the House bill from and after the word "and," in line

ten of section three, to the end of the section, is a new provision entirely, and I am not prepared to say what the effect of that provision may be. It is in these words:

And the action of the Quartermaster General and of the Commissary General of Subsistence, as the case may be, and of the accounting officers of the Treasury, shall be final and conclusive upon such claims, which may be paid either by special requisition and warrant or by a disbursing officer of the quartermaster and subsistence departments, as the case may be, or as may in each case be most proper or convenient; and the officers paying shall be released from all liability for or on account of the property so paid for.

There is no such clause as that in the provision which was agreed to by the Judiciary Committee. I should have much preferred to adopt the two sections that we agreed upon in lieu of these provisions of the House bill, though if the House bill is amended to conform to them, having agreed to the report of the committee, I should be willing to agree to the bill thus amended.

THE PRESIDING OFFICER. The question before the Senate is on the motion of the Senator from Maine to postpone its further consideration until to-morrow.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 494) to increase duties on imports, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution; which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (H. R. No. 494) to increase duties on imports, and for other purposes;

A bill (H. R. No. 559) to quiet the titles to lands in the Rancho Laguna de Santos Calle, in the State of California; and

A joint resolution (H. R. No. 113) to settle the accounts of John S. Phelps, of Missouri, as a member of the Thirty-Seventh Congress.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 111) for the relief of Major John A. Whitall, paymaster in the United States Army, on account of lost or stolen vouchers—to the Committee on Claims.

A bill (No. 203) for the relief of Jacob Weber—to the Committee on Pensions.

A bill (No. 567) granting a pension to Elizabeth B. Seppien—to the Committee on Pensions.

A bill (No. 569) for the relief of John Williams—to the Committee on Claims.

BILL INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 341) to incorporate the National Academy of Literature and Art, and also to incorporate the National Academy of Moral and Political Sciences; which was read twice by its title, and ordered to be printed.

RAILROAD TO EAST TENNESSEE.

Mr. DAVIS. I now move to take up House joint resolution No. 83, authorizing the President to construct a military railroad from the valley of the Ohio to East Tennessee, which was reported yesterday morning by the Committee on Military Affairs of the Senate.

Mr. GRIMES. I trust the motion of the Senator from Kentucky will not prevail. I hardly think it is proper to take up at this stage of the night, when the Senate hardly contains a quorum, a bill of this magnitude that is to involve scores of millions of dollars for the purpose of building a railroad that cannot be constructed within the next five or ten years, and can be of no advantage, in my apprehension, in the conduct of the present war. I trust it will be permitted to go over until to-morrow, when there will be a full Senate.

Mr. DAVIS. I think my honorable friend from Iowa greatly overrates the cost of this road

Mr. TRUMBULL. You had better get it up before it is discussed.

THE PRESIDING OFFICER. The question is on taking up the bill. Debate to a very limited extent is allowed.

Mr. DAVIS. I do not care to say another word upon it, but I ask for the yeas and nays upon the question of taking it up.

The yeas and nays were ordered.

Mr. LANE, of Indiana. I hope this bill may be taken up. I do not think there is a more important measure now pending undisposed of before Congress than this. If we are to hold East Tennessee at all, it is important to have a railroad communicating with our base of operations at Louisville and Cincinnati. As it seems to me, no more important measure can be proposed to the Senate than this. This proposed road will lessen the line of transportation some one hundred and fifty miles from Cincinnati to Knoxville and Chattanooga, and is a very important measure. None more so, I think, can be taken up. We are now at the very last days of the session. I shall not go into the merits of the case, though I should like very much to do it, for I have a map of the whole country showing precisely the railroad connection, &c.; but I have no right to go into it now on the motion to take up. But it does seem to me if we do anything at all within the very few last days of the session, it is time we were commencing this matter.

Mr. TRUMBULL. Mr. President—

Mr. DAVIS. Will the honorable Senator permit me to state barely two facts? The road is already completed from two points, from Cincinnati and Louisville to near Danville, in Kentucky. It is proposed to unite the two branches then to terminate on the Ohio, and take the road by a single line to the neighborhood of Knoxville. It is about one hundred and twenty miles. More than two years ago the War Department had made a contract to have that road executed, built, and put in running order in eight months. I have no idea that it will cost even at the present high rates \$5,000,000. If that road had been constructed at the time the contract was made for its construction, it would have saved in transportation alone to the Government up to this time more than twenty million dollars.

The question being taken by yeas and nays, resulted—yeas 15, nays 11; as follows:

YEAS—Messrs. Brown, Buckalew, Canine, Davis, Foot, Harris, Johnson, Lane of Indiana, McDougall, Morgan, Powell, Ten Eyck, Van Winkle, Wilkinson, and Willey—15.

NAYS—Messrs. Anthony, Clark, Conness, Doolittle, Foster, Grimes, Lane of Kansas, Pomeroy, Ramsey, Sumner, and Trumbull—11.

ABSENT—Messrs. Chandler, Collamer, Cowan, Dixon, Fessenden, Hale, Harding, Harlan, Henderson, Hendricks, Hicks, Howard, Howe, Morrill, Nesmith, Richardson, Bliddle, Saulsbury, Sherman, Sprague, Wade, Wilson, and Wright—23.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 83) authorizing the President to construct a military railroad from the valley of the Ohio to East Tennessee.

In accordance with the recommendation in his annual message of 1861, the President of the United States was authorized by an act of Congress, approved January 31, 1862, to open and construct a military railroad from the valley of the Ohio river into East Tennessee, over such route and under such conditions as in his judgment seemed just and most judicious. That act was modified and partly repealed by a joint resolution, approved July 14, 1862, restraining the President from exercising the discretion confided in him by that act. In a special message, dated April 28, 1864, in accordance with the strong recommendations of all the generals successively commanding in the department of the Ohio, the President called the attention of Congress again to the importance of an early completion of that military railroad as a measure of economy in transportation of supplies and men to the valley of East Tennessee, as a means of suppressing the rebellion and as a perpetual bond of Union. The bill, therefore, authorizes the President to construct that military railroad on such route, with reference to economy, as in his judgment may be most advisable, and in such a manner as may best serve the interests of the Government and insure the most speedy completion of the road.

Mr. GRIMES. In connection with the reading of the bill, I call for the reading of the letter of the Secretary of War and of General Halleck, which were ordered to be printed by the Senate. The Secretary read the following letters:

WAR DEPARTMENT,
WASHINGTON CITY, June 13, 1864.

SIR: I have the honor to acknowledge the receipt of your note of June 1, accompanying a joint resolution of the House of Representatives No. 83, authorizing the President to construct a military railroad from the valley of the Ohio to East Tennessee, and inquiring whether, in my judgment, a military necessity exists for the construction of said railroad.

At an early stage of the war, when the enemy held the chief part of Kentucky and Tennessee, a railroad from Danville to Knoxville for a line of supply to an army advancing from the valley of the Ohio into East Tennessee, and which could in a great degree be constructed by the Army as it advanced, was deemed a measure of prime military importance. In that view such a road was recommended to Congress by the President's first annual message in 1861. It was also urged by this Department, and arrangements were made for building the road; but the work was stopped by Congress repealing the statutory provision by authority of which it was undertaken. Since that time the military condition of affairs has undergone a great change. We now hold Knoxville; the enemy have been driven from Tennessee; and there is a railroad line adequate for the transport of troops and Army supplies from Chattanooga to Knoxville.

In view of this change, my judgment in respect to the military necessity of a railroad, such as indicated by your inquiry, is controlled by the following considerations:

1. There already exists an adequate line of railroad supply for the military necessities of East Tennessee.

2. Even if the contemplated line of railroad from Danville to Knoxville were now built, and in working order, a military force would be required to guard it. That could not be spared without greatly impairing the strength of the Army in the field.

3. It is not probable that the proposed road could be constructed in time for any use during this war. Its construction would require a large body of men that could be better employed in the field, and an outlay of several million dollars that are needed to pay troops and support them. The demand created for men to build the road would increase the difficulty of raising troops for the Army, and the cost of the work would increase the war debt and lessen the public credit.

From these considerations, in my judgment, a military necessity for the construction of such road does not now exist. For fuller information your inquiry was referred to General Halleck, chief of the Army staff, whose report is approved by this Department, and a copy of which is herewith submitted.

I have the honor to be, very respectfully, your obedient servant,
EDWIN M. STANTON,
Secretary of War.

Hon. HENRY WILSON, Chairman of the Committee on Military Affairs, United States Senate.

HEADQUARTERS OF THE ARMY,
WASHINGTON, D. C. June 11, 1864.

SIR: By your direction I return herewith the "joint resolution authorizing the President to construct a military railroad from the valley of the Ohio to East Tennessee," with my opinion as to the military necessity for such a road.

As there is a railroad now in operation from the valley of the Ohio to East Tennessee—that is, from Louisville, Kentucky, to Knoxville, Tennessee—I presume the joint resolution refers to the construction of an additional and more direct route, say from Danville, Kentucky, to Knoxville, Tennessee.

Whatever may have been the military necessity of such a railroad when the enemy were in possession of East and Middle Tennessee, northern Alabama, and northern Georgia, that necessity no longer exists. We are now in complete military possession of these portions of territory. The railroad from Nashville to Knoxville is in full operation, and we have steamers running on the Tennessee river from the shoals to Chattanooga and East Tennessee. So long as these routes are kept open there will be no difficulty in supplying our armies in East Tennessee and Georgia, and our depot at Nashville will be replenished by the Cumberland river, and by railroads from Louisville and from the Tennessee river.

Considering the enormous expense, and the great length of time required for the construction of the proposed railroad, the number of troops which will be necessary to guard it against rebel raids when completed, and the vast amount of manual and mechanical labor which its construction will divert from other military objects of more pressing importance, I cannot advise at the present time the building of the proposed railroad as a military necessity.

Very respectfully, your obedient servant,
H. W. HALLECK,
Major General, Chief of Staff.

Hon. E. M. STANTON, Secretary of War.

Mr. DAVIS. I do not propose to discuss this bill. I am not in voice to do so. I will only make one remark in relation to it. There is no railroad in operation from Louisville to Knoxville any more than there is a railroad in operation from this city or New York city to Knoxville. There is the Louisville and Nashville road in operation, and then there are some lines, that diverge by a most circuitous route that makes the distance from Louisville to Knoxville four or five times as great as this road would be in length, that

connect the places. They are connected by a network of railroads in the States of Kentucky and Tennessee away west and south of Knoxville. It is a perversion of language; it imparts a false impression; it is a palpable and willful misstatement of the fact by these high dignitaries to say that there is any railroad in operation from Louisville to Knoxville. There is a railroad completed from Cincinnati through Lexington on to Nicholasville, in the direction of Danville, which would constitute one section of a road with Cincinnati as the northern terminus and Knoxville as the southern. There is a railroad in operation from Louisville to Lebanon in the direction of Knoxville. These two railroads shorten the distance from Cincinnati and Louisville respectively to Knoxville something like half. From Cincinnati to Knoxville would be by railroad some one hundred and eighty miles.

Mr. CLARK. I suppose it is not desirable to consider this bill to-night; and that it may come up as the unfinished business of the Senate to-morrow, with the assent of the Senator from Kentucky I move an adjournment.

Mr. ANTHONY. If the Senator will withdraw his motion for the present, I should like very much to pass a couple of bills for the relief of two paymasters who lost a considerable amount of greenbacks in a vessel that was destroyed by fire by the rebels. ["To-morrow."]

Mr. CLARK. I suggest they had better not be taken up to-night. I know what they are. To-morrow, perhaps, the Senate will give us a little opportunity to pass some private bills.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, June 30, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Mr. FERREE.

The Journal of yesterday was read and approved.

ELIZA CASS WOODBRIDGE.

Mr. WHALEY, by unanimous consent, reported from the Committee on Invalid Pensions a bill for the relief of Eliza Cass Woodbridge; which was read a first and second time by its title.

The bill directs the Secretary of the Interior to place the name of Eliza Cass Woodbridge, of the State of Michigan, widow of Francis Woodbridge, on the roll of the Pension Office at the rate of twenty dollars per month during her natural life and her widowhood, said pension to date from January 1, 1860.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RACHEL MILLS.

Mr. WHALEY, by unanimous consent, from the same committee, reported a bill for the relief of Rachel Mills; which was read a first and second time by its title.

The bill directs the Secretary of the Interior to place upon the pension roll of the United States the name of Rachel Mills, of Binghamton, New York, widow of Peter Mills, late major in the United States Army, at the rate of twenty dollars per month, to commence from the 1st of April, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

FRANCES PETERSON.

Mr. WHALEY, by unanimous consent, from the same committee, reported a bill for the relief of Frances Peterson; which was read a first and second time by its title.

The bill directs the Secretary of the Interior to place the name of Frances Peterson, of Decatur county, Indiana, on the pension roll of the United States, at the rate of eight dollars a month, to date from the passage of the act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MRS. M. K. SMITH.

Mr. DAVIS, of New York, by unanimous consent, obtained leave to withdraw from the files the papers in the case of Mrs. Mary Kirby Smith, asking for special pension, for the purpose of returning them to the claimant.

PORTS OF DELIVERY.

Mr. WILDER. I ask the consent of the House for the Committee on Commerce to report back Senate bill No. 242, to establish Portland, in the State of Oregon, and Leavenworth, in the State of Kansas, ports of delivery.

There being no objection,

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported the bill back to the House, the question being on ordering it to be read the third time.

Mr. BROOKS. I do not see any necessity for making Leavenworth, in the State of Kansas, a port of delivery.

Mr. WASHBURN, of Illinois. I was very much of that opinion myself, but the committee overruled me and directed me to report the bill back to the House.

Mr. BROOKS. Very well, I suppose the object on the Republican side of the House is to make more offices, and I will not undertake to object.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 446) to regulate prize proceedings and the distribution of prize money, and for other purposes; when the Speaker signed the same.

PUBLIC LANDS EXPENSES.

Mr. JULIAN, by unanimous consent, reported back from the Committee on Public Lands Senate joint resolution No. 38, explanatory of the act to reduce the expenses of the survey and sale of public lands in the United States, approved May 30, 1862.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DISPOSAL OF COAL LANDS.

Mr. JULIAN, from the Committee on Public Lands, by unanimous consent, reported back Senate bill No. 264, for the disposal of coal lands and of town property in the public domain, the question being on ordering the bill to a third reading.

The bill provides that where any tracts embracing coal beds or coal fields, constituting portions of the public domain, and which, as mines, are excluded from the preemption act of 1841, and which under past legislation are not liable to ordinary private entry, it shall be lawful for the President to cause such tracts, in suitable legal subdivisions, to be offered at public sale to the highest bidder, after public notice of not less than three months, at a minimum price of twenty dollars per acre; and that any lands not thus disposed of shall thereafter be liable to private entry at said minimum. The bill makes further provision for the details of survey and sale of such lands, and also for protecting the rights of private parties relative thereto.

Mr. CHANLER. I desire to inquire whether this bill includes mineral lands.

Mr. JULIAN. It does not; it simply includes coal lands.

Mr. CHANLER. I should like to amend the bill so as to make it obligatory upon the President to protect the interests of Government in respect to these coal lands or mineral lands. It is now left optional for him to act or not as he may see fit.

Mr. JULIAN. I will say to the gentleman from New York there is nothing in this bill which contemplates any disposition of mineral lands at all. It simply refers to coal lands or coal fields.

Mr. CHANLER. Well, sir, I consider coal lands as mineral lands. At any rate the rights of the Government to one require as much protection as the rights of the Government to the other. I hope the bill will be so amended as to make it obligatory upon the President to secure the rights of the Government in respect to these lands.

Mr. JULIAN. I will say that this bill simply provides for the survey of coal lands and coal fields and for the sale of the same at a minimum price of twenty dollars per acre under such regulations, I believe, as the Commissioner of Public Lands may prescribe. The bill has been examined both by the Senate and by the House committees. It was reported to the Senate and passed that body unanimously. I think it is right as it is and I hope it will be passed.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GRANT OF LANDS TO KANSAS.

Mr. JULIAN. I ask the unanimous consent of the House to report back from the Committee on Public Lands Senate bill No. 233, making an additional grant of lands to the State of Kansas to aid in the construction of railroad and telegraph lines.

Mr. HOLMAN. I object. I think we have already appropriated enough of the public land for one session.

OREGON INDIANS.

The House took up and concurred in a Senate amendment to House bill No. 442, to authorize the President of the United States to negotiate with certain Indians in middle Oregon for a relinquishment of certain rights secured to them by treaty.

JACOB WEBER.

Mr. NOBLE. I ask the unanimous consent of the House to discharge the Committee of the Whole House on the Private Calendar from the further consideration of House bill No. 203, for the relief of Jacob Weber, and to put it on its passage. It is a meritorious private claim, and has been recommended unanimously by the Committee of Claims.

There was no objection; and the Committee of the Whole House on the Private Calendar was discharged from the further consideration of the bill.

The bill, which was read, provides that there be paid to private Jacob Weber, of the fourth regiment of Ohio volunteer infantry, out of any money in the Treasury not otherwise appropriated, \$913 33, to reimburse him for money advanced by him to pay Scott Allen, A. Hyatt, Henry Olden, A. W. Cook, Lewis Shindollar, and James Garland, who were employed as teamsters for the fourth regiment of Ohio volunteer infantry, between the 1st of August, 1861, and the 1st of July, 1862, and received the price of the employment from Jacob Weber, who advanced the same on the quartermaster's certificates to the employes, with the assurance of the quartermaster and the commander of the regiment that the amount so advanced would very soon thereafter be repaid and refunded to him by the Government through the quartermaster.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. NOBLE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTER-CONTINENTAL TELEGRAPH.

Mr. WASHBURN, of Illinois, moved to take up Senate bill No. 302, to encourage and fa-

cillitate telegraph communication between the eastern and western continents.

There was no objection; and the bill was taken up, and read a first and second time.

Mr. WASHBURN, of Illinois, moved to add the following amendment:

Provided, It shall not be lawful for the owners or officers of said telegraph line to make any contract, directly or indirectly, for the transmission of dispatches for any newspaper or newspaper association upon terms different from those open to the enjoyment of all other newspapers and newspaper associations.

The amendment was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY A. BAKER.

Mr. WASHBURN, of Massachusetts, from the Committee on Invalid Pensions, reported back Senate bill No. 122, for the relief of Mary A. Baker, widow of Brigadier General Edward D. Baker, with the recommendation that it do not pass.

The bill directs the Secretary of the Interior to place the name of Mary A. Baker, widow of Brigadier General Edward D. Baker, on the pension roll at the rate of fifty dollars a month from the 21st of October, 1861, to continue during her widowhood.

Mr. WASHBURN, of Massachusetts. The pension of this widow according to the law is \$360, and this bill proposes to increase it to \$600. The committee has uniformly refused to increase the pension of widows of officers, and the simple question is whether that decision shall now be reversed. It is for the House to decide whether an exception shall be made in this case or not.

Mr. FARNSWORTH. This bill ought to pass without objection. Every member of the House is familiar with the circumstances of the death of General Baker at Ball's Bluff. The Senate passed this bill granting a pension of fifty dollars a month to his widow. The same increase of pension has been given to the widows of other general officers who have died in the service. I have no disposition to take up the time of the House in discussing this matter. It seems to me that a statement of the case is sufficient to recommend this to the approval of the House.

It is well known that General Baker was a Senator, and that he left the Senate and went into the field for the love of country. He was not a professional soldier and might have kept out of the Army. His position was as distinguished as that of any man in the United States. From purely patriotic motives he left the Senate and went into the field, and fell fighting at the battle of Ball's Bluff.

Mr. SHANNON. I know that the family of General Baker has been left in destitute circumstances, and I hope the bill will pass.

Mr. ROSS. I regret that the majority of the Committee on Invalid Pensions have agreed to report adversely on this measure. There are thirteen cases in which Congress has granted additional pensions to the widows of our general officers who have fallen upon the battle-field. It seems to me that it would be invidious and unjust to discriminate against the widow of General Baker. When he was a citizen of Illinois he fought gallantly in the Mexican war, and fell in this war at the head of his command at Ball's Bluff. I think it would be very improper for this Congress to draw a distinction against this case. It presents the extraordinary case of an individual who having for a long period held public offices in the country, as member of Congress, as United States Senator, as general, has left his family in straitened circumstances. And when a case of that kind is presented it appears to me that it commends itself to the consideration of Congress, if the individual has passed through those offices with honesty and integrity.

I deemed it but just to say thus much in favor of the application, which is made on behalf of the widow of a worthy statesman and distinguished

general, who discharged every duty devolved upon him well and faithfully.

I have a statement here showing the cases in which additional pension has been granted by the Congress of the United States in cases exactly similar to this, and I ask the Clerk to read it.

The Clerk read the statement, as follows:

List of Widows to whom Pensions have been granted by special acts of Congress at a greater rate than \$50 per month that were not for Revolutionary Services in the Army.			
Names.	Amount.	Date.	
Elizabeth Craig, widow of Lewis L.	\$480 00 per annum.	March 3, 1853.	
Elizabeth Amsted, widow of Wilbur R.	37 50 per month.	Jan. 20, 1853.	
Margaret L. Worth, widow of William J.	50 00 "	Jan. 7, 1853.	
Fannella Brown, widow of Jacob.	50 00 "	July 21, 1854.	
Mary B. Waship, widow of Oscar F.	600 00 per annum.	June 26, 1857.	
Mary A. M. Jones, widow of Roger.	624 00 "	June 24, 1858.	
Myra C. Gates, widow of Edmund F.	600 00 "	Feb. 19, 1859.	
Alice Hunt, widow of Thomas.	35 00 per month.	April 11, 1860.	
Harriet B. Mechem, widow of Alexander.	50 00 "	May 7, 1860.	
Annella Kelly, widow of Bennett.	50 00 "	May 7, 1860.	
Fanny M. Smith, widow of Charles F.	50 00 "	July 13, 1862.	
Margaret L. Stevens, widow of Isaac L.	50 00 "	March 3, 1863.	
Frances H. Plummer, widow of Joseph B.	50 00 "	March 3, 1863.	

August 8, 1846, \$40 per month was granted Lois Mattison, but it is not known for what service.

PENSION OFFICE, May 18, 1864.

Mr. WASHBURN, of Massachusetts. One word more and I will call the previous question.

Mr. WHALEY. Will the gentleman yield to me a moment?

Mr. WASHBURN, of Massachusetts. I will yield to the chairman of the committee.

Mr. WHALEY. The acts of Congress which have been read by the Clerk, every member upon this floor will remember, were passed in a time of great national and private prosperity; at a time when this country was not burdened by taxation; and at a time when there was less than a million dollars annually paid for pensions. We are now informed by the Committee of Pensions that our pension list runs up to \$4,000,000, while according to the best estimates only about one half of those entitled to pensions have made their applications. Consequently when the whole number shall have applied under the present law the pensions will reach \$8,000,000.

No one would be more willing than I to increase the pension of Mrs. Baker under other circumstances than those which surround us. You will remember that she will receive thirty dollars a month; you will take into consideration the fact that the Senate of the United States have stricken out from our bill the amendment to increase the pension of the private from eight to eleven dollars a month; and you will take into consideration that we have thousands and hundreds of thousands who are not entitled to a pension, but who have been wounded in the service. Many of them have large families of children and are in a destitute condition. Many of our soldiers have large families, but if they are killed in battle those families cannot obtain a pension. Many of them are now fighting in our armies in the South with no mothers to kneel by their side in their last hours, no wives to wipe the clammy death-sweat from their brow, no brothers to take care of them, and these men leave families to be thrown upon the cold charities of the world or compelled to put up with eight dollars a month. The argument used before the committee was that these people are accustomed to be poor. A very poor argument, indeed.

I repeat, that no one upon this floor would be more willing than myself to increase the pension of Mrs. Baker from thirty to fifty dollars a month; but we are in a great crisis of our national exist-

ence and every effort must be devoted to raising the means of carrying on the war. Thirty dollars a month will keep one from starving, and I hope the bill will not pass, and that there will be no increase of pensions from thirty dollars to fifty dollars a month, while so many of our poor soldiers' families are compelled to live on eight dollars a month.

Mr. WASHBURN, of Massachusetts. I think this question is perfectly understood, and I shall insist on the previous question after saying a word. The committee were of opinion that if there was to be any increase of pensions that increase should not be in special cases, but by a general law raising the standard of pensions; that we should not simply raise the pensions of those who now draw \$360 a year, but of the poor privates who draw but ninety-six dollars a year. And when the period comes in the history of our country that we can afford to be generous in these respects let us pass a law increasing pensions and allowing a greater sum to the widows of all officers and privates also. It was deemed by the committee that it would be improper to single out an individual case which is no stronger than other cases and grant an increase of pension while others as meritorious remain the same. The House, however, understand the case fully, and not wishing to take up more time I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The bill was ordered to a third reading; and was accordingly read the third time.

Mr. WASHBURN, of Massachusetts. I hope this bill will not pass. The report of the committee is adverse to it.

Mr. WILSON. I move to lay the bill on the table.

On laying the bill on the table 58 voted in the affirmative and 38 in the negative.

Mr. ROSS, of Illinois, called for the yeas and nays.

Mr. COFFROTH called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. FARNSWORTH called for tellers on the motion to lay on the table.

Tellers were ordered; and Messrs. WASHBURN, of Massachusetts, and FARNSWORTH, were appointed.

The House divided; and the tellers reported—ayes 58, noes 38.

So the bill was laid on the table.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WIDOW OF GENERAL WHIPPLE.

Mr. WASHBURN, of Massachusetts, from the same committee, reported back Senate bill No. 2, granting a pension to Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, United States Army, with the recommendation that it do not pass.

Mr. WASHBURN, of Massachusetts. This is a case precisely similar to the one just disposed of, and I move to lay the bill on the table.

Mr. WADSWORTH. I ask the gentleman to allow me to make a single remark, and to call his attention to some precedents on this subject.

Mr. WASHBURN, of Massachusetts. I think the House understands the question thoroughly; we have acted on some fifteen or twenty similar cases.

Mr. WADSWORTH. I hope the gentleman will at least allow me to call his attention to two cases in the last Congress.

The SPEAKER. Debate is not in order unless the gentleman from Massachusetts withdraws the motion to lay the bill on the table.

The bill was laid on the table.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WIDOW OF GENERAL BERRY.

Mr. WASHBURN, of Massachusetts, from the same committee, reported back Senate bill

No. 44, granting a pension to the widow of the late Major General Hiram G. Berry, with a recommendation that it do not pass; and moved to lay the bill on the table.

The motion was agreed to.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EXTRA COPIES OF INTERNAL REVENUE BILL.

Mr. BOUTWELL, by unanimous consent, submitted the following resolution; which was read, and referred to the Committee on Printing:

Resolved, That ten thousand copies of the act to provide internal revenue for the support of the Government, to pay interest on the public debt, and for other purposes, be printed for the use of the office of Internal Revenue.

KANSAS LAND GRANT.

Mr. JULIAN, from the Committee on Public Lands, reported back Senate bill No. 233, making an additional grant of lands to the State of Kansas to aid in the construction of a railroad and telegraph line.

Mr. HOLMAN. I move to amend the bill by providing that such road shall be a public highway for the transportation of the property and troops of the United States free of charge.

The amendment was adopted.

The bill, as amended, was ordered to a third reading, and was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. ALLEY called for the regular order of business.

Mr. RICE, of Massachusetts. I ask my colleague to give way to me for a moment.

Mr. ALLEY. I yield to my colleague.

RANK OF WARRANT-OFFICERS.

Mr. RICE, of Massachusetts. I ask unanimous consent to have taken from the Speaker's table the Senate amendment to the bill (H. R. No. 470) to authorize assimilated rank to be given to the warrant officers of the United States Navy, and for other purposes.

There being no objection, the amendment was taken from the Speaker's table, as follows:

After the word "authorized" insert the words "if in his judgment it shall be conducive to the interests of the service."

The amendment was concurred in.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WIDOW OF C. A. HAUN.

The House, proceeded as the regular order of business, to the consideration of the Senate amendment to House bill No. 466, for the relief of the widow of C. A. Haun, which was to make the pension commence on the 11th of December, 1861.

The amendment was concurred in.

PROFESSORS AT WEST POINT.

Mr. SCHENCK asked and obtained leave to have taken from the Speaker's table Senate joint resolution No. 58, in relation to the professors in the Military Academy at West Point; which was read a first and second time, and referred to the Committee on Military Affairs.

CAPTAIN DANIEL HEBARD.

Mr. SCHENCK also asked and obtained leave to have taken from the Speaker's table Senate joint resolution No. 43, authorizing the settlement of the accounts of Captain Daniel Hebard, United States volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

EXEMPTION FROM MILITARY SERVICE.

Mr. SCHENCK also asked and obtained leave to have taken from the Speaker's table Senate bill No. 286, to prohibit the discharge of persons from liability to military duty by reason of payment of money, and for other purposes; which was read a first and second time, and referred to the Committee on Military Affairs.

CHANGE OF STEAMER'S NAME.

Mr. WASHBURN, of Illinois, asked and obtained leave to have taken from the Speaker's table Senate bill No. 322, changing the name of the steamer Magnet into that of Home; which was read a first and second time, and referred to the Committee on Commerce.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate insisted on its amendments to the bill making appropriations for the payment of sundry civil expenses of the Government for the year ending 30th June, 1865, and requested a committee of conference on the disagreeing votes of the two Houses.

MILITARY INTERFERENCE IN ELECTIONS.

The act (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military or naval service of the United States, from interfering in elections in the States, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Judiciary.

ALEXANDER CROSS.

Mr. HALE asked and obtained unanimous consent to have taken from the Speaker's table the Senate amendment to House joint resolution No. 39, for the relief Alexander Cross.

The amendment was concurred in.

Mr. HALE moved to reconsider the vote by which the Senate amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 442) to authorize the President of the United States to negotiate with certain Indians of Middle Oregon for a relinquishment of certain rights secured by treaty;

An act (H. R. No. 522) to amend the charter of the Washington and Georgetown Railroad Company;

An act (H. R. No. 435) concerning certain locations of lands in the State of Missouri;

An act (H. R. No. 255) granting certain privileges to the Guardian Society of the District of Columbia; and

Joint resolution (H. R. No. 93) to authorize the Postmaster General to extend the contract with the Overland Mail Company.

COMMODORE WILKES.

The SPEAKER laid before the House a communication from the Secretary of the Navy transmitting, in compliance with a resolution of the House of Representatives of May 17, 1864, a copy of the proceedings of the court of inquiry in the case of Commodore Charles Wilkes; also transmitting a copy of the proceedings of the court-martial which tried Commodore Charles Wilkes; which were laid on the table, and ordered to be printed.

SOUTHERN INDIAN SUPERINTENDENCY.

The SPEAKER also laid before the House a letter from the Secretary of the Interior transmitting the accounts of Indian agents for the southern superintendency under the act of March 3, 1863; which was laid on the table, and ordered to be printed.

RUFUS L. HARVEY.

Mr. PERHAM, from the Committee on Invalid Pensions, reported adversely on the petition of Rufus L. Harvey; which was laid on the table.

ELIZABETH B. LEPPEN.

Mr. PERHAM, from the same committee, also reported a bill for the relief of Elizabeth B. Leppen; which was read a first and second time.

The bill places the name of Elizabeth B. Leppen upon the pension roll at the rate of thirty dollars per month, to commence on the 24th of May, 1863, and to continue during her widowhood.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

IRON-CLAD ESSEX.

On motion of Mr. GRISWOLD the House took from the Speaker's table Senate bill No. 273, to compensate the officers and crew of the iron-clad gunboat Essex for the destruction of the rebel ram Arkansas.

The bill was read a first and second time, ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. GRISWOLD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PAY OF CLAIMANTS FOR SEATS.

Mr. SMITH, by unanimous consent, submitted the following resolution; which was referred to the Committee of Elections:

Resolved, That the Clerk of the House be directed to pay out of the contingent fund to Messrs. Rogers, Johnson, and Jacks, claimants for seats upon this floor as Representatives in the Thirty-Eighth Congress from the State of Arkansas, pay and mileage from the time that their credentials were presented.

Mr. DAWES entered a motion to reconsider the vote by which the resolution was referred to the Committee of Elections.

RAILROAD TO NEW YORK.

Mr. ALLEY moved to take up the bill and report in reference to the construction of an air-line railroad between Washington and New York, and that they be recommitted to the select committee on the subject.

The motion was agreed to.

Mr. ALLEY. I hope that some day will be fixed for the consideration of this question.

Mr. STEELE, of New Jersey. I move that it be postponed till December next.

Mr. ALLEY. I move this day next week.

Mr. WADSWORTH. The subject is not before the House and I object.

TREASURY INVESTIGATION.

Mr. GARFIELD. I am directed by the select committee to investigate the charges against the Treasury Department to submit a majority report. The gentleman from New York [Mr. Fenton] has a sub-report, and there is a minority report which I ask may be received when prepared; and I now move that the reports be laid on the table, and ordered to be printed.

The motion was agreed to.

Mr. GARFIELD. I now move that that select committee be discharged from the further consideration of that part of the resolution relating to the trade regulations on the western waters, and that it be referred to the committee on the conduct of the war.

The motion was agreed to.

Mr. BROOKS. I am anxious there should be some action on this question at this session.

The SPEAKER. It will be considered that it can be called up at any time.

T. T. GARRARD AND OTHERS.

Mr. PRUYN, from the Committee of Claims, reported a bill for the relief of T. T. Garrard and others; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN WILLIAMS.

Mr. HOLMAN, from the Committee of Claims, reported a bill for the relief of John Williams; which was read a first and second time.

The report was read.

Mr. FARNSWORTH. If there was a contract with a quartermaster, why has he not paid it?

Mr. HOLMAN. The voucher was not in proper form. There is abundant evidence of the furnishing of the wood, for which we propose to pay \$68 75.

Mr. FARNSWORTH. The principal objection I have to legislating on such questions is the precedent that we are setting for the future. There are thousands of such claims where the quartermasters have failed to make out proper

vouchers. If Government officers are to be relieved from the necessity of making proper vouchers I want to know it, for I assure gentlemen we will then have plenty of this business. The sum here is small, but the principle is large.

Mr. HOLMAN. Will the gentleman allow the report to be read?

The report was accordingly again read.

Mr. HOLMAN. I renew the demand for the previous question.

Tellers were called for and ordered; and Mr. HOLMAN and Mr. FARNSWORTH were appointed. The House divided; and the tellers reported—ayes sixty-three, noes not counted.

So the previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CARLISLE DOBLE.

Mr. DONNELLY, by unanimous consent, from the Committee on the Post Office and Post Roads, reported back, with a recommendation that it do pass, a joint resolution (S. No. 40) for the relief of Carlisle Doble.

The bill directs the Postmaster General to examine and adjust the claims of Carlisle Doble for carrying the mails between Taylor's Falls, Minnesota, and Superior, Wisconsin, in the year 1857, and to pay him such sum of money as shall be found justly and equitably due him for carrying the mails aforesaid.

Mr. DONNELLY. I will say that the bill simply authorizes the Postmaster General to settle the claim upon principles of equity and justice. In this case the contract was made by the postmaster at Superior, Wisconsin, and the Department has no right to recognize it without special legislation. We ask that the claimant shall be paid what is right.

Mr. WILSON. What is the amount?

Mr. DONNELLY. About nineteen hundred dollars.

Mr. STEVENS. Does the bill fix the amount?

Mr. DONNELLY. It does not.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DONNELLY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EDWARD BALL.

Mr. HALE, from the Committee of Claims, made an adverse report on the petition of Edward Ball; and the same was laid on the table.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes; when the Speaker signed the same.

RELIEF OF WISCONSIN.

Mr. HALE, from the Committee of Claims, reported back, with a recommendation that it do pass, a joint resolution (S. No. 8) for the relief of the State of Wisconsin.

Mr. HALE. I will say that the delegation from Wisconsin are unanimously in favor of this bill; and as it affects the interests of the State or Wisconsin alone, and of no other State, I hope it will be passed. I call the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to a third reading, was read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN A. WHITALL.

Mr. HALE, from the same committee, reported back, with a recommendation that it do pass, an act (H. R. No. 111) for the relief of John A. Whitall, paymaster in the United States Army, on account of stolen vouchers.

The bill authorizes the accounting officers of the Treasury, in settling the accounts of Major John A. Whitall, to pass to his credit whatever amount may be shown to have been paid by him, the vouchers for which payments have been stolen from him, provided the said amount does not exceed the sum of \$1,034 50.

Mr. HALE demanded the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

VOTE RECORDED.

Mr. W. J. ALLEN asked and obtained leave to have his vote recorded in the negative on the Senate amendment, voted on yesterday, allowing colored persons to testify in the Federal courts.

DISTRICT BOARD OF HEALTH.

Mr. DRIGGS, by unanimous consent, introduced an act to constitute a Board of Health for the cities of Washington and Georgetown; which was read a first and second time, and referred to the Committee for the District of Columbia.

JETHRO BONNEY.

Mr. WINDOM, from the Committee of Claims, reported a bill for the relief of Jethro Bonney; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay to Jethro Bonney \$400 in full for damages sustained by him by reason of the destruction of his store by the Army of the United States at the invasion of Plattsburg during the war of 1812.

Mr. WILSON. I raise the point of order that this bill make an appropriation, and must be considered in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

The bill was referred to the Committee of the Whole House of the Private Calendar, and ordered to be printed.

WILLIAM R. PALMER.

Mr. WINDOM, from the Committee of Claims, reported a joint resolution for the relief of William R. Palmer; which was read a first and second time.

The joint resolution directs the Quartermaster General to investigate the claim of William R. Palmer, of Tucker county, West Virginia, for twenty head of fat cattle, two horses, and two mules, alleged to have been taken by United States soldiers in General Milroy's department, in November, 1863, and if the same were taken for the use of the United States to pay the value thereof to the said William R. Palmer.

Mr. WILSON. I raise the same question of order, that the joint resolution makes an appropriation and must go to the Committee of the Whole.

The SPEAKER. It is not an appropriation bill.

Mr. WILSON. Does it not direct the payment of money?

The SPEAKER. Yes; but not out of any money in the Treasury not heretofore appropriated.

The bill was engrossed and read the third time.

The question being on its passage,

The SPEAKER ordered tellers, and appointed Messrs. WINDOM and SWEAT.

The House divided; and the tellers reported—ayes 34, noes 64.

So the joint resolution was rejected.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was rejected; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COSTS IN PRIZE CASES.

Mr. GANSON, by unanimous consent, offered a resolution, which was read, considered, and agreed to, reciting that the costs of proceedings in the case of the prize steamer William Bagley, condemned at New Orleans, as charged by the district attorney, marshal, register, prize commis-

sioner, and attorneys for captors were exorbitant, and directing the Attorney General of the United States to investigate the proceedings and examine into the accounts and fees charged therein, and to report to the House the items of the various bills, whether, in his opinion, they are legal, and if not, wherein they are illegal, and whether any further legislation is requisite to guard against exorbitant charges in prize suits.

MEMBERS DRAWING PAY ILLEGALLY.

Mr. GANSON, by unanimous consent, offered a resolution reciting that Benjamin F. Loan, a member of this House, was in the military service of the United States as brigadier general until the 8th of June, 1863, had drawn regular pay as such officer from the Paymaster General of the United States to the 8th of June, 1863, and had also drawn pay as a member of this House from the 4th of March, 1863; also reciting that Green Clay Smith, a member of this House, was in the military service of the United States as brigadier general until the 1st of December, 1863, had received his regular pay from the United States as such officer up to and including the 30th of November, 1863, and had also drawn and received pay as a member of this House from the 4th of March, 1863, contrary to the laws of the United States; and directing the Sergeant-at-Arms of the House to require said Loan and Smith respectively to refund the amount paid to each of them as members of this House for the time that they respectively received pay from the United States for their services as such military officers, and to report to the House without delay.

Mr. LOAN. I concur with the propriety of the suggestion, and have made arrangements with the Sergeant-at-Arms to have that money repaid. I have no objection to the resolution being adopted. I took my pay when I first came here without paying any attention to the matter. When my attention was called to it I left the money there to be refunded.

Mr. SMITH. I agree readily with the remarks of the gentleman from Missouri. When I came to Washington I went with my colleagues, called for my pay, and drew the amount due me up to that time without reflection for a moment. Some two months ago my attention was called to it and I stated that I would make an arrangement by which the money would be refunded. I felt myself under obligation to refund it, and so said more than two months ago.

Mr. GANSON. I have felt bound to introduce this resolution as a matter of duty. I was told yesterday that the money had not been refunded by either gentleman. I have discharged my duty, and I move that the resolution be adopted.

The resolution was adopted.

INDIANA AND OHIO CLAIMS.

Mr. HOLMAN, from the Committee of Claims, reported back House bill No. 295, for the relief of citizens of Indiana and Ohio, with the recommendation that it do pass.

The bill was read.

Mr. HOLMAN. Mr. Speaker, I wish to say a word in favor of this bill.

Mr. WADSWORTH. It is too narrow.

Mr. HOLMAN. I am aware that the first objection will be that it is partial and will only apply to one class of cases where losses have been sustained. Gentlemen will remember, however, that the general bill for the payment of these claims has failed in the Senate, and there is no other alternative left us but to bring in this special bill and if possible obtain partial relief.

The cases covered by this bill are of a peculiar character. General Hobson, while pursuing Morgan's forces through the States of Indiana and Ohio in July, 1863, in order to make his pursuit effective was compelled to press into service every horse on either side of the road as far as his scouts could reach. They were taken without a moment's notice, and there was generally no time to prepare vouchers, and in the main none were prepared or given. The loss fell almost exclusively upon the farming interest, and was peculiarly unfortunate on account of the season of the year, in the very midst of harvesting, depriving many farmers of an opportunity to cultivate their fields and save their crops.

It will be seen that the bill appropriates no money. It proposes that testimony shall be taken

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

SATURDAY, JULY 2, 1864.

NEW SERIES....No. 215.

touching the property taken and be reported at the next session of Congress, and then we may dispose of these claims as the circumstances may require and as the evidence may warrant. The bill it is true is partial, but it will facilitate the adjustment of other claims, at least, by the precedent it will establish. It is the horses taken and appropriated by General Hobson we propose shall be paid for.

Mr. WADSWORTH. General Hobson, with his forces in pursuit of Morgan, passed through Kentucky on the same occasion and helped himself to horses, &c., there. I want to know why the gentleman fails to include the citizens of the State of Kentucky in his bill. Why is there no provision to apply to Kentucky, which for the last three years has had all manner of losses inflicted upon her citizens by the Federal officers and forces? Both armies have not only taken our horses, but have subsisted upon our people. The Federal Army has taken horses, subsistence, and transportation, &c., and has not paid for them. I therefore do not see why Kentucky should not be included in this bill.

The only objection I can raise to the bill is that it is too narrow. It ought to contain provision for Kentucky as well as for Indiana and Ohio.

There is another thing. We have passed a general law on the subject which would embrace Indiana and Ohio and which has failed in the Senate, and if we pass this special bill for Indiana and Ohio we may lose the support of the members from those great States for the general measure. And I trust that the House will never pass a bill for one or two States and leave out the States who have suffered many times as much from the same cause. I am glad, not that the people of Indiana and Ohio have suffered from rebel raids, but that since they have suffered we will have their support for a general measure of relief including all the States which have suffered.

Mr. HOLMAN. I suggested at the outset that the argument made by the gentleman from Kentucky would be made against the passage of this bill. I say there is a difference between the claim as asserted by Ohio and Indiana, and Kentucky. I would not indulge in invidious discriminations between those States, although the gentleman charges that the act is one of partial justice. The Representatives from Indiana and Ohio have supported cordially, uninterruptedly, and pertinaciously every measure affecting the rights of Kentucky and demanded by her Representatives, and especially the general bill which passed the House for the adjustment of all claims growing out of the destruction or seizure of property by our military forces. Those States now come forward with this bill for their relief, and we are told that Kentucky stands upon the same ground; that if we pass this Kentucky will lose our support for the general law. Will the past course of those States justify this argument?

Confining our view exclusively to the rebel raid of John Morgan in July, 1863, I must insist that the States of Indiana and Kentucky do not stand upon exactly the same footing. From the moment Morgan crossed the Ohio river he found not only an army behind him, the same which had pursued him through Kentucky, but he found the citizens of that State assailing him on every side, and from every bush and every tree pouring the leaden hail upon the invaders. I am not informed that in passing through western Kentucky Morgan's army met with resistance except from the organized military force; that force, it was true, was composed largely of gallant and loyal Kentuckians. I only refer to the resistance to the invasion by the people of the country through which he passed. It is well known that in the western part of Kentucky there is a strong disloyal sentiment. I say this in no spirit of sectionalism or of State jealousy at all. I know there is not a more loyal people in this nation than the loyal men of Kentucky. The loyalty of her true men is entitled to all praise; they have suffered fearfully by their devotion to the Union; but so far as the section of country is concerned through

which this raid passed I do not think in fairness that the two sections of the country stand on the same footing. And I say this without impugning in the least the loyalty of the loyal men and the loyal portions of Kentucky.

Mr. WILSON. Has the morning hour expired?

The SPEAKER. It has.

Mr. WADSWORTH. I hope the gentleman from Iowa will not cut me off from a reply to this personal attack.

Mr. HOLMAN. I hope the gentleman will allow me to finish my sentence.

Mr. WILSON. I have no objection to that.

Mr. HOLMAN. I was going on to say that in respect at least to the resistance furnished to this raid from the beginning, those two States, Kentucky and Indiana, do not occupy exactly the same ground. Here was an invasion of Indiana which was met at the outset with resistance, while the forces passed through the State of Kentucky without opposition except by the organized force, so far as I am informed.

I say again these remarks are not made in any spirit of depreciation, so far as the loyal men of Kentucky are concerned. They have done and suffered more than men generally have done to maintain their State in its proper relations to the Federal Government. They have resisted the invasion of that State by rebel forces, and have suffered and endured far beyond what mortals are ordinarily called upon to endure in the ravages of war. But I do not desire to have it understood, desirous as I am to bear testimony to the gallantry of the loyal men of Kentucky, that I consider that Kentucky can justly complain of Indiana and Ohio in pressing this measure, even if it does not do ample justice to all parties affected. I have referred to the relation of the several States to this raid only for the purpose of repelling the idea that because this is a measure which applies to Ohio and Indiana alone, and does not embrace the State of Kentucky, therefore it should not receive the favorable consideration of the House.

This bill was introduced by my colleague, [Mr. CRAVENS,] and is reported back without amendment. I trust it will be permitted to stand upon its own merits, and not defeated because, as a result of necessity, it is not as broad and comprehensive as many of us would desire.

Mr. WADSWORTH. The ground upon which the gentleman from Indiana puts his effort to distinguish between citizens of neighboring States, so far as compensation for injuries inflicted by Federal officers in pursuit of John Morgan is concerned, is not satisfactory to me. It is this: the people of Ohio and Indiana resisted while the inhabitants of Kentucky culpably connived at John Morgan's raid, or, at all events, failed to make any resistance. If that were true in all its length and breadth it would form no ground for partial legislation or of making any discrimination between loyal citizens touching losses incurred at the hands of Federal officers while pursuing the same public enemy. But it is not true; it is a misapprehension entirely of the history of that affair, and does injustice to the neighbors and unchangeable friends of Indiana. I know something about that raid. I had the pleasure during that raid of meeting a distinguished soldier of Indiana at the head of some of the troops of the country engaged in pursuing John Morgan while he was in the State of Ohio. And I heard that gentleman say that the zeal displayed by the citizens of Kentucky in the pursuit of John Morgan would compare favorably with the conduct of citizens on the north side of the river. Yes, sir, they turned out in mass in my neighborhood of all ages to resist and pursue Morgan; and they endeavored to make that pursuit effectual as far as possible, their means and opportunity considered. He was pursued through the State of Indiana, not only by citizens of Kentucky in the Army of the United States, but by citizens of Kentucky who were not in the Army. When you come to look at the character of the troops that pursued him you find the State of Kentucky well represented, not only

in officers, but in the rank and file. General Hobson was a Kentuckian; General Shackelford was a Kentuckian; Colonel Jacobs was a Kentuckian; Colonel Wolford, patriot and soldier as he is, was a Kentuckian. They had Kentucky troops pressing Morgan; and they all performed their duty. I am here to deny that the loyal men of Kentucky ever failed to discharge their duty when the public enemy was on their soil or on the soil of a neighboring State.

Mr. HOLMAN. Do I understand the gentleman to say in the portions of Kentucky through which Morgan passed there was any general uprising of the people? I admit that so far as the Kentucky troops were concerned they did their duty.

Mr. WADSWORTH. I have never known a time when the masses of the people of Kentucky within my observation failed to do all fairly in their power to hinder, defeat, and overcome the public enemy. Morgan penetrated the State of Kentucky with a large force. He came like a thief in the night, unexpectedly, among an unarmed population of farmers and workmen who were scattered over the country in their peaceful pursuits. Before they were well aware of his presence he had penetrated to the sister State of Indiana. The people of that State had more notice than we had. But what a shame it is for any man to shut his eyes to the different situations of the two States. Kentucky has been from the start paralyzed by contending armies and distracted by the faults and crimes of a portion of her own citizens. By their secession from the Commonwealth they left her weakened and divided, a prey to every enemy, Federal and Confederate. Perhaps one third of her citizens had identified themselves with the South in feeling, in sympathy. A considerable number of her young men seceded from the State, as the workingmen of Rome seceded in olden time to Mount Aventine, paralyzing to that extent the Commonwealth. And out of what remained Kentucky has furnished to the Federal Army not far from sixty thousand men. The efforts and sufferings for the common cause made and endured by her patriotic citizens put to shame the efforts of the citizens of other States. For nearly four years a large part of the inhabitants of Kentucky not in the Army have borne arms for their own defense and the defense of the flag, and at their own expense. They have borne arms for weeks and months at a time. These services and sacrifices have inured to the benefit of our sister States. If the enemy triumphs over the State of Kentucky he will also invade the States of Indiana and Ohio. The citizens of Kentucky claim no peculiar credit for their action; but they ask any Legislature that proposes to pay for acts done by the Federal Government itself in the pursuit of the common enemy not to forget these facts. They protest against that narrow sectionalism out of place in the speech and the record of the gentleman from Indiana, [Mr. HOLMAN,] when he taunts them with permitting the public enemy to pass unobstructed through their State, and gives this as a reason why a distinction should be made between the people of adjoining States. Morgan traversed the State of Indiana, containing a million and a half of white people all united, invaded for the first time, with no cause of discord among them; and they permitted him to pass through the entire State. Why? Because the notice received was too brief to enable them to make any effectual, concentrated resistance, and not from want of zeal for the Union. The farmers and workingmen of Indiana, as well as those of Kentucky, were unarmed and scattered. The enemy was on their soil almost before they knew it, and he passed through the State before they could make a concentrated and effectual effort to resist him.

Mr. HOLMAN. The taunt which the gentleman from Kentucky thinks I uttered was more than justified by the still more illiberal assault of a sectional character made by him on this bill, he opposing it simply from the fact that it did not

embrace the State of Kentucky. He simply judges of the remarks that I made by the spirit which animated his own.

Mr. WADSWORTH. The gentleman is as fiery as our friends in the South who seceded. If he understood the remarks that I made he would find no apology for that unnecessary attack of his on the character of the people of the State of which I have the honor to be a native citizen.

I said, sir, that I wanted the assistance of Indiana and Ohio to procure a measure of general justice to the people of all the States injured by our Government. I said that there could be no good reason why in the same raid horses taken by General Hobson in Indiana and Ohio should be paid for and horses taken by the same officer in Kentucky should not be paid for. The answer of the gentleman is, that although the general bill has failed, still if Congress will not do justice to the people of the border south of the Ohio river he hopes they will pass this bill, partial in character, for the people of Ohio and Indiana. Sir, I have learned from no man upon this floor more than from that distinguished gentleman, that we ought to set our face against all partial legislation. He has spoken a book about partial legislation.

Now, is it fair and just after Congress has refused to pass a bill to do general justice, including every loyal man for these injuries which have been inflicted upon him, that we should pass a bill sectional in its character for Ohio and Indiana? If brought to a direct vote on this bill, I for one do not say that I will refuse to do justice to Ohio and Indiana because Congress will not do justice to Kentucky, nor have my votes ever indicated that I would do so. I have been disposed to support measures of relief for citizens from all sections who have suffered during this warlike losses at the hands of the Government. I voted to pay Mr. Armes for the destruction of his property in Virginia—a New England man, I believe, who went there and established an academy—and that too at a time when the whole of my district had been desolated under the same circumstances and relief persistently denied by this House. Its court-houses and every other description of houses have been occupied by Federal forces, made forts and barracks of, and destroyed by the public enemy for that reason. They remain unpaid for and are likely to remain unpaid for while this Congress retains its hold on power. I have voted to do justice to all claimants. I voted to pay the man whose boat and hay was destroyed. I voted to indemnify Ericsson against losses inflicted by the Government. I want to know, then, what part of my course warrants the gentleman in saying that I would upon sectional grounds oppose doing justice to Indiana and Ohio. He has no good warrant for any such declaration, and I trust he will recognize in me a fast friend of his people.

What I claim is this, that to pay for horses taken by General Hobson in Indiana and Ohio and not to include pay for the horses taken in the same raid by General Hobson in Kentucky would be an invidious and unjust discrimination. Upon what ground could it be put except that Kentucky does not do her duty and should not be paid, as the gentleman has alleged?

Mr. HOLMAN. I do not believe that her loyal people have not done their duty. I referred to the part of Kentucky through which this raid was made.

Mr. WADSWORTH. It is unfair to the loyal people of that patriotic State, who under the most adverse circumstances have done their whole duty. Kentucky has been the victim alike of the rebel power and the Federal Government. Both plunder and insult her. Her soil has been given up as a great battle-field, and we have sent our young men into the Army of the United States in numbers beyond any just demand upon us. We have seen both armies in our midst consuming and trampling out our wealth. And although gentlemen on the other side by legislation and violence are interfering with the local affairs and the peace of that State and the rights and safety of her people, yet we have remained true to the flag. We intend to remain true to it and to die true to it, but have never basely purposed to submit to these wrongs.

When we have shown this alacrity for the public service and for the defense of the country, we are surely entitled to the consideration of the House when we present our just demands. Every

generous man will recognize the difficulties which have environed Kentucky, and not withhold his admiration for the courage and patriotism with which her Union Democracy have met them; and, sir, if this Congress, instead of repairing the injuries which the Government has inflicted upon us, will busy itself only with repetitions of worn-out calumnies against the people of Kentucky, the time and Congress will come when our wrongs will be redressed and our motives and conduct appreciated. We will wait. In the mean time I recognize in the gentleman from Indiana a friend to our people in his whole course upon this floor, and regret that any misapprehension of the spirit that animates me toward the patriot people of Indiana should have betrayed him into the assumption of a role that should be left exclusively to the extreme right.

Mr. CRAVENS. Mr. Speaker, this is a question in which the people of Indiana, and especially the people of southern Indiana, whom I have the honor in part to represent upon this floor, feel a deep interest. They have suffered severely and deserve the consideration of Congress.

I think that injustice has been done to my colleague. He has not cast any reflection upon the people of Kentucky. As I understood him it was this: that when John Morgan passed through that section of country the people did not rise to arrest his progress as they did in Indiana. Of course he made every allowance for the circumstances which surrounded the people of Kentucky. He recognized the value and gallantry of the services of Generals Hobson and Shackelford, Colonel Jacobs, Colonel Wolford, and other gallant officers and soldiers of Kentucky who were in pursuit of John Morgan through our State. Their services are recognized by every Indianian, and they gave relief from that marauder by coming at the opportune time they did.

But I am not aware that the people of Kentucky, at the time Morgan passed through there, were in a condition to rise up as they did in Indiana. Morgan passed over the Ohio at Brandenburg, in my district, and no sooner had he entered the State than he met with resistance at the very threshold and from every quarter. He was fired upon in crossing the river, and he met with resistance during his entire passage through the State. The gentleman says our people were not prepared to meet and resist him. They did resist him. They met him at the landing on the Indiana shore, and even before he did land, and a few brave and determined citizens held him in check for many hours between Corydon and the river, killing many of Morgan's men and losing some on our side.

Mr. WADSWORTH. I said there was no general, concentrated effort on the part of that million and a half of people.

Mr. CRAVENS. There was a general rising, and wherever he found a force organized to meet and resist him he turned away upon another route.

Mr. WADSWORTH. I am aware that a large number of them rose up and opposed Morgan, but how many got together in a body?

Mr. CRAVENS. At least six or seven thousand of our citizens, and not less than sixty thousand of them were under arms in less than forty-eight hours. But the condition of the people of Indiana is somewhat different in respect to this matter from that of the people of Kentucky represented in part by my friend. I know how much the people of Kentucky have suffered and sacrificed, and I know how much they have suffered in consequence of a divided public sentiment. I presume that Morgan when he came to Indiana expected to meet a divided people there. Indeed his men said they were assured before they came there they would meet a divided public sentiment and derive support from it. But instead of that these very men who they expected would assist were the first men to shoulder their guns to meet and resist him. The parties he expected would assist him were the leaders of the organization which sprang up almost in an instant to repel him.

But the point to which I wished more particularly to call the attention of the gentleman is this: that when Morgan came through Indiana, meeting with the martial legions there, he found it difficult to pass through the country. He had to throw out his skirmishers for a distance of five miles on either side of his route and to that extent

he gathered up all the valuable horses, almost ruining many of our poor people who depended on their horses for maturing their crops. Wherever he took horses he left broken-down horses in their places. His entire command was mounted upon ill-conditioned, inferior, and worn-out horses, which had been long in service. He came with no fresh horses. If he had come with fresh horses the presumption would have been that he had gathered them up in Tennessee and Kentucky. But he came with an exhausted cavalry force, so far as his horses were concerned. He took what he could gather up, and Hobson, in his pursuit, was compelled to take a wider range to supply his command with fresh horses: between the rebel and the Union forces our people were stripped of all their horses.

Morgan was not captured in the State of Indiana, but passed through the State, leaving as he passed a large number of miserably used-up and broken-down horses, which the farmers took care of and recruited, expecting to keep them in the place of the good ones taken from them by Morgan. But the Government, through its agents, demanded these horses from the people, and they were given up after much care and expense was bestowed upon them, and they were sold by the Government for a sum of money in my district alone amounting to about \$60,000. The horses taken from the people by Morgan where he was finally captured in Ohio were also in many cases taken and kept by the Government without remuneration to the citizens. Now I submit to this House whether or not we can in justice do less than is proposed by this bill, the Government having received the benefit of the horses taken by Hobson and Morgan both.

Mr. HARDING. I regret very much to see any warmth of feeling springing up between the Representatives of these two States. There is no necessity for it. The good citizens of Indiana and Kentucky know each other well, and respect each other. They are on terms of friendship and always have been. They are not even divided on that troublesome question which divides States far remote from each other. We all know what Indiana has done. She has acted nobly, bravely, and grandly. She has poured her troops across the Ohio river whenever they were needed. But Indiana has not been subjected to the fiery trials through which Kentucky has passed.

Mr. CRAVENS. That we are aware of. Mr. HARDING. Far from it, sir. The gentleman from Indiana [Mr. HOLMAN] seemed to think that Kentucky has proved herself less loyal than Indiana. But their relative circumstances are very different; and in that view justice has never yet been done to Kentucky. I deny that the people of Indiana, as a whole, are any more loyal than the people of Kentucky. I deny that under such a fiery ordeal any State in the Union would have turned out any stronger force for the Union than the State of Kentucky has done. It is an easy thing in Massachusetts or in other States far from the scene of conflict for men to be loyal. It is a man's interest to be loyal in those States. But not so in Kentucky. There it costs a man something to be loyal; often he has to pay very dearly for his loyalty. He has often to take shelter in the forest and seek safety there. Let Indiana or any other State be subject to the same fiery trial, let the storms of war that have beaten upon Kentucky beat over them, and then we would see whether their people are any more loyal than the people of Kentucky.

That is not all, Mr. Speaker. Indiana and Ohio, all the States bordering on Kentucky are deeply interested in all that she has done. Kentucky has stood like a wall of fire between them and danger, and she is not to be taunted with want of loyalty. Some of her recreant sons have gone; but a host of her citizens have stood in the breach between those other States and danger. Had she yielded and been swept away in this southern revolution, where would Indiana and Ohio be to-day? The storms of fiery and bloody war that have fallen upon Kentucky would have desolated their soil. But Kentucky bared her bosom and confronted the storm.

In addition to all this, Mr. Speaker, I will say that for every dollar lost by Indiana through the act of Federal officers and soldiers Kentucky has lost a thousand. The horses, provisions, and grain of her citizens have been taken. In some

portions of my former district the land has been made desolate. In portions of that district the rebels had entire possession and control for weeks and months. The people had everything swept away from them, and their families were reduced to beggary and want. And this sometimes by our own troops, because, in the progress of events there, our own army, rapidly pursuing or retreating, had no time to give vouchers while they quartered on the country. And now, after Kentucky suffering a thousand-fold more than Indiana, the gentleman from Indiana [Mr. HOLMAN] attempts to draw invidious distinctions.

Mr. WILSON. I must resume the floor.

Mr. HARDING. I want the gentleman to understand that I throw no aspersion upon the State of Indiana.

Mr. WILSON. This subject will come up again in the morning hour as unfinished business. I have yielded as long as I can.

Mr. CRAVENS. Just give me three minutes.

Mr. WILSON. I cannot resist that.

Mr. CRAVENS. I am sorry to see my friend from Kentucky manifest so much feeling. Indiana has recognized the loyalty of Kentucky. We have never failed to sympathize with the loyal people of Kentucky, and we have never failed to come to the relief of Kentucky when the opportunity has been afforded to us. I have voted for the relief of her citizens whenever I could. I know they are a brave and gallant people. But kindness and sympathy should be reciprocal. We have always aided and assisted them, and now let them support the just claims of Indiana. I think the bill now under consideration should be passed without further delay, and I feel that its justness should commend it to the support of the honorable members from Kentucky and the House generally. Indiana will not be found wanting when Kentucky or any other State may ask for the passage of a measure so eminently just and proper as this bill proposes.

Mr. WILSON. Has the morning hour expired?

The SPEAKER. It has.

Mr. WILSON. I move to go to the business upon the Speaker's table.

The motion was agreed to.

The SPEAKER laid before the House the following business on the Speaker's table; which was disposed of as indicated below:

MARTHA JANE SKAGGS.

An act (H. R. No. 347) for the relief of Martha Jane Skaggs; which was reported from the Senate with an amendment.

The amendment was concurred in.

NATHANIEL McLEAN AND OTHERS.

An act (H. R. No. 162) for the relief of Nathaniel McLean, Richard G. Murphy, and Charles E. Flandreau; which was reported from the Senate with an amendment.

The amendment was concurred in.

FREEDMEN'S AFFAIRS.

An act (H. R. No. 51) to establish a Bureau of Freedmen's Affairs; which was reported from the Senate with amendments.

Mr. ELIOT moved that the amendments of the Senate be referred to the select committee on the subject, and ordered to be printed.

The motion was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the amendments were referred to the select committee; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENSION ACT.

An act (H. R. No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862, which was reported from the Senate with amendments.

Mr. WHALEY moved to non-concur in the Senate amendments and ask for a committee of conference on the disagreeing votes of the two Houses.

The motion was agreed to.

ENROLLMENT BILL.

An act (H. R. No. 549) further to regulate and provide for enrolling and calling out the national forces, and for other purposes, which was reported from the Senate with amendments.

Mr. STEVENS. I submit the following resolution:

Resolved, That the amendment of the Senate, section No. 12, added by the Senate to House bill No. 549, in the opinion of this House contravenes the first clause of the seventh section of the first article of the Constitution of the United States, and is an infringement on the privileges of the House, and that the bill with the amendments be respectfully returned to the Senate with a message communicating this resolution.

Mr. STEVENS. I ask that the clause in the bill referred to be read.

The Clerk read, as follows:

That for the purpose of paying the bounties and enforcing the draft provided for in this act, there be levied and collected, in addition to the duties imposed by law, a special duty of five per cent. on all incomes exceeding \$600, which duty shall be assessed and collected in the mode provided in the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes." And this duty shall be payable on the 1st day of October next, and the Secretary of the Treasury is authorized to prescribe such rules and regulations as to the time and mode of assessment as will secure the collection of this special tax.

Mr. STEVENS. There was nothing in that bill relating to revenue as it left the House. The Constitution provides that all bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills. It is so clearly a violation of the privileges of the House that I think it ought not for a moment to be acquiesced in.

The resolution was adopted unanimously.

Mr. MORRILL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RED RIVER OF THE NORTH.

On motion of Mr. DAVIS, of New York, the House took from the Speaker's table Senate bill No. 272, to facilitate the trade of the Red river of the North.

The bill was read a first and second time, ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. DAVIS, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLOMON WADSWORTH.

The next bill taken from the Speaker's table was a bill (S. No. 288) to amend an act for the relief of Solomon Wadsworth; which was read a first and second time by its title.

Mr. THAYER. I move that the bill be referred to the Committee on Private Land Claims. I object to the passage of these private claims through the House unless after a proper investigation by a committee of the House.

The motion was agreed to.

IDA HOFFMAN.

The next bill taken from the Speaker's table was a bill (S. No. 289) for the relief of Ida Hoffman; which was read a first and second time by its title.

The bill directs the Secretary of the Interior to place the name of Ida Hoffman, widow of Solomon Hoffman, of Carroll county, Indiana, who was killed while in the performance of his duty as deputy provost marshal, on the roll of pensioners, at the rate of eight dollars a month from the 4th of March, 1864, to continue during her widowhood.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BLUE MONT COLLEGE.

The next bill taken from the Speaker's table was a bill (S. No. 73) to amend an act entitled "An act to enable the trustees of the Blue Mont College to preëempt a certain quarter section of land," approved March 2, 1861; which was read a first and second time by its title.

Mr. ALLEY moved to refer the bill to the Committee on Public Lands.

The motion was agreed to.

EXEMPLIFICATIONS BY LAND OFFICE.

The next bill taken from the Speaker's table was a bill (S. No. 278) prescribing the terms on which exemplifications shall be furnished by the General Land Office; which was read a first and second time by its title.

The bill provides that from and after the 1st of July next all exemplifications of patents, or papers on file or of record in the General Land Office, which may be required by parties interested, shall be furnished by the Commissioner of that office upon the payment by such parties at the rate of fifteen cents per hundred words, and two dollars for copies of township plats or diagrams, with an additional sum of one dollar for the Commissioner's certificate of verification with the General Land Office seal; that one of the employees of the office shall be designated by the Commissioner as the receiving clerk, and the amounts so received shall, under the direction of the Commissioner, be paid into the Treasury of the United States; effect to be given to the act according to such regulations as may be prescribed by the Secretary of the Interior not inconsistent with the laws of the United States, provided the fees shall not apply to such authenticated copies as may be required by the officers of any branch of the Government, nor to such unverified copies as the Commissioner in his discretion may deem proper to furnish.

Mr. HUBBARD, of Iowa. I move to amend by adding the following as an additional section:

And be it further enacted, That the rooms and halls of the first and second floors of the west wing of the Department of the Interior building shall be exclusively appropriated to the records, files, and official services of the General Land Office, with these additional, and now in the occupancy of that office.

The amendment was agreed to.

Mr. ALLEY moved that the bill be referred to the Committee on Public Lands.

The motion was agreed to.

POTOMAC FERRY COMPANY.

The next bill taken from the Speaker's table was a bill (S. No. 298) to incorporate the Potomac Ferry Company; which was read a first and second time by its title.

Mr. MORRIS, of Ohio, demanded the previous question.

Mr. WILSON. I hope the bill will be referred to the Committee for the District of Columbia.

Mr. STEELE, of New York. The bill has already been before that committee.

On seconding the demand for the previous question,

The SPEAKER ordered tellers; and appointed Mr. WILSON, and Mr. MORRIS of Ohio.

The House divided; and the tellers reported—ayes fifty-three, noes not counted.

So the previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to a third reading.

The bill was accordingly read the third time, and passed.

Mr. MORRIS, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GEORGE F. NESBITT.

The next business on the Speaker's table was an act (S. No. 305) for the relief of George F. Nesbitt.

The bill was read a first and second time. It authorizes and empowers George F. Nesbitt to put an end to his contract with the United States, entered into with the Postmaster General on the 27th of March, 1862, for furnishing the Post Office Department with stamped envelopes and newspaper wrappers, on giving to the Postmaster General sixty days' notice in writing.

Mr. ALLEY moved the previous question.

The previous question was seconded, and the main question ordered; and under its operation the bill was read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REGISTERS AND RECEIVERS.

The next business on the Speaker's table was an act (S. No. 312) to regulate the compensation

of registers and receivers of the land offices in the several States and Territories, and the location of lands by States and corporations under grants from Congress, and for other purposes.

The bill received its several readings, and was passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RICHARD FITCH.

The next business on the Speaker's table was an act (S. No. 319) to authorize the Secretary of the Interior to issue a land-warrant to Richard Fitch.

The bill was read a first and second time. It directs the Secretary of the Interior to issue a warrant for one hundred and sixty acres of land to Richard Fitch of Ohio, in consideration of military service rendered in the Army of the United States during the last war with Great Britain.

The bill was read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CORPORATION OF WASHINGTON.

The next business on the Speaker's table was an act (S. No. 321) to authorize the corporation of Washington to levy and collect the direct tax imposed by act approved August 5, 1861.

The bill was read a first and second time.

Mr. STEELE, of New York, moved the previous question on the third reading.

The previous question was seconded, and the main question ordered; and under its operation the bill was read the third time, and passed.

Mr. STEELE, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

HOSPITAL FOR THE INSANE.

The next business on the Speaker's table was joint resolution (S. No. 70) to authorize the acquisition of certain land for the use of the Government hospital for the insane.

The bill received its several readings, and was passed.

Mr. STEELE, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GUNBOAT CONTRACTORS.

The next business on the Speaker's table was joint resolution (S. No. 50) for the relief of the contractors for the machinery of the side-wheel gunboats known as double-enders.

The bill received its several readings, and was passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHARLES A. HICHBORN.

The next business on the Speaker's table was an act (S. No. 303) for the relief of Charles A. Hichborn.

The bill was read a first and second time. It authorizes the Secretary of the Interior to place the name of Charles A. Hichborn, of Boston, Massachusetts, orphan son of the late Alexander Hichborn, a contract surgeon in the seventh regiment United States infantry, who was killed at the battle of Chancellorsville, on the 3d of May, 1863, upon the list of pensioners, at the rate of twenty dollars per month, to commence from the 1st of January, 1864, and to continue until he is sixteen years of age.

Mr. ROSS. I move that the bill be referred to the Committee on Invalid Pensions.

The motion was agreed to.

NAVAL PENSION FUND.

The next business on the Speaker's table was joint resolution (S. No. 69) regulating the investment of the naval pension fund.

The joint resolution received its several readings, and was passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NAVAL HOSPITAL AT KITTERY, MAINE.

The next business on the Speaker's table was an act (S. No. 308) repealing so much of an act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1864, and for other purposes, approved March 14, 1864, as appropriates \$25,000 for erecting a naval hospital at Kittery, Maine.

The bill received its several readings, and was passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COLLECTION OF DISTRICT TAX.

An act (S. No. 299) authorizing the levy court of Washington county, in the District of Columbia, to levy and collect its portion of the direct tax imposed by the act of Congress of August 5, 1861, was taken from the Speaker's table, and read a first and second time.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. STEELE, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

FORT CRAWFORD RESERVATION.

An act (S. No. 301) for the sale of a lot of land in Iowa in the Fort Crawford reservation was taken from the Speaker's table, and read a first and second time.

The bill makes it lawful for the Commissioner of the General Land Office to cause to be sold, after public notice, the tract described as lot No. 1, in township ninety-five north, of range three west, of the fifth principal meridian, in the State of Iowa, situated in what is known as the Fort Crawford military reservation, subject to such minimum price per acre as the Commissioner may establish as fair and reasonable, not less than \$2 50 per acre.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

DESERTIONS FROM THE NAVY.

An act (S. No. 324) prescribing the punishment for enticing or aiding seamen to desert the naval service of the United States was taken from the Speaker's table, and read a first and second time.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act to incorporate the Metropolitan Railroad Company of the District of Columbia; and

An act to expedite the settlement of titles to lands in the State of California.

SEAMEN ON BOARD WRECKED VESSELS.

An act (S. No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service, was taken from the Speaker's table, and read a first and second time.

The bill directs the proper accounting officers of the Treasury, under the direction of the Secretary of the Navy, in settling the accounts of officers, seamen, and others, borne on the books of any vessel in the Navy, which shall have been wrecked, or which shall have been unheard from so long that her wreck may be presumed or which shall have been destroyed or lost, with the rolls and papers necessary to a regular and exact settlement of such accounts, to fix a day when such

wreck, destruction, or loss shall be deemed and taken to have occurred, and to adjust and settle accounts on principles of equity and justice. It also provides that whenever the officers, seamen, or others, borne on the books of a vessel of the Navy, shall have lost their clothing or other personal effects by the wreck, destruction, or loss of such vessel, the Secretary of the Navy shall be authorized to appoint a board of three officers of the Navy, including a paymaster, to make a careful examination and scrutiny of claims for losses so incurred, and grants power, with the approval of the Secretary of the Navy, to award to the seaman, or other person, not an officer, who may have incurred such loss, without neglect or fault on his part, the value of the property lost to an amount not exceeding two months' pay, in the case of an enlisted man, nor one month's sea pay in any other case. It also provides that the benefit of the act shall be extended to the seamen and others, not officers, borne on the books of any vessel of the Navy wrecked, destroyed, or lost during the present war, whose accounts shall not have been settled, or who have not heretofore been compensated for clothing or other property lost by the wreck, destruction, or loss of such vessel.

Mr. RICE, of Massachusetts, moved to amend by striking from the first section, at the end of it, the words "and to adjust and settle accounts on principles of equity and justice," also providing a substitute for the second and third section.

The amendment was adopted.

The bill as amended was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EFFICIENCY OF THE NAVY.

An act (S. No. 292) to provide for the efficiency of the Navy was taken from the Speaker's table, and read a first and second time.

The bill provides for transfers from the Navy to the marine corps; for the transfer of seamen drafted into the military service to the naval service; for the crediting of enlistments for the Navy in the same manner as enlistments for the Army, and for the payment of bounty to persons so enlisting.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PACIFIC TELEGRAPH.

An act (S. No. 290) for increased facilities of telegraph communication between the Atlantic and Pacific States and the Territory of Idaho was taken from the Speaker's table, and read a first and second time.

Mr. COLE moved to refer the bill to the select committee on the Pacific railroad.

The motion was agreed to.

COMMERCE AND NAVIGATION.

An act (S. No. 310) for the promotion of commerce and the improvement of navigation was taken from the Speaker's table, and read a first and second time.

On motion of Mr. HOLMAN, the bill was referred to the Committee on Commerce.

HENRY W. DIMAN.

Joint resolution (S. No. 66) providing for adjustment of the accounts of Henry W. Diman was taken from the Speaker's table, and read a first and second time.

The joint resolution was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

POSTAL LAWS.

An act (S. No. 332) to establish salaries for postmasters, and for other purposes, was taken

from the Speaker's table, and read a first and second time.

Mr. ALLEY. This bill has been fully considered by the Committee on the Post Office and Post Roads of the House, and unanimously agreed to. It is a bill which should be passed; and I therefore move to put the bill on its passage, and call the previous question.

Mr. O'NEILL, of Pennsylvania. I have an amendment which I desire to offer to the first section.

Mr. ALLEY. This bill has been very fully and thoroughly considered and perfected in committee. I think it is right as it is, and I must insist on my demand for the previous question.

Mr. O'NEILL, of Pennsylvania. I hope the gentleman will at least allow me to offer an amendment in the fifth line of the first section by inserting after "New York" the words "and Philadelphia;" so as to make the clause read:

That the annual compensation of postmasters shall be at a fixed salary, in lieu of commissions, to be divided into five classes, exclusive of the postmasters of the cities of New York and Philadelphia. Postmasters of the first class shall receive not more than \$4,000 nor less than \$3,000.

Mr. ASHLEY. I desire also to amend the amendment by adding after "Philadelphia," "Boston, Baltimore, Albany, Buffalo, Pittsburg, Cleveland, Detroit, Chicago, Milwaukee, Cincinnati, and St. Louis." [Laughter.]

Mr. O'NEILL, of Pennsylvania. Very well; let that go as an amendment to my amendment.

Mr. ALLEY. I withdraw the demand for the previous question for the purpose of saying a few words in reference to the bill.

The salary of the postmaster at New York is fixed at \$6,000. This is made an exception and the only exception to the classification of postmasters. Everybody knows that the post office at New York is very much larger than that of any other city, and with that exception the salary of \$4,000 is all that the bill allows to the postmasters of any of the other cities. The Committee on the Post Office and Post Roads have fully examined the subject, and they are clearly of the opinion that the bill ought to remain as it is. I will now yield to the gentleman from Pennsylvania to hear what he has to offer.

Mr. O'NEILL, of Pennsylvania. I am obliged to the gentleman for yielding to me. Now, Mr. Speaker, I think a very few words will satisfy this House that the compensation of the postmaster of Philadelphia should be at least as large as that of the postmaster at New York. There is no difference in the amount of business transacted; there is no difference in the amount of responsibility assumed. The postmaster at Philadelphia and the clerical force employed by him are occupied every moment of their time in that post office, and I do not suppose the postmaster at New York and his clerical force are occupied any more time. I see, therefore, no reason why any such distinction should be made. I desire to know if any man can tell me why the postmaster at the city of New York should receive \$6,000 per annum and the postmaster at Philadelphia receive only \$4,000 per annum? Why, sir, the post office at Philadelphia is almost as large as the post office in New York. I do not recognize for one moment the position that Philadelphia is a mere village or suburb. [Laughter.] And I see no reason why the postmasters at Boston and Baltimore and the other large cities should not receive an equal compensation.

Mr. WEBSTER. I ask the gentleman then to put Baltimore and the other large cities into his amendment.

Mr. O'NEILL, of Pennsylvania. They have already been embraced in the amendment of the gentleman from Ohio [Mr. ASHLEY] to my amendment.

Mr. ALLEY. Did the Chair understand me as giving way for the purpose of allowing amendments to be offered?

The SPEAKER. The Chair did.

Mr. ALLEY. I did not intend to give way for that purpose. I understood the gentleman from Pennsylvania to desire the floor to make a few remarks.

The SPEAKER. The gentleman from Pennsylvania expressly requested the floor for the purpose of offering an amendment, and the gentleman from Massachusetts yielded to him and resumed his seat.

Mr. ALLEY. I desire to hear the amendment of the gentleman from Pennsylvania.

The Clerk again read his amendment!

Mr. HUBBARD, of Iowa. I insist upon Sioux City being included in that amendment. [Laughter.]

Mr. WINDOM. So do I upon Winona.

Mr. BROOKS. I should like to move an additional city also. I wish to move to add the city of Buncombe. [Laughter.]

The SPEAKER. The gentleman from Massachusetts is entitled to the floor.

Mr. L. MYERS. I ask the gentleman from Massachusetts to yield for a moment.

Mr. ALLEY. I do not think the House ought to spend any more time over this matter; however, I do not see how I can very well deny the opportunity to my friend from Philadelphia to make a little buncombe, and I will therefore yield to him for a moment.

Mr. O'NEILL, of Pennsylvania. I object decidedly to the gentleman charging us with acting for buncombe.

Mr. L. MYERS. I care nothing about any imputation of my conduct upon this floor being for buncombe; my voice is seldom heard in this Hall. What I rose for was to move an amendment, to come in at the end of the sixth section of the bill. The sixth section provides—

That the Postmaster General may designate certain convenient offices, at the intersection of mail routes, as distributing offices, and certain others as separating offices; and where any such office is of the third, fourth, or fifth class of post offices, he may make a reasonable allowance to such postmaster for the necessary cost, in whole or in part, of clerical services arising from such duties.

I desire to move to add at the end of that section as follows:

That the compensation of clerks, mail-carriers, and other employes of the post offices heretofore designated by, and the same is hereby, increased twenty-five per cent.

Now, Mr. Speaker, I do not desire to discuss the propriety of this amendment; that will be seen by every member of the House. I need not state that at this time the necessities of life have risen more than twenty-five per cent. in cost. I want to say to my friend from Massachusetts that this amendment has not been introduced to apply to the employes of the Philadelphia post office alone. It applies to the post offices throughout the country. My friend over the way says they will vote in my amendment. I hope the amendment will be adopted. I know that in the Philadelphia post office many of the best clerks employed receive a salary of but \$800, and most of them receive a salary of but five or six hundred dollars.

Mr. ELDRIDGE. I did not suppose that anybody would propose to raise salaries in these times when gold has gone up out of sight.

Mr. SPALDING. I move to lay the bill and amendments on the table.

On Mr. SPALDING's motion 58 voted in the affirmative and 41 in the negative.

Mr. ALLEY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 52, nays 69, not voting 61; as follows:

YEAS.—Messrs. William J. Allen, Allison, Bliss, James S. Brown, Thomas T. Davis, Dawson, Deming, Denison, Dixon, Eden, Edgerton, Eldridge, English, Holman, John H. Hubbard, Hulburd, Philip Johnson, William Johnson, Kelley, Orlando Kellogg, Knox, Lazar, Le Blond, Littlejohn, Loan, Long, Marcy, McClurg, Middleton, William H. Miller, Moorhead, Leonard Myers, Nelson, Charles O'Neill, Pendleton, Perry, Pruyn, Radford, Robinson, Seefeld, Shannon, Sloan, Smithers, Spalding, Stiles, Strouse, Van Valkenburgh, Joseph W. White, Williams, Wilson, Windom, and Winfield—52.

NAYS.—Messrs. Alley, Ames, Ancona, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Blair, Boutwell, Boyd, Brooks, Broomall, William G. Brown, Freeman Clarke, Cobb, Coffroth, Cole, Creswell, Henry Winter Davis, Driggs, Eliot, Fenton, Finck, Frank, Ganson, Garfield, Gooch, Hale, Harding, Higby, Hotchkiss, Asahel W. Hubbard, Ingersoll, Jencks, Julian, Kalbfleisch, Kernan, McAllister, McBride, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Noble, Norton, Perham, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Schenck, Smith, John B. Steele, William G. Steele, Stuart, Thayer, Thomas, Tracy, Upton, Wadsworth, Ward, William B. Washburn, Webster, Whaley, Wheeler, and Woodbridge—69.

NOT VOTING.—Messrs. James C. Allen, Anderson, Arnold, Augustus C. Baldwin, Blaine, Blow, Brundage, Chandler, Ambrose W. Clark, Clay, Cox, Cravens, Dawes, Donnelly, Dumont, Eckley, Farnsworth, Grider, Grinnell, Griswold, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hooper, Hutchins, Kasson, Francis W. Kellogg, King, Knapp, Law, Longyear, Mallory, Marvin, McDowell, McIndoe, McKimney, Samuel F. Miller, Odell,

John O'Neill, Orth, Patterson, Pfkf, Pomeroy, Price, Samuel J. Randall, William H. Randall, Rogers, Scott, Stark, Stebbins, Stevens, Sweet, Voorhees, Ellihu B. Washburne, Chilton A. White, Wilder, Benjamin Wood, Fernando Wood, and Yeaman—61.

So the bill was not laid on the table.

During the call of the roll,

Mr. CRAVENS stated that he had paired with Mr. PIKE on all political questions, and not knowing how Mr. PIKE would vote on this question, he declined to vote.

Mr. MCINDOE stated that he had paired with Mr. McDOWELL.

Mr. ALLEY. I will yield the floor still further if gentlemen desire to discuss or amend this bill.

Mr. O'NEILL, of Pennsylvania. I will now withdraw my amendment and simply move to strike out the words "exclusive of the postmaster of the city of New York" wherever it occurs. That will equalize the compensation of the postmasters of all these large cities, fixing it at \$4,000.

Mr. WILSON. Unless we can have an opportunity to amend this bill generally, I object to any amendment being offered.

Mr. O'NEILL, of Pennsylvania. I have offered this amendment in order, I believe, and certainly in good faith, and I hope it will be adopted.

Mr. THAYER. I would like to hear some explanation of the effect of the resolution which the gentleman has offered.

Mr. O'NEILL, of Pennsylvania. It is very easily explained. In the first place I offered an amendment including Philadelphia with New York at a compensation of \$6,000, believing that there should be no difference in the compensation of these two offices; but I have now modified my amendment so as to strike out the words I have mentioned, and leave New York to be included with the other cities in the first class of post offices.

Mr. THAYER. What cities are embraced in this first class with New York?

Mr. O'NEILL, of Pennsylvania. Philadelphia, Boston, and other large cities as provided for in the bill.

Mr. THAYER. Is it proposed to give the postmasters of all these cities the same salaries as the postmaster of New York receives?

Mr. O'NEILL, of Pennsylvania. The proposition is to place the postmaster at New York upon the same footing with the postmasters of Philadelphia and these other cities in the first class.

Mr. THAYER. I thought my colleague had accepted the amendment of the gentleman from Ohio, [Mr. ASHLEY.]

Mr. O'NEILL, of Pennsylvania. Not at all. The gentleman from Ohio offered his amendment on his own responsibility to my amendment as originally offered. I have now modified my amendment so as to strike out "New York" wherever it occurs, and give the postmaster at that city no greater amount of compensation than is to be received by the postmaster at Philadelphia or any other of the first class of postmasters.

Mr. MORRILL. I desire to put a question to the gentleman from Massachusetts. I want to know whether the compensation of these postmasters does not depend on the amount of business done at their respective offices?

Mr. ALLEY. That is the case, with the provision that in no case shall it exceed \$4,000, except for the postmaster of New York, whose salary the bill fixes at \$6,000.

Mr. MORRILL. If I understand the gentleman from Pennsylvania, he proposes to raise the postmasters in all of these States up to the rank of the postmaster of New York.

Mr. O'NEILL, of Pennsylvania. The gentleman does not understand my proposition. It is to give the postmasters of the first class the same compensation.

Mr. ALLEY. It seems to me that the position is exactly this; the members from Philadelphia see no good reason why Philadelphia should not be put upon the same footing as New York in reference to the salary of the postmaster. They propose that the salary of the postmaster at Philadelphia shall be \$6,000, which is that of the postmaster of New York. Gentlemen representing other cities say that if Philadelphia is included then their cities ought to be included, as Philadelphia gives no more revenue to the Post Office

Department than many other cities; while in New York the receipts are several times as much as those of Philadelphia.

Mr. BROOKS. I feel it to be my duty to say in reference to the Republican postmaster of New York city that \$4,000 is not sufficient salary for the responsibility which is imposed upon him. He has charge of all the mails to and from Europe. A sufficiently responsible and able postmaster cannot be secured for that city at a less compensation than \$6,000.

Mr. ALLEY. I think that there is a great misapprehension in regard to this bill. I know there is, and I am at a loss what course to pursue. A great many members advise me to call for the previous question, and not to debate it; while other gentlemen say that I had better explain it. I know that the House is uneasy and want to get away, but I will try in a few words to explain the effect of these several provisions.

This bill is not to render the post office business less secure, but to make it more secure and to save money to the Treasury. There are a great many clerks all over the country who are employed to perform labor that might just as well be dispensed with. That will be saved under this bill.

So far as postmasters are concerned their salaries are not increased, but on the contrary they are slightly decreased. The estimate is based upon the last two years, which I suppose will not amount to quite as much as the present year. Every year since this war commenced the post office receipts have increased very materially. There is no post office the receipts of which have not been increased by the war.

As to the objection which has been made that a vast amount of additional power is placed in the hands of the Postmaster General, I will say that that is not so. While the Postmaster General has little or no additional power placed in his hands under the bill, it saves money to the Treasury. It has been considered thoroughly by the Committee on the Post Office and Post Roads. I think that everybody ought to be in favor of it. I did not expect the least difficulty in getting it through the House. It was passed unanimously, I believe, through the Senate, and unless further explanation is desired I will demand the previous question.

Mr. STEELE, of New York. Does this raise the salary of the postmaster at New York?

Mr. ALLEY. It does. It raises it \$2,000.

The SPEAKER. The amendment of the gentleman from Pennsylvania is not germane to that of his colleague, and therefore not in order.

Mr. WINDOM. I wish to know whether this is not the same bill that was defeated at the last session of Congress almost unanimously?

Mr. ALLEY. This in its main features is the same bill that was passed once before, and was defeated in the Senate.

Mr. WINDOM. This is the same bill out of which twelve sections were stricken on my motion at the last session of Congress.

Mr. L. MYERS. The point of order I make is this: the amendment I offered is to the sixth section, while the amendment of my colleague is to the first section.

The SPEAKER. Then it is not an amendment to an amendment.

Mr. L. MYERS. I ask the House at this time if unanimous consent cannot be given for my amendment, and that of my colleague also, to be offered.

The SPEAKER. That is objected to. Does the gentleman withdraw his amendment?

Mr. L. MYERS. I do.

Mr. O'NEILL, of Pennsylvania. I offer my amendment.

The previous question was seconded, and the main question ordered to be put.

Mr. WASHBURNE, of Illinois. I move that the evening session be dispensed with.

Mr. MORRILL. I hope not.

Mr. FENTON. I hope it will be.

Mr. MORRILL. I ask consent to make a statement.

Mr. KALBFLEISCH. I object.

The motion was not agreed to.

The question recurred on the amendment offered by Mr. O'NEILL, of Pennsylvania.

Mr. O'NEILL, of Pennsylvania. I desire to ask for an explanation of the Chair. I will not

press my amendment if it cuts out the amendment of my colleague.

The SPEAKER. The Chair has stated three or four times that it did, and the gentleman's colleague thereupon withdrew his amendment and allowed the gentleman to offer his.

Mr. L. MYERS. I withdrew mine trusting to the House to allow me to offer it again.

The SPEAKER. That cannot be done except by unanimous consent.

Mr. O'NEILL, of Pennsylvania. Cannot my colleague have his amendment voted on if I withdraw mine?

The SPEAKER. Only by unanimous consent, as the main question has been ordered to be put.

The amendment was not agreed to.

Mr. L. MYERS. I now ask unanimous consent to offer the amendment I withdrew.

Mr. KALBFLEISCH. I object. The thing is entirely absurd. The gentleman has jumped over Brooklyn, the third city in the Union. [Laughter.]

Mr. L. MYERS. Will it be in order to have the amendment read for information?

The SPEAKER. Only by unanimous consent.

Mr. KALBFLEISCH. I object.

The bill was ordered to a third reading, and it was accordingly read the third time.

Mr. L. MYERS. I move to lay the bill on the table.

The motion was not agreed to.

Mr. ALLEY demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. SPALDING demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 39, not voting 78; as follows:

YEAS.—Messrs. Alley, Ames, Baxter, Beaman, Boutwell, Brooks, William G. Brown, Freeman Clarke, Cofroth, Creswell, Dawes, Dixon, Driggs, Edgerton, Eliot, Frank, Ganson, Garfield, Goehs, Griswold, Herrick, Higby, Ingersoll, Jones, Julian, Kalbfleisch, Orlando Kellogg, Kernan, Knapp, Lazarus, Littlejohn, McAllister, McBride, Samuel F. Miller, Morrill, Daniel Morris, Morrison, Amos Myers, Nelson, Noble, Norton, Orth, Patterson, Perham, Radford, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Smith, Smathers, John B. Steele, Stuart, Thayer, Thomas, Upson, Van Valkenburgh, Wadsworth, Ward, William B. Washburn, Webster, Whaley, Wheeler, and Wilder—65.

NAYS.—Messrs. Allison, Ancona, Bliss, Broomall, Cobb, Dawson, Deming, Denton, Edeu, Eldridge, English, Holman, Asahel W. Hubbard, John H. Hubbard, Hubbard, Philip Johnson, Le Blond, Loan, Long, Marcy, McClurg, Middleton, William H. Miller, Moorhead, James R. Morris, Leonard Myers, Charles O'Neill, Pendleton, Perry, Seefeldt, Shannon, Sloan, Spaulding, Strouse, Elihu B. Washburne, Williams, Wilson, Windom, and Winfield—39.

NOT VOTING.—Messrs. James C. Allen, William J. Allen, Anderson, Arnold, Ashley, Bailey, Augustus C. Baldwin, John D. Baldwin, Blaine, Blair, Blow, Boyd, Brandegee, James S. Brown, Chauncy, Ambrose W. Clark, Clay, Cole, Cox, Gravens, Henry Winter Davis, Thomas T. Davis, Donnelly, Dumont, Eckley, Farnsworth, Fenton, Finck, Grider, Grinnell, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Hooper, Hotchkiss, Hutchins, William Johnson, Kasson, Kelley, Francis W. Kellogg, King, Knox, Law, Longyear, Mallory, Marvin, McDowell, Melrose, McKinney, Odell, John O'Neill, Pike, Pomeroy, Price, Pruyn, Samuel J. Randall, William H. Randall, Robinson, Rogers, Schenck, Scott, Starr, Stebbins, William G. Steele, Stevens, Stiles, Sweat, Tracy, Voorhees, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—78.

So the bill was passed.

During the call of the roll,

Mr. KALBFLEISCH stated that his colleague,

Mr. ODELL, was absent on account of the death

of a relative.

Mr. ANCONA stated that his colleague, Mr. RANDALL, was paired for to-day with Mr. LONGYEAR.

Mr. RICE, of Maine, stated that his colleague,

Mr. PIKE, had been called home by sickness in his family.

The vote was announced as above recorded.

The hour of half past four o'clock p. m. having arrived, the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House resumed its session at half past seven o'clock p. m.

CONSCRIPTION BILL.

Mr. SCHENCK. Mr. Speaker, I understand the Senate has sent back the bill in relation to

enrollment, having receded from the revenue measure which it had attached to it.

The SPEAKER. The message has not yet reached the House.

H. K. DEAN.

Mr. COBB asked and obtained leave to withdraw from the files the papers in the claim of H. K. Dean, and to have the same referred to the Committee on Military Affairs.

COMMUTATION CLAUSE.

Mr. SCHENCK, from the Committee on Military Affairs, reported back a memorial of citizens of Hamilton county, Ohio, protesting against the repeal of the commutation clause, and asked that it be laid on the table.

Mr. HOLMAN. Does the gentleman from Ohio desire to have the memorial printed? [Laughter.]

Mr. SCHENCK. No, sir.

The memorial was laid on the table.

BUSINESS ON THE SPEAKER'S TABLE.

The House resumed the consideration of the business on the Speaker's table.

RESERVATIONS OF PUBLIC LANDS.

The next business on the Speaker's table was a bill (S. No. 315) in relation to the sale of reservations of the public lands.

The bill received its several readings, and was passed.

ELIPHALET BROWN, JR.

The next business on the Speaker's table was an act (S. No. 334) for the relief of Eliphalet Brown, jr., artist in the Japan expedition.

The bill was read a first and second time.

The bill directs the Secretary of the Treasury to pay to Eliphalet Brown, jr., compensation at the rate of \$1,800 per annum during the time he was actually in such service, provided the amount already paid him as master's mate be deducted therefrom.

The bill was read a first and second time.

Mr. HOLMAN. The claim is a little odd, and I move that it be referred to the Committee of Claims.

The motion was agreed to.

TAXES IN INSURRECTIONARY DISTRICTS.

The next business on the Speaker's table was an act (S. No. 171) to further amend an act entitled "An act for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862.

The bill was read a first and second time.

Mr. WILSON. I suggest that this bill be passed over informally for the present, until the gentleman from New York, [Mr. FENTON], who desires to explain it, will be in his seat.

The bill was passed over informally.

PROPERTY IN INSURRECTIONARY STATES.

The next business on the Speaker's table was an act (S. No. 233) in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property and the prevention of frauds in States declared in insurrection.

The bill was read a first and second time.

Mr. FENTON. Mr. Speaker, this bill substantially has been before the Committee of Ways and Means, but it has not undergone a full consideration on the part of all the members of the committee. My colleague [Mr. PENDLETON] is anxious to give it further consideration. I therefore move to refer the bill to the Committee of Ways and Means, with permission to report back at any time.

Mr. KERNAN. I submit that such an important bill as this should not be put where it can be reported back at any time without notice and put on its passage.

Mr. FENTON. The bill has been printed and is now on file.

Mr. PENDLETON. I ask in what condition the bill now is, whether it is before the House for its action?

The SPEAKER. It is.

Mr. PENDLETON. Then I trust my friend from New York [Mr. KERNAN] will withdraw his objection, otherwise the bill may be put on its passage now.

Mr. KERNAN. I withdraw my objection.

There being no objection, the bill was referred to the Committee of Ways and Means with authority to report at any time.

Mr. FENTON moved to reconsider the vote by which the bill was referred to the Committee of Ways and Means; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

POSTAL BILL.

Mr. ALLEY. I rise to a privileged question. I move to reconsider the vote by which the postal bill was passed this morning; and move to lay the motion to reconsider on the table.

The latter motion was agreed to.

ELIPHALET BROWN, JR.—AGAIN.

Mr. WARD. I desire to know what disposition was made of Senate bill 334, for the relief of Eliphalet Brown, jr., artist in the Japan expedition.

The SPEAKER. It was referred to the Committee of Claims.

Mr. WARD. I desire to move to reconsider the vote by which the bill was referred. The chairman of the Naval Committee was out of the House at the time the bill came up or he would have made some explanation of it.

Mr. HOLMAN. The bill is an appropriation bill and I suppose must go to the Committee of the Whole if it is brought back to the House.

Mr. WARD. If the House will hear me for a moment, I do not think there can be any objection to this bill. The chairman of the Naval Committee has some papers in connection with it coming from the Senate, and as I see he is now in the House, I hope he will present them. In the mean time, however, I will make a short statement of the bill. Mr. Brown was engaged as an artist in the Japan expedition, and during the time he was so employed he only received the pay of an acting master in the Navy, with the understanding upon the part of Commodore Perry that his services as a photographer of the expedition should be satisfactorily adjusted and he receive his pay as artist. There have been two cases of the same kind that have been passed by Congress granting extra compensation. This bill has passed the Senate without objection, and I think there should be no objection to it in this House. A bill was passed in 1857 paying James Morrow for his services as agriculturist of the expedition at the rate of \$1,500 per annum. At a later period another act was passed paying for the services of Mr. Heine as artist. Commodore Perry certified to the services of this gentleman and to the value of his services as artist to the expedition. The amount of his compensation is so trifling that it seems to me the House will permit this bill to pass without reference to the Committee of Claims or any other committee. I hope the chairman of the Committee on Naval Affairs will make a statement of what he knows about the case, and then I am sure there will be no objection to the bill.

Mr. RICE, of Massachusetts. I will send to the Clerk's desk and have read the report of the Committee on Naval Affairs of the Senate on this bill. I am not myself acquainted with the facts in the case further than they appear in that report.

The Clerk read the report, as follows:

The Committee on Naval Affairs, to whom was referred the memorial of E. Brown, jr., of the city of New York, praying additional compensation for services rendered as an artist in the naval expedition to Japan under Commodore Perry, having had the same under consideration, report:

That the memorialist was employed in the Japan expedition as an artist, in the quality of daguerrotypist, delineator of natural scenery, and draughtsman; that he was induced by Commodore Perry to render his services in that capacity to the expedition by an appointment as acting master's mate on board the flag-ship, with the rate of pay thereunto pertaining, and by the assurance that, if the expedition was successful, and its results should be satisfactory to the Government and country, he (Commodore Perry) had no doubt the Government would allow a compensation for the services required, additional to the pay of master's mate, so as to make it equal to that usually allowed to artists in the naval expeditions of the United States.

Commodore Perry certifies that Mr. Brown executed his work with talent and skill, and to his entire satisfaction.

It appears that Dr. Morrow, who acted as agriculturist of the expedition, and Mr. Heine, who was employed in the same capacity as the memorialist, have received extra compensation by special act of Congress.

The committee know no reason why the memorialist is not entitled to an equal reward for his services; and therefore report the accompanying bill.

The motion to reconsider was not agreed to.

NEW YORK AND WASHINGTON RAILROAD.

Mr. WEBSTER. I rise to a privileged question. I move to reconsider the vote by which the bill from the select committee on an air-line railroad from Washington to New York was re-committed to the special committee; and move to lay the motion to reconsider on the table.

Mr. PRUYN. What will be the effect of that upon the condition of the bill?

The SPEAKER. The effect would be to prevent the bill hereafter being brought back to the House on a motion to reconsider.

Mr. PRUYN. I am not sure then that the motion to reconsider had better be laid on the table.

On laying the motion to reconsider on the table, 30 voted in the affirmative and 41 in the negative; no quorum.

Mr. WEBSTER. Well, Mr. Speaker, rather than break up a quorum I will withdraw the motion to reconsider.

MESSAGE FROM THE SENATE.

A message from the Senate was received by Mr. FORNEY, their Secretary, informing the House that the Senate, on reconsideration, have again passed the bill of the House (No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes, with all the amendments previously concurred in except the section objected to by the House, in which he was directed to ask the concurrence of the House.

CONSCRIPTION BILL.

Mr. SCHENCK. I ask unanimous consent of the House to non-concur in the amendments of the Senate to the conscription bill, and ask for a committee of conference.

Mr. STEVENS. I object.

THOMAS J. GALBRAITH.

Joint resolution (S. No. 67) for the relief of Thomas J. Galbraith was taken from the Speaker's table, and read a first and second time.

Mr. WILSON. I move to refer that joint resolution to the Committee on Indian Affairs.

Mr. WINDOM. I hope it will not be referred. The gentleman knows very well that the committee will not have an opportunity to report again this session. There are no material changes in this resolution from the bill which passed the House. Major Galbraith was agent of the Sioux Indians, and at the time of the Indian hostilities he lost all his property and a great portion of his vouchers; so that it is absolutely impossible to settle his accounts unless his own testimony is allowed to be received.

Mr. WILSON. If the gentleman will amend the resolution so as to make it incumbent upon the Secretary of the Interior to take corroborative testimony, I will not object to it.

Mr. WINDOM. I do not think that is at all necessary, for the Secretary now has power to take such testimony if he shall consider it to be necessary.

Upon the motion to refer, 43 voted in the affirmative and 41 in the negative; no quorum.

Mr. WILSON. Rather than break up a quorum I withdraw the motion to refer.

Mr. HOLMAN. I renew the motion to refer and demand tellers.

Tellers were ordered; and Messrs. HOLMAN and WINDOM were appointed.

The House divided; and there were—ayes 46, noes 45.

The SPEAKER voted in the negative.

So the bill was not referred.

The bill was then ordered to a third reading; and it was accordingly read the third time.

Mr. WINDOM demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. KALBFLEISCH demanded the yeas and nays.

The yeas and nays were not ordered.

The House divided; and there were—ayes 61, noes 31.

So the bill was passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLMENT BILL.

The SPEAKER laid before the House the amendment of the Senate to the enrollment bill.

Mr. HOLMAN. I want to know whether that bill comes properly before the House at this time.

The SPEAKER. It does. By the 54th rule it will be seen that when the House proceeds to the business upon the Speaker's table, the Speaker is ordered to dispose of that business as follows: 1. Messages and other executive communications; and, 2. Messages from the Senate and amendments proposed by the Senate to bills of the House. The question recurs on concurrence in the amendment of the Senate.

Mr. SCHENCK. I demand the previous question. I hope the House will non-concur in the amendment of the Senate so that the whole matter may go to a committee of conference.

Mr. DAWES. I hope the gentleman will yield to me for a moment.

Mr. SCHENCK. Certainly.

Mr. DAWES. Mr. Speaker, I have no desire to throw any embarrassments in the way of the Government in the administration of this the most important branch of its duties at this time. If I know anything about my own feelings or determination at this time, I am ready to cooperate in any measure which I can satisfy my mind will reach the end and accomplish the purpose designed. If, sir, I am constrained at this moment to differ with those who press this measure, in the shape it comes from the other branch, upon the country, it is because the more I examine it and weigh its provisions in the light of their application to the present condition of the country and of the effect to be produced upon the people, the more I am convinced that I am serving the country in opposition rather than in support of the measure in its present shape. I do not desire to relieve any portion of the country from one iota of the burden of this war, come in what manner and what way it may, whether it be in the exaction of treasure or men, whether it be of blood or of any other sacrifice.

I hold, sir, that all we have belongs to the Government, and I am now for framing such a bill as will reach that end; that will strengthen most the arm of the Government and soonest reach the end of this great contest. And, sir, if I know anything of the Government, if I know anything of the principles upon which it is framed, and where its strength lies, I know that stringency and efficiency are not here convertible terms. I know that that is not the strongest, that that is not the best measure at this time and for this purpose necessarily which is the most stringent in its provisions.

Sir, this bill must be framed, if framed for any good, with a view to its application to those upon whom it is to bear and to the means at the command of the people. It is not to be framed in any idea that any one section of the country is less disposed than another to furnish its men and money for this war. I admit the principle, and am willing to recognize it in the bill, that all of us from every State, every individual who is a loyal man, does owe his personal service to his country and must yield that service; that the Government has a right to demand it and the citizen must obey.

Now, in differing from those who urge this measure upon the country I am not to be put in the category of those who are unwilling to do all that is in their power at this time. What, sir, do we propose? We propose to combine the volunteer system with the draft; we propose to hold out inducements to every State in this Union to furnish volunteers up to the measure of the call of the Government. We propose to say to them, "Get your volunteers in just such way and in just such manner as your exigencies and your necessities require of you, provided you do not interfere with any other State in procuring their portion of this quota." And, sir, we say further to the people through the bill which we propose here, the House bill, that if in the end—and that end is sixty days—with all the inducements we are able to hold out, all the new fields presented, they are not able to procure the men that they are called upon to furnish, then no man in the country who yields to the doctrine that the Government has the right to the service of all its citizens in time of war has any occasion to complain when the law requires of him to stand the lot, and go if required, or furnish his man.

What is the objection to this? I understand the great feature of the objection is simply that though there are States in this Union who find from the character of their population and pursuits great difficulty in furnishing from within their own limits these men, they shall not be permitted to go elsewhere for them. I do not understand that it is charged that such States are unwilling to furnish the men, but that they have not the men. There are States of the Union that have been subjected to a draft these fifteen or twenty years, and their army has gone West, and furnish at this moment the staple of supply in many western States. There are States of this Union whose young men of the military age, between eighteen and forty-five, have been constantly drafted from among them and gone off into other States where there are held out other and greater inducements to make their homes; and they leave behind them the less rugged of their own age, and the older ones to be by them supported in the homes they leave.

Sir, there is scarcely an Iowa, Illinois, or Wisconsin regiment that has made a gallant charge upon the enemy during the last three years whose losses have not only carried sorrow to their homes in the West but have carried also lamentation and woe into the homes of fathers and mothers and brothers in the East. We have furnished from the East men for the West to send to the war, and we are glad that the West has had such invigorating blood sent into that new field. I say, sir, that the new regiments that have gone out and done honor to the West, of which it has a right to boast, have had in their ranks those whose glories won bring joy among the hills and valleys of New England also; and the bullets by which they fall reach also hearts and homes among those hills.

But our friends from the West seem to fail to recognize this fact. Look at the census. The census tells you that of men between the ages of eighteen and forty-five there is a very large percent. more in Illinois, in Indiana, in Wisconsin, in Iowa, in Minnesota, than there is in any single one of the New England States. We do not desire to shirk or avoid any portion of our responsibility or of our burdens upon this occasion. Not at all, sir. We will furnish all our men, so far as it is in our power, by volunteers, if you will let us procure those volunteers upon ground common to us all.

And there can be no objection upon the quality of the soldiers thus procured, because the United States themselves have been engaged in this same work. There can be no objection to our procuring them upon the reason that the soldier thus procured is not just as good as any other soldier, and that the procuring them upon this ground will deteriorate the character of the Army. What is the objection? I submit I have not heard from any quarter anything which seems to be in any respect a valid objection to granting to those States which have already been drained of their young men the right of going into the States declared to be in rebellion and there procuring such volunteers as they can induce to come into the service.

Mr. WILSON. I would ask whether the quotas for the several districts and States, made out under existing law and in accordance with the practice of the Department, are not determined by the number of enrolled men in the districts and States.

Mr. DAWES. If my friend from Iowa can tell how the quota is made up in any State he is the best mathematician I have seen yet.

Mr. WILSON. I understand the quotas are determined in accordance with the number of men upon the rolls; and that being the case, the State of Massachusetts has to furnish her proportion in accordance with the number of men upon her rolls in the same way that the State of Iowa and other States furnish their quotas.

Mr. DAWES. Mr. Speaker, whether they be assigned on the enrollment or on the population I do not know. Sometimes I am informed it is on the one and sometimes I am informed it is on the other. This much I know, that no arithmetic ever invented has been able to cipher it and to determine the rule by which these quotas are assigned. I do not mean to say there has been any design—for I do not think there has been—on the part of assigning officers to assign to any

State more than its share, or that any State has had in the aggregate more than its fair share assigned. But no rule such as is indicated by the gentlemen from Iowa [Mr. WILSON] will hold true when applied either to the State of Massachusetts or the State of Iowa.

Mr. WILSON. Mr. Speaker, the rule may not be a just one, but the injustice, if there be any, falls on the States who have the most men, in proportion to their population, liable to perform military duty; so that the injustice really falls on the western States.

Mr. DAWES. The fact is that no such rule as that the assignment is made on the enrollment lists has prevailed in the assignment of quotas.

Mr. SCHENCK. The original enrollment act, which has never been amended, provides that in assigning to districts the number of men to be furnished, the President shall take into consideration the number of volunteers and militia by and for the several States, and the period of service from the commencement of the present war. That is the law. In practice that assignment made by the President is on the basis of the enrolled militia of the several districts, or of the population between the ages of twenty and forty-five, not according to population, but according to the number of persons liable to draft. I speak merely of the law, and of the basis of assignment. As to the fact I do not know.

Mr. DAWES. Mr. Speaker, the gentleman from Ohio is very properly cautious in distinguishing between what is his construction of the law as he reads it and what is the practice under the law. I am not discussing that point with the gentleman. I will yield again to the gentleman from Iowa if he will give me one good reason why I should not be permitted to obtain my volunteer wherever I please; provided, first, that I get as good a one as he is; and, next, that I do not get anybody who belongs to him.

Mr. WILSON. If there are men within the military ages in States engaged in the rebellion against the United States, I believe those men should be enlisted by the General Government; and that in addition to those so enlisted by the Government, each State should be required to furnish its just proportion of the men to fill up the deficit in the Army. That makes it equal. Then all the men enlisted by the General Government in the southern States go to the credit of the whole country. That is the object of the enrollment bill, to cause every State to furnish its proper proportion.

There is one fact in connection with the population of the eastern States which the gentleman from Massachusetts leaves out entirely. That is that in the eastern States there is a larger proportion of men over forty-five years of age than there is in the western States; so that we of the West have more men liable to military duty in proportion to the population than the eastern States have.

Mr. DAWES. Does it lessen the burden that the old men are left among us? I do not propose, nor does the bill propose, to interfere at all with the United States in any effort they may make to recruit their armies on their general call anywhere in the rebel States. No such interference is contemplated by this bill, and no such interference will result from it. The object is merely that when the United States omits to enroll men, we may gather them up and put them into the ranks. But, sir, the other branch have refused to concur in our proposition by which we simply propose to put into the ranks those who would otherwise be scattered to the four quarters. That is what I complain of. I do not ask on behalf of the eastern States that they shall be permitted to take a single man that the United States proposes to enlist.

I ask gentlemen to bear in mind that the United States has been driven into this business of enlisting men on the part of the General Government by the East; that thousands of dollars, volunteer contribution, have been sent, secured by our own agents without asking that they should be put into the quota of any State, and the United States has engaged reluctantly in the business of enlisting just so far as it has been pushed, and no further; and it is not, therefore, because they want these men themselves that they object to this clause which we propose to put into the bill. There is no reason—no mortal man has given a reason or can give a reason, it seems to me—why

we should not be permitted, when we have not the men ourselves, to take these men which neither the United States nor the States which now oppose this provision take. And when it has been admitted that such men are fit to become soldiers, I ask again, is there any reason why we should not have the opportunity of bringing them in?

Now, Mr. Speaker, with such a bill, after this House has declared by a very large majority over and over again that no bill would be acceptable to them that had not a provision in it authorizing any State desiring it to go into the rebel States and recruit the wasted ranks of their regiments, and had sent this bill to the other branch of Congress, and after we had time and again, by unexampled majorities, decided that we could not force upon our people this draft without commutation, we assented to it at last because it contained the provision that we should have the privilege of going down to the rebel States and there recruiting our wasted regiments, giving us sixty days' notice. We then agreed by the bill that if we could not raise our men within that time we would take the draft without commutation.

Now, Mr. Speaker, I regret to be under the necessity of saying to those who look upon the true character of this measure and who know its effect upon the country, to those who know how much force it will take to execute this law, that I am unable to understand how, consistently with their desire to keep our armies filled, they will persist in enforcing this particular measure and in excluding the privilege we have asked, when we pledged ourselves by the bill we passed that if granted we will furnish our full quota of men under this law, by draft or otherwise, without the necessity of bringing any force to us from abroad.

Mr. SCHENCK. I yielded the floor to the gentleman from Massachusetts for a very few moments. I have promised to yield a portion of my time to some gentleman upon the other side, and I must therefore resume the floor.

Mr. FARNSWORTH. I desire to ask my friend from Massachusetts one simple question.

Mr. LE BLOND. I rise to a question of order. It seems as though this matter of debating this measure must all be on one side. I desire to know whether it is in order for a gentleman to hold the floor and yield it simply to those whom he may select?

The SPEAKER. The gentleman has the right to yield the floor for explanation of the pending measure.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, notifying the House that the Senate have passed without amendment bills and joint resolution of the following titles:

An act (H. R. No. 336) for the relief of Dr. Charles M. Wetherill;

An act (H. R. No. 550) to establish Colfax street, in the city of Washington, District of Columbia;

An act (H. R. No. 133) for the relief of William Sawyer and others, of the State of Ohio; and

Joint resolution (H. R. No. 113) to settle and pay the accounts of John S. Phelps, of Missouri, as a member of the Thirty-Seventh Congress.

Also, that the Senate have passed a joint resolution (H. R. No. 90) to refer the claim of Naham Ward back to the Court of Claims, with an amendment, in which he was directed to ask the concurrence of the House.

Also, that the Senate insist on their amendment to the joint resolution (H. R. No. 11) in relation to the claim of Carmack & Ramsey, agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. SHERMAN, Mr. ANTHONY, and Mr. LANE, of Kansas, the committee on the part of the Senate.

Also, that the Senate return to the House, in compliance with its request, the bill of the Senate (No. 151) relating to enlistments, and for other purposes.

Also, that the Senate have passed an act (No. 91) to quiet titles in favor of parties in actual possession of lands situated in the District of Columbia, in which he was directed to ask the concurrence of the House.

Also, that the Senate have agreed to the amendments of the House to bills of the Senate of the following titles:

An act (No. 233) making an additional grant

of lands to the State of Kansas to aid in the construction of a railroad and telegraph line; and

An act (No. 302) to encourage and facilitate telegraph communication between the eastern and western continents.

CONSCRIPTION BILL—AGAIN.

Mr. FARNSWORTH. The gentleman states that he will withdraw the force from the Army to enforce a draft. I want him to tell the House whether the State of Massachusetts intends to resist the draft.

Mr. DAWES. It was simple for the gentleman to put such a question to me. He and this House know very well that the State of Massachusetts does not intend to resist the draft. Massachusetts has dedicated herself and all she has to the support of the laws of the land and the subjugation of those who rebel against them.

If the gentleman wants to know what Massachusetts will do, I will tell him. She will do all of her duty, and will continue to bow to the law, whatever it is, so long as there is a dollar in her treasury or she has a single drop of blood to shed.

Mr. FARNSWORTH. She will fight with men from other States; she will buy men from the other States to do the fighting for her.

Mr. DAWES. She will get men everywhere that she can get them.

Mr. SCHENCK. All I desire myself is ten minutes in which to explain what the Senate has done; but I am perfectly willing to yield ten minutes of my time to the gentleman from Kentucky, [Mr. HARDING,] who is anxious to be heard on this question.

Mr. HARDING. I thank the gentleman from Ohio for his courtesy in yielding to me. It is proper that the discussion should not be confined to the other side of the House. The whole truth ought to be told, and it ought to be told at once. The members from Massachusetts ought to be willing to acknowledge that their whole effort is to throw the burden of their share of fighting in this war upon the negroes they may procure from other States. They might as well come up and face the music at once. They do not want to go themselves, but they want to send the negroes in their place, however those negroes may be obtained. This is a part of that demoralizing and destructive policy which the real disunionists of Massachusetts have inaugurated, and which I have ever denounced.

The great promises that they made in the first days of the war have not been fulfilled. Where are the nine hundred thousand men that Governor Andrew, of Massachusetts, told us would throng the highways from Massachusetts on their way to the Army? Where are they? Echo answers "where?" The fugitive slave law has been repealed and all the other things that they desire have been accomplished, and still these nine hundred thousand Massachusetts men remain at home. They have, on the contrary, sent out their slave-catchers into all the southern States to buy, to kidnap, to steal the black men, and to force them into the Army to fill up their quota. They will not go themselves, however much they have talked about giving up their last man; but they get these negroes and put them in the front and skulk behind them as we have seen for so many months. That is what they want. That is the right they are so tenacious about.

Mr. DAWES rose.

Mr. HARDING. No, sir; I do not yield the floor to the gentleman from Massachusetts.

Now, Mr. Speaker, I believe that this is a white man's Government. The white man, the white race, in my judgment, ought to carry on the war for its preservation. I believe that the people of no section of the country should be allowed to skulk behind the negro and force the black man where they are unwilling to go themselves. I am opposed to one State sending its agents into other States to kidnap negroes and virtually to buy and reenslave them. There has been great feeling heretofore on the part of the men who buy these negroes against the outrages charged by them to have been perpetrated upon the slaves, but they propose now to make them undergo every hardship and peril in order that they themselves be released from the just measure of responsibility which devolves upon them.

I understand, but I am not sure about it, that Massachusetts has already raised two regiments of negroes in the State of Ohio, and even if the

agents of Massachusetts are permitted to go down to South Carolina to buy two regiments of contrabands, they ought to go to pay for what has been taken from Ohio.

What the gentleman is declaiming against is, that the practice resorted to by Massachusetts is not recognized in this bill. Why, sir, the General Government ought to get all these men if they are desirable as soldiers, and if it is right to take them at all. There would then be that many more fighting men for the Government. But do not let the people of Massachusetts escape from the just burdens of this war by sending their agents upon southern soil to kidnap and reenslave these negroes by sending them into the Army. Massachusetts and all the other States ought to stand on their own bottom. If it is necessary that these men should be put into the service, let the General Government recruit down there. Let them be credited to all of the States, and not to the State of Massachusetts alone.

Let that be done and then let us see how this policy works. This is a part of that fanatical system which we have seen inaugurated by Massachusetts. If it had not been forced upon the country, the people of Massachusetts would not occupy the position they now do of hunting up negroes to fill their places in the Army.

But how is it now? You want to force the white soldiers to an equality with the negroes, force them to associate and to mess with them, and force them to fight with them. How would you like it yourselves, as much as you love the negro? Are you willing to take them into your embraces and make them your associates in this House? Would you be willing to sit by them here and vote with them? Of course you would not. And yet you want to force the white soldier in the Army into an equality with him. You have carried that policy so far that it has become odious, and all our troubles have arisen out of it. Our present condition is the fruit of your policy, and now you want to shrink from the bitter result; now the gentleman from Massachusetts wants to skulk behind the negro, and send after them the negro kidnapper. This is a beautiful commentary on the repeal of the fugitive slave law.

A few men are to be sent after them, and when you get them you send them into the Army. This Government will never be saved on any such policy as that. I say, the man who feels as he ought the just value of such a Government as this, the man who appreciates its worth, the State or community which appreciates its worth, never will want to send an inferior race before them to protect them and their rights. The best and most intelligent men you have, the men who appreciate to the highest extent the value of this Government are the men you ought to send into your armies. Will the gentleman say that his constituents are as ignorant and know as little about the value of this Government as the negro? Does he say that the negro will make as good a soldier and as intelligent a patriot as a Massachusetts man? Do you estimate the patriotism, the intelligence, the worth, and the love of country of the negro equal to those of your constituents? Do you? Sir, it is a perfectly plain case and every man with half an eye can see it. You have nothing to do but to furnish your own quota, and the gentleman from Iowa [Mr. Wilson] has already cut off one argument entirely. None of your young men have gone off from Massachusetts since this enrollment was made, unless they are deserters.

Now, sir, in Kentucky, where the war has beat upon us with all its fury and violence, where our horses have been stolen, property taken, and our people have been reduced in many cases almost to beggary and want, the voice of Kentucky has never come up here with any whining of this sort. We furnish our quota without negroes, and Kentucky would scorn at any time to call negroes to her help.

Mr. SCHENCK resumed the floor.

Mr. DAWES. I suggest to the gentleman that it is due to me that I should have an opportunity to reply.

Mr. SCHENCK. I will give the gentleman five minutes.

Mr. DAWES. I ought not to be limited to five minutes after the tirade which has been poured out upon Massachusetts and upon myself.

Massachusetts, Mr. Speaker, can take a great

deal of lecturing; she has already taken a great deal in this House, but it is not very comfortable to take it from Kentucky. The bones of Massachusetts' sons are bleaching on the soil of Kentucky to save that State from rebellion and treason. And whatever may be said of the representatives of Massachusetts in this Capitol, or of the Governor, when the President of the United States called upon the Governor of Massachusetts for troops to defend the Government he never insulted the Executive of this country by refusing to send men, as the Governor of Kentucky did. Whatever may be said of her representatives here, they have never been expelled from this and the other end of the Capitol for their treasonable utterances here. Sir, we have no rebel generals at the head of divisions and corps marching on to the slaughter of the Union men of this country. We have no men from Massachusetts who, because they failed to get the highest offices in the gift of the Government, turned traitors and led the young men of Massachusetts into treason and blood. Kentucky can tell whether she has. She has today more representatives in the rebel congress than in this.

Sir, Massachusetts has not called upon the General Government to help her save herself from treason. All the forces of the Government for the last three years have been called to the assistance of Kentucky, and they have just kept her head above the water; and no Kentucky man, with the history of the last three years written in blood before him, has the right to lecture Massachusetts, which has done her full duty and furnished all her men.

Talk about Massachusetts! Sir, let abuse of Massachusetts come from some other quarter than that, reeking as it is with treason and with blood from one end to the other, and the utterances of whose treason are only a remarkable instance of the forbearance of this Government until forbearance has almost ceased to be a virtue. [Applause on the floor.]

That is all I have to say to the tirade upon Massachusetts that comes from Kentucky.

Mr. HARDING. Does the gentleman allude to my remarks when he speaks of treasonable utterances?

Mr. SCHENCK resumed the floor.

Mr. HARDING. The gentleman from Ohio will allow me to ask the gentleman from Massachusetts a question.

The SPEAKER. Does the gentleman from Ohio yield to the gentleman from Kentucky?

Several Members objected.

Mr. SCHENCK. I do not.

The SPEAKER. Then the gentleman from Kentucky will resume his seat. The gentleman from Ohio has the floor.

Mr. SCHENCK. I desire to say that this is House bill No. 549.

Mr. WADSWORTH. We ought to have satisfaction on that point, and I am not satisfied that the gentleman from Massachusetts does not desire to preclude an answer.

Mr. COX. No objection can prevail against a member yielding for a personal explanation.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] has the floor. If he yields he must state to whom. If not the Chair will protect him in his right to the floor.

Mr. SCHENCK. I have not yielded.

The SPEAKER. Then the gentleman will proceed with his remarks.

Mr. SCHENCK. I desire, in a very few moments, to say to the House, so that it may understand what it is on which it is called upon to vote, that the bill now before the House is not the Senate bill proper, but House bill No. 549, which was finally passed in the shape given to it by the amendment offered as a substitute by the gentleman from Delaware, [Mr. SMITHERS.] It has been returned from the Senate with that substitute entirely struck out, the Senate substituting as an amendment an entirely new bill. Gentlemen will recollect that when the bill came back from the Senate first it contained as one of its sections a revenue clause providing for raising the money, by an income tax, for the payment of bounties; a very singular clause, by the way, inasmuch as the Senate had struck out everything in the bill relating to bounties. The bill having been returned to the Senate with a declaration on the part of the House that that section had been

placed there improperly and contrary to the constitutional rights of the House, the bill itself having no relation to a revenue measure, that section has been abandoned by the Senate, and the bill has been returned without it, as a substitute for the House bill.

This bill now before us does not repeal the commutation clause at all. The Senate—judging from what I have heard—imagined it had done so; but there is no repeal of the commutation clause in the bill. Then, instead of allowing enlistments in rebel States for the purpose of filling up the quotas of States, the Senate has introduced a section which makes it a penal offense to enlist a man in any State to fill up the quota of another State, and makes any officer engaged in it liable to dismissal.

Then the Senate put in something about the draft, after forty days' time being allowed for volunteering; and also put in some provision in respect to the pay and rations of matrons in hospitals. It also legislates upon three or four other matters of military concern, but having no special connection with an enrollment law or with the procuring of men under a draft. Now, I propose that the House do not concur in that amendment of the Senate.

Mr. DRIGGS. What about the enlistment of minors?

Mr. SCHENCK. The Senate has struck that section out.

Mr. LE BLOND. I hope my colleague will not move the previous question, but leave the Senate bill as it came to the House open, so that the House may make it as perfect as possible before the vote is finally taken upon it.

Mr. SCHENCK. The Senate bill as it has come to the House is, I presume, not in every respect as was intended by the Senate itself. For instance, they did not repeal the commutation clause at all. They have legislated upon various matters which do not belong to the bill at all, which have no pertinency to an enrollment bill. I hope the bill will now go to a committee of conference, and if the committee cannot agree the House will still have the remedy of falling back upon the original Senate bill, which is in the Committee on Military Affairs, and put that in such shape as will perhaps enable the two Houses to agree.

Mr. LE BLOND. Still, I do not see any objection before leaving this bill to perfecting it as much as possible.

Mr. SCHENCK. We have no time to spare, and I prefer to try this method, still retaining the original Senate bill as another string for our bow.

Mr. LE BLOND. I hope my colleague will at least yield to permit me to offer an amendment. If he permits the Senate amendments to be perfected before non-concurring we shall have more strings to our bow still.

Mr. SCHENCK. I prefer not to yield.

Mr. LE BLOND. Then I move that the House adhere to its original amendments.

Mr. SCHENCK. The House has made no amendments.

Mr. KERNAN. The Senate as I understand have yielded to the House in retaining both the commutation law and the substitute law.

Mr. SCHENCK. The House passed a bill which repealed the commutation law.

Mr. KERNAN. Exactly, and the Senate struck that out, leaving the commutation law and the substitute law in accordance with the position originally taken by the House. Now I propose that we concur with the Senate in all its amendments except the one in relation to enlistments in the rebel States, and ask a conference upon that.

Mr. SCHENCK. I cannot consent to that. The House it is true originally opposed the repeal of the commutation clause, but upon its sober second thought reversed its decision, and as the House has now come to that conclusion I should prefer not to agree with the Senate in what the Senate did not intend to do while leaving the commutation clause standing.

Mr. KERNAN. The sober third thought of the House, however, may be in favor of retaining the commutation clause.

Mr. SCHENCK. I demand the previous question.

Mr. STEVENS. If the previous question is sustained can we vote separately upon the amendments?

The SPEAKER. The amendment of the Senate is to strike out and insert, and is indivisible.

Mr. WADSWORTH. Did the Senate strike out the House bill?

Mr. SCHENCK. They struck out certain portions of the House bill, and thought they had struck out the commutation clause. One Senator told me he thought he had voted upon the commutation and found he had not. I demand the previous question.

Mr. HARDING. I appeal to the gentleman from Ohio to allow me to have a few minutes to ask the gentlemen from Massachusetts [Mr. Dawes] a question in relation to the personal attack made upon me.

Mr. SCHENCK. If the gentleman will rise to a personal explanation after this business has been disposed of, I presume there will be no objection. I desire first to get this matter out of the way.

Mr. HARDING. I do not think this matter will be out of the way very soon.

Mr. GANSON. I hope I may be permitted to ask one question. I do not desire that this House shall vote under a misapprehension.

The SPEAKER. Debate is not in order.

Mr. GANSON. I ask permission to make an explanation.

Mr. HIGBY. I object.

The House divided on seconding the previous question; and there were—ayes 68, noes 62.

Mr. THAYER demanded tellers.

Tellers were ordered; and Mr. SCHENCK and Mr. LE BLOND were appointed.

The House again divided; and the tellers reported—ayes 43, noes 60.

So the previous question was not seconded.

Mr. LE BLOND obtained the floor.

Mr. HARDING. I ask the gentleman from Ohio to yield to me for a few moments.

Mr. LE BLOND. I yield to the gentleman with pleasure.

Mr. HARDING. I had not the opportunity, Mr. Speaker, when up before to finish my remarks. When I was taken from the floor, I was about remarking that this was the legitimate fruit of that policy which sought long since to press negroes and slaves into the Army instead of white men. If this policy is carried on, if the gentlemen from Massachusetts are permitted to carry out this policy, and instead of giving white patriots, white men to the Army, they are allowed to go into the South and gather up a horde of negroes to fill their quota and place them in the Army, what will be the result? Why, sir, you will see the Army of the United States degenerate to a mere mob of negroes and foreigners. From the way we have been going on, I apprehend we are destined to reach that point very soon. It will be a disgrace to the nation and to our patriot ancestors.

Let this thing go on, sir; let the gentleman's policy prevail, and you will have Massachusetts dodging and skulking from her duty behind these negroes. These negroes can be obtained in various ways in the southern States, where there are swarms of starving contrabands. They can be decoyed away, and that has been done in the State of Missouri and is being done now in the State of Kentucky. They are, sir, carried off by force by recruiting agents. They are not merely carried off into slavery, but into a condition where thousands of them will meet death upon the battle-field.

In what I said in reference to foreigners, I alluded to that class which is now being imported into this country. I honor the foreigners who come here and take up their residence among us.

Now, sir, let the policy now inaugurated be permitted to go on and it will make the Army of the United States a disgrace to the nation. The object of the gentleman in the remarks which he made a little while ago is very plain. Instead of meeting the points which I brought to bear against him directly and fairly in the face he tried to raise a dust to cover his retreat by abusing Breckinridge and other men who had gone into the southern rebellion. The gentleman from Massachusetts can exhaust all the gall and venom in his composition, and ten times more, if he had it, in abusing Breckinridge, and then he would not be half abused. It is true that Breckinridge is a traitor, but it is also true that he was hand in hand with Major General Benjamin F. Butler

not long since. There is not much difference between them now, that I know of. It is said, however, that Breckinridge is the dearest man of the two. [Laughter.]

The gentleman talks about Kentucky. I say that Kentucky has proved her loyalty beyond all question. She stands this day, notwithstanding the recreancy of some of her sons, occupying a position which she would not blush to compare with that of Massachusetts. I believe, sir, she would not suffer by comparison with any other State. Look where she has been placed and what she has done. Dangers and trials have surrounded her. Although some of her sons have proved traitors, although her fields have been destroyed, although her soil has been made the battle-ground for both contending armies, and her people have been ravaged in every way, still what has she done? She has done forty times more for the Union than Massachusetts ever did or ever will do. You men of the North have not been tried; your soil has not been made the battle-field. The border States have not had justice done to them. Why, sir, had Missouri and Maryland and Kentucky gone with the South instead of remaining true to the Union, you would not have been occupying seats here to-day. Exposed, tempted, and tried as they were, they still stood firm; had they gone off you would not now occupy a seat upon this floor; the capital would have been taken long since. If this Union is ever restored it will be because these border State men have breasted the storm. My State has been the battle-ground; she has stood between you and danger like a breastwork while you have skulked behind and abused her. You have been making money all the time, growing rich—your contractors and others fattening on the tears and blood that have been shed, while my constituents have become poor, and portions of my State been made a desolation. We have had the war upon us, and know all about it by experience. Our State has been the battle-field, while you were far removed from the scenes of terror.

Now, with what grace can the gentleman from Massachusetts rise up here and reproach Kentucky because there have been a few men there who have proved themselves traitors? And yet there are not more than there have been and now are in Massachusetts. Open and avowed disunionists and traitors have existed in Massachusetts for forty years. I can easily prove that there have been many of them there long before this struggle commenced; and South Carolina and Massachusetts, when the day of reckoning comes, will be found responsible for this war which has plunged my State into such distress.

Sir, I retort upon the gentleman from Massachusetts that many men in that State have proclaimed the Union our ancestors formed "an agreement with death and a covenant with hell." I do not desire to tarnish the name of Massachusetts at all, but if you want to compare men I can point to as great disunionists in Massachusetts as Breckinridge ever was. Are you willing that the Union shall be restored with the Constitution as it is and the Union as it was?

Mr. DAWES. Mr. Speaker, I am for the Constitution as it is and the Union to be restored as far as it can be, and—

Mr. HARDING. That is enough. The gentleman this very day offered some resolutions in regard to Arkansas which I desired to see a vote taken on, for I wanted to see who would take ground in favor of them. The second resolution offered by the gentleman declared that no State shall ever return into the Union until slavery is abolished. If that resolution expresses the sentiments of its author, then the gentleman is opposed to the Constitution as it is and the Union as it was.

I know of but one test of loyalty, and that is to be true and faithful to the Constitution; and he who is against the Constitution as it is and the Union as it was is disloyal and a disunionist in the strictest sense of the term. He must be for the Constitution or against it. Take that as a test, and I will compare Kentucky with Massachusetts.

But, sir, I intended to reply to some of the concluding remarks of the gentleman from Massachusetts. After skulking behind the negro, it was cowardly to kick a dust to cover his retreat by making an attack on Kentucky and her Representatives. I understood the gentleman, in sub-

stance, to say that Representatives from Kentucky had uttered treasonable sentiments until it was no longer bearable. If the gentleman referred to me I want to know it, and what remark of mine he referred to.

Mr. DAWES. If I can have the floor to answer, I will answer.

Mr. HARDING. I yield to the gentleman to answer whether he alluded to me.

Mr. DAWES. If the gentleman will allow me to answer as I choose to answer, I will do so. Will the gentleman permit me to answer as I choose?

Mr. HARDING. Certainly, answer my question.

Mr. DAWES. I shall make no answer until I get an answer to my interrogatory, which is, shall I be permitted to answer the interrogatory as I choose?

Mr. HARDING. I do not put an answer in your mouth, and you cannot get out of it in that way. I ask you to answer the question.

Mr. DAWES. I have had experience in attempting to answer the gentleman's interrogatories, by being shut off in the midst of my answer. I will answer any interrogatory put to me if I be permitted to answer as I choose. Otherwise I will not answer any interrogatory.

Mr. HARDING. Then the gentleman may take his seat.

Mr. DAWES. The gentleman does not choose that I shall answer him.

Mr. HARDING. I do not restrain the gentleman at all. That is another method of covering up his track. I did not embarrass the gentleman at all. I said I yielded for the purpose of his answering the question. And then he gets off from answering at all by the reply he has made. I hope the gentleman did not intend to apply that language to myself, though I am not certain whether he did or not. While I speak with warmth the real sentiments of my mind, I am not conscious of having uttered any sentiment now or at any time that is treasonable except in the eyes of some abolitionist of Massachusetts or the North who never was loyal, and never will be, and who does not know what loyalty is. If the gentleman intended to say that I utter treasonable and disloyal sentiments, I hurl back the assertion upon him as false. He has no ground for making such insinuations against me or any other Unionist of Kentucky, and if he intended it as applicable to me, I denounce it as a slander and a falsehood. I will not use the language of the gentleman from Missouri, [Mr. McClure,] as that would not be parliamentary.

What is loyalty? The test of loyalty is our willingness to stand by the Constitution of Washington and the fathers. Are you willing to stand by that, as you swore to do? If I had the opportunity and time I could convict some gentlemen before any jury of not having stood by it according to the strict interpretation of their oath. I repeat, the test of loyalty is, are you for or against the Constitution of the fathers? Do you stand firmly on the rocky foundation on which Washington and the fathers stood? You say, and say truly, that the rebels of the South have ignored that foundation and have made slavery the cornerstone of the confederate government. They are therefore rebels. But many of you, too, have rejected that foundation and are seeking to build up a government on the corner-stone of abolitionism. And to that extent you are in open rebellion against the Constitution of the fathers, just as much as the rebels in the South are. Any man, whether in South Carolina or in Massachusetts, who seeks to build on another foundation than that laid by Washington and the fathers is a rebel and a disunionist.

And yet the gentleman from Massachusetts threw out insinuations about the loyalty of Kentucky—a border State which has bared her breast to the storm of war. The fury of that storm has converted many of her fruitful fields into places that present the very baldness of desolation. While, as the gentleman from West Virginia [Mr. Whaley] said some time ago, "many of you never smelled gunpowder," the people of Kentucky have been passing through scenes of terror and blood. The border States have stood firm, and have rolled back the fiery tide of southern revolution. If it had overrun any of those border States, if it had overrun Kentucky, it

would have swept over Ohio and Indiana, and, last and least of all, it might have even reached the State of Massachusetts.

Mr. LE BLOND. I offer the following as an amendment to the last section of the bill:

Provided, That no levy of troops shall be made under the provisions of this act, except by volunteering, till such time as the President of the United States shall have made a request for an armistice and shall have made such efforts as are consistent with honor to restore harmony among the States by the appointment of commissioners empowered to negotiate for peace upon terms of the restoration of the Union under the Constitution, and until such efforts shall have been rejected by the so-called confederate government.

Mr. Speaker, I do not, at this late period in the session, propose to occupy the time of the House but for a few moments, and would not do so at all did I not believe that humanity and the good of our common country demand some efforts for peace and restoration other than those resorted to by the party in power.

The necessity for a resort to peaceful means may be found in the argument of my colleague [Mr. GARFIELD] when this bill was before the House last week. After the House had by a very decided vote refused to repeal the commutation clause, he then said that it was, in his judgment, a vote cast against the prosecution of the war, and that men could not be induced to go into the Army. What, sir, does this argue, if true, but that the people are sick at heart of this war, at least under present rule and for the object they openly avow, the freedom of the slave?

If the people are opposed to the further continuance of this conflict of arms, then, sir, the war must cease, for they are the power in this Government if permitted to speak, act, and vote. I believe, sir, the people are tired of prosecuting this war under the policy adopted by this Administration, and at the November election will make such a change of rulers as will redound to the good of the whole country.

The chairman of the Military Committee [Mr. SCHENCK] in his speech said that the people did not complain against a vigorous prosecution of the war, but did complain of the vacillation of the Government, and the want of energy and purpose. I am pleased to get such a confession from that side of the House, for we have been trying to impress upon the mind of the people the total want of ability in this Administration to either make war or contract peace, and that for the good of the country a change was necessary.

But my colleague [Mr. SCHENCK] said that slavery was the cause of the war, and that he was now in favor of waging this war till the root of the evil was destroyed. Why did not my colleague so say to the people of his district at the time he was a candidate for election to the seat he now occupies? Sir, he knew too well the wishes of that people. They were not then and are not now in favor of war for such a purpose. Had my colleague's views been known to the people of his district, this day would the name of Vallandigham be called from the Clerk's desk on all votes instead of my colleague's.

The view advanced by that gentleman is but the settled purpose of this weak and imbecile Administration, and in it you can find one potent reason for the people's refusal to go into the service. Had that doctrine been understood by the people, you never could have raised men to strike the first blow in this fratricidal war. If you have not changed the policy and object of this war, you have at least become sufficiently bold to admit now what we charged you have intended for two years past to do, and which you denied till your acts have forced an admission.

Then it is for this purpose that over two million freemen have been taken from their homes to the battle-field; for this one half of that number lies beneath the sod; for this the nation is clothed in mourning; for this the people are taxed almost beyond endurance, and now, when in your judgment the people refuse voluntarily to enter the service, you propose to close every avenue to their escape by the repeal of the commutation clause, and force an unwilling people into a war waged confessedly for the freedom of the slave.

Sir, it is time, high time that this Congress were making some efforts other than devising ways and means to raise money to keep in motion the wheels of Government, and men to fill our decimated ranks. Let us try for once at least the peaceful means indicated in my amendment. We

have evidences sufficient to justify an effort on our part, and it would for the time stop this effusion of blood without placing us in any worse condition than we are now in, but in my judgment in a better condition. Whether it will or will not be done rests with that side of the House, and they dare not try the experiment, lest the Union may be restored by compromise and slavery still live.

Mr. Speaker, for a time I had hopes that the commutation clause would be retained. I saw the Massachusetts delegation and others, numbering about twenty, arrayed against its repeal, and supposed they would be found true to the end, but to my surprise they have deserted their grounds. We are told by the gentleman from Massachusetts [Mr. DAWES] that an arrangement had been made giving sixty days to recruit in, and that he thought his State would be able to fill her quota; therefore he went for the bill. Then, sir, there has been a bargain and sale made, and the bill shaped to suit the wishes of Massachusetts and enable her to go into my State and others to purchase negroes to offset against the white men from other States.

Mr. BOUTWELL. I ask the gentleman from Ohio what he means by bargain and sale.

Mr. LE BLOND. I will tell the gentleman what I mean. Massachusetts was consulted, and sixty days to recruit in given to secure the votes of those twenty members.

Mr. HOTCHKISS. I will answer for the men who first refused to vote for that bill. I will not interrupt the gentleman now.

Mr. LE BLOND. I would prefer having the gentleman answer now, and will yield for that purpose.

Mr. HOTCHKISS. I will say that it is not chargeable to Massachusetts. I will not take up the time of the gentleman now, but I will get the floor when he has finished his remarks.

Mr. LE BLOND. Mr. Speaker, I suppose this bill or some other repealing the commutation clause will be passed before the adjournment of this session, and the foundation laid to enable this Administration to carry out its long-cherished idea that "this Government cannot exist one half slave and the other half free," and to accomplish this purpose there is to be no cessation of hostilities, no terms of compromise offered based upon the restoration of the Union. I shall not trespass longer upon the patience of the House, hoping that at the coming election the judgment of the people will decide in favor of trying some other means for peace than the mere use of the sword and bristling bayonet, and that the time may soon come when peace and union may again exist in our land.

Mr. STEVENS. I think we have had about talk enough for the present, and as none of us understand this bill so as to know how to vote upon it this evening, I move that its further consideration be postponed until to-morrow, and that it be printed.

Mr. SCHENCK. In what condition then will this bill be?

The SPEAKER. If the House should adjourn now, it would come up as unfinished business immediately after the reading of the Journal to-morrow morning.

Mr. STEVENS. I hope we shall not adjourn, as it is necessary that we should remain in session so that the President can sign the tariff bill, which is to go into effect to-morrow.

Mr. THAYER. I move the previous question upon the pending amendment, and upon it demand the yeas and nays.

The SPEAKER. That will not be in order pending the motion to postpone.

Mr. STEVENS. I move the previous question upon the motion to postpone.

The SPEAKER. If it is postponed and the House does not adjourn now, the Chair cannot say when it will come up.

Mr. FARNSWORTH. I move that the House adjourn.

The motion was not agreed to.

QUARTERMASTER'S DEPARTMENT.

Mr. SCHENCK, from the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 154) to provide for the better organization of the quartermaster's department, reported that—

The committee having met, after full and free confer-

ence have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its first amendment.
That the Senate agree to all the amendments of the House after the said first amendment, except the thirty-first amendment.

That the Senate agree to the thirty-first amendment of the House with the following amendments, to wit: strike out all after the word "department" in line eighteen down to and including the word "general" in line twenty-three of said amendment; also strike out all after the word "that" in line thirty six down to and including the word "department" in the thirty-eighth line of the said amendment; and the House agree to the said thirty-first amendment as amended.

HENRY WILSON,

LYMAN TRUMBULL,

L. M. POWELL,

Managers on the part of the Senate.

ROBERT C. SCHENCK,

ELIJAH WARD,

Managers on the part of the House.

Mr. SCHENCK. I demand the previous question upon agreeing to the report of the committee.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the report was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. FARNSWORTH. I move that the House adjourn.

LEAVE OF ABSENCE.

On motion of Mr. FINCK, leave of absence was granted him on account of sickness.

Mr. ROLLINS, of Missouri. I ask leave of absence for my colleague, Mr. SCOTT, on account of sickness.

Leave was granted.

ADJOURNMENT OVER.

Mr. WASHBURN, of Illinois. I move that when the House adjourns, it adjourn until Monday next.

The motion was not agreed to.

CONSCRIPTION BILL—AGAIN.

The House resumed the consideration of the conscription bill.

Mr. STEVENS. I ask a vote on my motion that the bill and amendments be printed.

The question was put, and the motion was agreed to.

Mr. STEVENS. I withdraw my motion to postpone.

Mr. THAYER. I insist upon my demand for the previous question upon the amendment to the amendment offered by the gentleman from Ohio, and call for the yeas and nays upon the amendment.

Mr. COX. I move to lay the whole subject on the table.

Mr. FARNSWORTH. I moved that the House adjourn, and my motion is first in order.

The SPEAKER. The gentleman is correct. The motion to adjourn was not agreed to.

The question being on Mr. Cox's motion to lay the whole subject on the table,

Mr. DENISON called for the yeas and nays, and for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.
The motion was rejected; there being, on a division—yeas 43, noes 57.

The question recurred on seconding the previous question on Mr. LE BLOND's amendment.

The previous question was seconded, and the main question was ordered.

Mr. THAYER called for the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 11, nays 89, not voting 82; as follows:

YEAS—Messrs. Ancona, Bliss, Edgerton, Finck, William Johnson, Long, Noble, John O'Neill, Pendleton, Ross, and Chilton A. White—11.

NAYS—Messrs. Atlay, Allison, Ames, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Blair, Boutwell, Broomall, James S. Brown, William G. Brown, Cole, Cresswell, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, English, Farnsworth, Fenton, Frank, Ganson, Garfield, Gooch, Griswold, Hale, Harding, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Ingersoll, Jewkes, Julian, Kalbfleisch, Kelley, Kernan, Littlejohn, Loan, Longyear, Malory, McAllister, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spaulding, Stevens, Stuart, Sweat, Thayer, Thomas, Tracy, Upson,

Van Valkenburgh, Wadsworth, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, Winfield, and Woodbridge—89.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Arnold, Augustus C. Baldwin, Blaine, Blow, Boyd, Brandegee, Brooks, Chandler, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Coffroth, Cox, Cravens, Henry Winter Davis, Thomas T. Davis, Dawson, Deming, Denison, Dumont, Eden, Eldridge, Grider, Grinnell, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, John H. Hubbard, Hutchins, Philip Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knapp, Knox, Law, Lazear, Le Blond, Marcy, Marvin, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Daniel Morris, James R. Morris, Morrison, Nelson, Odell, Perham, Perry, Pike, Pomeroy, Price, Pruyn, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Scott, Smith, Starr, Stebbins, John B. Steele, William G. Steele, Sittes, Srouse, Voorhees, Ward, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—82.

So the amendment was rejected.

During the call of the roll,

Mr. WASHBURN, of Illinois, stated that his colleague, Mr. ARNOLD, was detained at his room by sickness.

Mr. HERRICK stated that he was paired off with his colleague, Mr. KELLOGG.

Mr. KELLEY said, Mr. Speaker, I am paired off on general subjects with Mr. ODELL, but as he would unquestionably vote as I on this question, I do not consider the pair binding. I vote no. I would be doing him injustice if I were to assume that he would vote otherwise.

Mr. WILDER stated that Mr. KNOX was paired off with Mr. JOSEPH W. WHITE.

Mr. MCBRIDE stated that Mr. McDOWELL was paired with Mr. MCINDOE.

The vote was announced as above recorded.
And then, on motion of Mr. SCHENCK, (at twenty-five minutes past ten o'clock, p. m.,) the House adjourned.

IN SENATE.

FRIDAY, July 1, 1864.

Prayer by Rev. B. H. NADAL.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal was dispensed with.

AMENDMENT OF CONSCRIPTION LAW.

Mr. LANE, of Indiana, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill of the House (No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes, with the amendments of the Senate thereto, for the purpose of correcting an error in the engrossment of the said amendments.

PETITIONS AND MEMORIALS.

Mr. FOOT presented seven petitions of citizens of Vermont, praying for the passage of the bill (H. R. No. 276) to secure to persons in the military or naval service of the United States homesteads on confiscated or forfeited estates in insurrectionary districts; which were ordered to lie on the table.

Mr. TEN EYCK presented resolutions of the clerical and lay members of the Diocesan Convention of New Jersey in favor of exempting clergymen from liability to do military duty; which were ordered to lie on the table.

Mr. WILSON presented a petition of citizens of Washington, District of Columbia, praying for the passage of the bill (H. R. No. 186) to incorporate the Baltimore and Washington Depot and Potomac Ferry Railroad Company; which was ordered to be laid on the table.

Mr. BROWN. I desire to present the petition of Rev. Ernst Brey, Esq., Professor R. L. Tafel, Charles P. Johnson, P. Barth, and others, citizens of St. Louis, setting forth that "it is the duty of the State to educate its children *without any exception*," and calling the attention of Congress to that subject as a matter of "national importance," and asking "the action of Congress upon the subject as set forth in the petition" to the end therein predicated. The petition is accompanied by an explanatory statement of the reasons which support the prayer of the petitioners. I move that the papers be laid on the table for the present.

The motion was agreed to.

BILL INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 344)

authorizing the corporate authorities of the city of Washington to increase the funded debt of the said city of Washington; which was read twice by its title.

EXECUTIVE SESSION.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

NAVAL SUPPLIES.

Mr. HALE. Mr. President, I am instructed by the select committee on naval supplies to make a report accompanied by a bill, and at the same time to say to the Senate that as the report is not the unanimous act of the committee, individual members of the committee have deemed it their duty to present their several views on the matters discussed in the report, and I am instructed to report those papers also, so as to have the distinct views of all the committee, and to move that they all be printed.

The motion was agreed to; and the bill (S. No. 342) to amend a "joint resolution authorizing the Secretary of the Navy to adjust the equitable claims of contractors for naval supplies and regulating contracts with the Navy Department," approved March 3, 1864, was read, and passed to a second reading.

On motion of Mr. DOOLITTLE that two thousand additional copies of the papers be printed for the use of the Senate, and five thousand copies for the use of the Navy Department, it was

Ordered, That the motion be referred to the Committee on Printing.

Mr. HALE. I desire to make a very brief statement on this subject. The other day after the report was presented—I was not in the Chamber at the time—my friend from Wisconsin made some remarks that were reported to me as not very pleasant. I simply wish to state in that connection that when I presented the report the other day I presented it in strict accordance with what I understood to be the agreement of the committee. It seems I was mistaken so far as the Senator from Wisconsin was concerned; but I presented it in the presence of the other members of the committee, and in strict accordance with what I understood to be the agreement of the committee.

Mr. DOOLITTLE. The Senator from New Hampshire says that he made the report in accordance with what he understood to be the understanding of the committee. I will state what my understanding was. As the committee did not agree in a report, each member of the committee proposed to submit his views for himself, the chairman's views to be signed by himself, and the views of the honorable Senator from Pennsylvania [Mr. BUCKALEW] and myself to be submitted by us. The committee agreed on the bill which has been reported and that the evidence should be printed and submitted to the Senate, but did not agree on the inferences and conclusions to be drawn from the evidence, and each one was to give his opinion for himself. The Senator from New Hampshire called upon me in my seat yesterday morning and we had a conversation on the subject, and I understood from that conversation that as Mr. BUCKALEW, our colleague, had not yet had time to write out his views the whole matter should go over until this morning before the case should be presented to the Senate. I so understood it. When I came into the Senate afterwards and found that the Senator from New Hampshire had made a report claiming to be the report of the committee, I called upon the Senator from Pennsylvania in relation to it, and he informed me that the Senator from New Hampshire had informed him that I had consented to it, and understanding that I had consented he yielded his assent and would submit his views this morning. I certainly understood, however—the Senator from New Hampshire may have understood it otherwise, and as he says he understood it otherwise I shall say it is simply a misunderstanding between us—that the whole matter was to go over until this morning. When I found the report had been made I did speak of it to the Senate, and it was not so much in what I did say as, perhaps, in what I did not say that I manifested my feelings of surprise and to some extent my feelings of indignation at what I sup-

posed was a violation of the understanding; but as the Senator from New Hampshire says expressly he understood it otherwise, I afterwards said I could make no further statement in relation to it and am bound to let the matter pass.

LAND IN WALLABOUT BAY.

Mr. HALE. I am directed by the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 561) to authorize the United States to acquire land in Wallabout bay belonging to the city of Brooklyn, and to authorize the exchange of other lands therefor, to report it without amendment; and as it is a bill of only about six lines, involving no appropriation, but simply proposing an exchange of lands, I hope the Senate will consider it now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which authorizes the Secretary of the Navy to negotiate with the city of Brooklyn for an exchange of lands in Wallabout bay between the United States and that city, and thereupon to make, execute, and deliver good and sufficient deeds and releases therefor.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPORTS FROM COMMITTEES.

Mr. HALE, from the Committee on Naval Affairs, to whom were referred the following bills, reported them severally with an amendment:

A bill (S. No. 330) to amend an act entitled "An act to establish and equalize the grades of officers of the United States Navy;"

A bill (H. R. No. 534) to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes.

He also, from the same committee, to whom was referred the memorial of Alfred Jones, of Missouri, reported a bill (S. No. 343) making an appropriation for testing submarine inventions; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred a memorial of masters in the Navy, not in the line of promotion and attached to navy-yards, asked to be discharged from its further consideration; which was agreed to.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print four thousand copies of the internal revenue act last passed by Congress, with an index to be prepared under the direction of the Secretary of the Treasury, for the use of the Senate, reported it without amendment.

The Senate proceeded to consider the resolution; and it was agreed to.

Mr. ANTHONY, from the Committee on Printing, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That two thousand copies of the tariff act last passed by Congress, with an index to be prepared under the direction of the Secretary of the Treasury, be printed for the use of the Senate.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (H. R. No. 542) to regulate the pay of paymasters and military storekeepers of ordnance, reported it without amendment.

EXPENSES OF PENNSYLVANIA MILITIA.

Mr. COWAN. I move that the Senate postpone all prior orders, and proceed to the consideration of House bill No. 117.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 117) to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion, the pending question being on the amendment of Mr. TEN EYCK to strike out the following proviso to the first section of the bill:

Provided, That the expenses of none of the militia of any State shall be paid under this act who refused to be mustered into the service of the United States.

The question being taken by yeas and nays, resulted—yeas 28, nays 2; as follows:

YEAS—Messrs. Anthony, Clark, Conness, Cowan, Davis, Doolittle, Foot, Grimes, Hale, Harris, Hendricks, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Powell, Ramsey, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Willey, and Wilson—28.

NAYS—Messrs. Pomeroy and Saulsbury—2.
ABSENT—Messrs. Brown, Buckalew, Carlile, Chandler, Collamer, Dixon, Fessenden, Foster, Harding, Harlan, Henderson, Hicks, Howard, Howe, Richardson, Van Winkle, Wade, Wilkinson, and Wright—19.

So the amendment was agreed to.

Mr. DAVIS. I offer the following amendment as a new section:

And be it further enacted, That any other troops from any other State received into, and actually serving in, the Army of the United States, whether regularly mustered in or not, and who have not been otherwise provided for, shall receive the same pay and all other emoluments that they would be entitled to if they had been regularly mustered into such service.

The amendment was agreed to.

Mr. SHERMAN. I should like to have that last amendment read. I did not hear it.

Mr. COWAN. It is a new section. Owing to the change which has been made in the first section of the bill it will require an additional appropriation in order to meet the claims upon the Treasury. The money paid by individuals and corporations of Pennsylvania for the payment of troops called into service by her will amount to about seven hundred thousand dollars. The first section appropriated that sum for their payment. But by the amendments which have been made in that section it is now proposed to pay the troops from New Jersey and New York who assisted to repel that invasion. I therefore propose to strike out the word "seven" in the tenth line of the first section, and to insert "twelve;" so as to make the appropriation \$1,200,000. I suppose that will cover all the troops included. I understand that the troops from New Jersey require about forty thousand dollars to pay them. The amount disbursed by the State of New York in the payment of her troops has not been ascertained exactly, but \$1,200,000 will cover all, and I hope, therefore, this amendment will be made.

Mr. GRIMES. It occurs to me that will not be near enough. I think the Senator from Kentucky told us the other day that the amount which would be due to his State from the United States would be about three hundred thousand dollars, and he has put on a section that I suppose is intended to cover that amount.

Mr. DAVIS. Will the honorable Senator permit me to explain?

Mr. GRIMES. Certainly.

Mr. DAVIS. I have no doubt that \$20,000 will cover every dollar that Kentucky would be entitled to under this amendment; at least I should be willing to restrict it to that amount.

Mr. WILSON. Will the Senator tell the Senate precisely what the payment is to be for? Of course we want to know that.

Mr. DAVIS. I have explained it about twenty times in the Senate during the last session and the present. There were two regiments in Kentucky that were engaged in two battles; some of them were killed and others wounded and discharged, without being regularly mustered into the service, and I just want to meet their cases.

Mr. GRIMES. I understand the Senator from Kentucky to say that the amount in his estimation would not exceed \$20,000, and that he is willing to restrict it to that amount.

Mr. DAVIS. I am.

Mr. GRIMES. I therefore propose to reconsider the vote adopting that amendment in order to add the following proviso to it:

Provided, That the amount to be appropriated under this section shall not exceed the sum of \$20,000.

Mr. COWAN. I hope the honorable Senator from Iowa will allow my amendment to pass first, and then his will be appropriate to the section moved by the honorable Senator from Kentucky.

The PRESIDENT *pro tempore*. The Senator from Iowa moves to reconsider—

Mr. COWAN. I have a motion pending. I moved to amend the first section in the tenth line by striking out "seven" and inserting "twelve," and that is now the pending motion, I believe.

The PRESIDENT *pro tempore*. The Chair did not understand the Senator to have made the motion to amend. The question will be on the amendment proposed by the Senator from Pennsylvania.

Mr. GRIMES. I desire to call the attention of the Senate to that amendment. Nobody seems to be paying any attention to it. The amount now fixed in the bill is \$700,000. The Senator from Pennsylvania has told us that the amount

that will be necessary to pay the New Jersey troops will be only \$40,000; and now, in order to pay that \$40,000, he proposes to raise the appropriation up to \$1,200,000.

Mr. COWAN. New York has to come in, and that will take three or four hundred thousand dollars.

Mr. GRIMES. But the Senator from New York told us that his State did not make any claim at all.

Mr. COWAN. Very well; then the money will not be paid. If they will withdraw it, I am perfectly satisfied.

Mr. GRIMES. I do not think it is wise for us to be making appropriations for the benefit of States that do not prefer any claims against us.

Mr. COWAN. Then I move to except New York.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania to strike out "seven" and insert "twelve" in the tenth line of the first section.

Mr. BROWN. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. COWAN. I hope the Senate will understand this question. I have only to say that the first section of this bill originally passed the House of Representatives and was brought here for the purpose of paying the troops from Pennsylvania, and the sum of \$700,000 was appropriated for that purpose. The Senate have amended it, however, so as to provide for the payment of all the troops that assisted to repel that invasion. If all the troops are to be paid, \$700,000 is not enough, because it requires about that sum to pay the troops from Pennsylvania. I have therefore moved to increase the sum from \$700,000 to \$1,200,000 in order to cover the troops from New Jersey and New York. I understand the amount required to pay the troops from New Jersey to be \$40,000. It is intimated here that New York does not desire an appropriation to be made for the payment of her troops, and if that be the case I shall be glad to know it. If that be so, she can be excepted from this arrangement and there will be no difficulty about it. If, however, she is to be paid, the amendment I have offered raising the appropriation from \$700,000 to \$1,200,000 ought to be adopted, I think; and that is the question which is now before the Senate. If the honorable Senators from New York will say they are not anxious to be included within this arrangement, then we shall make other provisions which will be acceptable to ourselves and to them too if they withdraw any claim to be paid under this bill. I hope, however, without such a disclaimer on their part, that the amendment I offer will be adopted.

Mr. HARRIS. New York has made no claim for remuneration for these expenditures; I do not think New York would have made a claim; but Pennsylvania having made a claim for reimbursement of the sums paid to her own soldiers defending her own soil, and as New York will be called upon to pay about one fifth of the amount appropriated for Pennsylvania, if Pennsylvania is to be paid I think New York should come in too. I would have preferred, as I said yesterday, that neither State, at this crisis, should have asked the Government to pay it; but Pennsylvania having asked it I suppose New York should share with Pennsylvania.

Mr. MORGAN. I agree entirely with my colleague. The amendment of the Senator from Ohio [Mr. SHERMAN] having been adopted, which I think was correct, I suppose the only question is whether a bill is to be passed to pay these States at all. There can be no doubt that if a bill is to be passed to pay Pennsylvania, New Jersey and New York should be included; but I should myself prefer now, at the present price of gold, not asking the Government for it; I should prefer that the States should wait until it was more convenient for the General Government to pay. I should be very glad if the Senator from Pennsylvania would withdraw the bill and let it go by for the session; but still, if he is to press it this amendment is proper.

Mr. COWAN. I have no objection that the State of New York shall be magnanimous in sentiment, but if she be magnanimous in sentiment she ought also to be magnanimous in practice. Her case is not our case. It is not the

State of Pennsylvania that is claiming to be reimbursed for moneys expended by her. By an express engagement between the War Department and certain individuals and corporations in the State of Pennsylvania they advanced the money to pay the troops, and now they ask to be paid. It is not the State that asks to be paid. If it were the State, perhaps—

Mr. DAVIS. Will the honorable Senator from Pennsylvania allow me to ask a question?

Mr. COWAN. Certainly.

Mr. DAVIS. If the two Senators from New York, instead of the State, had advanced the money to pay the volunteers that went from that State to defend Pennsylvania, would they have been willing to give up the claim?

Mr. COWAN. That is a fair statement of the case as it actually stands. If it were the State of Pennsylvania who had her own troops and was coming here asking to be reimbursed, in the present state of affairs I should not insist that it should be done, because perhaps she could wait as well as the General Government. But this is not a claim of the State; it is a claim, in the language of the Secretary of War, of patriotic individuals and corporations who came forward in this emergency and agreed to substitute themselves in the place of the United States in order to raise the means to pay men to repel this invasion.

Under these circumstances, I cannot conceive why it is that Pennsylvania is brought forward as attempting to procure for herself some advantage which has not been yielded to other States. Pennsylvania has done no such thing. At the same time I have only to say that claims of the same kind on the part of the States have heretofore been recognized by the Senate. It is not a very great while ago since the honorable Senator from Ohio procured, with very little difficulty, an appropriation to pay for troops called into the service for a special emergency in that State. I think he got an appropriation for some particular regiment.

Mr. SHERMAN. That was only a regiment regularly mustered into the service of the United States; but there was some defect in the muster roll. I will state to the Senator from Pennsylvania that the amendment of the Senator from Kentucky would embrace what are called the squirrel-hunters of Ohio, and there are about sixty thousand of them. The State of Ohio never presented and never intended to present a claim for those people. Each soldier called out in that invasion of Kentucky was presented by the State with a handsome plate, and I have no doubt the soldiers who responded to that call would rather keep that plate and have it untarnished by receiving pay for those services; but the amendment of the Senator from Kentucky would embrace the cases of all the regiments called into active service at that time.

Mr. DOOLITTLE. How much would it amount to?

Mr. SHERMAN. It would amount to millions. I cannot say how much. They were there some time.

Mr. DAVIS. Then I give notice that when the bill shall be reported to the Senate I shall move to amend my amendment by limiting it to Kentucky alone, and by limiting it further that the amount paid under it shall not exceed \$20,000.

Mr. COWAN. In answer to what has been said by the Senator from Ohio, I have only to say that the troops in this case raised to repel the invasion of Pennsylvania by General Lee were regularly mustered into the service of the United States, wore her uniform, bore her arms, carried her flag, and were liable under her Articles of War. There is no technical difficulty then on that score. They have been paid. The accounts have been audited in the proper Department here at Washington. If there be objections to the section offered by the honorable Senator from Kentucky, every gentleman is at liberty to assail that section without attempting to prevent the fair operation of the first section as now amended, of which I am unwilling to complain if the proper sum be paid in order to meet those claims.

Mr. GRIMES. I move that this bill be postponed until the first Monday in December next.

Mr. BROWN. I wish the Senator from Iowa would withdraw his motion for a moment to allow me to offer an amendment as an additional sec-

tion; one that has been contemplated, and I simply desire to discharge my duty to my State in the premises. Then, if the Senate shall see fit to postpone the bill, my proposition can be considered when it again comes up.

Mr. GRIMES. Very well; put on your amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

Mr. BROWN. Will the Senator withhold his amendment for the present in order that I may offer an additional section?

Mr. COWAN. I have no objection to the amendment being offered, but I do not want it to displace mine.

The PRESIDENT *pro tempore*. The Chair will receive the amendment of the Senator from Missouri, if there be no objection.

Mr. BROWN. I move to add the following as an additional section to the bill:

And be it further enacted, That all sums paid out by any State and all arrearages due to any militia troops employed under the direction of any military commander in suppressing hostilities or defending the State from invasion shall be paid to said State upon rendering proper vouchers therefor to the Treasury Department, and the accounting officers are directed to audit the same and pay it out of any money in the Treasury not otherwise appropriated.

In offering this additional section, I desire to state that in my own State the militia have been serving for two years and doing the work that should properly belong to the United States troops and have received no pay. What pay they have got has been in the shape of State warrants. It is necessary for them to go out again. The whole amount against the Treasury, as I am informed, now exceeds the sum of \$4,500,000. I know of no State more deserving to be reimbursed than the State of Missouri, and I cannot see a bill of this sort go by without making an effort to get that reimbursement to my own State. I submit the amendment, and now the Senator from Iowa can make his motion if he desires to do so.

Mr. POMEROY. I am in favor of the amendment moved by the Senator from Missouri, and have precisely such an amendment for my own State. I did not suppose, however, that it was expedient to undertake to present a claim of this kind at this session. I think the old State of Pennsylvania, the State of New York, and the State of New Jersey, whose bonds are worth more in the market to-day than the bonds of the United States, could afford to wait a little while. The people of my own State have had to wait. Notwithstanding one half of our whole voting population was in the United States service, we kept up a militia force last year on the line of the State who were not mustered into the United States service but would come in under the amendment of the Senator from Kentucky. They have not been paid except what pay the State has rendered to them; but they should be paid. Their claim is just and fair and comes within the rule in the amendments moved by the Senator from Kentucky and the Senator from Missouri. I did not suppose, however, that claims of this kind would be presented or paid at this session. If the bill should not be postponed till the next session I shall insist upon an amendment to pay them.

Mr. GRIMES. I now renew my motion to postpone this bill until the first Monday of December next. I simply desire to state that there are troops in my State situated precisely as is the case in Kentucky, in Missouri, in Pennsylvania, I take it, in New Jersey, and in all these States. Three regiments were called out in Iowa in order to put down an insurrection or to assist in suppressing the rebellion in Missouri. They have been waiting for two years for their pay. I am content that they shall continue to wait, and so are the people of my State, until some propitious time shall arrive when bills of this kind can be paid.

Mr. TEN EYCK. I shall make no resistance to this motion; but I beg leave to say in a few words that the State of New Jersey has not pressed a claim upon the General Government, and that is proved by the fact that she has filed no claim with the War Department and has asked no adjustment of that claim up to the present hour. But standing here as a representative of that State, when I saw the State of Pennsylvania presenting (as she had a perfect right to do, and as I think is perfectly just) a claim to be paid for

the services rendered by her troops for the common defense of all the North, I thought the troops from my State who had been called into that same service by the urgent appeals of the Executive of Pennsylvania and the Secretary of War should be put upon the same footing, and that if a bill was to be passed at the present session of Congress to pay the Pennsylvania troops the troops of New York and New Jersey should also be provided for in the same measure. It was for that reason that I introduced the substitute for this bill including the State of New York. I do not know that it was wise or discreet on my part to include New York. I am inclined to believe it was very unwise, because I have put a millstone about my neck which is to affect the interest of my State.

But, sir, I am perfectly willing that this whole subject shall be postponed. I am not only willing that it shall be postponed, but as a citizen of New Jersey I would advise the people of that State, in case no other claim is to be presented, to present none. It was in fact a service rendered by our troops in defense of the soil of our own State, a service which had become indispensably necessary in case Lee had overcome Meade on the banks of the Susquehanna, and the battle was trembling in the balance; and so far as I am concerned I would rejoice if this whole thing was abandoned on the part of these three States. The State that I in part represent has but a small interest in this matter and she could afford an offering of it to the General Government and will be happy to do so if other States in the Union take the same course. But if other States are to be paid for the like services and under precisely similar circumstances, I should have been derelict in my duty if I had sat quietly by and suffered a bill to pass for the payment of a certain class of these troops and not attempted to present the claim of my State for the services of her troops under precisely similar circumstances.

Mr. COWAN. It is most extraordinary to me that gentlemen will still persist in supposing that this is a claim on the part of Pennsylvania. It is a claim on the part of certain corporations and individuals of Pennsylvania for money advanced by them upon the faith of the General Government that an appropriation would be made to repay them their money upon the first opportunity. The State has not assumed to pay it. Pennsylvania as a State so far has nothing to do with it in the world; and the people who advanced the money are to-day losing the interest upon the amount advanced. The cases are not at all analogous. I have no disposition to say that New Jersey should not be paid. I have no disposition to say that New York ought not to be paid. I think all these claims should be paid. Whether this is the proper time or not I cannot say; but what I do say is this: they are not in the same category with the persons contemplated to be paid in the first section of this bill. They are individuals; they are persons, not States. It might be well enough to say to a State, "You can wait until the commencement of the next session;" but, as was well suggested by the honorable Senator from Kentucky, when you speak in that language to an individual or to a private corporation then it is another thing, because they may not be able to wait, and particularly they may not be able to wait when they are deriving no profit from the investment of their money in this affair.

But, Mr. President, there is a higher principle involved. If the people are to come forward in emergencies and assist the Government, if the corporations of the country are to do it, that Government must keep faith with them; and when the Executive and the Secretary of War enter into engagements of this kind I think it is the bounden duty of the coördinate branch of this Government to make appropriations to carry out their engagements. If they do not, there is an end of all faith among men. If men find that their Government will not pay them what they agreed to pay, upon whom can they rely? I hope, therefore, the motion to postpone will not be agreed to; but that this bill will be considered and such amendments made to it as will do equal and exact justice to all parties.

Mr. DAVIS. I have not asked compensation for Kentucky in the amendment I have offered. I have not asked a dollar of compensation for any militia of that State. I have stated in a few words

at various times the nature of this claim, and I will do it now again in as few and clear words as I can use.

There were two regiments in the State of Kentucky that volunteered for three years. One of them was commanded by Colonel Metcalf. The United States authorities sent an indolent, inefficient officer to muster them in. He required them to meet at a particular point to be mustered in on two occasions. The regiments appeared there, and he was four or five days mustering in about two thirds of Metcalf's regiment. In the mean time it was ordered to Richmond in the State of Kentucky to do duty as a three years' regiment. It was then ordered seventeen miles south of Richmond, where it encountered Kirby Smith's command that invaded Kentucky some two years ago, and fought what was called the disastrous battle of Big Hill. Various men of that regiment were killed and others were wounded. There were about twelve hundred men in the regiment. It returned to the interior of Kentucky. It was enlisted mostly in my county and in Harrison and Nicholas. In a very few days after it returned to that locality Cynthiana was invaded by the rebels—a town about twelve miles from Paris in the direction of Cincinnati. Another disastrous battle occurred there, and a part of this regiment was in that second battle. Some of them were killed and some were wounded, and a good many were taken prisoners in both battles.

Before I left my home there was a man came into my office who had lost his right arm in the battle of Cynthiana, and who had been refused all pay and emolument as a soldier. I had his application and various other applications of men in that condition to have the laws remedied so as to pay them for the time they were in the service, and to allow the widows of those who were killed any bounty to which they would have been entitled, if any, had they been regularly mustered in, and to give pensions to those who were disabled by wounds.

That is the whole case; and if there is a claim of higher justice than that upon the Treasury of the United States I have never seen it presented. If the Government is not willing or not able to pay a claim of that kind it is time that the Government should abdicate and that the war should cease.

Mr. SHERMAN. The case made by the Senator from Kentucky is very similar to the case acted upon by the Senate the other day in which the Senate passed a bill paying a regiment of Ohio troops who were not mustered into service by the fault of their own officers; and I would not hesitate a moment to vote for a bill to provide for that particular case. I ask the Senator whether he ought not to introduce a bill covering that particular case. In the case of the Ohio regiment of which I have spoken, a special bill was introduced and passed and is now a law; and it is a case very similar to the one referred to by the Senator from Kentucky. In such a case as that, where the regiment was not mustered in through the fault of the mustering officer and was ordered into service without mustering and soldiers were killed and wounded, they ought certainly to be provided for.

Mr. DAVIS. With the permission of the Senator I wish to state a fact. At the last session I made repeated applications to the Senate to have this case provided for, both singly and in connection with other bills, and gentlemen, from an indisposition to hear the facts of cases that are presented to the Senate and consequently from not understanding them, steadily and uniformly voted it down. I have made four or five attempts at the present session to attach this to military bills; I have made this explanation three or four times, and invariably the claim has been inflexibly refused.

Mr. SHERMAN. I can only say to the Senator from Kentucky that if he will introduce a bill of that kind he shall have my vote, because I consider it just claim. That is all I can promise.

Mr. DAVIS. I did at the last session introduce a bill of that kind, and I have offered it as an amendment to various measures. It cannot prejudice the bill now under consideration. It is a claim of the highest and most imperative justice. These men have now been waiting disabled and mutilated more than two years; some were killed and their widows and orphans are not receiving

the bounty to which their patriotism and their having fallen in defense of their country entitled them. I simply ask for this small amount of justice to as meritorious a class of people as have ever presented themselves to Congress.

Mr. HENDERSON. Before this question passes off I desire to state that it has been in the contemplation of my colleague and myself during this session to provide for a claim which is certainly as just as the claim of Pennsylvania, Kentucky, or any other State in the Union. For the last two years the militia of my State have been called out by the department commander, once by General Schofield and once by General Curtis; that is, an application was made to Governor Gamble and the militia force was called out and put under the department commander in that State; and they have been used during the summer and fall months in aiding the troops of the United States in suppressing the rebellion in that State and in driving back the invasion that annually comes upon us from Arkansas. For the last two years we have had those troops in the service and we have expended \$4,500,000; that is, we have issued bonds bearing interest payable by the treasurer of our State, and paid those troops. Not one dollar has been paid to them by the Federal Government.

Mr. President, the condition of our State is such that we cannot very well bear a burden of this character. It is well known that we are very largely in debt, nearly \$30,000,000, expended for railroad purposes heretofore, and that the interest upon our bonds has not been paid. We are unable to pay it, and have been unable since this rebellion commenced. In addition to that, from one fourth to one third of the property in my State has been destroyed. I see by a dispatch from St. Louis that in all probability the State will again be invaded. We are expecting an invasion from the southwest by the forces under General Price again. I have no question in my own mind but that the State of Missouri will be again invaded by a large force during this summer. Everything points to it. The State is now full of guerrillas who have returned from Price's army; and the dispatches tell us that General Steele will, in the course of a very short time, be almost surrounded in Little Rock and will be held there while General Price will invade my State from the southwest. I have no doubt of it at all.

What is the result of that? Our people have been called out again by General Rosecrans. He has called on the Governor to order out from one to two hundred men in each county of the State. There is no authority to pay those troops by the Federal Government, and we shall be compelled again to provide from the State treasury during this summer for the payment of these men. What effect has that on the people of Missouri? We have been compelled to pass a commutation tax, a poll tax of thirty dollars and a tax of one per cent on the entire property of the people of the State in order to pay the militia. Sir, it is an outrage on our people. We shall be compelled to do it again this year. The order has already been made and the troops called into the service; and how the people of our State are to pay those troops I cannot tell. It looks to me in our present condition as an utter impossibility.

Sir, this Congress ought not to adjourn without making some provision for the militia that will be called into the service in Missouri during this summer. We are unable to do it; and if our people are called out again we shall make no crop in the State. I saw the dispatch yesterday morning from St. Louis, in which it was stated that General Rosecrans had repeated the order made by Schofield and Curtis heretofore, and the people have again been called out, and if paid at all they will have to be paid from the State treasury. The people of the State cannot stand it. For two years they have been paying this poll tax of thirty dollars and a special tax of one per cent on land and personal property in the State over and above the taxes heretofore paid in order to raise a fund to pay off these bonds heretofore issued for the militia.

Mr. President, I have said all that I desire to say. My colleague and myself have not heretofore been urgent about these expenditures. We knew the condition of the Federal Treasury, and we thought we would bear them; but I now give notice that if claims of this sort are to be urged

we must be reimbursed for those expenditures. I intended to present a bill at the next session of Congress to reimburse the State for the amount already expended; I did not intend to urge it at this session; but if the militia force of my State is to be called out again this summer, as ordered by General Rosecrans, this Congress ought to make some arrangements to pay that force.

The PRESIDENT *pro tempore*. The Chair will submit to the Senate that a motion to postpone to a day certain is analogous to a motion to take up, and is restricted in debate.

Mr. GRIMES. I have only one word to say. I suppose there is not any question but that there are just claims from one half of the loyal States against the Government. Certainly the case stated by the Senator from Missouri is one of the strongest and most just that can possibly be conceived of. But what is the proposition now before us? It is to actually tax the people of Missouri, oppressed as they are with taxation, and overrun as they are with guerrillas and with hostile forces, to pay the State of Pennsylvania—

Mr. COWAN. Not the State of Pennsylvania.

Mr. GRIMES. I will show whether it is the State of Pennsylvania or not. The people of Missouri are to be taxed to pay what the State of Pennsylvania ought to pay themselves, if it is not to Pennsylvania, and what other States have paid in place of leaving to their own citizens to pay under precisely similar circumstances. I say it is exceedingly unjust to levy a tax on the people of the State of Missouri or the property of the State of Missouri that has been overrun for three years, that has been oppressed with a special tax of one per cent on property, and a tax of thirty dollars *per capita*, to pay the State of Pennsylvania for her expenses in repelling a hostile invasion upon her soil made within the last twelve months.

How does this case in Pennsylvania differ from these other cases? In this only: that instead of the Governor or the State authorities going to the banks or going to the citizens and securing supplies and means, as they were necessary in order to repel this incursion, the citizens themselves came to the rescue and advanced the money. And now the Senator says that because the State did not settle these claims and present the claim as a State claim against the Federal Government, therefore this is a private claim, and stands altogether on a different basis from the claims of other States. If it be so it does not stand upon a basis as creditable to the State authorities of Pennsylvania as the claims from other States do, it seems to me. It was the business of the State authorities of Pennsylvania to settle with her citizens for the money they advanced and the property that they used in repelling that invasion, and to present their claim precisely as other States have presented their claims against the Federal Government as a State claim; and then they would have all stood upon the same basis.

What I want is that all these States shall stand upon an equal footing; that there shall be, and I trust we shall have time, and that we will do it at the commencement of the next session, a complete adjustment of all these claims, and every State receive exactly what it is entitled to. It is for that reason, in order to give the Senate time to mature this bill, that I have moved to postpone it until the first Monday in December next.

Mr. HENDRICKS. I am in favor myself of letting each proposition stand upon its own merits. If the State of Pennsylvania or the people of Pennsylvania should be reimbursed the expenses connected with the raid last year in the southern part of that State, I do not think it ought to be embarrassed by the claims of other States. If it be specially meritorious, it ought not to be made to carry claims that are not so clear. If it be not meritorious, it ought to fall on its own demerit. I understand from the course of the debate that the accounts have been adjusted by the proper Department, the exact amount found due, and that the money is coming rather to individuals than to the State. Where is the propriety of burdening this claim, which every Senator must acknowledge to be right and fair, with the claims of other States which have yet to be investigated? This bill, as I understand, came from the House of Representatives providing alone for the State of Pennsylvania. Am I wrong in that?

Mr. TEN EYCK. The second section of the bill as it came from the House of Representatives

appropriated \$15,000,000 to pay the claims of other States.

Mr. HENDRICKS. Then I speak principally of the first section of the bill.

Mr. COWAN. You are right about that.

Mr. HENDRICKS. That has been examined by the proper committee. Now, it is proposed to tack on to that claims that have not been so examined, claims that have neither been examined by the proper Department nor by the proper committee of this body. It seems to me this is not right. I will vote for the claim of the State of Pennsylvania alone and against the proposition of the Senator from Iowa; because if the claim of the State of Pennsylvania is right it ought to be paid.

Mr. HICKS. It appears to me that the circumstances of this case really make a strong point in favor of this claim. It is a claim set up by individuals, not by the State of Pennsylvania. The money has been furnished by private individuals. For what purpose? To meet an emergency where neither the State authorities nor private citizens had twenty-four hours in which to do it. The peculiarity of this claim, as very well set forth by the honorable Senator from Indiana, it seems to me, should strike the mind of every Senator. These individuals magnanimously came forward and offered their funds to enable Governor Curtin, the worthy, able, and talented Executive of Pennsylvania, and who I know was as active as the Governor of any other State in doing all in his power to repel that invasion by the southern army, to meet that emergency. As the gentleman from Indiana very properly said, I am for letting this claim stand upon its own merits entirely disconnected from any other claims. I learn from a member of the committee, and I have no doubt that it is true, this claim has been properly adjusted, the items are all shown, and therefore the committee have reported in favor of it. Let all other States, New Jersey, New York, Missouri, and the rest present their claims, and when they are properly adjusted and ascertained they ought to be paid also; but I do not think they should be attached to this bill.

Sir, if we stop to squabble over matters of this sort during the fury of this rebellion and say we will not pay individuals who have come forward and patriotically offered not only their personal services but their money to beat back the foe, who was not only pressing his way into Pennsylvania, but would have gone to New Jersey and New York, and how far we cannot tell if he had not been driven back, how can we expect persons hereafter to come forward, if a similar emergency should again unfortunately arise, with the same alacrity that they did on that occasion? I think every encouragement should be held out to each loyal State in this Union for the raising of all the troops possible at the shortest notice and give every facility that can be given to the Government to meet such contingencies.

I hope that this claim may be considered upon its own merits, and that each of the claims of the other States will be considered upon its individual merits. I think that all of these claims ought to be paid at the proper time. It so happens that Pennsylvania has presented hers before the other States. In my opinion, two or three are enough to mount a horse, but if you cover him with men from head to croup you break him down. So it is in regard to the bill presented by the honorable Senator from Pennsylvania. It is an honest, fair, and legitimate claim, in my judgment, and therefore it ought to be paid. Then let New Jersey bring in her claim; let New York bring in hers, and all the States that have furnished troops and advanced money and contributed all in their power to the breaking down of this unholy rebellion. I would not withhold a dollar that was properly due to any of these States, and I hope that in the end they will all be paid.

Mr. SPRAGUE. Before the question is put on the motion to postpone, I desire to offer an amendment to the bill.

The PRESIDENT *pro tempore*. The amendment can only be received by unanimous consent.

Mr. SPRAGUE. I offer it in compliance with the resolutions of the Legislature of my State, and I trust it will be received.

Mr. COWAN. I do not understand what the nature of it is. Is it an amendment to this bill?

Mr. SPRAGUE. It is an amendment to the bill.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read the proposed amendment, which was in section one, line ten, after the word "States" to insert:

And for the pay of officers and men of the Rhode Island volunteers from the date of commission and enrollment to the date of muster into the United States service.

Mr. COWAN. I object. It is not in order.

The PRESIDENT *pro tempore*. Objection being made, it cannot be received at the present time. The question is on the motion to postpone.

Mr. POMEROY. Let us have the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. COWAN. I have just a word to say before the vote is taken. We have presented here a claim on the part of the citizens of Pennsylvania and corporations of that State for money laid out and expended in defense of the Government and upon the express agreement on the part of the Executive of this nation that payment should be made. I have only to say again to the Senate that if the faith of the Government is to be kept in that way with individuals, not with States but with individuals, then the Government must take the consequences, and they will have to take the consequences in Pennsylvania at the coming election. What has this claim got to do with a thousand other claims of other gentlemen? I have not said a word against the justice of their claims; why, then, should they desire like leeches to fasten themselves upon this bill? The Senator from Ohio [Mr. SHERMAN] had up a few days ago a bill for the purpose of paying his troops. I agreed to it and voted for it. I did not attempt to saddle it with this claim at that time. Therefore I desire this motion to postpone to be voted down and this bill to be considered here as it came into the Senate, and if there are other claims let them be provided for separately so that each may stand upon its own bottom.

Mr. JOHNSON. I shall vote in favor of the postponement for a reason which has not yet been given, particularly as concerns the amount claimed by the parties in Pennsylvania. I understand this is not a claim made by the State; that these advances were made by individual citizens or corporations in the State of Pennsylvania, and were made upon the faith of an express promise on the part of the Executive Government that they should be refunded. In the first place, so far as that promise is concerned, the Executive Government should have sent a message to the Congress of the United States requiring an appropriation to meet those demands. I am not aware that any such message has been sent.

Mr. COWAN. If the honorable Senator will allow me, I will read a communication addressed by the Secretary of War to the chairman of the Committee of Ways and Means in the other House, which is indorsed by the President:

WAR DEPARTMENT,
WASHINGTON CITY, January 4, 1864.

SIR: The Department has this day received returns of the amount required for the payment of the militia called out for the defense of the State of Pennsylvania on the 25th of June, 1863, against the invasion by the rebel forces under the command of General Lee. There being no appropriation out of which these payments could be made at the time they were required, patriotic citizens of Philadelphia advanced the money, and it is proper that they should be reimbursed without delay. I would respectfully recommend, therefore, that an immediate appropriation for that purpose be made. A copy of the letter of the Second Auditor of the Treasury is herewith communicated, showing the amount of claims audited by him to be \$671,476 43 up to date. It is supposed that \$700,000 will cover the amount of these claims.

I have the honor to be, very respectfully, yours,

EDWIN M. STANTON,
Secretary of War.

HON. THADDEUS STEVENS, Chairman of the Committee of Ways and Means, House of Representatives.

This letter is indorsed by the President, as follows:

I fully indorse the within statement and recommendation, and shall be glad if Congress see fit to act promptly in the case. A. LINCOLN.

February 11, 1864.

Mr. JOHNSON. I was not aware that there was any such letter. I withdraw my objection.

Mr. DOOLITTLE. I hope the bill will not be postponed, but that we shall take the bill as applied to this particular case and act upon it and appropriate \$700,000, which is the amount recom-

mended in the letter of the Secretary of War to meet this equitable engagement of the Government. Although there was no law which authorized expressly the promise of the money, still it is an equitable engagement growing out of the necessities of the case which I think ought to be met by the Government. I hope we shall not postpone the bill.

Mr. McDUGALL. I trust that the sense of justice of the Senate will prevent any delay as to this particular measure. The peculiarity of the case is well understood by the Senate. In a day, at an instant, we may say, it was necessary to place means for meeting the movement of a large army of the enemy through Maryland into Pennsylvania. These moneys are really due to private citizens who are waiting now for their compensation. They came forward voluntarily to assist the Government and the State of Pennsylvania by furnishing immediate aid. The accounts have been audited. There has been no case like this in the history of the war, and I see no reason why the matter should be postponed. The Senator from Pennsylvania has been seeking the floor to bring up this bill for a long period of time, but it has been postponed for other business by the month. The Senator from Pennsylvania has yielded to other questions until we are now coming to the latter part of the session, and if the bill is to be acted upon at all it should be acted upon now. This money should be paid. It is not as if the State of Pennsylvania had taken this responsibility on the instant herself by legislative authority, but they took the responsibility from the necessity of the moment. There is no question as to the justice of the claim. What justice, then, is there in delay? I think it is due to the Senator himself representing Pennsylvania who has brought forward this measure, he having been delayed so long by the consideration of other business, to take up the matter and dispose of it now.

The question being taken by yeas and nays, resulted—yeas 6, nays 27; as follows:

YEAS—Messrs. Grimes, Harris, Howe, Pomerooy, Sumner, and Trumbull—6.

NAYS—Messrs. Anthony, Brown, Carlile, Clark, Cowan, Davis, Doolittle, Foot, Foster, Hale, Henderson, Hendricks, Hicks, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Powell, Ramsey, Richardson, Sanbaird, Sherman, Sprague, Ten Eyck, Van Winkle, and Wiley—27.

ABSENT—Messrs. Buckalew, Chandler, Collamer, Comess, Dixon, Fessenden, Harding, Harlan, Howard, Morrill, Nesmith, Riddle, Wade, Wilkinson, Wilson, and Wright—16.

So the motion to postpone was not agreed to.

The PRESIDING OFFICER (Mr. POMEROY in the chair). The bill is open to amendment.

Mr. BROWN. I have an amendment pending.

The PRESIDING OFFICER. The Chair understands there is another amendment under consideration upon which the yeas and nays have been called—the amendment of the Senator from Pennsylvania to strike out "\$700,000" and insert "\$1,200,000."

Mr. ANTHONY. I thought the understanding was that it was to be confined to the original purpose of the bill.

Mr. COWAN. Not as the bill is now amended.

Mr. DOOLITTLE. I suggest to the Senator from Pennsylvania to withdraw that amendment, and allow the question to be tested in the Senate whether anything else is to be put on this bill providing for the claims of these men in Pennsylvania before the amount shall be fixed.

Mr. COWAN. I thought the bill was in the Senate.

The PRESIDING OFFICER. It is still in Committee of the Whole.

Mr. COWAN. Then, with the consent of the Senate, I will withdraw the amendment.

The PRESIDING OFFICER. No objection being made, that amendment will be withdrawn. The question now is on the amendment of the Senator from Missouri [Mr. Brown] to add the following as a new section:

And be it further enacted, That all sums paid out by any State and all arrears due to any militia troops employed under the direction of any military commander or department commander in suppressing hostilities or defending the State from invasion shall be paid to said State upon rendering proper vouchers therefor to the Treasury Department; and the accounting officers are directed to audit the same and pay them out of any moneys in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. SPRAGUE. I now offer the amendment

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1st Session.

SATURDAY, JULY 2, 1864.

NEW SERIES.....No. 216.

that I attempted to present a few moments since, to insert after the word "States," in the tenth line, these words:

And for the pay of officers and men of the Rhode Island volunteers from the date of commission and enrollment to the date of muster into the United States service.

The amendment was agreed to.

Mr. TRUMBULL. I do not see why the amendment proposed by the Senator from Rhode Island should not be made general. It is a provision to pay the officers and men from the State of Rhode Island for the period between the time of their enlistment and muster into the service of the United States. They are just as much entitled to pay in the State of Illinois as in the State of Rhode Island under these circumstances.

Mr. COWAN. If the honorable Senator will allow me, I think it is the intention of the Senate when this bill comes into the Senate to vote down all these amendments that have been made and stand upon the bill as reported from the Committee on Finance.

Mr. BROWN. That is very kind of the Senator, to cut everybody else out but himself.

Mr. COWAN. That is my notion of it at present; and then if other States have claims they will take measures to bring them forward the same as this.

Mr. TRUMBULL. If it will do no harm I should like to have my State inserted, because I know there are claims of that character there. I move to insert the words "and Illinois" after the words "Rhode Island" in the amendment adopted on the motion of the Senator from Rhode Island.

Mr. LANE, of Kansas. With the consent of the Senator from Illinois, I will insert "and Kansas." Kansas is in the same situation.

Mr. TRUMBULL. I think it would be better to make it general if it is to be adopted at all. Of course I shall not object to Kansas being inserted.

The PRESIDING OFFICER. The question is on the amendment as modified.

Mr. HOWE. How will the clause read then? The Secretary read it, as follows:

And for the pay of officers and men of the Rhode Island, Illinois, and Kansas volunteers from the date of commission and enrollment to the date of muster into the United States service.

Mr. HOWE. I should like to know if those are all the States that are to come in.

Mr. TRUMBULL. I think it ought to be general; but the Senate having adopted it as peculiar to the State of Rhode Island I moved to include my State also. I know there are cases of that character in the State of Illinois.

The amendment was agreed to.

Mr. DAVIS. I desire to modify the amendment that was adopted on my motion, by striking out in the second line the words "other troops from any other State" and inserting "troops of the State of Kentucky heretofore received or that may hereafter be;" so that it will read:

And be it further enacted, That any troops of the State of Kentucky heretofore received, or that may hereafter be received into and actually serving in the Army of the United States, whether regularly mustered in or not, and who have not been otherwise provided for, shall receive the same pay and all other emoluments that they would be entitled to if they had been regularly mustered into such service.

The PRESIDING OFFICER. The Chair thinks that can only be done in this stage of the proceeding by unanimous consent. The Chair hears no objection, and the amendment will be so modified.

Mr. SHERMAN. When the bill shall be reported to the Senate I shall call for the reading of the amendments and have them acted upon *seriatim*.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question will be on concurring in the amendments made in Committee of the Whole.

Mr. SHERMAN. Now I desire to have those amendments read, so that we may see what has been adopted.

Mr. COWAN. And the question on concurrence taken on them *seriatim*.

The PRESIDING OFFICER. That course will be pursued. The question is on concurring in the amendment in section one, line ten, after the word "States" to insert:

And for the pay of officers and men of the Rhode Island, Illinois, and Kansas volunteers from the date of commission and enrollment to the date of muster into the United States service.

Mr. COWAN. Now, Mr. President, I wish simply to say that if the amendments which have been made to the first section are not concurred in by the Senate it will leave the first section precisely as it was reported from the Committee on Finance; it will provide alone for the claim of the State of Pennsylvania, and it will leave other propositions for the payment of troops of other States to be tested as separate sections. That I think is perfectly fair, and that I desire to be done. The bill as reported from the Committee on Finance provides simply for the payment of the institutions and individuals who advanced the money to pay the Pennsylvania soldiers. If other propositions are to be offered let them be offered as distinct and separate sections, and let the Senate vote upon them. For my own part, I believe that a great many of them should be paid; indeed, I believe I would vote for the payment of all of them so far as I have heard them. But I desire the first section to be disencumbered from the amendments which have been made to it and leave it to stand as it was originally reported. I hope, therefore, that this amendment will not be concurred in.

Mr. WILLEY. If we are to go on including State after State in this bill, I do not see why West Virginia should be overslaughed. But, sir, I do not intend to move that West Virginia shall be included. I do not understand the claimants under this bill as it came from the House of Representatives to stand on the same platform that the States do in their State capacity. I understand that here are individual citizens of the United States making application for relief for money paid out of their own pockets in the exigencies of the country to defend the nation against invasion. It is not an application upon the part of a State in its capacity as a State, but upon the part of individuals who in the exigencies of the country voluntarily came forward to the relief of the Government and afforded that justice which the Government at that time could not afford and had it not in its power to provide for. However much I may desire to have the citizens of my State who have rendered services under a similar condition provided for, I am not willing, under the sense of justice which I think ought to actuate the Senate of the United States, to burden the bill and kill it under circumstances like those under which the bill is presented.

Here is an application, as I understand it, by citizens who have paid money out of their own pockets in a crisis in the affairs of this nation. The head of the proper Department has recommended it as just and proper. It has been audited, stated, adjusted, fixed in the amount; and now, at this time, to kill a bill of this character by crushing it to death by amendments of this kind seems to me to be in the face of the plainest justice that could be addressed at least to myself as a Senator of the United States. Under this view of the case, however much I should be pleased to bring the citizens of my State within the operation of this bill, I shall vote against all these amendments and let the original bill stand on its naked merits, and I think that is where it ought to stand.

Mr. TEN EYCK. It is not for me to oppose the payment of a just claim of the State of Pennsylvania; but I simply rise for the purpose of stating what I understand to be the true state of the case in answer to the generous statement of the Senator from West Virginia.

My residence is not very remote from the city of Philadelphia, and I happen to have some little knowledge of the mode in which this claim originated. When it came to be known that General Lee with his army had left his encampment in

Virginia and was moving North, passing up through the Cumberland valley, and had reached Maryland, and was about striking the borders of Pennsylvania, the citizens of Philadelphia, with all the other citizens of the State, naturally became greatly alarmed and excited, and with patriotic feelings not only raised men, but raised money, and they fitted out what was called the Corn Exchange regiment, and several others through the agency of associations in the city of Philadelphia. I have not understood that that was done in consequence of any arrangement with the General Government or any plan adopted by the Government. It was a spontaneous action on their part in aid of their own State and for the protection of their own city, its capital, its wealth, its enterprise, its industry, and everything else. I grant you there is a claim on the part of those citizens, either upon the General Government immediately or the State government immediately; but I cannot for the life of me see any distinction in equity between the claim of a State which had paid the expense of fitting out troops to send them to the protection of Pennsylvania and the claim of private citizens who fitted out regiments and sent them in pursuance of the call of the Governor of Pennsylvania, for it was done in pursuance of his most urgent call. In fact, he was in Philadelphia at the time, and I think made an address and encouraged a spontaneous enlistment there.

Those men ought to be paid; they have a meritorious claim; but I think the other States which sent troops to repel this movement, and which were engaged in the very same identical service, have the same meritorious claim, whether the money came out of the treasury of the State or whether it came out of the pockets of individuals, especially as I have not yet seen that there was any contract entered into between private individuals or associations and the General Government before they undertook these responsibilities. It was a spontaneous outburst of the people for their own protection and for the safety of their own firesides and their own business that these regiments were hastily organized and sent forward.

I cannot see why, in the performance of a duty as sacred and patriotic as this was, to repel this northern invasion, the troops of Pennsylvania or the citizens of Pennsylvania or the State of Pennsylvania, which ought to have refunded long ago to these citizens the amounts they advanced, have any equitable claim to be paid first before the citizens of other States, if the claims are to be paid at all at this time under the existing state of facts and the pressure under which the Government is laboring. So far as regards the adjustment of the claim, I see no real difference in the case between these different claimants; for although the claim of Pennsylvania has been adjusted, still, in the amendment that I offered yesterday, I proposed that these other claimants should be paid when their accounts were adjusted; and even if those words were not inserted in the amendment that would be the natural consequence, because the Government would not pay them until their claims were ascertained, settled, and adjusted.

I do not insist upon the bill passing at this time; but if it is to be passed, I want it to provide for the payment of the States, associations, or individuals who have advanced money for this one service, the repelling of the army of General Lee from the State of Pennsylvania. The States of New Jersey, New York, and the more eastern States were all interested in that service to almost as great an extent as the State of Pennsylvania, except in this, that their soil was not trampled upon by the foot of the invader; it was not seamed and scarred by the engines of war. I think they stand upon the same identical footing and ought to be paid in the same way; and I must express my regret that the Senator from Pennsylvania is disposed to insist upon the payment of his own troops under these circumstances and to ask the Senate to give other troops who rendered the same service under the same appeal the go-by, or to

postpone them to another day. Let them all stand together, or let them all fall together.

Mr. COWAN. I have said repeatedly that I am in favor of the payment of all these troops in the proper way and proper manner; but I am admonished by gentlemen who are friendly to the passage of the bill which provides expressly for the claim I have in charge, that I ought not to allow it to be loaded with these amendments which will eventually end in the defeat of the whole. What right, I would ask, has the honorable Senator from New Jersey, who does not desire the passage of the bill now, to incumber my bill which I do desire to have passed now with an amendment providing for his State? There is nothing to prevent him from bringing in a bill to reimburse his State at the next session if he thinks the finances of the country are not in such a condition as will enable it to pay that State or any other State now. I am only desirous of taking care of that which is committed to my charge. God knows I do not want to prevent the payment of the claim of anybody else; but I do not want mine to be swallowed up in this vortex of numberless cases which seem to be clustering around this bill in order to attach themselves to it. I hope, therefore, that my proposition will be kept clear and distinct, and let the others stand upon their own merits as I have no doubt, if they have merit, they will stand.

Mr. SPRAGUE. I offered this amendment in compliance with a resolution of the Legislature of the State which I have the honor in part to represent, and I think it is more just than the claim which the Senator from Pennsylvania advocates. Rhode Island has endeavored to find out the officers and men who have these claims against the Government; but there are a large number of these officers and men now in the service who are yet unpaid and who cannot be paid by any law now upon our statute-book. There were several regiments in the early part of this contest that were organized a month or two months before they were mustered into the service of the United States; but they were constantly under the orders of the United States authorities and submitted to their regulations in every respect. Many of those men and many of those officers have not yet been paid on account of the regulations of the Department.

This is a claim in behalf of the soldiers and of the officers in part, and also in behalf of the amount which the State has advanced, which, so far as my State is concerned, is very small; but it is a just claim in which every State has an interest. If this is not deemed sufficient, the amendment should provide for the officers and men of all States that stand in the same relation. I trust the amendment will be adopted. It is a just one, it is a proper one, and appropriate to this bill. The State of Pennsylvania has no right to demand the exclusive time and attention of the Senate on a bill of this kind when other States have as good claims, and especially when they stand up here in defense of the soldiers and officers who are serving the country. I do not believe in that sort of doctrine.

Mr. HICKS. I think there is but very little difference between Senators here in regard to the principle involved in the consideration of this subject. It is the misfortune, perhaps, of the States which are equally entitled to compensation with Pennsylvania that they have not as yet prepared their claims properly. I understand some of them have been. Whether they have been brought to the notice of the Senate or not I am not prepared to say. I have no other interest in this matter than that common interest which belongs to all of us to see justice done. I believe all of these claims ought to be paid, and as each State presents its claim I shall vote cheerfully every dollar that is due, not only to a State government, but to individuals and officers and soldiers.

I am particularly anxious upon this subject for the reason that we may again, and how soon we cannot tell, be driven to the same necessity of raising men as they were in Maryland, Pennsylvania, and New Jersey and New York; for I do not think there is a great deal of difference between the four States, as I have no doubt that General Lee with his forces would have gone into those States if he had not been repulsed and driven back at Gettysburg.

As I before remarked, I am exceedingly anxious that this claim should be paid. This bill has been passed by the House of Representatives; it has been submitted to a committee here for examination and favorably reported upon; and I am anxious that it should stand upon its own merits, as should the claim of each individual State. I know the hurried manner in which these troops were called forth, arising from the necessity of raising a force sufficient to repel the madmen who were coming with a hundred thousand men into Maryland and Pennsylvania to destroy property and life. Suppose a like emergency were to happen next week or next month, and you refuse to meet these fair and legitimate demands upon the Government, could you expect the people to turn out with the same alacrity that they did on that occasion? Shall we refuse to pay anything toward the raising and subsisting of those troops? Not only has the Secretary of War, who I dare say understands this whole subject, advised this payment, but it is also indorsed by the President of the United States. If Pennsylvania is to be shut down upon in this way what will become of other States in the event of a repetition of this invasion?

I think it would be better to strike out of this bill all the amendments that have been made to it and pay Pennsylvania her fair claim, as I consider it. I take it for granted that it is a fair claim, though I have never examined the papers, because it comes from a committee of this body. A fair claim has been presented by Pennsylvania. Let each State hereafter present its claim and I am sure the Senate will pass all those claims, as I think they ought now to pass this bill for Pennsylvania.

Mr. COWAN. Certainly.

The PRESIDING OFFICER. The bill will be laid aside informally to receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the following bill and joint resolution of the Senate:

A bill (No. 315) in relation to the sale of reservations of the public lands; and

A joint resolution (No. 67) for the relief of Thomas J. Galbraith.

The message further announced that the House of Representatives had passed the bill of the Senate (No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 154) to provide for the better organization of the quartermaster's department.

The message also returned to the Senate, agreeably to its request, the bill of the House (No. 549) further to regulate and provide for the enrolling and calling out of the national forces, and for other purposes, with the amendments of the Senate thereto.

The message also announced that the House of Representatives had caused the error in the engrossment of its amendments to the bill of the Senate (No. 151) relating to enlistments, and for other purposes, to be corrected, and returned the bill and amendments to the Senate.

QUARTERMASTER'S DEPARTMENT.

Mr. WILSON. With the permission of the Senator from Pennsylvania, I desire to submit a report from a committee of conference.

The PRESIDING OFFICER. The Chair will receive the report, if there be no objection.

The Secretary read it, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 154) to provide for the better organization of the quartermaster's department, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its first amendment to the bill.

That the Senate agree to all the amendments of the House after the said first amendment, except the thirty-first amendment.

That the Senate agree to the thirty-first amendment of the House with the following amendment, to wit: strike

out all after the word "department" in line eighteen, down to and including the word "general" in line twenty three of said amendment; and also strike out all after the word "that" in line thirty-six, down to and including the word "department" in line thirty-eight of the said amendment; and the House agree to the said thirty-first amendment as amended.

HENRY WILSON,

LYMAN TRUMBULL,

L. W. POWELL,

Managers on the part of the Senate.

ROBERT C. SCHENCK,

ELIJAH WARD,

Managers on the part of the House.

Mr. WILSON. I should like to have action on the report at once.

The report was concurred in.

CONGRESSIONAL GLOBE.

Mr. SHERMAN. I desire to offer a resolution which I will ask to have printed, and I will call it up when the Senator from Rhode Island calls up the bill in regard to the Congressional Globe. I ask that the resolution be printed.

The motion was agreed to.

Mr. ANTHONY. If it is the intention of the Senate to dispose of the question of the Congressional Globe at this session we have but very little time to lose about it. I was aware that there was some objection to the bill as it was offered, and I have not pressed it for that reason.

Mr. SHERMAN. I do not think the Senator from Rhode Island or any member of the Senate will object to my resolution as a substitute for the proposition before the Senate in regard to the Globe.

Mr. ANTHONY. I desire to have the resolution read.

Mr. SHERMAN. I have no objection.

The PRESIDING OFFICER. The resolution will be read, if there be no objection.

Mr. DAVIS. I supposed that these proceedings were by general consent.

The PRESIDING OFFICER. They are by unanimous consent, and will not displace the order of the day.

The Secretary read the resolution, as follows:

Resolved, That the Superintendent of Public Printing be directed to ascertain the actual cost of reporting the proceedings of Congress, and of the publication of the reports as they now appear in the Daily and Congressional Globe. Also, what would be the cost of the publication of reports of the congressional debates if published under the direction of the Superintendent of Public Printing. Also, what arrangements, if any, could be made with the heirs of the late John C. Rives for the purchase of the materials and the purchase or rent of the buildings used in the publication of the Congressional Globe. Also, what sum, if any, ought in equity to be allowed to said heirs for the publication of the Globe during the present session and until Congress shall determine whether to extend or change the publication of the Globe. Also, that the Superintendent of Public Printing communicate this information to the Senate at its next session, with any other facts on the reporting and publication of congressional debates that he can obtain.

Mr. ANTHONY. The Senate will perceive that this resolution, which is very proper, looks to the next session entirely, and of course it will be impossible for the information to be furnished in time to act upon the bill that is now before the Senate. I have received communications, written and verbal, from the publishers of the Globe, in which they state that unless the bill now before Congress, or something like it, passes, they will not be able to continue the publication for another session. I desire, therefore, to take the sense of the Senate upon the question whether the Senate is disposed to pass the bill that has been reported, or to amend it by providing for a smaller compensation, or whether they will pass this resolution and postpone the bill.

The PRESIDING OFFICER. The Chair is informed that the resolution is not before the Senate to be considered. It has been ordered to be printed, and was read merely for information.

Mr. SHERMAN. I do not wish to call up the resolution until the Senator is ready and desires to call up that bill.

Mr. ANTHONY. In order to test the sense of the Senate I will move—

Mr. COWAN. I hope the Senator will not make his motion now. I yielded merely for a moment for a message from the House and a report of a committee of conference, and I supposed that we should return at once to the regular order of the day.

Mr. ANTHONY. Then I give notice that at the earliest moment I shall move to take up the bill in regard to the Congressional Globe.

EXPENSES OF PENNSYLVANIA MILITIA.

The Senate resumed the consideration of the bill (H. R. No. 117) to reimburse the State of Pennsylvania for expenses in calling out the militia of said State during the recent invasion.

Mr. COWAN. I believe the pending question is on concurring in one of the several amendments which have been adopted to the first section of the bill. I hope it will be rejected.

The PRESIDING OFFICER. The question is on concurring in the amendment in line ten of the first section, after the word "States" to insert:

And for the pay of officers and men of the Rhode Island, Illinois, and Kansas volunteers from the date of commission and enrollment to the date of muster into the United States service.

Mr. SPRAGUE. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. COWAN. I wish to state at this time that I understand my colleague [Mr. BUCKALEW] is detained in his room by sickness to-day. That will account for his absence.

The question being taken by yeas and nays, resulted—yeas 19, nays 16; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Conness, Davis, Grimes, Harris, Henderson, Howe, Lane of Kansas, Morgan, Pomeroy, Richardson, Sprague, Sumner, Trumbull, Wade, Wilkinson, and Wilson—19.

NAYS—Messrs. Carlile, Cowan, Doolittle, Foot, Hale, Hendricks, Hicks, Johnson, Lane of Indiana, McDougall, Nesmith, Powell, Saulsbury, Sherman, Van Winkle, and Willey—16.

ABSENT—Messrs. Buckalew, Clark, Collamer, Dixon, Fessenden, Foster, Harding, Harlan, Howard, Morrill, Ramsey, Riddle, Ten Eyck, and Wright—14.

So the amendment was concurred in.

Mr. DOOLITTLE. I suggested when the bill was in Committee of the Whole that a vote might be taken in the Senate on concurring in one of these amendments to test the question whether all these things were to be put on this bill and load it down or not. I look upon the vote just taken as a test vote on that question. I voted against the postponement of the bill before when we were in committee; but I cannot now vote for it with all these indefinite claims put upon it. As I understand by these amendments we will have to pay four or five million dollars in Ohio, four or five million in Missouri, and how many million in Rhode Island and elsewhere I do not know. It is so indefinite and so large in its amount that I think it would be very dangerous legislation at this time when we cannot go into an examination and consideration of the subject. I am opposed to this practice of log-rolling everything together, on principle. I must therefore say that I am now prepared to vote for the postponement of this measure until the next session of Congress, and I will make that motion.

Mr. SHERMAN. You had better move to refer it to the Committee on Military Affairs.

Mr. DOOLITTLE. Then will it go over to the next session?

Mr. COWAN. If it is sent to a committee, it should be to the Committee on Finance.

Mr. DOOLITTLE. It is immaterial to me, if the effect of the motion will be to send the matter over to the next session. I will move that it be recommitted to the Committee on Finance, and then it will go over to the next session as a matter of course.

Mr. BROWN. I ask, if it is to be recommitted, that it be recommitted with the amendments which have been adopted in Committee of the Whole.

Mr. DOOLITTLE. Of course the amendments will go with the bill.

Mr. BROWN. But I am not in favor of recommending it. I am for passing it now with the amendments that have been made to it.

Mr. HENDRICKS. I stand precisely where the Senator from Wisconsin does. I cannot vote for a bill appropriating at this time such a sum of money, although the presumption may be that many of these claims are right. We do not know that they are right, and we ought not to appropriate large sums of money without knowing that. It is impossible for the bill to pass burdened with such amendments. The fact that Pennsylvania was the seat of this invasion is not a circumstance against her, but is a circumstance in her favor. She has not only incurred expenses, but she has borne the disasters that necessarily attend such a large military movement. I appeal to some

Senator who voted for the amendment that has just been concurred in to move a reconsideration in order that we may do what is right in this matter. It is not right to bury a bill in this way when everybody admits that it is proper and just?

Mr. DAVIS. I am glad the Senator has made a motion to reconsider.

Mr. HENDRICKS. I cannot. I voted the other way.

Mr. DAVIS. Then I rise to a privileged motion. I move to reconsider the vote adopting the amendment offered by the Senator from Rhode Island, in order that the claim of Pennsylvania may be considered exclusively and be acted upon by itself. I am willing to forego the little amendment that I offered with a view to have the single question upon the claim of Pennsylvania.

The PRESIDING OFFICER. The question before the Senate is on the motion to recommit.

Mr. DOOLITTLE. I am willing to withdraw that motion if on this motion to reconsider we can have a test vote of the Senate on the question. With the leave of the Senator from Kentucky, however, I will suggest that by unanimous consent the vote concurring in the amendment of the Senator from Rhode Island be reconsidered, and then we can take the vote again directly on the question whether we will concur in the amendment with the understanding that it is to be a test vote.

Mr. BROWN. I object to that.

Mr. DOOLITTLE. Then let us take it on the question of reconsideration.

The PRESIDING OFFICER. The question before the Senate is the motion of the Senator from Kentucky to reconsider the vote by which the Senate concurred in the amendment of the Senator from Rhode Island.

Mr. HENDERSON. I desire to say a word upon that question if I can get the attention of the Senate, and especially of the Senator from Wisconsin.

This is a House bill. The first section provides for the payment of certain individuals and institutions of the State of Pennsylvania to pay the volunteers that were raised in that State to repel the invasion of the rebels into the State. The second section of the bill was adopted to pay similar claims of other States. That section is in these words:

That to defray the expenses incurred in raising, equipping, transporting, and paying the minute-men, militia, and volunteers called out and in actual service of the United States, whether regularly mustered in or not, in repelling rebel raids and invasions of the States of Pennsylvania and Maryland, and the other loyal States and Territories, the sum of \$15,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, said expenses to be settled upon proper vouchers to be filed in the proper offices in the Treasury, and passed upon by the Second Auditor.

When the bill came into the Senate the second section of the bill was stricken out on the motion of the Senator from Pennsylvania, thus excluding every State except Pennsylvania. How is it that Pennsylvania has become so far ahead of every other State that every other State must be neglected in the Senate upon a House bill providing for other States? What especial and peculiar merit is there in these Pennsylvania claims over and above the claims from Missouri? If this was a bill to pay Pennsylvania and had originally passed the House of Representatives in that shape, and no other State had been connected with it, I would be in favor of letting it pass without adding any amendment to it; but let it be remembered that the section providing for other States has been stricken out of the bill by the Senate; and now the Senator from Pennsylvania says, "Do not put any amendment upon this bill that will prevent Pennsylvania from being paid."

Mr. COWAN. I will ask the Senator from Missouri why he did not prevent the second section from being stricken out. It is most extraordinary that gentlemen, after having voted to strike out the second section, will come in with little amendments to be hitched on to the first section.

Mr. HENDERSON. I can state to the Senator that for the last three weeks I have been on a bed of sickness, and was not here when the section was stricken out. I hope that will be a sufficient answer. I was not able to be here, or else it never would have been stricken out entirely with my consent. I would have amended it as my colleague has amended it. I think that is

proper. I would make no appropriation of \$15,000,000.

The Senator from Wisconsin is very much mistaken when he supposes there is a large appropriation in this bill. It does not now appropriate, with all the amendments that have been made to it, one third the amount it appropriated as it originally came to us from the House of Representatives. Why, sir, what is the amendment that has been adopted by the Senate to the first section of this bill? Let us recur to it and see what it is. I dare say one or two hundred thousand dollars will pay every dollar that is contained in the amendment adopted to the first section. If Senators will examine it they will see that this amendment has been adopted in line ten:

And for the pay of officers and men of the Rhode Island, Illinois, and Kansas volunteers from the date of commission and enrollment to the date of muster into the service of the United States.

Why, sir, that was but for a very short time, as I understand, in Rhode Island, and in the other two States mentioned no men were ever raised to repel the invasion of Pennsylvania. If gentlemen have inserted the amendment there in language that will exclude their troops it is none of my business, and other Senators ought not to object to it. What is the first section?

That to reimburse the institutions and individuals who advanced the money to pay the Pennsylvania soldiers who were called out by the proclamation of the President of the United States and the Governor of Pennsylvania to repel the invasion of Maryland and Pennsylvania by the rebel forces under General Lee in the summer of 1863, and who were in actual service of the United States—

And then comes in the amendment—
and for the pay of officers and men of the Rhode Island, Illinois, and Kansas volunteers from the date of commission and enrollment to the date of muster into the United States service.

Why, Mr. President, there were no troops called out in Kansas and Illinois to repel invasion in Pennsylvania. There were some, I understand, called out in Rhode Island; but this provision only provides for their payment from the date of their muster into the State service to their muster into the United States service. The Senator from Rhode Island can tell how long that was; I really do not know. It certainly was but a very short time, and it will only apply to the Rhode Island troops.

I think it is very unjust, indeed, to strike out this second section, and then claim that this bill was gotten up for the benefit of Pennsylvania. There is not a word of truth in it. The bill was gotten up in the lower House for the benefit of all the States that had raised troops for such emergencies. It comes into this body, and the second section is stricken out, and then it is claimed to be a bill especially for Pennsylvania.

Mr. SHERMAN. This matter is occupying a great deal of time, and as it is not probable that we can come to a conclusion upon it very soon, I will move that it be recommitted to the Committee on Finance, and in connection with it that this resolution be passed—

Mr. HENDERSON. I presume the Senator can hardly make that motion while I am on the floor.

Mr. SHERMAN. I thought you were through.

Mr. HENDERSON. Certainly not. I do not intend to spend the time of the Senate, but I have a little feeling about this matter, because I have seen in the last two days an order calling out the militia of my State. This bill is the proper place in which to provide for the payment of those militia. Let it go on this bill. The House appropriated \$15,000,000 to defray such expenses. If the House could vote an appropriation of \$15,000,000, and this bill goes back there with an amendment appropriating not exceeding three or four million dollars, why can they not pass it? What objection can they have to it? If they could vote an appropriation of \$15,000,000 and send it here, can they not agree to our amendments reducing the appropriation to about five million dollars?

But my especial reason in asking for this thing is this: I am not so particular about having the expenses heretofore incurred by my State paid; but if our people are again to be called out this summer, and every man capable of bearing arms taken from his farm, as will be the case, I say this Congress ought to make some arrangement for paying those men. Sir, you have made none. General Rosecrans, the department commander, has called our people to arms again. The State

is about to be invaded. I recognize the justice of this claim of Pennsylvania. The State of Pennsylvania repelled an invasion. How often has my State done it? It has repelled invasion almost every month of the year. Not only has it repelled it once, twice, thrice, four times, but it is now called upon to repel it again. You have no Federal troops scarcely in the State of Missouri. I suppose there are not three thousand of them in the whole State. If the invasion is to be repelled our people must again rise and do it. We have to repel an invasion every summer from Arkansas and Texas, and it is coming again. As I said a little while ago, it will be upon us in the course of a few days, and this Senate might as well recognize the fact that a formidable invasion will enter Missouri in the course of a short time. The whole State is now full of guerrillas from Price's army. They have come into the State breathing vengeance and swearing that they will recover the State to the confederate arms, and they are now in the brush throughout the State, organizing preparatory to the invasion, when the uprising will take place in almost every community of the State. Our people are to be called out, and our State is to be again called upon to pay them, because this Congress has made no provision whatever to do it.

Sir, our houses have been burned; almost one fourth of the buildings in the State have been burned down; our fences have been destroyed; our people are reduced to degradation and misery. Pennsylvania has been unscathed by this rebellion; and yet we are told that this bill is peculiarly for the benefit of Pennsylvania. Why, sir, the House of Representatives have sent us no bill peculiarly for the benefit of Pennsylvania. It is rather a bill for the benefit of Missouri than of Pennsylvania, and now we are to be turned off in the very last days of the session, when there is no time for a new bill to go through all the forms of legislation, to go to the committees and be passed by Congress. I am not to blame that this is the case, because the order calling out the militia in my State was only made yesterday. Let justice be done; let this bill go back to the House of Representatives with the amendment of my colleague, and let it be passed; let it provide for our people during the coming summer.

Sir, I have some feeling upon this measure. If this is not done, our people in Missouri will again be subject to be butchered. We deserve it more than Pennsylvania. The houses of Pennsylvania have not been burned down. I believe there have been no levies made upon the people by confederate troops except in one little town of the State. They have been made upon our citizens for the last three years, and will again be made this summer. Their property will be taken, their cattle driven off, their horses stolen, their houses burned, their children conscripted into the confederate service. That is the kind of work going on in the State to-day; and yet we are told, because the first section of this bill provides for a claim of Pennsylvania merchants who expended a little money for the sake of their own property, for fear Lee would enter the city of Philadelphia and burn it, that this is a bill exclusively and peculiarly for the benefit of Pennsylvania. I deny it. No such bill is before this body. A bill came here for the benefit of every State in the Union, and this body struck out that portion which applied to the other States, and now it is a bill for the benefit of Pennsylvania. Sir, I want the bill to remain as it came from the other House. Let it be for the benefit of somebody else.

Mr. DAVIS. I call for the order of the day. The PRESIDENT *pro tempore*. The Chair will receive a message from the House of Representatives.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LORD, its Chief Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 233) making an additional grant of lands to the State of Kansas to aid in the construction of a railroad and telegraph line;

A bill (S. No. 242) to establish Portland, in the State of Oregon, and Leavenworth, in the State of Kansas, ports of delivery;

A bill (S. No. 264) for the disposal of coal lands and of town property in the public domain;

A bill (S. No. 272) to facilitate trade on the Red river of the North;

A bill (S. No. 273) to compensate the officers and crew of the iron-clad gunboat Essex for the destruction of the rebel ram Arkansas;

A bill (S. No. 289) for the relief of Ida Hoffman;

A bill (S. No. 292) to provide for the officering of the Navy;

A bill (S. No. 298) to incorporate the Potomac Ferry Company;

A bill (S. No. 290) authorizing the levy court of Washington county, in the District of Columbia, to levy and collect its portion of the direct tax imposed by the act of August 5, 1861;

A bill (S. No. 301) for the sale of a lot of land in Iowa, in the Fort Crawford reservation;

A bill (S. No. 302) to encourage and facilitate telegraphic communication between the eastern and western continents;

A bill (S. No. 305) for the relief of George F. Nesbitt;

A bill (S. No. 308) repealing so much of "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1864, and for other purposes," approved March 14, 1864, as appropriates \$25,000 for erecting a naval hospital at Kittery, Maine;

A bill (S. No. 312) to regulate the compensation of registers and receivers of the land offices in the several States and Territories in the location of lands by States and corporations under grants from Congress, and for other purposes;

A bill (S. No. 319) to authorize the Secretary of the Interior to issue a land warrant to Richard Fitch, of Ohio;

A bill (S. No. 321) to authorize the corporation of Washington, to levy and collect the direct tax imposed by the act approved August 5, 1861;

A bill (S. No. 324) prescribing the punishment for enticing or aiding seamen to desert the naval service of the United States;

A bill (S. No. 332) to establish salaries for postmasters, and for other purposes;

A joint resolution (S. No. 6) for the relief of the State of Wisconsin;

A joint resolution (S. No. 38) explanatory of the tenth section of an act to reduce the expenses of the survey and sale of the public lands in the United States, approved the 30th day of May, 1862;

A joint resolution (S. No. 40) for the relief of Carlisle Doble;

A joint resolution (S. No. 66) providing for the adjustment of the accounts of Henry W. Diman;

A joint resolution (S. No. 69) regulating the investment of the naval pension fund;

A joint resolution (S. No. 70) to authorize the acquisition of certain land for the use of the Government hospital for the insane;

A bill (H. R. No. 133) for the relief of William Sawyer and others, of the State of Ohio;

A bill (H. R. No. 163) for the relief of Richard G. Murphy;

A bill (H. R. No. 346) for the relief of Charles M. Wetherill;

A bill (H. R. No. 347) for the relief of Martha Jane Skaggs;

A bill (H. R. No. 466) for the relief of the widow of C. A. Haun;

A bill (H. R. No. 470) to authorize assimilated rank to be given to the warrant officers of the United States Navy, and for other purposes;

A bill (H. R. No. 550) to establish Colfax street in the city of Washington and District of Columbia; and

A joint resolution (H. R. No. 39) for the relief of Alexander Cross.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that the President had yesterday approved and signed the following acts:

An act (S. No. 190) authorizing the Secretary of the Navy to appoint a commission to select a site for a navy-yard or naval station on the western waters, and for other purposes;

An act (S. No. 199) relating to the compensation of pension agents;

An act (S. No. 203) authorizing a grant to the

State of California of the Yosemite Valley and of the land embracing the Mariposa Big Tree Grove;

An act (S. No. 226) to aid in the settlement, subsistence, and support of the Navajo Indian captives upon a reservation in the Territory of New Mexico; and

An act (S. No. 335) to carry into effect a convention between the United States of America and the United States of Colombia.

COMMITTEE ON CONTINGENT EXPENSES.

Mr. CLARK. By the indulgence of the Senate I will state that it is necessary that another member should be appointed upon the Committee to Audit and Control the Contingent Expenses of the Senate. There is only one member here, and it is necessary that some bills should be paid before the Senate adjourns. I desire that the Senate will order some person to be appointed on that committee.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) That order will be made, if there be no objection, and the appointment will be made by the President *pro tempore* of the Senate.

Mr. WILLEY was subsequently appointed.

ORDER OF BUSINESS.

Mr. WADE. I move to postpone the present and all other orders for the purpose of taking up and considering House bill No. 244.

Mr. DAVIS. I have the floor upon the order of the day.

Mr. WADE. I suppose it is in order for me to move to postpone that.

Mr. DAVIS. But you cannot take the floor. The PRESIDING OFFICER. The Senator from Ohio was recognized by the Chair, and the motion to postpone the pending and all prior orders to consider the bill indicated is in order, and that is the question before the Senate.

Mr. DAVIS. I appeal from that decision of the Chair. When the Senate adjourned last night, the joint resolution (H. R. No. 83) authorizing the President to construct a military railroad from the valley of the Ohio to East Tennessee was under consideration; I had the floor upon that subject, and before I had concluded my remarks I gave way for a motion to adjourn, and that of course leaves me upon the floor when that subject is taken up again.

Mr. WADE. That is all true; but I move to postpone that and all other orders. There is no doubt that when that subject comes up again the Senator from Kentucky will be entitled to the floor upon it.

The PRESIDING OFFICER. The time having passed, and the Senator having waived his right, in the opinion of the Chair the motion of the Senator from Ohio is in order.

Mr. COWAN. I hope prior orders will not be postponed, and I have a word to say upon that. I think—

The PRESIDING OFFICER. Does the Senator from Kentucky insist on his appeal from the decision of the Chair?

Mr. DAVIS. I want that question decided. I have not so understood the principle of parliamentary law heretofore. If that is to be the rule, I think it is a novelty, and I want to understand it that I may act upon it. I should have called for the order of the day at the regular hour if I had not been assured that by common consent, I agreeing, the measure the Senator from Pennsylvania has under charge would not displace my bill. I therefore declined to call for the order of the day. I understand it to be the practice that when a measure is continued over the time for taking up the order of the day by general consent it does not displace the order of the day when it is called for, nor does it displace the right of any Senator who was upon the floor upon the order of the day from resuming the floor when the order of the day is called up.

The PRESIDING OFFICER. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. DAVIS. I ask for the yeas and nays upon that question.

The yeas and nays were ordered.

Mr. CLARK. I think the point is here: the order of the day has been displaced by the unanimous consent of the Senate in taking up other business, and it is not in order for any one Sen-

ator to call now and insist upon the order of the day. The time elapsed an hour and a half ago by the unanimous consent of the Senate. The Senator would be clearly right if the order of the day could be called for by one Senator. It will require a motion of the Senator and the order of the Senate to take it up.

Mr. RICHARDSON. I should like to know of the Senator from New Hampshire if you are to call for it at the precise moment.

Mr. CLARK. The order of the day should be called for by the Chair at the moment, but if it should not be called for at the time and afterwards by the unanimous consent of the Senate, which is equivalent to an affirmative vote or unanimous vote of the Senate, it is displaced in this way, I think it is not in order for a Senator to insist upon it.

Mr. RICHARDSON. Mr. President, did you call for the order of the day at the proper hour? This is the first time, so far as I know, in legislative bodies where the floor has been taken from a Senator or member and given to another.

Mr. CLARK. I do not mean to say that. I mean to say the order cannot be called for by one Senator. It is perfectly in order for the Senator to move to proceed to the order of the day and the Senate may so direct. That is the point.

Mr. DAVIS. It was the duty of the occupant of the chair, whether he was the President *pro tempore* of the Senate or the present incumbent of the chair, at the arrival of the hour of twelve o'clock to call up the order of the day. He did not do so; the order of the day was not called for. Now, the question is, whether the default of the Chair shall forfeit my right to the floor. That is the point.

Mr. CLARK. I will say to the Senator it is not forfeiting his right to the floor. I agree with him entirely that whenever that comes up he is entitled to the floor; and it is entirely competent for him to move to take it up.

Mr. DAVIS. That does not meet the question. That is a mere evasion. Mr. President, it was the duty of the occupant of the chair to call the order of the day at the time. The reason that I did not call for the order of the day was in courtesy to the occupant of the chair and in courtesy to the Senator from Pennsylvania who had his favorite measure before the Senate. I inquired about it at the time or shortly afterwards, and some gentleman—I do not remember who it was—informed me that by omitting to call for the order of the day I should not forfeit any right I had in relation to calling for the order of the day. But this is the point: it was the duty of the President of the Senate, when the hour for calling for the order of the day had been reached, himself to call for the order of the day. Now the question is, shall his omission to do his duty deprive me of the right that I would have had if he had performed his duty?

Mr. CLARK. It is not a matter of that kind at all. I will cheerfully vote with the Senator to take up his order of the day.

Mr. DAVIS. I do not ask that at all. I just ask for my rights.

Mr. CLARK. It is only a question as to the proper method after it has been displaced this period of time. I will cheerfully vote with him to give him the order of the day.

The PRESIDING OFFICER. The question before the Senate is on the appeal from the decision of the Chair.

Mr. WADE. The question has become a matter of some consequence to a gentleman who desires the consideration of a measure here now as to what his rights are upon the floor. I understand very little about these rules, for I care very little about them and do not take the pains to inform myself about them; but I suppose if a gentleman has the floor on a certain order when it comes up he is entitled to the floor upon that order when that hour arrives. If he does not enforce his right then, but is still entitled to the floor whenever he chooses to call up the order of the day, it seems to me it is in his power to displace another Senator to almost any extent he pleases. It is so in the present case. Here I have a measure in which I take a very great interest, and I think it is one of great importance. I am anxious to get it up. I have been here watching for an opportunity when I might make a motion to take it up. The gentleman says that

about an hour and a half ago he was entitled to have the floor on another question. So he was, and if he had insisted on his right nobody could have taken it from him; I could not even have obtained the floor to make this motion and should have been precluded even from taking the sense of the Senate upon it. But like all other rights in law it may be waived by negligence, if you may say so. It may be that if a gentleman does not insist on his right, he loses it; and if he does not do it, he infringes upon the rights of another. If the Senator from Kentucky had insisted on his rights at that time he probably would have been through before this, and I could have got up my bill; but if he can waive his right without losing it, he can postpone me as long as he pleases by neglecting to assert his right. Perhaps it is reasonable that the rule should be that way, but it does not look to me to be right.

Mr. DAVIS. I will make a single suggestion to the Senator from Ohio. I called for the order of the day before the honorable Senator made his motion. The Chair will recollect that.

Mr. WADE. I recollect it.

Mr. DAVIS. But the President of the Senate is to preside over the body, to enforce its order, to enforce its rules, to call up its business in the order in which the rules of the Senate assign that business. I was not entitled to the floor until the order of the day was called up. It was not my office, nor my right, nor my duty to call up the order of the day. That was the business of the President of the Senate. So soon as the moment of time arrived when the order of the day was to be called up, according to the rules of the Senate it was his duty *ex officio*, of his own impulse, to call up the order of the day, and then I should have been entitled to the floor. I am not entitled to the floor when the time arrives; I am entitled to the floor when the order of the day is called up. I may suggest to the incumbent of the chair when the time does come that the time has arrived for the order of the day to be taken up. He may refuse then to call it up; he may entertain other business; but when I am left upon the floor on the order of the day, and the order of the day is to come up at the hour of twelve, and the President of the Senate in default, in dereliction of his duty to call up the order of the day—

Mr. WADE. If the Senator will permit me, as this is a disputable point, about which I find gentlemen differ very much, I will withdraw my motion for the present and let the Senator take up his measure. I do not know how that point is. However, I waive my right. But I give notice that I shall move to take up my bill as soon as it will be in order to do so.

Mr. CLARK. I will move that the Senate proceed to the order of the day.

The PRESIDING OFFICER. Does the Senator from Kentucky withdraw his appeal from the decision of the Chair?

Mr. DAVIS. Yes, sir.

Mr. COWAN. I hope that bill will not be taken up—

Mr. DAVIS. I rise to a point of order.

The PRESIDING OFFICER. The Senator will state his question of order.

Mr. DAVIS. The question of order is this: that the Senate have no right to disperse with the order of the day while I am on the floor. I am entitled to the floor, and until I take it on the order of the day and relinquish it neither the Senator from Pennsylvania nor any other Senator can deprive me of it by making any motion whatever.

Mr. COWAN. The order has not been called. I understand the Senator from New Hampshire has made the motion to call for the order of the day.

Mr. DAVIS. I called for the order of the day myself.

Mr. COWAN. That call must be made by the Chair, not by members, and the hour never comes until the call is made. Members are not to determine when the hour comes for the orders of the day. That is for the Chair to determine.

Mr. DAVIS. That is very true.

Mr. COWAN. The Chair has not determined; the contingency has not arisen under which the gentleman from Kentucky is entitled to the floor.

Mr. DAVIS. It arose in this way, and it has come to this as I understand: the Chair declines to call for the orders of the day. I say the Sen-

ate have the right to require the Chair to call for the orders of the day at the appointed time.

Mr. McDUGALL. My own notion of the law of this question is that when the time comes for calling up the order of the day it is the office of the Presiding Officer to announce that to the Senate. He having neglected it, it is the right of any Senator to call for the order of the day, because that is the proper course of business. I have no doubt about it. It would seem to follow almost as a necessity that any Senator might call for the order of the day, the Chair having neglected his particular duty in that respect.

Mr. COWAN. That is just what I understand the honorable Senator from New Hampshire has done.

Mr. McDUGALL. I understand that the Senator from Kentucky has called for it by virtue of a right. It did not involve a motion. The Senator from New Hampshire makes a motion. It was the right of any Senator to call up the order of the day; but I think it is within the power of a Senator, the order of the day being called, to move to dispense with the order of the day for the purpose of considering the present business; and the order of the day being called for does not necessarily give the right to a Senator to insist on taking the floor upon that question. It strikes me that the order of the day being announced, (and it must be announced when called for, that being the duty of the Chair,) whoever takes the floor may ask for the postponement of the order of the day for the consideration of pending business.

Mr. COWAN. I think the error in which my learned friend from Kentucky has fallen is that he has assumed that to have been done which ought to have been done. He would have been entitled to the floor if the Chair had called for the order; but as the Chair neglected to call for the order he had a right to call for it himself, and then if the call had been made he would have been entitled to the floor; but he is not entitled until the call is actually made whether by the Chair or by a Senator, and I should think it a proper function of the Chair to call for the order of the day.

The PRESIDING OFFICER. (Mr. POMEROY.) The Chair will state that the order of the day has been postponed by the unanimous consent of the Senate. The attention of the Chair being called to it, he thinks he has a right now to say that the order of the day is before the Senate, and on that question the Senator from Kentucky is entitled to the floor.

Mr. McDUGALL. That is a point of order that I am disposed now to raise.

The PRESIDING OFFICER. The Senator from California will state his point of order.

Mr. McDUGALL. It is that no one can be entitled to the floor upon the call of a Senator for the order of the day until the Chair has announced the order of the day, and then whoever may take the floor has the right to move as to the conduct of business.

The PRESIDING OFFICER. The Chair has just announced that the order of the day is before the Senate, and that the Senator from Kentucky is entitled to the floor upon it.

Mr. McDUGALL. I appeal from that decision.

Mr. HENDRICKS. I desire to call the attention of my friend from California to a fact that I am sure he does not appreciate, that last night—

Mr. GRIMES. I rise to a point of order. I believe the rule requires that when an appeal shall be taken the appeal shall be stated from the Chair. I want to know exactly what the appeal is before the Senator from Indiana proceeds to argue it.

Mr. HENDRICKS. I am not going to argue it, but I am going to state the facts.

The PRESIDING OFFICER. The Senator from California will state his point of order.

Mr. McDUGALL. My point of order is this: that it is the office of the Presiding Officer to announce the order of the day; and that the order of the day having been announced by the Chair, the person who obtains the floor has the first right to move as to the conduct of business. That duty having been neglected by the Presiding Officer it is the right of any Senator to rise in his place and call for the order of the day. The order of the day having been called for, then it must be announced from the Chair what is the order of the

day, and the Chair having announced the order of the day, then whoever may take the floor has the right to be heard, and not that the person who has called for the order of the day necessarily has the right to the floor.

Mr. CARLILE. The Senator from Kentucky had the floor last night.

Mr. HENDRICKS. I want to suggest—

Mr. GRIMES. I insist on the observance of the rule. When an appeal is taken from a decision of the Chair the rule is that the exact condition of the case shall be stated by the Chair. I want to know now what the Chair's comprehension is of the appeal upon which we are called to vote.

The PRESIDING OFFICER. The Chair will state the question. The Chair decided upon a request of the Senator from Kentucky that the order of the day was before the Senate, and awarded the floor to the Senator from Kentucky who called for the order.

Mr. McDUGALL. I will withdraw the appeal.

The PRESIDING OFFICER. The Senator from Kentucky is entitled to the floor.

REPEAL OF GOLD BILL.

Mr. JOHNSON. If the honorable member from Kentucky will permit me to interpose another bill, which I do not think will give rise to any debate—

Mr. DAVIS. I am afraid it would produce a case of forfeiture or something of that kind.

Mr. JOHNSON. No, there can be no forfeiture, because you go back to the order of the day with your rights untouched. The universal impression, as far as I have been able to collect it, in Congress and out of Congress, now is that what is called the gold bill is doing nothing but mischief; and I have communications, and other Senators have received them from New York especially, begging that that bill shall be repealed. I do not know any member of the Senate who formerly was willing to give that bill his sanction who is not now just as willing to repeal it. It has had its trial and has failed to produce anything but mischief. I propose, therefore, with the honorable member's consent, to lay the special order aside informally and take up that bill. It will not be debated, I am sure.

Mr. DAVIS. I have no objection if it does not prejudice me in my present position.

The PRESIDING OFFICER. The Senator from Maryland asks unanimous consent to consider the bill indicated by him at this time. The Chair hears no objection; and the bill (S. No. 325) to repeal the act of the 17th of June, 1864, prohibiting the sales of gold and foreign exchange, is before the Senate as in Committee of the Whole.

Mr. SHERMAN. I think that had better be postponed for a while. There is a member of the body who takes a great interest in it, and I would rather it should lie until he is conferred with. I think the Senator from Maryland states the case stronger than he is authorized to do.

Mr. HOWE. Does that bill come from a committee?

Mr. DAVIS. I will proceed.

Mr. MORGAN. I desire to get the attention of the Chair before the question is disposed of.

Mr. DAVIS. I insist on my right.

The PRESIDING OFFICER. The Chair will recognize the Senator from New York for the purpose indicated.

Mr. MORGAN. I hope the bill the consideration of which was called up by the Senator from Maryland will not be postponed unless some Senator is opposed to it or there is some good reason for postponing it. I do not think there is any objection to the bill; I have not heard of a Senator opposed to its passage; and therefore I hope it will be considered at this time. It is very important that the law should be repealed at once.

Mr. DAVIS. I did not waive my right for any debate.

Mr. JOHNSON. There will be no debate.

Mr. MORGAN. Not a word of debate.

The PRESIDING OFFICER. Senate bill No. 325 is before the Senate as in Committee of the Whole, by unanimous consent.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. HENDERSON. I believe my friend from Kansas [Mr. LANE] is in. I desire now to ask him if he takes the credit of the original gold bill. [Laughter.]

Several SENATORS. Vote, vote.

Mr. HOWE. I do not take any credit for the passage of the gold bill myself, whether the Senator from Kansas does or not, and I simply rise to say that I do not mean to be entitled to any credit for its repeal. I have not seen the necessity for its repeal, and I do not yet understand the necessity for it.

Mr. TRUMBULL. I ask for the yeas and nays on the passage of the bill.

Mr. LANE, of Kansas. I will answer the Senator from Missouri by asking for the yeas and nays on this bill. I want to record my vote in the negative.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 13; as follows:

YEAS—Messrs. Anthony, Brown, Carlile, Clark, Cowan, Davis, Doolittle, Foot, Foster, Grimes, Harris, Henderson, Hendricks, Johnson, McDougall, Morgan, Pomeroy, Powell, Richardson, Saulsbury, Sumner, Ten Eyck, Wilkinson, and Wilson—24.

NAYS—Messrs. Chandler, Hale, Hicks, Howe, Lane of Indiana, Lane of Kansas, Ramsey, Sherman, Sprague, Trumbull, Van Winkle, Wade, and Willey—13.

ABSENT—Messrs. Buckalew, Colquhoun, Conness, Dixon, Fessenden, Harding, Harlan, Howard, Morrill, Nesmith, Riddle, and Wright—12.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the amendment of the Senate to the joint resolution of the House (No. 90) to refer the claim of Nahun Ward back to the Court of Claims.

The message further announced that the House of Representatives had passed the following bills and joint resolution of the Senate:

A bill (No. 228) providing for satisfying claims for bounty lands, and for other purposes;

A bill (No. 271) relating to the law of evidence in the District of Columbia; and

A joint resolution (No. 74) requesting the President to appoint a day for national humiliation and prayer.

The message further announced that the House of Representatives had passed the following bills of the Senate with an amendment to each, in which it requested the concurrence of the Senate:

A bill (No. 290) for increased facilities of telegraph communication between the Atlantic and Pacific States and the Territory of Idaho; and

A bill (No. 339) to repeal a joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department," and for other purposes.

The message further announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN F. FARNSWORTH of Illinois, Mr. WILLIAM S. HOLMAN of Indiana, and Mr. JAMES K. MOORHEAD of Pennsylvania, managers at the same on its part.

The message further announced that the House of Representatives had passed a joint resolution (H. R. No. 117) authorizing the Secretary of the Navy to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer Juniata.

MILITARY RAILROAD TO EAST TENNESSEE.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 83) authorizing the President to construct a military railroad from the valley of the Ohio to East Tennessee.

Mr. DAVIS. I shall occupy but a very few minutes on this, I think, one of the most important measures in relation to internal improvement that has ever been presented to the Senate of the United States. This measure proposes to connect the Ohio river at Cincinnati and Louisville with Knoxville in East Tennessee. There is already a line of railroad completed from Cincinnati on through Lexington to Nicholasville, and it has been surveyed and partially executed across the Kentucky river to the neighborhood of Danville. There is a road that has been in operation for

a good many years from Louisville to Lebanon, and now an addition to that road under contract from Lebanon to the neighborhood of Danville, where the two prongs of the main road leading from the Ohio river, the one from Cincinnati and the other from Louisville, are proposed to be united and to be run in a common branch from that point to some point in East Tennessee that will place both lines of road in communication with Knoxville. When the subject was up last night I made a few general remarks, and I am going to make but a few to-day upon the subject. I will read the table of distances between these points:

Table of distances from Cincinnati, Ohio, to Knoxville, Tennessee, by the shortest existing railroad line; and also by the line proposed to be constructed by the President of the United States, in his special message, April 28, 1864:

	Miles.
From Cincinnati to Knoxville, via Seymour, Indiana, Louisville, Kentucky, Nashville and Chattanooga, Tennessee.....	584½
From Cincinnati to Knoxville, as proposed by the President, via Lexington, Nicholasville, and Somerset, Kentucky.....	289
Difference in favor of the latter route.....	295½
There are completed on this line.....	140
To be built, as proposed by the President, to complete the connection.....	149
	289

The construction of one hundred and forty-nine miles additional road would make the connection between Knoxville and Louisville and Nicholasville and Cincinnati complete, and would open up all of East Tennessee, all of northern Georgia, all of the southern Atlantic States, by means of this railroad communication, to the great Northwest. The cost of constructing this link of one hundred and forty-nine miles, as estimated (in 1863) by Lieutenant Colonel Simpson and Captain W. A. Gunn, (engineers,) United States Army, is \$30,000 per mile, making for one hundred and forty-nine miles, \$4,470,000.

A more important improvement, one that would be productive of more advantage in a commercial, military, and social point of view, and for the transportation of the mails, cannot be undertaken in the United States than this would prove to be. Yet, sir, the circuitous route, which is two hundred and ninety-five and a half miles longer than the direct route, the Secretary of War and the general-in-chief call a parallel road with the one which is projected, and they say therefore that the projected road is not necessary. Why, sir, it is an absurdity, it is an abuse of terms to call them parallel roads, and to say that the projected line of railroad is rendered unnecessary by the existence and operation of that long circuitous route running through a section of Ohio, a section of Indiana, a section of Kentucky, a section of Tennessee and to Chattanooga, and then taking a northeastern direction from Chattanooga back to Knoxville.

There are only three considerable bridges to build—over the Kentucky, Cumberland, and Clinch rivers; and of these the stone pillars are already built for the Kentucky and Clinch.

The early completion of this line connecting Cincinnati and Knoxville, as a military necessity, as well for supplying the army of the Cumberland and the troops in southeastern Kentucky and East Tennessee as for placing those troops within easy supporting distance of the whole Northwest, has been urgently recommended by the following officers of the Army, most of whom have served in that section and know its importance, namely: Major Generals Burnside, Foster, and Rosecrans, all of whom have commanded in East Tennessee; and Generals Palmer, Thomas, Sheridan, Rousseau, Schofield, Schenck, Garfield, Smith, White, Tillson, Boyle, Blair, and others.

Generals Burnside and Foster when before the Military Committee of the House stated in their opinion it was by no means certain that East Tennessee could be held without this road, by which to procure supplies, although we might retain Chattanooga; but with this line completed we could hold East Tennessee whether we retained or lost possession of Chattanooga.

One of the greatest difficulties in this war is the long line from the base of supplies to the armies in the front, and the great hazard to which these long lines of communication are exposed by being cut off and interrupted by guerrillas. The whole of this road along the new route would be

through a friendly country. It would not be half the distance in length, consequently it would not be subject to half the exposure of interruption and of being broken by guerrilla parties or by military expeditions. Another essential difference is that a good portion of the circuitous route is through an unfriendly and hostile country where guerrillas are couched in almost every bush, and where there is a constant watch to make depredations on the railroad and to cut the line of communication. These hazards and difficulties would all be obviated by the construction of the new route.

The Secretary of War and the general-in-chief seem to think that this new road is unnecessary in some degree, because they consider the war as pretty well over between here and Knoxville and on to Chattanooga, I suppose. That may be so or it may not be so. I do not think this war is over yet. If it is, and the Union is to be restored, there may be wars in the future, and as a line of military communication and a bond of union between the northwestern and southern States this would be the most important and the strongest ligament that could be constructed in the form of internal improvement. If the war is about to be brought to a speedy close the southern States will long be in a state of very bad feeling toward the Union and the General Government. There will be eruptions; the earthquake will have subsided, but its heavings will still continue; it will throw out its destructive lava continually; and the best means of communication that the Government could have to reduce the rebel States to obedience, to tranquilize them, and to reinstate the reign of law and order and peace that could possibly be devised would be this railroad. I think that in every point of view in which it can be considered the road ought to be undertaken and completed.

Mr. LANE, of Indiana. Mr. President, having been upon the committee that reported this measure favorably, I deem it proper to say a few words to show the reasons that influenced my action upon the committee and that will influence my vote here. I shall not at this stage of the session detain the Senate by any lengthy speech, but give simply the history of our legislation on this subject heretofore, and its present position.

In the first annual message of the present President of the United States the construction of this military road was recommended to Congress. In pursuance of that recommendation a joint resolution was passed authorizing the construction of the road. Under that the Secretary of War commenced to make contracts for the construction of the road. At the end of some twelve months Congress, as I conceive by ill-advised and hasty action, repealed the joint resolution authorizing the construction of the road. Now, this joint resolution has been passed by the House of Representatives providing for the same thing that we provided for by an act of Congress some two years since. I had no doubt then that the measure should pass. I have no doubt now that it should pass. Then we had the approbation of the Secretary of War and all the military authorities. Now we have the opposition of the Secretary of War on account of what he considers the changed position of the military affairs of the country to this road. It will be seen by a map which I hold in my hand that our present line of communication with the army in northern Georgia, commencing at Cincinnati and going around to Chattanooga and thence to Knoxville, is five hundred and eighty-four and one half miles from our base of supplies. That distance will be shortened two hundred and ninety-five and one half miles by having a direct communication from Cincinnati across the States of Kentucky and Tennessee. I have no doubt of the propriety of this proposed railroad, and that Congress has a right to establish either military or post roads and to appropriate money for their construction. If there is any measure which commends itself to the support of Congress, it seems to me it is this road.

Why is it that it was necessary two years ago and is not necessary now? Because the Secretary of War says in his opinion, and General Halleck says in his opinion it cannot be constructed in time to be effective as a war measure during the present rebellion. How can we know that? The truth of these two opinions must be

tested by the question how long the war will last; and no man can tell how long the war may last. The sin and curse of the prosecution of this whole war have been that we have continually been temporizing, resorting to temporary measures, and have not resorted to measures permanent in their character. If this measure had been executed two years ago, I hesitate nothing in saying that five times the whole cost of the construction of the road would have been saved in transportation. What are the two points of importance, the two strategic points controlling southeastern Kentucky and eastern Tennessee? They are the Cumberland Gap and Knoxville. Knoxville is one hundred and forty-nine miles from the termination of the Cincinnati and Lexington railroad, over a mountainous country, a comparatively poor and barren country, with small valleys, and where an army cannot be supported by any home production. You have to rely for the support of your armies either at Cumberland Gap or at Knoxville upon your bases of supplies upon the Ohio river. These bases of supplies are located at Cincinnati and at Louisville. More than one half of the whole transportation would be cut off by the construction of this road.

Now, sir, you have in opposition to this present bill the opinion of the Secretary of War, when two years ago he urged its importance. Now he opposes it because forsooth the rebellion is soon to close and there is to be no more military necessity for this military road. The first and most important objection, as I understood from the reading of the letter, was that the road cannot now be constructed in time to make it an efficient agent in the suppression of the rebellion; and misapprehensions exist in the mind of Senators in reference to the time it will take to construct this road and in reference also to the cost of the road. The estimate for the construction is less than five million dollars instead of twenty or thirty millions, and it is believed by the friends of the road and those best calculated to judge that it may be constructed within less than one year. I hope very much that the rebellion may be suppressed in one year, though I doubt whether it will be; but whether it is or not, I wish to provide means for occupying southern Kentucky and East Tennessee.

But the Secretary has some other objections. He says that the communication with the army in northern Georgia is complete without it. Now, sir, what is that communication? It is from Cincinnati to Seymour, in Indiana, to Louisville, to Nashville, to Chattanooga, and then directly doubling upon your route back to Knoxville, making five hundred and eighty-four and a half miles instead of two hundred and eighty-nine miles. That is the only route and the only communication which the Secretary speaks of except, he says, you have a water communication by means of the Cumberland and the Tennessee rivers. Every one knows that you cannot rely upon the navigation of those rivers except for three or four months of the year, and they really amount to nothing. If your railroads were cut to-day, you could not feed your troops for twenty-four hours at Chattanooga or in northern Georgia by means of water transportation. It is perfectly idle and fallacious, as every gentleman knows. Every intelligent Senator must know that any reliance of the Secretary of War on water communication by means of the Cumberland and Tennessee rivers is utterly erroneous. Then you rely simply on a long line of railroad through the enemy's country, of nearly six hundred miles, when you have the means of constructing a road of one hundred and forty-nine miles in length to make your communication perfect, and not through the enemy's country but through the most loyal portion of the United States, the mountain region of Kentucky and East Tennessee. It is there as it has always been; when freedom has been driven from the valley and the plain she has found her abiding place and last home upon the mountain tops; and so it is there. There is no more loyal people upon earth than the people inhabiting every foot of this railroad route from its present termination to Knoxville in Tennessee, one hundred and forty-nine miles.

Mr. LANE, of Kansas. What is the estimated cost?

Mr. LANE, of Indiana. Four million four

hundred and seventy thousand dollars, and it ought to have been made; and if we had had the ordinary foresight and prudence of any ordinary business man in conducting his own affairs it would have been made more than two years ago.

These are the objections to the measure. What are its recommendations? We have the recommendation of ten major and brigadier generals who have commanded upon the spot. Every one of them tells you it is a matter of necessity, of military necessity, and that you cannot support your armies at Knoxville or Cumberland Gap unless you have this communication. Every single general officer who has ever been upon the ground makes precisely the same report, and you have nothing against it except the letter of the Secretary of War, who two years ago urged it again and again, but now opposes it because you have an existing line of five hundred and eighty-four and a half miles which he says is a parallel line with a road of one hundred and forty-nine miles running directly south, and his parallel line commences at Cincinnati, goes by way of Seymour and Louisville and Nashville and Chattanooga, and then turns up on itself and comes almost due east to Knoxville.

These are the reasons which influence me to vote for this measure. I have no doubt about it.

Mr. LANE, of Kansas. How soon can the road be made?

Mr. LANE, of Indiana. It can be made, as the friends of the measure and the friends of the country there say, in less than twelve months. I have no doubt of it; and without being a prophet, without affecting to prophesy, I tell you that twelve months hence you will need a military railroad there precisely as you do to-day. I fear you will, although I hope the rebellion may be suppressed, but whether it is suppressed sooner or later I wish to prepare now to occupy East Tennessee and the Cumberland Gap permanently, and it never can be done without this railroad. How was it last winter when Burnside was cooped up in Knoxville upon quarter rations, when you had to wagon your provisions one hundred and forty-five miles over a mountain region, and his army was only supported for twenty days by the voluntary contributions of these poor East Tennessee people who have been driven from their homes, who have been slaughtered, whose houses have been burned over their heads, and his army would have had to retreat there without supplies if it had not been for these very loyal East Tennesseans?

Now we ask you to make a road so that you can supply your army and occupy East Tennessee permanently and the mountain region of Kentucky permanently. The report of General Burnside is that when he was upon quarter rations in a starving country—a country that had been overrun by the rebels for two years—at the end of twenty days, instead of being forced to retreat, he had from voluntary contributions more provisions than he had when the siege commenced. Now we propose to hold that country, and it can only be done by this railroad. Cut the communication with the army leading to Chattanooga and it compels a retreat. If you have this railroad you can throw provisions into Cumberland Gap and Knoxville at will, for this railroad is not subject to be cut by raiders and marauders. It runs through a loyal mountain region where they will protect the road. Why should we not give this railroad to the people of East Tennessee? Why should we not protect them? They have three hundred thousand inhabitants all told, and a voting population of thirty-five thousand; twenty-one thousand of that number are now in the Union armies. Starved and persecuted and abandoned as they have been by the Government for the last three years, they are still true to the country and true to the flag. The two important points, as I tell you, are Cumberland Gap and Knoxville. This railroad will pass within fifteen miles of the Cumberland Gap, so that if you wish to supply that point, instead of wagoning your provisions one hundred and fifty miles you have but fifteen miles of wagon road. You lessen the distance to Chattanooga more than one hundred miles even from Knoxville. You lessen the distance to Knoxville two hundred and ninety-five miles from Cincinnati. You have a direct communication south from the State of Kentucky, running almost directly south from Cincinnati two hundred and ninety-five miles,

instead of going around six hundred miles by Louisville and Nashville and Chattanooga.

It seems to me the plainest possible proposition. If the Government has the right to build a military bridge to cross a stream, to establish a road, whether a dirt road or a plank road, they have an equal right to establish a railroad, and it seems to me that every consideration of public policy requires the passage of this joint resolution. The only mistake we made was that it was not passed and acted upon three years ago, and the cost of its construction would have been saved five times over, and all the terrible suffering at Knoxville and Chattanooga for want of provisions and forage would have been saved to the Government.

I forbear to trespass on the Senate further, but I tell you now this bill will pass to-day or it will pass next session. Such is the sense of the Senate and Congress that they will never suffer this measure to fail. It is an absolute necessity growing out of the condition of war, and if the war were over the benefits conferred upon the country would be returned to the country tenfold for its construction, in making a grand ligament binding together the free mountain region of Tennessee and the great Northwest, upon which two sections my hope for the supremacy of the Government and the reestablishment of the Constitution mainly rests.

Mr. WADE. I once more move to postpone the present and all prior orders and take up House bill No. 244, to guaranty to certain States whose governments have been usurped or overthrown a republican form of government.

Mr. LANE, of Kansas. I hope that motion will not prevail. I suppose the discussion on this Danville and Knoxville railroad bill is now through and we are prepared to vote. I look upon it as one of the most important questions before Congress. If we construct the road now, when peace is restored Kentucky and Tennessee will take the road off the hands of Government; but I feel that as a measure to crush out rebellion and to secure East Tennessee and the mountainous portions of Kentucky this road should be made, and I hope the motion of the Senator from Ohio will not prevail.

Mr. POMEROY. I do not suppose we can build this road in five years, and I do not suppose that we can run this war five years, and we may as well let the question of building the road go by and proceed with something that we can finish.

Mr. LANE, of Kansas. I have this to say as my opinion as to the continuation of this war, that it is to be continued interminably without reference to years until success crowns our efforts. That this road can be built within one year, we have the judgment of the Senator from Indiana, whose judgment I would trust as fully as the judgment of my colleague. Here is a people in the mountainous regions of Kentucky and East Tennessee furnishing the most loyal of the loyal of our country, and I understand from the geography of the country that the road will be a grand thoroughfare in time of peace, and that the States of Kentucky and Tennessee would cheerfully refund to the Government its cost and take the road from the Government.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

Mr. POWELL. I call for the yeas and nays. The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 11; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Grimes, Hale, Harlan, Henderson, Morgan, Morrill, Pomero, Rauscy, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wiley—20.

NAYS—Messrs. Brown, Cardie, Cowan, Davis, Hendricks, Lane of Indiana, Lane of Kansas, Powell, Richardson, Riddle, and Santsbury—11.

ABSENT—Messrs. Buckalew, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Harding, Harris, Hicks, Howard, Howe, Johnson, McDougall, Nesmith, Van Winkle, Wilson, and Wright—18.

So the motion of Mr. WADE was agreed to.

SEAMEN ON WRECKED VESSELS.

Mr. HALE. By the consent of the Senator from Ohio, I ask leave to take up a bill which has come back to us from the House of Representatives with an amendment. I simply wish to have the amendment non-concurred in. It is a bill about adjusting seamen's accounts.

There being no objection, the Senate proceeded to consider the amendment of the House of Rep-

resentatives to the bill (S. No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service.

The amendment was disagreed to.

BILL INTRODUCED.

Mr. POWELL, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 345) to prevent the Secretary of War, and persons engaged in the military service of the United States, from interfering with the freedom of religion; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

FORTIFICATION BILL.

Mr. SUMNER. I submit the following report from a committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1865, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their first amendment.

That the House recede from their disagreement to the third amendment of the Senate and agree to the same.

That the House recede from their disagreement to the second amendment of the Senate and agree to the same with an amendment, as follows:

Insert in lieu of the matter stricken out, the following: For repairs and completion of sea-wall at Buffalo, \$37,500.

CHARLES SUMNER,

JOHN CONNESS,

Managers on the part of the Senate.

GEORGE H. PENDLETON,

ALEXANDER H. RICE,

JOHN GANSON,

Managers on the part of the House.

Mr. GRIMES. I should like to know what was done with the amendment made by the Senate in regard to the sea-walls in Boston harbor.

Mr. SUMNER. The House of Representatives insisted on that and the Senate have receded.

Mr. GRIMES. I should like to know who composed the committee on the part of the Senate. I see that only two have signed the report.

Mr. SUMNER. The Senator from New Jersey [Mr. TEN EYCK] was one of the committee.

The report was concurred in.

RECONSTRUCTION BILL.

Mr. WADE. Let the bill which I have called up be now read.

The PRESIDING OFFICER. The bill (H. R. No. 244) to guaranty to certain States whose governments have been usurped or overthrown, a republican form of government, is now before the Senate as in Committee of the Whole, and will be read.

The bill was read.

The first section provides that in the States declared in rebellion against the United States, the President shall, by and with the advice and consent of the Senate, appoint for each a provisional governor, whose pay and emoluments shall not exceed that of a brigadier general of volunteers, who shall be charged with the civil administration of such State until a State government therein shall be recognized as hereinafter provided.

The second section declares that so soon as the military resistance to the United States shall have been suppressed in any such State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States, as speedily as may be, to name a sufficient number of deputies, and to enroll all white male citizens of the United States resident in the State in their respective counties, and to request each one to take the oath to support the Constitution of the United States, and in his enrollment to designate those who take and those who refuse to take that oath, which rolls are to be forthwith returned to the provisional governor; and if the persons taking that oath amount to a majority of the persons enrolled in the State, he is by proclamation to invite the loyal people of the State to elect delegates to a convention charged to declare the will of the people of the State relative to the reestablishment of a State government, subject to and in conformity with the Constitution of the United States.

The convention, by the third section, is to consist of as many members as both houses of the last constitutional State Legislature, apportioned by the provisional governor among the counties,

parishes, or districts of the State, in proportion to the white population returned as electors; by the marshal, in compliance with the provisions of the act. The provisional governor is by proclamation to declare the number of delegates to be elected by each county, parish, or election district; to name a day of election not less than thirty days thereafter; to designate the places of voting in each county, parish, or district, conforming, as nearly as may be convenient, to the places used in the State elections next preceding the rebellion; to appoint one or more commissioners to hold the election at each place of voting, and provide an adequate force to keep the peace during the election.

The fourth section provides that the delegates shall be elected by the loyal white male citizens of the United States of the age of twenty-one years, and resident at the time in the county, parish, or district in which they shall offer to vote, and enrolled as before provided, or absent in the military service of the United States, and who shall take and subscribe the oath of allegiance to the United States in the form contained in the act of Congress of July 2, 1862; and all such citizens of the United States who are in the military service of the United States are to vote at the headquarters of their respective commands, under such regulations as may be prescribed by the provisional governor for the taking and return of their votes; but no person who has held or exercised any office, civil or military, State or confederate, under the rebel usurpation, or who has voluntarily borne arms against the United States, is to vote or be eligible to be elected as delegate at such election.

The fifth section directs the commissioners to hold the election in conformity with the act, and, so far as it may be consistent therewith, to proceed in the manner used in the State prior to the rebellion. The oath of allegiance is to be taken and subscribed on the poll-books by every voter; but every person known by or proved to the commissioners to have held or exercised any office, civil or military, State or confederate, under the rebel usurpation, or to have voluntarily borne arms against the United States, is to be excluded though he offer to take the oath; and in case any person who shall have borne arms against the United States shall offer to vote he shall be deemed to have borne arms voluntarily unless he shall prove the contrary by the testimony of a qualified voter. The poll-book showing the name and oath of each voter is to be returned to the provisional governor by the commissioners of election or the one acting, and the provisional governor is to canvass the returns, and declare the person having the highest number of votes elected.

The sixth section makes it the duty of the provisional governor, by proclamation, to convene the delegates elected at the capital of the State, on a day not more than three months after the election, giving at least thirty days' notice of such day; or in case the capital shall in his judgment be unfit, he is to appoint another place. He is to preside over the deliberations of the convention, and administer to each delegate, before taking his seat in the convention, the oath of allegiance to the United States in the form prescribed by the act of July 2, 1862.

The seventh section provides that the convention shall declare, on behalf of the people of the State, their submission to the Constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guaranty a republican form of government to every State, and incorporate them in the constitution of the State, namely: First. No person who has held or exercised any office, civil or military, except offices merely ministerial and military offices below the grade of colonel, State or confederate, under the usurping power, shall vote for or be a member of the Legislature, or Governor. Second. Involuntary servitude is forever prohibited, and the freedom of all persons is guaranteed in said State. Third. No debt, State or confederate, created by or under the sanction of the usurping power, shall be recognized or paid by the State.

According to the eighth section, when the convention shall have adopted those provisions, it shall proceed to reestablish a republican form of

government and ordain a constitution containing them, which, when adopted, the convention shall by ordinance provide for submitting to the people of the State entitled to vote under this law, at an election to be held in the manner prescribed by it for the election of delegates, but at a time and place named by the convention, at which election the before prescribed electors, and none others, shall vote directly for or against such constitution and form of State government. The returns of this election are to be made to the provisional governor, who is to canvass them in the presence of the electors, and if a majority of the votes cast shall be for the constitution and form of government, he shall certify the same, with a copy thereof, to the President of the United States, who, after obtaining the assent of Congress, shall, by proclamation, recognize the government so established, and none other, as the constitutional government of the State; and from the date of such recognition, and not before, Senators and Representatives and electors for President and Vice President may be elected in such State, according to the laws of the State and of the United States.

The ninth section declares that if the convention shall refuse to reestablish the State government on the conditions named, the provisional governor shall declare it dissolved; but it shall be the duty of the President, whenever he shall have reason to believe that a sufficient number of the people of the State entitled to vote under this act, in number not less than a majority of those enrolled, are willing to reestablish a State government on the conditions named, to direct the provisional governor to order another election of delegates to a convention for the purpose and in the manner prescribed in this act, and to proceed in all respects as before provided, either to dissolve the convention or to certify the State government reestablished by it to the President.

Until the United States shall have recognized a republican form of State government the tenth section makes it the duty of the provisional governor to see that this act, and the laws of the United States, and the laws of the State in force when the State government was overthrown by the rebellion, are faithfully executed within the State; but no law or usage whereby any person was heretofore held in involuntary servitude is to be recognized or enforced by any court or officer in such State; and the laws for the trial and punishment of white persons are to extend to all persons, and jurors are to have the qualifications of voters under this law for delegates to the convention. The President is to appoint such officers provided for by the laws of the State when its government was overthrown as he may find necessary to the civil administration of the State, who are to be entitled to receive the fees and emoluments provided by the State laws for such officers.

The eleventh section provides that until the recognition of a State government as before provided for, the provisional governor shall, under such regulations as he may prescribe, cause to be assessed, levied, and collected, for the year 1864, and every year thereafter, the taxes provided by the laws of such State to be levied during the fiscal year preceding the overthrow of the State government thereof, in the manner prescribed by the laws of the State, as nearly as may be; and the officers provided for by the preceding section are to be vested with all powers of levying and collecting such taxes, by distress or sale, as were vested in any officers or tribunal of the former State government for those purposes. The proceeds of such taxes are to be accounted for to the provisional governor, and be by him applied to the expenses of the administration of the laws in such State, subject to the direction of the President, and the surplus to be deposited in the Treasury of the United States to the credit of such State, to be paid to the State upon an appropriation therefor, to be made when a republican form of government shall be recognized therein by the United States.

By section twelve, all persons held to involuntary servitude or labor in the States referred to are emancipated and discharged therefrom, and they and their posterity are declared to be forever free. And if any such persons or their posterity shall be restrained of liberty, under pretense of any claim to such service or labor, the courts of

the United States shall, on *habeas corpus*, discharge them.

The thirteenth section provides that if any person declared free by this or any law of the United States, or any proclamation of the President, be restrained of liberty, with intent to be held in or reduced to involuntary servitude or labor, the person convicted before a court of competent jurisdiction of such act shall be punished by fine of not less than \$1,500, and be imprisoned not less than five nor more than twenty years; and by the fourteenth section every person who shall hereafter hold or exercise any office, civil or military, except offices merely ministerial and military offices below the grade of colonel, in the rebel service, State or confederate, is declared not to be a citizen of the United States.

The first amendment of the Committee on Territories was in section one, line six, after the word "governor" to strike out "whose pay and emoluments shall not exceed that of a brigadier general of volunteers," and to insert "whose pay shall be \$3,000 per annum."

Mr. WADE. I liked the amendment very well at the time it was got up, but it is so late in the session that I do not think it best to amend the bill in that particular. It was deemed convenient to put the pay of a brigadier general in plain terms rather than have it as it was in the original bill, "the pay and emoluments." As the bill will have to go back to the other House with the amendment, and that would jeopardize it, I would rather that the amendment should not be concurred in.

The amendment was rejected.

The next amendment of the committee was in section two, line eight, before the word "male" to strike out "white;" so as to read, "and enroll all male citizens of the United States."

Mr. WADE. In my anxiety to give these people all their rights I feel now that this bill is of great importance, and that this amendment, if adopted, will probably jeopardize the bill; and as I believe that the provisions of this bill outweigh all such considerations, and at this stage of proceedings that there is no time for discussion upon it, although I agreed to this amendment in committee I would rather it should not be adopted, because, in my judgment, it will sacrifice the bill.

Mr. LANE, of Kansas. This amendment was agreed to in committee. I do not propose to detain the Senate by a discussion, but I want to record my vote upon the amendment. I therefore ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HALE. I shall vote in accordance with the suggestion of my friend from Ohio. I entertain the same opinions about it as he does; but he thinks the bill had better go through as it is, and I shall waive my conscientious scruples and go for expediency.

The question being taken by yeas and nays, resulted—yeas 5, nays 24; as follows:

YEAS—Messrs. Brown, Lane of Kansas, Morgan, Pomeroy, and Sumner—5.

NAYS—Messrs. Carlile, Chandler, Clark, Conness, Davis, Foot, Grimes, Hale, Hendricks, Hicks, Lane of Indiana, Morrill, Powell, Ramsey, Richardson, Riddle, Saulsbury, Sherman, Sprague, Ten Eyck, Van Winkle, Wade, Willey, and Wilson—24.

ABSENT—Messrs. Anthony, Buckalew, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foster, Harding, Harlan, Harris, Henderson, Howard, Howe, Johnson, McDougall, Nesmith, Trumbull, Wilkinson, and Wright—20.

So the amendment was rejected.

The next amendment was in section three, line five, before the word "population" to strike out the word "white."

Mr. LANE, of Kansas. That is the same principle.

The amendment was rejected.

The next amendment was in section four, line two, before the word "male" to strike out "white."

The amendment was rejected.

The PRESIDENT *pro tempore*. The amendments reported by the committee have been disposed of, and the bill is still open to amendment.

Mr. BROWN. I offer the following amendment; I move to strike out all after the enacting clause of the bill and insert these words:

That when the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President, by force and virtue of the act entitled "An act further to provide for the collection of duties on imports, and for other purposes," approved July 13, 1861, they shall be, and are hereby declared

to be, incapable of casting any vote for electors of President or Vice President of the United States; or of electing Senators or Representatives in Congress, until said insurrection in said State is suppressed or abandoned; and said inhabitants have returned to their obedience to the Government of the United States, nor until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress, hereafter to be passed, authorizing the same.

I desire to state that in offering this amendment I have been prompted chiefly by the fact that the session is drawing so near its close that we have not time to discuss a measure of this importance as it should be discussed. I, for one, am not sufficiently familiar with the details of this bill, and there are certain features of it that do not meet my approbation which I would like to amend, to alter, and to change; but it is very apparent that as matters now stand it will be impossible to do so. The present amendment provides all the security which can be asked in regard to the exercise of electoral privileges in these districts. That is the necessity of the hour. I propose to provide for that necessity, and to leave the matter of reconstruction to a later day when events shall have perhaps altered some of the relations in which these districts now stand to us. I do not think, furthermore, that the attitude of the country to which this bill is proposed to apply is sufficiently distinct and sufficiently developed to justify us at this hour in passing upon the work of reconstruction. I therefore move the amendment, which is to strike out all after the enacting clause and make the provision there recited.

Mr. WADE. I hope this amendment will not be adopted. I do not think the reasons that have been assigned are sufficient to induce us to reject a bill that has been got up with so much labor and care in the other branch, and studied considerably at all events by the committee who had it in charge in this. The Senator thinks that the bill has not been long enough before us for us to understand it, or that there are points about the bill that would lead to a more extended discussion than can now be given to it. I do not think there is any sound reasoning in all that. This bill was passed by the House of Representatives at an early period of the session. It has been upon our tables, I believe, some five months. The Committee on Territories had it under their consideration, and I have called the attention of Senators to its provisions and requested almost every Senator on this side of the Chamber, at all events, from time to time to take up the bill and look at it. I have taken more than ordinary care to admonish Senators to look into it and be prepared to vote upon it whenever it should come up; and therefore I believe that if the bill is not thoroughly understood by the Senate at this time it never will be. The next session will be a short session, and the bill cannot certainly be so long before us at the next session as it has been now. But there is nothing in the provisions of this bill at all intricate or difficult to be understood.

This great question is pending before the country; it will not lie still; the Administration will force it on our consideration frequently, and it will arise in a thousand ways before us as long as this war shall continue and afterwards. The question will be asked of every man who goes out to canvass during the coming election, "What do you propose to do with these seceded States in regard to their coming back?" Every one says that the Union must be reestablished in some form; but how? That question is in the mind of every man, woman, and child in the country. The Union is to be preserved; but upon what principle will you permit these people to come back into the Union? It is a very natural question; it arises every day to everybody that considers the subject at all, and we must be prepared to give an answer to it. Here Congress has been in session seven months; we are about to leave and go back among the people, and they will say, "You have talked very much and very long and very loud about reconstruction; some of these States have sent their agents and demanded readmission into the Union; you have voted them out; you have refused to receive them; but have you declared on what principle you will permit them to come in?" Our political opponents will say to us, "It is your deliberate purpose to subdue these people, to subjugate them, to tyrannize over them, and never to let them come back into the Union on equal terms with the other States; when they

have in form made a free constitution and elected Senators according to the forms of law, and who as they believed were entitled to seats here, you have thrust them out, but you do not declare any principle on which you will admit them." That would be wrong. We ought to be able to answer authoritatively everybody that demands to know upon what principle they shall be admitted.

The amendment that is now offered to this bill will give the people no information upon that subject. It is a bare negative. It declares that they shall not come in until Congress shall provide some principle for their admission, and of course it leaves it entirely a blank how that shall be. This bill goes on to prescribe precisely on what principle we are willing to admit these people into the Union again, and that pressing question it seems to me should now be decided. I hold that there is nothing tyrannical or oppressive in this bill, but that it proceeds upon the most liberal grounds of equality. On the one hand it guards the Federal Government against the admission of dangerous persons who still adhere to the confederate notions, and it prescribes the principle on which all the loyal people of the States can come back, and it provides for them a just and equitable government during the period of their transition state while they remain outside of the Union as States. It guards their rights most sedulously; and it undertakes to deal most equitably with those that are not in a condition safely to be admitted into the Union again. It prescribes deliberately and plainly the principle of organization and when they can be permitted to come back, and the bill escapes many of those questions that have been agitated in debate both in this and the other House.

What is the relation that these seceded States hold to the General Government now? Gentlemen differ widely on that subject. It is a most important question, however, to be ascertained and declared by Congress, for the Executive ought not to be permitted to handle this great question to his own liking. It does not belong, under the Constitution, to the President to prescribe the rule, and it is a base abandonment of our own powers and our own duties to cast this great principle upon the decision of the executive branch of the Government. It belongs to us; and the House of Representatives, in the performance of their duty, have in my judgment wisely performed this great function. I know very well that the President from the best motives undertook to fix a rule upon which he would admit these States back into the Union. It was not upon any principle of republicanism; it would not have guaranteed to the States a republican form of government, because he prescribed the rule to be that when one tenth of the population would take a certain oath and agree to come back into the Union they might come in as States. When we consider that in the light of American principle, to say the least of it it was absurd. The idea that a State shall take upon itself the great privilege of self-government when there are only one tenth of the people that can stand by the principle is most anti-republican, anomalous, and entirely subversive of the great principles that underlie all our State governments and the General Government. Majorities must rule, and until majorities can be found loyal and trustworthy for State government, they must be governed by a stronger hand. It is a necessity imposed upon the General Government by the Constitution itself.

I have said that it is the duty of the Federal Government to guaranty to every State a republican form of government, and here, Senators, remember that the bill moving upon this great principle moves under the broad ægis of the Constitution of the United States. It sets up no fanciful principle of government outside of that instrument. It disposes of this grave question, what is the condition of these States and what is their relation to the General Government? It does not go outside of the Constitution of the United States itself. I say again, it leaves nothing to gentlemen's judgment or the different fancies that may spring up among different individuals.

It has been contended in the House of Representatives, it has been contended upon this floor, that the States may lose their organization, may lose their rights as States, may lose their corporate capacity by rebellion. I utterly deny that doctrine. I hold that once a State of this Union,

always a State; that you cannot by wrong and violence displace the rights of anybody or disorganize the State. It would be a most hazardous principle to assert that. No, sir; the framers of your Constitution intended no such thing. They did not leave this great question untouched; and when we study that great instrument I can hardly help but stop and contemplate the all-embracing wisdom that seemed to actuate them, for you can find hardly an exigency that may arise in the complicated affairs of government that they did not anticipate and provide for. They did foresee that in the progress of the Government some of the States might go into rebellion, that they might undertake themselves to absolve their connection with the General Government and set up some hostile government of their own; and they expressly provided for just such a case; and how gentlemen with this principle of the Constitution staring them in the face can fancy that States can lose their rights because more or less of the people have gone off into rebellion is marvelous to me. The principle of law everywhere is that no honest man shall lose a right by wrong or usurpation. The act of rebellion is void. It may have physical force for the moment to displace rights; but the law never yields to any such power as that. The law never anywhere acknowledges that right can be overthrown by wrongful action. They, then, who contend that the State governments are lost, obliterated, blotted out, are contending against the face and eyes of the Constitution. Has that said any such thing? No, sir. It has said that the Federal Government shall guaranty to every State a republican form of government; and if a portion of the people undertake to overthrow their Government and set up another, it is the manifest duty of the General Government immediately to interfere, and, if necessary, to interpose the strong arm of its power to prevent such a state of things. Precisely that state of things is upon us, and this bill proceeds upon that idea and discards absolutely the notion that States may lose their rights and that they may be abrogated and may be reduced to the condition of Territories. It denies any such thing as that. No sound principle can be adopted that warrants any such thing.

Then, sir, what is the manifest duty of this Government now? I know the gentleman from Pennsylvania [Mr. Cowan] the other day talked about selling bear-skins before you had caught the bear, about our troubling ourselves about these questions before they arise. I agree to that; but have they not arisen? Are they not pressed on our consideration in every possible shape all the time? Will the question keep quiet and lie still? No, sir. There are thousands and hundreds of thousands of loyal men pressed down by the arms of rebels, overpowered, their property destroyed, their houses burned over their heads, their lives jeopardized by rebellion, and they look to the strong arm of the Federal Government to reinstate them in their rights and protect their States in the relation they formerly held; and it is the object and purpose of the bill to say to them, "So far as the General Government can reach your case, we will do so; we are not about to leave you without any redress; we are going to take you loyal men by the hand and lead you back again to the old Government and protect you against the hell-hounds that are seeking to rob you of your rights and overthrow the Government." They have a right to ask that at our hands. It is our duty to spend our lives and our property, ay, and our honor is involved in their protection.

I am not going to argue this bill at length; I did not intend to say a word upon it at this stage of the proceedings; but I wish to say again that this bill has kept close hold, if I may say so, along the line of the Constitution. It has been regardful of the rights of loyal men everywhere. On the one hand it has extended to them aid and help and relieved them from all external restraints just so far as is consistent with their safety. On the other hand it has endeavored to discriminate in favor of the General Government, and to show so far as we can precisely how far the General Government can safely go in permitting the rebellious States to come back, for there is no loyal man North or South that would wish to come in here until his State was in such a condition that he could be the real representative of a majority

of the people there. If a man were received upon this floor or that of the other House, until he was truly the representative of the people from whence he came, his condition would be entirely anomalous, his word would not go forth with power and authority; he would be like one among us representatives that had no constituents behind him, that represented nobody. No honorable man in the southern States would wish to be here our associate until he could say "I stand on this floor representing a loyal constituency that are as anxious to uphold the Government as are you," and the moment that he can say that this bill allows him to stand here my equal and the equal of anybody else on this floor or on the floor of the House of Representatives. No honorable man should want anything more. No honorable man should put up with anything less.

Mr. President, the question is so large that when one gets into it he is tempted into details that I feel there is no time now to indulge in. The bill prescribes, as I have said, that there shall be a military governor in each of these States until he can ascertain that a majority are willing to return it; and he is to ascertain just as soon as it can be done by the appointment of certain commissioners who are to go out and take a census of the people and ascertain their wishes and desires on this subject, and ascertain whether there are really a majority of the people in the State that propose to come back who are truly loyal and could maintain a government. The bill provides that the military governor shall do this, and the very moment it becomes certain that there are a majority able to do this, the military governor's power is to cease, and it is to be resigned into civil hands who are to go on and organize the State. Who will say that is not right? Of course it is right. So the bill goes on to prescribe the form of proceeding; and I do not suppose that any man here will object to all that, and therefore I leave it.

The latter part of the bill goes on to define the principles which shall be adopted in the new constitution that they shall frame, and that, I suppose, will be the portion of the bill which will receive more criticism than any other. The bill prescribes that each of these States shall have a republican form of government; and now the question is, how can you, with the light of our present experience, set up a republican form of government? I think that the great Union party of the country are altogether convinced that slavery mixed up in a Government is so unsafe, so liable to overthrow that it cannot be admitted as an element in a State government. The sad experience of this terrible revolution has, as we Union men believe, grown out of the institution of slavery alone, and this war is the legitimate and natural fruit of that state of things. Would we then, in guarantying a republican form of government, suffer it to be mixed up with anomalous elements calculated to immediately destroy what we set up? In the light of our present experience, that, to say the least of it, would be folly. Therefore this bill has taken special pains to say that the new government shall, in its constitution, proclaim emancipation as a condition upon which it shall be permitted to come into the Union.

There was a time when a precedent like this would have been deemed unconstitutional. I know it made a great controversy whether when a State was about to come into the Union we might prescribe any particular principle for its State constitution. We have done so, however, in every State that we have ever admitted, and yet perhaps it never was entirely settled. But in the light of our present experience I ask any man who is a lover of peace and who intends to make a constitution that shall live forever, saying nothing of the wrong, saying nothing of slavery in any other than a political point of view, would it be safe, would it be wise for us in admitting States back into this Union to permit them to come with the very element that had carried them out, with the very seeds of destruction which had destroyed them already? No, sir, we would not do it. The framers of this bill have sedulously shut it out, and made it a condition on which the seceded States shall come back that it shall be a fundamental principle of their constitution that slavery is excluded. If there is a Republican in the Senate who objects to that I am sorry for it.

Gentlemen admonish me that I have not time

to take up this bill item by item. It is unnecessary if gentlemen have read it, for, as I have said before, there is nothing intricate about it. There is nothing but what a gentleman can understand at the first reading of the bill. There is no necessity for that long, careful, and anxious study of its principles that the Senator from Missouri seems to insinuate. It is as easily understood as it is read. It is plain, palpable, and in my judgment equitable and just and fair in all its provisions. I know it was got up with great care by a gentleman who thoroughly understood the workings of the institution of slavery, whose mind had been drawn to it, and who is exceedingly capable of framing an instrument of the kind. I believe it met the approbation of the entire Republican or Union party in the House of Representatives. I can see no objection to its provisions here. I shall make no further argument upon it unless some Senator points out something in its provisions that he deems unjust, inequitable, or wrong. If he does that, I shall attempt to answer.

The amendment of the Senator from Missouri, as I said before, gives the whole question the go-by. It establishes nothing. It does not enlighten the people of the seceded States upon what principle they are to be admitted into this Union again. It barely postpones the settlement. It does not answer the question which as I said has been and will be asked every day and every hour; and the people will ask, if we adopt it, how it happened that at this long session when the question was before us we gave it the go-by. Your political enemies will stand by saying it was because you dared not utter the objectionable sentiments that you intend to bind upon the South; that you have dodged the entire question when it was before you, because you dared not show your hand and give them a principle of equity, justice, and right to go upon. They will have a right to say it. We have no right to blink the question. It is a great question that is most anxiously looked to in all the seceded States by every loyal man. He is told by our political enemies, "They will not let you back on any equitable terms; they intend to make you hewers of wood and drawers of water, to reduce you to servitude." That is the cry.

Now, sir, I want to show my hand. I want to show in the face of the sun that they who undertake to announce these principles do so in utter falsifying of the principle we have laid down. I want to say, "We have passed a law on this subject, we have told everybody on what principle we would permit the seceded States to come back; we have yielded to them everything that their condition can require; we have dealt equitably, generously, righteously with them, and we propose to do that throughout." I do not like to go among my constituents and have it said, "The House of Representatives got up a very equitable bill and established just principles upon which they might be admitted back into the Union, but when it came up in the Senate you gave it the go-by, and passed a skeleton that amounts to nothing; and that, too," they will say, "because it was not your intention to deal generously by these people, but you intend to reduce them to utter servitude." I say we should declare our principle, as this bill does, and legislate equitably and justly. I hope the bill will be passed.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Missouri.

Mr. CARLILE. If I supposed that the amendment offered by the Senator from Missouri could be adopted, I should not detain the Senate by a word of remark on this proposition; and now, until after a vote can be had to ascertain the sense of the Senate as to the proposed amendment, I will refrain from entering into any discussion of the bill further than to show, if I can, that all the bill proposes to do to remedy existing evils will be accomplished by the adoption of the amendment.

All that the bill proposes to do, I say, in this great work of reconstruction, to which the Senator from Ohio has referred, will be accomplished by the adoption of the amendment submitted by the Senator from Missouri. If Senators will look at the second section of the bill they will find that it is expressly provided that the provisions contained in it looking to reconstruction are not to be enforced and are not to have any life until after

the suppression of the rebellion. There can therefore be no pressing necessity for the action of the Senate on the bill at this period in our deliberations, when I presume the large majority of its members have calculated on being able within three or four days to leave this city for their homes. Under the circumstances, after an exhausting session of near seven months, and I venture to say the most exhausting session that has ever been held since the foundation of the Government, there can be no necessity for prolonging that session and keeping members here in this exhausted state to act upon a bill which does not propose to have effect or to go into operation, so far as the great work is concerned which it is claimed we should act upon, until after the suppression of the rebellion.

The second section of this bill expressly provides that "so soon as the military resistance to the United States shall have been suppressed" the bill shall go into operation. The Senate will therefore see that there is no pressing necessity for this bill, unless it be a necessity to provide gentlemen with gubernatorial names and brigadier generals' salaries in States of the Union where they cannot exert power one rod beyond the military lines. The provisions of the bill must necessarily remain dormant until the suppression of the rebellion.

Mr. WADE. I do not wish to make another argument; but if the Senator will look at the first section he will find that the bill proposes a provisional military governor and prescribes his duties throughout all stages of the rebellion, from the time we take any foothold in the State until it joins the Union again.

Mr. CARLILE. The first section of the bill is the only one now that can be effective, and that merely provides for the appointment by the Executive of a provisional governor "whose pay and emoluments shall not exceed that of a brigadier general of volunteers, who shall be charged with the civil administration of such State until a State government therein shall be recognized as hereinafter provided." When is that to be done by the bill? Not until after the rebellion has been suppressed; not until "military resistance to the United States shall have been suppressed in the State" is this work of reconstruction to be commenced; and it is that, the Senate will bear in mind, which I am discussing now, for that is the reason assigned why we should act at this time on this bill. It is not that this military governor over the few acres of ground on which he may be able to exercise authority shall levy and collect taxes and pay the expenses arising within his limited sphere of action, and the surplus, if any, put into the Federal Treasury, but the argument used to the Senate why they should now act on this bill is that the great work of reconstruction may be entered upon and that the people of this country may know upon what terms the States declared to be in rebellion may return to the Union. If I misunderstood the Senator I desire to be corrected, but I so understood his argument.

A part of the Senator's argument was as able an argument as any Senator can make on this floor on this bill. He tells us that the Executive has no right to prescribe the rules upon which these States may be received back into the Union, and he tells us that we have no power to overthrow the State governments; once a State, with him always a State. I agree with him in that. He says that he does not maintain that the State governments are obliterated, and that he who does is contending against the Constitution. I agree fully with the Senator from Ohio in that, and the marvel with me is how the Senator can advocate this bill which does all this. This bill not only maintains that the State governments are overthrown, but so far as its power lies recognizes and assumes the right to overthrow the State governments if that work is not already accomplished. If there be a State where the rebel, the traitor to his country and his God, has failed in overthrowing the State government, this bill accomplishes that work which he, the traitor, began. If the President of the United States has no right to prescribe rules for the return of the rebellious States, will the Senator from Ohio, able as he is, be kind enough to enlighten one humble as myself by pointing out to me the provision of the Constitution authorizing him as a Sen-

ator to exercise any more power upon this subject than the President can exercise?

Mr. WADE. Congress.

Mr. CARLILE. Then as part of Congress or as the whole of Congress, I challenge the Senator from Ohio to show me the authority in Congress to exercise this power. The truth is that the title of this bill is an insult to the understanding of every intelligent man in the nation, and the bill itself is one of the most revolutionary that ever was proposed in a deliberative body claiming to be the representatives of a free people. Unwilling as I am to trespass on the time of the Senate, anxious as I am for an early adjournment, refraining as I have done for the last six months from occupying fifteen minutes even of the time of this body, I am unwilling to allow such a measure as this to pass without giving to it such consideration and such discussion as I may be able to do.

Mr. President, years back in our history, forty odd years ago, a question far beneath this importance and significance was mooted in the Congress of the United States that gave such alarm to the author of the Declaration of Independence that he said it fell upon his ear like the fire-bell at midnight; and what was that question compared to this? It was insignificant; it was but a grain of sand upon the sea-shore compared to the mountain. That was a proposition on the part of the United States to impose upon the then inhabitants of the Territories seeking admission into the Union a restriction upon their right of self-government when they became a State; and after one of the most exhaustive and learned debates that is connected with our history or that ever graced the Capitol of the nation, that assumption for Congress was abandoned. It remained for the last Congress to revive it and to do what its predecessors would not do. It was permitted to rest as the settled law of the land that the Congress of the United States had no power to impose by law limitations affecting the right of the people of a State to regulate their own domestic affairs, even when sought to be applied to the inhabitants of a Territory seeking admission into the Union; and such was the settled action of Congress until reversed at its last session when Congress assumed to create a State out of a portion of the territory of the State which I represent. I say "assumed," for it was but an assumption. The debate to which I have referred established the want of power in Congress, and so plain was it made that the advocates of the power sought to be exercised abandoned the discussion and abandoned the assumption.

No State can have a republican form of government, no State has a republican government, when that government, no matter what are its provisions, is prescribed to them by another outside of their limits. A republican form of government must emanate and emanate alone from the people that are to be governed. It belongs not to the Congress of the United States; it belongs not to thirty-three States of this Union to prescribe for the smallest State within its folds a constitution or form of government. If you have a right to impose a limitation upon this power as to one subject of domestic legislation you have a right to impose it upon every subject. If you have the right to make one provision of a constitution for a people you have the right to make the entire instrument itself.

Mr. WADE. I should like to ask the Senator this question: suppose a State should undertake to set up a monarchy in defiance of the General Government, what would be its duty?

Mr. CARLILE. Its duty is as plain as the noonday sun in a clear and cloudless sky; its duty is prescribed in the instrument which we have sworn to support; and that is to guaranty to the people there a republican form of government which they had adopted for themselves, and which was in existence at the time the attempted monarchy was sought to be substituted for it. There is the answer to the Senator. The Senator would claim for the Congress of the United States sovereign powers, powers exercised alone by a despot and a tyrant, by governing through appointees of their own the sovereign States of this Union.

Mr. WILSON rose—

Mr. CARLILE. I am not done. I do not want unnecessarily to consume time; but in order to save gentlemen trouble I will let them know

that I intend to discuss this thing for an hour or two.

Mr. WILSON. Will the Senator allow me the floor for a moment?

Mr. CARLILE. Certainly.

* PAY OF ARMY MUSICIANS.

Mr. WILSON. I ask the unanimous consent of the Senate to introduce a joint resolution and put it on its passage to correct an act already passed. I am directed by the Committee on Military Affairs to present it.

By unanimous consent leave was granted to introduce a joint resolution (S. No. 77) explanatory of an act entitled "An act to increase the pay of soldiers in the Army of the United States, and for other purposes," approved June 20, 1864.

Mr. WILSON. The resolution is absolutely necessary to prevent a mistaken construction of the act referred to, and I hope it will be put on its passage at once.

There being no objection, the joint resolution was read three times, and passed. It provides that the word "musician," in the first section of the "Act to increase the pay of soldiers of the United States Army, and for other purposes," approved June 20, 1864, is not to be construed to include musicians (other than leaders) employed as members of brigade and regimental bands; but such members of bands are to be paid as heretofore, one fourth of the members of each band thirty-four dollars a month, one fourth of them twenty dollars a month, and the remaining half seventeen dollars a month.

RECESS.

Mr. CLARK, (Mr. DOOLITTLE in the chair.) By the indulgence of the Senator from Virginia I move that at half past four o'clock the Senate take a recess until seven o'clock; and I do it with a view of asking the Senate to allow me perhaps half an hour or three quarters of an hour when the Senate reassembles after the recess to dispose of a few private bills that are on the Calendar, which should be disposed of before the Senate adjourns.

Mr. TRUMBULL. I was really in hopes that this hot night we should not have a night session; it is so very uncomfortable. The Senator will have abundance of time in the morning to act upon these private bills which he takes to heart. We are sitting here as it seems to me now, rather waiting for business than anything else. There is an appropriation bill that a committee of conference have been unable to consider yet, and if we have no session to-night, it will give the members of that committee an opportunity perhaps to come to a conclusion upon it, and we can pass these bills in the morning. Now, we have had a discussion to-day, and it is apparent to every member of the Senate that we make very little progress by taking up these controverted questions and discussing them for hours.

Mr. HENDRICKS. The bill now before the Senate will be still further discussed.

Mr. TRUMBULL. The Senator from Indiana gives notice now that the bill under consideration will lead to protracted debate, as I understand, or rather it will take a good deal of time to consider. It is a very important matter. The one we had up this morning about the railroad is of the same character, so that really we accomplish nothing. If there was other business I, for one, would vote to proceed at once to it and let that be transacted, and then if we remain here we can dispose of these other bills.

Mr. CLARK. If this bill is to be discussed, if we are to adjourn in any decent season, the more necessity of meeting this evening. But I desire to say to the Senate that there are one or two little bills for the relief of some Army officers that ought to be passed so that they may go to the other House if there is any prospect of finishing them this session; and if it is delayed I fear they will be entirely defeated. They are meritorious and should be attended to.

Mr. HENDRICKS. I wish to suggest to the Senator from New Hampshire that the Senator from Virginia would just as lief finish his speech to-morrow, and if this bill is to be pressed of course it has got to be discussed. It is the greatest question of the session, and I suggest to the Senator from New Hampshire to let the Senator from Virginia yield the floor, and devote the half hour between now and half past four o'clock to

private bills. They ought to be passed, without question.

Mr. WADE. I would ask why it is that where there is a great measure or a small one pending that really ought to be determined, it cannot be determined? Have we fixed a time of adjournment?

Mr. CLARK. I do not desire to drive this debate over to to-morrow; I think the debate should be proceeded with, because we may want to-morrow for some other necessary measure. I only ask for twenty minutes or half an hour when the Senate first comes together this evening, when it is known that business is generally delayed for some half hour, to take up some two or three little bills that should be proceeded with. But I think we should not interrupt this debate; I wish it to go along, and it should go along to-day and this evening, and the sooner we get the debate out of the way and other measures out of the way, the sooner we can adjourn, and I am anxious we should do it.

The PRESIDING OFFICER, (Mr. DOOLITTLE in the chair.) The question is on the motion of the Senator from New Hampshire that at half past four o'clock the Senate take a recess until seven o'clock.

Mr. McDOUGALL. I trust that course may be pursued. We have got a great deal of business to do, and Senators desire to express their views upon some of these questions, particularly on the question now before the Senate. There is a great deal of business besides that to be transacted. We do transact a good deal of business in the evening session as well as hear a great deal of discourse; but the first preliminary hour of the evening session is generally valuable for the business of the Senate, and later in the evening gentlemen advance their opinions and arguments in regard to questions pending. I think we should continue our evening sessions until we close. I am willing to sit here continuously, if necessary, until we can get to a conclusion; but I prefer the recess, as it gives us an opportunity properly to supply our animal system with the necessary condiments.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire for a recess.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 207) making appropriations for the construction, preservation, and repair of certain fortifications and other works of defense for the year ending 30th June, 1865.

The message further announced that the House of Representatives had passed the following joint resolutions of the Senate, with an amendment to each, in which it requested the concurrence of the Senate:

A joint resolution (No. 43) authorizing the settlement of the accounts of the late Captain Daniel Hebard of the United States volunteers; and

A joint resolution (No. 58) in relation to the professors of the Military Academy at West Point.

RECONSTRUCTION BILL.

The PRESIDING OFFICER. The bill (H. R. No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government, is before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from Missouri, [Mr. BROWN.]

Mr. CARLILE. Mr. President, the Senator from Ohio regards these States as States still, States in the Union. He regards an attempt at the overthrow of their governments, I take it from his argument, to be treason. He regards it his constitutional duty to prevent by all the means within the power of the Government that attempted overthrow. Now, I put this question to the Senator, and I hope he will answer it: where does he as a member of the Congress of the United States derive the constitutional power to govern a State by a Federal appointee? Where does the Senator derive the power to appoint a governor for a State, a State which he acknowledges

to be in existence, a State government that he acknowledges to be in existence, a State government that he acknowledges it to be his duty to protect and maintain? By what provision of the Constitution does the Senator derive the authority to appoint for such a State an executive head?

Mr. WADE. Does the Senator want an answer now?

Mr. CARLILE. Certainly.

Mr. WADE. As I have frequently said, the Constitution of the United States provides that Congress shall guaranty to every State in the Union a republican form of government. When any State undertakes to set up a government in defiance of the Government of the United States, to establish an aristocracy or a monarchy, or anything but a republican government, the Constitution gives the power to the General Government to guaranty a republican government, and when it has given the power to it, it has given the means necessary to perform it. Is not that good law?

Mr. CARLILE. No, sir. Now, Mr. President, I will satisfy the Senator himself, I think; and really it is not necessary for me to attempt to satisfy him, for he is too good a lawyer not to know the meaning of the word "guaranty." What is it? Does the authority to "guaranty to each State in this Union a republican form of government" authorize this Union to set up a government, to create a government, or to make a government? Is the maker of a note the man who guarantees its payment? There is no man in the Senate who knows better the definition and legal significance of the word "guaranty" than the Senator from Ohio, and none, I am sure, is more familiar, too, with the power that was intended to be conferred by this provision of the Constitution.

Mr. WADE. I want an argument square. I do not like this dodging.

Mr. CARLILE. There is no dodging with me. I am going to meet it squarely.

Mr. WADE. Suppose a State of this Union undertakes to set up a monarchy, suppose it has elected its monarch, suppose he is on the throne, and sets up a government hostile to the United States, how shall the United States guaranty a republican government to the people of that State? They have got to do it. The Constitution says it shall be done. How? By keeping out of the boundary of the State? By this letting-alone principle that we hear of? Is that it?

Mr. CARLILE. The Senator is wandering entirely from the question. I answered the Senator a while ago how he was to get rid of the monarchy. I told him it was his duty, made so by this provision of the Constitution, to bring to bear the power of this Government to relieve the people of the State from that monarchy and maintain them in the possession and enjoyment of their State government organized by themselves and which existed before the attempted monarchy was forced upon them.

Mr. WADE. Let us stop right there. Suppose now that we have conquered them and the people are still bent on their monarchy; shall we not guaranty a republican government to them by putting one over them?

Mr. CARLILE. No, sir. If the Senator be right, Mr. Madison, the author of the Constitution, was wrong. I supposed that the Senator was familiar with the Federalist, and the Senator ought to be familiar with the discussions of this very same provision when the Constitution came before the people of the several States to be ratified or rejected. The Federalist is looked upon as a correct exposition of these very powers, and one of the objections by the many objectors at that day was not that the provision conferred power to do what is proposed to be done by this bill, but that an unscrupulous Congress, unmindful of their constitutional obligations, unmindful of their duty as representatives, regardless of the rights and liberties of the people and of the rights of their States that they were created for the purpose of protecting, might use as a pretext this provision to assert the very power the Senator proposes in this bill, and what is the reply? I read from the forty-third number of the Federalist:

"6. 'To guaranty to every State in the Union a republican form of government; to protect each of them against invasion; and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence.'

"In a confederacy founded on republican principles and

composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations."

The very case put by the Senator; and how it is to be done is stated:

"The more intimate, the nature of such a Union may be, the greater interest have the members in the political institutions of each other; and the greater right to insist that the forms of government under which the compact was entered into should be substantially maintained."

"It may possibly be asked what need there could be of such a precaution, and whether it may not become a pretext for alterations in the State governments without the concurrence of the States themselves. These questions admit of ready answers. If the interposition of the General Government should not be needed, the provision for such an event will be a harmless superfluity only in the Constitution. But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigues and influences of foreign Powers? To the second question it may be answered that if the General Government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government, which supposes a pre-existing government of the form which is to be guaranteed."

Now, sir, is the Senator answered? The people of the State, whether there is an attempt to overthrow the State government, or whether it has been a successful attempt as against the State itself, are to be relieved by the action of this Government in pursuance of the authority therein granted. It is not claimed or pretended, I suppose, by the Senator from Ohio or by any advocate of this bill, that under any other provision of the Constitution can a pretext be afforded for the assertion of such a power as this bill proposes to assert.

Mr. WILKINSON. Will the Senator from Virginia permit me to ask him a question?

Mr. CARLILE. Yes, sir.

Mr. WILKINSON. Suppose the people of a State, four fifths of them, are opposed to a republican form of government, what then would the Senator from Virginia do?

Mr. CARLILE. Take the case the Senator supposes, how is he going to give them a republican form of government if four fifths of the people are opposed to it? What right has this Congress to make a government for the people of a State?

Mr. WILKINSON. I object to the Senator's answering one question by asking another.

Mr. CARLILE. I understood the Senator originated in Yankee land, and I wanted to follow the fashion of the Yankees, and I think he is successfully answered.

Mr. WILKINSON. Suppose the people of the State of South Carolina have determined that they will not have a republican form of government in that State, what would the Senator have the Government of the United States do under such circumstances?

Mr. CARLILE. I would have the Government of the United States do nothing that it has not the power under the Constitution to do, because I believe that the Government of the United States is a Government of limited powers. I believe it to be its duty under the grant of power in the Constitution to guaranty the existence of a pre-existing republican government. That government existed in South Carolina; the people have not determined, at least before this war they had not determined, to have any other than a republican form of government. We had recognized that government as a republican form of government by the recognition of the State in all its departments and the admission of all its national representatives. It is made the duty of the Government of the United States, not of Congress; and I desire to call the attention of the Senator to that, because it bears upon his assumption for Congress of power which does not belong to the Executive. It is not alone the duty of Congress to guaranty a republican form of government to the people of the several States; the extent of that guarantee is not limited alone to the means which Congress may employ; but the words of the Constitution are "the United States shall guaranty." Hence every department of the Government is equally bound; and Congress being the legislative branch of course participates to a greater extent in the discharge of that duty.

Mr. CLARK. I do not wish to interrupt the Senator to ask any question not entirely agreeable to him, but I desire to ask of him whether if

the Government be overthrown in any one State by the people of that State, it is not the duty of the Government of the United States to restore that to its republican form even if a majority of the people in that State are opposed to the republican form.

Mr. CARLILE. The fact of my being here I think should be an answer to the Senator's question. The people of each State of this Union have by becoming parties to the Constitution bound themselves by that compact; and they have not the right to overthrow the State government which recognizes that obligation by any power short of that which results in success; but if they are able to prevent the United States through its power from enforcing this provision of the Constitution, then I suppose they can do it, but otherwise not.

Mr. CLARK. That does not quite meet the question. They have not the right to overthrow; that is very clear; but suppose they actually have done it, have overthrown, then the question I desire to put is whether it is not the duty of this Government to restore it.

Mr. CARLILE. How, though? By pursuing the authority conferred upon the United States, not by creating a new government, not by restricting them in the exercise of any one prerogative that belongs to them, not by separating one of their local limbs of sovereignty that belonged to them and bringing them into the Union amputated, with the badge of inequality and degradation placed upon them, as you placed upon the so-called State of West Virginia.

Mr. CLARK. Then will the Senator allow me to inquire, if it becomes necessary, in order to restore that government, to set up within that State a provisional government, is not the power clearly given to Congress or the United States Government to set it up? Does he not recognize the decision of the Supreme Court that when a power is given all the requisites to its exercise are given, if not absolutely prohibited by the Constitution?

Mr. CARLILE. It is not essential to this argument for me to answer the Senator from New Hampshire, not that I am not disposed to do it—

Mr. CLARK. I do not desire an answer particularly.

Mr. CARLILE. Or that I cannot do so; but the Senator from New Hampshire will bear in mind that what I called his attention to in the opening of this argument was the second section of this bill which does not propose a provisional government as a war measure and to last only while the rebellion remains; but it does not propose to exercise any governmental power except what is exercised through its appointee as governor until after military resistance shall have been suppressed.

Mr. CLARK. I understand that entirely. I understand that the people are to be held by this provisional governor until the rebellion is subdued, and this is to be the provisional means of bringing back the old form of government.

Mr. CARLILE. I should like to ask the Senator from New Hampshire to tell me how one Federal appointee, called a governor, is to hold a State which your armies have as yet been unable to hold.

Mr. CLARK. He is to hold it by means of the Army until the rebellion is entirely done, the same as we have held Tennessee.

Mr. CARLILE. You have no authority to appoint a governor or any civil officer in that State, unless you are compelled to resort to military power to carry out your constitutional obligations and to remove the obstacles which are in the way of exercise of civil authority through the agents of the people themselves, which they have established by virtue of their existing government. No such power is given under any provision of the Constitution; none could have been given without your entirely changing the whole character of this Government, which is based upon the fundamental principle that the military power shall always be subordinate to the civil. One of the brightest spots in the character of the Father of his Country is the fact that during our revolutionary struggle he ever maintained the supremacy of the civil power; and so highly was that estimated by the Congress that received from him his resignation as Commander-in-Chief of the armies that the President, Thomas

Jefferson, who was instructed to make the address, alluded to it in the most flattering and complimentary terms:

"Called upon by your country to defend its invaded rights, you accepted the sacred charge before it had formed alliances, and while it was without funds or a Government to support you. You have conducted the great military contest with wisdom and fortitude, invariably regarding the rights of the civil power through all disasters and changes."

I regret, sir, that truth compels me to say that such a speech could not be made now to those who have conducted the military power of this country in this war. But, sir, the Senator from Ohio says the Union is to be preserved. So say I. Upon what principle are these States to come back into the Union? The people, says the Senator from Ohio, will meet you with that inquiry. Sir, when was ever such an inquiry suggested to the brain of any loyal man in this Union? When was such an inquiry ever put? Never until after a policy different from that which characterized the commencement of this struggle was entered upon by the party in power. All said the Union was to be restored; all accepted the struggle as the use of the military power of the Government in the restoration of the Union. What Union? The Union of the Constitution. The Union into which new States are to be admitted. It is not into "a Union," but into "this Union" that the States are admitted. What Union? The Union of the Constitution, none other; and he who seeks to preserve the Union can only do it by an observance of the Constitution and the use of the constitutional means to restore it, not reconstruct it.

Where do you derive the power to reconstruct this Union? What Union are you the representatives of? What is the Union which has given to you your seats? It is the Union as it has existed from 1789; it is the Union of which the Constitution of the United States is the only bond; it is a Union of limited and delegated powers, bounded, as Mr. Adams said, on one hand by the right of the States to internal legislation, and on the other by the laws and usages of nations. In this Union, created by this Constitution, of limited and delegated powers, all prescribed and written in the instrument, you propose to exercise your legislative power by usurping the rights and liberties of the people, a power which all the people you represent could not use or could not exert without the destruction of the Union which the Constitution formed. There is no power in this Government, there is no power in the parties to this Government, there is no power in all the States of this Union to prescribe a constitution for the little State of Rhode Island. If every other State in the Union, the adhering as well as the rebellious States, if every man, woman, and child in them were to meet and prescribe a constitution for the people of Rhode Island, they would have no power or authority to do so under the Union; and tell me where the people's representatives derive the power to do that which all the people in their collective capacity, save the small minority that constitutes that State, cannot do?

When I heard the learned Senator from Wisconsin, now occupying the chair, [Mr. DOOLITTLE] a few days ago on this floor say that after this war we were to have a better Union than we have ever had, the expression of the sentiment not only astonished me but it sunk into my heart and impressed itself upon my memory never to be effaced. Where do you derive the power or the authority to give us any other Union than that which the Constitution created? Who is willing to intrust even to Senators of this day the right of forming a Union which it is to be supposed will be superior and above the Union that the patriots of the Revolution formed?

It is that mischievous sentiment, it is that mischievous exercise of power that has prolonged for more than three years the struggle in which we are engaged, and may prolong it for years to come. It is because gentlemen in their hatred it may be of rebellion, in their desire to punish those engaged in it, forget the obligations that they are under to the Constitution of their country, and forget the rights that the people they represent have secured to them under and by virtue of this Union which they would set aside and in the place of which they would put what they would call a better Union. Sir, I never expect to see a better Union than that formed by the

authors of our present Constitution. I look upon it and have been taught to reverence it as the most beautiful, the most valuable system of government that was ever devised by man; and that Union is a Union to the extent of the powers conferred in the Constitution of the United States, and no further. Tell me the boundary of your power: if you attempt to embark beyond that Constitution, what protection is there left to the people of the several States, the State even which the Senator from Ohio represents as well as every other State; that it may be able to preserve its right of State sovereignty as secured to it by this very Union which is to be superseded, and for the preservation of which the Union itself was formed?

The Senator from Ohio, in the remarks which he has submitted upon this bill, has said that he did not wish to subjugate these people, and he denied our right to subjugate them. He was not for subjugating them, and not for letting them into the Union upon equal terms with the other States. I put it to the Senator from Ohio if this bill itself is not a subjugation of the people upon whom it is proposed to operate. You provide that after the suppression of this rebellion this provisional governor may summon a convention to form a constitution, not to amend the existing constitution but to form a constitution and to prescribe—

Mr. WADE. I presume they can take the one they have if they like it better in that shape.

Mr. CARLILE. Let the Senator wait a bit and I will get his attention to this section of the bill. That convention is to meet, a convention composed of delegates alone who have sworn allegiance to the Constitution of the United States, who have taken upon themselves the solemn obligation which the last Congress provided should be taken by all holding office under the Government of the United States in the act of July 2, 1862, I believe, that convention to be selected alone by electors who have taken the oath of allegiance to the United States; and yet if that convention does not impose the restrictions which this bill seeks to impose upon these States, it is to be dissolved. That convention is not to be allowed under this bill to adopt if it chooses a constitution republican in form, but it must adopt certain provisions prescribed in this bill; and if they in the exercise of the rights that belong to an unsubjugated people refuse to adopt these provisions they are to be dissolved and dispersed, and the privilege of erecting a government for themselves denied to them, and they are to go out into the country, after military resistance has ceased, after there is no obstruction to the execution of the laws, after all the various machinery of this Government is working smoothly and quietly, and remain until the President shall become satisfied that another convention composed of subjugated delegates will do what this bill declares they shall do before they can ever resume the right of self-government and have the benefit of the civil administration of the laws under that government which they have formed for themselves. If I understand the word "subjugate," no exertion of power that can be conceived of by the autocrat of Russia or by any tyrant that ever sat upon a throne more completely subjugates a free people than this provision of this bill.

There is another feature in connection with this subject which the gentleman from Ohio and the advocates of this bill seem to me to have entirely overlooked. The existence of the institution of slavery in a State or any other domestic institution does not make the government republican or anti-republican in form. It is not a governmental power that recognizes the existence of any particular institution in a State. It is derived from the legislative power, from the law-making power; and will the Senator contend that the State of Massachusetts—

The PRESIDENT *pro tempore*. The Senator will pause. The Senate will now take a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m., and Mr. ANTHONY took the chair and called the Senate to order.

JOHN HASTINGS.

Mr. CLARK. I desire the unanimous consent of the Senate to consider Senate bill No. 274, for

the relief of John Hastings, collector of the port of Pittsburg.

There being no objection, the bill was read a second time and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury, in adjusting the accounts of John Hastings, as collector of the customs at the port of Pittsburg, to give him credit for the sum of \$9,956 62, the amount of the public money of which he was robbed on the 10th of March, 1854, while acting in that capacity.

Mr. GRIMES. I call for the reading of the report.

Mr. WADE. I think we had better take up the measure we were upon before the recess and go on with it.

Mr. CLARK. Give us half an hour for my bills.

Mr. WADE. Very well; I will give you half an hour.

Mr. GRIMES. I withdraw the call for the reading of the report.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MAJOR N. S. BRENTON.

Mr. ANTHONY, (the President *pro tempore* having resumed the chair.) I move to proceed to the consideration of Senate bill No. 328.

The motion was agreed to; and the bill (S. No. 328) for the relief of Major N. S. Brenton, a paymaster in the United States Army, was read a second time, and considered as in Committee of the Whole. It requires the proper accounting officers of the Treasury Department to allow Major N. S. Brenton, on the settlement of his accounts, a credit of \$2,600,000 for money in his hands as paymaster in the Army, on board the steamer Ruth, and destroyed by fire on the night of the 4th of August, 1863.

Mr. GRIMES. Let the report be read.

Mr. ANTHONY. I can state the circumstances, though the report is very brief. This large amount of money was on board the steamer Ruth in charge of Paymaster Brenton. The steamer was fired by rebel incendiaries at the time they determined to prevent the navigation of the Mississippi, and the money, which was in greenbacks, was destroyed. A military commission and a commission from the Treasury Department proceeded to the spot, examined the whole affair, and have reported that the destruction was complete. The report of the Treasury commission is with the report of the committee. It is pretty long; but it was so large an amount that the committee examined it with great care. The Senator from Indiana [Mr. HENDRICKS] was kind enough to examine it after me, and we thought that the proof was complete that every box containing the money had been destroyed.

Mr. HENDRICKS. The report is quite lengthy.

Mr. ANTHONY. The report proper is quite short, but it embodies the report of the commission appointed by the Secretary of the Treasury.

Mr. HENDRICKS. That is the satisfactory portion of the evidence. The commission was appointed by the Treasury Department for the purpose of examining it, and there cannot be any doubt. No court would hesitate a moment to say the property was destroyed.

The PRESIDENT *pro tempore*. The Secretary has sent for the report. It is not on file.

Mr. GRIMES. I do not insist on the reading of the report.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM H. JAMESON.

On motion of Mr. ANTHONY, the bill (S. No. 239) for the relief of William H. Jameson, a paymaster in the United States Army, was read a second time, and considered as in Committee of the Whole. It requires the proper accounting officers of the Treasury Department to allow Major William H. Jameson, on settlement of his accounts, a credit of \$959 14 for money in his hands as paymaster in the Army, on board the steamer Ruth, and destroyed by fire on the night of the 4th of August, 1863.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN L. ROBINSON.

Mr. ANTHONY. I ask leave to make a report. The Committee on Claims, to whom was referred the bill (H. R. No. 460) for the relief of Sarah Robinson, widow of Hon. John L. Robinson, late United States marshal for the district of Indiana, have directed me to report it back without amendment and recommend its passage. I ask for its present consideration. It will create no debate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which authorizes the Secretary of the Treasury to credit to the account of Hon. John L. Robinson, late United States marshal, with the Department, the sum \$675 for services rendered by him in making preparations for the taking of the census of 1860; and in the legal adjudication of his accounts as marshal, judgment thereon is to be rendered only for the balance found to be due, without any interest or penalties whatever.

Mr. GRIMES. Let us have the report read.

Mr. ANTHONY. I will explain.

Mr. GRIMES. I would rather hear the report.

Mr. ANTHONY. I think there is no written report. The person for the relief of whose estate this bill is reported was marshal of Indiana. In that capacity he was required to commence the preliminary proceedings for taking the census. He did so; and it was in evidence that he performed about one half the work of taking the census. He then died. His successor was appointed and completed the census. The money for taking the census is paid in proportion to the amount of population and statistics, and the whole amount was paid to the successor of Mr. Robinson, he receiving nothing whatever. This bill is to allow his estate to be credited in the settlement of his accounts. His estate is a debtor to the Government, and this is to credit on his account the compensation due to him for the portion of work which he performed in taking the census.

Mr. GRIMES. I move to strike out the last line of the bill in these words, "without any interest or penalties whatever."

Mr. HENDRICKS. I hope that amendment will not be made. It will not be just and right to make the amendment.

Mr. GRIMES. It seems, from the report of the Comptroller, that this man was indebted before his death to the United States Government in the sum of \$15,000 and over. It is now claimed that he is entitled to a credit of \$600, as I understand; or thereabouts, and this bill is to allow the Comptroller to credit him with that amount. The last clause says that he shall be entitled to that and judgment shall be rendered for the balance due; and then it goes on and says that it shall be rendered also without any interest or any penalties, applying, as I understand the phraseology, to the whole judgment.

Mr. HENDRICKS. No, sir; it applies to the \$600.

Mr. GRIMES. Let the bill be read. The Secretary read it.

Mr. GRIMES. Striking out the words "without any interest or penalties whatever" would allow the court to render judgment for the balance due. The words are manifestly improper there.

The amendment was agreed to. The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed.

On motion of Mr. ANTHONY the title was amended so as to read, "A bill for the relief of the estate of John L. Robinson."

CHARLES A. PITCHER.

On motion of Mr. MORRILL, the bill (S. No. 338) for the relief of Charles A. Pitcher was read a second time, and considered as in Committee of the Whole. It requires the Secretary of the Treasury to pay to Charles A. Pitcher the sum of \$5,000 for damages sustained by reason of the infringement of a patent on a machine for making brooms, and the use of the same in the penitentiary of the United States, from November 1, 1859, to September 20, 1862.

Mr. MORRILL. I should like to have the report read. It is a very short one.

Several SENATORS. No, no; it is all right.

Mr. GRIMES. I should like to hear the report read.

The Secretary read the following report:

The Committee on Claims, to whom were referred the memorial and papers in relation to the claim of Charles A. Pitcher, respectfully submit the following report and the accompanying bill for the relief of the memorialist.

The claim in this case is for damages for the use of several patent machines for making brooms in the penitentiary of the United States from the 1st of November, 1859, to the 20th of September, 1862.

The facts in the case are substantially set forth in the report of the inspectors of the penitentiary, which is indorsed by the Secretary of the Interior, and is as follows:

WASHINGTON, February 5, 1862.

GENTLEMEN: In obedience to a resolution passed at your last meeting, referring to me the letter of Charles A. Pitcher, I respectfully report that the following appear to be the facts in the case: On the 1st of November, 1857, letters patent were granted to Spencer Rowe, of Baltimore, Maryland, for an "improvement in machines for making brooms." On the 4th day of the same month he regularly assigned and transferred all his right and title in the patent to John Fox, and on the 2d day of April, 1861, Fox sold and transferred to Charles A. Pitcher all right and title to the patent under the assignment made by Rowe, together with any right or claim he (Fox) might have for any infringement of the said patent right. Both these assignments were duly recorded in the Patent Office, as required by law. They are in proper form and *prima facie* of legal force and effect. Notwithstanding the sale which Rowe had already made of his whole patent right, he entered into an agreement with Warden Thornley, on the 16th day of February, 1858, to set up and run his machines in the penitentiary, hiring of Thornley the necessary workmen from among the convicts, and agreeing to pay for their labor forty cents a day each. Rowe failed to fulfill his agreement, and, under the provisions of his contract, the apparatus was sold and bid in by the then warden, and has ever since been used in manufacturing brooms in the penitentiary. Some two or three new machines have also been added. Warden Thornley committed an evident error in failing to examine the records before he made any agreement with Rowe for the use of his patent in the penitentiary. If he had exercised proper precaution in this respect, no difficulty could have arisen. Since the surrender of Rowe's contract of February 16, 1858, the machines have been in use under successive wardens, and broom-making constitutes an important part of the labor of the convicts. I am not prepared to say what saving is effected by the use of Rowe's patent over the manufacture by hand or by free machinery, but, as the case now stands, it seems clear that the use of the machinery on hand is an infringement on the legal rights of Mr. Pitcher. No claim for damages, however, can be settled either by the warden or by the inspectors, for it was long since decided, and especially by Chief Justice Taney, when Attorney General of the United States, that no disbursing or accounting officer has any right to assess and pay damages, as by so doing appropriations of money might be diverted from their legitimate objects, and a door opened for collusion and fraud when an individual has been damaged by the action of the Government or of its agents. Congress alone can redress the injury, and in this case Mr. Pitcher is unquestionably entitled to compensation to be determined and appropriated for by that body.

I am, very respectfully, yours,

J. M. BRODHEAD,
Committee of the Board of Inspectors.

The BOARD OF INSPECTORS United States Penitentiary, Washington, District of Columbia.

Adopted by the board of inspectors, February 5, 1862.

C. HOSMER, Clerk.

DEPARTMENT OF THE INTERIOR, May 19, 1862.

I concur in the statement of facts made by the inspectors of the penitentiary, and also in the opinion expressed by them, that Mr. Pitcher is entitled to compensation for the use of his patent in the penitentiary. The subject is respectfully referred to Congress for such action as may be deemed expedient.

CALEB B. SMITH,
Secretary.

After a lengthy and careful examination of all the papers in this case, the committee concur with the opinion expressed by the board of inspectors and the Secretary, that the memorialist is entitled to compensation for the use of the invention.

The great difficulty has been to ascertain the proper amount of damages which should be allowed. The Government, as appears from the testimony of the wardens, officers of the penitentiary, and others, has received a benefit from the use of this machine in the penitentiary, for the time mentioned, of over twenty thousand dollars over what it could have realized from manual labor and machinery not patented. Your committee are of opinion that justice would demand that the memorialist should receive at least one fourth of this profit.

We are aware a much larger amount could be recovered by law against an individual for such infringement of a patent as the Government has made in this case, but they think the Government cannot be held to such liability under all the circumstances.

The committee recommend the passage of the bill herewith reported.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN WILLIAMS.

Mr. HOWE. The Committee on Claims, to whom was referred the bill (H. R. No. 569) for the relief of John Williams, have had the same under consideration, and have directed me to report it back without amendment and recommend its passage. It appropriates \$68 75 to pay for

twenty-five cords of wood used by the Government about two years ago, and I ask the Senate to put it on its passage.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Quartermaster General to audit and pay the account of John Williams, for twenty-five cords of wood, at \$2 75 per cord, delivered by him to the United States, at Oshkosh, Wisconsin, under a contract made with the quartermaster of the twenty-first regiment Wisconsin volunteers, the account amounting to \$68 75.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REPORTS FROM COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of R. G. Murphy, late Indian agent for the Sioux Indians, submitted a report accompanied by a bill (S. No. 346) for the relief of Richard G. Murphy. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Charles Ramsey, praying for a pension, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred a bill (H. R. No. 468) to amend an act for the relief of Valentine Wehrheim, approved June 12, 1860, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred a bill (H. R. No. 390) for the relief of Emily A. Lyon, reported it with an amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred a bill (H. R. No. 478) for the relief of Charles M. Pott, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Rebecca S. Harrison, widow of Lieutenant Horace N. Harrison, United States Navy, submitted a report, accompanied by a bill (S. No. 347) for the relief of Rebecca S. Harrison. The bill was read and passed to a second reading, and the report was ordered to be printed.

PASSENGERS IN STEAMSHIPS.

Mr. CONNESS. I ask the consent of the Senate to take up House bill No. 510.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 510) further to regulate the carriage of passengers in steamships and other vessels.

It provides that the term "contiguous territory," in the first section of the act to regulate the carriage of passengers in steamships and other vessels, approved March 3, 1855, shall not be held to extend to any port or place connecting with any interoceanic route through Mexico; and that the provisions of the eleventh section of that act shall extend to all vessels whose passengers, or any part of them, are or shall be bound from or to any of the ports or places therein mentioned, by way of any overland route or routes through Mexico or Central America.

Hereafter there are to be delivered to masters or owners of vessels three copies of the inspectors' certificates directed to be given them by collectors or other chief officers of the customs, by the twenty-fifth section of the act of August 30, 1852, one of which copies shall be placed, and at all times kept, in some conspicuous place in the vessel, where it will be most likely to be discovered by steerage passengers, and the others as now provided by law; and the penalty for neglecting or refusing to place and keep up such additional copy shall be the same as is provided by the twenty-fifth section of that act in the other cases therein mentioned. The list of passengers required to be kept by section thirty-five of the act of August 30, 1852, is also to be open to the inspection of any passenger during all reasonable hours; and after any clearance is granted, but before the vessel shall be allowed to depart, the master or other person in charge of such vessel carrying passengers is to file with the collector, or other officer of the customs granting the clearance, a list, verified by the oath of the master, or other agent, or

owner of the vessel, of all passengers received or to be received on the vessel so cleared, for conveyance during the proposed voyage, designating cabin and steerage passengers distinctly; and on the receipt by such customs officer of the full list so verified, a departure permit shall be given, without which no vessel conveying passengers shall go to sea; and such departure permit shall be shown to the pilot of each vessel before he shall have authority to take the vessel to sea; and any pilot who shall without such authority being shown to him pilot a vessel to sea shall be subject to a fine of \$100, and a revocation of his license.

The master or commander of any vessel carrying passengers from any port or ports in the United States to any port or place in Mexico or Central America is, immediately on arriving at such last-mentioned port or place, to deliver to the United States consul, vice consul, or commercial agent at such port two copies of the list of passengers required to be kept on such vessel by section thirty-five of the act of August 30, 1852, embracing all the passengers on board the vessel at any time during its voyage up to its arrival, and duly verified by the oath of such master or commander, and by the inspection of the consul, vice consul, or commercial agent previous to or at the landing of the passengers; one of which copies the consul, vice consul, or commercial agent shall file in his office, and the other of which he shall transmit, without delay, to the collector of the port in the United States from which the vessel last cleared. The bill also declares that the provisions of section twelve of the "act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," approved July 7, 1838, shall be extended to the owner or owners of any steamboat or other vessel propelled in whole or in part by steam, and to all public officers, by or in consequence of whose fraud, connivance, misconduct, or violation of law, the life or lives of any person or persons on board such steamboat or vessel may be destroyed. If the owner or owners, master, commander, or other person in charge of any steamboat or other vessel, shall willfully present or cause to be presented any false or fraudulent list or lists of its passengers, or copies thereof, to any consul, vice consul, commercial agent, collector, or other custom-house officer, or of the departure permit to any pilot, he or they shall be held guilty of misdemeanor, and on conviction be imprisoned for a term not exceeding two years, and the vessel be liable to seizure and forfeiture.

The Secretary of the Treasury shall cause to be prepared a synopsis of such of the laws relating to the carriage of passengers, and their safety on vessels propelled in whole or in part by steam, as he shall think expedient, and have the same printed in convenient form to be framed under glass, and give to any such vessel two copies, on application of its owners or master, who shall, without unnecessary delay, have the same framed under glass, and place and keep them in conspicuous places in such vessel, in the same manner as is provided by law in regard to certificates of inspectors; and no clearance is to be issued to such vessel until the collector, or other chief officer of the customs shall be satisfied that these provisions have been complied with by such owners or master; and in case such owners or master shall neglect or refuse to comply, he or they shall furthermore forfeit and pay for each offense \$100, and such fine shall be a lien upon the vessel until paid. Informers are to be entitled to one half of any penalty or fine collected under this act or the act of March 3, 1855, upon their information. It is also provided that all steamers and other vessels belonging to a citizen or to citizens of the United States, and bound from any port in the United States to any other port therein, or to any foreign port, or from any foreign port to any port in the United States, shall, before clearance, receive on board all such bullion, coin, United States notes and bonds and other securities as the Government of the United States or any department thereof, or any minister, consul, vice consul, or commercial or other agent of the United States abroad shall offer, and shall securely convey and promptly deliver the same to the proper authorities or consignees on arriving at the port of destination, and

shall receive for such service such reasonable compensation as may be allowed to other carriers in the ordinary transactions of business.

Mr. TEN EYCK. I feel myself called upon in the absence of the chairman of the Committee on Commerce to state that it was not expected that this bill could pass at this session without considerable discussion and debate. It involves very important questions, and the attention of the Senate ought to be called to it. It is to regulate, and it is asserted on one side that it will destroy the business of transporting passengers on the Pacific coast entirely, as now constituted, and will raise the price. It is contended on the other side that it will not have such an effect. I did not myself, although I am a member of the committee, anticipate that the bill would be taken up and pressed during the present session; and that, I think, was rather the understanding and expectation of the whole committee. They agreed to report the bill to call public attention to it, and expected, as it involved matters of the greatest importance, that it would not be passed through the Senate without any notice being taken of it and in an informal way in the absence of the chairman of the Committee on Commerce. As the time has arrived for the other bill, I should myself prefer, without meaning to prejudice this bill at all, that we should proceed with the regular order.

Mr. McDUGALL. I am a little surprised at any objection being made to this bill. I was informed—perhaps I may have been misinformed—that there was no objection to this bill on the part of the Committee on Commerce, and that it was reported with their full assent. It has been passed by the House of Representatives, and passed without controversy. We make no change with regard to the right of vessels to carry passengers between this side of the continent and the side which I have the honor in part to represent. It is giving force to a police regulation of some fourteen years ago, and applying it as well to Mexico as to Central America, changing none of the rules except making such provision or particular provisions as will secure the enforcement of the law. Some measure like this has been one of great importance to the people of the coast of the Pacific, and I think of equal importance to the people of the Atlantic coast; for it is from the East to the West and again from the West to the East that we maintain our intercommunication.

I myself have suffered great wrong. Hardly any person who has been compelled to make transits between the East and the West has not suffered great wrongs. I have traveled on a ship where, by the law of Congress, they were not entitled to carry more than four or five hundred passengers, and have seen the ship crowded with fifteen hundred; when, instead of having berths to rest in, the decks were crowded, the passengers piled about all parts of the ship, and standing up, so that in the day-time they could hardly find room on the deck. The laws have not been sufficient to restrain this imposition of steamship companies upon the people traveling between California, Oregon, and Washington Territory and the States on this side.

There have been several attempts to remedy this. It belongs particularly to the people of my coast to see that there is proper legislation on this subject, for we are most deeply concerned in it; and no one lives on the shores of the Pacific that does not look at the transit route sometimes as a thing of hope, but more frequently as a thing of dread—not only because of the perils of the malarious influences of the isthmus and the southern climate, but the fraudulent conduct of the proprietors of steamships who crowd upon a ship of the capacity of five hundred passengers fifteen hundred or two thousand.

I say this bill, so well considered in the House of Representatives, went through a committee there, passed through that House, has come here, and has gone through a committee here. It is proper legislation that has been too long delayed.

I will content myself on this statement with asking the vote of the Senate. There is not a word, sentence, or term in this bill that is, not simply in the form of police regulation, beyond the provision that the regulation shall include Mexico as not a country contiguous. In the old legislation of 1855 the term "contiguous" was

used, and Mexico bordering upon our territories it was supposed that Mexico was not included. Otherwise the provisions of the bill are only more careful police regulations to enforce preëxisting laws. I trust the bill may be passed without controversy.

Mr. CONNESS. I will consent to this bill going over to-night, for the reason that it is by the kindness of the honorable Senator from Ohio [Mr. WADE] that I was enabled to call it up. That Senator will excuse me when I say that I express with my colleague the greatest surprise at the few words spoken by the Senator from New Jersey on this subject. That any Senator or any person who loved humanity better than money should hesitate to apply a remedy and cure to the present evils concerning the transportation of passenger from New York toward California, where thousands of lives are constantly suspended by a thread over eternity that a great miser may be enriched, is very surprising to me. I move that the bill be postponed until to-morrow.

The motion was agreed to.

CIVIL APPROPRIATION BILL.

Mr. WADE. I move now to proceed with the consideration of the reconstruction bill.

Mr. HENDRICKS. I appeal to the Senator from Ohio to allow me just one minute. I have in charge a bill involving only fifty-two dollars, and I wish to put it on its passage.

Mr. WADE. It can be passed after this bill is disposed of just as well as before.

Mr. HENDRICKS. I do not think that bill will get through short of three days.

Mr. WADE. I have myself half a dozen bills like yours.

Mr. HENDRICKS. Does the Senator decline to yield?

Mr. WADE. I think I must go on with this bill or lose it.

Mr. SHERMAN. I desire to present a report from the committee of conference on the civil appropriation bill.

The PRESIDENT *pro tempore*. The Chair will receive the report.

The Secretary read it, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1855, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their amendments numbered thirteen and thirty-seven.

That the House recede from their disagreement to the amendments of the Senate numbered one, two, three, twelve, twenty and a half, twenty-one, twenty-four, twenty-five, thirty, and thirty-five, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the twenty-third amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the eleventh amendment of the Senate, and agree to the same with an amendment as follows: Insert in lieu of said Senate amendment the following:

Sec. 2. And be it further enacted, That a marble floor similar to that of the Congressional Library or the Senate vestibule shall be constructed in the old Hall of the House of Representatives, using such marble as may be now on hand and not otherwise required, and that suitable structures and railings shall be therein erected for the reception and protection of statuary, and the same shall be under the supervision and direction of the Commissioner of Public Buildings; and so much of the moneys now or heretofore appropriated for the Capitol extension as may be necessary, not exceeding the sum of \$15,000, is hereby set apart and shall be disbursed for the purposes hereinbefore mentioned. And the President is hereby authorized to invite each and all the States to provide and furnish statues, in marble or bronze, not exceeding two in number for each State, of deceased persons who have been citizens thereof and illustrious for their historic renown or from distinguished civic or military services, such as each State shall determine to be worthy of this national commemoration; and when so furnished the same shall be placed in the old Hall of the House of Representatives, in the Capitol of the United States, which is hereby set apart, or so much thereof as may be necessary, as a national statutory hall, for the purposes herein indicated.

That the House recede from their disagreement to so much of the eighteenth amendment of the Senate as proposes to insert words in lieu of the words stricken out, and agree to the same with an amendment as follows: Strike out the words proposed to be inserted, and the Senate agree to the same.

That the House recede from their disagreement to the twentieth amendment of the Senate and agree to the same with an amendment as follows: Insert in lieu of said Senate amendment the following:

For continuing the work for the accommodation of the students and inmates in said institution, in addition to the appropriations heretofore made, namely, for the purchase of a tract of improved land, containing about thirteen acres, bordering on Boundary street of the city of Washington,

and adjoining the lot now belonging to the institution, to enable it to instruct the male pupils in horticulture and agriculture, and to furnish sites for mechanic shops and other necessary buildings, \$26,000: Provided, That before the purchase of the said thirteen acres is consummated, the owner shall complete the title in fee to the premises now held and occupied by said institution, by executing a release or conveyance of the remainder and reversions now outstanding in him to the said institution.

JOHN SHERMAN,
EDGAR COWAN,
Managers on the part of the Senate.

THADDEUS STEVENS,
GEORGE S. BOUTWELL,
W. P. NORLE,
Managers on the part of the House.

Mr. ANTHONY. I hope the Senator will explain the amendments. The reading of the report affords no information.

Mr. SHERMAN. The Senate recede from their thirteenth amendment, which related to draughtsmen in one of the Departments, and also from the thirty-seventh amendment, the amendment proposed by the Senator from Illinois, [Mr. TRUMBULL] providing for the publication of the Opinions of the Attorneys General. We found the House conferees indisposed to adopt that amendment, and the Senate recede. The House recede from their disagreement to several amendments of the Senate, and among them the one providing for a certain light-house on Lake Michigan.

In regard to the Washington aqueduct we found a decided difference of opinion. In order to reconcile it at all, both the House and Senate recede from the appropriation for the Washington aqueduct, so that the bill contains no appropriation for that work. The House insisted that it should be expended in a certain way, and the Senate amendment provided for its general expenditure on the old plan. The result is that we drop the appropriation.

The appropriation for the deaf and dumb asylum was adjusted by appropriating a sum sufficient to buy the grounds, thirteen acres, and abandoning the appropriation for building the house.

The appropriation for the Portland custom-house is retained.

I believe these are the most important amendments disposed of by the action of the conference, and the only ones probably in which Senators take any interest. In the main the amendments of the Senate have been agreed to.

The report was concurred in.

CONGRESSIONAL GLOBE.

Mr. WADE. I now move to go on with the regular order, upon which the Senator from Virginia is entitled to the floor.

Mr. ANTHONY. With the assent of the Senator from Virginia, I wish to state that I have in charge a bill for continuing the publication of the Congressional Globe. I have been trying for a fortnight to get it under the consideration of the Senate, and I should like very much to go on with it this evening. If that cannot be done, I should like to take it up and make it the special order for to-morrow.

Mr. WADE. Make it the special order for any time you please. We are not to adjourn until these things are all through. Why these motions?

Mr. ANTHONY. I move to proceed to the consideration of that bill with a view to make it the special order.

Mr. WADE. Very well.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 421) to pay in part for publishing the debates of Congress, and for other purposes.

Mr. ANTHONY. I move that it be made the special order for to-morrow at twelve o'clock. Senators around me say, "Make it the special order for twelve o'clock to-night." If it is the intention of the Senate to sit I should prefer that decidedly. ["Oh, no!"] I move to make it the special order for to-morrow at twelve o'clock.

Mr. HALE. I think it is too late in the session to be making special orders for a bill of this sort at this time. I ask for the yeas and nays.

Mr. ANTHONY. I would rather withdraw the motion than have the yeas and nays.

The PRESIDENT *pro tempore*. The motion is withdrawn. The bill is before the Senate.

Mr. ANTHONY. I withdraw the motion if the yeas and nays are called.

The PRESIDENT *pro tempore*. The bill is before the Senate on the order of the Senate, and

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

SATURDAY, JULY 2, 1864.

NEW SERIES.....No. 217.

the Senator from Rhode Island moves to postpone it until to-morrow.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had insisted upon its amendment to the bill of the Senate (No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service, disagreed to by the Senate, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. ALEXANDER H. RICE of Massachusetts, Mr. WILLIAM D. KELLEY of Pennsylvania, and Mr. JOHN A. GRISWOLD of New York, managers at the same on its part.

The message further announced that the House of Representatives had disagreed to the amendment of the Senate to the bill of the House (No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES A. GARFIELD of Ohio, Mr. NATHANIEL B. SMITHERS of Delaware, and Mr. FRANCIS KERNAN of New York, managers at the same on its part.

RECONSTRUCTION BILL.

On motion of Mr. WADE, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government, the pending question being upon the amendment of Mr. BROWN.

Mr. CARLILE. Mr. President, the Senate will bear in mind that the bill now under consideration, in those provisions to which I have already invited the attention of the body, is not and cannot be claimed to be a war measure. I think it important that this fact shall be kept in view in order to confine the discussion, if we can, to those propositions and considerations that naturally arise upon these particular provisions of the bill. Indeed, its title would indicate that its authors did not predicate any claims for support upon any such ground. It is not claimed that the bill is to aid the Government of the United States in the existing struggle. It is not pretended that it will contribute in the slightest degree to the success of our arms and the assertion of Federal authority within the States named; but it is, as I have before remarked, purely a revolutionary measure, and just as much as our power is greater than the power of the rebellion, to that extent does it more successfully accomplish the same end which the rebellion was inaugurated to accomplish, to wit, the overthrow of the State governments.

Now, sir, it is a fact familiar to every one at all acquainted with our history, that this Government, the Government of the United States, in the name of which it is sought to perpetrate this injustice upon the States, emanated itself from the States. The States existed prior to the Government of the United States. The Government of the United States is the creature of the States, emanating directly from them, and the greatest good expected to be accomplished by the States in the formation of this Government was to protect them in the enjoyment and possession of their own rights of self-government within their respective limits. That was the chief object for the formation of the Government. Then how can it be supposed that this government, emanating, as I have said before, from the States, can send down to the States a governor for them and prescribe for them their form of government? This assumption of power alone, if there were no other considerations involved in the measure, is sufficient, it seems to me, to stamp the absurdity of the proposition.

But, sir, it goes further. It is a declaration to these States that they are never to be received into the Union, that all the benefits of the Union

which they aided in creating and forming are to be denied them, their State governments are permitted to be overthrown, the only question being whether they shall be overthrown by traitors in arms or whether they shall be overthrown by a Government of their own creation which they formed for the purpose of protecting them in the enjoyment of their own State governments and the right of self-government. Thus, sir, it declares to the people of these States, that are admitted to be States by the chairman of the committee that reported the bill and who advocated it to-day; it says to them in the form of law and to the extent that this Congress has the power to commit the loyal people of the adhering States, commits the loyal people of the United States to the declaration that the States now in the power of those who inaugurated this rebellion are never to enjoy Federal rights without a surrender of their local sovereignty.

It does more, Mr. President; it is a declaration as plain as you can make it to the people of this country and to the civilized world that, so far as the powers of the Government of the United States can be wielded by those to whom its administration is at the present time intrusted, the Union that the Constitution formed shall never again be enjoyed by the people. It is a declaration that the effort for the restoration of the Union is to be abandoned, that the time has now arrived when it becomes us to give up the "old Union," as some gentlemen have styled it, and to enter upon the new work of reconstruction. If that be so, how can you attempt to maintain your consistency, by the military power of this Government to compel a minority of the States of the Union containing a minority of the population of the Union to submit to the reconstruction of the Union? To do this we must discard all the obligations of the Constitution. It cannot be disguised that such will be the effect of this bill.

I wish to say here to Senators before I go further, that in discussing this bill as it presents itself to me, I impute to no Senator improper motives. It is not my business. I merely speak of what will be the result of the propositions which they advocate. I concede all the patriotism to every Senator on this floor that I would claim for myself; but experience has taught us that men often forget that they have a country to serve as well as a party to obey, and I think it is a justifiable opinion to hold, that in times of high party excitement gentlemen will do what in their calmer moments they might not do. Partisan feeling sometimes drives from the bosom patriotism and love of country. And, sir, in that same spirit to which I have referred, I can and must, with the views which I entertain, find the solution of the advocacy of this proposition in partisan feeling and partisan feeling alone. I am sure but for the influence which it exercises over Senators no such power in the Government of the United States would ever be claimed or attempted to be asserted. A measure, then, that is not to have effect until after the rebellion shall be suppressed, that deprives the people of the States of the Union of the right of self-government which the Union was formed to maintain and to preserve, surely would not be advocated by any Senator as within the powers confided to the Congress of the United States by the Constitution, if there were not something that blinded his judgment.

That I am warranted in saying that it is the determination of the party in power that the Union shall not be restored I think will be readily admitted by every Senator when I call to his attention a letter which is familiar to all, written by the gentleman who recently was the head of your Treasury Department during the peace conference in this city. When men were anxiously and earnestly engaged in endeavoring to bring about a peaceful solution of the difficulties which then threatened the country he quietly and deliberately sits down in this city and writes to a friend in Portsmouth, Ohio, expressing his fears that a peaceful solution of the difficulty would be had, expressing his sympathy with gentlemen whom he

named of the border States, who had just left his room, and expressing also his opposition to any settlement because he could not see why the party with whom he acted should be called upon to surrender permanently a large power for the temporary possession of a little power. There is and has been for more than a quarter of a century a party in this country organized for the purpose of destroying the Union of the Constitution, who hated the Union because that Union protected each State in the right of self-government, the right to regulate for itself its own domestic institutions, the right to all governmental power save and except what each State in common with the others had delegated to this Government. Because of the fact that the Constitution so provided, they organized themselves together as a party for the purpose of destroying the Union of the Constitution; and I desire in support of this view to call the attention of the Senate to a letter written in February, 1861, by one who occupied a seat on this floor and who is now acknowledged by all to have been as sincere a patriot and as loyal to his country as any man now living. I allude to the late Senator Douglas. In a letter to a friend in Tennessee, dated February 2, 1861, he said:

"You must remember that there are disunionists among the party leaders at the North as well as at the South—men whose hostility to slavery is stronger than their fidelity to the Constitution, and who believe that the disruption of the Union would draw after it, as an inevitable consequence, civil war, servile insurrection, and, finally, the utter extermination of slavery in all the southern States. They are bold, daring, determined men; and believing, as they do, that the Constitution of the United States is the great bulwark of slavery on this continent, and that the disruption of the American Union involves the inevitable destruction of slavery, and is an indispensable necessity to the attainment of that end, they are determined to accomplish their paramount object by any means within their power. For these reasons the northern disunionists, like the disunionists of the South, are violently opposed to all compromises or constitutional amendments or efforts at conciliation whereby peace should be restored and the Union preserved. They are striving to break up the Union under the pretense of unbounded devotion to it; they are struggling to overthrow the Constitution, while professing undying attachment to it and a willingness to make any sacrifice to maintain it; they are trying to plunge the country into civil war, as the surest means of destroying the Union, upon the plea of 'enforcing the laws and protecting the public property.' If they can defeat every kind of adjustment or compromise by which the points at issue may be satisfactorily settled, and keep up the irritation, so as to induce the border States to follow the cotton States, they will feel certain of the accomplishment of their ultimate designs. Nothing will gratify them so much, or contribute so effectually to their success, as the secession of Tennessee and the border States. Every State that withdraws from the Union increases the relative power of northern abolitionists to defeat a satisfactory adjustment, and to bring on a war, which sooner or later must end in final separation and recognition of the independence of the two contending sections."

But, Mr. President, we have later proof that such is the determination of those to whom for the time being the destinies of this country are intrusted. Not many days ago the party in power held a convention in Baltimore. That convention was called to order by a Senator upon this floor, the Senator from New York, [Mr. MORGAN,] and in calling that body to order he made to them this speech:

"Members of the convention, it is a little more than eight years since it was resolved to form a national party to be conducted upon the principles and policy which had been established and maintained by those illustrious statesmen George Washington and Thomas Jefferson. A convention was held in Philadelphia, under the shade of the trees that surround the Hall of Independence; and candidates—Fremont and Dayton—were chosen to uphold our cause. But the State of Pennsylvania gave its electoral vote to James Buchanan, and the election of 1856 was lost.

"Nothing daunted by defeat, it was immediately determined to fight on this line, not only 'all summer,' but four summers and four winters; and in 1860 the party banner was again unfurled with the names of Abraham Lincoln and Hannibal Hamlin inscribed thereon. This time it was successful, but with success came rebellion, and with rebellion of course came war; and war, terrible civil war has continued with varying success up to nearly the period when it is necessary under our Constitution to prepare for another presidential election. It is for this highly responsible purpose that you are to-day assembled. It is not my duty nor my purpose to indicate any general course of action for this convention; but I trust I may be permitted to say that, in view of the dread realities of the past and of what is passing at this moment, and of the fact that the bones of our soldiers lie bleaching in every State of this

Union, and with the knowledge of the further fact that this has all been caused by slavery, the party of which you, gentlemen, are the delegated and honored representatives, will fall short of accomplishing its great mission unless among its other resolves it shall declare for such an amendment of the Constitution as will positively prohibit African slavery in the United States."

Eight years ago a party was to be formed to conduct this Government on the principles of Washington and Jefferson! Oh, Mr. President, if the spirits of the departed dead were permitted to hear the utterances of the Senator they would be prepared to exclaim, "O liberty, what crimes are committed in thy name!" Sir, can you conduct a Government upon the principles established by Washington, who warned you in his dying legacy against the formation of sectional parties? The objects of your party that you were seeking then to establish were such that you could not get a candidate on your ticket from any one State in one entire section of this Union. You were then engaged in the organization and formation of a party which Washington told you would destroy the Union that he formed; and the object for which the Senator and those who acted with him were to fight not only all summer but as long, I presume, as the slanking process could be carried on, was to destroy the Constitution in that particular which left to the States the right and which enjoined upon this Government the duty of protecting them in the exercise of that right of regulating for themselves their own institutions. Until that convention sat I never did feel a fear about the ultimate result of this struggle. I still believed and hoped that the Union would be restored, and that such would be the result of the efforts that had been made. But, sir, the party in power has committed itself to limiting the jurisdiction of the United States to the States which prohibit African slavery. They have committed themselves against the Union. They have declared that no State shall be a member of the Union unless it surrenders the right of self-government, which the Union in whose name this battle is being fought secured to the people of each and every State.

Thus we have a party, a powerful party, a party wielding all the powers of this Government, pledged against the Union as the Constitution made it; and if this bill passes and becomes a law, it will be a declaration on the part of the Congress of the United States in favor of that same line of policy which this party eight years old was formed to secure and fasten upon this country. Now, I beg gentlemen, whose patriotism I believe is not to be absorbed by their party feeling to the destruction of all the higher interests of the country, to remember that they are now in power, but they are there by a minority of the votes of the people of this country. Their success is owing to a division among the people who were opposed to them, and in the non-slaveholding States alone they had but a bare majority. There was a powerful minority behind them in 1860. There is today a powerful minority behind them, if not a majority. That minority is entitled to consultation, and its opinions are entitled to respect by those who wield the powers of this Government now. History tells us that no civil war was ever successful where it was carried on by a divided and distracted people. No party war, therefore, can be successful in this struggle. Unless all history is a lie, that fact commits you to an interminable war or an abandonment of the contest. This bill commits you to an interminable war, and not only to a change of government for the people of the States over which you propose to exercise this arbitrary authority, but it deprives your own people and your own States of the liberties the Government was intended to secure to them. Where, sir, is the liberty of the citizens of your States to-day? Even in Rhode Island, not one of the citizens of your State [Mr. ANTHONY in the chair] can claim to enjoy to-day his right to personal liberty by virtue of the Constitution and the laws of the land. He enjoys it only by the sufferance of the party in power. He is liable at any moment to be tapped on the shoulder by a provost marshal or a gentleman with regimentals upon him and carried off to one of the prisons of the land which no key known to the law can unlock. Such a war for such a purpose involves to the people waging it the destruction of their own liberties, the exhaustion of their own resources, and the impoverishment of the nation.

I have said that the provisions of this bill assume to Congress the power to prescribe a State government for the people of the rebellious States. Nay, more; it assumes the power not only to deprive the people of their own State government and reduce them to the character of subjugated provinces and a subjugated people, but it goes further and prohibits that people from ever enjoying the right of self-government unless they adopt for their organic law the particular provisions contained in this bill. This bill not only assumes to declare these people without the protection of the Constitution after the suppression of the rebellion, to deprive them of their rights under the Constitution in time of peace, but to continue them in a condition of territorial vassalage until they grant to you the right to form for them a State constitution. It assumes to provide the qualifications of electors. It prescribes who shall be elected, and by whom. It gives to the governor which it assumes to appoint the right to disperse a convention assembled for the formation of a State government. It makes him the presiding officer of that convention, and arrogates to this Government the right to create governments within the States. All these provisions, I again repeat, are to be exercised in a time of profound peace, when all military opposition is removed, when there is nothing to prevent the peaceful enforcement of the Constitution and your laws made in pursuance of it, when the State government which existed prior to the rebellion springs at once into life and full force to spread its protection over its people.

But it is contended that under the power to guaranty to each State a republican form of government you may assume the right to govern them through whom you send there and claim to call a governor. The very provision under which you claim this power makes it your duty to protect each State in a republican form of government, to guaranty to each State its existing government; and you make this power an excuse, a pretext, to establish an anti-republican government, a government of one man who is to be subject to your will and not the will of the people whom he governs—a single mind not selected by the people to be governed, but selected by you; and to him are the interests and the destinies of this people confided. To him you propose to give the power to abrogate the laws of the States. To him you give the power to fine in a sum not less than \$1,500 nor more than \$2,000, and to imprison for not less than five years nor more than twenty years any citizen of the State over which he presides who attempts to avail himself of the rights secured to him by the laws of his State. Sir, a more monstrous proposition than this never has been presented to any deliberative body claiming to represent the people since the foundation of the world. Look at one of the sections of this bill which authorizes this governor to abrogate the constitution of the State, and to try, convict, and condemn as a criminal one who attempts to assert his rights under the laws of his State. And yet this is done in the name of a Constitution which it has been said and which did for nearly three quarters of a century protect the people of the States in the enjoyment of all the rights and liberties consistent with our nature.

But, Mr. President, this bill is but a fair sequel to a bill which was passed some two years ago. Then this power was claimed to be derived from that clause of the Constitution which gave to Congress the right to admit new States into the Union. Western Virginia, a portion of the State of my nativity, resisted herself, and not as has been stated repeatedly here and elsewhere was enabled to resist by the power of the armies of this Government, but she resisted herself the act of her State declaring it no longer a member of the Union. She maintained the constitution of the State. She maintained her position within the Union. She never was conquered by the arms of this Government, and she was never maintained in the Union by military force. She took her position and maintained it for months, claiming her right to call upon this Government to protect her from those who were attempting to overthrow the State government which her people had adopted. She came to Congress two years ago with a constitution asking admission into this Union. What was her reception? She was turned from your doors; her people were told that

admission into this Union could not be obtained unless they surrendered their right of self-government in two particulars. They were required to strike from their constitution one of its provisions, and they were required to insert another and a different provision, Congress thus assuming under the clause of the Constitution which authorizes the admission of new States the right to create a State. Nowhere is that power given to this Government.

Mr. HARLAN. I ask the Senator from Virginia to give way to allow me to make a conference report.

Mr. CARLILE. Certainly.

RAILROAD TO THE PACIFIC.

Mr. HARLAN. I ask leave to make a report from a committee of conference.

The Secretary proceeded to read the report of the committee of conference on the bill (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; but was interrupted by

Mr. TRUMBULL. This is a very important report. The Senate, I apprehend, is not understanding it from the reading, and I think we should understand it better if the chairman of the committee of conference would explain to us what the bill is. It is very lengthy, and I have been trying to understand something about it and find it very difficult to do it. I wish the chairman would explain to us what the report is.

The PRESIDING OFFICER, (Mr. HENDRICKS in the chair.) The Chair hears no objection to that course, and the further reading of the report will be dispensed with.

Mr. HARLAN. The chief point of difference between the Senate and the House of Representatives was in relation to the character of the bonds to be used by the companies respectively in constructing their roads. The Senate proposed that the companies should issue their own bonds to the amount of \$24,000 a mile on parts of the roads, \$48,000 a mile on other parts of the roads, and \$96,000 a mile on the more difficult portions of the mountain districts, the first year's interest to be paid absolutely by the Government, and the interest for nineteen succeeding years to be guaranteed by the Government. The House bill proposed that the Government bonds should be issued, as heretofore provided in the law of 1862, to the amount of \$16,000 a mile on the more easy portion of the roads, and above this amount on other portions, reaching to \$48,000 on the more difficult portions, and that the corporations should be permitted to issue their corporate first mortgage bonds for an equal amount. On this point of difference the committee propose that the Senate recede from their proposition and agree to the House proposition with some modifications, the more important of which is that the companies shall be permitted to issue their corporate bonds only as the road progresses from section to section; that as such section is completed they may issue their corporate bonds, but that if the road should be sold on a foreclosure of those bonds it shall not deprive the Government of the use of the railroads and telegraph lines in the transmission of messages and the transportation of troops and munitions of war.

The House bill also contained a provision granting bonds and land to a branch road extending from Leavenworth to Lawrence. The report of the conference committee proposes that this road shall be built by the main Kansas Railroad Company, and that no bonds shall be issued to it to aid in the construction.

The House bill contained a provision ratifying an assignment of the interests of the California Central Railroad Company to some other railroad company in California mentioned, the name of which I cannot at this moment repeat. The Senate bill contained a provision authorizing the incorporation of a new company to build the same portion of the California road intended to be covered by this assignment. The committee of conference propose that both propositions be stricken out, the House proposition and the Senate proposition, and that the provisions for the construction of the California part of the Pacific railroad shall remain as was provided in the law of 1862.

There is no other material point of difference between the Senate bill and the House bill. In the details the committee have adopted in many respects the Senate bill and propose them as amendments to the House bill, striking out portions of the House bill and inserting in lieu thereof portions of the Senate bill.

These, I believe, are all the important points of difference between the two bills.

Mr. TRUMBULL. Do I understand the Senator from Iowa to say that the conference committee report in favor of the construction of a road from Leavenworth to Lawrence, in Kansas?

Mr. HARLAN. The House bill proposed the construction of a road from Leavenworth to Lawrence, and the report of the conference committee requires the construction of that road, but does not authorize the use of Government bonds for that specific purpose. It was supposed by the conference committee that the subsidy granted on the main Kansas line was sufficient to enable the company to construct this short branch also without an additional grant of bonds.

Mr. TRUMBULL. I should like to inquire what Congress has to do with permitting that road to be built. It is all in a State. If we give the company no bonus, why should Congress grant permission to build the road?

Mr. HARLAN. I suppose the chief advantage to the company will be that they will thereby secure connections with the other branch. They have no other advantage, as it occurs to me.

Mr. TRUMBULL. The bill was framed originally, I think, on the idea that we were not to authorize a company to build a road in any State. I do not like that feature of this report.

Mr. HARLAN. This road is to be built by a company incorporated by the laws of the State of Kansas, and the same provision now proposed in the report of the committee of conference is contained in the law of 1862, with this difference only: the law of 1862 permitted the construction, the committee's report requires it to be done; so that in point of fact there is no essential difference between the committee's report and the law as it now stands in that respect.

Mr. LANE, of Kansas. I want to make a statement.

Mr. WADE. I hope this will be laid over. It is evident you cannot take it up inside of another bill.

Mr. LANE, of Kansas. I want to say just one sentence.

Mr. WADE. And everybody else another.

Mr. LANE, of Kansas. Well, I will not utter mine.

Mr. McDOUGALL. I think it my right and due to utter one sentence; and I will in doing so beg the courtesy of the Senate that I may be heard, whether I shall be exactly in or out of order. It has been my office—

Mr. WADE. I ask that this be laid aside and that the Senate take up the regular order.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. WADE. I do not think this is a fair way of doing business, when I permit a measure to come up, supposing that it is to be decided without debate, to get up a controverted question and go on with it while the main question that I have charge of is pending. I think it is a fraud on the rules, and I shall object of course to anything of this kind being done hereafter. It is not a fair way of doing business. It is evident now it will take all the evening to settle this question.

Mr. McDOUGALL. Not at all. I do not rise here to oppose the report of the committee of conference, but I rise in my own place, and as a matter of personal justice to myself, to make one or two remarks, for which I ask the courteous consideration and attention of the Senate.

It happens that the city of San Francisco, the metropolitan city of the Pacific, belonging to the United States of America, has been my home, and I have had the honor most immediately to represent that city both in the other House and in the Senate Chamber. I have always believed in regard to this great enterprise, on which I have bestowed my thought, on which I have bestowed some of the best years of my life and many of my most earnest endeavors, that the proper terminus of the road was at the city of San Francisco—a city with a population of one hundred and twenty thousand souls, the place where

the commerce of the Pacific is centralized. This is the implied design of this bill; but for my own sake allow me to say that it is not exactly and distinctly expressed. I have not been willing to engage in controversies such as those in which Senators from this side of the continent have engaged, and which employed the zeal, labor, and effort of the Senators from Kansas and Missouri; and for this reason I have surrendered many things, not because I did not wish to see this great work carried into the great city of the West, but that I was willing to make sacrifices of myself for the accomplishment of the great result. I have allowed myself to be obnoxious to censure in the noble city where I belong. I did it in the past Congress. I did it then willingly, standing then as chairman of the committee on the Pacific railroad of this body. Without any authority or power, I now submit to it here. Great injustice was done by the exact form and terms of legislation to the city of San Francisco in the bill of the last Congress; great injustice is done to the city of San Francisco in the bill of this Congress; but yet I believe the bill will build the road, and if injustice is done to San Francisco, San Francisco will right herself. I am for the report of the committee.

Mr. LANE, of Kansas. I feel that great injustice has been done to Kansas by striking out the bonds and land upon the Leavenworth and Lawrence branch; but the importance of the work and the desire to see the bill passed will influence me to vote for the report of the committee of conference.

The report was concurred in.

NORTHERN PACIFIC RAILROAD.

Mr. DOOLITTLE. I desire to make a report from a committee of conference.

Mr. WADE. I object.

The PRESIDING OFFICER. Objection is made.

Mr. DOOLITTLE. With the courtesy of the Senator from Virginia, who is entitled to the floor on the regular order, I will make a statement in relation to this matter. It is a matter about which there will be no discussion. It is a long bill, and must be enrolled.

The PRESIDING OFFICER. Is there any objection to the presentation of the report?

Mr. WADE. If there is no question about it, there is no necessity for its being brought up.

Mr. DOOLITTLE. It must go to the other House. The papers are left with the body because the conference was asked by the other House. They are in session, and it must be disposed of to-night. Through courtesy to the honorable chairman of the other committee of conference [Mr. HARLAN] I delayed pressing this until he had presented his that they might go to the House of Representatives together. There is no objection whatever to the report.

The PRESIDING OFFICER. The Chair hears no objection, and the report will be received.

Mr. WADE. I have no assurance but that it will lead to a debate of an hour.

Mr. HARLAN. I think it will not. There will be no difference of opinion expressed here.

Mr. DOOLITTLE. I do not suppose it will lead to any discussion whatever.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from their disagreement to the following amendments of the Senate, and agree to the same: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20, 21, 22, 23.

That the Senate recede from their amendment numbered twenty-four.

That the House recede from their disagreement to the thirteenth amendment of the Senate, and agree to the same with an amendment, as follows: Insert, in lieu of said Senate amendment: "Provided further, That all mineral lands be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands, in odd numbered sections, nearest to the line of said road, and within fifty miles thereof, may be selected as above provided."

That the House recede from their disagreement to the sixteenth amendment of the Senate, and agree to the same with the following amendment: strike out the words "the summit of the Rocky mountains," in the seventh and eighth

lines of said amendment, and insert in lieu thereof "the western boundary of Minnesota."

J. R. DOOLITTLE,
IRA HARRIS,
I. W. NESMITH,
Managers on the part of the Senate.
THADDEUS STEVENS,
L. D. M. SWEAT,
I. DONNELLY,
Managers on the part of the House.

The report was concurred in.

PUNISHMENT OF GUERRILLAS.

Mr. WILSON. I ask the unanimous consent of the Senate to take up the bill for the punishment of guerrillas, with a view of concurring with the House of Representatives in the appointment of a committee of conference.

There being no objection, the Senate proceeded to consider its amendments to the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes, disagreed to by the House of Representatives; and

On motion of Mr. WILSON, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. TRUMBULL, Mr. LANE of Indiana, and Mr. VAN WINKLE.

SEAMEN OF WRECKED VESSELS.

On motion of Mr. HALE, and by unanimous consent, the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service, disagreed to by the Senate and insisted on by the House; and

On motion of Mr. HALE, it was

Resolved, That the Senate insist upon its disagreement to the amendment of the House of Representatives to the said bill, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. HALE, Mr. HENDERSON, and Mr. RAMSEY.

LANDLORD AND TENANT LAW.

Mr. MORRILL. I ask leave to make a report from a committee of conference.

By unanimous consent the report was received and read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 138) entitled "An act to regulate proceedings in cases of landlord and tenant in the District of Columbia," recommend to their respective Houses as follows:

That the Senate recede from its disagreeing votes to the amendments of the House, and agree to the same.

LOT M. MORRILL,
THOMAS A. HENDRICKS,
Managers on the part of the Senate.
JAMES F. WILSON,
EZRA WHEELER,
Managers on the part of the House.

The report was concurred in.

RECONSTRUCTION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government, the pending question being on the amendment of Mr. BROWN.

The PRESIDENT *pro tempore*. The Senator from Virginia is entitled to the floor.

Mr. CARLILE. It has been intimated to me that possibly the Senate would prefer at this time to take a vote on the amendment proposed by the Senator from Missouri, and if that be so I am willing to yield the floor for the purpose of having that vote taken. I have yielded it so repeatedly since I attempted to make some remarks on this bill, and it is now growing late, and sitting in this furnace beneath this heat I would prefer concluding what I intended to say upon this bill tomorrow or some other day, provided it becomes necessary in my opinion to say anything more upon it. If the amendment of the Senator from Missouri shall be adopted, I of course shall have nothing further to say on the bill, and if agreeable to the Senator who has the bill in charge, I am willing to give way to have that question decided now.

Mr. WADE. You had better finish your speech.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri.

Mr. CONNESS. I ask for the yeas and nays. The yeas and nays were ordered.

Mr. WADE. I am only anxious that the question shall be fairly understood. This substitute is a mere negation. It settles no principle. It does not profess to settle anything more than this, that the question shall depend on the legislation of Congress, that these States are to await the action of Congress, without declaring any principle on which their reorganization shall take place. The amendment is offered as a substitute for the bill of the House of Representatives, and every vote for this amendment is a vote against the original proposition of the House bill, and those who are opposed to the bill of the House of course will vote for the amendment. Those in favor of that bill will vote against the amendment.

Mr. BROWN. I do not intend to make any speech on this subject or to consume any more of the time of the Senate. I desire to say in vindication of myself in offering this amendment that I am not willing to sustain a bill for the reconstruction of the States now in rebellion which leaves out of that reconstruction nearly all the loyal element in those States by disfranchising and leaving them out of account. I therefore move this amendment that we may take such temporary measure as is necessary to prevent the voting of these States in the presidential election, and leave to another and better occasion the assertion of the rights that are necessary in these revolted territories.

Mr. WADE. This bill does not omit the rights or supersede the rights of the loyal people of those States in any manner whatever, but it provides in the first place for the appointment by the President of a military governor, as he appoints such officers now; and it makes it the duty of that military governor, as soon as he believes a majority of the people of the State have become loyal so that they can maintain a government of their own, to appoint commissioners whose duty it shall be to take the census of the State, and to ascertain, by administering the oath to the voters of the State, who are loyal and who are not loyal; and whenever it shall be thus ascertained that there is a majority of loyal people in the State, then they are to elect their delegates to a convention to form a State constitution and so on to mature a State government of their own. If that is in contravention of the rights of the loyal people of a State, that fact is ascertained by a process that I cannot find in the bill. There is no loyal citizen in the State who will not have the full right to participate in a State government as soon as it can be ascertained that he has a majority of his fellows there who agree with him. Then they will be invested with all the powers and privileges of the government of the State and be upon the same footing as any other State.

I say again if the gentleman is opposed to this bill in principle let him not vote for it, but let him not vote for this miserable dodge, this negation, this amendment that asserts no principle, as a substitute for the bill.

The question being taken by yeas and nays, resulted—yeas 17, nays 16; as follows:

YEAS—Messrs. Brown, Carlile, Cowan, Davis, Doolittle, Grimes, Henderson, Hendricks, Johnson, Lane, of Indiana, McDougall, Powell, Richardson, Riddle, Saulsbury, Trumbull, and Van Winkle—17.

NAYS—Messrs. Chandler, Clark, Conness, Hale, Harlan, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Wilkinson, and Wilson—16.

ABSENT—Messrs. Anthony, Buckalew, Collamer, Dixon, Fessenden, Foot, Foster, Harding, Harris, Hicks, Howard, Howe, Nesmith, Ten Eyck, Willey, and Wright—16.

So the amendment was agreed to.

Mr. SUMNER. I offer an additional section by way of amendment:

And be it further enacted, That the proclamation of emancipation issued by the President of the United States on the 1st day of January, 1863, so far as the same declares that the slaves in certain designated States and portions of States thenceforward should be free, is hereby adopted and enacted as a statute of the United States, and as a rule and article for the government of the military and naval forces thereof.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HALE. However much I might be in

favor of such a proposition as this, I think it is incongruous and out of place here. I voted against the amendment of the Senator from Missouri who proposed the amendment just adopted, while at the same time I was in favor of the proposition as an independent measure. I think it is substantially one that I introduced myself, and I think that the proposition of the Senator from Missouri which has been adopted in lieu of the bill of the Senator from Ohio is one that ought to be adopted, and if it is not adopted I fear we shall be in great danger of scenes of violence and civil war. If we do not fix by law in some way what votes shall be counted in the next presidential election, we leave ourselves in a situation that will probably lead to convulsions and violence. Let us suppose that we go into this presidential election without some such declaratory resolution as that proposed by the Senator from Missouri and adopted by the body, and the result of the election should be such that it would be determined one way or the other by the votes of some of the States situated as Arkansas and Louisiana are situated. Do you suppose that either party in this country defeated in that way would submit? Let me suppose that the Democratic party carried the election without counting the votes of Arkansas or Louisiana, and that by counting these votes Mr. Lincoln should be elected over the Democratic candidate, do you believe, does anybody imagine that that party would consent to give up the advantage which they would have by a majority of the votes that were confessedly in the Union, by the admission of votes of States situated as they are? Some gentlemen have said we can fix that next session, but we cannot do it next session. We must do it now or never, because next session we shall have to legislate in view of the votes that will have been thrown before we come together. Now we can make the resolution without knowing whom it is to affect. Though I voted against the proposition of the Senator from Missouri as an amendment to this bill I am for it decidedly, and I think that the Senate will be derelict in its duty if it fails to make some such provision as that for our government in the next election, and it is therefore that I hope it will stand by itself and will not be embarrassed with any other question; and for that reason I shall vote against this amendment and for that alone, hoping that the proposition as it now stands amended on the motion of the Senator from Missouri will be adopted.

Mr. SUMNER. The Senator from New Hampshire is entirely mistaken when he says that the proposition which I now offer is incongruous. The Senator says to me that he did not say so. I beg his pardon; he began by saying it was incongruous. It is entirely germane—nothing could be more germane. The section already adopted concerned the rebel States. The section I now offer concerns the rebel States. The Senator cannot vote against the sections which I now offer; it is neither more nor less than this: to recognize as a statute the proclamation of emancipation, to put it under the guarantee and the safeguard of an act of Congress. That is all. It is as simple as day. It is as plain as truth. It is impossible for any person who recognizes the proclamation of emancipation or who is disposed to stand by it to vote against the section which I now offer. I wish to see emancipation in the rebel States placed under the guarantee of an act of Congress. I do not wish to see it left to float on a presidential proclamation. We have been assured that that proclamation will not be changed; but who knows what may be hereafter the vicissitudes of elections? I do not pretend to look far enough into the future to determine or to see what proclamation hereafter may be issued. I wish to make the present sure, and to fix it forevermore and immortal in an act of Congress.

Mr. SAULSBURY. Mr. President, I did not suppose when the President of the United States, assuming the possession of absolute power under this Government, issued his proclamation of emancipation, that so soon thereafter his friends should come into the Senate of the United States and make open confession that his acts were illegal, that his assumption was without authority, and that in issuing that proclamation to the American people under the pretense that it had validity he was guilty of nothing but an unwarranted exercise of power. We, differing from the Administration, said at the time that he had no power to

issue such a proclamation, that it was of no more worth than the paper upon which it was written. We contended that under our Federal system such vast power was not given to the Executive of the United States. But what was our answer? How were we answered on this floor? How were we answered in the other branch of Congress? How were we answered by the public press of the country which supported the Administration? To question the validity of his act was evidence clear that a man was not only a copperhead but a traitor, disloyal, and the attempt was, when that proclamation was issued to the American people, to make it the test of a man's fidelity to the Constitution and Government of his country; and there was scarcely a paper in the support of this Administration that did not hold it up before the American people as the true and the genuine test of fidelity to the country. Upon this floor the supporters of the Administration held that it was valid; in the other branch of Congress the supporters of the Administration held that it was valid; but now, sir, the proposition is gravely made in the Senate of the United States to legalize it, to give to it power and efficiency which inherently it did not possess.

But, sir, the amendment comports very well with the whole character of this bill. Never has there been a measure since my brief connection with this body so revolutionary in its character, a measure so antagonistic to our whole Federal system, so unauthorized by the Constitution of the country as this whole bill. What is it? Professedly a bill to guaranty to certain States in the Union a republican form of government; and yet in fact it is a bill to destroy existing States, not to make new States out of territory which had never been States before, but to destroy existing States, to reduce them to a territorial condition and to deny to them the right to regulate their own domestic affairs. But, sir, the substitute offered by the honorable Senator from Missouri has done away to a great extent with this character of the bill.

Look, however, at the proposition now immediately before the Senate, and what is it? An attempt by Federal legislation to legislate for the States themselves, to regulate their domestic institutions, to control property, in other words. Why, sir, property in a State is not the creature of Federal law; it exists independently of it. The Federal authority has no legitimate control over it. Can you go into a State and undertake to interrupt the relation of master and servant? If you can, you can go into a State and attempt to control the relation of parent and child and of husband and wife. If you have the authority to do this act, there is no subject of local legislation which Congress may not divest the States of and assume to themselves. Then our whole system of Government, instead of being of that Federal character which we have heretofore supposed it was, amounts to nothing but an absolute, consolidated Government, with no power whatever in the States and all power centered in this Federal Government. A bare statement of the consequences to which such a species of legislation will lead is sufficient to show how unsound it is.

But, sir, let me say in conclusion by way of response to my honorable friend, the Senator from New Hampshire, that all these matters give me not much trouble. The skies begin to look bright. The night is far spent and the day is at hand. My honorable friend need give himself no trouble as to what will be done. An Administration soon, thank God, will be in power which will wipe out all this species of legislation, and will do it without blood-shedding, too.

Mr. BROWN. In regard to the amendment which has been offered to this bill as it stands by the Senator from Massachusetts, I presume I need not say to the Senate that as an independent proposition it meets my hearty concurrence; but there are some things which are now practical and some which are not; there are some things which are possible and some which are not. Among those things which are not possible is the getting of this bill with the amendment of the Senator from Massachusetts through the House of Representatives at the present session. That is as utterly impossible as anything which can be named. We know that under the technical rules of that House any serious opposition to any measure can now defeat it. If the Senate con-

cur in the necessity of this bill as it stands, if they concur in the necessity of a provision in regard to the States that are in insurrection which shall preclude them from voting and preclude them from precipitating us perhaps upon new civil complications and new war, then let us pass this measure which seems to be a measure meeting the general assent of all sides of the Chamber in itself, and which I am sure will meet with general assent of all sides in the other House. Let us pass that, I say, and avert the evils without doubt.

I do not desire to discuss the merits of the amendment which has been offered by the Senator from Massachusetts. I concur heartily and fully with him in his reasoning as to the propriety of its adoption, as to the propriety of putting in the shape of a statute that proclamation of the President; but what I do ask of the Senate is that they will now, as a single, distinct proposition, do that thing which is so necessary in the disturbed times upon which we have fallen, and do it in such wise as will make its passage sure. I do not desire to protract the debate. I am willing to come to a vote and rest on the sense of the Senate.

Mr. SUMNER. I adopt precisely the language of my friend from Missouri. He regards his proposition as necessary. I regard his proposition or some equivalent measure as necessary. But not less necessary do I regard the proposition which I have now had the honor to offer. His proposition is to meet a question in the reconstruction of the rebel States. My proposition is also to meet a question in the reconstruction of the rebel States.

Mr. BROWN. Mine is not a proposition for reconstruction at all. It is simply providing that they shall not exercise the elective franchise until Congress authorizes it by act.

Mr. SUMNER. I understand it, and the obvious effect of it is to postpone all those activities tending toward reconstruction and to bring them all under the rule of Congress. That is the object of the proposition of the Senator, and the object of my proposition is to bring emancipation under the rule of Congress. Sir, as it now stands it depends on the proclamation of the President. I am unwilling that emancipation shall depend upon the will of any one man, be he President or Senator. I wish to place it under the highest sanctions which our country knows. If I could I would place it at once under the sanctions of the Constitution; but those failing, let me place it under the sanctions of an act of Congress. I am sure the Senator cannot differ from me in that. But the Senator, whose experience here certainly does not compare with that of some other Senators, assures us that this measure cannot pass the other House. Sir, by what intuition has he arrived at that knowledge? I have no means of knowing that. On the contrary, if I am left to draw my conclusion from what has already occurred during the present session, I say unhesitatingly it can pass the other House. The Senator forgets that when it reaches the other House it will not be as a bill by itself to go through the different stages; it goes there as part of the substitute to the House bill. It will be acted upon, therefore, as an amendment, subject only to one stage of proceeding. I tell the Senator it can pass the other House. It only requires that the Senate should send it there. Let us will to do it and it can be done; and I do entreat the Senator from Missouri, who I know is pledged so strenuously to the cause of emancipation, not to fail it at this hour.

Mr. BROWN. I presume no one knows better than the Senator from Massachusetts that it is perfectly possible to unite two measures, each of which commands a majority in itself, and yet which combined cannot by any possibility get a majority; and that is just the proposition which he makes here. I, of course, in charge of the amendment which has been adopted on my motion, must protest against its being put in that attitude.

The PRESIDING OFFICER. (Mr. POMEROY.) The question is on the amendment of the Senator from Massachusetts.

The question being taken by yeas and nays, resulted—yeas 11, nays 21; as follows:

YEAS—Messrs. Chandler, Conness, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sumner, Wade, Wilkinson, and Wilson—11.

NAYS—Messrs. Brown, Carlile, Davis, Doolittle, Grimes, Hale, Harris, Henderson, Hendricks, Johnson, Lane of Indiana, McDougall, Powell, Richardson, Riddle, Saulsbury, Sherman, Sprague, Ten Eyck, Trumbull, and Van Winkle—21.

ABSENT—Messrs. Anthony, Buckalew, Clark, Collamer, Cowan, Dixon, Fessenden, Foot, Foster, Harding, Harlan, Hicks, Howard, Howe, Nesmith, Willey, and Wright—17.

So the amendment was rejected.

The bill was reported to the Senate as amended. The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. WILSON. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 13; as follows:

YEAS—Messrs. Brown, Carlile, Davis, Doolittle, Grimes, Harlan, Harris, Henderson, Hendricks, Johnson, Lane of Indiana, McDougall, Pomeroy, Powell, Richardson, Riddle, Saulsbury, Sprague, Trumbull, and Van Winkle—20.

NAYS—Messrs. Clark, Conness, Hale, Lane of Kansas, Morgan, Morrill, Ramsey, Sherman, Sumner, Ten Eyck, Wade, Wilkinson, and Wilson—13.

ABSENT—Messrs. Anthony, Buckalew, Chandler, Collamer, Cowan, Dixon, Fessenden, Foot, Foster, Harding, Hicks, Howard, Howe, Nesmith, Willey, and Wright—16.

So the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

Mr. TRUMBULL. I desire to have the yeas and nays on the passage of the bill. I want to have a distinct vote on the proposition itself, not antagonized with anything else, and see what the sense of the Senate is on the proposition.

Mr. BROWN. We have just had it on the same proposition.

Mr. TRUMBULL. Then it was antagonized to the original bill as an amendment. I want it by itself to see what the sense of the Senate is in reference to the measure, and not as a substitute for anything else. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 3; as follows:

YEAS—Messrs. Brown, Chandler, Conness, Doolittle, Grimes, Hale, Harlan, Harris, Henderson, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson—26.

NAYS—Messrs. Davis, Powell, and Saulsbury—3.

ABSENT—Messrs. Anthony, Buckalew, Carlile, Clark, Collamer, Cowan, Dixon, Fessenden, Foot, Foster, Harding, Hendricks, Hicks, Howard, Howe, Morrill, Nesmith, Richardson, Willey, and Wright—20.

So the bill was passed.

Mr. BROWN. I move to amend the title of the bill so as to read, "A bill concerning States in insurrection against the United States."

The motion was agreed to.

AMENDMENT OF CONSCRIPTION LAW.

Mr. WILSON. I now move to take up House bill No. 549, with the view of having a committee of conference appointed.

The motion was agreed to; and the Senate proceeded to consider its amendments to the bill of the House (No. 549) further to regulate and provide for the enrolling and calling out of the national forces, and for other purposes, disagreed to by the House of Representatives.

Mr. WILSON. I move that the Senate insist upon its amendments to the bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses.

Mr. HENDRICKS. I am not in favor of agreeing to that proposition. I understand that there are but very few points upon which the two Houses do agree, and this proposition is substantially to take this bill from Congress in the two bodies and refer it to a committee of conference. Where there are disagreements it is very proper to adjust them in this mode; but where the two bodies disagree as to the whole measure, I do not believe in that system of legislation which refers the whole question to a committee of conference, and I do not believe that the Senate will finally secure such a bill as it has agreed to by a committee of conference. This is a very important measure, and it is not that sort of measure which ought to be adjusted throughout by a committee of conference.

Mr. TRUMBULL. I wish to ask the Senator from Indiana if there is any other way of getting at it now. The House of Representatives have disagreed and asked for a committee. What can

we do? If we refuse it, it defeats the whole measure. What else are we to do if we are to have any measure? We may not accept the report of the committee of conference. We may reject it and have a second committee. But what can we do now but accept the House proposition?

Mr. HENDRICKS. If the measure can be considered after it comes back to the Senate I shall not very much object; but the difficulty is that when a report of a committee of conference is made the Senate pass it almost without investigation. I recollect the other day on a very important bill a committee of conference reported, not agreeing with either House—I refer to the tax bill, the item of the tax upon whisky. The House of Representatives had agreed to \$1 a gallon and the Senate had agreed to \$1 25, but the committee of conference made it \$1 50 and \$2, not reflecting the sentiment of either body, but the bill with that very heavy tax on a very large interest passed through this body with very few Senators knowing what was the report of the committee of conference in that regard. When the proposition is to lay hold of the citizen and force him into the military service, I think we ought to know exactly what we do pass.

Mr. TRUMBULL. I entirely concur with the Senator from Indiana as to the impropriety of legislation by committees of conference. I have fought it here for six years and have always been defeated in it. I think it is a miserable way of legislating. But when one House asks for a conference I do not see how you can do otherwise than lose the measure unless you accept the proposition, and when the report comes in it is our fault if we do not understand it.

Mr. HENDRICKS. Perhaps I have accomplished all that I desire. I wished to call attention to the bill, and when the report comes in I hope it will be considered by the body, and I wish it understood that our hands are not tied.

The motion of Mr. Wilson was agreed to; and by unanimous consent the Chair was authorized to appoint the committee.

The PRESIDENT *pro tempore* appointed Mr. WILSON, Mr. GRIMES, and Mr. MORGAN as the conferees on the part of the Senate.

Mr. GRIMES declined serving on the committee, and Mr. BROWN was appointed in his stead.

Mr. BROWN declined serving, and Mr. LANE of Indiana was appointed in his place.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the following bills of the Senate:

A bill (No. 23) granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the southern or eastern boundary of said State;

A bill (No. 73) to amend an act entitled "An act to enable the trustees of the Blue Mont College to preëmpt a certain quarter section of land," approved March 2, 1861; and

A bill (No. 325) to repeal the act of the 17th of June, 1864, prohibiting the sales of gold and foreign exchange.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th June, 1865; and

A joint resolution (H. R. No. 90) to refer the claim of Nahum Ward back to the Court of Claims.

COMMERCE AMONG THE STATES.

Mr. CHANDLER. I move to postpone all prior orders for the purpose of taking up the bill (H. R. No. 307) to regulate commerce among the several States.

Mr. JOHNSON. I hope that motion will not be agreed to. That bill will give rise to discussion. I should feel it my duty, as weak as I am physically, and weak perhaps in every other way, to discuss it at some length before the Senate.

Mr. CHANDLER. I am very anxious to listen to the Senator from Maryland. I know he will enlighten the Senate. I do not desire to discuss it myself.

Mr. JOHNSON. I am not in a condition to discuss it now. I am not the only one who desires to do so. There are three or four other speeches to be made. We have hardly time now to get through with the business which must be transacted before we adjourn.

Mr. CHANDLER. I shall make no speech upon this bill. I am simply anxious for a vote. I will consent to take the vote without one single word being said by either side. I do not believe that any speech that can be made will affect a vote one way or the other. The friends of the bill will occupy no time. It is a House bill; it is a very short bill; and I see no reason on earth why we should not pass it in ten minutes. If the Senator from Maryland desires to enlighten the Senate I shall be most happy to listen to him from now until daylight to-morrow morning if he requires so much time. I certainly will not limit the debate; but I assure him there will be no response from me or from the friends of the measure. I hope he will let us have a vote.

Mr. JOHNSON. I know the courtesy of the honorable member from Michigan will listen to any speech any Senator might wish to make, and if the Senator desires to speak he will make a speech on any subject he desires to speak about. This, to be sure, is a House bill; but it does not follow from that that it is to be adopted. The bill we have just disposed of is a House bill; but it goes back to the House a very different bill from what it was when it came to the Senate; it is altogether changed. The bill to which the honorable member adverts is a bill that contains principles infinitely more extensive than the mere operation of the bill itself, and I am satisfied that it cannot be disposed of without a long discussion. There are constitutional questions presented by it which deserve the very grave consideration of the Senate. It is now late; we are very much exhausted; at least I think all the Senate are exhausted in a great measure; and I therefore move that the Senate adjourn.

Mr. CHANDLER. I hope not. I should like at any rate to get this bill up, so that it may be the first business in order to-morrow.

The PRESIDING OFFICER. Does the Senator from Maryland insist on his motion?

Mr. JOHNSON. Yes, sir.

Mr. McDUGALL called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

Mr. WILSON. I would be very glad to have an executive session for a few moments in order to make some reports.

Mr. HENDRICKS. I object to debate.

Mr. WILSON. It will take but a moment.

Mr. HENDRICKS. I object to debate.

The PRESIDING OFFICER. The call will proceed.

Mr. HOWE. I hope the Senate will indulge me in saying that there is a bill coming from the House of Representatives in a few minutes, which it is very desirable should be taken to the President to-night, and if you can wait fifteen minutes it will be here.

Mr. GRIMES. It is too hot to stay here.

Mr. HOWE. It will only take fifteen minutes.

Mr. HENDRICKS. I ask for a vote.

Mr. DOOLITTLE. I appeal to the honorable Senator from Maryland to withdraw the motion for a short time.

Mr. POWELL. I believe there has been an answer to the roll-call.

Mr. DOOLITTLE. Nobody has answered. Mr. ANTHONY's name was called, but he did not answer.

Mr. HENDRICKS. I object to the withdrawal.

Mr. DOOLITTLE. I ask the courtesy of the Senate to be permitted to make a statement.

Mr. HENDRICKS. I object to any argument.

Mr. DOOLITTLE. It is no argument, but a statement.

Mr. HALE. I object.

The PRESIDING OFFICER. Objection being made, the call will proceed.

The Secretary continued and concluded the call of the roll on the motion to adjourn.

HOUSE BILL REFERRED.

The PRESIDENT *pro tempore*. Before announcing the result on the motion to adjourn, the Chair will lay before the Senate a joint resolution from the House of Representatives with a view to have it referred to a committee.

The joint resolution (No. 117) authorizing the Secretary of the Navy to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer Juniata, was read twice by its title.

Mr. HALE. I ask the unanimous consent of the Senate to pass that bill now. It is a bill to pay a colored man in Nassau for piloting our vessels.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered at the present time. It will be referred to the Committee on Naval Affairs.

Mr. HALE. Very well.

CAPTAIN DANIEL HEBARD.

The PRESIDENT *pro tempore*. The Chair will also lay before the Senate the amendment of the House of Representatives to the joint resolution (S. No. 43) authorizing the settlement of the accounts of the late Captain Daniel Hebard of the United States volunteers.

The Secretary proceeded to read the amendment of the House of Representatives to the joint resolution, but was interrupted by

Mr. SHERMAN. I object to any legislative business. There is not a quorum here, and that is evidently a matter of some importance.

The result of the vote on the motion to adjourn was then announced—yeas 23, nays 12; as follows:

YEAS—Messrs. Brown, Carlile, Conness, Davis, Foster, Grimes, Hale, Harlan, Henderson, Hendricks, Johnson, Lane of Indiana, Morgan, Pomeroy, Powell, Ramsey, Richardson, Riddle, Saulsbury, Sprague, Trumbull, Van Winkle, and Wiley—23.

NAYS—Messrs. Chandler, Clark, Doolittle, Howe, Lane of Kansas, McDougall, Morrill, Sherman, Sumner, Ten Eyck, Wade, and Wilkinson—12.

ABSENT—Messrs. Anthony, Buckalew, Collamer, Cowan, Dixon, Fessenden, Foot, Harding, Harris, Hicks, Howard, Nesmith, Wilson, and Wright—14.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, July 1, 1864.

The House met at twelve o'clock, m. Prayer by Rev. Mr. FERREE.

The Journal of yesterday was read and approved.

BUSINESS ON SPEAKER'S TABLE.

Mr. HOLMAN. I suggest that by unanimous consent the House resume the consideration of the business on the Speaker's table.

There being no objection, it was so ordered.

TELEGRAPH TO THE PACIFIC.

Mr. WASHBURN, of Illinois. I rise to a question of privilege. I call up the motion to reconsider the vote by which the Pacific telegraph bill was referred to the select committee on that subject.

Mr. HOLMAN. I raise the point of order that the House having given unanimous consent to proceed to other business, the question of privilege cannot override that.

The SPEAKER. The Chair sustains the point of order.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, requested the House to return to the Senate House bill No. 549, further to regulate and provide for the enrolling and calling out the national forces, and for other purposes, with the amendment of the Senate thereto, to correct an error in the engrossment of said amendment.

The message was submitted to the House, and it was ordered that the request of the Senate be complied with.

Mr. HOLMAN. Is this subject privileged to come up at this time?

The SPEAKER. It is; the rule prescribes that in taking up business on the Speaker's table bills from the House with Senate amendments shall take precedence.

The House thereupon proceeded to a consideration of the joint resolution (H. R. No. 90) to refer the claim of Nahum Ward back to the Court of Claims; which was taken from the Speaker's table, the question being on concurring with the

amendment to add to the joint resolution as follows:

Provided, That said court shall allow no larger amount than the sum heretofore allowed by said court.

Mr. HOLMAN. I hope the House will concur in that amendment. It is manifestly a proper amendment. The bill itself was referred to the Committee of Claims and reported on by that committee. The bill is right, and I hope the amendment will be concurred in. I call the previous question.

The previous question was seconded, and the main question ordered to be put.

The amendment of the Senate was concurred in.

CONSCRIPTION BILL.

Mr. LE BLOND. I supposed last night after offering my amendment that the House was about to adjourn, and not being well I left for my home. Since that time I have learned that a vote was taken upon my proposition, and I now ask permission to record my vote.

Mr. ANCONA. I object.

Mr. LE BLOND. Then I will say that had I been here I should have voted in the affirmative; and I thank the gentleman from Pennsylvania for his courtesy. [Laughter.]

Mr. COFFROTH. I ask permission to record my vote upon the same proposition.

Mr. ANCONA. I object.

PUNISHMENT OF GUERRILLAS.

House bill (No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes, was taken from the Speaker's table, the question being on concurring in the amendments of the Senate. The Senate amended the bill first by making the words "guerrilla and" read "guerrilla marauders." They also added a section at the end of the bill providing that when a soldier sick in hospital shall have been discharged from military service and shall die in consequence of such sickness or wounds, he shall be deemed to have died in the military service.

Also, an additional section providing that payments which have been made by paymasters to non-commissioned officers in volunteer regiments from the date of enlistment but previous to their being mustered into the service of the United States shall be authorized, and that such paymasters shall be credited with such payments in the settlement of their accounts; also providing that the term "guerrilla marauder" mentioned in the act shall not be construed as applying to persons belonging to the regularly organized forces of the enemy.

Mr. HOLMAN. I wish to call the attention of the House to this amendment of the Senate in relation to soldiers who have died in hospitals after being discharged. I think the same provision has been made upon another bill which is before the House; and I trust that gentlemen will avoid the duplication of this section by striking it out in one bill or the other.

Mr. GARFIELD. There are two or three amendments to this bill which the Military Committee desire to have arranged differently, and I hope, therefore, the House will non-concur in the amendments of the Senate, and ask for a committee of conference.

Mr. HOLMAN. I trust that this section may be concurred in first.

Mr. GARFIELD. The section needs to be carefully worded, and I think it had better be considered by a committee of conference.

Mr. HOLMAN. The gentleman, however, seems to concur in the propriety of the amendment, and I think, therefore, it had better be concurred in.

Mr. FENTON. I am in favor of the proposition embodied in this section, but I think, with the gentleman from Ohio, that all the amendments had better go to a committee of conference. The committee will certainly consider itself instructed by the House on this point, and will without doubt insist on retaining the provision in substance.

The amendments of the Senate were non-concurred in, and a committee of conference requested upon the disagreeing votes of the two Houses on the bill.

Mr. GARFIELD moved to reconsider the vote by which the amendments of the Senate were non-concurred in and a committee of conference

requested; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TAXES IN INSURRECTIONARY DISTRICTS.

An act (S. No. 171) further to amend an act entitled "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," approved June 17, 1862, was next taken from the Speaker's table, having been laid over from yesterday evening.

Mr. FENTON. I do not know upon whom it falls to take charge of this bill and make a proper explanation in regard to it. It is not the bill I had in charge. I think, however, it is a bill which should be passed. If there be no objection, I will move that it be referred to the Committee of Ways and Means, with authority to report at any time.

The motion was agreed to.

Mr. FENTON moved to reconsider the vote by which the bill was referred to the Committee of Ways and Means; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BOUNTY LANDS.

An act (S. No. 228) providing for satisfying claims for bounty lands, and for other purposes.

The bill was read a first and second time, ordered to a third reading; and it was accordingly read the third time, and passed.

WASHINGTON GAS-LIGHT COMPANY.

An act (S. No. 336) to amend an act incorporating the Washington Gas-Light Company, and for other purposes.

Mr. ROLLINS, of New Hampshire. I move to refer that bill to the Committee for the District of Columbia.

Mr. STEELE, of New York. I should like to have that bill considered now, and I will send to the Clerk's desk a letter to be read for the information of the House.

The Clerk read, as follows:

OFFICE WASHINGTON GAS-LIGHT COMPANY,
June 29, 1864.

DEAR SIR: This Gas-Light Company has been actually losing money every day for nearly twelve months, and that loss is continually increasing. We are now paying one hundred per cent. more for coal, labor, iron, retorts, and every other article used in the manufacture of gas than two years ago when the present rates for gas were fixed, and unless we can get relief from Congress this session will be compelled to close our works before December. A bill passed the Senate unanimously yesterday giving an increase of only fifteen per cent., and making the price less than in 1861; but we are content with it: (three dollars net.) There are four hundred and forty-five gas companies in the United States, of which four hundred and twenty-six receive over three dollars, and all the others have taken steps to put the price to those figures. It is to the interest of every company to sell gas as cheap as possible, but we cannot afford to lose money as we are now doing. The par value of our stock is twenty dollars per share on the gold standard, and it is now offered at nineteen dollars in paper, and no purchasers. A great proportion of it is held by widows, orphans, and trustees who rely upon their dividends for support, which we have not made or declared for nearly twelve months, and never will at present prices. There is no other article, from the cradle to the coffin, that can be procured at the same cost as three years ago, except gas, which we are required to sell at fifty-four cents per thousand less than then, and we are willing to furnish it at fifteen cents less.

We cannot think it is the intention of the House to destroy this company by requiring it to furnish gas at so great a loss, or to put the city in darkness by closing the works, yet this must be the inevitable result unless your honorable body will at once pass the Senate bill.

I have the honor, &c.,

J. F. BROWN,
Secretary in charge.

Hon. J. B. STEELE, Chairman, &c.

Mr. WASHBURNE, of Illinois. I understand that there is a provision in that bill increasing the fare on the passenger railways two cents.

Mr. STEELE, of New York. There is such a provision, and the gentleman from Ohio [Mr. MORRIS] is upon the floor to move to strike it out.

I will say, Mr. Speaker, that this bill has been considered by the Committee for the District of Columbia, and that I am authorized by the majority of that committee to move to put it on its passage.

Mr. ROLLINS, of New Hampshire. I think it ought to be referred to that committee.

Mr. DAWSON. I hope it will be acted on now. It is late in the session and the bill has already been considered by that committee.

Mr. PATTERSON. This matter has been three times before this House during this session, and after full and deliberate discussion been voted

down. Now it comes before the House for the fourth time just on the heel of the session. It is well known if this passes it will increase the expense to the Government \$30,000 during the coming year. I do not care to go over the discussion. I have considered it fully and have seen no cause to believe that what I stated in the discussion before the House is not true. It seems to me it would be vastly better to refer this subject to the Committee for the District of Columbia for consideration.

Mr. LITTLEJOHN. I would like to ask the gentleman one question. Is this one of that class of companies which has watered stock—the stock of which does not represent the actual cost incurred? If it is the company with watered stock I would never increase its pay.

Mr. PATTERSON. It is.

The House divided; and there were—ayes 49, noes 43.

Mr. DAWSON demanded tellers.

Tellers were ordered; and Messrs. ROLLINS of New Hampshire, and DAWSON, were appointed.

The House again divided; and the tellers reported—ayes 57, noes 45.

So the bill was referred to the Committee for the District of Columbia.

Mr. PATTERSON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HUMILIATION AND PRAYER.

Joint resolution (S. No. 74) requesting the President to appoint a day for national humiliation and prayer.

The joint resolution was read a first and second time, ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EVIDENCE IN THE DISTRICT OF COLUMBIA.

An act (S. No. 271) relating to the laws of evidence in the District of Columbia.

The bill was read a first and second time.

Mr. PRUYN moved that it be referred to the Committee on the Judiciary.

Mr. WILSON moved to put the bill upon its passage, and demanded the previous question.

The previous question was seconded, and the main question ordered.

Mr. PRUYN demanded tellers.

Tellers were ordered; and Messrs. PRUYN and LITTLEJOHN were appointed.

The House divided; and the tellers reported—ayes 41, noes 52.

So the bill was not referred to the Committee on the Judiciary.

Mr. MORRIS, of Ohio, moved to lay the bill on the table.

The House divided; and there were—ayes 33, noes 64.

So the bill was not laid on the table.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 272) to facilitate trade on the Red river of the North;

An act (S. No. 289) for the relief of Ida Hoffman;

An act (S. No. 305) for the relief of George F. Nesbitt;

An act (S. No. 298) to incorporate the Potomac Ferry Company;

An act (S. No. 321) to authorize the corporation of Washington to levy and collect the direct tax imposed by act approved August 5, 1861;

Joint resolution (S. No. 69) regulating the investment of the naval pension fund;

An act (S. No. 308) repealing so much of an act to supply deficiencies in the appropriations for the service of the fiscal year ending June 30,

1864, and for other purposes, approved March 14, 1864, as appropriates \$25,000 for erecting a naval hospital at Kittery, Maine;

An act (S. No. 299) authorizing the levy court of Washington county, in the District of Columbia, to levy and collect its portion of the direct tax imposed by the act of Congress of August 5, 1861;

An act (S. No. 301) for the sale of a lot of land in Iowa in the Fort Crawford reservation;

An act (S. No. 324) prescribing the punishment for enticing or aiding seamen to desert the naval service of the United States;

An act (S. No. 273) to compensate the officers and crew of the iron-clad gunboat Essex for the destruction of the rebel ram Arkansas;

Joint resolution (S. No. 66) providing for adjustment of the accounts of Henry W. Diman; and

An act (S. No. 332) to establish salaries for postmasters, and for other purposes.

VOTES RECORDED.

Mr. ELDRIDGE. Mr. Speaker, I was not present last evening when the vote was taken on the amendment of the gentleman from Ohio [Mr. LE BLOND] on the conscription bill. I supposed that the whole matter had been postponed until to-day on the motion of the gentleman from Pennsylvania, [Mr. STEVENS,] and having an engagement I left the Hall. I now ask unanimous consent to record my vote on the amendment.

There was no objection, and Mr. ELDRIDGE voted "ay."

Mr. COBB, having been absent on official business, presenting bills to the President for his signature, when the vote was taken last evening on that amendment, asked leave to record his vote.

There was no objection, and Mr. COBB voted "no."

Mr. INGERSOLL asked and obtained like consent, and voted "no."

Mr. ODELL asked and obtained like consent, and voted "no."

Mr. MORRIS, of Ohio, asked and obtained like consent, and voted "ay."

TELEGRAPH TO THE PACIFIC.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. I call up the motion to reconsider the vote by which the bill (S. No. 290) for increased facilities of telegraphic communication between the Atlantic and Pacific States and the Territory of Idaho was referred to the select committee on that subject.

The vote was reconsidered.

The question recurred on the motion to refer the bill, and it was not referred.

Mr. WASHBURNE, of Illinois, moved the previous question on the third reading of the bill.

The bill authorizes the United States Telegraph Company and their associates to erect a line or lines of magnetic telegraph between the Missouri river and the city of San Francisco, in the State of California, on such route as they may select, to connect with the lines of that company now constructed and being constructed through the States of the Union. The company is to have the use of such unoccupied land of the United States as may be necessary for the right of way and materials, and for the establishing of stations along the line for repairs, not exceeding at any station one quarter section of land, and the stations not to exceed one in fifteen miles on the average of the whole line, unless the lands shall be required by the Government of the United States for railroad or other purposes; but no right to preempt any lands under the laws of the United States is to inure to the company or their agents, or any other person or persons whatsoever.

The second section authorizes the United States Telegraph Company, under the direction of the President of the United States, to erect a line of telegraph from Fort Hall by Walla-Walla and the Dalles and San Francisco to Portland, in the State of Oregon, and from Fort Hall to Bannock and Virginia City, in the Territory of Idaho, with the same privileges as to the right of way, &c., as is provided in the first section; the United States to have priority in the use of the lines of telegraph to Oregon and Idaho.

According to the third section, the company is to send and receive dispatches on payment of the regular charges for transmission of dispatches over any line that may now or hereafter be con-

structed by the authority or aid of Congress, to connect with any line or lines authorized or erected by the Russian or English Government, and all dispatches received by the line are to be transmitted in the order of their reception, and the answers thereto to be delivered to the United States Telegraph Company for transmission over their lines to the office whence the original message was sent.

The fourth section provides that the several railroad companies authorized by act of Congress July 1, 1862, may enter into arrangements with the United States Telegraph Company so that the line of telegraph between the Missouri river and San Francisco may be made upon and along the line of that railroad and branches as fast as the roads and branches are built, and if such arrangements be entered into and the transfer of the telegraph line be made in accordance therewith to the line of the railroads and branches, such transfer shall, for all purposes of the act referred to, be held and considered a fulfillment on the part of the railroad companies of the provision of the act in regard to the construction of a telegraph line; and, in case of disagreement, the telegraph company are authorized to remove their line of telegraph along and upon the line of railroad therein contemplated, without prejudice to the rights of the railroad companies.

Mr. DONNELLY. I desire to offer an amendment to the third section of the bill, to add to the section the words "whenever so directed by the sender thereof." As the bill at present stands the company referred to in the bill will absorb all the return business of telegraphing. The amendment provides that the business shall go to this particular line only when the sender of the telegraph desires it. I do not think there can be any objection to the amendment.

Mr. WASHBURN, of Illinois. On examination of the amendment I do not see any particular objection to it, and I withdraw the previous question for the purpose of letting the amendment be offered.

Mr. DONNELLY offered his amendment.

Mr. WASHBURN, of Illinois. I renew the demand for the previous question.

The previous question was seconded, and the main question ordered; and under its operation the amendment was agreed to, and the bill read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. BROOMALL asked and obtained leave of absence for a few days from to-morrow on account of illness.

Mr. ODELL asked and obtained leave of absence for Mr. Blow for the remainder of the session.

PRIVATE BILLS.

Mr. COFFROTH. I move that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The SPEAKER. The House is still in execution of the order to dispose of the business on the Speaker's table.

ANTHONY SWEETING.

Mr. RICE, of Massachusetts, by unanimous consent, introduced a joint resolution authorizing the Secretary of the Navy to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer Juniata; which was read a first and second time by its title.

The resolution authorizes the Secretary of the Navy to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer Juniata, for losses or fines sustained by him in consequence of his employment in the service of the United States, provided that the sum shall not exceed \$500.

The resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LAND TITLES IN THE DISTRICT OF COLUMBIA.

The next bill taken from the Speaker's table was a bill (S. No. 91) to quiet titles in favor of parties in actual possession of land situated in the District of Columbia; which was read a first and second time by its title.

Mr. STEELE, of New York. I move to refer that bill to the Committee for the District of Columbia.

The motion was agreed to.

PROCEEDS OF PUBLIC LANDS.

The next bill taken from the Speaker's table was a bill (S. No. 193) to extend the eighth section of an act entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preemption rights;" which was read a first and second time by its title.

Mr. WASHBURN, of Illinois. I move to refer that bill to the Committee on Public Lands. The motion was agreed to.

AGRICULTURAL DEPARTMENT.

The next bill taken from the Speaker's table was a bill (S. No. 339) to repeal the joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department," and for other purposes; which was read a first and second time by its title, and ordered to a third reading.

Mr. PRUYN. I would like to hear the bill read.

The bill, which was read, repeals the joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department." The second section directs the Secretary of the Interior to assign for the temporary use of the Commissioner of Agriculture such rooms in the Interior Department suitable for the business of the Commissioner, and necessary to enable him to perform efficiently the business of the office, as can be so appropriated with the least inconvenience to the transaction of other public business. The third section appropriates for the purpose of erecting a suitable building for the use of the Department of Agriculture, on any unoccupied public grounds of the United States in the city of Washington, to be indicated by the President, \$100,000, to be expended under the direction of the President, provided the whole cost of the building shall not exceed the sum so appropriated.

Mr. PRUYN. I would like to know whether the Secretary of the Interior approves of that bill.

Mr. FARNSWORTH. I raise the point of order that this is an appropriation bill, and should be considered in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair thinks the objection comes too late.

Mr. WASHBURN, of Illinois. This bill is different from what I supposed it was, and I am opposed to the passage of some of the provisions in it, particularly that appropriating \$100,000.

The SPEAKER. The Chair would state that he was not aware that the bill contained any appropriation or he would have had it read before it was ordered to a third reading.

Mr. WASHBURN, of Illinois. I am in favor of repealing the joint resolution giving to the Commissioner of Agriculture the rooms in the Land Office, where I am told there are deposited six million papers belonging to the General Land Office. I move to reconsider the vote by which the bill was ordered to a third reading.

The motion was agreed to.

The question recurred on ordering the bill to a third reading, and it was not agreed to.

Mr. WASHBURN, of Illinois. As the bill is now open to amendment, I move to amend by striking out the third section, which contains the appropriation of \$100,000. I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The amendment submitted by Mr. WASHBURN, of Illinois, was agreed to.

The bill, as amended, was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly-enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 133) for the relief of William Sawyer and others, of the State of Ohio;

An act (H. R. No. 470) to authorize assimilated rank to be given to the warrant officers of the United States Navy, and for other purposes;

An act (H. R. No. 550) to establish Colfax street, in the city of Washington and District of Columbia;

An act (H. R. No. 347) for the relief of Martha Jane Skaggs;

An act (H. R. No. 162) for the relief of Richard G. Murphy;

An act (H. R. No. 316) for the relief of Dr. Charles M. Wetherill; and

Joint resolution (H. R. No. 39) for the relief of Alexander Cross.

GEORGE A. SHREINER.

An act (S. No. 240) for the relief of George A. Shreiner was taken from the Speaker's table, and read a first and second time.

Mr. WASHBURN, of Massachusetts, moved that the bill be referred to the Committee on Invalid Pensions.

The motion was agreed to.

JOHN S. JONES.

An act (S. No. 251) for the relief of John S. Jones, an Ottawa Indian, for depredations committed upon his property in Kansas Territory, was taken from the Speaker's table, and read a first and second time.

Mr. WASHBURN, of Illinois, moved to refer the bill to the Committee on Indian Affairs.

The motion was agreed to.

All of the bills on the Speaker's table having been disposed of,

Mr. WASHBURN, of Illinois, moved to reconsider the reference of such bills as had been referred to committees; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GOLD BILL.

Mr. PRUYN asked unanimous consent to introduce a bill for the repeal of the gold bill.

Mr. HOOPER objected.

PRIVATE CALENDAR.

Mr. COFFROTH moved that the House resolve itself into the Committee of the Whole House on the Private Calendar.

Upon the motion, 28 voted in the affirmative and 56 in the negative; no quorum.

The SPEAKER ordered tellers; and appointed Messrs. Dixon and Coffroth.

The House divided; and the tellers reported—ayes 37, noes 56.

So the House refused to go into the Committee of the Whole House on the Private Calendar.

WEST POINT ACADEMY OFFICERS.

Mr. SCHENCK asked consent to report back from the Committee on Military Affairs a Senate joint resolution in relation to the professors of the Military Academy at West Point.

The joint resolution was read. It construes the thirty-first section of the act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863, not to abridge the privileges of the professors of the West Point Academy during the suspension of the ordinary academic studies of the year.

Mr. SCHENCK. I am instructed by the Committee on Military Affairs to move to amend the bill by inserting the words "or the eleventh section of the act to increase the pay of the soldiers of the United States Army, approved June 24, 1864."

I will explain that the joint resolution is simply this: by the thirtieth section of the enrollment bill of 1863 officers are not permitted to be absent without having their pay deducted, except in case of sickness. The eleventh section of the act increasing the pay of the soldiers prohibits officers from absenting themselves for more than one year. The professors of the Military Academy are construed as officers. Their vacation every year while

the cadets are in camp is for two months, and there is no objection to their being absent.

The amendment was agreed to.

The joint resolution, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, one of their clerks, notifying the House that having made a correction in the engrossment of the bill of the House (No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes, had again passed the bill, and that he was directed to ask the concurrence of the House in their amendments to the said bill.

EXTRA CLERICAL COMPENSATION.

Mr. GRISWOLD asked the unanimous consent of the House to offer the following resolution:

Resolved, That there be paid to the clerk of the Committee on Naval Affairs one dollar a day during the present session of Congress in addition to the compensation heretofore provided.

Mr. HOLMAN objected.

DANIEL HEBARD.

Mr. SCHENCK, by unanimous consent, from the Committee on Military Affairs, reported back joint resolution of the Senate (No. 43) authorizing the settlement of the accounts of the late Captain Daniel Hebard, of the United States volunteers, with an amendment.

The joint resolution provides that in the settlement of the accounts of the late Captain Daniel Hebard, of the United States volunteers, an assistant adjutant general on the staff of General Gorman, the Secretary of War is to allow and pay for the whole time that officer was actually employed and on duty in the military service of the United States, whether before or after the date of his commission.

The amendment of the Committee on Military Affairs provided that the same principle of allowance and payment be observed in the settlement of the accounts of Major William M. Este and Captain Maxwell V. Z. Woodhull, aids-de-camp on the staff of Major General Robert C. Schenck, from the 22d day of December, 1862, when they entered upon their duties on the staff of the commanding general of the Middle department and eighth Army corps until the date when they respectively received and accepted their commissions as aids-de-camp, deducting only from the pay and allowances of Major Este what he received in any part of that time as a lieutenant of the twenty-sixth regiment of Ohio volunteer infantry.

The amendment was agreed to.

The joint resolution, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The title was amended by adding the words "and of other officers."

ENROLLMENT BILL.

Mr. SCHENCK moved that the House postpone for the present the consideration of private bills, and that it take up the amendments of the Senate to House bill No. 549, further to regulate and provide for the enrolling and calling out the national forces, and for other purposes.

The motion was agreed to.

Mr. SCHENCK. What the Senate have sent us is contained in Senate bill No. 286, and I hope that we will non-concur. I demand the previous question.

Mr. DAVIS, of Maryland. I ask the gentleman to yield to me, so that I may move to concur with an amendment.

Mr. SCHENCK. I am willing to yield that a vote may be taken on the gentleman's amendment.

Mr. DAVIS, of Maryland. I move to concur with this amendment:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person drafted shall be entitled to be exempted from personal service on payment of commutation money.

Sec. 2. And be it further enacted, That all enrolled persons

shall be divided into two classes, one comprising those between eighteen and twenty-five years of age, and the other those over twenty-five and under forty years of age.

Sec. 3. And be it further enacted, That every year during the continuance of the rebellion the President shall cause two hundred and fifty thousand men to be drafted from the first class, who shall be organized, drilled, and either sent into the field or held as a reserve to meet the exigencies of the service.

Sec. 4. And be it further enacted, That in the event of the service requiring a levy of more than two hundred and fifty thousand men in any year the residue beyond that number shall be drafted from the second class.

Sec. 5. And be it further enacted, That prior to any draft and during the execution of the same, till the requisition is filled, the President shall call for volunteers to fill the same, and is authorized to offer and pay every volunteer \$300 who shall volunteer for three years, and proportionably for any shorter period designated by the President, one half at the time of mustering in and the other half on his discharge.

Sec. 6. And be it further enacted, That every drafted man not appearing by the assessment for the internal revenue to have an income of \$300 on whom wife, parent, child, brother, or sister is dependent for support shall be allowed ten dollars a month for the support of every such dependent, payable directly to such dependent or the person charged with the guardianship of any of them: *Provided*, That not more than twenty dollars shall be paid for this purpose in any month on account of any drafted man.

Sec. 7. And be it further enacted, That it shall be the duty of the President to order and execute a draft in each of the States heretofore declared in rebellion, so far as the territory of said State shall be under the military occupation of the United States; and any State may procure volunteers from any of the States declared in rebellion except Tennessee and have them credited to the quotas of the State procuring the same; but all persons residents of any loyal State volunteering in any other loyal State shall be credited to the State of his residence.

Mr. SCHENCK. The bill which passed the House was the one submitted by my friend from Delaware, [Mr. SMITHERS.] The Senate have stricken that out and sent us their bill, No. 286. The gentleman from Maryland has moved a substitute for the Senate bill. I shall ask the House to stand by its own bill.

Mr. WADSWORTH. If we adopt the Senate amendment will it allow one State to go into other States and procure substitutes?

Mr. SCHENCK. There is no law prohibiting it and there is no law allowing it.

Mr. WADSWORTH. When each State is assigned her quota does not that prohibit her from going beyond her own limits?

Mr. SCHENCK. The gentleman asks me for my construction of the law.

Mr. WADSWORTH. I ask the gentleman to give me his opinion, as he is familiar with military law.

Mr. SCHENCK. My opinion is that they cannot go into any State to recruit unless it is allowed by law. It is not allowed by law now.

Mr. MALLORY. Permit me to ask the gentleman if he did not say the other day, in the course of an argument, that a bill was passed through this body, introduced by Mr. Blair, of Missouri, which does expressly allow one State to subsidize another.

Mr. SCHENCK. That is not a part of this Senate amendment.

Mr. MALLORY. Is it not an existing law?

Mr. GARFIELD. The bill has not yet passed the Senate.

Mr. THOMAS. Will the gentleman yield to me a moment?

Mr. SCHENCK. Yes, sir.

Mr. THOMAS. I desire to submit an amendment to the proposition of the Senate, which will put at rest all contrariety of opinion upon that point, merely to test the sense of the House. In that connection I will say that I know of my own personal knowledge that under existing laws—whether with or without the assent of the Secretary of War I am not prepared to say—that practice is indulged in which it seems a majority of this House is disposed to prohibit. It is notorious that at this moment in the District of Columbia there are agents of other States here engaged in securing for citizens of other States the absconding negroes of the South coming within the borders of the District of Columbia. One very great evil is growing out of it. There is a competition between the agents of different States and citizens of adjoining States, and the result is that the price of substitutes is going up to a very high figure.

With a view to give direction to the very few remarks I desire to make, I desire the Clerk to read an amendment I propose to submit before the previous question is called to the Senate proposition.

The Clerk read the proposed amendment, as follows:

And be it further enacted, That it shall not be lawful for any of the States to send recruiting agents into other States and Territories to enlist soldiers to be credited to the States that may procure their enlistment; and no State shall be credited with soldiers recruited who are not citizens of the State claiming the credit, or foreigners who do not owe allegiance to the United States.

Mr. THOMAS. It is hardly worth while to say that I propose this amendment with no unkind feelings toward any section of the country, as I entertain no such feelings. I desire to act in a very liberal spirit. In my humble judgment the evils resulting from this practice of recruiting by State agents the absconding slaves more than overbalances any good which can possibly result from it. These slaves of the South who have absconded owe military duty to the Government of the United States, as much so, according to the laws of Congress, as the white man; and when the Government is about to call for five hundred thousand additional men, if the States which are engaged in this practice send into the sections in which these slaves have absconded and take two hundred thousand of them away, the inevitable effect is to deprive the Government of the United States of the services of that number of men, for thereby two hundred thousand white men are exempted from the service. If the Congress of the United States would take a firm and decided stand, from which it could not be driven, authorizing the United States Government officers alone to go into the South and obtain recruits for the Army, all the States of the Union will be equally benefited and all be equally affected by the draft.

Under existing laws, I repeat, when northern States recruit two hundred thousand fugitives and are credited for them, an equal number of their citizens are exempt from military duty. But if my amendment could prevail and the Government of the United States have alone the right to recruit fugitives from service, every State in the Union would have its fair proportion of soldiers to furnish to make up any number needed for the Army; and we would avoid those State jealousies and rivalries which tend so seriously to interfere with the measures required to quell this insurrection.

I hope that the mere statement of the proposition will satisfy the House as to the propriety of adopting my amendment. It is a vital matter to us. Can it not be foreseen by gentlemen that it will have the effect to discourage and disgust the States that will not adopt this policy? I hope that Maryland when she responds to the call of the President for troops will turn her back upon that policy. As one of her sons I would advise her people to stand ready at all times to fight out this fight to the bitter end; and if some States will not engage in that policy why should others be allowed to do so? Let us bring up the whole country breast-high to this fight. Let all the citizens of the land know that each owes his allegiance to the country, ay, his heart's blood, if the country requires the sacrifice. Let that sentiment go abroad from this common center over the whole land. Let us have none of that huckstering of agents of the States outbidding each other for ignorant negroes to take the place of their citizens in the ranks of the Army. Let our constituents be taught that each State must rely upon its resources for them to make up any deficiency in our Army which may exist after the common Government of the Union has exhausted the means which is afforded by the rebellious States.

I think, Mr. Speaker, I have made my object sufficiently plain, and leave the proposition to the judgment of the House. And I will conclude by saying that when I voted against the House bill, for which this bill from the Senate is a substitute, I was not influenced by any opposition to the clause of that bill which proposed a repeal of the laws which allow of a money commutation for military service. On that point I am not unwilling to yield to the wishes of the President and Secretary of War. This privilege of recruiting by State agents outside of the State for which they are appointed was in the bill of the House, and on that account I voted against that measure, and will continue to vote against any bill which contains a proposition, in my judgment, so mischievous. I know from my personal knowledge that under existing laws authority has been given to

agents to go to Alexandria in search of recruits, for the purpose of crediting them to the State in whose service the agent is. So that if the policy of Congress is that each State shall rely on its own citizens to perform the duty which they owe to the country, it is necessary to put in this statute a prohibitory clause that cannot be hereafter misunderstood or misconceived by any of the officers of Government.

Mr. SCHENCK. Mr. Speaker, I gave way in order that the gentleman from Maryland might have an amendment read for information; but I have no idea of being drawn into the discussion of this matter.

Mr. INGERSOLL. I desire to propose an amendment to the amendment offered by the gentleman from Maryland.

Mr. SCHENCK. I will make a proposition to the House. I had already promised to my colleague [Mr. GARFIELD] that he should have an opportunity of offering an amendment containing two sections of a bill introduced some time ago from the Committee on Military Affairs, about which everybody was then agreed, and which is asked for by the Department. While keeping the control of this bill within the management of the House, I will let in the amendment of the gentleman from Maryland, [Mr. THOMAS,] and call the previous question first on that amendment, so that he shall have a vote on it. Then I will call for a vote on the other amendments. Perhaps my colleague and the gentleman from Vermont [Mr. MORRILL] will agree to put their two amendments together.

Mr. MORRILL. I have no objection.

Mr. SCHENCK. I move the previous question on the amendment of the gentleman from Maryland.

Mr. INGERSOLL. Will the gentleman from Ohio permit me to offer an amendment to the amendment?

Mr. SCHENCK. Yes, sir. I am willing to do that.

The SPEAKER. The Chair will state to the gentleman from Ohio that the House may, by unanimous consent, allow all the amendments to be received, and the previous question to be called and seconded on them, and the votes to be taken upon them one after another. Otherwise the previous question will have to be moved on each amendment by itself.

Mr. SCHENCK. If the House will by unanimous consent agree that all the amendments of the gentlemen desiring to offer them may be offered at this time and then allow the previous question to be moved on them, I will be satisfied.

Mr. ELDRIDGE. I object.

The SPEAKER. Then the amendments must be acted on separately.

Mr. SCHENCK. I demand the previous question on the amendments now pending—

Mr. MALLORY. Is the amendment of the gentleman from Illinois [Mr. INGERSOLL] in order? I understand the amendment of the gentleman from Maryland [Mr. THOMAS] to be an amendment to an amendment.

The SPEAKER. The Chair will state that the amendment of the Senate is by the rule considered as the original text, and the amendment of the gentleman from Illinois is therefore only an amendment to an amendment.

Mr. ELDRIDGE. I withdraw my objection to all the amendments being offered.

There being no further objection, Messrs. PRUYN, HOLMAN, GARFIELD, and MORRILL indicated that they would offer amendments.

Mr. SCHENCK. I now move the previous question on all these various amendments, not including the substitute of the gentleman from Maryland, [Mr. DAVIS.]

The previous question was seconded, and the main question ordered to be put.

The question being first upon the adoption of the amendment submitted by Mr. INGERSOLL, it was read, as follows:

Add after the word "soldiers," at the end of the fourth line, "except such States or Territories or parts thereof declared in rebellion."

The amendment was disagreed to—ayes twenty-eight, noes not counted.

The question was next on the amendment submitted by Mr. THOMAS.

Mr. THOMAS called for the yeas and nays. The yeas and nays were ordered.

The question was taken, with the following result—yeas 63, noes 62, not voting 57; as follows:

YEAS—Messrs. William J. Allen, Ancona, Baily, Blair, Brooks, James S. Brown, Chandler, Coffroth, Creswell, Henry Winter Davis, Dawson, Denison, Eden, Edgerton, Eldridge, English, Farnsworth, Finck, Ganson, Hale, Harding, Benjamin G. Harris, Charles M. Harris, Holman, Hutchins, Philip Johnson, Julian, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, McAllister, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Prun, Radford, Robinson, James S. Rollins, Ross, Shannon, John B. Steele, Stiles, Strouse, Stuart, Thomas, Tracy, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, and Winfield—63.

NAYS—Messrs. Alley, Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Broomall, Cobb, Daves, Deming, Dixon, Driggs, Eckley, Eliot, Fenton, Frank, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, Littlejohn, Loan, Marcy, McBride, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smithers, Spalding, William G. Steele, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—62.

NOT VOTING—Messrs. James C. Allen, Anderson, Arnold, Augustus C. Baldwin, Blaine, Bliss, Blow, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cole, Cox, Cravens, Thomas T. Davis, Donnelly, Dumont, Grider, Grinnell, Griswold, Hale, Harrington, Herick, William Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Longyear, Marcy, McClurg, McDowell, McIndoe, McKinney, Daniel Morris, Perry, Pike, Pomeroy, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, Rogers, Scott, Smith, Starr, Stebbins, Stevens, Sweet, Voorhees, Ward, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—57.

The SPEAKER voted in the negative, making a tie.

So the amendment was disagreed to.

Mr. STEELE, of New Jersey, moved to reconsider the vote by which the amendment was rejected.

Mr. WASHBURNE, of Illinois, moved to lay the motion to reconsider on the table.

Mr. STEELE, of New Jersey, called for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 62, not voting 59; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Broomall, Cobb, Daves, Deming, Dixon, Driggs, Eckley, Eliot, Fenton, Frank, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, Littlejohn, Loan, McBride, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Sloan, Smithers, Spalding, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—61.

NAYS—Messrs. William J. Allen, Ancona, Baily, Blair, Brooks, James S. Brown, Chandler, Coffroth, Creswell, Henry Winter Davis, Dawson, Denison, Eden, Edgerton, Eldridge, English, Farnsworth, Finck, Ganson, Harding, Benjamin G. Harris, Charles M. Harris, Holman, Hutchins, Philip Johnson, Julian, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, McAllister, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Prun, Radford, Robinson, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Thomas, Tracy, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, and Winfield—62.

NOT VOTING—Messrs. James C. Allen, Anderson, Augustus C. Baldwin, Blaine, Bliss, Blow, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cole, Cox, Cravens, Thomas T. Davis, Donnelly, Dumont, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Herick, William Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Longyear, Marcy, Marvin, McClurg, McDowell, McIndoe, McKinney, Leonard Myers, Perry, Pike, Pomeroy, Price, Samuel J. Randall, William H. Randall, Rogers, Scofield, Scott, Shannon, Smith, Starr, Stebbins, Stevens, Sweet, Voorhees, Ward, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—59.

So the motion to reconsider was not laid on the table.

During the call of the roll, Mr. HOLMAN stated that Mr. HARRINGTON had paired with Mr. MARVIN.

Mr. ANCONA stated that Mr. RANDALL of Pennsylvania had paired with Mr. LONGYEAR.

Mr. HARDING stated that Mr. GRIDER had paired with Mr. BAXTER.

The question then recurred on the motion to reconsider the vote by which the amendment of Mr. DAVIS, of Maryland, was rejected.

Mr. WILSON demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 62, not voting 55; as follows:

YEAS—Messrs. William J. Allen, Ancona, Baily, Blair, Brooks, James S. Brown, Chandler, Coffroth, Creswell, Henry Winter Davis, Dawson, Denison, Eden, Edgerton, Eldridge, English, Farnsworth, Finck, Ganson, Griswold, Harding, Benjamin G. Harris, Charles M. Harris, Holman, Hutchins, Philip Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, McAllister, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Radford, William H. Randall, Robinson, James S. Rollins, Ross, Smith, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Thomas, Tracy, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, and Winfield—65.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Baxter, Beaman, Boutwell, Broomall, Cobb, Daves, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Fenton, Frank, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Littlejohn, Loan, McBride, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smithers, Spalding, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—62.

NOT VOTING—Messrs. James C. Allen, Anderson, Augustus C. Baldwin, John D. Baldwin, Blaine, Bliss, Blow, Boyd, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cole, Cox, Cravens, Thomas T. Davis, Dumont, Grider, Grinnell, Hale, Hall, Harrington, Herick, William Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Longyear, Marcy, Marvin, McClurg, McDowell, McIndoe, McKinney, Orth, Perry, Pike, Pomeroy, Price, Prun, Samuel J. Randall, Rogers, Scott, Shannon, Starr, Stebbins, Voorhees, Ward, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—55.

So the motion to reconsider was agreed to.

During the vote, Mr. ORTH stated that he was paired with Mr. PRUYN of New York.

Mr. COBB stated that his colleague, Mr. McINDOE, was paired with Mr. McDOWELL.

Mr. RICE, of Maine, stated that his colleague, Mr. PIKE, was paired with Mr. CRAVENS.

The vote was then announced as above recorded.

The question again recurred on the adoption of the amendment of Mr. DAVIS, of Maryland.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 63, nays 65, not voting 54; as follows:

YEAS—Messrs. William J. Allen, Ancona, Baily, Blair, Brooks, James S. Brown, Chandler, Coffroth, Creswell, Henry Winter Davis, Dawson, Denison, Eden, Edgerton, Eldridge, English, Farnsworth, Finck, Ganson, Hale, Harding, Benjamin G. Harris, Charles M. Harris, Holman, Hutchins, Philip Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, McAllister, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Prun, Radford, William H. Randall, Robinson, James S. Rollins, Ross, Smith, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Thomas, Tracy, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, and Winfield—63.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Broomall, Cobb, Cole, Daves, Deming, Dixon, Donnelly, Driggs, Eliot, Fenton, Frank, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kelley, Littlejohn, Loan, McBride, Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—65.

NOT VOTING—Messrs. James C. Allen, Anderson, Augustus C. Baldwin, Blaine, Bliss, Blow, Brandegee, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Clay, Cox, Cravens, Thomas T. Davis, Dumont, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Herick, Ingersoll, Jenckes, William Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Longyear, Marcy, Marvin, McDowell, McIndoe, McKinney, Perry, Pike, Pomeroy, Price, Samuel J. Randall, Rogers, Scott, Starr, Stebbins, Stevens, Sweet, Voorhees, Ward, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—54.

So the amendment was rejected. The question then recurred on the following amendment submitted by Mr. PRUYN:

And be it further enacted, That for the purpose of aiding the operations of the Government in raising and maintaining the troops hereby authorized to be enrolled and called out, the act entitled "An act to prohibit certain sales of gold and foreign exchange," approved June 17, 1864, commonly known as the gold bill, be, and the same is hereby, repealed.

Mr. PRUYN. I will withdraw that to submit it on another occasion.

The question then recurred on the following

amendment submitted by Mr. ORTH; which was agreed to:

And be it further enacted, That the number of men heretofore furnished by any of the States shall be credited to said State on her quota in any future draft in proportion to the length of time for which said men were furnished.

The question next recurred on the following amendment submitted by Mr. MORRILL:

SEC. — *And be it further enacted,* That the President of the United States is hereby authorized at any time hereafter to accept of one hundred thousand volunteers for the term of one year, to be composed of men exceeding forty-five years of age, of requisite physical ability, who shall be employed in the service of the United States for post and garrison duty, to guard lines of communication, or such other military service as they may be found suitable for; and the force herein authorized shall be organized and officered as other regiments and companies of volunteers now are, and shall be styled the Old Guard, and shall receive, in addition to such pay, rations, and clothing as is now paid or allowed to other troops in the service of the United States, \$100 bounty, one half of which shall be paid when such men shall be mustered into service, and the other half when honorably discharged therefrom, or at the expiration of the term of service.

The question next recurred on the amendment offered by Mr. GARFIELD, which was to add the following new sections:

SEC. — *And be it further enacted,* That any persons resident in Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, or Arkansas, who may voluntarily enlist in the military service of the United States for a term of not more than three years, or during the war, or not less than one year, shall be entitled to the benefits and privileges of existing laws; and such persons shall be mustered into the regiments or other organizations of whatsoever State they may elect, or, in the case of colored troops, shall be assigned as now provided by law. And the States or subdivisions of States procuring such enlistments shall receive credit for such persons in accordance with the laws in other cases: *Provided,* That such enlistments as are authorized in any State, under the provisions of this act, shall only continue until such State shall have been made subject to a call for troops: *And provided further,* That no enlistments shall be made of any soldiers, either in or out of any State, except those enumerated herein, unless full credit is given to the State to which the enlisted soldier belongs.

SEC. — *And be it further enacted,* That section three of an act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, be, and the same is hereby, amended so as to authorize and direct district provost marshals, under the direction of the Provost Marshal General, to make a draft for fifty per cent. in addition to the number required to fill the quota of any district, as provided by said section.

SEC. — *And be it further enacted,* That instead of traveling pay, all drafted persons reporting at the place of rendezvous shall be allowed transportation from their places of residence; and persons discharged at the place of rendezvous shall be allowed transportation to their places of residence.

SEC. — *And be it further enacted,* That the twentieth section of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, shall be construed to mean that the Secretary of War shall discharge minors under the age of eighteen years under the circumstances and on the conditions prescribed in said section; and hereafter, if any officer of the United States shall knowingly enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately and unconditionally discharged; and such recruiting or mustering officer shall be dismissed the service, with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

Mr. GARFIELD called for a separate vote on each section of the amendment.

Mr. MALLORY demanded the yeas and nays on the first section.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 53, not voting 60; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Boyd, Broomall, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Eckley, Eli, English, Farnsworth, Fenton, Frank, Garfield, Gooch, Higby, Hotchkiss, A. Abel W. Hubbard John H. Hubbard, Hulburd, Ingersoll, Julian, Kelley, Littlejohn, Loan, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scheuch, Scofield, Shannon, Sloan, Smathers, Spalding, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Windom, and Woodbridge—69.

NAYS—Messrs. William J. Allen, Ancona, Blair, Brooks, James S. Brown, Chandler, Coffroth, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Harding, Benjamin G. Harris, Charles M. Harris, Hoffman, Hutchins, Philip Johnson, Kalbfleisch, Kernan, Knapp, Law, Le Blond, Long, Mallory, Marcy, McAllister, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, John O'Neill, Pendleton, Prunty, Radford, William H. Randall, Robinson, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Sweet, Thomas, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, and Winfield—53.

NOT VOTING—Messrs. James C. Allen, Anderson, Bailly, Augustus C. Baldwin, Blaine, Bliss, Blow, Boutwell, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cox, Cravens, Thomas T. Davis, Dawson, Dumont, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Herrick, Hooper, Jencks, William Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Lazenby, Longyear, Marvin, McDowell, McIntire, McKimney, Noble, Odell, Perry, Pike, Pomeroy, Price, Samuel J. Randall, Rogers, Scott, Smith, Starr, Stebbins, Stevens, Stuart, Tracy, Voorhees, Ward, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—60.

So the first section of the amendment was agreed to.

The remaining portion of the amendment was then agreed to.

Mr. SCHENCK. I now call the previous question on the substitute, and the amendment offered to it by the gentleman from Maryland, [Mr. DAVIS.]

Mr. DAVIS, of Maryland. Will the gentleman from Ohio withdraw that demand and allow me to explain in a few words my amendment?

Mr. SCHENCK. Certainly.

Mr. DAVIS, of Maryland. Mr. Speaker, illness and its consequences have deprived me of the opportunity of assisting the deliberations of the House on this topic till this time, when it is not to be expected that anything I may say shall at all influence the result. But I beg that I may be allowed to have their attention for a few moments to explain the propositions which I have offered, and which embody in the shape of a bill what I think the exigencies of the time demand.

I am not under any delusion respecting the fate of the proposition. I know that the amendment is not likely to receive the vote of a majority of the House. I despair of seeing the House rise to the height of the occasion and show that degree of energy which the crisis demands. I do not presume to put my judgment against theirs; all I desire is that I shall have an opportunity of spreading before the country briefly what I think the great cause of the nation demands at our hands, and leave it to the future and events to decide who is right.

We want men not money. We want men to bear arms. Whatever stands in the way of getting men is striking directly at the existence of the Republic, and therefore not a subject for consideration touching its political expediency. To allow men to buy by money exemption from personal military service is to place money in the hands of the Government and not men. To commute service for money is to throw upon that class of the community which cannot raise the requisite sum the whole burden of compulsory military service. No democratic Government can defend any such provision. It is new in the history of military organization. No aristocratic or despotic country has ever ventured to attempt it, and those who undertake to defend it upon principle reason upon ground I cannot understand. It allows one man to pay his obligations to the Republic in money and requires another to pay it in blood.

Therefore the first provision of my amendment prohibits any commutation for personal service. It leaves open the right, which is secure in every compulsory military organization in the world, to furnish a substitute, which gives the Government at least the requisite ability to meet and repel the public enemy.

The Senate bill is fatally defective, though it repeals the commutation clause, in limiting the draft to one year. That pushes a mob of raw recruits against veteran corps to encounter inevitable defeat and shed useless blood.

The opposition to a vigorous draft is wholly incomprehensible. It is the republican and the only republican mode of raising an army. The Roman republic placed her youth liable to military service on the Campus Martius, and the consul selected at will whom he chose.

The French republic saved the existence of the nation and the principles of republican liberty by the law of conscription. And it has been the law of the American Republic from the Administration of President Washington, and the law I propose merely adds vigor to that system.

The next provision of my amendment relates to the classification of the military population. No civilized nation includes in one draft all the men from eighteen or twenty years of age to forty-five years of age. There is no inequality in that. The rule of all military Powers is to make

the army consist of and to cause it to be drawn from the young men of the country—the men under twenty-five or twenty-six years of age, before they become involved in the responsibilities of life, before, in a large proportion, they are married, before families have accumulated around them, before they become entangled in the business occupations of life, before large masses of workmen and great capitals are dependent upon their personal attention and their capacity to manage business. Every military nation makes that the first and preferred source from which to recruit its army; older men, having passed that period of liability to active military service, form the national guard, or a reserve for great emergencies. I therefore have provided in the second section of the bill that the military population of the United States shall be divided into two classes: the first to consist of the men between eighteen and twenty-five, and the second to consist of those between twenty-five and forty-five.

The next thing we want is that there shall be a regular, constant levy of force to supply the deficiencies of our troops, the casualties of the service, the expiration of terms of enlistment, and to enable the Government to advance with a steady, unvarying pressure upon the enemy; so that it shall not be hereafter, as it has been heretofore, that we shall send an army into the field and wait till it is wasted by disease and by the fire of the enemy and then rest on our arms till the enemy recruits his ranks while we are recruiting ours, and refreshed by repose and strong in the fruits of their vigorous conscription they stand with full ranks to dispute our advance. Therefore the third section of my substitute requires that every year during the rebellion the President shall cause to be levied two hundred and fifty thousand men to be armed and trained and organized provisionally, and sent to the front or held as a reserve to be moved as the President may direct, according to the exigencies of the service.

The fourth section of the substitute provides that if more men are needed for the service in any year the President shall cause the rest to be levied from the men over twenty-five and under forty-five, which subjects them in their regular turn to the responsibilities and dangers of war.

Then, as there is an earnest feeling all over the country in favor of procuring men by volunteering rather than by draft, the substitute further provides that prior to and concurrently with the draft, until it shall be filled, the President shall call for and accept volunteers to fill the requisition to the extent of the draft, and he is authorized to pay them \$300 for an enlistment for three years and proportionally for a less period, to be designated by the Government. That will enable the Government to procure, as far as volunteering and bounties can do so, the men it requires. It imposes no definite delay between the call of volunteers and the enforcement of the draft, for no man can regulate the advance of the enemy. No man can determine the exigencies of war. No man can say how long a time may elapse before this capital is in danger, before retreating forces may require men to be moved rapidly to their support. And therefore I leave to the discretion of the President to call for volunteers as long before or as shortly before the draft as prudence or the necessities of the case may dictate.

The bill has this other provision, essential to prevent the draft being intolerable to the poor men: that men who have parent or wife, child or sister, dependent on their labor for support, shall, when drafted, be allowed ten dollars a month for each such dependent, provided that the allowance shall not exceed twenty dollars in any one month on account of any one conscript, and the sum is payable not to the conscript but to or for the benefit of the dependent person for whose support it is a charitable provision. These deserted persons must starve, or go to the poor-house, or be honorably supported by the nation which exacts the time and blood of their natural protector.

And then the final provision is that it shall be the duty of the Government—not merely giving authority, but that it shall be the duty of the Government to enforce the draft in every district in the rebel States occupied by the armies of the Republic. A traitor in the midst of loyal men with a musket on his shoulder will make as good and as vigorous a soldier as any man. Napoleon prostrated Europe at his feet with men conscripted

from hostile nations, who would, if they could, have cut the throats of the men by whose side they fought.

There is also another provision that any of the loyal States may send agents into the rebel States and there procure volunteers, which shall be credited to the loyal State procuring them. I have also provided that persons residing in one State who shall enlist or volunteer in another State shall be credited, in calculating the draft, to the State in which they reside.

Now, sir, in my judgment this bill, as I have proposed to amend it, will give to the Government the power to create an army which, if there be only wisdom and energy at the White House, will be able to stamp out the rebellion in another campaign. This campaign cannot accomplish it; we have not men enough in the field, nor on the decisive points of the field; and we cannot get enough in time to accomplish that purpose during this campaign. What I desire is to adopt a system that shall keep our armies full continually, that will enable them to pour a constant stream of fire upon the enemies of the Republic, till the last armed rebel shall be driven into the Gulf of Mexico.

Mr. MALLORY. Did I understand the gentleman from Maryland to say that his bill provides for the enlistment of soldiers in the rebel States by the loyal States to be credited to the States enlisting them?

Mr. DAVIS, of Maryland. Yes, sir, it allows them to go into the rebel States and enlist. I have put that provision in, in deference to the feeling which exists on this side of the House. It is not a provision which meets my approval entirely, but I do not regard it as one of vital importance, and therefore for the purpose of meeting the wishes of gentlemen on this side of the House I have inserted it as one of the provisions of the bill.

Mr. SCHENCK demanded the previous question upon the substitute.

The previous question was seconded, and the main question ordered to be put.

Mr. DAVIS, of Maryland, demanded the yeas and nays upon his substitute.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 26, nays 102, not voting 54; as follows:

YEAS—Messrs. Allison, Arnold, Ashley, Baxter, Broomall, Freeman Clarke, Creswell, Henry Winter Davis, Donnelly, Eckley, Garfield, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Longyear, McBride, McClurg, Moorhead, Morrill, Orth, Scofield, Sloan, Stevens, and Woodbridge—26.

NAYS—Messrs. William J. Allen, Alley, Ames, Ancona, Bailey, John D. Baldwin, Beaman, Bliss, Boyd, Brooks, James S. Brown, William G. Brown, Chandler, Cobb, Coffroth, Cole, Dawes, Dawson, Deming, Denison, Dixon, Driggs, Eden, Edgerton, Eldridge, Eliot, English, Farnsworth, Fenton, Finck, Frank, Ganson, Gooch, Hale, Harding, Charles M. Harris, Higby, Holman, Hotchkiss, Hutchins, Ingersoll, Philip Johnson, Kalbfleisch, Kelley, Kernan, Knapp, Law, Lazear, Le Blond, Loan, Long, Mallory, Marcy, McAllister, Middleton, Samuel F. Miller, William H. Miller, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, John O'Neill, Pendleton, Perham, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Schenck, Shannon, Smith, Smithers, Spalding, John B. Steele, William G. Steele, Stiles, Strouse, Thayer, Thomas, Upson, Van Valkenburgh, Wadsworth, Ward, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Chilton A. White, Wilder, Wilson, Windom, and Winfield—102.

NOT VOTING—Messrs. James C. Allen, Anderson, Augustus C. Baldwin, Blaine, Blair, Blow, Boutwell, Brandegee, Ambrose W. Clark, Clay, Cox, Cravens, Thomas T. Davis, Dumont, Grider, Grinnell, Griswold, Hall, Harrington, Benjamin G. Harris, Herriek, Jenckes, William Johnson, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Littlejohn, Marvin, McDowell, McIndoe, McKimney, Nelson, Noble, Patterson, Perry, Pike, Pomeroy, Price, Pruyn, Rogers, Scott, Starr, Stebbins, Stuart, Sweat, Tracy, Voorhees, Joseph W. White, Williams, Benjamin Wood, Fernando Wood, and Yeaman—54.

During the call of the roll,

Mr. FENTON stated that he had paired with Mr. PRUYN on all votes on which they would be likely to disagree, but believing they would not disagree upon this question he voted in the negative.

Mr. HOOPER stated that Mr. BOUTWELL had paired with Mr. NOBLE.

MESSAGE FROM THE SENATE.

A message from the Senate was received by Mr. HICKEY, their Chief Clerk, informing the House that the Senate had agreed to the report of the

committee of conference upon the disagreeing votes of the two Houses on the bill of the Senate (No. 154) for the better organization of the quartermaster's office.

Also, that the Senate have agreed to the report of the committee of conference on the bill of the House (No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1865.

Also, that the Senate have disagreed to the amendments of the House to the bill of the Senate for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service.

Also, that the Senate have passed an act (No. 325) to repeal the act of the 17th June, 1864, prohibiting the sales of gold and foreign exchange; in which he was directed to ask the concurrence of the House.

The question recurred on concurring in the Senate amendment as amended.

The amendment was non-concurred in.

Mr. SCHENCK moved to reconsider the vote by which the amendment was non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SCHENCK moved that the House ask for a committee of conference on the disagreeing votes of the two Houses.

The motion was agreed to.

IN REGARD TO THE EVENING SESSION.

Mr. WASHBURN, of Illinois, moved that the House dispense with the evening session.

The motion was agreed to.

Mr. HALE. I hope that the House will now resolve itself into the Committee of the Whole House on the Private Calendar.

Mr. MORRILL. I move to reconsider the vote by which the evening session was dispensed with. There are three conference reports to be made this evening.

Mr. WASHBURN, of Illinois. If that be so, then I hope that the motion to reconsider will prevail.

The motion was agreed to.

Mr. WASHBURN, of Illinois. I now withdraw the motion that the evening session be dispensed with.

WRECKED SEAMEN.

The SPEAKER stated that the Senate had returned the House amendment to Senate bill No. 246, for the relief of seamen and others, not officers, borne upon the books of vessels wrecked or lost in the naval service.

A motion was made that the House insist on its amendment, and ask for a committee of conference.

The motion was agreed to.

FORTIFICATION BILL.

Mr. PENDLETON. The Senate have notified us that they have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for the preservation and repair of certain fortifications and other works of defense for the year ending 30th of June, 1865. I move that the House agree to that report. The items stricken out and from which disagreement they have receded were reported by the Committee of Ways and Means on special recommendation of the Department. The Senate amendment from which the House recedes appropriates \$177,000 for the land defenses of San Francisco. It has been specially recommended by General Delafield, chief of the engineer corps, and by the Secretary of War.

The report was adopted.

Mr. PENDLETON moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GOLD BILL REPEALED.

The next bill upon the Speaker's table was Senate bill No. 325, to repeal the act of the 17th June, 1864, prohibiting the sale of gold and foreign exchange.

The bill was read a first and second time, ordered to a third reading, and it was accordingly read the third time.

Mr. HOOPER demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 29, not voting 66; as follows:

YEAS—Messrs. William J. Allen, Ancona, Anderson, Ashley, Bailey, John D. Baldwin, Beaman, Bliss, Brooks, James S. Brown, Coffroth, Cole, Dawes, Dawson, Denison, Driggs, Eden, Edgerton, Eldridge, English, Finck, Ganson, Gooch, Griswold, Hale, Harding, Charles M. Harris, Higby, Holman, Hulburd, Ingersoll, Philip Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Littlejohn, Loan, Long, Longyear, Marcy, McAllister, Middleton, William H. Miller, James R. Morris, Morrison, Leonard Myers, Norton, Odell, John O'Neill, Patterson, Pendleton, Pruyn, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Shannon, Smith, Smithers, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Thayer, Thomas, Tracy, Van Valkenburgh, Wadsworth, Ward, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Chilton A. White, Williams, Wilder, and Woodbridge—87.

NAYS—Messrs. Alley, Allison, Ames, Boyd, Cobb, Creswell, Henry Winter Davis, Donnelly, Eliot, Garfield, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Julian, McBride, McClurg, Moorhead, Daniel Morris, Amos Myers, Charles O'Neill, Orth, Perham, Schenck, Sloan, Spalding, Upson, Wilson, and Windom—29.

NOT VOTING—Messrs. James C. Allen, Arnold, Augustus C. Baldwin, Baxter, Blaine, Blair, Blow, Boutwell, Brandegee, Broomall, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Clay, Cox, Cravens, Thomas T. Davis, Deming, Dixon, Dumont, Eckley, Farnsworth, Fenton, Frank, Grider, Grinnell, Hall, Harrington, Benjamin G. Harris, Herriek, Hutchins, Jenckes, William Johnson, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knox, Mallory, Marvin, McDowell, McIndoe, McKimney, Samuel F. Miller, Morrill, Nelson, Noble, Perry, Pike, Pomeroy, Price, John H. Rice, Rogers, Scofield, Scott, Starr, Stebbins, Stevens, Voorhees, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—66.

So the bill was passed.

During the roll-call,

Mr. ASHLEY said: I voted for the original bill with great reluctance, and I vote for its repeal with much pleasure.

Mr. SCHENCK stated that Mr. KELLEY had paired off.

Mr. DAWSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TREASURY DEPARTMENT INVESTIGATION.

Mr. GARFIELD. I rise to a privileged question. When the select committee on the investigation in reference to the Treasury Department made its report yesterday, the chairman of the committee asked permission for the minority to file a report subsequent to that time.

That minority has to-day presented that report. I notice that with the report are submitted several documents which the committee rejected as not being evidence before the committee. I move that those documents thus submitted and ordered by the committee not to be a part of the record be rejected from among the papers connected with that minority report.

Mr. BROOKS. Will the House take a recess at half past four?

The SPEAKER. It will.

Mr. BROOKS. I have some remarks to submit upon this subject whenever the proper time arrives.

Mr. GARFIELD. I move to extend the session ten minutes.

Mr. WADSWORTH. I object.

Mr. KERNAN. After the recess, will not my colleague have the floor in the evening?

The SPEAKER. The Chair thinks this is a question of privilege, and the gentleman from New York will be entitled to the floor after the recess if he is upon the floor when the time for the recess arrives.

Mr. GARFIELD. I would inquire if this is a debatable question.

The SPEAKER. The Chair supposes it is. The Chair knows of no rule to prevent its being debated.

Mr. DAVIS, of Maryland. If objection is made to the reception of the minority report, is that question debatable?

The SPEAKER. The minority report was ordered by the House to be received at the time the majority report was presented.

Mr. GARFIELD. I withdraw my question of privilege until the evening session.

Mr. ELDRIDGE. The gentleman has not the floor and cannot withdraw it.

The **SPEAKER**. The Chair doubts whether he can withdraw it under the circumstances.

Half past four o'clock having arrived, the House took a recess until half past seven p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

LEAVE OF ABSENCE.

Mr. **LOAN** asked leave of absence for the remainder of the session for his colleague, Mr. **KNOX**, on account of sickness.

Leave was granted.

MILITARY ROAD IN OREGON.

Mr. **JULIAN**, from the Committee on Public Lands, by unanimous consent, reported back an act (S. No. 23) granting land to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. **JULIAN** moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

NATHAN S. BRENTON.

Mr. **STEVENS**. I ask unanimous consent to offer a resolution which is absolutely necessary to save an innocent man from ruin.

The resolution, which was read, directs the proper accounting officers of the Treasury to credit the account of Major Nathan S. Brenton, a paymaster in the service of the United States, with \$2,600,000, being for the United States Treasury notes destroyed by the burning of the steamer *Ruth* on the Mississippi river while in his charge, if, on examination of the evidence by the Paymaster General, he shall deem him justly entitled to such credit.

Mr. **NOBLE**. I object.

Mr. **STEVENS**. I hope the gentleman will hear me before he objects.

Mr. **NOBLE**. I sought to inquire after the evidence in that case the other day, and it was refused.

Mr. **STEVENS**. The evidence is all on file, and I hope the gentleman will not object.

Mr. **NOBLE**. I must insist upon my objection.

COMPENSATION OF HOUSE EMPLOYÉES.

Mr. **JOHNSON**, of Pennsylvania, asked the unanimous consent of the House to introduce the following resolution:

Resolved, That the Clerk of this House be, and is hereby, authorized and directed to pay to the laborers and employes thereof, out of the contingent fund, twenty per cent. in addition to the compensation as it was from the commencement of the present session, and that Sandy Bruce, the colored assistant in the bath-room, be paid as a laborer at the same rate for the same period.

Mr. **ROLLINS**, of New Hampshire, objected.

SANDY BRUCE.

Mr. **JOHNSON**, of Pennsylvania, asked unanimous consent to introduce the following resolution:

Resolved, That the Clerk of this House be, and is hereby, authorized to pay out of the contingent fund to Sandy Bruce, the colored assistant in the bath-room, the compensation of a laborer from the commencement of the present session.

There being no objection, the resolution was received and adopted.

Mr. **JOHNSON**, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SALLY C. NORTHRUP.

Mr. **SLOAN**, by unanimous consent, reported, from the Committee on Public Lands, a bill for the relief of Sally C. Northrup; which was read a first and second time.

The bill gives to Sally C. Northrup, of Beloit, Wisconsin, permission to enter on the public lands certain land warrants issued under the act of February 11, 1847.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. **SLOAN** moved to reconsider the vote by

which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BLUE MONT COLLEGE.

Mr. **DRIGGS**, by unanimous consent, from the Committee on Public Lands, reported back Senate bill No. 73, to amend an act entitled "An act to enable the trustees of Blue Mont College to enter a certain quarter section of land," approved March 2, 1861.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. **DRIGGS** moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PRIVATE CALENDAR.

Mr. **HALE**. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. **WASHBURN**, of Illinois. It is too late in the session to go into the consideration of private bills.

Mr. **HALE**. The Private Calendar has hardly been taken up three times during the session. There are a good many bills upon it to which no objection will be made.

The **SPEAKER**. The motion is in order if the gentleman from New York, who is entitled to the floor on a question of privilege, yields the floor for that purpose.

Mr. **BROOKS**. Retaining my right to resume the floor, I will yield.

Mr. **HALE** called for tellers on his motion.

Tellers were ordered; and Messrs. Cox and Woodbridge were appointed.

The House divided; and the tellers reported—ayes 61, noes 31.

So the motion was agreed to; and the House accordingly resolved itself into a Committee of the Whole, (Mr. **KNAPP** in the chair,) and proceeded to the consideration of the Private Calendar, resuming its reading where it was left off on last objection day.

GEORGE MOWRY.

A bill for the relief of George Mowry. The bill directs the Secretary of the Treasury to pay to George Mowry the sum of \$72 12 in full for conveying two prisoners from Somerset jail, in Pennsylvania, to Pittsburg, in the year 1841, by order of the United States deputy marshal for the western district of Pennsylvania.

The report states that the services for which this appropriation is asked were performed in 1841, and the claim was presented to the Thirtieth Congress, and at the second session thereof Mr. John A. Rockwell, from the Committee of Claims, reported a bill appropriating \$72 12 for the relief of the claimant. Upon a full examination of the claim the committee think Mr. Mowry is justly entitled to that amount and no more.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

JOHN WARREN AND SON.

The bill directs the Treasurer of the United States to pay to John Warren & Son \$500 in full satisfaction of a draft drawn and dated at Fort Bliss, Texas, December 4, 1860, by Thomas G. Rhett, paymaster United States Army, on the Assistant Treasurer of the United States at New York, payable to the order of Frank De Ruyther, for \$500, upon their filing the draft with the Treasurer.

From the report it appears that on the 4th of December, 1860, John G. Rhett, a paymaster in the United States Army, stationed at Fort Bliss, Texas, drew a draft on the Assistant Treasurer of the United States at New York for \$500, for the purpose of paying off troops in the United States service at that point, which draft was cashed by parties at Fort Bliss in the same manner they had been in the habit of doing for some time previous thereto, and the money disbursed in payment of the troops. The draft then passed by indorsement through a number of hands, and came, through the regular course of business transaction, into the hands of the present holders, Warren & Son, who presented it to Mr. Cisco, Assistant Treasurer, for payment, who declined to pay the same upon the ground that the drawer, John G. Rhett, had joined the southern confederacy, and was a defaulter to the Gov-

ernment of the United States, but that he had to his credit on the books of the Treasury, for some time subsequent to the date of the draft, a sum exceeding \$16,000. The draft being refused payment, relief was then sought by letter addressed to Hon. Simon Cameron, who replied, November 1, 1861, as follows:

"That Rhett was an accredited agent of the Government at the time the check was drawn, and that it was purchased in good faith, and that there is no doubt the Government is equitably and perhaps legally bound to pay them, but that there is no relief for holders except through the action of Congress."

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

CHARLES F. ANDERSON.

An act (S. No. 207) for the relief of Charles F. Anderson. [Objected to by Mr. **WASHBURN**, of Illinois.]

MESSAGE FROM THE SENATE.

The committee here informally rose; and the Speaker having resumed the chair, a message was received from the Senate, by Mr. **HICKEY**, their Chief Clerk, informing the House that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House making appropriations for sundry civil expenses for the year ending June 30, 1865.

Also that the Senate have passed a joint resolution (No. 77) explanatory of the act entitled, "An act to increase the pay of soldiers in the United States Army, and for other purposes," approved June 20, 1864, in which he was directed to ask the concurrence of the House.

The committee again resumed its session.

D. McV. STUART.

A bill (H. R. No. 489) for the relief of D. McV. Stuart.

The bill directs the Secretary to pay D. McV. Stuart the sum of \$121 30, in full for money expended while recruiting soldiers for the United States service, by order of Colonel Peter E. Bland, of the sixth regiment Missouri volunteers, in the year 1861.

The report states that the claimant was a private in the sixth Missouri regiment of infantry, and that Colonel Peter E. Bland, commanding the sixth regiment, on the 21st October, 1861, issued an order authorizing him to go to the State of Minnesota, or elsewhere, to recruit for the regiment. That he proceeded to Minnesota, and there enlisted eight soldiers, all of whom Colonel Bland certifies entered the service—four of them in his regiment and the others in other regiments. Upon submitting his account of money actually expended to the proper officer, which amount in the aggregate was \$208, it was cut down to the sum of \$86 70, on the ground, first, that they had no evidence that more than four of the recruits were ever mustered into the United States service; and second, that thirty cents per day for rations and lodging per man was all the Government allowed, and that the recruiting officer being an enlisted man they had no right to commute his rations, and therefore only allowed thirty cents per day for his subsistence.

The bill was laid aside, to be reported to the House with a recommendation that it do pass.

Mr. **STEVENS**. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. **KNAPP** reported that the Committee of the Whole House had, according to order, had the Private Calendar generally under consideration, and had instructed him to report three bills to the House, with the recommendation that the same do pass.

CIVIL APPROPRIATION BILL.

Mr. **STEVENS**. I rise to a privileged question. I am directed by the committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865, to make a report. There were but three items of any importance before the conference committee. The other matters were of no importance. In the first place, there was the question about the old Hall of the House of Representatives. The clause in reference to it had been non-concurred in by the Senate. The conference

committee agreed to cut down the appropriation from \$24,000 to \$15,000.

Then there was the item for the Columbia Asylum for the Deaf and Dumb and the Blind. All of the appropriation except some seven thousand dollars was struck out by the Senate. The House agreed to recede from that clause making an appropriation for the building of a house in the grounds; and instead of that an appropriation was made to buy thirteen acres of ground adjoining the institution, and on which an old house can be moved.

The next item of any importance was in regard to the Washington aqueduct. The House, it will be remembered, had confined the expenditure of the \$150,000 appropriated to building a dam and bringing the water from beyond the reservoir to below it, so as to get the water of the Potomac. The Senate struck that out, and gave the \$150,000 to the general purposes of the aqueduct. The House committee of conference was unwilling to leave it in that way. They supposed that the \$150,000 might be spent without our still getting the Potomac water, and that when we came here next session we could hardly see what had become of it, as we can hardly see what has become of the \$3,000,000 already expended. As we could not agree upon it, the House committee preferred to strike out the whole item and let the work stop rather than have it go on in that way. We disagreed upon it, and the whole appropriation falls. That is about all the matters of importance passed on by the conference committee. If gentlemen have any inquiry to make about other matters in the bill I will be happy to give all the information I possess.

The question was taken on the report of the conference committee, and it was adopted.

Mr. STEVENS moved to reconsider the vote by which the conference report was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PRIVATE BILLS.

The House then proceeded to the consideration of the bills reported from the Committee of the Whole House on the Private Calendar, as follows:

GEORGE MOWRY.

A bill (H. R. No. 458) for the relief of George Mowry was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

JOHN WARREN AND SON.

A bill (H. R. No. 479) for the relief of John Warren & Son was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

D. McV. STUART.

A bill (H. R. No. 489) for the relief of D. McV. Stuart was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

SAN FRANCISCO BRANCH MINT.

Mr. STEVENS, from the Committee of Ways and Means, reported back, with a recommendation that it do pass, Senate bill No. 186, authorizing the erection of buildings for the branch mint at San Francisco.

There being no objection, the House proceeded to the consideration of the bill as in Committee of the Whole on the state of the Union.

The bill was read. It appropriates \$300,000 to be expended under the direction of the Secretary of the Treasury in the purchase of a site, if necessary, and the erection of a suitable building or buildings for the use of a branch mint in San Francisco, California.

The bill was read the third time, and passed.

Mr. SHANNON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CLERK TO NAVAL COMMITTEE.

Mr. GRISWOLD asked unanimous consent to introduce a resolution directing the payment of one dollar per day during the present session of Congress to the clerk of the Committee on Naval Affairs in addition to the compensation heretofore provided.

... BROOMALL objected.

PRIVATE BILLS.

Mr. HALE moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole House on the Private Calendar, (Mr. KNAPP in the chair,) it being considered as objection day.

HORACE E. DIMOCK.

A bill (H. R. No. 490) for the relief of Horace E. Dimock, of St. Louis, Missouri. [Objected to by Mr. LOAN.]

C. J. FIELD AND C. F. CLAY.

A bill (H. R. No. 492) for the relief of C. J. Field and C. F. Clay, of Bolivar county, Mississippi. [Objected to by Mr. FARNSWORTH.]

HEIRS OF ISAAC I. STEVENS.

Joint resolution (H. R. No. 84) for the relief of the heirs of the late Isaac I. Stevens. [Objected to by Mr. ORTH.]

FRANCES MUNSON.

A bill (H. R. No. 516) for the relief of Frances Munson.

The bill authorizes the Secretary of the Treasury to pay Frances Munson, the daughter of Major Isaac Hubbel, of the revolutionary army, out of any money in the Treasury not otherwise appropriated, the sum of \$500.

It appears from the report that Mrs. Frances Munson is a widow lady of the age of eighty-two years, entirely blind, quite helpless, and in indigent circumstances. She is the daughter of Major Isaac Hubbel, of the army of the Revolution, who was stationed at West Point at the time Benedict Arnold attempted to betray his country by surrendering that important post to the British. Major Hubbel met a premature death in consequence of his exposure in the revolutionary war, leaving his daughter, now Mrs. Frances Munson, only eight years old. He did not live to share the bounty of his Government in the shape of a pension, and no member of his family has hitherto asked for or received pecuniary aid from that source.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

COLONEL ARCHIBALD CRARY.

A bill (H. R. No. 528) for the relief of the heirs-at-law of Colonel Archibald Crary.

The bill provides that the Secretary of the Treasury be authorized and directed to pay to the heirs-at-law of Colonel Archibald Crary, deceased, the sum of \$1,256 44, without interest, the balance due Colonel Crary, in full, after crediting the United States the amounts paid by him, from time to time; at the current exchange value of the money in which the payments were made; the sum being the balance due for his services as colonel of a regiment of the Rhode Island brigade, from the 16th of December, 1777, until the 16th of March, 1780, three years and three months.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

AMZI L. BURNES.

A bill (H. R. No. 529) for the relief of Amzi L. Burnes. [Objected to by Mr. WEBSTER.]

GEORGE CALVERT.

A bill (H. R. No. 530) for the relief of George Calvert.

The bill directs the Secretary of War to pay George Calvert \$500, out of any money in the Treasury not otherwise appropriated, in full for the loss of his ferry-boat, on the Patuxent river, taken by order of the military authorities of the United States in September, 1861.

It appears from the report that George Calvert was the owner of a ferry on the Patuxent river, in Prince George's county, Maryland. On the 11th September, 1861, Lieutenant Hogg, with a squad of United States troops, known as Colonel Young's Kentucky cavalry, took possession of the ferry and ordered the ferryman, an indentured servant of the petitioner, to take him and his squad of seven men and horses across the river. The ferryman, who seems to have been a valuable and faithful servant, remonstrating against taking all the men

and horses at one load, and stated that the boat was not able to carry all with safety. The lieutenant, however, declared they had not time to make two trips, and that all must go at once, and ordered the ferryman to take them all in his boat and proceed across the river. On the passage the boat, being overloaded, foundered and sank, drowning the lieutenant and the ferryman. The boat being lost, and the petitioner being a poor man and unable to procure another, his ferry, which was the only means of support for himself and family, became useless, and he now asks the Government to compensate him for the loss he has sustained. The proof being clear and conclusive as to the fact of the impressment of the boat into the service of the United States by an officer of the Army, and that the loss arose by his overloading it, the committee think it only just that he should be repaid the loss occasioned by the act. The petitioner claims compensation for the loss of his slave, who had near two years to serve, when he would be free, and who undoubtedly lost his life in consequence of the overloading of the boat. But the committee do not think it accords with the policy and practice of the Government to pay for the losses of life in cases of this kind, and they therefore disallow the claim for the slave, but allow the petitioner \$500 for the other loss sustained by him.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

EGBERT A. THOMPSON.

A bill (H. R. No. 531) for the relief of Egbert A. Thompson. [Objected to by Mr. LOAN.]

GARRETT R. BARRY.

Joint resolution (H. R. No. 46) for the relief of Garrett R. Barry, a paymaster in the United States Navy. [Objected to by Mr. WILSON.]

LOUISVILLE AND BARDSTOWN TURNPIKE.

A bill (H. R. No. 544) for the relief of the Louisville and Bardstown Turnpike Company. [Objected to by Mr. ALLISON.]

COLONEL H. C. DE AHNA.

Joint resolution (H. R. No. 105) to provide for payment of the claim of Colonel H. C. De Ahna for military services. [Objected to by Mr. THAYER.]

Joint resolution (H. R. No. 106) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned.

The joint resolution authorizes the Secretary of the Treasury to pay over to Henry C. De Ahna the sum of \$2,000 deposited by De Ahna with Jay Cooke & Co. to the credit of C. V. Hogan, an employé in the secret service of the Treasury Department, or any part thereof, or to cause the whole or part of the same to be confiscated and paid over to the Treasury of the United States, as, in the judgment of the Secretary, may appear just.

The joint resolution was laid aside, to be reported to the House with the recommendation that it do pass.

JEAN M. LANDER.

A bill (H. R. No. 547) for the relief of Jean M. Lander, widow of F. W. Lander, deceased. [Objected to by Mr. WASHBURN, of Illinois.]

HORACE GATES.

A bill (H. R. No. 555) for the relief of Horace Gates.

The bill directs the Secretary of the Interior to place the name of Horace Gates, of Franklin, Vermont, upon the roll of invalid pensions, at the rate of eight dollars per month, to commence on the 1st of January, 1862, and continue during his natural life.

It appears from the report that Gates enlisted in Captain Martin D. Follet's company, in Colonel Luther Dixon's regiment of Vermont militia, about the 20th of September, 1813, and was honorably discharged on or about the 20th of November, 1813, at Plattsburg, New York; that during his term of service the regiment to which he belonged was at Burlington, Vermont; Cumberland Head, Chazy, Champlain, and Plattsburg, in the State of New York, and La Colle in Canada; that during a part of the time in their march they were without tents and were exposed to the rigor of the climate during the fall of the year. That the tents of the regiment were struck

in the morning of the day they were discharged at Plattsburg, New York, and the troops remained during the forenoon exposed to a cold, heavy rain and sleet. He was, at the place of his discharge, three days' march from his place of residence, (Huntsburg, now Franklin,) and was obliged to march home, carrying three days' rations. The latter part of this march was made in a heavy snow-storm, and the petitioner caught an addition to the severe cold already contracted while in the service of the United States and brought on an attack of pleurisy. The petitioner has never fully recovered from this attack, as his constitution, which previous to his enlistment was strong and vigorous, had been shattered and weakened, and is now unable to obtain a livelihood by manual labor, and has been for the last eight years, in consequence of the lameness in his left side, which, at times, extends to the region of the heart. The certificates of the surgeons show that disability has increased with the advance of his years.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

EZEKIEL DARLING.

A bill (H. R. No. 556) for the relief of Ezekiel Darling.

The bill authorizes the Secretary of the Interior to place the name of Ezekiel Darling on the pension rolls, at the rate of four dollars per month, during his natural life, the pension to commence from the passage of the bill.

It appears from the report that Ezekiel Darling, a soldier of 1812, is in feeble health and entirely blind; that he performed long service in behalf of his country in three wars—the French, Tripolitan, and through the whole late war with England; that the petitioner performed many daring and praiseworthy acts, aiding, supplying, and rescuing shipwrecked mariners.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

JOSEPH PIKE.

A bill (H. R. No. 557) granting a pension to Joseph Pike.

The bill, which was read, directs the Secretary of the Interior to place the name of Joseph Pike, a private of the war of 1812, on the pension roll, at the rate provided or hereafter to be provided in cases of half disability.

No objection being made, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

ELIZABETH WOODWARD AND OTHERS.

Joint resolution (H. R. No. 112) for the relief of Elizabeth Woodward and George Chorpensing. [Objected to by Mr. RICE, of Maine.]

T. F. GERARD AND OTHERS.

A bill (H. R. No. 568) for the relief of T. F. Gerard and others. [Objected to by Mr. RADFORD.]

JETHRO BONNEY.

A bill (H. R. No. 571) for the relief of Jethro Bonney. [Objected to by Mr. ORTH.]

The CHAIRMAN. The Calendar has been gone through with, and the Clerk will now go back to the commencement of the Calendar, and all bills to which there are not five objections will, under the rules, be laid aside and reported to the House.

WINNEBAGO INDIANS.

A bill (H. R. No. 196) for the benefit of half-breeds and mixed-bloods of the Winnebago tribe of Indians.

The bill, which was read, authorizes the President of the United States to exempt from the operation of the act of Congress approved February 21, 1863, entitled "An act for the removal of the Winnebago Indians, and for the sale of their reservation in Minnesota for their benefit," such half-breeds and mixed-bloods of the Winnebago tribe of Indians as are, in his opinion, sufficiently advanced in civilization, and as have abandoned, or may abandon, their tribal relation, and permit them to retain and occupy the several tracts of land that have been allotted to them, respectively, under the provisions of the first article of a treaty made and concluded at the city of Washington the 15th of April, 1859, between the United States and the Winnebago tribe of Indi-

ans; and that the half-breeds and mixed-bloods be permitted to hold the tracts in severalty, for which patents shall be issued to them in fee simple, and they shall be subject to taxation as other lands from and after the date of the patents.

Three members only objecting, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

ISAAC R. DILLER.

A bill (H. R. No. 94) for the relief of Isaac R. Diller.

The bill directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Isaac R. Diller, late consul at Bremen, the sum of \$3,655 55, in full for the expenses incurred by him for extra clerk hire in his office and for moneys advanced to destitute American citizens during the interval between the 1st of August, 1857, and the 20th of September, 1861.

Two members only objecting, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

R. L. B. CLARKE.

A bill (H. R. No. 256) for the relief of R. L. B. Clarke.

Five members objected.

BRIGHAM YOUNG.

A bill (H. R. No. 130) to authorize the Secretary of the Interior to adjust and settle the accounts of ex-Governor Brigham Young as *ex officio* superintendent of Indian affairs for the Territory of Utah.

Five members objected.

ALBERT BROWN.

An act (S. No. 30) for the relief of Albert Brown.

Five members objected.

SARAH WHITNEY AND OTHERS.

A bill (H. R. No. 72) for the relief of Sarah Whitney and Mary Huggerford, children of Huldah Butler.

Five members objected.

H. B. CROSBIE.

A bill (H. R. No. 292) for the relief of H. B. Crosbie.

Five members objected.

JOSEPH C. G. KENNEDY.

A bill (H. R. No. 294) for the relief of Joseph C. G. Kennedy.

Five members objected.

Mr. PRUYN. I move that the committee rise. No matter how just and fair a bill may be, gentlemen rise and offer objections. After all these claims have been examined by the Committee of Claims this proceeding is a perfect farce.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. KNAPP reported that the Committee of the Whole had had the Private Calendar under consideration, and had directed him to report to the House, with a recommendation that they do pass, joint resolution and bills of the following titles:

Joint resolution (H. R. No. 106) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned;

A bill (H. R. No. 516) for the relief of Frances Munson;

A bill (H. R. No. 528) for the relief of the heirs-at-law of Colonel Archibald Crary;

A bill (H. R. No. 530) for the relief of George Calvert;

A bill (H. R. No. 555) for the relief of Horace Gates;

A bill (H. R. No. 556) granting a pension to Ezekiel Darling;

A bill (H. R. No. 557) granting a pension to Joseph Pike;

A bill (H. R. No. 194) for the benefit of half-breeds and mixed-bloods of the Winnebago tribe of Indians; and

A bill (H. R. No. 94) for the relief of Isaac R. Diller.

The several bills reported from the committee as above indicated were generally read a first and second time by their titles, ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed.

Mr. HALE moved to reconsider the several votes by which the bills were passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BUSINESS ON THE SPEAKER'S TABLE.

The SPEAKER. The House will now resume the consideration of the business on the Speaker's table, which was interrupted by the motion of the gentleman from Ohio, [Mr. GARFIELD.] The Chair understands that, with the assent of the gentleman from New York, [Mr. BROOKS,] that motion is withdrawn.

PAY OF ARMY MUSICIANS.

The last remaining business on the Speaker's table was joint resolution No. 77, explanatory of an act entitled "An act to increase the pay of soldiers of the United States Army, and for other purposes," approved June 20, 1864.

The joint resolution was read a first and second time. It resolves that the word "musicians" in the first section of the act is not to be construed to include musicians (other than leaders) employed as members of brigade and regimental bands; but such members of bands are to be paid as heretofore—one fourth of the members of each band thirty-four dollars per month, one fourth of them twenty dollars per month, and the remaining half of them seventeen dollars per month.

The joint resolution was read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

OBITUARY ADDRESSES ON MR. LOVEJOY.

Mr. INGERSOLL, by unanimous consent, offered a resolution directing the printing for the use of this House of ten thousand copies of the addresses made in the Senate and House of Representatives on the death of the late Owen Lovejoy; which was referred, under the law, to the Committee on Printing.

C. F. JOHNSON.

Mr. HALE. I ask unanimous consent of the House to take up House bill No. 384, for the relief of C. F. Johnson, of Alabama: I wish to say a few words in favor of the bill. Mr. Johnson was a soldier in the Mexican war. He was severely wounded, and is now a cripple for life. He lived at Mobile at the time of the breaking out of the rebellion. In order to avoid the secessionists he gathered all his little property and put it in a skiff which he launched, and steered to New Orleans. There his property was seized on suspicion that he was a secessionist, and it was lost. General Sherman himself, who was then in command at that point, approves of the payment of the amount claimed, and says that the claim is just and right, and that this man is a loyal citizen. He is now here, an object of charity. Justice and humanity require the payment of the claim, and I appeal to the House to pass the bill.

Mr. FARNSWORTH. I think that the man who could paddle a skiff from Mobile to New Orleans ought to be paid.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

W. W. RUSSELL'S ADMINISTRATOR.

Mr. MOORHEAD called up House bill No. 337, for the relief of the administrator of W. W. Russell, late paymaster in the marine corps, which was postponed on last private bill day.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MOORHEAD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ELIZABETH WOODWARD.

Mr. COFFROTH. I ask unanimous consent of the House to discharge the Committee of the Whole House from the further consideration of

the joint resolution for the relief of Elizabeth Woodward and George Chorpennings.

Mr. WASHBURN, of Illinois. I am very willing to hear the gentleman's speech, reserving the right to object to the joint resolution.

Mr. COFFROTH. I simply desire to say that Mrs. Woodward is the widow of George Woodward, who was killed by the Indians while he was carrying the mails to California. I believe the bill is just and ought to pass; and I ask the House to pass it.

Mr. PRUYN. If anything more is to be done about these private bills, I think it ought to be done in the regular way. Let us go back into committee, if that be the pleasure of the House, and go through the bills regularly on the Private Calendar.

Mr. WASHBURN, of Illinois. I object.

Mr. WINDOM. I ask unanimous consent to discharge the Committee of the Whole House on the Private Calendar from the further consideration of House bill No. 464.

Mr. RADFORD. I object.

Mr. WASHBURN, of Illinois. I think if we have nothing else to do but to clear the Private Calendar we might as well adjourn.

THE LATE EXPLOSION AT THE ARSENAL.

Mr. INGERSOLL asked unanimous consent to introduce a joint resolution appropriating \$2,000, to be expended under the direction of the commandant of the arsenal, for the benefit of such of the sufferers from the recent explosion at said arsenal as are living and the near relatives of those not living.

There being no objection, the joint resolution was introduced and read a first and second time.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ARBITRARY ARRESTS.

Mr. EDEN asked consent to introduce the following resolution:

Resolved, That the Secretary of War be requested to furnish the House of Representatives a report of the names of all citizens of the State of Illinois, not being in the military or naval service of the United States, now confined in any prison without the limits of said State, under any military order, as well as the date of their arrest and the charges upon which they were committed; also, a list of such prisoners whose names have been furnished to the judges of the courts, in compliance with the act of Congress, approved March 3, 1863, entitled "An act relating to habeas corpus and regulating proceedings in certain cases."

Mr. ORTH objected.

ENROLLED BILL AND RESOLUTION.

Mr. STEELE, of New Jersey, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1865, and for other purposes; and

Joint resolution (H. R. No. 90) to refer the claim of Nahum Ward back to the Court of Claims.

PRESIDENT'S ANNUAL MESSAGE.

Mr. WASHBURN, of Illinois. I understand from the gentleman from Vermont [Mr. Morrill] that the House ought to remain in session some time yet to-night for the purpose of receiving reports of committees of conference which are expected from the Senate; and as it may be difficult to get a quorum together again if the House takes a recess, I will move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the President's annual message, with the understanding that debate may be interrupted at any moment for the purpose of receiving the report of the committee of conference.

The motion was agreed to—ayes seventy, noes not counted.

So the rules were suspended, and the House resolved itself into the Committee of the Whole

on the state of the Union, (Mr. STEVENS in the chair,) and resumed the consideration of the President's annual message, on which Mr. STILES was entitled to the floor.

Mr. STILES. Mr. Chairman, if I were to consult my own feelings I should not now trespass upon the time and patience of this House. If these were ordinary times I should return to my constituents with the record of my votes and quietly wait their judgment. The early day for final adjournment admonishes me that I should take as little of the remaining time as possible. The fact that our labors are rapidly coming to a close is suggestive of many reflections. The closing scenes incident to a protracted session of this body will very soon be announced to the country. That it will be welcome news, all will admit. We leave these spacious halls amid the din of battle and the clash of arms. We are about to meet before another forum; before the people who confidently and hopefully committed to our hands the destiny of a great nation and people. They will rightfully demand to know of us what we have done, in the many long wearisome months in which we have held counsel, to bring peace to this distracted land. Are we all ready to render an account that will satisfy the hopes and dispel the fears of those who have with so much interest watched our proceedings? Are you of the dominant party, who have wielded power with so much intolerance, ready to meet the question? What have you done to restore confidence? What have you done to end this war and restore this Union? These questions so pertinent we demand to be answered before a forum where there are no stringency rules to govern legislators; where there are no favored committees; where uninterrupted debate shall be had, and where you shall be compelled to answer.

Mr. Chairman, the high hopes of those who believed it possible that the proceedings of this body might be conducted under the auspices of a conservative majority vanished as the mist upon the assembling of this Congress. The Administration, with its immense power and patronage, speedily gave proof that the wavering border man and the doubtful conservator were the special objects of its favor and regard. The apparent closeness of the vote upon organization was at once dispelled, and we witnessed the election of a Speaker embodying all the heresies of abolitionism with the most apparent ease. Upon assuming his duties he announced to us and the country that the rebellion was in its death-struggle and would soon die a deserved death. From the seat you now occupy the Speaker will announce the adjournment of this body. What words of hope will he now give to his listening countrymen? After waiting patiently for the truth of his inaugural, will he silently make the announcement duty enjoins upon him? Can he charge that the struggle has been prolonged because we have opposed infractions of the Constitution which we have all sworn to support and defend, and the rights of an outraged and deceived people? Let him do so if he will, and the record he has made shall go out to confront him. He has had the power to place in the hands of committees from those who supported him all the questions that have been the subject of exciting discussions here, and upon all of them a majority has ever been ready to sanction the most unwise policy of the dominant party. We have succeeded in no efforts to investigate the corruption of the Administration; we have had no power through a single committee of bringing to the light the blunders and crimes of the men at the head of the Government. We have had charge of no committees to investigate the subject of arbitrary arrests and the flagrant violation of the rights of the citizen. Yours has been the iron rule. In the issue, therefore, to be presented we must maintain that for all that has been and all that has not been done you are responsible.

The deliberations of this body have been conducted in the fourth year of a war that is fast exhausting the energies, means, and men of the country; a war of your own making. You promised it should speedily end. You have had all the branches of the Government and have made no demand that has not been promptly met. Your resources have been abundant and you have showered your favors upon friends with lavish hands. The cohesive power of plunder has made your

organization invulnerable. The great battles of this war have been almost within hearing of this Capitol. This beleaguered city has been the receptacle of the dead, wounded, and dying soldier. You have been reminded daily by your visits to hospitals and embalming-rooms of the countless victims in this slaughter. Amid it all you have never paused a moment to count the cost, the misery, the woe you have caused in your efforts to subjugate a people that your policy may prevail. All along your pathway have been found the monuments of your folly.

Sir, this nation had but fairly entered upon her great mission of spreading the principles of civil, political, and religious liberty throughout all the nations when it was suddenly arrested by the elevation at its head of a party that had been its enemy from the beginning. The liberality of our laws, the heroic devotion of our people to the principles of republican government, the varied character of our soil combined to perfect upon this continent a Government that ought never to have died by the hands of men made by its own power.

But before our system of government was perfected, before the maturity of its benign power, we have been cast upon the ocean of discord and are at the mercy of the waves of faction. Who shall now stay the angry waters that threaten to engulf us, and restore once more to harmony the restless masses that are being carried by the surges of fanaticism?

Mr. Chairman, before we meet again the question of whether we are to have a restored Union will be settled forever. The wisdom of the providence that shuts from our view the future no one can be found to question. It may be that we shall never look upon another scene like this. In the events so rapidly passing around us, all of us that remains as a people and nation will be shut out from our view forever. But I am not willing to yield it all without one more struggle for the preservation of what yet remains of the Constitution and Union. I know the passions of the people are inflamed, their prejudices stimulated to an extent that alarms; reason slumbers amid the hours of madness, and the storm of sectionalism, hate, and revenge rages wildly. I know that confidence is lost, and that the work of disintegration mars the beauty of all about us; that by your reckless action here you have left little hope; but I have not yet despaired.

Sir, the people, the masses North and South, love this Union too well to ever desire to see only its ghastly form. Born under its protecting influence, early taught to revere and love it, as the child is instinctively taught to love its protecting parent, they will never yield it up, and with it its past glories and future hopes, without one great, grand, superhuman effort to save it. That it can be saved by the abolitionists, its enemies, who have prayed for its destruction, and are now reveling amid its partial ruins, no one, even though his faith would remove mountains, can believe. The destroyer will not save. The enemies of the Union will never restore liberty, because liberty and union are inseparable.

Sir, these are perilous times. That something is to be done and that speedily all agree. Is this to be a perpetual war? Is this ninety-day struggle to end only when our commerce is destroyed, resources exhausted, and bankruptcy and ruin come to the door of every man in this country? Is this abolition party to be continued in power? That we shall have war while we have a sectional party in power, I believe. Sectional parties never could have made the Union; it is folly and worse than folly to hope they can restore it now.

But I desire to call the attention of this House to the germ of a new trouble that I fear threatens to assail this already afflicted land. It is my purpose to be brief, but also to be candid. If in the exercise of the latter attribute I should incur the displeasure of those in this body who hold opposite views, let it be remembered that I am a Representative of the people, and as such shall use my privilege of free expressions of opinion in this Hall. I am responsible to my constituents and not to this House or to its majority for what I utter, and by virtue of my office I shall exercise the right to express whatever views I may entertain, however unpalatable they may be to one or more or all of my peers.

It is, I confess, humiliating that a member of

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

MONDAY, JULY 4, 1864.

NEW SERIES.....No. 218.

this Congress should have occasion to refer to his privileges. The fault is not mine. I cannot forget that a Representative of the people has recently been censured in this Hall for the candid expression of his opinions, and as a precedent of persecution for opinion's sake has thus been established against all right and reason in the temple itself dedicated to free discussion, I consider it due to my conception of the great wrong then accomplished to protest against its repetition in my person. Sir, it would seem that an offended God has already made visible the signs of retribution for the recklessness with which we have been plunged into civil strife. Our deluded people have witnessed as its consequence the destruction of all that was most precious to them of their political inheritance. The shrine of their liberty has been profaned and its costly treasures trampled under foot. They have seen the bayonet at their ballot-boxes, the bayonet in their courts of justice, the bayonet in their legislative halls, at their homesteads, and at their bedsides in the dead of night. At every place once held sacred the bayonet has been seen, threatening, insulting, and applying the rule of force to the will of freemen.

But while the ordeal of a presidential election promised to purge the political system, the people looked forward to that day for their redemption. If that ark of safety had not been in view a deluge of popular resistance would have swept the land. But, sir, the people are now asking themselves, is it indeed in view? Is it more than an illusion, a counterfeit presentment, a shadow of the substance that is seen, mocking them with false assurances? Do they not trace the weaving of a snare for the ballot-boxes of next November? If so, in their names I say that ruin must be spared the Republic; if not through the forbearance of tyranny, if not through some latent virtue revealing itself at the eleventh hour in the reckless aspirant, then through the resistance of the people awakened at last from their sleep-walk while at the brink of the abyss. Sir, it may be held unreasonable that I should conjure up a phantom for the future when so many real horrors environ the present hour. But it is no phantom, it is a reality, that awaits only the hour to reveal its essence. By the fruit already borne we judge what fruit the tree will yield hereafter. We have seen the military power stand between the citizen and the expression of his will at the ballot-box. We have seen the elective franchise controlled by armed force in States powerless to resist the minions of tyranny who thwarted them in the exercise of their most sacred right. Our Caesar then passed his Rubicon, and the Republic may well fear that he will not henceforward pause in his unlawful career unless he be swept from its course by the torrent of the popular will sustaining the ballot-box, if need be, with weapons as those which have assailed it.

Sir, I am convinced we are on the eve of a final collision between all of despotism that has been developed in the land and all of the love of liberty that yet remains in the popular breast. I trust fervently that the contest may be decided with the elements of moral force; that those who may be tempted to build a partisan or personal greatness upon the ruins of constitutional liberty will be checked in the presence of the wrath of the multitudes by some wholesome attribute of fear or conscience. But should the draughts of power already drained have provoked an uncontrollable thirst for more; should the stolen fruit of authority be so sweet as to have created an appetite that knows no conscience and no discretion, then, sir, the people will stand before their treasures with weapons in their hands. Let there be no attempt to disturb the action of the elective franchise at this crisis with fraud or violence, for should there be it will provoke resistance and engender war within a civil war. In that event, which may God avert! it will be vain to hurl the cry of treason against the people. If revolution comes, those who shall have attempted to defraud the people with false votes will be the revolutionists. There is a certain political system for our

guidance, and those that disturb it, be they officials or be they private citizens, are responsible for any convulsion that may ensue. If any candidate, presuming upon any resources for compulsion that he may control, shall assume to be elected by virtue of the pretended suffrages of States where the will of the people cannot be ascertained he will be in the attitude of a usurper. His will be the revolutionary action and the resistance of the people will be resistance to the revolution.

Sir, the sacred tribunal is about to open for a fair trial of the people's will. They ask no more, they will have no less. Think not that the apathy with which they have submitted to past encroachments will remain unbroken in the face of fraud or violence at the presidential election. On the contrary, be sure that this apathy was but the influence of a resolve to redeem their rights in November. They will be redeemed, at what cost I know not, but they shall be redeemed. There is not cunning enough in the craftiest intriguer to defraud the people at that election, and for the military power to enforce fraud I am convinced will be in vain. The American soldier is an American citizen. He has intelligence as well as courage. He appreciates the value to him of purity in the elective franchise. He will understand that a candidate who claims the presidential chair, or the Executive who retains it by virtue of false votes, is not the President and is not the Commander-in-Chief. Sir, the Army will join with the people to resist a usurpation of the chief magistracy. They will then be the soldiers of the Republic. If the retainers of the Executive shall attempt to speak in the names of the States galvanized into an unreal Federal existence to secure electoral votes, their voices will be air and will go for nothing. The people will acknowledge no votes in the electoral college in the names of States whose representation is impossible, and where every sane man knows that the nominee of the abolition party could not get a hundred votes from the real population of such States. It will be safer to forego the attempt. The prize is too costly to be surrendered to the juggling of even a master hand. He who shall claim the presidential chair upon such votes will find its rightful claimant ready to contest his seat. It will be contested to the full effect that the right shall be vindicated although it should be necessary to array the power of the States against the power of the usurper. If the present incumbent has patronage enough at his command to secure enough of real votes to elect him, so be it. Many will be sorrowful for the people's degeneracy and folly, but none will dispute their choice. The candidate who shall be fairly elected by the voice of the people constitutionally uttered will be their Chief Magistrate, but none other.

I am aware that arbitrary power exercised with impunity gives boldness to despotism, and I am forced to confess that the northern people, untrue to themselves and to their political faith, have tamely submitted to despotic acts so wanton, daring, and pernicious, that had their reason not been clouded and their instincts deadened by the influences of civil strife they would have resisted to the death. That was in the hour of popular delirium. The sudden transition from the calm pursuits of peace to the intoxication of desperate warfare, the bewildering emotions created by the contemplation of battle-fields, together with the sensational harangues of demagogues and the alluring false appeals in the name of the Union, acted like the spell of an enchantment on the masses, and in the midst of the tumult and excitement they permitted tyranny to obtain the first foothold upon our soil. Then followed the strange, humiliating spectacle of a nation of freemen passing under the yoke without lifting hand or voice to arrest their degradation. Like idiots chasing a swamp fire, they cast aside everything however precious that seemed to impede their course. *Habeas corpus*, the right of trial by jury, the freedom of speech and of the press, the independence of the judiciary, the privilege of faithful expression of opinion in Congress, the Monroe doctrine, the

right of sanctuary to foreign refugees, the sanctity of the elective franchise, all in fact that constituted our republicanism, were betrayed, more through our apathy than through our fears, into the hands of despotism.

Sir, unless the influence of these precedents be neutralized by the prompt repudiation of the people, unless we make known to future generations that they were the fruits of a passing madness, to be atoned for by the guilty and marked with the sign of condemnation, I hold them fraught with greater danger to republicanism, with greater misfortune to the people, than the dismemberment of the Republic. Better that the sections should be separated eternally, or that each State should resume the distinct political existence it held at the close of the revolutionary war, than that the several Commonwealths should lose their independence in the ordeal of forcible reconstruction. But now, sir, I fully believe that the frenzy is over; the spell is broken; the danger is no longer disguised in the garb of military necessity. The people perceive their own folly and the crime of their misrulers. They look forward to the ballot-box of next November as to a tribunal where judgment shall be rendered upon political criminals and they shall not be baffled by either fraud or violence.

Sir, I appeal to this House to exert what influence it possesses to secure a perfectly fair and legal election in November. The temper of the people is such that they will brook no devices, from whatever source they emanate, designed to elevate a nominee in defiance of the popular will. Bear in mind my warning that the pent-up indignation of the masses is reserved to be launched with irresistible fury against him that shall dare to trifle with their right of suffrage in November. The fanatics of 1860 scoffed at the idea of civil strife; let the intriguers of 1864 more justly appreciate the signs of the times and beware of firing the train that will lead to another and if possible a more terrible explosion. The history of the revolutionary past of other climes presents many a hideous precedent that should startle the ambitious schemer from his dream of usurpation. The power achieved by plots against the prerogative of the people is dangerous to all, but most dangerous to him that wields it. Let him that meditates treason against the elective franchise reflect that he purposes to crush the last hope of the people, and where hope is crushed there comes despair and frenzy to instigate to deeds of violence. Shall not the fate of Robespierre, mangled and torn by an infuriated populace, tumbled in a day from the zenith of his power and perishing amid the jeers and curses of his betrayed countrymen, appal even the callous nature of one too suddenly elevated and destined perhaps too suddenly to fall? A people provoked to the extremity of wrath are not appeased without a victim, and their victim is always the highest that is guilty.

Heaven grant that no act of usurpation in November, no trifling with the elective franchise, no forcing of fraudulent votes into the electoral college, shall put a climax to the violations of the Constitution that have filled the measure of the people's patience. I will rather hope that the auguries are false, that the signs have lied, that the evidence of our senses is not to be trusted, that the ballot-box on the 8th of November will be permitted to render the true verdict of the people, and that that verdict will be respected and obeyed. But, sir, the vindication of the elective franchise will bring us only to the threshold of redemption. However much we may resolve to follow the landmarks of constitutional freedom in a condition of civil strife, we shall always be tempted by false lights and impelled by currents that lead to political danger. There must be peace in the land before we can boast of security in a republican form of government. Separation does not involve the destruction of republicanism, but that destruction is inevitable in the event of subjugation, if we must hold the conquered territory by military power, as alone it can be held. There are some that propose to

exterminate the southern race, as if realizing the impossibility of a friendly political compact, *non* after conquest. That fearful alternative will not be permitted, for an outraged humanity would protest throughout the civilized world, and that were ineffectual the swords of all Christendom would be unsheathed in behalf of the doomed race.

Sir, I believe that all men of ordinary intelligence, to whatever political party they belong, are convinced that this campaign, should the Federal arms again be baffled, must end the war. Never again should that magnificent array of military strength become disorganized by defeat. Never again will the manhood of the North consent to be led or driven to the shambles in a hopeless cause. No cry of Union can allure the patriot now, for it is too well known that the Union can only be reconstructed by the agencies that built it—the consent and friendliness of the parties to the compact. It was a bond of love; it cannot be restored by the instruments of hate. A few, compelled by their necessities or allured by their cupidity, may serve under the banner of invasion. But neither bounty money nor conscriptions will ever again in this quarrel fill the Federal ranks with the strength and valor of the North if this campaign should fail. The Administration know it so well that they are staking all upon the hazard of the present operations in the field. The lives of our soldiers have no longer any value to those in power except so far as they assist their military purpose. By thousands daily they are sacrificed in this last desperate attempt to crush the southern armies. Our devoted countrymen have been pushed into the jaws of death with a savage recklessness that appalls the Christian world and that for centuries to come will pollute our moral atmosphere with the sickening taint of blood. Our people, whose kindred every day are facing death in those doomed ranks, look on the frightful saturnalia with the stolidity of despair, for I cannot believe it to be the apathy of indifference. I have read in the public prints, not one only but many a grim pleasantry upon the *sang froid* with which our best and bravest are hurried into eternity. So nearly have we attained that degree of ferocity that marked the Reign of Terror in France that some among us find a theme for hideous witticisms in the most horrible phases of this reign of murder.

Sir, the butcheries in Virginia must end the war. Such horrors cannot be repeated. I do not propose to discuss the right to enforce a political condition by force of arms; but I say that when rulers in a war of subjugation insist upon decimating their own people and deluging the land with blood to the extent we have witnessed they pass the line of legitimate warfare and enter the domain of murder. If there were blood enough in northern veins to be outpoured in another such campaign there is not cruelty enough in the northern heart nor folly enough in the northern brain to permit the infernal sacrifice.

I have forbore allusion to the many snares for republicanism that have been set by foreign schemers who in our madness have found their opportunity for encroachment. Three years ago Napoleon was at the threshold of his Mexican enterprise, and as far back as then in this Chamber you were warned of this new germ of mischief. The warning was unheeded, and we now witness the humiliating attitude we hold toward foreign Powers.

I am aware that this House has peculiar reason to be sensitive upon that score, having so lately been held up to ridicule at the Tuileries by this Administration. I am therefore assured that this House will redeem its dignity and assert its prerogative to speak in the name of the people in regard to the foreign policy of the Republic. But I cannot be zealous in the cause of a sister republic when my own country is bleeding, perhaps perishing. I can bear awhile my portion of the shame of our prostration at the footstool of a foreign potentate in the hope that we shall rise again erect and make amends to ourselves for that servility. But another such year of civil strife will suffice to put this question of foreign encroachment beyond our arbitrament. My hope is that the inauguration of a new Administration, setting at rest for a space at least the question of partisan aspiration and personal ambition, will leave all parties in a fitter mood for calm reflection, undisturbed by prejudice, passion, or selfish motives,

on the best method of preparing to welcome peace. But then that inevitable objection of obstinate and uncompromising natures intervenes, upon what basis shall negotiation be opened?

Sir, it is this cleaving to extreme positions that constitutes the radical difficulty in the way of an adjustment. I am convinced that the antagonism in sentiment between the sections is not irreconcilable. It is not that the space to be traversed is interminable, but that both sections respectively stand at the extreme limits when mutual advance would soon bring them together. In the intervening ground we are creating boundaries of the corpses of the slain, and as the shout of defiance, the curses of mutual hate, the groans of the wounded, and the lamentations of the bereaved, assail the heavens, further and further the sections recede from each other; wider and wider stretches the gulf, and closer shut the avenues of reconciliation. The ties of brotherhood that were firmly knit by our fathers upon the battle-planes of the Revolution have been rent asunder upon the battle-planes of this unnatural struggle.

Is there, then, no link between the North and South, none other than that which we are seeking to weld on the anvils of unnatural strife? Sir, there is. And I realize the beneficence of a forgiving God in that He has revealed a hope and opportunity of redemption even in those things which threatened most to our shame and disadvantage. I am not speaking the vague language of surmise when I assert that the southern people equally with ourselves, more than ourselves perhaps, protest in their inmost hearts against the encroachments of foreign power upon this continent. If we believe that they have turned apostates to their republican faith, that they are willing to betray the mission of freedom inaugurated by our fathers and their fathers, we have not conceived the full measure of the influence that nearly a century's existence in the atmosphere of self-government has exercised upon a race of freemen. There is yet that bond of fellowship between the North and South, and we shall be traitors to the paramount principle that appeals to us from the spirit of a stricken republicanism if we permit a blinded hate and jealousy and fanaticism to cancel that bond among the rest that have been canceled. Out of that single thread of sympathy may be woven a fabric of political companionship that will confirm the safety of republicanism on this continent.

It is not my purpose nor is it within my power to define the basis upon which the confederate authorities will negotiate; but I have reason to believe that they are willing and anxious to unite with us in vindication of the Monroe doctrine, and that they will meet us frankly and in the spirit of reconciliation. I know that there are gentlemen who will demand no less than an unconditional surrender and submission. They will be disappointed. No, sir, although the war should be protracted till the great umpire throw down the warder at the day of judgment, never, never will submission in the deed or the spirit be wrung by your arms from the South, although their armies should be prostrated. I am proud to say that such humility is not a characteristic of the American freeman. Fight on if you will until you make your country one vast burying-ground of all your visible strength, with only age and infancy and helplessness to mourn the desolation, but in the end there must be compromise. It is the only hope of staying this pitiless scourge beneath which the country groans and bleeds; and it involves the further hope of concord and forgiveness in the future. Banded together as the companion soldiers of republicanism, the veterans of this war on either side will find a Lethe for their animosities in the joint laurels they shall call upon the soil of betrayed Mexico. Every blow that they have dealt at one another will be atoned for by the blows that they shall strike together at the common enemy. The mutual valor displayed in mutual destruction upon such fields as Antietam, as Gettysburg, as the Wilderness, as a hundred others that are melancholy monuments of American heroism and folly, will seek a more glorious arena upon the same memorable plains where once before the North and the South marched side by side to victory. And afterwards, when the Austrian usurper and his French myrmidons shall have disgorged their prey, when the crown shall be tossed into the sea and the scepter shivered

and the imperial invader shall have turned his scourged back forever upon this continent, there will remain, among other blessed results of the struggle, a bond between the North and South of the same nature as that which our fathers sealed with their blood upon the battle-planes of the Revolution.

Sir, let us give one word of invitation to the southern people to strike with us for Mexico, and they will rend the skies with their shouts of acceptance. The soldiers of Grant and the soldiers of Lee will spring from their ranks and grasp each other's hands in pledge of their sympathy in that congenial cause. The false pride of the sections, colliding interests, social differences, political antagonism, partisan and personal antipathies, jealousies, and heart-burnings, will all be checked if not canceled by the influence of an absorbing popular sentiment and the wholesome excitement of a struggle in behalf of true republican principles. In rebuilding the Mexican republic we shall upraise the shaken props upon which our own political system depends, and the bells of victory will at the same time ring the knell of imperialism upon this continent and celebrate the regeneration of the elements of good will and fraternity between the sections.

MR. LAW. Mr. Chairman, it is very seldom that I trespass on the patience of the House in the way of speech making. I have been, however, not an inattentive listener to what has been said on both sides of this Chamber, and I must confess that I have been somewhat startled with the doctrines which I have heard enunciated by the other side of the House; doctrines which, if they had been uttered at any other period of our history, would have led to the belief that some political madman, some Anacharsis Clootz, fresh from a revolutionary tribunal, had by some means or other obtained a seat on this floor and was promulgating opinions dangerous in their character, at war with all our social institutions, and which, if carried out, must inevitably tend to anarchy or despotism; opinions hostile, as I conceive, to the best interests of the country, at war with the Constitution, and in violation of all the rights of a free people. But what is worse, sir, these opinions thus dangerous in such a crisis as we are now passing through, are shaped in the form of laws and resolutions which become the laws of the land, and operate on the whole body of the people now within the Union. Is this the time, let me ask any patriotic man in the House, when we are engaged in civil war, when we are expending the very life-blood of the nation, to be trying new experiments in political economy and abandoning the principles of our fathers; adopting new theories never before heard of since the foundation of the Government, and which, if carried out, must inevitably shipwreck the Union, break down the barriers of the Constitution, and unavoidably destroy the glorious fabric reared by the patriots and statesmen who have preceded us.

Sir, as the representatives of the American people, as the representatives of the Union people of this country, have we fully considered these things? Have we weighed them as we ought? Everything, so far as regards the consequences of the present state of affairs in this nation, whether it be for weal or woe, is dependant upon the action of this Congress. Before the close of the Thirty-Eighth Congress, in March, 1865, the destinies of the Republic will probably be settled. What they may be is only known to that Being who "rules the destinies of nations as well as men."

We should be calm in our deliberations, wise in our counsels. We should look only to the good of the country. Are we prepared so to do? From what I have witnessed here this session I fear that "madness rules the hour." The passions and feelings, and I may add prejudices, North and South, have been inflamed to such a degree that it seems impossible to subdue them. Evil counselors on both sides of Mason and Dixon's line have lent their aid, either from interest or fanaticism, "twin sisters of evil," to increase those prejudices between our people north and south of the Potomac, and they have succeeded even beyond their expectations. Those who required "a little blood-letting" before they would listen to any terms have had oceans of it, and now every raid, every foray, every battle-field, let the result be as it may, must render us more antagonistic.

Why, sir, is there an intelligent member of this body who believes that if the seceded States would this day offer to come back, stack their arms around the Capitol, and return to their allegiance, you, gentlemen, on the other side of the House would agree to it, except on such terms as they never would accept—the abolition of slavery within their borders, a territorial vassalage, and the application of the Wilmot proviso to their State constitutions? Would you not say this? In fact, do you not repeat it daily? Do not the bills which have been introduced here say in so many words, "Throw down your arms, sue for peace, and we will only give it to you on our own terms." What are they? A return to a territorial condition, the abolition of slavery, and the application of the Wilmot proviso to your constitutions when readmitted to the Union. These are your terms, these are the conditions; and does any rational man in the country believe they will accept them? War, war to the knife; a war to be handed down from one generation to another; such a war as the Waldenses and Albigenses carried on for years in Germany; such a war as La Vendée carried on against all France combined; such a war as Poland has carried on against Russia, and Hungary for years waged against Austria. Such will be the contest between the Anglo-Saxon race on this continent, between father and son, brother and brother, friend and friend, between those who in a common cause marched together from Vera Cruz to Mexico and planted the stars and stripes on the halls of Montezuma.

As the President said in his inaugural address, "we cannot fight always, and when we have done fighting we must return to first principles, and see if matters cannot be adjusted." The President was right, "we must return to first principles;" the principles laid down by our fathers; the principles which established our unity as one people; the principles which are laid down in our organic act, the Constitution, which enabled each State to settle its own domestic institutions without any let or hinderance from another or from all combined; principles which for seventy years and upwards made us the most powerful and respected Government on the face of the earth, increasing in wealth, population, and power to an extent heretofore unknown in the annals of the world. How is it now? There is none so poor as to do us reverence.

Why, sir, I have no doubt Napoleon III laughed in his sleeves when he received a copy of that memorable manifesto, that "*brutum fulmen*," introduced by the gentleman from Maryland, and which passed unanimously through the House, (I believe there was not a dissenting vote,) and in which we reaffirmed, boldly and fearlessly, the Monroe doctrine as applicable to Mexico at the very time Maximilian was on his voyage from Europe, guarded by a French fleet, and for the purpose of at once taking possession of his throne. And how perfectly powerless we are to stop him if he pleases to do so. Napoleon understands it as well as we do, and I fancy has not much fear of an interference on our part, considering our present condition. But, I ask again, how have our present ills been brought upon us as a nation? How has our unity as one people been destroyed? Not by the Democratic party. "Thou canst not say we did it." From the commencement of our difficulties we proposed to adjust them in a way satisfactory to all parties except the "abolitionists." From us came the Crittenden propositions, which all admit would have been satisfactory, and made the basis of a settlement of all our difficulties. The South would have accepted them beyond all question, but the Republicans voted them down in the Senate, so says Douglas, who, anxious as he was to arrange the matter, must have been cognizant of all that took place. He is a reliable and credible witness himself, but he has been corroborated in the statement he made again and again by other Senators who were present in the Senate on that memorable occasion.

I shall not attempt to repeat the terms of the resolutions, they are known to us all, but I cannot refer to them without saying a few words as a testimony of my sincere regard and esteem for the memory of one whom I regard as one of the most amiable gentlemen, purest patriots, and distinguished statesmen of this generation. I have known him long and known him well. We served

together in the Thirty-Seventh Congress, and I can safely say in the hearing of all who were here then, that no man in Congress held a higher position, or was more universally respected in this House, on both sides of it, than was Hon. John J. Crittenden. Devoted to his country, an ardent lover of its free institutions, conservative in all his views, he spoke to the House, which contained a large majority diametrically opposed to him, as if he was addressing the Senate in the palmiest days of the Republic. Cool, calm, collected in his manner, dignified in his deportment, gentlemanly, never violating any rule of the House in debate, his voice always heard, because all were attentive, he spoke with a fluency and power which commanded attention. Even those who dissented from him admitted the truth of his premises and the force of his arguments while differing from his conclusions. In the midst of a rebellion brought about in part by those who heard him, he could not bring himself to believe that the old Constitution, the work of our fathers, was worn out, and that while the form remained the spirit and life of it were gone. Those who move with the tide are hardly conscious of the rate at which it is flowing, and are dashed against the rock before they are aware of it. Such, I fear, is the character of those who now hold the destinies of the nation in their hands, and are moving on with the impulse to sure and certain destruction. Sir, I know no living man on this continent whose reputation I would accept in exchange for the dead statesman's—Mr. Crittenden's—the colleague of Mr. Clay, the associate of Daniel Webster, of Silas Wright, of Lewis Cass, of Thomas H. Benton, of Stephen A. Douglas, in the Senate of the United States. He was, in that body of the most distinguished men ever occupying the councils of the nation, among the first. "A peer among princes, a prince among peers." In all that galaxy of eminent men, of patriots, statesmen, and scholars, but one survives, Hon. Lewis Cass, who, far beyond the allotted period of life, is now the only connecting link between the present and the past, and who, it is hoped in the providence of God, may yet live to see that Union for which he struggled so long intact, one and indivisible, under the same Government which was framed by our fathers, and which for so long a period has preserved us as a nation. Alas, that in looking back to those days we are forced to admit that "Atlas has gone to the Hesperides, and there is nothing left to uphold the sky. Ulysses has gone on his weary wanderings, and there is no one left who can bend his bow."

Mr. Crittenden, like all his contemporaries I have mentioned, with a single exception, has been gathered to his fathers. "The places which once knew him will know him no more forever." His resting-place on earth is among those he loved so well. Entombed in the "dark and bloody ground" made historical in the West, in the soil of his own beloved Kentucky, he rests from his labors in his country's cause "and sleeps the sleep that knows no waking." Should the great and gallant State who honored him so highly while living erect a monument to his memory as she ought, let this be his epitaph: "Here rest the remains of one who if his counsels had been observed the Union would have been maintained as it was and the Constitution preserved as it is."

Sir, the most memorable legislative act of the nineteenth century which will be chronicled by the future historian of these deplorable times will be the Senate resolutions of the distinguished gentleman to whom I have referred, and the House resolutions introduced by him and voted on July 22, 1861, the day after the battle of Bull Run, and while our brave and gallant soldiers, worn out, fatigued, and wounded, were making their weary and painful way to the capital as a place of refuge. Who is there now here who was a member of the called session of 1861 but remembers the occasion? All was panic and dismay in the city, and many there were of intelligent and brave men who thought and believed the capital itself was in danger, and so it was. Had Beauregard, at the close of the battle, received a reinforcement of ten thousand fresh troops, the most experienced military men here believed he might have captured the city. The Senate and House sat as the Roman Senators sat when the Gauls surrounded their city. The safety of Washington was the

absorbing subject not only of conversation but of debate. Mr. Crittenden arose; the silence was profound. In a clear, full, and sonorous tone of voice he read his resolution, which could be heard in the remotest part of the gallery. I had seen the resolution in manuscript before it was offered. I knew what it was. I had not a doubt it would pass, as Mr. Crittenden informed me he had consulted with the Republican members before submitting it, and that no objection had been made by those with whom he consulted. On its presentation to the House, Burnett of Kentucky moved a division of the resolution, which the Speaker decided in his favor. The first part of the proposition, "that the war had been forced upon the country by the disunionists of the southern States," was carried by a vote of 121 to 2, Burnett of Kentucky and Reid of Missouri, both of whom have since been expelled from the House for joining the rebels, voting in the negative. On the second part of the proposition, "that the war was not to be waged in any spirit of oppression or for conquest or subjugation or purpose of overthrowing or interfering with the rights or established institutions of the southern States, but to preserve the Union with all the dignity, equality, and rights of the several States unimpaired," the vote was—yeas 117, nays 2. It will be seen that there are four votes less in the yeas on the second proposition than on the first. It arises from the fact that the honorable gentleman from Pennsylvania, [Mr. STEVENS,] true to the instincts and principles for which he has combated for years, "in overthrowing the rights and established institutions of the southern States"—and in which he bids fair to be successful—did not vote on the second division of the original proposition; neither did Lovejoy of Illinois, Bingham of Ohio, or Conway of Kansas, each of whom entertained similar principles with the gentleman from Pennsylvania. Potter of Wisconsin and Kiddle of Ohio, both Republicans, voted "no."

Permit me here, Mr. Chairman, to say, I may be wrong, I may be deceived, but I have thought sometimes the Republican members of this House have doubted the loyalty of Kentucky, and looked upon the majority of the members from that State as merely "*locum tenens*," holding their positions here as a half-way house between "secessia" and the "Union States." Sir, in my judgment, if ever there was a loyal State that State is Kentucky. At the commencement of hostilities between the North and the South, allied as she was with the southern States, both in her proximity to them and as a slave State, it was very natural to suppose, that like her neighbors in Virginia and Tennessee, to the former of whom she was indebted for her paternity, she would have gone with them; nothing was more natural, and but for the loyalty of her prominent men, men of the highest influence and standing, the probability is she would have gone. Had she done so, Ohio, Indiana, and Illinois would have been the battleground of this fratricidal contest. What did she do? She declared herself a neutral in the contest. Under the circumstances that surrounded her she could do nothing else. She must have taken sides one way or the other, and the chances were that she would have joined the southern States, with which in unity of feeling and unity of interest she was much more allied than with the northern. Her leading men came forward, and as the best means of saving the State to the Union urged neutrality. Temporarily it was the best and most prudent step she could have taken. Guthrie, Prentice, Dixon, and hundreds of others of her best and loyal men urged the measure, and it was adopted. It gave time for thought and reflection, and Kentucky was saved for the Union.

Sir, others may judge of her action and conduct as they please, but as a citizen of Indiana, a border State, a free State, a loyal State, of which I have been a citizen for nearly a half century, knowing as I do the difficulties under which she labored, the perils which surrounded her, I believe she acted wisely, and she acted loyally. It is very easy for gentlemen from the northern States, from New England, "who live at home in ease," who are making fortunes out of the rebellion while they have never seen a rebel themselves, to descend upon the duties of a State a thousand miles off, surrounded by seceded States, with numbers of their own citizens sympathizing with them, with foes without and foes within, and subject at any

time to an invasion from the north side of the Ohio or from the seceded States on the south; a State continually in danger from one quarter or the other—it is very easy for these gentlemen who have no knowledge of passing events there to coolly and quietly advise them what to do and what not to do. Of this, I take it, they were as good judges as those who thought proper to lecture them, and probably it was a quarter from which they thought it unwise to ask either advice or aid. Indiana at least ought not to chide her; she owes her now and forever a debt of gratitude which it will be hard to repay. In the territorial infancy of that great State, now the fifth in the Union, when the Indians were committing depredations throughout its borders, when the hardy pioneer strapped his rifle over his shoulder as he drove his "team afield" over the small patch of land he cultivated, ready at all times to meet his savage foe, whether in ambush or in the field, "when the darkness of midnight was illumined with the blaze of their dwellings, when the blood of their sons fattened their corn-fields and the war-whoop awakened the sleep of the cradle," the brave and chivalrous and gallant men of Kentucky came to our relief. The battle-fields of Tippecanoe and the Thames bear evidences of their patriotism and their courage, for, as I myself have witnessed, the Indians who fell on those bloody fields lay side by side with the chivalrous men of our sister State. The best blood of both was poured out like water, and the result was the restoration of peace and quiet to our borders.

Connected with the subject I have been treating, Kentucky and her loyalty as a State within the Union, I wish to say a few words in reference to a charge made by H. J. Raymond, Esq., one of the editors of the New York Times, in a work lately published by him, entitled *President Lincoln's Administration*, in which, with a view of aiding Mr. Lincoln and damaging General McClellan, he makes in a few lines in the appendix to his work these covert remarks—noticed hereafter—wholly uncalled for, and in my judgment wholly untrue. I have the slightest acquaintance, sir, with General McClellan. I doubt whether I should know him were I to meet him on the avenue. His father, Dr. George McClellan of Philadelphia, and myself were educated together at Yale; we were bosom friends until the day of his death. We started in life professionally at the same time. He was a surgeon and physician, I a lawyer. We went to Philadelphia together in the fall of 1817; he remained there to practice his profession, in which he became preëminent, while I followed the "Star of Empire" west. It is due to his memory dead, as it is to his son living, who appears to inherit the best qualities of his ancestor, that I should endeavor to show the accusation made against General McClellan false in every particular. What is the charge? I give it as it is written in the book: "General McClellan, while in command of the Department of the Ohio, had entered into an agreement with General Buckner by which the substantial neutrality of that State was recognized and respected." Buckner, in June, 1861, professed to be a loyal man. His letter in reference to General McClellan's proposition was addressed to the Governor of Kentucky, June 10, 1861. Buckner now is a traitor, as he probably was in 1861 a hypocrite—false to his State which trusted and honored him as to his country which he betrayed. He does not profess to show a scrap of memorandum or writing entered into with General McClellan on this most important arrangement by which the "substantial neutrality" of Kentucky was to be "recognized and respected;" while on the other hand General McClellan, in a letter which was addressed to a naval officer in Cincinnati, dated June 26, 1861, (published in the Cincinnati papers, and which Mr. Raymond must have seen at the time he penned the remarks alluded to,) expressly and emphatically denies the charge made by Buckner. Which of them should be believed? A man who is the "soul of honor," whose character for truth and veracity never has been impeached, or the double-dyed traitor who made the charge? I leave it to every honorable member of the House to say. Sir, without reference to General McClellan's political opinions, or the position in which his friends in several States of the Union have thought proper to place

him with regard to the presidential election in November, but simply as a military man, I think great injustice has been done him.

The battles of Malvern Hill, South Mountain, and Antietam, prove his conduct and courage as a commander beyond all question. Never was there a greater truth expressed than at the close of his campaign when superseded he said, speaking of the conduct of his troops, "No man can justly charge upon any portion of that army, from the commanding general to the private, any lack of devotion to the service of the United States Government, and to the cause of the Constitution and the Union. They have proved their fealty in much sorrow, suffering, danger, and through the very shadow of death. Their comrades dead on all the fields where they fought have scarcely more claim to the honor of a nation's reverence than their survivors to the justice of a nation's gratitude."

Sir, I ask, but ask in vain, why has not that justice been awarded them? Faction, fanaticism, folly, seem to have ruled the Administration, and simple justice, all that was asked for, was denied to these brave men and their leader. When his military qualifications were called in question General McClellan might answer his accusers in the language which Shakespeare, in the play of *Troilus and Cressida*, puts in the mouth of Ulysses, in reply to Nestor at the siege of Troy, who informs him that Ajax, "grown self-willed," rails at his, Ulysses's, mode of carrying on the war, "bold as an oracle;" and Thersites, "a slave whose gall coins slanders like a mint," joins in the abuse of him. Might not General McClellan make the same reply to these modern Thersites, hounded as they are by their masters "to coin slanders like a mint" against him, as Ulysses does?

"They tax our policy, and call it cowardice;
Count wisdom as no member of the war;
Foretell prescience, and esteem no act
But that of blind: the still and inert parts,
That do contrive how many hands shall strike,
When fitness calls them on; and know, by measure
Of their observant toil, the enemy's weight,
Why, this hath not a finger's dignity!
They call this—bed-work, mappery, closet war;
So that the rain, that batters down the wall,
For the great swing and rudeness of his noise,
They place before his hand, that made the engine;
Or those that with the fineness of their souls
By reason guide his execution."

Sir, there is one consolation: if the present Administration will not do him and his noble and gallant followers justice for their gallantry, courage, and skill in the campaign in Virginia, in 1862, his country will.

"For more true joy Marcellus exiled feels
Than Cæsar with a senate at his heels."

The Crittenden resolutions were but a mere affirmation of the declarations of the President made again and again to the people and to Congress, in which he said he "had no power directly or indirectly to interfere with the institution of slavery in the States where it existed;" that he had "not the power, neither the inclination to do so;" that those who nominated him "placed in the platform for his acceptance, and as a law unto him and to themselves," the resolution which I will read, being the fourth of the Chicago platform:

"Resolved, That the maintenance inviolate of the right of each State to order and control its own domestic institutions [slavery included] according to its own judgment exclusively is essential to the balance of power on which the perfection and endurance of our political fabric depend, and we denounce the lawless invasion by armed force [the raid of John Brown, the 'saint, hero, and martyr' of the Republican party to-day] of the soil of any State or Territory, no matter under what pretext, as the gravest of crimes."

How far the President and the party who placed him in power kept these pledges after that power was obtained may be found in the series of legislative acts passed by Congress and approved by the President from the period when he signed the bill "abolishing slavery in the District," down to that of his proclamation abolishing it everywhere, repealing the fugitive slave law, putting arms in the hands of the negro, enlisting him in the Army, and placing him upon full equality with our white scarred and veteran soldiers. In fact, Congress has done more for the negro; it has provided for the subsistence of their families while the men were in the field, while those of the whites are not provided for.

The President tells us that the Chicago plat-

form was a "law" unto him and to those who nominated him. If this is so why is it that he and his friends with the most unblushing effrontery ask the Democratic party to disband and join the Republican. If the Chicago platform is a "law" to Mr. Lincoln and his party should not the platform of the Democratic party, handed down from the days of Mr. Jefferson, unchanged, unaltered, and which for upwards of sixty years has carried this country to the highest state of prosperity, through two foreign, not domestic, wars, be still adhered to? And is not that platform as much a "law" to us as the Chicago platform to the Republican party? The last imperishable, whatever may be the destinies of the Republic, as long as freedom exists, while the former is now unknown, never spoken of, never thought of, and scarcely a clause in it but what is either changed or entirely obliterated by the legislation of that party since it came into power, not one of whom is so "poor as to do it reverence." It had its day and accomplished its object, and is now thrown away as waste paper. I have never heard it quoted since Mr. Lincoln made his allusion to it in his message at the called session of 1861.

I have said, Mr. Chairman, that the clauses in the Chicago platform "had been changed or obliterated." Sir, there is one, the sixth, which in theory is true, "true as holy writ," and the sentiments tersely and beautifully expressed on paper, one which should be placed in letters of brass (gold would at the present prices be rather expensive) on the doors of your Treasury, on those of every Department of the Government, ay, even on the White House, on the custom-houses, on every disbursing office of the Government. The sixth clause of the platform reads thus:

"That the people justly view with alarm the reckless extravagance which pervades every department of the Federal Government; that a return to rigid economy and accountability is indispensable to arrest the systematic plunder of the public Treasury by favored partisans, while the recent startling developments of frauds and corruptions at the Federal metropolis show that an entire change of administration is imperatively demanded."

Brave words, well rounded periods, but most impotent conclusions in action since the Republican party came into power. How do the people "justly view the reckless extravagance which pervades every department of the Government?" now; how the "startling developments of fraud and corruption at the Federal metropolis" now; and will they not tell you at the "ides of November" that "an entire change of administration is imperatively demanded?" I think so. Why, sir, it is not two years since, that the honorable gentleman from Massachusetts, [Mr. DAVES,] than whom no gentleman on either side of this House stands higher for his gentlemanly deportment, independence, and candor, and who, where fraud is to be ferreted out, never "gives up to party what was meant for mankind," said here, on this floor, that the Treasury had been robbed of more money by fraudulent contracts up to that time than would have paid all "the current expenses of Buchanan's administration;" and has not this rivulet of speculation and fraud since that time swelled into a volume likely to bankrupt a Treasury already depleted by the actual wants of the Government? And yet this is the party which viewed with so much alarm when out of power "the reckless extravagance which pervaded every department" of the Administration which preceded it. Was there ever greater hypocrisy? And yet it was by such pretenses as these that the Republican party came into power.

Gentlemen on the other side of the House deny that the Crittenden resolutions in the Thirty-Sixth Congress were defeated by them, although voting in solid column against them. Their excuse is, that finding the Democratic Senators from the seceded States, then holding their seats in the Senate, would not vote at all, (a two-third vote being required,) even should a portion of the Republicans vote for them, they determined to vote them down, and they did so. Admitting this to be true, I ask my Republican friends to tell me why on another occasion, when the same resolutions were before the House on a proposition to submit them to a vote of the people who would have adopted them beyond all question by an overwhelming vote, they voted the proposition down?

On the 27th of February, 1861, some two weeks after the failure of the passage of the Crittenden resolutions in the Senate, at nearly the close of the Thirty-Sixth Congress, Mr. Clemens, of Virginia, offered the following proposition for the consideration of the House, (see House Journal, second session Thirty-Sixth Congress, page 407:)

"That provision ought to be made by law without delay for taking the sense of the people, and submitting to their votes [the Crittenden resolutions] as the basis for the final and permanent settlement of those disputes that now disturb the peace of the country and threaten the existence of the Union."

The resolutions are appended to the proposition. The vote on this proposition was—ayes 18, noes 113, every Democrat and every conservative man voting "ay," every Republican member voting "no." With this proposition Virginia was satisfied, as asserted by her peace delegation then, I believe, in the city trying to prevent separation if possible. Why not have submitted the resolutions to the people? Simply for the reason that the Republicans never did intend they should be adopted. They wanted war instead of peace; large armies, large disbursements from the Treasury. They wanted to abolish slavery—an object to be obtained at any sacrifice of white men's lives or white men's money. They wanted to continue their power, to preserve their patronage—in short, to continue the administration of Mr. Lincoln for a second term. For who can doubt that if the proposition alluded to had been accepted by the Republican party before a gun had been fired or a man killed, the glorious stars and stripes would now have been floating over all this continent from the lakes to the Gulf of Mexico, from the Atlantic to the Pacific, one people united under one Government, and even more prosperous and united than we had ever been? That it is not so united now is not the fault of the Democratic party. The defeat of the Crittenden resolutions lays entirely with the Republican party, and for their defeat they are entirely responsible. Sad, indeed, have been the consequences, not only to our own country but to the world. And fifty or one hundred years hence, when passion and prejudice have no longer sway, but the truth of history is vindicated, some future Gibbon, in writing the "Decline and Fall of the American Republic," will trace its cause to the non-acceptance of the Crittenden propositions by the Republican party.

But, sir, it was not only before hostilities commenced, but long since the war commenced opportunities have occurred, which if taken advantage of by a wise and prudent Administration having solely in view the settlement of our difficulties, this unhappy, fratricidal, and terrible contest might have been brought to a close; a contest in which not "a little blood-letting" has occurred, but one in which if all the blood that has been shed had been gathered in one vast reservoir as large as the dimensions of this Chamber, you might have walked knee-deep in it. By some radical application or act of Congress calculated still further to excite and exasperate the public mind, skillfully and ingeniously to stir up hatred and ill will instead of seeking to restore the seceded States with their "constitutional rights unimpaired," as they pledged themselves to do, it seems to have been the steady purpose and determined object of the party in power, if possible, to widen the breach, and prevent the return of a single seceded State to the Union. Why, sir, a single act of this session confirms all I have said. I refer to the bill for the reconstruction of the rebel States which passed the House by a strict party vote. Are the "equality, dignity, and rights" of the States to be reconstructed left unimpaired by that act? On the contrary, are they not entirely abrogated and destroyed? Why, sir, the plan of that arch radical, Wendell Phillips, as enunciated by him in his letter to Judge Stallo, lately published, is not worse than the House bill. His plan is this: "Subdue the South as rapidly as possible. The moment territory comes under our flag reconstruct the States thus—confiscate and divide the lands of the rebels, extend the right of suffrage as broadly as possible to whites and blacks, let the Federal Constitution prohibit slavery throughout the Union and forbid the States to make any distinction among their citizens." No law permitting any distinction of race; no law preventing the marriage of the two races; "miscegenation"

allowed to the fullest extent. On the whole, I rather prefer this plan to that proposed by the Republican leaders of the House; it is clear, distinct, palpable in its objects, and effects directly what it is attempted in the House to effect indirectly.

Sir, the Republican party has been as revolutionary in its character and designs as that of the rebels. The object of both seems to be to divide the Union, but for widely different objects and purposes, the one for a separate power over a section, the other for absolute power over the whole. It is a lamentable chapter in American history, and if there is the slightest hope for the future it is in the united and conservative action of all who love their country, in the coming fall elections.

But it is said "slavery is the cause of this war," slavery must be exterminated; that there can be no peace between the North and the South until slavery is abolished. Sir, slavery was not the cause of this war, but simply the occasion for bringing it on. As well might you say the apple-tree from which Eve plucked the fruit which entailed sin on the world was the cause of sin. It was the command she disobeyed that brought on all mankind the evil they have suffered, the eating of the forbidden fruit. So with slavery as the cause of our present troubles. The command in the Constitution is, you shall not interfere with slavery in the States where it exists. Its existence is acknowledged in the Constitution, and provision made to secure all slave property to its owners against all attempts made to divest them of it, either by individuals or their sister States who were free. Our fathers made this solemn compact and agreement with the slave States, who were parties to the covenant. Without it we all know the Constitution could not have been made or the Union formed. As their descendants we are legally and morally bound to enforce that agreement. We have all sworn to do so in the oath we have taken as members at the commencement of the session. The radical party in the country have interfered with the rights of the South in this particular. They have violated the command laid down to them in the organic law of the nation, which was binding on us all. They have interfered with the constitutional rights of their brethren as prescribed in the written compact of their fathers, which was a "law unto them" and should be a "law" unto us. For the violation of this law, war, civil war, has been the necessary consequence, and what has followed? A destruction of life unheard of in the annals of the world; a Treasury bankrupt; a Republic, the fairest on God's earth, destroyed; a nation ruined, whatever may be the result of the present contest. And is this the price you have been willing to pay for the freedom of four million blacks, who, if the facts stated are true as reported by your own agents, are far worse off as freedmen than they were in bondage. I quote from Mr. Yeatman's report as published in the speech of Mr. Eliot, the gentleman from Massachusetts, who reported the bill for creating a Bureau of Freedmen's Affairs. I believe such was the title.

"They [the blacks] say they do not realize that they are freedmen. They say they are told they are; but then they are taken and hired out to men who treat them far worse than their seceded masters did. Besides, they feel their pay or hire is lower now than it was when the seceded hired them."

Again:

"He was promised freedom, but how is it with him? He is seized in the street and ordered to go and help unload a steamboat, for which he will be paid, or sent to work in the trenches or labor for some quartermaster or chop-wood for the Government. He labors for months, and at last is only paid with promises, unless perchance it may be with kicks, cuffs, and curses."

And this is the grand result of the politico philanthropy of the Republican party in giving freedom to the black man, a boon they never asked, never sought for; nor will their hardships be less or their wrongs redressed any more by this new-fangled Bureau of Freedmen, nor as much as by their former masters; a new Republican institution gotten up to pension off some more of those cormorants who feed upon the offal of the Treasury and swarm about the Capitol like the locusts of Egypt, seeking what they may devour.

Sir, I was perfectly astonished when I heard the gentleman from Massachusetts, [Mr. Boutwell,] knowing as I did his former political associations a few years since with the Democratic party, who had, as I had understood, sent in his offi-

cial character more than one darkey to the "land of Egypt and house of bondage" under the fugitive slave law, assert "that wherever slavery exists there republicanism is not; that wherever slavery exists there a republican government cannot be." Why, sir, has not republicanism and slavery existed on this continent for upwards of one hundred years? Has it not done so under the Constitution made by our fathers for upwards of seventy years? And that the coexistence of the two would have continued as long as the Constitution existed but for the radical efforts of the abolitionists North, who were determined, even at the cost of the destruction of the Union, to abolish it; not that slavery was *malum in se*, not from any philanthropic feeling, but having tried every other "ism," Maine law liquorism Know-Nothingism, in their aspirations for power they played slavery as their last trump card, and won.

Sir, the rise and progress of slavery on this continent is an anomaly, such as has been witnessed nowhere else. In 1607 the first successful colony was planted at Jamestown, in Virginia. In 1620 a Dutch man-of-war landed twenty negro slaves for sale. This was the germ of slaveholding in the United States. For many years the number of slaves was small. The introduction of the cultivation of tobacco alone impressed on Virginia and Maryland the position of slaveholding States. New England was not tardy in availing herself of the prospect of gain held out in the cheap labor of slaves and the rich returns of the slave trade. Among the "fundamentals," a "Body of Liberties" as they called it, as early as 1641, in Massachusetts, they distinctly recognized the lawfulness of "Indian and negro slavery," as well as an approval of the African slave trade. In 1754, by an official census, it appears there were 2,248 slaves over sixteen years of age in Massachusetts, of whom 1,000 were in Boston. Finding them unprofitable, she was the first of the New England States to abolish slavery, when and how we have no record, for as late as 1833 her supreme court left it an open question when slavery was abolished in that State. Vermont claims the honor of having been the first to abolish slavery by her "bill of rights," in 1770. In 1790 there were but seventeen slaves in the whole State. It required no great magnanimity to free them. Connecticut, my own State, the "land of steady habits," where I was born, reared, and educated, a capital State to be reared and educated in if, as Douglas said of Vermont, "one emigrated early," was not free from the "sin of slavery" by any means. She turned many an "honest penny" in the traffic. The proportion of slaves was greater than in Massachusetts, and the laws regulating slaves equally stringent. One quaint act of hers in 1650 provided "that if an Indian failed to make satisfaction for his injuries, he was seized and delivered to the injured person, either to serve or be shipped out of the colony and exchanged for negroes, as the case will justly bear." Rhode Island dealt largely in the slave traffic, with the exception or Providence. The heretic Roger Williams alone placed the services of the white and black races on the same footing and limitation. Slaves abounded to a greater extent in Rhode Island than in any other portion of New England. There was a greater proportion of slaves in Newport than in Boston. The former was the "barbaroon" of the slave trade for the whole South. Its extent may be judged of from the following official table of the slave trade from the North to the port of Charleston alone, from January 1, 1804, to December 31, 1807. The whole number imported in American vessels, 8,888. Of these—

Bristol, Rhode Island, imported	3,914
Newport, " "	3,488
Providence, " "	556
Warren, " "	280
Hartford, Connecticut, " "	250
Boston, " "	200
Philadelphia, " "	200

Enormous fortunes were made out of this traffic in human flesh, and many a descendant of those engaged in the slave trade of New England, having princely inheritances, are now the most radical of the Republican school, ultra abolitionists, claiming the right to rob—I can use no more fitting phrase—the descendants of those to whose ancestors their fathers had sold these negroes in good faith and for high prices, and all this from

philanthropic motives and with a view "to save the Union," which must perish inevitably if slavery is not abolished. Was there ever more unblushing hypocrisy in this class of men, whose fathers in the nineteenth century so early made a "league with hell and a covenant with death?" Pennsylvania did not entirely eschew the holding of negroes as slaves; and if Bancroft is to be believed it is yet a mooted question whether Penn himself did not live and die a slaveholder. Slaves, however, were not numerous. The population of Philadelphia in 1750 was composed of about one fourth slaves. I might illustrate this subject further, but time will not permit it. The singular historical fact, however, may be stated, that Georgia, of all the colonies, was the only one in which slavery was prohibited by her organic law; and that Whitefield, the great leader of the Methodist church, was the most efficient advocate of the repeal of the restriction and the introduction of slavery into Georgia. At the period of the formation of the Constitution slavery existed in every colony with the exception of Massachusetts.

If I were called on to say, Mr. Chairman, which of all the States in the Union had done more for freedom than any other, I should say without the fear of contradiction, Virginia—the mother of an empire as well as presidents. She had while a colony remonstrated with the mother country, again and again, not to send slaves there. With Pennsylvania, New Jersey, and Delaware she had, in convention, voted against the extension of the slave trade to 1808, when the delegation of every State from New England voted for it. Again, when our Treasury at the close of the revolutionary war was bankrupt, the soldiers unpaid and destitute, Congress called on the several States to make a donation of their public lands, by the sale of which they hoped to raise enough money to meet the public exigencies. Virginia was the first to respond, with a clear and perfect title to all the territory now embraced in the five great States of Ohio, Indiana, Illinois, Michigan, and Wisconsin. She gave it up, and by deed indented conveyed her title to the United States. It was a donation no prince, power, or potentate on earth would or could have made. What then, sir? By her ordinance of 1787 she dedicated it all to freedom; neither "slavery nor involuntary servitude" was ever to exist within that broad domain, and where, but for this princely gift, slavery would probably have existed to this day; and where gentlemen on this floor from those great States, the most blatant in their denunciations of her, and her sister slave States, might now be in a rebel congress instead of this. Sir, there was not another State in the Union, not one, which would have disposed of their public lands to such an extent, even if they had the power to do so, and for the purposes to which the grant referred to was made. And yet this great State, with a delegation of her most honored citizens, was here up to the time of firing on Fort Sumter, begging, beseeching, and praying you to make an amicable arrangement of the slave question, fair, honorable, and just, and yet you, the very States whose heritage you derived from her, turned your backs upon her delegation, refused to receive any proposition from her, and forced a State, until then as loyal to the Union as any State in it, to take a part against you, to join the other slave States in a rebellion they did not approve, and a fratricidal war they abhorred, but which, owing to your refusal to admit of any terms, they were forced into. A "little more blood-letting," they said, "would do no harm," and you have had it in quantities enough, one would think, to satisfy Juggernaut himself. Sir, whatever may be the result of this war, and as it may, three years' contest must have satisfied every one that the blood shed, and money expended, would to a very great degree have been saved if Virginia had remained in the Union. The subjection of the other States would have been an easy task.

Sir, I have heard the cry here and elsewhere, from the hangers-on of the Government, from the "shoddy contractors," from those who are making fortunes out of this internecine contest, that the Democratic party were disloyal to the Government, sympathizers with the rebels, and other opprobrious phrases too low and vulgar for repetition. But let me ask, sir, if this is so, what chance have you of subduing the South? The

election of 1860 shows that there were a million and a half of Democratic votes given in the Union States in that year—a pretty good nucleus to rally around in 1864. Take the Democratic young men who are fighting the battles of the country out of the field, and how large an army would you have in it? Your defeat would be as certain as fate. Burke said, and with great truth, "You cannot draw an indictment against a whole people." I care not what is said here or elsewhere; history past and present teaches the fact that the Democratic party now as at all times have been loyal to the Government of the country. They will, as is their right to do, argue the question whether the war might not have been prevented by a settlement upon terms fair and honorable to both parties before its commencement. They may and they will argue the question whether the policy of the Administration has been right or wrong in carrying it on. It is right and proper they should do so; none but a despot would prevent it.

Sir, it is said, by way of sneering at the loyalty of the Democratic party, by those who never "put foot in the tented field," and never mean to as long as they can cheat the Government out of money enough to procure a substitute, that the Democratic party is the "peace party" of the country, while they will "spend the last dollar, sacrifice the last man, die in the last ditch," to put down this "accursed rebellion." They are for war, "war to the knife, the knife to the hilt."

When Cato called his little Senate together at Utica, at the time when Cæsar was marching upon the city, the fiery Sempronius proclaimed in ferocious and indignant eloquence, such as we frequently hear in this Hall—

"My voice is still for war!"

Gods! can a Roman Senate long debate
Which of the two to choose—slavery or death?
No, let us rise at once, gird on our swords,
And at the head of our remaining troops
Attack the foe, break through the thick array
Of his thronged legions, and charge home upon him;
Perhaps some arm more potent than the rest
May strike his heart, and free the world from bondage."

The conservative Lucius replied, "My thoughts I must confess are turned on peace." This counsel of Lucius was the especial object of the warrior's indignation. The "loyal" Sempronius, who scorned to submit to mediation, and could not brook the idea of peace, whispered in Cato's ear, "Beware of Lucius, he is a traitor." The very next night Sempronius deserted Cato and joined Cæsar, while Lucius, the advocate of peace, remained, and bravely fought for the liberties of Rome. There is a moral in this, "that the way-faring man, though a fool, cannot misunderstand." Instead of being the "enemies of their Government," as their enemies charge, they are its truest and best friends. Errors may and will be avoided "where reason is left free to combat them." The worst and most violent enemies of the Government are those who blindly and willfully "throw up their caps and cry, Long live King Richard," who blindly and willfully yield to the "Sic volo, sic jubeo" of presidents or kings.

Sir, I know full well the effect of power and patronage, wielded as it is in a Government like ours. I have seen its effects; they are apparent in those who

"Crook the pregnant hinges of the knee,
Where thrift may follow fawning."

Sir, no party that ever existed but the Democratic party could stand the reoccurancy and renegadism of the men to whom they have given power and wealth, who are now their worst enemies and most bitter defamers. We need not go out of the ten miles square which make this District to furnish more than one example.

Sir, I have before remarked, that if the war had been carried out in the spirit of the manifesto, as set forth in the President's inaugural, and as again enunciated in his message to Congress at the called session, as approved by nearly the whole House, in February, 1861, Republicans as well as Democrats, in the passage of the Crittenden resolutions, this unhappy strife and bloody contest would long since have terminated, would have brought to us the Union men of the South, then no doubt in the ascendant, and the Union flag would long since have floated over the whole continent, over one people, united and prosperous beyond any nation on the face of the earth. That the President was honest in the assertions that

he then made, and would have faithfully carried them out, I firmly believe. I had known him long and well; he resided in the district I have the honor to represent here, before he moved to Illinois; what the influences were that induced him to change his purposes I do not know, nor do I care about knowing them now; they were the most malign and baleful that ever counselors gave to their superior, and on the heads of those who gave them will be heaped the curses and anathemas of future generations in this country to the latest of our posterity. But a "change," for some cause or other, "came over the spirit of his (the President's) dream."

Like Rehoboam, the son of Solomon, and his successor in Israel, who consulted with the old men that stood before his father, while he yet lived, and said: "How do you advise that I may answer the people?" and they spake unto him, saying, "If thou wilt be a servant unto this people this day, and will serve them and answer them and speak good words unto them, then will they be thy servants forever." But he forsook the counsel of the old men which they had given him, and consulted with the young men, who had grown up with him, (and had made him king,) and stood before him, and he said unto them, "What counsel give you, that we may answer this people, who have spoken to me, saying: Make the yoke which thy father did put upon us lighter?" and the young men that were grown up with him spake unto him, saying, "Thus shalt thou speak unto this people, who spake unto thee, saying: 'Thy father made our yoke heavy, but make thou it lighter unto us,' thus shalt thou say unto them: 'My little finger shall be thicker than my father's loins, and now whereas my father did lade you with a heavy yoke, I will add to your yoke; my father chastised you with whips, but I will chastise you with scorpions.'" And the king answered the people roughly, and forsook the old men's (the revolutionary fathers') counsel that they had given him, and he hearkened not unto the people. And so when the people saw that the king hearkened not unto them, they said, "What portion have we in David? Neither have we inheritance in Jesse: to your tents, O Israel, now see to thine own house, David." What was the result? Rehoboam made speed in his chariot and fled to Jerusalem, the twelve tribes were divided, Jeroboam reigned over eleven, while Rehoboam had only Judah for an inheritance.

Sir, this is not the only moral in that good Book that kings and presidents might profit by if they would read it, as they should do. I do not believe it possible for the President to "run the churches" unless he does.

Sir, while I was at college Livy was one of our text-books, and I remember now with pleasure one of the incidents in the early history of Rome as narrated by him, which made an impression on my mind that half a century has not erased. He states "that about three hundred and fifty years before the advent of our Saviour, the earth in the middle of the Forum at Rome, either by means of an earthquake or some other natural cause, sunk to an immense depth, forming a vast aperture, nor could the crevasse be filled up with all the exertions of the Roman people to do so. The aperture widened and the fissure deepened, notwithstanding all the attempts to stop it, until, pursuant to the advice of the gods, they consulted the soothsayers. The answer given was, 'that if they wished to save Rome, and make it everlasting, they must sacrifice what constituted the principal strength of the Roman people.' While deliberating on what constituted that strength, Marcus Curtius, a youth descended from the noblest Roman family, and distinguished for his military exploits, reproved them for disputing 'whether Rome could be possessed of greater strength than that which was founded on the arms and valor of her citizens.' Casting his eyes on the temples of the gods in sight of the Forum, and to the capitol, stretching his hands to the heavens, and then to the infernal gods, through the chasm yawning at his feet, he devoted himself as a victim; dressed in complete armor, mounting his richly caparisoned horse, he plunged into the abyss, and Rome was saved." Sir, there is an abyss wide and deep between us and the seceded States; vain indeed have been all efforts thus far to close it. Who in these times will

take the leap and save the Republic? I look with great earnestness to the other side of the House, where, if they are to be believed, all the patriotism, loyalty, and love of the country is concentrated. With a whole platoon of generals, is there no one among them who will make the sacrifice, or have they left the army for the army's good, in order to do the State some service, believing this a better sphere to serve their country than in its battle-fields? I appeal to all and each of the military gentlemen; to those on the Committee on Military Affairs who have seen service, and hard service, particularly, to be up and doing. Gird on your armor and make your selection. I have not the slightest doubt any one of you would make the sacrifice cheerfully, but I am equally aware of the power and influence of rank in the service. The duty properly belongs to your chairman; a more proper selection could not be made; young, ardent, courageous, loyal as he has given us to understand on this side of the House, when questioning our loyalty; willing to sacrifice everything dear to him to put down this "cursed rebellion." Why should not he, doffing his civilian's dress and donning his regimentals, as major general of volunteers, mount his war-horse, and take the leap? Should he do so, as I trust he will, his name will go down to future generations, to generations yet unborn, as the saviour of his country, and some future Livy, in making a note of it, will record the fact that Major General SCHENCK, of Ohio, like a second Marcus Curtius, saved the Republic.

Sir, it is not reconstruction but restoration that the people demand. It is the old family household, the foundations of which our fathers helped to lay, and whose structure they helped to embellish. It is that noble old mansion, now somewhat dilapidated by years, and injured somewhat by the action of their children, who, grown reckless and dissipated by their prosperity, have broken its walls and defaced the building; but there is enough left to restore it to its pristine strength and beauty. Let it be done. Every column restored, every stone relaid as our fathers placed them, firm and solid and lasting as the pyramids of Egypt; a domicile for our children and children's children as long as times shall endure. We want the inheritances bequeathed to us by Washington and Jefferson, by John Hancock and the elder Adams, and their compatriots North and South. "Not conquered provinces," desolated empires, States broken down, their boundaries eradicated, deserts more waste than Sahara; but flourishing cities, thriving villages, cultivated fields, churches, colleges, schools, as they flourished and abounded before this internecine war commenced. Give us, I say, restoration, the restoration of the "Union as it was, the Constitution as it is." Not States dismantled, disjointed, broken up, but a "union of hearts and a union of hands" from the Bay of Fundy to the Gulf of Mexico, from the Atlantic to the Pacific. Sir, all history teaches us in lessons of blood that in republics, unless such a union exists despotism is the natural and legitimate result. How has it been in comparatively modern times? Read the history of the Commonwealth under Cromwell in England. Who was his successor? Charles II, the weakest prince that ever occupied the English throne. Look at France, broken into factions during the Revolution, she yielded without a struggle to Napoleon I and his guards. Where in Europe is there a single republic but Switzerland and "San Marino?"

How was it in the Old World? Rome, republican Rome, bowed to the mandates of Cæsar and his cohorts, and, like a "close corporation," surrendered her rights to the conqueror. Greece, "the land of scholars and the nurse of arms," the fairest and most glorious republic of ancient times, "for more than two thousand years despotism has bound her with its chains. Her arts are no more, her temples destroyed, the Pantheon a wreck, her palaces in ruins. At Thermopylæ she defied the Persian cohorts, and at Marathon was victorious. The tide of her triumph rolled back on the Hellespont. Factions betrayed her, and her ruin was the work of the descendants of Pericles and Leonidas, in whose veins flowed the blood of the conquerors at Marathon." May we not profit from her history?

Sir, it is sometimes a momentous question in

the political as well as in the natural world, "whether the mountain which oppresses the volcano is wrong or the volcano which upheaves it?"

Sir, consistently, continually, and from the commencement of our difficulties, have I held to one doctrine. I have said, Carry on this war for the "Union and the Constitution, and the enforcement of the laws," as proposed by the President in the messages referred to, and in the almost unanimous vote of this House in the adoption of the Crittenden resolution in July, 1861, and I am with you to the end. Violate no right, State or individual; adhere to all the compromises of our fathers—we could not have formed the Constitution without them. They pledged their honor as well as ours to abide by them. Shall we, their descendants, be so faithless as to break that pledge? Shall we violate that bond? Shall we be recreant to every principle of honor and duty, and because we have the power set aside those rights as sacred as ours and held by the same tenure? Is might to make right? Is the war power to override all guarantees? Are we because we have the numerical strength to abjure all principles of honor and justice in dealing with those opposed to us, "bone of our bone, flesh of our flesh," those who should be united to us by every tie that can bind man to his fellow-man? God forbid it. Let us, even as conquerors, deal with them in good faith. You will never restore them to the Union unless you do. I appeal not to the fanatics, not to the abolitionists, not to the "one idea" men, not to the "Jellabys" in breeches, who prefer taking care of the pickaninnies at Borrioboolagah to their own household, but to those conservative men here and elsewhere who, thank God, are daily increasing in power and influence; to those who still believe the Union, "tempering mercy with justice" even now, may be restored, the Constitution preserved, and the flag of our country, the stars and stripes which have so long been borne aloft in the "battle and the breeze," upon more than one victorious field, may again, whether in peace or war, be the only emblem of our nationality from one end of this continent to the other; embracing every State and every inch of territory within our broad domain. Sir, to bring about this result I will still act with the conservative men of this House and elsewhere, as I have hitherto done; with those who are for maintaining inviolate the pledges made by our fathers; with those who wish to see our glorious Union restored to its pristine simplicity and beauty; with those who are for preserving the Constitution as our fathers made it. With such a party I will act, act diligently and faithfully, aiding, assisting, and supporting them as Aaron and Hur did with the patriarch of old, "even to the going down of the sun."

MESSAGE FROM THE SENATE.

The committee here informally rose, and the Speaker having resumed the chair, a message from the Senate was received by Mr. HICKEY, their Chief Clerk, informing the House that the Senate have agreed to the reports of the committees of conference on bills of the following titles:

An act (H. R. No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route;

An act (H. R. No. 438) to amend an act entitled "An act to assist in the construction of a railroad and telegraph line from the Red river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and

An act (S. No. 138) to regulate proceedings in cases between landlords and tenants in the District of Columbia.

Also, that the Senate insist on their amendment, disagreed to by the House, to bill of the House No. 549, further to regulate and provide for the enrolling and calling out the national forces, and for other purposes, agree to the conference asked by the House on the disagreeing votes of the two Houses to the said bill, and have appointed Mr. WILSON, Mr. MORGAN, and Mr. LANE of Indiana, the said committee on their part.

Also, that the Senate insist on their disagreement to the amendment of the House to the bill of the Senate (No. 246) for the relief of seamen and others, not officers, borne on the books of

vessels wrecked or lost in the naval service, agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. HALE, Mr. HENDERSON, and Mr. RAMSEY, the committee on their part.

Also, that the Senate insist on their amendments, disagreed to by the House, to the bill of the House (No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes, agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. TRUMBULL, Mr. LANE of Indiana, and Mr. VAN WINKLE, the committee on their part.

Also, that the Senate have passed bill of the House No. 569, for the relief of John Williams, without amendment.

Also, that the Senate have passed an act (H. R. No. 460) for the relief of Sarah Robinson, widow of Hon. John L. Robinson, late United States marshal for the district of Indiana, with amendments, in which he was directed to ask the concurrence of the House.

Also, that the Senate have passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (No. 328) for the relief of Major N. S. Brenton, a paymaster in the United States Army;

An act (No. 320) for the relief of William H. Jameson, a paymaster in the United States Army;

An act (No. 274) for the relief of John Hastings, collector of the port of Pittsburgh; and

An act (No. 338) for the relief of Charles A. Pitcher.

ENROLLED BILLS.

Mr. ALLISON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 271) relating to the law of evidence in the District of Columbia;

An act (S. No. 315) in relation to the sale of reservations of the public lands;

An act (S. No. 325) to repeal the act of the 17th June, 1864, prohibiting the sales of gold and foreign exchange;

An act (S. No. 154) to provide for the better organization of the quartermaster's department;

An act (S. No. 228) providing for satisfying claims for bounty lands, and for other purposes;

Joint resolution (S. No. 67) for the relief of Thomas J. Galbraith; and

Joint resolution (S. No. 74) requesting the President to appoint a day for national fasting and prayer.

NORTHERN PACIFIC RAILROAD.

Mr. STEVENS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 483) "granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from their disagreement to the following amendments and agree to the same: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20, 21, 22, and 23.

That the Senate recede from their amendment numbered twenty-four.

That the House recede from their disagreement to the thirteenth amendment of the Senate, and agree to the same with an amendment as follows: Insert in lieu of said Senate amendment:

"Provided further, That all mineral lands be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands in odd-numbered sections nearest to the line of said road, and within fifty miles thereof, may be selected as above provided."

That the House recede from their disagreement to the sixteenth amendment of the Senate, and agree to the same with an amendment as follows: Strike out the words "the summit of the Rocky mountains," in the seventh and eighth lines of said amendment, and insert in lieu thereof, "the western boundary of Minnesota."

J. R. DOOLITTLE,

IRA H. KRIS,

J. W. NESMITH,

Managers on the part of the Senate.

THADDEUS STEVENS,

L. D. M. SWEAT,

Managers on the part of the House.

The report was adopted.

Mr. STEVENS moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNION PACIFIC RAILROAD.

Mr. STEVENS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their amendment to said bill.

That the Senate agree to the said bill with the following amendments, to wit:

Page 5, line six, strike out the word "three" and in lieu thereof insert "six."

Page 5, line thirteen, after the word "made" insert "and approved by the court having supervision of the official acts of said guardian."

Page 5, line twenty-seven, strike out all after the word "amendment" down to and including the word "only" in line four, page 6, and in lieu thereof insert "shall not be construed to include coal and iron land."

Page 6, line five, strike out all after the word "by" down to and including the word "amendment" in lines five and six, and in lieu thereof insert "this act or the act to which this is an amendment."

At the end of section four insert, "or the improvement of any *bona fide* settler on any lands returned and denominated as mineral lands, and the timber necessary to support his said improvements as a miner or agriculturist, to be ascertained under such rules as have been or may be established by the Commissioner of the General Land Office, in conformity with the provisions of the preemption laws: *Provided*, That the quantity thus exempted by the operation of this act and the act to which this act is an amendment shall not exceed one hundred and sixty acres for each settler who claims as an agriculturist, and such quantity for each settler who claims as a miner as said Commissioner may establish by general regulation: *Provided also*, That the phrase "but where the same shall contain timber the timber thereon is hereby granted to said company," in the proviso to the said section three, shall not apply to the timber growing or being on any land further than ten miles from the center line of any one of the said roads or branches mentioned in said act or in this act. And all lands shall be excluded from the operation of this act and the act to which this is an amendment which were located, or selected to be located, under the provisions of an act entitled "An act donating lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, and notice thereof given at the proper land office."

Page 6, line sixteen, strike out the word "of" where it last occurs, and in lieu thereof insert "to."

Page 6, line twenty-two, strike out the word "repented," and insert in lieu thereof the words "modified as follows, to wit."

Page 6, line twenty-five, after the word "to" insert "which this act."

Page 7, line six, strike out the word "of" at the end of the line and in lieu thereof insert "to."

Page 7, line nine, after the word "the" where it occurs the second time insert "requisite amount of."

Page 7, line nine, after the word "land" insert "appertaining thereto."

Page 7, line nine, strike out the word "of" where it first occurs and insert "to" in lieu thereof.

Page 7, line thirteen, strike out the word "of" where it first occurs and insert "to" in lieu thereof.

Page 7, strike out all after the word "intervening" in line sixteen to the end of the section.

Page 10, line ten, after the word "was" insert "on the completion of such section of said road as provided in this act and the act to which this act is an amendment."

Page 10, line twelve, after the word "States" insert "and of even tenor and date, time of maturity, rate, and character of interest with the bonds."

Page 10, at the end of section ten insert: "That if any of the railroad companies entitled to bonds of the United States, or to issue their first mortgage bonds herein provided for, has at the time of the approval of this act issued or shall thereafter issue any of its own bonds or securities in such form and manner as in law or equity to entitle the same to priority or preference of payment to the said guaranteed bonds or said first mortgage bonds, the amount of such corporate bonds outstanding and unsatisfied or unencumbered, shall be deducted from the amount of such Government and first mortgage bonds which the company may be entitled to receive and issue; and such an amount only of such Government bonds and such first mortgage bonds shall be granted or permitted as, added to such outstanding, unsatisfied, or unencumbered bonds of the company, shall make up the whole amount per mile to which the company would otherwise have been entitled: *And provided further*, That before any bonds shall be so given by the United States, the company claiming them shall present to the Secretary of the Treasury an affidavit of the president and secretary of the company, to be sworn to before the judge of a court of record, setting forth whether said company has issued any such bonds or securities, and if so, particularly describing the same, and such other evidence as the Secretary may require, so as to enable him to make the deduction herein required; and such affidavit shall then be filed and deposited in the office of the Secretary of the Interior. And every person swearing falsely to any such affidavit shall be deemed guilty of perjury, and on conviction thereof shall be punished as aforesaid: *Provided also*, That no land granted by this act shall be conveyed to any party or parties, and no bonds shall be issued to any company or companies, party or parties, on account of any road or part thereof made prior to the passage of the act to which this act is an amendment, or made subsequent thereto under the provisions of any act or acts other than this act and the acts amended by this act."

Strike out all of section eleven.

Page 11, line twenty-five, strike out "one" and insert "two" in lieu thereof.

Page 11, line twenty-seven, strike out "and for the" and insert "but to aid in the construction of" in lieu thereof.

Page 12, line one, insert "not" after the word "shall;" same line, strike out "the same" and insert "any" in lieu thereof; same line, strike out all after the word "bonds" down to and including the word "road" in line two.

Insert at the end of section fifteen, "and it shall not be lawful for the proprietors of any line of telegraph authorized by this act, or the act amended by this act, to refuse or fail to convey for all persons requiring the transmission of news and messages of like character, on pain of forfeiting to the person injured, for each offense, the sum of \$100, and such other damage as he may have suffered on account of said refusal or failure, to be sued for and recovered in any court of the United States or of any State or Territory of competent jurisdiction."

Insert after section fifteen the following as an additional section: "And be it further enacted, That any two or more of the companies authorized to participate in the benefits of this act, are hereby authorized at any time to unite and consolidate their organizations, as the same may or shall be, upon such terms and conditions, and in such manner as they may agree upon, and as shall not be incompatible with this act or the laws of the State or States in which the roads of such companies may be, and to assume and adopt such corporate name and style as they may agree upon, with a capital stock not to exceed the actual cost of the roads so to be consolidated, and shall file a copy of such consolidation in the Department of the Interior; and thereupon such organization, so formed and consolidated, shall succeed to possess and be entitled to receive from the Government of the United States all and singular the grants, benefits, immunities, guarantees, acts, and things to be done and performed, and be subject to the same terms, conditions, restrictions, and requirements which said companies, respectively, at the time of such consolidation, are or may be entitled or subject to under this act, in place and substitution of said companies so consolidated, respectively. And all other provisions of this act, so far as applicable, relating or in any manner appertaining to the companies so consolidated, or either thereof, shall apply and be of force as to such consolidated organization. And in case, upon the completion by such consolidated organization of the roads or either of them, of the companies so consolidated, any other of the road or roads of either of the other companies authorized as aforesaid, (and forming, or intended or necessary to form a portion of a continuous line from each of the several points on the Missouri river, hereinbefore designated, to the Pacific coast,) shall not have constructed the number of miles of its said road within the time herein required, such consolidated organization is hereby authorized to continue the construction of its road and telegraph in the general direction and route upon which such incomplete or unconstructed road is hereinbefore authorized to be built, until such continuation of the road of such consolidated organization shall reach the constructed road and telegraph of said other company, and at such point to connect and unite therewith; and for and in aid thereof the said consolidated organization may do and perform, in reference to such portion of the road and telegraph as shall so be in continuation of its constructed road and telegraph, and to the construction and equipment thereof, all and singular the several acts and things hereinbefore provided, authorized, or granted to be done by the company hereinbefore authorized to construct and equip the same, and shall be entitled to similar and like grants, benefits, immunities, guarantees, acts, and things to be done and performed by the Government of the United States, by the President of the United States, by the Secretaries of the Treasury and Interior, and by commissioners, in reference to such company, and to such portion of the road hereinbefore authorized to be constructed by it, and upon the like and similar terms and conditions, so far as the same are applicable thereto. And said consolidated company shall pay to said defaulting company the value, to be estimated by competent engineers, of all the work done and material furnished by said defaulting company, which may be adopted and used by said consolidated company in the progress of the work under the provisions of this section: *Provided, nevertheless*, That said defaulting company may at any time before receiving pay for its said work and material, as hereinbefore provided, on its own election, pay said consolidated company the value of the work done and material furnished by said consolidated company, to be estimated by competent engineers, necessary for and used in the construction of the road of said defaulting company, and resume the control of its said road; and all the rights, benefits, and privileges which shall be acquired, possessed, or exercised, pursuant to this section, shall be to that extent an abatement of the rights, benefits, and privileges hereinbefore granted to such other company. And in case any company authorized thereto shall not enter into such consolidated organization, such company upon the completion of its road as hereinbefore provided, shall be entitled to, and is hereby authorized to continue and extend the same under the circumstances, and in accordance with the provisions of this section, and to have all the benefits thereof, as fully and completely as are herein provided touching such consolidated organization. And in case more than one such consolidated organization shall be made, pursuant to this act, the terms and conditions of this act, hereinbefore recited as to one, shall apply in like manner, force, and effect to the other: *Provided, however*, That rights and interests at any time acquired by one such consolidated organization shall not be impaired by another thereof. It is further provided that, should the Central Pacific Railroad Company of California complete their line to the eastern line of the State of California before the line of the Union Pacific Railroad Company shall have been extended westward so as to meet the line of said first-named company, said first-named company may extend their line of road eastward one hundred and fifty miles, on the established route, so as to meet and connect with the line of the Union Pacific road, complying in all

respects with the provisions and restrictions of this act as to said Union Pacific road, and upon doing so shall enjoy all the rights, privileges, and benefits conferred by this act on said Union Pacific Railroad Company."

Page 14, line twenty, after the word "in" insert "this act and."

Page 15, line three, after the word "under" insert "this act and."

Page 17, line four, insert after the word "be" the following: "consistent with public policy and the welfare of the said Indians."

At the end of section nineteen insert, "*Provided*, That no Government bonds shall be issued to the said Burlington and Missouri River Railroad Company to aid in the construction of said extension of its road: *And provided further*, That said extension shall be completed within the period of ten years from the passage of this act."

"And be it further enacted, That before any land granted by this act shall be conveyed to any company or party entitled thereto under this act, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or party in interest, as the title shall be required by said company, which amount shall without any further appropriation stand to the credit of the proper account, to be used by the Commissioner of the General Land Office for the prosecution of the survey of the public lands along the line of said road, and so from year to year until the whole shall be completed, as provided under the provisions of this act."

That the House agree to the said bill as amended.

JAMES HARLAN,
L. F. S. FOSTER,
JOHN CONNESS,
Managers on the part of the Senate.
THADDEUS STEVENS,
J. W. MCCLURG,
C. COLE,
Managers on the part of the House.

During the reading of the report, Mr. MORRIS, of Ohio, said: I would suggest that the conference committee explain the report instead of having it read.

Mr. WASHBURN, of Illinois. I hope the chairman will consent to have the report printed, and let it go over until morning.

Mr. STEVENS. No, sir; I do not know that we shall have a quorum here after to-night.

The Clerk concluded the reading of the report.

Mr. STEVENS. There is a great deal of verbiage in that report; but it all simply amounts to this: that the single companies may consolidate into one company and build the road if they choose; and I supposed that just about as many words as I have used would be sufficient to convey that idea in the report. But they have written out a long report, and it only conveys that idea at last.

Now, sir, the main change from the House bill is this: we granted to the branch to be made from Leavenworth to the main stem at Lawrence a subsidy of \$16,000 a mile, the distance being thirty-six miles. The Senate rejected that and the House receded from that proposition, and the subsidy, therefore, is about half a million dollars less than it was in the bill as it went to the Senate.

Mr. WILDER. Is it understood by the committee that the Union Pacific Railway Company forfeit their right under the bill if the road from Leavenworth to Lawrence be not built in the time mentioned in the bill?

Mr. STEVENS. We expressly provide that they shall build that branch, and they do forfeit their rights unless they build it. The whole is granted upon the condition that they comply with the conditions of the grant. And if they do not build that road they forfeit all their interests.

We have, however, enlarged the time, and given them two years instead of one to complete the road from Leavenworth to the main line at Lawrence. We thought it might be difficult to go on and build that road within a year. We granted them that additional time although we struck out the whole subsidy for the thirty-six miles; and there is that much less of bonds saved to the Government.

There is a little further change, inasmuch as we amended the law in regard to timber on the land on the western side of the mountain. By the original law, although the odd sections, if mineral lands, did not belong to the company, yet they were granted all the timber upon them. We have thought that unreasonable, and that the miners who would occupy these odd sections, which did not fall to the company on account of their being mineral lands, would need a large portion of the timber for mining purposes; and therefore we modified the original law so as to give the timber to the miners. If the company accept the provisions of the law, of course they will be bound by that. Both branches of the committee

thought we were granting nothing more than the settlers upon the mineral lands were entitled to. I do not know that there are any other essential changes. If gentlemen wish information upon any other point I will gladly give it.

Mr. WASHBURNE, of Illinois. Will the gentleman have the report printed so that we may know what it is?

Mr. STEVENS. I do not know when a majority of the House will be found here again. I think it is explained to the House fairly, and when they look at the bill I think they will find no material changes beyond what I have mentioned, and that all the changes which have been made are in derogation of the rights granted to the company. In other words, they are all in favor of the United States.

I call the previous question upon agreeing to the report.

Mr. WILSON demanded tellers on seconding the previous question.

Tellers were ordered; and Mr. WASHBURNE, of Illinois, and Mr. STEVENS were appointed.

The House divided; and the tellers reported—ayes 80, noes 13.

So the previous question was seconded, and the main question ordered to be put.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays on agreeing to the report, and tellers upon the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

Mr. WASHBURNE, of Illinois, demanded tellers on agreeing to the report.

Tellers were not ordered.

The report was agreed to.

Mr. STEVENS moved to reconsider the vote by which the conference report was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WASHINGTON AQUEDUCT.

Mr. STEVENS. I ask leave to introduce a joint resolution. If I am allowed, I may say a word or two before introducing it. The House had agreed to appropriate \$150,000 under circumstances such as I need not repeat for the purpose of bringing the water from the Potomac into this city. The House confined the appropriation to a specific object so that the money should not be spent on the general work of the aqueduct, but should effect a certain purpose. The Senate refused to agree to it, and required that the money should be left to be spent in any way the superintendent pleased. The conference committee on the part of the House refused to agree to that; and so the whole appropriation was struck out. Since that has been done both Houses have been informed that unless some appropriation of this kind be made there cannot be any water brought into the city. Now I desire to have sent to the Senate a joint resolution reaffirming the appropriation that we made in the very same way and throwing upon the Senate the responsibility of rejecting it.

Mr. WASHBURNE, of Illinois. The House has just voted away \$96,000,000 of the public treasure, without even a vote by yeas and nays. I object.

The SPEAKER. The joint resolution is not before the House.

Mr. MOORHEAD. I appeal to the gentleman from Illinois to withdraw his objection.

Mr. WASHBURNE, of Illinois. I insist upon my objection; we have drank muddy water here for ten years, and we can do so a little longer.

Mr. COX. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at a quarter to eleven o'clock, p. m.) the House adjourned.

IN SENATE.

SATURDAY, July 2, 1864.

Prayer by Rev. B. H. NADAL.

On motion of Mr. ANTHONY, and by unanimous consent, the reading of the Journal was dispensed with.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that

the House of Representatives had passed the following bill and joint resolution of the Senate:

A bill (No. 176) authorizing the erection of buildings for the branch mint at San Francisco; and

A joint resolution (No. 77) explanatory of an act to increase the pay of soldiers in the Army of the United States, and for other purposes, approved June 20, 1864.

The message further announced that the House of Representatives had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

A bill (No. 94) for the relief of Isaac R. Diller;

A bill (No. 194) for the benefit of half-breeds and mixed-bloods of the Winnebago tribe of Indians;

A bill (No. 337) for the relief of the administrator of W. W. Russel, late paymaster in the marine corps;

A bill (No. 384) for the relief of C. F. Johnson, of Alabama;

A bill (No. 458) for the relief of George Mowrey;

A bill (No. 479) for the relief of John Warren & Son;

A bill (No. 489) for the relief of D. McV. Stuart;

A bill (No. 516) for the relief of Frances Munson;

A bill (No. 528) for the relief of the heirs-at-law of Colonel Archibald Cray, deceased;

A bill (No. 530) for the relief of George Calvert;

A bill (No. 555) for the relief of Horace Gates;

A bill (No. 556) granting a pension to Ezekiel Darling;

A bill (No. 557) granting a pension to Joseph Pike;

A bill (No. 572) for the relief of Sally C. Northrup;

A joint resolution (No. 106) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned;

A joint resolution (No. 118) for the relief of the sufferers by the late accident at the United States arsenal in Washington, District of Columbia; and

A joint resolution (No. 119) explanatory of a joint resolution relative to pay of staff officers of the lieutenant general.

The message further announced that Mr. HALE had been appointed a member of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 11) in relation to the claim of Carmack & Ramsey, in place of Mr. HOLMAN.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 154) to provide for the better organization of the quartermaster's department;

A bill (S. No. 228) providing for satisfying claims for bounty lands, and for other purposes;

A bill (S. No. 271) relating to the law of evidence in the District of Columbia;

A bill (S. No. 315) in relation to the sale of reservations of the public lands;

A bill (S. No. 325) to repeal the act of the 17th June, 1864, prohibiting the sales of gold and foreign exchange;

A joint resolution (S. No. 67) for the relief of Thomas J. Galbraith; and

A joint resolution (S. No. 74) requesting the President to appoint a day for national humiliation and prayer.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed on the 30th of June the following acts and joint resolutions:

An act (H. R. No. 121) for the relief of Lieutenant William P. Richner, 27th regiment Ohio volunteer infantry;

An act (H. R. No. 205) authorizing the issue of patents for locations made with certificates issued under the act of Congress, approved March 17, 1862, allowing floats in satisfaction of lands sold by the United States within the limits of the Las Omegas and La Nana grants in Louisiana;

An act (H. R. No. 255) granting certain privileges to the Guardian Society of the District of Columbia;

An act (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes;

An act (H. R. No. 414) for the relief of the estate of B. F. Kendall;

An act (H. R. No. 435) concerning locations of lands in the State of Missouri;

An act (H. R. No. 442) to authorize the President of the United States to negotiate with certain Indians of Middle Oregon for a relinquishment of certain rights secured to them by treaty;

An act (H. R. No. 446) to regulate prize proceedings and the distribution of prize money, and for other purposes;

An act (H. R. No. 494) to increase the duties on imports, and for other purposes;

An act (H. R. No. 497) in relation to the village of Deposit, Delaware county, New York;

An act (H. R. No. 522) to amend the charter of the Washington and Georgetown Railroad Company;

An act (H. R. No. 532) to establish certain post roads;

An act (H. R. No. 540) to provide ways and means to support the Government, and for other purposes;

A joint resolution (H. R. No. 23) for the relief of the officers of the fourth and fifth Indian regiments;

A joint resolution (H. R. No. 93) to authorize the Postmaster General to extend the contract with the Overland Mail Company;

A joint resolution (H. R. No. 68) authorizing the Secretary of the Treasury to release certain parties from liabilities or payment of duties and penalties therein mentioned;

A joint resolution (H. R. No. 101) to provide for the publication of a full Army Register;

A joint resolution (H. R. No. 103) for the relief of Mary Kellogg; and

A joint resolution (H. R. No. 111) authorizing the Secretary of the Interior to reclaim and preserve certain property of the United States.

REPORTS FROM COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom were referred the following resolutions, asked to be discharged from their further consideration, they having been provided for by a law that has passed both Houses of Congress; which was agreed to:

A resolution to print the report of Major General Ulysses S. Grant upon the operations of the army of the Cumberland;

A resolution to print additional copies of the report of Major General Meade; and

A resolution to print additional copies of the report of Major General Rosecrans.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print the message of the President of the United States relative to the maltreatment of passengers on board ships plying between New York and Aspinwall, reported the following resolution:

Resolved, That the message of the President of the United States, in compliance with a resolution of the Senate of May 16, 1864, transmitting information relative to the maltreatment of passengers and seamen on board ships plying between New York and Aspinwall, be printed, and that one thousand additional copies be printed for the use of the Senate.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom were referred the following subjects, asked to be discharged from their further consideration; which was agreed to:

A resolution of the Senate instructing the committee to inquire into the expediency of abolishing the present system of licensing Indian traders;

A report of the Secretary of the Interior, communicating a schedule of the claims of and awards under the act of July 14, 1862, for the relief of preëmptors on the home reservation of the Winnebagoes in the blue earth region, in the State of Minnesota;

A letter of the Secretary of the Interior concerning the claims of the confederate bands of Kaskaskia, Peoria, Piankeshaw, and Wea Indians;

A letter of the Secretary of the Interior in relation to the appointment of an agent for the Kioway, Apache, and Comanche Indians; and

A memorial of chiefs and delegates of the Chillicothe band of Shawnee Indians.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a joint resolution (H. R. No. 38) directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians, residing in Michigan, the sum of \$192,852, reported it without amendment.

Mr. DOOLITTLE presented a letter from the Secretary of the Interior, addressed to him as chairman of the Committee on Indian Affairs, in relation to the claim of the Michigan Indians; which was ordered to be printed.

Mr. FOSTER, from the Committee on Pensions, to whom was referred a bill (H. R. No. 203) for the relief of Jacob Weber, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

EXECUTIVE SESSION.

Mr. HALE. It is necessary to have a short executive session for a few moments. I therefore move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route.

The message further announced that the House of Representatives had passed the bill of the Senate (No. 278) prescribing the terms on which exemptions shall be furnished by the General Land Office.

The message further announced that the House of Representatives had passed the bill of the Senate (No. 232) in addition to the several acts concerning commercial intercourse between the loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection, with an amendment; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed a bill (No. 573) making an appropriation to carry into effect an act to prevent smuggling; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 23) granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of the State;

A bill (S. No. 73) to amend an act entitled "An act to enable the trustees of the Blue Mont College to pre-empt a certain quarter section of land," approved March 2, 1862;

A bill (H. R. No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route;

A bill (H. R. No. 561) to authorize the United States to acquire land in Wallabout bay belonging to the city of Brooklyn, and to authorize the exchange of other lands therefor; and

A bill (H. R. No. 569) for the relief of John Williams.

ANTHONY SWEETING.

Mr. HALE. The Committee on Naval Affairs, to whom was referred the joint resolution (H. R. No. 117) authorizing the Secretary of the Navy to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer Juniata, have directed me to report it back without amendment and recommend its passage. It merely provides for the claim of a colored man for piloting our vessels, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the

joint resolution, which authorizes the Secretary of the Navy to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer Juniata, for losses or fines sustained by him in consequence of his employment in the service of vessels of the United States; but the amount of the claim is not to exceed \$500.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PUNISHMENT OF GUERRILLAS.

Mr. SUMNER. While we were in executive session I was called to the door by the Secretary of the Interior, who asked me and urged me very strenuously not to allow a bill that has passed the House of Representatives which is on our Calendar, and which was reported from the Committee on Foreign Relations in this body, to fail to be acted upon. It is House bill No. 552. It will take but two minutes.

Mr. TRUMBULL. I hope that bill will not be taken up.

Mr. SUMNER. Why not?

Mr. TRUMBULL. Because I desire to make a report from a committee of conference, and there are several reports of that character to be made.

Mr. SUMNER. I know of none.

Mr. TRUMBULL. The Senator's colleague wishes to make one. Because the Senator from Massachusetts has not any to make, he seems to suppose there is no such business to be done. I trust that these reports from committees of conference will be disposed of before we take up other business. I ask the consent of the Senate to make a report from a committee of conference.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) There is a motion before the Senate. The report can be received only by unanimous consent.

Mr. SUMNER. Let me pass my bill first.

Mr. TRUMBULL. I shall not agree to it. If you can get a majority of the Senate you can do it, not otherwise.

The PRESIDING OFFICER. The motion before the Senate is that the Senate proceed to the consideration of House bill No. 552. The Senator from Illinois, pending the motion, asks unanimous consent to make a report from a committee of conference.

Mr. SUMNER. Very well; I yield to the Senator from Illinois. I do not wish to make a battle on a small matter. This is a bill that I have been trying to get up for two or three days, and, as I said, the Secretary of the Interior has come to our door to-day especially to remind me of it.

The PRESIDING OFFICER. If there be no objection, the report of the committee of conference will be received.

Mr. CONNESS. I have no objection, if it shall not be understood that the floor is still held by the Senator from Massachusetts.

Mr. SUMNER. Oh, I hold nothing; I do not understand that I hold anything.

Mr. TRUMBULL. The committee of conference on the disagreeing votes of the two Houses on House bill No. 511 have instructed me to make the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the first amendment of the Senate, and agree to the same.

That the Senate recede from its second amendment, being the proviso to the first section.

That the House recede from its disagreement to the Senate's third amendment, and agree to the same with the following amendment: "to the end of said amendment the following words, 'so far as relates to bounties.'"

That the Senate recede from its further amendment.

That the House recede from its disagreement to Senate's amendment to the title of said bill and agree to the same.

LYMAN TRUMBULL,

H. S. LANE,

P. G. VAN WINKLE,

Managers on the part of the Senate.

J. F. FARNSWORTH,

J. K. MOORHEAD,

Managers on the part of the House.

The report was concurred in.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the report

of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending the 30th June, 1865.

The message further announced that the House of Representatives had passed a bill (No. 404) to authorize departure from the established mode of surveying in certain cases, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had disagreed to the amendment of the Senate to the bill of the House (No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government, asked a conference on the disagreeing votes of the two Houses thereon, and appointed Mr. HENRY WINTER DAVIS of Maryland, Mr. JAMES ASHLEY of Ohio, and Mr. JOHN L. DAWSON of Pennsylvania, managers at the same on its part.

The message further announced that the House of Representatives had insisted upon its amendment to the bill of the Senate (No. 339) to repeal a joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department," and for other purposes, disagreed to by the Senate, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. E. B. WASHBURN of Illinois, Mr. JOSEPH BAILY of Pennsylvania, and Mr. JUSTIN S. MORRILL of Vermont, managers at the same on its part.

The message further announced that the House of Representatives had passed the bill of the Senate (No. 328) for the relief of Major N. S. Brenton, a paymaster in the United States Army, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 176) authorizing the erection of buildings for the branch mint at San Francisco;

A bill (S. No. 278) prescribing the terms on which exemptions shall be furnished by the General Land Office;

A joint resolution (S. No. 77) explanatory of an act entitled "An act to increase the pay of soldiers in the Army of the United States, and for other purposes," approved June 20, 1864;

A bill (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and

A bill (H. R. No. 227) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865, and for other purposes.

AGRICULTURAL DEPARTMENT.

The Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate (No. 339) to repeal a joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department," and for other purposes; and

On motion of Mr. HARLAN, it was

Resolved, That the Senate disagree to the amendment of the House of Representatives to the said bill, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. HARLAN, Mr. SHERMAN, and Mr. HENDRICKS.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that the President of the United States had yesterday approved and signed the following acts and joint resolutions:

An act (S. No. 54) to incorporate the Metropolitan Railroad Company in the District of Columbia;

An act (S. No. 109) to expedite the settlement of titles to lands in the State of California;

An act (S. No. 223) making an additional grant of lands in the State of Kansas to aid in the construction of railroad and telegraph lines;

An act (S. No. 242) to establish Portland, in the State of Oregon, and Leavenworth, in the State of Kansas, ports of delivery;

An act (S. No. 264) for the disposal of coal lands and of town property in the public domain;

An act (S. No. 272) to facilitate trade on the Red river of the North;

An act (S. No. 273) to compensate the officers and crew of the iron-clad gunboat Essex for the destruction of the rebel ram Arkansas;

An act (S. No. 289) for the relief of Ida Hoffman;

An act (S. No. 292) to provide for the efficiency of the Navy;

An act (S. No. 298) to incorporate the Potomac Ferry Company;

An act (S. No. 299) authorizing the levy court of Washington county, in the District of Columbia, to levy and collect its portion of the direct tax imposed by the act of Congress of August 5, 1861;

An act (S. No. 301) for the sale of a lot of land in Iowa, in the Fort Crawford reservation;

An act (S. No. 302) to encourage and facilitate telegraphic communication between the eastern and western continents;

An act (S. No. 305) for the relief of George F. Nesbitt;

An act (S. No. 308) repealing so much of "An act to supply deficiencies in the appropriations for the fiscal year ending the 30th of June, 1864," as appropriates \$25,000 for erecting a naval hospital at Kittery, Maine;

An act (S. No. 312) to regulate the compensation of registers and receivers of the land offices in the several States and Territories, in the location of lands by States and corporations under grants from Congress, and for other purposes;

An act (S. No. 319) to authorize the Secretary of the Interior to issue a land warrant to Richard Fitch, of Ohio;

An act (S. No. 321) to authorize the corporation of Washington to levy and collect the direct tax imposed by the act approved August 5, 1861;

An act (S. No. 324) prescribing the punishment for enticing or aiding seamen to desert the naval service of the United States;

An act (S. No. 332) to establish salaries for postmasters, and for other purposes;

A joint resolution (S. No. 8) for the relief of the State of Wisconsin;

A joint resolution (S. No. 38) explanatory of the tenth section of an act to reduce the expenses of the survey and sale of the public lands in the United States, approved May 30, 1862;

A joint resolution (S. No. 40) for the relief of Carlisle Doble;

A joint resolution (S. No. 66) providing for the adjustment of accounts of Henry W. Diman;

A joint resolution (S. No. 69) regulating the investment of the naval pension fund; and

A joint resolution (S. No. 70) to authorize the acquisition of certain lands for the use of the Government hospital for the insane.

SALARIES OF SLAVE-TRADE OFFICERS.

Mr. SUMNER. I now move that the Senate proceed to the consideration of House bill No. 552.

Mr. McDUGALL. What is the title of the bill?

Mr. SUMNER. It is a bill from the Committee on Foreign Relations.

The PRESIDING OFFICER. The title of the bill will be read for information.

The SECRETARY. A bill to increase the salaries of the judges and arbitrators appointed under the treaty with Great Britain for the suppression of the slave trade.

Mr. CONNESS. Why increase them?

Mr. SUMNER. Because they cannot live on the salaries they now receive. It is impossible.

Mr. CONNESS. I object to taking up that bill.

Mr. SUMNER. Very well, let it be put to a vote. I am sure the Senator will not object when he has listened to my statement.

Mr. TRUMBULL. I trust that bill will not be taken up, and as a reason for not taking it up I desire to say to the Senate that application has been made to the Judiciary Committee at the

present session from nearly every judge in the United States asking to have his salary increased. The committee believe that they ought to be increased; there are judges who do not get enough to live upon; but under the circumstances and the peculiar condition of the country, the committee agreed that they would not recommend the increase of the salary of a single judge at this time; that they, in common with the rest of the country, must bear the burdens.

Now, sir, to take up a bill to increase the salaries of judges who have no business to do, and are paid in gold, seems to me to be preposterous. I trust that the Senate will not take it up.

Mr. McDUGALL. I should like to ask the chairman of the Committee on Foreign Relations a question. I want to understand this matter exactly. If my recollection is not imperfect, it was understood in committee that that bill would be left to lie over until the next session. I so understood.

Mr. SUMNER. I will explain it.

Mr. CONNESS. I simply desire to say in addition to what the Senator from Illinois has said, that to-day the judges in the State of California receive only forty per cent. upon the amount stated by law to be their salary owing to the disparity in the currency. Now, shall we increase the salary of these officers and pass by those of whom I have spoken?

The PRESIDING OFFICER. The question is on taking up the bill. It is not yet before the Senate.

Mr. SUMNER. I merely wish to answer the remarks that Senators have made if it be in order, and very briefly.

Mr. CONNESS. They understand it. Let us vote.

Mr. SUMNER. The Senator from California, who has made his argument, who has attacked the bill, says Senators understand it. I do not wish to take up time on this matter, but it is entrusted to me in the order of business. This appropriation, which is very small, comes recommended from two different Departments of the Government, the Department of State and the Department of the Interior. It has been under the careful consideration of the Committee on Foreign Relations of this body, and in obedience to a general rule which they adopted at the beginning of the session, they forbore to make any recommendation with regard to it. That general rule was, that notwithstanding we had applications from almost every quarter of the globe for an increase of salary, we would make no recommendation in that direction. Meanwhile the House of Representatives have acted on the double recommendation of the two Departments of the Government, and have sent us this bill.

Mr. McDUGALL. Allow me to ask the Senator whether it was not understood in committee that it should be postponed until the next session?

Mr. SUMNER. I beg the Senator's pardon; I am coming to that. The bill was duly referred to the committee of which the Senator is a member. It was considered by them again, and they directed me to report it to the Senate with a recommendation that it pass. That is the history of the measure.

Since then I have been addressed at least twice by the Secretary of the Interior, who takes a particular interest in this matter. The Senate is aware that the supervision of what is done for the arrest of the slave trade is placed in the Department of the Interior. He has satisfied himself that this addition ought to be made. The Secretary of State is of the same opinion. It is to meet the case in only two places, Sierra Leone and the Cape of Good Hope. The first place is singularly inhospitable and disagreeable; a place not agreeable to visit; and the pay of the judge there is \$2,500, and of the arbitrator \$2,000. A similar salary is allowed at the Cape of Good Hope. The statements from both of these places are that these gentlemen cannot subsist on those salaries; and the question is whether, having come into these treaty stipulations with Great Britain for the constitution of this court at these two different places, we do not owe it to good faith to put our officers there on such a footing that they can at least live. It is proposed to raise the salaries of each \$1,000; to make the salary of the judges \$3,500 instead of \$2,500, and of the arbit-

trators \$3,000 instead of \$2,000. That is the story.

Mr. LANE, of Kansas. Is it in order to move to postpone this motion?

Mr. SUMNER. The question is on taking it up. The PRESIDING OFFICER. It is in order, in the opinion of the Chair.

Mr. LANE, of Kansas. Then I move to postpone this motion until the first Monday in December next.

The motion was agreed to.

PASSENGERS ON STEAMSHIPS.

Mr. CONNESS. I move to proceed to the consideration of House bill No. 510, which was laid over yesterday.

Mr. WILSON. Will the Senator allow me to make a report from a committee of conference?

Mr. CONNESS. Yes, sir, as soon as my motion is put.

Mr. LANE, of Kansas. I should like to know what the bill is.

The Secretary read the title of the bill, as follows: "A bill further to regulate the carriage of passengers on steamships and other vessels."

Mr. LANE, of Kansas. I move to postpone that motion until the first Monday of December next.

Mr. CONNESS. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CONNESS. There will be more time spent in this way than it would take to pass the bill. I hope the Senator from Kansas will withdraw his motion.

Mr. LANE, of Kansas. I am willing to do so if we can get a vote without discussion.

Mr. CONNESS. I will agree not to discuss it.

Mr. LANE, of Kansas. How is it with your colleague? I want to call up the resolution for an adjournment as soon as I can get the floor.

Mr. McDUGALL. If the Senator will allow me to say a word, I believe there is no opposition to this bill. It is a matter peculiarly relating to the State of California. I do not propose to discuss it. I have said all that I desire to say upon it.

Mr. LANE, of Kansas. With the understanding that there is to be no discussion I will withdraw my motion.

The PRESIDING OFFICER. It can only be withdrawn by common consent, the yeas and nays having been ordered. The Chair hears no objection. The question now is on taking up the bill.

Mr. TRUMBULL. We were notified yesterday by the Senator from New Jersey, [Mr. TEN Eyck,] who is a member of the Committee on Commerce that reported this bill, that it involved very important considerations, and that it was understood by them that it was not to be acted upon at this session. I hope, therefore, it will not be taken up.

Mr. CONNESS. I call on the Senator from Rhode Island [Mr. SPRAGUE] for a statement in relation to that point.

Mr. TRUMBULL. The Senator from New Jersey.

Mr. CONNESS. No, sir; the Senator from Rhode Island, who reported the bill.

Mr. SPRAGUE. I had the honor of reporting the bill. It was not the intention of the committee that it should not be acted upon at this session, but that it should be reported favorably from the committee and the matter brought before the Senate that they might hear what the Senators who were the advocates of this bill had to say in favor of it. The attorneys of the lines, both on the Atlantic and Pacific side, who were adverse to the bill appeared before the committee, and the statements which those attorneys made were put in writing and have been laid before the Senate accompanying this bill. The committee reported the bill favorably. They did so with a view of obtaining from those who advocated the bill information as to the necessity of its passage. I must be permitted to say, however, they were not favorable to giving their votes to it until they received some information from the Senators who were in favor of it, they having heard but one side of the question; but under the circumstances, the measure being so important to the interests of California, they deemed it proper and right that the question should be placed before Senate. It was believed that it had merit, and that that merit

should be brought to the attention of Senators, and then the committee would make up their minds as to what position they would take upon the subject. We had no doubt that they would take a favorable view of the subject.

Mr. TEN EYCK. I feel called upon to say a word after the quite astringent remarks of the Senator from California [Mr. CONNESS] last evening upon the course I had taken, and upon his appeal to the Senator from Rhode Island just now to make a statement when I was called upon to make a statement. I am glad the Senator from Rhode Island has made his statement.

The Senator from California expressed his profound astonishment that I should have made the statement I did last evening before the Senate. That, I may be allowed to say, was a very ungracious return for what I may perhaps be led to say is the truth, that had it not been for my recommendation his bill never could have seen daylight this session before the Senate; but out of consideration to the Senator who I myself had invited to appear before the committee and make a statement, and inasmuch as this was an important measure, I agreed to allow it to be reported. I wanted to have it examined. I was inclined favorably toward the bill. It is my impression now that the bill ought to pass, and I expect to give my vote for it, and did from the beginning; but, according to the statement of certain persons, it involved the question of the continuation of the California steamship lines; it involved the raising of the passage money to double the present amount; and it involved a discontinuance of the power on the part of steamer passengers to go from the Atlantic coast to the golden coast of the Pacific.

Whether that is so or not, I cannot say; but it was a matter of sufficient importance for this Senate to know something about, and it was the wish of the committee that the subject should come before the Senate, and, according to my understanding, should remain reported, and that we would act upon it at the next session. The Senator from Rhode Island understands that.

Mr. SPRAGUE. I do not think that was the understanding.

Mr. TEN EYCK. I have understood the Senator to say what his understanding was. I simply state what mine was. We do not understand it exactly alike; but it comes to about the same thing.

Having said this much, I have no objection to the passage of this bill, and if it should be brought before the Senate I shall vote for it.

Mr. CONNESS. If the Senator took what I said as being offensive to him, it gives me great pleasure to withdraw it. The only thing I shall say in advocacy of this bill after it shall be taken up will be to call for the reading of a single paragraph of a letter from the American consul at Aspinwall; and if the Senate then will not pass the bill, I shall be perfectly satisfied with whatever disposition they may make of it.

The question being put, there were, on a division—ayes 10—

Mr. CONNESS. I call for the yeas and nays. The yeas and nays were ordered.

Mr. WILSON. Can I make a report from a committee of conference now?

Mr. CONNESS. I hope the report will be received pending the vote.

The PRESIDING OFFICER. There is a motion pending, and no other business can be entertained except by the unanimous consent of the Senate. The Senator from Massachusetts asks unanimous consent to make a report from a committee of conference. The Chair hears no objection, and the report will be received.

AMENDMENT OF CONSCRIPTION LAW.

Mr. WILSON. The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes, have agreed upon a report, which I will send to the desk and ask to have read.

Mr. HENDRICKS. I suggest that the chairman making this report shall read it, and as he reads each clause shall explain it so that the Senate may know what it is. When the report is read in a lump by the Secretary we cannot tell much about it.

Mr. WILSON. The Secretary had better read the report, and I will explain it when he gets through.

Mr. HENDRICKS. Very well.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 549) to further regulate and provide for the enrolling and calling out the national forces, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

1. That the Senate do recede from its amendment to the House bill, and agree to the said bill with the following amendments:

2. After the word "township" in line six of section one, insert the words "ward of a city."

3. After the word "district" in the seventh line, section one, insert the words "or of a county not so subdivided."

4. In the eighth and ninth lines of section one strike out the words "and substitute."

5. In the twelfth line, section one, strike out the word "two" and insert "one."

6. In line thirteen, section one, strike out the word "three" and insert the word "two."

7. In line fifteen, section one, strike out the word "four" and insert "three."

8. In line fifteen, section one, strike out the word "half" and insert the word "third."

9. In line seventeen, section one, strike out the word "fourth" and insert the word "third."

10. In the eighteenth line, section one, strike out the word "fourth" and insert the word "third."

11. In line twenty-one, section one, after the word "none" strike out the words "to his legal representatives," and insert the words "to his mother, if she be a widow."

12. After the word "representatives" in the twenty-second line, section one, strike out the residue of said section.

13. In line two, section two, after the word "ward" insert the words "of a city."

14. In line four, section two, strike out the word "sixty" and insert the word "fifty."

15. In line five, section two, after the word "shall" insert the word "immediately;" and that the House do agree to said sections as amended.

16. In line four, section three, after the word "rebellion" insert the words "except the States of Arkansas, Tennessee, and Louisiana;" and that the House do agree to the said section as amended.

17. In lines twelve and thirteen, section five, strike out the word "knowingly."

18. In line eighteen, section five, strike out the words "and unconditionally."

19. In line eighteen, section five, after the word "discharged" insert the words "upon repayment of all bounties received."

20. In line nineteen, section five, after the word "officer" insert the word "who."

21. In the same line after the word "shall" insert the words "knowingly enlist any person under sixteen years of age shall;" and that the House do agree to said section as amended.

22. In line ten, section six, strike out the word "fifty" and insert the words "one hundred;" and the House do agree to said section as amended.

23. Add at the end of section eight the following words: "upon satisfactory proof of their residence made to the Secretary of War;" and that the House do agree to said section as amended.

24. In line four, section ten, strike out all of said section after the word "the" and insert the following in lieu thereof: "the provisions of the seventeenth section of an act approved February 24, 1864, entitled 'An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March 3, 1863;" and that the House agree to said section as amended.

25. Add the following as section eleven: "Be it further enacted, That nothing contained in this act shall be construed to alter or change the provisions of existing laws relative to permitting persons liable to military service to furnish substitutes;" and both Houses agree to said amendment.

HENRY WILSON,
H. S. LANE,
E. D. MORGAN,
Managers on the part of the Senate.

J. A. GARFIELD,
N. B. SMITHERS,
Managers on the part of the House.

Mr. JOHNSON. I will ask the chairman of the committee of conference to explain these changes. We cannot well understand what are material by the mere reading of the report.

Mr. WILSON. I will endeavor to explain the material points in the report. Nearly all of these changes were made in the House bill the other night by the Senate. The first section of the House bill provided for a bounty of \$200 to any person who would enlist for one year; \$300 for two years, and \$400 for three years. The committee have changed that so as to give a bounty of \$100 to the man who enlists for one year, \$200 for two years, and \$300 for three years.

Mr. JOHNSON. A reduction of \$100 in each year.

Mr. WILSON. Yes, sir. In the next place the original bill provided that a person who was drafted should get no bounty, but if he obtained a substitute the substitute should receive the same bounty as though he had volunteered. The bill as it originally stood then would discourage personal service and encourage the procurement

of substitutes. The committee struck out that provision, so that volunteers only will get the bounty and not substitutes.

Then the original bill provided that one half of this bounty should be paid to the soldier at the time of his being mustered into the service, one fourth at the expiration of half his term of service, and one fourth at the expiration of service. The committee have changed that so that he will receive one third of the bounty at the time of enlistment, one third when half his time is out, and one third at the expiration of his term of service.

We paid one fifth of our last bounties at the time of enlistment; now we propose to pay one third. The House bill provided that we should pay one half down, which seemed to look very much like encouraging bounty-jumping.

Then the last two lines of the first section of the House bill are stricken out.

Mr. JOHNSON. What were they?

Mr. WILSON. I will read them:

And in case he is honorably discharged by reason of wounds or sickness incurred in the service in the line of his duty, he shall receive full bounty.

It was believed that that clause would have a disorganizing influence in the Army. There are so many different complaints and forms of sickness that may manifest themselves, that to pay a full bounty in those cases would be furnishing an inducement to men to attempt to get off in that way; and the committee therefore struck out that clause.

The House bill provided that the bounty to be paid to the volunteer should, in case of his death while in service, go to his widow, his children, or to his legal representatives. This report provides that it shall go to his widow, his children if he have any, or his mother if she be a widow.

Mr. JOHNSON. And there stop?

Mr. WILSON. Yes, sir. Then the second section of the House bill allowed sixty days for each district to fill up its quota by volunteering prior to a draft. The Senate the other day made it forty days. The committee report in favor of making it fifty days, and after that time the President is to immediately order a draft, so that the people may feel and know that there will be a draft if the quota is not filled and that there will be no further postponement.

The changes in the fifth section are immaterial, merely correcting the form without changing the sense.

Mr. HENDRICKS. I should like to know exactly how that section stands as reported by the conference committee.

Mr. WILSON. It provides that minors under sixteen years of age shall be discharged from the service on the repayment of the bounties they have received, and any officer who shall knowingly enlist any person under sixteen years of age is to be dismissed the service. The section stands substantially as it was amended by the Senate the other day.

In the eighth line of the sixth section the word "fifty" is stricken out and "one hundred" substituted, so that they may make a draft of one hundred per cent. in addition to the number required to fill the quota of any district. Experience has shown that about fifty per cent. of the men drafted are held. By drafting one hundred per cent. additional we shall avoid the necessity of drafting over and over again to fill one call, and save all that time and expense.

The eighth section of the House bill provided for crediting all enlistments of seamen to the district in which they reside. The committee retain that section with this modification: in the seventh line to insert "upon satisfactory proof of residence," so that it throws the burden of proof upon the community claiming to have credit for seamen, and the proof is to be made satisfactory to the War Department. If they cannot prove it clearly they do not get any credit for them.

I shall now explain the action of the committee on the third section of this bill allowing the enlistment of men in States declared to be in rebellion. The section as it originally came to us in the House bill was as follows:

SEC. 3. And be it further enacted, That it shall be lawful for the Executive of any of the States to send recruiting agents into any of the States declared to be in rebellion to recruit volunteers under any call under the provisions of this act, who shall be credited to the State, and to the respective subdivisions thereof, which may procure the enlistment.

The committee of conference amended that section by exempting the States of Tennessee, Arkansas, and Louisiana from its operation. It was represented that the House of Representatives had over and over again distinctly voted on this question and would not retreat if the bill was lost, and it was maintained very strongly that it should stand in this form. The Senate committee, representing the sentiment of the Senate as nearly as possible, insisted that it should not be retained, but finally agreed to it with an amendment exempting from its operation Tennessee, where we have raised some twenty or twenty-five regiments, Arkansas, where we have raised seven or eight regiments, and Louisiana, where we have also raised several regiments; so that the section will now apply, if the report should be adopted, to Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Texas.

Mr. HENDRICKS. I call for the reading of the fifth section as it will stand if this report should be adopted.

The Secretary read it, as follows:

SEC. 5. *And be it further enacted*, That the twentieth section of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February 24, 1864, shall be construed to mean that the Secretary of War shall discharge minors under the age of eighteen years under the circumstances and on the conditions prescribed in said section; and hereafter, if any officer of the United States shall enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person so enlisted or recruited shall be immediately discharged upon repayment of all bounties received; and such recruiting or mustering officer who shall knowingly enlist any person under sixteen years of age shall be dismissed the service, with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

Mr. JOHNSON. Why was the word "knowingly" where it first occurs stricken out of that section?

Mr. WILSON. The word "knowingly" was stricken out by a vote of the Senate the other night when we had the bill under consideration. It was thought best to strike it out for this reason: if an officer enlists a minor under sixteen years of age without knowing it, that is no reason why the minor should not be discharged.

Mr. JOHNSON. It has nothing to do with the punishment of the officer?

Mr. WILSON. No, sir; nothing at all.

Mr. HENDRICKS. I do not think the Senate ought to concur in this report. If there was any one question upon which the Senate expressed a positive opinion it was upon this question as to whether the executive officers of the different States should be allowed to send agents into the States in rebellion with a view of filling up their quota with negroes in those States. As I understood from the argument, it was esteemed by the Senate a most objectionable feature of the House bill. Under that provision, Indiana will send her agents down perhaps and meet the agents of Massachusetts in the State of North Carolina, or in such portions of that State as these agents may be able to reach, and then commences a disgraceful struggle between these two States as to which shall get the most negroes to fill up the places that ought to be filled by the men of Indiana and Massachusetts.

Mr. LANE, of Kansas. But they are credited to the States from which they are taken.

Mr. HENDRICKS. No, sir; they are to be credited to the States that secure their enlistment. This section will now read:

That it shall be lawful for the Executive of any of the States to send recruiting agents into any of the States, except Tennessee, Louisiana, and Arkansas, declared to be in rebellion, to recruit volunteers under any call under the provisions of this act, who shall be credited to the State, and to the respective subdivisions thereof, which may procure the enlistment.

I will ask the Senator from Massachusetts if I read it correctly.

Mr. WILSON. Yes, sir.

Mr. CONNESS. I hope the Senator from Indiana will move to accept all the other portions of the report.

Mr. TRUMBULL. We cannot do that; we must take it as a whole.

Mr. CONNESS. Then I shall vote against it, and let us raise another committee.

Mr. WILSON. I wish to say this: the committee on the part of the House of Representatives stated distinctly that on that question the whole

bill turned, and its defeat was inevitable without that action on it. The Senator from Indiana, a member of the committee, who had strenuously resisted that action in the Senate, finally yielded to that amendment and agreed to it with this amendment.

Mr. HENDRICKS. Who was that?

Mr. WILSON. Mr. LANE, of Indiana, who was opposed to this section; but with the exemption of these three States, he agreed to accept it. We compromised it in that way, and in that way alone the committee came to an agreement.

Mr. HENDRICKS. Mr. President, early in the war a policy was adopted by which the States were allowed to buy arms, the United States finally assuming to pay the cost of those arms. The result was that Indiana, Illinois, and the other States met in the common market; they became competing purchasers, and the price of arms went up more than one hundred per cent; and that very arrangement cost the Government perhaps millions of dollars. We shall have a more disgraceful scene than that presented to us under this bill. We shall see the agents of Indiana, Illinois, Massachusetts, New York, and all the States that wish to relieve their own population from the burden of this war, in the southern States competing for negroes to fill up their regiments instead of the men of those respective States. It is disgraceful enough, according to my judgment, not according to the judgment of some Senators, to bring the negro into the Army at all; but when the several States become competing purchasers of the negroes to fill up the ranks, I think the scene will be unparalleled in this or any other country.

What is a draft? It is a call upon the men of the respective States for a certain number of men. If the States are to be allowed to secure negroes as mercenary troops to fill up those places and have competing agents to secure such a supply to the Army, as was well said the other day by the Senator from Missouri, [Mr. Brown,] and I thought his words were full of wisdom on this subject, this very provision will defeat your conscription and the filling up of your Army. Instead of obtaining white men who can win battles, you will secure and supply to your Army negroes right from the plantations. What do you want now? Men of intelligence; men who will not only endure the fatigues of camp life, but with such intelligence as that they may readily become soldiers.

As was asked the other day by the Senator from Missouri, are you to take the negroes who will be secured in South Carolina and North Carolina and put them in the depleted white regiments? That cannot be without a mutiny so far as Indiana troops are concerned. They are men of pride as well as of courage. They have illustrated their pride and their courage upon every battle-field to which they have been called. You cannot fill up the white regiments by the negroes that will be bought up by the competing agents of the States in the southern States.

Then the only possible way in which they can be used will be to make entire new regiments out of these negro troops; and what are they worth for the first year? Did not the chairman of the Committee on Military Affairs say to the Senate the other day that new regiments for the first year would not be worth much to the Army, but that if good men were enlisted and distributed into the regiments that are now organized, veteran regiments, the new troops would be almost as valuable as the old troops? But that very purpose and policy will be defeated if this entire enlistment or draft is to be supplied with colored troops. Then you must have entire new regiments with a new organization; they cannot be incorporated into the veteran regiments; and you will defeat the very purpose of this conscription. This is not my argument. It was the argument presented the other day with so much force and eloquence by the Senator from Missouri.

I object to it in part because I think Indiana will not enter into this struggle. Her representatives in the House of Representatives and in this body have not asked for such a provision, and I think her Executive will scarcely venture to represent her people with agents in the southern States to buy up negroes to fill up her quota. What will be the effect? Other States that are so clamorous for this provision will send their

agents down into the southern States; they will supply their quota with negroes to offset against the white men of the State of Indiana and of other northern States that will not enter into this contest and this struggle. They cannot well do it. They do not know how to do it. They have no money appropriated for such a purpose.

But the Senator from Massachusetts has told the Senate as the only argument which should control the judgment of the Senate in favor of agreeing to this report, that there are members of the House of Representatives who will not agree to the bill at all without this provision. I should like the Senator to have told this body what States are so represented, what States say there shall be no conscription unless they are allowed to go into the southern States and fill up their numbers in that way. I understand it is the State represented by the Senator in this body.

It is known to the Senate that I am entirely opposed to repealing the commutation clause; but I do not choose to refer to that in this discussion. If it is the judgment of the Senate that it should be repealed, of course I bow to the judgment of the Senate on that subject. But it is the judgment of the Senate, deliberately expressed and by a very large vote, that the States should not be allowed to send their agents down into the southern States to fill up their ranks with negroes.

I wish to call the attention of Senators who are earnest for a vigorous prosecution of the war and to make this campaign a success to this subject. Suppose Massachusetts is called upon for five thousand men and Massachusetts furnishes five thousand white men. They are new recruits; and standing alone in new regiments are not worth much, as the chairman said himself, for this campaign; but taken and distributed among the other Massachusetts regiments they are worth almost as much as five thousand veterans. But instead of getting that valuable service under the conscription, this proposition is that Massachusetts may go into the southern States and buy up five thousand negroes who must be organized into new regiments and be unavailable for the coming year. I address this argument to Senators who feel some responsibility touching this campaign. This report ought to be defeated, and I hope it will be. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 18; as follows:

YEAS—Messrs. Anthony, Clark, Foot, Foster, Hale, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sumner, Wade, Wilkinson, and Wilson—16.

NAYS—Messrs. Buckalew, Carlile, Conness, Cowan, Davis, Henderson, Hendricks, Hicks, McDougall, Powell, Ridd, Saulsbury, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, and Wiley—18.

ABSENT—Messrs. Brown, Chandler, Collamer, Dixon, Doolittle, Fessenden, Grimes, Harding, Harlan, Harris, Howard, Howe, Nesmith, Richardson, and Wright—15.

So the report was non-concurred in.

Mr. LANE, of Kansas. I move—

Mr. CONNESS. There is a question before the Senate.

Mr. LANE, of Kansas. I move to postpone all prior orders and proceed to the consideration of the concurrent resolution of the House of Representatives in relation to the adjournment of Congress.

Mr. SHERMAN. Before the subject of the enrollment bill passes from the Senate I will move that another committee of conference be asked for on the part of the Senate.

Mr. McDougall. I desire to call the attention of the President of the Senate to what has transpired. My colleague had the floor and submitted a motion to take up a certain bill, and he waived it to allow the Senator from Massachusetts to make this report.

Mr. CONNESS. The yeas and nays have been called on my motion, and pending that by unanimous consent this report was presented. That is the condition of things now. I am willing to yield still further to allow the appointment of another committee of conference. I think the motion of the Senator from Ohio is right.

Mr. SHERMAN. I believe the motion I have submitted is in order.

THE PRESIDENT *pro tempore*. The report of the committee of conference was received by unanimous consent. After the report was disposed of the Senator from Kansas rose in his place and moved to postpone all prior orders and

proceed to the consideration of the resolution indicated by him; and that is the pending question before the Senate.

Mr. SHERMAN. I believe I had the floor upon the business before us.

The PRESIDENT *pro tempore*. The Chair gave the floor to the Senator from Kansas.

Mr. SHERMAN. The business had not passed from the consideration of the Senate when I rose in my place and made the motion I have submitted. I waited a moment, expecting the Senator from Massachusetts, who had the right to do it, would make the motion. The business had not yet passed from the hands of the Senate; it was still in the hands of the Secretary; and I therefore had a right to submit the motion that the Senate further insist on their amendments to the House bill, and ask for another committee of conference.

The PRESIDENT *pro tempore*. The Chair will state that after the Senate disagreed to the report of the committee of conference, and before any other motion was made, the Senator from Kansas, as he had a perfect right to do, moved to postpone all prior orders and proceed to the consideration of the resolution indicated by him. By the unanimous consent of the Senate, or if the motion of the Senator from Kansas is withdrawn, the motion of the Senator from Ohio can be received.

Mr. LANE, of Kansas. I rise to relieve the Senate from this embarrassment by withdrawing my motion for the present.

Mr. CONNESS. The state of the question before the Senate is this: the yeas and nays have been ordered—

The PRESIDENT *pro tempore*. The Chair understands the state of the question.

Mr. SHERMAN. I will now move that the Senate further insist on their amendments to the House bill, and ask for another committee of conference.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to postpone all prior orders with a view of submitting the motion indicated by him.

Mr. CONNESS. I hope the motion will not be put in that form. If it can be done by common consent, as the other part of the same business was done, I have no objection.

Mr. McDOUGALL. I object.

Mr. CONNESS. My colleague does not understand it. The question, as stated by the Chair, is that all prior orders be postponed. I wish this business to be done by common consent as the other part of the same business was, and I hope there will be no objection to that.

Mr. McDOUGALL. If that is the understanding, that the motion of the Senator from Ohio is to be considered by unanimous consent, without displacing the question that was pending when the Senator from Massachusetts took the floor, I will agree to let that pass over informally for the transaction of this business, but not to lose the right that my colleague has to the floor in presenting the business that was under discussion when this report was made.

The PRESIDENT *pro tempore*. The Chair will inform the Senator that he loses no right.

Mr. CARLILE. Before the question is put on the motion of the Senator from Ohio, I desire to make a remark by way of opposition to it. This question of difference between the Houses has been the subject of conference for several times at least. It is perfectly understood, I believe—and if I am wrong the Senator from Massachusetts will correct me—that the Houses will never agree upon any bill of this kind. The House of Representatives is fixed as to its purpose, and the Senate has again and again signified its determination upon this subject of the enlistment of negroes by the loyal States in the rebellious States to be substituted in lieu of white soldiers. It seems to be generally conceded that the House of Representatives will not agree to any enrollment bill unless the privilege is allowed to the northern States to substitute for their white citizens South Carolina and North Carolina negroes. Now, sir, we are upon the eve of an adjournment, and I trust that that adjournment will not be delayed in a fruitless effort to accomplish what must be manifest to every one cannot be accomplished; and I ask for the yeas and nays on the motion.

Mr. SHERMAN. The Senator from Virginia says that there is a dispute between the two

Houses. There is no dispute between the two Houses in my judgment that cannot be easily reconciled. This is the first committee of conference we have had on the subject, and it is due from me in candor and justice to say that the committee of conference was not made in conformity to the usage of the Senate. The main and principal point of difference between the two Houses was as to the right to send agents into the rebel States for the purpose of procuring substitutes, and upon that point a majority of the committee appointed on behalf of the Senate voted with the minority, and consequently did not represent by their votes the majority of the body. There can be no question about that fact, and therefore there never has been really a conference between the two Houses. I should like to have the question tested. I think the Senate has made up its mind that under the circumstances it would not be wise to allow agents of the northern States to go down and substitute negroes in the rebel States for the drafted white men of the northern States. I think that feeling of the Senate ought to be represented in a conference. If the House then shall refuse to agree with them upon such a conference, I will vote for this conscription bill in any way in which it can be placed hereafter; but I think there ought to be a fair effort at least to bring about an agreement between the two Houses.

Mr. MORRILL. I wish to say a single word in reply to a remark that fell from the Senator from Virginia. He counsels this Senate now, just as we are on the eve of adjournment, without having made due provision for the maintenance of the Army, not to delay the adjournment on that account. Now, sir, when we have driven rebellion from its circumference to its military centers, now when we have got the rebellion by the throat and its sympathizers see that the death-struggle is upon it, you have seen in the last few days in this Senate an attempt to baffle every effort on the part of the Government to sustain itself in this hour of its peril, in this crisis. The men who from the beginning of this war have stood here to baffle every effort on the part of the Government to sustain itself now howl on the track of the Government as if the hour had come when they could put this Government under their feet. The question for the majority of the Senate to determine is whether we will break up in disorder and allow the Opposition in this country to raise this howl on the track of the Government, and this country to go into disorder, or whether we mean to do the necessary legislation of the country—that legislation which no man knows better than the Senator from Virginia is necessary to fill up the ranks of your Army. He and the men who associate with him here know that if this Congress adjourns at this hour leaving the Government powerless to fill up the ranks the great struggle which after three years has now been brought to the moment of success is to end in anarchy.

Now, sir, when the two Houses happen to disagree on this measure, the Senator from Virginia, who from the beginning has not believed in what this nation is doing to protect itself, who has counseled against every measure calculated to strengthen the arm of the Government against the rebellion, seems to think the hour has come when its enemies are to triumph, when a faction in the North, when the Opposition in the North, is to demoralize and disorganize the nation. You are to have no more troops. Grant is not to be sustained before Richmond. He is not to be permitted to throttle the rebellion, now that he is at the very door. That is plain. You have seen that here in the last ten days of the session.

On a question of disagreement between the two Houses, the Senator from Virginia rises here to counsel this Senate, to counsel the majority of this Senate, men who have stood here for three years battling against rebellion and against his counsels, and he stands here to tell us it is not worth while to try to settle this difficulty. We have disagreed. The question is whether we shall get the negroes into the service or not, and on that question he counsels no further effort; let these two bodies go asunder; provide no means for the support of your Army in the field; go home to your constituents; admit the thing has failed; the Opposition in the Senate have triumphed and are to triumph in the coming elections, and you are to

welcome the reign of disorder and anarchy in this country.

For one, sir, I stand here to protest against such counsels. I stand here to say to these gentlemen that I do not propose to adjourn for the next thirty days unless the Government of the country is made strong, unless they have all they desire to give them the strength and the reinforcements necessary to maintain their positions at the great military centers where they are, and where none knows better than the honorable Senator from Virginia that rebellion is to die if the American people stand firm and give to Grant and to Sherman the recruits that are necessary and which are calculated and designed to be furnished by this bill.

I trust we shall not take the counsels of these gentlemen who from the beginning have had no faith in what this Government is doing to sustain itself against the rebellion. I submit that it does not come with a very good grace from my honorable friend, the Senator from Virginia, to undertake to counsel this Senate as to what we shall do in an emergency of this sort.

I trust, therefore, that we shall agree to this appointment of another committee; and if that fails, that we shall agree to sit here to the end of this month if it is necessary, until the proper legislation of the country is perfected and until we can retire from our positions here saying to our constituents that the Government has the power and the measures necessary to take the last man, if need be, to end this rebellion. Therefore, sir, I hope we shall agree to the appointment of another committee of conference.

Mr. LANE, of Indiana, obtained the floor.

Mr. CARLILE. Will the Senator allow me one moment?

Mr. LANE, of Indiana. I shall only be a minute.

Mr. CARLILE. I do not want to make a speech.

Mr. LANE, of Indiana. I shall only take a moment, and then the Senator can speak. I wish simply to speak to the question before the Senate.

This matter stands in this way: each House of Congress in a different form passed an amendment to the conscription law. The Senate passed a conscription bill repealing simply the commutation clause. The House concurred in that and passed a bill having a different feature which was to allow the Executives of the different loyal States to recruit in the States in rebellion. The Senate by several votes decided against that. A committee of conference was appointed; we have had the report of that committee of conference; and I wish to say one word in regard to the action of the committee.

I must say for my colleagues upon the committee that they represented fairly what was the opinion of the Senate upon this subject, and said to the committee on the part of the House of Representatives again and again that by some three or four distinct votes the Senate had refused to adopt that feature in their bill. The House committee adhered to the provision, and for the purpose of passing something this compromise was hit upon. The bill as it passed the House of Representatives allowed the Executives of the loyal States to recruit in all the States in rebellion. By the report of the committee of conference the States of Arkansas, Tennessee, and Louisiana were stricken out, and in that form the committee adopted it. It is known to the Senate that I have been opposed to this feature from the beginning, and am now opposed to it; but I prefer to take the report of this committee of conference precisely as it is than to make no change in the conscription law. I think, however, that if another committee should be appointed there may be an agreement yet. I rose simply to state in justice to the Senator from Massachusetts [Mr. Wilson] and the Senator from New York [Mr. Morgan] who were with me upon that committee, that they fairly and fully represented what I understand to be the opinions of the Senate upon this very question.

Mr. CARLILE. No Senator, I am sure, understood me as reflecting on the committee in the remarks that I made. In the moment that I shall occupy of the attention of the Senate I shall confine myself simply to a reply to what fell from the honorable Senator from Maine, and if in the exercise of my rights here as a member of this

body that exercise shall be termed "counseling" the Senate, I claim to have just as much right to "counsel" the Senate, if that be counsel, as the Senator from Maine, and I think he will in his calmer moments concede to me that privilege. I do not presume to counsel learned Senators older and more experienced and more able than myself, as I willingly concede the honorable Senator from Maine to be; and I think it is not exactly fair for him to conceal what is really the question before the Senate in an effort to charge what will be the result of the conduct which he seemed to advocate upon those who are trying to resist it. What is the condition in which the Senator from Maine has placed himself in the remarks he has just made? Now that we have "got the rebellion by the throat" by virtue of the army which we have brought into the field without any such law as that which the Senator proposes to enact, he will embarrass that army, he will weaken that army, he will let go that hold on the throat of the rebellion by substituting for intelligent white soldiers the ignorant plantation negroes of the South. Now that we have "got the rebellion by the throat," now that it is in a condition to be effectually extinguished, the Senator and those who think with him will let go their hold of the efficient means which has enabled us to get it by the throat, and, in order to keep his loyal people (who will fight as long as there is a man and a dollar left) at home, he will substitute in their place the ignorant South Carolina negro.

Sir, it strikes me, without meaning any offense to the Senator from Maine, that if his speech had been made against his own motion it would have been much more valuable than against the opposition which I have made to this motion. What is that opposition? I appeal to the chairman of the Military Committee, I appeal to the Senator from Massachusetts who was chairman of the committee of conference, to bear me witness that it was the determination of the House of Representatives so far as he was advised to allow this bill entirely to fail unless the section which is the principal cause of difference between the Houses was retained. In other words, those who represented this section were not sufficiently awakened as to the importance of putting an enlightened and intelligent soldier in the field and as to the interests that are at stake to go themselves, but would only be willing that a draft shall be made or enlistments shall be made upon the condition that they shall substitute for their white citizens the negroes of the South. Who is it that is trying to baffle every attempt of the Government to maintain itself in this struggle? Is it the man who contends for the intelligence and the patriotism of the country as against the ignorance and want of knowledge necessary to implant within the bosom that patriotism which is essential if we would conquer in this war? Is it he who would fill our armies with the ignorant negroes from the plantations of the South, or he who desires that the honest, intelligent patriot whose Government is to be preserved should show his patriotism and his devotion to the Government by enlisting in the ranks of its Army?

It is such attempts as that which the Senator has advocated this day that are baffling the efforts of the Government to maintain its existence in this struggle for its life. Grant's army to be strengthened by South Carolina negroes, while the citizens of Massachusetts and Maine remain at home engaged in manufacturing munitions of war and taking the contracts of this Government. That is the proposition which the Senator desires to detain the Senate here for the next thirty days upon. Sir, if it be necessary to sustain this Government in this struggle I will not only remain here thirty days but thirty years; and before I will lend my aid to weaken the Government, to baffle it in the effort that it is making for its life, and to paralyze its hold on the throat of the rebellion by putting negroes instead of white men in the armies, I will vote against adjournment as long as I am able to vote.

My resistance to this motion was predicated on what I believed to be a fact, and I have called on the Senator from Massachusetts to corroborate me. If I am wrong in this I would of course withdraw opposition to this motion; but I understand it to be so from gentlemen all around me; and I ask if it is calculated to continue that patriotic feeling which has animated the white people of

the western States and of other States that are opposed to this proposition by requiring them to shoulder their own muskets and allowing another section of this country to be relieved from the performance of that duty and substitute in their place an ignorant race, who, as the Senator from Indiana has very properly said, must be for the next year at least a source of weakness, who cannot go, as was contemplated by the Senate in this bill, into the ranks of the veterans in the field, but who must be organized into separate regiments by themselves and become disciplined and made soldiers by time. That is the reason why I opposed this proposition. I do not believe that the adoption of such a proposition as this, with the fifth section remaining, will strengthen the Army. I believe it will weaken the Government in its efforts. I think it would be far better for Congress to adjourn without the adoption of any such law than to enact a law with such a provision in it. It is because I do not believe the negro to be the equal of the white man as a soldier, nor in any other relations that require intelligence and an appreciation of the service in which they are engaged, that I desire the law to remain as it is rather than to have it so changed that white men shall be relieved from military duty and negroes allowed to take their place.

Mr. DOOLITTLE. When I left the Senate a short time ago, as I was necessarily called out, all was calm as a summer morning. I came back and find the Senate in a perfect tempest. Now, Mr. President, I do not rise to make a speech, but simply to say that I shall vote as a matter of course for a committee of conference; it is necessary; it is the only way to get along with this matter; but I hold in my hand a slight piece of information which I believe to be correct, and which, it seems to me, ought to put a little different phase on the state of affairs:

"NEW YORK, July 2.—Gold opened to-day at 210; in an hour went down to 205; almost immediately it fell to 200, and is now at 194."

Mr. LANE, of Kansas. I desire to say that the difference between the Senator from Virginia and myself is this: I should like to see every white man in the Army of the United States returned to his family and his home, and his place filled by a negro. I am not so devoted to, so much the lover of the negro race that I would permit them to remain at home enjoying its luxuries while white men are called upon to defend them. I should be glad to vote for a proposition that would call out a million negro troops that the white troops may be relieved from the dangers and the fatigues of the Army; and I hope that this Government will increase its energy, and that the time will soon come when we shall be grappling with this rebellion with an army of negroes sufficient to close it out. I do not believe myself that God will be fully satisfied unless this rebellion is closed out by the slaves, property in which caused the rebellion. The object of this bill is to relieve white men by negroes, and I would be glad to see it adopted.

Mr. WILSON. No effort has been made to reconsider the vote last taken, and I do not know whether any will be; but I certainly hope that an effort will be made at any rate to save this bill. As I said, we were told in committee by the gentlemen who represented the House of Representatives that the House had taken its position, that they had put together the repeal of the commutation clause and the reduction of the time and the liberty to enlist men in the rebel States, and they would not separate them, and that any attempt to do so would be a defeat of the measure by a decisive majority. It was then, and after much time, that the committee representing the sentiment of the Senate, whatever their personal opinions might be, consented to arrange this matter in the form in which it has come in here—to enlist men in the rebel States, exempting Tennessee, Arkansas, and Louisiana. Now, sir, I will simply say that those who advocate this measure do not do it entirely to relieve white men from doing their duty.

Mr. CONNESS. Will the Senator from Massachusetts permit me?

Mr. WILSON. Yes, sir.

Mr. CONNESS. If the Senator from Ohio will withdraw his motion, I, having voted with the majority, will move to reconsider the vote that has been had on this report, so that the dispute

may be ended. Will the Senator from Ohio withdraw his motion pending that?

Mr. SHERMAN. I never will interpose to prevent a majority of the Senate from doing what it chooses in a matter of this kind; and therefore I withdraw my motion with the understanding, however, that I can renew it in case the Senator's motion fails.

Mr. POWELL. I hope that a new conference will be appointed.

The PRESIDENT *pro tempore*. The motion of the Senator from Ohio can only be withdrawn by unanimous consent, the yeas and nays having been ordered on it.

Mr. POWELL. I object.

Mr. CARLILE. I withdraw the call for the yeas and nays if it is desired to make a motion to reconsider.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered.

Mr. SHERMAN. The Senator from California can make his motion. It is a privileged motion.

The PRESIDENT *pro tempore*. It can be entered, but it is not privileged to be considered at the present time.

Mr. CONNESS. But I can move to postpone the pending orders and take it up.

The PRESIDENT *pro tempore*. The Chair thinks not. To postpone it would postpone the bill.

Mr. LANE, of Kansas. I wish to propound a question to the Senator from Massachusetts.

Mr. CONNESS. These questions only procrastinate the discussion.

Mr. LANE, of Kansas. There will be no discussion. I merely wish to ask whether it is likely from the sentiments expressed by the committee of conference of the House of Representatives that if we appoint a new committee of conference that House will recede from this proposition?

Mr. WILSON. I cannot tell of course what the House will do; but I can say that the committee on the part of the House said that the House had taken its position and there could be no doubt of it, that the bill could not come within twenty-five votes of being passed if this was abandoned. Mr. SMITHERS, who introduced the bill originally, made this statement. It was sustained by both his associates, although one of them was decidedly opposed to the proposition. They said that the two ideas had been coupled together in the House and could not be separated. That was the position taken. I cannot tell of course what the House may do in the future.

Mr. CONNESS. I ask consent to make a motion to reconsider.

Mr. HENDRICKS. I object.

Mr. CONNESS. Then I ask for a vote.

The PRESIDENT *pro tempore*. The call of the roll will proceed on the motion of the Senator from Ohio.

Mr. LANE, of Kansas. If we vote down this motion of the Senator from Ohio, will the motion of the Senator from California be in order?

The PRESIDENT *pro tempore*. Unquestionably.

Mr. CONNESS. I desire now to enter the notice of a motion to reconsider.

The PRESIDENT *pro tempore*. That is not necessary.

Mr. ANTHONY. I shall vote in the negative, with a view of giving the Senator from California an opportunity to put his motion.

Mr. HENDERSON. Suppose that proposition is defeated, the bill is lost.

Mr. SHERMAN. I think that if a second committee of conference be appointed they can settle the matter in half an hour.

Mr. ANTHONY. If the proposition of the Senator from Ohio is lost is the bill lost?

The PRESIDENT *pro tempore*. The Chair is of opinion it is not. A motion may be entertained to reconsider, and if that was adopted it would be in order to agree to another conference.

Mr. CARLILE. Cannot I, by unanimous consent, save time by withdrawing the call for the yeas and nays?

The PRESIDENT *pro tempore*. It can be done by unanimous consent.

Mr. HENDERSON. I object to it.

Mr. CONNESS. I believe I have the floor. I gave notice of a motion to reconsider. Now I submit to the Chair whether, if I move to postpone the existing and previous orders and take

up for consideration the bill that was before the Senate when this report was made, I cannot then abandon the consideration of that bill and move to reconsider the last vote.

THE PRESIDENT pro tempore. The Chair is of opinion not. When the bill comes before the Senate again the pending question will be the motion of the Senator from Ohio.

Mr. HENDERSON. I will not consume the time of the Senate. I have sat quietly and voted. I sincerely hope the proposition of the Senator from Ohio may carry, and a new committee of conference may be had on this bill. There are some features in the bill that I desire to see in the enrollment of troops hereafter, but I do not regard it as a matter of very serious importance if the whole bill be defeated; and if some features be retained in it I think we ought to resist it to the death; it ought to be opposed and it will be opposed; but if we can have a fair committee of conference on the proposition I think the objectionable features may be stricken out.

Mr. McDUGALL. I think that for the dispatch of business and for the best administration of this disputed question a new committee of conference should be organized. I am not going to discuss this thing, but evidently that course is required for the dispatch of business.

Mr. ANTHONY. I want to know how to vote.

THE PRESIDENT pro tempore. That is no question of order for the Chair.

Mr. ANTHONY. I cannot take better advice than of the Chair. If this motion be defeated I understand the motion of the Senator from California will be in order. If that motion shall be defeated will it then be competent to move for a new committee of conference?

THE PRESIDENT pro tempore. No doubt of it. The Secretary proceeded to call the roll.

Mr. ANTHONY. I am sure Senators around me have voted under a misapprehension.

Mr. HENDRICKS. Is debate in order?

THE PRESIDENT pro tempore. It is not.

Mr. ANTHONY. I appeal to the Senator from Indiana—

Mr. HENDRICKS. I object. This is an important question.

Mr. ANTHONY. This is the first time I ever knew the Senator from Indiana to be guilty of discourtesy in this body.

The result was announced—yeas 28, nays 8; as follows:

YEAS—Messrs. Buckalew, Clark, Cowan, Davis, Doolittle, Foot, Foster, Hale, Harris, Henderson, Hendricks, Hicks, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Pomeroy, Powell, Ramsey, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, and Willey—28.

NAYS—Messrs. Anthony, Carlile, Chandler, Conness, Harlan, Morgan, Saulsbury, and Wilson—8.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Grimes, Harding, Howard, Morrill, Nesmith, Richardson, Riddle, Sprague, and Wright—13.

So it was

Resolved, That the Senate further insist on its amendment disagreed to by the House of Representatives, and ask for a further conference.

On motion of **Mr. SHERMAN**, and by unanimous consent, the President *pro tempore* was authorized to appoint the committee on the part of the Senate.

Mr. HENDRICKS. I desire to make a report from a committee of conference.

Mr. CONNESS. Will the Senator wait one moment? I ask now whether the motion is not pending to take up House bill No. 510.

THE PRESIDENT pro tempore. The motion is pending, and the yeas and nays have been ordered on it.

Mr. CONNESS. Pending that I have no objection to the report of the conference committee being made.

THE PRESIDENT pro tempore. The Chair will receive the report.

AGRICULTURAL DEPARTMENT.

Mr. HENDRICKS. The committee of conference on Senate bill No. 339 have instructed me to submit the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 339) to repeal a joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department," and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their disagreement to the

amendment of the House, and agree to the same with the following amendment: insert in lieu of said amendment of the House the following:

"Sec. — And be it further enacted, That the Commissioner of Agriculture is authorized to rent suitable rooms for the accommodation of his office, and to make necessary improvements; and to pay the rent of the same, for one year, the sum of \$3,500 is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, Such rooms shall not be rented for a period longer than three years;" and the House agree to the same.

JAMES HARLAN,
THOMAS A. HENDRICKS,
JOHN SHERMAN,
Managers on the part of the Senate.
E. B. WASHBURN,
JUSTIN S. MORRILL,
Managers on the part of the House.

Mr. ANTHONY. Is the \$100,000 appropriation in the bill?

Mr. HENDRICKS. Instead of \$100,000 being appropriated to build a house, \$3,500 a year is appropriated to fit up and rent a house for three years.

The report was concurred in.

RECESS.

Mr. JOHNSON. I move that at half past four o'clock to-day the Senate take a recess until seven o'clock.

The motion was agreed to.

INTERCOURSE WITH DISLOYAL STATES.

Mr. CONNESS. I call for a vote on taking up House bill No. 510.

Mr. McDUGALL. I trust there will be no objection.

Mr. MORRILL. I wish to make a report.

Mr. CONNESS. Reports from conference committees are always in order.

Mr. MORRILL. I made a mistake. A Senate bill has been returned from the House of Representatives with a slight amendment, which I wish to have acted on.

Mr. CONNESS. I have no objection.

Mr. MORRILL. I move concurrence in the amendment of the House of Representatives to the bill (S. No. 232) in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of fraud in States declared in insurrection.

The amendment of the House was, on page 3, section five, line four, to strike out "or shall be in danger of their raids."

The amendment was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by **Mr. LLOYD**, its Chief Clerk, announced that the House of Representatives had further insisted upon its disagreement to the amendment of the Senate to the joint resolution of the House (No. 11) in relation to the claim of Carmack & Ramsey, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed **Mr. WILLIAM WINDOM** of Minnesota, **Mr. E. B. WASHBURN** of Illinois, and **Mr. RUFUS P. SPALDING** of Ohio, managers at the same on its part.

AMENDMENT OF CONSCRIPTION LAW.

THE PRESIDENT pro tempore. The Chair will announce the appointment of the second committee of conference on House bill No. 549—

Mr. FOSTER. I move that the vote of the Senate agreeing to a new committee of conference on the enrollment bill be reconsidered. I voted with the majority.

Mr. McDUGALL. I should like to know whether that motion, being an independent motion, can intervene so as to cut off my colleague on the subject under consideration. I ask it as a question of order. There should be some law in the Senate on these matters.

THE PRESIDENT pro tempore. It does not interfere with the motion of the Senator's colleague. The question is on the motion to reconsider.

Mr. HENDRICKS. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 17; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Fessenden, Foot, Foster, Harlan, Harris, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sumner, Wade, Wilkinson, and Wilson—20.

NAYS—Messrs. Buckalew, Carlile, Davis, Doolittle, Henderson, Hendricks, Hicks, Howe, Johnson, McDougall, Powell, Riddle, Saulsbury, Sprague, Ten Eyck, Trumbull, and Willey—17.

ABSENT—Messrs. Brown, Collamer, Cowan, Dixon, Grimes, Hale, Harding, Howard, Nesmith, Richardson, Van Winkle, and Wright—12.

So the motion to reconsider was agreed to.

THE PRESIDENT pro tempore. The question recurs on the motion of the Senator from Ohio [Mr. SHERMAN] that the Senate insist on its amendment, and ask for another conference.

Mr. CONNESS. Will the Senator withdraw that motion?

Mr. SHERMAN. I am perfectly willing to do so in order to allow the Senator to try his motion to reconsider, if it is in my power.

THE PRESIDENT pro tempore. The Chair is of opinion the Senator may withdraw it.

Mr. SHERMAN. I withdraw it.

Mr. CONNESS. I now renew my motion to reconsider the vote by which the report of the conference committee was rejected.

Mr. HENDRICKS called for the yeas and nays, and they were ordered.

Mr. CONNESS. I desire to say that in making this motion I make it subordinating my own judgment to what I believe to be a high public necessity. I believe that no greater error or mistake has been committed in the acts for the organization of the armies than in the introduction of the condition that is in contest here now, and I make this motion fearing the consequences; but it is stated here on good authority, and it is undoubtedly true, that the other House is dwindling away and will be without a quorum perhaps at six o'clock this evening. Therefore it becomes my duty to make this motion and sustain it by my vote.

Mr. WILKINSON. I do not know that I understand this proposition correctly, but if I am correct one difference between the Senate and House of Representatives is that the House insist on the provision in this bill that the loyal States may go into certain other States and enlist colored soldiers.

Mr. WILSON. Anybody.

Mr. WILKINSON. It means that. I have heretofore opposed it for the reason that I thought the Government of the United States should enlist them as soldiers of the United States and give no State the particular credit for doing it, but let all the States have the credit upon their quotas. As, however, the Government seems to be very backward in doing it, and inasmuch as I would rather see black soldiers enter into this contest than to have all our white men annihilated before the war shall be over, I will yield my own private feelings and vote for this motion to reconsider. I would rather that the States of New England and the State of New York, and the great wealthy States of the East should cause this element to be mustered into the service of the country than not to have it mustered in at all. That is my view. I am willing, as the representative of a western State without the means perhaps to induce this element to enlist into its service and fill out its own quota, to waive all such objections rather than not to have this very able and efficient element mustered into the service of the United States. The Senator from Virginia seemed to think that it was very desirable that the intelligent white young men of this country should be butchered off in detail upon the battle-field rather than to have the colored men of the country take any part in this conflict. I disagree entirely with that honorable Senator.

Mr. CARLILE. Will the Senator allow me to correct him? The Senator certainly misunderstood me. I understand that the law now authorizes the employment of negroes in the Army. What I object to and what I expect to object to is to relieving the white population of certain States from furnishing their quota to the Army by authorizing them to employ negro troops, not that I desire them to be slaughtered. I think I sympathize as much with every soldier killed in battle as the Senator from Minnesota; but I do not think we shall strengthen our Army or save the lives of our white soldiers by sustaining them alone with negro troops. If I am wrong in this it is an error of judgment.

Mr. WILKINSON. We do not expect to sustain the war alone with negro troops, but I suppose that every negro who enters into the service takes

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS. PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

MONDAY, JULY 4, 1864.

NEW SERIES.....No. 219.

the place of one white man, or at least every three negroes will take the place of two white men. I am, therefore, willing to waive my own personal feelings in this matter and go for the proposition of the Senator from California.

The question being taken by yeas and nays, resulted—yeas 18, nays 17; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Fessenden, Foot, Foster, Harris, Lauc of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sumner, Wade, Wilkinson, and Wilson—18.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Doolittle, Harlan, Henderson, Hendricks, Howe, McDougall, Powell, Riddle, Saulsbury, Sherman, Trumbull, Van Winkle, and Willey—17.

ABSENT—Messrs. Brown, Collamer, Dixon, Grimes, Hale, Harding, Hicks, Howard, Johnson, Nesmith, Richardson, Sprague, Ten Eyck, and Wright—14.

So the motion to reconsider was agreed to.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question now recurs on agreeing to the report of the committee of conference.

Mr. HENDRICKS called for the yeas and nays, and they were ordered.

Mr. DAVIS. I am convinced in my own mind that if the second committee of conference had been accorded by the Senate as asked by the Senator from Ohio, it would result simply in expunging from the bill the feature that authorized the Governors of certain States to send their emissaries into certain rebel States for the purpose of enlisting negroes to be substituted in place of their own white population. I have no idea that the House of Representatives would have jeopardized this bill on that issue, and I believe that another committee of conference organized by the order of the two Houses would at once be able to agree on that simple modification in the measure, so that in that shape it might readily be passed. We have been told again and again, especially by gentlemen from the North, and from Massachusetts particularly, that every negro owes his fealty to the Government of the United States as much so as a white man. If that principle be true, let it be faithfully and honestly executed; enlist the negro or recruit him to fill his own place, and recruit the white man to fill his place, so as to execute harmoniously the new principles in relation to this matter that the present war has brought on.

I have understood, at least it has been proclaimed a thousand times, that Massachusetts is opposed to the slave trade, that all of the North is opposed to the slave trade; they are opposed to reopening the trade in Africans. Well, what is this but reopening the trade in Africans in another form? The whole fact is that Massachusetts and the New England States, where there is a large accumulation of money and capital and where heavy bounties can be offered for substitutes, want to shield their own white population from the storm of battle and just go into the southern rebel States and buy negroes, the blood and bones and life of negroes, to place them in the front of battle in order to keep the white men of the New England States from being exposed to such danger. The measure as it passed the Senate and went to the House of Representatives authorized the President of the United States to send recruiting officers into the southern rebel States to recruit negroes on account of the United States at large.

Mr. WILSON. The Senator is mistaken in that.

Mr. DAVIS. If I am mistaken, the Senator will correct me.

Mr. WILSON. Many other Senators are mistaken on some points of the bill. That was a vote passed here and sent down to the other House, but it was found there was a mistake in it. It was sent for and brought back, and then Mr. GRIMES moved a bill, which was the first section of the original bill reported by the Senator from New York, [Mr. MORGAN,] with the third section put on by Judge COLLAMER, and that was all there was before the committee.

Mr. DAVIS. If the second committee of conference asked for by the Senator from Ohio had been granted, I have no doubt that feature would be introduced into the report of the second com-

mittee of conference. That feature would be just and reasonable on the principles which the majority of the Senate have assumed and laid down. With that feature added to this bill by the report of a second committee of conference, the President of the United States would send his recruiting officers; he would select those recruiting officers from Massachusetts, if you please, and I reckon none would have been more vigilant or more active or more successful in the work of recruiting negroes in the rebel States. He would send these active, effective, energetic New England recruiting officers into the rebel States to recruit negroes at large, and those negroes when recruited would be credited upon the account of the United States at large and not of any particular State, and that ought to be the case.

If the rebel States are to be gone into for the purpose of raising a military force to fill up our armies, that military force ought not to be credited to Massachusetts nor Maine nor any other State whatever. It of right, and according to the principle of obedience and loyalty to the Government, ought to be credited to the rebel State from whence they were recruited; but that not being done, the next most obviously just principle certainly is to give the benefit of these recruited negroes in the rebel States to the United States generally.

Mr. SHERMAN. I appeal to my friend from Kentucky to allow the time to be extended a while so that we may have this vote before the recess takes place. Let us extend it, say, until fifteen minutes before five. I move that the period for the recess be extended.

Mr. SUMNER. I think we had better reconsider the vote for a recess, and sit right on. That will be best.

Mr. SHERMAN. I move to reconsider the motion ordering a recess.

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the report of the committee of conference.

Mr. DAVIS. Mr. President, I protest against this feature in the bill and upon just and sufficient consideration. I maintain that the northern white man should not be allowed to go into the rebel States and recruit a negro and make that negro his substitute in the Army of the United States. If the negro owes fealty to the United States Government and is bound to render all of his service to sustain and support that Government, let him do it on his own account; regard him as a man from whom allegiance and service to his Government are due; do not treat him as a freedman or as a quasi slave, and permit northern white freemen to go into the rebel States and there recruit negroes to exempt them from the same military service rendered by white men in the northwestern States and the other States who are not able to pay the bounties necessary to obtain such substitutes.

I hope, Mr. President, that this report of the committee of conference will not be accepted, that it will be rejected, and that another committee of conference will be raised, and if that other committee of conference shall not agree in expunging this feature from the bill that is certainly objectionable to a majority of the Senate, it will then be time enough for the Senate to sacrifice the principle in the bill for which it has so long and so persistently contended.

Mr. FOSTER. I do not propose to debate this bill at any length; but I want to say a word in reply to a suggestion that has been made so often that I do not know but that somebody by and by will get to believe it is true; and that is that the New England States are desirous of shielding their men in this war, and want the report of the committee of conference to be agreed to in order that they may go into the rebel States and procure negroes to fight their battles for them.

Mr. DAVIS. My honorable friend will allow me to say that I did not intend to make any intimation of that kind in relation to any other State than Massachusetts. I think that that State by

their representatives on this floor have evinced beyond all question that that is their purpose in which they are persevering so strenuously.

Mr. FOSTER. Of course I do not speak for the State of Massachusetts when she has two gentlemen here so much more competent than I am to speak for her; but the honorable Senator's phraseology he will allow me to say was a little unfortunate, for he used over and over again the term "the New England States."

Mr. WILSON. With the permission of the Senator from Connecticut, I will simply say what I have said before, that we believe it would weaken the enemy to enlist the loyal white men and the black men in the rebel States and put them into the armies of the United States, and we can enlist through State agency ten men or one hundred men where the Government of the United States in the ordinary course can enlist one. I have no disposition to shield the people of Massachusetts from their full share in the duties of this war; and for the Army and for the Navy no State has sent more men, unless perhaps one or two of the western States, and not more than two or three of them to the utmost extent, taking both Army and Navy together; and in the field what States have suffered more? Of thirty-three regiments in the army of the Potomac engaged in the recent battles, twenty-three have lost their commanders and more than half their men. Five new regiments passed through here the other day, four in General Burnside's corps and one regiment of sixteen hundred men of heavy artillery who have gone into action, and they have lost more than two thirds of the men they carried into those actions, and a very large share of their officers.

Mr. DAVIS. Will the honorable Senator from Connecticut permit me to ask a question of the Senator from Massachusetts?

Mr. FOSTER. Certainly.

Mr. DAVIS. It is whether the same agents in this business of recruiting negroes in the South would not be as active and successful in the service of the United States as they would be in the service of Massachusetts?

Mr. WILSON. I will simply say that some of these very men and the first troops raised in the rebel States we raised in the first place by raising \$60,000 in Massachusetts and sending Major Stearns into the rebel States to organize them; and for these men Massachusetts has never got any credit, but our people did it in order to begin the work that they believe will break down this rebellion. I will say further in regard to it that while men will contribute money, of course they will do it more for themselves. I do not say that we are unselfish about it, but I say the great motive is to get men to break down the rebellion.

Mr. FOSTER. After the explanation of the Senator from Kentucky, my remarks will be shorter even than I intended them to be at first, and I intended them to be very short. I wish to say, however, that so far as the feeling of the State of Connecticut is concerned in this matter, I think she agrees most heartily in the policy of going into these States for the purpose of recruiting the Army. She does not do it with any view to herself personally, for it so happens that she has furnished so many men more than have been called for, that if there be now an additional call of three hundred thousand men, she will not be called upon to furnish over two hundred, if she will indeed so many. I believe on a full adjustment of the men furnished from the State three hundred thousand men may be called and we shall not be asked to furnish a single man. We are in advance to such an extent that such a force may be called for and we have our men in the field, so that Connecticut certainly is not claiming that this policy be pursued out of any regard to her own citizens personally. She has put in the field and has in the field nearly if not quite four thousand more than have been called for from her.

One word only in regard to the policy. It is said, the honorable Senator from Indiana said, that the evil was illustrated by what occurred at a former stage of the war when different States

in the Union were authorized to procure arms and the United States would pay the States who thus procured them, making of course competition in the market for arms and raising the price, and the consequence here he thought would be the same; by going into these States seeking recruits, different States offering different bounties, competition would raise the price so that there would be large amounts of money expended, and the rich States, as he seemed to indicate, would get the men and the poorer States would not. I submit to him that if that policy in regard to arms could be tried in the rebel forces to-day, it would be excellent policy, and the honorable Senator from Indiana would say so. Suppose we could get into General Robert E. Lee's army to-day and purchase arms, would it not by all means be well, even though we paid two or three prices for them? If we could disarm the soldiers of that army by purchasing those arms would it be worth while to higgie about the price? If the different States could go there and get them, would not the United States pay the expenses and pay the bills, although by sending different States we made the competition great and made the prices high? Should we not weaken and disband the army of the enemy if we succeeded in the measure? Clearly we should.

The same thing will occur now if we go into the rebel States and take able-bodied men out of those States. It is true we do not take them directly from the rebel army, but we take them under such circumstances that we weaken the enemy almost as much as though we took the men directly out of the rebel service. We take the men who are engaged in raising the bread and meat which supply that army; and if we take away those men we take away the foundation on which this rebellion rests. If the men who are now engaged in procuring the food, the provisions, for the army maintained by the rebels now in the field are taken away, we destroy that army almost as entirely as though we took the muskets out of their hands, their artillery, their swords, their bayonets, all from them. We take their lives when we take the means whereby they live. This policy does it; and although Yankees are charged generally with being somewhat greedy, and looking to make a good bargain, I, a thoroughbred Yankee and proud of my origin, am not disposed very much to stand on the price it may cost us to put soldiers in the field when we take the men who are themselves the life-blood of this rebellion. I am willing to pay large bounties. Why? These men, the honorable Senator says, are not equal to intelligent white men. Grant it; but when we take a man from the rebel ranks, although he may not be equal to one of ours, we take from the enemy one at the same time. If he be equal to ourselves, we get two men. For every one man that is thus obtained we get two by a law of mathematics. For every man half equal to an intelligent white man we get a full man, as counted against the rebels.

Under these circumstances I think it is policy to send all the loyal States and all the agents of those States into these rebel States and deplete them if possible, get every man that can be got, and pay the highest bounties that will tempt the men to go. We can scarcely lay out our money better. I trust, Mr. President, we shall accede to the report of the committee of conference, and that we shall have no further trouble on this question.

Mr. HENDRICKS. There would be force in the argument of the Senator who has just taken his seat were it not for one difficulty, that we cannot go within the lines of the enemy to recruit. If Massachusetts or the Senator's own State sends agents down to North Carolina or South Carolina or any other State in insurrection, they will have to stop in their operations within the territory which is occupied by the Union army; and the negroes that are employed within that scope of country, if employed in industrial pursuits under the present policy of the Treasury Department, if it amounts to a policy at all, are engaged in supplying the Union Army instead of the rebel army. It is the negroes within the rebel lines that feed the rebel army; and if the Treasury Department policy rises to the dignity of a policy at all, as I have said, the negroes employed by the Union men within the Union lines are employed to feed the Union Army. Now the

Senator's argument stops just at the line dividing the two forces. If he could carry his agents as he carries his argument, beyond that line, there would be force in it; but inasmuch as he cannot go within the enemy's lines where the negroes are employed in raising products to feed the rebel army, the argument falls short of convincing any person, I should think.

Mr. President, I do not intend to occupy the time of the Senate in discussing this measure. It is not a measure to strengthen the Army. It is a measure to allow certain favored States, (which in the House of Representatives will not allow the bill to pass, and which say to the Senate it shall not pass except they are heard according to their particular wish,) instead of furnishing white soldiers, to furnish negro mercenaries to fill up their places in the Army, mercenaries that for a year, according to the admission in debate of the Senator from Massachusetts, will not be valuable to the public service. When a man is enrolled in Massachusetts he is allowed under the provisions of this bill to stay at home to make his profits in contracts and manufacturing pursuits, and in his stead the agent of his State goes to North Carolina or South Carolina and brings a negro and hands him over to General Grant, and General Grant can make no use of him. Can he place that negro alongside of a veteran? He cannot do it without producing revolution in General Grant's army, I undertake to say. You may force the negroes into the cars in the District of Columbia, into personal and social equality with white men; but there is one thing you cannot do, if I properly appreciate the courage, gallantry, and valor of the white race that now compose the Army: you cannot place the negro in the same tent to sleep and eat with the white soldier; you cannot place him alongside the white soldier in the regiments without a revolution in your Army. Is the Senator from Connecticut willing to risk it? Is he willing to risk taking the raw recruit from a South Carolina plantation with his peculiar habits as a slave? Is he willing to risk a revolution in the Army by placing these negro recruits in veteran regiments? It cannot be done; but you can bring the white soldier from Connecticut and put him alongside the white soldier in the Army, and the next day that white soldier is equal to a veteran and is valuable to General Grant.

This is not a proposition to strengthen the Army; it is a proposition to weaken the Army and to make a very large portion of the force unavailable to the generals that are now in the field. You say that for a year the white men of Connecticut and Massachusetts may remain at home if they will only supply to the army of General Grant a negro. You take a valuable man from the service, a man that you have all said owed service to the country, a man that ought not to be allowed to pay money, but you allow him to pay a negro. With \$300, as experience has shown, you can procure a volunteer for a year; you can have a white man; but this policy is, instead of allowing the white men of the North to pay their money which up to this time has furnished volunteers, they shall pay the negroes in their stead and hand them over, though they are not valuable to the service, not strengthening General Grant in his campaign against Richmond. Is this not plain? What Senator can question it? I think the eastern States, and I call upon Senators to witness that I have not made sectional arguments on this question, have had advantages enough already. They had the commutation when they were drafted, and each \$300 under this bill, as I understand it, will stand as part of their quota up to this time. When \$300 have been paid in the eastern States where the draft has been enforced that stands as the discharge of a man; but in Indiana and the western States where the draft has not been enforced, where it was not needed to be enforced, where men came up and volunteered, you require that the men shall respond, and how? Do you say that we have an equal privilege in going down the river and securing negroes to pay the commutation with the negro instead of \$300? I say no, for your bill excludes Tennessee; it excludes Arkansas; it excludes Louisiana, and leaves us alone the northern portion of Alabama, and where are we to go? When the young farmer of Indiana is drafted where is he to go for his negro? It

is very easy for Massachusetts to send down the coast and land in North or South Carolina or in the occupied portions of Florida, if there be any now occupied, and there to buy up negroes and come up to General Grant and tell him, "We pay you for our white men with these negroes; use them."

I say this bill is not right, and it is not as efficient for the Government as the old law. The old law brings men or it brings money. If it brings money that brings a volunteer. As the Secretary said in his report to Congress last winter, the commutation money had been used to procure volunteers. Now I ask Senators how they can say that we oppose the Government. I oppose paying a commutation in negroes if we are not allowed in the Northwest to pay a commutation in money. The right policy is, as I believe, to encourage volunteering, and the last policy is to pay off in a negro instead of money or instead of a soldier.

Mr. President, I am not responsible for this measure, nor is the Senate. The Senate said the other day by a very large vote that this was not right. What new argument has shown that it is right? What statement of facts not known to the Senate before has convinced us that it is right? By three votes to one the Senate the other day said they would not sanction such a proposition; and now the Senator from Massachusetts tells the Senate that the bill is lost, and why? Because Massachusetts in the House of Representatives will not vote for it; because Massachusetts in the House of Representatives says, "We will pay off for our white men in negroes, or the bill shall not pass," and Senators turn around against their judgment and yield to the dictation of the other House under such circumstances. For one, I do not propose to do it. If the other House chooses to defeat the bill, if Massachusetts in the other House chooses to defeat it, let her take the responsibility. I do not think there is any public loss in its defeat; I do not think the Army will be weakened by it; I do not look for the filling up of the Army under this bill; but I look for fun when Massachusetts agents get up from South Carolina with their field hands and bring them to General Grant in new regiments already organized and tell him to take Richmond with those regiments.

Senators know that he cannot use them efficiently. They know, and it is admitted by the chairman, who is very conversant with this subject, that even white men for the first months of their enlistment are not valuable; they do not know how to fight; they do not know how to take care of themselves in war. They are good to make a charge. Everybody says they are desperate in a charge; but in the deliberate and long fight, and in the strategic movements that are necessary, they are not the valuable soldiers that the veterans are. But on the other hand let these agents bring their field hands up from South Carolina and hand them not organized into regiments over to General Grant and tell him to incorporate them into the old regiments; it would be an interesting spectacle about that period of time. It cannot be done. This bill is not right. If Senators choose they may pass it, and get down before the other House, for the chairman of the committee says it must be so, because the House will not agree to what the Senate thinks is right. Be it so. It is an affirmative proposition. It is commutation in negroes. The Senate says, "No commutation in money," and the House says, "We will agree to that, but we will have commutation in negroes."

Mr. CONNESS. That is a gain.

Mr. HENDRICKS. Not a bit of gain. You leave a valuable man in Massachusetts who could be placed in a veteran regiment and is equal to a veteran, and you bring a man into the field in his stead that is not his equal or half his equal, as the Senator must know. If you organize them in new regiments you know they are not valuable, and you cannot put them in with the veterans, as the Senator said the other day in debate was the useful mode of incorporating new men. That is what was the purpose, he said, of an early draft, not for the new regiments but to fill up the old ones. That is what we want. He says they are skeletons now, and he wants to put flesh upon the skeleton, but how? Not by black flesh. You cannot do it. You will disorganize, you will dis-

rupt the Army by the policy. It cannot be done. It is not right, in my judgment.

Mr. WILSON. I wish simply to say to the Senator from Indiana that Massachusetts has three regiments of colored men in the field besides a brigade raised through the money and influence of Massachusetts for which she never had any credit whatever, and which were never counted to her quota. I hardly think Massachusetts will raise enough men in all the rebel States to keep full the three regiments of colored troops she has raised and the veteran troops now in the field. She will hardly raise enough in Carolina and in Florida to fill up the ranks of the fifty-fourth regiment that has been decimated in those States. It is proposed to put the men raised there in the old regiments, but I have not an idea that she can raise one man in twenty.

Mr. HENDRICKS. I ask the Senator if under this bill Massachusetts will not be entitled to that credit. Is not the bill so framed as to give her that credit?

Mr. WILSON. For the men that she raises now.

Mr. LANE, of Kansas. Has the Senator from Indiana forgotten that when under the old bill \$300 commutation is paid the Government can take that \$300, and pay colored soldiers? It is no change in the principle at all.

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee of conference, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 18, nays 17; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Fessenden, Foot, Foster, Hale, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sumner, Van Winkle, Wade, Wilkinson, and Willey—18.

NAYS—Messrs. Buckalew, Carlile, Davis, Doolittle, Harlan, Harris, Henderson, Hendricks, Howe, Lane of Indiana, McDougall, Powell, Riddle, Saulsbury, Sherman, Trumbull, and Willey—17.

ABSENT—Messrs. Brown, Collamer, Cowan, Dixon, Grimes, Harding, Hicks, Howard, Johnson, Nesmith, Richardson, Sprague, Ten Eyck, and Wright—14.

So the report was concurred in.

PASSENGERS ON STEAMSHIPS.

Mr. WADE. I move to take up House bill No. 244.

Mr. CONNESS. I believe there is a pending question which was passed over by unanimous consent.

The PRESIDENT *pro tempore*. The pending question is on the motion of the Senator from California to take up House bill No. 510, upon which motion the yeas and nays have been ordered.

Mr. CONNESS. I think I can withdraw the call for the yeas and nays, and the Senate will take up the bill now. It will save time.

The PRESIDENT *pro tempore*. The call may be withdrawn by unanimous consent. The Chair hears no objection.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 510) further to regulate the carriage of passengers in steamships and other vessels.

Mr. HENDRICKS. With the permission of the Senator from California, I wish to move that the Senate take a recess until seven o'clock.

Mr. CONNESS. This will not take long.

The bill was reported to the Senate without amendment.

Mr. CONNESS. I have no desire to detain the Senate in connection with this bill; but I have a letter from our consul at Aspinwall on the subject which I will ask to have read.

Several SENATORS. No. Let us pass the bill.

Mr. CONNESS. If the Senate is disposed to pass the bill without having anything read, I have no objection.

The bill was ordered to a third reading, was read the third time, and passed.

RECONSTRUCTION BILL.

Mr. WADE. I move to take up House bill No. 244.

Mr. HENDRICKS. I move to take a recess until seven o'clock.

The PRESIDENT *pro tempore*. That motion is not in order while another motion is pending, except by unanimous consent. Is there objection?

Mr. WADE. I object.

The motion of Mr. WADE was agreed to; and the Senate proceeded to consider the action of the House of Representatives disagreeing to the amendment of the Senate to the bill (H. R. No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government.

Mr. WADE. I move that the Senate recede from its amendment and agree to the bill of the House.

Mr. McDOUGALL. I will ask the Senator from Ohio to allow us to move now that we take a recess, and come back at half past seven. I move that we take a recess until half past seven o'clock.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

Mr. McDOUGALL. It is now past five o'clock, and I think it would be better that we should take a recess and have an hour or so of interval.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from California that that motion can be entertained only by unanimous consent, and consent being refused it is not debatable.

Mr. McDOUGALL. I am aware of it, but I make the suggestion to the Senator from Ohio.

The PRESIDENT *pro tempore*. Is there any objection to the motion that the Senate take a recess?

Mr. SUMNER, and Mr. LANE of Kansas, objected.

The PRESIDENT *pro tempore*. It cannot be debated.

Mr. POMEROY. Is the bill of the Senator from Ohio up?

The PRESIDENT *pro tempore*. It is.

Mr. POMEROY. Then by unanimous consent we can take up the concurrent resolution and agree to adjourn to-night at some time. ["No, no."] There is objection made. Then we will take this vote first.

Mr. LANE, of Kansas. So soon as this bill is concurred in I propose to move an adjournment resolution.

Mr. HENDRICKS. I move to suspend prior orders and that the Senate take a recess until half past seven o'clock. ["Seven."] I will say seven o'clock.

The motion was not agreed to; there being, on a division—yeas 14, nays 16.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Ohio that the Senate recede from its amendment to the bill before the Senate.

Mr. SAULSBURY. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 14; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Foot, Harlan, Harris, Howe, Lane of Kansas, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Wade, Wilkinson, and Willey—18.

NAYS—Messrs. Buckalew, Carlile, Davis, Doolittle, Henderson, Hendricks, Lane of Indiana, McDougall, Powell, Riddle, Saulsbury, Ten Eyck, Trumbull, and Van Winkle—14.

ABSENT—Messrs. Brown, Collamer, Cowan, Dixon, Fessenden, Foster, Grimes, Hale, Harding, Hicks, Howard, Johnson, Morrill, Nesmith, Richardson, Willey, and Wright—17.

So the motion was agreed to.

FINAL ADJOURNMENT.

Mr. LANE, of Kansas. I now move to take up the concurrent resolution from the House of Representatives on the subject of the final adjournment.

Mr. SUMNER. I hope not. I do not think the time has come to decide that.

Mr. TRUMBULL. I think it has.

Mr. HENDERSON called for the yeas and nays, and they were ordered.

Mr. SHERMAN. The concurrent resolution which the Senator from Kansas calls up proposes to adjourn on Monday at twelve o'clock. I do not know of anything that we cannot dispose of in that time. We have the evening before us. Nearly all the important bills of the session are either disposed of or in committees of conference, and it is necessary to fix a future time for adjournment in order to allow the clerks to enroll the bill. I will state that all the appropriation bills are passed; the enrollment bill is now passed so far as the Senate is concerned; and if the House

agrees to the report of the committee of conference that will be disposed of. There is no bill that I am aware of of any very great importance yet to be acted upon, unless it may be probably one or two bills that may come from the House of Representatives that we can dispose of to-night. I see no reason why we may not fix the hour of adjournment at noon on Monday.

The question being taken by yeas and nays, resulted—yeas 22, nays 15; as follows:

YEAS—Messrs. Buckalew, Carlile, Clark, Davis, Foster, Hale, Henderson, Hendricks, Howe, Lane of Indiana, Lane of Kansas, Pomeroy, Powell, Riddle, Saulsbury, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, Wilkinson, and Willey—22.

NAYS—Messrs. Anthony, Chandler, Conness, Doolittle, Fessenden, Foot, Harlan, Harris, McDougall, Morgan, Morrill, Ramsey, Sumner, Wade, and Wilson—15.

ABSENT—Messrs. Brown, Collamer, Cowan, Dixon, Harding, Hicks, Howard, Grimes, Johnson, Nesmith, Richardson, and Wright—12.

So the motion was agreed to, and the Senate proceeded to consider the following resolution:

Resolved, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses for the present session on Thursday, the 30th instant, at twelve o'clock meridian.

Mr. LANE, of Kansas. At the suggestion of the chairman of the Committee on Finance, I move that the further consideration of the resolution be postponed until nine o'clock to-night, and be made the special order for that hour.

Mr. McDOUGALL. Allow me to ask a question, being somewhat ignorant about these things, and yet thinking I have some knowledge. That resolution has been exhausted and is not the subject of action, as Thursday the 30th of June has passed.

Mr. POMEROY. It can be changed to Monday.

Mr. McDOUGALL. I say it is not the subject of amendment.

Mr. SHERMAN. We can put in a day that has not passed.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas.

The motion was agreed to.

RECESS.

Mr. FOOT. I move that the Senate take a recess until seven o'clock.

Mr. ANTHONY. I believe in a motion of this kind the question first in order is on the longest time named. I will therefore move that the Senate take a recess until half past seven o'clock.

The PRESIDENT *pro tempore*. The question will first be put on the motion of the Senator from Rhode Island.

The motion was agreed to; and the Senate accordingly took a recess until half past seven o'clock.

EVENING SESSION.

The Senate reassembled at half past seven o'clock, p. m.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of the Senate of the 6th ultimo, a report from the Secretary of State upon the subject of the African slave trade, with accompanying papers; which was ordered to lie on the table, and be printed.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 94) for the relief of Isaac R. Diller—to the Committee on Claims.

A bill (No. 194) for the relief of half-breeds and mixed-bloods of the Winnebago tribe of Indians—to the Committee on Indian Affairs.

A bill (No. 337) for the relief of the administrator of W. W. Russell, late paymaster in the marine corps—to the Committee on Claims.

A bill (No. 384) for the relief of C. F. Johnson, of Alabama—to the Committee on Claims.

A bill (No. 458) for the relief of George Mowry—to the Committee on Claims.

A bill (No. 479) for the relief of John Warren & Son—to the Committee on Claims.

A bill (No. 489) for the relief of D. McV. Stuart—to the Committee on Claims.

A bill (No. 516) for the relief of Frances Munson—to the Committee on Claims.

A bill (No. 528) for the relief of the heirs-at-law of Colonel Archibald Cray, deceased—to the Committee on Revolutionary Claims.

A bill (No. 530) for the relief of George Calvert—to the Committee on Claims.

A bill (No. 555) for the relief of Horace Gates—to the Committee on Pensions.

A bill (No. 556) granting a pension to Ezekiel Darling—to the Committee on Pensions.

A bill (No. 557) granting a pension to Joseph Pike—to the Committee on Pensions.

A bill (No. 572) for the relief of Sally C. Northrup—to the Committee on Public Lands.

A bill (No. 404) to authorize departure from the established mode of surveying in certain cases—to the Committee on Public Lands.

A joint resolution (No. 106) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned—to the Committee on Finance.

A joint resolution (No. 118) for the relief of the sufferers by the late accident at the United States arsenal in Washington, District of Columbia—to the Committee on Military Affairs and the Militia.

A joint resolution (No. 119) explanatory of a joint resolution relative to pay of staff officers of the Lieutenant General—to the Committee on Military Affairs and the Militia.

PREVENTION OF SMUGGLING.

The bill from the House of Representatives (No. 573) making an appropriation to carry into effect an act to prevent smuggling was read twice by its title.

Mr. SHERMAN. I will ask the consent of the Senate to put that bill on its passage. It only makes a small appropriation.

By unanimous consent the bill was considered by the Senate as in Committee of the Whole. It appropriates the sum of \$15,000 to enable the Secretary of the Treasury to carry into effect an act entitled "An act to prevent smuggling, and for other purposes," passed at the present session of Congress.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MAJOR N. S. BRENTON.

The Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate (No. 328) for the relief of Major N. S. Brenton, a paymaster in the United States Army, which was to add at the end of the bill the following:

If on examining the evidence by the Paymaster General, he, the said Paymaster General, shall deem him justly entitled to said credit, but such credit shall not be allowed without the said Paymaster General shall certify his approval thereof.

The amendment was concurred in.

TELEGRAPH TO THE PACIFIC.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 290) for increased facilities of telegraph communication between the Atlantic and Pacific States and the Territory of Idaho, which was to add at the end of section three the following words, "whenever so directed by the sender thereof;" so that the section will read:

Sec. 3. And be it further enacted, That the aforesaid company is authorized by this act to send and receive dispatches on payment of the regular charges for transmission of dispatches over any line that may now or hereafter be constructed by the authority or aid of Congress, to connect with any line or lines authorized or erected by the Russian or English Government, and that all dispatches received by said line or lines shall be transmitted in the order of their reception, and the answers thereto shall be delivered to said United States Telegraph Company for transmission over their lines to the office whence the original message was sent whenever so directed by the sender thereof.

The amendment was concurred in.

PROFESSORS OF WEST POINT ACADEMY.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution of the Senate (No. 58) in relation to the professors of the Military Academy at West Point; which was, after the words "eighteen hundred and sixty-three" to insert the words "or the eleventh section of an act to increase the pay of soldiers in the United States Army, and for other purposes;" so that the resolution will read:

Resolved, &c., That the thirty-first section of the act entitled "An act for enrolling and calling out the national

forces, and for other purposes," approved March 3, 1863, or the eleventh section of "An act to increase the pay of soldiers in the United States Army, and for other purposes," shall not be construed to abridge the privileges usually allowed to the professors of the Military Academy of being absent during the suspension of the ordinary academic studies in that institution.

The amendment was concurred in.

CAPTAIN DANIEL HEBARD.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution of the Senate (No. 43) authorizing the settlement of the accounts of the late Captain Daniel Hebard of the United States volunteers; which was to add at the end of the resolution the following:

And that the like principle of allowance and payment be observed in the settlement of the accounts of Major William M. Esty, Captain Maxwell, and V. Z. Woodruff, aids-de-camp on the staff of Major General Robert C. Schenck, from December 22, 1862, when they entered upon their duties on the staff of the commanding general of the Middle department and eighth Army corps, until the date when they respectively received and accepted their commissions as aids-de-camp, deducting only from the pay and allowance of Major Esty what he received in any part of that time as a lieutenant of the twenty-sixth regiment of Ohio volunteer infantry.

Amend the title by adding the words, "and of other officers."

The amendment was concurred in.

ENLISTMENTS IN THE ARMY.

The Senate proceeded to consider the amendments of the House of Representatives to the bill of the Senate (No. 151) relating to enlistments, and for other purposes; and,

On motion of Mr. FOOT, it was

Ordered, That they be referred to the Committee on Military Affairs and the Militia.

HORACE GATES.

Mr. FOOT. I am directed by the Committee on Pensions, to whom was referred the bill (H. R. No. 555) for the relief of Horace Gates, to report it back without amendment and with the recommendation that it pass; and I ask for its present consideration. It is a bill from the House of Representatives granting a small pension to an aged invalid.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to place the name of Horace Gates, of Franklin, in the State of Vermont, upon the roll of invalid pensions, at the rate of eight dollars per month, to commence on the 1st of January, 1862, and continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ACADEMY OF LITERATURE AND ART.

Mr. SUMNER. I have a little bill which does not concern politics, or money, or slavery, and will take only a minute, which I ask the Senate to take up. It is Senate bill No. 341.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 341) to incorporate the National Academy of Literature and Art, and also to incorporate the National Academy of Moral and Political Sciences.

The bill proposes to declare S. Austin Allibone, Pennsylvania; William C. Bryant, New York; Frederick E. Church, New York; George W. Curtis, New York; Richard H. Dana, Massachusetts; John S. Dwight, Massachusetts; Ralph W. Emerson, Massachusetts; Fitzgreene Halleck, Connecticut; Oliver W. Holmes, Massachusetts; Henry W. Longfellow, Massachusetts; James R. Lowell, Massachusetts; George P. Marsh, Vermont; Hiram Powers, Ohio; William W. Story, Massachusetts; George Ticknor, Massachusetts; Henry T. Tuckerman, New York; Gulian C. Verplanck, New York; William D. Whitney, Connecticut; John G. Whittier, Massachusetts; Joseph E. Worcester, Massachusetts, their associates and successors duly chosen, to be a body corporate for the study and cultivation of the ancient and modern languages, letters, and the fine arts, by the name of the National Academy of Literature and Art.

It also proposes to declare George Bancroft, New York; Henry Ward Beecher, New York; Horace Binney, Pennsylvania; Robert J. Breckinridge, Kentucky; Edward Everett, Massachusetts; Thomas Ewing, Ohio; Henry W. Halleck,

Army of the United States, California; Samuel G. Howe, Massachusetts; Charles King, New York; Francis Lieber, New York; J. Lothrop Motley, Massachusetts; John G. Palfrey, Massachusetts; Wendell Phillips, Massachusetts; Alonzo Potter, Pennsylvania; Josiah Quincy, Massachusetts; Henry B. Smith, New York; Jared Sparks, Massachusetts; Robert J. Walker, District of Columbia; Francis Wayland, Rhode Island; Theodore D. Woolsey, Connecticut, and their associates and successors duly chosen, a body corporate for the study and cultivation of history, and the sciences which concern morals and government, by the name of the National Academy of Moral and Political Sciences.

Each of these national academies is to consist of not more than fifty ordinary members, of whom not more than ten are to be elected in any one year. Nominations are to be made and elections held at the regular annual meeting only, and no nomination for any kind of membership is to be acted upon until it shall have been before the academy for one year, and shall have been considered by a committee.

Each of these national academies is to have power to make its own organization, including its constitution, by-laws, and rules and regulations; to fill all vacancies created by death, resignation, or otherwise; to provide for the election of foreign and domestic members, what number shall be a quorum, the division into classes, and all other matters needful or usual in such institutions, and to report the same to Congress.

Each of these national academies is to hold an annual meeting at such place in the United States as may be designated, and whenever requested by any department of the Government is to investigate, examine, and report upon any subject within their respective provinces, it being understood that the actual expenses, if any, are to be paid from appropriations which may be made for the purpose, but the academies are to receive no compensation whatever for any services to the Government of the United States.

Mr. McDougall. A gentleman, an Englishman, established the foundation for an institution that was national in its character, and has been, and I trust for a long period of time will continue to be, of great value to our country; but I do not think it is the office of the Federal Government to establish the foundations of any of these societies. We have been at work here very industriously in aggregating to the Federal authority powers that properly belong to the States themselves, and powers not conferred upon the Federal Government either by the express terms of the Constitution or by any implication.

I should be glad to see established in this country that same system of academic institutions that now exists in France. I am to some extent an admirer of their academical arrangement, to as great an extent probably as the Senator from Massachusetts; but it is not within the limit of our power as Senators, Representatives, and President; it is an authority not conferred upon us by the Constitution of the United States. There is an intense tendency to accumulate power about the central Government, and I hold it to be my duty to resist that tendency for the public health. There is none who would be more pleased than myself to see such institutions established among us. The names recited in the proposed act of incorporation are names familiar to my ear, and I am aware that they are men who would do excellent service and reflect honor upon their respective departments, and be known well throughout the Republic and known abroad.

But, sir, that is not the question. We have not the pretense of the right to do this thing. The limit of our power to incorporate—and I have always made this distinction—is in and about the business of the Federal Government in the maintenance of the offices that belong to the Federal Government, and the incorporation of academical institutions for the promotion of art and science is foreign to those offices. I trust I take as earnest an interest in their promotion as does the gentleman who now proposes to take up this bill; I take as deep an interest as he in everything that belongs to the progress of civilization; but those things have to be done according to some form of rule or law, and by virtue of some competent authority. It does not exist in the Federal Government; and there is no one who has studied the

Constitution of the Republic, and read the lessons of its commentators, and has heard the law as it has been expounded from the most conservative to the most latitudinarian that can justify legislation of this kind. If this can be done, if this legislation can be justified by the text of the Constitution or by its fair construction, we may embrace within the power of the concentrated Government all the powers now being exercised by the several States themselves; we can aggregate all their powers; we make a perfectly centralized Government, and lose all the force and vitality that may be expressed on my coast by my people in disposing of their institutions and home regulations advancing the progress of learning—things that call out the force and action of the people upon subjects in which they are immediately concerned. We have established colleges, we have established universities, we have established academies of science on the coast of the Pacific. This attempt at aggregating all power in the General Government tends to destroy the positive exercise of the power of local institutions. That was a thing well known to our fathers when they framed our institutions and when they subdivided us into States and conferred upon the Federal Government only the powers granted by the Constitution, preserving other powers to the States themselves.

Mr. DOOLITTLE. If the Senator from California will yield for a moment, I wish to ask the courtesy of the Senate to take up a bill which has come from the House of Representatives in relation to certain half-breeds of the Winnebago tribe of Indians, which we can dispose of without discussion.

Mr. SUMNER. I hope we shall dispose of this bill. I will only make one remark upon it.

Mr. DOOLITTLE. I will state to my honorable friend from Massachusetts that the bill to which I refer has come from the House of Representatives, and unless it is passed immediately these half-breeds may be crowded out of their lands.

Mr. SUMNER. I sympathize with the Senator, but let us act upon this question first. I will only make one word of reply.

Mr. DOOLITTLE. It will create discussion.

Mr. SUMNER. I will only make one word of reply, which I hope will be satisfactory.

Mr. McDougall. I believe I am entitled to the floor. I yielded to the Senator from Wisconsin temporarily for a moment.

Mr. President, these great questions of immense magnitude seem like trifling things to many, and Senators, Representatives, and citizens have almost forgotten to consider the weight and gravity of the principles involved in propositions like this. It may be true on the part of the Senator from Massachusetts that he has considered these things and proposes to aggregate in the central Government all the powers of Government, and he undertakes to present this and other contentious things as a policy, so as to wipe out the lines of the States and make one grand empire. That may be his policy. I have seen it indicated from various quarters. It is revolutionary. It is a trampling down upon the organic law that lies at the foundation of the Government. It is the establishment of a new policy foreign to our fundamental law.

Now, sir, while I would go as far as he who would go furthest to promote the objects the Senator proposes with the names that he presents, I say I have not the right to promote such a corporation; he has not the right to promote such a corporation; and if it received the form of law by the assent of the Senate and House of Representatives, and the sign-manual of the President, it would be no law, for the reason that it would not be consistent with the fundamental law under which we have undertaken to live, and which we have sworn to support.

Mr. SUMNER. The answer is very simple. I have in my hand the Statutes at Large containing what was done by the last Congress. Here is "An act to incorporate the National Academy of Sciences," approved March 3, 1863, setting forth the names of eminent, not to say illustrious men of science in our country, and constituting those gentlemen as an Academy of Sciences. It will be remembered by Senators that that very Academy during this winter met in this building; that one or more of our committee-rooms were

set apart for them; and I know there were many Senators and gentlemen of the other House who took a great interest in their meetings. This Academy is devoted to the cultivation of the sciences properly so called.

Mr. McDougall. Will the Senator permit me to interrupt him?

Mr. SUMNER. Certainly.

Mr. McDougall. There may be some questions about which the Senator and myself may not understand each other exactly. Of course we have the right to incorporate an institution in the District of Columbia that is local to the District by virtue of our general powers of legislation over it, but that is not within the sphere of this legislation as I understand.

Mr. SUMNER. The act of Congress to which I have referred is general in its terms; it is not limited to the District; it is a national act to create a National Academy; and the bill now before the Senate simply proposes to apply the same principle to gentlemen engaged in the cultivation of literature and art, and also to gentlemen engaged in the cultivation of history and those sciences which are connected with morals and government. In selecting those names I have followed mainly the usage of France, which is the country which has most excelled in academies of this kind. I believe the precedent to which I have referred is sufficient. I do not think there can be any constitutional objection, and I am sure that the association if once organized would give opportunities of activity and of influence which would be important to the literature of the country. I hope there will be no question about it.

Mr. HALE. I think, at this stage of the session—and I am sorry to make the remarks I do—it is a little too late to be engaged in making a close corporation of mutual admirers—and it seems to me this bill is nothing more nor less—while there are bills that relate to the public service that demand the attention of Congress. I hold in my hand a bill about which the Naval Committee have been besought by the Secretary of the Navy. He informs us that at this moment our Navy, which now must consist in a great degree of engineers and gunners, for those are the men that manage your steam vessels of war, is in such a situation that the engineers are sending in their resignations in great numbers, and that they hold them there by mere force, and he asks for some relief to that corps. The Committee on Naval Affairs have reported a bill, and they think it is due to the subject, to the Senate, and to the country that they should lay it before the Senate, and the Senate can act their pleasure upon it. I move to postpone this and all prior orders for the purpose of taking up House bill No. 534, to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes.

Mr. SUMNER. This bill that I have presented, as I have said, is one which simply concerns the literature, art, and science of the country. It has nothing to do with politics or slavery; and I should like to make a personal request—

Mr. DOOLITTLE. There is no chance of its passing the House of Representatives. What then is the use of taking up time with it here?

Mr. SUMNER. The other act passed the Senate under precisely the same circumstances.

Mr. HALE. Oh, no.

Mr. SUMNER. I beg the Senator's pardon. Mr. JOHNSON. Is debate in order?

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) It is, to a limited extent. On a question of the order of business the merits of the question are not open for discussion; but the reasons, briefly assigned, why the one measure should be postponed and the other preferred are in order.

Mr. MORRILL. I desire to make an appeal to my friend from New Hampshire to allow me to introduce a bill. I shall vote for the postponement of the measure now before the Senate in order to enable me to introduce a bill to provide for an appropriation for the Washington aqueduct which by mistake or misapprehension between the two branches failed. It is absolutely necessary that the bill should be presented and considered at once in order that it may go to the House of Representatives. It is agreed to, I believe, on all hands. The chairman of the committee of conference on the civil appropriation bill, which contained this provision, tells me that

it was not the design of the committee that the appropriation should fail; but as a matter of fact it has failed, and there is no appropriation either for repairs or to pay up the deficiencies.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire.

Mr. MORRILL. I hope the Senator will allow me to take up this bill.

Mr. HALE. Let this come up first.

Mr. ANTHONY. The Senator from Maine can take up his bill after this is disposed of. I desire to say that I have had frequent communications with the Department upon the absolute necessity of an increase of the pay of the engineers. I am informed by the Navy Department that a very large portion of the engineers now in the service are held there by force, because the Department has refused to accept their resignations. Their services are in so much demand without the Navy that they are constantly resigning; and their pay now is less, considerably less, than that of the mechanics who work on the engines in the vessels.

The motion was agreed to.

The PRESIDING OFFICER. The present order is postponed; and the bill indicated by the Senator from New Hampshire is before the Senate.

WASHINGTON AQUEDUCT.

Mr. MORRILL. I now appeal to the Senator from New Hampshire, as that is a House bill and when passed here will be disposed of, to allow me to present this bill for the consideration of the Senate at the present time. It will not take five minutes.

Mr. SPRAGUE. Let us go on with the bill before us. It will take but a moment.

The PRESIDING OFFICER. The Senator from Maine asks the unanimous consent of the Senate to introduce a bill without previous notice.

There being no objection, leave was granted to introduce a bill (S. No. 348) to provide for the supervision, repairs, liabilities, and completion of the Washington aqueduct; which was read twice by its title.

Mr. MORRILL. I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates \$150,000 for the purpose of constructing the dam of solid masonry across the Maryland branch of the Potomac river near the Great Falls, and for constructing the conduit around the receiving reservoir and for paying existing liabilities and expenses for engineering, superintendence, and repairs of the work.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CARMACK AND RAMSEY.

Mr. WADE. I am directed by the committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 11) in relation to the claim of Carmack & Ramsey, to report that the committee having met, after full and free conference have been unable to agree; and further that the committee be discharged from the further consideration of the joint resolution. I am further directed to move the indefinite postponement of the resolution.

The PRESIDING OFFICER. The first question will be on concurring in the report of the committee of conference, which proposes to discharge the committee from the further consideration of the subject.

The report was concurred in.

The PRESIDING OFFICER. The Senator from Ohio now moves the indefinite postponement of the joint resolution.

Mr. HALE. Will the Senator agree simply to postpone it to the next session of Congress?

Mr. WADE. Oh, no; let it be postponed indefinitely.

Mr. RIDDLE. I ask leave to offer a joint resolution of which no previous notice has been given, which will lead to no debate, and which, I think, will meet the unanimous assent of the Senate.

The PRESIDING OFFICER. There are now two questions undisposed of: one is the bill which was taken up on the motion of the Senator from New Hampshire, and the other is the motion of the Senator from Ohio to indefinitely postpone

the subject connected with the report just made. It would accumulate questions very inconveniently to have any more subjects introduced until these are disposed of. The question is on the indefinite postponement of the subject alluded to by the Senator from Ohio.

Mr. BUCKALEW. I desire to say a word on that subject. This resolution was examined before a committee of which I am a member early in the session. It passed when I was absent from the Senate. It has now been to one committee of conference, but my idea is that it should go to another committee, and that some compromise should be made between the two Houses on the subject-matter to which the resolution relates. It is an old case, and one of some difficulty, involving a very considerable amount of money. I apprehend that another committee of conference might be more fortunate than the one that has already had this subject in charge, and might adjust the differences between the two Houses upon this subject. If the motion to indefinitely postpone this subject should not prevail, I will move the appointment of another committee, in the hope that upon an additional meeting some agreement can be come to.

Mr. WADE. The committee, after conferring together a long time, came to the conclusion that there was no hope of any agreement on the subject; and the committee of the Senate instructed me to move its indefinite postponement. It is a private claim; and it was the opinion of the committee that that would be the best way to dispose of it.

Mr. BUCKALEW. This claim involves about \$100,000. As the gentleman says, it is a private claim, but it is one of a very unusual magnitude, and I think before it is decided—because the postponement decides it—it should be considered by another committee of conference. I am content with my point of view that there should be an adjustment or compromise of the question between the two Houses, and I think it ought to be attempted in all reason and fairness. I hope the motion to postpone indefinitely will not prevail, and that another committee will be appointed and a reasonable effort made to adjust the difficulty between the two Houses. If that should fail it will then be time enough to postpone it indefinitely.

Mr. POMEROY. This resolution has been before this body for years. It has been before a committee of which I am a member for a long time, I know. I do not believe we shall ever get to any agreement about it. I have never seen any two men that could agree about it. I believe the committee of which I was a member agreed upon \$25,000, but there have been reports made upon this claim all the way up from \$25,000 to \$40,000, \$80,000, and \$120,000, and all sorts of amounts have been awarded at different times by different committees to these parties. I do not believe any committee can ever agree about it. I never saw a committee that could agree upon it. I think we might as well dispose of it.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The question is on the indefinite postponement of the joint resolution.

Mr. BUCKALEW. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKALEW. I am reluctant to add any observations upon this bill, especially at this time of night, but it merits more attention than it is receiving. I shall make no allusion to the early history of this claim, nor to its position before a former Comptroller of the Treasury. It is unnecessary to enter upon that debate. I take the case in its more recent aspects; for, sir, the Postmaster General of the United States, being clearly persuaded that the Government ought not to pay this demand, obtained the taking of a mass of evidence in New York, which I have examined, and from the examination of which I am convinced, thoroughly convinced, profoundly convinced, that in the Court of Claims, to which it is proposed by the resolution of the House of Representatives that this subject shall be referred, the claim would not be allowed, would be rejected. There being, in my opinion, no legal obligation, I am agreed that the question between the two Houses shall be compromised, and that a sum shall be allowed to these parties, and a liberal allowance; but I am adverse, after the examina-

tion I have made, to the allowance of this large amount. I think it is excessive and inordinate.

In the month of January, 1853, certain capitalists in the city of New York organized themselves into a company under the name of the Mexican Ocean and Inland Company. The next month two of their officers obtained this contract from the Post Office Department, subject to the ratification of Congress, for carrying the mail across Mexico. Immediately after the contract was made it was assigned to the corporation by the person who made it. It was held by that company. The summer following that corporation, through its president, notified the Postmaster General that they would proceed to provide themselves with the necessary animals and conveyances for carrying the mail and for executing the agreement. The Postmaster General wrote to them that he was opposed to the contract. In December following, when Congress met, the Postmaster General recommended to the two Houses that the contract ought not to be confirmed, and it was not, and never has been.

The evidence taken in the city of New York recently at the instance of the Postmaster General proves most conclusively that every dollar of outlay for which this claim is presented was made by the corporation to which I have alluded, and not one dollar of it by these claimants. That corporation subsequently became insolvent, and its affairs went into the hands of a receiver. If the Government recognizes this claim it is of course to be paid to the corporation that has the legal and the real interest, or rather it ought to go through the course of settlement of the affairs of that corporation and eventually reach its creditors.

These parties, then, having no real interest, not having expended, as the proof shows, one dollar of their own money, propose going before the Comptroller, and under the reading of a former law, obtain an award for the sum of \$100,000 or something like that. I am opposed to that. In my opinion, they are not entitled in point of law to a single dollar.

There was another feature in this case. By the records of this corporation it was shown that at one time they appropriated twenty thousand shares of stock for the purpose of procuring legislation in Congress; at another time fifteen thousand shares of stock to the same object; and at another time an appropriation of ten thousand shares. These facts appeared recently by an examination of the books of this company produced by Mr. Wakeman of the city of New York. Much to his credit, he exerted himself industriously and obtained this exhibition.

The postponement of this report is substantially a decision by the Senate that this claim shall be paid, and that the whole of it shall be paid without compromise, without mitigation, without deduction to the full extent to which a technical construction of the act of 1856 may carry the accounting officers of the Government. I might go on and show the case in a much stronger light upon other points. But, sir, I insist upon it that it should be sent, and upon this showing I think this Senate ought to send the subject to another committee, that it may be looked at before we charge the Government with the payment of this whole amount.

Mr. POMEROY. The motion is to postpone it indefinitely.

Mr. BUCKALEW. The Senator is mistaken. The indefinite postponement of this resolution leaves this case before the Comptroller of the Treasury, and according to the construction given by the claimants and the officer himself, he is bound to go on under the technical construction of the act of 1856 and assess the whole amount of damages. By postponing this report you decree that the whole sum shall be paid.

Mr. CARLILE. If the evidence be as conclusive as the Senator from Pennsylvania supposes it to be, and the Comptroller, to whom this subject is by law referred for settlement, be an honest man, of sufficient sagacity to understand the force of evidence, the object which the Senator has in view will be accomplished. I hold that this Government is estopped from going behind its own act in 1856. I think a solemn law of Congress should be as binding upon the Government as is a bond executed by an individual; and that bond we all know estops him from introducing evidence contradictory to it. In 1856—and I main-

tain that we are estopped from going behind it—Congress by law declared that this claim should be referred to the Comptroller of the Treasury, and his award should be paid. That is the claim as it now stands. In pursuance of that law this subject was before the Comptroller of the Treasury for settlement and adjudication under it; evidence, as the Senator says, has been taken in New York and elsewhere; and the decision would have been had but for the act of the present Postmaster General coming into this Congress and bringing the subject again before the representatives of the people, and getting through the House of Representatives the resolution which is now before the Senate. There is not a dollar appropriated under any provision here, and the Comptroller is limited in his action under that law to ascertain the actual expenditures and outlays of these parties, and his award, if favorable to them, cannot be beyond a reimbursement of those actual expenditures.

This contract with them was made prior to 1856, of course, or there could have been no legislation subsequent to it. It was made by the then incumbent of the Department. His successor was Mr. Campbell, of Pennsylvania, who took a very decided and active stand in opposition to these men. Congress, to get rid of the whole subject and in order that justice might be done between the Government and these parties, enacted the law of 1856; and this subject would not have been again before this body but for what I presume were the prejudices inherited from Mr. Campbell. If the Senate shall concur in the motion indefinitely postponing this subject, if nothing is due to these men, nothing will be obtained by them under the award that the Comptroller will make. If we should now interfere with that legislation, in my humble judgment it would be a repudiation on the part of this Government of its own solemn act, as well as an imputation upon the honesty and sagacity of the Comptroller before whom the subject now is.

Mr. CONNESS. This subject was before the committee of which I happen to be a member, and I entirely agree with the views of the Senator from Pennsylvania upon the subject. I can state in addition that that Senator gave the subject the most thorough examination, and unquestionably arrived at the most accurate conclusions in relation to it. I do not think that whatever action we may take here, if it should result in withdrawing the case from the examination of the Comptroller of the Treasury, can be construed as an imputation upon that officer or an expression of a want of confidence in him. The difficulty of the case as it is before that officer is this, that he is called upon to determine it in view of statutes difficult of construction. That is his difficulty, and that is the difficulty that the Government stands in, and the liability that there is for that officer to make an error against the Government in the determination of the question.

I think the true determination of the question is the mode pointed out by the Senator from Pennsylvania; and that is not to indefinitely postpone it, because, as he says, that leaves the question where it is, before the Comptroller of the Treasury, but to refuse to indefinitely postpone, discharge the committee of conference, recede from the Senate amendment, and let these parties go to the Court of Claims, and let them get whatever they are entitled to. I will not express any opinion of my own as to what that sum should be, because if we pursue that course we shall send it to another tribunal to determine that question. My decided opinion is that that is the most just and correct course, and I hope the Senate will take it.

Mr. WADE. I am not, certainly at this stage of the session, going to enter into any very elaborate argument on this subject. I also was one of those who investigated this claim on the Committee on Post Offices and Post Roads some four or five years ago, and I think I know something about it. I know that some seven or eight or nine years ago this whole matter was referred to the Comptroller of the Treasury to investigate and report upon; he proceeded with it, and it is now in his hands; and he is as perfectly competent to render a just judgment upon it as any court in Christendom.

Mr. BUCKALEW. The Senator will allow me to correct him. Mr. Whittlesley was then Comptroller of the Treasury. Great confidence

was placed in his capacity and integrity. This claim was sent to him, not to report upon, but to determine, and upon his award the amount was to be paid out of the Treasury. He went out of office before he decided it. His successor, Governor Medill, took it up and decided that the parties were not entitled to receive anything.

Mr. WADE. I understand all about that. Mr. Medill availed himself of the technicality, perhaps, of the opinion of the Attorney-General, but did not go into the equities of the case and did not investigate it. Mr. Taylor, the present Comptroller, is as honest a man as any court we have got, and as capable of making an investigation of this kind as any court in the country, and will be as likely to make a report that will be equitable and just between the Government and these claimants as anybody else.

The reason that induces me to insist upon the indefinite postponement of this joint resolution and permit the Comptroller to go on with it is this: the Comptroller being as competent as anybody to determine it, a very large amount of evidence having been taken before him, the case having been adjudicated for some seven, eight, or nine years, it seems to me that to turn around upon these claimants now and tell them to go into a court to commence a new suit on this subject would not be treating them fairly. I think we should postpone this resolution and let the Comptroller go on with his investigation until he gets through. I hope, therefore, that we shall postpone it and leave the matter in his hands. He is just as competent to decide it as any court to which you could refer it. I think that will be much more just, right, and equitable to the claimants. After selecting a tribunal to make this investigation, and after the parties have proceeded a long time before him, now to turn them over to a new tribunal I do not think would be right or just.

The question being taken by yeas and nays, resulted—yeas 22, nays 8; as follows:

YEAS—Messrs. Anthony, Carlile, Chandler, Clark, Foot, Hale, Harris, Hicks, McDougall, Morgan, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—32.

NAYS—Messrs. Buckalew, Conness, Davis, Hendricks, Lane of Indiana, Powell, Riddle, and Samsbury—8.

ABSENT—Messrs. Brown, Collamer, Cowan, Dixon, Doolittle, Fessenden, Foster, Grimes, Harding, Harlan, Henderson, Howard, Howe, Johnson, Lane of Kansas, Morrill, Nesmith, Richardson, and Wright—19.

So the joint resolution was indefinitely postponed.

ENCOURAGEMENT OF IMMIGRATION.

Mr. HALE. Let the bill that is regularly before the Senate be read.

Mr. RIDDLE. I ask the Senator from New Hampshire to allow the joint resolution that I have sent to the Chair to be taken up. It will lead to no debate and will not take a minute of time.

The PRESIDENT *pro tempore*. The Senator from Delaware desires the unanimous consent of the Senate to proceed to the consideration of the resolution indicated by him. Is there any objection?

Mr. HALE. Yes, sir.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered.

Mr. McDUGALL. I move to postpone all prior orders to take up a resolution that I will indicate.

Mr. SHERMAN. Before that is done I hope the Senator will allow me to make a report from a committee of conference.

Mr. McDUGALL. Certainly.

The PRESIDENT *pro tempore*. The report will be received, if there be no objection.

The Secretary read it, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 411) to encourage immigration, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

They recommend that the Senate recede from their amendment, and agree to the bill of the House with the following amendments:

Strike out of said bill section three and add at the end of section four the following: "unless such immigrant shall voluntarily renounce, under oath, his allegiance to the country of his birth and declare his intention to become a citizen of the United States."

And strike out all of section six of said bill, and the House agree to the same.

JOHN SHERMAN,
H. B. ANTHONY,
Managers on the part of the Senate.
E. B. WASHBURN,
WILLIAM WINDOM,
Managers on the part of the House.

Mr. SHERMAN. I will state that the result of the conference was to leave the bill about as it passed the Senate, with very little alteration.

Mr. SAULSBURY. I ask for the yeas and nays on that report. I do not think the Government of the United States have any power over the subject.

The yeas and nays were not ordered, but two Senators rising to second the call.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had further insisted upon its disagreement to the amendment of the Senate to the bill of the House (No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. SIDNEY PERHAM of Maine, Mr. MOSES F. ODELL of New York, and Mr. EPHRAIM R. ECKLEY of Ohio, managers at the same on its part.

The message further announced that the House of Representatives had further insisted upon its amendments to the bill of the Senate (No. 138) to regulate proceedings in cases between landlord and tenant in the District of Columbia, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES F. WILSON of Iowa, Mr. THOMAS T. DAVIS of New York, and Mr. EZRA WHEELER of Wisconsin, managers at the same on its part.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 460) for the relief of the estate of Hon. John L. Robinson, late United States marshal for the district of Indiana;

A bill (H. R. No. 564) for the relief of Eliza Cass Woodbridge; and

A joint resolution (H. R. No. 117) authorizing the Secretary of the Navy to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer Juniata.

MONARCHICAL GOVERNMENTS IN AMERICA.

The PRESIDENT *pro tempore*. The question now is on postponing the bill before the Senate, House bill No. 534, to proceed to the consideration of the resolution indicated by the Senator from California, which will be read.

The Secretary read it, as follows:

Resolved, That the people of the United States can never regard with indifference the attempt of any European power to overthrow by force, or to supplant by fraud, the institutions of any republican Government on the western continent; and that they will view with extreme jealousy, as menacing to the people and independence of their own country, the efforts of any such Power to obtain any footholds for monarchical Governments sustained by foreign military force in near proximity to the United States.

Mr. ANTHONY. Will the Senator from California allow me to appeal to him? If we are going to have any steam navy at all we must pass the bill, and it must go to the House of Representatives, because we propose to offer some amendments to it. I hope he will allow the bill to be passed. I do not believe it will give rise to five minutes' debate.

Mr. McDUGALL. It is now since January last that I have sought to express some opinions that I have to the Senate, and which I thought of value to the Senate by way of counsel. I have not been allowed the opportunity. I have quietly and modestly bided my time until the Senate is about to adjourn. I am not going to occupy any great length of time. I am not in the habit of doing it without it is for some special obligation. If, however, the Senator from Rhode Island says that this bill is a matter that can be disposed of in a few minutes, I will agree to allow this resolution to pass by informally for a brief time, I reserving my right to my place on the floor. I do not wish to interrupt the course of business, but I do wish to express my opinion.

Mr. SUMNER. I will inquire of the Senator if the resolution which he now proposes to take up is not one which has already been referred to the Committee on Foreign Relations.

Mr. McDUGALL. I will answer. I had occasion to refer one resolution to the Committee on Foreign Relations which they buried five fathoms deep, and deeper. I have two resolutions on the table that have never been put into the tomb of the Capulets; and this is one of them. I have not made a speech, or what you call a speech, on the floor of the Senate during this long session of Congress. I have desired to express my opinions upon what I call the gravest thing next to this war that is presented for the consideration of the Senate, the Government, and the American people. I now ask the opportunity to present some few remarks. I have been circumscribed, circumscribed, surrounded by the Committee on Foreign Relations, it is true; but as I stand now, I am independent of that power, and I can appeal to the just sense of my fellow Senators to allow me the simple privilege of saying what I think upon what I as a Senator believe to be a grave subject worthy of public consideration.

SEAMEN OF WRECKED VESSELS.

Mr. HALE. I ask the unanimous consent of the Senate to make a report from a committee of conference.

There being no objection, the report was received and read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (S. No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service, have met, and after a full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate concur in the amendment of the House to said bill, with the following amendments, namely:

In line four of section one, strike out the word "officers."

In the same line between the words "others" and "borne" insert the words "not officers."

In line four of section two, strike out the word "officers" where it first occurs.

In the same line between the words "others" and "on" insert the words "not officers."

In section two, between the words "person" in the nineteenth line and "employed" in the twentieth line insert the following words: "not an officer."

In line two of section three, strike out the word "officer" where it first occurs.

In line three of section three, between the words "person" and "such" insert the following words: "not an officer."

That the House concur in the above amendments to their amendment to said bill.

JOHN P. HALE,
J. B. HENDERSON,
ALEXANDER RAMSEY,
Managers on the part of the Senate.
ALEXANDER H. RICE,
JOHN A. GRISWOLD,
WILLIAM D. KELLEY,
Managers on the part of the House.

The report was concurred in.

REPORT FROM A COMMITTEE.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a bill (H. R. No. 194) for the benefit of half-breeds and mixed-bloods of the Winnebago tribe of Indians, reported it without amendment.

MONARCHICAL GOVERNMENTS IN AMERICA.

Mr. HARRIS. I move that prior orders be postponed, and that the Senate proceed to the consideration of House joint resolution No. 32.

Mr. McDUGALL. I believe I have the floor. The PRESIDENT *pro tempore*. The Chair is of opinion that the Senator from California is entitled to the floor, he having yielded it temporarily merely for the purpose of receiving a report from a committee of conference.

Mr. HARRIS. I supposed the Senator had got through.

Mr. McDUGALL. I was willing to yield to the ordinary formal business.

Mr. HARRIS. This is a short resolution that I want to get through.

Mr. HALE. I rise to a question of order; and that is, that the Senator from California can only state the reasons why his resolution should be taken up, but cannot discuss the resolution itself on a motion to take up.

The PRESIDENT *pro tempore*. No such question of order can as yet be raised, because the Senator has not commenced his speech.

Mr. McDUGALL. I certainly cannot undertake to discuss the subject-matter I propose to

present in detail until I have the privilege of the Senate. I will try and conform myself to the rules with what I would call a strict observance, and when I am ignorant I always desire to be informed by any Senator that I have erred in my understanding of it.

I have tried to express my opinions, as I remarked before, upon some grave matters I think of great importance to the public. From the opening of this year until now almost past the summer solstice I have sought that opportunity. I am not specially favored with opportunities to possess the floor, nor am I so bold as to demand it or to fight for it except it be conceded to me by the courtesy of my fellow Senators. I would be pleased to be permitted to proceed with such remarks as I have to make in favor of the proposition that I have offered and offered again and which is now pending before the Senate. I ask that it may be considered. I shall speak briefly, and I trust I shall speak to the point.

Mr. CONNESS. I simply desire to express my vote on this subject. I should like to accommodate my colleague by voting with him to take up this resolution; but I am satisfied, in the first place, that the management of the affairs comprehended by it should be at the present time best left to the executive branch of the Government. Again, I am satisfied that the subject cannot have the discussion and consideration that it deserves if the Congress of the United States undertake to express an opinion upon it at the present time.

Mr. McDUGALL. I call for the yeas and nays on the motion to take up the resolution.

The yeas and nays were ordered.

Mr. HALE. I deem it my duty simply to say that here is a bill which, if we intend to have a Navy, we ought to consider at once. The most important naval officers at the present time are engineers and gunners under the new order of things. The Secretary of the Navy has informed the committee again and again that he cannot run the Navy unless some such measure is passed; that the engineers find so much more profitable employment in private shops and establishments than they do in the Navy that they are tendering their resignations, and those he has there by mere force, refusing to accept their resignations. This is a bill which has passed the House of Representatives, been before the Committee on Naval Affairs of this body, and they propose some amendments to it. It is of no interest to us; it is for the benefit of the country. It is for the Senate to say whether they will consider it or not.

Mr. McDUGALL. There are many grave matters yet to be considered, and I am willing to remain here to consider them. The subject that I presented at an early day was a grave matter, more grave, in my judgment, than the business now brought forward by the chairman of the Committee on Naval Affairs. There are undoubtedly among Senators differences of opinion. It happens to be unfortunate for me—where that misfortune is chargeable I do not exactly understand—that my seat is so situated that I am not able usually to command the ear of the person in charge of the administrative business of the Senate; it is seldom that even I catch the corner of his eye; but I have the privilege at this present time of addressing the Senate, and I ask a vote. Probably it will not happen again that I may have the privilege of asking the vote of the Senate. Senators will bear me witness that I have not been disposed to engage in elaborate discussions; I have not been disposed to occupy the time of the Senate. Whatever I have said has been for advice and counsel on every and all occasions, and there is no Senator but will be compelled to recognize that statement as being the exact truth.

I have thought this question possessed more dignity and was of more real importance and should command more attention than did many of my fellow Senators, and I have sought an opportunity to give them the reasons why I thought this subject should engage their attention. I have been by various reasons and by many causes denied the opportunity. I have now the right to ask Senators whether I may be permitted to say what I think upon what I regard as the next gravest question to the rebellion against this Republic. I trust I may have the privilege. If

I am denied I am to understand the spirit in which that denial is expressed.

Mr. ANTHONY. The question is whether we shall proceed to the consideration of a bill which in the opinion of the Navy Department is almost necessary to the existence of the Navy, or whether we shall listen to a speech, which I know will be a very good one, from the Senator from California on our foreign affairs. I desire to say that no Senator has a higher respect for the Senator from California than I have. I know the great ability and the very great information that he brings to the discussion of every subject on which he speaks, and I know how much attention he has paid to this particular subject; but I submit that at this stage of the session we shall be recreant to our duty if we allow anything to interpose to prevent the consideration of the bill which the Senator from New Hampshire has brought up.

Mr. SUMNER. I desire to add one word. The question, as the Senator from Rhode Island has said, is not on the resolution itself, but it is simply on taking it up. It is whether the Senate now, when it is nearly nine o'clock of probably our last night here, will take up a resolution on which the Senator from California announces that he wishes to make an elaborate speech, and that speech is to consist of a review of the foreign relations of our country. I doubt not the ability with which they would be displayed by the Senator from California; but allow me to say that this is not the time for any such discussion. There is a time for all things. There is time for an elaborate speech from the Senator; but he will allow me to say that this evening is not that time. I will say no more.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of executive business. ["Oh, no!"] There are nineteen messages on the table.

Mr. McDUGALL. I feel very much like yielding to the appeal made by the Committee on Naval Affairs for the immediate consideration of their business, and I should have yielded to that appeal only that I desired to take the first opportunity to say on this floor in my place what I thought, and ask the judgment of the Senate on the question I have submitted.

But I have a word to say now to the chairman of the Committee on Foreign Relations, who says it is not wise to consider this subject. If I remember history aright, and I am not exactly certain that I do, Fabius would never have been a general if Marcellus had not been in the field. The Roman authorities never approved of Fabius except as a check under special and very special circumstances; and to-day, among the old Romans whose names are remembered as worthy of having borne arms, Marcellus stands far ahead of Fabius. This thing of fearing to do what is right is the evidence of a weak boy; and if I had a boy of mine and he feared to maintain the right I would say that same bar sinister would establish his condition. I hold that it is so with boys and men and States and nations. They who do not dare to maintain the right are weak from their ankles to the last insertion of the column that supports the brain. I object to the Fabian policy which has been conducted with such extreme deference to Louis Napoleon and the French Government, the Government and Power both antagonizing us.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas that the Senate now proceed to the consideration of executive business.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from California to take up the resolution which has been read, and on that question the yeas and nays have been ordered.

Mr. McDUGALL. For the purpose of saving time I am willing to waive my motion for the present in order to take up the naval business, with the understanding that I am to have the floor after the naval business is disposed of, and allowing this resolution to be passed over informally.

The PRESIDENT *pro tempore*. On this question the yeas and nays have been ordered, and must be taken, unless withdrawn by unanimous consent.

Mr. McDUGALL. I will ask that the call

be withdrawn by unanimous consent, if it is understood that I can have the floor afterwards.

Mr. ANTHONY. I understand that the Senator by allowing this bill to come forward will lose no rights that he now has.

Mr. McDUGALL. I have the floor now, and I believe I will take the yeas and nays.

The PRESIDENT *pro tempore*. The call will proceed.

The question being taken by yeas and nays, resulted—yeas 11, nays 27; as follows:

YEAS—Messrs. Buckalew, Carlisle, Davis, Hendricks, McDougall, Powell, Richardson, Tiddle, Saulsbury, Sprague, and Wilkinson—11.

NAYS—Messrs. Anthony, Chandler, Clark, Doolittle, Foot, Foster, Hale, Harlan, Harris, Henderson, Hicks, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wiley, and Wilson—27.

ABSENT—Messrs. Brown, Collamer, Conness, Cowan, Dixon, Fessenden, Grimes, Harding, Howard, Nesmith, and Wright—11.

So the Senate refused to take up the resolution.

FINAL ADJOURNMENT.

The PRESIDENT *pro tempore*. The Chair calls up the special order for this hour, being the resolution in regard to the adjournment of Congress.

Mr. LANE, of Kansas. I move to postpone its further consideration until eleven o'clock to-night.

Mr. HENDRICKS. Before that vote is taken, I move to amend the resolution by striking out the time fixed, and inserting "the 4th day of July at twelve o'clock."

The PRESIDENT *pro tempore*. The motion to postpone, in the opinion of the Chair, has precedence.

Mr. TRUMBULL. I hope it will not be postponed until the amendment can be made; and I should like to inquire why it is that we cannot fix the day of adjournment at this stage of the session. It seems to me we might as well fix it now, and then have our business prepared with reference to it. I am quite sure from the character of the bills that lie on the table and are liable to be called up when members are exhausted, as they are now, that we shall be quite as likely to pass bills that should not pass as those which ought to pass. I have never before been a member of the first session of any Congress that we have not fixed the day of adjournment always days before the time when we expected to adjourn. I believe it is the general understanding that we are to adjourn in the course of a few days, and I think we had better fix it so that the clerks and the Executive and all may understand when it is, and do our business in reference to it. The idea that we are to continue in session so long as there is anything on the Calendar would lead to a perpetual session. More business will come in if we pursue that course than will be disposed of. I do not know why we cannot fix the hour of adjournment now as well as at eleven o'clock, and why we should not have fixed it this afternoon as well as now. If we are to continue on in this way, it renders the whole thing uncertain and inconvenient, and no one can make his arrangements with reference to the adjournment.

Mr. SHERMAN. There is one important bill now pending in the House of Representatives which I hope will pass this evening. It is indispensable that it be passed. It is the only bill that I know of that ought to detain us—a bill to provide for an income tax. I am told it is now being considered by the House of Representatives; and as soon as that comes over, I suppose there will be no objection to fixing the time of adjournment. It is the only important bill I know of that is pending between the two Houses. It is very important that that should be acted upon before the hour of adjournment is fixed.

Mr. RICHARDSON. My colleague has said that it has been the uniform practice of Congress to fix a day some two or three weeks beforehand, and there is a reason for it. In the House of Representatives some days before the final adjournment members can move to suspend the rules. Before the day of adjournment is fixed upon, that motion cannot be made except on particular days. If Congress ought not to adjourn on Monday, fix some day next week. Let us have a day fixed. I am for the majority here taking whatever time they want, but I am also for fixing the day of adjournment and fixing it now.

The *PRESIDENT pro tempore*. The question is on the motion to postpone the resolution until eleven o'clock, and make it the special order for that hour.

The motion was agreed to; there being, on a division—ayes twenty-two, noes not counted.

LANDLORD AND TENANT LAW.

The Senate proceeded to consider the amendments of the House of Representatives to the bill of the Senate (No. 138) to regulate proceedings in cases between landlord and tenant in the District of Columbia, disagreed to by the Senate and insisted upon by the House; and

On motion of Mr. MORRILL, it was

Resolved, That the Senate further insist upon its disagreement to the amendments of the House of Representatives to the said bill, and agree to the further conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The *PRESIDENT pro tempore* appointed Mr. MORRILL, Mr. HENDRICKS, and Mr. HARLAN.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 339) to repeal a joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department, and for other purposes."

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862.

The message further announced that the House of Representatives had passed a bill (No. 575) to correct a clerical error in the law of June 30, 1864, relating to the Post Office Department; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 290) for increased facilities of telegraph communication between the Atlantic and Pacific States and the Territory of Idaho;

A bill (S. No. 232) in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of fraud in States declared in insurrection;

A bill (S. No. 328) for the relief of Major N. S. Brenton, a paymaster in the United States Army;

A bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes;

A joint resolution (S. No. 43) authorizing the settlement of the accounts of the late Captain Daniel Hebard, of the United States volunteers; and

A joint resolution (S. No. 58) in relation to the professors of the Military Academy at West Point.

ENGINEERS IN THE NAVY.

Mr. DOOLITTLE. I move that the bill that the Senator from New Hampshire has named be now taken up. It is necessary that it should be passed.

Mr. HALE and others. It is up.

The *PRESIDENT pro tempore*. It is before the Senate.

Mr. HALE. Let it be read.

The Senate, as in Committee of the Whole,

proceeded to consider the bill (H. R. No. 534) to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes, which had been reported from the Committee on Naval Affairs with amendments.

The Secretary proceeded to read the bill.

The first amendment was in section one, line eight, after the word "purpose" to insert the words "to be styled cadet engineers;" so that the section will read:

That the Secretary of the Navy be, and he is hereby, authorized to provide, by regulations to be issued by him, for the education of such midshipmen or others at the Naval Academy as show a peculiar aptitude therefor as naval constructors, or civil and steam engineers, and may form a separate class for this purpose, to be styled cadet engineers, or otherwise afford to such persons all proper facilities for such a scientific mechanical education as will fit them for such professions.

The amendment was agreed to.

The next amendment was in line four, section two, to strike out the word "commissioned" and insert "appointed;" so that the section will read:

That upon the recommendation of the academic board such persons connected with the scientific and mechanical class as graduate therein with credit may be immediately appointed as assistant naval constructors or warranted as engineers.

The amendment was agreed to.

Mr. HALE. It is hardly necessary to read the rest of the bill, as the committee propose to strike it all out and insert a substitute.

The Secretary read the following amendment proposed by the Committee on Naval Affairs in lieu of the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh sections of the bill:

Sec. 3. *And be it further enacted*, That cadet engineers, not to exceed fifty in number, shall be appointed by the Secretary of the Navy: *Provided*, That no person, other than midshipmen, shall be eligible for such appointment who shall not produce satisfactory evidence of mechanical skill and proficiency, and that he has been employed at least two years in the actual fabrication of steam machinery.

Sec. 4. *And be it further enacted*, That cadet engineers, when appointed, shall be under eighteen years of age, and shall have passed a mental and physical examination. They shall be admitted to the Naval Academy, where they shall be examined from time to time, according to the regulations prescribed by the Secretary of the Navy; and if found deficient at any examination, or dismissed for misconduct, they shall not be continued in the Academy, or in the service, except upon recommendation of the academic board.

Sec. 5. *And be it further enacted*, That the academic course of cadet engineers shall be two years, and their pay the same as that of midshipmen.

Sec. 6. *And be it further enacted*, That the number of chief engineers shall not exceed one for each first and second rate vessel in the Navy, with such first, second, and third assistant engineers, or those acting as such, as the wants of the service actually require. And that from and after the passage of this act the annual pay of the engineer officers of the Navy, on the active list, shall be as follows: every chief engineer on duty, for the first five years after the date of his commission, \$2,200; for the second five years after the date of his commission, \$2,500; for the third five years after the date of his commission, \$2,800; after fifteen years after the date of his commission, \$3,000. Every chief engineer on leave or waiting orders, for the first five years after the date of his commission, \$1,500; for the second five years after the date of his commission, \$1,600; for the third five years after the date of his commission, \$1,700; after fifteen years after the date of his commission, \$1,800. Every first assistant engineer on duty, \$1,500; while on leave or waiting orders, \$1,100. Every second assistant engineer on duty, \$1,200; while on leave or waiting orders, \$900. Every third assistant engineer on duty, \$1,000; while on leave or waiting orders, \$800.

Mr. HALE. I will explain to the Senate the amendment that the committee have made. The bill as it was passed by the House of Representatives made an additional class of engineers. The committee do not concur in that, for the reason that there is now an existing law by which the President is allowed to detail a fleet engineer and a fleet surgeon and a fleet paymaster to do duty while he is on that service, and when he comes home he returns to his crew as he was before, and it does not make a distinct office. The bill as it came from the House made that a distinct office and paid him as fleet engineer all the time whether on the fleet or not. The Committee on Naval Affairs recommend that we do no such thing; the law they think is sufficient leaving all fleet engineers the same as fleet paymasters and fleet surgeons.

Then the House bill as it came to the Senate had this provision, "that the pay of engineer officers shall be equal to that of medical officers." The grades are different. There are five grades of engineers, chief engineer, and first, second, and

third assistant engineers, and cadet engineers. In surgeons there are but three grades, surgeons, assistant surgeons, and passed assistant surgeons; so that it was impossible to make an understandable bill with that provision. The committee, instead of saying that, have taken the pay of surgeons and made that of engineers as near to it as they could, carrying out the analogy as far as possible considering the different number of grades. It raises their pay about twenty per cent. That is all that the committee have done.

The amendment was agreed to.

Mr. BUCKALEW. I offer the following amendment as a new section:

And be it further enacted, That section two of joint resolution "authorizing the Secretary of the Navy to adjust the equitable claims of contractors for naval supplies and regulating contracts with the Navy Department," approved March 3, 1863, be, and the same is hereby, amended by adding to the same the following proviso, viz: "Provided, That where articles are advertised and bid for in classes, and, in the judgment of the head of the Department, any one or more articles appear to be bid for at excessive or unreasonable prices, exceeding ten per cent. above their fair market value, he shall be authorized to reject such bid."

Mr. HALE. That amendment is substantially what was recommended by the select committee on naval supplies. I have no objection to it, and hope it will be adopted.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed.

RICHARD G. MURPHY.

Mr. HOWE. I move to proceed to the consideration of Senate bill No. 346, for the relief of Richard G. Murphy.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole. It proposes to require the Secretary of the Treasury to pay to Major Richard G. Murphy \$1,800 in full for that amount charged to and paid by him as agent for the Sioux Indians upon false vouchers transmitted to the Indian Bureau by Willis A. Gorman, late superintendent of Indian affairs for the northwestern superintendency. It also directs the Solicitor of the Treasury forthwith to cause to be commenced against Willis A. Gorman such suits as he may deem proper for the recovery of any money which Gorman may have wrongfully obtained from the Treasury.

Mr. HARLAN. Has this bill been before a committee?

Mr. HOWE. Yes, sir; it is reported from the Committee on Claims.

Mr. SHERMAN. Is not Mr. Gorman a brigadier general in the Army?

Mr. HOWE. He was a brigadier general, I believe.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SUBMARINE INVENTIONS.

Mr. HALE. I have a short bill from the Naval Committee, and I will state to the Senate what it is and I think they will consider it. The Navy Department are bothered by a great many gentlemen coming with important inventions for submarine explosions, and the Department would be glad to experiment with them but have no funds, and the committee have reported a bill to make an appropriation for that purpose. I move that the Senate proceed to the consideration of Senate bill No. 343, making an appropriation for testing submarine inventions.

Mr. CHANDLER. I am opposed to taking up that bill. I hope no such bill as that will be taken up at this late hour, appropriating \$25,000 for experimental purposes. I hope the Chair will learn that there are some other States represented here besides New England.

The *PRESIDENT pro tempore*. The Senator will come to order.

Mr. CHANDLER. The Senator is in order.

The *PRESIDENT pro tempore*. The Senator will take his seat. The Senator will come to order.

Mr. CHANDLER. The Senator is in order.

The *PRESIDENT pro tempore*. The Chair will cause the rule to be read.

The Secretary read, as follows:

"6. If any member in speaking or otherwise transgress the rules of the Senate, the Presiding Officer shall, or any member may, call to order; and when a member shall be called to order by the President or a Senator, he shall sit down and shall not proceed without leave of the Senate; and every question of order shall be decided by the President without debate, subject to an appeal to the Senate; and the President may call for the sense of the Senate on any question of order."

Mr. WILKINSON. I appeal from the decision of the Chair.

The PRESIDENT *pro tempore*. There is no decision of the Chair except a request to the Senator from Michigan to take his seat.

Mr. WILKINSON. It is a call to order by the President, and I appeal from it.

Mr. CHANDLER. Is the Senator from Michigan in order, sir?

The PRESIDENT *pro tempore*. The Senator from Michigan may proceed with the leave of the Senate. The Chair makes no objection to the Senator proceeding in order.

Mr. FOOT. I move, according to the rule of the Senate, that the Senator from Michigan proceed in order.

The motion was agreed to.

Mr. CHANDLER. I have been trying for the last hour to get the ear of the Chair to call up a little bill sanctioning an act of the Legislature of Michigan authorizing the deepening of the channel of a river. In my own opinion the Legislature of Michigan had a right to pass that act, but it leads to a large expenditure of money, and the corporators under the act of the Legislature desire the sanction of Congress for fear they might violate that clause of the Constitution which says that no tonnage duty shall be laid without the consent of Congress. The bill does not appropriate one farthing. It simply legalizes an act of the Legislature of Michigan which in my opinion is legal now; and, as I said before, I have been trying for the last hour to get the ear of the Chair in order to call up that bill.

Now, I hope that no bill will be taken up at this late hour, half past nine o'clock at night on the last day of the session, authorizing the use of a large amount of money for experimental purposes. I hope the Senate will vote down the proposition, and that they will permit me to proceed with the bill to which I have referred. It does not involve the expenditure of a single shilling; it will greatly promote the mercantile interests not only of Michigan, but of all the States bordering on the lakes, and I may say of all the United States, and solely at the expense of the citizens of the State of Michigan. I hope the Senate will vote down this motion, and that then the Chair will recognize me and permit me to move to take up that bill.

Mr. HALE. I have no personal interest in this bill nor has the State I represent. There have been several applications made to the Naval Committee to examine curious inventions of submarine batteries, &c. We have told the inventors that we had nothing to do with them, and we finally sent several of them to the Secretary of the Navy and asked his opinion. The Secretary submitted some of them to a board, and they recommended them, but the Secretary said he had no money to spend upon them, and requested us to make an appropriation; and this bill is reported in accordance with the recommendation of the Secretary of the Navy.

Mr. CONNESS. Is it a House bill?

Mr. HALE. No, sir; it has just been reported. It is very brief, and I think it can be passed in a minute or two if the Senate will take it up.

The question being put, there were, on a division—yeas eleven—

Mr. HALE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 22, nays 12; as follows:

YEAS—Messrs. Anthony, Buckalew, Clark, Doolittle, Foot, Foster, Hale, Harris, Henderson, Hicks, Howe, Johnson, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Trumbull, Van Winkle, Wilkinson, Willey, and Wilson—22.

NAYS—Messrs. Carlile, Chandler, Conness, Cowan, Harlan, McDougall, Powell, Riddle, Saulsbury, Sprague, Sumner, and Ten Eyck—12.

ABSENT—Messrs. Brown, Collamer, Davis, Dixon, Fessenden, Grimes, Harding, Hendricks, Howard, Lane of Indiana, Nesmith, Richardson, Sherman, Wade, and Wright—15.

So the motion was agreed to; and the bill (S.

No. 243) making an appropriation for testing submarine inventions was read the second time, and considered as in Committee of the Whole.

Mr. WILKINSON. I should like to inquire of the Chair what became of the appeal which I took from the decision of the Chair.

The PRESIDENT *pro tempore*. The Chair understood the Senator to withdraw his appeal on the motion of the Senator from Vermont that the Senator from Michigan be allowed to proceed in order.

Mr. WILKINSON. The Chair will understand that one motion cannot be withdrawn on the motion of another Senator.

The PRESIDENT *pro tempore*. The Chair understood the Senator to withdraw the appeal and to yield to the motion of the Senator from Vermont that the Senator from Michigan proceed in order.

Mr. WILKINSON. I do not know what the Senator from Vermont said, but when the Chair decided the Senator from Michigan to be out of order and ordered him to take his seat, I took an appeal from that decision.

The PRESIDENT *pro tempore*. The Chair so understood.

Mr. WILKINSON. And I have not said a word from that time to this, and the Chair went on with the proceedings of the Senate without any regard to it whatever.

The PRESIDENT *pro tempore*. The Chair understood the Senator to withdraw it upon the motion made by the Senator from Vermont that the Senator from Michigan be allowed to proceed in order.

Mr. WILKINSON. I did not hear what the Senator from Vermont said.

Mr. FOOT. I made the usual motion under the rule, that the Senator from Michigan, having been called to order by the Chair, have leave to proceed in order. I made the motion under the rule, and that motion was carried.

Mr. WILKINSON. I do not know much about the rules, but the Senator from Vermont does, and if he says that it is all right I have nothing to say about it.

Mr. FOOT. I made that motion.

Mr. CHANDLER. The Senator from Vermont is incorrect. The Senator from Michigan was not called to order by the Chair. The Senator from Michigan was ordered to take his seat by the Chair, but was not called to order. The Chair had a right to call the Senator from Michigan to order, but he had no more right to order the Senator from Michigan to take his seat than the Senator from Michigan had to order the Chair to take his seat. The Chair was out of order, and I shall insist upon that appeal on account of the Chair being out of order. Had the Chair called the Senator from Michigan to order, he would have been right and the Senator from Michigan would have taken his seat; but the Chair did not—

The PRESIDENT *pro tempore*. The Chair will say to the Senator from Michigan that he is entirely out of order.

Mr. CHANDLER. I was simply discussing the fact; that was all.

The PRESIDENT *pro tempore*. The Senator is out of order both in discussing the fact and in addressing the Senator from Vermont.

Mr. JOHNSON. I submit that it is too late to raise this question now. Other business has intervened.

The PRESIDENT *pro tempore*. The reading of the bill will proceed.

The Secretary read the bill, which proposes to appropriate \$25,000 for the purpose of testing submarine batteries and other inventions, to be applied under the direction of the Secretary of the Navy to experiments upon such devices for submarine operations as may be recommended as worthy of practical test by a commission of competent naval officers and scientific men, now or hereafter to be organized for their examination.

Mr. HALE. I will state a single fact to the Senate. I am told that some submarine batteries which the rebels have that have destroyed several of our vessels are the result of inventions offered to our Government and not experimented with by our Government for want of a fund, and they want a fund to be at their disposal to make practical experiments in this way.

Mr. HOWE. I should like to ask the Senator

from New Hampshire by whom they were offered to our Government?

Mr. HALE. I do not know. I say I have been so informed. I have seen it in the public papers. I cannot affirm that it is true.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and it was read the third time.

Mr. McDougall. Is the bill open to amendment?

The PRESIDENT *pro tempore*. It is not.

Mr. POMEROY. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 13; as follows:

YEAS—Messrs. Anthony, Conness, Doolittle, Foot, Foster, Hale, Harris, Henderson, Hicks, Howe, Johnson, Lane of Kansas, Morgan, Morrill, Ramsey, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—23.

NAYS—Messrs. Buckalew, Carlile, Chandler, Clark, Cowan, Davis, Harlan, McDougall, Pomeroy, Powell, Riddle, Saulsbury, and Sprague—13.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Grimes, Harding, Hendricks, Howard, Lane of Indiana, Nesmith, Richardson, Sherman, and Wright—13.

So the bill was passed.

MISSOURI MILITIA.

Mr. HENDERSON. I ask the consent of the Senate to introduce a bill based on facts which have just come to my knowledge.

There being no objection leave was granted to introduce a bill (S. No. 348½) to pay a certain militia force called into service in the State of Missouri; which was read twice by its title.

Mr. HENDERSON. I desire the present consideration of the bill.

Mr. WILKINSON. I object.

The PRESIDENT *pro tempore*. Objection being made it cannot be considered.

Mr. HENDERSON. I hope the Senator from Minnesota will withdraw his objection. I desire before this matter passes off to read the order of General Rosecrans in my State so that he may understand the condition of affairs there. I am satisfied he does not understand it.

The PRESIDENT *pro tempore*. Is objection to the present consideration of the bill withdrawn?

Mr. HENDERSON. I hope it will be done until I can read the order.

Mr. WILKINSON. I will withdraw it long enough to hear what the Senator from Missouri wishes to read.

Mr. CONNESS. That cannot be done.

Mr. WILKINSON. Then I refuse to withdraw the objection. I am told I cannot withdraw it unless I do so unconditionally.

ARMY MEDICAL CORPS.

Mr. MORGAN. The Committee on Military Affairs and the Militia, to whom was referred a bill (H. R. No. 543) to increase the efficiency of the medical corps of the Army, have had the same under consideration and have instructed me to report in favor of it without amendment, and to ask for its immediate consideration.

Mr. POWELL. I object.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered at this time.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the bill of the Senate (No. 185) to establish a branch of the Mint of the United States at Dalles City, in the State of Oregon.

LANDLORD AND TENANT LAW.

The message further announced that the House of Representatives requested the return to the House of the bill (S. No. 138) to regulate proceedings in cases between landlord and tenant in the District of Columbia, for the purpose of correcting an error in the message announcing to the Senate the action of the House upon the said bill.

The Senate proceeded to consider the resolution of the House of Representatives requesting the return of the bill (S. No. 138) to regulate proceedings in cases between landlord and tenant in the District of Columbia; and it was

Ordered, That the said bill be returned to the House of Representatives agreeably to its request.

POST OFFICE LAWS.

Mr. CONNESS. I move to take up for consideration House bill No. 575, just received from the House of Representatives. It is simply an act to correct a clerical error.

The motion was agreed to; and the bill (H. R. No. 575) to correct a clerical error in the law of June 30, 1864, relating to the Post Office Department was read twice by unanimous consent, and considered as in Committee of the Whole.

Mr. CONNESS. I ask for the reading of this letter. ["No, no."]

The bill provides that so much of the act of the 30th of June, 1864, as repeals the seventeenth, eighteenth, thirty-fifth, thirty-ninth, and forty-first sections of the act of March 3, 1863, entitled "An act to amend the laws relating to the Post Office Department," be repealed.

Mr. LANE, of Kansas. I feel a good deal of reluctance to consider a bill of this sort in the absence of the chairman of the Committee on Post Offices and Post Roads. It seems to affect previous laws.

Mr. CONNESS. I ask for the reading of the letter.

Mr. McDOUGALL. It is not necessary. There is no objection to the bill.

Mr. CONNESS. Let it be read. Let the Senate understand it.

Mr. LANE, of Kansas. I should like to have the letter read.

The PRESIDENT *pro tempore*. The letter will be read if there be no objection.

The Secretary read the following letter:

POST OFFICE DEPARTMENT, July 1, 1864.

SIR: I herewith send you the draft of a law for the correction of a clerical error in the post office bill of 30th June, 1864. This act, as originally drawn, contained substitute provisions for the sections of the act of 1863 which are repealed. These substitute provisions were stricken out by the committee, and the provision repealing the sections of the act of 1863 was inadvertently left in the act of 30th June.

Respectfully, your obedient servant,

M. BLAIR,

Postmaster General.

Hon. J. B. AILEY, House Representatives.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CLAIMS FOR ARMY SUPPLIES.

Mr. TRUMBULL. I ask the Senate to proceed to the consideration of House bill No. 305. It is a bill providing for paying for quartermaster's and commissary's stores that were taken and used by our Army.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 305) to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States.

Mr. TRUMBULL. The bill has been before the Senate and read at length, and some amendments were made on the motion of the Senator from Maryland. I move now to strike out all after the enacting clause of the bill, and substitute the two sections on the same subject which were reported by the Judiciary Committee of the Senate as Senate bill No. 259.

The proposed substitute was read, as follows:

That all claims of loyal citizens in States not in rebellion, for quartermaster's stores actually furnished to the Army of the United States and receipted for by the proper officer receiving the same, or which may have been taken by such officers without giving such receipt, may be submitted to the Quartermaster General of the United States, accompanied with such proofs as each claimant can present of the facts in his case; and it shall be the duty of the Quartermaster General to cause such claim to be examined, and if convinced that it is just, and of the loyalty of the claimant, and that the stores have been actually received or taken for the use of and used by said Army, then to report each case to the Third Auditor of the Treasury, with a recommendation for settlement.

Sec. 2. And be it further enacted, That all claims of loyal citizens in States not in rebellion, for subsistence actually furnished to said Army and receipted for by the proper officer receiving the same, or which may have been taken by such officers without giving such receipt, may be submitted to the Commissary General of Subsistence, accompanied with such proof as each claimant may have to offer; and it shall be the duty of the Commissary General of Subsistence to cause each claim to be examined, and if convinced that it is just, and of the loyalty of the claimant, and that the stores have been actually received or taken for the use of and used by said Army, then to report each case for payment to the Third Auditor of the Treasury, with a recommendation for settlement.

Mr. TRUMBULL. As this bill seems to alarm

some Senators, I am quite sure it is not understood. It is the duty of the Quartermaster General and the Commissary General to pay these accounts now. If Senators will give me their attention a moment, I will state that it is not a bill to pay damages which have been done by our armies in their marches. That was the character of the original Senate bill. The Judiciary Committee struck out the whole of that bill and put in these two sections. Now, what are the two sections? The two sections require the quartermaster and commissary departments to pay for property, not which the Army destroyed, but which the officers took and which was used by the Army. The property must have been taken by the proper officer—that is the language of the bill—and used by the Army in States not in rebellion, in loyal States, and the property of loyal citizens, and we require the loyalty of the citizen to be proven to the quartermaster and the commissary. Can any one say that such a claim as that should not be paid? If a quartermaster went and took the property and the Army used it, why should it not be paid for? It is no matter if he did take it, if the Army did not use it, according to the provision we have reported it is not to be paid for; but where the property of a loyal citizen in a loyal State has been taken and the Army has used it, can anybody say that that is a claim which should not be paid? It seems to me it ought to be paid on presentation. The quartermasters and commissaries are doing this thing every day. They come and take one hundred bushels of oats from me or one hundred bales of hay and they pay me for it. That is all that there is in this bill, nothing else, and there are no hundreds of millions of dollars of damages to be claimed under it. If your Quartermaster General and Commissary General are satisfied that the proper officer took the property and that the Army used it, do you not think you ought to pay the man what is reasonable and proper? That is all there is to it.

Mr. WILKINSON. How does it operate down South?

Mr. TRUMBULL. It is confined entirely to the loyal States.

Mr. LANE, of Kansas. Why do you discriminate against loyal men in disloyal States?

Mr. TRUMBULL. We discriminate against them because of the difficulty of arriving at the facts in that unsettled portion of the country, but loyal men in the disloyal States ought to be paid, I will say to the Senator from Kansas, whenever there is a settled condition of the country; but to open that door now we thought was going too far. I was willing to do something for the people in the loyal States whose property has been taken by the proper officer and used by the Army, but I was not ready to go into the disloyal States to do that for fear there would be abuses and a difficulty in proving it. It is true there may be hardships, but we all have to suffer hardships. Where the country has been in a state of insurrection, to open the door for men to prove their loyalty, would be, I fear, dangerous at this time. I thought something ought to be done, and was willing as one of the committee to go this far; but this is as far as I can go. That is my answer.

Mr. JOHNSON. When our armies were in Maryland on two occasions, when the battle of Antietam and the accompanying battles of that invasion and the subsequent battle of Gettysburg were fought, the armies were fed almost entirely by the citizens of Maryland. Their property was taken. They would have had no option to refuse; but they did not refuse. They tendered all that they had, and all that they had was appropriated to the support of the Army; and all that this bill says is that a Maryland citizen who upon that occasion fed with his stores or supplied the Army in another way with commissariat stores shall be paid, unless it shall turn out that he was disloyal. The amount is very large to them, but nothing to the United States. But irrespective of the amount, there is an obligation, a moral, a national obligation, it seems to me, that appeals with commanding force to the judgment, and to the honesty, I am almost inclined to say, of the Congress of the United States.

Mr. CLARK. I move to amend the amendment of the Senator from Illinois by adding at its close:

And it shall be the duty of the Third Auditor to recom-

ine said claims both in the quartermaster and commissary departments, and if they are found to be just to fix the amount and recommend the same for payment, or otherwise reject the same.

Mr. TRUMBULL. I have no sort of objection to that. It is another safeguard; that is all.

The PRESIDING OFFICER, (Mr. Foor.) It is competent for the Senator from Illinois to accept it as a part of his own amendment.

Mr. TRUMBULL. It requires the Third Auditor to examine after the Quartermaster General and the Commissary General shall have examined. I have no desire that anybody shall be paid anything but what is justly due; and I have no sort of objection to any checks that do not make the bill so cumbersome that it will not operate. I accept the amendment.

The PRESIDING OFFICER. It becomes part of the amendment moved by the Senator from Illinois, and the question is on the amendment as modified.

Mr. CLARK. I think something like this bill, perhaps this very bill, should pass. A great many claims of this character have been the past session before the Court of Claims, and it seems sometimes a matter of some surprise to the Committee on Claims that the bills were not paid. The amount had evidently been furnished. We passed a little bill here last night, I think, for twenty-five cords of wood. The proof of furnishing the wood was clear, but, on inquiry why it was not paid, it turned out that one regiment had used half of it and moved off the ground and another regiment had come on and used the other half, and so no proper voucher was furnished in regard to the wood. There are a great many of these cases that ought to be provided for, and I do not see any better way than this to have them examined in the proper departments.

The amendment was agreed to.

Mr. TRUMBULL. The motion which I made was to strike out the whole of the House bill; but on looking at the first section there is no objection to it. The first section of the bill is—

That the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States growing out of the destruction or appropriation of or damage to property by the Army or Navy, or any part of the Army or Navy, engaged in the suppression of the rebellion, from the commencement to the close thereof.

I do not think there is any objection to that. I understand the Court of Claims does not take jurisdiction of these cases.

Mr. CLARK. There have been some rumors that they had or would.

Mr. TRUMBULL. I understand they are not doing it; but I do not want them to do it.

Mr. JOHNSON. I submit to the honorable member from Illinois that he had better leave that section in, because the House of Representatives are under the impression that the court takes jurisdiction of such cases.

Mr. TRUMBULL. Very well; I have no objection. Let my amendment come in striking out all of the bill after the first section.

The PRESIDING OFFICER. The amendment will be so modified if no objection be interposed, the amendment having been agreed to by the Senate. There is no objection, and it will be so modified.

Mr. McDOUGALL. I offer the following amendment:

And be it further enacted, That \$250,000 be paid to the order of the representative of the Government of Mexico now recognized by the Government and people of the United States, as indemnity to the Government and people of the republic of Mexico for the failure of this Government to maintain its faith pledged by its executive officers as extended to the people and the Government of Mexico, and to the people and States of North, South, and Central America, and as declared to the States of Europe, and as was acknowledged as having the force of contract as well as of law on both sides of the Atlantic.

Mr. JOHNSON rose.

Mr. McDOUGALL. I have the floor.

Mr. TRUMBULL. The Senator from California is entitled to the floor, but will he allow me to say a word to him through the Chair? I ask the Senator to allow me to say one word.

Mr. McDOUGALL. Through me to the Chair.

Mr. TRUMBULL. The Senator from California certainly would not embarrass a bill of this kind with extraneous matter. I am sure he will not insist on his amendment when he considers how anxious some of these poor persons are to get

their money, people whose all—not amounting perhaps to a great deal, but yet everything to them—has been taken in many instances by the proper officers of the Government, but they have had no pay for it. I trust he will withdraw the amendment and not embarrass this bill at this hour with it. Just let this little bill go through and offer his as an independent proposition or in any way that he pleases afterward.

Mr. McDOUGALL. The amendment I offer may not be considered as one pertinent to the pending measure, but I believe it is within the rules governing the business of the Senate. In moving this amendment in this place I feel it due to myself to say the subject embraced in the amendment was brought by me before the Senate in January last. From the winter to the summer solstice, both in committee and on this floor, I have urged consideration of the subject. That conduct which is governed by the counsel of its fears has persistently denied me the opportunity of even expressing my opinions upon the relations existing between this Government and France, Mexico, and Maximilian. It seems strange that this should be so. I can only relate this policy to the timorousness of imbecility.

This amendment is a just and proper provision. I do not hope for its acceptance. I have rather introduced it that I might enjoy the opportunity of expressing my profound indignation of and concerning the cowardly crowd of politicians that with one voice fiercely affirm a policy and in the following moment, in a trembling terror, say it will not do officially to say the same thing. Men of such conduct cannot govern any people. I wish to advise Senators that this subject shall not be ignored so long as I have a place here, and that will be for some years, as I can assure gentlemen I have no apprehension of death from disease or enemies. I will employ every opportunity to maintain what I hold to be an essential policy the strategy of opportunity may afford, and this is not a promise for to-day, but a promise for years.

The questions involved in our French-Mexican relations are only second to those involved in the present war, and should be examined firmly and sternly in the face. Mr. President, I have said to you, sir, and I desire to say to Senators, that for one half year I have sought the opportunity to state what I knew and to reason according to my convictions on this subject in my place here. The opportunity has been denied me; the power to express this denial has been with the Presiding Officer and the majority of the Senate. I have been compelled to regard this denial as an outrage upon my rights.

In this matter the coast to which I belong is deeply concerned. I understand and know this, and I will not permit it to be altogether ignored while I have a voice here, whatever may be the policy of the Secretary, who I think belongs more to Napoleon III than to the American Republic, or whatever may be the disposition of the majority of this body.

Mr. President, I am conscious that I know that had Mr. Secretary Seward given the proper warning to France, had he directed our minister resident to say to the French Emperor, "Sir, the Government of the United States will regard the occupation of Mexico by a French army for political results as an act unfriendly to the Government of the United States of America," French forces would not have advanced beyond the Gulf ports. Mr. President, I state a query—Senators may take time to resolve it: is the foreign Secretary in league with Napoleon III, his wife Eugenie, and Pius IX? If the question stated could be truly solved I am well convinced it would throw much light upon American, Spanish, and Italian policy.

Mr. Adams, a man of talent, a man of force, a true and firm-spirited American, secured from England a sound policy so far as this question was concerned. With great respect for the representative of our Government at the court of France, I fear he was not equal to the accomplishment of the same result; at the same time I feel bound to say the major fault must have been with our Secretary at home.

There are some underlying truths that belong to all of our recent foreign diplomacy. Whether or not it would be well that any person should now undertake to exhumate them is a question

about which I entertain grave doubts. The time is coming when the truth will be valuable and when the truth will be demanded, and when that time shall come I can say, without assuming the warning voice of a prophet, "Ministers of evil, beware!"

Mr. President, I did not rise to engage in argument. I have not attempted to array facts; feelings deeper than the outlying things that ordinarily command discourse have compelled me to give to my instincts expression. To-night I stand here as did the elder Cato in the Roman senate when day after day he denounced, *Delenda est Carthago!* I have said and shall continue to say here, let the legions of France and Austria, now usurping power in Mexico, be destroyed! The wings of our own eagle over Mexico! Mexican independence shall be maintained!

Mr. President, so long as I shall live and have a voice to speak and have strength to give full utterance to my thoughts, convictions, and fixed determinations, I shall cry war against the monarchical European invaders of our continent, be they from France, Austria, or any other part of inhabited Europe.

The infirm, weak, and seemingly sick policy of this Government in the management of its foreign relations has manted the cheeks of our citizens with shame; "the fearful commentating" of our Secretary has not only manted cheeks but made hearts to ache. I trust the disease is not so incurable as that which afflicted the wife of Macbeth, and that yet some wise physician may be able to "cast the water of this land."

Mr. President, there is terrible apprehension of foreign war. It may seem like the statement of a paradox, but I am confident that a foreign war with France, Spain, or Austria, or with the entire Holy Alliance, would do us infinite good, and would tend more to the reestablishment of a united Confederacy than any scheme ever devised by our Secretary of War or the late Secretary of the Treasury.

The privations of the South have increased their strength; the lavish extravagance of the North has furnished the silken cords which have bound and do now bind the limbs of the northern giant.

What have we to fear from European arms? Their fiercest war assault would not endanger us or strengthen the States in rebellion. I am not now disposed to reason at length upon this proposition. The patience of the Senate would at this time be overtaxed, but permit me to assure Senators that in my opinion I am not in want of sufficient facts and just deductions sufficient for the establishment of the position I now affirm. I look for no war with England; we can never have a serious war with Great Britain; but I cannot help but think and I please to say that I think that a good, honest war with France would be to us a present advantage and would prove a blessing to the world.

Mr. President, I would that I had the opportunity as I have the disposition to discuss the whole question of France in Mexico. I cannot now so far intrude upon the order of business, but in conclusion let me again affirm in the spirit of a strong conviction that no European dynasty can or shall establish itself within the borders of the republic of Mexico. No European policies can or shall be permitted to interfere with the condition or policies of the free States of America, whether they be North, Central, or South. I now withdraw the amendment.

Mr. HICKS. I desire only to say a word, Mr. President. I trust that this just and righteous bill is not to be defeated by irrelevant amendments.

Mr. JOHNSON. The amendment is withdrawn.

The PRESIDING OFFICER. The Senator from California withdraws his amendment.

Mr. HICKS. Very well. I will say nothing as I am anxious to have the bill passed.

Mr. POWELL. I hope that the Senate will pass this bill as it is amended. I very deeply regret that they have not passed something better for those States which have been subject to invasion. I prepared Senate bill No. 259, and it was sent to the Judiciary Committee, and I thought it fully met the entire case. The committee, however, in the exercise of a sound discretion as they supposed, struck all of it out and inserted two sections which the Senator from

Illinois has proposed as an amendment to this House bill. These two sections are a kind of dilutions of the first two sections of my bill. These sections as far as they go are very well, but I really can see no reason why a loyal citizen who lives in a rebellious State and whose property is taken, should be deprived of payment.

I had provided another provision in the bill to have a commission to take proof for the purpose of perpetuating the testimony of damages done by our armies in those States where they have been, and also fixing a limitation when the claims should be presented, which I thought was very well guarded; and I had intended, if this bill were taken up, at the proper time to press the entire bill as introduced by me. I know now at this late stage of the session we can get nothing but this thin, diluted whey that the committee have given us, about a tithe of what I wish, and so I shall offer no amendment.

All the border States have been subject to very great losses. Their property has been taken frequently without any voucher for the purpose of feeding and supplying our armies. A great deal of property has been taken the value of which is a just claim against the Government; but Senators who live without that region do not seem to appreciate our condition. We have been trying for two years to get some legislation on this subject. While we think this is inadequate, yet as it will do some good to some meritorious persons who have been made utterly penniless by taking everything they had to feed our armies, and I know at this late stage of the session we can get nothing else, I hope the Senate will promptly pass the bill, and at another session, if I live, I will try to get the rest of my bill through.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

INDIAN POLICY.

Mr. RAMSEY submitted the following resolution:

Resolved, That the Committee on Indian Affairs be authorized during the recess of the Senate to inquire into and report upon, at the next session of Congress, the policy of providing by general law so as to relieve the public domain of the United States of the possessory titles thereto of the several Indian tribes, and to authorize the executive department, from time to time, to assign to the respective tribes such reservations as may be deemed essential, and to provide for their protection or care; and that in the investigation the committee be instructed to inform themselves with regard to the policy of the imperial and colonial authorities of Great Britain toward the Indians within their North American domain.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WILKINSON. Is there any provision there for paying the expenses of that session of the committee?

Mr. RAMSEY. It is not contemplated that they will be at any expense.

The resolution was agreed to.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that the President had this day approved and signed the following acts and joint resolutions:

An act (S. No. 23) granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;

An act (S. No. 73) to amend an act entitled "An act to enable the trustees of Blue Mont College to preëempt a certain quarter section of land," approved March 2, 1863;

An act (S. No. 176) authorizing the erection of buildings for the branch mint at San Francisco;

An act (S. No. 232) in addition to the several acts concerning commercial intercourse between the loyal and the insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection;

An act (S. No. 271) relating to the law of evidence in the District of Columbia;

An act (S. No. 228) providing for satisfying claims for bounty lands, and for other purposes;

An act (S. No. 278) prescribing the terms on which ex-communications shall be furnished by the General Land Office;

An act (S. No. 290) for increased facilities of

telegraph communication between the Atlantic and Pacific States and the Territory of Idaho;

An act (S. No. 315) in relation to the sale of reservations of the public lands;

An act (S. No. 325) to repeal the act of the 17th of June, 1864, prohibiting the sales of gold and foreign exchange;

An act (S. No. 328) for the relief of Major N. S. Brenton, a paymaster in the United States Army;

A joint resolution (S. No. 67) for the relief of Thomas J. Galbraith;

A joint resolution (S. No. 74) requesting the President to appoint a day for national humiliation and prayer;

A joint resolution (S. No. 43) authorizing the settlement of the accounts of the late Captain Daniel Hebard, of the United States volunteers;

A joint resolution (S. No. 58) in relation to the professors of the Military Academy at West Point; and

A joint resolution (S. No. 77) explanatory of an act entitled "An act to increase the pay of soldiers in the United States Army, and for other purposes," approved June 20, 1864.

PENSION LAWS.

The Senate proceeded to consider the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862; and

On motion of Mr. FOSTER, it was

Resolved, That the Senate insist on its amendments to said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House of Representatives thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. FOOT, Mr. HARLAN, and Mr. VAN WINKLE.

COURTS IN NORTHERN NEW YORK.

Mr. HARRIS. I move to take up House bill No. 32, to regulate the sessions of the circuit and district courts for the northern district of New York, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that hereafter the district court of the United States for the northern district of New York shall be held at the following times and places: at the city of Albany on the third Tuesday of January; at the city of Utica on the third Tuesday in March; at the city of Rochester on the second Tuesday in May; at the city of Buffalo on the third Tuesday in August; at the city of Auburn on the third Tuesday in November; and, in the discretion of the judge, one term annually at such time and in such place within the counties of Saint Lawrence, Clinton, Jefferson, Oswego, or Franklin, as he shall from time to time appoint, by a notice of at least twenty days, to be published in the State paper of the State of New York, and also in one newspaper published at the place where the court is to be held, which term shall be held only for the trial of issues of fact arising within the counties named. The judge may hold special terms at the places specified or at any other places in the district, in addition to the regular terms, when he shall deem it necessary. Hereafter the circuit court of the United States for the northern district of New York is to be held at the times and places following: at the village of Canandaigua on the third Tuesday in June; at the city of Albany on the second Tuesday in October; and the term appointed to be held at Albany in October shall, when it is adjourned, be adjourned to meet in Albany the third Tuesday of January, and at the adjournment of the adjourned term shall be further adjourned to meet at the city of Utica on the third Tuesday of March. These adjourned terms are to be held for the transaction of civil business only, and no jury is to be drawn for service therein exclusively, but the jury drawn to serve in the district court at the same time and place with the adjourned terms of the circuit court, is to be used for the trial of issues of fact arising in civil causes in the circuit court.

The Committee on the Judiciary proposed to amend the bill by striking out the fourth section, which is as follows:

SEC. 4. And be it further enacted, That in place and in lieu of the salary now paid to the judge of the district court

of the United States for the northern district of New York, there shall be allowed and paid quarterly to said judge, out of the Treasury of the United States, the sum of \$3,500 per year.

Mr. HARRIS. I am quite aware that I have fallen upon a very unpropitious time to have this bill considered. It has not been my fault, however, that it has not been called to the consideration of the Senate before. I have been struggling all day, and indeed for a week, to get this bill before the attention of the Senate.

LIEUTENANT GENERAL'S STAFF.

Mr. WILSON. I ask the Senator from New York to allow me to take up a joint resolution from the House of Representatives in regard to General Grant's staff. It will take but a moment. If the Senator will allow me to report it from the Committee on Military Affairs and put it on its passage, I shall be much obliged.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 119) explanatory of a joint resolution relative to pay of staff officers of the Lieutenant General.

It provides that the joint resolution "relative to the pay of staff officers of the Lieutenant General," approved May 20, 1864, shall be so construed as to entitle all the staff officers on the staff of the Lieutenant General to receive the pay, emoluments, and allowances of cavalry officers of the same grade.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

COURTS IN NORTHERN NEW YORK.

The PRESIDENT *pro tempore*. The bill (H. R. No. 32) to regulate the sessions of the circuit and district courts for the northern district of New York, and for other purposes, is before the Senate as in Committee of the Whole.

Mr. HARRIS. The fourth section of this bill provides for increasing the salary of the judge of the northern district of New York. That salary now is \$2,750. The fourth section of the bill proposes to increase it to \$3,500, to add to his salary \$750; but a majority of the Judiciary Committee have reported against that increase. I desire that the Senate should disagree to that amendment; and although I bring the subject to the attention of the Senate under very unpropitious circumstances, I believe that if I can have the attention of the Senate for a few moments, I can satisfy them that this section ought to pass.

The northern district of New York contains a population according to the census of 1860 of 2,461,000 inhabitants, more than the State of Ohio, and yet that State has two districts with two judges who receive \$5,000 salary together, \$2,500 each. The northern district of New York has a population larger than the entire population of the State of Illinois and the State of Michigan put together; and yet Illinois has two districts, the judges of which receive salaries amounting to \$6,000, and Michigan has two districts and two judges who receive salaries of \$6,000 more. Illinois and Michigan together receive salaries for their judges of \$12,000, while the northern district of New York with a population larger than those two States receives only \$2,750. The State of Missouri, with a population less than half that of the northern district of New York, has two districts, the judges of which receive salaries to the amount of \$5,500.

Under these circumstances it seems to me that the mere statement of the case shows that we are entitled to have this salary increased. There are in the northern district of New York twenty-five judges of the supreme court of the State, each of whom receives \$3,500; and yet the United States district judge of that district is receiving only \$2,750. If I knew of any way in which this salary could be charged upon the State, I would not bring it here; but with the amount of business that is being transacted in that northern district of New York, \$2,750 is not at all adequate. The salary ought to be increased. We are fairly entitled to it.

Mr. WADE. Where does the district run?

Mr. HARRIS. It runs from Pennsylvania around to Vermont, with a frontier of nearly five hundred miles, including Buffalo, Rochester, Oswego, and all that northern frontier. The salary that we ask for the judge of that district is no more than the salary of the judge at Chicago, in

the northern district of Illinois; precisely the same. If, under the circumstances, this decision of the Judiciary Committee cannot be reversed, I have nothing further to say. I submit it to the Senate upon just this state of facts.

Mr. SHERMAN. This raises a very embarrassing question. The judge of the southern district of Ohio has applied for an increase of his salary, which is but \$2,500. He is an eminent and very able man, and although his district may not be so large and populous as the northern district of New York, he lives in a city containing one hundred and sixty thousand inhabitants, where there is an expensive mode of living, and probably his labors are as great and arduous as those of the judge of the northern district of New York. So with the judge of the northern district of Ohio. I think it would be very irksome and unpleasant indeed to raise this salary without increasing the others. I prefer myself to have the matter go over until there can be a general revision of these salaries.

Mr. HARRIS. I desire to state one further fact to show the character and amount of business of this district. At a recent term held in the city of Rochester there were in attendance six hundred witnesses; the grand jury found nearly one hundred and fifty indictments; and the amount of fines received by the district attorney was nearly twelve thousand dollars, showing that really that district was doing pretty well in the way of collecting fines. There were six hundred witnesses in attendance at a single term of the court.

Mr. TRUMBULL. I am really sorry that they commit so many offenses in western New York that we have to resort, as a means of raising revenue, to fining the good people in that section of our Union; but if they are really guilty I suppose it is proper they should be punished. But in the Judiciary Committee we have acted upon a principle in regard to these salaries. There is scarcely a district judge in the United States court in the Union that has not applied for an increase of salary. Many of them have shown by their statements, which I have no doubt are strictly true, that the salaries they receive are inadequate to support them; and really I am not able to meet the argument that is made in favor of the increase of their salaries. I think the salaries of the United States judges ought to be increased, or at least a great many of them. The case of Judge Shipman of Connecticut is a peculiar one: he holds courts in New York city; and there are several other cases that have been brought to the notice of the committee where we thought the salaries were too low. But if we commence raising the salaries we shall have to revise the salaries of all the judges; and we thought that in this time of sacrifice, in this time of war, when men are not only giving up their property but their lives for the maintenance of constitutional liberty and of the Government, even the judges of the courts must make some sacrifices also, and that it would not do to go into this system of raising salaries. The committee acted upon that principle. I cannot meet the argument of the Senator from New York and say that Judge Hall's salary ought not to be more. I should be glad to vote to make it more; but if I were to cast that vote I could not resist voting to raise the salaries of numerous other judges. So that on the whole the committee reluctantly came to the conclusion that it would not be best to touch the salaries of these officers at the present session of Congress. I hope the time will soon come when the currency in which judges and other officers are paid will be better, and when the country will be in a better condition to raise the salaries to what they ought to be to command the talent which is requisite and which we ought to have to fill these high judicial stations.

These are in short the reasons why the committee came to the conclusion that we ought to strike out the provision in this bill which raises the salary of Judge Hall. If this were the only case, if it did not establish a principle, perhaps the Senate would agree to raise this salary; but as this case is not peculiar, as it is that of hundreds of other officers in the land, we think it best to leave them all as they are at present.

Mr. JOHNSON. I rise merely for the purpose of saying what is perhaps not as yet known to the Senate, that the Judiciary Committee were not unanimous, and that the want of unanimity did not consist in the mere fact that the honorable

member from New York was in favor of the increase of this salary. I was one of the minority, and I came to the conclusion that the salary ought to be raised from personal knowledge in a great measure of the very arduous duties of this judge. It is necessary, by the extent of his district and the number of terms that he is obliged to hold in different places, for him to travel from twenty-one to thirty-two hundred miles a year at very heavy expense. You give him but \$2,750, and the district contains a population, as the Senate have heard, of 2,461,000, when the New England States in the mass, excluding Massachusetts, have a population only of 1,904,000, and the United States judges in those States get \$10,000. Massachusetts has only 1,231,000 population, and the judge there gets \$3,000. Illinois has 1,711,753, and we pay the judges there \$6,000. Michigan has a population of 749,112, and we pay \$6,000. Missouri 1,182,317, and we pay \$5,500. The population of this judicial district, therefore, is greater than the population of either of the districts to which I have adverted, and we are paying less. I hope that the amendment of the committee will not be concurred in by the Senate.

Mr. FOSTER. It is very certain that if we raise the salary of Judge Hall it will not equalize the pay of our district judges; there will be as great inequalities then as now; and there will be more dissatisfaction, for it will be said that we have heard one case and decided it, and we are therefore bound to hear others and decide them. Now, sir, I think this salary is too small; I have no doubt that it ought to be raised; I have no doubt that it ought to be raised to the amount named by the honorable Senator from New York, \$3,500. I think that the Government of the United States should pay a district judge an amount at least equal to the amount paid by the State to judges of their supreme courts. I think the dignity of a judge of the United States requires that he should at least receive a salary equal to that paid to their judges by the State in which he lives. While I yield all that, and while I grant that Judge Hall is eminently worthy of receiving a competent support and a liberal support from the Government, I still must vote against an increase of this salary now. It will not, as the honorable Senator from Ohio has suggested, do to raise this salary without raising others, and at the present time we are not prepared, and although I would speak modestly in regard to what we can and cannot do, it seems to me that we cannot raise the salaries of these judges to the point that perhaps were it not for our peculiar condition we ought to raise them. I hope, therefore, that the amendment reported by the committee will be concurred in and that this section will be stricken out.

Allusion has been made to the different States and populations, and allusion has been made to New England. I may say in regard to the district judge of my own State, he has a salary of \$2,000 only. He performs as much duty, I may be allowed to say, as any judge of any district in the United States. He holds courts as many days and sits as many hours as any judge in the whole United States; and I will add to that, without disparaging certainly any other judge, he performs his duties as well as any other judge, for no decision of his has ever been overruled by a higher tribunal since he has been upon the bench. That is pretty good evidence that he performs his duties well. Now, sir, if we raise the salary of Judge Hall we must raise the salary of Judge Shipman and of a large number of others, perhaps of all the judges in the country. At the present time I think we cannot and ought not attempt to do it.

Mr. HENDRICKS. I do not think we ought to consider what the judge in Connecticut or any other State ought to have in connection with this bill. If all the judges were now equal, there would be force in that argument; but they are not now equal; and when Congress is regulating the duties of this judge the question is what ought he to have. Is any Senator prepared to say that \$3,500 ought not to be paid for such services as are described in this bill by a judge having to hold courts at a number of very important points and adjudge cases of the great magnitude that can arise in the matters of the country? The judge in Indiana gets \$2,500. He holds court at but one place, the capital of the State; it is a pleasant visit to go up there and spend a few weeks. His du-

ties are not arduous, and although that is not a very high salary, still it is an easy office. But it is hard work to hold such courts as are described in this bill; it is an expensive office. The difference between the expenses of the judge in Indiana and the judge that discharges these duties must be \$1,000 in money paid out, I should think, in going to these different places twice a year. It is a mere matter of compensation, dollars and cents. He ought to have that much, I cannot think any Senator can doubt who reflects on it.

Mr. FOSTER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 15, nays 23; as follows:

YEAS—Messrs. Chandler, Clark, Cowan, Foster, Hale, Harlan, Howe, Ramsey, Sherman, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—15.

NAYS—Messrs. Anthony, Buckalew, Carlile, Conness, Davis, Doollittle, Foot, Harris, Henderson, Hendricks, Hicks, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Powell, Riddle, Saulsbury, Sprague, and Van Winkle—23.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Grimes, Harding, Howard, Nesmith, Richardson, Willey, and Wright—11.

So the amendment was rejected.

Mr. TRUMBULL. I move that the salary of the district judge of the State of Connecticut be \$3,500.

Mr. LANE, of Kansas. I move that the district judge of Kansas be placed at \$2,500. I hope the Senator from Illinois will accept it.

Mr. TRUMBULL. Mr. President—

Mr. LANE, of Kansas. The hour has arrived for the special order.

The PRESIDENT *pro tempore*. The hour has arrived for the special order.

Mr. DOOLITTLE. I move that that be informally passed over for five or ten minutes until we get a vote on this bill.

Mr. LANE, of Kansas. I demand the special order.

The PRESIDENT *pro tempore*. The special order is before the Senate.

Mr. DOOLITTLE. I desire to say, by unanimous consent, that this bill is not a bill simply about the salary of this judge; it regulates all the courts in New York. It has passed the House of Representatives, and if we amend the bill we kill it. I voted against amending it for that reason.

Mr. CONNESS. I move to postpone the special order for half an hour.

Mr. LANE, of Kansas. I hope that will not be done.

The motion to postpone was not agreed to—ayes ten, noes not counted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 138) to regulate proceedings in cases between landlord and tenant in the District of Columbia.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill; which was thereupon signed by the President *pro tempore*:

A bill (S. No. 339) to repeal a joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department," and for other purposes.

FINAL ADJOURNMENT.

The PRESIDENT *pro tempore*. The special order is before the Senate, being the resolution of the House of Representatives relative to the adjournment of Congress.

Mr. LANE, of Kansas. I move to amend the resolution by inserting—

Mr. SUMNER. Let the resolution be read.

Mr. LANE, of Kansas. It has been read.

The PRESIDENT *pro tempore*. It will be again read.

The Secretary read it, as follows:

Resolved, (the Senate concurring.) That the President of the Senate and the Speaker of the House adjourn their respective Houses for the present session on Thursday, the 30th of June instant, at twelve o'clock m.

Mr. LANE, of Kansas. I move to concur in the resolution with an amendment fixing it at Monday, the 4th of July, at twelve o'clock m.

Mr. SUMNER. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SUMNER. In determining when to adjourn we may be guided somewhat by the experience of the past. If earlier Congresses, having less to do—ininitely less—than the present Congress, have found it necessary to continue their sessions through the summer, we may ask ourselves if we should be less industrious and less persevering.

I have in my hand a memorandum of the dates of the adjournments of Congress at the long session during the last twenty years. It is most suggestive at least, even if it be not a warning to us.

The first session of the Twenty-Ninth Congress adjourned August 10, 1846. The war with Mexico had just begun. The first session of the Thirtieth Congress adjourned August 14, 1848. The main discussion of this year was on the Wilmot proviso. The first session of the Thirty-First Congress adjourned September 30, 1850. This was the session of compromise. The fugitive slave act bears date September 18 of this year. The first session of the Thirty-Second Congress adjourned August 31, 1852. During this session the compromise measures were much discussed, and Congress was occupied by the presidential question and the platforms of the two great parties. It was as late as 26th August of this session that I had the honor of moving the repeal of the fugitive slave act passed by the previous Congress. The first session of the Thirty-Third Congress adjourned August 7, 1854. This was early for those times. The first session of the Thirty-Fourth Congress adjourned August 30, 1856. Kansas was the constant order of the day during this session. Down to this period there was no adjournment before August, and one Congress sat as late as the 30th September. But a change took place.

In 1856 the old per diem of eight dollars as compensation of Senators and Representatives was transmuted into the present system of compensation by an annual salary of \$3,000, be the session long or short. See now what ensued. The first session of the Thirty-Fifth Congress, which sat immediately after the change of pay, adjourned June 14, 1857; and yet the question of Kansas and the Lecompton constitution occupied this Congress. The first session of the Thirty-Sixth Congress adjourned June 28, 1860. This was on the eve of the presidential election, and Congress was much occupied by the crisis of that historic conflict. Then came the long session of the Thirty-Seventh Congress, which adjourned July 17, 1862. This was a remarkable Congress, which has stored the statute-book with monuments of its industry and patriotism. Such is the record of the past, and now it is proposed to adjourn on the 4th of July.

But there are two suggestions with regard to this record of the past, which you will pardon me for making. First, so long as Congress was paid at the rate of eight dollars a day, so that salary depended upon the duration of the session, Congress sat late in the season. It is humiliating to think that a consideration apparently so trivial could have had such an influence, but these are the facts. The other suggestion is of a different character. It appears that while the pretensions of slavery were to be upheld, Congress was willing to give up the whole summer, even into autumn, to the odious theme. For the sake of an execrable fugitive slave act and other kindred measures it bore all these heats which are now so unbearable.

Sir, long ago I began the cry that we of the free States must be as earnest and positive for freedom as our opponents have always been for slavery. Why not imitate their example? Business did not draw them away, heat did not drive them away when slavery was in question. But freedom in every form is now in question. There is your Army, it must be sustained; there are your finances, must they not be sustained also? I might allude also to the great ideas of freedom involved in this war. Much has been done to uphold these, but more remains to be done.

But the question of finances at this moment assumes a practical form. Unless I am misinformed, it is now under discussion in the other House. While they debate an increased taxation we are sitting here at eleven o'clock at night considering how to put an end to the session. That subject, which of all others is the most difficult

and delicate, which touches all the great interests of the country, which ought not to be treated in any hasty or perfunctory style, which should be handled always with supremest caution, and which, at the present moment, is almost a question of life and death, is still to be considered by the Senate, and yet Senators are willing, by fixing the hour of adjournment, to "crib and cabin" this most important debate to the limits of a few hours; I would almost say minutes. Why, sir, it has not yet been finally acted on in the other House, and we know not when it can reach us. But we know well that whenever it does reach the Senate the whole vast subject of taxation will be open again. It is understood that the proposition now pending in the other House is for an increased income tax. In other times, when Senators had not such uncontrollable longings for home, such a proposition would have been approached with becoming care. But this is not the only question involved. It has been proposed to tax tobacco in the leaf, and thus add millions to the revenue. And then we have again the perpetually recurring question of a tax of whisky on hand, destined to bring into our exchequer yet other millions.

Mr. TRUMBULL. Have we not considered that?

Mr. SUMNER. That, I understand, at this moment is under consideration in the other House.

Mr. TRUMBULL. Has it not been under consideration for months?

Mr. SUMNER. Of course it has; but it is under consideration still. The two Houses, as the Senator knows well, have differed on the question. The other House has been for the tax of whisky on hand. The Senate has steadfastly resisted the tax. But it is not too late for the Senate to yield, especially when the necessity of more money is apparent, and the distinguished head of the Treasury—or, let me say, the late head—has, in a formal communication, recommended this very tax. There is no way in which so much money can be got so easily, so justly. Let Congress stay together until the tax is laid. At all events, do not leave without considering it again in the new light. This is my answer to the Senator from Illinois.

But if you are unwilling to tax whisky on hand or tobacco, then find something else to tax. But tax you must. Tax, because of the necessity of the case. Tax, because the people ask to be taxed. For the first time in history the phenomenon has occurred that the people rise up as one man and demand to be taxed. Unless I err greatly, this is the cry from every quarter. I know it is the cry from my part of the country. It is a patriotic cry, because the people believe further taxation to be essential to the national credit and the safety of the country. All honor to the people for this invitation to Congress!

And now Congress is about to leave—to flee away—without performing this essential duty. A tax bill has been passed, which, already before going into operation, is pronounced inadequate by Mr. Chase in an official communication. And yet in the face of this declaration Senators are willing to go home. It is said we need some hundred million dollars more; and yet, in the face of this asserted necessity, and in the face of that generous demand from every part of the country which Congress ought not to hesitate to gratify, it is now proposed that we should abdicate and go home.

Mr. HENDERSON. Will the Senator permit me a moment?

Mr. SUMNER. Certainly.

Mr. HENDERSON. The Senator says that there is urgent demand throughout the country for additional taxation. Certainly he must apply those remarks to the northern States, for I have heard no demand in the West to put a tax on leaf tobacco. I believe there is no such demand; I am satisfied there is none. If there is a demand in the northern States for increased taxation, I desire to ask him why he did not vote for the additional tax proposed by the Senator from Ohio [Mr. SHERMAN] on manufactures?

Mr. SUMNER. I answer, because at the time when it was proposed I thought it was not practicable.

Mr. DAVIS. Mr. President—

Mr. SUMNER. Let me finish. I will give

the Senator from Kentucky a fair opportunity in one moment.

Mr. DAVIS. I merely wish to ask a question.

Mr. SUMNER. Very well; I will answer it.

Mr. DAVIS. The question I ask the honorable Senator is, whether he is not mistaken as to the subject of this great demand of the country; whether instead of being taxed it is not to have slavery abolished everywhere? [Laughter.]

Mr. SUMNER. Unquestionably there is a great demand to have slavery abolished everywhere, thank God; I present petitions daily with this prayer; but another demand of the country at this moment is to make the war practical and efficient by all needed supplies; and, as I have said, the people for the first time in history ask to be taxed.

Mr. DAVIS. Where are your petitions from the people for it?

Mr. SUMNER. Petitions! They will be found in the public press, and in the communications of constituents. Petitions are not needed. Gentlemen have arrived here to-night fresh from the people, who are in themselves more than "petitions." They insist that there must be more taxation. But this is not all. Here is a telegraphic dispatch which I have received this evening, signed by the first business men of Massachusetts, in these words:

To Hon. CHARLES SUMNER:

It will be simply an act of madness—for Congress to adjourn without passing bills for large additional taxes, and such other measures as the existing financial crisis demands.

Language could not be stronger. Surely I do not err when I say that Congress ought not to turn a deaf ear to this unprecedented prayer. At least it ought to be considered. For myself, I wish not only to consider it, but to supply the desired taxation, and I ask that Congress shall continue in these seats until the good work is done. Nay, more, sir, I protest against any desertion of these seats until the good work is done.

The great contest in which we are now engaged depends not only upon General Grant in the field, but upon Congress also. If Congress fails to supply the needed means vain is victory, vain are all the toils of many hard-fought fields. It is through these means supplied by Congress that the future is to be made secure. Do not deceive yourselves by saying that you have already taxed the country. The late distinguished Secretary of the Treasury, in an authoritative communication, insists that more means are needed. Do not set him aside without at least considering his recommendation. On such an occasion, when perhaps the life of the country is in question—when surely the national credit is at stake—err, if err you must, on the side of prudence.

Mr. President, it is natural that Senators who have been engaged for months in the labors of an anxious session should be glad to escape from the confinement and heat of Washington. I sympathize with them. I long to go away. I wish to leave Washington. Did I allow myself to take counsel of personal inclinations I should be among the most earnest of those who now cry out for an adjournment. Born on the sea-shore, accustomed to the sea air, I am less prepared than many of my friends to endure the climate here. I feel perceptibly its sultry heats, and I long for the taste of salt in the atmosphere. Nor am I insensible to other influences. What little remains to me of home and friendship is far away from here, where I was born. But home, friendship, and sea-shore must not tempt me at this hour. Lord Bacon tells us in striking and most suggestive phrase, "the duties of life are more than life." But if ever there was a time when the duties of a Senator were supreme above all other things, so that temptation of all kinds should be trampled under foot, it is now.

Mr. WADE. I am satisfied that we ought not at this time to fix a time for the final adjournment. I therefore move that the Senate do now adjourn.

Mr. WILSON. I hope we shall have a short executive session. We have quite a number of executive messages.

The PRESIDENT *pro tempore*. Is the motion to adjourn withdrawn?

Mr. WADE. Yes, sir.

The PRESIDENT *pro tempore*. Then the question is on the motion of the Senator from

Massachusetts to proceed to the consideration of executive business.

Mr. TRUMBULL. I hope not. Let us vote on the resolution for adjournment and fix a day. I think it is time we did it.

Mr. POMEROY. We have put it off three or four times. I hope we shall now have a vote upon it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts.

The motion was not agreed to; there being, on a division—ayes 15, noes 20.

Mr. WILKINSON. What is the question now before the Senate?

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Kansas to the resolution in regard to the final adjournment.

Mr. WILSON. What is the time proposed to be fixed?

Mr. WILKINSON. Twelve o'clock on Monday.

Mr. WILSON. I move to substitute Tuesday. I would not think of adjourning on Monday.

The PRESIDENT *pro tempore*. The Senator from Kansas moves to amend the resolution by striking out "Thursday, the 30th of June, instant," and inserting "Monday, the 4th of July." The Senator from Massachusetts moves to amend the amendment by striking out "Monday, the 4th," and inserting "Tuesday, the 5th of July."

Mr. CONNESS. I move that the Senate do now adjourn, and upon that motion I call for the yeas and nays.

The yeas and nays were not ordered.

The motion was not agreed to.

Mr. WILKINSON. I shall vote for the amendment of the Senator from Massachusetts; but I do not think that Congress ought to be in haste to adjourn. In my opinion the information we have received during the last two or three days should admonish Congress that there is something yet to be done before it adjourns. It is evident that sufficient, adequate means to carry on the Government have not yet been devised by this Congress. I received a letter only this morning from a collector of internal revenue, who informed me that if the tax upon whisky on hand was not laid by this Congress there would not be a dollar collected for the next thirty months; that there was now a stock on hand sufficient to last thirty months; and in my humble judgment that is true. The question, the simple question, and the only question is, whether the Government of the United States shall have the revenue that can be derived from the increased taxation that is laid upon whisky, or whether this immense amount of money shall go into the pockets of a few speculators who have gathered up the whisky. Formerly I followed the Committee on Finance on this question; but I am satisfied that I have been wrong in this regard; and, in my humble judgment, it would be criminal in the Congress of the United States in this emergency, the greatest emergency that ever visited any nation, to adjourn at this time without providing the ways and means for the suppression of this rebellion. That is my impression.

I should like to get home; I am as anxious to get home as any Senator here; I do not wish to stay here; but, in my humble judgment, it is wrong for Senators, when they have a fixed salary, to adjourn and go home without discharging their full duty to their country, merely because it is a little cheaper to live at home than to live here, or a little more pleasant to be at home than to be here. I have no doubt that the Senate is against me on this proposition, but still I felt it to be my duty to say this much upon this question.

Mr. HENDERSON. I merely rise for the purpose of expressing the hope that the Senate will fix some time of adjournment. If the House of Representatives is engaged at present in the preparation of an additional tax bill, founded upon the suggestions of the Secretary of the Treasury, most assuredly, if they intend to pass it, they can pass it to-night and send it here, and by Monday at twelve o'clock we can act upon it definitely. Whether it be important for us to remain here for the passage of a bill of that sort is another question. In my judgment it is not important at all.

If we do not act upon this resolution to-night and call it up on Monday at twelve o'clock, gentlemen will oppose fixing a day of adjournment then, and we may remain here for a month longer, business will crowd upon our hands, and we shall have just as much to do then apparently as we have now. Unless we fix some time now, in my honest judgment we shall not adjourn for the next month; we shall never get ready; we shall never come to a point at which we can fix some moment in our own estimation.

Now, upon what is all this matter based in the House of Representatives? My understanding is—and gentlemen can correct me if I am wrong—that one of the collectors in the city of New York suggested to Mr. Chase, the Secretary of the Treasury, after the Congress of the United States have acted upon a tax bill, that that tax bill will not produce as much revenue as was supposed. Am I not correct, that one of the collectors of the city of New York suggested to the Secretary of the Treasury that the tax bill would not produce sufficient revenue?

Mr. SHERMAN. The Senator is not correct. The proposition for an additional income tax was introduced solely for the purpose of meeting the bounties provided for by recent legislation—bounties not contemplated by previous legislation. What the action of the House of Representatives is in regard to other matters I cannot say.

Mr. HENDERSON. I beg the Senator's pardon; I am not talking of the matter that he is talking about. He misunderstands me. The two Houses of Congress came to the conclusion that the tax bill would raise a certain amount of revenue, and a collector in the city of New York takes it upon himself to say that it will not produce as much revenue as was contemplated by the two branches of the national Legislature. He says it will produce only \$220,000,000; another officer here connected with the internal revenue says \$223,000,000; and upon that, I understand, the Secretary of the Treasury makes his recommendation to increase the tax upon various articles. Who has given this extreme wisdom to the collector of the city of New York? Mr. President, if the two branches of Congress and the members of the two Houses would rely upon their own judgment and rely less upon the judgment of interested officials throughout the country we should do infinitely better. We cannot undertake to impose a tax upon a single article here that we are not beset by individuals who know more about it; and why? Because they are deeply interested in the products upon which we are imposing a tax. Individuals go and speculate in whisky, in tobacco, and in all these articles, and then come to Congress and ask an increase of the tax. The assessors throughout the country—an interested body—meet in Cleveland and they make various suggestions. I am perfectly willing to listen to those suggestions when they are founded on reason and common sense; but they make thousands of suggestions designed and intended simply to increase their own salaries under the law; and so it is with the various collectors all over the country.

Why, sir, a Senator rises and tells us that a collector has informed him that unless a tax be imposed on whisky on hand—about which I care not one fig if the Senate desires to do so—there will not be any revenue collected from the manufacture of whisky for the next thirty months. Do we believe any such thing as that? I assure the Senator there is too much whisky being used in this country to imagine for a moment that the stock on hand will last for thirty months. These interested collectors in various parts of the country, expecting to derive large revenues from their own business, send messages to Congress asking us to do so and so in reference to the taxes of the country, and we, not relying upon our own judgment, listen to the interested suggestions of these men.

Mr. WILKINSON. If the Senator will permit me, the collector to whom I referred collects from eight to nine hundred thousand dollars annually, so that his salary is not enhanced one dime by the increased amount of his collection. The amount already collected by him far exceeds the maximum upon which he is allowed a percentage.

Mr. HENDERSON. Is he a collector in the Senator's own State?

Mr. WILKINSON. No, sir; in the city of New York.

Mr. HENDERSON. In all probability if I could know exactly the situation occupied by this disinterested collector I might find some reason to give for his kind suggestions to Congress.

Mr. President, I care nothing about this tax on whisky on hand. You may levy it. I have been indifferent about it from the beginning. God knows I have never been interested in whisky. I have never in my life owned any more than I could drink, and I drink precious little of it. I know nothing and care nothing about it; but I am not prepared to listen at this hour to the suggestions of every collector throughout the country who may be interested in the dealings of the country.

Sir, I say we have been here long enough. I do not desire any increase of taxation upon the various articles suggested by the Secretary of the Treasury at all. There are other difficulties in the way of our finances besides this. I have suggested those difficulties, and I do not want to repeat them. If we adopt a different system from the system we have been adopting, if we curtail the currency of the country, we shall collect revenue enough under our present tax bill. Let us collect what we can under the present tax laws of the country, and if we can reduce this inflation of the currency we shall raise enough to carry on this war for all time to come. That is the difficulty in our way. It is the difficulty which is growing upon us. We are doing something now, and I hope we may do more, looking forward to a better state of affairs. But, sir, it is not alone in this taxation, it is not alone in suggesting an increase of the tax upon this, that, or the other article that the difficulty is to be remedied.

I desire to fix some time for adjournment. If we cannot fix Monday, let us fix Tuesday. I am indifferent about the day. I would rather fix Monday at twelve o'clock. That will give us time enough. I have heard it stated that probably on Monday morning there would not be a quorum in the House of Representatives; and yet they have got up this evening a new and important tax bill founded upon suggestions sent to us by the Secretary of the Treasury, and those suggestions perhaps founded upon the suggestion of an interested tax collector in the city of New York.

Mr. SHERMAN. I will correct the Senator again. The bill pending in the House of Representatives is not according to the suggestions of the Secretary of the Treasury; it is not founded upon the statement of any collector; it is not founded upon any basis that the Senator has argued. It is simply a proposition to levy a tax of five per cent. on incomes to meet the proposed bounties to soldiers under the new enrollment law.

Mr. HENDERSON. I understand they have added to that also a tax upon whisky on hand.

Mr. SHERMAN. That was not in the measure as reported from the Committee of Ways and Means. That has been offered in the form of an amendment, as I understand, by a member who does not belong to that committee. The bill proposed by the Committee of Ways and Means—I saw the bill—is simply a bill to provide for the bounties provided for by the law we have passed to-day. That is the only purpose, the only object of it. It did not raise the points now raised by the Senator from Missouri. They have been put on in the form of amendments proposed by other members from time to time this evening.

Mr. HENDERSON. That is not my business at all. I am not responsible for the House of Representatives getting up a different bill from what my friend from Ohio would get up. I have no idea that he would add other articles of taxation to the bill if he had the management of it; but such I understand to be the fact. How does he know that the House of Representatives will not add a tax on leaf tobacco? My friend from Massachusetts suggests that. How does he know that they will add a tax on other articles? The Secretary of the Treasury suggests various articles that should be taxed additionally; and I do not know that the House of Representatives will not do that.

I say, let us adopt a time for adjournment, and if the House of Representatives desire to send us

a bill increasing the tax either upon income or upon the products of the soil or upon manufactures, let them get it up at once and send it here. The thing has been discussed and is thoroughly understood. But every moment or two now we take up a new measure, something bringing up a new discussion and something calculated to keep us here in this heat. I say we ought to get through; and it will take us six, eight, or ten days to consider a measure of this sort. I am prepared to vote upon it the very moment the House of Representatives send it to us.

Mr. TRUMBULL. I do not suppose there is any Senator here who, if his public duties required him to remain, would think of leaving here if he supposed that by being here he could serve the country. Certainly no person is fit to be here who would shirk the responsibility upon him and run away, to the detriment of the public interest. But, sir, what are we doing? At the very time when this resolution came up, we were not discussing a measure to raise money, but we were voting to raise salaries. That is what we were doing—not getting money into the Treasury but getting money out of the Treasury; and we are engaged in the passage of bills, and have been most of the time for several days, that will take large amounts of money out of the Treasury; and you will have other bills of the same sort if you remain here.

Sir, we are doing business in a different way from what I have ever seen it done before near the close of a session. We are refusing to fix any day for adjournment. Gentlemen are protesting against fixing a day; and they say—the Senator from Massachusetts particularly—that a tax measure is pending; the people are clamorous to be taxed. We have been engaged for weeks, perhaps I may say for months, upon this tax question, and now the question of taxing whisky on hand is to be brought up again. Why, sir, I voted steadily for that from the very commencement; I have always been in favor of it; but I was voted down. The House of Representatives has repeatedly passed bills imposing a tax upon whisky on hand and sent them here, and the very Senators who are talking about holding on here for the purpose of putting a tax upon whisky on hand were the very ones that voted not to do it.

Mr. SUMNER. I was not.

Mr. TRUMBULL. Perhaps the Senator from Massachusetts was not; but there was a very large and decided majority of the Senate opposed to it; and now you will sit here, forsooth, to see if the House of Representatives will not send you another bill to tax whisky on hand that you may again vote it down. Is anybody proposing to change his vote on that subject?

Mr. WILKINSON. Yes, sir.

Mr. TRUMBULL. I think the Senator from Minnesota voted with us when it was last here. His vote was overruled. We would only have his vote again. We were not able to carry it before and will not be again.

Mr. SUMNER. We shall have more the next time.

Mr. TRUMBULL. I do not know about that. Where are the recruits? Let us see somebody who voted against taxing whisky on hand who is now going to vote for it.

Mr. CONNESS. I am one.

Mr. TRUMBULL. If we can get enough we can put the tax on in a few minutes. I am glad we are getting converts to the true doctrine; but I am sorry they should want to hold Congress through this hot weather to be converted. I hope it is not the terror of hot places that has brought about this change of opinion, but cool and deliberate consideration.

Mr. CONNESS. I never knew that preachers abused their converts after making them. [Laughter.]

Mr. TRUMBULL. Not at all. I am praising the converts. I hope we may have more of them.

But really it does seem to me that we had better fix upon some day for adjournment, because I do not think we are doing any good by the legislation that is going on. The very business that we are engaged in is not to raise money, but rather to expend money and to appropriate it. We have passed several such bills to-night, and hundreds of thousands of dollars will be taken out of the Treasury by the legislation of this very

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

MONDAY, JULY 4, 1864.

NEW SERIES.....No. 220

day. I hope we may have a vote and agree to a day of adjournment.

Mr. LANE, of Kansas. The Senator from Massachusetts gives as a reason for a postponement of the day for adjournment that the House of Representatives is putting a tax upon whisky on hand and on leaf tobacco.

Mr. SUMNER. I said the House was now considering the tax on income, and besides that I understood it had under consideration the question of taxing leaf tobacco and whisky on hand. Those questions, I have been informed by gentlemen who have come in from the House of Representatives this evening, are actually under consideration. Whether the House will adopt the tax on those articles or not, I know not; but it is sufficient that they are now under consideration, and I think the Senate ought to take them into consideration also, especially when we have a communication from the Secretary of the Treasury saying that additional means are needed. I am unwilling to go home in the face of that communication without doing all that I can to supply them.

Mr. LANE, of Kansas. The Senator from Massachusetts is mistaken in his recitation of facts. The House have determined, as I understand, to send the income tax bill here as a naked proposition. Certainly, that being the case, there is nothing to prevent our adjourning on Monday at twelve o'clock. I am the last Senator—I presume my brother Senators would concede that to me—the very last Senator who would leave my post. But, sir, I believe that every moment we remain here now is pregnant with mischief; that we are doing legislation that is really mischievous. The business is increasing; new bills have been introduced here to-night, and they will continue to be introduced. There is no Senator here but will bear witness to the fact that more business is done within the few hours preceding an adjournment after the adjournment is fixed, than in weeks and months previous. That is my experience. You cannot get members down to their work until the day for adjournment is fixed, and they can see that day close at hand.

Nine months is a long time to be away from one's home and family, and it is especially injurious, I think, to the country to keep us here doing mischievous legislation when there are a presidential election and senatorial elections pending. I am frank about this. I want to get home; I want to get home because my work is done here.

Mr. HOWE. Is it done at home?

Mr. LANE, of Kansas. No; it is yet to be done there.

Mr. WILSON. I hope we shall adjourn to-night without fixing any time for the final adjournment; but if we are to fix a time, I hope that we shall fix it at least as late as Tuesday next.

The Senator from Kansas tells us that we are not accustomed to engage in the business that we are here to transact until we fix and know the time we are to adjourn. Well, sir, we have been at work here for two months, night and day. I think this Congress for the last two or three months has labored as diligently as any Congress in the history of the Republic. It is now nearly twelve o'clock on Saturday night. The House of Representatives is considering a tax bill to meet the demands of a measure we have passed to-day for calling soldiers into the field. When are we to act upon it here? Are we to meet here on Monday morning at eleven o'clock and settle a great question of that kind before twelve o'clock on that day? It is an impossibility; it cannot be done.

Mr. LANE, of Kansas. Why not meet at nine o'clock or seven o'clock on Monday? I am willing to sit here all night.

Mr. WILSON. I do not believe the Senate will do that. Besides, we ought to go into executive session to-night.

Mr. LANE, of Kansas. I want to go into executive session to-night.

Mr. WILSON. If Senators desire to sit here through the night and wait until we get that tax

bill and act upon it, then, when we have acted upon that measure, I am ready to fix the hour for adjournment; but while that measure is pending I am opposed to fixing any hour; at any rate, to fixing an hour so early as twelve o'clock on Monday next.

Mr. LANE, of Kansas. Why adjourn at all? Why not continue in session?

Mr. WILSON. I do not know that we are crowded to that extent. We have been here a great deal of time during the last few weeks; and I know that we are all anxious to get home.

The Senator tells us that a presidential election is pending. I think the less we have to do with the presidential election for the next two months the better; and the less we have had to do with this last winter and spring the better it was for us. We are told the country is to take care of all that. It will do very well for me to go into the presidential election about the 1st of September. When our armies are in the field and all thoughts and hearts are upon them; I do not want to see a long, drizzling presidential contest; I have no heart for it at all.

Now, sir, I believe candidly that this hot haste we have here to adjourn and go home—

Mr. HENDERSON. Will the Senator permit me to make a suggestion?

Mr. WILSON. Yes, sir.

Mr. HENDERSON. Suppose we fix Monday at twelve o'clock for an adjournment, and the House of Representatives do not get through with the measure they have now under consideration, will not the House be equally patriotic as ourselves? Will they not refuse to accept our amendment to this resolution? This resolution must go back to the House; we cannot adjourn without their action; and we can trust something to the House of Representatives. They will be as patriotic as ourselves.

Mr. WILSON. We have any quantity of messages hurrying us up; we have been told that after such hours of this very day we would not have a quorum; but I believe there is still one left. There is no security, however, that there will be a quorum there on Monday at twelve o'clock if we now fix that hour for the final adjournment. Everybody understands that fixing the hour of adjournment at twelve o'clock on Monday next means that nothing shall be done on Monday next. Senators acquainted with the mode of doing business here will know that to be so.

If we had that tax bill before us and it was acted upon, I would hasten away from here as soon as anybody else; but I believe that our duty is here and now, and to stand here and remain in Congress until that tax measure is settled by the vote of the House of Representatives, and, if favorably, until we settle it here. In spite of all the estimates that have been made in regard to the amount of revenue to be derived from the internal tax bill in Congress and out of it the people of this country have come to the conclusion that it will not raise the money which the exigencies of the country require. Every practical man in the country believes it, and men of intelligence and character are telegraphing and writing to us to pass immediate legislation on the subject. The Secretary of the Treasury proposed a tax of eighty or ninety million dollars. We do not touch that, but we passed a bounty bill that is to cost us before we meet again from twenty-five to sixty million dollars at least, and now it is proposed to lay a tax to pay these additional expenses that we have put upon the country.

I do not believe our people want to see us at home until we have settled these things. I know that I shall meet no welcome if we hasten away from here and go home and leave a question of that kind undone. The public press of the country is unanimous against this hasty adjournment of Congress, and the public press of the country expresses the deep-settled sentiment of this country; for say what we may about failures since this war commenced, there has been more failure in the Thirty-Eighth Congress than anywhere

else since the war commenced. These tax measures, that we all admit are now inadequate, everybody says ought to have been passed some four or five months ago. I do not wish to say this to put any blame upon anybody; but there is a feeling in the country that we have not done what ought to have been done, and we did not do it when it ought to have been done. The public voice of the country, as expressed by the public press of the country, is not very flattering to the action of the Thirty-Eighth Congress. I have no doubt there is a great deal of injustice done us; for with the exception of the Thirty-Seventh Congress—a Congress that sat more hours and did more work and did more great acts for the country and for the cause of mankind than any Congress since the Congress that made the Declaration of Independence—I say, with the exception of that Congress, no Congress has worked so many hours as this; but it has not been quite so fortunate as it ought to have been in timing all its measures.

Now, sir, I am opposed to this adjournment on Monday next. I am opposed to fixing to-night the hour of adjournment until I know what we are to do with that tax bill; but if we are to fix the hour, I hope it will be, at any rate, as late as Tuesday at twelve o'clock, so that we will have Monday to work for the country if need be.

Mr. HENDRICKS. I shall support the proposition to adjourn on Monday, and I do not know what authority Senators have to say that we are adjourning in hot haste. This is the second or third resolution for adjournment that the House of Representatives have sent to this body. No response has been made to the House. The resolutions of the House from time to time have been allowed to lie on the table unnoticed and uncared for, so far as this body is concerned, until the present time. Who says this is hot haste? The committees have made their reports and are ready to close up their business to-night.

Mr. President, I think the real interests of the country require the adjournment of Congress; and I say it with the very greatest respect to the Senators who have charge of the policy of the Government. When we met here last December there was something like stability in trade; there was something like uniformity of prices; the commercial world knew something of what it was up to. I ask any Senator if that is the case now? When we met gold was worth 160; it is now from 200 to 270. No man can tell what it is worth. No man can tell the value of anything in the country; and why? Because there has been no stability in the legislation of Congress. As I had occasion to say some weeks ago, the commercial world is afraid to see the American Congress in session; and why? Because we do not stand by any policy.

We have passed, I believe, two internal revenue bills: one was confined to whisky, I admit, and the other was the general internal tax bill. We have passed two tariff bills: one a bill increasing the tariff fifty per cent. for sixty days; the other was the general tariff law. We have passed two laws to regulate the price of gold, under both of which gold went up and went down according to accidents. I ask Senators if to-day the commerce of the country is not in a worse condition because of this action of Congress, if the entire trade of the country is not deranged because of the instability of our legislation? And at this late hour, when it was expected that we would adjourn, a revenue bill is introduced into the House of Representatives, and it is expected that we will take up the third revenue measure and pass it.

Senators say we must have money to support the war. True, we must; but if we have this war supported and the Government maintained we must have a healthy trade at home; we must have commerce pursuing its channels undisturbed by uncertain legislation. Does the manufacturer know to-day what to rely upon? Does the producer of any of the great commodities know to-day what to rely upon? He acts upon legislation which bears upon his interest, supposing it is to remain for some time, and before he has

exhausted the stock with which he has supplied himself the policy of the Government is changed. When we met here the tax upon whisky was twenty cents, and men were carrying on that great interest amounting to millions of dollars every month with the understanding that there would be a reasonable increase. Then Congress raised it to sixty cents a gallon, and the traders of the country supposed that that was to be the policy of the country. They had a right to suppose it was to be the policy of the Government. They had a right to suppose that the committees having charge especially of the revenue had considered the question before they threw out upon the country the new measure. Then the House of Representatives says it shall be a dollar, and the Senate says from a dollar to a dollar and a half. A committee of conference is appointed, and that committee says it shall be a dollar and a half to two dollars. The trade is going on. There is no regularity, no stability in our trade.

I ask Senators if this is for the good of the country, if it is for the support of the Government? This Government in its finances has got to rest upon firm trade at home. If you break up men by instability of legislation you withdraw from the Government that firm support which it must have if this war is to be prosecuted any great length of time. Do Senators doubt this? My judgment is that the earliest adjournment is for the good of the country. If we would adopt a policy and stand by it, it is not so important what that policy shall be. It is not so important whether the tax upon manufactures shall be five or seven or ten per cent., or whether the tax upon whisky shall be fifty cents or \$1 50; it is not so important what it shall be, but what it is to be ought to be permanent and stable, that the trade of the country may not continually be disturbed in this way. I am in favor of an immediate adjournment.

Mr. McDougall. I do not agree with my friend from Indiana. I am myself disposed to look at our necessities carefully in the face and view all that belongs to legislation in aid of administration required by the present emergency. I do not again agree with the gentlemen who are adverse in opinion altogether, as to the necessity of this proposed increase of taxation. I do not believe that it is necessary to assess the extraordinary tax asked for by the letter of the late Secretary of the Treasury. I have never believed in the philosophy of his policy, able man as he has been and is. In my judgment we are really rather unnecessarily overtaxing ourselves; and in affirming this proposition of course I shall have to assert something like a plausible reason for it or be held to use language improperly.

A condition of war in any country may be called an abnormal condition as against the condition of peace, calling that normal, and using these words as applicable to the condition of the Republic. There are rules that belong to one condition and rules that belong to the other. In a healthy, natural, and legitimate growth and conduct of the Republic our expenses as a Government should not exceed at the present day over \$80,000,000. Properly and economically administered, this Government, war aside, should not exceed the charge of \$80,000,000 of appropriation per annum. We are in a state of war, which involves our drawing upon our internal and extraordinary resources to the extent of the immediate exigency. How shall it be done? There are various ways in which it may be done; but it may be best summed up, without going into any lengthy argument, in the sum of the regular interest the Government is able to pay upon a given liability; that is, her present capacity to pay the interest upon the debt with which she seeks to charge herself, the Government, having relation to the money and the credit of the world. We now at this present day stand charged with less than \$75,000,000 per annum responsible for \$80,000,000 per annum on interest account. The securities that this Government could afford would command par at Hamburg, Amsterdam, Rotterdam, and the places where money is exchanged in Europe.

Mr. CONNESS. Will my colleague give way to allow me to make a motion that when we adjourn it be to meet at a certain hour on Monday morning?

Mr. McDougall. Yes, sir.

Mr. CONNESS. I move that when the Senate adjourns to-night it be to meet at half past nine o'clock on Monday morning.

The PRESIDENT *pro tempore*. Is there any objection to considering the motion of the Senator from California?

Mr. TRUMBULL. I object until we settle the other question.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered at the present time.

Mr. McDougall. With the known capacity of this Government to pay an interest account of \$150,000,000—

Mr. DOOLITTLE. I beg the Senator's pardon for interrupting him; but I desire to make an appeal to my friend from Illinois to withdraw his objection to the motion of the Senator from California, [Mr. CONNESS.] It is now twelve o'clock, the beginning of Sunday; and I hope he will allow us to fix an earlier hour for meeting on Monday than usual. If we do not now fix the time at half past nine o'clock or some other time we will adjourn to meet at eleven o'clock.

Mr. SUMNER. Very well; let us meet at eleven. That is the usual hour.

Mr. TRUMBULL. I do not think it is worth while, so long as the Senate refuses to fix any day for an adjournment, to be meeting here at nine o'clock in the morning. I am opposed to any such thing until we fix a day for adjournment.

The PRESIDENT *pro tempore*. Objection is made. The Senator from California will resume his remarks.

Mr. McDougall. I have been bold enough within my internal consciousness to differ with the policy of the late Secretary of the Treasury, the policy that has been administered here with us, in this, that we have not, in undertaking to handle our finances, related ourselves to the capital of the moneyed and commercial world. We can afford to pay interest not only for \$80,000,000 but twice \$80,000,000, pay it in gold and silver, and deliver it at the banking-houses on the Continent and in London. We can do more than is required by the present taxes that are assessed on our people. We have taxes that will answer our interest account; we have taxes that will pay our legitimate normal expenses, and we have taxes then to make a large sinking fund to meet ultimate results. When we can put \$100,000,000, as the present taxes show, as a sinking fund, with our present indebtedness, and perhaps \$75,000,000 on what may be called ultimate indebtedness, pay our interest, pay our normal expenses, and then have a sinking fund equivalent to \$75,000,000, we are not in any unhealthy condition. We are overtaxing our people without any necessity in the philosophy of politico-economical science, or by any rule of economical finance.

I wish to produce these things not so much that they will involve a conclusion on the part of Senators; but I desire to say that when our revenue pays our interest and a large surplus of our interest, and we derive an income over and above our normal expenditures and a surplus of \$100,000,000 to meet accidents or to meet the contingencies in the period of time to take up the burden that has been suddenly thrust upon us, we are in a more healthy condition than England ever was in any time of war.

I am disposed to sympathize with the remarks made by the Senator from Ohio not long since on the floor of the Senate. We do not know our strength, and we have not measured it by the rules and laws that determine the strength of a people. But if we do not administer that strength properly, if we administer it unwisely, if we tax when taxation is not necessary, we paralyze our people. This extraordinary addition of taxation tends toward the disease called paralysis. There is no occasion for it, so that we are able to pay the interest upon our debt, so that we stand upon the basis of normal expenditure, and then have a reasonable surplus which tends toward the extinguishment of indebtedness as soon as we are relieved from our abnormal condition.

We are not to be forever at war. Some time the angel will descend upon us breathing peace. It must come soon, or else there will be long and continuous war; but we must assume in the philosophy of administration and in the philosophy of legislation that peace is something to be achieved, and there must be an end of this great expenditure. In the estimates that have been pre-

sented from the various Departments of the Government this has been assumed and calculations have been made upon it. The trouble has been that in this assumption they have related themselves to their present contingencies and not to the true law of relations between the property resources of the country and the facilities that the moneyed and commercial world afford. When this is done, whenever the time comes that it can be done by some sufficient person, we shall have but little trouble about our finances, and the currency of the United States issued by authority of law can be soon made gold and silver.

Mr. LANE, of Kansas. Will the Senator from California give way to a motion to adjourn?

Mr. McDougall. No, sir; I will not. I am on the floor and shall occupy but a short time.

Mr. LANE, of Kansas. It is after twelve o'clock.

Mr. McDougall. I am speaking in a good cause, and I am not violating the Sabbath.

Mr. SUMNER. Will the Senator yield for a motion to adjourn?

Mr. McDougall. I will not.

Mr. RAMSEY. Let us adjourn.

The PRESIDENT *pro tempore*. The Senator refuses to yield.

Mr. McDougall. I think no better service can be rendered to the great Master of us all, even on the Sabbath day, than the maintenance of the truth, particularly with regard to the great questions that involve the interest of our nation.

I say these things for the reason that I hold it is not important that we add to the taxation already imposed; and having said this much, and yielding now to the over-anxiety and the undue anxiety of persons who, if in office, do not, in my judgment, feel the responsibility of office, I shall close my remarks in a very brief observation without extending my argument to its ultimate conclusion.

I know that it is valueless to undertake to engage in counsel with those who will not listen to counsel. When Senators against me offer counsel my ears are open. I will listen to them from morning until high noon, from noon until midnight, and then again from midnight until high noon, if it be for the interest or tends to subserve the interest of the country which I have undertaken to take, in part, charge of.

I repeat that the present tax bills are sufficient, administered with a wise economy, with a sound policy, and with a just understanding of our resources, our capabilities, and our material to the commercial and moneyed influences of the world.

But, sir, I must say this thing of hurrying an adjournment and casting over the legitimate business of legislation because men are anxious to get home, because men are anxious to escape from the place where the Government convenes, is a wrong on the part of the representatives in this Hall and in the other Hall, and every other place where men have official duties. As long as there was business to be done I would rather sit here every day of the three hundred and sixty-five days and a fraction and do what should be done. My own opinion is that to close up our business properly we should sit here longer than the time denominated. I think we cannot well dispose of our present business carefully before some time on Wednesday morning. I shall vote for the latest hour denominated, not moving one myself; but it will not be because I think we need to add to our present taxation, for I am confident in the opinion that we are now already overtaxing ourselves beyond the necessities demanded by a well-considered administration of our finances.

Mr. SUMNER. It is now Sunday morning, a quarter of an hour after midnight. I move that the Senate do now adjourn.

Mr. TRUMBULL. I hope not. Let us settle this question.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Massachusetts [Mr. Wilson] to the amendment offered by the Senator from Kansas, [Mr. LANE.]

Mr. SUMNER. I ask for the yeas and nays on that.

The yeas and nays were ordered.

Mr. LANE, of Kansas. Before the vote is taken I desire to say that I have just been informed that the tax bill, as it is called, in the House of Representatives has been defeated by four majority,

and there can, therefore, be no reason for us remaining longer than Monday.

Mr. CONNESS. It appears to me that if there was no reason before there is a great reason now for not fixing the time for adjournment at noon on Monday. Senators talk here as if adjourning were the main question, and legislation, the providing by taxation for the support of the Government, the mere incident. It is not my office nor my disposition to lecture the Senate nor to assume any such manner; but I do plead with and implore Senators, if they must fix a time for adjournment, to put it so distant that this great problem can be grappled even at this late period and mastered successfully.

I hope that the desire of the Senator from Kansas to engage in presidential elections or senatorial elections will not control him nor control the Senate. It is apparent to us that some Senators are not disposed to pass any more tax bills. There are Senators here who have not voted for any tax bills during the session. There was always a reason good enough to them to withhold their votes from bills providing for the support of the Government. Surely Senators charged with carrying on this Government and with sustaining the Administration that carry it on will not vote with them to adjourn this Congress with the confession made that there has been insufficient provision for sustaining the great war that is upon us.

I hope, Mr. President, that we shall adjourn to-night without fixing any time for the final adjournment. There is not a Senator here so anxious as I am myself to go from this city. I have not been out of the city, nor out of the Senate any considerable part of a day, since the session began. But, sir, I would wait here and forego every desire to reach home or friends or to transact private business until the demands the country makes upon us are first met. It is for the performance of those duties in this way and manner that we are here. It was with the pledge, either direct or implied, that we would thus perform those duties, irrespective of our own personal considerations, that we sought the great offices we hold and accepted them. Sir, we cannot retreat from this city at this time upon the plea of personal comfort or personal consideration with credit to ourselves or with the highest performance of duty, in my opinion. I hope, therefore, that we shall adjourn until Monday, that we may have an opportunity to meet and to deliberate upon the views of the recent Secretary of the Treasury, and the views of the present, or prospective, head of that Department, and that we shall in a manful manner remain here for a week or two weeks longer, if it shall be necessary.

It is not true, in my opinion, that we have done nothing. It never happens that any popular deliberative body, made up of two Houses, if you please, coacting with each other, proceed with exact regularity and complete wisdom during the whole period of their sessions. I believe this Congress has done much, but I believe that if it leaves this work uncompleted by an immediate adjournment it will do less than it might have done and less than it should do. What is a week of our time? We are paid for it; we are compensated for being here; the country is entitled to all our time. But we are met by being told that we are doing mischief. What is the mischief that we have done?

Mr. SHERMAN. I can tell the Senator that we have to-day done some mischief by providing for the payment of \$60,000,000 of bounty, and now the House of Representatives refuse to provide the means to pay the very bounties they have said by law should be paid.

Mr. CONNESS. I ask the Senator from Ohio was it mischief to pass an act by which our armies shall be replenished?

Mr. SHERMAN. Not at all; but I answer that in my judgment the time has come when every Senator should have been willing to meet a plain and imperative draft, without evasion or equivocation, without the payment of bounties, or throwing the burden upon other communities or portions of the people—a plain, positive draft, by which our people from every portion of the country might have been compelled to enter the military service and render military service in this time of need without the payment of bounties and without any of these evasions that have been in-

corporated on the enrollment law. I say now that in my deliberate judgment the law we passed to-day is much worse for this country than any failure in Congress to pass any measures whatever of a financial character. It seems to me the saddest thing that could possibly happen at the close of this session that we should to-day have provided for the payment of \$60,000,000 of bounties within the next sixty or seventy days under our law, and yet that we should refuse now to provide a small tax to pay for those bounties, and thus throw this burden with the accumulation of other burdens upon the Treasury of the United States at a time when we are told by the recent Secretary of the Treasury that our present system of taxation is totally insufficient.

Mr. CONNESS. The Senator and myself, I believe, have agreed upon the exact statement of facts that he has made of policy. I have said from the beginning that it was the duty of the Government, it was its right, to demand the services of as many of its people as it required for its defense. But, sir, we have not all been able to take that view of the case, and finally an act has been passed, as acts are always passed by legislative bodies, being a compromise of views, which involves, as the Senator from Ohio says, many millions of dollars as bounties. It were better that we agreed to give those bounties and that this Congress should even adjourn without making the provision that I am told one branch has to-night refused, than that this Army of ours down here with the eyes of the world upon it should be depleted and have to retreat before the foe of the country. The alternative, on the other hand, if we had not passed that act was terrible to contemplate.

Mr. President, I took occasion in some remarks in the Senate not long ago, in referring to the Senator from Massachusetts, the chairman of the Committee on Military Affairs, to use this language: "It appears to me that the Senator from Massachusetts is endeavoring to reason away the courage of the people." I thought so then; I think so now; not that that was the Senator's intention; far from it; but I think the policy really was that in effect. When I heard that Senator and others talk about making the draft easy, about the people not standing it here and the people not standing it there, I began to feel that if it were true the people were undeserving of a country, or else, if it were not true, the Senator who spoke the words performed an act that was a crime against the country.

But, sir, although the act to which the Senator from Ohio refers was not acceptable to me in many respects, I gave it my vote reluctantly, and yet gladly, because some act repealing the commutation clause appeared to be a necessity if we are to maintain ourselves in this great struggle. It finally carried bounties with it, making an indebtedness of additional millions; and now I appeal to the Senator from Ohio, and to all other Senators who are charged with the conducting of this Administration, whether they will agree to go away from here without provision being made for that indebtedness. It is not fair to conclude because the House of Representatives have refused to adopt an additional tax in one form that they will not adopt it in another. Let the members of that body who feel charged with the burden and responsibility of this Government meet in caucus; let them meet in counsel—that is the better word—and let them determine what they will do, and then let them stay here and perform that important work.

Why, sir, I hold in my hand a bill for the survey and sale of the mineral lands which, if this Congress remains in session for a week, or even for two days, I shall ask them to pass. I consent to it as the representative of a great mining region where the policy is not a popular policy. I consent to it for two reasons, and shall ask its passage if you, Senators, remain here. The two reasons are these: first, that within a year it will bring in millions of dollars into your Treasury; and, next, because I believe that the greatest happiness of a people connects itself with the ownership of the soil. There can be no happiness, no society, no education, no true freedom in any country where its population are not owners of the soil.

There are ways and means that we can provide; there are ways and means that we can originate;

there is ability enough in this Congress; and I think, if you will permit me to say so, that the path of duty is plain. But Senators talk of going away from here. "When shall we get away?" is the word. "Why do you keep us here?" is the word. Why, sir, there is not a Senator who was not glad of the opportunity when his State sent him here to receive the commission. There is no work or labor here, no matter what the circumstances may be, that should oppress or burden a manly spirit while the country requires service. Why, sir, what we do is not labor compared to what those gallant men belonging to the poor, burdened, common masses of the people are now doing before Petersburg and Richmond.

Mr. President, I am sometimes led to think that all the effort that is made by society to elevate all mankind up to the highest scale of intellectual ability and culture is really questionable in its policy; and why? Because your men of intellect and refinement will not make the sacrifices necessary to great ends. As I stood in yonder street about a month ago and saw Burnside's column passing, tens of thousands of whom would never return, as I marked their countenances and passed through them I could not help thinking it was a God's blessing that we had common people in the land; I could not help thinking that the moral and intellectual inequalities of mankind were as plainly necessary to great and noble ends as the physical inequalities of the earth's surface are to the maintenance of proper conditions there.

I tell you, sir, that when we talk of making sacrifices by staying here we talk words that are not serious and are not truths. No man makes a sacrifice by staying here, and no man should think of leaving this place while there is any work to be done. I suggest, I advise, I entreat the Senators who must stand together and maintain each other in maintaining this Administration not to divide and subdivide and vote to leave here until they shall meet in council and adjourn in order when their work shall be done. I, indeed, feel backward in making these suggestions and remarks; but, sir, in addition to the disposition to remain here to do this work, it would be no great amount of credit to us if we each of us felt that when our work was done here our place was in the front and before the enemy. But, as I before observed, intellectual and moral training and culture seem not to fit mankind for great deeds; they seem not to make up the great, the bold, and the true; but they seem rather to seek places of distinction and personal comfort and ease where they shall be looked upon with consideration, that too often, I fear, they do not deserve.

Mr. CHANDLER obtained the floor.
Mr. McDOUGALL. I hope the Senator will allow me to say a word.

Mr. CHANDLER. I will yield for a moment. I trust the Senator will take no time.

Mr. McDOUGALL. I desire to make but one remark. I had thought myself that there was an office for a Senator and for every Senator. My colleague has advised me that I have no office here, and that the business of the administration, of the conduct of this body, should be determined in a council, which he uses as the complement of a caucus of certain persons belonging to this body, and I am afraid I am not one of them; consequently, it will be as well that I should adjourn immediately at the present moment and take no part or place in the consideration that belongs to the deliberations of this Senate Chamber. That may be good law in its way, but I am compelled to say I think it is a very bad way.

Mr. CHANDLER. I agree with the Senator from Ohio, [Mr. WADE,] and likewise with the Senator from California, and trust that no day will now be fixed for the final adjournment of this body. The conscription law which has been passed, in my judgment, is one of the worst laws ever gotten up by Congress. It pays bounties and is called an easy law. Mr. President, there can be no conscription law that is an easy law. War is rough; it is hard; it is hard to bear in all its portions; and when Senators and Representatives undertake to make conscription easy they undertake to do an impossible thing. They have voted many millions of dollars upon the Treasury at a time when the Treasury cannot afford to bear those millions. Gold, I am happy to inform you, has fallen one hundred per cent. within twenty-four hours.

Mr. HENDRICKS. That is a mistake.
Mr. CHANDLER. No, sir; it was 290 yesterday and is 192 to-day. Gold has fallen nearly one hundred per cent. within twenty-four hours; and if we, the Congress of the United States, meet this crisis as men, you will see gold fall within the next ten days from 192, where it stands to-day, to a very low figure.

Now, sir, what do we propose to do? To fix a day to adjourn the Congress of the United States; and what is our present position? Our armies are facing the enemy; our armies are prepared, in my judgment, to crush that enemy, to grind him to powder. If they fail, what then? If they fail the Congress of the United States should be in session, and, if necessary to put down this accursed rebellion, order out the number of men required to do it, and, if it be necessary, order a levy *en masse* to accomplish it, and let Senators and Representatives lead the van; and I am prepared to shoulder my musket and march into the front ranks. Sir, this is no time for Congress to adjourn. We should meet the responsibilities of the day and of the hour, meet them like men, and meet them like brave men whether we are brave or not.

Mr. President, we are in a financial crisis. We know not to-day, while we propose to fix the hour of adjournment, whether we have a Secretary of the Treasury or not. We know not to-day, and the country knows not, whether we may not be called upon within the next twenty-four hours to confirm another Secretary of the Treasury. I trust in God the man whom we have confirmed will accept. The country has confidence in him; the Senate has confidence in him; and I hope he will accept the portfolio; but he may not; we know not; he was not prepared to-night to say what his action would be.

Why should we adjourn at this time? We are paid by the year, an annual salary, and are supposed to be in session from one end of the year to the other; and yet we are here in great haste to adjourn. There is not a member of this body as anxious as I am to leave this city; there is not a man in this body who makes as great financial and personal sacrifices to remain here as I do; but I consider it my duty to remain, and to remain until the business that the country has sent us here to perform is completed, wholly completed, and as long as the demands of the country keep us here, and no longer; for I will not stay one hour after that.

I trust we may be able to leave here next week, and early next week. I shall be glad to vote to adjourn next week. But, sir, the late Secretary of the Treasury has informed us that the taxes are not sufficient to meet the requirements of the Treasury. I believe they are not, and I believe that it is our duty to hold the other House until they will meet the requirements of the hour. If they will not meet them to-day, let them meet them next week; if they will not meet them next week, let them meet them next month; and if they will not meet them next month, hold them until the 4th of March, 1865. That is what I would do, and I would stay here in perpetual session until they met the requirements of the hour.

Mr. HENDRICKS. There will not be a quorum there soon.

Mr. CHANDLER. Very well; let them send the Sergeant-at-Arms after the absentees and bring a quorum by force. Let there be no shirkers in either House.

Mr. President, the life of this nation is at stake to-day. The enemies of this Government believe that the Government is lost; the friends of the Government believe that it cannot be lost. I believe, and I think every member of this body believes, that this great nation is to be saved regardless of expense and regardless of sacrifices of any kind whatever. Sir, much blood has been shed in this cruel war; it may be necessary to shed much more; and it is for this Congress to decide whether the thinned ranks of our armies shall be filled and filled with soldiers, or whether they shall be left thinned and be compelled to retire before the traitorous foe. I trust, sir, that this Senate will meet the emergencies of the hour.

Mr. LANE, of Indiana. I move that the Senate do now adjourn until Monday next.

Mr. TRUMBULL. I hope not.

Mr. CONNESS. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. I hope we shall not adjourn to-night until we have fixed a day for the final adjournment. Evidently here is talking against time and to take up time. I hope we shall sit it out and see whether we can fix a day of adjournment or not.

Mr. CONNESS. The statement of the honorable Senator from Illinois that there is talking against time is entirely gratuitous on his part.

Mr. TRUMBULL. I do not know what the Senator from California made his speech for unless it was talking against time.

Mr. CONNESS. I did not make it for the edification of the honorable Senator.

Mr. HARLAN. I desire to make one remark. It is now Sabbath morning. There is no public emergency that I am aware of that requires us to sit on the Sabbath, and I therefore hope that the motion to adjourn until Monday will be carried. If there was a public emergency requiring it, I of course would consent to sit, but I know of none.

The question being taken by yeas and nays, resulted—yeas 16, nays 17; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Doolittle, Foot, Foster, Harlan, Lane of Indiana, Morgan, Morrill, Sherman, Sumner, Wilkinson, Willey, and Wilson—16.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Henderson, Hendricks, Lane of Kansas, McDougall, Pomeroy, Powell, Richardson, Riddle, Sprague, Ten Eyck, Trumbull, and Van Winkle—17.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Grimes, Hale, Harding, Harris, Hicks, Howe, Johnson, Nesmith, Ramsey, Wade, and Wright—16.

So the Senate refused to adjourn.

Mr. LANE, of Kansas. As I think we shall wait until we hear the decision of the House of Representatives on the vote that is now going on, I propose to occupy the attention of the Senate for a few moments.

The criticisms of the Senator from Massachusetts and the Senator from California I think very unkind toward the gentlemen who are desirous to fix a day of adjournment. There is no disposition on the part of any Senator that I know of to adjourn this body while there is a hope of passing a bill to supply the money for the payment of the bounties called for by the new enrollment bill. We made the motion to take up this resolution early in the day, postponed it until nine o'clock this evening, and then again postponed it until eleven, and we are not pressing it now; we are awaiting the action of the House. The idea of Senators assailing their brother Senators for a want of patriotism because in their opinion it is best for the public interest that a day should be fixed for the adjournment, seems to me to be very unkind. We claim to be as patriotic as the Senator from Massachusetts or the Senator from California, as willing to make as many sacrifices as either of them, as bold to meet the enemies of the country as they dare be. The idea of Senators claiming all the patriotism and all the courage does not seem to me to be very kind toward their brother Senators.

I said that my experience was that the business of a legislative body was hastened by fixing a day of adjournment. That has been my experience, and I suppose there is no Senator on this floor who will deny the proposition. It is not to neglect the business of the country, but to prevent mischievous results. I believe it would be beneficial to the country if this Congress was adjourned, for it is embarrassing to the Administration. We are visiting these Departments, claiming their attention day by day and hour by hour, when, in my opinion, they could devote themselves much more usefully to the country. We go into the War Department for appointments and beset the President for places.

At the suggestion of the Senator from Rhode Island [Mr. ANTHONY] I will close my speech here, and move that the Senate now proceed to the consideration of executive business.

Mr. HARLAN. I move that the Senate do now adjourn.

Mr. SUMNER. I second that motion.

The PRESIDENT *pro tempore*. The motion to adjourn takes precedence.

Mr. LANE, of Kansas. I hope we shall not adjourn.

Mr. SUMNER. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. DOOLITTLE. I hope I may be allowed to state that I understand they are taking the yeas and nays in the House of Representatives on the passage of the joint resolution for an additional income tax, and it will be here in five minutes.

Mr. TRUMBULL. I object to discussion. The question being taken by yeas and nays, resulted—yeas 12, nays 21; as follows:

YEAS—Messrs. Chandler, Conness, Foot, Harlan, Lane of Indiana, Morgan, Morrill, Sherman, Sumner, Wilkinson, Willey, and Wilson—12.

NAYS—Messrs. Anthony, Buckalew, Carlile, Clark, Cowan, Davis, Doolittle, Foster, Henderson, Hendricks, Lane of Kansas, McDougall, Pomeroy, Powell, Richardson, Riddle, Saulsbury, Sprague, Ten Eyck, Trumbull, and Van Winkle—21.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Grimes, Hale, Harding, Harris, Hicks, Howe, Johnson, Nesmith, Ramsey, Wade, and Wright—16.

So the Senate refused to adjourn.

Mr. LANE, of Kansas. I now renew my motion for an executive session.

Mr. TRUMBULL. I hope not. Let us have a vote on the final adjournment.

Mr. LANE, of Kansas. I suppose I can finish my speech.

Mr. TRUMBULL. Of course you can; but I hope the Senator from Kansas is not taking up time. Let us fix a day for adjournment and then go into executive session.

Mr. SHERMAN. I suppose we mean to wait here until that joint resolution comes from the House of Representatives, and then we can fix an hour for the adjournment. In the mean time I would just as lief hear some Senator make a pleasant speech about literature or the adjournment or anything else. If that joint resolution should come to us to-night I suppose we can pass it at once, as we have already acted on the subject-matter.

Mr. TRUMBULL. Just by this way of making speeches we have been kept here three or four hours by gentlemen who insist that Congress shall remain here, and are making speeches to take up the time. I think we had better get a vote and fix the day of adjournment.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on the amendment of the Senator from Massachusetts [Mr. WILSON] to the amendment of the Senator from Kansas, [Mr. LANE.]

Mr. ANTHONY. I renew the motion of the Senator from Kansas to proceed to the consideration of executive business.

Mr. DOOLITTLE. On the question of whether the adjournment shall be on Tuesday or Monday, I am opposed at the present time to changing it.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Rhode Island to proceed to the consideration of executive business.

Mr. CONNESS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McDOUGALL. Mr. President—

The PRESIDING OFFICER. The question before the Senate is on the motion to proceed to the consideration of executive business.

Mr. McDOUGALL. I was advised of that by the President a moment since. It is unnecessary that it should be suggested again, my memory not being very infirm. I have not been able to see the impinging importance of going into the consideration of executive business. I am sure that the mover assigns no particular reason for having made the motion.

Mr. ANTHONY. If the Senator will allow me I will give the reason. I made the motion in perfect good faith. There is on the table some executive business that must be disposed of before we adjourn. I beg the Senator to let us have a vote upon the motion.

Mr. MORRILL. There are some messages there.

Mr. McDOUGALL. I am inclined to think that is what they call an "artful dodge," and that there is really no grave occasion for embarking in executive session.

Mr. President, it is said that in a multitude of counsels there is safety; but I have rather been inclined to think that in the multitude of counselors there is confusion, and that is the better text of the two. My friends who are about me, many of them, advise me to go into executive session, and

many of them say no. I am very much disposed to do as I please and take my own counsel, and about that there will be very little confusion, because I will do very much as I please as long as I have the floor and I am permitted by the President of the Senate. We have some business here that might as well be transacted without the labor of going into executive session for the simple purpose of coming out again, and I am inclined to think that we might as well go along and transact our business without any great regard for the dodges that are practiced most successfully in the House of Representatives and that I do not think ought to obtain and be really an established law in the Senate Chamber. I am informed that some important business will probably be delivered to us in a moment or two. My information comes from a person of high authority; he is chief of the Indian Committee of this body, and the Indians are full of high instincts, and instinct is known to be higher than reason. What the Senator from Wisconsin says is so I must admit to be true, on the ground both of instinct and reason.

The PRESIDENT *pro tempore*. On the question of proceeding to the consideration of executive business debate is indulged in only to a limited extent.

Mr. McDOUGALL. I am alleging reasons why we should not go into executive session, the greatest reasons I can conceive of. It is very difficult at the present time to conceive of any reasons which would lift the Capitol out of its firm seat on the hill; but still proximate considerations are within the limit of debate. I am inclined to think it is not worth our while to go into executive session, and that rather than do that we had better sit down and take a smoke.

The question being taken by yeas and nays, resulted—yeas 14, nays 18; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Doolittle, Foot, Foster, Harlan, Lane of Indiana, Morgan, Morrill, Sherman, Sumner, and Wilson—14.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Henderson, Hendricks, Lane of Kansas, McDougall, Pomeroy, Powell, Richardson, Riddle, Saulsbury, Sprague, Ten Eyck, Trumbull, Van Winkle, and Wiley—18.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Grimes, Hale, Harding, Harris, Hicks, Howard, Howe, Johnson, Nesmith, Ramsey, Wade, Wilkinson, and Wright—17.

So the Senate refused to proceed to the consideration of executive business.

Mr. LANE, of Kansas. I move that the further consideration of the resolution fixing the day of adjournment be postponed for half an hour. ["No, no."] I desire to state to the Senate this fact, that the House of Representatives has just passed a joint resolution in regard to the income tax and we had better dispose of that.

Mr. FOSTER. Will the Senator from Kansas give way for a moment that I may call up a little bill from the House of Representatives in favor of a widow, a pension bill which has been reported from our Committee on Pensions, and ought to be passed?

Mr. LANE, of Kansas. With great pleasure.

Mr. TRUMBULL. I feel compelled to object. In view of the course pursued, I must insist that we hold on to the adjournment resolution until we dispose of it.

Mr. FOSTER. The Senator from Illinois will bear witness that I have not participated in anything which he can consider reprehensible. This is the case of a widow; the bill has been passed by the House of Representatives, and will be lost if we do not pass it promptly.

Mr. TRUMBULL. We will pass it as soon as we get through with the resolution.

Mr. POWELL. As we have five minutes to spare, I ask the Senate to take up the following resolution which I offered some time since:

Resolved, That the conduct of the executive authority of the Government in recently closing the offices and suppressing the publication of the World and Journal of Commerce newspapers, in the city of New York, under circumstances which have been placed before the public, was an act unwarranted in itself, dangerous to the cause of the Union, in violation of the Constitution, and subversive of the principles of civil liberty, and as such is hereby censured by the Senate.

Mr. TRUMBULL. I object to its introduction.

Mr. POWELL. I move to take up the resolution.

Mr. TRUMBULL. I hope the Senator from Kentucky will not move to postpone the measure on which we have been engaged four hours in or-

der to get in this resolution of his. Let us get a vote on the proposition before the Senate.

Mr. POWELL. I understand the Senate is not ready to vote on that yet.

Mr. TRUMBULL. Is not the Senator ready? I am.

Mr. POWELL. I withdraw my motion.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts [Mr. WILSON] to the resolution fixing the day of adjournment.

Mr. CONNESS. I move that the Senate do now proceed to the consideration of executive business.

Mr. SHERMAN. I told the gentleman having the income tax bill in charge—it only binds myself, of course—that in all human probability if the other House took a definite course and sent us a tax bill there would be no difficulty in adjourning on Monday. I feel bound, therefore, now to vote for the resolution to adjourn on Monday; but I shall not ask any other Senator to be influenced by my action. The House of Representatives have deliberately acted on the proposition in regard to petroleum, leaf tobacco, and whisky, and concluded not to change the existing law on those subjects. Consequently we cannot hope to have a bill including them from the other House, and that House has already informed us that we cannot originate such a bill. The only tax bill that can be passed here is the one which they are now passing. They have kept it free from all amendments, made it simply an income tax to provide for the bounties under the enrollment bill.

SPECIAL INCOME TAX.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed a joint resolution (H. R. No. 120) imposing a special income duty; in which it requested the concurrence of the Senate.

FINAL ADJOURNMENT.

The PRESIDING OFFICER. The adjournment resolution is before the Senate.

Mr. SHERMAN. Now I ask the Senate by unanimous consent to take up the joint resolution just received from the House of Representatives.

Mr. TRUMBULL. I hope not. Let us fix the day of adjournment and then I shall be willing to take it up; but after four hours have been occupied here on this question, I cannot consent to yield it.

Mr. CONNESS. I move to postpone the consideration of the question now pending, which is the resolution in regard to the adjournment, and all other prior orders, and to proceed to the consideration of the joint resolution just received from the House of Representatives.

Mr. TRUMBULL. I may as well inform the Senator from California that if necessary I shall object to its being read. That joint resolution cannot be passed to-night unless we have some action on the question before the Senate. If he wishes to persist in his course he can do so. I do not know that I can persist as long as he can, but I have the power by myself alone to prevent the passage of that joint resolution from the House of Representatives to-night, and I shall exercise it unless we can have some action on the pending question.

Mr. CONNESS. Mr. President—

Mr. COWAN. Let us vote on the adjournment.

Mr. CARLILE. We could have passed both resolutions by this time.

Mr. SHERMAN. I hope the Senator from California will allow the resolution in regard to the adjournment to be passed, and we can then pass the other resolution; but if we fail to do it we can move to reconsider the vote on the adjournment resolution.

Mr. CONNESS. I will not persist against the wish of the Senator from Ohio.

Mr. CHANDLER. The Senate is very thin; those who are in favor of remaining in session until the public business is done have gone home. I move, therefore, a call of the Senate, and on that motion I ask for the yeas and nays.

The PRESIDING OFFICER. (Mr. POMEROY.) The Chair thinks it is not in order to move a call of the Senate until the fact is developed that there is not a quorum present; as there is no evidence that a quorum is not present, the motion is not in order. The question is on the

amendment of the Senator from Massachusetts to the amendment of the Senator from Kansas: The amendment of the Senator from Massachusetts is to fix the day of final adjournment at Tuesday, the 5th day of July, at twelve o'clock, and on that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 11, nays 22; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Conness, Foot, Foster, Harlan, Morgan, Sumner, Wilkinson, and Wilson—11.

NAYS—Messrs. Carlile, Clark, Cowan, Davis, Doolittle, Henderson, Hendricks, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Pomeroy, Powell, Richardson, Riddle, Saulsbury, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, and Wiley—22.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Grimes, Hale, Harding, Harris, Hicks, Howard, Howe, Johnson, Nesmith, Ramsey, Wade, and Wright—16.

So the amendment was rejected.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Kansas [Mr. LANE] to fix the adjournment at Monday, the 4th of July, at twelve o'clock.

Mr. CHANDLER. (at twenty minutes past one o'clock, a. m., July 3.) I move that the Senate do now adjourn, and on that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 23; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Foot, Harlan, Morgan, Morrill, Sumner, Wilkinson, and Wilson—10.

NAYS—Messrs. Buckalew, Carlile, Clark, Cowan, Davis, Doolittle, Foster, Henderson, Hendricks, Lane of Indiana, Lane of Kansas, McDougall, Pomeroy, Powell, Richardson, Riddle, Saulsbury, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, and Wiley—23.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Grimes, Hale, Harding, Harris, Hicks, Howard, Howe, Johnson, Nesmith, Ramsey, Wade, and Wright—16.

So the Senate refused to adjourn.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas.

Mr. WILSON. I move to postpone the consideration of the resolution and all other subjects to take up the joint resolution of the House of Representatives in regard to a special income tax. If we pass that we can then pass this resolution and close it up in ten minutes.

Mr. TRUMBULL. If the Senator from Massachusetts will allow this resolution to pass we can then take up the other joint resolution and act on it in ten minutes. You have persisted in this course for four hours and persist still.

Mr. WILSON. The Senator from Illinois has persisted in fixing a time for adjournment without knowing what the action of the House of Representatives would be. I am for the House joint resolution relative to the income tax first, and then the adjournment. I ask for a vote on my proposition by yeas and nays.

The PRESIDING OFFICER. The Chair must rule, as advised, that the joint resolution from the House of Representatives cannot be considered except by unanimous consent. It can have its first reading, however.

Mr. WILSON. Very well.

Mr. CHANDLER. That bill cannot pass to-night if we fix the adjournment.

Mr. SHERMAN. The Senator from Michigan surely will not object to a bill of this kind.

Mr. CHANDLER. I will object. If the motion to adjourn at twelve o'clock on Monday be carried, that bill will not pass to-night.

Mr. CONNESS. I believe that precedent has already been set by the Senator from Illinois, and I do not see that the Senator from Michigan is blamable for following it.

Mr. SHERMAN. I believe I am perfectly good-humored about this matter. A majority of the Senate, I think, manifestly have determined that we can adjourn and ought to adjourn on Monday. It seems to me every Senator ought to yield to that. I believe it is the unanimous willingness of the Senate without a single objection to pass the income tax bill from the House of Representatives; and I ask now whether there is any Senator here who will use his parliamentary privilege to prevent the passage of that important measure. If there is, it is due from him in fairness and honor now to say so.

Several SENATORS. Nobody.

Mr. SHERMAN. We can pass both measures; and as the adjournment resolution was first under

consideration, I hope we shall act upon that and fix our adjournment at twelve o'clock on Monday, and then pass the tax bill.

Mr. HARLAN. I feel it due to say that I will object to the consideration of the tax bill until Monday morning.

Mr. CHANDLER. There will be no action on that bill to-night.

Mr. McDUGALL obtained the floor.

Mr. POWELL. With the permission of the Senator from California, I desire to say a word. There seems to be an apprehension that some Senator on our side will take advantage of parliamentary tactics to defeat the bill referred to by the Senator from Ohio. I am authorized to say that we will not. Fix the day of adjournment, and so far as we are concerned you may take up that bill and pass it to-night; all we shall do is to vote against it.

Mr. CONNESS. Do I understand the Senator from Kentucky to say that he will vote for the bill?

Mr. POWELL. No; but I say I am willing it shall be voted upon and will take no advantage of parliamentary tactics.

Mr. CHANDLER. I should like to inquire whether the Senator's associates who are voting with him for an adjournment on Monday at twelve o'clock will all pledge themselves to do the same thing?

Mr. POWELL. They have already done so.

Mr. CARLILE. That assurance has been given over and over again during the last two hours.

Mr. COWAN. If this Senate can assume any other more ridiculous or absurd position than it now presents, I should like to see it assume it and then go home.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas [Mr. LANE] to the resolution relative to the adjournment of the two Houses. The Secretary will call the roll.

The Secretary commenced the call of the roll, and Mr. ANTHONY responded to his name.

Mr. McDUGALL. I was on the floor.

The PRESIDING OFFICER. The call will be continued.

Mr. McDUGALL. I rise to a point of order. The PRESIDING OFFICER. The Chair will hear the point of order.

Mr. McDUGALL. I had risen, addressed the Chair, and been recognized by the Chair before the call commenced; I stood in my place and did not resign it. I am not disposed to surrender any of my known rights. If the Chair will not admit the facts to be as I have just stated them, I shall submit; but such being the facts, I have a right to the floor without the call of the roll being commenced while I was standing on the floor. Gentlemen got up and addressed the Chair immediately, I know, and I was not rude enough to ask them to take their seats.

The PRESIDING OFFICER. The Chair understands that the Senator was not recognized.

Mr. POMEROY. I will make a single statement, as I was the occupant of the chair. The Senator from California addressed the Chair and was recognized. He yielded the floor, however, to the Senator from Kentucky, [Mr. POWELL], and I recognized that Senator. When he concluded I recognized the other Senator from California, [Mr. CONNESS], and he made some remarks. I supposed the Senator [Mr. McDUGALL] in yielding the floor yielded it unreservedly.

Mr. McDUGALL. Then courtesy is very expensive.

The call of the roll was concluded, and the result announced—yeas 22, nays 9; as follows:

YEAS—Messrs. Anthony, Buckalew, Carlile, Clark, Cowan, Davis, Doollittle, Henderson, Hendricks, Lane of Indiana, Lane of Kansas, Pomerooy, Powell, Richardson, Riddle, Sausbury, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, and Willey—22.

NAYS—Messrs. Chandler, Conness, Foster, Harlan, McDougall, Morgan, Morrill, Sumner, and Wilson—9.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Foot, Grimes, Hale, Harding, Harris, Hicks, Howard, Howe, Johnson, Nesmith, Ramsey, Wade, Wilkinson, and Wright—18.

So the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the resolution as amended.

Mr. HARLAN. How does it read?

The PRESIDING OFFICER. The resolution as amended will be read.

The Secretary read it, as follows:

Resolved, (the Senate concurring.) That the President of the Senate and Speaker of the House adjourn their respective Houses for the present session on Monday the 4th of July instant at twelve o'clock, m.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. SUMNER, (at fifteen minutes before two o'clock, a. m., July 3.) I move that the Senate do now adjourn; and on that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 24; as follows:

YEAS—Messrs. Chandler, Conness, Harlan, McDougall, Morgan, Sumner, and Wilkinson—7.

NAYS—Messrs. Anthony, Buckalew, Carlile, Clark, Cowan, Davis, Doollittle, Foster, Henderson, Hendricks, Lane of Indiana, Lane of Kansas, Morrill, Pomerooy, Powell, Richardson, Riddle, Sausbury, Sherman, Sprague, Ten Eyck, Trumbull, Van Winkle, and Willey—24.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Foot, Grimes, Hale, Harding, Harris, Hicks, Howard, Howe, Johnson, Nesmith, Ramsey, Wade, Wilson, and Wright—18.

So the Senate refused to adjourn.

The PRESIDING OFFICER. The question is on the adoption of the resolution as amended.

Mr. MORRILL. I have no disposition to delay the passage of this resolution, but I shall vote against it. I have steadily voted against fixing the hour for an adjournment of the Senate until it was obvious that the Senate could adjourn in safety to the country, and we have been voting here, as I think, for an adjournment at twelve o'clock on Monday, when it was not obvious that it could be done with safety to the country. That is my judgment. Other Senators think otherwise, and I have no right to say that they are not as honest and as conscientious in their convictions on that subject as I am, and I do not stand here to complain of that particularly, but I am not willing to allow it to be understood and go to the country, that for that exercise of my judgment I am to be denounced here as standing in a faction because I happen to be in a minority; and I tell my honorable friend from Illinois, with all the respect I entertain for him, that he is both unparliamentary and unjust when he stands in the Senate and says to the country, or to the Senate to go to the country, that that portion of this body are factious who are reluctant to adjourn until they can see that the measure which those who have charge of the finances of this Government believe to be essential is secured, who feel that we are not in a condition to adjourn. I say till that is made certain the Senators who cooperate to that end and who are honestly opposed to fixing the hour for adjournment until that object is secured, are not factious, and their action is open to no such objection.

Mr. TRUMBULL. Will the Senator allow me?

Mr. MORRILL. Certainly.

Mr. TRUMBULL. The Senator, I presume, does not mean to place me in a different position from that in which I designed to place myself. I did not denounce anybody as factious who did not agree with me. Those whom I spoke of as factious were those who entered into a combination in the presence of Senators for the purpose of delay; those persons who avowed their object to be delay and who consulted together to bring it about. The Senator from Maine, I apprehend, was not one of those.

Mr. CONNESS. Will the Senator from Maine permit me a single word? The Senator from Maine is exonerated by the Senator from Illinois from this aspersion. I am willing that the Senator from Illinois shall claim to be exempt from faction while the record shows his company.

Mr. HARLAN. I desire to make a remark by the courtesy of the Senator from Maine. I do not consider it dishonorable or improper in a Senator who stands with the minority to use fair parliamentary law to prevent the action of the body which he thinks will be deleterious to the country; and I wish to remind my friend from Illinois that he has done so repeatedly, and has formed combinations to do so when he thought the interests of the country required it; and if Senators here to-night think that it is unsafe to the country to adjourn without the passage of certain measures that have not yet passed, and on that account are not willing to fix an hour of adjournment definitely, they are doing precisely what the honorable Senator from Illinois has done

repeatedly to my personal knowledge, and for the same reason.

I have felt it due to myself that I should make this statement, because I suppose I am one of those referred to.

Mr. DOOLITTLE. Will my honorable friend from Maine allow me to make a statement?

Mr. MORRILL. Certainly.

Mr. DOOLITTLE. My statement is this: the only question about which we felt a great deal of anxiety was the bill lately pending in the House of Representatives. Inasmuch as by the law they had passed additional bounties were provided, it was a question whether additional revenue should not be raised. They have passed that bill. So far as the House is concerned, I understand that the important business is completed. That bill is lying on our table; it is completely in the power of the Senate. This resolution of the House asking us to join with them in fixing a day of adjournment has been upon our table for a long time, and certainly there is no reason now why we cannot respond to the House and inform them now that we shall be ready to adjourn on Monday; and I really hope that this matter of controversy among our friends here will not proceed further.

Mr. HARLAN. Allow me to make a suggestion. That bill cannot pass in less than three days, if one Senator chooses to put it over so long. It must be read once on each separate day by the rules of the Senate if any one Senator chooses to put it over. Hence the impropriety, as it appears to me and other Senators, of fixing a day certain for adjournment short of three days.

Mr. DOOLITTLE. We can pass it to-night.

Mr. TRUMBULL. It is due to myself that I should say a word in reply to what has been said.

Mr. MORRILL. I should like to know how I got cheated out of the floor. [Laughter.]

Mr. TRUMBULL. The Senator gave the floor to the Senator from Iowa, and he made remarks relative to myself, and I ask an opportunity to reply.

Mr. MORRILL. I had not got quite through with my friend from Illinois.

Mr. LANE, of Kansas. I ask the Senator from Maine to allow me to make a statement.

Mr. MORRILL. Certainly.

Mr. LANE, of Kansas. I made this motion. It is due to myself to say that during the entire period up to this time I have been in constant intercourse with the House of Representatives, and a portion of the time with the chairman of the Committee on Finance, and the rest of the period with the second on the Committee on Finance, keeping the resolution in hand and advising with them at every step, looking to not endangering the proposition of the House, and controlling the resolution in view of that.

Mr. MORRILL. I have said all that I care to say in regard to the charge of the Senator from Illinois that there was a faction. I think the honorable Senator probably on reflection will withdraw such a charge as that. There is a difference of opinion here in the Senate. A majority of the Senate were willing to adjourn on Monday without any reference to the bill which has now come to us from the House. A minority of the Senate were unwilling to fix the day of adjournment until they could see that that bill was within our power. On that question I think there is ample room for a very honest difference of opinion, and I submit to my honorable friend that it hardly becomes him to say that the men who were engaged in preventing the fixing of Monday were actuated by factious motives. I can conceive that they were actuated by the highest and most patriotic motives, and I think my honorable friend on reflection will accord to the Opposition those motives.

But now, sir, the point which I desire to submit is this: we have got the bill within our reach at last; the House of Representatives has passed it; it is now within our reach and we can pass it; and the question I wish to submit to the "faction" with which I have acted is—I do not mean that in any offensive sense to my friends, but I appeal to Senators on this side of the Chamber with whom I have acted steadily in resisting any attempt to adjourn until this bill came to us—whether this bill being now within our reach we should not accept it and act upon it, whether now the respons-

ability does not come upon us. We have held the Senate here until the bill has come. It being here and being within our reach, shall we not take it up and pass it and give the country the benefit of it, or shall we postpone it until Monday? I am frank to say that although I feel perfectly justified in the measures taken to postpone fixing the day of adjournment until the bill should reach us, the bill having reached us and Senators upon both sides of the Chamber pledging themselves when the hour is fixed for the adjournment they will take the vote on this question without opposition; now it seems to me the object is accomplished; and therefore, in order to stand entirely justified, we should take up the bill.

Mr. COWAN. I have a single remark to make. If the good people of the United States had sat in the galleries to-night and observed the ability with which we manage the affairs of the nation and the statesmanship displayed by us, I am very doubtful whether they would have invited us to stay here until Monday noon.

Mr. TRUMBULL. I have sought the floor several times for the purpose of replying to a personal remark made by the Senator from Iowa; but the Senator from Maine was not willing that I should reply to it at one time, and I will take but a moment to do so now. The Senator from Iowa says that I have entered into combinations to prevent the passage of measures in former times when I believed the public good would be prejudiced by their passage. Whenever I did so I took the responsibility, and never shirked any position that I took in regard to legislative matters. If I have undertaken to defeat them by parliamentary devices and delays, I have done it openly and above-board and taken the responsibility of my action in reference to them. If Senators think it consistent with propriety to pursue that course to-night, of course it is their right to do so, and I have no more to say in regard to it.

Mr. HARLAN. I suppose the Senator did not understand me as attributing to him then or now any improper motive.

Mr. TRUMBULL. Oh, no.

Mr. HARLAN. I did not intend anything of that kind.

Mr. CHANDLER. I have cooperated before with the Senator from Illinois in what he is pleased to term to-night "factious opposition." I did it then under a high sense of duty to my country. I do it now under a high sense of duty to my country. I then believed the majority were attempting to do that which would injure the best interests of my country; and I feel to-night that the Senator from Illinois and those who cooperate with him are acting against the best interests of my country. I believe they are violating the highest duties known to patriots and statesmen, without any offensive intent in that remark. I believe they are as honest in their views as I am in mine, but I believe now they are mistaken as I believed then that the majority was mistaken. I then took the responsibility as much as the Senator from Illinois did, and now take the responsibility as much as I did then, and I shirk no portion of it.

Sir, the measure which the Senate deems important may, as the Senator from Iowa has remarked, be defeated by one single man. I have given notice that that bill shall not pass to-night if my objection will prevent it from passing; nor shall it. I have not read that bill. I know nothing that is in that bill. I do not propose to have hasty legislation where my objection will prevent it. It shall not be passed to-night if my objection will prevent it. I am prepared to stay here until I believe it to be the duty of this body to adjourn, or until it has accomplished all that the nation sent it here to do. I will vote persistently against every motion to fix a day for adjournment until the business that we were sent here to accomplish is done.

Mr. President, the Senator from Wisconsin has not stated all the objections that I have to fixing a day for the adjournment. There was a conscription bill sent here from the House of Representatives by four majority, as I am informed, that I believe to be a bad bill. I would hold these two bodies here until the House receded from the bad portions of that bill and consented to a more perfect bill. I would sit here until the House consent to levy a heavier tax than it has already

levied upon the income of the people of the United States, a tax that would yield not ten or fifteen millions, as it is said this will yield, but a hundred millions; and the press, the public sentiment, the universal sentiment of this nation would compel that House within one week from to-day to levy such a tax as would send gold down fifty per cent. and relieve the Treasury from fifty per cent. of its present burdens and of its burdens during the coming year.

We have higher duties than to fix the day of adjournment, in my opinion. I believe to-night that if this body were full, if the Senate had ordered a call of the House, you could not pass your resolution to adjourn at twelve o'clock on Monday; but the majority of those present, under the lead of the Senator from Illinois, have decided that it shall be put through to-night, and I have no factious opposition to render further. I say again, as I said when I got up, that I take the responsibility of every act that I have performed to-night, and of every act that I ever perform. I shirk no responsibility. I take the responsibility of objecting to the consideration of that bill that some parties here deem important, and I give notice in advance that I will object, and if my objection will prevent its passage it shall not pass to-night. Now, sir, fix your adjournment on Monday and take the responsibility, for it does not rest on me. I take no portion of it. I oppose it; I have opposed it; I will oppose it; but I say to the Senate and the country that no portion of that responsibility, no iota of it, rests upon me, not a particle. Let the Senator from Illinois and his friends on the other side of the House fix the hour; adjourn now *sine die* if they please, and take the responsibility. I take none of it.

Mr. SUMNER. I take it, sir, that the proceedings to-night are utterly without precedent in the history of the Senate. It is now more than two hours into Sunday morning. The Senate has on former occasions sat on Sunday morning, but, as we all know, it was under the exigency of the Constitution which brought the session to a close on the 4th of March. There is no such exigency now, and this Sunday morning debate is instituted simply in order to secure an adjournment of Congress on Monday. That is the single object of all that you are doing here to-night—all these strange proceedings, making a sort of Walpurgis night of Sunday morning. But I say nothing of incidental matters. I bring home the fact that you now extend your session into Sunday morning merely that you may hasten away on Monday morning. It is not for any public exigency; it is not to pass any great measure; it is not to comply with any requirement of the Constitution, but simply to satisfy your own desires or predilections to leave Washington on Monday morning.

And now, sir, as to leaving Washington on Monday morning, we are told that the other House wish to leave, and that it has already disposed of the question of taxation by sending us a proposition for an income tax, and the Senator over the way, [Mr. LANE, of Kansas,] who tells us he has kept such a sharp lookout on the House to-night, announces that all other propositions are discarded, that there is to be no tax on tobacco, no tax upon whisky on hand, no tax on anything else, for the House has come to that conclusion. Does the Senator know that if Congress continues in session twenty-four hours longer, or forty-eight hours longer, the House will not be wiser and more patriotic? Does the Senator who has kept such a sharp lookout on the House know that the House will not rise at last to the requirements of the hour?

Mr. RICHARDSON. I call the Senator from Massachusetts to order.

Mr. SUMNER. Let the Senator state his point of order.

Mr. RICHARDSON. The point of order is that his remarks are reflecting on the House of Representatives.

The PRESIDENT *pro tempore*. The Chair is of opinion the point of order is well taken. It has been practiced too often on the part of Senators to allude to the House of Representatives.

Mr. SUMNER. Very well, sir. I bow to the correction of the Chair. I did not intend—

Mr. RICHARDSON. I insist upon the rules of the Senate being observed.

Mr. SUMNER. I said that, I bowed to the decision of the Chair.

The PRESIDENT *pro tempore*. The Senator will proceed unless there be objection.

Mr. RICHARDSON. Does the Chair decide that the Senator is entitled to proceed when he has been called to order and the point of order sustained, without permission of the Senate?

The PRESIDENT *pro tempore*. If there be no objection, permission will be presumed to be granted. The Chair said that unless there were objection the Senator would proceed.

Mr. RICHARDSON. In order.

The PRESIDENT *pro tempore*. Certainly.

Mr. SUMNER. I hope I shall proceed in order. I certainly did not intend to proceed out of order. I was not aware that I was making any reflection on the House of Representatives. We criticize very freely each other; the members of one House criticize the proceedings of another House, and we criticize the country, and the country criticizes us.

Now, sir, we are told that the House has disposed of the question of taxation. I am in order when I allude to that. May we not hope, then, that if the session is extended a little longer they will see the necessity of increased taxation; may we not hope that they will give some answer to that communication from the late Secretary of the Treasury asking for an increase of taxation? May we not hope that they will do something further to sustain the army now before Richmond and something further to sustain the national credit? And let me say that the army before Richmond will be sustained by sustaining the national credit. And yet, sir, leaving all this mighty question of taxation absolutely unsettled, leaving the communication of your late Secretary of the Treasury unnoticed, avoiding action upon it, Congress is asked to separate and to mingle again with the people. Will they be welcome to the people? Sir, the people have sent us here to save this country by maintaining its armies in the field and by maintaining the national credit. Is this the way you maintain the armies in the field and the national credit? When your Secretary of the Treasury asks for increased taxation, when the people cry out for increased taxation, when even the press is clamorous for increased taxation, Congress votes to abandon these seats and go home! No, sir, not according to the dictates of patriotism can any such conduct be, unless I misread those dictates. Our duty is to be here until all these exigencies are completely and absolutely met and provided for. On other occasions, in other days I have known Congress occupied for days and weeks in the discussion of an appropriation of \$500,000 or \$1,000,000 or \$2,000,000, and now we have a demand upon us for \$100,000,000 and you do not deign even to notice it, although you are told that if you do not add that amount to your taxation the national credit itself will suffer.

Sir, already we have a national debt which I will not venture to estimate, to the payment of which the country is ultimately pledged, to the payment of the interest of which in gold it is also pledged. Are you willing that this national debt should suffer in its character; are you willing that the national currency which is now inaugurated shall suffer in its character? Surely you are not; but if you vote to abandon this whole question and go home it will be a blow at the national credit which will be felt in the national debt and in the national currency wherever they are to be found. Therefore, sir, again I make my appeal for the sake of the national credit and for the sake of the national currency even if you are willing to abandon the Army in the field; I plead with you not to leave this post of duty until you have completely met and dealt with that great question. It is not sufficient to say that the House of Representatives has not acted or has acted adversely on any proposition of taxation. I know not that to-morrow or the next day, if opportunity is afforded, that it will not see the way of duty otherwise.

But the Senate is not constrained to await even on a revenue bill the lead of the House. It may not originate such a bill, but it may amend it; so that if the House send us, as is announced, a bill for an income tax, we may amend it by a tax on tobacco and whisky, the two articles which I have already said should be made to support this Gov-

ernment. Therefore these questions will be open for consideration. And yet you propose to go home.

Sir, I differ from my friends here reluctantly. Believe me, I wish that I could unite with them, but I cannot. If the question were of minor importance I should gladly yield; but it concerns the safety of my country and the national credit; and when those are in question I cannot yield.

Mr. SHERMAN. I believe that in my short legislative experience I have never seen so extraordinary a scene as we have witnessed here to-night; nor have I ever heard two speeches so marked in their character as those just made by the Senator from Michigan and the Senator from Massachusetts. They are in a small minority. They profess to favor the measure now upon the table of the President. One at least would suppose from the declamations about taxation that they were in favor of that measure; and yet they are pursuing a course which threatens by their own individual veto the defeat of that important measure. I am willing for one to place upon them that responsibility. I will hold them to the bar of public judgment for that responsibility. Here the House of Representatives, at the last period of the session, have passed a bill, and have said to us by deliberate votes that it was all that they could pass in the way of taxation. The committee of the House of Representatives which is the organ of the House on financial measures has framed this bill and said it is all that can be passed at this stage of the session. The House of Representatives have so voted. By the Constitution of the United States they are the sole judges of taxes. That bill is sent to us, and now the Senator from Michigan tells us that he will defeat that bill, although every man of us feels that it is vital for the national credit, merely because he has the power to do it under the rules; and the Senator from Massachusetts, not making that broad declaration, substantially opposes and antagonizes that bill under a pretense that he is in favor of taxation. Now, Mr. President, we have had before this body tax bills, a number of them, and I will say here for myself that there is no man in Congress who has been in favor of larger taxation than I.

Mr. SUMNER. How have I antagonized that?

Mr. SHERMAN. I will say this to the Senator, that I made propositions over and over again when the general tax bill was pending to increase our system of taxation, and in some cases I had his support, but generally where it affected the interests of his constituents I had his determined opposition. He himself defeated the proposed increased tax on manufactures. When his colleague had already expressed himself in favor of that tax, the Senator's potent voice defeated it, though it would have yielded us \$50,000,000 of revenue. And when a proposition was made to tax spirits on hand, a proposition that I have advocated from the very beginning, I do not know that the Senator voted with me.

Mr. SUMNER. Certainly I did.

Mr. SHERMAN. But a majority was against me. Did I complain a great deal because they did not agree with me? Then was the time to impose taxes; we had then the general tax bill before us; we had power to impose taxes; we had power to make an end of the question. Did the Senator from Massachusetts then talk about these various amendments that he now speaks of?

Mr. SUMNER. I proposed a tax on tobacco in the leaf. I supported an increased income tax.

Mr. SHERMAN. But I ask the Senator whether then his mind was excited for the brave soldiers in the field, whether it was excited for the national credit? Why was not his voice heard then, when his voice might have been effective to increase taxation?

Now let me say that the whole framework of the internal revenue bill and of the bill laying duties on imports received the sanction of the present Secretary of the Treasury—the gentleman recently taken from his high position here and placed at the head of that Department, (Mr. Fessenden.) It is his deliberate conviction that we have imposed as much taxation on foreign imports and domestic productions as they will bear, and he does not ask anything further from this Congress except that which the House of Rep-

resentatives has now given him. In his judgment, after having framed a system of taxation and spent five months on its details, it would be unwise now hastily, without reflection, without the corresponding consideration, to frame new tax bills. I will say also that the late Secretary of the Treasury has now submitted an estimate showing that the present bill will not yield enough; but did he not know that before? Did he not watch the progress of the bill from time to time as it went through Congress? Why was this communication so long delayed, or why not submitted to the constituted authority? The communication now referred to was sent to the Committee of Ways and Means some ten days ago; it was deliberated upon and considered, and they decided as the organ of the House of Representatives that it was not now wise to reopen this tax question, and the House of Representatives have sustained them in that decision.

Now, shall we here in the Senate hold the House of Representatives in perpetual session so as to compel them to impose new taxes on the people, when that House alone by the Constitution can devise taxes? Is that the position of the Senator from Massachusetts? Shall the Senate, that has not even the power to originate a tax bill, that cannot do anything with such bills except to propose amendments, after having acted on the House bill and proposed all the amendments it desired, hold the House of Representatives in perpetual session until that House shall impose taxes according to its dictation? Why, sir, it is an express violation not only of the spirit but of the letter of the Constitution. I am the representative of the highest taxation, because there is scarcely a proposition to tax the people that I have not been in favor of, for the reason that I believe that in time of war it is better for the people to pay largely in the form of taxes, to pay at least one half or two thirds of the expenses; but because the House of Representatives does not agree with our opinions shall we, therefore, in violation of the spirit of the Constitution, hold the House in perpetual session to compel them to do it? I say not. I wish to look on all these matters as practical questions.

Mr. President, let us look at the spectacle we have presented to-night. Here are resolutions on our table, passed some of them two months ago, from the House of Representatives fixing days for the adjournment. We passed them by; we did not treat them with even the ordinary civility with which messages of this kind between the two Houses have been accustomed to be treated. We kept the matter in our own power as if we doubted the patriotism or the wisdom of the House of Representatives. We kept the question here until to-night. We kept it here until we are told that every vital measure has been passed or is within our power. Every bill which is deemed of importance has been passed. The Senator from Massachusetts cannot point to a single measure that is now deemed vital which the other House has not acted upon according to its deliberate judgment. If there is one, I challenge him to name it. What measure is there now unacted upon by the House of Representatives, by reason of their failure to act, on which we should hold them here in perpetual session, away from their families and their constituents?

Mr. SUMNER. The Senator uses language which he will pardon me for saying is rather exaggerated when he speaks of holding them in perpetual session. He draws upon his imagination for that idea. There is nothing that has fallen from my lips or from any Senator to whom I have had the honor of listening to-night that could suggest such an idea.

Mr. SHERMAN. Then the Senator's position is this, that he will hold the House of Representatives in session until that House comes up and passes tax bills to suit him. I will say on behalf of that House that he has no business with taxes except to amend those proposed by the House.

Mr. SUMNER. My proposition is that I will give the House the opportunity of imposing such taxation as I think the country requires.

Mr. SHERMAN. They have had the opportunity during this long session; they have spent half their time in devising taxes; and this very night they have had the subject under considera-

tion and given as the result of their judgment a bill now before us, precisely in the form and in the very words desired by the present Secretary of the Treasury. Now you would hold them in session until they pass some other bill that you demand, not that the organ of the Treasury Department, not that the organ of the House of Representatives, not that the House itself, not that the Senate desires, but that you here representing a very small minority on this question would say the House ought to pass. That is the precise position. I joined the Senator in saying at first that I would not place it in the power of the House of Representatives to adjourn Congress until they acted on this measure of finance, until they gave us means to pay the bounties to our soldiers. I acted with that Senator and voted against the proposition to take up this resolution of adjournment; but now the House has acted and sent us a proposition to levy taxes.

Look at the practical condition in which we have placed the House of Representatives. That House has evidently determined to adjourn on Monday. We can hold them here if we choose, but two thirds of the Senate are in favor of the House resolution. There is a bill lying on our table which is the only bill of importance we have yet to pass. Every opponent of the measure, every man who is going to vote against it, tells you he will not even debate it; he will not discuss it; he will take no time—

Mr. CONNESS. Will the Senator permit me? As I have been somewhat interested on what I will call this side of the question the honorable Senator is discussing, I ask him now whether all the Senators opposed to him this evening have not offered to proceed to the consideration of that bill and pass it, and then to agree to fix any time for adjournment that the honorable Senator and his friends on that side of the Chamber might fix upon?

Mr. SHERMAN. Here is the precise position: this resolution was pending in the body and the question was about to be put when the bill came from the House of Representatives, and then the minority asked the majority to postpone the resolution that was just about to be acted on until the bill could be passed. The very demand under all the circumstances implied a doubt of the honor and integrity of the men who said to you that they would not oppose the passage of the bill.

Mr. CONNESS. Will the Senator permit me one word again? I will not interrupt him any more.

Mr. SHERMAN. I hope I shall be allowed to get through.

Mr. CONNESS. I will not interrupt the Senator again. I ask the Senator whether that minority, as he calls it, was not a majority of his friends; and whether they, joined with the other minority—if he will permit the language—do not constitute the majority that has passed during this session all the tax bills that have been passed.

Mr. SHERMAN. I doubt that proposition very much, for I think the minority at one time was reduced to seven votes. I do not think it was a majority even of the political party to which I belong. But here is the case: the opponents of the bill which we are so anxious to pass tell us that they will not cause delay, they will not make parliamentary objections, they will simply vote against it, and then a member on our own side says, "Unless you, the majority, will hold the House of Representatives who are determined to adjourn in session until they do so and so, I will defeat by my arbitrary veto the very bill that we are all in favor of."

Mr. CONNESS. I—

Mr. SHERMAN. I do not refer to the Senator from California.

Mr. CONNESS. I know that; but I wish the Senator to be correct on the matter of fact. That was not stated by the Senator from Michigan until it had been first said by the Senator from Illinois, that unless we passed this resolution to adjourn his objection would prevent the passage of this tax bill.

Mr. SHERMAN. According to the statement of the Senator from California, here are two political friends, one from Illinois and the other from Michigan, endangering the passage of an important bill, the Senator from Illinois insisting that the adjournment resolution shall first be passed or he will kill the bill, the Senator from

Michigan insisting that the bill shall first be passed or he will kill it; and we are all in favor of passing the bill. I appeal to Senators whether, under the circumstances, the best thing we can do is not to adopt the resolution fixing the time of adjournment on Monday next, and then take up the bill and pass it. I appeal to Senators not to let this matter go over to Monday. On Monday we may pass it; but I hope we may do it to-night without any feeling.

Mr. SUMNER. I hope the Senator will explain what he meant by saying that I had antagonized the bill.

Mr. ANTHONY. I hope he will not. Let us have a vote.

Mr. SHERMAN. I think I explained that sufficiently.

Mr. SUMNER. I am sure I did not understand the explanation.

Mr. SHERMAN. I will answer the Senator from Massachusetts that in my judgment his course tended to defeat the bill now lying on the table, although he no doubt is in favor of it and is willing to vote for it.

Mr. SUMNER. I have said nothing about it except in favor of it.

Mr. HARLAN. I wish to say to the Senator from Ohio that I have said here that I was not willing that any business should be done here to-night. There is some business pending that I can control. I have said to him that I felt it to be my duty to do so. I mean it. I shall control it if I have the strength to hold out.

Mr. RICHARDSON. Your strength may give way.

Mr. HARLAN. That may be so, but I am not a very old man, and it never has given way during a session of the Senate. If it does give way I shall have discharged what is my duty, and that will be the end of it. So far as the other Senators are concerned, I consider it a question on their part of parliamentary form which business shall be done first. I do not want either to be done on the Sabbath day, unless there were a great public necessity or some question of humanity demanding it. So far as I have been informed, there is no such necessity, there is no such question of humanity. I believe that there is a Supreme Being that rules the universe, and that He has said to man to remember the Sabbath day to keep it holy; that six days he may labor, and in those six days do all his work; that he may not labor on the Sabbath day. I believe this. I do not believe we can hope that the blessing of that Supreme Ruler of the universe will rest on the action of a deliberative body when they are in the open and flagrant violation of one of the very first laws of man's existence here on earth. I do not regard this as a mere ecclesiastical law, but as a law that has its foundation in man's physical, mental, and moral organization; and especially at this time I think it would be fit for the Senate of the United States to regard laws of this kind. In my opinion a vast majority of the people of this nation believe that the existence of the present rebellion is an infliction of the Almighty on this nation in consequence of its flagrant violations of His law; that it is a just punishment on this nation for its transgressions of the laws of a just Being. That being, in my opinion, the conviction of a vast majority of this Christian people, I do not think it right for the Senate of a Christian nation to sit on the Sabbath day and openly violate those laws, as I have before remarked, unless there was a public necessity.

In making these remarks I do not intend to reflect on any Senator who may differ with me in opinion. There are those doubtless who take different views of this subject from those that I have taken and attempted to present. Of course they will act on their responsibility as Senators, on their conscientious convictions of their duty as such, and with their action I shall attempt to be content.

Mr. CHANDLER. The Senator from Ohio has delivered a lecture both on responsibility and propriety, and I suppose that young men like the Senator from Massachusetts and myself should receive that lecture thankfully. He tells us that we assume a responsibility that is frightful. Very well, sir; I have not asked that Senator to share any responsibility with me. I gave fair notice to that Senator and to the Senate that no ill-considered bill, no bill that had not been printed,

that had not been read, that was not understood, should pass this body to-night without an objection from me; nor shall it. I do not know a single feature of that bill which he wants us to pass. I propose to know what is in that bill before it passes this body, if an objection from me will enable me to ascertain that fact. I do not know a single thing that is in that bill. I was told a moment ago that there was a tax on whisky in that bill. If there is, it would commend the bill to me very largely; but since then I have been informed there was not. I am told since that that whisky tax was struck out in the other House. By the way, that tax upon whisky on hand is an immense affair. The Senator, to be sure, has voted with me for that tax every time, I believe, it has come before this body, but it has failed. We have been told here to-night that there is a supply of whisky on hand that will last for thirty months, and that we shall not receive one dollar of revenue from the whisky tax for thirty months unless we tax the whisky on hand.

Now, sir, I believe that if the House of Representatives has ill-considered or has made a mistake on this point, the House will reconsider its vote and will put on a tax such as the necessities of the country demand. That is my judgment. At any rate, I ask no division of responsibility with the Senator from Ohio or with any other man. I say to that Senator that I deliberately stated that that bill should not pass to-night if an objection from me would prevent it, nor shall it; and I take the responsibility and go before my people on that responsibility, and I ask no division of it.

Mr. President, I do not like to be lectured in this way by the Senator from Ohio. He has no right to hold me up as preventing legislation. I have gone for this measure first and last and all the time, and I have demanded that this measure should pass before you fix your hour for adjournment. The Senator from Iowa has told you that a single objection will prevent its passage. Have you got the pledge of every man on this floor?

Mr. SHERMAN. Every man, I believe, is pledged except the honorable Senator.

Mr. CHANDLER. Nearly one half the members of this body are away. Have you got their pledges?

Mr. SHERMAN. They are not here.

Mr. CHANDLER. They are not here, and you do not know that you can pass your bill without them, and you are responsible if the measure is defeated, and not me, for I have given notice that it shall not pass unconsidered to-night, and you have no assurance nor can you get an assurance that it can pass on Monday before twelve o'clock. Upon you and you alone rests the responsibility of the defeat of that measure, and not upon me. I take no iota of the responsibility. It shall not pass to-night if I can help it.

Mr. HENDERSON. Will the Senator permit me to suggest to him that I think we can reconcile the difficulties very readily? Let us proceed to adopt the resolution in regard to adjournment; the House of Representatives asks it of us; and then if we fail to pass the other measure in which the Senator is so deeply interested—though I do not look upon it as a matter of any very great importance—can we not reconsider our action on the resolution to adjourn?

Mr. CHANDLER. What assurance have you that you can? Will you vote for it?

Mr. HENDERSON. Certainly. Unquestionably I will vote for it.

Mr. CHANDLER. It requires the action of the two Houses.

Mr. HENDERSON. There is no Senator here who will not vote for it to give Senators who desire to pass the other measure an opportunity of doing it.

Mr. CHANDLER. If every Senator here votes for it, it does not repeal the resolution; it is a joint resolution requiring the action of both Houses, and you propose to tie your hands so that you cannot pass that or any other measure. That is what you propose.

Mr. HENDERSON. The Senator loses sight of the fact that the House of Representatives may be just as patriotic as we. They have already passed the measure, by what majority I do not know, but surely the House will not accept our proposition here, they will not adjourn, they will

not pass the amended resolution that we may adopt and which we are now considering, until we have acted on the other proposition. The House certainly will be as patriotic as ourselves.

Mr. WILSON. I move that when the Senate adjourns it adjourn to meet to-morrow at half past nine o'clock.

Mr. TRUMBULL. Let us get the other vote first.

The PRESIDENT *pro tempore*. Is there any objection to the consideration of the motion of the Senator from Massachusetts?

Mr. HENDRICKS. I object until we dispose of what we are at.

The PRESIDENT *pro tempore*. It cannot be received, then.

Mr. CHANDLER. We have a large amount of executive business. Why should we fix the hour of adjournment at twelve o'clock on Monday when we know there is not a Senator on this floor who does not know, that it will be utterly impossible for us to transact the business we have to transact by that time? Why not occupy one, two, three, four, five, or any number of hours requisite to finish the business that the country sent us here to do?

I hope this motion will not prevail. I believe if the Senate was full it would not prevail. If the hour could be fixed at twelve o'clock on Tuesday or eight or nine o'clock on Monday evening, so as to give us time to finish our business, I certainly would raise no objection, but I know we cannot accomplish our business unless we sit here all day to-morrow, and my friend from Iowa objects to Sunday sessions, but if we pass the resolution we shall be compelled to sit here all day to-morrow and all night to-morrow, and I object to it *in toto*.

Mr. CONNESS. Would a motion be in order now to proceed to the consideration of executive business?

The PRESIDENT *pro tempore*. It would.

Mr. CONNESS. I make that motion and ask the Senate to vote for it. Then we can meet early on Monday morning.

The motion was rejected.

The PRESIDENT *pro tempore*. The question is on the resolution as amended.

The question being taken by yeas and nays, resulted—yeas 20, nays 11; as follows:

YEAS—Messrs. Buckalew, Carlile, Clark, Cowan, Davis, Doolittle, Henderson, Hendricks, Lane of Indiana, Lane of Kansas, Pomeroy, Powell, Richardson, Riddle, Saulsbury, Sherman, Sprague, Ten Eyck, Trumbull, and Van Winkle—20.

NAYS—Messrs. Anthony, Chandler, Conness, Foster, Harlan, McDougall, Morgan, Morrill, Sumner, Wilkinson, and Wiley—11.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Foot, Grimes, Hale, Harding, Harris, Hicks, Howard, Howe, Johnson, Nesmith, Ramsey, Wade, Wilson, and Wright—18.

So the resolution as amended was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service.

The message further announced that the House of Representatives had passed the bill of the Senate (No. 348) to provide for the supervision, repair, liabilities, and completion of the Washington aqueduct.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the following bills of the House:

A bill (No. 305) to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States; and

A bill (No. 534) to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes.

The message further announced that the House of Representatives had passed a resolution to close the present session of Congress by an adjournment of the two Houses on Monday, the 4th day of July, at twelve o'clock m., in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 555) for the relief of Horace Gates; and

A bill (H. R. No. 575) to correct a clerical error in the law of June 30, 1864, relating to the Post Office Department.

BILLS BECOME LAWS.

The message further announced that the President of the United States had this day approved and signed the following acts and joint resolutions:

An act (H. R. No. 134) for the relief of William Sawyer and others, of the State of Ohio;

An act (H. R. No. 162) for the relief of Richard G. Murphy;

An act (H. R. No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1865;

An act (H. R. No. 346) for the relief of Dr. Charles M. Wetherill;

An act (H. R. No. 347) for the relief of Martha Jane Skaggs;

An act (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862;

An act (H. R. No. 460) for the relief of the estate of Hon. John L. Robinson, late United States marshal for the district of Indiana;

An act (H. R. No. 466) for the relief of the widow of C. A. Haun;

An act (H. R. No. 470) to authorize assimilated rank to be given to warrant officers of the United States Navy, and for other purposes;

An act (H. R. No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound on the Pacific coast, by the northern route;

An act (H. R. No. 511) to provide for the more speedy punishment of guerrilla-marauders, and for other purposes;

An act (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865, and for other purposes;

An act (H. R. No. 550) to establish Colfax street in the city of Washington, District of Columbia;

An act (H. R. No. 559) to quiet the titles to lands within the Rancho Laguna de Santos Calle, in the State of California;

An act (H. R. No. 561) to authorize the United States to acquire land in Wallabout bay, belonging to the city of Brooklyn, and to authorize the exchange of other lands therefor;

An act (H. R. No. 564) for the relief of Eliza Cass Woodbridge;

An act (H. R. No. 569) for the relief of John Williams;

A joint resolution (H. R. No. 39) for the relief of Alexander Cross;

A joint resolution (H. R. No. 90) to refer the claim of Nahum Ward back to the Court of Claims;

A joint resolution (H. R. No. 110) to settle and pay the accounts of John S. Phelps, of Missouri, as a member of the Thirty-Seventh Congress; and

A joint resolution (H. R. No. 117) authorizing the Secretary of the Navy to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer Juniata.

SPECIAL INCOME TAX.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a joint resolution from the House of Representatives.

The joint resolution (H. R. No. 120) imposing a special income duty was read the first time by its title.

The PRESIDENT *pro tempore*. The second reading of the joint resolution—

Mr. CHANDLER. I object.

The PRESIDENT *pro tempore*. Objection being made, it cannot be read the second time.

Mr. SHERMAN. Is it in order to move to postpone all other business and take up that joint resolution?

The PRESIDENT *pro tempore*. The joint resolution is before the Senate, but no action can be had on it until it has been read the second time.

Mr. SHERMAN. It will be the unfinished business on Monday morning.

The PRESIDENT *pro tempore*. It will be.

HOUR OF MEETING.

Mr. SHERMAN. I move that when the Senate adjourns it be to meet at nine o'clock on Monday morning.

Mr. SUMNER. Does not that require an alteration of the rule? The habit of the Senate when it changes its hour of meeting from twelve o'clock to eleven has always been to adopt a resolution which lies on the table a day or two.

The PRESIDENT *pro tempore*. That has been the usual practice.

Mr. SUMNER. My impression is that the rule requires our meeting to be at noon, and that it cannot be at any other hour than at noon without a change of the rule.

The PRESIDENT *pro tempore*. There is no rule upon the subject; but the usual practice has been to give notice.

Mr. SHERMAN. I submit the motion.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that when the Senate adjourns it be to meet on Monday at nine o'clock a. m.

The motion was agreed to.

SUSPENSION OF 25TH RULE.

Mr. POMEROY. I submit the following resolution, and ask for its present consideration:

Resolved, That the 25th rule of the Senate be amended by inserting after the word "otherwise" the following: "except on the last day of any session, when bills and joint resolutions may receive their several readings by the vote of the Senate."

Mr. CHANDLER. I object.

The PRESIDENT *pro tempore*. The resolution will lie over, objection being made.

PENSION LAWS.

Mr. FOOT submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the first amendment of the Senate.

That the Senate recede from its second amendment striking out the ninth section of the bill, and agree to the same with the following amendment, to wit: "in line ten of said section, after the word 'disabled,' insert 'in consequence of wounds received in battle;' and the House agree to the same as amended."

That the House recede from its disagreement to the third amendment, and agree to the same with the following amendments, to wit: after the words "definite period," in line twelve of said amendment, insert "next preceding the soldier's enlistment." In line thirteen of said amendment, after the words "credible witnesses," insert the words "Provided, however, That such widows and children are free persons." Same line and section, after the word "provided," insert "further;" and the Senate agree to the same as amended.

SOLOMON FOOT,
JAMES HARLAN,
P. G. VAN WINKLE,
Managers on the part of the Senate.
SIDNEY PERHAM,
E. R. ECKLEY,
M. F. ODELL,
Managers on the part of the House.

EXECUTIVE SESSION.

On motion of Mr. TRUMBULL, the Senate proceeded to the consideration of executive business; and after a few minutes spent therein the doors were reopened, at ten minutes past three o'clock, a. m., (Sunday, July 3,) and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, July 2, 1864.

The House met at twelve o'clock, m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Clerk proceeded with the reading of the Journal of yesterday. After some progress the further readings of the Journal was dispensed with.

APPLICATION FOR USE OF THE HALL.

The SPEAKER laid before the House a communication from Thomas B. Florence, chairman

of a committee of arrangements, stating that citizens, residents, and sojourners in the cities of Washington and Georgetown and vicinity had determined to celebrate the 4th of July in the western grounds surrounding the Capitol under the auspices of the National Democratic Association, and soliciting the consent of the House of Representatives to occupy the Hall of the House in case the day should be intensely hot or otherwise inclement.

Mr. COX. I move that the request be granted.

The SPEAKER. The Chair will state that there is a possibility that the House may be in session.

Mr. COX. It is only in case the House be not in session that the request is asked.

Mr. STEVENS. I think this whole thing is very improper. I hope that the Senate will agree to-day to adjourn on Monday at twelve o'clock. But I think that this Hall should be reserved for the discharge of the business incumbent upon us, and that no further notice should be taken of this very improper application.

Mr. COX. I will say to my friend from Pennsylvania that this very polite request is made only in case the House shall not be in session on Monday.

Mr. MORRILL. I understand that it is quite certain that the Senate will not be able to adjourn until Monday. It would be therefore improper to grant the request.

Mr. STEVENS. I think we cannot agree to it.

Mr. COX. It is only on condition the House will not be in session.

Mr. DAVIS, of Maryland. I do not think it is a proper use to apply the Hall of this House to. I am opposed to its being used for any such purpose.

Mr. COX. The gentleman from Maryland should have made his speech and given his vote when the Hall was used for other purposes.

Mr. DAVIS, of Maryland. My speech! I never made any in this Hall except on legislative subjects.

Mr. COX. I did not mean that. I meant your vote to allow this Hall to be used for other purposes.

Mr. DAVIS, of Maryland. I never voted to allow any one to use this Hall.

Mr. COX. I am glad to hear the gentleman say so, and to see that he does not agree with that side of the House.

Mr. STEVENS. I move to lay the whole subject on the table.

The motion was agreed to.

PAY OF STAFF OF LIEUTENANT GENERAL.

Mr. WASHBURNE, of Illinois. I desire to ask the House to pass a joint resolution amending the joint resolution of 20th May last, providing that staff officers on the staff of the Lieutenant General shall be entitled to the same pay and emoluments as staff officers of the same grade on the staffs of corps commanders. It turns out that there is one man on the staff of the Lieutenant General, Major Dent, who is a major in the regular service, but a major of infantry, and the Comptroller has decided that he does not come within the law. All the others get cavalry pay, while he gets only infantry pay. I hold in my hand a joint resolution to correct the error, and I ask the House to pass it now.

No objection being made, the joint resolution received its several readings, and was engrossed and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

TRADE WITH REBEL STATES.

Mr. FENTON, under the authority heretofore granted to the Committee of Ways and Means to report back at any time, reported from the said committee bill of the Senate No. 232, in addition to the several acts concerning commercial intercourse between the loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection.

Mr. FENTON. I desire to make a verbal correction or amendment in lines four and five in the

fifth section. "I move to strike out the words "or shall be in danger of their raids."

The amendment was agreed to.

Mr. FENTON. I now move the previous question on the bill.

Mr. PENDLETON. Was not the amendment offered by the gentleman from Indiana [Mr. HOLMAN] pending, and was it not referred to the Committee of Ways and Means?

The SPEAKER. It was referred to the committee, but they have not reported it back.

Mr. PENDLETON. They may report it back unfavorably, but they must report it back.

The SPEAKER. That is true. The amendment of the gentleman from Indiana is pending, and will be read.

The Clerk read, as follows:

Be it further enacted, That hereafter no special permits or license shall be granted for purchasing or selling property within the insurrectionary districts, but all regulations in reference to such trade shall be general and equally open to all loyal citizens.

Mr. FENTON. I desire to say before the vote is taken on that amendment that it is very important that the House should reject it, as it would render nugatory and operate to repeal all the regulations of the Secretary of the Treasury approved by the President under the acts of 1861, 1862, and of March 3, 1863.

The general purpose of this bill is to restrict this class of permits to persons to trade in rebel States, and the more special object of the bill is to provide regulations in regard to the sale of abandoned or seized cotton. It will be seen at a glance by the reading of the third section that if this amendment should be adopted the bill itself would be substantially defeated. I move the previous question.

The previous question was seconded, and the main question ordered.

The amendment was disagreed to.

The bill was then ordered to a third reading; and it was accordingly read the third time.

Mr. FENTON demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. FENTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAY OF FEMALE CLERKS.

Mr. COX asked the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Public Expenditures be instructed to report a bill at the next session fixing the salaries of all females employed in the Departments at the grade of \$900 clerkships, and that the heads of the Departments be requested, in so far as they can consistently with the public service, to employ competent women as clerks.

PLATS OF PUBLIC LANDS.

Mr. DRIGGS, from the Committee on Public Lands, reported back bill of the Senate No. 278, prescribing the terms on which exemplifications shall be furnished by the General Land Office.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DRIGGS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PREVENTION OF SMUGGLING.

Mr. STEVENS. I desire to ask the House to pass a small appropriation bill to provide for an item which was omitted in the miscellaneous appropriation bill. It is a bill from the Committee of Ways and Means making an appropriation to carry into effect an act entitled "An act to prevent smuggling, and for other purposes."

Mr. BROOKS. I suppose that bill ought to go to the Committee of the Whole on the state of the Union, as it makes an appropriation.

The SPEAKER. If objection be made, it must go there.

Mr. STEVENS. I ask for its consideration in the House.

Mr. BROOKS. Is it a bill to provide for salaries?

Mr. STEVENS. Oh, no. It is a bill to carry into effect the law we passed the other day about smuggling.

Mr. BROOKS. Then I make no objection.

The bill was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. STEVENS. I rise for the purpose of correcting an error in the Globe of last session, and I do it in justice to a gentleman who is not now here. In the report of a debate on the conscription bill on the 24th of February, I find this passage:

"Mr. STEVENS. I have not risen for the purpose of making a political speech. I cannot very well answer the argument of the gentleman from Kentucky for I did not hear him."

The name of Mr. Wickliffe was inserted after "Kentucky" by the reporter. I rise to say that I did not refer to Mr. Wickliffe, and his name ought not to have been inserted there. It was a mistake. I make this correction for the purpose of doing justice to a gentleman who might hereafter take offense at my remarks and who was not referred to at all.

ALEXANDER F. PRATT.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of Alexander F. Pratt; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay to Alexander F. Pratt the sum of \$530 in full for his services in pursuing and capturing one Elijah K. Jenner, convicted of counterfeiting United States coin.

Mr. WASHBURN, of Illinois. That is an old claim connected with a matter as far back as 1849, and I must object to it. The bill makes an appropriation and must have its first consideration in Committee of the Whole House.

The bill was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

PUBLIC LAND SURVEYS.

Mr. DRIGGS, from the Committee on Public Lands, reported back, with a recommendation that it do pass, bill of the House No. 404, to authorize a departure from the established mode of surveying in certain cases.

The bill provides that whenever in the opinion of the Commissioner of the General Land Office a departure from the ordinary mode of surveying public lands in mountain regions or in river valleys, especially in New Mexico and Arizona, would best promote the public interests, he may authorize such modifications as he may deem necessary to adapt the surveys to such localities; but such changes shall be made under specific regulations and instructions; and it is expressly provided that this law shall not be construed to authorize the surveying of any public lands into tracts containing less than forty nor more than one hundred and sixty acres each.

Mr. BROOKS. This bill does not concern me, but I wish to call attention to the fact that it changes the whole system of the survey of the public lands. If any special reason exists for it in New Mexico and Arizona, and the Delegates from those Territories are satisfied, I shall make no objection.

Mr. WILSON. I would inquire if this bill is recommended by the Commissioner of the General Land Office?

Mr. DRIGGS. The bill has been prepared at the General Land Office to meet special and very urgent cases where a departure from the ordinary mode of survey is demanded by the public interests. There are certain valleys where it would be impossible to preserve the public interests and be governed by the old system of surveys. The bill is entirely satisfactory to the Commissioner of the General Land Office and to the Committee on Public Lands, and I hope it will pass.

Mr. WILSON. Is there a communication from the Commissioner of the General Land Office recommending it?

Mr. DRIGGS. There was one sent to the committee, but I have not got it here now.

Mr. WILSON. I do not think we ought to pass a bill of this kind without some such recommendation being before the House.

Mr. JULIAN. The bill only relates to peculiar localities where the angulations of rivers leave the lands in narrow strips in such a way as that ordinary surveying is utterly impracticable.

Mr. WASHBURN, of Illinois. Is this bill recommended by the surveyor general of New Mexico?

Mr. JULIAN. I am not aware whether it is or is not.

Mr. HUBBARD, of Iowa. Was this bill prepared by the Commissioner of the General Land Office?

Mr. DRIGGS. It was prepared at the Land Office.

Mr. WASHBURN, of Illinois. I have no doubt that it is done on the recommendation of the surveyor general of New Mexico, whom I know to be one of the most accomplished surveyors in the country, and in whose recommendation I should have the utmost confidence.

Mr. BROOKS. Let me call the attention of the House again to this most vicious system of legislation. Here is a proposition to change the surveys of the public lands in the Territories of the United States upon which are dependent the titles to all these lands. There is said to be a communication from the Commissioner of Public Lands recommending it. That communication was sent to the Committee on Public Lands and no record was made of it whatsoever.

As I said the other day, in connection with the Committee of Ways and Means, recommendations of this sort ought to go to the committees through the legitimate organ of the House, the Speaker of the House, so that a public record can be made of such recommendations and somebody held responsible for them hereafter. This is a very important recommendation. It may change the whole system of surveying the public lands in New Mexico and Arizona, and it may involve conflicting titles hereafter, besides enabling certain persons who have their eyes upon favorable sites to purchase these valuable lands in the angles of the rivers for \$1 25 per acre, while the remaining portions of the lands, which are valueless without these strips, will never be brought into market.

I avail myself of the opportunity of once more protesting against the practice of the heads of Departments of sending their communications directly to the committees unless at the same time they send copies to the Speaker of the House. There is in to-day's newspaper a most important communication from the Secretary of the Treasury, which will unquestionably be highly to his credit if what he therein lays down and predicts shall prove to be true, and yet it will not pass into the history of the country except in the mere newspaper record, because the Secretary did not transmit it to the Speaker as well as to the Committee of Ways and Means. No record is made of it in the history of Congress, and it floats down into history without either credit or discredit to him. I think that in all such cases, and especially in regard to measures of this character, there should be an authorized record by which hereafter we can hold some person responsible for the changes made.

Mr. JULIAN. There is an official communication from the Commissioner of the General Land Office in this case, which I shall ask leave to file with the report as soon as I can procure it. I demand the previous question on the bill.

The question was put, and no quorum voted. Tellers were ordered; and Messrs. Brooks and Driggs were appointed.

The House divided; and the tellers reported—ayes 54, noes 40.

So the previous question was seconded.

The main question was then ordered to be put. The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DRIGGS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAY OF CLERKS TO COMMITTEES.

Mr. SPALDING, by unanimous consent, submitted the following resolution:

Resolved, That the clerks of all the standing committees of this House whose pay is less than five dollars per day shall be allowed five dollars per day during this session of Congress, or at that rate for their actual term of service if less than the whole session.

Mr. ECKLEY. I move to amend the resolution by adding to it the following:

And that the assistant librarian, R. J. Bennet, be paid the same compensation as the newspaper clerk.

Mr. WASHBURN, of Illinois. How much is that? I really hope we shall not go into this thing of increasing compensation now.

Mr. SPALDING. My resolution is merely designed to equalize the pay of clerks to committees.

Mr. FRANK. I object to the amendment.

Mr. ASHLEY. How can the gentleman object to an amendment?

The SPEAKER. The Chair thinks the amendment is not germane to the original resolution.

Mr. ASHLEY. The assistant librarian is in constant attendance on the House, and spends more hours here a day than any clerk about the House.

Mr. SPALDING. I move the previous question on the resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

JOSEPH L. HEYWOOD.

Mr. PRUYN. I ask leave to report from the Committee of Claims a joint resolution in relation to the claim of Joseph L. Heywood, late United States marshal for the Territory of Utah.

Mr. WILSON. I object.

PRINTING OF INTERNAL REVENUE BILL.

Mr. BALDWIN, of Massachusetts, from the Committee on Printing, reported the following resolution; which was read, considered, and adopted:

Resolved, That six thousand copies of the internal revenue bill be printed for the use of the Treasury Department.

Mr. BALDWIN, of Massachusetts, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

PRINTING OF AGRICULTURAL REPORT.

Mr. BALDWIN, of Massachusetts, also, from the Committee on Printing, reported the following resolution:

Resolved, That ten thousand additional copies of the report of the Commissioner of Agriculture for the year 1863 be printed for the use of the Agricultural Department.

Mr. WASHBURN, of Illinois. I would inquire of the gentleman from Massachusetts how many extra copies have already been printed for the use of the Department?

Mr. BALDWIN, of Massachusetts. Ten thousand.

Mr. WASHBURN, of Illinois. I think that is enough. I move to lay the resolution upon the table.

Mr. STEVENS. It is not half enough for foreign distribution.

Mr. MORRILL. I desire to ask the gentleman from Massachusetts a question.

Mr. WASHBURN, of Illinois. I withdraw the motion to lay on the table for that purpose.

Mr. MORRILL. I would ask the gentleman from Massachusetts whether these copies are to be distributed among the Chinese? I understand that the Commissioner has sent out an agent to China to obtain some curious specimens.

Mr. STEVENS. Copies are needed to distribute among the libraries and agricultural societies of foreign nations as well as our own.

Mr. WASHBURN, of Illinois. In voting money here I propose to vote it for the benefit of the American people. I represent the best agricultural district in this country, and I do not propose to vote to print agricultural reports except to be sent to it and to other agricultural districts.

Mr. BALDWIN, of Massachusetts. As I understand it, these extra copies are to go to the agricultural societies of this country with which the Department corresponds. This resolution was referred to the Committee on Printing, and we have reported it back and ask the sense of the House upon it.

Mr. SLOAN. Can the gentleman state how many copies the Senate has had printed for the use of the Department?

Mr. BALDWIN, of Massachusetts. Seven thousand.

Mr. SLOAN. That makes seventeen thousand in all.

Mr. ROSS. I desire to move to amend the resolution so as to provide that four thousand copies shall be for the use of the Department and six thousand copies for the use of the members of the House.

Mr. BALDWIN, of Massachusetts. I must decline to yield for that purpose. I move the previous question.

Mr. WASHBURN, of Illinois. I move to lay the resolution on the table.

Mr. FENTON. Had not the gentleman better move to refer the resolution to the Committee on Foreign Affairs? [Laughter.]

Mr. WASHBURN, of Illinois. No, sir; let us table it.

Mr. BALDWIN, of Massachusetts. We reported the resolution that the House might act upon it as they pleased. I withdraw the demand for the previous question for the present.

The question was taken on Mr. WASHBURN's motion, and it was agreed to—ayes 54, noes 38. So the resolution was laid upon the table.

Mr. ANCONA moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

FRIENDLY SIOUX INDIANS.

Mr. WINDOM obtained the floor.

Mr. STEVENS. Has the morning hour expired?

The SPEAKER. It has just expired.

Mr. WINDOM. I ask the unanimous consent of the House to report back from the Committee on Indian Affairs bill of the Senate No. 225, for the relief of certain friendly Indians of the Sioux nation in Minnesota. I ask that the bill be read, and I am sure that no gentleman will object to it.

The bill was read. It appropriates the sum of \$7,500 for the benefit of certain friendly Sioux Indians in Minnesota.

Mr. WASHBURN, of Illinois. That bill makes an appropriation, and must have its first consideration in Committee of the Whole House.

The SPEAKER. The Chair sustains the point of order.

Mr. WINDOM. Will my friend from Illinois allow me to make a brief statement before he raises the point of order?

Mr. WASHBURN, of Illinois. Certainly; I always hear my friend with pleasure.

Mr. STEVENS. If the gentleman is going to make the point of order he may just as well make it at once and save time.

Mr. WASHBURN, of Illinois. The gentleman from Minnesota desires to make an explanation, and I will hear it with pleasure.

Mr. WINDOM. During the outbreak in Minnesota in 1862 some ten or twelve or perhaps fifteen of the Sioux nation of Indians were very active in rescuing the whites. One of them saved forty-eight persons. They were partially civilized Indians, and now they cannot return to their tribe on the Missouri river or they would be slaughtered for the part they took in the outbreak, and are left totally destitute. The Senate have passed a bill making this slight appropriation for their benefit, and I hope the House will pass it.

Mr. HARDING. I object to the consideration of the bill in the House.

The bill was referred to a Committee of the Whole House, and ordered to be printed.

Mr. STEVENS. The morning hour having expired, I move to proceed to the business upon the Speaker's table.

The motion was agreed to.

SARAH ROBINSON.

The first bill in order on the Speaker's table was bill of the House No. 460, for the relief of Sarah Robinson, widow of Hon. John L. Robinson, late United States marshal for the district of Indiana, returned from the Senate with an amendment to strike out in the eleventh line the words "without any interest or penalties whatever."

The amendment was concurred in.

MAJOR N. S. BRENTON.

Senate bill No. 323, for the relief of Major N. S. Brenton, a paymaster in the United States Army, was next taken up, and read a first and second time.

It provides that Major Brenton shall be credited in the settlement of his accounts with \$2,600,000 for the money in his hands, as a paymaster in the Army, on board the steamer Ruth when destroyed by fire on the night of the 4th of August, 1863.

Mr. STEVENS obtained the floor.

Mr. LE BLOND. Is that the bill releasing a paymaster?

The SPEAKER. The Chair so understands from the reading of it.

Mr. LE BLOND. I desire to make a motion in regard to it.

Mr. STEVENS. If any gentleman desires any information in regard to the case, I shall be very happy to give it to him.

Mr. ELDRIDGE. Can the gentleman inform us if there has been any investigation of the case so far as the paymaster is concerned—if the only investigation made was not with reference to the burning of the vessel, and not directed particularly to the fact whether the paymaster had anything to do with the loss of the money?

Mr. STEVENS. There are two reports of commissions sent out by the Department; one to investigate the destruction of the property, which found that this money was put in wooden boxes by the Department, and directed to be taken down the river by Paymaster Brenton, and that all of these boxes with their contents were destroyed by fire. That report is among the papers on the table. The other commission was sent out to inquire whether the fault was with the paymasters. That commission made an elaborate report, coming to the conclusion that there was no fault on their part; that the paymasters were entirely innocent, in the matter.

Mr. NOBLE. I rise to a question of order. I ask whether this is not a bill to appropriate money; and if so I raise the point of order whether it must not first be considered in Committee of the Whole.

The SPEAKER. The Chair will state that it does not make an appropriation within the meaning of the rule. The universal construction has been that bills directing the accounting officer of the Government to settle accounts are not appropriation bills. The universal practice has been that to require a bill to have its first consideration in Committee of the Whole it must appropriate money directly from the Treasury. The Chair will state further that the money in question in this bill has already been appropriated once from the Treasury.

Mr. NOBLE. Yes, sir; but it has been misappropriated since. I am informed that there is evidence of fraud in reference to this matter; that the probability is that this money was never lost at all but has been stolen. I have been admonished more than once to look out for this bill, and the pertinacity with which it has been attempted on three or four different occasions to pass it admonishes me now that we should be on the alert all the time.

The bill only involves, to be sure, the matter of \$2,600,000, a sum hardly worth our attention when we are appropriating \$100,000,000 a day, but still I hold that I as well as every other member of the House ought to have the opportunity of investigating the testimony before we are called on to pay this money again. I want to know whether there is a single man in the House, unless it be the chairman of the committee, who has ever read this testimony? I am told by those around me that it has never been printed.

Now, the other day, when this same measure was up in another shape, it was postponed or referred to a committee to be reported at the next session, in order to give an opportunity to have the testimony printed, and now it comes before us in a different shape with no more light on which to act than we had then. I hope that every man who looks to the interests of the country will unite with me in requiring this matter to be investigated before it is allowed to be passed by this body.

Mr. STEVENS. I want to say that I do not know who has warned the gentleman, but I do know it is some calumniator who knows nothing about it. Now, sir, this matter has not only been thoroughly examined by two commissions appointed by different Departments, who, after laborious investigation, reported that they were satisfied there was no wrong on the part of the

paymasters, but it has been examined by the Military Committee; and I call upon the gentleman from Ohio, a member of that committee, to say whether it was not their unanimous opinion that it was a fair claim and ought to be allowed.

Mr. GARFIELD. I will answer the gentleman that the Military Committee examined the claim, and without any exception, I believe, at any rate with great unanimity, decided in favor of the claim. The papers in the case have gone to the printer, and I suppose are printed by this time. I think the bill ought to be passed.

Mr. NOBLE. I will say to the gentleman from Pennsylvania that I have no desire to make any captious opposition in this matter. I have no wish to wrong this man; on the contrary I will go as far as any gentleman on this floor in voting what is right. But I want this measure to go to a committee, and it certainly cannot have my vote in its favor until we have a chance to investigate it.

Mr. WASHBURNE, of Illinois. When this bill was up the other day, I objected to it in its present shape. I did, however, tell the gentleman from Pennsylvania, and I am willing to say the same now, that if he will add an amendment something like this—that if upon examination by the Paymaster General said Paymaster General shall deem him justly entitled to said credit, said credit shall be allowed by said Paymaster General upon his approval thereof. I am willing from my knowledge of the character of Colonel Andrews, who I believe to be one of the most incorruptible men in the country, to allow this claim to pass upon his approval.

Mr. STEVENS. If the gentleman moves that amendment I will not object to it. When this was up before I could not imagine that there would be much discussion about it. I know this paymaster, and I know that he is as honest a man as there is anywhere.

I ask the Clerk to read the letter which I send up for the information of the House.

The Clerk read, as follows:

PAYMASTER GENERAL'S OFFICE,
WASHINGTON, June 20, 1864.

SIR: I desire to call your attention to the necessity of your procuring, during the present session of Congress, the passage of a bill relieving you from accountability for the public money in your charge, lost on board the steamer Ruth. As matters now stand, you are unavailable for duty, and I do not consider that I am justified in allowing an officer of the pay department to receive full pay and allowances for which he renders no equivalent. Unless, therefore, you can procure the passage of such an act, I shall, on the close of the present session of Congress, recommend that you be honorably discharged the service as unavailable for duty; and at the close of the present month I shall relieve you from duty at this station, and allow you to remain, unassigned, until further action can be had in your case by the appointing power.

Very respectfully, your obedient servant,

T. P. ANDREWS,

Paymaster General United States Army.

Major N. B. BRENTON, Additional Paymaster United States Army, Washington, D. C.

Mr. STEVENS. By the proposed amendment this whole matter will be referred to the Paymaster General's office. It seems to me that there can hardly be any objection to it. I demand the previous question.

The House divided; and there were—ayes fifty-one, noes not counted.

Mr. STEVENS demanded tellers.

Tellers were ordered; and Messrs. ORTH and ELDRIDGE were appointed.

The House again divided; and the tellers reported—ayes 64, noes 28.

The SPEAKER voted in the affirmative, making a quorum.

So the previous question was seconded.

The main question was then ordered to be put.

The amendment of Mr. WASHBURNE, of Illinois, was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time.

Mr. STEVENS demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. NOBLE demanded the yeas and nays; and tellers on the yeas and nays.

Tellers were ordered; and Messrs. NOBLE and McBRIDE were appointed.

The House divided; and the tellers reported—ayes twenty-four, more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 60, nays 41, not voting 81; as follows:

YEAS—Messrs. Allison, Arnold, Ashley, Bally, Baxter, Beaman, Bliss, Boutwell, Boyd, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Dawson, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Gooch, Higby, Hotchkiss, Asahel W. Hubbard, Hulburd, Ingersoll, Philip Johnson, Julian, Knapp, Littlejohn, Loan, Longyear, McBride, McClurg, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Norton, Charles O'Neill, Perham, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spaulding, Stevens, Upson, Elihu B. Washburne, William B. Washburn, Wilder, Windom, and Woodbridge—60.

NAYS—Messrs. William J. Allen, Ames, Ancona, John D. Baldwin, Blair, James S. Brown, Chanler, Coffroth, Denison, Edgerton, Eldridge, English, Ganson, Harding, Charles M. Harris, John H. Hubbard, William Johnson, Kernan, Le Blond, Long, Mallory, William H. Miller, Nelson, Noble, Odell, John O'Neill, Pendleton, Pruyn, Radford, William H. Randall, Ross, Smith, John B. Steele, Stiles, Srouse, Sweat, Thomas, Wadsworth, Chilton A. White, Wilson, and Winfield—41.

NOT VOTING—Messrs. James C. Allen, Alley, Anderson, Augustus C. Baldwin, Blaine, Blow, Brandegee, Brooks, Broomall, William G. Brown, Ambrose W. Clark, Clay, Cox, Cravens, Thomas T. Davis, Dumont, Eden, Fenton, Finck, Frank, Garfield, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Benjamin G. Harris, Herrick, Holman, Hooper, Hutchins, Jencks, Kalbfleisch, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knox, Law, Lazear, Marcy, Marvin, McAllister, McDowell, McKinney, McKinney, James R. Morris, Morrison, Amos Myers, Leonard Myers, Orth, Patterson, Perry, Pike, Pomeroy, Price, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, James S. Rollins, Scott, Starr, Stebbins, William G. Steele, Stuart, Thayer, Tracy, Van Valkenburgh, Voorhees, Ward, Webster, Whaley, Wheeler, Joseph W. White, Williams, Benjamin Wood, Fernando Wood, and Yeaman—81.

So the bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. STEELE, of New Jersey, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound on the Pacific coast, by the northern route; and

An act (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865, and for other purposes.

AGRICULTURAL DEPARTMENT.

Mr. WASHBURNE, of Illinois. The Senate have sent a message to us asking for a conference on the disagreeing votes of the two Houses on Senate bill No. 339, to repeal a joint resolution entitled "A joint resolution to grant additional rooms to the Agricultural Department, and for other purposes." I move that the request of the Senate be granted.

The motion was agreed to.

PAY TO CLAIMANTS TO SEATS FROM ARKANSAS.

Mr. SCOFIELD. I rise to a privileged question. A resolution was offered the other day to pay the gentlemen who came here claiming seats as Representatives from Arkansas. That resolution was referred to the Committee of Elections, and a motion to reconsider the vote by which it was so referred was entered. I call up that motion to reconsider.

Mr. ANCONA. I move to lay the motion to reconsider on the table.

Mr. DAWES. This motion is not debatable, but I ask unanimous consent to make a statement.

No objection was made.

Mr. DAWES. I did not introduce that resolution, but it was referred to the Committee of Elections, and a motion to reconsider was entered because that was the only way in which the matter could be brought before the House inasmuch as the Committee of Elections could not report it back at any time. I would now like to have the House consider the question whether they will send these gentlemen back to Arkansas without the slightest compensation or any recognition whatever. The House rather summarily declined to hear those gentlemen the other day. The other branch of Congress has paid the applicants to seats in that branch their mileage; and I submit to the House that if they lay this motion on the table

they will say to those three gentlemen who have come here from Arkansas that you will not recognize them at all, but that you will make their cases exceptions to the principles which have governed you in your action on all other cases.

I submit to the House that that is hardly, in my opinion, what we ought to do to those gentlemen. It will be a sad answer for them to take back to their people. It may not be wise—I do not discuss that question here—to admit them to seats upon this floor, but that is not the question before the House. I should exceedingly regret to have them go back and say to their constituents they had neither an opportunity to be heard nor any recognition whatever here, and that while the other branch of Congress paid the claimants there they could not have even that question brought before the House.

Mr. SMITH, by unanimous consent, said: I introduced this resolution the other day, to pay to these gentlemen mileage and monthly pay from the time their credentials were presented. I thought it just and fair that those gentlemen should be heard before the House, and that their claims for compensation should be allowed as well as those of other gentlemen who had come here to contest seats, and who had presented credentials no better than those held by these gentlemen from Arkansas. It will be remembered that gentlemen from Virginia appeared here with credentials not as good as theirs, and with no such vote as these gentlemen from Arkansas brought with them. Yet this House gave those Virginia claimants their pay; and it has given pay to every contestant who has presented himself from any portion of the country, whether he had sufficient cause to come to Congress and contest a seat or not.

The House will bear in mind that there has been in that State an entire reorganization; that a new constitution has been adopted; that they have put in operation all the different branches of a State government, and they are working to-day. They have, according to the proclamation of the President, according to the understanding of the Government, and with the consent of the Government, the whole machinery of their State. There was a man here from Arkansas at the early part of the session claiming a right to a seat, and he was refused a hearing before the committee of the House, and he was sent back to Arkansas. Under the new organization of the State government that same man went before his district and was elected by a larger majority than many men holding seats upon this floor obtained votes.

These men came here in good faith, as Union men, and as devotedly attached to the interests of this Government as you or I or any other man upon this floor; but at the close of the session their case could not be well understood or fully heard. They asked to be heard for fifteen minutes before this House and that was refused. They come now and ask you to give them mileage and monthly pay for the two months they have been here asking of this House their right to be recognized as Representatives from Arkansas. It is wrong, I tell you members of the House of Representatives, to send these men back without that recognition which will enable them to say to the Union people of Arkansas that they were recognized by this great Government as part and parcel of it. The people of this country have spoken, and have spoken since this Congress was elected, and the Union people of the country have declared by a large and tremendous vote that these people are recognized as patriots and should be considered as within the fold of the Union and not be kicked and buffeted about as outsiders. There stand to-day in the Union Army from this State as gallant bands of Union men as ever trod God's footstool; men firm, undaunted, unyielding in their devotion to the Union. They have answered to every demand of the Union, and they now claim here to be recognized as a part of the Union element of the country. These men who are here to-day have never submitted to the rebellion. They have been kicked and cuffed and taunted and insulted and driven from their homes time and again, and their families left they knew not how nor where, and yet they are as true to the Union, the Constitution, and the Government as any man who sits upon this floor, or as any man anywhere in this whole country. It is a duty which we owe to them and to ourselves; it

is a duty which we owe to the future of our country; it is a duty which we owe to our children to recognize and sustain them. I hope the resolution will not be laid on the table.

Mr. BLAIR. I ask the unanimous consent of the House to be heard upon this question for a few minutes.

No objection was made.

Mr. BLAIR. I desire to say a word or two, in connection with this resolution, in relation to the vote I gave the other day on the resolution of the gentleman from Massachusetts, [Mr. DAWES.] Lest it might be supposed from the vote that I gave, to lay that resolution on the table that I was opposed then or am opposed now to admitting these gentlemen to seats here, I desire to say that I was in favor then and am in favor now of admitting them to seats here as Representatives from the State of Arkansas. What motives may have governed others in the votes they gave on that occasion I am not able to say, but so far as I am concerned, I wish to repeat that I was in favor of their admission, and voted to lay that resolution upon the table from the fact that I believed and thought then and do still believe and think that it was a direct insult to the loyal people of the State to talk about sending commissioners down there. How is this Union ever to be restored if we continue to treat the people of these so-called seceded States in the manner in which we have treated them in the States of Arkansas and Virginia? For one I am at a loss to conceive. I had supposed that it was our duty to foster, cherish, and encourage all the Union elements that might be found to exist in any of the seceded States. I believe that that is the true policy of the Government and that it ought to be the policy of this and of succeeding Congresses.

Now, these people down in Arkansas, as was well said by the gentleman from Kentucky, [Mr. SMITH,] have suffered everything in the Union cause, and it does seem to me that the people of the loyal States will never fully appreciate the position of such people until they go down into the border States where this war is raging and experience some of the daily and hourly sufferings which these men have experienced. Until then they will never be able to appreciate what it costs a man in those States to be a loyal man.

Mr. WASHBURN, of Illinois. I understand that this is a proposition to pay these men their mileage.

Mr. BLAIR. That is the proposition.

Mr. WASHBURN, of Illinois. I desire to know then how their case differs from that of Colonel Fields, who came here as a Representative from Louisiana? The House voted as I did, to pay him \$1,500. I believe that all the members upon the other side of the House voted to pay him, and although it was determined that he had no right to a seat here we voted him that amount to pay his expenses. I want to know in what respect these cases differ from that of Colonel Fields?

Mr. BLAIR. I am not able to say.

Mr. DAWES. If I may be allowed, I might tell the difference. It is just this; the gentleman from Louisiana had but four or five hundred votes and these men had about as many thousand. That is the only distinction.

A MEMBER. Is there any evidence of that here?

Mr. DEMING. I object to further debate on this question.

The SPEAKER. Unanimous consent has been given to the gentleman from West Virginia [Mr. BLAIR] to speak.

Mr. BLAIR. The gentleman from Massachusetts [Mr. DAWES] has given to the gentleman from Illinois [Mr. WASHBURN] the information he desires. These men, I understand, have certificates that they were duly elected as members of this House to represent their respective districts in the State of Arkansas. What reason can this House give for rejecting this resolution?

I was about to say that it does seem impossible for northern men to fully appreciate the condition of those who live in the seceded States, who are Union men, and who have waded through fire and blood to prove their loyalty. In the northern States men can hardly be anything else than Union men, while in the southern States Union men are persecuted from day to day and have to sacrifice everything for their principles. If we do

not encourage such men, if we turn them back and refuse to recognize them, how can we expect to have any Union sentiment in the southern States? I hope that justice will be done to these men; that their loyalty will be properly recognized, and that this resolution will be adopted.

Mr. ASHLEY. I object to any more performances of this sort, [laughter,] and call for tellers on the motion to lay on the table the motion to reconsider.

Tellers were ordered; and Messrs. BLAIR and ASHLEY were appointed.

The House divided; and the tellers reported—ayes 50; noes 43.

So the motion to reconsider was laid on the table.

Mr. SMITH. I inquire of the Chair whether the resolution goes back to the Committee of Elections?

The SPEAKER. The resolution is there.

Mr. SMITH. I would inquire further whether if the committee do not report till next session of Congress, and then report favorably, these men will then be entitled to draw their mileage and per diem for that session.

The SPEAKER. The Chair will state that that will depend entirely on the action of the House at next session when the Committee of Elections shall be called, or at this session if it should be prolonged and the committee should be called again and report back the resolution. It will be in the power of the House to amend, reject, or adopt it.

REBELLIOUS STATES.

The next business on the Speaker's table was the Senate amendment to the bill (H. R. No. 244) to guaranty to certain States whose governments have been overthrown a republican form of government.

The amendment of the Senate was in the form of a substitute for the House bill, declaring that where the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President, by force and virtue of the act to provide for the collection of duties and imposts, and for other purposes, approved July 13, 1861, they are incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress until such insurrection in such States is suppressed or abandoned, and until the inhabitants have returned to their obedience to the Government of the United States, and until such return to obedience shall be declared by proclamation of the President issued by virtue of an act of Congress hereafter to be passed authorizing the same.

Mr. DAVIS, of Maryland. I move that the House non-concur in the Senate amendment and ask for a committee of conference.

Mr. STEVENS. I think we had better concur. It is one good thing to get, if we cannot get anything else.

Mr. DAVIS, of Maryland. It will be for the committee of conference to see whether we cannot get better.

Mr. STEVENS. I do not want to have electors sent from Arkansas to the next presidential election.

Mr. DAVIS, of Maryland, moved the previous question.

The previous question was seconded, and the main question ordered.

Mr. HARDING called for tellers on the motion to concur.

The House divided, and the tellers reported—ayes 42, noes 51.

So the motion was rejected.

Mr. ELDRIDGE. I move to lay the Senate amendments on the table.

The SPEAKER. That motion is in order, but the Chair will state that it will carry the whole bill with it.

Mr. ELDRIDGE. That is what I desire.

Upon the motion to lay on the table 38 voted in the affirmative and 41 in the negative; no quorum. Mr. ELDRIDGE demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 42, nays 65, not voting 75; as follows:

YEAS—Messrs. William J. Allen, Ancona, Blair, Bites, Brooks, James S. Brown, Denison, Edgerton, Eldridge,

English, Ganson, Griswold, Harding, Benjamin G. Harris, Charles M. Harris, William Johnson, Knapp, Law, Long, Marcy, McAllister, Middleton, William H. Miller, James R. Morris, Nelson, Noble, John O'Neill, Odell, Patterson, Pendleton, Pruyn, Radford, Samuel J. Randall, William H. Randall, Robinson, Ross, Smith, William G. Steele, Stiles, Wadsworth, Whaley, Wheeler, and Chilton A. White—42.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Boyd, Cobb, Coffroth, Cole, Henry Winter Davis, Dawes, Dawson, Denning, Dixon, Donnelly, Driggs, Eckley, Eliot, Frank, Garfield, Gooch, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Littlejohn, Loan, Longyear, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Stevens, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, and Windom—65.

NOT VOTING—Messrs. James C. Allen, Anderson, Bailly, Augustus C. Baldwin, Blow, Brandegee, Broomall, William G. Brown, Chanfer, Ambrose W. Clark, Freeman Clarke, Clay, Cox, Cravens, Creswell, Thomas T. Davis, Dumont, Eden, Furnsworth, Fenton, Flack, Grider, Grinnell, Hale, Hall, Harrington, Herriek, Holman, Hooper, Hutchins, Jencks, Philip Johnson, Kalbfleisch, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Knox, Lazard, Le Blond, Mallory, Marvin, McDowell, McJudeo, McKinney, Samuel F. Miller, Morrison, Perry, Pike, Pomeroy, Price, Rogers, James S. Rollins, Scott, Starr, Stebbins, John B. Steele, Strouse, Stuart, Sweet, Thayer, Thomas, Voorhees, Ward, Webster, Joseph W. White, Wilson, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—75.

So the Senate amendments were not laid on the table.

During the call of the roll, Mr. HALE stated that he had paired on all political questions with Mr. KALBFLEISCH.

Mr. BLAIR. Is a motion to postpone in order? The SPEAKER. If the previous question be not seconded a motion to postpone will then be in order.

On seconding the demand for the previous question 49 voted in the affirmative and 21 in the negative; no quorum.

The SPEAKER ordered tellers; and appointed Messrs. NELSON, and Davis of Maryland.

The House again divided; and the tellers reported—ayes fifty-seven, a further count not being demanded.

So the previous question was seconded.

The main question was then ordered to be put.

On the question of the House insisting on its disagreement and asking a committee of conference 53 voted in the affirmative and 20 in the negative; no quorum.

The SPEAKER ordered tellers; and appointed Messrs. NORTON and C. A. WHITE.

The House again divided; and the tellers reported—ayes 63, noes 42.

So the House determined to ask a conference with the Senate on the bill.

Mr. DAVIS, of Maryland, moved to reconsider the vote by which a conference was asked for; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CARMACK AND RAMSAY.

Mr. ALLEY, from the committee of conference on the disagreeing votes of the two Houses on the joint resolution of the House (No. 11) in relation to the claim of Carmack & Ramsay, reported that the committee had met, and after full and free conference had found themselves unable to agree.

Mr. HALE. I move that the House further insist upon its disagreement to the amendment of the Senate and ask for another conference on the joint resolution.

Mr. ALLEY. I do hope that motion will not prevail. The Senate were unanimous in insisting on their amendment, and it is useless to waste further time in regard to the matter.

Mr. WASHBURN, of Illinois. Before the House disposes of this matter, I hope it will understand what will be the effect of its action. I understand that unless this bill passes the Government will feel itself instructed to pay out of the Treasury to these parties a very large sum of money.

Mr. HALE. Unless this resolution passes I understand the First Comptroller has declared his intention to pay to these parties a very large sum of money.

Mr. WASHBURN, of Illinois. Exactly; and this joint resolution is to prevent it.

Mr. HALE. Yes, sir.

Mr. WASHBURN, of Illinois. I think the House by a very large majority decided that the bill ought to pass.

Mr. HALE. That is true.

Mr. SPALDING. I move to lay the whole subject on the table.

Mr. ALLEY. I hope I shall have the opportunity of saying a word before the vote is taken upon that motion. It is unfair to allow reasons to be stated on one side and to exclude them on the other. I desire to say that the remark of the gentleman from Illinois is calculated to produce an entirely wrong impression.

Mr. WASHBURN, of Illinois. I object to debate.

Mr. SPALDING. I will withdraw the motion to lay on the table to allow the gentleman from Massachusetts to explain.

Mr. ALLEY. I stated that I hoped the motion of the gentleman from Pennsylvania, [Mr. HALE,] to appoint another committee of conference would not prevail, for the reason that the Post Office Committee on the part of the Senate were unanimous in the position taken by the amendment of the Senate, as were the committee of conference on the part of the Senate; and I believe their action was right. If the motion to lay the whole subject on the table should prevail, then there would be no further action in the matter. I however prefer that that course should not be pursued. I think it is due to these parties that the House should determine the matter one way or the other. I however would much prefer that it should be disposed of as suggested by the gentleman from Ohio [Mr. SPALDING] than that another committee of conference should be appointed upon it.

Mr. HALE. I want to say one word before the vote is taken upon the reference of this bill to another committee of conference. The House will recollect that in the last Congress this very claim was before the Committee on the Post Office and Post Roads, and that that committee reported unanimously against it. In the mean time, however, after the adjournment of Congress, the present First Comptroller of the Treasury, who may be a very good man for aught I know, for I know nothing about him, declared his intention of going on and awarding damages to Carmack & Ramsay under the act of 1856. The First Comptroller of the Treasury to whom that matter was referred by that act of Congress, at that time investigated the claim and reported against it, that these parties were not entitled to damages. And so that claim remained until the last session of Congress, when the new Comptroller came into office.

Mr. SPALDING. The gentleman claims that the First Comptroller decided against it.

Mr. HALE. Yes, sir. That was Mr. Medill.

Mr. SPALDING. Did not his predecessor, Mr. Whittlesey, decide in favor of it?

Mr. HALE. He made no decision.

Mr. SPALDING. He did decide in favor of it.

Mr. HALE. There is no record of that fact. I understand that in conversation he was in favor of the claim, but he never decided in favor of it in his official capacity. The only report ever made was that of Mr. Medill, who decided that these parties were not entitled to anything.

Now, notwithstanding the decision made by the tribunal to which that matter was referred at their own suggestion, Carmack & Ramsay, not satisfied with that decision, want the new Comptroller to reopen the case. I hope that will not be done. It is a large claim. It is difficult to say how large the claim is. It is something over one hundred thousand dollars. It may be half a million dollars for aught we know.

Mr. WINDOM. I was a member of the Committee on the Post Office and Post Roads which examined into the subject, and I ask the gentleman to yield to me for a moment.

Mr. HALE. Certainly.

Mr. WINDOM. I want to understand whether the Comptroller will allow \$1,860,000, the amount they first asked for, or \$100,000 which they at last agreed to take?

Mr. HALE. I do not know, but the Comptroller has expressed his determination to reopen the case. I cannot say what the Comptroller will allow. He has declared his intention to reopen the case, and on further investigation he may allow these parties whatever he sees proper.

The case has been once before the Comptroller, and he has decided against these parties.

Under the circumstances, I submit to the House whether the proposition is not fair and just to refer the whole subject to the Court of Claims, because one Comptroller has decided against it, and the other Comptroller, it is said, will decide in favor of it. That is the proposition of the House. The Senate struck that out and provided that the Comptroller should allow damages under certain circumstances.

What objection is there to referring it to the Court of Claims? It is a competent tribunal where all the merits of the claim can be gone into. If they have a good claim, if they had a valid contract with the Department—I do not believe they ever had a valid contract with the Government, although these parties say they had—I do not wish, however, to go into a detail of the facts of the case. If the claim has merit, why do they decline to go before the Court of Claims? They have no right to go before the Comptroller and have the case reopened. Congress is willing that they may go to the Court of Claims, and we passed a resolution for that purpose. If they have a good claim they can make it appear to that tribunal. It ought not to be objected to by any person who is disposed to do justice alike to the Government and to these parties.

Mr. Speaker, this thing ought to be disposed of one way or the other, and I hope some one will call for the previous question. If we do not appoint another committee of conference the First Comptroller will go on and allow this large sum to these parties.

Mr. WASHBURN, of Illinois. I hope that the House will appoint a new committee of conference on this subject; and if they understand it, Mr. Speaker, as well as you understand it and as well as the gentleman from Pennsylvania understands it, I shall have no fear of the result. This is an old customer. The Speaker will recollect that, when chairman of the Committee on the Post Office and Post Roads, he killed this claim of Carmack & Ramsay at the last session. But it seems to have as many lives as a cat. It has been here fifteen years, and decided against in every shape and form. They were allowed to take it before the First Comptroller of the Treasury, and Mr. Medill decided that they had no claim whatever. Afterwards, by some means, they got it reopened, and I supposed there had been a qualified decision by Mr. Whittlesey in regard to it; but the gentleman from Pennsylvania says there is no such decision on file. But I am told that unless Congress does something now the First Comptroller believes he is called upon to act under the law as it now exists, and that a very large sum will be awarded to these men—an amount which the House has decided over and over again is not their due, and which they will get unless this action is carried out.

The gentleman from Indiana, not now in his seat, examined this matter very thoroughly, and he was of opinion that there would be a vast loss to the public Treasury unless this resolution of the House should pass. It is fair and just, and to it no complaint should be made by Carmack and Ramsay. It refers the whole matter to the Court of Claims, which is the proper tribunal to examine a question of this kind if it is a proper tribunal for anything.

Mr. WINDOM. I was a member of the Committee on the Post Office and Post Roads during the last Congress, and this question was thoroughly examined by that committee, and I was never more thoroughly convinced that a claim was without the shadow of a foundation than I was in this case. I am certainly unaware of what amount the Comptroller proposes to allow. If I am not totally mistaken in the facts, these parties originally claimed more than \$1,800,000 and came into Congress and asked it, stating that it was a just claim. They finally agreed to take, if we would pass a bill to that effect, about \$100,000.

Mr. SPALDING. I desire to say to the House that I have examined this claim from its inception, from the first time it first found its way into Congress. I have examined the opinions of the different committees who have reported upon it; I have examined the opinions of the different Comptrollers who have had it under their consideration—the opinion of Mr. Whittlesey, of Mr. Medill, and I think I know the opinion of the

present Comptroller, than whom a more honest and judicious man does not live in these United States—and I say considerably that I have never examined a case as a judicial officer where I was brought to a more satisfactory conclusion that there was justice in a case than in this of Carmack and the persons connected with him to a certain extent—to the extent of the expenditure made in preparing to carry out this large contract with the Government; and I believe this contract is doing gross injustice to an honest citizen, if Congress refuses to give him a hearing before this officer of the Government under the law of Congress passed some years ago.

Mr. HALE. Why does he not go before the Court of Claims?

Mr. SPALDING. Why do you not submit it to the officer before whom the claim should go? I charge that there are influences at work to bring this claim before the Court of Claims which should not be permitted to obtain in reference to this contract. I challenge that this claim has had an investigation by the chairman of the Post Office Committee of the Senate, who was himself Postmaster General for a number of years, and who as a lawyer stands without, perhaps, a competitor in this House. That man came, by his laborious examination, to the same conclusion to which my mind has been brought—that to the extent of nearly \$200,000 this claim is just. We ought to look upon this matter with indulgence, and ought not to arraign an officer of the Government who, in the line of his duty, is about to investigate or perhaps has investigated this claim. I think I may be warranted in saying that he has already examined the evidence and heard the argument of counsel on both sides, and that, too, under the sanction of the Post Office Department, and when he was about to make up his decision deliberately, this measure was brought into the House for the purpose of arresting his judgment. The Senate committee has unanimously, as I understand, concluded that the case should be referred back to the First Comptroller of the Treasury, and that he should award damages, if any are sustained, within the limits of time specified in the resolution.

Mr. WASHBURN, of Illinois, resumed the floor.

Mr. VAN VALKENBURGH. I ask the gentleman from Illinois to yield to me.

Mr. WASHBURN, of Illinois. I yield to the gentleman from New York.

Mr. VAN VALKENBURGH. This is not a question as to the merits of the claim at all. In 1856 Congress passed a measure referring the claim to the First Comptroller. That officer examined it and reported adversely to the claim. Since that time these same claimants have again presented this claim to another Comptroller, on the ground that it was not adjudicated by his predecessor. If this thing is to continue where is the claim ever to end? If the present First Comptroller decides adversely to the claimants they may present it to the next Comptroller under the same law of 1856. In consequence of these facts the House passed a resolution referring the case to the Court of Claims for adjudication, where, when once adjudicated, it shall not be again resurrected.

The Senate, however, amended the joint resolution by referring the matter back to the First Comptroller. The difference between the two Houses, as I understand, is simply whether this claim shall go to the Court of Claims, where it can be adjudicated and permanently decided, or whether the claimants shall be allowed to go before every Comptroller until they shall find somebody in that office who will admit the justice of their claim and give them what they ask. That, as I understand, is the only question to be decided. The merits of the claim are not involved in it at all.

● MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Hickey, their Chief Clerk, announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 511) to provide for the more speedy punishment of guerrillas, and for other purposes.

ENROLLED BILL.

Mr. STEELE, of New Jersey, from the Committee on Enrolled Bills, reported that the com-

mittee had examined and found truly enrolled a bill making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865, and for other purposes.

CARMACK AND RAMSAY—AGAIN.

Mr. ALLEY. With some knowledge of the subject, I will certainly be permitted to say a few words.

Mr. WASHBURN, of Illinois. I did not suppose that the gentleman desired to be heard, because he himself moved to lay the subject on the table, so that nobody could be heard.

Mr. ALLEY. Not at all. The gentleman is entirely mistaken. I did not move to lay on the table. I simply renewed that motion.

Mr. WASHBURN, of Illinois. It was before there was any discussion.

Mr. ALLEY. Mr. Speaker, I am a little surprised at the feeling which this case always excites when it is brought into the House. The gentleman from Minnesota [Mr. WINDOM] has told us that this case was examined by the Committee on the Post Office and Post Roads; that he was a member of that committee, and that he understood the case thoroughly. The very statement he makes shows that he has not the first conception of the character of this claim, when he tells the House that it was for \$1,800,000.

Mr. WINDOM. What was the amount originally claimed?

Mr. ALLEY. The amount they claimed to have expended was \$264,000.

Mr. WINDOM. What was the amount of the whole claim brought before Congress?

Mr. ALLEY. The maximum amount fixed by the Senate and concurred in by the House could not exceed \$113,000. That is the exact state of the case.

Mr. WINDOM. The gentleman does not answer me. I did not ask what expenses they claimed, but what was the whole amount of the claims that they raked up?

Mr. ALLEY. The claim formerly made by their counsel but ignored by them amounted to a very large sum, to something over a million dollars, but not the sum which the gentleman names and which has been used to the prejudice of the parties. That has been everywhere denied by them and disclaimed by them, and I contend that any gentleman who has investigated this matter and knows the merits of the case who will reiterate that statement does them gross injustice.

Mr. WINDOM. As the gentleman accuses me of doing gross injustice, I hope he will answer me one or two questions.

Mr. ALLEY. No, sir; I must decline to yield.

Mr. WASHBURN, of Illinois. Well, that is hardly fair.

Mr. ALLEY. I say that when a gentleman on this floor makes a statement of that kind, it is clear to me that he has not investigated the matter.

Mr. WASHBURN, of Illinois. I must resume the floor. The gentleman from Massachusetts holds the floor by my courtesy, and I think he ought to yield to the gentleman from Minnesota.

Mr. ALLEY. Certainly I will yield.

Mr. WINDOM. The gentleman accuses me of doing these parties injustice, or at least of carelessly misrepresenting them as to the amount of their claim. He says that he has given it a very thorough examination and that it is "something over a million dollars." How much above?

Mr. ALLEY. My impression is about half a million. [Laughter.]

Mr. WINDOM. That is \$1,500,000. I would ask the gentleman whether he does not see that when a claimant employs an attorney and that attorney puts in a case, the client is responsible for what the attorney says?

Mr. ALLEY. I believe that these gentlemen are very honest men.

Mr. DAWES. Will my colleague let me answer the gentleman from Minnesota?

Mr. WINDOM. I want the gentleman to say if these parties are not responsible for the claim their attorney put in.

Mr. DAWES. Does the gentleman not know that that was a separate and distinct claim and for prospective profits, and that this is a claim for expenses actually incurred? They are two distinct things.

Mr. WINDOM. I know the report said that it was for prospective damages, but I only al-

luded to the whole amount they had reckoned up as due them.

Mr. WASHBURN, of Illinois. Now, I will let the gentleman from Massachusetts go on for a few moments and then I will call the previous question.

Mr. ALLEY. I wish to say, with regard to this matter of investigation, that the case did go to the Committee on the Post Office and Post Roads and was investigated. I was on the committee and participated in the investigation as far as it went, and concurred in the report of the committee. Subsequently I had a conversation with Judge COLLAMER of the Senate on the subject and told him that I thought it extraordinary that a claim of this kind should be presented there and should pass unanimously and that our committee, upon investigation, should find that it had no merit. The judge replied by saying, "Mr. ALLEY, if you will investigate this case thoroughly and understand it fully, if you do not find that these are honest men and have, to the amount of \$100,000, an honest claim against the Government, then you are not the man I take you to be."

Mr. WINDOM. On the general question of honesty, when men put in a claim a part of which is false, does it not create a suspicion in the gentleman's mind that the whole may be false?

Mr. ALLEY. Not at all in this case. I am no lawyer; the gentleman is, and I think he has made a great many claims for his clients for much more than he thought them entitled to, and he would think it very hard if that was allowed to prejudice their claims, especially when it was done without their knowledge.

Gentlemen all over the House have alluded to these investigations, and the influence of the Speaker has been invoked and his action has been made known to the House. Now, no man has more confidence in the Speaker than I have, but I differed with him in this matter. I think I investigated it more thoroughly than he did. I think my opinion in this case is worth as much as his, because I believe I investigated it more thoroughly, and I have a right to differ with him. My mind was led to a reinvestigation of this case by the remarks of Senator COLLAMER, of Vermont, who was formerly Postmaster General, and knew all about this matter from beginning to end.

Now, Judge COLLAMER was of the opinion that these men were entitled to this sum of money. I had a conversation with Elisha Whittlesey upon this subject. I presume there is no man in this House who knew Mr. Whittlesey but what knows if he erred at all it was always against a claimant. He was so straight-backed in this respect that he leaned over the other way. That was his character, and yet he always maintained to the day of his death that the claim of these men was perfectly just. He told me that in the whole history of his experience in Congress as a member of the Committee of Claims, and in the Treasury Department, he never knew a case in which there was such prejudice, such combinations, such injustice and wrong inflicted upon innocent parties. He said that no parties in his judgment were ever entitled to compensation more than these were to the compensation they claimed.

Now, sir, this was the character of the claim in the opinion of Judge COLLAMER and Mr. Whittlesey, and it is, from all the investigation I have been able to give it, its just character in my opinion. The Postmaster General who made the contract with these parties made it in perfect good faith under a Whig Administration. The Postmaster General who succeeded was determined apparently—I say apparently, for it was the conviction in my mind after due investigation that he was determined to throw every obstacle in the way of these parties obtaining justice for the purpose of enabling persons of his own political fraternity to reap the benefits of that contract.

Mr. DRIGGS. I want to know of the gentleman, if that be the character of the claim, what objection there is to allowing it to be investigated and decided by the Court of Claims?

Mr. STEVENS. I should like to know of the gentleman to what political party he refers as being prejudiced against these men.

Mr. ALLEY. The Democratic party.

Mr. STEVENS. Why, sir, Mr. Ramsay was the bitterest copperhead I ever knew.

Mr. ALLEY. This was long before any such party as copperhead was ever known.

Mr. WASHBURN, of Illinois. I must resume the floor.

Mr. ALLEY. I hope the gentleman will allow me for a moment longer. I desire to say that it is hardly fair for the gentleman from Pennsylvania to make that remark in reference to Mr. Ramsay at that time. I do not know what he may be to-day. I do not know him personally; I never saw him.

Mr. STEVENS. I know him very well. He came from my district, and I say to the gentleman that he was born a copperhead and has been growing so ever since. [Laughter.]

Mr. ALLEY. I do not know anything about that. I know that this contract was made by the Postmaster General during Mr. Fillmore's administration, and that he was fully indorsed by his Postmaster General as an honest man. The merits of the case have not as yet been alluded to scarcely, and I should like to state the facts fully, but as I hold the floor by the courtesy of the gentleman from Illinois I must yield to him.

Mr. WASHBURN, of Illinois. Now, sir, I insist upon resuming the floor, and I renew the demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

The motion that the House further insist on its disagreement and ask for another committee of conference was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the House asked another committee of conference; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ALLEGED ILLEGAL COMPENSATION.

The SPEAKER laid before the House the following communication:

HOUSE OF REPRESENTATIVES,

OFFICE OF SERGEANT-AT-ARMS, July 2, 1864.

SIR: In pursuance of a resolution adopted June 30, 1864, directing the Sergeant-at-Arms to request Hon. BENJAMIN F. LOAN and Hon. GREEN CLAY SMITH to refund certain moneys specified in said resolution, the undersigned has the honor to report that during the month of April last Mr. LOAN called at this office to draw a month's salary, and on it being suggested that he had received pay as a military officer and as a member of Congress for the same time, he admitted it to be true, and inquired the course pursued by other officers under similar circumstances, and was informed they drew pay only as a member for the time they were out of the military service. Thereupon Mr. LOAN declined to draw any money, and stated that he could not recollect the exact day he quitted the military service, but would ascertain and report. Since the 4th of March last he has drawn no part of the salary due him as a member of Congress, and there is now standing to his credit with the United States—after debiting his account (\$782 88) for the time he received pay as a military officer, namely, from the 4th March, 1863, to the 8th day of June, 1863—\$917.

Mr. G. C. SMITH had the same suggestions made to him that were made to Mr. LOAN. He seemed surprised to learn that he had unlawfully received pay both as a military officer and a member of Congress, and stated that he could arrange to refund the amount, but up to this date has failed to do so, and has drawn his salary as member of Congress from the 4th day of March, 1863, to the 4th day of June, 1864, and is now indebted to the United States \$1,717 12. On being requested, in accordance with said resolution, to refund the amount, stated that he himself would make a written statement to the House, which statement is herewith submitted as a part of the report.

I have the honor to be, very respectfully, your obedient servant,

N. G. ORDWAY,

Sergeant-at-Arms House of Representatives.

Hon. SCHUYLER COLFAX, Speaker of the House of Representatives, United States.

HOUSE OF REPRESENTATIVES, July 1, 1864.

SIR: Your note with the account charged against me in favor of the United States was received this morning, and after consideration I answer as follows:

I was appointed brigadier general of United States volunteers 11th of June, 1863, and remained such to the 1st day of December, 1863. August 3, 1863, I was elected to a seat as a member of the Thirty-Eighth Congress. I continued in the service, however, until the 1st of December following, and drew pay to the 1st of December, when I ceased to be a brigadier general in the volunteer service. I drew no more pay as such. On the 7th day of December, 1863, I was sworn in as a member of Congress, and for the first time accepted said office. I was then no longer in the military service as an officer of the Army. I drew pay for such time only as I was in the service; when I ceased to be an officer I that moment ceased to draw pay. I was entitled to a regular salary fixed by law, to wit, \$3,000 per annum. It matters not whether Congress sat one month or six, the members of Congress were entitled to their salary of \$3,000. Now, when my resignation as brigadier general was accepted on the 1st day of December, 1863, I was neither an officer in the Army nor a member of Congress, and when on the 7th day of December I became a member of Congress I clearly thought I was entitled to my

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

MONDAY, JULY 4, 1864.

NEW SERIES.....No. 221.

salary as such. This I claim as a matter of justice and right, for so much money was believed to be necessary to support and pay for time and labor in attending Congress. Formerly they were paid per diem, now they are paid a fixed salary, and as a member of Congress I believe I am entitled to that salary. I can conceive of no conflict, and so stated when my attention was called to the matter. I stated that if it was wrong for me to draw and use the amount of money now charged against me, I would refund it; yet I must claim that if in right I am entitled to my salary as a member of Congress I should not pay it back. I had no disposition then nor have I now to receive a dollar from the Government to which I am not legally and justly entitled. If this money is not mine I will with pleasure refund it; if it is mine the House will not ask me to pay it back. I submit this statement to accompany your report, that the question may be fairly brought before that body, and such action taken as will fully and justly settle the matter. When this was first brought to my attention, with a statement that I and one other gentleman were alone in this category, my impulse was to settle it, and I so declared and so intended, whatever my own opinion was in regard to it; but since the matter is before Congress by resolution, I have concluded now to test the matter and have the case decided in such way as it seems best.

Respectfully, &c.,

G. CLAY SMITH.

N. G. ORDWAY, Esq., Sergeant at Arms.

Mr. INGERSOLL. I move to refer that communication to the Committee on the Judiciary.

Mr. COX. I hope we shall dispose of this matter now. I think it will be more satisfactory both to the gentleman from Kentucky and to the House not to allow the matter to go over to another session, as it will if it is referred. Let the House decide at once whether the member from Kentucky has money that does not belong to him or not.

Mr. ODELL. I hope the motion of the gentleman from Illinois will not prevail.

Mr. INGERSOLL. I will say that I have no desire to refer that portion of the report of the Sergeant-at-Arms which relates to Mr. LOAN. That is disposed of by the report itself. I modify my motion so as to refer so much of the report as refers to Hon. GREEN CLAY SMITH to the Committee on the Judiciary.

Mr. COX. There is no necessity of having the resolution referred. Every one in the House has already decided the question. It is *res adjudicata*.

The SPEAKER. The pendency of the motion to refer cuts off all amendment.

Mr. STEELE, of New York. I hope that the motion of the gentleman from Illinois will not prevail. Every man here has already made up his mind, and especially those who were members of the last House of Representatives. The question has been decided over and over again. There is nothing, sir, more clearly defined than that a member of Congress cannot draw pay for any other office. It is due to the gentleman and the House that they shall say now and at this time that no claim of that character will be allowed.

Mr. GANSON. I ask that the original resolution be read.

The resolution was read.

Mr. INGERSOLL demanded the previous question on the motion to refer.

Mr. SMITH. I ask the gentleman to withdraw the demand for the previous question in order to let me make one remark.

Mr. INGERSOLL. I withdraw the demand for the previous question for that purpose.

Mr. SMITH. Mr. Speaker, I desire to say at this time that I was never more surprised than I was the other day by the introduction of the resolution by the gentleman from New York, [Mr. GANSON.] My attention had been called to the fact previously by the Sergeant-at-Arms, and I had stated to him emphatically, as I have done to this House, that if I had done wrong I would certainly make it right.

I did not believe, sir, that it was intended a member of Congress should draw \$1,000 only to pay the expenses of a long seven months' session in Washington. I believed I was entitled to the money that I drew or I would not have drawn it. What I did was done honestly and with no view that I was doing wrong. What I did I did openly,

publicly, in the presence of everybody. There was the record of my resignation in the War Department to be seen by every member upon this floor. I stated to the officers of this House that I had resigned from the military service, and that I had drawn my pay as I believed I was entitled to it. I furthermore stated that if I had done wrong I was willing to make the proper correction. It is my intention to do that whatever my loss may have been.

And since the introduction of the resolution into this House I feel it to be my duty as a man, that I owe it to myself, and I believe that Congress owes it to me, that I shall have an investigation to go before the country to decide whether I am right or wrong. I had no notice, no consultation with any member upon this floor that any resolution of this kind would be introduced. I do not object to the resolution. I do not object to the whole world knowing what I do in a public or private capacity. All I want is a fair and full investigation that my people may know how this thing stands. That is all I have to say.

Mr. INGERSOLL. I renew the demand for the previous question.

Mr. COX. I hope the gentleman from Illinois will yield to me for a moment. I do not want my action taken as having been instigated by anything personal to the gentleman from Kentucky.

Mr. SMITH. I did not so understand it.

Mr. INGERSOLL. I withdraw the demand for the previous question.

Mr. COX. I believe in the doctrine which we have already laid down in this House in the last and in the present Congress, that there shall not be any military men commissioned in this House.

Mr. SMITH. If the gentleman from Ohio will consult the archives of the War Department he will find that I went out of the military service in December last. I am not now in the military service.

Mr. COX. Then, according to the rate of pay fixed by law, and according to the usages of that service, the gentleman should not have drawn these \$1,700 belonging to my constituents. As I have said, it is not a matter personal to the gentleman.

I have since I have been a member voted every time, on every opportunity, in favor of that high governmental principle that the military shall not by any construction stand and legislate in this House. It was fixed by our forefathers in the Constitution. It has been recognized again and again by other Congresses. It has been recognized by this Congress. If we recognize gentlemen in both capacities the Executive may have here his instrumentalities for the purpose of forwarding his own peculiar legislation. I stand upon principle.

Mr. SMITH. I ask the gentleman from Ohio whether it is not a principle, and has not been a principle recognized, that officers below the grade of brigadier general have held civil offices and received pay from the Federal Government while they drew pay for military offices which they held. If there is no conflict in the one case, why should there be in the other?

Mr. COX. I understand the gentleman himself, in a report he made, laid down a rule entirely different. More than that, I do not know a civil officer who draws pay as a military officer at the same time. I know I could not get a bill through this House to pay a consul abroad simply because of his position in a hospital in South America, for fear we might be paying a civil officer twice. But there is an express statute which forbids Congress from paying a man twice, once for military and once for civil service. When Mr. Chandler's case came before us the other day, we refused to pay him the pay of a member of Congress because during all the time of the contest he was receiving pay as United States district attorney for Virginia.

We must stand upon principle, no matter what a man's name may be, whether it is Jones or Smith. We must stand upon principle, and I

want the gentleman to come up and fork over that money which belongs in part to my constituents.

Mr. SMITH. I can say to the gentleman that my constituents have paid out more money and sent more men to the war than his have.

Mr. COX. I stand by the constitutional provision, and the gentleman places himself in a bad predicament before the country and before his constituents by receiving pay twice. But more than that; the gentleman was informed—

Mr. INGERSOLL. I must resume the floor.

Mr. SMITH. I want the gentleman to understand that so far as my constituents are concerned I am responsible to them.

Mr. INGERSOLL. I insist upon the previous question.

The SPEAKER ordered tellers; and appointed Mr. INGERSOLL and Mr. Cox.

The House divided; and the tellers reported—ayes fifty-five, noes not counted.

So the previous question was seconded, and the main question ordered to be put.

The question recurring on the motion offered by Mr. INGERSOLL to refer so much of the communication of the Sergeant-at-Arms as relates to the gentleman from Kentucky to the Committee on the Judiciary,

Mr. W. J. ALLEN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 29, nays 81, not voting 72; as follows:

YEAS—Messrs. Arnold, Ashley, Baily, John D. Baldwin, Baxter, Blair, Cobb, Coffroth, Cole, Garfield, Hale, Benjamin G. Harris, Hotchkiss, John H. Hubbard, Ingersoll, Julian, Kelley, Littlejohn, Loan, Longyear, McBride, Samuel F. Miller, Charles O'Neill, William H. Randall, Scofield, Shannon, Spalding, Webster, and Wilder—29.

NAYS—Messrs. William J. Allen, Alvey, Allison, Ames, Ancona, Beaman, Bliss, Boutwell, Boyd, Brooke, James S. Brown, William G. Brown, Cox, Creswell, Henry Winter Davis, Dawes, Dawson, Deading, Denison, Dixon, Briggs, Eden, Edgerton, Eldridge, Eliot, English, Ganson, Gosch, Griswold, Harding, Charles M. Harris, Hooper, Asahel W. Hubbard, William Johnson, Kerani, Knapp, Law, Long, Marcy, McClurg, Middleton, Moonhead, Morrill, Daniel Morris, James R. Morris, Morrison, Ames Myers, Nelson, Noble, Norton, Odell, Orth, Pendleton, Pray, Pray, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, Rose, Sloan, Smithers, John B. Steele, Stevens, Stiles, Swan, Thomas, Tracy, Upson, Wadsworth, Ward, Elihu B. Washburne, William B. Washburn, Wheeler, Williams, Wilson, Windom, and Winfield—81.

NOT VOTING—Messrs. James C. Allen, Anderson, Augustus C. Baldwin, Blaine, Blow, Brundage, Bronnall, Chandler, Ambrose W. Clark, Freeman Clarke, Clay, Craven, Thomas T. Davis, Donnelly, Dumont, Eckley, Farquhar, Fenton, Finck, Frank, Grider, Grinnell, Hall, Harrington, Herick, Higby, Holman, Hutchins, Juckes, Philip Johnson, Kauffmann, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Lazard, Le Blond, Mallory, Marvin, McAllister, McDowell, Melrose, McKimney, William H. Miller, Leonard Price, Rogers, James S. Rollins, Schenck, Pike, Pomroy, Price, Rogers, James S. Rollins, Schenck, Scott, Smith, Starr, Stebbins, William G. Steele, Strouse, Stuart, Thayer, Van Valkenburgh, Voorhees, Whaley, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—72.

So the House refused to refer the matter to the Committee on the Judiciary.

During the roll-call,

Mr. DAWSON stated that Mr. HOLMAN had paired off with Mr. ORTH.

Mr. ORTH. I will say to my friend from Pennsylvania that we are not paired upon questions on which we should both vote the same way.

The result of the vote having been announced as above recorded,

Mr. COX moved to reconsider the vote by which the House refused to refer the whole subject to the Committee on the Judiciary; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. COX. I now offer the following resolution, and upon it I demand the previous question:

Resolved, That Hon. G. C. SMITH, a member of this House from Kentucky, be directed to repay to the Sergeant at Arms the sum of \$1,750 which has been drawn from the Treasury of the United States in violation of law and the Constitution, and that if he fail to refund the same

the Sergeant-at-Arms be directed to deduct the same from his future salary as a member of the Thirty-Eighth Congress.

Mr. SMITH. I desire to say a word or two only on that resolution.

Mr. COX. I withdraw the demand for the previous question and yield to the gentleman from Kentucky, holding the floor in the mean time.

Mr. SMITH. I understood the original resolution to be that I be requested, as well as the gentleman from Missouri, [Mr. LOAN,] to refund this money to the Sergeant-at-Arms. I understand that resolution, together with the report of the Sergeant-at-Arms, to be now before the House. I do not understand the object of the resolution now offered, and especially the last part of it. I want the gentleman from Ohio to understand that the vote which has just been given by the House is a sufficient indication to me without that latter clause of his resolution. In my communication to the Sergeant-at-Arms, which accompanies his report, I said in polite and courteous terms that if this House decided that the money was due I would with pleasure refund it. I shall do so now. Why, then, the latter part of the resolution should have been added, that if I refuse to do it the amount is to be deducted from my future pay, I cannot understand, unless it be that there is lying beyond and far back of this proceeding a disposition to affect me at this time. Well, throw your shafts, put forth all your efforts, do what you please, act as you please, malign me as you please, you cannot defeat me, for I am the representative of truth and justice and right and of correct principles.

Mr. WASHBURN, of Illinois. After the statement of the gentleman from Kentucky that the money will be paid, I hope the gentleman from Ohio will accept this as an amendment to his resolution:

Resolved, That no member of this House can draw pay as a member and pay for any other office under the Government at the same time.

Mr. COX. I do not care about accepting that as a substitute for my resolution, although I have no doubt it is good as a general proposition.

Mr. DAWES. Will the gentleman from Ohio yield to me for a moment?

Mr. COX. I prefer to answer what fell from the lips of the gentleman from Kentucky first. I have already told the gentleman from Kentucky that I meant nothing personal in the remarks I made about this matter. What I have said and done was not intended to affect his future politically, personally, or otherwise. He has taken a great deal more pains to affect the future of other members here who live across the Ohio river, and would bind Kentucky in this Union by all the bonds of kindness and friendship, than we have ever taken the pains to affect his political or personal relations.

I added to the resolution those last words about deducting this amount from his pay because the gentleman from Kentucky had been advised that he was drawing his pay wrongfully; and I understand from another gentleman from Kentucky that during the last campaign in that State it was charged upon him that he would draw double pay. He has had his mind called to the subject again and again. It is not without reflection that he has drawn this pay. He has refused to comply with the resolution of this House, adopted after a fair statement before the House of this question, and I would like to know how the United States Government can make itself whole unless they can make the gentleman square his accounts. I know nothing about a man's honor in this connection. I want simply the mercantile account stated, "Dr." so much, "Cr." so much, and at the end of the gentleman's term I want to see the account squared and balanced in the proper way.

Mr. SMITH. I want to know what gentleman from Kentucky made the statement the gentleman alludes to.

Mr. COX. It came from a Senator from Kentucky, Mr. GARRETT Davis.

Mr. SMITH. I pronounce it unequivocally false.

Mr. COX. I was informed of the fact by a gentleman from Kentucky who sits on my right.

Mr. SMITH. No such question entered into the campaign so far as I am concerned.

Mr. HARDING. I desire to say that Mr. DAVIS would be as far from making an incorrect statement as any man on this floor. I will remind my colleague that there was an anonymous letter published in the canvass between my colleague and Mr. Menzies stating that my colleague was drawing pay as a brigadier general, and would, if elected, also draw pay for the same time as a member of Congress. I ask my colleague whether such a letter was not published in the Louisville Journal?

Mr. SMITH. I will very readily answer my colleague that any number of anonymous letters were published and all sorts of efforts were made to defeat me. I am not responsible for such anonymous letters. The particular letter which my colleague refers to I cannot say whether I saw or not. I think I did. Whether that question was mooted I do not know. But I will say this to my colleague, that if a sage Senator of the United States from one of the Commonwealths of this Union takes an anonymous letter as the basis of a charge of this kind to affect the standing of a member of the House of Representatives from his own State, he shows that he carries his prejudice and malignity far beyond the high tone which should characterize a gentleman and a Senator.

Mr. HARDING. I want to understand from my colleague whether there was such a letter published in the canvass.

Mr. SMITH. I do not deny it, sir.

Mr. COX. Then I resume the floor. That is all the charge I made against the gentleman. Therefore when he denied this charge and intimated that it was made impertinently, of course he must have forgotten that there was a communication of that kind during the campaign. That is the most charitable construction I can give to his denial.

The reason why I added this last proviso to my resolution is this: the gentleman said the other day that he could not pay this sum back just now without some inconvenience.

Mr. SMITH. The gentleman from Ohio never heard me say anything of the kind.

Mr. COX. I understood that the gentleman said so the other day on the floor of the House; and I was proposing to save the gentleman any inconvenience on that account. I propose, if possible, to bring the resolution within the line of his convenience by allowing the Sergeant-at-Arms to deduct from his future salary anything drawn wrongfully. What can be fairer or franker to the gentleman than that? But he seems to take it as a reflection upon his honor. Otherwise the gentleman might be compelled to go around and borrow money if he be in that condition, as I hope he is not. My resolution gives the Sergeant-at-Arms power to draw upon the gentleman's future salary. I think that was very kind and considerate on the part of the House, and the gentleman should so regard it. I move the previous question.

Mr. WASHBURN, of Illinois. I hope the gentleman from Ohio will not press his resolution.

Mr. COX. I promised to yield to the gentleman from Massachusetts, [Mr. DAWES.]

Mr. DAWES. I only want to say that this matter is too clear to spend any time about it. It has been the subject of frequent reports from committees of the House. It is perfectly clear, and there is no occasion for the passage either of the resolution of the gentleman from Ohio [Mr. Cox] or of that of the gentleman from Illinois, [Mr. WASHBURN.]

The question as to the construction of law in reference to our salaries was not a very clear one at first. The question arose upon the application of a gentleman from Kansas to draw his salary for the entire session, although he came to Congress at the very heel of the session. It was referred to the Committee of Elections, and a very able and ingenious argument was made by the gentleman from Kansas in support of the position that he was entitled to the whole salary, the point which I understand the gentleman from Kentucky now to make. The claim, however, was reported against by the committee, and the construction given by them was sanctioned by the House, and that construction has remained as the rule under which we have acted since that time.

There is no occasion, therefore, for any further

resolution or any further action on the part of the House, especially as the gentleman from Kentucky has all along signified his readiness to conform to what was the construction of the House, and only desires to know what that construction is.

I say there is no need of any further action, for the rule upon the point is now established and clear, although there might have been at some time some doubt as to whether a man coming in and only serving a part of a Congress was entitled to pay for the entire Congress. I move, therefore, to lay the resolution on the table.

Mr. COX. I did not give way for a motion to lay the resolution on the table.

Mr. DAWES. If the gentleman thinks I was not at liberty, holding the floor from him, to make the motion, I will wait until he moves the previous question, and will then make the motion.

Mr. WADSWORTH. Like the gentleman from Massachusetts, I see no necessity for any resolution on this subject; and as my colleague is now satisfied what is the construction of the House and is ready to return the money, I hope the gentleman from Ohio will withdraw his resolution. I think it is due to him as a member of this House.

Mr. SMITH. I appreciate the courtesy of my colleague, but I hope nevertheless the gentleman from Ohio will carry out the dictates of his conscience in this matter.

Mr. COX. I will carry out the dictates of my own judgment in the matter, especially because otherwise it would operate as a censure upon the gentleman from Missouri, [Mr. LOAN.] Inasmuch, therefore, as the gentleman from Kentucky insists upon it, I will hold on to my resolution and call the previous question for its adoption. I was about to modify the resolution under the generous and proper request of the gentleman's colleague, but as the gentleman himself insists upon it I will leave the resolution as it is and call for the previous question upon it.

Mr. GARFIELD. I desire to suggest a modification to my colleague.

Mr. DAWSON. I object to that.

Mr. DAWES. I move to lay the resolution on the table.

Mr. DAWSON. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 41, not voting 69; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Boutwell, Boyd, Brooks, Coffroth, Cole, Cresswell, Henry Winter Davis, Dawes, Deming, Donnelly, Briggs, Eckley, Eliot, Farnsworth, Frank, Garfield, Goehs, Griswold, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Julian, Kelley, Littlejohn, Loan, Longyear, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Smithers, Spalding, Stevens, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, and Windom—72.

NAYS—Messrs. William J. Allen, Ancona, Bliss, Chandler, Cox, Dawson, Denison, Edes, Edgerton, Eldridge, English, Ganson, Harding, Charles M. Harris, William Johnson, Kernan, Knapp, Law, Long, Marey, Middleton, Morrison, Amos Myers, Noble, Odell, John O'Neill, Orth, Pendleton, Prayn, Robinson, John B. Steele, Stiles, Sweet, Thomas, Tracy, Upson, Wadsworth, Ward, Wheeler, Chilton A. White, and Winfield—41.

NOT VOTING—Messrs. James C. Allen, Anderson, Augustus C. Baldwin, Blow, Brandegee, Broadhall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cravens, Thomas T. Davis, Dixon, Dumont, Feinton, Finck, Grider, Grinnell, Hale, Hall, Harrington, Benjamin G. Harris, Herrick, Holman, Hutchins, Jonckes, Philip Johnson, Kabbelsch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Lazarus, Le Rond, Mallory, Marvin, McAllister, McDowell, McIndoe, McKinney, William H. Miller, Nelson, Perry, Pike, Pomeroy, Price, Radford, Samuel J. Randall, Rogers, James S. Rollins, Ross, Schenck, Scott, Smith, Starr, Stebbins, William G. Steele, Strouse, Stuart, Thayer, Van Valkenburgh, Voorhees, Joseph W. White, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—69.

So the resolution was laid on the table.

Mr. DAWES moved to reconsider the vote by which the resolution was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EXTENSION OF MORNING SESSION.

Mr. BROOKS. I rise to a privileged question.

I move to extend the time for taking a recess until five o'clock.

Mr. MORRILL. I desire to take this opportunity of saying that I hope a quorum will be here at the evening session. There will be important business on which we shall have to act. The motion was agreed to.

AGRICULTURAL DEPARTMENT.

Mr. WASHBURNE, of Illinois. I am instructed by the committee of conference on the disagreeing votes of the two Houses on Senate bill No. 339, to repeal a joint resolution to grant additional rooms to the Agricultural Department, and for other purposes, to submit a report, which I will explain in a few words in order to save the time of the House. The House struck out the section appropriating \$100,000 for the erection of buildings for the Department of Agriculture, and the Senate recede from their disagreement to that amendment with the following amendment, in which the House agrees. The Commissioner of Agriculture is authorized to select suitable rooms for the accommodation of his office and to make the necessary improvements, and \$3,500 is appropriated to pay the rent of the same for one year; provided that such rooms shall not be rented for any period longer than three years. This gets rid of a very ugly question. It is a unanimous report, and I move that it be adopted.

Mr. RANDALL, of Pennsylvania. I think that this is a most unnecessary appropriation.

Mr. WASHBURNE, of Illinois, demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the report was adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; when the Speaker signed the same.

PENSION LAW.

Mr. WHALEY. Mr. Speaker, I am instructed by the committee of conference on the disagreeing votes of the two Houses on the general pension bill to inform the House that they have been unable to agree. I move that the House adhere. This is a subject, I will say, of the greatest importance. There are now upon file four to five thousand applications in the Pension Office which require legislation. I think it necessary that we should come to some conclusion upon this bill at this session of Congress.

Mr. STEVENS. If the gentleman proposes to adhere, that ends the matter. He should move to insist and ask for another committee of conference.

Mr. WHALEY. I make that motion, that the House insist and ask for further conference between the two Houses.

The motion was agreed to.

PUNISHMENT OF GUERRILLAS.

Mr. FARNSWORTH. I rise to make a report from the committee of conference on the disagreeing votes of the two Houses on House bill No. 511, to provide for the more speedy punishment of guerrillas, and for other purposes.

Mr. Speaker, the first amendment of the Senate, to which the committee of conference agrees, adds the word "marauders;" so that it will read, "guerrilla-marauders." It is a verbal and not a substantial amendment.

The third amendment of the Senate, in which the committee of conference recommends a concurrence, is in reference to soldiers dying in hospitals. It is provided by that amendment that soldiers dying in hospitals after their discharge, and not being able to get home, shall be considered as dying in the service so far as bounties are concerned.

We also amend the title to read, "For the more speedy punishment of guerrilla-marauders, and for other purposes." I demand the previous question on the adoption of the report.

The previous question was seconded, and the main question ordered.

Mr. MORRIS, of Ohio, moved to lay the report upon the table.

The motion was disagreed to.

The report was adopted.

Mr. FARNSWORTH moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SPECIAL INCOME TAX.

Mr. MORRILL. I am authorized by the Committee of Ways and Means to report a joint resolution imposing a special income duty.

Mr. ROSS. Is that in order?

The SPEAKER. It is not.

Mr. ROSS. I object.

Mr. MORRILL. Let it be read.

The resolution provides that in addition to the income duty already imposed by law there shall be levied, assessed, and collected on the 1st day of October, 1864, a special income duty upon the gains, profits, and income for the year ending the 31st day of December next preceding the time therein named for levying, assessing, and collecting such duty of all persons residing within the United States, or of citizens of the United States residing abroad, at the rate of five per cent. on all sums exceeding \$600, and that the same shall be levied, assessed, estimated, and collected, except as to the rate, according to the provisions of existing laws for the collection of an income duty annually, where not inapplicable thereto; and the Secretary of the Treasury is authorized to make such rules and regulations as to time and mode, or other matters, to enforce the collection of the said special income duty provided for in the resolution as may be necessary; provided, that in estimating the annual gains, profits, and income for the foregoing special income duty no deductions shall be made for dividends or interest received from any association, corporation, or company, nor shall any deduction be made for any salary or pay received.

Mr. ROSS objected, and the resolution was not received.

WASHINGTON AQUEDUCT.

Mr. STEVENS. I report a joint resolution from the Committee of Ways and Means, which I send to the Clerk.

The resolution, which was read, appropriates \$100,000, out of any money in the Treasury not otherwise appropriated, for constructing the Washington aqueduct from a point between the White House and receiving reservoir, to unite with the aqueduct at a point near the station-house below said reservoir, without passing through the said receiving reservoir, and to defray the expenses incident to managing said Washington aqueduct.

It also appropriates \$50,000 for the purpose of completing the cut-stone dam across the Potomac river and constructing a telegraph line from the fire department in the city of Washington to said station-house below the receiving reservoir.

Mr. DRIGGS. I object.

Mr. STEVENS. It is a general appropriation bill.

The SPEAKER. It is an appropriation bill, but not a general appropriation bill. The Committee of Ways and Means have the right to report general appropriation bills, but the rules lay down what are such.

Mr. STEVENS. I suppose this is for carrying on what is already authorized by law.

The SPEAKER. The Clerk will read the 77th rule.

The Clerk read, as follows:

"77. It shall also be the duty of the Committee of Ways and Means, within thirty days after their appointment, at every session of Congress commencing on the first Monday of December, to report the general appropriation bills for legislative, executive, and judicial expenses; for sundry civil expenses; for consular and diplomatic expenses; for the Army; for the Navy; for the expenses of the Indian department; for the payment of invalid and other pensions; for the support of the Military Academy; for fortifications; for the service of the Post Office Department, and for mail

transportation by ocean steamers; or, in failure thereof, the reasons of such failure. And said committee shall have leave to report said bill (for reference only) at any time."

Mr. STEVENS. I will state that this is an item of the appropriations of the sundry civil appropriation bill.

The SPEAKER. But that bill has been reported.

Mr. STEVENS. Cannot I report a second one?

Mr. WASHBURNE, of Illinois. There can be no doubt about what the meaning of the rule is. It excludes everything of this kind.

Mr. STEVENS. I can only say that the soldiers are dying of thirst for want of this very water.

The SPEAKER. The committee have the right to report a general appropriation bill at any time, but not a special one.

LAND TITLES IN THE DISTRICT OF COLUMBIA.

Mr. STEELE, of New York. I rise to a privileged question. I move to reconsider the vote by which Senate bill No. 91, to grant titles in favor of parties actually in possession of lands situated in the District of Columbia, was referred last evening to the Committee for the District of Columbia, in order to move that it be referred to the Committee on the Judiciary. The bill was considered by the Judiciary Committee of the Senate, and it more properly belongs to that committee.

The SPEAKER. A change of reference can only be made by unanimous consent, as the vote by which it was referred to the Committee for the District of Columbia was reconsidered and laid on the table last evening.

No objection being made, the Committee for the District of Columbia were discharged from the further consideration of the bill, and the same was referred to the Committee on the Judiciary.

CORRECTION OF AN ERROR.

Mr. ALLEY. I wish to have a letter from the Postmaster General read if there is no objection.

Mr. WASHBURNE, of Illinois. What is it about?

Mr. ALLEY. In relation to a clerical error.

The letter, which was read, inclosed the draft of a law for the correction of a clerical error in the post office bill of June 30, 1864, and states that this act, as originally drawn, contained substitute provisions for the act of 1863, which are repealed; that these substitute provisions were stricken out by the committee and the provision repealing the sections of the act of 1863 was inadvertently left in the act of the 30th of June.

Mr. ALLEY. I now offer the bill to correct the error.

The bill was read. It repeals so much of the act of June 30, 1864, as repeals sections seventeen, eighteen, thirty-five, thirty-nine, and forty-one of the act of March 3, 1863, to amend the laws relating to the Post Office Department.

Mr. ALLEY. I will only remark that these sections were stricken out by mistake. I move the previous question.

The previous question was seconded, and the main question ordered.

The bill received its several readings, and was engrossed and passed.

ENROLLED BILLS AND RESOLUTIONS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 460) for the relief of Sarah Robinson, widow of Hon. John L. Robinson, late United States marshal for the district of Indiana;

An act (H. R. No. 564) for the relief of Eliza Cass Woodbridge; and

A joint resolution (H. R. No. 117) authorizing the Secretary of the Navy to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer Juniata.

JOHN HASTINGS.

Mr. HALE. I ask the unanimous consent of the House to take from the Speaker's table the bill from the Senate for the relief of John Hastings. I will say that it has passed the Senate three times.

The hour of five o'clock p. m. having arrived, the House took a recess until eight o'clock p. m.

EVENING SESSION.

The House reassembled at eight o'clock p. m.

SPECIAL INCOME TAX.

Mr. MORRILL. I ask leave now to introduce the joint resolution imposing a special income tax, and I will state that if we can get this joint resolution passed there will be no difficulty in our adjourning to-night. I will also say that it is the wish of the new Secretary of the Treasury that a measure of this kind shall be passed. I ask leave to report it from the Committee of Ways and Means.

Mr. ROSS. I object.

Mr. MORRILL. I desire to say, then, that if there is not a quorum here to-night or on Monday it will be impossible for Congress to adjourn, because with less than a quorum we can only adjourn from day to day. I only desire to facilitate the business of the House and have such measures passed as are necessary for the ordinary business of the country.

LANDLORD AND TENANT LAW.

Mr. WILSON. I rise to a privileged question. I desire to make a report from a committee of conference.

The report was read, and is as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill of the Senate entitled "An act to regulate proceedings in cases of landlord and tenant in the District of Columbia," recommend to their respective Houses as follows: that the Senate recede from its disagreement with the amendments of the House, and agree to the same.

L. M. MORRILL,
J. A. HENDRICKS,
Managers on the part of the Senate.
EZRA WHEELER,
JAMES W. WILSON,
Managers on the part of the House.

Mr. MORRIS, of Ohio. I desire to know what the amendments are.

The SPEAKER. The report recommends that the Senate recede from its disagreement to the amendments of the House, and the Senate has already concurred in the report. The bill is therefore now passed, and no action by the House is required upon the report.

PAY OF HOUSE EMPLOYÉS.

Mr. A. MYERS. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That book-folders and laborers in the folding-room whose salary or per diem pay amounts to less than \$1,000 per annum be paid at the rate of \$1,000 per annum during the time they are employed, out of the contingent fund of the House.

Mr. STILES. I move to include other persons employed about the Capitol.

The SPEAKER. Is there objection to the introduction of the resolution?

Mr. SLOAN. I object.

DUTIES OF A COMMITTEE.

Mr. COLE, of California. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Military Affairs be authorized to extend their investigations under the resolution of May 30 to all persons in the employment of the Government, and that the committee be authorized to sit during the recess.

Mr. MORRIS, of Ohio. I object.

BUSINESS ON SPEAKER'S TABLE.

The House resumed the consideration of the business on the Speaker's table.

WILLIAM H. JAMESON.

The next business on the Speaker's table was Senate bill No. 329, for the relief of William H. Jameson, a paymaster in the United States Army.

The bill was read a first and second time. It requires the proper accounting officers of the Treasury to credit Major William H. Jameson, a paymaster in the United States Army, with \$954 14 for money in his hands as paymaster in the Army, lost on board the steamer Ruth, destroyed by fire on the 4th of August, 1863.

Mr. WASHBURN, of Illinois. That bill cannot pass without amendment. I object to it.

The SPEAKER. The bill is before the House in regular order.

Mr. WASHBURN, of Illinois. I move that the bill be referred to the Committee on Military Affairs.

The motion was agreed to.

JOHN HASTINGS.

The next business on the Speaker's table was Senate bill No. 274, for the relief of John Hastings, collector of the port of Pittsburg.

CALL OF THE HOUSE.

Mr. MORRILL. I move that there be a call of the House. There does not appear to be a quorum present, and it is absolutely necessary that there shall be one. The quicker we begin to procure the attendance of a quorum the better.

The motion was agreed to.

The roll was called, and the following-named members failed to answer to their names:

Messrs. James C. Allen, William J. Allen, Anderson, Augustus C. Baldwin, John D. Baldwin, Baxter, Blow, Brandegee, Broomall, James S. Brown, William G. Brown, Chautler, Ambrose W. Clark, Freeman Clarke, Clay, Cravens, Donnelly, Dumont, Finck, Frank, Gooch, Grider, Grinnell, Hall, Harding, Harrington, Herrick, Holman, Hulburd, Philip Johnson, Julian, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Le Blond, Littlejohn, Marvin, McAllister, McDowell, McIndoe, McKinney, Nelson, Perry, Pike, Pomeroy, Price, Radford, Rogers, James S. Rollins, Scott, Smith, Spalding, Starr, Stebbins, Stronach, Thayer, Van Valkenburgh, Voorhies, Webster, Whaley, Chilton A. White, Joseph W. White, Williams, Benjamin Wood, Fernando Wood, and Yeaman.

One hundred and thirteen members having answered, all further proceedings under the call were, on motion of Mr. FENTON, dispensed with.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, announced that the Senate had agreed to the report of the committee of conference on House bill No. 549, to further regulate and provide for the enrolling and calling out of the national forces.

Also, that it had agreed to the report of the committee of conference on Senate bill No. 339, to repeal a joint resolution assigning additional rooms to the Agricultural Department, and for other purposes.

CONSCRIPTION LAW.

Mr. GARFIELD. I am directed by the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 549) to further regulate and provide for the enrolling and calling out of the national forces to report that the committee, after full and free conference, have agreed to recommendations to their respective Houses. If gentlemen will turn to the printed bill I will explain what the committee of conference has done.

The House will recollect that we passed a bill known as the Smithers bill. That went to the Senate and was amended by a substitute, which was the Senate bill sent over to us a few days before. The committee of conference agreed to lay aside the Senate bill altogether and to take the bill passed by this body. That is the bill which is printed and is now on the desks of members. A large portion of the amendments, twenty-four in number, are merely verbal and do not affect at all the general provisions of the bill. The first amendment will be found in the eighth line of the first section of the printed bill, and merely adds the words "ward of a city."

The second amendment is in the ninth line, to insert after the word "district" the words "or of a county when not so subdivided." This is also added to make it conform to the other law.

The next amendment is in the tenth and eleventh lines, to strike out the words "and substitute," which were evidently put there by mistake, it being manifestly not intended that the substitute for a drafted man should enjoy the same bounty as a volunteer. To that no one, I presume, will object.

The next amendment is found in the fourteenth line of the section. The word "two" is stricken out and "one" inserted. The word "three" in the fifteenth line is also stricken out and "two" inserted; and in the seventeenth line the word "four" is stricken out and "three" inserted. These three amendments consist in this: the bill as it passed the House provided for giving volunteers \$200 if for one year, \$300 if for two years, and \$400 if for three years. The committee of conference recommend a bounty of \$100 if for

one year, of \$200 if for two years, and of \$300 if for three years.

The bill as it passed the House provided that one half the bounty should be paid at the time of being mustered in, one fourth at the expiration of half the term, and the other fourth at the end of the term of service. The committee amended that so as to make one third of the bounty payable at the time of mustering in, another third at the middle of the term of service, and the remainder at the conclusion of the term of service, so as to more equally distribute the burdens of the Government.

The next amendment will be found in the twenty-fourth line. The committee recommend striking out the latter portion of the clause after the word "none," and inserting in place of it the words "to his mother if she be a widow." It will then provide that if a soldier dies the bounty is to be paid to his wife if he have one; if he have no wife then to his children, and if he have no children then to his mother, if she be a widow. It is not to be paid to the legal representatives unless they are collateral relations. It was deemed best that the bounty should go to his legal dependents, and not to mere strangers should they happen to be his legal heirs.

In the second section three amendments were made; the first merely formal, inserting after the word "ward" the words "of a city or town." The second amendment of the second section strikes out "sixty" and inserts "fifty" in its place, so as to require the President to give fifty days' notice before executing a draft instead of sixty as the original bill provided.

In the fifth line of the same section we insert after the word "shall" the word "immediately," so as to provide that the President shall immediately order a draft at the expiration of the fifty days, unless the quota shall have been filled by volunteering.

There is but one amendment to the third section, and that is to add after the word "rebellion" at the bottom of the 3d page of the printed bill these words, "except the States of Arkansas, Tennessee, and Louisiana." The House will notice that this is different from the amendment we passed yesterday. As we passed it then it was provided that the Governors of the loyal States might recruit in certain States enumerated, including all the States in rebellion except Tennessee. The committee also left out Arkansas and Louisiana, for the following reasons: a representative or gentleman from Arkansas was here and informed us that they had already in that State raised seven regiments which had been mustered into the service; that they had two other regiments ready to be mustered in, and that enlistments were going on vigorously. And they ask that we shall not allow the Governors of northern States to come in and take their people and put them into the regiments of other States. It seemed reasonable and just, and the committee have therefore omitted the State of Arkansas. Adjutant General Thomas is doing very thorough and efficient work in Louisiana; General Banks has also raised and thoroughly organized a large number of colored troops; and it was deemed best to leave the matter in their hands. So Louisiana is also excepted. The others are left as the House passed them.

There are no amendments to the fourth section.

In the fifth section there are two amendments. The first is to strike out the word "knowingly" in the ninth line. The House will see the reason for it. If an officer of the United States shall enlist and muster into the service of the United States a minor under sixteen years of age, whether knowingly on the part of the officer or not, we provide that the minor shall be discharged.

After the word "discharged" there is added "on the repayment of all bounties received." So that such person discharged from the service must, as the condition of that discharge, pay back all of the bounties he has received.

After the word "officer" in the thirteenth line we insert "who shall knowingly enlist any person under sixteen years of age;" so that it will read, "any officer who shall knowingly enlist any person under sixteen years of age shall be dismissed the service." Whether knowingly or not the person shall be discharged, but if he does

it knowingly he himself shall be dismissed the service. That includes all the amendments to the fifth section.

There is but one amendment to the end of the sixth section, and that is to strike out "fifty" and insert "one hundred." That was done for the reason that the War Department sent a note informing us that if they were permitted to draw for one hundred per cent. more than were actually required it would enable them to fill up the call, for more than fifty per cent. of those drawn are exempt from disability and other causes. More than fifty per cent. is needed; and if one hundred per cent. provides too much, of course it will not all be taken.

No amendments are made to the seventh section.

To the eighth section there is but one amendment. The eighth section provides that persons in the naval service, not enrolled prior to the 24th of February last, may be credited to the township or district in which they reside. We found that loose in respect of this, that it did not say on what evidence; and we added after the word "shall" in the seventh line, "on satisfactory proof of their residence made to the Secretary of War." That is, the township that claims it ought to have credit must make proof to the Secretary of War that such naval persons resided in it.

There is no amendment to the ninth section.

We amended the tenth section in form. The present law is left standing in regard to persons who are conscientiously opposed to war. We provide that no section of this act shall be construed to alter or amend that part of the existing enrollment act.

The only remaining amendment is a new section which provides that nothing in this act shall be construed to affect the right of persons to procure substitutes when they are drafted.

That includes all of the changes. There have been only two material changes: first, in reducing bounties; and secondly, in reducing the number of days ten.

I demand the previous question.

Mr. STEVENS. This repeals the commutation clause. I do not want to vote against it, and I will not vote for it.

The House divided; and there were—ayes 56, noes 1; no quorum voting.

Mr. FENTON demanded tellers.

Tellers were ordered; and Messrs. GARFIELD and KERNAN were appointed.

The House again divided; and the tellers reported—ayes 70, noes 14; no quorum voting.

The SPEAKER. The Clerk will read the 31st rule.

The Clerk read, as follows:

"31. Every member who shall be in the House when the question is put shall give his vote, unless the House shall excuse him. All motions to excuse a member from voting shall be made before the House divides, or before the call of the yeas and nays is commenced; and the question shall then be taken without debate."

Mr. WASHBURN, of Illinois. I ask the gentleman from Ohio to withdraw his demand for the previous question.

Mr. GARFIELD. I withdraw it.

Mr. WASHBURN, of Illinois. I call the yeas and nays upon agreeing to the report of the committee of conference.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 53, not voting 64; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blair, Bontwell, Boyd, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Driggs, Eckley, Eliot, Farnsworth, Fenton, Garfield, Gough, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Littlejohn, Loan, Longyear, McBride, McClurg, Samuel P. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, William H. Randall, John H. Rice, Schenck, Shannon, Sloan, Smith, Smithers, Spalding, Tracy, Upson, Van Valkenburg, Edwin B. Washburne, William B. Washburn, Wilbur, Wilder, Wilson, Wisdom, and Woodbridge—65.

NAYS—Messrs. William J. Allen, Alley, Ancona, Baily, Blaine, Bliss, Chandler, Colthorpe, Cox, Dawson, Denison, Eden, Edgerston, Eldridge, English, Frank, Ganson, Griswold, Benjamin G. Harris, Charles M. Harris, Hutchins, Kerian, Knapp, Law, Le Blond, Long, Mallory, Marcy, Middleton, William H. Miller, James R. Morris, Noble, Odell, Patterson, Ponderton, Perham, Pruyn, Samuel J. Randall, Alexander H. Rice, Robinson, Edward H. Rollins, James S. Rollins, Ross, Scofield, John B. Steele, William

G. Steele, Stevens, Stiles, Thomas, Wadsworth, Webster, Wheeler, and Winfield—53.

NOT VOTING—Messrs. James C. Allen, Anderson, Augustus C. Baldwin, Blow, Brandegee, Brooks, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cravens, Thomas T. Davis, Donnelly, Dumont, Finck, Grider, Grinnell, Hale, Hall, Harding, Harrington, Herrick, Holman, Hubbard, Philip Johnson, William Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Lazear, Marvin, McAllister, McDowell, McIndoe, McKimsey, Morrison, Nelson, John O'Neill, Perry, Pike, Pomeroy, Price, Radford, Rogers, Scott, Starr, Stebbins, Strouse, Stuart, Sweat, Thayer, Voorhees, Ward, Whaley, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—64.

So the report was agreed to.

During the roll-call,

Mr. VAN VALKENBURGH stated that Mr. A. W. CLARK was paired off with Mr. ROGERS.

Mr. ORTH stated that he was paired off with Mr. HOLMAN, otherwise he would vote in the affirmative; also, that it was agreed with Mr. HOLMAN that he [Mr. ORTH] should be at liberty to vote should it become necessary to make a quorum.

Mr. STUART stated that he was paired off with Mr. THAYER.

Mr. HALE stated that he was paired off with Mr. KALBFLEISCH.

Mr. FRANK stated that Mr. POMEROY was paired off with Mr. NELSON.

Mr. O'NEILL, of Ohio, stated that had he been in when his name was called he would have voted in the negative.

A number of additional votes having been recorded, and there being a quorum, lacking one vote,

Mr. ORTH said: It appearing now that my vote is necessary for a quorum, I vote in the affirmative.

Mr. HARDING stated that he would have voted in the negative had he been present when his name was called.

Mr. SWEAT stated that he was paired off with Mr. BLOW.

The result was then announced as above recorded.

Mr. SCHENCK moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

Mr. ELDRIDGE demanded the yeas and nays.

Mr. ANCONA moved that the House adjourn; and upon it demanded the yeas and nays, and tellers upon the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion to adjourn was not agreed to.

The yeas and nays were ordered on the motion to lay the motion to reconsider on the table.

Mr. SCHENCK. I withdraw the motion.

WASHINGTON AQUEDUCT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, urging upon Congress an appropriation during its present session for the Washington aqueduct.

Mr. STEELE, of New York, asked unanimous consent to introduce a joint resolution for the payment of the existing liabilities and the superintendence and repairs of the Washington aqueduct.

The resolution, which was read for information, appropriates the sum of \$35,000 for the purpose of paying existing liabilities and the expenses of superintendence and repairs of the Washington aqueduct.

Mr. WASHBURN, of Illinois, objected.

JOHN HASTINGS.

A bill (S. No. 274) for the relief of John Hastings, collector of the port of Pittsburg, was next taken from the Speaker's table, and read a first and second time by its title.

The bill directs the Secretary of the Treasury, in adjusting the accounts of John Hastings, as collector of the customs at the port of Pittsburg, to give him credit for the sum of \$9,956 62, the amount of the public money of which he was robbed on the 10th of March, 1854, while acting in the aforesaid capacity.

Mr. HALE. That bill has now passed the Senate three several times. Even that alone would be sufficient to justify this House in passing the bill without at all entering into the merits

of the case. But since the last passage of the bill before this time Mr. Hastings has entered the service of the country as a volunteer, and has been wounded in the service and is now a cripple for life. There is that additional reason why we should pass this bill now.

I will merely say that the testimony in the case shows conclusively that the custom-house at Pittsburg was broken open by robbers and the money taken out of the vault, and the object of this bill is to credit Mr. Hastings with the amount of money so taken from the safe.

Mr. MOORHEAD. I desire merely to say that there is very great doubt about the robbery of the custom-house in my mind and in that of the people of the district; but Mr. Hastings, who was the collector, has since served as a volunteer in the Army, and has been disabled for life; he is now a cripple, and will never be able to support himself. I do not, therefore, intend to make any opposition to the bill, but I am not willing that my colleague shall state to the House things as facts which I do not think are facts.

Mr. HALE. The testimony satisfied three committees of the Senate that the custom-house was broken open and the property taken. The bill has passed the Senate three times, and I think, under the circumstances, we may safely pass it now. I demand the previous question.

The question was put on seconding the demand for the previous question, and no quorum voted.

Tellers were ordered; and Messrs. HALE and WILSON were appointed.

The House divided; and the tellers reported—ayes 33, noes 64.

So the House refused to second the demand for the previous question.

Mr. FARNSWORTH moved to lay the bill on the table.

The motion was agreed to.

Mr. WILSON moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAPERS WITHDRAWN.

On motion of Mr. MARCY, leave was granted for the withdrawal from the files of the House of the papers in the case of Albert Brown.

SPECIAL INCOME DUTY.

Mr. MORRILL. I again ask the consent of the House to report from the Committee of Ways and Means a joint resolution imposing a special income duty.

Mr. DAWSON. I object.

BRANCH MINT IN OREGON.

Mr. McBRIDE. I ask the unanimous consent of the House that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill of the Senate (No. 185) to establish a branch mint of the United States at Dalles City, in Oregon, with a view to its being put on its passage.

No objection being made, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill.

Mr. McBRIDE. Mr. Speaker, aware that this measure is liable to encounter some opposition in this House, and that there is with many members of this body a great want of information in regard to the merits of the proposition, I shall ask to be pardoned while I state as briefly as possible the reasons for the passage of this bill.

First allow me to state that the point where the proposed branch mint is to be located is about one thousand miles north of San Francisco and about three hundred miles in the interior from the mouth of the Columbia river. Its establishment at this point will accommodate all the mining region from the summit of the Rocky mountains westward, lying north of the southern tributaries of the Columbia river, an extent of country not less than from five to seven hundred miles from east to west and one thousand miles from north to south, in almost every quarter and portion of which extensive and productive mines are being discovered and worked. But the principal part of this extensive mining interest is upon those branches of the Columbia which drain the country east of the Cascade mountains, and the supplies for which are drawn from the sea by that

great artery of the Pacific slope, the Columbia river.

The Snake river, its principal southern branch, is now regularly navigated to Lewiston, capital of Idaho Territory, and distant six hundred miles by water from the Pacific ocean. The Oregon Steam Navigation Company alone own and employ on this line more than a dozen first-class steamers, and have built and have in successful operation twenty-two miles of railway over the portages at the Cascades and Des Chutes falls, over which hundreds of tons of freight and merchandise are daily transported to the vast region of the interior.

I speak of these facts that the House may be assured that they are not being called upon to vote for a proposition that has no better foundation than an opinion that it may turn out a "good thing," but to show that already the vast material interests of the country which seek this legislation are so far developed as to place the propriety of the measure beyond a doubt.

The population of Idaho Territory alone, which is exclusively a mining community, cannot be less than fifty thousand; eastern Oregon is filled with either a strictly mining population or with those who depend upon the mines incidentally for their prosperity, and the same is true of all that portion of Washington Territory lying east of the Cascade range of mountains. When I place the population of this region of country, whose mining interests we propose to accommodate, at one hundred thousand, and which is being daily increased by an immigration of an extraordinary character, I am satisfied that I may far underrate the truth. Where eighteen months ago was a lonely wilderness, the home of the Indian and the wild beast, there stand to-day towns containing from two to five thousand people, and every gulch and ravine is yielding its treasure to the enterprise of the hardy miner.

Representing, then, sir, the interests of this large and increasing population, to whom it is important, almost indispensable, speaking relatively, I ask the adoption of this bill.

It is admitted on all sides that something ought to be done, and the Committee of Ways and Means reported a bill some months ago providing for an assay office and appropriating \$75,000 for its establishment. The only difference between their proposition and the present one is, that this appropriates \$100,000 instead of \$75,000; that is a difference of \$25,000 in the matter of expense; and some gentlemen have inquired of me why an assay office would not answer our purpose just as well. The reason why it will not is, that the local currency and standard of value on our coast are gold and silver. Producing it in our midst, never having had any paper currency whatever, (in my own State banks are prohibited altogether by the State constitution, and in the adjoining Territories they are as effectively prohibited by public opinion,) it is the only article which our people know as money. The man who undertakes to discharge his obligations to his creditor with "greenbacks" makes a wreck of his credit and reputation the moment he does it. An indignant debtor who has been sued or feels that he has been unjustly oppressed by his creditor sometimes pays off a judgment with Government currency, and when he has done so he feels that his wrongs have been amply revenged by the act. "Greenbacks" are bought and sold as any other commodity at fifty, sixty, or seventy cents on the dollar, as the case may be, but they form no part of the circulating medium of the country—what in other words we call money.

Such was the feeling of our people on this subject, that when our State Legislature last year (of which I was a member) appropriated the amount necessary to pay the direct tax levied upon us by the law of 1861, it was appropriated in coin. Although the Government was at the time paying its creditors with paper we felt it due to our own honor to pay our debts even to her in coin.

As an assay office only ascertains the amount of gold, and separates it from other extraneous matter and metal, it is obvious that it can be of no service in furnishing a circulating medium. Indeed, we have private assay offices in different parts of that country, but they do not supply the object for which we ask this appropriation. In assay offices the gold is melted and run into

slugs and bars varying in size from a cake of soap up to a Patent Office report, with its weight and fineness stamped upon it. That is all. When the owner sells it, he must always submit to such a shave as the brokers who make their own terms see proper to inflict, and this last is made by a calculation of how much the miner will pay, submit to, before he will take the trouble and expense of going or sending to the mint at San Francisco.

When we ascertain that from Portland, Oregon, which is the seaport city of the State, and the entrepot of its trade with San Francisco, the express charges to the mint are five per cent., insurance two and a half per cent. more, and the loss of time from one to three months, we can have some idea of the amount of the shave which the people have to and do submit to. This is altogether exclusive of the charge of transmitting the bullion from three to six hundred miles out of the interior before it reaches this point.

But there is still another reason. Gold is various in quality—some is worth twelve and some eighteen dollars per ounce, and all along between these figures. Those who take coin into the mining region with which to buy it of course fix its value. It may be unjust to the miner, it never is to the purchaser; it is always arbitrary, the result of agreement among the buyers, but the seller has to submit. He is a thousand miles away from a mint, he needs the coin to pay his debts or purchase supplies, and whatever the speculator offers he is compelled to take. When, therefore, I state to this House that the mining population are, by the lack of minting facilities, robbed of from ten to fifteen per cent. of their product, I do not exaggerate the facts.

And now, sir, I propose to call attention to the amount of the annual product of these mines as derived from the best attainable data. And I ask that an extract from a letter addressed by my colleagues in the Senate and myself to the chairman of the Senate Committee on Finance on this measure while it was pending before that committee be read by the Clerk.

The Clerk read, as follows:

WASHINGTON, January 20, 1864.

Much of the treasure taken from these mines finds its way out of the country in the hands of private individuals. There is no common place of deposit for it where it can be credited to its source, and making it almost impossible to estimate its amount justly. The various express companies can give the amount which they transport, but this leaves an immense amount, which any one knows to exist who is acquainted with the independent mode in which a great many persons transact their business, thus entirely unaccounted for. As an instance of this, a late Portland (Oregon) paper states that the express company brought down by the daily steamer of the Columbia river only \$1,000 in gold dust, while the same paper gives the names of two passengers who had over three hundred pounds in their possession, and others mentioned had smaller amounts. We say, therefore, that while the books and receipts of express companies show the only accurate statistics on the subject, they give no idea of the vast resources in mineral of the section, the interests of which will be accommodated by this measure.

Such data as we have we now submit. There are three private assay offices in the city of Portland. The amounts received by them, as shown by their books, an abstract of which is published in the "Oregonian" newspaper for November last, from January 15, 1863, to October 20, following, is \$2,486,496 65. As an evidence of the growth of the product of gold we may mention that one office, making monthly statements of the amount received, gave for each of the two months preceding the last account almost double that of those earlier in the year.

Mr. Benjamin Holliday, of New York, who is the owner of the line of steamships plying between San Francisco and Portland, informs us that he has transported from Portland an average of from six to seven hundred thousand dollars per month during the past summer and autumn. This statement does not include the amounts in the hands of passengers, of which he knew nothing, but which, owing to the high insurance, we must conclude were large.

There being no regulation at the branch mint in San Francisco requiring the depositor of bullion to designate whence it came, there is no other means of obtaining any just estimate than by reports of the kind to which we refer. The recently published reports from San Francisco, made by a commercial board of that city, of the amount of bullion received there for the past year, credits Oregon and British Columbia with a product of five millions. This, of course, is based upon the receipts by shipments and through express companies, and leaves a vast amount—the whole that is diffused through the mining region and that portion which enters the circulation of business and agricultural parts of Oregon, and that shipped in the hands of passengers—unaccounted for. This, we do not hesitate to say, we believe amounts to as much more.

We might give many items showing that the mines tributary to the proposed branch mint are very productive, but we refer to only one, and that only because it came directly to the knowledge of one of the undersigned. That

was an instance where three men in six weeks' time, with their own hands, dug out \$180,000. These instances are not common, we admit, but they serve to show the exceeding riches of some portions of this northern region, and indicate the wealth which must soon there be developed. For the purpose of stimulating this development by providing the miner with a place for the assay of his gold without the loss of time, the risk of transmission by sea to San Francisco, and the payment of expressage and insurance fees, and to prevent the swindling dealer in coin from robbing the miner of his fair earnings by his unjust discount, which many prefer to submit to rather than the inconvenience just alluded to, we ask you to favorably consider the proposition.

J. W. NESMITH,
B. F. HARDING,
JOHN R. MCBRIDE.

Hon. W. P. FESSENDEN,
Chairman of Senate Finance Committee.

TONS OF GOLD.—The Nez Percé Chief brought down last evening the richest freight that any steamer on the Columbia river ever bore. Wells, Fargo & Co. had 183 pounds, (\$35,000); one party of six miners had 800 pounds, (\$150,000); another party of six men had 700 pounds, (\$134,400); another party of two men had 300 pounds, (\$57,600); while one man had 150 pounds, (\$28,000). Thus we have a total of 1,950 pounds (\$370,000) in the hands of fifteen "honest miners," and 183 pounds (\$34,000) in the hands of Wells, Fargo & Co. All of these fifteen persons our informant, who came down in the Chief, saw and conversed with. He also learned that nearly all the passengers had plenty of money. So it is fair to conclude that two tons of gold dust came down on the Chief last evening.—*Dallas Journal*, October, 1863.

Mr. McBRIDE. In corroboration of this I will remark that a subsequent publication of the amount assayed in the two assay offices of the city of Portland, Oregon, shows that from the month of June, 1863, to the month of February, 1864, about seven months, the amount assayed was only a small fraction below five million dollars. The Railroad Record of June 16, 1864, gives the increase in the amount of gold exported from San Francisco during the four months previous to May 1 over the corresponding period of 1863 at \$6,001,624 89. This increase it is well known is owing to the shipments from the Columbia river to San Francisco, as the gold yield of California is known to be declining. When we recollect that there is another assay office at Dallas City from which we have no return, that the speculators and brokers in gold dust take their bullion to the mint in San Francisco without assay, and, in consequence of the shave which they impose upon those of whom they purchase, that large producers take their dust out of the country in private hands, the actual amount assayed furnishes no adequate idea of the amount produced. The Superintendent of the Mint at Philadelphia in his annual report to the Secretary of the Treasury, speaking of this new region, says:

"Idaho at this time especially claims our attention. It is emphatically the land of promise and of gold. This region was set off as a separate Territory at the last session of Congress. It lies north of Colorado and Utah, and takes in the northern ranges of the Rocky mountains, with the headwaters of the Missouri, Columbia, Yellowstone, and North Platte rivers. The localities where workings have been commenced are numerous, but many of them have not been reported or described. They must be various and widely separated, judging from the characteristic varieties in quality of their productions. Among the deposits received we have had grades of fineness from 795 to 949 thousandths; the latter in considerable quantity from Salmon river, a tributary to the Columbia. The quality of the gold produced from the mines of Idaho is equal to that in the older regions of our country, and the quantity appears to be inexhaustible.

"Not less promising are the mines opening in Oregon and Washington Territory. The workings are numerous and constantly increasing in number. The characteristic energy of our people will no doubt soon develop the mineral wealth of those far distant regions, and thus invite and stimulate emigration to our north Pacific Territories.

"In Oregon the fineness of gold seems to be tolerably regular and steady and nearly equal to the average of California. In the gold from Washington Territory the variation is great, ranging from 650 to 938 thousandths.

"The returns from Oregon and Idaho and Washington Territories are as yet imperfect; but enough is known to warrant the statement that in quantity and quality the gold of those regions will rival if not surpass the productions of the California mines."—*Report on Finance*, pp. 187, 188.

And my honorable friend from Vermont, who is seldom given to exaggeration, in his late speech on the tax bill estimates the annual yield of bullion of the Territories of Idaho, Washington, New Mexico, Arizona, and the State of Oregon, at \$45,000,000. By far the larger portion of this must come from western Idaho, excluding Montana, Oregon, and Washington; so that in any separate estimate founded upon known facts, he must have intended to credit the district of country which this mint is to accommodate with

not less than from twenty-five to thirty millions. And, sir, although I do not believe that so much as that was produced there the past year, I have no doubt that for the future it is a low estimate.

And, sir, while these people are pouring millions of treasure into the lap of the nation, is nothing to be done for them except to expose them to the extortions of money-brokers and speculators, and to fleece them by taxation? But for the bullion which the labor and energy of the miners of the Pacific coast supply, the fabric of your national credit would tumble into ruin within a month; and, sir, in one sense the destiny of this nation is in their hands. With the resources which they can furnish we can not only ride out the fearful whirlwind of this rebellion, but restore in time the material credit and prosperity of the nation. Anything which tends to and stimulates the development of these mines is a great national good, and as such should receive favorable consideration.

My friend from Pennsylvania [Mr. STEVENS] thought the other day that the mining population "had been spoiled by indulgence," and that we were seeing the results of their indulgence in their wishes expressed in this Hall by their Representatives. Sir, the miners of the Pacific coast are not spoiled by favors; but they do know the immense power which is in their keeping, and their relative importance to this nation, and knowing this it is not strange that they should seek legitimately their just rights, and even the taunts of my friend cannot provoke them into anything but a fair presentation of their case before the country. When we can have a hearing we know that justice will be done. But when you approach a population producing from fifteen to twenty millions of treasure and tell them that though it will save them and through them the nation millions annually, you deny them an appropriation of \$100,000 for the erection of a branch mint, you need not be surprised if they upbraid you with the injustice of your course. You keep up the Mint at Philadelphia that costs \$3,000,000 only per year, at an annual expense of hundreds of thousands, and refuse to establish one at small cost where there is absolute and imperative need for it. You have established branches at New Orleans, at Dahlonega, and at Charlotte, where during their whole existence they have not minted as much as our mines produce in a single year, but refuse a branch to us. You erected one in Colorado when the product of her mines as shown by accurate returns was only four millions, while you refuse it to us when we produce fifteen, with a speedy and certain promise of large increase. Sir, you may do this, but you cannot convince our people while you refuse this boon to them that you are not discriminating against them by partiality and injustice.

Some gentlemen are fearful lest the mint be made a source of great expense to the Government. This is a false idea. Any mint doing a large and regular business can be made self-sustaining. At even the moderate charges at present imposed, the San Francisco mint, as the late superintendent, Mr. Stevens, informs me, lacked only a few thousand dollars of paying expenses and sustaining itself. The Mint at Philadelphia costs us a large sum, but it has comparatively little to do and is not operated with any special regard to economy; indeed, if I were to say that it was more a political almshouse than a useful public institution, I presume I would do no injustice to the truth. A man in California can send his bullion to the Mint at Philadelphia and have it returned in coin with quite as much safety and expedition as a man in the mines of the northwest can send to San Francisco and procure his return. And it would be as unjust to compel us to go to San Francisco to mint our treasure as it would to compel the California miner to come to the city of Philadelphia.

Fully convinced that this bill is just and reasonable, that it is based upon sound policy, upon economy and fairness, I confidently appeal to this House to pass it without delay.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. McBRIDE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHARLES A. PITCHER.

Senate bill No. 338, (the last bill on the Speaker's table,) for the relief of Charles A. Pitcher, was then taken from the Speaker's table, read a first and second time by its title, and referred to the Committee of Claims.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred to the Committee of Claims; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER then proceeded, as the regular order of business, to call the committees for reports.

BUREAU OF FREEDMEN'S AFFAIRS.

Mr. ELIOT, from the select committee on emancipation, reported back bill of the House No. 51, to establish a Bureau of Freedmen's Affairs, with the amendment of the Senate thereto, and moved that the amendment of the Senate be non-concurred in.

Mr. BROOKS. I ask that the amendment be read.

The Clerk proceeded to read the amendment.

Mr. WASHBURN, of Illinois. I hope the gentleman from Massachusetts will withdraw this report for the present and let us go on with the call of committees. The Committee of Ways and Means will be reached in a few moments, and the gentleman from Vermont [Mr. MORRILL] informs me that if the special income duty bill can be passed, all the remaining business of the session can be disposed of to-night. I hope, under these circumstances, the gentleman from Massachusetts will let this bill be passed over.

Mr. ELIOT. I cannot consent to that.

Mr. GRISWOLD. I desire to ask if a motion to lay the bill upon the table is in order or not?

Mr. WASHBURN, of Illinois. It would be in order, I presume, to move to postpone the bill until next session.

The SPEAKER. The gentleman would have a right to make a motion to lay the bill upon the table, but any gentleman would have a right to demand the reading of the bill.

Mr. GRISWOLD. I move to postpone the consideration of the bill.

The SPEAKER. Does the gentleman from Massachusetts demand the reading of the amendment?

Mr. ELIOT. I have not demanded it. The gentleman from New York [Mr. BROOKS] called for the reading.

Mr. WASHBURN, of Illinois. I hope the gentleman from New York will withdraw that call.

Mr. BROOKS. I will withdraw it for the motion to postpone.

Mr. GRISWOLD. I move, then, to postpone the further consideration of the bill until the 20th of December next, and on that motion I demand the previous question.

The previous question was seconded, and the main question ordered.

The motion to postpone was agreed to.

Mr. COX moved to reconsider the vote by which the motion to postpone was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REPRESENTATIVES FROM ARKANSAS.

Mr. DAWES, from the Committee of Elections, reported back the resolution referred to it to-day, with an amendment in the nature of a substitute, directing the Clerk of the House to pay, out of the contingent fund of the House, to Messrs. Rogers, Johnson, and Jacks, as claimants for seats on this floor as members of the Thirty-Eighth Congress from the State of Arkansas, the usual mileage of members for one session for the distance actually traversed by them, and moved the previous question.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the amendment was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

OBITUARY ADDRESSES ON OWEN LOVEJOY.

Mr. BAILY, from the Committee on Printing, reported a resolution directing that there be

printed for the use of the House three thousand copies of the addresses delivered in the Senate and House of Representatives on the death of the late Owen Lovejoy, and moved the previous question.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

SPECIAL INCOME TAX.

Mr. MORRILL, from the Committee of Ways and Means, reported a joint resolution imposing a special income duty.

The joint resolution was read a first and second time. It directs that in addition to the income duty already imposed by law there shall be levied, assessed, and collected, on the 1st of October, 1864, a special income duty on gains, profits, or incomes for the year ending 31st December, 1863, of all persons residing within the United States and of citizens of the United States residing abroad, at the rate of five per cent. on all sums exceeding \$600; provided, that in estimating annual gains, profits, or incomes no deduction is to be made for dividends or interest received from any association, corporation, or company, nor shall any deduction be made for any salary or pay received.

Mr. RANDALL, of Pennsylvania. I raise the point of order that this being a revenue measure must be considered in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the joint resolution imposing a special income duty.

Mr. ANCONA demanded tellers.

Tellers were not ordered.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. FENTON in the chair,) and proceeded to the consideration of the joint resolution imposing a special income duty.

Mr. MORRILL. Mr. Chairman, I had hoped that we had already introduced our last tax bill; but it seems to be necessary, from the fact that the enrollment bill requires bounties to be paid, and in consequence of an opinion that prevails in some quarters that our tax bill is not fully adequate, that we should introduce this measure. I desire to correct a misapprehension on the part of those who have made computations as to the amount of revenue that will probably be derived from the internal revenue bill. Important errors have been committed, as I think, in these calculations, and to which the late Secretary of the Treasury, without sufficient examination, has given currency in his letter to the Committee of Ways and Means already published. For instance, the estimate on railroads, steamboats, ferries, and vehicles is based on the idea that we have only included in that section just what was embraced in the former act, while we have really included in addition all the coasting trade, the lake trade, the river trade, and the freight on canals; so that not a pound of freight nor a passenger can be transported on our coasts, lakes, rivers, or canals, as well as on all our railroads, without contributing to the revenue of the country. I think there is an underestimate here of not less than \$5,000,000.

Upon brokers' scales the estimate of the Department when the bill was introduced was \$10,000,000. As the bill finally passed the rates were largely increased, and yet the estimate of Collector Orton and Cashier Rollins is only \$2,000,000! All estimates must be more or less conjectural, but how so wide a discrepancy should have been made passes my comprehension. If we do not realize more than twice two millions it will be because the law is not executed.

On spirits, also, the amount, in my judgment, is very much underestimated by these gentlemen who have so swiftly furnished an estimate so much below that of the House Committee of Ways and Means and the Senate Committee on Finance—including the new Secretary of the Treasury—as well as that carefully prepared by the Commissioner of Internal Revenue. The amount of

annual distillation of spirits in this country is not less than 100,000,000 gallons; the amount exported is usually about 10,000,000 gallons; and the amount consumed in manufactures is supposed to be not more than 5,000,000 gallons. Now, allowing that there may be a decrease in the amount of distillation in consequence of the high price of grain as well as in consequence of the high taxes imposed upon liquors; conceding that the production may be 25,000,000 gallons less than heretofore, there will still remain 60,000,000 gallons upon which a duty will be collected. I venture to argue that the amount of distillation will not fall off very materially until the 1st of February next, when the duty upon liquors is to be increased from \$1 50 to \$2 per gallon; so that the amount produced for this year will be nearly the same as usual. Making, however, all allowances for the falling off in the production and consumption which some gentlemen expect, the revenue upon this article should be based upon not less than 50,000,000 gallons, and will not be less than \$15,000,000, therefore, in excess of what it has been estimated by Messrs. Orton and Rollins, and will more likely be \$30,000,000 more than \$15,000,000.

It was not my intention, Mr. Chairman, to discuss this bill at any length. I wish to show to the House some of the data upon which the amount of revenue to be derived from the bill we have passed has been much underestimated. I do not like to have so crude an estimate go forth to damage the credit of the country, though of course it was not so intended. There are many other articles to which I might refer. For instance, the article of gold watches to be assessed at one dollar each appears to be omitted, (for Schedule A is not increased enough to include them.) No mention is made either in the estimate referred to of pianos, on which a tax is to be paid of two and four dollars each. The amount we are to receive by increased taxes on stamps will be found to add considerably to the revenue. The increase is very large both in amount and in scope, and I think may be fairly computed at not less than \$5,000,000 more than the estimate of Messrs. Orton and Rollins. The amount of increase on the single article of lucifer matches will be not less than \$2,000,000, and yet no mention is made of them at all.

So of bank capital; beyond what is invested in United States securities no notice is taken of it at all, and yet no tax will be more surely paid, whatever it may be. Take the item of malt liquors: the consumption in 1860 was four million barrels, and with the high rate of tax now imposed on spirits will undoubtedly very soon be not less than five or six million barrels, or as soon as barley can be had at a reasonable price.

Take the item of successions to real estate; this estimate places the amount to be received at \$750,000. Yet we know that the whole real estate of the country changes hands as often as once in thirty years or in the life of a generation. No part of this which passes each year can escape the tax, and must largely exceed that to be derived from legacies of personal property; but these gentlemen estimate the revenue upon legacies at \$2,000,000, or nearly three times as much as upon the entire successions to real estate, whether by will or otherwise!

In relation to licenses I cannot think the general clause by which everybody having a profession or business by which a thousand dollars shall be obtained was thought of, nor could it have been borne in mind that wholesale dealers will be required to pay one dollar upon the sales of each additional thousand dollars above fifty thousand dollars.

These learned statisticians put down the revenue from tobacco, snuff, and cigars at \$20,000,000. It cannot be less than \$25,000,000; and if penalties shall be exacted in all proper cases, it is very likely to be more. The income tax is estimated at \$30,000,000, and I think that is full enough, although the Commissioner of Internal Revenue calculates upon a much larger sum.

After making only reasonable corrections it will be seen that the amount to be anticipated will be not less than \$40,000,000 beyond the late estimate of Messrs. Orton and Rollins. I concede that the bill will not produce so much the first month or two after it goes into operation as may ultimately be reached; but it will produce a very large

amount more the first year than Messrs. Orton and Rollins have given us reason to expect.

I shall publish in the Globe this last estimate of Messrs. Orton and Rollins, with some corrections which appear proper to me; (A.) I will also insert the estimate made by the Commissioner of Internal Revenue when the bill was first before the House, (B;) and another by the Commissioner (C) as it passed the Senate. The committee of conference in almost every case, including the rates on liquors, agreed upon the highest rates, so that the act will bring in over twenty millions more than it would as the bill left the Senate.

A.

Estimated Receipts of Internal Revenue for the fiscal year ending June 30, 1865, under act June 25, 1864; sent by the Secretary of the Treasury to the Committee of Ways and Means as having been made by Mr. Orton and Mr. Rollins.

		Additional.
Auction sales.....	\$300,000	
Brokers' sales.....	2,000,000	\$3,000,000
Advertisements.....	115,000	
Railroads, steamboats, ferries, vehicles, &c.....	6,400,000	
Express companies, \$35,000; telegraphs, \$30,000.....	65,000	
Lotteries.....	50,000	
Theaters, shows, &c.....	100,000	
Income.....	30,000,000	
Legacies.....	2,000,000	
Successions.....	750,000	2,000,000
Licenses.....	10,000,000	2,000,000
Malt liquors.....	3,000,000	1,500,000
Tobacco, snuff, and cigars.....	20,000,000	5,000,000
Distilled spirits.....	60,000,000	15,000,000
Iron.....	5,000,000	1,000,000
Leather.....	2,500,000	
Bullion.....	500,000	
Quicksilver.....	30,000	
All other productions and manufactures.....	60,000,000	
Schedule A—pianos, carriages, and instruments.....	750,000	250,000
Slaughtered animals.....	4,000,000	
Passports.....	20,000	
Stamps.....	7,000,000	5,000,000
Dividends, interest, &c.....	3,750,000	
Bank circulation, bank capital.....	2,000,000	
Bank deposits.....	2,500,000	
Salaries.....	2,450,000	
Insurance premiums.....	600,000	
Penalties and forfeitures.....	150,000	
Total.....	226,030,000	\$33,750,000
From which deduct expense of assessing and collecting taxes, allowance for drawback of duty on exported goods, and for taxes erroneously assessed.....	6,030,000	
Total net receipts.....	\$220,000,000	

Omitted.

Bank capital.....	\$1,000,000
Watches.....	400,000
Pianos.....	600,000
Freight, canals, coast, lake, and river.....	3,600,000
Stamp matches.....	2,000,000
Underestimate, per margin.....	33,750,000
Total.....	\$41,350,000

B.

Recapitulation of Estimate per House bill, computed from present rate of collection.

Auction sales.....	\$377,500 00
Brokers' sales.....	10,000,000 00
Advertisements.....	90,000 00
Bridges.....	66,915 00
Ferry-boats and steamboats (gross receipts).....	884,290 00
Express business.....	34,572 00
Railroads.....	4,879,826 23
Telegraph companies.....	30,000 00
Lotteries.....	25,000 00
Theaters.....	100,000 00
Income.....	33,633,333 33
Legacies.....	1,933,265 74
Successions.....	3,000,000 00
Licenses.....	8,337,936 41
Malt liquors.....	2,404,876 00
Tobacco, snuff, and cigars.....	24,753,369 25
Iron.....	4,992,776 42
Spirits.....	54,000,000 00
Gold, silver, and quicksilver.....	900,000 00
Leather.....	2,852,962 88
Other manufactures and productions.....	66,145,883 92
Schedule A.....	776,500 00
Slaughtered animals.....	4,363,361 00
Passports.....	10,000 00
Spirits on hand.....	1,000,000 00
Tax on salaries.....	5,900,000 00
Tax on dividends of banks, &c.....	2,450,000 00
Tax on circulation of banks.....	4,800,000 00
Tax on deposits.....	7,200,000 00
Tax on premiums of insurance companies.....	2,700,000 00
Penalties.....	832,500 00
Total.....	\$249,546,724 18

C.

Estimate of the product of the internal revenue bill, as passed by the Senate, for one year.

Auction sales.....	\$377,500 00
Brokers' sales.....	3,000,000 00
Advertisements.....	115,000 00
Bridges and toll roads.....	35,000 00
Railroads, steamboats, &c.....	6,350,000 00
Express companies.....	35,000 00
Telegraph companies.....	30,000 00
Lotteries.....	50,000 00
Theaters, operas, &c.....	100,000 00
Income.....	50,000,000 00
Legacies.....	1,933,265 74
Successions.....	3,000,000 00
Licenses.....	9,324,872 00
Malt liquors.....	3,000,000 00
Tobacco, snuff, and cigars.....	26,133,369 25
Spirits at \$1*.....	54,000,000 00
Iron.....	5,430,657 38
Leather.....	2,853,962 88
Bullion.....	450,000 00
Quicksilver.....	30,000 00
Other manufactures and productions.....	65,862,893 06
Schedule A.....	776,500 00
Slaughtered animals.....	4,352,461 00
Passports.....	16,500 00
Stamps.....	6,500,000 00
Dividends.....	4,800,000 00
Bank circulation.....	2,000,000 00
Deposits.....	3,000,000 00
Salaries.....	2,450,000 00
Insurance premiums.....	832,500 00
Penalties.....	173,756 00
Total.....	\$257,460,337 31

* As the law finally passed, the Commissioner estimates the amount of revenue will be \$275,000,000.

I know how uncertain predictions relative to financial affairs usually turn out, but with anything like the prosperity witnessed for the past two years in the business of the country our revenues from all sources will be ample and entirely unexampled in the history of this or any other country. Nearly two hundred millions of additional taxation will be at once placed upon the country. We may expect from October 1, 1864, to October 1, 1865, from the

Tariff.....	\$85,000,000
Internal revenue.....	275,000,000
War income tax.....	20,000,000
Miscellaneous sources.....	10,000,000
Total.....	\$390,000,000

This is surely large enough to make our people economical, to check all reckless extravagance, and give our securities a substantial foundation of credit here or elsewhere. It may not be known, but I learn the internal revenue for May or June last, I forget which, was \$15,000,000, and that under the old law, or at the rate of \$180,000,000 per year, which was not expected to produce much more than \$100,000,000 annually. There need be no apprehension that the act of this session will not bring forth all that its friends have claimed for it.

In respect to the tax on incomes for 1863 it was fixed at three per cent. above \$600 and not above \$10,000, and for all over \$10,000 at five per cent. This joint resolution proposes to impose a special tax upon incomes of five per cent. on all sums exceeding \$600, payable out of the income of this year and based on the list of last year. I think as a whole, and taking it alone, there is no tax more equal than an income tax. Certainly it will press more severely upon my part of the country, upon New England, than any other portion of the country, with perhaps the single exception of the city of New York, and it is in all cases to be paid by those who are able to pay it and who have most at stake in sustaining the credit of the country.

Mr. BROOKS. Let me ask the gentleman from Vermont how much revenue he expects to derive from this joint resolution.

Mr. MORRILL. Not less than \$20,000,000. The purpose is to meet the bounties which we have just authorized by the enrollment act, and it will just about do that. If we shall enlist by bounties two hundred thousand men it will require \$20,000,000 to pay bounties, and this will do it.

Mr. Chairman, this subject has been so thoroughly discussed during the present session of Congress, that now, as we are approaching the last hours of the session, no gentleman will desire to make a speech upon the subject, and I will therefore move that the committee rise for the purpose of closing debate.

Mr. DAVIS, of Maryland. I ask the gentle-

man to withdraw that motion to allow me to submit an amendment and say a single word in explanation of it.

Mr. MORRILL. I will withdraw the motion for that purpose.

Mr. DAVIS, of Maryland. I submit the following amendment as an additional section:

And be it further resolved, That there shall be levied and collected from every bank, company, or association having notes in circulation as currency (other than national banks organized under the laws of Congress) ten per cent. on the average amount of the notes of such bank, company, or association in circulation during the year ending the 31st of December, 1864, and for each and every year thereafter.

My purpose in offering that amendment is this: we are proposing now to levy an extraordinary and almost oppressive income tax, and if we are to impose additional taxes I wish to see the Government taking a step in the right direction toward the cure of the great evil of its finances. When the Government now levies two dollars, we only get the value of one dollar. The reason of that is there are now two or three different currencies, one or other of which has reduced the value of the currency one half or one hundred per cent. and more. The reason of that is this: in 1860 the specie circulation and the circulation of the banks were about three hundred million dollars. Those two items now amount to \$339,000,000. In addition to that we have of United States notes in circulation \$448,000,000. We have in addition Treasury notes operating as circulation to the extent of \$162,000,000. If we add up the items of the existing circulation of the country it runs up to \$951,000,000, three times the actual circulation of 1860.

These figures explain the fact that gold is now two hundred or two hundred and fifty per cent. Those figures explain the fact that the enormous revenue we are raising will not pay the expenses of the Government. If you will strike out one half of the currency you will double the value of the revenue. If you will apply the remedy I have offered in my amendment I am willing to go for the additional income tax. If we are to incur two dollars for one dollar the tax cannot have my vote. I wish to see the Government take a step in the right direction. Cure the curse of inflated currency, and let us know if we levy a tax we get the value of the tax.

That is all I have to say. I renew the motion that the committee rise.

Mr. BROOKS. I ask the gentleman to yield to me for a moment.

Mr. DAVIS, of Maryland. I withdraw the motion and yield to the gentleman from New York.

Mr. BROOKS. I have only a few words to say in reply to the gentleman from Maryland. In my judgment the best way in reference to these national banks would be to retrace our steps exactly as we have done in the gold bill, and repeat the whole system; whereby not only \$300,000,000 of currency would be annihilated at once, but probably \$600,000,000 or \$800,000,000. A proposition so preposterous as that he has offered in reference to the State banks I do not think it worth while to discuss in the House. I think it will not have much support from either side of the House.

Why should this proposition for increased tax come from the gentleman from Vermont at this late day in the session? The other evening, when he addressed the House on the tariff bill and the internal revenue bill, the pictures which he drew of our prosperity were not only glowing but gratifying to both sides of the House.

Mr. MORRILL. I desire to say that I do not take back a single word which I uttered on that occasion. But we have authorized bounties to volunteers, and it is perhaps right to provide for them.

Mr. BROOKS. I want the gentleman from Vermont to adhere to his own opinions. These rescripts which come in from the Departments, these edicts which come here from the Treasury Department and elsewhere, orders to pass bills as desirable to them, is not the parliamentary and proper way, and is not that which in any way is likely to lead to proper deliberation and legislation on the part of the House.

Why has the gentleman selected the incomes of the country, now heavily laden with a five per cent. tax? Why does he come here with an exclusive, denunciatory tax upon the industry,

enterprise, and labor of the country; upon the manufacturing, commercial, and intellectual labor of the country? Why does he propose to lay his burdens exclusively upon them? Why has he not sought other sources of revenue? There is no other country where there is a landed property like there is throughout the United States, stretching from the lakes to the Gulf, and from the Atlantic seaboard to the distant shores of Oregon and California. Why has he not directed his attention to the farming interest of the country? That interest is now more prosperous than ever before. Hay is selling at forty dollars a ton, butter thirty to fifty cents per pound, and so on. The whole agricultural interest was never more prosperous than at this present moment.

The landed interest is not touched, not looked at at all; upon it no burdens fall, because the income tax levied upon landholders amounts to nothing, for in the adjudication of that income but few farmers pay any income whatever. They so regulate their work, so adjust their accounts, that little or no income tax comes from the farmers of the country. As the representative of a commercial, a manufacturing, and a mechanical people, as the representative of the commercial metropolis of the country, I protest against this heavy burden being placed upon that species of industry while the agricultural interest is exempt altogether.

Why is it not done? I know full well why it is not done. A presidential election is approaching, and the farming interest is powerful; farmers are numerous, their voice will be heard, and they are exempted solely because of their political power; while upon the mechanics of the country, the commerce of the country, and the manufacturers of the country, weaker in power, is proposed to be levied exclusively this income tax.

Be equal in your taxation; be just in your distribution of burdens. For political purposes gentlemen exempt the larger class of community from any of the greater burdens which ought to be imposed upon all equally. I hope some gentleman will propose to change this income tax, and provide that it shall be shared by the farmers of the country.

Mr. MORRILL. I am a little surprised that the gentleman from New York is not more conversant with our legislation on this subject, so that he can understand that the farmer will pay just as much as the mechanic, the merchant, or any person of any other class, provided he makes as much money. We tax gains, profits, and incomes, not men. Now, if there is a class that mainly makes the property of the country, which makes three, four, five, or ten dollars a day, thereby accumulating more than six hundred dollars a year, while the farmer with all his family at work barely makes a dollar a day, that class is to be taxed, and righteously taxed. There is no exclusion, and there is nothing but democratic equality in this income tax. Every man who makes more than six hundred dollars a year is to be taxed, let him be who he may, and taxed in just proportion to his annual gains and profits.

Mr. GANSON. When is this income to accrue?

Mr. MORRILL. It will be collected on the 1st of October next, before the year 1864 will have expired.

Mr. GANSON. I am rather surprised that the gentleman should propose a tax upon avails already expended when he opposes a tax on whisky on hand. He here proposes to tax incomes which have been exhausted, but does not propose to tax articles on hand.

Mr. MORRILL. The gentleman has an acute intellect, and he will not fail to discover the inconsistency and impropriety of proposing a tax for 1864, on the list of 1864, long before the year expires. This tax is based on the estimates or returns of 1863, and there is no other mode by which it could be properly reached. Of course we do not base it on the returns of income of 1864, which we have not yet reached, although we do so far anticipate as to make it payable out of the income of 1864.

I move that the committee rise for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FENNER reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally

under consideration, and particularly a special income tax bill, and had come to no resolution thereon.

Mr. MORRILL. I move that all debate be closed on this bill in one minute after the committee shall again resume its consideration.

The motion was agreed to.

Mr. MORRILL. I now move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. FENNER in the chair,) and resumed the consideration of the special income tax bill.

Mr. MORRILL. I hope no gentleman will endeavor to embarrass this resolution by any amendments, for I am very sure that we shall not be able to pass anything but this.

Mr. WASHBURNE, of Illinois. I merely propose to carry out the rule which the Committee of Ways and Means have finally adopted, and which I had hoped they would have laid down at an earlier period of the session. They have now come to what I have all along contended for, the imposition of a tax on stock on hand. [Laughter.] I therefore offer the amendment which I send to the Clerk's desk.

The Clerk read the amendment, as follows:

Add to the pending amendment the following:
And be it further resolved, That all spirits of domestic production on hand for sale on the 1st day of July, 1864, and upon which no tax shall have been paid, shall be subject to a duty of 70 cents per gallon; and all such spirits on hand for sale upon which a prior duty shall have been paid shall be subject to a duty of 50 cents per gallon: *Provided,* That all bona fide retailers of spirits, duly licensed, shall not be taxed on their stock on hand where the quantity on hand does not exceed two barrels.

Mr. WASHBURNE, of Illinois. I merely wish to say that if the amendment be adopted it will yield a revenue of about \$20,000,000.

The question was taken; and there were—ayes 73, noes 29.

So the amendment to the amendment was adopted.

The CHAIRMAN. The question recurs on the amendment of the gentleman from Maryland [Mr. Davis] as amended.

Mr. WASHBURNE, of Illinois. I did not offer mine as an amendment to the amendment of the gentleman from Maryland. Mine was a distinct proposition.

The CHAIRMAN. Then it could not have been in order. The amendment of the gentleman from Maryland was pending, and the gentleman from Illinois could only offer his as an amendment to that. It was so read and so voted on.

Mr. DAVIS, of Maryland. It has been adopted as a part of my amendment.

Mr. WASHBURNE, of Illinois. I offered it as a substitute for the amendment of the gentleman from Maryland.

The CHAIRMAN. The Chair distinctly stated to the committee that the question was on the amendment of the gentleman from Illinois to the amendment of the gentleman from Maryland, and it was put and carried. The question now is on the amendment of the gentleman from Maryland as amended.

Mr. WASHBURNE, of Illinois. As there was evidently a misapprehension, I hope the committee will vote that down and then I will offer another amendment.

Mr. DAVIS, of Maryland. I hope they will do no such thing. I call for tellers.

Tellers were ordered; and Messrs. WASHBURNE, of Illinois, and DAVIS, of Maryland, were appointed.

The committee divided; and the tellers reported—ayes 37, noes 60.

So the amendment, as amended, was not agreed to.

Mr. WASHBURNE, of Illinois. I now move to add to the original joint resolution the following:

And be it further resolved, That all spirits of domestic production on hand for sale on the 1st day of July, 1864, and upon which no tax shall have been paid, shall be subject to a duty of 50 cents per gallon; and all such spirits on hand for sale upon which a prior duty shall have been paid shall be subject to a duty of 30 cents per gallon: *Provided,* That bona fide retailers of spirits, duly licensed, shall not be taxed on stock on hand where the quantity does not exceed two barrels.

Mr. FARNSWORTH. I move to make it five barrels instead of two.

Mr. ASHLEY. I move to make it a hundred barrels.

Mr. INGERSOLL. I move to make it a thousand barrels.

Mr. VAN VALKENBURGH. I rise to a question of order. I submit that this is the same proposition which the committee has just voted down.

The CHAIRMAN. The Chair does not so understand. It is another and different proposition.

Mr. WASHBURNE, of Illinois. Entirely so. Mr. GANSON. The tax is a different per cent.

Mr. DAVIS, of Maryland. I now offer my amendment to the amendment reducing the tax from 10 per cent. on bank issues to 3 per cent.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman to offer his amendment to the joint resolution.

Mr. DAVIS, of Maryland. I prefer to offer it here.

Mr. WASHBURNE, of Illinois. Then I hope the committee will vote it down.

Mr. DAVIS, of Maryland. I hope not.

Mr. WASHBURNE, of Illinois. I make the point of order that the amendment is not germane to my proposition.

Mr. MORRILL. It is as germane as the amendment is to the joint resolution.

The CHAIRMAN. The Chair overrules the point of order.

The question was taken on Mr. DAVIS's amendment to the amendment, and it was rejected.

MESSAGE FROM THE PRESIDENT.

The committee rose informally; and the Speaker having resumed the chair, a message from the President of the United States, by Mr. HAY, his Private Secretary, announced that he had approved and signed bills of the following titles:

An act (H. R. No. 207) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1865, and for other purposes;

An act (H. R. No. 438) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and

An act (H. R. No. 527) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865, and for other purposes.

SPECIAL INCOME TAX—AGAIN.

The Committee of the Whole on the state of the Union resumed its session, (Mr. FENTON in the chair.)

The question recurred on Mr. WASHBURNE's amendment, and it was agreed to—ayes 59, noes 49.

Mr. GANSON. I propose to amend the joint resolution by adding the following:

And be it further resolved, That the direct tax provided by the act of 1862 on real estate be, and the same is hereby, revived, and the same shall be assessed and collected as provided by said act.

I offer it for the reason that—

Mr. MORRILL. Debate is not in order.

Mr. GANSON. The amendment speaks for itself.

The question was taken; and the amendment was rejected; there being, on a division—ayes 44, noes 57.

Mr. PRUYN. I move to amend by making the limitation \$1,000 instead of \$600, so that the tax shall apply only to incomes over \$1,000. This bill as it stands would bear too heavily on men of small incomes.

Mr. MORRILL. I make the point of order that we have passed from the original joint resolution.

The CHAIRMAN. The Chair overrules the point of order.

The question was taken; and it was decided in the negative; there being, on a division—ayes 40, noes 53.

Mr. ROSS. I move to amend by adding, "and

at the rate of ten per cent. on all incomes over \$20,000."

The amendment was rejected; there being, on a division—ayes 45, noes 50.

Mr. GANSON. I move to amend by adding the following:

And be it further resolved, That the direct tax provided by the act of 1862 on real estate be, and the same is hereby, revived, and the same shall be assessed and collected as provided by the said act: Provided, The said tax shall not be collected in Missouri, Kentucky, Maryland, and Virginia, for three years from the passage of this act.

Mr. ROSS. I propose to include Illinois.

[Laughter.]

Mr. COX. I would like to ask consent to oppose that amendment.

The CHAIRMAN. Debate is not in order.

The question was taken; and the amendment was rejected.

Mr. COX. I move to strike out the enacting clause of this resolution with a view of killing the whole measure.

On the motion of Mr. Cox 45 voted in the affirmative and 49 in the negative.

Mr. COX demanded tellers.

Tellers were ordered; and Messrs. Cox and MORRILL were appointed.

The committee divided; and the tellers reported

—ayes 49, noes 56.

So the motion was disagreed to.

Mr. WOODBRIDGE. I move the following

as an additional section:

Be it further resolved, That there be paid at the close of the present session of Congress to the officers, clerks, and other employes of the two Houses of Congress and such other persons in and about the Capitol as have usually been embraced in extra compensation resolutions a sum equal to twenty per cent. upon the amount of their annual compensation, and in case of such as do not receive an annual compensation a like per cent. upon the amount of compensation received by them respectively during the present session; and a sum sufficient for that purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. MORRILL. I rise to a question of order.

That amendment is not germane to a bill to raise revenue.

Mr. WOODBRIDGE. I think it is an amendment to raise revenue by appropriating an amount to enable these persons to pay their taxes.

The CHAIRMAN. The Chair is in doubt as to whether the amendment is in order, but will submit the question to the committee whether it shall be received as in order or not.

The committee divided; and there were—ayes 47, noes 57.

So the amendment was ruled out of order.

Mr. DAVIS, of Maryland, submitted the following as an additional section:

And be it further resolved, That in addition to the existing tax on bank notes there shall be levied and collected from every bank, company, or association, having notes in circulation as currency, (other than national banks organized under the laws of Congress,) three per cent. on the average amount of the notes of such bank, company, or association in circulation for each and every year after the 1st of January, 1865.

Mr. KERNAN. I move to amend the amendment by striking out the words "other than national banks."

MESSAGE FROM THE PRESIDENT.

The committee informally rose; and a message from the President of the United States was received, by Mr. HAY, his Private Secretary, informing the House that he had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 460) for the relief of Sarah Robinson, widow of Hon. John S. Robinson, late United States marshal for the district of Indiana;

Joint resolution (H. R. No. 117) authorizing the Secretary of the Navy to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer Juniata;

An act (H. R. No. 483) granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast, by the northern route;

An act (H. R. No. 561) to authorize the United States to acquire land in Wallabout bay, belonging to the city of Brooklyn, and to authorize the exchange of other lands therefor;

An act (S. No. 111) to provide for the more speedy punishment of guerrilla-marauders, and for other purposes; and

An act (H. R. No. 564) for the relief of Eliza Cass Woodbridge.

SPECIAL INCOME TAX—AGAIN.

The committee resumed the consideration of the special income tax bill.

The question recurred on Mr. KERNAN's amendment to the amendment.

Tellers were ordered; and Messrs. KERNAN and HOOPER were appointed.

The committee divided; and the tellers reported—ayes 47, noes 54.

So the amendment to the amendment was rejected.

The question recurred on the amendment of Mr. DAVIS, of Maryland.

Mr. DAVIS, of Maryland, demanded tellers. Tellers were not ordered.

The amendment was rejected.

Mr. MORRILL moved that the committee rise and report the bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FENTON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the special income tax bill, and had directed him to report the same back to the House with sundry amendments.

Mr. MORRILL. I move a substitute for what has just been reported. I wish to call the attention of the House for a moment to the condition of the bill presented to the House, and I urge those who intend to have any bill pass which will be efficient for the support of the Government and to add something to the amount of revenue, to vote for the substitute, pure and simple, without the amendments of the Committee of the Whole on the state of the Union. I am sure, and I have no doubt that every man in this House understands well, that the tax upon liquors on hand stands no chance in the Senate.

In relation to another thing inserted, making a discrimination in the tax upon incomes, we have already done that in the bill which has been passed. I call the attention of every fair-minded man to the proposition introduced by the gentleman from Illinois. Gentlemen who have the misfortune to have incomes over \$10,000 or \$20,000 a year are to be fined, absolutely punished for having that amount of money. The Government should make its laws equal; and I think that five per cent. upon all incomes above \$600 is not too much. I have discharged my duty, and I call for the previous question. If the substitute is not adopted, I have no more interest in the matter; but I hope that it will be adopted.

IMMIGRATION.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. I submit a report from the committee of conference on the disagreeing votes of the two Houses on the bill to encourage immigration. We strike out the third section of the House bill which provides that the Secretary of the Treasury, under the direction of the President, may reduce the tonnage duty upon vessels which bring in immigrants. We also strike out the provision in reference to baggage and personal effects and agree to the provision of the House bill. I demand the previous question.

The previous question was seconded, and the main question was ordered; and under the operation thereof the report was adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SPECIAL INCOME TAX—AGAIN.

The House resumed the consideration of the special income tax bill.

Mr. DAVIS, of Maryland. I ask the gentleman from Vermont to withdraw the demand for the previous question so that I may have a vote on my amendment.

Mr. MORRILL. If I yield to the gentleman I must to others. I insist on my demand for the previous question.

The previous question was seconded, and the main question ordered.

The question recurred on Mr. Ross's amendment.

Mr. ROSS demanded the yeas and nays.
The yeas and nays were not ordered.
The House divided; and there were—yeas 40, noes 53.

So the amendment was rejected.

The question recurred on the amendment of Mr. WASHBURN, of Illinois, adopted by the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 60, nays 47, not voting 75; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Baxter, Blaine, Boutwell, Boyd, Brooks, Chandler, Freeman Clarke, Cobb, Creswell, Henry Winter Davis, Dawes, Dawson, Deming, Dixon, Driggs, Eckley, Eden, Eliot, Ganson, Gooch, Hotchkiss, Jencks, Julian, Kernan, Littlejohn, Loan, Longyear, Marcy, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Morrison, Amos Myers, Norton, Odell, Perham, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Schofield, Sloan, Smithers, John B. Steele, William G. Steele, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilson, and Windom—60.

NAYS—Messrs. Ancona, Ashley, Bailly, Bliss, Coffroth, Cole, Cox, Denison, Edgerton, Eldridge, English, Griswold, Harding, Charles M. Harris, Hooper, Hutchins, Ingersoll, William Johnson, Knapp, Law, Le Blond, Long, McBride, Middleton, William H. Miller, Morrill, James R. Morris, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Orth, Pendleton, Prunty, Samuel J. Randall, Robinson, Shannon, Stevens, Stiles, Sweat, Van Valkenburgh, Wadsworth, Ward, Wheeler, Wilder, Winfield, and Woodbridge—47.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Augustus C. Baldwin, John D. Baldwin, Beaman, Blair, Blow, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Clay, Cravens, Thomas T. Davis, Donnelly, Dumont, Eckley, Farnsworth, Finck, Frank, Garfield, Grider, Grinnell, Hale, Hall, Harrington, Benjamin G. Harris, Herrick, Higby, Holman, Asahel W. Hubbard, John H. Hubbard, Hulburd, Philip Johnson, Kalbfleisch, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knox, Lazear, Mallory, Marvin, McAllister, McDowell, McIndoe, McKinney, Nelson, Patterson, Perry, Pike, Pomeroy, Price, Radford, William H. Randall, Alexander H. Rice, Rogers, Schenck, Scott, Smith, Spalding, Starr, Stebbins, Strouse, Stuart, Thayer, Voorhees, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—75.

So the amendment was concurred in.

Pending the roll-call,

Mr. HARRIS, of Illinois, stated that Mr. RANDALL, of Kentucky, had retired from the House on account of indisposition.

Mr. RICE, of Massachusetts, stated that he was paired off with Mr. BROWN, of Wisconsin.

The result was then announced as above recorded.

The question recurred on agreeing to the substitute offered by Mr. MORRILL.

Mr. WASHBURN, of Illinois. I rise to a question of order. If the substitute is adopted will not the bill stand as it was originally introduced?

The SPEAKER. That is not a question of order.

Mr. WASHBURN, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 59, not voting 72; as follows:

YEAS—Messrs. Ancona, Ashley, Bailly, Bliss, Coffroth, Cole, Denison, Eden, Edgerton, Eldridge, English, Garfield, Higby, Hooper, Asahel W. Hubbard, Hutchins, Ingersoll, William Johnson, Kelley, Knapp, Law, Le Blond, Long, Marcy, McBride, Moorhead, Morrill, James R. Morris, Morrison, Amos Myers, Leonard Myers, Charles O'Neill, John O'Neill, Orth, Patterson, Pendleton, Samuel J. Randall, Robinson, Schenck, Shannon, Smith, Smithers, Stevens, Stiles, Sweat, Thomas, Van Valkenburgh, Ward, Wheeler, Wilder, and Woodbridge—51.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Baxter, Blair, Boutwell, Boyd, Brooks, Chandler, Freeman Clarke, Cobb, Creswell, Henry Winter Davis, Dawes, Dawson, Deming, Dixon, Driggs, Eckley, Eliot, Ganson, Gooch, Harding, Charles M. Harris, Hotchkiss, John H. Hubbard, Jencks, Julian, Kernan, Littlejohn, Loan, Longyear, McClurg, Middleton, Samuel F. Miller, Daniel Morris, Noble, Norton, Odell, Perham, Prunty, John H. Rice, James S. Rollins, Ross, Schofield, Sloan, John B. Steele, William G. Steele, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilson, Windom, and Winfield—59.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Blow, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Clay, Cox, Cravens, Thomas T. Davis, Donnelly, Dumont, Farnsworth, Finck, Frank, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Benjamin G. Harris, Herrick, Holman, Hulburd, Philip Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Lazear, Mallory, Marvin, McAllister, McDowell, McIndoe, McKinney,

William H. Miller, Nelson, Perry, Pike, Pomeroy, Price, Radford, William H. Randall, Alexander H. Rice, Rogers, Edward H. Rollins, Scott, Spalding, Starr, Stebbins, Strouse, Stuart, Thayer, Voorhees, Wadsworth, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—72.

So the substitute was not agreed to.

The question recurred on ordering the bill to be engrossed and read a third time.

Mr. STEVENS. I move to lay the whole bill on the table. Neither proposition ought to pass.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 55, nays 55, not voting 72; as follows:

YEAS—Messrs. Ancona, Bailly, Bliss, Brooks, Chandler, Freeman Clarke, Coffroth, Cox, Dawson, Deming, Denison, Eden, Edgerton, Eldridge, English, Ganson, Harding, Benjamin G. Harris, Charles M. Harris, Higby, John H. Hubbard, Hutchins, Ingersoll, William Johnson, Kelley, Kernan, Knapp, Law, Lazear, Le Blond, Long, Marcy, Middleton, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Orth, Pendleton, Prunty, Samuel J. Randall, Robinson, James S. Rollins, Ross, Shannon, John B. Steele, William G. Steele, Stevens, Stiles, Sweat, Ward, Williams, Wilder, and Winfield—55.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, Baxter, Blair, Boutwell, Boyd, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Dixon, Driggs, Eliot, Fenton, Frank, Garfield, Gooch, Hooper, Hotchkiss, Asahel W. Hubbard, Julian, Littlejohn, Loan, Longyear, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smith, Smithers, Thomas, Tracy, Upson, Wadsworth, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wilson, and Windom—55.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Blow, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Clay, Cravens, Thomas T. Davis, Donnelly, Dumont, Eckley, Farnsworth, Finck, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Herrick, Holman, Hulburd, Jencks, Philip Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, McKinney, Nelson, Odell, Patterson, Perry, Pike, Pomeroy, Price, Radford, William H. Randall, Rogers, Scott, Spalding, Starr, Stebbins, Strouse, Stuart, Thayer, Van Valkenburgh, Voorhees, Wheeler, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—72.

The SPEAKER. The Chair votes in the negative, and the bill is not laid on the table.

During the roll-call,

Mr. VAN VALKENBURGH stated that he was paired on this vote with Mr. BROWN, of Wisconsin.

Mr. COX said: Mr. A. W. CLARK, of New York, and Mr. ANDREW J. ROGERS are paired on all questions from Tuesday, June 28, to July 6; and Mr. BLOW, of Missouri, is paired with Mr. ROGERS on the amendment to the Constitution to submit the question of slavery to the people.

The bill was then ordered to a third reading; and it was accordingly read the third time.

Mr. COX demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 511) to provide for the more speedy punishment of guerrilla-marauders, and for other purposes;

An act (H. R. No. 575) to correct a clerical error in the law of June 30, 1864, relating to the Post Office Department; and

An act (H. R. No. 555) for the relief of Horace Yates.

SPECIAL INCOME DUTY—AGAIN.

The question was taken on the passage of the bill; and it was decided in the negative—yeas 54, nays 57, not voting 71; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Baxter, Blair, Boutwell, Cobb, Cole, Creswell, Dawes, Dixon, Driggs, Eliot, Fenton, Frank, Garfield, Gooch, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jencks, Julian, Littlejohn, Loan, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Thomas, Tracy, Upson, Wadsworth, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wilson, Windom, and Woodbridge—54.

NAYS—Messrs. Ancona, Bailly, Bliss, Boyd, Brooks, Chandler, Freeman Clarke, Coffroth, Cox, Dawson, Deming, Denison, Eden, Edgerton, Eldridge, English, Ganson, Harding, Benjamin G. Harris, Charles M. Harris, Higby, Hutchins, William Johnson, Kelley, Kernan, Knapp, Law,

Lazear, Le Blond, Long, Longyear, Marcy, Middleton, William H. Miller, James R. Morris, Morrison, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Pendleton, Prunty, Samuel J. Randall, Robinson, James S. Rollins, Ross, Smith, John B. Steele, William G. Steele, Stevens, Stiles, Sweat, Ward, Wheeler, Williams, Wilder, and Winfield—57.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Blow, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Clay, Cravens, Henry Winter Davis, Thomas T. Davis, Donnelly, Dumont, Eckley, Farnsworth, Finck, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Herrick, Holman, Hulburd, Philip Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Mallory, Marvin, McAllister, McBride, McDowell, McIndoe, McKinney, Nelson, Odell, Orth, Patterson, Perham, Perry, Pike, Pomeroy, Price, Radford, William H. Randall, Rogers, Scott, Spalding, Starr, Stebbins, Strouse, Stuart, Thayer, Van Valkenburgh, Voorhees, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—71.

So the bill was rejected.

During the roll-call,

Mr. VAN VALKENBURGH stated that upon this vote he was paired with Mr. BROWN, of Wisconsin.

Mr. ORTH announced that he was paired with Mr. HOLMAN on this question.

Mr. STEELE, of New Jersey, stated that Mr. PERRY had paired off with Mr. DAVIS, of New York.

The result of the vote having been announced as above recorded,

Mr. NOBLE moved to reconsider the vote by which the bill was rejected; and also moved to lay the motion to reconsider upon the table.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the latter motion.

Mr. STEVENS. I hope the gentleman from Ohio [Mr. NOBLE] will withdraw his motion and let us go on with other business.

Mr. WILSON. I move to reconsider the vote by which the substitute was rejected.

The SPEAKER. There would have to be several reconsiderations before that vote could be reached. The gentleman would have to move to reconsider all the votes back to that.

Mr. RICE, of Massachusetts. I rise to a privileged question. I desire to make a report from a committee of conference.

The SPEAKER. That takes precedence of everything except a motion to adjourn.

Mr. BOYD. I rise to a privileged question. I move to reconsider the vote by which the bill was rejected.

Mr. HIGBY, (at twenty-five minutes after twelve o'clock.) I move that the House do now adjourn. [Cries of "No!" "No!"] It is evident that we cannot get through to-night.

Mr. STEVENS. I move that when the House adjourns to-night, it adjourn to meet at eleven o'clock on Monday.

Mr. WASHBURN, of Illinois. We can fix that hereafter.

The SPEAKER. When the States are called for resolutions that would not be in order without unanimous consent.

SEAMEN ON WRECKED VESSELS.

Mr. RICE, of Massachusetts, from the committee of conference on the disagreeing votes of the two Houses on Senate bill No. 247, for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service, reported that the committee had agreed to recommend that the Senate concur in the amendment of the House striking out the word "officers" where it occurs in the bill.

The report was adopted.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the report was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SPECIAL INCOME TAX—AGAIN.

The question recurred on the motion of Mr. BOYD to reconsider the vote by which the joint resolution imposing a special income duty was laid on the table.

Mr. STEVENS moved to lay the motion to reconsider on the table.

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL. It is now half past twelve o'clock. I move that the House do now adjourn.

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

Mr. WADSWORTH. I make the point of order that it is not lawful to do work on the Sabbath day.

The SPEAKER. The Chair overrules the point of order. This is the legislative day of Saturday, and will remain so till the House adjourns. The Chair will state that if the House adjourns to-night and there should be no quorum on Monday there can be no adjournment *sine die*, as that requires a quorum.

Mr. WASHBURN, of Illinois. I hope we will go on and finish this bill to-night.

The question was taken on the motion to adjourn; and it was decided in the negative—yeas 50, nays 57, not voting 75; as follows:

YEAS—Messrs. Alley, Ancona, Ashley, Baily, Blair, Bliss, Boutwell, Boyd, Brooks, Chanler, Cox, Henry Winter Davis, Dawson, Deming, Denison, Driggs, Eden, Eldridge, English, Frank, Harding, Benjamin G. Harris, Hutchins, Jenckes, Knapp, Law, Le Blond, Loan, Long, Marcy, McBride, McClurg, William H. Miller, Morrison, Amos Myers, John O'Neill, Pendleton, Samuel J. Randall, Robinson, Ross, Scofield, Stevens, Stiles, Tracy, Washburn, Ward, Webster, Wheeler, Wilder, and Winfield—50.

NAYS—Messrs. Allison, Ames, Arnold, Baxter, Cobb, Coffroth, Cole, Creswell, Dawes, Dixon, Edgerton, Eliot, Fenton, Ganson, Garfield, Goehs, Griswold, Charles M. Harris, Hooper, Hotchkiss, Asahel W. Hubbard, Ingersoll, William Johnson, Julian, Kelley, Kernan, Littlejohn, Longyear, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Leonard Myers, Noble, Norton, Charles O'Neill, Orth, Patterson, Alexander H. Rice, John H. Rice, James S. Rollins, Schenck, Shannon, Sloan, Smithers, John B. Steele, William G. Steele, Thomas, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilson, Windom, and Woodbridge—57.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Blow, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cravens, Thomas T. Davis, Donnelly, Dumont, Eckley, Francis, Fluck, Grider, Grinnell, Hale, Hall, Harrington, Herrick, Higby, Holman, John H. Hubbard, Hubbard, Philip Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Lazard, Mallory, Marvin, McAllister, McDowell, Melndoe, McKinney, Nelson, Odell, Perham, Perry, Pike, Pomeroy, Price, Pruyn, Radford, William H. Randall, Rogers, Edward H. Rollins, Scott, Smith, Spaulding, Starr, Stebbins, Strouse, Stuart, Sweet, Thayer, Voorhees, Whaley, Chilton A. White, Joseph W. White, Williams, Benjamin Wood, Fernando Wood, and Yeaman—75.

So the House refused to adjourn.

The question recurred on the motion to lay on the table the motion to reconsider the vote whereby the joint resolution imposing a special income duty was laid on the table; on which the yeas and nays had been ordered.

The question was taken; and it was decided in the negative—yeas 44, nays 52, not voting 86; as follows:

YEAS—Messrs. Baily, Bliss, Brooks, Chanler, Coffroth, Cox, Dawson, Denison, Edgerton, Eldridge, English, Harding, Benjamin G. Harris, Charles M. Harris, Hutchins, Ingersoll, William Johnson, Kernan, Knapp, Law, Lazard, Le Blond, Long, Marcy, McBride, Middleton, William H. Miller, James R. Morris, Noble, John O'Neill, Orth, Pendleton, Pruyn, Samuel J. Randall, James S. Rollins, Ross, John B. Steele, Stevens, Stiles, Sweet, Ward, Williams, Wilder, and Winfield—44.

NAYS—Messrs. Allison, Ames, Arnold, Baxter, Cobb, Cole, Creswell, Dawes, Deming, Dixon, Driggs, Eliot, Fenton, Garfield, Goehs, Griswold, Higby, Hooper, Hotchkiss, John H. Hubbard, Jenckes, Julian, Kelley, Littlejohn, Loan, Longyear, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Webster, Wilson, Windom, and Woodbridge—52.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Ames, Ancona, Anderson, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cravens, Henry Winter Davis, Thomas T. Davis, Donnelly, Dumont, Eckley, Eden, Farnsworth, Fluck, Frank, Ganson, Grider, Grinnell, Hale, Hall, Harrington, Herrick, Holman, Asahel W. Hubbard, Hubbard, Philip Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Mallory, Marvin, McAllister, McDowell, Melndoe, McKinney, Morrison, Nelson, Odell, Patterson, Perham, Perry, Pike, Pomeroy, Price, Radford, William H. Randall, Robinson, Rogers, Scott, Spaulding, Starr, Stebbins, William G. Steele, Strouse, Stuart, Thayer, Van Valkenburgh, Voorhees, Washburn, Whaley, Wheeler, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—86.

So the motion to reconsider was not laid on the table.

The question recurred upon reconsidering the vote by which the House rejected the joint resolution.

Mr. RANDALL, of Pennsylvania, moved that the House adjourn.

Mr. ELDRIDGE called for the yeas and nays on that motion.

The yeas and nays were not ordered.

The House refused to adjourn.

The motion to reconsider the vote by which the joint resolution was rejected was agreed to; and the question recurred on the passage of the joint resolution.

Mr. MORRILL. If the joint resolution should not be passed, would it then be in order to bring up the substitute?

The SPEAKER. It is in order now to move to reconsider the vote by which the joint resolution was ordered to be engrossed and read a third time.

Mr. PENDLETON. I make that motion.

The motion was agreed to; and the question recurred on ordering the joint resolution to be engrossed and read a third time.

Mr. WEBSTER moved to reconsider the vote by which the substitute was rejected.

The motion was agreed to; and the question recurred on the adoption of the substitute.

Mr. ROSS called for the yeas and nays.

The yeas and nays were not ordered.

The substitute was adopted.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MORRILL moved the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered to be put.

Mr. COX demanded the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 53, nays 48, not voting 81; as follows:

YEAS—Messrs. Alley, Allison, Ames, Arnold, Baxter, Boutwell, Boyd, Cobb, Cole, Creswell, Dawes, Dawson, Deming, Dixon, Driggs, Eckley, Eliot, Garfield, Goehs, Higby, Hooper, Hotchkiss, John H. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Longyear, McClurg, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Webster, Wilder, Wilson, Windom, and Woodbridge—53.

NAYS—Messrs. Baily, Bliss, Brooks, Chanler, Coffroth, Cox, Dawson, Denison, Eden, Edgerton, Eldridge, English, Ganson, Harding, Benjamin G. Harris, Charles M. Harris, Hutchins, William Johnson, Kernan, Knapp, Law, Lazard, Le Blond, Littlejohn, Long, Marcy, Middleton, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Pruyn, Samuel J. Randall, Robinson, James S. Rollins, Ross, Scofield, John B. Steele, William G. Steele, Stiles, Sweet, Ward, Williams, and Winfield—48.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Ancona, Anderson, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Blair, Blow, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cravens, Henry Winter Davis, Thomas T. Davis, Donnelly, Dumont, Farnsworth, Fenton, Fluck, Frank, Grider, Grinnell, Griswold, Hale, Hall, Harrington, Herrick, Holman, Asahel W. Hubbard, Hubbard, Philip Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Loan, Mallory, Marvin, McAllister, McBride, McDowell, Melndoe, McKinney, Samuel F. Miller, Amos Myers, Nelson, Orth, Perry, Pike, Pomeroy, Price, Radford, William H. Randall, Rogers, Scott, Spaulding, Starr, Stebbins, Stevens, Strouse, Stuart, Thayer, Van Valkenburgh, Voorhees, Washburn, Whaley, Wheeler, Chilton A. White, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—81.

So the joint resolution was passed.

During the call of the roll,

Mr. VAN VALKENBURGH stated that he was paired with Mr. BROWN, of Wisconsin.

CONSCRIPTION BILL.

Mr. SCHENCK. I rise to a privileged question. I call up the motion to reconsider the vote by which the Senate bill (No. 286) repealing the commutation clause, &c., was referred to the Committee on Military Affairs. I withdraw the motion to reconsider and report the bill back to the House. And inasmuch as the subject has been disposed of in another bill, I move to lay this bill on the table.

The motion was agreed to.

JURISDICTION OF THE COURT OF CLAIMS.

Mr. THOMAS. There is on the Speaker's table a bill of the House which passed here unanimously, and which has passed the Senate with an unimportant amendment. I ask the indulgence of

the House to take up the bill and concur in the amendment so that the bill may become a law. It is House bill No. 305, to restrict the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermaster stores and subsistence supplies furnished to the armies of the United States.

Mr. HOOPER. I object.

The SPEAKER. The House is in execution of an order to proceed to business on the Speaker's table, and this bill therefore comes up in its regular order. The question will be on concurring in the amendment of the Senate.

Mr. THOMAS. The Senate amendment seems to be a rather long one, and I will therefore explain that it changes the House bill in only two particulars, and I think both are improvements upon our bill. One restricts the operation of the law to the loyal States; and the other requires that the stores, in order to be paid for, shall have been taken by the order of an officer of the Army. These are the only two points of change. I call the previous question on concurring in the Senate amendment.

The previous question was seconded, and the main question ordered to be put.

The Senate amendment was concurred in.

Mr. THOMAS moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CORRECTION OF A VOTE.

Mr. RADFORD. On the vote conferring a veto power on the Governor of Washington Territory my vote is recorded in the Globe as among those not voting. I desire to say that I voted in the affirmative.

EDUCATION OF NAVY CONSTRUCTORS.

House bill No. 534, to authorize the Secretary of the Navy to provide for the education of Navy constructors and steam engineers, and for other purposes, was next taken from the Speaker's table, and the amendment of the Senate thereto concurred in.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WASHINGTON AQUEDUCT.

An act (S. No. 348) to provide for the supervision, repair, liabilities, and completion of the Washington aqueduct.

The bill was read a first and second time.

Mr. WASHBURN, of Illinois. I make the point of order that this is an appropriation bill, and must therefore have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order.

Mr. STEVENS. I move that the bill be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. STEVENS. I now move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union to consider the bill.

The House divided; and there were—yeas 68, noes 23.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair.)

Mr. STEVENS. I move to postpone all prior orders, and to take up the bill in reference to the Washington aqueduct.

Mr. WASHBURN, of Illinois. I make the point of order that that cannot be done; that the business upon the Calendar must be laid aside each bill by itself.

The CHAIRMAN. The Chair sustains the point of order.

Mr. STEVENS. Very well, then. Read the Calendar, and we will lay them aside one by one.

The Clerk proceeded to read the Calendar.

PRESIDENT'S MESSAGE.

Annual message of the President of the United States relative to the condition of the country.

Mr. STEVENS. I move to lay that aside.

Mr. WASHBURNE, of Illinois, demanded a division.

Mr. ELDRIDGE. If in order, I move that the gentleman from Illinois have leave of absence until twelve o'clock next Monday.

Mr. WASHBURNE, of Illinois. The gentleman from Illinois will ask for leave of absence when he thinks it necessary.

The committee divided; and there were—ayes 83, noes 11.

So the motion was agreed to.

BUREAU OF MILITARY JUSTICE.

A bill (H. R. No. 49) to create a Bureau of Military Justice.

Mr. STEVENS. I move to lay the bill aside. Mr. WASHBURNE, of Illinois, demanded a division.

The committee divided; and there were—ayes 68, noes 9; no quorum voting.

Mr. STEVENS demanded tellers.

Tellers were ordered; and Messrs. STEVENS, and WASHBURNE of Illinois, were appointed.

The committee again divided; and the tellers reported—ayes 83, noes 9.

The CHAIRMAN voted in the affirmative, making a quorum.

So the motion was agreed to.

BOUNTIES.

A bill (H. R. No. 150) providing for the payment of bounties to soldiers in the United States service.

Mr. STEVENS moved that the bill be laid aside.

Mr. WASHBURNE, of Illinois, demanded a division.

The committee divided; and there were—ayes 74, noes 25.

Mr. WASHBURNE, of Illinois, demanded tellers.

Tellers were not ordered.

So the motion was agreed to.

Mr. WASHBURNE, of Illinois, moved that the committee rise, and demanded a division.

The committee divided; and there were—ayes 8, noes 85.

So the motion was disagreed to.

OREGON INDIANS.

A bill (H. R. No. 97) making an appropriation for the purpose of negotiating treaties with the Indian tribes of southern and eastern Oregon.

Mr. STEVENS moved that the bill be laid aside.

Mr. WASHBURNE, of Illinois, demanded a division.

The committee divided; and there were—ayes 89, noes 9.

So the motion was agreed to.

SHIP CANAL.

A bill (H. R. No. 321) to construct a ship canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes.

Mr. STEVENS moved that the bill be laid aside.

Mr. WASHBURNE, of Illinois. I want to be heard on that question.

The CHAIRMAN. It is not debatable.

Mr. ELDRIDGE. I move that the gentleman have leave to fight it out on that line if it takes all night. [Laughter.]

Mr. WASHBURNE, of Illinois. I want to make a proposition to the gentleman from Pennsylvania.

The CHAIRMAN. Discussion is not in order. Mr. WASHBURNE, of Illinois. I take an appeal from the decision of the Chair.

The CHAIRMAN. The Chair decides that it is not in order to discuss motions to lay aside in order to proceed to other business. From that decision the gentleman from Illinois takes an appeal. Shall the decision of the Chair stand as the judgment of the committee?

Mr. WASHBURNE, of Illinois, demanded a division.

The committee divided; and there were—ayes 78, noes 23.

So the decision of the Chair was sustained.

ASSAY OFFICE AT CARSON CITY, ETC.

A bill (H. R. No. 335) to establish an assay office at Carson City, Nevada Territory, and an assay office at Portland, Oregon.

Mr. STEVENS moved to lay the bill aside. Mr. WASHBURNE, of Illinois, called for a division.

The bill was laid aside—ayes 78, noes 15.

JURISDICTION OF COURT OF CLAIMS.

A bill (H. R. No. 66) concerning the jurisdiction of the Court of Claims.

Mr. STEVENS moved to lay the bill aside.

Mr. WASHBURNE, of Illinois, called for a division.

The bill was laid aside—ayes 79, noes 13.

NORTHERN INDIAN SUPERINTENDENCY.

A bill (H. R. No. 399) to abolish the northern Indian superintendency.

Mr. STEVENS moved to lay the bill aside.

Mr. WASHBURNE, of Illinois, called for a division.

The bill was laid aside—ayes 78, noes 14.

BRANCH MINT IN OREGON.

An act (S. No. 185) to establish a branch of the Mint of the United States at Dalles City, in the State of Oregon.

Mr. GARFIELD moved to lay the bill aside.

Mr. WASHBURNE, of Illinois, called for a division.

The bill was laid aside—ayes 70, noes 23.

PENSIONS TO SOLDIERS OF WAR OF 1812.

A bill (S. No. 566) granting pensions to the surviving soldiers of the war of 1812.

Mr. STEVENS moved to lay the bill aside.

Mr. WASHBURNE, of Illinois, called for a division.

The bill was laid aside—ayes 72, noes 33.

WAGON ROADS IN IDAHO.

A bill (H. R. No. 323) for the construction of certain wagon roads in Idaho.

Mr. STEVENS moved to lay the bill aside.

Mr. WASHBURNE, of Illinois, called for a division.

The bill was laid aside—ayes 70, noes 24.

MISCELLANEOUS APPROPRIATION BILL.

A bill (H. R. No. 539) making appropriations for certain miscellaneous expenses for the year ending June 30, 1865.

Mr. STEVENS moved to lay the bill aside.

Mr. WASHBURNE, of Illinois, called for a division.

The bill was laid aside—ayes 78, noes 15.

WASHINGTON AQUEDUCT.

An act (S. No. 348) to provide for the supervision, repair, liabilities, and completion of the Washington aqueduct.

Mr. STEVENS. We have at length reached the bill that I desire to have acted on.

The bill appropriates the sum of \$150,000 for the purpose of constructing the dam of solid masonry across the Maryland branch of the Potomac river near the Great Falls, and for constructing the conduit around the receiving reservoir, and for paying existing liabilities and expenses, engineering, superintendence, and repairs of the Washington aqueduct.

Mr. STEVENS moved that the committee rise for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly a bill (S. No. 348) to provide for the supervision, repair, liabilities, and completion of the Washington aqueduct, and had come to no conclusion thereon.

Mr. STEVENS. I move that when the Committee of the Whole again resume the consideration of this bill, all debate be closed in half a minute thereafter.

Mr. WASHBURNE, of Illinois, called for a division.

The motion was agreed to—ayes 81, noes 12.

Mr. STEVENS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and resumed the consideration of the bill making appropriation for the Washington aqueduct.

Mr. WASHBURNE, of Illinois, moved to strike out the enacting clause of the bill, and called for a division.

The motion was not agreed to—ayes 19, noes 76.

Mr. STEVENS moved that the committee rise and report the bill to the House.

Mr. WASHBURNE, of Illinois, called for a division.

The motion was agreed to—ayes 77, noes 14.

So the committee rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly a bill (S. No. 348) to provide for the supervision, repair, liabilities, and completion of the Washington aqueduct, and had directed him to report the same to the House with a recommendation that it do pass.

Mr. STEVENS demanded the previous question on the passage of the bill.

The previous question was seconded—ayes 83, noes 11.

The main question was then ordered—ayes 87, noes 9.

Mr. UPSON moved to lay the bill on the table; and on that motion demanded the yeas and nays.

The yeas and nays were not ordered.

The House refused to lay the bill on the table—ayes 9, noes 83.

The bill was then ordered to a third reading; and it was accordingly read the third time.

Mr. STEVENS demanded the previous question on the passage of the bill.

The previous question was seconded—ayes 83, noes 9.

The main question was then ordered—ayes 83, noes 11.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Pennsylvania will let us have the yeas and nays on the passage of this bill.

Mr. STEVENS. Oh, no; the votes already taken show that there is no negative vote.

Mr. DRIGGS demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to—ayes 86, noes 6.

LEAVE OF ABSENCE.

Mr. JULIAN. I ask leave of absence for the remainder of the session.

There was no objection; and the leave was granted.

THE ADJOURNMENT.

Mr. MORRILL. I move that when the House adjourns it adjourn to meet on Monday next at ten o'clock, a. m.

Several MEMBERS. Say eleven.

Mr. MORRILL. Oh, no; we had better meet at ten.

Mr. WASHBURNE, of Illinois. I object to the motion of the gentleman from Vermont.

Mr. MORRILL. Then I move that we take a recess until ten o'clock on Monday next, after we shall have received a message from the Senate.

The SPEAKER. The Chair understands that the Senate have already acted on a resolution to close the session at noon on Monday.

Several MEMBERS. That is a mistake.

Mr. STEVENS. I think we had better wait until we get a message from the Senate.

The SPEAKER. The Chair understands that he is misinformed. It was stated to the Chair by some gentleman who had just come from the Senate Chamber that they had acted on the resolution to close the session on Monday at noon, and concurred in it. The Chair now learns that that is a mistake.

Mr. PENDLETON. I rise to a privileged question. I offer a concurrent resolution that the two Houses close the present session on Monday next at noon.

Mr. GANSON. I came from the Senate a moment ago, and they had not then acted on the resolution of the House.

The SPEAKER. The gentleman from Ohio proposes to send another resolution to the Senate.

Mr. WASHBURNE, of Illinois. I would like

to know what the object is in sending them another resolution of adjournment? They have already one or more of our resolutions for an adjournment.

The SPEAKER. The Chair knows of none for this particular date that have been sent to the Senate. Resolutions have been sent proposing various dates last week for an adjournment. If this one should be agreed to no further action would be required by the House for an adjournment on Monday.

The concurrent resolution was then adopted.

Mr. STEVENS. Is it in order now to move that when we adjourn we adjourn to meet at ten o'clock on Monday?

The SPEAKER. That would require unanimous consent. A motion to take a recess till ten o'clock on Monday morning would be in order.

PENSION LAWS.

Mr. PERHAM, from the committee of conference on the disagreeing votes of the two Houses on House bill No. 406, supplementary to an act entitled "An act to grant pensions," approved July 14, 1862, reported that the committee had met and had agreed upon certain recommendations to their respective Houses.

The report was read.

Mr. ROSS. If I understand the report, I hope it will not be concurred in.

The SPEAKER. The gentleman from Maine is entitled to the floor.

Mr. PERHAM. I will explain the report. The House bill provided for the increase of pensions to privates and non-commissioned officers from eight to eleven dollars a month. The Senate amended the bill by striking out that provision; and the conference committee recommends the House to recede and agree to the amendment.

Another provision in the bill is that certain persons in the service of the United States volunteers not regularly mustered in, shall be entitled to pensions. We have in the report of the conference committee made certain provisions for that state of things.

The Senate added a section to the bill providing that the widows and children of colored soldiers shall be entitled to pensions upon making certain proof, the principles of which are stated in the section. The conference committee recommends that certain amendments be made in that section so as to guard more completely against imposition. That was the best arrangement that the committee of conference could make. The bill has been regarded as a very important one, and should be passed now. I hope the conference report will be agreed to, and I move the previous question on its adoption.

Mr. ROSS. I ask the gentleman from Maine to withdraw the demand for the previous question.

Mr. PERHAM. I withdraw it for the present.

Mr. ROSS. I certainly think it would be improper for the House to adopt the report. The House agreed to increase the pensions to widows of deceased soldiers and those disabled in the service from eight dollars to eleven dollars. It is well known that that is but a very small increase compared with the increased cost of living. The Senate struck out that increase; and the committee of conference recommend the House to concur in that amendment. I hope the House will not do so, but that it will stand by its original action. It would be disgraceful to the country to leave the widows and children of the soldiers who fell in its service subject to penury and want while Congress raises the pay of the clerks and civil officers of the Government. I trust, therefore, that the House will reject the report, and non-concur in the amendment of the Senate.

Mr. PERHAM renewed the demand for the previous question.

The previous question was seconded, and the main question ordered, which was on the adoption of the report.

Mr. ROSS called for the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the report of the committee of conference was adopted.

Mr. PERHAM moved to reconsider the vote by which the conference report was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THE OLD GUARD.

Mr. MORRILL. I desire to introduce a bill to which I think there will be no objection. I ask that it be read for information.

The bill to authorize the President to raise and organize a force of volunteers over forty-five years of age, to be called the Old Guard, was read. It proposes to authorize the President of the United States, at any time hereafter, to accept of one hundred thousand volunteers for the term of one year, to be composed of men exceeding forty-five years of age, of requisite physical ability, who shall be employed in the service of the United States for post and garrison duty, to guard lines of communication, or such other military service as they may be found suitable for; such force to be organized and officered as other regiments and companies of volunteers, and to be styled the Old Guard, and to receive, in addition to such pay, rations and clothing as is now allowed to other troops in the service of the United States, \$100 bounty, one half to be paid when the men are mustered into service, and the other half when honorably discharged therefrom, or at the expiration of the term of service.

Mr. WILSON. Unless the bill provides for a tax on whisky on hand out of which to pay these bounties I shall object to the introduction of the bill.

The SPEAKER. Objection being made, the bill is not before the House.

Mr. WASHBURN, of Illinois. I am very glad to see my friend from Vermont on the anxious seat. He is very anxious to have this bill passed, and I hope he will accept an amendment which I will now offer.

Mr. WILSON. I object.

WASHINGTON GAS COMPANY.

Mr. STEELE, of New York. I ask the unanimous consent of the House to report back from the Committee for the District of Columbia Senate bill No. 336, to amend the act incorporating the Washington Gas-Light Company, and for other purposes.

Mr. UPSON. I object.

OLD GUARD—AGAIN.

Mr. WILSON. I desire to withdraw the objection to the bill which the gentleman from Vermont desired to report providing for the raising of an Old Guard. I am satisfied that the Committee of Ways and Means ought to go into the Old Guard, and I therefore withdraw my objection.

Mr. HARDING. I object.

RECORD OF A VOTE.

Mr. LAZEAR, by unanimous consent, obtained permission to record his vote in the negative on the enrollment bill.

Mr. BROOKS moved that the House adjourn.

The motion was disagreed to.

Mr. STEVENS. I move that the House take a recess until ten o'clock Monday morning.

Mr. WASHBURN, of Illinois. I move to amend so as to say eleven o'clock.

The amendment was not agreed to.

The motion was agreed to; and thereupon (at thirty-five minutes after two o'clock, a. m.) the House took a recess until ten, a. m., on Monday.

MONDAY MORNING SESSION.

The House reassembled at ten o'clock, a. m., (Monday, July 4.)

THANKS TO THE SOLDIERS.

Mr. WASHBURN, of Illinois, by unanimous consent, introduced the following resolution:

Resolved, That before the adjournment of the present session of Congress, on this the eighty-seventh anniversary of the birth of our national independence, it is becoming and proper for the Representatives of the people to renew to our officers, soldiers, and seamen engaged in the great struggle for the suppression of the rebellion against our Government our profound and heartfelt thanks for their services, our sympathy for their sufferings, and to congratulate them on their successes and their triumphs, and the hope of a speedy termination of the contest and their return to the peaceful pursuits of life.

Mr. WASHBURN, of Illinois. Mr. Speaker, I offer that resolution not only as an expression of what I believe to be the sentiments of the House, but to enable me to congratulate the country on

the successes and triumphs achieved by our arms, and the advances that have been made toward the suppression of the rebellion since the last anniversary of our independence. It is but a year ago that the rebel army, in all its power and strength, was far north of Washington and invading the great State of Pennsylvania, threatening its capital and the great commercial cities of Pittsburgh and Philadelphia. The Mississippi river was still closed, and although Vicksburg capitulated one year ago, yet the rebels held Port Hudson, and the great father of waters did not then "run unvexed to the sea." In Tennessee, we held only to Nashville and Murfreesboro'. Let us now, sir, contemplate the changes the year has brought to us in the military situation and let the country take heart and courage. The Mississippi is now open, and commerce floats there to-day comparatively unobstructed. Though we have lost many men and much war material in Arkansas and Louisiana, we now hold as much territory in those States as a year ago, besides holding points in Texas that we did not then have. The "hero of the Mississippi," fresh from his glorious successes on that river, snatches victory from the jaws of defeat at Chattanooga, fights a battle above the clouds, plants his victorious banner on the top of Lookout mountain, and opens the gateway to Georgia, the Empire State of the South. The heroic and undaunted Sherman, after driving Johnston and his veteran army for so great a distance through his own country and capturing Dalton, Rome, with all of its works and military stores, and many other towns, yesterday dated his dispatch from Marietta, Georgia, eighteen miles from Atlanta, the great rebel heart of the Southwest. Johnston and his army are flying before the invincible hosts of the army of the Southwest.

Where is the great army of Lee now? Two months ago this day, numbering one hundred and thirty thousand of the best soldiers of the bogus confederacy, this grand rebel army, resting in its magnificent intrenchments behind the Rapidan, confronted our forces which were on this side of that now famous river. Our Army, led by that child of victory, has advanced from the Rapidan to the south of Petersburg. General Grant has driven the desperate and maddened hordes of Lee through sixty miles of his intrenchments, outgeneraling him in every movement, and beating him in every battle. He now holds both Petersburg and Richmond by the throat. All the fight is whipped out of Lee, and he now cowers in his defenses, not daring to come out and give battle to that army of the Potomac which by its long-continued and desperate fighting, its persistent and heroic courage, has made itself a name and a fame that will live forever in history. The campaign has been one of the greatest and most remarkable the world has ever known. While the country has been concerned at the magnitude of our own loss, it seems not to have considered the appalling losses of the enemy. He has lost sixty thousand men in killed and wounded and sixteen thousand prisoners; he has lost innumerable standards and battle-flags and twenty-three guns. He has lost twenty-six general officers in killed, wounded, and prisoners. Our losses in prisoners have not been more than six thousand, and our whole loss, in killed, wounded, and prisoners, does not exceed that of the rebels. We have lost but five guns by capture by the enemy, though both Wilson and Hunter had to destroy some fifteen or twenty small pieces to prevent them from falling into the hands of the enemy. We have lost seventeen general officers in killed, wounded, and prisoners. Our forces have destroyed the Virginia Central railroad from the South Anna to near Gordonsville, rendering it impossible for it to be repaired for a long time. I do not consider the reported raid upon the Baltimore and Ohio railroad as of any significance. Richmond has now no railroad communication north. We hold the Petersburg and Weldon railroad, the great line of communication south to Wilmington and Charleston.

Wilson and Kautz, two of the most daring and gallant soldiers in the service, have in their recent daring and successful raids, thoroughly destroyed thirty miles of the Petersburg and Lynchburg railroad and twenty-five miles of the Danville road, besides destroying three trains of cars, two locomotives, and a vast amount of supplies. Hunter, called by the rebels a "fanatic,"

but a fighter," in his recent expedition achieved great success, going it absolutely wild, capturing Staunton with all its vast depots of supplies, taking Lexington, the residence of the rebel ex-governor of Virginia, John Letcher, and burning the military institute there, a hateful nursery of treason. He tore up railroads, burned their bridges, cut the canal, destroyed barges containing ordnance and ammunition, and inflicting irreparable damage upon all the country. Every railroad running into either Richmond or Petersburg is now cut off, and the Richmond papers say no trains of cars are running out from the city. Petersburg is substantially at our mercy to be shelled and destroyed, and both that city and Richmond, short of supplies and their communications cut, must soon succumb. Lee's army, powerless for attack upon our brave troops, short of necessary supplies, must soon be cooped up for eventual capture or make its way south toward the Carolinas. Our troops are in the highest spirits, full of hope and courage, and every man confident of success. The whole military situation never looked more promising than at present, and I believe we are now rapidly approaching the triumphant end of the great struggle. This Congress has nobly accomplished its duty. With all the necessary legislation passed, with the certain prospect of filling up the ranks of the Army, with the patient and trusting patriotism of the people, all loyal men can now look forward with hope and faith. The first session of the Thirty-Eighth Congress will adjourn under favorable auspices. Returning to our seats on the 1st of December, as I hope we all may, I trust we shall see the rebellion crushed, peace restored, and the country regenerated and disenthralled.

The resolution was unanimously adopted.

MESSAGE FROM THE SENATE.

A message from the Senate was received by Mr. FORNEY, their Secretary, notifying the House that the Senate have passed without amendment a bill and joint resolution of the following titles:

An act (H. R. No. 461) for the relief of John C. McConnell; and

Joint resolution (H. R. No. 120) imposing a special income duty.

Also, that the Senate have agreed to the concurrent resolution of the House providing for an adjournment of the present session of Congress on Thursday, the 30th of June, with an amendment striking out "Thursday, the 30th of June," and inserting in lieu thereof "Monday, the 4th of July;" in which amendment he was directed to ask the concurrence of the House.

Also, that the Senate have adopted a resolution providing for a suspension of the 16th and 17th joint rules for the remainder of the present session; in which he was directed to ask the concurrence of the House.

Also, that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House (No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862.

FINAL ADJOURNMENT.

On motion of Mr. STEVENS, by unanimous consent, the message of the Senate stating that the Senate have amended the concurrent resolution passed by the House so as to fix the date of final adjournment of the two Houses of Congress at twelve o'clock, m., Monday, July 4, instead of Thursday, June 30, was taken from the Speaker's table, and the amendment of the Senate concurred in.

SIXTEENTH AND SEVENTEENTH JOINT RULES.

On the suggestion of the SPEAKER, the message from the Senate announcing the passage of a concurrent resolution by the Senate suspending the 16th and 17th joint rules for the remainder of the present session was taken from the Speaker's table.

The 16th and 17th joint rules were read, as follows:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the last three days of the session.

"17. No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States for his approbation on the last day of the session."

The concurrent resolution was adopted.

ACCOUNTS OF JUSTIN HARLAN.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting the accounts of Justin Harlan, Indian agent within the southern superintendency, for the first quarter of 1864; which was laid on the table, and ordered to be printed.

WASHINGTON GAS-LIGHT COMPANY.

Mr. DAVIS, of New York. I ask the consent of the House to report back from the Committee for the District of Columbia Senate bill No. 336, to amend the act incorporating the Washington Gas-Light Company, and for other purposes.

Mr. PATTERSON. I object.

Mr. DAVIS, of New York. I desire to say that I am instructed by a majority of the Committee for the District of Columbia to report the bill back.

The SPEAKER. It is not in order except by unanimous consent.

BUSINESS ON THE SPEAKER'S TABLE.

The SPEAKER stated that the business in order was the consideration of business on the Speaker's table.

RICHARD G. MURPHY.

Senate bill No. 346, for the relief of Richard G. Murphy, was taken from the Speaker's table, and read a first and second time.

The bill directs the repayment to Major Richard G. Murphy of the sum of \$1,800 for amount paid by him as agent of the Sioux Indians on false vouchers transmitted to him by Willis A. Gorman, late superintendent of Indian affairs for the northwestern superintendency. The bill also directs suit to be commenced against W. A. Gorman for said amount wrongfully taken from the Treasury.

Mr. KERNAN. Can the Committee on Indian Affairs give us any information about that bill?

Mr. WINDOM. The Committee on Indian Affairs have thoroughly examined that bill, and they are unanimously of the opinion that it ought to pass.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SUBMARINE INVENTIONS.

Senate bill No. 343, making an appropriation for testing submarine inventions, was next taken from the Speaker's table, and read a first and second time.

The bill appropriates \$25,000 for the purpose of testing the value of submarine batteries and other submarine inventions, to be expended under the direction of the Secretary of the Navy.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAY OF DELEGATE.

Mr. McBRIDE asked consent to submit the following resolution:

Resolved, That the Clerk of the House pay out of the contingent fund of the House to the Delegate from the Territory of Idaho the sum of \$220, being the amount deducted from his salary on account of absence from the House occasioned by the time necessarily employed in travel from Idaho to Washington.

Mr. ENGLISH objected.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 534) to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes;

An act (S. No. 346) for the relief of Richard G. Murphy;

An act (H. R. No. 305) to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's

stores and subsistence: supplies furnished to the Army of the United States;

An act (H. R. No. 510) further to regulate the carriage of passengers in steamships and other vessels;

An act (H. R. No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes;

Joint resolution (H. R. No. 119) explanatory of a joint resolution relative to pay of staff officers of the Lieutenant General;

An act (H. R. No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government;

An act (H. R. No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862;

Joint resolution (H. R. No. 120), imposing a special income duty;

An act (H. R. No. 461) for the relief of John C. McConnell;

An act (S. No. 348) for the supervision, repairs, and completion of the Washington aqueduct;

An act (S. No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service; and

An act (S. No. 138) to regulate proceedings between landlord and tenant in the District of Columbia.

CHANGE OF DATE.

The SPEAKER. The Chair will state that the House having on Saturday taken a recess until this morning instead of adjourned, this is in fact a part of Saturday's session, and inasmuch as there may be a discrepancy of dates in the business of the two Houses, if there be no objection the Chair will direct that the entries of this morning's proceedings be made on the Journal as the 4th of July instead of the 2d.

There was no objection.

Mr. WASHBURN, of Illinois. I move that there be no further business transacted by the House.

The SPEAKER. That motion is in order by unanimous consent.

Mr. ECKLEY. I object.

NEVADA HALF-BREED SCRIP.

Mr. WINDOM, by unanimous consent, introduced a bill for the relief of the preceptors and locators with half-breed scrip in Nevada Territory; which was read a first and second time, and referred to the Committee on Public Lands.

JOHN J. MICHIE.

Mr. HOTCHKISS. I ask the unanimous consent of the House to discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill (H. R. No. 338) for the relief of John J. Michie, of New Orleans, Louisiana.

Mr. WASHBURN, of Illinois. I object.

PAY OF DELEGATE.

Mr. McBRIDE. The gentleman from Connecticut now withdraws his objection to the resolution which I asked consent to offer a few moments ago to pay the Delegate from Idaho the amount deducted from his compensation in consequence of his absence from the House while on his way here. I now ask that the resolution may be received and acted upon.

Mr. ENGLISH. I will say that when I objected to the resolution of the gentleman from Oregon I did it on the supposition that the Delegate might have left the Territory in time to have been here at the beginning of the session. I understand, however, that he was not elected until the beginning of October, and that he started immediately, on being notified of his election, for the capital. Under this statement of facts I withdraw my objection to the resolution.

There being no further objection to the resolution, it was received and adopted.

Mr. McBRIDE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COMPENSATION OF EMPLOYEES.

Mr. WEBSTER, by unanimous consent, introduced a joint resolution granting additional compensation to the employees of the two Houses

of Congress; which was read a first and second time.

The joint resolution was read, as follows:

Whereas the cost of living in this city has increased at least one hundred per cent.: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid, at the close of the present session of Congress, to the officers, clerks, and other employes of the two Houses of Congress, and such other persons in and about the Capitol as have usually been embraced in extra compensation resolutions, a sum equal to twenty per cent. upon the amount of their annual compensation; and in case of such as do not receive an annual compensation a like per cent. upon the amount of compensation received by them respectively during the present session; and a sum sufficient for that purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WEBSTER moved the previous question on the engrossment of the resolution.

The previous question was seconded, and the main question ordered to be put.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ALLEY called for tellers on its passage. Tellers were not ordered.

The joint resolution was passed.

Mr. WEBSTER moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN J. MICHIE.

Mr. HOTCHKISS again asked consent to discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill for the relief of John J. Michie.

Mr. BOUTWELL objected.

RELEASE FROM DRAFT.

Mr. ECKLEY asked consent to introduce a joint resolution releasing from draft certain persons called into service for one hundred days by the Governor of Ohio.

Mr. ANCONA objected.

COMMISSIONER OF PUBLIC BUILDINGS.

Mr. RICE, of Maine, asked consent to introduce a bill fixing the salary of the Commissioner of Public Buildings at \$3,000 per annum.

Mr. ELDRIDGE. I object.

Mr. RICE, of Maine. I desire to say that the present salary of the Commissioner of Public Buildings is but \$2,000. He has a very large amount of business to transact and a large responsibility to incur, entirely disproportionate to the salary. I hope the gentleman will withdraw his objection.

Mr. ELDRIDGE. I cannot withdraw it.

SUSANNAH DEFALCO.

Mr. WEBSTER, from the Committee on Invalid Pensions, by unanimous consent, reported adversely on the petition of Susannah Defalco; which was laid on the table, and the committee discharged from its further consideration.

PAY OF LIGHT-HOUSE KEEPERS.

Mr. CRESWELL, by unanimous consent, made an adverse report on the petition of the keepers of the light-houses in the fifth congressional district of Maryland, asking an increase of compensation; which was laid on the table, and ordered to be printed.

PRINTING OF CENSUS REPORT.

Mr. MORRILL asked unanimous consent to introduce a joint resolution requiring the report of the census of 1860 to be completed within one year, and limiting it in extent to three volumes of the size of the one already printed.

Mr. STEVENS objected.

RECESS.

On motion of Mr. MORRILL, (at ten o'clock and forty-five minutes, a. m.) the House took a recess until eleven o'clock and fifteen minutes, a. m.

At the expiration of the time designated, the House reassembled.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, notifying the House that the Senate have passed a joint resolution (S. No. 78) providing for the appointment of a com-

mission upon the subject of raising revenue by taxation; in which he was directed to ask the concurrence of the House.

Also, that the Senate have passed without amendment a bill (H. R. No. 32) to regulate the sessions of the circuit court of the northern district of New York, and for other purposes.

DIRECT TAX IN REBEL STATES.

Mr. FENTON. I rise to a privileged question. I report back, in accordance with the permission given by the House to report at any time, the bill of the Senate (No. 171) further to amend an act entitled "An act for the collection of the direct taxes in the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862.

The bill was ordered to a third reading, and was accordingly read the third time.

REVENUE COMMISSION.

Mr. MORRILL. Before the vote is taken on that bill, as it may disclose no quorum present, I desire to take from the Speaker's table the joint resolution (S. No. 78) providing for the appointment of a commission on the subject of raising revenue by taxation.

The joint resolution was read. It authorizes the Secretary of the Treasury to appoint a commission to consist of three persons to inquire and report as to the best mode of raising the revenue required to supply the wants of the Government; the commission to have power to take testimony and to obtain information in such manner as they may deem expedient or as the Secretary of the Treasury may prescribe.

The joint resolution also appropriates such an amount as may be necessary to defray the expenses of the commission.

Mr. MORRILL. I believe there will be no objection to that resolution from any part of the House. It is manifest that such a commission ought to have existed from the very foundation of the Government, and it is indispensably necessary in these times to enable Congress to legislate wisely on the subject of taxation.

Mr. COX. I desire to ask whether these commissioners are to be appointed from outside the Treasury Department?

Mr. MORRILL. They are to be appointed by the Secretary of the Treasury from any class of persons he may select for the purpose of obtaining information on the subject of taxation.

Mr. COX. If they are to be appointed from persons outside the Treasury Department I desire to inquire what salary they are to receive.

Mr. MORRILL. Nothing more than their expenses is provided for by this resolution. They are to take the testimony of merchants and others, and their report, if they act judiciously, cannot fail to be very valuable. It is impossible now for any one to tell in every case how much taxation many articles will bear without the tax becoming oppressive. Take, for instance, the large number of articles of which alcohol forms a component part, or those goods made in part of silk, and so of many others; the information which such a commission may obtain from merchants largely engaged in the purchase and sale of such articles will be invaluable. I hope there will be no objection to the joint resolution.

Mr. KERNAN. If I were satisfied that business men and not politicians would be appointed I would not object.

Mr. MORRILL. The gentleman will have to trust the Secretary of the Treasury for that.

Mr. COX. I do not like the idea of allowing merchants to come and make arrangements to favor their own commodities. It is the business of the Treasury Department to collect all necessary information on this subject, and they already have that power. I am opposed to going outside that Department to appoint new officers for this purpose.

Mr. MORRILL. I assure the gentleman the Treasury Department possesses no such power as this resolution provides for.

Mr. ELDRIDGE. I must object to that proposition.

DIRECT TAXES IN REBEL STATES—AGAIN.

The SPEAKER. Then the question will be on the passage of the bill reported by the gentleman from New York from the Committee of Ways and Means.

Mr. ELDRIDGE. I demand the yeas and nays upon the passage of that bill.

The yeas and nays were ordered.

Mr. FENTON. As I am informed there may be no quorum present if the vote is taken at this time, I will, with the consent of the House, ask that the bill may be recommitted to the Committee of Ways and Means.

There being no objection, the bill was accordingly recommitted.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. HAY, his Private Secretary, notifying the House that he had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 575) to correct a clerical error in the law of June 30, 1864, relating to the Post Office Department;

An act (H. R. No. 555) for the relief of Horace Gates;

Joint resolution (H. R. No. 120) imposing a special income duty;

An act (H. R. No. 305) to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States;

An act (H. R. No. 573) making an appropriation to carry into effect an act to prevent smuggling;

An act (H. R. No. 406) supplementary to an act to grant pensions, approved July 14, 1862;

An act (H. R. No. 510) further to regulate the carriage of passengers in steamships and other vessels;

An act (H. R. No. 534) to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes;

An act (H. R. No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes;

An act (H. R. No. 411) to encourage immigration; and

Joint resolution (H. R. No. 119) explanatory of joint resolution in relation to pay of staff officers of the Lieutenant General.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. FORNEY, their Secretary, notifying the House that the Senate have passed a joint resolution (S. No. 79) to increase the compensation of matrons in the hospitals, in which he was directed to ask the concurrence of the House.

Also, that the Senate have passed without amendment a bill of the House (No. 421) to pay in part for publishing the debates of Congress, and for other purposes.

JOHN J. MICHIE.

Mr. HOTCHKISS. I believe all objection is now withdrawn to the bill for the relief of John J. Michie, and I ask that it may be passed.

There being no further objection, House bill No. 338, for the relief of John J. Michie, of New Orleans, Louisiana, was brought before the House, (the Committee of the Whole House on the Private Calendar having been discharged from its further consideration,) ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time, and passed.

Mr. ECKLEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COMPENSATION OF HOSPITAL MATRONS.

The House next proceeded as the regular order of business to the consideration of the Senate joint resolution No. 78, to increase the compensation of matrons in the hospitals; which was taken from the Speaker's table, and read a first and second time.

The joint resolution provides that hereafter the compensation of matrons in hospitals shall be ten dollars per month and one ration.

The joint resolution was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. DAVIS, of New York, moved to reconsider the vote by which the joint resolution was

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 1ST SESSION.

TUESDAY, JULY 5, 1864.

NEW SERIES...No. 222.

passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GILBERT AND GERISH.

Mr. SWEAT, by unanimous consent, introduced a joint resolution for the relief of Gilbert & Gerish; which was read a first and second time.

The joint resolution provides for refunding to Gilbert & Gerish certain advances made to the United States marshal of the Territory of Utah in 1855, for which they have never received payment.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SWEAT moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RELEASE FROM DRAFT.

Mr. ECKLEY again asked unanimous consent to introduce a joint resolution releasing from draft certain persons called into service for one hundred days by the Governor of Ohio.

Mr. KERNAN objected.

Mr. ECKLEY moved to suspend the rules to enable him to introduce the bill.

Mr. KERNAN. I call for the yeas and nays on that motion. I see no reason why men who have served for a hundred days should be exempted from draft for three years, nor why, if they are to be, the joint resolution should be confined to Ohio so long as other States are similarly situated.

Mr. ECKLEY. No other State is similarly situated. Some of these men have already been drafted.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 18, nays 80, not voting 84; as follows:

YEAS—Messrs. Alley, Allison, Ashley, Boyd, Cobb, Eckley, Frank, Hotchkiss, Asahel W. Hubbard, Ingersoll, Loan, McClurg, Moorhead, James R. Morris, Spalding, Stevens, Elihu B. Washburne, and Windom—18.

NAYS—Messrs. Ames, Ancona, Arnold, Bailey, Baxter, Blair, Boutwell, Chandler, Freeman Clarke, Coffroth, Cole, Cox, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dawson, Deming, Denison, Dixon, Briggs, Eden, Edgerton, Eldridge, Eliot, English, Fenton, Ganson, Gooch, Griswold, Harding, Benjamin G. Harris, Charles M. Harris, John H. Hubbard, Hutchins, William Johnson, Kelley, Kernan, Knapp, Law, Le Blond, Littlejohn, Long, Longyear, Marcy, McBride, Samuel F. Miller, Morrill, Daniel Morris, Morrison, Noble, Norton, Odell, Charles O'Neill, Patterson, Pendleton, Perham, Samuel J. Randall, John H. Rice, Robinson, James S. Rollins, Ross, Schofield, Shannon, Smith, Smithers, John B. Steele, Sweet, Thomas, Tracy, Upson, Van Valkenburgh, Ward, Webster, Whalley, Wheeler, Williams, Wilder, Winfield, and Woodbridge—80.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Bliss, Blow, Brandegee, Brooks, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Clay, Dawes, Donnelly, Dumont, Farnsworth, Finck, Garfield, Grider, Grinnell, Hale, Hall, Harrington, Herrick, Higby, Holman, Hooper, Hulburd, Jenckes, Philip Johnson, Julian, Kaibfleisch, Kasson, Francis V. Kellogg, Orlando Kellogg, King, Knox, Lazarus, Mallory, Marvin, McAllister, McDowell, McIndoe, McKinney, Middleton, William H. Miller, Anos Myers, Leonard Myers, Nelson, John O'Neill, Orth, Perry, Pike, Pomeroy, Price, Prayn, Radford, William H. Randall, Alexander H. Rice, Rogers, Edward H. Rollins, Schenck, Scott, Sloan, Starr, Stebbins, William G. Steele, Stiles, Strouse, Stuart, Thayer, Voorhees, Wadsworth, William B. Washburn, Chilton A. White, Joseph W. White, Wilson, Benjamin Wood, Fernando Wood, and Yeaman—84.

So the rules were not suspended.

COMPENSATION OF GLOBE REPORTERS.

Mr. DAWSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk pay out of the contingent fund to the reporters of the House for the Congressional Globe an amount equal to twenty per cent. of their compensation as such reporters for the present session of Congress.

ENROLLED BILL.

Mr. ALLISON, from the Committee on En-

rolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 421) to pay in part for publishing the debates of Congress, and for other purposes; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, informing the House that the Senate had passed, without amendment, a joint resolution (H. R. No. 118) for the relief of sufferers by a late accident at the United States arsenal in Washington, District of Columbia.

REVENUE COMMISSION.

The House, by unanimous consent, proceeded to the consideration of the joint resolution of the Senate (No. 78) providing for the appointment of a commission upon the subject of raising revenue by taxation.

Mr. MORRILL moved the previous question. The previous question was seconded, and the main question ordered to be put.

Mr. LE BLOND. I rise to a question of order. I submit that that resolution makes an appropriation, and must be first considered in a Committee of the Whole.

The SPEAKER. The Chair overrules the question of order on the ground that it is too late, the previous question having been ordered upon it.

Mr. STEVENS. I hope the gentleman will withdraw that resolution for a moment, to enable me to introduce a joint resolution to correct an error in the tax bill.

Mr. ODELL. I hope the gentleman from Vermont will not withdraw it; but I hope gentlemen upon this side of the House will cease their objections to it, for the reason that it is a measure requested by the new Secretary of the Treasury. The commission which it provides for are to report at the next session of Congress such information as they may collect to enable Congress to judge how they can best apportion the burdens of taxation upon the country. It is an important measure, and I hope there will be no objection to it.

The SPEAKER. Debate is not in order.

CORRECTION OF INTERNAL REVENUE BILL.

Mr. STEVENS, by unanimous consent, introduced a joint resolution to correct errors in the internal revenue bill; which was read a first and second time.

The joint resolution makes various corrections in the internal revenue bill, principally in respect to referring to sections by wrong numbers.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

ENROLLED RESOLUTIONS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 118) for the relief of the sufferers by a late accident at the United States arsenal in Washington, District of Columbia; and

Joint resolution (S. No. 79) to increase the compensation of matrons in the hospitals.

RECORD OF VOTES.

Mr. WHALEY, by unanimous consent, obtained leave to record his vote in the negative upon the passage of the enrollment bill.

Mr. MILLER, of Pennsylvania, by unanimous consent, obtained leave to record his vote in the negative upon the reconstruction bill.

EXTENSION OF TIME.

On motion of Mr. MORRILL, by unanimous consent, (at three minutes before twelve o'clock,) a concurrent resolution was passed extending the time of the session for ten minutes.

COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. STEVENS moved that a committee of three be appointed on the part of the House to join such committee as may be appointed by the Senate to wait on the President and inform him that if he has no further communications to make to Congress the two Houses are now ready to adjourn.

The motion was agreed to; and the Speaker appointed Messrs. STEVENS, WASHINGTON of Illinois, and DAWSON, as such committee.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, notifying the House that the Senate had passed the concurrent resolution of this House extending the time of the session for ten minutes.

Also, that the Senate have appointed a committee on its part to join the committee appointed on the part of the House to wait on the President and inform him that if he has no further communication to make Congress is now ready to adjourn.

PAY OF LABORERS, ETC.

Mr. A. MYERS asked consent to introduce a resolution that the laborers and book-folders about the Capitol whose salaries are less than \$1,000 per annum shall be paid at that rate for the present session of Congress.

Mr. COX. I object to that unless the gentleman will add also the female employes in the Departments.

WASHINGTON'S FAREWELL ADDRESS.

Mr. ANCONA. I move that at the close of the proceedings of the House the Clerk read Washington's Farewell Address.

The SPEAKER. If there be no objection, the Clerk will proceed to read Washington's Farewell Address.

Mr. ASHLEY. I object; I think we had better see whether we have any more business to do.

MESSAGE FROM THE PRESIDENT.

A message was received from the President, by Mr. HAY, his Private Secretary, notifying the House that he had approved and signed an act (H. R. No. 46) for the relief of John C. McConnell.

MOVEMENTS OF THE CLOCK.

Mr. ELDRIDGE. I rise to a question of order. That clock is going backwards. [Laughter.] Some minutes ago it stood three minutes before twelve, and now it is five minutes before twelve.

The SPEAKER. The Chair will say that he supposes the clock has obeyed the instructions of the House to extend the session ten minutes. [Laughter.]

Mr. ELDRIDGE. Well, I suppose it is going the same way as the country.

Mr. STEVENS. Oh no; the gentleman means the Democratic party. [Laughter.]

Mr. KELLEY. Let me say to the gentleman that the clock is precisely with my watch.

Mr. ELDRIDGE. Well, it is not with a watch on the Democratic side of the House. [Laughter.]

REVENUE COMMISSION—AGAIN.

Mr. MORRILL. I now call up the Senate joint resolution providing for the appointment of a commission upon the subject of raising revenue by taxation, upon which the previous question has been seconded, and the main question ordered.

Mr. LE BLOND. I rise to a question of order. That is the same resolution which we have once had before the House, and it is not in order to call it up again.

The SPEAKER. It is the same resolution, but it was laid over informally, and comes up in order under the operation of the previous question.

Mr. LE BLOND. I rise to the question of order that it makes an appropriation and cannot now be considered.

The SPEAKER. The Chair overrules the question of order, on the ground that it is now too late to raise it.

Mr. ELDRIDGE. I move to lay the joint resolution on the table.

Mr. ODELL. Is that debatable?

The SPEAKER. It is not debatable.

Mr. ELDRIDGE. The gentleman from Vermont is like the clock, always going backwards.

Mr. ODELL. I think the gentleman from Vermont is not like the clock, but that the gentleman from Wisconsin is like the clock in that respect now. I am sorry to see that this side of the House oppose such a resolution, the sole object of which is to enable Congress when it shall again convene to legislate intelligently upon a subject which is now of the deepest interest to the Government as well as to every citizen of the country—the subject of internal revenue. I consider the action of the gentleman upon this measure as factious to a degree that does not reflect credit on the side of the House to which I belong.

The best tariff law ever enacted—that of 1846—was the result of a commission appointed by a Democratic Government to collect information, not in this country alone, but in Europe. That investigation led to wise legislation, as I have no doubt this now proposed would if permitted to be made.

The SPEAKER. Debate is not in order.

Mr. LE BLOND called for the yeas and nays on the motion to lay the joint resolution on the table.

The yeas and nays were ordered.

PRINTING OF FAREWELL ADDRESS.

Mr. ROSS, by unanimous consent, moved that ten thousand copies of Washington's Farewell Address be printed for the use of the House; which motion was referred to the Committee on Printing.

JAMES SAUNDERS.

Mr. RANDALL, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That James Saunders be paid out of the contingent fund of the House for his services during the present session of Congress the same amount of compensation as is paid to the regular laborers of the House.

Mr. RANDALL, of Pennsylvania, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DECLARATION OF INDEPENDENCE.

Mr. FENTON moved that the Clerk proceed to read the Declaration of Independence.

Mr. WINDOM. The emancipation proclamation is also called for.

Mr. WHALEY. I move to amend by substituting Jefferson's inaugural address and President Lincoln's emancipation proclamation.

The amendment was not agreed to.

Mr. FENTON. I call for a vote on reading the Declaration of Independence.

Mr. COX. Oh, no; that is a revolutionary, insurrectionary document, calculated to give aid and comfort to the rebellion, as gentlemen on that side seem trying to do. [Laughter.]

The motion was agreed to; and the Clerk proceeded to read the Declaration of Independence, as follows:

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the Powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these, are life, liberty, and the pursuit of happiness. That, to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new Government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that Governments long established, should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under abso-

lute despotism, it is their right, it is their duty, to throw off such Government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former system of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object, the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world:

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his Governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the Legislature; a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative Houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the State remaining, in the mean time, exposed to all the danger of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose, obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judicial powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our Legislature.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others, to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment, for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offenses:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the powers of our governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections among us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction, of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress, in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts made by their Legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace, and friendship.

We, therefore, the representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, free and independent States; that they are absolved from

all allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is, and ought to be, totally dissolved; and that, as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do. And, for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other, our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members:

JOHN HANCOCK.

New Hampshire.

Josiah Bartlett, Matthew Thornton.
William Whipple,

Massachusetts Bay.

Samuel Adams, Robert Treat Paine,
John Adams, Elbridge Gerry.

Rhode Island.

Stephen Hopkins, William Ellery.

Connecticut.

Roger Sherman, William Williams,
Samuel Huntington, Oliver Wolcott.

New York.

William Floyd, Francis Lewis,
Philip Livingston, Lewis Morris.

New Jersey.

Richard Stockton, John Hart,
John Witherspoon, Abraham Clark,
Francis Hopkinson,

Pennsylvania.

Robert Morris, James Smith,
Benjamin Rush, George Taylor,
Benjamin Franklin, James Wilson,
John Morton, George Ross,
George Clymer,

Delaware.

Cæsar Rodney, Thomas McKean,
George Read,

Maryland.

Samuel Chase, Thomas Stone,
William Paca, Charles Carroll, of Carrollton.

Virginia.

George Wythe, Thomas Nelson, Jr.,
Richard Henry Lee, Francis Lightfoot Lee,
Thomas Jefferson, Carter Braxton,
Benjamin Harrison,

North Carolina.

William Hooper, John Penn.
Joseph Hewes,

South Carolina.

Edward Rutledge, Thomas Lynch, Jr.,
Thomas Heyward, Jr., Arthur Middleton.

Georgia.

Button Gwinnett, George Walton,
Lyman Hall,

COMPENSATION OF EMPLOYÉS.

Mr. PENDLETON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk pay, at the close of this session, out of the contingent fund of the House, to the officers, clerks, and other employes of the House a sum equal to twenty per cent. on their annual compensation respectively; or, where not receiving an annual compensation, on the amount received by them during the session.

Mr. PENDLETON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 79) to increase the compensation of the matrons in the hospitals.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, their Secretary, informing the House that the Senate have passed without amendment a bill and joint resolutions of the following titles:

An act (H. R. No. 563) in addition to the act respecting quarantine and health laws, approved February 25, 1799, and for the better execution of the third section thereof;

Joint resolution (H. R. No. 123) to correct errors in the internal revenue bill; and

Joint resolution (H. R. No. 106) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned.

Also, that the Senate have adopted a concurrent resolution providing for an extension of the present session ten minutes longer than the time already fixed; in which he was directed to ask the concurrence of the House.

EXTENSION OF TIME.

The message just received from the Senate extending the time of the session for ten minutes was taken up, and the resolution adopted.

CHARLES A. HICKBORN.

Mr. WHALEY, by unanimous consent, reported back from the Committee on Invalid Pensions Senate bill No. 303, for the relief of Charles A. Hickborn.

The bill was read. It provides for placing Charles A. Hickborn, infant son of a late contract surgeon, upon the pension roll at the rate of twenty dollars a month, until he shall arrive at the age of sixteen years.

Mr. WASHBURN, of Illinois. It occurs to me that that bill is a departure from the uniform practice of the Government in relation to granting pensions. I should like to hear an explanation of it before I can vote for it.

Mr. WHALEY. I will state to the gentleman from Illinois that the Senate passed the bill and it was received here and referred to the Committee on Invalid Pensions too late to give it much examination; but supposing that the Senate would not have passed it if it had not been right, I have reported it back.

Mr. WASHBURN, of Illinois. As the gentleman acknowledges that his committee have not considered the bill, I move to recommit it to the Committee on Invalid Pensions.

The motion was agreed to.

FURTHER EXTENSION OF TIME.

A message was received from the Senate informing the House that the Senate have passed a concurrent resolution extending the time of the session for ten minutes longer, until half past twelve o'clock, p. m.

On motion of Mr. MORRILL, the resolution was, by unanimous consent, taken up and adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted.

Mr. INGERSOLL moved to lay the motion to reconsider on the table.

Mr. EDEN called for the yeas and nays on the latter motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 13, not voting 85; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Ashley, Baily, John D. Baldwin, Baxter, Blair, Boyd, Cobb, Coffroth, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Dealing, Denison, Dixon, Driggs, Eckley, Edgerston, Eldridge, Elliot, English, Fenton, Frank, Ganson, Garfield, Gooch, Griswold, Charles M. Harris, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Kelley, Korman, Knapp, Law, Le Blond, Littlejohn, Loan, Longyear, Marcy, McBride, McClurg, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Odell, Charles O'Neill, Perham, Samuel J. Randall, William H. Randall, John H. Rice, James S. Rollins, Scheuck, Scofield, Shannon, Smithers, Spaulding, John B. Steele, Stevens, Thomas, Tracy, Upton, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Windom, Winfield, and Woodbridge—84.

NAYS—Messrs. Arnold, Chandler, Cole, Eden, Harding, William Johnson, Long, Morrison, Norton, John O'Neill, Ross, Smith, and Ward—13.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Augustus C. Baldwin, Beaman, Blaine, Bliss, Blow, Boutwell, Braudedge, Brooks, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cox, Cravens, Donnelly, Dumont, Farnsworth, Finck, Grider, Grinnell, Hale, Hall, Harrington, Benjamin G. Harris, Herrick, Holman, Hubbard, Hutchins, Philip Johnson, Julian, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Lazear, Mallory, Marvin, McAllister, McDowell, McIndoe, McKinney, Middleton, James R. Morris, Leonard Myers, Nelson, Noble, Orth, Patterson, Pendleton, Perry, Pike, Pomeroy, Price, Pruyn, Radford, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, Scott, Sloan, Starr, Stebbins William G. Steele, Stiles, Strouse, Stuart, Sweat, Thayer, Voorhees, Wadsworth, Chilton A. White, Joseph W. White, Wilson, Benjamin Wood, Fernando Wood, and Yeaman—85.

So the motion to reconsider was laid on the table.

ENROLLED RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 123) to correct errors in the internal revenue bill; when the Speaker signed the same.

REPORT FROM THE PRESIDENT.

Mr. STEVENS, from the committee appointed to wait on the President of the United States, re-

ported that the committee had discharged the duty imposed upon them, and that the President had informed them that he had no further communication to make, except to send a "God bless you" to each of the members.

CLOSE OF THE SESSION.

The hour of twelve o'clock and thirty minutes having arrived,

The SPEAKER. Gentlemen of the House of Representatives, the hour of adjournment has arrived, and I wish you, one and all, a happy reunion with family and friends in the charmed circle of home. Thanking you for the kind and generous manner in which you have sustained me in the administration of the difficult and responsible duties of this chair, and hoping and trusting, when we reassemble in these Halls next December, Providence may have so crowned the endeavors of our heroic defenders in the field that we may be permitted to rejoice over the full realization of the prayer of so many millions of your constituents, "God save the American Republic," I do now, in accordance with the concurrent resolution of both Houses, declare the first session of the House of Representatives of the Thirty-Eighth Congress of the United States adjourned sine die.

IN SENATE.

MONDAY, July 4, 1864.

Prayer by Rev. B. H. NADAL.

On motion of Mr. SHERMAN, and by unanimous consent, the reading of the Journal was dispensed with.

SPECIAL INCOME TAX.

Mr. SHERMAN. If there is no objection, I move to postpone all prior orders, with a view to take up the joint resolution from the House of Representatives which is now on the table.

Mr. MORGAN. I suggest to the Senator that that had better be deferred a few moments to allow Senators to come in.

Mr. SHERMAN. If the Senator will allow it to proceed as far as its passage I shall have no objection to allowing it to go over for a time if the Senator desires it.

There being no objection, the joint resolution (H. R. No. 120) imposing a special income duty was read a second time, and considered as in Committee of the Whole. It provides that in addition to the income duty already imposed by law, there shall be levied, assessed, and collected on the 1st day of October, 1864, a special income duty upon the gains, profits, or income for the year ending the 31st of December next preceding the time named for levying, assessing, and collecting the duty of all persons residing within the United States, or of citizens of the United States residing abroad, at the rate of five per cent. on all sums exceeding \$600, which is to be levied, assessed, and collected, except as to the rate, according to the provisions of existing laws for the collection of an income duty where not inapplicable. The Secretary of the Treasury is authorized to make such rules and regulations as to time and mode or other matters to enforce the collection of this special income duty as may be necessary. In estimating the annual gains, profits, or income for this special income duty, no deduction is to be made for dividends or interest received from any association, corporation, or company, nor is any deduction to be made for any salary or pay received.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. MORGAN. I think the resolution had better lie over for the present until the Senate is full.

Mr. SHERMAN. I think we have a quorum now.

Mr. MORGAN. This is a very important measure, and there are some Senators not now here who would like to be present when the vote is taken upon it.

Mr. SHERMAN. We passed this same proposition the other day after debate. If the Senator desires it to lie over I have no objection, but I hope the Senator will allow it to pass.

Mr. MORGAN. I have no objection to its passing at any time; I am ready to vote for it now; but I think it is due to Senators who take

an interest in it that they should be allowed an opportunity to be present when it is to be voted upon.

Mr. SHERMAN. I will say to the Senator from New York that there is not a single Senator but what knew this resolution was to come up this morning for final action. We had it under discussion on Saturday night. We passed a similar proposition the other day after full discussion by a very large vote.

Mr. TEN EYCK. I hope the Senator from New York will waive his objection, and let this joint resolution be put upon its passage, and upon that question I call for the yeas and nays.

Mr. JOHNSON. It is only nine o'clock, and there are a good many Senators who I know want to be here when this resolution is acted upon. I think it had better lie on the table for the present.

Mr. CONNESS. There was a very full Senate on Saturday night, and it was the general assent of all the Senators present that this joint resolution should pass without any objection, and certainly it is due to Senators who have been in their places this morning. I hope it will not be longer delayed.

Mr. SUMNER. But was there any understanding that the resolution should be passed without amendment?

Mr. CONNESS. Yes, sir. There is no quorum in the other House, and it must pass that way.

Mr. SUMNER. What is the question?

The PRESIDENT *pro tempore*. The question is on the passage of the joint resolution.

Mr. HALE. Has the resolution been read the third time?

The PRESIDENT *pro tempore*. It has.

Mr. HARLAN. I think it had better go over for the present and let the yeas and nays be called upon it, and in the mean time we can transact such business as can be done by unanimous consent.

Mr. SHERMAN. I have not the slightest objection if Senators desire it. Let the yeas and nays be ordered, if desired, and then let it go over.

Mr. HARLAN. I ask for the yeas and nays.

Mr. TEN EYCK. They have been asked for. The yeas and nays were ordered.

Mr. SUMNER. Is not the joint resolution open to amendment?

The PRESIDENT *pro tempore*. It is not.

Mr. SUMNER. Then I understand that the Senate proposes to adjourn without providing additional taxation.

Mr. SHERMAN. I need not inform the Senator that according to the Constitution we cannot originate taxes, and the House of Representatives is in such a condition that probably we had better pass this without attempting to impose any additional taxes.

Mr. SUMNER. The Senator has not read the Constitution very recently when he says what he does.

Mr. SHERMAN. I say we cannot originate a tax bill. We can amend this resolution.

Mr. SUMNER. We cannot originate such a measure, but we can amend this. We now have complete jurisdiction of this whole question. The language of the Constitution is as follows:

"All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills."

Therefore, the whole question of taxation is now open on this joint resolution. We may meet all the demands of the late Secretary of the Treasury, we may meet all the demands of the country on this joint resolution. Any amendment can be proposed and carried, completely within the provision of the Constitution.

Mr. HENDRICKS. I wish to appeal to the Senator from Massachusetts, inasmuch as the joint resolution that he is speaking upon cannot now be considered, or as it is understood it shall be postponed informally, to allow me to call up House bill No. 421, the bill relating to the Congressional Globe.

Mr. SHERMAN. I must object to this joint resolution being laid aside until we can have a vote. The Senator from Massachusetts has made up his mind to propose amendments to it. We might as well dispose of the question at once, because it is not open to amendment without a reconsideration; we might as well have the question settled now as at any other time. I trust,

therefore, we shall settle it now. If the Senator from Massachusetts moves to reconsider, I shall resist it, and we can have a vote whether the Senate will open this resolution to discussion and consideration with a view to amend it.

Mr. SUMNER. I should like to move a tax on whisky on hand.

Mr. SHERMAN. That has been voted down.

Mr. SUMNER. I know it has been on former occasions voted down, but does it follow that it will be voted down now?

Mr. SHERMAN. It was voted down in the House of Representatives on Saturday.

Mr. SUMNER. The Senator says it was voted down in the House of Representatives on Saturday, but it was also voted up in the House on Saturday. There were several votes taken upon it, some one way and some the other. I am told there is not a quorum in the House. There again is an illustration of the ill-considered resolution which we adopted on Saturday night. I should like to have the resolution in such a situation that we can have a vote on the question of taxing whisky on hand.

Mr. JOHNSON. With the permission of the honorable member from Massachusetts, without a motion to reconsider I suppose the debate is out of order.

The PRESIDENT *pro tempore*. The debate is not in order in the range it takes at the present time.

Mr. SUMNER. I take it the whole resolution is under discussion.

The PRESIDENT *pro tempore*. The question is on the passage of the joint resolution, and the resolution itself is open to discussion.

Mr. SUMNER. Does not that open the whole question on the whole resolution?

The PRESIDENT *pro tempore*. Not the question of particular amendments.

Mr. SUMNER. I take it that when one question of taxation is pending before the Senate the whole vast subject of taxation is open. The question naturally is whether what you propose to enact is adequate, and all the considerations for and against are proper to be presented to the Senate. Now, sir, at this moment I feel that this resolution is inadequate. It is simply intended to meet the exigency created by the new enrollment act. It is not intended to provide those additional ways and means which the late head of the Treasury has told us the country now needs.

But the Senator from Ohio has informed us that the present Secretary of the Treasury does not desire any additional means. I deem it of vast importance to the country that that statement should go forth, but that it should be accompanied also with the reasons. I wish therefore to know in what the difference consists between the estimates of the late Secretary of the Treasury and of the present Secretary of the Treasury. I speak now for my constituents and for the country at large to know whether or not adequate means have been provided to meet the great emergencies. Can the Senator from Ohio enlighten us on the point?

Mr. SHERMAN. The Senator from Massachusetts appeals to me. I now appeal to him as an American citizen and as an American statesman whether he desires to open these controverted questions at this stage of the session, the inevitable effect of which will be to defeat this resolution and prevent the enrollment act which he himself and his colleague have forced upon the country from being enforced. I beg him to allow this resolution to pass. He knows that in the present condition of affairs we cannot amend it without defeating it. I trust, therefore, that he will not delay action on this resolution or hinder its passage. If our measures should prove insufficient—and I have been from the first in favor of the largest taxation—the President of the United States can call us together to-morrow, or the next day, or at any time, and we can make any further provision that is deemed necessary.

As for going into the views of the present Secretary and the former Secretary of the Treasury, getting up a dispute between those two gentlemen—

Mr. SUMNER. No dispute.

Mr. SHERMAN. Or showing that there is a difference of opinion between them, or might possibly be a difference of opinion between them, I

will not do it. The only question now before the Senate is on the passage of this joint resolution, whether we will agree to levy an income tax for the purpose of meeting the bounties provided for by the enrollment act. There is no other question before the Senate. I appeal to the Senator to allow the resolution to pass. He knows very well that an attempt to amend it at this stage of the session in the present condition of the House will be to defeat the resolution. He has it in his power, any Senator has it in his power, to defeat this resolution. It is a question of responsibility, of patriotism, of duty; and I for one consider my duty best performed by not answering the suggestions of the Senator from Massachusetts, by not going into these controverted matters, although I might vote with him and agree with him at other times. The question is, shall we pass this joint resolution in order to provide the bounties demanded by the enrollment act? That is the only object, the only intention of the resolution; not to reopen these questions of taxation. The House, in pursuance of its constitutional duty, has refused to open up those questions, refused to send us propositions of that kind, and if we now attach them to this resolution, however just and meritorious they may be, it will only create trouble, confusion, delay, and the defeat of the measure.

Mr. SUMNER. The Senator from Ohio entirely misunderstands me. I have no purpose of defeating this measure. I want it passed, but I also want something more. I wish so far as I can as a Senator here to meet this occasion. I do not wish to desert my post here leaving that duty undone; and I, on my part, now in these last hours appeal to the Senator from Ohio to exercise his commanding influence over these questions to endeavor to satisfy the demands of his country. In various quarters we already hear that Congress will be soon convened again in order to meet the exigency and to do what we now leave undone. I call upon the Senator from Ohio by energetic action to render any extra session of this Congress unnecessary. Let him not chide others who now seek to animate Congress to their duty, but let him join in the work which the hour requires.

Sir, I am with that Senator as he knows very well on this resolution; but I ask in the name of my country that adequate means shall be supplied in order to carry on this war to maintain the national credit. Is the Senator from Ohio ready to go home now and leave the national currency and the national credit all afloat? Sir, it does not belong to a Senator in his position to abandon that great, transcendent duty at this moment. He errs when he seeks to stifle discussion; he errs when he seeks to supersede amendments to the resolution now under consideration. According to the strict provisions of the Constitution, the resolution is open to amendment; there is no proposition of increased taxation which may not be properly attached to it; and the country now looks to us to see that adequate means are supplied.

Sir, I regret the mood of the Senator from Ohio. I regret that he joins in dismissing this Congress, and to cause disappointment to our fellow-citizens at home. As I have already said, I have no opposition to make to the joint resolution. I am speaking sincerely in the interests of my country as I understand them. I do not doubt, of course, the patriotic purpose of the Senator from Ohio; but I think that he has yielded, unhappily, to what I will call this madness of the hour, this desire for the sake of the comforts of home to leave these seats and to abandon the high duties that have been imposed upon us.

Mr. TRUMBULL. I beg to say one word in reference to the extraordinary exhibition of the Senator from Massachusetts on the present occasion; but I shall not allow myself to be betrayed into any extended remarks at this hour. I cannot account for the position of the Senator from Massachusetts in any other way than as an effort at this stage of the session to screen himself from the responsibility which he has taken and to place it upon the shoulders of somebody else. We have had during this session of Congress revenue bills before us; we have had tax bills before us; we have spent weeks and months upon them; and now at this hour the Senator from Massachusetts rises and asks if we are to desert our positions without answering the demands of the country, because he wants a tax

on whisky on hand! Sir, that Senator has stood here and persistently voted against putting a tax on whisky on hand.

Mr. SUMNER. I beg the Senator's pardon.

Mr. TRUMBULL. The Senator voted against it when it was introduced, unless I am greatly mistaken.

Mr. SUMNER. When introduced in the beginning of the session I voted against the tax; but when it was introduced on the tax bill I voted for it.

Mr. TRUMBULL. I think it ill becomes the Senator, who stood in his place and fought the imposition of a tax on whisky at this very session of Congress, to rebuke those who struggled for it and did all they could to impose it, now in the closing hours of the session, and say, "You are the gentlemen who are deserting the interests of the country." If we had had the powerful influence of the Senator from Massachusetts at the start to put this tax upon whisky, instead of having that influence against it, doubtless ere this we could have put the tax upon whisky on hand. But, sir, I promised when I rose to go into no extended discussion. I think this Congress has done a great deal to sustain the Government. We have increased the tariff; we have passed an internal revenue bill after great consideration which it is hoped will raise a very large sum. Congress has acted, I doubt not, according to its best judgment in these particulars; and now at this hour to say that we should revise and unsettle all that we have done seems to me most extraordinary. But lest anything I may say should provoke discussion, which I do not wish to do at this hour, or to have any controversy with the Senator from Massachusetts, I shall not continue my remarks. My only object in rising at all was to show that if Congress has not done its duty, and if our expenses were likely to be larger than we anticipated, the Senator from Massachusetts is the one who aided in passing a bill giving bounties and increasing our expenses; the Senator from Massachusetts is the one who aided in preventing a tax on whisky on hand at a time when, with the aid of his influence, we could probably have passed it.

Mr. SUMNER. I have only one word to say in reply to the Senator. I have a very severe cold, so that I speak with difficulty. I am unwilling to be presented in the attitude in which he presents me. Sir, I have from the beginning voted for the largest tax which, at the time, seemed to me practicable. When the question of taxing whisky on hand was presented as a separate measure, I did not see my way then, on grounds of policy and expediency, to vote for it. It was at the beginning of the session. I did not speak on the question. I exerted no influence over it beyond that of my silent vote. When the question was presented again on the tax bill remodeling our whole system of taxation, then I devoted myself strenuously to procure a tax on whisky on hand. And now the Senator rises in his place to rebuke me for having opposed the very taxation which I sought to establish.

He further charges me with having exercised a peculiar influence with regard to the recent enrollment act. The Senator knows very well that none of those propositions relating to bounties came from me, nor did they receive my support except as I voted for the bill. So far as I made any motion on that bill, it was all in a different sense. I moved more than once a proposition to require in addition to a substitute the payment of a certain portion of one's income graduated by an ascending scale according to the income, thus striving to put money in the Treasury rather than to take it out; and yet the Senator from Illinois, entirely ignorant of the facts, charges me with having exerted an influence to take it out. Such influence as I had was given in precisely the other direction; and now such influence as I am able to exercise, it may be only in the nature of a protest, is to put money into the Treasury of my country.

Mr. HARLAN. I have voted for the highest tax proposed on all the various commodities that it was supposed would bear the tax suggested in all the bills that have been pending, believing that it would be better for the country to levy and for the people to pay a large tax than to permit the difference between gold and currency to be increased. But, sir, at this time I am unwilling to unsettle the legislation that has been had on that

subject. Those that are wiser than I am have had this subject under their control during the whole session; their bills and various measures have been matured and have received the approval of both branches of Congress; and I have understood that it is believed by the gentleman who has been, recently appointed to control the financial department of the Government that the passage of this one additional measure will give him the revenue necessary to enable him to meet the various demands on the Treasury during the current fiscal year. I am therefore unwilling to unsettle what has been done and propose a larger tax on any commodity whatever.

It would be much more pleasant to me to go home and say to the people I represent on this floor that a light tax has been levied than to tell them that a very heavy one has been levied; and when those who have been appointed by the proper authorities tell us that the bills that have been passed with the addition of this single measure will enable them to meet all the accruing interest on the bonds that have been issued, and to meet the other debts of the Government during the current fiscal year, it seems to me that it is folly and worse than folly for Congress to remain here for the purpose of unsettling the legislation of the session with a view of imposing a greater burden on the people than that which is supposed to be necessary to meet all the demands of the Government. If the question was now open, if Congress had not previously settled on the tax to be levied on these commodities, I would vote with the Senator from Massachusetts; but it seems to me it would be unwise at this time to go back and undo that which we have previously done. I therefore hope that we shall come to a vote on this resolution, and that we may be able to adjourn at the hour fixed by the Senate and House of Representatives on Saturday evening.

The question being taken by yeas and nays, resulted—yeas 29, nays 7; as follows:

YEAS—Messrs. Anthony, Clark, Conness, Cowan, Doolittle, Foot, Foster, Hale, Harlan, Harris, Hicks, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wilson—29.

NAYS—Messrs. Buckalew, Carlile, Davis, Powell, Richardson, Riddle, and Saulsbury—7.

ABSENT—Messrs. Brown, Chandler, Collamer, Dixon, Fessenden, Grimes, Harding, Henderson, Hendricks, Howard, Nesmith, Sprague, and Wright—13.

So the joint resolution was passed.

SUSPENSION OF JOINT RULES.

Mr. FOOT. I offer the usual resolution for the suspension of the 16th and 17th joint rules:

Resolved, (the House of Representatives concurring,) That the 16th and 17th joint rules of the two Houses be suspended so far as respects any bill or joint resolution which may pass either House for the residue of the present session.

I will read those rules, to show the necessity for the adoption of this resolution. It is one which is adopted at the close of every session.

Mr. HALE and others. There is no objection to it.

Mr. FOOT. If there be no objection I shall not read them. It is a question that is to be decided without debate under the rules of the Senate.

The resolution was considered by unanimous consent, and agreed to.

PAPERS WITHDRAWN.

On motion of Mr. HALE, it was

Ordered, That Albert Brown have leave to withdraw his memorial and other papers from the files of the Senate.

On motion of Mr. WILEY, it was

Ordered, That J. O. Arnes have leave to withdraw his petition and other papers from the files of the Senate.

JOHN C. M'CONNELL.

Mr. JOHNSON. I ask the Senate to take up House bill No. 461, for the relief of John C. McConnell.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported adversely from the Committee on Claims.

Mr. JOHNSON. It is not worth while to read the bill. It appropriates \$2,000 for the benefit of—

The PRESIDENT *pro tempore*. The bill had better be read. It has not been read at all except by its title.

The Secretary read the bill, which directs the Secretary of the Treasury to pay to John C. McConnell the sum of \$2,000, in full payment for money advanced and service rendered in raising troops in the State of Maryland.

Mr. JOHNSON. I was about to say that the Committee on Claims reported against the bill because there was nothing before them, as the chairman told me, to show that that amount of money was expended; but I know personally that he spent a much larger sum than that in raising troops who were mustered into the service, and so informed the honorable chairman of that committee. I believe he has now no opposition to it.

Mr. ANTHONY. The Senator is mistaken about speaking to the chairman of the committee; it was I. The chairman of the Committee on Claims is now in the chair. The committee reported against this claim because there was no evidence, at least no sufficient evidence, before the committee to support it. The Senator from Maryland says it was within his knowledge that the money was paid.

Mr. JOHNSON. Yes, sir.

Mr. ANTHONY. Upon that statement I have no objection to the bill passing.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NORTHERN INDIAN SUPERINTENDENCY.

Mr. HARLAN. I ask the unanimous consent of the Senate to allow a vote to be taken on a motion to reconsider a bill. It will only occupy one moment. It is Senate bill No. 59, to consolidate certain Indian superintendencies. The Senator from Minnesota [Mr. WILKINSON] who introduced the bill has no objection to having it reconsidered, with a view of letting it go over to the next session.

Mr. HENDRICKS. I ask the Senator if that includes northwestern Iowa?

Mr. HARLAN. The bill proposes to consolidate Minnesota with Dakota as an Indian superintendency. There are some objections to passing the bill, but the Senator from Minnesota does not insist on having the vote taken upon it, nor do I. I desire the vote passing the bill to be reconsidered in order that it may go over until the next session.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa to reconsider the vote by which the bill (S. No. 59) extending the limits of the northern Indian superintendency was passed.

The motion was agreed to.

Mr. HARLAN. I now move that the bill be postponed until the first Monday of December next.

The motion was agreed to.

COURTS IN NORTHERN NEW YORK.

Mr. WILSON. I move to take up House bill No. 542, to regulate the pay of paymasters and military storekeepers of ordnance.

Mr. HARRIS. I hope the Senator from Massachusetts will not press that until I can get a vote on a bill that was unfinished on Saturday.

Mr. WILSON. This will take but a moment.

Mr. HARRIS. But then I shall lose the floor. Mr. President, I was unfortunate, perhaps I may say, without impropriety, disappointed in not getting the floor upon a bill of some considerable importance to my constituents on Saturday night until a large amount of business was transacted. When I succeeded in getting the floor and getting the bill before the Senate, I was fortunate enough to obtain an emphatic judgment of the Senate in favor of its passage. I desire very much to take the effect of that judgment. It can be passed in a very few moments; and I hope the Senator from Massachusetts will not oppose my having that bill taken up and having a vote taken upon it. I desire to say further to the Senator from Illinois [Mr. TRUMBULL] that I hope he will not by indirection attempt to defeat the bill when he sees that a large majority of the Senate are in favor of it. I appeal to the Senator from Illinois whether or not he considers it his duty to pile on this bill amendments which he does not himself approve for the purpose of defeating it when two thirds of the Senate are in favor of its passage.

Mr. TRUMBULL. The Senator from New

York certainly will remember that the Committee on the Judiciary deliberately considered this subject. It is not proper to speak of what individuals did; but as the organ of that committee I cannot consent certainly to take one judge out of the general rule which we agreed upon.

The PRESIDENT *pro tempore*. The Chair must state to the Senator that debate upon the merits of a bill is not in order on a motion to take up.

Mr. TRUMBULL. I only wish to make that suggestion to the Senator from New York.

Mr. HARRIS. I hope the Senator from Massachusetts will allow me to take a vote on that bill.

Mr. WILSON. Yes, sir. I withdraw my motion.

Mr. HARRIS. I move that the Senate proceed to the consideration of House bill No. 32, to regulate the sessions of the circuit and district courts for the northern district of New York, and for other purposes.

Mr. TRUMBULL. I must object to taking up that bill. It involves the question of raising the salary of the judge of the northern district of New York; and if his case is taken up, I must insist that we shall equalize the salaries of the judges generally throughout the United States. His case is not peculiar. The Committee on the Judiciary have determined not to raise salaries generally. If the Senate, however, is of a different opinion, that the salaries ought to be raised, then I think we should do justice to the other judges; and I must insist upon amendments to carry out that object if the bill should be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 32) to regulate the sessions of the circuit court and district courts for the northern district of New York, and for other purposes, the pending question being on the motion of Mr. TRUMBULL to amend the bill by adding at the end of the fourth section the following:

And in lieu of the salary now paid to the judge of the district court of the United States for the State of Connecticut, there shall be allowed and paid quarterly to the said judge out of the Treasury of the United States the sum of \$3,500 per annum.

Mr. ANTHONY. Will the Senator from New York allow me to pass some resolutions for the printing of documents?

Mr. HARRIS. I cannot. I shall lose a vote on the bill if I give way any longer. I will not, at this stage of the session, attempt to debate this question any further; but if any amendment shall be put upon this bill by which it shall be necessary to send it back to the House of Representatives, I shall abandon it. Although the bill is important in its other provisions in relation to the rearrangement of the courts in this large district of New York, and I regard it as very important independent of this question of salary, yet if it is changed in any way so that it shall have to go back to the House, I shall abandon the bill.

Mr. TRUMBULL. It seems to me if there is an importance in this bill that the Senator from New York had better consent to concur with the report of the committee and adopt the rest of the bill, leaving out the fourth section, which raises the salary of this judge; then there will be no difficulty about it; and let it go over until the next session, when we can probably agree to scale the salaries of these judges properly.

Mr. HARRIS. If the Senator will move an amendment to reduce the salary of the judge in his own district, which is now \$3,500, the amount that is sought to be paid to this judge of the northern district of New York, there will be some propriety in his opposing this bill.

Mr. TRUMBULL. The Senator from New York knows that the Constitution would not allow me to do that. He would not ask me, certainly, to move an unconstitutional amendment.

Mr. HARRIS. I am not aware of any constitutional objection.

Mr. TRUMBULL. I am very much mistaken in the provision of the Constitution if it be not so. I will call the attention of the Senator from New York to that provision of the Constitution which I think is applicable to such a case. I am very much mistaken if it does not provide that the salaries of judges—

Mr. HARRIS. The Senator need not read the Constitution. I am aware of the provision to which he refers; but if the Senator desires to

accomplish that end I will show him the way to do it.

Mr. TRUMBULL. I understood the Senator from New York to say that he knew of no constitutional objection to the reduction of the salary of a judge of a United States court.

Mr. LANE, of Kansas. I submit that it is rather late in the session to go into a constitutional argument.

Mr. TRUMBULL. I suppose it is not too late to abide by the Constitution. I will read a portion of the first section of the third article of the Constitution:

"The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office."

If there is any way to diminish the salary of a judge of a United States court under that provision I am not aware of it. Besides, there would not be the propriety which the Senator seems to suppose in diminishing it. The Senator made an argument the other night to show that there was a large population in western New York. Why, sir, the amount of business does not depend upon population. There are more cases in the city of Chicago than in Judge Hall's whole circuit.

Mr. HARRIS. The Senator is entirely mistaken.

Mr. TRUMBULL. I think not. I think the records will show that there are more cases in that city alone than in Judge Hall's whole circuit. I should be very much mistaken if it is not so.

Mr. HARRIS. You are very much mistaken.

Mr. TRUMBULL. Has the Senator got the statistics?

Mr. HARRIS. I know how it is.

Mr. TRUMBULL. I will not set up my opinion against that of the Senator, because I have not got the official statements; but I know that the court in the city of Chicago is in session nearly the whole year. I do not think there are sixty days in the year that the United States court for the northern district is not in session in the city of Chicago. The judge of the southern district of Illinois has but \$2,500. The idea that the salary of a judge is to depend upon the population in his district is a mistaken notion altogether.

As I said the other day, I think there is a propriety in paying the judges of the United States courts a larger salary than they now receive in many instances; and particularly is that true in regard to the judge in reference to whom an amendment is now pending; that is, to increase the salary of the district judge of the State of Connecticut. Senators are aware, I presume, that under the laws as they now exist it is competent to call a judge from one district to perform duties in another. Under that provision of law it has been the practice for years to call upon the judge of the district court of the State of Connecticut to hold courts in the city of New York. I believe he holds court there for months and months.

Mr. LANE, of Kansas. Will the Senator from Illinois yield to a motion to proceed to the consideration of executive business?

Mr. HARRIS. I hope we shall have a vote on this bill.

Mr. LANE, of Kansas. It is utterly impossible to get it through by the hour of adjournment.

Mr. TRUMBULL. If there is executive business to be done, I will yield.

Mr. LANE, of Kansas. A message has just come in from the President of the United States requiring attention.

Mr. TRUMBULL. I yield.

Mr. LANE, of Kansas. Then I move that the Senate proceed to the consideration of executive business.

Mr. HARRIS. I hope the Senate will not agree to that motion until a vote is taken upon this bill. Although I have a complete answer, I think, to the suggestions made by the Senator from Illinois, I will not say another word. Let him defeat the bill if he can by his indirect motions.

Mr. LANE, of Kansas. The Senator from Illinois has just commenced his speech, a constitutional argument, and it is idle for us to remain here to hear a speech at this stage of the session.

Mr. JOHNSON. It is no constitutional argument.

Mr. LANE, of Kansas. That is his speech.

I insist on my motion unless the Senator from Illinois can close his speech now.

Mr. TRUMBULL. I will say to the Senator from Kansas I am not going to make a constitutional argument. I will say to the Senator from New York I am not going to take up time by making a speech to defeat this bill if the Senate think proper to consider it. I did want the Senate to see exactly the effect of raising the salary of one judge and not the others. It seems to me improper; and when I have presented that point I shall take up no time. I will inform the Senator from Kansas that if he will withdraw his motion I do not think I shall speak five minutes.

Mr. LANE, of Kansas. Five minutes is just what we cannot spare.

Mr. JOHNSON. Yes, we can.

Mr. LANE, of Kansas. There is a large executive calendar yet to be taken up.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas.

Mr. LANE, of Kansas. I will withdraw it for five minutes.

Mr. TRUMBULL. I shall not occupy the attention of the Senate more than five minutes. I ask Senators, if I can get their attention for one moment, is it right to raise the salary of this judge when we have refused and your committee has acted upon it, to raise the salaries of other judges? I cannot now take up the cases, because it would occupy more than five minutes to go on and show the instances of judges with inadequate salaries. We considered this whole subject in committee, and we reported against raising the salaries of any of the judges at this time. I ask Senators all around me, the Senator from Massachusetts, [Mr. SUMNER,] and all others who see the difficulties the country is in, whether it is right to go on and raise the salary of one judge and not raise the others? Admit that this salary is inadequate. Why, sir, our salaries are inadequate. There is not a member of this body but is spending more money than he gets from the Government. Is it right to single out one judge without doing justice to the others? Is it not unjust to the other judges? I really wish the Senator from New York would not persist in this, and I think he ought not to do so.

The PRESIDENT *pro tempore*. The question is on the amendment submitted by the Senator from Illinois.

Mr. TRUMBULL. I will withdraw my amendment and let us take the vote directly whether we will raise this one judge's salary.

Mr. HALE. What was your amendment?

Mr. TRUMBULL. It was to raise the salary of another judge, the judge in Connecticut.

Mr. HALE. I insist on the vote being taken on that amendment to raise the salary of the judge in Connecticut. I think it ought to be tried.

The PRESIDENT *pro tempore*. The amendment is renewed by the Senator from New Hampshire.

Mr. HALE. Yes, sir. I think there is quite as much justice in that case as there is in Judge Hall's.

Mr. MORRILL. That will defeat the bill.

Mr. HALE. It will not hurt me very much if it does.

If we had time, which we have not got, I should like to give a little history of this Judge Hall, of the way he got his appointment, of the way he got on the bench; and if my memory serves me right—I think I am not entirely at fault—there is nothing in that history that would entitle him to ask the consideration of this Senate over and above the other district judges. Perhaps my friend from New York remembers it, or perhaps he does not; but, sir, the history of the elevation of Judge Hall to the district court of the United States is peculiar, very peculiar; and it is not such as entitles him, in my humble judgment, to say the least of it, to any consideration beyond the other judges; for instance, the judge of the district court of Connecticut, whose case is now pending. He is an eminent judge, and is required to go into the State of New York and hold courts there more than half the year.

Mr. SUMNER. The judge of the district court in Boston also—Judge Sprague.

Mr. WILKINSON. I want to inform the Senator from New Hampshire upon one point.

Mr. HALE. What is that?

Mr. WILKINSON. There is a reason why

Judge Hall should be selected out and his salary raised.

Mr. HALE. What is it?

Mr. WILKINSON. It is the course which he took on the indictments for the Jerry rescue. Perhaps the Senator remembers something about it.

Mr. HALE. I remember it. Judge Hall has done more. There has been on the part of several judges in this country a persevering, wicked, perverse determination and conspiracy to break down jury trials, and Judge Hall is one of the most prominent, and active, and conspicuous, and offensive of those judges. He has literally broken down the trial by jury in criminal cases in his court. Those that want to see the trial by jury broken down in this country may vote to give Judge Hall an extra salary for doing it. In the criminal cases which grew up under the legislation of 1850, he took the jury up and examined them one by one, and refused to let any jurymen sit on criminal cases that would not beforehand pledge himself, substantially, to give a verdict according to his direction. That attempt was commenced in New Hampshire. I believe the origin and the only foundation for it was found in an early decision in Indiana, and the Indiana court, to their credit, overruled that decision. Then it was persevered in and became the law of New Hampshire by the usurpation of the chief justice there, who was a very able man. When these trials came up under the fugitive slave law this doctrine was eagerly grasped upon by the judges of the United States court, and they virtually nullified the law, so that a trial by jury in criminal cases in the circuit court of the United States in the State of New York is not worth anything at all; it is nullified; and no man who will not consent to promise before he goes on a jury to render a verdict in criminal cases in matters of law according to the direction and dictation of the judge can sit on a jury. I suppose it is for that, in addition to the manner in which Judge Hall got on the bench, that he is to be paid this extra compensation. Sir, I am opposed to it, but I will not talk against time and kill it in that way. I will let a fair vote be taken upon it. I am opposed to raising these salaries, but if they are to be raised I want to begin with some men who have administered the law as they find it and who are not advocates for breaking down jury trials.

Mr. TEN EYCK. I will say a word or two, and not talk against time either. The Committee on the Judiciary agreed to report this bill, which modifies the times and places of holding the courts in the northern district of the State of New York, according to the desire of the people interested in those courts. That would seem to be a great measure of public convenience that is asked for and to which nobody has any objection; but we have here a most persistent effort to change and enlarge the salary of a judge. The amount involved is \$750. That matter must arrest the attention of Congress and must stop its progress in the last hours of the session, for the purpose of giving this Judge Hall \$750 at this time, and everything else must give way to that. We cannot go into executive session to confirm the nominations which are pending on the table, and all of which will be lost, simply because Judge Hall's salary must be increased \$750, and that over and above the salary of the judge in almost every district in the northern portion of the United States. Now, sir, if this motion to go into executive session shall not be carried, I want to say something upon this subject, as I am a member of the Judiciary Committee and I think I understand something about it.

Mr. LANE, of Kansas. Will the Senator from New Jersey give way for a motion to proceed to the consideration of executive business?

Mr. TEN EYCK. Yes, sir.

Mr. LANE, of Kansas. I make that motion. Mr. HENDRICKS. I will ask the Senator from Kansas to withdraw that motion for a moment until I can move to postpone prior orders with a view of taking up the bill from the House of Representatives in relation to the Congressional Globe. It is very evident that we must pass this bill now, or else the Globe stops; and I hope it is not the pleasure of the Senate that that great work, which has reflected so much credit upon the country, shall be allowed to fall for the want of proper support. My motion is, if the Senator will allow me, to suspend all prior

orders to take up that bill. It is a bill of the House No. 421.

Mr. LANE, of Kansas. I cannot consent. The Senator from New York refuses to give way, and it will lead to discussion. I insist on my motion.

The PRESIDENT *pro tempore*. The motion to proceed to the consideration of executive business is not withdrawn.

Mr. HARRIS. I hope this will not be done. Although I am strongly tempted to reply to some remarks that have been made by the Senator from New Hampshire and something that was said by the Senator from New Jersey, I will not break my promise. I only ask for a vote. I ask the Senate whether they will allow two or three gentlemen to defeat this measure after the emphatic vote we had on Saturday night.

Mr. HENDRICKS. But the Senator from New Jersey says he is going to discuss it.

Mr. HARRIS. He will not, I am persuaded, speak long. It is not the custom of the Senator from New Jersey to endeavor to defeat a measure by indirection.

The PRESIDENT *pro tempore*. The question is on the motion for an executive session.

Mr. CONNESS. I hope the vote will be taken upon this bill before we go into executive session. I shall not speak upon it. I think it is due to the Senator from New York to have a vote at least.

The PRESIDENT *pro tempore*. The question is on the motion to go into executive session.

Mr. TEN EYCK. I will not interpose to prevent a vote on that.

Mr. SPRAGUE. I ask the indulgence of the Senate for a short statement of a personal nature before going into executive session.

The PRESIDENT *pro tempore*. The Senator from Rhode Island desires unanimous consent to make a personal explanation. The Chair hears no objection.

PERSONAL EXPLANATION.

Mr. SPRAGUE. Mr. President, I ask the indulgence of the Senate to make a brief personal explanation. In a speech made in the House of Representatives, some weeks since, General Frank Blair, then claiming to be a member from Missouri, deliberately asserted that I had received some special privileges from Secretary Chase, by which I had made or would make some two million dollars, and he referred to Mr. Aspinwall as witness. Postmaster General Blair used the Post Office Department to circulate the speech, and so made himself a party in its vilification of the Secretary of the Treasury, and in its impeachment of my personal integrity.

I have heretofore treated this malignant charge with silent contempt, nor should I now notice it or its author, or the brother of its author, had not new currency been given to the slander. Lies reiterated, if uncontradicted, come at length to be received as truth. I have determined therefore to submit to the humiliation of noticing this. Not that I imagine myself the real object of attack. The brothers Blair and their tribe of falsifiers meant it to strike the Secretary of the Treasury. They had some political end to compass and were not scrupulous in choice of means. They did not care a fig how much the finances of the country might suffer; Army and Navy might go unprovided and unpaid; no matter what public evil might come; what they wanted was to reach him with their poisonous arrows; if through me, so much the better.

Some here may remember how, at the beginning of this war, I responded to the summons of the President. He was not of my party, but he was President of the United States, and the Union was in peril. I called Rhode Island to arms, and, great in spirit though small in size, she waited for no second call. Her brave sons were among the first to reach the beleaguered capital. I went with them into battle, and was not niggard either of labor or hazard. But I will not parade my acts. It is enough to say that I neither sought nor received the slightest return from President or Secretary. Then and ever since I have tried to render some service to my country. The consciousness of the endeavor is reward enough.

Since the beginning of the war the business in which I was then engaged has been almost wholly in other hands than my own. It is largely a

manufacturing interest. Its managers have bought raw material and sold goods where and as they could. So far as I know they have had no favors from any Secretary or any officer of the Government. They have taken the chances of market with all others, and have had no favors or advantages which all others had not had. Neither for them nor for myself, nor for anybody else, have I asked or received any special privileges to buy cotton or anything else. Nor have I made since this war began, from any buying and trading in cotton, permitted or unpermitted, licensed or unlicensed, the millionth part of two millions of dollars, nor the millionth part of that millionth. If the Blairs know anything about the Treasury Department, they know that no permits or licenses to trade were granted by the late Secretary of the Treasury. He made regulations as the law requires, under which permits were granted, but he granted none nor allowed any to be granted, except under the regulations, and that without favor or partiality. Have the slanderers or their followers sought unauthorized favors and been disappointed?

Perhaps I ought to say that there was one transaction in cotton in which I took some interest. When Du Pont captured Forts Walker and Beauregard, and Sherman took possession of the sea islands of South Carolina, considerable quantities of cotton were found on the abandoned plantations. This was in the winter of 1861-62. Secretary Chase, with the approval and concurrence of the War Department, undertook the duty of collecting this cotton and consulted me about the selection of an agent. I recommended one, who was employed and proved faithful. A large quantity of cotton was collected and forwarded to New York and sold by Collector Barney at public auction; the proceeds, some three quarters of a million I believe, were deposited with Assistant Treasurer Cisco. If Mr. Aspinwall knows anything about any cotton business in which I took part it must be this, and in this I had not the pecuniary interest of a mill. I feel humiliated in noticing such miserable calumnies, but perhaps it is a duty; I think so, or I would not say a word. Henceforth these convicted slanderers may rail and falsify unnoticed by me.

PROPOSED EXECUTIVE SESSION.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas to proceed to the consideration of executive business.

Mr. COWAN called for the yeas and nays, and they were ordered.

Mr. LANE, of Kansas. I desire to state that unless we can get through our executive business we shall be called back here in executive session, which I should consider a great misfortune to the country.

Mr. HARRIS. Somebody in Kansas wants an office, I suppose.

Mr. LANE, of Kansas. In answer to the suggestion of the Senator from New York, Kansas has not a single applicant for office on the docket.

The question being taken by yeas and nays, resulted—yeas 13, nays 20; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Cowan, Foot, Harlan, Lane of Kansas, Morrill, Ramsey, Ten Eyck, Trumbull, Wade, and Wilkinson—13.

NAYS—Messrs. Buckalew, Carlile, Conness, Davis, Doolittle, Hale, Harris, Hendricks, Hicks, Johnson, Morgan, Pomeroy, Powell, Riddle, Saulsbury, Sprague, Sumner, Van Winkle, Wiley, and Wilson—20.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Foster, Grimes, Harding, Henderson, Howard, Howe, Lane of Indiana, McDougall, Nesmith, Richardson, Sherman, and Wright—16.

So the motion was not agreed to.

COURTS IN NORTHERN NEW YORK.

The PRESIDENT *pro tempore*. House bill No. 32 is before the Senate as in Committee of the Whole, the question being on the amendment of the Senator from New Hampshire, [Mr. Hale.]

Mr. TEN EYCK. There is propriety, I think, in calling the attention of the Senate to the situation of this question. It is not the simple question whether Judge Hall, the district judge of the western or northern district of New York, is to have an increase of salary to the amount of \$750; but it is a question that at this time affects every judicial district in the Union, and in more ways than one will reflect upon the action of Congress. There is scarcely a district, perhaps not one,

where with the present value of the currency the judge can live upon his salary; and that fact has been made apparent, I think, to the entire satisfaction of the members of the Committee on the Judiciary; but the committee thought this condition of things would not be permanent, and that under the pressure and stringency of the public necessities we had better let the whole matter go over until the next session.

Not only do the judges of the district courts want an increase of salary, but there is scarcely a man in the public service, either civil or military, in any branch or department of the Government, who is not asking for an increase of his salary; and many of them with the greatest propriety, because on the salaries they now have, in the existing state of things with reference to the price of gold, &c., they cannot live and pay house rent and maintain their families in the respectable way in which they have been in the habit of doing heretofore. If this state of things continues for any long period of time, there will have to be relief given, or these valuable public servants who have become familiarized with their duties by long experience will have to abandon their posts and seek some other positions. I am in hopes that a change will come over the spirit of this great public dream, that the war will be put an end to before a great while, that the currency will readjust itself, and then salaries will assume their ancient level, and those gentlemen who are now driven almost to desperation will be enabled to live on their salaries.

Now, sir, where is the propriety of increasing the salary of this respectable judge of the northern district of the State of New York, and turning a deaf ear to the petitions and appeals made on behalf of other judges, not by the incumbents themselves, but by their friends who know their condition, and refusing all action in their behalf? The salary of Judge Hall now ranges considerably above the salaries of the judges in the northern States, with a few exceptions of the judges whose districts include the large cities. The district judge of Maine gets only \$2,000; the district judge of New Hampshire \$2,000. So of Massachusetts, having Boston within its limits. The district judge of Connecticut, who holds court in New York, gets only \$2,000. So in Vermont; so in Rhode Island. This Judge Hall in the northern district of New York gets \$2,750, and the district judge of the southern district of New York gets \$3,750. In Pennsylvania, the judge of the eastern district, including the city of Philadelphia, where the court is in session almost the whole year round, Judge Cadwalader, receives but \$3,000; and yet you propose to give Judge Hall \$500 more than he receives. In the western district of Pennsylvania, Judge McCandless gets \$2,500, a venerable man who has grown gray in the faithful discharge of his duty; whose friends made an appeal before the Judiciary Committee, stating that he and his family of interesting daughters would absolutely have to sell the roof over their heads unless his salary was increased within a period of some few months to come. We propose to give this other gentleman \$3,500. So with a number of other cases. In New Jersey, my own State, the judge gets \$2,000, and since the passage of the enrollment law and other measures that have been passed by Congress during this rebellion, the judge is a very large portion of his time engaged in the duties of his court. His friends desire for him an increase of his salary. I have resisted that on the ground of the general principle involved, that we cannot raise the salary of one judge without raising the salary of the others. In Connecticut there would be eminent propriety in increasing the salary of that judge, but the Senator from that State, with me, acting as he thought for the public good, resisted the increase of the salary of any judge at the present time, hoping that a change might take place, and that perhaps by the next session of Congress we should be enabled either to see that they could live or then take up the whole matter and do justice to them all.

That is the ground of the refusal, no other; no impeachment of the character of this judge or the meritorious nature of his services or the extent of them. But, sir, I should feel that it was a reflection on myself if I did not say this much after having acted upon the Judiciary Committee, and after having turned a deaf ear, until it pained me, to

the petitions and almost cries of the friends of these other judges; who said that they were in a condition of absolute destitution, and would have to sell their roofs over their heads unless within some few months relief was granted by Congress, or abandon their positions and in their old age go back to the bar if they are fit to go there, or undertake to discharge some other duty.

The Senator from Pennsylvania [Mr. Cowan] says I shall soon get eloquent; and rather than such a calamity as that should befall the Senate I will stop. [Laughter.]

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the amendment of the Senate to the resolution of the House fixing a day for closing the present session of Congress.

The message further announced that the House of Representatives had passed the resolution of the Senate to suspend the 16th and 17th joint rules of the two Houses for the residue of the session.

REVENUE COMMISSION.

Mr. SHERMAN. I ask the Senator from New York to allow me to introduce a joint resolution, to which I know there will be no objection, to appoint a commission upon the subject of raising revenue by taxation.

Mr. HARRIS. I yield for that purpose.

By unanimous consent, leave was granted to introduce a joint resolution (S. No. 78) providing for the appointment of a commission upon the subject of raising revenue by taxation; and it was read twice by its title.

Mr. SHERMAN. I ask for the present consideration of the resolution.

Mr. HENDRICKS. I wish to hear the resolution read before I consent to its consideration.

The joint resolution was read. It proposes to authorize the Secretary of the Treasury to appoint a commission of three persons to inquire and report at the earliest practicable moment as to the best and most efficient mode of raising by taxation such additional revenue as may hereafter be found necessary in order to supply the wants of the Government, with power to take testimony.

By unanimous consent, the joint resolution was considered as in Committee of the Whole.

Mr. SUMNER. It seems to me that in order to carry out the purpose of the resolution effectively, some one should be empowered to study the systems of taxation in European countries, especially in England and France, the great taxed countries of the world. I think some one probably should be instructed to visit those countries and put himself in connection with the administration of the tax systems there and make a report upon them. I think we should all beginners by that. I do not know but that that may be done under the resolution.

Mr. SHERMAN. I think the words are broad enough to cover the necessary examination. In framing the present tax law we found ourselves constantly embarrassed by the diverse statements of different persons. We propose to have testimony taken with deliberation and by commissioners, on which we can act in framing any changes that may hereafter be made.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House of Representatives had passed the following bills of the Senate:

A bill (No. 343) making an appropriation for testing submarine inventions; and

A bill (No. 346) for the relief of Richard G. Murphy.

The message further announced that the House of Representatives had passed a joint resolution (No. 121) granting additional compensation to the employees of the two Houses of Congress; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions;

which were thereupon signed by the President *pro tempore*:

A bill (S. No. 138) to regulate proceedings in cases between landlord and tenant in the District of Columbia;

A bill (S. No. 185) to establish a branch of the Mint of the United States at Dallas City, in the State of Oregon;

A bill (S. No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service;

A bill (S. No. 348) for the supervision, repairs, liabilities, and completion of the Washington aqueduct;

A bill (H. R. No. 244) to guaranty to certain States whose governments have been usurped or overthrown a republican form of government;

A bill (H. R. No. 305) to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States;

A bill (H. R. No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862;

A bill (H. R. No. 411) to encourage immigration;

A bill (H. R. No. 461) for the relief of John C. McConnell;

A bill (H. R. No. 510) further to regulate the carriage of passengers in steamships and other vessels;

A bill (H. R. No. 534) to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes;

A bill (H. R. No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes;

A bill (H. R. No. 573) making an appropriation to carry into effect an act to prevent smuggling;

A joint resolution (H. R. No. 119) explanatory of a joint resolution relative to pay of staff officers of the Lieutenant General; and

A joint resolution (H. R. No. 120) imposing a special income tax.

BILL INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 349) to provide for the survey and sale of the mineral lands and to extend the right of preemption thereto; which was read twice by its title, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a memorial of the president of the Marietta and Cincinnati Railroad Company, remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which was ordered to lie on the table.

Mr. HOWE presented the petition of Charles Wilkes, praying for indemnity for damage to his property, in the city of Washington, by excavations made in the adjacent streets, below the grade of those streets, by persons acting under the authority of the Government, and compensation for earth and gravel taken from his premises and used in the improvement of other streets in said city; which was referred to the Committee on Claims.

COURTS IN NORTHERN NEW YORK.

The PRESIDENT *pro tempore*. The bill (H. R. No. 32) to regulate the sessions of the circuit and district courts for the northern district of New York, and for other purposes, is before the Senate as in Committee of the Whole.

Mr. LANE, of Kansas. I move that the Senate proceed to the consideration of executive business.

Mr. FOSTER. The Senator from Kansas was good enough on Saturday night to withdraw a motion that he made in order that a bill for the relief of a widow whose husband has been lost in the service might be taken up. It is a House bill that has been reported unanimously by the Committee on Pensions of the Senate. It is not more than three or four lines, and can be passed in a moment. I ask the Senator from Kansas to withdraw his motion to allow me to ask the Senate to take up the bill for the relief of Deborah Jones.

Mr. HARRIS. I hope that will not be done.

Mr. FOSTER. If the Senator objects, of course it is the end of the bill.

Mr. HARRIS. I must insist on a vote upon the bill before the Senate.

Mr. LANE, of Kansas. I insist on my motion. My experience is that the best way to get all these bills through is to go into executive session, dispose of our executive business, and then open the doors and pass the bills.

Mr. HARRIS. I am surprised that the Senator from Kansas should be so persistent in this matter. I only ask for a vote on the bill.

Mr. WILKINSON. I ask unanimous consent to make a report.

Mr. HARRIS. I cannot consent. I must have a vote on this bill if I can.

Mr. WILKINSON. Perhaps the Senator will not get a vote very soon.

Mr. LANE, of Kansas. I insist on my motion that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois, which is to add to the fourth section of the bill a provision making the salary of the district judge of the United States for the district of Connecticut \$3,500.

Mr. HALE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 8, nays 25; as follows:

YEAS—Messrs. Foster, Hale, Ramsey, Sprague, Sumner, Ten Eyck, Trumbull, and Wilkinson—8.

NAYS—Messrs. Anthony, Buckalew, Carlile, Clark, Conness, Davis, Doolittle, Foot, Harlan, Harris, Hendricks, Hicks, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Powell, Saulsbury, Sherman, Van Winkle, Wiley, and Wilson—25.

ABSENT—Messrs. Brown, Chandler, Collamer, Cowan, Dixon, Fessenden, Grimes, Harding, Henderson, Howard, McDougall, Nesmith, Richardson, Riddle, Wade, and Wright—16.

So the amendment was rejected.

Mr. HALE. I feel it my duty to offer another amendment to this bill. When I go home and I am asked what were the peculiar merits that authorized Judge Hall to be picked out of all the judges in the United States and his salary raised, I shall not know what answer to give to the very worthy gentleman who is judge in my State, and who has to go to Boston to hold court and gets very much less salary than Judge Hall. I offer this amendment to be added to the fourth section of the bill:

And in lieu of the salary now paid to the judge of the district court of the United States for the State of New Hampshire, there shall be allowed and paid quarterly to said judge out of the Treasury of the United States the sum of \$2,500 per annum.

I ask for the yeas and nays on it.

The yeas and nays were ordered.

Mr. HENDRICKS. I see that the policy is to wear out the session on this bill. I move to dispense with prior orders and to take up House bill No. 421. It is the bill for the relief of the Globe, that its publication may be continued.

Mr. HARRIS. I hope the Senator from Indiana will not press that now. I do not think this kind of opposition can be carried much further. I do not think there is a disposition to do it. I think the Senator from New Hampshire after he has had a vote on his amendment will allow the vote to be taken on the bill. I shall not persist much longer if I find there is a disposition to take up time in this way.

Mr. HENDRICKS. By the opposition calling the yeas and nays on every district in the United States we may consume the residue of the session; but I will withdraw my motion until I see whether we can soon come to a vote on this.

The question being taken by yeas and nays on the amendment of Mr. HALE, resulted—yeas 6, nays 29; as follows:

YEAS—Messrs. Foster, Hale, Sumner, Ten Eyck, Trumbull, and Wilkinson—6.

NAYS—Messrs. Anthony, Buckalew, Carlile, Clark, Conness, Cowan, Davis, Doolittle, Foot, Harlan, Harris, Hendricks, Hicks, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Powell, Ramsey, Saulsbury, Sherman, Sprague, Van Winkle, Wiley, and Wilson—29.

ABSENT—Messrs. Brown, Chandler, Collamer, Dixon, Fessenden, Grimes, Harding, Henderson, Howard, Nesmith, Richardson, Riddle, Wade, and Wright—14.

So the amendment was rejected.

The bill was reported to the Senate without amendment.

Mr. TRUMBULL. I consider it my duty as the organ of the committee that reported in favor of striking out one section of the bill to make that motion in the Senate and have a distinct vote on it. I move to strike out the section increasing the salary of the district judge of the northern district of New York. It is exceptional and contrary to the report of the committee, and I move to strike out that section, and on that motion I should like to have a vote of the Senate by yeas and nays.

The yeas and nays were ordered.

Mr. LANE, of Kansas. I again renew the motion to proceed to the consideration of executive business.

Mr. HARRIS. I hope not.

Mr. TRUMBULL. Let us have the vote. It will take no time.

Mr. HARRIS. The Senator from Kansas is very persistent. He must have some object.

Mr. LANE, of Kansas. I withdraw my motion.

The Secretary read the amendment, which was to strike out the fourth section in the following words:

And be it further enacted, That in place and in lieu of the salary now paid to the judge of the district court of the United States for the northern district of New York, there shall be allowed and paid quarterly to said judge, out of the Treasury of the United States, the sum of \$3,500 per year.

Mr. HARRIS. I only desire to say that if this section is stricken out the bill must go back to the House of Representatives.

The question being taken by yeas and nays, resulted—yeas 16, nays 19; as follows:

YEAS—Messrs. Buckalew, Carlile, Chandler, Clark, Cowan, Foster, Hale, Harlan, Howe, Lane of Indiana, Ramsey, Sherman, Sumner, Ten Eyck, Trumbull, and Wilkinson—16.

NAYS—Messrs. Anthony, Conness, Davis, Doolittle, Foot, Harris, Hendricks, Hicks, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Powell, Sausbury, Sprague, Van Winkle, and Wiley—19.

ABSENT—Messrs. Brown, Collamer, Dixon, Fessenden, Grimes, Harding, Henderson, Howard, Nesmith, Richardson, Riddle, Wade, Wilson, and Wright—14.

So the amendment was rejected.

The bill was ordered to a third reading, and was read the third time, and passed.

CONGRESSIONAL GLOBE.

Mr. HENDRICKS. I move to suspend all prior orders and take up House bill No. 421, to pay in part for publishing the debates of Congress, and for other purposes.

Mr. CARLILE. With the consent of the Senator from Indiana, as this proposition may lead to some discussion, I ask him just to let it be passed over informally to take up the House resolution which proposes to increase the compensation of the employes whose salaries do not really afford them a support. ["No," "No."]

Mr. HENDRICKS. This is of much more importance. We shall save time by putting this right through. Nobody objects to it.

Mr. LANE, of Kansas. I am about to move to proceed to the consideration of executive business, but before doing so I wish to introduce a resolution.

Mr. HALE. I object.

Mr. LANE, of Kansas. This is the usual resolution, I will say to the Senator from New Hampshire, to wait upon the President.

The PRESIDING OFFICER. The resolution will be read.

The Secretary read, as follows:

Resolved, That a committee of two members be appointed on the part of the Senate to join such committee as may be appointed on the part of the House of Representatives to wait upon the President of the United States and inform him that, unless he may have further communications to make, the two Houses, having finished the business before them, are ready to adjourn.

Mr. SUMNER. I think we are not ready to adopt that yet. It is not twelve o'clock, and we have not finished the business.

Mr. MORRILL. I object.

Mr. HENDRICKS. I insist upon a vote on the proposition which I have submitted.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana to proceed to the consideration of the bill in relation to the Congressional Globe.

The motion was agreed to; and the Senate resumed the consideration of the bill.

Mr. SHERMAN. It is a very important bill. I should like to have it read.

The Secretary read the bill. The first section is a direction to the Secretary of the Senate and the Clerk of the House of Representatives to purchase from the publishers of the Congressional Globe and Appendix, for each Senator, Representative, and Delegate in the present and each succeeding Congress, who has not heretofore received the same, one complete set of the Congressional Globe and Appendix.

The second section provides for paying to the publishers of the Congressional Globe and Appendix, by the Secretary of the Senate and the Clerk of the House of Representatives, out of the contingent funds of the two Houses, according to the number of copies of the Congressional Globe and Appendix taken by each, one cent for every five pages exceeding three thousand pages for a long session or fifteen hundred pages for a short session, including the indexes and the laws of the United States for this and each future Congress.

The third section appropriates \$98,544 for the purposes named in the act for the present Congress; \$30,424 of it to be disbursed by the Secretary of the Senate, and the remainder by the Clerk of the House of Representatives.

The fourth section repeals all acts and parts of acts inconsistent with this; and contains a proviso that the preceding provisions are made upon the express condition that they may be abrogated by either Congress or the publishers of the Congressional Globe and Appendix at any time after giving two years' notice for that purpose.

Mr. HALE. I move to strike out the first section of the bill.

Mr. HENDRICKS. An amendment of this bill now is its defeat and the defeat of the Globe. It is a subject that is settled, and I hope no amendment will be made.

Mr. SHERMAN. I have an amendment to offer to test the sense of the Senate. This is a very important measure, entering into a contract involving at least \$100,000 per annum. I have presented a resolution which was carefully prepared and submitted to the Committee on Printing, directing an inquiry to be made into the propriety of continuing the present publication of the Globe, and also into the cost of the building, materials, &c. I ask that that resolution be read, and I wish to offer it as a substitute for the pending bill. I do not want to delay the Senate; if a majority are determined to pass this bill, I shall not stand in their way; but I should like to have a vote on my resolution as a substitute for the bill.

Mr. HALE. My motion to amend is first in order, I suppose.

The PRESIDENT pro tempore. It is.

Mr. SHERMAN. I ask that my proposition be read for information.

Mr. DOOLITTLE. I suggest to the Senator from Ohio that we may as well test the sense of the Senate on the amendment of the Senator from New Hampshire. It is understood that any amendment defeats the bill.

Mr. SHERMAN. I think, if my resolution is read, Senators will see that probably the defeat of the bill would make no great difference. I ask that the resolution be read as part of my remarks.

The Secretary read, as follows:

Resolved, That the Superintendent of Public Printing be directed to ascertain the actual cost of reporting the proceedings of Congress, and of the publication of the reports as they now appear in the Daily and Congressional Globe. Also, what would be the cost of the publication of reports of the congressional debates if published under the direction of the Superintendent of Public Printing. Also, what arrangements, if any, could be made with the heirs of the late John C. Rives for the purchase of the materials and the purchase or rent of the buildings used in the publication of the Congressional Globe. Also, what sum, if any, ought in equity to be allowed to said heirs for the publication of the Globe during the present session and until Congress shall determine whether to extend or change the publication of the Globe. Also, that the Superintendent of Public Printing communicate this information to the Senate at its next session, with any other facts on the reporting and publication of congressional debates that he can obtain.

The PRESIDENT pro tempore. The question now is on the amendment of the Senator from New Hampshire to strike out the first section of the bill after the enacting clause.

The amendment was rejected.

Mr. SHERMAN. I now move to strike out the entire bill after the enacting clause and insert the resolution just read as a substitute for it; and on this motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. I wish to make an inquiry before the yeas and nays are taken. Cannot this investigation be made just as well after as before the passage of the bill?

Mr. SHERMAN. The bill, if passed, will operate as a contract for two years. I do not think we ought now to make any contract until we have this information. I have an estimate carefully made by an actual practical printer, showing that the work can be done in the Government printing office at the prices now paid, and I believe the official report of the Superintendent of Public Printing will show that this work can be continued at its present cost to the Government; and consequently all that is proposed to be paid for back numbers and future numbers is substantially a gratuity, which we can save by continuing the publication of the Globe ourselves. I am willing to vote for a liberal allowance to the heirs of John C. Rives for the loss they may have incurred during the present session, and this inquiry will bring out and ascertain that loss. I here say beforehand that if it shall appear after this report is made that the heirs of John C. Rives have lost by continuing the Globe during the present session and shall lose during the next session until the time we act upon the subject finally, I for one, as an individual Senator, will vote to repay that loss. I do not think we ought now at this stage of the session to make a contract so important as this without full information.

Mr. TRUMBULL. I recollect that some years ago a similar inquiry was made to that now proposed by the Senator from Ohio, and we had a response to it. I cannot recollect now, I have not investigated it, what the precise reply was; but at any rate it was not such that Congress thought proper to take any action upon it. The late Mr. Rives was known to us all; he was an unassuming, quiet man, and I think strictly a truthful man, one of the most honest and liberal men, in a quiet, unobtrusive way, that I ever knew. I had several conversations with him in his lifetime, and I know that the Globe was the peculiar pride of his life, and he was continuing it as he told me at an actual loss. We all know how expenses have increased since.

I do not want to do anything more than is necessary to be done; but I think the Globe ought to be continued; I do not think we should suspend the publication of it; and certainly we cannot ask any one to continue it as a matter of pride. We cannot ask the heirs of Mr. Rives to do that, and we ought not to have asked him to do it. I am inclined, therefore, to vote for the bill which has been passed by the House of Representatives, and after that I shall be willing to vote for the inquiry proposed by the Senator from Ohio, and if it turns out as he supposes it will, we may abrogate the arrangement.

Mr. POWELL. I desire to say in behalf of the Joint Committee on Printing that we have given this matter of the publication of the Globe the most mature consideration, and both the committee of the House of Representatives and the committee of the Senate came to the conclusion that the plan now proposed in the bill before us is the very best thing that could be done. That is the mature conclusion of the committee. The House of Representatives have passed the bill, and I hope the Senate will pass it. Then, if the Senator from Ohio desires to have his resolution adopted in addition, I shall have no objection.

Mr. SHERMAN. I shall detain the Senate but a moment, and nothing but a sense of public duty would induce me to say a word. This is substantially a gratuity of \$100,000 a year for books in violation of the law of Congress under which we are paid. I am not disposed to vote for it. I am as friendly to Mr. Rives as any man in the Senate. I remember the inquiry that was made before, and the result of that inquiry was to take off the very thing that this bill now proposes to put on, and that is the one fifth of a cent a page for the extra pages.

Mr. LANE, of Kansas. I desire to ask the Senator from Ohio a question. This is the first time in my life I ever heard it suggested that a Government could do work of this kind as cheap as individuals. I should like to know how it can be done.

Mr. SHERMAN. In reply to that, I will say that we have actually made the experiment, and we

are now doing the public printing in all branches of it at less, even with the present high rates, than we formerly paid. Under the circumstances, I do not think at this period of the session we ought to vote ourselves these looks.

Mr. HARLAN. I desire to inquire of any Senator who may have examined this subject, whether if the Senate shall pass this bill agreeing to take the back numbers of the Globe, the cost of the books will not have to be deducted from the salaries of Senators and Representatives under the law of Congress fixing the pay of members of Congress?

Mr. SHERMAN. This bill seems to provide for that, and it makes an appropriation for the books. I am told by the Senator from Rhode Island, the chairman of the Committee on Printing, that the additional cost of the back numbers is \$98,000. I said \$100,000.

Mr. SUMNER. The statute providing for the compensation of members of Congress expressly enacts that the cost of books furnished to them shall be deducted.

Mr. SHERMAN. This is a subsequent statute, and modifies or repeals that statute to that extent.

Mr. HARLAN. But it seems to me it does not conflict with that statute, but it is in strict pursuance of it. That statute provides, if I remember it correctly, that the cost of any books hereafter received by members shall be deducted from their pay. We agree to take books, that is we agree to purchase them and take the cost from our pay as members of the Senate and of the House of Representatives. We only agree to make the purchase in the way indicated by that law.

Mr. HENDRICKS. If that is the case, members need not take them unless they want to do so.

Mr. ANTHONY. I shall not detain the Senate. I have said on this subject before all that I have to say. The whole amount appropriated is \$98,000 for the present Congress, this session and the next. The last section provides that "all acts and parts of acts inconsistent herewith be and are hereby repealed." I suppose that was intended to repeal the obligation of members to pay for the books; but I think with the Senator from Iowa that it does not perhaps do so. There is no law against members receiving books, but the law requires that those receiving them shall pay for them, and I do not see that this bill is inconsistent with that law.

The question being taken on the amendment of Mr. SHERMAN by yeas and nays, resulted—yeas 11, nays 24; as follows:

YEAS—Messrs. Chandler, Clark, Hale, Harlan, Ramsey, Sherman, Sprague, Ten Eyck, Wade, Wilkinson, and Wilson—11.

NAYS—Messrs. Buckalew, Carlile, Conness, Cowan, Davis, Doolittle, Foot, Harris, Hendricks, Hicks, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Powell, Richardson, Riddle, Sausbury, Sumner, Trumbull, Van Winkle, and Wiley—24.

ABSENT—Messrs. Anthony, Brown, Collamer, Dixon, Fessenden, Foster, Grimes, Harding, Henderson, Howard, Howe, Nesmith, Pomeroy, and Wright—14.

So the amendment was rejected.

The bill was ordered to a third reading, and was read the third time.

Mr. SHERMAN. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 8; as follows:

YEAS—Messrs. Buckalew, Carlile, Chandler, Conness, Cowan, Davis, Doolittle, Foot, Harris, Hendricks, Hicks, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Pomeroy, Powell, Ramsey, Richardson, Riddle, Sausbury, Sumner, Trumbull, Van Winkle, and Wilkinson—27.

NAYS—Messrs. Clark, Hale, Harlan, Sherman, Sprague, Ten Eyck, Wade, and Wilson—8.

ABSENT—Messrs. Anthony, Brown, Collamer, Dixon, Fessenden, Foster, Grimes, Harding, Henderson, Howard, Howe, Nesmith, Wiley, and Wright—14.

So the bill was passed.

HOSPITAL MATRONS.

Mr. WILSON. I ask leave to introduce a joint resolution which is of great importance in regard to our hospitals.

There being no objection, leave was given to introduce a joint resolution (S. No. 79) to increase the compensation of matrons in the hospitals; which was read twice by its title, and considered as in Committee of the Whole. It provides that from and after the 1st day of July, 1864, hospital matrons shall be entitled to and shall receive ten dollars a month and one ration.

Mr. WILSON. I hope by unanimous consent this resolution will be put on its passage and sent to the House of Representatives.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. LANE, of Kansas. I now move to proceed to the consideration of executive business.

Mr. CARLILE. I ask the Senator from Kansas to withdraw that motion for a moment to enable me to submit a motion to take up a House resolution presented to us this morning.

Mr. LANE, of Kansas. That is a resolution to raise the salaries of employes, which will lead to debate; and while I should favor the proposition, I cannot give way.

Mr. CARLILE. It will not be debated on the part of its advocates.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kansas that the Senate go into executive session.

Mr. HALE called for the yeas and nays; and they were ordered.

Mr. LANE, of Kansas. If it is in order now before the call is made, I will ask for the passage of the resolution I offered a few moments ago.

Mr. HALE. I object.

The PRESIDENT *pro tempore*. It is not in order.

The question being taken by yeas and nays, resulted—yeas 19, nays 16; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Cowan, Foot, Hale, Harlan, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Pomeroy, Ramsey, Sherman, Ten Eyck, Trumbull, Wilkinson, and Wilson—19.

NAYS—Messrs. Buckalew, Carlile, Conness, Davis, Harris, Hendricks, Hicks, Johnson, McDougall, Powell, Richardson, Riddle, Sausbury, Sumner, Van Winkle, and Wiley—16.

ABSENT—Messrs. Brown, Collamer, Dixon, Doolittle, Fessenden, Foster, Grimes, Harding, Henderson, Howard, Nesmith, Sprague, Wade, and Wright—14.

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After nearly an hour spent in executive session the doors were reopened.

COMMITTEE TO WAIT ON THE PRESIDENT.

On motion of Mr. LANE, of Kansas, the resolution submitted by him for the appointment of a committee to wait upon the President of the United States and inform him that unless he have some further communication to make Congress is ready to adjourn was taken up and agreed to.

The PRESIDENT *pro tempore* was authorized to appoint the committee; and Mr. LANE, of Kansas, and Mr. MORGAN, were appointed.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to law, the accounts of the Indian agents within the southern superintendency for the first quarter of the year 1864; which was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the joint resolution of the Senate (No. 79) to increase the compensation of matrons in the hospitals.

The message further announced that the House of Representatives had passed a bill (No. 338) for the relief of John J. Michie, of New Orleans, Louisiana, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 343) making an appropriation for testing submarine inventions; and

A bill (S. No. 346) for the relief of Richard G. Murphy.

PRINTING OF DOCUMENTS.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print the report of the proceedings of the court-martial in the case of Commodore Wilkes, reported the

following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the proceedings of the court of inquiry and court-martial in the case of Commodore Wilkes be printed.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print additional copies of the report of the select committee on naval supplies, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That two thousand five hundred additional copies of the report of the select committee on naval supplies be printed for the use of the Senate, and five hundred copies for the use of the Navy Department.

Mr. ANTHONY, from the Committee on Printing, also reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That five hundred copies of the report of the National Academy of Sciences, heretofore ordered to be printed, be printed for the use of the Academy.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print the message of the President of the United States in relation to Mexican affairs, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the papers relative to Mexican affairs, communicated to the Senate by the President of the United States June 20, 1864, be printed.

ARSENAL EXPLOSION SUFFERERS.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (H. R. No. 118) for the relief of the sufferers by the late accident at the United States arsenal in Washington, District of Columbia, reported it without amendment; and by unanimous consent it was considered as in Committee of the Whole.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

EXTRA COMPENSATION TO EMPLOYÉS.

The joint resolution (H. R. No. 121) granting additional compensation to the employes of the two Houses of Congress was read twice by its title, and objection being made to its present consideration, it was laid over.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a joint resolution (No. 122) for the relief of Gilbert & Gerish, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 421) to pay in part for publishing the debates of Congress, and for other purposes;

A joint resolution (H. R. No. 118) for the relief of the sufferers by the late accident at the United States arsenal in Washington, District of Columbia; and

A joint resolution (S. No. 79) to increase the compensation of matrons in the hospitals.

BILLS BECOME LAWS.

A message from the President of the United States, by Mr. HAY, his Secretary, announced that the President of the United States had this day approved and signed the following acts:

An act (S. No. 154) to provide for the better organization of the quartermaster's department;

An act (S. No. 185) to establish a branch of the Mint of the United States at Dallas City, in the State of Oregon;

An act (S. No. 138) to regulate proceedings in cases between landlord and tenant in the District of Columbia;

An act (S. No. 246) for the relief of seamen and others, not officers, borne on the books of vessels wrecked or lost in the naval service;

An act (S. No. 339) to repeal a joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department, and for other purposes;"

An act (S. No. 348) for the supervision, repairs, liabilities, and completion of the Washington aqueduct;

An act (S. No. 343) making an appropriation for testing submarine inventions; and

An act (S. No. 346) for the relief of Richard G. Murphy.

EXTENSION OF THE SESSION.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed a resolution to extend the time fixed by the two Houses for the adjournment of the present Congress for the space of ten minutes, in which it requested the concurrence of the Senate.

The Senate proceeded to consider the resolution, and it was concurred in.

Mr. SHERMAN subsequently submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate, (the House of Representatives concurring,) That the time fixed for the adjournment of the two Houses to-day be further extended for the space of ten minutes.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the resolution of the Senate for a further extension of the time fixed for the adjournment of the two Houses of Congress to-day.

Mr. SHERMAN subsequently submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate, (the House of Representatives concurring,) That the time last fixed by the resolution of the two Houses for the adjournment of the present session of Congress be extended until half past twelve o'clock to-day.

In a few minutes a message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the resolution of the Senate extending the time last fixed by the resolution of the two Houses for the adjournment of the present session of Congress until half past twelve o'clock to-day.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 32) to regulate the sessions of the circuit and district courts for the northern district of New York, and for other purposes; and it was thereupon signed by the President *pro tempore*.

BILLS BECOME LAWS.

The message further announced that the President of the United States had this day approved and signed the following acts and joint resolutions:

An act (H. R. No. 305) to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States;

An act (H. R. No. 406) supplementary to an act entitled "An act to grant pensions," approved July 14, 1862;

An act (H. R. No. 411) to encourage immigration;

An act (H. R. No. 461) for the relief of John C. McConnell;

An act (H. R. No. 510) further to regulate the

carriage of passengers in steamships and other vessels;

An act (H. R. No. 534) to authorize the Secretary of the Navy to provide for the education of naval constructors and steam engineers, and for other purposes;

An act (H. R. No. 549) further to regulate and provide for the enrolling and calling out the national forces, and for other purposes;

An act (H. R. No. 555) for the relief of Horace Gates;

An act (H. R. No. 573) making an appropriation to carry into effect an act to prevent smuggling;

An act (H. R. No. 575) to correct a clerical error in the law of June 30, 1864, relating to the Post Office Department;

A joint resolution (H. R. No. 120) imposing a special income tax; and

A joint resolution (H. R. No. 119) explanatory of joint resolution in relation to the pay of staff officers of the Lieutenant General.

REPORTS FROM COMMITTEES.

Mr. WILKINSON, from the Committee on Revolutionary Claims, to whom was referred the bill (H. R. No. 528) for the relief of the heir-at-law of Colonel Archibald Cray, deceased, reported it without amendment.

NEW YORK QUARANTINE LAWS.

Mr. MORGAN. The Committee on Commerce, to whom was referred a bill (H. R. No. 563) in addition to the act respecting quarantine and health laws, approved February 25, 1799, and for the better execution of the third section thereof, have directed me to report it back without amendment, and I ask for its present consideration.

By unanimous consent, the bill was considered as in Committee of the Whole. It proposes to appropriate \$20,000 to enable the Secretary of the Treasury to purchase or erect suitable warehouses and other conveniences for the storage of goods and merchandise imported in any vessel subject to quarantine or other restraint, pursuant to the health laws of the State of New York, at such convenient place or places within or near the port of New York as the safety of the public revenue and the observance of those health laws may require.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

INTERNAL REVENUE BILL.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a joint resolution (No. 123) to correct certain clerical errors in the internal revenue act, in which it requested the concurrence of the Senate.

By unanimous consent, the joint resolution was read three times, and passed. It proposes to amend section thirty-eight of an act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, by striking out "thirty-five" and inserting "thirty-six;" to amend section eighty-one by striking out "seventy-three" and inserting "seventy-four;" to amend section eighty-four by striking out "eighty-one" and inserting "eighty-two," and by striking out "eighty-four" and in-

serting "eighty-five;" to amend section one hundred and nine by striking out "one hundred and two" and inserting "one hundred and three."

H. C. DE AINA.

On motion of Mr. SPRAGUE, it was

Ordered, That the Committee on Finance be discharged from the further consideration of the joint resolution (H. R. No. 106) authorizing the Secretary of the Treasury to dispose of certain moneys therein mentioned.

The resolution was, by unanimous consent, considered as in Committee of the Whole. Its purpose is to authorize the Secretary of the Treasury to pay over to Henry C. De Aina the sum of \$2,000, deposited by him with Jay Cooke & Company to the credit of C. V. Hogan, an employé in the secret service of the Treasury Department, or any part thereof, or to cause the whole or part of the same to be confiscated and paid over to the Treasury of the United States, as, in the judgment of the Secretary, may appear just.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

The Senate again proceeded to the consideration of executive business, and after a few minutes spent therein the doors were reopened.

HOUSE BILLS REFERRED.

The PRESIDENT *pro tempore*. There are some House bills on the table which the Chair will lay before the Senate.

The bill (H. R. No. 338) for the relief of John J. Michie, of New Orleans, Louisiana, was read twice by its title.

Mr. TRUMBULL. I hope we shall pass no more bills. It will involve the necessity of another extension of the session to get them enrolled.

Mr. SHERMAN. I move that the bill be referred to the Committee on Claims.

The motion was agreed to.

The joint resolution (H. R. No. 122) for the relief of Gilbert & Gerish was read twice by its title, and referred to the Committee on Claims.

CLOSE OF THE SESSION.

Mr. LANE, of Kansas, from the committee appointed to wait upon the President of the United States and inform him that, unless he may have some further communication to make, Congress, having finished the business before it, is ready to adjourn, reported that the committee had performed the duty assigned them, and that the President replied that he had no further communication to make.

The hour of half past twelve o'clock having arrived,

The PRESIDENT *pro tempore*. Senators, the time fixed by the concurrent votes of the two Houses of Congress for their adjournment has arrived. I now, therefore, wishing you, Senators, a pleasant return to your homes and families, and expressing the hope that before you again return to this Chamber the clouds which have been lowering upon our beloved country may be lifted, that the storm may be receding, that peace may be again returning to our country, do declare the Senate adjourned without day.

APPENDIX

TO

THE CONGRESSIONAL GLOBE:

CONTAINING

SPEECHES, IMPORTANT STATE PAPERS, AND THE LAWS

OF THE

FIRST SESSION THIRTY-EIGHTH CONGRESS.

BY JOHN C. RIVES.

CITY OF WASHINGTON:
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.
1864.

11/11/11

11/11/11

APPENDIX

TO THE CONGRESSIONAL GLOBE.

38TH CONG....1ST SESS.

Message of the President.

SENATE & HO. OF REPS.

MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES.

*Fellow-Citizens of the Senate
and House of Representatives:*

Another year of health, and of sufficiently abundant harvests, has passed. For these, and especially for the improved condition of our national affairs, our renewed and profoundest gratitude to God is due.

We remain in peace and friendship with foreign Powers.

The efforts of disloyal citizens of the United States to involve us in foreign wars, to aid an inexcusable insurrection, have been unavailing. Her Britannic Majesty's Government, as was justly expected, have exercised their authority to prevent the departure of new hostile expeditions from British ports. The Emperor of France has, by a like proceeding, promptly vindicated the neutrality which he proclaimed at the beginning of the contest. Questions of great intricacy and importance have arisen, out of the blockade and other belligerent operations, between the Government and several of the maritime Powers, but they have been discussed, and, as far as was possible, accommodated in a spirit of frankness, justice, and mutual good will. It is especially gratifying that our prize courts, by the impartiality of their adjudications, have commanded the respect and confidence of maritime Powers.

The supplemental treaty between the United States and Great Britain for the suppression of the African slave trade, made on the 17th day of February last, has been duly ratified, and carried into execution. It is believed that, so far as American ports and American citizens are concerned, that inhuman and odious traffic has been brought to an end.

I shall submit, for the consideration of the Senate, a convention for the adjustment of possessory claims in Washington Territory, arising out of the treaty of the 15th June, 1846, between the United States and Great Britain, and which have been the source of some disquiet among the citizens of that now rapidly improving part of the country.

A novel and important question, involving the extent of the maritime jurisdiction of Spain in the waters which surround the island of Cuba, has been debated without reaching an agreement, and it is proposed, in an amicable spirit, to refer it to the arbitrament of a friendly Power. A convention for that purpose will be submitted to the Senate.

I have thought it proper, subject to the approval of the Senate, to concur with the interested commercial Powers in an arrangement for the liquidation of the Scheldt dues upon the principles which have been heretofore adopted in regard to the imposts upon navigation in the waters of Denmark.

The long-pending controversy between this Government and that of Chili, touching the seizure at Sitana, in Peru, by Chilean officers, of a large amount in treasure belonging to citizens of the United States, has been brought to a close by the

award of his Majesty the King of the Belgians, to whose arbitration the question was referred by the parties. The subject was thoroughly and patiently examined by that justly respected magistrate, and, although the sum awarded to the claimants may not have been as large as they expected, there is no reason to distrust the wisdom of his Majesty's decision. That decision was promptly complied with by Chili, when intelligence in regard to it reached that country.

The joint commission, under the act of the last session, for carrying into effect the convention with Peru on the subject of claims, has been organized at Lima, and is engaged in the business intrusted to it.

Difficulties concerning inter-oceanic transit through Nicaragua are in course of amicable adjustment.

In conformity with principles set forth in my last annual message, I have received a representative from the United States of Colombia, and have accredited a minister to that republic.

Incidents occurring in the progress of our civil war have forced upon my attention the uncertain state of international questions touching the rights of foreigners in this country and of United States citizens abroad. In regard to some Governments these rights are at least partially defined by treaties. In no instance, however, is it expressly stipulated that, in the event of civil war, a foreigner residing in this country, within the lines of the insurgents, is to be exempted from the rule which classes him as a belligerent, in whose behalf the Government of his country cannot expect any privileges or immunities distinct from that character. I regret to say, however, that such claims have been put forward, and, in some instances, in behalf of foreigners who have lived in the United States the greater part of their lives.

There is reason to believe that many persons born in foreign countries, who have declared their intention to become citizens, or who have been fully naturalized, have evaded the military duty required of them by denying the fact, and thereby throwing upon the Government the burden of proof. It has been found difficult or impracticable to obtain this proof, from the want of guides to the proper sources of information. These might be supplied by requiring clerks of courts, where declarations of intention may be made or naturalizations effected, to send, periodically, lists of the names of the persons naturalized, or declaring their intention to become citizens, to the Secretary of the Interior, in whose Department those names might be arranged and printed for general information.

There is also reason to believe that foreigners frequently become citizens of the United States for the sole purpose of evading duties imposed by the laws of their native countries, to which, on becoming naturalized here, they at once repair, and, though never returning to the United States, they still claim the interposition of this Government as citizens. Many altercations and great prejudices have heretofore arisen out of this abuse. It is, therefore, submitted to your serious consideration. It might be advisable to fix a limit, beyond which no citizen of the United States resid-

ing abroad may claim the interposition of his Government.

The right of suffrage has often been assumed and exercised by aliens, under pretenses of naturalization, which they have disavowed when drafted into the military service. I submit the expediency of such an amendment of the law as will make the fact of voting an estoppel against any plea of exemption from military service, or other civil obligation, on the ground of alienage.

In common with other western Powers, our relations with Japan have been brought into serious jeopardy, through the perverse opposition of the hereditary aristocracy of the empire to the enlightened and liberal policy of the Tycoon, designed to bring the country into the society of nations. It is hoped, although not with entire confidence, that these difficulties may be peacefully overcome. I ask your attention to the claim of the minister residing there for the damages he sustained in the destruction by fire of the residence of the legation at Yedo.

Satisfactory arrangements have been made with the Emperor of Russia, which, it is believed, will result in effecting a continuous line of telegraph through that empire from our Pacific coast.

I recommend to your favorable consideration the subject of an international telegraph across the Atlantic ocean; and also of a telegraph between this capital and the national forts along the Atlantic seaboard and the Gulf of Mexico. Such communications, established with any reasonable outlay, would be economical as well as effective aids to the diplomatic, military, and naval service.

The consular system of the United States, under the enactments of the last Congress, begins to be self-sustaining; and there is reason to hope that it may become entirely so, with the increase of trade which will ensue whenever peace is restored. Our ministers abroad have been faithful in defending American rights. In protecting commercial interests, our consuls have necessarily had to encounter increased labors and responsibilities, growing out of the war. These they have, for the most part, met and discharged with zeal and efficiency. This acknowledgment justly includes those consuls who, residing in Morocco, Egypt, Turkey, Japan, China, and other Oriental countries, are charged with complex functions and extraordinary powers.

The condition of the several organized Territories is generally satisfactory, although Indian disturbances in New Mexico have not been entirely suppressed. The mineral resources of Colorado, Nevada, Idaho, New Mexico, and Arizona are proving far richer than has been heretofore understood. I lay before you a communication on this subject from the Governor of New Mexico. I again submit to your consideration the expediency of establishing a system for the encouragement of immigration. Although this source of national wealth and strength is again flowing with greater freedom than for several years before the insurrection occurred, there is still a great deficiency of laborers in every field of industry, especially in agriculture and in our mines, as well of iron and coal as of the precious metals. While the demand for labor is thus

38TH CONG...1ST SESS.

Message of the President.

SENATE & HO. OF REPS.

increased here, tens of thousands of persons, destitute of remunerative occupation, are thronging our foreign consulates, and offering to emigrate to the United States if essential, but very cheap, assistance can be afforded them. It is easy to see that, under the sharp discipline of civil war, the nation is beginning a new life. This noble effort demands the aid, and ought to receive the attention and support, of the Government.

Injuries, unforeseen by the Government and unintended, may, in some cases, have been inflicted on the subjects or citizens of foreign countries, both at sea and on land, by persons in the service of the United States. As this Government expects redress from other Powers when similar injuries are inflicted by persons in their service upon citizens of the United States, we must be prepared to do justice to foreigners. If the existing judicial tribunals are inadequate to this purpose, a special court may be authorized, with power to hear and decide such claims of the character referred to as may have arisen under treaties and the public law. Conventions for adjusting the claims by joint commission have been proposed to some Governments, but no definite answer to the proposition has yet been received from any.

In the course of the session, I shall probably have occasion to request you to provide indemnification to claimants where decrees of restitution have been rendered and damages awarded by admiralty courts; and in other cases, where this Government may be acknowledged to be liable in principle, and where the amount of that liability has been ascertained by an informal arbitration.

The proper officers of the Treasury have deemed themselves required, by the law of the United States upon the subject, to demand a tax upon the incomes of foreign consuls in this country. While such a demand may not, in strictness, be in derogation of public law, or perhaps of any existing treaty between the United States and a foreign country, the expediency of so far modifying the act as to exempt from tax the income of such consuls as are not citizens of the United States, derived from the emoluments of their office, or from property not situated in the United States, is submitted to your serious consideration. I make this suggestion upon the ground that a comity which ought to be reciprocated exempts our consuls, in all other countries, from taxation to the extent thus indicated. The United States, I think, ought not to be exceptionally illiberal to international trade and commerce.

The operations of the Treasury during the last year have been successfully conducted. The enactment by Congress of a national banking law has proved a valuable support of the public credit; and the general legislation in relation to loans has fully answered the expectations of its favorers. Some amendments may be required to perfect existing laws; but no change in their principles or general scope is believed to be needed.

Since these measures have been in operation, all demands on the Treasury, including the pay of the Army and Navy, have been promptly met and fully satisfied. No considerable body of troops, it is believed, were ever more amply provided, and more liberally and punctually paid; and it may be added that by no people were the burdens incident to a great war ever more cheerfully borne.

The receipts during the year from all sources, including loans and the balance in the Treasury at its commencement, were \$901,125,674 86, and the aggregate disbursements \$895,796,630 65, leaving a balance on the 1st of July, 1863, of \$5,329,044 21. Of the receipts there were derived from customs \$69,059,642 40; from internal revenue, \$37,640,787 95; from direct tax, \$1,485,103 61; from lands, \$167,617 17; from miscellaneous sources, \$3,046,615 35; and from loans, \$776,682,361 57; making the aggregate, \$901,125,674 86. Of the disbursements there were for the civil service, \$23,253,922 08; for pensions and Indians, \$4,216,520 79; for interest on public debt, \$24,729,846 51; for the War Department, \$599,298,600 83; for the Navy Department, \$63,211,105 27; for payment of funded and temporary debt, \$181,086,635 07; making the aggregate, \$895,796,630 65, and leaving the balance of \$5,329,044 21. But the payment of funded and

temporary debt, having been made from moneys borrowed during the year, must be regarded as merely nominal payments, and the moneys borrowed to make them as merely nominal receipts; and their amount, \$181,086,635 07, should therefore be deducted both from receipts and disbursements. This being done, there remains as actual receipts \$720,039,039 79; and the actual disbursements, \$714,709,995 58, leaving the balance as already stated.

The actual receipts and disbursements for the first quarter, and the estimated receipts and disbursements for the remaining three quarters, of the current fiscal year 1864, will be shown in detail by the report of the Secretary of the Treasury, to which I invite your attention. It is sufficient to say here that it is not believed that actual results will exhibit a state of the finances less favorable to the country than the estimates of that officer heretofore submitted; while it is confidently expected that at the close of the year both disbursements and debt will be found very considerably less than has been anticipated.

The report of the Secretary of War is a document of great interest. It consists of—

1. The military operations of the year, detailed in the report of the General-in-Chief.
2. The organization of colored persons into the war service.
3. The exchange of prisoners, fully set forth in the letter of General Hitchcock.
4. The operations under the act for enrolling and calling out the national forces, detailed in the report of the Provost Marshal General.
5. The organization of the invalid corps; and
6. The operation of the several departments of the Quartermaster General, Commissary General, Paymaster General, Chief of Engineers, Chief of Ordnance, and Surgeon General.

It has appeared impossible to make a valuable summary of this report except such as would be too extended for this place, and hence I content myself by asking your careful attention to the report itself.

The duties devolving on the naval branch of the service during the year, and throughout the whole of this unhappy contest, have been discharged with fidelity and eminent success. The extensive blockade has been constantly increasing in efficiency, as the Navy has expanded; yet on so long a line it has so far been impossible to entirely suppress illicit trade. From returns received at the Navy Department it appears that more than one thousand vessels have been captured since the blockade was instituted, and that the value of prizes already sent in for adjudication amounts to over thirteen million dollars.

The naval force of the United States consists at this time of five hundred and eighty-eight vessels, completed and in the course of completion, and of these seventy-five are iron-clad or armored steamers. The events of the war give an increased interest and importance to the Navy which will probably extend beyond the war itself.

The armored vessels in our Navy completed and in service, or which are under contract and approaching completion, are believed to exceed in number those of any other Power. But while these may be relied upon for harbor defense and coast service, others of greater strength and capacity will be necessary for cruising purposes, and to maintain our rightful position on the ocean.

The change that has taken place in naval vessels and naval warfare since the introduction of steam as a motive power for ships-of-war, demands either a corresponding change in some of our existing navy-yards, or the establishment of new ones, for the construction and necessary repair of modern naval vessels. No inconsiderable embarrassment, delay, and public injury have been experienced from the want of such governmental establishments. The necessity of such a navy-yard, so furnished, at some suitable place upon the Atlantic seaboard, has on repeated occasions been brought to the attention of Congress by the Navy Department, and is again presented in the report of the Secretary which accompanies this communication. I think it my duty to invite your special attention to this subject, and also to that of establishing a yard and depot for naval purposes upon one of the western rivers. A naval force has been created on those interior

waters, and under many disadvantages, within little more than two years, exceeding in numbers the whole naval force of the country at the commencement of the present Administration. Satisfactory and important as have been the performances of the heroic men of the Navy at this interesting period, they are scarcely more wonderful than the success of our mechanics and artisans in the production of war vessels which has created a new form of naval power.

Our country has advantages superior to any other nation in our resources of iron and timber, with inexhaustible quantities of fuel in the immediate vicinity of both, and all available and in close proximity to navigable waters. Without the advantage of public works, the resources of the nation have been developed and its power displayed in the construction of a navy of such magnitude, which has, at the very period of its creation, rendered signal service to the Union.

The increase of the number of seamen in the public service, from seven thousand five hundred men in the spring of 1861, to about thirty-four thousand at the present time, has been accomplished without special legislation or extraordinary bounties to promote that increase. It has been found, however, that the operation of the draft, with the high bounties paid for Army recruits, is beginning to affect injuriously the naval service, and will, if not corrected, be likely to impair its efficiency, by detaching seamen from their proper vocation and inducing them to enter the Army. I therefore respectfully suggest that Congress might aid both the Army and naval services by a definite provision on this subject, which would at the same time be equitable to the communities more especially interested.

I commend to your consideration the suggestions of the Secretary of the Navy in regard to the policy of fostering and training seamen, and also the education of officers and engineers for the naval service. The Naval Academy is rendering signal service in preparing midshipmen for the highly responsible duties which in after-life they will be required to perform. In order that the country should not be deprived of the proper quota of educated officers for which legal provision has been made at the Naval School, the vacancies caused by the neglect or omission to make nominations from the States in insurrection have been filled by the Secretary of the Navy. The School is now more full and complete than at any former period, and in every respect entitled to the favorable consideration of Congress.

During the past fiscal year the financial condition of the Post Office Department has been one of increasing prosperity, and I am gratified in being able to state that the actual postal revenue has nearly equaled the entire expenditures; the latter amounting to \$11,314,206 84, and the former to \$11,163,789 59, leaving a deficiency of but \$150,417 25. In 1860, the year immediately preceding the rebellion, the deficiency amounted to \$5,656,705 49, the postal receipts of that year being \$2,645,722 19 less than those of 1863. The decrease since 1860 in the annual amount of transportation has been only about 25 per cent., but the annual expenditure on account of the same has been reduced 35 per cent. It is manifest, therefore, that the Post Office Department may become self-sustaining in a few years, even with the restoration of the whole service.

The international conference of postal delegates from the principal countries of Europe and America, which was called at the suggestion of the Postmaster General, met at Paris on the 11th of May last, and concluded its deliberations on the 8th of June. The principles established by the conference as best adapted to facilitate postal intercourse between nations, and as the basis of future postal conventions, inaugurate a general system of uniform international charges, at reduced rates of postage, and cannot fail to produce beneficial results.

I refer you to the report of the Secretary of the Interior, which is herewith laid before you, for useful and varied information in relation to the public lands, Indian affairs, patents, pensions, and other matters of public concern pertaining to his Department.

The quantity of land disposed of during the last and the first quarter of the present fiscal years was

38TH CONG....1ST SESS.

Message of the President.

SENATE & HO. OF REPS.

3,841,549 acres, of which 161,911 acres were sold for cash, 1,456,514 acres were taken up under the homestead law, and the residue disposed of under laws granting lands for military bounties, for railroad and other purposes. It also appears that the sale of the public lands is largely on the increase.

It has long been a cherished opinion of some of our wisest statesmen that the people of the United States had a higher and more enduring interest in the early settlement and substantial cultivation of the public lands than in the amount of direct revenue to be derived from the sale of them. This opinion has had a controlling influence in shaping legislation upon the subject of our national domain. I may cite, as evidence of this, the liberal measures adopted in reference to actual settlers; the grant to the States of the overflowed lands within their limits in order to their being reclaimed and rendered fit for cultivation; the grants to railway companies of alternate sections of land upon the contemplated lines of their roads, which, when completed, will so largely multiply the facilities for reaching our distant possessions. This policy has received its most signal and beneficent illustration in the recent enactment granting homesteads to actual settlers. Since the 1st day of January last, the before-mentioned quantity of 1,456,514 acres of land have been taken up under its provisions. This fact and the amount of sales furnish gratifying evidence of increasing settlement upon the public lands, notwithstanding the great struggle in which the energies of the nation have been engaged, and which has required so large a withdrawal of our citizens from their accustomed pursuits. I cordially concur in the recommendation of the Secretary of the Interior, suggesting a modification of the act in favor of those engaged in the military and naval service of the United States. I doubt not that Congress will cheerfully adopt such measures as will, without essentially changing the general features of the system, secure, to the greatest practicable extent, its benefits to those who have left their homes in the defense of the country in this arduous crisis.

I invite your attention to the views of the Secretary as to the propriety of raising, by appropriate legislation, a revenue from the mineral lands of the United States.

The measures provided at your last session for the removal of certain Indian tribes have been carried into effect. Sundry treaties have been negotiated which will, in due time, be submitted for the constitutional action of the Senate. They contain stipulations for extinguishing the possessory rights of the Indians to large and valuable tracts of land. It is hoped that the effect of these treaties will result in the establishment of permanent friendly relations with such of these tribes as have been brought into frequent and bloody collision with our outlying settlements and emigrants. Sound policy and our imperative duty to these wards of the Government demand our anxious and constant attention to their material well-being, to their progress in the arts of civilization, and, above all, to that moral training which, under the blessing of divine Providence, will confer upon them the elevated and sanctifying influences, the hopes and consolations of the Christian faith.

I suggested in my last annual message the propriety of remodeling our Indian system. Subsequent events have satisfied me of its necessity. The details set forth in the report of the Secretary evince the urgent need for immediate legislative action.

I commend the benevolent institutions established or patronized by the Government in this District to your generous and fostering care.

The attention of Congress, during the last session, was engaged to some extent with a proposition for enlarging the water communication between the Mississippi river and the northeastern seaboard, which proposition, however, failed for the time. Since then, upon a call of the greatest respectability, a convention has been held at Chicago upon the same subject, a summary of whose views is contained in a memorial addressed to the President and Congress, and which I now have the honor to lay before you. That this interest is one which, ere long, will force its own way, I do not entertain a doubt, while it is submitted entirely to your wisdom as to what can be done now.

Augmented interest is given to this subject by the actual commencement of the work upon the Pacific railroad, under auspices so favorable to rapid progress and completion. The enlarged navigation becomes a palpable need to the great road.

I transmit the second annual report of the Commissioner of the Department of Agriculture, asking your attention to the developments in that vital interest of the nation.

When Congress assembled a year ago the war had already lasted nearly twenty months; and there had been many conflicts on both land and sea, with varying results. The rebellion had been pressed back into reduced limits; yet the tone of public feeling and opinion, at home and abroad, was not satisfactory. With other signs, the popular elections, then just past, indicated uneasiness among ourselves, while, amid much that was cold and menacing, the kindest words coming from Europe were uttered in accents of pity that we were too blind to surrender a hopeless cause. Our commerce was suffering greatly by a few armed vessels built upon and furnished from foreign shores; and we were threatened with such additions from the same quarter as would sweep our trade from the sea and raise our blockade. We had failed to elicit from European Governments anything hopeful upon this subject. The preliminary emancipation proclamation, issued in September, was running its assigned period to the beginning of the new year. A month later the final proclamation came, including the announcement that colored men of suitable condition would be received into the war service. The policy of emancipation, and of employing black soldiers, gave to the future a new aspect, about which hope and fear and doubt contended in uncertain conflict. According to our political system, as a matter of civil administration, the General Government had no lawful power to effect emancipation in any State; and for a long time it had been hoped that the rebellion could be suppressed without resorting to it as a military measure. It was all the while deemed possible that the necessity for it might come, and that, if it should, the crisis of the contest would then be presented. It came, and, as was anticipated, it was followed by dark and doubtful days. Eleven months having now passed, we are permitted to take another review. The rebel borders are pressed still further back, and by the complete opening of the Mississippi the country dominated by the rebellion is divided into distinct parts, with no practical communication between them. Tennessee and Arkansas have been substantially cleared of insurgent control, and influential citizens in each, owners of slaves and advocates of slavery at the beginning of the rebellion, now declare openly for emancipation in their respective States. Of those States not included in the emancipation proclamation, Maryland and Missouri, neither of which three years ago would tolerate any restraint upon the extension of slavery into new Territories, only dispute now as to the best mode of removing it within their own limits.

Of those who were slaves at the beginning of the rebellion, full one hundred thousand are now in the United States military service, about one half of which number actually bear arms in the ranks; thus giving the double advantage of taking so much labor from the insurgent cause, and supplying the places which otherwise must be filled with so many white men. So far as tested, it is difficult to say they are not as good soldiers as any. No servile insurrection, or tendency to violence or cruelty, has marked the measures of emancipation and arming the blacks. These measures have been much discussed in foreign countries, and contemporary with such discussion the tone of public sentiment there is much improved. At home the same measures have been fully discussed, supported, criticised, and denounced, and the annual elections following are highly encouraging to those whose official duty it is to bear the country through this great trial. Thus we have the new reckoning. The crisis which threatened to divide the friends of the Union is past.

Looking now to the present and future, and with reference to a resumption of the national authority within the States wherein that authority has been suspended, I have thought fit to issue a

proclamation, a copy of which is herewith transmitted. On examination of this proclamation it will appear, as is believed, that nothing is attempted beyond what is amply justified by the Constitution. True, the form of an oath is given, but no man is coerced to take it. The man is only promised a pardon in case he voluntarily takes the oath. The Constitution authorizes the Executive to grant or withhold the pardon at his own absolute discretion; and this includes the power to grant on terms, as is fully established by judicial and other authorities.

It is also proffered that if, in any of the States named, a State government shall be, in the mode prescribed, set up, such government shall be recognized and guaranteed by the United States, and that under it the State shall, on the constitutional conditions, be protected against invasion and domestic violence. The constitutional obligation of the United States to guaranty to every State, in the Union a republican form of government, and to protect the State, in the cases stated, is explicit and full. But why tender the benefits of this provision only to a State government set up in this particular way? This section of the Constitution contemplates a case wherein the element within a State favorable to republican government, in the Union, may be too feeble for an opposite and hostile element external to or even within the State; and such are precisely the cases with which we are now dealing.

An attempt to guaranty and protect a revived State government, constructed in whole, or in preponderating part, from the very element against whose hostility and violence it is to be protected, is simply absurd. There must be a test by which to separate the opposing elements, so as to build only from the sound; and that test is a sufficiently liberal one, which accepts as sound whoever will make a sworn recantation of his former unsoundness.

But if it be proper to require, as a test of admission to the political body, an oath of allegiance to the Constitution of the United States, and to the Union under it, why also to the laws and proclamations in regard to slavery? Those laws and proclamations were enacted and put forth for the purpose of aiding in the suppression of the rebellion. To give them their fullest effect, there had to be a pledge for their maintenance. In my judgment they have aided, and will further aid, the cause for which they were intended. To now abandon them would be not only to relinquish a lever of power, but would also be a cruel and an astounding breach of faith. I may add at this point, that while I remain in my present position I shall not attempt to retract or modify the emancipation proclamation; nor shall I return to slavery any person who is free by the terms of that proclamation, or by any of the acts of Congress. For these and other reasons it is thought best that support of these measures shall be included in the oath; and it is believed the Executive may lawfully claim it in return for pardon and restoration of forfeited rights, which he has clear constitutional power to withhold altogether, or grant upon the terms which he shall deem wisest for the public interest. It should be observed, also, that this part of the oath is subject to the modifying and abrogating power of legislation and supreme judicial decision.

The proposed acquiescence of the national Executive in any reasonable temporary State arrangement for the freed people is made with the view of possibly modifying the confusion and destitution which must, at best, attend all classes by a total revolution of labor throughout whole States. It is hoped that the already deeply afflicted people in those States may be somewhat more ready to give up the cause of their affliction, if, to this extent, this vital matter be left to themselves; while no power of the national Executive to prevent an abuse is abridged by the proposition.

The suggestion in the proclamation as to maintaining the political framework of the States on what is called reconstruction, is made in the hope that it may do good without danger of harm. It will save labor, and avoid great confusion.

But why any proclamation now upon this subject? This question is beset with the conflicting views that the step might be delayed too long or be taken too soon. In some States the elements

38TH CONG. ... 1ST SESS

Report of the Secretary of the Treasury.

SENATE & HO. OF REPS.

for resumption seem ready for action, but remain inactive, apparently for want of a rallying point—a plan of action. Why shall A adopt the plan of B, rather than B that of A? And if A and B should agree, how can they know but that the General Government here will reject their plan? By the proclamation a plan is presented which may be accepted by them as a rallying point, and which they are assured in advance will not be rejected here. This may bring them to act sooner than they otherwise would.

The objection to a premature presentation of a plan by the national Executive consists in the danger of commitments on points which could be more safely left to further developments. Care has been taken to so shape the document as to avoid embarrassments from this source. Saying that, on certain terms, certain classes will be pardoned, with rights restored, it is not said that other classes or other terms will never be included. Saying that reconstruction will be accepted, if presented in a specified way, it is not said it will never be accepted in any other way.

The movements, by State action, for emancipation in several of the States, not included in the emancipation proclamation, are matters of profound gratulation. And while I do not repeat in detail what I have heretofore so earnestly urged upon this subject, my general views and feelings remain unchanged; and I trust that Congress will omit no fair opportunity of aiding these important steps to a great consummation.

In the midst of other cares, however important, we must not lose sight of the fact that the war power is still our main reliance. To that power alone can we look, yet for a time, to give confidence to the people in the contested regions that the insurgent power will not again overrun them. Until that confidence shall be established, little can be done anywhere for what is called reconstruction. Hence our chief care must still be directed to the Army and Navy, who have thus far borne their harder part so nobly and well. And it may be esteemed fortunate that in giving the greatest efficiency to these indispensable arms, we do also honorably recognize the gallant men, from commander to sentinel, who compose them, and to whom, more than to others, the world must stand indebted for the home of freedom disinherited, regenerated, enlarged, and perpetuated.

ABRAHAM LINCOLN.

DECEMBER 8, 1863.

Report of the Secretary of the Treasury.

TREASURY DEPARTMENT,
December 10, 1863.

In submitting to the consideration of Congress the report on the state of the finances, required of him by law at the commencement of each session, the Secretary of the Treasury has much satisfaction in being able to say, in general, that the operations of the Department intrusted to his charge have been attended, during the last fiscal year, by a greater measure of success than he ventured to anticipate at its beginning.

At the beginning of that year all demands on the Treasury had indeed been discharged, and there remained a balance to the credit of the Treasurer of \$13,043,546 81. But the large disbursements, constantly demanded by military and naval operations, reduced, by comparison, this seemingly considerable balance to almost inconsiderable proportions, and the practical operations of the restrictive provisions of the acts authorizing the negotiation of the bonds known as five-twenties, the most important loan acts not already fully availed of, made new negotiations for adequate amounts and on admissible terms quite impracticable. The reverses which befell our arms in June, July, and August, increased the difficulties of the situation, so that, though the Secretary was enabled under existing legislation to provide largely for the increasing disbursements, there remained necessarily unpaid, on the first day of the last session of Congress, requisitions on the Treasury, chiefly from the War and Navy Departments, amounting in the aggregate to the sum of \$46,394,875 80.

To provide for these requisitions and for current demands, Congress, on the 17th of January,

1863, authorized an additional issue of United States notes to the amount of \$100,000,000; but did not reach any definite conclusions in regard to loans in time to embody them in an act before the day on which the session closed.

On that day, March 3, 1863, the act to provide ways and means for the support of the Government received the approval of the President, and became law. In addition to various provisions for loans, it contained clauses repealing the restrictions affecting the negotiation of the five-twenties, and thus disengaged that important loan from the embarrassments which had previously rendered it almost unavailable.

A week earlier, on the 25th of February, an act, even more important to the credit of the Government—the act to provide a national currency through a national banking system—had received the sanction of Congress and the President. The salutary effects of these two great acts were soon conspicuous.

Notwithstanding the aid afforded by the additional issue of the United States notes, under the joint resolution of January, the Secretary had found it impossible to prevent a gradual increase, during the session of Congress, in the amount of unpaid requisitions. Those which were unsatisfied at the beginning of the session were indeed discharged, and large sums were applied to new demands for current disbursements. But the aggregate of disbursements remaining necessarily unpaid, increased steadily, notwithstanding all efforts to prevent it, until it reached, at the close of the session, the sum of \$72,171,189 41.

The loan act and the national banking act were followed by an immediate revival of public credit. Success quite beyond anticipation crowned the efforts of the Secretary to distribute the five-twenty loan in all parts of the country, as well as every other measure adopted by him for replenishing the Treasury. The result was that within two months after the adjournment of Congress the whole mass of suspended requisitions had been satisfied, all current demands promptly met, and full provision made for the pay of the Army and Navy. During the remainder of the fiscal year no embarrassments attended the administration of the finances except those which are inseparable from vast expenditures. Notwithstanding these expenditures, it is gratifying to be able to state that during the last year the total of disbursements did not greatly exceed, while the increase of the public debt did not equal, the estimates submitted to Congress by the Secretary at the last session. Thus, while it was then estimated that the public debt on the 30th of June, 1863, would reach the sum of \$1,122,297,403 24, its actual amount on that day was \$1,098,793,181 37; and while the disbursements for the year were estimated at \$693,346,321 48, the real total was \$714,709,995 58.

The aggregate receipts from all sources, including the balance from the preceding year, as shown by the books of the Treasury, were, during the last fiscal year, \$901,125,674 86; and the aggregate disbursements \$895,796,630 65; leaving a balance on the 30th of June, 1863, of \$5,329,044 21. But sums borrowed during the year, and applied during the same time in payment of debts, affect only nominally the total of receipts and of disbursements. The sums thus borrowed and applied during the last fiscal year amounted to \$181,086,635 07. This aggregate, therefore, should be deducted from both sides of the statement, making the true amount of receipts, including balance from last year, \$720,039,039 79, and the true amount of disbursements \$714,709,995 58. The balance, of course, remains the same.

It is gratifying, also, to be able to state, that while debts did not reach the amount anticipated, the receipts from all sources of income, except internal revenue, exceeded the estimates. Thus the receipts from customs, estimated at \$68,041,736 59, were actually \$69,059,642 40; from lands, estimated at \$88,724 16, were \$167,617 17; and from miscellaneous sources, estimated at \$2,244,316 32, were \$3,046,615 35. Direct tax receipts were estimated at \$11,620,717 99, and this amount, or nearly this amount, has been received in the form of payments for military supplies and services by the States, for which they are entitled to credit beyond their several proportions of the tax. In consequence, however, of incomplete settlements,

only the sum of \$1,485,103 61 appears on the books as received into the Treasury.

While the receipts from other ordinary sources of revenue thus closely correspond with the estimates, or largely exceed them, the receipts from internal revenue have alone disappointed expectation. The estimate, indeed, was made of the operation of a law recently enacted, and necessarily imperfectly executed; but such care had been taken to obtain correct premises that it was hardly thought possible that the conclusion deduced from them could be wide of the truth. Under the instructions of the Commissioner, at the instance of the Secretary, a very competent gentleman was for some time employed in ascertaining, with the aid of practical men, conversant with business, the probable amount of revenue from each object of taxation. The result of his inquiries was the estimate which, sanctioned by the Commissioner, was believed to be correct by the Secretary, and therefore submitted to Congress.

Experience has demonstrated its error. The estimate was \$85,456,303 73, while the actual receipts were \$37,640,787 95. A part of the deficiency may be attributed to the imperfect execution of the law, and a part to the changes made in it by Congress after the estimate was made; but it is not probable, had neither cause operated to reduce receipts, that the revenue from this source would have exceeded half the estimated amount. It is clear that the law, unless materially amended, will not produce the revenue expected from it.

The whole of the receipts and disbursements for the last fiscal year may be more easily understood from a somewhat more formal statement.

The receipts, estimated and actual, then, for the last fiscal year, ending on the 30th of June, 1863, were, including balance from the preceding year, as follows:

	Estimated.	Actual.
From customs.....	\$68,041,736 59	\$69,059,642 40
From lands.....	88,724 16	167,617 17
From miscellaneous....	2,244,316 32	3,046,615 35
From direct tax.....	11,620,717 99	1,485,103 61
From internal revenue,	85,456,303 73	37,640,787 95
Balance from last year,	13,043,546 81	13,043,546 81
Total receipts from all ordinary sources...	\$180,105,315 60	\$124,443,313 29

The additional sums, actual or estimated, necessary to meet disbursements, were, of course, derived, or estimated as derivable, from loans.

The disbursements, estimated and actual, were as follows:

	Estimated.	Actual.
The civil service.....	\$32,811,543 23	\$23,253,922 08
Pensions and Indians...	5,982,906 43	4,216,520 79
War Department.....	747,359,828 98	599,298,600 83
Navy Department.....	82,177,510 77	63,211,105 27
Interest on debt.....	25,014,532 07	24,729,846 61

Total gross estimate.. \$93,346,321 48
But this amount, it was supposed, would remain undrawn at end of year, and was therefore deducted from the gross estimate..... 200,000,000 00

Making actual estimate, \$693,346,321 48

In his last report the Secretary stated that if the appropriations should equal the estimates, the balance unexpended at the end of the year would probably reach \$200,000,000, and that this sum should therefore be deducted from the departmental estimates, to make the aggregate correspond with probable conditions. The above statement shows that the aggregate of estimates, thus reduced, was \$693,346,321 48, while the expenditures were \$714,709,995 58, exceeding the reduced estimates \$21,363,674 10.

From the actual expenditures, \$714,709,995 58, there must be deducted the actual receipts, \$124,443,313 29, in order to show the amount derived from loans, \$590,266,682 29, which sum, added to the amount of the debt on the 1st of July, 1862, \$508,526,499 08, (heretofore erroneously stated at \$514,211,371 92,) gives as the true amount of debt on the 1st of July, 1863, \$1,098,793,181 37.

The estimates for the current fiscal year 1864 next claim attention. These are founded on actual receipts and disbursements for the first quarter, which ended September 30, 1863, and on opinions

38TH CONG....1ST SESS.

Report of the Secretary of the Treasury.

SENATE & HO. OF REPS.

formed upon probable events and conditions as to the other quarters.

The following statement exhibits what is actually known, and what, after careful reflection, the Secretary thinks himself warranted in regarding as probable:

For the first quarter, ending September 30, 1863, the actual receipts were:

From customs.....	\$22,562,018 42
From internal revenue.....	17,599,713 59
From lands.....	136,182 09
From miscellaneous sources.....	641,542 04
Total actual receipts for first quarter.....	40,930,456 14
To which add balance July 1, 1863.....	5,329,044 21

Making total receipts of first quarter, except loans..... 46,268,500 35

For three remaining quarters, ending on the 30th of June, 1864, it is estimated there will be received:

From customs.....	\$50,000,000 00
From internal revenue.....	60,000,000 00
From lands.....	300,000 00
From miscellaneous sources.....	5,000,000 00
	115,300,000 00

Making a total of receipts from ordinary sources actual and estimated, and including balance of..... 161,568,500 35
To which add the actual and estimated receipts from loans..... 594,000,000 00

Making a total of actual and estimated receipts from all sources, for 1864..... \$755,568,500 35

The expenditures may be stated as follows:

For the first quarter, ending September 30, 1863, the actual disbursements have been:

For the civil service.....	\$7,216,939 31
For pensions and Indians.....	1,711,271 95
For War Department.....	144,387,473 97
For Navy Department.....	18,511,618 86
For interest on public debt.....	4,283,638 37

Actual expenditures for first quarter..... 176,110,932 46

For the remaining three quarters the estimates, founded on appropriations and estimated deficiencies, are as follows:

For the civil service.....	\$27,050,872 21
For pensions and Indians.....	6,129,042 86
For War Department.....	741,092,037 14
For Navy Department.....	94,467,567 74
For interest on public debt.....	54,581,508 01
	923,621,027 96

Making a total aggregate of actual and estimated expenditures of..... 1,099,731,960 42
But as these estimates include all unexpended balances of appropriations from former years, they are necessarily much too large, and there may be safely deducted from their aggregate, as likely to remain unexpended at the close of the fiscal year, the sum of..... 350,000,000 00

Leaving the total actual and estimated expenditures for 1864..... 749,731,960 42
The total of expenditures being deducted from the total of receipts, there will be an estimated balance on the 30th of June, 1864, of..... 5,830,539 93

From this statement it appears that the total receipts required for the probable disbursements of the year, and including estimated balance at its close, will amount to..... 755,568,500 35
Of which there have been provided and applied during the first quarter..... 176,110,932 46

Leaving to be provided..... 579,457,567 89
Of which it is estimated there will be received from ordinary sources during the three other quarters..... 115,300,000 00

Leaving yet to be provided by loans..... \$464,157,567 89

The amount of debt created during the quarter is ascertained by deducting from the total expenditures \$176,110,932 46, the aggregate of ordinary receipts and balance from last year, amounting together to \$46,268,500 35, which gives as the increase of debt \$129,842,432 11. To this sum, if there be added the sum yet to be provided by loans, \$464,157,567 89, the result will be \$594,000,000, from which if there be deducted the estimated balance on the 1st of July, 1864, \$5,836,539 93, the remainder will be \$588,163,460 07, and will represent the total increase, on the basis of these estimates, of public debt during the year.

The debt on the 1st of July, 1863, was \$1,098,793,181 37; to which if this estimated increase be added, the total debt on the 1st of July, 1864, will be \$1,686,956,641 44, instead of \$1,744,685,586 80, as estimated in the report of last December.

It is not certain, or perhaps probable, that the actual expenditures or actual debt will quite reach the amounts now estimated. Indeed, if the expenditures for the first quarter, \$176,110,932 46, and the ordinary receipts, \$40,939,456 14 for the same quarter, be taken as the standard, the total expenditures of the year will be \$704,443,729 84, and the total receipts \$163,757,824 56. To these receipts, if the balance on the 1st of July, 1863, \$5,329,044 21 be added, it will make the total ordinary resources \$169,086,868 77; and the subtraction of this sum from the total expenditures will give the whole amount to be provided by loans during the year as \$535,356,861 07. This sum will therefore be, on this hypothesis, the increase of debt for the year, and, added to the debt existing on the 1st of July, 1863, will make the total amount on the 30th of June, 1864, \$1,634,150,042 44.

It is not impossible that vigor in the prosecution of the war, and economy in every branch of expenditure, enforced by wise legislation, may reduce actual disbursements and consequent increase of debt even below these figures, and certainly few things can be more desirable than such reductions. The action necessary to these results is not, however, except as to the comparatively small expenditures of the Treasury Department, within the sphere assigned to the Secretary. He therefore prefers to accept the estimates of the several Departments, and the actual appropriations by Congress based upon them, deducting only that proportion which experience has indicated as likely to remain as balances unexpended at the close of the year. He thinks, too, that sound prudence requires adherence to the rule he prescribed to himself from the first, of overstating rather than understating the burdens created by the war and the demands thence arising upon the resources of the country. He has sought to avoid exaggeration on both sides, but he has thought it more prudent to excite a little too much apprehension than to encourage too sanguine hopes. The real difficulties have been, and are, too serious, and the real burdens too great, not to warrant earnest demands on all the resolution, all the energy, all the wisdom, and all the economy, which the strongest representations, sanctioned by reason, could or can bring into action.

In addition to the estimates for the current year just stated, the Secretary is required to submit estimates of the receipts and expenditures of the next fiscal year. These estimates, always uncertain, must, in the present condition of the country, be even less reliable than usual.

But the Secretary is encouraged to attempt them by the circumstance that the estimates for the fiscal year, 1864, submitted in his report of December, 1862, are less materially modified than might have been expected by the actual receipts of one quarter, and by the probabilities affecting those of the other three, and the general result is more favorable than was anticipated.

The aggregate receipts for 1864 were estimated in that report at \$223,025,000, while the actual receipts, other than from loans for the first quarter, and the aggregate of expected like receipts for the remaining quarters, are now stated at only \$161,568,500 35, in consequence of the large deficiency in the receipts of internal revenue. On the other hand, the aggregate expenditures were estimated last year at \$845,413,183 56, and are now estimated, on the basis of actual returns for part and of estimates for the remainder of the year, at \$755,568,500 35. The subtraction of receipts from expenditures shows the amount now estimated as required from loans for the year 1864 to be \$594,000,000, instead of \$622,388,183 56, as heretofore estimated. These figures show that the estimate of expenditures is now \$89,844,633 21 less than the estimate of last year; so that, although the ordinary receipts as now estimated will be \$61,456,499 45 less than was anticipated a year ago, still the increase of debt will be \$28,383,183 56 less by the present than by the former estimate, which, it should be remembered, assumed the

debt, on July 1, 1863, at \$1,122,297,403 24, whereas in fact it only reached, at that date, the sum of \$1,098,793,181 37.

With these illustrations of the uncertainty of estimates for a year, which is to commence more than six months after the making of them, and without professing any sanguine expectations that the estimates now to be submitted will, when tested by experience, prove, like the last, less favorable to the country than the actual results of administration; the Secretary submits the required statement for the fiscal year 1865, founded on the estimates of their probable requirements furnished by the several Departments, and on what seem to him probabilities concerning receipts from ordinary sources of revenue.

He estimates the probable receipts as follows:

Estimated balance, July 1, 1864.....	\$5,836,539 93
From customs.....	70,000,000 00
From internal revenue.....	125,000,000 00
From lands.....	1,000,000 00
From miscellaneous sources.....	5,000,000 00

Making estimated aggregate receipts..... \$206,836,539 93

And he estimates the expenditures as follows:

Estimated balance of former appropriations, unexpended July 1, 1864.....	\$350,000,000 00
For the civil service.....	27,973,194 81
For pensions and Indians.....	9,631,894 73
For the War Department.....	536,204,127 77
For the Navy Department.....	143,618,785 40
For interest on public debt.....	85,387,077 15

Making the aggregate of estimated expenditures..... 1,151,815,088 86
But he estimates as likely to remain undrawn on the 30th June, 1865, and therefore to be deducted from this aggregate..... 400,000,000 00

Making the real estimate of expenditures for the year..... 751,815,088 86
From which deduct estimated receipts from ordinary sources, as before stated..... 206,836,539 93

Leaving to be provided by loans..... \$544,978,548 93

The sum to be provided by loans represents the increase of debt during the year. Assuming, therefore, the correctness of the estimate which puts the debt on the 1st of July, 1864, at \$1,686,956,641 44, it will result from these estimates that the whole debt will have reached on the 30th of June, 1865, the sum of \$2,231,935,190 37.

Tables are appended to this report exhibiting, in more detail and in a different form, the general results already stated. The first shows the actual receipts and expenditures for the fiscal year ending June 30, 1863; the second the receipts and expenditures, actual and estimated, for the fiscal year ending June 30, 1864, and separately for the two months of October and November, 1863, with notes, showing in detail the amount received from new loans and applied in discharge of existing debt during the first quarter and the first two months of the second, and the amount yet required from loans for the year, and the probable increase of the public debt; the third shows the estimated receipts and expenditures for the fiscal year ending June 30, 1865; the fourth is the Register's statement of revenue and expenditures during the fiscal year ending June 30, 1863; the fifth is a similar statement from the same office for the first quarter of the fiscal year 1864, ending September 30, 1863; and the sixth is a complete statement of the origin, progress, and condition on the 30th June and 30th September, 1863, of the national debt.

The reports of the heads of the several bureaus of the Department, including that of Comptroller of the Currency and the Commissioner of Internal Revenue, will also accompany this report of the Secretary. They show in detail the operations of the several bureaus, and the statements and suggestions made in them are commended to the consideration of Congress.

Another statement, showing the prices of the leading articles of consumption at New York, on or near the first day of each month, for thirty-nine years, commencing with 1825, has been prepared under the direction of the Secretary, and accompanies this report. From this statement he hopes that some help may be obtained toward correct opinions on many important questions, and particularly those concerning the contraction

38TH CONG....1ST SESS.

Report of the Secretary of the Treasury.

SENATE & HO. OF REPS.

and expansion of currency, whether metallic or paper.

It has been already seen that the amount required for general disbursements, exclusive of payments on account of public debt, for the three last quarters of the current fiscal year, was, on the 1st of October last, \$579,457,567 89, of which sum \$115,300,000 were expected from ordinary sources, and the remainder, \$464,157,567 89, was expected from loans.

The receipts and expenditures during October and November, other than on account of principal of debt, amounted each, so far as has been ascertained, to \$147,060,731 16, without balance. Of these receipts, \$35,629,703 18 were from ordinary sources, and \$111,931,027 98 from loans, either temporary or permanent, leaving to be obtained during the remaining seven months from ordinary sources \$79,670,296 82, and from loans, \$352,226,539 82. On the basis of these two months, the receipts and expenditures from ordinary sources for the last three quarters of the year will respectively exceed the general estimates by \$43,033,664 31, and \$39,532,257 72, making a difference in favor of the country of \$3,501,406 59.

The Secretary admits, therefore, no apprehension of deficiency on comparison with estimates, in any of the ordinary sources of income, except, perhaps, the internal revenue; nor does he anticipate any formidable difficulty in providing the amount to be obtained from loans; especially if the successes vouchsafed by a gracious Providence to our armies during the last nine months shall continue to attend them.

But no one can be more profoundly convinced than himself of the very great importance of providing even a larger amount than is estimated from revenue. To check the increase of debt must be, in our circumstances, a prominent object of patriotic solicitude. The Secretary, therefore, while submitting estimates which require large loans, and while he thinks it not very difficult to negotiate them, feels himself bound, by a prudent regard to possible contingencies, to urge on Congress efficient measures for the increase of revenue.

It is possible that a limited additional amount of income may be derived from judicious modification of some provisions of the laws imposing duties on foreign imports; but the chief reliance for any substantial increase, and even for the prevention of possible decrease, must be on internal duties.

The Commissioner of Internal Revenue recommends an increase of the tax on bank note circulation to two and two fifths per cent.; an increase of the duty on distilled spirits to sixty cents per gallon; an increase of the duty on tobacco to twenty cents per pound on leaf, and from five to twelve cents, according to quality, on manufactured; a duty of ten cents per gallon on crude petroleum; a duty of two cents per pound on cotton; the repeal of the tobacco and petroleum drawbacks; and various other changes of the internal revenue laws, designed to augment the receipts from this source. In the particular recommendations just mentioned, the Secretary fully concurs, and commends all his suggestions to careful attention. The enactment of such laws as will secure an increase of the internal revenue to the amount originally estimated, of one hundred and fifty millions a year, is required by the strongest considerations of public policy.

Hitherto the expenses of the war have been defrayed by loans to an extent which nothing but the expectation of its speedy termination could fully warrant.

In his first report, submitted at the special session in July, 1861, the Secretary stated his conviction that, to a sound financial condition, a system of taxation certain to produce a sufficient revenue to pay the whole ordinary expenses of the Government in times of peace, and the entire interest on the public debt, and to create a gradually increasing fund for the redemption of its principal, was indispensable. It was not important, so long as it seemed highly probable that the war would be speedily brought to a successful close, that the revenue should largely exceed the ordinary expenditures and the interest. On the contrary, it seemed wisest to obtain the means for nearly the whole of the extraordinary expend-

itures by loans, and thus avoid the necessity of any considerable increase of the burdens of the people at a time when the sudden outbreak of flagitious rebellion had deranged their business, and temporarily diminished their incomes.

The financial administration of the first fiscal year after the outbreak of the rebellion was conducted upon these ideas. The acts of Congress at the extra session of July, 1861, were framed with the intention of supplying the full amount of revenue demanded by them. But receipts disappointed expectation, and it soon became obvious that a much larger proportion of the means needed for the fiscal year 1862, than the principle adopted would allow, must be derived from loans.

When, therefore, Congress assembled in regular session on the first Monday of December, 1861, the Secretary directed attention to the necessity of increased taxation. The responsibility was promptly assumed by Congress, and the internal revenue law was enacted, and such modifications of the tariff act were made that ample provision for the desired objects was now supposed to have been certainly secured. It was not expected, however, that the influence of this legislation would affect the results of the then current year. Nor did it affect them. The total receipts from ordinary sources to the close of that year, June 30, 1862, were insufficient for the payments expected to be made from them. The receipts were \$51,935,720 76, while the disbursements for the civil service, for pensions and Indians, and for interest, were \$37,701,801 11; leaving only \$14,233,919 65 for the War and Navy Departments, the expenditures of which in the last year of peace had been \$27,922,917 24, and nothing at all for extraordinary expenditures or a sinking fund.

In his report at the December session, 1862, the Secretary, considering this deficiency, and assuming the correctness of the estimate of \$150,000,000 as the amount of receipts from internal duties, and taking double the expenses of the War and Navy Departments in the last year of peace as the amount likely to be annually required after the suppression of the rebellion, expressed the opinion that the probable receipts under the legislation of the preceding session would meet all ordinary expenditures for the fiscal year 1863, and interest, and leave a large surplus to be applied, for the present, to the extraordinary disbursements of the war, or, after its close, to the reduction of debt. In that report, therefore, and in his subsequent communications to the proper committees, the Secretary suggested no increase of taxation, but confined his recommendations to other measures for the improvement of the public credit, among which those relating to loans and to uniformity of currency held the foremost place.

Congress gave effect to these recommendations by the loan act and the national banking act, but at the same time somewhat diminished the expectation of income by modifications of the internal revenue act.

Notwithstanding this diminution, however, and notwithstanding the much larger diminution caused by the failure of receipts expected from internal duties unaffected by this legislation, the Secretary has now the satisfaction of being able to show that the actual receipts of the last fiscal year did pay the whole interest, the whole amount of ordinary expenditures, estimated for the Army and Navy at double those of the last year of peace, and a portion of the extraordinary expenditures which, under the circumstances, was equivalent to a payment into a sinking fund.

Thus the total amount of receipts during the fiscal year 1863 was.....\$124,443,313 29

While the expenditures were:

For the civil service and for pensions and

Indians.....\$27,470,442 87

For interest.....24,729,846 61

And would have been, for

ordinary disbursements of

War and Navy Depart-

ments, estimated at double

those of the last year of

peace.....55,845,834 48

108,046,123 96

Leaving difference between receipts and ordi-

nary expenditures applicable to extraor-

dinary expenditures or a sinking fund.....\$16,397,189 33

Had it been possible, therefore, to suppress re-

billion and restore expenditures to a peace basis after one year of war, and before the 1st of July, 1862, there would have been a balance on the 1st of July, 1863, of more than sixteen million dollars applicable to the reduction of debt.

So, assuming as correct the estimates of receipts and disbursements for the current year 1864, based on actual receipts and expenditures of one quarter, and making the total amount of receipts \$161,568,500 35, and taking the disbursements for the civil service, pensions, and Indians, to be \$42,108,126 33, for interest, \$59,165,136 38, and for the ordinary expenses of the Army and Navy, as before, to be double those of the last year of peace, or \$55,845,834 48, and deducting the total of these disbursements, \$157,119,097 19, from the total of receipts, there will remain an unexpended balance of \$4,049,403 16. Had it been possible to suppress rebellion after two years of war, and before July, 1863, this sum would have been applicable to the purposes of a sinking fund.

So, also, assuming again as correct the general estimates of receipts and expenditures for the next fiscal year, 1865, the total receipts for the year will be \$206,836,539 93; while the expenditures for the civil service, and pensions, and Indians, will be \$37,604,499 54; for interest, \$85,387,676 15; and for the Army and Navy, observing the rule already stated, \$55,845,834 48, making a total of \$178,838,010 17, which sum, if deducted from the total of receipts, will give a remainder of \$27,998,529 76. Should the rebellion be suppressed after three years of war, and before the 1st of July, 1864, that remainder will be applicable to payment of debt.

These statements are subject to some modifications besides those which may result from errors of estimates; but these cannot reduce, though they may increase, the applicable balances, and therefore cannot affect unfavorably any deductions from the figures which have been given.

These statements illustrate the great importance of providing, beyond all contingency, for ordinary expenditures and interest on debt, and for the largest possible amount of extraordinary expenditures, by taxation. In proportion to the amount raised above the necessary sums for ordinary demands will be the diminution of debt, the diminution of interest, and the improvement of credit. It is hardly too much—perhaps hardly enough—to say that every dollar raised for extraordinary expenditures or reduction of debt is worth two in the increased value of national securities, and increased facilities for the negotiation of indispensable loans.

These statements illustrate equally the importance of an economical and vigorous prosecution of the war. No prudent man will recommend economy at the expense of efficiency. Such nominal economy is real extravagance. But efficiency is not promoted by profusion or waste, and, least of all, by misuse of public money or public property. Every dollar and every man are freely offered by a generous people; how sacred the obligation that not one man should be wasted, and not one dollar misapplied! Nor is rashness, in war, vigor. But the vigilance that misses no opportunity, the energy that relaxes no effort, the skill that vitalizes all resources, and the perseverance that never grows weary, these make true vigor. If by such vigor the rebellion can be suppressed and the war ended before the 1st of July next, the country will be saved from the vast increase of debt which must necessarily attend its continuance during another year, and the debt itself can at once be placed in a course of steady reduction. And whenever progressive payment shall begin, the value of national securities will rapidly rise, and reduction in rates of interest will gradually diminish the burdens of debt.

While the Secretary thus earnestly urges that the largest possible proportion of expenditure be provided by direct contributions from the property and incomes of the people, he is aware that a still larger proportion must, as yet, be provided by loans.

In the creation of debt, by negotiation of loans or otherwise, the Secretary has kept four objects steadily in view: (1) moderate interest; (2) general distribution; (3) future controllability; and (4) incidental utility.

38TH CONG....1ST SESS.

Report of the Secretary of the Treasury.

SENATE & HO. OF REPS.

Towards the accomplishment of the first object, the nearest approach that seems possible has been made. The earliest negotiations were at the highest rates of interest; for it is a distinguishing characteristic of our financial history in this rebellion that the public credit, which was at the lowest ebb in the months which preceded its breaking out, has steadily improved in the midst of the terrible trials it has brought upon the country. The first loans were negotiated at seven and thirty hundredths per cent.; the next at seven; the next at six; more recently large sums have been obtained at five and four; and the whole of the debt which is represented by United States notes and fractional currency bears, of course, no interest.

The interest on the debt which exists in the form of Treasury notes and certificates of indebtedness or of deposits, and is called temporary debt, is paid in United States notes; while the interest on debt which exists in the form of bonds, and is called funded debt, is paid in coin—a discrimination which is intended to bring the payments of coin interest within moderate compass, and at the same time to offer special inducements to investments in bonds, in order to avoid a too rapid increase of circulating notes, and consequent depreciation.

The average rate of interest on the whole debt, without regard to the varying margin between coin and notes, was, on the 1st day of July, 1862, 4.36 per cent.; on the 1st day of January, 1863, 4.02 per cent.; on the 1st day of July, 1863, 3.77 per cent.; and on the 1st day of October, 1863, 3.95 per cent.

It will not escape observation that the average rate is now increasing; and it is obvious that it must continue to increase with the increase of the proportion of the interest-bearing to the non-interest-bearing debt. And as the amount of the latter, consisting of United States notes and fractional currency, cannot be materially augmented without evil consequences of the most serious character, the rate of interest must increase with the debt, and approach continually the highest average. That must be greater or less in proportion to the duration and cost of the war.

The general distribution of the debt into the hands of the greatest possible number of holders has been the second object of the Secretary in its creation. This has been accomplished by the universal diffusion of United States notes and fractional currency, by the distribution of certificates among great numbers of contract creditors and temporary depositors, and by arrangements to popularize the loans by giving to the people everywhere opportunities to subscribe for bonds. These subscription arrangements have been especially useful and successful. They have been adopted as yet with reference to only two descriptions of bonds—the two commonly known as seven-thirties and five-twenties; so named, the first from their rates of interest, and the second from their periods of payment. The plan of distributing the seven-thirties was that of employing a large number of agents in many places, and directing their action from the Department. It worked well for a time, but was soon found inadequate to the financial necessities of the Government. For the distribution of the five-twenties, therefore, a different plan was adopted. After ascertaining, by inquiry, that they could not be disposed of to capitalists in amounts sufficient for prompt payment of the Army and Navy, and for the satisfaction of the just claims of public creditors generally, without serious loss, the Secretary determined to employ a general agent, under adequate bonds, and confide the whole work of distribution, except so far as it could be effected by the Treasurer, Assistant Treasurers, and designated depositaries, to him and to sub-agents designated by him and responsible immediately to him. Under this plan, and chiefly through the indefatigable efforts of the general agent and his sub-agents, five-twenty bonds to the amount of nearly four hundred million dollars, in denominations of fifty, one hundred, five hundred, and one thousand dollars, were distributed throughout the whole country, not controlled by the rebellion, and among all classes of our countrymen. The history of the whole may be searched in vain for a parallel case of popular financial support to a

national Government. The Secretary is unable to perceive in what better or more effectual mode the important object of distribution could be accomplished, and he proposes no departure from it, except such as considerations of economy, harmonized with efficiency, may suggest.

The object of future controllability has also had a prominent place in the regards of the Secretary. Under the conditions which existed at the outbreak of the rebellion he acquiesced in the necessity which seemed to dictate the negotiation of bonds payable after twenty years; but he acquiesced with reluctance, and, as soon as permitted by circumstances, recommended the enactment of laws authorizing the issue of bonds payable after shorter periods, as well as the creation of temporary debt in other forms. In harmony with these views Congress provided for the issue of the bonds known as the five-twenties; and also for the issue of Treasury notes payable three years from date; for certificates of indebtedness payable in one year; and for temporary loans by deposits, reimbursable after ten days' notice. At the last session Congress repealed some embarrassing restrictions of former acts, and authorized the issue of bonds payable after ten years, and of Treasury notes payable at pleasure or three years from date. These Treasury notes were made legal tenders for face value, or convertible for amount and interest into United States notes.

The Secretary availed himself of this legislation by placing with the people as large an amount as possible of five-twenty bonds, and by using the other powers so as to put the whole debt, except the long loans first negotiated, in such a shape that prompt advantage can be taken of favorable circumstances to diminish the burdens it imposes on industry. Whenever the constitutional supremacy of the nation shall be reestablished over all its parts, it will be completely within the power of Congress and the Secretary to fund the whole or any part of the temporary debt in bonds bearing a very moderate interest, and redeemable at the pleasure of the Government after very brief periods, or, perhaps, at any time after their issue. Nothing further seems desirable on the score of controllability.

The final object of the Secretary was to extract from the unavoidable evil of debt as much incidental benefit as possible.

To this end, he desired authority to receive temporary loans in the form of deposits reimbursable after a few days' notice. This measure was regarded by many with something less than favor at first; but Congress, after full consideration, authorized the receipt of such deposits at an interest not exceeding five per cent. to the amount of \$25,000,000, then raised the limit to \$50,000,000; and then to \$100,000,000; and provided a reserve of \$50,000,000 of United States notes to meet demands for reimbursements beyond other convenient means of satisfaction. It was not long before these deposits reached the highest limit, and, before the flow could be well checked, somewhat exceeded it. The utility of the measure was very conspicuous on the recent occasion of great stringency in New York, when the Secretary was able to reimburse over fifty millions of these deposits during the last weeks of the year; by which action, the pressure was sensibly alleviated, with the use of only a fifth of the reserve.

In former reports the Secretary has stated his convictions, and the grounds of them, respecting the necessity and the utility of putting a large part of the debt in the form of United States notes, without interest, and adapted to circulation as money. These convictions remain unchanged, and seem now to be shared by the people. For the first time in our history has a real approach to a uniform currency been made; and the benefits of it, though still far from the best attainable condition, are felt by all. The circulation has been distributed throughout the country, and is everywhere acceptable. It is a gratification to know that a tribunal so distinguished by the learning and virtues of its members as the supreme court of New York, has given the sanction of its judgment to the constitutional validity of the law.

So, too, real and great advantages are derived from the wide diffusion of the debt among the

people, through business transactions and through the exertions of the officers of the Department and the agents for loans, already noticed.

It is impossible to estimate the advantages to national unity and national strength secured by this distribution. Every holder of a note or bond, from a five cent fractional note to a five thousand dollar bond, has a direct interest in the security of national institutions and in the stability of national administration. And it is another and no small advantage of the distribution that the burdens of debt, always heaviest when loans are held by a few, and especially by foreigners, diminish in proportion as the receivers of interest become identified with the payers of taxes.

Another incidental good growing from the bitter root of debt, has been fully explained in observations heretofore submitted on the national banking system. Except through such a system no sure way is seen to the complete and permanent establishment of a uniform currency; and a system of national banking, fair to all and secure for all, can only be safely and firmly established by making use of a portion of the national debt as security for the national currency.

In these several ways may even such great evils as are brought upon us by rebellion be transmuted, by a wise alchemy, into various forms of utility. The Secretary has endeavored to use this alchemy, with what success the country will judge when time and trial shall have applied to his work their unfailing tests.

Meantime additional loans are required, and, as legislation now stands, several modes are open.

The limits of deposits for temporary loan are fixed at \$100,000,000. The amount of this deposit on the 1st day of December had been reduced to \$45,506,120 01, and payments of \$10,000,000 had been made from the reserve. The additional payments will be confined within the narrowest possible limits, and can hardly exceed \$25,000,000. The reflow of deposits has already begun, and will probably soon exceed reimbursements, and so arrest payments from the reserve. The whole reflow beyond the amount of these payments will be available as part of the additional loan required, and may be stated, without much risk of mistake, at \$25,000,000. The Secretary perceives no solid reason for retaining the restriction on loans, in this form, to \$100,000,000. It may, as he thinks, be usefully removed. As the advantages of these deposits become better and more generally understood, the loan in this form will doubtless, in the absence of restriction, be largely increased, and the possibility of demands for reimbursements, beyond means to meet them, can be fully provided for by an increase of the existing proportion between deposits and reserve. Such an arrangement, the Secretary inclines to think, would operate beneficially by increasing the amount of currency when unusual stringency shall require increase, and reducing its amount when returning ease shall allow reduction.

Another portion of the additional loan required may be obtained through the sale of the remainder of the bonds known as five-twenties. The amount of these bonds unsold for on the 1st of December was \$101,059,600. It will not be difficult to dispose of these at par, and it is possible that a small premium may be obtained on a part.

In a former report the Secretary placed the limit, to which the loan in the form of certificates of indebtedness could be carried, at \$100,000,000. Experience has shown that it can be carried to \$150,000,000, and that its natural limit is about that sum. On the 1st of December the amount of these certificates was \$145,720,000. It would be unsafe, therefore, to rely on any substantial increase of loan in that form.

The limit prescribed by law to the issue of United States notes has been reached, and the Secretary thinks it clearly inexpedient to increase the amount. When circulation exceeds the legitimate requirements for real payments and exchanges, no addition to its volume will increase its value. On the contrary, such addition tends inevitably to depreciation; and depreciation, if addition be continued, will find its only practical limit in the utter worthlessness of the augmented mass.

When Congress authorized the creation of debt, to a certain extent, in the form of United States

38TH CONG. ... 1ST SESS.

Report of the Secretary of the Treasury.

SENATE & HO. OF REPS.

notes, and impressed on these notes the qualities of a circulating medium, its action was justified by the disappearance of coin in consequence of the suspension of specie payments; by the necessity of providing a medium in which taxes could be collected, loans received, and payments made; and by the obvious expediency of providing that medium in the form of national issues, instead of resorting to the paper of banks. Under the circumstances its action was wise and necessary; but it was equally wise and necessary to limit the extent of the issues by the necessity which demanded them. They were wanted to fill the vacuum caused by the disappearance of coin, and to supply the additional demands created by the increased number and variety of money payments. Congress believed that four hundred millions would suffice for these purposes, and therefore limited issues to that sum.

The Secretary proposes no change of this limitation, and places no reliance, therefore, on any increase of resources from increase of circulation. Additional loans in this mode would, indeed, almost certainly prove illusory; for diminished value could hardly fail to neutralize increased amount.

Sufficient circulation having been already provided, the Government must now borrow like any other employer of capital temporarily requiring more than income will supply, and rely for the credit which will secure advantageous loans, upon good faith, industrial activity, accumulated though not immediately available capital, and satisfactory provision for punctual payment of accruing interest and ultimate reimbursement of principal.

To subscriptions for the remaining five-twenty and deposits for temporary loan, therefore, must be directed all reasonable expectation of means for the service of the current year, except from negotiations under the act of last session. The sums to be looked for from these two sources have already been stated, and amount to \$126,059,600. If this aggregate be deducted from the amount to be provided by loans for the last seven months of the current year, already shown to be \$352,226,539, there will remain the sum of \$226,166,999 to be provided by negotiations under the act of last session; and, under some like act, must be provided in like manner, if the continuance of the war shall make it necessary, the sum of \$544,978,548 93, estimated as likely to be required from loans for the fiscal year 1865.

The act of last session authorized the loans supposed to be required for the fiscal years 1863 and 1864; and of the amount required for the service of these two years to the 1st of December now current, \$150,000,000 in United States notes, and \$50,000,000 by a loan for two years five per cent. Treasury notes have already been provided under that legislation. The act is so well conceived and expressed that little other legislation for the loans of 1864 and 1865 will be required than the application to those years of its leading provisions. It will doubtless be thought expedient this session, as last session, to authorize the borrowing, in some form, of \$300,000,000 for the current, and \$600,000,000 for the next fiscal year. Indeed, the only modifications of the act of last session necessary to adapt it to the requirements of the current and coming year seem to be: (1) the omission of all reference to United States notes beyond the giving a simple authority to the Secretary to ascertain from time to time the amounts destroyed or lost, and to replace them by new issues; (2) the repeal of the existing limitation of the deposit loan to \$100,000,000, and the substitution of a provision for a reserve equal in amount to half the deposit; (3) the permission of the negotiation of loans redeemable absolutely at pleasure, or at pleasure after a time fixed, not more remote than forty years; and (4) the omission, perhaps, of the clause taxing circulation and deposits, as being more appropriate to an internal revenue bill. It is hoped that the other provisions of the last may be retained in the new loan act.

Under such legislation, the Secretary entertains little doubt of being able to obtain whatever funds will be needed, through loans, at reasonable rates of interest, for bonds or Treasury notes.

For a warrant of this confidence, however, he must not omit to say that he relies much on the

support to be given to the public credit by the national banking system and by the nationalization of the currency. There is, as he thinks, no possibility of a permanently successful administration of the finances, under circumstances involving the creation of large debts, unless loans can be effected in a medium of general and equal credit throughout the country, and not liable to variation in quantity or in value except under the operation of national legislation and the general laws of trade.

Only two kinds of currency fulfill these conditions: the first, a circulation of coin; the other, a circulation of notes of uniform description and value, issued by the Government, and either paid directly to Government creditors, or supplied to banking associations to be employed in general business.

The circulation now generally used in this country, except so far as it consists of bank notes, is of the latter sort; and no circulation, not immediately convertible into coin, can be better.

It is an error to suppose that the increase of prices is attributable wholly or in very large measure to this circulation. Had it been possible to borrow coin enough, and fast enough, for the disbursements of the war, almost, if not altogether, the same effects on prices would have been wrought. Such disbursements made in coin would have enriched fortunate contractors, stimulated lavish expenditures, and so inflated prices in the same way and nearly to the same extent as when made in notes. Prices, too, would have risen from other causes. The withdrawal from mechanical and agricultural occupations of hundreds of thousands of our best, strongest, and most active workers, in obedience to their country's summons to the field, would, under any system of currency, have increased the price of labor, and, by consequence, the price of the products of labor, while the prices of many things would have risen, in part from other causes, as, for example, the price of railroad bonds from vast increase of income through payments for military transportation, and the price of cotton from deficient supply.

Much the greater part of the rise of prices not accounted for by the causes just stated, as well as much the greater part of the difference between notes and gold, is attributable to the large amount of bank notes yet in circulation. Were these notes withdrawn from use, it is believed that much of the now very considerable difference between coin and United States notes would disappear. Certainly there ought to be no difference in favor of coin, when it is remembered that United States bonds bearing six, or even five, per cent. coin interest are intrinsically worth, unless the theory of national bad faith or national insolvency is to be admitted, more than their amount in coin; and yet such bonds can now be had for their amount in United States notes.

Nor can a condition of affairs in which excessive prices prevail, or national notes command less than par in coin, be regarded as of permanent duration. While it lasts, it must be borne with patience, and made tolerable by economy. No useful remedy will be found in extravagant increase of salaries and disbursements, but an aggravation rather of the evil. All proper measures should be adopted to hasten the return to the normal condition of prices and business; the patriotism and intelligence of the people must be relied on for the rest.

The Secretary has heretofore expressed the opinion that whatever may be the true degree in which the currency of the country is affected by a bank-note circulation, issued without national sanction and by corporations independent of national authority, and not receivable for national dues, it cannot be questioned that in some similar degree the negotiation of national loans must be prejudiced and their value to the national finances diminished. This opinion is confirmed by observation and experience.

Impelled, therefore, by a profound sense of the present necessity of a national currency to the successful prosecution of the war against rebellion, and of its utility at all times in protecting labor, cheapening exchanges, facilitating travel, and increasing the safety of all business trans-

actions; and at the same time unwilling to urge even salutary and necessary reforms in such a way as needlessly to disturb existing conditions or impair the value of existing investments of capital, the Secretary recommended, in two successive reports, the authorization of national banking associations, to which the capital of the corporations now issuing notes for circulation might be transferred, with advantage to the parties in interest as well as to the general public.

The sanction of Congress was given to these views at the last session; and the simple assurance thus given that henceforth the country is to have a national currency secured by a pledge of national bonds, and the belief that this currency will at no distant day take the place of the heterogeneous corporate currency which has hitherto filled the channels of circulation, at once inspired faith in the securities of the Government, and more than any other one cause enabled the Secretary to provide for the prompt payment of the soldiers and the public creditors.

If the policy thus indicated shall be fairly and judiciously pursued, and proper measures adopted to induce the conversion, at the earliest practicable period, of the bank corporations of the States into national banking associations, and of the corporate circulation into national currency, the Secretary believes, and, as he thinks, not without good grounds, that all the money needed for prompt payment of troops, and for the most vigorous prosecution of the war, can be obtained by loans on reasonable terms; while all interest on debt, and all ordinary expenditures, and a considerable part also of the extraordinary expenditures caused by this war, will be met by the ordinary resources. Nor does he doubt that, through wise legislation, sustained by intelligent popular will, and supported by prudence and energy in civil and military administration, national currency can be so approximated in recognized value to coin, that a resumption of payments in specie can be brought about much sooner than even sanguine persons now permit themselves to hope.

The Secretary has already referred in general terms to the reports of the heads of the various bureaus and branches of administration in his Department. A peculiar interest is felt at this time in their operations, and especially in the operation of those most recently brought into existence.

The Comptroller of the Currency reports the organization under the national banking act, prior to the 29th of November, of one hundred and thirty-four associations; all which, upon the suggestion of the Secretary, have adopted the name of National Banks, distinguished by order of organization and by locality. These banking associations have been formed in seventeen States and the District of Columbia, and have an aggregate capital of \$16,081,200. The great care and labor required for the preparation of suitable notes for the new national currency has delayed its issue beyond expectation; but the printing is now begun, and the several associations will be supplied with the amounts to which they are respectively entitled within a few weeks. Besides the associations reported as actually organized, there are many others in process of organization. There is hardly a State not controlled by the rebellion, and hardly a considerable city, in which a national banking association has not been organized, or is not being organized. Even New Orleans is not an exception to this statement.

Thus the great work of introducing a permanent national currency has been entered upon in a spirit and with an energy which promise perfect success. The Secretary thinks he risks nothing in saying that within the present year the benefits of the system will have so approved themselves to the sense and patriotism of the people, that it will be beyond the reach of successful assault.

The Comptroller has indicated some amendments to the law, which the Secretary concurs with him in regarding as important to its success. As among the most essential of these, the Secretary asks the special attention of Congress to the proposition for a uniform rate of interest, and the repeal of the section which connects the issues of national currency in any degree with State banks. The Secretary also recommends, as likely to be

useful, a provision to be made by law for the deposit with national banks, and also with the Treasurer and Assistant Treasurers, at such rates of interest and for such periods of time as the Secretary may prescribe, of moneys paid into or invested under the orders of judicial courts. It is not impossible that in this way many millions would be placed in the Treasury at moderate rates of interest.

The Secretary has already referred to the recommendation of the Commissioner of Internal Revenue in favor of increased duties. He cannot add anything to the general considerations he has already urged in favor of augmenting revenue by these methods. It may be useful, however, to invite special attention to some considerations which enforce the recommendation of a duty of two and two fifths per cent. a year on corporate note circulation.

The proposition contemplates a duty of one fifth of one per cent. per month on circulation; and the Secretary suggests, in addition, one twenty-fifth of one per cent. on deposits in each month, making twelve twenty-fifths a year. Under the existing law the duty on circulation is one per cent. a year on a certain proportion; two per cent. on amounts exceeding that proportion, and one fourth of one per cent. on deposits. The small addition proposed will not be regarded as unreasonable or onerous, when it is considered that all corporate circulation is in fact a loan by the people to the banks without cost, except that of preparation, and without interest, except the duties imposed on it. The whole question then resolves itself into this: is the duty proposed, added to the State taxation, and the cost of preparation, more than equivalent to a fair interest for the loan? If not, surely it should be paid without demur as a reasonable contribution to the common welfare. The duty proposed on deposits is much lighter, for obvious reasons. Its whole amount is less than one half of one per cent. per annum; and being in the nature of a tax on profits, rather than on property, will distribute itself among all who partake of the benefits of the deposits, and press hardly on none.

It is proposed to make the duty payable in small percentages, because it will be thus distributed over the business of the year; and because, by requiring monthly returns of circulation and deposits with reference to the duties, information will be regularly obtained in respect to the amount of circulation of all descriptions in the whole country, the publication of which will be an important benefit to all men of business, as well as a valuable guide to financial legislation and administration.

Monthly returns are now required of many of the national banking associations, and should be required of all; and from them, as well as from the banks not organized under national legislation, should be required a fair contribution to the general burdens of the people. The Secretary refers to Congress the question, whether the duty on national currency and the deposits of national banking associations shall correspond with the duties on other circulation and deposits. He thinks that for the present, at least, some discrimination in favor of the national associations may be properly admitted in consideration of the indispensable importance of a national currency, not adapted only, like United States notes, to temporary emergencies, but permanent in its very nature, and adequate to all demands of business, and capable, at no distant period, of being made equal to and convertible into coin, and therefore its real representative and equivalent.

The operations of the Mint have been of less importance than usual during the last year.

The amount of coinage was increased over that of last year at San Francisco alone. The value of the bullion received was \$24,824,101 31; in gold \$23,149,495 41; and in silver \$1,674,605 90; from the total of which must be deducted the bars made at one branch and deposited for coinage at another, making the actual amount deposited \$23,701,837 31. The coinage of the year was \$24,688,477 12; of which \$20,695,852 was gold coin; \$1,949,877 90 gold bars; \$1,174,092 80 silver coin; \$390,204 42 silver bars; and \$478,450 cents. Of this coinage \$4,184,497 37 in 49,108,402 pieces was effected at Philadelphia; \$18,551,598.68 in 2,872,173 pieces at San Francisco; and

\$2,137,642 82 in 3,404 gold and silver bars at New York.

The branch mint at Denver has been organized and put in operation during the year, but its operations are confined, for the present, to melting, refining, assaying, and stamping bullion.

A report has been made on a site for a mint in Nevada; and measures will be taken for its establishment as soon as possible.

The Secretary renews the recommendation of preceding reports in relation to the universal measure of commercial values by an international decimal coinage.

The operations of the Treasury proper have reached unprecedented magnitude. These are conducted, under the direction of the Secretary, by the Treasurer, the Assistant Treasurers, and the designated depositaries, by whom moneys which come into or go out of the national Treasury are received and disbursed. As receipts and payments have increased in number and amount, and assumed new forms, the labors and responsibilities of these officers have taken vaster proportions of magnitude and importance. The general operations of the year are seen in the statements already made of receipts and expenditures, but no general statement can convey an adequate idea of their variety, extent, and perplexity. The labor and care and anxiety incident to the borrowing, receiving, and paying of the sums necessary to meet the debt becoming due during the year, or, in other words, the making and applying of the loans necessary to the renewing of maturing loans, make little show in the report, and yet embrace transactions, often complex and necessarily multitudinous, which reached, during the year, an aggregate of more than \$181,000,000. The responsibility and labor of the whole money operations of the Treasury may be inferred from this statement concerning a comparatively small part.

The receipts at the office of the Treasurer in Washington during the last fiscal year were \$1,348,029,543 93, and the disbursements \$1,334,615,175 57. At the office of the Assistant Treasurer in New York the receipts were \$637,051,546 63, and the disbursements \$622,842,627 92. At the office of the Assistant Treasurer in Boston the receipts were \$118,900,000, and the disbursements \$115,750,000. At the office of the Assistant Treasurer in Philadelphia the receipts were \$113,248,031 27, and the disbursements \$109,733,346 03.

The receipts and disbursements at the offices of the Assistant Treasurers at San Francisco and St. Louis, and of the designated depositaries, especially at Baltimore, Cincinnati, and Louisville, have been large beyond precedent, imposing labors and responsibilities correspondingly large. The Secretary cannot express too strongly his satisfaction with the manner in which these officers have generally performed their onerous and multifarious duties.

The act of Congress relating to captured and abandoned property, approved March 12, 1863, and the proclamation of the President of the 31st of the same month, devolved upon the Secretary the duty of regulating commercial intercourse in conformity with the acts of July 13, 1861, and May 20, 1862, and, under license of the President, between the States declared to be in insurrection and the other States of the Union; or, to use the description commonly employed, between the rebel and the loyal States. This duty has been found exceedingly arduous and perplexing.

Prior to the act and proclamation of March, the Secretary had attempted some restrictive regulations with the view of preventing supplies to rebels; but the state of the law and the terms of the original proclamation made it difficult to act with much efficiency or usefulness, and the regulation of the trade was assumed almost exclusively by the military authorities. Immediately, however, on the publication of the proclamation of March, the Secretary issued regulations of trade, framed on the best information and with the best consideration he was capable of giving them; and earnest and persevering endeavors were made to bring the whole subject under their control and under proper supervision. Experience revealed defects in the regulations, and they were revised, amended, and republished in September last.

The subject is too vast and complicated, the appetite for trade is too eager and exacting, and the impatience of all restraint, however salutary or necessary, is too great, to allow any hope of avoiding many and sometimes just complaints. But the Secretary has kept steadily in view the plain duty prescribed by the law of preventing any supplies from being carried into districts controlled by rebels; the equally plain duty of allowing and securing, so far as practicable, without intercourse with rebels, supplies of necessities to the inhabitants of districts in which the rebellion has been suppressed; and the clear policy of supporting and facilitating the efforts of loyal citizens to obtain wherever obtainable, without going beyond the lines of national military occupation, cotton, sugar, tobacco, tar, rosin, and such other products of the rebel States, for the benefit of loyal commerce. To this end he has selected persons of known intelligence and probity as supervising special agents, and through them others of like characters as assistant and local special agents, to exercise the necessary powers over intercourse, and has imposed, with the sanction of the President, and as conditions of license, such fees and contributions on the trade permitted, as were thought necessary to defray the cost of supervision, and add something to the means for the prosecution of the war. The agents of all grades have generally been diligent and faithful in the discharge of their several duties. A few of subordinate grade have proved incompetent or unworthy, and have been dismissed; and the same measure will be promptly applied to all, of whatever grade, to whom public duty may require its application.

By an order of the Secretary of War, issued on the last of October last, the care of abandoned plantations and other real estate has been devolved upon the supervising agents, who have been instructed to accept the charge and use their best endeavors in its execution. The charge of abandoned lands and plantations necessarily carries with it, to some extent, the charge of freedmen.

The whole charge is at present under military sanction only; for the acts of Congress concerning abandoned property relate exclusively to personality. The order is of too recent date to allow receipts of reports concerning its practical effects. It is only very clear that some system should be adopted and steadily pursued which will best serve the great objects of restoring tranquility, order, and prosperity to the States and parts of States in which the national authority is or may be re-established, and at the same time securing the rights and welfare of the loyal and enfranchised people. To these results the labors of the commissioners of direct taxes, as well as judicial action under the acts relating to confiscation, must largely contribute. Already, under the sales for direct taxes in South Carolina, considerable properties divided into small tracts have passed into loyal possession, and are cultivated successfully by the labor of freedmen. In this connection the Secretary asks permission to repeat a suggestion heretofore made, that the proceeds of cotton, raised by the freedmen before emancipation, and collected from those properties, should be applied in some judicious way for the benefit of those who raised it. The whole subject will doubtless command the attentive consideration of Congress.

The important and responsible duty of securing and keeping, under the direction of the President and War Department, commutation money from drafted citizens, has been assumed by the collectors of internal revenue, at the instance of the Secretary of War. In the judgment of the Secretary of the Treasury this money should be paid directly into the Treasury, and drawn out upon requisitions for the purposes to which it is appropriated by Congress. The Secretary of War thought, however, that the other mode of collection and disbursements would be less burdensome to drafted men, and more convenient for the payment of substitutes. His wishes were promptly complied with, and the whole matter is now submitted to Congress.

Under a resolution of the Senate, adopted on the 12th of March last, the Secretary has taken measures for the preparation of the fullest statement possible, with existing means of information, of the foreign and domestic commerce of the United States, including that of the Pacific coast.

38TH CONG....1ST SESS.

Report of the Secretary of War.

SENATE & HO. OF REPS.

The learning and ability of the gentlemen employed in this work warrant the expectation that a very instructive account will be obtained of the condition and prospects of our foreign commerce from and to the Atlantic and Pacific coasts, as well as overland, northward and southward, and of our internal and inter-State commerce, including the trade between loyal and rebel States, and between the bread producing and gold and silver producing districts of our country. The materials for a proper statement of this internal commerce must be sought in reports of State commissioners of statistics, of boards of trade, of railroad and canal companies, and occasional or periodical publications relating to trade and business. This is a department of statistics comparatively new and difficult of exploration, but no pains will be spared in the search, in the hope of being able to submit to Congress a result, of no insignificant value to the business community and to those charged with the duties of legislation and administration, which will itself suggest the action "necessary to enlarge and protect the important interests involved."

Under the sanction of the acts relating to the subject, the Secretary has taken measures for preparing and printing fractional currency, bonds, and notes in the Treasury Department, with a degree of success which already assures decided economical advantages, and warrants the expectation of satisfactory results.

The Secretary has already invited attention to the reports of the Register, the Comptrollers, and the several Auditors.

The Report on Commerce and Navigation for the fiscal year 1862, prepared in the Register's office, has been greatly delayed by causes explained in his report. The same report for the fiscal year 1863 is also nearly ready, and will be sent to Congress within the next month. Its important information will be found much better classified and arranged, and much more clearly stated, and therefore much more acceptable for use than heretofore. The Secretary suggests that it will promote the interests of commerce and expedite future reports if provision be made for the monthly, or at least semi-annual, publication of the returns of imports and exports.

The suggestion of the Second Comptroller, that the salaries in the offices of the Comptrollers should be higher than in those of the Auditors, and that promotion should take place from the latter to the former, is respectfully commended to legislative consideration. If sanctioned by law, it will doubtless promote accuracy and promptitude in the revision of accounts.

The vast expenditures of the war, in life and treasure, have devolved unexpected labors on the Auditors' Bureaus, and especially those of the Second and Third Auditors; and the difficulties attendant on the organization of a proper force for the settlement of the suddenly accumulated accounts have caused some delays which the most strenuous efforts have been made in vain to avoid. It is hoped, however, that the accumulation will now be arrested, and henceforth steadily reduced. The Secretary respectfully suggests that some provision be made by which officers of the Department may be enabled to attend the armies and collect information, and especially in regard to the wounded, the missing, and the killed, which will facilitate the promptest settlement of the claims made in behalf of destitute families and widows and orphans.

The report of the Solicitor will exhibit the action of that officer in the investigation of frauds perpetrated by certain persons formerly employed in the New York custom-house. The legislation of last session, the prompt dismissal of the guilty parties yet remaining in office, and the measures of prevention devised and adopted, will, it is believed, sufficiently protect the Government against the repetition of these or the commission of like frauds.

The Secretary renews the recommendation, submitted in his last report, of the purchase of the Merchants' Exchange in New York, now occupied under lease as a custom-house.

The operations of the Coast Survey have been distinguished by even more than usual activity. On the northern coast the work has been vigorously prosecuted, notwithstanding the existence of the war; while, in compliance with applications

from military and naval commanders, parties have been detailed for work on the southern coast, on the rivers of the interior, and, indeed, wherever their services could be made available. From these labors, of an importance cordially acknowledged by the officers to whom they have been rendered, the value of the Survey, and the merits of those by whom it is conducted, receive fresh illustration.

During the last summer a number of rebels ran into Portland harbor in the night and seized the revenue cutter lying there, its commanding officer being sick on shore, and a portion of the crew absent on leave. They succeeded in leaving the harbor unobserved; but early in the morning the collector of the port, hearing of the affair, took instant measures for pursuit by chartering two passenger steamers, arming them with whatever could be most promptly obtained, and providing the necessary force of volunteers, citizens and soldiers. In a few hours the rebels had been compelled to abandon their prize, after setting her on fire, and being themselves taken prisoners. The value of this capture can best be estimated by the damage inflicted on commerce by the same rebels in the Tacony, a vessel every way inferior to the one they had seized. The Secretary deeply regrets that the collector no longer lives to read this acknowledgment of his prompt, energetic, and judicious action.

The report of the Board of Supervising Inspectors of steam vessels, to whose supervision Congress has wisely committed the employment of steam in water transportation, is herewith transmitted. The importance of its action may be inferred from the simple statement that there have been inspected during the past year 933 steam vessels, valued at \$10,135,057, with an aggregate tonnage of 405,000 tons, which have carried, for shorter or longer distances, 6,420,000 passengers. The Secretary invites attention to the suggestion of a safe system of signals, by sounds and lights, adapted to the use of steam vessels, whether in the merchant or national service; and which may, perhaps, be extended so as to embrace sailing vessels also. Such signals, understood by all, might avert many disasters, and be the means of many benefits, without at all interfering with any peculiar system required for special communication between vessels of the Navy.

The Secretary renews the recommendation of his last report, that authority be given to sell the buildings erected, but not needed or used, for hospitals, and also such other buildings as are unoccupied or not required for their intended purposes.

The operations under the charge of the Light-House Bureau have been satisfactorily prosecuted during the year. The Cape Charles light-house, at the entrance of Chesapeake bay, was destroyed by guerrillas in August last. Its reconstruction is of great importance to commerce, and should be immediately authorized and provided for.

The light-house system of the United States, unlike those of commercial nations generally, is maintained wholly at our own cost. The Secretary suggests the expediency of providing for its support and enlargement hereafter, so far as treaty stipulations will permit, by a small duty on tonnage for light-house purposes. The benefits of the system accrue to foreign as well as to American commerce, and its burdens should be apportioned accordingly.

In this report the Secretary necessarily omits many things; but he cannot omit the expression of his cordial appreciation of the zeal, intelligence, and fidelity which the officers of the Department generally have brought to the discharge of their several duties. To their labors he sensibly feels and gratefully acknowledges that he is indebted, in great part, for the measure of success which has attended its administration.

Still less could he excuse himself should he omit to say how distinctly he recognizes, on looking back through the year, the tokens of that divine Providence which has led our country through perils of every kind. How steadily and grandly, and through what a sea of troubles, under that benignant care, the Great Republic has moved on! How confidently may we trust its future to the same sacred guidance!

S. P. CHASE,
Secretary of the Treasury.

Report of the Secretary of War.

WAR DEPARTMENT,

WASHINGTON CITY, December 5, 1863.

Mr. PRESIDENT: A general summary of the military operations of the past year is furnished by the report of the General-in-Chief, herewith submitted. A list of the detailed official reports that have been returned to this Department by the generals commanding also accompanies this report. The influence of these operations, in suppressing the rebellion and restoring the authority of the General Government, cannot be overestimated. The victories of Stone river and of Gettysburg, the operations before Vicksburg and Port Hudson, the occupation of East Tennessee, the battle of Chickamauga, and the recent splendid successes before Chattanooga, and other engagements of less note, are events that evince skill, courage, and loyal patriotism, and a brilliancy of military achievement by the forces of the United States unsurpassed in any age; while the less fortunate battles of Fredericksburg and Chancellorsville manifested the spirit and fortitude of our troops in a degree worthy of the highest admiration.

By the reduction of Vicksburg and Port Hudson the navigation of the Mississippi river has been opened, and the national commerce is rapidly and securely returning to that great highway of the continent. The rebel territory has been cut in twain; the States west of the Mississippi no longer furnish their ample supplies to the rebels, while the people of those States are showing such signs of returning loyalty that a speedy restoration of civil government may confidently be anticipated.

In this view, the reduction of strongholds, the capture of prisoners by thousands, and the acquisition of immense stores of munitions of war, are not more important than the political consequences of these great military achievements. The occupation of East Tennessee by the forces under General Burnside, and the operations resulting in the occupation of Chattanooga, and the defeat of Bragg's army by the forces under General Grant, not only shed luster upon our arms, but, by affording protection to a loyal population, they cannot fail greatly to weaken the rebel strength, and operate strongly in restoring the authority of the Federal Government.

The combined operations against Charleston have not yet accomplished all that was expected from them, but the seizure and occupation of Morris island by the forces under command of General Gillmore, the reduction of Forts Wagner and Sumter, are exploits in which the skill and gallantry of the officers and the valor of our troops have been exhibited in a degree of which the country is justly proud.

In the State of Texas the flag of the Union has, during the whole war, been upheld by a small force at Franklin, so that the rebels have never succeeded in wholly excluding Federal authority from that State. The large force under General Banks now operating in Texas will afford protection to the loyal population, who have long been anxiously looking for sufficient military power to enable them to reestablish civil government. That period appears now at hand. By the occupation of that State the chief avenue of the rebels for foreign commerce and foreign aid is cut off.

In the East the position of military affairs has not undergone material change. In June the long-cherished design of the rebel leaders to transfer the seat of war from their own territory to the loyal States was undertaken by their favorite commander and their principal army. But the defeat of General Lee, by the forces under command of General Meade, at Gettysburg, destroyed their expectations, and drove back the enemy to his accustomed shelter in the mountains of Virginia. The armies of General Meade and General Lee now occupy, relatively, nearly the same position as at the date of my last annual report. The numerous combats and engagements between detachments of these armies have been attended with perhaps equal loss on both sides, and without any material advantage to either.

Western Virginia is reported by the commander of that department to be now clear of any rebel force, and the people of that newly organized

38TH CONG....1ST SESS.

Report of the Secretary of War.

SENATE & HO. OF REPS.

State are enjoying, in comparative peace, the blessing of civil government.

The military operations in the Northwest department have routed, and, in a great measure, destroyed, the hostile Indians, and afford protection to the people in that region from Indian barbarities. In the department of Missouri the rebel forces have been driven beyond the Arkansas line.

No military operations of any magnitude have taken place in the departments of Virginia and North Carolina. A threatened siege of Norfolk and Suffolk, by the rebel General Longstreet, was thwarted by the vigilant energy of General Dix, and a siege of Washington, in North Carolina, by the rebel General Hill, proved abortive.

The Federal force is now firmly planted in every rebel State; and there is reason to hope that under its protection the loyal people of those States will soon cast off the yoke of their leaders, and seek within the Union that peace and security for life, liberty, and property which, in blind madness, were recklessly thrown away.

The success of our arms during the last year has enabled the Department to make a reduction of over two hundred million dollars in the war estimates for the ensuing fiscal year.

In the operations that have been alluded to, prisoners of war to the number of about thirteen thousand have fallen into the hands of the enemy, and are now held by them. From the commencement of the rebellion until the War Department came into my charge, there was no cartel or formal exchange of prisoners; but at an early period afterwards a just and reasonable cartel was made between Major General Dix and the rebel General Hill, which, until recently, was faithfully acted upon by both parties. Exchanges under that cartel are now stopped, mainly for the following reasons:

First. At Vicksburg over thirty thousand rebel prisoners fell into our hands, and over five thousand more at Port Hudson. These prisoners were paroled and suffered to return to their homes until exchanged pursuant to the terms of the cartel. But the rebel agent, in violation of the cartel, declared the Vicksburg prisoners exchanged; and, without being exchanged, the Port Hudson prisoners he, without just cause, and in open violation of the cartel, declared released from their parole. These prisoners were returned to their ranks, and a portion of them were found fighting at Chattanooga, and again captured. For this breach of faith, unexampled in civilized warfare, the only apology or excuse was, that an equal number of prisoners had been captured by the enemy. But, on calling for specifications in regard to these alleged prisoners, it was found that a considerable number represented as prisoners were not soldiers, but were non-combatants—citizens of towns and villages, farmers, travelers, and others in civil life, not captured in battle, but taken at their homes, on their farms, or on the highway, by John Morgan and other rebel raiders, who put them under a sham parole. To balance these men against rebel soldiers taken on the field would be relieving the enemy from the pressure of war, and enable him to protract the contest to indefinite duration.

Second. When the Government commenced organizing colored troops, the rebel leader, Davis, by solemn and official proclamation, announced that the colored troops and their white officers, if captured, would not be recognized as prisoners of war, but would be given up for punishment by the State authorities.

These proceedings of the rebel authorities were met by the earnest remonstrance and protest of this Government, without effect. The offers, by our commissioner, to exchange man for man and officer for officer, or to receive and provide for our own soldiers, under the solemn guarantee that they should not go into the field until duly exchanged, were rejected. In the mean time, well-authenticated statements show that our troops held as prisoners of war were deprived of shelter, clothing, and food, and some have perished from exposure and famine. This savage barbarity could only have been practiced in the hope that this Government would be compelled, by sympathy for the suffering endured by our troops, to yield to the proposition of exchanging all the pris-

oners of war on both sides, paroling the excess not actually exchanged; the effect of which operation would be to enable the rebels to put into the field a new army forty thousand strong, forcing the paroled prisoners into the ranks without exchange, as was done with those paroled at Vicksburg and Port Hudson; and also to leave in the hands of the rebels the colored soldiers and officers, who are not regarded by them as prisoners of war, and therefore not entitled to the benefit of the proposed exchange.

The facts and correspondence relating to this subject are detailed in the accompanying report of Major General Hitchcock, commissioner of exchanges. As the matter now stands, we have over forty thousand prisoners of war, ready at any moment to be exchanged, man for man and officer for officer, to the number held by the rebels. These number about thirteen thousand, who are now supplied with food and raiment by this Government, and by our benevolent and charitable associations and individuals. Two prisoners, Captains Sawyer and Flynn, held by the rebels, are sentenced to death, by way of a pretended retaliation for two prisoners tried and shot as spies by command of Major General Burnside. Two rebel officers have been designated, and are held as hostages for them.

The rebel prisoners of war in our possession have heretofore been treated with the utmost humanity and tenderness consistent with security. They have had good quarters, full rations, clothing when needed, and the same hospital treatment received by our own soldiers. Indulgence of friendly visits and supplies was formerly permitted, but they have been cut off since the barbarity practiced against our prisoners became known to the Government. If it should become necessary for the protection of our men, strict retaliation will be resorted to. But while the rebel authorities suffer this Government to feed and clothe our troops held as prisoners, we shall be content to continue to their prisoners in our hands the humane treatment they have uniformly enjoyed.

The operation of the act of Congress for enrolling and calling out the national forces is exhibited in the accompanying report of the Provost Marshal General. At the time that law was enacted it was known to be very imperfect, many intelligent persons considering its execution wholly impracticable, while few dared to hope for any important benefit. The law has been enforced in twelve States. It has brought from these States fifty thousand soldiers, and has raised a fund of over ten millions for procuring substitutes. With all its imperfections it is demonstrated that the act can be made an efficient means for recruiting our armies and calling out the national forces. The principal imperfections and the required amendments will be submitted to Congress through the appropriate committees. The most important to be considered is what is called the three hundred dollar commutation. This feature of the act has been much discussed, and opposing opinions are nearly balanced as to the operation and effect of this provision. While some claim that it is oppressive upon poor men and favors the rich, others contend that it places rich and poor on an equal footing, and enables the poor man to obtain exemption from military duty for a sum within the reach of every one. Without undertaking to reconcile or decide between these conflicting opinions, it is certain that this clause of exemption, as it stands, occasions delay in calling out the military force. The drafted man is exempted, at the end of a long proceeding, by the payment of a sum of money. Supposing that sum to be adequate for procuring a substitute, considerable time unavoidably elapses before a competent substitute can be procured. The question whether this clause shall remain or be stricken out requires the early attention of Congress. The fund of \$10,000,000 raised by the act as commutation money is deposited with the United States Assistant Treasurers, and is being applied to procuring substitutes by the payment of bounties and premiums.

Volunteering is going on, in some States, with much spirit. The prime importance of filling up the old regiments, and the superiority of such force over new regiments, is a point on which all

military experience and opinions agree. The bounty paid by the Government is, therefore, limited to volunteers who go into old regiments, or to veteran regiments that renew their term of service. To veteran volunteers going into old regiments the maximum bounty of the Government is paid. Reports from the armies indicate that a large proportion of the troops whose term expires next year will reenlist—it being stipulated by the Government that they shall have at least one month's furlough before their present term expires. The indications are that the force required will, in a great measure, be raised by volunteering without draft. It is proper to add that commanding generals bear testimony that the drafted men who have gone into the ranks acquit themselves well, and make good soldiers. An immediate appropriation for bounties should be made.

An invalid corps has been organized under the direction of the Provost Marshal General. In the sanguinary battles and engagements of this war, and by camp diseases, many officers and soldiers have been disabled for active service who are yet able to perform duty in garrison, or as depot and prison guards, military police, and in the arrest of skulkers and deserters. To give honorable employment to this meritorious class, who have suffered in the service of their country, and to liberate able-bodied soldiers from duty that can well be performed by the invalids, was the purpose in organizing this corps. It now numbers over twenty thousand officers and privates, who are fully employed; and their service has increased the strength of the armies in the field, while by their vigilance desertion from the Army has in a great measure been checked. The beneficial results anticipated from this organization have been more than realized. For the details in respect to this organization reference is made to the report of the Provost Marshal General, which is also referred to for details in respect to the operation of the act enrolling and calling out the national forces, and the required amendments.

Immediately after the President's emancipation proclamation diligent efforts were commenced, and have continued until the present time, for raising colored troops. The Adjutant General was sent to the Mississippi valley to organize the system there. A bureau, to have in charge all matters belonging to such troops, was organized in the War Department. The report of its chief shows what progress has been made.

Over fifty thousand men are now organized and in the ranks, and the number will rapidly increase as our armies advance into the rebel States. The raising of these troops has been retarded, first, by the military operations in progress; and, second, by the removal of the slaves into the interior beyond reach of our recruiting agents. This obstacle, it is hoped, will soon be entirely overcome.

Many persons believed, or pretended to believe, and confidently asserted, that freed slaves would not make good soldiers; that they would lack courage, and could not be subjected to military discipline. Facts have shown how groundless were these apprehensions. The slave has proved his manhood, and his capacity as an infantry soldier, at Milliken's Bend, at the assault upon Port Hudson, and the storming of Fort Wagner. The apt qualifications of the colored man for artillery service have long been known and recognized by the naval service, and the subjoined extract from an official report shows what he can do in cavalry service:

"On the 17th instant, thirty men of company A, 1st Mississippi cavalry, (African,) in connection with fifty men of the first battalion 4th Illinois cavalry, while on a scout up the Yazoo valley, met, one mile beyond Sartasia, one hundred and fifty picked men of the 1st and 3d Texas cavalry. The 1st Mississippi behaved nobly, neither lacking courage nor steadiness, firing with coolness and precision. The engagement lasted half an hour, the Texans being totally routed and demoralized, we capturing twenty-eight stands of arms and seven prisoners."

The colored troops have been allowed no bounty, and, under the construction given by the Department, they can only, by existing law, receive the pay of ten dollars per month, while soldiers being paid thirteen dollars per month, with cloth-

38TH CONG....1ST SESS.

Report of the Secretary of War.

SENATE & HO. OF REPS.

ing and a daily ration. There seem to be inequality and injustice in this distinction, and an amendment authorizing the same pay and bounty as white troops receive is recommended. Soldiers of the Union, fighting under its banner, and exposing their lives in battle to uphold the Government, colored troops are entitled to enjoy its justice and beneficence.

The fortunes of war have brought within our lines a large number of colored women, children, and some aged and infirm persons. Their care, support, and protection rest a solemn trust upon the Government. Their necessities have, to some extent, been supplied by the order of this Department, but a general and permanent system for their protection and support should be speedily adopted by Congress. Even if they are to be regarded as in some degree a burden upon the Government, they are a greater loss to the enemy. Every woman and child, from nine years old to sixty, has to the rebel planter a high market value. Their labor in the cotton field is a source of profit to him. Is it not better that we should feed them than that they should support the rebel master who is in arms against us?

The reports of the several chiefs of bureaus in this Department exhibit fully their respective operations during the last year.

The Adjutant General reports that the business of his office has greatly increased during the past year by the creation of the Provost Marshal General's Bureau and the Bureau for the Organization of Colored Troops. He recommends:

First. That the term of enlistment in the regular service be fixed at three years, instead of five, in accordance with the act of July 29, 1861, which expired by limitation on the 1st of January, 1863.

Second. That the law regulating the payment of chaplains be amended so as to allow half pay and rations during absence on leave occasioned by other cause than wounds or sickness, and to full pay without rations when absent for those causes.

A serious evil arising from the absence of officers from duty has, in the past year, been in great part remedied. Two boards are in session, one at Annapolis, the other at Cincinnati, before one of which all officers who have left their commands in consequence of ill health are ordered to appear as soon as they are able to travel. They undergo an examination by the board, and are recommended, according to their condition, for light duty, for further leave of absence, or for medical treatment in a general hospital of the city where the board is in session. But if found fit for duty, the president of the board orders them forthwith to their regiments. The reports of the boards are a guide to the Adjutant General in making details for mustering, recruiting, or other light duty, and in recommendations for leave of absence or discharge, where the nature of the disability requires. The reports of the boards, taken in connection with regimental reports of absent officers and the surgeons' certificates from such officers, form a complete system of accountability for absence from duty.

The specific duty of the Ordnance department is to supply arms and munitions of war for sea-coast and frontier fortifications, and for the forces in the field.

The expenditures for these purposes during the last fiscal year amount to \$42,313,630 21.

The cannon, small-arms, accoutrements and equipments for men and horses, and ammunition obtained during the last fiscal year, by purchase and manufacture, were as follows:

1,577 field, siege, and sea-coast cannon, with carriages, caissons, and other implements.
1,082,841 muskets and rifles for foot soldiers.
282,389 carbines and pistols for mounted troops.
1,251,995 cannon balls and shells.
48,719,862 pounds of lead and lead bullets.
1,435,046 cartridges for artillery.
259,024,216 cartridges for small-arms.
317,276,400 percussion caps.
3,925,369 friction primers.
5,764,768 pounds of gunpowder.
919,676 sets of accoutrements for men.
91,639 sets of equipments for cavalry horses.
3,281 sets of artillery harness, each set for two horses.

An immense amount of material has been prepared at the different arsenals, and work in metals, wood, and leather, in large quantity, is advanced towards completion, for the manufacture and repairs of all the various machines and implements of war in use in the service.

The quantities of the principal articles of ordnance materials in the control of the Department at the beginning of the war, the quantities of those articles that have since been procured, and the quantities of those articles on hand on June 30, 1863, are shown in the following table, namely:

Names of articles.	On hand at beginning of war.	Procured since war began.	Issued since war began.	On hand for issue June 30, 1863.
Siege and sea-coast artillery.....	1,052	1,064	2,038	998
Field artillery.....	231	2,734	2,481	484
Fire-arms for infantry.....	437,423	1,950,144	1,531,576	856,001
Fire-arms for cavalry.....	31,283	338,198	327,170	42,325
Sabers.....	16,933	337,555	271,617	82,671
Cannon balls and shells.....	363,591	2,562,744	1,745,586	1,180,749
Lead and lead bullets, in pounds.....	1,301,766	71,773,774	56,054,515	22,924,025
Cartridges for artillery.....	28,948	2,792,746	2,974,480	499,504
Cartridges for small-arms.....	8,292,390	378,584,104	312,913,012	151,913,012
Percussion caps.....	19,868,000	769,475,000	713,084,470	71,946,530
Friction primers.....	83,425	7,004,709	6,082,505	1,002,203
Gunpowder, in pounds.....	1,110,584	13,494,363	13,071,073	1,613,874
Saltpetre, in pounds.....	2,223,348	5,221,731	None.	8,153,079
Accoutrements for infantry.....	10,930	1,831,300	1,630,220	162,110
Accoutrements for cavalry.....	4,330	184,466	185,298	2,498
Equipments for cavalry horses.....	574	216,653	211,670	5,562
Artillery harness, (double).....	586	18,666	17,485	1,167

The resources of this country for the production of arms and munitions of war have only commenced their development, yet their extent may be inferred from the enormous quantity of supplies shown by the foregoing tabular abstract to have been furnished during the last two years. At the beginning of the war we were compelled to rely upon foreign countries for the supply of nearly all our arms and munitions. Now all these things are manufactured at home, and we are independent of foreign countries not only for the manufactures, but also for the materials of which they are composed.

The excellence of arms and munitions of American manufacture, which have been supplied by the Ordnance department to the Army, has been so obvious that our soldiers are no longer willing to use those which have been imported from other countries.

The efforts made during the war to extend and improve the manufacture of arms and munitions have resulted in discoveries of great importance to the country in peace as well as in war. Among the arts thus improved is the manufacture of wrought iron, now rivaling the finest qualities of the iron of Sweden, Norway, and England, so highly prized in the arts.

This country, until the present year, has relied upon those countries for material to make gun-balls, bridle-bits, car-wheel tires, and other articles requiring iron of finest quality. The iron of our own production is now superior to that obtained abroad for all these purposes.

The law of 1808 made provision for the annual expenditure of \$200,000 for arming the militia of the States. That sum is insufficient for the wants of the increased population of the country. Two million dollars should be annually appropriated for that purpose, until all the States are supplied, in proportion to their population, with the same number of arms that have been distributed

in some of the States to meet the exigencies of the war.

From the report of the Chief of Engineers, it appears that the grants made by Congress for fortifications, at its last session, amounted to \$5,250,000 for permanent works, and \$700,000 for temporary works. These liberal provisions allowed of very material progress being made upon the important class of fortifications now under construction, and of essential modifications being effected in old works and existing batteries, to obtain largely increased efficiency, by preparing them to receive ordnance of greatly increased calibers, and to store greater bulks of ammunition, with additional security afforded therefor.

These important objects have been very generally realized. The difficulties existing last year in the procurement and transportation of materials, and in obtaining the requisite amount of skilled and ordinary labor, have increased; but these difficulties have been surmounted or avoided to such a degree that the general result is very favorable, and our seaboard and border fortifications are now in condition to afford a formidable defense, decidedly stronger than last year.

The report of the annual board of visitors of the Military Academy is herewith submitted. There being no representation from the rebel States in the Academy since the war commenced, there existed accommodation for a considerable number of cadets beyond those furnished from the loyal States. There seemed to be no good reason why the advantages of the Academy should not be enjoyed to the fullest capacity, and accordingly the vacancies were this session filled up by appointments from loyal States, the generals commanding armies being invited to furnish the names of deserving young men from their respective commands; and in this way the number of cadets allowed by law have been admitted to the advantages of military education in the Academy at West Point. The usual statement, showing the condition in life of the cadets for a number of years past, and a list of the present officers and cadets of the Academy, accompany the report of the Chief Engineer.

The operations connected with the survey of the northern and northwestern lakes have been actively continued, and during the past season have consisted in a survey of Portage entry, on Lake Superior, and in resuming the survey of Green bay and its entrance from Lake Michigan; also of the periodical examination of the channels of the St. Clair flats, and of Lake George of St. Mary's river. Observations for the determination of geographical positions, of the fluctuations of the elevation of the surfaces of the lakes, and of the meteorological phenomena, are embraced in the operations of the survey. The number of lake charts distributed to navigators to the 1st of October, 1863, exceeds 24,000, of which over 4,000 were distributed the past year.

By the direction of this Department, an experienced and skillful officer has been detailed to examine and report what temporary works are required to guard the lake shores from rebel and piratical raids.

The department charged with the disbursement of the funds for surveys for military defenses has, in addition to its current duties, prepared for military purposes (to which their distribution is necessarily restricted) an aggregate of 8,841 maps, of which 6,927 were engraved and lithographed, and 1,914 were photographed.

The clothing and equipment of troops, their shelter and transportation; the purchase of wagons, horses, and mules; the supply of forage; the construction, repair, and working of military roads; and the supply of boats for transportation by water, constitute important duties of the Quartermaster General's department. The detail of these operations, so far as is proper for public information, is contained in the acting Quartermaster General's report, and need not here be recapitulated. The adequate supply of mules and horses, and their subsistence, are among the most arduous duties of the service. To systematize this branch of service, with adequate supervision and proper economy, so far as practicable, a Cavalry Bureau was established a few months ago, and is now in operation at Giesboro. It is believed that by this means much improvement may be

38TH CONG....1ST SESS.

Report of the Secretary of the Navy.

SENATE & HO. OF REPS.

made, with proper diligence and fidelity on the part of the officers intrusted with this important duty.

The Quartermaster General has for some months been making a careful personal inspection of his branch of service in the different military departments, but his report has not yet been received.

The report of the Commissary General of Subsistence shows that the subsistence for the Army, with the exception of fresh beef and flour, has in great part been procured by advertising for bids, and selecting the lowest for suitable articles, in the cities of Boston, New York, Philadelphia, Baltimore, Cincinnati, Louisville, and St. Louis. Flour has, when possible, been procured in the same manner, at points nearer to our armies. Fresh beef has been obtained in general by contract, sometimes on the hoof, and at other times from the block. On the coast of the Carolinas and the Gulf, and for a large portion of the year at New Orleans, beef has been forwarded on the hoof from New York. It is believed that at every point the troops have been supplied with abundance of good wholesome food, and that if, in movements of our armies, a temporary want has been felt, it has not been due to any cause over which the officers of this Department had control. In addition to the troops, subsistence has been furnished to all prisoners, whether political or war, to large numbers of contrabands, and to suffering Union families found by our armies in the rebel States. Great improvement has taken place in the rendering of accounts by volunteer officers, although cases of neglect still exist. The few regular officers of this branch of the service have had heavy labors and responsibilities imposed upon them, and have exhibited intelligence, integrity, and zeal.

The Paymaster General reports that, except where payments have been postponed by commanding generals, on account of pending operations, the various armies in the field are substantially paid to the 31st of October, 1863, the latest period allowable by law and regulation, and that funds have been provided and placed in the proper hands for full payment of all the troops in service up to the date mentioned.

By the report of the acting Surgeon General, the Department is informed that the latest reports received give one hundred and eighty-two general hospitals, with a capacity of 84,472 beds. The number of patients remaining in general hospitals June 30, 1863, was 9.1 per cent., and in the field 4.4 per cent. of the entire mean strength of the Army, of whom 11 per cent. were sick, and 2.5 per cent. wounded. The corps of medical inspectors, by the system of inspections established, has added materially to the efficiency of the medical and hospital service, and a marked improvement in all matters of sanitary precaution and police is exhibited. Companies of the second battalion, invalid corps, have in many instances been advantageously substituted for contract nurses, attendants, and cooks in the general hospitals. Appropriations are asked for the payment of washing in those hospitals and on transports where a sufficient number of matrons cannot be employed; for the collection and preservation of pathological specimens in the Army medical museum; and for the preparation and examination of drugs, in connection with the purveying depots. The health of the troops has been good, and the mortality less than the preceding year.

The signal corps was organized under an act of the last Congress. The average number of officers on duty is reported as one hundred and ninety-eight. The full capacity of this branch of service has not yet been developed, and different opinions as to its value seem to be entertained by commanding officers. In combined land and naval operations it has been considered useful, and commanding officers of western armies have commended it with favor. The continuance of the corps is recommended by this Department, with proper restrictions upon the number of officers, and limiting them to their proper scope of duties.

The military telegraph, under the general direction of Colonel Stager and Major Eckert, has been of inestimable value to the service, and no corps has surpassed, few have equaled, the telegraph operators in diligence and devotion to their duties.

From the superintendent's report it appears that the military telegraph lines required by the

Government have been constructed over an extensive and scattered territory, embracing the District of Columbia, parts of the States of Pennsylvania, Ohio, Indiana, Illinois, Maryland, Delaware, Virginia, North Carolina, South Carolina, Louisiana, Mississippi, Alabama, Arkansas, Tennessee, Kentucky, Missouri, Kansas, and the Indian territories.

Under the immediate direction of Major Eckert, assistant superintendent, of the department, of the Potomac, three hundred miles have been constructed during the year. Under the direction of Captain Smith, assistant superintendent, of the department of Missouri, five hundred and forty-eight miles have been constructed during the year, one mile of which was submarine. Under the direction of Captain Bruch, assistant superintendent, of the departments of the Ohio, Cumberland, and Mississippi, five hundred and ten miles have been constructed during the year. Under the direction of Captain David, assistant superintendent, of the department of Western Virginia, ninety-seven miles have been constructed during the same period. Under the direction of Captain Bulkley, assistant superintendent, of the department of the Gulf, three hundred miles have been built, one mile of which was submarine. On the 1st day of July, 1862, there were 3,571 miles of land and submarine lines in working order. During the fiscal year 1,755 miles of land and submarine line were constructed, making the total number of miles of land and submarine military telegraph lines in operation during the year 5,326, being length of line sufficient to girdle more than one fifth of the circumference of the globe. By a close estimate, it appears that at least one million two hundred thousand telegrams have been sent and received over the military lines in operation during the fiscal year ending June 30, 1863, being at the rate of about thirty-three hundred per diem. These messages have varied in length from ten to one thousand words and upwards, and generally were of an urgent or most important character.

Pursuant to acts of Congress passed February 16, 1863, and July 12, 1862, three commissioners were appointed to examine and report upon all claims arising under the act of March 25, 1862, entitled "An act to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pension." The sum of \$100,000, or so much as should be necessary, was appropriated by an act passed May 14, 1862, to pay the claims awarded. The commissioners have reported in favor of claims amounting to the sum of \$800,612 13. No power of apportionment being vested in the Department, further legislation or a larger appropriation will be required to carry these acts into effect.

Many claims are presented to the Department for the use of land occupied by the Government as forts, camping grounds, and other public works, for forage and other property used or injured by the troops. Some of these claims are just, others doubtful, and many exorbitant or fraudulent. The Department has no mode of investigating them, and no appropriation to pay them. It is submitted that provision should be made by act of Congress for their speedy adjustment and payment.

Diligent effort has been made for the enforcement of discipline, the detection of frauds, and their prevention and punishment by summary dismissal, or by the conviction and sentence of guilty parties by court-martial and military commission. In this respect much has been accomplished by the Judge Advocate General and his assistants. From his report it appears that, since the commencement of the rebellion, vast as has been the increase of the duties and labors of his office, there has been no legislative provision enlarging the instrumentalities for their performance. The machinery of the office remains as when the Army consisted but of some thirteen thousand men. This condition of things is the more striking when it is remembered that in every other branch of the military service legislation has kept pace with the wants created by the emergencies of the war. It is essential that the force of this office be increased to meet the emergencies of the service. The following is a summary of the busi-

ness dispatched in the Judge Advocate General's office from the 1st September, 1862, to 1st November, 1863, a period of fourteen months: Number of records of trials by general courts-martial and military commissions reviewed, 17,357; Number of reports made as to the regularities of the proceedings, on applications for restoration to the service, and for the pardon of offenders, and remission or commutation of sentences, 2,318. Miscellaneous reports on other questions referred to the office, 172.

While many of these reports are brief, many are long and elaborate, involving an examination of complicated masses of fact, and of difficult legal questions. As recorded, they occupy about two thousand quarto pages.

It gives me pleasure to bear witness to the general diligence, ability, and fidelity manifested by the chiefs of the several bureaus of this Department. Whatever success may have attended its administration is, in a great measure, due to them and their subordinates.

In conclusion, I may be permitted to express the hope that the next annual report from this Department may announce the complete overthrow of the rebellion, and the restoration of peace and the establishment of the Union on a sure foundation in all the bounds of the United States.

Respectfully submitted.

EDWIN M. STANTON,
Secretary of War.

Report of the Secretary of the Navy.

NAVY DEPARTMENT, December 7, 1863.

SIR: The naval operations of the year have been varied, and more arduous as well as far more extensive than ever before under the Government. A blockade commencing at Alexandria, in Virginia, and terminating at the Rio Grande, has been effectively maintained. The extent of this blockade, according to an accurate table of measurement carefully prepared at the Coast Survey office, covers a distance of 3,549 statute miles, with 189 harbor or river openings or indentations, and much of the coast presents a double shore to be guarded. In addition to the coast blockade, a naval force of more than one hundred vessels has been employed in patrolling the rivers, cutting off rebel supplies, and cooperating with the armies in the suppression of the rebellion. The distance thus traversed and patrolled by the gunboats on the Mississippi and its tributaries is 3,615 miles, and the sounds, bayous, rivers, and inlets of the States upon the Atlantic and the Gulf, covering an extent of about 2,000 miles, have also been penetrated and watched with unceasing vigilance.

The blockade is becoming more effective and complete. Progress has been made in repelling the rebels from the coast, and circumscribing their limits. The Mississippi and its tributaries have, after a protracted, persistent, and severe struggle, in which the whole energies and efforts of the insurgents were engaged to obstruct and prevent our success, been reopened to navigation and commerce. As the rebels have never possessed an open port for either belligerent operations or commercial purposes, nor a naval or commercial marine, their maritime trade and proceedings have been chiefly derived from foreign adventurers and foreign capital. If, in the early period of the war, the unscrupulous and unprincipled traders who, in violation of law and public morality, embarked in illicit schemes to violate the blockade, and furnish the rebels with supplies, were successful, the general results of the year, now near its close, have been to them most disastrous. The vigilance of our naval forces and the stringency of the blockade have operated with great severity on those who have risen in arms against their country, and have caused heavy losses to those who have abetted or have been in sympathy with the rebellion. I do not propose, in this report, to enter upon the details of our naval operations since my last annual communication, but shall append the official reports of the officers themselves, which best narrate their respective labors and achievements. No nobler enormity can be awarded them than the plain statement of their deeds, and no summary can do justice to their unassuming communications.

38TH CONG....1ST SESS.

Report of the Secretary of the Navy.

SENATE & HO. OF REPS.

The cruising grounds of the several blockading squadrons remain unchanged since my last report.

NORTH ATLANTIC SQUADRON.

Acting Rear Admiral Lee continues in command of the North Atlantic squadron, faithfully and ably discharging his duties in a position of great responsibility, and, in some respects, of great embarrassment. Seconded and sustained as he has been by officers of zeal and efficiency, the rivers of Virginia and the sounds of North Carolina have been penetrated, watched, and guarded, as well as the entire coast, so that all intercourse with the rebels has been cut off with the single exception of the port of Wilmington, to close which has been difficult from its two inlets, thirty miles apart, flanked by extensive batteries. Some of the fastest steamers from the Clyde and other quarters, of light draught, have, under cover of darkness, succeeded in eluding capture, but most of even that description of vessels have fallen into our hands or been driven on shore. With these exceptional cases, all foreign and coastwise commerce with the rebels has ceased in that quarter. At Washington, Newbern, and elsewhere on the inner waters of North Carolina, and also on the Nansemond, York, and other rivers of Virginia, our naval officers have been sleepless sentinels, and they have exhibited examples of heroic bravery and daring in repelling the rebels and protecting and succoring the Army when in difficulty, which reflect honor on themselves and the service.

SOUTH ATLANTIC SQUADRON.

The South Atlantic squadron has continued to enforce the blockade with vigilance and effect. It is not known that any vessels now elude the vigilance of the fleet or effect communication with the rebels on that coast. So long as the blockading force remained off Charleston, instead of getting within the bar, the illicit trade at that point was prosecuted with some success, and no vigilance or activity could wholly prevent it. With a view of intercepting all traffic, and, if possible, of capturing Charleston itself, the original seat of insurrection and of disunion, preparations were made by this Department; commencing more than a year ago, for the occupation of the harbor and the reduction of the defenses. The completion of the iron-clad vessels was urged forward with all the energy the Department could infuse into the contractors; and such other efficient vessels as could be made available were ordered to the squadron to add to its power and efficiency. Delays and difficulties intervened, and it was not until the 7th of April that a demonstration was made. On the afternoon of that day, Rear Admiral Du Pont, in the New Ironsides, accompanied by seven turreted vessels of the Monitor class and the gunboat Keokuk, proceeded up the harbor and made a vigorous assault upon Fort Sumter. From some difficulty or defect, the Admiral's ship was unable to get into action, but the others proceeded onward to the attack, and sustained a terrific concentrated fire from numerous batteries.

Owing to the submerged obstructions, the character of which was not understood, it was not deemed advisable to attempt a passage up to the city, and, after a contest of less than two hours, the signal was given to withdraw the fleet. But comparatively slight injury was sustained by the turreted vessels, and only one life was lost in this remarkable contest. No ships ever before sustained such a concentrated fire, and the enduring qualities of this class of vessels were fully proved. It was intended to have renewed the attack on the following day, but this intention was subsequently abandoned, and the vessels were withdrawn from the harbor, under an apprehension that they could not withstand the storms of the season and the fire of the rebel batteries. But important considerations rendered it proper that the force should remain inside the bar, and orders were sent to Rear Admiral Du Pont to that effect.

The report of the superintending engineer as to the injuries which the turreted vessels had sustained was satisfactory, and confirmed the Government in its determination to close effectually and completely the port, so as to prevent the ingress or egress of a single vessel, and also to promote operations against the defenses in the harbor.

Rear Admiral Du Pont having expressed a willingness to relinquish the position which he had occupied for eighteen months, Rear Admiral Andrew H. Foote was detailed to relieve him. That brave and distinguished officer prepared with great alacrity and promptitude for the duty; but, when on his way to his command, was seized with fatal illness, and died in New York. His associate and second in command, Rear Admiral John A. Dahlgren, proceeded immediately to Port Royal, and, on the 6th day of July, assumed command of the squadron. A combined operation of naval and Army forces, the latter under General Gillmore, was instituted for the occupation and possession of Morris island, on the south side of the entrance to Charleston harbor. After a long and severe struggle, the army operating upon land with the efficient coöperation of the Monitors and the Ironsides, Morris island, with all its batteries, was captured. Sumter was soon made a pile of ruins by the fierce artillery of our forces, although the rebels contrived to continue a small but powerless force there under the protection of the surrounding batteries. In the slow operations of this protracted siege of over five months, as well as in the demonstration of the 7th of April, both the resisting and attacking power of the Monitors has been illustrated and proven.

Since the fleet under Admiral Dahlgren has remained inside the bar, and we have had possession of Morris island, the commerce of Charleston has ceased. Not a single blockade-runner has succeeded in reaching the city for months, and the traffic which had been to some extent, and with large profits, previously carried on is extinguished. As a commercial mart Charleston has no existence; her wealth with her trade has departed. In a military or strategic view the place is of little consequence; and whether the rebels are able by great sacrifice and exhaustion to hold out a few weeks more or less is of no importance.

The most marked and extraordinary conflict within the limits of this squadron, or indeed in the service during the year, and in some respects one of the most significant and instructive naval battles of the war, took place on the 17th of June, in Wassaw sound, between the Weehawken, a vessel of the Monitor class, and the formidable armored steamer Atlanta. Like the contest in Hampton Roads, in March, 1862, when the Monitor and the Merrimack were engaged, this battle was between armored vessels and of great disparity in size, but the result was vastly more speedy and decisive. The Atlanta was a powerful steamer, had been iron-plated by the rebels, and prepared for war purposes at immense expense. In the confidence of certain victory over her comparatively diminutive antagonists, the Weehawken and the Nahant, she was accompanied by boats loaded with gay parties to witness her triumph, but the brave officers and men of our turreted vessels knew their power and sought the encounter. This battle was to test not only the vessels but the new fifteen-inch ordnance, then for the first time brought into naval warfare, and concerning which there had been, as well as with respect to the vessels themselves, some variety of opinion. The conflict was so brief and decisive that only one of the two Monitor vessels, though not widely separated and each eager for the fight, was able to participate in the engagement. The Nahant, having no pilot, followed in the wake of the Weehawken, but before she could get into action the contest was over. Such was the brevity of the fight that the Weehawken, in about fifteen minutes, and with only five shots from her heavy guns, overpowered and captured her formidable antagonist before the Nahant, which was hastening to the work, could discharge a single shot at the Atlanta. This remarkable result was an additional testimony in favor of the Monitor class of vessels for harbor defense and coast service against any naval vessels that have been or are likely to be constructed to visit our shores. It appears also to have extinguished whatever lingering hopes the rebels may have had of withstanding our naval power by naval means.

EASTERN GULF SQUADRON.

Acting Rear Admiral Bailey has continued in

command of the Eastern Gulf squadron, closely blockading the Florida peninsula from Cape Canaveral, on the east, to Pensacola, on the west. There having been no important military movements within these limits, a close watch of the coast and of the adjacent waters has been maintained by the Navy, resulting in the capture of many prizes, and the almost entire annihilation of all illicit traffic. Some important boat expeditions for cutting out vessels and destroying rebel salt-works have been projected and executed with success. Lying adjacent to Cuba, and not far distant from Nassau, the coast of Florida presented many available points for eluding the blockade chiefly by small vessels, which were capable of penetrating the shallow harbors and inlets which indent its shores. But the trade has not been carried on with impunity; more than one hundred craft of various descriptions have been captured or destroyed by this squadron during the current year.

WESTERN GULF SQUADRON.

The duties of the Western Gulf squadron have been diversified and exacting. For a considerable part of the year Rear Admiral Farragut felt himself compelled to employ many of his most efficient vessels in active river service, coöperating with the Army, with a view to reopening the navigation of the Mississippi, and expelling hostile forces from its banks. Impressed with the great importance of this work, and aware of the determination of the Government to promptly and firmly reestablish the national authority in that quarter, so that the ocean outlet of the great central valley of the Union should be unrestricted and secure, Rear Admiral Farragut committed the subject of the coast blockade to others of his command, and devoted his unremitting personal attention to the energetic and vigorous prosecution of the conquest of the rebels, to overcoming and reducing their batteries, and to removing every obstacle with which they sought to oppose the navigation of the river or to resist the authorities of the Union. Soon after the capture of New Orleans, in the spring of 1862, and as the natural result of that event, the naval forces formed a junction; and could the Army at that time have furnished an adequate coöperating land force, the reduction of Vicksburg might have been accomplished, and the occupation and navigation of the river easily secured. But the omission to do this gave the rebels opportunity to immensely strengthen Vicksburg, and also to fortify Port Hudson and Grand Gulf in addition. What, therefore, might have been accomplished with comparatively little effort in the summer of 1862, was a work of immense and almost incredible labor and difficulty in 1863. It was indispensable that communication should be opened with Rear Admiral Porter, of the Mississippi squadron, and General Grant, both of whom were operating against Vicksburg. Rear Admiral Farragut, therefore, moved up in strong force from Baton Rouge in March, intending to pass the batteries at Port Hudson, but only his own flag-ship, the Hartford, and the Albatross were successful. With these he succeeded in approaching Vicksburg, and in communicating with Rear Admiral Porter across the peninsula. This gallant act of Rear Admiral Farragut being effected, the Navy had command of the river between Vicksburg and Port Hudson, and was enabled to establish a blockade of Red river, and thus intercept the supplies from Texas destined for the rebel armies. The insurgents felt this to be one of the most serious and fatal blows inflicted on them during the year, and from the effects of it they have never recovered. This accomplished, the Admiral left his flag-ship, the Hartford, and returning below by way of the Atchafalaya, he resumed operations for a final assault on Port Hudson. To meet the requirements of the occasion a force was kept always ready to coöperate with the Army in its movements; and on the part of the Navy a continuous shelling of the place from mortar boats, vessels, and a naval battery on shore, manned by seamen, was maintained, seconding the Army. Nearly three thousand 13-inch shells were thrown into the works by the mortar vessels, and the naval battery of four 9-inch guns, used as a breaching battery, performed good service. In conse-

38TH CONG....1ST SESS.

Report of the Secretary of the Navy.

SENATE & HO. OF REPS.

quence of the capture of Vicksburg, on the 4th of July, the reduction of Port Hudson became inevitable, and the garrison finally surrendered, on the 9th of July, to General Banks, who, for some weeks, had besieged the place.

This was the last stronghold of resistance to the national authority on the banks of the Mississippi.

The river being now opened to peaceful commercial pursuits, Rear Admiral Farragut turned over to Rear Admiral Porter the entire control of the western waters above New Orleans, and departed himself for that city. Deeming that his long service and useful labors of eighteen months entitled this gallant officer to special consideration, the Department tendered him a respite, which he accepted, and Commodore H. H. Bell, the next officer in rank, was appointed to command the squadron in his absence.

The blockade of the Gulf has been, in the main, efficient and successful, although reverses at Galveston and Sabine Pass occurred, and, for a time, reckless adventurers and foreign capitalists to some extent succeeded, by perverting neutral privileges and fraudulently abusing neutral rights on the Rio Grande, in carrying on illicit trade with the rebels through Matamoras. The Rio Grande being the boundary between the United States and Mexico, is open to the navigation of both countries, and could not therefore be blockaded. With a knowledge of this fact, a multitude of schemes were projected, and, under the disguise of neutral trade, Matamoras suddenly became a great commercial mart for the rebels and their friends. But the shrewdly devised schemes were soon interrupted with disastrous consequences to most of those who participated in them, and the occupation of the Rio Grande and Brownsville has put a final termination to the lately extensive commerce of Matamoras, which is becoming as insignificant as it was before the rebellion.

MISSISSIPPI SQUADRON.

The Mississippi squadron has been actively engaged in successful efforts to overcome the rebels and restore the national ascendancy in the great central valley of the Union.

Rear Admiral Porter, whose activity, energy, and readiness of resources eminently fitted him for that command, has exhibited extraordinary vigor in various naval expeditions on the Mississippi and its tributaries, and in zealous coöperation with the Army in most of its important operations.

The capture of Arkansas Post, on the White river, in January, the destruction of the batteries at Grand Gulf in May, and, in coöperation with the Army, the reduction of Vicksburg, which finally surrendered on the 4th of July, are the most prominent of the remarkable achievements of this squadron, some of which are marked by incidents of singular and romantic daring. In the appendix to this report will be found correct records of the extraordinary adventures attending the efforts to get control of the Yazoo by sweeping from its channel the network of torpedoes, explosive machines, and contrivances for submarine warfare, near its confluence with the Mississippi. These efforts were followed by the novel and singular "Yazoo Pass Expedition," and the expedition of "Steel's bayou and Deer creek." On the right bank of the Mississippi scenes of interest were also enacted by the hardy sailors and boatmen on the rivers of Arkansas and northern Louisiana. The Cumberland and the Tennessee have been actively patrolled by our vigilant and skillful naval officers, and the exciting chase of Morgan by our steamers on the Ohio, over a distance of five hundred miles, intercepting him and his band when attempting to escape, naturally attracted the attention of the country. But the great and important exploits of this squadron were in the vicinity of Vicksburg, where the main strength of the naval as well as of the military forces was centered. The magnitude of the defenses of this place, which were intended to repulse any force, naval or military, or both combined, which could be brought against them, made the siege formidable, and seemed for a time to defy all attempts at their reduction. In overcoming them, the Navy necessarily performed a conspicuous and essential part. For forty-two days, without intermis-

sion, the mortar boats were throwing shells into all parts of the city, and even into the works beyond it. Heavy guns, mounted on scows, commanded the important water batteries, and for fourteen days maintained an incessant fire upon them. Thirteen heavy guns were landed from the vessels, and officers and men (where they could be spared) were sent to man them. The gunboats below the city, in coöperation with the Army, were continually engaged in shelling the place. During the siege sixteen thousand shells were thrown from the mortars, gunboats, and naval batteries upon the city and its defenses before they capitulated.

The creation and organization of this large squadron, which has done such effective service on the Upper Mississippi and its tributaries, extending over a distance of more than three thousand miles, may be justly considered among the most wonderful events of the times. It is but little over two years since we had not a naval vessel on all these waters, where we now have a squadron of one hundred vessels, carrying 462 guns, with crews amounting in the aggregate to about 5,500 men. Kentucky, Tennessee, and Arkansas, the upper portions of Mississippi and Louisiana, and the southern portions of those States which border on the Ohio river on the north, have been relieved and liberated through the instrumentality of the gunboats acting by themselves, or in earnest and cordial coöperation with the armies. Rear Admiral Porter has well sustained the renown which the gallant and lamented Foote so nobly earned, and has carried forward to successful results a larger and more powerful force than was ever at the disposal of that heroic officer. In creating and organizing this squadron, and arming and manning the vessels, it must not be forgotten that the service labored under many and great disadvantages, for the Government had no navy-yard or establishment of its own on which the Department could depend. In the absence of any governmental yards, shops, storehouses, and other necessary facilities and aids for a naval establishment, and also of mechanics and workmen, it became necessary to collect and send out and receive supplies from some central and secure position. This work has been performed chiefly at Cairo, under the superintendence and management of officers who have devoted themselves to their less conspicuous but not less indispensable work with an assiduity and labor not surpassed even by their more active associates who are facing the enemy.

POTOMAC FLOTILLA.

Allured by high prices and the prospect of gain, mercenary adventurers as well as rebels and rebel sympathizers have continued to carry on to some extent illicit and contraband traffic between Maryland and Virginia, rendering it necessary to maintain a considerable force on the Potomac. The flotilla, under command of Commodore Harwood, has kept a close watch and guard to intercept and prevent, as far as possible, communication with the rebels, and many captures have been made; but the punishment inflicted on those who attempt to deal with traitors and furnish them supplies has been so light, that these petty contrabandists, as well as the more open blockade-runners, have carried on their employment with some degree of impunity. In one or two instances armed bodies of men have appeared on the Virginia shore, as if with the intention of molesting navigation, but they have abruptly fled on the approach of a gunboat. To guard against possible contingencies, at the time of the invasion of Maryland and Pennsylvania, which terminated in the battle of Gettysburg, vessels were stationed at what were deemed available points along the upper waters of the Chesapeake to coöperate with the military authorities. A gunboat was sent up the Susquehanna to Havre-de-Grace, another up the Gunpowder, a third up the Blackwater, while one was also posted at Annapolis, and another at Wilmington.

PACIFIC SQUADRON.

The force in the Pacific remains the same as at the date of my last annual report, with the addition of the Saginaw and the Farallones, storeship, at Acapulco.

Acting Rear Admiral Charles H. Bell continues in command of the squadron, and has attended to our interests in that quarter. The vigilance of this officer and of Captain Thomas O. Selfridge, commandant of the navy-yard at Mare Island, with the active coöperation of the custom-house and revenue authorities on our western coast, has intercepted and suppressed all attempts to fit out rebel piratical cruisers on the Pacific.

The schooner J. C. Chapman was detected in the harbor of San Francisco in the month of May last, and seized by the sloop-of-war Cyane, with men, armament, and military supplies on board, evidently intended to prey upon our commerce. Some indications of a scheme to fit out a rebel cruiser having been communicated by our consul at Victoria, Admiral Bell dispatched the Saginaw to Washington Territory to ascertain the facts, and, if necessary, to take prompt measures in regard to them. Although it was ascertained that some proceedings had taken place sufficient to give rise to reports of a design to fit out a piratical craft under the rebel flag from British waters there were no substantial grounds to apprehend that such a scheme could be carried into effect, especially in view of the friendly disposition and earnest resolve of the colonial authorities to discountenance and prevent such illegal proceedings. The Saginaw, therefore, returned to San Francisco from a satisfactory mission to the northwest coast. The vessels of this squadron have during the year visited the principal ports on the Pacific coast, and by their presence strengthened our diplomatic and consular representatives, and imparted a feeling of security to American citizens and American interests wherever they have appeared.

VESSELS IN THE EAST INDIES.

In the East India and China seas the Jamestown and the Wyoming have guarded American interests during the past year, and, with the exception of a disturbance which it is to be regretted occurred at Japan, all has remained quiet in that region. In the month of July, while the Wyoming was at Yokohama, information was received that the American steamer Pembroke had been fired upon by Japanese vessels. Commander McDougal immediately proceeded to the locality of the outrage, where he was fired upon from six land batteries, and a naval force consisting of a steamer, a bark, and a brig. An action of one hour followed, in which it is stated that the steamer of the enemy was blown up, the bark sunk, and the brig made a complete wreck in her upper works, while considerable damage was done to the land batteries. The Wyoming withdrew after thus vindicating the honor of the American flag, having sustained a loss of eleven killed and wounded.

THE NAVAL FORCE.

I have mentioned in former reports that the naval force at the commencement of this Administration consisted of 76 vessels, and of these only 42 were in commission. The additions which have since been made have elevated the country into a first-class naval Power. In the following table an exhibit is presented of the actual number and description of our naval vessels at the date of my last report and at the present time:

Comparative exhibit of the Navy, December, 1862 and 1863.

	No. of vessels.	No. of guns.	Tonnage.
Navy at date of present report.	588	4,443	467,967
Navy at date of last report.....	427	3,268	340,036
Increase, exclusive of those lost.....	161	1,175	127,931

Vessels of the Navy lost since December, 1862.

In what manner lost.	No. of vessels.	No. of guns.	Tonnage.
Captured.....	12	48	5,947
Destroyed to prevent falling into hands of rebels.....	3	20	2,963
Sunk in battle or by torpedoes	4	28	2,201
Shipwreck, fire, and collision.	13	61	4,854
Total.....	32	156	15,965

38TH CONG....1ST SESS.

Report of the Secretary of the Navy.

SENATE & HO. OF REPS.

Vessels placed under construction since December, 1862.

Description.	Tons each.	No. of vessels.	No. of guns.	Tonnage.
Double-end iron steamers.....	1,030	7	84	7,310
Single turret iron-clads.....	614	20	40	12,280
Double turret iron-clads.....	3,130	4	16	12,520
Clipper screw-sloops.....	2,200	12	96	26,400
Screw-sloops, spar deck.....	2,200	8	160	17,600
Screw-sloops of great speed.....	3,200	5	40	16,000
Screw-sloops of great speed.....	3,000	2	16	6,000
Total.....		58	452	98,010

General exhibit of the Navy when the vessels under construction are completed.

	No. of vessels.	No. of guns.	Tonnage.
Iron-clad steamers, coast service.....	46	150	62,518
Iron-clad steamers, inland service.....	29	152	20,784
Side-wheel steamers.....	203	1,240	126,517
Screw steamers.....	196	1,578	187,892
Sailing vessels.....	112	1,323	70,256
Total.....	588	4,443	467,967

There have been added to the Navy during the past year, by purchase, some thirty tugs, over fifty steamers for blockading and supply purposes, and over twenty other vessels for tenders and store-ships. At least twenty of the steamers were captured in endeavoring to violate the blockade.

IMPROVEMENTS IN NAVAL VESSELS.

Upon the assumption that the United States are to occupy a leading position among maritime nations, a primary object with the Government must be the maintenance of a naval force adequate for defense against all foreign aggression. The thorough transformation which has taken place in the character of naval warfare is the result of a change not less complete in the character and structure of naval vessels. The sailing ships-of-war, whose construction had been brought almost to perfection, were superseded first by paddle-wheel steamers, and they in turn have given place to vessels propelled by submerged screws. Steamers, however, are liable to disaster in battle from which sailing vessels are exempt. A single chance shot may totally disable the most powerful steamer; and this exposure, rendering vessels of this class unsafe and dangerous, has led to precautions and safeguards for their protection in the form of iron armature, by which a first class man-of-war is made invulnerable to the ordnance formerly used in naval warfare. But this new form of defense has developed with it a corresponding improvement in the form and force of attack; and thus the proper naval armament of the present day, consisting of ordnance of a caliber, reach, and power heretofore regarded as impossible, has become as novel and experimental as the new naval structures and defenses which it is intended to assail. These successive changes, introducing into naval war vessels powerful machinery to insure speed, armature for its protection, and heavy ordnance for assault, have led to a necessary constant increase in the size of our ships, until the attainment of sufficient dimensions for a first-rate man-of-war steamer, properly armored, and with suitable armament and room for supplies, requires proportions which at first view seem enormous. Yet without such greatly augmented size, the essentials of invulnerability, speed, heavy armament, and space for the necessary supplies for cruising operations, cannot all be secured.

In the responsible task of applying to naval vessels and naval armament the principles which modern invention and improvement have developed, the Department has been compelled to pursue a path hitherto, to a great extent, unexplored. The Monitor class of armored ships, with revolving turrets and few guns of heavy caliber, has proved itself to be well adapted for harbor defense and coast service, and in some emergencies

these vessels, from their great powers of endurance, have shown themselves to be efficient and serviceable in offensive operations. This form and description of vessel, which originated in the inventive genius of Captain John Ericsson, will perform not only all that should be expected of them to make our harbors secure, but, when of enlarged capacity, may supersede ships of higher pretensions. To maintain our rightful maritime position, and for predominance upon the ocean, vessels of greater size than any turreted vessel yet completed may be essential. Not only must they carry guns of a heavier caliber than have heretofore been used at sea, but, in order to make long cruises and to cope successfully with any force, these vessels must have all possible strength, endurance, and speed. Their structure must, therefore, afford space enough for full sailing power, and for the most powerful steam machinery, and the large supplies of fuel needed to keep it at work. Being, unlike the other great maritime nations, without distant colonies, where coal depots can be established on the shore of almost every sea, we must conform to the necessities of our condition, and build ships with capacity enough to take on board fuel sufficient for a long cruise. The space for other supplies, for munitions of war, and for the accommodation of officers and crews, should also be ample, and, in addition to this, each of these vessels must, in order to accomplish its work, present in its construction, armor, armament, and propulsion, all the power that the resources of modern invention and mechanical science and art can furnish for attack, resistance, and pursuit. A vessel of this description must, of course, cost a large price. But then a wise statesmanship will not fail to perceive that the possession of even a very few such unconquerable ships must, while vastly augmenting the force and renown of our Navy, afford us, at the same time, an inestimable guarantee of peace with foreign nations; nor, in counting the cost of such floating structures, can we forget that, large as that cost may be, it yet sinks into insignificance in contrast with the expenditures and sacrifices of a single year or even a month of foreign war.

In order that we may have at our command a navy which shall fulfill these unexampled and exacting conditions of efficiency, a commensurate public establishment for its construction and preparation is indispensable. A navy-yard on a large scale, and, in many respects, of a new plan, amply furnished with all the proper facilities and aids for its operations, where machinery for steamers can be manufactured, iron vessels constructed, iron armature made and tested, and repairs of every description executed, is an absolute necessity. In view of these facts, I had the honor, on successive occasions, to urge this matter upon the attention of the last Congress; and the omission of that body to take even the preliminary measures towards the procurement and formation of such an establishment is a misfortune which the country is now made to feel.

The nature of the service to which our naval vessels have been subjected by long and continuous blockade, their exposure during all weathers and seasons, the necessity of keeping them under constant steam or their fires banked ready for any emergency, have put them to severe tests. Of course all vessels must at times be withdrawn for repair and refitment, and steamers subject to such hard usage must often be seriously damaged. Weeks and sometimes months have been required for the renovation or restoration of their engines and machinery. Such delay has been still further protracted by the inability of our public yards and shops to execute the work, and the Department, depending in a great degree on private industry, has been in a constant struggle to dispatch the steamers sent in for repairs. The limited facilities for manufacturing and repairing steam machinery at the public navy-yards render them totally inadequate to meet a moiety of the demands made upon them. Even with the aid of private establishments, no inconsiderable portion of our naval force is waiting, unemployed, and detained from active service, to the injury of the country. As an instance of the delay attending the repair of our ships, and the insufficiency of our public works to meet our wants, it may be mentioned that the

steam frigate Niagara, ordered to Boston for repair and refitment, was detained fourteen months for its completion. I again, therefore, most earnestly invoke the attention of Congress to the manifest and inauspicious fact that our Government has made no sufficient provision in its public establishments for the existing requirements of naval warfare. So long as our ships-of-war were to be built of wood and propelled by sails, our facilities for their construction were ample and complete. At former periods the Government, in view of its then present and prospective wants for naval purposes, incurred large expense in establishing dock-yards and otherwise providing for the service, but new defenses and armament, vessels of iron, new motive power, and different material in their structure, require new dock-yards and workshops; the introduction of steam, the submerged propeller, the iron vessel, the armored ship, call for a different description of artisans, as well as different materials and workmanship. Our country is better prepared for this change than almost any other maritime nation, for we have but few sailing vessels of the large class, and these few to which steam cannot be applied may be used to advantage for other than fighting purposes; one of them, the Vermont, has been fitted and used as a storeship, and the New Hampshire, formerly the Alabama, a ship of the line, is being prepared for a similar purpose. They are each available and useful for this object, are adapted to it in every respect, and can be made capable of defense against attack. But for cruising and the objects held in view in their construction, these magnificent specimens of the old naval architecture and of the skill of our mechanics, although in their day they elevated the naval dignity and attested the power of the Republic, have now become comparatively useless.

The strength and durability of wooden vessels are in some respects inferior to those made of iron, and consequently they are less capable of sustaining the heaviest armament, and when they are plated with iron the disparity is increased. Consequently large ships-of-war, by which maritime supremacy is to be achieved and maintained, will, in all probability, be ultimately constructed chiefly of iron. The comparative advantages and disadvantages of iron and wood as the material to be used in the construction of vessels are obvious and practical. Among the considerations in favor of iron-clad vessels with hulls of wood, are the rapidity with which they can be built, the abundance of material on our whole coast, and the facility with which workmen can be procured. Such vessels, moreover, can be coppered, and thereby retain their speed for a longer period. They will be less affected by a solid shot below the armature or plating, and the fracture made by the shot can be more easily mended. The disadvantages of wooden vessels are, want of strength, as compared with those of iron structure, and the more rapid decay of the material, particularly when covered with iron plating; the action of the immersed iron armor on the copper sheathing near it, causing the copper to become foul and the immersed armor plates to waste; the difficulty of keeping the vessels tight under the armor plates, and the probably greater damage to which they are exposed from shells. On the other hand, the greater strength of iron permits the construction of ships of greater size and finer lines; and having greater internal capacity, they can be at any time inspected in all their parts, are safe from fire, and are better protected from great leaks, as they can have water-tight compartments; their repairs can generally be more easily made, and, from their great durability, they are probably in the end not more costly. An iron vessel, moreover, can be taken from the water and placed on land for preservation, which cannot be done with wooden vessels. The disadvantages of iron vessels are, the serious local weakness of the thin plates composing the bottom of an iron ship; the danger that would result from getting on rocks or submerged obstructions; their liability to rapidly become foul in salt water, whereby their speed becomes greatly impaired, thus requiring to be frequently docked for cleaning; the great danger from a shot striking below the armor plating as they roll; the injury caused by the splinters of iron when the plates are

38TH CONG....1ST SESS.

Report of the Secretary of the Navy.

SENATE & HO. OF REPS.

broken or smashed by shot; the corrosion inside from bilge-water; the difficulty in making temporary repairs of shot holes; and the limited number of artisans yet to be procured having skill in this description of employment. It should also be borne in mind that, while we have several navy-yards for building wooden vessels, the Government possesses not a single yard and establishment for constructing those of iron, nor even for making plates and shafting.

While the principal attention of the Department has, in this crisis of our affairs, been necessarily given to present and more pressing necessities, it has, nevertheless, kept in view the important end of establishing our naval power on a permanent basis. Proposals were issued for an iron-clad ship of the largest class, (under the authority contained in the appropriation bills,) but the cost, as shown by the propositions received for a ship of the necessary magnitude, was so great that it was deemed advisable to enter into no contract involving so large an expenditure, except by the express sanction of Congress.

In order, however, that justice should, in some degree, be done to the naval branch of the public service, and that it might be able to sustain its rightful position upon the ocean in the event of a foreign war, the parties competing for the large steamers were invited to make proposals for one of about half the proposed tonnage. One offer made under this invitation, at the most reasonable rate that could be obtained, and which it was deemed the interest of the Government not to exceed, was, with some modifications, accepted.

There are no parties in this country fully prepared to build iron vessels of the magnitude and description proposed, and the present high prices of material and labor unavoidably enhance the cost. The Government itself is unprepared to execute any such work, having no suitable yard and establishment, and is consequently wholly in the hands of private parties, to demand what they think proper, and prescribe their own terms. On former and repeated occasions, and elsewhere in this report, the Department has fully expressed its opinion of this policy and the necessity why the Government should be prepared to build iron vessels, and the necessary machinery, of the largest class.

Besides the turreted vessels for coast defense and large armored ships for naval conflict, we need and should have steamers of high speed constructed of wood, with which to sweep the ocean, and chase and hunt down the vessels of an enemy. Fortunately, we are able to supply ourselves with vessels of this description, and a competent and healthful competition exists for their construction. A large portion of the establishments adapted to the construction of nautical engines have been enlisted by the Department in the manufacture of steam machinery for vessels building at the navy-yards and at private establishments.

NAVY-YARD AND ESTABLISHMENT FOR IRON VESSELS AND MACHINERY.

In consequence of the omission of Congress to take any action on the subject of enlarging the present circumscribed navy-yard at Philadelphia, or to signify its acceptance or rejection of League Island, tendered to the Government for naval purposes by the city of Philadelphia, or in conformity with my suggestions to initiate means for establishing a suitable yard, workshops, and docks for an iron navy and the machinery and armature which modern improvements render necessary, no progress has been possible during the year on that important subject. The Government is destitute of a suitable establishment for the construction or repair of iron vessels, their machinery or armature, nor has it any place for preserving them when laid up in ordinary. Some proper and suitable accommodations for vessels of this description are necessary where there is fresh water, and, as stated in my communications to the last Congress, it has appeared to me that no place combines so many advantages as are to be found on the Delaware, in the vicinity of Philadelphia. A commission of naval and scientific gentlemen was appointed under the authority of Congress to examine League Island, and also to "make a survey and examination of the harbors of New

London, Connecticut, and its surroundings, with reference to its capacity and fitness for a naval depot and navy-yard, and whether the public interest will not be promoted by establishing a naval depot and navy-yard in or near said harbor of New London instead of League Island, and that they also make the same investigation in regard to the waters of Narragansett Bay." The majority of this board recommended the establishment of an additional navy-yard at New London. On that subject it is unnecessary that the Department should express an opinion. It is a question for Congress, which instituted the inquiry, to decide whether an additional navy-yard on the old plan is wanted at New London, and should it be in the affirmative, it will be the duty of this Department to carry that decision when made into effect.

But aside from and independent of the question of an additional navy-yard, is that of more extended accommodations and more ample facilities on the Delaware than we now have in the narrow and wholly insufficient limits of the navy-yard at Philadelphia. Those limits, as stated by the chief of the Bureau of Yards and Docks in his able and practical report, can be enlarged to about double the present area by purchase at an expense of about \$300,000; but with that addition the yard would still be wholly inadequate to the public necessities, and too small for such an extensive establishment as the wants of the Government require. It would undoubtedly be the part of wisdom and true economy to procure ground with ample water front for such an establishment as the increasing public wants demand, in the vicinity of Philadelphia, and so soon as it can be made available, to dispose of the present grounds and apply the proceeds towards improving the new location.

The chief of the Bureau of Yards and Docks, whose experience and judgment entitle his opinions to consideration, suggests another locality than League Island, at Marcus Hook, a few miles below Philadelphia, on the right bank of the Delaware, which he supposes may, perhaps, be procured at a reasonable rate. From the examination which I have been enabled to give this subject, I am not prepared to say that the advantages are, to my mind, such as to counterbalance those attainable at League Island, which has been tendered to the Government for its acceptance, nor is there assurance that land near Marcus Hook can be procured at any price. Either place, however, might, I apprehend, be satisfactory, and, as I have already stated to Congress, there is no doubt that for the purposes of a navy-yard, and establishment for an iron navy and its wants, the banks of the Delaware present advantages that are not to be found elsewhere in the United States. Prompt and judicious action by the legislative branch of the Government upon this subject is, in my judgment, urgently needed, and will, when it shall have been had, be carried into effect by this Department with all possible activity.

NAVAL DEPOT ON THE MISSISSIPPI.

I deem it proper to again allude to the expediency of establishing at no distant day a naval depot, yard, and foundry at some accessible and suitable point on one of the rivers in the valley of the Mississippi. The selection of an appropriate location for this purpose, where vessels can be constructed and repaired, is a question of national importance. The United States have at this time one hundred naval vessels on the Mississippi and its tributaries. Iron and coal, as well as wood, with all the materials for ships-of-war, are abundant, and may be found contiguous to eligible situations.

Steamers of iron will endure for years in fresh water, and the naval vessels which the Government may place on those rivers will be preserved. Should the projected water communication connecting the northern lakes with the great interior rivers by an enlarged ship canal be carried into effect, the Mississippi squadron could be made available for the defense of our northern frontier when circumstances required it.

EDUCATION OF ENGINEERS, ETC.

To attain and maintain our true position as a naval Power, the best talent in the country must

be found among the officers who are to conduct the varied operations of the service, and adequate provision to secure such ability and accomplishment should command the attention of those who have charge of our naval affairs. Our Naval School is producing officers of skill, well educated for their profession; yet if our ships and steam machinery are not at the highest attainable point of perfection, and the engineers are not skillful, the education and accomplishment of our officers will be unavailing to give us the naval superiority we should obtain.

By the introduction of steam into naval operations a new corps is ingrafted into the naval service of men combining science with mechanical skill and genius, whose professional attainments and practical power demand the fostering care of the Government. Our naval engineers, like those of the Army, should be thoroughly educated to their profession, for on them the motive power of our vessels and the efficiency of our steam machinery must hereafter depend. Steam engineering should indeed be one of the important studies of all naval officers, and should be taught at the Naval Academy. It would be well to encourage such young men as exhibit aptness for mechanical studies to cultivate their peculiar talents, whether as naval constructors or engineers, in that department in which they can render the highest public service. Other Governments pursue this course, and we shall find our advantage in giving similar encouragement to the young men of our own country.

It is a question, indeed, as sailors are subordinate to steam, whether every officer of the line ought not to be educated to and capable of performing the duties which devolve upon engineers. The means of acquiring practical as well as theoretical knowledge of the subject should be furnished by the Government, and it would be well if every midshipman were to receive instruction in this now important branch of his profession. If the public is not yet prepared to combine what at present are two distinct pursuits, and make every naval officer an engineer as well as a sailor, I would recommend the formation of a class at the Naval Academy of youths, giving a preference to those who may have already evinced mechanical skill and aptitude for engineering, who might be educated with special reference to their profession as engineers. After two years' study they could be received into the corps by conferring on them the appointment of third assistant engineers and assigning them to duty. The naval service and the country have suffered injury that can scarcely be estimated from the want of thorough, capable, and well-educated engineers. Many of our most efficient vessels have been disabled and crippled in the midst of their cruise, and sometimes even at the very commencement of their service, in consequence of the incapacity of the engineers, whereby the country has been deprived not only of the use of the vessel for weeks and sometimes for months, but the officers and crew have been constrained to inactivity, instead of being employed against the enemy. Some measures are necessary to correct and prevent these disasters, so injurious to the country, and I know of none so thorough and complete as that of publicly educating and training engineers to the service. The most important branch of study at the Naval Academy is, very appropriately, seamanship. A general knowledge of the application and use of steam and of practical mechanics should follow as almost equally essential. Line officers of the Navy, of whatever rank, should, moreover, have the privilege of attending lectures and pursuing the study of steam, mechanics, and, indeed, every branch that may be taught at the Naval Academy, and it is recommended that arrangements be made for carrying into effect these suggestions.

Having recommended the enlistment and training of boys for the Navy, I deem it scarcely less important to suggest the policy of giving employment to our seamen in time of peace. Our commercial marine and fisheries have been and are valuable nurseries for sailors, on which the Government must rely in time of war for such additions as may be necessary to its force of thorough-bred naval seamen. But to build up and sustain a navy that shall be capable of asserting and maintaining the rights and honor of the

38TH CONG., 1ST SESS.

Report of the Secretary of the Navy.

SENATE & HO. OF REPS.

country, the Government, in peace as well as in war, must foster that hardy and adventurous class who, in every conflict, at home and abroad, have always gallantly upheld the flag. A formidable navy at the commencement of our present difficulties would have caused foreign nations to abstain from aiding the rebels and brought the war to a speedy conclusion. Why might not the Government, in time of peace, employ its own fast steamers for ocean mail service, and, perhaps, other important transportation, such as carrying specie and packages of small bulk but high value? A slight armament of few guns on national vessels would be sufficient to exercise the men and to give character and security to the ship. Fronting as our country does on the two great oceans, this system would insure to us, first, vessels built and ready, at all times, for fighting purposes; second, an organization of able and efficient officers, with well trained and educated seamen, actively employed and always ready for naval service; third, rapid mail communication with different parts of the world; the whole furnishing a nucleus for the Navy, where both its officers and better class of seamen would be constantly improving and fitting themselves for the highest public usefulness. No better school or training could be instituted for modern naval warfare, when seamanship is so much in advance of that which prevailed when only sailing vessels were known to the Navy. Such a system would, besides being a nursery for the Navy, contribute to the expansion of our commerce, which it would stimulate and encourage, and with which it would not come in competition. Under it the naval and merchant service would fraternize and be educated together when the country is at peace, and in time of war would combine the power of both for national purposes. Such employment of our national vessels would conduce to the interests of peace. These suggestions are intended to invite the attention of Congress to the important subject of establishing some system for the permanent benefit of the Navy after the present hostilities have ceased.

VOLUNTEER OFFICERS—PROMOTIONS, ETC.

The important service rendered by volunteer officers, and the courage and skill displayed by them, as also their adaptation to the profession, commends them to the consideration of Congress. While it cannot be expected, and would not be desirable, to incorporate permanently into the Navy all who hold temporary appointments, there are among them some whose abilities and worth should not be lost to the service. Those who have served long and faithfully, and by their conduct, zeal, and ability merit it, should be promoted to volunteer lieutenant commanders, and a limited number of volunteer officers might be brought into the line.

It would doubtless conduce to the benefit of the service, were officers of the line to undergo an examination for promotion to successive grades after leaving the Academy, until they attain the rank of commander. Such a regulation would avoid the necessity for retiring boards, and be an incentive to excellence, and a just reward to those who strive to acquire professional knowledge after graduating from the Academy and entering on their career of active duty. Such a rule is established with the engineer corps and medical officers, and is productive of beneficial results. A like rule should be established with assistant paymasters, who ought not to be promoted until after the ordeal of an examination.

Suitable means should be taken to receive, prepare, and train boys for the naval service. For this purpose one of the old ships of the line, now useless for cruising, might be stationed at some suitable place, perhaps at the Naval Academy, where boys between the ages of twelve and eighteen might be enlisted and educated as seamen. The sons of sailors and others in the public naval and military service, should be entitled to consideration for admittance to this school-ship; and it would be well to select annually from those most proficient, at least five to be transferred to the Naval Academy as midshipmen. The same ship might, if judged expedient, also answer for such a gunnery-practice vessel as has been frequently recommended by the Bureau of Ordnance.

PIRATICAL ROVERS.

The recognition of the rebels as belligerents by the principal maritime Powers at the commencement of hostilities, gave strength and character to the insurrection, which it could never have had but for that recognition. A declaration of neutrality between the belligerents went abroad from Governments with which we were in amity, carrying with it the semblance of fairness, but which, in its operation, is most unjust towards this Government and country. The United States had an extensive commerce which penetrated every sea, while the rebels were without commerce or ships. The United States had a navy and squadrons on almost every ocean; the rebels had not a single armed vessel at home or abroad. With a full knowledge of these facts, the principal maritime Powers of Europe hastened to recognize the rebels as belligerents, and to declare that both the belligerents should be treated alike in their ports; that the public armed vessels of neither should remain more than twenty-four hours in their harbors, nor receive supplies or assistance, except such as might be absolutely necessary to carry them home, and for three months thereafter they should not again receive supplies in any of the ports of those Governments. While this proclaimed neutrality did not affect a single ship of the rebels, for they had not one to be affected, it excluded the naval vessels of the United States from the ports of the principal maritime Powers throughout the world, except under the restrictions enumerated.

When the *Sumter*, a vessel stolen from our merchants, made her escape and went abroad armed, but without a recognized nationality, to seize and destroy our merchantmen upon the high seas, she found, unlike the Algerine corsairs, refuge and protection within the maritime jurisdiction of the great European Powers with whom the United States were in friendship; and finally, after being followed by our cruisers into the harbor of Gibraltar, she was permitted by the authorities to remain not only twenty-four hours, but more than twelve months, and was eventually transferred to an English purchaser, went to an English port, was refitted, and left the English shores with a contraband cargo, and has since run the blockade, carrying supplies to the rebels.

The *Alabama*, the *Florida*, the *Georgia*, are armed cruisers built in England, have an English armament on board, and are manned by crews who are almost exclusively European. Sailing sometimes under the English and sometimes under the rebel flag, these rovers, without a port of their own which they can enter, or to which they can send a single prize for adjudication, have roamed the seas, capturing and destroying the commercial ships of a nation at peace with Great Britain and France; but yet, when these corsairs have needed repairs or supplies they have experienced no difficulty in procuring them, because it had been deemed expedient to recognize the rebels as belligerents. Not one of the many vessels captured by these rovers has ever been judicially condemned as a legal capture. Wanton destruction has been the object and purpose of the captors, who have burnt and destroyed the property of their merchant victims.

This theory of recognizing rebels as belligerents so soon as they lift their arms against the Government, and thus declaring them entitled to national privileges on the high seas and in the harbors of the world, although without a port or navy of their own, is the inauguration of a new policy in the history of nations. For a long succession of years it has been an important point in the progress of civilization, and particularly among the maritime Powers, that the police of the seas should be guarded and maintained by the subjection of captures to the adjudication of tribunals administering the law of nations, which receive from the hands of the captor his prize into the custody of that law to be disposed of by its rules; but the course pursued in fostering and giving encouragement to the rebel robbers who, without a recognized national flag or a port at their command, or any means of bringing their captures to judgment, are committing their predatory acts, is a restoration of that Algerine and Tripolitan system which long afflicted the civilized world, but which, under the lead of our Govern-

ment, was exterminated in the early part of the present century.

Thus far these rovers have escaped capture. While in the West Indies they were protected whenever they were enabled to flee into a neutral port, or get within a marine league of the shore of a neutral Government—a privilege that was never in any quarter extended to the Mediterranean corsairs. Unfortunately, most of the colonial authorities, and no inconsiderable portion of the population of the European dependencies, influenced by the professed neutrality which elevated insurgents, and sought to degrade the national authority to an equality with them, were in sympathy with the predatory rovers, and, while lending them aid and often furnishing them with information, interposed obstacles and manifested unfriendly feelings to the lawful operations of the naval forces of the Union.

Compelled, as we have been, to withdraw to a great extent our foreign squadrons, in order to establish and enforce the blockade, the commerce of the United States, spread abroad upon every sea, has been annoyed, and often plundered and destroyed, by these unlicensed rovers. With none of the nobler attributes of gallant and daring qualities which characterize naval warriors, and particularly the American sailor, these robbers of the sea shun a naval antagonist. Their prowess exhibits itself in plundering peaceful commerce, and their victims have been unarmed merchantmen. Traversing the seas as they do, without a country of their own to which they can resort, it has been difficult to trace or meet them; and thus far they have, with the shelter and assistance of Governments which recognize them as belligerents and equals, managed to elude our cruisers.

Their early operations were in the West Indies, where we have an extended commerce, and where they had coadjutors among those foreign adventurers who were engaged in illicit traffic, and sympathizers in a large portion of the colonial authorities. To protect our interests in that quarter, and especially to guard the treasure-ships in their transit to and from Aspinwall, a flying squadron was established in the autumn of 1862, and placed under the command of Acting Rear Admiral Wilkes. That officer, by his energy and decision, contributed to break up one of the several lines of illicit traders organized to carry supplies to the rebels in ships ostensibly bound to Matamoras, but with cargoes having a contingent destination to Texas. While, however, he displayed efficiency in seizing that class of blockade-runners, and was successful in breaking up one of the many cunningly contrived arrangements, he failed to capture the piratical rovers.

The Department, anticipating that the *Alabama* and her associates would find it necessary to abandon the neighborhood of the Antilles, and satisfied of the direction they would then take, ordered the *Vanderbilt*, a fast steamer, on independent cruising duty, first in the West Indies, and then onward to the south. The orders to Commander Baldwin, of the *Vanderbilt*, under date of January 27, 1863, were: "When you are perfectly satisfied that the *Alabama* has left the Gulf or the West Indies and gone to some other locality, you will proceed along the coast of Brazil to Fernando Noronho and Rio de Janeiro, making inquiries at such places as you may think advisable. From Rio continue your course to the Cape of Good Hope," &c., &c.

In derogation of these special and explicit orders, Acting Rear Admiral Wilkes, on falling in with the *Vanderbilt*, transferred his flag to that vessel, and, attaching her to his squadron, detained her in his possession so long as to defeat the object and purpose of the Department. He did not release her until the 13th of June, when Commander Baldwin proceeded to carry out his instructions, but he was too late. He arrived at Fernando Noronho on the 4th of July, at Pernambuco on the 6th, and at Rio de Janeiro on the 14th; thence he proceeded, on the 2d of August, to St. Helena, instead of going direct to the Cape of Good Hope. The unfortunate detention of the *Vanderbilt* wholly defeated the plans of the Department for the capture of the *Alabama*, *Florida*, and *Georgia*. They, as the Department anticipated, arrived in those latitudes and visited those

38TH CONG....1ST SESS.

Report of the Secretary of the Navy.

SENATE & HO. OF REPS.

ports in May; but the Vanderbilt, instead of being there to receive them, as the Department intended, was improperly retained in the West Indies until after that period.

In addition to the few vessels stationed abroad to guard our national interests, others have from time to time been dispatched in pursuit of the rovers, all of which were built in and have gone abroad from foreign ports to prey upon our commerce. The details of all the measures which have been adopted by the Department in this view it is not necessary here to disclose. But with most of our naval vessels engaged in enforcing the blockade, and without a clue to guide our independent cruisers on the trackless ocean, they have thus far been unable to encounter these semi-piratical vessels, which always seek to evade a naval antagonist. Were the probabilities greater than they are, however, of encountering them, and were our public naval vessels permitted to enter the ports of the maritime Powers for fuel and other supplies when in pursuit, it would not promote the interests of commerce nor the welfare of the country to relax the blockade for that object. We have, however, no excess of seamen, nor even a sufficient supply for the immediate and imperative duties that are pressing upon us, and although it would be inexpedient to make public all the means that are taken and causes that control the action of the Government, it may not be improper to state that one of our largest and fastest steamers, destined for foreign service, has been detained for months in consequence of an inadequate supply of seamen to man her. Other vessels are also short of their complement.

SEAMEN.

The operation of the draft has been, in some respects, detrimental to the naval service. No exemption of sailors or mariners having been provided for in the acts of the last Congress, these men, who may be deemed and are experts, fostered and cherished by all Governments, and of whom no sufficient supply can be obtained, are liable to be withdrawn from the element to which they have been educated, and where they properly belong, and compelled to serve as soldiers. In this respect not only a hardship is inflicted on the men, but the Navy and the country are injured. It has been the wise policy of the Government at all times to encourage and cherish its supply of seamen. By express provision of the act of May, 1792, "all mariners actually employed in the sea service of any citizen or merchant within the United States" were exempted from militia duty. Bounties have been paid to the fishermen, and by former laws, not only men-of-war-men, but all mariners, have been exempt from militia service, it being considered that they performed an equivalent duty, or were liable to be absent when a draft took place. Under the recent enactment petty officers, acting engineers, and others indispensable to a ship's complement and efficiency, have, as well as seamen, been subject to the draft while on shipboard and in naval service. Some of them on distant stations have been enrolled, drafted, and put to great inconvenience in their efforts to obtain relief, not unfrequently subjecting their commander and the seamen themselves to embarrassment. It certainly could not have been intended by Congress that persons in actual service afloat should be withdrawn from the Navy, where they were faithfully discharging indispensable duties, and then be compelled, under the penalties of the law, to go into the Army.

In enforcing the draft on any community which has furnished a large number of sailors, proper deductions ought doubtless to be made from the quota required for the Army. Of the thirty-four thousand seamen in the naval service a large proportion are from the maritime towns on the seaboard. A committee of the township of Gloucester, in Massachusetts, in addressing this Department on the subject, state that their township alone has furnished to the Army over thirteen hundred soldiers, an excess of more than one hundred beyond the number required; but in addition to these they have given to the Navy about six hundred sailors; yet under the new call for volunteers no allowance is made for seamen who have

enlisted. As a community they are entitled to relief for the men that they have supplied to the Navy, and so with other places similarly situated. Unless these facts are rightly considered and acted upon, the existing law will tend to the prejudice of the Navy, for every community will encourage its men to go into the Army at the expense of the Navy, because there is no relief or credit or mitigation of the draft in consequence of enlistments in the naval service. In another respect the laws are in their effects made to operate to the prejudice of the Navy. The high bounties for enlistments into the Army induce many sailors to enlist as soldiers, although their services would be vastly more useful to the country on the element to which they have been trained and accustomed. The result is, that there are many seamen in the Army, serving as soldiers, who have been drafted, or drawn thither by bounties or other causes, who desire to be transferred to the Navy, and have frequently made application to that effect, but it is understood that the law does not authorize such transfer. As it is difficult to procure educated, trained, and able seamen in such numbers as are wanted, and skillful and experienced sailors are worth more to the country in the Navy than they can be in the Army, it would be productive of great benefit if the law authorized such transfer to be made. No well-directed efforts should be spared to increase our naval strength, for it is mainly on the ocean that our rightful position as a nation is to be secured and maintained. The sailor is always and everywhere true to his flag. When, in the early days of the rebellion, the recreant officers in numbers deserted the Government to which they owed and had sworn allegiance, they could not shake the loyalty and fidelity of the crews. These remained faithful to the flag under whose folds they had carried into every sea and to every clime the honor and power of the Republic. It has been the policy of every commercial country to extend encouragement and give strength to the navy which protects its commerce. Such should be our clear and unquestionable policy. Under the extraordinary expansion of our Navy and the pressing demand for seamen, it is a public duty not only to permit those seamen who are in the Army to be transferred, but to encourage such transfers, and at the same time, in so far as may be possible, to make the inducements to enter the naval service at all times fully equal to those offered to soldiers on their enlistment. No nation, and least of all the United States, can wisely strengthen its Army by weakening its naval power.

Unfortunately for the country, the disunion element which for some years gave direction to public affairs, so shaped the measures of Government as to keep down and cripple our Navy. Aware that it was a branch of the service which could have no sympathy in a denationalizing or disunion scheme, or be made subject to rebel control; knowing, moreover, that there were no sailors in the disaffected region, these men, in anticipation of their insurrectionary movements, and in their whole policy and action, were hostile to the Navy. But the changed condition of affairs, the loyalty of our sailors, the great service which the Navy has everywhere rendered in the cause of the Union, and its importance for our peace and security abroad and at home, demand it should have all due encouragement.

The number of seamen in service on the 1st of July last, including the Mississippi squadron, was about 34,000. The number of enlistments from January 1 to October 1 was 19,000, mostly landsmen. From causes, to some of which allusion has already been made, the difficulty of procuring a sufficient number of seamen for the increase of the service has been great, and at times vessels have been detained and unable to proceed to sea for the want of crews. The lack of sufficient seamen arises from no diminution in the monthly number of enlistments, but from the increased wants of the service. During the year 1862 the average number of enlistments was 1,529 per month. During the present year the average has been over 2,000 per month. Unfortunately, the policy which it has been deemed necessary to pursue is such as in its effect to weaken the Navy by offering extraordinary bounties to soldiers, by

subjecting mariners to the Army draft, without permitting them to enter the Navy if they desired to do so, and by omitting to make any provision to relieve from its operation those communities which furnish the seamen to man our ships. The large bounties offered by the General and State Governments, and often also by the local municipal authorities, as inducements to enter the land service, have had the effect of enticing into that service many professional seamen, who, but for those extraordinary inducements, would have enlisted in the Navy. Towns on the sea-coast, where the population is to a great extent of a maritime character, as I have specified in a single instance, have been obliged to furnish their quota for Army service, thus largely diminishing the number from whom naval enlistments would naturally be expected.

The proclamation of September last must, from these causes and the operation of our laws, still further draw upon the limited number whose proper field is upon the ocean, and who should by every dictate of policy be encouraged by the Government to enter the Navy, instead of being enticed from it by pecuniary bounties or forcibly withdrawn by draft. Besides the exhausting governmental influence adverted to, we are compelled to meet the high prices and active competition of commercial enterprise.

The present and prospective difficulty of procuring seamen in numbers sufficient to man our ships is such as to call for the action of Congress. Our legislation should not be in its effects detrimental to that branch of the public service which it is the policy of every wise Government to promote. Were as large a bounty to be paid to those who enlist in the Navy as to those who enter the Army; were the quota of towns and communities under any call for the increase of the national forces, to be credited with the men furnished to the Navy; and were seamen who may be drafted permitted the choice of entering either the land or naval service, the Navy would be relieved of serious embarrassment. There is no draft, and there can be none, to reinforce the Navy as there may be to supply the Army. While every able and sound man of proper age can be made a soldier and put into immediate service, there are comparatively few of our population who can be employed as sailors. The latter may be considered experts, and instead of bounties, allurements, or drafts to withdraw seamen from the element to which they belong, the reverse should be the fact. Our mariners have given marked and distinctive superiority to the cause of the Union in this contest. The rebels have some naval officers of reputation and ability, but not sailors. Yet that branch of the service which in this and in every war must give character and nationality to the country, has been, is, and will be subjected to embarrassments and deprived of a portion of its legitimate effective force by the operation of existing laws. The whole subject being of great importance in every respect, is commended to the early and considerate action of Congress.

NAVAL ACADEMY.

The Naval Academy, which at the commencement of the insurrection was removed from Annapolis, is still continued at Newport, Congress having taken no measures relative to its permanent location. The total number of midshipmen on the 12th of November was 463. Of these, 208, standing highest in academic rank, are quartered on shore in buildings rented for the purpose. The residue are on board the school-ships *Santee* and *Constitution*, the junior class being on the latter ship.

The *Macedonian*, which has her full battery on board, is moored near the school-ships. All the midshipmen are stationed at quarters on board her, and exercise at stated times at divisions and general quarters, in the most thorough and careful manner.

In consequence of the reduction of the number of the officers at the period when the Navy was expanding, it became important that the full complement of midshipmen should be appointed, and permits were therefore issued one year ago to supply deficiencies caused by the rebellion. A similar course has been adopted the present year, in

38TH CONG., 1ST SESS.

Report of the Secretary of the Navy.

SENATE & HO. OF REPS.

order that the Government shall not be deprived of its legal quota of properly educated naval officers, by reason of the insurrection.

For a period the pressure for trained officers was so great that volunteer appointments were conferred on those who left the Academy and the regular service, but the example and influence were thought to be unfavorable, and the practice was therefore discontinued. No appointments of this description have knowingly been made during the current year.

The annual board of visitors for the Naval Academy for 1863 convened at Newport, Rhode Island, on the 18th of May, and were engaged until the 1st of June in witnessing the examination of the several classes of midshipmen and in inspecting the police and management of the institution. In consideration of the importance of the Academy to the public service, and the interest naturally felt in its management, it was thought proper to associate some gentlemen in civil life from different parts of the country with the naval officers upon the board of visitors, and the board was accordingly composed of Rear Admiral L. M. Goldsborough, Hon. Edward Everett and Charles Eames, Sidney Brooks, Esq., Commodore H. K. Hoff, C. H. Cathcart, and Jacob Bailer, Esqs., and Commodore R. B. Hitchcock. In their full and carefully considered report, the members of the board unanimously expressed a high and even unanticipated degree of satisfaction with the accommodations of the students, both on shipboard and on shore, with the organization of the commissariat and supply departments, with the sanitary regulations of the establishment, and its discipline and government, and with the various professional exercises of the midshipmen afloat and ashore. From what they saw of the field exercises, they were convinced that ample instruction is given and adequate proficiency acquired at the institution to enable the young officers to train and command crews of seamen for efficient co-operation with a military force of infantry or artillery on land, and in the practical departments of professional education the instruction given to the students, and the skill exhibited by them, merited their highest commendation.

They regard the whole system of superintendence, police, and discipline under the present management of the institution as one of its most admirable features, and evidence was presented to them showing the abundant willingness of the authorities of the city of Newport to cooperate with the government of the Academy in the endeavor to remove the temptations which are apt to beset the footsteps of youth. In their personal intercourse with the students, the board say that they were much impressed by their habitually gentlemanlike manners and well-bred style of demeanor.

In the removal of the Academy temporarily to the quarters at Newport, it is the opinion of the board there has been no perceptible diminution of its efficiency or the good order of its discipline. The quartering of the students on shipboard during at least the first year of their attendance is approved of, and is said to possess unquestionable advantages in the management of the institution. In the general plan and organization of the Academy, the board think it will compare favorably with the best naval schools in the world.

Several recommendations are made by the board, and among them, provision for thorough instruction, both theoretical and practical, in steam engineering. Upon an invitation from the municipal authorities of Newport, they visited Coaster's Harbor Island, which has been offered by that city to the Government as a permanent site for the Naval Academy. Without expressing an opinion as to the expediency of permanently removing the Academy from Annapolis, the board deemed it proper to say, that in the event of such removal, they considered the island in question admirably adapted for the purpose indicated.

Upon the occasion of the delivering of diplomas to the graduating class, the Hon. Edward Everett, at the request of the superintendent and officers of the Academy, and at the instance of his associates, addressed a public valedictory discourse to the assembled classes, which, in its comprehensive and statesmanlike appreciation of the position and influence of the institution, its

patriotic spirit, and characteristic eloquence, cannot but have a salutary influence, and at the request of the board it has been published.

ORDNANCE.

The present condition of our naval ordnance, as presented in the report of the chief *ad interim* of that bureau, will be read with interest. It exhibits a gratifying advance in that department of the service since the commencement of the rebellion, and furnishes evidence that in general efficiency we are in a condition to maintain a standing at least equal to that of any other Power. Aided by private enterprise, the necessities of the country, which were great, have been surmounted, and, dispensing with the old artillery to which we for a time were compelled to resort, our naval vessels have now an armament worthy of the service.

The suggestions embraced in the report of the Chief of Ordnance are commended to the consideration of Congress, and those which relate to the magazines and a gunnery ship are entitled to special regard.

PRIZES.

The number of vessels captured by the squadrons and reported to the Department to the 1st of November is 1,045, classified as follows: schooners, 547; steamers, 179; sloops, 131; brigs, 30; barques, 26; ships, 15; yachts and small boats, 117. This is exclusive of a large number destroyed on the Mississippi and other rivers and on the coast. A table giving their names, dates of capture, and other particulars, is appended to this report.

At the close of the war of 1812 there were 301 vessels, including armed gunboats and tenders, in the Navy, and the entire number of captures of armed and unarmed vessels made by them was 291. Five hundred and seventeen commissioned privateers were afloat during the war, and their captures numbered 1,428—making the total number of captures by public and private vessels 1,719.

The value of prizes sent to the courts for adjudication since the blockade was established is not less than \$13,000,000. The value of those already condemned, and of which notice has been received at the Department, is \$6,538,683 40; the expenses have been \$607,407 64, leaving for distribution \$5,897,970 36, as appears by the following table:

	No. of cases.	Gross amount of sales.	Costs and expenses.	Net amount for distribution.
Porton	13	\$964,322 15	\$25,188 44	\$839,133 71
New York	89	2,218,253 29	281,102 07	1,937,735 21
Philadelphia	57	1,830,434 76	149,806 06	1,670,512 97
Key West	71	1,423,523 30	133,291 55	1,304,033 51
Washington	44	72,001 62	11,966 12	60,999 08
Illinois	11	91,619 28	5,393 40	85,025 88
Total	285	\$6,538,683 40	\$607,407 64	\$5,897,970 36

* The sum of \$93,115 73 allowed to claimants by decree of court.

One half of the net proceeds arising from the sale of prizes is by law set apart as a fund for the payment of naval pensions. The pension-roll on the 6th of November last amounted to \$159,812 55, and the estimated increase during the remaining eight months of the fiscal year is \$32,570. The moiety of prize money dedicated as a pension fund, and now accumulating, should be made a permanent investment in registered

Government securities. Were such the case, it is believed that the annual interest would be sufficient to meet all liabilities for naval pensions. At least \$2,500,000 can now be invested without interfering with the prompt payment of pensions. I recommend that the fund now on hand be made permanent, and that hereafter, whenever the amount shall reach \$100,000, at least one half shall be invested in registered Government securities bearing six per cent. interest.

BOUNTIES FOR DESTRUCTION OF ENEMIES' VESSELS.

The fourth section of the "Act for the better government of the Navy," approved July 17, 1862, provides "that a bounty shall be paid by the United States for each person on board any ship or vessel of war belonging to an enemy at the commencement of an engagement, which shall be sunk or otherwise destroyed in such engagement by any ship or vessel belonging to the United States, or which it may be necessary to destroy in consequence of injuries sustained in action, of \$100, if the enemy's vessel was of inferior force, and of \$200 if of equal or superior force; to be divided among the officers and crew in the same manner as prize money."

Since the enactment of this law there have been repeated cases in which the right to the bounty has accrued to the officers and crews of vessels of the Navy, particularly on the western waters; but there being no appropriations to which the expenditure could properly be charged, the claims to the bounty have remained unsettled, and the just expectations of those entitled to the reward have been disappointed. The amount necessary to pay the claims which have accrued would probably not exceed \$250,000; and it is desirable that an early provision be made for the payment of this just debt. In the event of an appropriation for the purpose, a board will be appointed by the Department for the examination of the claims, or they may be ascertained in any other manner which Congress may be pleased to direct.

PRIZE LAW.

The interest of the naval service in the distribution of prize money, and the duties imposed by law upon this Department in that connection, have necessarily drawn its attention to the present state of our legislation upon the whole subject. It is not doubtful, in my judgment, that some modification of existing laws, and some additional legislation in relation to prize proceedings and the distribution of the proceeds of prizes, are necessary. The several statutes now in force upon the subject appear to have been, in some of their provisions, hastily drawn, and they certainly fail to embody and carry into effect, with due promptness and convenience, a consistent and well-defined public policy. It is my purpose, at an early day, to communicate to Congress, through its appropriate committee, the views which I entertain as to the defects of our present laws in relation to prizes, and to suggest such remedy in legislation as the interests of the public service seem to require.

FLEET ENGINEERS AND PAYMASTERS.

The large increase of our naval force, and the organization and size of squadrons, have made it necessary to detail certain officers to duty for which no legal provision has been made. By the act of 1828, the appointment of a surgeon of a fleet was authorized. At that time there was not a steam vessel in the Navy, whereas we have now five others. Under this change the necessity of a fleet engineer is, to say the least, quite as urgent as that of fleet surgeon. A fleet paymaster is also required for each of the squadrons, and will contribute to true economy, and the correct management of the financial and property accounts of the squadrons. As the express legal authorization of these officers, who are now detailed by regulation of the Department, will cause no increase of salary, I would invite the required legislation to sanction the appointment of a fleet engineer and fleet paymaster for the respective squadrons.

The appointments of acting assistant paymasters provide for an existing necessity, but it will be advisable to increase the corps of regular paymasters above the present limited number, either now or on the general reorganization which must take place at the close of hostilities.

38TH CONG... 1ST SESS.

Report of the Secretary of the Navy.

SENATE & HO. OF REPS.

MARINE CORPS.

Difficulty has been experienced in keeping up a full complement of marines in consequence of the high bounties paid for Army recruits. Many whose time has expired, though preferring to remain with their old corps, have been induced by extraordinary bounties to enter the Army. It has not been the policy of this Department to resort to the system of bounties for either the marine or naval service, but circumstances may render it necessary.

The colonel commandant recommends that the corps, which, when full, consists of three thousand men, should be increased to three thousand five hundred. This increase would not be an undue proportion to the naval increase; but a large portion of the vessels now in commission are of a description that do not require a marine guard. If, therefore, the corps were full, the present number would probably be sufficient for present requirements. On a few important occasions a battalion has been detailed for Army duty; but the want of equipments and other causes render their employment in a service to which they are not drilled, and to which they do not belong, a question of doubtful expediency. It is a question, indeed, whether it would not be better in every respect to attach the corps permanently to the Navy or the Army, and make it exclusively subject to the control of one or the other branches of service, instead of occupying an equivocal position as regards both.

The discipline of the corps is excellent, and among its officers are some who would do credit to any service. It is earnestly recommended by the colonel commandant that justice to the corps requires that its chief should hold corresponding rank with other officers who have like command. I have heretofore respectfully submitted this subject to the consideration of Congress.

COAST SURVEY.

It is due to the officers connected with the coast survey that the assistance which they have given to our squadrons should be acknowledged. The value of the information which they have furnished our blockading forces throughout the war cannot be overestimated. Not only on the coast, but on the great interior rivers, they have aided the service, and promoted its efficiency and its intelligent action. Rear Admiral Porter expresses his great obligation to a small coast survey party that accompanied the Mississippi squadron, for the maps and sketches which were used by him, and consulted by the Army officers in guiding their operations. They were constantly employed in delineating the face of the country, gaining topographical and hydrographical knowledge, compiling maps, and sketching, when the maps were found to be erroneous. The squadron would have been sometimes embarrassed without them. War cannot be successfully carried on without good maps, and the general or admiral who has the best charts will have an advantage which will go far to insure success.

LIGHTS AND SIGNALS AT SEA.

With the view of preventing collisions at sea, some alterations and improvements have been made in the description of lights and signals to be used, and also in the rules and regulations to be observed by sea-going vessels when approaching each other. Heretofore there has not been uniformity in these respects, and disasters have been the consequence. In order that the law and practice may be universal among maritime nations, the Governments of Great Britain and France prepared a set of rules and regulations, which have been submitted to the various maritime Powers, and to which the attention of this Government was invited the early part of the present year. These rules, being very nearly those which had governed the usage of sea-service, instructions were issued to our naval officers to conform to them. But these instructions are mere departmental regulations, and do not extend to vessels in the merchant service. In order to carry them into effect, and give them the force of international maritime law, some legislative sanction seems to be necessary. It is also desirable these rules should apply to vessels in the merchant service, and all vessels on our rivers and inland waters should be required to conform to them.

DEFENSE OF PORTSMOUTH NAVY-YARD.

The exposed condition of the navy-yard and public property at Portsmouth, New Hampshire, requiring protection, and there having been no garrison for the defense of that place, additional measures to insure its safety became necessary. Eleven 8-inch guns were accordingly mounted on the old breastworks on Seavey's Island, in front of the navy-yard, and five guns of the same caliber in the yard itself; and as there were no marines or soldiers to man them, one hundred contrabands were enlisted at Fortress Monroe, and sent North for that purpose. They are in charge of naval officers, and are being drilled in the use of heavy ordnance.

THE BAINBRIDGE.

Following the practice in similar cases heretofore, and with a view to such action as Congress may deem proper, I take this occasion of bringing to your notice, and that of the country, the loss of the United States brig Bainbridge. This brig, under command of Acting Master T. J. Dwyer, sailed from New York on the 14th of August for Port Royal, South Carolina, and, from the statement of one of her crew, who was picked up at sea, and claimed to be the only survivor, the unfortunate vessel capsized in a gale off Cape Hatteras, on the 21st of August. No further tidings of the brig or those who were on board of her having been received, and in view of the time that has elapsed, there seems to be no doubt of her loss with all on board, except the seaman referred to. It rests with Congress to fix a day upon which the vessel shall be regarded as having been lost, in order that the accounts of those who perished may be properly adjusted, and to make proper provision for the families of those who shared the fate of the Bainbridge.

CONTRACTS.

The system of making annual contracts under existing laws, by advertisement and award to the lowest bidder, is attended with many difficulties and embarrassments, and often with loss to the Government. To a great extent the fair and honest dealer is excluded, or deterred from competition, by the devices of the less scrupulous, who resort to contrivances to evade the law, and secure to themselves the contracts. It is the object of the Government to obtain good articles, at a fair price, and the laws were intended to secure this result; but by combinations, fictitious bids, proposals from irresponsible persons, and various artful schemes, the object of the laws is defeated, and the means which were intended by Congress to guard the rights of the fair dealer and the public interest are perverted, to the injury of both.

When proposals are made to furnish the Government with supplies at prices below the market value, as is done in many cases, the transaction indicates fraud. Contractors do not intend to make losing contracts with the Government, and fair and responsible dealers do not make such proposals. Such men are driven from competition by these improper practices. The law, however, permits no alternative but the acceptance of the lowest offer, regardless of the character of the individual who makes it, or the devices he practices.

Were the subject of purchases confided to the respective bureaus, under sanction of the Department, the Government would, I am confident, be better and generally more economically served. A degree of discretion can be entrusted to those officers, who are men of integrity and responsible to the Government, to discharge this duty with fidelity.

ADVANCE IN WAGES.

The enhanced prices in every department of business, and even in the necessities of life, operate with peculiar hardship on many who are in the Government service. In some instances, where there is a fixed legal compensation, the circumstances of the times have so changed values that the remuneration received is scarcely sufficient for the subsistence of those who are in the employ of the Government. The subject is one that peculiarly addresses itself to Congress; and it may be worthy of consideration whether an advance of twenty-five per cent. upon their present compensation ought not in these cases to be made, to continue until one year after the close of the war. In the

navy-yards, and public and private establishments generally, as large or larger advance has been made to the mechanics and other employees.

EXPENSES AND ESTIMATES.

The appropriations made for the fiscal year ending June 30, 1863, were.....\$71,587,052 09
Expenses of the Department during same time.....\$63,211,105 27

Leaving an unexpended balance of....\$8,375,946 82

This amount will, however, be absorbed in the completion and armament of vessels under contract and the payment of other liabilities incurred prior to the close of the fiscal year.

The expenditures have embraced, besides the ordinary disbursements for the naval establishment, the construction, in whole or in part, and the repair, of seventy-one iron-clad vessels on the Atlantic and western waters, the purchasing, repairs, and alterations of three hundred and sixty vessels, as well as the charter money for the ordinary service, and for the search after piratical vessels on the coast.

The estimates submitted for the fiscal year ending June 30, 1865, are as follows:

Pay of the Navy.....	\$19,423,241 00
Construction and repair of steam machinery.....	39,382,000 00
Construction and repair of vessels.....	32,575,000 00
Construction of armor-plated sea steamers.....	19,600,000 00
Ordnance and magazines.....	5,603,046 00
Fuel, hemp, and equipment of vessels.....	7,540,000 00
Provisions and clothing.....	6,915,885 00
Contingent and miscellaneous.....	3,889,850 00
Navy-yards and superintendents.....	2,558,448 00
Marine corps.....	1,445,321 85
Surgeons' necessities and hospitals.....	358,500 00
Tables of navigation, nautical instruments, and Naval Academy.....	866,673 55
	\$142,618,785 40

These estimates are large, but they are made upon a war basis, and the present extraordinary cost of material and labor renders a corresponding increase of estimates necessary. On the assumption that the war will continue, and no other rule is a safe one—large additions are to be made to our naval force, and the hard service to which all our squadrons are subjected makes the repair and refitment expensive.

A considerable portion of this expenditure will be an investment for value received, and the vessels and property will remain on hand when the rebellion shall be suppressed. The efficient naval vessels will continue to constitute the armed naval power that will be used to vindicate and defend our national rights, or may be considered an economical investment to insure peace. Such vessels as may not be adapted to naval ocean service can be sold to the merchant marine, from which many of them were procured. Whatever sums may be expended for docks, yards, buildings, machinery, &c., will be permanent investments for the country.

CONCLUSION.

In concluding this report, it is with sincere gratification that I acknowledge the able and efficient aid which I have received in the performance of my official duties from the gentlemen who, in their several grades, have been associated with me in this Department. I have, on former occasions, expressed my high appreciation of the services of the Assistant Secretary and of the several chiefs of bureaus, whose interesting reports are appended. Additional experience only confirms this favorable opinion. I commend, also, the faithful and satisfactory manner in which the largely augmented clerical labors of the Department have been performed. It has fallen to me to conduct the affairs of this Department during a period of trial and sacrifice, in the course of which our country, by an effort which challenges the admiration of the world, has not only created a naval power, but has successfully applied that power in the most arduous naval enterprise ever undertaken. When under such circumstances, devoting all my energies to the duties of my position, and meeting all its grave responsibilities to the best of my ability, I have been constantly cheered and sustained by the assured conviction that the Navy of the United States has achieved a great and new historical renown; that it has expanded and is expanding in a measure commensurate with the exigencies of the country and of

38TH CONG....1ST SESS

Report of the Secretary of the Interior.

SENATE & HO. OF REPS.

the times; that it has done and is doing heroic service in a great and sacred cause, and that its force is wielded by a body of officers and men who have established the highest claim to the gratitude of their country.

GIDEON WELLES,
Secretary of the Navy.

To the President.

Report of the Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, December 5, 1863.

SIR: I have the honor to inform you that manuscript copies of the several reports and accompanying documents from the bureau and other subordinate offices of this Department for the current year, which it has hitherto been customary to communicate to the two Houses of Congress with the annual message, have been placed in the hands of the Superintendent of the Public Printing, in obedience to the requirements of the joint resolution "to expedite the printing of the President's message and accompanying documents," approved the 3d of March, 1863.

For information in detail as to the operations of the public land system, reference is made and attention specially invited to the comprehensive and able report of the Commissioner of the General Land Office. It will be seen from it that the quantity of land disposed of during the last fiscal year, for cash, by the location of bounty land warrants, as swamp and overflowed land, for railroad purposes, and under the homestead law, was 2,966,698.43 acres, as against 1,377,922 acres disposed of during the previous fiscal year, and during the first quarter of the present fiscal year 874,850.66 acres, making the entire quantity thus disposed of during the period named 3,841,549.09 acres. The increase arises chiefly from the operation of the homestead law, under which alone 1,456,514.96 acres were taken up since the 1st of January, 1863, when it took effect.

The revenue derived from the sale of the public lands during the last fiscal year amounted to \$136,077 93, being an increase of \$11,029 65 over the previous fiscal year. During the quarter ending 30th September last the sales amounted to \$90,090 55, which is \$77,662 59 more than was realized during the quarter ending September 30, 1862. The rapid increase now observable in the sales of the public lands affords additional evidence of the entire confidence of the people in the stability of the Government, and that the industrial resources of the nation have not been materially diminished, notwithstanding the immense armies it has placed in the field.

No subject committed to the management of this Department is of greater importance than that of the public lands, nor has any been more prolific of legislation. Congress, at an early period, recognized the expediency and importance of the speedy settlement of the public domain, and of a liberal policy towards the actual settler. The prudence and wisdom of the system thus early inaugurated, and which has finally culminated in the enactment of the homestead law, are attested by the vast extent of fertile country which has been reclaimed and formed into now populous and flourishing States, which contribute of the superabundance of their agricultural and mineral productions to the necessities of the earlier settled portions of the country and to foreign nations.

The progress being made in the gigantic experiment of a railway to unite still more closely the States on the Atlantic to those on the Pacific will soon attract settlements along its entire route, and the Commissioner of the General Land Office, with wise forecast, has, with the approbation of the Department, slightly increased the usual surveying estimates, in order to meet the exigencies which will thus be created.

In order to obtain the benefits of the act of May 20, 1862, "to secure homesteads to actual settlers on the public domain," certain preliminary acts are required to be performed before the register or receiver for the district of lands in which the settlement is proposed to be made by the party applying *in person*. This requirement of the law is thought to operate invidiously towards persons who are engaged in the military

and naval service of the United States, and, to remedy the evil, it is respectfully suggested that the law might, with propriety, be so far modified as to permit the wife or other proper representative of a person so employed in the public service to take the requisite preliminary steps for the legal inception of his claim. I also concur in the opinion expressed by the Commissioner of Public Lands, that it is expedient and proper to require persons claiming the benefits of this law to pay the full commissions of the register and receiver at the time the entry is made, instead of deferring the payment of one half thereof until the final issue of the certificate, at the end of five years.

At the time of the discovery of the great mineral wealth of portions of the public domain the nation was in the enjoyment of domestic tranquility and unrivaled prosperity, and could well afford to throw open her rich mines of the precious metals to the unrestricted enterprise of the world; but having now been forced into a war for the preservation of our national existence, as unexampled in expense as in magnitude, the question whether we can, in justice to other branches of industry and enterprise, longer exempt this immense source of individual revenue from its equitable share of the public burden, becomes of much importance. A small tax upon the net profits of the gold mines of the United States would largely increase the means of the Treasury; and as no good reason seems to exist why the nation should not, in its hour of need, derive some direct assistance from its extensive fields of gold and silver mines, I earnestly press the consideration of the subject with a view to that end.

The attention of Congress is also called to the necessity of providing by law for the appointment of a surveyor general, and the establishment of a district land office, in the Territory of Idaho.

In view of the disturbing causes that have existed, our relations with the various Indian tribes are as favorable as could reasonably be expected. The experience of the past few years, however, clearly demonstrates the necessity of important changes in the policy hitherto pursued towards them.

While the regions of country occupied by the Indians remained uninhabited by the whites, the plan of setting apart separate reservations for different bands of the same tribe, or for small tribes possessing similar habits and customs, and privileged to roam over common hunting grounds in quest of the means of subsistence, as in Michigan, Wisconsin, Minnesota, Kansas, and Nebraska, seemed wise and to promise success; but as the country becomes settled, their dependence upon game and the spontaneous productions of the earth becomes more and more precarious, while the necessity for their keeping within the limits of their reservations increases. The Indians are thus left without their accustomed resources, and in the midst of a population with whose customs and arts of life they are wholly unfamiliar. They consequently become discouraged, and, looking solely to their scanty annuities from the Government, or to begging and pilfering, for the necessities of life, fall an easy prey to the sharpers and whisky traders who gather around their reservations for the purpose of obtaining their moneys. The smaller the reservation, the greater are the facilities for the exercise of this pernicious influence, and hence the necessity of concentrating scattered bands and the smaller tribes of similar habits, language, and customs, into as large communities as possible, and their location upon the more remote portions of the public domain. They will soon become extinct unless they acquire the arts of civilized life, and to this end it is indispensably necessary to place them beyond the reach of any influence save that of their agents, teachers, and assistants. The vast emigration to the newly discovered gold-bearing regions of the interior has brought us into more immediate contact with large and powerful tribes, with whom no treaties other than those of amity have yet been negotiated, and all the energies which the Department can possibly exert in that direction will scarcely be adequate to the pressing demands that will be made upon it during the next few years by the exigencies of the Indian service in those regions. Immediate steps should be taken to prevent collision between them and our own people,

to provide suitable locations for the Indians, and to induce them to settle upon them and engage in the cultivation of the soil, and the rearing of domestic animals; and in the mean time to furnish them with such supplies as may be absolutely necessary to prevent starvation. The number of Indians under the direct supervision of the Department is thus rapidly becoming larger than at any former period, and the wisdom of anticipating this increased demand upon its resources by a corresponding increase in the appropriations for the Indian service, whether we are to be guided by the principles of justice and humanity, or economy, must be manifest to all.

Particular attention is also invited to the condition of Indian affairs in California. That State has hitherto been divided into two districts—the northern and the southern—each under the charge of a superintending agent. There is no good reason for continuing this arrangement, and on the score of economy alone it ought to be abolished and our Indian relations throughout the State placed under the control of one superintendent.

The good of the service and the future welfare of the Indians also imperatively demand the establishment of two reservations in the northern part of the State—one near the coast, and the other in the interior—of sufficient extent for the accommodation of all the Indians in what is now designated as the northern district, and at least one suitable reservation for those in the southern portion of the State. The necessity for these different reservations arises from the great dissimilarity that exists in the habits and customs of the several tribes for whom they are intended.

The hostility of the powerful tribes of the Apaches and Navajos, mainly located in New Mexico and Arizona, is such, that for the present their management must be left chiefly to the military branch of the Government; but measures should be promptly taken for the establishment of suitable reservations for the other Indians in those Territories, and for those now in hostility to the United States, whenever they shall have been properly subdued.

The unfortunate result of the effort made last spring to return the refugee Cherokees to their homes has largely added to the number of refugees and greatly increased the expense of their subsistence. This, together with the advance in the prices of clothing and provisions, has so augmented the expense of providing for them as to exhaust the funds set apart for that purpose, and renders a further appropriation necessary. It is doubtful whether the supplies needed could, even now, be forwarded in time to prevent much suffering, and hence the importance of as early action by Congress in the premises as may be practicable.

The able report of the Commissioner of Indian Affairs will be found to be replete with interesting facts and judicious suggestions on the subjects to which it relates.

The number of revolutionary soldiers borne upon the pension rolls had dwindled down to eighteen on the 30th of June last, of whom only ten had made application for their stipends on the 4th of March. The number of widows of revolutionary soldiers on the rolls, at the same period, was 1,573. The whole number of Army invalid pensioners on the rolls the 30th of June was 7,248, most of whom were pensioned on account of wounds received or disease contracted in the service during the present war. The widows, orphans, and dependent mothers of 3,573 deceased soldiers of the present war were inscribed upon the rolls during the last fiscal year, making the whole number of this class on the rolls at the close of the year, 4,820. The number of Navy invalids on the rolls at the close of the year was 544, and the number of widows, orphans, and dependent mothers of deceased officers and seamen of the Navy, 577. The whole number of Army pensioners added to the rolls during the last fiscal year was 7,582, and of the Navy, 316. The number of Army pensioners, of all classes, on the rolls on the 30th June last was 13,659, and of the Navy, 1,132. The payment of the former requires the sum of \$1,227,641 88, and the latter, \$144,074 61 per annum.

The remittances to the agents for paying pensions have been so regulated according to law "as

38TH CONG....1ST SESS.

Report of the Secretary of the Interior.

SENATE & HO. OF REPS.

to prevent an undue accumulation of balances in their hands."

During the year 602 bounty land warrants have been issued, calling, in the aggregate, for 94,280 acres of land.

It appears from the Commissioner's report that the whole amount of money expended by the Government for pensions to the close of the last fiscal year was \$91,693,660 97, and that the quantity of land granted for military and naval services was 65,896,142 acres, which, at \$1 25 per acre, would amount to \$82,370,177 50.

Congress at the last session provided for an increase of the clerical force of the Pension Office, and I am happy in being able to say that it has enabled the Commissioner to dispose of the greatly increased amount of business thrown upon it with satisfactory promptitude. During the first quarter of the present fiscal year 7,162 claims were admitted, and a much larger number examined and suspended for further evidence.

The Commissioner estimates the whole number of claims that will be admitted during the present fiscal year at about 30,000.

The appointment of surgeons, as authorized by the act of July 14, 1862, to make the biennial examinations of pensioners, and to examine applicants for invalid pensions, has been attended with marked advantage and saving to the Government. For the information of the public and those more immediately interested, the Commissioner has embraced in his report the names of the surgeons thus appointed in the several States, with their post office address.

The act of 3d March, 1859, requiring the biennial examination of invalid pensioners, prescribes that the examinations shall be made by two surgeons or physicians. The Commissioner is of the opinion, in which I concur, that the examinations will be as satisfactorily made by a single surgeon regularly appointed by the office, and with less inconvenience to the parties interested, and a modification of the law in this respect is therefore recommended.

The increase of the Navy pension fund from the sale of prizes amounts, at the present time, to probably one and a half million dollars.

The old laws in relation to the Navy pension fund seem to authorize and require the investment of this money; but as the question is not entirely free from doubt, I recommend the passage of a law authorizing the Department to invest the amount which has been and may hereafter be derived from the sale of prizes in Government bonds, and apply the interest thereon to the payment of Navy pensions, or that the Secretary of the Treasury be authorized by law to credit this fund with the interest which would semi-annually accrue thereon, if so invested.

A decision has been given by the Department in a case arising under the act of July 14, 1862; and as it will furnish a rule of action for the Pension Bureau, in constantly recurring cases of a like character, I beg leave to refer to it specially.

The second, third, and fourth sections of that act make provision for the widow, children, dependent mother, or orphan sisters, as the case may be, of any officer or other person named in the first section, who has died since the 4th day of March, 1861, or who shall thereafter die, by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty. An officer of the Navy had contracted, under these circumstances, a disease of which he died. Some months previous to his death he tendered his resignation, as his declining health, impaired by the disease, which ultimately proved fatal, incapacitated him for the efficient discharge of duty. His resignation was accepted. The claim of his widow for a pension was rejected in the Pension Office, solely upon the ground that he was not, at the time of his death, in the naval service of the United States. The case was, by appeal, brought before the Department.

The action of the Pension Bureau conformed to the construction which had been given to preceding acts of Congress granting naval pensions. Some of these acts expressly confined the right of the claimant to cases where the death of the officer occurred during the period of his service. Other acts, such as that of 1813, and the second section of the act of 1814, secure to the benefi-

ciaries, for a specific period, half of the monthly pay to which the deceased was entitled at the time of his death. The late Attorney General Butler decided that the death of an officer or seaman, before the expiration of his service, was not essential, under the latter acts, to the validity of his widow's claim to a pension. He subsequently withdrew that opinion, and, although considering such a claim within the general equity of the system, he came to a conclusion adverse to it under those acts, owing to their peculiar phraseology, and from the fact that Congress had given a construction to them by the continuing acts of May 23, 1828, and June 28, 1832.

The act of 1862 does not, in direct terms, exclude from its benefits the widow or other designated relatives of persons who, after their resignation or discharge, shall die of wounds received or disease contracted in the naval service, and in the line of duty, nor does it determine the amount of pension by the monthly pay of the deceased at the time of his death. The latter provision would seem to require that the connection of the deceased with the service should subsist until his death. By the uniform practice of the Pension Bureau, under the existing act, a military pension was granted to the relatives of the party, without regard to the time of his death, if the claim in other respects was free from objection. Uniformity in the administration of the act is desirable, and a settled interpretation of it should be adhered to, unless it be manifestly wrong. Although, in the former legislation of Congress, military and naval pensions were granted under separate and independent enactments, both classes of pensions are provided for and placed upon the same footing by the act under consideration. No distinction is made between the two branches of the service. I could not sanction a decision making such a distinction, and I was satisfied that the action of the Pension Bureau, in regard to military pensions, was amply justified by the spirit, and was not in violation of the letter, of the statute.

The effects and consequences of the opposite construction are worthy of attention. According to it, no provision is made for the bereaved and often necessitous and helpless family of a deceased party, who has received a mortal wound or contracted a fatal disease in the line of duty, if his death occurred after the expiration of the period of his service. Had the wound or disease inflicted a disability, it is clear that, had he survived it, he would have been entitled to a pension proportionate to such disability. The pension would not commence in any event until after his discharge. Should the disabled and discharged soldier or seaman die after receiving his pension, or before establishing his claim to it, his relatives would be excluded from the bounty of Congress, although it could be shown by indisputable proofs that his death was the direct and inevitable result of a wound received on the field or the deck, from the enemies of his country.

It seemed to me to be more in accordance with the legislative intention to hold that the death of a party, after his resignation or discharge, would not be fatal to the claim of his widow or relatives to a pension.

Should I have erred in this view, Congress can apply the appropriate corrective in regard to future cases.

I would advise, however, that some limit should be fixed by law, within which the death should occur, to entitle the beneficiaries named in the second and the following sections of the act to the benefit of its provisions.

During the year ending 30th September last 5,133 applications and 811 caveats were received at the Patent Office. Twenty-nine applications were filed for the extension of patents previously granted. During the same period 3,887 patents were issued and 40 extensions granted. Quite a diminution is observable in the number of claims on which patents have been allowed, but not issued, because of the non-payment of the final fee within the time prescribed by law, the number being about 370.

The balance in the Treasury to the credit of the patent fund on the 1st day of October, 1862, was \$48,157 21. The receipts of the office to September 30, 1863, amounted to \$179,378 55, making its entire resources for the year \$227,535 76. The

expenditures of the office during that period have been \$189,803 13, leaving a balance on hand, on the 1st October, 1863, of \$37,732 63.

The work of classifying the results of the eighth census for publication has progressed satisfactorily, and the printing of the volume of population statistics is so far advanced as to insure its completion and delivery early in the coming session of Congress. The succeeding volumes will be supplied to the two Houses as fast as the capabilities of the public Printer will admit.

The marshals and assistant marshals in the loyal States have generally been paid in full for their services, and the accounts of those employed to take the territorial census of Nevada, Dakota, and Colorado, for which provision was made by the act of March 3, 1863, have been paid in part, and the remainder are in process of adjustment. The final settlement of the accounts of one thousand two hundred and seven marshals and assistants in States affected by the rebellion has been precluded by the condition of public affairs, and the refusal of some of these officers to take the oath prescribed by law as a condition precedent to payment.

The able reports from the board of visitors and the superintendent of construction of the Government Hospital for the Insane will be read by all with much interest. The advantages of this institution at the present time cannot be overestimated. Those who, while engaged in the land and naval service of the country, in this trying hour, for the preservation of our Government, are overtaken by mental disorders, there find a refuge, and are treated with the highest skill which has yet been attained in the art of treating the insane. The success which has attended their treatment, and the numbers who have recovered, are the most flattering testimonials in behalf of those who have had charge of the institution. Their devotion to their calling is only to be fully appreciated when it is remembered that a larger number of patients have been admitted to this institution during the last year than have ever before been admitted into any similar hospital in this country in the same space of time. Although so large a number have been admitted, and the increase been chiefly derived from the Army and Navy, it is gratifying to be assured that neither the existence of the war, doubt as to the justice of our cause, nor distrust as to its final result, is to be imputed as the cause of the malady with which the patients have been afflicted, but that it is rather the result of overtasked efforts of constitutions previously impaired by sickness contracted in the line of duty.

Among other advantages which this institution affords, is that those who have suffered the loss of a limb in the service may here have it replaced by an artificial one, fabricated by persons of the highest skill, without cost, the patients being maintained at the hospital, free of expense, during the time the artificial limb is being prepared, made familiar with its mechanism and use, and thus enabled to adopt their new help with the greatest advantage and ease to themselves.

During the past year much difficulty and perplexity have been experienced by the Department in the admission of patients to this institution under the present laws. Many applications have been made for admission of persons who have sought refuge in this District, but have not their permanent homes here, so as to be clearly entitled to admission into the hospital, as resident paupers at the time of becoming insane. These persons have, in many instances, been a serious charge upon the War Department, which has been compelled to take care of them in camps and other unsuitable places for such persons, and consequently at great expense and inconvenience.

It is recommended that existing laws on the subject be so modified as to permit the Department, in the exercise of a proper discretion, to admit this class of persons into the asylum until they can be more properly disposed of.

I cannot conclude my notice of this institution without adding my testimony to that of all my predecessors to the marked devotion and distinguished ability and fitness of the gentleman who has occupied the position of superintendent from the foundation of the asylum. He deserves the gratitude of the country for his zealous and persistent efforts to make the institution under his

38TH CONG...1ST SESS.

Report of the Secretary of the Interior.

SENATE & HO. OF REPS.

charge a model one in every respect in which it may be viewed.

The appropriations which are asked for the ensuing fiscal year are earnestly recommended. No application of public money has ever been more wisely, economically, and satisfactorily made, than have the sums dedicated by Congress to this humane and benevolent institution.

The Columbia Institution for the instruction of the deaf and dumb and the blind has been managed with great ability and success. The buildings, however, are manifestly insufficient for the proper accommodation of the pupils admitted and the growing wants of this community.

The report of the president of the institution will be read with interest. It expresses an earnest desire for the acquisition of more adjacent land—to the extent of about thirteen acres—for the instruction of the pupils in horticulture and agriculture; the erection of more permanent and commodious mechanic shops and other necessary buildings, and for the introduction of the Potomac water, and asks for these purposes additional appropriations amounting to about \$60,000. If it be the intention of Congress to make this institution a receptacle of all who will probably apply for admission into it, the proposed enlargements are eminently proper, and should be made without delay, in order to secure the requisite lands before they shall have advanced in price or be otherwise appropriated. But if it be only designed to make provision for the unfortunates of this class inhabiting the District of Columbia, and the children of persons in the military and naval service, who are unable to provide for them elsewhere, then it is doubtful whether it will be proper to increase the extent of the grounds, or to construct the buildings, as proposed. In either case, however, the wooden structures now appurtenant to the buildings occupied are entirely unsuited for the purposes to which they are applied, and should be removed, and their places supplied by substantial brick buildings, and about two acres of land added, for the purpose of erecting thereon proper workshops.

I abstained from submitting the estimates proposed for the larger sums, because I was not prepared to say what the will of Congress might be on the subject; but I earnestly recommend that provision be made, if not to the full extent asked, at least to that required for the proper and safe accommodation of the children of the District, who are entitled to admission into the institution. It should also be supplied with water, and I recommend the appropriation of the amount asked for that purpose.

Satisfactory progress has been made on the work of the Capitol extension and new dome, notwithstanding the difficulties encountered in obtaining the marble for the former, and artisans of the requisite skill and experience for the peculiar character of the work to be done on the latter.

Since the last annual report from this Department the eastern portico of the north wing has been constructed, and much work done on that of the south wing. The porticos of the connecting corridors, and the granite platforms and steps between the old or central portions of the building and the new wings, as well as the approaches to both wings on the western front, have also been completed. It is expected that the eastern entrance to the north wing will also be finished the present season.

The group of statuary which was executed here in marble, from models made by the late Thomas Crawford, for the pediment of the eastern portico of the north wing, designed to represent "the progress of civilization," and the statues of "Justice" and "History," which were also designed by Crawford, and executed in Italy, have been put in their respective places, and attract much attention and merited admiration.

The expensive and elaborately wrought bronze door, designed by Randolph Rogers, and cast at the Bavarian foundry, in Munich, and the marble statues of Franklin and Jefferson, executed in Italy, by Hiram Powers, under a contract made by your immediate predecessor, under the authority of an act of Congress, have also been received and placed in appropriate positions in the building.

All these works of art, and a few others not yet

completed, were exempted from the restrictions which were imposed upon the embellishment of the Capitol with statuary and paintings by the recent legislation of Congress.

The colossal figure of "Freedom," designed by Crawford and executed by Clark Mills, was, on the 2d instant, successfully raised to its elevated place on the new dome, and forms a grand and appropriate crowning to the Capitol of the nation.

With a view to economy, during the present year I abolished the office of architect of the Patent Office building, and added the duties of the same to those of the architect of the Capitol extension. Preparations have been made for finishing the saloon of the north front, and for furnishing the same with suitable cases for the reception and exhibition of models.

The work will be completed during the approaching season, and with the appropriation made at the last session of Congress for that purpose. The architect strongly urges the propriety and necessity of completing the exterior of the north front, and an appropriation for that purpose has been submitted in the annual estimates.

It became indispensably necessary, for the proper accommodation of the supreme court of the District of Columbia, and the officers connected therewith, to make certain changes and improvements in the eastern portion of the City Hall, which I have caused to be made, at the expense of the judiciary fund, upon which it has been usual to draw for such purposes, and the court is now enabled to dispatch the business coming before it with much greater convenience and satisfaction to the public.

The report of the Commissioner of Public Buildings will indicate to Congress the alterations and repairs which have been made to the finished portions of the Capitol, and what additional improvements he deems it advisable to have provided for by further legislation. It also explains the manner in which the moneys appropriated for the public works under his charge have been expended during the past year, and recommends other improvements of the streets and public grounds, which recommendations will, no doubt, receive the consideration of the appropriate committees of Congress.

The duties properly appertaining to the office of Commissioner of the Public Buildings and Grounds have been greatly augmented within the past few years, and sometimes by the imposition upon him of duties not strictly belonging to his office. In justice to him, therefore, as well as to the public service, at the commencement of the present fiscal year I relieved him, to some extent, by the appointment of a general superintendent and special disbursing agent for the Capitol extension, the Patent Office building, and the Washington aqueduct. In making this arrangement, a saving to the Government was effected, while I, at the same time, secured for these important works the services of a professional and practical architect.

The work on the Washington aqueduct has progressed, in pursuance of the act of Congress transferring the same to this Department, with but slight exceptions, and the water of the Potomac river been this day introduced into the reservoirs. The walls and banks of the distributing reservoir were designed, by the engineer who projected the aqueduct, to be protected with broken stone, and a contract was made and the work commenced on that plan; but it appeared to me to be so unsubstantial and insufficient for the purpose that I caused an inquiry to be made as to the manner of protecting similar embankments in other localities, and found that, with but few if any exceptions, the walls were lined with solid stone masonry, laid in the best of cement. Influenced by the example and experience of others, and by the advice of eminent engineers, I directed a thin dressing of broken stone to be placed upon the interior walls for a foundation, and the whole to be faced with solid stone-work of about the same thickness as the contemplated riprap or broken-stone wall. According to the original plan of the aqueduct, the water from the Potomac is conducted into a receiving reservoir formed by a dam across a stream called Powder Mill or Little Falls branch, about nine miles below the head of the conduit,

whence it is conveyed about two miles further down to a distributing reservoir, divided into two equal sections, or basins, by an embankment designed chiefly for filtering purposes. It is thus always intermingled with the water from Powder Mill branch. The latter stream drains a considerable extent of country, and is subject to frequent and heavy freshets, which render its water unfit for immediate use. At times this stream is clear, while the water of the Potomac is rendered impure, by reason of heavy rains nearer its source. It is therefore important that the aqueduct should be so constructed as to afford an adequate supply of water from whichever of these sources may, for the time, be most free from impurities, and to exclude that which may be unfit for use. For this purpose, the engineer in charge proposes to connect the conduit above the receiving reservoir with that below it, so that the water from the Potomac may be brought directly into the distributing reservoir without being adulterated by that of Powder Mill branch. He also proposes to construct a gate-house in the dividing wall of the distributing reservoir, so as to admit of the use of the water from either section, as may become desirable. By means of these improvements, the requisite supply of water may be drawn from whichever of four distinct sources may be the purest and best, namely: the Potomac river, Powder Mill branch, or either section of the distributing reservoir; but without some such arrangement, "an unfailing and abundant supply of good and wholesome water" cannot at all times be obtained. Under these circumstances, I have deemed it necessary to order these changes in the original plan, and have made the estimates of appropriations for the completion of the work to conform thereto. For information in detail in reference to this subject, I invite attention to the full and able report of the chief engineer.

Certain parties having, from time to time, made claim to heavy damages for the diversion of the water from the Potomac river, my immediate predecessor, with a view to settle and end this claim, entered into an agreement of arbitration with the claimants. Pursuant to this agreement, the arbitrators met from time to time, and finally submitted their award, by which they adjudged in favor of the claimants upon each and all of the plans and modes submitted to them, being three in number, for the construction of the dam across the Potomac, and also \$12,000 for their own fees as arbitrators, and \$761 84 for the expenses of the arbitration. The sums being so large, I did not feel justified in applying the existing appropriation for the completion of the aqueduct to the payment thereof, preferring to submit the whole matter to Congress for its determination. It appears from the report of the experienced engineer in charge of the work, as must be obvious to every observer, that an ample supply of water for the use of the cities of Washington and Georgetown, for many years to come, can be obtained from the Potomac by the erection of a tight dam, extending from the Maryland shore to Conn's Island, to a height which will give a head of six feet of water in the aqueduct, and yield a daily supply of about 65,000,000 gallons, which is thirty-three and one third per cent. more than was used in the city of New York in the year 1861, when its population was over 800,000. In view of this fact, I have instructed the engineer to construct a dam of cut stone, with a base sufficient to bear a superstructure of the required height for the full capacity of the aqueduct, whenever it may be called into requisition.

It is difficult to conceive how a dam of this character can work any injury to the proprietors of the water-right claimed at the Great Falls. At the utmost, it could only raise the water to a level at the head of the island, while at ordinary stages and at low water (the only time when any value can properly be placed upon the right) it would not increase or diminish the flow of water in the main channel on the west side of the island; and it surely cannot be pretended that the parties claiming the water-right can lawfully divert the ordinary flow of the water on the east side of the island. A dam of the east channel that would raise the water to a height sufficient to fill the aqueduct would be a great advantage to the claimants, for the reason that it would enable them to avail them-

38TH CONG....1ST SESS.

Report of the Secretary of the Interior.

SENATE & HO. OF REPS.

selves of the power by the erection of but one dam, while one that would only back the water to the head of the island must be a matter of total indifference to them; because, in the very nature of things, it can work them no detriment whatever.

If this view shall be taken of the case by Congress, I recommend that a reasonable sum be appropriated to pay the expenses of the arbitration, and that the estimate of the cost of the dam across the main channel be diminished to the estimated cost of the dam over the east channel, thus leaving the greater expense of the dam to be provided for as the exigencies of the cities of Washington and Georgetown, by the increase of their population, may require.

The report of the engineer will not fail to arrest the attention of Congress in another important particular.

The immense volume of water which the aqueduct will soon furnish will afford an ample supply for fountains at all appropriate places, and for cleansing the streets and sewers of the city, keeping them at all times in a healthful and agreeable condition. But in order to the accomplishment of this most desirable object, the present system of expenditure for the repairing of streets and the construction of sewers must be abandoned, or modified to such an extent as to place it under one control. I can perceive no good reason why the Government should take upon itself the exclusive management and repair of one or more of the streets and avenues of the city, while all are equally necessary to the convenience and comfort of the citizens of the United States visiting or residing in the city of Washington. The great width of its numerous streets and avenues quite discourages any attempt to completely pave them; nor is it desirable that it should be generally done, when we consider the increased amount of heat that would be radiated from their exposed surfaces, and the clouds of dust that would be constantly sweeping over them.

It is believed that this may be avoided to a great extent by allowing in some instances the adjoining proprietors to extend the sidewalks into the streets, so as to reduce the latter to a proper width for pavement or concrete, and to afford space for grass-plots in front of their dwellings, and in other streets by making a park of proper width through the middle for the cultivation of trees and plants and the erection of fountains. By the adoption of such a course, the streets and avenues of the city would be reduced to such width as to admit of their being thoroughly paved at a reasonable cost, and the beauty and comfort of the city immensely increased. But neither this nor any other great improvement can be expected under the present laws. They should be so modified as to require a uniform and perfect system of sewerage throughout the city; and to superintend this, and to improve and repair the streets, commissioners should be provided, one to be appointed by the Government, and one or more by the corporate authorities of the city—the money appropriated by Congress to be expended in such proportion to the sum provided by the city as should be prescribed by law, and the obligation imposed upon the city to raise by taxation, annually, such sum as might be deemed by the commissioners necessary for the objects to be accomplished.

An act of Congress to extend the charter of the Alexandria and Washington Railroad Company, and for other purposes, approved March 3, 1863, authorized the company to erect an additional structure or passage-way along either side of the Potomac bridge for the track of their road, but so as not to hinder the general use of said bridge for ordinary travel. The surveys, estimates, and plans for the construction of this bridge, together with a model of the proposed draw, were submitted to and approved by me as required by the act referred to; and the company immediately thereafter entered upon the work. The bridge is located on a center line seventy-five feet below the center line of the old bridge, and has progressed with such remarkable rapidity as to justify the belief that it will be fully completed during the early part of the approaching session of Congress, when it is expected that the railroad travel will be diverted to it, and the old bridge restored to the use of the public, for whom it was intended.

This bridge is in a dilapidated condition, and

there is an urgent necessity for its immediate repair.

The report of the police commissioners will be found to be an elaborate and interesting account of their operations during the past year, and fully attests the usefulness and importance of their organization. It, however, contains many recommendations which, if fully adopted, will impose greatly increased expenditures upon the Government. From the examination which I have been able to give to the subject, I am inclined to think an increase of the force, and of their compensation, is expedient and proper, but not to the extent indicated by the commissioners.

I have not been able to convince myself of the justice of imposing the entire support of this police system upon the Federal Government. It was shown by the census of 1860 that the District of Columbia then contained seventy-five thousand permanent inhabitants, since which time its population has evidently been largely increased. There is no city within the United States, it is believed, in which property of all kinds yields a larger income, in proportion to its value, and no good reason exists why it should not help to defray the expense of its own protection. I am the more justified in making this suggestion by the fact that the annual tax imposed upon property in this District is much less than that imposed on the property in any of the principal cities in the United States.

The suggestions of the commissioners of the police for the more economical and speedy punishment of crime are just and proper, and deserve the careful consideration of Congress.

A house of correction and for the detention of juvenile offenders should be provided, and a system adopted by which vagrants and petty offenders, on conviction upon summary trial before the police magistrates, should receive proper punishment, by being compelled to work upon the streets, to break stone in the quarries for their improvement, or to labor in some other useful way.

The want of a penitentiary has been particularly felt in the administration of justice in this District during the past year. The whole number of convicts now under sentence from this District is 179; of this number 143 have been convicted and sent to the penitentiary at Albany, New York, since the appropriation of the penitentiary of the United States for the District of Columbia by the War Department. The average cost of transporting convicts from this District to the penitentiary at Albany is about fifty dollars, and that of maintaining them there one dollar and twenty-five cents per week, or sixty-five dollars per annum. It is confidently believed that, with a penitentiary possessing the appliances necessary for the judicious application of the labor of the convicts, they could be much more economically maintained in this District, and the moral advantages secured to the community of having institutions of this character located in their midst.

The Government now owns a tract of land containing two hundred and eighty-one acres, upon which the receiving reservoir of the Washington aqueduct is situated, which embraces several suitable sites for a penitentiary, and a house for the detention and reform of juvenile offenders. These lands are now lying vacant. There are excellent quarries immediately contiguous thereto, from which substantial buildings could be erected. They could be located in close proximity to the canal, whence fuel could be obtained at the cheapest rates. Sewerage could be easily constructed, and all the necessary water power for propelling the requisite machinery for the successful and profitable employment of the labor of the convicts could be procured from the surplus water of the reservoir at a very small cost. I think it would be good economy to provide for the erection of penitentiary buildings upon these lands, and that it would be well for Congress at its approaching session to make the necessary provision for the commencement of the work. In a very short time many of the convicts could be provided with secure and comfortable quarters upon the premises, and employed in quarrying stone, and other labor pertaining to the construction of such works.

The act of March 3, 1863, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1864, and for the year

ending June 30, 1863, and for other purposes, transferred from the appropriation made and placed under the control of the Secretary of the Treasury by the act of June 23, 1860, for the detection and arrest of counterfeiters of the coin of the United States, the sum of \$1,184, or so much thereof as might be necessary to enable the Secretary of the Interior "to pay detective police employed by a former head of the Department, for expenses incurred and services rendered in the cities of Washington and Philadelphia in the detection and arrest of counterfeiters of United States coin." Having examined all the claims presented, and found them to have been liquidated and paid as per agreement made with the claimants prior to the rendition of the service, I recommend the passage of a law to repeal the provision alluded to in the act of March 3, 1863, and to restore the amount thereby transferred to the control of the Secretary of the Treasury for the purposes originally designed.

While the African slave trade is known to be still carried on from some foreign ports to a lamentable extent, it is gratifying to be able to state that so successful have been the efforts of this Government to prevent citizens of the United States from engaging in it, that not a single vessel is known or believed to have been fitted out in our own waters for that purpose during the past year; and the wholesome examples which have resulted from the energy and vigilance which have been and are still being displayed by the officers immediately charged with the enforcement of the laws on this subject, together with the growing sense of justice among our people towards the African race, will, it is hoped, effectually deter persons from any future participation in so unrighteous a traffic. The officers appointed pursuant to the requirements of the treaty of April 7, 1862, with Great Britain, have repaired to their several stations, and the mixed courts of justice, to reside at the city of New York, Sierra Leone, and the Cape of Good Hope, have been duly organized and established.

The accounts of the American Colonization Society for the support of recaptured Africans in Liberia have not yet been finally settled, owing to the imperfect manner in which they have been kept by the resident agent of the United States in that republic, and by the Liberian authorities after the transfer of the recaptives to them. The information and facts required to be regularly reported not having been recorded and preserved by them, it is feared they cannot now be obtained with the accuracy of detail contemplated by the strict terms of the contracts, and hence it is respectfully recommended that the Department be authorized by law to adjust and settle the accounts on equitable principles.

No further appropriation is asked for this object, the unexpended balances of former appropriations being sufficient to meet all the legal demands that can possibly be made during the present and the next ensuing fiscal year. The reenactment of the joint resolution of the 3d of March last, "respecting the compensation of judges and so forth, under the treaty with Great Britain, and other persons employed in the suppression of the slave trade," will be necessary, however, to authorize the use of those funds for the service of the fiscal year ending the 30th of June, 1865.

I am unable to report any greater disposition, generally, among the colored persons, for whose colonization provision was made by certain recent acts of Congress, to emigrate, than had been exhibited at the time of your last annual message. Since that time, however, about four hundred and fifty have been deported to the Ile à Vache, adjacent and belonging to the republic of Hayti. The condition of this colony has been variously represented, and an agent has been deputed by the Department to visit the island and report the real situation of affairs, and the future prospects of the emigrants there. They were emigrated under a contract entered into for that purpose, with persons who were represented as possessing every qualification and fitness for insuring the success of the experiment; but nothing has yet been paid them under it, nor will there be until the report of the agent shall have been received and found to justify it.

Independent of the seeming unwillingness of this class of persons to leave the United States,

38TH CONG....1ST SESS.

Report of the Postmaster General.

SENATE & HO. OF REPS.

the experience the country has derived since the passage of the acts of Congress on the subject of colonization, and the action of the Government towards them in adopting the able-bodied men into its armies, render it a question of great importance whether the effort to colonize them beyond the limits of the United States should be continued, unless the way should be opened for the establishment of a friendly colony in some one of the Central American States, at a favorable commercial point for traversing that country by a new route to the Pacific.

Although much prejudice has been manifested throughout most of the free States in regard to the introduction of colored persons therein, there is a place where many of them can now be advantageously employed at remunerative prices, and where the objection to color does not exist. I refer to the line of the Pacific railroad. Upon this work there are already about three hundred free colored laborers, out of fifteen hundred employed, and I am assured they perform their duty faithfully and well. The Department has been repeatedly urged to use its influence to cause as many colored laborers as can be procured to be employed upon this work, and it is worthy of consideration, therefore, whether the money appropriated to remove those who are now a charge upon the Government, to foreign countries, will not be more judiciously applied in transporting them to those fields of labor within the dominions of the United States where they are wanted, and where they will be welcomed. In this way the expense to which the Government is now subjected will be greatly diminished, and we shall have the satisfaction of placing these people in a position of usefulness, security, and peace, where they will be instrumental in the construction of a work in which the nation has, of all others, save the putting down of this rebellion, the greatest interest.

The need at the seat of Government of a bureau of national statistics has long been felt, and often been called to and engaged the attention of Congress, but so far without any practical result. The facts and information which a properly organized bureau of this character would collect and exhibit are often indispensable, as well to the enlightened legislator as to the several departments of the Government and the people at large. It is confidently believed that it would contribute immensely to the advancement of the commercial, agricultural, financial, scientific, manufacturing, and other interests of our people, and, by the dissemination of correct information as to our national wealth, interests, and resources, lead to a more just appreciation of the value to all of the American Union, and contribute, in no small degree, to the more universal establishment and maintenance of friendly relations between ourselves and the other civilized nations of the earth.

Such a bureau could be established now with but little outlay, and if made to include the duty of enumerating the population of the United States, for which purpose a bureau is now required to be temporarily organized every ten years, at considerable expense and labor, would effect a positive saving to the Treasury, while the work would be better performed, as the office would then be permanent, and the experience gained in the operations of one decade not wholly lost before the next was entered upon, as is now the case. Most enlightened nations have perceived the necessity and utility of organized effort for the attainment of accurate statistical knowledge, and to profit by their experience is the dictate of wisdom. Deeply impressed with the importance of the subject, I venture to refer to it again, and to invoke for it the favorable consideration of Congress.

On the 3d of March, 1863, a joint resolution was enacted authorizing and directing the Secretary of the Interior, and all other custodians thereof, to cause equal distribution to be forthwith made among the members of the two Houses of the then expiring Congress of all books and documents which had been printed or purchased at the cost of the Government, and not actually belonging to any public library, or the library kept for use in any department of the Government, excepting, however, all such books and documents as were embraced in any existing order for the distribution thereof among the members of either

House of Congress. I found, on examination, that the number of volumes of the documents referred to, their incompleteness as sets or works, and the uncertainty as to their value, aggregately or separately, were such as to render it wholly impracticable to carry the provisions of the joint resolution into effect, and the subject is therefore respectfully submitted for the further consideration and action of Congress.

For years past, the Department has had to encounter difficulties in providing suitable accommodations for the United States courts in the city of New York. Congress alone can apply the remedy, and it should not be longer deferred. For many years apartments in the City Hall were used for this purpose, but the increasing necessities of the city demanded them, and they had to be given up. Since then the Department has been obliged to rent other buildings annually, or for a short term of years, and to alter and fit them up at considerable expense. The premises now used were leased by the Department in the year 1858, for the sum of \$16,000 per annum. A large sum has been expended for alterations, occasional repairs, and furniture, amounting in six years, including rent, to upwards of \$125,000. The present lease of the property will expire on the 1st of May next. The owner of it has died since the original lease was made, and the executors, though still willing to dispose of it at the price then fixed—\$215,000—are averse to extending the lease, so that the Department will soon have to procure other temporary accommodations for the courts sitting at New York city, unless Congress shall provide the means to secure permanent ones.

The Government has purchased or erected buildings at Philadelphia, Boston, and a number of less important cities, for the use of the Federal courts and for other public purposes, and commenced the erection of one also at Baltimore. The propriety of extending this prudent policy to the city of New York seems too manifest to require argument. Economy alone demands it.

The Department is not prepared to say that the purchase of the building now used, for the sum asked, would be the most advantageous arrangement that could be made; but it would, in the end, be the saving of considerable expense to the Treasury. I therefore earnestly recommend that the Department be empowered by Congress to provide suitable and permanent accommodations for the United States courts at New York, and that an adequate appropriation be made for that purpose.

The Union Pacific Railroad Company, chartered by the act of Congress entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, has been organized by the election of directors and other officers, and the subscription of the requisite amount of stock. The character and pecuniary ability of the stockholders afford the most ample guarantee that this great work will be prosecuted to a successful issue. The work upon the branch lately located by you has already been commenced with a determination to press it to a rapid completion, despite the inclemency of the season and other obstacles.

The southern branch of the road, having its eastern terminus at the mouth of the Kansas river, and now known as that of the "Pacific Railway Company, eastern division," is being constructed with unparalleled energy. Since the 1st of September last, about forty miles of this branch have been graded, the ties made ready, the iron and rolling stock purchased and delivered upon the ground or now *in transitu*. We have assurances, upon which a well-founded belief may be based, that early next month it will be completed, and during next summer extended to Fort Riley, a distance of about one hundred and thirty miles.

The principal obstacle to the rapid progress of the work is the scarcity of labor, which may be overcome by the employment of the freedmen, as before indicated in this report.

The California branch of the Pacific railroad is being constructed with all practicable dispatch, and there is every reason to believe that the work will

not be permitted to languish, but that, at an earlier day than could have been reasonably anticipated, the entire line will be completed.

The extent and unsurpassed richness of the gold fields recently discovered in Arizona, together with our previous knowledge of the vast mineral wealth of New Mexico, is well calculated to impress all who reflect upon the subject with the necessity of a branch road from the Union Pacific to Santa Fe, and such other points in the Territory of New Mexico as may be necessary to the development of the mineral wealth and trade of that country; and, although Congress may be unwilling to lend pecuniary aid or credit to such an enterprise, it is believed that a liberal grant of land, both arable and mineral, of comparatively little present value to the Government, to the companies now organized, or to one to be chartered by the Territorial Legislature of New Mexico, will insure its speedy construction. There are vast fields of iron ore, and coal suitable for its manufacture, convenient to the line of the proposed branch road, and though the enterprise may appear stupendous, the income to be derived from it would doubtless soon afford ample compensation to those who might accomplish it.

I have the honor to be, with great respect, your obedient servant,

J. P. USHER,
Secretary.

The President of the United States.

Report of the Postmaster General.

POST OFFICE DEPARTMENT,
October 31, 1863.

FINANCIAL CONDITION.

SIR: I have the honor to present the following report of the condition and operations of this Department for the fiscal year which terminated June 30, 1863. During that period the financial condition of the Department has been one of increasing prosperity; and it is gratifying to be able to state that the actual postal revenue has nearly equaled the entire expenditures—the latter amounting to \$11,314,206 84, and the former to \$11,163,789 59, leaving a deficiency of but \$150,417 25. There is, therefore, good reason to expect that within a brief period the Department will become self-sustaining.

APPOINTMENT OFFICE.

Number of Post Offices.

The whole number of post offices remaining established on the 30th June, 1863, including the suspended offices in the insurrectionary States, was 29,047, showing an increase over the preceding year of 172. Postmasters are appointed at 550 of these offices by the President, and at 28,497 by the Postmaster General. Their classification by States is shown in the Appendix, No. 1.

Changes in 1863.

Eight hundred and thirty post offices have been established during the year, and 658 have been discontinued. The number of names and sites that have been changed, involving a change of postmasters in most instances, is 222, and there have been 2,431 resignations of postmasters, 245 deaths, and 1,115 removals. The whole number of cases acted upon is 5,501, and the number of postmasters changed from all causes during the year is 3,956. The details of these changes will appear in the Appendix, table No. 2.

Special and Local Agents, Route Agents, and Baggage Masters.

The number of special agents in the service at the close of the fiscal year was 16, whose aggregate salaries amounted to \$26,500. The number of route agents was 387, at an aggregate compensation of \$289,260; the number of baggage masters in charge of through or express mails was 93, at an aggregate pay of \$7,440; and the number of local agents was 45, at a compensation of \$27,824.

Letter-Carriers.

The law authorizing the free delivery of mail matter by carriers took effect on the 1st day of July last. About that time the system was put in operation at 49 of the larger offices, with a competent corps of carriers to each, numbering in the aggregate 449, at an aggregate annual compensation of \$500,630.

38TH CONG....1ST SESS.

Report of the Postmaster General.

SENATE & HO. OF REPS.

Ouro own experience and that of Europe demonstrates that correspondence increases with every facility for its conduct, and free delivery in the principal towns and cities has been proved in the mother country to be a facility attended with very remarkable results. Further time is required to prove whether it will operate in the same way here, but, as far as ascertained, the results are highly satisfactory.

In the city of New York there are now, daily, five deliveries from the office, and six collections of letters for the mails from the depositories in the various parts of the city. During the quarter ending September 30, 1863, there were delivered by carriers 2,063,418 letters, and 1,810,717 collected for the mails and city delivery, being an increase of 968,825 letters (about 25 per cent.) over the preceding and last quarter under the old system. Returns from other offices indicate results equally flattering.

A table exhibiting the offices at which the new system is in operation, the number of carriers at each, with their aggregate compensation, appears in the Appendix, No. 3.

FOREIGN MAILS.

The aggregate amount of postage (inland, sea, and foreign) upon the mails exchanged during the year with Great Britain, Prussia, France, Hamburg, Bremen, and Belgium, was \$1,224,675 21; an increase of \$80,579 39, as compared with the preceding year. Of this amount \$757,038 99 was collected in the United States, and \$467,636 22 in Europe; the excess of collections in the United States being \$289,402 77. The tables accompanying the report of the Auditor, and table No. 4, hereto annexed, show the details of the service between this and the several foreign postal departments.

The total postages upon mails exchanged with the British North American provinces was \$225,743 30, being an increase of \$47,969 79 over the amount reported for the previous year. Of this amount \$124,480 45 was collected in the United States, and \$101,262 85 in the British provinces. Excess in favor of the United States, \$23,217 60.

The total postages upon the mails conveyed to and from the West Indies amounted to \$54,997 24. Of which amount the sum of \$40,584 87 was paid to the owners of the steamships performing the sea service to and from Havana and other West India ports.

The amount of United States postages on the mails exchanged with Central and South America, via Aspinwall and Panama, was \$15,078 26—all of which was paid to Cornelius Vanderbilt, Esq., for the transportation thereof to and from Panama.

The total cost of the United States transatlantic mail steamship service was \$332,184 80; being the aggregate amount of sea postage upon the mails conveyed. The earnings of the respective steamship lines performing the service were as follows, namely:

The Liverpool and New York and Philadelphia Steamship Company, performing fifty-three round trips between New York, Queenstown, and Liverpool.....	\$180,076 54
The Canadian line of mail steamers, performing fifty-two round trips between Portland and Liverpool, and Quebec and Liverpool.....	72,643 40
The North German Lloyd Steamship Company, performing fourteen and one half round trips between New York and Southampton.....	46,229 91
The New York and Hamburg Steamship Company, performing thirteen round trips between New York and Southampton.....	33,234 95

German Postal Union.

I regret to state that no progress has been made since my last report in the negotiations for a new postal convention with Prussia, embracing the States composing the German-Austrian Postal Union. It was then confidently expected that a new convention resulting in important reductions of postage, the conclusion of which was made to depend upon the concurrent action of Great Britain, would have been agreed upon at an early date. But on account of some obstacle presented by Austria in respect to a proposed reduction of the territorial transit charges upon British closed mails conveyed through that country, no result has been attained.

Great Britain.

Additional articles to the United States and British postal convention have been agreed upon, redu-

cing the transit charges upon all closed mails sent by either country through the territory of the other to a uniform standard of fourpence (eight cents) per ounce for letters, and fivepence (ten cents) per pound for printed papers. The reduced rates, however, are not to take effect until the negotiations pending between the British post office and the German post offices, on the subject of a mutual exchange of closed mails, have been satisfactorily concluded. A copy of these additional articles is annexed, (No. 5.)

Additional articles have also been agreed upon between this Department and the British post office, establishing on the part of the United States a new office of exchange at San Francisco for the correspondence dispatched from the United Kingdom for California, Oregon, Washington Territory, the Sandwich Islands, British Columbia, and Vancouver's Island. A copy is annexed, (No. 6.)

Vancouver's Island and British Columbia.

The correspondence passing through the mails between the United States and the British provinces on the northwest coast of America having greatly increased in bulk within the past few years, it has become necessary to conclude postal conventions with the provinces of Vancouver's Island and British Columbia, establishing and regulating an interchange of mails. I have therefore proposed to the postal authorities of those provinces to adopt a similar arrangement to that in operation with Canada and the other British North American provinces. The proposition has been favorably received, and I hope soon to conclude postal conventions on that basis.

Costa Rica.

The rates of postage levied in Costa Rica upon the correspondence addressed to and received from the United States having been reduced by a decree of the legislative chambers of that republic, of the 1st September, 1862, to one half those previously charged, a like reduction of the United States postage, chargeable upon the correspondence sent to or received from Costa Rica, was ordered on the 18th of May, 1863, by and with the advice and consent of the President, in conformity with the provisions of the second section of the act of March 3, 1851. A reciprocal reduction was thus made in the rates of postage levied in each country, securing to international correspondence all the advantages proposed by the postal convention, as originally negotiated and approved by the Senate; but which, for the reason stated in my previous report, was not ratified by the Government of Costa Rica.

Ecuador.

I have also to state that negotiations are pending for a postal convention with Ecuador similar to that concluded with Guatemala.

Private Ships to convey Mails.

I take occasion to renew the recommendation made in my letter of March 3, 1862, addressed to Messrs. Collamer and Colfax, chairmen, respectively, of the Post Office Committees of the Senate and the House of Representatives, that all private ships or vessels departing from the United States for foreign ports should be required, as the condition of their clearance, to convey the mails upon such terms as are now or may hereafter be allowed by Congress.

International Postal Conference.

In my last annual report I stated some of the reasons which rendered general concert of action necessary between the Post Office Department of the United States and the postal administrations of foreign Governments. The conference, at that time proposed, assembled at Paris on the 11th day of May, 1863, and its deliberations were conducted under the presidency of the able Director General of Posts of France, M. Vandal. A more numerous representation of foreign Governments appeared than I had ventured to anticipate. Delegates were present from the post departments of Austria, Belgium, Costa Rica, Denmark, Spain, the United States, France, Great Britain, Italy, the Netherlands, Portugal, Prussia, the Sandwich Islands, Switzerland, and the Hanseatic cities; and the Government of Ecuador adhered by letter to the action of the conference. The debates not only exhibited distinguished ability, and a thor-

ough acquaintance with postal relations, but a most gratifying spirit of liberality towards the popular interests involved in international intercourse. In addition to the principles settled by the conference, the information with respect to different systems of administration, exchanged among the delegates, gave a new motive to postal improvement. Much valuable information touching foreign administrations, which was transmitted to this Department in the reports of the United States delegate, will aid me in the future improvements in our domestic administration which I hope to effect at an early period.

The following rules, thirty-one in number, were agreed upon by the conference:

SECTION 1. The articles which must or may be forwarded by the post from one country to another are divided into six classes: 1st, ordinary letters; 2d, registered letters, without declaration of value; 3d, registered letters containing declared value; 4th, corrected proof-sheets, business papers, and other written documents not of the nature of letters; 5th, samples of merchandise (including grains and seeds) of limited weight and without mercantile value; 6th, printed matter of all kinds in sheets, (stitched or bound,) sheets of music, engravings, lithographs, photographs, drawings, maps, and plans.

Sec. 2. Wherever it is possible, the prepayment of postage upon ordinary letters should be at the option of the sender; but, in case of such optional prepayment, unpaid letters must bear a moderate additional charge.

Sec. 3. Letters insufficiently prepaid by the postal stamps of the dispatching country must be rated as unpaid, deducting, however, the value of the stamps affixed.

Sec. 4. Registered letters, whether with or without declaration of value, must in all cases be prepaid to destination.

Sec. 5. All articles under bands, in order to take the benefit of a rate of postage less than that applicable to letters, must be prepaid.

Sec. 6. International correspondence of all kinds, duly prepaid to destination, shall not be charged with any additional rate whatever on delivery.

Sec. 7. The rates upon international correspondence shall be established according to the same scale of weight in all countries.

Sec. 8. The metrical decimal system, being that which best satisfies the demands of the postal service, shall be adopted for international postal relations, to the exclusion of every other system.

Sec. 9. The single rate upon international letters shall be applied to each standard weight of fifteen grammes, or fractional part of it.

Sec. 10. The single rate upon corrected proof-sheets, upon written documents not of the nature of letters, and upon samples of merchandise, (including seeds,) shall be applied to each standard weight of forty grammes, or fractional part thereof, to one address.

Sec. 11. The standard weight for the single rate upon articles under band, embraced in the sixth class of the first resolution aforesaid, must be established by special convention between the contracting parties.

Sec. 12. The rate upon letters must be fixed according to the weight stated by the dispatching office, except in case of manifest error.

Sec. 13. Registered letters, without declaration of value, shall be rated with a moderate fixed charge in addition to the rate applicable to ordinary letters of the same weight.

Sec. 14. Registered letters, containing declared value, shall be rated with a charge in proportion to the amount of the declared value, in addition to the postage and to the fixed charge applicable to the other class of registered letters.

Sec. 15. In case of loss of a registered letter without declared value, and in case of loss or spoliation of a registered letter with declared value, each office shall be held responsible for acts upon its own territory, and in the service for which it has received a premium of insurance. Fifty francs should be allowed to the sender of an unvalued registered letter lost, and for a valued registered letter so much of the declared value as shall have been lost or abstracted.

Sec. 16. Wherever intermediate transit charges render it practicable, the rates upon international

38TH CONG....1ST SESS.

Report of the Postmaster General.

SENATE & HO. OF REPS.

correspondence should be the same, by whatever routes the mails may be conveyed.

Sec. 17. Where there are different mail routes, correspondence shall be dispatched by the route indicated by the sender upon the address, or by the rate of postage prepaid, if different rates exist. In the absence of such indications the dispatching office will determine the route which it considers most advantageous to the public interest.

Sec. 18. Unpaid letters, delivered by one administration to another for a country to which prepayment is compulsory, shall be returned to the dispatching office as wrongly sent.

Sec. 19. Articles under band and subject to a lower rate of postage, with compulsory prepayment, shall, in case of insufficient prepayment, be dispatched to their destination, charged with a suitable extra rate. If such articles are wholly unpaid, they shall not be dispatched.

Sec. 20. International postal accounts cannot be suppressed by a rule of general application; but they should be simplified as far as possible. For that purpose offices of exchange should not be required to return acknowledgments of receipt of mails, except for the correction of errors of the dispatching office.

Sec. 21. International post offices, accounting with each other for the rates and charges upon correspondence exchanged between them, whether in open or closed mails, shall account, as far as possible, by the piece for the correspondence in the open mails, and by the net weight for the correspondence in closed mails.

Sec. 22. Correspondence reforwarded by reason of a change of residence of the person addressed shall not, on that account, be liable to a supplementary charge in favor of offices interested in the postage previously accrued.

Sec. 23. Registered letters addressed to persons who have departed for a foreign country not interested in the postage prepaid shall be forwarded to the new residence of the persons addressed, charged with additional postage and with a supplementary registration fee, to be paid on delivery.

Sec. 24. International correspondence which shall have become dead shall be returned, without cost, to the dispatching office.

Sec. 25. As high transit charges upon correspondence present an insurmountable obstacle to the establishment of an international system of correspondence upon conditions advantageous to the public, the transit charge for each country shall never be higher than one half of the interior rate of the transit country, and for countries of small territorial extent this transit charge shall be even less.

Sec. 26. The cost of sea conveyance claimed by one country from another shall in no case be higher than the rate charged upon its own correspondence by the country by whose vessels the conveyance shall be effected.

Sec. 27. It is desirable that postal administrations having accounts with each other should serve as intermediaries for the transmission of sums of money from one country to another by means of international money-orders, whenever this can be effected without complications disproportionate to the advantages resulting from it.

Sec. 28. In case of the non-payment at the stipulated time of the balance due upon an adjustment of an international postal account, the amount of the balance shall bear interest from the expiration of the stipulated period at the rate agreed upon by convention.

Sec. 29. In the adjustment of uniform postal rates the greatest possible number of countries should be included in the same zone and subject to the same rate.

Sec. 30. Free conveyance of its official communications with other postal administrations should be granted to each postal administration.

Sec. 31. There should be a class of letters denominated "urgent," for delivery by express messengers, for which a special supplementary charge shall be paid.

I have adopted this basis of international postal intercourse for the treaties hereafter to be made under the direction of this Department, and hope to reorganize our foreign system on that plan. Advice has reached me that the Swiss administration has adopted the same system, and that the Governments of Belgium and of Italy have

concurred. There is reason to believe that the other European Governments will also appreciate the importance of the uniformity and simplicity of postal action proposed by the conference, and will adhere to the principles of the Paris resolutions. A reduction of postal rates, combined with a large increase of postal correspondence, will naturally result from the inauguration of the new system. The enlightened sentiments expressed by the majority of the delegates lead me to hope that I shall be able to establish only two single rates of postage for letters on the one hand, and for all other postal correspondence on the other, exchanged between the United States and all parts of Europe.

It is my intention to publish a translation of the record of the conference as an appendix to this report.

I deem it proper, in concluding my remarks on this subject, to make known the fact that the public owes the suggestion to invite this international conference to Hon. John A. Kasson, who represented our Government in it with such zeal and ability as to command the thanks and warm approval of his associates. I do not doubt that important and lasting advantages are to flow from this conference, due in a great degree to his assiduity, practical ability, and earnestness in the cause of progress.

CONTRACT OFFICE.

Transportation Statistics.

Table No. 7 A exhibits the service as it stood on the 30th of June last in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, Western Virginia, Michigan, Indiana, Illinois, Wisconsin, Iowa, Missouri, Kentucky, California, Oregon, Kansas, and the Territories of New Mexico, Utah, Nebraska, Washington, Colorado, and Dakota, at which time there were in operation in those States and Territories 6,161 mail routes, the number of contractors being 5,595. The length of these routes was 139,598 miles, and the mode of service divided as follows: railroad, 22,152; steamboat, 44,744; with celerity, certainty, and security, 112,702.

The annual transportation of mails was 56,226,015 miles, costing \$5,740,576, divided as follows: railroad, 22,871,558, at \$2,538,517, about 11 cents a mile; steamboat, 2,004,771, at \$224,542, about 11 1-5 cents a mile; with celerity, certainty, and security, 31,349,686, at \$2,977,463, about 9 1/2 cents a mile.

The number of route agents in the service was 387, at a compensation of.....	\$389,360 00
The number of local agents was 45, costing.....	27,824 00
The number of mail messengers was 1,468, costing.....	170,872 06
The number of baggage masters in charge of express mails was 93, costing.....	7,440 00
The number of agents employed on steamers conveying mails to southern ports was 8, costing.....	650 00
	496,046 06

This sum added to the cost of service in operation on the 30th of June, 1863.....	5,740,576 00
Makes the total at that date.....	\$6,236,622 06

Mail Lettings of 1863.

The contract term for the southern section, comprising the States of Virginia, North Carolina, South Carolina, Georgia, and Florida, expired on the 30th of June last, and the new term commenced on the 1st of July following. The lettings of contracts for this term embraced only the routes in Western Virginia, that being the only portion of the section in which the mails are transported under authority from this Department.

Compared with the service of the 30th of June, 1862, the length of routes is increased 5,585 miles, with an annual increase of transportation of 2,793,490 miles, at a decrease in cost of \$113,258, being about two per cent. This saving is due principally to the result of the lettings of 1862 and the operations of the service under the system of considering such bids alone as are made according to the requirements of the act of March 3, 1845, for letting the contracts for transportation of the mails, and which has already been referred to in the report of 1862.

Other tables showing the operations of the Con-

tract office are appended to this report. (See No. 7, B, C, and D.)

Mails on the Pacific and Atlantic.

The floods on the north Pacific coast winter before last, and the insurrection in the south Atlantic States, interrupted the overland mails for a few months on the west coast, and continue to interrupt them on the east. In both cases I have had recourse to the routes by sea for the conveyance of mails between the ports in our possession. These were formerly the usual routes, and there is no law prohibiting the use of them by the Department.

The Sixth Auditor has, however, refused to pay the contractors for this service, on the ground that contracts for service by sea between the ports of the United States are unauthorized by law, and illegal. He errs, I believe, both in the construction of the law and also as to the extent of his authority to revise and annul contracts made by the Postmaster General. It becomes necessary, therefore, for Congress to act on the subject to enable me to pay for the service already performed, and to continue it.

Overland Mails.

The contract on the overland route from St. Joseph, Missouri, to Placerville, California, authorized by the act of Congress of March 2, 1861, will expire by its own limitation on the 30th of June, 1864. To continue the service, I have divided the route into four parts, and issued invitations for proposals to convey the mails on these divisions as separate routes, the whole, however, being united by continuous schedules so as to form one route, as at present, but terminating at Folsom City, the intersection of the Sacramento Valley railroad, instead of Placerville.

The act of Congress directing one continuous route limits the duration of the service under it to June 30, 1864. To continue the service beyond that date I have fallen back upon the various enactments of Congress, covering the whole line as post roads in detached portions. This seems to me to be the preferable mode of letting the service, and most likely to secure the best terms. Legislation will therefore only be needed to secure the conveyance by sea of printed matter intended for the west coast, and for raising the rates of postage on such matter for intermediate places on the overland route. The last day for receiving bids for these routes is, however, fixed for the 3d of March, 1864, allowing sufficient time for any action that Congress may deem best to adopt. The service on this route has been performed during the past year with commendable regularity and efficiency, and no accident, Indian hostility, or other casualty has occurred to prevent or retard the safe and prompt transmission of mails and passengers, the trips being, with rare exceptions, accomplished within the schedule time.

The contract for the service between Sacramento, California, and Portland, Oregon, and Olympia, Washington Territory, authorized by the act approved June 21, 1860, will expire on the 15th September, 1864; and as the route was but an aggregation of previously existing routes, it has become necessary to return to the original authority of the Department over them, and invite bids for service on separate portions as before. This has been done by advertisement dated on the 15th October.

FINANCE OFFICE.

For the details of the financial operations of this Department during the past fiscal year, reference is made to the accompanying able and comprehensive report of the Auditor. From that document the following summary of the receipts and expenditures is derived:

Expenditures for 1863.

The expenditures of the Department during the fiscal year ended June 30, 1863, amounted to \$11,314,266 84
In which is included the sum of \$181,182 59 paid for mail transportation of previous years.

Revenue for 1863.

The gross revenue for the year 1863, including receipts from letter carriers and from foreign postages, amounted to 11,163 769 59

Showing a deficiency of \$150,417 25

38TH CONG....1ST SESS.

Report of the Postmaster General.

SENATE & HO. OF REPS.

Reference to the Auditor's Report.

The Auditor's report, No. — of the Appendix, may be consulted for details of the revenue and expenditures under their several heads.

Deficiency of 1863.

The estimated deficiency of revenue for 1863, as presented in the annual report from this Department on the 2d December, 1861, was..... \$3,845,000 00
Deduct the actual deficiency 150,417 25

Excess of estimated over actual deficiency..... \$3,694,582 75

The discrepancy in this particular is thus accounted for. It was deemed expedient, as stated in the report above noted, to submit partial estimates for the cost of the postal service in States and districts where it was then suspended—in the greater portion of which, however, there has not as yet been any restoration of such service. The expenditures for 1863 were then estimated at \$12,528,000, which is \$1,364,210 41 in excess of the amount actually expended. On the other hand, the revenues of 1863 were estimated at the usual increase of four per cent. on those of 1861, (during the greater part of which year mail service was interrupted throughout the Union,) making \$8,863,000, which is \$2,480,789 59 less than the actual receipts—the latter being 33½ per cent. more than those of 1861.

Comparison of Receipts and Expenditures for 1860, 1862, and 1863.

The postal expenditure in 1860, the year immediately preceding the rebellion, was..... \$14,874,772 59
The postal expenditure in 1863..... 11,314,206 84

Excess of expenditure in 1860..... \$3,560,566 05

The actual revenue from postal receipts in 1863 was..... \$11,163,789 59
The same in 1860..... 8,518,067 40

Excess of revenue in 1863..... \$2,645,722 19

Showing that while the annual cost of postal service is at present three and a half millions less than when it was uninterrupted throughout the Union, the receipts therefrom are increased to the extent of more than two million six hundred thousand dollars:

The expenditures of 1863 were..... \$11,314,206 84
The expenditures of 1862 11,125,764 13

Increase in 1863..... \$188,442 71

The actual revenues of 1863 were..... \$11,163,789 59
The actual revenues of 1862..... 8,209,820 90

Increase in 1863..... \$2,953,968 69

From the above comparison of the receipts and expenditures of the last two fiscal years, it appears that the increase of expenditure in 1863 bears but a small proportion to the increase of the revenue, the one being about 6½ per cent. of the other.

The experience of the past year gives every reason to believe that the gross revenues of the Department for the year 1864 will equal, if they do not considerably exceed, the estimates thereof submitted in the last annual report, and that the expenditures will not surpass the amount therein stated. The appropriations already made for the service of the current fiscal year are therefore ample.

Estimates for 1865.

The expenditures of all kinds for the fiscal year ending June 30, 1865, (see table No. 9,) are estimated at \$13,422,000 00
The gross revenue for the year 1865, including foreign postages and miscellaneous receipts, is estimated at an increase of five per cent. on the revenues of 1863, making 11,722,000 00
Estimated deficiency of revenue compared with estimated expenditures..... 1,700,000 00
But from this sum is to be deducted the amount of the permanent appropriations made by the acts of March 3, 1847, and of March 3, 1851, to compensate the Department for carrying free mail matter..... 700,000 00

By which the estimated deficiency is reduced to..... \$1,000,000 00

being the whole amount estimated to be required from the Treasury for the year 1865.

The earnings of the Department in the transportation of free mail matter during the past fiscal year have not yet been expended.

In estimating the probable expenditures of 1865,

under the several heads of appropriation, those of the last fiscal year have, in general, been taken as a basis of calculation. But an increase of certain items of anticipated expenditure has been made in order to provide, to some extent, for the cost of restoring the postal service of the United States in sections of the country now under insurrectionary control. To this cause alone is the estimated deficiency for 1865 to be attributed. But this deficiency is not one fifth of that of 1860—the latter being upwards of \$5,600,000.

Number of Quarterly Returns received.

The whole number of post offices in operation during the year was 20,145, and the number of quarterly returns received therefrom was 78,239.

Drafts and Warrants.

The whole number of drafts and warrants issued during the year, in payment of balances reported by the Auditor to be due creditors of this Department, was 15,944. The warrants were drawn on the Treasurer of the United States, five Assistant Treasurers, and seven designated depositaries, and the drafts on twenty-five post office depositaries, and on postmasters at three hundred and fifty-eight draft offices.

Out of the net revenues of the Department for the year, the sum of \$4,563,341 15, being over sixty per cent. thereof, was concentrated in the hands of the above-named depositaries and at draft offices. Of this amount, \$3,882,454 93 was disbursed during the year, leaving \$681,086 22 subject to draft on the 1st of July, 1863. The remainder of the net revenue was collected by mail contractors, by means of orders on postmasters at collection offices, prepared and sent out by the Auditor, and through payments by postmasters to mail messengers and special mail-carriers.

POSTAGE STAMPS AND STAMPED ENVELOPES.

Stamps and Envelopes issued.

The number of postage stamps, stamped envelopes, and newspaper wrappers, sent to postmasters during the fiscal year ending June 30, 1863, is given in detail in table No. 10, in the Appendix to this report. The value of the stamps issued during that period was \$9,683,384; of stamped letter envelopes, \$634,821; and of stamped newspaper wrappers, \$20,545. The aggregate value of the issue of the year under notice, as compared with that of the preceding year, shows an increase of \$2,503,668. (See table No. 11.)

Value of Stamps sold.

The total value of stamps and stamped envelopes sold by postmasters during the year, as ascertained from the records of the Auditor of the Treasury for this Department, was \$9,624,529 62, which exceeds, by \$2,714,397 73, the sales of the previous fiscal year.

New Denomination of Stamps and Envelopes.

The act of March 3, 1863, entitled "An act to amend the laws relating to the Post Office Department," having advanced the rate of postage upon drop letters and transient printed matter to two cents the single rate, new stamps and stamped envelopes of that denomination were prepared, and have been furnished to postmasters since the 1st of July last.

Cancellation of Postage Stamps.

During the past year indelible canceling inks have been used at the principal post offices, and the employment of printing ink for cancellation—the latter being much more difficult to efface than ordinary writing ink—has been continued at the smaller offices.

It is not believed that the Department has ever suffered any considerable loss from the use of washed or restored stamps, yet there has been a constant endeavor, either by the introduction of some effectual method of cancellation, or by a peculiar process in the manufacture of the stamps, to render impossible a second use thereof for the payment of postage. No improvement of this nature has yet been perfected, though much attention has been given to the subject, and many ingenious devices for this purpose invented. Instruments for cancellation, with cutting or abrading edges, have been submitted by various parties, and upon being thoroughly tested were found to

be inherently defective; owing to their liability to injure, or to be injured by, the contents of letters or packets. These instruments, furthermore, speedily became dull or disarranged by ordinary use, requiring frequent sharpening or adjusting.

After much thought, and a thorough consideration of the many instruments and devices which have been submitted or suggested to the Department to attain the desired result, the conclusion has been reached that the only certain means of effectual cancellation is in the preparation of the stamps in such manner that, when once affixed to a letter, they cannot be removed therefrom without involving their destruction; or by their being printed in colors sufficiently permanent to resist the action of air and light, but which would readily be effaced by any agent intended to remove the canceling marks. Three varieties of postage stamps, alleged to possess one or the other of these qualities, have been submitted to the Department, and their respective merits are under consideration.

Losses of Postmasters from Robbery by Armed Men.

I beg leave to renew the recommendation made in my last annual report, that special provision be made by Congress authorizing the Postmaster General to adjust and allow, upon the presentation of proper evidence of loss, the claims of such postmasters as may have sustained losses of postage stamps and stamped envelopes by reason of the occupation and robbery of their offices by bodies of armed men. There have been reported to the Department about one hundred cases of this description, and the aggregate amount of claims thereupon will not exceed \$6,000. It is a circumstance worthy of consideration, that in most if not in all of these instances these postmasters have suffered greatly by the destruction of their private property. The Post Office Department, under existing regulations, not having the authority to make an allowance for the loss of public property by robbery or theft, the only remedy is in the hands of Congress.

Theft of Stamps from Post Offices.

Additional legislation is also required in respect to post office thefts. The stealing of postage stamps from a post office is not made a felony under any existing statute. Some months since three persons were convicted in Indiana of the robbery of a post office in that State, and the stealing of letters and a considerable amount of postage stamps. The former not having been proved to contain "any article of value or evidence thereof," and there being no penal enactment against the taking of the latter, the parties were necessarily sentenced to punishment for one of the slightest offenses against the postal laws, having been each fined five dollars, and imprisoned three months. I would suggest the establishment, by statute, of a suitable penalty for offenses of this nature. The best mode, perhaps, of attaining this result would be the enactment of a law making it a penal offense to steal from or forcibly enter into any room or building which may, at the time of such stealing or entry, be used or occupied as a post office.

DEAD LETTERS.

Number of Dead Letters received.

The whole number of ordinary dead letters of every description received and examined during the year was 2,550,416, being 268,398 more than in the preceding year.

Money and other Valuable Letters.

The number of these letters which contained money was 18,527, and the value of their contents was \$77,861 31, showing an increase over the number of letters of this class received during the previous year of 8,052, or 76 per cent., and an increase in the amount of money inclosed of \$31,322 42, or 67 per cent.

Of these letters there were registered and mailed for delivery to their respective owners during the last fiscal year 18,219, of which 15,048, containing \$63,627 72, were finally delivered. To bring about the latter result it was necessary to send out many of these letters a second time, and some of them, in consequence of the owners' change of residence, or for other cause, were sent out three or four times in order to secure their restoration.

The number of dead letters covering deeds, bills of exchange, drafts, and other valuable papers,

received, registered, and returned for delivery to the writers, was 8,332, and the aggregate nominal value of their contents was \$1,544,277 81, being a decrease in the number of this class of letters, as compared with the previous year, of 1,431, and in the value of the inclosures of \$645,172 19. Of these letters 7,559 were delivered to the owners.

During the year 16,763 valuable letters or packages of a third class were received and registered. Of these 12,579 were sent out for delivery, 10,918 of which contained daguerreotypes or photographs, 764 articles of jewelry, and 897 miscellaneous articles. Out of the whole number sent from the dead letter office for delivery, 8,273 were restored to the writers or senders.

There has been a continued increase in the receipts of letters of the class under notice, the great majority of which contain daguerreotypes or card photographs, and of these a large proportion are sent by soldiers or their correspondents. The whole number of such dead letters exceeds by 85 per cent. the amount thereof received in the preceding year. It will be observed that while there has been a very considerable increase in the quantity of dead letters containing money, and of those covering daguerreotypes and miscellaneous articles, the number of such as contain deeds, bills of exchange, drafts, &c., has sensibly diminished. The increase of the two former classes is doubtless owing, in a great degree, to the fact that the mails are very generally used by the large number of persons in the military service of the United States, and by their numerous correspondents, for the transmission of money, photographs, and similar articles of value, while, on the other hand, they have less occasion to forward by mail deeds, drafts, or negotiable paper, than other classes of the community. The nature of the military service, and the many accidents to which soldiers are liable, necessitates frequent changes of locality, which retard or prevent the delivery of their letters, and many of these are, in consequence, sent to the dead letter office. Upwards of five thousand money letters, being nearly one fourth of the whole of that class of letters received during the year, were addressed to soldiers.

Reasons for Losses of Valuable Letters.

For the reasons above indicated, complaints of the loss of money letters sent by or directed to soldiers and their families have been numerous. In many instances such losses were directly traced to dishonest letter-carriers in the military service, and therefore beyond the control of this Department. Moreover, many letters are lost through carelessness and indifference on the part of some of the persons who distribute mail matter in our armies. The power to correct or to lessen this evil rests with commanding officers, who would do their subordinates a great service by selecting competent and reliable persons to superintend the reception, transmission, and delivery of mail matter, and holding them responsible for the faithful performance of these duties.

Money Order System.

In this connection I beg leave to renew the recommendation made in my last annual report, that a postal money order system be established to facilitate the transmission of small sums of money through the mails, which I am confident would not only prove a great convenience to civilians and soldiers, but would almost entirely obviate the loss of money letters, the great majority of which inclose small remittances.

Causes of Non-delivery of Valuable Letters.

Upon an examination of the reasons for the non-delivery of valuable letters, in the first instance, to the persons addressed, it is found that, in accordance with the past experience of this Department, the failure of a letter to reach its destination is, in the vast majority of instances, the fault either of the writer or person addressed—such failure being more frequently caused by a change of residence of the latter.

Full details of the operations of the dead letter office, with respect to "money," "minor," and "miscellaneous" letters, will be found in the Appendix, tables Nos. 12, 13, and 14.

In compliance with a request from the War Department, 8,822 dead letters and packets, containing soldiers' descriptive lists and certificates

of discharge, have been transmitted to the Adjutant General, after being carefully registered in this Department.

It appears from the foregoing statements that the whole number of valuable dead letters registered and sent out from the dead letter office during the past fiscal year was 42,613, being 17,202 more than during the previous year.

In addition to the above, 55,044 letters containing postage stamps or other articles of less than one dollar in value, and which were not deemed of sufficient importance to require registration, have been returned to the writers or senders. Letters of this description which are not susceptible of restoration are destroyed, with their contents. The number of postage stamps destroyed in conformity with this practice, from July 1, 1862, to 30th June, 1863, was 43,748, and the aggregate value thereof was \$1,318.

Letters held for Postage, &c.

The number of letters which could not be forwarded from the offices where mailed, or be delivered therefrom, because of unpaid postage, or because so badly directed, and which were consequently sent to the dead letter office, amounted to 196,414. The number thereof "held for postage" was 167,894, the number "held for carrier's fee" 9,954, (all of which latter were contributed exclusively by the offices at Boston, New York, and Philadelphia;) and the number "misdirected" and imperfectly or illegibly addressed was 18,566, of which nearly two thousand were without any address or direction whatever, and in several instances contained sums of money or other inclosures of value.

The class of letters under consideration was disposed of as follows, namely: 157,352 were dispatched to the writers or persons addressed; 753, which originated in foreign countries with which we have no postal conventions, were filed to await application; and the remainder, consisting of notices, advertisements, prospectuses of gift enterprises, fraudulent lottery circulars, valentines, and similar worthless matter, were destroyed.

Table No. 15, accompanying this report, shows the number of letters held for postage or carrier's fee, or because misdirected, at forty-six of the principal offices, together with the number delivered upon notification to the person addressed, and the number sent to the dead letter office.

Under the provisions of the new postal law, which went into operation on the 1st July, 1863, letters are no longer detained in post offices on account of unpaid postage or carrier's fee.

Letters addressed to Points in the Rebellious States.

By reason of the continued suspension of regular postal communication with sections of the country under insurrectionary control, a considerable number of letters, amounting in the aggregate to 24,314, found their way, by various channels, to the dead letter office. Of these letters the number addressed to rebel localities was 21,200, and out of this number 17,888 were of domestic, and 3,312 of foreign origin. The former were marked "mails suspended," and sent back to the writers; and the latter were returned, with a similar indorsement, to the countries where they originated. Of the class under consideration, 3,114 were written in localities not subject to the authority of the United States Government. Nearly all letters of this description were placed in the custody of this Department by the military authorities, who very properly have entire control of the transmission of correspondence beyond or into their lines; and most of them were originally sent unsealed to the commanding officer at Fortress Monroe by flag of truce. These letters were, after examination, duly mailed to the persons addressed, charged with dead letter postage.

Ordinary Dead Letters.

Under the authority given to the Postmaster General by the act approved January 21, 1862, 1,007,255 ordinary dead letters, not evidently worthless, were placed in new envelopes and returned to the offices where originally mailed, to be delivered to the writers. Of this number, 4,898 were sent to banks and insurance companies; 89,642 to business firms, and the remainder to individuals. Nineteen thousand and two of these letters, which were directed to sick and wounded

soldiers in hospitals, and failed to reach the persons addressed, were returned free of postage to the writers, generally relatives of soldiers, and the greater portion of them were delivered. The number of dead letters of the class under notice, written in foreign languages, was 35,861. (For details see table No. 16.)

Of the whole number sent out for restoration to the writers, 287,211, being about twenty-five per cent., were again returned to the Department. In the great majority of instances the reasons assigned by the postmaster for such return were, "not called for," "not known," or "not found." The proportion "refused" was comparatively small, not exceeding twelve per cent. Since the reduction in the rate of dead letter postage from six to three cents, which took effect on the 1st of July last, this proportion has steadily decreased.

After deducting from the whole number of letters sent out such as were returned a second time, and those sent free of postage, including hospital letters, &c., there remained 692,220 letters on which dead letter postage was collected at six cents each, yielding a gross revenue to the Department of \$41,533 20, which exceeds by \$21,533 20 the aggregate compensation of the clerks employed in sending out these letters. At the present reduced rate of three cents for a single return letter, there would still have been a surplus of \$1,533 20, while it is confidently believed that a much larger number of return letters will hereafter be delivered to the writers, not only in consequence of the reduction of dead letter postage under the new postal law, but also of the more prompt restoration of such letters. To secure the latter result the Department has instructed postmasters to forward to the dead letter office, except in special cases, all letters remaining unclaimed one month after being advertised, instead of two months, as formerly.

Foreign Dead Letters.

The number of dead letters returned unopened to foreign countries during the year was 137,145, and the amount of unpaid postage thereon was \$8,281 40. The number received in the same condition from foreign countries was 51,619, on which the unpaid postage amounted to \$1,479 53. (See tables Nos. 17 and 18.)

It was found that among the unpaid foreign dead letters a considerable number directed to officers and soldiers in the field remained undelivered, not having been claimed nor postage paid thereon by the persons addressed, although a notice is directed to the latter by postmasters in every case. To secure the delivery of as many of these letters as possible, a record of them was carefully kept since the 17th of April last, and a list of those directed to each regiment was sent monthly to the commanding officer, with a request that if the person addressed was still attached to the regiment, an application, accompanied with the amount of postage due, might be made for his letter; if not, that the cause of his absence from the regiment might be stated. By this means, out of 1,527 letters of this class, 323 were delivered, and some 800, before being returned to foreign countries, were indorsed with a statement of the cause of non-delivery, such as "dead," "discharged," "dismissed," "resigned," &c.—information which in many instances could not fail to prove important to the writer, who is usually a relative of the soldier.

Correspondence Unpaid and not Franked.

By the provisions of the thirty-second section of the new postal law, which took effect on the 1st of July, 1863, all correspondence addressed to any Executive Department, or to any officer therein, must be prepaid, except official communications written by some officer of the Department, or an officer under its control or responsible to it, and in such cases it is required that the officer shall sign his name, with his official designation, under the words "official business" on the envelope.

As correspondence of this nature had invariably been transmitted free of postage under former postal laws, a rigid enforcement of the restriction in question was not at first attempted, until sufficient time had elapsed for the public to become familiar with the requirements of the new law.

It was found, however, at the expiration of more than two months, that private individuals

38TH CONG....1ST SESS.

Oath of Office—Mr. Bayard.

SENATE.

corresponding with the Departments generally neglected or evaded the payment of postage on their correspondence, which was duly forwarded to its destination with the unpaid postage charged at double rates. Great numbers of communications not franked by the military or civil officers writing them were similarly disposed of.

The tendency of this state of things was to relieve persons from the necessity of paying postage on communications to the Executive Departments, and thereby to render the provision in question inoperative. Hence it became necessary to direct postmasters to forward all mail matter for the Departments, which was not prepaid or franked, to the dead letter office, where it is examined, and, when practicable, returned to the writer for payment of the postage, or for his official frank, as the case may require. This plan involves considerable additional labor in the office, but it has almost entirely stopped the practice of evading or neglecting the payment of postage. Large numbers of official letters, however, addressed to the several bureaus of the War and Navy Departments, are still sent without any frank by officers at remote stations, who, by reason of their situation, have doubtless failed to receive information of the requirements of the new law.

REVISED CODE OF LAWS.

In concluding this report, I would ask the consideration by Congress of the revised code of the laws relating to the Post Office Department, which was submitted by me at its last session, and which is for the most part but a digest of the existing postal laws, the provisions of which would be but slightly affected by the modifications therein suggested.

I have the honor to be, very respectfully, your obedient servant,

M. BLAIR,
Postmaster General.

The PRESIDENT.

OATH OF OFFICE.

SPEECH OF HON. J. A. BAYARD,
OF DELAWARE,

IN THE SENATE OF THE UNITED STATES,
January 19, 1864.

The Senate resumed the consideration of the following resolution of Mr. SUMNER:

Resolved, That the following be added to the rules of the Senate:

The oath or affirmation prescribed by act of Congress of July 2, 1862, to be taken and subscribed before entering upon the duties of office, shall be taken and subscribed by every Senator in open Senate before entering upon his duties. It shall also be taken and subscribed in the same way by the Secretary of the Senate; but the other officers of the Senate may take and subscribe it in the office of the Secretary.

The pending question being on the amendment of Mr. SAULSBURY, to strike out all after the word "resolved," and insert the following:

That the Committee on the Judiciary be instructed to inquire whether Senators and Representatives in Congress are included within the provisions of the act of Congress entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, and whether the said act is in accordance or in conflict with the Constitution of the United States.

Mr. BAYARD said:

Mr. PRESIDENT: The resolution now before the Senate was proposed by the honorable Senator from Massachusetts [Mr. SUMNER] in March last, and afterwards withdrawn. As I am the only member of the Senate present at this session who has not taken the oath, it is but a rational inference that the rule now proposed is intended to operate personally upon me, although I was sworn in at the special session and acted as a Senator both on committees and in the Senate since my reelection in March last for the term of six years, ending on the 3d of March, 1869. In the objections, however, which I have to present to this proposed rule, I shall consider it without reference to any personal effect it may have upon my own action.

The object of the resolution is to enforce an act of Congress entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862. Were I disposed to raise collateral ques-

tions, it might well be contended that if the rule were adopted it would have no application to a Senator who had been sworn in, taken his seat, and acted as a member of the body. I shall raise no such question; but I have the right to ask for the judicial decision of the Senate, both as to the constitutionality of the act and its correct construction.

The adoption or rejection of this rule involves two general questions. First, is the act on which it professes to be founded repugnant to the Federal Constitution, or is it within the powers delegated to Congress? Second, is a member of the Senate included by its provisions when construed according to the language and meaning of the Federal Constitution? Before proceeding to the discussion of these questions I must recur to the history of this act in its progress through Congress, and the subsequent action of the Senate after its passage.

The bill originated in the House of Representatives. When it came to the Senate, after its passage in the House, it was referred, on the 5th of June, 1862, to the Committee on the Judiciary. On the following Wednesday, the 11th of June, it was reported back without amendment. It was called up during the morning hour on the 13th of June, and reported to the Senate without amendment, and read a third time without debate. Then, on a suggestion made by my colleague with reference to the office of President and the oath to be administered to him, a debate arose; the yeas and nays were called for and ordered; but the debate was very short and the bill went over.

It was again called up by the honorable chairman of the Committee on the Judiciary on the 21st of June, and he then moved to reconsider the third reading of the bill, and proposed an amendment which was intended to exclude from the operation of the bill the President of the United States. The amendment proposed was to insert these words: "For whom the form of the oath of office is not prescribed by the Constitution."

All other persons holding office were to be sworn. To that amendment the honorable Senator from Kentucky [Mr. DAVIS] moved a further amendment excepting the Vice President and Senators and Representatives in Congress. On that amendment to the amendment a debate arose, which was sustained by the honorable Senator from Illinois [Mr. TRUMBULL] against that proposed amendment, and by the honorable Senator from Kentucky [Mr. DAVIS] and my colleague in favor of it. I took no part in that debate nor in any subsequent debate on the bill.

The following Monday, the 23d of June, it came up as a special order, and was discussed very briefly by the honorable Senator from Virginia, [Mr. CARLILE,] the honorable Senator from Wisconsin, [Mr. DOOLITTLE,] and the honorable Senator from Kentucky, [Mr. DAVIS,] in favor of his amendment, and by the honorable chairman of the Committee on the Judiciary [Mr. TRUMBULL] against it. The vote was taken on that day, and the amendment adopted by a vote of 20 to 18. I was not present, and did not vote, and some other members of the Senate were also absent; but the vote wanted but five votes of being a majority of the whole Senate as it then stood.

Other amendments were then made, and the bill passed. There was no division on any other amendment which was adopted, and they were all of little moment. No other ground was taken in support of the amendment proposed by the honorable Senator from Kentucky than that it was repugnant to the Constitution of the United States to include Senators and Representatives within the terms of the law, because it altered their qualifications.

On the 25th of June the House disagreed to all the amendments of the Senate, and asked a committee of conference, and on the 26th of June the Senate insisted, and a committee of conference was appointed by the Chair, then filled by a President *pro tempore*. From inadvertence no doubt—contrary to the usual course of parliamentary proceedings—a majority of the committee of the Senate were selected of members who were opposed to the sense of the body, as evidenced in the vote to which I have alluded, being also the only vote on which a division took place, where the

amendment was adopted. The result was inevitable. The committee, after meeting the House committee, reported that the House receded from their disagreement to all the other amendments, and that they modified the amendment which had been adopted by the Senate—the only material one—by excepting solely the President of the United States. When that report came up in the Senate, the question was simply on the acceptance of the report of the committee of conference; and on the 30th of June the report of the committee was agreed to by the Senate. Every one knows that under those circumstances no decision is involved of any question connected with the propriety of the law or its constitutionality, but the mere question of an assent to a report of a committee of conference, which must be assented to for the whole, or rejected for the whole by, I think, a very unwise parliamentary practice which has obtained in this body from its earliest history. The vote then taken cannot be considered as overruling the direct decision made by a majority of the Senate who voted in favor of the amendment of the Senator from Kentucky, that the law was unconstitutional if it included members of Congress.

At the next session of the Senate, commencing in December, 1862, the same Senate remaining, four Senators took their seats in this body under elections held subsequent to the passage of that law. They took the oath prescribed by the act of 1790, and no other oath: none other was suggested, none other was demanded by any member of the Senate or by the body itself. They held their seats during the terms for which they were elected, and performed all the functions of Senators under the ordinary constitutional oath. At the special session the new members and those who had been reelected were all sworn in under the ordinary constitutional oath, and after that the rule now proposed by the Senator from Massachusetts was proposed. It was introduced on the 5th of March and laid over; debated during the 6th alone; and during that debate, by some sort of agreement, the rule was withdrawn, and by voluntary action Senators took the new oath, without any order on the part of the Senate or any decision upon the constitutionality of the law or its construction as including members of Congress.

The fair inference from this statement of facts—and that is the object with which it is made—would seem to be that the majority who voted on June 23, 1862, for the amendment excepting members of Congress, did so on the ground that if the act included them it would be repugnant to the Constitution, because no other ground in favor of the amendment of the honorable Senator from Kentucky was assigned than the constitutional objection to the power of Congress to add to the qualifications of a member by prescribing an oath varying in substance from the oath required by the Constitution. That such was the opinion of a majority of the Senate may also be inferred from the fact that the four Senators to whom I have referred were suffered to assume the functions of their office under elections made subsequent to the passage of the law, and to hold their seats during their terms without taking the oath prescribed in the act of 1862, though it was as applicable to them, if valid and constitutional, as it is now to myself or to any other member of this body. The objections to the law, therefore, cannot be considered as trivial, but are of the gravest character, or such could not have been the action of the Senate since its passage.

As by the Constitution the Senate is the proper and only tribunal which can decide any question relating to the election, returns, or qualifications of its members, the obligatory force of the act of July, 1862, comes judicially before the body on this resolution proposing to enforce that act by a new rule. The first clause of the fifth section of article one of the Constitution makes each House the judge of all such questions. It gives no authority to either House to prescribe new qualifications for its members; but it confers the judicial authority to determine whether the member has been elected and whether he is duly qualified according to the provisions of the Constitution—no more, no less. Therefore any question arising under an act of Congress in relation to the elec-

tion, return, or qualifications of a member, is subject to the judicial revision of the House of which he is or claims to be a member, as fully as any other question relating to the constitutionality of a law and its correct construction would be so subject by the courts when a case presented it. Nor is the argument in favor of the obligation of the law because the Senate in its legislative capacity has sanctioned it of greater weight when the question of its obligation and construction is brought before them judicially than it would be if the Senate were sitting as a court of impeachment, or, in the Supreme Court of the United States, if in a case before it the constitutional obligation and correct construction of an act of Congress was involved. In either case the action is judicial revision, which is essential in every free government.

I proceed now, sir, to the discussion of the two questions which I have previously stated are involved in the decision of the resolution before the Senate.

This act of July 2, 1862, is repugnant to at least three, I think four, provisions of the Federal Constitution. It is invalid because it prescribes a further qualification for a member of Congress before entering upon the performance of his duties. This was the question, and the only question, argued before the passage of the law, or noticed in the debate. It will scarcely be denied at this day that the Government of the United States, the Federal Government, is one of enumerated or specially delegated powers, and that, though paramount in its sphere, it can exercise no powers but those which have been delegated or such as are necessary and proper to carry delegated powers into execution; that it stands in that respect contradistinguished from the State governments, which, though subordinate to the General Government, within the limits of its delegated powers, yet possess those indefinite powers of sovereignty and legislation which vest in any government not so organized as is the Federal Government under a special delegation of authority. This distinction, however, between the two forms of government is not essential to my argument on this branch of the case.

The third clause of the third section of article one of the Constitution prescribes the qualifications of a Senator—age, residence, and citizenship; the age thirty years; residence at the time of election in the State which elects him; and citizenship for nine years preceding the election. The third clause of the sixth article requires that Senators and Representatives shall be bound by oath or affirmation to support the Constitution. Does this provision admit any oath varying in substance from the oath so required? It has been admitted, and indeed cannot well be denied, that no oath other than that of which the form is prescribed in the Constitution can be imposed upon the President of the United States; and upon the same principle the substance of the oath prescribed for Senators and Representatives, and members of the State Legislatures, and all offices of the States as well as of the United States, must be adhered to, though Congress may unquestionably prescribe the form in which it is to be administered. Variations of form are quite immaterial. The form adopted originally was prescribed by the first act of the first Congress of the United States, and will be found at page 23 of the first volume of the Statutes at Large. I refer to it both for its simplicity and to show the views which that body took of the authority they were exercising, that it was merely the prescription of the form of an oath required by the Constitution. The first section is:

"That the oath or affirmation required by the sixth article of the Constitution of the United States shall be administered in the form following, to wit: I, A B, do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States."

The power assumed in that act was merely to prescribe the form of the oath required by the Constitution, by legislation, and that power is not questioned. I cannot doubt that as regards members of Congress either House might have prescribed the form by its own resolution; but for the sake of uniformity, as the oath is required by the Constitution, of course it was wiser that a general pro-

vision should be made by legislation. Indeed, this law recognizes the fact that either House would have possessed that authority, because it provides that the oath shall be administered within three days to every member, and also to the members and the Speaker of the House of Representatives, who had not taken a similar oath by virtue of a resolution of the House.

But there was a question raised at that time as to whether Congress had the power and the duty of prescribing the form of oath for members of a State Legislature and officers of a State government; and it was from the debate on that question that very free extracts were made during the special session, which I consider irrelevant to the present discussion. No one doubts now, no one contends now, that Congress has not the power to prescribe the form of the oath not only for Senators and Representatives, but for all officers of the United States, and for officers of State governments and members of State Legislatures. The objection to this oath is not that it varies the form adopted in 1790, but the objection is that it in substance varies from the oath required by the Constitution; and "required" means "authorized by the Constitution." Nor would I make captious objections under any circumstances to any form of oath which Congress might see fit to prescribe, though I might prefer the simpler form adopted in the first instance. But, Mr. President, this law contains two oaths distinct in their nature, distinct in their substance. I will read the act for the purpose of comment hereafter:

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation:

"I, A B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto."

Then follows the form of the oath required by the Constitution, varying from though not improving the form prescribed in the first instance:

"And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

To the latter oath which is contained in this law I have no objections to make. I may and do consider that it is awkwardly and inartificially drawn, with not a little of verbiage and surplusage, but in substance it includes nothing that is not included in an oath to support the Constitution. An oath to support the Constitution and an oath to bear true allegiance to the United States and support the Constitution are substantially the same; because a party sworn to support the Constitution must violate his oath if he does not bear true allegiance to his country. So, too, an oath to perform his duties with fidelity and support the Constitution is equally but a variation in form. It is in substance an oath to support the Constitution, because when the party accepts the office and swears to support the Constitution the obligation imposed upon him, both by the office and the oath, is that he will perform his duties with fidelity. So, too, the insertion of the words that he shall support it "against foreign and domestic enemies" is but a variation of form. If he supports the Constitution of his country it must be against any enemies, be they foreign or domestic. It is also but a variation of form to require that the member shall swear that he takes the oath "without mental reservation or evasion." According to any code of morals with which I am conversant no honest man could make a mental reservation in taking an oath; and, beyond all question, a court of law would treat such a defense on an indictment for perjury as merely frivolous.

In all these respects I hold the second oath—for it is a second oath prescribed in this law—as simply a variation in form from that prescribed in the act of 1790; and though I prefer the simpler form originally prescribed I should never have objected to any form of the constitutional oath which Congress saw fit to prescribe. The oath required by the Constitution is a promissory oath, which but adds the sanction of religion to the obligation of duty imposed by the acceptance of the office or trust; and such an oath, I may add, is both proper and requisite in all Governments.

But the oath prescribed in the first clause of the act of 1862 varies in substance from that required by the Constitution. It is no longer a question of form; it is not a promissory oath relating to the present and the future; but it is an expurgatory test oath retrospective in its character, and covering the events of the affiant's past life. The Constitution authorizes an oath appealing to the conscience alone for the future performance of duty. The oath embodied in the first portion of this act of 1862 is retrospective as to his acts, and makes it a necessary qualification that he shall purge himself as to his past conduct under a penalty.

Surely, Mr. President, if a variation in the form of the oath prescribed for the President of the United States cannot be made, the same principle must equally, by necessary implication, exclude any change in the substance of the oath prescribed for members of Congress or of State Legislatures, unless, indeed, you consider that the shadow has more reality than the body of which it is but the reflection. The evil here lies in the precedent which will be made by sanctioning this law as constitutional. If the power exists in Congress to pass a law of this nature, to require an oath of this character, an expurgatory test oath relating to the offense of treason, then the power is without limits as to any crime or offense whatever, and Congress may require every member elected to purge himself by oath not only from some other particular offense but from all offenses of any kind against the laws of the United States. Indeed, the power is without limit, except the very slender one that a religious test cannot be required. An existing majority would have the authority, if this power be vested in Congress, to exclude by the oath which they prescribed every one who differed from them in opinion as to any particular subject, or any particular act of legislation, or even as to any particular proclamation of the existing Executive. They might make the oath promissory alone by requiring the party to swear that he would support the particular law though he believed it unconstitutional and void; or to swear that he would support the particular proclamation of the President though he believed it an excess of executive power; and thus a mere majority of the Legislature might exclude all who differed in opinion from them in reference to any subject whatever. Or they might go further, on the principle of this law, if it be sound, and require that the member elected should swear not only as to the future, but as to the past that he had always supported either a particular act of Congress from the time of its passage or a particular proclamation of the Executive from the time of its promulgation.

Such a power existing in the legislature of a representative republic would gradually but certainly, by one precedent following another—for bad precedents are always followed—end in the subversion of the form of government.

Sir, let me suggest one oath which might be required or prescribed by Congress if this precedent is now sanctioned. No one doubts that intemperance is a great evil, widespread and destructive to the community at large. Very many honest and conscientious men have entertained the opinion that the only mode in which it can be restrained and diminished is by penal legislation operating both upon the sale and the consumption of intoxicating liquors. The system of penal legislation in reference to this vice has obtained in some of the States of the Union, and has been the subject of political controversy in several others. Let me suppose it should so happen (and it is certainly not beyond the bounds of probability) that a majority of total abstinence men should become

38TH CONG....1ST SESS.

Oath of Office—Mr. Bayard.

SENATE

members of the two Houses of Congress, what may be the result if you sanction by this precedent the authority of Congress to prescribe an oath of this kind? It is true that it is not probable they would attempt to pass a law requiring an expurgatory oath from members afterwards elected, that they had never in the past tasted either wines or other intoxicating drinks, because the prescription of such an oath would prevent the organization of any subsequent House of Representatives and dissolve the Senate within four years. But it might be urged with great force, if this power exists, that a very effectual restraint would be imposed upon the vice of intemperance if an oath were prescribed pledging each member of Congress, under the penalty of perjury, that he would not taste intoxicating liquor during the term of his trust, or at any time subsequently. It might well be considered by men of extreme opinions, who look only to the character of the evil to be remedied, and disregard the mode in which the remedy is to be attained, that such legislation would be advisable and beneficial. Nor is it improbable that such legislation might result, because beyond all question if the power exists to prescribe the oath against which I am now contending, then the power would exist, if Congress saw fit to exercise it, to require every member before entering upon his duties to take an oath that he will not hereafter during the term for which he is chosen or during the residue of his life use any intoxicating liquor except in the case of sickness and on the prescription of a physician.

It might be urged in support of such legislation that intemperate habits impair in all cases, and in some destroy, the capacity of the representative for the performance of his duties, and that therefore such a mode of restraint would be not only effective but peculiarly appropriate. The mistake lies in this, that in the desire to effect an object that may be good in itself, men lose sight of the illegitimacy of the means by which they seek to effect it. The objection to this law is not the object that it professes to seek, but the excess of power involved in its passage, and the only safe maxim in all cases of usurpation of power or attempted usurpation is *obsta principiis*. One precedent is followed by another, and it is by these successive inroads on the organic law that ultimately a free government degenerates into mere despotism.

This question which I have been discussing is one of principle, and there are but few authorities which bear upon it. In the Commentaries of Judge Story, in commenting upon a suggestion of Mr. Jefferson that the State governments had power to alter the qualifications of their members of Congress, he sustains the position I have contended for, that the qualifications prescribed in the Constitution cannot be varied or added to by congressional and State legislation. He controverts, and I think conclusively answers the suggestion of Mr. Jefferson, that a State, under its reserved rights, has the power by legislation to impose additional qualifications upon its own members. No commentator or jurist has hitherto ever pretended that Congress could alter or vary the qualifications prescribed in the Constitution. In answer to the suggestion as to the authority of a State Legislature, Judge Story says—I read from section six hundred and twenty-four of his Commentaries—

“It would seem but fair reasoning”—

This is an answer to the suggestion of Mr. Jefferson; but the principle is equally applicable here—

“It would seem but fair reasoning upon the plainest principles of interpretation, that when the Constitution established certain qualifications as necessary for office it meant to exclude all others as prerequisites. From the very nature of such a provision, the affirmation of these qualifications would seem to imply a negative of all others.”

“A power to add new qualifications is certainly equivalent to a power to vary them. It adds to the aggregate what changes the nature of the former requisites.”

Again, in section six hundred and twenty-seven, pursuing the same argument in reply to Mr. Jefferson's idea that authority was vested in the State Legislatures to add additional qualifications for the members from their own States, he says:

“The people of the State, by adopting the Constitution, have declared what their will is as to the qualifications for office. And here the maxim, if ever, must apply, *Expressio unius est exclusio alterius*.”

It cannot be said that this oath is not a quali-

fication for office, because the very terms of the law make it so; it is so imposed, and the party cannot enter upon the duties of the office before the oath is taken if the law be valid.

I proceed now, sir, to notice the arguments as I gather them of the honorable Senator from Illinois, [Mr. TRUMBULL,] who was the sole sustainer of this law in the debate that occurred before its passage. I understood his arguments to resolve themselves into two positions: one was that the oath to support it is required by the Constitution to be administered both to members of State Legislatures and officers of State governments as well as to members of Congress; and as in every State of the Union, from the foundation of the Government, in addition to that oath there has been administered a totally distinct oath to State officers and members of the State Legislatures to support the constitution of their own States and perform the duties of their offices with fidelity, therefore the inference must be drawn that Congress would have the power also to require an oath different in substance, in character, and in nature from that which the Constitution required. The answer to this position seems to me very plain. The oath taken by the member of a State Legislature to support his own State constitution is under a distinct authority and required by a distinct and separate government. It has no relation whatever to his obligation to take this oath under the Constitution of the United States. The Constitution of the United States does not profess to prescribe the qualifications of members of State Legislatures or officers of State governments; but it does profess to prescribe the qualifications of Senators and Representatives in Congress. The distinction seems to me so clear my only surprise is that so acute an intellect as that of the honorable Senator from Illinois should present such an argument in favor of the constitutionality of this law. As the Federal Government, within its delegated powers, is paramount to the State governments, an oath to support the Constitution of the United States was both proper and requisite.

The honorable Senator also relied upon, and quoted at length, the oath administered to the judges of the United States courts on being sworn into office, as an evidence that Congress might alter the substance of the oath which was required by the Constitution. I have endeavored already to anticipate that objection. The oath administered to the Chief Justice and other judges, which requires that, in addition to supporting the Constitution, they shall administer justice equally between man and man without regard to the poverty or riches of the suitors, is surely nothing more in substance than an oath to support the Constitution. The same duty devolves upon them, under an oath to support the Constitution, the moment they accept office and are sworn in. They would not support the Constitution if they perverted the ends of justice and maladministered the law between individuals founded on inequalities of wealth and position.

The honorable Senator also cited a case from 20 Johnson's Reports, the case of *Barker vs. The People*, in error, which he supposed strengthened his position in favor of the constitutionality of this act. In truth, so far as the decision in the supreme court of New York went, it has no relation to the principle involved here. The case was this: Barker was indicted under a law of New York, which, in one of its sections, provided that where a person sent a challenge or fought a duel he should be liable, on conviction, in addition to other punishments, to be punished by disqualification for office. Barker was so indicted and convicted, and was sentenced by the court. A part of its judgment was that he should be disqualified thereafter to hold any office or trust under the State of New York. He took a writ of error on that judgment. Being an entirety, it must have been reversed if it was wrong in any of its parts. The question was presented to the court over which Chief Justice Spencer then presided, and it was decided that as the constitution of New York gave full power to its Legislature to prescribe the punishment for any offense against its laws, and as disqualification for office operated upon the individual from his own default, and was not a cruel or unusual punishment, and therefore not restrained by the

Constitution of the United States, it was perfectly competent for the Legislature to prescribe it in addition to any other punishment for the offense of dueling.

I do not doubt the correctness of that decision; but is not the distinction manifest? Qualification operates upon society at large; disqualification on the individual alone. This law alters and adds to the qualifications prescribed by the Constitution for all members elected. A law which merely disqualifies the individual as the result of his own crime, upon conviction, by way of punishment, does not affect in any mode the qualification for the office prescribed by the Constitution for society at large. I hold, therefore, that the authority has not the slightest bearing upon the question of the validity of this law under the Federal Constitution.

But, sir, this case went before the court of appeals in New York, and in that court the judgment was in favor of affirming Judge Spencer's decision, with one dissentient voice. The only opinion delivered was by the Chancellor of the State, Sandford, a very able lawyer and profound jurist. I propose to read an extract from his opinion in that case in order to show that the distinction I have stated is correct, and also that it is a decided authority against the validity of this act of July, 1862; not a direct decision, but a *dictum* of great weight. In delivering the opinion of affirmance, on page 707 of 3 Cowen's Reports, the following is the language of the Chancellor:

“Whether the Legislature can exclude from public trusts any person not excluded by the express rules of the Constitution is the question which I have already examined, and, according to my views of that question, there may be an exclusion by law in punishment for crimes; but in no other manner and for no other cause.”

So far, therefore, as the judicial opinion in that case is relevant, it is directly against the validity of this law. It recognizes the authority—and no one doubts it—of either a State Legislature or Congress, where they have jurisdiction of the offense, to prescribe as part of the punishment for that offense disqualification for office on the part of the individual who has been convicted; but that does not vary the qualifications of the office as regards society at large.

There is a paucity of judicial decisions on this subject from the fact that, with the exception of the dueling laws passed in a few of the States, there is no parallel legislation to this to be found either in this country or in England. No such principle of legislative action has been sanctioned except in those laws, and I can find but two cases in which the validity of such legislation came before a court. The decision of the court in one case, which related to an attorney, was that he was not an officer within the meaning of the statute, and therefore they waived any decision on the constitutional question; and in the other they decided that he was not an officer, and held also that if he were so considered the law would be unconstitutional and void. One is a case in Mumford's Reports—Watkin Leigh's case. Mr. Leigh was admitted to be sworn in without taking the anti-dueling oath by the judgment of the court on the ground that an attorney was not an officer, and therefore the law did not apply. In the case of *Dorsey*, reported in 7 Porter's Alabama Reports, the court decided by a majority not only that he was not an officer, but that if he were an officer, the law was unconstitutional and void; and he was admitted without taking the oath prescribed by the Legislature of Alabama.

In the Legislatures probably of some few of the States similar questions have more frequently been decided. The honorable Senator from Kentucky [Mr. Davis] has told you that in the State of Kentucky the Legislature has repeatedly decided—and the action there though not by a court is still judicial action—that an act on their statute-book involving the same principle was unconstitutional and void, and each House has admitted members where the objection has been made without taking the oath prescribed by the statute. In the State of New York one section of the law under which Barker was indicted also had a similar provision in reference to oaths, but no question arose under it in his case. It was in reference to that section that Chief Justice Spencer in his opinion in Barker's case said: that as one of the revisors of the law he was opposed to it as

unconstitutional; but they overruled him. Under the law in one case the Legislature rejected a member who refused to take the oath, and the consequence was that on the adoption of the new constitution, in 1821, the people of New York effectually provided by express provision against the possibility of similar tyranny on the part of any subsequent Legislature. The better opinion of the legal profession of that State always was that the law was unconstitutional and void; but no judicial decision was ever made on the question. I submit that, both on principle and authority, the first oath prescribed in the act of July, 1862, being retrospective and expurgatory, varies in substance from the oath required and authorized by the Constitution, and imposes a further qualification on the trust and station of a Senator, and is therefore repugnant to the Constitution and invalid.

The second objection to the constitutionality of this act is that it is in conflict with the fifth article of the amendments to the Constitution of the United States. The fifth article of the amendments to the Constitution provides that—

"No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law."

Mr. President, this article is a restriction upon power, intended to secure individual rights against the aggressions of Government, as, indeed, are all the first ten amendments, adopted immediately after the formation of the Constitution. In one form or another, similar limitations of power have been incorporated into the constitution of every State in this Union. The principle comes to us from *Magna Charta*, though in England it is but a restraint on the Crown, Parliament, in their theory of government, being the ultimate power and omnipotent; but in this country we hold that the sovereignty is in the people, and both in the General and State governments limitations upon power apply to all branches of government. The limitation in this article is one of the great guarantees of civil liberty in free governments, and should be liberally expounded. If those guarantees are to be frittered away by a narrow construction, then indeed will written constitutions, which in the past have been the pride and glory of American statesmen and the American people, become unmeaning nullities and the feeblest of barriers against the encroachments of despotism and tyranny.

By this act of 1862 every one who is required to take the oath it prescribes is "held to answer" for a capital crime; and if he refuses, whether guilty or not guilty, the law assumes for its own purposes his guilt, and punishes him by disqualification and a refusal of his rights. He is deprived of those rights without due process of law. The legal presumption of innocence is reversed as to every citizen, and this law, without accusation, without trial, without proof, and without conviction, inflicts punishment as a consequence of silence. It seeks to ascertain facts in a peculiar manner unknown to the common law, and prohibited by the Constitution, not by the judgment of a court of competent jurisdiction, but by a forced confession of the offender, and holds his silence as evidence of guilt. No matter how legitimate or desirable the object to be attained—the exclusion of persons guilty of treason from Congress—such means of effecting it are repugnant to the Constitution, and cannot, therefore, be lawfully used.

There is a resemblance in principle between this law and the barbarous rule which obtained in England, but never in this country, that "standing mute" on an indictment for treason was "equivalent to a conviction." Here we put in the plea of not guilty if the accused obstinately refuses to plead, and prove the crime before conviction and punishment.

But even in less enlightened times the common law never required the party charged with crime to prove his innocence by his own oath. All it required was that he should plead to the arraignment, so that, if proved guilty, he might be con-

victed and punished. In the whole range of English history, in all the varied test oaths which political and religious excitement and fanaticism forced upon the people of that country in past times, you will find that the great principle of *Magna Charta* was always adhered to. No person was ever held to self-accusation. The oath invariably was promissory in its character, related to the present and future, and generally affected the conscience alone and not the acts of the party; but there is no instance of an expurgatory oath as to past acts or conduct to be found in the long list of oaths which are prescribed in English acts of Parliament. The present sentiments and belief both religious and political were frequently required to be declared on oath, and also the future conduct and creed was secured by the same sanction, but the oaths exacted had no relation to past acts or offenses against the law.

But this act requires every member of Congress elect to purge himself by oath from a past capital offense, and treats his refusal to answer as "equivalent to a conviction," and punishes him by disqualification, though he was duly elected, and in all other respects duly qualified. Such a law is as clearly prohibited by the fifth article of the amendments to the Constitution as a statute would be if it prescribed, where a man was held to answer on indictment, that he should swear to the truth of his plea, or, before plea, should deny under oath the commission of the crime with which he was charged, or that the refusal to take such an oath should be "equivalent to a conviction," and that judgment and punishment should follow without trial or other proof. The cases would be parallel. He is "held to answer" in the one case, and punished by conviction without proof, founded upon his refusal to answer. He is "held to answer" in the Senate of the United States on oath, in the other, and his silence is taken as evidence that he has been guilty of the crime from which he is asked to purge himself, and he is punished by disqualification for the station to which he aspires, and to which he has been duly elected and is constitutionally qualified.

You will find, sir, that this view is corroborated by a report and a decision made in the Senate of the United States as early as the year 1796. Humphrey Marshall, a Senator from Kentucky, was charged in a letter by the Governor of Kentucky with having committed perjury in an answer in chancery in that State, and there was also a memorial from the Representatives of the State to the same effect. The object of both the letter and memorial was his expulsion as a Senator. Mr. Marshall professed that he was very desirous that the charge should be investigated by the Senate; and after the report of the committee, a motion was made to expunge the following words, part of the report, and the motion was negatived, and the report was adopted by a vote of 16 to 8:

"And on the question to expunge the following words: 'They [the committee] think that in a case of this kind no person can be held to answer for an infamous crime unless on a presentment or indictment of a grand jury; and that in all prosecutions the case ought to be tried by an impartial jury of the State and district wherein the crime was committed. If, in the present case, the party has been guilty in the manner suggested, no reason has been alleged why he has not long since been tried in the State or district where he committed the offense. Until he is legally convicted, the principles of the Constitution and of the common law concur in presuming that he is innocent.'"

The motion to strike out that clause was negatived, and also a motion to strike out another clause, that as the Constitution did not give the jurisdiction the consent of the accused could not, was also negatived; and the report was adopted by a vote of 16 to 8. This was early in the history of the country; and the principle sustained by the Senate is an authority against this act of 1862; for it cannot be questioned that the power of the Senate in regard to expulsion rests in a more absolute and uncontrolled discretion, with the limitation of numbers alone, than the power of Congress in prescribing an oath; and if the Senate would not hold Marshall to answer in such a case, and investigate the question of perjury committed in his own State without previous conviction by due course of law, on what principle is it that the Senate of the United States can sustain a law which assumes the guilt of the whole community, of society at large, and without charge or accusation holds every member-elect to answer, and re-

quires him to purge himself by oath from the commission of treason in all his past life? That is the substance of this oath. It cannot be doubted, though the act does not pursue the language of the Constitution in its definition of treason, that under an indictment for levying war against the United States, if the acts were proved which the member is obliged here to negative by his oath, that is, that he has voluntarily given no aid, counsel, or encouragement to persons engaged in armed hostility to the United States; that he has not voluntarily borne arms against the United States, he certainly would be convicted of treason. Each member, by this act, is "held to answer" for a capital crime, and is required to deny under oath the commission of treason, and is punished, if he does not answer, by disqualification for office. The principle in each case is precisely the same.

But, sir, there is still a third objection to this act. The act is repugnant to the second section of the second article of the Constitution. By the second section of the second article of the Constitution the pardoning power is vested exclusively in the President of the United States:

"He shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."

It is an executive authority, exclusively in the President, and the effect of the pardon is that it absolves the party from all the consequences of his crime, and when pardoned he stands with the same rights as if the crime had never been committed. I am supposing a case where a party has really been guilty of these offenses, and of course could not take this oath, and yet has been pardoned by the President. While I would oppose the Executive in any encroachments upon the power of the Legislature or the assumption of any powers not granted to him, I would equally sustain him in the exercise of all the authority which has been delegated to him by the Constitution. Suppose a southern citizen who has voluntarily borne arms against the United States during this revolt, becoming convinced of his error while the war continues, should return to his allegiance, and be pardoned by the President, and be elected to the Senate by a Legislature whose authority to elect you recognized. He certainly could not take this oath without being guilty of perjury, and therefore, in effect, this law impairs and abrogates the pardoning power of the President to that extent. Is that constitutional? Can you obstruct by legislation of this kind, direct or indirect, the legal effect of a power which is vested in the executive branch and not in the legislative branch of the Government? This law punishes the member-elect, in defiance of the executive pardon, by disqualification for the office or trust to which he has been legally and constitutionally elected.

If Congress can attach disqualification for office as part of the punishment of crime, as they undoubtedly can, as they have done in the case of an attempt to bribe, or the actual bribery of a judge, and in reference to other offenses, and the person charged, whether with or without conviction, being pardoned by the President, would be restored to his rights, and the punishment of disqualification cease and be inoperative, on what principle is it that you can assume a power here which you could not exercise in the case of an undoubted authority on your part to prescribe disqualification as the consequence of crime? Disqualification prescribed by law as the punishment of crime can be removed by an executive pardon; but by this law the effect of a pardon is abrogated as to the crime of treason, which, though a high crime, is still a political crime, and does not necessarily involve moral delinquency on the part of the individual. Suppose, under a law imposing disqualification for office as part of the punishment, a party convicted under it and pardoned, you could not refuse him his seat because of the commission of a crime from the consequences of which he had been absolved by the pardon of the President; yet indirectly, by this mode of legislation, you deprive him of his rights, though he may have repented of his error, and you disregard the legitimate action of the Executive, in direct defiance of the Constitution.

But, sir, a case has in fact occurred, if I am not misinformed. A Mr. Gantt, who was a brigadier

general in the service of the confederates, has become convinced of his error, has returned to his allegiance, and has been pardoned by the President. He certainly must have voluntarily borne arms against the United States; because, though conscription has been rife throughout the South, I believe it would not be necessary there or here to exercise the power of conscription in order to obtain the services of a brigadier general. The act must have been voluntary. He must have borne arms voluntarily. I will suppose that he either goes into a State which has not revolted, or that a State which has revolted is restored to the Union, and he is elected by the members of the Legislature, with whom the choice exists, a Legislature which you recognize, as a Senator of the United States. He could not take this oath without perjury, and therefore, as you can make no exceptions if the law is valid, the result is, if the case arises, you, in fact, will have abrogated by your law the effect of the executive pardon.

But, sir, this law also rejects the legitimate effect of the pardon in case of the suppression of the revolt, and an amnesty by the Executive. In such an event it ostracizes a whole people, and punishes them by the deprivation of their dearest rights. Submission is required to the laws, and yet by a law like this you deprive the masses of the people, because they are all engaged in this revolution, of their rights under the Constitution in the selection of their own agents if duly qualified under its provisions. Can a law of this kind have any tendency to terminate this disastrous civil war or to restore this Union in its former integrity?

There is a still further and fourth objection to the validity of this law. By the Constitution of the United States no *ex post facto* law can be passed; and yet by the imposition of this oath you prescribe the penalty of disqualification for office as the punishment for a crime committed before the passage of the law, though it was subject to no such punishment at the time of its commission.

I forbear to dwell upon this objection from want of time and exhaustion, but it seems impossible to controvert the position that where by law a punishment is attached to a past offense which the law did not prescribe as part of the punishment for that offense at the time of its commission, it is strictly and undeniably *ex post facto* legislation.

Before proceeding to the construction of this act, as including members of Congress, I must controvert briefly a doctrine which I have frequently heard asserted in this body, that a majority of the body have authority to exclude from a seat a person legally elected, for any cause other than want of qualification under the provisions of the Constitution. It has been asked, "Would you admit a disloyal person, a traitor, into the Senate?" The answer is, there is no authority in a majority to refuse admission to his seat if the person duly chosen is qualified. The Senate may judge and decide whether the election is by competent authority, whether the credentials are sufficient, and whether the party is possessed of the requisite qualifications. When it assumes by a majority the right to refuse a seat on other grounds, it violates a fundamental principle of the Constitution and of representative government. The sovereignty is in the people, and the right of choice is with them. Whether they act directly, as in the election of Representatives, or mediately through the State Legislature, as in the choice of a Senator, it is for them to decide on the past life, the mental capacity, and the moral character of the person chosen. If the Senate assumes this power it violates a fundamental principle of representative government. If a mere majority can exclude a person elected to either House, then a political party may continue its power until resistance and anarchy is the probable result.

But it is said that the body must have power to protect itself against traitors or infamous persons. The answer is, the power of expulsion gives full protection, and that power is vested in the Senate in absolute discretion, with no other limit than that it requires two thirds of the body to exercise it—a limitation of numbers. Natural justice, the sense of right, and the sufficiency of the facts presented to authorize the action—all

these things of course would address themselves to the discretion of two thirds of the body. Two thirds of the body may, if they see fit, expel without cause, and the expulsion would be legally valid. No doubt such an act would recoil on the actors. No doubt the frequent recurrence of such acts would entirely destroy the confidence of the people in the body, and ultimately end in the subversion of the Government; but it is not a rational presumption that such a course would ever be adopted by two thirds of the Senate of the United States. The limitation which is imposed in requiring two thirds to exercise the absolute discretion in reference to expulsion is a quite sufficient restriction, because it is a rational presumption that two thirds would seldom, if ever, agree to expel a member without sufficient cause and on sufficient proof.

Such a power vested in the majority would, on the contrary, in political conflicts be subject to the grossest abuses. A majority of two thirds would not be tempted to abuse, because common reflection would convince them that to crush out all opposition in a representative assembly necessarily leads to personal dissensions and personal factions, and thus their own party would perish. If you desire an illustration, look back to our own past history when, during the second term of Mr. Monroe, all organized opposition to the Democratic party having ceased, it fell at once into personal factions and broke up in the election of 1824 with mere personal candidates. The whole danger in representative Governments arises from conflicts of power between political parties. If a mere majority could exercise such a power of exclusion, independent of the qualifications prescribed in the Constitution, at their own will and discretion, they would inevitably be tempted to sustain themselves in power by unjust exclusions, and the ultimate result would be resistance and violence.

The assumption, also, of the power to exclude a person otherwise qualified, by the vote of a majority, is a palpable usurpation under the language of the Constitution, because the power of expulsion is vested in two thirds of the body; but a refusal to allow a man to take his seat is equivalent to an expulsion, except when you decide that he is not qualified. If, because you view him as an immoral man, if because he has committed a crime, be it treason or any other offense, you think him unworthy of being a member of the Senate, and can by the vote of a majority exclude him, then you can exclude him by a majority on any other ground whatever, and you are assuming the power virtually of expulsion which the Constitution expressly vests in two thirds of each House. Sir, a free constitution cannot coexist with this dangerous and parricidal power in the hands of a majority of the ordinary legislature.

I proceed to read an extract from a report made in the Senate of the United States in the case of John Smith by John Quincy Adams, which corroborates these views. Mr. Adams contended—that and that I agree fully with his doctrine—that the right of expulsion was unfettered by any other limitation than the discretion of two thirds of the body. The report itself, like all papers which emanated from that distinguished statesman, is exceedingly able and eloquent:

"The provision in our Constitution which forbids the expulsion of a member by an ordinary majority, and requires for this act of vigorous and painful duty the assent of two thirds, your committee consider as a wise and sufficient guard against the possible abuse of this legislative discretion. In times of hot and violent party spirit the rights of the minority might not always be duly respected if the majority could expel members under no other control than that of their own discretion."

Where is the difference, Mr. President, between an expulsion by a majority of a member after he has been sworn in and taken his seat and the right claimed by a majority to exclude a member before he is sworn in, founded on their own absolute discretion? If the power does not exist in the one case it cannot in the other; and it will inevitably lead, if sanctioned by the Senate, in the violence of party contests, to abuses so frequent and gross that representation of the people will exist only in name, but not in fact, and then follows despotism or anarchy.

I have closed with the objections I have to make to the constitutionality of the act of 1862, and pro-

ceed now to the discussion of the second question which I stated. The answer to that question depends upon another, whether a Senator or Representative is a civil officer or holds a civil office within the meaning of the Federal Constitution. This question became a subject of inquiry early in the history of the country, on the impeachment of William Blount by the House of Representatives in the year 1798; and it was decided then by the Senate on a plea to the jurisdiction on the 11th of January, 1799. Blount was expelled from his seat in the Senate on July 8, 1797, for a high misdemeanor, and so clear was the proof of his guilt that there was but one negative vote against expulsion to twenty-five in the affirmative.

The resolution is in the following words:

"William Blount, Esq., one of the Senators of the United States, having been guilty of a high misdemeanor entirely inconsistent with his public trust and duty as a Senator, is hereby expelled from the Senate of the United States."

In 1798 he was impeached by the House of Representatives for high crimes and misdemeanors, and articles of impeachment being preferred, the Senate was organized as a court of impeachment on the 17th of December, 1798. Blount pleaded to the jurisdiction that he is not and was not at the periods mentioned a civil officer of the United States. The plea was argued by the ablest jurists of the country, both on behalf of the House of Representatives and on behalf of Blount, and two resolutions were proposed on the 7th of January, 1799. You will find them in the Annals of Congress:

"On motion to agree to the following resolutions:

"That William Blount was a civil officer of the United States within the meaning of the Constitution of the United States, and therefore liable to be impeached by the House of Representatives.

"That, as the articles of impeachment charge him with high crimes and misdemeanors, supposed to have been committed while he was a Senator of the United States, his plea ought to be overruled.

"After debate, on motion, the court adjourned till twelve o'clock to-morrow."—*Annals of Congress, Fifth Congress, 1777-1779, vol. 2, p. 2318.*

These resolutions were held under discussion for four days, and on January 10 they were decided in the negative. The express decision therefore is that Mr. Blount was not a civil officer of the United States, and therefore not liable to impeachment. The plea was sustained on a subsequent day, and the articles of impeachment were dismissed.

This decision I cite as an authority of the highest grade for the purpose of determining the question whether a Senator is a civil officer of the United States or holds an office under the United States within the meaning of the Constitution. That is the question.

The honorable Senator from Massachusetts calls this a little precedent; he speaks of it as being unworthy of any weight or influence in the Senate now, because it was made in secret session; and he read an extract from Judge Story's Commentaries in order to show that it has been impugned by the authority of some learned commentators. Mr. President, this decision was made when the body was not as numerous as it now is, but that does not detract from its weight. I admit it was a subject of contrariety of opinion; but is it any objection to the decision of a court of justice that the deliberations of its judges are private? The Senate sat under oath as a court when they made this decision. There was no party bias; there was no personal feeling in favor of the man, because ten of the very Senators who voted to sustain his plea had voted for his expulsion one year before, and only six of those who voted against the plea had voted for the expulsion. The other nine were either new members or members who were not in their places when the vote on expulsion was taken. The decision therefore comes to us from the Senate organized as a court, sitting under oath, after a public argument and hearing by the ablest counsel in the country on both sides. The argument is all reported in your Annals. But because the deliberations of the court subsequently were private we are told it is but a little precedent and entitled to no weight. Sir, you may in that way overturn any judicial decision. If ever a decision was made that fairly entitled it to be considered of weight in the construction of the Constitution, it was this decision, made under

these circumstances, in which no party feeling whatever was evinced, and in which no personal bias influenced a single Senator.

The decision also on the first resolution is an express adjudication that a Senator is not a civil officer of the United States within the meaning of the Constitution, and if not a civil officer of course he does not hold an office of honor or profit under the Government, within the meaning of the Federal Constitution. The quotation is correctly made from Judge Story's Commentaries. In section seven hundred and ninety-one, after stating the decision, he writes as follows: "This decision, upon which the Senate itself was greatly divided, seems not to have been quite satisfactory (as it may be gathered) to the minds of some learned commentators;" and to sustain this remark he cites 4 Tucker's Blackstone, Appendix, pages 57 and 58, and Rawle on the Constitution, chapter twenty-two, pages 213, 214, 218, and 219. It so happens that the authorities relied upon by Judge Story do not support his remarks, and there is in fact no learned commentator who has doubted the correctness of the decision. Look at Mr. Rawle's commentaries and you will find that he does not question the propriety of the decision made by the Senate under the Constitution, but expresses regret that Senators and Representatives were not impeachable, and suggests an amendment to the Constitution for that purpose. There is not a word in his treatise which implies that he thought the decision incorrect as to the construction of the Constitution. In the appendix to Tucker's Blackstone, Judge Tucker expresses no opinion whatever upon the subject. All that he says is that all the grounds on which the plea was dismissed do not appear, as the debate was in secret session; but that two grounds do appear in the resolutions which were negatived by the Senate, and especially the one which I have stated as most material, that a Senator is not a civil officer under the United States, and therefore cannot be impeached, and he neither expresses nor intimates any opinion for or against the correctness of the decision on this question.

The error of Judge Story is one not uncommon with the compilers of legal treatises. Judge Story himself expresses no dissent from the opinion; he states the facts as he supposed them to exist, but must have examined the authorities he cited with less than his usual care. There is no doubt the Senate was divided; there is no doubt that it was a subject on which different conclusions might be arrived at; but if there ever was a case to which the maxim *stare decisis* is applicable, it is precisely to this decision. That decision involves the very question that a Senator is not a civil officer under the United States; and of course if not a civil officer he cannot hold a civil office under the United States. If such a precedent as that is not to control, acquiesced in as it has been for more than half a century without question, then no precedent can have weight in this body.

Let Senators reflect for a moment on the difference of importance in the two cases. In the case in which the Senate decided on an impeachment they gave a construction to an article of the Constitution which prevented the future impeachment of any member of Congress, either of the House of Representatives or of the Senate. What I contend for now, as the necessary result of the principle decided by the Senate in that case, is merely that where Congress mean to include members of either body within any law, be it penal or otherwise, they must name them as members of Congress or as Senators and Representatives. All that is asked is that in the construction of any act of Congress the words "office" or "officer" shall be held to mean an office or officer within the language and meaning of the Constitution. This rule of construction has been adhered to in past legislation; and even at the same session in which the act under discussion was passed, in an act prescribing penalties in relation to obtaining contracts, the words "members of Congress" and "all officers of the Government" are used in contradistinction.

It will be recollected that at the time of this decision the Senate had among its members some of the ablest jurists of the country; and unless you entirely disregard judicial decisions it stands as the judgment of the court of the highest juristic

tion known to our laws. The question how great the majority is in a court certainly cannot destroy the effect of its decisions. You would hold the Senate bound by it beyond all question if articles of impeachment were now preferred against any member of Congress; you would hold yourself bound to dismiss the impeachment founded on the precedent established at that time and adhered to ever since, and as to which I hazard nothing in the assertion that no commentator on the Constitution has expressed his dissent from the propriety of the decision, though I freely admit that minds differently constructed might have arrived on a controverted question at a different conclusion.

I propose now to sustain by reference to the Constitution itself the determination made by the Senate in Blount's case as applicable to the present. The decision in Blount's case, it is said, was merely that a Senator was not impeachable. Not so, sir. The resolution adopted was that a Senator is not a civil officer, and therefore not impeachable. No other reason can be assigned for his not being impeachable. If he was a civil officer he must have been impeachable, because you find that in the clause of the Constitution which authorizes impeachment, section four of article two, it is provided that "the President, Vice President, and all civil officers, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors." Therefore the very question was in issue. There could be no doubt that if a Senator was a civil officer, holding a civil office under the United States, he might be impeached, and might be removed from office. The whole struggle throughout the argument on both sides was to show whether he was or was not a civil officer within the meaning of the Constitution.

Every one knows that the word "office" may be applied to a trustee, to an executor, even to the relation of a friend. The question to be determined in this case is whether the position, trust, and station of a Senator is a civil office, or an office within the meaning of the Federal Constitution. If the Federal Constitution does not characterize it as an office, and has excluded that term from its provisions in relation to members of Congress, then of course a law passed in pursuance of that Constitution which does not name Senators and Representatives as included within it must by necessary inference be held to exclude them.

Let us look at the different provisions of the Constitution to show that it is incompatible with the language used to suppose that its framers intended to treat the station of a Senator as an office or as coming within the word "office." Take first the clause as to the executive powers vested in the President; the first section of article two:

"He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as follows."

"He shall hold his office"—the language is plain and explicit—"during the term of four years." Turn to the second section, first article, of the Constitution, and you find:

"Section 2. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

So for the Senate:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years."

Why not use the same language as is applied to the President—"who shall hold their office for the term of six years"—if it was intended to treat it as an office under the Constitution?

"Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year."

If the position of a Senator was regarded as an office, why not say "the term of office of Senators of the first class shall expire at the expiration of the second year," &c.? The language used in reference to the President is that he shall hold his office for the term of four years.

But again the provision is:

"And if vacancies happen by resignation or otherwise during the recess of the Legislature of any State, the Executive thereof may make temporary appointments"—

Why not "temporary appointments to office"? It is sedulously shunned.

"until the next meeting of the Legislature, which shall then fill such vacancies."

A vacancy in what? The word "vacancy" refers to the former word "seat;" to fill the vacancy in the seat. So you find throughout that where ever a Senator or Representative is alluded to, the term "office" or "officer" is sedulously excluded as applicable to him.

But, sir, there are other clauses more important than these, to which I shall now refer. In the second clause of the first article of section six it is provided that

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House of Congress during his continuance in office."

Can it be doubted that the words must have been "other office" if the Constitution meant to treat the station of a Senator as an office? Identity is incompatibility, and if the trust and station of a Senator is held to be an office it involves an absurdity in the language of the Constitution when providing that a person holding office shall not be a member of Congress.

Again, it is provided in article two, section one, that

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector."

Why should this language have been used in the Constitution unless it was necessary to exclude Senators and Representatives from being electors by an express designation of them by name in addition to the words "person holding an office of trust or profit"? Does it not negative, is it not utterly inconsistent with the idea that a Senator or Representative holds an office under the United States within the meaning of the Constitution? The men who framed the Constitution understood the meaning of language, and had they intended to treat the position and trust of a Senator as an office the intention would have been clearly expressed.

There are other clauses of the Constitution to which, if I were not so exhausted, I could refer in support of this construction, to show that throughout the whole instrument its framers sedulously avoid giving the appellation of "office" to the station and trust of a Senator; and not only that, but the language employed by fair inference excludes any idea that the terms "officer of the United States," or "holding office under the United States," were intended to include a Senator or Representative.

If that be so, I may be asked, what is the position of a Senator? My answer is, a station, a trust, not an office within the meaning of the Constitution. It is perfectly immaterial what it might be considered otherwise. If the Constitution does not mean that they shall be considered officers, then the language "officers of the United States" will not include them, and the words "persons holding office under the United States" will not include them. This construction also is in accordance with the theory and form of our Government. It is a representative government. The people are present, not in masses or in numbers, for that is impracticable, but it is the people who make the laws through their representatives or proxies, and members of Congress are the proxies of the people. That is their position. It is a high trust and station; but it is not, within the meaning of the Federal Constitution, an office under the United States.

Further, they are elected by a paramount power, the power that formed the Constitution—Senators by the Legislature, as representing the political community or State, and members of the House of Representatives by the people in districts in each State, and not by the people of the

38TH CONG....1ST SESS.

Confiscated Property—Mr. Sweat.

*Ho. of Reps.

United States. This view strengthens the inference that they are not included in any such expression as "officers of the United States" or "persons holding office under the United States."

This same idea is corroborated in part by Judge Story's own language in the portion of section seven hundred and ninety-one subsequent to that cited by the honorable Senator from Massachusetts. He does not question the decision made in Blount's case, but, speaking of the precedent, he says:

"The reasoning by which it was sustained in the Senate does not appear, their deliberations having been private."

He could hardly have adverted to the resolution that was negatived, or this passage would not have been written:

"But it was probably held that 'civil officers of the United States' meant such as derived their appointment from and under the national Government, and not those persons who, though members of the Government, derived their appointment from the States or the people of the States. In this view the enumeration of the President and Vice President as impeachable officers was indispensable; for they derive, or may derive, their office from a source paramount to the national Government. And the clause of the Constitution now under consideration does not even affect to consider them officers of the United States. It says, 'the President, Vice President, and all civil officers (not all other civil officers) shall be removed,' &c. The language of the clause, therefore, would rather lead to the conclusion that they were enumerated as contradistinguished from, rather than as included in the description of, civil officers of the United States. Other clauses of the Constitution would seem to favor the same result; particularly the clause respecting the appointment of officers of the United States by the Executive, who is to 'commission all the officers of the United States'; and the sixth section of the first article, which declares that 'no person holding any office under the United States, shall be a member of either House during his continuance in office'; and the first section of the second article, which declares that 'no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.'"

If, on a question of impeachment, which goes to the construction of the Constitution, you cannot impeach a Senator or Representative because he is not a civil officer, though all civil officers are made impeachable by the Constitution, on what principle is it that in a law which prescribes an oath for all persons holding offices of trust or profit under the United States you can include members of Congress when they are not named?

Mr. President, there is one other authority to which I will refer, though I admit that it is only an authority inferentially. Early in the history of the country, on the 7th of May, 1792, an order was made by the Senate—

"That the Secretary of the Treasury do lay before the Senate, at the next session of Congress, a statement of the salaries, fees, and emoluments for one year ending the 1st day of October next, stated quarterly, of every person holding any civil office or employment under the United States, except the judges, together with the actual disbursements and expenses in the discharge of their respective offices and employments for the same period."

To that resolution, in February following, Alexander Hamilton made his return, and in that return of the persons holding civil offices under the United States, except the judges, he included the President, the Vice President, all the different officers of the Government from tide-waiters upwards; he included the Commissioner of Loans; he included persons holding every species of employment; he included officers of the Senate and officers of the House of Representatives with their emoluments; but he did not include members of Congress. What, then, is the inference? Alexander Hamilton was certainly, as a jurist, as one familiar with the language of the Constitution, and with the mode in which it ought to be interpreted, a man whose opinions would be entitled to great weight; and in obeying an order of the Senate which required him to return the emoluments of all civil officers whatever, though he gave the officers of the Senate, the Secretary, all the clerks, the Doorkeeper, and also all the officers of the House of Representatives in the same way, he made no return of members of Congress, for the simple reason that they did not, in the language of the resolution, hold a civil office under the United States.

There is still another authority. The articles of impeachment which were propounded against Blount by the House of Representatives consisted of five articles. They were drawn by one of the ablest lawyers of the country, Mr. Sitgreaves, who was chairman of the committee of impeachment. Each article, after alleging the act which

was charged as a misdemeanor, concluded in this form—that it was contrary to the trust and station of a Senator. The House of Representatives did not venture in their articles of impeachment, formally drawn by so able a lawyer, to designate the position of a Senator as an office. Is that no authority? Is it not entitled to some weight? The articles were very skillfully drawn, with technical accuracy and precision in the statement of the alleged misdemeanor, and every article concluded with the allegation that the act was contrary to the duties of his trust and station as a Senator of the United States. Sir, that is the position of a Senator.

But, sir, it has been said that the oath is required, by the act of July 2, 1862, to be filed in both Houses of Congress, and therefore it is evident, though members of Congress are not included by name as Senators and Representatives, that it must have been intended to include them in the law. The words, however, are amply satisfied by the fact that you have officers, both in the Senate and House of Representatives, who must, under the provisions of that act, if constitutional, take the oath prescribed. The provision for recording it is entirely satisfied by its application to those officers. There is, however, from the language of this part of the act, reason to infer that the provision applied to the officers of each House, but not to its members. The language is, "which said oath so taken and filed shall be preserved among the files of the court, House of Congress, or Department to which the office may appertain." I do not think it can be held that the office of members of Congress appertains to the House of which they are members. It is at least singular phraseology. It may be appropriate to speak of your Secretary, your clerks, your Sergeant-at-Arms, as appertaining to the Senate; but scarcely appropriate to use the same language in reference to its members. At all events, the order or direction to file the oath is entirely satisfied by the fact that there are officers of each body who, if the law is valid, are required to take it. The exercise of either judicial or legislative powers does not necessarily constitute the person exercising them an officer. You have the illustration in the case of an English peer. The powers he exercises, both legislative and judicial, are quite equal and more than equal judicially to our own, yet it was never held that a peer of England was an officer of the Crown; nor would he be included in any law by the terms "officer," or "person holding an office of honor or profit."

Mr. President, I have now concluded my argument against the validity of the act of July 2, 1862, and the rule proposed under it. The oath prescribed in that act has been frequently designated as "the oath of loyalty;" and doubtless there are those who may consider my declining to take that oath as evidence of disloyalty. The words "loyal" and "loyalty" have become familiar terms during the progress of this disastrous civil war. I will not pause to inquire whether loyalty in its usual acceptation is not more appropriate to the relations and personal devotion of a subject to his prince than of a citizen to his Government in a republic. Accepting the term as applicable, I define loyalty in a Government such as ours—a representative Republic—to mean a steadfast adherence to the Constitution or organic law under which and by virtue of the adoption of which by the people of the several States the Government was established; a cheerful and ready obedience to all laws passed in pursuance of that Constitution; and a devoted and ardent support of those guarantees of civil liberty which it was a primary object with its framers to maintain and perpetuate, and thus "secure to themselves and their posterity the blessings of liberty." I have sworn to support that Constitution; and as I believe that the rule proposed and the law which it is intended to enforce are repugnant to its provisions, I call upon the tribunal which has exclusive jurisdiction of all questions affecting the elections, returns, and qualifications of its members, to decide judicially whether the act is constitutional, and give to it its proper legal construction. If it be disloyal to support the Constitution of my country, then I cheerfully accept the imputation of disloyalty; but if made on any other ground, I shall meet it with calm contempt.

CONFISCATED PROPERTY.

SPEECH OF HON. L. D. M. SWEAT,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

January 20, 1864.

The House having under consideration a joint resolution to amend a joint resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

Mr. SWEAT said:

MR. SPEAKER: Radicalism in these fevered days of war, upon matters of legislation, is progressing with such unprecedented and fearful strides that one can hardly be excused for allowing himself to be astonished whenever any measure, however monstrous or extreme, is proposed for consideration before a deliberative assembly like this; but, sir, I must confess that when the measure now before the House was introduced by the gentleman from Iowa [Mr. WILSON] I was astonished, and I was still more surprised to see the attempts to stifle, or, at all events, to abridge the discussion upon it, when he announced that he should put it upon its passage under a call for the previous question. I think it is not too much for me to say that his courtesy in finally consenting that this measure should remain open for discussion for two days might have been slightly stimulated by the intimation of the gentleman from Pennsylvania [Mr. STEVENS] on his side of the House, who told him that if he expected his resolution to pass without amendment he would find himself woefully mistaken. I hold that upon this question, and upon all other questions affecting the rights of the citizen under the Constitution, we ought to have deliberative, free, calm, and full discussion, so that when we come to record our votes we may do it intelligently, or, at all events, that we may do it after sufficient time has been granted to us for the honest exercise of our judgments. This is all we ask of gentlemen upon the other side of the House, but this we do demand as our right, and as the right of the constituencies which we represent upon this floor.

But when I reflect upon the scenes before us—the resistless whirl of events, so full of suffering and anguish; when the public mind is so shaken with doubts and fears, with frenzied thought and hurried action; it seems as if all mere human utterance or expression of opinion were vain and idle—so utterly weak and impotent as to make it but a mockery for any man to raise his voice of warning or counsel in favor of wise, prudent, and just action. This feeling pervades a much larger portion of our people than would at first appear, and an honest desire not to do or say anything which might be tortured into opposition to an earnest prosecution and speedy and just termination of the war, the most terrible of all earth's tragedies, closes the mouth of many of our most loyal citizens. Fear of misconstruction, and therefore fear of harm to the great cause, has made silence the rule and not the exception, not only with many among the masses of the people, but also with gentlemen on this floor. They consider silence a virtue.

But, sir, when the Republic is writhing under the blows given her by the rebels in arms and by traitors who are skulking over the land, North as well as South, and when, in addition to this, the doctrinaires and theorists of the day, born of revolution, and whose natural elements are carnage, hatred, and revenge, are thrusting forward their poisonous ideas, which if carried out would be sure to leave our country in anarchy and confusion, even after the success of our arms, which success is as sure as God's judgment; when these things, I say, are before us, silence and inaction are, in my judgment, no longer virtues. They are crimes for which I, at least, feel answerable before God and man. The time has come, and is pressing on us with all its awful weight, when honest thought, honest action and discussion, and honest and prudent legislation especially, are demanded at the hands of every man connected with the administration of this Government. "Riven by the thunderbolt and scattered by the storm" as it is, the wreck of our Republic is still worthy of every effort to save, for in it still lives the germ

of the people's rights and the true spirit of liberty, from which in the future may be reared the fabric of the nation's salvation. With reference, therefore, to what may be saved by prudent legislation, it becomes not only the right but the duty of every man to act with earnestness upon the great matter of respecting the Constitution and the laws of the land, of crushing speedily and forever the armed rebellion and saving the Union.

Before touching directly upon the question under consideration, I may be excused for a passing word upon the opening remarks of the gentleman from Maryland, [Mr. DAVIS.] I propose to treat them of course with fairness, but at the same time with entire freedom of expression as to the views I entertain of them.

That I may not be misunderstood, and that the gentleman shall not be misunderstood, either now or in the future, here or elsewhere, I call the attention of the House to his exact language which he has spread abroad, and for which, I presume, he is ready at all times to be answerable. He says:

"With whatever pleasure the gentlemen upon this side of the House may have heard the very novel declaration of the gentleman from Ohio that he contemplated supporting in all proper measures the Administration in the prosecution of the war and the suppression of the rebellion, it is, perhaps, fortunate that the result of the political elections in the central slave States has placed the Administration beyond the necessity of relying upon his support. Were it not so, I incline to think that the kind of support the Administration would receive from the great majority of gentlemen on the other side of the House was indicated early in the session in that resolution proposed by a gentleman from New York, [Mr. FERNANDO WOOD], which pronounced this an inhuman war."

Now, did he mean to characterize the political tone or temper of this side of the House from the vote which was given against laying that resolution on the table? What was the resolution of the gentleman from New York, [Mr. FERNANDO WOOD]? It embraced the idea that it was politic, expedient, and wise for this Government to send commissioners to treat with the rebel authorities at Richmond, and this was the only object of the resolution. But the point of offense in it with the gentleman [Mr. DAVIS] seems to be that it contained the words "inhuman war," and on this he predicated what would be our action in all matters pertaining to the war or the support of the Administration, and this, too, when he has had several opportunities to know the sentiment of this side of the House by their votes directly on the merits of other resolutions touching the prosecution of the war.

The gentleman has had experience enough in legislative bodies to know that voting against laying a resolution on the table is not necessarily agreeing with the sentiments contained in it. If that resolution had been permitted to come before the House there would have been a direct vote on its merits, and then the gentleman would have known our views.

But the gentleman [Mr. DAVIS] goes on further to say, as follows:

"For myself, sir, relying on the fact that the people have sent enough of us here for the purpose of supporting the Administration, I would suggest that perhaps gentlemen on the other side of the House had just as well execute the mission with which the constituents that elected them sent them here, charged to oppose, to embarrass, to libel, and to break down the Administration, and leave the support of it to the gentlemen whom the people have sent here to maintain it. With all due respect to the patriotic purposes, the eminent ability of the gentlemen on the other side, when they tender support I shall look at it with something of suspicion, and, for myself, shall say, '*Non tali auxilio, nec defensoribus istis.*'"

I take it that he understands the meaning of the language which he thus uttered fearlessly before this House. He is accustomed to speaking, and therefore understood the full force and effect of it. He charges not only that we embarrass the Administration, but that our constituents sent us here for that purpose—to oppose, to embarrass, to libel, and to break down the Administration. Ah! is this the spirit with which gentlemen extend to us the right hand of fellowship when we come here and say to them in all honesty that we are for supporting the Administration in every act that is consistent with the character of a Christian and civilized country in putting down this infamous rebellion? I wish the gentleman to consider his words. Is that the meaning, was that the purpose, that the 250,000 conservative Democratic voters in Pennsylvania had in sending rep-

resentatives to this House? Was that the spirit or purpose for which 285,000 voters in New York, 255,000 in Pennsylvania, 185,000 in Ohio, and 51,000 voters in the State which I in part represent here, sent their representatives to this House? By what authority, let me ask the gentleman from Maryland, does he say that he does not need our aid? Is he the special agent or attorney of the President, and is he authorized to come here and tell us that the President does not need our aid?

Mr. WASHBURN, of Illinois. I would suggest to the gentleman from Maine that the gentleman from Maryland [Mr. DAVIS] is not in his seat.

Mr. SWEAT. It is not my fault. I wish that he were in his seat, for I would wish him to have an opportunity of answering me.

Mr. WASHBURN, of Illinois. Then I suggest to the gentleman from Maine that he withhold his remarks until the gentleman from Maryland shall be in his seat.

Mr. SWEAT. It is the duty of gentlemen who make such charges on this floor as the gentleman from Maryland made to be in his seat at all times while the House is in session, and especially on the days immediately succeeding his attack; for he must know that if we have any manhood, any truth, any self-respect on this side of the House, we should improve the first opportunity to repel and thrust back such charges in his teeth, and call upon him to answer.

Mr. GARFIELD. I hope our friends on this side of the House will not object, but let the gentleman from Maine continue his attack on an absent member.

Mr. WASHBURN, of Illinois. I made the remark to show to the country that the gentleman from Maryland was not in his seat when the gentleman from Maine made the attack upon him.

Mr. COX. I call the gentleman from Illinois to order.

Mr. SWEAT. The gauntlet has been thrown down by a gentleman on that side of the House for the first time. The charge is that we are attempting to embarrass the Administration, and that we came here for that purpose. I say here, before my God and before all men who can hear or read what I say, that the purpose of my heart, the purpose of my constituents, so far as I know anything about it, is not to embarrass but honestly to aid the Administration in putting down this unholy and wicked rebellion. Have we shown any such disposition on this floor? Did we make any factious organization when we came here? We did not organize on the nomination of a Speaker. Does that look like an attempt to embarrass the Administration? You will recollect a resolution offered here at a very early day of this session, for which we unanimously voted, save one gentleman from Maryland. That resolution pledged us to aid the Government by furnishing men and money to an unlimited extent for the purpose of putting down this rebellion, and declared that it was the duty of the people to do it. Did the gentleman, when he made that charge upon us, remember what we had done? If he did, it is well that we should know, at this early stage, the feeling which actuates that gentleman, but which I hope does not actuate many gentlemen on that side of the House. I feel more sensitive in regard to the charges against my constituents, and more obliged to speak for them, than I do for myself. Examine, if you please, the rolls of your Army, and see if you do not find that a large majority of the men who are fighting the battles of the country represent and are of just such material as those against whom the gentleman's charges are made. If the gentleman from Maryland could place his ear to the bloody graves of the dead of Chickamauga, Chickahominy, Vicksburg, Port Hudson, of the Peninsula, Antietam, Gettysburg, and all the other battle-grounds of the Republic, he would hear a voice coming from them saying that they were just such men as those who have sent these conservative and Democratic members to the Congress of the nation, and who are now maligned by the gentleman from Maryland as having been sent here especially for the purpose of libeling and embarrassing the Administration. Does the gentleman, or any other member from Maryland, recollect the 19th of April, 1861? What city and what people have the honor of having

made that day forever memorable? Baltimore and her people. On the streets of what city of this Union was the first blood shed in this war—the blood of men who had started with stout hearts and strong arms to defend the people, enforce the laws, and guard the Constitution? It was on the streets of Baltimore, Maryland, one district of which is represented on this floor by the gentleman, [Mr. DAVIS.] I will say to that gentleman and to his friends that he comes from the wrong latitude to make any such charges against us as he has made here. And, if I am correctly informed, if there had been a free, unbiased, uncontrolled vote in the fourth district of Maryland, we might have had another member on this side of the House to embarrass the Government in the way he charges us, instead of the distinguished gentleman from Maryland.

I say, therefore, in conclusion, that the whole style, matter, and manner of his introductory remarks failed by a great deal to impress me with the belief that he brings with him to the councils of the nation that degree of forbearance, brotherly love, Christian feeling, or statesmanship, which are demanded in these perilous and distracted times.

Now, sir, with this preliminary reply to the introductory remarks of the gentleman from Maryland—which I certainly should have omitted had I not considered his charge upon us and upon our constituents, who are unable to reply save through us, as wanton, unprovoked, and inexcusable—I propose to examine the question now before the House.

In order that we may understand precisely the question before the House, I will read a portion of the joint resolution of the chairman of the Committee on the Judiciary, and also the resolution proposed by the gentleman from Pennsylvania [Mr. STEVENS] as an amendment. The joint resolution is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the last clause of a "Joint resolution explanatory of 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,'" approved July 17, 1862, be, and the same hereby is, so amended as to read: "Nor shall any punishment or proceeding under said act be so construed as to work a forfeiture of the estate of the offender, except during his life." This amendment being intended to limit the operation and effect of the said resolution and act, and the same are hereby limited, only so far as to make them conformable to section three, of article three, of the Constitution of the United States: Provided, That no other public warning or proclamation under the act of July 17, 1862, chapter ninety five, section six, is, or shall be, required than the proclamation of the President made and published by him on the 25th day of July, 1862, which proclamation so made shall be received and held sufficient in all cases now pending, or which may hereafter arise under said act.

And the following is the proposed amendment of the gentleman from Pennsylvania:

Resolved, &c., That the joint resolution passed on July 17, 1862, entitled "Joint resolution explanatory of 'An act to suppress insurrection,'" &c., be, and the same is hereby, repealed.

To ascertain the effect of the passage of this resolution we must bear in mind what the confiscation act of July 17, 1862, is, and also what the joint resolution of the same date is, which this resolution now before us proposes to repeal. Not to take time to read all of the confiscation act of 1862, I will only say that under and by virtue thereof the President is authorized to cause the seizure of the estate of rebel officers, of the president and other officers of the so-called confederate States, of the governor of any of the said States, and of other persons holding offices of honor or trust; and under that act the courts have power to make such orders, establish such forms of decree and sale, and direct such deeds and conveyances to be executed and delivered where real estate shall be the subject of sale, as shall vest in the purchasers good and valid titles thereto. And the joint resolution of the same date, approved at the same time, and which is in fact a part of the confiscation act, and which the President insisted should be passed before he would approve the act, is as follows:

"Resolved, &c., That the provisions of the third clause of the fifth section of 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,' shall be so construed as not to apply to any act or acts done prior to the passage thereof; nor to include any member of a State Legislature, or judge of any State court, who has not in accepting or

38TH CONG....1ST SESS.

Confiscated Property—Mr. Sweat.

HO. OF REPS.

entering upon his office taken an oath to support the constitution of the so-called "confederate States of America"; nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life."

The proposition now before the House is substantially the repeal of the resolution which I have just read. If it stands on the statute-book it matters not which of the two constructions of the Constitution is correct which says: "No attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attained"—whether the forfeiture is limited to the life of the offender or whether it operates after his death, for you will perceive that the language of the joint resolution which the President insisted should be passed before he would approve the bill, is so definite, so clear and precise, as to settle the question forever. "Nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life." The word beyond fixes the limitation with complete certainty. This is undoubtedly the meaning of the words in the Constitution. The President so understood it, and so did both Houses of Congress.

Two theories are put forth as to the effect of the repeal of this joint resolution. One sustained in common by the gentleman from Indiana [Mr. ORR] and the gentleman from Maryland, [Mr. DAVIS,] the other especially advocated by the gentleman from Maryland, [Mr. DAVIS,] The first theory is, that after the repeal of the joint resolution there will be no constitutional objection to so enforcing the confiscation act as to take and dispose of the real estate in fee—working absolute forfeiture thereof and forever, for it is contended that the true construction of the Constitution is not to limit the forfeiture to the life of the offender, while on the other hand I understood the gentleman from Maryland, [Mr. DAVIS,] in his additional theory which he alone advocates, to say that admitting the Constitution limits forfeiture to the life of the attained, there is another "due process of law," such as that designated in the confiscation act, by which the estate of the rebels may be taken in fee, and therefore he asks for a change of the law by repealing the joint resolution which now positively forbids forfeiture beyond the life of the offender for any of the causes set forth in said act.

I propose for a few minutes to examine these two theories, equally unsound, unheard-of, fallacious, insidious, and revolutionary, and also to answer the question of the chairman of the Committee of Ways and Means [Mr. STEVENS] put to the gentleman from Ohio [Mr. COX] during the running debate last week, and which perhaps was not fully and directly answered at the time. He said:

"The Constitution provides that Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture. Now, has Congress power to punish other than by attainder, and if that other punishment is the forfeiture of estate, does it violate the first clause of the Constitution?"

In answer to this I reply that it is undoubtedly the prerogative of Congress to define all crimes and offenses against law, and to attach such penalties, not repugnant to the Constitution, as become an enlightened, moral, and Christian people; but when the Constitution affixes limits to any particular mode or form of punishment Congress has no power to step over that boundary and enlarge or extend that particular method of punishment, although they may prescribe other and different penalties not forbidden by the Constitution. For example, the Constitution says:

"The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attained."

Now, under this authority, Congress has declared the punishment of treason to be death; and though not limited to affixing the death penalty, nor prevented from declaring any other punishment except forfeiture of estate absolutely, it may be of some importance in showing the view of every Congress up to that of 1862, that upon examination of the Statutes at Large you will find no other penalty affixed to that crime from the first enactment of 1790 to the present hour, except it be under the confiscation law of July, 1862.

I say, therefore, that Congress may punish

treason by death, or by fine and death, or in any other way not limited or forbidden by the Constitution, but they cannot affix as a penalty the forfeiture of real estate of the offender beyond his life, for the plain reason that the Constitution limits that mode of punishment. Why, it is asked, this limitation? The importance of it was learned from the bitter lessons of the war for American independence.

In the words of a member of the last Congress, (Mr. Thomas).—

"The strife and hate growing out of the confiscations of the Revolution are yet scarcely appeased; and it was with these confiscations fresh in the memories of the framers of the Constitution that the limitation of the power of forfeiture was adopted."

The only possible mode of trying, convicting, and punishing a person guilty of treason is prescribed by the Constitution.

Mr. STEVENS. I would like to understand this matter, and the gentleman will allow me to interrupt him. What I intended to say was that unless Congress passed a law and declared a punishment by attainder, they might inflict a punishment of death for treason, or any other punishment than death with confiscation. I want to know whether the confiscation act, in his judgment, is a bill of attainder, and produces attainder according to the law of this country? In the first section there is no confiscation of real estate, and the other sections which declare forfeiture of real estate have no reference whatever to treason, but to the property of alien enemies.

Mr. SWEAT. I should have answered the gentleman's question before I finished my remarks, and I propose to answer it in that way now. I understand his proposition exactly. He says we cannot punish treason under the Constitution, as such, except by the life of the person attained; and he asks whether there is not some other process, and whether we may not take property in fee for other offenses.

Mr. STEVENS. I think I did not make myself clear. I ask him to say whether there is anything in that bill which does produce attainder.

Mr. SWEAT. That is the point I am approaching, and I will answer the gentleman in as explicit terms as I may be able. The only possible mode of punishing a person convicted of treason is prescribed by the Constitution. The trial of all crimes shall be by a jury, according to one article of the Constitution. It is then provided by another article that no person shall be held to answer for a capital or other infamous crime except by a grand jury. The two great limits embraced in this provision are: first, an indictment by a grand jury; and second, trial before a judicial tribunal and a jury of the country selected according to the law of the land:

"The trial of all crimes, except impeachment, shall be by jury."—Art. 3, sec. 2.

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."—Art. 3, sec. 3.

Again:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury," &c.—Art. 5 Amendments.

The two great elements embraced in these provisions of the Constitution are: first, a presentment or indictment of a grand jury; second, a trial before a judicial tribunal and a jury of the country selected according to law. If, then, the person charged with treason be tried in this way and found guilty, the only remaining thing to be done, or that can be done, is to impose the penalties attached to the commission of the crime; and as I have already said, any punishment previously declared by Congress may be inflicted, not inconsistent with the limitation in the Constitution as to the forfeiture of real estate.

I have said any other punishment may be inflicted not prohibited by the Constitution. I say, therefore, to the question of the gentleman from Pennsylvania, whether Congress has not the power to punish otherwise than by attainder, and whether, if that other punishment is a forfeiture of estate, does it violate the Constitution, that in my judgment Congress cannot constitutionally pass a law to inflict upon a traitor as a punishment of his crime a forfeiture of his estate beyond his life.

No such power has ever been claimed by any jurist in the country down to the present time. The gentleman from Pennsylvania and the gentleman from Maryland do not come to a right conclusion in reference to the effect of article first, section nine.

Their reasoning is applicable to article one, section nine, and not to article three, section three.

In commenting on the clause "No attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attained," the gentleman from Maryland [Mr. DAVIS] says:

"Now I take it that the meaning of that clause is that the forfeiture worked shall, must be effected during life. The honorable gentleman from Ohio, and those who think with him, would construe it to be that the forfeiture when worked shall only endure for the life of the party. Palpably the latter is the incorrect and the former the legal meaning. The purpose assumed is the protection of the offspring from punishment for the guilt of the ancestor. But a fine is equally taken from the offspring, as land; yet no one denies the right to fine a person attained. There was, however, an effect of attainder that did punish the offspring, and the offspring alone. Every student of Blackstone knows this, that the judgment convicting a person of treason operated a corruption of blood. The corruption of blood stopped the transmission of heritable blood to any heir of the person attained; so that the legal effect of conviction for treason under the law of England was, first, to forfeit all the property, real and personal, of the person attained, and, secondly, to corrupt his blood, destroy its heritable quality, so that he could neither take land by descent himself, nor transmit heritable blood to the persons who would, but for his attainder, have been his heirs. He could, in the language of the law, have no heirs. The attainder corrupted his blood, and there was no heritable blood transmitted to them."

This is substantially a correct historical sketch and exposition of bills of attainder under the English law, the evil effects of which it was intended by the framers of our Constitution to avoid; but the gentleman has fallen into the common error of supposing that the clause of the Constitution now under consideration is the one to which his argument applies. As a careful lawyer he ought to have examined further and to have read that other provision in the Constitution to which I will now call his attention, by which he will perceive that the odious features of bills of attainder were met and disposed of by another and different clause than the one to which he has applied his argument. His extensive practice at the bar ought to have taught him long ago that the symmetry of that most perfect of all human instruments, the Constitution, can be discovered only by an examination of its different parts.

The clause upon which he comments and to which he has made his remarks applicable is in article three, section three, of the Constitution; but if he will examine article one, section nine, he will find these words, "No bill of attainder or *ex post facto* law shall be passed."

It was by this restrictive clause in article one, and not in article three, that the framers of the Constitution at once and forever abolished the barbarous bill of attainder of the English law. The quotation which I have made from the gentleman's speech is applicable as a commentary on article one and not on article three, of the Constitution; for, as I have before said, bills of attainder were abolished by the Constitution in its first article, and before the third article came up for consideration. The citation from Story (volume three, page 210) which has already been made on this floor is a commentary on the restrictive clause in the Constitution, article one, section nine, which says, "No bill of attainder or *ex post facto* law shall be passed," and not upon article three, section three, which says, "No attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attained."

In his Commentaries, touching this restrictive clause, "bill of attainder and *ex post facto* law," he says:

"Such acts have been often resorted to in foreign Governments as a common engine of state; and even in England they have been pushed to the most extravagant extent in bad times, reaching as well to the absent and the dead as to the living. Sir Edward Coke has mentioned it to be among the transcendent powers of Parliament that *an act may be passed to attain a man after he is dead*. And the reigning monarch, who was slain at Bosworth, is said to have been attained by an act of Parliament *a few months after his death*, notwithstanding the absurdity of deeming him at once in possession of the throne and a traitor. The punishment has often been inflicted without calling upon the party accused to answer, or without even the formality of proof, and sometimes because the law in its ordinary course of proceedings would acquit the offender. The injustice and iniquity of such acts in general constitute an

irresistible argument against the existence of the power. In a free Government it would be intolerable, and in the hands of a reigning faction it might be, and probably would be, abused to the ruin and death of the most virtuous citizens. Bills of this sort have been most usually passed in England in times of rebellion, or of gross subversive to the Crown, or of violent political excitement—periods in which all nations are most liable (as well the free as the enslaved) to forget their duties and to trample upon the rights and liberties of others.²⁷

That such were the reasons that induced the framers of the Constitution to insert the clause forbidding Congress to pass any bill of attainder or *ex post facto* law, I might cite Kent, Rawle, Curtis, and others who have written on the subject. But it cannot be necessary. When they said "No bill of attainder or *ex post facto* law shall be passed," they had finished that subject, and may well be supposed to have known what they had done, and, though they might not have been so accomplished in the science of philology as the learned gentleman from Indiana, [Mr. ORTH,] it would not be a violent presumption to suppose that when they came to say in a subsequent clause, "No attainder of treason shall work corruption of blood or forfeiture, except during the life of the attainted," they knew what they intended to say, and said what they intended to in plain English language, and that they neither meant nor did in fact modify or change in any way what they had said or done in the previous clause; they meant to say *except*, and not *unless*, and the word, with them, had its common, intelligible meaning, and no question has been made as to its clear intent from that time to this, save by the wise philologists that are cropping out in this Hall and in other departments of the Government.

The learned gentleman from Indiana [Mr. ORTH] says that the "science of philology is progressive, and that the same word in different ages and times may be used to mean dissimilar things." "Change," he says, "is the irrevocable law of nature, stamped upon everything and appertaining to every department of knowledge." The gentleman then says that we are told by lexicographers that the word *except* is equivalent to the word *unless*, and then he shows his familiarity with the Scriptures by several quotations, which another distinguished individual connected with one of the Departments of the Government has also quoted in his recent review of this subject, to show us that the word "*except*" means the word "*unless*." He says:

"Numerous instances of this are found in the Holy Bible, where the word '*except*' is used in sentences in which at the present day we should invariably use the word '*unless*;' thus:

"*Except* the Lord build the house, they labor in vain that build it."

"*Except* the Lord of hosts had left unto us a very small remnant, we should have been as Sodom."

"Can two walk together, *except* they be agreed?"

"*Except* a man be born again, he cannot see the kingdom of God."

"*Except* ye repent, ye shall all likewise perish."

"In all these instances, and they could be multiplied almost *ad infinitum* from writings of that age, both sacred and profane, the word '*except*' is used in the sense in which we of the present day would use the equivalent word '*unless*.'"

"Now, then, let us, in further illustration of my position, substitute the word '*unless*' for the word '*except*' in the clause under consideration. It will then read:

"But no attainder of treason shall work corruption of blood or forfeiture, *unless* during the life of the person attainted."

Now his construction is a forced one. The word *except* qualifies and relates to the words immediately following, and not words which must be interpolated in order to carry out his theory. In order to make his views intelligible and to carry out his idea, I submit that he should go still further, that he should have the word "*except*" or "*unless*" modify or qualify not what immediately follows, but something he proposes to interpolate; so that it shall read:

No attainder of treason shall work corruption of blood or forfeiture *unless* the offender be attainted in his lifetime, in which case forfeiture of his estate shall be absolute.

But this, I think, may well be said to be a forced construction, and clearly not intended by the framers of the Constitution.

Do the gentlemen give us any authority for their construction? There is no pretense of any. Is it pretended by them that their construction has ever been sanctioned by any judicial tribunal? They claim no such authority, unless it be that of Judge Underwood, of the United States district court

for eastern Virginia, who has recently acted in accordance with this peculiar construction and actually "*decreed*," as one of our daily papers announces, the sale of certain real estate owned by one Hugh Latham, adjudged guilty of treason, and directed its transfer in fee simple to the purchaser when the same should be sold under order of court. He is the first and only judicial officer, since the formation of our Constitution, to construe the word *except* as meaning *unless*. He says:

"If we use the word '*except*' in the above sense in the constitutional provision, or make it read '*unless* during the life of the person attainted,' we shall at once come to the true intent and meaning of the provision, to wit: that the forfeiture was to be perfected *during*, and not *after*, the lifetime of the party attainted."

And under this shallow but wicked perversion of the meaning of the Constitution has decreed the forfeiture and transfer in fee of the real estate of the offender. This he has done, too, while the joint resolution, which is a part of the confiscation act, expressly says that for any of the offenses specified in said act there shall be no forfeiture of real estate *beyond* the natural life of the offender. Whatever construction may be put on the clause of the Constitution, and whatever powers a judge might have under the confiscation act, if the joint resolution defining the limitation of punishment were not on the statute-book, it is certain that with this resolution in full force and unrepealed, Judge Underwood has as clearly violated his oath of office in this arbitrary decree as he would by decreeing and putting into execution the punishment of death for the common offense of assault and battery. And yet he will not be impeached or removed from office. He is of the elect, in the fold, and will remain where he is to try experiments on the established rights of citizens.

I think the gentleman [Mr. ORTH] might have been able to give us at least one authority, but he did not do us the favor of citing that work which I am satisfied he must have examined very thoroughly. There is an authority—the authority of a gentleman whose ability, whose legal learning and acumen, whose extensive knowledge and research are admitted by all, and, above all, whose patient and devoted loyalty to the country can but command the admiration of those who know him, and who has taken the same view of the subject which the gentleman from Indiana has taken; and there is such a happy harmony and beautiful similarity of opinion, and in some instances of expression, that I wonder he had not felt inclined to do justice to that distinguished individual who has very elaborately considered this question, and published his views and placed them on our desks. I refer to the distinguished Solicitor of the War Department, Mr. William Whiting, of Boston.

Mr. Speaker, I was saying that there never had been but one construction of this article three, section three, of the Constitution; and that was that attainder of treason should not work corruption of blood or forfeiture *beyond* the life of the attainted. And at the risk of being considered behind the times, and of calling to my aid the opinion of one who in times past commanded respect and attention, but who must now yield to the brighter luminaries of jurisprudence of the political, civil, and higher law, I will venture once more to cite Joseph Story upon the very point now under consideration. In commenting on the express power given to Congress to punish treason, he touches the precise point under discussion, when he uses the words "forfeiture beyond the life of the offender:"

"Two motives probably concurred in introducing it as an express power. One was, not to leave it open to implication whether it was to be exclusively punishable with death, according to the known rule of the common law, and with the barbarous accompaniments pointed out by it, but to confide the punishment to the discretion of Congress. The other was to impose some limitation upon the NATURE and EXTENT of the punishment, so that it should not work corruption of blood, or forfeiture *beyond* the life of the offender."

"It surely is enough for society to take the life of the offender, as a just punishment of his crime, without taking from his offspring and relatives that property which may be the only means of saving them from poverty and ruin. It is bad policy, too; for it cuts off all the attachments which these unfortunate victims might otherwise feel for their own Government, and prepares them to engage in any other service by which their supposed injuries may be redressed or their hereditary hatred gratified. Upon these and similar grounds it may be presumed that the clause was first introduced into the original draft of the

Constitution; and after some amendments, it was adopted without any apparent resistance. By the laws since passed by Congress it is declared that no conviction or judgment, for any capital or other offenses, shall work corruption of blood, or any forfeiture of estate. The history of other countries abundantly proves that one of the strong incentives to prosecute offenses as treason has been the chance of sharing in the plunder of the victims. Rapacity has been thus stimulated to exert itself in the service of the most corrupt tyranny; and tyranny has been thus furnished with new opportunities of indulging its malignity and revenge; of gratifying its envy of the rich and good; and of increasing its means to reward favorites and secure retainers for the worst deeds."—Vol. 3, p. 169.

Again, I will refer to another authority, which the gentleman from Pennsylvania [Mr. KELLEY] seemed to question the other day. Mr. Lieber says:

"The true protection of individual property demands likewise the exclusion of confiscation. For although confiscation, as a punishment, is to be rejected on account of the undefined character of the punishment, depending not upon itself but upon the fact whether the punished person has any property and how much, it is likewise inadmissible on the ground that individual property implies individual transmission, which confiscation totally destroys. It would perhaps not be wholly unjust to deprive an individual of his property as a punishment for certain crimes, if we would allow it to pass to his heirs. We do it in fact when we imprison a man for life, and submit him to the regular prison discipline, disallowing him any benefit of the property he may possess; but it is unjust to deprive his children or other heirs of the individual property, not to speak of the appalling effect which confiscation of property has often produced upon Governments."

From which it is apparent his construction of the clause under consideration would be the same as that of Judge Story.

I have also another quotation from the Federalist, to which I ask the attention of the House:

"As treason may be committed against the United States, the authority of the United States ought to be enabled to punish it; but as new-fangled and artificial treasons have been the great engines by which violent factions, the natural offspring of free Governments, have usually wreaked their alternate malignity on each other, the Convention have with great judgment opposed a barrier to this peculiar danger, by inserting a constitutional definition of the crime, fixing the proof necessary for conviction of it, and restraining the Congress, even in punishing it, from extending the consequences of guilt beyond the person of its author."—The Federalist, p. 173.

It is therefore clear to my mind, Mr. Speaker, that the meaning of this third section of the Constitution is to confine forfeiture of estates to the lives of the offenders.

I wish now to say a single word with reference to the view sustained by the gentleman from Maryland, [Mr. DAVIS,] and which, as I understand, is sustained by him alone:

"It is wholly immaterial whether, in the event of the party's being convicted of treason, Congress can or cannot make a consequence of the judgment the forfeiture of lands in fee simple, or is confined to a forfeiture limited in duration by the life of the convict."

"The question here is whether there is any process of law, however this provision be construed, by which we cannot effect a forfeiture of the whole fee in lands. That question gentlemen have nowhere met."

"The question is whether by other process of law not connected with indictment of the person, not following upon attainder, the United States Government can say that those who have been in arms against it shall forfeit their property, and that the tribunals of the country shall enforce it *in rem*; and this is settled by the traditional laws of the Republic."

He says:

"The law of the last Congress prescribed a different process from conviction in a court of law of the person guilty of the crime. It provides that upon proceedings in the district court in the nature of proceedings in admiralty the lands of certain classes of persons, and all their personal property, shall be forfeited for the use of the Government."

"And the Constitution provides that the property of citizens shall not be taken without due process of law. Now, the question which gentlemen on the other side of the House have to argue is, not the law of attainder, but whether the process in the district courts of the United States to confiscate the property of persons proved to be of the specified classes is due process of law for depriving a man of his property under the Constitution. If they cannot maintain that that is not due process of law within the meaning of the Constitution, they cannot throw the least doubt on the constitutionality of this mode of procedure."

It is very easy to understand the point of the gentleman. It is a very ingenious argument, but may be, I think, easily answered by any one who would bring to bear on the consideration of the question half of the legal attainments and ability that have been hitherto willingly accorded to him. I think he is evidently mistaken.

He says, admitting that our construction of the Constitution is right, that you cannot confiscate the real estate of the person attainted with treason except during the lifetime of the person so attainted, is there no other process of law by which

38TH CONG....1ST SESS.

Enlistments in the Army—Mr. Doolittle.

SENATE.

you can proceed against real estate, as you proceed against personal property, *in rem*, and confiscate it absolutely?

I answer that there is no such process of law; and if I had the time, I could make appear most distinctly the difference there is between the two classes of property. The distinction is briefly this: I say you cannot proceed against any property *in rem* unless that property is in some way connected with the subject-matter of the offense. It must be in some way the instrument of the offense; or, to carry the definition a little further, you cannot proceed *in rem* unless you find that property *in delictu*—in the wrong—or in some way in default.

The gentleman says:

"If this were a new question, possibly there might be room for argument. But from the first Administration down to this day there has never been a day in which, on the statute-books of the United States, exactly this process to forfeit property for crime without first convicting the owner on indictment has not been prescribed. The law of 1799, among the first of the revenue laws, forfeited property brought in under fraudulent invoices, without proceeding against the individual personally; and all the revenue laws from that day to this enforce these provisions by forfeitures and proceedings *in rem*."

All this is admitted; but these are cases where the process is enforced against the property without the slightest reference to the guilt of the person. If fraudulent invoices are found, that is all that is necessary to found a proceeding against the property; and the very titles of the actions or suits in court show that it is not necessary to this proceeding to connect the guilt of any person with it. The cases are designated, The United States against the ship A B or C D, as the case may be, or against twenty hogsheads sugar, twenty tierces of molasses, one thousand boxes tobacco, or whatever the article may be which is the instrument of offense, or which may be found *in delictu* or in default.

Again, he says:

"The navigation laws of the United States, from the earliest days of the Republic, inflict forfeiture in the district court on proceedings against the vessel for violation of those laws without prosecuting the owner, though liable to indictment. Who ever heard that a vessel could not be forfeited unless the master or owner were indicted, or until after they had been indicted? Our laws in reference to trade with the Indians make it penal to carry ardent spirits among them, and they punish the persons guilty and forfeit the property by process *in rem* in the district court. Is that unconstitutional?"

No one has or will contend that you may not proceed against the vessel in the case cited without first indicting the master or owner. By the Constitution, article three, section two, "the judicial power shall extend to all cases of admiralty and maritime jurisdiction;" and under this sanction, and the laws of Congress passed in pursuance thereof, a large class of cases are designated in which the process is to be against the property. But all these cases come within the distinction which I have made. The vessel in the case cited is the instrument of the offense, and so it is with the "ardent spirits" sold to the Indians in violation of law. I will cite a case which I think comes much nearer to the gentleman's position than any which he has put. Here is land upon which taxes remain unpaid; now, unless paid, the land may be sold, under the conditions prescribed by law. Now I am asked if this land is *in delictu*—is it the instrument of offense? It cannot be correctly said it is, but it certainly is in default. I think the gentleman can find no case of a process *in rem* where the property proceeded against is not either the instrument of offense, *in delictu*, or in default. Does it apply to the real estate of the rebels? Is their real estate the instrument of offense? Is it in the wrong, or in default? Is not the crime of the rebels entirely personal and unconnected with their land?

Mr. STEVENS. Without taking up the gentleman's time, I wish to ask him a single question: suppose this property is that of an alien enemy, does the gentleman hold that his real estate cannot be confiscated absolutely?

Mr. SWEAT. Perhaps they can be confiscated absolutely. The law applying to such cases is well settled, not by Congress, but by the laws of nations, and therefore can have no reference to the subject before us. I am not now discussing the laws of nations. It may be true that under the laws of nations the property of alien enemies may be confiscated absolutely, whether personal

or real; but this I am not discussing. I am aware that the theory has been advanced that those now in arms against this Government are so to be regarded. That is a question which I have not time to discuss now, and which does not legitimately come up in this discussion.

Mr. Speaker, I will not take up much more of the time of the House, although I have been interrupted in several instances, but will close by saying one or two words of a general character. I will ask gentlemen on the other side of the House who have spoken upon this subject, what is the importance of all this? what is at the bottom of all this? The gentleman from Ohio [Mr. SCHENCK] told us the other day that there are three parties in this country: one in favor of prosecuting the war and of furnishing men and money to an unlimited extent; another party opposed to continuing the war further upon any terms; and a third party in favor of the war, but opposed to all the necessary means for carrying it on. Well, sir, in order to ascertain in which of these parties gentlemen on this side of the House may properly range themselves, a little inquiry into the purposes of gentlemen on the other side may be necessary. If it is their purpose to open up all the lands of the South *de novo* for the benefit of speculators, as has already been done, if the senseless opinions of Judge Underwood are to be followed, let gentlemen say that such is their intention. In which case I think I might reduce the parties to two, one of which is in favor of carrying on the war to subdue the armed rebellion and preserve the Union, and to furnish the Government with all the means necessary to do it, to which I claim to belong; while the other is in favor of making it an abolition war, and would not stop it even though all the rebels should lay down their arms and swear to obey the laws of the land, unless upon the previous destruction of slavery and the taking away all State rights, and the rehabilitation of the whole southern country. If the gentlemen are willing to stand on this platform, let us know it. Such seem to be the two grand divisions of parties to which we are fast tending. It is the doctrine of Fred. Douglass put forth directly in his resolution. It is not my doctrine. I have one simple theory. I have had but one from the beginning of the war up to the present time. My theory is, prosecute earnestly, prosecute vigorously this war until the armed rebellion is subdued. Repeal all unconstitutional laws and pass none that are unconstitutional. And when this armed rebellion is put down let the States come back, for they will come back. Welcome them back, and let all the questions in dispute which are now undertaken to be settled in advance be settled by the judicial tribunals of the land. This seems to me to be the only wise and true course. I do not believe in the powers of the President, nor in the powers of Congress, nor in any powers outside of the Constitution, of blotting out States and obliterating State lines.

The SPEAKER. The gentleman's hour has expired.

Mr. SWEAT. Mr. Speaker, I ask the unanimous consent of the House for a moment more in which to conclude what I have to say.

There was no objection, and it was ordered accordingly.

Mr. SWEAT. Mr. Speaker, I say that I do not believe in the power of any of the departments of the Administration, or of the whole Administration together, to blot out State lines, or to make them oscillate upon the face of the earth as the shadows of a wandering maniac. I am for a policy of vigorous prosecution of the war until the rebellion is crushed. I am for filling up the armies of the Union, and willing to legislate for that purpose. When you have asked me to vote supplies, I have shown you by my example that I am ready to do that. When you proposed a repeal of the law for paying additional bounties, we voted with you. We voted for it because it was your suggestion, for we supposed you knew whether it was needed or not. The President and the Secretary of War asked for a reconsideration of that matter, so that the bounties might be continued, and we of this side of the House voted for it. We wish to put no embarrassment in the way of the Government.

Now, Mr. Speaker, I do not propose to go into

a political speech or to lay down any political platform. I say to gentlemen upon the other side that I am willing, and I believe all of my friends here are willing, to aid them in all legislation that is necessary to put down this armed rebellion. I hope that we shall not have any more charges from that side of the House that we are here for the purpose of troubling and impeding the Administration. Let us do as Macanlay has said they did at an eventful period in English history, when Roundheads and Cavaliers, Episcopalians and Presbyterians joined in firm union to sustain the laws of the land. I will go with any gentleman for that purpose. But on the matter before the House I feel it to be my duty to vote in the way I have indicated. If we have generals in the field, encourage them, pay them well, but let us see that they are on duty, and that they are not upon furlough and without commands, as we have it reported by the Secretary of War that many of them are, at an expense to the Government of \$27,000 per month. Let us undertake to discover and punish public corruption and fraud; for I hold that public corruption is private corruption, and that public sin is private sin, and that we are responsible just to the extent that we know it and do nothing to prevent and remedy it. I will join the gentlemen upon the other side of the House, and I think that the gentlemen upon this side will join them, in the action suggested in these desultory remarks for accomplishing that great object, of ending the war and preserving the Union. If we stand by that proud old flag which is hanging so gracefully above you, Mr. Speaker, as full of inspiration to-day as it has ever been, "the glorious emblem of resistless and beneficent power," it will assuredly lead us to glory and to victory.

ENLISTMENTS IN THE ARMY.

SPEECH OF HON. J. R. DOOLITTLE,

OF WISCONSIN,

IN THE SENATE OF THE UNITED STATES,

February 9, 1864.

The Senate, as in Committee of the Whole, having under consideration the bill (S. No. 41) to promote enlistments in the Army of the United States, and for other purposes, the pending question being on Mr. HENDERSON'S amendment to the third section of the bill—

Mr. DOOLITTLE said:

Mr. PRESIDENT: War and not peace is our real situation. Whatever may have produced this state of things, war is upon us with all its necessities, with all its realities, with all its stern duties, and we must fight it through. At this hour, whatever will give strength to our armies in the field and bring revenue to support them, demands the first consideration of Congress, and of every Department of this Government. If left to me I would speak but one word, fill up the ranks, press on the columns. To spare the unnecessary shedding of blood; to save the resources of the country; to solve all financial questions, and put our credit upon a basis so strong as to command the money of the world, I would speak no other word but "fill up the ranks, press on the columns." To secure liberty and Union; to secure peace with all other nations by inspiring them with respect; and to put a final end to that conspiracy, founded on slavery, which makes war against us, I would still say, as the most radical and at the same time the most certain of all measures, "fill up the ranks, press on the columns." But, sir, my voice is but one.

Other considerations are continually pressed, and will be pressed upon us; other subjects will be involved in times like these, and we are called upon to meet them and to discuss them. I regret that all the legislation of the present session on the subject of enrolling troops had not passed Congress before the adjournment for the holidays. They ought to have been matured and passed before that long adjournment. I fear we have nearly lost forty days, forty days of most precious, valuable time to the Government in filling up our armies. Again, sir, in my opinion, it is much wiser in all bills which concern the enrollment of troops not to embarrass them by other provisions not necessary to raise the troops and to fill the ranks of our armies. I rejoice that the hon-

orable Senator from Massachusetts, the chairman of the Committee on Military Affairs, has determined to confine the question of the enrollment and pay of troops to that single issue, and not involve with it the consideration of the abolition of slavery within the States by act of Congress.

Some remarks have been made, however, upon this bill and upon the subject of the Crittenden compromise, as it is called, this morning, which lead me, with the indulgence of the Senate, to make some general observations not very pertinent to the bill under consideration, but bearing upon the present state of the slavery question.

Mr. President, if we look at this question as now presented under the present aspect of affairs, we see at once that three years of war have changed the slavery issue altogether. What are the facts? In 1860 the sole issue concerning slavery was, shall it enter the Territories? It had nothing to do with slavery in the States. The question of slavery in the States was entirely disclaimed. Neither the purpose nor the power to interfere with slavery in the States under the Constitution was claimed in 1860, and never has been claimed by any party in this country, not even by the abolition party from its first organization. Neither the Democratic party, the Whig party, the Republican party, nor the Abolition party ever claimed, under the Constitution of the United States, the power to legislate on the subject of slavery within the jurisdiction of the States. The sole issue, therefore, so far as slavery was concerned in 1860 was, shall slavery enter the Territories? The people in the election of Mr. Lincoln decided that slavery should not enter the Territories, and that was all they decided.

After that election, in December, 1860, we met here in the Halls of Congress. The champions of slavery, extension and slavery propagandism raised the same issue in a new form. They said to the representatives of the incoming Administration, "If you will change the Constitution so as to guaranty slavery in all the territory south of 36° 30' which we now have or may hereafter acquire, we will submit to the election of Mr. Lincoln; we will remain in the Union; but if you will not consent to such an amendment we will make war upon the Government and break up the Union." Those representatives refused so to amend the Constitution. The champions of slavery appealed to arms and to the God of battles. By that appeal to that dread tribunal they have changed the issue. It is no longer whether slavery shall go into the Territories. That is already decided against them. Slavery is abolished in all the Territories of the United States, and from this time henceforth and forever the foot of a slave can never tread one inch of the soil of the American Territories.

But, I repeat, sir, in making this appeal to the God of battles and to high Heaven they have raised other issues. Sowing to the wind they have reaped the whirlwind. In declaring war against the Union they have raised the question whether this Government shall live or die. In declaring that they would not submit to the decisions of a majority of the people at the ballot-box, in accordance with the express provisions of the Constitution, they have raised the question whether republican constitutional liberty itself, based upon the divine right of the majority to rule, shall not perish forever. They did more, sir. When they made this appeal to the God of battles and impiously asked the blessing of Heaven upon their cause they openly and boldly proclaimed to the whole civilized world that they made war against the United States in the name of slavery and under the flag of slavery. Slavery was to be the corner-stone of their southern confederacy. In the name of slavery they drew the sword; in the name of slavery they plunged it toward the heart of this Republic. But, sir, under the providence of that God to whose decision they appealed, that sword has been plunged back into its own vitals and its life-blood is gushing all around us.

They not only avowed slavery to be the corner-stone of their edifice, but they boldly proclaimed slavery to be a divine institution, founded upon the Bible itself. They unblushingly declared war with the whole civilization of the present age. All are familiar with the declarations of Mr. Stephens and the leading men of this rebellion, which I will

not repeat. But there is one avowal made not long ago in the Richmond Enquirer speaking for the rebel cause published at the seat of its power, in presence of Jefferson Davis and his congress of conspirators, so remarkable in its character that I will read from it a sentence or two:

"The establishment of this confederacy, based as it is upon slavery, and upon the principles of natural subordination, is verily a distinct reaction against the whole course of the ages' civilization." "For 'liberty, equality, fraternity,' we have imperatively substituted 'slavery, subordination, Government.'" "There are slave races, born to serve, master races born to govern." "By these principles we live, and in their defense we have shown ourselves ready to die. Reverently, we feel that our confederacy is a God-sent missionary to the nations with great truths to preach. We must speak them boldly, and whose hath ears to hear, let him hear."

Yes, sir, let him hear this confederacy now waging war against this Government boldly avow slavery as the corner-stone. Yes, let him hear them declare, in the face of the whole world and before high Heaven, war not only against the American Republic, but war against the civilization of the age; and, above all, let him hear them impiously pretend that the so-called confederacy is a God-sent missionary to preach slavery as the new gospel of a higher civilization to the nations of the earth. This is the appeal, and this is the form under which they make their appeal to the arbitrament of the God of battles and in the face of Heaven. I again repeat, Mr. President, that by this appeal which they themselves have taken, they the traitors, and not the loyal people of the United States, have wholly changed the slavery issue, and have forced upon this country other issues, issues which were not involved at all in the canvass of 1860, namely, whether this Government shall live or die; whether a rebel confederacy seeking nationality with slavery as its corner-stone shall succeed or be blotted out; and whether Christian civilization itself shall continue to make progress or roll backward two thousand years. These are the new issues which, in their appeal in a form which I regard as little less than impious, they have made. I devoutly trust, I most religiously believe, that the great Disposer of events, in whose hands the destinies of nations are held, will give to the loyal people of these United States the wisdom, patriotism, unity, and courage to maintain the Union of these States, to crush the impious pretensions of slavery, and defend the civilization of the age in which we live.

Slavery, Mr. President, is dying, dying all around us. It is dying as a suicide dies. It is dying in the house and at the hands of its own professed friends. The sword which it would have driven into the vitals of this Republic is parried and thrust back into its own. And, sir, let it die; let it die. Without any sympathy of mine, slavery with all its abominations may die and go into everlasting perdition. But it is to the all-important fact that slavery is dying that I would call the attention of the Senate for a moment. Look around you. Look at West Virginia: slavery is not only dying, but it is dead and buried beyond resurrection, upon the soil of West Virginia. How is it in the State of Missouri? Slavery is dying there; ay, practically dead. The simple question among that people now is, when shall its funeral be fixed? When shall its final burial take place?

How is it in the State of Maryland? Mr. Thomas, at one time Governor of that State, speaking upon that subject at Rockville, said not long since:

"Slavery is effectually dead in this State. No lot of one hundred slaves in the State will sell on the block for \$1,000. No slave in the State can be made to render to his owner more of his labor than he elects to render, or to remain under his jurisdiction a month after he elects to flee from it. Such are the results of the war for the benefit of slavery made upon the legal and constitutional rights of white labor throughout the Union."

The other day we all listened with earnest attention as well as great joy to the eloquent speech of the Senator from Maryland, [Mr. JOHNSON,] when from an outgushing heart he spoke the living truth in "thoughts that breathe and words that burn." He declared to us, slavery is dead in the State of Maryland. His colleague says the same thing; slavery is a dead thing in the State of Maryland, a thing of the past, a thing that was, which is no more to exist in the future of that State. Sir, at such a progress the very angels in heaven

rejoice, and all who love liberty on earth sing hosannas to the God of heaven.

How is it in the State of Tennessee? The Nashville Union, speaking for the people of that State, not long ago said:

"What Governor Thomas says of slavery in Maryland is equally true of slavery in Tennessee. No slave here can be compelled to work for his owner against his will, nor can a slave be made to remain with his owner unless he chooses to do so. Whenever a slave is dissatisfied with his home he walks off, as freely as a black man would in a northern State or in Europe."

"In Tennessee the slave code is dead; and the master has no longer absolute control over the body and limbs of his former bondsman. We doubt whether any slaveholder in Tennessee has faith enough in the restoration of the system of compulsory labor to give \$100 in good money for the best negro among us."

And what did Governor Andrew Johnson, speaking upon this subject to the people of the State of Tennessee on the 8th day of January last, say? I cannot mention the name of Andrew Johnson of Tennessee without paying the highest tribute to him and to the course he has pursued in the midst of this struggle, of which language is capable. Sir, statesmen have done well, generals have won victories in the field, but to Andrew Johnson of Tennessee, for the course pursued by him in this Senate and in the State of Tennessee, this nation, the American people, owe a debt of gratitude which they can never repay. Sir, I trust in God the time is not far distant when we may hear his voice once more within the Halls of this Senate Chamber. On the 8th day of January last, in a speech at Nashville on this subject, he said:

"Before the rebellion we could discuss all institutions, all subjects, all measures except slavery. On that subject no one dared speak or write or print, except on the side of the slave aristocracy. Now, thank God, the time has come when the press is unimuzzled, when the press can discuss this and all other subjects. The time has come when this institution is dead, when the chains are broken and the captive set free. The institution is dead, and slaves are not worth a quarter of a dollar a dozen. Being dead, let us in a becoming manner prepare for the funeral obsequies. Now is the time to dispose of this great question."

Again, in the course of the same speech, he said:

"The edict has gone forth, and all that remains to be done is to change the relation of master and slave. The day is not far distant when this nation will be the great center of civilization, of the arts and sciences, and of true religion. Time was when the tide of emigration ran westward; the time will soon be when it will run southward. Let us go on with our mighty work. To talk about breaking up a Government like this for slavery! It is madness. Let it go on with its great mission."

Again, and still later, on the 21st of January, at a large meeting of Union citizens in the State of Tennessee, held in the hall of the House of Representatives of that State in Nashville, Mr. Johnson said:

"Is there a man here that has observed this thing who does not know that the institution of slavery in Tennessee is dead?"

Among the resolutions adopted at this meeting, resolutions taking measures to hold a convention in that State to frame a constitution based upon this fact, that slavery is dead in Tennessee, I find the following:

"Resolved, That as slavery was the cause of all our troubles, and as it is an unmitigated evil in itself, and since it may be considered dead by the acts of its own friends, that it may never be resurrected to enable a small minority to bring the ruin upon our children that it has upon us, we here pledge ourselves to use all our influence to elect such men, and only such men, as delegates to such convention as shall be in favor of immediate and universal emancipation now and forever. And we invite our fellow-citizens everywhere to unite with us on this platform, and thus use the opportune moment to free ourselves and our posterity from the bondage in which we have been so long enslaved by the influence of an arrogant, domineering aristocracy."

Here we find Mr. Johnson, acting Governor of Tennessee, long a Senator and Representative from Tennessee, who knows better than any other the actual condition of things in that State, in this speech declaring in most positive terms that every person who observes for himself knows that slavery is dead in the State of Tennessee; and the people, who are now organizing for the purpose of accepting this as an accomplished fact, and of placing it in the constitution of the State of Tennessee, in their resolutions declare the same fact, that slavery is dead, and that it has died at the hands of its own pretended friends.

In Arkansas, under the lead of General Grant and others, a constitution is already formed, making Arkansas forever a free State.

38TH CONG. ... 1ST SESS.

Enlistments in the Army—Mr. Doolittle.

SENATE.

Why should not the real friends of freedom, in spite even of the terrible war in which we are still engaged, hold one general jubilee, one grand day of national thanksgiving at the great progress which it has already made?

Again, Mr. President, how does slavery stand in the State of Louisiana? I undertake to say that all parties in that State this day accept the same fact, that slavery is an institution of the past, that slavery is dead in the State of Louisiana. The relation of master and slave there has been utterly broken up, in fact. It no longer exists. The people of Louisiana are now organizing, accepting this as a fact, to form the basis of a new constitution to make Louisiana forever a free State of the American Union. I have seen a very recent letter from the commanding general of that department. Speaking upon this subject in most clear and unequivocal terms, General Banks says:

"It gives me great pleasure to report the progress making in the State election. All parties participate in the selection of candidates, and a very handsome vote will be given. Not a word is heard from any one of a restoration of slavery."

Mr. SAULSBURY. Will the Senator pardon me one moment for asking him a question? Is the election to be a free one, or is it to be governed by military restraint, as it was governed in Delaware and in Maryland?

Mr. DOOLITTLE. The election is free to all who will take the oath of loyalty and to support the Constitution of the United States, as prescribed in the State of Louisiana.

Mr. SAULSBURY. Is that the only oath necessary? Can they vote by taking that oath?

Mr. DOOLITTLE. Substantially that. Traitors and those who have taken part as traitors are not invited to take part in the election unless they will take the oath.

But to continue: "And no objection," says General Banks, "is made to the free-State basis on which the election is based." "The mass of the people are entirely satisfied," with the speedy organization of the State. "The election will give more general satisfaction than any that has taken place in twenty years." He speaks of the mass of the people of Louisiana. Of those rebels who have left the State of Louisiana and who are now in the armies of the confederacy, he does not speak; they are not there; but of the mass of the people who remain in Louisiana he says that now at this day they will be entirely satisfied with the election, and that no person speaks of the restoration of slavery, but all are satisfied with the organization of Louisiana upon the free-State basis; all accept the fact which is patent to all the world, that slavery as an institution in that State has ceased to exist.

I know, Mr. President, questions are sometimes raised and discussed as to what has caused the death of slavery. There are some who maintain in all sincerity the proclamation of the President has destroyed slavery within those States. There are some who say the abolitionists of the country have destroyed slavery within the States. Some say the legislation of Congress has destroyed slavery in the States, and some say the destruction of slavery is the necessary consequence of the war; the unavoidable result of the occupation of their territory by the armies of the Union. My own opinion is, that while all these may have done something, much, perhaps, in producing this result, more than all of them put together, the insane madness of the pretended friends of slavery by declaring war upon this Government in the name of slavery; by waging that war under the flag of slavery; by drawing the sword of slavery themselves to plunge it into the heart of this Republic, they have themselves done more than all other things combined to put an end to that institution forever on the American continent.

God, the Almighty, has suffered the madness of these men to bring on an issue which alone could solve the great problem of American slavery.

The first shot fired at Fort Sumter was the death-knell of slavery. The issue of 1860, as I have said, was whether slavery should enter the Territories. By that act they, the champions of slavery, changed the issue. It was not the party which elected Mr. Lincoln President of the United States. The champions of slavery brought on this war which involves the destruction of slavery

within the States, not the Republican party. For the issue of 1860, whether slavery shall enter the Territories, they have forced upon the country this other and greater issue, whether liberty and Union shall live or slavery die upon the soil of every State of the United States. In reply to this often-repeated charge that the Republican party have changed the issue and proved false to their pledges, I am prepared to go further and show that, so far as the institution of slavery is concerned within the States, that party never sought to change their ground nor to interfere with it at all until the necessities of the war forced it upon them. Indeed, sir, if they had not made war upon the Government slavery never stood stronger nor better defended by State guarantees, nor, so far as this Government is concerned, by Federal guarantees within the States, than it did on the 4th day of March, 1861; and if those men had consented to remain within the Union, if they had not made war upon this Government, there was no power on the part of this Government nor of any party within the free States in the slightest degree to affect or destroy the institution of slavery.

You know, Mr. President, that the fugitive slave law, harsh, and I will say, barbarous as some of its provisions were, was still a law upon our statute-books, and was enforced in every State of the Union; it was enforced in Massachusetts; it was enforced in New York; it was enforced in Ohio; it was enforced in Wisconsin; and at the very time when Mr. Lincoln was elected President of the United States a citizen of Wisconsin was in jail, imprisoned for the violation of the fugitive slave law, from which, and upon the last day of Mr. Buchanan's Administration, he was pardoned as an act of grace. These are the facts. More, the census report before me shows that notwithstanding all the controversies we had upon the subject of the fugitive slave law and its enforcement, from 1850 down to 1860, there were less per cent. escapes of fugitive slaves than at any former period of the Government. I will read a short extract from this report:

"The number of slaves who escaped from their masters in 1860 is not only much less in proportion than in 1850, but greatly reduced numerically. The greatest increase of escapes appears to have occurred in Mississippi, Missouri, and Virginia, while the decrease is most marked in Delaware, Georgia, Louisiana, Maryland, and Tennessee.

"That the complaint of insecurity to slave property by the escape of this class of persons into the free States, and their recovery impeded, whereby its value has been lessened, is the result of misapprehension, is evident not only from the small number who have been lost to their owners, but from the fact that up to the present time the number of escapes has been gradually diminishing to such an extent that the whole annual loss to the southern States from this cause bears less proportion to the amount of capital involved than the daily variations which in ordinary times occur in the fluctuations of State or Government securities in the city of New York alone.

"From the tables annexed it appears that while there escaped from their masters 1,011 slaves in 1850, or 1 in each 3,165 held in bondage, (being about one thirtieth of one per cent.) during the census year ending June 1, 1860, out of 3,949,537 slaves, there escaped only 863, being 1 to about 5,000, or at the rate of one fiftieth of one per cent."

I have read this extract for the purpose of showing the statement I made to be correct, that notwithstanding all this pretended opposition to the enforcement of the fugitive slave law within the free States, from 1850 to 1860 the actual escapes of slaves grew less and less, so that all this pretense of the rebels that the escape of their slaves was any excuse for them to plunge this country into civil war is without foundation. You know very well, sir, that if the champions of slavery and slave propagandism had peaceably submitted to the election of Mr. Lincoln, not the hair of the head of slavery within any State could have been touched. By every pledge which he had given, by every pledge of every political party in this country down to his election, it was always held that the Congress of the United States and the Federal Government had no power over slavery within the States in a time of peace; and if the champions of slavery and slave propagandism had not plunged the country in war, had not made this impious appeal to arms and to the God of hosts they could have lived in peace within all the States and have held the institution of slavery under their own laws, according to their own will, for their own disposition, beyond the power of this Government or of any party in this Govern-

ment to interfere with it in any degree. But they did no such thing. "Whom the gods destroy they first make mad." It was their own madness, their own insanity, their own blind fanatical and impious dogma that slavery is a divine institution, which, trampling on civilization and outraging Heaven, by leading them to make war on this Government, put the knife to the throat of slavery. It is in the midst of its dying struggles. Let them prepare for its last obsequies, and when as mourners and pall-bearers they attend its funeral, let them remember its own friends put it to death, and gain from that source all the consolation it brings.

I remember very well a debate I once had in this body with Senator Mason, of Virginia, on this point. He was always declaiming about the loss of fugitive slaves from the State of Virginia. I asked Mr. Mason, "How many do you lose annually from the State of Virginia?" He replied, "We have had a committee upon that subject who have gone into an estimate, and they find we lose as much as \$100,000 worth of slave property every year." "Very well, sir, how many slaves have you?" "About five hundred thousand." "What are they estimated to be worth?" "You remember they were estimated very high in those days—at about eight hundred dollars apiece. Five hundred thousand slaves at \$800 apiece, would amount to the enormous figure of \$400,000,000. What is the loss of \$100,000 on \$400,000,000? It is but one fortieth of one per cent., a quarter of a mill on a dollar, and I said to Mr. Mason then on this floor, "If instead of continually denouncing the people of New England for not enforcing the fugitive slave law, and underground railroads, you would go down to the city of Hartford and engage some of those shrewd insurance men who have made that city distinguished in that business to insure the people of Virginia against escapes by fugitive slaves, they could insure the whole slave property of Virginia at one half of one per cent., and make immense fortunes at that;" for the real loss was only one fourth of one mill on the dollar. I remember very well the other question which I put to him: "Sir, if you undertake to break up this Union, if you propose to bring down that line beyond which fugitive slaves are not returned from the northern border of Ohio and New York to the north line of Virginia, how much will insure your slave property then? will ten per cent. do it, or twenty per cent. do it, or fifty per cent. do it?" Mr. President, they have tried the experiment, and slavery lies in ruins all around us. Slave property is utterly valueless. Slaves are free as their masters.

The time has come which Mr. Randolph, a distinguished statesman of Virginia, said would come, when, if the slaves do not run away from their masters, the masters will run away from their slaves.

The time has come which was foretold by Mr. Faulkner in the convention of Virginia in its better days, in 1832, when it was proposed to abolish slavery. He then, in substance, said, "If we shall attempt to break up this Union on account of slavery, a time of anguish and suffering will come in Virginia compared with which the pestilence that walketh in darkness and the destruction that wasteth at noon-day will be a blessing." They have realized it all, and they have brought it down on their own heads. It is not the Republican party that has brought it upon them. They have brought it upon themselves. By that overruling providence of God which makes the madness of men to do his work, of Him who rides the whirlwind and directs the storm, who rules the passions of men as He rules the winds of heaven and the waves of the sea, in His own good time and for His own good purpose He has allowed the madness and the insanity of these men, in their ardent and fanatical devotion to extend slavery and build up slavery, to attempt to destroy this Government, in order that He might overrule them to utterly destroy slavery itself and wipe it from this continent forever.

Mr. President, I accept as a fact accomplished, a part of the history of this country, that slavery is dead, and I rejoice at it with inexpressible joy. All wise statesmen act upon facts accomplished, accept them, and go forward in accordance with

38TH CONG....1ST SESS.

Disposition of Freed Negroes—Mr. Davis.

HO. OF REPS.

them; but when I act, I prefer to act boldly, frankly, openly. Therefore I am not in favor of doing it by indirection, by putting this or that or the other ambiguous provision upon an enrollment bill or upon a revenue bill. I prefer by far to appeal to the sovereign authority in this country, the people of the United States. I shall not anticipate or enter upon a discussion of measures that may be presented before Congress further than to say that I rejoice that the proposition has come from the Senator from Missouri, [Mr. HENDERSON,] and from a recent slave State, one of the States most deeply interested; it has already been presented to this body and it has been referred to the Committee on the Judiciary and is before that committee for its consideration and action, a proposition which appeals at once to a tribunal above Congress, above the decrees of the Supreme Court, above the proclamations of the President, in which resides the sovereign source of power, the people of the United States, to have them declare as a part of the Constitution of the United States, the fundamental law of the land, the final and irrevocable decree that from and after a certain day slavery and involuntary servitude shall neither exist in any State nor in any Territory of the United States, except in punishment of crime.

I shall not enter into a discussion of that question at the present time, for I will not anticipate the action, whatever it may be, of our committee upon that subject. I shall wait until their report comes into the Senate, simply saying for myself that if this Government is to act at all in a legislative capacity, I prefer to act in the mode provided by the Constitution itself. Let two thirds of both Houses of Congress submit the proposition to the Legislatures of three fourths of the States, and when ratified by them there will be no appeal from their decision. It will then rest upon a solid ground which no laws of Congress, no decrees of the Supreme Court, no change of parties or of Presidents can shake, enduring and eternal as the Government itself.

I therefore, Mr. President, conclude by saying that I concur in the wisdom of that course which I believe the chairman of our Military Committee proposes to adopt, and that is to present his bill on the subject of the pay of colored troops in our armies separate and distinct by itself, unembarrassed with all other considerations.

DISPOSITION OF FREED NEGROES.

SPEECH OF HON. H. W. DAVIS,
OF MARYLAND,
IN THE HOUSE OF REPRESENTATIVES,
February 25, 1864.

The House resumed the consideration of the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. DAVIS, of Maryland. Mr. Speaker and gentlemen, the bill which is now under consideration involves a subject forced on us by the events of the war, and which must be determined one way or the other—the disposition of the freed negroes in the rebel States. The range of debate has naturally been very wide upon a bill of this character; and topics not, perhaps, at first sight very directly related to it have been dragged into the discussion.

The votes of the gentlemen from the loyal slave States cast a new light on the mind of the gentleman from New York [Mr. Brooks] respecting the fate of the negro race on this continent. But while he justly appreciated the great and decisive weight of that vote upon the speakership of this House, he took occasion to discredit the moral power of that vote by impeaching the election of the Representatives who cast it. He thinks they speak words not authorized by the people. He said:

"I know that the people of Maryland and of Delaware, if they had been allowed to vote, intended no such decree."

That is, of emancipation—

"And I know that it is said those two States are better represented by the honorable gentleman from Ohio [Mr. SCHENCK] than by their Representatives here."

If this were merely meant as a compliment to my distinguished friend from Ohio I would be among the first to admit that any district of Maryland, as well as any in New York, would be bet-

ter represented by him than by any gentleman representing either State—even the gentleman from New York. But when it comes in the shape of an imputation upon the validity and moral force of the election, it questions the legitimacy of the Administration majority in this House, and must not pass unanswered. When the gentleman from New York says "it is said those two States are better represented by the honorable gentleman from Ohio than by those who represent them here," no person who cares to have any respect for his knowledge of the public affairs of the day has so said. And when the honorable gentleman says that "he knows that the people of Maryland and Delaware, had they been allowed to vote, intended no such decree," I desire to say that the honorable gentleman from New York does not know any such thing, and knows no fact that makes the error excusable.

"Had they been allowed to vote?" Who hindered them from voting? Where were they stopped from voting? "The people of Maryland!" If the gentleman means to say that because the people of Maryland determined that the traitors of Maryland, who disavowed their allegiance to the Government, should not tarnish the ballot-box by their votes, we differ about the terms, but not about the facts. We did mean they should not vote, and we so meant because by the laws of Maryland such men are not entitled to vote. They who disavow, deny, and disown their allegiance to the United States, and declare and avow they are not citizens of the United States, have no right to vote; and so the judges of elections held, almost from one end of Maryland to the other. If that is not good election law, this House can say so; the General Assembly of Maryland can say so; and if both be silent the law is confessed.

If the gentleman referred to the complaints which are made of the interference of the military in the election, I desire to say that that complaint comes from nobody but the heated partisans who howl because they are beaten. Even they confined the complaint to one single congressional district out of five, and to four out of eight counties in that congressional district; and therefore, conceding everything that is complained of, and everything that is inferred from the complaint, we have an undisputed election in four fifths of the State, which the gentlemen who make the complaint do not dispute. No one questions the election of the honorable member from the fifth congressional district, [Mr. HARRIS,] where the divided Union vote was overborne by the united secession vote, and where the aggregate vote of the district fell only a little below the normal vote of the district before the rebellion attracted many of its young men to the rebel ranks.

My honorable friend in my eye from the second congressional district [Mr. WEBSTER] could find no competitor to meet him before the people.

The distinguished gentleman, the senior of the delegation [Mr. THOMAS] from the fourth congressional district, is here for the second time an unopposed candidate. And I am here because my political opponents did not care to take the responsibilities of a canvass, although aided and urged to oppose me by a distinguished adviser of the President up to within a week of the election. So that of all the State of Maryland, whose election is here impeached, in three fifths of it there was no contest whatever; in one fifth there was a contest in which our opponents had so free an election that they have their Representative on this floor; and in the other fifth the contest is only impeached in four of the eight counties; and if the whole vote which was not cast in that district be added to the aggregate vote of our opponents, the emancipationists will still have a majority of thirteen or fourteen thousand in the State. And yet, in the face of such facts, a gentleman, who is entitled to be regarded as an intelligent observer of public affairs, rises here and says that he knows that if the people of Maryland had been permitted to vote they would not have allowed the emancipation candidate for comptroller to carry the State by twenty thousand majority!

In Delaware the case is still more absurd; for after an animated canvass the opponent of the Representative from that State withdrew on the eve of the election; and yet the vote for the gentleman from Delaware was the largest ever cast

in that State for any candidate, and a majority of the whole vote of the State.

Mr. Speaker, the Legislature of Maryland is overwhelmingly Union, but not overwhelmingly for emancipation. There is a majority in the Senate opposed to it, and there is a majority in the House who were not in favor of it when they came to Annapolis; because, though elected by emancipation constituencies they were nominated before their constituents, had developed their views upon the subject. But this election which the gentleman from New York wishes to impeach carried with it such moral power that its enemies in the Senate and its lukewarm and doubtful friends in the House of Delegates are dragged backward over their prejudices and compelled to pass just such a bill as we dictated to them, and it stands now the law of the State of Maryland by the votes of a majority of both Houses of the Legislature. They confessed to that moral power which the honorable gentleman ignorantly denies.

"Slavery is dead," says the honorable gentleman. "Slavery is dead," is echoed by some on this side of the House. "Slavery is dead," is echoed from the two sanguine people of the country. He may be a very sick man, Mr. Speaker, but I assure gentlemen of this House and the country that he is not dead; and if he is not done to death he will be your master again. That is my opinion, and I think my friend from Kentucky in my eye [Mr. MALLORY] agrees with me.

Slavery is not dead in Maryland. We have to carry a majority of the convention on the old slavery apportionment, where one fourth of the population ties the body; and whether the hostile influence that presides near the President's ear will allow Maryland to become a free State, or will fail her in her hour of need, remains yet to be seen. Up to this day Maryland is under no obligations to the President of the United States for the great strides that the cause of emancipation has made there. A convention of the loyal men, the emancipationists of Maryland, on the 22d of this month, while declaring themselves in favor of immediate and unconditional emancipation, and while expressing their confidence in the President and their appreciation of his services, added this significant admonition, worthy of the State and of the people that uttered it:

"Resolved, That this convention is in favor of the entire and immediate abolition of slavery in this State and in the States in rebellion, and is opposed to any reorganization of State governments in those States which do not recognize the immediate and final abolition of slavery as a condition precedent. That this convention express their sympathy with the radical emancipationists in Missouri, and in Arkansas, Tennessee, and Louisiana, and regret that influences in the Cabinet have, in Maryland and those States, depressed the efforts of the radical friends of the Administration and of emancipation, and given prominence to those who are the unwilling advocates of emancipation."

I trust that that admonition will have its weight, and that these sinister influences will cease to be the controlling element near the presidential ear in this grave crisis of emancipation in Maryland; and I desire that the country shall understand that, being under small obligations to the President for what has been done in Maryland up to this time, the people of Maryland thought it wise while expressing their confidence in the President to put that significant resolution before him for his serious consideration, so as to show that their devotion is not personal, but to principle; that their interest is in the cause and not in a man, and that while they will support the man as long as the man supports the cause, if the cause fail by any failure elsewhere, there may be a revision of their judgment respecting the person.

But "slavery is dead in the rebel States." No, sir. No, sir. Far from it. If our honorable friends on the other side elect their President in the coming fall, slavery is as alive as it was the day that the first gun blazed against Sumter. If we lose the majority in the next Congress, slavery is as powerful as it ever was. We are, it is true, in the condition in which we cannot stand still. We must go backward or we must go forward. My face, sir, is to the future. I wish so to look at it, and so to say, to the men of my day and generation, what I think about the great measures which now touch the salvation of the country, that, whether I be on the winning or on the losing side, whether the nation triumph or fail, whenever anybody shall by accident hereafter

38TH CONG....1ST SESS.

Disposition of Freed Negroes—Mr. Davis.

HO. OF REPS.

rake about among the ashes of the past and find my name, he will find at least that I did not fear to say to friend and foe what the times demand; and it may be that it will be well if it were heeded.

Slavery is not dead by the proclamation. What lawyer attributes to it the least legal effect in breaking the bonds of the slave? Executed by the bayonets, legally valid to the extent of the duration of the war, under the law of 1862 which authorizes the President to use the people of African descent as he may see fit for the suppression of the rebellion, it is undoubtedly valid to the extent of turning them loose from their masters during the rebellion. So long as the military power is engaged in suppressing resistance, they are free from their masters. Reestablish the old governments, allow the dominant aristocracy to repossess the State power in its original plenitude, how long will they be free? What courts will give them their rights? What provision is there to protect them? Where is the writ of *habeas corpus*? How are the courts of the United States to be open to them? Who shall close the courts of the States against the master? Does the master resort to the court against the slave? No; he seizes him by the neck. The law of last Congress, freeing a few slaves provides that that act may be pleaded in defense. But when is the slave sued by his master? When is the time to plead in any such process? Gentlemen legislate without a knowledge of the country or of the people they are legislating for. Their laws are on the statute-book, and the opinions of the dominant faction conspire to perpetuate the master's rights and the slave's wrongs. Nothing but the resolute declaration of the United States that it shall be a condition precedent that slavery shall be prohibited in their constitutions, and that the United States shall give judicial guarantees to the negroes, freedom in fact, and that the United States shall be kept under the control of men of such political views and purposes that the law will be executed as a constitutional law and imposed on reluctant people—nothing else can accomplish the death of slavery.

Supposing that to be done, Mr. Speaker, what then? This bill relates to the other grave social problem of the destiny of the negro race when their bond is broken. Now many of them are thrown on our hands. We have to take care of them. To that extent the bill is right, and I shall vote for it for that purpose. How well it will answer, how far it must be modified after the national cause shall triumph, remains to be seen. Let the things of the future be cared for by the future. But it is necessary now to determine our policy respecting the negroes when freed; to form some definite ideas as to what shall be the future of the negro race; in other words, what disposition we will make of them when we have broken the masters' yoke, when Maryland shall have broken it hereafter, when Missouri shall have finally broken it, when West Virginia shall have finally broken it, and when slavery in all the rebel States shall have been destroyed and broken up in fact.

There are on that subject two, and only two, theories. One party says, "Colonize and pay for them." Another party says, "Leave them where they are." In favor of colonization, and compensation to all loyal persons in the rebel States, we have the declaration of the President of the United States, which naturally carries with it great weight. He has formally proposed it for the consideration of the people as his preferred policy. It is for that reason that it is the more important to look at it directly in the face, and to deal with it subject to the conditions which it involves, if it be adopted as the policy of the nation. It has been discussed and commented on by a distinguished gentleman, a member of his Cabinet, supposed, on that and other subjects, more accurately to represent his opinion than any other person. These comments throw a flood of light on the views which prevail in high quarters on the practical execution of the scheme of colonization and the industrial and social reasons which prompt or justify it. These comments have been published broadcast over the country as comments upon the emancipation policy of the President of the United States. Those comments have never been disavowed. They are entitled to our grave and respectful consideration, both from the high

position and character of the gentleman from whom they emanate, and his peculiar relations to the President, and the concurrence of view between him and the President asserted and not disavowed. Those comments are put frequently in the form of an attack upon the radical abolitionists; but, while that is the form, the substance is a vindication of the colonization policy of the President, a demonstration of its necessity to the success of the emancipation policy proclaimed by the President.

What are the grounds? First of all it is said that the radical abolitionists wish to change the Constitution of the United States and all of our laws, and to elevate to an equality this race; and in the next place that unequal races cannot live together on terms of equality and peace, and, therefore, that it is necessary to prevent the massacre of the negro that he should be expatriated. Mr. Speaker, what is the foundation of this view? The negro must be colonized if he be free, or a war of races will exterminate him! What justifies this alternative? Will gentlemen tell me where in the history of the world they find the fact upon which they base that astounding generalization? Civilized people have overborne savages, men of one religion have borne down men of a different religion, ambition has overturned one nation by another; but where in the history of the world is there any case of a nation going to work to exterminate a large portion of its people of another race living in the midst of it, of the same religion, civilized in the same manner, conforming to its laws, subject to its will, willing to work for its wages, not ambitious, and not disturbing the public peace, because they are of a different race? Where is the instance in the history of the world of the subjugation and massacre of a different race under these circumstances? In earlier times great masses of people poured from Central Asia over Europe. They were of a different race from the inhabitants of the Roman empire, in any ethnological sense in which the word can be used. I do not know that they enslaved the whole mass of the people of the Roman empire. My impression is that the conquered civilized the conqueror, and that it did not end in the social war such as is contemplated here; but the descendants of both form now the people of Europe.

The distinguished commentator on the colonization views of the President refers to the Moors of Spain. In an ethnological sense they were far from kin in point of race to the Spaniards. But race was not the ground of war; it was religion; and every decree which undertook to expel them gave them the alternative of baptism or exile. The Spaniards wanted them to stay, and Ferdinand and Isabella would have been glad if they had remained to decorate the southern portion of their empire, the perpetual glory of their missionary zeal.

Then we are referred to San Domingo. That is exactly what gentlemen on the other side of the House are preparing for us in the future. There was no revolt of slaves against their masters, there was no war of one race against another, unwilling to live in peace and industry; but the French Assembly, having freed the slaves of San Domingo, undertook to reduce them to slavery again. They revolted against the authority which attempted to reduce them to slavery, and under Toussaint L'Ouverture—whose military genius Thiers thinks it worth while to commend—and his associates defeated both France and England in their attempt to reduce and hold the island.

These are the examples of wars of race! But why do they pass over the peaceful example of emancipation of Jamaica and the French colonies, where the circumstances would be more analogous? Why do they not invoke the great examples of Mexico and South America?

The Indian of those countries is as far removed from the Spaniard as our Indians from us, and as we are from the negro. The Spaniard gained and wielded the empire over them, but neither is exterminated; the two races are not blended, neither is reduced to slavery, and in Mexico both unite against the common foe. Race has nothing to do with the question. The Indian and Spaniard live together because both are civilized and both are Christian and both are interested in the same laws and government and industry.

I wait patiently till the gentlemen adduce their historic facts upon which to rest their theory of the necessary contest of races to reply to them. I have dealt only with those they have furnished.

It is true the honorable gentleman from New York [Mr. Brooks] referred to the harsh, hard-hearted treatment of Massachusetts toward the Indians. He might have found an example nearer at home. The only example upon the American continent of a war on the peace and quiet of the negro is the riots in New York city last summer, when Seymour's friends, the Paddies, undertook to show their Democratic mercy to the wretched negro.

The war of Massachusetts on the Indians was that of a civilized and Christian people against a people of different religion, and which refused every form of American civilization. The same differences of religious and social organization prevented the toleration of a Mormon people in any of our States hitherto. But the attack of the Irish on the negroes in New York is the only example of the collision of races to sustain the theory.

I agree that it is possible that such a class of population as that might be tempted to oppress the negro, but no class of American population would condescend to do it.

Then what are you going to do with them? Go to kindred races and congenial climes? Where? To Texas? That is abandoned. To Central America for the purpose of making a connection between the great oceans? That was respectfully declined. To South America? I have not heard that the President has been successful there in finding a kindred race willing to receive them. Back to Africa? Won't you ask as a matter of kindness to transplant the Irish back to Ireland? Who inhabit Mexico? Who inhabit Central America? Who inhabit South America? I take it the Indian of the Peninsula is further removed from the African than we are who come more directly from the common stock of central Asia. Then to transplant them there would be putting a greater diversity of races together to come into collision. Or will they love each other, though alien in race, because of their color? Is skin deep the depth of their philosophy?

In the imagination of these gentlemen they assign Cuba as the central empire of the negro; and strange as it appears, while one party of colonizationists are talking of transplanting the negro to the coast of Africa, the commentator on the President's policy grows enthusiastic over the vision of the negroes settled in the American tropics inviting their brethren from Africa to this western world—a new Canaan for that outcast and rescued race! What becomes of the Spaniard and his rights? What becomes of the rights of the white population? What becomes of the aristocratic Spaniard who has been crushing generation after generation in Cuba to enhance his wealth? How is he to receive the African in spite of the diversity of race? Is the Spaniard nearer in blood because Spain is nearer geographically to Africa? The theory of the incompatibility of different races has no foundation in history. The moment you come to state it in words, and ask what it means, all the theory, all the philosophy, and all the facts break down, and there is the end of it.

But we are ourselves interested a little in this question of exportation of the negro. Who is going to pay the cost? Who will pay for the transportation? Who will supply the depleted labor of the country? Who is going to pay the increased price of bread to the poor mechanic? Who is going to pay the increased price of cotton? Who is going to fill up the enormous vacuum of labor swept away by this insane and unchristian philanthropy? What is the negro going to do in the mean time? You cannot take them away to-morrow or in a generation. The schemers propose to build canals and fortifications, connect the Mississippi with the lakes—for a generation! Under whose supervision, at whose expense, by what new forms of socialism will you sweep a whole region of country of three or four million people, and concentrate them upon the banks of the Mississippi to eat bread and dig ditches, while the cotton fields are unplanted, and men and women starving? When you undertake to colonize the negro you will meet the master, who says,

"Do not leave me to starvation." The master will offer the negro more to stay than the Government will offer him to go. Two generations cannot fill up his place; and if we can stand his presence two generations perhaps Christian philosophy will enable our descendants to reconcile themselves to the permanence of what has been found tolerable so long.

Why should they consent to go to barbarous countries? Why should they love the people of Ashantee? Would the King of Dahomy in Africa protect them from the cannibals of Africa? They prefer to stay where they are. You cannot offer them as good homes; you cannot offer them as good wages; you cannot give them as good treatment; you cannot give them as good churches, nor as good houses and food and clothing for their children. Why should they consent to go?

Now deal with the problem under the conditions which exist. The folly of our ancestors and the wisdom of the Almighty, in its inscrutable purposes, having allowed them to come here and planted them here, they have a right to remain here, and they will remain here to the latest recorded syllable of time. And whether they become our equals or our superiors, whether they blend or remain a distinct race, your posterity will know, for their eyes will behold them as ours do now. These are things which we cannot control. Laws do not make, laws cannot unmake them. If God has made them our equals, then they will work out the problem which He has sent them to work out; and if God has stamped upon them an ineradicable inferiority, you cannot make one hair white or black or add a cubit to their stature. Let us leave such questions for gentlemen of the school of Wendell Phillips to talk of, but I earnestly pray gentlemen in high positions, in view of the excited and feverish state of the public mind, above all in dealing with this delicate topic of the welfare of millions of whites and blacks, not to add to the inherent difficulties of the problem, prejudices drawn from things not facts which we may never be called upon to deal with, and which can only exasperate the very feeling which we ought to allay, and instigate the very collision we all deprecate.

Sir, I am a Marylander, not a "northern fanatic." My father was a slaveholder. I was myself for years a slaveholder. I have lived nearly all my life in Maryland. I know the temper of her people. I have lived for years in Virginia. I know the temper of her people; I know the relations of the white and black population in those States, and I am going to state some facts to the House nearer home than those cited by the dreamers.

In Maryland we have more free negroes than any other State in the Union. Virginia stands next. She has some fifty thousand among five hundred thousand slaves, and we have eighty-three thousand among eighty-seven thousand slaves. One eighth of our population is free negro. In 1859, just before the rebellion, there was what was called in Maryland a "slaveholders' convention"—a phenomenon under the sun—fit precursor of the slave confederacy! Nobody could be admitted who did not own slaves; and their purpose was, as their resolutions indicated when introduced, to put an end to free negroism in Maryland for the advantage of the white population. There was one man in that assembly who was not crazy, and that man was an old Whig whom I honored and whom my friend from Kentucky [Mr. MALLORY] knew and honored. His name was James Alfred Pearce, always a statesman, always a gentleman, however wandering into errors in his last days. He was placed upon the committee to which this subject was referred, and being a gentleman and a large slaveholder, and knowing something about political economy and the effect of tampering with the laws of industry, he embodied his sane views in a report to that convention, a part of which I will read for the benefit of the House:

"The existence of so large a number of free blacks in the midst of a slaveholding State is believed to be of itself an evil, and this evil is readily perceived to be greater when it is considered that a portion of them are idle, vicious, and unproductive. This, however, is not the case with the majority of them, and their removal would, as the committee believe, be far greater than all the evils the people of Maryland ever suffered from them. In the city of Baltimore it is estimated that there are more than twenty-five thousand

of them, employed chiefly as domestic servants or laborers in various departments of industry. In many of the rural districts of the State, where labor is by no means abundant, they furnish a large supply of agricultural labor, and it is unquestionable that quite a large portion of our soil could not be tilled without their aid."

How much of South Carolina or Mississippi could be tilled without their aid?

"In some districts they supply almost all the labor demanded by the farmers. Their removal from the State would deduct nearly fifty per cent. from the household and agricultural labor furnished by people of this color, and indispensable to the people of the State; would produce great discomfort and inconvenience to the great body of householders; would break up the business and destroy the property of large numbers of land-owners and land-renters—a class whose interests are entitled to as much consideration as those of any other portion of our citizens; would be harsh and oppressive to those people themselves; would violate public sentiment, which is generally not only just, but kindly, and would probably lead to other evils which the committee forbear to mention. We are satisfied that such a measure could not receive the legislative sanction, and would not be tolerated by the great body of the people of Maryland, even with that sanction."

That is from James Alfred Pearce, a slaveholder. Even the secession Legislature of Maryland then about to meet, had it passed that law, James A. Pearce tells them the people of Maryland would not tolerate them in doing it. I beg you, gentlemen, observe the strength of the language:

"The committee, therefore, cannot recommend their expulsion from the State. Still more unwilling should they be to favor any measure which looked to their being deprived of the right to freedom which they have acquired by the indulgence of our laws and the tenderness of their masters, whether wise or unwise, or which they have inherited as a birthright."

The policy of the report prevailed in this convention of slaveholders, and the iniquitous purpose was not by them pressed on the Legislature.

Then, sir, in Maryland a free negro has some rights. Some of the people in that convention were in the Legislature, and a Mr. Jacobs was one of them. He introduced a law to hire the free negroes out to the highest bidders; and if they should be disobedient after being hired out, then they were to be sold as slaves for life. The bill could not be passed. It was objected to by county after county. It was only allowed to become a law with reference to four or five counties—St. Mary's, Charles, Somerset, Worcester, Baltimore county, and perhaps one or two others; and it was not allowed to be operative till approved by the people of the counties respectively. The friends of the infamous scheme went before the people at the presidential election in those counties; for the Legislature would not allow the law even to apply to those counties unless a majority of the people willed it. In Howard, one of the slaveholding counties, they got just 55 votes for it, and against it 1,397. In Baltimore county they got 681 votes for, and 5,364 against, it. In Kent county they got 74 votes for, and 1,502 votes against, it. It passed in no county except in one, and there by an accident. That is the judgment of the people of Maryland on the relations of the laboring free colored people living among them, essential to their industry, a part of their social system, filling well their place in life, without which their interests cannot be protected, and which we neither will expel ourselves, nor encourage to go, nor allow other people to expel.

If gentlemen want to know still further how Maryland regards the free negro population, I desire to say that the emancipation movement of Maryland is indebted very much to the commencement of negro enlistments in Maryland, for the same economic reason. Colonel Birney was sent there with general orders to enlist negroes. He was not instructed to take slaves. He commenced the enlistment of free negroes. Gentlemen found at once that that was a discrimination between the loyal people who do not own slaves and the disloyal people who do own slaves; and my friend Judge Bond wrote to the Secretary of War remonstrating against the inequality of taking from the Union men their labor and leaving with the secessionist his labor. He pointed out the law of 1862, authorizing the enlisting of one as well as of the other. The Secretary of War agreed with him. Birney acted under the implied if not the express authority of the Secretary of War, and commenced to levy from the slave population, in order that the Union men might have the

free colored population to hire. It was that more than anything else that brought directly before the people of Maryland at the last election the burdens they were suffering from the existence of slavery; and that aided more than did the bayonets to which the gentleman from New York refers, more than all proclamations, more than any other argument urged, in bringing on our side the people of the slaveholding counties of Maryland, who had voted at the beck of the slaveholders for generations. They said, "If we are to have a draft, and if our rich neighbor's plantation is to be cultivated while we are dragged off to fill the quota of the State, we think that an injustice. We are for slave enlistments and for the party and the men who advocate it, and if it breaks up slavery we get the benefit, and we are in favor of emancipation and in favor of relieving the white people from the disproportionate burdens of the draft." It was that, sir, and no proclamation; it was that view, carried home by my honorable friend who represents the first congressional district, [Mr. CRESWELL,] urged upon every stump, in every fence-corner, that dragged out men in homespun to cast their first independent vote, and my honorable friend from the first district is the representative of that independent vote. When gentlemen say that that result is attributable to military orders, I say that those military orders had nothing to do with it. The President's order required nobody to take an oath of allegiance, exacted no test oath. The judges of election required it: the military were ordered to support them.

Such was the telling power of the enlistment of slaves that my colleague got in the county of Worcester, one of the great slaveholding counties, several hundred more votes than his predecessor, Mr. Crisfield, a most able gentleman, got when he was candidate of the united Union party.

If we are to be treated, Mr. Speaker, to speculations on equality, and prejudices of race, and matters of that kind, to bewilder and mislead the public judgment upon this grave and important topic, allow me to beseech gentlemen to recollect that we people in America are not the only ones who have prejudices, and that negroes are not the only proscribed race in the world; that other nations have been as unjust and as inclined to oppress, and that we, in some regions of the world, would fare no better than negroes do here. How long has it been since "dog of a Christian" was the most polite word to us in the Moslem's mouth? How long has it been since a Brahmin would condescend to sit at table with the most aristocratic Englishman? How long has it been since the nobles of Europe refused to mingle their blood with the blood of the villain, or the peasant of continental Europe? Have we forgot the first example—that the Hebrew was an abomination to the Egyptian-African?

These are arguments to prejudice, and not to the merits. They are intended to mislead, not to enlighten. I beg gentlemen on the other side, whatever their views or purposes may be, let us combine, whatever the result, that the least damage may be done to the public service. Let us decide the question, not upon questions of prejudice, not on questions of hostility to race, but on the great politico-economic argument, on its political dynamics, if I may use the expression. Those forces which must determine it will determine it peacefully if we are wise, or in blood if we are unwise. Those, and those alone, in my judgment, are the alternatives.

THE JACOBS OF MISSOURI AND MARYLAND.

SPEECH OF HON. F. P. BLAIR,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

February 27, 1864.

The House being in the Committee of the Whole on the state of the Union—

Mr. BLAIR, of Missouri, said:

Mr. CHAIRMAN: The affairs of my own and some other border States have been drawn into the debates of this House. I believe that when I addressed the House some time since, and alluded to a certain transaction which had taken

38TH CONG....1ST SESS.

The Jacobins of Missouri and Maryland—Mr. Blair.

Ho. OF REPS.

place at the other end of this Capitol, I gave the true explanation of the motives for bringing Missouri affairs so often before the public and before Congress. Certain transactions which have occurred there are sought to be made issues in the next presidential election. My excuse for again alluding to these matters is the prominence which has thus been given to them.

My own conduct has been frequently brought under review in considering these affairs. I am content to be silent as to the manner in which I have borne myself during this rebellion, believing that I have discharged my duty to the Government to the best of my ability, and being most willing to leave my record to stand the comparison with that of those who have thought proper to criticize or condemn my course.

Things have occurred in Missouri and the other border States not so easily understood by those who come from happier regions, unvisited by the calamities of war. In Missouri, at the outbreak of the rebellion and for a long time afterwards, the State was a prey to the worst disorders. The country was ravaged and destroyed, and a feeling of bitterness has been engendered which is almost without a parallel. Upon this spirit of exasperation, retaliation, and revenge, the so-called radicals of my State have undertaken to build up a party. Is this a fit foundation for any party to rest upon? Can peace, prosperity, and tranquillity be expected from those who act from such motives? Can any secure or enduring principles of Government be based on such sentiments? It may be and it is impossible for men to free themselves from the passion of revenge and the desire for retaliation on those who may have inflicted injuries on them or their friends and neighbors. It may be utterly impossible to expect that men can free themselves entirely from such influences. But, on the other hand, is it natural, proper, or wise that the President and the great statesmen who are directing the affairs of the Government, and whose duty it is to educe peace and good will out of these scenes of anarchy and disorder, should be actuated by the feelings of bitterness which have grown up among the parties to this strife? Such passions are in some degree excusable in those who have suffered injury; but with what face does a man set himself up as a statesman or party leader who will fan such passions; who will contribute to the public exasperation; who will rekindle these smoldering fires; and who seeks even to drag into them and destroy the Chief Magistrate of the country when he declines to be the instrument of such malignant passions? Yet this is the position of the Jacobin leaders in Missouri and their confederate Jacobins in Maryland. They appeal to the Union men of other States to support them in their efforts to keep up the strife in States in which the rebellion has been put down, instead of fighting to put down the rebellion where it still exists. They appeal to the Union men of other States against the President's policy of amnesty, by which the armies of the rebels are being demoralized and depleted, because they desire to glut their vengeance and their lust of spoils. They seek to make a direct issue with the President to defeat his reelection, in order that they may enjoy the license of another French Revolution under some chief as malignant as themselves.

The State of Missouri cast but seventeen thousand votes for Mr. Lincoln; yet she has contributed sixty thousand men to the volunteer Army of the United States. The State has also a reserve force of sixty or seventy thousand militia, ready at a moment's notice to spring to their arms in defense of the State and the nation; and how well and how often they have performed this duty the House already knows from the speech made by my venerable colleague, [Mr. KING.] These men have flocked to the standard of the country and given their best efforts to its defense because the President called upon men of all parties without regard to political differences to rally to the defense of the Union. Suppose he had erected the standard now unfurled by the Jacobins of Missouri and Maryland, proscribing all who do not hold their present ultra dogmas; how many men would have enrolled themselves in Missouri under such a standard? I doubt whether we could have contributed half the number that supported the election of Mr. Lincoln. Happily for the

country the counsels of such people did not prevail at the outbreak of the war. All men who were willing to defend the country against its enemies, without regard to their opinions on the subject of slavery or any other subject, were invited to take arms. They were not asked to lay down their political opinions and accept those of the President or of his party. Now, these radical Jacobins denounce all who do not agree with them, whether they have taken arms in defense of their country or not, as traitors and as unfaithful to the cause of freedom. The Missouri State militia, whose valor and services were so well described by my venerable colleague, [Mr. KING.] and but for whom these gentlemen would have had no districts to represent and no homes to which they could return, have nevertheless been made the subject of the slanders and reviling of my revolution-broaching colleagues.

I do not consider it necessary to add anything to the description of my four radical colleagues which was given the other day by my venerable colleague, [Mr. KING.] The picture will be recognized wherever they are known. I may say, however, that the artist [Governor KING] was a supporter of our great Senator Benton in his attempt to repress the furious pro-slavery sentiment which has at last burst forth in rebellion, when they were one and all, without an exception, the persecutors of Colonel Benton and his friends. My four Jacobin colleagues were at that time pro-slavery to the backbone. Now, as is often the case with renegades, they have gone far beyond those of us who have consistently supported the Government and consistently opposed slavery, and they denounce us as unfaithful to the cause of human freedom.

A MEMBER. One renegade is worse than ten Turks.

MR. BLAIR, of Missouri. I accept the suggestion. It is not only applicable to the Missouri radicals but also to those of Maryland. It behooves them to purge their own pro-slavery records by some appreciable service in the cause of freedom and emancipation before they should be permitted to denounce those who have passed through the fires of persecution (and they the persecutors) on account of their devotion to that cause.

I hope I shall not be regarded as uncharitable, but I cannot avoid looking at the course of these men as dictated more by a desire to cancel and obliterate the memory of their old crimes against the cause, rather than to advance its success in the future. Their ultra doctrines are so much better calculated to bring us defeat instead of victory, that it looks in the light of their past history as if this was their object, and the great body of the true Union men in other States have been sagacious enough to perceive this fact and patriotic enough to act upon it. Hence in the great State of New York at the last election the supporters of the Administration and of the war enlarged the name of Republicans, and held the election under the name of the "Union" party and nominated on their ticket men who had been life-long Democrats. My colleague [Mr. BROW] who has just dropped his pro-slavery pen-feathers, and who absented himself from the country on a foreign mission in the hours of its sorest trial, in a speech which he made to attack me during my absence in the field, denounced and assailed the platform of the Union men of New York as a weak-kneed Union affair, because I had referred to it as a proof of their moderation and good sense in refusing to allow differences of opinion which have become trivial to imperil the restoration of the Union. In the State of Ohio, also, the friends of the Administration have nominated and elected Democrats for Governor of the State for two successive terms, without regard to their former or present opinions on the subject of slavery.

It is left for these Jacobins and revolutionists to erect a loftier standard of loyalty and patriotism; to represent themselves as persecuted martyrs of a cause of which they are only the eleventh hour supporters; a cause which they would have strangled in its birth if they had had the power to strangle it, and to which they have only brought their support when the battle was won and their aid was not needed. They are like camp followers, unknown and unheard of while the battle raged,

but are swift to plunder the dead, and merciless to the wounded. Like old Jack Falstaff, they mutilate the dead Percy, slain by another hand, bearing his body off on their backs as a proof of their desperate valor.

My colleague [Mr. BROW] in his speech the other day undertook to draw the line of distinction between himself and myself, between his principles and those which I advocate. He asserted that the radical party of Missouri was in favor of immediate and unconditional emancipation, and that I and the friends with whom I act were in favor of gradual emancipation. I have always been willing to accept gradual emancipation, or any other step in the right direction. I favored immediate emancipation in my own State, relying upon the compensation to the loyal owners of slaves tendered by Congress, and whenever the people of Missouri or any other State desire it, and adopt this plan, I am more than willing to accept immediate emancipation. I cannot regard any one as an honest man who wishes to place the whole burden on the slaveholders, and who is unwilling to bear his share of the expense in accomplishing a general benefaction.

We have had recently an opportunity to test the sincerity of the Jacobins of Missouri on this question, and I intend now to expose the hypocrisy of their professions in favor of immediate emancipation to the very men: they have deceived and misled by their clamors and misrepresentations. When the last Legislature which sat in Missouri first assembled the constitution of our State permitted emancipation by the Legislature either by the consent of the owners of slaves or upon fair compensation to be made to them. The Congress of the United States had prior to that time, and upon the recommendation of Mr. Lincoln, passed a resolution pledging the General Government to pay for the slaves in any of the border States which should adopt measures for the abolishment of slavery. The radicals, combined with the other Union men in favor of emancipation, composed a large and overwhelming majority in the Missouri Legislature. My friends offered various bills in favor of emancipation upon compensation. The radicals voted against and defeated every measure of this kind that was proposed. Congress at its last session passed a measure in this House appropriating \$10,000,000 to pay for the slaves of Missouri; the bill went to the Senate and the sum was increased to \$20,000,000; it came back to this House and was reduced to \$15,000,000. I undertake to say that the Senate which had voted \$20,000,000, would not have hesitated to give the \$15,000,000 agreed to by this House, if the measure offered by my friends in the Missouri Legislature had not been defeated by the Missouri radicals. A leading member of that faction in the Missouri Legislature, Mr. Charles P. Johnson, openly proclaimed his gratification, in a social gathering of the brotherhood, at the failure of the appropriation by Congress to pay for the slaves of Missouri. The sentiment was received with applause by his brother radicals.

The statement I have made would appear almost incredible to those unacquainted with the Jacobins of my State; but the record stands to prove the truth of my statement, and to show that these men have been and are still dishonestly clamoring for what they do not want and will not have; that in fact they wanted slavery to remain as a bone of contention, or else were unwilling that loyal owners should receive payment for their slaves, even when the money was offered by the Federal Government. But my colleague says he is for immediate emancipation without doing injustice to loyal slaveholders. I deny it, and appeal to the records of the Legislature of Missouri to make good my denial. The measure was again and again tendered to them by the Union emancipationists of Missouri, and was as often refused. It was under these circumstances that the convention, a body elected prior to the rebellion, and which was intended by the secession leaders to carry the State out of the Union, but refused to do it, was called together, and upon the recommendation of our late Governor, and in obedience to the wishes of the people, passed an ordinance liberating the slaves of Missouri at the end of seven years, holding them to service for the

intermediate period, and subsequently placing the younger slaves in the condition of apprentices until they attained mature years, in lieu of compensation to their owners. That ordinance was denounced by the radicals in my State, who had proven themselves so false to the cause of emancipation, as a measure for the continuation and perpetuation of slavery. I accepted it as a step in the right direction, believing at the time and knowing now that the people of the State were fast becoming reconciled to this measure, and that every slave in the State would be emancipated before the time fixed in that ordinance.

But the revolutionary faction had what they desired. They had a bone of contention, and having refused to vote for immediate emancipation when their votes would have secured it, they clamored against the gradual emancipation given them by the convention, and are clamoring still for another convention to give them immediate emancipation which they refused to take when it was in their power, with the money to pay the loyal slaveholders offered them by the Government of the United States. This is a brief and truthful sketch of the chicanery practiced by malcontent leaders who would turn hypocritical cant for freedom to account to aid their ambition.

Another point of difference alluded to by my colleague, [Mr. Blow,] and which is urged more elaborately in the speech of the distinguished gentleman from Maryland, [Mr. Davis,] who makes common cause with him, is found in the fact that the Union emancipationists of Missouri adhere to the policy of the President in favor of the colonization of the free negroes. These gentlemen are opposed to this policy. Here is the programme which the representatives of the Jacobins of Maryland and Missouri would substitute for the policy proposed by the two Presidents, Jefferson and Lincoln, for the establishment of the negroes in a country of their own, in which they could be governed by their own laws, and be free from the crushing weight of prejudice which always would depress them in the midst of another race superior in numbers and wielding the powers of Government. The Representative from Missouri says:

"We have no such theories, have indulged no such unkindness to the unfortunate blacks. We are content to let them remain where God in His providence placed them, and with a more elevated sense of justice to ameliorate their condition at once, and elevate them as speedily as possible on the soil that has been enriched by the sweat of their brows through years of unrequited toil and crushed and bleeding hearts."

The member from Maryland is even more pointed. He exclaims:

"The folly of our ancestors and the wisdom of the Almighty, in its inscrutable purposes, having allowed them to come here and planted them here, they have a right to remain here, and they will remain here to the latest recorded syllable of time. And whether they become our equals or our superiors, whether they blend or remain a distinct race, your posterity will know, for their eyes will behold them as ours do now. These are things which we cannot control. Laws do not make, laws cannot unmake them. If God has made them our equals, then they will work out the problem which He has sent them to work out; and if God has stamped upon them an ineradicable inferiority, you cannot make one fair white or black or add a cubit to their stature."

I regret very much that neither of these gentlemen have found it convenient to be present in the House to-day. I should like very much to ask them to be a little more explicit. I wish to know exactly what all this flourish about "the elevation" of the negro means. Does it mean that they are to be endowed with the rights of suffrage and of citizenship and of official position? Are they to have a full share in the Government established by our ancestors, and a fair start in this race for superiority? It cannot be that these gentlemen intend to thwart the "providence of God" by placing legal impediments or obstacles in the way of the negro to impede his progress in this contest for superiority with our own race in its inherited dominion; but unfortunately for me and for the people to whom this country belongs, neither of these gentlemen are here to respond to the inquiries which I desire to make; and I must look for light on this interesting point in the utterances heretofore made by one of those gentlemen. I find in a speech delivered by the distinguished gentleman from Maryland at the Cooper Institute, in New York, on the 9th day of October last, the following clear and pointed de-

clarations, which throw a flood of light on the question under consideration:

"If we should confer freedom and leave the negro a helpless and disarmed, disfranchised individual, you have left him the prey of those that wield political power over him. It will never be that there shall be consolidated liberty at the South until the President shall not merely have proclaimed freedom, but taught the negro the use of arms and organized him for freedom."

"There can be no liberty in the world without adequate guarantee. The only guarantee to be given to the negroes is, that at the end of the war large masses of them shall be in arms, whom it will be more difficult to reduce to slavery than to let them remain free. [That's so.] Great will be our infamy if we should attempt to expel the negro from our soil."

Wendell Phillips has seized upon this happy thought, and, in a recent speech delivered in the same house in the same city during the present month, thus gives it utterance:

"Such deeds are God's means of making you willing that the negro should occupy this place in the nation's history, with the powers of the white man, lifted to the elective franchise, which protects him and insures us. Break up the land into farms; put two hundred thousand negroes, with a rifle in each right hand and an officer of their own choosing at their head, put three hundred thousand white and black farmers by their side, and the South will ripen itself into a democracy. That is natural law out there. Then I would have civil law here mature the same thing."

This, then, is the Winter Davis-Wendell Phillips programme, and shows that they do not propose to give the white man the start of the negro in the great contest for superiority. Mr. Phillips says the negro is to be "lifted to the elective franchise." The gentleman from Maryland is not content with leaving the negro a "disfranchised individual." Both of them agree that they shall be armed amid the unarmed white population of the South; and then, in the language of the gentleman from Maryland, "whether they become our equals or our superiors, whether they blend or become a distinct race, your posterity will know."

This settles very satisfactorily the meaning of that part of the gentleman's programme in which he goes so earnestly for the elevation of the negro. But I do not perceive how it is to be reconciled with another theory broached by him in his late speech. He tells us in this elaborate and well-considered effort that the idea of the hostility of races is one that is unknown to history, and he calls upon those who have advanced that theory to point to a single instance where such a thing as hostility of race has ever manifested itself. Then why arm the negro? Why at the end of the war must we have "masses of them in arms, whom it will be more difficult to reduce to slavery than to let them remain free?" Is it not perfectly apparent that the gentleman feels and recognizes the hostility of these races when he demands that they shall be armed to defend their freedom from another race which will seek to reduce them to slavery? Indeed, why has this race been so long in servitude in our land except that they are negroes and of another race than ours? Is not this the defense and justification that has always been urged for their enslavement? Would our fathers ever have brought them here or their children retained them in bondage but that the fact of their being of another race gave them a pretext? I will not go outside of the speech the gentleman made on this floor the other day to show that he is himself animated by the very sentiment, *hostility of race*, which he so stoutly and so earnestly denies the existence of. In the very expression of his disbelief in the theory of the hostility of races, he cannot restrain himself from the exhibition of his hatred for Irishmen. He says:

"But the attack of the Irish on the negroes in New York is the only example of the collision of races to sustain the theory."

"I agree that it is possible that such a class of population as that might be tempted to oppress the negro, but no class of American population would condescend to do it."

Have not an "American population" held them in bondage for over two hundred years? Was not this oppression? Does not the gentleman demand that they shall be armed to prevent an "American population" from reducing them again to slavery? The old leaven of Know Nothingism works so strongly in the gentleman that he cannot make an argument without upsetting it by an exhibition of his spleen against a foreign and what he considers an inferior race—the Irish. "Won't

you ask," he says, "as a matter of kindness to transplant the Irish back to Ireland?" I certainly should if all Americans bore the hostility to them he manifests.

The political origin of the gentleman from Maryland is identical with that of my colleague, [Mr. Blow,] for they are twin brothers of the dark-lantern fraternity; the chief ingredients of which organization was hostility to kindred races of white men of foreign birth. Taken in connection with the protest of his New York speech against leaving the negro a "disfranchised individual," he would lead me to the conclusion that he would prefer to see Irishmen and other foreigners disfranchised rather than the negro. He would take care of the latter by arming and embodying and instructing them to defend their franchise. But the doctrine and practice he brought forth into political life from a Know-Nothing lodge arrayed rancorous partisans of native birth to drive naturalized citizens from the polls. His followers were guilty of deeds of unexampled ferocity to deter Irishmen and Dutchmen from the exercise of their legal franchise, and with arms and bloody instruments to withhold from them the privileges he now demands for the negro. Notwithstanding his heart has so recently relented toward the negro, yet his last speech proves that his hatred and detestation of the Irish still survive, and he is the last man in this House or out of it who should venture to stand up and deny that which is attested by all history, and to the truth of which he becomes an unconscious witness in one of the closing paragraphs of his speech, saying:

"Allow me to beseech gentlemen to recollect that we people in America are not the only ones who have prejudices, and that negroes are not the only proscribed race in the world; that other nations have been as unjust and as inclined to oppress, and that we, in some regions of the world, would fare no better than negroes do here. How long has it been since 'dog of a Christian' was the most polite word to us in the Moslem's mouth? How long has it been since a Brahmin would condescend to sit at table with the most aristocratic Englishman?"

The only observation I shall make upon this is that it seems to me that the gentleman's mind is so truthful and his knowledge of history so accurate that he cannot make an erroneous argument without exploding it and bringing himself to a sound conclusion.

I submit it to the candor and good sense of the country which proposition is the most benevolent and humane toward this oppressed and much-abused African race—that of Jefferson and Lincoln or that of the Jacobin leaders of Maryland and Missouri. Is it not better for the negroes to have provided a country for them in which they can govern themselves by their own laws, in which they will have no superiors, but will be protected by the power of our Government, rather than remain here as an inferior and subject race—a race of outcasts so far as social and political rights are concerned—or even, under the New York programme broached by the gentleman from Maryland and Mr. Phillips, to attempt to put them on an equality with the white people, which both of these gentlemen say would require to be maintained by force of arms to prevent the reduction of the negroes to slavery? Can any American citizen find it in his heart to inaugurate such a contest as that foreshadowed by these gentlemen? He cannot delude himself into the belief that the riot in New York is an isolated instance. That which occurred there has taken place in almost every large city in the country, in Cincinnati, in Philadelphia, and in the city of Baltimore, where the white calkers drove away the negro calkers from the ship-yards. He well knows that it will require "large masses of these negroes to be in arms at the end of the war," not to prevent them from being reduced to slavery, for the Government which gave them liberty will secure it to them, but to clothe them with that franchise which he demands for them.

I prefer Mr. Lincoln's humane, wise, and benevolent policy to secure the peace and happiness of both races; and until that can be accomplished, and while both races are being prepared for this great change, I shall repose in perfect confidence in the promise of the President given in his last message, in which he proposes to remit the control of the freedmen to the restored States, promising to support "any provisions which may be adopted by such State government in relation to

the freed people of such State which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent as a temporary arrangement with their present condition as a laboring, landless, and homeless class."

I desire at this point to make some observations upon the action of the recent convention held in Baltimore, and from the proceedings of which the gentleman from Maryland gave us an extract. After nominating Mr. Lincoln for reelection to the Presidency, and instructing its delegates to vote for him "first, last, and all the time," the convention passed this singular resolution, which the gentleman read to this House. This resolution was all the comfort the gentleman could extract from the proceedings of that body, and it remains to be seen whether that will prove a substantial comfort or not:

"Resolved, That this convention is in favor of the entire and immediate abolition of slavery in this State and in the States in rebellion, and is opposed to any reorganization of State governments in those States which do not recognize the immediate and final abolition of slavery as a condition precedent. That this convention express their sympathy with the radical emancipationists in Missouri, and in Arkansas, Tennessee, and Louisiana, and regret that influences in the Cabinet have, in Maryland and those States, depressed the efforts of the radical friends of the Administration and of emancipation, and given prominence to those who are unwilling advocates of emancipation."

Here is a convention nominating Mr. Lincoln and tying its delegation up to vote for him so tight that it is impossible to cheat in that, and then turning around and extending the right hand of fellowship and expressing sympathy for the Missouri radicals, who cannot find epithets vile enough to apply to him. All the radical members from Missouri in this House and the other branch of Congress are deadly hostile to the President, yet they have the sympathy of the Baltimore convention which nominated Mr. Lincoln. The radical members of the Missouri Legislature—the party associates of the members on this floor now collaborators with the gentleman from Maryland—voted against Mr. Lincoln's renomination, and against the resolution approving his administration, yet they all have the sympathy of the Maryland convention which instructed its delegates to vote for Lincoln "first, last, and all the time." The radical members from Missouri to the convention of Jacobins at Louisville all voted to nominate an independent candidate against Lincoln. How delighted they will all feel when they find that they have the "sympathy" of the Maryland convention which has endorsed President Lincoln and made him their candidate! Every radical newspaper in Missouri is unsparing in its denunciation of Lincoln, and most of them are pledged to oppose his election, even if he is nominated by the national convention of the Union. How pleasing the information will be to them that they have the sympathy of the Maryland convention which nominated Lincoln and handcuffed its delegates to prevent their cheating him!

I am afraid the Missouri radicals will not be able to see the point of this joke without some explanation, and as the gentleman from Maryland did not see fit to go into the matter I shall undertake the task myself. The late Baltimore convention nominated Mr. Lincoln because they could not help themselves. They were compelled to it by the overwhelming public opinion of the State. There are certain dark-lantern associations still existing in Maryland by which bogus delegates were sent from three counties, and they were fraudulently allowed to retain seats to the exclusion of the rightful delegates. But even this convention did not dare to outrage the sentiment of the people so far as to vote against Lincoln; but they sought, while thus putting the left arm about his neck, saying, "How art thou, my brother?" to stab him under the fifth rib. They tried, therefore, while nominating Lincoln, to put forward delegates who are expected to act as certain Democratic delegations did to Van Buren in 1844. They went to the convention instructed to vote for him, but betrayed their trust. I have heard, but don't know certainly whether the fact is so or not, that one of these delegates, appointed with instructions to vote for Lincoln "first, last, and all the time," being one of Mr. Chase's office-holders, has already declared his intention not to vote for Lincoln, but for whom he pleases. And

since these gentlemen have chosen to go out of their way to make war on the real Union men of my State and express their sympathy for the Jacobins in Missouri, I do not consider it inappropriate to show up their double-dealing. They sought in every way to escape these binding instructions and send their delegates untrammelled. Mr. Sterling, a great friend, I understand, of the distinguished gentleman from Maryland, [Mr. Davis,] stated that he did not want any instructions, because that would prevent Maryland from having any influence in regard to the candidate for Vice President. In other words, it would prevent the delegation from trading off the Presidency to obtain the candidate for Vice President from "my Maryland."

The resolution winds up with regrets that influences in the Cabinet have depressed the efforts of the radical friends of the Administration "and given prominence to those who are the unwilling advocates of emancipation." Who are these unwilling advocates of emancipation? Was he an unwilling advocate of emancipation who first unfurled that banner in Missouri on the Buffalo platform in 1848 in defiance of the pro-slavery sentiment of his State and in opposition to the views of his great friend, Colonel Benton, and who has maintained it ever since? Is he an unwilling advocate of emancipation who presided at the Pittsburg convention which formed the Republican party? Or is that man an "unwilling advocate" who voted against Banks for Speaker; who voted against Sherman for Speaker; who voted against Lincoln and for John Bell, always a trimmer and at last a traitor; and who, not two years ago, denounced the Administration and its anti-slavery policy in speeches delivered in Brooklyn and Baltimore? Let any honest man answer.

As I said in the outset of my remarks, this whole business in Missouri and Maryland, in the form and shape in which it has made its appearance in these Halls, has been concocted for the purpose of defeating the renomination of Mr. Lincoln. Does any sane man suppose that those seventy-odd gentlemen came all the way from Missouri as a grand committee of radicals to ask for the removal of Schofield, and with no higher game in view? Would they have gone to call on Mr. Chase in a body to express to him their thanks for the help and sympathy he gave them, and to toast him as their candidate for the Presidency unless they desired to notify the whole country that they were suffering a great grievance from the President, and that they looked to the Secretary for succor? Does anybody suppose that this grand protest would have been gotten up against Schofield's confirmation after an agreement to let the thing drop, and that my friends from Iowa would have been prevailed upon, by misrepresentations, to append their names to such a statement? Can it be supposed that such pains would have been taken to draw them into this trap merely for the purpose of procuring the removal of Schofield?

Mr. GRINNELL. I wish to say to the gentleman from Missouri, as one of the Iowa delegation which signed that representation in behalf of our State, that the voters of my district, many of them, reside on the borders of Missouri, and are competent to judge of the condition of affairs over the border, and that I signed that paper in perfect good faith.

Mr. BLAIR, of Missouri. I have no doubt of that.

Mr. GRINNELL. We believed that one county in my district was in great danger, as there had been frequent raids into the southern portion of Iowa. I did not sign that paper with any intention of taking part against President Lincoln or Postmaster General Blair, nor for the purpose of affecting the political relations of the State of Missouri. I spoke of what I knew, and with good intentions.

Mr. WILSON. Will the gentleman yield to me one moment?

Mr. BLAIR, of Missouri. Let me first say a word in reply to the gentleman's colleague. I did not intend to say anything, nor do I mean to be understood as saying anything to indicate that that gentleman or any part of the Iowa delegation were privy to the design for which the protest was gotten up. I say they were intrapped into

it. That is my opinion about it, and whatever the gentleman may think about the condition of affairs in Missouri, I think he is very much mistaken about it, and the facts since have shown that he was mistaken. I did not intend to say that he was privy to the designs of the men engaged in this business, which designs are shown by the utter want of foundation in fact for the statements they made, (I mean the protest, not the statement of the Iowa delegation,) and by their criticism of military affairs which they were wholly incompetent to criticize, by the manner in which that protest was produced in the Senate—a memorial against the confirmation of a general officer read in open session, and not in executive session where such confirmations are only considered—everything connected with it shows that the design was to attack the President who had denied the validity of the charges against Schofield. I now yield to the gentleman from Iowa.

Mr. WILSON. I do not know but the gentleman from Missouri has a perfect right to speak for the President of the United States in all matters; still I do not know that he has, and I may say that I do not believe that he has that right. When he speaks of the Iowa delegation being drawn into a trap in signing the paper to which he has referred, I wish to tell him as one member of the Iowa delegation that I fell into no trap. I know what that paper was; I know what it contained, and I know that it contained the truth. That is all I have to say in reply to the gentleman.

Mr. BLAIR, of Missouri. I do not dispute that the statement of the gentleman is in accordance with his view of the matter; but I maintain the statement I have made.

Mr. GRINNELL. I wish to say one word more—

Mr. BLAIR, of Missouri. I cannot yield if these interruptions are to be taken from my time.

The CHAIRMAN. It will be taken from the gentleman's time unless unanimous consent be obtained that it shall not be.

Mr. ELDRIDGE. We object if it is to be taken from the time of the gentleman from Missouri.

The CHAIRMAN. If there be no objection the time occupied by interruptions will not be taken from the hour to which the gentleman is entitled under the rule.

There was no objection.

Mr. BLAIR, of Missouri. I yield to the gentleman from Iowa.

Mr. GRINNELL. Mr. Chairman, the gentleman from Missouri could not have been cognizant of the facts to which I alluded. I am very glad to bear evidence to the fact that the gentleman was at that time himself leading Iowa soldiers in battle; and I honor him for the position he occupied at the time of these occurrences. But, sir, I say there was a rebel correspondence between northern Missouri and the southern portion of my district for a long time. I say that these border men of Missouri, under the name of Missouri State militia, did come over into my district, and did there threaten loyal men. They did steal horses and rob hen-roosts. I say these northern Missouri men, under the name of Missouri State militia, did conspire with men in southern Iowa to blow up the court-house in one of the southwestern counties. They did come over there and unite themselves with Knights of the Golden Circle for the purpose of resisting the draft and preventing Union men from filling up the quota of Iowa. I know these facts; and while I give the gentleman from Missouri full credit for his valor and full credit for his patriotism, still I must say that he is not acquainted with these facts.

Mr. BLAIR, of Missouri. The mere fact that a few marauders did cross the border and commit depredations is no justification for the harsh measure resorted to against General Schofield. It was well understood that the attention of the commanding officer of that department was then directed to another quarter, and that it was impossible to spare troops to guard the long line between the States of Missouri and Iowa. Iowa is so loyal a State, and so remote from the scene of real hostility, that no officer would be justified in placing troops to guard its border from mere imaginary dangers, or to prevent horse-stealing and hen-roost robbing. Do such facts, conceding them to be true, form any good ground for asking the

38TH CONG....1ST SESS.

The Jacobins of Missouri and Maryland—Mr. Blair.

HO. OF REPS.

removal of the general commanding a military department? Such trifles it appears to me bring shame to those who would make them the ground for the removal and degradation of a brave and meritorious officer.

Mr. GRINNELL. One word more, with the permission of the gentleman from Missouri. It was charged by him that the Iowa delegation in signing that Missouri protest had fallen into a trap. I wish to say I signed that paper with my colleagues with my eyes open. There was no trap. I believed, and my constituents believe to-day, that the general then in command in St. Louis was not as true as he ought to be to his position; I believed that he was using his official position for the purpose of degrading those who are called radical men, like myself. There were men connected with the Army who believed this; and it is my belief now. I believe it from the best of testimony. He may have been a brave man, he may have been a true man; but still the facts I have stated are true; and those of my constituents who had suffered by the raids of these Missouri State militia, whom he was upholding, had a right to enter their protest as they did.

Mr. BLAIR, of Missouri. Mr. Chairman, my opinion has not been changed by anything which has been said by the two gentlemen from Iowa. I concede to them entire honesty in their views and purposes, still I believe their interference was asked and obtained by misrepresentations. It was not against General Schofield that the originators of this scheme sought the aid of the Iowa delegation. Their purpose was to level a blow at the President, and induce the Senate of the United States to deal that blow.

Mr. GRINNELL. I wish distinctly to deny that the Iowa delegation had any part or any design to bring an accusation against the President of the United States. That delegation, sir, are not against the President.

Mr. BLAIR, of Missouri. I have again and again said that I did not suppose they had any such design. I put it upon those who originated this affair, and who, having obtained by misrepresentations the statement of the Iowa delegation, used it not against Schofield, but against the President, as the whole transaction in the Senate shows upon its very face. Now, sir, who is this General Schofield? I knew him as the officer who mustered the first troops from Missouri at the beginning of the war, in the midst of dangers that the men who are now denouncing him shrank from in dismay. They shrank away in alarm and their arms hung nerveless by their sides when this officer stood forward bravely in the performance of his duty. He was the companion and trusted friend of the heroic Lyon, who fell dead on the bloody field of Wilson's Creek, almost in his arms. He has approved his loyalty and efficiency on the field of battle; he has tested his valor and devotion to the country. His revilers are that class of noisy patriots whose devotion to the Government is attested only by their clamors.

I do not myself approve of his entire administration in Missouri, but I honor his patriotism and ability, and appreciate the difficulty of his position, made more so by those who have done more complaining than fighting. General Schofield assented to the order by which four counties in my State were depopulated, and the wives and children of twelve hundred Union men then in the United States Army were driven from their homes. He assented to this order given by General Ewing. I did not approve of it. It was a concession to the radicals, who threatened to overthrow the State government, but did not conciliate them.

My colleague [Mr. Blow] asserted in round terms that at a meeting or caucus of my friends in St. Louis, in August, 1862, I had advocated the removal of General Schofield and the substitution of another in the command of the department of Missouri, and that I had deputed him to bear my complaints to the President. I denied the statement; and when, in August, 1862, he came to this city and used my name with the President and General Halleck to effect that purpose I sent a telegram to General Halleck in the following words:

ST. LOUIS, MISSOURI, August 12, 1862.

Major General H. W. HALLECK:

Nobody is authorized to ask Schofield's removal in my name. I have written to Hon. Mr. Blair asking that his

powers may be more ample, and that he be disembarassed from the authority of Governor Gamble.

FRANK P. BLAIR, Jr.

HEADQUARTERS, February 25, 1864.

Telegram—Official Copy:

D. C. WAGER, A. A. G.

General Halleck informs me that he told my colleague that he had received this dispatch, and thinks it probable that he showed it to him, and he therefore knew that I did not assent to his coming here to represent me. He knew this when he made the statement on this floor a few days since.

I will state that a meeting of our friends did take place about the time indicated. Many complaints were made in that meeting by my friends against General Schofield. He was not, however, in command of the department; no department commander had then been appointed to succeed General Halleck, who had been ordered here to the chief command a short time previous. General Schofield was in command of the district; Curtis commanded another district, and Schofield had expressed his desire to do what our friends complained of his not doing, but alleged that he had no authority, as he was only a district commander and did not have the authority necessary. I explained this to those present at that meeting. All that I said was in explanation of the matters alleged against General Schofield, based upon his own statements. The only resolution which I proposed was one asking that a department commander might be appointed, and the dispatch I have quoted and the letter referred to in it show very plainly that I would have been well satisfied with the appointment of General Schofield. The statement of my colleague is utterly devoid of truth.

Schofield some time afterwards gave me to understand that the motive of my colleague's volunteering to come to Washington and misrepresent me was that he was the owner of a lead mine in southwest Missouri which he was desirous should be well guarded by United States troops; that he (Schofield) did not consider it as important as some other interests, and that he could not spare the troops to advance my colleague's private speculations, and he attributed his hostility to this cause.

The great point of attack made by my colleague in his speech was the resolution I offered in this House, asking a committee to investigate the operations of the Treasury Department in the regulation of the commercial intercourse with the States in insurrection. He passed a high eulogium upon the distinguished Secretary of the Treasury, and denounced me for presuming to introduce such a resolution. He denied that there was any ground for the investigation, and yet he was cautious to vote against my resolution, and so did all the friends of that distinguished gentleman. I say that there is ground for it. I say here in my place and upon my responsibility as a Representative that a more profligate administration of the Treasury Department never existed under any Government; that the whole Mississippi valley is rank and fetid with the fraud and corruptions practiced there by his agents; that "permits" to buy cotton are just as much a marketable commodity as the cotton itself; that these permits to buy cotton are brought to St. Louis and other western cities by politicians and favorites from distant parts of the country, and sold on "change to the highest bidder, whether he be a secessionist or not, and that, too, at a time when the best Union men in these cities are refused permits. That is equally true of the "trade stores," as they are called—monopolies of trade in certain districts or cities in the South. These "trade stores" are given to political partisans and favorites, who share the profits with other men who furnish the capital, Mr. Chase furnishing capital to his friends and partisans in the shape of a permit or privilege to monopolize the trade of a certain city or district; and furthermore, it can be established that the practice of taking bribes on the part of these Treasury agents for permits to trade, and for conniving at violations of law, is so common that it has almost ceased to attract attention or excite comment. It is the most corrupting and demoralizing system that ever was invented, and has become a public scandal. No

wonder that General Grant, in his remonstrance against this system, said, "No honest man could do business under such a system." I am satisfied that, upon a rigid and honest scrutiny, the statements I have made can be established by competent proof. Here is a statement which I find in the Baltimore American, a staunch Union paper, and which appears to be vouched by the name of a party whom I take to be responsible and respectable, for otherwise that journal would hardly have inserted his statement. It is as follows:

BALTIMORE, February 2, 1864.

Messrs. Editors of the Baltimore American:

I desire to make known through your paper, to the community generally, something which I am sure will astonish every Union man in our city who has not previously heard of it, and they, I think, are few. It is this, Messrs. Editors, that on Saturday, 30th ultimo, the schooner Ann Hamilton, Captain Sterling, with Samuel G. Miles on board, as the agent of another party, cleared from this port with a cargo of fifty sacks of salt and a general assortment of merchandise, valued at perhaps \$10,000, with permission from Mr. Risley, the agent of the Treasury Department, and sanctioned by General Butler, to take the same within the rebel lines, that is to say, to the counties of Northumberland and Lancaster, State of Virginia.

Had Jeff. Davis himself requested the Government authorities to send him the amount of goods taken from here by Mr. Miles, and the authorities had consented to grant the same, I am sure I would not have been more astonished. It is well known, Messrs. Editors, that the Government has no troops in either of those two counties, has no custom officers to examine what may be proposed to be landed, and that that section is as much under rebel jurisdiction as Charleston, South Carolina. As to the truth of this statement I can point out to you dozens of men in the State of Maryland who have been compelled to flee their homes and families in those two counties, and who dare not return to the same. No Union man can go to either of them, for the simple reason that he would be immediately arrested and sent on his way to Richmond.

But while it is a matter of astonishment that a cargo of goods should be allowed by those in authority to go there, (a portion of country entirely under rebel rule,) it is equally so that Mr. Miles, a man known to almost every Union man in Baltimore to be one of the bitterest rebels we have among us, who has from the commencement done and said all that he could against the Government; a man who could not engage in the worship of God in the New Assembly Rooms—could not think of such a thing, because General Schenck had ordered the stars and stripes to be suspended in the room; a man who indorsed and commended the action of the mob on the 19th of April, 1861, in murdering Massachusetts soldiers in our streets, and one perhaps who has rendered more aid and comfort to the rebels, or as much, at least, as any man in our city, by sending goods to the very counties named ever since the rebellion commenced, setting at defiance the blockade; that such a man, a known enemy of the Government, should be allowed to take within the rebel lines a large number of boxes of merchandise said to contain certain articles, as per manifest, and the vessel, too, commanded by Captain Sterling, who I am informed has long ago made the acquaintance of Fort McHenry on account of his blockade-running proclivities—if this is not astonishing, then, Messrs. Editors, what would be?

But, sirs, there is something also to be looked at in this affair. Who are the parties who have thus imposed on General Butler? for no one believes, who knows the General, that he would ever have consented to this project had he known the character of Mr. Miles. Some parties professing to be Union men must have imposed on Mr. Risley, and General Butler also; and I think, sirs, the community ought to know who they are. I, for one, cannot believe that General Butler would ever have consented to allow such a privilege to one so well known in this community as one of the greatest friends of those in arms seeking to destroy the very Government that he (General B.) has been so nobly and skillfully upholding.

I could give you many proofs of the truth of what I say in regard to Mr. Miles; and as to the fact of the vessel clearing from this port, that can be obtained by calling upon the proper officers at our custom-house. I will only add, Messrs. Editors, that if such a privilege is granted to Mr. Miles, and they are fully aware of his sentiments, &c., I think the authorities ought to carry the matter a little further and return to him the amount of money they have received from the sales of his goods they have captured while trying to run the blockade—more especially those captured on board the schooner Hampton, Captain Roe, (in one of the very counties to which he now goes,) about a year since—as that was quite a snug little sum.

By publishing this letter in your valuable journal, thereby calling the attention of the two gentlemen who I am sure have been grossly deceived in the matter, you will much oblige your friend,

STEPHEN B. TAYLOR.

Is this a matter worth inquiring into? Such an act in aid of the rebels in arms would send any one, except a Treasury agent, to Fort La Fayette.

Sir, if the friends of the Secretary of the Treasury had not felt that these facts could be proven, they would not have voted against investigation, but would on the contrary have invited it. The friends of the Secretary of the Navy when assailed by the friends of Mr. Chase have invited scrutiny and have not asked that those gentlemen who desired to investigate his proceedings or the affairs of his Department should be kept off the committee of investigation. The cotton-spinner, (Assistant Secretary Fox,) to whom the gentleman from Ma-

38TH CONG... 1ST SESS.

Freedmen's Affairs—Mr. Knapp.

HO. OF REPS.

ryland [Mr. Davis] alludes so contemptuously, (forgetting for the moment that he is now attempting to patronize that most meritorious class of New England men,) has brought with him from his northern home the same sturdy honesty that distinguishes the men with whom he labored, as well as the honor of the Navy, which has never been tarnished and in which he gained his first distinction. He and the Secretary of the Navy will not permit their friends to shield them by voting against resolutions of inquiry or investigation, and are ready to commit the inquiry to those who make the accusations.

My colleague [Mr. Blow] was very apprehensive lest I should be put on the committee which I had moved, and gives that as a reason for voting against the scrutiny. I do not think the action of the Speaker in that regard need strike him with any great tremor. There has been no disposition on the part of the Speaker to place me upon committees when he could avoid it. I came here somewhat late, having "lingered in the field," as my colleague says reprovingly, until active operations were over, and stood upon no committee. Soon afterwards a committee was created on the conduct of the war, and to examine into fraudulent contracts in the War Department. There was immediately "a double shuffle" of the cards in the face of the House. One of my colleagues [Mr. Loan] resigned his place on the Military Committee, and was placed on the new committee, and I was put into his old shoes. It would seem, therefore, that the Speaker is not anxious to place me where I could pry into these delicate matters. I cannot perceive the propriety of the gentleman's doubts as to the Speaker's entire impartiality. He has already declared in a public card that he is not for Lincoln for the next Presidency, and even goes so far as to say that he is for none of the prominent candidates named for that high place. No man could possibly occupy a more impartial attitude. [Laughter.]

No one can have failed to observe the broad distinction between the conduct of the friends of the Secretary of the Navy and that of the friends of the Secretary of the Treasury upon matters of this kind. The Secretary of the Navy has invited scrutiny into the affairs of his Department, and those who have made accusations and moved resolutions of inquiry have become the conductors of the scrutiny without complaint or resistance on the part of his friends. This is proper and parliamentary; any other course would stifle investigation and be unfair to those who make the accusations. The law of parliamentary proceedings says that "the child is not to be put to a nurse that cares not for it"—an investigation is not to be committed to those who oppose it. "It is therefore a constant rule," says the Manual, "that no man is to be employed in any matter who has declared himself against it." "And when any member who is against the bill (or inquiry) hears himself named of its committee, he ought to ask to be excused." (Barclay's Digest, p. 84.) If the scrutiny is intrusted to those who are opposed to it, of course nothing will be found; nor is it fair to him who alleges, upon his responsibility as a member, that there is ground for investigation, to deny him the opportunity of establishing it. What I ask in this matter is that the friends of the Secretary of the Treasury will concede what is demanded by parliamentary law, and then I will stand or fall by the result. I am without the power, position, or ability of the distinguished Secretary, but my reputation is as dear to me as his can be to him or his friends. I have made the allegations, and I have offered to put them to the test. His friends have refused it, and in doing so have stabbed their friend. I have taken this course because time and again remonstrances have been made against the nefarious system which inflicts so much injury upon my constituents and the whole West; the Secretary has treated these representations with contempt; and his advocates, when hard pressed, have sought to shift the burden upon the shoulders of the President and General Grant. Not content with using this vast patronage to undermine the man who gave him his position, he seeks to cast the odium of his own corrupt acts upon him whose confidence he has thus betrayed.

What right under the law had he to impose its restrictions within the State of Missouri? The law was enacted to regulate trade and intercourse between loyal States and States in insurrection. Does it allow restrictions within the State of Ohio? Has Missouri ever been declared in insurrection? Missouri has always had a loyal government, recognized by every department of the Federal Government; and although her territory has been invaded by the enemy, yet for a year past no force as formidable as that with which John Morgan invaded Indiana and Ohio has trodden upon her soil, or remained there as long or fared better during their sojourn. Why, then, keep these restrictions in Missouri, and not in Ohio and Indiana? Until within the last month a man living in Missouri, twenty miles from St. Louis, could not get a barrel of salt or flour from that city without paying for a permit. I am told that a judge of our supreme court living in the adjoining county of St. Charles, paid for a permit in St. Louis to take a picture of General Washington to his home as a Christmas present to his children. This thing has been continued to within the last twenty days; and for the last six months no organized force of the enemy has penetrated north of the Arkansas river. It was at last discontinued on the petition of my distinguished radical colleagues, and blazoned as a triumph of their influence. The Secretary could not have been hurried any by my resolution, for he felt himself safe here in the hands of his friends. It was brought to me to sign. I signed, not that petition, but a statement "that in my opinion there had been no excuse for this thing for the last six months," but for fear of offending the august Secretary my protest and signature were erased. My colleague taunts me with my zeal for my "trading friends." I have none who would "trade" off the rights intrusted to their defense for the smiles of a man in power.

The permit system has finally been abandoned in Missouri, but the agents and officials who formerly spread this network over our desolated State and pinched its ruined inhabitants, still remain. These dependents on the Secretary, these agents and missionaries of his presidential aspirations, are still extant and receive their salaries. Some of them, I suppose, employ themselves in disseminating that "strictly private" circular which came to life the other day, which informs us that the friends of Mr. Chase, who have so feelingly denounced all open efforts to bring forward a candidate for the Presidency, have been secretly forming an organization in his favor all over the country, and which charges the Administration of Mr. Lincoln with "corruption." None know better than the friends of Mr. Chase at whose door that corruption lies, as their efforts to stifle investigation here so plainly prove.

It is a matter of surprise that a man having the instincts of a gentleman would remain in the Cabinet after the disclosure of such an intrigue against the one to whom he owes his portfolio.

I presume the President is well content that he should stay; for every hour that he remains sinks him deeper in the contempt of every honorable mind.

Mr. Chairman, I give notice that on Monday next, or as soon thereafter as I am permitted to do so, I will reintroduce the resolution which I have already had the honor to propose to the House, and if not again refused by the friends of the Secretary, I will either establish the facts I have alleged, or I will make the amplest reparation in my power to the distinguished gentleman at the head of the Treasury.

FREEDMEN'S AFFAIRS.

SPEECH OF HON. A. L. KNAPP,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

March 1, 1864.

The House having resumed the consideration of the bill to establish a Bureau of Freedmen's Affairs—

Mr. KNAPP said:

Mr. SPEAKER: After the lengthened discussion already had upon this bill, I feel somewhat reluctant to detain the House from voting upon it, es-

pecially as I do not suppose that any argument can be made which will in any respect change the views of those constituting the majority upon this floor; but having, while serving upon the committee by whom this bill was reported, had occasion to examine into the merits of the proposed measure, and to some extent given it consideration, I feel it incumbent upon me to state my objections to the bill.

The measure, in my judgment, proposes such extensive and important changes in the whole social economy of so large a portion of the laboring population of a part of the United States as to call for careful scrutiny at our hands before we commit the Government to an undertaking so vast as I regard this to be.

It is apparent, I presume, to the mind of every gentleman who has examined this bill, as was remarked by my friend from New York, [Mr. Brooks,] who discussed this measure ten or twelve days ago, that perhaps nothing has been presented to the American Congress which surpasses this in the magnitude of the interest involved in it. I think that gentleman stated that the territory over which this bill proposes to operate contained an area not less than that of the original thirteen States which formed the present Government of the United States.

In order that we may comprehend what I consider to be the fair extent and scope of this measure, and the number of persons to be affected by the proposed legislation, let us look at it with reference to the intentions entertained by the dominant party upon this floor in regard to the rebellion and its suppression. I do not misstate their views when I say that in the efforts now being made for suppressing this rebellion they profess to intend nothing less than the entire overthrow of the military power now arrayed against the Government of the United States wherever it is manifested, and to reduce to the authority of the Federal Government every portion of the territory which ever belonged to and formed part of the United States.

This much I feel warranted in stating to be their assumed position and which probably will not be denied by any one.

I take it, also, I am not misrepresenting their position when I state that under the various acts of Congress already passed, and under the proclamations of the President of the United States, which latter, in their judgment, have all the force and effect of law, they intend to emancipate every slave now within the States in insurrection and formally attached to this rebellion. Efforts have already been put forward by the President, in the exercise of what they assert to be the appropriate war power of that officer, by which "the chains of slavery" have been stricken off the limbs of every slave in those States whose fortunes have made them a portion of what is called the confederate States. Thus much they insist to have been already accomplished.

I do not believe that I misrepresent them when I further say they intend by future legislation the entire emancipation of all the slaves which are held in those States which have never been recognized as forming part of the confederate States and heretofore exempted in the proclamations of the President.

If I am correct in this proposition, what then is the field over which this bill is destined to operate? It is to operate over each and every one of those States which have heretofore by their laws legalized and sustained the institution of slavery. Every person who is to be affected by this bill was at one time a slave. It is only thus by stating and examining what their own propositions and intentions are that we can fully or at all comprehend the measure and extent of the subjects proposed in this bill. Certainly, sir, in the language of the gentleman from New York, [Mr. KALE-FLEISCH,] they are vast enough, vast enough so far as territory is concerned, numerous enough so far as the individuals who are to be the recipients of the benefits of this legislation are concerned, to make us pause and fairly estimate and carefully weigh the reasons adduced by the friends of this measure before entering upon so gigantic a system of governmental espionage and patronage. Never, since the days when the children of Israel toiled in the brick-yards of Egypt under

the task-masters of Pharaoh, has there been such a system submitted to any Government making the least claim to constitutional liberty as is contained in the bill now before the House. I know that Governments, under the lead of ambitious statesmen, under the lead of despots and emperors, have overrun vast sections of country, have brought under subjection millions of unwilling subjects, but never before, sir, in all the history of conquests, among all the triumphs of military power, has a Government sought so nearly and so closely to interweave its own action with the every-day social life of the people over whom they have extended their sway.

Then, sir, let us consider what are the special propositions of this bill. I propose in the outset to confine my remarks to the bill itself and to examine it in its details; and while I cannot expect to produce any effect by the few scattering arguments I may adduce, yet I will discharge my duty as one of the Representatives of the people in calling their attention to the magnitude of this system of vassalage that is proposed in the measure now under discussion. The bill proposes, in the first place, the creation of a bureau under the control of one man, styled a Commissioner, to whom, under the direction of the Secretary of War, shall be referred all questions arising under this act concerning persons of African descent and persons who are or shall become free by virtue of any law or order enacted or issued or promulgated in this rebellion, or by virtue of any act of emancipation for the freedom of such persons held to service or labor in such States, or who otherwise shall be entitled to their freedom. In pursuance of that power conferred in the first section of the bill, and to secure efficiency, he is also authorized to make all needful rules and regulations for the general superintendence, direction, and management of the persons thus committed to his care.

I stated at the outset that I conceived this bill legitimately to apply to all the territory comprised in the slave States heretofore in this Union. I suppose that its intent and design is to operate upon every person who, by virtue of any law of those States, has been "held to service or labor," using the words of the Constitution.

Now, sir, this bill also proposes to invest in one person the authority to make all needful rules and regulations for the general superintendence, direction, and management of these persons. Bear in mind that they are free. I am treating them to-day as free, for that is your theory and intent. What else? This Commissioner, under the same direction of the Secretary of War, is to enact and cause to be enforced all needful rules and regulations for "the economical and judicious treatment and disposition of all such persons, freemen as they are, to the end that they and the Government of the United States shall be mutually protected, and their respective rights and interests duly determined and maintained."

In order to systematize the vast field of labor opened by this bill, the appointment of subordinate officers becomes necessary, and is provided for. They are called superintendents and clerks. A superintendent may be appointed in any district, to be laid off by the Commissioner, not comprising less, however, than what was once a State. The Commissioner has power to appoint within that subdivision all necessary resident superintendents and clerks, who shall be paid for their services such compensation as the Commissioner may determine, under the directions of the Secretary of War, to be reasonable.

As a matter of course, a system so vast as this cannot be successfully put in operation by one man in Washington. It is necessary, from the extent of the field and the number of persons over whom the system is to operate, to have a large number of agents stationed within the immediate field of operations, under whose supervision and control come all those varied subjects. What power shall they have? They shall have power "to permit persons of African descent and persons who are or shall have become free as aforesaid, under such rules and regulations as may be from time to time prescribed by said Commissioner and approved by the Secretary of War, to occupy, cultivate, and improve all lands lying within those districts now or heretofore in rebellion, which lands may have been, or may here-

after be, abandoned by their former owners, and all real estate to which the United States shall have acquired title, and which shall not have been previously appropriated by the Government to other uses."

We now see the plan as it has been dimly shadowed forth in the leading features of this bill. In the first place, the general care, management, and disposition of four million people in the southern States is committed to this bureau. These people, as I have stated, are all to be made free. Perhaps I am not justified in saying that they are to be made equals as yet; but it strikes me that I would not be considered as uttering anything very heterodox if I stated that is part and parcel of this attempted legislation. That question, however, does not come up legitimately in what I propose to say now.

These resident superintendents and clerks are to assign to these people the various lands abandoned by their owners, and to which the United States may have acquired title. When my distinguished colleague, the chairman of the committee, was making his elaborate speech here a few weeks ago, he stated, in answer to a question asked by the gentleman from Kentucky, [Mr. CLAY,] that Kentucky was in nowise interested in this bill. In his own words, Kentucky was not "in this ring." I asked him then whether lands that had belonged to traitors in the State of Kentucky were not made subject to the operation of the bill? To that question I obtained no answer. But the gentleman, seeing the point himself, has since attempted to amend the bill by providing that it shall only apply to the States in rebellion.

I have thus stated briefly, Mr. Speaker, the main objects of the bill and its method of operation, with one single exception, to which I now propose to refer. Other powers are conferred to the Commissioner of Freedmen's Affairs. He shall have power "to advise and aid them—that is, these freedmen—when needful, to organize and direct their labor, adjust with them their wages and receive all returns arising therefrom, which shall be duly accounted for to the Commissioner of Freedmen's Affairs," and all balances shall be paid into the Treasury of the United States after defraying the expenses and charges of the bureau. I am very glad that provision is made after defraying the expenses which legitimately arise that the balances are to be paid into the Treasury. I have no doubt but from that source, if this bill goes into effect, we shall have a magnificent sinking fund provided, by which ourselves and our posterity, for whom we are supposed to have some interest, may be relieved from the enormous charges incident to the prosecution of the war. I have no doubt that the thousand millions of debt already incurred, and which perhaps I may not be over sanguine in anticipating will be in future incurred, will be defrayed out of the profits accruing from this vast system of Government patronage and vassalage, and the tax-payers of the land relieved, to that extent at least, of the enormous load which is to be placed upon their shoulders. How it is going to agree with the gentleman's philanthropy I do not exactly see. He will doubtless explain it, because he is a learned and ingenious, as well as philanthropic, man.

He tells you that these people are entitled to the proceeds of their labor; that the great crying sin of this country has been that for years you have been grinding these men down in the dust, while hundreds and thousands of others have been flaunting in aristocratic pride from one length of the land to the other; that they have been living in all the magnificence and splendor that wealth can procure, and all drawn from the unrequited toil of these oppressed millions. The Government is now, however, to have the profits arising from this toil; and it is, I am glad to learn, to go for the purpose of alleviating the immense charges which the loyal people of this country will be under in the prosecution of this war to suppress this "unholy rebellion." I trust that the philanthropy of this undertaking can be made to hitch somehow with the profits of the scheme. I never knew or heard of a case when the profits were on the side of philanthropy that the two could not be got to work very amicably together.

True, it might appear that these people (the gentleman's premises being admitted) would be

entitled to all the proceeds of their labor, but such old-fashioned ideas of justice I presume are obsolete; and under the new light now beaming upon the country we may safely take all they can make over their support, and yet maintain our character as philanthropists of the first water.

Mr. Speaker, let us now inquire what are the reasons which induce this action on the part of the Government. Before entering upon so stupendous a system, I may be pardoned for asking why this supervision on the part of the Government over four million people is undertaken at all. I am occupying your ground, and you will not hold me to a strict accountability if I call these persons citizens in embryo. I am now speaking from your stand-point.

What are the reasons? They are given by my eloquent friend from Massachusetts [Mr. ELIOT] in his elaborate speech. He says that the Government has emancipated these negroes; that the President, under the operation of his war power, has stricken from the limbs of four million people the shackles of slavery, and that having done so it becomes our duty to do something for them. He says, suppose it to be wrong, suppose the emancipation proclamation of the President not to be in conformity with the principles of justice, and not warranted by the Constitution, that, nevertheless, it is done, and that it is for us to take care of these poor men. He says that they must be taken care of, with or without law; that they must not be permitted to starve. There is the reason; and you may examine the whole of the speech of the gentleman from Massachusetts, [Mr. ELIOT,] occupying more than an hour in its delivery, an elaborate and forcible speech, and you can find no reason given in addition to that one.

Planting himself upon the broad principle of philanthropy, humanity, and human rights, he lays down the proposition that because the Government, in the exercise of a doubtful power, has freed these slaves, therefore until they can support themselves it is bound itself to do it. This is the reason. It is the sum and substance of every argument in the speech of the gentleman. I am aware, Mr. Speaker, that a great deal can be and has been said in all and every age about philanthropy, about humanity; it is an illimitable subject for declamation, and has been in every clime and every age; and while I am not, I think, wholly insensible to the beauties which this subject affords, I must confess that some other reason will have to be given before I can consistently with my duty to my constituents give a measure like this my support, which rests upon reasons addressed to my feelings alone. The power must first be shown to exist, then the justice of it considered with reference to the claims of the citizen generally upon us.

The gentleman in effect asks that the Government shall become the great patron, the great landlord, the great lord of all of these people; that they are to become the vassals of the Government. It is said that names do not change things. I believe that Shakespeare said something about that, which I endorse. I have read of several somewhat similar relations between individuals and Governments, and there is little difference but in name between them and this scheme. In the Roman republic a similar relation to some extent to that proposed in this bill existed; it was then called that of patron and client. It was the duty of the patron there to look after the interest of his client, and protect him from the exercise of unwarranted power, while in his own intercourse with the client it was not altogether certain that the strictest principles of right would always obtain. Coming down to later ages we find a similar system very generally in vogue throughout Europe, which is known in history as the feudal system. This relation between individuals was then termed that of "lord and vassal," with rights and duties which are familiar to gentlemen, and need not be recapitulated.

The relation established by the bill, similar to those I have referred to, that of dependence on the one part and control by the other, is to be henceforth denominated by the name of one of the nearest and dearest relations known among men, that of parent and child. These people, in the language of the gentleman, are "the children of the

38TH CONG....1ST SESS.

Freedmen's Affairs—Mr. Knapp.

HO. OF REPS.

Government." I think, notwithstanding the attractive name given by the gentleman to this system, it will not be difficult to perceive what will be the real situation occupied by these freedmen to the Government; that no one will be deceived by the name of the parental relation sought to be attached to it.

In preparing this bill it seems to me that the gentleman has drawn from his thorough and extensive knowledge of the old feudal system I have referred to, which prevailed in England and throughout Europe generally many centuries ago, and upon which we supposed eight hundred years had made some improvement. The merest casual examination will show the similitude between the old, exploded system and the one contained in this bill. In the first case, upon the conquering of a nation and occupying its territory, the lands of the subjugated people were granted to and subdivided among the victorious soldiers, to be held as fiefs upon certain tenures and services to be performed by the vassal. Each petty chieftain then pursued the same course with his share, by dividing it among his own personal retainers.

Such seems to be the principle upon which this bill is based. The services these vassals are to render do not so clearly appear, but the "rules and regulations" can easily remedy this deficiency; and if, as I suppose to be the fact, these people are to be made citizens, it will not be difficult to imagine what these services will be.

I suggest to the gentleman that in the olden time, before the rights and duties of the parties were fully established, a ceremony took place called investiture, which I do not see provided for in the bill, but doubtless the "rules" will arrange that. I hope if this bill is passed and it becomes a law some such gentleman as my friend from Massachusetts [Mr. ELLIOT] may be appointed a commissioner, and will see that all these people go through with this ceremony of investiture, a description of which I will read from Blackstone:

"Besides an oath of fealty or profession of faith to the lord, which was the parent of our oath of allegiance, the vassal or tenant, upon investiture, did usually *homage* to his lord; openly and humbly kneeling, being ungirt, uncovered, and holding up his hands, both together, between those of the lord, who sat before him; and there professing that he did become his *man*, from that day forth, of life and limb and earthly honor; and then he received a kiss from his lord."

I trust some gentleman like my colleague upon this committee who is familiar with the whole operation of this system, whose philanthropic scruples and high Christian sentiments will not in the least prevent him from bestowing upon these people this sweet and touching token of the reception of their allegiance, may be appointed, and that when the lands are allotted, when these "freed children of oppression" shall be assigned the places intended for them, that he then may receive at their hands the pledge of their faithfulness, and in return signify in the manner of the olden time his acceptance of the fealty.

It would be a scene some gentlemen around me say they would like to look upon; doubtless they would, and they well may be pardoned for the desire, for it would be one not often afforded to the enraptured vision in these degenerate and practical days.

There have been great events in the past handed down to us in the sculptured marble and upon the speaking canvas, which touch our hearts and appeal to all the loftier and holier feelings of our fallen nature. We never look upon the representations without emotion, or turn from them without regret.

May I be pardoned, Mr. Speaker, if I attempt to dimly shadow forth the leading features of this lovely scene as it presents itself to my mind's eye, in order that some coming Rubens or Raphael, possibly of African descent, may seize the magic brush and transfer to the living, glowing canvas a faint delineation of a ceremony resurrected from the past, by men whose name and deeds were never born to die.

First, of course, in point of importance, the central figure of the picture, we see the dapper form of the gentleman from Massachusetts, seated in awful majesty, a calm, placid smile breaking brightly over his fine countenance; over his head the luxuriant palm and beautiful magnolia spread their graceful foliage, tempering the fierce light

of the "garish sun" and creating a shade which finely assimilates with the more dusky colors of the remaining actors and harmonizes sweetly with the whole. Then comes the long-drawn ranks of eager vassals crowding to the mercy-seat, all swelling the magnificent chorus, until the vaulted arch above gives back the joyful strain—

"The day of jubilee has come,
Glory Hallelujahum."

Next in the prominent foreground we perceive "one of the children" whose efforts have been rewarded by attaining to the dread presence, and now, ungirt, uncovered, and humbly kneeling, his hands clasped between the fraternal palms of my friend, he acknowledges himself *his man* of life and limb and earthly honor. With rare appreciation and delicate tact, the artist has chosen the moment when the "*homagium*" on the part of the vassal has been performed, and, bending low, the representative of the parent bestows the kiss which seals the compact. Close by, and with anxiety depicted in every lineament of their classic countenances, will be noticed many a shy maiden, radiant in her dusky loveliness, and inwardly cursing the sex which thus debars her from enjoying then the ecstatic treat. Perfect bliss seems to be the portion of all, ("except as aforesaid,") and, amid such delights as I have feebly portrayed, the now jubilant disinherited no longer sigh for the times

"When toiling at the line,"

they

"Boast their golden sand and palmy wine."

But, Mr. Speaker, I can no longer dwell upon an ideal scene, which I trust will be perpetuated by the hand of genius, so that coming millions may gaze with rapture upon the affecting sight, and who, overpowered with emotion, will alternately admire the skill of the artist and the felicitous choice he has made of a subject.

But, seriously, I propose to inquire now into some of the objections to this bill. In the first place, I ask my friend when is this system to end? In what distant period of future time is this system of vassalage upon the one part and of lordship on the other to terminate? Instituted to take care of the negro, I suppose the fair inference will be that it is to terminate when the negro is able to take care of himself. I state the proposition fairly, and I would like to inquire when that will be? It is not given to human intellect to perceive, it is not within the province of human knowledge to decide, when this thing is to cease. We are taught, and I believe the doctrine is sound, that all things earthly will have an end; it is said that the "firmament's length will one day be drawn back like a scroll." We may, then, at least safely conclude that when this grand finale comes this system will not survive the general consummation. I ask the gentleman from Massachusetts, why should the Government do this at all? It is a pertinent question. Why should the Government undertake this vast job? Whence comes the power to do this?

I design calling the attention of the House to the argument of the gentleman from Massachusetts upon this point. I presume that no gentleman here will deny the fact that the Congress of the United States is a body of limited and delegated powers, and unless within some of those delegated powers in the Constitution you find authority or warrant for the exercise of this particular power, you cannot exercise it at all. The gentleman thus states our right to pass this measure:

1. By the Constitution the President is made Commander-in-Chief of the Army and Navy of the United States; that therefore in time of war all the powers which pertain to any such commander are possessed by him; that this rebellion having called into being these powers, among which is that of liberating slaves, and this power having been exercised by the President, there follows with the exercise of the power the duty of protection to those over whom it has been thus exercised, and such protection cannot be given without the action of Congress.

2. Congress has power to declare war and to make rules concerning captures on land; that this people as captives of war become proper subjects of legislation.

3. Congress has power to make rules for the government and regulations of the land and naval

forces; that legislation has become necessary and laws have been passed to regulate the conduct of the Army regarding slaves; that these laws will be imperfect unless further legislation is had, and hence the necessity for this measure.

4. The President, as Commander-in-Chief, has a right to issue all proclamations recognized by the laws of war as being within the province of military commanders, addressed to the public enemy; that the faith of the nation is pledged to make good all such proclamations, and therefore, to carry into effect the proclamation made in reference to these people, this legislation is required.

This is a fair statement of the argument of the gentleman as to whence we derive our power to fasten upon the country this stupendous system.

I will examine it in detail in a moment; but before doing so I want to say a word in reference to what fell from the gentleman in commenting upon the report of the minority of the committee, and what was said in that report concerning the want of power to pass this bill.

The argument of the gentleman from New York, [Mr. KALBFLEISCH,] whose report I signed, the gentleman says is a very insignificant constitutional argument. I did not think myself that it was a very elaborate one. I do not myself propose to occupy the time of the House to-day by attempting to make such an one. Why? Because I do not conceive it to be within the power of mortal man to make an argument on the Constitution of the United States when the subject of it runs counter to the wishes, intentions, and designs of the party upon the opposite side of the House, which would, in the least, affect their action. Even if an interpretation of that instrument could be delivered to this nation to-day of as high a character and among solemnities equal to those by which the original law was delivered from Mount Sinai to the chosen leaders of the Israelites, I doubt whether such an interpretation would affect the action of men who are determined upon a particular line of policy. It has been reserved for this Congress to hear a member from Massachusetts [Mr. BOWWELL,] describe Judge Story as nothing but "a second-rate lawyer." He said this of a gentleman whom, I had supposed, stood at the head of the American bar; a gentleman whose legal opinions are quoted in Westminster Hall with approbation; one whose decisions and ideas on constitutional law will, I presume, live quite as long as those of the gentleman by whom that statement was uttered. I do not know but what Mr. Madison may have been esteemed as a constitutional authority in his day. I certainly, with my limited knowledge of what he wrote and what he was, suppose that he, to some extent, understood the intent, design, and scope of that instrument, in whose formation he took so prominent a part. I heard the other day, in an argument in relation to the confiscation of property, his name, not precisely brought into disrepute, but I certainly heard his views very cavalierly treated—treated with contempt as coming from a man who was not qualified either by intellect or knowledge to judge of the subject. What light, then, can one of the humblest members of this House expect to throw upon this question, when the recorded opinions of the great minds whose lives adorn the page of American history, whose master intellects have illumined the paths they trod, are regarded as of insignificant authority by the intellectual giants upon this floor, whose luminous disquisitions have doubtless often excited the wonder and admiration of a court of country justices of the peace; even when the language used will admit of no doubt, and construction cannot be at fault, then comes in some gentleman, like my philological friend from Indiana, [Mr. ORTH,] and shows that the language used is a clear mistake, and intended to be something else.

I propose, therefore, to examine merely the argument which my friend makes without submitting any myself. In regard to this war power of the President, I admit that the Constitution makes him Commander-in-Chief of the Army and Navy of the United States. The powers which thus devolve on him as such Commander-in-Chief are in no wise conferred upon him by the Constitution of the United States. They result to him from the fact of the position which the Constitution confers

38TH CONG....1ST SESS.

Freedmen's Affairs—Mr. Knapp.

HO. OF REPS.

and from no powers emanating from the Constitution itself. The Constitution, then, makes him Commander-in-Chief. What are the powers he has from that fact? They are those which the laws of war, as sanctioned and provided by nations, confer upon every commander-in-chief of an army in the field. But to say that in the exercise of those powers he may emancipate slaves is to run counter to all history. Under the lead of a distinguished Massachusetts statesman years ago, (Mr. Adams,) this Government made the Government of Great Britain pay for the exercise of just such powers as these by its general in command in the State of Virginia during the last war. But suppose the President, in the exercise of a rightful power as Commander-in-Chief to emancipate slaves, has exercised that power, then does it follow that the nation should take upon itself the charge of supporting the persons thus made free? The gentleman upon this point says: "It then becomes our duty to see that they are protected." Protected from what? It might be to protect them from being again enslaved; but it certainly does not then follow that we are to inaugurate a system which seeks to control and direct their every-day action, to receive the proceeds of their labor, and out of it defray the charge of their support and supervision.

The chairman of the committee traces this power again to that clause of the Constitution which confers on Congress power to declare war and to make rules and regulations concerning captures on land. Why, sir, that has no relevancy whatever to the question of providing for the support and maintenance of four million human beings. So forced a construction of so plain a thing was never, in my judgment, attempted before. During the Mexican war the army under General Scott captured the city of Mexico. That involved the surrender to the occupying army not only of the city, but the persons of the citizens, but did the Government of the United States become thereby responsible for the maintenance and support of the citizens of Mexico? Does any Government ever become responsible, on the occupation of a country or on the capture of a city, for the support of every person within its boundaries, or the direction of their every-day labor? Nothing is clearer than that no such power results from any such operations having taken place.

Again, the gentleman deduces this power from the clause of the Constitution which says that Congress shall have power to make rules and regulations for the government of the land and naval forces of the United States. Congress has such power, and has enacted rules and regulations called the Articles of War. When that is done, when the rules and articles of war are adopted, that power is exhausted. If, in the judgment of Congress, that power has not been wisely exercised, Congress has authority to re-examine it. It has power to reenact other and different rules for the government of the land and naval forces. But to deduce from that the power to establish this system of vassalage on the one hand and of patronage on the other, is something which could never have entered the brain of any reasonable man. My friend from Massachusetts can produce no book, unless he wrote the book himself, in which such an authority is laid down.

The President as Commander-in-Chief has the power, says the gentleman, to issue all proclamations that he deems necessary. I suppose he has, and I doubt whether such a power was ever exercised more thoroughly than it has been by the present President of the United States. But suppose the President has the power to issue proclamations addressed to the public enemy, what then? Then, says the gentleman, the nation is pledged to carry into effect these proclamations. The President declares that these people are free. Therefore the burden is cast upon us of supervising the labor, caring for, and supporting these people in all time to come. I submit respectfully to the judgment of the House and of my friend from Massachusetts that human ingenuity can no further go than the deducing of such power from such premises or such expressions in the Constitution. That is the sum and substance of the constitutional argument on the question as presented by the chairman of the committee. Seeing himself the weakness of the foundation upon which

he has raised such a superstructure, the gentleman enunciates boldly his determination to do this whether the power exists or not. What does he say after concluding his constitutional argument and perceiving, as he must, its utter worthlessness? I quote his words:

"But if all proclamations were wrong and all laws were without constitutional support which have sought to liberate the slaves of enemies, still the rebellion itself has freed them, and they are subjects of our charge. We must protect them or be faithless in our office."

No comments of mine can show more clearly than the above statement does the entire want of power to pass this bill. In another part of his speech, not being able to drive from his mind the conviction that this question of our want of authority to enact such laws will be a serious impediment in the way of his measure, he says:

"Sir, we had no right to decree freedom and not guarantee safe guidance and protection. It does not meet the case to say we had no right to free them, and therefore we will not act."

A few sentences further on he resumes thus:

"Concede it was wrong, what then? Shall the Government support them? They must do so in some way, with law or without law."

He admits the difficulty of the attempt, but insists nevertheless upon our undertaking a task so fraught with difficulties and for which our sole warrant springs from the claim of charity.

If there is any duty on the part of the Government to support these persons who have been rendered destitute by the operation of this war, I ask why not support all the bruised and maimed men, the thousands and tens of thousands of widows, and the still larger number of orphans left without the protection of a father? If any objects which appeal to the charity of the Government are presented, I ask why not present the claims of these persons! Why not support the widows and orphans which this war has made? Why not support the offspring of those brave men who have laid down their lives in defense of what you call free institutions? If this bill is to be put upon the ground of charity, I ask that charity shall begin at home and first be extended to those who have made such sacrifices at the call of the country and its authorities. I hope I am not insensible to the claims which present themselves under this attractive garb, and when they are sought to be made the basis of legislation, turning this Government into a vast eleemosynary institution, I shall claim my right to decide who shall become the recipients of so magnificent a provision, and with every sympathy of my nature in favor of those of my own race. If you take the negro for a soldier and enroll him in the armies of the Republic, then treat him as you do other soldiers; pay him what you agree to, and out of his pay let him provide for the wants of his family. That is all you can do. It is impossible for the Government to make good to every one all the losses which may be sustained by reason of this war. I concede that. You have to act in this matter upon broad, general principles, seeking to do the same equal and exact justice to all. When you have paid the soldier a fair sum for his services, agreed upon between you, and provided for his wants as far as you are able by pensions, you have done all you can do. If you insist upon using the negro as a soldier, do for him if you please the same as you do for any other soldier, but why make such special and extraordinary provision for him and his family, when you even attempt nothing like it for the men of your own race who have periled life and limb in your defense? No one will question the humanity of the Government when we place these negroes upon the same footing with white soldiers for the same service.

Now, let us inquire why the Government should not do this thing. That is as important as why they should. My first objection is that it interferes with the exclusive rights of the States themselves over their own people. In the first place, you employ a host of officers unlimited in number by the terms of the bill. You increase the number of officers coming directly in collision with the authorities of the several States. It creates in all such States a number of Federal officers whose duties and powers affect the person of the inhabitant or citizen, if I may use the term, of the State. By this bill you operate directly upon that citizen,

upon his every action. You control his wages and his labor, and in the meanest manner you seek to guide and direct his actions as a special protégé or ward of the Federal Government. If there is any power clearly and exclusively within the province of the several States, it is that to control and direct the social relations of their inhabitants. If the people of any State should be so unfortunate as to suffer from pestilence, famine, or the many calamities which have been visited upon the human race in all ages and climes, will it be pretended that the Federal Congress can take any such afflicted people under their charge and provide for their support? It is undoubtedly within the power of their State Legislature to make any provision for their relief which their ability will admit. They exercise original powers of sovereignty—we only those delegated to us.

Why depart from the recommendations of the President upon this subject? He has given this matter his attention; and in his message to us at the opening of this session thus alludes to this class of people and their necessities:

"The proposed acquiescence of the national Executive in any reasonable temporary State arrangement for the freed people is made with the view of possibly modifying the confusion and destitution which must, at best, attend all classes by a total revolution of labor throughout whole States."

And again, in reference to these same persons and their condition, in his proclamation attached to his message, he says:

"And I do further proclaim, declare, and make known that any provision which may be adopted by any such State government in relation to the freed people of such State, which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent, as a temporary arrangement, with their present condition as a laboring, landless, and homeless class, will not be objected to by the national Executive."

Nowhere in his message does he even hint that it is our duty to undertake the management of the domestic affairs of these freedmen, but in every allusion to the subject it is expressly in reference to State action, and State action alone. He simply proposes to approve any action of a State government, upon certain conditions being recognized, which looks to the employment of these people, with a view to their own benefit and to prevent the confusion and difficulties which he recognizes as inseparable from the change in their personal status.

I merely cite, Mr. Speaker, the suggestions of the President as showing the views entertained upon these questions by him, and to which he has undoubtedly given some time and attention. I do not cite them as an authority particularly binding upon any one, knowing, as I well do, that upon most of the questions connected with the negro he has been chased from the transcendent position he once occupied in the Republican synagogue.

There can be no doubt, then, I submit, that the States are the proper authority to take charge of the matters embraced in this bill, and act in the premises as their judgment may warrant. It is to them, and to them alone, belongs the right and power to determine in what manner shall be mitigated the evils arising from any system of pauperism from any cause within their limits. My friend from Massachusetts thinks differently, and says it is the duty of the Government to lead these people quietly through the wilderness into the land of promise. I recognize the scriptural allusion which the gentleman makes; but let me tell him I think the duties of this Government, as established by this bill, in leading these people into the land of promise, will be similar to those which the omnipotent Jehovah discharged to that chosen people of his whom he was leading into a similar declared land. That consisted, to a very great extent, in furnishing them with manna, and, for variety, an occasional supply of quails. The duty of this Government, by this bill, will be about the same. It is to furnish them with bread to eat and with clothing to wear, they to return to us the product of their toil for the benefit of the Government.

Another objection I have is that this bill creates a body of office-holders within the various States, to hold their appointment directly from the President of the United States. It matters not to me who occupies that exalted position; it matters not to me whether he is or is not of the political faith in which I have been raised. The objection would apply with just as much force if I subscribed to

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

every political doctrine he ever promulgated. If there is any one thing to-day which has for years threatened the perpetuity of our form of government it is the amount of Federal patronage vested in that officer. The head of any constitutionally governed country upon earth to-day has not a tithe of the patronage which is this day vested in the Executive of the United States. By this bill you propose in effect to vest in him the appointment of I know not how many officers, thus swelling to that extent the already bloated patronage of that officer. The necessities of the system alone will limit the number. I need not enlarge upon the matter; it has been alluded to a hundred times in both branches of Congress, and its evils would not be more patent were I to discuss it during the entire time allotted to me. It will also build up a system of vassalage vast and fearful. It confines the vision of these people to one single object, and that the Government of the United States. Beyond that, short of that, there is no power, there is nothing to them. These people who occupy this territory in this way will become the vassals of the Government. If we put down this rebellion and occupy this territory, they will occupy these lands as "fiefs of the sword," in the same manner and upon much the same terms that vassals did in Europe eight hundred years ago, when conquered territory was divided among the victors.

I come now to speak of the amount of expense which will be entailed on the Government by this bill. The gentleman from Massachusetts thinks it is not going to cost the Government anything, but rather that they will derive a revenue from it. I say we ought not to derive any revenue from it. These negroes, free men as you propose to make them, will be entitled to the utmost farthing their toils can produce them. But, sir, I think the gentleman himself must see that his proposed system will inevitably result in the expenditure of vast sums by the Government in carrying it into effect; that is, if he attaches any weight to the suggestions of the authorities he has read himself in support of his measure.

Says the committee, from whose letter to the President he quotes, "the Government must know even better than the people what the vastness of the question is, and it is not proper for us to ask if, Mr. President, the Government is doing or preparing to do what is necessary to meet it: to reduce the evils connected with emancipation to their lowest point and elevate its blessings to the highest; to establish a system carefully considered and adapted, and executed with energy and zeal, for the thorough and general dealing with the freedmen. It is plain to us, with our experience, that the question is *too large* for anything short of Government authority, Government resources, and Government ubiquity to deal with." They then recognize the fact and admit that the subject is so vast that no power short of Government power, no resources except of the Government, are sufficient to grapple with the details of this question, to manage it in its inception, and defray its expenses when started.

I would like to see that gentleman come down to the practical question of figures, and show this House a fair estimate of the expenses of the officers which will be required under this bill. I will submit my estimate. Perhaps my figures may not be correct, but they will afford some indication of what may be required under this bill. If this people number four million, will one resident superintendent and one clerk be too many for four hundred of them? Can one man superintend and direct the labors and energies and toil of more than four hundred persons? I submit that in the State of Illinois it would be considered a large undertaking for one man to direct the labors of four hundred upon our farms in the ordinary occupations of agricultural life. If we allow one for every four hundred, the number of superintendents will be ten thousand; if they each be allowed a clerk, that calls for just as many more employes. If you pay them at the rate of fifty dollars a month for superintendents, or \$600 a year, it will amount to \$6,000,000. Their clerks, at the moderate rate of twenty-five dollars per month, or \$300 per year, will require \$3,000,000, or, in all, a sum of \$9,000,000 for salaries alone. This does not take into account at all the num-

berless other sources of expenditure, such as stock, implements of all kinds; necessarily to be procured before their labor upon the soil can be even commenced.

It strikes me, Mr. Chairman, that the figures which I present are not extraordinary or unreasonable, when you consider the number of persons upon whom this bill is to operate. The gentleman from Pennsylvania [Mr. KELLEY] asks, what are we to do with these people? and the gentleman from Maryland, [Mr. DAVIS,] I believe, indulged in the same inquiry. My answer is, Go ahead, subdue the rebellion, and reinstate the authority of the Government over every portion of our soil. These people are there. Emancipate them, if you see fit to do it, and if you have the power to do it. I am making no objection to that now. Go ahead, and carry out your designs. The land is there, and the people are there. Let them work. I have never yet read in history of a nation where there was a demand for labor and a supply on hand that an accommodation was not instantly effected. If a demand for labor exists, leave the matter to the operation of the laws of trade; leave it to the great rule which obtains in every civilized country on earth, the rule that prescribes that every man having an article to dispose of, and a demand existing for that article, will find opportunities enough to dispose of it to his own satisfaction and advantage. This people are not to be destroyed; this land is not to be annihilated; both will exist, I presume, in some shape when this war shall have ceased. When that happy time shall come—which God grant may not be far distant—I see no reason to doubt but employment will be open to these people where they have always lived, and that under some regulations, mutually advantageous, the now desolate earth will again yield her increase, and the prosperity of the future conceal the ravages of the present.

I have only one other remark or thought to suggest, for my time has nearly expired. I desire to say that I dissent from this measure on the theoretical points which have been advanced in its support. Here are four million people within the limits of our territory. They are of a different race and nationality, possessing different tastes and feelings. If they are to be made free and elevated to the condition of freemen, I have then only this to say, that if in the strife and toils of life they possess within themselves the capacities claimed for them by gentlemen upon this floor, if they possess the ability to show that they are men in every sense of the word, it will be within their power to obtain for themselves a name and place upon the earth. If, on the contrary, they do not possess the inherent capacity to sustain themselves in this battle of life with no other support than the laws afford to all; if they cannot, without special provision be made for them, resist the encroachments or aggressions, if it please you so to term it, of the white men by whom they will be surrounded, then, sir, history teaches us their fate. Your legislation will not, cannot protect them from what has invariably been the fate of a weak race when brought in contact with a strong and vigorous one. They must either submit to the position to which their inferiority will consign them, to become the "hewers of wood and drawers of water," and, choosing to dwell in the land because it is pleasant, they must bow their shoulders to bear and become a servant unto tribute; or else they must pass away before the relentless and onward march of the dominant race. The history of that race, our race, Mr. Speaker, teaches us that its course cannot be stayed, the natural obstacles of the physical earth vanish at its approach, and from before it inferior races pass away.

The numerous tribes that once roamed in their wild and savage freedom over these broad lands are obeying the decrees of this inexorable law, and the time is not far distant when, their hunting-grounds occupied by their harder competitor, their council-fires extinguished, all that will be left to attest they ever had an existence will be the record of their vices and their virtues, which coming ages may look upon more as the creation of the idealist than the accurate history of a race.

With us is fulfilled in part the ancient promise: in our development have the boundaries of Japheth been enlarged, and in this land to-day does he dwell in the tents of Shem.

Military Interference with Elections.**SPEECH OF HON. L. W. POWELL,
OF KENTUCKY,**

IN THE SENATE OF THE UNITED STATES,
March 3 and 4, 1864.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States.

The bill was read by the Secretary. The first section provides that it shall not be lawful for any military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men within one mile of the place where any general or special election is held in any State of the United States of America, and that it shall not be lawful for any officer of the Army or Navy of the United States to prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State or in any manner to interfere with the freedom of any election, or with the exercise of the free right of suffrage in any State. Any officer of the Army or Navy, or other person engaged in the civil, military, or naval service of the United States who violates this section is for every such offense to be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction to pay a fine of not less than \$200, and not exceeding \$20,000, and suffer imprisonment in the penitentiary not less than two nor more than twenty years, at the discretion of the court; and any person so convicted is moreover to be disqualified from holding any office of honor, profit, or trust, under the Government of the United States. The bill is not, however, to be so construed as to prevent any officer, soldier, sailor, or marine, from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he shall offer to vote.

By the second section any officer or person in the military or naval service of the United States, who shall order or advise, or who shall directly or indirectly, by force, threat, menace, intimidation or otherwise, prevent or attempt to prevent any qualified voter of any State from freely exercising the right of suffrage at any general or special election, or who shall in like manner compel, or attempt to compel, any officer of an election in any State to receive a vote from a person not legally qualified to vote, or who shall impose or attempt to impose any rules or regulations for conducting such election different from those prescribed by law, or interfere in any manner with any officer of the election in the discharge of his duties, is for any such offense to be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction to pay a fine of not exceeding \$20,000, and suffer imprisonment in the penitentiary, not exceeding five years, at the discretion of the court, and any person so convicted is moreover to be disqualified from holding any office of honor, profit, or trust under the Government of the United States.

Mr. POWELL said:

Mr. PRESIDENT: The object of the bill is to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering with elections in the States. The bill provides that the persons named, if they interfere with elections in the States, shall be punished, upon trial and conviction in the courts, by fine and imprisonment, and shall be forever after disqualified from holding any office of honor, trust, or profit under the Government of the United States. The importance of the bill at the present crisis in our affairs cannot be overestimated. In times of profound peace and quiet, when no abuses of the character proposed to be remedied by this bill existed, it would be evidently wise and proper to enact such a law. Wise lawgivers so shape their legislation

as to prevent as far as possible all abuses that are calculated to sap the foundations of the political system, to impair or destroy the fundamental law, or to endanger or overthrow the rights or liberties of the people.

It cannot be doubted that upon the keeping of the elective franchise absolutely free depends the very existence of our form of Government and our republican institutions. Free States in all ages have regarded the purity of the elective franchise as of the greatest and most vital importance, and have enacted severe penal laws for the punishment of those who interfered by force or fraud to prevent free elections. I believe there is no Government on the face of the earth in which elections have been carried on for the purpose of appointing any of the officers of the Government, save and except the United States of America, that has not had laws to punish, and severely punish, those who should interfere with the freedom of the elective franchise. All the republics of antiquity had the severest laws punishing those who interfered with the freedom of their elections. In the second volume of Blackstone's Commentaries, by Mr. Tucker, on page 170, I find this:

"For in a democracy there can be no exercise of sovereignty but by suffrage, which is the declaration of the people's will. In all democracies, therefore, it is of the utmost importance to regulate by whom, and in what manner, the suffrages are to be given. And the Athenians were so justly jealous of this prerogative, that a stranger who interfered in the assemblies of the people was punished by their laws with death; because such a man was esteemed guilty of high treason, by usurping those rights of sovereignty to which he had no title. In England, where the people do not debate in a collective body but by representation, the exercise of this sovereignty consists in the choice of representatives. The laws have therefore very strictly guarded against usurpation or abuse of this power by many salutary provisions, which may be reduced to these three points: 1. The qualifications of the electors. 2. The qualifications of the elected. 3. The proceedings at elections."

By the laws of Great Britain persons convicted of bribery, force, or fraud at elections are punished severely. At the common law bribery and kindred offenses were crimes, and the British statutes punished persons guilty of such offenses on conviction with fines of £500, and deprived them of the privilege ever after of voting or holding any office of trust or honor under that Government. One section of this bill provides that the soldiers of the Army of the United States shall not be permitted to be kept within one mile of any poll where an election is going on, on the day of election. I find similar provisions in the English law, which I will read from page 179 of the same book:

"As soon, therefore, as the time and place of election, either in counties or boroughs, are fixed, all soldiers quartered to the place are to remove, at least one day before the election, to the distance of two miles or more, and not to return till one day after the poll is ended. Riots, likewise, have been frequently determined to make an election void."

By a statute passed in the reign of George II, to which I alluded in a running debate that arose upon the reference of this bill to a committee, and which statute is quoted at length in the report made by the Committee on Military Affairs, it is provided that the Secretary of War or the party who for the time being is acting as Secretary of War shall issue his orders to remove all soldiers from places of voting in the manner prescribed in the law I have just read. It further provides that if the Secretary of War or the person acting as such shall not issue the order as required by the statute, he shall upon conviction in the courts be dismissed from office and be ever after disqualified from holding any office of honor, profit, or trust, under the British Government.

That is the manner in which our English ancestors, from whom we have derived most of our maxims of civil and constitutional liberty, regarded this subject. Mr. Tucker, in his notes to Blackstone's Commentaries, in reference to the law I have read requiring soldiers to be removed from the place of voting, says, "A similar regulation in the election of Representatives to Congress seems highly proper and necessary." It is strange to me that we have never had such a law on our statute-book. I venture the assertion that we are the only people on earth who have had any regard for free government that have not had some such law. I suppose the only reason for the absence of such a law is that our elections have been regulated heretofore by officers appointed by the States, and it is only very recently that

the armies of the United States have attempted to interfere in our elections.

By the spirit of the Constitution of the United States, and by the constitution of every State in the Union, the military is to be kept in strict subordination to the civil power; and I suppose that those who went before us never thought we should have rulers so wicked and corrupt as to use the machinery of the Federal Government for the purpose of prostrating the freedom of elections in the States; otherwise, I am sure that such laws as the one before us would have been enacted long before this. I find upon examination that seven of the States of the Union have enacted statutes to prevent soldiers making their appearance on election day at the places where the elections are held. I shall not trouble the Senate by reading all these statutes; but as the State of Maryland—unfortunately for the honor and dignity of that State—figures a good deal in this matter, I will take the liberty of reading the statute of Maryland from her Code, volume one, page 262:

"Article 35—Elections.

"Sec. 24. No commissioned or non-commissioned officer having the command of any soldier or soldiers quartered or posted in any district of any county in this State shall muster or embody any of the said troops, or march any recruiting party within the view of any place of election during the time of holding said election, under the penalty of \$100. This section not to apply to the city of Baltimore."

I have similar provisions here from the statutes of the States of Mississippi, New Jersey, New York, Pennsylvania, Maine, and Massachusetts. The constitution of the State of Maryland provides that upon conviction for the offense of giving or receiving bribes or influencing any man to give an illegal vote, not only the man giving the bribe but the man giving the illegal vote shall forever after be disqualified from voting and from holding any office of trust, honor, or profit under the State government. Every State in the Union has severe penal laws, providing for the punishment of all who in any way interfere to prevent free elections.

With us, Mr. President, sovereignty resides in the people, and the people by the exercise of free suffrage declare their will and appoint their agencies to carry on the Government. He who attempts to interfere with this most inestimable right, whether he be President, major general, or citizen, is an enemy to the Republic and deserves the harshest punishment. In order to have free elections, there must be free speech and a free press; the sovereign people must have an opportunity of forming an enlightened public opinion upon the questions at issue, which can only be done after full and free discussion. Free speech and a free press in a Government like ours are the soul of republican institutions; free suffrage is the very heart-strings of civil liberty. To be free, the elections must be conducted in accordance with laws so framed as to prevent fraud, force, intimidation, corruption, and venality, superintended by election judges and officers independent of the Executive or any other power of the Government; the military must not interfere, but be kept in strict subordination to the law, which should be so framed as to prevent absolutely such interference. The only duty of the Executive is to see that the law is faithfully executed. The Executive must not use the power intrusted to him to prevent free elections. Mr. Locke, in his excellent treatise on Government, page 379, speaking of the executive power, says:

"What I have said here concerning the legislative in general, holds true also concerning the supreme executor, who having a double trust put in him, both to have a part in the legislative and the supreme execution of the law, acts against both when he goes about to set up his own arbitrary will as the law of society. He acts also contrary to his trust when he either employs the force, treasure, and offices of the society to corrupt the representatives and gain them to his purpose, or openly procures the electors and prescribes to their choice such whom he has by solicitations, threats, promises, or otherwise won to his designs, and employs them to bring in such who have promised beforehand what to vote and what to enact. Thus to regulate candidates and electors and new-mold the ways of election, what is it but to cut up the Government by the roots and poison the very fountain of public security? For the people having reserved to themselves the choice of their representatives, as the fence of their properties, could do it for no other end but that they might always be freely chosen, and, so chosen, freely act and advise as the necessity of the Commonwealth and the public good should upon examination and mature debate be judged to require. This, those who give their votes before they hear the debate and

have weighed the reasons on all sides are not capable of doing. To prepare such an assembly as this, and endeavor to set up the declared abettors of his own will for the true representatives of the people and the law makers of the society, is certainly as great a breach of trust and as perfect a declaration of a design to subvert the Government as is possible to be met with."

Nothing can be truer than the sentiment uttered by Mr. Locke in the extract I have just read. It is certainly a subversion of the very foundation of the Government for the Executive to use the force and the power that the Government has placed in his hands for defensive purposes, to overthrow the free suffrages of the people and to appoint those to power who will be his truckling menials, his subservient agents to carry out his will, to aid him it may be to overthrow the liberties of the people whom they should represent, betray the Constitution that they should preserve and protect, destroy everything that makes the Government desirable and worthy of the support of an honest and free people. Yet, sir, such things have been done, and I regret to say that there are those in the Senate Chamber who not only do not denounce but who approve these usurpations, these plain, palpable violations of the Constitution of their country.

Mr. President, let us for a moment see what are the powers of the President of the United States. From whence does he derive this power to regulate elections and to appoint representatives of the people? for when stripped of its verbiage that is really what has been done in many parts of the States of Maryland, Missouri, Kentucky, and Delaware. Where, I ask, does the Executive of the United States derive such power? He certainly does not derive it from the Constitution. The second and third sections of the second article of the Constitution prescribe the duties of the President. Let us read those clauses of the Constitution and see what powers are conferred upon the Chief Magistrate. I hold that the President can exercise no power but what is conferred upon him by the Constitution. He is the agent of the people appointed for specific purposes to administer their Government as its Executive, within prescribed and limited powers. The Constitution provides, in article two:

"Sec. 2. The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion in writing of the principal officer in each of the Executive Departments upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

"Sec. 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States."

There, sir, are the powers of the President of the United States. He is Commander-in-Chief of the armies of the United States, and under that clause I suppose those who oppose the bill claim that the President can rightfully exercise the power that he has exercised in overthrowing the freedom of elections in Maryland and other States. They claim it under the war power, which I will notice in another part of my remarks. The President is to "take care that the laws be faithfully executed." What laws are they that the President shall see faithfully executed? The Constitution declares that—

"This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land."

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

These are the laws that the President is to see faithfully executed. Whenever he goes beyond that he is a usurper. The President, under the Constitution, can exercise no implied power. All the implied powers that can be exercised under our Government must be exercised by another and a different body of magistracy, to wit, the legislative; and that is the express language of the Constitution. The eighteenth paragraph of the eighth section of the first article of the Constitution declares that Congress is clothed with the power to make all laws which shall be necessary and proper for carrying into effect all the powers vested by the Constitution in the Government of the United States, or in any Department or officer thereof; consequently the President can exercise no implied powers. He can exercise no power except that with which he is clothed by the Constitution and the laws made in pursuance thereof.

In the States to which I have alluded, the President, or those acting under his orders, have prescribed the qualifications of voters and the qualifications of candidates for office, and that, too, in direct violation of the Constitution of the United States. This is a grave charge, but it is one that I will make good by testimony that none can doubt. Let us see who it is that has the right to prescribe the qualifications of voters. I suppose that no Senator will deny that as to all State offices the States have the power to prescribe the qualifications of the officer as well as of the voter. That power not having been delegated by the Constitution to the General Government, the States necessarily retain it. But there is an express provision of the Constitution. The tenth amendment, which declares, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people," and the Constitution very clearly indicate who are qualified voters for members of Congress. The second section of the first article of the Constitution is in these words:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

The Constitution of the United States, in the clause just read, declares who shall be qualified electors for members of Congress. It fixes the qualification as the one ordained by the State government for the members of the most numerous branch of their Legislature. That is the fundamental law of the land; but in violation of that provision of the Constitution the military have seen fit, by military orders, to fix the qualifications of voters in the States. They have gone further, and fixed the qualifications for office. Not only the military have done this, but the President of the United States himself has done it. I am not going to waste all my time upon those who do the Chief Magistrate's bidding, but it is my purpose to-day to expose his atrocious violations of the Constitution. I trust that I shall speak of the President in a manner that is courteous, but I certainly shall do it in very plain language. The charges that I have to make I trust will not be misunderstood by any one. I will not deal in innuendo, insinuation, or hint, but I will make the charge directly, and I have the proof to sustain it.

The second section of the first article of the Constitution fixes the qualifications of a Representative in Congress:

"No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen."

The Committee on Military Affairs, who made a very elaborate report, which I have before me, and which I shall presently review, justify the military in all they have done in controlling elections. The sole object and design of the committee in their report seems to be the justification and vindication of the military authorities for their atrocious assault on the rights of the States and the liberties of the people and their wicked and illegal interference in elections; and they assault every person who says or does anything tending to prove that the military have usurped powers that belong to the civil officers of the States and

to the people. The committee justify the President and the military authorities for this interference in elections upon the ground that it was right and proper that the military arm should have been so used to protect the voters, "the loyal voters," as they are called in the report. The Constitution prescribes the duty of the Chief Magistrate on this subject. I will read the clause from article four:

"Sec. 4. The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence."

The President of the United States has no authority or power to send his military into one of the adhering States for the purpose of preventing domestic violence at the polls unless he had been invited to do so by the State authorities, for the Constitution plainly and distinctly provides that he shall do it on application of the Legislature if in session, and if that cannot be, then on the application of the Executive; and that is one of the wisest provisions in that sacred instrument. It is a provision intended to prevent a despotic President from interfering by armed force with the rights of the States and the liberties of the people. Mr. Justice Story, in his Commentaries on the Constitution, second volume, section eighteen hundred and twenty-five, page 633, speaking of this clause of the Constitution, says:

"It may not be amiss further to observe (in the language of another commentator) that every pretext for intermeddling with the domestic concerns of any State under color of protecting it against domestic violence, is taken away by that part of the provision which renders an application from the Legislature or executive authority of the State endangered necessary to be made to the General Government before its interference can be at all proper. On the other hand, this article becomes an immense acquisition of strength and additional force to the aid of any State government in case of an internal rebellion or insurrection against lawful authority."

This learned commentator takes the very view of this clause of the Constitution that I have heretofore indicated. But for this provision of the Constitution a corrupt, venal, or ambitious President could by means of the military force, under some imaginary plea of domestic violence, invade any State in this Union on the eve of an election, and dictate the persons who should be returned as members of the other House of Congress, who should be returned as members of the Legislature, who should be returned as Governors of the States. In a word, if you allow him to use the Army in this way without the invitation of the State authorities, a wicked and corrupt man would have it in his power to prostrate every State government in the Union, and to elect officers who would do his bidding, and thus overthrow the liberties of the people, and establish a consolidated despotism of which he would be the master.

Mr. President, after the few preliminary remarks which I have made, I will now proceed to the examination of the report made by the Committee on Military Affairs upon this bill.

Mr. HOWARD. If the Senator from Kentucky will allow me one word here—

Mr. POWELL. I prefer not to be interrupted. If the Senator has any questions to ask, if he will reserve them until I get through I shall then answer them with great pleasure.

Mr. HOWARD. I will say nothing, then, until the Senator gets through.

Mr. POWELL. I am willing to hear any questions the Senator wishes to ask.

Mr. HOWARD. The Senator may as well proceed.

Mr. POWELL. Mr. President, this bill, which was referred to the Committee on Military Affairs, came back to the Senate accompanied by a very voluminous adverse report. I have read the report with a great deal of care, and if I had not known that it was made by a committee composed of honorable Senators of this body, I never should have dreamed that such a document could emanate from a committee of the Senate of the United States. So far from meeting the case and discussing the bill fully, fairly, candidly, and impartially, the committee made a report of some fifty-two closely printed pages, almost every line of which is a labored defense of the President and the military authorities who had command in Kentucky, Maryland, and Delaware; and in order to make the defense of the military commanders and of the

President complete, the report indulges in the harshest assaults upon every person whose name appears in the documents before the committee, that at all complains or censures the military for their unlawful and outrageous interference in the elections in those States.

The committee even travel out of the record to find objects for assault. The honorable Senator from Maryland, [Mr. Johnson,] took occasion some weeks since, in a debate that sprang up in this body, to make some remarks upon the election that had occurred in his State last fall. The committee in the report notice that, and I will read what they say of it:

"The recent Maryland election is a fruitful topic of complaint. The Governor and one of her Senators unite in denouncing it. The former, in his message, informs the Legislature that 'a part of the Army which a generous people supplied for a very different purpose, was on that day employed in stifling the freedom of election in a faithful State, intimidating its sworn officers, violating the constitutional rights of its loyal citizens, and obstructing the usual channels of communication between them and their Executive.' And a Senator of Maryland has indulged in expressions which nothing but the most flagrant invasions of the elective franchise can excuse."

"But the weight of these imputations is seriously diminished by two considerations: both gentlemen owe their positions to an election conducted under the same auspices; both gentlemen are now on the losing side of the election which they impeach; and the country has not forgotten that it is the bad habit of the defeated partisans of the slavery interests to blacken the opponents whom they fail to defeat."

Mr. President, why step out of the way to make this assault upon the honorable Senator from Maryland? Nothing that the honorable Senator said was before the committee. They had before them the message and accompanying documents of the Governor of the State of Maryland, and upon that they could legitimately comment. They not only step out of the way to assault the Senator, but they impute to him most unworthy motives. Complaint is now made of the Maryland election, the committee say, because the Senator and the Governor are on the losing side. I, however, will not enter into any defense of the patriotic, able, and distinguished Senator from Maryland. He is in the Senate Chamber, and he is fully able to make his defense against all assaults and all assailants, whether they come from the Military Committee or from others in this Hall, or elsewhere. I will leave that matter to the honorable Senator himself. But I will simply say that I regard the assault as unjust, unwarrantable, and unworthy of a committee of this body. This is the first time I have ever seen in a report of a committee of this body an instance where they stepped out of the way to assail a Senator, and to attribute unworthy motives to him in order to strengthen and to build up the waning reputations of military commanders, whose conduct has been such that they must, in all after time, receive the condemnation of all honest, of all law-abiding and liberty-loving men.

Mr. President, allow me to read one or two extracts from this report. The committee in the outset of the report on the first page announce a proposition that is correct and which I heartily approve. I will read it:

"The bill is founded upon the supposition that the military have in some instances interfered in an illegal or improper way with popular elections in the States, and seeks to prevent that evil for the future by the infliction of severe pains and penalties."

"That elections should be free from all violence and intimidation, is an axiom of free government accepted by all, and so evident that it need not be discussed. Violence and threats of violence, and all disturbance, actual or threatened, calculated to keep the legal voter from the polls, or to constrain his free will and choice in exercising his right, are plainly incompatible with the principles on which our governments, whether State or Federal, rest."

I suppose the extract from the report which I have just read will receive the approval of every man who lives under a republican Government or appreciates civil liberty.

I will undertake to show, and that too from the evidence that was before the committee, that the very infractions of right which they notice in the extract from the report had occurred, that the evidence was ample, full, and complete before them when they made the report recommending that the bill should not pass. Yes, sir, the Committee on Military Affairs had evidence, abundant evidence, in their possession, documents that they review in this very report, proving that the military had interfered in the most

striking and unmistakable manner in the elections in the States of Kentucky and Maryland.

If the committee will adhere to the principle laid down in the extract which I have just read from their report, and will say that it is the duty of Congress by legislation to prevent the evil, then on the evidence I propose to present I shall have a right to demand their votes for this bill, or some bill to carry out the same views and objects.

The committee notice the statute of George II, passed in 1735, and they append a copy of it to the report.

I referred to that statute in the debate when this bill was up for reference; and the committee, in speaking of it, say:

"It cannot escape notice that the leading object of this ancient statute, as sufficiently evidenced by the preamble, was 'the preservation of the rights and liberties of the kingdom,' not their destruction. And the history of the time shows that the prohibition to keep military forces near places where there was an election of members of Parliament, arose from outrages practiced upon the electors by the ministers in posting troops so as to overawe them, and coerce them into the returning of candidates friendly to the ministerial party, and the supporters of prerogative against popular rights. And we are told that, so far did this party push their schemes, that in 1734, the year before the act was passed, the ministers, before the election took place, made out a list of the sixteen Scottish peers who were to be elected, which was approved by the Crown; and that, among other foul means resorted to for securing their election, a battalion of the king's troops were drawn up in the court of Edinburg, contrary to custom, and without any apparent cause but that of overawing the electors. This outrage appears to have been the immediate occasion of the passage of the act. It was passed in the interest of liberty, and in resistance of the tyrannical schemes of the Crown and its flatterers to check its growth by stifling the voice of free election."

That is the commentary the committee make upon that wise statute, and a most excellent commentary it is, and it is the very object recited in that statute which is to be effected by the passage of the bill under consideration. We desire to prevent the President and his officers from interfering in elections. We desire to preserve the ancient liberties of the people, and we know that that cannot be done unless elections are absolutely free. We desire that the President shall not augment his power and overthrow the rights and liberties of the people by returning to the Congress of the United States or to the Legislatures of the States men elected at the point of the bayonet, who are willing tools, ready to do his bidding. It is for that very purpose that we propose this bill. Conduct far more outrageous against the right of suffrage has occurred in these United States within the last two years than is represented by the committee in their comment upon this statute of George II to have occurred in Great Britain.

The committee had before them an address and certain documents concerning elections in the State of Kentucky upon which they comment at some length. So far as the military interference in the State of Kentucky is concerned, I will state the facts very briefly, and I will notice the report of the committee on that subject. The first palpable act of the interference of the military in regard to elections in that State occurred in the winter of 1863. During that winter there was a meeting of the Democratic party assembled at the capital of Kentucky for the purpose of nominating candidates for Governor and the other State offices.

That convention was dispersed by a Colonel Gilbert, commanding a regiment of United States troops. I offered in this Chamber a resolution asking for a committee to investigate the conduct of that military officer in that interference with the right of the people to meet peaceably and to nominate candidates for office. The majority of the Senate declined to give me that committee. Afterwards, candidates nominated by one of the political organizations in Kentucky took the field. There were other persons, composed somewhat of both these parties, who determined, notwithstanding the interference at Frankfort, to organize the Democratic party. They did so by addressing a letter, which was signed by a large number of respectable gentlemen in the State, to Hon. Charles A. Wickliffe, requesting him to become a candidate for Governor. He did become a candidate for Governor, and other gentlemen became candidates for other State offices, and the State ticket was filled and regularly put on the track for the election to be held on the first Monday of August last.

Then it was that the military interfered in many parts of the State. In some parts of the State, I am happy to say, there was no interference or very little, except intimidation in consequence of military orders that had been issued. There was no direct and immediate interference by force, except in certain localities in the State. A committee of gentlemen who represented the organization that supported the Wickliffe ticket wrote an address to the people and to Congress in which they recited some of the acts of interference by the military authorities, which was presented to the Senate and referred to the Military Committee that had this bill in charge.

The committee in their report make very harsh and unjust remarks on the gentlemen who signed this address, and they do what is common with gentlemen on the other side of the Chamber. Whenever they want to break the force of an argument, or refute a fact, whenever they desire to defeat an object that they think is calculated to injure the party in power, they accuse those who make the charge of disloyalty, and they vainly think that is an answer to every argument and a refutation of every charge. The gentlemen who compose the committee that framed this address are charged as disloyal in the report of the committee, and the Military Committee embody in their report the letter of the gentlemen who invited Mr. Wickliffe to become a candidate. They harshly criticize that letter, and they pretend to regard the letter as disloyal. In order that these gentlemen may have a full vindication, as far as it is possible for me to make it, I will append their letter entire to my speech, and send it to the people; the letter will fully vindicate them from the unjust charges of the committee. I am ready and willing to maintain against all opposition the sentiments and principles set forth in that letter. To be sure, the writers of the letter very justly censure the Administration for unconstitutional acts. Among other things, it says:

"We hold this rebellion utterly unjustifiable in its inception, and the dissolution of the Union the greatest calamities."

"We would use all just and constitutional means adapted to the suppression of the one and the restoration of the other."

That is the kind of language used by these gentlemen; and yet because they have had the patriotism, manhood, and courage to set forth the facts, and to prove beyond doubt the most unjustifiable and outrageous interference of the military in the elections in Kentucky, the Committee on Military Affairs, to get clear of and weaken the force of the facts and arguments set forth in the address, being wholly unable to meet them in fair and manly argument, or refute the facts, denounce the authors of the address as disloyal. Sir, I make bold to say, that so far as I know the gentlemen who signed that letter, and I know the most of them, there is not one of them who is or ever was disloyal. They are, each and every one of them, Union men. Their Unionism has been tested; they have been tried and not found wanting in fidelity to the constitutional Union of our fathers.

The committee are very much mistaken in some matters stated as fact in their report. On the 10th page they say:

"The writers, though pretending to hold the rebellion 'utterly unjustifiable in its inception,' leave a strong implication that it had become not unjustifiable, and seem to regard the employment of negro troops to 'make war upon the whites' in the rebel States as changing its original character from unjustifiable to the contrary. And such they and their candidate undoubtedly regarded it, and had in contemplation to take measures of violence to resist it. At this time the recruiting of black troops, under the act of 1862, was in active progress in Kentucky, Tennessee, and other slaveholding districts."

Now, sir, at that time the enlisting of black troops was not actively going on in Kentucky. Every citizen of Kentucky knows that the committee are mistaken when they make that assertion. It has only been very recently that there has been any recruiting of negroes in Kentucky, and that, I believe, has been confined to the southern border of the State. And yet, sir, in order to make out a case against these gentlemen and against the Democratic candidate for Governor, Mr. Wickliffe, the committee assert as a fact what is not true. The committee, I have no doubt, were mistaken. I will not charge that they would intentionally misrepresent.

The committee base that assault upon the Dem-

ocratic ticket and the gentlemen who signed that letter upon this clause in the letter:

"It is now obvious that the fixed purpose of the Administration is to arm the negroes of the South to make war upon the whites, and we hold it to be the duty of the people of Kentucky to enter against such a policy a solemn and most emphatic protest."

The committee construe that to mean the taking of violent measures against the Government! Every Union Legislature that has convened in Kentucky since this rebellion broke out has passed resolves protesting against the enlistment of that description of the population in the Army. The people of Kentucky have uniformly protested against it; and yet, because the gentlemen who signed that letter also protest against it, the committee think that is highly revolutionary. Let me ask the Committee on Military Affairs if the people of any State in this Union have not the right to make their protest against any policy of the General Government? Most undoubtedly they have. If not they are the veriest slaves. Why, sir, it is done on some measure or another in almost every State in the Union every month during the session of Congress. It is the mode in which a free people make known their will, and arrest the attention of those who administer their Government affairs for the time being; and yet the Committee on Military Affairs think there is something criminal even in that!

The committee say that Mr. Wickliffe and the gentlemen who invited him to become a candidate desired rebels to vote. I will read that part of the report:

"The authors of the address, with commendable truthfulness, say: 'It is very frankly admitted that we hoped and expected to obtain the support of the great mass of the southern rights men of the State. They were, for the most part, Democrats of long standing. Though classed by the adherents of the Administration as "disloyal," the great majority of them were not secessionists, and were entirely free from all complicity in the rebellion. So far from esteeming it a fault of which we should be ashamed, we regarded the effort to conciliate them, if it could be done without sacrifice of principle on either side, as highly meritorious; and we now gratefully acknowledge the cordial support which that portion of our fellow-citizens were ready and anxious to yield to our platform and candidate whenever permitted to do so.'"

Upon that the committee remark:

"This is an express avowal of the purpose of the writers and of Mr. Wickliffe, their candidate, to obtain the votes, not only of loyal Democrats, but of persons who were open rebels, however numerous they might be. No one can deny this, and no one can deny that such a purpose was directly in the teeth not only of General Burnside's proclamation establishing martial law, but of the statute of Kentucky of March 11. It invited open enemies, whose hands were red with the blood of the defenders of the Government, and who were loaded with the spoils of plundered loyalists, to come to the polls and participate in the election of the officers of a loyal State! There is but one step, and that a short one, between this invitation and openly embracing the rebel cause."

The committee say that they invited those whose hands were red with the blood of Unionists, and who were loaded with the spoils of the plundered friends of the Union, to come to the polls. Why, sir, never were a committee more mistaken. Those gentlemen did no such thing. They desired no rebel to vote. They asked the vote of no rebel. They desired that the constitution and election laws of Kentucky should be carried out, and faithfully administered by the officers appointed by the State for that purpose. I have read the extract from the address that called forth that comment. It says that they expected the support of the southern rights men of the State. The honorable Committee on Military Affairs must be most profoundly ignorant of the principles and feelings of those who at one time were called southern rights men in Kentucky. That address tells you that the great majority of those southern rights men were not secessionists, and were entirely free from all complicity in the rebellion; and yet the Committee on Military Affairs say that the authors of this address invited those whose hands were red with the blood of Union men, and who were loaded with spoils taken from plundered loyalists, to come to the polls. The committee were drawing upon their fancy for their facts in making such a statement, and a most distempered fancy it must have been. They could not have been deluded by the words "southern rights," because this address states distinctly that the southern rights men were not secessionists, and were not implicated in the rebellion.

Allow me to say to the Senate at this point that

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

the southern rights men in Kentucky never really amounted to a political organization. At the beginning of this rebellion, in the election of delegates to a border State convention, one portion of the candidates were called "Southern Rights" and the other "Union." The "Southern Rights" ticket, however, was withdrawn, and the "Union" ticket was elected without opposition. There might have been in some localities immediately after that some little party designation of that kind; but let me tell the Senate the southern rights men of Kentucky were, with a few exceptions, Peace Democrats. Many men who belonged to other political organizations heretofore now agree with them in sentiment. They were for the Constitution and the Union, were opposed to secession, were opposed to a dissolution of the Union, and they thought the only way in which that could be prevented was by peaceable means, by negotiation, compromise, and concession between the North and the South. They thought that war would result in a dissolution of the Union. It was because of their fervid devotion to the constitutional Union that they opposed the war. They believed that war would cause the loss of hundreds of thousands of valuable lives; that the country would be laid waste, towns and cities destroyed; that untold millions of property would be destroyed; that it would result in the demoralization of our people; in a national debt of thousands of millions; in heavy and ruinous taxes upon the labor of the people that would consume and exhaust their substance; in an overthrow of the Constitution; in the destruction of the rights of the States; in a dissolution of the Union; in the loss of the liberty of the people; and in the prostration and ruin of both the North and the South.

The organization that put Mr. Wickliffe forward as a candidate was the Democratic party under its old name and under its old flag.

In this report the committee impugn the loyalty of Mr. Wickliffe; and upon what ground? Mr. Wickliffe was one of the first and staunchest Union men in the State of Kentucky. In the other end of this Capitol he voted men and money to carry on the war; and he never failed to do so until the last session, when he voted against an appropriation bill because the House would not insert a clause in it that the money should not be used for the purpose of freeing negroes and reducing States to provinces. It is well known that Mr. Wickliffe was a strong and warm friend of the war up to that time, until he thought the radical policy of the President was such as would destroy every hope of the restoration of the Union. He has never indicated an opposition to the war. He did vote against one appropriation bill, and assigned the reason I have stated; which, in my judgment, was a good and valid reason. Up to that time, however, I believe he voted all the men and all the money the Administration desired. When I say "all," I mean he generally voted in that way.

Well, sir, that sterling old patriot became the candidate of a party that were prevented from exercising the right of suffrage in Kentucky; and in order to justify that outrage and the striking of his name from the polls by the ruthless hand of the military, this committee say he is disloyal. I have no doubt if an angel of the Lord had appeared before the Committee on Military Affairs and told them there had been military interference in the elections in Maryland and Kentucky, that it was seen and known by all who were present at the polls, the writer of the report of the committee would have asserted that the angel was disloyal. Every man—I do not care how elevated his position or upright his standing in society, or how devoted he may have been in the past or the present to the Union—who asserts that there was interference in the elections, the committee say is disloyal, or they impute some unworthy motive to him.

In the letter addressed to Governor Wickliffe, requesting him to become a candidate, occurs this sentence:

"The Government has no more right to disregard the constitutions and laws of the States than the States have to disregard the Constitution and laws of the United States."

This proposition I did not suppose any constitutional lawyer would doubt. That both the States and the Federal Government are sovereign

in their sphere, has been uniformly held by constitutional lawyers and the courts. It certainly follows that the General Government has no right to encroach upon the reserved rights of the States, and the States have no right to exercise the powers delegated to the General Government. The erudite writer of the report from the Committee on Military Affairs says this is "the precise doctrine of the nullifiers of 1832, and the very essence of secession." It is neither nullification nor secession, but a sound constitutional principle. The committee ask, who are to judge between them? I answer, the courts.

The committee, in their report, most shamefully misrepresent the statements made in the address concerning the elections in Kentucky. The writer of the report claims to have carefully read the address. In speaking of the address the committee say:

"It narrates with an air of sorrow the fact that in August, 1862, Governor Magoffin, of Kentucky, resigned his executive trust for the purpose of relieving the people, and especially that portion of them known as southern rights men, who had been the peculiar objects of persecution."

It is not true that the address narrates the fact of the resignation with an air of sorrow. The address states the reasons which rendered the resignation of Governor Magoffin and the appointment of Governor Robinson desirable, and adds:

"These events gave rise to the most pleasing anticipations, which were strengthened by the first acts of the new regime."

Now, sir, in the report, W. A. Dudley, J. H. Harney, the editor of the Louisville Democrat, Judge W. F. Bullock, Judge J. F. Bullitt, Nat. Wolfe, R. R. White, and Dr. R. C. Palmer, strong Union men, who signed the address to the people and the Congress of the United States, are denounced as disloyal merely because they do not concur with the Committee on Military Affairs on this subject of the interference of the military in the elections in Kentucky. They knew that the military did interfere; they had the proof of that interference; many of them saw it; and as honest and brave men they dared to say it. They dared to arraign in proper language the usurpation of the military for their atrocious conduct in overthrowing the right of free speech and free suffrage; and to break the force of their declarations, the committee have nothing in reply but to impeach their loyalty. Why, sir, two or three of the gentlemen who signed that address were members of the Legislature for the last two years, and one of them at least cast his vote for the expatriation law of Kentucky to prevent rebels from voting. The signers of the address, upon which the committee make such an unfair, unjust, and unwarrantable assault, are the peers in every respect, socially, morally, and intellectually, of the Military Committee of the Senate; no assault coming from that committee can injure them or tarnish their reputation for patriotism, truth, honor, or veracity in any community where the parties are known.

The gentlemen whose names are signed to the address are all denounced, or at least it is intimated that they are disloyal and unworthy of confidence and trust. Sir, among those names are the names of the most unflinching Union men in America. They are for the old Union as it was with the Constitution as it is. They are not like some of the members of the committee who make this report, for the Union only upon the condition that slavery shall not exist in it.

Mr. President, let us look a little further. The committee in this report say that the evils complained of in the address of the gentlemen whom I have named in Kentucky are merely imaginary. I will read that part of the report:

"So far as the committee have been able to ascertain, the evil which the bill is intended to remedy is almost wholly imaginary; and the fact that there is so little real ground for complaint against the military, considering the scenes of excitement and disorder in which they have been compelled to interpose, speaks loudly in praise of their justice and forbearance, and is high evidence of the impropriety of passing the bill."

Sir, let me say that honorable committee were never more mistaken in their lives than when they promulgated the sentence just quoted. In the documents that were before the committee the proof is abundant that the military did interfere and that gross violations of law took place in the

Kentucky and Maryland elections, as I shall presently show.

I will call the attention of the Senate for a few moments to the military orders in Kentucky. The orders that prevented a free election in Kentucky were issued by various post commanders and commanders of districts in different parts of the State. General Boyle, commanding in western Kentucky, on the 25th of July, 1863, issued an order concerning seizing and impressing private property for military purposes, in which he instructed his officers that when it became necessary to take private property for the use of the Army, those who were regarded as rebel sympathizers and who were opposed to a vigorous prosecution of the war, and furnishing men and money for that purpose, should be first taken, and vouchers should be given to them marked "loyal" or "disloyal." General Hartsuff issued a similar order in eastern Kentucky. It was said throughout the State by the party opposed to the Wickliffe ticket that their votes at the polls would be regarded as evidence as to whether they sympathized with the rebels or not. The fact of such orders being issued, and the general impression being spread in the community that those who voted the Wickliffe ticket would be regarded rebel sympathizers and their property taken for military purposes, prevented hundreds of men from voting.

Mr. HOWARD. Does the Senator refer to military orders?

Mr. POWELL. Yes, sir; to the military orders of General Boyle and General Hartsuff, the one commanding in eastern and the other in western Kentucky, which are made a part of this address.

Mr. HOWARD. Will the Senator produce such an order?

Mr. POWELL. Yes, sir, I intend to produce it, and I intend to make it and all the military orders to which I refer a part of my speech. I shall produce every order to which I refer. Fortunately I have all that I desire to refer to in my possession. I will state furthermore that the committee had these orders, and all the orders to which I shall allude, in their possession when they made their report.

It was stated generally throughout the State, as every man in Kentucky at all acquainted with affairs there at that time knows, that these orders—

Mr. HOWARD. I hope the Senator will allow me one word, as it is necessary to a clear understanding of the facts that he states. I understand the Senator to say that some military man in Kentucky issued an order to this effect, that the way in which the elector voted would be the proper mode of determining whether he was a loyal or a disloyal man. It was that order which I asked him to produce, if he has such a one.

Mr. POWELL. The Senator is mistaken.

Mr. HOWARD. Perhaps I misunderstood the Senator.

Mr. POWELL. I did not say such an order had been issued.

Mr. HOWARD. I understood the Senator to say such an order was issued.

Mr. POWELL. My statement is that such orders were issued as I have referred to.

Mr. HOWARD. The Senator will excuse me. I deny that there was any such order issued; and I put the Senator from Kentucky upon that issue to produce the evidence of the fact which he asserts.

Mr. POWELL. The Senator is denying something I did not assert. I have stated to the Senator that I did not say the order went to the extent that he understood. My statement was that orders were issued in the eastern and western departments of Kentucky saying that when necessary to take private property for the Army, it should be taken from those who were denominated "sympathizers with the rebellion," and that those were classed as rebel sympathizers who were opposed to the war, and to furnishing men and money to carry it on. I said, in addition to that, that it was said throughout the State that the poll-books would indicate who were rebel sympathizers; that all who voted for Wickliffe would be classed as rebel sympathizers. That is what I said.

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

General Burnside, on the 31st of July, issued an order placing Kentucky under martial law, and among other things declaring:

"As it is not the intention of the commanding general to interfere with the proper expression of public opinion, all discretion in the conduct of the election will be, as usual, in the hands of the legally appointed judges at the polls, who will be held strictly responsible that no disloyal person be allowed to vote, and to this end the military power is ordered to give them its utmost support.

The civil authority, civil courts, and business will not be suspended by this order. It is for the purpose only of protecting, if necessary, the rights of loyal citizens and the freedom of election."

General Burnside issued that order, as he states in a preamble to it, to prevent the rebel troops interfering in the election. There was no necessity for that order. At the time it was issued there were not in Kentucky more than about a thousand rebel soldiers, and they were cavalry in one portion of the State in rapid retreat; and on the day of election there were no confederate soldiers in the State. General Burnside at that time had under his command, it is said, fifty thousand men in Kentucky; so that when he issued that order there was no necessity whatever for it. The phraseology of the order itself, except that clause of it which says that he will hold the judges responsible, is in about as mild language as it could be under the circumstances.

But the committee go on to say that General Burnside had the authority and the power, and it was necessary to make that order placing Kentucky under martial law. That I deny. I will not now discuss the question as to whether General Burnside had the power to declare martial law. It is well known to the Senate that I hold there is no power in the Government, in the President, or any of his commanders, to declare martial law; but if it did exist it should be confined to besieged cities and localities occupied by the Army. But certainly there is no power to declare martial law in the adhering States, when they are not occupied by the forces of the enemy.

It will be observed that the orders of General Boyle, General Hartsuff, General Shackleford, Colonel Foster, Lieutenant Colonel Johnson, General Asboth, and others, were issued before General Burnside's order placing the State under martial law; so the excuse made by the committee in their report that the State was under martial law cannot avail those officers.

General Burnside plainly and palpably violated the Constitution of his country when he issued that order interfering with elections. He says the purpose was to prevent the rebels interfering in elections in that State. Let me ask, did the Governor of Kentucky invite General Burnside to bring his forces there to protect the election? No, sir. The Legislature did not do it; the Governor, in the language of the day a loyal man, never invited him to do it. Governor Robinson had no apprehension about the freedom of election there from rebel sources. I will read the preamble to this order of General Burnside:

"Whereas the State of Kentucky is invaded by a rebel force with the avowed intention of overawing the judges of elections, of intimidating the loyal voters, keeping them from the polls, and forcing the election of disloyal candidates at the election on the 3d of August; and whereas the military power of the Government is the only force that can defeat this attempt, the State of Kentucky is hereby declared under martial law, and all military officers are commanded to aid the constituted authorities of the State in support of the laws and of the purity of suffrage as defined in the late proclamation of his Excellency Governor Robinson."

I intend to show, and that too from the proof that was before the Committee on Military Affairs, that the proclamation of General Burnside was not carried out as he made it; that his subordinates violated his proclamation and the proclamation of Governor Robinson which he made a part of it; and General Burnside, notwithstanding the fact was published throughout the whole State that his subordinates had violated his proclamation and the proclamation of the Governor, never censured or punished one of them for it, so far as I am advised.

Governor Robinson issued a proclamation on the 10th of July concerning the elections, and he attached to it a statute law of the State of Kentucky entitled "An act to amend chapter fifteen of the Revised Statutes, entitled 'Citizens, Expatriation, and Aliens.'" That act of the Legislature declared all persons who had been or were engaged

in the rebel armies or who had held office under the provisional government of Kentucky, or had given the rebels aid, expatriated; and that they were not entitled to any privileges of a citizen of the State after the act took effect. It took effect on the 11th of April, 1862. It was passed on the 11th of March, 1862, to take effect thirty days after its passage. That is the law of Kentucky. There could be no excuse then that there was no law of Kentucky to prevent rebels from voting.

But, sir, was the proclamation of the Governor of the State, inviting the attention of the judges of the election to that law, and directing them to enforce all the laws of the State, enforced by the military authority? I answer that it was not. The Committee on Military Affairs say that it was. There is a plain issue of fact; and I invite the Senate to the consideration of the proof. I will read the statement in the very language of the Committee on Military Affairs, and then no injustice can be done them. The committee, on the 12th page of their report, say:

"It is enough to say that, notwithstanding the manifest party exaggerations and distortions of fact of this pamphlet, it does not allege that any loyal man who offered to vote for a loyal candidate was excluded or in any way molested by the military authorities. The orders of the subordinate commanders were, so far as they are embodied in the pamphlet, and so far as we have been able to ascertain, in strict accordance with General Burnside's order and the statute of the State, which we have cited; and the pamphlet admits that these orders 'were carried out with rare fidelity by those to whom their execution was intrusted.'"

The address signed by the gentlemen from Kentucky alluded to does not admit that the order of General Burnside was carried out with strict fidelity. The committee are mistaken in that. The quotation from the address refers, not to the order of General Burnside, but to the orders issued by his subordinates, as a reference to the address itself will clearly show. In the address they say:

"General Burnside enforces the proclamation for the purpose of preserving the purity of elections, and (while himself threatening the judges of election should they permit a disloyal vote to be cast) directs that the soldiers shall interfere no further than may be necessary to enable the judges to discharge their duties under the laws of Kentucky. His subordinates threaten the judges and voters with confiscation, arrest, and imprisonment, and actually publish their orders and carry out their threats without punishment from the general or remonstrance from the Governor."

That is the charge in the address. Further on they say:

"The military orders before referred to were carried out with rare fidelity by those to whom their execution was intrusted."

What military orders? The orders of those subordinates. It clearly refers to them, and it says they were carried out with rare fidelity. Many of these orders were in conflict with the order of General Burnside. The order of General Burnside cites the proclamation of the Governor, and says that the election must be carried on in obedience to the law as promulgated by the Governor. The Governor desired the election carried on under and by virtue of the laws of Kentucky, and in no other way whatever. What are the qualifications attached to voters by the law of Kentucky? Under the constitution of Kentucky, all white male persons twenty-one years old, who have had the necessary residence in their districts, and who have not been convicted of certain crimes, are qualified to vote. The law of expatriation declares that persons who do, or have done, certain things enumerated in it, shall be expatriated, be no longer citizens, and shall not enjoy any of the rights or privileges of citizens; and whenever any such person attempts to exercise any of the privileges of a citizen he may be required to negative on oath the expatriation provided in the act, and upon his failure or refusal to do so shall not be permitted to exercise any such right. What, then, is a voter to do under the law of Kentucky when he presents himself and demands to vote, if he should be challenged? He must swear that he has not been guilty of the offenses prescribed in the statute of March 11, 1862; that is, that he had not been engaged in the service of the provisional government of Kentucky; that he had not been in the rebel army, and that he had not given them aid or assistance since the 11th day of April, 1862, the day on which the expatriation law went into effect. While on the subject of the date of the passage of the expatriation act, I will remark that the committee are in error when they say that the

proclamation of Governor Robinson "was plainly necessary in order to call the immediate and earnest attention of the judges of elections as well as the people to its important provisions, which had been in force but three months." The date of the passage of the act is correctly given in the address as March 11, 1862, and it went into effect thirty days after its passage. The act had, therefore, been in force over fifteen months before Governor Robinson issued his proclamation on the 10th of July, 1863, and not but three months as stated by the committee. It is correctly stated in the report of the committee that Governor Magoffin resigned in August, 1862, and that this law was passed over his veto. I cite this as a specimen of the reckless misrepresentation of facts by the writer of the report, in his efforts to strike down the character of honorable gentlemen, in order to sustain those in power for a most unlawful and unjustifiable assault upon free suffrage.

The proposition, then, is very clear as to who were legal voters under the law of Kentucky. General Burnside said that the law must be carried out, as proclaimed by the Governor. What did his subordinates do? What were the orders issued by his subordinates? Here is an extract from one of them, issued by Lieutenant Colonel Thomas Johnson, at Smithland, Kentucky, July 16, 1863:

"Judges and clerks so appointed are hereby directed not to place the name of any person on the poll-books, to be voted for at said election who is not a Union man, or who may be opposed to furnishing men and money for a vigorous prosecution of the war."

There is appended to that order an oath which varies from the oath prescribed by the law of Kentucky. The constitution and laws of Kentucky do not require that a man shall be in favor of furnishing men and money for a vigorous prosecution of the war to qualify him to hold office. In that particular the order is in conflict with the law of Kentucky and of the proclamation of General Burnside and Governor Robinson.

Here is also the order issued by General Asboth and others, west of the Tennessee river, in which they carry it still further. General Asboth in his order declares that both candidates and voters shall swear that they are willing to furnish men and money for a vigorous prosecution of the war before they are allowed to vote or stand for office.

Mr. HOWARD. Will the Senator inform me what pamphlet he is reading from? Is it the report of the committee?

Mr. POWELL. I am now commenting on the orders from the 17th to the 20th page of the address, which was before the committee.

Mr. HOWARD. What is the pamphlet?

Mr. POWELL. It is An Address to the People and Congress of the United States.

Mr. HOWARD. The same that was referred to the committee?

Mr. POWELL. It was before the committee.

Mr. HOWARD. I have not a copy before me, and hence I inquire.

Mr. POWELL. I am reading from the address on the Kentucky elections, which the committee had before them; for I do not intend in this connection to use any other evidence than that which was before the committee. I have other testimony, but I am now dealing with the report of the committee upon the evidence they had before them.

I have here the order of General Shackleford, issued at Russellville, Kentucky, and the order of Colonel Foster, issued at Henderson. I have also the orders issued by Generals Asboth and Hurlbut, west of the Tennessee river. On the back of the order of General Asboth is a statement signed by James S. Martin, colonel commanding post of Paducah, that he had the order executed in the counties of McCracken, Graves, Cullaway, and Marshall.

From the evidence I have presented, is it not clear that the committee were mistaken when they said it was asserted in this address that the order of General Burnside had been faithfully carried out? They say the very converse, and they give the evidence and establish it beyond the possibility of a doubt by the official orders of the parties who made them and executed them.

It is apparent from the facts set forth in this address, notwithstanding the committee say that no

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

loyal man was prevented from voting for a loyal candidate, that such was not the case. I suppose they will try to avoid this palpable misrepresentation by saying in reply that Mr. Wickliffe and the other candidates on his ticket were not loyal. No such false and slanderous charge against Mr. Wickliffe and other Democratic candidates will relieve the committee from this reckless misrepresentation. The proof is abundant in this address that in many of the counties the name of the whole Democratic ticket was stricken from the poll-book by the military authorities. In many voting places and in entire counties of Kentucky no man was allowed to vote for that ticket. In the county in which I live the names on the Democratic ticket were stricken from or not allowed to go on the poll-books in three or four of the voting precincts. That fact is stated in the address. It is asserted that in one precinct of that county sixteen votes were cast, all for the Wickliffe ticket. The military then came there, took the poll-books from the judges and clerk, returned them to headquarters, and stopped the election; and yet the committee say no loyal man was prevented from voting for a loyal candidate! They establish to their own satisfaction, I suppose, that Governor Wickliffe and the men on the Democratic ticket were not loyal. They sit in judgment upon the loyalty of those men, and, for the unworthy purpose of sustaining, justifying, and excusing the President and the military authorities in the most flagrant, unconstitutional, unjustifiable, and atrocious assault upon the freedom of elections, they indulge in false and slanderous imputations and charges against the candidates of the Democratic party.

Sir, there is abundant evidence of the facts that I have indicated. Since the beginning of time there never was a more atrocious assault on free elections than took place in many of the counties in Kentucky. In many places the candidates were arrested. In the first congressional district Judge Trimble, the candidate for Congress, as loyal a man and as true to the Constitution and Union of his fathers as lives in the Union, was arrested by military authority. He was brought to the city of Henderson, a town just without his district, and there he was kept in military confinement near a month, until after the election was over. They told him that if he would decline being a candidate for Congress, they would release him. He would not so degrade his manhood as to decline the canvass at the bidding of military tyrants and usurpers, and he was kept in prison. They found that he would be elected by a large majority notwithstanding his imprisonment, and then they sent the military over his district and had his name stricken from the polls in almost every voting precinct in the district. The gentleman who beat him got some four thousand votes in a district that polls about twenty thousand.

That is the way that a Union man was treated. Yes, sir, Judge Trimble, who has borne the name of a Union man all the time, who in the earliest conflicts in Kentucky was a Union man, was arrested, imprisoned for near a month, and turned out on the day after the election. With these facts before them, a committee of this Senate say that no loyal man was prevented voting for a loyal candidate!

Mr. ANDERSON, who now occupies the seat in Congress from the first district in Kentucky, frankly acknowledges that he was elected by the bayonets.

There was also arrested in that first congressional district of Kentucky Mr. Martin, a member of our last Legislature, and a Union man. He was a candidate for reelection in the counties of Lyon and Livingston. He was arrested and brought to the same city of Henderson, without the congressional district in which he lived, and he too was confined by the military until after the election; and then he and Judge Trimble were both released without any investigation whatever. The military told them that they would release them at any time if they would decline being candidates. Mr. Martin was beaten because the military would not allow him to be voted for. I suppose the committee regard Mr. Martin as disloyal. Mr. Martin, by occupation, was a steamboat pilot. He piloted the first gunboat bearing

the flag of the United States that went up the Cumberland river during this rebellion. That is the way he exhibited his Unionism. He was elected as a Union man to our Legislature. He never was anything else; but, like Judge Trimble, he did not agree in the abolition notions of President Lincoln; and for that offense they were stricken down and arrested by military authority, and their names stricken by the military from the poll-books. And yet the committee say that no loyal man was prevented from voting for a loyal candidate!

Mr. Blount Hodge, a true Union man, was a candidate for the State Senate. He resides in Livingston county. The military issued orders preventing his name going on the poll-books. These facts were before the committee when their report was made.

Mr. President, I will not indulge in any further vindication of the honorable gentlemen of Kentucky who are assailed by the committee. At home they need no defense; but I will say here in a single sentence that every charge, every aspersion, every insinuation against the loyalty, the patriotism, and the Unionism of those citizens is untrue, and that the committee are utterly mistaken when they make such charges. Such was the terrorism that prevailed throughout the State in consequence of military orders that many persons were deterred from voting, fearing if they voted the Democratic ticket their property would be taken by the military authorities for the use of the Army. The military not only struck the names of candidates from the poll-books, but in many localities swore the voters themselves. Yes, sir, officers of the Army and those in command of the soldiers at the polls administered oaths to the voters. That evidently was in violation of General Burnside's orders. If the committee had examined the address they would see further that it is charged that persons who voted that ticket were pursued, arrested, and imprisoned. Such was the terrorism and interference by the military that Mr. Wickliffe, the Democratic candidate for Governor, in some six or seven of the strongest Democratic counties in the State, did not get a single vote, and in many other strong Democratic counties he received very few votes.

So much, sir, for the evidence contained in the address which was before the Committee on Military Affairs when they made this report. I have shown beyond the possibility of doubt from the evidence before that committee that they are utterly, wholly, and entirely mistaken in many of the matters stated as facts in their report. From the facts as we have them here in this address, if the committee adhere to the principle laid down in the beginning of their report which I have read they will vote for this bill.

But, Mr. President, fortunately for me and fortunately for the country, I have here the proof taken in a contested election in the second congressional district of Kentucky now pending before a committee of the House of Representatives, in which Colonel John H. McHenry contests the seat of Hon. GEORGE H. YEAMAN on the very ground that the election was not fair, but was interfered with by the military authority. The evidence in that case I know was not before the Committee on Military Affairs; but I will say that the evidence as given by witnesses of the highest respectability shows that interferences as great and greater than is set forth in the address which was before the Committee took place. It is proven that men, whom the witnesses testify were Union men and had always been Union men, were not permitted to vote for Colonel McHenry, who was a candidate for Congress.

Does anybody doubt the loyalty of Colonel McHenry? Sir, he has tested his loyalty on well-stricken fields. At Fort Donelson and at Shiloh he led his regiment into the thickest of the fight and bore aloft the banner of the Union. He received the commendations of all his superior officers. There was no colonel on that field of Shiloh that displayed more gallantry, bravery, or skill in the management of his regiment than Colonel McHenry. And yet, sir, Union men were prevented by the military from casting their votes for him; and I have the evidence before me taken in the contested election to which I have alluded.

I repeat, sir, the proof is here, and if any Sen-

ator now or hereafter shall doubt the truth of what I have said about these elections, I will read the testimony to the Senate.

Mr. President, let us look into this report so far as it concerns Maryland. Two thirds of the report of the committee is devoted to the election in Maryland. I wish briefly to review the report so far as the Maryland election is concerned.

The committee have labored in their report to make a vindication of the President of the United States, General Schenck, and others for their interference in the election in Maryland; and in order to do that they assault the Governor of that State. The Governor of Maryland in his late message to the Legislature recites the interference with the election in that State, and in an appendix to his message he produces a great deal of proof, all of which was before the committee. I will read a few extracts from the message of Governor Bradford. I am happy to say that several members of the committee told me they never saw the report and did not know what was in it. I wish I could say that much for all of them.

Mr. DAVIS. Maybe you can.

Mr. POWELL. I do not know whether I can or not. I should like to say that much for all of them. It is a report of which the committee and all honorable men should be heartily ashamed. The Governor says:

"A few days before that election, a military order was issued from the Army headquarters at Baltimore, which in effect placed the polls under the surveillance and at the command of the military authority.

"I was the less prepared for any such order, from the fact that though in frequent personal communication with the military authorities of the department, I had received no intimation whatever of such a proceeding or of any supposed necessity for it. In that part of the State against which the movement was to be more particularly directed (the Eastern Shore) there would seem to have been less necessity, as there certainly was less semblance of authority, than elsewhere; for while martial law had been proclaimed upon the Western Shore of the State in June last, and had not been repealed up to the day of election, upon the Eastern Shore it had never been proclaimed at all."

In the case of Kentucky, the committee justify the interference in the elections on the ground that General Burnside had declared martial law in that State. Martial law seems to have been declared by General Burnside for the purpose of giving his subordinates and their justifiers an excuse for their unlawful and outrageous conduct. As I have before shown, the orders of his subordinates were issued before he placed the State under martial law. On the Eastern Shore of Maryland, Governor Bradford tells you, there was no martial law declared. Therefore General Schenck, and those acting under his authority, for their doings on the Eastern Shore of Maryland cannot be shielded and protected by the panoply of martial law. The Governor goes on to say, after speaking of the President modifying the order:

"Prominent among the provost marshals to whom the execution of this order was in part committed, were several who were themselves candidates for important offices.

"These marshals, appointed for the purpose of the militia enrollment and draft, were placed by the law creating them under the control of the Provost Marshal General, but, to insure the right to employ them about this election order, special authority was obtained from Washington to place them for the time being under the orders of the military authorities."

Here we find that these provost marshals, many of whom were candidates for office, were among the actors in this scene of interfering with the elections in Maryland.

"I, therefore, on the Monday evening preceding the election, issued a proclamation giving them this assurance, a copy of which is herewith submitted."

Saying that they must carry out the election in accordance with the law.

"Before the following morning military orders were sent to the Eastern Shore directing its circulation to be suppressed, the public papers were forbidden to publish it, and an embargo laid on all the steamers in port trading with that part of the State, lest they might carry it."

Here we find General Schenck suppressing as far as he could the circulation of the proclamation of the Governor to the people of the State. We find him laying an embargo on boats and the regular business of the State, for fear they might carry this proclamation to the people for whom it was intended. What was the reason for this interference? Governor Bradford in his message and in his proclamation says there was no necessity whatever for it. I do not suppose the loyalty of Governor Bradford was ever doubted until in

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

an evil hour he fell into the hands of the Committee of the Senate on Military Affairs; and then, in order to shield the guilty culprits who had overthrown the constitution and laws of Maryland in one of the most vital parts, they attempt to strike down and blast the reputation of a loyal Governor of an adhering State. To what base uses will not the adherents of power lend themselves! There stands the message saying that these interferences have taken place, and in order to shield the guilty culprits the reputation of Governor Bradford has to be destroyed; he is charged with usurpation; his loyalty is questioned, his patriotism doubted; and he is gently admonished that he ought to be an inmate of a prison. The committee say, "the Governor bitterly complains of the suppression of his proclamation, instead of gratefully acknowledging the moderation which arrested its circulation instead of its author." Why these charges of usurpation; why these threats of imprisonment? Is it to seal the lips of those who dare speak of the usurpations and crimes of the party in power? A faithful Governor of an adhering State makes an effort to see that the laws of his State are faithfully executed, and he is denounced as a usurper and gently reminded of imprisonment.

Did Governor Bradford invite General Schenck, or the President of the United States, or any other military authority, to bring soldiers there for the purpose of preventing domestic violence in Maryland? No, sir; he says he did not. The clause of the Constitution that I have heretofore read and commented on declares that the United States authorities shall only interfere when the Legislature or the Executive of the State demand it to prevent invasion or domestic violence. Were there any rebel troops in Maryland? The imbecile Burnside, the jailer of Vallandigham, had the excuse of about one thousand rebel soldiers, who were rapidly running out of Kentucky, while he had about fifty thousand men under his control to fight them. He had that impotent and lame excuse for placing Kentucky under martial law. But, sir, I have not yet heard that there were any rebel soldiers in Maryland; and yet, in violation of the Constitution of the United States, we find that soldiers were sent to the polls to interfere in the elections in that State; and they did interfere, notwithstanding the Committee on Military Affairs cannot find it out, although they had all the testimony before them that is appended to the message of Governor Bradford. The Governor goes on to say:

"How far it accomplished the purpose claimed for it, or how far my anticipations of the consequences of the order and the abuses to which it would lead were realized, will appear by a brief reference to some of the transactions connected with its execution. These abuses commenced even before the opening of the polls. On the day preceding the election, the officer in command of the regiment which had been distributed among the counties of the Eastern Shore, and who had himself landed in Kent county, commenced his operations by arresting and sending across the bay some ten or more of the most estimable and distinguished of its citizens, including several of the most steadfast and uncompromising loyalists of the shore. The jail of the county was entered, the jailer seized, imprisoned, and afterwards sent to Baltimore, and prisoners confined therein under indictment were set at liberty. The commanding officer referred to gave the first clue to the character of the disloyalty against which he considered himself as particularly commissioned, by printing and publishing a proclamation in which, referring to the election to take place next day, he invited all the truly loyal to avail themselves of that opportunity and establish their loyalty 'by giving a full and ardent support to the whole Government ticket upon the platform adopted by the Union League convention,' declaring that 'none other is recognized by the Federal authorities as loyal or worthy of the support of any one who desires the peace and restoration of the Union.'"

There you see this lieutenant colonel issues his proclamation in which he invites the people to come up and establish their loyalty by giving a full and ardent support to the whole Government ticket, upon the platform adopted by the Union League convention, declaring that none other is recognized by the Federal authorities as loyal or worthy the support of any one; and yet the Committee on Military Affairs assert that there was no interference! The Governor further says:

"Major General Dix, when in command of this department, at the time of the election in 1861, and when, too, rebellion was backed by its organized supporters in our very midst, took the true and statesmanlike view of the policy proper for such an occasion when, in directing his provost marshal, he said that while there was no difficulty in controlling Maryland by force, that this was not what

was wanted, but that he wished to control it by the power of opinion, and that to satisfy the country that the people were on our side, we must leave them to an unbiased expression of their wishes. They were left to that unbiased expression, and such was its character that I had supposed no one would still require evidence of their loyalty."

"General Dix was even appealed to by some of the judges of election to authorize an oath to voters of doubtful loyalty, and although it appears from the tenor of his reply that the oath suggested was nothing more than an oath to support the Constitution of the United States, he refused to order it, saying to them, among other things, 'The constitution and laws of Maryland provide for the exercise of the elective franchise by regulations with which I have no right to interfere.'"

General Dix spoke wisely. President Lincoln, however, the Commander-in-Chief of the Army, did not so regard it. He did interfere with this very matter, and without being requested by Governor Bradford to do so. So far from requesting the President, as the Constitution authorized him to do when he desired the force of the United States to protect the State against invasion or domestic violence, he complained of the military being sent there. The President did not have the sanction of Governor Bradford, but did it against his protest, for he asked the President to repeal the order, and he did modify the order of General Schenck in one or two particulars, but really made it very little better than it was, and his modifications were disregarded in many localities in the State.

Sir, we find the President himself meddling in this matter of elections. He, as well as his chosen instrument, General Schenck, and all the other instrumentalities in the military service throughout that State, was in the exercise of the harshest usurpations against the loyal people of that State. Governor Bradford, in his message and proclamation, tells you that there were no candidates on the Eastern Shore but Union men, so far as he was advised; that throughout all Maryland there were not rebels or rebel sympathizers enough to affect the elections, except, perhaps, in one district, and that was not the district of which complaint was made. Why, sir, John W. Crisfield, known to many Senators here, an able and honored member of the last House of Representatives, was a candidate for reelection, known always as a Union man. He it was whom the soldiers of the Army of the United States, with the direct knowledge of the President of the United States, prevented receiving a reelection. I do not think there is a doubt about the reelection of Mr. Crisfield in the district on the Eastern Shore had the military not interfered.

In this Maryland case you cannot throw off the responsibility upon Schenck, nor upon Colonel Tevis, or other subordinates. You have the President most directly implicated. Here he is upon the record, violating the Constitution of his country by interfering with elections in States in order to return menials and miserable creatures to Congress who would do his bidding; and I arraign him for this offense before the Senate of the United States and the American people. I brush away the trash and come right to the Commander-in-Chief himself, and charge him, upon the most indubitable testimony, with trampling under foot the most inestimable right of free suffrage and free election, and, in order to effect his object, committing a palpable violation of the Constitution of the United States, which he has sworn to support.

There, sir, these documents place the President, and there is no power that can ever rescue him from that position. I regret that it is so. I regret that I have to state in my place as a Senator that the Executive, whom a grateful people have elevated to power and charged to take care that the laws are faithfully executed, has exhibited such infidelity to his oath and made such vital stabs on the Constitution of his country and on the free suffrage of the people; but truth compels me to make the charge. Here are the proofs ample to sustain it. Here are the President's own letters and orders. Out of his own mouth we condemn him. He cannot plead as an excuse that the Governor of Maryland desired it, for the Governor protested against it and appealed to him to relieve the State from that disgrace. He refused to do it. He cannot get off on the ground that Governor Bradford is disloyal. Oh, no; not at all. The Governor's truth, patriotism, and loyalty are above suspicion in the minds of all patriotic and honest men, notwithstanding the assault

of the writer of the report of the Committee on Military Affairs.

But the learned Committee on Military Affairs try to weaken the force of the statements of Governor Bradford and of the honorable Senator from Maryland by saying that they were elected under similar circumstances. Suppose they were, sir; it only shows the greater necessity for the passage of the bill that I propose. If forty Governors were elected under similar circumstances that fact would afford forty additional reasons why this bill should pass. If military force was used to elect Governor Bradford, and to place the honorable Senator from Maryland in his seat here, that is no reason why others should be elected by such unlawful and outrageous influences. Two wrongs never made a right.

The report goes on to say:

"It is not true that 'the military, aided by the provost marshals, were to arrest voters whom they might consider disloyal approaching or hanging about the polls.'"

That was certainly in General Schenck's original order. The President, however, modified that part of it. The modification, as I have before stated, was disregarded.

"It is not true that 'a prescribed form of oath was furnished, without taking which no one if challenged could vote.'"

Now I think anybody who will read the order of General Schenck and read that oath must think the committee mistaken in making the assertion. General Schenck, after his first order and the proclamation of Governor Bradford were issued, plainly indicated in an address to the loyal people of Maryland dated November 3, 1863, that those who were challenged could not vote except by taking the oath. The indication is clear that they could not do it otherwise; and the military were sent, they say, to enforce that order, to compel the oath and to protect the judges! Is that what they did? I will show you presently that it was not. Speaking of the Governor's proclamation, the report says:

"That proclamation was much more liable to the charge of illegality than the order of which it complained."

The committee charge that the proclamation of Governor Bradford was illegal, more so than General Schenck's order. There can be no doubt about the illegality of General Schenck's order. The committee are even divested, so far as the Eastern Shore is concerned, of the excuse that there was martial law there. They are divested of another excuse that they might have, that Governor Bradford asked the interposition of the Federal Army to protect the State against invasion or domestic violence, for he not only did not ask it, as the Constitution required, (the Legislature not being in session,) before it could be lawfully furnished, but he protested against it. The Governor had the right to issue his proclamation. The learned and erudite committee say:

"The law of Maryland charges the Governor with no authority over elections, and vests him with no right to instruct the judges of election in the law of their duty."

It was left to the Military Committee of this honorable Senate, a learned committee, to be sure, to make the discovery that the Governor of Maryland had no constitutional authority to issue a proclamation concerning elections! They say the laws do not charge him with it. Why, sir, I see in the constitution of Maryland, which I have before me, that it is written in the tenth section of the second article that the Governor "shall take care that the laws be faithfully executed." And yet, because he advised the judges to execute the law—for that is all the Governor did—the honorable Committee on Military Affairs call him a usurper. They say he had no lawful right to do it.

Consistency is said to be something of a virtue, and the Senate will be astonished when I tell them that this committee commend Governor Robinson for issuing his proclamation in Kentucky, and setting forth the law of expatriation from Kentucky, and urging upon the judges of elections the strict observance of all the laws of the State regulating elections, and they censure soundly the gentlemen in Kentucky who issued the address from which I have read, because they took some exception to Governor Robinson's proclamation. The committee think the proclamation of Governor Robinson at that time was highly commendable and proper, and then they

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

say that Governor Bradford had no lawful authority to issue his proclamation! To what miserable quibbles and inconsistencies those who defend tyrants and usurpers are driven!

The gentlemen who signed the address that was before the committee censured the Governor of Kentucky because he had not cited and published all the laws of Kentucky concerning elections, but only published one. But the Governor of Maryland in his proclamation does tell the judges to execute all the laws, and the committee think that is a usurpation. When the committee think they can make an assault on the gentlemen who wrote this address, they eulogize Governor Robinson and censure the gentlemen who signed the Kentucky address; but when they come to Maryland, in order to destroy a witness against Abraham Lincoln, Schenck and others, they charge Governor Bradford with doing things without any warrant of law. I suppose there is not a Senator here who does not know that every Governor is charged to see that the laws of the Commonwealth over which he presides are faithfully executed. The election laws are a part of the laws of the State. But that is not all. The committee say of Governor Bradford:

"This proclamation was, therefore, a palpable usurpation."

Sir, the Military Committee of the Senate pronounce a proclamation of the Governor calling the attention of the judges of election to the laws of that State and urging them to see the laws executed, and to see that the elections were absolutely free, a usurpation. Governor Bradford did it in obedience to the constitution of his State, and if he had not done it under the circumstances he would have been delinquent and fallen far short of the discharge of his duties as a wise, virtuous, and patriotic Governor. If that is a usurpation, allow me to ask the honorable Committee on Military Affairs what would they call the act of President Lincoln and General Schenck and his subordinates? They issued orders concerning elections in Maryland. They were not authorized by any constitution or any law to do it. They did it in palpable, direct violation of the Constitution of the United States, because the Governor of Maryland had not invited their interposition. They prescribed oaths to be taken unknown to the constitution and the laws of Maryland, thus prescribing the qualifications of voters to the extent at least of excluding all who would not take an oath unknown to their laws. And then, sir, we find this sentence in this most learned report:

"The execution of the order was as fair and upright as the order itself was legal and its purpose honest."

I understand the committee to assert that the order was constitutional and legal, and that its execution was fair and upright. A more palpable usurpation never existed than the issuing of the order. I have shown, and shown it, too, from the Constitution of the United States, that it was in violation of that sacred instrument. They had no plea of martial law. From the message of the Governor of Maryland we learn there was no plea of necessity, that plea which tyrants always urge. But they say the execution of the order was fair and upright. Now, Mr. President, the Committee on Military Affairs had before them the message of the Governor of Maryland, with the documents appended. They comment on them, they quote them, they refer to them; so, then, they cannot say that the evidence was not before them. About one third of the report is devoted to combating this message and the evidence accompanying it. Now let us see what the evidence is they had before them. I have given you the statement of the Governor. He says the provost marshals were many of them candidates, and that men were prevented from voting by the military. Now look at the evidence, and see how far the committee are correct in their statement that the order was carried out in a fair and upright manner. I will read to the Senate the order referred to by his Excellency Governor Bradford, made by one of the military officers on the Eastern Shore:

HEADQUARTERS THIRD MARYLAND CAVALRY,
CHESTERTOWN, November 3, 1863.

Whereas the President of the United States, in reply to a letter addressed to him by Hon. Thomas Swann, of Baltimore city, has stated that all loyal qualified voters should have a right to vote, it therefore becomes every truly loyal citizen to avail himself of the present opportunity offered

to place himself honorably upon the record or poll-book at the approaching election, by giving a full and ardent support to the whole Government ticket, upon the platform adopted by the Union League convention. None other is recognized by the Federal authorities as loyal or worthy of the support of any one who desires the peace and restoration of this Union.

CHARLES CARROLL TEVIS,
Lieutenant Colonel Commanding.

What must be thought of an officer who issues an order declaring in substance that none would be regarded as true and loyal Union men unless they voted the ticket placed upon the platform of the Loyal League? I do not know precisely what these Loyal Leagues are, but I understand they are some kind of secret, oath-bound political society. That, then, is the platform that this officer tells you is the only one that the Government recognizes. That of itself would be enough to prevent a fair and upright election. There is abundant proof accompanying the Governor's message that loyal men were prevented from voting by the soldiers. The proof is that men offered to vote the Crisfield ticket, and that they were prevented and driven off by force by the soldiers, and that afterwards the yellow or Creswell ticket, the ticket of the loyal leaguers, was placed in their hands, and they were forced to vote it. I will read a sentence or two from the Governor's message and documents. It says:

"Mr. Davis came to vote, and Henderson said 'You can't vote.' He asked Davis 'Will you take the oath?' He said 'Yes'; and as we were about to administer the oath prescribed in General Schenck's order No. 53, which had been a test for Crisfield voters, Mr. Henderson ordered Sergeant Tontit to arrest Davis and take him in custody, and thus Davis left the poll without voting. Another man came up with a Crisfield ticket in his hand and offered to vote, and Henderson said to us, 'If you take that man's ticket I will take the ballot-box from you'; and thus he did not vote. A man named John Pruth came to vote, but was challenged by some one and refused to take the oath, was turned down, but after a while came with a Creswell ticket, and Henderson ordered us to take his ticket."

That is the statement of one of the election judges.

At this point the honorable Senator gave way to a motion to adjourn.

FRIDAY, March 4, 1864.

Mr. POWELL. Mr. President, when the Senate adjourned yesterday evening I was commenting upon this clause in the report of the committee:

"The execution of the order was as fair and upright as the order itself was legal and its purpose honest."

I was endeavoring to show by the testimony before the committee that they were mistaken in thinking the order was fairly executed. I will read from the report of the committee another enunciation on this subject, and then I shall proceed to show that they were entirely mistaken in their assertions. On the 28th page of the report I find the following, referring to the election in the first congressional district in Maryland:

"There does not appear to your committee the least reason to believe that a single person was hindered from voting by the military in the first congressional district who had not been engaged in the rebel service or in aiding and abetting them, nor that the judges excluded any voter who proved his citizenship by confessing its obligations under oath."

The Committee on Military Affairs had before them the message of the Governor of Maryland and the documents appended to it concerning the election in that State; and from those documents, from the proofs before the committee, I will establish beyond doubt that the committee are in error in both the statements in the report that I have read. I have here a statement signed by ten gentlemen, who I am informed are gentlemen of the highest respectability, living on the Eastern Shore of Maryland, addressed to Governor Bradford, from which I will read an extract:

"Throughout the day special pains were taken to put obstacles in the way of those voting the conservative Union ticket, such as challenging them, making them take the oath, and this even in the case of old gray-headed Union men, while notorious sympathizers with the rebellion were permitted to vote unchallenged, provided they voted the emancipation ticket. One case which created some excitement at the time deserves particular notice. A man who has been always regarded as a sympathizer with the South went up to vote with an unconditional Union ticket in his hand, and was challenged by a Union man. The person desiring to vote then declared that he would not take the oath, and that if he had to take the oath he would not vote. And yet, with the military order in full force, whenever the in-

dependent Union ticket was presented, this man was permitted to vote! And more than this, the Union citizen who challenged the above party was threatened with arrest by a candidate on the emancipation ticket for merely carrying out the military order which this candidate and his friends were so strenuously upholding. One of the judges of election declared that the fact of a voter having an unconditional Union ticket in his hand was an evidence of his loyalty; and in the case above cited, as your Excellency will notice, this decision was fully carried out. These are but a part, a small part, of the events of the day. In other districts not only were persons refused permission to take the oath and vote, but the part of the order which was modified by the President was fully carried out as it was promulgated. Voters were driven away and told if they returned they would be arrested. A part of the cavalry regiment, in some districts, were permitted to vote, although not residents of the county or the shore, because they were soldiers!"

That evidence was before the committee when they made the report. In the memorial of the defeated candidates in Kent county, on the 69th page of the message and accompanying documents, I find the following:

"In one other of the districts the polls were not opened until nearly twelve o'clock, in direct violation of the laws of the State, when many of the voters of the district had returned to their homes. At the polls of four of the districts of the county a military officer was stationed near the judges of election, and challenged and rejected voters in many instances without referring to the judges, whose right and duty it was to decide upon the legality of such votes. The result of such unprecedented proceedings was that the voters of the county were impressed with the conviction that the election was entirely under the control of the military power of the United States, and that they would not be permitted to vote unless the caprice of the officers in command should sanction it, or they would vote for the candidates indicated by the order of Colonel Tevis."

On the 69th page of the message and accompanying documents I find the following statement by Thomas Sudler, one of the judges of election in Somerset county:

"I was one of the first at the voting place; I found the judges of election and certain soldiers; the polls were not then open. I saw the judges reading a paper, which I ascertained was the 'Order No. 53' issued by General Schenck. I then displayed the proclamation of the Governor of Maryland, which had reached me by express the night previous. The officers in charge of the soldiers asked me to read it, which I did. The sergeant—the officer mentioned above—then said: 'I have orders to enforce General Schenck's order No. 53.' I inquired further of the sergeant concerning his order; the sergeant replied that before he left the camp at Princess Anne, and before the proclamation had been received by the captain of the whole body of troops in the camp, he received orders to enforce the Order No. 53."

That was General Schenck's order—

"to challenge every voter, to examine all tickets offered, to administer the oath contained in Order No. 53, and to decline to allow any ticket but the yellow or Creswell ticket to be polled."

"There were very few voters at the polls; the mass of the people were deterred from coming out by fear of the soldiers, who were reported to have received orders to arrest all who voted for Mr. Crisfield."

I will now read from the statement of Cyrus L. Jones, on the 72d page:

"In response to a question I asked him, the sergeant pulled out of his pocket a yellow or Creswell ticket, and said, 'This is the only ticket that shall be voted to-day.' I then mentioned that I had received the proclamation of Governor Bradford, which had that very morning reached me by express, and called his attention to it. The sergeant said he 'had nothing to do with the Governor's proclamation,' that his orders 'were above that,' and added that the orders of the provost marshal had to be obeyed that day. I said, 'If the oath is to be administered to all who come, you will have to do it. Our orders are to allow every one twenty-one years old to vote.' I called the attention of my brother judges, saying, 'There will be a hereafter to this.' The sergeant then guarded the window through which the ballots were handed in to be put in the ballot-box with soldiers, took his place at the window, and rejected all who would not vote the yellow or Creswell ticket. He did not permit a single ticket of any other description to be polled, although I saw two men make several attempts, at different times during the day, to vote a ticket with Mr. Crisfield's name on it, and many other men were intimidated from offering to vote."

I will now read an extract from the statement of Mr. J. H. Tarr, dated Salisbury, November 12, 1863:

"When I approached the window to deposit my ballot, it being on white paper, and also knowing I was favorable to the election of Hon. J. W. Crisfield for Congress, L. D. Collier, deputy provost marshal, challenged my vote. I inquired upon what ground; he answered I was a copperhead, and no damned copperhead should vote that day. He referred me to General Schenck's order. I produced your able and ever to be respected proclamation, and read it aloud to the judges, one of whom was a candidate for judge of the orphan's court. He replied was, 'Damn the proclamation.' I then requested him to define loyalty, stating at the same time I would affirm to the condition of the oath as prescribed—this was refused, and I was ordered away from the polls. I left without voting."

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

Mr. Tarr goes on further to state:

"From the first outbreak to the present moment I have been for the Union, and am still for the Union. I voted for you, and have never regretted it."

This is addressed to Governor Bradford:

"I stand where I have always stood, for 'Union, the Constitution, and the enforcement of the laws,' with no sympathy for the rebellion."

That man, although he affirmed he was willing to take the oath, and says that he is a Union man with no sympathy for the rebellion, was refused his vote under the orders of this deputy provost marshal.

Mr. HOWARD. I rise to inquire of the Senator from Kentucky what book he is reading from?

Mr. POWELL. I am reading from a pamphlet entitled "Message of Governor Bradford to the General Assembly of Maryland, with documents, &c." The extracts I am now reading are from the documents accompanying the message. Here is an extract from a letter by Charles Cole to Governor Bradford, inclosing a certificate from Lewis F. Wachter:

"Inclosed is a certificate from Lewis F. Wachter, a highly respectable farmer of Frederick election district, showing how he was treated on election day, and compelled to vote against his sentiments. I saw that man pushed from the voting place and kicked at as he was descending the steps leading into the court-house, where the polls were held, and after he had retired a short distance I saw the same soldier who kicked at him seize him by the arm, thrust an 'Unconditional ticket' into his hand, and, with the assistance of another soldier, compel him to return and vote the ticket which had been placed in his hand."

And yet, with all these facts before them, the honorable Committee on Military Affairs in their report say that the election was fair, and that no Union man who would take the oath was prevented from voting. This Mr. Wachter in his certificate says:

"I hereby certify that I offered to vote the conservative Union ticket at the north polls, in the city of Frederick, on Wednesday, the 4th day of November, 1863, and that a soldier objected to my voting on the ground of disloyalty; that my ticket was taken from my hand at the same time by a soldier, and that I left the polls and had not proceeded further than thirty or forty feet before a soldier, whose name I am informed is Marcellus Shaffer, came up to me and said, 'Here, you will be entitled to a vote; now come and vote;' at the same time putting an Unconditional ticket into my hand, and seizing me by one of my arms, and another soldier by the other, I was forced again back to the polls through fear of personal violence, and compelled to vote against my sentiments."

Mr. President, how the committee could have put the statements I have heretofore read in their report with this evidence before them, is a matter most astonishing to me. The writer of the report reviews the message of Governor Bradford and the evidence accompanying it, reviews it elaborately, and after that review makes the statements I have quoted from the report. The motive that actuated the writer of the report to make the statements alluded to I leave the Senate to determine.

Mr. President, it is clear from the statements I have read that there was a most unwarrantable and unjustifiable interference with the election in the State of Maryland. The judges were prevented from executing the laws. In many cases they were imprisoned. Loyal men were forced from the polls when they attempted to vote the Crisfield ticket, and afterwards forced back to the polls and compelled to vote the Creswell ticket. In some places the Crisfield ticket was not allowed to be voted. Disloyal men, or men whose loyalty at least was suspected, were allowed to vote the yellow or Creswell ticket. Even when they were challenged, the soldiers would not permit them to be sworn; and in one case they threatened to take the ballot-box if the vote was not taken. Upon what ground the committee can base the assertion in their report that this election was conducted fairly, and that no person who was a loyal citizen and would take the oath was prevented from voting, I am wholly unable to comprehend.

Sir, we might well inquire why it was that at that particular juncture of Maryland affairs the military should be scattered all over that region of country? Were there any rebel soldiers there? Was the State of Maryland invaded? No, sir; they had no such excuse as General Burnside claimed for declaring martial law in Kentucky. Why was it done? The object is clear and manifest. Those soldiers were sent there for the purpose of carrying the elections in favor of the Ad-

ministration. I read some time ago, and I regret that I have not got it before me now, an extract taken from the Boston Commonwealth, a leading Administration party paper, in which it complained somewhat of the conduct of the soldiery in the border State elections, and called them "irregularities," but said the Administration had been so negligent in allowing the Democrats to elect so many members of Congress in the previous elections that they were compelled to interfere in the border States in order to maintain a majority in the other end of this Capitol; and upon that ground they excused it. That was the reason the iron hand of the military was laid upon the people of the border States, to compel them to send members of Congress to this Capitol who were opposed to the sentiments of the people. It was done by the Administration for the purpose of having a majority in their favor in the other House.

But, sir, did anybody then, or does anybody now, pretend to say that the people of Maryland were not loyal? I will read to you what their Governor says on that subject. The writer of the report, in order to bolster up the President, General Schenck, and others in authority, assails and attempts to destroy the reputation of Governor Bradford and everybody who testifies in reference to these violations of the law in those States. The destruction of the reputations of those who know and have spoken of these disgraceful and wicked usurpations is the only means by which they can escape from that damning infamy which must in all time accompany them. What does Governor Bradford say in regard to the loyalty of the people of Maryland?

"It is a well-known fact, that with perhaps one single exception, there is not a congressional candidate in this State whose loyalty is questionable, and in not a county in the State outside of the same congressional district is there, I believe, a candidate for the Legislature or any State office whose loyalty is not equally undoubted."

He says further:

"For more than two years past there never has been a time when, if every traitor and every treasonable sympathizer in the State had voted, they could have controlled, whoever might have been their candidates, in a single department of the State, or jeopardized the success of the General Government. No State in the Union has been or is now actuated by more heartfelt and unwavering loyalty than Maryland—a loyalty intensified and purified by the ordeal through which it has passed."

That is what the Governor says in his proclamation. General Schenck, in a paper that he issued in reply to this proclamation of the Governor's, indorses the loyalty of the people of Maryland, in this language:

"Governor Bradford himself cannot appreciate more highly than I do, the sterling loyalty of the great majority of the people of Maryland."

General Schenck himself says that a great majority of the people of Maryland are loyal. Where, then, was the necessity for this military foray upon them upon the day of election? It can only be accounted for by the reason that I have stated: the Administration did it for the purpose of preventing a free election in Maryland, and in order to send to the other end of this Capitol and elect as officers of that State government, men who were willing to do the bidding of the Executive. It was for that, and for nothing else, that it was done. There never was a greater outrage on any people on earth than was committed on the loyal people of Maryland in their last election.

I read yesterday the law of the free commonwealth of Athens on this subject. The Athenians were so watchful and so jealous of the right of free suffrage that a stranger who interfered in the assemblies of the people was regarded as a traitor, and was punished by their laws with death. Had President Lincoln and General Schenck lived in the time of the free commonwealth of Athens, and interfered with the assemblies of the people as they did with the right of free suffrage in Maryland, they would have been executed as traitors and felons, and would have justly deserved their fate. Yes, sir, in that free commonwealth, under their laws, had such an interference taken place as has been proved incontrovertibly by the evidence I have read to have taken place in Maryland, he who did it would have been punished with death as a traitor; and yet we find the Senate, through one of its committees, reporting against the passage of a bill visiting a much milder punishment than death upon those who in-

terfere to prevent free elections, and that, too, upon the ground, as they state in their report, that the elections have been fair! They say there is no ground for the complaint that anybody entitled to vote was prevented from voting, or that there was any interference in the election, when the facts stand out so prominently that none can deny or dispute but that the interference was most atrocious, flagrant, and outrageous.

General Schenck commenced his operations to crush out freedom of elections, and to prevent political organization against the Administration before he issued his order No. 53, dated October 28, 1863. From the public journals I see that early in the fall of 1863 the Democrats of Talbot county, on the Eastern Shore, held a convention and nominated candidates for local offices of their county, clerk, sheriff, &c. The officers of the convention, and some of the parties named as candidates, gentlemen of the highest character and respectability, were arrested and required to report at headquarters in Baltimore, where General Schenck required them to take the following oath, which is cut from the Easton Gazette, Maryland:

"RELEASED FROM ARREST.—The Easton (Maryland) Gazette states that the parties recently arrested in that town while attending a political convention have been released after subscribing to the following:

"We, the subscribers, do hereby pledge ourselves and obligate by this written agreement that we will not, during the present rebellion against the Government and authority of the United States, organize or assist in the organization of any party inimical or opposed to the Administration of said Government; that we will not nominate, assist in the nomination, nor vote for any candidate or candidates for office of district, county, State, or General Government who are in sympathy with the so-called confederate States government, or opposed to the vigorous prosecution of the war now waged for the complete suppression of the existing rebellion. All this we promise and pledge without any mental reservation whatever, with a full purpose to keep and observe the same."

General Schenck required these gentlemen to swear that they would not during the present rebellion organize or assist in the organization of any party inimical or opposed to the Administration. Was there ever a more outrageous assault upon the rights of the citizen? General Schenck's object seems to have been to crush out all political opposition to his chief, Abraham Lincoln.

I honor the profession of arms; it is a noble profession. The brave soldier who fights the battles of his country, who draws his sword in defense of the honor, constitution, and laws of his country, and in defense of the liberties of the people, is justly entitled to and will receive our confidence, admiration, and warmest gratitude—all honor to such noble warriors! But he who holds position in the army of his country and uses his power to overthrow the constitution and laws of his country, to strike down the liberties of the people, to prevent free ballot and to build up the fortunes of a political party, as has been done in Maryland, will receive the scorn and contempt of all good, wise, and patriotic men.

The committee in their report treat briefly of the elections in the State of Delaware. I will not enter at any great length into a discussion as to the mode of conducting the election in Delaware. I have here a report of a committee of the Legislature of that State in which they examine fully into that whole question. The sworn proof is in the volume I now hold in my hand. It is proved incontrovertibly that the elections in Delaware in 1862 were carried to a great degree by the interference of the military. Governor Cannon—the Governor whom the Committee on Military Affairs laud in their report because in a proclamation to the people of that State he enjoins all good citizens and civil officers of that State to obey the military order General Schenck had issued concerning elections in Delaware, and they contrast his conduct with that of the Governor of Maryland—Mr. Cannon, it appears from the report and evidence, was elected Governor of Delaware in consequence of military interference. It is very clearly shown in the report of the committee of the Legislature of Delaware that the military did interfere, and that they did it at the instance of Mr. Cannon, who was then a candidate for Governor, and other candidates for high positions. It is also proved in the report that at what they call the "little election" in Delaware, which occurs about a month before the general election, the Democrats indicated a strength that would carry

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

the State by a large vote, and the Republican leaders had the military brought in to prevent their defeat at the general election. It is proven by some of these provost marshals, and the provost marshals were in chief command, it seems, in Delaware, that they did not think there was any necessity for the military being there to preserve order. A singular fact in connection with these Delaware elections is, that these provost marshals were commissioned by the Secretary of War, Mr. Stanton, on the very eve of the election. The commissions were received the day before the election and were sent to Delaware in blank, and were there filled up by the party leaders of the Republican party.

It is further shown that great interferences took place in the election there. It is further proven that the then Governor of Delaware did not ask the intervention of the military to prevent domestic disorder and violence; but that he was opposed to their coming. The testimony of the ex-Governor is embodied in the report. It is proved very clearly by the testimony of ex-Governor Ross, that General Wool, a major general in the Army of the United States, came to the State of Delaware with a body of troops on the eve of the election. General Wool, in an interview which Governor Ross had with him, told him the election should be fair. After the polls were opened, discovering that these provost marshals and their adherents were preventing the Democrats from casting their votes, and interfering with the election, Governor Ross went to General Wool and told him he promised them a fair election, and the provost marshals were conducting it far otherwise than fairly. General Wool told him—and it is in the testimony of Governor Ross, sworn to in this book—that for the time being he had no control; that he was really under the command of the provost marshals, and declined to interpose in order to prevent interference at the polls.

Thus it will be seen that Mr. Stanton, the Secretary of War, was engaged in this business of interfering in elections. He sent blank commissions of provost marshals to his party friends to be filled up to suit their purposes. Sir, they must have been very menial tools of power to consent to act as provost marshals to do this dirty work of preventing honest and loyal men from casting their votes. It seems it was all trusted to the members of the Republican party who were managing for the time and controlling the election. You will find that the President put his own hand to the work in Maryland, aided by General Schenck; General Burnside of infamous memory controls it in Kentucky; and Edwin M. Stanton, the Secretary of War, perpetrates a similar outrage in Delaware.

I discovered from the reading of the testimony that instructions accompanied the commissions of these provost marshals; and I introduced a resolution into the Senate asking the Secretary of War to send us the orders and the instructions, if any had been given, to those provost marshals. That has been some three weeks ago. A few days ago I had a second resolution sent to the Secretary of War on the subject; and he stands in contempt of the Senate and does not send us those instructions and orders to his provost marshals, or tell us whether he ever sent any or not; and yet one of his provost marshals swears that instructions did accompany his commission, and he exhibited his commission from Mr. Stanton as Secretary of War.

So far as the Missouri elections are concerned, it is unnecessary for me to say much. I must do the military commander of Missouri the justice to say that of all the orders that have been issued on the subject in the States, his are by far the best; and yet there are one or two things in his orders that are very objectionable. I repeat, however, that it is unnecessary for me to say much in regard to the Missouri elections. I have before me and I have examined the testimony taken in three contested seats in the other end of this Capitol from that State, and I can say without fear of contradiction there never were greater outrages committed on the elective franchise than by the military in Missouri. Why, sir, they arrested and imprisoned men for attempting to vote, they tore up the poll-books, they drove legal voters from

the election poll, and almost every outrage you could imagine they committed. Upon that subject we have sworn testimony, and that testimony is undergoing investigation in the other end of this Capitol; and I find by the journals of yesterday morning that the Committee of Elections in the House have determined to send back all those cases to the people upon the sole ground that the military interfered with the freedom of the elections. It is a pregnant fact, and one that I hope the Senate will consider on the passage of this bill. When we find such evidence and such action upon the evidence as has taken place in the other House, I do not think the Senate ought for a moment to hesitate to pass this bill, on the ground that there has been no interference with elections.

But, Mr. President, had there been no such interference it would still be wise and proper to pass this bill. We should not wait for crime to be committed before we pass laws denouncing penalties against it; but as wise lawgivers we should make the law to prevent as well as punish crime. The fact that the law was on the statute-book would deter those who contemplated such offenses. If such offenses should be committed as are set forth in this bill, none will say that the offenders ought not to be severely punished. The evidence is full and abundant that there has been the most outrageous interference by the military in four of the States of this Union in the elections.

The writer of the report from the Military Committee claims power to do all these things under the law of necessity, military necessity, and it is under that plea that these persons are justified. I have heard that plea, Mr. President, ever since these encroachments upon the Constitution and the laws of the country have been going on. They speak of the nation struggling for its life. Well, sir, I confess, and I do it regretfully, too, that the nation is struggling for its life. I regard the Constitution and the laws made in pursuance thereof as the life of the country, and that is seriously endangered, for we find the President and those he controls, who should protect and defend the Constitution, invading it at almost every point. I do not think that the life of the nation is in any more danger from the rebels—though God knows that danger is great enough—than it is from domestic traitors at home who are charged with the preservation of the Constitution, and yet are killing it.

The writer of the report seems to assume that the Executive has a right to govern every other department of the Government, and control the institutions of all the States, and that he is to be appealed to for the protection of the people. Is it not most humiliating, sir, that the people in a country governed by constitutions and laws should be driven to appeal to any one man for protection? Montesquieu, in his book upon the Rise and Fall of the Roman Empire, makes a remark on this subject which I will read to the Senate. Speaking of the senate's entreating Pompey to undertake the defense of the republic, he says:

"If that name might be properly given to a government which implored protection from one of its citizens."

The doctrine of those gentlemen who desire to clothe the Executive with this supreme power, with this absolute power, with this more than dictatorial power, places this great Republic in that humiliating attitude. I do not think that a citizen in a country governed by law was ever driven to the necessity of appealing to one man for protection. Sir, the citizen who for the time being fills the chief executive office is bound to see that the laws are faithfully executed: that is his duty. There is no liberty save in the supremacy of the law. In all free Governments the citizen appeals to the law for protection.

Mr. President, all usurpers and all tyrants that have gone before us, those who have overthrown the liberties of every people who have lost their liberties, claim their powers under this plea of necessity. Caesar, when he led his army from Gaul, crossed the Rubicon, and overthrew the liberties of his country, did it upon the plea of necessity, and tyrants the world over have done the same thing. The President seems to me to follow in the footsteps of Caesar, Pompey, and Cromwell. The Chief Magistrate, I regret to say, seems to copy all the faults, while he has exhibited none of the virtues of those distinguished men.

Now, sir, allow me to read to you what the same writer says about the action of these two distinguished men in Rome—how it was they sapped the foundations of the liberties of the people. Speaking of Pompey, Montesquieu says:

"He employed the vilest of the populace to incommode the magistrates in the exercise of their functions, in hopes that wise people, growing weary of living in a state of anarchy, would be urged by despair to create him dictator."

Do we not find the same thing going on here? Are not the President and his military officers interfering with the civil magistrates? There can be no doubt about it.

Speaking of Caesar, the same author says:

"He raised troubles in the city by his emissaries; he made himself master of all elections; and consuls, praetors, and tribunes purchased their promotions at their own price."

"He made himself master of all elections." That is what is being done here. How was it with Oliver Cromwell? The Protector appointed twelve major generals to take charge of the twelve districts into which he divided the British empire, and they went forth armed with all power; they decimated the people; they taxed them at their discretion, and exacted enormous tribute from them, and in that way the people were held in subservience to the military authority. The Protector dissolved one Parliament and carried on his Government by a Council of State. After a while, believing that such had been the glory of his administration in its foreign wars, and such was the subserviency of the people created by the action of his twelve major generals, that he could have a Parliament elected that would be subservient to his will, he ordered an election. The election was held, and how was it conducted? I will read an extract from Mr. Hume on that subject:

"Cromwell began to hope that, by his administration, attended with so much luster and success abroad, so much order and tranquility at home, he had now acquired such authority as would enable him to meet the representatives of the nation, and would assure him of their dutiful compliance with his Government. He summoned a Parliament; but not trusting altogether to the good-will of the people, he used every art which his new model of representation allowed him to employ, in order to influence the elections and fill the House with his own creatures. Ireland, being entirely in the hands of the army, chose few but such officers as were most acceptable to him. Scotland showed a like compliance; and as the nobility and gentry of that kingdom regarded their attendance on English Parliaments as an ignominious badge of slavery, it was on that account more easy for the officers to prevail in the elections. Notwithstanding all these precautions, the Protector still found that the majority would not be favorable to him. He set guards, therefore, on the door, who permitted none to enter but such as produced a warrant from his Council; and the Council rejected about a hundred, who either refused a recognition of the Protector's Government, or were on other accounts obnoxious to him. These protested against so egregious a violence, subversive of all liberty; but every application for redress was neglected, both by the Council and the Parliament."

"The majority of the Parliament, by means of these arts and violences, were now at last either friendly to the Protector, or resolved, by their compliance, to adjust, if possible, this military Government to their laws and liberties."

Mr. President, from the authorities I have read it seems that we are following in the footsteps of nations whose liberties have been overthrown and trampled down beneath the iron heel of military despotism. It is said that history but re-enacts itself, and it seems to me in view of all the lights in the past which we have before us, that this once great and glorious country of ours is about to be destroyed and its liberties overthrown by the same means that have destroyed all the free Governments that have gone before us. It is a fact that we should well ponder and consider, that it is by military power that free nations heretofore have lost their liberties. It is our duty, if it is possible to do so by wise laws, to see to it that the hopes of the world in regard to the glory, prosperity, and perpetuity of this Republic shall not be wrecked on the same rock.

I said a moment ago that if we are to have liberty we must be governed by law; that liberty can only exist in the supremacy of the law. On that point Mr. Locke says:

"Where law ends, tyranny begins. If the law be transgressed to another's harm, him whomsoever in authority exceeds the power given him by the law and makes use of the force he has under his command to compass that upon the subject which the law allows not, ceases in that to be a magistrate, and acting without authority may be opposed as any other man who invades the rights of another."

That is a wise maxim laid down by Mr. Locke; but if I had uttered it a year or two ago my loy-

38TH CONG.... 1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

ality perhaps would have been very much questioned. The President of the United States, however, utters the same sentiment in his inaugural address, for in that address he declares:

"If by the mere force of numbers a majority should deprive a minority of any clearly written constitutional right, it might in a moral point of view justify revolution; certainly would if the lost right were a vital one."

The last part of the extract I read from Mr. Locke is in substance the same. He says if the lawful rights of the people are overthrown by their magistrates, they have a right to resist. Mr. Lincoln says the violation of the Constitution in a vital point would justify revolution; and allow me to tell you, Senators, that one reason why the people have submitted so quietly, so uncomplainingly, to the many usurpations of the Executive is that they hoped in a short time to have the privilege of relieving themselves of the President by means of free suffrage; but if you allow the military to prevent free elections you not only stab the Republic in its very vitals, but you will by that means cause many persons who think that these usurpations of power ought to be resisted only at the ballot-box to look about for other means to redress their grievances. If you do not wish blood to flow in this land, if you wish to preserve our institutions, allow the people the privilege of turning out every four years their President if they desire to do so. Give them free speech, free press, free suffrage. Allow me to tell you that these three things are the greatest conservative elements in this country. The people will bear patiently great wrongs from wicked and corrupt officials, provided free speech, free press, and free suffrage are left them. By these lawful agencies they can in a short time turn unworthy and corrupt officials from their high places. A wise and prudent people prefer the use of these constitutional and peaceful agencies to force to rid themselves of unworthy public servants. In the various phases of political parties that have existed heretofore in this country, the Executive has been sometimes denounced for usurpation, and we have had no revolutions. And why? Because the people knew that they had the power in their hands, if a majority were of their opinion, in a short time to clothe other magistrates with power. But, sir, for the first time in the history of the Republic we find that the Federal military have taken charge of elections. It is a matter that the Senate should gravely consider and prevent, if they possibly can do so, by placing upon the statute-book salutary and wise laws to prevent the recurrence of the evil. Senators, if you allow the President to exercise this power, if that magistrate should be a corrupt or an ambitious or a depraved man, do you not know that he will use it for the purpose of perpetuating his power, and reflecting himself? There is no Senator in this Chamber but must know that what I say is true. Why not, then, pass the bill without hesitation, and do your duty at least to prevent it?

I regret to say that I am very thoroughly satisfied that the President is using the military in this way, and tampering with elections for the purpose of perpetuating his power. Nothing will convince me to the contrary but such action on the part of the Executive as will clearly indicate that he is not using the military arm of the Government for that purpose. His amnesty proclamation is a move in that direction; and at this point I will, for a few moments, advert to that proclamation, dated the 8th December last, accompanying the President's last message. I regard the proclamation as unwise, inexpedient, unconstitutional, and revolutionary. I do not know that I have ever seen a more revolutionary document than this proclamation. It is revolutionary because it overthrows the Constitution, overthrows the laws, and by it the Executive assumes powers that are not conferred upon him by the Constitution. In a word, he sets up his own will as the law; he becomes for the time being a despot; his will governs instead of the Constitution and the written laws of the country. The President, in his proclamation, not only prescribes the qualifications of voters, but the qualifications of officers. What right has the President of the United States, whence does he derive the power, to say who shall be a qualified elector in the State of Arkansas, or who shall be qualified to hold office in that State?

Take his proclamation and his letter to General Steele, and you will see that the President assumes all these powers. He undertakes to prescribe the qualification of voters, and of the persons who shall hold office in that State. I read yesterday and commented upon the clause of the Constitution that declares who are qualified electors. I suppose no Senator will contend that the President of the United States, by virtue of his office, has the right to alter or to amend the constitutions of the States of this Union, or the right to say who shall be a qualified voter for the State offices in any State, or who shall be qualified to hold State offices; and yet the President assumes the power to do all these things in his amnesty proclamation and in his letter to General Steele touching elections in the State of Arkansas. I will read from that letter on this matter:

"The constitution and laws of the State, as before the rebellion, are in full force, except that the constitution is so modified as to declare that there shall be neither slavery nor involuntary servitude except in the punishment of crime."

By what authority does the President of the United States assume to amend the constitution of the State of Arkansas? I had thought that that right was conferred alone upon the sovereign people of that State. I have always supposed that under our form of Government the people, and the people alone, were clothed with the sovereign power to make constitutions and to alter or amend them. And yet we find that the President of the United States undertakes to exercise that power. It is a power as despotic and as absolute as that exercised by William of Normandy in England after the battle of Hastings. Is there a Senator here who will dare rise in his place and say that the President has the power to alter or amend the constitution of any State of the Union? The President assumes it in his letter to General Steele, and he undertakes in the amnesty proclamation to prescribe the qualification of voters, for he says that all who choose to come in and take that oath may exercise the right of citizens. In his letter to General Steele he requires that when the officers are elected they shall appear at General Steele's headquarters at Little Rock and take that oath. Of course that is prescribing the qualification of the officers as well as of the electors.

That is not all, Mr. President, that is being done in this direction. We find that the same thing, to some extent, is being done in Tennessee; Governor Johnson's proclamation, although very objectionable, is free from many of the objections that are contained in the others. General Banks is commanding in Louisiana, and he issues orders regulating elections, regulating labor, and establishing a kind of semi-peonage among the negroes, and in his order he uses this remarkable language:

"Opinion is free and candidates are numerous. Open hostilities cannot be permitted. Indifference will be treated as a crime and faction as treason."

Was there ever so atrocious a sentiment as that? Here is a major general of the Army of the United States who speaks of candidates being numerous and opinions free, and yet he says, in the very next two lines, that he will treat indifference as a crime; in plain Saxon, that the man who does not vote will be a criminal and will be punished with an iron hand. What kind of freedom of opinion is that? Yet, sir, we find one of the President's creatures, one of his military subordinates, whom he has put over one of the military departments, uttering that unconstitutional and atrocious sentiment.

You see, sir, that the military are swallowing up all the other powers of the Government, both State and national; and it seems that those who attempt to pass laws to arrest it meet with very little favor from the Committee on Military Affairs. I hope we shall fare better in the Senate. The proclamation of the President is unjust to loyal men. That proclamation will not allow any person to exercise the functions of citizenship in one of those States unless he shall take the oath prescribed. Then, and only then, is he a qualified voter. Only then is he qualified to hold office. And who are allowed to avail themselves of the benefits of this amnesty? Any person, a citizen of one of those States, can avail himself of it unless he falls within the excepted classes; and those are, officers in the army of high grade, such as

have left the Congress of the United States, &c. It is unnecessary for me to enumerate them all. The exception applies to those who have held civil office and those who have held high military command, &c. All others who come in and take this oath are clothed by the grace of the President's pardoning power with the qualifications of suffrage, and they are permitted to hold office.

I say it is unjust to loyal men. There are many stanch, loyal Union men in those States, men who never have had sympathy with the rebellion. The President, in his first message, said that in all those States, except South Carolina, he believed a majority were loyal to the old Union. The President requires all these persons to take this oath. If a man had been in the army of the confederate States, and had slaughtered a hundred Union soldiers, he is a qualified elector on coming and taking this oath; but a man who had ever been a Union man but who could not conscientiously take the oath is excluded. I hold that the oath is of such a character that a conscientious, honest man would not take it; and moreover I think it very unjust to require of a man who is and has ever been devoted to the institutions of his country, and who has been in no wise engaged in this rebellion, to submit to the humiliating condition prescribed for those the President regards as pardoned felons.

The oath requires a man to swear that he will support the Constitution of the United States. I suppose with all Union men there would be no difficulty about that part of the oath, for they have been supporting it all the time. But it further requires them to support the negro policy of the President and his proclamations on that subject. I, for one, firmly believe that the President's emancipation proclamation is unconstitutional. I think he had no power to issue it or to proclaim the freedom of negroes in the States; and I have no doubt that a large majority of the Union men in that country concur with me in opinion. Yet, sir, you see he requires them to take that oath, which an honest loyal man cannot take, if he believed his proclamation to be in violation of the Constitution, when he swears to support the Constitution. He cannot in the same oath swear to support proclamations which deprive him of his property, and which he thinks are in conflict with the Constitution.

The oath requires a man not only to swear to support the proclamations that have been issued, but to swear to support those that may be issued in the future. It applies as well to the future as to the past or the present. What honest man would swear that he would support all other proclamations the President might make on the subject of negroes or negro slavery, even provided he approved the proclamations already issued? The President, in the plenitude of his power, might issue a proclamation that only negroes should vote and that only negroes should hold office; and yet he would swear a man in advance to support it. I tell you, sir, an honest, conscientious man cannot take this oath. This proclamation and the oath elevates the negro above the white man. I will read one clause of it on that subject. Speaking of those who are excluded from the benefit of the proclamation, the President says:

"And all who have engaged in any way in treating colored and white persons in charge of such otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity."

He excludes from this amnesty a soldier in the rebel army, if he has treated a negro soldier, seaman, or white persons in charge of such, otherwise than as a prisoner of war; but he does not exclude those engaged in the confederate army who have treated white soldiers and white seamen or their commanders otherwise than as prisoners of war. If one of those rebel soldiers lays his hand on a negro, and does not treat him as a prisoner of war, he cannot be pardoned; but he may take white soldiers and seamen prisoner and execute them in cold blood after they have surrendered; he may treat them with the utmost cruelty and with the most savage barbarity, and that man can come up and avail himself of the amnesty in President Lincoln's proclamation. If he touches the saintly person of a negro in that way there is no chance for him to avail himself of the President's amnesty.

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

I believe that this is a Government of white men. I believe it was made by white men and for the benefit of white men; and I still believe that a white man is better than a negro. I think every such discrimination in favor of the negro against the people of our own race is most atrocious, and wholly unjustifiable.

There is another thing in this amnesty proclamation upon which I will say a word: and that is the one-tenth principle. When one tenth of the population, that is, one tenth of those who voted at the last presidential election, shall come forward and take the oath, they shall be enough to govern, says the President. That destroys every principle of republican Government. It is a principle that I suppose none will deny in a republican and democratic Government, that majorities shall rule; but here the President says one tenth may rule. He overthrows the great principle upon which all republican and democratic Governments rest, and he says one tenth, and that one tenth may be, and I have no doubt will be, composed of the most despicable people of that country; for it is that kind who are willing to come in, after they have been engaged in the rebel army, if they get a little tired and swear out of it. I have not much opinion of those men who swear into one army one day and into another the next. They are not the kind of men who should be permitted to govern any people.

The loyal men there who believe the President's negro policy is unconstitutional cannot avail themselves of the amnesty. It is such only as will come up and submit themselves to that humiliating degradation; brave and upright men are not going to humiliate themselves by taking such a degrading oath. One tenth of that kind of men are to govern. They are to govern the nine tenths. How will they govern them? He promises them that protection which is provided for by the Constitution, which declares "the United States shall guaranty to every State in the Union a republican form of Government." I suppose the President intends to keep charge of the governments of these States in all time by a standing army to enable this one tenth to govern the nine tenths. Sir, you cannot cause one tenth of any free white people on this continent to govern nine tenths, unless you make the nine tenths absolute slaves. You must stand by with your bayonets fixed and coerce nine tenths into absolute unconditional obedience before one tenth can govern them. The government the President proposes to guaranty to these States is not a republican government within the meaning of the Constitution, and it is a gross abuse of language so to call it.

Many honorable Senators on the other side of the Chamber, and the school of politicians to which the President belongs, have made a great deal of clamor about the three-fifths slave representation provided for in the Constitution. Carry out this one tenth principle in Arkansas, the one tenth who will avail themselves of the amnesty of the President, by taking that most humiliating of oaths, will have it in their power to elect all the members of Congress to which Arkansas would be entitled upon the enumeration of her population at the last census; and do you not think that one man down there will have as much power as ten men in Minnesota or Michigan? Certainly so; and that is the policy of the President whose party has been clamorous upon the negro representation of three fifths provided in the Constitution for the slave States.

Sir, I do not care upon what ground you place the question; the President is not clothed with the power that he has exercised. There are two theories among the Republicans on this question. Some say these States are dead, out of the Union, have committed suicide; others say they are still States in the Union. Well, if they are States in the Union, what power has the President of the United States to alter or amend their constitutions, or to fix the qualification of voters in the States, or the qualification of State officers? He has none. Nobody will contend that the President of the United States, by virtue of his office, has any power or any right to alter or amend the constitution of any State in the Union. If Arkansas is a State in the Union the President has no power to alter its constitution, which he has assumed to do. If it is not a State of the Union,

but is a Territory that has been acquired by conquest, purchase, or otherwise, then I ask what authority has the President to admit it as a State into the Union, or to make a constitution for it? Is it not plainly written in the Constitution that Congress may admit new States? Congress, and Congress alone, has the power to form governments for the Territories of the United States. If he holds, then, this to be a Territory, he exercises a power conferred by the Constitution on Congress. So take it in any way you please, and the President is exercising power absolutely forbidden by the Constitution.

I regard the amnesty proclamation as a most unfortunate one. I believe it will put off and delay a cessation of hostilities, and perhaps a reconstruction of the Union, for a long time to come. I admit that the President is clothed with the pardoning power; but when he undertook to issue an amnesty proclamation he should have made that proclamation ample, full, complete; he should have restored these people to all their rights of person and property under the Constitution; he should have told all those who came back and rallied under the old flag that they should enjoy all the rights and all the protection that the Constitution secures to a citizen of the United States. By such a proclamation the President would have weakened the rebel cause. I believe that if such a proclamation were now issued Arkansas and many of the border States of the confederacy would soon return to the Union.

As it is, you place upon them the most humiliating conditions, conditions that a brave and honest people who love liberty never, never will submit to. Why, sir, is there a Senator here who would, for the purpose of being permitted to exercise the right of citizenship in a democratic and republican Government, take an oath that he would be bound to support all the proclamations that the Executive should issue on any one given subject? No, sir. The whole scheme of the President is impracticable. The object, in my judgment, is not to bring those States back into the Union in good faith, but to establish a kind of rotten-borough system, to have votes to help to reelect him President. We may as well speak plainly as we are speaking on the subject. I believe the expedition sent down to Florida was for the purpose of inaugurating the same system there; and that foolish and disastrous expedition results about this way: a loss of fifteen hundred of the soldiers of the United States in an effort to get three electoral votes.

I stated a moment ago that the Executive was swallowing up every other department of the Government. I am not going to consume the time of the Senate by reciting at any great length the usurpations of the Administration. The President and the party in power have violated the Constitution in almost every vital part. The Constitution confers on Congress the power to raise and support armies, and to provide and to maintain a Navy. The President has added to the regular Army twenty thousand men without warrant of law. He has added eighteen thousand seamen to the Navy without the authority of law. The Constitution has been violated by taking money from the Treasury without authority of law.

"The freedom of speech has been violated by the arrest and imprisonment of a number of persons, charged with no crime, and whose only offense was the utterance of sentiments distasteful to the men in power.

"The freedom of the press has been subverted by the suppression of a number of newspapers.

"The right to security from arrest when no crime is charged has been disregarded in the arrest and incarceration of a large number of persons, denounced by the parasites of the Administration as 'sympathizers with the rebellion.'

"The right to security from unlawful searches and seizures has been violated in numerous instances, in which domiciles have been visited, and papers, &c., seized without legal authority.

"The right of a trial by jury has been refused in the cases of citizens arrested and imprisoned, or banished by military orders of courts-martial.

"The freedom of every citizen has been taken from him by the illegal and unnecessary suspension of the right to demand the writ of *habeas corpus*.

"The right of property has been abrogated by the emancipation proclamation and the confiscation act.

"The inviolability of contracts has been destroyed by the act which makes depreciated Treasury notes a legal tender for all debts.

"The freedom of religious worship has been violated on repeated occasions by the interference of military officers.

"The right of States to the management of their militia

has been taken from them by the conscription act, which places the whole military power of the country at the disposal of the President.

"The formation of the State of West Virginia was a violation of the third section of the fourth article of the Constitution.

"The heretofore undisputed right of the people to elect their legislators and rulers has been taken from them, and the will of majorities disregarded, as is abundantly manifested in the manner in which elections have recently been carried by the grossest corruption, by military orders, in the border States of the South."

Nearly all the violations of the Constitution that I have enumerated have been by the Executive Department of the Government. It seems to me that the Executive, aided by the military power, has swallowed up the powers of this Government, both State and national, almost as completely as did the rod of Aaron swallow up the rods of the magicians.

We are all subject at any day to arrest and imprisonment without warrant, without trial, without a hearing. We find the President, through his Secretaries and military commanders, exercising that power. I regard the presidential office as a unit, and that all those Secretaries act by virtue of his authority. They are but his chief clerks, as Mr. Randolph used to call them, and the present Secretary of State, in one of his dispatches to some Government in Europe, says it is all the action of the President, whether done by one of the Departments or another. That is certainly the true theory of the Government. Citizens of the highest position and respectability have been arrested without warrant and thrown into prison, where they have languished, some of them, as long as seventeen months without accusation or trial. These officials go on as if they would enjoy power forever. This is an exercise of power that would have caused a dictator of Rome to be punished. Cicero, during his consulship, when he was engaged in putting down the conspiracy of Catiline, being clothed with dictatorial power by the Roman senate, put to death five Roman citizens, and that, too, with the advice and consent of the senate. For overthrowing that conspiracy no man ever was more lauded, and for that he was called *parens patrie*; but after that struggle was over, Cicero, who had been so eulogized by all Rome, was indicted, tried, convicted, and banished because he had put a Roman citizen to death without trial. Yet, sir, with a written Constitution that absolutely forbids it, when there is no authority in our Government to confer dictatorial power upon the President, he imprisons at will thousands of our citizens without charge, without trial. Sir, the President and his satraps had better beware. A brave people will not stand these things all ways. A day of reckoning will come, and an awful day it will be to those guilty men who have overthrown and trodden under foot the Constitution and laws of their country, and unlawfully deprived the people of their dearest rights.

It is pleasant when we see that a gleam of light has broken in upon persons from whom we expected little good. I hold in my hand an extract from a speech of the most distinguished radical in America—a man of learning, a man of eloquence, indeed of rare elocution. I had thought that his whole soul was fully absorbed in this negro question, and that he could not talk without bringing it in. I mean Wendell Phillips. But while I think him a fanatic of the deepest dye, he differs from others of his party; he sometimes has lucid intervals. Allow me to read an extract from a speech of that eloquent man on this very point:

"But let me remind you of another tendency of the time. You know, for instance, that the writ of *habeas corpus*, by which Government is bound to render a reason to the judiciary before it lays its hands upon a citizen, has been called the high-water mark of English liberty. The present Napoleon, in his treatise on the English Constitution, calls it the germ of English institutions. Lieber says that that, with free meetings like this, and a free press, are the three elements which distinguish liberty from despotism, and that Saxon blood has gained in the battles and toils of two hundred years these three things. Now, to-day, every one of these—*habeas corpus*, the right of free meeting, and free press, is annihilated in every square mile of the Republic. We live to-day, every one of us, under martial law or mob law. The Secretary of State puts into his bastille, with a warrant as irreproachable as that of Louis, any man whom he pleases; and you know that neither press nor lips may venture to arraign the Government without being silenced. "We are tending with rapid strides—on you say, inevitable; I don't deny it necessarily; I don't question it; we are tending to a strong Government which frightened Jefferson; toward that unlimited debt, that endless army. We have already those alien and sedition laws which, in 1798,

wrecked the Federal party and summoned the Democratic inter-existence. For the first time on the continent we have passports, which even Louis Bonaparte pronounced useless and odious. For the first time in our history, Government spies frequent our great cities."

"That, sir, is a very graphic and truly eloquent picture of the times in which we are, and I hope the country will take warning. We seem to have yielded everything to the military power, and I regret to say with a tameness and submission which, in my judgment, are unbecoming members of an American Congress. A military republic we have, and we have a republic but in name—the animating principle, the security of the citizen in life, liberty, and property, is gone. Allow me to call attention to an extract on that subject from one of the speeches of the great Webster, who spoke upon that, as he did upon most other subjects, with the most profound wisdom. This is from his speech delivered on the completion of the Bunker Hill monument:

"A military republic, a Government founded on mock elections, and supported only by the sword, is a movement indeed, but a retrograde and disastrous movement from the regular and old-fashioned monarchical system. If men would enjoy the blessings of republican Government they must govern themselves by reason, by mutual counsel and consultation, by a sense and feeling of general interest, and by the acquiescence of the minority in the will of the majority, properly expressed; and above all, the military must be kept, according to the language of our Bill of Rights, in strict subordination to the civil authority. Whenever this lesson is not both learned and practiced, there can be no political freedom. Absurd, preposterous is it, a scold and a satire on free forms of constitutional liberty, for forms of Government to be prescribed by military leaders, and the right of suffrage to be exercised at the point of the sword."

Sir, we are in those very times; we have seen the right of suffrage exercised at the point of the sword. There never was a time, it does not exist now, and has not existed since this unfortunate civil war commenced, in which it was necessary for the President to overthrow the Constitution and elevate the military above the civil power. There is power enough in the Constitution to furnish the President every dollar and every man needed for this war. Congress can give him the sword and the purse. What more can you confer? Nothing. Where, then, the necessity and the excuse for these wanton violations of the Constitution, this reckless overthrow of the liberties of the people, this setting at naught the laws and the constitutions of the States, this regulating of elections by the sword? None. None. The genius of our Government is founded upon the principle that the military shall be kept in strict subordination to the civil power. But the friends of the President claim it as a matter of necessity to save the life of the nation, when they must see that the President is trampling under his feet the Constitution, and crushing out the liberties of the people, and destroying every vital principle that gives value to free Government.

But, sir, we have had other great chiefins before. There was a man who lived in this Republic that I suppose was thought by all wise and good men to be almost as great as Abraham Lincoln is thought to be by his cringing, truckling, and obsequious followers; that man was George Washington. He led our armies through a seven-years' war in most trying times, when the organization of the civil authority was very defective. It had none of the force, none of the power that we have now under our well and admirably adjusted Constitution; when there was great difficulty in procuring men for the Army and money to defray the necessary expenses of the Government. Many of the States failing to furnish their quotas of men and money, there being no central controlling power, Congress had no means of enforcing its decrees upon the States. Surrounded by such embarrassments, Washington for seven years led the armies of the colonies until the war was brought to a successful and glorious close. Did Washington, during that long and arduous struggle in which the colonies were engaged, ever think it necessary to subordinate the civil to the military authority? No, sir; no. In 1783, when he resigned his commission at Annapolis, he was addressed by Thomas Mifflin, President of the Continental Congress, as follows:

"You have conducted the great military contest with wisdom and fortitude, invariably regarding the rights of the civil power through all disasters and dangers."

This I regard as the highest and most deserved

compliment that was ever bestowed upon mortal man.

Sir, I would that this vacillating, dissembling, weak, and I fear wicked and corrupt, man in the White House had been infused with the wisdom, virtue, and patriotism that animated the soul and prompted the actions of the great Washington in our revolutionary struggle. Washington and his compatriots were engaged in a struggle for civil liberty; the sword was used only to resist the encroachment of tyrants, and was subordinated to the civil power. The resistance was successful. They then laid broad, deep, and strong the foundation of civil and religious liberty. They proclaimed the Constitution as the fundamental law, and threw it as a strong and impenetrable shield around the rights of the States and the liberties of the people. The Executive is now using the sword which should only be directed against the armed enemies of the Republic for the sacrilegious purpose of suppressing free speech, free press, and free suffrage, and the overthrow of the Constitution, the rights of the States, and the liberties of the people of the adhering States.

Amid the startling assumptions of the military power we find that one member of the Cabinet has recently woke up on this subject. The polite and venerable Attorney General, Mr. Bates, is seized with dread apprehension because the military power is interfering with the civil authority. I congratulate the country that the first law officer of the Government has at last sounded the alarm on this momentous question. I will read a part of the letter of the honorable Attorney General on this subject; and I do it with profound satisfaction.

It seems that the military authority arrested a Judge Knapp at Santa Fé, in the Territory of New Mexico, and imprisoned him and otherwise interrupted him in the discharge of his duties. He wrote a letter, and a very manly one it was, protesting against the interference of the military to the Attorney General. The Attorney General took the matter under consideration and conferred with his Excellency the President; and thereupon he wrote this note to Judge Knapp:

"Your letter of the 4th of August complaining of military arrests was slow in reaching me, and then such was the urgent and continued occupation of the President in the great affairs of the Government that I have not been able until now to fix his attention on the particular outrage on you, as your letter makes me believe it to be.

"There seems to be a general and a growing disposition of the military, wherever stationed, to encroach all power, and to treat the civil Government with contumely, as if the object were to bring it into contempt.

"I have delivered my opinion very plainly to the President, and I have reason to hope that he, in the main, concurs with me in believing that those arbitrary proceedings ought to be suppressed."

I am delighted that even the Attorney General has been aroused on this subject, and I should have been further delighted if he had announced that the President concurred with him in opinion; but instead of that he says he hopes he does in the main concur.

Now, sir, what have we seen for the last two years? We have seen the military authority overthrowing the civil rights of citizens in every part of the country. We have seen citizens, neither engaged in the military nor naval service of the United States, seized and tried before drum-head courts-martial and punished, and some of them banished from their country. We have seen the military arrest judges who were faithful, loyal, and true men; for instance, Judge Duff, in the State of Illinois, when presiding in his court; Judge Constable, of the same State; and Judge Carmichael, of Maryland. Judge Duff was brought here a prisoner and lodged in the Old Capitol, and without any charge being brought against him was released. Judge Carmichael was subsequently imprisoned in Fort McHenry. The Attorney General stood by and saw all that, and he complained not. I am glad that the imprisonment of this judge in New Mexico has aroused the Attorney General from his slumbers. I am rather inclined to believe that the reason why the Attorney General is waking up now is that the military has laid its mailed hand upon a Republican judge; for this judge was appointed by Mr. Lincoln. When Judges Constable, Duff, and Carmichael, who are Democrats, were arrested, we did not hear a word from the Attorney General. How-

ever, I congratulate the country that the Attorney General has at last woke up. It is better late than never. I have no doubt, judging from the long time it has taken the Attorney General to come to the conclusion that the military is attempting to overthrow the civil power, that he will wait until the seventh angel spoken of in the Revelation of John shall appear, with one foot upon the land and the other upon the sea, trumpet in hand, and with loud and shrill blast summon a guilty world to final judgment, before he will begin to think for a moment that judgment day is near at hand. [Laughter.]

But, sir, I am delighted to find that the Attorney General is seized with dire alarm and dread apprehension in consequence of the encroachments of the military upon the civil power. The usurpations on the part of the military must have been very great to have brought forth the earnest protest of the Attorney General, who has not only given an opinion to the President that he had a right to suspend the privilege of the writ of *habeas corpus*, but has justified the President, as far as I am advised, in all of his subsequent usurpations of power. So astounding have these abuses become that even Mr. Bates has made protest against them.

I hope soon to hear others who have been liegemen of the President making manly protest against his usurpations; and to hear their appeals to their countrymen, rallying them to the rescue of their down-trodden liberties and a violated Constitution.

The Secretary of War, by virtue of what authority I do not know, has undertaken to administer the churches. Yes, sir, Edwin M. Stanton and General Butler are making themselves kind of chief pontiffs, and are "running the churches," the one in the valley of the Mississippi and the other in Norfolk and Portsmouth. If the President had decided to appoint persons to regulate and supervise the churches, and to take the religion of the people under his control, I would have supposed he would have selected gentlemen distinguished for their charity, kindness, and benevolence; men of high moral tone, meek and gentle in their manners; men eminent for their piety and theological learning, whose lives were adorned with every Christian virtue, to have discharged this most responsible and delicate trust. The two persons who have unlawfully assumed the control of the churches have none of the qualifications that I have indicated. If the President had searched the entire country I do not believe he could have found two persons upon whom to confer this delicate trust more unsavory than Edwin M. Stanton and Benjamin F. Butler. In their manners and intercourse they are both heartless ruffians; they are strangers to kindness, gentleness, benevolence, and those elevated manly virtues that gracefully adorn the life of a Christian gentleman. But, sir, they have usurped the power to control the churches in the localities I have mentioned, in violation of the Constitution and the rights of the people who own those houses of public worship.

There is a little curious history about this subject. I have here the order of the Secretary of War placing under the control of Bishop Ames all the churches of the departments of the Missouri, the Tennessee, and the Gulf, belonging to the Methodist Episcopal church South. This is one of the most startling usurpations of the military power that has fallen under my notice. The Constitution secures religious freedom to the citizen explicitly. Where did the Secretary of War get the power to transfer all these churches to the control of Bishop Ames? Listen to this order:

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, November 30, 1863.

To the generals commanding the departments of the Missouri, the Tennessee, and the Gulf, and all generals and officers commanding armies, detachments, and corps, and posts, and all officers in the service of the United States in the above mentioned departments:

You are hereby directed to place at the disposal of Rev. Bishop Ames all houses of worship belonging to the Methodist Episcopal church South in which a loyal minister, who has been appointed by a loyal bishop of said church, does not now officiate.

It is a matter of great importance to the Government, in its efforts to restore tranquillity to the community and peace to the nation, that Christian ministers should, by example and precept, support and foster the loyal sentiment of the people.

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

Bishop Ames enjoys the entire confidence of this Department, and no doubt is entertained that all ministers who may be appointed by him will be entirely loyal. You are expected to give him all the aid, countenance, and support practicable in the execution of his important mission.

You are also authorized and directed to furnish Bishop Ames and his clerk with transportation and subsistence when it can be done without prejudice to the service, and will afford them courtesy, assistance, and protection.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant General.

Sir, the first article in the Amendments of the Constitution says:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

The Secretary of War violated that provision of the Constitution when he assumed jurisdiction over these churches. By what authority does he assume to appoint indirectly, through Bishop Ames, ministers to all the churches in the three departments mentioned belonging to the people called the Methodist Episcopal church South? Bishop Ames does not belong to that church himself. He belongs to the Methodist Episcopal church North. The Methodist Episcopal church North and the Methodist Episcopal church South are two separate and distinct institutions. They divided, I believe, in May, 1845. Since then they have been separate and distinct ecclesiastical bodies. Mr. Stanton by this unauthorized and unconstitutional order has clothed Bishop Ames with the power to take possession of all those churches. The minister may be loyal, but if he happens to have been appointed by a disloyal bishop he must be kicked out. They did deliver a chapel in Memphis under that order to Bishop Ames. I have the order here, and I will read it:

HEADQUARTERS DEPARTMENT OF MEMPHIS,
December 23, 1863.

Rev. BISHOP AMES:

In obedience to the orders of the Secretary of War, dated Washington, November 30, 1863, a copy of which is here attached, I place at your disposal a "house of worship" known as "Wesley Chapel," in the city of Memphis, State of Tennessee, the said house being claimed as the property of the Methodist Episcopal church South, and there being no loyal minister, appointed by a loyal bishop, now officiating in said house of worship.

I am, very respectfully, your obedient servant,

JAMES C. VEATCH,
Brigadier General.

Mr. Stanton's order is being executed. I understand that the minister who was turned out of that church is a most excellent man, a man who preached Christ and Him crucified, and never babbled politics in his pulpit or elsewhere. He was turned out by the order of Pontiff Stanton, through his instrument and nuncio, Bishop Ames. I desire to cast no reflection upon Bishop Ames. I am told he is a worthy man. His sense of justice must have been very much blunted when he undertook this ecclesiastical mission.

While this was going on, on the very day General Veatch wrote the order to deliver Wesley Chapel to Bishop Ames, what do we find? We find a letter dated on that very day, December 23, 1863, written by the President of the United States, concerning a certain minister in St. Louis—Mr. McPheeters—in which the President said he knew nothing about these things, and then goes on to say:

"But I must add that the United States Government must not, as by this order, undertake to run the churches."

"We must not undertake to run the churches," says the President; and he goes on to say that the Government has nothing to do with them. The President seems to be profoundly ignorant of what his chief of the War Department is doing. I do not know that I can properly solve the contradictions growing out of the President's declarations and the acts of his Secretary of War and major general.

Before I pass to that point, however, let me state that General Butler has issued an order that the churches in Portsmouth and Norfolk shall be controlled by the provost marshals, that they shall appoint and displace ministers in the churches, make assessments, &c., subject to the approval of the commanding general. Yes, sir, Ben. Butler, the Haynau of America, he whose administration in New Orleans brought disgrace on our country, whose friends in the House of Representatives refused a few days ago to allow a resolution to pass asking for a committee to investigate his conduct, is discharging the functions of

grand hierarch in those cities. The provost marshal may present the minister to the church, but it must be by the approval of General Butler.

While all this was going on, the President wrote the letter, an extract from which I have read. He seems to be profoundly ignorant on the subject. He says the Government must not run the churches. I can only solve that by one of two hypotheses. It may be that the President has got it into his head that he will run the churches, but is not exactly ready to say so, and is using Stanton and Butler as a kind of feelers, as pilot-fish, as some of the friends of General Fremont and General Hunter think they were used in regard to the emancipation proclamation. General Fremont issued an emancipation proclamation, General Hunter issued one, and General Phelps issued another. The President revoked all those proclamations, and presently he issued an emancipation proclamation himself. The friends of those parties sometimes say that the President permitted those proclamations to see which way the popular current was running, then revoked them; and when he found the whole radical party, the whole Republican party, pretty much concurred in that policy, then he ventured upon it himself. He may be using Stanton as a pilot-fish in this matter, running him ahead; and if he thinks the people will not revolt at it and it will not be exceedingly obnoxious he may venture upon this measure. "To save the life of the nation he may find it necessary to unite Church and State." In the mean time his letter concerning Rev. Mr. McPheeters is thrown out as something to fall back on in the event running the churches should appear very unpopular. This may be the proper solution of this matter. I do not, however, think it is.

My opinion is that Stanton is doing this thing upon his own authority against the wishes and without the knowledge of the President. What, then, is the duty of the President if that be the case? If Mr. Stanton willfully and knowingly acts contrary to the wishes of the President, or issues orders of the gravest importance, involving rights of the most delicate character, compelling people not to worship at all, or to worship under the ministry of a man whom they do not want—if Mr. Stanton does this without the approval of the Executive, what ought the Executive to do? He ought to dismiss him from office, and do it quickly and promptly. If he does not do it the country will come to the conclusion that he does not so much object to it after all, notwithstanding his assertion "that the Government must not undertake to run the churches."

Sir, this is a most shocking usurpation of the military power; and I think if I have the good fortune to get this bill through about elections I shall introduce another one punishing Secretaries of War and officers of the Army who attempt to appoint ministers to churches.

Mr. President, what are we to do when we see such startling usurpations by the military authority? Does not our duty imperiously drive us to the point of passing the most rigid laws to prevent a repetition of such outrages? If we maintain our institutions and our liberties at all, we must maintain free press, free speech, and free suffrage, and last, but not least, freedom of religion. You see that they have all been stricken down by the military power. We shall fall far short of our duty unless we make every law that we think is calculated to restrain them. The people, if they maintain this Government, must do it, as I have said, by maintaining free speech, free press, and free suffrage. They must do another thing. They must keep separate and distinct the various departments of this Government. They must not allow one department to encroach upon another, but each department must be kept within its own sphere. When they do that, one is a check upon the other. We must never allow them to be consolidated.

We should not allow the executive to encroach upon the judicial or the legislative department. Neither should we allow the legislative or the judicial to encroach on each other, or the executive department. Our fathers decreed these separate departments for wise purposes; and you will have no liberty unless they are kept independent of each other. In a word, you will have no liberty

except in the supremacy of the laws. Liberty must be regulated by law. No man, because he may be clothed with executive, judicial, or legislative power, should be allowed to trample the laws under his feet. The higher the official the more guilty the criminal if he violates the laws of the land, because of his sworn duty to see them faithfully administered or executed. I would punish a judge of the Supreme Court, or the President of the United States, or a Senator in Congress much more harshly for infracting a law than I would an unlettered man in the country; because they know their duty; they err knowingly, wittingly, and maliciously.

Mr. President, I beg the pardon of the Senate for trespassing upon their time so long. The only excuse I have is in the importance of the subject. I know that so important a bill as this, taking into consideration the circumstances by which we are surrounded, has not been before this Congress. I was met at the very outset with opposition. On introducing the bill I hoped and believed that every Senator would support it with alacrity and pleasure; but it met with opposition at the threshold, and against my earnest protest it was referred to the Committee on Military Affairs, a committee to which it certainly did not properly belong. After keeping it for a long time, the committee have reported it back adversely, accompanied by a report of fifty-two printed pages. I had to review all the testimony and to examine that report at length, and I could not get through with the subject and do it justice in less time than I have occupied. I hope, therefore, for the reason I have assigned, that the Senate will excuse me for the great length of time that I have trespassed on their patience.

APPENDIX.

Proclamation by the Governor.

COMMONWEALTH OF KENTUCKY,
EXECUTIVE DEPARTMENT.

For the information and guidance of all officers at the approaching election, I have caused to be herewith published an act of the Legislature of Kentucky, entitled "An act to amend chapter fifteen of the Revised Statutes, entitled 'Citizens, Expatriation, and Aliens.'"

The strict observance and enforcement of this, and all other laws of this State regulating elections, are earnestly enjoined and required, as being alike due to a faithful discharge of duty, to the purity of the elective franchise, and to the sovereign will of the people of Kentucky, expressed through their Legislature.

Given under my hand as Governor of Kentucky, at Frankfort, this 10th day of July, 1863, and in the seventy-second year of the Commonwealth.

J. F. ROBINSON.

By the Governor:

D. C. WICKLiffe, Secretary of State.

An act to amend chapter fifteen of the Revised Statutes, entitled "Citizens, Expatriation, and Aliens."

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That any citizen of this State who shall enter into the service of the so-called confederate States, in either a civil or military capacity, or into the service of the so-called provisional government of Kentucky, in either a civil or military capacity, or having heretofore entered such service of either the confederate States or provisional government, shall continue in such service after this act takes effect, or shall take up or continue in arms against the military forces of the United States or the State of Kentucky, or shall give voluntary aid and assistance to those in arms against said forces, shall be deemed to have expatriated himself, and shall no longer be a citizen of Kentucky, nor shall he again be a citizen, except by permission of the Legislature by a general or special statute.

Sec. 2. That whenever a person attempts or is called on to exercise any of the constitutional or legal rights and privileges belonging only to citizens of Kentucky, he may be required to negative on oath the expatriation provided in the first section of this act; and upon his failure or refusal to do so, shall not be permitted to exercise any such right or privilege.

Sec. 3. This act to be of force in thirty days from and after its passage.

Passed and became a law, the objections of the Governor to the contrary notwithstanding, March 11, 1862.

The following is the affidavit which may be used to negative the expatriation provided in the first section of the above act, upon the failure or refusal to take which no one can run for an office or vote for a candidate. It is the duty of all election officers to require it:

"You, A. B, do solemnly swear that since the 11th day of April, 1862, you have not entered into nor been in the service of the so-called confederate States, nor in the service of the provisional government of Kentucky, in either a civil or military capacity; and you do further solemnly swear that since the said 11th day of April, 1862, you have not taken up or been in arms against the military forces of the United States or the military forces of the State of Kentucky; and you do further solemnly swear that since the said 11th day of April, 1862, you have in no way, either

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Powell.

SENATE.

directly or indirectly, given any voluntary aid or assistance to any person or persons who were in arms against the military forces of the State of Kentucky. So help you God."

[General Orders, No. 120.]

HEADQUARTERS DEPARTMENT OF THE OHIO,
CINCINNATI, OHIO, July 31, 1863.

Whereas the State of Kentucky is invaded by a rebel force, with the avowed intention of overawing the judges of elections, of intimidating the loyal voters, keeping them from the polls, and forcing the election of disloyal candidates at the election on the 3d of August; and whereas the military power of the Government is the only force that can defeat this attempt, the State of Kentucky is hereby declared under martial law, and all military officers are commanded to aid the constituted authorities of the State in the support of the laws and of the purity of suffrage, as defined in the late proclamation of his Excellency Governor Robinson. As it is not the intention of the commanding general to interfere with the proper expression of public opinion, all discretion in the conduct of the election will be, as usual, in the hands of the legally appointed judges at the polls, who will be held strictly responsible that no disloyal person will be allowed to vote, and to this end the military power is ordered to give them its utmost support. The civil authority, civil courts, and business will not be suspended by this order. It is for the purpose only of protecting, if necessary, the rights of loyal citizens, and the freedom of election.

By command of Major General Burnside.

LEWIS RICHMOND, *A. A. G.**General Hartsuff and Rebel Sympathizers.*

[General Orders, No. 14.]

No. 4.] HEADQUARTERS TWENTY-THIRD ARMY CORPS,
LEXINGTON, KENTUCKY, July 24, 1863.

For the information and guidance of officers in impressing property, it is hereby directed that, whenever its impressment may become necessary for the troops of the twenty third Army corps, it will be taken exclusively from rebels and rebel sympathizers; and so long as the property needed is to be found belonging or pertaining to either of the above-named classes, no man of undoubted loyalty will be molested.

Among rebel sympathizers will be classed those persons in Kentucky, nominally Union men, but opposed to the Government and to the prosecution of the war, whose acts and words alike hinder the speedy and proper termination of the rebellion.

Property will only be taken by the proper staff officers, who will in every case give receipts for it. Appropriate blank receipts will be furnished by the chief commissary and chief quartermaster at these headquarters.

By command of Major General Hartsoff:

GEORGE B. DRAKE, *A. A. G.*

No. 7.] HEADQUARTERS DISTRICT OF KENTUCKY,
LOUISVILLE, July 25, 1863.

By authority of the general commanding the department, the following general order is made:

1. It is ordered that no forage or other property belonging to loyal citizens in the State of Kentucky be seized or impressed except in cases of absolute necessity, and then only on the written authority from the headquarters of the twenty-third Army corps or from these headquarters.

2. Whenever it becomes necessary to seize or impress private property for military purposes, the property of sympathizers with the rebellion and of those opposed to furnishing any more men or any more money to maintain the Federal Government and suppress the rebellion will be first seized and impressed.

3. The negroes of loyal citizens will not be impressed on the public works and military roads unless absolutely necessary. The negroes of citizens who are for no more men and no more money to suppress the rebellion, and the supporters, aiders, and abettors of such, will be first impressed, and officers detailed for the purpose are required strictly to observe this order in the execution of their duties.

4. All horses of the enemy captured or subject to capture will be taken possession of by quartermasters and reported to Captain Jenkins, chief quartermaster, Louisville, who is ordered to allow loyal citizens to retain horses to supply the places of those stolen by the enemy; but disloyal persons mentioned in paragraphs two and three, who encourage raids by the enemy, will not in any case be allowed to retain captured horses or horses justly subject to capture.

5. For all property seized or impressed proper and regular vouchers will be given, with indorsement as to the loyalty or disloyalty of the owners of the property.

By order of Brigadier General Boyle:

A. C. SEMPLER, *A. A. G.*

[General Orders, No. 21.]

HEADQUARTERS FIRST BRIGADE,
SECOND DIVISION, TWENTY-THIRD ARMY CORPS,
ROSSELLVILLE, KENTUCKY, July 30, 1863.

In order that the proclamation of the Governor and the laws of the State of Kentucky may be observed and enforced, post commandants and officers of this command will see that the following regulations are strictly complied with at the approaching State election:

None but loyal citizens will act as officers of the election.

No one will be allowed to offer himself as a candidate for office, or be voted for at said election, who is not in all things loyal to the State and Federal Government, and in favor of a vigorous prosecution of the war for the suppression of the rebellion.

The judges of election will allow no one to vote at said election unless he is known to them to be an undoubtedly loyal citizen, or unless he shall first take the oath required by the laws of the State of Kentucky.

No disloyal man will offer himself as a candidate, or attempt to vote, except for reasonable purposes; and all such

efforts will be summarily suppressed by the military authorities.

All necessary protection will be supplied and guaranteed at the polls to Union men by all the military force within this command.

By order of Brigadier General J. M. Shackelford, commanding:

J. E. HUFFMAN,
Assistant Adjutant General.

Oath to be taken at the Election.

I do solemnly swear that I have not been in the service of the so-called confederate States in either a civil or military capacity, or in the service of the so-called provisional government of Kentucky; that I have not given any aid, assistance, or comfort to any person in arms against the United States; and that I have in all things demeaned myself as a loyal citizen since the beginning of the present rebellion; so help me God.

Colonel John W. Foster, of the sixty-fifth Indiana regiment, commanding post at Henderson, Kentucky, issued an order similar to the above order of General Shackelford.

[General Order.]

HEADQUARTERS UNITED STATES FORCES,
SMITHLAND, KENTUCKY, July 16, 1863.

The county court judges of the counties of Trigg, Caldwell, Lyon, Crittenden, and Livingston, are hereby directed, in appointing judges and clerks for conducting the State elections in August next, to observe strictly the laws of Kentucky, which require that such judges and clerks shall be unconditional Union men.

Judges and clerks so appointed are hereby directed not to place the name of any person on the poll-books to be voted for at said election who is not a Union man, or who may be opposed to furnishing men and money for a vigorous prosecution of the war against the rebellion against the United States Government. The judges and clerks are further directed to permit no person to vote at said election without taking the oath required by the laws of Kentucky, unless said person so presenting himself to vote is personally known to the judges to be a Union man.

Any person violating this order will be regarded as an enemy to the Government of the United States, and will be arrested and punished accordingly.

By order of

THOMAS JOHNSON,
Lieutenant Colonel Commanding.

The oath prescribed by Lieutenant Colonel Johnson, to be taken by voters, is in substance similar to the oath attached to the proclamation of General Shackelford.

[Special Orders, No. 159.]

HEADQUARTERS SIXTEENTH ARMY CORPS,
MEMPHIS, TENNESSEE, July, 1863.

1. In so much of the State of Kentucky as is within the district of Columbus, it is ordered—

1. That no person be permitted to be a candidate for office who is not avowedly and unconditionally for the Union and the suppression of the rebellion.

2. That no person shall exercise the privilege of an elector and vote at said elections who is not avowedly and unconditionally for the Union and the suppression of the rebellion.

3. The military authorities in said district of Columbus will see to it that this order be carried out. Judges of election will be governed by the principles herein set forth, and will demand evidence upon oaths in such cases as may be in doubt, and allow no person to exercise the franchise of voting who does not take the oath required.

By orders of Major General S. A. Hurlbut:

HENRY DINMORE,
Assistant Adjutant General.

[Orders.]

HEADQUARTERS DISTRICT OF COLUMBUS,
SIXTH DIVISION, SIXTEENTH ARMY CORPS,
COLUMBUS, KY., July 15, 1863.

The above orders of the general commanding corps are communicated to the civil and military authorities for their information. Military officers making arrests for violation of these orders will be governed by the circular from office of Commissary General of Prison, dated Washington, May 11, 1863.

By order of Brigadier General Asboth:

T. H. HARRIS,
Assistant Adjutant General.

[General Orders, No. 47.]

DISTRICT OF COLUMBUS,
HEADQUARTERS SIXTH DIVISION,
SIXTEENTH ARMY CORPS,
COLUMBUS, KY., July 29, 1863.

That no further doubt may exist as to the intent and meaning of Special Orders No. 159, dated Headquarters Sixteenth Army Corps, July 14, 1863, it is ordered that no person shall be permitted to be voted for, or be a candidate for office, who has been or is now under arrest or bonds, by proper authority, for uttering disloyal language or sentiments.

County judges within this district are hereby ordered to appoint, as judges and clerks of the ensuing August election, only such persons as are avowedly and unconditionally for the Union and the suppression of the rebellion, and are further ordered to revoke and recall any appointment of judges and clerks already made who are not such loyal persons.

Judges and clerks of elections are hereby ordered not to place the name of any person upon the poll-books, to be voted for at said election, who is not avowedly and unconditionally for the Union and the suppression of the rebellion,

or who may be opposed to furnishing men and money for the suppression of the rebellion.

The following oath is prescribed and will be administered by judges of elections to voters and to such candidates as reside within this district:

"I do solemnly swear that I have never entered the service of the so-called confederate States; that I have not been engaged in the service of the so-called provisional government of Kentucky; either in a civil or military capacity; that I have never, either directly or indirectly, aided the rebellion against the Government of the United States or the State of Kentucky; that I am unconditionally for the Union and the suppression of the rebellion, and am willing to furnish men and money for the vigorous prosecution of the war against the rebellious league known as the 'confederate States;' so help me God."

Any voter, judge, or clerk of elections, or other person, who may evade, neglect, or refuse compliance with the provisions of this order will be arrested and sent before a military commission as soon as the facts are substantiated.

By order of Brigadier General Asboth:

T. H. HARRIS,
Assistant Adjutant General.

On this order of General Asboth is the following indorsement:

I had the within order enforced in the counties of MeCracken, Graves, Callaway, and Marshall.

J. S. MARTIN,
Colonel Commanding Post of Paducah.

No. 14.] DEATSVILLE, NELSON COUNTY, KENTUCKY,
August 3, 1863.

I, Moses D. Leeson, captain commanding company B, fifth Indiana cavalry, hereby certify that under the orders and instructions of Lieutenant Colonel Thomas H. Butler, commanding fifth Indiana cavalry, I ordered the polls to be opened by the regularly appointed judges, sheriff, and clerk, namely, W. R. Livers, T. C. Warren, Thomas Cowan, and R. E. Harrell, and permitted no other candidates' names to appear on the poll-books but the following: for Governor, Thomas E. Bramlette; for Lieutenant Governor, R. T. Jacob; for attorney general, John M. Harlan; for State treasurer, James Garrard; for auditor, W. T. Samuels; for register of land office, James A. Davidson; for superintendent of public instruction, Stevenson; for Congress, Aaron Harding; for the Legislature, Dr. W. Elliott; for county attorney, G. W. Hite; for county clerk, W. T. Spalding and William M. Powell.

MOSES D. LEESON,
Captain Com'g Company B, Fifth Indiana Cavalry.

No. 15.]

We, the undersigned, do hereby certify, as officers of precinct No. 2, at Cloverport, Kentucky, that, after opening the polls, Captain Herbrook, by authority from General Shackelford, ordered us to strike off the entire Wickliffe ticket, and also Milton Board's name, from the poll-book, which was accordingly done in obedience to said order.

WILLIAM B. JONES, }
WILLIAM S. ALLEN, } *Judges.*

Attest: J. C. HEST, Clerk,
J. R. ALLEN, Sheriff.

FORKS OF ROUGH, August 3, 1863.

I do certify that at Rough Creek Spring precinct, district No. 4, there was a poll opened for C. A. Wickliffe and others forming a Democratic ticket, and for State officers; that I suppressed the same by order of General Shackelford, between seven and eight o'clock a. m.

WILLIAM BROWN,
Sergeant in Command.

[General Orders, No. 53.]

HEADQUARTERS MIDDLE DEPARTMENT,
EIGHTH ARMY CORPS,
BALTIMORE, MARYLAND, October 27, 1863.

It is known that there are many civil-disposed persons, now at large in the State of Maryland, who have been engaged in rebellion against the lawful Government, or have given aid and comfort or encouragement to others so engaged, or who do not recognize their allegiance to the United States, and who may avail themselves of the indulgence of the authority which tolerates their presence to embarrass the approaching election, or, through it, to foist enemies of the United States into power. It is therefore ordered:

1. That all provost marshals and other military officers do arrest all such persons found at, or hanging about, or approaching any poll or place of election on the 4th of November, 1863, and report such arrest to these headquarters.

2. That all provost marshals and other military officers commanding in Maryland shall support the judges of election on the 4th of November, 1863, in requiring an oath of allegiance to the United States, as the test of citizenship of any one whose vote may be challenged on the ground that he is not loyal, or does not admit his allegiance to the United States, which oath shall be in the following form and terms:

"I do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States against all enemies, whether domestic or foreign; that I hereby pledge my allegiance, faith, and loyalty to the same, any ordinance, resolution, or law of any State convention or State Legislature to the contrary notwithstanding; that I will at all times yield a hearty and willing obedience to the said Constitution and Government, and will not, either directly or indirectly, do any act in hostility to the same, either by taking up arms against them, or aiding, abetting, or countenancing those in arms against them; that, without permission from the lawful authority, I will have no communication, direct or indirect, with the States in insurrection against the United States, or with either of them, or with any person or persons within said insurrectionary

38TH CONG....1ST SESS.

State of the Union—Mr. Voorhees.

HO. OF REPS.

States; and that I will in all things deport myself as a good and loyal citizen of the United States. This I do in good faith, with full determination, pledge, and purpose to keep this, my sworn obligation, and without any mental reservation or evasion whatever."

3. Provost marshals and other military officers are directed to report to these headquarters any judge of an election who shall refuse his aid in carrying out this order, or who, on challenge of a vote being made on the ground of disloyalty or hostility to the Government, shall refuse to require the oath of allegiance from such voter.

By order of Major General Schenck:

W. H. CHESEBROUGH,
Lieutenant Colonel and Assistant Adjutant General.

WAR DEPARTMENT,
WASHINGTON, November 2, 1863.

SIR: Yours of the 31st ultimo was received yesterday about noon, and since then I have been giving most earnest attention to the subject-matter of it. At my call General Schenck has attended, and he assures me it is almost certain that violence will be used at some of the voting places on election day, unless prevented by his provost guards. He says that at some of those places the Union voters will not attend at all, or run a ticket, unless they have some assurance of protection. This makes the Missouri case of my action, in regard to which you express your approval.

The remaining point of your letter is a protest against any person offering to vote being put to any test not found in the laws of Maryland. This brings us to a difference between Missouri and Maryland. With the same reason in both States, Missouri has, by law, provided a test for the voter with reference to the present rebellion, while Maryland has not. For example, General Trimble, captured fighting us at Gettysburg, is, without recanting his treason, a legal voter by the laws of Maryland. Even General Schenck's order admits him to vote, if he recants upon oath. I think that is cheap enough. My order in Missouri, which you approve, and General Schenck's order here, reach precisely the same end. Each assures the right of voting to all loyal men, and whether a man is loyal, each allows that man to fix by his own oath. Your suggestion that nearly all the candidates are loyal I do not think quite meets the case. In this struggle for the nation's life, I cannot so confidently rely on those whose election may have depended upon disloyal votes. Such men, when elected, may prove true, but such votes are given them in the expectation that they will prove false. Nor do I think that to keep the peace at the polls, and to prevent the persistently disloyal from voting, constitutes just cause of offense to Maryland. I think she has her own example for it. If I mistake not, it is precisely what General Dix did when your Excellency was elected Governor. I revoke the first of the three propositions in General Schenck's General Order No. 53, not that it is wrong in principle, but because the military being, of necessity, exclusive judges as to who shall be arrested, the provision is liable to abuse. For the revoked part I substitute the following:

That all provost marshals and other military officers do prevent all disturbance and violence at or about the polls, whether offered by such persons as above described, or by any other person or persons whatsoever.

The other two propositions of the order I allow to stand. General Schenck is fully determined, and has my strict order besides, that all loyal men may vote, and vote for whom they please.

Your obedient servant,

A. LINCOLN,
President of the United States.

His Excellency A. W. BRADFORD,
Governor of Maryland.

EXECUTIVE MANSION,
WASHINGTON, January 20, 1864.

Major General STEELE:

Sundry citizens of the State of Arkansas petition me that an election may be held in that State at which to elect a Governor; that it be assumed at that election, and henceforward, that the constitution and laws of the State as before the rebellion are in full force, except that the constitution is so modified as to declare that there shall be neither slavery nor involuntary servitude, except in the punishment of crimes whereof the party shall have been duly convicted; that the General Assembly may make such provision for the freed people as shall recognize and declare their permanent freedom, and provide for their education, and which may yet be construed as a temporary arrangement suitable to their present condition as a laboring, landless, and homeless class; that said election shall be held on the 28th of March, 1864, at all the usual places of the State, or all such as voters may attend for that purpose; that the voters may attend at such place at eight o'clock in the morning of said day, may choose judges and clerks of election for that purpose; that all persons qualified by said constitution and laws, and taking the oath presented in the President's proclamation of December 8, 1864, either before or at the election, and none others, may be voters; that each set of judges and clerks may make returns directly to you, or on before the day of — next; that in all other respects said elections may be conducted according to said modified constitution and laws; that, on receipt of said returns, when five thousand four hundred and six votes shall have been cast, you can receive said votes, and ascertain all who shall thereby appear to have been elected; that on the day of — next all persons appearing to have been elected, who shall appear before you at Little Rock, and take the oath, to be by you severally administered, to support the Constitution of the United States and said modified constitution of the State of Arkansas, and be by you declared qualified and empowered to enter immediately upon the duties of the offices to which they have been respectively elected.

You will please order an election to take place on the 28th of March, 1864, and returns to be made in fifteen days thereafter.

A. LINCOLN.

General Butler recently issued the following order:

[General Orders, No. 3.]

NORFOLK, VIRGINIA, February 11, 1864.

All places of public worship in Norfolk and Portsmouth are hereby placed under the control of the provost marshals of Norfolk and Portsmouth respectively, who shall see the pulpits properly filled by displacing, when necessary, the present incumbents, and substituting men of known loyalty and the same sectarian denomination, either military or civil, subject to the approval of the commanding general. They shall see that all churches are open freely to all officers and soldiers, white or colored, at the usual hour of worship, and at other times, if desired; and they shall see that no insult or indignity be offered to them, either by word, look, or gesture, on the part of the congregation. The necessary expenses will be levied, as far as possible, in accordance with the previous usages or regulations of each congregation respectively.

No property shall be removed, either public or private, without permission from these headquarters.

By command of Brigadier General E. A. Will.

LOUISVILLE, June 13, 1863.

DEAR SIR: The undersigned, in behalf of many in all parts of this Commonwealth, believe it a political necessity to reorganize the Democratic party in the State, in association with those of the North who have stood by the Government and the Constitution throughout this deplorable civil war. They constitute the only political party of the North with whom any party South will have any affiliation, while a political association between the two sections of the country is indispensable to a restoration of the Union.

We cannot consent to the doctrine that the Constitution and laws are inadequate to the present emergency; that the constitutional guarantees of liberty and property can be suspended by war.

Our fathers certainly did not intend that our Constitution should be a fair-weather document, to be laid away in a storm, or a fancy garment to be worn only in dry weather. On the contrary, it is in times like the present that constitutional restraints on the power of those in authority are needed.

We hold the Federal Government one of limited powers, that cannot be enlarged by the existence of civil commotion.

We hold the rights reserved to the States equally sacred with those granted to the United States. The Government has no more right to disregard the constitutions and laws of the States than the States have to disregard the Constitution and laws of the United States.

We hold that the Administration has committed grave errors in confiscation bills, lawless proclamations, and military orders setting aside constitutions and laws, and making arrests outside of military lines where there is no public danger to excuse it.

It is now obvious that the fixed purpose of the Administration is to arm the negroes of the South to make war upon the whites, and we hold it to be the duty of the people of Kentucky to enter against such a policy a solemn and most emphatic protest.

We hold as sacred and inalienable the right of free speech and a free press; that the Government belongs to the people and not the people to the Government.

We hold this rebellion utterly unjustifiable in its inception, and a dissolution of the Union the greatest of calamities. We would see all just and constitutional means adopted to the suppression of the one and the restoration of the other.

Having observed your uniform and consistent course since the origin of our troubles we believe you a faithful representative of our views, and urgently request that you permit your name to be used as a Democratic candidate for Governor at the ensuing election.

Yours, respectfully,

W. F. BULLOCK,
ROBERT COCHRAN,
L. S. TRIMBLE,
THOMAS P. HUGHES,
R. C. PALMER,
ALFRED HERR,
J. P. CHAMBERS,
WILLIAM K. THOMAS,
WILLIAM G. REASOR,
ROBERT K. WHITE,
J. H. HARNEY,
WILLIAM KAYE,
N. WOLFE,
S. M. HALL,
JOHN HERR,

CHAS. L. HARRISON,
JOSHUA F. BULLITT,
GEO. W. JOHNSTON,
ROBERT M. SMITH,
T. J. CONN,
W. A. DUDLEY,
W. P. SIMMONS,
JOHN T. BRIDGES,
T. J. HALL,
SAMUEL N. HALL,
PHIL. TOMPKETT, JR.,
JESSE F. HAMMON,
P. M. CAMPION,
W. H. BAILEY,
JACOB ABNEY,
J. H. PRICE.

Hon. C. A. WICKLIFFE.

Extract from Statute of George II, chapter 30, [1735.]

An act for regulating the quartering of soldiers during the time of the elections of members to serve in Parliament.

Whereas, by the ancient common law of this land, all elections ought to be free; and whereas by an act passed in the third year of the reign of King Edward I, of famous memory, it is commanded upon great forfeiture that no man by force of arms nor by malice or menacing shall disturb any to make free election; and forasmuch as the freedom of elections of members to serve in Parliament is of the utmost consequence to the preservation of the rights and liberties of this kingdom; and whereas it hath been the usage and practice to cause any regiment, troop, or company, or any number of soldiers which hath been quartered in any city, borough, town, or place where any election of members to serve in Parliament hath been appointed to be made, to remove and continue out of the same during the time of such election, except in such particular cases as are hereinafter specified: To the end, therefore, that the said usage and practice may be settled and established for the future,

Be it enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in Parliament assembled, and by the

authority of the same, That when and as often as any election of any peer or peers to represent the peers of Scotland in Parliament, or of any member or members to serve in Parliament shall be appointed to be made, the Secretary at War for the time being, or in case there shall be no Secretary at War, then such person who shall officiate in the place of the Secretary at War, shall, and is hereby required, at some convenient time before the day appointed for such election, to issue and send forth proper orders in writing for the removal of every such regiment, troop, or company, or other number of soldiers as shall be quartered or billeted in any such city, borough, town, or place where such election shall be appointed to be made, out of every such city, borough, town, or place, one day at the least before the day appointed for such election, to the distance of two or more miles from such city, borough, town, or place, and not to make any nearer approach to such city, borough, town, or place as aforesaid until one day at the least after the poll to be taken at such election shall be ended, and the poll-books closed.

11. And be it further enacted by the authority aforesaid, That in case the Secretary at War for the time being, or such person who shall officiate in the place of the Secretary at War, shall neglect or omit to issue or send forth such orders as aforesaid, according to the true intent and meaning of this act, and shall be thereof lawfully convicted upon any indictment to be preferred at the next assizes, or sessions of oyer and terminer, to be held for the county where such offense shall be committed, or on an information to be exhibited in the court of King's Bench, within six months after such offense committed, such Secretary at War, or person who shall officiate in the place of the Secretary at War, shall for such offense be discharged from their said respective offices, and shall from thenceforth be utterly disabled, and made incapable to hold any office or employment, civil or military, in his Majesty's service.

An act to regulate elections, approved April 16, 1846.

"SEC. 33. No such election shall be appointed to be held on any day on which the militia of this State shall be required to do military duty, nor shall the militia of this State be required to do military duty on any day on which any such election shall be appointed to be held."—*Nixon's Digest, Laws of New Jersey, 1793-1855*, p. 220.

Of the manner of conducting elections and returning votes.

"SEC. 1. No meeting for the election of national, State, district, county, city, or town officers, shall be held on a day upon which the militia of the Commonwealth are by law required to do military duty."—*General Statutes of Massachusetts, 1860*, chap. 7, p. 58.

Penal provisions and regulations affecting purity of elections.

"SEC. 62. If any officer of the militia parades his men, or exercises any military command on a day of election of a public officer, as described in section sixty-three of chapter ten, and not thereby excepted, or except in time of war or public danger, he shall for each offense forfeit not less than ten nor more than three hundred dollars."—*Revised Statutes of Maine, 1857*, chap. 4, p. 84.

Penalties for the violation of election laws.

"SEC. 5. If any officer or other person shall call out or order any of the militia of this State to appear and exercise on any day during any election to be held by virtue of this chapter, or within five days previous thereto, except in cases of invasion or insurrection, he shall forfeit the sum of \$300 for every such offense."—*Revised Statutes of New York, Banks & Brothers, Fifth Edition*, vol. 1, title 7, chap. 6, p. 448.

1. Of elections by the citizens.

"110. No body of troops in the Army of the United States or of this Commonwealth shall be present, either armed or unarmed, at any place of election within this Commonwealth, during the time of such election: *Provided*, that nothing herein contained shall be so construed as to prevent any officer or soldier from exercising the right of suffrage in the election district to which he may belong if otherwise qualified according to law."—*Furdon's Digest, Brighly, 1700-1861; Laws of Pennsylvania*, p. 383.

"The multitude in all countries are patient to a certain point."—*Janus*.

SPEECH OF HON. D. W. VOORHEES,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

March 5, 1864.

The House being in the Committee of the Whole on the state of the Union—

Mr. VOORHEES said:

MR. CHAIRMAN: I arise to address the House to-day with feelings of profound depression and gloom. It is a melancholy spectacle to behold a free Government die. The world, it is true, is filled with evidences of decay. All nature speaks the voice of dissolution, and the highway of history and of life is strewn with the wrecks of history, the great despoiler, has made. But hope of the future, bright visions of reviving glory are nowhere denied to the heart of man save as he gazes upon the downfall of legal liberty. He listens sorrowfully to the autumn winds as they sigh through dismantled forests, but he knows that

their breath will be soft and vernal in the spring, and that the dead flowers and the withered foliage will blossom and bloom again. He sees the sky overcast with the angry frown of the tempest, but he knows that the sun will reappear, and the stars, the bright emblazonry of God, cannot perish. Man himself, this strange connecting link between dust and deity, totters wearily onward under the weight of years and pain toward the gaping tomb—but how briefly his mind lingers around that dismal spot! It is filled with tears and grief, and the willow and the cypress gather around it with their loving but mournful embrace. And is this all? Not so. If a man die, shall he not live again? Beyond the grave, in the distant Aiden, hope provides an elysium of the soul where the mortal assumes immortality and life becomes an endless splendor.

But where, sir, in all the dreary regions of the past, filled with convulsions, wars and crimes, can you point your finger to the tomb of a free commonwealth on which the angel of resurrection has ever descended, or from whose mouth the stone of despotism has ever been rolled away? Where, in what age and in what clime, have the ruins of constitutional freedom renewed their youth and regained their lost estate? By whose strong grip has the dead corpse of a republic once fallen ever been raised? The merciful Master who walked upon the waters, and bade the winds be still, left no ordained apostles with power to wrench apart the jaws of national death, and release the victims of despotism. The wail of the heart-broken over the dead is not so sad to me as the realization of this fact. But all history, with a loud unbroken voice, proclaims it, and the evidence of what the past has been is conclusive to my mind of what the future will be. Wherever in the wide domain of human conduct a people once possessed of liberty, with all power in their own hands, have surrendered these great gifts of God at the command of the usurper, they have never afterwards proven themselves worthy to regain their forfeited treasures.

Sir, let history speak on this point. Bend your ear, and listen to the solemn warnings which distant ages perpetually utter in their uneasy slumbers. Four thousand years of human experience are open and present for the study of the American people. Standing as we do, the last and greatest Republic in the midst of the earth, it becomes us most deeply in this crisis of our destiny to examine well the career and the final fate of kindred Governments in the past.

The principles of self-government are of ancient origin. They were not created by the authors of the American Constitution. They were adopted by those wise and gifted minds from the models of former times and applied to the wants of the American people. Far back in the gray, uncertain dawn of history, in the land of mystery and of miracles, the hand of Almighty benevolence planted the seeds of constitutional government by which life, liberty, and property were made secure. Abraham and Lot each governed his household and his herdmen by law; and although they became offended at each other, yet under the divine sanction they refrained from the pleasures of conquest, subjugation, confiscation. They divided the country before them by a primitive treaty, and the grass continued to grow for their flocks unstained by fraternal blood and uncrushed by the hoof of war. And in long-after years, when the descendants of the patriarchs broke their prison doors in Egypt and lay encamped in the wilderness, the omniscient Presence came down and gave them a frame-work of fundamental law in which the popular will was largely recognized. A system of jurisprudence was devised for the people of Israel which protected liberty and administered justice. Under its influence the feeble fugitives and homeless wanderers without bread and without water in the desert became an empire of wisdom, of wealth, and of power. The liberal institutions of the Jewish theocracy produced statesmen, poets, historians, and warriors, who will continue to challenge the admiration of posterity by the splendor of their achievements as long as generations come and go on the waves of time. They lived within the immediate jurisdiction of Jehovah. They possessed the ark of the covenant, and took counsel with ministering an-

gels directly from the portals of Paradise. With all these evidences of celestial favor in their behalf, it is not to be wondered that they claimed an exemption from the changes and mutations of human affairs, and boasted that the seal of perpetuity had been impressed by the divine hand on the pillars of their Government. But public virtue became debauched; the popular heart corroded with the lust of conquest and of gain; primitive purity faded away under the baleful breath of embittered factions; the fires of patriotism were smothered by rankling hate and the thirst for revenge; and all these evil passions broke forth in the voice of a malignant majority clamoring for a king. In that hour of disastrous eclipse, the spirit of liberty took her flight forever from the hills of Judea. Thousands of years have rolled away since then. The Holy Land has been the theater of conflicts which rocked the world as the throes of an earthquake. Genius and heroism have there blazed as stars in the eastern skies. There, too, was enacted the sublime tragedy of redemption—that tragedy which summoned the inhabitants of all worlds as its witnesses, and filled nature with agony in all her parts. The eyes of mankind have been turned back and fixed upon those scenes of immortal interest for more than thirty centuries. But who has lifted up and restored her fallen system of liberal institutions? The people surrendered their rights, their franchises, their self-control, and welcomed the power of one man. The base act has never been reversed. As the tree fell so it lies. It died at the root. Despotism reigns undisturbed and unbroken, in darkness and in silence, where once the light and music of freedom gladdened the souls of the stately sons and dark-eyed daughters of Israel.

And leaving the land of sacred history, what similar scenes of human weakness and human folly meet us at every step in the onward pathway of time. Where now are those splendid structures which once adorned the shores of the *Ægean*, the *Euxine*, and the *Mediterranean*? Athens, the eye of Greece, the school of the world—has her dismal fate impressed no lesson on the thoughts of mankind? Fifteen hundred years before the birth of our Saviour, the light of civil order and civil freedom arose in the island of Crete, and sent its rays through the vale of Tempe, the rich plains of Thessaly, over the fruitful fields of Attica and *Bœotia*, and hovered with an everlasting and an imperishable radiance around the heads of Olympus, *Helicon*, and *Parnassus*. It is true that kings governed in those early days, but absolute power in one man was unknown. Laws made by the people chained the licentious hand of oppression. The proudest monarchs of those warlike ages governed in obedience to the will of the legislative departments. They enacted no laws; they executed them as they found them. A house of peers and an assembly of the people shared the supreme authority and insured safety and liberty to the citizen. *Ulysses* speaks of one chief "to whom Jupiter hath intrusted the scepter and the laws, that by them he may govern." But he recognizes that these instruments of government are bestowed by the popular favor, for, when shipwrecked upon a strange coast and addressing himself as a suppliant to its queen, he says:

"May the gods grant you and your guests to live happily; and may you all transmit to your children your possessions in your houses and what-ever honors the people hath given you."

But even this limited and constitutional system of monarchy was not long borne by that proud race which drank in the love of liberty from the free air of the mountains over their heads, and the breath of the restless and stormy ocean at their feet.

"Those vigorous principles of democracy which had always existed in the Grecian Governments began to ferment; and in the course of a few ages monarchy was everywhere abolished; the very name of king was very generally proscribed; a commonwealth was thought the only Government to which it became men to submit; and the term tyrant was introduced to denote those who, in opposition to these new political principles, acquired monarchical sway."

Then sprang into existence that wonderful cluster of republics whose memory yet fills the earth with its fragrance of noble deeds and exalted genius. Liberty hovered over that classic peninsula of southern Europe like the angel of creation hovering over night and chaos, and from

the fostering warmth of her embrace came forth an immortal world of letters, of art, of science, and of law. The Macedonian, the Spartan, the Athenian, and all lifted their heads among the stars, and barely condescended to pity and despise neighboring nations who were less free than themselves. They pointed to Marathon and Salamis, Thermopylae and Plataea, as the American points to Saratoga and Bunker Hill, Yorktown and New Orleans. They kept their festive days of national deliverance and joy as the 4th day of July and the 8th day of January have been commemorated and hallowed by us. They sounded all the depths and shoals of honor, drank deep draughts from the very fountains of freedom, achieved immortality in every department of human thought and action; and yet, with their cups full of glory for more than a thousand years, sparkling to the brim with rights and privileges more sweet to their taste than the honey of *Hymettus*, they dashed it to the earth, and its shattered fragments remain as they fell. The lust of power on the part of public rulers, and the luxury, sloth, and indifference of the people, nursed so long in the lap of prosperity that they allowed the usurper to march on in his lawless career unchallenged and unquestioned, worked the overthrow of the republics of Greece. And what traveler, standing upon those blighted and withered plains, has beheld a sign of resurrection for more than two thousand years? Now and then, it is true, a murmur or a groan has disturbed the deadly sleep in which that land is embraced, but it only shows that she dreams of the past, not that she will awake to the future. Her birth-right was abandoned by her own sordid hand, and it cannot be reclaimed. A petty power of northern Europe now gives a king to the countrymen of Homer, Themistocles, and Solon.

But, sir, another name, more prominent than all others, presents itself to the student of antiquity in this connection. Roman history stands out upon the canvas of time as plainly marked as the events of modern ages. We see Tarquin the Proud expelled from his throne, and the foundations of the Commonwealth laid five hundred years before the Christian era. For the next five centuries we behold a race of men who "would have brooked the eternal devil to keep his state in Rome as easily as a king."

How fondly the devotee of liberty dwells upon that period! With what grandeur the names of the mighty dead, and the sublime creations of their genius, arise to our view! In what does the boasted civilization of the present surpass the achievements of a race and an age to whom the revelations of God were unknown? Who has spoken as *Cicero* spoke? What historian has guided a pen so full of majesty and of beauty as that which inscribed the annals of *Tacitus*? Whose muse has winged a loftier flight or sung a nobler strain than *Virgil's*? In arms, too, what warriors have improved upon the skill and magnificence of *Scipio* and *Cæsar*? But it was still more in the dignity and freedom of her private citizens that Rome was great than in the renown of her most illustrious leaders, statesmen, and orators. Kings of powerful nations bowed their uncovered heads before the Roman people. The magistrates, consuls, and military commanders paid homage and obedience directly to the public will. The sovereignty of the people was absolute. The principles of self-government were never in the history of nations more fully or clearly displayed. Jurisprudence became an enlightened science, from whose pages a light extends to the present hour, and under whose guardian protection the humblest citizen of Rome was secure in every right declared unalienable by the Declaration of American Independence. But why linger upon the well-known story of Roman liberty and Roman greatness? I use it but to illustrate. The melancholy conclusion came. As the son of the morning fell from heaven, so Rome fell from the luminous sphere of liberty never to hope again. The world grew dark as her light faded away, and ten centuries of gloom succeeded her downfall. And why perished this mistress of the earth? Not because the vandal ravaged her borders; not because the Gaul burned to avenge the victims of *Cæsar*; not because the Goth beat her gates to pieces; but because her people submitted to the encroachments

38TH CONG....1ST SESS.

State of the Union—Mr. Voorhees.

HO. OF REPS.

of executive authority, lulled by the syren voice of a false security, until at last they awakened to find their chains and manacles forged and fastened. Their links yet fester in the flesh of the descendants of Brutus, and their clankings may yet be heard in the forum where Cato warned his countrymen against the approach of despotic power. No deliverer has ever arisen. Liberty has never been wooed to return. Once abandoned and surrendered by those whom she has crowned with honor and greatness, in the midst of the earth she goes forth with the air and feelings of insulted majesty to seek more worthy objects of her love and care.

Sir, modern history contains no exception to the rule which the fate of ancient republics has established. Aspirations for freedom have at different periods ascended from almost every portion of the map of modern Europe. A system of confederated States built up and nurtured the free institutions of Holland for more than three hundred years, while the night of despotism lay thick and heavy on all the surrounding horizon. As revolted colonies, as States in rebellion, the Dutch republic maintained a defensive war for thirty years against the whole power of Spain when Philip II controlled the councils and commanded the wealth of the civilized world. Their proudest cities were besieged and fell a prey to pillage and murder. In pitched battles they seldom triumphed over the superior numbers and equipments of the powerful Spaniard. Their country was trodden under foot; their houses plundered; their fields laid waste; and the wild boar and the wolf roamed unmolested through the streets of once populous towns. But the endurance and patriotism of a people to whom no terms were offered except abject, unconditional submission, outlived and broke the rage of their oppressors. A free Commonwealth, the United States of Holland, arose and extended the spirit of enterprise, commerce, and refinement into all the four quarters of the earth. She conquered the sea and subdued distance. The peaceful victories of her trade were celebrated at the Cape of Good Hope, and in the harbor of New York, in the Indies of the East, and in every latitude of the western hemisphere. Nor was she less renowned in war. The boom at the masthead swept the ocean of her enemies, and the only guns of a foreign Power whose hostile roar ever penetrated the Tower of London were the guns of the free States of Holland. Louis XIV, the grand monarch of imperial France, when Turenne and Luxembourg and Condé led his armies, poured the torrents of his power against her for conquest and subjugation; but they were poured in vain. She fought with the inspiration of freedom, and made her history secure and illustrious as long as a generous heart shall be found to throb in sympathy with the welfare and happiness of a heroic people. But where now is that noble prodigy of liberal institutions? Why does she lift her beautiful head to the heavens no longer? Her glories declined under the burden of unbounded wealth and overflowing prosperity. Her people relaxed the vigilance of their guard over the citadel of their liberties, and slumbered at their posts while unlawful power fortified itself beyond successful attack. Thus she perished ignobly by her own hand, having throughout her whole career defied and held at bay a world in arms. And how still and heavy has been her long repose! No awakening convulsions shake her rigid limbs or disturb her frozen arteries. Once fallen and forever lost, is the mournful epic of her fate. She takes her place in the dreary catalogue furnished by antiquity.

But cross the Channel and take your stand on the soil of England. She too has furnished mankind with a short-lived experiment of republican government. Wrongs and outrages inflicted on the English people, similar in kind, but far less enormous than those which now oppress the citizen of the United States of America, wrought the volcanic eruption of 1640. The best blood of England perished in the conflict between Magna Charta on one side and absolutism on the other. John Hampden bled on the plains of Chalgrove, but the royal Stuart bled on the scaffold. When the strife died away the British constitution was found to be possessed and upheld by those who partook of the sacrament of the Lord's supper with

bloody hands, and who enforced the sermon on the mount with fire and sword. They were the ancestors of those who to-day in this land are crucifying liberty afresh, and putting her to open shame. God does not allow Himself to be mocked, and Cromwell and the Commonwealth of England went out together, while a wrathful tempest raged around the dying bed of the great but bloody and tyrannical Protector. The incoming wave, the reaction in the tide of human affairs, bore back the dissolute and worthless Charles II to the home of his ancestors, and Englishmen have never, from that time to this, lifted their hands or their voices in behalf of a republic.

France points to the revolting blotch, the stain of mingled blood and tears, which her wild and mad attempts at freedom have left upon the page of history. We gaze at it but for an instant, and turn away with horror. At the very moment—most that the President of the French Directory declared "that monarchy would never more show its frightful head in France," Bonaparte with his grenadiers entered the palace of St. Cloud, and dispersing with the bayonet the deputies of the people deliberating on the affairs of State, laid the foundation of that vast fabric of despotism which overshadowed all Europe.

Sir, I pause in this train of sorrowful illustrations. I tremble at their contemplation when my mind is brought to embrace the conclusions which flow from them. But shall we shrink back affrighted and appalled because the great lessons of uniform history come to us with a voice of solemn and prophetic warning? Shall the universal experience of the human race bring us no wisdom? Shall we wrap ourselves in a sweet delusion and lie down to pleasant dreams when we know by every chart of navigation that the fatal maelstrom is just at hand? Will the proud and daring people of America close their eyes and ears against the teaching of ages, and wait for fetters and gyves to convince them that their liberties are in danger? Are they to be chained like Prometheus to the rock, while the vulture of despotism preys forever upon their bleeding vitals? Sir, in my hours of seclusion and study I have, to the best of my humble capacity, held up the lamp of the past to the face of the future, and I call God to witness that I would be recreant and faithless to my own conscience if I did not proclaim, as far as my voice will reach, that a danger is this hour upon the American people more deadly than the juices of the hemlock or the bite of the asp. This Government is dying; dying, sir, dying. We are standing around its bed of death, and will soon be wretched mourners at its tomb unless the sovereign and heroic remedy is speedily applied. I will submit the facts in condensed array on which I make this assertion, that a candid public may judge between me and that pestilent class who, failing to answer, resort to slander.

The American Republic was established in order to accomplish avowed and specified purposes. The objects of its creation were left in no uncertainty. Its mission was clear and distinct by the terms of the Constitution. It came into existence "in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty" to that and all succeeding generations of American citizens. Who will dare to rise in his place and say that this Government has been administered during the last three years in a mode even tending toward the accomplishment of these grand results? Has the establishment of justice been maintained? The sword has been thrown into the scales of justice, and there is not this hour a court between the two oceans left free to decide the laws as they have uniformly been decided in England and America for the last two hundred years. The very foundations of civilized jurisprudence have been torn away, and the whole edifice is in ruins. The Magna Charta is erased; the *habeas corpus* is dead; the very soul and spirit of liberty is extinguished in the forum of the judiciary. To this sacred sanctuary, more than to any other department of the Government, the blessings of liberty were intrusted. But has the present Administration made them secure? It is required to do so by the terms of the Constitution. Let each mind give its own answer. Not one right which con-

stitutes the freedom and safety of the citizen but what has been wickedly and wantonly violated. Prisons filled without indictment and without warrant; long and bitter punishment inflicted without trial or conviction; the whole jury system abolished by a stroke of the pen in the hand of the Executive or his subordinates in crime; no witnesses brought to the face of the accused; no counsel permitted to appear in his behalf; his house broken open and his papers searched in the midst of his pallid and terrified wife and children; such are some of the evidences which exist on every hand that our free institutions are hastening to their overthrow. And not content with breaking down all the ancient safeguards of liberty, new and malignant measures of legislation have been continually devised by a slavish Congress by which to more effectually reach and torture and grind the citizen. The most innocent conduct, a harmless word, a simple look has been enacted into guilt. The hired hounds of arbitrary power find conspiracy and crime in the friendly greetings of neighbors on their farms. Speaking of the period of 1795 in England, that great modern philosopher, Henry Thomas Buckle, in his *History of Civilization*, uses the following language, which I adopt as faithfully descriptive of the conduct of the party now in power, and of the time in which we live:

"Nothing, however, could stop the Government in its headlong career. The ministers, secure of a majority in both Houses of Parliament, were able to carry their measures in defiance of the people, who opposed them by every mode short of actual violence. And as the object of these new laws was to check the spirit of inquiry and prevent reforms which the progress of society rendered indispensable, there were also brought into play other means subservient to the same end. It is no exaggeration to say that for some years England was ruled by a system of absolute terror. The ministers of the day, warring a struggle of party into a war of proscription, filled the prisons with their political opponents, and allowed them when in confinement to be treated with shameful severity. If a man was known to be a reformer he was constantly in danger of being arrested; and if he escaped that, he was watched at every turn, and his private letters were opened as they passed through the post office. In such cases no scruples were allowed. Even the confidence of domestic life was violated. No opponent of Government was safe under his own roof against the tales of eaves-droppers and the gossip of servants. Discord was introduced into the bosom of families, and schisms caused between parents and their children. Not only were the most strenuous attempts made to silence the press, but the booksellers were so constantly prosecuted that they did not dare to publish a work if its author were obnoxious to the court. Indeed, whoever opposed the Government was proclaimed an enemy to his country. Political associations and public meetings were strictly forbidden. Every popular leader was in personal danger, and every popular assemblage was dispersed, either by threats or by military execution. That hateful machinery familiar to the worst days of the seventeenth century was put into motion. Spies were paid; witnesses were suborned; juries were packed. The coffee-houses, the inns, and the clubs were filled with emissaries of the Government, who reported the most hasty expressions of common conversation. If by these means no sort of evidence could be collected, there was another resource which was unsparingly used. For, the *habeas corpus* act being constantly suspended, the Crown had the power of imprisoning without inquiry and without limitation any person offensive to the ministry, but of whose crime no proof was attempted to be brought."

Sir, why are you, why am I out of the vaults of a dungeon, and standing on this floor to-day? Not because we are guilty of no offense; not because the broad shield of the law interposes its protection, but simply because the Executive has not yet seen fit and proper in the exercise of his absolute and unrestrained will to lay us in irons. This is the ultimate climax of despotic power. Each one of the twenty million people within the control of the United States holds his or her tenure to personal liberty—the right to walk the green earth, to breathe the air, and look at the sun—not by virtue of a free Constitution, but dependent upon the clemency and pleasure of one man. May I not be arrested to-night? May not you or any one else to-morrow? Has it not been done in more than a thousand instances, and have not the courts and the laws been powerless to save? While I am now speaking, may not some minion who licks the hand of power, and whom it would honor to call a slave, be preparing notes from which to testify against me before a military commission? Have we in the West forgotten Burnside, and the infamy of his reign in our midst? Will the inhabitants of the western circuit in England ever forget the monster Jeffries and the murder of Alice Lisle? Will some poor, crawling, despised sycophant and tool of executive des-

38TH CONG....1ST SESS.

State of the Union—Mr. Voorhees.

HO. OF REPS.

potism dare to say that I shall not pronounce the name of Vallandigham? The scandal and stigma of his condemnation and banishment have filled the civilized world; and the lethargic and oblivious waves of a thousand years will not wash away the shame and reproach of that miserable scene from the American name. Some members on the other side of this Chamber have attacked with fierce clamor the great American statesman and the Christian gentleman who suffers his exile in the cause of liberty on a foreign soil. So the basest cur that ever kennelled may bay at the bidding of his master the caged lion in the distance. Protract this iniquity, this crime, as long as you will, however, the judgment of history will at last overwhelm you with an insufferable odium, as certainly as the streams of truth emanate from beneath the great white throne of God. "Establish justice!" "Secure the blessings of liberty!" Oh! bitter mockery. Justice has been dethroned, and the blessings of liberty annihilated. There is not one square mile of free soil in the American Republic. It is slave territory from the Aroostook to the Columbia. Every man in all that vast expanse may be reduced in an instant to hopeless bondage, every home may be broken open and pillaged, every dollar's worth of property may be swept into that yawning and bottomless gulf, the national Treasury; and all under the sanction of the principles and practices daily exemplified by the Administration which now hurls us on to ruin.

But the "domestic tranquillity," has it been insured? When the present party came into power the road to an honorable peace on the basis of the Union was still open. Before the inauguration of Mr. Lincoln his friends and supporters held the issues of life and death, peace and war in their hands in this Capitol. The records of the last session of the Thirty-Sixth Congress are immortal. They cannot perish; and as the woes and calamities of the people thicken and magnify by the frightful war in which we are engaged, they increase in value to posterity more rapidly than the leaves of the sibylline book. The baleful brood of political destructionists, who now unhappily possess the high seats of national authority, did not then want public tranquillity. They invoked the storm which has since rained blood upon the land. They courted the whirlwind which has prostrated the progress of a century in ruins. They danced with a hellish glee around the babbling caldron of civil war, and welcomed with ferocious joy every hurtful mischief which flickered in its lurid and infernal flames. Compromise, which has its origin in the love and mercy of God; which made peace and ratified the treaty on Calvary between Heaven and the revolted and rebellious earth; which is the fundamental basis of all human association, and by which all Governments the world ever knew have been created and upheld; compromise, which fools pronounce a reasonable word, and skillful knaves cover with reproach, because they are enriching themselves at the expense of the national sorrow and blood, was discarded by the North and accepted by the South when offered by Mr. Crittenden. By it domestic tranquillity could have been insured. But an ulterior and destructive spirit ruled the hour and flooded the nation with misery. And since the breaking up of the fountains of the great deep who of this party have labored to tranquillize our disordered affairs? Who has endeavored, in the name of Christ and by the omnipotent power of the principles which He left His Father's throne to proclaim, and for which He drank the wormwood and the gall on the cross, to expel the cruel and ferocious demon of civil war that has howled so fiercely for the last three years among the tombs of our young and heroic dead? Not one, sir; not one. Wise and Christian measures, looking to reconciliation and peace and Union, have been repeatedly spurned by the Executive and this legislative department which he holds in duress.

At no distant day, when the horror of this war can no longer be borne, the various propositions which have been made and rejected in behalf of enlightened negotiation and a constitutional restoration will be gathered up and hurled at those in power as an accusation more appalling, an indictment more damning, than was ever leveled against a murderer upon his trial. Nor can they,

in that hour of their fear and calamity at which the righteous world will laugh and mock, hide their guilty heads under the assertion that the South will not treat for peace; yes, peace which shall restore the Union under the Constitution as it was written by the fathers, and as it has been interpreted by the supreme judicial tribunals. Why came that wasted figure, that gifted child of genius, the pure and elevated Stephens, of Georgia, from Richmond on his way to this capital in the midsummer of 1863? Was it a trifling cause that moved him? All the world knows that his judgment and his heart clung fondly and to the last to the old Government, in whose councils he had won so much honor. It is equally well known that he has never embraced the suicidal doctrine of State secession. The right of revolution is the ground upon which he stands. The malignant portion of the southern press, too, such mischievous and damaging prints as the Examiner and Enquirer at Richmond and the Register at Mobile, who continually cripple the interests and friends of humanity in this baleful contest, assailed Mr. Stephens for his attempt at negotiation, which they averred would lead to reunion. Yet, with these things well known, and perhaps much more which now slumbers in the secret drawers of the Executive, this great messenger of peace, this most acceptable mediator between an estranged and misled people, was denied a hearing, turned back in silence, and the festival of death commanded to proceed. The book of time, in all its ample folds, contains no more inhuman or revolting spectacle. Those who love war for the mere sake of war, when the same objects can be better attained by the gentle and holy influences of peace, are monsters of such frightful depravity that the blackest of those murdering ministers "who in their sightless substance wait on nature's mischief" appear as angels of light and benevolence in the comparison.

Sir, I will not here pause to dwell in detail on the usages of civilized nations in conducting civilized warfare. But I challenge history, that "reverend chronicler of the grave," whether in its sacred or profane records, to produce a parallel to the spirit and temper with which the party now in power has conducted the awful struggle in which we are engaged. Commence at the early daybreak of the world, traverse all time, and explore all space, grope your way among the vast hecatombs of all former wars, examine the gory stains of every battle-plain, ransack the archives of kings, cabinets, and councils, and no instance, not one, can be found where a people claiming Christian civilization has waged a war of any kind against a foe in dumb, ferocious silence, without a word, a sign, or a look in behalf of a peaceful solution as long as we have now been engaged in this cruel conflict. "Blessed are the peace-makers" was not spoken for the present administrators of American affairs. They spurn the examples and teachings of all Christian ages and enlightened people. They drink not from the benevolent fountains whose waters were unsealed to gladden and refresh the earth by the divine Nazarene on the Mount of Olives. They lave their lips, rather, in a stream whose waves, more putrid than the river of Egypt when smitten by the rod of Moses, taint the air with pestilence and calamity. Nor are they wholly without models in the past. The boundaries of civilization it is true, as I have stated, are barren of any precedents for their conduct, but the dark regions of barbarism furnish here and there a ghastly and horrible example of fury, hate, and revenge, which is now followed by the Executive and his partisan supporters. Demons have occasionally, in the mysterious providence of God, visited the earth in the guise of men, to prey upon the human species from the mere love of slaughter and misery. Alaric, the Gothic monster, never treated with his enemies, never negotiated for a peace. The dying groan of a soldier on the field, the bitter wail of the widow and the choking sob of the orphan at home were equally music in his ear. Attila, the fierce Hun, known to history as "the scourge of God," neither sent nor received commissioners to discuss and allay the causes of war. He painted upon his banners the sword, and the sword alone, and proclaimed that by that sign, and it alone, he would conquer. Genghis Khan and Tamerlane,

preserved by the pen of the historian for universal execration, found no pursuit so pleasant as calling for more men, more men, more men for the harvest of death, and, like our present Executive, snuffing with jests and ribaldry the warm taint of blood on every gale. The patriots who surrounded these barbarian chiefs spurned with eager indignation all proffers of mediation, all efforts at compromise, all talk of negotiation, just as do now the patriots who are seated on the west side of this Chamber, and who pay court for contracts at the west end of the avenue. Nor did Hyder Ali, that more modern incarnation of unconditional exterminating war, regard with favor the suggestions of peace, when pausing for a moment like a cloud of wrath on the brow of the mountain he swept down over the plains of the Carnatic, and smote them with blasts of fire, with indiscriminate woe.

Sir, these are your examples. These are they who never said conciliate, but always said crush; who never said harmonize, but who always said destroy; who denounced fraternal affection and embraced the doctrine of subjugation; who never sought to restore peaceful relations with their neighbors, but who always sought to ruin them by confiscation and plunder; whose voice was forever, like the voice of Moloch in hell and the voice of those who now rule this nation, for war, for mere war, and war alone, as a cure for every evil, a remedy for every grievance fancied or real. With what loathing and abhorrence does a Christian world now regard these destroyers of their kind! All countries and every people utter a cry of horror at the mention of their names. No pillar, no monument, no fountain, no grove perpetuates their place in the respect of a single human being that ever lived or died. And yet who will compare the ages in which they enacted their various tragedies to the one in which we live, and call them to such an account as awaits those who in this period of gospel light have fashioned the administration of the American Republic on the principles and practices of unenlightened barbarians?

But I will cease to reason on this point by comparison. I will grasp the naked question which the supporters of this Administration have so persistently clamored into the public ear for the last three wretched years. Is it right in itself to treat with those who are in rebellion, with a view to a restoration of their allegiance, and thus to insure the domestic tranquillity? If we draw an answer from the conduct of this Government in former instances of treasonable resistance to law, that answer is all in favor of negotiation and compromise. Washington set the example in the case of Pennsylvania, and Jackson followed it in the more celebrated case of South Carolina in 1832. In our wars with foreign Powers the same course has uniformly been pursued. And we ourselves were the objects of similar treatment even from the tyrannical ministry of George III in the days of the Revolution. Commissioners from the court of England came to our shores more than once a year during that struggle to treat for a return of the rebellious colonies to the union of the British empire. But I shall not content myself with the enlightened precedents furnished by the history of our own and other countries. Is there no higher standard of moral right to which to appeal? Is the voice of Him who spake as never man spake hushed and stifled by the hoarse cry of passion and rage? Have those pages which blaze with inspiration and which contain all the principles of national as well as individual morality and justice lost their light and power in this unhappy land? Can a Government long survive or hope to escape retributive punishment which blots out the doctrines of Christ in the regulation of its affairs? Shall a sneer, the sneer of the Jacobin and the atheist, deter me from seeking the path of public as well as private duty in the declared record of the great Father of us all? Have Robespierre and Marat come from their dishonored graves to dethrone God and to give us the hideous infidelity of the French Revolution? Sir, I ask you to go with me to the unsullied fountain of eternal truth:

"Moreover, if thy brother shall trespass against thee, go and tell him his fault between thee and him alone: if he shall hear thee, thou hast gained thy brother."

"But if he will not hear thee, then take with thee one or two more, that in the mouth of two or three witnesses every word may be established."

"And if he shall neglect to hear them, tell it unto the church; but if he neglect to hear the church, let him be unto thee as an heathen man and a publican."

In these brief but comprehensive sentences are embraced the great principles of social harmony, individual charity, and national fraternity. They were written by divinity to convey a lesson of humane philosophy into every department of life and to every succeeding age. They furnish the text for every treaty of peace which nations ever framed to prevent the effusion of blood. They inculcate the duty of not one only, but repeated attempts at reconciliation; and those attempts, too, upon the part of those who have suffered the injury. Under the malignant auspices, however, of the present hour in this afflicted country, what a contrast is presented to these sacred passages! Not only do we refuse to go to our brother who has committed the trespass, but we reject him when he offers to come to us.

Sir, I take my stand on these immortal maxims, and appeal to the native justice of the human heart. I appeal to those instincts of charity and benevolence by which it is allied to the attributes of Deity. The plain people of America, those who with honest hands earn their daily bread, whose wearing apparel is not purple and fine linen, flashing with diamonds and pearls purchased by the blood and tears of millions—to them, in their humble homes, darkened perhaps by the death of the first-born, I make this solemn invocation. Before that pure and unselfish tribunal I lodge my cause in behalf of domestic tranquillity, and tender the Bible as authority for the principles which I declare. By the voice of my own heart, unseparated by gain and unawed by terror, I know what will be the verdict of an incorruptible and free people. But there is another class who preside over the ministrations of this inspired Book, and who mingle with their offerings to God the poison of political prejudices, before whom the cause of humanity, union, and peace need not be presented. That large portion of the clergy of the land who, claiming to be the chosen agents of the merciful Redeemer, fill the cup of his sacrament with rancor and vengeance, hear none of the sweet, angelic tones which plead from every page of His gospels in favor of that individual and national charity which suffereth long and is kind. They teach their flocks no longer to hunger and thirst after righteousness, but to hunger and thirst for the blood of their enemies. They ascend the sacred desk no more to pray that gentle peace like the dews of heaven may descend upon our wounded and distracted country, but to declaim in warlike strains in the face of the Almighty upon the delight which they feel in the infliction of human agony. They have reversed the order of the millennium which the Christian world has looked forward to since the days of the prophets. The one which they hail in fond anticipation is that in which every plowshare shall become a sword, and every pruning-hook a spear; in which conscription, slaughter, and taxation shall go hand in hand; "when the keepers of the house shall tremble, and the strong men shall bow themselves, and the grinders cease because they are few, and those that look out of the windows be darkened, and the doors shall be shut in the streets, when the sound of the grinding is low;" "because man goeth to his long home, and the mourners go about the streets."

To these men much of the sorrow which now overshadows our homes is properly attributable. They have ever been, and are to-day, the foremost enemies of domestic tranquillity. Agitation on matters pertaining to civil government has been their element. Sedition against laws which conflict with their ignorant and selfish bigotry has been their favorite calling in all countries and in every age. They have a higher law than the sermon on the mount; and the word of God is made to fit the procrustean bed of their blind and furious prejudices, which they mistake for conscience. Sir, I here proclaim as a fact to which all history attests, that wherever in the tide of time the ministry of the Most High have assumed as a part of their duties the control of affairs of State and the policy of nations, they have appeared as the advocates of despotism, the friends

of high prerogative, the defenders of oppression, the allies of tyranny—obstacles in the pathway of progress, enemies to popular rights, and extortioners of the poor and laboring masses. I might dwell long on the evidence which the Old and the New World furnish on this point. That great author and majestic thinker, Buckle, whom I have already quoted, in speaking of the conduct of the political clergy in the reign of James II, says:

"They looked on in silence while the king was amassing the materials with which he hoped to turn a free government into an absolute monarchy. They saw Jeffreys and Kirke torturing their fellow-subjects. They saw the jails crowded with prisoners, and the scaffolds streaming with blood. They were well pleased that some of the best and ablest men in the kingdom should be barbarously persecuted; that Baxter should be thrown into prison, and that Howe should be forced into exile."

I pause but for a moment to point to the history of Puritan Massachusetts as a confirmation of my statement on this side of the ocean. What oppression did a political priesthood fail to approve? What cruelty did they not instigate and sanction in the early days of that famous colony? They scourged, seared, cropped, burned, and gibbeted the bodies of those who were unable to conform their views in all matters, civil and religious, to the reigning fanaticisms, and then consigned their souls to the regions of the lost. Carpenter, in his standard History of Massachusetts, a work warmly partial to that State, says:

"In July, 1655, several Quakers arrived in Massachusetts from Barbadoes, two of whom were women. Fully aware of the contemptuous disregard for existing ordinances indulged in by the more zealous of the sect in England, the magistrates in Boston brought the law against heresy to bear upon the intruders, and ordered their immediate arrest. After their persons had been examined for those marks which were supposed at that period to indicate such as dealt in witchcraft, no satanic signs being discovered, their trunks were rifled and the books found therein ordered to be publicly burned. A brief imprisonment was imposed upon them, but they were finally released and banished the colony. Several others who arrived subsequently were sent back to England by the vessels in which they came. About the same time a law was passed to prevent their introduction into the colony, and imposing the penalty of stripes and coercive labor upon all Quakers that should infringe it."

* * * "Some of the women were whipped, and several men condemned to lose an ear."
* * * "When seized they offered no resistance. Sentenced to be flogged, they yielded with entire satisfaction their backs to the executioner."

Finding that these atrocious measures were not sufficient to crush out the liberty of thought, a law was passed, says the same historian, in 1658, banishing the Quakers from the United Colonies of New England, and forbidding their return under pain of death:

"This sanguinary and unjustifiable enactment was carried by an easy vote only. Various staunch friends of the Government strongly protested against it, not only as cruel but as liable to invite the persecution it sought to avoid. The result soon proved how well grounded was the fear. Marmaduke, Stephenson, William Robinson, and Mary Dyer courted the danger to which they were exposed and quietly awaited the operation of the law. In September, 1658, they were seized and, after trial, condemned to be hanged. The sentence was carried into effect upon Robinson and Stephenson, but Mary Dyer was relieved upon the scaffold, and again thrust from the colony. Resolute in seeking a martyr's death, she returned soon after and was publicly executed on Boston Common."

"Oh! the rarity of Christian charity." Will not some New England clergyman of modern orthodoxy shed at least one tear over the scarlet sins of his own ancestors who assisted in the murder of this poor woman on Boston Common, while he is weeping as if his head was a fountain of waters over the landing of the Dutch ship with slaves at Jamestown?

But again, says the same friendly historian:

"It was at the beginning of this year that many persons of piety and good understanding were again led to believe in the great prevalence of witchcraft in the province. Prominent among the most credulous of these was Cotton Mather, son to Rev. Increase Mather, for some time past the agent of Massachusetts in England, and himself a clergyman." * * * "The alarm of witchcraft was again sounded. The ministers fasted and prayed with the distressed father. The villagers of Salem also fasted and prayed; and the fear of diabolical influences becoming general, a day of fasting and prayer was specially set apart to be kept by the whole colony. 'The belief in witchcraft being thus solemnly recognized and fostered, it was not long before the delusion spread across the whole breadth of the province. The number of victims so rapidly increased that many of the colonists, perfectly panic-stricken, became the accusers of others, lest they should be brought under suspicion themselves. The execution at Salem village of Mr. Burroughs, a minister of blameless life, was a terrible instance of the power which the delusion exercised over the strongest minds in the community. For fifteen months this strange belief held full possession of the popular faith. Dur-

ing this period out of twenty-eight persons capitally convicted of witchcraft, nineteen had been hanged and one pressed to death."

Sir, let not these remarks and records of faithful history be construed into an attack upon the ministers of our divine religion. I have endeavored rather to portray the evil results which flow from a desecration of that high calling. To my mind there is no vocation on this side of the mysterious river which divides time from eternity so lofty, no career of life so serenely beautiful and bordering so closely upon heaven, as the benevolent pursuits of him who tenders the cup of salvation to the lips of a fallen world. A halo hovers around his head which tells that he walks in the footsteps of his blessed Master. In the presence of such a man I would stand uncovered and do him reverent homage. And there are many such whose pure and noiseless lives pass almost unheeded by the busy, striving world, but around whom the comforting angels of the Lord encamp by night and by day. In their keeping are all the future hopes of the church—the Christian welfare of mankind. The youth of the land should sit at their feet and learn wisdom, and both young and old should rise up and call them blessed. But in this bright category of human excellence, this high galaxy of stars shining with an unearthly splendor, there is no place for such as take charge of churches by order of the War Department, and preach the gospel as commanded by the President of the United States. The vineyards where they labor will never bear the fruits of peace, never smile with domestic tranquillity. Before them I do not plead my cause. From them I expect to hear no voice save the continued and protracted cry of havoc.

But, sir, I will be told by the advocates of force and violence as a remedy, and the sole remedy, for our troubles, that although the South might send commissioners to treat for peace, yet they would accede to no terms save recognition and separation. In support of this view, certain propositions recently offered in the congress at Richmond are cited. To my mind they indicate a far different conclusion. It is true they do not signify to me that the power of the southern people is exhausted; that the rebellion is crushed; that a panic of fear prevails in the southern mind; that a government, whether *de facto* or *de jure*, which can maintain an army of half a million of well-armed men in the field, is conquered. I do not see the evidence of all this, as some have professed to do every sixty days since the war began; but I do see in these propositions an earnest desire upon the part of the South to conform to the usages of the civilized world, and to bring this unhappy and disastrous conflict to a close by the power of reason. It is true that certain objects are declared for which they desire to negotiate; but does that fact include final results which may grow out of negotiation when once commenced? What nation at war with another ever opened communication for a treaty of peace by proclaiming in advance the precise terms on which it was to be concluded? Such a course peremptorily excludes the very idea of negotiation. Commissioners would have no discretion, and reason and argument would have no room to act. Such is not, in my judgment, the meaning of this movement in the confederate congress. Sir, what is this contest? What interests does it involve? They are very distinct and simple when divorced from fanaticism. On the part of those who have kept their allegiance, it is a struggle to maintain the boundaries of the Republic, and thus defeat the ruinous doctrine that a State has a right to secede. On the part of those in rebellion, it is an effort, in their estimation, to preserve the integrity of their local laws, their social institutions, the right to control their domestic affairs free from Federal interference. With some, this attempt is made under a claim of the right of secession; others proclaim a revolution, which is the right of all people if grievances sufficient exist as a justification.

But the people of the South are united in the objects at which they aim, and if they could be attained in the Union, and without war, would they not gladly embrace and accept them rather than continue in a state of endless hostility, which is destroying the very interests they seek to pro-

38TH CONG....1ST SESS.

State of the Union—Mr. Voorhees.

HO. OF REPS.

fect? Why, the gentleman from Ohio [Mr. GARFIELD] declared a few days ago on this floor, that if the privates of the opposing armies in the field were permitted to come together in peace, they would speedily remove all our troubles; and yet he spoke and voted in favor of taking from even the wives and children of the southern masses, who, he asserts, are thus willing to return to the Union, the last foot of soil and the last crust of bread by which life is sustained. With such evidence, then; as this, can we justify ourselves before God or man if we fail to respond to the action of the South in favor of negotiation, which promises in advance such happy results? Let all grievances, whether fancied or real, be considered by candid statesmanship. Let there be safe and unrepeatable guarantees adopted against those that are found to be real; and those that are fancied will be easily explained away. Five enlightened commissioners from each section, imbued with the spirit of Christian benevolence, animated by an unselfish love of country and of their fellow-men, meeting by the consent and encouragement of their respective authorities, could, and in my solemn and deliberate judgment would, in ninety days, agree upon terms which would be acceptable to a large majority of the American people, and by which the Union of these States would be more firmly established than ever before, the lives of millions spared, the hard earnings of the laborer left for him to enjoy, peace and tranquillity restored. I would improve the armistice which winter declares to achieve many bloodless and permanent victories in favor of the Union and the Constitution. I would not stop there. I would extend the armistice as long as there was hope of inducing the return of a single State. But suppose negotiation should fail. Then, indeed, would this Administration be armed with an argument in favor of war which it has never yet possessed. This fact is well understood by the Executive and his advisers, but they refuse to negotiate because they have reason to believe that the Union would thus be restored and the war ended. But slavery would not thereby be abolished, and the scheme of building up a despotic, centralized Federal Government would be defeated. The war, therefore, goes on; the young men of the nation are swept into their graves upon the plain of battle, and the old men become slaves to the tax-gatherer, not to restore the Union, but to give a worthless liberty to the black man, and to strike down the legal rights and privileges of the white man.

Sir, upon this question of negotiation, concession, compromise, and Union, I appeal for approval to my own conscience. It sustains me with all the force of a burning conviction of duty. By it I am lifted beyond the reach of partisan malice. I appeal to the people! The voice and humane instincts of honest nature will plead my cause in their hearts. At their hands I fear no evil for the country. They are just, and will appreciate a plain and inherent element of right. I appeal to future years. When candor, reason, and Christianity sit in judgment on this struggle every line which records the history of war or peace in all former ages tells me that their verdict will be in favor of the principles which I advocate. I seize this hour of future triumph by anticipation. That it will come I entertain no more doubt than I do that I breathe the air of life this moment. I appeal, finally, to God before whom I stand, and into whose presence we all hasten to answer for our conduct and our motives. In that awful hour I humbly trust and believe that my feeble efforts to turn aside the devouring edge of the sword; to stay the hand of the great reaper, death; to pause in the horrid work of sending souls to their eternal account without repentance or pardon; to stop bereavement, woe, and tears around every fireside; to brighten the mournful face of the land with the radiance of peace; to reconstruct and restore a fraternal and harmonious Union will meet with the approval of the Father, and go far toward relieving the newly liberated and trembling spirit of the terrors which surround it.

But, Mr. Chairman, what other declared purposes of the Constitution, for the accomplishment of which this Government was established, have been carried out by the policy and administration

of the party now in power? Do they promote the general welfare? With the principles of justice everywhere suppressed, the blessing of liberty annihilated throughout all our borders, and the domestic tranquillity utterly destroyed, it is almost needless to inquire what is left to constitute the general welfare. But it is my painful duty on this occasion not only to show that the principles of free government are dying, rapidly dying before our faces, but that the material prosperity, the absolute physical resources of the country are perishing also. The welfare, the strength and glory of a nation are dependent in a vast measure upon the extent of its population and the amount of its wealth. Next to the virtue and intelligence of the people their numbers constitute the power and dignity of a State. The ancient commandment and the blessing delivered to the original founders of the human race were to be fruitful, multiply, and replenish the earth. And one of the richest promises to the patriarchs of old was that their tribes and their descendants should increase until they became as the leaves of the forest and the sands of the sea-shore. Every public ruler who by wise political and social economy has rapidly swelled the population of his country, holds a place in the history as a benefactor of his kind. Every human being is a machine of labor. Each head and each hand is a producer. The busy brain and the active muscle are perpetually adding to the storehouses, the granaries, and the merchant ships of the world. It was a blessing and not a curse, it was in mercy and not in wrath, that man was commanded to eat his bread in the sweat of his face. By obedience to this command the glory of civilization adorns the earth, and commerce penetrates the most distant seas. The fulfillment of this decree redeems the savage face of nature, builds up the great marts of trade, patronizes sciences and letters, erects temples to art and progress, and is a forerunner of the Christian faith. Labor is the fountain of all wealth and of all happiness. Nations and individuals are alike utterly and entirely dependent upon it for their prosperity. And national prosperity is simply the result of individual labor. The humble and obscure toil of the honest plowman, who

"Homeward plods his weary way"

at nightfall is the source of all the nation's greatness, the foundation of all its vast enterprises, the support of all its boasted revenues; it is the small spring breaking into a rivulet from the hill-side, which, flowing on and mingling with the other waters of its kindred, at last swells into an ocean on whose bosom the destinies of the world are determined. All the great authors who have written on the subject of the wealth of nations have recognized this as a fundamental truth. Adam Smith embraces it in the first sentence of his immortal work. He says:

"The annual labor of every nation is the fund which originally supplies it with all the necessities and conveniences of life, which it annually consumes, and which consist always either in the immediate produce of that labor, or in what is purchased with that produce from other nations."

Locke, in his equally celebrated treatise on civil government, is still more explicit and clear upon this point. He uses the following language, which covers the whole philosophy of labor:

"'Tis labor, then, which puts the greatest part of the value upon land, without which it would scarcely be worth anything. 'Tis to that we owe the greatest part of all its useful products; for all that the straw, bran, bread of that acre of wheat is more worth than the product of an acre of good land which lies waste is all the effect of labor. 'Tis not merely the plowman's pains, the reaper's and the thrasher's toil and the baker's sweat, it is to be counted into the bread we eat; the labor of those who broke the oxen, who digged and wrought the iron and stones, who felled and framed the timber employed about the plow, mill, oven, or any other utensils, which are a vast number, requisite to this corn, from its being seed to be sown to its being made bread, must all be charged in the account of labor, and received as an effect of that; nature and the earth furnishing only the almost worthless materials as in themselves. 'T would be a strange catalogue of things that industry provided and made use of about every loaf of bread, before it came to our use, if we could trace them: from wood, leather, barks, timber, stone, brick, coals, lime, cloth, dyeing, drugs, pitch, tar, masts, ropes, and all materials made use of in the ship that brought away the commodities made use of by any of the workmen, to any part of the work; all which 't would be almost impossible, at least too long, to reckon up."

Sir, aside then from motives of humanity, what shall be said of an administrative policy which is

unnecessarily depopulating the nation? Every ensanguined field of strife covered with the noble and once animated forms of American citizens, is an irreparable loss to the true wealth of the country. When the last call for troops which has been made upon the laborers of the land by the Executive shall have been complied with, more than two million men will have gone to the fields of death. In the year 1860, the number of voters in the United States, including all the sections, was four million six hundred and sixty-one thousand one hundred and ninety-three. The States which remained faithful to the Union contained, at the commencement of this war, about three millions. This may fairly be computed as the number of laborers in the loyal States three years ago, for while many who vote are too old to work, yet perhaps an equal number are capable of labor who are too young to vote.

It will thus be seen that two thirds of the laboring population of the country have already been levied upon by this remorseless Administration, and drawn away from the business of production. Figures cannot lie, and the census tables do not deceive. The prosperity of this Government consists in the labor of its people. This is its only capital. In proportion as the population is diminished or diverted from productive pursuits, in the same proportion is the general welfare destroyed. And no nation ever long survived the shock which the abstraction of two thirds of its population inflicted upon every branch and department of industry. A paralysis will seize every healthful function of Government. The sap of life will cease to ascend, and the green tree will wither and die. The fountains will be dried up, and the river will cease to flow. Sir, I am dealing in no imaginary picture. Go to the regions of agriculture, on which all else depends. You will there hear the cry that the laborers are few. One man cannot do the work of three; and two are gone, and but one is left to sow the seed and reap the harvest. I have seen the wife and the mother tilling the soil in my own district, her children following in the furrow, and their father away in the Army. I have seen broad fertile acres in the West lying waste and idle for the want of hands to place them in cultivation. How long can this state of things continue? How long will one third of our usual produce meet the demands of our increased and stupendous expenditures? How long can diminished production and multiplied taxation go hand in hand? How long can you continue to destroy the laborer, and at the same time raise a revenue from the products of labor? The tendency and speedy result of our present career are plain and inevitable. Soon, very soon, the fruits of industry will prove inadequate to meet the annual demands of the national Treasury, and then the land itself, the farm, the homestead, must be exhausted and swept away. Are you ready for this? Are you ready for the land tax upon uncultivated fields, in addition to the tribute which we already pay to fanaticism and corruption? If you are, then eternal war, vast conscriptions, no negotiation, no reunion, no peace, will bring with fearful rapidity the realization of all your hopes.

But in this profligate destruction of human life, and wanton and wicked overthrow of the whole natural system of American labor, how much longer do you expect the toiling millions to endure in silence? When the curtain first rose on the hateful scene of this civil war the country was mocked with a call for seventy-five thousand men, and our greedy ears were saluted from high quarters with the flattering story that the moon would scarcely wax and wane until the Government would again possess its own. You tell me of statesmanship; you tell me of honesty in the present conduct of our disastrous affairs. Sir, not a plan laid down in the beginning but what has failed, and not a promise made by this Administration to the people but what has been broken. The armies of the rebellion still stand with defiant front almost within sight of the Capitol; and the hoarse and terrible demands of a new conscription are now going out over the country, as fatal to the peace and happiness of the people as the croak of the raven to the life of Duncan. Do the few who now riot in the lives and fortunes of the many imagine that they can prolong forever

38TH CONG....1ST SESS.

State of the Union—Mr. Voorhees.

HO. OF REPS.

Four brief but terrible years under the present Administration will have consumed more than three times as much of the wealth, the labor, the taxes of the people as every other Administration of the Government put together, from Washington to James Buchanan! Do you still say, in view of this startling fact, that there is no necessity for a change in our policy and in our rulers in order to save us from utter overthrow? Are you still content that this rate of expenditure shall continue? How long can it continue? By the statistics furnished in the census of 1860, the value of the real and personal property of the entire United States, before war and destruction had assailed it, was \$12,084,660,005. Even admitting that it possesses the same value to-day, yet the debt is one third of the whole amount. But every one will acknowledge that an assessment of the value of the property throughout the United States now would not show more than two thirds of its former value. This would be about \$8,000,000,000. Of this sum the public debt, in a few months, will be more than one half. Half the grain in the field, half the horses in their stalls, half the cattle in the pastures, half the hogs in the pens, half the land itself, every other acre, will stand mortgaged for the payment of a four years' dreadful experiment in the use of the sword, and the sword alone, in attempting a restoration of the Union. And even now, all over the land, the excisemen, the tax-gatherers, are swarming to enforce the foreclosure of this crushing and relentless mortgage. It is held by creditors who have iron hearts. There will be no grace given; no equity of redemption. Abolitionism is the principal holder; and then, contracts and fraud hold the balance.

But allow me to make an application of this debt to that great State a portion of whose people I represent on this floor. The assessed value of all the real and personal property of the people of Indiana in 1860 was \$411,042,424. The proportion of the Federal debt which will attach to that State June 30, 1865, will be \$285,980,519. It will therefore be seen that if three fourths of everything which the citizens and property-holders of Indiana possess was put up at auction and sold according to the appraisement of the census report, it would barely suffice to meet the demands which the Federal Government is making upon the wealth and industry of that State. I am aware that all this will fall idly upon the ears of those who are prolonging this war from motives of despotism and unhallowed gain; but I speak to-day for the farmer and the mechanic—for the laborer whose heart is filled with unselfish patriotism, and whose hands are restrained by plunder. I call upon that class to carefully estimate these burdens, for on their weary shoulders they are to be borne.

But again. I will be met here by the fact that the payment of the principal of the public debt will be postponed from one generation to another, and that like the people of England we will only be called upon for its interest. Taking even that unworthy view of the question let us see what will be the inevitable annual demands upon American labor in order to avoid open and acknowledged bankruptcy. The estimate I make on the basis of peace, after this war shall have closed, and the utmost reduction made consistent with our altered condition. I challenge scrutiny into its substantial correctness:

Civil list.....	\$8,500,000
Foreign intercourse.....	2,500,000
Interior, pensions, Indians, &c.....	20,000,000
War Department.....	120,000,000
Navy Department.....	25,000,000
Miscellaneous, light-houses, building.....	25,000,000
	201,000,000
Interest on the public debt.....	240,612,785
	\$441,612,785

Every one of the above items is put much lower than I candidly believe it will be, but even at these rates we find that each year of the darkened future, the Treasury Department will reach forth the hungry hand of revenue and seize upon the fruits of industry to the extent of \$441,612,785. And the payment of this vast sum leaves us as much in debt as before, for it pays not a dollar of the enormous principal. It is simply what must be

annually paid to prevent instant repudiation. It constitutes the current expenses by which alone the Government is enabled to live from day to day.

How, then, is this annual sum to be raised by the people? Taxes must be paid out of the earnings of the people, and not by the sale of their original possessions. Otherwise taxation becomes confiscation, and soon the citizen would have neither the means to supply revenue or to support life. If what the laborer earns over and above his own livelihood is not sufficient to meet the claims of the tax-gatherer, then sales commence by which the Government sooner or later will become the sole owner of all the estate of its inhabitants. For annual payments you must have annual earnings. The above annual sum must be paid by a corresponding annual surplus earning in the hands of the people, after allowing them to supply their own wants and necessities.

Now let us turn to an estimate of annual earnings. The State valuations for taxable purposes in 1850 and 1860, according to an estimate made by the financial editor of Hunt's Merchants' Magazine, furnish us the average annual earnings of the following States for that period of ten years, as follows:

California.....	\$12,568,741
Connecticut.....	10,566,994
Illinois.....	29,369,472
Indiana.....	30,314,097
Iowa.....	11,921,101
Kansas.....	9,500,000
Maine.....	6,794,300
Massachusetts.....	31,554,452
Michigan.....	10,767,662
Minnesota.....	3,000,000
New Hampshire.....	6,413,284
New Jersey.....	10,688,900
New York.....	72,639,840
Ohio.....	45,869,780
Oregon.....	1,632,645
Pennsylvania.....	57,281,101
Rhode Island.....	4,734,513
Vermont.....	1,308,668
Wisconsin.....	15,426,882
	\$364,431,862

I have not taken into account the border slave States, as their situation is such as to defeat any calculation of their earnings, at least for some years to come. It will be seen, therefore, that the annual amount which from this time forward must be paid into the Federal Treasury exceeds by almost one hundred million dollars the total annual earnings of the nineteen free States during a period of peace and unexampled prosperity. Under the present policy pursued toward the seceded States, a half a century will roll away before they will again assist the wealth of the country. Their whole system of productive is to be destroyed. Four millions of annual producers are to become idle and worthless consumers, and a vast bureau is about to be erected by which the Government shall support the negro instead of the negro, as heretofore, assisting to support the Government. Time will show that emancipation is the costliest feature of this war. Cotton, tobacco, rice, sugar, will perish as means of revenue. The blow of the Executive which releases four million hands from profitable labor, imposes the task from which they are set free as producers on a similar number of white laborers. It does more. They are still consumers; they must be fed, and they will not feed themselves. The President unconsciously uttered a philosophic truth when a year ago he said of free negroes, "They eat and nothing else." Nor can the negro be much blamed for accepting this easy life when an insane party tenders it to him, and lays the burden of labor from which he is liberated on the neck of the white man. A totally ruined and impoverished South, her property destroyed and her slaves set free, all simply means the annihilation of so many sources of national revenue, and the consequent enormous increased taxation in the North. Confiscation will not pay the expenses of its own machinery and execution. As a means of replenishing the Treasury it is not to be mentioned, except by madmen. All history bears testimony to the folly of thus attempting the liquidation of a public debt. It must be met and paid by the fruits of the soil produced by labor. And he who reduces the number of laborers North or South, white or black, in the same proportion multiplies the toils and sacrifices of those who yet remain.

Mr. Chairman, I need not pause to dwell upon the mathematical certainty of national and individual bankruptcy and ruin which the foregoing calculations so conclusively demonstrate. The humblest mind in the land will grasp the fatal result upon which we are hastening. But some superficial observer, intending too to further deceive the popular mind, will doubtless point to the surrounding appearances of general prosperity as an answer to this portion of my remarks. Money is flowing in boundless profusion. Unnatural prices are paid for everything. A meretricious splendor hails us upon the streets, at the rout, the assembly, and the theater. The nation seems fattening on blood and carnage. But this high feverish flush which we everywhere behold is not the genial warmth of health. It is the fierce hectic glow of a swift consumption. It is the herald of death, and points to the tomb. What we call money is not money, and the most gorgeous wealth has no value, because it is a prey to the monster debt. Frenchmen, more than a hundred years ago, dreamed of a fabulous fountain of prosperity, and located it in the valley of the Mississippi. The credit of the Mississippi Company became the basis of an illimitable paper currency, and both the king and people of France hailed John Law, its founder, as the deliverer of their kingdom. It was treason to doubt the infallibility of his gigantic scheme of human credulity and folly, as it is now to doubt the wisdom and final success of our own financial Department.

Bancroft, the historian, well portrays our own unhappy situation in describing this great delusion of the French. He says:

"A Government which had almost absolute power of legislation, conspired to give the widest extension to what was called credit. Law might have regulated at his pleasure the interest of money, the value of stocks, and the price of labor and produce. The contest between paper and specie began to rage—the one buoyed up by despotic power, the other appealing to common sense."

"Paper was made the legal tender in all payments. To win the little gold and silver that was hoarded by the humble classes small bills, as low even as ten livres, (a livre is about twenty cents) were put in circulation."

"When men are greedy in the wrong, especially when they have embarked their fortunes in their error, they willfully resist light. So it has been with the French people; they remained faithful to the delusion till France was impoverished, public and private credit was subverted, the income of capitalists annihilated, and labor left without employment, while in the midst of the universal wretchedness of the middling class, a few war speculators glozed in their unjust acquisition and enjoyment of immense wealth."

At about the same period a similar frenzy was raging on the other side of the English Channel, and British statesmen fancied they had found the magic alembic by which paper issued upon credit could be made to supply the uses of gold.

The trade of the South sea was to pay the debt of England in twenty-seven years, and Sir John Blunt issued Government bonds on the faith of this fictitious wealth. Avarice and speculation instantly seized like twin furies upon the heart of the whole kingdom. The glittering beams of a false and deceptive prosperity gilded every present scene, and illuminated the future with the radiant smiles of hope. The British Parliament resounded with high eulogiums upon the financial scheme which was so soon to release the hands of English industry from the galling manacles of debt. We are listening from day to day to similar speeches upon a similar subject as they are made on the other side of the Chamber in defense of the Department of the Treasury. Yet woe and disaster followed the experiment of paper credit in England as well as in France; and Smollett, the historian, relates the fate of their projectors, from a study of which the architects of American ruin may accurately determine the destiny which hangs with certainty over their future:

"While at the moment a South-sea director was scarcely safe in the streets from the vengeance of the populace, Law, the projector of the Mississippi bubble in France, was flying for his life from the people whom he had beggared."

Sir, in view of the experience of other nations, in view of reason and of facts, will many the Comptroller of the Treasury himself, catching the mutterings of the fearful rising storm, like the practiced mariner at sea, utter a cry of terrible warning. In a recent address he fully confirms the dark and dismal view which I have here advanced of our financial condition. He says:

"Bear constantly in mind, although the loyal States appear superficially to be in a prosperous condition that such

38TH CONG....1ST SESS.

Military and Post Roads—Mr. Davis.

HO. OF REPS.

is not the fact. That while the Government is engaged in the suppression of a rebellion of unexampled fierceness and magnitude, and is constantly draining the country of its laboring and producing population, and diverting its mechanical industry from works of permanent value, to the construction of implements of warfare; while cities are crowded and the country is to the same extent depleted, and waste and extravagance prevail as they never before prevailed in the United States, the nation, whatever may be the external indications, is not prospering."

Sir, I take leave of the question of the *general welfare*. The bitter hour of a people's bloody sweat and agonizing tears will soon be here. The mournful shadows of its funeral pall are already penetrating the once bright and abundant homes of virtuous labor. The spirit of oppression is omnipresent in the land, and like death and famine, none will escape the pangs which it inflicts. Let each eye which now beholds the sun take its last look at scenes of plenty and prosperity. Our fall from bounding wealth and unlimited resources to pinched and shrunken poverty and cowering bankruptcy is as certain and as fatal under our present policy as the fall of Lucifer, the morning star, from heaven. And the exclamation of the laborer as he toils in a hopeless bondage to the public debt may well be as despairing as the anguish of the lost angel:

"Farewell, happy fields,
Where joy forever dwells. Hail horrors! hail
Infernal world; and thou, profoundest hell,
Receive thy new possessor!"

And now, Mr. Chairman, what else remains? What portion of the Constitution can yet be found alive? What principle has been spared, preserved, or protected by the destroyers who rule the nation? Have they provided for the common defense against foreign Powers? The Emperor of France tramples the Monroe doctrine disdainfully under his feet. He overthrows the republic of Mexico, and on its ruins erects an imperial despotism in immediate contact with our borders. A prince of the house of Hapsburg, trained in the courts of Austrian oppression, becomes our closest neighbor. Perhaps it is needless to complain of this near example of one-man power—this European head wearing a crown on North American soil. It will not be long if our present career is unchecked until the terms dictator, king, and emperor will be as familiar in Washington as in the palace of St. Cloud.

But, sir, the saddest question embraced within the scope of my remarks remains to be answered as I draw them to a close. Has the policy pursued for the last three years resulted in the formation of a more perfect Union?

No language that the tongue of man can utter would form so expressive an answer to such a question as a silent survey of the dreadful scene which lies before us. A gulf of blood and tears and all of human agony which the afflicted race of men can know this side of the dread abodes of the damned, divides the suffering and miserable sections of a once fraternal and contented people. Statesmen of Christian faith, imbued with the lofty spirit of Him who gave His blessing to the merciful, could again span this horrid chasm and bind together the torn and bleeding ligaments of the Union. But an evil star is raging in our sky, and under its malign power the legislation of the land appears as the frenzied, murderous, disjoined dreams of a madman in his cell. Such a penal code as now stands in the way of the return of the men, women, and children of the South to their allegiance has no parallel in the annals of the human race. A thousand miles of gibbets with the dangling halter and the ready executioner; universal confiscation of property to the remotest period of an innocent posterity; the absolute extermination of a whole people and the appropriation of the depopulated country to the unsparring demands of a more than Norman conquest; the utter extinction of every vestige of our present form of government by States—all this and infinitely more is contained in the enactments which already stain the records of American legislation. But why need I dwell upon these evidences of disunion? The great leader of the Administration on this floor, the gentleman from Pennsylvania, [Mr. STEVENS], has deliberately here announced, after all our sacrifices, sorrows, and loss, that the Union of our fathers is dead, and that he who attempts its resurrection is a criminal instead of a patriot. He goes further, and admits all the se-

ceded States have ever claimed—their nationality. They have sought in vain in all the four quarters of the earth for recognition. They find it at last at the hands of those who speak for the Administration on this floor.

Sir, I deny this doctrine. I plant myself on the Constitution which recognizes an unbroken Union. I shall stand there in every vicissitude of fortune, and if I fall it will be when the people themselves abandon their own Constitution. By the principles of this mighty instrument, I expect finally a restoration of the Union of the States. Every hour which the party in power prolongs its control of affairs, postpones the auspicious day, but as I behold the future it will assuredly come. Material and indestructible interests unite every section except that which prospers on fanaticism. And I here to-day, in the spirit of one who expects and desires his posterity and theirs to live together in the ancient and honorable friendship of their fathers, warn the southern people not to look forward to separation and independence, but to embrace every opportunity for cooperation with the conservative men of the North, who will aid with their lives, if need be, to secure them all their rights and institutions as free and equal citizens of the United States. If this be done the approaching presidential election will bring peace, Union, and liberty. But if the peaceful popular revolution of the ballot-box fails to produce these results, then darkness will settle upon the face of the deep, and the free institutions of America will exist only on the page of the future historian. Four years more of our present policy will leave the Republic an unshapen mass of ruins, a wreck more melancholy and hopeless than any that strew the pathway of ages. And here in this fair young western world, as in all former times, a despotism will arise from the shattered fragments of self-government, to which each succeeding generation shall pay the extorted tribute of its blood and toil.

MILITARY AND POST ROADS.

SPEECH OF HON. T. T. DAVIS,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

March 23, 1864.

The House having under consideration the bill (H. R. No. 307) to declare certain roads military and post roads, and to regulate commerce—

Mr. DAVIS, of New York, said:

Mr. SPEAKER: The bill before the House proposes to sanction a railroad constructed between the cities of New York and Philadelphia, and which consists of portions of two lines built under the authority of the State of New Jersey.

That State, by its prior legislation, had authorized the construction of another line of railway to which the exclusive right had been given of transporting passengers and freight between the two cities, and it is claimed that the two roads last incorporated have violated the rights of the company first chartered, in consenting, upon the requisition of the War Department, to transport troops and munitions of war *en route* to Washington, at a time when its own capacity was entirely exhausted. An effort is in consequence now being made in the courts of New Jersey to destroy the offending corporations.

I state this fact in the outset to the House, and hope that it will be borne in mind, for I think that a railroad line ought to be recognized as a legal and lawful structure, when the Government in time of war is compelled, in the absence of other facilities, to resort to it for the purpose of transporting troops and munitions of war for the defense of the national capital.

The line formed by the connection of the Raritan and Delaware Bay and of the Camden and Atlantic City railroads is claimed to create a competing route with the line of the Camden and Amboy railroad between New York and Philadelphia; and though public convenience and the necessities of commerce may demand the opening of this line for through business, the courts of New Jersey interpose and declare that under the laws of New Jersey and the charter to the Camden and Amboy Railroad Company no such competition can be permitted.

This bill which declares this competing line a lawful structure, in my judgment, proposes to do *no wrong*. If we pass it we simply recognize what already exists, and what I believe to be necessary to this country, not only for the emergencies of war, but for the peaceful purposes of commerce. The question is one of *power* alone, and that is a constitutional question to be decided by the courts of the United States. The parties who ask our action have no remedy in the courts of New Jersey, for the monopoly which controls the other lines controls the courts, controls the Legislature, controls the people, and rightfully, in all probability, hold that they are bound by the legislation of New Jersey. These companies have no prospect of continued being except by the interposition of Congress. If we recognize them their rights can be adjudicated by the Federal courts, and that is all that they desire.

I have another reason for supporting this bill, and it arises from the fact that the Legislature of my own State has sent to its Representatives in this and the other end of the Capitol the joint resolution of the Senate and Assembly instructing their Senators and requesting their Representatives to use all their power and influence in the promotion of increased facilities for communication by railway between the cities of New York and Washington. When I call to mind that the line owned by the parties who solicit our interposition is as convenient and expeditious, and is able to compete with the old line for business between New York and Philadelphia; when I remember that this may, by appropriate connections, be made a part or link in a more perfect system of railway communication between the commercial and the political capitals of the Republic, I cannot be unmindful of the wishes of my State, and am bound to see if, in the accomplishment of their wishes, I can fairly and judiciously support this measure.

The desire for improved communication between the North and Washington is universally expressed from the deep conviction of its necessity. It comes from men of all classes and all interests, and every man who becomes a passenger over the route becomes a convert to the propriety of the improvement. For more than twenty years I have been interested in the railway system of this country. A large proportion of the little I possess of worldly commodities has been, and is this day, invested in railroad securities and railroad enterprises; and therefore I would not knowingly commit myself to any principle of legislation by which the great system of railroad development and communication could be unjustly affected.

I am a firm believer in the necessity for railway organizations and in their beneficent agency in the prosecution of those great enterprises for the purpose of intercommunication which can be accomplished only by the aggregation of the capital of numerous associates. I am disposed to give to such organizations all proper privileges and all just protection. But, sir, when I consider the grounds which are urged here by honorable gentlemen against the passage of this bill a question arises which seems to me paramount to every personal and private consideration, and which appeals to our conscientious and intelligent judgment, upon the powers with which this Government is clothed by the Constitution. We are told that this Government has no right to intervene, that it has no right to step upon the sacred soil of New Jersey and lay its hand upon a monopoly which under the authority of local law erects a barrier across the highway of the national commerce. They tell us that New Jersey is a supreme and sovereign State, and that, regardless of any power in the Federal Constitution, she may create monopolies with the absolute, undisputed, and exclusive authority to regulate that commerce between New England, New York, the West, and the South, whose natural pathway is across her plains. When I hear such principles of State sovereignty openly asserted and advocated by gentlemen upon this floor, I feel inclined to the support of this bill, regardless of every other consideration whatever.

Sir, if I correctly understand the theory of this Government, if I truly appreciate the vital and paramount power of our Constitution, the Federal Government is absolute and supreme throughout

38TH CONG....1ST SESS.

Military and Post Roads—Mr. Davis.

HO. OF REPS.

every Territory and State, for every purpose for which a national jurisdiction was conferred by or implied in the Constitution. That sacred instrument gives to Congress, not by inference, not by implication, but by express word, not only the power but the *exclusive* power of regulating commerce with foreign nations and between the several States.

What is commerce? It is the interchange of property and production between cities and cities, between States and States, between nations and nations. It embraces the transit of persons from foreign countries to this country. It embraces the transit of all persons from any State in this Union to and from and through every other State of the Union. It relates as well to the vessel and its freight as to the rivers, the canals, or the lakes. It relates to all the channels, avenues, instruments, agencies, and incidents of intercommunication. It relates to railroads and to trains, as well as to rivers and steamers. This is the commerce, foreign and domestic, which for the wisest reasons of policy and necessity was left to the exclusive control of the Congress of the United States. We meet the power almost on the threshold of the Constitution; and let me remind this House that the necessity for conferring this power upon the General Government was once early and clearly perceived, and was insisted on before the adoption of the Constitution, and even before the signing of the Articles of Confederation by the New Jersey delegates to the Convention. Yet the New Jersey of to-day resists the exercise of the power.

The gentleman from Maryland, my honorable friend on my left, [Mr. H. WINTER DAVIS,] who addressed the House yesterday, alluded in eloquent and glowing terms to the wisdom and sagacity of the framers of the Constitution. He always speaks well and eloquently, and although I may not say of him, what Johnson said originally of Goldsmith, and another applied to the philosopher, learned, and eloquent Burke, "There is nothing that he does not touch; he touches nothing that he does not beautify," I may say that there is no subject which he considers that he does not illumine by the fire of his intellect, and grace with the classic purity of his diction. Without pretending to recall his precise language, I will simply reproduce the idea that human wisdom never before in the structure of civil government embodied in such brief terms so much of forecast and of wisdom as are exhibited in our Constitution, and that nothing could be more significant of the profound wisdom of its framers than the simple fact that, no matter to what tests the Government of the Constitution has been subjected, no matter through what fiery ordeals it has passed, no matter by what danger of treason and rebellion it has been surrounded, there is still found within it provision for every emergency, and every power essential to its preservation.

It was this spirit of prescience which dictated in such simple and concise terms that "Congress shall have power to regulate commerce with foreign nations and among the several States."

When the Constitution was adopted, the old States of the Union lay stretched along the shore of the Atlantic, while the now teeming and populous West remained an unbroken and uninhabited wilderness. The fathers of the Constitution with prophetic eye looked into the future and saw far off, along the lakes and beyond the Alleghenies, "the star of empire lead the way." They saw State after State come forth from the shadows of the forest to join their sisters of the East in enlarging the area and increasing the power of the American Republic. It was for this reason that the Constitution gave to Congress the power to effect from its Territories new States, which might be admitted into the Union with all the rights and privileges of original States. And when this vast wilderness should be peopled, when the resources of these new States should be developed, when with their unlimited productions they should seek the avenues of commerce to other States or to the ocean, who should control those avenues, who should direct that commerce? If the control of commercial communication rested with the Atlantic States, the entire West, having no natural channels to the ocean, might be forever excluded from participating in the advantages thus enjoyed by the elder sisters of the Republic, and it was

to establish equality of right and of privilege between all that the regulating of commerce was committed to the care of the national Congress.

By way of illustration, Mr. Speaker, let me refer to the physical position of New England, New York, and New Jersey in our national organization. From the southern point of New Jersey, at Cape May, in latitude 39°, we have eight degrees to the northern boundary of Maine, in latitude 47°. From the Canadian boundary there stretches the mountain chain of the Appalachians through New England and New York, broken only by the Hudson at the Highlands, and, passing southerly through northern New Jersey and Pennsylvania, terminates only in Alabama and Georgia. Throughout this almost continental distance but one single line is found practicable for water communication between the Atlantic and the lakes. That, sir, is through my own State, by the Hudson, through the valley of the Mohawk, and through the counties of Madison, Oneida, and other counties, where the northern spurs of the Appalachians sink into the plains. It was on this line, thus marked out by the finger of nature as the great highway of commerce between the valley of the Mississippi and the Atlantic, that the genius of Clinton constructed that vast work of internal improvement which has conferred upon my State her imperial name.

Now, sir, suppose that New York and New Jersey alone, thus virtually occupying the eight degrees of latitude from Cape May to the Canada line, thus holding the only possible water communication with the great West so long as the mountain ranges rear their crests toward heaven, had, under the pretense of sovereign right, authorized a corporation to construct the Erie canal, and for a consideration in hand paid, and in consideration of tolls and taxes to be paid upon every luckless passenger and every pound of freight transported or to be transported along and upon the canal, had given to such corporation for one hundred years an exclusive right to carry freight and passengers thereon from the Hudson to Lake Erie, and had moreover pledged their sovereignty to permit no other mode of transportation across said States which might or should compete with said canal in its business—no matter what improved means of transportation might be introduced; no matter what new avenues capital might be willing to open; no matter what increased speed and facilities might be secured by the invention of the locomotive and the railway—I think we should be forced to the conclusion that New York and New Jersey were in some slight degree exercising those very powers in the regulation of commerce which the Constitution declares shall be vested in Congress. If the argument is said to be weakened by the combination of two States in the proposition, it may be simplified by supposing that New Jersey, in her jurisdiction, extended over the territory of New York, and had alone granted a charter to the Delaware and Raritan Canal Company and the Camden and Amboy corporation to construct the improvement.

Sir, such is neither the policy nor the spirit of our institutions. The policy of this Government is to foster commerce by opening up to it increased facilities of intercommunication. That policy controls the governments of all those States where enterprise seeks the development of physical resources. Monopolies are among the things that were. Old restrictions and exclusive powers have been swept away by the power of public sentiment controlling legislative action in the enactment of general laws for internal improvements.

In Maine, New Hampshire, Vermont, Massachusetts, Connecticut, New York, Ohio, Indiana, Illinois, Iowa, and Wisconsin, and almost everywhere in the free States, the commerce of the country and the creation of new avenues for its convenience have been thrown open to free and unrestricted competition.

Sir, the State of New York, in her great canal, connecting the waters of the ocean with the magnificent system of Mediterranean seas, unrivaled on the globe in extent and beauty, held the key to the portals of the great West. In addition to \$8,000,000 which were originally expended in the construction of her canal, she enlarged the structure at a cost of nearly twenty millions. To sustain this work she imposed no duties on the stranger

which she did not impose on the citizen; and yet, when the railway and the engine came, as the gift of genius to civilization, New York, of her own free will, and while special charters were yet required, authorized the construction of railroad lines, side by side, from Albany to Lake Erie, and on their completion permitted them to transport passengers and freight, through or local, without tax or duty, and in direct competition with her own improvement. Sir, this was magnanimous. No cry of exclusion or monopoly was heard at home or abroad. A new line of communication offered new facilities to commerce which commerce did not fail to improve. The lake marine increased with the demand for its employment, and still the increasing productions of the West demand new avenues. The New York and Erie railway opens a third, and that again is crowded to its utmost capacity. Production presses upon the facilities for transportation, and that which cannot be carried over the most expeditious and convenient avenues is forced to the mountain passage of the Pennsylvania Central.

What, sir, is the result of this free competition? In 1862 the revenues of the Erie canal were \$4,000,000, while the income of the New York Central and Erie was about ten million dollars each; and a singular feature in the history of this immense and unfettered commerce is that even wheat and flour were transported from Chicago to New York at the same price per bushel or barrel by the lakes and canal from Buffalo or Oswego, by the lake, the New York Central and the Hudson, by the lakes and the New York and Erie, and by rail exclusively over the Pittsburgh, Fort Wayne and Chicago and the Pennsylvania Central. Where, sir, would the West have been in its development and growth if New York, hugging the delusive phantom of corporate monopolies, had intrusted her destinies to the canal and the tow-path? Let the monopolists of New Jersey, if they would benefit the State and the country, imitate the liberality of New York and restore their State to freedom of commerce and of opinion and to the respect of the world.

Let me for one moment suppose that, instead of throwing the construction of commercial avenues open to free competition, the State of New York had authorized across it only a railroad, under stipulations of monopoly and protection like those granted to the Delaware and Raritan Canal and the Camden and Amboy Railroad Companies, what would our western friends have said when finding no way of reaching the East through New York save on one route, upon a single track, and under the direction and control of a monopoly careless of their comfort because they could not go elsewhere? What would our friends from the golden West, from California, true and faithful to the Union from the beginning, have said, if in every State, from Nevada to Maryland, they had found monopolies established and protected by law, with a right to impose a tax upon passengers for the benefit of the State simply because they were not so far dishonored as to be citizens?

In my deliberate judgment, sir, the principle claimed by the opponents of this bill is one that is constitutionally unsound, practically insufferable and unsafe, and not to be recognized by those who claim for the Government that supremacy in matters of general and national concernment which is vested in it by the necessities of its being, and by the express or implied language of the Constitution. The recognition of that principle concedes that the regulation of commerce is in the States, exclusively, and not in the Federal Government.

I do not pretend nor claim that under the Constitution the Federal Government has in all things absolute power. It is a Government of limited powers, but whenever power is conferred by word or by necessary implication, which is essential to a national Government, and the exercise or reservation of which by the States would be incompatible or inconsistent with the duties and obligations devolved upon the Federal organization, then and there I hold the Federal Government to be as supreme and absolute as if no State lines existed between the oceans, and no State governments exercised political authority. Now, when Congress is charged with the power to regulate commerce, its failure to fulfill its entire functions

is no abandonment or extinguishment of the power. The functions may be exercised at will, and in subordination to expediency, as the power to establish post offices and post roads, or to declare war, or to create a navy. The power lies dormant, yet neither dead, nor shorn of its full vigor. Congress has therefore permitted to the States, and very properly, too, the control of the domestic commerce of the country, and the creation of its avenues, subject only to the interference of Congress whenever the general good or the public and national necessities demand such interference.

The forbearance of the Government is urged as evidence of its want of original authority. It is even said that the decisions of the courts have been adverse to the exercise of such power by Congress; and the honorable gentleman from New Jersey [Mr. ROGERS] has here criticised some of the cases cited in the report of the committee, and has also read largely from the opinions of the chancellor of New Jersey to sustain his position. I cannot exhaust the brief hour allowed me for discussion by any professional criticisms upon judicial opinions; but I undertake to say the adjudications of our Federal courts expressly recognize the existence in Congress of the power claimed by the committee in their report, that this power relates to the vehicle of transportation as well as to the thing transported, to persons as well as to property, and to every incident of commerce between foreign Powers and the States, or between one State and any other State. I maintain, moreover, that the jurisdiction of Congress is supreme and exclusive over the entire subject and all its incidents; that if the power be granted, the selection of the means and agencies essential to the full and perfect execution of the power is in Congress, and nowhere else; and that whatever judgment it may exercise in the employment of the means, the means selected in its discretion are lawful, if the end be lawful and the means be adapted to the end.

In support of these general propositions I will present, without comment and without special order of arrangement, the following authorities.

In *Martin vs. Hunter's lessees*, 1 Wheaton, 324, the court say:

"The Constitution of the United States was ordained and established not by the United States in their sovereign capacities, but, as the preamble declares, by the people of the United States. It was competent for the people to invest the national Government with all the powers which they might think proper and necessary, to extend or limit those powers at their pleasure, and to give to them a paramount or supreme authority. The people had a right to prohibit to the States the exercise of any powers which were in their judgment incompatible with the objects of the general compact, to make the powers of the State governments in given cases subordinate to those of the nation, or to reserve to themselves those sovereign attributes which they might not choose to delegate to others."

In *McCulloch vs. The State of Maryland*, 4 Wheaton, 316, the court say:

"The Government of the Union is a Government of the people. It emanates from them, its powers are granted by them, are to be directly on them and for their benefit. It is supreme within the sphere of its action. It is authorized to select the means to execute any power granted. If the end be legitimate, and within the scope of the Constitution, all the means which are appropriate, which are plainly adapted to that end, and which are not prohibited, may be constitutionally employed to carry it into effect."

That the regulation of commerce is by the Constitution committed to Congress no one can dispute, and on the regulation of commerce the courts thus speak of the power of Congress. In 14 Peters, page 570, their language is:

"All the powers which relate to our commerce are conferred to the General Government."

"When an authority is granted to the Union to which a similar authority in the States would be absolutely and totally contradictory and repugnant, then the authority to the Federal Government is necessarily exclusive."

In *Gibbons vs. Ogden*, 9 Wheaton, page 196, Chief Justice Marshall, in speaking of the power of Congress to regulate commerce, says:

"It is the power to regulate, that is, to prescribe the rule by which commerce shall be regulated. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than those prescribed in the Constitution. The power over commerce is vested in Congress as absolutely as it would be in a single Government having in its constitution the same restrictions."

References might be made without limit, asserting the power for which we contend.

I have already alluded, Mr. Speaker, to the marvelous brevity of expression in the Constitution. In a few printed paragraphs it becomes the organic law of a vast empire and of many generations. We find in it these words among the enumerated powers of Congress: "to establish post offices and post roads." There the grant ceases; there is not a letter beyond. The establishment of post offices and post roads by no means implies of necessity that after designating post offices and the routes over which the mails might be carried, anything else must or should be done. But yet under the implied authority derived from these few words a thousand locomotives to-day traverse the States over the iron pathway, bearing the intelligence of commerce and the regards of friendship. The courier posts his dangerous way across the western plains, and every State and county and town is netted over by lines of mail transportation. Splendid structures in our great cities, and the magnificent edifice at the capital, dedicated to the postal system of the country, indicate the liberal construction demanded by the public of constitutional terms. Under this same power Congress has stretched its arm over the ocean; and from New York and Philadelphia lines of steamships running to the eastern continent, and to our own western shores, aided and subsidized by the Government, have been made its agents for a postal system outside of the country and outside of the letter of the Constitution. Yet, sir, it is claimed on the other side of this House that we have no powers under the Constitution save those expressly delegated by its terms.

I may add also that this power of regulating commerce has often been exercised in the creation or improvement of its internal channels, as in the Cumberland road and the Louisville canal. It has been exercised in the erection of lighthouses on the ocean, and on those lakes lying in the heart of the continent, whose commerce, half told, far exceeds the foreign commerce of New York.

I believe, Mr. Speaker, we have the power to pass this bill. I now ask, granting the power, will its exercise in this case be just or expedient? I hold that wherever an exclusive right is given, connected with the performance of an act contributing to the public interest and convenience, like the grant to a railroad or ferry company, it is a grant upon condition that the company enjoying the right shall fully and at all times perform the duties growing out of the new relations to the public, so that the public, for whom the State is but the trustee, shall not be prejudiced in the premises. A charter authorizing the erection of a bridge and the exclusive enjoyment of it for the crossing of passengers for a given distance, demands the construction of the bridge in reasonable time and its permanent maintenance, or the exclusive right ceases.

If reports are true, the railroad through New Jersey has failed, utterly failed, to meet the demands of the public. It has asserted principles and adopted practices in respect to the transportation of freight and passengers which, in my judgment, are in conflict with the laws and Constitution of the United States. Those who are not residents of the State and who are transported across it are compelled to pay tolls to the State, while residents of the State passing from point to point on the line are exempt from payment. And the same discrimination is made between its through and its local freights.

Mr. STARR. Will the gentleman from New York permit me to correct his statement?

Mr. DAVIS, of New York. Certainly.

Mr. STARR. I understand the gentleman to say that citizens of New Jersey have not to pay the same toll for traveling on the railroad as citizens of other States have to pay on crossing the State of New Jersey. The gentleman is entirely mistaken. The tax of ten cents is paid upon all persons carried on the road of the company.

Mr. DAVIS, of New York. Mr. Speaker, I hold in my hand a letter from the attorney general of New Jersey, in which he gave an opinion in regard to the obligation of this company to impose this tax on the citizens of New Jersey. He says that unless the citizen pass across the State from New York to Philadelphia, the company is under no obligation to report him for the payment

of the tax. I am told that the company does not report the passenger nor pay the tax in such case.

Mr. STARR. The position now taken by the gentleman from New York differs from his former one. He said that the citizens of other States were taxed for crossing the State, while the citizens of New Jersey were not taxed. Now he says that the attorney general held that the joint companies were not bound to report those citizens carried between the banks of the Delaware and the Raritan rivers.

This, sir, is a different issue; and although the attorney general may have so decided, yet the joint companies, in point of fact, do report them and pay the tax upon such transportation.

Mr. DAVIS, of New York. Sir, I have no desire to do injustice to this company. I have no doubt that the directors are intelligent, sagacious, and able men. I do not question their standing and respectability; but I do know that whenever power is conferred upon any corporation, that power will be exercised if it be for the benefit of the corporation to do so. I doubt much whether a critical examination of the books of the company will not show that the taxes have been paid by persons outside, and not by residents of New Jersey.

But, sir, the gentleman's argument concedes the fact and says that the companies pay their taxes in such cases of their own volition and not by legal compulsion. My complaint is of the law.

Again, I say that every citizen outside of New Jersey suffers an imposition in another respect, which I will show by a reference to the reports of the company. I will take the report of 1848, from which it appears that in the month of May, 1848, 34,924 $\frac{1}{2}$ way passengers were transported 841,604 miles, at the average charge per mile of one cent seven and a half mills; and that 22,866 $\frac{1}{2}$ passengers were carried, through passengers, at the average charge of three cents five and a half mills. I ask the members of this House whether there is here any discrimination against the non-residents of New Jersey.

Mr. Speaker, I do not expect that any gentleman upon this floor representing any district of that State will rise to the support of this bill, for I have already stated that the Camden and Amboy monopoly controls the State of New Jersey. It controls the courts. It designates who shall hold the political power of the State, who shall sit in its halls of legislation, and sometimes, at least, it declares who on the floor of this House shall represent the sovereignty of Camden and Amboy. The Legislature is the executor of its sovereign will, and dares to pass no act in opposition to its dictates. Any improvident enactment might be repealed by a simple resolution of its board of directors.

One of the honorable gentlemen from New Jersey [Mr. ROGERS] who addressed the House alludes with great unction to the decisions of the supreme court of the State as decisive of the proposition that Congress has no right to interfere with exclusive powers granted to corporations of New Jersey for purposes of internal improvement.

I propose that this House shall pass this bill, which will enable the question of authority to be passed upon by the Federal courts, and then an appeal may be taken from such decision to the court of last resort, the supreme court of New Jersey!

The gentleman from New Jersey who addressed us yesterday on this bill [Mr. ROGERS] stated that this exclusive power was contained in the original act, and that thus a contract was created which could not be impaired. I beg to correct the gentleman. The original act was a simple charter, containing no exclusive rights whatever, and imposing no restrictions upon the power of the Legislature.

The next year after the passage of the act, and on the 4th of February, 1831, the Legislature, from pecuniary and possibly from wise considerations, enacted that the Camden and Amboy Railroad and Transportation Company might transfer to the State \$100,000 of its stock without payment, and on which the company were to pay the same dividends as on other stock. The Camden and Amboy Railroad and the Delaware and Raritan Canal Company were soon after consolidated by authority of a statute, and on the 15th day of February,

38TH CONG....1ST SESS.

Republican Governments in Certain States—Mr. Davis.

HO. OF REPS.

1832, the State authorized the joint companies to transfer another \$100,000 of their joint stock to the State, on the terms of the act of 1831.

Now, here in these acts we trace the gradual surrender of the dignity and independence of the State.

The first act of 1831 gave to the Camden and Amboy railroad protection against competition only during the pleasure of the State. The State reserved the right of creating a rival line, but in that event the stock given to the State was to be retransferred to the company.

The act of 1832 did contain a provision that it should not be lawful, during the continuance of the charter, to construct any other railroads in the State which should be used, or intended to be used, for the transportation of passengers and merchandise between the cities of New York and Philadelphia.

It is under this provision that the monopoly exists and asserts its right to *control and regulate* the commerce of a dozen States. Now, sir, for this exclusive power granted, the State has received in the taxes levied upon the through commerce of other States, inclusive of dividend upon its stock, the vast aggregate of \$2,615,260 56 up to the year 1862, the amount increasing from year to year, and amounting in 1862 to \$188,464 57. The entire civil list of the State and a large sum beyond is paid by these taxes upon the commerce of her neighbors. Thus this monopoly has realized an immense income from its exclusive privileges.

Thus I maintain that there exists within the State of New Jersey, under the local law of that State, an interference with and a restriction upon the commerce of the country unauthorized by the Federal Constitution, and which the Federal Government has the constitutional power to remove.

The honorable gentleman from New Jersey [Mr. ROGERS] states that the improvements made by the joint companies have cost \$13,000,000, and that they now owe \$8,000,000 upon the bonds outstanding on account of such improvements. Does he suppose that there is no one here who understands the history of this corporation and dares to speak of what he knows? Let me tell you that these bonds have not been issued for construction, but to a great extent have been divided among the stockholders of the company, leaving a nominal corporate debt outstanding as a shield against public scrutiny into its income. The State of New Jersey holds, according to the last report of the company, \$81,000 of these bonds as dividends upon the two thousand shares, or \$200,000 stock of the corporations, amounting to more than forty per cent., and the same dividend was made upon the residue of the \$3,000,000 of their joint capital.

This monopoly is not confined in its power to the State of New Jersey. Passing beyond the limits of the State to which it owes its being, it plants its foot upon the soil of Pennsylvania and becomes the purchaser of the Trenton and Philadelphia railroad, at a cost of about \$1,000,000, and pays for it in its bonds, which are now presented as a part of the indebtedness for the original cost of the New Jersey roads. Besides this, it appears by its own reports that it has bought a controlling interest in other roads in New Jersey to the construction of which its assent has been given, as feeders to its own line for local business. It is a dangerous monopoly even when restricted within the limits of legitimate power; but when it shall confine itself to its appropriate functions, and fairly consult the interests of the public and the country, I will refuse to lay the weight of a finger upon it, but will faithfully lend whatever influence I possess to its full and perfect protection.

But I cannot as a member of this House, or as a citizen of this country, support any monopoly which in contravention of the power of Congress stands in the pathway of commerce between the East and the West, excluding half the States of the Union from their rightful participation in free and unrestricted and equal intercourse.

I do not know what the fate of this bill may be. I do not know what parties are interested in its passage, as the owners or creditors of the line sought to be protected. So far as I know, there is no man connected with it in any wise to whom I am under the slightest obligation. I have no

interest in it, directly or indirectly, present or prospective, of any nature or kind whatever, and what I say here I speak from the control of principle and the conviction of duty.

The views I have expressed in respect to the dangers of monopoly are fully shared in, as I find, by the present or former officers of the Camden and Amboy railroad.

In 1846 an address was published by the directors of the company to the people of New Jersey. It appears from the paper which I hold in my hand that a proposition had been under discussion for the surrender of the exclusive privileges enjoyed, and the directors speak of what they regard as the wisdom of the State in refusing to permit the construction of rival and competing lines which might become weak and powerless through competition. In such case, says the address, "one company, more powerful than the rest, indirectly would become the owner of them all, and thus establish a gigantic, irresponsible, and hydra-headed monopoly; neither the interest of the State nor public convenience and safety would be subserved by such a system." We have, sir, now and here, the very monopoly whose gigantic power and hydra heads were regarded with so much apprehension. This monopoly exists in full power in the State of New Jersey; and the simple question before us is whether we have, and if we have whether we will exercise, the power of interference.

Sir, were I a citizen of New Jersey I should oppose the monopoly on another ground. It prevents the development of the physical resources of the State. Let me say to the Representatives of New Jersey that their State is a lamentable instance of the proof of this proposition. By glancing at the census of 1850 and 1860 I find that the three counties lying nearest to the city of New York—Union, Essex, and Hudson—in that decade increased their population 88,541, while the entire increase of the remaining eighteen counties was only 93,935, and that increase was almost entirely in those few counties which had been penetrated by those local lines of railway which either the interest or the magnanimity of the great monopoly permitted to exist. Thus we see that three single counties, open to improvement and accessible to intercourse, in a single decade keep even pace with all the residue of the State. Has New Jersey considered the immense enhancement in the value of lands accessible to railways, and thus open to the markets of the metropolis?

In my judgment there is no sound principle on which this monopoly should be endured, either under State or congressional legislation. It is entirely opposed to the theory that monopolies are grants upon condition. The privilege granted was by implication, if not in terms, that the corporation should furnish all the facilities which an ever-increasing commerce demands. To build a road alone could not be held the evidence of a right to exclude commerce if the road might not be operated. It must be operated and equipped with all the instruments and means to subserve the purposes of its creation, and if it fail in the fulfillment of its duties its exclusive right is forfeited to public policy and public interest. It becomes a public necessity, and no Government can divest itself either of the power or the duty of providing for the vital requirements of the people. Whenever such an emergency arises the monopoly should cease.

REPUBLICAN GOVERNMENTS IN CERTAIN STATES.

SPEECH OF HON. H. WINTER DAVIS,
OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,
March 22, 1864.

On the bill (H. R. No. 244) guarantying to certain States whose governments have been usurped or overthrown a republican form of government.

Mr. DAVIS, of Maryland, said:

Mr. Speaker, the bill which I am directed by the committee on the rebellious States to report is one which provides for the restoration of civil government in States whose governments have been overthrown. It prescribes such conditions as will secure not merely civil government to the

people of the rebellious States, but will also secure to the people of the United States permanent peace after the suppression of the rebellion. The bill challenges the support of all who consider slavery the cause of the rebellion, and that in it the embers of rebellion will always smolder; of those who think that freedom and permanent peace are inseparable, and who are determined, so far as their constitutional authority will allow them, to secure these fruits by adequate legislation. The vote of gentlemen upon this measure will be regarded by the country with no ordinary interest. Their vote will be taken to express their opinion on the necessity of ending slavery with the rebellion, and their willingness to assume the responsibility of adopting the legislative measures without which that result cannot be assured, and may wholly fail of accomplishment. Their vote will be held to show whether they think the measure now proposed, or any which may be moved as a substitute, is an adequate and proper measure to accomplish that purpose. It is entitled to the support of all gentlemen upon this side of the House, whatever their views may be of the nature of the rebellion, and the relation in which it has placed the people and States in rebellion toward the United States; not less of those who think that the rebellion has placed the citizens of the rebel States beyond the protection of the Constitution, and that Congress, therefore, has supreme power over them as conquered enemies, than of that other class who think that they have not ceased to be citizens and States of the United States, though incapable of exercising political privileges under the Constitution, but that Congress is charged with a high political power by the Constitution to guaranty republican governments in the States, and that this is the proper time and the proper mode of exercising it. It is also entitled to the favorable consideration of gentlemen upon the other side of the House who honestly and deliberately express their judgment that slavery is dead. To them it puts the question whether it is not advisable to bury it out of sight that its ghost may no longer stalk abroad to frighten us from our propriety. It does not address itself to that class of gentlemen upon the other side of the House, if there be any, nor to that class of the people of the country who look for political alliance to the men who head the rebellion in the South, and say to them, let us

"Once more
Erect the standard there of ancient night;
Yours be the advantage all, mine the revenge."

It purports, sir, not to exercise a revolutionary authority, but to be an execution of the Constitution of the United States, of the fourth section of the fourth article of that Constitution, which not merely confers the power upon Congress, but imposes upon Congress the duty of guarantying to every State in this Union a republican form of government. That clause vests in the Congress of the United States a plenary, supreme, unlimited political jurisdiction, paramount over courts, subject only to the judgment of the people of the United States, embracing within its scope every legislative measure necessary and proper to make it effectual; and what is necessary and proper the Constitution refers in the first place to our judgment, subject to no revision but that of the people. It recognizes no other tribunal. It recognizes the judgment of no court. It refers to no authority except the judgment and will of the majority of Congress, and of the people on that judgment, if any appeal from it. It is one of that class of plenary powers of a political character conferred on Congress by the Constitution, such as the authority to admit new States into the Union, the authority to make rules and regulations for the government of the Territories of the United States. With reference to that class of cases, the Supreme Court, renouncing all right to judge on political questions, has said that these sections vested in the Congress of the United States plenary power over the subject-matters mentioned, subject only to the limitations contained in those sections. In the section to which I refer there is, and almost from the very nature of the case there can be, no limitation. It is intended to meet all the emergencies of the national life. It is intended to apply to events which human imagination could scarcely have pictured. And

yet the great wisdom of the framers of the Constitution has in no particular been rendered more remarkably apparent—although their imagination could scarcely have reached the belief in the possibility of events that are to us familiar as household words—than in their having laid by, in the arsenal of the Constitution, the weapons to deal with this great danger.

What is the nature of this case with which we have to deal—the evil we must remedy, the danger we must avert? In other words, what is that monster of political wrong which is called secession? It is not, Mr. Speaker, domestic violence, within the meaning of that clause of the Constitution, for the violence was the act of the people of the States through their government, and was the offspring of their free and unforced will. It is not invasion, in the meaning of the Constitution, for no State has been invaded against the will of the government of the State by any power except the United States marching to overthrow the usurpers of its territory. It is, therefore, the act of the people of the States, carrying with it all the consequences of such an act. And therefore it must be either a legal revolution which makes them independent, and makes of the United States a foreign country, or it is a usurpation against the authority of the United States, the erection of governments which do not recognize the Constitution of the United States, which the Constitution does not recognize, and, therefore, not republican governments of the States in rebellion. The latter is the view which all parties take of it. I do not understand that any gentleman on the other side of the House says that any rebel government which does not recognize the Constitution of the United States, and which is not recognized by Congress, is a State government within the meaning of the Constitution. Still less can it be said that there is a State government, republican or un-republican, in the State of Tennessee, where there is no government of any kind, no civil authority, no organized form of administration except that represented by the flag of the United States, obeying the will and under the orders of the military officer in command. It is the language of the President of the United States in every proclamation, of Congress in every law on the statute-book, of both Houses in their forms of proceeding, and of the courts of the United States in their administration of the law. It is the result of every principle of law, of every suggestion of political philosophy, that there can be no republican government within the limits of the United States that does not recognize, but does repudiate, the Constitution, and which the President and the Congress of the United States do not, on their part, recognize. Those that are here represented are the only governments existing within the limits of the United States. Those that are not here represented are not governments of the States, republican under the Constitution. And if they be not, then they are military usurpations, inaugurated as the permanent governments of the States, contrary to the supreme law of the land, arrayed in arms against the Government of the United States; and it is the duty, the first and highest duty, of the Government to suppress and expel them. Congress must either expel or recognize and support them. If it do not guarantee them it is bound to expel them; and they who are not ready to suppress them are bound to recognize them.

The Supreme Court of the United States in declining jurisdiction of political questions such as these, in the famous Rhode Island cases, declared, by the mouth of Chief Justice Taney, in the Presidency of John Tyler, during the southern domination in support of the acts of John Tyler; that a military government, established as the permanent government of a State, is not a republican government in the meaning of the Constitution, and that it is the duty of Congress to suppress it. That duty Congress is now executing by its armies. He further said in that case that it is the exclusive prerogative of Congress—of Congress, and not of the President—to determine what is and what is not the established government of the State; and to come to that conclusion it must judge of what is and what is not a republican government, and its judgment is conclusive on the Supreme Court, which cannot judge of the

fact for itself, but accepts the fact declared by the political department of the Government.

We are now engaged in suppressing a military usurpation of the authority of the State government. When that shall have been accomplished there will be no form of State authority in existence which Congress can recognize. Our success will be the overthrow of all semblance of government in the rebel States. The Government of the United States is then, in fact, the only Government existing in those States, and it is there charged to guarantee them republican governments.

What jurisdiction does the duty of guaranteeing a republican government confer, under such circumstances, upon Congress? What right does it give? What laws may it pass? What objects may it accomplish? What conditions may it insist upon, and what judgment may it exercise in determining what it will do? The duty of guaranteeing carries with it the right to pass all laws necessary and proper to guarantee. The duty of guaranteeing means the duty to accomplish the result. It means that the republican government shall exist. It means that every opposition to republican government shall be put down. It means that everything inconsistent with the permanent continuance of republican government shall be weeded out. It places in the hands of Congress the right to say what is and what is not, with all the light of experience and all the lessons of the past, inconsistent, in its judgment, with the permanent continuance of republican government; and if, in its judgment, any form of policy is radically and inherently inconsistent with the permanent and enduring peace of the country, with the permanent supremacy of republican government, and it have the manliness to say so, there is no power, judicial or executive, in the United States that can even question this judgment but the people; and they can do it only by sending other Representatives here to undo our work. The very language of the Constitution and the necessary logic of the case involve that consequence. The denial of the right of secession means that all the territory of the United States shall remain under the jurisdiction of the Constitution. If there can be no State government which does not recognize the Constitution, and which the authorities of the United States do not recognize, then there are these alternatives, and these only. The rebel States must be governed by Congress till they submit and form a State government under the Constitution; or Congress must recognize State governments which do not recognize either Congress or the Constitution of the United States; or there must be an entire absence of all government in the rebel States; and that is anarchy. To recognize a government which does not recognize the Constitution is absurd, for a government is not a constitution; and the recognition of a State government means the acknowledgment of men as Governors and legislators and judges actually invested with power to make laws, to judge of crimes, to convict the citizens of other States, to demand the surrender of fugitives from justice, to arm and command the militia, to require the United States to repress all opposition to its authority, and to protect it from invasion—against our own armies; whose Senators and Representatives are entitled to seats in Congress, and whose electoral votes must be counted in the election of the President of a Government which they disown and defy! To accept the alternative of anarchy as the constitutional condition of a State is to assert the failure of the Constitution and the end of republican government. Until, therefore, Congress recognize a State government, organized under its auspices, there is no government in the rebel States except the authority of Congress. In the absence of all State government, the duty is imposed on Congress to provide by law to keep the peace, to administer justice, to watch over the transmission of decedents' estates, to sanction marriages; in a word, to administer civil government until the people shall, under its guidance, submit to the Constitution of the United States, and, under the laws which it shall impose, and on the conditions Congress may require, reorganize a republican government for themselves, and Congress shall recognize that government.

These, therefore, are the things which are involved in the duty of Congress to guarantee a republican government to the States. But we have not yet suppressed the insurrection. We are still engaged in removing armed rebellion. Is it yet time to reorganize the State governments, or is there not an intermediate period in which sound legislative wisdom requires that the authority of Congress should take possession of and temporarily control the States now in rebellion until peace shall be restored and republican government can be established deliberately, undisturbed by the sound or fear of arms, and under the guidance of law?

What is the condition of the rebellion at this time? I do not know that I express the opinions of gentlemen in this House, but, in my judgment,

"Doubtful it stands;

As two spent swimmers, that do cling together,
And choke their art."

Our arms have advanced deep into the regions of the rebellion; we have occupied a vast area wrested from its power; but to this day we have not expelled the rebels from any State they ever held.

There is no State some portion of whose territory is not pressed by rebels in arms whom we have not expelled or whom we cannot expel. There is no portion of the rebel States where peace has been so far restored that our military power can be withdrawn for a moment without instant insurrection. There is no rebel State held now by the United States enough of whose population adheres to the Union to be intrusted with the government of the State. One tenth cannot control nine tenths. Five tenths are nowhere willing to undertake the control of the other five tenths. Nowhere does such a proportion exist willing to do so, or if willing to do so, who can safely be trusted with the great powers of a State government, carrying with it the right of taxation, the existence of courts, the appointment of officers, the command of the militia, and besides the supremacy of the internal concerns of the State, the right to participate in the Government of the United States by Representatives, Senators, and electors, appointed by their uncontrolled dictation. In West Virginia that authority exists, and has been recognized. In no other State—the only one in respect to which a doubt can exist is Tennessee—in no other State is there such a portion of territory held, or any such portion of population under our control, or any such portion of it which is in our control inspired by such sentiments toward the Government of the United States, so free from fear of the returning wave of rebel invasion, so assured of the continued supremacy of the United States, that we ought to be willing to intrust them with this power. You can get a handful of men in the several States who would be glad to take the offices if protected by the troops of the United States, but you have nowhere a body of independent, loyal partisans of the United States, ready to meet the rebels in arms, ready to die for the Republic, who claim the Constitution as their birthright, count all other privileges light in comparison, and resolved at every hazard to maintain it.

The loyal masses of the South, of which we hear so much, what was their temper at the outbreak of the rebellion? what is their temper now? They did not want rebellion; they voted against secession; they acquiesced in the vote which decreed it; they went with their State; they were content to accept what they did not prefer but were unwilling to resist; they preferred Union with peace, but when Union and peace could not exist together, they yielded up the Union rather than make war to maintain it; and when the question was Union and war for it or disunion and war for it, they preferred war against the United States to war against the South. Whether it was that the doctrines of secession had ground themselves into the minds of men and become unconsciously the foundations upon which their thoughts rested; or that they thought the interests of slavery must necessarily be sacrificed in the event of a war and they were not willing to sacrifice it; or that the long strife on the negro question had deadened their national feeling; or that they had ceased to regard the people of the free States as fellow-citizens, and the horror of joining them against

their southern brethren oppressed them like a nightmare; or the fear of making war at their own doors, and the drawing of the sword against their own friends and neighbors, or a conviction that the United States was no longer a power but a mere semblance of authority—a *roi fainéant*, whose mayors of the palace were merely clothing the reality of power long wielded with the forms of sovereignty—whether each or all of these were the motive, the fact is that after they voted against secession they acquiesced in the judgment of their friends and fellow-citizens. It is the most astounding spectacle in history that in the southern States, with more than half of the population opposed to it, a great revolution was effected against their wishes and against their votes, without a battle, a riot, or a protest in behalf of the beneficent Government of their fathers—a revolution whose opponents hastened to lead it, without a martyr to the cause they deserted except the nameless heroes of the mountains of Tennessee, or a confessor of the faith they had avowed save the illustrious Petigru of South Carolina!

Doubtful of the issues of the war, exhausted by bloodshed, anxious for peace—peace and independence—there are some who will accept peace and Union, but they are not men who will draw the sword for the United States, and they would be equally content with peace and independence. When the overthrow of the rebellion is an accomplished fact they will acquiesce; when there shall be neither hope nor fear of rebel supremacy they will submit to what we judge to be necessary for their good and for ours if we will peremptorily declare the conditions necessary to secure republican government. But it is the veriest child's dream to suppose that so long as this war lasts, so long as its flames blaze over the southern country, any large portion of the southern population is willing to cast in its lot with the United States for good or evil, and assume now the responsibility that they declined at the beginning, of standing with us for better for worse, in ruin or in triumph.

There is no fact that we have learned from any one who has been in the South and has come up from the darkness of that bottomless pit which indicates such repentance. There is no fact that any one has stated on authority at all reliable that any respectable proportion of the people of the southern States now in rebellion are willing to accept any terms that even our opponents on the other side of the House are willing to offer them.

It has been repeatedly asserted—Governor Seymour, of New York, in his message asserted—that peace could be had upon any reasonable terms. That was his guess; it was his wish; it was his fond, vain hope. In fact there is no ground for such hope, and to-day no man can stand before the American people and say that there is the least reason to suppose that any public man in the South has declared himself willing to consider peace on any conditions but that of independence.

What, then, are we to do with the population in these States? To make "confusion worse confounded" by erecting by the side of the hostile State government a new State government on the shifting sands of that whirlpool, to be supported by us while we are there and to turn its power against us when we are driven out? That would be to erect a new throne where

"Chaos umpire sits,
And by decision more embroils the fray
By which he reigns."

In my judgment it is not safe to confide the vast authority of State governments to the doubtful loyalty of the rebel States until armed rebellion shall have been trampled into the dust, until every armed rebel shall have vanished from the State, until there shall be in the South no hope of independence and no fear of subjection, until the United States is bearded by no military power and the laws can be executed by courts and sheriffs without the ever-present menace of military authority. Until we have reached that point this bill proposes that the President shall appoint a civil Governor to administer the government under the laws of the United States and the laws in force in the States respectively at the outbreak of the rebellion, subject, of course, to the necessities of military occupation.

It is the policy of an ancient soldier that I adopt:

"Trust none;
For oaths are straws, men's faiths are wafer-cakes,
And hold-fast is the only dog, my duck;
Therefore caveat be thy counselor."

When military opposition shall have been suppressed, not merely paralyzed, driven into a corner, pushed back, but gone, the horrid vision of civil war vanished from the South, then call upon the people to reorganize in their own way, subject to the conditions that we think essential to our permanent peace and to prevent the revival hereafter of the rebellion, a republican government in the form that the people of the United States can agree to.

Now, for that purpose there are three modes indicated. One is to remove the cause of the war by an alteration of the Constitution of the United States prohibiting slavery everywhere within its limits. That, sir, goes to the root of the matter, and should consecrate the nation's triumph. But there are thirty-four States—three fourths of them would be twenty-six. I believe there are twenty-five States represented in this Congress; so that we on that basis cannot change the Constitution. It is therefore a condition precedent in that view of the case that more States shall have governments organized within them. If it be assumed that the basis of calculation shall be three fourths of the States now represented in Congress I agree to that construction of the Constitution, which I understand to be that of the chairman of the Judiciary Committee, the gentleman from Pennsylvania, [Mr. STEVENS,] and not without countenance in high judicial quarters. I think it was never contemplated that the supreme political power should pass away from the Government of the United States. But that view will probably encounter as much doubt as the bill before the House, besides involving serious delay; and under any circumstances, even upon that basis, it will be difficult to find three fourths of the States, with New Jersey, or Kentucky, or Maryland, Delaware, or other States that might be mentioned, opposed to it under existing auspices, to adopt such a clause of the Constitution after we shall have agreed to it. If adopted it still leaves the whole field of the civil administration of the States prior to the recognition of State governments, all laws necessary to the ascertainment of the will of the people, and all restrictions on the return to power of the leaders of the rebellion, wholly unprovided for.

The amendment of the Constitution meets my hearty approval; but it is not a remedy for the evils we must deal with.

The next plan is that inaugurated by the President of the United States in the proclamation of the 8th December, called the amnesty proclamation. That proposes no guardianship of the United States over the reorganization of the governments; no law to prescribe who shall vote, no civil functionaries to see that the law is faithfully executed, no supervising authority to control and judge of the election. But if, in any manner, by the toleration of martial law lately proclaimed the fundamental law, under the dictation of any military authority, or under the prescriptions of a provost marshal, something in the form of a government shall be presented, represented to rest on the votes of one tenth of the population, the President will recognize that, provided it does not contravene the proclamation of freedom and the laws of Congress; and, to secure that, an oath is exacted.

Now you will observe that there is no guarantee of law to watch over the organization of that government. It may combine all the population of a State; it may combine one tenth only; or ten governments may come competing for recognition at the door of the Executive mansion. The Executive authority is pledged; Congress is not pledged. It may be recognized by the military power and may not be recognized by the civil power, so that it would have a doubtful existence, half civil and half military, neither a temporary government by law of Congress, nor a State government, something as unknown to the Constitution as the rebel government that refuses to recognize it.

But, Mr. Speaker, let us regard its operation on a great fundamental measure, the existence of sla-

very, the condition of future peace. How does it accomplish the final removal of slavery? How does it accomplish the reorganization of the government on the basis of universal freedom? The only prescription is that the government shall not contravene the provisions of that proclamation. Sir, if that proclamation be valid, then we are relieved from all trouble on that score. But if that proclamation be not valid, then the oath to support it is without legal sanction, for the President can ask no man to bind himself by an oath to support an unfounded proclamation or an unconstitutional law, even for a moment, still less till it shall have been declared void by the Supreme Court of the United States. It is the paramount right of every American citizen to judge for himself, on his own responsibility, of his constitutional rights; and an oath does not bind him to submit to that which is illegal. If, therefore, he shall have taken the oath, he can, in good conscience as well as in good law, disregard it the next moment. So that, in point of fact, the law leaves us where the proclamation does. It adds nothing to its legality, nothing to its force.

But what is the proclamation which the new governments must not contravene? That certain negroes shall be free, and that certain other negroes shall remain slaves. The proclamation therefore recognizes the existence of slavery. It does just exactly what all the constitutions of the rebel States prior to the rebellion did. It recognizes the existence of slavery, and they recognize the existence of slavery; and, therefore, the old constitutions might be restored to-morrow without contravening the proclamation of freedom. Those constitutions do not say that the President shall not have the right, in the exercise of his military authority, to emancipate slaves within the States. They say nothing of the kind. They do not even establish slavery. There is not a constitution in all the rebel States that formally declares slavery to be the supreme law of the land. They merely recognize it just as the proclamation recognizes its existence in parts of Virginia and in parts of Louisiana. So that the one tenth of the population at whose hands the President proposes to accept and guaranty a State government can elect officers under the old constitution of their State in exactly the same terms and with exactly the same powers existing at the time of the rebellion, and may under his proclamation demand a recognition. No man will say that there is one word in their laws that contravenes what purports to be a paramount, not a subordinate order. So soon as the State government is recognized the operation of the proclamation becomes merely a judicial question. The right of a negro to his freedom is a legal right divesting a right of property, and is to be enforced in the courts; and then the question is what the courts will say about the proclamation. Is it valid or invalid? Does it of itself confer a legal right to freedom on negroes who were slaves? Is it within the authority of the Executive? These are the only questions open under such a government; and how local State courts created by the southern people will decide such a question no one can doubt; for it is quite certain that the great mass of that population is devoted to the system of slave labor; and though if the question be whether they will give up slavery as the condition precedent to the restoration of a State government, they will abandon it; yet if it be whether they prefer to maintain or abolish slavery, there is not the least doubt that their voice would be almost unanimous for its maintenance. If they have the decision we know what it will be already. It is therefore under the scheme of the President merely a judicial question; to be adjudged by judicial rules, and to be determined by the courts. It is a question whether each individual negro be free. It is a question whether the master has the right of seizure, or the negro can control himself. It is to be determined by the writ of *habeas corpus*. It is a question of personal right, not a question of political jurisdiction. Its fate in the State courts is certain. Its fate in the courts of the United States under existing laws is scarcely doubtful.

I do not desire to argue the legality of the proclamation of freedom. I think it safer to make it law. But I wish to admonish gentlemen who rely on Dunmore's proclamation for the right of

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

a military commander to free slaves in a civil war, that no slave is known ever to have claimed his freedom under it, though, if valid, there must have been many persons so entitled, and the courts of Virginia and of the United States were all open to them for its enforcement and their protection. When they cite the opinions of John Quincy Adams it must be remembered that he is on both sides of the question. He wrote instructions to our minister denying the right to emancipate and claiming compensation of England for slaves carried off in the last war, and insisted upon the question being decided by the Emperor of Russia. And it is further a material consideration that under that claim by authority of the United States and in the name of that predecessor of Abraham Lincoln, England paid divers pounds sterling to the citizens of the United States for negroes she took, as he alleged, in contravention of the laws of war. If the proclamation free a slave it diverts a right sanctioned by a law which he cannot repeal; and if it be not repealed, it would seem to protect the right it confers. Under the act of 1862 the President is authorized to use the negro population for the suppression of the rebellion; while the rebellion lasts his proclamation in law exempts the slave from the duty of obeying his master, but after the rebellion is extinguished the master's rights are in his own hands, subject only to the opinion of the courts on the legal effect of the proclamation, without a single precedent to sanction it, and opposed by the solemn assertions of our Government against the principle worked to authorize it. Gentlemen are less prudent or less in earnest than I am, if they will risk the great issues involved in this question on such authorities before the courts of justice.

By the bill we propose to preclude the judicial question by the solution of a political question. How so? By the paramount power of Congress to reorganize governments in those States, to impose such conditions as it thinks necessary to secure the permanence of republican government, to refuse to recognize any governments there which do not prohibit slavery forever. Ay, gentlemen take the responsibility to say, in the face of those who clamor for speedy recognition of governments tolerating slavery, that the safety of the people of the United States is the supreme law; that their will is the supreme rule of law, and that we are authorized to pronounce their will on this subject. Take the responsibility to say that we will revise the judgments of our ancestors; that we have experience written in blood which they had not; that we find now, what they darkly doubted, that slavery is really, radically inconsistent with the permanence of republican governments; and that being charged by the supreme law of the land on our conscience and judgment to guaranty, that is, to continue, maintain, and enforce, if it exist, to institute and restore when overthrown, republican governments throughout the broad limits of the Republic, we will weed out every element of their policy which we think incompatible with its permanence and endurance. The purpose of the bill is to preclude the judicial question of the validity and effect of the President's proclamation by the decision of the political authority in reorganizing the State governments. It makes the rule of decision the provisions of the State constitution, which, when recognized by Congress, can be questioned in no court; and it adds to the authority of the proclamation the sanction of Congress. If gentlemen say that the Constitution does not bear that construction, we will go before the people of the United States on that question, and by their judgment we will abide.

Gentlemen must deny the jurisdiction of Congress over the States where there are no recognized governments, or place a bound or limit to the discretion of Congress. Until gentlemen find such a limit to the discretion of Congress under the paramount duty imposed, not conferred, upon Congress to guaranty republican governments, until gentlemen draw their line of demarcation and show that Congress has not the jurisdiction to remove what it thinks incompatible with the permanence of republican governments, I shall rest the argument where it is now. When they shall have attempted to lay down their line of demarcation, I will be ready to meet them with such

opinions of the founders of the Government and those who in their footsteps have most wisely expounded its provisions as I may be able to find.

And if the sentiments of State pride and State rights be touched by the assertion of this wide discretion, which men may deny but cannot expunge, I would admonish those who dislike it that it is a jurisdiction which nothing but the dereliction of the States can wake into activity; and they who wish to exclude it from their limits have only not to give occasion for its exercise by renouncing obedience to the Constitution and pulling down their own State governments. But now the jurisdiction has attached in all the rebel States. Until Congress has assented, there is no State government in any rebel State, and none will be recognized except such as recognize the power of the United States. So that we come down to this: whether we—and when I say we I mean we upon this side of the House who are firmly, thoroughly, and honestly convinced that the time has come not merely to strike the arms from the hands of the rebels but to strike the fetters from the arms of the slaves, and remove that domineering and cohesive power without which we could have had no rebellion, and which now is its animating spirit, and which will die when it dies—whether we will exert the power which the Constitution confers upon us, and whether in our judgment—not in the judgment of our enemies—who have a majority in this House and a majority in the Senate; in our judgment, who now represent a majority of the people of the United States; in our judgment, who now support the Executive in this great war, whether in our judgment it is not time to assert that authority.

And if it be time, then all I ask in conclusion is, that gentlemen will go and read that great argument of Daniel Webster in the Rhode Island case before the Supreme Court of the United States, where he met this semi-revolutionary attempt to count heads and call that the people, and maintained—and so the Supreme Court judged when it refused to take jurisdiction of the question—that the great political law of America is that every change of government shall be conducted under the supervising authority of some existing legislative body throwing the protection of law around the polls, defining the rights of voters, protecting them in the exercise of the elective franchise, guarding against fraud, repelling violence, and appointing arbiters to pronounce the result and declare the persons chosen by the people. And he says, greatly to the honor of the American people, it would take him to the going down of the sun to enumerate the instances in which almost every constitution in the United States has been changed without one ever having been changed by a revolutionary process, not under the ægis of law, not guided by a preëxisting political authority. He maintained it to be the great fundamental principle of the American Government that legislation shall guide every political change, and that it assumes that somewhere within the United States there is always a permanent, organized legal authority which shall guide the tottering footsteps of those who seek to restore governments which are disorganized and broken down.

This bill is an effort to inaugurate in this great emergency, and to apply to the benefit of ourselves and our posterity this great principle of American political law which was expounded by the first greatest expounder of the Constitution.

Military Interference with Elections.

SPEECH OF HON. J. M. HOWARD,

OF MICHIGAN,

IN THE SENATE OF THE UNITED STATES,

March 23 and 24, 1864.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States.

Mr. HOWARD said:

Mr. PRESIDENT: The bill now under consideration bears the following title: "A bill to prevent officers of the Army and Navy, and other

persons engaged in the military and naval service of the United States, from interfering in elections in the States." It is, sir, an extraordinary bill, and has been attempted to be supported by an extraordinary speech. The bill is extraordinary, not only in respect to the time in which it is presented for consideration by Congress, but for the unconstitutional results at which it aims; and still more extraordinary for the strange military results it contemplates.

The bill in its first section declares that no officer of the United States, in the military or naval service of the Government, shall "have under his authority or control any troops or armed men within one mile of the place where any general or special election is held, in any State of the United States of America." Did the honorable Senator from Kentucky, [Mr. POWELL,] who introduced it, contemplate the possible effect which might follow the enactment of such a clause? Did he foresee that it might so happen in the operation and execution of such a provision, that a rebel army in full battle array might be within the circle of one mile around a poll at which a general or special election might be held, in some one of the States—for example, Kentucky—and that the effect of the law of which he was the proposer would be to prohibit, absolutely, any attack being made upon that rebel force within the magic line extending upon a radius of one mile around the poll? Is it possible that he intended to paralyze the arm of the Government, and to forbid the armies of the United States from giving battle to the enemy if the enemy happened to be posted within this magic circle? He alone can answer the question; but that such would be the effect of this clause is apparent to all. Sir, if it were a law, the poll would not only become the sanctuary for traitorous voters, but the sanctuary of a rebel force, and we should present to the world the singular spectacle of a hostile armed force upon our own soil, within our own jurisdiction, and a law of the United States prohibiting the Army of the United States in any way to attack that force, because, forsooth, it happened to be within that circle. Sir, it is impossible that any such act of fatuity and madness can ever pass the Congress of the United States, whatever may have been its intention and whatever its origin. In this respect it would be an act to disarm the Government and to lay it prostrate and helpless at the feet of its foes. Certainly, sir, no friend of the Government could for a moment entertain a scheme so wild, so suicidal.

The bill proceeds, and declares that "it shall not be lawful for any officer of the Army or Navy of the United States to prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State of the United States of America, or in any manner to interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State of the United States;" and it punishes all violations of this clause by a fine not less than \$200, and not exceeding \$20,000, and imprisonment in the penitentiary not less than two years nor more than twenty years, and forever disqualifies the party guilty of such violation from holding any office of honor, trust, or profit under the Government of the United States.

Now, sir, it will not be denied that this is a novel measure. There has not been, in the legislative history of the Government, from its foundation down to the time of the introduction of this bill, so far as I have been able to ascertain, any precedent for such a measure as this. No member of Congress, during the troublous times which succeeded the close of the revolutionary war, ever took upon himself to propose so singular a measure. We have passed through rebellions since the organization of the Government, and no such measure has been suggested. We passed through a bloody and terrible war with Great Britain, commencing in 1812 and closing at the close of 1814; a war which produced a strife of parties within the United States almost as bitter as that which now prevails; a war in which a large portion of the people were denounced by their political adversaries as disloyal to the Government, and still no precedent of this kind was ever set in Congress. Congress was never called upon to pass an act so anomalous, so unconstitutional;

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

for, as I shall show directly, this bill, so far at least as it relates to elections held within the States for State officers, is entirely without any warrant in the Constitution of the United States.

But, sir, this measure is brought forward at an unpropitious time, at a time when the country is engaged in war, a civil war, a struggle against an immense armed rebellion which calls for the exertion of all the faculties, all the power of the Government, all its means, and for the exercise of every patriotic quality which belongs to American freemen; a civil war, sir, of vast proportions, one in which it is the duty of every man, where ever he may reside, in some manner to participate for the purpose of upholding and maintaining the Government of his country. I say, sir, it is a civil war; it is not a mere local revolt, or a local insurrection. In the strictest sense of the law of nations it is a civil war, it has been so adjudged to be by the Supreme Court of the United States. Let me read from Vattel what he considers to be a civil war, and what are the rights and duties growing out of it. He remarks:

"A civil war breaks the bands of society and government, or, at least, suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as themselves constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact."

And again:

"This being the case, it is very evident that the common laws of war—those maxims of humanity, moderation, and honor which we have already detailed in the course of this work—ought to be observed by both parties in every civil war. For the same reasons which render the observance of those maxims a matter of obligation between State and State, it becomes equally and even more necessary in the unhappy circumstance of two incensed parties lacerating their common country."

The state of things now existing in the United States is one to which this definition of this learned author particularly applies. It is, sir, a war involving in it all the rights of belligerents, so far as the Government of the United States is concerned, and many of the duties of belligerents. It is not a foreign war; it is a war in which citizens of the same common country are engaged upon each side; but there exists between the two classes of citizens by no means the same obvious territorial distinction which exists between the subjects of two belligerent Governments which are, in law, foreign to each other and independent. There must be more or less intermingling of the belligerent citizens upon the one side and the other. The two Governments being, in respect to each other, not foreign and independent, but their citizens being citizens of the same common Government, and in law subject to the same authority, there cannot be drawn between them that exact line of distinction which exists between the subjects of two belligerent foreign Governments at war with one another; and hence there will be in the minds of many a certain degree of hesitation, doubt, and uncertainty as to the belligerent rights of these two parties engaged in the war, so far as their subjects are concerned; yet there is, because there must be somewhere, a test, recognized by the law of war, which is to determine the treatment that one party may exercise toward the subjects of the other, and by which one party may be known from the other. It is that line of demarcation which divides the loyal from the disloyal. It is the test and touchstone by which the heart of every citizen is to be tried, and by which it is to be determined whether he is in favor of the old Government or whether he is opposed to it. All those who in their hearts are friendly to the old Government, who are willing to support and uphold it, are loyal—they have the rights of loyal belligerents; while all those who in their hearts are opposed to the old Government, or even indifferent to its preservation, who are willing to destroy and overthrow it, or to see it destroyed or overthrown, and especially those who directly or indirectly give actual aid and comfort to the rebellion, are disloyal, and are to be treated as enemies. I know of no other rule by which a distinction can be established between the two classes, loyal and disloyal.

In the midst of this clash of arms, while the whole hemisphere is lighted up by the lurid flames of war, extending from the Atlantic ocean far

west to the Rocky mountains, while every loyal man is filled with anxiety for the final result of the contest, while along this frontier, marked by a line of bristling bayonets for more than fifteen hundred miles, the war is waging with fury, and the line itself constantly fluctuating, the Senator from Kentucky brings forward a bill prohibiting the military authorities, in any case, in any manner, to interfere with what he calls the freedom of election in the States, severely punishing military men for fighting battles, in certain cases, as well as for preventing the enemy himself from participating in State elections!

That honorable Senator will admit that for a measure so novel in its provisions, so extraordinary in the results which it aims to accomplish, there should be evidence of some great and intolerable evil which may be cured by such a measure. It is not sufficient that there may be a few trifling instances of wrong and misuse of military power; the evil should be so enormous as to address itself to the conscience of every member of the Senate, and the evidence of it so clear and overwhelming as to leave no doubt or hesitation in the mind. I shall show, I think, before I conclude my remarks, that there is no such evil; and that if there be any evil of even considerable magnitude, the evidence of its existence has not been presented to us by the honorable Senator from Kentucky or any other member in such form as to deserve our serious attention.

And, sir, *in limine*, I have to say in respect to this bill, that it contains a provision which, in my judgment, is utterly unsupported by any clause of the Constitution of the United States, and is as clearly obnoxious to the objection of unconstitutionality as any bill which has ever been presented to the Senate. I admit that, if Congress were so unwise, it might, by a statute, direct the Commander-in-Chief of the armies not to employ the troops of the United States within any given place, whether that place be within a mile of a poll or elsewhere, because I hold that the war-making, war-conducting power, in all its varying forms and phases, is lodged in Congress, and that they have a right, if they choose to do so, at all times to direct the movements of the Army; to declare what expeditions shall be sent out and for what purpose; to declare where the Army shall march, where the Navy shall operate, and to do anything and everything in reference to the management of the Army and the Navy in the conduct of a war. This is within their power under the Constitution. I yield that point. If Congress were so unwise as to undertake, by special legislation, to strip the Commander-in-Chief of the Army of the United States of the implied authority which belongs to him as such, they have an undoubted right to do so, leaving him only his rank of Commander-in-Chief. But, sir, when the Senator from Kentucky asks me to give my vote for a law which assumes to place in the hands of the Federal authorities the right and the power to enforce in a time of peace as well as war, as this bill does, the laws of the States respecting elections, or anything else solely pertaining to the States, I have to say to him he proposes an absurdity, and asks me to do a thing impossible to be done.

What is a State election, sir; and to what does it owe its existence? Simply and purely to the constitution or statutes of the State where it is held. The power of the State goes not only to the extent of defining the qualifications of a voter at a State election, but to that of regulating the times, the manner, and the places of holding such elections, and Congress has no power whatever over this subject except that it may, whenever it shall see fit, alter the State regulations in reference to the times, manner, and places of electing Representatives to Congress. But no power is given to Congress in any case whatever to change the qualifications which a State may see fit to require of its own voters. That is a power which is reserved to the States expressly, and with which Congress has nothing to do.

The State having this original power to prescribe the qualifications of its own voters, both in elections of the officers of the State and in the elections of members of the House of Representatives, I beg to know from what provision of the Constitution it is that the Senator from Kentucky derives the power of employing the courts or other au-

thorities of the United States to punish persons who may violate a State law regulating elections or defining the qualifications of State voters? Whence does he derive the power to punish by Federal sentences in Federal courts violations of a law which it is competent for a State and a State only to enact?

Sir, it is sufficient only to state the proposition of the Senator from Kentucky to discover its complete absurdity. Such a provision of an act of Congress would be simply void, for the reason that there is no power under the Constitution of the United States authorizing it. And yet a Senator who has made louder complaints than any other in this body of a persistent and continued violation of the Constitution of the United States; a Senator whose voice is loud and vehement and bitter in his denunciations of repeated infringements of the Constitution by the votes of this body; who sees, or affects to see, the whole fabric of the Government going to wreck like an old raft passing over a cataract; a gentleman, of all others in this body, setting himself up to be the expounder and defender and vindicator of the Constitution, so far loses his own judgment, so far indulges in legislative experiments, as to ask Congress to interfere and punish every person in the military or naval service of the United States who shall violate a State law regulating State elections! Congress has no more power to punish a person for such an act than to punish him for interfering with any other State law; for instance, the law relating to the descent of estates, the distribution of property, the appointment of guardians, or any other act peculiarly within the province of State legislation.

Will the Senator tell me in reply that Congress have a right to inflict this punishment upon a man because he is in the military or naval service of the United States? Is this the ground upon which he rests his argument? Is the simple fact of such a relation of the party to the United States the fact which gives Congress additional power to execute State laws or punish persons who violate laws which are not Federal but State laws? No, sir. Such a proposition is not capable of argument. Men are placed in the military service of the United States for the purpose of acting in that capacity; and the power of Congress in such cases only goes to the extent of controlling and regulating their conduct according to the code of war; and there it stops. It cannot be pretended that because a man is a soldier in the Army and goes home and commits a murder in the State to which he belongs Congress therefore may declare by a law that he shall be tried and punished for the murder in a Federal court. The crime in such a case is committed against the peace and dignity of the State, not against the peace and dignity of the United States; and although if committed by him while in actual service and in the ranks he might be punished by court-martial, yet the offense would be against the code of war and not the laws of the State.

Let us then, sir, hear something less, if the Senator pleases, of these continued, bitter denunciations against the majority of this body for violations of the Constitution. For one, sir, I say to that Senator, I do not acknowledge him as a safe teacher. "*Non tall auxilio, nec defensoribus istis:*" Give us no such aid, no such defenders.

The bill then, sir, so far as it undertakes to punish persons employed in the Army and the Navy for interfering with State elections—I mean the election of State magistrates and State officers—is utterly void and utterly impracticable. What right have we to say to a soldier in the service of the United States in time of peace—for I intend to confine this exclusive power of the States to a period of peace—who goes to a poll in Kentucky and assumes to prescribe to the voters of that State some qualification forbidden or not recognized by the laws of Kentucky, "You are committing an infraction of a law of the United States?" What right have we, in other words, to punish him for an offense which in its nature and essence is solely an offense against Kentucky? None whatever, sir.

Certainly, Mr. President, I could not have anticipated that a doctrine such as this could have proceeded from a gentleman affecting to be so tenacious of State rights, so preëminent for his

38TH CONG...1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

attachment to what he regards as the reserved rights of the States, and who asserts so loudly, so emphatically, and so habitually, upon this floor, that Congress is daily guilty of the crime of violating them.

Sir, what may be the real purposes of this bill I shall not undertake to say; but it may aid us somewhat to form a judgment touching those purposes to refer to the principles which lie beneath it; to refer to the origin and fountain of the measure; and at the expense of some little weariness on the part of the Senate, I must take the liberty of reading a few passages relating to the honorable Senator who has introduced it. This will, perhaps, assist us in divining the great object which lies beneath it.

It will be remembered, sir, that only about two years ago the colleague of the honorable Senator rose in his place in this Chamber and offered a resolution asking the Senate to expel the Senator from this body for disloyalty; a fact which neither this body nor the country will hastily forget. It may aid us, as I said before, in our estimate of the purposes, the *animus*, of the measure, to refer to the declarations not only of the Senator from Kentucky, who is its author, but to those of his colleague. In introducing the resolution of expulsion against the author of the bill, Mr. DAVIS—I am obliged to call his name for distinction's sake—in the preamble of that resolution, recited the following facts:

"Whereas LAZARUS W. POWELL, a Senator from the State of Kentucky, after eleven States had published their ordinances of secession, by which to sever themselves from the Government of the United States, had formed a confederation and provisional government, and made war upon the United States, did, on the 20th day of June last, at the city of Henderson, in the State of Kentucky, attend a large southern State rights convention, over which he was called to and did preside; and, on taking his seat as president thereof, made a speech, in which he stated the object of said convention, and then appointed a committee, which reported to said convention a long series of resolutions that were unanimously adopted by it. Among those resolutions are the following:

"2. That the war being now waged by the Federal Administration against the southern States is in violation of the Constitution and laws, and has already been attended with such stupendous usurpations as to amaze the world, and endanger every safeguard of constitutional liberty."

"That the recall of the invading armies, and the recognition of the separate independence of the confederate States, is the true policy to restore peace and preserve the relations of fraternal love and amity between the States."

"6. That we heartily approve the refusal of Governor Magoffin to furnish Kentucky troops to subjugate the South; and we cordially indorse his recent proclamation defining the position of Kentucky, in accordance with the sentiment of her people, and forbidding the invasion of Kentucky by Federal or confederate troops."

"7. That although Kentucky has determined that her proper position at present is that of strict neutrality between the belligerent sections, yet, if either of them invade her soil against her will, she ought to resist and repel it by necessary force."

"The closing speech of this convention was made by Senator POWELL, and the resolutions passed by it, and a summary statement of its proceedings, were signed by him as its president."

"On the 10th of September last, while the Legislature of Kentucky was in session in the town of Frankfort, and after her territory had been invaded at two distant points by the confederate armies, and while Humphrey Marshall was employed in organizing and drilling an armed body of rebels in the contiguous county of Owen, a large southern State rights convention assembled and held its sessions in Frankfort, for the apparent purpose of overawing the Legislature, controlling its deliberations, and deterring it from passing measures to support the Union and the Government of the United States. LAZARUS W. POWELL was a delegate to that convention from the county of Henderson, and was appointed on its committee of resolutions. Among other resolutions, that committee reported these:

"Resolved, That every material interest of Kentucky, as well as the highest dictates of patriotism, demand that peace should be maintained within her borders, and this convention solemnly pledges the honor of its members to do all in their power to promote this end."

"2. That it is the deliberate sense of this convention and it is believed of an overwhelming majority of the people of Kentucky, that the best and perhaps the only mode of effecting this great object is by adhering strictly, rigidly, and impartially to her chosen and oft-declared position of neutrality during the existence of the deplorable war now raging between the sections; taking sides neither with the Government nor with the seceding States, and declaring her soil must be preserved inviolate from the armed occupation of either."

"3. That we consider it incompatible with the neutrality avowed by Kentucky to vote money for the prosecution of the civil war, or to tax the people of the State, or augment its debt for a purpose so unwise, and for a cause so hopeless as the military subjugation of the confederate States."

As to this Frankfort convention, Mr. DAVIS, in his speech on that occasion, remarked:

"This was a convention of most intense secessionists,

and was attended by John C. Breckinridge and many of the leaders of that party from generally over the State. William Preston and R. W. Woolley, Esqs., made speeches to it fraught with the rankest treason, and denouncing the fiercest war against the United States. Its resolutions were unanimously adopted, and its business closed with the following one offered by Senator POWELL:

"Resolved, That Colonel William Preston, George W. Johnson, Esqs., General Lucius Desha, Captain Richard Hawes, and Thomas P. Porter, Esq., be, and they are hereby, appointed a committee of organization, in order to carry out the purposes of this convention; and full powers are conferred upon them for that object."

"Those men were thus commissioned in the cause of conspiracy, treason, and rebellion. By the warrant given them, on the motion of Senator POWELL, they went forth and organized, or advised and assisted in the organization of armed bands of traitors, and soon thereafter led them into the confederate camps, where they are yet struggling to consummate the disruption of the Union and the overthrow of the Constitution and laws of the United States. From the beginning of this great rebellion to the present time Senator POWELL has neither done nor said anything in Congress or out of Congress to strengthen or sustain the United States in this mighty struggle for national life."

No, sir; he had done nothing, he had said nothing to encourage the prosecution of this just and holy war to maintain and uphold the authority of his country. I am not aware, sir, that from the time this resolution of expulsion was presented down to the present moment the honorable Senator from Kentucky has here or elsewhere done an act, or given a vote, or said a word to promote the prosecution of this just war against those who would pull down the temple of liberty as established by our fathers.

The Senator's colleague, in the course of his speech on that resolution, speaking of the principles of the Senator to whom I am now alluding, said:

"They were as well known to me before I left the State of Kentucky to come to this city to take my seat as a representative in the Senate from that State, as they are at this day. With this full knowledge upon the part of my constituency and of myself, they have no more united or earnest desire than that my colleague should be removed from his seat."

Again, in the course of the same speech, the same Senator [Mr. DAVIS] said:

"Mr. President, it was a dreadful, and for a long time a doubtful, struggle in that State which party would prevail and control its destiny. The popular mind of the State of Kentucky had to be educated against all their sympathies, all their interests, all their business connections, and against the feelings and sympathies of their brethren in the South, before they could be induced to take position in favor of the Union and of their Government against them."

Again, this is the further testimony of the colleague of the Senator who produced this bill:

"Mr. President, what was the duty of my colleague at that time, that eventful and doubtful time? His position, his principles, his moral power as an ex-Governor of the State of Kentucky and as a Senator representing that State in the Senate of the United States, were all thrown against the Government of the Union and in favor of the rebellion and of the secessionists. I challenge him to produce a single act of his, public or private, from that time to the present, that ever evinced the least interest in or sympathy for his own Government, or the smallest purpose to support and uphold that Government according to the obligation of his constitutional oath. I challenge him to produce a single act, public or private, of his, the tendency of which was not to strengthen the rebellion, to give it complete and final success, to disrupt this Union, and to overthrow the Constitution of the United States."

The same Senator, quoting from a former speech of the author of the bill, furnishes us the following precious declaration:

"I say now that I am for enforcing the laws in all the States that are within the Union; but I am opposed to making war on States that are without the Union. I am opposed to coercing seceded States. That I have declared in this Chamber on more occasions than one, heretofore. I am utterly and entirely opposed to coercion. I have distinctly and explicitly declared that I believed that war on the seceding States would put an end to all hope of any reconstruction of the Union, and hold that no true lover of the Union can be in favor of coercion. I hold that we have no right under the Constitution to make war upon those States."—*Congressional Globe and Appendix*, 1860-61, part 2, page 1370.

Such, sir, were at that time, and I presume still remain, the political sentiments and predilections of the honorable Senator from Kentucky; holding it to be unconstitutional for the Government of the United States to wage war for the purpose of putting down the rebellion and restoring the Government and the authority of the Constitution. That question has been so often discussed that any observations on my part would be entirely supererogatory, and I dismiss it with the single remark that to my mind it is incredible that any man affecting to be friendly in any possible sense to the Government of the United States,

can maintain the doctrine that under the Constitution the Government is entirely powerless to defend its own existence, utterly impotent to wield the sword of self-defense, leaving it a prey to every insurgent, every schemer who may see fit anywhere within or without the limits of the United States to make a foray upon it and to overthrow it. What an amazing absurdity, that a Government may make laws for its own citizens, own vast domains, and hold international relations with the sovereign Powers of the earth, and yet have no rightful authority to enforce its laws, dispose of its domains, or keep its engagements with other nations if resisted by rebellious communities under the name of States!

But, sir, I have not yet finished with the development of the principles of the Senator from Kentucky. I next call as a witness on that subject the Senator himself, in order that there may be no doubt or question as to his principles. In his speech, in reply to that of his colleague asking for his expulsion, the Senator used the following language:

"I distinctly avow here that I was in earnest and acted honestly in this whole matter of neutrality; and I had but one object, but one purpose, and that was to keep the war out of the borders of Kentucky, and to allow Kentucky, who had nothing to do with bringing on this war, who had been opposed to it, to stand as peace-maker between the belligerents with the single view of preserving the Union."

What, sir, Kentucky had nothing to do with bringing on this war! Who was the Vice President of the United States when the war broke out, occupying that chair which you, sir, now occupy? It was a distinguished citizen of the Senator's own State, "Old Kentucky." I hope and trust she has no other specimen of that kind of loyalty. I trust that the future of Kentucky will be free from the honor, if it was ever an honor, of producing a John C. Breckinridge, once Vice President of the United States!

I do not say that Kentucky as a community was particularly instrumental in bringing on the rebellion; but I say this, because I can say it with perfect historical truth, that there were few places, even within the States which afterwards absolutely seceded from the United States, in which the spirit of secession and rebellion was more virulent and rampant than in Kentucky; and it cannot be said with any truth that Kentucky took no part in bringing on this war, if it can be said with any truth that South Carolina, where the first shot was fired, took a part in bringing it on.

Again, the Senator from Kentucky, in the course of that speech, speaking of the President's call for seventy-five thousand troops to defend the capital at the first outbreak of the rebellion, said:

"I will state to the Senator and to the country the view that Kentucky took of that question, as far as I am advised. Kentucky believed that this call for seventy-five thousand men was not necessary for the defense of the capital or of the public property. She believed that the calling forth of such an immense armament was for the purpose of making a war of subjugation on the southern States, and upon that ground she refused to furnish the regiments called for."

Yes, sir, she did refuse to respond to the first call of a patriotic President. At a moment when the very existence of this capital was menaced, only a brief space after an attempt had been made by the conspirators to assassinate him on his journey to the capital; when it was perfectly well known here that the conspirators had made up their minds, if possible, to put him to death, to seize upon this capital and the public archives, and to establish Washington as the seat of confederate power; when the whole country was trembling with anxiety and amazement at the audacity of the conspirators; at that gloomy moment when the President of the United States was calling for seventy-five thousand men to rush to the seat of Government and save all from ruin, the Governor of Kentucky refused all aid, all sympathy, and the Senator denounced the call for troops as a wanton violation of the Constitution; and he now coolly informs us that Kentucky believed the call was not necessary for the defense of the capital or of the public property, and claims credit to himself for the discovery that Kentucky had nothing to do with bringing on the war!

Again, he said of Kentucky:

"She hopes, she wishes, she prays that this Union may be maintained. She believes that cannot be done by force of arms; that it must be done by compromise and concil-

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

tion, if it can be done at all; and hence, being devoted truly to the Union, she desires to stay this war, and desires measures of peace to be presented for the adjustment of our difficulties." * * * "I think her position is one that should be admired and esteemed by all patriotic men, by all Christian men, by all men who love their country and love the Union."

That is, we are to disarm our troops of the United States, call home the navy now blockading the rebel ports, send home our armies, send a supplicating message to the infamous traitor chiefs who have been butchering our sons and brothers for three long years, and humbly ask them to sit down with us in some quiet nook and enter upon the discussion of conciliatory measures with a view to restore the Union and the authority of the Constitution! Sir, if that Senator still entertains this chimera, if he indulges in a dream so childish—I speak of course without any intention of personal disrespect—I venture to call his attention to a passage which I will read by way of correcting his opinions and dispersing the visions of conciliation which appear to be floating before his eyes. I read, sir, from an address signed by the members of the rebel congress in session at Richmond, and of a very recent date. They ask for no conciliation; for no interview; they ask for no mercy. They have a contempt for every friendly and amicable proposition which we could make to them having in view the restoration of the Union. They use this emphatic language:

"To prevent such effects our people are now prosecuting this struggle. It is no mere war of calculation, no contest for peculiar kind of property, no barter of precious blood for filthy hire. Everything involved in manhood, civilization, religion, law, property, country, home, is at stake. We fight not for plunder, spoils, pillage, territorial conquest. The government tempts by no prizes of 'beauty or booty' to be drawn in the lottery of this war. We seek to preserve civil freedom, honor, equality, firesides; and blood is well shed when shed for our family, for our friends, for our kind, for our country, for our God." Burke said, 'A State resolved to hazard its existence rather than abandon its object must to hazard an infinite advantage over that which is resolved to yield rather than carry its resistance beyond a certain point.' It is better to be conquered by any other nation than by the United States. It is better to be a dependency of any other Power than of that. By the condition of its existence and essential Constitution as now governed it must be in perpetual hostility to us. The Spanish invader burnt his ships to make retreat impossible, so we cannot afford to take steps backward. Retreat is more dangerous than advance. Behind us are inferiority and degradation. Before us is everything enticing to a patriot."

Sir, the tone and style of that address evince no conciliation, no willingness on any terms to restore the old Union; and upon that subject I have never changed my opinion. We shall never restore the authority of the Government, never restore the Union of these States, until we have done it by the absolute subjugation of every rebellious district which now lies within the boundaries of the confederate States. It is a work of war, of violence, of earnest war, of earnest, thorough, and manly violence. That is the only instrument by which we can persuade "our southern brethren" to come back into the Union.

Again, sir, the Senator from Kentucky said in his speech in reply to the resolution for his expulsion:

"I have been opposed to the war, and for that offense my colleague wishes me expelled from the Senate; for that is the charge, that I have been opposed to coercion. In every act of my life, in this whole connection, I have opposed the war, and striven in Kentucky, in mass meetings and otherwise, to keep the peace, to keep the hostile armies of the confederate States and of the United States from our borders."

He had been striving to keep not only the troops of the confederate States but those of the United States from the borders of Kentucky. No matter, according to him, what may have been the designs of the rebels upon Kentucky, no matter though they may have invaded the State with an armed force, his diligence and his patriotism were employed and were satisfied with an effort, in whatever form he saw fit to make it—and I do not know in how many forms he may have sought to do so—to prevent the troops of the United States from marching upon the soil of Kentucky. I shall have a word to say as I proceed on the subject of the neutrality of Kentucky. I think it one of the great sources of all our woe, one of the most lamentable steps ever taken by public men, a plan utterly unconstitutional and utterly unpatriotic.

Thus for a moment, Mr. President, I leave the Senator from Kentucky and his avowed principles. That he is not favorable to the prosecution

of this war is established not only by the testimony of his colleague, but by his own voluntary admissions. That he has never voted a dollar of money to prosecute the war, never voted to raise a soldier for this purpose, I presume is true, because both those acts would have been in direct conflict with his avowed principles. I therefore take it for granted that, although occupying his seat in this Senate, and although he has taken the oath which we have all taken to support the Constitution, he has for some reason, so far as this war is concerned, at least refused to obey that portion of the injunction of his oath that requires him to support the Constitution, and consequently the authority of the Government.

Sir, the war has been the principal subject upon the tapis in Congress from its commencement. It has been the theme of every tongue here and elsewhere in the United States. The patriot has been shedding his tears over the fate of son or brother engaged in prosecuting it. The mother has dismissed with her last blessing the only son of her love, and sent him to act the part of a hero in defending his Government against the rebellion. The whole loyal community have poured out their treasure like water in a vast effort to uphold the Government. And still, sir, the Senator from Kentucky has suffered to escape from his lips no word of sympathy for the cause, no vote for the prosecution of the war; but, on the other hand, so far as seems to have been practicable for him, he has on every occasion opposed all measures which have been suggested here for that end. Why has he taken such a course? Why has he cherished such principles? What has been, what is now his object? Let me cite briefly a historical incident which may possibly stand as an admonition for that Senator and those who sympathize with him in conduct and opinion.

After Napoleon had left the island of Elba and recovered the imperial throne of France from the Bourbons by one of the most remarkable military enterprises recorded in history, there was a certain statesman, long familiar with the Emperor, long his fast friend, or professedly so, but who toward the close of 1814 had fallen somewhat into disfavor, but who on the restoration of the Emperor was among the first to humble himself before him, to accept him as the sovereign of France. There was no man whose words were sweeter or more flattering to the ear of the Emperor than those of this statesman. As a compensation for his affected friendship and devotion the Emperor elevated him to the high position of minister of police, and the Duke of Otranto held the seals of that important department of the Government during the "hundred days." About the 1st of May an agent of Prince Metternich proceeded from Vienna to Paris with a letter written by some Vienna banker to a brother banker in Paris, on pure banking business, of course, having apparently no connection whatever with political affairs. But the agent becoming suspected was taken into custody, brought before another minister of the Emperor, and there put to a very severe interrogatory, in the course of which he was obliged to admit that he had received this letter from the prince himself, although upon banking business, and to admit, further, that there were interlined in this banker's letter a series of instructions from Prince Metternich to the Duke of Otranto, written in sympathetic ink, to be developed only by the application of some chemical preparation.

This letter was communicated to the Emperor, who immediately called his private confidential secretary, Baron Fleury de Chaboulon, and instructed him to assume the character of an emissary of Fouché and to repair to Basle, in Switzerland, at which point a certain Mr. Werner was to be sent by Prince Metternich, for the purpose of holding an interview. The secretary met Werner and they had a conversation, in the course of which Werner, Prince Metternich's agent, made the following suggestion: he said, with great suavity, to the secretary, (I translate from *Les Cents Jours*, by M. le Baron Fleury de Chaboulon, as the work has not been printed in English,) "that the Prince was persuaded that the Duke of Otranto had accepted the ministry of police only to be able to avow from France the misfortune of a civil and a foreign war, and that it was to Mon-

sieur Fouché that the allied Powers committed the care and the honor of saving France from a new war."

That was the individual who took service under the restored Government, who remained in that Government until after the disastrous campaign of Waterloo. It was Fouché. The world has already fixed upon him an infamy as indelible as the mark on the brow of Cain, black as Erebus. Whether the cause in which he took service was good or bad, or the Government in which he remained was just or unjust, there is no man whose heart is so base, no man can ever live hereafter whose sentiments are so degraded, as not to despise the treachery of Fouché. Let me refer the Senator from Kentucky to this historical incident, if not as an illustration, at least as an admonition.

Mr. President, we are told by the Senator from Kentucky that the Government of the United States have no power to restrain persons who are rebels, or who are suspected to be rebels, from voting in the States. I do not agree with the Senator as to the power of the Government to prevent disloyal men voting at a State poll. In the present state of things every man who is not for us is against us. Every man, as I said before, who is not friendly to the Government of the United States in his heart is opposed to it. Every man who is not willing to use reasonable and ordinary means, military means, for defending and upholding it at such a moment as this, is an enemy of the United States, and deserves to be treated as an enemy.

I cannot better express my views on this subject, however, than they are already expressed in the report of the committee on the present bill, and I will therefore take the liberty of reading a portion of that report. I adopt it and incorporate it into my speech because I concur in every sentiment it utters.

Mr. JOHNSON. What page of the report?

Mr. HOWARD. I read from page 3 of the report of the committee:

"It is vain to deny that in the present struggle the Government of the United States is justly, and upon principles of public law, entitled to exercise toward their domestic enemies every belligerent right and power, every warlike appliance recognized in the code of war; and that it is not only the right but the duty of their officers and agents, in waging the contest, to exercise the utmost vigilance in detecting, restraining, and punishing the common enemy and all who abet, sustain, or encourage him. To deny to it this right is to lay it prostrate and helpless at the feet of its deadly foes.

"Were the war a foreign war, waged with any independent nation, there could be no dispute as to the right of the Government to expel from the country every subject of a foreign Power and every person justly suspected of giving it aid and comfort, or to hold such parties in confinement till the war should terminate. This right is in the primary class of belligerent rights, pertaining to every independent nation; and no greater absurdity can be proposed than to say that although the Federal Government is vested with all the powers known to the laws and usages of war, and may, unrestrained by any constitutional prohibition, use them against the subjects of a foreign Government at war with the United States, yet, as to an organized, widespread insurrection of whole political communities within their own limits, acting under a *de facto* though a usurped government, it is stripped and denuded of this important means of annoyance and defense. It is plainly in its essence a military power, a belligerent right; as plainly such as the right of capture by sea, which has recently received the solemn sanction of the Supreme Court in a judgment eminent for the power and clearness of its analysis, the profoundness of its learning, and the unanswerable character of its logic.

"It does not by any means follow that because the insurgents are individually subject in law to the authority of the United States they are not to be treated as enemies. To yield to them the rights of citizens, and the protection that in peace would be due to them as such, and at the same time to treat them and the communities to which they belong as enemies at war with the United States, involves a glaring contradiction. If they are in the sense of the law of war and of nations enemies, as they are regarded both by the legislation of Congress, the executive and the judicial departments of the Government, the correctness of whose decision as to their true status cannot and ought not to be questioned, then they are lawfully subject, whether as individuals or communities, to the application of all the rules and means of warfare known to civilized nations; and this, in addition to the further and undoubted right of the Government to punish them for the crime of treason they commit against it. We might appeal in support of this principle to the most eminent teachers of public law, but it is so well recognized that the task would be useless.

"If, then, they are enemies as well as insurgents, the rights of war give to our commanders in the field the use of all the means necessary to make the war on our part successful and effectual, and consequently justify them to resort to any and all measures calculated to defeat and thwart their schemes against our safety, whether those

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

schemes be open violence or secret plots; whether they use the bayonet or the ballot to effacinate their traitorous purposes. Suppose a State, yesterday loyal, to day passes an ordinance of secession, or declares itself neutral and indifferent between the contending parties, and proceeds by its *de facto* Legislature to resist the authority of the Government by open force, by attempting to prevent the levy of troops within its borders, or by attempting to prevent the passage of the Union troops across its territory; who will contend that it would not be the right and duty of the commander on the spot at once to disperse or arrest the Legislature, to lay the State under martial law, and place in confinement every person found aiding the disloyal movement, or justly suspected of so doing?

"And it is impossible to see any distinction in principle between such a case and the case of disloyal voters, who at the polls attempt by their ballots to do the same thing. In either case hostility to the Government and a desire for its overthrow stand as the sufficient reason for the preventive interference of the military arm. Not to use it on proper occasions is to expose to destruction the Government itself, and the liberties and rights it guards. It is the inalienable duty of self-defense."

Sir, I still stand by this doctrine thus laid down in the report of the Committee on Military Affairs. I hold that these persons whose hearts are against their Government, who are willing that the Government should be destroyed—and I go as far as to declare that those who are unwilling in such a crisis as this to come to the support of the Government and render it their aid, and even those who affect to occupy a position of mere indifference toward it, are also within the category of enemies of their country—ought not, in justice, to be suffered to go to the polls. There must be a distinction somewhere, in this war, between enemies and friends. A friend is the man whose heart is attached to the Government and who is willing, according to his means, to do something to uphold it. He is not the only enemy who takes up arms or furnishes supplies to those in arms, but who looks upon this struggle with indifference, whose heart has no pulsation in favor of the cause, but who is ready whenever an occasion presents itself to go over and join the rebels, or to welcome them when they come as invaders into our midst.

In all foreign wars it is the right of each belligerent to place in confinement or to expel beyond its limits all the subjects of the adversary who may be found within its borders. This is one of the elementary principles in the laws of war; a power which is almost always exercised. Why are we to deny ourselves the exercise of that necessary means of crippling the enemy; to deny to ourselves the power of confining rebels in "bastilles;"—for that is the opprobrious epithet given to every prison that contains domestic rebels arrested among us. Why are we to be deprived of this power in this struggle—a power that has been exercised by all other nations, by all other belligerents, from the dawn of history? It is substantially the same power I now claim for our own Government.

The Senator tells us that the military authorities have no right whatever to interfere in a State election; and if I understood him rightly he went so far as to declare that every person who is not prohibited by the laws of the State itself from voting has a right to vote, and that the United States have no authority to intervene for the purpose of preventing it, although he may be a rebel, stained from the crown of his head to the soles of his feet with the blood of loyal men. I am about to quote an authority which will perhaps have some weight with that Senator. I believe the first example of such interference in a State election was set by General McClellan while commander of the army of the Potomac. In response to a letter of request, addressed to him by Governor Hicks of Maryland, dated October 26, 1861, he issued the following order:

HEADQUARTERS ARMY OF THE POTOMAC,
WASHINGTON, October 29, 1861.

GENERAL: There is an apprehension among Union citizens in many parts of Maryland of an attempt at interference with their rights of suffrage by disunion citizens on the occasion of the election to take place on the 6th of November next.

In order to prevent this the major general commanding directs that you send detachments of a sufficient number of men to the different points in your vicinity where the elections are to be held to protect the Union voters, and to see that no disunionists are allowed to intimidate them, or in any way to interfere with their rights.

Mark the language that follows:

He also desires you to arrest and hold in confinement till after the election all disunionists who are known to have returned from Virginia recently, and who show themselves

at the polls, and to guard effectually against any invasion of the peace and order of the election. For the purpose of carrying out these instructions you are authorized to suspend the *habeas corpus*. General Stone has received similar instructions to these. You will please confer with him as to the particular points that each shall take the control of.

I am, sir, very respectfully, your obedient servant,
R. B. MARCY, Chief of Staff.

Major General N. P. BANKS, Commanding Division, Muddy Branch, Maryland.

Many persons to whom that order would apply had been engaged actively in the rebellion, but being nevertheless citizens of Maryland, on returning to that State would, under her then existing laws, be entitled to vote as possessing the qualifications prescribed by the constitution and laws of the State; and yet General McClellan, very properly as I think, issued an order for the arrest and confinement of all such persons who should go to the polls. The object of the order was not only to arrest such persons, but actually to prevent their voting although possessing the statutory qualifications.

If this power exists in the Government of the United States in any of its departments, in time of war, then no State can interfere with its exercise, but the citizens of the State must submit to it as to the exercise of any other Federal power, because it acts upon those citizens as individuals. In short, if the Government have this tutelary authority, if they have the right to treat rebels or rebel sympathizers, or those who aid and abet the rebellion, as enemies, as they undoubtedly have, then they may use it through the military arm or any other instrumentality to which they see fit to resort. They may thus prevent those enemies from exercising any of the rights of citizens in the State. For this we have at least the sanction of General McClellan—certainly, with a certain portion of the members of this body, a high authority; and I am very happy to be able for once to concur fully in the opinions of the general. The power is thus, as we see, sanctioned by that distinguished military leader, the heir-apparent of the Democratic party to the next Presidency, and the promising help and support, I suppose, of the cause of the Union as they would restore it. At all events, it is sufficient for my purpose that I have his complete sanction of the principle that it is the right of the military arm to interfere in State elections so far as to prevent traitors from voting, although they may happen to possess the formal qualifications of electors of the State. I think he was entirely right, and I am free to give him that praise.

If we have that power, as General McClellan agrees we have, then it belongs to us exclusively, and the States have nothing to do but to permit its exercise. It is a power peculiarly pertaining to the United States, and as much to be respected and obeyed as the judicial power of the Government. The two jurisdictions are here as separate and distinct as in any other case. The States have just as much right to trespass on any other constitutional power belonging to the Government as upon this. Sir, in my judgment, the case comes clearly and distinctly within the principle laid down by the Supreme Court of the United States in the case of Booth, in which the decision of the court was delivered by the present Chief Justice. I will read an extract from that decision. The court say:

"And if the authority of a State, in the form of a judicial process, or otherwise, should attempt to control the marshal or other authorized officer or agent of the United States, in any respect, in the custody of his prisoner, it would be his duty to resist it, and to call to his aid any force that might be necessary to maintain the authority of law against illegal interference. No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence."—21 *Howard's Reports*, p. 524.

And I say here, that whenever a military officer has issued an order for the purpose of keeping traitors away from the polls, and the order is regular in form, no State has in a time of rebellion or civil war any right to dispute or obstruct its operation; and whenever the Governor of a State, a judge of election, or other State magistrate, undertakes to resist such an order, he brings himself within the principle laid down by the Supreme Court, asserting that such interference may be resisted even by violence. It is nothing more nor less than this, that the authority of the

United States is supreme; and it rests with the Senator from Kentucky and those who entertain his views, to establish the principle that the Government of the United States is not supreme in the treatment of its enemies. The Senator has not argued that question. He has assumed that it is not. It is with him a mere *petitio principii*, the assumption of the truth of a proposition that remains to be proved. Let him by fair and candid argument, by reference to the books of authority, show, if he can, that the Government of the United States in the prosecution of a war is not supreme and has no right to define and declare who are enemies of the United States and who are friends. He will find it a vain task; and I indulge the fancy that he will not be swift to undertake it.

Sir, the rebels on this subject have been our instructors. They have found no constitutional difficulty in treating persons within their limits attached to the Government of the United States, and acknowledging their allegiance to it as enemies. Without scruple or hesitation they proceeded at an early day to enact a statute, now in force among them, by which every Union man born in a State still adhering to the Union is proscribed and expelled from their territorial limits. I take the liberty to read the act. The rebels find fewer constitutional difficulties than the Senator from Kentucky seems to do:

"An act respecting alien enemies," approved August 8, 1861.

"Sec. 1. The congress of the confederate States of America do enact that, whenever there shall be war declared between the confederate States and any foreign nation or Government, or any invasion or predatory incursion shall be perpetrated, attempted, or threatened against the territory of the confederate States by any foreign nation or Government, and the president of the confederate States shall make public proclamation of the event, or the same shall be proclaimed by act of congress, all native citizens, denizens or subjects of the hostile nation or Government, being males of fourteen years of age and upwards, and who shall be within the confederate States and not citizens thereof, shall be liable to be apprehended, restrained, or secured, and removed as alien enemies: *Provided*, That, during the existing war, citizens of the United States residing within the confederate States with intent to become citizens thereof, and who shall make a declaration of such intention, in due form, and acknowledging the authority of the government of the same, shall not become liable, as aforesaid, nor shall the act extend to citizens of the States of Delaware, Maryland, Kentucky, Missouri, and the District of Columbia, and the Territories of Arizona and New Mexico, and the Indian territory south of Kansas, who shall not be chargeable with actual hostility or other crime against the public safety, and who shall acknowledge the authority of the government of the confederate States.

"Sec. 2. The President of the confederate States shall be, and is hereby, authorized by his proclamation or other public act, in a case of existing or declared war, as aforesaid, to provide for the removal of those who, not being permitted to reside within the confederate States, shall refuse or neglect to depart therefrom; and to establish such regulations in the premises as the public safety may require.

"Sec. 3. Immediately after the passage of this act the president of the confederate States shall, by proclamation, require all citizens of the United States, being males of fourteen years and upward, within the confederate States, and adhering to the Government of the United States, and acknowledging the authority of the same, and not being citizens of the confederate States, nor within the proviso of the first section of this act, to depart from the confederate States within forty days from the date of such proclamation; and such persons remaining within the confederate States after that time shall become liable to be treated as alien enemies; and in all cases of declared war, as aforesaid, alien residents within the confederate States, who shall become liable as enemies, as aforesaid, and who shall not be chargeable with actual hostility or other crimes against the public safety, shall be allowed the time for the disposition of their effects and departure, which may be stipulated by any treaty with such hostile nation or Government; and when no such treaty may exist, the President shall prescribe such time as may be consistent with the public safety, and accord with the dictates of humanity and national hospitality."

But, sir, the Senator from Kentucky has made another novel discovery in the field of constitutional law, to which I must be indulged in paying some slight attention. He tells the Senate in his speech on this bill that the Government of the United States has no right whatever to send troops into any State unless it be at the request of the Legislature while in session, or of the Executive when the Legislature cannot be convened; and he is extremely earnest and confident on this point. He flatters himself that he has at length discovered the great touchstone by which this whole war is proved to be unconstitutional, and "coercion" a tyranny and an outrage. This is the first time in my professional life that I ever heard it asserted by a gentleman professing to be a judge of the principles of the Constitution, and a good lawyer, that the right of the Government

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

of the United States to employ military force to put down an insurrection was derived from and is solely dependent upon that clause of the Constitution to which he refers. The clause declares that the Government of the United States shall protect each State against domestic violence when called upon by the State. The very language itself shows that the violence against which the State is to be protected is violence not against the authority of the United States, but against the authority of the State, and of the State only.

Domestic violence in a State is violence against the authority of the State, and that violence may be in perfect consistency with the loyalty of the persons who commit it to the Government of the United States.

It is merely local violence against the regular government of the State, and does not embrace an insurrection or rebellion against the Federal Government. And such is the meaning given to the clause in the Federalist, if the Senator will see fit to consult it. It may be entirely consistent with the authority of the United States, like the Dorchester rebellion, in Rhode Island, or the more ancient insurrection of Shay, in Massachusetts. The present war is a rebellion against the authority of the United States, not that of any one particular State, and is not therefore a case of mere domestic violence as mentioned in the clause on which the Senator relies.

This, however, is the Senator's logic: the States in rebellion are agitated by domestic violence; in such cases the Government of the United States cannot interpose, except upon the request of the Legislature of the State when in session, or of the Executive when the Legislature cannot be convened; and because the Legislature and Executive of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas—all the seceded States—have omitted to apply to the Government of the United States for aid to put down this violence, *ergo*, the Government of the United States has no right to march its troops into those States; *ergo*, the whole war is unconstitutional, and we who are engaged in prosecuting this war within the limits of these seceded States are guilty of a perpetual violation of our oaths and of the Constitution of our country. Such is the Senator's logic.

The Senator seemed to forget that, aside from this particular clause, there is given to Congress in express terms power to suppress rebellion and insurrection against the Federal Government itself. We are now acting under this broader and general power. We are acting under a power by no means necessary to have been incorporated in the Constitution—the power to suppress rebellion and insurrection—because from the very nature of Government itself, from the very necessity of its being, the Federal Government, like every other Government, must be held to have the right of self-defense, the right to put down resistance to its authority, the right to enforce its own laws, for that cannot be called a Government which has no power to carry its own enactments into execution. It is of the very essence of all Governments to command, and if a Government may command, it is the duty of those who are commanded to obey; so that even without the clause expressly giving to Congress the power to put down an insurrection they would have plenary power so to do.

But the framers of the instrument saw fit to grant the power in express terms, as if in anticipation of this "State rights" objection.

In order to make out his point, the Senator referred us to a passage in Story's Commentaries on the Constitution, which, by the way, does not prove his point at all, and has no possible connection with it; but the passage he read was in juxtaposition with another of so much importance that I will take the liberty of reading it. That excellent writer, quoting from the forty-third number of the Federalist, says:

"Should it be asked, what is to be the redress for an insurrection prevailing all the States, and comprising a superiority of the entire force, though not a constitutional right? The answer must be that such a case, as it would be without the compass of human remedies, so it is fortunately not within the compass of human probability; and that it is a sufficient commendation of the Federal Constitution that it diminishes the risk of a calamity for which no possible constitution can provide a cure."

Again:

"The southern States being more peculiarly open to danger from this quarter."

That is, from a general insurrection—

"ought to be particularly tenacious of a Constitution from which they may derive such assistance in the most critical periods."

Ah, sir, what a guarantee was in the Constitution held out to the southern States against that dangerous element which has now awakened into terrible activity! Had it not been for the madmen who have drawn their sword against their country for the purpose of extending slavery beyond its ancient limits; had it not been for that wild fanaticism which professed to see that no Government on this continent could exist with safety unless resting upon human slavery as its corner-stone, we should have had continued peace, and this glorious Constitution, with all its guarantees of liberty, peace, and prosperity for the present and the future, would still have been in quiet operation, and no man here, no man in the North, would have been found to go so far as to urge the taking up arms to prevent the extension of slavery, much less to abolish it in the States where it existed.

Sir, we entertained no such purpose, and to impute it to us now is a wanton misrepresentation and a wanton falsification of the history of the times. We told them only, "We are opposed to the extension of slavery beyond its present limits; we intend to try with you that great question at the ballot-box; if we overcome you there the only result will be that slavery will go no further;" but we told them in the same breath, we assured them as brother assures brother, with all the earnestness of sincere patriotism and love of a common country, "We do not propose to intermeddle with slavery as it exists in the States." We gave them this sincere assurance over and over and over, a thousand times, and almost with tears. They gave no heed to our assurances. They affected to discredit everything we said or could say. They imputed to us the most wanton purposes. They said, "Your design, notwithstanding all your protestations, is to interfere with slavery and to emancipate the slaves in the States." And with this cunning deception, with this vile slander on their lips against as patriotic a party as ever honored this or any other country, they went before their people and deluded them, or most of them, into the belief that such were our purposes.

They went further, sir. They drew the sword and have now swung away the scabbard; and now that they have courted the disasters which are coming upon them, now that they have made slavery the gage of battle, now that they have set up a government against ours, founded upon slavery as its fundamental element, I for one am for waging the combat with them to the very last extremity. I say to them:

"Lay on, Macduff;
First cries Hold, enough."

My conscience will not be troubled by the fanciful constitutional objection that the Government of the United States have no right to "subjugate a State." We have, sir, the same right to subjugate a State in insurrection as to subjugate a foreign country with which we are at war; and the Senator from Kentucky will find it impossible, I apprehend, to draw anything like a sensible distinction between the two cases.

The Senator, not satisfied with assailing the report of the committee with almost unexampled bitterness, not satisfied with undertaking to vindicate the bill now before us, remarked that the committee had gone out of their way for the purpose of assailing and aspersing the character of the honorable Senator from Maryland, [Mr. Johnson:] and the Senate were entertained for a time by the honorable member from Kentucky with what he seemed to regard as a vindication of that honorable Senator. As one of the authors of this report I have this to say in regard to the honorable member from Maryland. When he shall state any ground of personal dissatisfaction with the mode in which he has been treated in that report I shall be as ready as any other Senator not only to listen to him, as I always do, with great pleasure, but shall hasten with alacrity to do him justice.

Mr. JOHNSON. If the honorable Senator

will permit me to interrupt him for a moment, there is as I think in the report, so far as I have been able to read it, some passages that I think, indeed I know, do me personally injustice. I did not suppose, however, when I saw them, that the honorable Senator himself, whose name appeared on the report as its author, had in fact written that portion of the report. I imagined that he had adopted it, and that he had adopted it without even reading it. I had not when I read it, nor have I now, the slightest belief that it was the purpose of the honorable Senator to call in question the sincerity of any opinions which I have expressed on this floor, either on the question with which the report deals or upon any other question on which the Senate have done me the honor to listen to me.

The passage to which I refer intimates, or rather says, that my election as a member of this body by the Legislature of Maryland was owing to the fact that that Legislature had been itself elected by such military interference as is charged to have been used in the recent election. It was new to me, sir, and as I could not imagine how the honorable member from Michigan, who lives thousands of miles away from us, could have known anything about the local politics of the State, and particularly as to the manner in which the Legislature that thought proper to confide in me in part the interests of the State as a member of this body was elected, I took for granted, as I take for granted now, that in everything to be found in that report relating to the manner in which that election was conducted, the honorable member pinned his faith upon information that he derived from some one else.

It is also intimated—I might as well state now, instead of waiting to state it in what I propose to say on these questions themselves, wholly irrespective of personal considerations, as I think they should be—it is intimated in the report that my dissatisfaction with what was done by the military at the recent election in Maryland was owing to the fact that the result of that election disappointed some partisan hopes of mine. There never was a charge or an intimation more wholly and absolutely unfounded. It is not true in any particular. I had no partisan hopes. If ever I was capable of indulging in any such hopes I think I know myself well enough to know that in the present condition of the country, if there be any men in the country willing to indulge such hopes, I should be the last man in the country to indulge them. I have nothing to hope politically except to hope that this rebellion may be speedily overthrown. I have no political aspirations other than that of conducting myself on the floor of this Senate with courtesy to all its members, and patriotically toward the country.

So far as it is supposed that I have been influenced by any disappointment in the result of the election in the particular congressional district in which that result was attained, as it was by force of this (as I think) military interference, the honorable member has done me great injustice in point of fact. The gentleman who represents that district in consequence of that election was bound to me by ties of personal friendship, as well as by ties which political accord creates. It was a friendship dating long before this rebellion. It is a friendship strengthened by the acquaintance and association which I had with him in the session of the Legislature of which we were both members. It was also an admiration of the man derived from my knowledge of his very superior talents as a lawyer, as well as his admirable qualities as a gentleman. It is due to truth to say that if the choice between the two contestants at that election had depended upon my vote it would have been cast in favor of the member who now represents the district. What I regretted, and what I shall continue to regret, was—as I think it was not to be justified upon any principle, political or military—that the military should have been suffered, without interference on the part of the higher authorities of the Government, to do the deeds which were done on that occasion by them.

With this explanation, therefore, I am sure the honorable member will believe me when I state to him that I have not, and have not had, from the moment I read that report to the present hour,

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

the remotest suspicion that he intended to reflect upon me politically or as a man.

Mr. HOWARD. The honorable Senator from Maryland is quite right in the supposition he has expressed that I entertained no such intention. Certainly there is no member in this body for whom I have a higher esteem than for that honorable gentleman, and none, surely, to whom I would be more reluctant to do the slightest discourtesy or injustice; and I am happy that my remarks on that subject have given him an opportunity of making this explanation.

But, sir, to return to the speech of the Senator from Kentucky. The Senator starts with the broad proposition that the evidence before the Committee on Military Affairs to whom this bill had been referred showed that the military had interfered with the freedom of elections in Kentucky and Maryland. He was vehement in his denunciation of the report, because it stated that from the information the committee had been able to avail themselves of, the evils proposed to be remedied by the Senator's bill appeared to them to be almost wholly imaginary. There is not, I may remark here, in the report which has been so severely denounced by the honorable Senator a single statement denying that there may have been some abuses in the employment of the military forces at the polls, whether in Missouri, Kentucky, Maryland, or Delaware. But, sir, I shall have more to say on this subject as I proceed.

The Senator states that the committee think the charge of disloyalty is a full answer to all arguments that can be brought against the Administration; in other words, that whenever any gentleman here or elsewhere brings a well-founded allegation against the mode in which the Government is administered or against the executive officers, or Congress, it is a sufficient reply to turn around upon him and say, "Why, sir, you are a disloyalist." I hope, sir, I am not actuated by any such miserable bigotry as is here imputed to me; and I submit to the honorable Senator whether it is entirely candid and fair and manful to treat the report of the committee in this manner. That report was drawn up as carefully and with as much circumspection as the materials which the committee had been able to get together would permit. Of course, upon such a subject, it was not only difficult but impossible to collect all the evidence and all the facts bearing on the case, stretching as they did from Missouri into Delaware. The committee can ask for themselves only this praise, that they collected all the facts which were conveniently within their reach, and have given them such a construction and derived from them such results as are set forth in the report; and I think those results and conclusions are fairly deducible from the evidence before them.

The committee are not to be held responsible for anything which does not appear to have been before them in evidence; and I say again it is not to me a satisfactory reply to our conclusions to say that a charge of disloyalty is the habitual reply to well-founded allegations against the Administration. The Senator from Kentucky, when he shall reconsider this whole subject, will discover that in making that remark he was actuated more by a zeal to uphold the interests of a party than by any principle of patriotism or any respect for justice. The report of the committee stated that a certain document had been laid before them by the Senator from Kentucky, purporting to be "an address to the people and Congress of the United States," by certain gentlemen signing themselves a "committee on behalf of the Democratic party." The report contains some comments on this singular pamphlet, and the Senator from Kentucky charges that those comments are uncandid and untrue.

Mr. POWELL. If the Senator will allow me I will remind him that I said in my speech that I did not intend to charge the committee with any willful misrepresentation, but that they were mistaken.

Mr. HOWARD. I am happy to accept the explanation of the honorable Senator.

Mr. POWELL. That will be found in my speech. I am making no explanation.

Mr. HOWARD. I am about to proceed to show that the committee were not only not guilty

of any falsification or willful misstatement of the evidence before them, but that they were guilty of no mistake. Whoever shall read the Senator's speech will hardly rise from its perusal with the impression that he did not intend to impute to the committee willful misrepresentation. But let us examine the facts.

The report alleges that at the date of a certain letter, which is included in the pamphlet, addressed to Mr. Wickliffe, of Kentucky, and dated June 13, 1863, the business of recruiting blacks in Kentucky was in active progress, and also in various other slaveholding districts. The reply which the honorable member makes to this statement is, that at the date of that letter there was no such thing as recruiting black soldiers progressing in Kentucky. How the precise fact may have been I am not able to say. I had always understood, however, that the business of recruiting blacks had been going on in some degree in Kentucky from about the date of the passage of the act of 1862 authorizing it. But whether it was progressing in Kentucky at that precise time or not is entirely immaterial, and can furnish no just ground for the assertion that the committee had misrepresented the facts of the case. The letter itself, which was the subject of comment in that report, admits that the Administration had then already adopted the policy of recruiting black troops. This is admitted, and it is against that policy that the letter is particularly denunciatory. The writers of the letter used the following language:

"We hold this rebellion utterly unjustifiable in its inception, and a dissolution of the Union the greatest of calamities."

"We would use all just and constitutional means adapted to the suppression of the one and the restoration of the other."

Again they say:

"It is now obvious that the fixed purpose of the Administration is to arm the negroes of the South to make war upon the whites, and we hold it to be the duty of the people of Kentucky to enter against such a policy a solemn and most emphatic protest."

What is the plain implication from this language addressed to Mr. Wickliffe, that the writers hold the rebellion unjustifiable "in its inception?" Is it not tantamount to a declaration that although in its inception the rebellion was utterly unjustifiable, it had, nevertheless, become otherwise in consequence of the acts of the Administration, and particularly the act authorizing the recruiting of black troops? I can put upon it no other construction. I cannot read it without deriving from it the idea which certainly lurks in it, that although the rebellion was at first unjustifiable, still, inasmuch as the Government had resorted to the raising of black troops for the purpose of carrying on the war, the rebellion had ceased to be unjustifiable and had become justifiable. The Senator from Kentucky with all his acumen will hardly be able to give this language any other meaning.

But the letter contains a most solemn protest against this measure. It admits that the rebellion has become justifiable, and goes on, by way of aggravation, to assert:

"It is now obvious that the fixed purpose of the Administration is to arm the negroes of the South to make war upon the whites, and we hold it to be the duty of the people of Kentucky to enter against such a policy a solemn and most emphatic protest."

And still the Senator says that at the very time the letter was written, at the very time this solemn protest was entered by these leading gentlemen of Kentucky, there was no such thing in Kentucky as the recruiting of black troops. May I not then ask, what right had these gentlemen while the alleged evil of recruiting of black troops did not exist in that State to make a solemn protest against the Government carrying on that business in any other portion of the United States? What injury was it to Kentucky that the United States were collecting together black troops in Tennessee, Mississippi, Louisiana, Arkansas, Missouri, or any other portion of the United States? What harm was it doing to them? They were not losing their "property" in the shape either of enlistments or conscription of their slaves. In whose interest but that of the rebels was this solemn protest of the "committee on the part of the Democratic party" put forth? What had loyal Kentuckians to complain of? Plainly, nothing.

What, then, is the pith and point of the dec-

laration that the rebellion had become justifiable, although unjustifiable in its inception? Not because recruiting of black troops was going on in Kentucky, but because it was going on somewhere else, and because these troops were to be used as aids in suppressing the rebellion. Sir, this is an audacious presumption on the part of Kentucky. No, sir, I will not say Kentucky; I do not mean the people of Kentucky; I mean the demagogues who assume to be the leaders of the people of Kentucky. What right have they to dictate to the United States what troops they shall raise, or where they shall raise them, or how employ them, so long as the people of Kentucky are not affected by the proceeding?

Sir, it is a most arrogant assumption of the right on the part of these *soi-disant* patriots and Union men to dictate to the Government of the United States what policy it shall pursue in carrying on the war. We are told by them, first, "You must not carry on this war at all." The Senator from Kentucky announces here that all attempts at coercion are unconstitutional, that the war itself is unconstitutional; and his friends in Kentucky take up the refrain, say the same thing, and arrogantly tell us that if the United States shall see fit to recruit black troops in Missouri, or in Tennessee, or in Louisiana, the rebellion at once changes its character and becomes justifiable. Kentucky is greatly injured, Kentucky has a right to utter her most solemn and emphatic protest. Sir, I have too much respect for the true patriotism, the true manhood of Kentuckians, too much respect for the past history of that gallant State; as a citizen of Michigan I have too much reverence for the memory of the ancient people of Kentucky, who rescued the Territory of Michigan from the grasp of the invader, and many of whose bodies fallen in the struggle of 1812 now lie interred almost at my own door, to believe that there is one man out of five hundred among the Unionists of the State who has the least sympathy with this rebellious declaration of this self-styled Democratic committee. I believe the heart of Kentucky and Kentuckians, if left to its own impulses, is and will be true to the great cause we are defending, and that, if left to themselves, the good people of that State would be first and foremost in maintaining the Government of their fathers.

Again, sir, in order to make the report of the committee more odious, and, as it would seem, to stigmatize the author almost as a falsifier, the Senator tells us that the committee have designedly misdated the act of Kentucky of March 11, 1862; that in order to justify their language, in which they approve of the issuing of a proclamation by Governor Robinson, some three months before the election of 1863, calling upon the judges of election to carry out the law of Kentucky, the committee have post-dated the act by one year.

I will not read from the speech of the Senator from Kentucky to show with what peculiar bitterness he attacks the report upon this ground, but simply ask his candid attention to the report itself, and show how easily this anachronism in the date of the act is corrected. The act itself was passed on the 11th of March, 1862. The copyist employed by the committee to transcribe it from the documents referred to them, by a mere clerical error changed the date from 1862 to 1863; while at the same time there is enough contained on the face of the report to show the erroneous date. It is a mere clerical error of no importance; and yet the Senator from Kentucky labored long to stigmatize and to render odious the report itself and even the author, under the idea that there had been a sort of forgery in the date of the act. This is not fair treatment; it is not worthy of the occasion or the subject.

Mr. POWELL. I will state, if the Senator will permit me to do so, that the draughtsman of that report in the whole argument must certainly have been under the apprehension that that law was passed in 1863, because he states precisely and distinctly in it that the law had been in force but three months, and hence the necessity of the Governor's proclamation; and in another place it is stated that it was passed over Governor Magoffin's head, and he resigned in 1862.

Mr. HOWARD. Certainly it does so state, and this statement arises from an error of the

38TH CONG...1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

copyist; it is totally immaterial for the purposes of the argument. The error is clearly manifested by the fact also stated in the report, as the Senator remarks, that the act was passed before Magoffin resigned, which was in 1862. This, sir, is a narrow foundation for so grave a charge against the committee.

The Senator next insists that the writers of the letter to which I have alluded did not wish the rebels to vote, and that in this respect, also, the committee "drew upon their fancy for their facts." Well, sir, let us see how this is. The allegation is that the writers did not wish the rebels to vote. The address to which the letter is appended is signed by seven gentlemen, all of whose names are also signed to the letter. The letter is dated June 13, 1863, and is addressed to Hon. C. A. Wickliffe, and the address is of a date subsequent to the August election. The printed pamphlet is dated October, 1863.

Now, let us see whether or not those men did wish the rebels to vote. The Senator says they did not desire the votes of rebels. I assert they did, and the address itself proves the fact. The signers of the address, including the seven signers of the letter, use this language:

"It is very frankly admitted that we hoped and expected to obtain the support of the great mass of the southern rights men of the State. They were for the most part Democrats of long standing, though classed by the adherents of the Administration as 'disloyal.'"

"The great majority of them were not secessionists, and were entirely free from all complicity in the rebellion."

"This is what they all say, including the seven signers of the letter:

"The great majority of them were not secessionists, and were entirely free from all complicity in the rebellion."

The inference is that if a great majority were not secessionists, and were free from complicity in the rebellion, the minority of them, however few or however numerous, were in complicity with the rebellion, and were secessionists; so that the result is that here was a portion of the people of Kentucky, the minority, if you please, of the southern rights party, that were actually secessionists and in complicity with the rebellion; and the writers of the pamphlet say that their purpose was to obtain the votes of all these southern rights men, including both classes, secessionists as well as others—if there could be others.

So much for the honeyed compliment of the Senator from Kentucky to these secessionists, some of whom I trust had the luck to be driven from the polls at that election by the strong arm of the Government forces. This confession is of itself sufficient proof of the necessity of military protection of the true Unionists of Kentucky at that election, and, were there no other evidence, must forever shut the mouth of the writers of the Wickliffe letter, as well as the other authors of the address "to the people and Congress of the United States." They wanted secessionists who were in complicity with the rebellion to vote, and wanted their votes.

[The honorable Senator here gave way for a motion to adjourn.]

THURSDAY, March 24, 1864.

The Senate resumed the consideration of the bill to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering with elections in the States.

Mr. HOWARD. Mr. President, at the adjournment yesterday I was replying to some objections raised by the Senator from Kentucky to the report of the Committee on Military Affairs. The Senator stated that two orders were issued by military men in that State just previous to the general election of August 3, 1863, which directed that whenever the military authorities had occasion to make requisitions for supplies upon the people of Kentucky, they should first call upon disloyal men and mark the receipts they gave as disloyal; and that it was generally rumored about the State that those persons would be regarded as disloyal who should at the coming election vote the Democratic ticket, which fact would expose their property to seizure by the military.

This was one particular ground of complaint urged by the Senator against military interference in Kentucky. But even admitting this rumor to have been well founded, it cannot be considered as

an objection against the military orders issued for the protection of the polls against the interference of disloyal men and traitors. Nor have we any evidence, except the assertion of the Senator from Kentucky, that a single man in Kentucky was deterred from the polls by this rumor. There may have been such a rumor. It is by no means impossible or improbable, for we all know that on the eve of an election the parties interested are industrious and ingenious in the manufacture of rumors for the purpose of influencing votes. But whatever may have been the fact, this alleged intimidation could not have arisen from the orders issued for the protection of the loyal voters.

The Senator makes another point against the report of the committee. He misrepresents as untrue the passage relating to the fidelity with which the orders of the subordinate commanders in Kentucky were carried out. The report uses the following language:

"The orders of the subordinate commanders were, so far as they are embodied in the pamphlet, and so far as we have been able to ascertain, in strict accordance with General Burnside's order and the statute of the State, which we have cited; and the pamphlet admits that these orders 'were carried out with rare fidelity by those to whom their execution was intrusted.'"

The report affirms that these orders were in strict accordance with General Burnside's order. The Senator from Kentucky takes issue with the committee, and asserts that the various subordinate orders, instead of being in accordance with the general order issued from headquarters a few days before the election, were not in accordance with that order, but were violatory of it. Now, sir, I lay it down that there was not a single subordinate order issued by the inferior officers in Kentucky inconsistent with the order of General Burnside, embracing as it did the Kentucky act of expatriation and proscription; and I shall be obliged to consume some little time in analyzing these several minor orders for the purpose of showing that the Senator's assertion is unfounded. There are but eight such subordinate orders contained in the pamphlet, which was the only evidence before the committee. All the other orders relate merely to foraging, and not to elections. In order to understand clearly whether they were in accordance with the general order it will be necessary to read that order. It is in these words:

[General Orders, No. 120.]

HEADQUARTERS DEPARTMENT OF THE OHIO,
CINCINNATI, OHIO, July 31, 1863.

Whereas the State of Kentucky is invaded by a rebel force with the avowed intention of overawing the judges of elections, of intimidating the loyal voters, keeping them from the polls, and forcing the election of disloyal candidates at the election on the 3d of August; and whereas the military power of the Government is the only force that can defeat this attempt, the State of Kentucky is hereby declared under martial law, and all military officers are commanded to aid the constituted authorities of the State in support of the laws and of the purity of suffrage as defined in the late proclamation of his Excellency Governor Robinson.

As it is not the intention of the commanding general to interfere with the proper expression of public opinion, all discretion in the conduct of the election will be, as usual, in the hands of the legally appointed judges at the polls, who will be held strictly responsible that no disloyal person be allowed to vote, and to this end the military power is ordered to give them its utmost support.

The civil authority, civil courts, and business will not be suspended by this order. It is for the purpose only of protecting, if necessary, the rights of loyal citizens and the freedom of election.

By command of Major General Burnside:
LEWIS RICHMOND,
Assistant Adjutant General.

This order was based on the then recent proclamation of Governor Robinson, of Kentucky. It is as follows:

COMMONWEALTH OF KENTUCKY,
EXECUTIVE DEPARTMENT.

For the information and guidance of all officers at the approaching election, I have caused to be herewith published an act of the Legislature of Kentucky entitled "An act to amend chapter fifteen of the Revised Statutes, entitled 'Citizens, Expatriation, and Aliens.' The strict observance and enforcement of this and all other laws of this State regulating elections are earnestly enjoined and required as being alike due to a faithful discharge of duty, to the purity of the elective franchise, and to the sovereign will of the people of Kentucky expressed through their Legislature.

Given under my hand, as Governor of Kentucky, at Frankfort, this 10th day of July, 1863, and in the seventy-second year of the Commonwealth.

J. F. ROBINSON.

By the Governor:

D. C. WICKLIFFE, Secretary of State.

Appended to that proclamation is the statute of

Kentucky to which I have referred. It is as follows:

"Sec. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That any citizen of this State who shall enter into the service of the so-called confederate States, in either a civil or military capacity, or enter into the service of the so-called provisional government of Kentucky, in either a civil or military capacity, or having heretofore entered such service of either the confederate States or provisional government, shall continue in such service after this act takes effect, or shall take up or continue in arms against the military forces of the United States or the State of Kentucky, or shall give voluntary aid and assistance to those in arms against said forces, shall be deemed to have expatriated himself, and shall no longer be a citizen of Kentucky, nor shall he again be a citizen except by permission of the Legislature by a general or special statute.

"Sec. 2. That whenever a person attempts or is called on to exercise any of the constitutional or legal rights and privileges belonging only to citizens of Kentucky, he may be required to negative on oath the expatriation provided in the first section of this act, and upon his failure or refusal to do so shall not be permitted to exercise any such right or privilege.

"Sec. 3. This act to be of force in thirty days from and after its passage.

"Passed and became a law, the objections of the Governor to the contrary notwithstanding, March 11, 1862."

It will be remembered that at the time the Legislature of Kentucky passed this most salutary act, Magoffin was Governor of Kentucky. He refused to approve it; but the Legislature passed the bill over his head and it became a law. Such a statute seems to have been incompatible with the principles of that patriotic Governor of Kentucky, Magoffin!

I have thus laid before the Senate the proclamation of General Burnside, embodying within itself the proclamation of Governor Robinson, the latter proclamation containing as part of itself the statute of proscription of Kentucky. I proceed to inquire whether the subordinate orders which were carried out and executed "with fidelity," according to the confession of the authors of the pamphlet, were in accordance with this proclamation of General Burnside and with the law of Kentucky.

General Burnside's order of July 31 excludes from voting all persons whom the act excludes, and in addition declares that the judges of election "will be held strictly responsible that no disloyal person be allowed to vote; and to this end the military power is ordered to give them its utmost support."

This order was in substance and effect the same as that of General McClellan already cited. Indeed, it seems to have been based upon it as a precedent. It goes no further, and rests upon precisely the same principles of public law.

I will go rapidly through with my analysis of the various cases insisted upon by the Senator from Kentucky, in which he says the subordinate officers transcended the authority given them by the order of General Burnside. It should be borne in mind that the Kentucky act declares that no person shall be deemed a citizen of Kentucky or shall be allowed to exercise any of the rights and privileges of a citizen who had given aid and assistance to those in arms against the United States, or borne arms against the Government, or who had held any office, civil or military, in the confederate States, or under the provisional government of Kentucky. The first subordinate order complained of is that of Assistant Adjutant General A. C. Semple, in which he says merely that persons of open and avowed disloyalty will not be permitted to stand for office. This was strictly within the general order.

The second order referred to by the Senator was that of Colonel Thomas Johnson, which prohibits the same thing, and adds that no persons will be permitted to stand as candidates "who may be opposed to furnishing men and money for a vigorous prosecution of the war against the rebellion." I remark in respect to this order that it was in accordance with the act of Kentucky when properly understood, because under the circumstances then existing, Kentucky being then invaded by the rebel armies, a person thus opposed to furnishing men and money to the Government was voluntarily giving aid and assistance to the enemy. At such a time openly to avow a willingness or a wish to withhold men and money evinced a willingness to welcome the invaders; and a man who could stand up at such a time and make such an announcement was as much a

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

traitor as if he bore a musket upon his shoulder and was serving in the rebel army.

This order was to be enforced in the counties of Trigg, Caldwell, Lyon, Crittenden, and Livingston, as is shown by its terms. What was the political character of those five counties? They all lay within the first congressional district of Kentucky; and it is a sufficient justification of the order to say that this first congressional district had openly, in the month of January, 1862, elected a member of the congress of the rebel confederacy. This district, as I affirm to be an indisputable historical fact, was from the beginning in favor of the rebellion, and the mass of its people aiders and abettors of the insurgents.

Such were the men who were prevented from voting at the August election of 1863. And is such an order, issued upon such an occasion, to be denounced as unconstitutional and tyrannical, which prevented open traitors, constituents of a traitor representative now in the rebel congress, from voting?

The third order was the order of Colonel Mundy. It is to this effect:

"All loyal citizens, who have not forfeited their citizenship, can safely and quietly cast their votes for the candidates of their choice; but all who have forfeited their right of citizenship, under the provisions of the act of Assembly, who shall present themselves at the polls and fraudulently attempt to vote, will be immediately arrested by the guard detailed for that purpose at such precinct, and confined in the military prison."

Certainly, persons who had forfeited their citizenship under the law of Kentucky were not proper persons to be admitted to the privileges of an election. It was forbidden not only by the laws of war, which prohibit all enemies from participating in such privileges, but was expressly forbidden by the act of Kentucky.

The fourth order was that of Captain Belt.

Mr. POWELL. The Senator will allow me to state that I did not make any very special comment on Colonel Mundy's order; but I will ask the Senator who, under that order, was the judge: the judges appointed by the law, or the military officer whom Col. Mundy sent there? That is the point.

Mr. HOWARD. The order of General Burnside was explicit that the military authorities should employ all their vigilance and all their power in carrying out the laws of the State and in preventing disloyal citizens from voting. Somebody, indeed, must have the power to determine whether a person is qualified or not; and under the circumstances, it cannot be denied that (although it may have been the duty of the judges to determine whether the voter was privileged to vote or not) the tutelary authority of the United States equally had the right; nay, sir, it was the paramount and supreme right of the military authorities to determine that question, and for reasons I will briefly repeat. A war existed then and there; the enemies of the country thronged throughout Kentucky; rebels were thick as leaves in Vallumbrosa at all the polls; and it was equally the duty of the Federal military agents to determine who was a friend and who an enemy of the Government.

I was speaking, sir, of the order of Captain Belt. The Senator alleges this as a case presenting ground of complaint. And what was it? An order was issued by this Captain Belt, who is himself a Kentuckian, and an illiterate person, as would appear from his manner of spelling, (which is held up to very unnecessary ridicule by the authors of this learned pamphlet,) in which he points out individually a Mr. Hodges as being a disloyal man, and prohibits the judges from allowing him to stand as a candidate. I reply if this man Hodges was disloyal, as the officer believed, the officer was justified in instructing the judges of election not to permit him to stand as a candidate, for he had no right to be a candidate if disloyal. He had no right to exercise an office; and if a man has no right to exercise the functions of an office he has no right to receive votes for that office.

The fifth case is the order of Colonel Foster. By his order, the colonel prohibits from standing as candidates every one who is not in all things "loyal to the State and Federal Governments, and in favor of a vigorous prosecution of the war for the suppression of the rebellion;" and his order forbids any person to vote who is not known to the judges to be an undoubted loyal citizen, or

who has not taken the oath prescribed by the act of Kentucky. This order was within the spirit of the act of Kentucky, for under the circumstances not to be in favor of the prosecution of the war was to give indirect assistance to the invaders, and a person standing in that attitude came fairly within the order of General Burnside.

The sixth order complained of was that of General Hurlbut. It prohibits from voting or standing as candidates all persons not avowedly and unconditionally for the Union and the suppression of the rebellion. This was equally within the spirit of the act of Kentucky, and for the same reason.

The seventh order is that of General Asboth. Much has been said against it. Let us see whether it is obnoxious to the severe criticism heaped upon it. It is dated at Columbus, Kentucky, July 29, 1863, and is as follows:

[General Orders, No. 47.]

DISTRICT OF COLUMBUS,
HEADQUARTERS SIXTH DIVISION,
SIXTEENTH ARMY CORPS,
COLUMBUS, KY., July 29, 1863.

That no further doubt may exist as to the intent and meaning of Special Orders No. 153, dated Headquarters Sixteenth Army Corps, July 14, 1863, it is ordered that no person shall be permitted to be voted for, or be a candidate for office, who has been or is now under arrest or bonds, by proper authority, for uttering disloyal language or sentiments.

County judges within this district are hereby ordered to appoint, as judges and clerks of the ensuing August election, only such persons as are avowedly and unconditionally for the Union and the suppression of the rebellion, and are further ordered to revoke and recall any appointment of judges and clerks already made who are not such loyal persons.

Judges and clerks of elections are hereby ordered not to place the name of any person upon the poll-books, to be voted for at said election, who is not avowedly and unconditionally for the Union and the suppression of the rebellion, or who may be opposed to furnishing men and money for the suppression of the rebellion.

The following oath is prescribed and will be administered by judges of elections to voters and to such candidates as reside within this district:

"I do solemnly swear that I have never entered the service of the so-called confederate States; that I have not been engaged in the service of the so-called 'provisional government of Kentucky'; either in a civil or military capacity; that I have never, either directly or indirectly, aided the rebellion against the Government of the United States or the State of Kentucky; that I am unconditionally for the Union and the suppression of the rebellion, and am willing to furnish men and money for the vigorous prosecution of the war against the rebellious league known as the 'confederate States'; so help me God."

Any voter, judge, or clerk of elections, or other person, who may evade, neglect, or refuse compliance with the provisions of this order will be arrested and sent before a military commission as soon as the facts are substantiated.

By order of Brigadier General Asboth:
T. H. HARRIS,
Assistant Adjutant General.

I insist that this order is equally within the scope of General Burnside's, equally within the true intent and meaning of the act of Kentucky. But, sir, even leaving that act out of view, under the circumstances which then surrounded General Asboth, with the whole community swarming with traitors and rebels sympathizers, I insist that it was not only the right but the duty of the general to issue such an order. It was, under the circumstances, for him and for him alone to designate what persons should vote at the election; and it was not the right of the authorities of Kentucky, even if the local law had authorized it, to set up a claim to the contrary. The State was under martial law; but I make no special claim on that ground. It was enough that war existed in Kentucky, and it was one of the rights of war to see to it that traitors were not suffered to approach the place of election. Had it been, in the judgment of the military commander at the time, necessary entirely to suppress an election at a particular precinct and dismiss the judges to their homes, there can be no doubt the act would have been legal and justifiable on the ground of military necessity.

The eighth order is that of General Shackelford, which I will also read, since that also has been the theme of very severe comment. It is dated at Russellville, Kentucky—a name by no means unfamiliar to the honorable Senator.

[General Orders, No. 23.]

HEADQUARTERS FIRST BRIGADE,
SECOND DIVISION, TWENTY-THIRD ARMY CORPS,
RUSSELLVILLE, KENTUCKY, July 30, 1863.

In order that the proclamation of the Governor and the laws of the State of Kentucky may be observed and enforced, post commandants and officers of this command will

see that the following regulations are strictly complied with at the approaching State election:

None but loyal citizens will act as officers of the election. No one will be allowed to offer himself as a candidate for office, or be voted for at said election, who is not in all things loyal to the State and Federal Government, and in favor of a vigorous prosecution of the war for the suppression of the rebellion.

The judges of election will allow no one to vote at said election unless he is known to them to be an undoubtedly loyal citizen, or unless he shall first take the oath required by the laws of the State of Kentucky.

No disloyal man will offer himself as a candidate, or attempt to vote, except for treasonable purposes; and all such efforts will be summarily suppressed by the military authorities.

All necessary protection will be supplied and guaranteed at the polls to Union men by all the military force within this command.

By order of Brigadier General J. M. Shackelford, commanding:
J. E. HUFFMAN,
Assistant Adjutant General.

This falls equally within the scope and intent of the order of General Burnside, and for the same reasons. It was issued at Russellville, the seat of the rebellion in Kentucky. There is a notoriety belonging to that town, and to show what was done there I beg to read an extract from a new history of the rebellion by a rebel author, Mr. Edward A. Pollard. Speaking of Kentucky and the state of things there in 1861, he says:

"On the 18th November, the opponents of the Lincoln rule in Kentucky assembled in convention at Russellville, in the southern part of the State, for the purpose of organizing a provisional government for Kentucky, and for taking steps for her admission into the southern confederacy. On the 20th November the convention unanimously agreed upon a report, presenting in a strong light the falseness of the State and Federal Legislature, and concluded with the declaration that 'the people are hereby absolved from all allegiance to said Government, and that they have the right to establish any Government which to them may seem best adapted to the preservation of their lives and liberty.' George W. Johnson, of Scott county, was chosen Governor. Commissioners were appointed to negotiate with the confederate government for the earliest admission of Kentucky into the government of the confederate States. The embassy of the commissioners to Richmond was successful, and before the middle of December Kentucky was duly recognized as one of the States of the southern confederacy."

Kentucky was formally admitted into the rebel confederacy in the month of December, 1861, and represented in their congress by twelve members. To show further what was the political condition of Kentucky at that early period, I will read a portion of the proclamation of Zollicoffer, dated the 16th December, 1861, when leading a confederate army into Kentucky for the purpose of carrying on the war against us. He says:

"They [the Government of the United States] have closed your rivers, embargoed your railroads, cut off your natural and proper markets, left your stock and produce on hand almost valueless, and thereby almost destroyed the value of your lands and labor. We have come to open again your rivers, to restore the ancient markets for your produce, and thereby to return to you the accustomed value of your lands and labor. They have represented us as murderers and outlaws. We have come to convince you that we truly respect the laws, revere justice, and mean to give security to your personal and property rights. They have forced many of you to take up arms against us. We come to take you by the hand as heretofore, as friends and brothers. Their Government has laid heavy taxes on you to carry on this unnatural war, one object of which is openly avowed to be to set at liberty your slaves, and the ensuing steps in which will be to put arms in their hands and give them political and social equality with yourselves. We saw these things in the beginning, and are offering our hearts' blood to avert those dreadful evils which we saw the abolition leaders had deliberately planned for the South."

The rebel general was awake to the same gloomy vision of armed negroes which now seems to frighten the "Democratic committee" of Kentucky.

Zollicoffer calls the people of Kentucky without any distinction his brethren. He affects to offer them rights and privileges, and essays to relieve them from the terrible tyranny of the Government of the United States. It is easy to see what effect this proclamation would naturally have upon the public mind in Kentucky. It would tend greatly to inflame it, to stir up that disloyal feeling to guard against which the orders I have noticed were issued.

Mr. President, if there ever was a necessity for the vigorous interposition of military authority to guard the polls against the intrusion of rebels, if there was ever a case in the history of the United States in which the strong arm of military power was invoked by every interest of community, it was the case of Kentucky; and I undertake to say that without this interference, Kentucky, in all human probability, would to-day have been

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

regularly installed as a member of the rebel confederation. Nothing but the loyal hearts and strong arms of northern men who hurried from their homes has prevented that State, with all its glorious memories, going over to the rebellion.

Mr. POWELL. If the Senator will allow me I will ask him the date of that order of General Zollicoffer.

Mr. HOWARD. It is dated December 16, 1861.

Mr. POWELL. 1861! These occurrences took place in 1863.

Mr. HOWARD. I was speaking of the political condition of Kentucky, and read this order as a piece of evidence to show what was the condition of affairs in Kentucky for nearly two years previous. It throws much light on the state of things in 1863.

As further evidence of the feeling in Kentucky, not in 1863, but in 1861, I venture to call the attention of the Senate to another document. It is a letter of General Buckner addressed to Magoffin, Governor of Kentucky, dated June 10, 1861. It has some tendency to illustrate the influences under which Kentucky neutrality, so called, had its origin. The letter is as follows:

HEADQUARTERS KENTUCKY STATE GUARDS,
LOUISVILLE, June 10, 1861.

SIR: On the 8th instant, at Cincinnati, Ohio, I entered into an arrangement with Major General G. B. McClellan, commander of the United States troops in the State north of the Ohio river, to the following effect:

The authorities of the State of Kentucky are to protect the United States property within the limits of the State, to enforce the laws of the United States, in accordance with the interpretations of the United States courts, as far as those laws may be applicable to Kentucky, and to enforce, with all the power of the State, our obligations of neutrality as against the southern States, as long as the position we have assumed shall be respected by the United States. General McClellan stipulates that the territory of Kentucky shall be respected on the part of the United States, even though the southern States should occupy it, but in the latter case he will call upon the authorities of Kentucky to remove the southern forces from our territory. Should Kentucky fail to accomplish this object in a reasonable time, General McClellan claims the same right of occupancy given to the southern forces. I have stipulated in that case to advise him of the inability of Kentucky to comply with her obligations and to invite him to dislodge the southern forces.

He stipulates that if he is successful in doing so, he will withdraw his forces from the territory of the State as soon as the southern forces shall have been removed.

This he assures me is the policy which he will adopt toward Kentucky.

Should the Administration hereafter adopt a different policy, he is to give me timely notice of the fact. Should the State of Kentucky hereafter assume a different attitude, he is in like manner to be advised of the fact.

The well-known character of General McClellan is a sufficient guarantee for the fulfillment of every stipulation on his part.

I am, sir, very respectfully, your obedient servant,
S. B. BUCKNER,
Inspector General.

To his Excellency B. MAGOFFIN, Frankfort, Kentucky.

It would seem then that as long ago as the date of this letter, General McClellan had assumed to enter into a treaty by which the neutrality of Kentucky was to be guaranteed. Sir, this was a dangerous step on the part of that general. It was a step in direct violation of the laws of the United States, totally incompatible with his duty to his Government, and which, had it been made effectual as against the United States, would have led to the strange spectacle of an independent nation, acknowledging no allegiance either to our Government or to the rebel States, and maintaining within the borders of the Union a condition of independent neutrality wholly incompatible with the duty of that State under the Constitution.

But to return to the pamphlet. It complains that great injustice was done at Moscow, in Kentucky. The Senator refers to a report of Major Gibson of the mode in which the election at this place was conducted. The major says:

"Major Gibson having read to the board of inspectors of election General Hubert's Order No. 159, and General Asboth's General Order No. 47, explaining the same, and prescribing the oath to be administered to the voters and candidates, and having read to them General Burnside's order placing the State of Kentucky under martial law, and having stated publicly before the board, in the presence of the voters, that he was there under proper military orders to enforce a strict compliance with General Asboth's Order No. 17, I then asked the clerk, sheriff, and judges that each of them should, before recording a vote, take the oath. They refused to do so on the ground that General Asboth's order, in their opinion, was inconsistent with President Lincoln's proclamation in regard to those who would within a certain time lay down their arms and return to their duty as loyal citizens; that the oath required of them by General Asboth conflicted with their oaths to the constitution and laws of Kentucky in this, that the constitution of Ken-

tucky guaranteed to the people a free election, and that the laws of the State subjected them, as inspectors, to fines, forfeitures, penalties, indictments, &c., unless they placed upon the poll-lists the names of all candidates voted for, and that they could not as honorable and conscientious men, take an oath which required them to act as judges of the election in accordance with the laws of Kentucky, and take an oath prescribed by General Asboth, which did not in their opinion coincide with the enactments of the State of Kentucky.

"They, as well as the citizens, claimed that the proclamation of Governor Robinson, of Kentucky, was the best authority and exposition in regard to the laws of expatriation and the return of citizens to their duty, and their rights and privileges thereafter; and that under his proclamation every citizen who returned to the State and remained peaceable and law-abiding and took the oath of allegiance to the Federal Government, was entitled to protection and to the right of the elective franchise.

"To this Major Gibson replied that they would subject themselves to similar fines and imprisonment in case they would not comply with General Asboth's order; that as long as the State was under martial law, and that law could be enforced, the civil law was subservient to the military power, and that unless they complied with the order he should have to place them under arrest and take them to Columbus.

"In order, however, to act in strict accordance with the order, (the order not saying in so many words that the judges or inspectors should take the oath,) one person, Mr. E. A. Thompson, was allowed to offer to vote. Major Gibson demanded of the judges that they administer the oath prescribed by General Asboth. This they refused to do, for the reasons above stated.

"Major Gibson then placed them under arrest, and requested them to accompany him to Columbus, which they complied with promptly and cheerfully."

It is clear from this statement that the judges at that precinct utterly set at defiance both the act of Kentucky and General Asboth's order, and, of course, were arrested, as they deserved to be.

Again, the pamphlet enumerates nineteen counties in the State of Kentucky at some of the polls in which the military orders were enforced. These counties lie along the lower Ohio and on the Mississippi, in the western extremity of the State, and there is no proof of the alleged acts except the signatures to the pamphlet. Eight of those nineteen counties lie within the first congressional district of Kentucky, the same which in January, 1862, elected, without disturbance or resistance on the part of Union men, a member to the rebel congress. I may apply the old maxim, *ab uno disce omnes*; if such was the character of eight of these counties it is not fair to presume that a state of things equally hostile to the Government, equally inconsistent with loyalty, existed in the others?

The Senator's great complaint as to the execution of all these orders is that the Democratic ticket was not allowed to be voted. It is impossible to tell with any precision to what extent this may have been the case, and I can only say that I must presume, in the absence of all proof to the contrary, that the military gentlemen who guarded the polls acted impartially and fairly, and if persons were rejected on the ground that they were Democrats, the understanding of the military authorities in Kentucky was that such Democrats were disloyal men. The truth of the complaint is, however, by no means established.

I do not stand here to pretend, and I will not assert, that there may not have been abuses in the execution of some of the orders. It would be very natural that such should be the case. Indeed, it would be impossible to exclude all abuse and all misuse of such a power. But you may say the same of the execution of any law. Every power, every law is liable to be abused; but this is no reason for denying or extinguishing the power itself, for repealing it or for repealing the law.

The leader of this party, Mr. Wickliffe, was plainly unfriendly to the Government of the United States. He was their candidate for Governor. The letter inviting him to stand as such declares that the writers "hold this rebellion utterly unjustifiable in its inception," plainly, as I have already remarked, intimating that it had become justifiable. The writers of the pamphlet observe: "Mr. Wickliffe, in accepting the nomination which had thus been tendered him, expressed his hearty concurrence in our view;" that is, his hearty concurrence in the statement that the rebellion had become no longer unjustifiable. I submit, sir, that a man who, at such a time, can so far forget what is due to his country as to intimate that this rebellion had become a justifiable one, was not a fit person to be voted for at the polls. And I say boldly that I think the military

authorities in Kentucky did exactly right when they instructed the judges of election not to permit Mr. Wickliffe's name to appear on the poll list as a candidate for Governor, although, notwithstanding several orders of that kind, he received a very considerable vote in Kentucky.

But, sir, there is no allegation, even in the pamphlet itself, that any one single individual known to be a true and loyal man was hindered from voting at the election in Kentucky on the 3d of August, 1863. It is very true, as the writers of the pamphlet remark, that the aggregate vote at that election compared with the number of male persons over twenty-one years old in 1862 was small. The aggregate number of votes polled is set down at 84,930, while the writers remark "that in 1862 the whole number of male persons twenty-one years of age in Kentucky was 182,246." For obvious reasons the entire vote cast was comparatively small; but the smallness of the vote shows not so much that voters were excluded from the polls as that multitudes kept away because of their own disloyal proclivities, while thousands upon thousands had emigrated or gone into the rebel army or into the Union Army.

As a further illustration of this election in Kentucky, I have been at the pains of examining a document presented by the Committee of Elections in the other House, purporting to be the report of the contested-election case between John H. McHenry and George H. Yeaman in the second congressional district of Kentucky. Mr. Yeaman is the sitting member. That report presents this state of fact: the total vote in the second congressional district of Kentucky in 1861, and before anybody had gone out to either army, was 14,665; afterwards that district, according to the evidence contained in this report, furnished between five and six thousand men to the Union Army and about two thousand to the rebel army, making the total force furnished to both armies from that district about eight thousand men; in August, 1863, the total vote in that district was 11,398, of which Yeaman received 8,311 and McHenry 3,087, leaving Yeaman's majority 5,224.

The several military orders were issued only to enforce the law of Kentucky, and to defeat the rebel conspiracy. Yeaman was nominated by the Union party, and supported by them; McHenry sought and received the support of rebels. This is proved by overwhelming evidence; and it is proved that thousands of persons who were notoriously rebels, or rebel sympathizers, came to the polls and voted without let or hindrance. The oath was administered only to rebels and secessionists. The election was quiet and peaceable, and the soldiers did not interfere. Nottsville and Yillington are proved by this report to have been strong rebel precincts. At Nottsville McHenry had four to one against Yeaman, and at Yillington he had two to one against Yeaman.

Mr. POWELL. Do I understand the Senator to state that in that record there is no evidence to show that the polls were interrupted by the military?

Mr. HOWARD. The evidence is that there was no open interference by the soldiers in that district.

Mr. POWELL. I will not reply to the Senator now, but I will say one word. It is proved in the record which the Senator held in his hand a moment ago that in the counties of Henderson and Davis, and other counties, persons who were true loyal men were arrested and imprisoned who voted, and that others were prevented from voting, and absolutely the poll-book was taken away from the judges in one case. The grossest frauds and corruption are proved in that very document; and I will show it when I reply to the Senator.

Mr. HOWARD. I shall be happy to listen to any reply the Senator from Kentucky may see fit to make. The document is open to him; he is free to examine it.

The Senator from Kentucky asserts that the charge of disloyalty against the authors of this pamphlet is untrue, and he repeats over and over again that the Military Committee in their report charge those authors with being disloyal persons. Now, sir, you will look in vain in the report for any charge that the authors of the pamphlet are disloyal men. The report does not so charge them; yet I must say at the same time that the declarations of the authors of the pamphlet show

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

a different kind of loyalty from mine. It is the loyalty of neutrality, which is no loyalty, and just as inconsistent with the duty which a State and its people owe to the Government of the United States as open rebellion.

Neutrality, sir, Kentucky neutrality, what is it in law, and what would it be if practically carried out there or elsewhere? If the agreement of General McClellan with Buckner had been carried into execution practically Kentucky would have been as effectually out of this Union as is now the State of South Carolina. Neutrality, let me say to the Senator, is an attribute belonging exclusively to a sovereign Power, an independent nation. You cannot predicate neutrality of any community that does not possess the right of sovereignty as an independent nation, for there are certain rights and duties pertaining to neutrality which can be exercised only by an independent nation, and with which any subordinate or dependent condition is totally incompatible.

Sir, let us contemplate for a moment the condition that Kentucky would have been in if she had carried out effectually her idea of neutrality. The Government of the United States would have been disabled from recruiting a single man within her limits, such recruiting being forbidden by the laws of war and nations within neutral territory. Again, the United States could not have marched a single platoon across the border of Kentucky, although the enemy had been in her midst. Without the permission of Kentucky, whose territorial jurisdiction reaches, I believe, to the right bank of the Ohio and to the right bank of the river Mississippi, the United States could not have transported a regiment or a single cannon upon her waters. The Ohio and the Mississippi would have been sealed up against the navigation of the United States. Not a gunboat could have been employed anywhere within her waters. She would have been flourishing in all the peace and comfort of neutrality, keeping the Union forces away upon the one side and possibly inviting the rebels upon the other, while at the same time she would have been at complete liberty to carry on trade and commerce in everything not contraband of war with both the belligerent parties. In short, she would have been enjoying a harvest of profits in her trade with the rebels, and a like harvest in her trade with the Union armies, and at the same time feeling none of the inconveniences of the war. Such, sir, was manifestly the idea at the bottom of Kentucky neutrality.

Is it founded upon the Constitution? Will the gentleman say that under that instrument it is the right of any one of the States to set up to be neutral in a war, whether a civil or a foreign war? No, sir. It is as plainly prohibited as open rebellion, and the claim is as incompatible with fidelity to the Government as the claim of nullification or secession.

Sir, it is amazing that a gentleman who has so much to say about the violation of the Constitution of the United States, a gentleman who has not hesitated to say upon this floor that if justice had been done to Abraham Lincoln for his imputed unconstitutional interference in State elections he would have been hanged like those who were denounced as traitors by the laws of Greece for voting at elections where they had no right—it is amazing that such a Senator can stand up here and advocate in the same breath the right of a State to assume the condition of neutrality in a war. It is nothing more nor less than actual secession, because it implies an utter repudiation of the obligations of the State to the General Government. Sir, I thank Heaven that the President of the United States at an early day rebuked this pretension. In the first message he addressed to Congress, dated the 4th of July, 1861, he used the following pointed and clear language. I read it in order to free him and all who support him and his Administration from all taint of complicity in and all countenance of this dangerous and fatal heresy:

"In the border States, so called—in fact, the middle States—there are those who favor a policy which they call 'armed neutrality'; that is, an arming of those States to prevent the Union forces passing one way or the disunion the other, over their soil. This would be disunion completed. Figuratively speaking, it would be the building of an impassable wall along the line of separation, and yet not quite an impassable one; for, under the guise of neutrality, it would tie the hands of the Union men and freely

pass supplies from among them to the insurrectionists, which it could not do as an open enemy. At a stroke it would take all the trouble out of the hands of secession, except only what proceeds from the external blockade. It would do for the disunionists that which, of all things, they most desire—feed them well, and give them disunion without a struggle of their own. It recognizes no fidelity to the Constitution, no obligation to maintain the Union, and while very many who have favored it are, doubtless, loyal citizens, it is nevertheless very injurious in effect."

Truth requires me to say I am not aware that this assumption on the part of General McClellan, to encourage and sanction the claim of neutrality on the part of Kentucky, has ever been denied or renounced. On the other hand, judging from what I discover in a New York paper dated in 1861, I am led to believe that the statement made by General Buckner of his having entered into such a treaty with General McClellan is correct. There will be found in the New York Evening Post of June 27, 1861, the following:

"General McClellan, in a dispatch to an officer of the Navy in Cincinnati, states that the interview which General Buckner has reported was strictly private and confidential."

Here is an admission that he held an interview with Buckner, although he says it was "strictly private and confidential," a circumstance which does not alter its character or tend in any degree to contradict the statement of fact made by Buckner,

"That it was repeatedly solicited"—

No doubt—

"and that he gave no pledge whatever on the part of the authorities at Washington that the United States troops should not enter Kentucky."

No, sir; nor does Buckner affirm that he gave any such pledge on the part of those authorities, but only that the pledge was given by General McClellan:

"The only result of the interview, as he understood it, was that confederate troops should be confined to confederate soil, so far as Kentucky was concerned."

This statement of General McClellan is in no wise inconsistent with that of Buckner. It admits the fact of the interview and does not deny any of the important averments of Buckner. It alleges that General McClellan gave no pledge on the part of the Government. Buckner does not charge that he did. General McClellan affirms in guarded terms that the only result of the interview was that confederate troops should be confined to confederate soil so far as Kentucky was concerned. This is in perfect consistency with each of the stipulations claimed to have been entered into by Buckner, and is no denial of any of them. If this dispatch emanated from General McClellan, and he thought it worth his while to take notice of Buckner's letter, especially if that letter was inaccurate in its statement, that was the occasion for him to have denied the facts stated by Buckner; and still this dispatch contains no such denial.

Mr. President, I repeat that, so far as I have been able to discover, there is not a case where any good, true, and loyal man was driven from the polls by military authority in Kentucky who was entitled to cast a vote there. There may possibly have been such cases. If there were, they have not come within my observation.

I come now, sir, to consider that part of the report which relates to the State of Maryland, where it is alleged the grossest outrages have been perpetrated by the military authority in interfering with elections. There was a general election in that State in November, 1861. At that election Governor Bradford, at present the Executive, was chosen Governor. Just anterior to that election, as I have remarked, General McClellan, at the request of Governor Hicks, issued a proclamation for the purpose of guarding the polls against the intrusion of rebels and rebel sympathizers. But General McClellan was not the only military officer who assumed to exercise a military protection. General Dix also issued his proclamation in the following words:

HEADQUARTERS, BALTIMORE, November 1, 1861.
To the United States Marshal of Maryland, and the Provost Marshal of the City of Baltimore:

Information has come to my knowledge that certain individuals who formerly resided in this State, and are known to have been recently in Virginia bearing arms against the authority and the forces of the United States, have returned to their former homes with the intention of taking part in the election of the 6th of November, instant, thus carrying out at the polls the treason they have committed in the

field. There is reason also to believe that other individuals, lately residents of Maryland, who have been engaged in similar acts of hostility to the United States, or in actively aiding and abetting those in arms against the United States, are about to participate in the election for the same treacherous purpose, with the hope of carrying over the State by disloyal votes to the cause of rebellion and treason. I, therefore, by virtue of the authority vested in me to arrest all persons in rebellion against the United States, require you to take into custody all such persons in any of the election districts or precincts in which they may appear at the polls to effect their criminal attempt to convert the elective franchise into an engine for the subversion of the Government, and for the encouragement and support of its enemies.

In furtherance of this object, I request the judges of election of the several precincts of the State, in case any such person shall present himself and offer his vote, to commit him until he can be taken into custody by the authority of the United States; and I call on all good and loyal citizens to support the judges of election, the United States marshal and his deputies, and the provost marshal of Baltimore and police, in their efforts to secure a free and fair expression of the voice of the people of Maryland, and at the same time to prevent the ballot-box from being polluted by treasonable votes.

JOHN A. DIX,

Major General Commanding.

That election resulted favorably to what was called the Democratic party. Governor Bradford was the successful candidate for Governor. He was elected under the order of General McClellan and that of General Dix. I do not remember to have heard a single complaint against either of those orders, though both were enforced. At that election also the honorable Senator from Maryland [Mr. JOHNSON] was chosen a member of the State Legislature. Everything went off harmoniously. The whole country was satisfied that at that time at least there was a necessity for the orders. Nobody found fault with them. There was not then in Maryland, nor is there now, any law prohibiting traitors from voting; and, so far as I am advised, the qualifications of voters in that State still remain precisely what they were before the civil war broke out.

But just before the election of November, 1863, a military order was issued which has been the subject of great complaint and I think of great misapprehension. I refer to the famous Order No. 53, issued by General Schenck. That it may be understood, I will read it:

[General Orders, No 53.]

HEADQUARTERS MIDDLE DEPARTMENT,

EIGHTH ARMY CORPS,

BALTIMORE, MARYLAND, October 27, 1863.

It is known that there are many evil-disposed persons now at large in the State of Maryland who have been engaged in rebellion against the lawful Government, or have given aid and comfort or encouragement to others so engaged, or who do not recognize their allegiance to the United States, and who may avail themselves of the indulgence of the authority which tolerates their presence to embarrass the approaching election, or, through it, to foment enemies of the United States into power. It is therefore ordered:

1. That all provost marshals and other military officers do arrest all such persons found at, or hanging about, or approaching any poll or place of election on the 3d of November, 1863, and report such arrest to these headquarters.
2. That all provost marshals and other military officers commanding in Maryland shall support the judges of election on the 3d of November, 1863, in requiring an oath of allegiance to the United States, as the test of citizenship of any one whose vote may be challenged on the ground that he is not loyal, or does not admit his allegiance to the United States, which oath shall be in the following form and terms.

The oath is simply a promise on the part of the person taking it that he will not for the future take arms against the United States or do any act to aid or abet the rebellion, and has no reference to the past. The voter is not required to swear that he has not been in arms against the United States or given aid to the enemy, but is required to promise that he will not do so in future. The order goes on:

3. Provost marshals and other military officers are directed to report to these headquarters any judge of an election who shall refuse his aid in carrying out this order, or who, on challenge of a vote being made on the ground of disloyalty or hostility to the Government, shall refuse to require the oath of allegiance from such voter.

By order of Major General Schenck:

W. H. CHUSEBROUGH,

Lieutenant Colonel and Assistant Adjutant General.

The rule prescribed by General McClellan's and General Dix's orders went much further, for those orders prohibited all persons who were disunionists from voting, while the order of General Schenck was a mere promise of future good conduct. It was purely prospective, and was in no sense proscriptive. And yet Governor Bradford, in his message to the Legislature of Maryland,

delivered in January, 1864, in his zeal to cover that order with odium and make it hateful in the eyes of the people, misstates and misrepresents it. In speaking of the order the Governor says:

"You will be furnished with a copy of this order, and it is not necessary further to recite it than to state in general terms that it was to be executed by the military, aided by the provost marshals. They were to arrest voters whom they might consider disloyal approaching or hanging about the polls; a prescribed form of an oath was furnished, without taking which no one, if challenged, could vote."

Thus giving the Legislature and the public to understand that whenever a person approaching the polls was challenged for any cause whatever, he was obliged to take the oath prescribed in General Schenck's order; whereas, in fact, the order only required the oath to be administered to those persons who were challenged, not generally, for any cause, but upon the ground that they were not loyal. The challenge was based solely on the ground that the voter was not a loyal man, and was limited to that question alone. Governor Bradford, without much regard for candor and fairness, misstates the effect of the order. He says:

"They were to arrest voters whom they might consider disloyal approaching or hanging about the polls; a prescribed form of oath was furnished, without taking which no one, if challenged, could vote."

That, sir, was not the effect of the order—

Mr. JOHNSON. I will thank the honorable Senator from Michigan to read the first clause of the order.

Mr. HOWARD. I have once read the whole order except the oath. I will read it again, however.

Mr. JOHNSON. I mean the original order.

Mr. HOWARD. Yes, sir. I mean the original order. I am very glad that the honorable Senator from Maryland has called my attention to it again. The first clause is in these words:

"1. That all provost marshals and other military officers do arrest all such persons found at, or hanging about, or approaching any poll or place of election on the 3d of November, 1863, and report such arrest to these headquarters."

The Governor in his message repeats this first clause, and seems determined to treat it as if in force during the election, although he well knew it had been revoked by the President of the United States on the 2d of November, the day before the election, and at Governor Bradford's request. He seeks to make this order and those who executed it odious. He misstates and misconstrues it, and endeavors to impress the Legislature and the public with the idea that during the election the first clause was in force directing the arrest of all persons found hanging about or approaching the polls.

I have said that Governor Bradford's message was hardly candid in its statement of the contents of this order. On page 44 of the report of the committee will be found a proclamation issued by him on the 2d of November, the day before the election, to the people of that State. He says:

"After the above was in print, at three o'clock this afternoon, I received from the President the following dispatch:

"I revoke the first of the three propositions in General Schenck's General Order No. 53, not that it is wrong in principle, but because the military being, of necessity, exclusive judges as to who shall be arrested, the provision is liable to abuse. For the revoked part I substitute the following:

"That all provost marshals and other military officers do prevent all disturbances and violence at or about the polls, whether offered by such persons as above described or by any other person or persons whomsoever. The other two propositions are allowed to stand. My letter at length will reach you to-night."

Such was the dispatch addressed to Governor Bradford, the day before the election, by the President. That revocation of the first clause was formally announced by an order from headquarters at Baltimore on the day of its date, in which the general says:

"Paragraph I of General Orders No. 53, from these headquarters, is modified so as to read as follows:

"1. That all provost marshals and other military officers do prevent all disturbances and violence at or about the polls, whether offered by such persons as above described, or by any other person or persons whomsoever."

"By command of Major General Schenck,
WILLIAM H. CHESBROUGH,
Lieutenant Colonel and Assistant Adjutant General."

On the same day the President of the United States addressed a manuscript letter to the Governor in which he sets forth his reasons not only for altering the previous order of General Schenck

in that point in which it appeared to him to be objectionable, but for retaining the rest of it, and enforcing it during the election.

On Monday, the 2d of November, the Governor issued his counter-proclamation against the modified order. It is a singular document, and may be found on page 44 of the report of the committee. He says:

"I avail myself of the occasion to call to the particular attention of the judges of election that they are, on the day of election, clothed with all the authority of conservators of the peace, and may summon to their aid any of the executive officers of the county, and the whole power of the county itself, to preserve order at the polls, and secure the constitutional rights of the voters."

"It is also made their 'special duty' to give information to the State's attorney for the county of all infractions of the State laws on the subject of elections, and by these laws it is forbidden to any 'commissioned or non-commissioned officers, having command of any soldier or soldiers quartered in any district of any county of the State, to muster or embody any of said troops, or march any recruiting party, within the view of any place of election during the time of holding said election.'"

Again:

"I need not, I am sure, remind them of the terms of the oath they are required to take before entering upon their duties, and according to which they swear to 'permit all persons to vote who shall offer to poll at the election, &c., who, in their judgment, shall, according to the directions contained in the constitution and laws, be entitled to poll at the same election, and not to permit any person to poll at the same election who is not, in their judgment, qualified to vote as aforesaid.'"

"It is the judgment of the judges of election alone, founded upon the provisions of the constitution and laws of the State, that must determine the right to vote of any person offering himself for that purpose. I trust and believe that they will form their judgment and discharge their duty as their conscientious convictions of its requirements under the solemn obligations they assume shall dictate, undeterred by any order to provost marshals to report them to 'headquarters.'"

"Whatever power the State possesses shall be exerted to protect them for anything done in the proper execution of its laws."

This proclamation was a direct invitation to the judges of election and the people of Maryland to disregard the order, and, if need be, to resort to violence in resisting it. It was a threat to produce an insurrection; and to drive out the United States troops by force. The report of the Military Committee holds that the Governor had no right to issue it, or to instruct the judges in this manner. The Senator from Kentucky, in his emphatic reply to this part of the report, tells us that the Governor of Maryland had "a right to issue a proclamation concerning elections." Who denies it? The Senator was combatting a proposition the committee had not made. The committee do not say that Governor Bradford had no right to issue a proclamation concerning elections. What they do say is, that he had no right to issue this proclamation, and to assume thus to instruct the judges of election, and that so far as he did assume thus to instruct them he was guilty of a usurpation, as he clearly was. The language of the committee is:

"The law of Maryland charges the Governor with no authority over elections, and vests him with no right to instruct the judges of elections in the law of their duty."

"This proclamation was, therefore, a palpable usurpation."

This is a very different proposition from that which is put into their mouths by the Senator from Kentucky. And he exclaims exultingly:

"It was left to the Military Committee of this honorable Senate, a learned committee, to be sure, to make the discovery that the Governor of Maryland had no constitutional authority to issue a proclamation concerning elections."

Mr. POWELL. What page of the report does the Senator read from?

Mr. HOWARD. From page 22. Undoubtedly, sir, the Governor of Maryland, like any other Governor, has a right to issue a proclamation on any subject connected with his duties; but neither the Governor of Maryland nor any other Governor has the right to say to the judges of elections, "Your duties are such and such, and you must do so and so." The law, not the Governor's proclamation, regulates their duties. And whatever may be that law, whether in the shape of a State statute or the order of a military man for the protection of the polls, such as that of General Schenck, it is nevertheless law, and Governor Bradford had no more right to say to the judges that they were not to obey General Schenck's order than to tell them they were not to obey a statute of the United States. It did not lie in the

mouth of the Governor of Maryland to dispense them from that obligation.

He not only assumes to dispense them, but tells them, almost in terms, that if they cannot successfully resist the order without calling out the power of the county, they are empowered to call it out. He goes further, and tells them that whatever power the State possesses shall be exerted to protect them for anything done in the proper execution of its laws.

Sir, if the judges of election had been as hasty as the Governor, if they had resorted to the power of the county or other force for the purpose of resisting the execution of this order, it is easy to see that before the sun of the 3d of November went down below the western horizon the soil of ancient Maryland would have been stained with fraternal blood, and hundreds, perhaps thousands of her sons been weltering in their gore; for it would inevitably have led to a violent collision between the troops of the United States and the people of Maryland.

The Senator from Kentucky proceeds to close his climax of denunciation against the committee with these words:

"To what miserable quibbles and inconsistencies those who defend tyrants and usurpers are driven!"

"Tyrants and usurpers," are they? Men who, under the flag of the Union, protect the ballot-boxes from violation and pollution, and keep from the polls rebels and those who are aiding and assisting rebels in this great national struggle of ours—these are tyrants and usurpers! Sir, I may retort this personal invective. I may say to the Senator from Kentucky, to what miserable quibbles and inconsistencies are those persons driven who seek to uphold what they assume to be the rights of the States against the supreme authority of the nation! To what miserable quibbles and inconsistencies does this doctrine of "State rights" lead us when we attempt to follow it! Sir, it is an *ignis fatuus* which necessarily draws on its deluded votary until he is lost in the brambles and thickets of a morass, until he finally brings up in open rebellion against the United States.

The Senator further remarks:

"The destruction of the reputations of those who know and have spoken of these disgraceful and wicked usurpations is the only means by which they can escape from that damning infamy which must in all time accompany them."

"Damning infamy!" Mr. President, we must run our risk with posterity. It is, however, fortunate, I think, for such declaimers that

"To each unthinking being, Heaven, a friend,
Gives not the useless knowledge of its end."

Were it otherwise, these gentlemen, while looking into the future, if they are capable of looking into the future, would curse themselves and call upon the rocks and the mountains to cover them from the shame that awaits their memories. It would have been well for this class of politicians if they had indulged in some provisions when the cloud of this war was thickening and beginning to roll above our heads. Had they exercised but common foresight, especially while banqueting at their Belshazzar's feast on the plains of Kansas, they might have seen the "half of a man's hand" slowly revealing itself and writing upon the wall of their power the oracular words, traced by mystic but visible fingers upon the palace walls of that tyrant king, "*Mene, mene, tekel, upharsin: God hath numbered thy kingdom, and finished it; thou art weighed in the balances, and art found wanting; thy kingdom is divided, and given to the Medes and Persians.*" They might have obtained a glance at such admonitions had they been blessed with ordinary prescience; but, sir, intoxicated with power, blinded by presumption, they allowed themselves to see nothing admonitory in the signs of the times, until, finally, their folly culminated in war upon their country, by which their power has passed away, thank God, forever!

But, sir, let us particularize. What were the acts of oppression in Maryland of which the Senator from Kentucky complains? We have a right to presume that he has in his speech presented all the proof which he deems material to make out his point against the Military Committee and in support of his bill. I have shown, I think, that all his proofs drawn from Kentucky are without weight.

38TH CONG....1ST SESS.

Military Interference with Elections—Mr. Howard.

SENATE.

And now, what is the proof of unfair interference in Maryland? These are the alleged cases. The first is Colonel Tevis's proclamation, from which I will read a word; for I wish to show with what ingenuity the Senator from Kentucky has slurred over a most important fact connected with this order.

Mr. POWELL. I "slurred" it over by putting the whole order in my speech; every line of it is there.

Mr. HOWARD. Yes, sir; but the fact of its instant suppression is not given. This colonel issued the following proclamation at Chestertown, Maryland, on the 3d of November:

HEADQUARTERS THIRD MARYLAND CAVALRY,
CHESTERTOWN, November 3, 1863.

Whereas the President of the United States, in reply to a letter addressed to him by Hon. Thomas Swann, of Baltimore city, has stated that all loyal qualified voters should have a right to vote, it therefore becomes every truly loyal citizen to avail himself of the present opportunity offered to place himself honorably upon the record or poll-book at the approaching election, by giving a full and ardent support to the whole Government ticket, upon the platform adopted by the Union League convention. None other is recognized by the Federal authorities as loyal or worthy of the support of any one who desires the peace and restoration of this Union.

CHARLES CARROLL TEVIS,
Lieutenant Colonel Commanding.

I am not certain but Tevis was correct in his ideas; but it is certain he had no sort of authority from General Schenck or any other military source for issuing such an order. And it was disapproved as soon as known, and on the same day of its date. Only about fifty copies were ever circulated, as the report shows; and on the day of its issue Tevis himself was arrested by his superior officer for thus transgressing his authority. The honorable Senator from Kentucky appears to be blind to these important facts.

The second case presented by the Senator is a statement made by a certain Thomas Sudler, not that any one had been prevented from voting, but that the sergeant at the poll told him that before General Schenck's order was received at his camp he had received orders from his superior officer—

"To challenge every voter, to examine all tickets offered, to administer the oath contained in Order No. 53, and to decline to allow any ticket but the yellow or Creswell ticket to be polled."

There is no proof that any attempt was made to carry out this subordinate order, and it is entitled to no weight as evidence except as showing that the author transgressed his duty in issuing it.

The third case put by the Senator is the statement of Cyrus L. Jones. Jones says:

"I called the attention of my brother judges, saying, 'There will be a hereafter to this.' The sergeant then guarded the window through which the ballots were handed in to be put in the ballot-box with soldiers, took his place at the window, and rejected all who would not vote the yellow or Creswell ticket. He did not permit a single ticket of any other description to be polled, although I saw two men make several attempts, at different times during the day, to vote a ticket with Mr. Crisfield's name on it, and many other men were intimidated from offering to vote."

This statement contains no reason for the rejection. It might have been because the persons offering to vote were notorious rebels, or had already voted, or had refused to take the oath, or were not qualified voters. It is, like the rest, an *ex parte* statement.

The fourth instance is the statement of Mr. J. H. Tarr that he offered to affirm to the conditions of the oath as prescribed; that this was refused, and he was ordered from the polls, and left without voting. This statement is evasive, and plainly omits to set forth the whole truth. He asked the sergeant to define loyalty, showing that he was at the polls merely bantering with the officer and uselessly consuming time, and hence driven off.

The fifth case is the statement of one Charles Cole, that a certain man of the name of Wachter was kicked and driven away from the poll; and he furnishes to the Governor a certificate signed by Mr. Wachter in support of his statement; but Mr. Wachter himself in his certificate does not say a word about the kicking or being pushed away from the polls; so that I take it for granted this part of Cole's statement is his own invention; for it must be presumed that if Wachter had been kicked or pushed from the polls as Cole asserts, he himself would have made the statement in this certificate.

The sixth is the statement of one of the judges

of election, that a Mr. Davis, though willing to take the oath, was ordered to be arrested at the polls, and left without voting; and that another man at the same poll was induced not to vote by a threat of the officer to take the ballot-box from the judges in case they permitted it.

Mr. President, these are all *ex parte* statements. I will not say that they are all untrue; it is sufficient for my purpose that they are *ex parte* statements, and made without a cross-examination or any opportunity for the parties interested on the opposite side to be present and elicit the whole truth. They are, for the most part, the statements of heated, disappointed partisans. And what do these six cases of alleged abuse prove? Only this, that in a few, a very few, instances the power of the military was perhaps misused, but leaving it quite uncertain whether it was misused at all.

The Senator alleges that the judges were prevented from executing the laws. In many cases, he says, they were imprisoned. Let me say, with the utmost personal respect for that Senator, that I have discovered no case, from the beginning to the end of this vast amount of written testimony, which shows or conduces to show that the judges of election were prevented in any case from executing the laws. If there be any such case, I hope the honorable Senator will be able to lay it before the Senate. There are but two cases in which the judges of election were arrested; the one the case in Kentucky, which I have mentioned, where the judges of election openly and contemptuously refused to recognize the military authority and to execute the orders, and were therefore placed under arrest; the other, of which I shall soon speak more particularly, in Maryland.

In no case, sir, were the judges prevented from holding the election; in no case were they imprisoned until they had plainly violated the military order to which they justly owed obedience.

The two leading incidents of the election in Maryland were, first, the arrest of certain parties in Kent county, on the Eastern Shore, who had been prosecuting certain persons employed by the Government in enlisting slaves under the act of 1862, and second, the proceedings at Princess Anne, in Somerset county. Perhaps the most succinct account of the former is to be found in the report itself.

It is thus narrated by the committee:

"On October 31, 1863, Mr. B. H. Gardner complained in writing to Colonel Platt that he had been indicted and held to bail in \$3,000 for enlisting negroes for the United States, called in the indictment 'abducting slaves,' and that 'the principal actors in the affair were James B. Riccaud, candidate for the State Senate, George Vickers, sr., Jesse H. Hines, David A. Benjamin, Colonel Edward Wilkins, William P. Francis, Thomas Baker, John D. Todd, George B. Westcott, Samuel W. Spence, and Charles Stanley.'"

"On this complaint an order was made on the 1st of November, 1863, as follows: 'Colonel Tevis will arrest the above-named men and send them to these headquarters.' 'It was well known that the judge of that district is a violent secessionist, who had repeatedly prostituted the power of the judiciary into an instrument for the prosecution of loyal men; he had caused the indictment of General H. H. Goldsborough, for arresting certain traitors, though he did not dare actually to incarcinate him on his indictment; and for that and other outrages he had been arrested and sent to Fort Warren, when he was released by a mistaken clemency amounting to infatuation; and he signaled his return to the bench by a renewal of his evil practices, till the public indignation has lately compelled him to resign his judicial position.'"

"Of course it was not to be expected that the United States would allow a disloyal judge to pervert the judicial machinery of the State to annul the law allowing slaves to volunteer; and the order for the arrest of the parties implicated was given."

"When Colonel Tevis arrived in Kent county—"

This was just before the election; I think on the 1st of November or the last of October—

"he learned that Medlers, Perkins, and Fisher, had been also concerned in this prosecution, and they were also arrested for that cause. All who were arrested were sent to Baltimore on the 3d of November."

"Mr. George Vickers had also written an article, published in the Kent News, on the 26th and 31st of October, inciting the people to resist by force the enlistment of slaves, and the publisher of that paper was arrested with Vickers."

"Now, to cite these arrests as the commencement of military interference with the election;—"

Arrests which took place before the election, and had nothing whatever to do with it—

"and to suppress the sufficient and wholly different causes for the arrest, evinces a want of that candor which should characterize an executive communication. Other proof

than a mere innuendo must connect them with the elections."

"So soon as this proclamation was known in Baltimore, the use which would be made of it to connect it with the arrests and to assail the integrity of the election was seen, and it was instantly disapproved by the general, Colonel Tevis ordered to be arrested, and the persons who were candidates were at once returned to Kent by steamer, on the night of the 3d of November, and they arrived early on the 4th, the day of election."

"Mr. Riccaud now sits in the State Senate from that county. They were returned, after disclaiming any share in the prosecution of Gardner, but on parole to appear for further investigation."

Mr. POWELL. Will the Senator allow me to ask him one question, and that is where he gets the proof that there were but fifty copies of that proclamation circulated?

Mr. HOWARD. It is stated in the report.

Mr. POWELL. It certainly was not in the pamphlet containing the Governor's message, which was the only document I thought the committee had before them. I have heard of no other evidence.

Mr. HOWARD. The other case is the alleged arrest of the judges of election at the poll held at Princess Anne, in Somerset county, by Captain C. C. Moore, and the prevention by him of Arthur Crisfield from voting. This transaction appears to have given rise to much clamor. It was alleged that Captain Moore had wantonly arrested the judges of election, and broken it up, and that he had willfully prevented young Crisfield, the son of Mr. Crisfield, a candidate for Congress from that district, from voting. So great was the disturbance of the public mind occasioned by the complaints against Captain Moore that the President of the United States at once, upon application made to him, issued an order for the arrest and trial of Captain Moore by a military commission. The matter assumed the more importance from the fact that Mr. Crisfield openly alleged that he had been defrauded of a seat in Congress by reason of illegal military interference in the district, and chiefly at Princess Anne, in Somerset county.

The case underwent a judicial investigation, and I shall best subserve the cause of truth by laying before the Senate the order of the President of the United States directing that investigation and the result of the investigation. The President issued the following order:

"Major General Schenck will put on trial before a military commission Captain Moore, mentioned within, for having transgressed General Order No. 53, in arresting the judges of elections, and for having hindered Arthur Crisfield from voting, notwithstanding his willingness to take the oath in said order prescribed. Let Hon. John W. Crisfield be notified of time and place, and witnesses, named by him as well as by Captain Moore, be examined. Let time and place be reasonably convenient to witnesses, and full record kept and preserved."

Captain Moore was brought to trial upon the charges here specified. Both parties, under the order of the President, were enabled to produce their witnesses, and the whole subject underwent a most thorough, patient, and exhausting examination before an intelligent and impartial military board; and that board came to the following conclusions, which they thus announce in the report of their proceedings to the President:

"After a careful consideration of this evidence, the commission is of an opinion that the closing of the polls by the judges preceded their arrest; and whatever may have been the reason given by Captain Moore, the fact remains that it was not judges he seized, but citizens who had abandoned their posts as officers. If any doubt remains, that doubt is removed by their formal announcement made at the time, and subsequently reduced to writing, sworn to, and published, that they could not and would not conduct the election in accordance with General Order No. 53. The commission therefore finds:

"1. That Captain C. C. Moore is not guilty of transgressing General Order No. 53, in the arrest of James M. Dryden, John C. Pints, and Thomas H. Fisher."

Who were the judges of election.

"2. That Captain C. C. Moore is not guilty of hindering Arthur Crisfield from voting while willing to take the oath of allegiance."

The whole proceeding, therefore, resulted in this: the officer against whom so much complaint has been made, upon whose name has been heaped so much calumny here and elsewhere, was found guiltless of the charges preferred against him, and to have acted in strict pursuance of his duty.

I read further from the report of the committee on the subject of the Maryland election:

"The Governor of Maryland has dealt in very general abuse of the officers charged with its execution, and number

ous complaints are appended to his message in proof of his imputations.

"But for these proofs we might have feared there was some foundation for the complaints; but the slightest inspection of those papers discredits them, and official documents disprove them.

"We take the trouble to make a brief analysis of them, so that the accusation shall fall by the confessions of the accusers as well as the authentic history of the occurrences.

"There are in Maryland twenty-one counties and the city of Baltimore, the latter containing one third of the people of the State.

"No illegal act is complained of by the Governor in the city of Baltimore, or in sixteen of the twenty-one counties.

"In one of the counties in which the election is pronounced void—Frederick—no candidate opposed Mr. Thomas for Congress; he received 3,987 votes, Mr. Goldsborough received 3,985 votes, and his competitor, Mr. Maffitt, got 751 votes.

"The objection to this election is confined to one voting place.

"At that place one person is stated to have been compelled to cast a ballot against his will.

"The person who states this affirms that the votes of loyal voters were refused because they would not take the oath prescribed by General Schenck.

"But he also says, 'Your proclamation to the citizens and election judges of our State did not seem to be more regarded by the election judges at their polls than if it had never been issued.'

"So it was the judges of election, who, the Governor tells us, are the sole judges of the law, who thought his proclamation was not law, and who thought it was legal to require an oath as the test of citizenship.

"Does one vote in one precinct in one county seriously compromise the seat of Mr. Thomas?

"Every other complaint is confined to the first district, and to four only of the eight counties composing it; and so futile is the case made against those counties that the Governor disclosed his sense of its weakness by the significant remark: 'In the statements and certificates which have been forwarded to me from different counties in that congressional district, I have been furnished, I presume, with an account of part only of the outrages to which their citizens were subject.'

I will also read an extract from another document I hold in my hand respecting the same election. It is the "minority report of the committee on elections of the House of Delegates" of Maryland on the subject of the elections which had taken place in that State in the preceding November, and out of which had grown contests for offices. The authors of this minority report are regarded in that State as secessionists. Their views, therefore, though apparently candid, are not to be presumed entirely free from partiality and party bias. They say:

"In the cases before you it is unquestionably true that no fraud, violence, or other illegalities were prompted, instigated, or practiced by the successful candidates, or by or through any of their friends, agencies, or means, or in any way intended to promote their election.

"It is equally clear that all such frauds, violence, and illegalities were prompted and instigated by those who were opposed to the successful candidates, and that they (the successful candidates) were elected in spite of such means of opposition."

Further:

"At a majority of the other precincts there was more or less of military interference, appearing mainly to be designed to impair the vote of Mr. Crisfield, and to promote the election of Mr. Creswell, opposing candidates for Congress, without aiming especially at any other candidate, except by one John W. Davis, provost marshal at Tyaskin precinct, who was willing that any voter should vote for whom he pleased, provided the voter would vote or promise to vote for him for sheriff. But he does not seem to have received many votes; nor does it appear that many, if any, voters were excluded from the polls at that precinct. At some of the precincts there was little or no interference.

"Upon summing up the testimony in regard to the military interference with the election, and its effects upon the voters, it is evident to the minds of the undersigned that more persons were kept from the polls who would have voted for the returned clerk and register than would have voted for the contesting candidates. Many Democrats did not attend the polls on the ground that the military had been or would be sent to the county at the instance of men of the Union party; and that they, the Democrats, as had been the case before in almost every part of the State, would not be allowed to vote. This impression appearing from the proof to be general, the undersigned are clearly convinced that more Democratic voters were kept from the polls than voters of the Union party. In consequence of this impression, and the actual military interference at the polls, the undersigned are satisfied, beyond reasonable doubt, that Levin Woolford, the Democratic candidate for clerk, and John J. Dashiell, the Democratic candidate for register of wills, lost more votes than did the contesting candidates, Cadmus Dashiell, for clerk, and S. C. Long, for register. They are convinced therefore that the result, if there had been no military or other interference, would have been the same, except that Levin Woolford and J. J. Dashiell would have been elected by increased majorities."

As I said in the beginning, Mr. President, in order to justify Congress in passing this bill, the proof of existing evils should be plain, indubita-

ble, and irresistible. The times especially require it. Were it a time of peace, I admit the military authorities of the United States would have no power to interfere with State elections; but it is not a time of peace, but of war; a time in which the feelings of every man in the nation are taking a fixed direction, either in favor of the Government or against it; a time when it is absolutely necessary for the preservation not only of the Federal Government but of the State governments that a line of demarcation should be drawn between the loyal and the disloyal, between men who are friendly and men who are unfriendly; and I insist that, in view of the evidence before us, there is no sufficient reason for the passage of this bill had we even the power to pass it. In reference to Kentucky, there is absolutely no proof that any loyal man who wished to vote has been prevented.

In respect to Maryland, the proof is that there may have been a few instances of abuse, a few cases perhaps, and only a few, in which loyal men entitled to vote have been hindered; but I urge in reply that the evils thus proved are by no means sufficient to justify us in withholding military protection from the great mass of Union men, and breaking down in the border States the only barriers which can guard them against the dangerous intrusions of disloyal men. Such a measure would open the door to far greater evils than those complained of. And, sir, so far as the bill relates to the election of State officers, I flatter myself I have demonstrated that the measure transcends the power of Congress. Such an act of legislation would be simply void for want of authority.

As to the State of Delaware, I have but a very few words to say, and shall then take leave of this subject. Those words will be the words which the Legislature of that State have themselves uttered, and I shall leave it for the Senate and the country to judge whether there was not in the case of Delaware a necessity equally urgent for the employment of the military in the protection of the polls. The Legislature of that State, on the 29th of January, 1863, solemnly resolved:

"That under the same pretense freedom of speech and of the press have become idle words, as if upon them did not rest the corner-stone of the fabric of our free institutions; that these monstrous usurpations of power are not rebuked by Congress, but tolerated because of the declaration that they are necessary to put down the rebellion. Such declaration is utterly false; but if it were true, regarding as we do the preservation of civil liberty paramount to every other consideration, we unhesitatingly declare that the end proposed to be attained is not worth the sacrifice required.

"That viewing the numerous violations of the Constitution of the United States by the Federal Executive as tending to destroy the liberties of the people and the rights of the States, and the evident intent to carry on the present war for the emancipation of slaves and the subjugation of the southern States, either of which, if successful, would, in the opinion of this General Assembly, involve the whole country in irretrievable ruin, and prevent forever a restoration of the Union; we therefore declare, under a solemn sense of the oath we have taken to support the Constitution of the United States, the constitution of the State of Delaware, and to perform our duties as members of this General Assembly with fidelity, that we can give no aid or countenance to a war for such purposes."

That is, to a war waged for the purpose of subjugating the rebel States; or, in more intelligible language, a war waged for the restoration and re-establishing of legitimate government in those States. Sir, this resolution of the Legislature of Delaware I regard as tantamount to an ordinance of secession; it is a declaration that they will take no part in this war because, in their opinion, it is unconstitutional and unjust. What else have the rebels said? What have the rebels, by resolution or in their public journals, ever declared more hostile to the Government of the United States and its exertions to suppress the rebellion than is contained in this traitorous resolution? for it deserves no better and no other epithet.

And, sir, by way of carrying out the ideas embraced in the Legislature of the State on the 25th of March, 1863, passed an act making it highly penal for any person, a citizen of that State, to keep or bring or have within five miles of any voting place within the State any armed troops, punishing such person with fine and imprisonment as if he were a felon. Why, sir, if the laws of that State were carried out and the President were one of its citizens, and should happen to be personally present at a place of voting in Delaware in the command of a part of the Army

for the purpose of arresting or giving battle to traitors, he would be liable under this Draconian act of great and mighty Delaware to be indicted, fined, and imprisoned as a malefactor. Sir, it is useless to tell me that there was no necessity for military interference in a State whose Legislature could pass such acts. The President of the United States would be blameworthy, he would forfeit the respect of every friend of the country, did he not see to it that the rights of Union men and of the Government were upheld in such places; and for one, sir, I thank him for his salutary interference. I thank him and I thank other military men for their devotion to the cause of the country, and their protection of the Union men of Missouri, Kentucky, Maryland, and Delaware in this terrible ordeal of civil war through which we are passing. Sir, the country owes them a debt of gratitude. The cause of human liberty, protected by a written Constitution, is greatly indebted for their patriotic vigilance and devotion.

Sir, I beg the pardon of the Senate for consuming so much of their time. They will, however, attest that I have not hitherto been in the habit of trespassing upon it in debate; but they will, I trust, forgive me that on a subject so grave, involving the powers of the Government as a peace-maker and peace-keeper in the States, I have felt it my duty to give this bill my earnest consideration, and to lay the leading facts before the Senate, as I shall do before the country. And I trust, as I close my remarks, the Senator from Kentucky will be disposed to dismiss the flattering anticipation in which he indulged at the opening of this discussion, when he announced that the proofs were so strong in favor of his bill that he should even expect the vote of the Senator from Michigan when it should be put upon its passage. Sir, I trust I have said enough to dispel that dream.

Democracy of Kentucky and their Allies in the North.

SPEECH OF HON. L. ANDERSON,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

March 5, 1864.

The House being in Committee of the Whole on the state of the Union, and having under consideration the President's annual message,

MR. ANDERSON said:

MR. CHAIRMAN: In the remarks I propose to make a reply will not be attempted to the gentleman from Indiana, [Mr. Voorhees,] but will be mainly confined to the situation of affairs in Kentucky, which have prevailed since the outbreak of the rebellion, and now present themselves, and in which the people of my State have an all-absorbing interest, and which has produced more or less of crimination and recrimination.

Three of my colleagues [Mr. W. H. RANDALL, Mr. SMITH, and Mr. CLAY] and myself, have been charged with deserting the Union party and the platform of the State by voting for the gentleman from Indiana [Mr. COLFAX] for Speaker, and the other Union officers in the organization of this House. It is known to every intelligent public man in Kentucky that the Legislature, at its session of 1862-63, adopted the following series of resolutions:

"Resolved, That our institutions are assailed by an armed rebellion on one side, which can only be met by the sword, and on the other by unconstitutional acts of Congress and startling usurpations of power by the Executive, which we have seen by experiment can be corrected by the ballot-box. Policy as well as principle requires that Kentucky shall await the process of reform, which is slow but sure, and refrain from all unlawful and unconstitutional acts which have already brought terrible calamities upon the country, while we invoke the aid of all patriotic men to avert the evils that threaten our free institutions.

"Resolved, That this General Assembly now, in the exercise of its right to differ in opinion with the national Executive, enters its solemn protest against the proclamation of the President of the United States, dated 1st January, 1863, by which he assumes to emancipate all slaves within certain States, holding the same to be unwise, unconstitutional, and void.

"Resolved, That the General Assembly declares that the power which has recently been assumed by the President of the United States, whereby, under the guise of military necessity, he has proclaimed and extended martial law over States where war did not exist, and has suspended the writ of *habeas corpus*, is unwarranted by the Constitution, and its tendency is to subordinate civil to military authority, and to subvert constitutional and free government.

38TH CONG....1ST SESS.

Democracy of Kentucky, &c.—Mr. Anderson.

HO. OF REPS.

"Resolved, That this General Assembly hails with pleasurable hope the recent manifestations of conservative sentiment among the people of the non-slaveholding States in their late elections, and regard the same as the earnest of a good purpose on their part to cooperate with all other loyal citizens, give security to the rights of every section, and maintain the Union and the Constitution as they were ordained by the founders of the Republic."

The cardinal idea of which is found in the first three lines of the first resolution, "that our institutions are assailed by an armed rebellion on the one side, which can only be met by the sword." Yet my colleagues, [Mr. MALLORY, Mr. WADSWORTH, Mr. GRIDER, and Mr. HARDING,] who did not vote with myself and friends [Mr. CLAY, Mr. RANDALL, and Mr. SMITH] in the organization of the House, the other day voted against tabling the resolution of that impersonation of peace disloyal Democracy, the gentleman from New York, [Mr. FERNANDO WOOD,] to send commissioners to the rebel government at Richmond to humble the nation and disgrace our gallant Army by begging for peace, who then abandoned this cardinal idea that our institutions are assailed by an armed rebellion that can only be met by the sword.

But these resolutions were so full of complaint toward the Federal Government, and so silent of complaint toward the rebel government, that when the Union party met in convention at Louisville, where the loyal masses and not the politicians were represented, the convention would have nothing to do with the legislative resolves until a respectable degree of loyalty and Unionism was infused into them by the following additional resolutions:

"1. Resolved, That this convention approve and indorse the principles embodied in the joint resolutions upon Federal affairs adopted by the General Assembly of this Commonwealth at this late session, hereby affirming the same.

"2. Resolved, That the present causeless and wicked rebellion should be crushed by the whole power of the Federal Government, and the national authority restored over all the revolted States. And we are in favor of devoting our whole resources, if necessary, to the accomplishment of that object.

"3. Resolved, That we are opposed to the intervention or mediation of any foreign Power in our present troubles, preferring to settle our own difficulties in our own way, and all propositions to that effect which may be made by any foreign State or nation ought to be respectfully but unequivocally declined by our Government.

"4. Resolved, That the people of Kentucky have suffered insult and injury at the hands of the so-called southern confederacy, and are stimulated by every motive of interest and honor to oppose and overthrow it. This confederacy has sought and now seeks to break up the Union, forever dear and necessary to them, and when by their often repeated decisions they refused to join in the work of treason, infamy, and ruin, it trampled down their State constitution, put up a weak and usurping governor over them, and placed pretended senators and congressmen in its councils at Richmond, assuming to speak their voice; it invaded their State with armies, and sought to conquer and carry them away from a Union they revered to one they detested; it ravaged by bands of marauders, not soldiers, their fields time and again, robbed them of their public revenues and private property, destroyed their public records, burned their towns and houses, carried away their non-combatant citizens into long and loathsome imprisonment, where many still languish, murdered many of them, sometimes in their own homes, and in the presence of their families, and sometimes by cruel and infamous deaths, extending these atrocities even to women and children, thus setting at defiance all the laws of civilized warfare; and these efforts have continued and increased with the increasing aversion of the people of Kentucky to all its wicked designs, and now threaten to break with fresh force upon that State and people; that therefore the people of Kentucky can never cease their efforts for their own protection, the condign punishment of the authors of these wrongs, and the complete overthrow of the rebel confederacy; and all citizens of Kentucky (if any there be) who refuse to support their State and fellow-citizens against such unprovoked wrongs and cruelties, or profess to sympathize with such enemies, are false to their allegiance to friends, neighbors, State, and nation; that, nevertheless, of one thing the people of the revolted and the loyal States and of the world may rest assured, Kentucky will submit to such a despotism when she has no power to resist it."

"5. Resolved, That it is the duty of the Federal and State Governments to take timely and energetic steps for the defense of the soil of Kentucky against the invasion, the people from further plunder and ruin; and we earnestly invoke their attention to the subject, at the same time calling upon all the citizens of the State to second every effort in this behalf.

"6. Resolved, That our thanks are due, and are hereby tendered, to our gallant soldiers in the field, for the brave and devoted manner in which they have hitherto upheld the ancient renown of Kentucky, and bid them 'God speed' in the noble work of defending the honor of our flag and preserving the Constitution and Union, assuring them of our cordial, united, and unflinching support and the praises of a grateful country. That we feel also the profoundest veneration for the memory of the brave Kentuckians who have fallen in the great struggle for the Union, and the deepest sympathy for their surviving relations, whose just claims upon the country are hereby gratefully recognized."

The insult, injury, and grievances which the people of Kentucky had received at the hands of the rebel authorities and their minions are forcibly set out in the fourth resolution. These grievances, so onerous, so injurious, so insulting to a brave people, seem to have been forgotten or purposely overlooked by the "peace Democracy" and my colleagues, their allies, who differ from me.

But the supreme, cardinal resolve is the record in which the Union men of Kentucky pledged themselves:

"That the present causeless and wicked rebellion should be crushed by the whole power of the Federal Government, and the national authority restored over all the revolted States. And we are in favor of devoting our whole resources, if necessary, to the accomplishment of that object."

The whole resources of the people of Kentucky are pledged, not even excepting the everlasting "nigger," that so terribly exercises these peace Democrats of the North and my colleagues who vote and act with them. Upon this convention (not legislative) platform the candidates for State officers were nominated and were elected, save Hon. Joshua Bell, who declined the nomination for Governor, Governor Bramlette being put in his place.

But soon a Democratic party appeared in the field to contest for the offices, and this Democratic party absorbed the almost entire sympathies of the northern Democracy, and the entire corps of Democratic journals gave it a warm and cordial support, with a very few exceptions, among which may be named the Boston Post and Buffalo Courier.

A short retrospect of the history of this Democratic party of Kentucky will enable this House to estimate, in a slight degree, the loyalty of this party never found in its actions, and only occasionally in its professions. Soon after the election and before the inauguration of the present Chief Magistrate, Mr. Lincoln, the Gulf States began to secede; the border States were more tardy. The Virginia Legislature had invited, by resolution, a consultation of the border States in convention, to be held at Frankfort, Kentucky, in May, 1861. The Union men nominated their ticket, of one from each congressional district, and two for the State at large. The Southern Rights alias Democratic party also nominated their ticket. The election was to be on the first Monday in May. Before the election day the Virginia convention passed the secession ordinance, and she abandoned the convention called at her instance. The pseudo Democracy of Kentucky, seeing that they were likely to be disgraced in the election, and the time not having arrived when by force and fraud they could carry Kentucky into the maelstrom of rebellion, determined to withdraw their ticket, but the Union ticket continued and received at the polls one hundred and five thousand votes out of a voting population of less than one hundred and fifty thousand. It is still fresh in the recollections of many the fraudulent devices resorted to to defeat this election. In the county of my residence, these Democrats on the morning of the election sent out runners to the election precincts with the lying information that both tickets were withdrawn, and no election was to be held. In a majority of the precincts of my county no polls were opened; in some of the Democratic counties of my district no election was held. But the election showed that over two thirds of the votes of the State were still for the Union.

On the 20th of June following our congressional election came off; the State was then entitled to ten Representatives; nine Union men were elected and one Democrat, that notorious traitor, Henry C. Burnett. The Union ticket for Congress received a majority of about fifty thousand votes.

On the first Monday of August following the entire popular branch of our Legislature and one half the Senators had to be elected, and the Union party elected seventy-five of the one hundred members to the House of Representatives and all the Senators. Thus Kentucky had, from May to August, pronounced by overwhelming majorities that her people would abide in the Union.

Having been thrice defeated by such imposing numbers, the treasonable designs of this party culminated in a system of violent lawlessness and

disregard of decency unparalleled. In most of my district all law and order was broken down; no man who professed Union principles was permitted to exercise the functions of his office. The circuit judge of my judicial district, who had been a great popular favorite, and who had administered the laws for ten years with entire satisfaction, also being a delegate to the Charleston convention; saw and appreciated its action, and felt constrained to denounce its objects, because he would not rebel against the Federal Government that had never wronged him, and betray the State whose laws had been confided to his administration, was not permitted to hold courts in his district; indeed, had he attempted to do so, an excited populace would have taken his life by the most brutal means. Committees were regularly organized, and constant communication kept up with the rebel military authorities at Memphis and elsewhere in Tennessee; these were constantly urging the rebels to possess Kentucky, especially that part of it in which I reside. The State's attorney for my district was sent as commissioner to Montgomery to obtain from the rebel government then sitting there guns to put in the hands of the disloyal; and they openly boasted that if they could obtain twenty-five thousand stand of arms they would take Kentucky out of the Union in twenty-five days. A disloyal Governor, through a disloyal inspector general, had the State arms distributed among disloyal State guards, most of whom went into the rebel service and took with them the State arms. An extra twelve hundred muskets and a battery of six cannon and caissons were sent to a disloyal colonel of State guards at Paducah, who shipped them out to my town, placed them under the care of a disloyal captain of State guards; and this within thirty miles of the rebel encampment at Union City, in Tennessee. Of course, as was intended when shipped from Frankfort, these all fell into the hands of the rebels; they made a raid one night and got the guns without resistance. The largest town in my district, Paducah, containing about six thousand inhabitants, was governed by a mob. Though the criminal judge of the district lived there, and a county and city judge lived there, and other inferior magistrates, yet there was no law or order, no guarantee to Union men; these were mobbed and driven off, and sometimes murdered. The railroad was controlled for the purpose of transporting every contraband article to the rebels, while the packages of citizens who were Union men were violently opened and searched. The lives of Union men were daily and openly threatened because of their sentiments, and more than twenty murders occurred within a circle of twenty miles of my town, of citizens, before either side had taken military possession. Large meetings were held at which the most treasonable sentiments were uttered, recruiting for the rebel service openly and defiantly made, with the avowed purpose of possessing Kentucky and subjugating her free people. A disloyal Governor had twice called the State Legislature together to get it to call a "sovereignty convention," but it persistently refused.

Having failed to accomplish their wicked designs, through the firmness and patriotism of the people and Legislature, they resorted to a means which, although more wicked, was more promising. A petition directing the Governor to call a "sovereignty convention" by proclamation was circulated, and obtained thousands of signatures. This great abomination was advocated by their chief organs, the Louisville Courier and Paducah Herald, but the loyal men in various ways made it known to the Governor that his life would be the forfeit of any such wickedness. All their nefarious projects having miscarried, these par excellence, patriotic, and much-oppressed Democrats of the first congressional district—a part of the people of which I have the honor to represent, the others being represented by one Willis B. Machien in the rebel congress, placed there by their votes openly and notoriously given at a public election—called a convention, to meet at my town, Mayfield, for the purpose of making a military alliance with the then seceded State of Tennessee, and separating the entire first congressional district from the State of Kentucky. The address that called forth that immense convention—the largest

ever held in my district—was one of the most treasurable documents ever put forth by the most unblushing traitor. It was signed by three now prominent Democrats of my section. The bold and treasonable utterances of that convention were not excelled by South Carolina. Who were the chief actors in that traitorous conclave? Without stopping to rehearse their names, I will say they embrace almost every prominent Democrat in my district at this time. In this nest of rebels and conspirators was hatched that most infamous of pretended governments, the provisional government of Kentucky.

Soon after this Mayfield convention there was a body of personal and political bankrupts met at Russellville, Logan county, Kentucky, which, in the sheerest mockery, called themselves a convention. Not an election in any county of the State had been held. In some counties not even a common neighborhood political gathering, in other counties the merest meager primary meetings were held, and, by common resolve of political juntas, delegates were sent to the Russellville convention. Every county in the State was professedly represented—many of them self-constituted delegates. Yet this motley crowd of traitors, bankrupts, in principle as well as personal and political, assumed to be a sovereignty convention, to frame a constitution and make a government for the people of Kentucky, and overturn the well-established State government. They elected one George W. Johnson their provisional governor, and other State officers, and appointed one representative from each congressional district, who constituted his legislative council, with power to enact laws.

Among the enormities of this legislative council was an act giving to their justices of the peace jurisdiction to fine the citizen one thousand dollars and imprison him twelve months, without the intervention of a jury; and imprisonment by the petty tools of traitors hung over every Union man. This provisional government, being upheld by the military power of the rebels, then having a large part of the State in possession, by fines and gun taxes, and other illegal exactions, plundered the people of Kentucky out of hundreds of thousands of dollars, to sustain the most miserable set of renegades ever before congregated.

This provisional government appointed commissioners, some of whom had been indicted in times of peace for felony and who had never dared to venture a trial, to visit the judges, clerks, sheriffs, and other county and ministerial officers of the legitimate State government, who had been placed in office according to the constitution and laws of the State, and require them to renounce their allegiance to the legitimate State and United States Governments, and to swear allegiance to the provisional State and confederate governments. On the application of this provisional government, Kentucky was admitted by an act of the rebel congress into the so-called confederacy.

Who were the men that got up and carried on this provisional government? Who were the officers of the legitimate State government who betrayed their trust and the confidence reposed in them and violated their oaths of office to the State of Kentucky, and, by this unworthy betrayal of the State and its people, swore allegiance to the provisional government and confederacy, continued to hold their offices, and turn over its functions and influence to this charnel-house of corruption, the Southern Rights, alias Democratic party? The old men of this party are at home, enjoying the protection of the Government, complaining of the "unconstitutional" acts of the President; their sons are in the rebel army, fighting against the State that gave them birth.

But the bright and glorious days of Forts Henry and Donelson, and of Shiloh, rolled around; the rebel troops were driven from Kentucky, the provisional government had been crammed into the pocket of George W. Johnson, and retreated with the army of the rebel General Sidney Johnston. The Federal troops took possession, and the benign and legitimate laws of the real State government could once more be administered, and as soon as you could say "Presto, change!" this Southern Rights party all at once became the Democratic party of Kentucky—great God!—and was

soon admitted into full fellowship with the northern Democracy; "a fellow-feeling made them wondrous kind." Time marched on; another effort must be made by the rebels to redeem Kentucky. General Bragg, with the power and flower of the whole western rebel army, is sent into the State. They announce that they have come to stay and permanently possess Kentucky; men begin to recruit for their service; flaming addresses are sent among the people; the southern feeling is appealed to, and large numbers are again recruited, but wagons, horses, and bullocks are recruited by the thousand, and grain by the thousands of bushels, from the Union men, without compensation or even civility.

But thanks to the gallant men from the great Northwest, and those gallant veterans under Buell, Bragg is made again to retire from the State. Just before this, however, there was a scene in Frankfort. Johnston having been killed at Shiloh, one Richard Hawes was selected as the provisional governor of Kentucky, the rebels being in possession of the capital of the State—the legitimate Governor and the Legislature having removed to Louisville. Said Hawes was to be inducted into office in great pomp. He had read his address from the portico of the State-house, when an adjournment for dinner was made, and with a view to return and complete the ceremony by the official oath, but while at dinner the booming cannon of General Manson was heard from the romantic heights on the south of the Kentucky river, and ball and shell began to fall thick and fast among the rebel hosts. Without waiting to finish these ceremonies, so imposingly begun, or even his dinner, Governor Hawes disappeared with the rebel army, and the soil of Kentucky, so far as I know, has not since been desecrated by his tread.

Who were the men that aided in these imposing ceremonies? And who gave encouragement to rebel enlistments and impressments? The Democracy of Kentucky.

After these things occurred, and in the early months of 1863, preparatory to a contest for the State offices to be filled at the August election, 1863, there congregated at Frankfort a body of men calling themselves a Democratic convention, but from what primary assemblies the newspapers of the day did not inform us. Among those that congregated as delegates were many prominent actors in the scenes I have described.

Colonel Gilbert, then in command of the post, as a true and faithful officer and patriot, determined that no band of conspirators against the Government he was upholding should congregate to mature their machinations within his jurisdiction, and he dispersed them. After this was done, by private interviews and frequent intercourse, these men found a worthy representative of their sentiments and ulterior views and objects in Hon. C. A. Wickliffe, an ex-member of the Thirty-Seventh Congress. He was elected to Congress as a Union man, but, like other quasi-loyal men, had fixed an ultimatum at which he would cease to be loyal. He that fixes an ultimatum had better spare the time and labor and become at once disloyal, for he is destined to find himself ultimately coöperating with the rebels. He that cannot forego his cherished preferences and partialities, as events arise in the onward progress of such a vast conflict as is now convulsing the American people, has but little patriotism to start with, and that will become daily wasted until soon exhausted.

This Democratic party of Kentucky selected him as their standard-bearer in 1863, and the same party which had sent a full delegation to the rebel Congress, to vote the rebel authorities all the men and money that should be wanted, desired to send another delegation to Washington who would vote neither men nor money unless the President and Congress would let them dictate the policy of the war. This party also greatly desired the possession of the State government, as shown by their repeated efforts to establish the provisional government of Kentucky; but as this had become a hopeless failure, they determined to make an effort to possess the legitimate State government, and, as Democrats, went before the people of Kentucky, who knew their misdeeds and indignantly rejected them. They, however, had the sympathies of their northern Democratic brethren, who

have never sympathized with the true Union men of Kentucky. And to-day nine tenths of this Democratic party of Kentucky would hail with delight the "stars and bars"—the ensign of treason—and rejoice to see it triumphantly waving from every hill-top and turret of Kentucky. Nothing would yield them more pleasure than to see the rebel General Lee, with his rebel army, possess and plunder the northern cities and people, and be able to dictate terms of peace from that venerable and sacred edifice, the Hall of Independence, in Philadelphia.

For the purpose of showing the positions occupied by Hon. Mr. Wickliffe I make the following quotation from his letter accepting the call to run as their gubernatorial candidate. He says:

"I became satisfied that the policy of the war was changed—that the abolition power had triumphed—that the measures of Congress and the policy of the war had fallen under the control of the abolitionists."

Again he says:

"I recorded my vote against those measures, and against the bill appropriating for the present year the sum of \$700,000,000."

which was the Army appropriation bill passed at the session of 1862-63. Thus it will be seen that the position of Mr. Wickliffe, the nominee of the Democratic party in Kentucky, was that no more men or money ought to be furnished the constituted authorities of the Government for the suppression of the rebellion, unless they were permitted to dictate the policy of the war.

These were the issues; and gentlemen, claiming to belong to the Democratic party, upon this floor occupy a position identical with his. Those issues were decided by the people of my State, through the ballot-box, at the August election in 1863.

I do not refer to this matter because I have any desire to indulge in political controversies, but simply for the purpose of vindicating myself and those of my colleagues who are this day standing true to the platform of the Union men of Kentucky in sustaining the constituted authorities of the land, by furnishing them with all the means necessary to crush out this unholy and wicked rebellion.

Mr. Wickliffe states in his letter of acceptance that the character of the war had been changed by the President and Congress, and for that reason he had voted against all the appropriations necessary for the suppression of the rebellion, regarding the war as one for the abolition of slavery, which no Kentuckian of any honor or manhood could support; and this was the contest which took place in Kentucky in 1863.

Mr. Wickliffe's letter further states that the Democracy of Kentucky were in full sympathy with the Democracy of the North. About the time this Democratic rebel traitor party in Kentucky organized in opposition to the Union men, upon the platform that no more men or means should be voted to the Government for the purpose of suppressing the rebellion by force of arms, we find in Ohio—the third State in the Union in wealth and population—the same party meeting in convention to nominate a candidate for Governor. This convention claimed also to be the representatives of the Democratic party, and as such nominated, as candidate for Governor of that patriotic State, Mr. Vallandigham, who was a member of Congress when the rebellion broke out, and when the first gun was fired upon our flag waving over Fort Sumter, voted and spoke against making any appropriations to sustain the military power of the Government and to crush out the rebellion by armed force—a man who has been consistent in his opposition to fighting the rebels, and who constantly declared, as the members of his party on this floor are now declaring every day, that the Government cannot be maintained by meeting rebels force with force; that we must stop fighting and cease passing confiscation laws, as such a course only tends to exasperate the southern people and unite them against us; but that we ought to *conciliate* them by offering terms of peace. Such is the man the Democratic party of Ohio nominated for the office of Governor, on a platform in which not one word is to be found against the rebellion or in favor of furnishing men and money to sustain the Government in suppressing it.

38TH CONG....1ST SESS.

Democracy of Kentucky, &c.—Mr. Anderson.

HO. OF REPS.

This action of the leaders of that party in Ohio convinced the Union men in Kentucky that the Democracy of the North, following the lead of such men as Vallandigham, Wood & Co., were opposed to sustaining the Government and putting an end to the rebellion. The action of that party in Ohio was followed by the Democratic leaders, not only in every State where elections were held in 1863, but also in almost all the other northern States. In the latter, for the purpose of misleading the people who had always voted the Democratic ticket, they called conventions and passed resolutions sustaining the nomination of Vallandigham, who had been sent by the Government into exile in the rebel States, where his sympathies always had been. This banishment was the result of his opposition, not only to the conscription law, which he denounced as unconstitutional, but also in consequence of speeches made in his own and other States, advising the people not to volunteer in the armies of the United States. For thus discouraging enlistments he was, by a court-martial, tried, found guilty, and sent South, within the rebel lines, into a locality where his nomination for Governor of Ohio was first made by a rebel paper. During all this time the contest in Kentucky was becoming sharp and bitter; the true Union men of the State supporting the ticket headed by Governor Bramlette, while the Democrats and rebel sympathizers followed the lead of ex-Governor Wickliffe. During that contest in my State, where did the so-called Democratic party of the North stand? Were they for the Union ticket or for the rebel ticket? Were they for the election of any man in the State known to be for sustaining the Government with all the means necessary to suppress the rebellion?

Mr. Chairman, the record has been made. I could, were it necessary, show by almost every Democratic paper in the North, that they were the advocates of the election of Wickliffe, and those occupying the same platform that he did. Not only so, but many Democratic sheets denounced the election held in my State in 1863 as a fraud on the great Democratic party of Kentucky; and in almost every Democratic convention held since that election they have denounced it in like offensive terms—not in particular districts, but throughout the whole State—when in fact the Union State ticket received a majority of the legal votes of the State.

Such, Mr. Chairman, is the character of the slanders published to the people of the United States in regard to the election held in my State in 1863, by professed Democratic papers in the North; and it is with such men on this floor, sympathizing with this party, that I am called upon to act, and am actually told that it is my duty to do so under the Union State platform. The charges made in regard to the election held in my State are without any foundation in fact. The election there was held in strict accordance with the laws of the State, and no one was prevented from voting who would take the oath prescribed, and no one refused to take the oath unless he was a rebel at heart and desired the success of the rebellion.

But, Mr. Chairman, the friends of this party now on this floor as Representatives are endeavoring to confine their denunciations of that election to certain districts in the State which have sent Representatives here who refuse to act in concert with the Democratic party.

Having given the action of this party in the State of Ohio up to the August election in my State, I now propose, for the purpose of showing the action of its leaders, to follow them to the great State of Pennsylvania. On the 17th of June, 1863, the leaders of this party met in convention at Harrisburg to nominate a candidate for Governor. The individual selected was Judge Woodward, who accepted the nomination, and the principles laid down in the following platform:

"HARRISBURG, June 17.

"On the reassembling of the convention, at eight o'clock this evening, the chairman of the committee on resolutions offered the following series, which were unanimously adopted:

"Resolved, That we approve the resolutions upon the state of the country, passed by the House of Representatives of this Commonwealth on the 13th day of April last, and in addition thereto, and as a further expression of our views upon public affairs, do

"Resolve as follows, That we again renew our fidelity to the Constitution of the United States, the great charter for

which our forefathers struggled and fought, and which was established, as they themselves expressed it, 'to form a more perfect Union, establish justice, insure tranquility, provide for the common defense, promote the general welfare, and to secure the blessings of liberty to ourselves and posterity.' That inasmuch as the Constitution embodies the only guarantee we have for public liberty and private right, as without it we can have no hope of protection from bloodshed, spoliation, and anarchy, the man who sneers at the 'Constitution as it is' proves himself to be deficient in the first elements of patriotism, and any officer of the State or Federal Government who swears to support the Constitution, and afterwards, with that oath on his conscience, willfully violates it, is wholly unworthy of public confidence. That among the rights which the Constitution provides to every citizen, that of being secure in his life, liberty, and property, so that he cannot be deprived of either without due form of law—a fair trial by a competent judge and jury of his neighbors, with witnesses to confront him and counsel to defend him—is so great in itself, so necessary to the happiness of the people, for whom all government is made, and this is so plainly written down in the Federal Constitution and in all the State constitutions that any person who can misunderstand it has not the mental capacity which fits him for a public station.

"Resolved, That we have heard with intense alarm and deep indignation that some of our political opponents claim for the President of the United States a power hitherto wholly unknown in America, and never exercised in Europe or Asia except by the most despotic monarchs, namely, the power to arrest free citizens for the expression of their honest opinions on public affairs; and that the President has not only presumed to exercise this power himself, with the moderation and mercy which his own nature might prompt, but has delegated it to many subordinates, and they again to others in every part of the country, until its hideous presence is seen and felt all over the land.

"Resolved, That among the numerous officers to whom the President has given this terrible power, above the laws and above the people, there must, in the nature of things, be a large proportion who are totally incapable of wielding it either honestly or wisely, namely: politicians, filled with partisan rancor; knaves, who do not care for justice, and ruffians who delight in trampling it under foot; and therefore we are not surprised to learn that the worthiest men have been torn from their families, judges knocked down on the bench, ministers of the gospel imprisoned in loathsome dungeons, and respectable women and children treated with a brutality which it would be indecent even to name; and all this, in many cases, without a pretense, even, of a political offense, much less of any crime against the laws. That a free government cannot exist without a free press; and the constitution of this State, as well as that of the United States, has declared that it shall be free. Those persons, therefore, in office, who attempt to suppress books and newspapers by violence, are the enemies of this Government, and ought to be themselves suppressed. That we heartily thank the lion-hearted Democracy of Ohio for the manly vindication they have given to the Constitution against the great crime committed upon it in the arrest and deportation of Vallandigham, and we assure them of our cordial sympathy in the great struggle they are making for their undoubted rights. That the plain duty of the chief magistrate of this Commonwealth requires him to use whatever power the law has placed in his hands to protect the State and the people from lawless outrages, come from what quarter they may, and no man is fit to be Governor of this State who will consent to hold his own liberties and let the people hold theirs at the mere will of the Federal Executive.

"Resolved, That the Democracy of Pennsylvania have ever been true to the cause of the Union. It was in the name and for the sake of the Union that our party was made; that we denounce the base insinuation that the Democratic party entertains now, ever has entertained, or ever can entertain, the slightest sympathy with the present gigantic rebellion, or with traitors in arms against the Government, or would ever consent to a peace on any terms involving a dismemberment of this Union, as utterly unjust; and in proof of this we point with exultation to the lavish contributions to the war in blood and treasure heretofore and now being made by the hundreds of thousands of Democratic citizens, who were among the first to fly to the rescue of the Union, and peril their lives in its defense.

"Resolved, That, as the true friends of the Union, and feeling a profound anxiety for its fate, we claim, and will exercise, the right to consider, discuss, ascertain, and urge, in becoming terms, upon the people and the constituted authorities, whatever measures will, in our judgment, be most likely to place and keep the whole national Union together under one General Government.

"Resolved, That when the war began we had the solemn pledge of the Federal Administration and of the party which placed it in power, as expressed in the resolution passed by Congress July 23, 1861, that it is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or for the purpose of overthrowing or interfering with the rights or established institutions of these States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects are accomplished the war ought to cease. But the Federal Administration, acting under the influence of a small faction of ultra abolitionists, always opposed to the Union, and without the consent of the great mass of the people, has totally changed its grounds, avowing and proclaiming its purpose to be wholly different, and thus it has greatly delayed our just hope of an honorable peace."

Mr. Chairman, what the great character of the resolutions were which these refer to, as passed by the Legislature of that State, I cannot tell; but no matter what they are, since the last resolution, quoted above, charges "that the Federal Ad-

ministration, acting under the influence of a small faction of ultra abolitionists, always opposed to the Union, and without the consent of the great mass of the people, has totally changed the grounds of the war," which is the same charge, in substance, as made by Mr. Wickliffe, the Democratic candidate for Governor of Kentucky, thus virtually affirming that the war ought not to be further prosecuted. There is not one word in the entire set of resolutions denouncing secession or rebellion, or pledging the candidates to aid in furnishing men and money to suppress the rebellion. But, on the other hand, there is great sympathy expressed for the martyr and leader of the Democracy, Mr. Vallandigham. Such is the record as shown by the party in Pennsylvania.

In the month of July following, the rebels in arms against the Government of the United States invaded the State of Pennsylvania, but thanks to a loyal people, who refused to listen to the teachings of disloyal Democracy, the armies of the Republic were sufficient to beat back the rebel hordes, and when the smoke of the battle at Gettysburg had passed away the flag of the country floated in triumph upon the field of victory, despite the rebels in arms, and their aiders and abettors in the North. About the time this great battle was fought and this glorious victory achieved, there was a disgraceful riot in the great Democratic city of New York, superinduced by the opposers of the Government in the prosecution of the war and the enforcement of a draft. An actor in the scene appears in the person of Governor Seymour, who belongs to, and is in sympathy with, the Vallandigham Democracy, who addresses the mob, and calls them his friends, instead of confronting them with the militia of the State, with orders to shoot down and destroy the last one of them. They were no doubt friends to the Democratic party, but they were enemies of the Government, and aiders of the rebels in arms against the Government. This same Democratic Governor sent a dispatch to the President of the United States to suspend the draft until order could be restored by conciliation, but the President, like a good law-abiding officer, refused to listen to the suggestion.

Mr. Chairman, such is the record of the party, such its showing in favor of loyalty and devotion to the Government. In these dark hours of peril and gloom, these scenes took place. They are recorded on the pages of American history, and will go down to posterity as the patriotic acts of the Democratic party. But the contest for political favor in the North went on.

Notwithstanding the defeat of General Lee at Gettysburg, and of the mob in the city of New York, the canvass in the great States of Ohio and Pennsylvania grew sharper and warmer as the day of trial approached. It was a contest between loyalty and despotism, a contest between the friends of republican freedom and civil liberty, and those who would surrender this country into the hands of rebels and traitors.

As the day for the election approached, another actor appears in the scene; a man who had fought under the flag of his country, and had apparently done good service—I allude to General George B. McClellan. On the 12th day of October, 1863, two days before the election in the States of Ohio and Pennsylvania, this man, who was once the idol of the Union men of the country, so far forgot himself, and the issues involved in these elections, as to throw his name and influence on the side of the Vallandigham-Woodward Democracy. I quote his letter on the subject:

ORANGE, NEW JERSEY, October 12, 1863.

DEAR SIR: My attention has been called to an article in the Philadelphia Press, asserting that I had written to the managers of a Democratic meeting at Allentown, disapproving the objects of the meeting, and that if I voted or spoke it would be in favor of Governor Curtin, and I am informed that similar assertions have been made throughout the State.

It has been my earnest endeavor heretofore to avoid participation in party politics. I had determined to adhere to this course, but it is obvious that I cannot longer maintain silence under such misrepresentations. I therefore request you to deny that I have written any such letter, or entertained any such views as those attributed to me in the Philadelphia Press, and I desire to state clearly and distinctly, that having some days ago had a full conversation with Judge Woodward, I find that our views agree, and I regard his election as Governor of Pennsylvania called for by the interests of the nation.

38TH CONG....1ST SESS.

Democracy of Kentucky, &c.—Mr. Anderson.

HO. OF REPS.

I understand Judge Woodward to be in favor of the prosecution of the war with all the means at the command of the loyal States, until the military power of the rebellion is destroyed. I understand him to be of the opinion that while the war is urged with all possible decision and energy, the policy directing it should be in consonance with the principles of humanity and civilization, working no injury to private rights and property not demanded by military necessity and recognized by military law among civilized nations.

And, finally, I understand him to agree with me in the opinion that the sole great objects of this war are the restoration of the unity of the nation, the preservation of the Constitution, and the supremacy of the laws of the country. Believing our opinions entirely agree upon these points, I would, were it in my power, give to Judge Woodward my voice and vote.

I am, very respectfully, yours,
GEORGE B. McCLELLAN,

Hon. CHARLES J. RIDGLE.

Thus it will be seen that General McClellan, after a free and full conversation with Judge Woodward, comes to the conclusion that "he understands Judge Woodward to be in favor of the prosecution of the war with all the means at the command of the loyal States, until the military power of the rebellion is destroyed." He seemed to be at a loss to tell how the Judge stood by the platform on which he was nominated, and which he (Woodward) accepted, or from any public declaration he had made; but it remained to find out the opinions of the judge, on the great and important questions involved, by a private, free, and full conversation with him. The platform, however, on which the judge was nominated denounced the arrest and banishment of Mr. Vallandigham, and expressed great sympathy with the Democracy of Ohio for such a violation of their undoubted rights.

Mr. Chairman, this is the same Judge Woodward who decided that the soldiers from the State of Pennsylvania, who had volunteered under the flag of their country, were not, under the act of the Legislature of that State, entitled to vote; but that the act referred to was unconstitutional and void; and he also decided that the conscript law was unconstitutional. But this same Judge Woodward and his party became exceedingly indignant when the laws of the State of Kentucky, prohibiting rebels in arms and their sympathizing allies from voting, are enforced by the officers of that State, and they denounce our election as a fraud upon the people, and a farce.

Such was the man, Mr. Chairman, that General McClellan desired to see elected Governor of Pennsylvania, over Governor Curtin, a true, tried, and devoted patriot. Sir, when General McClellan wrote that letter he destroyed his influence and standing with the Union men of this country, he cut himself loose from true patriots, and joined hands with those who opposed the Government in putting an end to the rebellion. By this action he has identified himself with the Vallandigham Democracy, with whom the Union men of Kentucky cannot consistently, and never will, in my judgment, act.

I might go on, Mr. Chairman, and show by the record that the leaders of the so-called Democratic party have assumed the same position in other States; that is, opposition to the future prosecution of the war; but it is unnecessary, for it is written on almost every page of the history of this rebellion that their position now is, and has been for more than one year, that no more men or money should be voted to crush the rebellion by force of arms. On this distinct and vital issue, the contest in the loyal States in 1863, for political power, was made and squarely presented. And it was decisively decided by the voice of a free and enlightened people against them. When the sun, on the 14th day of October, 1863, went down, the decision in the States of Ohio and Pennsylvania was made, and when the news was telegraphed North and South, the greeting of every Union man was, All honor to Ohio, the Buckeye State, and, God bless old Pennsylvania. They are as firm in their devotion to freedom as their sons were to the flag on the bloody field of Gettysburg. Who was there in the border States that loved his country better than party or treason that did not rejoice at the election of John Brough, by one hundred thousand majority over Vallandigham, and who did not shout for the election of Governor Curtin over Woodward? Every Union man in Kentucky rejoiced at the success of these men, but every rebel-sympathizing Dem-

ocrat hung his head in sorrow for the defeat of those they regarded as their friends.

Such, Mr. Chairman, is the history of this party, as shown by its acts and conduct up to the meeting of Congress in December last. Then the issue was presented to the Union Representatives of Kentucky, how they should act in the organization of this House. We had either to act with the Union men of the North, and give them the organization of the House, or act with the Democracy, and give them the organization; in other words, to give the power to those known to be in favor of destroying the rebellion by force of arms, or to place the power in the hands of those who were opposed to furnishing the means necessary to speedily end this war by military force. Being pledged myself to the platform of the Union party in my State to sustain the loyal agents of the Government "with all the resources of that State," if necessary, I could not, as a Representative, do otherwise than keep my pledge and vote for the nominees of the Union party in this House, necessary for its organization. For this I have been charged with a violation of the platform of my party in the State of Kentucky. Not only so, but have been denounced as an abolitionist by that loyal sheet and would-be organ of the Union party of Kentucky, the Louisville Journal.

Mr. Chairman, the vote I gave for Speaker was in strict conformity with the platform of the Union party in Kentucky; and so far as the charge of abolitionism is concerned, it is an old, worn-out charge, always made use of by certain men when they have no other argument. But the idea of the Journal charging the Representatives on this floor from Kentucky, who voted for the honorable gentleman from Indiana for Speaker, as being abolitionists is simply ridiculous, especially when it is known that the senior editor of that paper has been charged by the Democratic party with abolitionism for the last twenty years; and they have further charged that before that gentleman left the land of steady habits, the State of Connecticut, he wrote a book, in which he appeared to be so anxious for the abolition of slavery in the United States that he wanted "the Lord to meet them in the air to free them." I know of no party in this country to-day who propose to go as high up for this purpose. This charge of being an abolitionist, Mr. Chairman, cannot deter or drive me from a full discharge of my duty. I was born and reared in the State of Kentucky; have been identified with slavery all my life; own slaves to-day. But, sir, my slaves, nor all the slaves in Kentucky, cannot make me disloyal or traitorous to my country. If slavery is being destroyed it is the result of this wicked rebellion; and my judgment is that when the rebellion is destroyed this institution will go with it.

Sir, when this war was inaugurated by the rebels and traitors, the Government of the United States called on my State to furnish her quota of troops to maintain the honor of the Government and uphold its flag. Governor Magoffin responded to the call, and said that Kentucky would not furnish a man or a dollar. In less than six months from the date of that response, the rebels and traitors in arms against our Government invaded Kentucky, for the purpose of forcing her people to join them in their unholy crusade for the destruction of the Government of the United States. And this invasion was made after the people of my State had three times in succession, in 1861, voted at the ballot-box to remain in the Union. Being thus invaded, and without the necessary means to protect ourselves from these traitorous hordes, the Legislature of the State (not the Governor) called on the national Government for aid to drive the invaders from the soil of the State, and nobly did the Government respond to that call. Troops poured into the State from Ohio, Indiana, Illinois, and other States, and they were met and received with joy and pride by every Union man.

These men, who had left their homes, firesides, and all that was dear to them on earth, came to our relief in that dark hour of peril and gloom. They stood up side by side and shoulder to shoulder with the Kentuckians, under the same flag, and fighting in the same holy cause against a common foe. No questions were asked of those men, whether they were Republicans or Democrats, or

whether they were for slavery or against it, but the vital, overshadowing issue was, the life of the Government is at stake, the honor, the lives, and liberties of the people of Kentucky are involved and jeopardized. Her citizens were being arrested and imprisoned, her fields were being devastated, and the rebels would have succeeded in the complete destruction and subjugation of the State had it not been for the timely aid given us by the national Government. With such help we were able to drive the rebels and traitors from our border, not, however, without bloody conflicts, for the soil of my State was wet with the blood of loyal Kentuckians and their allies and friends from other States who stood up with them on the field of battle. And to-day there are lying beneath the soil of Kentucky the bones of thousands of martyrs to the cause of the free principles of this Government.

Mr. Chairman, if Kentuckians can fight under the same flag with northern men in the same holy cause, is there any crime? Can it be criminal in me, a Kentuckian, on this floor as a Representative in Congress, to vote with and for northern men to sustain these soldiers now in the field? Could I do less, and maintain my pledge made long before the meeting of this Congress, than to give the vote I did?

Mr. Chairman, the vote I gave for Speaker was right. The acts and conduct of the Opposition or Democratic party on this floor since that vote was given confirm it. To show their opposition to the prosecution of the war, I will refer to facts which have transpired here. On the 17th of December last, my colleague from Kentucky [Mr. SMITH] introduced a series of resolutions, as follows:

"Mr. SMITH submitted the following resolutions, upon which he demanded the previous question:

"1. *Resolved*, That as our country, and the very existence of the best Government ever instituted by man, are imperiled by the most senseless and wicked rebellion that the world has seen, and believing, as we do, that the only hope of saving this country and preserving this Government is by the power of the sword, we are for the most vigorous prosecution of the war until the Constitution and laws shall be enforced and obeyed in all parts of the United States; and to that end we oppose any armistice or intervention, or mediation, or proposition for peace, from any quarter, so long as there shall be found a rebel in arms against the Government; and we ignore all party names, lines, and issues, and recognize but two parties in this war—patriots and traitors.

"2. *Resolved*, That we hold it to be the duty of Congress to pass all necessary bills to supply men and money, and the duty of the people to render every aid in their power to the constituted authorities of the Government in the crushing out of the rebellion, and in bringing the leaders thereof to condign punishment.

"3. *Resolved*, That our thanks are tendered to our soldiers in the field for their gallantry in defending and upholding the flag of the Union, and defending the great principles dear to every American patriot.

"Mr. CRAVENS. Cannot we divide the resolutions?

"The SPEAKER. There can be a separate vote on their adoption.

"Mr. GRIDER. Is it in order to move that the resolutions lie over and be printed?

"The SPEAKER. It is not, the gentleman from Kentucky having demanded the previous question.

"Mr. W. J. ALLEN. Is it in order to amend the resolutions?

"The SPEAKER. Not unless the previous question be voted down.

"The House divided on the demand for the previous question; and there were—ayes 80, noes 6; no quorum voting.

"Mr. STEVENS called for tellers.

"Tellers were ordered; and Messrs. COLE, of California, and BLISS were appointed.

"Mr. MALLORY. I hope the resolution will be again read, and I think if the vote be taken again there will be a quorum.

"The resolutions were again read.

"Mr. HOLMAN. I suggest that there be a recount without tellers.

"The SPEAKER. That can be done only by unanimous consent. If there be no objection, the Chair will again count the House.

"No objection was made.

"The House again divided; and there were—ayes 99, noes 12.

"So the previous question was seconded.

"The main question was then ordered.

"Mr. HOLMAN called for a division of the question.

"The SPEAKER stated that the question would be on the adoption of the first resolution.

"Mr. LOVEJOY demanded the yeas and nays.

"The yeas and nays were ordered.

"The Clerk proceeded to call the roll.

"During the call,

"Mr. MALLORY said: I rise to a point of order. The resolution on which the House is voting is not the one that is called the first resolution by the gentleman who introduced them.

"The SPEAKER. The Chair is informed that by mistake

the second resolution has been reported by the Clerk instead of the first.

"Mr. HOLMAN. I raise the point of order that the first, though called a resolution, is really in the nature of a preamble, and should be voted on last."

"The SPEAKER. It is not, however, a preamble. It commences with the word 'resolved.'"

"Mr. HOLMAN. I suppose that the vote now can only be set aside by unanimous consent."

"The SPEAKER. The Chair supposes that there can be no objection to setting aside the roll-call."

"Mr. HOLMAN. I object."

"The SPEAKER. The Chair will take the responsibility of ordering the roll-call to be suspended, subject to the censure of the House if he be wrong in doing so."

"The Clerk reported the first resolution."

"Mr. CRAVENS. I move to lay the resolutions on the table."

"Mr. WASHBURN, of Illinois. On that I call for the yeas and nays."

"Mr. CRAVENS. I withdraw my motion to lay on the table."

"Mr. ANCONA. I renew it."

"Mr. WASHBURN, of Illinois. I call for the yeas and nays."

"The yeas and nays were ordered."

"The question was taken; and it was decided in the negative—yeas 60, nays 100; as follows:—"

"YEAS.—Messrs. James C. Allen, William J. Allen, Ancona, Bliss, Brooks, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Fluck, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herick, William Johnson, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, McDowell, McKimney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, John B. Steele, Stiles, Strouse, Stuart, Sweet, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—60."

"NAYS.—Messrs. Allison, Ames, Arnold, Ashley, Bailly, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Frank, Ganson, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Hutchins, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Loan, Lovejoy, Marvin, McAllister, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Ward, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, and Woodbridge—100."

"So the House refused to lay the resolution on the table."

These resolutions are to the point; and it does seem to me that there is nothing in them to which any man could object who is really for crushing the rebellion by the sword. Such being the fact, how does it happen that gentlemen who claim to be Union men manifest so much opposition to these resolutions? Why vote to lay them on the table? If the doctrines set forth are correct and ought to be carried out by the constituted authorities, why endeavor to bury them? These are questions which every Union man will demand should be answered by the sixty Representatives who voted to lay them on the table. Mr. Chairman, if this rebellion is not to be destroyed by force, will gentlemen who oppose it being done in that way tell us how it is to be done? Is it by compromise, or conciliation? If the former, how shall we set about it, when the rebels, from the highest to the lowest, have declared time and time again, upon every occasion, that they would agree to nothing save the acknowledging of their independence? Every act and declaration of those in rebellion is to this effect. Then why talk about compromise unless you are willing to compromise on that basis? Why is it that when the gentleman from New York [Mr. Wood] introduced his celebrated peace resolutions during the present session of Congress, we find fifty-nine Representatives voting against a motion to lay them on the table; or, in other words, voting to appoint commissioners to open negotiations with the authorities at Richmond, to the end that this war shall cease?

"Mr. FERNANDO WOOD submitted the following resolution; which was read by the Clerk:—"

"Whereas the President, in his message delivered to this House on the 9th instant, and in his recommendation to the people to assemble at their places of worship and give thanks to God for recent victories, claims that the Union cause has gained important and substantial advantages; and whereas, in view of these triumphs, it is no longer beneath our dignity, nor dangerous to our safety, to evince a generous magnanimity becoming a great and powerful people by offering to the insurgents an opportunity to return to the Union without imposing on them degrading or destructive conditions: Therefore,

"Resolved, That the President be requested to appoint three commissioners, who shall be empowered to open negotiations with the authorities at Richmond, to the end that this bloody, destructive, and inhuman war shall cease, and the Union be restored on terms of equity, fraternity, and equality under the Constitution."

"Mr. FERNANDO WOOD. I ask for its adoption; and on that call for the previous question."

"Mr. WASHBURN, of Illinois. I move that the resolution be laid upon the table; and on that motion call for the yeas and nays."

"The yeas and nays were ordered."

"The question was taken; and it was decided in the affirmative—yeas 98, nays 59; as follows:—"

"YEAS.—Messrs. Alley, Allison, Anderson, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Blaine, Jacob B. Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Fenton, Ganson, Garfield, Gooch, Grinnell, Griswold, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubard, Jenckes, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Loan, Lovejoy, Marvin, McBride, McClurg, McIndoe, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Ward, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, Woodbridge, and Yeaman—98."

"NAYS.—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Fluck, Grider, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herick, William Johnson, Kernan, King, Knapp, Law, Lezear, Le Blond, Long, Mallory, Murey, McDowell, McKimney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Robinson, James S. Rollins, Ross, Scott, Stebbins, John B. Steele, Stuart, Sweet, Voorhees, Wadsworth, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—59."

"So the resolution was laid upon the table."

All who thus voted, with perhaps one exception, belong to the Democratic party, or act in concert with it. Why are gentlemen on this floor so anxious to send commissioners to treat with rebels and so loth to vote men and money to fight them? The rebels began the war, struck the first blow; and when they are satisfied with fighting, and have tasted sufficiently of Yankee bullets and bayonets, the presumption is that they will say so, and lay down their arms and submit to the Constitution and laws of the United States. Until they do so, I never will by any act of mine say compromise once.

Again, the armies of the Government are needing supplies of men and money. An enrollment bill is reported from the Military Committee to raise the troops called for by the President; and also to raise what may be deemed necessary in the future to put down the rebellion. To this bill it was hoped there would be no opposition from the Democratic party, especially as they have voted, when forced by a majority of the House, for the second resolution of my colleague, [Mr. SMITH,] "that it was the duty of Congress to pass all necessary bills to supply men and money to the constituted authorities of the Government in crushing the rebellion;" yet day by day they discuss and denounce the bill by which alone the armies of the Government can be filled to meet the rebel hosts, and finally on its passage almost to a man vote against it.

Such, sir, is the record of this party; a record which cannot be defended before an enlightened and patriotic people; a record in direct conflict with the platform of the Union party in Kentucky; a record against the soldiers now in the field, under the flag of the country, fighting armed rebels; a record which already stands justly condemned by the voice of a free people—by the people of my State at the last August election. This, sir, is the party with which the Union men of my State are told they must act in the coming presidential contest. Sir, the Union men of Kentucky will never forget their traditions for patriotism; never forget the teachings of that statesman, Henry Clay, whose principles they yet cling to, so far as to join hands with the Vandalism or so-called Democratic party of the North. No, sir, never; but her true sons will rally from her mountains, her rich valleys, and all along her smiling plains, and act in concert with the true Union men of the North and South, and at the

ballot-box in November next say, by their votes, to the Vandalism Democracy, "Weighed in the balance and found wanting" in patriotism."

The true friends of the Union men in the border States are the supporters of the constituted authorities of the land, who are now and have all the while been endeavoring to put down this rebellion. We should not obstruct or endeavor to thwart the President in his efforts to crush the rebellion, by uncalled-for denunciations or unjust criticism on his acts, even though we may differ with him. To do so is to assist the insurgents, and to give them "aid and comfort." Sir, my State has suffered enough in consequence of this rebellion, and that too at the hands of rebels and traitors, as is truthfully set forth in the fourth resolution adopted by the convention at Louisville, Kentucky, referred to in a former portion of my remarks; but had she proved faithless to duty and followed the advice of her traitorous sons, Breckinridge, Burnett, and others, her situation would have been ten-fold worse; her fields would have been desolated, and devastation would have swept over her like a tornado. The effects of this unjustifiable rebellion are, however, to be seen all over the State; in home circles, broken families, separated and embittered on the causes of this terrible contest.

Sir, to be a Union man in a slave State is no easy task; he suffers the taunts and jeers of those who are ignorant, led on by designing demagogues, who too cowardly to fight remain at home with an oath on their conscience, protected by the Government, but on all occasions are talking about the Constitution and its violation by the President and those aiding him in crushing the rebellion. These are the men in my State who call themselves Democrats. They are the men with whom the so-called Democrats of the North sympathize; and it is such conduct as this, in my judgment, which is prolonging the war; and before God and the country, I believe that the opposition to the prosecution of the war by men professing to be Union men has largely contributed to keep up this struggle to the present time. All the acts of the Opposition in this House, together with all the declarations of its members, show to the world that they are opposed to destroying the rebellion by force of arms. They declare over and over again that war cannot bring peace, and that the people in rebellion can never be subjugated. These declarations and this opposition is made known to the rebels, and it has the effect, whether intended or not, to give them encouragement and make them hold out longer in the struggle. Why is it, if these gentlemen are for crushing the rebellion, they do not rise above all party feeling and prejudice, and by their acts, their votes, and speeches, aid the constituted authorities of the land in destroying the rebellion? If this course was pursued we would all be united and no power under heaven could defy us. The Opposition may think that the measures adopted by the President are not the best adapted successfully to put an end to the rebellion; but by the Constitution he is Commander-in-Chief of the Army and Navy, and it is the duty of all good citizens to aid and strengthen him in his efforts to restore peace and tranquillity to our bleeding country.

Mr. Chairman, there is no difference in moral guilt between those who adhere to a foreign despot and those who encourage a domestic traitor. A tyrant in 1776 attempted to smother a country in its infancy. Traitors in 1864 seek to destroy a nation in its manhood. Those who gave aid and comfort in 1776 to the enemy, either openly or secretly, were not as culpable as those who now either openly or covertly sustain this infamous rebellion. The Tories of 1776, the nullificationists of 1832, and the opposers of this war, will all in our country's future history be consigned to one common grave of infamy and execration. True and devoted Unionism knows no conditions, but stands by the constituted and lawful agents of the Government in all their action to crush the rebellion—scrutinizing such action, it is true, but doing so like earnest patriots, not like covert traitors. In times like these party spirit should be hushed. That spirit was hushed in the Revolution when our fathers were struggling to establish this Government. And when the hero of New

38TH CONG....1ST SESS.

Amendments to the Constitution—Mr. Davis.

SENATE.

Orleans crushed nullification in South Carolina in 1832, he was sustained by the patriotism of men such as Clay and Webster.

The true Union men of this country will protect it from foreign despots and from domestic traitors: "One country, one Constitution, one destiny." Let this be the rallying cry of the Union men in the coming contest for political power. It is the lesson breathed from the tombs of the patriots, who in times past maintained the honor and upheld the flag of our country. Let the lesson taught by their example and precepts prevail over the dishonoring suggestions of degenerate sons of the present day, who profess to belong to the Democratic party, but who malign and traduce the name of those who were true to the flag and interests of this country, one and indivisible.

AMENDMENTS TO THE CONSTITUTION.

SPEECH OF HON. GARRETT DAVIS,

OF KENTUCKY,

IN THE UNITED STATES SENATE,

March 30, 1864.

The Senate, as in Committee of the Whole, having under consideration the joint resolution (S. No. 16) proposing amendments to the Constitution of the United States—

Mr. DAVIS said:

Mr. PRESIDENT: There is no more important business to be transacted by the people of the United States than the amendment of their Federal Constitution, the fundamental law of their Government. The general reason assigned by the chairman of the Committee on the Judiciary, who reported this resolution, and supported it in a very able speech, why the proposed amendment should be adopted, struck me as being very unsound and altogether fallacious. He assumed that slavery was the cause of the rebellion: in substance, that whether the immediate and proximate cause was in the purpose of the rebels to establish a southern confederacy, consisting exclusively of slave States, and based upon the institution of slavery, or whether that immediate and proximate cause was the interference of the northern fanatics and abolitionists with the institution—in either state of case, slavery was the cause of the war, and therefore should be abolished. If my honorable friend should devote himself to the general policy of abolishing all causes that directly or indirectly lead to wars, with the purpose and hope to prevent them, I think he will adopt one of the most utopian and impracticable notions that has ever yet engaged the mind of a statesman and a legislator.

Sir, what produced the war of the Revolution? The apparent cause was the encroachment of the mother country upon the rights of the colonies. The immediate and proximate cause was the imposition of the stamp tax and duties on the importation of teas and other articles into the colonies. This was taxation without representation. According to the logic of this day, as taken up and enforced by the honorable chairman of the Committee on the Judiciary, the wise and proper mode of treating that difficulty at the time would have been to prohibit such transactions as required stamps and the importation of articles upon which duties had been or were likely to be imposed by act of Parliament. Taxation of the colonies by the Parliament of England without being represented in it was unquestionably the proximate cause of that war; and according to the reasoning of the Senator, the abrogation of all property, commerce, and transactions in the colonies upon which the mother country could levy taxes would have made their imposition impossible, and have thus removed the cause of the impending war, and that policy should have been adopted by the colonies as well to prevent the then impending as future wars.

We had a war with England commencing in 1812. Every war has its cause or causes, and the causes of most wars are multiform, and both immediate and remote. They are not single and isolated; they are not limited to one or two, but are generally many. They spring primarily out of the wickedness and bad passions of the human heart, its ambition, its lust of power and dominion. Various subjects, according to the condition

of different countries, are made the pretexts of war; but they are primarily in the infirmity and the wickedness of our common nature. The immediate causes of the war of 1812 were certainly the encroachments of England upon the shipping, the seamen, and the commercial rights of the United States. If those subjects of national rivalry and collision had not then existed, there would not and could not have been a war of which they were the cause or the pretext. According to the mode of argument of the honorable Senator the proper and wisest mode of treating that difficulty would have been to abolish those interests of our country that produced the war, aggressions upon which by England constituted its proximate cause. The cause being removed, there could have been no war; and their annihilation being permanent, they could produce no future wars with England or any other country.

What was the cause of the war of the United States with the Seminole Indians? What produced all the wars that we have had with the Indian tribes? Nothing but the encroachments of the white settlers upon the Indian lands, and the wrongs and oppressions committed by the white settlers upon the Indian tribes. The mode of argument adopted by my honorable friend would prove that all our difficulties and wars with the Indians could and should have been prevented by keeping our people away from their lands and all contact with them, to the end that there should exist no causes of war between them.

No gentleman is more thoroughly read than the Senator from Illinois of the number and bloodiness of the wars of which the Christian religion has been made the pretext. I suppose there is no matter that appertains to man that has been connected with a greater number of wars, or more of bloodshed and misery, and of such an infinity of crimes, national and individual. The argument of the Senator on the present occasion for the destruction of slavery would demand, with equal truth and far more force, the abolition of the Christian religion at the times when those wars occurred, and now also for its expulsion from the earth to prevent it from being the remote or proximate cause of future wars.

Sir, it has been said, and repeated times without number, truly, that History reproduces itself. The same course of events that have occurred will, under a like state of circumstances and causes that produced them, sooner or later come again, and so on perpetually. The world will, through all the generations of man, have its wars originating in the bad passions of rulers, of which conflicting national interests, boundaries, religion, and an indefinite number of other causes will be made the pretexts, and it is impossible to devise preventives for them.

Mr. President, if I was asked to point out the most operative single cause of the pending war, I should certainly name the intermeddling of Massachusetts with the institution of slavery. I suppose other Senators, and especially those from the northern portion of the free States, would associate South Carolina as being equally probably a greater sinner than Massachusetts. From this equality of delinquency and guilt I should certainly dissent. But I would be disposed to compromise the matter by conceding "bad eminence" to both of these States, and in relation to both I would be perfectly willing to adopt the remedy of the honorable Senator from Illinois and inflexibly to put it in execution. I would abolish both of the States; and if that abolition could have occurred twenty or thirty years ago I feel entire confidence that this deplorable war would never have occurred. I only regret that it has not been within the scope of providential events or within the actual and executed policy of the Government and people of the United States that these two pestiferous States had been wiped out in the past generation. Sir, it would have been a demolition, but it would have produced incalculable good to the whole country.

But, sir, I am opposed to the pending proposition to amend the Constitution of the United States for several reasons intrinsic to the subject. In the first place it strikes at one of the most essential principles of our commingled system of national and of State governments. When the Declaration of Independence was promulgated

and when the Constitution of the United States was adopted, there were thirteen States. According to the present boundary of these thirteen States, the area of territory of the United States is now more than five times as much as the aggregate of those States, and the number of States will be, if the Union is restored, before many years multiplied to more than fourfold of the original thirteen. Those States had existed as independent communities. While they were colonies, they were independent of each other; dependent only upon the Government of the mother country. When the colonies assumed their independence, they took that condition as separate and distinct sovereignties, and the attributes of independence, in its essential nature, of each of the States was not destroyed or parted with by the old Articles of Confederation. All the substantial powers of sovereignty, of separate political independence, subsisted and were exercised by the various States after the adoption of the Articles of Confederation. According to my recollection, the Articles of Confederation were not finally adopted by all the States until 1778. They were offered for the adoption of the colonies in 1776, and a considerable time elapsed before they were adopted by several of them.

The people of all the colonies had been habituated from their first settlement each for itself, by its own will and by its own legislative body, to manage its own domestic and local concerns. There consequently was no proposition that these domestic concerns of the States should be surrendered to a common national Government, either when the Articles of Confederation or the present Constitution of the United States was formed. If such a proposition had been made, it would not have been entertained one moment, either in the Congress that formed the Articles of Confederation or the Convention that framed the Constitution. But if such an extensive jurisdiction had been surrendered by the States to the General Government, its exercise would have been impossible under the Articles of Confederation and impracticable under the Constitution, as well from the generally limited and restricted powers of the United States Government under both, as from the incompetency of our central Government to wisely and safely manage all the local affairs of so many States, varying in climate, soil, pursuits, productions, natural and artificial, education, opinions, and religious faith; and each for itself having always previously had the exclusive management of all these concerns. They were never intended to be, and are not in fact, confided to the General Government; but by an express provision of the Constitution are with jealous forethought reserved to the States.

If that was the state of things when there were but thirteen States and comparatively so small a territory, with what accumulated force does it present itself now, when we are about to have thirty-eight or thirty-nine States, and many others will soon be thronging into the Union, and it has already overleaped the distant Rocky and Coast mountains, and is washed by the billows of both the Atlantic and Pacific oceans?

If we are to have union, liberty, and peace, the indispensable condition is that the great fundamental principle, that the States are to have the entire and exclusive control of their own local and domestic institutions and affairs, must be held inviolable by the General Government. The opposite would result in intolerable despotism and misgovernment, soon to be overthrown by general consent or violence.

Sir, to this objection it may be answered, "This amendment is restricted to a single subject, and that subject slavery." But the proposed amendment carries a general principle which is as hostile to other peculiarly local and State institutions and interests as to slavery.

When the war of the Revolution commenced every State in the Union held slaves, and it was the normal condition of the colonies. It continued to be the normal condition of the States from their Declaration of Independence until after its acknowledgment by the treaty of 1783. The States that adhered to slavery and continued that institution had more reason and juster grounds of complaint against the States which abolished it than these States had against those that contin-

38TH CONG....1ST SESS.

Amendments to the Constitution—Mr. Davis.

SENATE,

ued it. If all the States that held to slavery at the close of the war of the Revolution had continued it to the present time, the subsequent mischievous agitation by the people of some of the States of slavery in other States, and the present convulsion would never have been heard of. Slavery would not have been even an imputed cause of any war or trouble among the States. The States that abolished slavery themselves departed from the homogeneous condition of the colonies and original States. They had no power or reason to claim more than the right to control that institution within their own borders, to abolish it or to continue it, as seemed to them best; and they ought scrupulously to have abstained from intermeddling with it in other States who chose to continue it. The plainest policy and the commonest good faith required this forbearance.

The right of Kentucky to continue slavery was as perfect and absolute as was the right of Massachusetts to abolish it. She had no more just ground to insist that the other slave States should abolish slavery than they had that she should continue it. But Senators seem to lose sight of this great feature in our blended system of government. To maintain it, to hold it in its harmonious and perfect action, it is as essential that the existence of the authority and powers of the States within their reserved sovereignty should be upheld, maintained, and preserved as it is that the limited and delegated powers and sovereignty of the General Government should exist, be supported, defended, and exercised. Sir, our complex system of government was so fashioned and understood by those who made it. I will read from the thirty-ninth number of the *Federalist*, which was written by Mr. Madison in support of this important principle. He is discussing the character of the Government and its mixed features, and he says:

"But if the Government be national, with regard to the operation of its powers, it changes its aspect again when we contemplate it in relation to the extent of its powers. The idea of a national Government involves in it, not only an authority over the individual citizens, but an indefinite supremacy over all persons and things, so far as they are objects of lawful government. Among a people consolidated into one nation this supremacy is completely vested in the national legislature. Among communities united for particular purposes it is vested partly in the general and partly in the municipal legislatures. In the former case all local authorities are subordinate to the supreme, and may be controlled, directed, or abolished by it at pleasure. In the latter the local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority than the general authority is subject to them within its own sphere. In this relation, then, the proposed Government cannot be deemed a national one, since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects."

The men who framed the Constitution were preëminently wise, experienced, and patriotic statesmen. Its contemporaneous expounders understood it well, and the presentation and argument of its leading principles in the numbers of the *Federalist*, for ability and truth never was exceeded by commentary or gloss on any Government. If those who have charge of and administer the Government now and in the future would learn from them, maladministration could be but rare and of no great or abiding mischief. In no treatise which I have read can as much be learned in the same space of the true nature and principles of our Government as in number thirty-nine of the *Federalist*. In this paragraph the sovereignty delegated by the people of the States to the Federal Government and that retained to themselves and their governments respectively is clearly stated. In the first "its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects." The Government of the United States and of the States have separate and distinct portions of the aggregate mass of all political sovereignty, and each government is of paramount and supreme authority within its proper jurisdiction. To make war upon the United States or any State when they are respectively in the exercise of their constitutional powers or to resist by armed force the execution of their laws is equally treason; and if this war or resistance is made by officers of the United States against a State, or by officers of any State government against the United States, it is no less

treason against the State or the United States respectively than it would be if the delinquents were unofficial persons. The President may commit treason against a State and a Governor of any State against the United States by the same acts that would be treason if done by private individuals. No position of office or authority, whether under the United States or a State, gives any immunity whatever for acts of treason against either.

Mr. HOWE. As the Senator and I seem to be agreed upon one point, and I wish to know how far I am committed—

Mr. DAVIS. I do not hold you committed at all.

Mr. HOWE. In reference to that I should like to ask him a single question. I ask him whether the Army of the United States commit treason in making war against the laws of South Carolina? Does he hold that that is one of the States whose laws limit the action of the Army of the United States?

Mr. DAVIS. No, I do not hold that, but I lay down my position thus: that when a State is in the performance of its duty in conformity to the Federal Constitution, that State is entitled to the same immunity from infraction of its laws and sovereignty by the President of the United States and all officers of the General Government, civil and military, as from its own citizens, and as the United States and their Government are from the Governor and other officers of the State. That is my position. The absorption of the sovereignty not delegated by the Constitution to the General Government, and consequently reserved to the States, or any portion of it, by the President or Congress, would be revolutionary and destructive of our system, as would be the absorption by the States of the sovereignty, or any portion of it, delegated to the Government of the United States. The encroachment of either upon the other would be equally unauthorized and criminal, and the persons engaged in making it punishable for parallel offenses by their respective judicial tribunals. There is a common and reciprocal duty and right between the Government of the United States and the States, to respect the powers and rights of each other and to defend their own. It is the highest obligation of every citizen to support and defend both against all assailants, though they be the officers of the other, and with its colorable authority. Mr. President, [Mr. POWELL in the chair,] it is clearly and imperatively the duty of you and myself to defend the reserved rights and sovereignty of Kentucky against the encroachments of Abraham Lincoln and his party, as it is to defend the limited sovereignty of the United States against the assaults of the rebels. To fail in either would be equally delinquent and criminal. Whoever, and by whatever command, has resisted by an array of force the execution of the laws of Kentucky, has committed the offense of treason against that State, and should suffer the penalty denounced against the crime. The President of the United States, the Secretary of War, and generals high in command have moved armed bodies of men into Maryland, Delaware, Kentucky, and Missouri, to resist and defeat the execution of the election laws of those States, and have themselves, by the power of the sword, driven their free citizens from their own polls, and themselves virtually appointed the minions of executive power to seats in the House of Representatives of Congress and to State offices. Those high functionaries thereby committed treason against those States, and the most important and imperative duty of their authorities and people is to have those great delinquents arraigned and punished for their crimes by the judgment of the courts of the States against which they were committed. The punishment of Federal officers so high in authority for the commission of treason against the States, by the just and firm execution of the law in their civil courts, would be an example of the most salutary influence. To suppress the rebellion by force of arms, and to punish by the due administration of the law its most guilty authors, and also the great violators of the Constitution of the United States, who profess to be acting under its authority, and who have committed treason against States, would effect more in the support and preservation of constitutional liberty, and to vindicate the capacity of the peo-

ple for self-government than the performance of any other duty or work.

But to the objection that the proposed amendment of the Constitution would infringe the right of the States to manage their local and domestic affairs, it may also be answered that slavery concerns all the States as well as those in which it exists. If there be truth in this position, it may be replied that there is no important property interest, pursuit, or institution in any State that does not, directly or indirectly, concern the people of every other State; and that argument would require the Constitution of the United States to be so amended as to give the Federal Government power over all of them, which would establish a perfectly consolidated Government and virtually annihilate the States.

There are many matters, the control of which is left by our Government wholly and exclusively with the States, and over which the people would not have confided to Congress and the President a particle of power when the Constitution was formed, that much more closely and momentously concern all the States than the continuance of slavery in some of them. Religious faith is one. There is intrinsic antagonism between Romanism and Protestantism. For the first half century after the colonies became a nation the former was so weak in comparison with the latter that any great disturbance by conflict between them was impossible. But in the last thirty years Romanism has made great increase on Protestantism in the United States, both by immigration and propaganda. In Europe the fiercest and most implacable contests that man ever made with man has often occurred between these professors of the same Christian religion, and about it. There is no reason to hope that they will not be reproduced both on that continent and in the United States. The Federal Government has no power to interfere in any way with the subject of religion, although it has recently by its military officers made such interference, in violation of the express prohibition of the Constitution. The entailment of real and personal property, the principle of primogeniture, a system of railroads and other internal improvements in the several States connecting with the systems of other States—all these are subjects of domestic and local concern within every State, of which it has the exclusive management; and yet each one more nearly, and with larger interest and greater sympathy, would concern the people of all the other States than does slavery in the slave States the people of the free States.

The commerce, the social intercourse, and the material prosperity of the people of each State require that its mediums of travel and commerce should connect with those of all the adjacent States. Our general system of government is based upon the principles of popular equality and the equal distribution of property, upon the death of its owner, among all his children and heirs. The whole people of the United States have an indirect but essential interest in the maintenance of these principles in all the States; and a policy of self-isolation, or the establishment of entails or primogeniture in one, and especially in many, of the States, would be seriously hostile to those principles, and very repugnant to the people of the other States. The questions of the religious faith of the people of each State, whether all phases shall be tolerated, whether Romanism or Protestantism shall dominate, whether any and what form shall be recognized by law and have exclusive privileges as the religion of the State, whether Mormonism, Deism, or Atheism shall be established and exist in one or many States, and other modes of intercommunication and trade in each State to connect with those of all the others, are matters of much more real interest to the whole people of the United States than the continuance of slavery in the slave States can be to the people of the free States. The matter of religion is more apt to grapple strongly the passions and the imaginations of mankind, and the other subjects their selfishness and prejudices, than the existence of slavery in communities of which they are not members. Slavery, in this day and generation, has for the people of the United States a factitious but an absorbing interest; in the future, under altered circumstances, the others, and especially

38TH CONG....1ST SESS.

Amendments to the Constitution—Mr. Davis.

SENATE.

religion, may still more strongly possess them. If this proposed alteration of the Constitution be accepted it will be a precedent, and may establish a principle that may carry those other domestic concerns, and still others not now thought of, into the domain of an encroaching and centralized despotism, and which would be a very great stride.

If it were conceded that the power to amend the Constitution, as established and regulated by the fifth article, would by its terms and letter authorize the proposed change, it would be in fatal conflict with its intent and spirit, and therefore, according to a universal rule of construction, void and of no effect. It never was the purpose of those who made it to subject many of its great principles to be expunged by the exercise of this power of amendment. The power to amend is but the power to improve, and any alteration to be legitimate should be an amendment. To this it may be said that as there is no certain test by which this question of amendment can be tried it is necessarily decided by the amending power. Granting this argument to be sound, still there is another and very important question connected with this power of amendment. Does it import the power of revolution? Of making such essential change in the nature, form, powers, and limitations of the Government as would be revolutionary of it—of its important structure, of its characteristic principles, of the great and essential rights and liberties assured by it to the citizen? The true and precise question is, does the proposed change, or amendment, carry a revolutionary principle and power? I hold that the framers of the Constitution did not intend it to be, and that it is not in its nature or in fact, a revolutionary power; that there is a boundary between the power of revolution and the power of amendment, which the latter, as established in our Constitution, cannot pass; and that if the proposed change is revolutionary it would be null and void, notwithstanding it might be formally adopted. It would not be a part of the Constitution, and would consequently have no effect. An amendment proposing to abolish all the popular elective features of our Government, or that Representatives should hold their offices for life; that the place of Senator should be hereditary, coupled with a title and the privileges of nobility; that the President should be a king, and transmit his crown and throne as in England, would be revolutionary, and out of the power of the pale of amendment. Neither the legislative, executive, nor judicial branch of the Government could be swept away under the guise of the exercise of this power of amendment. The States and their governments are as essential and indispensable parts of our compound system of Government as the United States and the Federal Government, and could not be expunged by this power of amendment. The retention by the States of their exclusive rights, and the right to ordain, manage, and control them, independent of all control or interference by the United States Government any more than of a foreign power, is a great and essential feature of our system, and it cannot be revolutionized, destroyed, by this power of amendment. If it can take cognizance of slavery, it may of every other local and domestic concern of the States. That would be revolutionary, and is therefore out of the domain of amendment. The power of amendment can only be made to embrace the forms and the provisions and principles of secondary importance.

If the principle involved by the proposed amendment be sound, and it, if formally adopted, would be valid and obligatory, then in the same mode the terms of the members of the House could be extended for seven years; Senators could be metamorphosed into hereditary nobles, with titles, and the President into a monarch; and any other changes, utterly revolutionary and destructive of our Government and the popular freedom it establishes, could be made. No, sir, this power of amendment does not carry the power of revolution, in whole or in part, to be executed *in solido* or in detail, to burst forth at once in full-grown proportions, or to be cautiously developed from time to time and by gradual accumulation, like Mr. Lincoln's war policy, until the whole work is consummated. Neither the subversion of our free and popular Government, nor any of its great distinctive and essential features, or of those

preëxisting and vital rights and liberties to secure and perpetuate which to the people were its object and its mission, is within the legitimate scope and operation of the power of amendment. That would be in both aspects, not amendment, but destruction and revolution.

Nor, sir, is the present condition of the country and the people at all propitious or fit to enter upon the most grave and important work of amending, altering the Constitution of our Government, the paramount law which regulates and controls within its orbit the constitutions, laws, and administrations of all the States and every official act of Congress, the President, and of every other officer of the United States. The revision of the work of the preëminently great and patriotic men who put together that wonderful political structure, so admirably adjusted and balanced, so novel yet so complete, so free and yet possessed of all the necessary and proper powers and vigor, is one of the most delicate and important tasks which those who are to perform it can possibly undertake. They ought to be free from all sectional prejudice and excitement, and bring to it calm and unperturbed reason and broad and true patriotism and statesmanship. The condition of the country should be fixed, that of settled and stable repose, that any changes and modifications might be safely and wisely adapted to its permanent relations, interests, and tranquillity. Who can foresee how materially different its situation may be at the earliest day when the proposed amendment would take effect from what it now is? Changes that might now be innoxious or proper and salutary may then be *malapropos* and mischievous. Such might be their nature and consequences in the circumstances of the country when the war closes.

But now, when the calmest and most far-seeing mind cannot conjecture with any reliable confidence, much less certainty, what will then be the United States, what will be their circumstances and exigencies, and what may be the intervening revelations of the workings of their Government, of its weaknesses and defects, and what reforms, if any, it may need, now to enter upon its reformation, its change, would be premature, rash, and would most likely result in evil, and possibly great evil. There is every probability that when the war is closed modifications of the Constitution will then be highly necessary and proper; but their nature, extent, and the features and powers of the Government in which they may be required cannot be possibly divined. Now to make any might mar rather than improve.

But when to this consideration, the unsettled condition of the country, is added the present state of the mind and passions of the people, nationally, sectionally, and individually, the position that now is not the proper time to intermeddle with the Constitution cannot, with any reason, be controverted. No man is free from apprehension and excitement, and with vast numbers it approximates frenzy, mania. Sectional opinions and prejudices were never before so rife and extreme. Hatred to slavery and slave-owners by the members of the Republican party generally has demented them. They are wholly incapable of any fair and just consideration of the rights of slaveholders, in relation not only to that property, but all their other rights individually and collectively as slaveholding States. Extreme aversion and prejudice with both of those classes of the people have usurped the place of reason and truth. Neither entertains for the other any sentiments of kindness, fraternity, charity, or justice. I have no belief that there is in either House of the present Congress, or that there would be in the Legislature or convention of any one of the States, a single member whose mind and passions are so little affected by the present condition of public affairs as not to be disqualified for the delicate and difficult work of revising and altering the common Government of all the States and all the people of the United States. I believe with the most of them that unfitness would exist to such an extent as to make it impossible for them to deliberate and act, not only impartially and justly for their adversaries in politics and their sections, but also wisely and safely for themselves and their own States.

But, sir, if the country and the people were in a suitable condition to enter upon this work of revising and altering, with the purpose to im-

prove, a constitutional Government made by the great men, so ripe in experience and wisdom, so broad and unselfish in patriotism, and so truly devoted to liberty regulated by law, and yet so diffident of their competency to the task, the mode adopted is not the best one. The principles and points that would demand consideration will not be one, but many. Their proper examination and settlement would require the freest and most unreserved interchange of opinions and views of the wisest and most virtuous men of each and all the States selected for this special work, and meeting together in common convention for its performance. Casual Congresses, assuming and presuming to initiate and lay out this work in single and separate patch-pieces, would promise but little of wisdom or good; and the simple acceptance or rejection of their recommended propositions, by as many local Legislatures or conventions as there are States, representing the sectional interests, opinions, prejudices, aversions, partialities, and all the weaknesses and errors of their several States, would hardly eviscerate from such assemblies any additions to the Constitution formed by Washington and his compeers that could be truthfully denominated amendments.

The best mode of reaching truth and principle, policy and safety, in any changes of the Constitution would be a convention, in which every State and all its leading interests should be represented; and the presentation of important facts, opinions, and views that concern them all, should be made to the entire representation of the people of the United States. The assembling of men together, face to face, who are local representatives, to unfold directly to each other matters of so much importance, that have close connections, and necessarily extensive antagonism, and that ought as near as possible to be satisfactorily compromised, harmonized, and settled, is unquestionably the best mode. If the Senators and Representatives of each State were to be isolated and convened in them, and without any comparison of views with those of all the other States were to act on all subjects of legislation, it could not bear any comparison with the existing mode. It is true that in the continuing and never-ending business of making laws for the United States, those objections would apply with a vastly increased force. But in the momentous and most difficult task of altering the Constitution in this perturbed and fearful time, and adapting it to an extent and condition of country and a trial and laboring of the Government that was not anticipated by the men who framed it, the same considerations ought to have the effect utterly to forbid this single or any other amendments in the proposed form.

Another objection of overruling weight is that no revision of the Constitution in any form ought to be undertaken under the auspices of the party in power. Its leaders have always been hostile to the compromises on the subject of slavery, and the protection which it guarantees to the owners of that property. From a much earlier day than secession was thought of in the South, those leaders had determined on the destruction of slavery; and, if they could not succeed by any other means, even to revolutionize the Government to effect it. They did not bring on a general war to that end, though they had long assailed it in every other form; and as soon as the rebellion broke forth they quietly decided, if possible, to make it the occasion and to furnish the means of the overthrow of slavery. Mr. Lincoln had been an extreme abolitionist from early life; and it was that consideration that procured him the nomination of the Chicago convention. When he and the chiefs of his party in Congress, at the commencement of the war, unanimously declared that their purpose and policy were not to attack slavery, or any other rights or institutions of the insurgent States, but only to vindicate the authority and laws of the United States over the rebels, they were dissembling, and then lying in wait to make an onset on slavery. They knew that their purpose could be effected only by breaking over constitutional guarantees, and by the power of the Army to subdue all opposition to their scheme. There is no right of person or property that the President and Congress has not outrageously infringed and trampled out, under and by the agency

38TH CONG....1ST SESS.

Amendments to the Constitution—Mr. Davis.

SENATE.

of the iron heel of military despotism, to subjugate or awe every person disposed to offer even legal and peaceful resistance to their flagrant abuses and usurpations of power. As they progressed, and met with impunity in their nefarious work, their objects were enlarged. They determined not only to consummate the destruction of slavery, so that it could never be restored, but also to continue themselves and their party in place and power. The first they consider substantially as an accomplished fact; and they are, and have been for more than a year, moving with increasing energy and boldness toward the other as their now paramount object. They affect to adhere to the forms of the Constitution, while they utterly disregard not only its spirit but also its express provisions and all the liberty and protection which it assures to the citizen. They have devised the boldest and most revolutionary measures under the guise of law and executive administration as the machinery of their operations. The first in time was the erection of West Virginia into a new State, and her admission into the Union in palpable violation of the Constitution, so admitted and avowed by many of their leaders both in and out of Congress; and attempted to be justified by them on the ground that the country was in a state of rebellion and revolution, and the Constitution of no obligation whatever. The President took the official opinion of the Attorney General, which was that the measure was without constitutional authority, and yet he approved it.

After the congressional elections in the fall of 1862 it was apparent that if those which were to take place in the other States in 1863 were to be decided by the free suffrages of their people, Mr. Lincoln and his party would be in a minority in the present House. The success of their projects and the retention of power by them made it necessary that they should have the majority in the House as well as in the Senate. He therefore ordered the military authorities to interfere and overthrow the freedom of elections, and to depose the State laws and officers for conducting them in Missouri, Kentucky, Maryland, and Delaware, to the extent of securing a majority for him in the House. In that way four supporters of the abolition policy and other measures of the Administration were returned from Missouri, of whom three have been reported by a Republican committee to be sent back to the people, on account of such interference, and in the other no contest was made, or the returned member would probably have shared the same fate. In the first district of Kentucky the military imprisoned one of the candidates, who was a true and loyal Union man, solely because he opposed the abolition measures of the President and his party; and so managed the election by excluding large numbers of legal voters from the polls, all over the district, as to return a radical abolitionist. In the Covington district there was such a general interference by provost marshals and other military officers in the canvass, and at the most of the polls during the election, as to leave but little doubt that the returned member was chosen by the coercion of that power. In Maryland and Delaware the military officers of Mr. Lincoln assumed the entire direction and control of the elections, except in one district in Maryland. They prescribed new and strange oaths for voters, and would not allow many to vote who were willing to take them, and at some polls would not suffer the supporters of the opposition candidate to exercise their right of suffrage, and restricted it to the friends of the abolitionist. They ordained new regulations in conflict with the State laws, and deposed and banished to the military headquarters at Baltimore, and there imprisoned, judges who refused to disregard the State laws for their government, and to execute the orders of those military usurpers. These outrages and armed overthrow of the laws of those States regulating their elections clearly amount to treason, and would upon all the considerations of justice and policy subject their authors to the declared punishment for that crime in the civil courts of the State in which they were committed. The appointment of Lincoln, by his military agents, of men to fill these seats in Congress were as true in fact, as certain in fact, and more atrocious because in violation of a

written constitution, than any appointments which Cromwell or Louis Napoleon ever made to civil office by their military power. The President in this way defeated the election of eight, and probably ten, of his political opponents, and elected that number of friends in their stead, which made a relative difference in the party strength of the House of sixteen or twenty, and secured to him and his measures and party its majority. To that extent he was equally a usurper with Cæsar, Cromwell, and Bonaparte.

But Mr. Lincoln has long since imbibed other views and projects of personal ambition. A desire for reelection has seized upon him. It now possesses all the mind and heart and soul that he has. He is no statesman, but a mere political charlatan. He has inordinate vanity and conceit. He is a consummate dissembler, and an adroit and sagacious demagogue. He has the illusion of making a great historical name for himself in connection with the total abolition of slavery in the United States. He also loves power and money. He has long foreseen that in his desire for reelection he would have several competitors from his own party. He is not fierce or revengeful, or even boldly audacious and radical; and though not marked by any sense of benevolence, humanity, or justice, he does not possess positively the opposite qualities, and, though a radical, is not reckless or rash. He is, and always has been, an uncompromisingly opposed to slavery as the most ultra radical, but preferred to overthrow it with some show of legal and constitutional authority; and that it should be effected gradually, and not by sudden and violent change. Such were his first and individual views and policy in relation to slavery; but being rather of flexible but still obstinate nature, the pressure of the bold and more energetic radicals has pushed him pretty well nigh to their extreme position. As this "marshaled him the way he was going," he is well disposed to accept it, and if it promise to aid him materially in his purpose of a reelection, he would not hesitate to take it with alacrity. But he understands that most of the radicals prefer other men to himself, and while he must manage to satisfy and win them if possible, and especially as their second choice, he must hold on to all the moderate men of the Republican party, and by some show of conservatism win others outside. This keeps him very busy at his favorite game of "playing for all the pockets."

But he regards, and with much truth, that his personal, official, and distinctive party consists of the office-holders and seekers, contractors, and those seeking contracts, whose numbers are greater than our armies in the field. To those prætorian, not cohorts, but legions, he was determined to add others in his own especial interests. Hence he issued another edict, the effect of which was to demolish all the constitutions and governments of the rebel States, and among them Tennessee and Arkansas and other States, whose constitutions have not been changed in a particle within many years before the rebellion; and to authorize one tenth of as many people as voted in them at the last presidential election to reconstruct and to carry on their State governments. But he prescribed as the indispensable condition that all men who took part in the reconstruction must renounce their negro property, and take an oath to support his war policy as embodied in all his proclamations and the laws of Congress passed by his party. He pledged his faith to support and defend these spurious State governments by the power of the United States armies and navies. All their elections were to be under the surveillance of the President's military subordinates; and consequently none but his minions and tools could vote or hold office. The reorganization of those States is to be virtually by him and for all his purposes. They were designed to be dependencies and he the autocrat. The world never witnessed a more lawless and daring political enterprise, and, except in the feature of blood, it comes up to the measure of the greatest usurpations. The people of the States are the only legitimate power to construct or reconstruct their civil governments; and Congress, and not the President, is the authority to admit them primarily, or secondarily, into the Union, and to guaranty to them republican forms of gov-

ernment. Mr. Lincoln seizes upon all this power. Under this presidential autocracy, old, or eastern, as well as West Virginia; Louisiana, Arkansas, Tennessee, and other rebel States have been or are to be readmitted into the Union, and to take part with the other States in its government. By the present ratio all Virginia east, west, and rebel, would be entitled to eleven Representatives in Congress. The new State has three, and it is a question what portion of the residue—the few counties of the other division of the State within our military lines can rightfully have, and a yet more difficult one what number of electoral votes in the presidential election will be the right of those few counties. The new State having but three for her Representatives and two for her Senators, if those few counties can elect the residue for the whole of the remaining State, and also for its two Senators, the new State and a small fractional part of the remainder of the State would cast together fifteen electoral votes. That vote by those counties would give them a very undue and unconstitutional weight over the people of the other States in the presidential election. If that will be permitted may depend, I presume, upon the problem whether it would be necessary to reelect Mr. Lincoln. To effect that object I believe a separate State could and would be organized out of East Tennessee, and two in Maryland, one upon the eastern and the other upon the western shore, without the least regard to constitutional difficulties. When Louisiana is readmitted she will be entitled to seven electoral votes, Tennessee to ten, Arkansas to five, and all Virginia to fifteen. So that by the organization of these four "rotten-borough" and unauthorized States, there would be secured to Mr. Lincoln not only thirty-seven electoral votes in the presidential election, but, what may be even of more importance, that number in the Republican nominating convention at Baltimore. I take it for true that these illegitimate States, being the progeny of Mr. Lincoln, will support him when and where and anyhow they can. They will also be ready to vote for this proposed amendment of the Constitution.

But Mr. Lincoln is a cautious and far-seeing man. He has had still another provision made, first and mainly for his own personal success, subordinately for that of his party. The Territories of Colorado and Nevada have already, at the present session, been admitted as new States into the Union; and the chairman of the Committee on Territories has told us, and no doubt truly, that Nebraska will also be admitted. Thus there will be admitted three more new States, each with one Representative and two Senators, having an aggregate of eleven electoral votes and an equal strength in the Baltimore convention. I believe, both on principle and policy, that no Territory ought to be admitted as a State until it has a population equal to the ratio of representation. That ratio is now 127,000. By the census of 1860, Colorado had a population of 34,277; Nebraska, 28,841; and Nevada, 6,857; making an aggregate of 69,975, and only 6,474 more than half the ratio. I have heard of no special increase in Nebraska, but have learned from men living in the other two Territories that there has been considerable recent emigration into both. But from all the information that has reached me, I have no belief that their aggregate population is as much as 127,000.

Thus by military interference at elections, the destruction and reorganization of States, the admission of new States with but a small fraction of the ratio of population, all by infraction of the Constitution, and in opposition to right, justice, and policy, and chiefly by the power and under the supervision of Mr. Lincoln, a great and dangerous strength has been accumulated to him as President to be exercised to promote his own selfish and ambitious views in the first place; and secondly, to continue his party in power to enable it to protract the aggrandizement of its leaders, the pecuniary advantages of its masses, and the complete consummation of its most wicked and destructive policy and measures.

Before the rebellion the ultra-abolition party was not large, and though pestiferous was not able to have inflicted great injury upon slavery. The southern members of Congress when they abandoned their places voluntarily surrendered their Government and all its vast power into the

38TH CONG...1ST SESS.

Railroad to New York—Mr. Sweat.

HO. OF REPS.

hands of the abolition party and their allies, the Republicans. The potency of this combined party for large and permanent mischief was born of the rebellion, and would have perished with it if the rebellion had been suppressed within the first eighteen months. As that had created its strength they were cause and effect, and must live or die together. The sagacious leaders well knew this truth, and so managed Mr. Lincoln during the whole of that time as to make him the unconscious instrument to protract the war. Heatlength awoke to the perception of his true position and part, but then he as well as they had objects which could only be secured by the continuance of the war, since which that has been a common object with them. If it were yet to be brought to a close within a reasonable time the Constitution and liberty might be saved, but amid great peril, to which every hour adds and may soon leave the task hopeless.

Our own Government has become so abused and perverted, so unjust and oppressive to all who will not bow to those who administer it in unquestioning submission, so fruitful and general a source of evil and practical despotism, that hundreds of thousands and millions of the most loyal people of the United States are in doubt whether it as administered or the rebellion is the greatest national scourge. The assaults, wrongs, and oppressions of both on the border slave States is such as to be passing them, as it were, between the upper and nether millstone. The greatest good that could now fall to the lot of the people of those States would be the speediest suppression of the rebellion by all constitutional measures and means, and by the expulsion from power of the party that has possession of the Government and is ruling the country and so recklessly rushing both upon ruin. I look for the consummation of the first to the continued efforts of our brave and numerous soldiery and the submission of the rebels. For the second I still rely upon the peaceful remedy of the ballot-box, applied by the sovereign power of the United States; and if it were applied so as to produce that great change, I believe that the cessation of the war, the submission and reconciliation of the rebels, the reconstruction of the Union, and the vindication of the laws and Constitution, with renewed guarantees and strength, would all speedily ensue. But if the dominant party can continue their power and rule, either by the will or acquiescence of the people or the exercise of the formidable powers which it has usurped, I am not able to see any termination of the present and still growing ills short of the ordeal of general and bloody anarchy.

RAILROAD TO NEW YORK.

SPEECH OF HON. L. D. M. SWEAT,
OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

April 2, 1864.

The House having resumed the consideration of the bill to declare certain roads military roads and post roads, and to regulate commerce—

Mr. SWEAT said:

Mr. SPEAKER: Sincerely believing that the principles involved in the bill now under consideration are unwarranted by the Constitution and the laws of the land, as well as by the facts of the case, I feel impelled by a sense of duty, from my earnest convictions upon the subject, not to let this opportunity pass without at least making a few suggestions in vindication of the vote which I shall give. In times of war, excitement, and alarm, we are apt to be absorbed in the present and blinded to the future, and this is one of the great dangers we are now laboring under as a people. As one of the most distinguished and ablest of our public men once said upon a scheme of legislation similar to this, "Great and sudden changes in opinion on important political subjects are the usual forerunners of revolutions in States." This is emphatically so when the force of Government rests on common sentiment. The fear is that we, in our legislative action, may be too much influenced by the excitement produced by the distracted condition of the country to consider calmly any question of a political nature

which may come before us. The magnitude and importance of the principles involved in this proposed species of legislation demand the earnest, thorough examination and consideration of this House.

Gentlemen who have spoken on this side of the House have seen fit to appeal to the magnanimity and generosity of the other side in behalf of the rights of New Jersey, her Legislature, courts, and citizens. Sir, I have no such appeal to make. I address myself to the facts of this case, and to the Constitution and the laws as applicable to them. Magnanimity and generosity I think are not demanded by the Camden and Amboy Railroad Company of me or of any other member of this House. My first impression of the unsoundness of this proposition now before us has gained in reading the report made by the chairman of the committee to whom this matter was referred. My attention had not been called to it except cursorily and incidentally until I took up the report and read it, and I must say I am astonished to find that a question involving such unprecedented and unwarranted demands for congressional interference has found a foothold in this House; and while I have the utmost respect and regard for that committee, collectively and individually, I must say I think they have made a report which cannot be sustained by the facts in the case, nor by the law as applicable to those facts.

The gentleman from Ohio [Mr. GARFIELD] said to us yesterday, "Woe be to any corporation or State that raises its hands against the power and majesty of this great Government." But precisely here is the issue. I deny that New Jersey or the corporation interested in this question, existing under the laws of that State, have raised their hands against the Government, and I would caution the gentleman against the danger of acting upon a supposed and unfounded state of facts, and against the danger of being led, in these days of extreme legislation, to ignore the rights of the people and the just and true distinction between the rights and powers of the States and those of the Congress of the United States.

A disposition to make this a party question seems to have manifested itself in some quarters, but I deny that there is any party consideration that ought to influence this House in the disposition of the subject now before it, and I think that he who permits himself to be governed by any such motives can be neither an honest man nor a safe legislator. I have no feeling with reference to it except to see the right prevail.

Previous to 1830, when the first charter was granted to the Camden and Amboy Railroad Company, it is well known that the whole country had settled down upon the idea that Congress had no power to interfere with the railroad system in the States. The question had been fully considered under all the Administrations from that of Jefferson to Jackson, and the public mind acquiesced in the doctrine that the power now claimed in the bill before us did not exist in Congress.

To show that such was the understanding of the previous Congresses I need only to call the attention of the House to the fact that in 1806 by Jefferson, in 1817 by Madison, in 1822 by Monroe, and in 1828 by Jackson, specific recommendations were made to Congress to have the Constitution so amended that Congress should have the power to legislate on subjects similar to the one before us. But their recommendations were not acted upon, and the Constitution was not amended. Such being the state of public sentiment at that time on the question of internal improvements, we find that the State of New Jersey, in the year 1830, granted a charter to the Camden and Amboy Railroad Company, and that in 1832, after the union of this company and the canal companies, the Legislature passed a supplementary act, giving to this railroad company exclusive franchises, of which I will more particularly speak hereafter. They did this under the sanction of the fixed sentiment of the country, produced by the action of previous Congresses, and by the clearly expressed opinions of Jefferson, Monroe, Madison, and Jackson.

Now, it may be, sir, that any allusion to those distinguished men, or to the jurists of the country who have commented on this supposed power of

Congress, will pass by as the idle wind. But, sir, I do not believe the time has yet quite come, when John Randolph once predicted would come, when a member, who should rise upon this floor and quote the Constitution of the United States, would be called to order. I hope that hour has not yet come; but if I can judge anything from the indications of the times, we are fast drifting toward it. What are the facts? By section two of the act of March, 1832, of the Legislature of New Jersey, it was enacted:

"That it shall not be lawful at any time during the said railroad charter to construct any other railroad or railroads in this State without the consent of said companies, which shall be intended or used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business with the railroad to which this supplement is relative."

This shows in clear and unmistakable language the meaning of the Legislature; and by a supplementary act, passed in 1854, this construction was most deliberately confirmed.

"By the preamble of the act of 1854 it is recited that by reason of existing contracts between the State and the companies as set forth in their acts of incorporation, and other acts in relation to the said companies, they are possessed of certain exclusive privileges which prevent the construction, except by their consent, of any other railroad or railroads in this State which shall be intended or used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business with the railroads of the said companies. And by the first section of the act it is enacted that it shall not be lawful before the 1st day of January, 1869, to construct any other railroad or railroads in this State, without the consent of the said joint companies, which shall be used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business between the said cities with the railroads of the said joint companies, or that may in any manner be used or intended to be used for the purpose of defeating the true intent and meaning are hereby declared to be fully and effectually to protect, until the 1st day of January, 1869, the business of the said joint companies from railroad competition between the cities of New York and Philadelphia."

And as the chancellor of New Jersey well said: "It is difficult to conceive of a more express engagement on the part of the State, or of a clearer recognition of the exclusive rights of the companies than is contained in these statutes. Whatever doubts may be entertained as to the construction of the contract, there can be none as to the fact of making it."

At the time this company was incorporated nobody raised a question as to the true intent and meaning of the Legislature. Under this charter, Mr. Speaker, I contend that the State of New Jersey made a solemn contract with the Camden and Amboy Railroad Company, and that both the Legislature and the company were bound thereby. If there is any gentleman upon this floor who is disposed to controvert this position, I would thank him to put any questions to me touching that point. I repeat that as early as 1832 the Legislature of New Jersey made a solemn and deliberate contract with the Camden and Amboy Railroad Company, and confirmed it in 1854, giving them certain exclusive privileges. It is in the usual form of a contract. It is that species of contract which is made by every State in the Union every year. No one then denied that the State of New Jersey had a right to make this contract. It was so understood by the Legislature. It was so understood by the company. It has been so understood both by the Legislature and the company from 1832 down to the present time, and it has been so understood by the people throughout the country who knew anything at all of the subject of New Jersey's legislation. Does any gentleman on this floor question the right of the State of New Jersey to make this contract? She had a right to make contracts before she entered into the compact forming the Union. I am not aware that she ceded away that right to Congress. If so, when, where, and how was it done?

Some gentlemen, however, complain that the State of New Jersey had no right to grant an exclusive charter. I think that is the position taken by the learned gentleman from the Syracuse district of New York, [Mr. DAVIS,] on the ground that it takes away the right of subsequent Legislatures to pass any adverse measure. Now, on this question of whether one Legislature has a right to pass a bill in derogation of the rights of any subsequent Legislature I have simply this to say: I have never known the question to be raised until it was by the gentleman from New York, [Mr. DAVIS,] "It is an inherent right of sover-

38TH CONG....1ST SESS.

Railroad to New York—Mr. Sweat.

HO. OF REPS.

eighty." State Legislatures are every year giving away that which they cannot recall. When a State makes a donation, it passes property from its hands, and the fee vests in the grantee; and you might as well say that the Legislature which does that this year is derogating from the power of a subsequent Legislature. Whenever a Legislature permits a railroad, for instance, to cross or occupy land where the tide ebbs and flows, or in any way alienates the public domain, it gives away what it has exclusive jurisdiction over; but still it is a grant which it cannot revoke; and it has not been, for that reason, considered as really in derogation of the rights of any subsequent Legislature. The plain and simple answer is this: while the State Legislatures have the right to make contracts and to grant charters with exclusive privileges, they have not the right to break such contracts. And why? Because the Constitution of the United States, which I am to-day, and always have been, ready to stand by, says in so many words that no law shall be made impairing the obligation of contracts. As a distinguished jurist has said on this subject, it is the Constitution of the United States, and not legislative action which derogates from the power of any subsequent Legislature. This is the limitation. It is in the Constitution which prevents a subsequent Legislature from revoking an exclusive franchise granted by a preceding Legislature.

But while I say this, I do not contend that the Legislature of any State can absolve itself from its duty and obligation to provide for the public use necessary highways and means of communication from place to place, and if public necessity requires it the Legislature of New Jersey may take away the franchises of the Camden and Amboy railroad; but this can only be done by the exercise of the right of eminent domain, which is an inherent right of the States, and not of the General Government. But if franchises are taken away under the exercise of this power and condemned for public use, it must be upon the same conditions as are prescribed for the taking away any other species of private property, to wit, the condition of making a just and reasonable compensation therefor. But the facts in this case do not justify even the Legislature of New Jersey (which alone has the power) in taking away the franchises of this company.

In regard to the policy of granting exclusive franchises, I might agree with the gentlemen who have spoken on the other side, were the question presented anew to-day, for the considerations which would govern me now are very different from what they were in 1832, when the charter was granted in this case. It is not sound and wise policy in these advanced days of railroads and other avenues of communication, which are no longer doubtful experiments, to grant exclusive privileges to any railroad company. But you must bear in mind the time when this road was chartered. I think the Legislature was wise in granting exclusive privileges to this company as early as 1832, as an inducement to invest private means in what was then considered a hazardous undertaking. I think the Massachusetts Legislature was wise in granting an exclusive charter to the Boston and Lowell Company. In 1830, when the railroad system had scarcely commenced in this country, which has since enriched it more than all other influences in the way of internal improvements, the Legislature of Massachusetts thought fit to grant a charter to the Boston and Lowell Railroad Company with the exclusive right of transporting freight and passengers from Boston to Lowell. In a suit subsequently brought by that company against other companies, which, it was supposed, had infringed on their rights, the courts of Massachusetts sustained the right of the Legislature to grant these exclusive privileges. And although the courts did not grant an injunction against these companies, it was on the ground that they had not interfered with the exclusive rights of the company; the same reason precisely on which the New Jersey court refused to grant the first injunction applied for in this case.

How stands the case, then? We have a contract made between the Legislature of New Jersey and the Camden and Amboy Railroad Company.

No one denies the right of the Legislature to make that contract. Every one admits that the contract cannot now be broken, because the Constitution comes in and forbids it. On these points there has been no denial from 1830 down to the present session of this Congress.

Under this state of facts, and with the understanding which prevailed throughout the country in regard to such questions, we find a charter given in 1852 to the Camden and Atlantic Company, one of the petitioners for the bill before us. The road of this company turns at a right angle to the railroad to New York, and extends from Philadelphia down to the Atlantic shore. This charter was granted in 1852, some twenty-two years after the charter was given to the Camden and Amboy Railroad Company under which it has always acted. It was intended for purely local purposes, and its results have been the growth of a small village between Camden and Atlantic City, and the establishment of the latter as a watering place.

In 1854 a charter was granted to the Raritan and Delaware Bay Railroad Company (the other petitioner for legislation) to build a road from some point on the Raritan bay east of Keyport, in the county of Monmouth, to the village of Toms River, in the county of Ocean, and thence through the counties of Ocean and Burlington to May's Landing, in the county of Atlantic, thence through the counties of Atlantic and Cape May to Cape Island, on the Atlantic ocean.

This proposed route, under their charter, would traverse the Eastern Shore of New Jersey, from Raritan bay to Cape Island, a distance of one hundred and twenty miles, more or less, and was intended for local traffic and the development of the Eastern Shore portion of that State. This road, if continued through to Cape Island, according to the terms of their charter, would cross the Camden and Atlantic nearly at right angles, about forty miles from Philadelphia. It was built in this direction some twenty miles; and there their work stopped till 1861, I believe, when those interested in it again commenced extending the road; but instead of continuing it according to the line prescribed under the charter, they deviated westerly, and were in the process of making a connection, by the way of Atsion, with the Camden and Atlantic road at Jackson, some twenty miles nearer Philadelphia than the place of crossing it under their charter, when the first application for an injunction was made by the Camden and Amboy Company. I here call your attention to the answer which they made to this application for an injunction. I quote from the opinion of the chancellor:

"The Raritan and Delaware Bay Railroad Company and the President and other officers of the company, by their answer, among other things, admit that at the time of obtaining from the Legislature their act of incorporation no person interested in the application for said road had any intention of constructing a railroad to transport passengers or merchandise between the cities of New York and Philadelphia."

"They deny that any agreement has been made, or is intended to be made, for the transportation of freight or passengers between the cities of New York and Philadelphia. They admit that they and the Camden and Atlantic Railroad Company have in view the construction and perfecting, by means of their respective railroads and a convenient connection between them, of a continuous and convenient line of railway communication across New Jersey, from the city of Camden to Port Monmouth, but they deny that they or any of them have in view the continuation of said line, at either end thereof by steamboat transportation to the cities of New York and Philadelphia, for the purpose of using the same for the transportation of passengers or merchandise in a manner which will violate any contract between the State and the complainants, or any provisions of the acts of the Legislature referred to in the complainants' bill. They also deny that any contract or arrangement made by them is calculated or intended to form a continuous line of railway communication between the said cities, to compete in business with the business of the complainants, contrary to their vested rights. They admit that it is possible, if not prohibited by law, that a line of communication by railroad and steamboat between the cities of New York and Philadelphia might be opened, but they say that their railroad is not a public highway and cannot so be used without their concurrence and consent, and as they have made no arrangement whatsoever so to use the same, and do not intend any unlawful use of their road, such use, if unlawful, cannot be made, and if attempted, can be restrained by the courts. They also deny that they intend in any way to violate the chartered rights of the complainants, or that they intend during their existence to violate any of the alleged exclusive privileges of the complainants. And the defendants, all and each of them, declare that it is not and never has been their intention, by the construction of their railroad or its connections with the Camden and Atlantic railroad, or other-

wise, to interfere with the complainants' chartered rights by competing with the railroad of the complainants by the transportation of passengers or merchandise between the cities of Philadelphia and New York, or otherwise."

The injunction was not granted, because by the answer of the defendants it did not appear that they had interfered, or intended in the future to interfere, with the exclusive privileges of the complainants, to wit, of transporting passengers and freight between the two cities. The fact that they had deviated from their chartered rights and were actually in the process of connecting their two lines of road, was not sufficient to authorize the chancellor to grant the injunction prayed for by the Camden and Amboy Company. The determined purpose of the Raritan and Delaware Bay Company to accomplish their object in utter disregard of the established rights of others, can be seen in no way more clearly than by noting their course immediately after the first hearing before the chancellor, where they had, under oath, disavowed any intention of interfering with the franchises of the Camden and Amboy Company:

"The application for a preliminary injunction to restrain the connection between the defendants' roads was denied on the 12th of August, 1862. The junction was formed and the roads thus united went into operations in September, 1862. The route is continued by means of steamboats between Port Monmouth and New York and between Camden and Philadelphia, which run in connection with the road so as to form a complete and uninterrupted line of travel and transportation over the roads between the cities of New York and Philadelphia. In eleven months, commencing with November, 1862, there was transported over these roads between Camden and Port Monmouth, and mainly between the cities of New York and Philadelphia, fourteen thousand tons of freight and seventeen thousand six hundred passengers. A small portion of the freight consisted of munitions of war, and nearly the whole of the passengers were soldiers, carried over the road for the United States Government. The transporting of merchandise from city to city is carried on by the agency of transportation companies, who have established offices for the reception and delivery of freight in each city, from which offices goods are regularly shipped over the entire route. Daily regular freight lines are thus established. The route is advertised—the attention of merchants and shippers is directed to it as a new and expeditious route, and their patronage solicited. The business of transporting way freight and passengers is conducted by the railroad companies in their own names."

It was in proof that the Raritan and Delaware Bay and the Camden and Atlantic Companies had made contracts with each other for a continuous line between the two cities, by boats crossing the Delaware river and running between Raritan bay and New York city. The chancellor says of these contracts:

"Taken in connection with the other evidence in the cause, they are obviously designed to promote the formation of a through route for the transportation of merchandise between the cities of New York and Philadelphia. Neither company has a right to permit its road to be used for such purpose. They cannot effect by combination what neither can do lawfully. Nor can they effect by the agency of others what they may not do themselves. The companies control not only the railroad line across the State, but the boats at either terminus upon the Raritan bay and the Delaware. The Camden and Atlantic Company are under stipulation to furnish boats upon the Delaware. The boats upon the Raritan bay are owned in whole or in part by officers of the company, and are used in connection with the regular daily lines upon the road."

Upon the second hearing before the chancellor an injunction was granted restraining the two companies from competing with the Camden and Amboy Company in the transportation of merchandise and passengers between the cities of Philadelphia and New York.

Under this state of the case the friends of the Raritan and Delaware Bay and Camden and Atlantic Companies come here and ask Congress to do what? To make appropriation in aid of their road? No. To build a road through New Jersey through Federal agency? No. They ask you to authorize them to do jointly what no one pretends can be done by either of the companies separately. They ask you to override the Legislature of New Jersey, the solemn adjudication of her courts, and the chartered rights of her citizens. They ask you, in short, to legalize illegality.

Upon what grounds do they ask for this extraordinary interference of Congress? Let us examine them. Is it upon the ground that Congress has the right to establish post roads? No. The Constitution confers this power expressly on Congress, and therefore this cannot be the reason of the proposed legislation. Is it upon the

ground of military necessity? If so, my answer is that under laws now on the statute-books the President has the power to use these or any other railroads in the country if the military necessity to do so exists. By an act approved January 31, 1863, it is enacted:

"That the President of the United States, when in his judgment the public safety may require it, he, and he is hereby, authorized to take possession of any or all the railroad lines of the United States, so that they shall be considered *post roads*, and *part of the military establishment of the United States.*"

This power then exists, and hence there can be no necessity of further legislation upon this ground.

In considering the bill before us, therefore, we are compelled to abandon the "military necessity" point, upon which some seem to have relied, and must look for some other necessity for the bill, and some other power in Congress to pass it. If these roads were actually needed for military purposes, and there were no law authorizing the Government to use them, I would say, God speed this bill, for I would have all possible facilities granted for military purposes; but, as I have just shown, no such necessity exists for our action.

The friends of this measure are therefore compelled to find some other provision in the Constitution by which to justify themselves in granting the request of the petitioners, and it is claimed that the power is contained in that section of the Constitution which says that "Congress shall have power to regulate commerce with foreign nations, and among the several States and with the Indian tribes," and it is upon that point that I address myself to the gentleman from New York, [Mr. Davis.] I listened with the closest attention to his remarks, first, because I consider him an able and sound lawyer, and secondly, because I have the highest regard for him personally and believe that the views he entertains are honest views, and that he would not advocate anything which he did not believe the interests of the country required. But his whole fallacy, I think, can be traced to the point of a misconception of the true meaning of the Constitution, which says that Congress shall have power to "regulate commerce between the States." With all due deference to him, and others whose opinions may now differ from mine, I contend that no such construction of the words "to regulate commerce between the States" has ever been placed upon them until the present time. Such was not the meaning attached to them by the framers of the Constitution, as appears by the action of the First Congress in the year 1789, composed in part of men who aided in framing it, and such has not been the construction given to it by the distinguished statesmen of our country, such as Jefferson, Madison, Monroe, Jackson, and others, nor have our jurists or our courts ever given the interpretation now contended for. For want of time it will be impossible for me to read many authorities, which I would like to do. Without undertaking to comment upon it, I will read a portion of the message of Mr. Monroe, returning the bill "for the preservation and repair of the Cumberland road," with his veto, to the House of Representatives, in which it originated. He says:

"A power to establish turnpikes with gates and tolls, and to enforce the collection of tolls by penalties, implies a power to adopt and execute a complete system of internal improvement, a right to impose duties to be paid by all persons passing a certain road, and on horses and carriages, as is done by this bill, involves the right to take the land from the proprietor, on a valuation, and to pass laws for the protection of the road from injuries; and if it exists as to one road, it exists as to any other, and to as many roads as Congress may think proper to establish. A right to legislate for one of these purposes is a right to legislate for the others. It is a complete right of jurisdiction and sovereignty for all the purposes of internal improvement, and not merely the right of applying money, under the power vested in Congress to make appropriations, under which power, with the consent of the States through which this road passes, the work was originally commenced and has been so far executed. I am of opinion that Congress does not possess this power—that the States individually cannot grant it; for although they may assent to the appropriation of money within their limits for such purposes, they can grant no power of jurisdiction or sovereignty by special compacts with the United States. This power can be granted only by an amendment to the Constitution, and in the mode prescribed by it.

"The substance of what has been urged on this subject may be expressed in few words. My idea is, that Con-

gress have an unlimited power to raise money; and that in its appropriation they have a discretionary power, restricted only by the duty to appropriate it to purposes of common defense, and of general, not local, national, not State benefit."

Again he says:

"The territory contemplated by the Constitution belongs to each State in its separate character, and not to the United States in their aggregate character."

And upon another occasion he used the following language:

"For every act requiring any legislative sanction whatever, the State authority must be relied on. The condemnation of lands, the establishment of tolls, laws for the protection of the work when finished, must be authorized by the State."

Again:

"In the case of the Cumberland road, passing through Maryland, Pennsylvania, and Virginia, it was thought necessary to bring the subject before their respective Legislatures to obtain their sanction, which was granted by each State, by a legislative act approving the route, and providing for the purchase and condemnation of the land. In this instance, the United States have exercised no act of jurisdiction or sovereignty within either of the States by passing acts for the protection of the road, or to raise a revenue from it by the establishment of turnpikes and tolls, or any other act founded on the principle of jurisdiction or right. Whatever they have done has, on the contrary, been founded on the opposite principle—on the voluntary and unqualified admission that the sovereignty belonged to the State, and not to the United States, and that they could perform no act which could tend to weaken the power of the State, or to assume any to themselves."

Similar views were expressed by Mr. Jefferson, in his last annual message in 1808, and on other occasions. In Mr. Madison's veto of the bill to set apart and pledge certain funds for internal improvements, he says, among other things:

"The power to regulate commerce among the several States cannot include a power to construct roads and canals and to improve the navigation of water-courses, in order to facilitate, promote, and secure such a commerce, without a latitude of construction, departing from the ordinary import of terms, strengthened by the known inconveniences which doubtless led to the grant of this remedial power of Congress."

Seeing that no such power existed in Congress, he suggested the only possible remedy, an amendment of the Constitution.

General Jackson said "such a power had never been exercised in a single instance."

I quote from the opinion of Mr. Justice Grier, in the Newark Bridge case. He says:

"Congress has the exclusive power to regulate commerce, but that has never been construed to include the means by which commerce is carried on within a State. Canals, turnpikes, bridges, and railroads are as necessary to the commerce between and through the several States as rivers. Yet Congress has never pretended to regulate them. When a city is made a port of entry, Congress does not thereby assume to regulate its harbor, or detract from the sovereign rights before exercised by each State over her own public rivers. Congress may establish post offices and post roads; but this does not affect or control the absolute power of the State over highways and bridges."

And to the point that roads, bridges, and other internal improvements belong to the States, I cite the following authorities: 9 Wheaton, 203, *Gibbons vs. Ogden*; 11 Peters, 133, *New York vs. Milner*; 14 Howard, 574, *Vessie vs. Moor*; 20 Howard, 92, 93, 94, *Withers vs. Buckley*.

But admit, for the sake of the argument, that Congress has the power under the Constitution to pass this bill, it is admitted by the gentleman from New York [Mr. Davis] that it should be exercised only in cases of the clearest necessity. Now, what is the necessity in this case? I wish to call the attention of the House to some facts bearing upon this point; and in order to do this we must have an inside view of the railroad system now in operation in the State of New Jersey. Judging from mere outside rumors, I should have supposed that, by some means or other, New Jersey had become sacred ground, on which no citizen of another State could place his foot, except under high penalties. One might have supposed that it was a celestial empire on a small scale, into which no outside barbarian could be permitted to enter. But there are some facts pertaining to the system of internal improvements in New Jersey which I think the House ought to know. I call attention to a few of them.

I undertake to say that the State of New Jersey has expended more money for railroads than any State lying between Washington and the Canada line, except New York, Massachusetts, and Pennsylvania, and that the facilities for transit across it are equal to those of any other State.

The following table, prepared from the census report of 1860, shows the number of miles of railroad built and the money expended therefor in the States referred to:

	Miles.	Cost.
Maine	472	\$16,576,385
New Hampshire	656	23,268,659
Vermont	556	23,336,215
Massachusetts	1,272	58,882,328
Rhode Island	107	4,318,827
Connecticut	603	21,984,100
New York	2,701	131,320,542
New Jersey	559	28,997,032
Delaware	136	4,351,789
Maryland	380	21,387,157

From which it appears that in 1860 New Jersey had expended more money for railroads than either of the States mentioned, except New York and Massachusetts, and during the last decade the percentage of increase of population in New Jersey was greater than in either of the above-named States.

Let us now examine for a moment the charge made by the gentleman from Ohio, [Mr. Garfield,] that New Jersey interferes with the free passage of commerce and travel across her territory. His position has no foundation in fact. New York city has a passage across New Jersey by eight railroads radiating in all directions, as follows: the Northern railroad from Jersey City to Piermont; the Erie railroad from Jersey City to State line, and continued thence; the Morris and Essex road from Hoboken to Hackettstown, and now completing to the Delaware; the New York Central, and Delaware, Lackawanna, and Western from Jersey City to Scranton; the New Jersey railroad and Trenton road from Jersey City to Philadelphia; the Camden and Amboy railroad from New York to Philadelphia; the Raritan and Delaware Bay road, chartered to run from New York to Cape May, along the Atlantic coast. This system of roads connects New York with every part of the country lying west of that city. With Philadelphia it has two railroad connections besides the Delaware and Raritan canal, which bears steam propellers of four hundred tons burden, and with the coal region of Pennsylvania it has two railroad connections besides the Morris canal extending from Jersey City to Easton.

Then Philadelphia has transit across New Jersey by the West Jersey railroad from Camden to Cape May, with branches to Salem and Bridgeton, embracing all South Jersey, the Camden and Atlantic railroad from Camden to the Atlantic coast, the two railroads to New York, and the Belvidere and Delaware railroad, which, with the roads to Trenton, connect the city with the entire Delaware river to Belvidere, and a connection is now forming at that place with the Delaware, Lackawanna and Western railroad leading to Scranton and northeastern Pennsylvania.

With such liberal provision for the commercial necessities of these two great cities by railroad lines reaching in every direction across the State it cannot be said with truth that New Jersey interferes with the free passage of commerce or travel.

And then the most important of these connections were earlier by many years than any other railroad connections which those cities had with other portions of the country. The Camden and Amboy railroad was completed so as to form a line in connection with steamers from New York to Philadelphia as early as December, 1832. The line by Trenton and Jersey City was completed December, 1838. The Delaware and Raritan canal in April, 1835. No other railroad led from or to those cities for ten years and more after these dates. The New Haven, Harlem, and Hudson River roads were not in operation till 1843 or 1849. The Erie not till 1850. No other railroad led out of Philadelphia (except perhaps the Philadelphia and Wilmington road) till 1844 or 1846.

The encouragement given by New Jersey to her capitalists by securing to them for a definite period freedom from competition did not obstruct but promoted railroad facilities.

But it is said that the local fares are less, the company discriminating in favor of the citizens of New Jersey. The local fares in the vicinity of New York at one end of the line, and of Philadelphia at the other end, are less than three cents per mile, it is true. The object of this is to pro-

38TH CONG....1ST SESS.

Amendment of the Constitution—Mr. Howe.

SENATE.

mote the growth of the towns and villages near those cities by inducing men engaged in daily business in the cities to settle on the line of the road, and thereby create a daily travel, commonly called excursion travel. This is the policy of all railroads. This policy leads them to sell annual and quarterly commutation tickets. Certainly those cities ought not to complain of this; nor ought any one to complain of it. It is the true policy of all railroads, and results in great good to the community. The daily travel into and out of New York by persons doing business there while living in the vicinity within a range of twenty or thirty miles is enormous. It is a great public benefit. It promotes the health of the families to live in the country towns, and enables them to live at a much cheaper rate; and the railroads profit by it at even low rates of fare.

Again it is said that according to the report of General Meigs the railroads failed, in January last, when the Potomac was blockaded by ice, to forward necessary forage for the Army. The real difficulty was not with the railroads, but with the Government, in not returning the transportation cars of the company. Some of them were sent south of the Potomac; some of them were detained here. Had the railroad company had their cars they would have transported all the forage delivered to them. (See the dispatches annexed to the report, showing that the difficulty was want of cars.) When the Potomac was blockaded by the enemy in 1861-62 the railroads carried all the Army supplies without interfering with their regular business. (See the report.) Their rolling stock is no doubt much reduced by destruction and appropriation to Government service. Every effort is made to renew it; but the scarcity of labor in that branch of industry renders it almost impossible to procure new cars. Had the cars been ready at Philadelphia to receive the forage it would have been transported across the Delaware. The ice did not prevent it there. The Raritan and Delaware Bay railroad would have had the same difficulty to encounter, if any existed. But no complaint at all is made that the New Jersey roads did not carry everything delivered to them. They did, in fact, carry everything as fast as delivered. The difficulty was at Philadelphia, and this side of Philadelphia, and it arose from the cars not being returned from Washington. And the obstruction, whatever it was, was a single instance in three years. The cold was almost unprecedented, not likely to occur soon again. It was soon relieved, showing its necessarily temporary character. With even the small amount of forage accumulated at Washington the Army supply was continued. Its failure was only apprehended.

The Quartermaster General's suggestion about an interior line of railroad, crossing on bridges above tide-water, is met by the consideration that there are such lines already.

The Northern Central road, which is connected with the Washington Branch at Baltimore, extends from thence to Harrisburg and connects with the North, East, and West, Canandaigua, Elmira, New York, and Pittsburg, by means of the New York Central, the Erie, the New Jersey Central, and the Pennsylvania Central railroads.

If the friends of the Raritan and Delaware Bay Railroad Company wish to have that road extended, if they have such patriotic feelings that they wish to connect New York with the middle States and the more remote South, I will tell them how they can do it without infringing on the rights of the Camden and Amboy Railroad Company. Under their charter, they have a right to extend it along the shore, through Delaware and Maryland, and so on to Norfolk. In fact it was called at one time the Delaware Bay and Norfolk Air Line Railroad. They need not be shut out at Cape May. Let them go on and comply with the provisions of their charter, and extend it, if they please, further south.

The gentleman from Ohio [Mr. GARFIELD] said the other day that the chancellor of New Jersey had decided in the first place that the Raritan road was a legal structure from Camden to Port Monmouth, from the west to the east line of the State, and decided in the next place that no passengers or freight could be taken over that road from Pennsylvania to New York.

Now, in answer to that, I beg leave to say to

the gentleman that the chancellor of New Jersey, as I understand him, never made any such decision. He decided not to grant the first injunction because the defendants came in and said in their answer that they never intended to compete with the Camden and Amboy road in carrying passengers and freight. There was no ground for proceeding against them. The fact that they were in the process of building their road on a line not authorized by their charter was not sufficient to authorize the chancellor to grant the injunction first applied for, and when he denied it, it was not because he adjudged the road legal, but because they had not at that time interfered with the Camden and Amboy railroad by competing with it in the actual transportation of passengers and freight between Philadelphia and New York, and when the injunction was afterwards granted it was upon the ground that the competition in business had really commenced. The proper course to take, under the laws of New Jersey, against a railroad for violating its charter is by information, a process in the nature of a *quo warranto*, for the company to show cause why the road had not been built according to the terms of its charter, and why it should not be abated.

The gentleman from Ohio then quotes from the Governor's recent proclamation to the Legislature of New Jersey, and I could not help fearing at the time that the manner in which he spoke of him indicated a disposition to create some political prejudice in favor of the petitioners in this case and against the State. He spent some ten or fifteen minutes in giving a definition of *sovereignty*, and in assailing the Governor for saying that New Jersey was a *sovereign State*. Is not New Jersey a sovereign State in the common meaning and intent of the word? If he had looked at Worcester's dictionary, or Bouvier's, he would have found that a sovereign State is one that governs itself without any interference from a foreign Power. Had not the Governor a right to call New Jersey a sovereign State? In enlarging on the word *sovereignty* he quotes from Coleridge, telling us that he once said that "more harm had come from abstract definitions than from war, pestilence, and famine." If Coleridge ever said this, and perhaps he did, for the gentleman from Ohio is learned and poetical, and certainly ought to know, I can only say that it is one of a thousand other sayings which that writer has published, with more sound than meaning.

AMENDMENT OF THE CONSTITUTION.

SPEECH OF HON. T. O. HOWE,

OF WISCONSIN,

IN THE UNITED STATES SENATE,

April 4, 1864.

The Senate, as in Committee of the Whole, having under consideration the joint resolution (S. No. 16) proposing amendments to the Constitution of the United States—

Mr. HOWE said:

Mr. PRESIDENT: I am bound to make my acknowledgments to the honorable Senator from Maryland for his courtesy in allowing me the floor to-day. For some reasons peculiar to myself, it suits my convenience better to speak to-day than at a subsequent day, and therefore I asked of him the privilege of occupying the time which was his by the rules of the body, and he has courteously responded to my request.

Sir, I have waited for this day, and I am glad to see it. I have waited for it, I think, somewhat after the fashion that the people of Judea waited for the coming of Christ, and I am glad to see it. It has been a good while coming; but it is here.

I have read history rather carelessly, I think, Mr. President; but I have been under the impression that as I could not have been born, by any reasonable degree of diligence on the part of my ancestors, during that great era in which Christ was recruiting for his divine commission by the borders of the sea of Galilee, I should next to that like to have been born in that other era, a good deal later than that, and a good deal nearer to the time in which I actually was born—during that era in which our own forefathers recruited, under their commission, divine also, to wrest the right of self-government from the power of Great Britain. I should like to have been born then, and I have

felt a little envious of the destiny that forbade it. There have been some grand opportunities since that time, some grand achievements since that time. One took place a very few years subsequently to the 4th of July, 1776: It took place, if I remember aright, on the 13th of July, 1787, when our fathers, by an ordinance of theirs, by an act of their representatives in Congress assembled, ordained that over that great territory where nestle now the magnificent States of Ohio, Michigan, Indiana, Illinois, and Wisconsin, there should never be any slavery, nor any involuntary servitude, except as punishment for crime, forever. That was an achievement in which it would have been worth the while of any of us to have taken a part. And there has been one little performance here, since I have had the honor of a seat in this body, which attracted but little notice, but was of marked significance; when the representatives of the people of to-day, here in this Legislature, actually gave freedom to no inconsiderable number of human beings who had heretofore been slaves in this very District of Columbia. That was something of an achievement.

But the purpose of to-day differs from all these greatly, and transcends them all; and to-day I am content, abundantly content, with the accident of my birth. To-day you propose to summon twenty-six million people to do, what? Not to do what three million did less than a century ago, challenge their own freedom from a foreign Power. You propose to summon them to-day to give freedom, to give freedom not to three but to four million human beings, freedom not from such a bondage as your fathers remonstrated and protested against and resisted, but from a thralldom infinitely worse than they ever dreamed of, than they ever conceived of, than they ever suffered. And that is not all you propose to do. You do not propose simply to invite this great people in this terrible time to give freedom to these four million individuals, but you propose to invite these twenty-six millions to say that no part of their number shall thenceforward forever be empowered to make a slave of any man. You propose to put up a barrier against the holding of slaves anywhere within the jurisdiction of the Government of the United States, anywhere where its flag floats, anywhere where its Constitution is obeyed. Sir, I am ambitious to put my name to that invitation, for it is going to be responded to, as I will tell you by and by.

I have had the honor now of a seat in this body three years and a little more. My friends about me will do me the justice to say that I have never yet discussed the question of slavery here. It has been before us repeatedly; allow me to say, I think a great many times too often, but I have never yet felt called upon to discuss it. I have thought there was more pressing business before us than this question of slavery even. It is here legitimately to-day. I, perhaps, might avoid now the discussion of the merits of our American system of slavery, for I am free to admit that I think I should vote to submit this proposition to amend your Constitution to the people of the United States even if I would vote against the amendment myself as one of the people, for I think the time has come when that question ought to be submitted to the American conscience, and the American conscience ought to be tried by it. I think you ought to take the sense of the American people upon the question whether they will or will not have slavery any longer within the limits of the Union; and whatever might be my opinion upon its merits, I think I should vote to submit the question to them. I think there was great justice, there was great force, in a criticism upon that clause of the Constitution which provides for its amendment, by a late Senator from the State of Oregon, (Mr. Baker,)—no longer here, no longer enacting his great part in these great scenes—when he said:

"It is not a provision that, whenever Congress shall deem the amendments proper to be passed, they shall propose them; but they shall propose them whenever they deem it necessary to propose them."

"The Constitution does but say that, when Congress shall deem it necessary to propose amendments, they shall propose them, and not when they deem the amendments necessary; that they leave to the people."—*Congressional Globe, Thirty-Sixth Congress, second session, page 1382.*

Upon that authority and upon that principle I think Senators who doubt or Senators who deny,

38TH CONG....1ST SESS.

Amendment of the Constitution—Mr. Howe.

SENATE.

Representatives who doubt or Representatives who deny that this particular amendment to the Constitution ought to be made, yet ought, in the spirit of the language I have just read, to vote to submit this proposition for amending the Constitution to the people that the sense of the people may be taken upon it. So that I might possibly avoid a discussion of the merits of this system of slavery now, but I do not wish to avoid it any longer. For once in the course of three years, perhaps, I can be indulged in telling what I think about this thing of African or American slavery, whichever you choose to call it. In my own judgment it is both African and American slavery. You cannot enslave four million Africans without making slaves of a good many Americans; and you never have done it.

Mr. President, if you look at the effects of slavery as bearing upon its victims, and with reference to their interests here alone, how will you characterize it? We of the North have very generally united to say that it was wrong. It is so easy to say that a given thing is wrong, and so easy to deny it and affirm that it is right, so easy to dispute upon a question of abstract or practical right and wrong, that I really feel some little difficulty in undertaking to prove that this thing of African slavery is wrong. If you allow me to reason from analogy by comparing it with other acts which by common consent of all civilized nations have been deemed to be wrong, I think I can establish the fact that slavery is wrong in reference to its victims.

Mr. President, if by my voluntary labor I have accumulated enough to buy a sack of flour or a bag of corn, or to put a five dollar bill in my purse, and you deprive me of it by force and violence, you commit an act which all civilized nations denounce as robbery and punish infamously. I think they are right. Nevertheless, you take only a small sum of my earnings, and you take it from me after I have voluntarily earned it. But if, instead of lying in wait until I have accumulated the sack of flour or the bag of corn, you employ that amount of force which makes me go to work, not voluntarily, not according to my will but according to yours, and accumulate the sack of flour or the bag of corn, is it any the less robbery for you to take the product as soon as it is accumulated? Is not that robbery also?

Mr. President, the crime of taking anything by violence from the person of the producer, with force or with violence, as I have said, is denounced by all civilized nations and by all law as robbery. The crime of depriving not an individual but a community of all it possesses, reducing a community to destitution, is a higher style of robbery. But slavery beats both these offenses. The system of slavery enables a power, authorizes a power to stand over a community, as it is exhibited on our continent, a community numbering four million men and women, to work them from the time they are able to work at all until they are disabled from working at all, and to take their daily earnings, to take whatever comes from their daily sweat, and apply it to the use and the enjoyment of the master or the power that makes them work. That is what slavery does.

In 1861 your census returned that you had in round numbers about four million human beings who were in this condition of slavery. It is said that the value of those slaves at that time was about \$750 each; that they would command on an average that price in the markets of the United States. Now, when you say that a negro is worth \$750, what do you mean by it? When a man in South Carolina buys a negro from a man in Virginia or elsewhere, and pays \$750 for him, what does he mean by it? He means that the negro can earn the interest of \$750 more than the cost of keeping him. That is what governs you in buying a pair of oxen, buying a cow, or in buying a machine. You think you can earn with that piece of property the interest of the money you pay for it over and above the cost of keeping the property. When you pay \$1,000 for a negro or \$1,000 for a pair of horses, unless you are a fancy dealer in the one or the other, you do it because you can earn with them the interest of \$1,000. Four million slaves, at an average of \$750 each, would amount to about three thousand million dollars. That was one fourth part of the

assessed value of the United States in 1860. The assessed value of the United States, its personal and real property, including its slaves, was about twelve thousand million dollars. Three thousand millions were invested in this kind of property. One fourth of the whole productive property of the United States was in negroes, slaves, human beings. One fourth part of the product of the property and of the labor of the United States went, where?—Not in the pockets of the laborer, not a dollar of it, but went into the pockets of men who were permitted by law to own the laborer, taken by force, taken by violence. Preceding the fact of robbing by a statute authorizing it, does not take away from it its moral character. It prevents you punishing it as robbery; but the moral character of the act still remains. If I am correct in this reasoning, the system of slavery as existing on this continent allowed robbery to the amount of one fourth, mind you, of the whole product, the whole earnings of the United States annually.

Mr. President, I think that is wrong. If I was the victim myself, I should think it was wrong. Standing aloof and looking at it, I am bound to say that I think it is wrong.

I have only spoken of the effects of this institution upon the economical interests of the victim. The victim has moral interests also, which, it is said, the whole system utterly disregards and violates. It is said that the slave is not educated, that there is no attention paid to his mental or his moral culture. I do not affirm the truth of this; I have heard it asserted; I have heard it denied. How the fact is I do not know. I hope it is true. It is no mercy and no kindness to the slave to educate him, to cultivate his mind. The theologians tell us that one of the chiefest and keenest torments of the damned in another world will consist in being able to behold the condition of the blessed in that world. Whether it is sound theology or not, I will not undertake to say; but it is perfectly sound in philosophy. If you ever undertake to make a slave of me, Mr. President, and succeed in doing it; if you ever doom me to the hell of slavery, I ask you in kindness to me, not to permit me any light in which I can behold the heaven of freedom. Keep that from my sight, and I may forget to damn you. Let me see that and I will damn you beyond the reach of infinite mercy. It is no kindness to the slave to educate him; it is a wrong to the slave, and it is a wrong to the master.

Sir, I want to quote to you one principle of law. It is not from the Constitution of the United States. I never met with it in the constitutions of any of the States. It is not from the higher law; if it was I would not quote it. That has been quoted here, and I think it has been repudiated. It is from the lower law. It is from the fundamental law, I think. You will find it on the foundation-stone upon which political society rests, if you will ever take the trouble to look at that stone, and it reads like this: that every State that educates its people and does not enfranchise them shall be damned.

I think also (though upon this next point I speak with great deference and diffidence) slavery is a terrible wrong upon the spiritual interests of the slave. As a layman, perhaps I ought not to speak of those interests at all, and yet I cannot help it, for I have been told and I believe that less than nineteen hundred years ago One was born in Nazareth and died near there, and was buried and rose again, and in broad daylight in the face of the world ascended into heaven, the pioneer in a great resurrection that is to embrace the world. And in reference to that resurrection what does slavery say to its victims? For years past, individuals of these four millions every year have been sent from this world to the next, and with what sort of passports do they go? You send them off, you who owned them here and worked them here; every year you shuffle off a certain number of these victims, and send them upward to Him who died that they might rise. Send them upward with this missive in their hands, "Here come the souls of a few of our slaves; we raised them, we worked them, we gave them such training as our kitchens and our stables would furnish; we now send them to you who died for them; stow them away in some of

the sheds of the heavenly mansion or some of its attics; and as we are coming by and by, do not let them be found in our way; we found means for them to ride in some shape or other on our railroads, set apart special cars for them; provide special rooms for them up above." That may be a good letter of introduction to send up. I do not want to sign any such, and I am glad that I am not there to receive any such, and I was about to say that I do not want to go there until such letters stop coming.

Mr. President, in passing upon the merits of slavery, we ought not to overlook its effect upon the master; and upon this question I beg leave to speak by authority. I have been using my own reasoning heretofore. Let me now refer to the testimony of another upon this point. Every member of the Senate is familiar with it. I find it in Mr. Jefferson's Notes on Virginia:

"There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part and degrading submissions on the other. Our children see this and learn to imitate it, for man is an imitative animal. This quality is the germ of all education in him. From his cradle to his grave he is learning to do what he sees others do. If a parent could find no motive either in his philanthropy or his self-love for restraining the intemperance of passion toward his slave, it should always be a sufficient one that his child is present. But generally it is not sufficient. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives a loose rein to the worst of passions, and thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities. The man must be a prodigy who can retain his manners and morals undepraved by such circumstances. And with what execration should the statesman be loaded who, permitting one half of the citizens thus to trample on the rights of the other, transforms those into despots and these into enemies; destroys the morals of the one part and the *amor patrie* of the other. For if a slave can have a country in this world, it must be any other in preference to that in which he was born to live and labor for another; in which he must look up the faculties of his nature, contribute as far as depends on his individual endeavors to the ennoblement of the human race, or entail his own miserable condition on the endless generations proceeding from him. With the morals of the people, their industry also is destroyed. For in a warm climate no man will labor for himself who can make another labor for him. This is so true that the proprietors of slaves a very small proportion indeed are ever seen to labor. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God? that they are not to be violated but with His wrath? Indeed, I tremble for my country when I reflect that God is just; that His justice cannot sleep forever; that considering numbers, nature, and natural means only, a revolution of the wheel of fortune, an exchange of situation, is among possible events; that it may become probable by supernatural interference. The Almighty has no attribute which can take side with us in such a contest."

That was written by Mr. Jefferson many years ago, and since that the truth of what he said has been illustrated by the whole history of slavery, and to-day we find that the influence of that institution upon the manners of the masters has been no less than to transform almost the whole of them into traitors against what we still say is the best Government the world ever saw. In its influence upon individuals, it has produced such a man as James M. Mason, I think out of the grandson of George Mason, if I am not mistaken in the relationship. It has produced such a man as John A. Washington out of the nephew of George Washington. In its influence upon communities, it has turned Virginia, "the mother of Presidents," into a community of traitors and rebels.

In its effect upon the master and upon the man, I think it must be conceded, then, upon all authority and upon all experience, the influence of slavery is evil and evil only. In its influence upon States I can only say this: it has placed such a State as Virginia by the side of such a State as Pennsylvania: slavery has done it. It has placed such a State as Kentucky by the side of such a State as Ohio: slavery has done it. It has placed such a State as Missouri at the side of such a State as Iowa. Missouri ought to be greater and wealthier than the State of Iowa, vastly; Kentucky ought to be greater and wealthier than Ohio, vastly; Virginia ought to be greater and wealthier than Pennsylvania, vastly; and but for the influence of slavery all these States would be wealthier than either of their rivals lying along by the side of them.

38TH CONG....1ST SESS.

Amendment of the Constitution—Mr. Howe.

SENATE.

Mr. DAVIS. Ohio has more than three times as much fertile land as Kentucky.

Mr. HOWE. As I am reminded by the Senator from Kentucky, Ohio has more productive land than the State of Kentucky has; but Ohio is young compared with the State of Kentucky, young in years; and if freedom had existed on the other side of the Ohio river the State of Kentucky would have been a very different State from what it is to-day, in my judgment. To illustrate the effect of slavery upon the nation I had prepared some tables showing the aggregate areas of the free and the slave States; the several dates of their admission into the Union, and the aggregate of their populations in 1860. Those tables I have mislaid. I can only say briefly that these figures show that the slave States include just about the same area as the free States; they have been settled on an average about one third longer than the free States, and they contain a white population about one third as great as that of the free States. That is the result of slavery upon the nation. It is an incalculable wrong in a national and political point of view.

And now, Mr. President, what are the apologies for this institution? I have heard them. We hear them daily. That which we hear the oftenest, that which is insisted upon the loudest, is that slaves are only made of negroes or of the descendants of negroes, and that they as a race are inferior to the whites. Whether the fact is so or not, I shall not spend a moment in arguing; but I affirm this, that if in the whole catalogue of excuses that are offered for crimes and offenses, one single excuse could be found more odious than the crime itself, it is this one excuse for slavery. Admit that as a race they are inferior to the race of whites; I ask Senators, I ask men if that is a fact which authorizes you or me to enslave them? Sir, the excuse not only shames what sense of manhood there is in us who are grown up, but it shames all the manliness of the boys of the country. You never hear in a community of boys any purpose of inflicting violence by a strong one upon a weak one but that the whole community cry out to him, "Take one of your size;" and I say to slaveholding communities, if you will make slaves, make them of your equals, take men of your size. Because they are weak, therefore enslave them! Because they are weak, I tell you therefore make them strong. That is the commission you have; that is the duty that is charged upon you. Weak! Just behind me I see another race that is said to be somewhat inferior to the lords of creation. Now, I do not affirm the truth of it; it is said so; and is that made a pretext by any one of you for oppressing them, or for petting them? Which? Inferior, Mr. President! Is it necessary for me to tell the American Senate that the whitest of men are made still a little lower than the angels? And do you think the angels regard that as a reason for binding fetters upon them, for deserting them? Or, on the contrary, is it the reason why they are busy in our behalf to build us up as fast as they can (and God knows how slow they get along with the work) into the likeness of angels ourselves? Inferior! Inferior! Need I tell the American Senate that when our race was dead in trespasses and sin God sent His Son here? And for what? To bury man, to work him, to sell him, to buy him, to make money out of him? No. He sent Him here to stretch Himself upon the cross and to die for us; die that we might be saved, die that we might behold in His example and catch from that example some lesson of that magnanimity which the great and strong are bound to show to the weak, which the superior is bound to show to the inferior. If, therefore, you will find a warrant for slaveholding, you must find it elsewhere than in the fact of their inferiority if you establish that fact ever so conclusively.

The Senator from Delaware told us the other day how universal had been the system of slavery. Is there any other rascality that has not been pretty universal? And is the universality of a wrong a reason for continuing it, for persisting in it when you see how wrong it is? If you want to go to heaven you had better get out of the broad road in which everybody travels, get into the strait and narrow way which is not crowded because there are so few going in it. If

you want to indulge in practices which will take you through safely, take those which are not universal, take those which have been observed by the few, and the good, and the right.

Mr. SAULSBURY. The Senator is giving advice about forsaking the broad way and taking the narrow path. I wish to know if he desires to follow him that walks therein.

Mr. HOWE. I think that was a good thing, but I did not hear it. [Laughter.] I will give him credit, however, on trust. I have heard it urged by the defenders of slavery a great many times that it was necessary to the cultivation of certain crops, and there was a time when I myself rather thought that there were very important crops in this country which could not be cultivated without black labor; but I never believed there was any crop God ever allowed to be cultivated that was necessary to be cultivated with slave labor. I have thought, however, that there were certain latitudes within this empire of ours that must be cultivated by black labor. I have got over that. I deny all that gospel. Sir, I went to Vicksburg last August, after Vicksburg was in our possession; I went into the trenches there which our men had dug and which they occupied; I saw and stood in the trenches on the sunny side of those hills into which not our northern field laborers alone, but our northern lawyers, clerks, students, all classes who went out there, went into in the morning and came out of the next morning, staying there the twenty-four hours round, doing their work there. I saw men who went into the Army and went down there students pale from study; I found them there bronzed and hardy and rugged working men. I have got over the notion that there is any latitude under the Constitution of the United States that cannot be cultivated by the people of the United States, black or white, white or black.

But if I am mistaken on this point, I never believed that it was necessary to own black men in order to have the work of black men. Do you say that if you release the authority of the master the slave will cease to work? What makes him work while you own him? Is it your authority? Does he work from a sense of duty to you because you have bought him and paid somebody else for him? Not a bit of it. He works because the State commands him to work. The State commands him to work for this man, and in obedience to the State he works for him. He works for him knowing that he can get but his daily bread from the produce of his labor. Do you think that when the State withdraws that command, and instead of telling him to work for you, tells him to work for himself and have the benefit of all he earns, he will cease to work? Not a bit of it. There is no philosophy in that; there is no truth in it. It has been tried, and it has been found to be false.

But it is said that the emancipation of these slaves would be fatal to the relation existing between the two races in the States where the two races are. I think I have heard my very distinguished friend from Kentucky [Mr. DAVIS] say over and over again that it would lead to a war of extermination; that one race or the other must be exterminated. I ask, why? I demand to know why. If freedom be given to the black men of Kentucky or of South Carolina, may not their labor still be necessary for the State of Kentucky or of South Carolina? Do you say they are going to commence the work of massacre and slaughter the moment you give liberty to them? Do you say that while you bind them to the necessity of laboring for you for your benefit, they submit to that law in peace and in quiet, but the moment you emancipate them and give them the privilege of working for themselves and enjoying the fruits of their own toil, then they are going to turn marauders and murderers? That is not to be insisted upon; it is not to be believed; it is a libel upon humanity, black or white.

But, sir, they tell us the slave is happy; that he is kindly treated. I heard my friend from Kentucky not long since tell how kindly he treated his own slaves. Do you think I doubt that? Do you think I distrust that? Every kind man, of course, will treat his slaves kindly. Every wise man, whether he be kind or not, will treat his slaves kindly. Do you not think I treat my horses

kindly? Do you not think I like them? Why, sir, I have imperiled my domestic happiness sometimes by calling them "darlings" when my wife thought I ought to address such language only to her. [Laughter.] Is that a reason for making slaves of men because you do not abuse them? That is not an excuse; that is not a justification.

Mr. President, in whatever aspect I look at slavery, my verdict is that it is unutterably wrong, an evil and an evil only; and in whatever aspect I look at it I must say it is without any possible justification or excuse. I cannot say, as I have often heard it said, that it is the sum of all villainies. Had as I have found it to be, bad as I believe it to be, I think I know of a villainy that transcends it, infinitely almost; that transcends the guilt of slavery as much as slavery transcends the guilt of freedom; and that is, this rebellion, on which I wish to say a few words.

Mr. President, we have been struggling with this rebellion for three years; and it is one of the saddest facts I know of in history, that, although we have pretty generally come to concede that in law these rebels are guilty of treason, yet there is to-day a large body of the people, standing almost in the very blood the rebellion has shed, who affect to believe that, after all, this rebellion is one of the respectable kind of rebellions, a pretty decent thing; that if it cannot be justified there is a great deal of excuse for it. I tell you that sentiment is very prevalent throughout these loyal communities and these loyal States to-day.

I hold that no such guilt as is personified in this rebellion has been allowed to stalk abroad on the face of God's earth since He allowed the earth to stand, as this same rebellion is. Either you who palliate it are right or I am; and if there be no sort of palliation or excuse for that which you are constantly attempting to palliate or excuse, you have a heavy responsibility to settle for your efforts in that direction.

After struggling with it for three years, after expending our thousands of millions of money and our thousands upon thousands of lives and our rivers of blood in the effort to crush this rebellion, I was shocked, unutterably shocked to hear the other day a Senator, in the employ of this Government of ours and paid out of its Treasury, straining himself to complain of it the other day, out of a decent regard to loyalty and finding no word in the English language that he dared to use in denunciation of it stronger than to say it was not "wise."

Sir, a Representative from one of the loyal States of the Union, paid by your money, a couple of years since, standing in the House of Representatives, representing a district of that State which is represented here by the honorable Senator from Ohio, [Mr. WADE,] discussing the merits of this rebellion, said:

"You have utterly, signally, disastrously—I will not say ignominiously—failed to subdue ten million 'rebels' whom you had taught the people of the North and West not only to hate but to despise. Rebels, did I say? Yes, your fathers were rebels, or your grandfathers: He who now before me on canvas looks down so sadly upon us, the false, degenerate, and imbecile guardians of the great Republic which he founded, was a rebel. And yet we, cradled ourselves in rebellion, and who have fostered and fraternized with every insurrection in the nineteenth century everywhere throughout the globe, would now, forsooth, make the word 'rebel' a reproach."—Appendix to Congressional Globe, Thirty-Seventh Congress, third session, page 55.

An American Representative in one of the Halls of your own Legislature used this language in reference to this very rebellion of which I am speaking.

I beg leave to read to the Senate an extract from a speech made by Earl Russell at Blair Gowrie on the 26th of September last. Speaking of the relations of the Crown to the confederate States, he uses this remarkable language:

"Well, then, it was said that these confederate States were rebels, rebels against the Union. Perhaps, gentlemen, I am not so nice as I ought to be on the subject. But I recollect that we rebelled against Charles I. [a laugh,] we rebelled against James II, and the people of New England, not content with these two rebellions, rebelled against George III. [a laugh and laughter.] I am not saying now whether all these rebellions were justifiable or whether they were wrong—I am not saying whether the present rebellion in the southern States is a justifiable insurrection or is a great fault or is a great crime, but I say that the mere fact of rebellion is not in my eyes a crime of so deep a dye that we must renounce all fellowship and commu-

nion and all relationship with those who have been guilty of rebellion. [Loud cheering.] But, certainly, if I look to the declarations of those New England orators—and I have been reading lately, if not the whole, yet a very great part of the very long speech by Mr. SUMNER on the subject, delivered at New York—I own I cannot but wonder to see these men, the offspring as it were of three rebellions, as we are the offspring of two rebellions, really speaking like the Czar of Russia, the Sultan of Turkey, or Louis XIV himself, of the dreadful crime and guilt of rebellion."

There, by one of your own Representatives in your own Legislature, and there, out of the mouth of a minister of Great Britain, and before the British people, this rebellion with which you are now struggling is likened to that in which your forefathers engaged, and that in which their forefathers engaged against Charles I and James II.

Sir, what was the rebellion in which those men engaged to depose Charles I? Against what authority or government did they rebel? The authority of the king, who claimed to govern, not by the election of his subjects, not by their choice and selection, but by divine right and by the accident of birth, and who claimed for the measure of his authority—what? The right to appoint himself, as he did, members of one House of the law-making department of his Government; the right to appoint every judge; the right to appoint every administrative and executive officer. If the members of his Parliament disaffected him, he dismissed them at his pleasure. He convened them only when he wanted them. He kept them no longer together than they would subserve his purposes. When a member of the House of Lords displeased him, he refused to summon him to his seat. He declared war when he chose to make war. The fact of war he made the pretext for levying taxes which his Parliament had denied to him; and when, against all these assertions of power, one of his own subjects appealed to the courts to redress a wrong committed by the Crown, or by the agents of the Crown, he dismissed judges who would not agree to decide in his favor, and he appointed judges who would agree to decide in his favor.

It was against such authority in such hands that that rebellion was waged; and yet they did not resort to that rebellion until they had tried every means to avoid it, by appeals to Parliament, by appeals to courts, by appeals to statutes, by appeals to reason. For twenty years and more the people of Great Britain struggled by every possible peaceful means to prevent the exercise of these prerogatives, and to redress the wrongs that were occasioned through their exercise, before they resorted to force.

Against what did your own forefathers rebel—your fathers and mine—whom a degenerate Representative in Congress likened to the men who have made this rebellion? Let them speak for themselves. I am not asserting any more than did Earl Russell that all rebellion is guilty. I know it is not. I know that revolution has been employed as an instrument of reform. I know it has often been so employed. I know that in some cases it is necessary to be employed. I regard it myself as that sort of volcanic agency, so to speak, by which the under-layers in the social stratification are upheaved into the light of liberty and equality. But, sir, everybody must concede, what all philosophy and all experience teach, that revolution, rebellion, war, are the most frightful remedies that were ever employed or can be employed, and therefore they should be applied only to the most desperate diseases. But when a people are subjected to a wrong which they cannot endure, and a wrong which they cannot correct by any other instrumentality or any other means, undoubtedly rebellion may be resorted to, and undoubtedly rebellion should be resorted to. Your forefathers resorted to rebellion only under those circumstances and with those limitations. They laid down the very conditions upon which rebellion might be justified in these well-considered words:

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of Government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new Government, laying its foundation on such principles and organizing its powers in such forms as to them shall seem most likely to effect their safety and

happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such Government and to provide new guards for their future security."

And then, having laid down these conditions upon which alone a resort to rebellion can be justified, they proceeded to file that terrible indictment against the Government of their king. It is too familiar to the Senate to justify me in reading even extracts from it; but there is scarcely an act of arbitrary power known to the history of Governments that is not charged in that document upon George III.

In the light of these examples let the guilt of this rebellion, with which we have to deal to-day, be tried. Were the men who made this rebellion oppressed by the Government of the United States? Nobody asserts that. The men who made this rebellion administered the Government themselves. Senators went out of this Chamber to fight the authorities of the United States; ministers went out of your Cabinet; officers in your Army and Navy deserted their colors and betrayed their commands; clerks went out of your bureaux; your own agents, your own employes, paid by you to protect your interests, abandoned their trusts and took up arms under the authority of a governmentalism to you and alien to them, until they made it to overthrow your authority. There was not a single act upon your statute-book of which they complained; not a single act of the Executive of which they complained; not a single judgment in any one of your courts of which they complained. Every department of the Government had acquiesced in every demand they had made.

There was then no oppression on the people who made this revolt. There was nothing to complain of in what the Government had done. Did they make this rebellion to correct the form of Government? Sir, you heard and I heard a late Senator from Kentucky, who is now in arms against the authority of his own State and of his own country, declare here on this floor that this was the best form of Government which the wisdom of man ever devised. Nay, sir, you heard another Senator, representing the State of Texas, who went out of this Chamber and out of the employ of the people of the United States to make war upon them, declare:

"So devoted a friend of the Union am I that when (as I know it must be, because I see no disposition to save or to prevent it,) the eight cotton States have withdrawn from this Union, as they will in the next two months do, and meet in convention to adopt a federal form of government for themselves, and to establish a foreign department, I for one shall advocate the adoption, without crossing it or dotting an *i*, of the same old glorious Constitution that was ratified by the old thirteen States."—*Congressional Globe*, second session Thirty-Sixth Congress, page 74.

So, then, it was not the purpose of this rebellion to redress any wrongs which its authors had sustained under the Government, nor to correct the form of the Government itself. They approved of the form of the Government, and they themselves guided its administration. Against what, then, did they rebel? A President had been elected. That was the act of the people. Of that they complained. With the election of the present incumbent they were not satisfied. The election of Mr. Lincoln was known to be obnoxious to them as the election of Mr. Breckinridge was known to be obnoxious to those who voted for Mr. Lincoln. The men who preferred Mr. Breckinridge had the same right to vote for him and enjoyed that right as fully as others, who opposed Mr. Breckinridge, had the right and enjoyed the right to vote for Mr. Lincoln.

But is the election of a President of the United States a cause, a justification, or an excuse, even, for rebellion, for all the evils and all the woes of revolution? Sir, if the man elected President in 1860 had been as ambitious as Jefferson Davis, if he had been as false as Franklin Pierce, if he had been as faithless as Floyd, if he had been as vainglorious as Toombs, if he had been as spiritless as Buchanan, if he had been stained with every crime and with every excess, still his election

would have been no cause for rebellion; and why? For the simple reason that the term of a President is very brief, and the measure of his authority is very restricted. He is harmless if he is ever so vile. His ability to work mischief is extremely limited; and the term in which he can do anything, good or bad, is limited to four years. I put it to the Senate, or to any one who is disposed to palliate this rebellion, if they believe that our forefathers would have declared for secession from the British empire if they by four years could have terminated the reign of George III? Do you think revolution would ever have been resorted to to depose James II, if by four years or ten years endurance his reign could have been terminated by an election of the people?

I was surprised to hear a Senator, who usually speaks with a great deal of accuracy, speaking on this point some days since, use this language in reference to the President:

"I can very readily imagine a condition of things in any country on the face of the earth when a Government, the President, or, if you please, the ruling power, the Executive, had become so obnoxious to the people and was pursuing a course so diametrically opposed to its interests, that it might be necessary in the Senate of the United States or in the House of Representatives, or in either or both, to say distinctly from the place which we occupy, 'I, from this place, call on the people of the United States to resist this outrageous exercise of power.'"

I undertake to say, no such necessity and no such occasion will ever occur in the history of this Government under its present Constitution. The President, as I have said before, is one of the most harmless agencies ever employed in the affairs of Government. No matter what may be his personal character, he is as harmless as the marshal of a district or the sheriff of a county. He is but a mere agent of the people to obey their law, to execute their express commands embodied in positive enactments; and when he goes one inch outside of the express authority of law, he has not the slightest protection any more than the constable of a town. If he withholds a debt from you or assaults you, he is amenable to the same corrections that you are if you withhold a debt from another or assault another. If he commits any crime or misdemeanor he may be removed from office at any time. He is at all times at work simply for the people who employ him, and he is utterly powerless except as he is executing their expressed will. But while he is executing the will of the people of the United States, while he represents these twenty-six million people, then he is a power—a power which, until within a few years, there was no power on earth that dared to gait; and if we are true to our form of Government, he will in a very short time again become a power that no potentate on earth will dare to withstand. When acting in obedience to the people of course they cannot desire to resist him at all. When acting in defiance of them there can be no more necessity for their resisting with force than there is for the stockholders of a railroad or of a bank to employ force against their superintendent or cashier. To employ the terrible agency of revolution to depose or resist a President of the United States, whose term is so brief and whose authority is so limited, would be the most monstrous insanity I can well conceive of. The man who would do it or recommend the doing of it you may expect to see sometime washing in aqua fortis to remove freckle, or burning his barn to expel the rats.

But, sir, I ought to say that the President elected in 1860 was not of the character I have supposed or indicated. He was not a bad character. He was not a vile man. On the contrary, a more sinless man has not occupied the presidential chair since your Government was organized. He was stained by no crime. He was stained by no excess. A more kindly or a more genial nature you rarely find than his. I venture to say further, that when history undertakes to criticise the administration of the present Executive, if it finds fault with him at all, it will be that he has dealt with this monstrous rebellion with too much tenderness, and not that he has dealt with it with too much tyranny.

What, then, was the occasion of the rebellion? I heard the Senator from Delaware [Mr. SABLESBURY] say the other day that if the fugitive slave law of 1850 had been faithfully executed he did not believe the rebellion would have occurred.

38TH CONG....1ST SESS.

Amendment of the Constitution—Mr. Howe.

SENATE.

Sir, I am sorry to say the fugitive slave law of 1850 has been faithfully executed. I am sorry to say it, because it was not a statute fit to be enacted or fit to be executed. It was a monstrous outrage. I do not speak of it now in the sense of its being a violation of the Constitution. I believe the courts decided otherwise. I hold myself, as a lawyer and as a man, and I would make an affidavit of it if I was called upon to do so, that it is a gross and palpable violation of the Constitution; but that it violates the Constitution of the United States is the very least of its defects. It violates your constitution and mine. It violates every dictate of humanity. It violates every sense of right, every sense of decency. I speak in no passion. I am not going to try to prove this or illustrate it. I speak from long-established conviction. I ask any candid man to read it and look at its provisions, and point out its parallel in iniquity in the statute-books anywhere. But monstrous as it is, it has been executed throughout all the States of this Union wherever they have tried to execute it. It has been executed in Wisconsin, executed in Massachusetts, executed in New York, executed in Ohio. One of the last acts of the late President of the United States was to pardon a citizen of Wisconsin who then lay in jail for a violation of one of the provisions of the fugitive slave law of 1850.

The Senator who made this statement seemed to complain of the people of the North because they had not discharged the duty which, as he says, and which others say, the Constitution imposed upon them of returning fugitives from labor.

Mr. SAULSBURY. If the Senator will allow me a moment, as he seems to be quoting from what he supposes to be some remarks that I made, and as I have a copy of those remarks before me, I will read to him just one sentence of what I did say:

"Had political abolitionists refrained from intermeddling with the just rights of the South in regard to slavery there would have been no secessionists."

The fugitive slave law was not mentioned in that connection.

Mr. HOWE. I took down the words as I understood them to fall from the Senator; but certainly I accept the correction. Nevertheless, I think the argument has frequently been made by others. I do not propose to go into any discussion of the merits of that fugitive slave law. I simply state the fact here that that law was executed. Infamous as it was in its provisions, it was executed. I will say here that the Constitution ought to be vindicated by a single word. It imposes no duty upon you or upon me to return any fugitive from labor. It commands you not to interfere with the owner who comes to take him, but it does not tell you to take him back, nor furnish the owner any aid whatever in taking him back. But you have seen the whole power of the United States employed in the rendition of fugitives from slavery under the law of 1850; your Navy employed and your Treasury depleted to pay the expenses of taking back persons who have escaped from slavery. I declare, sir, if slavery had been that sacred fire which used to be kept burning in the temple of Vesta at Rome, and we had been the virgins who guarded it, our vigilance could not have been greater than it has been over the slaves of southern masters. That is the fact. I do not brag of it. I state it.

A few years ago a man by the name of John Brown, with, I think, twenty-one others, made a little expedition into the State of Virginia for some purpose or other. As I understood from him, his purpose was to give freedom to a few slaves, or to a good many slaves, in the State of Virginia, in violation of the law of that State. He failed in that enterprise. He and his twenty-one compatriots were arrested. They were thrown into jail. They were indicted, I think, for treason against the State of Virginia. They were tried, one after the other; and I believe every man of them was hung. They were convicted of treason; and so, I suppose, I am estopped legally from denying that they did commit treason, estopped by the verdict of the jury, or by the judgment of that court. Nevertheless, I will say they did not intend to commit treason. They meant to leave the government of Virginia just as it was. They did mean to take some property, or that which the laws

of Virginia recognized as property, away from that State. But they did not mean to overthrow or assail the sovereignty of the State.

I am not justifying John Brown's raid, but I am telling you what happened when that raid was made. They were arrested, as I have stated. They were tried in their courts—well enough. They were found guilty—I do not complain. The judge said they must be hung—I do not complain of that at all. The executioner proceeded to hang them—very well; it was the exercise of the right of Virginia. But this is what I wish to call attention to. You say we of the North have not been true to our constitutional obligations. There was a little petty raid. Admit that the motive was just as bad as human motive can be, and that the purposes of the men engaged in it were as bad as human purpose can be. And what happened? You saw the Governor of Ohio and the Governor of New York and the Governor of Pennsylvania, those three great States, tender to the State of Virginia the militia force of those several States to aid the Commonwealth of Virginia to hang John Brown and his twenty-one compatriots! Can you tell us we are not faithful to our obligations under the Constitution to this institution of slavery when three great northern loyal States actually volunteered to furnish a militia force to help to hang twenty-two men who made an attack on the institution of slavery? Do you tell us after that that we have not been true to our obligations under the Constitution? I plead the general issue. We are faithful. We are so faithful.

I am not justifying John Brown; I am not condemning Virginia for hanging John Brown; but I would rather have been hung when John Brown was than to have been the Governor that hung him; and I am rather inclined to think, if I were permitted to choose, I would rather have been hung with Brown than to have been one of the Governors who offered the militia force of their States to help execute those men.

Sir, if they had really committed treason against Virginia, not connected with the subject of slavery, if John Brown and his twenty-one men had actually gone down to depose Henry A. Wise or whoever was Governor of Virginia, and abolish its Legislature and take possession of its government, if they had gone there for the palpable work of treason, genuine treason, and the Governors of those States had volunteered to help hang the men, what would you have said of them? Would you not have said it was unutterably shameful to muster the military force of these great States to aid another State execute its justice upon twenty-two culprits? I do not speak of it now to complain of these States; but I speak of it as an answer to the assertion made here that we did not come up to the requirements of the Constitution; that we, as political communities, did less than the Constitution demanded at our hands in defense of this southern slavery.

I want to remind you of another thing that happened in this same connection. There was an investigation instituted here in the Senate about this raid. There was a man, my namesake, living in the city of Boston. I have known of him as all Senators have known of him as being engaged in every good work, a patriot and a philanthropist, and a benevolent man. He was no relative of mine. If he had not run away I should wish that he was; but he actually left the country—as the papers said and I believe it to be true—he fled beyond the protection of the Constitution of the United States and beyond the protection of its flag for fear he might be involved in some suspicion of having been an ally of John Brown and his twenty-one compatriots; knowing as he did how relentless was the Government of the United States in punishing every exhibition of infidelity to the law of slavery; knowing as he did that in the penal code of this Government an offense against slavery was the only offense which could not and would not be tolerated.

And yet you tell us we have been false to our constitutional obligations to slavery.

But we have been accused of passing certain laws in the several States calculated to impede the execution of the fugitive slave law or some other law—personal liberty laws they are called. Well, sir, we have passed such laws. We had a right under the Constitution to pass them, or we had no

right. If we had the right to pass them, under the Constitution, nobody outside of our several States has any right to complain; but if we had no right to pass them, the laws are good for nothing. But let me say here that every representative of Kentucky in her Legislature is amenable for what he does or omits to do only to his God and to his constituents in that State, and he is not amenable to the State of Wisconsin or to the people of Wisconsin for what he does or for what he omits to do; and the reverse of the rule is just as true. Whenever we pass a law which impairs or infringes the constitutional right of a citizen of Kentucky, you know it is not worth the paper on which it is written; it is invalid, it is null and void, and gives you no right to complain whatever. It may show that the public sentiment in Wisconsin is a little disordered, but it can have no other effect.

But remember this revolt is not against the government of the States; it is against the Government of the United States. They did not undertake to overthrow the government of any of the individual States; they did not propose to do it, but simply the Government of the United States, and the Government of the United States never passed any personal liberty laws. But those men who went out from here to make this rebellion told you that the personal liberty laws had never done any hurt and were not the cause of complaint.

Mr. President, what had we done or what had we said to give occasion for this revolt? The form of the Government was as perfect as they could make it. The administration of the Government had been just what they chose to make it. There had been no act of which they could complain. What words had we uttered of which they could complain? The President of the United States, coming into office on the 4th of March, 1861, threatened everywhere with revolt, with war, finding himself surrounded by menace in every direction—what language did he employ toward the insurgents? I desired to read one passage from the inaugural address of the President of the United States, which I thought I had in this volume of the Globe, but I do not see it, and I cannot repeat it, and I must let it pass. Sir, you remember and I remember the language used by the President of the United States who was called upon to encounter the first effort at revolt against the authority of the United States and to break up the Union of these States. His speech was very brief, but it was very emphatic. He said: "By the Eternal, the Union shall be preserved;" and it was. He did not try to palliate, to excuse, or to extenuate. He set himself up before the world as the representative of the people of the United States, and he said that every man in and outside of the United States must respect that authority.

The language we employed in 1861 was milder than that. The threats and the taunts and the insults have all come from the insurgents, and none from the authorities against which they revolted. Let me read to you an extract from the language of one of the Senators from a revolting State. He had not then left the Senate Chamber. He was still in your employ, still under your pay. Speaking of an event which had transpired a short time before, and which had touched the sensibilities of every loyal citizen of the United States, he, here in this Senate Chamber, in the presence of the representatives of the American people, employed this singular language:

"The Star of the West swaggered into Charleston harbor, received a blow planted full in the face and swaggered out. Your flag has been insulted; redress it if you dare. You have submitted to it for two months, and you will submit to it forever."

The Government having done no act against which complaint could be made, having spoken no word that was not spoken in kindness, here was a rebellion mustered, then having gathered head in eight States; here was a man in your council chamber preparing to join it, daring you to assert the authority of the people, telling you that your flag had been insulted, and that you dared not resent it; a rebel right here in your presence in this Senate Chamber. I remember that De Quincey, in some essay of his, treated murder as one of the fine arts. I want to see the essayist

who, by and by, in more peaceable times, with the light of this rebellion before him, will undertake to treat of revolution as one of the fine arts.

But, Mr. President, what was the trouble? Did they go to war for nothing? Was this revolution mustered for no purpose whatever? By no manner of means. It was for a very significant purpose. The truth about it was, and you know it, sir, there was an opinion prevailing in a portion of the States of this Union which was very obnoxious to the men who made this rebellion and who owned slaves. Your Constitution was formed for the purpose of making American opinion the supreme law. There were very few limitations put upon that opinion. As a great deal of mischief had arisen in other countries because of establishing some particular religious opinion as the legal opinion upon religious subjects in different realms, it was forbidden that you should make any law regulating worship or regulating religious opinions. It declared American opinion to be the supreme law. There was a necessity, you see, that American opinion should be left perfectly free, that every man should be allowed to think what he pleased on all subjects.

Now, it happened that the men who made that Constitution were almost united in the opinion that slavery was a great wrong. Of course they put nothing into the Constitution to inhibit you or me or any man from thinking the same; and a great portion of the people of the United States had therefore continued to hold fast to that conviction. This rebellion was employed for the simple purpose of crushing out that opinion. The Constitution had left every man free to cherish that opinion who saw fit to cherish it. It could not, therefore, be put down by law. Revolution was the only force which could put it down, and revolution was resorted to for that purpose and for no other.

Let it be remembered by whoever undertakes to speak of this rebellion hereafter, that when your forefathers had secured, by revolution and by war, the right to govern themselves, and had left opinion perfectly free among all the people of the United States, the first opinion which it was attempted to crush out by force was that of anti-slavery. Understand me, then, to assert as a fact that this rebellion is organized for no other purpose than to crush out anti-slavery opinion, and not anti-slavery action. Why do I say that such is the purpose of the rebellion? First, because there is nothing but opinion to rebel against. There was not an act of, there was not a defect in, the Government, as I have shown. There was nothing but an opinion to war against.

But, sir, you were told precisely what you must do to avoid this war. Let me read what that was. A Senator from Texas, speaking in this very Chamber, said:

"Thus I say to the different States, as the representative of my State, that within your borders there are presses and there are public speakers, and unless the newspapers have given a false account of the fact, your President elect a few months, or possibly weeks, before his nomination was a hired abolition lecturer, delivering, at \$100 a lecture, lectures throughout the country, exciting the people against us. We say to those States that you shall not—that is the word I choose to use, and I reflect the feeling and determination of the people I represent when I use it—you shall not permit men to go there and excite your citizens to make John Brown raids or bring fire and strychnine within the limits of the State to which I owe my allegiance. You shall not publish newspapers and pamphlets to excite our slaves to insurrection. You shall not publish newspapers and pamphlets to excite the non-slaveholders against the slaveholders or the slaveholders against the non-slaveholders."—*Congressional Globe, second session Thirty-Sixth Congress, page 13.*

That is what you were told to do to avoid the rebellion. You were told you should do those things, and that you should not do the contrary of those things.

I desire to read extracts from two or three speeches delivered by a former Representative of the State of Georgia, who became vice president of what are called the confederate States, showing conclusively, if human testimony can show anything conclusively, that the division of this Union into two Governments was no purpose of those who made the rebellion, but it was to establish their ideas on the question of slavery as the supreme law of the whole Union; that secession was not the end aimed at, but only a means to the end; that the reconstruction of the whole Union upon slavery as its corner-stone was the

declared recognized purpose aimed at by the rebels. He said, in a speech delivered at Montgomery, speaking of the constitution adopted by the confederate States:

"The new constitution has put at rest forever all the agitating questions relating to our peculiar institutions—African slavery as it exists among us, the proper status of the negro in our form of civilization. This was the immediate cause of the late rupture and present revolution. Jefferson, in his forecast, had anticipated this as the 'rock upon which the old Union would split.' He was right. What was conjectured with him is now a realized fact. But whether he fully comprehended the great truth upon which that great rock stood and stands may be doubted. The prevailing ideas entertained by him and most of the leading statesmen at the time of the formation of the old Constitution were that the enslavement of the African was in violation of the laws of nature, that it was wrong in principle, socially, morally, and politically. It was an evil they knew not well how to deal with; but the general opinion of the men of that day was that, somehow or other, in the order of Providence, the institution would be evanescent and pass away. This idea, though not incorporated in the Constitution, was the prevailing idea at the time. The Constitution, it is true, secured every essential guarantee to the institution while it should last, and hence no argument can be justly used against the constitutional guarantee thus secured because of the common sentiment of the day. Those ideas, however, were fundamentally wrong. They rested upon the assumption of the equality of races. This was an error. It was a sandy foundation, and the idea of a Government built upon it. When the 'storm came and the wind blew it fell.'"

"Our new government is founded upon exactly the opposite ideas; its foundations are laid, its corner-stone rests upon the great truth that the negro is not equal to the white man; that slavery, subordination to the superior race, is his natural and moral condition. [Applause.] This, our new government, is the first in the history of the world based upon this great physical, philosophical, and moral truth."

So it is, sir, the first government in the history of the civilized world based upon that idea; and if God does not utterly forget us it will be the last, let me tell you, whether that idea be a truth or falsehood.

But it may be said they meant to base their government only, the government of the seceded States, upon that corner-stone, and leave your Government, the Government of the remaining States, to rest upon the other corner-stone of universal human equality and human freedom. They did not mean any such thing. They meant, on the contrary, that their government should absorb this. They meant that their institutions should extend over us. They meant not only to reorganize their government upon that idea, but to reorganize this Government also upon the same. It was in this very speech that this same orator undertook to detail, in guarded language, to be sure, but sufficiently explicit for any of us to understand, how he expected to reorganize the Government of these States, and to plant them upon that same corner-stone. He said:

"Our growth by accessions from other States will depend greatly upon whether we present to the world, as I trust we shall, a better government than that to which they belong. If we do this, North Carolina, Tennessee, and Arkansas cannot hesitate long; neither can Virginia, Kentucky, and Missouri. They will necessarily gravitate to us by an imperious law. We made ample provision in our constitution for the admission of other States; it is more guarded, and wisely so, I think, than the old Constitution on the same subject, but not too guarded to receive them as fast as it may be proper. Looking to the distant future, and perhaps not very distant either, it is not beyond the range of possibility, and even probability, that all the great States of the Northwest shall gravitate this way as well as Tennessee, Kentucky, Missouri, Arkansas, &c. Should they do so, our doors are wide enough to receive them, but not until they are ready to assimilate with us in principle."

"The process of disintegration in the old Union may be expected to go on with almost absolute certainty."

That is not all the testimony we get from this same witness upon this point of what was the real purpose aimed at by the rebellion. Speaking at Atlanta, Georgia, on the 30th of April, 1861, in the very morning of the rebellion, while I think these acts of secession had extended only to eight States, after he had concluded his speech, he was called out again by the earnest solicitation of his friends, and he came out on the platform to impart some intelligence. It was this:

"The news from Washington is very interesting. It has been stated in the newspapers, first, that the Virginia troops had occupied Arlington Heights, just across the Potomac from the President's house; and again, that Lincoln's troops had occupied that point. My information is that both these statements are incorrect. Lincoln, however, has occupied Georgetown Heights. He has from fifteen to twenty thousand soldiers stationed in and about Washington. Troops are quartered in the Capitol, who are defacing its walls and ornaments with grease and filth, like a set of Vandal hordes. The new Senate Chamber has been converted into a kitchen and quarters, cooking and sleep-

ing apparatus having actually been erected and placed in that elegant apartment. The Patent Office is converted into soldiers' barracks, and is ruined with their filth. The Post Office Department is made a storehouse for barrels of flour and bacon. All the Departments are appropriated to base uses, and despoiled of their beauty by those treacherous destructive enemies of our country. Their filthy spoils of the public buildings and works of art at the capital, and their preparations to destroy them, are strong evidence to my mind that they do not intend to hold or defend the place, but to abandon it, after having despoiled and laid it in ruins. Let them destroy it—savage-like—if they will. We will rebuild it. We will make the structures more glorious. Phoenix-like, new and more substantial structures will rise from its ashes. Planted anew, under the auspices of our superior institutions, it will live and flourish throughout all ages."

A rebellion waged to vindicate the independence of eight States, which had declared themselves independent of the balance of the Union, to rebuild the Capitol of the United States! What interest have they in the Capitol of the United States? How happened the vice president of that confederacy to be threatening to rebuild this Capitol? If the purpose of the rebellion was to establish the independence of those States, what had they to do with the conquest of the District of Columbia? What had they to do with rebuilding the Capitol of the United States?

Preceding this speech, on the 19th of December, 1860, the State of Mississippi sent commissioners to confer with the government of Maryland on the subject of secession; and in a speech made to the citizens of Baltimore on that evening the commissioner spoke as follows:

"Secession is not intended to break up the present Government, but to perpetuate it. We do not propose to go out by way of destroying or breaking up the Union as our fathers gave it to us; but we go out for the purpose of getting further guarantees and securities to our rights, not by convention of all the sovereign States, not by congressional treaties which have failed in times past and will fail again; but our plan is for the southern States to withdraw from the Union for the present, to allow amendments to the Constitution to be made guaranteeing our just rights. If the northern States will not make those amendments by which these rights shall be secured to us, then we must secure them the best way we can."

Here we have the explicit testimony from the ambassador of one of the seceding States that secession is not intended to break up this Government, but to perpetuate it. They proposed to organize a new and independent government, not for the purpose of protecting their rights, but to make this government *guaranty* their rights. Their rights were to be secured, not by making their constitution, but by amending ours. If the northern States would not make those amendments, then they were to secure them the *best way they could*. Thus, by the mouths of these three witnesses, the whole purpose of secession is revealed.

The representative from Texas (Mr. Wigfall) says your abolition societies must be abolished, and Mr. Lincoln must stop lecturing. Mr. Stephens asserts that they mean to rebuild your Capitol. And the commissioner from Mississippi declares that your Constitution must be amended. All these things are to be done, too, not because your people wish them done, but because the people of the seceding States *will have them done*.

Sir, during the executive session of this Senate in March, 1861, your capital was garrisoned by a military force which, if I remember, numbered about twelve hundred. Such a force, of course, could not be dangerous to the capital of the confederate States, but might offer some resistance to the capital of the United States. Accordingly, Mr. Mason, then a Senator from Virginia, undertook to secure their removal. For that purpose he offered a resolution to the Senate in the following words:

"Whereas the presence of a military force, concentrated and permanently quartered at the seat of Government of the United States, is a departure from all former usage of the Government, and dangerous to the rights and liberties of the people: Therefore,

"Resolved, That the President be requested to inform the Senate what is the number of troops of the Army of the United States now quartered in this city, the respective arms of service to which they belong, and the purpose for which they were brought here; and that he further inform the Senate when the said troops are to be withdrawn from this city, and if not to be withdrawn, for what purpose they are to be retained here; and whether it is in contemplation of the Executive to increase said force, and to what extent."

Another Senator introduced a resolution calling on the President to withdraw all your troops from all your forts throughout the several States

38TH CONG....1ST SESS.

Amendment of the Constitution—Mr. Howe.

SENATE.

which had seceded. But this is not all the evidence I have that secession is not the end aimed at, but only a means to the end, which end is the conquest of your Government, the subjugation of it to slavery and to slaveholding. The very first act of war was an attempt at conquest. The very first gun that was fired at your flag was fired at it as it floated from one of your own vessels in one of your harbors, going to feed one of your own garrisons. Was that to vindicate the independence of the seceded States? Was that to enable them to be let alone?

If it were true that the ordinance of secession adopted by South Carolina made her an independent State, it certainly could not have transferred to her any of the forts of the United States any more than it could have transferred the forts of Mexico. Or if it did transfer our forts it could not have transferred our troops.

But the next step of the seceders was an act of conquest. The bombardment opened upon one of your own forts, built upon land which you had purchased and paid for, and exclusive jurisdiction of which had been ceded to your Government, on which you had planted a fort with your own money, which was occupied by your troops, over which your flag floated. It was an attempt at subjugation as palpable and as unmistakable when that bombardment opened upon Fort Sumter as if it had been opened upon any one of the forts in the harbor of New York or of Boston.

There is another reason for believing that what I have asserted of the aim of the rebels is true. It is part of the terribly sad history of those times that your President elect came into this city prior to his inauguration in the night time; and for what purpose? To avoid assassination. As I understand the evidence, if he had come through upon the regular train in which he was appointed to come, this great drama would have opened with the assassination of the President of the United States. I understand that fact is established beyond doubt. I know it was alluded to by rebel Senators on this floor; and the President was sneered at for having taken steps to save the rebellion from the one act that could possibly have added to its guilt—the act of assassination. I take it, it will not be said that the assassination of President Lincoln was made necessary to secure the independence of the seceded States. By no manner of means; but it was one step toward the subjugation of the United States. That it would not have gone very far toward subjugating these States, you and I may well believe; but it is very certain that if the seceders had been willing the non-seceding States should exist at all as an independent republic, they would have allowed us a President. The assassins who gathered about the path of your President it is very manifest were only a part of the monstrous brood who for years had plotted against the life of your Republic.

Mr. President, if there were any evidence required or could be any adduced to show the groundlessness of this rebellion more than I have adduced, it may be found perhaps in the fact that it is really to-day a matter of dispute not only as to what caused the rebellion, but as to where it originated; and if any evidence could be produced, or any could be required more than I have already adduced, that the purpose of the rebellion was to crush out an opinion, and not to correct oppression, it may be found in the fact that the advocates, or the apologists of the rebellion, as often tell you that it originated in Massachusetts as that it originated in South Carolina. You hear it asserted over and over again that the rebellion originated in Massachusetts, or in New England. As to the mere matter of fact, I am inclined to think it did originate in Massachusetts, and not in South Carolina. I do think it originated in the State of Massachusetts, but I do not hold the whole State of Massachusetts responsible for it. I think the town of Westboro', if I remember the name of the place, is peculiarly responsible, for if the town of Westboro' never had given birth to Eli Whitney we probably never should have had this rebellion; but Westboro' did give birth to Eli Whitney, and the mischief did not stop there. Eli Whitney invented the cotton-gin, and the cotton-gin manufactured the rebellion a great many years afterwards. I state this upon authority, judicial

authority. Let me read it. Mr. Justice Johnson, in the circuit court of the United States for the district of Georgia, delivered the opinion of the court in 1807, in a case between Whitney and an alleged infringer of his patent, in which he said:

"The cotton plant furnished clothing to mankind before the age of Herodotus. The green seed is a species much more productive than the black, and by nature adapted to a much greater variety of climate. But by reason of the strong adherence of the fiber to the seed, without the aid of some more powerful machine for separating it than any formerly known among us, the cultivation of it would never have been made an object. The machine of which Mr. Whitney claims the invention so facilitates the preparation of this species for use, that the cultivation of it has suddenly become an object of infinitely greater national importance than that of the other species ever can be. Is it then to be imagined that if this machine had been before discovered, the use of it would ever have been lost, or could have been confined to any tract or country left unexplored by commercial enterprise? But it is unnecessary to remark further upon this subject. A number of years have elapsed since Mr. Whitney took out his patent, and no one has produced or pretended to prove the existence of a machine of similar construction or use.

"2. With regard to the utility of this discovery, the court would deem it a waste of time to dwell long upon this topic. Is there a man who hears us who has not experienced its utility? The whole interior of the southern States was languishing, and its inhabitants emigrating for want of some object to engage their attention and employ their industry, when the invention of this machine at once opened views to them which set the whole country in active motion. From childhood to age it has presented to us a lucrative employment. Individuals who were depressed with poverty and sunk in idleness have suddenly risen to wealth and respectability. Our debts have been paid off, our capitals have increased, and our lands trebled themselves in value. We cannot express the weight of the obligation which the country owes to this invention. The extent of it cannot now be seen. Some faint presentiment may be formed from the reflection that cotton is rapidly supplanting wool, flax, silk, and even furs in manufactures, and may one day profitably supply the use of specie in our East India trade. Our sister States, also, participate in the benefits of this invention; for besides affording the raw material for their manufacturers, the bulkiness and quantity of the article afford a valuable employment for their shipping."

There you have upon the authority of Mr. Justice Johnson the evidence of what slavery was, what the condition of those States was when Eli Whitney invented the cotton-gin. They were abandoning the southern States instead of looking forth to the conquest of these great northern States. They were fleeing to us from starvation, fleeing to us for employment; but Eli Whitney came and he invented the cotton-gin, and thenceforth, while it had before taken the labor of one man for a day to clean the seed from one pound of cotton, one man was found sufficient to clean the seed from three hundred weight of cotton in a day. The cultivation of cotton became the most profitable culture in the world; and on the eve of this rebellion you were furnished with another kind of testimony as to the progress that culture had made between the time of the invention of the cotton-gin and the time of the invention of the rebellion. A Senator speaking to you here in this Chamber, for which you paid him, but speaking in the interest of the rebellion—I read from the remarks of a late Senator from Texas, (Mr. Wigfall)—said to you:

"We will have peace; and if you do not offer it to us we will quietly, and as we have the right under the constitutional compact to do, withdraw from the Union and establish a government for ourselves; and if you then persist in your aggressions, we will leave it to the *ultima ratio regum*, and the sovereign States will settle that question."

"Where the battle's wreck lies thickest
And death's brief pang is quickest."

"And when you laugh at these impotent threats, as you regard them, I tell you that cotton is king!"

After several interruptions the same Senator went on to say:

"Then, sir, for the third or fourth time—and I trust that I may be permitted to go on—I say that cotton is king, and that he waves his scepter not only over these thirty-three States, but over the island of Great Britain and over continental Europe, and that there is no crowned head upon that island or upon the Continent that does not bend the knee in fealty and acknowledged allegiance to that monarch."—*Congressional Globe*, Thirty-Sixth Congress, second session, p. 73.

The cotton-gin, invented in Massachusetts—Mr. DAVIS. New York. Whitney lived in New York.

Mr. HOWE. I think the invention was actually made in Connecticut; but no matter about that, we can settle that hereafter; we can settle it when the next rebellion comes on. The inventor was a Massachusetts man, anyhow. It transformed cotton from a mendicant, in the language of Judge

Johnson, to a king, in the language of Mr. Wigfall, a late Senator from Texas. He told you and others told you that they were exporting \$250,000,000 annually of this product, cotton. They had grown immensely wealthy by it. They owned as I have told you one fourth of the whole assessed value of the United States in 1860. They had invested one fourth of the whole assessed value of the United States in slave labor, and this, besides nearly all the other personal and real property in the South, was massed in the hands of about four hundred thousand slaveholders. They really believed that they could command, could control the whole twenty-six million of white people in the United States; and the question to-day is whether they shall control them or whether the people shall control themselves. That is the question; there is no other. Remember, if you are beaten in this contest, you are the subjects, the serfs of the men who own the four million slaves; there is no escape from it. If you whip them they are your equals. You never can reduce them to anything below American citizens, because you are bound by the Constitution. You may reduce them to the grave, I know, through the instrumentality of the halter, and I trust you will not overlook that authority, but those whom you save from the halter must be citizens of the United States, and the question is whether you will maintain your position of equality with them, or whether you will allow yourselves to be reduced to their instruments and their serfs.

This is the issue; and yet I hear it said on every hand that we ought to compromise with them, ought to make some sort of terms with them. I protest against it. It is said we might have compromised with them and saved this war. I deny it as a matter of fact, but I spurn the idea if it were ever so true. Compromise with them; how? Your Government was organized for the purpose of allowing the American people to make such laws as they chose to have; the American opinion, as I have told you before, was to be the supreme law. It was dethroned a great many years ago, and you have not been governed for the last twenty years by American opinion; you have been governed by bluster, by threats, by menace. Undoubtedly, in 1861, if your President had called the Legislature together, and you had written such laws and made such amendments to the Constitution as the rebels saw fit to dictate to you, they would not have fought you. As long as you would do as you were told to do, there could be no reason for fighting you; but, sir, when you allow a battery to be planted on the banks of the Potomac or the banks of the Ashley river to dictate your legislation to you, and you make your laws and your constitutions so as to prevent that battery from opening fire on you, you are a slave, you are not a free man. When you come to make your laws not to suit yourselves but to suit others, when you come to vote not as your judgments but as your fears persuade you, it will be but a very few days after that before you will begin to dig potatoes and cultivate cotton for the same reasons.

Such, then, I find to be the cause and the purpose of the rebellion. It was not to secure the independence of slaveholders, but to subject you to abject dependence upon slaveholders. It was not to build a new capitol for a new government, but to place a new government in possession of your Capitol. It was not to frame a new constitution for a new republic, but it was to impose a new constitution upon the Republic of the United States. It was not to secure toleration for slavery within the seceding States, but to compel the adoption of slavery by the nation. If the cotton-gin had not been invented slaveholding would not have been profitable. If slaveholding had not been profitable slaveholders would not have been rich. If slaveholders had not been rich they would not have been arrogant. If they had not been arrogant four hundred thousand slaveholders would not have presumed to challenge dominion over twenty million freemen. Slavery without the cotton-gin would have been a monster wrong, but it would not have been dangerous to the Republic. The cotton-gin without slavery would have been of twice the value it has been and still would not have been dangerous to any one. Together they have proved fatal to the peace of the nation. I do not advise to destroy them both. I advise that

38TH CONG....1ST SESS.

Internal Revenue—Mr. Frank.

HO. OF REPS.

slavery be destroyed and the cotton-gin doubled in value.

"Jove has fixed it certain, that whatever day
Makes man a slave takes half his worth away."

If four million negroes were worth \$3,000,000,000 as slaves, they will be worth \$6,000,000,000 as freemen. Take that immense wealth from the hands of your mortal enemies and double it in the hands of your immortal friends.

Now, Mr. President, I must not close without remarking that all slaveholders have not participated in the guilt of this rebellion. I know that very well; and if there is any class of loyal men to whom I am more grateful for their loyalty than another class, it is that class which has been true to the Constitution and true to the flag, notwithstanding the incumbrances of slaveholding. Wherever you find me a man who, in spite of his being a slaveholder, has proved true to the Constitution, I can tell you the fitting epitaph to put upon his tombstone whenever he dies, and such men I hope will be very slow to die: place upon his tombstone the epitaph that in spite of slavery he was found true to the principle of Democracy during the great struggle of 1861.

Looking at this proposed amendment, therefore, as a matter of justice to the slave, as a measure of expediency to the master, as a measure of necessity to the nation, I give all my energies and all my aspirations to the adoption of it, and it will be adopted. It will be adopted, let me tell the Senate here, by the vote of every State in the Union. All the free States of the Union have already abolished slavery within their limits. There are the States of Delaware, of Missouri, of Kentucky, and of Maryland, which still hold to some form of slavery and hold true to the Constitution. I heard the Senator from Illinois the other day express some doubts as to whether Delaware and Kentucky would agree to this amendment. Sir, I undertake to say that both States will agree to it. The State of Delaware refuse to emancipate her few slaves in a time like this, when the nation wants them, and when the nation wants to deprive the rebellion of so large a force as it has in slavery!

Mr. SAULSBURY. Will the Senator allow me a moment?

Mr. HOWE. Certainly.

Mr. SAULSBURY. I wish to ask the Senator whether he is willing to amend the joint resolution now before the Senate providing for the adoption of this amendment of the Constitution, by declaring that it shall not be lawful for the Federal Government or any person in the employment of the Federal Government to use the military power for the purpose of securing the adoption of the amendment, or in any manner interfering with the freedom of election in the State of Maryland and the State of Kentucky, when that proposition shall come before us, so as to give them a fair opportunity to express their wishes on the subject.

Mr. HOWE. I am not sure I understand the question.

Mr. SAULSBURY. I will explain to the Senator again. This is a proposition to amend the Constitution of the United States by the vote of the people of the States.

Mr. HOWE. Yes, sir.

Mr. SAULSBURY. I wish to know whether the Senator and those who act with him are willing to have an amendment made to this resolution that the military of the United States shall not be used to interfere with the freedom of elections, when the people of Delaware, Maryland, and Kentucky shall pass upon the question; whether the people may be free to act without any influence or intimidation.

Mr. HOWE. I understand the question. Yes, Mr. President, show me that there is any danger of the military controlling the elections of Delaware and Maryland and Kentucky, and I am willing to put any statute upon the books that you want to prevent that. I do not want an election in those States or any State controlled by military force, and with my consent it never shall be had.

Mr. SAULSBURY. One other remark. I say to the Senator that the military did control the last special election in Delaware; that they attempted to do it in the election preceding; and I see from the papers that General Wallace intimates very

distinctly that he will have something to do with the approaching election in Maryland.

Mr. HOWE. Whether in point of fact the military did control the election in Delaware or Maryland, I cannot stop now to inquire. I have occupied a great deal more time than I intended. I heard the argument of the Senator from Delaware on that point the other day. He did not satisfy me as to the fact that they had controlled the election in either of those States, or anywhere; but I undertake to say there is abundant law now upon the statute-books of every one of your States to correct any such wrong as that. You only want to enforce existing laws, and no military officer has any such power as is said to be exerted.

Mr. SAULSBURY. One other remark. I will ask the Senator whether, if we were to attempt to enforce our State laws so that the electors should have a free exercise of their right on the day of the election, and it became necessary to repel the force sent by orders from the War Department to interfere with our election, he and those with whom he acts would not proclaim that we were guilty of acts of treason in resisting interference with our rights by the military.

Mr. HOWE. No, Mr. President, whenever the courts of Delaware issue a writ in the name of the State of Delaware; whenever the supreme authority of that State issues a precept to correct any right, to redress any wrong, it will be obeyed beyond all manner of question. At some time I may have occasion to speak upon these allegations of usurpation and tyranny urged against the present Administration. I cannot stop to do it now; I have another chore on hand; but I want to say once more that the State of Delaware will not resist this amendment; the State of Delaware will adopt this amendment; her people will adopt it in the exercise of their free judgment. The Senator from Delaware shakes his head. I do not know but that he will oppose the amendment; that he will advise the people of Delaware not to adopt it; but his advice will not prevail, I humbly trust and I humbly believe. Undertake to persuade that little State of Delaware not to enfranchise her few slaves when all the rest of the Union are crying for it! Dame Partington, Mr. President, standing on the beach of the Atlantic trying to put back its waves with her mop, would be a model of practical sagacity compared with the Senator from Delaware, if he should stand on the borders of that little State and undertake to persuade her not to let the deluge of freedom, which God has commanded to sweep the continent, flow over that little patch of His pasture.

Delaware will adopt the amendment, and so will Kentucky. I heard it said the other day that it was a little doubtful whether Kentucky would adopt this amendment. Sir, Henry Clay sleeps in Kentucky, I am told. Let her people reject this proposition to amend the Constitution under the pressure of this great national necessity, and they would see the bones of the great hero rise from his grave and stalk indignantly from the borders; they would not rest there any longer. Kentucky will adopt this amendment. Every State will adopt it. I know that there are eleven States which have declared themselves independent of this Constitution and of all amendments to it. What are you going to do with them? It is a question that ought to be considered. I have considered it for two or three years. There are those Territories and communities of people. They are States, or they are not. If they are States they are going to pass upon this amendment, and every man who votes is going to vote for the amendment in every one of them. If they are not States they are not to be counted, and they are not going to vote. It is a question that you ought to settle. In my judgment, there are no American States there. I say that freely. I do not stop now to argue it. Decide the matter as you will: if they are States they are going to vote upon this amendment, and they are going to vote for it; every man who votes at all upon it will vote to adopt the amendment. If they are not States they are not to vote upon it, and their votes are not to be counted, and you still have a unanimous verdict from the States of the American Union in favor of this amendment to the Constitution.

Mr. President, I have occupied the attention of

the Senate too long. One thing more I wanted to say. I think your amendment should go further than as I understand it does. I think that when the American people command that these persons shall be free, they should command that they be educated, or at least that there be no laws enacted in any State to prevent their education. I quoted from what I called the lower law a little while ago; I quoted that precept which I believe you will find there which says, as I read it, that the State which educates its people and does not enfranchise them shall be damned. I want to quote one other commandment from the same code, and it is this, that the State which enfranchises its people and does not educate them shall be doubly damned, and I conclude with that quotation.

INTERNAL REVENUE.

REMARKS OF HON. AUG. FRANK, OF NEW YORK, IN THE HOUSE OF REPRESENTATIVES, Monday, April 25, 1864.

The House resolved itself into the Committee of the Whole on the state of the Union, and resumed the consideration of the bill to provide internal revenue to support the Government, &c., commencing with section ninety-seven.

Mr. FRANK. I move to strike out from line eleven on page 136, down to the word "cents" in line thirty-four on page 137, as amended, as follows:

For each sale of not exceeding one hundred shares of stock, or less when the par value is \$100, one dollar; exceeding one hundred shares, for every additional one hundred shares or fractional part thereof, at the rate of one dollar for one hundred shares; when the par value exceeds \$100 per share, so much thereof as at the par value shall amount to a sum not exceeding \$10,000, one dollar; exceeding the sum of \$10,000, for every additional \$10,000 or fractional part thereof, one dollar; for each one hundred shares of stock, or less when the par value is fifty dollars, twenty-five cents; exceeding one hundred shares, for every additional one hundred shares or fractional part thereof, at the rate of one dollar for one hundred shares; for each sale of gold and silver bullion, sterling exchange, uncurrent money, promissory notes, stocks, bonds, or other securities, not exceeding the sum of \$10,000, one dollar; exceeding the sum of \$10,000, for every additional \$10,000 or fractional part thereof, one dollar.

And to insert in lieu thereof the following:

Upon all sales of stocks, bonds, gold and silver bullion and coin, sterling exchange, promissory notes or other securities, one tenth of one per cent. on the amount of such sales, and of all contracts for such sales.

Mr. Chairman, I offer that amendment because I think it is the general opinion of this House that the tax proposed by the Committee of Ways and Means on sales of stocks and bonds is altogether too small. The amendment offered by the gentleman who has charge of the bill makes the tax one hundredth of one per cent.; a mere nothing. The amendment which has been read by the Clerk makes the tax one tenth of one per cent. on the dollar. The man who purchases \$1,000 of stock or bonds legitimately can well afford to pay a dollar to the Government. To the men who sell and buy large amounts of stock from day to day in the market possibly it might be a large tax; I grant that it would be; but the emergency of the case and the necessity of the Government are such that parties who deal in stocks can well afford to pay a large tax. It is well known to us all that we must be taxed. I ask any gentleman of this House if it is not a fair proposition to put a tax upon these sales of stock than upon the lands or other property of the country?

The tax I propose to impose would yield a revenue of five or ten million dollars and perhaps fifteen millions. It will work no hardship upon any man who purchases stocks legitimately, having the money to pay at the time of purchase. If it be said that it would work hardship on those who deal in stocks from day to day, the "bulls" and "bears" who make their "corners," I would simply remark that I think it would be for the best interests of the country if all that business could be blotted out. I believe that if we are to have a panic in this country in our financial affairs it will grow out of the operations of these stock dealers. I believe that if the effect of this tax should be to cut up that entire part of the business by the roots it would be for the benefit of the country. I hope my amendment will be unanimously supported.

38TH CONG....1ST SESS.

Reciprocity Treaty—Mr. Kellogg.

HO. OF REPS.

RECIPROCITY TREATY.

SPEECH OF HON. F. W. KELLOGG,
OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

May 25, 1864.

The House having under consideration the joint resolution authorizing the President to give the requisite notice for terminating the treaty made with Great Britain on behalf of the British provinces in North America, and to appoint commissioners to negotiate a new treaty with the British Government, based upon the true principles of reciprocity—

Mr. KELLOGG, of Michigan, said:

Mr. SPEAKER: I do not wish to consume the time of the House this morning, and shall be brief in what I have to say on the question before us, but I cannot be altogether silent when my constituents are so deeply interested in the decision which we may come to on the joint resolution now under consideration. The fifth article in the reciprocity treaty provides that should either party be dissatisfied with it at any future time they may, at the expiration of ten years from its ratification, abrogate it altogether by giving one year's notice of a desire to do so. The resolution before the House directs the President to give such notice to the British Government, and I am in favor of its immediate passage. The amendment offered by the gentleman from New York [Mr. WARD] provides for the appointment of commissioners by the United States and Great Britain, provided the British Government consent, who shall confer together and endeavor to amend the existing treaty to the satisfaction, if possible, of all the parties concerned.

This amendment is open to many objections, and I greatly prefer giving notice to the British Government in the manner prescribed by the treaty itself. If on receiving this notice the British Government, who are as deeply interested as we are, should propose to appoint commissioners, I am sure no one would have any objection. A year will afford ample time for negotiation; but, if more should be necessary, Congress, at its next session, could provide for such an emergency; and I do not see how any harm can follow the adoption of this resolution and action upon it by the President. The British Government will have no right to complain of us for taking this course, and I do not believe they will. On the other hand, we need not expect to secure their favor and good will by suffering this treaty to remain in force, for the Government and the people of England, with a few honorable exceptions, are alike unfriendly to us. From the very commencement of this rebellion they have not tried to conceal the joy they feel at the prospect of a possible dissolution of the Union and the consequent destruction of the Government of the United States. Hating slavery heartily, and engaged in preaching a crusade against it in every part of the world since the commencement of this century, they have notwithstanding that fraternized at the first opportunity with a body of men who have taken up arms for the express purpose of extending and perpetuating it, and shown their willingness to tolerate that or the slave trade either if they could thereby secure the dismemberment and ruin of this Republic. They have shown their sympathy with the rebellion in public meetings and in Parliament, giving every possible encouragement to the rebel leaders, and aided them in fitting out ships-of-war in their ports to prey upon our commerce till they have well-nigh driven it from the ocean. They have recently organized an association in Manchester for the express purpose of procuring the recognition and securing the independence of the rebel confederacy; and we may judge of its popularity and influence from the fact that the names of its officers alone fill five columns of the New York Times, and many of them are noblemen and men of distinction in the British empire. The colonies on our borders, who are directly benefited by this treaty, have displayed the same feeling of hostility toward us that pervades the mother country, and it is no fault of theirs if we are not now at war with England.

The gentleman from New York [Mr. DAVIS] has drawn a pleasing picture of the Canadas and of the friendly feeling of the people for the Gov-

ernment of the United States. He assures us that the denunciations of our country which we hear of daily do not come from the people of Canada, but from rebels and refugees who reside there and who control the public demonstrations in favor of the rebellion, and of which we complain. Sir, I wish these statements were true, but they are not, as all who have traveled in the Canadas within the last three years can testify. They have no friendly feeling for us, and no wish that we may be successful in this terrible struggle for national honor and national existence.

But I should not have alluded to the hostile feeling of England and her colonies toward us had not the gentleman, [Mr. DAVIS] who preceded me in defense of the treaty, attempted to explain it away. I do not ask for the abrogation of this treaty because England and her colonies have not been as friendly as they should be, but because I wish to protect our own interests and build up our own country in preference to a foreign one. I am opposed to it because it confers no benefit at all in comparison with the injury it inflicts upon our farmers and our manufacturers, and upon American industry everywhere, and because we may expect these interests will be injured more and more from its operations with each succeeding year.

The gentleman from New York [Mr. DAVIS] assures us that the evils we complain of are not caused by the treaty itself, but by subsequent colonial legislation; and the gentleman from Massachusetts [Mr. ELIOT] puts in the same plea in its favor. Sir, I am aware of the fact that the legislation of the colonies has been of an unfriendly character for several years past, gradually excluding our manufactures from their markets by imposing such duties that their export on our part was unprofitable. But I cannot excuse it as easily as they do. They admit that such legislation violates the spirit if not the letter of the treaty. But if they can do so with impunity to our injury, what is it good for, and why should we desire to prolong its existence? The gentleman from New York [Mr. DAVIS] assures us, however, that they do it only because they are obliged to, and that the Canadian government expressed their regret that they could not admit our manufactures on the same terms they did five years ago. But that was impossible. They must tax imports heavily, because they must have money to pay the interest on the enormous debt which they have incurred in the construction of ship canals and railways connecting the lakes with the ocean.

Mr. Speaker, we are in the same situation, though from different causes, and cannot trade with the Canadas on the same terms we did five years ago. We must have such a modification of this treaty as will adapt it to our altered circumstances, or have none at all, and place the colonies on the same footing in regard to trade that we do the mother country. We have been compelled to raise large armies to suppress a most wicked and infamous rebellion, and in that way have created a national debt which will be a burden to us for a generation to come. To preserve the honor and credit of the Government we must increase our duties on imports and raise hundreds of millions of dollars annually by a direct tax upon the industry and business of the country. Such is our present condition that we cannot afford to admit colonial products duty free as we have done, and I am surprised to hear that any member of this House should be in favor of doing so. But the gentleman from New York professes to believe that it is for our interest to do so, and that if we should take a broad and comprehensive view of our relations to our neighbors we should see that it would be better to deal with Canadas as we do with Ohio, and place no restrictions on her trade whatever. Sir, this may be so, but my vision is too limited to discover it, and my view of it not so broad and comprehensive as to induce me to admit Canada, a part of the British empire, to the privileges enjoyed by a sister State whose interests are identified with our own and must be forever.

The argument that New York may derive some benefit from this trade is not worth considering in the settlement of this question. Her prosperity depends upon that of our common country, and you cannot separate the one from the other. It seems impossible to me to present a good argu-

ment in favor of this treaty, and I doubt if any serious defense of it would have been attempted; but for the ship canals of Canada. These great avenues from the lakes to the ocean afford great facilities at this time to the business men of Chicago and other lake ports for the shipment of their grain to the European markets. Other canals of vast magnitude are already projected in the Canadas; and should this treaty continue in existence they will soon be completed. But if they are useful to us to some extent in time of peace for commercial purposes, they are of immense value to England in a military point of view for the protection of her colonies in the event of hostilities with this country at any period in the future. Under the provisions of the treaty of 1814, neither Power can have a ship-yard or naval depot on the lakes, and England will never need one. The commerce of the West will keep her immense canals in repair so long as we are at peace, and pay the interest on the cost of their construction.

In case of a war with this Government, her gunboats could pass through them to the lakes and penetrate the very heart of our country, burning the towns and cities on our lake shores and annihilating all their commerce. The trade of Chicago would be utterly destroyed, and a hostile fleet might lay alongside her wharves and levy contributions at their pleasure.

Mr. Speaker, I was sorry, to hear the distinguished gentleman from Chicago [Mr. ARNOLD] defend this treaty with so much earnestness, and express a wish for the speedy construction of more canals through the Canadas. I have listened with great pleasure to his denunciations of slavery, and hope I shall live to join with him in thanksgivings to God for its abolition throughout the Republic. I agree with him in giving a hearty support to the Administration and to the policy which is to make it memorable in history forever; but when he proposes to purchase the right of way through a foreign country to carry off the grain grown in the West, I must disagree with him, however much I may dislike to do so. His policy would not only build up and make more effective those vast military works which are of such importance to the English Government, but it taxes one branch of our industry for the benefit of another, which I believe to be unnecessary and unjust. Not more than twelve per cent. of the grain shipped from our lake ports passes through these canals, yet for the poor privilege of using them to that extent we must admit Canadian products free of duty to the manifest injury of those branches of our industry with which they come in direct competition.

Our wool-growers and lumbermen suffer more severely than any other class of our citizens, and are too numerous to be overlooked in the settlement of this question. In the production of wool Michigan is now the third State in the Union, and in the manufacture of lumber she is probably the first. Wisconsin is largely interested in the lumber trade, and the farmers of every part of the country are turning their attention more and more to the growing of wool for our own consumption. In 1863 our manufacturers imported seventy million pounds of wool, and the most of it came in duty free. Our farmers consider this just cause of complaint, and for months past petitions have poured in upon us from every quarter of the country praying Congress to impose heavy duties on all wool of foreign growth, and I hope we shall not adjourn without doing all we possibly can for their protection.

Sir, I wish we could tax every pound of foreign-grown wool which comes into our country; I hope we shall at no distant period, though we cannot do so now. Canada furnished nearly two million pounds to our manufacturers in 1863, of a quality much like that which we produce, and coming directly in competition with it; but all that must come in free under the stipulations of this treaty. This may seem to be a small matter now, but the high prices wool must command hereafter will stimulate its production everywhere, and if this treaty remains in force our imports of wool from the Canadas will soon quadruple in quantity to the great injury of our own farmers, while it will add rapidly to the wealth, population, and resources of our neighbors. The wool-growers East and West protest

38TH. CONG....1ST SESS.

Policy of the Administration—Mr. Grider.

HO. OF REPS.

against such a policy, and we must give heed to their complaints. We have a vast country, with every variety of soil and climate, and every description and quality of wool can be grown here to advantage. A proper protection of this great staple would cause increased attention to its production, and instead of importing seventy million pounds annually we should soon grow every pound we manufacture.

The gentleman from New York [Mr. DAVIS] asserts that we have not lumber enough in the country for our own consumption, and likes the treaty because it enables us to obtain a supply from Canada free of duty. I do not agree with him, for I believe we have an abundant supply for all our wants for centuries to come; but we need not discuss that point now, for we do not propose to prohibit its importation, but impose a heavy duty upon it, as we do upon almost every article of foreign growth. We import about five hundred million feet of lumber annually from the colonies; and at this time, when we need all the money we can command, we ought to derive a large revenue from its sale. The lumber dealers of Canada have a great advantage over those of our own country. Their lands and labor are cheap, their taxes are trifling, the trade is very profitable, and its influence upon the growth and prosperity of the Canadas is very great.

The gentleman from Chicago [Mr. ARNOLD] spoke of the slow growth of the colonies; but I can assure him that neither Illinois or any other State east of the Mississippi has increased in population so rapidly as Upper Canada.

Highly favored by this treaty as it has been, that province has increased in wealth and population with a rapidity almost unexampled in history. I am not jealous of her growth or envious of her prosperity. There is room enough for all, and I bid her God speed in her race with us for riches and power; but I propose to legislate in favor of my own constituents, and not in such a way as to build up Canada at the expense of Michigan. Our farmers and lumbermen are heavily taxed to pay our debts and support the Government. Tea, coffee, sugar, and in fact almost every article of ordinary consumption, has doubled in value, yet they pay without complaining, and expect to go for a generation to come. But that is not all. They have turned out eagerly by tens of thousands in defense of the old flag and for the preservation of the Union. Every battle-field has drank of their blood, and the whole world has heard of their patriotism and bravery. But when the old battle-scarred veterans who survive the war return to their homes and the peaceful pursuits of industry, are they to be told that the Government in defense of which they shed their blood and periled their lives will not protect their labor and industry against foreign competition? No, sir, no; we must change our policy to suit our circumstances, now that we can rightfully do so, and not admit vast quantities of the products of the colonies duty free a day longer than we are obliged to.

Mr. Speaker, I have spoken at some length of the wool and lumber interests, not merely because my constituents are directly interested in them, but because they are of such magnitude that the whole country is affected by their depression or prosperity. They are of national importance, and we cannot sacrifice them for any consideration whatever. I regret that the produce dealers in our lake ports are so willing to be tributary to and dependent upon a foreign Power. The gentleman from Chicago, who represents more of them, perhaps, than any other member of the House, affirms that the ship canals of Canada are indispensably necessary to the prosperity of the West, and when the last Congress failed to pass a bill enlarging our canals and increasing their capacity, commissioners were sent from Illinois to confer with the Canadian government about increasing the facilities for the transportation of their produce through the Canadas.

Sir, this may be right and may be best, and perhaps they understand this question better than I do. It may be that the time has come when the lion and the lamb shall lie down together, but I do not believe it, and sooner than be a party to such an arrangement with any foreign Power, I would let my grain rot on the ground where it grew, and live and die in poverty.

Sir, I know that we must have more outlets to the ocean from the West, but I would have them on our own territory, under the protection of our own Government, where we could reap the benefit of them ourselves, and where no treaties with a foreign Power were necessary. We can enlarge the canals we have to almost any extent, and build new ones till we have created ample water communication between the vast prairies of the West and the seaports of New England and New York. This will enable the farmers who cultivate those fertile regions to reach the markets of the world with their produce at a price which they can afford to pay. The producer and consumer are alike interested in cheapening the freights on the food of the people; and, next to putting down the rebellion, I know of nothing so important as the providing of these great highways for the business of the country; nothing that will add so much to the prosperity of every portion of it, and which is so necessary to the welfare of the whole people, the preservation of the Government, and the perpetuity of the Union. Congress cannot postpone the consideration of this question much longer. Food is too cheap in some sections of the country, and too dear in others, while freights are so high between the East and West that our exports to Europe are small compared with what they should be. We can equalize the cost of food so that it will be cheap enough everywhere, and increase our exports to the Old World to an indefinite extent, if we provide cheap transportation from the interior to the seaboard, and that we must do soon, whatever it may cost us.

But something more may be done by private enterprise and without the aid of legislation, State or national. The heavy duties imposed on imported goods of every description will afford ample protection to American industry, and we ought to build up manufactories enough to supply our wants as speedily as possible. There is no danger of any reduction of duties for years to come, and capital can be safely invested in manufacturing whatever there is a market for. Instead of importing vast quantities of goods from abroad in excess of our exports, and thereby building up great manufacturing cities in France and England, let us build them rather in Michigan, in Illinois, in Iowa, and other States of the West. Food and fuel are cheap, labor would be plenty, and a market would soon be created that would consume more of the products of the West than we now export to Europe. In the town where I reside we have a water-power equal to that of Lowell, in Massachusetts, and not a manufactory there worth naming. We ought to have fifty of them, and we shall in a few years, with a population of fifty thousand, which will consume all the productions of the rich and fertile country around them. What is true of this town is true of hundreds of others in the West, where we have every facility but the machinery for manufacturing whatever the country may require with its increasing wealth and population. The lazy water-fall should be set to work and forges and manufactories called into being, in those productive regions, which would give employment to thousands and create a home market whose capacity for the consumption of the products of the soil would keep pace with the growth of our country forever. If we adopt this policy and build up American interests and protect American industry the people will be prosperous and happy and our country will be powerful and independent.

POLICY OF THE ADMINISTRATION.

SPEECH OF HON. HENRY GRIDER,
OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

June 2, 1864,

In the Committee of the Whole on the state of the Union.

Mr. GRIDER. Mr. Chairman, I ask the consideration of the committee a short time to such remarks as I may offer at present, though desultory, strictly I hope with a patriotic heart, "loyal at once to the country, the Constitution, and the truth." As the Bible is the great moral light of the Christian world, to shine upon the pathway to heaven, so the Constitution of the United States,

ordained by our disinterested and patriotic fathers, is the sun that must guide our action, in this fearful crisis, to conquest, to peace, and prosperity. No other pathway can be devised by an American patriot or statesman. The Constitution has assumed great variety of meaning and interpretation with politicians, once regarded an instrument plain, conservative, and of easy application. And there is just such a variety of Union men—some intense radical Union men, even more patriotic, perfect, and pure than the Constitution itself, or than the good and great men who made it; disavowing its provisions, and stimulated to forget the solemnities by which we are bound to obey it. This is our misfortune in times like these. Nothing but dereliction of duty, want of moral obligation, produced this rebellion in the South, and is now proceeding to revolution in the North. Unity of construction and interpretation of this sacred instrument, so long consecrated to a well-defined and prudently restrained action of our Government, its grants and limitations, is only more important than unity of action. No change of circumstances, no necessity, no higher law, no war power, no violating the Constitution to save the nation, are founded in wisdom, morals, precedent, or law. This is the shifting of conscious weakness or guilt to shun the justice of severe reprobation.

The plain, indisputable truth is that the Constitution and the Union are now as they always have been, since good and wise men adopted them, having been ordained by the people to form a more perfect Union. The Constitution is vital, and the Union unhurt, except so far as their practical operations are obstructed by the wickedness and arms of the rebels, or perverted by the revolutionary assumptions and dangerous administration of the party in power, without the sanction of constitutional authority. The States are always members of the Union by the Constitution, with all their rights. Suppress the rebellion, and the Constitution and the laws resume their operation, the Union remains, and all our institutions are unimpaired, and only call for an Administration that does not war upon the confessed, adjudicated, cherished, constitutional rights of the States and the citizen. Sir, the Constitution is the great ligament that binds the States in Union; there is no other legal tie; destroy one and you destroy both, and the nation too. No matter how you do it, whether by rebellion and arms, or by reckless acts of revolution; one bold and lawless, the other insidious, selfish, and wicked. Mr. Webster said upon this very subject:

"The Constitution and the Union! I place them together! If they stand, they must stand together; if they fall, they must fall together!"

It is a great mistake and false assumption that Congress or any department of the Government can do everything to suit the policy of a party. Party legislation is dangerous to the liberties of the people without the strictest regard to constitutional grants and limitations, especially in a crisis like this when a frenzy has seized the party mind, and when other beacon lights, not the Constitution, are hoisted to guide our ship of State in this raging storm. I scorn your war power, I denounce your application of higher law, I deprecate your false international rule, your military necessity, or "the indispensable necessity" of the Executive "in his opinion!" These are all scape-goats to bear off your sins. They are mere floats cast upon this great flood of revolution, to bear up sinking men for a time. They are not the ark, the great ark of old, where only there is safety. The Constitution is that ark.

Sir, if you persevere, I most solemnly fear it will not only lead to bankruptcy, but, still more fearful, to disintegration. But I trust never. Let us have "one Constitution, one Government, one people," and one flag. The tenth article of the Amendments to the Constitution defines your powers:

"The powers not delegated to the United States are reserved to the States respectively, or to the people."

Have you not countervailed these provisions, usurped authority not granted, transcended the limitations placed upon you? Do you claim to stand for authority upon the book of American Constitutions? Repeat as much as you please the cry of military necessity, or any other "refuge of lies," the Constitution is the rule of our ac-

tion, and our constituents and the country have sworn to support it. I fully concur in the remarks of Judge Thomas, speaking against your confiscation bill, (now in Kentucky adjudged unconstitutional.) Said he:

"No man can desire more earnestly than I do the suppression of this rebellion and the restoration of order, unity, and peace. But there are two things I cannot, I will not do. I will not trample beneath my feet the Constitution I have sworn before God to support. I will not violate, even against the rebels, the law of nations as recognized and upheld by all civilized and Christian States."

The Executive's letter to Colonel Hodges, of Kentucky, frankly admits there was a time, since this rebellion, when the policy adopted by the Administration as to slavery and the orders conservative of slavery were constitutional. The Constitution has not been altered or amended. How then can a directly opposite policy, not conservative but destructive of slavery, be constitutional or lawful now? Can it be? As soon as it became, in the opinion of the Executive, "indispensable to the preservation of the Constitution" that he should adopt a measure "otherwise unconstitutional," that measure then became "lawful." If lawful, then constitutional. So the same measure may be both constitutional and unconstitutional, dependent only, to give it complexion, upon the opinion of our President, or the standpoint from which it is viewed. This is the logic. Where, then, do you go to know the rights of the citizen? To the Constitution? Not at all; but to such necessitous events as, in the opinion of the President, make things otherwise unconstitutional and unlawful constitutional and "lawful." So, therefore, according to this interpretation, the Constitution is as fluctuating as the events of this world, and as variable as the opinions of our President in relation to them. The question and control of slavery does not come under the grants to the Federal Government, but is reserved exclusively to the States. Still, if what is "indispensable" in the opinion of the Executive can make a measure "lawful" and constitutional, might he not form an opinion that the freedmen and contrabands ought to be cared for, and (as a bill is now pending to effect this in the South) that half the citizens' lands in Kentucky should be sold or furnish homesteads for the freedmen or contrabands which may claim to be free? That is the assumption and the argument.

Judge COLLAMER says, if we are constrained to use

"More of power, more of force, than the Constitution provides, or than is limited by the Constitution, the moment we do that, or are constrained from our supposed necessities to do it, we acknowledge before the world that our institutions are insufficiently founded. We should, therefore, particularly in a period like this, carefully consider and sacredly regard all the provisions of the Constitution. It is vain and idle in us to war against a part of our people because they have made war upon the Government, if we at the same time have to sap the foundations of the Government by stabbing through the vitals of the Constitution."

The present policy might not be so fearful if you were not so over-righteous and self-confident; if you could be persuaded or hear remonstrance; your zeal has frenzied your brain; you hate a man who says he is for being governed exclusively by the Constitution, in peace and in war, as bad as the Jews hated the Samaritans. This is all wrong. Cannot you abate your fiery zeal, take the second sober thought, and come back upon the platform and principles to which we can all subscribe; where we can act together with one heart and one mind, all in unity, and wield all the undistracted force of the Government in all its majesty and power? We stood together there once, and if you had not renounced the statesman to put on the partisan, with a view to accomplish what the Constitution interdicts, we would have been together yet. The country before this would have been relieved and in peace; but you have entered upon a crusade against the Constitution, its institution, the rights of the States and the citizen; you are making the pillars of our temple of liberty tremble, and its very corner-stones are crumbling away under your touch. You have the power. I charge all the responsibility upon you. Think! Repent of your errors to save our country, and relieve suffering millions, and make them blessed. I read you Mr. Crittenden's resolutions. We all voted for them, (the House and Senate.) The Administration was for them; the press was for them; the Army was for them. We did not hear then

the partisan devotion going up from this Hall, in thanks to God, "We have got an abolition Army too." Yes, all the nation was for them:

"The existing civil war, forced upon the national Government by the disunionists, should not be waged on the part of the Government in any spirit of oppression, or for any purpose of conquest or subjugation or purposes of overthrowing or interfering with the rights or established institutions of any of the States, free or slave, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all its dignity, equality, and rights of the several States unimpaired, and as soon as these objects are accomplished the war ought to cease."

This resolution has been utterly abandoned, and the whole power of the Government is applied now in the spirit of oppression, conquest, and subjugation for the purpose of overthrowing the rights and established institutions of the States, loyal slave States, but not to defend and maintain the supremacy of the Constitution and to preserve the Union. The Government has assumed other and opposite principles; other purposes are to be accomplished than the suppression of the rebellion, purposes against the highest forms of law, in conflict with all usage, principle, or precedent. You have woefully changed. There is, in one sense, no Republican party now. That party avowed in its platform its opposition to the extension of slavery, but gave a solemn pledge that it should not be interfered with where it existed. The President reaffirmed the sentiment:

"I have no purpose, directly or indirectly, to interfere with the institution of slavery in States where it exists. I believe I have no right to do so. I have no wish to do so. That the maintenance inviolate of the rights of States, and especially the rights of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend."

That declaration was right. The country believed it, relied upon it, and rallied to arms under its inspiration. How far different now. How changed. These republican principles are abandoned, and we have a fiery abolition party ignoring these principles, and fully, most radically, adopting the abolition principles of the strictest sect and of the old school, indorsing the complete nullification of the laws and constitutions of the country, State and Federal. Nobody denies that the Federal Constitution, article the fourth, section third, warrants slavery, and upon this the wisdom of the country has founded the fugitive slave law; but now the first is disregarded, and the latter is overridden and in process of repeal. This party, now tied together by place and patronage for electioneering purposes, too common with all parties, in my judgment, are for the suppression of the rebellion, but upon the condition that slavery "must be wiped out." Thus they are not what they so arrogantly announce, unconditional Union men, but conditional Union men. What will they do if they fail to wipe out slavery? Will they be for the disintegration of the Union under the old radical abolition flag so largely represented in this House? Let us hear from them.

The gentleman from Lancaster, Pennsylvania:

"This talk of restoring the Union as it was, and under the Constitution as it is, is one of the absurdities which I have heard repeated until I have become sick of it. There are many things which make such an event impossible. This Union never shall, with my consent, be restored under the Constitution as it is."

Another gentleman of the House is quoted to have said:

"In the case of the alternative being presented of the continuance of slavery or a dissolution of the Union, I am for dissolution, and I care not how quick it comes."

The abolition press, James Watson Webb:

"If the Republicans fall at the ballot-box we shall be compelled to drive back the slaveocracy with fire and sword."

Garrison:

"I have said, and I say again, that in proportion to the growth of disunion will be the growth of republicanism. The Union is a lie. The American Union is an imposture, a covenant with death and an agreement with hell. I am for its overthrow."

This feeling is revived; all belonging to this Administration of the old school, disunionist and abolitionist, drink it in like water; it is called the life of the nation, and the Constitution and Union are contemned so the abolitionists succeed.

Mr. JULIAN, of the House, says:

"Should both Congress and the courts stand in the way of the nation's life, then the red lightnings of the people's

wrath consume the recreant who refuses to execute the popular will; not even the Constitution must be allowed to hold back the uplifted arm of the Government."

Such is the radical political spirit of the times, all revived by these men, in times so appalling when all is at stake; not even the Constitution must be permitted to hold back the uplifted arm of Government to save the nation's life. This is truly startling to the true, sober patriot. Is it not the essence of revolution, and needs but a blow to make it rebellion? What a fearful change! What moral dereliction! But hear from their pulpit. Read Dr. Bellows:

"It is no longer a war in defense of the Union, the Constitution, and the enforcement of the laws; it is a war to be carried on no longer with the aim of reestablishing the Union and the Constitution with their old compromises. God means not to let us off with any half-way work. I am now convinced, and I consider it the most humane, the most economical, and most statesmanlike, now to take the most radical ground possible; to assume that this is a war for the subjugation or extermination of all persons who wish to maintain the slave power; a war to get rid of slavery and slaveholders, whether it is constitutional or not."

Thus you see extermination and perjury maintained in the pulpit; not one whisper of "peace on earth and good will to men." Wendell Phillips says.

"No man has a right to be surprised at this state of things. It is just what the abolitionist and disunionist have attempted to bring about. There is merit in the Republican party; it is the first sectional party ever organized in this country. It does not know its own face, but calls itself national; but it is not national; it is sectional. The Republican party is a party of the North pledged against the South."

So you see from the stand-point of politics, the press, and the pulpit, at a glance where we stand, the prospect and condition of the country. Whatever you may call those in power, it is easily inferred there is a settled purpose, while they would subserve their purposes in putting down the rebellion, their paramount object now is to extinguish slavery without the slightest regard to the Constitution, to the rights of States, or of loyal citizens. I quote these things, not factiously, but with mortification, feeling it my duty to my friends and my country to show the temper and tendency of the men in power. The Senate have already decided the negro shall have a vote with the white man. The House has decided all lands sold for taxes, or confiscated, shall be made by law homesteads for the negro, the South subjugated or exterminated, and their State governments held as Territories until reorganized by one tenth of the voters, and these perhaps late emigrants and free negroes. This is the policy.

Mr. Chairman, can you not see in all this why there is such an aversion on their part to conciliation, to any mention or hearing of one syllable about peace, no matter how it comes or where it may originate? Sir, I am for peace, an honorable peace any time to stop this war. War is always a curse; and a peace consistent with the integrity of the Union, the operation of the Constitution and laws of the land in all their force every where upon American soil and under our Federal jurisdiction, is just what was the object of the war; and peace upon these terms would thrill with joy every philanthropic and patriotic heart, and bow the nation in thanksgiving and praise around the throne of God. Why this coyness about peace? Do you fear without war you cannot accomplish your purposes, cannot wipe out slavery if this war terminates? Must you have the war and the power of the Government both to accomplish your purpose? Suppose the war ceases, or your power ceases; then how are you to succeed? You must get clear of the Constitution, its grants, its limitations, its warranties, its compromises, or continue the war to override them, if you are determined to wipe out slavery. There is but one other way left to separate you from slavery, and that is disintegration while you have the power! And this would be consistent with your first lessons in the old school of abolition. But you have possibly considered these things, all of them. The issue you make has been prophesied. Mr. Clay said, in 1851:

"The great issue before the country is this: shall abolitionism put down the Union or shall the Union put down abolitionism? With them the rights of property are nothing; the deficiency of the powers of the General Government are nothing; the acknowledged and incontestable powers of the States are nothing; civil war, a dissolution

38TH CONG...1ST SESS.

Policy of the Administration—Mr. Grider.

HO. OF REPS.

of the Union, and the overthrow of a Government in which are concentrated the fondest hopes of the civilized world are nothing. A single idea has taken possession of their mind, and onward they pursue it, overlooking all barriers, reckless and regardless of all consequences."

Sir, what said General Jackson about the abolition power now revived and organized?

"The abolition party is a disloyal organization; its pretended love for freedom means nothing more nor less than civil war and a dissolution of the Union. Honest men of all parties should unite to expose their intentions and arrest their progress."

The measures of the Administration, so far as they mark a peculiar party, are in pursuance of and in conformity to the views of the most ultra abolitionist, with some exceptions, in House and Senate; and of this party, by the wise and great just passed away, terrible denunciations have been uttered by such as knew them best. Mr. Webster said:

"Let these infernal fanatics get possession of the Government and they will treat the decisions of the Supreme Court with contempt; they will make laws to suit themselves; they will lay violent hands on all that disagree with them; they will bankrupt the country and finally deluge it in blood."

Much of all this evil has resulted from changing the policy and purpose of the war, or adding to the original purpose of the war. Our policy ought never to have changed; the necessity for it was a fiction, and worse. It has protracted the great evil, increased the flood-tide of blood being poured out on the battle-field, and disheartened the gallant and brave that did and would again volunteer at the first tap of the drum. Had the Crittenden resolutions been pursued, we should have no conscription, no arming of slaves, no onerous taxes, no dread of bankruptcy. These are the fruits of your policy and your change. The dread evil is still lingering on and is to be pressed till the full consummation, and the last negro that survives the camp, the field, and starvation, is to be free and brought to the polls. This is to be done in the South and in all border States that do not become demoralized and relinquish their constitutional rights. The emancipation of slaves in the District of Columbia, without the consent of their owners or a vote from the people, fixing your own value on them without their concurrence, and paying for them out of the Treasury, with large incidental expenses for contrabands, was your beginning. The confiscation bill aimed at slavery; the additional article of war passed, so as to make it a high offense for an officer of the Army to return a runaway slave, and refusing to make it a like offense to entice away a slave. This law was against all Federal and State authority; nullifies the statutes of Kentucky and the fugitive slave law. The acts of the Legislature of Kentucky (see Revised Statutes, page 634) provide against the abduction of slaves, or by any means seducing them or removing them from their owners, or exciting them to insurrection, and punishes these offenses with (upon conviction) imprisonment. If the State was left to the exercise of its civil jurisdiction it would not so outrage all right; but martial law and military enforcement overwhelm State authority. Your conscript bill and its amendments enlisting slaves as soldiers, and a series of successive like unconstitutional acts, for which you are responsible and the country will hold you to an account, all aim at the extinguishment of slavery; and, in fact, well known in point of expense, delay, and other embarrassments, calculated to encourage and excite the South, injure and mortify the truly well-trying loyal border States, and retard the attainment of peace, if not finally defeat the suppression of the rebellion, except at the cost of blood and treasure fearful indeed, and unequalled in the annals of time. In Kentucky (see article seven, title Militia)—

"The militia of this Commonwealth shall consist of all free, able-bodied male persons (negroes, mulattoes, and Indians excepted) resident in the same, between the ages of eighteen and forty-five years."

These are the militia of Kentucky, and in the eighth section of the Federal Constitution, in regard to organizing, arming, and disciplining the militia employed in the service of the United States, it is expressly reserved to the States "the appointment of the officers and the authority of training the militia," &c., both of which constitutional rights were denied under the conscript

bill, as I understand it. Article second of Amendments to Federal Constitution provides:

"A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

Here is a guarantee to the State to regulate and arm her militia; to the people, citizens, residents of the States, not slaves, not non-residents. Who does not know that the laws of Kentucky prohibit and have a right to prohibit slaves from carrying or bearing arms? Is there nothing in State laws, nothing in usage, nothing in precedent, nothing in acquiescence? From the foundation of the Government, when and where were slaves enrolled as the militia of the country?

Sir, I raise the question, and I insist that as the State has the only power to say who shall constitute her militia, and has excluded negroes, although the Federal Government is entitled to the quota from States drawn from her militia, yet she cannot say who the militia are. Very much depends upon the enrollment by the State, the usage of the State, and the meaning of the terms used at the time the constitutions were ordained, both Federal and State. When they were formed, does any one conceive or pretend that slaves were meant and included under the term militia? They looked to the enrollment in the Adjutant General's office to find out who the militia were. They found no negroes there. This was the meaning and application then, its true meaning and application now. I do not deny they can be used by the Army as property, but I deny they can be used as militia. None but citizens can constitute militia. Slaves are not citizens. Must we not know what militia means and where they are recorded? I know they are persons, but this is no argument; so foreigners are persons, but they are not citizens. Females are persons and citizens, but they are not enrolled and constitute no part of the militia. The Federal Government can "raise and support armies," "provide and maintain a navy," but this is a general power granted and incident to the existence of all governments; but our Government, knowing that the main defense of the nation depends upon her citizen soldiers, her militia, has provided explicitly for the very crisis upon us, and other clauses but come in aid of this great power and sacred trust. Section eight, fourteenth specific grant:

"Congress shall have power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

This is what we are supposed to be doing; this is what we first did; and under this clause of the Constitution, in my judgment, it requires a radically false interpretation to embrace slaves. It never was intended or meant by the framers of our constitutions; and the intent of the authors of the instruments, especially in a doubtful case, is always the best manifestation of their meaning. Take this, however, altogether, and it seems to me there is no doubt. This, too, is sufficiently shown from our history, that after our Government has existed almost a century, had three wars, foreign wars, no new enrollments have been ordered, no new militia fiat has been pronounced, no slaves enlisted. Heretofore those taken in the Army as laborers and servants, when lost by the casualties of war, have been paid for by the Government as property. This distinction has always obtained and would now remain undisturbed, if the men in power had not decreed in their hearts "slavery must be wiped out," no matter what are the suggestions of usage, history, and the provisions of the Constitution. But if you put the slave in ditch, or camp, or fort as a laborer or waiter, and you put him in the field as a soldier, how is it by the one case he is made free, in the other he is not? This freedom, of course, is all of grace; but where is the rule to distinguish by authority or constitutional law? I know of none. It is not the want of negro soldiers that has produced this boldest strike at slavery. No, it will do the Army more harm than good; it will diminish rather than increase it of reliable troops; but the present policy has decided upon it, I suppose upon Mr. JULIAN's policy. He says:

"Cases may arise in which patriotism itself may demand that we trample on the most vital principles of the Constitution, and this has been done already by the present Administration under the exigencies of the war."

This is honest, but abominable.

This sentiment is fearfully, but I fear hopelessly, rebuked by Judge COLLAMER, even in the Senate:

"I do not wish to occupy the time of the Senate, unless I am compelled to do so at some stage of this business, by making any remarks about the Constitution of the United States. I think it is a subject almost of derision here; with many gentlemen it is a subject of derision. As it is so in a great measure, and a man is sneered at for mentioning the Constitution, and if he has a decent respect for it and for his own oath he is called a timid man, (or, as we say in the West, tender-footed,) not rough-shod, and ready to trample even the Constitution under his feet."

Again, Mr. TRUMBULL:

"Sir, it is of a piece with a declaration that I have heard sometimes in this Chamber, and have always regretted when I heard it, and that was that it mattered not whether a thing was constitutional or not. Sir, this Government cannot be saved, constitutional liberty cannot be saved, unless we save it under the Constitution. We are fighting for liberty, regulated by law, for constitutional liberty."

Your enlisting and drafting the slave is against law, and a crying injustice to him. Your bounty and pay to the owner is a mockery to a gentleman and kind friend of the slave. You depreciate the property, fix yourself a pitiful and niggardly price, so depreciated without his consent or concurrence, and hypocritically and falsely assume you have paid, or offered to pay, for the slave as property. No such thing. It is like a man who wants my house and lot in town. He first comes and burns down my improvements, and then drives me off the premises by force, and afterwards promises to pay me, and boasts of his kindness and generosity. Is this the liberty we are fighting for? No! no! we are fighting for liberty regulated by law, for constitutional liberty. The Constitution and laws of the land warrant slavery; this no one denies; but it so shocks the piety of these holy Puritans I will quote an explanation for them. This is about the truth upon this subject:

"Religiously considered, slavery is not to be regarded as a divine institution, like the sacrament of the Lord's supper or the marriage covenant, but as a providential condition of society, recognized and regulated by the Holy Scriptures, and as such to be tolerated by Christian people where it exists by law, always acting in strict conformity to the inspired precept concerning it. This is according to the course pursued by Christ and His apostles, and this is the view given by every standard commentator on the Bible. Slavery politically considered is an institution of our country which each State has a perfect right to tolerate or repudiate at pleasure. Any interference in the matter on the part of one State or section of the country toward another is a breach of covenant between the parties which every Christian patriot and citizen should deplore and rebuke. If the principles contained in these two propositions had been duly regarded, who believes this nation would now be involved in such a terrible conflict?"

If the abolitionist and secessionist had both regarded these propositions, how peaceful, prosperous, and happy would our country now be! But it is said slavery was the cause of the war. This is not philosophic nor true. A want of religious principle and political integrity was the cause of the war, and although the unrestrained passions may have been excited by the agitation of slavery, slavery was not the cause; the agitation was; and if there had not existed this cause of agitation, some other cause would, especially amidst sectional and foolish jealousies, mingled with bad feeling, envy, and malice. Nothing can override these passions, so injurious, but self-respect, high, unselfish, moral principle, and the restraints of the law and the Constitution; and these must be enforced by good and loyal men, both against the rebels and the abolitionists, and the Government thus preserved in all its glory and majesty.

The border States have been peculiarly exposed and embarrassed, injured and insulted by invasions and raids by the rebels. Adhering to the Constitution, the laws, and the flag of our country, the border States had a right to look for the respect and protection of their legal and constitutional privileges; they did not dream that to suppress the rebellion the rights of the loyal would be assailed, or that the Constitution was so feeble that its supremacy must be upheld only by a violation of its own provisions. Such, however, has been the policy to which they have been subjected by the Government since the purpose has been fixed to extinguish slavery, in not only the disloyal but loyal States. If it has not been done

38TH CONG....1ST SESS.

Policy of the Administration—Mr. Grider.

HO. OF REPS.

outright, it has been done, and is doing, indirectly. Mr. Webster again:

"I have often, Mr. President, expressed the opinion that over slavery as it exists in the States this Government has no control whatever. It is entirely and exclusively a State concern. And while it is thus clear that Congress has no direct power over the subject, it is our duty to take care that the authority of this Government is not brought to bear upon it by any indirect interference whatever."

In view of that, what do you think of your policy, your recent policy, your indirect, repeated interferences? The baggage wagons of the Federal Army have traveled the pikes and roads in Kentucky filled with slaves received or seduced into the Army line, and under the new article of war and military ascendancy the owner was peremptorily refused his property; property belonging to men, women, and children. This was indirect interference, indirect emancipation, and by the laws of Kentucky a felony. Mr. Fillmore, I believe, ordered out the Army to enforce the fugitive slave law; but now the whole Army is encouraged to resist its execution, and some of them do it most effectively. And while this is the state of the case it is true, as the President says:

"All the members of Congress swear their support to the whole Constitution, to this provision as much as any other. To the proposition, then, that slaves whose cases come within the terms of this clause shall be delivered up, their oaths are unanimous. And should any one in any case be content that his oath should be unkept?"

Go unkept! Why, sir, it is one of the purposes of Congress to violate if they can, and repeal the fugitive slave law. Go unkept! Have not the officers of the Army retained by force servants from their masters? Have they been dismissed, even reprimanded? Not one of them; but others, that choose not to subserve the purposes of military interference with slavery, have been peremptorily discharged without charge or notice or trial.

I hope there will soon be some just consideration of this great subject and great danger. Sir, when the great battles of the war are fought, our arms successful, and you take the subjugated South as your Territories, to be reorganized into free States by men sworn to support the proclamation, by emigrants, many of them foreign, and free negroes; when raids, guerrillas, and drilled bands are everywhere in the country, upon hill and dale, mountain and valley, spoiling you of your substance, resisting your authority, then you will have trouble to control your Army by that time mostly, (according to your policy,) emigrants, foreigners, and slaves. You had better now teach the Army some lessons of order, that private property is to be held inviolate, unless, in fact, you intend literally a war of extermination. You will have millions of contrabands on your hands not operatives; you will but be able, after the ravages of war, to furnish subsistence to favored citizens, the speculator, the covetous, and the Army; and your contrabands taken from comfort and home, will be permitted in their abandoned nakedness to starve. You are going in your policy upon a big scale, a wholesale dealer. How is it now in its incipency? Let us hear from the Boston Recorder, a religious journal:

"We are indignant at this shameless northern cupidity with its long, sharp shears always open, ready to clip the fleece of black and white alike, so that it can fill its own sack with the proceeds."

Again:

"The plan adopted in the Southwest to work the plantations with hired freedmen needs overhauling. The blacks have no liberty to select their own place of labor; they are compelled to work on the estates where they are at the rate of seven dollars a month, and half of this in kind at the price fixed by their employers. This is only the semblance of freedom, and this remuneration most meager, less than the fourth of a dollar a day, and only half of that in cash. This is enriching the new race of northern planters at an altogether disproportionate rate. We hear of large fortunes accumulating in the hands of many of our people who are overseeing these plantations, and are expected to be back again in a year or two like nabobs returning from the Indies."

Same paper:

"It will require the utmost vigilance on the part of this (the freedmen's) and all other associations for the relief of freedmen in the coming summer and fall to save them from the certain destruction that awaits them from the heartless cupidity of money-gathering adventurers and traders. The Mississippi valley is swarming with these unprincipled men."

These good shepherds (not of Israel) have gone down there, taken possession of the pastures,

property, and country from their original owners, to guard the sheep, especially the black sheep, from the wolf. All the promptings of abolition philanthropy! Why do not these shepherds let the wolf (the master) have the sheep? Simply because they want to rob the sheep of his wool and eat him themselves.

You are by force pressing your party purposes, distracting society, pouring oil upon fire, fixing up the African in our midst for starvation, misery, demoralization, and extinction; and then proposing the iniquity by an amendment to the Constitution. I shall consent to no such legislation. My constituents look to no such scheme. Kentucky, although submitting to the slave draft, desires no such hasty and rash action forced upon her. She has answered as a State; she has answered by districts. If she would, she could not emancipate in less than six or seven years. She has all the constitutional power, but she does not move. No, sir; this is not the time. Let us put down the rebellion, or otherwise get peace, become calm, restored to amity; and if ever done, when it is done let it be done "decently and in order," as the Constitution was adopted, by statesmen and patriots, not as partisans and zealots; done in the fear of God, invoking His favor. Sir, whenever done by the commanding voice of the constitutional majority of the United States, with a view to the good of the whole country, Kentucky will never be found recreant to her duty, her fame, or her loyalty. But she will ask it to be done right, right to her citizens, right to her slaves, before ever she consents to its ratification, or to surrender the trust committed to her hands by the providence of God. Her slaves must be indemnified, cared for better than they are now, have food and raiment, and such advancement as they need and are competent to receive, not permitted to go back into barbarism; and if removed, given all the advantages of arts, science, and literature they are competent to receive, and especially, as they have now, the everlasting gospel of God, bearing upon its messages of love the golden gates of a holy religion, always open, inviting them to enter through to the great temple of eternal rest.

Mr. Chairman, "this is a dark and gloomy day, big with the fate of Caesar and of Rome." I am not in despair, but I am gloomy even amidst the recent victories of our arms under our indomitable leader. For we must survey and be appalled at the dread necessities of this terrible strife. But when I remember the high-noon of our prosperity, when I think of the illimitable domain of our country in all its exuberance, when I take my stand-point upon our mountain heights, and view our valleys and hills, infinite in resources and infinite in production, when I think of our commerce with every people upon every sea, and our great rivers and lakes; when I calculate the millions of our increasing population, enlightened, prosperous, full of energy, every one happy (aside from the war) from the humblest place to the highest official; when I tell you this is the land of our fathers, a land consecrated by their blood to religious liberty and constitutional freedom; why should I even in this crisis despair? I will not despair. I may be despondent, but I will hope and trust. But who can but be uneasy when we hear the partisan utterance in this Hall, as I have said, devoutly thanking God, "We have an abolition Army too?" When we see partisan zeal in the House invoking partisan power in the Army; when we have six or eight cases of contested elections brought before the House in all their perplexities and uncertainties, predicated upon the allegations of military interference with the freedom of the citizen, the right of suffrage at the polls; this, the highest and dearest right of an American citizen, underlying the base of our political fabric—symbolized more than all other rights by the banner of the country floating free! free! gloriously free, in the breeze!

Military interference was not charged in the third congressional district; it was discouraged, I know, by some of the military and politicians; the majorities at the last and preceding election show it; being about the same, not quite so large as the last time for the successful candidate. Certainly there ought to be none, for every man should bow with deference to the legal, loyal, un-

disturbed votes of the sovereign people; ascertained by law through the judges and civil authorities appointed by our courts. No molestation by any military array at the ballot-box. I speak of general principles and not of particular cases. I trust military interference in this regard is over forever in this country. It ought to prostrate any party or policy that would permit it; its tendency is fatal and ruinous. How would it be in our coming elections, pregnant with results so fearfully important and of infinite consequences to this country and the whole people? Let elections be left to the civil authorities to judge, govern, and determine by the laws, officers, and agencies of the States. Let not the specter of military tyrants haunt the sanctuary of an American freeman in the exercise of his highest privilege and most patriotic duty. When this shall obtain, then not only may we be in gloom, but the dark cloud of utter hopelessness and despair settles over the land, and the goddess of liberty, elevated over this temple, dedicated to constitutional freedom, with wailings and tears of deepest anguish, yields to the fell spoiler of military despotism. Why, sir, last week, not in the House, military despotism was boldly advocated by Wendell Phillips; the reconstruction of the rebel States upon the basis of the loyal blacks, the country to be kept in Territories twenty years, and the Government to be trusted with a military despotism. There is not only a fearful war, but fearful revolution of settled usages and principles of the Government in progress. May God avert them from utter ruin.

But I may touch most briefly some few other subjects. Passing over the momentous questions of arrest without warrant, martial law, and denying the right to the writ of *habeas corpus* where the civil authorities can execute the law, I beg leave to suggest a few things, more recently revived upon the public mind, settled, as I suppose, in the first article to the Amendments of the Constitution, and the usages of this Government; Congress shall make no law abridging the freedom of speech or of the press; and these two rest upon the same principle. Whoever objects to either is retrograding in principle and policy. The right to exercise these privileges is consistent with our very nature and endowments, consistent with the assumption that we are rational, capable of self-government; that we have the capacity to discriminate between truth and falsehood, between good and evil, and have transferred none of our high rights and privileges to others, but may write, read, and determine upon all subjects for ourselves, both as it regards men, morals, principle, and policy. It is too late to question this right or interfere with its exercise. The most arrogant tyrants ought to blush to assail it. It is a long-settled principle. Kent's lecture, 24:

"It has become a constitutional principle in this country that every citizen may freely speak, write, and publish his sentiments upon all subjects, and that no law can rightfully be passed to restrain or abridge the freedom of the press."

Blackstone, 152:

"Every freeman has an undoubted right to lay what sentiments he pleases before the public. To forbid this is to destroy the freedom of the press."

None but tyrants desire its suppression or destruction, and none others try it. Speech and reason are the very characteristics of man; deny him the right of free speech and you take from him one of the prerogatives that God and the Constitution have both given him. It was upon these great principles unfettered, and the honesty and intelligence of the people, Mr. Clay announced, "Truth is omnipotent and public justice certain." Free speech, a free press, and free suffrage! when these constitutional rights are overwhelmed and gone our liberties are gone too, and we are all slaves. The right of free speech must, for the sake of its efficiency, be subject to liberal parliamentary not party order. Kent, page 17:

"The liberal communications of sentiment and entire freedom of discussion in respect to the character and conduct of public men and of candidates for public favor, is deemed essential to the judicious exercise of the right of suffrage and that control over their rulers which resides in the people of the United States."

Sir, this tendency to arbitrary dominion prevails everywhere; it has entered the sanctuaries and temples of religion; and men have been sent

38TH CONG....1ST SESS.

Amendment of the Constitution—Mr. Wheeler.

HO. OF REPS.

forth "breathing threatenings" to reorganize the ministry as well as States. Ministers have been deposed from their pulpits, (not Rev. Mr. Bellows, whom I have quoted,) and others installed, according to the papers, over their congregations without the consent of the minister or the congregation. True, ministers are not to speak evil of the rulers of their people; they are to be subject to the powers that be, like other citizens. These things are done without a hearing, and with less courtesy than Agrippa bestowed upon Paul, for Paul was permitted to speak for himself and be heard. I do not deny you can operate upon the disloyal traitors, their aiders and abettors anywhere; but not upon all, nor any, without any reason; upon mere suspicion or report, without notice or trial. Nor do I contend the pulpit is the appropriate place for political and partisan edification. Still it is perfectly safe if its labors are devoted to abolition or even disunion. I will be excused to quote once more upon this subject, showing the sacredness of this right. Free speech is only dangerous to arbitrary power. Mr. Webster said:

"It is the ancient and undoubted prerogative of this people to canvass public measures and the merits of public men. It is a home-shod right, a fireside privilege. It hath ever been enjoyed in every house, cottage, and cabin in the nation. It is not to be drawn into controversy. It is as undoubted as breathing the air or walking on the earth. Belonging to private life as a right, it belongs to public life as a duty; and it is the last duty which those whose representative I am shall find me to abandon. Aiming at all times to be courteous and temperate in its use, except when the right itself is questioned, I shall place myself on the extreme boundary of my right and bid defiance to any arm that would move me from my ground! This high constitutional privilege I shall defend and exercise within this House and in all places in times of peace and at all times. Living I shall assert it; and should I leave no other inheritance to my children, by the blessing of God I will leave them the inheritance of free principles and the example of a manly, independent, and constitutional defense of them."

I have voted to sustain these principles; I have voted against the expulsion of members for the exercise of this right in the expression of their opinions. Why not expel them, I am asked; you expelled two members last Congress? Because these gentlemen exercise the common privilege of a high constitutional right; those had themselves quit Congress, and had actually and in fact joined the rebels. These exercise a constitutional right. Those were confessedly guilty of actual treason. This is the difference, this is the case; nor did I stop to inquire whether I agreed or disagreed with their opinions nor trace up their antecedents, who they had voted for, or with whom they had cooperated. These things have nothing to do with my duty in this House. Last Congress and this I have voted with gentlemen, or gentlemen have voted with me, to enforce the laws, suppress insurrection, and repel invasion, and see if I could resist that avalanche of ruin that is rushing furiously from the heights of party and power to bury in its pathway the best earthly hopes of humanity, and stay it if I could by theegis of constitutional law. Sir, if the country does not understand me, my constituents do. My fidelity to them shall reciprocate their confiding generosity to me. I stand upon the platforms of our State Legislature, upon the avowed principles of the Democratic Union party of Kentucky and the district convention—adopting these—that honored me with their nomination and their votes.

Mr. Chairman, the third congressional district of Kentucky has seven border counties, patriotic, enlightened, and brave. They have been overrun, imprisoned, and robbed all over the district by rebels. Have had our own Army, too, in our midst more than once, joyfully and thankfully relieved from the rebels by them; but mortified and injured by the illegal and unjust conduct of some of our troops, recklessly using subsistence and quartermaster's stores, without giving any or sufficient vouchers, seducing servants of patriotic, loyal men to leave, or retaining them in camp, to carry them off against the remonstrance of their owners. Yes, sir, according to the statement of my colleague, literally "robbing American citizens of their property"—doing it under the stars and stripes, the emblem of our majesty and glory, and the badge of our honor and justice! Guerrillas, too, have plundered the stores of money and goods, burned, consumed, and carried off their stock and subsistence. Families found

wandering from home, hunting from the hand of neighbor or friend, the bread to save from imminent want. But they still cling in their hearts to the flag of their country, their soldiers in the field, the Constitution and the Union. They felt that God and the flag was their refuge and strong tower; at the first call of the country, the gallant men of this border district had grappled their muskets and their sabers to defend their homes and firesides. Ordered South, leaving home, wife, children, and friends exposed, many have died in the camp, and fallen gallantly and gloriously in the field. These noble men, Kentuckians, with their compeers in arms, have held up and sustained the honor of our country and glory of our flag all victories—at Vicksburg, Fort Donelson, at Shiloh, and Stone River, Chickamauga, Perryville, Mill Springs, everywhere!

Kentucky, this district, has paid her taxes amid her desolated fields and farms, and despoiled of her substance; has furnished her quota, recruited at first under the reign of the rebels, without murmur or complaint in this distracted struggle, and still stands committed to the Constitution and the Union against all aggression from the rebels or abolitionist either, knowing they must survive together "one and indivisible." Yet, strange as it is true, the Representatives of Kentucky and others have, with a becoming and respectful zeal and fidelity, now three sessions, been asking for a law at this House by which the citizen can be paid for what they have actually furnished the Army, and have utterly failed so far. Sir, this refusal by delay, under the circumstances, amounts to repudiation. I will not rest under this charge of injustice and dishonesty before the country and my constituents. I appeal to the record, the votes, bills, and the speeches there. I charge it upon the majority of this House, upon the abolition rule that prevails here. There rests the injustice; there rests the responsibility.

What shall I say in conclusion? Who will show us any good? What shall the future bring forth? Truly, everything seems in peril! Truly, this is a time to try the competency and wisdom of the people, and I repeat what I have said before: no change of times can change our duty touching fundamental, unchanging principles. A bad Administration will test our deliberation and coolness in looking upon radical errors and yet keeping ourselves in the right; waiting in suffering and wrong for redress by the results of future constitutional agencies, let us keep in the right, not be misled, neither favoring the rebels nor the abolitionists, nor run into faction or nullification; but stand like men, firm from principle, by the Government and the institutions of our fathers. The Government is a constitutional Government, and belongs to those who ordained it, the people! There is no prerogative higher than the Constitution gives belonging to any. Let the people at the polls, in solemn and determined duty, change the administration of public affairs, bring them in subordination to the elementary rules of the Government, and, with confidence and hope, renew our pledges under God to our Government, its Constitution and laws. And in patience and perseverance struggle by all lawful and honorable means to preserve it amidst all the assumptions and distractions with which we are surrounded. And may God help us and the great end be fully and speedily accomplished!

AMENDMENT OF THE CONSTITUTION.

SPEECH OF HON. E. WHEELER,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

June 14, 1864,

On the joint resolution (S. No. 16) proposing amendments to the Constitution of the United States.

Mr. WHEELER. I desire to present an amendment to the resolution, which I shall offer at the proper time.

The Clerk read the amendment, as follows:

Add to the resolution the following:
Provided, That this article shall not apply to the States of Kentucky, Missouri, Delaware, and Maryland until after the expiration of ten years from the time the same shall be ratified.

Mr. WHEELER. Mr. Speaker, I regard this

as the most important question that has come before this Congress, and desire to discuss it without regard to party feelings or prejudices, looking at the present condition of the country, looking to the future of this country, to what I believe to be the general good of the nation, and that only.

I have voted during this session to reject this resolution for the reason that I wished an opportunity to offer and have discussed the proviso I have offered exempting the border slave States from the operation of this constitutional amendment till they should have time to gradually abolish slavery themselves. I have now come to the determination to vote for the resolution, even if the proviso is not adopted. I hope the proviso will be carefully considered and calmly discussed and adopted as a part of this resolution. I shall give as briefly as possible the reasons why this proviso should form a part of the resolution, as well as some of the reasons which have induced me to support this resolution.

Most of those on the other side of this House who have discussed this measure, as well as some other important measures before this House, have spent a large portion of their time in denouncing their political opponents, charging them in general terms with sympathy with the rebellion, and alleging that the Democrats without exception are doing everything in their power to embarrass the Government in the prosecution of this war; in fact, broadly insinuating or directly charging that the leaders of the Democratic party are traitors to their Government, or that they are designedly aiding, encouraging, and sympathizing with the rebels, and are thus guilty of treason. I respectfully submit that this is not the proper way to unite the North and all parties in the North in support of the constitutional authorities in putting down rebellion. Such style of speech may increase the bitterness of party feeling, may, if believed, create strong prejudice in the minds of the unthinking against the Democratic party, may increase the vote of some particular party organization, but does not tend to induce men to cheerfully bear the burdens necessary to the support of war, does not incline men to risk their lives in battle, or to voluntarily contribute their means to reinforce our Army or to relieve its suffering heroes, especially when men see that, however much they may sacrifice, unless they abandon their party preferences and unite with the party claiming all the patriotism they are liable to such abuse, liable to be charged with treason and all other abominable crimes.

Again, some going still further, say they do not wish the support of the Democrats in Congress, that the country is able to get along without such support, and seem to prefer that every one should act on the dictates of a party spirit instead of according to the dictates of his own conscience and judgment. And this same class denounce as reasonable every opinion that does not coincide with the doctrines now promulgated by their own party, and hint that the expression of such opinions should be prevented by force. Again, I suggest, that such a course is not dictated by patriotism, but simply by a fierce party spirit. It does not tend to draw to the support of the Government that large class who do not belong to the party in power, and which has heretofore so nobly sustained the Government in this time of its greatest trial, but it tends directly to stir up party strife; tends, as far as it has any influence, to drive into opposition to the Government men who but for such abuse would cordially sustain it; and tends directly to produce civil war, mobs, and riots. The Government now needs the moral and material support of all parties. True patriotism would dictate at this time a moderate, prudent, and conciliatory course on the part of those in power toward political opponents. A large class of men believe they can sustain the Government and help prosecute the war effectually without joining the Republican party. They may not believe it necessary to declare martial law in the North where the civil law can be enforced, nor to restrict free speech, nor abridge any of the rights of the citizen. They may be able to see ample power under the Constitution to prosecute this war without violating any of its provisions or violating existing laws. They may claim the right to express their opin-

ions in regard to the measures or policy of the Administration, and although such measures or policy may not in their judgment be for the good of the country, still they have sustained, and will sustain, the Government against a common enemy at every cost and under all circumstances.

It must be admitted that there are many of the Democratic party in this House whose speeches have tended, if they were not so designed directly, to inflame party feeling and destroy the confidence of the people in our Government, especially when they assert, as some have done, that this war, and all the misery and suffering and horror attending upon it, were brought upon the country by a trick of the Administration. The extremes of the two parties here have sometimes seemed like the opposing parties in a street row, one howling at the other "Copperhead!" "Traitor!" and the other shouting back "Abolitionist!" "Fanatic!"

This Administration may be accountable for prolonging the war in consequence of not appreciating in the first place the magnitude of the rebellion, and in consequence of not prosecuting the war with vigor, but is not chargeable with being the cause of the war. The war was commenced by the South without justification; they had not been oppressed or deprived of any constitutional rights, nor was there any good ground to fear any oppression or injustice toward the South on the part of the Government which would justify revolution.

Then the cause of the war was the commencement of hostilities by the South. It is true that the leaders of the rebellion could never have brought the majority of the southern people to war against the Union except for the animosity and hatred existing among the masses of the South against the people of the North. It is also true that such hatred and animosity never would have existed but for the intolerant zeal of New England abolitionists against slavery, and attempts to interfere with that institution in a manner not authorized by the fundamental law of the nation.

In discussing this proposed amendment there are but two prominent and important questions to be disposed of. First, whether we have the constitutional power to make the amendment; and second, whether, conceding the power, it is expedient at this time to do it.

As to the constitutional power there can hardly be a doubt. When the States ratified the Constitution they assented to all its provisions, the power to amend in the mode therein pointed out among the rest. They gave their consent in advance to any amendment which should thereafter be adopted according to the provisions of the instrument. And when such amendments are adopted by three fourths of the States, the remaining States are as much bound by the instrument as amended as though they had voted for such amendments, and as much bound by it as they were by the original instrument.

Neither can it be said with any justice that this is not a proper subject of amendment. It is a subject contained, recognized, and provided for in the Constitution, and if not a proper subject for amendment or prohibition by amendment, it is not a proper subject for the original instrument. The recognition of slavery by the Constitution was undoubtedly the result of a compromise, and was consented to by the framers thereof from the fear that it would not be adopted without such recognition, and that the Republic, without a constitution, would be broken up and the nation destroyed, and with the confident hope and expectation that slavery would in some way and in a comparatively short time be abolished. Has not the time now arrived to realize that hope?

If the southern people had remained faithful to the Constitution, no considerable body or party would have advocated an amendment of the Constitution so as to prohibit slavery. That doctrine of the Democratic party, that however much any individual in his private judgment might be opposed to the institution of slavery, and although he might believe it was a curse morally and physically to the country in which it existed, still that under the compromises of the Constitution it was a matter to be regulated by the States themselves—this doctrine would have been the prevailing sentiment of a very large majority of

the northern people of both parties; and if the South had faithfully sustained these compromises no influential party of the North would ever have been found to advocate this amendment, but the conservative men of all parties would have united to sustain the Constitution unchanged, and have left it to each southern State to retain or get rid of what any one might think to be an evil in its own way.

But the South have not done this. They have, without any just cause and with the most flimsy excuse, by their State Legislatures or conventions, passed ordinances of secession from the Government. Long before the commencement of actual hostilities they armed their partisans, and by force in some places prevented an expression of popular will against secession or compelled an expression in favor of it. They seized nearly all the principal forts, arsenals, arms, munitions, and property of the Government of every kind within their reach. They seized vessels of the Government or of citizens that could be of use to them. During the time all this was going on, and for a long time prior to this, traitors in high official positions were plotting to destroy the Government which their oaths of office bound them to defend and protect. They were placing the Army and the Navy beyond the reach of the Government, so that not a single effort could be made to sustain the laws by force or defend the Government or its property. All the materials of war were placed within the reach of rebels. If at this time the Executive of our nation, at the first symptoms of treason and rebellion, had promptly and energetically used the power of the Government to sustain the law, if instead of the senseless cry of no power to coerce a State the Executive had enforced the law, had coerced the traitors as Jackson would have coerced them, the rebellion would have been nipped in the bud, and all the horror, misery, and suffering of this most terrible civil war would have been avoided. Instead of this the rebellion culminated in the commencement of actual hostilities, the attempt by armed rebels to seize the capital and destroy the Government. All this they have done with the avowed purpose of protecting and extending the institution of slavery.

And now it is no more than even-handed justice that their crime should result in the destruction of this very institution they sought to perpetuate and extend. They are entitled to no sympathy from any party of the North. After their commencement of civil war; after the commission of such crimes, the greatest known in the history of the world, no one can be bound now to regard with tenderness their interests, feelings, or prejudices. No party can with justice now be asked to refrain from discussing the justice, the policy, and the economy of their peculiar institution. No party can now be required to refrain from an effort to amend the fundamental law of the nation, so as to make it conform to the original intention of its framers; so as to conform without exception to the great principle of universal liberty and the self-government of man. If ever the term manifest destiny could be applied to any event or condition, it can now be to the abolition of slavery. The sentiment of the whole civilized world is against it. The rebels by resorting to force to break down our Government gave to it a death-blow from which it can never recover until the world again relapses into barbarism. The necessary consequence of this war, with the immense loss of life and the suffering brought home to almost every fireside, has been to arouse, to extend, to deepen, and intensify the hatred of the northern people toward slavery, which if not the cause was made the excuse by the South for commencing the war, which feeling will continue and increase with the masses until this blot upon republican institutions is forever wiped away. If the North does not fail in sustaining the Government and destroying the rebellion (and I believe in the vocabulary of this nation there is no such word as fail) slavery must be almost wholly destroyed as the necessary result of this war.

It may also be true that a large portion of the other property of the South will also be destroyed, but this is one of the necessary results of the crime of rebellion, in which, to a great extent, the com-

paratively innocent must suffer with the guilty. And after any of the southern States are brought within the power of the Government in reviving their suspended State governments and placing them again in harmony with the national laws, this same hatred of slavery will induce the reckless and visionary, who are too apt to have a controlling influence in times like these, to adopt every subterfuge, every theory of State suicide, of reduction of States to Territories, of consolidation, of the violation of the reserved rights of States, and any wild and visionary doctrine which will enable them in Congress to control the subject of slavery; however much such doctrines carried into practice will tend to subvert the well-settled principles of our Government, however much they may violate the plainest provisions of our Constitution; these violations of the Constitution in behalf of emancipation, these practical usurpations of the rights of States by the national authority for the purpose of preventing the reestablishing of slavery, will not end there; they will form precedents for any party in power in accomplishing other objects, and the loose construction or the open violation of the plainest provisions of the Constitution will become the rule instead of the exception.

Under such circumstances, in this condition of things it is the duty of every man, of every party, to aid in so changing our Constitution as to end forever this cause of agitation, so as to take from the radicals all motives and excuses for the violation of and breaking up the foundations of our Government, which in their frantic efforts to hasten the emancipation of the black race there is now danger of their doing. While we are not now restrained by any implied obligations or any claims upon our forbearance or sympathy, let us unite in so establishing our national charter as to do away with all cause of war hereafter. Let us do legally what is sure otherwise to be done illegally, and which if accomplished in any other way than in the constitutional manner, might result in disaster, might cause other usurpations of the rights of States, thus causing conflicts between other States and the nation, and perhaps end in civil war among the northern States.

But while we are trying to accomplish this great object let us not do injustice to any part of the Union. The border slave States have remained true to the Government. A majority of their people, sufficiently large to control their State governments, have faithfully, earnestly, and effectively helped to sustain the Government in its greatest trial and its greatest peril. We are not called upon to punish in any way the people of those States. Let us do nothing which will look like making a crusade directly against them. If they are slaveholders they are not rebels. Let us reflect that if those States had gone into the rebellion; if the majority of their patriotic citizens had not stood by the Government when their peculiar situation would seem to have drawn them into opposition; if their love of the Union had not been stronger than their interest and sympathy with their slaveholding brethren of the South, how much more equal the struggle would have been, and how much more uncertainty there would have been in the issue!

For these reasons let us do some justice to them, and pay some regard to their feelings, and not by this amendment hastily and rudely break up the condition of society and labor there; but rather by exempting them for a certain period from the operation of the article proposed by this amendment give them time to gradually make the change, and to accomplish this change in their own manner.

It is objected by those who oppose this amendment that it raises distinctly the issue of the abolition of slavery in this war, and shuts the door to any compromise or reconciliation; that it commits us to the policy of prosecuting the war until the rebels are conquered, or until a final separation takes place. In my opinion that issue is already practically before us. We have got to conquer the southern armies or submit to the destruction of our Government. A mere separation will not end the difficulty. We shall be subject to a renewal of war, to a further secession of States now in the Union, until we come to anarchy and subjugation by foreign Powers. The

38TH CONG....1ST SESS.

Internal Revenue—Mr. Davis.

SENATE.

rebels have never shown any disposition to a compromise, but on the contrary have repelled all efforts of their northern friends in that direction with scorn and contempt. Under such a state of feeling it is idle to talk of conciliation. When the armies of the rebels are broken and dispersed, when the power of the Government is established in the States which have attempted to secede, it will then, and not before, be time to talk of conciliation.

I do not believe the adoption of this amendment would prolong the war one day. If I could believe there was any possibility of the South submitting, disbanding their armies, and again acting under our Constitution as it is, there could be no question as to the policy of the Government in allowing them to do so; there could be no sound policy or humanity in carrying on this terrible war and fighting merely for the destruction of slavery. But there is no prospect of this. The rebels are determined to fight to the bitter end. The North cannot do otherwise than fight to maintain the integrity of the nation; they cannot end the controversy except by conquering the southern armies, by conquering the whole southern country, (not exterminating the people.) And when this is done slavery is destroyed. It is impossible to return to slavery slaves once actually freed by military operations. And the more stubborn and prolonged the resistance the more complete the destruction of the institution.

This, then, is the kind of abolition I would favor. Amend the Constitution so as to prohibit slavery, and give Congress power to carry that prohibition into effect. As the States that have pretended to secede have voluntarily relinquished the protection which the Constitution gave to their peculiar institution, do not attempt to force that protection upon them against their will. But at the same time give the loyal slave States time to abolish slavery in their own way, with such regulations and restrictions as their Legislatures shall choose.

It is of course idle to speculate as to the future condition of the southern States. I think I can see that at no distant period they are to be brought into subjection to the Government against which they have rebelled. In accomplishing this end undoubtedly the character of the population there is to be materially changed, not that the southern people are to be exterminated. But the emigration from the North and from Europe, which will surely follow the return of peace, and the substitution of free for slave labor, will change entirely the character of the majority of the people that will have the controlling influence in those States. Enterprise, industry, and economy will develop the immense natural resources of the country; and when this is done we can scarcely conceive the advance that will be made in those States in wealth, population, and material prosperity, and we have no reason to doubt that equal advances will be made in intelligence and morality.

INTERNAL REVENUE.

SPEECH OF HON. G. DAVIS,
OF KENTUCKY,IN THE SENATE OF THE UNITED STATES,
June 6, 1864.

The Senate having under consideration the bill (H. R. No. 405) to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes—

Mr. DAVIS said:

Mr. President: I intend to say something of the condition of the Treasury and the state of the finances in connection with this bill, and I would have been gratified if the chairman of the Committee on Finance had himself thought proper to have given us such an exposition. Particularly what was the aggregate amount of the appropriations at the last session of Congress, of expenditures of the year for every service up to the present time, and their estimated amount for this quarter; and what amount of deficiencies of former appropriations have already been voted, and what additional amount will be needed to be voted during the present session; what total amount of money will be necessary for the next year's services;

what has been the product of the existing internal revenue and tariff laws; and what the bill under consideration, and the tariff bill passed a few days since by the House, are estimated to yield; what is the amount of the recognized public debt, and what portion of it bears interest, and the rates of interest; and what that large unrecognized and unascertained debt, consisting of claims of every description in favor of the States, of the citizens, of foreign Governments, and foreign subjects, may approximate.

All these are matters of great public concern upon which the Secretary of the Treasury and the chairman of the Finance Committee should give to Congress and the country all their information.

Mr. President, those in office and power have been practicing altogether too much reserve and secretiveness in the operations of the Government and the Army. In our affairs with foreign Governments this reserve is eminently proper in many matters, and in relation to most unsettled questions; and also as to military plans and enterprises before their denouement. But in our country the people are the true and only masters, the Government and the governors are theirs, and it is for their good that they were created and are permitted to continue and to operate. The governors have legitimately no separate interests from them, nor can they properly or safely have any State or even army secrets which their masters, the sovereign people, have not the right always to know, by calls through their Senators and Representatives. The extent to which the Army authorities have gone, during the past twelve months and more, in sequestering news, information of important events, and punishing men for their publication, has been absurd, illegal, oppressive, and cruel; and itself should receive condign punishment. The pretext that important information would thereby be imparted to the enemy is not only false but ridiculous. During the whole war the enemy has showed himself to be generally well and fully informed concerning the strength and movements of our armies and his own, the result of battles, great and small, the number of killed, wounded, and prisoners, of both sides, and new movements and operations; and he would be presumed to have and he has usually shown himself to be in possession of pretty accurate information; and yet about all these matters our authorities have been vexatiously throwing a great deal of concealment and mystery, and mostly bravely assaulting and stopping a few obnoxious newspaper presses, and imprisoning their editors and correspondents for telling a great deal less about them than what the enemy knew.

The object is not to withhold knowledge from the enemy; the authors of the system well know that could not be done; but while reverses are fresh and startling to prevent them in their full and naked truth from reaching our own people, and having their natural effect in producing discontent for the blundering management of their affairs, and a purpose to change their rulers. And when they are at length tardily given by our own authorities they are generally neither full nor reliable—less so than as given by the enemy. The people have a right to be informed by those whom they intrust with office how they transact their business, and it is only they who are incompetent to be charged with it, or who have sinister purposes, that endeavor systematically to withhold that knowledge; and this is a wrong and an outrage to which they should never submit.

I propose to state now some general facts as to the present amount of the public debt and the condition of the Treasury, and what will be their probable condition at the end of the next fiscal year, the 30th of June, 1865; and I get almost all these facts from the reports of the Secretary of the Treasury. In his annual report, dated 10th December, 1863, he represents that the public debt on 1st July, 1862, amounted to \$508,526,499; and from that date to 30th June, 1863, the end of that fiscal year, its increase was \$590,266,682, making an aggregate of \$1,098,793,181. In the same report he estimates the addition to the public debt during the present fiscal year, closing the 30th June instant, at \$535,356,861; making a grand total of \$1,634,150,042.

But, Mr. President, on the 13th of May last the Secretary published a synopsis of the public

debt up to that date, a copy of which I have before me, in which he exhibits its various classes, and an aggregate of \$1,726,248,441; and yet it does not comprehend items that amount to many hundreds of millions of dollars. At the close of every fiscal year there are outstanding appropriations and balances that have not been called for in consequence of those appropriations never being squarely worked up to in the course of the public service. Each fiscal year terminates 30th of June, and each regular session of Congress begins the first Monday of December, and during every session appropriations are voted for every branch of the public service, to the end of the fiscal year, according to estimates furnished from the Department to which they appertain. These estimates are to some extent conjectural, and they are almost always understated and fall short of the actual expenditures, the Department for the excess operating upon credit. Early in each session the Secretary of the Treasury submits to Congress his statement of the actual receipts into the Treasury from all sources, and the actual expenditures up to that time, so far as he can be informed of them; and also estimates of the probable receipts and expenditures both of the residue of the current and the whole of the next fiscal year. In every annual estimate he sets forth the total of the appropriations made that will be uncalled for at the close of the fiscal year, and deducts it from the aggregate estimated amount of the expenditure of the year, although that amount thus deducted has been actually appropriated by laws of Congress, and exists as a portion of the public debt, for the payment of which provision in fact has thus been made. The amount of uncalled-for appropriations, estimated to remain at the end of each fiscal year, is a part of and adds an equivalent amount to the public debt at that date.

Mr. Chase estimated these uncalled-for appropriations to be on the 1st of July, 1863, \$200,000,000; 1st July, 1864, \$350,000,000; the 1st July, 1865, \$400,000,000; so that to his amount of public debt, as stated for the end of the fiscal year, the 30th June instant, must be added \$350,000,000, as uncalled-for appropriations. The Secretary deducts that amount, when he should have included it in the aggregate of Treasury liabilities. Another portion of the public debt not included by the Secretary are the deficiencies in previous appropriations, or the excess of the expenditures over the sums voted, or for which no provision had been made, being an aggregate of \$105,000,000 already voted at this session.

Since the Secretary sent to Congress his last annual estimates more than a half million of white soldiers and fifty thousand negro soldiers have been recruited, and the aggregate of bounties paid and due to them exceeds \$150,000,000. One hundred thousand hundred-day men have also been called into the service, and the cost of their equipment, subsistence, transportation, pay, &c., within the present fiscal year, will exceed \$50,000,000.

The Secretary has advertised for a loan of \$75,000,000, the interest to be in gold and silver, the proposals to be received within the fiscal year, which will add that much more to the public debt. His report of date 14th May shows that the amount of interest on portions of the public debt, payable in gold and silver, to be \$49,472,714, to purchase which with greenbacks would require more than \$90,000,000; and to that sum must be added twenty-three millions and a fraction for interest payable in currency.

Other debts and appropriations, not included in my computation, I will set down at \$100,000,000, though they will probably amount to two or three times that sum. Thus the public debt, 1st July next, will stand:

Amount stated by the Secretary, 14th May.....	\$1,730,870,926
Uncalled-for appropriations, 1st July.....	350,000,000
Deficiencies in former appropriations.....	105,000,000
Bounties.....	150,000,000
Cost of the hundred days' men.....	50,000,000
Amount of advertised loan.....	75,000,000
Additional currency to pay gold interest.....	40,000,000
All other debts and appropriations.....	100,000,000

\$2,600,870,926

Add for the total amount of all other debts and claims against the United States in favor of the States and all the people of the United States and

38TH CONG....1ST SESS.

Internal Revenue—Mr. Davis.

SENATE.

foreign nations and their subjects, \$2,000,000,000, and it makes an aggregate of public debt of \$4,600,870,928. This vast, astounding public debt has been created within the past four years, while the debt of Great Britain, which the people of the United States have heretofore contemplated with amazement and revulsion; is \$3,914,037,634, and has been aggregating for nearly two centuries. In 1856 her total of property was \$33,402,720,000, is now more than \$35,000,000,000, while that of all the United States, in 1860, was \$16,159,616,068. It is thus seen that our public debt on the 1st of July next will be upwards of twenty-eight per cent., or more than one fourth of the aggregate property of the whole people of all the United States in 1860; and that of England is less than nine per cent., and less than one eighth part of the aggregate of her property. The ravages of war have greatly reduced the productiveness and value of our property; and one of its great classes, 3,953,587 slaves, worth more than \$1,800,000,000, has been rendered worthless by the unjust and unconstitutional measures of the President and Congress. It may be safely assumed that our public debt to-day amounts to one third of the present value of all the property of the United States. When the war terminates, and the country returns, as it must return, to a gold and silver circulation, and that becomes the measure of the value of all property and all production, how greatly will those values shrink toward the amount of the public debt, and how proportionably onerous will it become to the people of the United States!

The Secretary of the Treasury has been able to keep the great machine, the Government, running for some time, by issuing an average daily irredeemable paper currency of over \$2,500,000. Let us examine how he will get through the next fiscal year, and what will be the probable increase of the public debt at its close. It has been said by Senators who know, that there are now in the military service over 1,000,000 men, and that 700,000 have been put in the field since 17th October last. It was a generally received fact at the beginning of this war that the whole cost of our armies, including everything except ordnance and fortifications, could be proximately ascertained by allowing \$1,000 per head per annum for the whole number, and that it was in truth something above that rate. That cost has since been materially augmented by increased pay and by the enhanced price in a depreciated currency of all military supplies, transportation, &c. The Secretary's estimates of demands for the next year are, estimated balance of former appropriations, unexpended, \$350,000,000; for the civil service, \$27,973,194; for pensions and Indians, \$9,631,304; for the War Department, \$536,204,127; for the Navy Department, \$142,618,785; for interest on the public debt, \$85,387,677, making an aggregate of \$1,151,815,088; but as usual he is largely under the true mark. The greatness of his under-estimate will be undeniable and striking when it is considered that the estimates were made about the 1st of December last, and in the interim the pay of the soldiers has been increased, one hundred thousand hundred days' men have been accepted by the President from the Governors of several of the States, and more than fifty thousand negro soldiers, in addition to over five hundred thousand white troops, have been mustered into the service. The amount of the Army appropriation bill for the next year, that has already passed the Senate, foots up \$518,725,716, and having gone back to the House it will probably be increased to \$520,000,000; and another military appropriation bill of \$25,000,000 for the hundred days' men has passed.

The Secretary's estimate for the military service of next year has even now been transcended more than \$9,000,000. If we estimate for the heavy increased expenditures in that branch, and remember that the deficiencies voted for it at the present session amount to near \$100,000,000, and that the present strength of the Army is over 1,000,000 men, costing an average of more than \$1,000 per head, and that his under-estimate for this year is \$741,092,037, the Army expenditures for the next year cannot be fairly estimated at less than \$800,000,000. It will be above that mark by many millions. The Secretary's esti-

mate of \$6,129,042 for Indian affairs and pensions will prove greatly inadequate. The number of our killed and wounded on every battle-field since the beginning of the year is unquestionably above 100,000, and before its close will swell to 150,000. We will have the largest and most costly pension roll that the sun ever looked down upon. I would advance that item of the Secretary's estimates to \$30,000,000, with the certainty of a largely progressing and mournful increase. He also deducts \$400,000,000 as the estimated amount of appropriations that will not have been called for at the end of the fiscal year, 30th June, 1865. The Secretary's item of \$85,387,677 for interest on the public debt also must be advanced. In his exposé of 14th May, he states the amount of interest upon the public debt payable in legal currency to be more than \$20,000,000, and that payable in coin to be \$49,472,714, which will be increased about \$4,000,000 for interest on his advertised loan of \$75,000,000. He will have to borrow other large sums and pay the interest in the same medium, as he can get money only on that condition. I will then set down \$150,000,000 in greenbacks for the payment of interest on the public debt the ensuing year, and that amount will prove insufficient. The requirements for the whole service will be as follows:

For the War Department.....	\$800,000,000
For the Navy, Secretary's estimate.....	142,618,785
For civil service, Secretary's estimate.....	27,973,194
For pensions and Indian department.....	30,000,000
Interest on public debt.....	150,000,000
For deficiencies.....	100,000,000
	\$1,250,591,979

The Secretary's total estimate for the next year's service is \$1,151,815,088; mine is \$1,250,591,979. He includes \$350,000,000 of appropriations that he had in his previous estimates assumed to be uncalled for at the end of this fiscal year; I excluded it, because I have already computed it as a part of the public debt. He states the amount for the next year's service for which it will be necessary to provide by loans to be \$544,978,548, which will be that much added to the public debt; but he deducts \$400,000,000 for uncalled appropriations. This sum will not only exist in the form of unsatisfied demands against the United States, but will actually be voted by laws of Congress to be paid out of the Treasury, and therefore show the public debt to be that much more.

According to the principle laid down by the Secretary, that half the expenditures of each year should be raised by taxation and other resources, and the other half could be safely borrowed, \$625,295,999 have to be raised by each of those modes, and \$1,250,591,978 by both of them for the next year's service. Let us examine how nearly all the sources of our revenue are likely to realize this required amount. The customs on the importation of goods, the internal taxes, sales of public lands, and some few miscellaneous sources constitute the streams of our national revenue. In all times of heavy public disbursements the uniform infirmity of the Treasury estimates is to overstate the anticipated receipts and to understate the expenditures; and under this Administration this infirmity has increased proportionably with the enormous demands upon the Treasury. The last branch of this proposition I have already established. The Secretary's estimate of receipts from internal revenue for the year ending 30th June, 1863, was \$85,456,303, but the amount received was only \$37,640,787. His estimate from the same source for the present year was \$150,000,000, but in his annual report he informs us that the actual receipts for the first quarter ending 30th September, 1863, were \$17,599,713. I have seen no statement of the produce of either of the succeeding quarters; but at the same rate the total for the year would be \$70,398,852, less than one half of the amount estimated by the Secretary. But suppose it to be true, as it probably is, that the first was the least productive of all the quarters, in the absence of all information, it would be liberal to allow for the whole year \$100,000,000. This would show that notwithstanding the Secretary's experience of the workings of the internal revenue system, for one year he had overestimated its fruits

\$50,000,000, or that when he had expected three dollars from it he had received only two.

But these estimates of the Secretary were made 1st of December last, and the supplies are about to be enlarged by the passage of the bill under consideration, and of a new tariff bill; in both of which there will be some addition to the subjects, and considerable increase in the rates of taxation. There will certainly be a large augmentation in the produce of both bills over that of the existing laws, but what will be the proximate amount of either, and particularly of the internal revenue law, will hardly admit of conjecture. But guided by the lights of experience a limit may be reasonably assumed for both, which they will not transcend, at least for some years.

It must not be forgotten that the business and consumption of the people are the life-giving forces of our revenue system; and that business and consumption is always measured and limited by prosperity and ability to purchase. The continuance of the war, though it may individually, and even locally, by the large production of war supplies, stimulate these elements of a teeming Treasury, will greatly weaken and reduce them generally. The inevitable consequence will be a largely diminishing business and consumption and receding revenue. The supplies are to be derived largely from heavy imposts upon the consumption of spirits and tobacco, in all their forms; and also upon many other articles of luxury. The extravagance, bad habits and vices of the people form the corner-stone of our financial edifice, and their general and radical reform would overthrow it irretrievably. The use of spirits and tobacco wastes more of health and morals than even pecuniary means. They could fall into almost total disuse with various and immense advantage to their devotees; and the confidence expressed by some that the enormous taxes about to be imposed upon them will not materially reduce their consumption will turn out to be a great delusion. How facile and effective too could party opposition be made by combinations both for total abstinence and restricted use.

"Man wants but little here below,
Nor wants that little long."

Under our almost universally burdensome and grinding taxes the truth embodied in this couplet we will see verified in our country as we have never seen before. Limited resources, inability to purchase, inexorable necessity will compel an economy with the great body of our people to which they have heretofore been strangers, and that will tell with power on the Treasury of the United States. Experience will prove that the increased rates of the new revenue laws will be essentially neutralized by restricted consumption. In the light of these considerations, and of the facts that the produce of the existing tariff law was for the fiscal year ending 30th June, 1863, \$69,059,642, and for the first quarter of the present year was \$22,562,018, and the Secretary's estimate for the remaining three quarters are \$50,000,000, the maximum of revenue from the new tariff bill for the next year may be assumed to be \$100,000,000. And the receipts of internal revenue having been during the last year \$37,640,787, and their actual and estimated receipts for the year that expires with this month being \$100,000,000, the produce under the new bill cannot reasonably be estimated for the next year as large as \$200,000,000. But I will concede even that high figure, and the resources of the Treasury will be:

From internal revenue.....	\$200,000,000
From customs.....	100,000,000
From lands, estimated by the Secretary.....	1,000,000
From miscellaneous sources, do.....	5,000,000
Balance in Treasury, 1st July, 1864, do.....	5,336,539
Total of receipts for 1865.....	\$311,836,539
Total of liabilities, do.....	1,250,591,979

Excess of liabilities over receipts..... \$938,755,440

Amount of receipts for the year required by Secretary.....	\$625,295,999
Receipts less than Secretary's requisition.....	313,453,450
Amount added to public debt, 1st July, 1865.....	938,755,440
Amount of public debt, 1st July, 1864.....	2,600,870,926
Total of public debt, 1st July, 1865.....	3,539,626,366

This will be less than the indisputable, the recognized public debt, besides which there will be the vast amount of unadjusted claims against

the United States in favor of the States, of tens of thousands of loyal people of the rebel as well as the faithful States, of foreign Governments, and of multitudes of their subjects. I have conjectured their aggregate amount now to be at least \$2,000,000,000; but it will go on increasing so long as the war continues, and by 1st July, 1865, it may be confidently assumed to exceed that sum. The whole debt of the United States will then, beyond reasonable doubt, be more than \$5,000,000,000; and the prospect is the most bloody, and expensive civil war that the world has ever known will still be raging. This enormous national debt has not only been growing from year to year, but the rate of its increase has augmented with each year, always beyond the estimates of the Secretary, and, like a mountain snow-ball, it is rolling on, its ponderous and ever-growing bulk compounding its capacity for further aggregation. The immediate termination of the war would greatly limit but would not wholly arrest its continuous increase.

The people of this country are still sovereign. They have supinely suffered their agents and servants to seize upon powers that belong only to themselves, but their unalienable sovereign power is liable any day to be resumed by them with resistless energy. They can say to the tax-imposing power of their Government, "Thus far shalt thou come, but no further;" and when they so speak they must be obeyed. There is a limit both to their capacity and will to pay taxes, and the aggregate of \$300,000,000 annually will approximate both limits; certain I feel that \$400,000,000 would reach if it did not transcend them. This latter sum would exceed the aggregate of the taxes of Great Britain; if levied in gold and silver it neither could nor would be paid by the people of the United States. If the war were to cease on the 1st of July, all the political and social elements of our country have been so widely and profoundly agitated that it would take years for them to become composed and for law and order to resume their empire throughout the whole land. A large military force, both land and naval, would have to be maintained for years. Their cost for the first year of peace might be some \$400,000,000, the second year it might be reduced to \$300,000,000, the third to \$200,000,000, and the fourth to \$100,000,000, but never below that sum. In the mean time all the other expenditures of the Government, including the payment of the interest on the public debt and pensions, would require annually \$200,000,000. Years of peace would restore the country, increase its population, develop its vast natural resources, and augment its wealth and the capacity of the people to pay taxes. If the war would now stop it is within the range of possibility that by long, long years, ages of peace, and of the severest toil and economy on the part of the people, their contribution in taxes to their utmost ability might meet the interest, and at some remote period extinguish the principal of our huge public debt; but the continuance of the war will produce such an augmentation of it that all efforts to master it will sink powerless and crushed beneath its weight. The people may not repudiate it, but they will not pay it, for the simple and sufficient reason that they did not pay the Continental money of the Revolution: it was not possible.

When the muse of history indites the story of this war, the world will read with amazement that it could have been averted by the Republican members of the two Houses of Congress, or a majority of them and of their party, accepting the terms embodied in these resolutions offered in the Senate by one of my illustrious predecessors, Mr. Crittenden, in January, 1861:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following articles be, and are hereby, proposed and submitted as amendments to the Constitution of the United States, which shall be valid to all intents and purposes as part of said Constitution, when ratified by conventions of three fourths of the several States.

"ART. 1. In all the territory of the United States now held or hereafter acquired, situate north of 36° 30', slavery or involuntary servitude, except as a punishment for crime, is prohibited while such territory shall remain under territorial government. In all the territory now held, or hereafter acquired, south of said line of latitude, slavery of the African race is hereby recognized as existing, and shall not be interfered with by Congress, but shall be protected as

property by all the departments of the territorial government during its continuance; and when any Territory, north or south of said line, within such boundaries as Congress may prescribe, shall contain the population requisite for a member of Congress according to the then Federal ratio of representation of the people of the United States, it shall, if its form of government be republican, be admitted into the Union on an equal footing with the original States, with or without slavery, as the constitution of such new State may provide.

"ART. 2. Congress shall have no power to abolish slavery in places under its exclusive jurisdiction, and situate within the limits of States that permit the holding of slaves.

"ART. 3. Congress shall have no power to abolish slavery within the District of Columbia, so long as it exists in the adjoining States of Virginia and Maryland, or either, nor without the consent of the inhabitants, nor without just compensation first made to such owners of slaves as do not consent to such abolishment. Nor shall Congress at any time prohibit officers of the Federal Government or members of Congress, whose duties require them to be in said District, from bringing with them their slaves and holding them as such during the time their duties may require them to remain there, and afterwards taking them from the District.

"ART. 4. Congress shall have no power to prohibit or hinder the transportation of slaves from one State to another, or to a Territory in which slaves are by law permitted to be held, whether that transportation be by land, navigable rivers, or by the sea.

"ART. 5. That in addition to the provisions of the third paragraph of the second section of the fourth article of the Constitution of the United States, Congress shall have power to provide by law, and it shall be its duty so to provide, that the United States shall pay to the owner who shall apply for it the full value of his fugitive slave in all cases when the marshal, or other officer whose duty it was to arrest said fugitive, was prevented from so doing by violence or intimidation, or when, after arrest, said fugitive was rescued by force and the owner thereby prevented and obstructed in the pursuit of his remedy for the recovery of his fugitive slave under the said clause of the Constitution and the laws made in pursuance thereof. And in all such cases, when the United States shall pay for such fugitive, they shall have the power to reimburse themselves by imposing and collecting a tax on the county or city in which said violence, intimidation, or rescue was committed, equal in amount to the sum paid by them, with the addition of interest and the cost of collection; and the said county or city, after it has paid said amount to the United States, may, for its indemnity, sue and recover from the wrongdoers, or rescuers, by whom the owner was prevented from the recovery of his fugitive slave, in like manner as the owner himself might have sued and recovered.

"ART. 6. No future amendment of the Constitution shall affect the five preceding articles, nor the third paragraph of the second section of the first article of the Constitution, nor the third paragraph of the second section of the fourth article of said Constitution; and no amendment shall be made to the Constitution which will authorize or give to Congress any power to abolish or interfere with slavery in any of the States by whose laws it is or may be allowed or permitted.

"ART. 7. SEC. 1. The elective franchise and the right to hold office, whether Federal, State, territorial, or municipal, shall not be exercised by persons who are, in whole or in part, of the African race."

The most of the principles embodied in this series of resolutions were provided for by the letter of the Constitution, all of them by its spirit; and it was their only office to express in clear language what was intended by the members of the Convention who framed the Constitution to be, and what by its fair construction is in it, except the surrender by the slave States of the right of their people to take their slave property into the territory of the United States north of 36° 30', outside of all the States, and to have compensation for their fugitive slaves. These propositions were known at the time to have been acceptable to all the slave States except South Carolina, and received the active and earnest support of most of them. She could have made no war by herself, and would have been held so quiet and paralyzed in the firm and powerful grip of the Federal Government, sustained by all the other States, that this one wayward sister would soon have returned subdued, if not penitent, to the family circle.

But you, Mr. President, [Mr. CLARK.] and Senators Anthony, Baker, Bingham, Cameron, Chandler, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Grimes, Hale, Harlan, King, Seward, Simmons, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson, opposed and defeated that peace offering. The struggling sunbeams gleamed through the southern clouds of rebellion, and upon the mists of the northern hemisphere painted a faint and transient bow of peace, which was soon swallowed up by the heavy black clouds of abolitionism that had been so long mustering to make relentless war upon slavery and slave-owners. Its fierce leaders had long waged that war in every other mode, and they felt a savage joy at the portents

of an early and bloody shock of arms between the imbibed sections, in which they had made up their minds that the slavery of the negro should be destroyed, though the Union, the best Government ever formed by man, and all the great hopes of the white race perished with it.

Before the rebellion broke out, one of the modes suggested by General Scott for averting the war was, if the concessions which the southern people asked could not be granted, to let the wayward sisters go in peace. It was also one of his maxims, that if a military end could be effected by the loss of five hundred men, and five hundred and one perished in its execution, one man had been murdered. The old iron duke, Wellington, had been a long and most inflexible opponent to what in Great Britain was called Catholic emancipation, or the repeal of the acts of Parliament imposing disabilities upon all the people professing that religion. When he was prime minister the agitation of this subject having reached a point that unless those disabilities were removed by the repeal of the laws imposing them, civil war was inevitable, this great, firm, but humane man thus spoke on the subject in the House of Peers: "My lords, I am one of those who have passed more of my life in war than most men, and principally I may say in civil war, too; and I must say this, that if I could, by any sacrifice whatever, avert one month of civil war in the country to which I am attached, I would sacrifice my life in order to do it." If you, sir, and your party, including that portion of your party consisting of men who profess to be ministers of the gospel of divine mercy and peace, had possessed the humane spirit of the two greatest military captains of this age, who had seen more of the miseries of war than any others living, this horrible civil war would have been avoided; and the American people would have been spared the slaughter of millions of whites, the premature deaths of hundreds of thousands of negroes, and an aggregate of woe which no power short of the recording angel can compass or register. If war is a vast drama of murder, where is the parallel in extent and horrors of that which you have brought upon your country? Whose hands are red with so many prematurely murdered? Who responsible for so many souls rushed forward all unprepared to the judgment seat of God?

At the time that the leaders of the party in power formed their final and fatal decision, that if the people of the slave States persisted in the claim of their constitutional rights, the dispute should have a bloody solution, the question mostly mooted between them was whether those people had the right to take slaves into the Territories of the United States. What was their right? Those Territories were the common property of the nation, and the people of each and all the States had equal rights and privileges in them. To govern and regulate those Territories, so as to give advantages to the interests and institutions of some of the States to the prejudice of others, would be both unjust and without competent authority. All the citizens of the United States have a constitutional right to settle in their common Territories; and by the same warrant the freedom of religious worship, of speech, of the press, the privilege of trial by jury, and the writ of *habeas corpus* accompany and by no authority can be severed from them. They have an equally clear and common right, springing from the same great fountain, to take with them any and all property whatever; and no congressional or territorial legislation can legitimately infringe any of those rights.

But when any portion of such territory is admitted as a State into the Union it comes in as the equal, and with all the rights and powers of the other States; and any attempt or device to strip it of a part is abortive and of no validity. The people thereof form their own government, without any limit on their power, except it is to be republican. They are possessed of all political sovereignty in subordination to the Federal Constitution. They fashion, according to their own will, their laws and institutions, and declare what shall be and what shall not be property; and make such regulations of it as they choose, within their own limits. Were they so to will, they could abolish and reestablish slavery in their State every year.

38TH CONG....1ST SESS.

Repeal of Fugitive Slave Laws—Mr. Davis.

SENATE.

These are foundation principles, upon which our great structure of blended national and State governments, "*E pluribus unum*," was reared; and their disregard has produced all our past troubles, and a still raging civil war of which history records no parallel. They form the indispensable condition of our Union, liberty, peace, power, and greatness; to win back and perpetuate which, the people of the free and slave States must return to and inviolably observe those great principles. If they will not or cannot do this, if they will not or cannot preserve both liberty and Union, if one is to succumb, for me, let the Union before liberty perish a thousand times. In the language of Patrick Henry, pronounced by him in thunder-tones at the dawn of our revolutionary struggle, "Give me liberty, or give me death."

REPEAL OF FUGITIVE SLAVE LAWS.

SPEECH OF HON. G. DAVIS,

OF KENTUCKY,

IN THE UNITED STATES SENATE,

June 23, 1864.

The Senate having under consideration the bill to repeal the fugitive slave act of 1850, and all acts and parts of acts for the rendition of fugitive slaves—

Mr. DAVIS said:

Mr. President: I shall endeavor not to abuse the courtesy of the Senate extended to me last night in continuing this subject over for debate until this morning, which I was induced to ask through my friend and colleague in consequence of indisposition, and from which indisposition I have not much recovered. I do not propose to occupy a great deal of the time of the Senate at this late stage of the session on this subject.

Mr. President, the measure under consideration proposes to repeal the fugitive slave laws that have passed Congress, one in 1793 and the other in 1850. Those laws were passed under a mandate of the Constitution. There are two provisions in it, one in relation to fugitives from justice and the other of fugitives from labor, and for the execution of which provision was made in one act passed in 1793, by the Second Congress, and approved by Washington. I will read together these provisions of the Constitution:

"1. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

"2. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

Every member of the Senate and of the House of Representatives takes an oath to support the Constitution of the United States. That oath cannot be kept in relation to these two clauses without legislation to give them effect. In fulfillment of its duty, the Second Congress under the Constitution passed a law to make those provisions operative.

It remained the sole law upon the subject in relation to fugitives from labor until 1850, when there was an additional and subsidiary act of Congress passed.

Now, sir, the bill that has passed the House of Representatives, and which is pending before the Senate, is a simple, unconditional repeal of so much of the law of 1793 as relates to fugitives from labor, and of the law of 1850, which relates to no other subject, without substituting any other legislation to give effect to the clause in the Constitution relative to fugitives from labor. Mr. President, I ask you, and the other members of this body, do you conceive by this course you are fulfilling your duty; that by proposing to repeal all the legislation upon that subject and not to reenact any other, you are keeping your oaths to support the Constitution of the United States? Is it not the plain and obvious obligation of that oath that all the necessary legislation by Congress that may be requisite to execute any of the powers, or make available the rights that are assured by the Constitution, shall be passed by the legislative department of the Government?

Is it not as obligatory upon Congress to exe-

cute by proper legislation the provision in relation to fugitives from labor as that which provides for fugitives from justice? Are they not alike provisions of the Constitution and of equal obligation? Can either of them be carried into operation without the necessary auxiliary legislation of Congress? Suppose there was a double proposition in this bill, as it came to us from the other House, to repeal all laws in relation to fugitives from justice, as well as those that relate to fugitives from labor: would any member of the Senate think of voting for the unconditional and absolute repeal of all those laws unless there was accompanying it a substitute measure that would perform the same office substantially? Most certainly not. What consideration would restrain all the members of this Senate from giving such a vote as that in relation to fugitives from justice? It would be the provision of the Constitution which directs the manner in which fugitives from justice when they escape into another State shall be surrendered, and which requires from Congress legislation to enable that provision of the Constitution to be executed. It is the solemn obligation of the members of the Senate to continue these laws at least in relation to fugitives from labor, or to substitute them by other laws that will in good faith and substantially execute that provision of the Constitution. Can there be a plainer proposition presented to the human mind and conscience than that it is the sworn duty of the Senate not to repeal these acts until at the same time they are prepared to and are offering to enact others in their stead?

The honorable Senator from Massachusetts [Mr. SUMNER] has made a report to the Senate on this subject. There was a counter-report made by the minority of the committee, which was drawn by the honorable and able Senator from Pennsylvania, [Mr. BUCKALEW], taking the converse view of the subject. I think the argument of the minority of the committee against the repeal of the laws without the substitution of others is unanswerable, and I think the argument in favor of the repeal by the honorable Senator from Massachusetts is one of the most inconclusive pieces of logic that it has been my fortune ever to read.

One of the first and principal propositions of the majority is this: that the provision of the Constitution in relation to persons held to service or labor does not embrace slaves. Why, sir, by its terms and their import and meaning it clearly embraces slaves, because slaves are persons who are held to labor. Labor was due from the slaves to their masters. Why? Because the law required that that labor should be rendered; and there could be no shorter or clearer argument in support of the position that the members of the Convention understood that labor was due from the slave to the master than that the clause was introduced for the express purpose of enabling the owners of slaves who might escape from one State to another to reclaim them. It was the declared object of this provision in the Convention to enable them to reclaim their fugitive slaves; indeed, that was the only purpose of that provision and of the men who embodied it in the Constitution. The idea that the framers of our Government would introduce that clause to comprehend apprentices only, and not to include slaves, is utterly absurd and against the fact. The phrase "persons held to service or labor," by the constitutions and the laws of the States, would embrace both apprentices and African slaves; but the latter are, and were intended to be, its principal subject.

But, sir, it is an end to this question simply to state that the men who framed the Constitution, every cotemporary individual that had any knowledge of the process of its formation, and of the purposes for which that provision was introduced, and the members of the Second Congress who afterwards proceeded to enforce it by the passage of the law of 1793, understood, knew, intended, and admitted this provision of the Constitution to embrace slaves. But for this object it would neither have been inserted into the Constitution nor thought of by the wise and practical men who made it.

It is objected by the Senator from Massachusetts and by other Senators that this law was

unconstitutional, because it did not allow to the fugitive slave trial by jury and the benefit of the writ of *habeas corpus*. The law in relation to fugitives from justice is open to both of those objections. The mode by which fugitives from justice and fugitives from labor were to be reclaimed by the act of 1793 is almost parallel, and the trial by jury or the writ of *habeas corpus* was not given by the law to either of those classes of persons.

I will read the first two sections of the act of 1793, which relate to fugitives from justice:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the executive authority of any State in the Union, or of either of the Territories northwest or south of the river Ohio, shall demand any person as a fugitive from justice of the executive authority of any such State or Territory to which such person shall have fled, and shall moreover produce the copy of an indictment found or an affidavit made before a magistrate of any State or Territory as aforesaid, charging the person so demanded with having committed treason, felony, or other crime, certified as authentic by the Governor or chief magistrate of the State or Territory from whence the person so charged fled, it shall be the duty of the executive authority of the State or Territory to which such person shall have fled to cause him or her to be arrested and secured, and notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear. But if no such agent shall appear within six months from the time of the arrest, the prisoner may be discharged. And all costs or expenses incurred in the apprehending, securing, and transmitting such fugitive to the State or Territory making such demand shall be paid by such State or Territory.

"Sec. 2. And be it further enacted, That any agent, appointed as aforesaid, who shall receive the fugitive into his custody, shall be empowered to transport him or her to the State or Territory from which he or she shall have fled. And if any person or persons shall by force set at liberty or rescue the fugitive from such agent while transporting as aforesaid, the person or persons so offending shall, on conviction, be fined not exceeding \$500, and be imprisoned not exceeding one year."

Those are the provisions of the act of 1793 in relation to fugitives from justice. Here are two other sections providing for fugitives from labor, which I will proceed to read:

"Sec. 3. And be it also enacted, That when a person held to labor in any of the United States, or in either of the Territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said States or Territory, the person to whom such labor or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States residing or being within the State, or before any magistrate of a county, city, or town corporate wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit taken before and certified by a magistrate of any such State or Territory that the person so seized or arrested doth, under the laws of the State or Territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labor to the State or Territory from which he or she fled.

"Sec. 4. And be it further enacted, That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney, in so seizing or arresting such fugitive from labor, or shall rescue such fugitive from such claimant, his agent or attorney, when so arrested pursuant to the authority herein given or declared; or shall harbor or conceal such person after notice that he or she was a fugitive from labor, as aforesaid, shall, for either of the said offenses, forfeit and pay the sum of \$500; which penalty may be recovered by and for the benefit of such claimant, by action of debt, in any court proper to try the same; saving moreover to the person claiming such labor or service his right of action for or on account of the said injuries or either of them."

Mr. President, this provision in relation to fugitives from labor had its origin in the deed of cession by which the State of Virginia ceded the whole of the Northwestern Territory to the Government of the United States. The ordinance of 1787 contains substantially this provision of the Constitution in relation to fugitives from labor, and it was a stipulation in that ordinance in favor of the State of Virginia for which she paid a full, an ample and imperial consideration; and what was it? The whole of the Northwestern Territory, that now constitutes five great States, which promise to be among the most powerful and populous of the whole Union, at that time was territory of the State of Virginia. Every foot of that Territory was subject to be settled by slaveholders carrying their slaves with them, and to be made slave territory; but Virginia, the mother of States, in the exercise of an enlarged philanthropy and patriotism and political wisdom, made

a voluntary cession of this magnificent domain to the Government of the United States upon the condition that it should be erected into other States, stipulating that slavery, except as a punishment for crime, should never obtain in all that vast Territory, but asking for herself, as one of the considerations upon which she made this most munificent donation, a provision similar in substance to that which was afterwards embodied in the Constitution for the benefit of all the States and the peace of the Union. In the ordinance of 1787 the effect of this provision was in favor of Virginia only, and was intended to apply to her slaves, and no other subject; and when it was incorporated into the Constitution the purpose was to perpetuate the provision, not only for her benefit, but of all the other States. Good faith with Virginia, as well as harmony among the slave and free States, required that this should be done.

Sir, if the Congress of the United States had refused to stipulate that condition when the ordinance of 1787 was made, the State of Virginia probably would never have made that ample and imperial cession of territory to the General Government. If that provision of the Constitution had not been inserted by its framers, the State of Virginia and the other slave States never would have agreed to it; the better Union would not have been formed and the worse union would not and could not have been continued. The history of the country proves this position to be true, and no man of intelligence and candor can deny it.

Why, sir, the claim was so just, so reasonable, so imperative upon the framers of the Constitution that it was adopted by that illustrious body of men without a dissenting voice. When the vote was taken whether this provision of the Constitution should be accepted as a part of that great fundamental law of the regenerated republican empire that was then about to spring into being, that was to consolidate and continue the ample dominion which was at one day to expand this continent from ocean to ocean and whose power and splendor was about to eclipse all the Powers of the world, this provision was thought so imperiously politic and necessary and obviously just to the slave States that it was accepted by the free States without a single dissenting voice.

Sir, was it accepted in good faith? The men of the North of that day, who had marched with their brethren of the South through the storms and trials of the Revolution, I have no doubt accepted it in the best faith, and if those great and good men who were then in the Convention, who were in the State conventions of the free States that adopted that Constitution, were now upon the theater of action, and were called upon to supervise this portion of their great and sacred work, there is not a single one whose pure and great soul would not be outraged by the supposition that he could be thought capable of violating it. The violation of this sacred covenant, to my mind, is one of the truest and most ignoble evidences of the degeneracy of this day that all of its vast evidences of that character afford.

Sir, that men understanding the origin and the history of this provision, knowing its nature, and that it was the indispensable condition, as so many of our judges, statesmen, and legislators have avowed from time to time, upon which alone the Constitution could have been formed and agreed to, that men who understand the history of this provision and its sacred obligation, after having sworn to support the Constitution of the United States, should recklessly walk up to the repeal of all the laws for the enforcement of this provision, without offering a substitute to carry it into effect and execution, to my mind is one of the strangest exhibitions of moral delinquency that I ever witnessed, or that could possibly be offered by degenerate men.

Sir, it is as competent, and it would be just as much within the scope of the duty and of the moral power of Congress, to repeal all the laws in relation to the reclamation of fugitives from justice as of fugitives from labor. There is a false philanthropy, a spurious humanity, a mock benevolence, a caricature upon religious sympathy, that seeks to make all those sacred principles of human action and all those ennobling principles of human character the pretext for this repeal. If

men do not want to keep this covenant why do they not come up as men, men of honor and faith and patriotism, and say to the people of the slave States, who were interested in the execution of this provision of the Constitution, "It is true that in our solemn compact of Government, in our great and fundamental articles of political partnership we did agree to this stipulation, we pledged our honor, faith, and word to its observance, to its maintenance, but it is now against our reason, our conscience, our sense of religion longer to adhere to it; we therefore propose to you in peace and amity, without strife, without bloodshed or civil war, that we by mutual consent modify this fundamental law of our political partnership by striking out the provision in relation to fugitives from labor."

Such a friendly proposition as that would of course have been rejected. If that did not satisfy the party or the States making the proposition thus to abrogate it from the Constitution what ought they then to have said? As men of faith, as men of common honesty, as men disposed to observe the most solemn obligations, and especially the sacred and holy obligations connected with the execution of their fundamental law and the observation of their oaths to uphold, support, and maintain that fundamental law, they ought to have said, "Then let us part in peace; we cannot continue upon this condition of rendering up to their owners fugitive slaves longer under the Constitution and Government in which we have bound ourselves to it; it outrages our consciences, our sense of human rights; it makes us unhappy; so much so that we cannot live under the Constitution which requires us to observe such a covenant, and which guarantees property in slaves to their owners; therefore we propose to you in amity, in peace, as friends and partners who have had a common national origin, common dangers, common oppressions, common glory, common successes, a common language, a common history, a common religion, and as we had hoped were to have a common destiny throughout the future, let us amicably and without the desolation and horrors of civil war agree to a dissolution of the partnership and a final separation; you of the South with your slaves, undisturbed by us, work out your own destiny; and we of the North with our interminable, irrepressible opposition to slavery will separately take charge of ours."

Mr. President, the history of this slavery struggle on the part of the free States is one of the most dishonoring that was ever written or enacted. When the nation was first cradled all the States were slaveholding. The New England States, and Massachusetts especially, had been the first to introduce and to establish slavery. The first fugitive slave law, as I have shown heretofore by undoubted historical evidence, was enacted by Massachusetts; and there never has been enacted a pro-slavery law in any of the southern States that I have had knowledge of, and in my own State in particular, that did not have its origin, its prototype, its enactment, clause by clause, and word for word almost, in the State of Massachusetts. Sir, if that negro surgeon, the friend of the honorable Senator from Massachusetts, who tried to have himself martyred in this capital of the nation, had been in the good city of Boston some one hundred years ago and had played the same insolent part there that he did in this city, under the imperative mandate of a law of Massachusetts he would have been taken to the house of correction, and would have been stripped and scourged upon his bare back; and the Senator from Massachusetts dare not deny it.

But the honorable Senator's sympathies and sense of justice and abhorrence of oppression are greatly moved, because by the act of 1793 and by the act of 1850 the fugitive slave is not allowed the right of trial by jury and the writ of *habeas corpus*. I read to the Senate a few moments since the provision in relation to the reclamation of fugitives from justice, and also of fugitives from labor; and the provisions in respect to both are parallel. A white man that commits a crime in one State and flies to another, under this provision of the Constitution, and the law of 1793, if he is pursued he is reclaimed, just as a fugitive slave is reclaimed. He is not allowed trial by jury in

the State to which he has fled. It is to get away from that trial that he flees. These fugitives from justice that fly to other States do not fly there for justice, or for trial by jury, or to meet the responsibilities which the law has denounced against their crimes. It is to evade and escape from its responsibilities that they become exiles and refugees. But the fugitive is pursued, and by a course of proceeding similar to that for the reclamation of fugitives from labor he is seized, under the supervision and with the consent of the Governor of the State to which he has fled, and without the benefit of trial by jury, or the writ of *habeas corpus*, in the State to which he has fled, he is seized, and carried back without any trial to the State where he had committed his crime, and there he is to be arraigned and tried by a jury, according to the requisitions of the Constitution and the forms prescribed by law. Any attempt to intervene for his protection, for his immunity from punishment by a writ of replevin, if that could be resorted to, or by the writ of *habeas corpus*, the great writ of liberty, or by trial by jury, in the State to which he had fled, would be rejected; it would be treated as an abstraction to the execution of the law, and would be denied by every court.

All these grievances have existed and exist now without question in relation to white criminals from justice without ever having arrested the attention much less to have moved the philanthropic sympathies of the Senator from Massachusetts. We never heard a word of complaint from him, or any of his compeers in pseudo-negro philanthropy, in relation to such oppressions upon the white race; but he comes up making the most vociferous wailings and denunciations in favor, as he says, of the downtrodden negro. The negro is deprived of no right by this proceeding.

When the negro fugitive from labor and the white fugitive from justice escape into other States, they are both pursued by summary process and brought back to the locality from whence they fled, and there detained in the one case and tried in the other as though they had not fled. Both are there entitled to and may have every right which the law give them. The reclaimed fugitive slave may sue for his freedom, have the benefit of the writ of *habeas corpus* and trial by jury, and every other right to secure him a fair trial.

Sir, I have seen a great many slaves parties to suits; I have seen both slaves and free negroes indicted for many kinds of offense; that is, I have seen them parties to suits for freedom, actions of trespass, and for property, and in almost all other forms in which I have seen white men parties to suits. I have often defended the rights and the causes of negroes, slaves and free, as well as prosecuted against them. I suppose that in the course of forty years' practice in various courts I have known of more than one hundred cases in which negroes, slave and free, have been parties, and I never knew of a case in which a slave or a free negro was so humble, so poor, that he could not have his own choice of his counsel. He generally selected the best lawyer who practiced at the bar, and he had the benefit of his services given with all the zeal and energy and interest which he would give them for the wealthiest man of the land able to remunerate him with the largest fee. I never have seen a negro party to any suit in court, who had a good, or a specious cause even, that did not at once and promptly enlist the interests, the sympathies, the good wishes of the entire court-house, judge, counsel, jury, bystanders, and all, except his adversary and his adversary's counsel. Sir, the idea of kidnapping a free negro in a slave State, in my State—I speak from experience, from a proud consciousness of the truth—the idea of kidnapping a free negro and reducing him to slavery, whether for the want of a fair trial, a just verdict, or the due execution of the law, would be much more difficult than it would be for a white man in a controversy with a white man to obtain any undue advantage in court. It never did occur. It is an utter impossibility.

Sir, I have heretofore spoken very extensively in relation to the property that the owners have in slaves. I am not now going into that subject at all. But here I hold in my hand the evidence of one of the long series of peculiar distinctive,

38TH CONG....1ST SESS.

Repeal of Fugitive Slave Laws—Mr. Davis.

SENATE.

humanitarian, benevolent measures of the State of Massachusetts for the negro. Such a batch of them never originated in any other country or among any other people than the descendants of the Puritans. I have already shown heretofore that she was one of the first to establish the institution of slavery. She adhered to it as long as she could make property out of slavery in any form. She continued to be engaged in the slave trade not only until it was interdicted by act of Congress but afterwards. Her own soil was too sterile and her own climate too rigorous to enable her to make slave labor profitable. After she had reached the conclusion that she could use white labor with more benefit to her industry and her wealth and growth than she could slave labor, we all know that she continued actively and industriously the slave trade, and that she continued to smuggle slaves into the southern States and into Louisiana and the lower Mississippi after the year 1803, when the prohibition forbidding the foreign slave trade had by its terms fully gone into effect. If a condition of things should ever come upon this country again when the foreign slave trade shall be reopened to the southern States, the very first and most diligent and keenest of the traffickers in a trade which the honorable Senator denounces as so very infamous will be the people of Massachusetts. Yes, sir, they will prosecute that or any other pursuit for gain. They have done it in former years without shame, without remorse, without any sense of its injustice, of its abhorrent nature. They did it until they were repressed, excluded from its further execution, not by the Constitution alone, but by the laws, by the courts, and by our cruisers against it; and it took the combined power of all to arrest the traders of Massachusetts in this nefarious traffic.

Why, sir, what has been the recent course of Massachusetts in relation to slavery? The honorable Senator has a series of measures in connection with the slave and to regulate the slave. The great object of their combined effect and of the results that are to flow from all of them is to give to his countrymen, the descendants of the Pilgrim fathers, the benefit of slaves and of slave labor in a different form only from that in the southern States. They think that the southern planters have monopolized profits of slavery about long enough, although they have indirectly all the time reaped the largest benefit from it. They have not the face or the power, I suppose, to re-introduce slavery into Massachusetts, mainly because it would not be profitable there. They have the perfect right under the Constitution as it exists to do so whenever they please; but they have made professions to the contrary so long and so vociferously that they shrink abashed from attempting it in that form; but they are trying to do it in another form upon the theater of the rebel States and to bring lucre to the sons of the Pilgrim fathers. They are trying to get possession of all the cotton, sugar, and rice lands of the South. One of their principal objects in waging this war against those people is to get possession of those lands. They do not intend to go themselves or to carry their sons to work in those cotton and sugar and rice fields; but they want to take the contrabands, to have them organized under the guise of law passed by themselves, shaped and molded by their own ingenuity to give them a color of law for depriving those who they say are free of their true liberty, forcing them to make contracts to work for them and to intervene the military power instead of the overseer and the driver to compel them to work according to their will. All this is intended to give a few of the *élite* of the abolitionists the monopoly of this labor, to keep out a common competition for the employment of such labor, to give them the advantage of an iniquitous system, a sort of close corporation of compulsory labor under color of law by military force, and in that form to reduce the negro again to slavery in another form and to a more oppressive slavery than that from which they have professed to deliver him.

Sir, as I said once before, I have the misfortune to own some slaves. Two of them have joined the Army. When they ceased to serve me and I

ceased to be their owner no other man shall be their master if I can prevent it. No Massachusetts man, under the guise of law or an act of Congress or military power, or provost marshals supervising the judgment of courts and the administration of the law, shall ever, if I can prevent it, by the perversion of any system, reduce slaves who have been born and nurtured in my family and who have been treated with kindness and tenderness next to my own children, again to slavery in another form, that they may serve a more cruel, selfish, and exacting taskmaster than they have ever been accustomed to.

The honorable Senator from Massachusetts has read in the Senate a great many letters in connection with this and other subjects. Here is one addressed to him, published in a paper, which I have never heard him read. It is short, and I will take the liberty to read it:

CAMBRIDGE, DORCHESTER COUNTY, MARYLAND,
May 7, 1864.

SIR: My feelings prompt me to address you now as a philanthropist, and more particularly as a friend to the poor, down-trodden, and oppressed negro race of our country, and to submit to you the accompanying candid statement of a proceeding toward this unfortunate race that transpired yesterday under the eyes of all the inhabitants of this town, that cannot but excite your heartfelt sympathy, and, I hope, lead to a prompt investigation into the facts as submitted.

I am, myself, a stranger on a visit here, hence I am better adapted to submit unbiased impressions.

I have the honor to be, sir, your obedient servant,
SAMUEL C. BARNEY.
Hon. CHARLES SUMNER, United States Senate.

Statement.

The steamboat *Balloon*, Captain Tilghman, arrived here on the 5th instant, bearing Lieutenant J. C. Foster with a squad of negro soldiers. The same officer, accompanied by a guard, has been in the habit of periodically visiting this locality and recruiting all slaves or free negroes and carrying them off; and, so far as they were volunteers, far was it from my disposition to cavil at the proceeding. But, on the present occasion, I presume, having exhausted the volunteer system, he resorted to the expedient of scouring the county, accompanied by Thomas H. Coburn, deputy provost marshal, stationed here, and a squad of negro soldiers, and literally kidnapping about thirty negroes, (of whom a large portion were free), and wherever found, at work in the field or elsewhere. One slave, while at work in the field, refused to go, and threw himself on the ground, when his hands were bound and he forced to join them. Another free and highly respectable negro, quite independent and working his own farm, was taken in his shirt-sleeves while at work in his own cornfield, and forced to join, leaving his horses and cattle at work, and not even permitted to go to his cottage for a change or addition of clothing. This man's wife is in Baltimore, and is expected this evening—to find her home desolate.

At about five o'clock p. m. yesterday, the aforesaid prizes of some thirty free men and slaves were paraded through the town, (en route for the steamer *Balloon*, lying at the wharf,) guarded by the squad of negro soldiers formed in a hollow square around them, and it was a barrowing sight to witness the aforesaid rebellious slave who had thrown himself on the ground, still bound, among them, and the mother of the aforesaid free negro in much distress at the wharf. Upon embarking the negroes, the steamboat left. I wish this was an exaggerated statement of the transaction, but it is confined to a recital of but two cases of the thirty carried off. It is reported that the steamboat has gone to Easton, where there is a circus to perform to-day, by which attraction it is supposed Lieutenant J. C. Foster expects to largely recruit, *volens volens*. The same circus is to perform here on Monday, and it is also reported that the steamboat is to return to take advantage of it. But even now there is consternation and a panic among the negroes, and as they resorted to hiding yesterday it is presumable they will be *non est* on the return of the steamer. There is no surmising by what if any authority on which Lieutenant J. C. Foster is acting. He is supposed to be under the jurisdiction of Colonel Bowman, headquarters Baltimore.

Should any additional circumstances occur incidental to the attraction of the circus at this place on the 9th instant I will advise you.

SAMUEL C. BARNEY.

Now, sir, I will read an extract from the *Freeman's Advocate*, a publication, I believe, in Boston, in the interest of the free negroes, or the "freedmen" as I believe they call them.

Mr. SUMNER. It is a publication in New York.

Mr. DAVIS. Well, it is quoted by one published in Boston, but it will speak for itself. I read from the *National Intelligencer* as it is there republished:

"The *Freeman's Advocate*, a periodical published in the interest of the emancipated slaves of the South, complains in its last number that it is made most evident, by its correspondence with the various Departments, that instances are fearfully multiplying where officers, soldiers, civilians, and speculators seem bent on this one purpose, the defrauding of the poor freedmen, women, and children out of their just wages, and leaving them to the ten-

der mercies of the humane." It freely admits that there are honorable exceptions to this abuse of authority, but adds:

"It will require the utmost vigilance on the part of this [the 'Freedmen's'] and all other associations for the relief of freedmen in the coming summer aid fall to save them from the certain destruction that awaits them from the heartless cupidity of money-gathering adventurers and traders. The Mississippi valley is swarming with these unprincipled men."

"In commenting on this statement the Boston Recorder, a religious journal, expresses its concurrence with the views of the 'Advocate' in the following terms:

"We have no doubt of this. Why should it not be so, when the North itself is swarming with men who are rack-ling their brains almost to insanity to see how they can coin money out of the calamities and necessities of the times? Men who are so utterly selfish that they can go into the market and scour the country to get control of the most indispensable articles of food, so as to run up their prices one or two hundred per cent. simply to enrich themselves, no matter how it grinds their neighbors into the dust; men who can do this and never feel that it is the very wickedness of oppression against which the Bible lurches many of its severest threatenings; what will hinder such men from going South for the express purpose of robbing the free blacks of their dribbles of earnings? Of course these men will do it, and possibly some of them will call it a providential opening for them to provide for those of their own house a fatter portion under the sun. We are indignant at this shameless northern cupidity, which stands with its long sharp shears always open, ready to clip the fleece of black and white alike, so that it can fill its own sack with the proceeds. It is bad enough here among ourselves; but that those just emancipated slaves should thus fall a prey to these sharpers, exchanging one misery (in their own expressive language) for another, is outrageous."

"Another view of the subject. The plan adopted in the Southwest to work the plantations with the hired freedmen needs overhauling. It is not possible to devise any system which will be wholly free from hardships, especially at the beginning of this new policy. But the present mode of carrying on the plantations is open to manifold abuses and oppressions. The blacks have no liberty to select their own place of labor. They are compelled to work on the estate where they are at the rate of seven dollars a month, and half of this in kind at the prices fixed by their employers."

Eighty-four dollars a year, half in kind, and the price of that in kind fixed by their employers!

"This is only the semblance of freedom; and this remuneration is most meager. Less than a fourth of a dollar a day, and only half of that in cash, is enriching the new race of northern planters at an altogether disproportionate rate. We hear of large fortunes accumulating in the hands of many of our people who are overseeing these plantations, and are expected to be back again in a year or two, like nabobs returning from the Indies, lined inside and out with gold, or, at any rate, greenbacks. Can we do nothing better than this one-sided thing for these recent bondmen? If not, we will not say that we had better left them alone, for liberty with nothing else is priceless. But we will say that no such skinning-alive practice will take us out from under the curse of Jehovah: 'Behold, the hire of the laborers who have reaped down your fields, which is of you kept back by fraud, crieth; and the cries of them which have reaped are entered into the ears of the Lord of Sabaoth.'"

"Unless the Christian sentiment of the North, and the Government, acting with this, prevents it, we have the most painful fears that we shall fasten on the necks of the freed blacks another yoke of servitude by our implacable and inveterate aversion, which will be well-nigh as galling to them as their old slavery, and which will involve us in even greater guilt, if this be possible, than that which has made the sin of the South like that of Egypt and Sodom."

Sir, these abuses are shocking to human nature, and I have never heard the loud and vehement denunciations of the Senator from Massachusetts against them, in whole or in part. But sir, I have something more which I desire to read, and then I shall come to a close.

Some time since I brought down the history of Massachusetts and of her slavery to the period of the convention which framed her constitution in 1780. She claims, and I suppose her courts have decided, that her constitution which she then framed, conjointly with the Declaration of Independence abolished slavery. Some years afterwards her courts decided that slavery in Massachusetts was abolished by her constitution, but they were not so stupid as to impute any effect in producing that effect to the Declaration of Independence; that has been a good while ago, some seventy or eighty years. The Senator from Massachusetts and the present generation of the old Bay State claim to be the peculiar and most disinterested and exalted friends of the negro race and of human freedom generally, the greatest devotees to justice and philanthropy and mercy that are now to be found upon the face of the globe. Not only that, but in the phrase so often quoted by the honorable Senator from Massachusetts, "all men are equal before the law," the negro has the same rights, the same political and social equality naturally and of right that the white man has. This is their loud profession; this is their continuous declamation.

But, sir, how do their lives and conduct stand in contrast with this high-sounding and noble theoretic philanthropy and benevolence? They are opposed in fact and in practice to the whole of their professions. Neither the honorable Senator from Massachusetts nor any man within the sound of my voice, nor any white man of Caucasian descent in the United States admits the equality of the negro except in hollow and false words. On the contrary he denies it. His whole life and practice and conduct are against that profession and in direct antagonism with it.

Massachusetts now has about thirty thousand more female than male population, I believe, according to the census. I have been at her manufacturing towns; I have been at Lowell, and I have seen at noonday seven thousand well-dressed, intelligent young girls turn out from their employment for refreshment. I have looked with silent but deep interest upon the spectacle. I examined in vain for one of the negro race in the whole throng. I have been into their other manufacturing establishments in Lowell and Boston where the white male population are employed. There are very many working-men and manufacturers in Massachusetts whose intelligence and virtues and every manly characteristic prove them to be of the noblest people. I have been into their workshops. I have been on their Exchange, as it was termed, in Boston, where they meet for the purpose of comparing the prices or the demands of the market, and to talk over all that concerns their vocations and business. I have looked with interest and national pride on such a spectacle, and conversed with many of these intelligent manufacturers and workmen, receiving instruction and profit. But, sir, I looked in vain for a solitary negro among them. I found no negro partnership, no negro community and equality with them. There is a considerable number of free negroes, male and female, in Massachusetts, and has been since 1780. If her present professed interest and brotherhood and sisterhood for them, her recognition of their intellectual, moral, political, and social equality had been true and real, she has had ample time to put this theory into practice and to exhibit to the world all the beauties and ennobling results of the completest mingling of the races. But we see nothing of it. It is but a false, delusive, and sinister theory. If the Senator from Massachusetts and his pharisaic Governor had made an irruption into the Lowell manufactories with a thousand or two of young negroes from South Carolina and Virginia, and had placed them at looms side by side with the fair daughters of New England, the latter would have fled as from a pestilence. If such an experiment had been made with the white male laboring population the negroes would have been thrown overboard as the tea was in Boston harbor.

Why has not the Senator from Massachusetts been practically introducing his theories into his own society? Why has he not encouraged marriage between the races? Why has he not instituted the system of miscegenation? Why is it that the colors are generally as distinct in Massachusetts as they are anywhere in the world? I believe there is a greater proportion of amalgamation in the northern States than there is in the slave States, at least the census tables so report; but that may be because they are fugitives from the slave States. I do not pretend to account for it, but the fact is the proportion of mulattoes is greatest in the free States.

But one Senator after another gets up here and says, "You are a victim of a prejudice, a prejudice against color." Sir, I claim a proud superiority to the African race. I am a Caucasian by descent, I am a Celt by extraction, and every conclusion of my mind, and every emotion of my soul, every pulsation of my heart admonish me that I am of a superior race to them, and I intend to assert and maintain that superiority as long as I have the power. The gentleman professes the contrary, but acts upon the same principle. He is a bachelor, and has long ago reached the years of puberty; why then has he not sought one of Africa's sable daughters and led her to the altar?

When these gentlemen have a coterie of friends, or make a banquet and call their guests to it, are they promiscuously the white and black races?

No, sir, they manifest their prejudice against color, if a prejudice it be, by the inexorable and total exclusion of the black. Who of them intermarry with the black race? Who seek or permit sons-in-law or daughters from what they palaveringly call *colored people*? Their acceptance of equality with the negro is all a false pretense, nothing but simulation for selfish and despicable purposes. There is no principle, truth, or reality in it.

But Senators rise here and persist in asserting, "You give such a vote because of your prejudice against color." Sir, I have no prejudice against idiosyncrasy; who has not an aversion to it? Where is the man of common sense who would be willing to marry an idiot woman? I have an aversion to deformity, but no prejudice. It is an emotion, a conclusion of soul and of reason that properly exists with all persons. If there was a man deformed as Caliban, what woman of sense, of education, of proper self-respect, possessing the noble characteristics of true womanhood, would be willing to marry such a piece of deformity?

Sir, it is the same kind of feeling, of sentiment, not prejudice, but of rational and proper aversion, that impels the white race to move in other circles and establish other relations in life than with the negro. The distinctive features of the negro race are numerous. I will mention three or four of the more palpable. There is the crisp or woolly hair; the black skin, which is possessed by other races beside the negro; a peculiar and offensive effluvia emitted from their skins. Is it that that is so attractive to the honorable Senator from Massachusetts? If an anatomist or an ethnologist would go into an elaborate and scientific examination of the difference of the physical, mental, and moral organizations of the races they would find the line of separation to be broad and distinct in them all.

I have said here before that no negro people ever invented an alphabet or an arithmetical, algebraical, or any other mode of computation, or ever rose into more than a low stage of civilization; that no negro community, by its own unaided intellect and forces, ever ascended into the high domain of elevated mathematics or of classic language or of general literature. Their inventive capacity is small, and their arts have always been rude and limited. They have ever acted a subordinate part to the white race. Whenever and wherever they have attained even a moderate degree of civilization it has been under the pupillage of the white man and by slow processes. Throughout all the ages in recorded history many negroes have had such intimate relations with the most enlightened nations of the superior races as to have imbibed their arts, literature, and civilization to an extent far beyond any possessed by the great bulk of their race in their self-isolated position; but they not only did not augment this borrowed culture but in the transit of ages invariably lost it. When San Domingo, under the patronage of the infidel philanthropists of France, asserted the freedom of all her population, one third of her population were mulattoes, who, with many of her slaves, were considerably civilized, and many of them had respectable education and attainments. That people had received those advantages from the white race, and, possessed of them, commenced their career of nationality and self-government. They soon manifested their incompetence to the great duty, and perpetually recurring wars among themselves, indisposition to labor, and decaying prosperity and civilization proved how much better the condition of the island was when it was a slave possession of France. The return march of the negroes of San Domingo to the barbarism of their progenitors is unmistakable, though its consummation has been and will be further retarded by the large infusion of white population among them. But for their checking force the process of degeneration of the negroes of San Domingo would be rapid, but it will march on to its consummation.

But, sir, I shall not continue this line of remark. But just in proportion as you mingle the white with the negro race you degrade the white race; and that is one reason of the low state of national energy, intellect, and prosperity in the

countries south of us that were of Spanish origin. It is because of the extensive amalgamation with the inferior races, negro and Indian. It is an immutable law of all inferior races, and of every member of them, whether pure or mixed, to desire to pull down the superior race to their own inferiority; and the operation of this law in our country is one cause of the irrational clamor for negro equality. There is in his nature, in his physical and moral and intellectual organization, in the order and nature of his creation, an insuperable barrier to his reaching the high plane that is now occupied by the civilized white man; he craves equality, and equality on that high plane being impossible to him, his constant effort is to pull down the superior race to his own inferiority; and that principle pervades and operates perpetually and actively more in the mixed inferior race than the unmixed.

But, sir, I propose now to read a few passages in relation to the more modern history of slavery and the negro in Massachusetts, and then I shall bring my remarks to a close:

"As early as 1785, her Legislature instituted an inquiry as to the measures proper to be adopted by them to discountenance and prevent any inhabitant of the Commonwealth being concerned in the slave trade."

That was the first movement that Massachusetts ever made to suppress the slave trade, so far as I am informed.

"The inquiry was also extended to the condition of the negroes then in the State, or who might thereafter come or be brought into it. (Journals: volume 5, page 222.) Bills were prepared and referred to the committee on revision of the laws, with instructions to revise all the laws respecting negroes and mulattoes, and report at a future session. (Ibid. 342.)

"In the following year, a joint order was made for a committee to report measures for preventing negroes coming into the Commonwealth from other States. (Ibid. volume 6, page 463.) Another similar order was made by the House of Representatives in 1787. (Ibid. volume 7, page 524.)"

At that time these benevolent, philanthropic, negro-loving people of Massachusetts instituted measures by legislative enactment for the purpose of preventing negroes from coming into that Commonwealth from other States. Let us see how it progressed:

"Earlier in the same year a number of African blacks petitioned the Legislature for aid to enable them to return to their native country. (Ibid. volume 7, page 381.) A Quaker petition against the slave trade was read in the Senate June 20, 1787, and not accepted, but referred to the revising committee, who were directed to report a bill upon the subject-matter of negroes in this Commonwealth at large." (Senate, volume 8, page 81; House of Representatives, volume 8, page 88.)

"The prohibition of the slave trade by Massachusetts was at last effected in 1788. A most flagrant and outrageous case of kidnapping occurred in Boston in the month of February in that year. This infamous transaction aroused the public indignation, and all classes united in urging upon the Legislature the passage of effectual laws to prevent the further prosecution of the traffic, and protect the inhabitants of the State against the repetition of similar outrages.

"The movement was successful; and on the 20th of March, 1788, the Legislature of Massachusetts passed 'An act to prevent the slave trade, and for granting relief to the families of such unhappy persons as may be kidnapped or decoyed away from this Commonwealth.'"

But, sir, mark this provision so characteristic of Massachusetts greed and love of gain and money:

"By this law it was enacted 'that no citizen of this Commonwealth, or other person residing within the same,' shall import, transport, buy, or sell any of the inhabitants of Africa as slaves or servants for term of years, on penalty of £50 for every person so misused and £200 for every vessel fitted out and employed in the traffic. All insurance made on such vessels to be void and of no effect. And to meet the case of kidnapping, when inhabitants were carried off, actions of damage might be brought by their friends—the latter giving bonds to apply the moneys recovered to the use and maintenance of the family of the injured party."

I ask attention to this proviso to this law:

"That this act do not extend to vessels which have already sailed, their owners, factors, or commanders, for and during their present voyage, or to any insurance that shall have been made previous to the passing of the same."

At that very time there were slave ships that had left Massachusetts and had gone to Africa for their cargo of living human beings. The State was passing a law forbidding the slave trade and making void all policies of insurance upon any vessel employed in that traffic; but they expressly provided that the ships that were then gone upon that traffic should not be subject to the provisions of the law prohibiting the trade and making void the policies of insurance. What sort of devotion

38TH CONG...1ST SESS.

Occupancy of Confiscated Estates—Mr. Cowan.

SENATE.

to liberty, to benevolence and philanthropy was that? It shows how ever alive and attentive these thrifty and trading people are to interest, to pecuniary gain; and it warrants me in asserting that if events should hereafter take such a course that the slave trade from Africa should ever again be opened to any country on God's earth, the adventurous, money-loving people of Massachusetts will be the first to enter into that trade, and will share most largely and profitably of it. But to continue this reading:

"The Massachusetts act of March 26, 1783, entitled 'An act for suppressing and punishing of rogues, vagabonds, common beggars, and other idle, disorderly, and lewd persons,' contains the following very remarkable provision:"

I ask the attention of the Senator from Massachusetts to this provision:

"V. *Be it further enacted by the authority aforesaid, (the Senate and House of Representatives in General Court assembled,) That no person being an African or negro, other than a subject of the Emperor of Morocco, or a citizen of some one of the United States (to be evidenced by a certificate from the Secretary of the State of which he shall be a citizen) shall tarry within this Commonwealth for a longer time than two months, and upon complaint made to any justice of the peace within this Commonwealth that any such person has been within the same more than two months, the said justice shall order the said person to depart out of this Commonwealth, and in case the said African or negro shall not depart as aforesaid, any justice of the peace within this Commonwealth, upon complaint and proof made that such person has continued within this Commonwealth ten days after notice given him or her to depart as aforesaid, shall commit the said person to any house of correction within the county, there to be kept to hard labor agreeable to the rules and orders of the said house, until the sessions of the peace next to be holden within and for the said county; and the master of the said house of correction is hereby required and directed to transmit an attested copy of the warrant of commitment to the said court, on the first day of their said session, and if upon trial at the said court it shall be made to appear that the said person has thus continued within the Commonwealth contrary to the tenor of this act, he or she shall be whipped not exceeding ten stripes, and ordered to depart out of this Commonwealth within ten days; and if he or she shall not so depart, the same process shall be had and punishment inflicted, and so *toties quoties*."*

Sir, there is the legislation of Massachusetts in 1783, this philanthropic community, this people whose sensibilities are shocked to hear the term "master" used by one man in relation to another, this people who are for universal freedom and equality of the races, social, civil, political, and amalgamation, as their most eloquent advocate, Wendell Phillips, strikes boldly for. He is the most honest abolitionist that I know of, but even he falls short in the most material point: he does not practice amalgamation by having taken a full-blooded negro wife. When he and the Senator from Massachusetts bind themselves by the silken cords of love and hymen to Africa's sable daughters, and urge their progeny on in the course of miscegenation, they may then claim to occupy the platform of negro equality. Short of that their position is one of guilty simulation. For every man of any sense, the most unlettered laborer or clod-hopper in the land knows that there cannot be any equality of races, civilly, politically, and socially, without amalgamation; the thing is impossible. Where amalgamation does not obtain, the community consisting of whites and blacks will separate into two classes and castes, and those castes will be as impassable as they are in Hindoo. They are here in some States made so by legislation, in others with perfect freedom for amalgamation, but no system of legislation to coerce and compel amalgamation would be strong and effective enough to bring it about. Sir, there is a higher law against amalgamation than man and human legislation can enact, and that is the eternal, irrevocable law of the great Author of our common being. It is written upon the heart of every man, and above all it is written upon the heart of the noble Celtic race. They have a stronger aversion, a sterner opposition to amalgamation, I believe, than any other of the Caucasian races; and it is on the noble Celts, on that blood which revolts undyingly and in unconquerable courage against the degradation of amalgamation, that I greatly rely to prevent that degrading and demoralizing propagandism in this land of ours. That race will thwart and defy all the spasmodic rhetoric and attempts of the honorable Senator from Massachusetts and his much greater coadjutor, Wendell Phillips, to inaugurate it.

This law embodying the philanthropy of Massachusetts of 1783 was not enacted, but it was

executed. I have here a list of the free negroes that were expelled from Massachusetts under this harsh law, a law that required them to depart after they had been there two months, and if they did not depart they were to be reported to the court of sessions, and if they did not leave the State at the end of ten days after receiving notice to depart they were to be carried to the house of correction, there stripped and scourged and put to involuntary labor; and this cruel process was to be repeated and continued upon this poor, down-trodden race until it compelled perfect and universal obedience by them, and here are the names of some of the negroes that were then expelled by its execution. There are more than one hundred and forty of them from some twenty towns, but I will not read their names.

When was this law repealed? There is nothing in legislation which comes nearer branding color as a crime. They were free negroes in Massachusetts. Their offense, in the language of the modern philanthropists and freedom-shriekers, was the crime of their color, and we see how this crime was met and punished in that State of pseudo-philanthropy. This law of 1783 appears again in the revised laws of 1823. The body of the laws of Massachusetts was revised in 1823, and this act punishing the crime of color and forcing the exile of all that population from that State by the gravest penalties was republished in their code of laws of that year.

In 1821 the Legislature of Massachusetts, alarmed by the increase of a species of population "which threatened to become both injurious and burdensome," (I quote from the language of the law) and fully alive to the necessity of checking it, appointed a committee to report a bill concerning the admission into the State of free negroes and mulattoes. The report of this committee, made to the House of Representatives in 1823, refers to the statute of 1783, but did not propose to repeal it. In 1825 an additional act was passed, but without alteration of the provision against negroes. These statutes, so arbitrary and cruel, continued to grace the statute-book of Massachusetts till April 1, 1834. That law, passed in Massachusetts in 1783, remained upon the statute-book, although it was brought up for special action of the general court, their legislative body, and drawn to the attention of that body year after year, until 1834.

And now, sir, in this day of revolution, of civil war, of the shaking and the falling of States and State constitutions, when the boast is that slavery has been destroyed, we see the disgraceful efforts of the people of Massachusetts to get possession of the rich cotton and sugar and rice lands of the South, and to compass for themselves and for their own enrichment the labor of the freed negro. All this, sir, against their hollow claims of devotion to justice, to philanthropy, to benevolence, to the lifting up of a down-trodden race that they say has been oppressed and degraded for generations! Sir, it is all cant; nothing more, nothing less. If Massachusetts wants to do her duty to our common humanity, and to the negro race in particular, let her permit the negro freedman who is free to act as a freeman. He has sense and instinct and mind enough to make the best arrangements for his own personal welfare. He is either a freeman or a slave. If he is a slave, he belongs to his old master. If he is no longer a slave he is a freeman, and he has as much the civil rights of a freeman as the Senator from Massachusetts. What right has he or the Senate of the United States to get up a system of pupillage, of guardianship, for the free negro, any more than for the free white man, if they are all free before the law?

Sir, it does not proceed from philanthropy, from a sense of justice, but from sinister motives, from the love of gain, from a desire to keep the negro enslaved for the benefit of the man who thus wants to entail him with other shackles, more grievous and galling indeed than those which they say have been broken from his fettered limbs. If Massachusetts desires to legislate for his benefit let her secure to the negro perfect freedom of contract, of action, of employment, and make it penal and prescribe punishment for those who will oppress and wrong him by taking advantage of him in matters of contract and of employment, or in any other mode.

OCCUPANCY OF CONFISCATED ESTATES.

SPEECH OF HON. EDGAR COWAN,

OF PENNSYLVANIA,

IN THE SENATE OF THE UNITED STATES,

June 27, 1864,

On Mr. TRUMBULL's amendment repealing the joint resolution of July 17, 1862, qualifying the confiscation act and limiting forfeitures under it to the life of the offender.

Mr. COWAN said:

Mr. President: I should not have said a word during this discussion except for the fact that among all those who have engaged in it not one of them has taken the pains to state the question clearly and distinctly out of which it arises. The Constitution provides that "No attainder of treason shall work corruption of blood, or forfeiture [of estate] except during the life of the person attained." The true question is, whether by any law we can make here the estates of traitors can be forfeited absolutely and for the fee. Because to repeal the joint resolution of 17th July, 1862, would give the act it qualifies that operation; if it did not the repeal would be useless and inoperative.

Now I suppose that no lawyer in this country, before the present war, could have ever hesitated a moment as to the true construction of the clause in question or of the reason which underlaid it. The language is plain and free from all legal ambiguity; it is the same which has been embodied in English statutes for the last two hundred years, and has been the subject of judicial construction without a doubt as to its meaning. No one until recently ever dreamed but that it was intended to restrain the forfeitures in judgments of treason to the lifetime of the traitors, and that after their deaths their lands would descend to their heirs-at-law as in other cases. The reason for this too was simple and obvious, that the punishment of a traitor, as far as possible, might be made to fall upon his own head and not upon the heads of his wife and children, who are presumed to be innocent until they are found guilty. Experience, long and painful, too, had shown that this humane view was far more wise and politic for the State than the older and more barbarous rule which forfeited forever the estates of those who rebelled against it. Under this latter the heirs, feeling that they had been involved in the punishment of an ancestor without having shared in his guilt; of course always were disaffected toward a Government they thought capable of such injustice toward them, and under the smart of it never failed to revolt themselves when a fit opportunity presented. Under the new policy, however, they were reconciled to the State because they were allowed the presumption of innocence in inheriting the estates of their ancestors, and were made loyal to it by the clemency it showed in not treating their misfortunes as crimes.

Recently, however, in the indignation naturally excited in the minds of our people by the wickedness of the rebellion, many have desired to strip all those engaged in it of their entire property, as a terror to those who might in the future contemplate offenses of the same kind. Filled with this notion, attempts are made to carry it out here by enactments which would relieve the courts of all restraint in declaring forfeitures of the property of persons engaged in the rebellion, so that they might condemn a tract of land absolutely as prize of war the same as the ship of an enemy at sea is condemned when it is captured. This would be the effect if the joint resolution be repealed by the amendment of the Senator from Illinois.

Now, I am ready to aver and prove that this cannot be done without a clear violation of our authority delegated to us by the Constitution here, and by the Constitution alone. We are here to make laws for the people according to the powers expressly given to us in that instrument, and we have no more right to transcend those powers by making laws not warranted by it, or by making laws forbidden by it, than any tyrant has to justify his usurpations; no more, indeed, than the rebels have for disregarding and disobeying it. Let no man, therefore, solace himself with the reflection that he is actuated by good motives

38TH CONG....1ST SESS.

Occupancy of Confiscated Estates—Mr. Cowan.

SENATE.

while he is violating it, or, in the popular phrase, that the Government is to be saved even at the expense of the Constitution. He must save it according to the Constitution and by the exercise of the powers it confers, because if there is a Government left after the Constitution is gone that Government would be a despotism and not the Government he is intrusted to save. All this is, I think, so plain that all who are not willfully blind must see it. If we for the purpose (as we think) of saving the Government could violate the Constitution to do so, then the President might for the same purpose do so too. Now suppose he were to decide that the great danger to it was the coming presidential election, and that for the purpose of saving it from that danger he would prevent an election altogether, and hold over himself till it was safe to go back to the Constitution and again intrust the people with the right to choose a Chief Magistrate: will any man say that would be saving the Government? Would it not be rather saying that it was impossible to save the Government, and that it was necessary to substitute in its stead a despotism?

It is in this aspect all true men must view it; and there is no man true to the Government or who has faith in its continued existence who would for one moment doubt its capacity to save itself according to the laws of its own creation. Indeed I have no doubt if it is ever lost it will be by violating its fundamental law, the Constitution, and if that is obeyed it can be saved and will endure. The honorable Senator from Illinois admits that all the power possessed by our Government is derived to it under and by virtue of the Constitution, and I consider this admission important as coming from him, for there are some of his school who seem to think that in time of war we get some new accession of power from some other source outside that instrument, which they call war powers, and upon these they are disposed to draw without stint whenever constitutional objections are made to their schemes. But it so happens that we hold and enjoy even our war powers under the Constitution, which provides as well for the chastisement of belligerent enemies as it does for the punishment of the citizens who offend against its criminal code. And if we were at war to-day with a foreign Power, we would be as much bound by the Constitution in all respects while carrying on that war as we are bound by it while proceeding against one of our citizens for murder or any other offense. In the first case we are governed by the laws of war as we find them in the laws of nations, and in the latter by the municipal laws enacted by Congress according to the Constitution. The framers of that instrument found the "laws of nations" all ready made to their hand, and they provided that they should be the law of the new people they were then starting out on its national career. They adopted them as the law of the United States. But they adopted no municipal code ready made, but they provided a Congress and gave it authority to make one according to certain fixed rules and with certain definite limitations; so that we see they adopted one code and provided for making another. The first regulates our intercourse with foreign nations in peace and war, the second regulates the relations and authority of the Government with our own citizens as such.

Here, however, comes the difficulty, a difficulty which has confused so many discussions and left so many minds otherwise clear in much and perplexing uncertainty; it is this: under which of these codes are our relations with rebels regulated? Are we to treat them as foreigners at war with us, or as citizens offending against our criminal code? I answer unhesitatingly that so long as actual war exists we are bound to treat them precisely as though they were a foreign nation; we may do to them and their property, public and private, exactly what we might do to the public and private property of Mexico and Mexicans if we were at war with them, and nothing more. After the war is over and the armed rebellion is put down we have a right to do to them whatever we have a right by law to do to citizens who offend against our laws. And this, too, is the necessity of the case; it is what we are doing now, or what we ought to be doing, because, actual war existing, we are governed by the laws of

nations and not by our municipal laws. By the latter we might try, convict, and execute for the crime of treason some of the prisoners we take; but it is well known we do not; indeed we durst not for our sakes as well as for the sake of the law. If we did so they would retaliate and execute our prisoners; and the war having thus broken out of the pale of international law would become one of murder and extermination instead of being civilized and lawful war. If we had once subdued the organized and armed rebellion, so that they could not retaliate, then we might enforce against them our municipal law, or law enacted by Congress; until that event happens we cannot.

The act of 17th July, 1862, being clearly a municipal law in most of its features, it must be subject to the restriction imposed by the Constitution; and if we undertake to punish the rebel as a citizen, then we must accord to him all that a citizen charged with a crime has a right to claim under the Constitution; that is, he must be charged by a grand jury, must be tried by a petit jury, &c., and though his life may be forfeited absolutely, yet his lands cannot.

The joint resolution asserts this principle and makes it part of the act, makes the act itself constitutional; but if we repeal it, then it is not constitutional and the courts could not execute it.

But we are told that this law is not exactly a municipal law; that it is not to operate on the rebel as a citizen but as an enemy and a belligerent; that as we have the right to shoot him on the field of battle, we have also a right to confiscate his estates, &c.; with a great deal more to the same purpose, but all of which means, I suppose, if it be put in legal phrase, "that by the laws of war the private property, real and personal, of belligerent enemies is lawful prize of war." If this is true, then we have the right of course; but if it is the law already, why reenact it here? It is unquestionably the law of war that private property of enemies captured at sea is fair prize of war; but being the law, no one has ever thought of giving it any additional force by putting it into an act of Congress.

Now I propose to show that from the very nature and necessity of the matter Congress cannot enact laws of war; to attempt it would be an absurdity. Under ordinary circumstances it would be enough to say to reasonable men that one nation or one belligerent could not make laws of war, because the laws of war must bind both belligerents; and it is manifestly absurd to suppose that if one belligerent were to lay down the law to govern the struggle the other would be bound to obey it. It could only be the law when both agreed to be bound by it; if they did not then it would be mere idle proclamation, or, as lawyers say, *brutum fulmen*.

Again, even if a foreign nation or nations were to join with the United States in establishing new rules or laws to be added to the international code, Congress would have nothing whatever to do with the matter.

This can be illustrated in a very simple manner. I have said that the Constitution adopted the international code ready made, by conferring power upon Congress to affix a proper punishment for its violation in certain cases, such as piracy, &c., to declare war, grant letters of marque and reprisal, and to make rules concerning captures on land and water, (that is, what disposition shall be made of prizes of war, and not what shall be prize of war as has been argued.) Here the power of Congress ends and the power of the President and Senate begins. The President appoints and the Senate confirms ambassadors to foreign courts; they also make treaties; and lastly the courts decide all cases arising under the laws of nations, especially prize cases.

Now, it is well known that the great Powers of Europe, in congress assembled in Paris, in 1856, proposed certain ameliorations in the laws of nations regulating war, as follows: first, to abolish privateering; second, enemy cargo (except contraband of war) to be covered by neutral flags; third, neutral goods (except contraband of war) not seizable under enemy flags.

The United States were invited to agree to those changes, and the Federal Government was willing to do so, provided another change was made,

namely, "that private property of enemies should not be prize of war at sea any more than on land."

Now, allow me to ask, suppose our Government had agreed, by what agency under our Constitution could that result have been brought about? Surely no one will say it would be Congress; but every one must know that the President, through his ministers abroad, would have entered into treaty with the Powers proposing; that we would have been called on to ratify it in this Senate; and that, so far from the House of Representatives having anything to do with it, we would have been bound not to let them know anything about it until our action had been taken.

Here we see beyond dispute that to the President and the Senate is intrusted the power of proposing and agreeing to alterations and amendments to the laws of nations.

Now, I wish to say further in this connection, that in pursuance of the doctrine I have advanced we have established courts to decide cases arising under the laws of nations, and that in deciding those cases an act of Congress would have no binding force whatever, because if it contravened the well-settled principles of public law, the court would be bound to disregard it.

Mr. TRUMBULL. There never was such a case in the world.

Mr. COWAN. There never was a clearer proposition, nor one which could be more easily maintained before an intelligent court. I never heard it denied or doubted except on the floor of the Senate, and that at a time when I was satisfied Senators had not examined it.

Mr. TRUMBULL. I should like to ask the Senator from Pennsylvania if he ever read the opinion of Chief Justice Marshall on that very point, in which he said that the law of nations was subject to the control of the sovereignty; that a nation might make itself odious to other nations by refusing to follow it; but that the power of Congress to confiscate property was clear and unquestioned.

Mr. COWAN. I know precisely the opinion to which the Senator refers—Brown's case—and I know, too, that the case as actually decided gives no countenance whatever to the doctrine for which he contends, no matter what the judge may have said by the way while he was ruling it. Besides, there is a doctrine of Chief Justice Marshall in a subsequent case which is directly in the teeth of his doctrine in Brown's as the Senator understands the latter. The fact is, however, that there is no difficulty in reconciling them.

Let me put a case. Suppose we had acceded to the treaty of Paris, and we had gotten afterwards into a war with Great Britain. Then suppose Congress had enacted a law declaring enemy goods might be taken as prize of war, though covered by a neutral flag. Then, further, suppose one of our cruisers had captured British goods on board of a French vessel, and had brought them into a prize court for condemnation; would it not have been sufficient to prevent such a result to show that we had bound ourselves by treaty not to make prize of goods under such circumstances? And if the act of Congress had been relied on by the captors would not the court have pointed to the Constitution to show that such cases were to be decided by what the court believed and decided to be the law of nations, and not what Congress might have enacted in the premises? And might not the court further say, "We sit here to preserve the peace of nations, to compel the observance of treaties and the just administration of public laws between independent sovereignties; and we cannot, even at the bidding of one or both of the other departments of our Government, decide the law as they would have it or make it; but we must decide it as it is."

Again, it is a remarkable fact that just at the time Mr. Seward was endeavoring to induce the sovereignties of Europe to exempt the private property of belligerent enemies at sea from being made prize of war, just at the same time the honorable Senator from Illinois and others were endeavoring by a congressional enactment to make the private property of enemies on land (which had been exempt long before by international law) lawful prize of war! I doubt whether the friends of any Government ever before showed such a want of consistency as in this instance, when

38TH CONG....1ST SESS.

Occupancy of Confiscated Estates—Mr. Cowan.

SENATE.

they were struggling to bring about such different results.

Mr. TRUMBULL. The Senator from Pennsylvania, I suppose, does not mean to misrepresent me. I never attempted on this floor to maintain a proposition to change the laws of nations. By the laws of nations from the beginning of time the persons and property of the enemy were at the control of the conqueror.

Mr. HOWARD. By the laws of war.

Mr. TRUMBULL. By the laws of nations in reference to war, of course.

Mr. HOWARD. The laws of war as recognized by nations.

Mr. TRUMBULL. That is international law.

Mr. COWAN. I do not know whether the honorable Senator is aware of it or not, but I assert here that he is trying to make a law to seize the real estate of belligerents as such, to condemn and confiscate it as prize of war, and to do all that I call adding a new provision to the laws of nations and of war. If you take an enemy's private ship at sea it may be condemned as prize by the laws of nations, but if you take an enemy's private plantation, it cannot be forfeited as prize under those laws. They are defective in that respect; indeed they say expressly it cannot be done, and that the title is the same after the conquest as before. This is the difficulty the honorable Senator is trying to remove, and in doing so if he succeeds he must repeal (or violate) the laws of nations and enact a new and different rule here. He says himself that he claims the right to do this on the same grounds precisely that he has a right to shoot a rebel on the field of battle; that is, that it is a war right. Now war rights are regulated by the laws of war, which, as he has well said, are the "laws of nations in reference to war." The truth is he is trying to do that which is forbidden by the laws of war and by the Constitution also if it were attempted as municipal law. Nothing can be clearer than this, and he may just as well submit to these limitations first as last. Let him read the latter if he wants to know what he may rightly inflict upon rebels as citizens for violating their allegiance, and let him read the laws of war for what he may do to them as public enemies. At present I am for confining myself to these latter strictly. I think we are bound to make war according to the rules they furnish us, and I would as soon think of transcending them or violating them as I would think of trampling a statute under foot. The crime is the same in both cases, for both are laws of the land.

The true question is, can we make prize of war of the real and personal estates of those who have been engaged in this rebellion, and can we forfeit their real estates absolutely? We have seen that we cannot do this by due process of municipal law; can we do it by virtue of the laws of war as settled by civilized and Christian nations? I answer that we cannot; that there is to-day no conflict of authority whatever on the question; there is not a book that treats of it or a chapter devoted to it which does not lay down the rule that we cannot—all for the best reason in the world, namely, that we can make war far more successfully by not being able to exercise any such power.

Now, as the authorities for this position have been so often quoted *in extenso* to the Senate I shall content myself with referring to Wheaton's International Law, 596, 597; Vattel, book 3, chapter 9, section 13; Klüber, part 2, title 2, section 2, chapter 1, sections 250-253; Halleck, 789.

The Normans violated this law when they made the conquest of England, and by confiscating the lands of the Saxons kept the realm in a state of chronic rebellion for generations; and Saxon outlaws in revenge for this spoliation infested the forests and highways, setting the laws at defiance. England herself violated it again when she made the conquest of Ireland, and that country continues in a condition little better than revolt even at this day, almost every estate being surrounded even yet by the descendants of its former owners, and only awaiting a successful rebellion to assert their claims. Other countries have furnished similar examples for thousands of years; showing how dangerous and impolitic it is to confiscate the titles of the nobility only, without going the length of

this bill, which would strike at the homesteads of great masses of people. In the first case, a single great landed proprietor in each county might be driven from his estates; while in the last, thousands would be rendered outlaws and desperate by depriving them of their homes. Surely at this day no one can expect anything but endless feud as the result of such a measure.

The honorable Senator from Illinois has said, and the honorable Senator from Michigan has backed him, that in all time, from the beginning, the persons and property of the conquered have been at the control of the conqueror. I beg leave, Mr. President, to dissent. To assert such a proposition is to deny the existence of international law, because if the will of the conqueror is the law, then that is equivalent to saying there is no law at all; it is going back to barbaric times when there was no public law, when the cry was *vae victis*, and the victor did what he chose.

I assert, however, the victor cannot lawfully now do what he pleases with either the persons or property of his victims. Can he kill his prisoners? Can he sell them into slavery? Surely not. And no more can he lawfully take from them the title to their lands or touch in any way their private property except as matter of necessity; and all this for the benefit of the conqueror even more than for the conquered, because every one conversant with war and the history of war knows that the more strictly it can be confined to a struggle between State and State and between the armed combatants of such States, the more easily will the object of it be attained—that object in all wars being "peace." While, on the other hand, if it be carried on so as to involve the population of the State invaded, to exasperate and embitter them by outrages either upon their persons or property, then peace is impossible. Here, too, we may learn why private personal property at sea still continues liable to seizure in war, because to take it does not exasperate and embitter the contest as plunder on land always does. Besides, the former is found in ships which may be taken by the captor and carried into port and committed to the care of an officer till the proper court determines the lawfulness of the prize, all of which is impossible or nearly so in case of goods and chattels on land. These latter indeed have never been called prize of war, but "booty" or "plunder," names which of themselves indicate that they were spoils which could not very well find their way into the public treasury, and were, besides, not of much avail in enriching the soldiers, who were always more debauched and injured than benefited by them.

But what, Mr. President, has been the consequence of this theory of confiscation to us—this doctrine that war has no law but the will of the victor? Have we derived benefit from it or injury?

Now, sir, I believe that one of our most disastrous blunders in the management of the war was in attempting to organize and legalize this immense system of plunder against the people of the rebellious States under pretense that the avails of that plunder would go into the Treasury and pay the expenses of the war. Nothing could have been more unwise and impolitic, and nothing could have resulted worse, even to the Treasury itself.

The first result was to alienate our friends in those States by making their property a something to be taken rather than protected, because every one knows that officers and agents would not discriminate much in favor of that loyalty which obeys the Government for the time being, and which lives in constant dread of the usurper if it disobeys him, and in constant fear of the legitimate Government unless it openly resists him. They would just as likely plunder such a one as they would one of the real traitors, and such we have found to be the fact. Scarcely a man comes to us from those States who does not report himself the victim of a double oppression; first he is plundered by the rebels because he yields to them a sullen and reluctant obedience; then when the Union Army should come to his rescue it usually comes only to plunder him still more for having obeyed them at all. In this way we have lost most of the support we might have had there, and which was invaluable to us in restoring the Union.

Again, the effect upon our armies and their officers has been most mischievous. They have been tempted away from their proper errand of liberating the people from the usurpers, and of winning them back to their allegiance by giving them that protection which is reciprocal to it, and they have gone after cotton and plunder. Have we not seen day after day, as the result of this, that, and the other expedition, that a great quantity of cotton had been brought in? Indeed, the enemy seems to be almost lost sight of in the presence of this potent commodity, unless he chooses to interrupt the trade in it by inflicting a defeat upon us.

Our officers in the meanwhile have been confederating with "army sharks," and sharing with them in the accursed spoil till all that was noble and manly in their natures is gone in the mad race for plunder. And the common soldier was also taught to stain his hands and harden his heart in this unholy license, till, his honor gone, defeat was no more a disgrace.

Mr. President, nothing can be so painfully humiliating as to refer to the condition of things which is acknowledged to prevail in many places in the occupation of our armies. War is terrible at best, when all the humane and softening influences are brought to bear for its amelioration, but when law is disregarded, restraints are broken down, and the lessons of centuries forgotten, it becomes a scourge without anything to redeem it from execration; and in return for all this what have we gained? I assert that not a dollar has really come into the Treasury from it if the accounts are fairly stated.

Another and worse result has been that we have been by this measure hindered and perhaps prevented from attaining the object for which we struggle, the restoration of the Union; and by imitating the barbarous policy of the rebels we have been aiding them in their wicked enterprise.

It is easy to see that their policy and ours ought to have been entirely different; our mission was to restore a Union, theirs to destroy it; ours to reclaim and conciliate angry and excited populations, theirs to widen the breaches and aggravate differences; so that if in any case we imitated their barbarities we were really playing into their hands. It is one thing to put down a rebellion, and another and quite different thing to excite and maintain one. To achieve the former requires the humane genius of a Hoche, whereas to insure success in the latter nothing is better than to oppose it with the diabolical cruelty of an Alva.

Let the rebels themselves answer how this idea of wholesale confiscation has helped their cause. It did for them what they could not do for themselves; it made them united and desperate against us. Thousands and thousands of their people, who had been constrained to bow the knee to the Baal of disunion, now enthusiastically minister at its altars, because of our folly in threatening to confiscate their property. Indeed, I cannot conceive of anything more hurtful to our cause than to say to the people of the South, "If we succeed in suppressing the rebellion we will confiscate the estates of all those who have been engaged in it."

Mr. WADE. Give them a premium for rebellion.

Mr. COWAN. The honorable Senator from Ohio thinks that to refuse to confiscate would be a "premium for rebellion." So thought the world in barbarous ages; but the honorable Senator is a lawyer, and it has been in the line of his reading, so that he must know that the very reason why the old and barbarous rule was abolished was because it operated as a premium to rebellion, while the new rule forbidding forfeitures and confiscations has proved a bounty to loyalty and fidelity, a guarantee of future reconciliation and peace.

Now, I know it is pretended that this law is only to apply to the case of actual traitors, but it is not so; it includes in its terms thousands and tens of thousands of persons who could not possibly be convicted in any court of the crime of treason, because it assumes a fallacy, and that is in this, that all are traitors who hold office under the confederate States, and all those who refuse to lay down their arms after sixty days' notice by the proclamation of the President. This is not true in fact or in law.

38TH CONG....1ST SESS.

Occupancy of Confiscated Estates—Mr. Cowan.

SENATE.

Now, what is the law? In making this inquiry we need not go further than to Blackstone's Commentaries, (volume four, page 77,) where a very brief compend may be found of the common law as it has always prevailed in England; and it may be remarked here that the statute of 11 Henry VII, chapter one, was only declaratory of the common law, which excuses the obedience paid to a king or government *de facto*:

"When, therefore, a usurper is in possession, the subject is excused and justified in obeying and giving him assistance; otherwise, under a usurpation, no man could be safe, if the lawful prince had a right to hang him for obedience to the powers in being, as the usurper would certainly do for disobedience. Nay, further, as the mass of the people are imperfect judges of title, of which in all cases possession is *prima facie* evidence, the law compels no man to yield obedience to that prince, whose right is by want of possession rendered uncertain and disputable, till Providence shall think fit to interpose in his favor and decide the ambiguous claim; and therefore, till he is entitled to such allegiance by possession, no reason can be committed against him."

Here, then, is not only the common law but the common sense of the case. It could not be otherwise to merit the name of law, and it only remains to inquire as to the fact.

Let us go back a little and see. At the commencement of the rebellion more than one half the people of the confederate States were opposed to the secession movement, and, wherever they had an opportunity to express their will, a majority in almost every State voted against it. I think it cannot be disputed that there was a majority for the Union in every State except perhaps in South Carolina. How, then, it may be asked, was the will of that majority set aside and contravened? I answer, by the fraud and force of the secessionists, who had so managed that before this time they were in possession of all the departments of the government in all the slave States except Delaware; Maryland, where they had only the Legislature; Kentucky and Missouri, where they had the Governors but not the Legislatures; and in all except those named, having the machinery of the State governments in their hands, they were able by means of that machinery to put the Federal Government out of possession of their several States, and at the same time to put it out of the power of that Government for the time to give that protection to the people which they had a right to expect from it, and which was the consideration of their allegiance due to it. What position did that leave them in? What were they to do? They had no means of resisting their State governments, because those governments had not only the insignia of power over them, but they had the means of enforcing it. What did they do? Just what everybody in all times heretofore has done in like circumstances: they obeyed the governments in fact existing over them, and they looked for relief to the Government of the United States, the only power to which they could look, and which was bound by the Constitution which created it to repel invasions and put down rebellion in the several States. What did that Government do? Did it go immediately to their rescue and punish the usurpers? Not at all, sir. The then President, Mr. Buchanan was of opinion that he had no right to interfere between them and their State governments, and he and his Congress did nothing whatever to assert their supremacy or to deliver the people who had been overborne, but remained inactive till the expiration of his term, 4th March, 1861, a period of three months.

Now, what were these loyal men to think of this? Does any candid man think it was treason if some of them during that time had reconciled themselves to secession, had accepted office under a rebel State, nay, or had even assisted in organizing the confederacy? How were they to know whether the new Administration of Mr. Lincoln would come down and help them or not, especially as it took several weeks itself after it got in before it was able to decide the question? And yet, sir, these are the men who are to be considered as felons under this act and to have their estates forfeited absolutely because they did not without organization, without leaders, without arms, indeed without even authority, fight against their State governments and stand up for their connection with the Federal Government, when that Government had allowed itself to be igno-

miniously expelled without striking a blow for them; nay, when it had gone off giving them notice they were to expect no relief from it. Would it have been very strange if, when that Government came back with its offers of protection, these loyal men had said, "It is too late; you left us when we most needed you, and now when we have made our peace and formed new relations we will not return to you?" Surely they might have said this to Mr. Buchanan with great force and propriety.

Well, Mr. Lincoln's administration having resolved to discharge its constitutional obligations by putting down the rebellion, had it any right to expect these people to return to their allegiance till it was in a condition to protect them? Was it not first bound to make that return perfectly safe before it could hope for any assistance from them? They were then in the toils of the confederacy, and to ask them to refuse obedience to it before we were in a condition to keep them from being hanged for that refusal, would be asking rather more than human nature is able to grant. When, then, were we able to protect them? Was it after Bull Run, after the repulse before Richmond, after Fredericksburg, Chancellorsville, or indeed after any of the terrible and sanguinary battles in which we have struggled to regain our supremacy? Have we not in some instances induced them to come to us after a temporary success and then left them again to the tender mercies of the rebels?

I think, Mr. President, that our course in regard to these people has been of a character entirely the reverse of that which would have been successful in suppressing the rebellion. We were filled with incorrect ideas of the work we were engaged in, or of the only methods by which we could perform the gigantic task we had undertaken. We started out with exaggerated notions of our own strength, and we disdained to think that our success depended upon the loyal men of the South; we thought we did not need them, and treated them accordingly. Think of such a proposition as that contained in this law, that if they do not lay down their arms in sixty days they will be punished by loss of their estates! How, pray, are they to lay down their arms? Surely we know enough to know that this is mere mockery, and that the rebel president might as well expect a soldier in our armies to lay down his arms upon a promise of his protection.

Mr. President, I have sometimes doubted whether we could be serious when we expect any good results to come from such measures as this, which not only exposes us to ridicule but does harm to our cause. What was wanting in this crisis of our history with new criminal legislation, when the code was complete before? We had a statute punishing treason with death, a just and proper punishment, one well according with the magnitude of the crime as well as with the majesty of the law which inflicted it. For all those who conspired the dismemberment of the Republic, who used the means and perverted the State governments to bring it, this is the fitting punishment, because it is the highest, and falls upon the guilty alone, where it ought. I would have had no additional laws; in war they are not needed. I would have contemplated no reforms within the area of the rebellion; they cannot be made at such a time. What we wanted was men and money; these granted, the true function of Congress was over until peace was restored and all parties again represented. But above all things I would not have played into the hands of the enemy; I would not have done that which the rebels most desired to have done, because I have no doubt that this and all kindred schemes have been the very ones which they most wanted us to adopt. I do not know that Jefferson Davis ever prays; but if he does, I have no doubt he would pray—

Mr. WADE. Pray for just such an advocate.

Mr. COWAN. Pray for just such a statesman as the honorable Senator from Ohio, the most effective ally he ever had or could have.

He would have prayed for measures on our part which were obnoxious to all people of the South, loyal and disloyal, Union and disunion. He would have prayed that we should outrage all their common prejudices and cherished beliefs;

that we should do these things by giving ourselves over to the guidance of men whom it was part of their religion to hate; to hate personally and by name, with an intensity rarely witnessed in the world before. He would have prayed for confiscation general and indiscriminate; threatening as well the victims of the usurpation as the usurpers themselves; as well those we were bound to rescue as those we were bound to punish. Ferrevently he would have prayed for our emancipation laws and proclamations as means to fire the southern heart more potent than all others; they would rally the angry population to his standard of revolt as if each had personal quarrel. He would then have a united South; while as the result of the same measures a distracted and divided North.

That is the way I think he would have prayed and would pray now. Is any man so stupid as not to know that the great desire on the part of every rebel is to embark in revolt with him the whole people of the disaffected districts? Is not and has not that been considered enough to insure success to him? And where does history show the failure of any united people, numbering five or six millions, when they engaged in revolution? Nowhere; there is no such case.

What did we do to bring this unity about in the South? We forgot our first resolve in July, 1861, to restore the Union alone, and we went further and gave out that we would also abolish slavery. Now that was just exactly the point upon which all southern men were most tender, and at which they were most prone to be alarmed and offended. That was of all things the one best calculated to make them of one mind against us; there was no other measure, indeed, which could have lost to the Union cause so many of them. It is not a question, either, as to whether they were right or wrong—that was matter for their consideration, not ours—for if we were so desirous of a union with them we ought not to have expected them to give up their most cherished institutions in order to effect it. Unions are made by people taking one another as they are, and I think it has never yet occurred to any man who was anxious to form a partnership with another that he should first attempt to force that other either to change his religion or his politics. Is not the answer obvious; would not the other say to him, "If you do not like my principles why do you wish to be partner with me? Have I not as good a right to ask you to change yours as a condition precedent?"

So it was with the southern people; they were all in favor of slavery, but one half of them were still for union with us as before, because they did not believe we were abolitionists. The other half were in open rebellion because they did believe it. Now, can any one conceive of greater folly on our part than that we should destroy the faith of our friends and verify that of our enemies? Could not anybody have foretold we would have lost one half by that, and then we would have no one left to form a union with? We drove that half over to the rebels and thereby increased their strength a thousand-fold.

Is not all this history now? The great fact is staring us full in the face to-day; we are contending with a united people desperately in earnest to resist us. Our most powerful armies most skillfully led have heretofore failed to conquer them, and I think will fail as long as we pursue this fatal policy.

Now, Mr. President, I appeal to Senators whether it is not time to pause and inquire whether that policy which has certainly united the southern people in their cause and which quite as certainly has divided the northern people in their support of ours ought not to be abandoned at once. Why persist in it longer? Can we do nothing to retrieve our fortune by retracing our steps? Can we not divide the rebels and unite the loyal men of the loyal States by going back to the single idea of war for the Union; or is it now too late? Have we lost irrecoverably our hold on the affections of our countrymen who were for the Union in 1861—even in 1862? Is there no way by which we could satisfy them that we yet mean union, and not conquest and subjugation? And what a difference in the meaning of those two phrases! The first offers the hand

38TH CONG....1ST SESS.

Occupancy of Confiscated Estates—Mr. Cowan.

SENATE.

of a brother, the second threatens the yoke of a master. Or are we obliged now to exchange the hopes we had of southern Union men for that other and miserable hope in the negro? Is he all that is left of loyalty in the South, and the only ally we can rely upon to aid us in restoring the Union? Ye gods! what have we come to at last? Either to yield to an unholy rebellion, to dismember an empire, or to go into national companionship with the negro. Is this the alternative to which our madness has brought us?

Mr. President, these things are enough to drive a sane man mad. After all our pretension, all our boasting, how absurd will we appear in the eyes of all other nations if we fail in this struggle! Especially as almost all the measures about which we have occupied ourselves for the last three years have been based upon our success already assumed as a fixed fact. We provided for confiscating the estates of rebels before we got possession; we emancipated slaves before we got them from their masters, and we provided for the disposition of conquests we have not made; we have disposed of the skin of the bear and the bear itself is yet uncaught. All this we have put upon the record; the statute-book will bear witness against us in all coming time; and we cannot escape the consequences if we fail.

Mr. President, our Government was intended

to be one of law, preëminently of law. There was to be nothing in the administration of it left to the arbitrary will of an individual or individuals. This was its merit, or intended so, *par excellence*. I am for preserving its character in that respect strictly. Let no man, from the President down to the most petty officer, dare to do anything, whether to friend or enemy, except as warranted by law. Let us make war according to law, and let us have peace according to law. If we fight a belligerent enemy, let us do it according to the law of nations. If we punish or restrain a refractory citizen, let us do it by the law of the land, by "due process of law." Had we had faith in our Constitution and laws and our people, we had not been in our present condition. Had we made war and war alone, the loyal people North and South to a man would have been with us. The voice of faction, if not entirely hushed, would have been harmless. The capital of the demagogue would have been worthless, and the nation would have been irresistible. Had we treated the negro as the Constitution treats him, as a person, as another man; had we made no distinction or difference between him and other citizens, we had not aroused against him that tribal antipathy which will be far more likely to destroy him than a false philanthropy will be likely to elevate him in the scale of being. If he was friendly to us, the

same use could have been made of him that we have made; we could have enlisted him in our armies now as we have been enlisting him in our Navy for long years. We could have received him as a volunteer, if he was able-bodied, without looking to his complexion, and we could have drafted him without inquiring into the relations which existed between him and his master, any more than we inquire into the relations of the white man of twenty years of age with his parent or his guardian. State laws adjusted all those questions, but to the United States it made no difference whether he owed service to individuals or not, he owed his first duty to the Republic as military service if it was required. All this was lawful, and no loyal man ever did or would have complained of it, kindly done in the proper spirit.

I have only to say in conclusion, sir, that I hope that the joint resolution will not be repealed, and that this and all kindred projects will fail in the future, for the simple reason that they strengthen the rebels by uniting their people with them, and they weaken the Union cause by dividing its friends and distracting them with unnecessary issues. Let us unite upon the single idea of suppressing the armed opposition to the Government. Let the energies of the nation be devoted solely to that purpose, and success may yet come, if success is possible.

LAWS OF THE UNITED STATES.

ACTS OF THE THIRTY-EIGHTH CONGRESS

OF THE

UNITED STATES,

Passed at the First Session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the 7th day of December, A. D. 1863, and ended on Monday, the 4th day of July, A. D. 1864.

ABRAHAM LINCOLN, President. HANNIBAL HAMLIN, Vice President, and President of the Senate. DANIEL CLARK was elected President of the Senate, *pro tempore*, on the 25th day of April, and so acted until the end of the session. SCHUYLER COLFAX, Speaker of the House of Representatives.

[The Index to the Laws follows the Index to the Appendix.]

CHAPTER I.—An Act declaring the Assent of Congress to an Act of the Legislature of the State of Illinois therein named.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the operation of the eleventh section, chapter fifteen, of the act of the General Assembly of the State of Illinois, approved February thirteenth, eighteen hundred and sixty-three, entitled "An act to reduce the charter of the city of Chicago, and the several acts amendatory thereof, into one act, and to revise the same;" which section is as follows: "Said city shall have the power to extend aqueducts or inlet pipes into Lake Michigan, so far as may be deemed necessary to insure a supply of pure water, and to erect a pier or piers in the navigable waters of said lake, for the making, preserving, and working of said pipes or aqueducts: *Provided,* That such piers shall be furnished with a beacon-light, which shall be lighted at all such seasons and hours as the light on the pier at the entrance of Chicago river."

APPROVED, January 16, 1864.

CHAP. II.—An Act to authorize the President to appoint a Second Assistant Secretary of War.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, for the term of one year from the passage of this act, an officer in the War Department, to be called the Second Assistant Secretary of War, whose salary shall be three thousand dollars per annum, payable in the same manner as that of the Secretary of War, who shall perform all such duties in the office of the Secretary of War belonging to that Department as shall be prescribed by the Secretary of War, or as may be required by law.

APPROVED, January 19, 1864.

CHAP. III.—An Act to provide for the Deficiency in the Appropriation for the Pay of Officers and Men actually employed in the Western Department, or Department of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of seven hundred thousand six hundred and twelve dollars and thirteen cents, or so much thereof as may be neces-

sary, to carry into effect the act approved March twenty-fifth, eighteen hundred and sixty-two, to secure to the officers and men actually employed in the Western department, or department of Missouri, their pay, bounty, and pension: *Provided, however,* That in the payment of the money hereby appropriated, such payment shall be made directly to the officers or soldiers by whom the services were rendered, or to their personal representatives, or to their agents appointed by powers of attorney, and no assignment of any sum due to any officer or soldier shall be valid; such payments to be made by paymasters of the United States Army: *Provided further, however,* That any person, holding a power of attorney authorizing the receipt by him of the amount to be paid to any officer or soldier may, upon making and filing an affidavit to the effect that he is acting in the premises purely as agent, without personal interest, and that he will pay over the amount received either to the soldier or (in his absence) to his wife or children, for their benefit, be entitled to receive such amount.

APPROVED, January 22, 1864.

CHAP. IV.—An Act to amend the Law prescribing the Articles to be admitted into the Mails of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That articles of clothing, being manufactured of wool, cotton, or linen, and comprised in a package not exceeding two pounds in weight, addressed to any non-commissioned officer or private serving in the armies of the United States, may be transmitted in the mails of the United States at the rate of eight cents, to be in all cases prepaid, for every four ounces, or any fraction thereof, subject to such regulations as the Postmaster General may prescribe.

APPROVED, January 22, 1864.

CHAP. V.—An Act to change the Place of holding the Circuit and District Courts of the United States for the District of West Tennessee, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter the circuit and district courts of the United States for the district of West Tennessee shall be holden at the city of Memphis, in said district, on the first Monday in March and the first Monday in September of each year, and at no other place. And all process, civil

and criminal, which may have been, or hereafter may be, issued, returnable to said courts at Jackson or Huntingdon, in said district, shall be returned to said courts, respectively, at the city of Memphis; and all books and records of every kind, pertaining to said courts, shall be transferred from the places where said courts have heretofore been held to the city of Memphis.

SEC. 2. *And be it further enacted,* That the judges of the United States circuit court, and of the United States district court for the several districts of Tennessee, may, whenever in their opinion the public interests require it, appoint special terms of their respective courts at Knoxville, Nashville, and Memphis, to be holden at such times as said judges, respectively, shall deem most conducive to the public good. Notice of each special term appointed under the provisions of this act shall be published in at least one newspaper printed in the town or city in which a term is to be held, for four consecutive weeks.

APPROVED, January 26, 1864.

CHAP. VI.—An Act relating to the Admission of Patients to the Hospital for the Insane in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be authorized, in his discretion, during the existence of the present war, to admit into the Government hospital for the insane such transient insane persons as may be found in the District of Columbia without the means of self-support, to be there detained until they can be sent to their friends or proper places of residence, under the direction of the said Secretary of the Interior, whose duty it shall be to provide therefor; the steps preliminary to their admission to be the same, except as to the affidavit of residence at the time they became insane, as are required in the case of indigent persons who became insane while residing in the District.

APPROVED, January 28, 1864.

CHAP. VII.—An Act making Appropriations for the payment of Invalid and other Pensions of the United States for the year ending the thirtieth of June, eighteen hundred and sixty-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for

38TH CONG....1ST SESS.

Laws of the United States.

the payment of pensions for the year ending the thirtieth of June, eighteen hundred and sixty-five:

For invalid pensions under various acts, one million dollars.

For pensions to widows, mothers, children, and sisters, under the first section of the act of fourth July, eighteen hundred and thirty-six; act of July twenty-first, eighteen hundred and forty-eight; first section of the act of February third, eighteen hundred and fifty-three; June third, eighteen hundred and fifty-eight; and July fourteenth, eighteen hundred and sixty-two, two million two hundred thousand dollars.

APPROVED, January 29, 1864.

CHAP. VIII.—An Act authorizing the holding of a Special Session of the United States District Court for the District of Indiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a special session of the United States district court for the district of Indiana shall be holden at the usual place of holding said court on the second Tuesday in March, in the year of our Lord one thousand eight hundred and sixty-four.

SEC. 2. *And be it further enacted,* That all suits and proceedings of a civil or criminal nature, now pending in, or returnable to said court, shall be proceeded in, heard, tried, and determined by said court at said special session, in the same manner as at a regular term of said court; and the judge thereof is hereby empowered to order the impaneling of a petit jury for said session, but not a grand jury. And no case shall be considered which stands continued to the May term by order of the court.

APPROVED, February 12, 1864.

CHAP. IX.—An Act making an Appropriation for rebuilding the Stable at the President's.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of twelve thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Commissioner of Public Buildings to cause the stable at the President's to be rebuilt forthwith.

APPROVED, February 13, 1864.

CHAP. XI.—An Act amendatory of and supplementary to an Act to provide Circuit Courts for the Districts of California and Oregon, and for other purposes, approved March third, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term of the circuit court of the United States for the districts in California shall be held in the city of San Francisco, in said State, on the first Monday of February, and on the second Monday of June, and on the first Monday of October, of each year; and in the city of Monterey, in said State, on the first Monday of April, and on the second Monday of August, and on the first Monday of December, of each year; and that a term of said circuit court for the State of Oregon shall be held at the city of Portland, in said State, on the first Monday of January, and on the first Monday of May, and on the first Monday of September, of each year.

SEC. 2. *And be it further enacted,* That whenever the circuit judge is absent, or, from any cause, is unable to hold a term of the circuit court as above provided, it shall be the duty of the district judge of the district to hold such term. No term of the circuit court in one district of the tenth circuit shall be deemed to be ended from the commencement of a term in another district. A circuit court may be held in the different districts at the same time.

SEC. 3. *And be it further enacted,* That the circuit judge of said tenth circuit may, at his discretion, appoint special sessions of the circuit court, to be held at the places where the stated sessions thereof are to be holden, as provided in this act, by an order under his hand and seal, addressed to the marshal and clerk of said court, at least fifteen days previous to the day fixed for the commencement of such special sessions, which order

shall be published by the marshal in one or more of the gazettes or newspapers within the district where such sessions are to be holden. At such special sessions it shall be competent for the said court to entertain jurisdiction of and hear and decide all cases in equity, cases in error, or on appeal, issues of law, motions in arrest of judgment, motions for new trial, and all other motions, and to award executions and other final process, and to do and to transact all other business, and direct all other proceedings in all causes pending in the circuit court, except trying any cause by jury, in the same way and with the same force and effect as the same could or might be done at the stated sessions of such court. At said special sessions said court may also try and determine all issues of fact in cases in which, by the stipulation in writing of the parties, or their attorneys, and filed with the clerk, a jury shall be waived.

SEC. 4. *And be it further enacted,* That the clerks of the circuit courts for the district of California shall be appointed by the circuit judge of the tenth circuit. The appointment shall be in writing under the hand and seal of the circuit judge, and shall be filed in the clerk's office and entered at large upon the records of the court. The circuit judge may revoke the appointment at any time by filing in the office of the clerk a notice in writing under his hand and seal, stating that the appointment is revoked. The revocation shall be entered on the records of the court. The clerk, before entering upon the discharge of his duties, shall take the oath of office prescribed by the act entitled "An act to prescribe an oath of office, and for other purposes," approved July two, eighteen hundred and sixty-two, and such oath shall be indorsed upon his appointment. The clerk shall also execute a bond to the United States with two or more sufficient sureties in such sum as the circuit judge may designate, conditioned for the faithful performance of his duties. In case of a vacancy in the office of clerk, the district judge shall have power to fill such vacancy by appointment, which shall continue until an appointment is made by the circuit judge.

SEC. 5. *And be it further enacted,* That the clerks of the circuit courts of the tenth circuit shall have power to appoint one or more deputies, who shall have the same authority, in all respects, as their principal. The appointment shall be in writing, and be signed by the clerk, and shall be filed in his office and be entered at large upon the records of the court. The clerk may revoke the appointment of any deputy at will, by writing filed in the office and entered upon the records. Each deputy, before entering upon his duties, shall take the oath of office prescribed by the act entitled "An act to prescribe an oath of office, and for other purposes," approved July two, eighteen hundred and sixty-two. And such oath shall be indorsed upon his appointment. The clerk may take from each of his deputies a bond with sureties for the faithful performance of his duties, but the clerk and the sureties on his official bond shall be liable for all the official acts of each deputy.

SEC. 6. *And be it further enacted,* That the clerks of the circuit courts and district courts of the United States for the districts of California and Oregon shall severally be entitled to charge and receive for the services they may perform double the fees and compensation allowed by the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February twenty-six, eighteen hundred and fifty-three.

SEC. 7. *And be it further enacted,* That issues of fact in civil cases may be tried and determined by the said circuit court without the intervention of a jury, whenever the parties or their attorneys of record file a stipulation in writing, with the clerk, waiving a jury. Upon the trial of an issue of fact by the court, its decision shall be given in writing and filed with the clerk. In giving the decision, the facts found and the conclusions of law shall be separately stated. The review of the judgment or decree entered upon such findings by the Supreme Court of the United States upon appeal or writ of error shall be limited to a determination of the sufficiency of the facts found to support the judgment or decree entered, and to the rulings of the court in admitting or rejecting evidence of-

fered, and in the construction of written documents produced and admitted. The Supreme Court may affirm or modify or reverse the judgment or decree entered, or may, in its discretion, order a new trial or further proceedings to be taken.

SEC. 8. *And be it further enacted,* That a term of the district court of the United States for the southern district of California shall be held in the city of Monterey, in said State, on the first Monday of February, and on the first Monday of June, and on the first Monday of October, of each year; and a term of the district court of the United States for the northern district of California shall be held in the city of San Francisco, in said State, on the first Monday of April, and on the second Monday of August, and on the first Monday of December, of each year; and a term of the district court of the United States for the district of Oregon shall be held at the city of Portland, in the State of Oregon, on the first Monday of March, and on the first Monday of July, and on the first Monday of November, of each year.

SEC. 9. *And be it further enacted,* That section four of the act entitled "An act to provide circuit courts for the districts of California and Oregon, and for other purposes," approved March third, eighteen hundred and sixty-three, and sections four and five of the act entitled "An act to provide for extending the laws and judicial system of the United States to the State of California," approved September twenty-eight, eighteen hundred and fifty, and all provisions of law inconsistent with this act, be, and the same are hereby, repealed.

SEC. 10. *And be it further enacted,* That this act shall take effect on the first Monday of May, one thousand eight hundred and sixty-four.

APPROVED, February 19, 1864.

CHAP. XII.—An Act to amend an Act entitled "An Act for enrolling and calling out the National Forces, and for other purposes," approved March third, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall be authorized, whenever he shall deem it necessary, during the present war, to call for such number of men for the military service of the United States as the public exigencies may require.

SEC. 2. *And be it further enacted,* That the quota of each ward of a city, town, township, precinct, or election district, or of a county, where the county is not divided into wards, towns, townships, precincts, or election districts, shall be, as nearly as possible, in proportion to the number of men resident therein liable to render military service, taking into account as far as practicable, the number which has been previously furnished therefrom; and in ascertaining and filling said quota there shall be taken into account the number of men who have heretofore entered the naval service of the United States, and whose names are borne upon the enrollment lists as already returned to the office of the Provost Marshal General of the United States.

SEC. 3. *And be it further enacted,* That if the quotas shall not be filled within the time designated by the President, the provost marshal of the district within which any ward of a city, town, township, precinct, or election district, or county, where the same is not divided into wards, towns, townships, precincts, or election districts, which is deficient in its quota, is situated, shall, under the direction of the Provost Marshal General, make a draft for the number deficient therefrom; but all volunteers who may enlist after the draft shall have been ordered, and before it shall be actually made, shall be deducted from the number ordered to be drafted in such ward, town, township, precinct, or election district, or county. And if the quota of any district shall not be filled by the draft made in accordance with the provisions of this act, and the act to which it is an amendment, further drafts shall be made, and like proceedings had, until the quota of such district shall be filled.

SEC. 4. *And be it further enacted,* That any person enrolled under the provisions of the act

Laws of the United States.

38TH CONG....1ST SESS.

for enrolling and calling out the national forces, and for other purposes, approved March third, eighteen hundred and sixty-three, or who may be hereafter so enrolled, may furnish, at any time previous to the draft, an acceptable substitute, who is not liable to draft, nor at the time in the military or naval service of the United States, and such person so furnishing a substitute shall be exempt from draft during the time for which [such] substitute shall not be liable to draft, not exceeding the time for which such substitute shall have been accepted.

Sec. 5. *And be it further enacted*, That any person drafted into the military service of the United States may, before the time fixed for his appearance for duty at the draft rendezvous, furnish an acceptable substitute, subject to such rules and regulations as may be prescribed by the Secretary of War. That if such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted; and if such substitute is liable to draft, the name of the person furnishing him shall again be placed on the roll, and shall be liable to draft on future calls, but not until the present enrollment shall be exhausted; and this exemption shall not exceed the term for which such person shall have been drafted. And any person now in the military or naval service of the United States, not physically disqualified, who has so served more than one year, and whose term of unexpired service shall not at the time of substitution exceed six months, may be employed as a substitute to serve in the troops of the State in which he enlisted; and if any drafted person shall hereafter pay money for the procuration of a substitute, under the provisions of the act to which this is an amendment, such payment of money shall operate only to relieve such person from draft in filling that quota; and his name shall be retained on the roll in filling future quotas; but in no instance shall the exemption of any person, on account of his payment of commutation money for the procuration of a substitute, extend beyond one year; but at the end of one year, in every such case, the name of any person so exempted shall be enrolled again, if not before returned to the enrollment list under the provisions of this section.

Sec. 6. *And be it further enacted*, That boards of enrollment shall enroll all persons liable to draft under the provisions of this act, and the act to which this is an amendment, whose names may have been omitted by the proper enrolling officers; all persons who shall arrive at the age of twenty years before the draft; all aliens who shall declare their intentions to become citizens; all persons discharged from the military or naval service of the United States who have not been in such service two years during the present war; and all persons who have been exempted under the provisions of the second section of the act to which this is an amendment, but who are not exempted by the provisions of this act; and said boards of enrollment shall release and discharge from draft all persons who, between the time of the enrollment and the draft, shall have arrived at the age of forty-five years, and shall strike the names of such persons from the enrollment.

Sec. 7. *And be it further enacted*, That any mariner or able or ordinary seaman who shall be drafted under this act, or the act to which this is an amendment, shall have the right, within eight days after the notification of such draft, to enlist in the naval service as a seaman, and a certificate that he has so enlisted being made out, in conformity with regulations which may be prescribed by the Secretary of the Navy, and duly presented to the provost marshal of the district in which such mariner or able or ordinary seaman shall have been drafted, shall exempt him from such draft: *Provided*, That the period for which he shall have enlisted into the naval service shall not be less than the period for which he shall have been drafted into the military service: *And provided further*, That the said certificate shall declare that satisfactory proof has been made before the naval officer issuing the same that the said person so enlisting in the Navy is a mariner by vocation, or an able or ordinary seaman. And any person now in the military service of the

United States who shall furnish satisfactory proof that he is a mariner by vocation or an able or ordinary seaman may enlist into the Navy under such rules and regulations as may be prescribed by the President of the United States: *Provided*, That such enlistment shall not be for less than the unexpired term of his military service nor for less than one year. And the bounty money which any mariner or seaman enlisting from the Army into the Navy may have received from the United States, or from the State in which he enlisted in the Army, shall be deducted from the prize money to which he may become entitled during the time required to complete his military service: *And provided further*, That the whole number of such transfer enlistments shall not exceed ten thousand.

Sec. 8. *And be it further enacted*, That whenever any such mariner or able or ordinary seaman shall have been exempted from such draft in the military service by such enlistment into the naval service, under such due certificate thereof, then the ward, town, township, precinct, or election district, or county, when the same is not divided into wards, towns, townships, precincts, or election districts, from which such person has been drafted, shall be credited with his services to all intents and purposes as if he had been duly mustered into the military service under such draft.

Sec. 9. *And be it further enacted*, That all enlistments into the naval service of the United States, or into the marine corps of the United States, that may hereafter be made of persons liable to service under the act of Congress entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March third, eighteen hundred and sixty-three, shall be credited to the ward, town, township, precinct, or election district, or county, when the same is not divided into wards, towns, townships, precincts, or election districts, in which such enlisted men were or may be enrolled and liable to duty under the act aforesaid, under such regulations as the Provost Marshal General of the United States may prescribe.

Sec. 10. *And be it further enacted*, That the following persons be and they are hereby exempted from enrollment and draft under the provisions of this act and of the act to which this is an amendment, to wit: such as are rejected as physically or mentally unfit for the service, all persons actually in the military or naval service of the United States at the time of the draft, and all persons who have served in the military or naval service two years during the present war and been honorably discharged therefrom; and no persons but such as are herein exempted shall be exempt.

Sec. 11. *And be it further enacted*, That section third of the act for enrolling and calling out the national forces, and for other purposes, approved March third, eighteen hundred and sixty-three, and so much of section ten of said act as provides for the separate enrollment of each class, be, and the same are hereby, repealed; and it shall be the duty of the board of enrollment of each district to consolidate the two classes mentioned in the third section of said act.

Sec. 12. *And be it further enacted*, That any person who shall forcibly resist or oppose any enrollment, or who shall incite, counsel, encourage, or who shall conspire or confederate with any other person or persons forcibly to resist or oppose any such enrollment, or who shall aid or assist, or take any part in any forcible resistance or opposition thereto, or who shall assault, obstruct, hinder, impede, or threaten any officer or other person employed in making or in aiding to make such enrollment, or employed in the performance, or in aiding in the performance of any service in any way relating thereto, or in arresting or aiding to arrest any spy or deserter from the military service of the United States, shall, upon conviction thereof in any court competent to try the offense, be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding five years, or by both of said punishments, in the discretion of the court. And in cases where such assaulting, obstructing, hindering, or impeding shall produce the death of such officer or other person, the offender shall be deemed guilty of murder, and, upon conviction thereof upon indictment in the circuit court of the United States for

the district within which the offense was committed, shall be punished with death. And nothing in this section contained shall be construed to relieve the party offending from liability, under proper indictment or process, for any crime against the laws of a State, committed by him while violating the provisions of this section.

Sec. 13. *And be it further enacted*, That the Secretary of War shall be authorized to detail or appoint such number of additional surgeons for temporary duty in the examination of persons drafted into the military service, in any district, as may be necessary to secure the prompt examination of all such persons, and to fix the compensation to be paid surgeons so appointed while actually employed. And such surgeons so detailed or appointed shall perform the same duties as the surgeon of the board of enrollment, except that they shall not be permitted to vote or sit with the board of enrollment.

Sec. 14. *And be it further enacted*, That the Secretary of War is authorized, whenever in his judgment the public interest will be subserved thereby, to permit or require boards of examination of enrolled or drafted men to hold their examinations at different points within their respective enrollment districts, to be determined by him: *Provided*, That in all districts over one hundred miles in extent, and in such as are composed of over ten counties, the board shall hold their sessions in at least two places in such district, and at such points as are best calculated to accommodate the people thereof.

Sec. 15. *And be it further enacted*, That provost marshals, boards of enrollment, or any member thereof, acting by authority of the board, shall have power to summon witnesses in behalf of the Government, and enforce their attendance by attachment without previous payment of fees, in any case pending before them, or either of them; and the fees allowed for witnesses attending under summons shall be six cents per mile for mileage, counting one way; and no other fees or costs shall be allowed under the provisions of this section; and they shall have power to administer oaths and affirmations. And any person who shall willfully and corruptly swear or affirm falsely before any provost marshal, or board of enrollment, or member thereof, acting by authority of the board, or who shall before any civil magistrate willfully and corruptly swear or affirm falsely to any affidavit to be used in any case pending before any provost marshal or board of enrollment, shall, on conviction, be fined not exceeding five hundred dollars, and imprisoned not less than six months nor more than twelve months. The drafted men shall have process to bring in witnesses, but without mileage.

Sec. 16. *And be it further enacted*, That copies of any record of a provost marshal or board of enrollment, or of any part thereof, certified by the provost marshal, or a majority of said board of enrollment, shall be deemed and taken as evidence in any civil or military court in like manner as the original record: *Provided*, That if any person shall knowingly certify any false copy or copies of such record, to be used in any civil or military court, he shall be subject to the pains and penalties of perjury.

Sec. 17. *And be it further enacted*, That members of religious denominations, who shall, by oath or affirmation, declare that they are conscientiously opposed to the bearing of arms, and who are prohibited from doing so by the rules and articles of faith and practice of said religious denominations, shall, when drafted into the military service, be considered non-combatants, and shall be assigned by the Secretary of War to duty in the hospitals, or to the care of freedmen, or shall pay the sum of three hundred dollars to such person as the Secretary of War shall designate to receive it, to be applied to the benefit of the sick and wounded soldiers: *Provided*, That no person shall be entitled to the benefit of the provisions of this section unless his declaration of conscientious scruples against bearing arms shall be supported by satisfactory evidence that his deportment has been uniformly consistent with such declaration.

Sec. 18. *And be it further enacted*, That no person of foreign birth shall, on account of alienage, be exempted from enrollment or draft under the provisions of this act, or the act to which it is an

38TH CONG....1ST SESS.

Laws of the United States.

amendment, who has at any time assumed the rights of a citizen by voting at any election held under authority of the laws of any State or Territory, or of the United States, or who has held any office under such laws or any of them; but the fact that any such person of foreign birth has voted or held, or shall vote or hold, office as aforesaid, shall be taken as conclusive evidence that he is not entitled to exemption from military service on account of alienage.

SEC. 19. *And be it further enacted*, That all claims to exemption shall be verified by the oath or affirmation of the party claiming exemption to the truth of the facts stated, unless it shall satisfactorily appear to the board of enrollment that such party is for some good and sufficient reason unable to make such oath or affirmation; and the testimony of any other party filed in support of a claim to exemption shall also be made upon oath or affirmation.

SEC. 20. *And be it further enacted*, That if any person drafted and liable to render military service shall procure a decision of the board of enrollment in his favor upon a claim to exemption by any fraud or false representation practiced by himself or by his procurement, such decision or exemption shall be of no effect, and the person exempted, or in whose favor the decision may be made, shall be deemed a deserter, and may be arrested, tried by court-martial, and punished as such, and shall be held to service for the full term for which he was drafted, reckoning from the time of his arrest: *Provided*, That the Secretary of War may order the discharge of all persons in the military service who are under the age of eighteen years at the time of the application for their discharge, when it shall appear upon due proof that such persons are in the service without the consent, either express or implied, of their parents or guardians: *And provided further*, That such persons, their parents or guardians, shall first repay to the Government and to the State and local authorities all bounties and advance pay which may have been paid to them, anything in the act to which this is an amendment to the contrary notwithstanding.

SEC. 21. *And be it further enacted*, That any person who shall procure, or attempt to procure, a false report from the surgeon of the board of enrollment concerning the physical condition of any drafted person, or a decision in favor of such person by the board of enrollment upon a claim to exemption, knowing the same to be false, shall, upon conviction in any district or circuit court of the United States, be punished by imprisonment for the period for which the party was drafted.

SEC. 22. *And be it further enacted*, That the fees of agents and attorneys for making out, and causing to be executed, any papers in support of a claim for exemption from draft, or for any services that may be rendered to the claimant, shall not, in any case, exceed five dollars; and physicians or surgeons furnishing certificates of disability to any claimant for exemption from draft shall not be entitled to any fees or compensation therefor. And any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act, and any physician or surgeon who shall, directly or indirectly, demand or receive any compensation for furnishing said certificates of disability, and any officer, clerk, or deputy connected with the board of enrollment who shall receive compensation from any drafted man for any services, or obtaining the performance of such service required from any member of said board by the provisions of this act, shall be deemed guilty of a high misdemeanor, and, upon conviction, shall, for every such offense, be fined not exceeding five hundred dollars, to be recovered upon information or indictment before any court of competent jurisdiction, one half for the use of any informer who may prosecute for the same in the name of the United States, and the other half for the use of the United States, and shall also be subject to imprisonment for a term not exceeding one year, at the discretion of the court.

SEC. 23. *And be it further enacted*, That no member of the board of enrollment, and no surgeon detailed or employed to assist the board of enrollment, and no clerk, assistant, or employee, of any provost marshal or board of enrollment,

shall, directly or indirectly, be engaged in procuring, or attempting to procure, substitutes for persons drafted, or liable to be drafted, into the military service of the United States. And if any member of a board of enrollment, or any such surgeon, clerk, assistant, or employee shall procure, or attempt to procure, a substitute for any person drafted, or liable to be drafted, as aforesaid, he shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by imprisonment not less than thirty days, nor more than six months, and pay a fine not less than one hundred nor more than one thousand dollars, by any court competent to try the offense.

SEC. 24. *And be it further enacted*, That all able-bodied male colored persons, between the ages of twenty and forty-five years, resident in the United States, shall be enrolled according to the provisions of this act, and of the act to which this is an amendment, and form part of the national forces; and when a slave of a loyal master shall be drafted and mustered into the service of the United States, his master shall have a certificate thereof, and thereupon such slave shall be free; and the bounty of one hundred dollars, now payable by law for each drafted man, shall be paid to the person to whom such drafted person was owing service or labor at the time of his muster into the service of the United States. The Secretary of War shall appoint a commission in each of the slave States represented in Congress, charged to award to each loyal person to whom a colored volunteer may owe service a just compensation, not exceeding three hundred dollars for each such colored volunteer, payable out of the fund derived from commutations, and every such colored volunteer, on being mustered into the service, shall be free. And in all cases where men of color have been heretofore enlisted, or have volunteered in the military service of the United States, all the provisions of this act, so far as the payment of bounty and compensation are provided, shall be equally applicable as to those who may be hereafter recruited; but men of color, drafted or enlisted, or who may volunteer into the military service, while they shall be credited on the quotas of the several States, or subdivisions of States, wherein they are respectively drafted, enlisted, or shall volunteer, shall not be assigned as State troops, but shall be mustered into regiments or companies as United States colored troops.

SEC. 25. *And be it further enacted*, That the fifteenth section of the act to which this is an amendment be so amended that it will read as follows: That any surgeon, charged with the duty of such inspection, who shall receive from any person whomsoever any money or other valuable thing, or agree, directly or indirectly, to receive the same to his own or another's use, for making an imperfect inspection, or a false or incorrect report, or who shall willfully neglect to make a faithful inspection and true report, and each member of the board of enrollment who shall willfully agree to the discharge from service of any drafted person who is not legally and properly entitled to such discharge, shall be tried by a court-martial, and, on conviction thereof, be punished by a fine not less than three hundred dollars and not more than ten thousand dollars, shall be imprisoned at the discretion of the court, and be cashiered and dismissed the service.

SEC. 26. *And be it further enacted*, That the words "precinct" and "election district," as used in this act, shall not be construed to require any subdivision for purposes of enrollment and draft less than the wards into which any city or village may be divided, or than the towns or townships into which any county may be divided.

SEC. 27. *And be it further enacted*, That so much of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March third, eighteen hundred and sixty-three, as may be inconsistent with the provisions of this act, is hereby repealed.

APPROVED, February 24, 1864.

CHAP. XIV.—An Act reviving the grade of Lieutenant General in the United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the grade of Lieutenant General

be, and the same is hereby, revived in the Army of the United States; and the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a lieutenant general, to be selected from among those officers in the military service of the United States, not below the grade of major general, most distinguished for courage, skill, and ability, who, being commissioned as lieutenant general, may be authorized, under the direction, and during the pleasure of the President, to command the armies of the United States.

SEC. 2. *And be it further enacted*, That the lieutenant general appointed as hereinbefore provided shall be entitled to the pay, allowances, and staff specified in the fifth section of the act approved May twenty-eight, seventeen hundred and ninety-eight; and also the allowances described in the sixth section of the act approved August twenty-three, eighteen hundred and forty-two, granting additional rations to certain officers: *Provided*, That nothing in this act contained shall be construed in any way to affect the rank, pay, or allowances of Winfield Scott, Lieutenant General by brevet, now on the retired list of the Army.

APPROVED, February 29, 1864.

CHAP. XV.—An Act to extend the Time for the withdrawal of Goods from Public Stores and Bonded Warehouses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all goods, wares, and merchandise, now in public stores or bonded warehouses, on which duties are unpaid, and which shall have been in bond more than one year, and less than three years, at the time of the passage of this act, may be entered for consumption, and the bonds canceled at any time before the first day of September next on payment of duties and charges according to law; and that all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed. This act to take effect from and after its passage.

SEC. 2. *And be it further enacted*, That the term "license," in the first proviso to the fifteenth section of the act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July fourteen, eighteen hundred and sixty-two, shall be held to extend to all vessels authorized by law to engage in the coasting trade, whether sailing under registers or enrollments and licenses.

APPROVED, February 29, 1864.

CHAP. XVI.—An Act to authorize the Appointment of a Warden of the Jail in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall appoint, by and with the advice and consent of the Senate, some suitable person to be warden of the jail in the District of Columbia, who shall hold his office for the term of four years, and who shall receive an annual salary of sixteen hundred dollars, which shall include all fees and emoluments. And said warden shall annually, in the month of November, make a detailed report to the Secretary of the Interior.

SEC. 2. *And be it further enacted*, That the said warden shall have the exclusive supervision and control of the jails in said District, and be accountable for the safe-keeping of all the prisoners legally committed thereto, and shall have all the power and discharge all the duties heretofore legally exercised and discharged over said jails and the prisoners therein by the marshal of the said District.

SEC. 3. *And be it further enacted*, That the warden of the penitentiary in the said District, upon the order of the supreme court of said District or the Secretary of the Interior, shall transport all convicts sentenced to imprisonment beyond the limits of said District to the place of confinement, receiving therefor the actual expenses of himself, guard, and of each convict. And in case of absence or other disability of said warden, the warden of said jail having the custody of said convicts, shall, upon order as aforesaid, transport

Laws of the United States.

38TH CONG....1ST SESS.

them to the place of confinement, receiving therefor the compensation aforesaid.

Sec. 4. *And be it further enacted*, That said warden shall, before entering upon the duties of the office, execute to the United States a bond for the faithful performance of the duties thereof in the penal sum of five thousand dollars, with sureties to be approved by some judge of the supreme court of said District.

Sec. 5. *And be it further enacted*, That all acts and parts of acts coming in conflict with the provisions of this act be, and the same are hereby, repealed.

APPROVED, February 29, 1864.

CHAP. XVII.—An Act supplementary to an Act entitled "An Act to provide Ways and Means for the support of the Government," approved March third, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in lieu of so much of the loan authorized by the act of March third, eighteen hundred and sixty-three, to which this is supplementary, the Secretary of the Treasury is authorized to borrow, from time to time, on the credit of the United States, not exceeding two hundred millions of dollars during the current fiscal year, and to prepare and issue therefor coupon or registered bonds of the United States, bearing date March first, eighteen hundred and sixty-four, or any subsequent period, redeemable at the pleasure of the Government after any period not less than five years, and payable at any period not more than forty years from date, in coin, and of such denominations as may be found expedient, not less than fifty dollars, bearing interest not exceeding six per centum a year, payable on bonds not over one hundred dollars, annually, and on all other bonds semi-annually, in coin; and he may dispose of such bonds at any time, on such terms as he may deem most advisable, for lawful money of the United States, or, at his discretion, for Treasury notes, certificates of indebtedness, or certificates of deposit, issued under any act of Congress; and all bonds issued under this act shall be exempt from taxation by or under State or municipal authority. And the Secretary of the Treasury shall pay the necessary expenses of the preparation, issue, and disposal of such bonds out of any money in the Treasury not otherwise appropriated, but the amount so paid shall not exceed one half of one per centum of the amount of the bonds so issued and disposed of.

Sec. 2. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to issue to persons who subscribed on or before the twenty-first day of January, eighteen hundred and sixty-four, for bonds redeemable after five years and payable twenty years from date, and have paid into the Treasury the amount of their subscriptions, the bonds by them respectively subscribed for, not exceeding eleven millions of dollars, notwithstanding that such subscriptions may be in excess of five hundred millions of dollars; and the bonds so issued shall have the same force and effect as if issued under the provisions of the act to authorize the issue of United States notes and for other purposes, approved February twenty-sixth, [fifth.] eighteen hundred and sixty-two.

APPROVED, March 3, 1864.

CHAP. XVIII.—An Act to provide for the Protection of Overland Emigration to the States and Territories of the Pacific.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the protection of emigrants by the overland route to the States and Territories of the Pacific, the sum of forty thousand dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War: *Provided*, That ten thousand dollars of said appropriation shall be applied to the protection of emigrants on the route from Fort Abercrombie by Fort Benton, and the further sum of ten thousand dollars of said appropriation shall be applied to the protection of emigrants on the route from Niobrara, on the

Missouri river, by the valley of the Niobrara and Gallatin, in Idaho.

APPROVED, March 3, 1864.

CHAP. XX.—An Act to increase the Internal Revenue, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, in lieu of the duty provided for in section forty-one of an act entitled "An act to support the Government and to pay interest on the public debt," approved July first, eighteen hundred and sixty-two, and in addition to duties payable for licenses, there shall be levied, collected, and paid on all spirits that may be distilled and sold, or distilled and removed for consumption or sale previous to the first day of July next, of first proof, the duty of sixty cents on each and every gallon; and said duty shall be a lien and charge on such spirits, and also on the interest of all persons in default in the distillery used for distilling the same, with all the stills, vessels, fixtures, and tools therein, and in the lot or tract of land whereon the said distillery is situated, until the said duty shall be paid: *Provided*, That the said duty on spirituous liquors, and all other spirituous beverages enumerated in this act, shall be collected at no lower rate than the basis of first proof, and shall be increased in proportion for any greater strength than the strength of first proof.

Sec. 2. *And be it further enacted*, That all spirits or other articles on which duties are imposed by the provisions of this act, or of the act referred to in the first section of this act and amendments thereto, which shall be found in the possession or custody or within the control of any person or persons, for the purpose of being sold by such person or persons, in fraud of the internal revenue laws, as heretofore referred to, or with design to avoid payment of said duties, may be seized by any collector or deputy collector who shall have reason to believe that the same are possessed, had, or held for the purpose or design aforesaid, that the same shall be forfeited to the United States; and also all articles of raw materials found in the possession of any person or persons intending to manufacture the same for the purpose of being sold by them, in fraud of said laws, or with design to evade the payment of said duties, and also all tools, implements, instruments, and personal property whatsoever used in the place or building, or within any yard or inclosure where such articles on which duties are imposed, as aforesaid, shall be found, may also be seized by any collector or deputy collector, as aforesaid, and the same shall be forfeited as aforesaid; and the proceedings to enforce said forfeiture shall be in the nature of a proceeding *in rem* in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction; and any person who shall have in his custody or possession any such spirits or other articles, subject to duty as aforesaid, for the purpose of selling the same with the design of avoiding payment of the duties imposed thereon, shall be liable to a penalty of five hundred dollars, or not less than double the amount of duties fraudulently attempted to be evaded, to be recovered and applied as other penalties provided by the act heretofore mentioned. And the spirits and other articles which shall be so seized by any collector or deputy collector shall, during the pendency of such proceedings, be delivered to the marshal of said district, and remain in his care and custody, and under his control, until final judgment in such proceedings shall be rendered: *Provided, however*, That when the property so seized may be liable to perish or become greatly reduced in value by keeping, or when it cannot be kept without great expense, the owner thereof or the marshal of the district may apply to the assessor of the district to examine said property; and if, in the opinion of said assessor, it shall be necessary that the said property should be sold to prevent such waste or expense, he shall appraise the same; and the owner thereupon shall have said property returned to him upon giving bond in such form as may be prescribed by the Commissioner of Internal Revenue, and in an amount equal to the appraised value, with such sureties

as the said appraiser shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the marshal or otherwise, as he may be ordered and directed by the court, which bond shall be filed by said appraiser with the Commissioner of Internal Revenue. But if said owner shall neglect or refuse to give said bond, the appraiser shall issue to the marshal aforesaid an order to sell the same. And the said marshal shall thereupon advertise and sell the said property at public auction in the same manner as goods may be sold on final execution in said district. And the proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court aforesaid, to abide its final order, decree, or judgment.

Sec. 3. *And be it further enacted*, That all distilled spirits upon which an excise duty is imposed by law may be exported without payment of said duty, and, when the same is intended for exportation, may, without being charged with duty, be removed under such rules and regulations and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe; said bonds or other security to be taken by the collector of internal revenue of the district from which such removal is made: *Provided*, That the said spirits shall be transported directly from the distillery or a bonded warehouse to a bonded warehouse established in conformity with the law and Treasury regulations, at a port of entry of the United States, and used for the storage of distilled spirits, and be placed in charge of a proper officer of the customs, who, together with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits stored in said warehouse. And all the labor on the goods so stored shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer of the customs in charge of the same, and at the expense of the said owner or proprietor; and the said spirits shall also be subject to the same rules and regulations, and be chargeable with the same costs and expenses, in all respects, to which other goods that are deposited in public store for exportation from the United States may be subject. And no drawback shall in any case be allowed on any distilled spirits upon which an excise duty shall have been paid either before or after it shall have been placed in a bonded warehouse as aforesaid; but no provision of this act shall be construed to repeal existing laws which provide that distilled spirits may be removed from the place of manufacture or bonded warehouse for the purpose of being redistilled for exportation, or which provide for the manufacture for exportation of medicines, preparations, compositions, perfumery, and cosmetics; or which provide for an allowance or drawback on cordials and other liquors when exported.

Sec. 4. *And be it further enacted*, That from and after the passage of this act, in lieu of the duties provided in the act referred to in the first section of this act, there shall be levied, collected, and paid upon all cotton produced or sold and removed for consumption, and upon which no duty has been levied, paid, or collected, a duty of two cents per pound; and such duty shall be and remain a lien thereon until said duty shall have been paid, in the possession of any person whomsoever. And further, if any person or persons, corporation or association of persons remove, carry, or transport the same, or procure any other party or parties to remove, carry, or transport the same from the place of its production, with the intent to evade the duty thereon, or to defraud the Government, before said duty shall have been paid, such person or persons, corporation, or association of persons shall forfeit and pay to the United States double the amount of said duty, to be recovered in any court of competent jurisdiction: *Provided*, That all cotton sold by or on account of the Government of the United States shall be free and exempt from duty at the time of and after the sale thereof, and the same shall be marked free, and the purchaser furnished with such a bill of sale as shall clearly and accurately describe the same, which shall be deemed and taken to be a permit authorizing the sale or removal thereof.

38TH CONG....1ST SESS.

Laws of the United States.

SEC. 5. *And be it further enacted*, That every collector to whom any duty upon cotton shall be paid shall mark the bales, or rather [other] packages, upon which the duty shall have been paid, in such manner as may clearly indicate the payment thereof, and shall give to the owner, or other person having charge of such cotton, a permit for the removal of the same, stating therein the amount and payment of the duty, the time and place of payment, the weight and marks upon the bales and packages, so that the same may be fully identified. Whenever any cotton, the product of the United States, shall arrive at any port of the United States from any State in insurrection against the Government, the assessor or assistant assessor, under the act referred to in the first section of this act, shall immediately assess the taxes thereon, and shall, without delay, return the same to the collector or deputy collector of said district, and the said collector or deputy collector shall demand of the owner or other person having charge of such cotton, the tax imposed by this act, and assessed thereon, unless evidence of previous payment of said tax shall be produced, under such regulations as the Commissioner of Internal Revenue, by the direction of the Secretary of the Treasury, shall from time to time prescribe; and in case the tax so assessed shall not be paid to such collector within thirty days after demand, the collector or deputy collector, as aforesaid, shall institute proceedings for the recovery of the tax, which shall be a lien upon said cotton from the time when said assessment shall be made.

SEC. 6. *And be it further enacted*, That from and after the date on which this act takes effect, in computing the allowance or drawback upon articles manufactured exclusively of cotton when exported, there shall be allowed, in addition to the three per centum duty which shall have been paid on such articles, a drawback of two cents per pound upon such articles in all cases where the duty imposed by this act upon the cotton used in the manufacture thereof shall be satisfactorily shown to have been previously paid, the amount of said drawback to be ascertained in such manner as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

SEC. 7. *And be it further enacted*, That from and after the passage of this act, in addition to the duties heretofore imposed by law, there shall be levied, collected, and paid on spirits distilled from grain or other materials, whether of American or foreign production, imported from foreign countries previous to the first day of July next, of first proof, a duty of forty cents on each and every gallon, and no lower rate of duty shall be levied or collected than upon the basis of first proof, and shall be increased in proportion for any greater strength than the strength of first proof; and that upon all such spirits imported prior to the passage of this act there shall be levied, collected, and paid an additional tax of forty cents per gallon, to be collected under the direction and according to regulations established by the Secretary of the Treasury.

SEC. 8. *And be it further enacted*, That consuls of foreign countries in the United States, who are not citizens thereof, shall be, and hereby are, exempt from any income tax imposed by the act referred to in the first section of this act, which may be derived from their official emoluments, or from property in such countries: *Provided*, That the Governments which such consuls may represent shall extend similar exemption to consuls of the United States.

SEC. 9. *And be it further enacted*, That the provisions of the act entitled "An act further to provide for the collection of duties on imports," approved March second, one thousand eight hundred and thirty-three, now in force, shall be taken and deemed as extending to and embracing all laws for the collection of internal duties, stamp duties, licenses, or taxes, which have been or may be hereafter enacted; and all persons duly authorized to assess, receive, or collect such duties or taxes under such laws, are hereby declared to be and to have been "revenue officers," within the true intent and meaning of the said act, and entitled to all the exemptions, immunities, benefits, rights, and privileges therein enumerated and conferred.

APPROVED, March 7, 1864.

CHAP. XXI.—An Act to incorporate the Washington City Savings Bank.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That William B. Todd, William P. Dole, Edward Clark, Edward J. Simms, Joseph J. Coombs, Z. C. Robbins, Thomas S. Gardner, John R. Elvans, and Samuel B. Niles, and their associates and successors, are constituted and created a body-corporate and politic, by the name of The Washington City Savings Bank.

SEC. 2. *And be it further enacted*, That the officers of said corporation shall consist of a president and vice president, who, together with seven trustees, shall constitute a board of managers, four of whom, if the president or vice president be present, shall constitute a legal meeting of such board for the transaction of business.

SEC. 3. *And be it further enacted*, That said corporation shall meet annually in the month of April, and as much oftener as they may judge expedient, and any seven members of said corporation, the president, secretary, or treasurer being one, shall be a quorum, and the said corporation at their annual meeting shall have power to elect a president and a treasurer, who shall give bond, in the sum of ten thousand dollars, for the faithful discharge of the duties of his office, and all such other officers as may be deemed necessary; which officers shall continue in office one year, and until others are chosen in their stead, and all officers so chosen shall be under oath to the faithful discharge of the duties of their offices, respectively.

SEC. 4. *And be it further enacted*, That said corporation may receive on deposit, for the use and benefit of the depositors, all sums of money offered for that purpose: *Provided, however*, That it shall not hold at the same time more than one thousand dollars of any one depositor, other than a religious or charitable corporation. All such sums may be invested in the stock of any bank incorporated by Congress, or may be loaned on interest to any such bank, or may be loaned on bonds or notes, with collateral security of the stock of such banks at not more than ninety per centum of its par value, or they may be invested in the public funds of the United States, of the several States, or loaned on a pledge of any of said funds, or invested in loans on mortgages of real estate: *Provided*, That the whole amount of stock held by the institution at one time in any one bank, both by way of investment and as a surety for loans, shall not exceed one half of its capital stock of such bank, and that not more than three quarters of the whole sum deposited in the institution shall be at any one time invested in mortgages of real estate. The income or interest of all deposits shall be divided among the depositors, or their legal representatives, according to the terms of interest stipulated; and the principal may be withdrawn at such times, or in such manner, as the corporation shall in its by-laws direct.

SEC. 5. *And be it further enacted*, That no officer, director, or committee charged with the duty of investing the deposits, shall borrow any portion thereof, or use the same, except in payment of the expenses of the corporation; and if any officer, director, agent, or other person connected with said bank, and interested with the funds or deposits thereof, shall embezzle or fraudulently convert the same to his own use, he shall be deemed guilty of larceny, and shall, on conviction thereof, by any court competent to try the offense, be imprisoned in the penitentiary not less than one nor more than ten years.

SEC. 6. *And be it further enacted*, That the subordinate officers and agents of said corporation shall respectively give such security for their fidelity and good conduct as the board of managers may from time to time require, and said board shall fix the salaries of such officers and agents.

SEC. 7. *And be it further enacted*, That the persons named as corporators in the first section of this act shall be authorized to meet and organize said bank by the election of one of their number as president, and one as vice president, and thereupon shall proceed to elect such persons as they shall select, not herein named as corporators, to be added to their board of managers, so that the whole number of trustees, or managers, including

the president and vice president, shall not exceed nine persons.

SEC. 8. *And be it further enacted*, That this corporation shall make an annual report to Congress of their funds and investments. Said returns shall specify the following particulars, namely: the number of depositors; total amount of deposits; amount invested in bank stock and deposited in bank on interest; amount secured by bank stock; amount invested in public funds; loans on security of public funds; loans on mortgage of real estate; loans on personal securities; amount of cash on hand; total dividends of the year; annual expenses of the institution; all of which shall be certified and sworn to by the treasurer; and five or more of the managers shall also certify and make oath that the said return is correct according to their best knowledge and belief.

SEC. 9. *And be it further enacted*, That the books of said corporation shall, at all times during their hours of business, be open for inspection and examination to the Comptroller of the Currency or depositors.

SEC. 10. *And be it further enacted*, That said corporation may make by-laws for the more orderly management of their business, not repugnant to law; may have a common seal, which they may change at pleasure; that all deeds, grants, covenants, and agreements, made by their treasurer, or any other person by their authority, shall be good and valid; and said corporation shall have power to sue and may be sued, defend, and be held to answer by the name aforesaid.

SEC. 11. *And be it further enacted*, This act shall take effect and be in force from and after its passage.

APPROVED, March 8, 1864.

CHAP. XXII.—An Act to enable Guardians and Committees of Lunatics, appointed in the several States, to act within the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for any person, appointed the committee of a lunatic, or the guardian of a minor or lunatic, by the proper authority in any State or Territory of the United States, to institute and prosecute to final judgment any suit or action in the courts of the District of Columbia, as he might have done if his authority as such guardian or committee had been derived from the proper tribunals of said District; and such committee or guardian may in the same manner collect and receive any sum of money due to such lunatic or minor, and may by deed, duly executed, release and convey to any party entitled to the same, whether by purchase or otherwise, any lands or estates situated in the District of Columbia, the property of such lunatic or minor, or to or upon which such lunatic or minor may have a claim or mortgage, in the same manner as he might have done if his authority had been derived from the tribunals of said District: *Provided*, That such committee or guardian, before making any conveyance of real estate or release of claim, or mortgage thereon, shall file in the orphans' court of said District the official certificate of the judge of the court from which such committee or guardian derived his appointment, that he has given a sufficient bond to account to the minor or lunatic for all sums of money received by virtue of the authority conferred by this act.

SEC. 2. *And be it further enacted*, That all payments heretofore made within the District of Columbia to the committee or guardian of a lunatic or the guardian of a minor duly appointed at the domicile of the lunatic or minor out of the District of Columbia, in the United States, shall be good and sufficient: *Provided*, That said guardian or committee shall file in the orphans' court in said District, the official certificate of the judge of the court from which such committee or guardian derived his appointment, that he has given sufficient bond to account to the minor or lunatic for all payments so made: *And provided further*, That in all cases the evidence of the appointment and authority of such committee or guardian shall be first recorded in the office of the orphans' court of said District.

APPROVED, March 8, 1864.

Laws of the United States.

38TH CONG...1ST SESS.

CHAP. XXIII.—An Act to Apportion the Expenses of the Levy Court of the County of Washington upon the Basis of Population.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the corporate authorities of the city of Washington, the corporate authorities of the city of Georgetown, and the county authorities of the county of Washington, in the District of Columbia, shall contribute to the expenses of the levy court of the county of Washington, incurred on account of the orphans' court, the office of coroner, and the jail of said county, whenever hereafter imposed by law, in the following proportions, to wit: the city of Washington twelve fifteenths, the city of Georgetown two fifteenths, and the county of Washington one fifteenth of said expenses.

SEC. 2. *And be it further enacted,* That all laws and parts of laws inconsistent with the provisions of this act, be, and they are hereby, repealed.

APPROVED, March 8, 1864.

CHAP. XXIV.—An Act to Authorize the Enrollment and License of the Steam-Tugs B. F. Davidson and W. K. Muir.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to grant the enrollment and license of the steam-tugs B. F. Davidson and W. K. Muir, now owned by William Porter and William Lurkins, of Milwaukee, in the State of Wisconsin, upon such terms, not inconsistent with law, as to him shall seem just and proper.

APPROVED, March 8, 1864.

CHAP. XXVII.—An Act to establish a Uniform System of Ambulances in the Armies of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the medical director, or chief medical officer, of each Army corps shall, under the control of the medical director of the army to which such Army corps belongs, have the direction and supervision of all ambulances, medicine, and other wagons, horses, mules, harness, and other fixtures appertaining thereto, and of all officers and men who may be detailed or employed to assist him in the management thereof, in the Army corps in which he may be serving.

SEC. 2. *And be it further enacted,* That the commanding officer of each Army corps shall detail officers and enlisted men for service in the ambulance corps of such Army corps, upon the following basis, viz: one captain who shall be commandant of said ambulance corps; one first lieutenant for each division in such Army corps; one second lieutenant for each brigade in such Army corps; one sergeant for each regiment in such Army corps; three privates for each ambulance, and one private for each wagon; and the officers and non-commissioned officers of the ambulance corps shall be mounted: *Provided,* That the officers, non-commissioned officers, and privates so detailed for each Army corps shall be examined by a board of medical officers of such Army corps as to their fitness for such duty; and that such as are found to be not qualified shall be rejected, and others detailed in their stead.

SEC. 3. *And be it further enacted,* That there shall be allowed and furnished to each Army corps two-horse ambulances, upon the following basis, to wit: three to each regiment of infantry of five hundred men or more; two to each regiment of infantry of more than two hundred and less than five hundred men or more; and one to each regiment of infantry of less than two hundred men; two to each regiment of cavalry of five hundred men or more; and one to each regiment of cavalry of less than five hundred men; one to each battery of artillery, to which battery of artillery it shall be permanently attached; to the headquarters of each Army corps two such ambulances; and to each division train of ambulances two Army wagons; and ambulances shall be allowed and furnished to division brigades and commands not attached to any Army corps, upon the same basis;

and each ambulance shall be provided with such number of stretchers and other appliances as shall be prescribed by the Surgeon General: *Provided,* That the ambulances and wagons herein mentioned shall be furnished, so far as practicable, from the ambulances and wagons now in the service.

SEC. 4. *And be it further enacted,* That horse and mule litter may be adopted or authorized by the Secretary of War, in lieu of ambulances, when judged necessary, under such rules and regulations as may be prescribed by the medical director of each Army corps.

SEC. 5. *And be it further enacted,* That the captain shall be the commander of all the ambulances, medicine, and other wagons in the corps, under the immediate direction of the medical director, or chief medical officer of the Army corps to which the ambulance corps belongs. He shall pay special attention to the condition of the ambulances, wagons, horses, mules, harness, and other fixtures appertaining thereto, and see that they are at all times in readiness for service; that the officers and men of the ambulance corps are properly instructed in their duties, and that their duties are performed, and that the regulations which may be prescribed by the Secretary of War, or the Surgeon General, for the government of the ambulance corps are strictly observed by those under his command. It shall be his duty to institute a drill in his corps, instructing his men in the most easy and expeditious manner of moving the sick and wounded, and to require in all cases that the sick and wounded shall be treated with gentleness and care, and that the ambulances and wagons are at all times provided with attendants, drivers, horses, mules, and whatever may be necessary for their efficiency; and it shall be his duty also to see that the ambulances are not used for any other purpose than that for which they are designed and ordered. It shall be the duty of the medical director, or chief medical officer of the Army corps, previous to a march, and previous to and in time of action, or whenever it may be necessary to use the ambulances, to issue the proper orders to the captain for the distribution and management of the same, for collecting the sick and wounded and conveying them to their destination. And it shall be the duty of the captain faithfully and diligently to execute such orders; and the officers of the ambulance corps, including the medical director, shall make such reports, from time to time, as may be required by the Secretary of War, the Surgeon General, the medical director of the Army, or the commanding officer of the Army corps in which they may be serving; and all reports to higher authority than the commanding officer of the Army corps shall be transmitted to the medical director of the army to which such Army corps belongs.

SEC. 6. *And be it further enacted,* That the first lieutenant assigned to the ambulance corps for a division shall have complete control, under the captain of his corps and the medical director of the Army corps, of all the ambulances, medicine, and other wagons, horses, mules, and men in that portion of the ambulance corps. He shall be the acting assistant quartermaster for that portion of the ambulance corps, and will receipt for and be responsible for all the property belonging to it, and be held responsible for any deficiency in anything appertaining thereto. He shall have a traveling cavalry forge, a blacksmith, and a saddler, who shall be under his orders, to enable him to keep his train in order. He shall have authority to draw supplies from the depot quartermaster, upon requisitions approved by the captain of his corps, the medical director, and the commander of the Army corps to which he is attached. It shall be his duty to exercise a constant supervision over his train in every particular, and keep it at all times ready for service.

SEC. 7. *And be it further enacted,* That the second lieutenant shall have command of the portion of the ambulance corps for a brigade, and shall be under the immediate orders of the first lieutenant, and he shall exercise a careful supervision over the sergeants and privates assigned to the portion of the ambulance corps for his brigade; and it shall be the duty of the sergeants to conduct the drills and inspections of the ambulances under his orders, of their respective regiments.

SEC. 8. *And be it further enacted,* That the ambulances in the armies of the United States shall be used only for the transportation of the sick and wounded, and, in urgent cases only, for medical supplies; and all persons shall be prohibited from using them, or requiring them to be used, for any other purpose. It shall be the duty of the officers of the ambulance corps to report to the commander of the Army corps any violation of the provisions of this section, or any attempt to violate the same. And any officer who shall use an ambulance, or require it to be used, for any other purpose than as provided in this section, shall, for the first offense, be publicly reprimanded by the commander of the Army corps in which he may be serving, and for the second offense shall be dismissed from the service.

SEC. 9. *And be it further enacted,* That no person except the proper medical officers, or the officers, non-commissioned officers, and privates of the ambulance corps, or such persons as may be specially assigned, by competent military authority, to duty with the ambulance corps for the occasion, shall be permitted to take, or accompany sick or wounded men to the rear, either on the march or upon the field of battle.

SEC. 10. *And be it further enacted,* That the officers, non-commissioned officers, and privates of the ambulance corps shall be designated by such uniform, or in such manner as the Secretary of War shall deem proper: *Provided,* That officers and men may be relieved from service in said corps, and others detailed to the same, subject to the examination provided in the second section of this act, in the discretion of the commanders of the armies in which they may be serving.

SEC. 11. *And be it further enacted,* That it shall be the duty of the commander of the Army corps to transmit to the Adjutant General the names and rank of all officers and enlisted men detailed for service in the ambulance corps of such Army corps, stating the organizations from which they may have been so detailed; and if such officers and men belong to volunteer organizations, the Adjutant General shall thereupon notify the Governors of the several States in which such organizations were raised, of their detail for such service; and it shall be the duty of the commander of the Army corps to report to the Adjutant General, from time to time, the conduct and behavior of the officers and enlisted men of the ambulance corps, and the Adjutant General shall forward copies of such reports, so far as they relate to officers and enlisted men of volunteer organizations, to the Governors of the States in which such organizations were raised.

SEC. 12. *And be it further enacted,* That nothing in this act shall be construed to diminish or impair the rightful authority of the commanders of armies, Army corps, or separate detachments, over the medical and other officers, and the non-commissioned officers and privates of their respective commands.

APPROVED, March 11, 1864.

CHAP. XXVIII.—An Act to constitute Parkersburg, in the State of West Virginia, a Port of Delivery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Parkersburg, in the State of West Virginia, shall be, and is hereby, constituted a port of delivery, within the collection district of New Orleans; and there shall be appointed a surveyor of customs to reside at said port, who shall, in addition to his own duties, perform the duties and receive the salary and emoluments prescribed by the act of Congress approved on the second of March, eighteen hundred and thirty-one, for importing merchandise into Pittsburg, Wheeling, and other places.

APPROVED, March 11, 1864.

CHAP. XXX.—An Act to supply Deficiencies in the Appropriations for the service of the fiscal year ending the thirtieth of June, eighteen hundred and sixty-four, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the

38TH CONG....1ST SESS.

Laws of the United States.

same are hereby, appropriated to supply deficiencies in the appropriations for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-four, out of any money in the Treasury not otherwise appropriated:

For contingent expenses of the southeast executive building, including the extension, viz: For fuel, labor, light, and miscellaneous items, thirteen thousand three hundred and five dollars.

For supplying a deficiency in the current expenses of the branch mint at Denver, for the current fiscal year, eighteen thousand three hundred and seventy-seven dollars and sixty-nine cents.

INTERIOR DEPARTMENT.

For compensation of returns clerk, from January first to June thirtieth, eighteen hundred and sixty-four, six hundred dollars.

For compensation of the surveyor general of Illinois and Missouri, to the thirty-first of October, eighteen hundred and sixty-three, when the office was closed, one thousand six hundred and sixty-eight dollars and forty-eight cents.

For compensation of the surveyor general of Arizona, and the clerks in his office, four thousand two hundred and fifty dollars.

To supply deficiencies in the Department of Agriculture for the current year, as follows:

For the purchase of sorghum seed, two thousand dollars.

For rebuilding shop in the propagating garden, eight hundred dollars.

For postage, thirteen hundred and twenty dollars.

For carpets, furniture, and cans for fruit, three hundred and fifty dollars.

For fuel, three hundred dollars.

WAR DEPARTMENT.

For supplying a deficiency in the appropriations for the payment of the clerks, messengers, copyists, and laborers in the office of the Quartermaster General, one hundred and fifty-six thousand six hundred and fifty-one dollars and sixty-six cents.

For salary of an additional Assistant Secretary of War, fifteen hundred dollars.

To supply a deficiency in the appropriation for the purchase and manufacture of arms for volunteers and regulars, ordnance and ordnance stores, seven million seven hundred thousand dollars.

To supply a deficiency in the appropriation for the manufacture of arms at the national armory, seven hundred thousand dollars.

To supply a deficiency in the appropriation for the Surgeon General's department, to wit:

For medical instruments and dressings, one million three hundred thousand dollars.

For hospital stores, bedding, etc., one million two hundred thousand dollars.

For hospital furniture and field equipments, three hundred thousand dollars.

For books, stationery, and printing, thirty-six thousand dollars.

For ice, fruits, and other comforts, one hundred thousand dollars.

For hospital clothing, forty thousand dollars.

For citizen nurses, thirty-eight thousand dollars.

For sick soldiers in private hospitals, seventeen thousand dollars.

For artificial limbs for soldiers and seamen, sixteen thousand dollars.

For citizen physicians and medicines furnished by them, one hundred and eighty-five thousand dollars.

For hire of clerks and laborers in purveying depots, twenty-five thousand dollars.

For contingent expenses of the medical department, five thousand dollars.

For medicines and medical attendance for negro refugees, commonly called "contrabands," thirty-three thousand dollars.

For washing and washing-machines for hospitals, where matrons cannot be employed, one thousand dollars.

To supply a deficiency in the appropriation for the subsistence of the Army, to wit:

For volunteers and drafted men, five millions eight hundred and twenty-four thousand dollars.

For employes, six hundred [and] forty thousand six hundred and forty dollars.

For women, two hundred [and] eighteen thousand and four hundred dollars.

To supply a deficiency in the appropriation for the engineer department:

For contingencies of fortifications, including field works, five hundred thousand dollars.

To supply a deficiency in the appropriation for the Quartermaster's department, to wit:

For purchase of cavalry and artillery horses, seventeen millions five hundred thousand dollars.

For regular supplies of the Quartermaster's department, eighteen millions five hundred thousand dollars.

For barracks, quarters, etc., three millions five hundred thousand dollars.

For transportation of the Army, thirty millions of dollars.

For incidental expenses of the Quartermaster's department, two millions of dollars.

For transportation of officers' baggage, one hundred thousand dollars.

For clothing, camp, and garrison equipage, seven millions of dollars.

To supply a deficiency in the appropriation for the Adjutant General's department:

For purchase of books of tactics, twenty-five thousand dollars.

NAVY DEPARTMENT.

To supply a deficiency in the appropriation for fuel, and equipment and recruiting, in the Bureau of Equipment and Recruiting, two million dollars.

To supply a deficiency in the appropriation for clothing for the Navy, three hundred and fifty thousand dollars.

To supply a deficiency in the appropriation for contingent expenses of the Naval Academy, thirty-eight thousand dollars.

For salary of commissioner to codify the naval laws, under joint resolution of March third, eighteen hundred and sixty-three, three thousand nine hundred and eighty-three dollars and sixty-seven cents.

For additional repairs at the Norfolk navy-yard, one hundred and fifty thousand dollars.

For wharf, machine shop, bridge, buildings for naval stores, and other works at Port Royal, South Carolina, one hundred and forty-four thousand and six hundred dollars.

To supply a deficiency in the appropriation for filling in the grounds for the new foundry at the Brooklyn navy-yard, forty-five thousand nine hundred and seventy-five dollars.

For temporary storehouse for provisions at the Brooklyn navy-yard, two thousand dollars.

For temporary storehouse for provisions at the Boston navy-yard, two thousand dollars.

STATE DEPARTMENT.

For salary of the minister at Salvador, from April sixteenth, eighteen hundred and sixty-three, to June thirtieth, eighteen hundred and sixty-four, at seven thousand five hundred dollars per annum, nine thousand sixty-two dollars and fifty cents.

MISCELLANEOUS.

For salaries of clerks, messengers, watchmen, and porter, in the office of the Assistant Treasurer of New York, twelve thousand dollars.

For additional allowance to clerks in the office of the Assistant Treasurer at Boston, two thousand dollars.

For compensation to designated depositaries, two thousand dollars.

For salaries of designated depositary at Santa Fe, New Mexico, and the clerk, watchman, and porter in his office, four thousand-eight hundred dollars.

For supplying deficiency in the appropriation for facilitating communication between the Atlantic and Pacific States by electrical telegraph, twenty thousand dollars.

For refunding to the appropriation for the Treasury extension the amount of payments made out of that fund for furniture, night-watch, and other miscellaneous items, one hundred and fifty thousand dollars.

For the continuation of the north wing of the Treasury extension, fencing, grading, and miscellaneous items, two hundred and fifty thousand dollars.

For furniture, carpets, and miscellaneous items for the Treasury building, twenty-five thousand dollars.

For the payment of claims due various parties for furniture and for the alterations in the offices of the Assistant Treasurer and collector of customs at New York, and for constructing burglar-proof vaults, eighty thousand dollars.

For completing the repairs of the Government warehouse on Staten Island, ten thousand dollars.

For alterations of the custom-house at Cincinnati, Ohio, twenty-five thousand dollars.

For alterations of the custom-house at Louisville, Kentucky, fifteen thousand dollars.

For completion of the custom-house at Dubuque, Iowa, thirty thousand dollars.

For repairs and preservation of custom-houses, marine hospitals, and other public buildings, under the supervision of the Treasury Department, ten thousand dollars.

For furniture and repairs of furniture of the various public buildings, under the supervision of the Treasury Department, five thousand dollars.

For the payment of Ephraim Sweet, for services as superintendent of the custom-house at Belfast, Maine, nine hundred and ninety-two dollars.

For erecting new furnaces in the basement of the east wing of the Patent Office building, fifteen thousand dollars.

For repairs of rooms in sub-basement of the west wing of the Patent Office building, five thousand dollars.

For the Capitol extension, one hundred and fifty thousand dollars.

For the construction of water-closets in the basement of the south front of the Patent Office building, two thousand dollars.

For deficiency in the appropriation for keeping in repair and partially finishing and furnishing the Post Office building, nine thousand one hundred and seventy-one dollars and ninety-nine cents.

For the completion of the post office building in Philadelphia, twenty-five thousand dollars.

For deficiency in the appropriation for salaries and expenses of the commissioners appointed under the fifth section, act of sixteenth February, eighteen hundred and sixty-three, three thousand five hundred dollars.

For deficiency to pay salary of one Indian agent, each, in Utah and Nevada Territory, from third March, eighteen hundred and sixty-three, to the first July, eighteen hundred and sixty-four, at five hundred dollars per annum, as increase pay, one thousand three hundred and thirty-three dollars and thirty-three cents.

To supply deficiency in the appropriation for the public printing, one hundred and eleven thousand dollars: *Provided*, That hereafter no printing or binding shall be done, or blank-books be procured for any of the Executive Departments of the Government without a written requisition on the Superintendent of Public Printing from the head of such Department, or for either House of Congress, except on the written order of the Secretary of the Senate or Clerk of the House of Representatives, for which said printing, binding, or blank-books may be required. And the said Superintendent, in his annual report, shall hereafter be required to report the amount of work ordered and done, with a general classification thereof, for each Department.

To supply a deficiency in the appropriation for paper for the public printing, three hundred and seventy-four thousand dollars.

To supply a deficiency in the appropriation for the public binding, one hundred thousand dollars.

For lithographing and engraving for the House of Representatives, ten thousand dollars.

For mapping, in cases pending in the Supreme Court of the United States, nine thousand dollars.

To supply deficiency in the appropriation for the support of the light-house establishment, fourteen thousand one hundred and fifty-six dollars and sixty-five cents.

For rebuilding light-house at Cape Charles, Virginia, twenty thousand dollars.

To supply a deficiency in the appropriation for stationery in the Treasury Department, twenty thousand dollars.

To supply a deficiency in the appropriation for ordnance, ordnance stores, labor, and contingent expenses in the Bureau of Ordnance of the Navy Department, two million seven hundred and forty thousand dollars: *Provided*, however, That no money shall be paid under this item of appropriation.

tion except for deficiencies actually existing upon contracts made by the Navy Department.

For erecting naval hospital at Kittery, Maine, twenty-five thousand dollars.

For extending naval asylum at Philadelphia, seventy-five thousand dollars.

For erecting naval hospital at Washington city, District of Columbia, twenty-five thousand dollars.

To supply a deficiency in the appropriation for Capitol police for the Senate, four thousand and three dollars and seventy-five cents.

To supply a deficiency in the appropriation for stationery for the Senate, six thousand dollars.

To supply a deficiency in the appropriation for miscellaneous items for the Senate, twenty thousand dollars: *Provided*, That hereafter no payment shall be made from the contingent fund of either House of Congress, unless sanctioned by the Committee to Audit and Control the Contingent Expenses of the Senate, or the Committee on Accounts of the House of Representatives, respectively; and no transfer of balances of appropriations shall be made from one fund to another, except by law.

To supply a deficiency in the appropriation for compensation of the officers, clerks, messengers, and others receiving an annual salary in the employ of the House of Representatives, seven thousand three hundred and sixty-five dollars and nineteen cents.

To enable the Librarian of Congress to employ an additional laborer from February first to the end of the current fiscal year, two hundred and eight dollars.

For contingent expenses of the House of Representatives, viz:

For clerks to committees, and temporary clerks in the office of the House of Representatives, one thousand eight hundred and sixty-six dollars.

For folding documents, forty thousand dollars.

For fuel and lights, including pay of engineers, firemen, and laborers, repairs and materials, six thousand five hundred dollars.

For furniture, repairs, and packing-boxes for members, eight thousand five hundred dollars.

For laborers, eight hundred and thirty-two dollars and seventy-eight cents.

For stationery, nine thousand dollars.

SEC. 2. *And be it further enacted*, That the remainder or unexpended balance of twenty-one thousand two hundred and seven dollars and fifty-six cents, for engraving, electrotyping, and lithographing, be, and the same is hereby, transferred to the miscellaneous item of the contingent fund of the House of Representatives.

SEC. 3. *And be it further enacted*, That the President shall appoint, in the Treasury Department, by and with the advice and consent of the Senate, an additional Assistant Secretary of the Treasury, whose salary shall be three thousand dollars per annum, who shall perform all such duties in the office of the Secretary of the Treasury, belonging to that Department, as shall be prescribed by the Secretary of the Treasury, or as may be required by law; and the sum of two thousand dollars, or so much thereof as may be found necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of said salary for the current fiscal year.

SEC. 4. *And be it further enacted*, That there be appropriated, to supply deficiencies for repair of the coal and landing wharf at Key West, to erect a crane thereon, and to cover the extension of the machine shop at that point, ten thousand dollars.

SEC. 5. *And be it further enacted*, That there be appropriated, for payment of letter-carriers to July first, eighteen hundred and sixty-four, to be paid out of the revenues of the Post Office Department, one hundred and fifty thousand dollars.

SEC. 6. *And be it further enacted*, That in addition to the clerical force now authorized by law, the following clerks and employes are hereby authorized in the several Departments and offices hereinafter specified, to be employed and continue only during the rebellion, and for one year after its close, viz:

In the office of the Secretary of the Treasury, one clerk of class four, one of class three, eight of class two, and fourteen of class one.

In the construction branch of the Treasury, one superintending architect, one assistant architect, two clerks of class four, four of class three, two of class one, and one messenger at an annual salary of six hundred dollars.

In the First Comptroller's office, five clerks of class four, and one clerk of class four substituted for one of class one.

In the Second Comptroller's office, five clerks of class four, six of class three, ten of class two, and fifteen of class one.

In the First Auditor's office, two clerks of class four, and one of class two.

In the Second Auditor's office, fifteen clerks of class three, fifty of class two, and one hundred and forty of class one, and one clerk at nine hundred dollars per annum.

In the Third Auditor's office, two clerks of class four, two of class three, five of class two, twenty-four of class one, and one messenger at a salary of seven hundred dollars per annum, and two laborers at an annual salary of six hundred dollars each.

In the Fourth Auditor's office, five clerks of class four, nine of class three, nine of class two, thirty-five of class one, and one laborer at an annual salary of six hundred dollars.

In the Fifth Auditor's office, one clerk of class four, to be substituted for one of class three.

In the Treasurer's office, four clerks of class four, two of class three, seventeen of class two, and six of class one.

In the Register's office, four clerks of class four, six of class three, six of class two, eight of class one, and one messenger at a salary of seven hundred dollars per annum.

In the office of the Commissioner of Customs, one clerk of class three, three of class two, and four of class one.

In the office of the Secretary of the Navy, two clerks of class four.

In the office of the Adjutant General, two clerks of class four, eight of class three, nineteen of class two, and seventy-four of class one.

In the office of the Quartermaster General, fifteen clerks of class three, thirty-five of class two, one hundred and ten of class one, and six laborers at an annual salary of six hundred dollars each.

In the Paymaster General's office, nine clerks of class three; twenty-six of class two, seventy-five of class one, three messengers at an annual salary of eight hundred and forty dollars each, and four watchmen at an annual salary of six hundred dollars each.

In the Commissary General's office, ten clerks of class two, and thirty of class one.

In the office of the Chief of Ordnance, two clerks of class four, seven of class three, eleven of class two, seventy-four of class one, and nine laborers at an annual salary of six hundred dollars each.

In the office of the Chief Engineer, one clerk of class four, and one of class two.

And the several clerks and employes authorized by this section shall be appointed by the heads of the Departments to which they are severally attached, and the amount necessary to pay their salaries from the time of their appointment to the thirtieth of June, eighteen hundred and sixty-four, is hereby appropriated therefor; and the heads of the said several Departments are hereby authorized to employ females instead of any of the clerks hereinbefore designated, at an annual compensation not exceeding six hundred dollars per year, whenever, in their opinion, the same can be done consistently with the interests of the public service: *Provided, however*, That the clerks hereby authorized in the Treasury Department and its bureaus shall not be in addition to the temporary clerks now employed therein, under former appropriations for that purpose, but shall include the same.

SEC. 7. *And be it further enacted*, That so much of the act entitled "An act to provide for the appointment of an Assistant Register of the Treasury Department, and a Solicitor for the War Department, and for other purposes," approved February twentieth, eighteen hundred and sixty-three, as limits the office of the Assistant Register of the Treasury to a term of one year, is hereby repealed.

APPROVED, March 14, 1864.

CHAP. XXXI.—An Act in relation to University Lands in Washington Territory.

Whereas it is declared in the fourth section of the act of Congress approved July seventeenth, eighteen hundred and fifty-four, amendatory of the act approved September twenty-seventh, eighteen hundred and fifty, creating the office of surveyor general of the public lands in Oregon, etc., "that in lieu of the two townships of land granted to the Territory of Oregon, by the tenth section of the act of eighteen hundred and fifty, for universities, there shall be reserved to each of the Territories of Washington and Oregon, two townships of land of thirty-six sections each, to be selected in legal subdivisions, for university purposes, under the direction of the Legislatures of said Territories, respectively;" and whereas it is represented that sales have been made by territorial authorities of lands selected in virtue of the terms of said act of seventeenth July, eighteen hundred and fifty-four, authorizing selections to be "reserved," merely under the conviction that they had the power to dispose of the same as a fee-simple grant: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases of sales made to individuals by the territorial authorities prior to the passage of this act, in which it may be shown to the satisfaction of the Secretary of the Interior, that such sales were bona fide and of the class hereinbefore mentioned, and that the tracts so sold are selections in all other respects regular and proper, it shall and may be lawful for the said Secretary to approve such selection as a grant in fee simple, and a transcript, certified under the seal of the General Land Office by the Commissioner thereof, of such approval, shall vest the title in the Territory and in its bona fide vendees.

APPROVED, March 14, 1864.

CHAP. XXXIII.—An Act to amend an Act entitled "An Act to regulate Trade and Interchange with the Indian Tribes, and to preserve Peace on the Frontiers," approved June thirtieth, eighteen hundred and thirty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the twentieth section of the act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers, approved June thirtieth, eighteen hundred and thirty-four, be, and the same is hereby, amended so as to read as follows, to wit: "SEC. 20. *And be it further enacted*, That if any person shall sell, exchange, give, barter, or dispose of any spirituous liquors or wine to any Indian under the charge of any Indian superintendent or Indian agent appointed by the United States, or shall introduce or attempt to introduce any spirituous liquor or wine into the Indian country, such person, on conviction thereof, before the proper district or circuit court of the United States, shall be imprisoned for a period not exceeding two years, and shall be fined not more than three hundred dollars: *Provided, however*, That it shall be a sufficient defense to any charge of introducing or attempting to introduce liquor into the Indian country if it be proved to be done by order of the War Department, or any officer duly authorized thereunto by the War Department. And if any superintendent of Indian affairs, Indian agent, or sub-agent, or commanding officer of a military post, has reason to suspect or is informed that any white person or Indian is about to introduce or has introduced any spirituous liquor or wine into the Indian country, in violation of the provisions of this section, it shall be lawful for such superintendent, agent, sub-agent, or commanding officer, to cause the boats, stores, packages, wagons, sleds, and places of deposit of such person to be searched; and if any such liquor is found therein, the same, together with the boats, teams, wagons, and sleds used in conveying the same, and also the goods, packages, and peltries of such person shall be seized and delivered to the proper officer, and shall be proceeded against, by libel in the proper court, and forfeited, one half to the informer and the other half to the use of the United States; and if such person be a trader, his

38TH CONG... 1ST SESS.

Laws of the United States.

license shall be revoked and his bond put in suit. And it shall moreover be the duty for any person in the service of the United States, or for any Indian, to take and destroy any ardent spirits or wine found in the Indian country, except such as may be introduced therein by the War Department. And in all cases arising under this act Indians shall be competent witnesses."

APPROVED, March 15, 1864.

CHAP. XXXIV.—An Act making Appropriations for the Service of the Post Office Department during the fiscal year ending the thirtieth of June, eighteen hundred and sixty-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, for the service of the Post Office Department for the year ending June thirtieth, eighteen hundred and sixty-five, out of any moneys in the Treasury arising from the revenues of the said Department, in conformity to the act of the second of July, eighteen hundred and thirty-six:

For transportation of the mails, (inland,) seven million eight hundred and forty-nine thousand dollars.

For foreign mail transportation, two hundred and fifty thousand dollars.

For ship, steamboat, and way letters, eight thousand dollars.

For compensation to postmasters, three million one hundred thousand dollars.

For clerks for post offices, one million one hundred and sixty-eight thousand dollars.

For payments to letter-carriers, six hundred and forty thousand dollars.

For wrapping-paper, eighty-eight thousand dollars.

For wine, sixteen thousand dollars.

For office stamps, five thousand dollars.

For letter balances, two thousand five hundred dollars.

For compensation to blank agents and assistants, six thousand five hundred dollars.

For office furniture, two thousand dollars.

For advertising, thirty-five thousand dollars.

For postage stamps and stamped envelopes, ninety thousand dollars.

For mail depredations and special agents, sixty thousand dollars.

For mail-bags, sixty thousand dollars.

For mail locks and keys, ten thousand dollars.

For payment of balances due to foreign countries, two hundred thousand dollars.

For miscellaneous payments, two hundred thousand dollars.

SEC. 2. *And be it further enacted,* That if the revenues of the Post Office Department shall be insufficient to meet the appropriations of this act, then the sum of one million five hundred thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post Office Department for the year ending the thirtieth of June, eighteen hundred and sixty-five.

APPROVED, March 16, 1864.

CHAP. XXXV.—An Act in addition to an Act to amend the Laws relating to the Post Office Department, approved March three, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the franking privilege of the President and the Vice President of the United States shall extend to and cover all mail matter sent from, or directed to, either of them.

APPROVED, March 16, 1864.

CHAP. XXXVI.—An Act to enable the People of Nevada to form a Constitution and State Government, and for the Admission of such State into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of

the Territory of Nevada included in the boundaries hereinafter designated be, and they are hereby, authorized to form for themselves, out of said Territory, a State government, with the name aforesaid, which said State, when formed, shall be admitted into the Union upon an equal footing with the original States, in all respects whatsoever.

SEC. 2. *And be it further enacted,* That the said State of Nevada shall consist of all the territory included within the following boundaries, to wit: Commencing at a point formed by the intersection of the thirty-eighth degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along said thirty-seventh degree of north latitude to the eastern boundary line of the State of California; thence in a northwesterly direction along the said eastern boundary line of the State of California to the forty-third degree of longitude west from Washington; thence north along said forty-third degree of west longitude and said eastern boundary line of the State of California to the forty-second degree of north latitude; thence due east along the said forty-second degree of north latitude to a point formed by its intersection with the aforesaid thirty-eighth degree of longitude west from Washington; thence due south down said thirty-eighth degree of west longitude to the place of beginning.

SEC. 3. *And be it further enacted,* That all persons qualified by law to vote for representatives to the General Assembly of said Territory, at the date of the passage of this act shall be qualified to be elected, and they are authorized to vote for and choose representatives to form a convention, under such rules and regulations as the Governor of said Territory may prescribe; and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as the said convention may prescribe; and if any of said citizens are enlisted in the Army of the United States, and are still within said Territory, they shall be permitted to vote at their place of rendezvous; and [if] any are absent from said Territory, by reason of their enlistment in the Army of the United States, they shall be permitted to vote at their place of service, under the rules and regulations in each case to be prescribed as aforesaid; and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said Territory in proportion to the population as near as may be; and said apportionment shall be made for said Territory by the Governor, United States district attorney, and chief justice thereof, or any two of them; and the Governor of said Territory shall, by proclamation on or before the first Monday of May next, order an election of the representatives as aforesaid to be held on the first Monday in June thereafter throughout the Territory, and such election shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the House of Representatives, and the number of members to said convention shall be the same as now constitute both branches of the Legislature of the aforesaid Territory.

SEC. 4. *And be it further enacted,* That the members of the convention, thus elected, shall meet at the capital of said Territory on the first Monday in July next, and, after organization, shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States. Whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government for said Territory: *Provided,* That the constitution, when formed, shall be republican, and not repugnant to the Constitution of the United States, and the principles of the Declaration of Independence: *And provided further,* That said convention shall provide, by an ordinance irrevocable, without the consent of the United States and the people of said State:

First. That there shall be neither slavery nor involuntary servitude in the said State, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted.

Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of

said State shall ever be molested in person or property on account of his or her mode of religious worship.

Third. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the land belonging to the residents thereof; and that no taxes shall be imposed by said State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

SEC. 5. *And be it further enacted,* That in case a constitution and State government shall be formed for the people of said Territory of Nevada, in compliance with the provisions of this act, that said convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for their ratification or rejection at an election to be held on the second Tuesday of October, one thousand eight hundred and sixty-four, at such places and under such regulations as may be prescribed therein, at which election the lawful voters of said new State shall vote directly for or against the proposed constitution, and the returns of said election shall be made to the acting Governor of the Territory, who, with the United States district attorney and chief justice of said Territory, or any two of them, shall canvass the same, and if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting Governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress.

SEC. 6. *And be it further enacted,* That until the next general census shall be taken said State of Nevada shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the Governor and State and other officers provided for in said constitution, may be elected on the same day a vote is taken for or against the proposed constitution and State government.

SEC. 7. *And be it further enacted,* That sections numbers sixteen and thirty-six, in every township, and where such sections have been sold or otherwise disposed of by any act of Congress, other lands equivalent thereto in legal subdivisions of not less than one quarter section, and as contiguous as may be, shall be, and are hereby, granted to said State for the support of common schools.

SEC. 8. *And be it further enacted,* That provided the State of Nevada shall be admitted into the Union, in accordance with the foregoing provisions of this act, that twenty entire sections of the unappropriated public lands within said State, to be selected and located by direction of the Legislature thereof, on or before the first day of January, anno Domini eighteen hundred and sixty-eight, shall be, and they are hereby, granted, in legal subdivisions of not less than one hundred and sixty acres, to said State, for the purpose of erecting public buildings at the capital of said State, for legislative and judicial purposes, in such manner as the Legislature shall prescribe.

SEC. 9. *And be it further enacted,* That twenty other entire sections of land, as aforesaid, to be selected and located as aforesaid, in legal subdivisions, as aforesaid, shall be, and they are hereby, granted to said State for the purpose of erecting a suitable building for a penitentiary or State prison in the manner aforesaid.

SEC. 10. *And be it further enacted,* That five per centum of the proceeds of the sales of all public lands lying within said State, which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State for the purpose of making and improving public roads, constructing ditches

Laws of the United States.

38TH CONG.... 1ST SESS.

or canals, to effect a general system of irrigation of the agricultural land in the State, as the Legislature shall direct.

Sec. 11. *And be it further enacted*, That from and after the admission of the said State of Nevada into the Union, in pursuance of this act, the laws of the United States, not locally inapplicable, shall have the same force and effect within the said State as elsewhere within the United States, and said State shall constitute one judicial district, and be called the district of Nevada.

APPROVED, March 21, 1864.

CHAP. XXXVII.—An Act to enable the People of Colorado to form a Constitution and State Government, and for the Admission of such State into the Union on an equal Footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of the Territory of Colorado included in the boundaries hereinafter designated be, and they are hereby, authorized to form for themselves, out of said Territory, a State government, with the name aforesaid, which said State, when formed, shall be admitted into the Union upon an equal footing with the original States, in all respects whatsoever.

Sec. 2. *And be it further enacted*, That the said State of Colorado shall consist of all the territory included within the following boundaries, to wit: Commencing at a point formed by the intersection of the thirty-seventh degree of north latitude with the twenty-fifth degree of longitude west from Washington; extending thence due west along said thirty-seventh degree of north latitude to a point formed by its intersection with the thirty-second degree of longitude west from Washington; thence due north along said thirty-second degree of west longitude to a point formed by its intersection with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to a point formed by its intersection with the twenty-fifth degree of longitude west from Washington; thence due south along said twenty-fifth degree of west longitude.

Sec. 3. *And be it further enacted*, That all persons qualified by law to vote for representatives to the General Assembly of said Territory, at the date of the passage of this act, shall be qualified to be elected; and they are hereby authorized to vote for and choose representatives to form a convention, under such rules and regulations as the Governor of said Territory may prescribe; and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as said convention may prescribe; and if any of said citizens are enlisted in the Army of the United States, and are still within said Territory, they shall be permitted to vote at their place of rendezvous; and if any are absent from said Territory, by reason of their enlistment in the Army of the United States, they shall be permitted to vote at their place of service, under the rules and regulations in each case to be prescribed, as aforesaid. And the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said Territory in proportion to the population, as near as may be; and said apportionment shall be made for said Territory by the Governor, United States district attorney, and chief justice thereof, or any two of them. And the Governor of said Territory shall, by proclamation on or before the first Monday of May next, order an election of the representatives aforesaid, to be held on the first Monday in June thereafter throughout the Territory; and such election shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the House of Representatives; and the number of members to said convention shall be the same as now constitute both branches of the Legislature of the aforesaid territory.

Sec. 4. *And be it further enacted*, That the members of the convention, thus elected, shall meet at the capital of said Territory on the first Monday in July next, and, after organization, shall declare, on behalf of the people of said Ter-

ritory, that they adopt the Constitution of the United States; whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government for said Territory: *Provided*, That the constitution, when formed, shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence: *And provided further*, That said convention shall provide by an ordinance, irrevocable without the consent of the United States and the people of said State:

First. That there shall be neither slavery nor involuntary servitude in the said State, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted.

Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

Third. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the land belonging to residents thereof, and that no taxes shall be imposed by said State on lands or property therein belonging to, or which may hereafter be purchased by, the United States.

Sec. 5. *And be it further enacted*, That in case a constitution and State government shall be formed for the people of said Territory of Colorado, in compliance with the provisions of this act, that said convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for their ratification or rejection, at an election to be held on the second Tuesday of October, one thousand eight hundred and sixty-four, at such places and under such regulations as may be prescribed therein, at which election the lawful voters of said new State shall vote directly for or against the proposed constitution; and the returns of said elections shall be made to the acting Governor of the Territory, who, with the United States district attorney and chief justice of the said Territory, or any two of them, shall canvass the same, and if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting Governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances to that effect; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress.

Sec. 6. *And be it further enacted*, That until the next general census shall be taken said State of Colorado shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the Governor and State and other officers provided for in said constitution, may be elected on the same day a vote is taken for or against the proposed constitution and State government.

Sec. 7. *And be it further enacted*, That sections numbered sixteen and thirty-six, in every township, and where such sections have been sold, or otherwise disposed of by any act of Congress, other lands equivalent thereto in legal subdivisions of not less than one quarter section, and as contiguous as may be, shall be, and are hereby, granted to said State for the support of common schools.

Sec. 8. *And be it further enacted*, That provided the State of Colorado shall be admitted into the Union, in accordance with the foregoing provisions of this act, that twenty entire sections of the unappropriated public lands within said State, to be selected and located by direction of the Legislature thereof on or before the first day of January, anno Domini eighteen hundred and sixty-eight, shall be, and they are hereby, granted in legal subdivisions of not less than one hundred and sixty acres to said State, for the purpose of

erecting public buildings at the capital of said State for legislative and judicial purposes, in such manner as the Legislature shall prescribe.

Sec. 9. *And be it further enacted*, That twenty other entire sections of land, as aforesaid, to be selected and located as aforesaid, in legal subdivisions as aforesaid, shall be, and they are hereby, granted to said State for the purpose of erecting a suitable building for a penitentiary or State prison in the manner aforesaid.

Sec. 10. *And be it further enacted*, That five per centum of the proceeds of the sales of all public lands lying within said State, which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, for the purpose of making and improving public roads, constructing ditches or canals to effect a general system of irrigation of the agricultural land in the State, as the Legislature shall direct.

Sec. 11. *And be it further enacted*, That from and after the admission of the said State of Colorado into the Union, in pursuance of this act, the laws of the United States not locally inapplicable shall have the same force and effect within the said State as elsewhere within the United States, and said State shall constitute one judicial district, and be called the district of Colorado.

APPROVED, March 21, 1864.

CHAP. XXXVIII.—An Act amendatory of the Homestead Law, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in case of any person desirous of availing himself of the benefits of the homestead act of twentieth of May, eighteen hundred and sixty-two, but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land office which the said act of twentieth May, eighteen hundred and sixty-two, requires, and whose family or some member thereof, is residing on the land which he desires to enter, and upon which a bona fide improvement and settlement have been made, it shall and may be lawful for such person to make the affidavit required by said act before the officer commanding in the branch of the service in which the party may be engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the register or receiver; and upon such affidavit being filed with the register by the wife or other representative of the party, the same shall become effective from the date of such filing, provided the said application and affidavit are accompanied by the fee and commissions, as required by law.

Sec. 2. *And be it further enacted*, That besides the ten-dollar fee exacted by the said act, the homestead applicant shall hereafter pay to the register and receiver each, as commissions, at the time of entry, one per centum upon the cash price as fixed by law, of the land applied for, and like commissions when the claim is finally established and the certificate therefor issued as the basis of a patent.

Sec. 3. *And be it further enacted*, That in any case hereafter in which the applicant for the benefit of the homestead, and whose family or some member thereof, is residing on the land which he desires to enter, and upon which a bona fide improvement and settlement have been made, is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, it shall and may be lawful for him to make the affidavit required by the original statute before the clerk of the court for the county in which the applicant is an actual resident, and to transmit the same, with the fee and commissions, to the register and receiver.

Sec. 4. *And be it further enacted*, That in lieu of the fee allowed by the twelfth section of the preemption act of fourth September, eighteen hundred and forty-one, the register and receiver shall each be entitled to one dollar for their services in acting upon preemption claims, and shall be allowed, jointly, at the rate of fifteen cents per hundred words for the testimony which may be required by them to writing for claimants, in estab-

lishing preëmption or homestead rights, the regulations for giving proper effect to the provisions of this act to be prescribed by the Commissioner of the General Land Office.

Sec. 5. And be it further enacted, That where a preëmptor has taken the initiatory steps required by existing laws in regard to actual settlement, and is called away from such settlement by being actually engaged in the military or naval service of the United States, and by reason of such absence is unable to appear at the district land office, to make, before the register or receiver, the affidavits required by the thirteenth section of the preëmption act of fourth September, eighteen hundred and forty-one, the time for filing such affidavit and making final proof and entry or location, shall be extended six months after the expiration of his term of service, upon satisfactory proof by affidavit, or the testimony of witnesses, that the said preëmptor is so in the service, being filed with the register of the land office for the district in which his settlement is made.

Sec. 6. And be it further enacted; That the registers and receivers in the State of California, in the State of Oregon, and in the Territories of Washington, Nevada, Colorado, Idaho, New Mexico, and Arizona, shall be entitled to collect and receive, in addition to the fees and allowances provided by this act, fifty per centum of said fees and allowances as compensation for their services: *Provided,* That the salary and fees allowed any register or receiver shall not exceed in the aggregate the sum of three thousand dollars per annum.

APPROVED, March 21, 1864.

CHAP. XL.—An Act to provide for carrying the Mails from the United States to Foreign Ports, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all steamers and sailing vessels belonging to citizens of the United States, and bound from any port in the United States to any foreign port, or from any foreign port to any port in the United States, shall, before clearance, receive on board and securely convey all such mails as the Post Office Department of the United States, or any minister, consul, or commercial agent of the United States abroad shall offer, and promptly deliver the same to the proper authorities, on arriving at the port of destination, and shall receive for such service such reasonable compensation as may be allowed by law.

Sec. 2. And be it further enacted, That upon the entry of every steamer or sailing vessel from any foreign port, the master or commander thereof shall make return, on oath or affirmation, showing that he has promptly delivered at such foreign port or ports all mails placed on board of the steamer or vessel under his command before clearance from the United States. And in case the master or commander shall fail to make oath or affirmation as aforesaid, showing that he has delivered the mails placed on board his steamer or vessel in good faith, the said steamer or vessel shall not be entitled to the privileges of a steamer or vessel of the United States.

Sec. 3. And be it further enacted, That the Postmaster General be, and is hereby, authorized to make contracts, to continue not exceeding four years, for the transportation of all mailable matter other than letters, and of such letters as may be so directed, by the Isthmus of Panama or the Nicaragua route, or both of them: *Provided,* That the expenditure for the service shall not exceed one hundred and sixty thousand dollars per annum. And in case more than one company is engaged in rendering this service, the Postmaster General shall determine the proportion which shall be paid to each.

Sec. 4. And be it further enacted, That all mailable matter which may be conveyed by mail westward beyond the western boundary of Kansas, and eastward from the eastern boundary of California shall be subject to prepaid letter postage rates: *Provided, however,* That this section shall not be held to extend to the transmission by mail of newspapers from a known office of publication to bona fide subscribers, not exceeding one copy to each subscriber, nor to franked matter, to and

from the intermediate points between the boundaries above named, at the usual rates: *Provided further,* That such franked matter shall be subject to such regulations as to its transmission and delivery as the Postmaster General shall prescribe.

Sec. 5. And be it further enacted, That the Postmaster General may, if he shall deem it for the public interests, enter into contracts for any period not exceeding one year, for the transportation of the mails in steamships, by sea, between any of the ports in the United States; and that the sea service already performed by his order on the Atlantic coast and Gulf of Mexico be paid for out of any moneys appropriated for the service of the Post Office Department. Also, for such service already performed upon the Pacific coast a sum not exceeding fifteen hundred dollars, to be paid for out of any moneys appropriated for the service of the Post Office Department.

Sec. 6. And be it further enacted, That if any person or persons shall paint, print, post, or in any other manner place upon, or attach to, any steamboat or other vessel, or any stage coach or other vehicle, which steamboat or other vessel, or stage coach or other vehicle, is not actually used in carrying the mails of the United States, the words "United States mail," or any other words, letters or characters of like import; or if any person or persons shall give notice, either by publishing in any newspaper or otherwise, that any steamboat or other vessel, or any stage coach or other vehicle, is used in carrying the mails of the United States, when the same is not actually so used, every person so offending or willfully aiding or abetting therein, shall, on conviction thereof in any court of competent jurisdiction, be fined in any sum not less than one hundred nor more than five hundred dollars for every such offense; one half for the use of the United States and the other half to the use of the person informing and prosecuting for the same.

Sec. 7. And be it further enacted, That the Postmaster General be, and he is hereby, authorized and empowered to suspend the operation of so much of the eighth section of the act of the thirty-first of August, eighteen hundred and fifty-two, as authorizes the conveyance of letters otherwise than in the mails on any such mail routes as in his opinion the public interest may require.

APPROVED, March 25, 1864.

CHAP. XLI.—An Act to authorize the President to negotiate a Treaty with the Klamath, Modoc, and other Indian Tribes in Southeastern Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he hereby is, authorized to conclude a treaty with the Klamath, Modoc, and Snake Indians in southeastern Oregon for the purchase of the country occupied by them.

Sec. 2. And be it further enacted, That for the purpose of carrying out the provisions of this act the sum of twenty thousand dollars be, and the same is hereby, appropriated from any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Interior.

APPROVED, March 25, 1864.

CHAP. XLII.—An Act to carry into effect the Convention with Ecuador for the mutual Adjustment of Claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of carrying into effect the convention with Ecuador for the mutual adjustment of claims, signed at Quito, on the twenty-fifth day of November, eighteen hundred and sixty-two, the commissioner to be appointed by the President of the United States, by and with the advice and consent of the Senate, shall be allowed a compensation, in full for his services, of three thousand dollars, and ten dollars a day in commutation of traveling expenses for the time actually and necessarily occupied in going from the place of his residence to Guayaquil and returning to his home after the termination of his duties.

Sec. 2. And be it further enacted, That if the

President shall elect to appoint the minister resident of the United States in Ecuador to perform the duties of commissioner under the convention aforesaid, said minister shall receive a compensation for his services of fifty per centum of the sum hereinbefore mentioned, pursuant to the provisions of the ninth section of the act of August eighteenth, eighteen hundred and fifty-six, "to regulate the diplomatic and consular systems of the United States."

Sec. 3. And be it further enacted, That the President be, and hereby is, authorized to make such provision for the contingent expenses of the commission under the said convention, including the moiety of the United States for the compensation of the umpire, and of the secretary who may be chosen by the commissioners, pursuant to the provisions of the convention, as he shall deem just and proper.

Sec. 4. And be it further enacted, That such sums of money as may be necessary to carry out the provisions of this act be, and they are hereby, appropriated out of any money in the Treasury not otherwise appropriated.

APPROVED, March 28, 1864.

CHAP. XLV.—An Act making Appropriations for the Support of the Military Academy for the year ending June thirtieth, eighteen hundred and sixty-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Military Academy for the year ending the thirtieth of June, eighteen hundred and sixty-five:

For pay of officers, instructors, cadets, and musicians, one hundred and seventeen thousand one hundred and seventy-six dollars.

For commutation of subsistence, four thousand one hundred and sixty-one dollars.

For pay in lieu of clothing to officers' servants, sixty dollars.

For current and ordinary expenses, as follows: repairs and improvements, fuel and apparatus, forage, postage, telegrams, stationery, transportation, printing, clerks, miscellaneous and incidental expenses, and departments of instruction, forty-one thousand two hundred and eighty dollars.

For gradual increase and expense of library, one thousand dollars.

For expenses of the Board of Visitors, four thousand dollars.

For forage for artillery and cavalry horses, eight thousand six hundred and forty dollars.

For supplying horses for artillery and cavalry exercise, one thousand dollars.

For repairs of officers' quarters, one thousand five hundred dollars.

For targets and batteries for artillery exercise, one hundred dollars.

For furniture for hospital for cadets, including fixed wash-tubs, hot and cold water bath apparatus and water closets, one thousand dollars.

For annual repairs of gas pipes and retorts, three hundred dollars.

For warming apparatus for barracks, fifteen thousand dollars.

For rebuilding public wharf and opening approach to the same from the south, six thousand dollars.

Sec. 2. And be it further enacted, That the thirty-fifth section of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March three, eighteen hundred and sixty-three, shall not be deemed hereafter to prohibit the payment to enlisted men employed at the Military Academy of the extra-duty pay heretofore allowed by law to enlisted men when employed at constant labor for not less than ten days continuously.

Sec. 3. And be it further enacted, That from and after the first day of July, eighteen hundred and sixty-three, the annual pay of cadets at the Military Academy at West Point shall be the same as that allowed to midshipmen at the Naval Academy, and the amount necessary for that purpose is hereby appropriated.

Laws of the United States.

38TH CONG...1ST SESS.

Sec. 4. *And be it further enacted*, That cadets found deficient at any examination shall not be continued at the Military Academy, or be reappointed except upon the recommendation of the academic board.

Sec. 5. *And be it further enacted*, That no part of the money hereby appropriated shall be applied to the support or pay of any cadets hereafter appointed not in conformity with the express provisions of law regulating appointments of cadets at that Academy.

APPROVED, April 1, 1864.

CHAP. XLVI.—An Act to increase the Pension of the Revolutionary Pensioners now on the Rolls of the Pension Office.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be paid, out of any money in the Treasury not otherwise appropriated, the sum of one hundred dollars per annum to each of the surviving soldiers of the Revolution, now on the pension rolls, during their natural lives, in addition to the pensions to which they are now entitled under former acts of Congress; said payment to date from, and commence on, the first day of January, eighteen hundred and sixty-four, and to cease at their death.

APPROVED, April 1, 1864.

CHAP. XLVII.—An Act relating to Acting Assistant Paymasters in the Navy, and regulating the appointment of Cadets in the Naval Academy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall nominate any acting assistant paymaster in the volunteer naval service, on account of his faithful, diligent, and efficient discharge of duty in the volunteer service, to be an assistant paymaster in the Navy, it shall be no objection to his appointment and confirmation that he is over twenty-six years of age: *Provided*, That he be not over thirty years of age: *And provided further*, That the number of paymasters and assistant paymasters, as authorized by law, be not increased thereby.

Sec. 2. *And be it further enacted*, That the students of the Naval Academy, when examined for admission thereto, shall be between the ages of fourteen and eighteen years.

APPROVED, April 1, 1864.

CHAP. XLVIII.—An Act to provide for the better organization of Indian Affairs in California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the first day of April, anno Domini eighteen hundred and sixty-four, the State of California shall, for Indian purposes, constitute one superintendency, for which there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, a superintendent of Indian affairs for said superintendency, at a salary of three thousand six hundred dollars per annum, who shall reside at a point within said State, to be selected by the Secretary of the Interior, and who, upon executing a bond, upon such terms and such sum as may be prescribed by the Secretary of the Interior, and taking the usual oath of office, shall have under his control and management, in like manner and subject to like rules and regulations as are prescribed for superintendents of other superintendencies, the Indians and Indian reservations that are or may hereafter be established in said State: *Provided*, That the superintendent shall be authorized to appoint a clerk, at a compensation not to exceed eighteen hundred dollars per annum.

Sec. 2. *And be it further enacted*, That there shall be set apart by the President, and at his discretion, not exceeding four tracts of land, within the limits of said State, to be retained by the United States for the purposes of Indian reservations, which shall be of suitable extent for the accommodation of the Indians of said State, and shall be located as remote from white settlements as may be found practicable, having due re-

gard to their adaptation to the purposes for which they are intended: *Provided*, That at least one of said tracts shall be located in what has heretofore been known as the northern district: *And provided further*, That if it shall be found impracticable to establish the reservations herein contemplated without embracing improvements made within their limits by white persons lawfully there, the Secretary of the Interior is hereby authorized and empowered to contract for the purchase of such improvements, at a price not exceeding a fair valuation thereof, to be made under his direction. But no such contract shall be valid, nor any money paid thereon, until, upon a report of said contract and of said valuation to Congress, the same shall be approved and the money appropriated by law for that purpose: *And provided further*, That said tracts to be set apart as aforesaid may, or may not, as in the discretion of the President may be deemed for the best interests of the Indians to be provided for, include any of the Indian reservations heretofore set apart in said State, and that in case any such reservation is so included, the same may be enlarged to such an extent as in the opinion of the President may be necessary, in order to its complete adaptation to the purposes for which it is intended.

Sec. 3. *And be it further enacted*, That the several Indian reservations in California which shall not be retained for the purposes of Indian reservations under the provisions of the preceding section of this act, shall, by the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, be surveyed into lots or parcels of suitable size, and as far as practicable in conformity to the surveys of the public lands, which said lots shall, under his direction, be appraised by disinterested persons at their cash value, and shall thereupon, after due advertisement, as now provided by law in case of other public lands, be offered for sale at public outcry, and thence afterward shall be held subject to sale at private entry, according to such regulations as the Secretary of the Interior may prescribe: *Provided*, That no lot shall be disposed of at less than the appraised value, nor at less than one dollar and twenty-five cents per acre: *And provided further*, That said sale shall be conducted by the register and receiver of the land office in the district in which such reservation or reservations may be situated, in accordance with the instructions of the Department regulating the sale of public lands.

Sec. 4. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint an Indian agent for each of the reservations which shall be established under the provisions of this act, which said agent shall reside upon the reservation for which he shall be appointed, and shall discharge all the duties now or hereafter to be required of Indian agents by law, or by rules and regulations adopted, or to be adopted, for the regulation of the Indian service, so far as the same may be applicable. Each of the agents appointed as aforesaid shall, before entering upon the duties of his office, give bond in such penalties and with such conditions and such security as the President or Secretary of the Interior may require, and shall hold his office for the term of four years, unless sooner removed by the President, and shall receive an annual salary at the rate of eighteen hundred dollars.

Sec. 5. *And be it further enacted*, That there may be appointed, in the manner prescribed by law, for each of said reservations, if in the opinion of the Secretary of the Interior the welfare of said Indians shall require it, one physician, one blacksmith, one assistant blacksmith, one farmer, and one carpenter, who shall each receive compensation at rates to be determined by the Secretary of the Interior, not exceeding fifty dollars per month.

Sec. 6. *And be it further enacted*, That hereafter, when it shall become necessary to survey any Indian or other reservations, or any lands, the same shall be surveyed under the direction and control of the General Land Office, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed.

Sec. 7. *And be it further enacted*, That all Indian agents shall reside at their respective agencies, and shall in no case be permitted to visit the city of Washington except when ordered to do so by the Commissioner of Indian Affairs. And it is hereby made the duty of the said Commissioner to report all cases of the violation of this section to the President, with the request that the agents disregarding the provisions herein contained be at once removed from office.

Sec. 8. *And be it further enacted*, That all acts or parts of acts in conflict with the provisions of this act, be, and the same are hereby, repealed; and all offices and employments connected with Indian affairs in California not provided for in this act be, and the same are hereby, abolished.

APPROVED, April 8, 1864.

CHAP. XLIX.—An Act to incorporate the Union Gaslight Company of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Sayles J. Bowen, William Elmer, William Bates, Robert W. Milbank, Andrew M. Kinney, William H. Baldwin, Z. D. Gilman, D. C. Forney, S. P. Brown, John Green, and Gamaliel Gay, and their associates and assigns, be, and they are hereby, created a body corporate, under the name of The Union Gaslight Company of the District of Columbia, with authority to manufacture and sell gas, to be made of coal, zinc, oil, tar, pitch, peat, turpentine, or other material, and to be used in lighting the city of Washington and the streets thereof, and any buildings, manufactories, or houses therein situated, and to lay mains and pipes for the purpose of conducting gas in any of the avenues, streets, lanes, or alleys of the said city: *Provided, however*, That the said company shall so conduct the manufacture, and lay said mains and pipes, as not to create a nuisance or injure either private or public property: *And provided further*, That the said mains and pipes shall be laid subject to such conditions and in compliance with such regulations as may be prescribed by the municipal authorities of the city of Washington; and the right to erect and establish any buildings, apparatus, or machinery for the manufacture of gas, shall be subject to such regulations and restrictions as may be from time to time prescribed by the said municipal authorities of Washington.

Sec. 2. *And be it further enacted*, That the capital stock of the said company shall not be less than five hundred thousand, nor more than one million dollars, and that the said stock shall be divided into shares of one hundred dollars each, and shall be deemed personal property and be transferable in such manner as the by-laws of said company may direct.

Sec. 3. *And be it further enacted*, That within six days after this act is approved by the President of the United States, the incorporators named in the first section, or a majority of them, or, if any refuse or neglect to act, then a majority of the others, shall cause books of subscription to the capital stock of said company to be opened and kept open in some convenient place in the city of Washington, from nine o'clock in the forenoon till three o'clock in the afternoon, for a period of not less than three days, and as much longer as the said incorporators shall prescribe, and the said incorporators shall give public notice of the time and place of opening said books of subscription, by advertisement thereof in the daily papers published in the city of Washington, and subscribers to the capital stock of said company shall be held to be stockholders: *Provided*, That every subscriber shall pay at the time of subscribing twenty-five per centum of the amount subscribed by him to the treasurer, who shall be appointed by the said incorporators to receive the same, or his subscription shall be null and void.

Sec. 4. *And be it further enacted*, That when the minimum amount of the capital stock of said company, as prescribed in the second section, shall have been subscribed, and twenty-five per centum thereof paid as aforesaid, the said incorporators, or a majority of them, and in case any refuse to act, then a majority of the others, shall, within fifteen days thereafter, call the first meeting of the stockholders of said company, to be held

38TH CONG....1ST SESS.

Laws of the United States.

at some convenient place in the city of Washington, for the election of directors, of the time and place whereof notice shall be given for at least five days in at least two daily newspapers published in the city of Washington, or by written notice thereof, signed by one or more of said corporations, and personally served on each stockholder; and in all meetings of the stockholders each share shall entitle the holder to one vote, to be given either in person or by proxy.

Sec. 5. *And be it further enacted*, That the government and direction of the affairs of the company shall be vested in the board of directors, composed of seven members, who shall be stockholders, and who shall hold their office for the term of one year, and until others are duly elected and qualified to take their places as directors; and the said directors shall elect one of their number to be president of the board, who shall also be president of the company, and a majority of the board shall constitute a quorum to do business; and they shall choose a treasurer, who shall give bond with sufficient surety to said company, in such sum as the said directors may require, for the faithful discharge of his trust. In case of a vacancy in the board of directors by death, resignation, removal, refusal to act, or otherwise, the vacancy occasioned thereby shall be filled by the other directors.

Sec. 6. *And be it further enacted*, That there shall be an annual meeting of the stockholders, for the election of directors, to be held at such time and place, and under such rules and regulations as the said company in their by-laws shall prescribe, and the directors shall make an annual report in writing of their proceedings to the stockholders.

Sec. 7. *And be it further enacted*, That the directors shall have full power to make all such by-laws as they shall deem necessary for the regulation, management, and disposition of the stock, effects, and property of the said company, and for the proper execution of the business of the company, so as the same shall not be contrary to this charter, to the laws of the United States, or to the ordinances of the city of Washington.

Sec. 8. *And be it further enacted*, That nothing in this shall be so construed as to authorize the said company to issue any note, token, device, scrip, or other evidence of debt to be used as a currency.

Sec. 9. *And be it further enacted*, That if any person or persons shall willfully destroy, or in any wise injure the mains, pipes, apparatus, or other works, property, or appurtenances belonging to and used by said company in manufacturing gas or in furnishing the same to consumers thereof, the person or persons so offending shall, for every such offense, forfeit and pay to the said company the sum of five dollars, and shall, in addition to said penalty, remain liable to said company for any loss or damage occasioned by the offense.

Sec. 10. *And be it further enacted*, That the said company is hereby incorporated upon the express conditions that it shall furnish gas to all the consumers thereof containing fifty per centum more illuminating power than that which is now furnished by the Washington Gaslight Company, and at a cost not exceeding two dollars and fifty cents per thousand cubic feet; and a failure to comply with these conditions shall operate as a forfeiture of this charter.

Sec. 11. *And be it further enacted*, That the said company shall not be authorized to sell gas until it shall have produced to the Mayor of the city of Washington and to the Secretary of the Interior satisfactory evidence that it has laid down, in a proper and workmanlike manner, in the avenues and streets of the said city, gas mains of an average diameter of at least six inches and a total length of not less than twenty-five miles; nor shall the said company connect its gas mains with the pipes supplying the Capitol and other public buildings belonging to the United States, or sell gas, until it shall have produced to the Secretary of the Interior satisfactory evidence that it has erected and in operation good and substantial works and holders capable of manufacturing and storing a quantity of gas, of the quality aforesaid, sufficient to supply the consumption at all times required in the Capitol and public buildings afore-

said. And unless the said company shall have complied with the requirements and conditions in this section prescribed within two years from the passage of this act, the said act shall be null and void: *Provided, however*, That said company shall have the privilege, at any time within the said two years, of lighting with the gas manufactured by it some one street a distance not exceeding one mile.

Sec. 12. *And be it further enacted*, That each of the stockholders in the Union Gaslight Company of the District of Columbia shall be held liable in his or her individual capacity for all the debts and liabilities of the said company, however contracted or incurred, to be recovered by suit as other debts or liabilities, before the court or tribunal having jurisdiction of the case.

Sec. 13. *And be it further enacted*, That this act may at any time be altered, amended, or repealed by the Congress of the United States.

APPROVED, April 8, 1864.

CHAP. L.—An Act to incorporate Providence Hospital of the City of Washington, District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Lucy Gwynn, Teresa Angela Costello, Sarah McDonald, Mary E. Spalding, and Mary Carroll, and their successors in office, are hereby made, declared, and constituted a corporation and body-politic, in law and in fact, under the name and style of the Directors of Providence Hospital, and by that name they shall be and are hereby made capable in law to sue and be sued, to plead and be impleaded, in any court within the county of Washington, in the District of Columbia; to have and use a common seal, and to alter or amend the same at pleasure; to have, purchase, receive, possess, and enjoy, any estate in lands, tenements, annuities, goods, chattels, moneys, or effects, and to grant, devise, or dispose of the same in such manner as they may deem most for the interest of the hospital: *Provided*, That the real estate held by said corporation shall not exceed in value the sum of one hundred and fifty thousand dollars.

Sec. 2. *And be it further enacted*, That the said corporation and body-politic shall have full power to appoint from their own body a president and such other officers as they may deem necessary for the purposes of their creation; and in case of the death, resignation, or refusal to serve, of any of their number, the remaining members shall elect and appoint other persons in lieu of those whose places may have been vacated; and the said corporation shall have full power and all the rights of opening and keeping a hospital in the city of Washington for the care of such sick and invalid persons as may place themselves under the treatment and care of the said corporation.

Sec. 3. *And be it further enacted*, That the said corporation shall also have and enjoy full power and authority to make such by-laws, rules, and regulations, as may be necessary for the general accomplishment of the objects of said hospital: *Provided*, That they be not inconsistent with the laws in force in the District of Columbia: *And provided, further*, That this act shall be liable to be amended, altered, or repealed, at the pleasure of Congress.

APPROVED, April 8, 1864.

CHAP. LI.—An Act concerning Notaries Public for the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notaries public for the District of Columbia may be appointed by the supreme court of said District, whose term of office shall be five years, and who may be removed by said court for cause. There shall be no new appointment of a notary public until the number in this District is reduced to twenty-five; and when the number is so reduced, as vacancies thereafter occur, they may be filled by said court.

Sec. 2. *And be it further enacted*, That each notary public hereafter appointed, before entering upon the duties of his office, shall take an oath faithfully to discharge the same, and shall give bond to the United States in the sum of two thou-

sand dollars, with security to be approved by the said supreme court, or a judge thereof, for the faithful discharge of the duties of his office. And the said court shall, with reasonable dispatch, by a general order to be published in one or more newspapers printed in the said District, require all persons now holding the commission of notary public in said District to give new bond, as hereinbefore provided for, within a short time to be prescribed therein; and all such persons failing to comply therewith shall be stricken from the list of notaries.

Sec. 3. *And be it further enacted*, That notaries public shall have authority to demand acceptance and payment of foreign bills of exchange, and to protest the same for non-acceptance and non-payment; and to exercise such other powers and duties as, by the law of nations, and according to commercial usages, or for use and effect beyond the jurisdiction of the said District, as, according to the law of any State or Territory of the United States, or any foreign Government in amity with the United States, may be performed by notaries public.

Sec. 4. *And be it further enacted*, That notaries public may also demand acceptance of inland bills of exchange, and payment thereof, and of promissory notes, and may protest the same for non-acceptance or non-payment, as the case may require.

Sec. 5. *And be it further enacted*, That each notary public shall have power to take and to certify the acknowledgment or proof of powers of attorney, mortgages, deeds, and other instruments of writing executed by any married woman, to take depositions, and to administer oaths and affirmations in all matters incident or belonging to the duties of his office, and to take affidavits to be used before any court, judge, or officer within this District.

Sec. 6. *And be it further enacted*, That each notary public shall keep a fair record of all his official acts, except such as are mentioned in the fifth section of this act; and when required shall give a certified copy of any record in his office to any person, upon payment of the fees therefor.

Sec. 7. *And be it further enacted*, That each notary public, before he acts as such, shall provide a notarial seal, with which he shall authenticate all his official acts, which seal, together with his records and official documents, shall not be liable to be seized on by any execution. He shall deposit an impression of his official seal in the office of the clerk of the supreme court of said District.

Sec. 8. *And be it further enacted*, That on the death, resignation, or removal from office of any notary public, his records, together with all his official papers, shall be deposited in the office of the clerk of the supreme court of said District.

Sec. 9. *And be it further enacted*, That the original protest of a notary public, under his hand and official seal, of any bill of exchange or promissory note for non-acceptance or non-payment, stating the presentment by him of such bill of exchange or note for acceptance or payment, and the non-acceptance or non-payment thereof, and the service of notice on any or all of the parties to such bill of exchange or promissory note, and specifying the mode of giving such notice, and the reputed place of residence of the party to whom the same was given, and the post office nearest thereto, shall be prima facie evidence of the facts contained therein. The certificate of a notary public, under his hand and seal of office, drawn from his record, stating the protest and the facts therein recorded, shall be evidence of the facts in like manner as the original protest.

Sec. 10. *And be it further enacted*, That the fees of notaries public shall be as follows: For each certificate and seal, fifty cents; taking depositions or other writings, for each one hundred words, ten cents; administering an oath, fifteen cents; taking acknowledgment of a deed or power of attorney, with certificate thereof, fifty cents; every protest of a bill of exchange or promissory note, and recording the same, one dollar and seventy-five cents; each notice of protest, ten cents; each demand for acceptance or payment, if accepted or paid, one dollar, to be paid by the party accepting or paying the same; each noting of protest, one dollar. And any notary public who shall take a higher fee than is prescribed by this act shall pay

Laws of the United States.

38TH CONG....1ST SESS.

a fine of one hundred dollars and be removed from office by the said supreme court.

SEC. 11. *And be it further enacted*, That all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.

APPROVED, April 8, 1864.

CHAP. LII.—An Act to authorize the Columbia Institution for the Deaf and Dumb and the Blind to confer Degrees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the board of directors of the Columbia Institution for the instruction of the Deaf and Dumb and the Blind be, and they are hereby, authorized and empowered to grant and confirm such degrees in the liberal arts and sciences to such pupils of the institution, or others, who, by their proficiency in learning or other meritorious distinction they shall think entitled to them, as are usually granted and conferred in colleges; and to grant to such graduates diplomas or certificates, sealed and signed in such manner as said board of directors may determine, to authenticate and perpetuate the memory of such graduation.

APPROVED, April 8, 1864.

CHAP. LIII.—An Act to amend section nine of the Act approved July seventeenth, eighteen hundred and sixty-two, entitled "An Act to define the Pay and Emoluments of certain Officers of the Army, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the rank of chaplain without command in the regular and volunteer service of the United States, is hereby recognized. Chaplains shall be borne on the field and staff rolls next after the surgeons, and shall wear such uniform as is or may be prescribed by the Army regulations, and shall be subject to the same rules and regulations as other officers of the Army. They shall be entitled to draw forage for two horses, and, when assigned to hospitals, posts, and forts, they shall be entitled to quarters and fuel within the hospitals, posts, or forts, while they are so assigned, without the privilege of commutation, subject to the same conditions and limitations as are now by law provided in the case of surgeons. When absent from duty with leave, or on account of sickness or other disability, or when held by the enemy as prisoners, they shall be subject to no other diminution or loss of pay and allowances than other officers in the military service are under like circumstances. And chaplains who have been absent from duty, by reason of wounds or sickness, or when held as prisoners in the hands of the enemy, shall be entitled to receive full pay without rations during such absence. In all other respects, the pay of chaplains shall be the same as now provided by law.

SEC. 2. *And be it further enacted*, That the act approved July fourteenth, eighteen hundred and sixty-two, entitled, "An act to grant pensions," is hereby so amended as to include chaplains in the regular and volunteer forces of the Army: *Provided*, That the pension to which a chaplain shall be entitled for a total disability shall be twenty dollars per month, and all the provisions of the act to which this section is an amendment shall apply to and embrace the widows, children, mothers, and sisters of chaplains of the land forces who have died since the fourth day of March, eighteen hundred and sixty-one, or shall die of wounds or disease contracted in the service of the United States, and while such chaplains are or shall be in the line of their duty.

SEC. 3. *And be it further enacted*, That it shall be the duty of chaplains in the military service of the United States to make monthly reports to the Adjutant General of the Army, through the usual military channels, of the moral condition and general history of the regiments, hospitals, or posts to which they may be attached; and it shall be the duty of all commanders of regiments, hospitals, and posts to render such facilities as will aid in the discharge of the duties assigned to them by the Government.

SEC. 4. *And be it further enacted*, That all chaplains in the military service of the United States shall hold appropriate religious services at the

burial of soldiers who may die in the command to which they are assigned to duty, and it shall be their duty to hold public religious services at least once each Sabbath when practicable.

APPROVED, April 9, 1864.

CHAP. LIV.—An Act to appoint an Appraiser and Assistant Appraiser for the Port of Portland, and for other purposes..

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States, with the advice and consent of the Senate, shall appoint an appraiser and assistant appraiser for the port of Portland, Maine, whose duties shall be the same as those of similar officers in other ports; and the ninth section of the act of Congress passed May seventh, one thousand eight hundred and twenty-two, entitled "An act further to establish the compensation of officers of the customs and to alter certain collection districts, and for other purposes," is hereby amended by adding Portland aforesaid to the ports therein enumerated, and the deputy collectors, not exceeding three in number, and the appraiser of said port shall each receive the compensation of two thousand dollars per annum, and the assistant appraiser shall receive a compensation of fifteen hundred dollars per annum.

APPROVED, April 9, 1864.

CHAP. LVIII.—An Act extending the Time within which the States and Territories may accept the Grant of Lands made by the Act entitled "An Act donating Public Lands to the several States and Territories which may provide Colleges for the Benefit of Agriculture and the Mechanic Arts," approved July second, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any State or Territory may accept and shall be entitled to the benefits of the act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred and sixty-two, by expressing its acceptance thereof as provided in said act, within two years from the date of the approval of this act, subject, however, to the conditions in said act contained.

SEC. 2. *And be it further enacted*, That the benefit of the provisions of this act, and of the said act approved July second, eighteen hundred and sixty-two, be, and the same are hereby, extended to the State of West Virginia.

APPROVED, April 14, 1864.

CHAP. LIX.—An Act to enable the People of Nebraska to form a Constitution and State Government, and for the Admission of such State into the Union on an equal Footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of the Territory of Nebraska included in the boundaries hereinafter designated be, and they are hereby, authorized to form for themselves a constitution and State government, with the name aforesaid, which State, when so formed, shall be admitted into the Union as hereinafter provided.

SEC. 2. *And be it further enacted*, That the said State of Nebraska shall consist of all the territory included within the following boundaries, to wit: Commencing at a point formed by the intersection of the western boundary of the State of Missouri with the fortieth degree of north latitude; extending thence due west along said fortieth degree of north latitude to a point formed by its intersection with the twenty-fifth degree of longitude west from Washington; thence north along said twenty-fifth degree of longitude to a point formed by its intersection with the forty-first degree of north latitude; thence west along said forty-first degree of north latitude to a point formed by its intersection with the twenty-seventh degree of longitude west from Washington; thence north along said twenty-seventh degree of west longitude to a point formed by its intersec-

tion with the forty-third degree of north latitude; thence east along said forty-third degree of north latitude to the Reya Paha river; thence down the middle of the channel of said river, with its meanderings, to its junction with the Niobrara river; thence down the middle of the channel of said Niobrara river; and following the meanderings thereof, to its junction with the Missouri river; thence down the middle of the channel of said Missouri river; and following the meanderings thereof, to the place of beginning.

SEC. 3. *And be it further enacted*, That all persons qualified by law to vote for representatives to the General Assembly of said Territory shall be qualified to be elected; and they are hereby authorized to vote for and choose representatives to form a convention, under such rules and regulations as the Governor of said Territory may prescribe, and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as said convention may prescribe; and if any of said citizens are enlisted in the Army of the United States, and are still within said Territory, they shall be permitted to vote at their place of rendezvous; and if any are absent from said Territory, by reason of their enlistment in the Army of the United States, they shall be permitted to vote at their place of service, under the rules and regulations in each case to be prescribed as aforesaid; and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said Territory in proportion to the population as near as may be, and said apportionment shall be made for said Territory by the Governor, United States district attorney, and chief justice thereof, or any two of them. And the Governor of said Territory shall, by proclamation, on or before the first Monday of May next, order an election of the representatives aforesaid to be held on the first Monday in June thereafter throughout the Territory; and such election shall be conducted in the same manner as is prescribed by the laws of said Territory regulating elections therein for members of the House of Representatives; and the number of members to said convention shall be the same as now constitute both branches of the Legislature of the aforesaid Territory.

SEC. 4. *And be it further enacted*, That the members of the convention thus elected shall meet at the capital of said Territory on the first Monday in July next, and after organization shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States; whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government: *Provided*, That the constitution when formed shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence: *And provided further*, That said constitution shall provide, by an article forever irrevocable, without the consent of the Congress of the United States:

First. That slavery or involuntary servitude shall be forever prohibited in said State.

Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

Third. That the people inhabiting said Territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposition of the United States, and that the lands belonging to citizens of the United States residing without the said State shall never be taxed higher than the land belonging to residents thereof, and that no taxes shall be imposed by said State on lands or property therein belonging to or which may hereafter be purchased by the United States.

SEC. 5. *And be it further enacted*, That in case a constitution and State government shall be formed for the people of said Territory of Nebraska, in compliance with the provisions of this act, that said convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for their ratifi-

38TH CONG....1ST SESS.

Laws of the United States.

cation or rejection at an election to be held on the second Tuesday of October, one thousand eight hundred and sixty-four, at such places and under such regulations as may be prescribed therein, at which election the qualified voters, as hereinbefore provided, shall vote directly for or against the proposed constitution, and the returns of said elections shall be made to the acting Governor of the Territory, who, together with the United States district attorney and chief justice of the said Territory, or any two of them, shall canvass the same, and if a majority of legal votes shall be cast for said constitution in said proposed State, the said acting Governor shall certify the same to the President of the United States, together with a copy of said constitution and ordinances; whereupon it shall be the duty of the President of the United States to issue his proclamation declaring the State admitted into the Union on an equal footing with the original States, without any further action whatever on the part of Congress.

Sec. 6. *And be it further enacted*, That until the next general census shall be taken said State of Nebraska shall be entitled to one Representative in the House of Representatives of the United States, which Representative, together with the Governor and State and other officers provided for in said constitution, may be elected on the same day a vote is taken for or against the proposed constitution and State government.

Sec. 7. *And be it further enacted*, That sections numbered sixteen and thirty-six in every township, and when such sections have been sold or otherwise disposed of by any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be, shall be, and are hereby, granted to said State for the support of common schools.

Sec. 8. *And be it further enacted*, That provided the State of Nebraska shall be admitted into the Union in accordance with the foregoing provisions of this act, that twenty entire sections of the unappropriated public lands within said State, to be selected and located by direction of the Legislature thereof, on or before the first day of January, anno Domini eighteen hundred and sixty-eight, shall be, and they are hereby, granted, in legal subdivisions of not less than one hundred and sixty acres, to said State for the purpose of erecting public buildings at the capital of said State for legislative and judicial purposes, in such manner as the Legislature shall prescribe.

Sec. 9. *And be it further enacted*, That fifty other entire sections of land, as aforesaid, to be selected and located as aforesaid, in legal subdivisions as aforesaid, shall be, and they are hereby, granted to said State for the purpose of erecting a suitable building for a penitentiary or State prison in the manner aforesaid.

Sec. 10. *And be it further enacted*, That seventy-two other sections of land shall be set apart and reserved for the use and support of a State university, to be selected in manner as aforesaid, and to be appropriated and applied as the Legislature of said State may prescribe for the purpose named, and for no other purpose.

Sec. 11. *And be it further enacted*, That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use, the said land to be selected by the Governor thereof, within one year after the admission of the State, and when so selected to be used or disposed of on such terms, conditions, and regulations as the Legislature shall direct: *Provided*, That no salt spring or lands, the right whereof is now vested in any individual or individuals, or which hereafter shall be confirmed or adjudged to any individual or individuals, shall, by this act, be granted to said State.

Sec. 12. *And be it further enacted*, That five per centum of the proceeds of the sales of all public lands lying within said State, which have been or shall be sold by the United States prior or subsequent to the admission of said State into the Union, after deducting all expenses incident to the same, shall be paid to the said State for the support of common schools.

Sec. 13. *And be it further enacted*, That from and after the admission of the said State of Ne-

braska into the Union in pursuance of this act, the laws of the United States, not locally inapplicable, shall have the same force and effect within the said State as elsewhere within the United States; and said State shall constitute one judicial district, and be called the district of Nebraska.

Sec. 14. *And be it further enacted*, That any unexpended balance of the appropriations for said territorial legislative expenses of Nebraska remaining for the fiscal years eighteen hundred and sixty-three and eighteen hundred and sixty-four, or so much thereof as may be necessary, shall be applied to and used for defraying the expenses of said convention and for the payment of the members thereof, under the same rules, regulations, and rates as are now provided by law for the payment of the Territorial Legislature.

APPROVED, April 19, 1864.

CHAP. LX.—An Act in addition to an Act for the establishment of certain Arsenals.

Whereas it is necessary that the Government of the United States should at an early day, for the purpose of the arsenal at Rock Island, in the State of Illinois, provided for in the act passed July eleventh, eighteen hundred and sixty-two, obtain the possession of and title to certain lands, now the property of private persons, upon which to locate the said arsenal, with the grounds and buildings needful for and to make a part of the same: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and empowered to take and hold full, complete, and permanent possession in behalf of the United States, of all the lands and shores of the island of Rock Island, in the State of Illinois, the same, when so possessed, to be held and kept as a military reservation by the War Department, upon which shall be built and maintained an arsenal for the construction, deposit, and repair of arms and munitions of war, and such other military establishments as have been or may be authorized by law to be placed thereon in connection with such arsenal.

Sec. 2. *And be it further enacted*, That if it shall appear upon examination by the Attorney General of the United States of the titles of the lands on Rock Island taken and occupied by the Secretary of War for an arsenal and other military purposes, as provided in the foregoing section, that any part or parcels thereof are now the property of, and are rightfully possessed by, any individual or corporation as his or their own private property, the value of such private property so taken, and a just compensation for any damages caused by such taking, shall, if mutually agreed on by the Secretary of War and the rightful owner or owners thereof and approved by the President, be paid by the Secretary of the Treasury to said rightful owner or owners so agreeing, out of the appropriations made or to be made for the construction of said arsenal: *Provided*, That before such payment shall be made, the said owner or owners of such private lands so taken, or such of them as shall agree, shall by good and sufficient deed or deeds, in due form of law, and approved by the Attorney General of the United States, fully release and convey to the United States all their and each of their several and respective rights in and titles to such lands so taken.

Sec. 3. *And be it further enacted*, That if the Secretary of War shall not agree with any private owner or owners of lands so taken for the use of the United States for military purposes, or if any such owner or owners shall refuse to accept the sum to be paid to him or them by the Secretary of the Treasury as and for the true value thereof, or shall from any other cause neglect or fail, for the space of twelve months after such taking to execute and deliver the deed or deeds thereof, needful in the opinion of the Attorney General of the United States, to convey to the United States the title of said lands taken, there shall forthwith be selected three competent persons, who shall be named and appointed by the President, and shall by him be constituted a board of commissioners, whose duty it shall be to hear the parties interested, who may appear before

them upon reasonable notice of time and place, and ascertain the true value of the land taken, and of the several parcels thereof that shall not have been conveyed to or paid for by the United States as hereinbefore provided, and the names and titles of the claimants thereof, if more than one, and their respective interests therein, and what compensation for the taking of their lands is due to each claimant; and the said board of commissioners shall report the same as early as practicable after their appointment to the circuit court of the United States within and for the district in which such lands are situated; and in case of a difference of opinion in the said board as to the matters referred to them, the report of a majority of the commissioners shall be held to be the report of the board. And the compensation and expenses of the said commissioners shall be fixed and approved by the Secretary of War, and paid by the Secretary of the Treasury upon his requisition.

Sec. 4. *And be it further enacted*, That the said circuit court, upon the return and examination of the report of the said commissioners, shall, for the parcels of land taken, as to which there appear to be no conflicting claims for compensation, by decree, order the sums awarded by the commissioners in said report, to be paid to the person or persons who shall, according to said report, be entitled thereto, and who shall apply therefor, and who shall, by writing filed in the said court, waive his or their right to an appeal from the determination of the said board of commissioners, and agree to accept the said sum, in full satisfaction of his or their claims for such lands taken by the United States: *Provided*, That if the party entitled and applying as aforesaid, or filing a complaint as herein-after provided, shall have an estate for life only in said land, or any estate less than a fee simple, or shall be a married woman, or a minor, or *non compos mentis*, the court aforesaid shall, in its final judgment or decree, make such order for the payment of the said compensation to the party or for its payment into court; and as to the investment of the principal and disposal of the income, or interest thereof, as shall be just and equitable, and for the protection of the rights of those interested, in accordance with the rules and practice of courts of equity, in cases where a fund in court is to be divided and administered.

Sec. 5. *And be it further enacted*, That any person or persons aggrieved by the doings of the aforesaid board of commissioners, in the estimation of his or their damages, or in the refusal or omission thereof, may at any time within twelve months from and after the return of said report to the said circuit court, or within three years after the land claim shall have been taken, make application by complaint in writing to the said court sitting as a court of equity, setting forth the title which he or they may have or claim in said lands taken, or in parcels thereof, and the grievance complained of; and the said court after reasonable notice to the district attorney of the United States for that district, who shall appear and act for and in behalf of the United States, shall proceed and hear the parties, and their evidence according to the course of proceedings in equity, and shall determine what right or title, if any, the complainant or complainants had in and to the parcels of land taken, claimed by him or them, and shall ascertain, and by decree fix the sum or sums of money to which as damages or just compensation for such taking the complainants, severally or jointly, if they apply jointly, are entitled: *Provided*, That if a complainant in any case shall, in writing or by motion, so request, the value of the land taken or his interest therein shall be assessed or determined by a jury upon the law side of the court, upon issues properly framed, under the direction or allowance of the court sitting in equity.

Sec. 6. *And be it further enacted*, That, if the attorney of the United States shall so request, the court may, before ordering issues to be framed for a jury, as provided in the foregoing section, require the complainants applying therefor to undertake and to give security satisfactory to the court therefor, that they will pay the costs of court to be taxed by the court, if the verdict of such jury shall not be in favor of such complainants, and for a sum larger than that allowed by the board of commissioners in their report; and

Laws of the United States.

38TH CONG.... 1ST SESS.

the decision of all questions as to the amount of costs to be paid by or to the complainants shall be within the determination of the court at their discretion, and according to the rules of equity practiced in the courts of the United States.

SEC. 7. *And be it further enacted*, That either party may appeal to the Supreme Court of the United States from any final judgment or decree which may be rendered by said circuit court in any case arising under the provisions of this statute, where the amount in controversy exceeds three thousand dollars: *Provided*, That such appeal shall be taken within ninety days after the rendition of such judgment or decree.

SEC. 8. *And be it further enacted*, That in all cases of final judgments of decrees by said circuit court, or on appeal by the said Supreme Court, where the same shall be affirmed in favor of the claimant, the sum due thereby shall be paid either to the claimant or into the circuit court aforesaid, as said judgment or decree may determine, by the United States, out of the money appropriated for the construction and maintenance of said arsenal, on presentation to the Secretary of the Treasury of a copy of said judgment or decree signed by the presiding judge, and certified by the clerk of the said circuit court. And such payment shall be a full discharge to the United States for the compensation and damages due for the taking of the lands, in respect of which the said judgment or decree was rendered or made, and shall forever bar any further claim or demand against the United States arising out of the taking of such land. And such payment, or the lawful tender thereof, shall operate as, and shall be deemed and held to be, a full and complete conveyance of the parcel or parcels of land for which it was made to the United States.

SEC. 9. *And be it further enacted*, That every claim against the United States for the taking of land for public use as herein authorized, shall be forever barred unless within three years from the time of such taking, the claim for compensation therefor shall be adjusted by agreement with the Secretary of War, or be settled by an award of the board of commissioners, or presented by complaint or petition to the circuit court of the United States in the district in which the land is situated: *Provided, however*, That the claims of persons, who at the time of the taking shall be under the age of twenty-one years, married women, idiots, lunatics, or insane, or beyond seas, shall not be barred if their petition or complaint be filed in said court as aforesaid, within three years after the disability has ceased, but no disability other than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively.

APPROVED, April 19, 1864.

CHAP. LXI.—An Act fixing the date of the loss of the United States brig Bainbridge, and for the Relief of the Officers, Seamen, and Marines of the same, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of fixing the time at which shall commence the pensions, under the existing laws, of the widows and orphan children of the officers, seamen, marines, and others in service who were lost in the United States brig Bainbridge, as well as the time to which the pay of said officers, seamen, marines, and others in the service shall be allowed, the twenty-first day of August, in the year one thousand eight hundred and sixty-three, shall be deemed and taken to be the day on which the said brig Bainbridge foundered at sea.

SEC. 2. *And be it further enacted*, That the widow or child, or children, and in case there shall be no widow, or child or children, as aforesaid, then the parent or parents, and if there be no parents, the brothers and sisters of the officers, seamen, marines, and others in service, who were lost in said brig Bainbridge, shall be entitled to and receive, out of any money in the Treasury not otherwise appropriated, a sum equal to twelve months' pay of their respective deceased relations, aforesaid, in addition to the pay due to the said deceased at the date of the loss of said vessel.

SEC. 3. *And be it further enacted*, That the proper

accounting officers of the Treasury Department be, and are hereby, authorized and directed to settle the accounts of Charles C. Walden, late acting assistant paymaster, in the Navy, who was lost in the brig Bainbridge, with all his accounts and vouchers for expenditures and payment made by him, and with all the money, stores, and supplies procured for the use of said vessel, and to allow him a credit for whatever sum appears to be due from him on the books of the Department.

APPROVED, April 19, 1864.

CHAP. LXIII.—An Act to amend an Act entitled "An Act to establish and equalize the Grade of Line Officers of the United States Navy," approved July sixteenth, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no line officer of the Navy, upon the active list, below the grade of commodore, nor any other naval officer, shall be promoted to a higher grade, until his mental, moral, and professional fitness to perform all his duties at sea shall be established to the satisfaction of a board of examining officers to be appointed by the President of the United States. And such board shall have power to take testimony, the witnesses when present to be sworn by the president of the board, and to examine all matter on the files and records of the Department in relation to any officer whose case shall be considered by them.

SEC. 2. *And be it further enacted*, That such examining board shall consist of not less than three officers, senior in rank to the officer to be examined.

SEC. 3. *And be it further enacted*, That any officer to be acted upon by said board shall have the right to be present, if he desires it; and his statement of his case, on oath, and the testimony of witnesses, and his examination, shall be recorded. And any matter on the files and records of the Department touching each case, as may in the opinion of the board be necessary to assist them in making up their opinion, shall, together with the whole record and finding, be presented to the President for his approval or disapproval of the finding. And no officer shall be rejected until after such public examination of himself and the records of the Department in his case, unless he fails to appear before said board after having been duly notified.

SEC. 4. *And be it further enacted*, That no officer in the naval service shall be promoted to a higher grade therein, upon the active list, until he has been examined by a board of naval surgeons, and pronounced physically qualified to perform all his duties at sea. And all officers whose cases shall have been acted upon by the aforesaid boards, and who shall not have been recommended for promotion by both of them, shall be placed upon the retired list.

SEC. 5. *And be it further enacted*, That all officers not recommended for promotion under the fourth section of an act entitled "An act to establish and equalize the grades of line officers of the United States Navy," approved July sixteen, eighteen hundred and sixty-two, shall have the right to present themselves for examination, according to the provisions of this act, and if found duly qualified, and such finding be approved by the President of the United States, they shall be promoted to the same grade and place as if they had been recommended by the board, and shall receive the corresponding pay according to the service which they have performed from the date of their rank to that of their promotion. And no further promotions shall be made upon the active list until the number in each grade is reduced to that provided by law.

SEC. 6. *And be it further enacted*, That any officer in the naval service, by and with the advice and consent of the Senate, may be advanced, not exceeding thirty numbers, in his own grade, for distinguished conduct in battle, or extraordinary heroism.

SEC. 7. *And be it further enacted*, That the President of the United States shall appoint paymasters of the fleet and engineers of the fleet in the same manner and with the same rank and pay as fleet surgeons; and the retired pay of surgeons, pay-

masters, engineers, and other staff officers in the Navy shall be the same as that of the retired officers of the line of the Navy with whom they have relative rank.

SEC. 8. *And be it further enacted*, That all acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

APPROVED, April 21, 1864.

CHAP. LXIV.—An Act to amend an Act for enrolling and calling out the National Forces so as to increase the Rank, Pay, and Emoluments of the Provost Marshal General.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the rank, pay, and emoluments of the Provost Marshal General, authorized by section five of said act, shall be those of a brigadier general.

SEC. 2. *And be it further enacted*, That all acts and parts of acts inconsistent herewith are hereby repealed.

APPROVED, April 21, 1864.

CHAP. LXV.—An Act to change the Name of the District and Port of Presque Isle to the District and Port of Erie.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the district of Presque Isle, in the State of Pennsylvania, shall hereafter be known as the district of Erie, and the port of Presque Isle shall hereafter be known as the port of Erie.

APPROVED, April 21, 1864.

CHAP. LXVI.—An Act in amendment of an Act entitled "An Act relating to Foreign Coins and the Coinage of Cents at the Mint of the United States," approved February twenty-one, eighteen hundred and fifty-seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passage of this act, the standard weight of the cent coined at the Mint of the United States shall be forty-eight grains, or one tenth of one ounce troy; and said cent shall be composed of ninety-five per centum of copper, and five per centum of tin and zinc, in such proportions as shall be determined by the Director of the Mint; and there shall be from time to time struck and coined at the Mint a two-cent piece, of the same composition, the standard weight of which shall be ninety-six grains, or one fifth of one ounce troy, with no greater deviation than four grains to each piece of said cent and two-cent coins; and the shape, mottoes, and devices of said coins shall be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury; and the laws now in force relating to the coinage of cents and providing for the purchase of material and prescribing the appropriate duties of the officers of the Mint and the Secretary of the Treasury be, and the same are hereby, extended to the coinage herein provided for.

SEC. 2. *And be it further enacted*, That all laws now in force relating to the coins of the United States and the striking and coining the same shall, so far as applicable, be extended to the coinage herein authorized, whether said laws are penal or otherwise, for the security of the coin, regulating and guarding the process of striking and coining, for preventing debasement or counterfeiting, or for any other purpose.

SEC. 3. *And be it further enacted*, That the Director of the Mint shall prescribe suitable regulations to insure a due conformity to the required weights and proportions of alloy in the said coins; and shall order trials thereof to be made from time to time by the assayer of the Mint, whereof a report shall be made in writing to the Director.

SEC. 4. *And be it further enacted*, That the said coins shall be a legal tender in any payment, the one-cent coin to the amount of ten cents, and the two-cent coin to the amount of twenty cents; and it shall be lawful to pay out said coins in exchange for the lawful currency of the United States, (except cents or half cents issued under former acts of Congress,) in suitable sums, by the treasurer of the Mint, and by such other deposit-

38TH CONG....1ST SESS.

Laws of the United States.

aries as the Secretary of the Treasury may designate, under general regulations proposed by the Director of the Mint and approved by the Secretary of the Treasury; and the expenses incident to such exchange, distribution, and transmission, may be paid out of the profits of said coinage; and the net profits of said coinage, ascertained in like manner as is prescribed in the second section of the act to which this is a supplement, shall be transferred to the Treasury of the United States.

Sec. 5. *And be it further enacted*, That if any person or persons shall make, issue, or pass, or cause to be made, issued, or passed, any coin, card, token, or device whatsoever, in metal or its compounds, intended to pass or be passed as money for a one-cent piece or a two-cent piece, such person or persons shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding one thousand dollars, and by imprisonment for a term not exceeding five years.

APPROVED, April 22, 1864.

CHAP. LXVII.—An Act for a Charter of Masonic Hall Association, in Washington City, District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That B. B. French, of the Grand Encampment of the United States of America; Robert McMurdy, of the General Grand Royal Arch Chapter of the United States; George C. Whiting, of the Grand Consistory; E. L. Stevens, of Osiris Lodge of Perfection, No. 1; Z. D. Gilman, of Washington Commandery, No. 1; W. P. Partello, of Columbia Commandery; W. M. Smith, of Columbia Royal Arch Chapter, No. 15; W. G. Parkhurst, of Washington Royal Arch Chapter, No. 16; James Steele, of Mount Vernon Royal Arch Chapter, No. 20; C. F. Stansbury, of the Grand Lodge of the District of Columbia; Joseph Nairn, of Federal Lodge, No. 1; N. Acker, of Lebanon Lodge, No. 7; E. Kloman, of New Jerusalem Lodge, No. 9; J. M. Turton, of Hiram Lodge, No. 10; T. J. Fisher, of Saint John's Lodge, No. 11; L. Gassenheimer, of National Lodge, No. 12; J. Van Riswick, of Washington Centennial Lodge, No. 14; J. C. McGuire, of B. B. French Lodge, No. 15; F. L. Harvey, of Dawson Lodge, No. 16; J. W. D. Gray, of Harmony Lodge, No. 17; J. M. Hanson, of Acacia Lodge, No. 18; N. D. Larner, of Lafayette Lodge, No. 19, of the Order of Free and Accepted Masons, of the District of Columbia, and their successors to be appointed in the manner hereinafter declared, representing the several masonic bodies before named, be, and they are hereby, incorporated and made a body-politic and corporate, by the name of the Masonic Hall Association of the District of Columbia, and by that name may sue and be sued, plead and be impleaded, in any court of law or equity, of competent jurisdiction, and may have and use a common seal, and the same change at pleasure, and be entitled to use and exercise all the powers, rights, and privileges incident to such corporation.

Sec. 2. *And be it further enacted*, That the said corporation shall be capable of taking and holding real and personal estate, which estate, personal and real, shall never be divided among the members of the said corporation, but shall descend to their successors, duly elected and appointed in the manner hereinafter declared by the bodies they represent, for the promotion of the principles of the said corporation, and the benevolent purposes of the Order of Free and Accepted Masons, which they represent: *Provided*, That said corporation shall take and hold no more land than is necessary for a site on which to erect a masonic hall, suitable and convenient for the transaction of the business of the association and the promotion of the principles and purposes aforesaid. But this provision shall not prevent the said corporation from constructing suitable rooms and offices in connection with the said hall, to rent, and renting the same, and receiving rent therefor, to be applied to the promotion of the principles and purposes aforesaid.

Sec. 3. *And be it further enacted*, That the capital stock of said corporation shall not exceed the sum of three hundred thousand dollars, and that

the stock shall be divided into shares of twenty dollars each; and shall be deemed personal property, transferable in such manner as the constitution and by-laws of said corporation may direct.

Sec. 4. *And be it further enacted*, That within twenty days after the passage of this act the corporators named in the first section, or a majority of them, or if any refuse or neglect to act, then a majority of the remainder, shall cause books of subscription to the capital stock of the said corporation to be opened and kept open in such place and for a period to be fixed by said corporators, or a majority of them, public notice of which may be given by advertisement or otherwise as said corporators or a majority of them may determine; and subscribers upon said books to the capital stock of the corporation shall be held to be stockholders: *Provided*, That every subscriber shall pay, at the time of subscribing, such per centum of the amount by him subscribed to the treasurer elected or appointed by the corporators, or a majority of them, as may be required by said corporators or a majority of them, or his subscription shall be null and void. And when the books of subscription to the capital stock of said corporation shall be closed, the corporators named in the first section, or a majority of them, and in case any of them refuse or neglect to act, then a majority of the remainder, shall, within twenty days thereafter, call the first meeting of the stockholders of said corporation, to meet within ten days thereafter, for the choice of directors, of which public notice shall be given for three days in two public newspapers published daily in Washington city, or by written personal notice served on each stockholder, by the secretary or clerk of the corporation. And in all meetings of the stockholders each share shall entitle the holder to one vote, to be given in person or by proxy.

Sec. 5. *And be it further enacted*, That the government and direction of the affairs of the corporators shall be invested in a board of directors, five in number, elected by the stockholders on the first Monday of December in each year from among the corporators named in the first section of this act, and their successors, elected or appointed in the manner hereinafter declared by the masonic bodies they represent, who shall hold their office for one year and until others are duly elected and qualified to take their places as directors; and the said directors shall elect one of their number to be president of the board, who shall also be president of the corporation, and shall elect a secretary from among their own number, or from the corporators aforesaid, who shall also be secretary of the corporation, and they shall also choose a treasurer, who shall give bonds with surety to said corporation, in such sum as the said directors may require, for the faithful discharge of his trust. A majority of the directors shall form a quorum for the transaction of business, and in case of a vacancy in the board of directors by the death, resignation, or otherwise, of any director, the vacancy occasioned thereby shall be filled by the remaining directors from among the corporators named in the first section of this act, or their successors duly elected or appointed in the manner hereinafter declared by the masonic bodies they represent.

Sec. 6. *And be it further enacted*, That the directors shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper for the disposition and management of the stock, property, estate, and effects of the corporation, not contrary to the charter or to the laws of the United States and the ordinances of Washington city, and shall have power to alter or amend the same as the interests of the corporation, in their opinion, may require. And the said directors shall have power to regulate the payment of interest upon the certificates of stock held by the stockholders, or to the dividends that may accrue, and shall have power to provide for the redemption of the stock held by individuals, upon fair and equitable terms.

Sec. 7. *And be it further enacted*, That each masonic body or organization, named in the first section of this act, shall be entitled, during the month of November, eighteen hundred and sixty-four, and annually thereafter, to meet and select, by ballot, one of its members as a successor to the person then, or last, representing it as member of

this corporation, whose annual term expires next thereafter, or which may have expired next before that time, so that said corporation shall forever consist of one corporator from each of the said masonic bodies, named in the first section of this act: *Provided, however*, That should any of the said several masonic bodies, named in the first section of this act, surrender or forfeit its masonic charter or warrant, or from any cause cease to be recognized by the Order of Free and Accepted Masons, it shall not thereafter be entitled to any representation in said corporation, nor shall the continued corporate existence and rights of this association be in anywise affected thereby, so long as there remain five corporators qualified to act as such.

Sec. 8. *And be it further enacted*, That any masonic lodge, chapter, council, commandery, or consistory now in existence or that may hereafter be instituted in the District of Columbia, may, by and with the consent of two thirds of the corporators named in the first section, or their successors, be admitted to a representation in said corporation upon an equal footing with the several masonic bodies named in the first section of this act.

Sec. 9. *And be it further enacted*, That this act may be altered, amended, or repealed, at the pleasure of the Congress of the United States of America.

APPROVED, April 26, 1864.

CHAP. LXVIII.—An Act to authorize the Issuing of a Register to the Steam Vessel John Martin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to issue a register to the steam vessel John Martin.

APPROVED, April 26, 1864.

CHAP. LXIX.—An Act fixing certain Rules and Regulations for Preventing Collisions on the Water.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after September one, eighteen hundred and sixty-four, the following rules and regulations for preventing collisions on the water be adopted in the Navy and the mercantile marine of the United States: *Provided*, That the exhibition of any light on board of a vessel-of-war of the United States may be suspended whenever, in the opinion of the Secretary of the Navy, the commander-in-chief of a squadron, or the commander of a vessel acting singly, the special character of the service may require it.

REGULATIONS FOR PREVENTING COLLISIONS ON THE WATER.

Contents.

ARTICLE 1. Preliminary.

Rules concerning lights:

- “ 2. Lights to be carried as follows:
- “ 3. Lights for steamships.
- “ 4. Lights for steam-tugs.
- “ 5. Lights for sailing ships.
- “ 6. Exceptional lights for small sailing vessels.
- “ 7. Lights for ships at anchor.
- “ 8. Lights for pilot vessels.
- “ 9. Lights for fishing vessels and boats.

Rules concerning fog signals:

- “ 10. Fog signals.
- “ Steering and sailing rules:
- “ 11. Two sailing ships meeting.
- “ 12. Two sailing ships crossing.
- “ 13. Two ships under steam meeting.
- “ 14. Two ships under steam crossing.
- “ 15. Sailing ship and ship under steam.
- “ 16. Ships under steam to *slacken* [slacken] speed.
- “ 17. Vessels overtaking other vessels.
- “ 18. Construction of articles 12, 14, 15, and 17.
- “ 19. Proviso to save special cases.
- “ 20. No ship under any circumstances to neglect proper precautions.

Laws of the United States.

38TH CONG....1ST SESS.

PRELIMINARY.

ARTICLE 1. In the following rules every steamship which is under sail, and not under steam, is to be considered a sailing ship; and every steamship which is under steam, whether under sail or not, is to be considered a ship under steam.

RULES CONCERNING LIGHTS.

Lights.

ARTICLE 2. The lights mentioned in the following articles, and no others, shall be carried in all weathers between sunset and sunrise.

Lights for Steamships.

ARTICLE 3. All steam vessels when under way, shall carry—

(a) At the foremast head, a bright white light, so fixed as to show a uniform and unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the ship, viz: from right ahead to two points abaft the beam on either side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least five miles.

(b) On the starboard side, a green light, so constructed as to throw a uniform and unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.

(c) On the port side, a red light, so constructed as to show a uniform unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.

(d) The said green and red side lights shall be fitted with inboard screens, projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

Lights for Steam-Tugs.

ARTICLE 4. Steamships, when towing other ships, shall carry two bright white masthead lights vertically, in addition to their side lights, so as to distinguish them from other steamships. Each of these masthead lights shall be of the same construction and character as the masthead lights which other steamships are required to carry.

Lights for Sailing Ships.

ARTICLE 5. Sailing ships under way or being towed shall carry the same lights as steamships under way, with the exception of the white masthead lights, which they shall never carry.

Exceptional Lights for Small Sailing Vessels.

ARTICLE 6. Whenever, as in the case of small vessels during bad weather the green and red lights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for instant exhibition, and shall on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side.

To make the use of these portable lights more certain and easy, they shall each be painted outside with the color of the light they respectively contain, and shall be provided with suitable screens.

Lights for Ships at Anchor.

ARTICLE 7. Ships, whether steamships or sailing ships, when at anchor in roadsteads or fairways, shall, between sunset and sunrise, exhibit where it can be best seen, but at a height not exceeding twenty feet above the hull, a white light in a globular lantern of eight inches in diameter, and so constructed as to show a clear uniform and unbroken light visible all around the horizon, and at a distance of at least one mile.

Lights for Pilot Vessels.

ARTICLE 8. Sailing pilot vessels shall not carry the lights required for other sailing vessels, but shall carry a white light at the masthead, visible all around the horizon, and shall also exhibit a flare-up light every fifteen minutes.

Lights for Fishing Vessels and Boats.

ARTICLE 9. Open fishing boats and other open boats shall not be required to carry side lights required for other vessels, but shall, if they do not carry such lights, carry a lantern having a green slide on the one side and a red slide on the other side, and on the approach of or to other vessels, such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side, nor the red light on the starboard side. Fishing vessels and open boats when at anchor, or attached to their nets and stationary, shall exhibit a bright white light. Fishing vessels and open boats shall, however, not be prevented from using a flare-up in addition, if considered expedient.

RULES GOVERNING FOG SIGNALS.

Fog Signals.

ARTICLE 10. Whenever there is a fog, whether by day or night, the fog signals described below shall be carried and used, and shall be sounded at least every five minutes, viz:

(a) Steamships under way shall use a steam whistle placed before the funnel, not less than eight feet from the deck.

(b) Sailing ships under way shall use a fog horn.

(c) Steamships and sailing ships when not under way shall use a bell.

STEERING AND SAILING RULES.

Two Sailing Ships Meeting.

ARTICLE 11. If two sailing ships are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other.

Two Sailing Ships Crossing.

ARTICLE 12. When two sailing ships are crossing so as to involve risk of collision, then, if they have the wind on different sides, the ship with the wind on the port side shall keep out of the way of the ship with the wind on the starboard side, except in the case in which the ship with the wind on the port side is close-hauled, and the other ship free, in which case the latter ship shall keep out of the way. But if they have the wind on the same side, or if one of them has the wind aft, the ship which is to windward shall keep out of the way of the ship which is to leeward.

Two Ships under Steam Meeting.

ARTICLE 13. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other.

Two Ships under Steam Crossing.

ARTICLE 14. If two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

Sailing Ship and Ship under Steam.

ARTICLE 15. If two ships, one of which is a sailing ship and the other a steamship, are proceeding in such directions as to involve risk of collision, the steamship shall keep out of the way of the sailing ship.

Ships under Steam to Slacken Speed.

ARTICLE 16. Every steamship, when approaching another ship, so as to involve risk of collision, shall slacken her speed, or, if necessary, stop and reverse; and every steamship shall, when in a fog, go at a moderate speed.

Vessels Overtaking Other Vessels.

ARTICLE 17. Every vessel overtaking any other vessel shall keep out of way of the said last-mentioned vessel.

Construction of Articles 12, 14, 15, and 17.

ARTICLE 18. Where, by the above rules, one of two ships is to keep out of the way, the other shall keep her course subject to the qualifications contained in the following article:

Proviso to Save Special Cases.

ARTICLE 19. In obeying and construing these rules due regard must be had to all dangers of navigation, and due regard must also be had to any

special circumstances which may exist in any particular case rendering a departure from the above rules necessary in order to avoid immediate danger.

No Ship under any Circumstances to Neglect Proper Precautions.

ARTICLE 20. Nothing in these rules shall exonerate any ship, or the owner, or master, or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

APPROVED, April 29, 1864.

CHAP. LXX.—An Act to provide for the Collection of Hospital Dues from Vessels of the United States sold or transferred in Foreign Ports or Waters.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in case of the sale or transfer of any vessel of the United States in a foreign port or water, the consul, vice consul, commercial agent, or vice commercial agent of the United States within whose consulate or district such sale or transfer shall have been made, or in whose hands the papers of such vessel shall be, be and he is hereby authorized and required to collect of the master or agent of such vessel, all moneys that shall have become due to the United States under and by virtue of the act entitled "An act for the relief of sick and disabled seamen," approved July sixteenth, seventeen hundred and ninety-eight, and shall remain unpaid at the time of such sale or transfer; and that the said consul, vice consul, commercial agent, or vice commercial agent, (as the case may be,) be, and he is hereby instructed and required to retain possession of the papers of such vessel until such money shall have been paid as herein provided; and in default of which, such sale or transfer shall be void, excepting as against the vendor: *Provided*, That this act shall not take effect until the expiration of sixty days from and after its passage.

APPROVED, April 29, 1864.

CHAP. LXXI.—An Act to increase the Compensation of Inspectors of Customs in certain Ports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, authorized to increase the compensation of inspectors of customs in such ports as he may think it advisable so to do, and may designate, by adding to the present compensation of said officers a sum not exceeding one dollar per day. But the increase hereby authorized shall not extend beyond July first, eighteen hundred and sixty-five.

APPROVED, April 29, 1864.

CHAP. LXXII.—An Act in Reference to Donation Claims in Oregon and Washington.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall appear that two donation settlers in the State of Oregon or Washington Territory shall hold their conterminous improvements in such a manner as may require a half quarter section to be divided into two equal parts by a line north and south or east and west, it shall and may be lawful for the Commissioner of the General Land Office to issue patents recognizing for each claimant such subdivisions; this enactment to include cases existing at the date of this act, where the claim may be proved and established according to law.

APPROVED, April 29, 1864.

CHAP. LXXIII.—An Act for the Relief of Postmasters who have been robbed by Confederate Forces or Rebel Guerrillas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where loyal postmas-

38TH CONG....1ST SESS.

Laws of the United States.

ters have been robbed by confederate forces or rebel guerrillas, of post office stamps, stamped envelopes, or of money received and collected for, belonging to, and held for the Government of the United States, and where such robbery has not been caused by the default or negligence of the postmaster, the Postmaster General shall be, and he is hereby, authorized to credit such postmaster, in the settlement of his accounts, with the amount of which he may have been so robbed. And in cases where no such credit has been allowed, and the postmaster has been required to and has accounted for and paid over to the Post Office Department the sum or sums of which he may have been so robbed, as aforesaid, the Postmaster General is authorized to refund the same to such postmaster.

APPROVED, April 29, 1864.

CHAP. LXXIV.—An Act to aid the Indian Refugees to return to their Homes in the Indian Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the removal and temporary relief of the refugee and destitute Indians in the southern superintendency, viz: for expenses of transportation and subsistence by the way to the Indian Territory, fifty-two thousand dollars; for temporary subsistence in the Indian country of refugee and destitute Indians, to the close of the present fiscal year, one hundred and fifty-three thousand dollars; for seeds, plows, and necessary agricultural implements, to enable them to raise a crop the present season, eighteen thousand dollars.

APPROVED, May 3, 1864.

CHAP. LXXVII.—An Act to vacate and sell the present Indian Reservations in Utah Territory, and to settle the Indians of said Territory in the Uinta Valley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and required to cause the several Indian reservations heretofore made, or occupied as such, in the Territory of Utah, excepting Uinta valley, to be surveyed into tracts or lots, not exceeding eighty acres each, under the direction of the Commissioner of the General Land Office, and upon the completion of such surveys shall cause said tracts or lots to be sold, upon sealed bids, to be duly invited by public advertisement, for a period not less than three months, in a newspaper of general circulation published in the Territory of Utah, and also a newspaper published in Washington, to the highest and best bidder; said bids may be filed with the Governor of said Territory at the seat of government thereof, and with the Secretary of the Interior in Washington; such bids as may be received by said Governor shall, without opening the same, be forwarded to the Secretary of the Interior, when the same, with the bids filed with him, shall be opened in the presence of the Secretary of the Interior, the Commissioner of Public Lands, and the Commissioner of Indian Affairs, and any bidders who may choose to be present at the opening thereof; and the Secretary of the Interior shall apply the proceeds of such sales to the construction of improvements upon the reservations which may be established under the provisions of this act, or by other lawful authority, or to the purchase of stock, agricultural implements, or such other useful articles as to him may seem best adapted to the wants and requirements of the Indians: *Provided*, That no tract of land shall be sold under the provisions of this section for less than its appraised value in cash, to be duly ascertained by commissioners appointed by the Secretary of the Interior for that purpose.

Sec. 2. *And be it further enacted*, That the superintendent of Indian affairs for the Territory of Utah be, and he is hereby, authorized and required to collect and settle all or so many of the Indians of said Territory as may be found practicable in the Uinta valley, in said Territory, which is hereby set apart for the permanent set-

tlement and exclusive occupation of such of the different tribes of Indians of said Territory as may be induced to inhabit the same.

Sec. 3. *And be it further enacted*, That for the purpose of making agricultural improvements in the Uinta valley for the comfort of the Indians who may inhabit the same, and to enable them to become self-sustaining by means of agriculture, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of thirty thousand dollars, which sum shall be expended by the superintendent of Indian affairs for said Territory, under the instruction of the Secretary of the Interior.

APPROVED, May 5, 1864.

CHAP. LXXVIII.—An Act for the Prevention and Punishment of Frauds in relation to the Names of Vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every steamboat of the United States shall, in addition to having her name painted on her stern, as now required by law, also have the same conspicuously placed in distinct, plain letters, of not less than six inches in length, on each outer side of the pilot-house, if it has such, and (in case the said boat has side wheels) also on the outer side of each wheel-house; and if any such steamboat shall be found without having her name placed as herein required, she shall be subject to the same penalty and forfeiture as is now provided by law in the case of a vessel of the United States found without having her name and the name of the port to which she belongs painted on her stern, as required by law.

Sec. 2. *And be it further enacted*, That no master, owner, or agent of any vessel of the United States shall in any way change the name of such vessel, or by any device, advertisement, or contrivance, deceive, or attempt to deceive, the public, or any officer or agent of the United States Government, or of any State, or any corporation or agent thereof, or any person or persons, as to the true name of such vessel, on pain of the forfeiture of such vessel: *Provided*, That this act shall not take effect until the expiration of sixty days from and after its passage.

APPROVED, May 5, 1864.

CHAP. LXXIX.—An Act making a Grant of Lands to the State of Minnesota, to aid in the Construction of the Railroad from Saint Paul to Lake Superior.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and there is hereby, granted to the State of Minnesota for the purpose of aiding in the construction of a railroad in said State from the city of Saint Paul to the head of Lake Superior, every alternate section of public land of the United States, not mineral, designated by odd numbers, to the amount of five alternate sections per mile on each side of the said railroad on the line thereof, within the State of Minnesota; but in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, appropriated, reserved, or otherwise disposed of any sections, or any part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, then it shall be the duty of the Secretary of the Interior to select from the lands of the United States nearest to the lines of sections above specified, in alternate sections or parts thereof, so much public land of the United States, not mineral, as shall be equal in amount to such lands as the United States have sold or otherwise appropriated, or to which the rights of preemption or homestead settlement may have attached, as aforesaid; which lands thus selected in lieu of those sold, reserved, or otherwise appropriated or disposed of, or to which the rights of preemption or homestead settlement may have attached, as aforesaid, together with the sections and parts of sections designated as aforesaid, and appropriated as aforesaid, shall be held and disposed of by the said State for the use and purpose aforesaid: *Provided*, That the land to be so selected shall in no case be located farther than twenty miles from the lines of said road: *And provided*

further, That the lands hereby granted for and on account of said road shall be exclusively applied in the construction of the same, and for no other purpose whatever, and shall be disposed of only as the work progresses through the same, as in this act hereinafter provided: *Provided, also*, That no part of the land granted by this act shall be applied to aid in the construction of any railroad, or part thereof, for the construction of which any previous grant of land may have been made by Congress: *And provided further*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatsoever, be, and the same are hereby, reserved to the United States, from the operations of this act, except so far as it may be found necessary to locate the route of the said road through such reserved lands; in which case the right of way only shall be granted, subject to the approval of the President of the United States: *Provided further*, That the minimum price of the even sections and parts of sections of the public lands of the United States, within the limits of ten miles on each side of the line of said road, shall be two dollars and fifty cents per acre.

Sec. 2. *And be it further enacted*, That whenever said State shall cause to be completed twenty consecutive miles of any portion of said railroad, supplied with all necessary drains, culverts, viaducts, crossings, sidings, bridges, turn-outs, watering-places, depots, equipments, furniture, and all other appurtenances, of a first-class railroad, patents shall issue conveying the right and title to said lands to said State, on each side of the road, so far as the same is completed, and co-terminous with said completed section, not exceeding the amount aforesaid, and patents shall in like manner issue as each twenty miles of said road is completed: *Provided, however*, That no patents shall issue for any of said lands unless there shall be presented to the Secretary of the Interior a statement, certified by the Governor of the State of Minnesota, that such twenty miles have been completed in the manner required by this act, and setting forth with certainty the points where such twenty miles begin and where the same end.

Sec. 3. *And be it further enacted*, That when the said road shall be definitely located, and a plat thereof filed with the Secretary of the Interior, the lands hereby granted shall not thereafter be subject to settlement, preemption, or private entry adverse to this grant.

Sec. 4. *And be it further enacted*, That the said State, in addition to the grant heretofore mentioned, is hereby authorized to locate the said road over any public lands of the United States, not otherwise appropriated, reserved, or disposed of, and that the right of way over said lands of the United States for the purpose aforesaid is hereby granted to said State to the width of one hundred feet on each side of said road as located.

Sec. 5. *And be it further enacted*, That the said lands hereby granted when patented to said State, shall be subject to the disposal of said State for the purposes aforesaid, and for no other; and the said railroad shall be and remain a public highway for the use of the Government of the United States, free from all toll or other charge, for the transportation of any property or troops of the United States.

Sec. 6. *And be it further enacted*, That if said road is not completed within eight years from the time of the passage of this act, as provided herein, no further patents shall be issued for said lands, and no further sale shall be made, and the lands unsold shall revert to the United States.

Sec. 7. *And be it further enacted*, That the United States mail shall be transported over said road, under the direction of the Post Office Department, at such price as Congress may by law direct: *Provided*, That until such price is fixed by law the Postmaster General shall have the power to determine the same.

Sec. 8. *And be it further enacted*, That any railroad which may hereafter be constructed from any point on the Bay of Superior, in the State of Wisconsin, shall be permitted to connect with the said railroad, for the construction of which the said lands are hereby granted, at any point which may

Laws of the United States.

38TH CONG.... 1ST SESS.

be selected by the president and directors of said railroad company so permitted to connect their said road, and the said railroad company so permitted to connect shall have the right and privilege to transport, or have transported, over the track of said railroad, for the construction of which the said lands are hereby granted, all or any of its cars, passengers, or freights, and the said railroad company controlling the said road, for the construction of which the said lands are hereby granted, shall have the same right and privilege to transport or have transported all or any of its cars, freights, or passengers, over the track of the said railroad of the company so permitted to connect, and said transportation shall be paid by the railroad company using, to the railroad company according the same, at the usual rates or charges which may be imposed by the said company upon all other cars, freights, or passengers.

APPROVED, May 5, 1864.

CHAP. LXXX.—An Act granting Lands to aid in the Construction of certain Railroads in the State of Wisconsin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, granted to the State of Wisconsin, for the purpose of aiding in the construction of a railroad from a point on the Saint Croix river or lake, between townships twenty-five and thirty-one, to the west end of Lake Superior, and from some point on the line of said railroad, to be selected by said State, to Bayfield, every alternate section of public land designated by odd numbers, for ten sections in width on each side of said road, deducting any and all lands that may have been granted to the State of Wisconsin for the same purpose; by the act of Congress of June three, eighteen hundred and fifty-six, upon the same terms and conditions as are contained in the act granting lands to the State of Wisconsin, to aid in the construction of railroads in said State, approved June three, eighteen hundred and fifty-six. But in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of, any sections or parts thereof, granted as aforesaid, or that the right of preemption or homestead has attached to the same, then it shall be lawful for any agent or agents, to be appointed by said company, to select, subject to the approval of the Secretary of the Interior, from the public lands of the United States nearest to the tier of sections above specified, as much land in alternate sections or parts of sections, as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the right of preemption or homestead has attached as aforesaid, which lands (thus selected in lieu of those sold, and to which preemption or homestead right has attached as aforesaid, together with sections and parts of sections designated by odd numbers as aforesaid, and appropriated as aforesaid,) shall be held by said State for the use and purpose aforesaid: *Provided,* That the lands to be so located shall in no case be further than twenty miles from the line of the said roads, nor shall such selection or location be made in lieu of lands received under the said grant of June three, eighteen hundred and fifty-six, but such selection and location may be made for the benefit of said State, and for the purpose aforesaid, to supply any deficiency under the said grant of June three, eighteen hundred and fifty-six, should any such deficiency exist.

SEC. 2. *And be it further enacted,* That there be, and is hereby, granted to the State of Wisconsin, for the purpose of aiding in the construction of a railroad from the town of Tomah, in the county of Monroe, in said State, to the Saint Croix river or lake, between townships twenty-five and thirty-one, every alternate section of public land designated by odd numbers for ten sections in width on each side of said road, deducting any and all lands that may have been granted to the State of Wisconsin for the same purpose, by the act of Congress granting lands to said State to aid in the construction of certain railroads, approved June three, eighteen hundred and fifty-six, upon the

same terms and conditions as are contained in the said act of June three, eighteen hundred and fifty-six. But in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of any sections, or parts of sections, granted as aforesaid, or that the right of preemption or homestead has attached to the same, then it shall be lawful for any agent or agents to be appointed by said State to select, subject to the approval of the Secretary of the Interior, from the public lands of the United States nearest to the tier of sections above specified, as much land, in alternate sections, or parts of sections, as shall be equal to such lands as the United States have sold, or otherwise appropriated, or to which the right of preemption or homestead has attached, as aforesaid, which lands (thus selected in lieu of those sold, and to which preemption or homestead right has attached as aforesaid, together with sections and parts of sections, designated by odd numbers as aforesaid, and appropriated as aforesaid,) shall be held by said State for the use and purpose aforesaid: *Provided,* That the lands to be so located shall in no case be further than twenty miles from the line of the said road, nor shall such selection or location be made in lieu of lands received under the said grant of June three, eighteen hundred and fifty-six, but such selections and locations may be made for the benefit of said State, and for the purpose aforesaid, to supply any deficiency under the said grant of June three, eighteen hundred and fifty-six, should any such deficiency exist.

SEC. 3. *And be it further enacted,* That there be, and is hereby, granted to the State of Wisconsin, for the purpose of aiding in the construction of a railroad from Portage City, Berlin, Doty's Island, or Fon du Lac, as said State may determine, in a northwestern direction to Bayfield, and thence to Superior, on Lake Superior, every alternate section of public land, designated by odd numbers, for ten sections in width on each side of said road, upon the same terms and conditions as are contained in the act granting lands to said State to aid in the construction of railroads in said State, approved June three, eighteen hundred and fifty-six. But in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of any sections or parts thereof, granted as aforesaid, or that the right of preemption or homestead has attached to the same, that it shall be lawful for any agent or agents of said State, appointed by the Governor thereof, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tier of sections above specified, as much public land in alternate sections, or parts of sections, as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the right of preemption or homestead has attached as aforesaid, which lands (thus selected in lieu of those sold and to which the right of preemption or homestead has attached as aforesaid, together with sections and parts of sections designated by odd numbers as aforesaid, and appropriated as aforesaid) shall be held by said State, or by the company to which she may transfer the same, for the use and purpose aforesaid: *Provided,* That the lands to be so located shall in no case be further than twenty miles from the line of said road.

SEC. 4. *And be it further enacted,* That the sections and parts of sections of lands which shall remain to the United States within ten miles on each side of said roads shall not be sold for less than double the minimum price of the public lands when sold; nor shall any of the said reserved lands become subject to private entry until the same have been first offered at public sale at the increased price.

SEC. 5. *And be it further enacted,* That the time fixed and limited for the completion of said roads in the act aforesaid of June three, eighteen hundred and fifty-six, be, and the same is hereby, extended to a period of five years from and after the passage of this act.

SEC. 6. *And be it further enacted,* That any and all lands reserved to the United States by any act of Congress for the purpose of aiding in any ob-

ject of internal improvement, or in any manner for any purpose whatsoever, and all mineral lands be, and the same are hereby, reserved and excluded from the operation of this act, except so far as it may be found necessary to locate the route of such railroads through such reserved lands, in which case the right of way only shall be granted, subject to the approval of the President of the United States.

SEC. 7. *And be it further enacted,* That whenever the companies to which this grant is made, or to which the same may be transferred, shall have completed twenty consecutive miles of any portion of said railroads, supplied with all necessary drains, culverts, viaducts, crossings, sidings, bridges, turn-outs, watering-places, depots, equipments, furniture, and all other appurtenances of a first-class railroad, patents shall issue conveying the right and title to said lands to the said company entitled thereto, on each side of the road, so far as the same is completed, and coterminous with said completed section, not exceeding the amount aforesaid, and patents shall in like manner issue as each twenty miles of said road is completed: *Provided, however,* That no patents shall issue for any of said lands unless there shall be presented to the Secretary of the Interior a statement, verified on oath or affirmation by the president of said company, and certified by the Governor of the State of Wisconsin, that such twenty miles have been completed in the manner required by this act, and setting forth with certainty the points where such twenty miles begin and where the same end; which oath shall be taken before a judge of a court of record of the United States.

SEC. 8. *And be it further enacted,* That the said lands hereby granted shall, when patented as provided in section seven of this act, be subject to the disposal of the companies respectively entitled thereto, for the purposes aforesaid, and no other, and the said railroads be, and shall remain, public highways for the use of the Government of the United States, free from all toll or other charge, for the transportation of any property or troops of the United States.

SEC. 9. *And be it further enacted,* That if said road mentioned in the third section aforesaid is not completed within ten years from the time of the passage of this act, as provided herein, no further patents shall be issued to said company for said lands, and no further sale shall be made, and the lands unsold shall revert to the United States.

APPROVED, May 5, 1864.

CHAP. LXXXI.—An Act to amend an Act to incorporate the Inhabitants of the City of Washington, passed May fifteen, eighteen hundred and twenty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section eight of an act to incorporate the inhabitants of the city of Washington, passed May fifteenth, eighteen hundred and twenty, be amended so as to read as follows: That the said corporation shall have full power and authority to lay taxes on particular wards, parts, or sections of the city, for their particular local improvements, and to cause the curb-stones to be set, the foot and carriage ways to be graded and paved, or so much thereof as they may deem best, and the necessary sewerage and drainage facilities to be introduced under and upon the whole or any portion of any avenue, street, or alley, and also to cause the same to be suitably paved and repaired, and to be at all times properly cleaned and watered, and also to cause lamps to be erected therein, and to light the same, and to pay the cost thereof out of the funds of the ward in which such improvement shall be made; this provision not to be construed as repealing, but being intended as auxiliary to the power they already possess to make local improvements on the application of the owners of property benefited thereby.

SEC. 2. *And be it further enacted,* That immediately upon the approval of this act the said corporation shall designate some proper officer thereof whose duty it shall be to see that the provisions of this act are properly executed, and that

38TH CONG....1ST SESS.

Laws of the United States.

the principal avenues and streets of the said city are so cleaned and watered as to be at all times reasonably clean and free from dust; and also to keep the pavements and side-walks upon said avenues and streets at all times in suitable and proper repair; and it shall further be the duty of the said corporation to take such measures as they shall deem wise to promote some uniform and general system of drainage for said city.

SEC. 3. *And be it further enacted*, That in all cases in which the streets, avenues, or alleys of the said city pass through or by any of the property of the United States, the Commissioner of the Public Buildings shall pay to the duly authorized officer of the corporation the just proportion of the expense incurred in improving such avenue, street, or alley, which the said property bears to the whole cost thereof, to be ascertained in the same manner as the same is apportioned among the individual proprietors of the property improved thereby.

APPROVED, May 5, 1864.

CHAP. LXXXII.—An Act for the Relief of the Settlers upon certain Lands in California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any and all persons claiming, whether as preëmtors or settlers, or under any grant or title, any of the lands included within the exterior boundaries of a certain grant for the rancho San Ramon, situate in the county of Contra Costa, in California, made to Bartolo Pacheco and Mariana Castro by Don José Figueroa, Governor of Upper California, on or about the tenth day of June, eighteen hundred and thirty-three, and which claim, or two leagues thereof, has been confirmed by the district court of the United States in separate moieties, one in the name of Horace W. Carpenter, and the other in the name of Rafael Soto de Pacheco and others, by a decree of said court made and entered on or about the fourth day of June, eighteen hundred and sixty-two, shall have the right in all courts to contest the correctness of the location of the lands so confirmed, within the said exterior boundaries, notwithstanding any official or approved survey thereof now made or hereafter to be made under the said decree of confirmation, and notwithstanding any stipulation or consent given by the district attorney of the United States authorizing such locations.

SEC. 2. *And be it further enacted*, That in case it shall be found that the United States have title to any of said lands within said exterior boundaries, which have been settled upon and improved by any person, in good faith, under a bona fide claim of title, such occupant, and each settler upon said lands so situated, shall be entitled to enter and receive a patent for one hundred and sixty acres of land, including his improvements, upon payment, at the proper land office, of the Government price of one dollar and twenty-five cents per acre, and proving that he was one of the actual and bona fide settlers on said lands, and had made improvements thereon before the passage of this act.

SEC. 3. *And be it further enacted*, That this act shall take effect immediately.

APPROVED, May 5, 1864.

CHAP. LXXXIII.—An Act to regulate the Admeasurement of Tonnage of Ships and Vessels of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every ship or vessel built within the United States, or that may be owned by a citizen or citizens thereof, on or after the first day of January, eighteen hundred and sixty-five, shall be measured and registered in the manner hereinafter provided; also every ship or vessel that is now owned by a citizen or citizens of the United States shall be remeasured and reregistered upon her arrival after said day at a port of entry in the United States, and prior to her departure therefrom, in the same manner as hereinafter described: *Provided*, That any ship or vessel built within the United States after the passage of this act may be measured and registered in the manner herein provided.

SEC. 2. *And be it further enacted*, That the register of every vessel shall express her length and breadth, together with her depth and the height under the third or spar deck, which shall be ascertained in the following manner: The tonnage deck, in vessels having three or more decks to the hull, shall be the second deck from below; in all other cases the upper deck of the hull is to be the tonnage deck. The length from the forepart of the outer planking, on the side of the stem, to the afterpart of the main stern-post of screw steamers, and to the afterpart of the rudder-post of all other vessels measured on the top of the tonnage deck, shall be accounted the vessel's length. The breadth of the broadest part on the outside of the vessel shall be accounted the vessel's breadth of beam. A measure from the under side of tonnage-deck plank, amidships, to the ceiling of the hold (average thickness) shall be accounted the depth of hold. If the vessel has a third deck, then the height from the top of the tonnage-deck plank to the under side of the upper-deck plank shall be accounted as the height under the spar deck. All measurement to be taken in feet and fractions of feet; and all fractions of feet shall be expressed in decimals.

SEC. 3. *And be it further enacted*, That the register tonnage of a vessel shall be her entire internal cubical capacity in tons of one hundred cubic feet each, to be ascertained as follows: Measure the length of the vessel in a straight line along the upper side of the tonnage deck, from the inside of the inner plank (average thickness), at the side of the stem to the inside of the plank on the stern timbers, (average thickness,) deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern-timber in the thickness of the deck, and also what is due to the rake of the stern-timber in one third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the vessel belongs:

TABLE OF CLASSES.

Class 1.—Vessels of which the tonnage length according to the above measurement is fifty feet or under, into six equal parts.

Class 2.—Vessels of which the tonnage length according to the above measurement is above fifty feet, and not exceeding one hundred feet long, into eight equal parts.

Class 3.—Vessels of which the tonnage length according to the above measurement is above one hundred feet long, and not exceeding one hundred and fifty feet long, into ten equal parts.

Class 4.—Vessels of which the tonnage length according to the above measurement is above one hundred and fifty feet, and not exceeding two hundred feet long, into twelve equal parts.

Class 5.—Vessels of which the tonnage length according to the above measurement is above two hundred feet, and not exceeding two hundred and fifty feet long, into fourteen equal parts.

Class 6.—Vessels of which the tonnage length according to the above measurement is above two hundred and fifty feet long, into sixteen equal parts.

Then, the hold being sufficiently cleared to admit of the required depths and breadths being properly taken, find the transverse area of such vessel at each point of division of the length as follows:

Measure the depth at each point of division from a point at a distance of one third of the round of the beam below such deck, or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor-timber, at the inside of the limber-strake, after deducting the average thickness of the ceiling, which is between the bilge-planks and limber-strake; then, if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts; then measure the inside horizontal breadth, at each of the three points of division, and also at the upper and lower points of the depth, extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement; number these breadths from above, (numbering the upper breadth one, and so on down to the lowest breadth;) multiply the second and fourth by four, and the third by two; add these products together,

and to the sum add the first breadth and the last, or fifth; multiply the quantity thus obtained by one third of the common interval between the breadths, and the product shall be deemed the transverse area; but if the midship depth exceed sixteen feet, divide each depth into six equal parts, instead of four, and measure, as before directed, the horizontal breadths at the five points of division, and also at the upper and lower points of the depth; number them from above as before; multiply the second, fourth, and sixth, by four, and the third and fifth by two; add these products together; and to the sum add the first breadth and the last, or seventh; multiply the quantities thus obtained by one third of the common interval between the breadths, and the product shall be deemed the transverse area.

Having thus ascertained the transverse area at each point of division of the length of the vessel, as required above, proceed to ascertain the register tonnage of the vessel in the following manner:

Number the areas successively one, two, three, &c., number one being at the extreme limit of the length at the bow, and the last number at the extreme limit of the length at the stern; then whether the length be divided according to table, into six or sixteen parts, as in classes one and six, or any intermediate number, as in classes two, three, four, and five, multiply the second, and every even-numbered area, by four, and the third and every odd-numbered area (except the first and last) by two; add these products together, and to the sum add the first and last, if they yield anything; multiply the quantities thus obtained by one third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck; divide this product by one hundred, and the quotient, being the tonnage under the tonnage deck, shall be deemed to be the register tonnage of the vessel, subject to the additions hereinafter mentioned.

If there be a break, a poop, or any other permanent closed-in space on the upper decks, on the spar deck, available for cargo, or stores, or for the berthing or accommodation of passengers or crew, the tonnage of such space shall be ascertained as follows:

Measure the internal mean length of such space in feet, and divide it into an even number of equal parts of which the distance asunder shall be most nearly equal to those into which the length of the tonnage deck has been divided; measure at the middle of its height the inside breadths, namely, one at each end and at each of the points of division, numbering them successively one, two, three, &c.; then to the sum of the end breadths add four times the sum of the even-numbered breadths and twice the sum of the odd-numbered breadths, except the first and last, and multiply the whole sum by one third of the common interval between the breadths; the product will give the mean horizontal area of such space; then measure the mean height between the planks of the decks, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the tonnage under the tonnage decks, ascertained as aforesaid.

If a vessel has a third deck, or spar deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows:

Measure in feet the inside length of the space, at the middle of its height, from the plank at the side of the stem, to the plank on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided; measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth of the stem and the breadth at the stern; number them successively one, two, three, and so forth, commencing at the stem; multiply the second, and all other even-numbered breadths by four, and the third, and all the other odd-numbered breadths (except the first and last) by two; to the sum of these products add the first and last breadths, multiply the whole sum by one third of the common interval between the breadths, and the result will give, in superficial feet, the mean horizontal area of such space; measure the mean height between the plank of the two decks, and multiply

Laws of the United States.

38TH CONG... 1ST SESS.

by it the mean horizontal area, and the product will be the cubical contents of the space; divide this product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the other tonnage of the vessel, ascertained as aforesaid. And if the vessel has more than three decks, the tonnage of each space between decks, above the tonnage-deck, shall be severally ascertained in the manner above described, and shall be added to the tonnage of the vessel, ascertained as aforesaid.

In ascertaining the tonnage of open vessels the upper edge of the upper strake is to form the boundary line of measurement, and the depth shall be taken from an athwartship line, extending from upper edge of said strake at each division of the length.

The register of the vessel shall express the number of decks, the tonnage under the tonnage deck, that of the between-decks, above the tonnage deck; also that of the poop or other inclosed spaces above the deck, each separately. In every registered United States ship or vessel the number denoting the total registered tonnage shall be deeply carved or otherwise permanently marked on her main beam, and shall be so continued; and if it at any time cease to be so continued, such vessel shall no longer be recognized as a registered United States vessel.

SEC. 4. *And be it further enacted*, That the charge for the measurement of tonnage and certifying the same shall not exceed the sum of one dollar and fifty cents for each transverse section under the tonnage deck; and the sum of three dollars for measuring each between-decks above the tonnage deck; and the sum of one dollar and fifty cents for each poop, or closed-in space available for cargo or stores, or for the berthing or accommodation of passengers, or officers and crew above the upper or spar deck.

SEC. 5. *And be it further enacted*, That the provisions of this act shall not be deemed to apply to any vessel not required by law to be registered, or enrolled, or licensed, and all acts and parts of acts inconsistent with the provisions of this are hereby repealed.

APPROVED, May 6, 1864.

CHAP. LXXXIV.—An Act for a Grant of Lands to the State of Iowa, in alternate sections, to aid in the Construction of a Railroad in said State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, granted to the State of Iowa, for the purpose of aiding in the construction of a railroad from Sioux City, in said State, to the south line of the State of Minnesota, at such point as the said State of Iowa may select between the Big Sioux and the west fork of the Des Moines river; also to said State for the use and benefit of the McGregor Western Railroad Company, for the purpose of aiding in the construction of a railroad from a point at or near the foot of Main street, South McGregor, in said State, in a westerly direction, by the most practicable route, on or near the forty-third parallel of north latitude, until it shall intersect the said road running from Sioux City to the Minnesota State line, in the county of O'Brien, in said State, every alternate section of land designated by odd numbers for ten sections in width on each side of said roads; but, in case it shall appear that the United States have, when the lines or routes of said roads are definitely located, sold any section or any part thereof granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it shall be the duty of the Secretary of the Interior to cause to be selected, for the purposes aforesaid, from the public lands of the United States nearest to the tiers of sections above specified, so much land in alternate sections, or parts of sections, designated by odd numbers, as shall be equal to such lands as the United States have sold, reserved, or otherwise appropriated, or to which the right of homestead settlement or preemption has attached, as aforesaid, which lands thus indicated by odd numbers and sections, by the direction of the Sec-

retary of the Interior, shall be held by the State of Iowa for the uses and purposes aforesaid: *Provided*, That the lands so selected shall in no case be located more than twenty miles from the lines of said roads: *Provided further*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement or other purpose whatever, be, and the same are hereby, reserved and excepted from the operation of this act, except so far as it may be found necessary to locate the routes of said roads through such reserved lands, in which case the right of way shall be granted, subject to the approval of the President of the United States.

SEC. 2. *And be it further enacted*, That the sections and parts of sections of land which by such grant shall remain to the United States within ten miles on each side of said roads shall not be sold for less than double the minimum price of public lands when sold, nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder at or above the minimum price as aforesaid: *Provided*, That actual bona fide settlers under the preemption laws of the United States may, after due proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the increased minimum price: *And provided, also*, That settlers under the provisions of the homestead law, who comply with the terms and requirements of said act, shall be entitled to patents for an amount not exceeding eighty acres each, anything in this act to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That the lands hereby granted shall be subject to the disposal of the Legislature of Iowa, for the purposes aforesaid and no other. And the said railroads shall be, and remain, public highways for the use of the Government of the United States, free of all toll or other charges upon the transportation of any property or troops of the United States.

SEC. 4. *And be it further enacted*, That the lands hereby granted shall be disposed of by said State, for the purposes aforesaid only, and in manner following, namely: When the Governor of said State shall certify to the Secretary of the Interior that any section of ten consecutive miles of either of said roads is completed in a good, substantial, and workmanlike manner as a first-class railroad, then the Secretary of the Interior shall issue to the State, patents for one hundred sections of land for the benefit of the road having completed the ten consecutive miles as aforesaid. When the Governor of said State shall certify that another section of ten consecutive miles shall have been completed as aforesaid, then the Secretary of the Interior shall issue patents to said State in like manner, for a like number; and when certificates of the completion of additional sections of ten consecutive miles of either of said roads are, from time to time, made as aforesaid, additional sections of lands shall be patented as aforesaid, until said roads, or either of them, are completed, when the whole of the lands hereby granted shall be patented to the State for the uses aforesaid and none other: *Provided*, That if the said McGregor Western Railroad Company, or assigns, shall fail to complete at least twenty miles of its said road during each and every year from the date of its acceptance of the grant provided for in this act, then the State may resume said grant, and so dispose of the same as to secure the completion of a road on said line and upon such terms, within such time as the State shall determine: *Provided further*, That if the said roads are not completed within ten years from their several acceptance of this grant, the said lands hereby granted and not patented shall revert to the State of Iowa for the purpose of securing the completion of the said roads within such time, not to exceed five years, and upon such terms as the State shall determine: *And provided further*, That said lands shall not in any manner be disposed of or incumbered, except as the same are patented under the provisions of this act; and should the State fail to complete said roads within five years after the ten years aforesaid, then the said lands undisposed of as aforesaid shall revert to the United States.

SEC. 5. *And be it further enacted*, That as soon

as the Governor of said State of Iowa shall file or cause to be filed with the Secretary of the Interior maps designating the routes of said roads, then it shall be the duty of the Secretary of the Interior to withdraw from market the lands embraced within the provisions of this act.

SEC. 6. *And be it further enacted*, That the United States mail shall be transported on said roads and branch, under the direction of the Post Office Department, at such price as Congress may by law provide: *Provided*, That until such price is fixed by law the Postmaster General shall have power to fix the rate of compensation.

SEC. 7. *And be it further enacted*, That there be, and is hereby, granted to the State of Minnesota, for the purpose of aiding in the construction of a railroad from St. Paul and St. Anthony, via Minneapolis, to a convenient point of junction west of the Mississippi, to the southern boundary of the State, in the direction of the mouth of the Big Sioux river, four additional alternate sections of land per mile, to be selected upon the same conditions, restrictions, and limitations as are contained in the act of Congress entitled "An act making a grant of land to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands, in alternate sections, to the State of Alabama, to aid in the construction of a certain railroad in said State," approved March third, eighteen hundred and fifty-seven: *Provided*, That the land to be so located by virtue of this section may be selected within twenty miles of the line of said road, but in no case at a greater distance therefrom.

APPROVED, May 12, 1864.

CHAP. LXXXV.—An Act concerning the Disposition of Convicts in the Courts of the United States, for the subsisting of Persons confined in Jails charged with violating the Laws of the United States, and for diminishing the Expenses in relation thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who have been, or who may hereafter be, convicted of crime by any court of the United States—not military—the punishment whereof shall be imprisonment, in a district or Territory where, at the time of such conviction, there may be no penitentiary or other prison suitable for the confinement of convicts of the United States, and available therefor, shall be confined during the term for which they have been or may be sentenced, in some suitable prison in a convenient State or Territory to be designated by the Secretary of the Interior, and shall be transported and delivered to the warden or keeper of the prison by the marshal of the district or Territory where such conviction shall have occurred; or if such conviction be had in the District of Columbia, then and in such case the transportation and delivery shall be by the warden of the jail of said District; the reasonable actual expense of transportation, necessary subsistence and hire, and transportation of guards and the marshal, or the warden of the jail in the District of Columbia, only, to be paid by the Secretary of the Interior, out of the judiciary fund: *Provided*, That if, in the opinion of the Secretary, the expense of transportation from any State, Territory, or the District of Columbia, in which there is no penitentiary, will exceed the cost of maintaining them in jail in the State, Territory, or the District of Columbia during the period of their sentence, then it shall be lawful so to confine them therein for the period designated in their sentence.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Interior to contract with the managers or proper authorities having the control of such prison or prisons, for the imprisonment, subsistence, and proper employment of all such prisoners, and to give the court having jurisdiction of such offenses, in said district, notice of the prison where such persons will be confined if convicted.

SEC. 3. *And be it further enacted*, That hereafter there shall be allowed and paid by the Secretary of the Interior, for the subsistence of prisoners in the custody of any marshal of the United States and the warden of the jail in the District of Colum-

38TH CONG....1ST SESS.

Laws of the United States.

bia, such sum only as it shall reasonably and actually cost to subsist them. And it shall be the duty of the Secretary of the Interior to prescribe such rules and regulations for the government of the marshals and the warden of the jail in the District of Columbia, in relation to their duties under this act, as will enable him to determine the actual and reasonable expense incurred.

Sec. 4. *And be it further enacted*, That it shall be the duty of the warden of the jail in the District of Columbia, whenever any person confined in said jail shall be adjudged to suffer death, to carry such judgment into execution; but nothing in this act nor an act to authorize the appointment of a warden of the jail in the District of Columbia, approved February twenty-nine, eighteen hundred and sixty-four, shall be construed to impair or interfere with the authority of the marshal of the said District to commit persons to said jail, or to produce them in open court or before any judicial officer when thereto required. And it shall be the duty of the warden of said jail to receive such prisoners, and to deliver them to said marshal or his duly authorized deputy, on the written request of either, for the purpose of taking them before any court or judicial officer as aforesaid.

Sec. 5. *And be it further enacted*, That the office of warden of the penitentiary in the District of Columbia shall, from and after the passage of this act, be suspended, and the salary and emoluments thereof cease, during the time in which there shall be no penitentiary used in said District.

APPROVED, May 12, 1864.

CHAP. LXXXVI.—An Act relating to Appointments in the Naval Service and Courts-Martial.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter all appointments in the volunteer naval service of the United States, above the rank of acting master, shall be submitted to the Senate for confirmation, in the same way and manner as appointments in the regular Navy are required to be submitted.

Sec. 2. *And be it further enacted*, That naval courts-martial shall have power to sentence officers who shall absent themselves from their commands without leave, to be reduced to the rating of ordinary seamen.

APPROVED, May 16, 1864.

CHAP. LXXXVII.—An Act to establish a Postal Money-Order System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to promote public convenience, and to insure greater security in the transfer of money through the United States mails, the Postmaster General is hereby authorized to establish, under such rules and regulations as he may find expedient and necessary, a uniform money-order system at all post offices which he may deem suitable therefor, and which shall be designated and known as "Money-Order Offices;" and it shall be the duty of the deputy postmaster at every money-order office to issue, in such manner and form as the Postmaster General may prescribe, an order for a sum of money payable by the deputy postmaster of any other money-order office which the person applying therefor may select; and the deputy postmaster who issues such order shall be required to send through the mails, without delay, to the deputy postmaster on whom it is drawn, due notice thereof, and he shall not deliver such order to the applicant therefor until the latter shall first have deposited with him the amount of money for which such order is drawn, together with the proper charge or fee therefor, as hereinafter provided. And it shall not be lawful for any deputy postmaster to issue a money-order on any other deputy postmaster without having previously received the money therefor; and any person who shall violate this provision shall be deemed guilty of misdemeanor, and on conviction thereof shall be fined in any sum not less than fifty nor more than five hundred dollars.

Sec. 2. *And be it further enacted*, That a money-order shall not be valid or payable unless it be drawn on a printed or engraved form, which shall be furnished to the money-order offices by the

Postmaster General; and it shall be the duty of the latter to supply such offices also with the blank forms of application for money-orders, one of which the deputy postmaster shall hand to each applicant for a money-order, who shall be required to enter, or cause to be entered, therein his own name and the name and address of the party to whom the order is to be paid, together with the amount thereof and the date of application. And all such applications, when filled up and delivered to the deputy postmaster, shall be preserved on file at his office for such length of time as the Postmaster General may prescribe.

Sec. 3. *And be it further enacted*, That no money-order shall be issued for any sum less than one or more than thirty dollars; and all persons who receive money-orders shall be required to pay therefor the following charges or fees, viz: For an order for one dollar, or for any larger sum, but not exceeding ten dollars, a fee of ten cents shall be charged and exacted by the postmaster giving such order; for an order of more than ten and not exceeding twenty dollars, the charge shall be fifteen cents; and for every order exceeding twenty dollars a fee of twenty cents shall be charged.

Sec. 4. *And be it further enacted*, That if the purchaser of a money-order, from having made an error in stating the name of the office of payment, or the name of the payee, or for other reasons, be desirous that the said money-order be modified or changed, it shall be the duty of the deputy postmaster from whom he received it to take back, at his request, the first order, and issue another in lieu thereof, for which a new fee shall be charged and exacted; and it shall also be the duty of a deputy postmaster to repay the amount of any money-order to the person who obtained it, if the latter apply for such repayment and return the money-order; but the charge or fee paid therefor shall not in any case be refunded.

Sec. 5. *And be it further enacted*, That if any money-order be not presented to the deputy postmaster on whom it is drawn within ninety days after its date, it shall not be valid or payable; but the Postmaster General shall be and he is hereby, authorized, on application of the payee of such money-order, to cause a new order in lieu thereof to be issued in his favor, for which a second fee shall be exacted. And the Postmaster General is further authorized, whenever a money-order shall have been lost, to cause a duplicate thereof to be issued, for which a second fee shall be paid on application of the remitter or of the payee of such order, provided the party losing the original shall furnish a statement, under oath or affirmation, setting forth the loss or destruction thereof, and a certificate from the postmaster by whom it was payable that it had not been paid, and that it would not thereafter be paid.

Sec. 6. *And be it further enacted*, That the payee of a money-order may, by his written indorsement thereon, direct it to be paid to any other person, and it shall be the duty of the deputy postmaster on whom it is ordered to pay the amount thereof to the person thus designated, provided the person to whom the money-order is indorsed shall furnish such proof as the Postmaster General may require that the written indorsement is genuine, and that he is the person thereby empowered to receive payment of the order; but such second person shall not be at liberty to indorse the same order to a third party, and more than one indorsement shall render any order invalid, and not payable, and the holder thereof, in order to obtain the amount of the order shall be required to apply in writing to the Postmaster General for a new order in lieu thereof, for which new order a second fee shall be charged: *Provided, however*, That in all cases, under this section, the original order shall be returned, and such proof shall be made of the genuineness of the indorsement thereon as the Postmaster General may require.

Sec. 7. *And be it further enacted*, That deputy postmasters, at money-order offices, may be allowed by the Postmaster General, as a compensation for the issuing and paying of money-orders, not exceeding one third of the whole amount of fees on money-orders issued, and, at the option of the Postmaster General, one eighth of one per centum on the gross amount of orders paid at

their offices: *Provided*, That all emoluments arising from such rates of compensation shall be subject to the provisions of the forty-first section of the act of third of March, eighteen hundred and twenty-five, entitled "An act to reduce into one the several acts establishing the Post Office Department."

Sec. 8. *And be it further enacted*, That it shall be the duty of the Postmaster General to require all postmasters who may be authorized to issue and pay money-orders, to execute new official bonds conditioned for the faithful performance of all duties and obligations imposed by this act, in addition to those required of them by existing laws as postmasters; and it shall be the duty of the Postmaster General to direct all payments or transfers to or from money-order offices. He may direct transfers of money-order funds from one postmaster to another, and he may require and direct transfers or payments to be made from the funds received for money-orders to creditors of the Post Office Department, to be replaced by equivalent transfers from the funds of said Department arising from postages; and he may require and direct transfers of payments to be made from the funds of the Post Office Department in the hands of any postmaster arising from postages to the money-order offices. And it shall be the further duty of the Postmaster General to require each postmaster to render to the Auditor of the Treasury for the Post Office Department weekly, semi-weekly, or daily accounts of all money-orders issued and paid, and of all fees received for issuing them, of all transfers, or payments made from funds received for money-orders, and of all moneys received to be applied to the payment of money-orders, or on account of money-order offices.

Sec. 9. *And be it further enacted*, That out of the moneys paid into the Treasury for the service of the Post Office Department the Postmaster General shall have power to transfer to the deputy postmaster of any money-order office such sum as may be required, over and above the current revenue thereof to pay money-orders drawn on the latter; and such transfers shall be made by warrant on the Treasury by the Postmaster General, and countersigned and registered by the Auditor of the Treasury for the Post Office Department.

Sec. 10. *And be it further enacted*, That it shall be the duty of the Auditor of the Treasury for the Post Office Department to receive all accounts arising in the money-order offices, or relative thereto, and to audit and settle the same, and to certify their balances to the Postmaster General as often as he may require. He shall keep and preserve all accounts arising in said offices, and shall report to the Postmaster General all delinquencies of postmasters in rendering their money-order accounts, or in paying over money-order funds. He shall keep the accounts of the money-order offices separately from the accounts for postages, and in such manner as to show the number and amount of money-orders issued by each postmaster, and the number and amount of money-orders paid, the amount of fees received, and all the expenses of the establishment. And it shall be the further duty of the Auditor to superintend the collection of all debts due to the United States, or to the Post Office Department, by present or late postmasters, or other persons who are or may have been employed in the money-order offices. He shall direct suits and legal proceedings, and take all such measures as may be authorized by law to enforce the payment of such debts, or for the recovery of any penalties arising under the provisions of this act.

Sec. 11. *And be it further enacted*, That all moneys received for the sale of money-orders, including all fees received for selling the same, all moneys transferred from the funds of the Post Office Department to the money-order offices, all funds transferred or paid from the money-order offices to the use and service of the Post Office Department, and all transfers of funds from one postmaster to another for the use of the money-order offices, shall be deemed and taken to be the moneys in the Treasury of the United States. And if any postmaster, assistant, clerk, or other person employed in or connected with the business or operations of the money-order offices, shall

Laws of the United States.

38TH CONG....1ST SESS.

convert to his own use, in any way whatever, or shall use by way of investment in any kind of property or merchandise, or shall loan, with or without interest, or shall deposit in any bank, or shall exchange for other funds, any portion of such moneys, every such act shall be deemed and adjudged to be an embezzlement of so much of said moneys as shall be thus taken, converted, used, loaned, deposited, or exchanged, which is hereby declared to be a felony; and any failure to pay over or to produce the moneys intrusted to such person for the use of the money-order offices shall be held and taken to be prima facie evidence of such embezzlement. And any postmaster, assistant, clerk, or other person employed in or connected with the business of the money-order offices, and all other persons advising or participating in such act, on being convicted thereof before any court of the United States of competent jurisdiction, shall be sentenced to imprisonment for a term of not less than six months nor more than ten years, and to a fine equal to the amount of the money embezzled. And upon the trial of any indictment against any person for embezzling public money under the provisions of this act, it shall be prima facie evidence for the purpose of showing a balance against such person to produce a transcript from the money-order account books of the Auditor of the Treasury for the Post Office Department; and such transcript, when certified by said Auditor under his seal of office, shall be admitted as evidence in the courts of the United States.

SEC. 12. *And be it further enacted*, That if any person shall falsely make, forge, counterfeit, engrave, or print, or cause or procure to be falsely made, forged, counterfeited, engraved, or printed, or willingly aid, or assist in falsely making, forging, counterfeiting, engraving, or printing any order in imitation of or purporting to be a money-order issued by one postmaster upon another postmaster; or shall falsely alter, or cause or procure to be altered, or willingly aid, or assist in falsely altering, any money-order issued as aforesaid; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, forged, or counterfeited order, purporting to be a money-order as aforesaid, knowing the same to be falsely forged or counterfeited; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any falsely altered money-order, issued as aforesaid, knowing the same to be falsely altered, with an intent to defraud, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted, shall be sentenced to be imprisoned and kept at hard labor for a period of not less than three years, nor more than ten years, and be fined in a sum not exceeding five thousand dollars.

SEC. 13. *And be it further enacted*, That for the purpose of carrying on the business of the money-order offices, and keeping and settling their accounts, the Postmaster General may appoint, in his Department, one superintendent of the money-order system, at an annual salary of twenty-five hundred dollars, and three clerks, to wit: one of class four and two of class three. And the Secretary of the Treasury may, from time to time, appoint in the office of the Auditor of the Treasury for the Post Office Department, the necessary clerks, in all not to exceed six, to wit: one of class four and five of class two. And to provide for the compensation of the said superintendent and clerks, for the fiscal year ending June thirtieth, eighteen hundred and sixty-five, the sum of seventeen thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated. And the Postmaster General is further authorized to cause such additional clerks to be employed in the money-order offices as he may find necessary for conducting the operations of the money-order system, whose compensation shall be paid out of the proceeds of the money-order business: *Provided, however*, That to meet any deficiency that may arise in the amount of such proceeds during the first year, the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

APPROVED, May 17, 1864.

CHAP. LXXXIX.—An Act to appoint certain Officers of the Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for and during the present insurrection, the President, by and with the advice and consent of the Senate, is hereby authorized to appoint acting lieutenant commanders and acting commanders, who shall have the same rate of compensation as is allowed to officers of similar grade in the Navy.

SEC. 2. *And be it further enacted*, That the proviso in section ten, chapter one hundred and eighty-three, of an act to establish and equalize the grade of line officers of the United States Navy, approved July sixteenth, eighteen hundred and sixty-two, be, and the same is hereby, repealed, and that said section shall read as follows:

SEC. 3. *And be it further enacted*, That any person who shall have received, or shall hereafter receive, a temporary appointment as acting volunteer lieutenant or acting master in the Navy, from civil life, authorized by act of Congress of July twenty-fourth, eighteen hundred and sixty-one, may be confirmed in said appointment in the Navy and placed in the line of promotion, from the date of said confirmation, if, upon the recommendation of the President, he receives the thanks of Congress for highly meritorious conduct in conflict with the enemy. Seamen distinguishing themselves in battle, or by extraordinary heroism in the line of their profession, may be promoted to forward warrant officers or acting masters' mates, as they may be best qualified, upon the recommendation of their commanding officer, approved by the flag-officer and the Department. Upon such promotion, they shall receive a gratuity of one hundred dollars, and a medal of honor to be prepared by the Navy Department.

APPROVED, May 17, 1864.

CHAP. XCII.—An Act to organize a Regiment of Veteran Volunteer Engineers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to enlist, out of any volunteer forces in the army of the Cumberland, that have served, or are now serving, as pioneers, pontoniers, or engineers, to serve wherever required for three years, or during the war, to consist of ten companies, and to have the same organization, pay, and emoluments as are allowed to engineer soldiers under the provisions of the fourth section of an act entitled "An Act providing for the better organization of the military establishment," approved August third, eighteen hundred and sixty-one.

SEC. 2. *And be it further enacted*, That the officers of the engineers authorized to be raised under the provisions of the foregoing section shall be appointed and commissioned by the President of the United States, on the recommendation of the commander of the army of the Cumberland, and shall receive the same pay and allowances as engineer officers of similar grade in the regular Army.

APPROVED, May 20, 1864.

CHAP. XCIII.—An Act making Appropriations for the Naval Service for the year ending June thirtieth, eighteen hundred and sixty-five, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the thirtieth of June, eighteen hundred and sixty-five:

For pay of commission, warrant, and petty officers and seamen, including the engineer corps of the Navy, nineteen millions four hundred and twenty-three thousand two hundred and forty-one dollars.

For repair and maintenance of vessels of the Navy, labor, materials, and stores, eleven millions five hundred thousand dollars.

For the completion of sixteen fast steam screw sloops-of-war, seven millions two hundred thousand dollars.

For the purchase, construction, and repairs of vessels, materials, and labor, for the western waters, four millions of dollars.

For the purchase and charter of vessels for naval and blockading purposes, three millions of dollars.

For extra labor, expense of repairs, and so forth, on foreign stations, six hundred thousand dollars.

For payment of the three months' bounty to seamen and ordinary seamen under the joint resolution of February twenty-fourth, eighteen hundred and sixty-four, five hundred thousand dollars.

For the completion of armored plated vessels, three million six hundred thousand dollars.

For the purchase of hemp and other materials for the Navy, seven hundred thousand dollars.

For fuel for the Navy, and for the transportation and expenses thereof, three millions eight hundred and forty thousand dollars.

For the equipment of vessels in the Navy, viz:

For the purchase of various articles of equipment, viz: canvas, leather, cables and anchors, and furniture, and stores in the masters', boatswains', and sailmakers' departments, three million dollars.

For provisions for commission, warrant, and petty officers and seamen, including engineers and marines attached to vessels for sea service, six million four hundred and fifteen thousand six hundred and five dollars.

For the construction, repair, wear and tear of machinery of vessels in commission, twenty-eight million three hundred and twelve thousand dollars.

For surgeons' necessaries and appliances for the sick and hurt of the Navy, including the coast survey and engineer and marine corps, two hundred and ten thousand dollars.

For ordnance and ordnance stores, including labor and incidental expenses, eight million three hundred thousand dollars.

For navigation apparatus and supplies, and for purposes incidental to navigation, one hundred and twenty-six thousand dollars.

For contingent expenses of the Navy, two hundred and fifty thousand dollars.

For the purchase of nautical and astronomical instruments, books, maps, and charts; and for the repairs of instruments, and binding and backing books and charts, one hundred and one thousand and forty-two dollars.

For clothing for the Navy, five hundred thousand dollars.

Bureau of Yards and Docks:

For contingent expenses that may accrue for the following purposes, viz: For freight and transportation; for printing, advertising, and stationery; for books, maps, models, and drawings; for the purchase and repair of fire engines; for machinery of every description, and patent-right to use the same; for repairs of steam engines and attendance; for purchase and maintenance of oxen and horses and driving teams; for carts, timber-wheels, and workmen's tools of every description for navy-yard purposes; for telegrams, postage of letters on public service; for furniture for Government offices and houses in the navy-yards; for coals and other fuel; for candles, oil, and gas; for cleaning and clearing up yards; for flags, awning, and packing-boxes; for pay of watchmen; for incidental labor at navy-yards not applicable to any other appropriation; for rent of landing at Portsmouth, New Hampshire; for tolls and ferriages; for water tax; and for rent of stores and rendezvous, one million three hundred and seventy thousand dollars.

Bureau of Equipment and Recruiting:

For contingent expenses that may accrue for the following purposes, viz: Expenses of recruiting; traveling expenses of officers; transportation of men and materials; printing and stationery; advertising in newspapers; postage on public letters; wharfage and demurrage; funeral expenses; apprehending deserters; pilotage and towage of vessels, and assistance to vessels in distress; and for bills of health and quarantine expenses of vessels in the Navy, one million two hundred and fifty thousand dollars.

38TH CONG....1ST SESS.

*Laws of the United States.***Bureau of Navigation:**

For contingent expenses of the Bureau of Navigation, viz: For freight and transportation of navigation materials, instruments, books, and stores; for postage on letters; for telegraphing on public business; for advertising for proposals; for packing-boxes and materials; for blank-books, forms, and stationery at navigation offices; for maps, charts, drawings, and models; and for incidental expenses not applicable to any other appropriation, one thousand five hundred dollars.

Bureau of Construction and Repair:

For contingent and incidental expenses, viz: For blank-books, binding, stationery, and miscellaneous items, one thousand dollars.

For postage, drawings, and transportation of materials, seventy-five thousand dollars.

Bureau of Provisions and Clothing:

For contingent expenses, viz: For candles, freight to foreign stations, transportation from station to station within the United States, coo-
page, pay of assistants to inspectors, advertising for proposals, printing paymasters' blanks, and stationery for cruising vessels, five hundred thousand dollars.

Bureau of Medicine and Surgery:

For contingent expenses of the Bureau of Medicine and Surgery, sixty thousand dollars.

Bureau of Steam Engineering:

For contingent expenses, viz: For transportation of materials, printing, stationery, advertising, books, drawings, models, postages, and incidental expenses, twenty-five thousand dollars.

MARINE CORPS.

For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, steward and nurse and servants; for rations and clothing for officers' servants; additional rations to officers for five years' service; for undrawn clothing, and additional pay to musicians of the band, seven hundred and ninety-one thousand seven hundred and eighty-five dollars and eighty cents.

For provisions, one hundred and thirty-five thousand nine hundred and twenty-six dollars.

For clothing, two hundred and twenty-three thousand three hundred and ninety-eight dollars.

For fuel, thirty-one thousand four hundred and thirty dollars and seventy-five cents.

For military stores, viz: Pay of mechanics, repairs of arms, purchase of accouterments, ordnance stores, flags, drums, fifes, and other instruments, fifteen thousand dollars.

For transportation of officers, their servants, troops, and expenses of recruiting, twenty-two thousand dollars.

For repairs of barracks, and rent of offices where there are no public buildings, eight thousand dollars.

For contingencies, viz: Freight; ferrriage; toll; cartage; wharfage; purchase and repair of boats; compensation to judges advocate; per diem for attending courts-martial, courts of inquiry, and for constant labor; house rent in lieu of quarters; burial of deceased marines; printing, stationery, postage, telegraphing; apprehension of deserters; oil, candles, gas; repairs of gas and water fixtures; water rent, forage, straw, barrack furniture; furniture for officers' quarters in the barracks; bed sacks, wrapping-paper, oil-cloth, crash, rope, twine, spades, shovels, axes, picks, carpenters' tools; keep of a horse for the messenger; pay of matron, washerwoman, and porter at the hospital headquarters; repairs to fire engine; purchase and repair of engine hose; purchase of lumber for benches, mess-tables, and bunks; repairs to public carryall; purchase and repair of harness; purchase and repair of handcarts and wheelbarrows; scavenging; purchase and repair of galleys, cooking-stoves, ranges; stoves where there are no grates; gravel for parade grounds; repair of pumps; furniture for staff and commanding officers' offices; brushes, brooms, buckets, paving, and for other purposes, forty-five thousand dollars.

For widening and improving the marine barracks, and officers' quarters at the navy-yard, Portsmouth, New Hampshire, twenty-two thousand dollars.

For building marine barracks, at navy-yard, Mare Island, California, thirty-nine thousand fifty-eight dollars and forty-four cents.

NAVY-YARDS.**Portsmouth, New Hampshire.**

For plumbers, coppersmiths, and tin-shops, quay walls, mooring-piers, iron store, extension of ship-house, machinery and tools, repairs on floating dock, barracks and guard-house, on Seavey's Island, and for repairs of all kinds, one hundred and fifty-one thousand nine hundred and thirty-five dollars.

Boston.

For additional amount for joiners' shop, additional amount for coal house, extension of shear wharf, railroad tracks, and repairs of all kinds, one hundred and eighty-four thousand five hundred dollars.

New York.

For dredging channels; quay wall at saw mills; new foundry; improvements on cob-dock; improvements to dry-dock; machine-shop extension; improvements of dry-dock; quay wall at new derrick; iron-plating shop; receiving store; iron fence in front of officers' houses; repairs of all kinds; machinery for iron-clad building; machinery for pattern, boiler, and machine shop; machinery for new foundry; machinery for machine-shop extension; machinery for smithery, joiner, and oakum shops; one six-ton, one four-ton, and one two-ton hammer, six hundred and sixty-nine thousand three hundred and fifteen dollars.

Philadelphia.

For repairs of dry-dock, pitch house, dredging; repairs of damage to store by fire, and for repairs of all kinds—and for the purchase of two lots adjoining navy-yard, Philadelphia, extending from Front street to the commissioners' line in the Delaware river, at a price not exceeding ninety thousand dollars—two hundred and fourteen thousand nine hundred and forty-five dollars.

Washington, District of Columbia.

For extension of copper rolling mill; machinery and tools; storehouse for provisions and clothing; dredging channels; repairs of all kinds, and rail tracks in yard, one hundred and forty-nine thousand four hundred and sixty-five dollars.

Norfolk.

For repairs of victualing house, boat shed, blacksmith shop, and tools; wharves, foundry, officers' quarters, boiler shop, repairs of dry-dock, engine house, mast house, and sail loft; saw mill and machinery; offices and storehouse and repairs of all kinds, two hundred and twenty-three thousand four hundred and thirty-three dollars.

Pensacola.

For repairs of all kinds, fifty thousand dollars. For machinery and materials for the repair of vessels at Pensacola, Ship Island, and New Orleans, one hundred thousand dollars.

Mare Island.

For continuation of grading and paving, ten thousand dollars; scows, lighter, and stages; foundry and machinery for same; machinery for saw mill; continuing coal shed and wharf; continuing seawall; steam hammer and tools for smithery; rigging and sail loft; repairs of all kinds; excess of expenditure on wharf; guard-house; machinery for machine shop, and gas works, two hundred and twenty-four thousand five hundred and ninety-five dollars.

HOSPITALS.**Boston.**

For remodeling old section of the hospital; heating and cooking and laundry apparatus; brick wall and iron gateways on Broadway; and repairs of building and improvement of grounds, seventeen thousand five hundred dollars.

New York.

For repairs and improvements of buildings and grounds, increase of apparatus in the laboratory, and repairs to heating apparatus, nine thousand dollars.

Norfolk.

For general improvement and repairs of building, ground, and wharves, five thousand dollars.

Pensacola.

For completion of extension of building, thirty thousand dollars.

Memphis.

For improvements and repairs of hospitals, seven thousand dollars.

New Orleans.

For improvements and repairs of hospital, five thousand dollars.

Mare Island, California.

For completion of hospital, seventy-five thousand dollars.

MAGAZINES.**Portsmouth.**

For howitzer and gun equipment shed; machinery for ordnance building, and for fitting and furnishing new wing of ordnance building; grading grounds for repairs of ordnance buildings and railways, twenty thousand and fifty dollars.

Boston.

For repairs of magazine and shell houses at Chelsea, and powder boat; repairs of ordnance store, shell houses, and gun and shot parks; tools for gun-carriage shop; and for completing ordnance store, sixty-three thousand four hundred and thirty-nine dollars.

New York.

For machinery for repairing small arms; repairs to wharves and track on Ellis's island; sea wall on north side of Ellis's island; repairs on magazine at Ellis's island; dredging at Ellis's island; and for repairs of all kinds, forty-two thousand dollars.

Philadelphia.

For repairs and alterations of ordnance storehouse and office; machinery and tools in ordnance workshops; and for magazine, wharf buildings, and grounds, eight thousand one hundred and sixty-three dollars.

Washington.

For repairs and improvements of the magazine, ordnance buildings, and grounds of the ordnance yard; erecting temporary sheds; additional ordnance machinery; and for continuing the new ordnance foundry, sixty-nine thousand dollars.

Mare Island, California.

For two small magazines at north end of the yard; enlargement of shell house; preparing gun park; building skids and shot beds; machinery and tools for ordnance shop; and for repairs on magazine buildings and pile wharf, twenty-nine thousand three hundred and sixty-eight dollars.

MISCELLANEOUS.

For pay of superintendents, naval constructors, and all the civil establishments of the several navy-yards and stations, one hundred and twenty-five thousand six hundred and eighty-eight dollars; and the annual salary of the constructing engineer at Mare Island, California, shall be three thousand two hundred dollars, after the close of the present fiscal year.

For expenses of professors, watchmen, and others, and contingencies of the United States Naval Academy, one hundred and one thousand eight hundred and thirty-one dollars and fifty-five cents: *Provided*, That no money appropriated for the support of the Naval Academy shall be applied to the support of any midshipmen hereafter appointed not in strict conformance with the provisions of the law for appointing midshipmen to the Naval Academy.

For constructing coal wharf at Key West, Florida, thirty-two thousand dollars.

For altering coal depot to storehouse at Key West, Florida, eighteen thousand dollars.

For constructing railroad from naval wharf to coal yards at Key West, Florida, ten thousand dollars.

For the pay of mileage of visitors to the Naval Academy, two thousand dollars.

NAVAL OBSERVATORY.

For pay of assistant astronomer, three aids, and clerk, eight thousand dollars, and four thousand dollars thereof shall be equally divided among the three aids as their salary.

For wages of instrument maker, watchman, porter, and laborers; keeping grounds in order, and repairs to buildings and inclosures; fuel, lights, office furniture, and stationery; and for freight, transportation, postage, and incidental expenses, twelve thousand dollars.

Laws of the United States.

38TH CONG...1ST SESS.

For preparing for publication the American Nautical Almanac, twenty-five thousand eight hundred and fifty dollars.

NAVAL ASYLUM, PHILADELPHIA.

For furniture and repairs of same; house cleaning and whitewashing; repairs to furnaces, grates, and ranges; gas and water rent; for hospital, and repairs of all kinds, five thousand two hundred dollars.

For the purchase and preparation of a site for a cemetery for the Navy and marine corps, near Philadelphia, fifteen thousand dollars.

For support of beneficiaries, thirty-two thousand dollars.

For gratuities and medals of honor, five thousand dollars.

For bounties for destruction of enemies' vessels, as per act of July seventeen, eighteen hundred and sixty-two, for the better government of the Navy, two hundred and fifty thousand dollars.

For pay of photographer for Ordnance Bureau, three hundred dollars.

For compensation of petty officers, seamen, and others of the crew of the United States steamer Monitor, lost at sea December thirty, eighteen hundred and sixty-two, three thousand dollars.

For compensation of petty officers, seamen, and others of the crew of the United States steamer Cairo, lost in Yazoo river December twelve, eighteen hundred and sixty-two; eight thousand two hundred and fifty dollars.

SEC. 2. *And be it further enacted*, That, out of the appropriation of seven hundred and fifty thousand dollars for a floating dry-dock at navy-yard, New York, provided for by the act making appropriations for the naval service of the United States, approved third March, eighteen hundred and sixty-three, the Secretary of the Navy be, and he is hereby, authorized to construct one or two dry-docks, as he may deem expedient, at New York and Philadelphia, at two hundred and sixty thousand dollars each, and to expend the balance of said appropriation, if it shall be necessary, to enlarge the sectional docks to a capacity to receive the large vessels now building.

SEC. 3. *And be it further enacted*, That there shall be added three professors to the number of professors of mathematics now authorized by law, who shall be appointed and commissioned as now provided by law, and who shall be a professor of ethics and English studies, a professor of Spanish, and a professor of drawing, at the Naval Academy.

SEC. 4. *And be it further enacted*, That the United States Naval Academy shall be returned to and established at the Naval Academy grounds in Annapolis, in the State of Maryland, before the commencement of the academic year eighteen hundred and sixty-five.

APPROVED, May 21, 1864.

CHAP. XCIV.—An Act to amend an Act entitled "An Act to enable the People of Nevada to form a Constitution and State Government, and for the Admission of such State into the Union on an equal footing with the original States."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the fifth section of the act to which this act is an amendment as provides by ordinance for submitting the constitution to the people of said State, for their ratification or rejection, at an election to be held on the second Tuesday of October, be so amended as to read "on the first Wednesday of September," and that the election for the purposes aforesaid be held on that day instead of the second Tuesday of October.

APPROVED, May 21, 1864.

CHAP. XCV.—An Act to provide a Temporary Government for the Territory of Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the limits, to wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its inter-

section with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourth degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky mountains; thence following the crest of the Rocky mountains northward till its intersection with the Bitter Root mountains; thence northward along the crest of said Bitter Root mountains to its intersection with the thirty-ninth degree of longitude west from Washington; thence along said thirty-ninth degree of longitude northward to the boundary line of the British possessions; thence eastward along said boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Montana: *Provided*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory or changing its boundaries in such manner and at such time as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Montana, until said tribe shall signify their assent to the President of the United States to be included within said Territory, or to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the Government to make if this act had never passed.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Montana shall be vested in a Governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The Governor shall reside within said Territory, and shall be commander-in-chief of the militia and superintendent of Indian affairs thereof. He may grant pardons and respites for offenses against the laws of said Territory, and reprieve for offenses against the laws of the United States until the decision of the President of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a Secretary of said Territory, who shall reside therein and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all laws and proceedings of the Legislative Assembly hereinafter constituted, and all the acts and proceedings of the Governor in his executive department; he shall transmit one copy of the laws and journals of the Legislative Assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, for the use of Congress. And in case of the death, removal, resignation, or absence of the Governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the Governor during such vacancy or absence, or until another Governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the Governor and a Legislative Assembly. The Legislative Assembly shall consist of a Council and House of Representatives. The Council shall consist of seven members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the Council, and whose term of service shall continue one year. The number of Representatives may be increased by the Legislative Assembly, from time to time, to twenty-six, in proportion to the increase of qualified voters; and the Council, in like manner, to thirteen. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the Council and Representatives, giving to each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the Council and of the House of Representatives shall reside in, and be inhabitants of, the district or county or counties for which they may be elected respectively. Previous to the first election the Governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons and in such mode as the Governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the Governor shall appoint and direct; and he shall at the same time declare the number of members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said Council districts, respectively, for members of the Council, shall be declared by the Governor to be duly elected to the Council; and the persons having the highest number of legal votes for the House of Representatives in each of said Representative districts, respectively, shall be declared by the Governor to be duly elected members of said House: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the Legislative Assembly, the Governor shall order a new election. And the persons thus elected to the Legislative Assembly shall meet at such place and on such day as the Governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the Council and House of Representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the Legislative Assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 5. *And be it further enacted*, That all citizens of the United States, and those who have declared their intentions to become such, and who are otherwise described and qualified under the fifth section of the act of Congress providing for a temporary government for the Territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said Territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill

38TH CONG....1ST SESS.

Laws of the United States.

which shall have passed the Council and House of Representatives of the said Territory shall, before it becomes a law, be presented to the Governor of the Territory. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, who shall enter the objections at large upon their journal and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and, if approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, to be entered on the journal of each House, respectively. If any bill shall not be returned by the Governor within three days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Assembly, by adjournment, prevent its return; in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said Territory by act of Congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

Sec. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the Governor and Legislative Assembly of the Territory of Montana. The Governor shall nominate, and, by and with the advice and consent of the Legislative Council, appoint all officers not herein otherwise provided for; and in the first instance the Governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the Legislative Assembly, and shall lay off the necessary districts for members of the Council and House of Representatives, and all other officers.

Sec. 8. *And be it further enacted*, That no member of the Legislative Assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first Legislative Assembly. And no person holding a commission or appointment under the United States, except postmasters, shall be a member of the Legislative Assembly, or shall hold any office under the government of said Territory.

Sec. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the

justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the Supreme Court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said Territory the same as in other cases. The said clerks shall receive, in all such cases, the same fees which the clerks of the district courts of Washington Territory now receive for similar services.

Sec. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Washington. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services. There shall also be appointed by the President of the United States, by and with the advice and consent of the Senate, a surveyor general for said Territory, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall be the same as those of the surveyor general of New Mexico, under the direction of the Secretary of the Interior, and such instructions as he may from time to time deem it advisable to give.

Sec. 11. *And be it further enacted*, That the Governor, secretary, chief justice, and associate justices, attorney, and marshal shall be appointed by the President of the United States, by and with the advice and consent of the Senate. The Governor and secretary to be appointed as aforesaid shall, before they act as such, respectively, take an oath or affirmation before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the

said Governor, or secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, or before the Chief Justice or some associate justice of the Supreme Court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the Territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said Territory, may take said oath or affirmation before the Chief Justice or some associate justice of the Supreme Court of the United States. The Governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars; the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarterly yearly from the dates of the respective appointments at the Treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the Legislative Assembly shall be entitled to receive four dollars each per day during their attendance at the sessions thereof, and four dollars each for every twenty miles' travel in going to and returning from said sessions, estimated according to the nearest usually traveled route; and an additional allowance of four dollars per day shall be paid to the presiding officer of each House for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms and doorkeeper may be chosen for each House; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the Legislative Assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the Legislative Assembly annually, unless, on an extraordinary occasion, the Governor shall think proper to call the Legislative Assembly together. There shall be appropriated annually the usual sum, to be expended by the Governor, to defray the contingent expenses of the Territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses. And the Governor and secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall semi-annually account to the said Secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said Legislative Assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

Sec. 12. *And be it further enacted*, That the Legislative Assembly of the Territory of Montana shall hold its first session at such time and place in said Territory as the Governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the Governor and Legislative Assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible: *Provided*, That the seat of government fixed by the Governor and Legislative Assembly shall not be at any time changed except by an act of the said Assembly, duly passed, and which shall be approved, after due notice, at the first general election thereafter, by a majority of the legal votes cast on that question.

Sec. 13. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be

Laws of the United States.

38TH CONG.... 1ST SESS.

elected by the voters qualified to elect members of the Legislative Assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives; but the Delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the Governor shall appoint and direct; and at all subsequent elections the time and places, and manner of holding the elections, shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the Governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution and all laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said Territory of Montana as elsewhere within the United States.

Sec. 14. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory and in the States and Territories hereafter to be erected out of the same.

Sec. 15. *And be it further enacted*, That, until otherwise provided by law, the Governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the Legislative Assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

Sec. 16. *And be it further enacted*, That all officers to be appointed by the President of the United States, by and with the advice and consent of the Senate, for the Territory of Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and in such manner as the Secretary of the Treasury may prescribe.

Sec. 17. *And be it further enacted*, That all treaties, laws, and other engagements made by the Government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the President of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

Sec. 18. *And be it further enacted*, That, until Congress shall otherwise direct, all that part of the Territory of Idaho included within the following boundaries, to wit: Commencing at a point formed by the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky mountains; thence northward along the said crest of the Rocky mountains to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence eastward along said forty-fourth degree thirty minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirty-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washington to the forty-first degree north latitude; thence west along said forty-first degree of latitude to the place of

beginning, shall be, and is hereby, incorporated temporarily into and made part of the Territory of Dakota.

APPROVED, May 26, 1864.

CHAP. XCVI.—An Act for the Classification of the Clerks to Paymasters in the Navy, and graduating their Pay.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the annual pay of clerks to paymasters in the Navy shall be as follows, namely: Clerks to paymasters at the Boston, New York, Washington, and Philadelphia stations, twelve hundred dollars.

At other stations, one thousand dollars.

Clerks to inspectors in charge of provisions and clothing at Boston, New York, and Philadelphia, twelve hundred dollars.

At other inspections, one thousand dollars.

Clerks to paymasters in receiving ships at Boston and New York, twelve hundred dollars.

In other receiving ships, and in vessels of the first rate, and at the Naval Academy, one thousand dollars.

Clerks to fleet paymasters and to paymasters of vessels of the second rate, eight hundred dollars.

Clerks to paymasters of vessels of the third rate, having complements of more than one hundred and seventy-five persons, and to paymasters of supply steamers and store vessels, seven hundred dollars: *Provided*, That no paymaster or assistant paymaster shall be allowed a clerk in a vessel having the complement of one hundred and seventy-five persons or less, excepting in supply steamers and store vessels: *And provided further*, That nothing in this act shall be construed to alter the pay now allowed by law to the paymaster's clerk at Mare Island.

APPROVED, May 26, 1864.

CHAP. XCVII.—An Act making Appropriations for the Payment of the Awards made by the Commissioners appointed under and by virtue of an Act of Congress entitled "An Act for the Relief of Persons for Damages sustained by reason of the Depredations and Injuries by certain Bands of Sioux Indians," approved February sixteenth, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of nine hundred and twenty-eight thousand four hundred and eleven dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the payment of the several amounts awarded by the commission appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February sixteen, eighteen hundred and sixty-three, to the several persons, firms, estates, and corporations, respectively, to whom such amounts were awarded by said commissioners, except the following persons, estates, and firms, to whom awards were made as aforesaid, to wit: Antoine Roberts, J. C. Toberer, Gilbault & Company, W. L. Sumner, G. L. Mendelsohn, D. C. Marvin, Joseph Popp, B. Heinbach, W. W. Pendergast, Louis Theobald, J. & C. M. Dailey, B. H. Randall, Louis Robert, W. H. Forbes, estate of S. B. Garvie, deceased, A. Vajen & Brother, T. I. Pierce, estate of Francis Labathe, deceased, S. A. Hooper, estate of James C. Dickenson, deceased, Henry Apple, Theodore Crone, Charles Jacobs, F. Immel, H. C. Cooper, H. D. Cunningham, Joseph Descoteau, and Henry Behnke, which last claim is numbered 366 on the books of said commissioners.

Sec. 2. *And be it further enacted*, That for the payment of so much of said awards made by said commissioners to the persons, firms, and estates specifically named in the first section of this act, as the Secretary of the Interior shall, upon examination, find to be due to them respectively, under said act approved February sixteen, anno Domini eighteen hundred and sixty-three, the further sum of two hundred and forty-one thou-

sand nine hundred and sixty-three dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated. And the Secretary of the Interior is hereby authorized and directed to pay to the said several claimants, or to their attorneys heretofore or hereafter duly authorized, other than those claimants specifically named in the first section of this act, the several amounts as awarded by said commissioners, and also to pay the several sums he may find due, not exceeding the amounts respectively awarded by said commissioners to the said persons, firms, and estates so specifically named.

APPROVED, May 28, 1864.

CHAP. XCVIII.—An Act authorizing the establishment of Ocean Mail Steamship Service between the United States and Brazil.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he is hereby, authorized to unite with the general post office department of the empire of Brazil, or such officer of the Government of Brazil as shall be authorized to act for that Government, in establishing direct mail communication between the two countries by means of a monthly line of first-class American sea-going steamships, to be of not less than two thousand tons burden each, and of sufficient number to perform twelve round trips or voyages per annum between a port of the United States, north of the Potomac river, and Rio de Janeiro, in Brazil, touching at Saint Thomas, in the West Indies, at Bahia, Pernambuco, and such other Brazilian and intermediate port or ports as shall be considered necessary and expedient: *Provided*, That the expense of the service shall be divided between the two Governments, and that the United States portion thereof shall not exceed the sum of one hundred and fifty thousand dollars for the performance of twelve round trips per annum, to be paid out of any money appropriated for the service of the Post Office Department.

Sec. 2. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to invite proposals for said mail steamship service by public advertisement for the period of sixty days in one or more newspapers published in the cities of Washington, Baltimore, Philadelphia, New York, and Boston, respectively, and to contract with the lowest responsible bidder for the same for a term of ten years, to commence from the day the first steamship of the proposed line shall depart from the United States with the mails for Brazil: *Provided*, That proposals for monthly trips—that is to say, for twelve round voyages per annum, out and back—are received and accepted by him within the limit as aforesaid, from a party or parties of undoubted responsibility, possessing ample ability to furnish the steamships required for the service, and offering good and sufficient sureties for the faithful performance of such contract: *And provided further*, That such proposals shall be accepted by the Government of Brazil, and that distinct and separate contracts with each Government, containing similar provisions, shall be executed by such accepted bidder or bidders; each Government to be responsible only for its proportion of the subsidy to be paid for the service.

Sec. 3. *And be it further enacted*, That any contract which the Postmaster General may execute under the authority of this act shall go into effect on or before the first day of September, one thousand eight hundred and sixty-five; and shall, in addition to the usual stipulations of ocean mail steamship contracts, provide that the steamships offered for the service shall be constructed of the best materials and after the most approved model, with all the modern improvements adapted for sea-going steamships of the first class; and shall, before their approval and acceptance by the Postmaster General, be subject to inspection and survey by an experienced naval constructor, to be detailed for that purpose by the Secretary of the Navy, whose report shall be made to the Postmaster General; that the two Governments shall be entitled to have transported, free of expense, on each and every steamer, a mail agent to take charge of and arrange the mail matter, to whom

38TH CONG....1ST SESS.

Laws of the United States.

suitable accommodations for that purpose shall be assigned; that in case of failure from any cause to perform any of the regular monthly voyages stipulated for in the contract, a pro rata deduction shall be made from the compensation on account of such omitted voyage or voyages; that suitable fines and penalties may be imposed for delays and irregularities in the regular performance of the service according to contract; and that the Postmaster General shall have the power to determine the contract at any time, in case of its being underlet or assigned to any other party.

SEC. 4. *And be it further enacted*, That the mail steamships employed in the service authorized by this act shall be exempt from all port charges and custom-house dues at the port of departure and arrival in the United States: *Provided*, That a similar immunity from port charges and custom-house dues is granted by the Government of Brazil.

APPROVED, May 28, 1864.

CHAP. XCIX.—An Act for the Relief of the Citizens of Denver, in the Territory of Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of an act of Congress entitled "An act for the relief of the citizens of towns upon the lands of the United States, under certain circumstances," approved May twenty-third, eighteen hundred and forty-four, be so extended as to authorize the probate judge of Arapahoe county, in the Territory of Colorado, to enter, at the minimum price, in trust for the several use and benefit of the rightful occupants of said land and the bona fide owners of the improvements thereon, according to their respective interests, the following legal subdivisions of land, or such portions thereof as are settled, and actually occupied for town purposes by the town of Denver aforesaid, to wit: Section number thirty-three, and the west half of section number thirty-four, in township number three south of range number sixty-eight west of the sixth principal meridian: *Provided, however*, That there shall be reserved from such sale and entry such blocks or lots in the town of Denver as may be necessary for Government purposes, to be designated by the Commissioner of the General Land Office.

SEC. 2. *And be it further enacted*, That in all respects, except as herein modified, the execution of the foregoing provisions shall be controlled by the provisions of said act of twenty-third May, eighteen hundred and forty-four, and the rules and regulations of the Commissioner of the General Land Office.

APPROVED, May 28, 1864.

CHAP. CI.—An Act to provide for the Payment of the Claims of Peruvian Citizens, under the Convention between the United States and Peru, of the twelfth of January, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of discharging the obligations of the United States, under the convention with Peru, of the twelfth of January last, there be paid to Stephen G. Montano, or to his legal representatives, in the current money of the United States, the sum of forty-one thousand seven hundred and eighty-two dollars and thirty-eight cents; and to Juan del Carmen Vergel, or his legal representatives, the sum of one thousand one hundred and seventy dollars, in the silver money of the United States, or its equivalent, out of any money in the Treasury not otherwise appropriated.

APPROVED, June 1, 1864.

CHAP. CII.—An Act in relation to Franked Matter.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all communications relating to the official business of the Department to which they are addressed, of whatever origin, addressed to the chiefs of the several Executive Departments of the Government, or to such principal officers of each Executive Department, being heads of bureaus or chief clerks, or one duly authorized by the Postmaster General to frank official mat-

ter, shall be received and conveyed by mail free of postage without being indorsed "official business," or with the name of the writer.

APPROVED, June 1, 1864.

CHAP. CIII.—An Act to amend an Act entitled "An Act making a Grant of Land[s] to the State of Iowa, in alternate sections, to aid in the construction of certain Railroads in said State," approved May fifteen, eighteen hundred and fifty-six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Mississippi and Missouri Railroad Company, a corporation established by the laws of the State of Iowa, and to which the said State granted a portion of the land grant mentioned in the title of this act, to aid in the construction of a railroad from Davenport to Council Bluffs, in said State, may modify or change the location of the uncompleted portion of its line, as shown by the map thereof now on file in the General Land Office of the United States, so as to secure a better and more expeditious line for connection with the Iowa branch of the Union Pacific railroad: *Provided, nevertheless*, That said new line, if located, shall in every case pass through the corporate limits of the cities of Des Moines and Council Bluffs; and the right of way over the public lands of the United States is hereby granted to said railroad company for that purpose: *Provided*, That said line shall pass through the town of Newton, in Jasper county, or as near said town as may be found practicable, and not further north of said town than the north line of section twenty-two, township eighty north, of range nineteen, according to the United States surveys, if the citizens of the county of Jasper shall first pay to said company the difference in cost, if any, between the line proposed by the company and the one contemplated by this proviso, including extra cost of right of way, if any, said difference in cost to be estimated by competent engineers to be selected by the parties.

SEC. 2. *And be it further enacted*, That whenever such new location shall have been established, the said railroad company shall file in the General Land Office at Washington a map, definitely showing such new location; and the Secretary of the Interior shall cause to be certified and conveyed to said company from time to time, as the road progresses, out of any public lands now belonging to the United States not sold, reserved, or otherwise disposed of, or to which a preemption claim or right of homestead settlement has not attached, and on which a bona fide settlement and improvement has not been made under color of title derived from the United States or from the State of Iowa, within six miles of such newly located line, an amount of land per mile equal to that originally authorized to be granted to aid in the construction of said road by the act to which this is an amendment; and if the amount of land granted by the original act to aid in the construction of said railroad shall not be found within the limit of six miles from such line, then such selections may be made along such line within twenty miles thereof: *Provided*, That the said company shall not be entitled to, and shall not receive, any land under this grant which is situate within fifteen miles of the line of the Burlington and Missouri River railroad, as indicated by the map of said road, now on file in the General Land Office.

SEC. 3. *And be it further enacted*, That the Burlington and Missouri River Railroad Company, a corporation organized under the laws of the State of Iowa, and to which said State granted a portion of the land grant mentioned in the title of this act to aid in the construction of a railroad from Burlington in said State to the Missouri river, shall be entitled to receive, and the Secretary of the Interior shall cause to be certified and conveyed to said company from time to time, as the road progresses, out of any public lands now belonging to the United States not sold, reserved, or otherwise disposed of, or to which a preemption claim or right of homestead settlement has not attached, and on which a bona fide settlement and improvement has not been made under color of title derived from the United States or from the State of Iowa, within six miles of said road, as now loca-

ted, an amount of land per mile equal to that mentioned in the act to which this act is an amendment, as intended to aid in the construction of said road; and if the amount of land granted by the original act to aid in the construction of said road shall not be found within the limit of six miles from the line of said road, then such selections may be made along such line within twenty miles thereof.

SEC. 4. *And be it further enacted*, That the Cedar Rapids and Missouri River Railroad Company, a corporation established under the laws of the State of Iowa, and to which the said State granted a portion of the land mentioned in the title to this act, may modify or change the location of the uncompleted portion of its line, as shown by the map thereof now on file in the General Land Office of the United States, so as to secure a better and more expeditious line to the Missouri river, and to a connection with the Iowa branch of the Union Pacific railroad; and for the purpose of facilitating the more immediate construction of a line of railroads across the State of Iowa, to connect with the Iowa branch of the Union Pacific Railroad Company aforesaid, the said Cedar Rapids and Missouri River Railroad Company is hereby authorized to connect its line by a branch with the line of the Mississippi and Missouri Railroad Company; and the said Cedar Rapids and Missouri River Railroad Company shall be entitled for such modified line to the same lands and to the same amount of lands per mile, and for such connecting branch the same amount of land per mile, as originally granted to aid in the construction of its main line, subject to the conditions and forfeitures mentioned in the original grant, and, for the said purpose, right of way through the public lands of the United States is hereby granted to said company. *And it is further provided*, That whenever said modified main line shall have been established or such connecting line located, the said Cedar Rapids and Missouri River Railroad Company shall file in the General Land Office of the United States a map definitely showing such modified line and such connecting branch aforesaid; and the Secretary of the Interior shall reserve and cause to be certified and conveyed to said company, from time to time, as the work progresses on the main line, out of any public lands now belonging to the United States, not sold, reserved, or otherwise disposed of, or to which a preemption right or right of homestead settlement has not attached, and on which a bona fide settlement and improvement had not been made under color of title derived from the United States or from the State of Iowa, within fifteen miles of the original main line, an amount of land equal to that originally authorized to be granted to aid in the construction of the said road by the act to which this is an amendment. And if the amount of lands per mile granted, or intended to be granted, by the original act to aid in the construction of said railroad shall not be found within the limits of the fifteen miles therein prescribed, then such selections may be made along said modified line and connecting branch within twenty miles thereof: *Provided, however*, That such new located or modified line shall pass through or near Boonsboro³, in Boon county, and intersect the Boyer river not further south than a point at or near Dennison, in Crawford county: *And provided further*, That in case the main line shall be so changed or modified as not to reach the Missouri river at or near the forty-second parallel north latitude, it shall be the duty of said company, within a reasonable time after the completion of its road to the Missouri river, to construct a branch road to some point in Monona county, in or at Onawa City; and to aid in the construction of such branch the same amount of lands per mile are hereby granted as for the main line, and the same shall be reserved and certified in the same manner; said lands to be selected from any of the unappropriated lands as hereinbefore described within twenty miles of said main line and branch; and said company shall file with the Secretary of the Interior a map of the location of the said branch: *And provided further*, That the lands hereby granted to aid in the construction of the connecting branch aforesaid shall not vest in said company nor be incumbered or disposed of except in the following manner: When the Governor of the State of Iowa shall certify to the Secretary of the Interior that said company has completed in

Laws of the United States.

38TH CONG....1ST SESS.

good running order a section of twenty consecutive miles of the main line of said road west of Nevada, then the Secretary shall convey to said company one third, and no more, of the lands granted for said connecting branch. And when said company shall complete an additional section of twenty consecutive miles, and furnish the Secretary of the Interior with proof as aforesaid, then the said Secretary may convey to the said company another third of the lands granted for said connecting branch; and when said company shall complete an additional section of twenty miles, making in all sixty miles west of Nevada, the Secretary, upon proof furnished as aforesaid, may convey to the said company the remainder of said lands to aid in the construction of said connecting branch: *Provided, however*, That no lands shall be conveyed to said company on account of said connecting branch road until the Governor of the State of Iowa shall certify to the Secretary of the Interior that the same shall have been completed as a first-class railroad. And no land shall be conveyed to said company situate and lying within fifteen miles of the original line of the Mississippi and Missouri railroad, as laid down on a map on file in the General Land Office: *Provided further*, That it shall be the duty of the Secretary of the Interior, and he is hereby required, to reserve a quantity of land embraced in the grant described in this section, sufficient, in the opinion of the Governor of Iowa, to secure the construction of a branch railroad from the town of Lyons, in the State of Iowa, so as to connect with the main line in or west of the town of Clinton in said State; until the Governor of said State shall certify that said branch railroad is completed according to the requirements of the laws of said State: *Provided further*, That nothing herein contained shall be so construed as to release said company from its obligation to complete the said main line within the time mentioned in the original grant: *Provided further*, That nothing in this act shall be construed to interfere with, or in any manner, impair any rights acquired by any railroad company named in the act to which this is an amendment, or the rights of any corporation, person or persons, acquired through any such company; nor shall it be construed to impair any vested right of property, but such rights are hereby reserved and confirmed: *Provided, however*, That no lands shall be conveyed to any company or party whatsoever, under the provisions of this act and the act amended by this act, which have been settled upon and improved in good faith by a bona fide inhabitant, under color of title derived from the United States or from the State of Iowa adverse to the grant made by this act or the act to which this act is an amendment. But each of said companies may select an equal quantity of public lands as described in this act within the distance of twenty miles of the line of each of said roads in lieu of lands thus settled upon and improved by bona fide inhabitants in good faith under color of title as aforesaid.

Sec. 5. *And be it further enacted*, That the Mississippi and Missouri Railroad Company shall have the right to transfer and assign all or any part of the grant hereby made to said company to any other company, or person or persons, if, in the opinion of said company, the construction of the said railroad across the State of Iowa will be thereby sooner and more satisfactorily completed; but such assignee shall not in any case be released from the liabilities and conditions accompanying this grant, nor acquire perfect title in any other manner than the same would have been acquired by the grantee herein named: *Provided*, That said transfer and assignment shall first be authorized by the Governor of the State of Iowa.

Sec. 6. *And be it further enacted*, That the Dubuque and Sioux City Railroad Company may so far change their line between Fort Dodge and Sioux City as to secure the best route between those points; said change shall not impair the right to, nor change the location of, their present land grant. A map of the change shall be filed with the Commissioner of the General Land Office within one year after the passage of this act.

Sec. 7. *And be it further enacted*, That all of the conditions and limitations contained in the act to which this act is an amendment, and not expressly changed by this act, shall attach to and

run with the grants made by this act, except as the said conditions and limitations have been modified, and may hereafter be modified, by the General Assembly of the State of Iowa.

Sec. 8. *And be it further enacted*, That no lands hereby granted shall be certified to either of said companies until the Governor of the State of Iowa shall certify to the Secretary of the Interior that the said company has completed, ready for the rolling stock, within one year from the first day of July next, a section of not less than twenty miles from the present terminus of the completed portion of said railroad, and in each year thereafter an additional section of twenty miles; but the number of sections per mile originally authorized shall be certified to each company, upon proof as aforesaid of the completion of the additional sections of the road as aforesaid; and upon the failure of either company to complete either section as aforesaid, to be annually built, the portion of the land remaining uncertified shall become subject to the control and disposition of the Legislature of the State of Iowa, to aid in the completion of such road.

Sec. 9. *And be it further enacted*, That all lands hereafter certified to either of the land-grant railroads in said State, and lying opposite any completed section of such road, shall be offered for sale by the company to which they shall be certified within three years from the completion of such section, if then certified; and if not, then within three years from the date of such certificate at reasonable prices; and if not all sold within that period then during the fourth year all such lands remaining unsold shall be exposed to public sale, after previous notice posted at the county seat of the county in which such lands shall be situated, to the highest bidder, and in tracts not exceeding one hundred and sixty acres each.

APPROVED, June 2, 1864.

CHAP. CIV.—An Act to incorporate the Newsboys' Home.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Joseph Henry, J. W. Forney, Henry Beard, Sayles J. Bowen, and A. M. Gangwer, their associates and successors, being members of said society, by paying into its treasury the sum of two dollars annually, or life members, by paying fifty dollars at one time, are hereby incorporated and made a body-politic, by the name of The Newsboys' Home of Washington City, for the purpose of providing lodgings, meals, and instruction to such homeless and indigent boys as may properly come under the charge of such association, to provide for them a suitable home, board, clothing, and instruction, and to bring them under Christian influence; and by that name shall have perpetual succession, with power to use a common seal, to sue and be sued, to plead and be impleaded in any court of competent jurisdiction within the District of Columbia, to collect subscriptions, make by-laws, rules, and regulations needful for the government of said corporation not inconsistent with the laws of the United States; to have, hold, and receive real estate by purchase, gift, or devise; to use, sell, or convey the same for the purposes and benefit of said corporation, and to choose such officers and teachers as may be necessary, prescribe their duties, and fix the rate of their compensation.

Sec. 2. *And be it further enacted*, That the officers of said association shall consist of a president, two vice presidents, secretary, treasurer, and a board of managers, to be composed of fifteen members, the whole to constitute an executive committee, whose duty it shall be to carry into effect the plans and purposes for which said association was formed, all of which officers shall be elected on the first Tuesday in February in each year at the annual meeting of said association, which shall be held on said day; their successors shall be elected and hold their offices for the term of one year, and until their successors shall be duly elected. And in case of a vacancy it shall be filled by the other members of the executive committee.

APPROVED, June 2, 1864.

CHAP. CVI.—An Act to provide a National Currency, secured by a Pledge of United States Bonds, and to provide for the Circulation and Redemption thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the Treasury Department a separate bureau, which shall be charged with the execution of this and all other laws that may be passed by Congress respecting the issue and regulation of a national currency secured by United States bonds. The chief officer of the said bureau shall be denominated the Comptroller of the Currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, on the recommendation of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate; he shall receive an annual salary of five thousand dollars; he shall have a competent deputy, appointed by the Secretary, whose salary shall be two thousand five hundred dollars, and who shall possess the power and perform the duties attached by law to the office of Comptroller during a vacancy in such office and during his absence or inability; he shall employ, from time to time, the necessary clerks to discharge such duties as he shall direct, which clerks shall be appointed and classified by the Secretary of the Treasury in the manner now provided by law. Within fifteen days from the time of notice of his appointment the Comptroller shall take and subscribe the oath of office prescribed by the Constitution and laws of the United States; and he shall give to the United States a bond in the penalty of one hundred thousand dollars, with not less than two responsible sureties, to be approved by the Secretary of the Treasury, conditioned for the faithful discharge of the duties of his office. The Deputy Comptroller so appointed shall also take the oath of office prescribed by the Constitution and laws of the United States, and shall give a like bond in the penalty of fifty thousand dollars. The Comptroller and Deputy Comptroller shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act.

Sec. 2. *And be it further enacted*, That the Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall devise a seal, with suitable inscriptions, for his office, a description of which, with a certificate of approval by the Secretary of the Treasury, shall be filed in the office of the Secretary of State with an impression thereof, which shall thereupon become the seal of office of the Comptroller of the Currency, and the same may be renewed when necessary. Every certificate, assignment, and conveyance executed by the Comptroller, in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence in all places and courts whatsoever; and all copies of papers in the office of the Comptroller, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

Sec. 3. *And be it further enacted*, That there shall be assigned to the Comptroller of the Currency by the Secretary of the Treasury suitable rooms in the Treasury building for conducting the business of the Currency Bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of the Comptroller to deposit and safely keep all the plates not necessarily in the possession of engravers or printers, and other valuable things belonging to his department; and the Comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business.

Sec. 4. *And be it further enacted*, That the term "United States bonds," as used in this act, shall be construed to mean all registered bonds now issued, or that may hereafter be issued, on the faith of the United States by the Secretary of the Treasury in pursuance of law.

SEC. 5. *And be it further enacted*, That associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five, who shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with the provisions of this act, which the association may see fit to adopt for the regulation of the business of the association and the conduct of its affairs, which said articles shall be signed by the persons uniting to form the association, and a copy of them forwarded to the Comptroller of the Currency, to be filed and preserved in his office.

SEC. 6. *And be it further enacted*, That the persons uniting to form such an association shall, under their hands, make an organization certificate, which shall specify—

First. The name assumed by such association, which name shall be subject to the approval of the Comptroller.

Second. The place where its operations of discount and deposit are to be carried on, designating the State, Territory, or District, and also the particular county and city, town, or village.

Third. The amount of its capital stock, and the number of shares into which the same shall be divided.

Fourth. The names and places of residence of the shareholders, and the number of shares held by each of them.

Fifth. A declaration that said certificate is made to enable such persons to avail themselves of the advantages of this act.

The said certificate shall be acknowledged before a judge of some court of record or a notary public, and such certificate, with the acknowledgment thereof authenticated by the seal of such court or notary, shall be transmitted to the Comptroller of the Currency, who shall record and carefully preserve the same in his office. Copies of such certificate, duly certified by the Comptroller, and authenticated by his seal of office, shall be legal and sufficient evidence in all courts and places within the United States, or the jurisdiction of the Government thereof, of the existence of such association, and of every other matter or thing which could be proved by the production of the original certificate.

SEC. 7. *And be it further enacted*, That no association shall be organized under this act, with a less capital than one hundred thousand dollars, nor in a city whose population exceeds fifty thousand persons, with a less capital than two hundred thousand dollars: *Provided*, That banks with a capital of not less than fifty thousand dollars may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed six thousand inhabitants.

SEC. 8. *And be it further enacted*, That every association formed pursuant to the provisions of this act shall, from the date of the execution of its organization certificate, be a body corporate, but shall transact no business except such as may be incidental to its organization and necessarily preliminary, until authorized by the Comptroller of the Currency to commence the business of banking. Such association shall have power to adopt a corporate seal, and shall have succession by the name designated in its organization certificate, for the period of twenty years from its organization, unless sooner dissolved according to the provisions of its articles of association, or by the act of its shareholders owning two thirds of its stock, or unless the franchise shall be forfeited by a violation of this act; by such name it may make contracts, sue and be sued, complain and defend, in any court of law and equity as fully as natural persons; it may elect or appoint directors, and by its board of directors appoint a president, vice president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss said officers or any of them at pleasure, and appoint others to fill their places, and exercise under this act all such incidental powers as shall be necessary to carry on the business of banking by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin,

and bullion; by loaning money on personal security; by obtaining, issuing, and circulating notes according to the provisions of this act; and its board of directors shall also have power to define and regulate by by-laws, not inconsistent with the provisions of this act, the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and all the privileges granted by this act to associations organized under it shall be exercised and enjoyed; and its usual business shall be transacted at an office or banking house located in the place specified in its organization certificate.

SEC. 9. *And be it further enacted*, That the affairs of every association shall be managed by not less than five directors, one of whom shall be the president. Every director shall, during his whole term of service, be a citizen of the United States; and at least three fourths of the directors shall have resided in the State, Territory, or District in which such association is located one year next preceding their election as directors, and be residents of the same during their continuance in office. Each director shall own, in his own right, at least ten shares of the capital stock of the association of which he is a director. Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate, or willingly permit to be violated, any of the provisions of this act, and that he is the bona fide owner, in his own right, of the number of shares of stock required by this act, subscribed by him, or standing in his name on the books of the association, and that the same is not hypothecated, or in any way pledged, as security for any loan or debt; which oath, subscribed by himself, and certified by the officer before whom it is taken, shall be immediately transmitted to the Comptroller of the Currency, and by him filed and preserved in his office.

SEC. 10. *And be it further enacted*, That the directors of any association first elected or appointed shall hold their places until their successors shall be elected and qualified. All subsequent elections shall be held annually on such day in the month of January as may be specified in the articles of association; and the directors so elected shall hold their places for one year, and until their successors are elected and qualified. But any director ceasing to be the owner of the requisite amount of stock, or having in any other manner become disqualified, shall thereby vacate his place. Any vacancy in the board shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election. If from any cause an election of directors shall not be made at the time appointed, the association shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days' notice thereof in all cases having been given in a newspaper published in the city, town, or county in which the association is located; and if no newspaper is published in such city, town, or county, such notice shall be published in a newspaper published nearest thereto. If the articles of association do not fix the day on which the election shall be held, or if the election should not be held on the day fixed, the day for the election shall be designated by the board of directors in their by-laws, or otherwise: *Provided*, That if the directors fail to fix the day, as aforesaid, shareholders representing two thirds of the shares may.

SEC. 11. *And be it further enacted*, That in all elections of directors, and in deciding all questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or book-keeper of such association shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote.

SEC. 12. *And be it further enacted*, That the capital stock of any association formed under this act shall be divided into shares of one hundred dollars each, and be deemed personal property and transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association; and every person

becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares, and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired. The shareholders of each association formed under the provisions of this act, and of each existing bank or banking association that may accept the provisions of this act, shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such association to the extent of the amount of their stock therein at the par value thereof, in addition to the amount invested in such shares; except that shareholders of any banking association now existing under State laws, having not less than five millions of dollars of capital actually paid in, and a surplus of twenty per centum on hand, both to be determined by the Comptroller of the Currency, shall be liable only to the amount invested in their shares; and such surplus of twenty per centum shall be kept undiminished, and be in addition to the surplus provided for in this act; and if at any time there shall be a deficiency in said surplus of twenty per centum, the said banking association shall not pay any dividends to its shareholders until such deficiency shall be made good; and in case of such deficiency, the Comptroller of the Currency may compel said banking association to close its business and wind up its affairs under the provisions of this act. And the Comptroller shall have authority to withhold from an association his certificate authorizing the commencement of business, whenever he shall have reason to suppose that the shareholders thereof have formed the same for any other than the legitimate objects contemplated by this act.

SEC. 13. *And be it further enacted*, That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time, as may be deemed expedient, subject to the limitations of this act: *Provided*, That the maximum of such increase in the articles of association shall be determined by the Comptroller of the Currency; and no increase of capital shall be valid until the whole amount of such increase shall be paid in, and notice thereof shall have been transmitted to the Comptroller of the Currency, and his certificate obtained specifying the amount of such increase of capital stock, with his approval thereof, and that it has been duly paid in as part of the capital of such association. And every association shall have power, by the vote of shareholders owning two thirds of its capital stock, to reduce the capital of such association to any sum not below the amount required by this act, in the formation of associations: *Provided*, That by no such reduction shall its capital be brought below the amount required by this act for its outstanding circulation, nor shall any such reduction be made until the amount of the proposed reduction has been reported to the Comptroller of the Currency and his approval thereof obtained.

SEC. 14. *And be it further enacted*, That at least fifty per centum of the capital stock of every association shall be paid in before it shall be authorized to commence business; and the remainder of the capital stock of such association shall be paid in installments of at least ten per centum each on the whole amount of the capital as frequently as one installment at the end of each succeeding month from the time it shall be authorized by the Comptroller to commence business; and the payment of each installment shall be certified to the Comptroller, under oath, by the president or cashier of the association.

SEC. 15. *And be it further enacted*, That if any shareholder, or his assignee, shall fail to pay any installment on the stock when the same is required by the foregoing section to be paid, the directors of such association may sell the stock of such delinquent shareholder at public auction, having given three weeks' previous notice thereof in a newspaper published and of general circulation in the city or county where the association is located, and if no newspaper is published in said city or county, then in a newspaper published nearest thereto, to any person who will pay the highest price therefor, and not less than the

Laws of the United States.

38TH CONG....1ST SESS.

amount then due thereon, with the expenses of advertisement and sale; and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association, and the cost of advertisement and sale, the amount previously paid shall be forfeited to the association; and such stock shall be sold as the directors may order, within six months from the time of such forfeiture, and if not sold it shall be canceled and deducted from the capital stock of the association; and if such cancellation and reduction shall reduce the capital of the association below the minimum of capital required by this act, the capital stock shall, within thirty days from the date of such cancellation, be increased to the requirements of the act; in default of which a receiver may be appointed to close up the business of the association according to the provisions of the fifth section of this act.

Sec. 16. *And be it further enacted*, That every association, after having complied with the provisions of this act, preliminary to the commencement of banking business under its provisions, and before it shall be authorized to commence business, shall transfer and deliver to the Treasurer of the United States any United States registered bonds bearing interest to an amount not less than thirty thousand dollars nor less than one third of the capital stock paid in, which bonds shall be deposited with the Treasurer of the United States and by him safely kept in his office until the same shall be otherwise disposed of; in pursuance of the provisions of this act; and the Secretary of the Treasury is hereby authorized to receive and cancel any United States coupon bonds, and to issue in lieu thereof registered bonds of like amount, bearing a like rate of interest, and having the same time to run; and the deposit of bonds shall be, by every association, increased as its capital may be paid up or increased, so that every association shall at all times have on deposit with the Treasurer registered United States bonds to the amount of at least one third of its capital stock actually paid in: *Provided*, That nothing in this section shall prevent an association that may desire to reduce its capital or to close up its business and dissolve its organization from taking up its bonds upon returning to the Comptroller its circulating notes in the proportion hereinafter named in this act, nor from taking up any excess of bonds beyond one third of its capital stock and upon which no circulating notes have been delivered.

Sec. 17. *And be it further enacted*, That whenever a certificate shall have been transmitted to the Comptroller of the Currency, as provided in this act, and the association transmitting the same shall notify the Comptroller that at least fifty per centum of its capital stock has been paid in as aforesaid, and that such association has complied with all the provisions of this act as required to be complied with before such association shall be authorized to commence the business of banking, the Comptroller shall examine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of the directors of such association, and the amount of the capital stock of which each is the bona fide owner, and generally whether such association has complied with all the requirements of this act to entitle it to engage in the business of banking; and shall cause to be made and attested by the oaths of a majority of the directors and by the president or cashier of such association, a statement of all the facts necessary to enable the Comptroller to determine whether such association is lawfully entitled to commence the business of banking under this act.

Sec. 18. *And be it further enacted*, That if, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the Comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it shall appear that such association is lawfully entitled to commence the business of banking, the Comptroller shall give to such association a certificate, under his hand and official seal, that such association has complied with all the provisions of this act required

to be complied with before being entitled to commence the business of banking under it, and that such association is authorized to commence said business accordingly; and it shall be the duty of the association to cause said certificate to be published in some newspaper published in the city or county where the association is located for at least sixty days next after the issuing thereof: *Provided*, That if no newspaper is published in such city or county the certificate shall be published in a newspaper published nearest thereto.

Sec. 19. *And be it further enacted*, That all transfers of United States bonds which shall be made by any association under the provisions of this act shall be made to the Treasurer of the United States in trust for the association, with a memorandum written or printed on each bond, and signed by the cashier or some other officer of the association making the deposit, a receipt therefor to be given to said association, or by the Comptroller of the Currency, or by a clerk appointed by him for that purpose, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bonds by the Treasurer shall be deemed valid or of binding force and effect unless countersigned by the Comptroller of the Currency. It shall be the duty of the Comptroller of the Currency to keep in his office a book in which shall be entered the name of every association from whose accounts such transfer of bonds is made by the Treasurer, and the name of the party to whom such transfer is made; and the par value of the bonds so transferred shall be entered therein; and it shall be the duty of the Comptroller, immediately upon countersigning and entering the same, to advise by mail the association from whose account such transfer was made of the kind and numerical designation of the bonds and the amount thereof so transferred.

Sec. 20. *And be it further enacted*, That it shall be the duty of the Comptroller of the Currency to countersign and enter in the book, in the manner aforesaid, every transfer or assignment of any bonds held by the Treasurer presented for his signature; and the Comptroller shall have at all times during office hours access to the books of the Treasurer, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the Treasurer shall have the like access to the book above mentioned, kept by the Comptroller, during office hours, to ascertain the correctness of the entries in the same; and the Comptroller shall also at all times have access to the bonds on deposit with the Treasurer, to ascertain their amount and condition.

Sec. 21. *And be it further enacted*, That upon the transfer and delivery of bonds to the Treasurer, as provided in the foregoing section, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered, but not exceeding ninety per centum of the amount of said bonds at the par value thereof, if bearing interest at a rate not less than five per centum per annum; and at no time shall the total amount of such notes, issued to any such association, exceed the amount at such time actually paid in of its capital stock.

Sec. 22. *And be it further enacted*, That the entire amount of notes for circulation to be issued under this act shall not exceed three hundred millions of dollars. In order to furnish suitable notes for circulation, the Comptroller of the Currency is hereby authorized and required, under the direction of the Secretary of the Treasury, to cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and to have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of one dollar, two dollars, three dollars, five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required to supply, under this act, the associations entitled to receive the same; which

notes shall express upon their face that they are secured by United States bonds, deposited with the Treasurer of the United States by the written or engraved signatures of the Treasurer and Register, and by the imprint of the seal of the Treasury; and shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signatures of the president or vice president and cashier. And the said notes shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct: *Provided*, That not more than one sixth part of the notes furnished to an association shall be of a less denomination than five dollars, and that after specie payments shall be resumed no association shall be furnished with notes of a less denomination than five dollars.

Sec. 23. *And be it further enacted*, That after any such association shall have caused its promise to pay such notes on demand to be signed by the president or vice president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except for duties on imports; and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on the public debt, and in redemption of the national currency. And no such association shall issue post notes or any other notes to circulate as money than such as are authorized by the foregoing provisions of this act.

Sec. 24. *And be it further enacted*, That it shall be the duty of the Comptroller of the Currency to receive worn-out or mutilated circulating notes issued by any such banking association, and also, on due proof of the destruction of any such circulating notes, to deliver in place thereof to such association other blank circulating notes to an equal amount. And such worn-out or mutilated notes, after a memorandum shall have been entered in the proper books, in accordance with such regulations as may be established by the Comptroller, as well as all circulating notes which shall have been paid or surrendered to be canceled, shall be burned to ashes in presence of four persons, one to be appointed by the Secretary of the Treasury, one by the Comptroller of the Currency, one by the Treasurer of the United States, and one by the association, under such regulations as the Secretary of the Treasury may prescribe. And a certificate of such burning, signed by the parties so appointed, shall be made in the books of the Comptroller, and a duplicate thereof forwarded to the association whose notes are thus canceled.

Sec. 25. *And be it further enacted*, That it shall be the duty of every banking association having bonds deposited in the office of the Treasurer of the United States, once or oftener in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to examine and compare the bonds so pledged with the books of the Comptroller and the accounts of the association, and, if found correct, to execute to the said Treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the Treasurer at the date of such certificate. Such examination may be made by an officer or agent of such association, duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cashier; and a duplicate signed by the Treasurer shall be retained by the association.

Sec. 26. *And be it further enacted*, That the bonds transferred to and deposited with the Treasurer of the United States, as hereinbefore provided, by any banking association for the security of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; but the Comptroller of the Currency shall give to any such banking association powers of attorney to receive and appropriate to its own use the inter-

38TH CONG....1ST SESS.

Laws of the United States.

est on the bonds which it shall have so transferred to the Treasurer; but such powers shall become inoperative whenever such banking association shall fail to redeem its circulating notes as aforesaid. Whenever the market or cash value of any bonds deposited with the Treasurer of the United States, as aforesaid, shall be reduced below the amount of the circulation issued for the same, the Comptroller of the Currency is hereby authorized to demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association receiving said bills, to be deposited with the Treasurer of the United States as long as such depreciation continues. And said Comptroller, upon the terms prescribed by the Secretary of the Treasury, may permit an exchange to be made of any of the bonds deposited with the Treasurer by an association for other bonds of the United States authorized by this act to be received as security for circulating notes, if he shall be of opinion that such an exchange can be made without prejudice to the United States, and he may direct the return of any of said bonds to the banking association which transferred the same, in sums of not less than one thousand dollars, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, That the remaining bonds which shall have been transferred by the banking association offering to surrender circulating notes shall be equal to the amount required for the circulating notes not surrendered by such banking association, and that the amount of bonds in the hands of the Treasurer shall not be diminished below the amount required to be kept on deposit with him by this act: *And provided*, That there shall have been no failure by such association to redeem its circulating notes, and no other violation by such association of the provisions of this act, and that the market or cash value of the remaining bonds shall not be below the amount required for the circulation issued for the same.

Sec. 27. *And be it further enacted*, That it shall be unlawful for any officer acting under the provisions of this act to countersign or deliver to any association, or to any other company or person, any circulating notes contemplated by this act, except as hereinbefore provided, and in accordance with the true intent and meaning of this act. And any officer who shall violate the provisions of this section shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be punished by fine not exceeding double the amount so countersigned and delivered, and imprisonment not less than one year and not exceeding fifteen years, at the discretion of the court in which he shall be tried.

Sec. 28. *And be it further enacted*, That it shall be lawful for any such association to purchase, hold, and convey real estate as follows:

First. Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association, or shall purchase to secure debts due to said association.

Such association shall not purchase or hold real estate in any other case or for any other purpose than as specified in this section. Nor shall it hold the possession of any real estate under mortgage, or hold the title and possession of any real estate purchased to secure any debts due to it for a longer period than five years.

Sec. 29. *And be it further enacted*, That the total liabilities to any association, of any person, or of any company, corporation, or firm for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed one tenth part of the amount of the capital stock of such association actually paid in: *Provided*, That the discount of bona fide bills of exchange drawn against actually existing values, and the discount of commercial or business paper actually owned by the person

or persons, corporation, or firm negotiating the same shall not be considered as money borrowed.

Sec. 30. *And be it further enacted*, That every association may take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidences of debt, interest at the rate allowed by the laws of the State or Territory where the bank is located, and no more, except that where by the laws of any State a different rate is limited for banks of issue organized under State laws, the rate so limited shall be allowed for associations organized in any such State under this act. And when no rate is fixed by the laws of the State or Territory, the bank may take, receive, reserve, or charge a rate not exceeding seven per centum, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run. And the knowingly taking, receiving, reserving, or charging a rate of interest greater than aforesaid shall be held and adjudged a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. And in case a greater rate of interest has been paid, the person or persons paying the same, or their legal representatives, may recover back, in any action of debt, twice the amount of the interest thus paid from the association taking or receiving the same: *Provided*, That such action is commenced within two years from the time the usurious transaction occurred. But the purchase, discount, or sale of a bona fide bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight drafts in addition to the interest, shall not be considered as taking or receiving a greater rate of interest.

Sec. 31. *And be it further enacted*, That every association in the cities hereinafter named shall, at all times, have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its notes in circulation and its deposits; and every other association shall, at all times, have on hand, in lawful money of the United States, an amount equal to at least fifteen per centum of the aggregate amount of its notes in circulation and of its deposits. And whenever the lawful money of any association in any of the cities hereinafter named shall be below the amount of twenty-five per centum of its circulation and deposits, and whenever the lawful money of any other association shall be below fifteen per centum of its circulation and deposits, such associations shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits until the required proportion between the aggregate amount of its outstanding notes of circulation and deposits and its lawful money of the United States shall be restored: *Provided*, That three fifths of said fifteen per centum may consist of balances due to an association available for the redemption of its circulating notes from associations approved by the Comptroller of the Currency, organized under this act, in the cities of Saint Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Cleveland, Pittsburgh, Baltimore, Philadelphia, Boston, New York, Albany, Leavenworth, San Francisco, and Washington city: *Provided*, also, That clearing-house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be lawful money in the possession of any association belonging to such clearing-house holding and owning such certificate, and shall be considered to be a part of the lawful money which such association is required to have under the foregoing provisions of this section: *Provided*, That the cities of Charleston and Richmond may be added to the list of cities in the national associations of which other associations may keep three fifths of their lawful money, whenever, in the opinion of the Comptroller of the Currency, the condition of the southern States will warrant it. And it shall be competent for the Comptroller of the Currency to notify any association, whose lawful money reserve as aforesaid shall be below the amount to be kept on hand as aforesaid, to make good such

reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money of the United States, the Comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of such association, as provided in this act.

Sec. 32. *And be it further enacted*, That each association organized in any of the cities named in the foregoing section shall select, subject to the approval of the Comptroller of the Currency, an association in the city of New York, at which it will redeem its circulating notes at par. And each of such associations may keep one half of its lawful money reserve in cash deposits in the city of New York. And each association not organized within the cities named in the preceding section shall select, subject to the approval of the Comptroller of the Currency, an association in either of the cities named in the preceding section at which it will redeem its circulating notes at par, and the Comptroller shall give public notice of the names of the associations so selected at which redemptions are to be made by the respective associations, and of any change that may be made of the association at which the notes of any association are redeemed. If any association shall fail either to make the selection or to redeem its notes as aforesaid, the Comptroller of the Currency may, upon receiving satisfactory evidence thereof, appoint a receiver, in the manner provided for in this act, to wind up its affairs: *Provided*, That nothing in this section shall relieve any association from its liability to redeem its circulating notes at its own credit, at par, in lawful money, on demand: *And provided further*, That every association formed or existing under the provisions of this act shall take and receive at par, for any debt or liability to said association, any and all notes or bills issued by any association existing under and by virtue of this act.

Sec. 33. *And be it further enacted*, That the directors of any association may, semi-annually, each year, declare a dividend of so much of the net profits of the association as they shall judge expedient; but each association shall, before the declaration of a dividend, carry one tenth part of its net profits of the preceding half year to its surplus fund until the same shall amount to twenty per centum of its capital stock.

Sec. 34. *And be it further enacted*, That every association shall make to the Comptroller of the Currency a report, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association; which report shall exhibit in detail, and under appropriate heads, the resources and liabilities of the association before the commencement of business on the morning of the first Monday of the months of January, April, July, and October of each year, and shall transmit the same to the Comptroller within five days thereafter. And any bank failing to make and transmit such report shall be subject to a penalty of one hundred dollars for each day after five days that such report is delayed beyond that time. And the Comptroller shall publish abstracts of said reports in a newspaper to be designated by him for that purpose in the city of Washington, and the separate report of each association shall be published in a newspaper in the place where such association is established, or if there be no newspaper at such place, then in a newspaper published at the nearest place thereto, at the expense of the association making such report. In addition to the quarterly reports required by this section, every association shall, on the first Tuesday of each month, make to the Comptroller of the Currency a statement, under the oath of the president or cashier, showing the condition of the association making such statement, on the morning of the day next preceding the date of such statement, in respect to the following items and particulars, to wit: average amount of loans and discounts, specie, and other lawful money belonging to the association, deposits, and circulation. And associations in other places than those cities named in the thirty-first section of this act shall also return the amount due them available for the redemption of their circulation.

Sec. 35. *And be it further enacted*, That no

Laws of the United States.

38TH CONG. 1ST SESS.

association shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale, in default of which a receiver may be appointed to close up the business of the association, according to the provisions of this act.

Sec. 36. *And be it further enacted*, That no association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on the following accounts; that is to say:

First. On account of its notes of circulation.

Second. On account of moneys deposited with, or collected by, such association.

Third. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such association, or due thereto.

Fourth. On account of liabilities to its stockholders for dividends and reserved profits.

Sec. 37. *And be it further enacted*, That no association shall, either directly or indirectly, pledge or hypothecate any of its notes of circulation, for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations, or otherwise; nor shall any association use its circulating notes, or any part thereof, in any manner or form, to create or increase its capital stock.

Sec. 38. *And be it further enacted*, That no association or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital. And if losses shall at any time have been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it shall continue its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. And all debts due to any association on which interest is past due and unpaid for a period of six months, unless the same shall be well secured, and shall be in process of collection, shall be considered bad debts within the meaning of this act: *Provided*, That nothing in this section shall prevent the reduction of the capital stock of the association under the thirteenth section of this act.

Sec. 39. *And be it further enacted*, That no association shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of deposits, or in any other mode pay or put in circulation the notes of any bank or banking association which shall not, at any such time, be receivable, at par, on deposit and in payment of debts by the association so paying out or circulating such notes; nor shall it knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

Sec. 40. *And be it further enacted*, That the president and cashier of every such association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each in the office where its business is transacted; and such list shall be subject to the inspection of all the shareholders and creditors of the association, and the officers authorized to assess taxes under State authority, during business hours of each day in which business may be legally transacted; and a copy of such list, on the first Monday of July in each year, verified by the oath of such president or cashier, shall be transmitted to the Comptroller of the Currency.

Sec. 41. *And be it further enacted*, That the plates and special dies to be procured by the Comptroller of the Currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the provisions of this act

respecting the procuring of such notes, and all other expenses of the bureau, shall be paid out of the proceeds of the taxes or duties now or hereafter to be assessed on the circulation, and collected from associations organized under this act. And in lieu of all existing taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one half of one per centum each half year from and after the first day of January, eighteen hundred and sixty-four, upon the average amount of its notes in circulation, and a duty of one quarter of one per centum each half year upon the average amount of its deposits, and a duty of one quarter of one per centum each half year, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association, the duties aforesaid may be collected in the manner provided for the collection of United States duties of other corporations, or the Treasurer may reserve the amount of said duties out of the interest, as it may become due, on the bonds deposited with him by such defaulting association. And it shall be the duty of each association, within ten days from the first days of January and July of each year, to make a return, under the oath of its president or cashier, to the Treasurer of the United States, in such form as he may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock, beyond the amount invested in United States bonds, for the six months next preceding said first days of January and July as aforesaid, and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum of two hundred dollars, to be collected either out of the interest as it may become due such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States; and in case of such default the amount of the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency, and upon the highest amount of its deposits and capital stock, to be ascertained in such other manner as the Treasurer may deem best: *Provided*, That nothing in this act shall be construed to prevent all the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of taxes imposed by or under State authority at the place where such bank is located, and not elsewhere, but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State: *Provided further*, That the tax so imposed under the laws of any State upon the shares of any of the associations authorized by this act shall not exceed the rate imposed upon the shares in any of the banks organized under authority of the State where such association is located: *Provided, also*, That nothing in this act shall exempt the real estate of associations from either State, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed.

Sec. 42. *And be it further enacted*, That any association may go into liquidation and be closed by the vote of its shareholders owning two thirds of its stock. And whenever such vote shall be taken it shall be the duty of the board of directors to cause notice of this fact to be certified, under the seal of the association, by its president or cashier, to the Comptroller of the Currency, and publication thereof to be made for a period of two months in a newspaper published in the city of New York, and also in a newspaper published in a city or town in which the association is located, and if no newspaper be there published, then in the newspaper published nearest thereto, that said association is closing up its affairs, and notifying the holders of its notes and other creditors to present the notes and other claims against the association for payment. And at any time after the expiration of one year from the time of the publication of such notice as afore-

said, the said association may pay over to the Treasurer of the United States the amount of its outstanding notes in the lawful money of the United States, and take up the bonds which said association has on deposit with the Treasurer for the security of its circulating notes; which bonds shall be assigned to the bank in the manner specified in the nineteenth section of this act, and from that time the outstanding notes of said association shall be redeemed at the Treasury of the United States, and the said association and the shareholders thereof shall be discharged from all liabilities thereafter.

Sec. 43. *And be it further enacted*, That the Treasurer, on receiving from an association lawful money for the payment and redemption of its outstanding notes, as provided for in the preceding section of this act, shall execute duplicate receipts therefor, one to the association and the other to the Comptroller of the Currency, stating the amount received by him, and the purpose for which it has been received, which amount shall be paid into the Treasury of the United States, and placed to the credit of such association upon redemption account. And it shall be the duty of the Treasurer, whenever he shall redeem any of the notes of said association, to cause the same to be mutilated, and charged to the redemption account of said association; and all notes so redeemed by the Treasurer shall, every three months, be certified to and burned in the manner prescribed in the twenty-fourth section of this act.

Sec. 44. *And be it further enacted*, That any bank incorporated by special law, or any banking institution organized under a general law of any State, may, by authority of this act, become a national association under its provisions, by the name prescribed in its organization certificate; and in such case the articles of association and the organization certificate required by this act may be executed by a majority of the directors of the bank or banking institution; and said certificate shall declare that the owners of two thirds of the capital stock have authorized the directors to make such certificate and to change and convert the said bank or banking institution into a national association under this act. And a majority of the directors, after executing said articles of association and organization certificate, shall have power to execute all other papers, and to do whatever may be required to make its organization perfect and complete as a national association. The shares of any such bank may continue to be for the same amount each as they were before said conversion, and the directors aforesaid may be the directors of the association until others are elected or appointed in accordance with the provisions of this act; and any State bank which is a stockholder in any other bank, by authority of State laws, may continue to hold its stock, although either bank, or both, may be organized under and have accepted the provisions of this act. When the Comptroller shall give to such association a certificate, under his hand and official seal, that the provisions of this act have been complied with, and that it is authorized to commence the business of banking under it, the association shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects as are prescribed in this act for other associations organized under it, and shall be held and regarded as an association under this act: *Provided, however*, That no such association shall have a less capital than the amount prescribed for banking associations under this act.

Sec. 45. *And be it further enacted*, That all associations under this act, when designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public moneys and financial agents of the Government, as may be required of them. And the Secretary of the Treasury shall require of the associations thus designated satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the

38TH CONG....1ST SESS.

Laws of the United States.

public money deposited with them, and for the faithful performance of their duties as financial agents of the Government: *Provided*, That every association which shall be selected and designated as receiver or depositary of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid in to the Government for internal revenue, or for loans or stocks.

Sec. 46. *And be it further enacted*, That if any such association shall at any time fail to redeem, in the lawful money of the United States, any of its circulating notes, when payment thereof shall be lawfully demanded, during the usual hours of business, at the office of such association, or at its place of redemption aforesaid, the holder may cause the same to be protested, in one package, by a notary public, unless the president or cashier of the association whose notes are presented for payment, or the president or cashier of the association at the place at which they are redeemable, shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign, and deliver to the party making such demand an admission in writing, stating the time of the demand, the amount demanded, and the fact of the non-payment thereof; and such notary public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the Comptroller of the Currency, retaining a copy thereof. And after such default, on examination of the facts by the Comptroller, and notice by him to the association, it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits: *Provided*, That if satisfactory proof be produced to such notary public that the payment of any such notes is restrained by order of any court of competent jurisdiction, such notary public shall not protest the same; and when the holder of such notes shall cause more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

Sec. 47. *And be it further enacted*, That on receiving notice that any such association has failed to redeem any of its circulating notes, as specified in the next preceding section, the Comptroller of the Currency, with the concurrence of the Secretary of the Treasury, may appoint a special agent (of whose appointment immediate notice shall be given to such association) who shall immediately proceed to ascertain whether such association has refused to pay its circulating notes in the lawful money of the United States, when demanded as aforesaid, and report to the Comptroller the fact so ascertained; and if, from such protest or the report so made, the Comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid and is in default, he shall, within thirty days after he shall have received notice of such failure, declare the United States bonds and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly. And thereupon the Comptroller shall immediately give notice in such manner as the Secretary of the Treasury shall, by general rules or otherwise, direct, to the holders of the circulating notes of such association to present them for payment at the Treasury of the United States, and the same shall be paid as presented in lawful money of the United States; whereupon said Comptroller may, in his discretion, cancel an amount of bonds pledged by such association equal at current market rates, not exceeding par, to the notes paid. And it shall be lawful for the Secretary of the Treasury, from time to time, to make such regulations respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the evidence of the payment thereof as may seem to him proper; but all such notes, on being paid, shall be canceled. And for any deficiency in the proceeds of the bonds pledged by such association, when disposed of as hereinafter specified, to reimburse to the United States the amount so expended in paying the circulating notes of such association,

the United States shall have a first and paramount lien upon all the assets of such association; and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

Sec. 48. *And be it further enacted*, That whenever the Comptroller shall become satisfied, as in the last preceding section specified, that any association has refused to pay its circulating notes as therein mentioned, he may, instead of canceling the United States bonds pledged by such association, as provided in the next preceding section, cause so much of them as may be necessary to redeem the outstanding circulating notes of such association to be sold at public auction in the city of New York, after giving thirty days' notice of such sale to such association.

Sec. 49. *And be it further enacted*, That the Comptroller of the Currency may, if he shall be of opinion that the interests of the United States will be best promoted thereby, sell at private sale any of the bonds pledged by such association, and receive therefor either money or the circulating notes of such failing association: *Provided*, That no such bonds shall be sold by private sale for less than par, nor less than the market value thereof at the time of sale: *And provided further*, That no sales of any such bonds, either public or private, shall be complete until the transfer thereof shall have been made with the formalities prescribed in this act.

Sec. 50. *And be it further enacted*, That on becoming satisfied, as specified in this act, that any association has refused to pay its circulating notes as therein mentioned, and is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he shall deem proper, who, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to such association, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, sell all the real and personal property of such association, on such terms as the court shall direct; and may, if necessary to pay the debts of such association, enforce the individual liability of the stockholders provided for by the twelfth section of this act; and such receiver shall pay over all money so made to the Treasurer of the United States, subject to the order of the Comptroller of the Currency, and also make report to the Comptroller of the Currency of all his acts and proceedings. The Comptroller shall thereupon cause notice to be given, by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof. And from time to time the Comptroller, after full provision shall have been first made for refunding to the United States any such deficiency in redeeming the notes of such association as is mentioned in this act, shall make a ratable dividend of the money so paid over to him by such receiver on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction; and from time to time, as the proceeds of the assets of such association shall be paid over to him, he shall make further dividends, as aforesaid, on all claims previously proved or adjudicated; and the remainder of such proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held: *Provided, however*, That if such association against which proceedings have been so instituted, on account of any alleged refusal to redeem its circulating notes as aforesaid, shall deny having failed to do so, such association may, at any time within ten days after such association shall have been notified of the appointment of an agent, as provided in this act, apply to the nearest circuit, or district, or territorial court of the United States, to enjoin further proceedings in the premises; and such court, after citing the Comptroller of the Currency to show cause why further proceedings should not be enjoined, and after the decision of the court or find-

ing of a jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the Comptroller, and any receiver acting under his direction, from all further proceedings on account of such alleged refusal.

Sec. 51. *And be it further enacted*, That all fees for protesting the notes issued by any such banking association shall be paid by the person procuring the protest to be made, and such banking association shall be liable therefor; but no part of the bonds pledged by such banking association, as aforesaid, shall be applied to the payment of such fees. And all expenses of any preliminary or other examinations into the condition of any association shall be paid by such association; and all expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

Sec. 52. *And be it further enacted*, That all transfer of the notes, bonds, bills of exchange, and other evidences of debt owing to any association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, with a view to prevent the application of its assets in the manner prescribed by this act, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void.

Sec. 53. *And be it further enacted*, That if the directors of any association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of this act, all the rights, privileges, and franchises of the association derived from this act shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper circuit, district, or territorial court of the United States, in a suit brought for that purpose by the Comptroller of the Currency, in his own name, before the association shall be declared dissolved. And in cases of such violation, every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person, shall have sustained in consequence of such violation.

Sec. 54. *And be it further enacted*, That the Comptroller of the Currency, with the approbation of the Secretary of the Treasury, as often as shall be deemed necessary or proper, shall appoint a suitable person or persons to make an examination of the affairs of every banking association, which person shall not be a director or other officer in any association whose affairs he shall be appointed to examine, and who shall have power to make a thorough examination into all the affairs of the association, and, in doing so, to examine any of the officers and agents thereof on oath; and shall make a full and detailed report of the condition of the association to the Comptroller. And the association shall not be subject to any other visitatorial powers than such as are authorized by this act, except such as are vested in the several courts of law and chancery. And every person appointed to make such examination shall receive for his services at the rate of five dollars for each day by him employed in such examination, and two dollars for every twenty-five miles he shall necessarily travel in the performance of his duty, which shall be paid by the association by him examined.

Sec. 55. *And be it further enacted*, That every president, director, cashier, teller, clerk, or agent of any association, who shall embezzle, abstract, or willfully misapply any of the moneys, funds, or credits of the association, or shall, without authority from the directors, issue or put in circulation any of the notes of the association, or shall, without such authority, issue or put forth any certificate of deposit, draw any order or bill of exchange, make any acceptance, assign any note, bond, draft, bill of exchange, mortgage, judgment, or decree, or shall make any false entry in

any book, report, or statement of the association, with intent, in either case, to injure or defraud the association or any other company, body politic or corporate, or any individual person, or to deceive any officer of the association, or any agent appointed to examine the affairs of any such association, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than five nor more than ten years.

SEC. 56. *And be it further enacted*, That all suits and proceedings arising out of the provisions of this act, in which the United States or its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts, under the direction and supervision of the Solicitor of the Treasury.

SEC. 57. *And be it further enacted*, That suits, actions, and proceedings, against any association under this act, may be had in any circuit, district, or territorial court of the United States held within the district in which such association may be established; or in any State, county, or municipal court in the county or city in which said association is located, having jurisdiction in similar cases: *Provided, however*, That all proceedings to enjoin the Comptroller under this act shall be had in a circuit, district, or territorial court of the United States, held in the district in which the association is located.

SEC. 58. *And be it further enacted*, That every person who shall mutilate, cut, deface, disfigure, or perforate with holes, or shall unite or cement together, or do any other thing to any bank bill, draft, note, or other evidence of debt, issued by any such association, or shall cause or procure the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt unfit to be reissued by said association, shall, upon conviction, forfeit fifty dollars to the association who shall be injured thereby, to be recovered by action in any court having jurisdiction.

SEC. 59. *And be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be in imitation of, the circulating notes issued under the provisions of this act, or shall pass, utter, or publish, or attempt to pass, utter, or publish, any false, forged, or counterfeited note, purporting to be issued by any association doing a banking business under the provisions of this act, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any such circulating notes, issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any falsely altered or spurious circulating note issued, or purporting to have been issued, as aforesaid, knowing the same to be falsely altered or spurious, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law shall be sentenced to be imprisoned and kept at hard labor for a period of not less than five years, nor more than fifteen years, and fined in a sum not exceeding one thousand dollars.

SEC. 60. *And be it further enacted*, That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody or possession any plate, die, or block after the similitude of any plate, die, or block from which any circulating notes issued as aforesaid shall have been prepared or printed, with intent to use such plate, die, or block, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof convicted by due course of law, shall be sen-

tenced to be imprisoned and kept at hard labor for a term not less than five or more than fifteen years, and fined in a sum not exceeding one thousand dollars.

SEC. 61. *And be it further enacted*, That it shall be the duty of the Comptroller of the Currency to report annually to Congress at the commencement of its session—

First. A summary of the state and condition of every association from whom reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources, specifying the amount of lawful money held by them at the times of their several returns, and such other information in relation to said associations as, in his judgment, may be useful.

Second. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed and the amount outstanding.

Third. Any amendment to the laws relative to banking by which the system may be improved, and the security of the holders of its notes and other creditors may be increased.

Fourth. The names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year. And such report shall be made by or before the first day of December in each year, and the usual number of copies for the use of the Senate and House, and one thousand copies for the use of the Department, shall be printed by the Public Printer and in readiness for distribution at the first meeting of Congress.

SEC. 62. *And be it further enacted*, That the act entitled "An act to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February twenty-fifth, eighteen hundred and sixty-three, is hereby repealed: *Provided*, That such repeal shall not affect any appointments made, acts done, or proceedings had, or the organization, acts, or proceedings of any association organized or in the process of organization under the act aforesaid: *And provided also*, That all such associations so organized or in process of organization shall enjoy all the rights and privileges granted, and be subject to all the duties, liabilities, and restrictions imposed by this act, and with the approval of the Comptroller of the Currency, in lieu of the name specified in their respective organization certificates, may take any other name preferred by them and duly certified to the Comptroller, without prejudice to any right acquired under this act, or under the act hereby repealed; but no such change shall be made after six months from the passage of this act: *Provided also*, That the circulation issued or to be issued by such association shall be considered as a part of the circulation provided for in this act.

SEC. 63. *And be it further enacted*, That persons holding stock as executors, administrators, guardians, and trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in said trust-funds would be if they were respectively living and competent to act and hold the stock in their own names.

SEC. 64. *And be it further enacted*, That Congress may at any time amend, alter, or repeal this act.

APPROVED, June 3, 1864.

CHAP. CVII.—An Act to amend an Act relative to the Public Printing.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That that part of the act entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the thirtieth of June, eighteen hundred and sixty-four, and for other purposes," approved March fourteenth, eighteen hundred and sixty-four, as provides "that hereafter no printing or binding shall be done or blank-books be procured for any of the

Executive Departments of the Government without a written requisition on the Superintendent of Public Printing from the head of such Department," be, and the same is hereby, amended by inserting after the word "Department," where it is last above written, the following words, viz: "or his assistant or assistants," so that it will read—"the head of such Department or his assistant or assistants."

APPROVED, June 3, 1864.

CHAP. CVIII.—An Act to repeal the first section of the Joint Resolution relative to the Transfer of Persons in the Military Service to the Naval Service, approved February twenty-four, eighteen hundred and sixty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the joint resolution entitled a "Joint resolution relative to the transfer of persons in the military service to the naval service," approved February twenty-four, eighteen hundred and sixty-four, be, and the same is hereby, repealed.

APPROVED, June 3, 1864.

CHAP. CIX.—An Act to reestablish the principal Port of Entry for the District of Champlain at Plattsburgh, and for other purposes:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third section of an act entitled "An act to equalize and establish the compensation of the collectors of the customs on the northern, northeastern, and northwestern frontiers, and for other purposes," approved March third, eighteen hundred and sixty-three, changing the port of entry for the district of Champlain from Plattsburgh to Rouse's Point, be, and the same is hereby, repealed, and that Plattsburgh be, and the same is hereby, reestablished as the principal port of entry for said district, at which the collector of customs shall reside. And a deputy collector shall reside at Rouse's Point, and be vested with all the power and authority given to deputy collectors by law.

APPROVED, June 3, 1864.

CHAP. CX.—An Act to amend an Act entitled "An Act making a Grant of alternate sections of [the] Public Lands to the State of Michigan to aid in the Construction of certain Railroads in said State," and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act making a grant of alternate sections of [the] public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes," be, and the same is hereby, amended as follows, namely: Substitute for the words "and from Grand Rapids to some point on or near Traverse Bay," contained in the first section of said act, these words: And from Fort Wayne, in the State of Indiana, to a point on the southern boundary line of the State of Michigan, in the township of Sturgis, thence, by way of Grand Rapids, to some point on or near Traverse Bay. And the said act shall be, and is hereby, so amended as to substitute for the first clause of the first proviso in the first section thereof, so far as the same shall be applicable to the grant of lands made to aid in the construction of the railroad described by the foregoing amendment, these words: *Provided*, That the lands so to be selected shall in no case be further than twenty miles from the line of said road: *Provided further*, That the time specified in the 4th section of the act hereby amended for the completion of said road shall not be extended.

SEC. 2. *And be it further enacted*, That the lands granted by the act amended by this act, and also by the provisions of this act, to aid in the construction of the railroad described in the foregoing section, shall be disposed of only in the following manner, that is to say, when the Governor of the State of Michigan shall certify to the Secretary of the Interior that ten consecutive miles of said road have been completed in a good and substantial manner as a first-class railroad, indi-

38TH CONG....1ST SESS.

Laws of the United States.

cating definitely where said completed section commences and where the same terminates, the said Secretary shall cause patents to issue to said State for so much of said lands as are located opposite to, and coterminous with, said completed section of said road, and so from time to time for each completed section of ten miles of said road until the whole shall be completed.

APPROVED, June 7, 1864.

CHAP. CXI.—An Act to provide for granting an honorable Discharge to Coal-Heavers and Firemen in the Naval Service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That honorable discharges may be granted to coal-heavers and firemen in the naval service of the United States in the same manner and subject to the same conditions as such discharges are now granted to seamen, ordinary seamen, landsmen, and boys.

APPROVED, June 7, 1864.

CHAP. CXIII.—An Act to create an additional Supervising Inspector of Steamboats and two Local Inspectors of Steamboats for the Collection District of Memphis, Tennessee, and two Local Inspectors for the Collection District of Oregon, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be designated and appointed, in the mode prescribed by law, and who shall be paid the same annual compensation as is now paid, one additional supervising inspector of steamboats, and two local inspectors of steamboats, at Portland, in the collection district of Oregon, and two for the collection district of Memphis, Tennessee, at an annual compensation of seven hundred dollars, to be paid as provided by law, as in case of other like inspectors; and said inspectors shall perform the duties and be subject to the provisions of the steamboat act of August thirtieth, eighteen hundred and fifty-two.

SEC. 2. *And be it further enacted,* That so much of said act as provides for the appointment of two local inspectors of steamboats in the district of Wheeling, on the Ohio river, and for their compensation, is hereby repealed.

SEC. 3. *And be it further enacted,* That each engineer and pilot, licensed according to the provisions of said act, shall pay for every certificate granted by any inspector or inspectors, the sum of ten dollars, to be accounted for in the mode provided by law.

SEC. 4. *And be it further enacted,* That the forty-second section of the act of August thirty, eighteen hundred and fifty-two, be so construed as to require the inspection of the hull and boiler, in the manner prescribed by that act, of every vessel propelled in whole or in part by steam, and engaged as a ferry-boat, tug or towing-boat, or canal-boat, in all cases where, under the laws of the United States, such vessels may be engaged in the commerce with foreign nations, or among the several States.

SEC. 5. *And be it further enacted,* That all engineers and pilots of ferry-boats, tug-boats, towing-boats, or canal-boats, subject to inspection by this act, shall be classified and licensed in the same manner as are pilots and engineers by said act of August thirty, eighteen hundred and fifty-two.

SEC. 6. *And be it further enacted,* That, in lieu of the fees for inspection required by the thirty-first section of the act of August thirty, eighteen hundred and fifty-two, the following shall be paid: For each vessel of one hundred tons or under, twenty-five dollars, and in addition thereto for each one hundred tons, over the first one hundred tons, five dollars.

SEC. 7. *And be it further enacted,* That all parts of the act aforesaid, which are suspended by or are inconsistent with this act, are hereby repealed.

APPROVED, June 8, 1864.

CHAP. CXIV.—An Act to punish and prevent the Counterfeiting of Coin of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any person or persons, except

as now authorized by law, shall hereafter make, or cause to be made, or shall utter or pass, or attempt to utter or pass, any coins of gold or silver, or other metals or alloys of metals, intended for the use and purpose of current money, whether in the resemblance of coins of the United States or of foreign countries, or of original design, every person so offending shall, on conviction thereof, be punished by fine not exceeding three thousand dollars, or by imprisonment for a term not exceeding five years, or both, at the discretion of the court, according to the aggravation of the offense.

APPROVED, June 8, 1864.

CHAP. CXV.—An Act to provide for the Payment of the second Regiment, third Brigade, Ohio Volunteer Militia, during the Time they were mustered into the Service of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second regiment, third brigade, Ohio volunteer militia, mustered into the service of the United States at Cincinnati, Ohio, on the fourth day of September, eighteen hundred and sixty-two, notwithstanding irregularity may have occurred in the manner of their mustering into the service of the United States, be paid for the time the officers and men were in the service, respectively, after being so mustered, not, however, to exceed the period of thirty days.

APPROVED, June 8, 1864.

CHAP. CXVI.—An Act to provide for the Execution of Treaties between the United States and Foreign Nations respecting Consular Jurisdiction over the Crews of Vessels of such Foreign Nations in the Waters and Ports of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in all cases where it may have been or shall hereafter be stipulated by treaty or convention between the United States and any foreign nation to the effect that the consul general, consuls, vice consuls, or consular or commercial agents of the two nations, respectively, shall have exclusive jurisdiction of controversies, difficulties, or disorders arising at sea or in the waters or ports of the one nation, between the master or other officer or officers and any of the crew, or between any of these last themselves, of any ship or vessel belonging to the other nation, such stipulations shall be executed and enforced within the jurisdiction of the United States as herein-after declared: *Provided,* That before this act shall take effect as to the ships and vessels of any particular nation having such treaty with the United States, the President of the United States shall have been satisfied that similar provisions have been made for the execution of such treaty by the other contracting party, and shall have issued his proclamation to that effect, declaring this act to be in force as to such nation.

SEC. 2. *And be it further enacted,* That in all cases within the purview of this act the consul general, consul, or other consular or commercial authority of such foreign nation charged with the appropriate duty in the particular case, may make application to any court of record of the United States, or any judge thereof, or to any commissioner appointed under the laws of the United States, to take bail or affidavits, or for other judicial purposes whatsoever, setting forth that such controversy, difficulty, or disorder has arisen, briefly stating the nature thereof, and when and where the same occurred, and exhibiting a certified copy or extract of the shipping articles, roll, or other proper paper of the ship or vessel, to the effect that the person in question is of the crew or ship's company of such ship or vessel; and further stating and certifying that such person has withdrawn himself, or is believed to be about to withdraw himself, from the control and discipline of the master and officers of the said ship or vessel, or that he has refused, or is about to refuse, to submit to and obey the lawful jurisdiction of such consular or commercial authority in the premises; and further stating and certifying that, to the best of the knowledge and belief of the officer certifying, such person is not a citizen of the

United States, and thereupon such judge, commissioner, or other judicial officer, on inspection of such application, the same being in writing and duly authenticated by the consular or other sufficient official seal, shall issue his warrant for the arrest of the person so complained of, directed to the marshal of the United States for the appropriate district, or in his discretion to any person, being a citizen of the United States, whom he may specially depute for the purpose, requiring such person to be brought before him for examination at a certain time and place. And if, on such examination, it shall be made to appear that the person so arrested is a citizen of the United States, he shall be forthwith discharged from arrest, and shall be left to the ordinary course of law. But if this shall not be made to appear, and such judge, commissioner, or other judicial authority shall find, upon the papers hereinbefore referred to, a sufficient prima facie case that the matter concerns only the internal order and discipline of such foreign ship or vessel, or, whether in its nature civil or criminal, does not effect [affect] directly the execution of the laws of the United States, or the rights and duties of any citizen of the United States, he shall forthwith, by his warrant, commit such person to prison, where prisoners under sentence of a court of the United States may be lawfully committed, or to the master or chief officer of such foreign ship or vessel, in his discretion, to be subject to the lawful orders, control, and discipline of the master or chief officer for the time being, of such ship, and to the jurisdiction of the consular or commercial authority of the nation to which such ship or vessel may belong, to the exclusion of any authority or jurisdiction in the premises of the United States or any State thereof: *Provided, nevertheless,* That the expenses of the arrest and the detention of the person so arrested shall be paid by the consul general, consuls, or vice consuls: *And provided further,* That no person shall be detained more than two months after his arrest, but at the end of that time shall be set at liberty and shall not again be arrested for the same cause.

APPROVED, June 11, 1864.

CHAP. CXVII.—An Act to authorize the Secretary of the Treasury to stipulate for the Release from Attachment or other Process, of Property claimed by the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any property owned or held by the United States, or in which the United States have or claim an interest, shall in any judicial proceeding under the laws of any State, District, or Territory, be seized, arrested, attached, or held for the security or satisfaction of any claim made against said property, it shall be lawful for the Secretary of the Treasury, in his discretion, to direct the Solicitor of the Treasury to cause a stipulation to be entered into by the proper district attorney for the discharge of such property from such seizure, arrest, attachment, or proceeding, to the effect that upon such discharge, the person asserting the claim against such property shall become entitled to all the benefits of this act; and in all cases where such stipulation shall be entered into, as aforesaid, and the property shall, in consequence thereof, be discharged as aforesaid, and final judgment shall be given in the court of last resort to which the Secretary of the Treasury may deem proper to cause such proceedings to be carried, affirming the claim for the security or satisfaction of which such proceedings shall have been instituted, and the right of the person asserting the same to enforce it against such property by means of such proceedings, notwithstanding the claims of the United States thereto, such final judgment shall be deemed, to all intents and purposes, a full and final determination of the rights of such person, and shall entitle such person, as against the United States, to such rights as he would have had in case possession of said property had not been changed; and if such claim be for the payment of money, and the same shall by such judgment be found to be due, the presentation of a duly authenticated copy of the record of such judg-

Laws of the United States.

38TH CONG... 1ST SESS.

ment and proceedings shall be sufficient evidence to the proper accounting officers for the allowance thereof; and the same shall thereupon be allowed and paid out of any moneys in the Treasury not otherwise appropriated: *Provided* That the amount so to be allowed and paid shall not exceed the value of the interest of the United States in the property in question: *And provided further*, That nothing herein contained shall be considered as recognizing or conceding any right to enforce by seizure, arrest, attachment, or any judicial process, any claim against any property of the United States, or against any property held, owned, or employed by the United States, or by any department thereof, for any public use, or as waiving any objection to any proceeding instituted to enforce any such claim.

APPROVED, June 11, 1864.

CHAP. CXVIII.—An Act in relation to the Limitation of Actions in certain Cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, during the existence of the present rebellion, any action, civil or criminal, shall accrue against any person who, by reason of resistance to the execution of the laws of the United States, or the interruption of the ordinary course of judicial proceedings, cannot be served with process for the commencement of such action or the arrest of such person, or whenever, after such action, civil or criminal, shall have accrued, such person cannot, by reason of such resistance of the laws, or such interruption of judicial proceedings, be arrested or served with process for the commencement of the action, the time during which such person shall so be beyond the reach of legal process shall not be deemed or taken as any part of the time limited by law for the commencement of such action.

APPROVED, June 11, 1864.

CHAP. CXIX.—An Act relating to Members of Congress, Heads of Departments, and other Officers of the Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no member of the Senate or House of Representatives shall, after his election and during his continuance in office, nor shall any head of a Department, head of a bureau, clerk, or any other officer of the Government receive or agree to receive any compensation whatsoever, directly or indirectly, for any services rendered, or to be rendered, after the passage of this act, to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party, or directly or indirectly interested, before any Department, court-martial, bureau, officer, or any civil, military, or naval commission whatever. And any person offending against any provision of this act shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding ten thousand dollars, and by imprisonment for a term not exceeding two years, at the discretion of the court trying the same, and shall be forever thereafter incapable of holding any office of honor, trust, or profit under the Government of the United States.

APPROVED, June 11, 1864.

CHAP. CXX.—An Act to change and define the Boundaries of the Eastern and Western Judicial Districts of Virginia, and to alter the Names of said Districts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the jurisdiction of the western district of Virginia shall hereafter be coextensive with, and confined to the limits of the State of West Virginia; and shall be called the district of West Virginia; and the jurisdiction of the eastern district of Virginia shall hereafter be coextensive with the limits and include the whole of the State of Virginia, and shall be called the district of Virginia. The judge of the said district of West Virginia shall annually hold six sessions as follows: At Clarksburg, on the 24th days of

March and August; at Wheeling, on the sixth days of April and September; and at Charleston, on the nineteenth days of April and September. The judge of the district of Virginia shall, in addition to the sessions heretofore held by him as judge of the eastern district of Virginia, hold sessions at the times and places within the district of Virginia when and where sessions were held prior to the passage of this act by the judge of the western district of Virginia.

SEC. 2. *And be it further enacted*, That all the records and files of the courts of the western district of Virginia, hitherto held within the limits of the district of Virginia, as prescribed and fixed in the first section of this act, shall remain and be kept in the district of Virginia; and all records and files of the courts of the western district of Virginia, hitherto held within the limits of the district of West Virginia, as prescribed and fixed by the first section of this act, shall remain and be kept in the district of West Virginia. And all writs, suits, pleas, recognizances, indictments, and all other process, civil or criminal, issued, sued out, commenced, or pending, of which, if this act had never been passed, the judge of the western district would have had jurisdiction within the limits of the said district of Virginia, as defined by this act, shall be returned, entered, and have day before, and be heard and determined by, the judge of the district of Virginia, in the same manner, and with the same validity and effect, as they should have been returned, entered, heard, and determined by the judge of the western district of Virginia, if this act had never been passed.

SEC. 3. *And be it further enacted*, That all the judicial proceedings of the court of the western district of Virginia had within the limits of the district of West Virginia, as fixed by the first section of this act, since the erection of West Virginia into a State, are hereby made and declared to be as valid and binding as if this act had been passed contemporaneously with the act establishing the State of West Virginia, and said judicial proceedings had been under and by virtue of this act.

APPROVED, June 11, 1864.

CHAP. CXXI.—An Act to provide for the summary Trial of minor Offenses against the Laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the judge of any district court of the United States to hold a special session of said court at any time, whether in term or vacation, for the trial of minor offenses against the laws of the United States, as hereinafter provided.

SEC. 2. *And be it further enacted*, That whenever a complaint shall be made against any master, officer, or mariner of any ship or vessel belonging, in whole or in part, to any citizen or citizens of the United States, of the commission of any offense, not capital or otherwise infamous, against any law of the United States made for the protection of persons or property engaged in commerce or navigation, it shall be the duty of the district attorney to investigate the same, and the general nature thereof, and if, in his opinion, the case is such as should be summarily tried under the provisions of this act, he shall report the same to the district judge, and the judge shall forthwith, or as soon as the ordinary business of the court will permit, proceed to try the cause, and for that purpose may, if necessary, hold a special session of the court.

SEC. 3. *And be it further enacted*, That at such trial it shall not be necessary that the accused shall have been previously indicted, but a statement of complaint, verified by oath, in writing, shall be presented to the court, setting out the offense in such manner as clearly to apprise the accused of the character of the offense complained of, and to enable him to answer the complaint. And the said complaint or statement shall be read to the accused, who may plead to or answer the same, or make a counter-statement.

SEC. 4. *And be it further enacted*, That the said trial shall thereupon be proceeded with in a summary manner, and the case shall be decided by the

court, unless, at the time for pleading or answering, the accused shall demand a jury, in which case the trial shall be upon the complaint and plea of not guilty.

SEC. 5. *And be it further enacted*, That it shall not be lawful for the court to sentence any person convicted on such trial to any greater punishment than imprisonment in jail for one year, or to a fine exceeding five hundred dollars, or both, in its discretion, in those cases where the laws of the United States authorize such imprisonment and fine.

SEC. 6. *And be it further enacted*, That it shall be lawful for the court to allow the district attorney to amend his statement or complaint at any stage of the proceedings, before verdict, if, in the opinion of the court, such amendment will work no injustice to the accused; and if it appear to the court that the accused is unprepared to meet the charge as amended, and that an adjournment of the cause will promote the ends of justice, such adjournment shall be made until a further day, to be fixed by the court.

SEC. 7. *And be it further enacted*, That at such trial, if by jury, the United States and the accused shall each be entitled to three peremptory challenges. Challenges, for cause, in such cases, shall be tried by the court, without the aid of triers.

APPROVED, June 11, 1864.

CHAP. CXXII.—An Act to abolish the Collection Districts of Port Orford and Cape Perpetua, in the State of Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the collection districts of Cape Perpetua and Port Orford, heretofore established by law, are hereby abolished, and the same attached to the collection district of Oregon.

APPROVED, June 11, 1864.

CHAP. CXXIII.—An Act to amend an Act entitled "An Act to confirm certain Private Land Claims in the Territory of New Mexico."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sixth section of the act entitled "An act to confirm certain private land claims, in the Territory of New Mexico," approved June twenty-first, eighteen hundred and sixty, be, and the same is hereby, so amended as to enable the heirs of Luis Maria Baca to raise and withdraw the selection and location of one of the square bodies of land confirmed to them by said act, heretofore located by said heirs on the Pecos river, adjoining the Fort Sumner reservation, and to select and relocate the same, in the manner provided by said act, at any time before the twenty-first day of June, in the year eighteen hundred and sixty-five, upon any of the public lands, unoccupied and not mineral, within the limits of the Territory of New Mexico, as said limits were known and defined by law on the twenty-first day of June, in the year eighteen hundred and sixty, and upon such selection and relocation, the title to said square body of land, the same being the one fifth part of the private claim confirmed to said heirs as aforesaid, so selected and relocated, shall be, and is hereby, confirmed to the said heirs of the said Luis Maria Baca as fully and perfectly as if the same had been selected and located within three years from and after the approval of the act aforesaid.

SEC. 2. *And be it further enacted*, That upon such selection and relocation all right, title, and interest of the said heirs of Luis Maria Baca, of, in, and to the square body of land heretofore selected and located by them on the Pecos river, adjoining the Fort Sumner reservation in New Mexico, is hereby divested and declared null and void, and the same shall revert in the Government of the United States.

APPROVED, June 11, 1864.

CHAP. CXXIV.—An Act making Appropriations for the support of the Army for the year ending the thirtieth June, eighteen hundred and sixty-five, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money

38TH CONG.... 1ST SESS.

Laws of the United States.

in the Treasury not otherwise appropriated, for the support of the Army for the year ending the thirtieth of June, eighteen hundred and sixty-five:

For expenses of recruiting, transportation of recruits, and compensation to citizen surgeons for medical attendance, three hundred thousand dollars.

For purchase of books of tactics and instructions for volunteers, fifty thousand dollars.

For contingent expenses of the adjutant general's department at the headquarters of the several military departments, five thousand dollars.

For copying official reports of the armies of the United States, for publication, five thousand dollars.

For bounties and premiums for the *enticement* [enlistment] of recruits for the regular Army, three hundred and fifty thousand dollars.

For the pay of advance bounties to volunteers and drafted men, five million dollars.

For pay of premiums, rent of buildings and grounds, transportation, subsistence, lodging, commutation of fuel and quarters, straw, postage, stationery, advertising, medicines, and medical attendance, and all other necessary expenses incidental to the collecting, drilling, and organizing volunteers, and for the necessary expenses under the enrollment act, five million dollars.

For pay of the Army, nine million nine hundred and seventy-one thousand two hundred and forty-three dollars and sixty cents.

For commutation of officers' subsistence, one million seven hundred and twenty-three thousand six hundred and twenty nine dollars and fifty cents.

For commutation of forage for officers' horses, one hundred and four thousand six hundred dollars.

For payments in lieu of clothing for officers' servants, eighty-two thousand eight hundred and twenty dollars.

For payments to discharged soldiers for clothing not drawn, one hundred and fifty thousand dollars.

For pay of volunteers, including the bounties authorized by law, one hundred and seventy-seven million four hundred and sixty two thousand seven hundred and twenty-eight dollars and twenty-five cents: *Provided*, That if any officer in the regular or volunteer forces shall employ a soldier as a servant, such officer shall not be entitled to any pay or allowances for a servant or servants, but shall be subject to the deduction from his pay required by the third section of the act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July seventeen, eighteen hundred and sixty-two: *And provided further*, That the second section of the act entitled "An act giving further compensation to the captains and subalterns of the Army of the United States in certain cases," allowing ten dollars additional per month to any officer in actual command of a company, as compensation for his duties and responsibilities with respect to the clothing, arms, and accoutrements of the company, shall be construed to apply only to company officers in actual command as aforesaid.

For subsistence in kind for regulars, volunteers, and drafted men, ninety-one million four hundred and twenty-five thousand four hundred and twenty-six dollars and thirty cents.

For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guard, hospitals, storehouses, and offices; of forage in kind for the horses, mules, and oxen for the quartermaster's department, at the several posts and stations, and with the armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts, including bedding for the animals; of straw for soldiers' bedding, and of stationery, including blank-books for the quartermaster's department, certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders and reports, sixty million dollars.

For the incidental expenses of the quartermaster's department, consisting of postage on letters

and packages received and sent by officers of the Army on public service; expenses of courts-martial, military commissions, and courts of inquiry, including the additional compensation of judges advocate, recorders, members, and witnesses, while on that service; under the act of March sixteenth, eighteen hundred and two, extra pay to soldiers employed, under the direction of the quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals; in the construction of roads, and on other constant labor, for periods of not less than ten days, under the acts of March second, eighteen hundred and nineteen, and August fourth [fourth,] eighteen hundred and fifty-four, including those employed as clerks at division and department headquarters; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers and to trains where military escorts cannot be furnished; expenses of the interment of officers killed in action, or who die when on duty in the field, or at posts on the frontiers, or at other posts and places when ordered by the Secretary of War, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including the hire of interpreters, spies, and guides for the Army; compensation of clerks to officers of the quartermaster's department; compensation of forage and wagon-masters, authorized by the act of July fifth, eighteen hundred and thirty-eight; for the apprehension of deserters, and the expenses incidental to their pursuit; and for the following expenditures required for the several regiments of cavalry, the batteries of light artillery, and such companies of infantry as may be mounted, viz: the purchase of traveling forges, blacksmiths' and shoeing tools, horses and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and for shoeing the horses of the corps named; also, generally, the proper and authorized expenses for the movements and operations of an army not expressly assigned to any other department, thirteen million dollars.

For the purchase of cavalry and artillery horses, twenty-one million dollars.

For mileage, or the allowances made to officers of the Army for the transportation of themselves and their baggage, when traveling on duty without troops, escorts, or supplies, seven hundred thousand dollars.

For transportation of the Army, including the baggage of the troops when moving either by land or water; of clothing, camp and garrison equipage, from the depots at Philadelphia, Cincinnati, and New York to the several posts and Army depots, and from those depots to the troops in the field; and of subsistence stores from the places of purchase, and from the places of delivery under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small-arms, from foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferrages; for the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships, and other sea-going vessels, and boats required for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as, from their situation, require it to be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops in the field, forty million dollars.

For hire or commutation of quarters for officers on military duty; hire of quarters for troops; of storehouses for the safe-keeping of military stores; of grounds for summer cantonments; for the construction of temporary huts, hospitals, and stables, and for repairing public buildings at established posts, five million dollars.

For heating and cooking stoves, one hundred thousand dollars.

For constructing and extending the telegraph, for military purposes, and for expenses in operating the same, two hundred and seventy-five thousand dollars.

For supplies, transportation, and care of prisoners of war, nine hundred thousand dollars.

For purchasing, constructing, and maintenance of steam-rams, two hundred and seventy-five thousand dollars.

For clothing for the Army, camp and garrison equipage, and for expenses of offices and arsenals, fifty-eight million dollars.

For contingencies of the Army, four hundred thousand dollars.

For medicines, instruments, and dressings, two million seven hundred and fifteen thousand dollars.

For hospital stores, bedding, and so forth, three million five hundred and eighty-seven thousand eight hundred and fifty-two dollars.

For hospital furniture and field equipments, six hundred and eighteen thousand dollars.

For books, stationery, and printing, one hundred and twenty thousand dollars.

For ice, fruits, and other comforts, three hundred thousand dollars.

For hospital clothing, seven hundred and fifty thousand dollars.

For citizen nurses, two hundred and ten thousand dollars.

For care of sick soldiers in private hospitals, thirty-one thousand two hundred dollars.

For artificial limbs for soldiers and seamen, forty-five thousand dollars.

For citizen physicians, and medicines furnished by them, four hundred and five thousand dollars.

For hire of clerks and laborers in purveying depots, seventy-five thousand dollars.

For examining and recording meteorological observations taken at the military posts of the United States Army, seven hundred and fifty dollars.

For Army medical museum, five thousand dollars.

For contingent expenses of the medical department, forty-seven thousand eight hundred and thirty-eight dollars.

For laboratory for testing and rearranging medicines and hospital supplies, five thousand dollars.

For washing and washing-machines for hospitals where matrons cannot be employed, fifteen thousand dollars.

For expenses of the commanding general's office, ten thousand dollars.

For the secret service, one hundred thousand dollars.

For armament of fortifications, two million dollars.

For the current expenses of the ordnance service, five hundred thousand dollars.

For ordnance, ordnance stores, and supplies, including the purchase and manufacture of arms, accoutrements, and horse equipments for volunteers and regulars, twenty million dollars.

For the manufacture of arms at the national armory, two million five hundred thousand dollars.

For repairs, improvements, and new machinery at the national armory, one hundred thousand dollars.

For the purchase of gunpowder and lead, two million dollars.

For repairs and improvements at arsenals, including new and additions to present buildings, and machinery, tools, and fixtures, two million dollars.

For the signal service of the Army, one hundred thousand dollars.

For compensation of two clerks in the signal office, two thousand eight hundred dollars.

Sec. 2. *And be it further enacted*, That all persons of color who have been or may be mustered into the military service of the United States shall receive the same uniform, clothing, arms, equipments, camp equipage, rations, medical and hospital attendance, pay and emoluments, other than bounty, as other soldiers of the regular or volunteer forces of the United States of like arm of the service, from and after the first day of January, eighteen hundred and sixty-four; and that every person of color who shall hereafter be mustered into the service shall receive such sums in bounty

as the President shall order in the different States and parts of the United States, not exceeding one hundred dollars.

SEC. 3. *And be it further enacted*, That all persons enlisted and mustered into service as volunteers under the call, dated October seventeen, eighteen hundred and sixty-three, for three hundred thousand volunteers, who were at the time of enlistment actually enrolled and subject to draft in the State in which they volunteered, shall receive from the United States the same amount of bounty without regard to color.

SEC. 4. *And be it further enacted*, That all persons of color who were free on the nineteenth day of April, eighteen hundred and sixty-one, and who have been enlisted and mustered into the military service of the United States, shall, from the time of their enlistment, be entitled to receive the pay, bounty, and clothing allowed to such persons by the laws existing at the time of their enlistment. And the Attorney General of the United States is hereby authorized to determine any question of law arising under this provision. And if the Attorney General aforesaid shall determine that any of such enlisted persons are entitled to receive any pay, bounty, or clothing, in addition to what they have already received, the Secretary of War shall make all necessary regulations to enable the pay department to make payment in accordance with such determination.

SEC. 5. *And be it further enacted*, That all enlistments hereafter made in the regular Army of the United States, during the continuance of the present rebellion, may be for the term of three years.

APPROVED, June 15, 1864.

CHAP. CXXV.—An Act to incorporate the Home for Friendless Women and Children.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Mary T. Hay, Eliza M. Morris, Jane F. James, Eliza Wade Fitzgerald, Georgiana F. Speaks, Emily B. Ruggles, Indiana Plant, Mary Grayham, Maria Virginia Brown, and their associates and successors, are hereby created a body-corporate and politic, with a common seal, the right of succession, with ability to sue and liability to be sued as a natural person, and the said corporation shall be known by the name of The Home for the Relief of Friendless Women and Children. The business of said corporation shall be the establishment, in the city of Washington, or at a convenient and eligible point not exceeding in distance seven miles from the city, of an institution where provision can be made by public charity for the care and relief of friendless and deserving females, and for the care and maintenance of young orphan or destitute children, male or female, who may be or are likely to become a charge upon public charity. And said corporation shall possess and enjoy all the powers essential and proper for the carrying out of the purposes of its creation.

SEC. 2. *And be it further enacted*, That said corporation may receive, take, and hold, by purchase, gift, or devise, any real or personal estate, for the purposes contemplated in this act: *Provided, however*, That the net annual income of their real estate shall not exceed thirty thousand dollars.

SEC. 3. *And be it further enacted*, That Mary T. Hay, Eliza M. Morris, Eliza Wade Fitzgerald, Georgiana Speaks, Emily B. Ruggles, Indiana Plant, Jane F. James, Mary Grayham, Maria Virginia Brown, shall constitute the board of managers until the first Monday of May, A. D. eighteen hundred and sixty-five, and until their successors shall be chosen or elected as herein provided. A meeting of the members of the association shall be held on the first Monday of May, eighteen hundred and sixty-five, at some convenient hour and place, in the city of Washington, of which two weeks' public notice shall be given by the board of managers, in two daily newspapers published in the city of Washington; and at such meeting the members of the association who shall be present shall proceed to elect a board of managers in the places of those hereby designated or authorized; and any manager may be reelected from time to time. Each member, at such meeting, shall be entitled to one vote. An

annual meeting of the associates or corporators shall, in like manner and upon like notice, be held on the first Monday of May, in each year after eighteen hundred and sixty-five, for the election of managers for the ensuing year; but if, in any case, the said meeting shall, for any reason, fail to be held on the day herein designated, the same may, upon the notice above provided, be held on any other day within three months thereafter; and the managers then elected shall hold their offices until the first Monday of May next ensuing, and until their successors shall be chosen, as aforesaid. The said board of managers shall have power to fill any vacancies occurring therein between the regular elections above provided in this act, and a majority of said board shall form a quorum for the transaction of business.

SEC. 4. *And be it further enacted*, That the board of managers shall have power to appoint such agents, matrons, assistants, and teachers, and to employ such domestics and servants, as shall be deemed necessary, and to make all needful and proper regulations for their respective, general, or specific duties, as well as for the government, direction, and control of all persons who may at any time become inmates of the Home authorized by this act, and may prescribe for the children and youth committed to their care such rules of discipline as shall be deemed by them necessary.

SEC. 5. *And be it further enacted*, That whenever any child who, from the neglect or inability of its parents or guardian to support it, shall become a charge upon public charity, and shall be surrendered to the charge of the association, pursuant to the provisions of this act, by such parent or by its guardian, or by the overseer or superintendent of the poor of said city of Washington, or other officer having the charge of the poor, or whenever any destitute and dependent orphan shall be surrendered to such institution, in the manner herein provided, by an instrument in writing, duly signed by such parent, guardian, or public officer, the said board of managers may, in their discretion, place such child to service with some proper person under articles of indenture, to be executed in due form of law, with such provisions for maintenance and education as shall be approved by one of the judges of the supreme court of the District of Columbia; and the said board of managers are hereby authorized to permit the adoption of any such child by any respectable and proper person who, under provisions to be approved as aforesaid, shall undertake the maintenance, care, and proper education of such destitute or orphan child.

SEC. 6. *And be it further enacted*, That in case of the death or legal incapacity of the father of any dependent child, or of the imprisonment of such father for crime, or of his abandoning or neglecting to provide for his family, the mother, if residing in the District of Columbia, shall be deemed the legal guardian of her children for the purposes of this act, and shall have power to make the surrender aforesaid. But in case the mother also be dead, or a non-resident of said District, or legally incapable of acting in the premises, or be imprisoned for crime, or neglect to provide for such child, and in case there be no guardian or other person legally bound to support such child, or qualified to make the surrender aforesaid, then, and in any such case, the superintendent of the poor, or the mayor of Washington, or other public officer having charge of the poor, shall, for the purposes of this act, be required, as ex officio guardian of such child, and may make, as such, the surrender of such child to the said corporation by the instrument in writing aforesaid, which surrender shall, in all respects, be as valid and effectual as if made by the father or parent of such child: *Provided*, That no surrender of any such child shall be made under the provisions of this section, unless such surrender shall, on examination, be approved by one of the judges of the supreme court of said District.

SEC. 7. *And be it further enacted*, That the board of managers may elect from their own number a president, vice president, and secretary; and they may further elect a treasurer. They may, in their discretion, appoint an executive committee, consisting of five members of their board, who may, under the general direction of the board,

take charge of the affairs of the corporation during any recess of the board.

SEC. 8. *And be it further enacted*, That the treasurer of said corporation shall at any time upon the call of Congress report a full and perfect statement of the affairs of such corporation, the location, value, and income of all real estate owned by it, the amount of its receipts, expenditures, investments, and personal estate, and all other information which Congress may require.

SEC. 9. *And be it further enacted*, That Congress may at any time alter, amend, or repeal this act.

SEC. 10. *And be it further enacted*, That this act shall take effect immediately.

APPROVED, June 15, 1864.

CHAP. CXXVI.—An Act concerning certain School Lands in Township forty-five north, Range seven east, in the State of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all of the right, title, and interest of the United States in and to all of the lots, tracts, pieces, and parcels of land within the Grand Prairie common field, in township forty-five north of the base line, in range seven east of the fifth principal meridian line in the State of Missouri, which have not heretofore been disposed of by the United States, shall be, and the same are hereby, granted, relinquished, and conveyed by the United States in fee-simple and in full property, to the State of Missouri, for the support of schools in said township: *Provided*, That nothing in this act shall in any manner abridge, divest, impair, injure, or prejudice any adverse right, title, or interest of any person or persons in or to any portion or part of the aforesaid lots, tracts, pieces, or parcels of land which are granted, relinquished, or conveyed by this act.

APPROVED, June 15, 1864.

CHAP. CXXVII.—An Act to prohibit certain Sales of Gold and Foreign Exchange.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful to make any contract for the purchase or sale and delivery of any gold coin or bullion to be delivered on any day subsequent to the day of making such contract, or for the payment of any sum, either fixed or contingent, in default of the delivery of any gold coin or bullion, or to make such contract upon any other terms than the actual delivery of such gold coin or bullion, and the payment in full of the agreed price thereof, on the day on which such contract is made, in United States notes or national currency, and not otherwise; or to make any contract for the purchase or sale and delivery of any foreign exchange to be delivered at any time beyond ten days subsequent to the making of such contract; or for the payment of any sum, either fixed or contingent, in default of the delivery of any foreign exchange, or upon any other terms than the actual delivery of such foreign exchange within ten days from the making of such contract, and the immediate payment in full of the agreed price thereof on the day of delivery in United States notes or national currency; or to make any contract whatever for the sale and delivery of any gold coin or bullion of which the person making such contract shall not, at the time of making the same, be in actual possession. And it shall be unlawful to make any loan of money or currency not being in coin to be repaid in coin or bullion, or to make any loan of coin or bullion to be repaid in money or currency other than coin.

SEC. 2. *And be it further enacted*, That it shall be further unlawful for any banker, broker, or other person, to make any purchase or sale of any gold coin or bullion, or of any foreign exchange, or any contract for any such purchase or sale, at any other place than the ordinary place of business of either the seller or purchaser, owned or hired, and occupied by him individually, or by a partnership of which he is a member.

SEC. 3. *And be it further enacted*, That all contracts made in violation of this act shall be absolutely void.

SEC. 4. *And be it further enacted*, That any

38TH CONG... 1ST SESS.

Laws of the United States.

person who shall violate any provisions of this act shall be held guilty of a misdemeanor, and, on conviction thereof, be fined in any sum not less than one thousand dollars, nor more than ten thousand dollars, or be imprisoned for a period not less than three months, nor longer than one year, or both, at the discretion of the court, and shall likewise be subject to a penalty of one thousand dollars for each offense.

SEC. 5. *And be it further enacted*, That the penalties imposed by the fourth section of this act may be recovered in an action at law in any court of record of the United States, or any court of competent jurisdiction, which action may be brought in the name of the United States by any person who will sue for said penalty, one half for the use of the United States, and the other half for the use of the person bringing such action. And the recovery and satisfaction of a judgment in any such action shall be a bar to the imposition of any fine for the same offense in any prosecution instituted subsequent to the recovery of such judgment, but shall not be a bar to the infliction of punishment by imprisonment, as provided by said fourth section.

SEC. 6. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

APPROVED, June 17, 1864.

CHAP. CXXVIII.—An Act to amend an Act entitled "An Act to extend the Time for the Withdrawal of Goods from Public Stores and Bonded Warehouses, and for other purposes," approved twenty-ninth February, eighteen hundred and sixty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all goods, wares, and merchandise, in public stores or bonded warehouses, on which the duties are unpaid, and which shall have been in bond for more than one year and less than three years, may be entered for consumption and the bonds canceled at any time before the first day of September next, on payment of duties and charges according to the laws in force at the time the goods shall be withdrawn.

APPROVED, June 17, 1864.

CHAP. CXXIX.—An Act to amend an Act entitled "An Act to authorize the Corporation of Georgetown, in the District of Columbia, to lay and collect a Water Tax, and for other purposes," approved May twenty-one, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which an original town lot in Georgetown, in the District of Columbia, entirely owned by the same person or persons, or any subdivision of an original lot separately owned, as aforesaid, shall be situated at the intersection of two streets, so as to bind or front on both, and in which both fronts would be liable to the front-foot tax authorized by the act entitled "An act to authorize the corporation of Georgetown, in the District of Columbia, to lay and collect a water tax, and for other purposes," approved May twenty-one, eighteen hundred and sixty-two, the said front-foot tax shall not be levied upon more than seventy-five feet of the two fronts of said lot or part of lot; and all beyond said number of feet shall be exempt therefrom: *Provided*, That, for the purpose of avoiding inequality and hardship in laying said tax, it shall be lawful for the said corporation of Georgetown, in such cases, to make such further exemptions from said front-foot tax, either by general laws or in individual cases, as to them may seem just and proper.

SEC. 2. *And be it further enacted*, That it shall be lawful for said corporation of Georgetown, in their discretion, instead of the front-foot tax aforesaid, to lay and collect annually a general special tax not to exceed one fifth of one per cent. per annum on all the assessable property in said town, for the purpose of defraying the cost of distributing water through said town from the mains or pipes of the Washington aqueduct, which tax shall be exclusively appropriated to said object,

shall be collected in the same manner as the general tax of said town, and shall cease whenever the cost of said distribution shall have been fully paid: *Provided*, That all persons liable to pay said tax shall be credited on account of the same with all sums heretofore paid by them on account of said front-foot tax, levied in pursuance of the act to which this is an amendment.

SEC. 3. *And be it further enacted*, That the third section of the act aforesaid be, and the same is hereby, repealed.

APPROVED, June 17, 1864.

CHAP. CXXX.—An Act to regulate the Foreign Coasting Trade on the Northern, Northeastern, and Northwestern Frontiers of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any boat, sloop, or other vessel of the United States, navigating the waters on our northern, northeastern, and northwestern frontiers, otherwise than by sea, shall be enrolled and licensed in such form as other vessels; which enrollment and license shall authorize any such boat, sloop, or other vessel to be employed either in the coasting or foreign trade on said frontiers; and no certificate of register shall be required for vessels so employed on said frontiers: *Provided*, That such boat, sloop, or vessel shall be, in every other respect, liable to the rules, regulations, and penalties now in force relating to registered and licensed vessels.

SEC. 2. *And be it further enacted*, That in lieu of the compensation provided by the fourth section of the act of March second, eighteen hundred and thirty-one, entitled "An act to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes," each of the several collectors of customs in the following districts on the said frontiers, to wit: Pembina, Chicago, Milwaukee, Sault Sainte Marie, Detroit, Miami, Sandusky, Cuyahoga, Presque Isle, (hereafter to be called Erie,) Dunkirk, Buffalo, Niagara, Genesee, Oswego, Cape Vincent, Oswegatchie, Champlain, and Vermont, shall receive an annual compensation of one thousand dollars, and, in addition thereto, the fees now collected under the general regulations of the Treasury Department of February, eighteen hundred and fifty-seven, and a commission of three per centum on all moneys collected and accounted for by them respectively: *Provided*, That the aggregate compensation derived from salary, fees, and commissions, shall not in any case exceed the sum of twenty-five hundred dollars per annum, subject to the provisions of the act entitled "An act relative to collectors and other officers of the customs," approved February eleventh, eighteen hundred and forty-six. And whenever the aggregate of salary, fees, and commissions shall in any case exceed the said sum of twenty-five hundred dollars, after deducting the necessary expenses incident to the said office, for and during the same period for which said compensation is allowed, the excess shall, in every such case, be paid into the Treasury of the United States. The fees and emoluments of all kinds to be accounted for as provided by the twelfth section of the act of the seventh of May, eighteen hundred and twenty-two.

SEC. 3. *And be it further enacted*, That the collectors and other officers of customs on the said frontiers shall be authorized to charge and collect the same fees as are now allowed by law to be charged and collected by the collectors and other officers of customs.

SEC. 4. *And be it further enacted*, That all the territory, harbors, and waters on the eastern shore of the State of Wisconsin, bordering on Lake Michigan, heretofore embraced in the district of Michilimackinac, and lying within the limits of the State of Wisconsin, shall be, and the same are hereby, attached to and made part of the collection district of Milwaukee, in the State of Wisconsin.

SEC. 5. *And be it further enacted*, That all bonds given by collectors of customs, naval officers, surveyors, and by all officers of the customs throughout the United States, shall be approved

by the Commissioner of Customs, in whose office they are now required to be filed.

SEC. 6. *And be it further enacted*, That this act shall take effect from and after the thirtieth June, eighteen hundred and sixty-four.

SEC. 7. *And be it further enacted*, That the act entitled "An act to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes," approved second March, eighteen hundred and thirty-one, and all other acts or parts of acts inconsistent with this act be, and the same are hereby, repealed.

APPROVED, June 17, 1864.

CHAP. CXXXI.—An Act to regulate the Veto Power in the Territory of Washington.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every bill which shall have passed the Legislative Assembly of Washington Territory shall, before it become a law, be presented to the Governor. If he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislative Assembly by their adjournment prevent its return, in which case it shall not be a law.

APPROVED, June 17, 1864.

CHAP. CXXXII.—An Act to empower the Superannuated Fund Society of the Maryland Annual Conference to hold Property in the District of Columbia and to take a Devise under the Will of the late William Doughty.

Whereas a certain William Doughty, of Georgetown, in the District of Columbia, by his last will, bearing date on the twenty-ninth day of April, eighteen hundred and fifty-nine, duly admitted to probate, devised and bequeathed certain real and personal property and estate—part thereof to take effect at his death, and the residue at the death or marriage of his widow—to a society incorporated by act of the General Assembly of Maryland, by the name of The Superannuated Fund Society of the Maryland Annual Conference, and called in said will The Superannuated Fund Society of the Methodist Protestant Church for the District of Maryland; and whereas it has been questioned whether the said corporation can lawfully take and hold the said property, in virtue of said last will, without the leave and assent of Congress: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the assent of Congress is hereby given to all and every the aforementioned devises and bequests unto The Superannuated Fund Society of the Maryland Annual Conference aforesaid; and the said society and body corporate is hereby fully authorized and empowered to take and hold the said property and estate devised and bequeathed to it as aforesaid, agreeably to the tenor and provisions of the said last will, and to dispose of and enjoy the same to every intent and effect as if the said society had been originally incorporated by act of Congress.

SEC. 2. *And be it further enacted*, That the said corporation is hereby empowered to hold real and personal property located in the District of Columbia acquired, or that shall be acquired by gift, purchase, devise, or bequest, and the same enjoy, rent, lease, or convey, at pleasure, as freely as any person or body corporate can do: *Provided*, That the net yearly income thereof shall not exceed twenty thousand dollars.

Laws of the United States.

38TH CONG....1ST SESS.

SEC. 3. *And be it further enacted*, That this act shall take effect from the day of its passage.
APPROVED, June 17, 1864.

CHAP. CXXXIII.—An Act to grant the Right of Preemption to certain Settlers on the Rancho Bolsa de Tomales, in the State of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it may and shall be lawful for the Commissioner of the General Land Office to cause the lines of the public surveys to be extended over the tract of country known as the Rancho Bolsa de Tomales, in Marin county, California, the claim to which, by James D. Galbraith, has been adjudged invalid by the Supreme Court of the United States, and to have approved plats thereof duly returned to the proper district land office: *Provided*, That the actual cost of such survey and platting shall first be paid into the surveying fund by settlers, according to the requirements of the tenth section of the act of Congress approved thirtieth of May, eighteen hundred and sixty-two, "to reduce the expenses of the survey and sale of the public lands in the United States."

SEC. 2. *And be it further enacted*, That after the return of such approved plats to the district office, it may and shall be lawful for individuals, settlers upon the said Rancho Bolsa de Tomales, to enter, according to the lines of the public surveys, at one dollar and twenty-five cents per acre, the land settled upon by them to the extent to which the same had been reduced to possession at the time of said adjudication of said Supreme Court, joint entries being admissible by coterminal proprietors, in order that their respective boundaries may be adjusted in accordance with their several possessions.

SEC. 3. *And be it further enacted*, That all claims within the purview of this act shall be presented to the register and receiver within twelve months after the return of such surveys to the district land office, accompanied by proof of settlement, and the extent to which the tracts claimed had been reduced into possession at the time of said adjudication; and thereupon each case shall be adjudged by the register and receiver, under such instructions as shall be given by the Commissioner of the General Land Office, to whom the proof and adjudication shall be returned by the local land office, and no adjudication shall be final until confirmed by the said Commissioner: *Provided*, That the confirmation by said Commissioner shall be conclusive and final between coterminal proprietors, and the correctness thereof shall not be open to contestation in any action at law or suit in equity between them or between parties claiming under them by title subsequent: *And provided further*, That any claim not brought before the register and receiver within twelve months, as aforesaid, shall be barred, and the lands covered thereby, with any other tracts within the limits of said rancho, the titles to which are not established under this act, shall be dealt with as other public lands, but subject to the adjudicated boundaries of the claims which are presented within the limit of the time prescribed as aforesaid: *Provided*, That no person under the provisions of this act shall be allowed to enter a greater quantity of land than three hundred and twenty acres.

APPROVED, June 17, 1864.

CHAP. CXXXIV.—An Act extending the Time for the completion of the Marquette and Ontonagon Railroad, of the State of Michigan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time limited for the completion of the Marquette and Ontonagon railroad, of the State of Michigan, be, and the same is hereby, extended for the term of five years beyond the time fixed for its completion by the act of Congress of June third, A. D. eighteen hundred and fifty-six, entitled "An act making a grant of alternate sections of the public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes." *Provided*, That the State of Michigan shall have the same control over the said grant of lands hereby ex-

tended for five years, for the benefit of said railroad, which was given to said State under said original act of Congress; and said State may prescribe the time within which the several sections of said road shall be completed.

APPROVED, June 18, 1864.

CHAP. CXXXV.—An Act to amend an Act entitled "An Act to enable the People of Colorado to form a Constitution and State Government, and for the Admission of such State into the Union on an equal Footing with the original States."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the fifth section of the act to which this act is an amendment as provides by ordinance for submitting the constitution to the people of said State for their ratification or rejection, at an election to be held on the second Tuesday of October, be so amended as to read, on the second Tuesday in September, and that the election, for the purposes aforesaid, be held on that day, instead of the second Tuesday in October.

APPROVED, June 18, 1864.

CHAP. CXXXVI.—An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the year ending thirtieth June, eighteen hundred and sixty-five, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-five, namely:

For salaries of envoys extraordinary; ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Italy, Chili, Peru, Portugal, Switzerland, Rome, Belgium, Holland, Denmark, Sweden, Turkey, New Grenada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, Japan, and Salvador, three hundred and eight thousand five hundred dollars.

For salaries of secretaries of legation, thirty thousand dollars.

For salaries of assistant secretaries of legation at London and Paris, three thousand dollars.

For salary of the interpreter to the legation to China, five thousand dollars.

For salary of the secretary of legation to Turkey, acting as interpreter, three thousand dollars.

For salary of the interpreter to the legation to Japan, two thousand five hundred dollars.

For contingent expenses of all the missions abroad, sixty thousand dollars.

For contingent expenses of foreign intercourse, eighty thousand dollars.

For expenses of intercourse with the Barbary Powers, three thousand dollars.

For expenses of the consulates in the Turkish dominions, namely, interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, Alexandria, and Beirut, two thousand five hundred dollars.

For the relief and protection of American seamen in foreign countries, two hundred thousand dollars.

For the contribution of the United States to the completion of a new cemetery at Constantinople, to receive the remains of American citizens transferred from an old burial-place, and also as a place for future interments, eighteen hundred dollars.

For expenses which may be incurred in acknowledging the services of the masters and crews of foreign vessels in rescuing citizens of the United States from shipwreck, five thousand dollars.

For the purchase of blank-books, stationery, book-cases, arms of the United States, seals, presses, and flags, and for the payment of postages, and miscellaneous expenses of the consuls of the United States, including loss by exchange, sixty thousand dollars.

For office rent for those consuls general, consuls, and commercial agents who are not allowed to trade, including loss by exchange thereon, fifty thousand dollars.

For salaries of consuls general, consuls, commercial agents, and thirteen consular clerks, namely:

I. CONSULATES GENERAL.

Schedule B.

Alexandria, Calcutta, Constantinople, Frankfurt-on-the-Main, Havana, Montreal, Shanghai; and the consul general at Alexandria shall have the name and title of agent and consul general.

III. CONSULATES.

Schedule B.

Acapulco, Aix-la-Chapelle, Algiers, Amoy, Amsterdam, Antwerp, Aspinwall, Aux Cayes, Bahia, Barcelona, Bankok, Basle, Belfast, Beirut, Bergen, *Burmuda*; [Bermuda.] Bilbao, Buenos Ayres, Bordeaux, Bremen, Bristol, Brindisi, Boulogne, Cadiz, Callao, Candia, Canton, Cardiff, Chin-Kiang, Clifton, Coaticook, Cork, Curaçoa, Demarara, Dundee, Elsinore, Erie, Foo-Choo, Funchal, Galatz, Gaspé Basin, Geneva, Genoa, Gibraltar, Glasgow, Goderich, Gottenburg, Guaymas, Halifax, Hamburg, Havre, Honolulu, Hong-Kong, Jerusalem, Kanagawa, Kingston, Kingston in Canada, La Rochelle, Laguayra, Lahaina, La Paz, La Union, Leeds, Leghorn, Leipsic, Lisbon, Liverpool, London, Lyons, Macao, Malaga, Malta, Manchester, Manzanillo, Maracaibo, Matanzas, Marseilles, Mauritius, Melbourne, Messina, Moscow, Munich, Nagasaki, Nantes, Naples, Nassau, W. I., Newcastle, Nice, Odessa, Oporto, Palermo, Panama, Paramaribo, Paris, Pernambuco, Picton, Ponce, Port Mahon, Prescott, Prince Edward Island, Quebec, Revel, Rio de Janeiro, Rotterdam, San Juan del Sur, San Juan, (Porto Rico,) Santander, Santiago de Cuba, Santos, Port Sarnia, Scio, Singapore, Smyrna, Southampton, Stockholm, St. John, N. F., St. John, N. B., St. Lambert and Longueuil, St. Petersburg, St. Pierre, (Martinique,) St. Thomas, Stuttgart, Swatow, St. Helena, Tabasco, Tampico, Tangier, *Tehuantepec*; [Tehuantepec.] Toronto, Trieste, Trinidad de Cuba, Trinidad, Tripoli, Tunis, Turk's Island, Valparaiso, Valencia, Venice, Vera Cruz, Vienna, Windsor, Zurich.

IV. COMMERCIAL AGENCIES.

Schedule B.

Amoor River, Antigua, Balize, (Honduras,) Gaboon, Madagascar, San Juan del Norte, St. Domingo, St. Marc.

V. CONSULATES.

Schedule C.

Barbadoes, Batavia, Bay of Islands, Cape Haytien, Cape Town, Carthagena, Ceylon, Cobija, Cyprus, Faulkland Islands, Fayal, Guayaquil, Lanthala, Maranhão, Matamoros, Mexico, Montevideo, Omoa, Payta, Para, Paso del Norte, Rio Grande, Sabanailla, St. Catherine, Santa Cruz, W. I., Santiago, (Cape Verde,) Spezzia, Stettin, Tahiti, Talcahuano, Tumbes, Zanzibar.

VI. COMMERCIAL AGENCIES.

Schedule C.

Apia, St. Paul de Loando, including loss by exchange thereon, four hundred and seventy-seven thousand five hundred dollars. And the salaries of the consuls at Brindisi, Gibraltar, St. Helena, Boulogne, Zurich, Clifton, Coaticook, Erie, Goderich, Kingston in Canada, Port Sarnia, Prescott, St. Lambert and Longueuil, Toronto and Windsor, shall be fifteen hundred dollars each; and the salaries of the consuls at Ceylon and Piraeus shall be one thousand dollars each; and the salary of the consul at Chin-Kiang shall be three thousand dollars; and the salary of the consul at Bankok shall be two thousand dollars; and the salary of the commercial agent at Madagascar shall be two thousand dollars; and the salary of the consul at Nassau shall be four thousand dollars, to commence after the close of the present fiscal year, and to continue during the present rebellion; and the salary of the consul at Lyons shall be two thousand dollars, to commence after the close of the present fiscal year; and the salary of the consul at Manchester shall be three thou-

38TH CONG... 1ST SESS.

Laws of the United States.

sand dollars, to commence after the close of the present fiscal year.

For interpreters to the consulates in China, including loss by exchange thereon, five thousand eight hundred dollars.

For expenses incurred, under instructions from the Secretary of State, in bringing home from foreign countries persons charged with crime, and expenses incident thereto, ten thousand dollars.

For salaries of the marshals for the consular courts in Japan, China, Siam, and Turkey, including loss by exchange thereon, nine thousand dollars.

For rent of prisons for American convicts in Japan, China, Siam, and Turkey, and for wages of the keepers of the same, nine thousand dollars.

For salaries of commissioners and consuls general to Hayti and Liberia, eleven thousand five hundred dollars.

For expenses under the act of Congress to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade, seventeen thousand dollars.

SEC. 2. *And be it further enacted*, That the President be, and is hereby, authorized, whenever he shall think the public good will be promoted thereby, to appoint consular clerks, not exceeding thirteen in number at any one time, who shall be citizens of the United States, and over eighteen years of age at the time of their appointment, and shall be entitled to compensation for their services respectively at a rate not exceeding one thousand dollars per annum, to be determined by the President; and to assign such clerks, from time to time, to such consulates and with such duties as he shall direct; and before the appointment of any such clerk shall be made, it shall be satisfactorily shown to the Secretary of State, after due examination and report by an examining board, that the applicant is qualified and fit for the duties to which he shall be assigned; and such report shall be laid before the President. And no clerk so appointed shall be removed from office except for cause stated in writing, which shall be submitted to Congress at the session first following such removal.

SEC. 3. *And be it further enacted*, That the third section of an act entitled "An act making appropriations for the consular and diplomatic expenses of the Government for the year ending the thirtieth of June, eighteen hundred and sixty," approved March third, eighteen hundred and fifty-nine, is hereby repealed. And the fee for certifying invoices to be charged by the consul general for the British North American provinces, and his subordinate consular officers and agents, for goods not exceeding one hundred dollars in value, shall be one dollar, and the same fee shall be charged for certifying the growth or production of goods made duty free by the reciprocity treaty: *Provided, however*, That no such certificate of growth or production shall be required for goods not exceeding in value the sum of two hundred dollars.

SEC. 4. *And be it further enacted*, That the office of commercial agent at Hakodadi, Japan, may, at the discretion of the Secretary of State, be changed to that of consul, to be classed with consuls other than those named in schedule B and C in the act approved August eighteen, eighteen hundred and fifty-six.

APPROVED, June 20, 1864.

CHAP. CXXXVII.—An Act granting Lands to the State of Michigan for the Construction of certain Wagon Roads for Military and Postal Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to the State of Michigan, for the construction of a wagon road for military and postal purposes, from Saginaw City, in said State, by the shortest and most feasible route to the Straits of Mackinaw, every alternate or odd section of public land not mineral, for three miles in width on each side of said road to the extent of three sections to the mile. Also for a road from Grand Rapids, in said State, through Newaygo, Traverse City, and Little Traverse, to the Straits of Mackinaw, every

alternate or odd section of public land, not mineral, for three sections in width on each side of said road to the extent of three sections to the mile. And it is hereby provided that in case it shall appear that the United States shall have (when the lines or routes of said roads are definitely established) sold or reserved any sections or parts of sections, granted as aforesaid, or that the rights of preemption or homestead have attached to the same, so as to leave a deficiency in the amount to be selected within the limits designated, then it shall be the duty of the Secretary of the Interior to select such lands from the odd sections, or parts of sections, nearest to the three-mile limits aforesaid, such quantity as shall be necessary to make up the deficiency thus created: *Provided further*, That the lands hereby granted shall be exclusively reserved, held, and applied in the construction of said roads, and shall be appropriated and disposed of only as the work progresses, in quantities and under such regulations and restrictions as the State shall provide; and in no event shall they be appropriated or disposed of for any other purpose whatsoever.

SEC. 2. *And be it further enacted*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for any public work, or for any other purpose whatsoever, be, and the same are hereby, reserved to the United States from the operation of this act, except so far as it may be necessary to locate the routes of said roads through such reserved lands; in which case the rights of way shall be, and are hereby, granted subject to the approval of the President of the United States.

SEC. 3. *And be it further enacted*, That said roads shall be located, surveyed, and constructed, under the direction of such agents or commissioners as the Governor may appoint, and shall be chopped out a uniform width of at least six rods. The road-bed proper to be not less than thirty-two feet wide, and constructed with ample ditches on both sides, so as to afford sufficient drains, with good and substantial bridges and proper culverts and sluices where necessary. All stumps and roots to be thoroughly grubbed out between the ditches the entire length of said road, the central portion of which to be sufficiently raised to afford a dry road-bed by means of drainage from the center to the side ditches; the hills to be leveled and valleys raised so as to make as easy a grade as practicable.

SEC. 4. *And be it further enacted*, That when the Governor of the State of Michigan shall furnish the Secretary of the Interior with maps and charts showing the definite location of the line of each of said roads, it shall be his duty to have the land granted to each of said roads withheld from market, and reserved exclusively for the purposes aforesaid. And when the said Governor shall certify to the Secretary of the Interior that any ten consecutive miles of either of said roads have been completed under the provisions of this act, and in accordance with the third section thereof, stating definitely where said completed section of road commences and where it terminates, it shall be the duty of the said Secretary to cause patents to issue to said State for three sections of land for each mile of road thus completed, as aforesaid, and so on until the whole of said roads is completed: *Provided*, That no patents shall be given for any of the aforesaid lands before the completion of ten consecutive miles of road, or for any road, or for any part of any road, made before the passage of this act, or for any greater quantity than thirty sections for each ten miles completed according to the provisions of this act. Nothing in this proviso, however, shall be construed so as to prevent the application of so much of the said three sections per mile as may be necessary to finish any part of said roads partly made before the passage of this act.

SEC. 5. *And be it further enacted*, That this grant is made upon the express conditions that the roads shall be and remain public highways, free from all toll and other charges; and that if any portion of said roads shall remain uncompleted for a period of more than five years from the approval of this act by the President, the lands granted for such portion shall revert to the United States.

APPROVED, June 20, 1864.

CHAP. CXXXVIII.—An Act to amend an Act entitled "An Act to provide for the Payment of the Claims of Peruvian Citizens, under the Convention between the United States and Peru of the twelfth of January, eighteen hundred and sixty-three," approved June first, eighteen hundred and sixty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to provide for the payment of the claims of Peruvian citizens, under the convention between the United States and Peru, of the twelfth of January, eighteen hundred and sixty-three, approved June first, eighteen hundred and sixty-four," be amended as follows: after the word January strike out the word last, and insert in lieu thereof the words eighteen hundred and sixty-three, and said law be, and is hereby, further amended so as to authorize the Secretary of State to pay to each of the persons mentioned in said act the interest that may be found due in accordance with the terms of the settlement of said claims, and the sum necessary for such payment is hereby appropriated out of any money in the Treasury not otherwise appropriated.

APPROVED, June 20, 1864.

CHAP. CXXXIX.—An Act requiring Proof of Payment of Duties on foreign Salt before Payment of the Allowances provided for by the Acts of July twenty-ninth, eighteen hundred and thirteen, and March third, eighteen hundred and nineteen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the allowance of bounty to certain vessels employed in the Bank and other cod fisheries, as provided for in the act of July twenty-ninth, eighteen hundred and thirteen, entitled "An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries," and the act of March third, eighteen hundred and nineteen, amendatory thereof, shall not hereafter be paid to any such vessel until satisfactory proof shall have been furnished to the collector of customs charged with the payment of such bounty, that the import duty imposed by law on foreign salt imported into the United States has been duly paid on all foreign salt used in curing the fish on which the claim to the allowance of bounty is based.

APPROVED, June 20, 1864.

CHAP. CXL.—An Act to authorize the Secretary of the Treasury to sell the Marine Hospital and Grounds at Chicago, Illinois, and to purchase a new Site and build a new Hospital.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized, in his discretion, to sell the marine hospital and grounds at Chicago, Illinois, the sale to be made at public auction to the highest and best bidder therefor, in ready money, after giving notice thereof six weeks in succession in two daily papers printed in the city of Chicago. And upon sale being made, as aforesaid, the said Secretary of the Treasury is hereby authorized and empowered to make, execute, and deliver to the purchaser thereof a good and sufficient deed for the premises, conveying all the right, title, and interest of the United States.

SEC. 2. *And be it further enacted*, That out of the proceeds of the said sale the Secretary of the Treasury is hereby directed to purchase a new and more eligible site for a marine hospital in or near Chicago, and erect a new hospital thereon, which site and building shall in no event cost more than the amount received from the sale of the hospital and grounds which are hereby authorized to be sold; and it is hereby provided that the possession of the said hospital and grounds shall be retained by the United States until the new hospital to be built under the provisions of this act shall be fully completed and ready for use.

APPROVED, June 20, 1864.

Laws of the United States.

38TH CONG.... 1ST SESS.

CHAP. CXLI.—An Act to amend an Act entitled "An Act to provide a Temporary Government for the Territory of Idaho," approved March third, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Governor of the Territory of Idaho be, and he is hereby, authorized to reappoint said Territory for the election of members of the Council and House of Representatives of the Legislative Assembly: *Provided,* That said apportionment shall be based on an enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory, to be taken by such persons and in such mode as the Governor shall designate and appoint, and the persons so appointed shall receive a reasonable compensation therefor, to be paid out of the territorial treasury: *Provided further,* That this act shall not be construed to divest any member of the Council elected at the first election in said Territory, of any rights he may have acquired by virtue of said election, who was elected from any county or district within the present limits of the Territory of Idaho.

SEC. 2. *And be it further enacted,* That the annual election in said Territory for the election of all officers provided for by the laws of said Territory, for the year eighteen hundred and sixty-four, shall be held at such places as is now provided by law, and such other places as the Governor may direct, on the second Monday of October.

APPROVED, June 20, 1864.

CHAP. CXLII.—An Act to confirm certain Entries of Land in the State of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all entries heretofore made under the graduation act of August fourth, eighteen hundred and fifty-four, in township forty-five north, of range nine west, south of Missouri river, in the district of land subject to sale at St. Louis, Missouri, shall be, and are hereby, confirmed: *Provided, however,* That this act shall not extend to any entry of land aforesaid upon which there was an actual settler other than the purchaser at the date of such entry, and that it shall first be shown to the satisfaction of the Secretary of the Interior that the entry has been made in good faith, and is founded upon actual settlement and cultivation, or is for the use of an adjoining farm: *Provided further,* That the lands shall be paid for in money, or in land warrants, to the amount of one dollar and twenty-five cents per acre.

APPROVED, June 20, 1864.

CHAP. CXLIII.—An Act to detach the Counties of Calhoun and Branch from the Western Judicial District, and annex the same to the Eastern District of the State of Michigan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the counties of Calhoun and Branch, in the State of Michigan, be, and the same are hereby, detached from the western judicial district and annexed to and made a part of the eastern judicial district of said State.

SEC. 2. *And be it further enacted,* That this act shall not in any manner affect any suit or proceeding now pending in the courts in the western judicial district of the State of Michigan, but the same shall be proceeded in and determined in said courts in the same manner as if this act had not been passed.

APPROVED, June 20, 1864.

CHAP. CXLIV.—An Act concerning Lands in the State of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under the patent of the United States, issued on the 28th day of February, 1861, to Joseph S. Alemany, as the bishop of Monterey, and his successors, for the tract of land or rancho known as Canada de los Pinos, or College Rancho, situate in the county of Santa Barbara, State of California, as described in such patent, to have and to hold the same to him and

them "in trust for the religious purposes and uses" therein mentioned, it shall be lawful for the said Joseph S. Alemany and his successors, as the grantees of said patent, to sell the said tract or rancho, or any part thereof, and all proper conveyances in that behalf to make and deliver, and the proceeds thereof to apply, under the direction of the Roman Catholic archbishop of San Francisco, in the State of California, and his successors in office, or other proper authority of the Roman Catholic church in said State, for the purposes of education anywhere within said State, not inconsistent with the laws thereof; anything in such patent, or in the original grant or concession of said tract or rancho, or other title whereby the same was acquired from and under the authorities of Spain or Mexico, to the contrary notwithstanding; and all trusts conditions, provisions, or covenants, precedent or subsequent, expressed or implied, in said patent, grant, concession, or title, to the contrary hereof, and all breaches of the same, are hereby wholly waived, abrogated, discharged, dispensed with, and released on the part of the United States, for the purposes of this act; and any conveyance or disposition made in pursuance thereof shall operate to pass all the right and interest of the United States in said lands to the grantee.

APPROVED, June 20, 1864.

CHAP. CXLV.—An Act to increase the Pay of Soldiers in the United States Army, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the first day of May, eighteen hundred and sixty-four, and during the continuance of the present rebellion, the pay per month of non-commissioned officers and privates in the military service of the United States shall be as follows, viz: Sergeant majors, twenty-six dollars; quartermasters and commissary sergeants of cavalry, artillery, and infantry, twenty-two dollars; first sergeants of cavalry, artillery, and infantry, twenty-four dollars; sergeants of cavalry, artillery, and infantry, twenty dollars; sergeants of ordnance, sappers and miners, and pontoniers, thirty-four dollars; corporals of ordnance, sappers and miners, and pontoniers, twenty dollars; privates of engineers and ordnance, of the first class, eighteen dollars, and of the second class, sixteen dollars; corporals of cavalry, artillery, and infantry, eighteen dollars; chief buglers of cavalry, twenty-three dollars; buglers, sixteen dollars; farriers and blacksmiths of cavalry, and artificers of artillery, eighteen dollars; privates of cavalry, artillery, and infantry, sixteen dollars; principal musicians of artillery and infantry, twenty-two dollars; leaders of brigade and regimental bands, seventy-five dollars; musicians, sixteen dollars; hospital stewards of the first class, thirty-three dollars; hospital stewards of the second class, twenty-five dollars; hospital stewards of the third class, twenty-three dollars.

SEC. 2. *And be it further enacted,* That the Army ration shall hereafter be the same as provided by law and regulations on the first day of July, eighteen hundred and sixty-one: *Provided,* That the ration of pepper prescribed in the eleventh section of the act to promote the efficiency of the corps of engineers, and of the ordnance department, and for other purposes, approved March three, eighteen hundred and sixty-three, shall continue to be furnished as heretofore. But nothing contained in this act shall be construed to alter the commutation value of rations as regulated by existing laws.

SEC. 3. *And be it further enacted,* That all non-commissioned officers and privates in the regular Army, serving under enlistments made prior to July twenty-second, eighteen hundred and sixty-one, shall have the privilege of reenlisting for the term of three years in their respective organizations until the first day of August next; and all such non-commissioned officers and privates so reenlisting shall be entitled to the bounties mentioned in the joint resolution of Congress approved January thirteen, eighteen hundred and sixty-four.

SEC. 4. *And be it further enacted,* That there be added to the battalion of engineers one sergeant

major, who shall be paid thirty-six dollars per month, and one quartermaster sergeant, who shall also be commissary sergeant, who shall be paid twenty-two dollars per month.

SEC. 5. *And be it further enacted,* That there shall be attached to, and made a part of, the War Department, during the continuance of the present rebellion, a bureau to be known as the Bureau of Military Justice, to which shall be returned for revision the records and proceedings of all the courts-martial, courts of inquiry, and military commissions of the armies of the United States, and in which a record shall be kept of all proceedings had thereupon.

SEC. 6. *And be it further enacted,* That the President shall appoint, by and with the advice and consent of the Senate, as the head of said bureau, a Judge Advocate General, with the rank, pay, and allowances of a brigadier general, and an Assistant Judge Advocate General, with the rank, pay, and allowances of a colonel of cavalry. And the said Judge Advocate General and his Assistant shall receive, revise, and have recorded the proceedings of the courts-martial, courts of inquiry, and military commissions of the armies of the United States, and perform such other duties as have heretofore been performed by the Judge Advocate General of the armies of the United States.

SEC. 7. *And be it further enacted,* That the Secretary of War shall have power to appoint for said bureau one fourth-class, one third-class, one second-class, and two first-class clerks.

SEC. 8. *And be it further enacted,* That in all cases where the Government shall furnish transportation and subsistence to discharged officers and soldiers from the place of their discharge to the place of their enrollment or original muster into the service, they shall not be entitled to travel, pay, or commutation of subsistence.

SEC. 9. *And be it further enacted,* That so much of the fifth section of the act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting the public property," approved July twenty-second, one thousand eight hundred and sixty-one, as provides that each company officer, non-commissioned officer, private, musician, and artificer of cavalry, shall furnish his own horse and horse equipments, and shall receive forty cents per day for their use and risk, is hereby repealed, except only so far as the same may hereafter be made to apply and relate to mounted troops called into the service of the United States for a term not exceeding six months.

SEC. 10. *And be it further enacted,* That from and after the passage of this act the pay of clerks of paymasters in the Army of the United States, shall be twelve hundred dollars per annum, without rations.

SEC. 11. *And be it further enacted,* That the thirty-first section of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March third, one thousand eight hundred and sixty-three, be, and the same is hereby, so amended as that an officer may have, when allowed by order of his proper commander, leave of absence for other cause than sickness or wounds, without deduction from his pay or allowances: *Provided,* That the aggregate of such absence shall not exceed thirty days in any one year.

SEC. 12. *And be it further enacted,* That all laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

APPROVED, June 20, 1864.

CHAP. CXLVII.—An Act making Appropriations for the Legislative, Executive, and Judicial Expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-five, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-five, namely:

LEGISLATIVE.

For compensation and mileage of Senators, two

38TH CONG....1ST SESS.

Laws of the United States.

hundred and forty-seven thousand four hundred and thirty dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, viz: Secretary of the Senate, three thousand six hundred dollars; officer charged with disbursements of the Senate, four hundred and eighty dollars; chief clerk, two thousand five hundred dollars; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at two thousand one hundred and sixty dollars each; eight clerks in office of the Secretary of the Senate, at one thousand eight hundred and fifty dollars each; keeper of the stationery, one thousand seven hundred and fifty-two dollars; two messengers, at one thousand and eighty dollars each; one page, at five hundred dollars; Sergeant-at-Arms and Doorkeeper, two thousand dollars; assistant doorkeeper, one thousand seven hundred dollars; Postmaster to the Senate, one thousand seven hundred and fifty dollars; assistant postmaster and mail-carrier, one thousand four hundred and forty dollars; two mail-boys, at nine hundred dollars each; superintendent of the document room, one thousand five hundred dollars; two assistants in document room, at one thousand two hundred dollars each; superintendent of the folding-room, one thousand five hundred dollars; two messengers acting as assistant doorkeepers, at one thousand five hundred dollars each; seventeen messengers, at one thousand two hundred dollars each; clerk or secretary to the President of the Senate, one thousand seven hundred and fifty-two dollars; clerk to the Committee on Finance, one thousand eight hundred and fifty dollars; clerk to the Committee on Claims, one thousand eight hundred and fifty dollars; clerk of printing records, one thousand eight hundred and fifty dollars; superintendent in charge of the furnaces, one thousand two hundred dollars; assistant in charge of furnaces, six hundred dollars; laborer in charge of private passages, six hundred dollars; two laborers at six hundred dollars each; Chaplain to the Senate, seven hundred and fifty dollars; captain of the Capitol police, eight hundred and seventy dollars; Capitol police, eleven thousand eight hundred and eighty dollars; one policeman, four hundred and eighty dollars, making ninety-two thousand four hundred and eighty-four dollars.

For contingent expenses of the Senate, viz:
For stationery, twenty-two thousand dollars.
For newspapers, three thousand dollars.

For Congressional Globe, twenty thousand dollars.

For reporting proceedings in the Daily Globe for the second session of the Thirty-Eighth Congress, twelve thousand dollars.

For the usual additional compensation to the reporters of the Senate for the Congressional Globe for reporting the proceedings of the Senate for the second regular session of the Thirty-Eighth Congress, eight hundred dollars each, four thousand dollars.

For clerks to committees, pages, horses, and carriages, eighteen thousand dollars.

For expenses of heating and ventilating apparatus, sixteen thousand dollars.

For miscellaneous items, thirty-five thousand dollars.

For compensation and mileage of Members of the House of Representatives and Delegates from Territories, nine hundred and ninety thousand eight hundred and sixty dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, viz: Clerk of the House of Representatives, three thousand six hundred dollars; chief clerk and one assistant clerk, at two thousand one hundred and sixty dollars each; eleven clerks, at one thousand eight hundred dollars each; principal messenger in the office, at four dollars and eighty cents per day, one thousand seven hundred and fifty-two dollars; three messengers, at one thousand two hundred dollars each; messenger to the Speaker, at four dollars and eighty cents per day, one thousand seven hundred and fifty-two dollars; clerk to the Committee of Ways and Means, one thousand eight hundred dollars; clerk to the Committee of Claims, one thousand eight hundred dollars; clerk to Committee on Public Lands, one

thousand eight hundred dollars; Sergeant-at-Arms, two thousand one hundred and sixty dollars; clerk to the Sergeant-at-Arms, one thousand eight hundred dollars; messenger to the Sergeant-at-Arms, one thousand two hundred dollars; Postmaster, two thousand one hundred and sixty dollars; assistant postmaster, one thousand seven hundred and forty dollars; four messengers, at one thousand four hundred and forty dollars each; two mail-boys, at nine hundred dollars each; captain of the Capitol police, eight hundred and seventy dollars; Capitol police, eleven thousand eight hundred and eighty dollars; one policeman, four hundred and eighty dollars; Doorkeeper, two thousand one hundred and sixty dollars; superintendent of the folding-room, one thousand eight hundred dollars; two messengers, at one thousand seven hundred and fifty-two dollars each; one messenger, at one thousand seven hundred and forty dollars; five messengers, at one thousand five hundred dollars each; six messengers, at one thousand two hundred dollars each; twelve messengers, to be employed during the session of Congress, at the rate of one thousand two hundred dollars per annum; Chaplain to the House of Representatives, seven hundred and fifty dollars; making ninety-eight thousand three hundred and twenty-eight dollars.

For contingent expenses of the House of Representatives, viz:

For cartage, two thousand dollars.

For twenty-four copies of the Congressional Globe and Appendix for each Member and Delegate of the second regular session of the Thirty-Eighth Congress, and one hundred copies of the same for the House Library, twenty thousand dollars.

For the compensation of clerks to committees, and temporary clerks in the office of the Clerk of the House of Representatives, fifteen thousand and seventy-two dollars.

For folding documents, including materials, thirty thousand dollars.

For fuel and lights, pay of engineers, firemen, and laborers, repairs, and materials, twelve thousand dollars.

For furniture, repairs, and packing-boxes for members, twelve thousand dollars.

For horses, carriages, and saddle-horses, seven thousand five hundred dollars.

For laborers, seven thousand dollars.

For miscellaneous items, forty thousand dollars.

For newspapers, twelve thousand five hundred dollars.

For pages and temporary mail-boys, five thousand dollars.

For reporting and publishing proceedings in the Daily Globe, at seven dollars and fifty cents per column, eight thousand dollars.

For stationery, fifteen thousand dollars.

For the usual additional compensation to the reporters of the House for the Congressional Globe for reporting the proceedings of the House for the second regular session of the Thirty-Eighth Congress, eight hundred dollars each, four thousand dollars.

PUBLIC PRINTING.

For compensation of the Superintendent of Public Printing, and the clerks and messengers in his office, nine thousand seven hundred and fourteen dollars and sixty cents.

For contingent expenses of his office, viz: For stationery, postage, advertising, furniture, traveling expenses, horses and wagons, and miscellaneous items, two thousand dollars.

For public printing, including the post office blanks, two hundred and thirty-nine thousand one hundred and eighty-seven dollars.

For paper for the public printing, four hundred and sixty-five thousand one hundred and seventy-eight dollars.

For the public binding, including the Congressional Globe, two hundred and fifty-two thousand two hundred and seven dollars.

For lithographing and engraving for the Senate and House of Representatives, fifty thousand dollars.

For mapping in cases pending in the Supreme Court of the United States, five thousand dollars.

LIBRARY OF CONGRESS.

For compensation of Librarian, three assistant

librarians, messenger, and three laborers, ten thousand five hundred dollars.

For contingent expenses of said Library, two thousand dollars.

For purchase of books for said Library, five thousand dollars.

For purchase of law books for said Library, two thousand dollars.

To enable the Joint Library Committee to purchase a complete file of selections from European periodicals from eighteen hundred and sixty-one to eighteen hundred and sixty-four, relating to the rebellion in the United States, to be deposited in the Library, four thousand dollars: *Provided*, That no part of said sum shall be expended until the entire collection, and an index thereto, is completed and approved by said committee.

COURT OF CLAIMS.

For salaries of five judges of the Court of Claims, the solicitor, assistant solicitor, deputy solicitor, clerk and assistant clerk, bailiff, and messenger thereof, thirty-six thousand three hundred dollars.

For stationery, books, fuel, lights, laborers' hire, and other contingent and miscellaneous expenses, three thousand dollars.

For compensation of attorneys to attend to taking testimony, witnesses, and commissioners, one thousand dollars.

For payments of judgments to be rendered by Court of Claims, previous to the thirtieth of June, eighteen hundred and sixty-five, three hundred thousand dollars.

EXECUTIVE.

For compensation of the President of the United States, twenty-five thousand dollars.

For compensation of the Vice President of the United States, eight thousand dollars.

For compensation of secretary to sign patents for public lands, one thousand five hundred dollars.

For compensation to the private secretary, steward, and messenger of the President of the United States, four thousand six hundred dollars.

For contingent expenses of the executive office, including stationery therefor, two thousand dollars.

DEPARTMENT OF STATE.

For compensation of the Secretary of State and Assistant Secretary of State, chief clerk, superintendent of statistics, clerks, messenger, assistant messenger, and laborers in his office, fifty-seven thousand eight hundred dollars.

For the Incidental and Contingent Expenses of the Department of State.

For publishing the laws in pamphlet form and in newspapers of the States and Territories, and in the city of Washington, seventeen thousand one hundred and twenty-five dollars.

For proof-reading, and packing the laws and documents for the various legations and consulates, including boxes and transportation of the same, three thousand dollars.

For stationery, furniture, fixtures, and repairs, nine thousand dollars.

For miscellaneous items, two thousand five hundred dollars.

For copperplate printing, books, and maps, five thousand dollars.

For extra clerk hire and copying, ten thousand dollars.

Northeast Executive Building.

For compensation of four watchmen and two laborers of the Northeast Executive Building, three thousand six hundred dollars.

For contingent expenses of said building, viz: for fuel, light, repairs, and miscellaneous expenses, five thousand five hundred dollars.

TREASURY DEPARTMENT.

For compensation of the Secretary of the Treasury, two Assistant Secretaries of the Treasury, chief clerk, clerks, superintending architect, at a salary of three thousand dollars, assistant architect, at a salary of two thousand dollars, messengers, assistant messenger, and laborers, one hundred and sixteen thousand four hundred dollars.

For compensation of the First Comptroller, chief clerk, and the clerks, messenger, and laborers in his office, forty-three thousand three hundred and forty dollars.

Laws of the United States.

38TH CONG.... 1ST SESS.

For compensation of the Second Comptroller, chief clerk, and the clerks, messenger, assistant messenger, and laborer in his office, one hundred and seven thousand one hundred and forty dollars.

For compensation of the First Auditor, chief clerk, and the clerks, messenger, assistant messenger, and laborer in his office, forty-seven thousand nine hundred and forty dollars.

For compensation of the Second Auditor, chief clerk, and the clerks, messenger, assistant messengers, and laborers in his office, three hundred and thirty-seven thousand three hundred and forty dollars.

For compensation of the Third Auditor, chief clerk, and the clerks, messengers, assistant messengers, and laborers in his office, two hundred thousand one hundred and forty dollars.

For compensation of the Fourth Auditor, chief clerk, and the clerks, messenger, and assistant messenger, and laborer in his office, one hundred and ten thousand five hundred and forty dollars.

For compensation of the Fifth Auditor, chief clerk, and the clerks, messenger, and laborer in his office, forty-seven thousand eight hundred and forty dollars.

For compensation of the Auditor of the Treasury for the Post Office Department, and the clerks, messenger, assistant messenger, and laborers in his office, one hundred and eighty-two thousand seven hundred and forty dollars.

For compensation of the Treasurer of the United States, Assistant Treasurer, cashier, assistant cashier, chiefs of divisions, chief clerk, and the officers, clerks, messengers, employes, assistant messengers, and laborers in his office, one hundred and seventy thousand three hundred and forty dollars.

For compensation of the Register of the Treasury, Assistant Register, chief clerk, and the clerks, messengers, assistant messenger, and laborers in his office, ninety thousand eight hundred and forty dollars.

For compensation of the Solicitor of the Treasury, chief clerk, and the clerks and messenger in his office, eighteen thousand three hundred and forty dollars.

For compensation of the Commissioner of Customs, chief clerk, and the clerks, messenger, and laborer in his office, twenty-eight thousand nine hundred and ninety-three dollars and eighty-nine cents.

For compensation of the chief clerk, clerks, messenger, and laborer of the Light-House Board, nine thousand two hundred and forty dollars.

For compensation of the Comptroller of the Currency, Deputy Comptroller, clerks, messenger, and laborer, forty-three thousand two hundred and forty dollars.

Contingent Expenses of the Treasury Department.

In the office of the Secretary of the Treasury: For copying, labor, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, thirty thousand dollars.

For compensation of temporary clerks in the Treasury Department: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized in his discretion, to classify the clerks authorized according to the character of their services, or assign to such of them as he shall see fit any compensation not exceeding that of clerks of the first class, one hundred thousand dollars.

In the office of the First Comptroller:

For furniture, stationery, public documents, State and Territorial statutes, and miscellaneous items, one thousand five hundred dollars.

In the office of the Second Comptroller:

For stationery and miscellaneous items, including subscription to one city newspaper, to be bound and preserved for the use of the office, one thousand five hundred dollars.

In the office of the First Auditor:

For stationery and miscellaneous items, one thousand three hundred dollars.

In the office of the Second Auditor:

For stationery, office furniture, and miscellaneous items, including two of the city newspa-

pers, to be filed and preserved for the use of the office, and for additional office furniture and stationery, fifteen thousand dollars.

In the office of the Third Auditor:

For stationery, office furniture, carpeting, two newspapers, preserving files and papers, bounty-land service, and miscellaneous items, four thousand dollars.

In the office of the Fourth Auditor:

For contingent expenses of the office, one thousand five hundred dollars.

In the office of the Fifth Auditor:

For stationery, postage, and miscellaneous expenses, in which are included two daily newspapers, one thousand five hundred dollars.

In the office of the Auditor of the Treasury for the Post Office Department:

For furniture, carpeting, stationery, labor, light, ice, and miscellaneous items, three thousand dollars.

In the office of the Treasurer:

For contingent expenses of the office, and to meet increase of expenditures mainly consequent upon the increase of business and the completion of new rooms, five thousand dollars.

In the office of the Register:

For stationery, arranging and binding canceled marine papers, cases for official papers and records, and miscellaneous items, including office furniture, six thousand dollars.

Office of the Solicitor of the Treasury:

For stationery, labor, and miscellaneous items, and for statutes and reports, two thousand dollars.

Office of the Commissioner of Customs:

For stationery, miscellaneous items, and office furniture, one thousand dollars.

Light-House Board:

For stationery, miscellaneous expenses, and postage, six hundred dollars.

Office of the Comptroller of the Currency:

For stationery, furniture, and miscellaneous items, six thousand dollars.

For the general purposes of the Southeast Executive Building, including the Extension.

For compensation of twelve watchmen and eleven laborers of the Southeast Executive Building, thirteen thousand eight hundred dollars.

For contingent expenses of said building, viz: for fuel, light, labor, and miscellaneous items, fifty-six thousand eight hundred and ten dollars.

DEPARTMENT OF THE INTERIOR.

For compensation of the Secretary of the Interior, Assistant Secretary, chief clerk, and the clerks, messenger, assistant messengers, watchmen, and laborers in his office, forty-five thousand nine hundred dollars.

For compensation of the Commissioner of the General Land Office, chief clerk, recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, watchmen, and laborers in his office, one hundred and seventy-five thousand four hundred and forty dollars.

For compensation of additional clerks in the General Land Office, under the act of third March, one thousand eight hundred and fifty-five, granting bounty land, and for laborers employed therein, fifty-eight thousand four hundred dollars: *Provided*, That the Secretary of the Interior, at his discretion, shall be, and he is hereby, authorized to use any portion of said appropriation for piece-work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of twelve hundred dollars per annum.

For compensation of the Commissioner of Indian Affairs, chief clerk, and the clerks, messenger, assistant messenger, watchmen, and laborer in his office, thirty-one thousand nine hundred and forty dollars.

For compensation of the Commissioner of Pensions, chief clerk, and the clerks, messengers, assistant messengers, watchman, and laborers in his office, two hundred and fifteen thousand three hundred and forty dollars.

For additional clerks in the Pension Bureau, during the remainder of the present fiscal year

and the fiscal year ending the thirtieth day of June, eighteen hundred and sixty-five, the sum of twenty-one thousand dollars: *Provided*, That the Secretary of the Interior, at his discretion, shall be, and is hereby, authorized to use any portion of said appropriation for piece-work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of twelve hundred dollars per annum.

For salary and traveling expenses of a special agent, two thousand five hundred dollars.

For compensation of the Commissioner of Public Buildings and the clerk and messenger in his office, four thousand two hundred dollars.

Contingent Expenses—Department of the Interior.

Office of the Secretary of the Interior:

For stationery, furniture, fuel, lights, and other contingencies, and for books and maps for the library, seven thousand dollars.

For casual repairs of the Patent Office building, three thousand dollars.

For expenses of packing and distributing congressional journals and documents, in pursuance of the provisions contained in the joint resolution of Congress, approved twenty-eighth January, eighteen hundred and fifty-seven, and act fifth February, eighteen hundred and fifty-nine, six thousand dollars.

For fuel and lights for the Patent Office building, fourteen thousand dollars.

Office of Indian Affairs:

For stationery, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, four thousand dollars.

Office of the Commissioner of Pensions:

For stationery, engraving and retouching plates for bounty land warrants, and binding the same, office furniture, and repairing the same, and miscellaneous items, including two city daily newspapers, to be filed, bound, and preserved for the use of the office, twelve thousand dollars.

Office of the Commissioner of Public Buildings:

For stationery, plans, drawings, and other contingent expenses of his office, five hundred dollars.

Surveyors General and their Clerks.

For compensation of the surveyor general of Wisconsin and Iowa, and the clerks in his office, seven thousand six hundred and twenty-one dollars.

For compensation of the surveyor general of Oregon, and the clerks in his office, eight thousand eight hundred dollars.

For compensation of the surveyor general of California and Nevada, and the clerks in his office, fifteen thousand five hundred dollars.

For compensation of the surveyor general of Washington Territory, and the clerks in his office, eight thousand eight hundred dollars.

For compensation of the surveyor general of New Mexico, and the clerks in his office, four thousand dollars.

For compensation of translator in the office of the surveyor general of New Mexico, five hundred dollars.

For compensation of the surveyor general of Kansas and Nebraska, and the clerks in his office, ten thousand dollars.

For compensation of the surveyor general of Minnesota, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of the Territories of Colorado and Utah, and the clerks in his office, seven thousand dollars.

For compensation of the surveyor general of the Territory of Dakota, and the clerks in his office, six thousand dollars.

For compensation of the surveyor general of the Territory of Arizona, and the clerks in his office, seven thousand dollars.

For compensation of the surveyor general of the Territory of Idaho, and the clerks in his office, six thousand five hundred dollars.

For compensation of recorder of land titles in Missouri, five hundred dollars.

For compensation of clerks in the offices of the surveyors general, to be apportioned to them according to the exigencies of the public service, and

Laws of the United States.

38TH CONG.... 1ST SESS.

to be employed in transcribing field-notes of surveyors, for the purpose of preserving them at the seat of Government, ten thousand dollars.

For rent of surveyor general's office in Oregon, fuel, books, stationery, and other incidental expenses, including pay of messenger, five hundred dollars.

For rent of surveyor general's office in California, fuel, books, stationery, and other incidental expenses, including pay of messenger, six thousand dollars.

For office rent for the surveyor general of Washington Territory, fuel, books, stationery, and other incidental expenses, one thousand six hundred dollars.

For office rent of the surveyor general of Kansas and Nebraska, fuel, and incidental expenses, one thousand five hundred dollars.

For rent of surveyor general's office in the Territory of Dakota, fuel, books, stationery, and other incidental expenses, five hundred dollars.

For rent of surveyor general's office in the Territory of Arizona, fuel, books, stationery, and other incidental expenses, three thousand dollars.

For rent of surveyor general's office in the Territory of Idaho, fuel, books, stationery, and other incidental expenses, three thousand dollars.

Expenses of Courts of the United States.

For defraying the expenses of the Supreme, circuit, and district courts of the United States, including the District of Columbia; also, for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures incurred in the fiscal year ending June thirtieth, eighteen hundred and sixty-five, and previous years; and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, five hundred thousand dollars.

WAR DEPARTMENT.

For compensation of the Secretary of War, Assistant Secretaries of War, Solicitor, chief clerk, and the clerks, messengers, assistant messengers, and laborer in his office, sixty-six thousand three hundred and eighty dollars.

For compensation of the clerks and messengers in the office of the Adjutant General, two hundred and twenty-three thousand nine hundred and twenty dollars.

For compensation of the clerks, messengers, assistant messengers, and laborers, in the office of the Quartermaster General, three hundred and ninety thousand one hundred and sixty dollars.

For compensation of the clerks and messengers in the office of the Paymaster General, two hundred and fifty-five thousand two hundred dollars.

For compensation of the clerks, messenger, and laborers in the office of the Commissary General, eighty-five thousand six hundred and forty dollars.

For compensation of the clerks, messenger, and laborer in the office of the Surgeon General, forty-three thousand eight hundred and forty dollars.

For compensation of the clerks, messengers, and laborer in the office of the Chief Engineer, twenty-eight thousand eight hundred and eighty dollars.

For compensation of the clerks and messengers in the office of the Colonel of Ordnance, one hundred and seventy-two thousand and forty dollars.

Contingent Expenses of the War Department.

Office of the Secretary of War:

For stationery, labor, books, maps, extra clerk hire, and miscellaneous items, twenty thousand dollars.

Office of the Adjutant General:

For stationery and miscellaneous items, fifteen thousand dollars.

Office of the Quartermaster General:

For stationery and miscellaneous items, fifteen thousand dollars.

Office of the Paymaster General:

For stationery and miscellaneous items, six thousand dollars.

Office of the Commissary General:

For stationery, rent of office and hire of watch-

men, and miscellaneous items, fifteen thousand dollars.

Office of the Chief Engineer:

For stationery and miscellaneous items, three thousand five hundred dollars.

Office of the Surgeon General:

For stationery and miscellaneous items, including rent of office, ten thousand dollars.

Office of the Colonel of Ordnance:

For stationery and miscellaneous items, seven thousand five hundred dollars.

For the general purposes of the Northwest Executive Building.

For compensation of superintendent, four watchmen, and two laborers of the Northwest Executive Building, three thousand eight hundred and fifty dollars.

For labor, fuel, light, and miscellaneous items, twenty thousand dollars.

For the general purposes of the Building corner of F and Seventeenth streets.

For compensation of superintendent, four watchmen, and two laborers for said building, three thousand eight hundred and fifty dollars.

For fuel, compensation of firemen, and miscellaneous items, six thousand dollars.

For the general purposes of the Building corner of F and Fifteenth streets.

For superintendent, watchmen, rent, fuel, lights, and miscellaneous items, fifteen thousand dollars.

NAVY DEPARTMENT.

For compensation of the Secretary of the Navy, Assistant Secretary of the Navy, chief clerk, and the clerks, messenger, assistant messenger, and laborers in his office, forty-seven thousand four hundred dollars.

For compensation of the chief of the Bureau of Navy-Yards and Docks, and the civil engineer, chief clerk, clerks, messenger, and laborers in his office, nineteen thousand two hundred and forty dollars.

For compensation of the chief of the Bureau of Equipment and Recruiting, chief clerk, and the clerks, messenger, and laborer in his office, ten thousand seven hundred and forty dollars.

For compensation of the chief of the Bureau of Navigation, chief clerk, and the clerks, messenger, and laborer in his office, nine thousand eight hundred and forty dollars.

For compensation of the chief of the Bureau of Ordnance, and the assistant, chief clerk, clerks, draughtsman, messenger, and laborers in his office, seventeen thousand two hundred and twenty dollars.

For compensation of the chief of the Bureau of Construction and Repair, chief clerk, and the clerks, draughtsman, messenger, and laborer in his office, sixteen thousand three hundred and forty dollars.

For compensation of the chief of the Bureau of Steam Engineering, chief clerk, and the clerks, draughtsman, messenger, and laborer in his office, ten thousand seven hundred and forty dollars.

For compensation of the chief of the Bureau of Provisions and Clothing, chief clerk, and the clerks, messenger, and laborer, eighteen thousand seven hundred and forty dollars.

For compensation of the chief of the Bureau of Medicine and Surgery, assistant, and the clerks, messenger, and laborer in his office, ten thousand five hundred and forty dollars.

Contingent Expenses of the Navy Department.

Office Secretary of the Navy:

For stationery, labor, newspapers, periodicals, and miscellaneous items, three thousand four hundred and forty dollars.

Bureau of Yards and Docks:

For stationery, plans, drawings, and incidental labor, eight hundred dollars.

Bureau of Equipment and Recruiting:

For stationery and miscellaneous items, five hundred dollars.

Bureau of Navigation:

For stationery and miscellaneous items, eight hundred dollars.

Bureau of Ordnance:

For stationery and miscellaneous items, one thousand dollars.

Bureau of Construction and Repair:

For stationery and miscellaneous items, one thousand dollars.

Bureau of Steam Engineering:

For stationery and miscellaneous items, one thousand two hundred dollars.

Bureau of Provisions and Clothing:

For stationery and miscellaneous items, one thousand dollars.

Bureau of Medicine and Surgery:

For stationery and miscellaneous items, four hundred and fifty dollars.

For the general purposes of the Southwest Executive Building.

For compensation of five watchmen and two laborers of the Southwest Executive Building, three thousand nine hundred and sixty dollars.

For contingent expenses of said building, viz: For labor, fuel, lights, and miscellaneous items, five thousand dollars.

POST OFFICE DEPARTMENT.

For compensation of the Postmaster General, three Assistant Postmasters General, chief clerk, and the clerks, messenger, assistant messengers, watchmen, and laborers of said Department, one hundred and fifty-eight thousand two hundred and twenty dollars.

For compensation of twenty-five additional clerks, twenty thousand dollars.

Contingent Expenses of the Post Office Department.

For stationery, fuel for the General Post Office building, including fuel for the Auditor's office, oil, gas, and candles, printing, repair of the General Post Office building, office furniture, glazing, painting, whitewashing, and for keeping the fire-places and furnaces in order; for engineer, (for steam engine,) laborers, watchmen, repairs of furniture, and for miscellaneous items, thirty-five thousand dollars.

DEPARTMENT OF AGRICULTURE.

For compensation of the Commissioner of Agriculture, chief clerk, one clerk of the fourth class, four clerks of the third class, four clerks of the second class, six clerks of the first class, an entomologist at an annual salary of two thousand dollars, a chemist at an annual salary of two thousand dollars, an assistant chemist at an annual salary of fourteen hundred dollars, a draughtsman at an annual salary of fourteen hundred dollars, a translator at an annual salary of twelve hundred dollars, two messengers at an annual salary of six hundred dollars each, and two laborers at an annual salary of four hundred dollars each, thirty-eight thousand dollars.

For contingencies, viz: For stationery, wood, coal, gas, and miscellaneous items, three thousand five hundred dollars.

For collecting agricultural statistics and information for reports, twenty thousand dollars.

For furniture, viz: Carpets, desks, and stoves, eight hundred dollars.

For the purchase of a library and laboratory, four thousand dollars.

For purchase and distribution of new and valuable seeds, and for labor in putting up seeds, seed-bags, and bagging, fifty-four thousand dollars.

For compensation of superintendent of seed-room, at an annual compensation of sixteen hundred dollars, and for two clerks of the first class, four thousand dollars.

For contingencies of seed-room, viz: coal, gum, packing-paper, and miscellaneous items, three thousand dollars.

For propagating garden, for propagation and distribution of valuable plants, cuttings, and shrubs, viz: For labor, for repair of old propagating house, new propagating house, rebuilding shop, and for purchase of trees, cuttings, vines, and bulbs, ten thousand eight hundred dollars: *Provided*, That such trees, cuttings, vines, and bulbs so purchased, or which shall be propagated, shall be such as are adapted to general cultivation and to promote the general interest of horticulture and agriculture throughout the United States.

For experimental garden on reservation number two, viz: For salary of foreman and laborers, three thousand dollars; for keep of a horse and

Laws of the United States.

38TH CONG....1ST SESS.

stable, and for seeds, manure, tools, and miscellaneous items, two thousand dollars.

MINT OF THE UNITED STATES

At Philadelphia.

For salaries of the director, treasurer, assayer, melter and refiner, chief coiner and engraver, assistant assayer, and seven clerks, twenty-six thousand four hundred dollars.

For wages of workmen and adjusters, one hundred and twenty-five thousand dollars.

For specimens of coins to be preserved in the cabinet of the Mint, three hundred dollars.

Branch Mint at San Francisco, California.

For salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and six clerks, thirty thousand five hundred dollars.

For wages of workmen and adjusters, one hundred and fifty thousand and fifty dollars.

For incidental and contingent expenses, repairs, and wastage, fifty thousand dollars.

Assay Office, New York.

For salaries of superintendent, assayer, and melter and refiner, assistant assayer, officers, and clerks, twenty-three thousand seven hundred dollars.

For wages of workmen, thirty-five thousand dollars.

For incidental and contingent expenses, twenty thousand dollars.

Branch Mint at Denver.

For superintendent, assayer, melter, refiner, coiner, and clerks, twelve thousand four hundred dollars.

For wages of workmen, twenty-six thousand one hundred and eighty-nine dollars.

For incidental and contingent expenses, five thousand dollars.

For additional salary of treasurer, acting as assistant treasurer of the United States, five hundred dollars.

For salary of clerk to assistant treasurer, one thousand eight hundred dollars.

For safe and vault, including freight, five thousand dollars.

For salary of assistant treasurer from November twentieth, eighteen hundred and sixty-two, to June thirtieth, eighteen hundred and sixty-four, eight hundred and five dollars and fifty-five cents.

For salary of clerk from March first to June thirtieth, eighteen hundred and sixty-four, six hundred dollars.

GOVERNMENTS IN THE TERRITORIES.

Territory of New Mexico.

For salaries of Governor, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of said Territory, one thousand dollars.

For interpreter and translator in the executive office, five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty-two thousand nine hundred and eighty dollars.

Territory of Utah.

For salaries of Governor, chief justice, two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the General Assembly, ten thousand dollars.

Territory of Washington.

For salaries of Governor, chief justice, two associate judges, and secretary, twelve thousand five hundred dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Nebraska.

For salaries of Governor, chief justice and two

associate judges, and secretary, ten thousand five hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, fifteen thousand dollars.

Territory of Colorado.

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, fifteen thousand dollars.

Territory of Nevada.

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Dakota.

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, fourteen thousand dollars.

Territory of Arizona.

For salaries of Governor, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For interpreter and translator in the executive office, five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Idaho.

For salaries of Governor, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Idaho.

For the fiscal year ending June thirtieth, eighteen hundred and sixty-four:

For salary of Governor, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

JUDICIARY.

Office of the Attorney General.

For salaries of the Attorney General, Assistant Attorney General, and the clerks and messenger in his office, twenty thousand three hundred dollars.

Contingent expenses of the office of the Attorney General, namely:

For fuel, labor, furniture, stationery, and miscellaneous items, three thousand dollars.

For purchase of law and necessary books for the office of the Attorney General, two hundred and fifty dollars.

For legal assistance and other necessary expend-

itures in the disposal of private land claims in California, ten thousand dollars.

For special and other extraordinary expenses of California land claims, ten thousand dollars.

Justices of the Supreme Court of the United States.

For the salaries of the Chief Justice and nine associate justices, sixty thousand five hundred dollars.

For traveling expenses of the judge assigned to the tenth circuit for attending session of Supreme Court of the United States, one thousand dollars.

For salaries of the district judges of the United States, one hundred and eighteen thousand seven hundred and fifty dollars.

For salaries of the chief justice of the supreme court of the District of Columbia, the associate judges, and judge of the orphans' court, fourteen thousand five hundred dollars.

For salary of the reporter of the Decisions of the Supreme Court of the United States, one thousand three hundred dollars.

For compensation of the district attorneys, nineteen thousand two hundred and fifty dollars.

For compensation of the marshals, eleven thousand six hundred dollars.

INDEPENDENT TREASURY.

For salaries of the Assistant Treasurers of the United States at New York, Boston, Charleston, and St. Louis, sixteen thousand five hundred dollars.

For additional salary of the treasurer of the Mint at Philadelphia, one thousand dollars.

For additional salary of the treasurer of the branch mint at New Orleans, five hundred dollars.

For salaries of the clerks and messengers in office of Assistant Treasurer at Boston, eight thousand one hundred dollars.

For salaries of clerks and messenger in office of the treasurer of the Mint as depositary, thirteen thousand eight hundred dollars.

For salaries of clerks, messengers, watchmen, and porter in office of Assistant Treasurer at New York, seventy-three thousand six hundred dollars.

For salaries of chief clerk and teller, to act as assistant treasurer in the absence of the treasurer, assistant teller, book-keeper, assistant book-keeper, messenger, and four watchmen, in the office of the sub-treasury at St. Louis, nine thousand seven hundred and sixty dollars.

For salaries of additional clerks, under act of August sixth, eighteen hundred and forty-six, for the better organization of the Treasury, at such rates as the Secretary may deem just and reasonable, ten thousand dollars.

For compensation to designated depositaries, under act of August sixth, eighteen hundred and forty-six, for the collection, safe-keeping, transfer and disbursement of the public revenue, eight thousand dollars.

For compensation to special agents under act of sixth of August, eighteen hundred and forty-six, eight thousand dollars.

For salaries of nine supervising and fifty local inspectors, appointed under act thirtieth August, eighteen hundred and fifty-two, for the better protection of the lives of passengers by steamboats, with traveling and other expenses incurred by them, twenty-five thousand dollars.

For contingent expenses under the act of sixth August, eighteen hundred and forty-six, for the collection, safe-keeping, transfer, and disbursement of the public revenue, in addition to premium which may be received on transfer drafts: *Provided*, That no part of said sum shall be expended for clerical services, one hundred and ten thousand dollars.

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, one million dollars.

COMMISSIONERS OF DIRECT TAXES IN INSURRECTIONARY DISTRICTS.

For compensation of thirty-three commissioners, at three thousand dollars each, and eleven clerks at twelve hundred dollars each, one hundred and twelve thousand two hundred dollars.

For contingent expenses, forty thousand dollars.

PUBLIC BUILDINGS AND GROUNDS.

For compensation to the laborer in charge of

38TH CONG....1ST SESS.

Laws of the United States.

the water-closets in the Capitol, four hundred and thirty-eight dollars.

For compensation of four laborers in Capitol, two thousand four hundred dollars.

For compensation to the public gardener, one thousand four hundred and forty dollars.

For compensation of a foreman and twenty-one laborers employed in the public grounds, thirteen thousand four hundred dollars.

For compensation of the keeper of the western gate, Capitol square, eight hundred and seventy-six dollars.

For compensation of two day watchmen employed in the Capitol square, one thousand two hundred dollars.

For compensation of two night watchmen employed at the President's House, one thousand two hundred dollars.

For compensation of the doorkeeper at the President's House, six hundred dollars.

For compensation of assistant doorkeeper at the President's House, six hundred dollars.

For compensation of one night watchman at the public stables and carpenters' shops south of the Capitol, one thousand dollars.

For compensation of watchman in reservation number two, six hundred dollars.

For compensation of two draw-keepers at the two bridges across the eastern branch of the Potomac, and for fuel, oil, and lamps, one thousand one hundred and eighty dollars.

For compensation of furnace-keeper under the old Hall of the House of Representatives, six hundred dollars.

For compensation of furnace-keeper at the President's House, six hundred dollars.

METROPOLITAN POLICE.

For salaries and other necessary expenses of the Metropolitan Police for the District of Columbia, one hundred and ten thousand dollars; and the compensation of said metropolitan force, officers, and clerks be, and the same is hereby, increased fifty per centum, commencing on the first of July, eighteen hundred and sixty-four, said increase to be borne by the cities of Washington and Georgetown, and the county of Washington, in the District of Columbia, in the proportion equal to the number of patrolmen allotted severally to the city of Washington, to the city of Georgetown, and the county of Washington beyond the limits of said cities. And the corporation authorities of said cities of Washington and Georgetown, and the levy court of said county be, and they are hereby, authorized and empowered to levy a special tax not exceeding one quarter of one per centum for the purpose aforesaid.

For deficiency of appropriation for the Capitol police, under the act of April twenty-second, eighteen hundred and fifty-four, to be expended under the direction of the Commissioner of Public Buildings, to be paid only to loyal men, four thousand three hundred and seventy-four dollars and eighty-four cents.

For salary of warden of jail in the District of Columbia, sixteen hundred dollars.

Sec. 2. *And be it further enacted*, That the office of the Treasurer of the United States be reorganized, under the direction of the Secretary of the Treasury, so as to authorize the employment of the officers and clerks, and with the annual salaries hereinafter specified, viz:

One Assistant Treasurer, with a salary of twenty-eight hundred dollars.

One cashier, with a salary of twenty-eight hundred dollars.

One assistant cashier, with a salary of twenty-five hundred dollars.

One chief of the division of issues, with a salary of twenty-two hundred dollars.

One chief of the division of redemption, with a salary of twenty-two hundred dollars.

One chief of the division of loans, with a salary of twenty-two hundred dollars.

One chief of the division of accounts, with a salary of twenty-two hundred dollars.

One chief of the division of national banks, with a salary of twenty-two hundred dollars.

Two principal book-keepers, each with a salary of twenty-two hundred dollars.

Two tellers, each with a salary of twenty-two hundred dollars.

Two assistant tellers, each with a salary of two thousand dollars.

One chief clerk, with a salary of two thousand dollars.

Fifteen clerks of class four, fifteen of class three, eleven of class two, nine of class one, one messenger in charge of mails, with a salary of one thousand dollars; nine messengers, with a salary of nine hundred dollars each; five messengers, with a salary of seven hundred dollars each; sixty female clerks, with a salary of six hundred dollars each; five laborers, with a salary of six hundred dollars each, and seven female laborers, at a salary of two hundred and forty dollars each.

And the officers, clerks, and employes hereby authorized shall be in lieu of all the force now employed in the said office. And the amount necessary to pay the salaries of said officers, clerks, and employes, in addition to the amount heretofore provided for the present fiscal year, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Sec. 3. *And be it further enacted*, That twenty per centum be added to the compensation of the females and of the messengers, watchmen, and laborers employed in the several Departments and under the Commissioner of Public Buildings, and the Commissioner of Agriculture, and at the Capitol, to commence on the first day of June, eighteen hundred and sixty-four, and to terminate at the close of the fiscal year ending the thirtieth of June, eighteen hundred and sixty-six, but to be calculated only upon the amount of compensation accruing after the first day of June, eighteen hundred and sixty-four: *Provided, however*, That no salary be increased hereby so as to exceed the sum of ten hundred dollars. And the sums necessary to pay the additional compensation herein specified for the present and the next fiscal years are hereby appropriated.

Sec. 4. *And be it further enacted*, That the accounting officers of the Treasury are hereby authorized and directed to allow to the late reporter of the Supreme Court the amount of his annual salary for the fiscal year ending June thirty, eighteen hundred and sixty-four, on the production of satisfactory evidence that he has delivered to the Secretary of the Interior the number of copies of the Decisions of said court prescribed by law, and that said books have been received and accepted by said Secretary.

Sec. 5. *And be it further enacted*, That, in addition to the clerical force now authorized by law, the following clerks are hereby authorized in the office of the Commissioner of Customs, to be employed and continue only during the rebellion and for one year after its close, viz: two clerks of class four, two of class three, and two of class two, and the sum of eleven thousand two hundred dollars, or so much thereof as may be necessary to pay their salaries from the date of their appointment to the thirtieth of June, eighteen hundred and sixty-five, is hereby appropriated therefor.

Sec. 6. *And be it further enacted*, That in executing the act of the third of March, eighteen hundred and forty-nine, and the act amendatory thereof, providing for payment for steamboats and other vessels, and railroad engines or cars lost or destroyed while in the military service of the United States, the Third Auditor of the Treasury be, and he is hereby, authorized in person, or in such manner as he may deem most compatible with the public interests, to take testimony and make such investigations as he may deem necessary in adjudicating claims filed under said act, and for such necessary expenses incurred therein payment may be made out of the appropriation contained in said act, upon proper vouchers certified and approved by the Third Auditor.

Sec. 7. *And be it further enacted*, That from and after the first day of July, eighteen hundred and sixty-four, in lieu of the clerks heretofore authorized and provided, the assistant treasurer at New Orleans be, and he is hereby, authorized to appoint, with the approbation of the Secretary of the Treasury, one chief clerk, at a salary of twenty-five hundred dollars per annum; one clerk, at a salary of two thousand dollars per annum; two clerks, at a salary of fifteen hundred dollars per annum each; one porter, at a salary of nine hundred dollars per annum; and two watchmen, at a

salary of six hundred dollars per annum each; and the compensation for such clerks for the next fiscal year be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated. And in case of the sickness or unavoidable absence of the assistant treasurer, he may, in his discretion, authorize the chief clerk to act in his place and to discharge all the duties required by law of the assistant treasurer.

Sec. 8. *And be it further enacted*, That so many of the clerks in the office of the Paymaster General as have been, or may be, deemed unnecessary, not exceeding thirty-seven in number, who shall be found competent, to be selected by the Secretary of the Treasury, are hereby transferred to the office of the Third Auditor of the Treasury, and shall be classified as follows: Twelve clerks of class two, and twenty-five of class one; and the sum of forty-six thousand eight hundred dollars, or so much thereof as may be found necessary, be, and the same is hereby, appropriated for said purpose.

Sec. 9. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to appoint, in addition to the present number, two appraisers for the port of New York, at an annual salary of twenty-five hundred dollars each, and the sum of five thousand dollars is hereby appropriated therefor. For twelve additional clerks in the office of the assistant treasurer at New York, at an annual salary of fourteen hundred dollars each, authorized by the act of sixth of March, eighteen hundred and sixty-two, sixteen thousand eight hundred dollars.

Sec. 10. *And be it further enacted*, That, in addition to the sum of twenty-five thousand dollars, hereinbefore appropriated, for salaries and expenses of nine supervising and fifty local inspectors of steam vessels, with traveling and other expenses, the sum of fifty-five thousand dollars be, and the same is hereby, appropriated.

Sec. 11. *And be it further enacted*, That there be, and hereby is, appointed, in the office of the Secretary of the Treasury, five clerks of class three, in lieu of five clerks of class one, and the sum of two thousand dollars is hereby appropriated for said purpose.

APPROVED, June 25, 1864.

CHAP. CXLVIII.—An Act making Appropriations for the current and contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes, for the year ending June thirtieth, eighteen hundred and sixty-five, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department, and fulfilling treaty stipulations with the various Indian tribes.

For the current and contingent expenses of the Indian department, namely:

For the pay of superintendents of Indian affairs and of Indian agents, ninety-eight thousand eight hundred dollars.

For pay of sub-agents, six thousand dollars.

For the salary of the agent of the Green Bay agency, to make the same fifteen hundred dollars per annum, an additional sum of five hundred dollars.

For pay of clerk to superintendent at St. Louis, Missouri, one thousand two hundred dollars.

For pay of temporary clerks to superintendents of Indian affairs, five thousand dollars.

For pay of clerk to the superintendent of Indian affairs in California, one thousand eight hundred dollars.

For pay of four agents, seven thousand two hundred dollars.

For pay of one blacksmith, one assistant blacksmith, one farmer, and one carpenter, two thousand four hundred dollars.

For pay of interpreters, twenty-eight thousand four hundred dollars.

For presents to Indians, five thousand dollars.

For provisions for Indians, eleven thousand eight hundred dollars.

Laws of the United States.

38TH CONG....1ST SESS.

For buildings at agencies and repairs thereof, ten thousand dollars.

For contingencies of the Indian department, thirty-six thousand five hundred dollars.

For fulfilling treaty stipulations with the various Indian tribes:

Blackfoot Indians.

For ninth of ten installments as annuity, to be expended in the purchase of such goods, provisions, and other useful articles as the President, at his discretion, may from time to time determine, per ninth article of the treaty of seventeenth October, eighteen hundred and fifty-five, twenty thousand dollars.

For ninth of ten installments as annuity, to be expended in establishing and instructing them in agricultural and mechanical pursuits, and in educating their children, and promoting civilization and Christianity, at the discretion of the President, per tenth article of the treaty of seventeenth October, eighteen hundred and fifty-five, fifteen thousand dollars.

Chasta, Scoton, and Umpqua Indians.

For tenth of fifteen installments of annuity, to be expended as directed by the President, per third article treaty eighteenth November, eighteen hundred and fifty-four, two thousand dollars.

For tenth of fifteen installments for the pay of a farmer, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand dollars.

For tenth of fifteen installments for pay of physician, medicines, and expense of care of the sick, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand five hundred dollars.

For tenth of fifteen installments for pay of teachers and purchase of books and stationery, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand two hundred dollars.

Chippewas of Lake Superior.

For two thirds of twenty-third of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of twenty-third of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight hundred dollars.

For two thirds of twenty-third of twenty-five installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, seven thousand dollars.

For two thirds of twenty-third of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of twenty-third of twenty-five installments for the pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For two thirds of twenty-third of twenty-five installments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For tenth of twenty installments in coin, goods, household furniture, and cooking utensils, agricultural implements and cattle, carpenters' and other tools and building materials, and for moral and educational purposes, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, nineteen thousand dollars.

For tenth of twenty installments for six smiths

and assistants, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, five thousand and forty dollars.

For tenth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and twenty dollars.

For eighth of twenty installments for the seventh smith and assistant, and support of shop, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of a smith, assistant, and shop for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of two farmers for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand two hundred dollars.

Chippewas of the Mississippi.

For one third of twenty-third of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four thousand one hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-third of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four hundred dollars.

For one third of twenty-third of twenty-five installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand five hundred dollars.

For one third of twenty-third of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-third of twenty-five installments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-third of twenty-five installments for the support of two smiths' shops, including the pay of two smiths and assistants, and furnishing iron and steel, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-third of twenty-five installments for pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three hundred and thirty-three dollars and thirty-three cents.

For tenth of twenty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, twenty thousand dollars.

Chippewas of the Mississippi, and the Pillager and Lake Winnebagoish Bands of Chippewa Indians in Minnesota.

For settlement of the claims for depredations committed by said Indians in eighteen hundred and sixty-two, twenty thousand dollars.

For clearing and breaking-in reservation and for building houses for the chiefs, three thousand six hundred dollars.

For first of ten installments for furnishing said Indians with ten yoke of work-oxen, agricultural implements, and miscellaneous items, one thousand dollars.

For expenses incurred by the Legislature of the State of Minnesota in sending commissioners

to visit the Chippewa Indians, in the year: eighteen hundred and sixty-two, one thousand three hundred and thirty-eight dollars and seventy-five cents.

For the employment of a sawyer, at the discretion of the President, and to remove the saw mill from Gull Lake reservation to the new reservation set apart, and to extend the road between Gull Lake and Leach Lake to the junction of the Mississippi and Leach Lake rivers, and to remove the agency to said junction, or as near as practicable, three thousand dollars.

For compensation of female teachers on the reservation, who shall instruct the Indian girls in domestic economy, one thousand dollars.

Chippewas, Pillager, and Lake Winnebagoish Bands.

For tenth of thirty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, ten thousand six hundred and sixty-six dollars and sixty-six cents.

For tenth of thirty installments of annuity in goods, per third article treaty twenty-second February, eighteen hundred and fifty-five, eight thousand dollars.

For tenth of thirty installments for purposes of utility, per third article treaty twenty-second February, eighteen hundred and fifty-five, four thousand dollars.

For tenth of twenty installments for purposes of education, per third article treaty twenty-second February, eighteen hundred and fifty-five, three thousand dollars.

For tenth of fifteen annual installments for support of two smiths and smiths' shops, per third article treaty twenty-second February, eighteen hundred and fifty-five, two thousand one hundred and twenty dollars.

For pay of an engineer to grist and saw mill at Leach Lake, six hundred dollars.

Chippewas of Saginaw, Swan Creek, and Black River.

For ninth of ten equal annual installments in coin, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of second August, eighteen hundred and fifty-five, ten thousand dollars.

For ninth of ten installments for the support of one blacksmith shop, per second article of the treaty of second August, eighteen hundred and fifty-five, twelve hundred and forty dollars.

For fourth of five equal annual installments for educational purposes, under the direction of the President, two thousand dollars.

For fourth of five equal annual installments in agricultural implements, three thousand dollars.

Chippewas, Menomonees, Winnebagoes, and New York Indians.

For education during the pleasure of Congress, per fifth article treaty eleventh August, eighteen hundred and twenty-seven, one thousand five hundred dollars.

Chickasaws.

For permanent annuity in goods, per act of twenty-fifth February, seventeen hundred and ninety-nine, three thousand dollars.

Choctaws.

For permanent annuity, per second article treaty sixteenth November, eighteen hundred and five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, three thousand dollars.

For permanent annuity for support of light-horsemen, per thirteenth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for education, per second article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article [treaty] twenty-second June, eighteen hundred and fifty-five, six thousand dollars.

For permanent provision for blacksmith, per sixth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for iron and steel,

38TH CONG....1ST SESS.

Laws of the United States.

per ninth article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article of treaty twenty-second June, eighteen hundred and fifty-five, three hundred and twenty dollars.

For interest on five hundred thousand dollars, at five per centum per annum, for education, support of the government, and other beneficial purposes, under the direction of the general council of the Choctaws, in conformity with the provisions contained in the tenth and thirteenth articles of the treaty of twenty-second June, eighteen hundred and fifty-five, twenty-five thousand dollars.

Camanches, Kiowas, and Apaches of Arkansas River.

For the first five installments, being the second series for the purchase of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, eighteen thousand dollars.

For expenses of transportation of the first of five installments of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, seven thousand dollars.

Kioway, Apache, and Camanches.

For the salary of an agent for the Kioway, Apache, and Camanche Indians, for the fiscal year ending June thirty, eighteen hundred and sixty-five, fifteen hundred dollars.

Creeks.

For permanent annuity in money, per fourth article treaty seventh August, seventeen hundred and ninety, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand five hundred dollars.

For permanent annuity in money, per second article treaty sixteenth June, eighteen hundred and two, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For permanent annuity in money, per fourth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, twenty thousand dollars.

For permanent provision for blacksmith and assistant, and for shop and tools, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For permanent provision for iron and steel for shop, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and fifty-six, two hundred and seventy dollars.

For permanent provision for the pay of a wheelwright, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For blacksmith and assistant and shop and tools during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For iron and steel for shop during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For wagon maker during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For assistance in agricultural operations during the pleasure of the President, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, two thousand dollars.

For education during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand dollars.

For five per centum interest on two hundred thousand dollars for purposes of education, per sixth article treaty seventh August, eighteen hundred and fifty-six, ten thousand dollars.

Delawares.

For life annuity to chief, per private article to supplemental treaty twenty-fourth September, eighteen hundred and twenty-nine, to treaty of third October, eighteen hundred and eighteen, one hundred dollars.

For interest on forty-six thousand and eighty dollars, at five per centum, being the value of thirty-six sections of land set apart by treaty of eighteen hundred and twenty-nine, for education, two thousand three hundred and four dollars.

Iowas.

For interest in lieu of investment on fifty-seven thousand dollars, balance of one hundred and fifty-seven thousand dollars, to the first of July, eighteen hundred and sixty-five, at five per centum per annum, for education or other beneficial purposes, under the direction of the President, two thousand eight hundred and seventy-five dollars.

Kansas.

For interest in lieu of investment on two hundred thousand dollars, at five per centum per annum, ten thousand dollars.

Kickapoos.

For eleventh installment of interest, at five per centum, on one hundred thousand dollars for educational and other beneficial purposes, five thousand dollars.

For eleventh installment on two hundred thousand dollars, to be paid in eighteen hundred and sixty-four, per second article treaty eighteenth May, eighteen hundred and fifty-four, nine thousand dollars.

Menomonees.

For ninth of twelve installments for continuing and keeping up a blacksmith shop, and providing the usual quantity of iron and steel, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, nine hundred and sixteen dollars and sixty-six cents.

For ninth of ten installments of annuity upon two hundred thousand dollars, balance of three hundred and fifty thousand dollars for cession of lands, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, twenty thousand dollars.

For ninth of fifteen installments for pay of miller, per third article treaty twelfth May, eighteen hundred and fifty-four, six hundred dollars.

Miamies of Kansas.

For permanent provision for blacksmith and assistant, and iron and steel for shop, per fifth article treaty sixth October, eighteen hundred and eighteen, and fourth article treaty June fifth, eighteen hundred and fifty-four, nine hundred and forty dollars.

For permanent provision for miller, in lieu of gunsmith, per fifth article treaty sixth October, eighteen hundred and eighteen, fifth article treaty twenty-third October, eighteen hundred and thirty-four, and fourth article treaty fifth June, eighteen hundred and fifty-four, six hundred dollars.

For interest on fifty thousand dollars, at five per centum, for educational purposes, per third article treaty fifth June, eighteen hundred and fifty-four, two thousand five hundred dollars.

For fifth of twenty installments upon two hundred thousand dollars, per third article treaty fifth June, eighteen hundred and fifty-four, seven thousand five hundred dollars.

Miamies of Indiana.

For interest on two hundred and twenty-one thousand two hundred and fifty-seven dollars and eighty-six cents, uninvested, at five per centum, for Miami Indians of Indiana, per Senate's amendment to fourth article treaty fifth June, eighteen hundred and fifty-four, eleven thousand and sixty-two dollars and eighty-nine cents.

Miamies—Eel River.

For permanent annuity in goods or otherwise, per fourth article treaty third August, seventeen hundred and ninety-five, five hundred dollars.

For permanent annuity in goods or otherwise, per third article treaty twenty-first August, eighteen hundred and five, two hundred and fifty dollars.

For permanent annuity in goods or otherwise, per third and separate article to treaty thirtieth September, eighteen hundred and nine, three hundred and fifty dollars.

Nisqually, Puyallup, and other Tribes and Bands of Indians.

For tenth installment, in part payment for relinquishment of title to lands, to be applied to beneficial objects, per fourth article treaty twenty-sixth December, eighteen hundred and fifty-four, fifteen hundred dollars.

For tenth of twenty installments for pay of instructor, smith, physician, carpenter, farmer, and assistant if necessary, per tenth article treaty twenty-sixth December, eighteen hundred and fifty-four, six thousand seven hundred dollars.

Omahas.

For the seventh of ten installments of this amount, being second of the series, in money or otherwise, per fourth article treaty sixteenth March, eighteen hundred and fifty-four, thirty thousand dollars.

For the last of ten installments for support of a miller, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, six hundred dollars.

For the last of ten installments for support of blacksmith and assistant, and iron and steel for shop, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, nine hundred and forty dollars.

For the last of ten installments for support of farmer, per eighth article treaty sixteenth March, eighteen hundred and fifty-four, six hundred dollars.

For keeping in repair the grist and saw mill provided for by the eighth article of the treaty of sixteenth March, eighteen hundred and fifty-four, three hundred dollars.

For supplying the smith's shop with tools, and keeping the same in repair, per eighth article of the treaty of sixteenth March, eighteen hundred and fifty-four, three hundred dollars.

For an engineer, one thousand two hundred dollars.

For assistant engineer for mill, six hundred dollars.

For assistant miller, three hundred dollars.

Osages.

For interest on sixty-nine thousand one hundred and twenty dollars, at five per centum, being the value of fifty-four sections of land set apart second June, eighteen hundred and twenty-five, for educational purposes, per Senate resolution nineteenth January, eighteen hundred and thirty-eight, three thousand four hundred and fifty-six dollars.

Ottos and Missourias.

For seventh of ten installments, being the second series, in money or otherwise, per fourth article treaty fifteenth March, eighteen hundred and fifty-four, thirteen thousand dollars.

For last of ten installments for pay of miller, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, six hundred dollars.

For last of ten installments for blacksmith and assistant, and iron and steel for shop, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, nine hundred and forty dollars.

For last of ten installments for farmer, per seventh article treaty fifteenth March, eighteen hundred and fifty-four, six hundred dollars.

For keeping in repair the grist and saw mill provided for by the seventh article of the treaty of fifteenth March, eighteen hundred and fifty-four, three hundred dollars.

For supplying the smith's shop with tools, and keeping the same in repair, per seventh article of the treaty fifteenth March, eighteen hundred and fifty-four, three hundred dollars.

For an engineer, one thousand two hundred dollars.

Ottawas and Chippewas of Michigan.

For ninth of ten equal annual installments for educational purposes, to be expended under the direction of the President, according to the wishes

Laws of the United States.

38TH CONG...1ST SESS.

of the Indians, so far as may be reasonable and just, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, eight thousand dollars.

For ninth of ten installments for the support of four blacksmith shops, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, four thousand two hundred and forty dollars.

For ninth of ten installments of principal, payable annually for ten years, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, ten thousand dollars.

For interest on two hundred and sixteen thousand dollars, unpaid part of the principal sum of three hundred and six thousand dollars, for one year, at five per centum per annum, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, ten thousand eight hundred dollars.

For ninth of ten equal annual installments on thirty-five thousand dollars, in lieu of former treaty stipulations, to be paid per capita to the Grand River Ottawas, per second article treaty thirty-first July, eighteen hundred and fifty-five, three thousand five hundred dollars.

Pawnees.

For second of five installments of the second series in goods and such articles as may be necessary for them, per second article treaty twenty-fourth September, eighteen hundred and fifty-seven, thirty thousand dollars.

For support of two manual-labor schools, annually, during the pleasure of the President, per third article treaty twenty-fourth September, eighteen hundred and fifty-seven, ten thousand dollars.

For pay of two teachers, under the direction of the President, per third article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For purchase of iron and steel, and other necessities for the shop, during the pleasure of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, five hundred dollars.

For pay of two blacksmiths, one of whom to be a gunsmith and tinsmith, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For compensation of two strikers or apprentices in shop, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, four hundred and eighty dollars.

For seventh of ten installments for farming utensils and stock during the pleasure of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For pay of farmer, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, six hundred dollars.

For sixth of ten installments for pay of miller, at the discretion of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, six hundred dollars.

For sixth of ten installments for pay of an engineer, at the discretion of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For compensation to apprentices, to assist in working the mill, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, five hundred dollars.

Pottawatomies of Huron.

For permanent annuity in money or otherwise, per second article treaty seventeenth November, eighteen hundred and seven, four hundred dollars.

Pottawatomies.

For permanent annuity in silver, per fourth article treaty third August, seventeen hundred and ninety-five, one thousand dollars.

For permanent annuity in silver, per third article treaty thirtieth September, eighteen hundred and nine, five hundred dollars.

For permanent annuity in silver, per third article treaty second October, eighteen hundred and eighteen, two thousand five hundred dollars.

For permanent annuity in money, per second article treaty twentieth September, eighteen hundred and twenty-eight, two thousand dollars.

For permanent annuity in specie, per second article treaty twenty-ninth July, eighteen hundred and twenty-nine, sixteen thousand dollars.

For life annuity to chief, per third article treaty twentieth October, eighteen hundred and thirty-two, two hundred dollars.

For life annuity to chiefs, per third article treaty twenty-sixth September, eighteen hundred and thirty-three, seven hundred dollars.

For education during the pleasure of Congress, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and fourth article treaty twenty-seventh October, eighteen hundred and thirty-two, five thousand dollars.

For permanent provision for the payment of money in lieu of tobacco, iron, and steel, per second article treaty twentieth September, eighteen hundred and twenty-eight, and tenth article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, three hundred dollars.

For permanent provision for three blacksmiths and assistants, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and second article treaty twenty-ninth July, eighteen hundred and twenty-nine, two thousand one hundred and sixty dollars.

For permanent provision for iron and steel for shops, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and second article treaty twenty-ninth July, eighteen hundred and twenty-nine, six hundred and sixty dollars.

For permanent provision for fifty barrels of salt, per second article of treaty twenty-ninth July, eighteen hundred and twenty-nine, two hundred and fifty dollars.

For interest on six hundred and forty-three thousand dollars, at five per centum, per seventh article of the treaty of the fifth and seventeenth of June, eighteen hundred and forty-six, thirty-two thousand one hundred and fifty dollars.

Quapaws.

For education during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand and sixty dollars.

For farmer during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, six hundred dollars.

For payment of expenses incident to the removal of the Quapaw Indians from Kansas, and their reestablishment in their own country, nine thousand seven hundred and twenty-six dollars and thirty-three cents.

Rogue Rivers.

For eleventh of sixteen installments in blankets, clothing, farming utensils, and stock, per third article treaty tenth September, eighteen hundred and fifty-three, two thousand five hundred dollars.

Sacs and Foxes of Mississippi.

For permanent annuity in goods or otherwise, per third article treaty third November, eighteen hundred and four, one thousand dollars.

For interest on two hundred thousand dollars, at five per centum, per second article treaty twenty-first October, eighteen hundred and thirty-seven, ten thousand dollars.

For interest on eight hundred thousand dollars, at five per centum, per second article treaty eleventh October, eighteen hundred and forty-two, forty thousand dollars.

Sacs and Foxes of Missouri.

For interest on one hundred and fifty-seven thousand four hundred dollars, at five per centum, under the direction of the President, per second article treaty twenty-first October, eighteen hundred and thirty-seven, seven thousand eight hundred and seventy dollars.

Seminoles.

For the eighth of ten installments for the support of schools, per eighth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For the eighth of ten installments for agricultural assistance, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand dollars.

For the eighth of ten installments for the support of smiths and smiths' shops, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand two hundred dollars.

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

For interest on two hundred and fifty thousand dollars, at five per centum, to be paid as annuity, they having joined their brethren west, per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

Senecas.

For permanent annuity in specie, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, five hundred dollars.

For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, five hundred dollars.

For blacksmith and assistant, shop and tools, and iron and steel, during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, one thousand and sixty dollars.

For miller during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, six hundred dollars.

Senecas of New York.

For permanent annuity in lieu of interest on stock, per act of nineteenth February, eighteen hundred and thirty-one, six thousand dollars.

For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of twenty-seventh June, eighteen hundred and forty-six, three thousand seven hundred and fifty dollars.

For interest at five per centum, on forty-three thousand and fifty dollars, transferred from Ontario Bank to the United States Treasury, per act of twenty-seventh June, eighteen hundred and forty-six, two thousand one hundred and fifty-two dollars and fifty cents.

Senecas and Shawnees.

For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per fourth article treaty twentieth July, eighteen hundred and thirty-one, one thousand and sixty dollars.

Shawnees.

For permanent annuity for educational purposes, per fourth article treaty third August, seventeen hundred and ninety-five, and third article treaty tenth May, eighteen hundred and fifty-four, one thousand dollars.

For eleventh installment of interest, at five per centum, on forty thousand dollars for education, per third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

For permanent annuity for educational purposes, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, and third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

Six Nations of New York.

For permanent annuity in clothing and other useful articles, per sixth article treaty eleventh November, seventeen hundred and ninety-four, four thousand five hundred dollars.

Treaty of Fort Laramie.

For fourth of five installments, at the discretion of the President, in provisions and merchandise, for payment of annuities, and transportation of

38TH CONG... 1ST SESS.

Laws of the United States.

the same, to certain tribes of Indians, seventy thousand dollars.

Umpquas, (Cow Creek Band.)

For eleventh of twenty installments in blankets, clothing, provisions, and stock, per third article treaty nineteenth September, eighteen hundred and fifty-three, five hundred and fifty dollars.

Umpquas and Calapooias, of Umpqua Valley, Oregon.

For last of five installments, of the second series, of annuity for beneficial objects, to be expended as directed by the President, per third article treaty nineteenth September, eighteen hundred and fifty-three, two thousand three hundred dollars.

For last of ten installments for the pay of a blacksmith and furnishing shop, per sixth article treaty twenty-ninth of November, eighteen hundred and fifty-four, one thousand five hundred dollars.

For tenth of fifteen installments for the pay of a physician and purchase of medicines, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, two thousand dollars.

For last of ten installments for the pay of a farmer, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand dollars.

For tenth of twenty installments for the pay of a teacher and purchase of books and stationery, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand four hundred and fifty dollars.

Winnebagoes.

For interest on one million dollars, at five per centum, per fourth article treaty first November, eighteen hundred and thirty-seven, fifty thousand dollars.

For eighteenth of thirty installments of interest on eighty-five thousand dollars, at five per centum, per fourth article treaty thirteenth October, eighteen hundred and forty-six, four thousand two hundred and fifty dollars.

For deficiencies in subsistence and expenses of removal and support of the Sioux and Winnebago Indians of Minnesota, during the fiscal year ending June thirtieth, eighteen hundred and sixty-four, one hundred thirty-seven thousand two hundred and ninety-three dollars and forty cents: *Provided*, That the portion expended in behalf of the Winnebagoes shall be reimbursed to the Treasury upon the sale of their lands in Minnesota, to enable the Secretary of the Interior to take charge of certain stray bands of Winnebago and Potawatomi Indians, now in the State of Wisconsin, with a view to prevent any further depredations by them upon the citizens of that State, and for provisions and subsistence, ten thousand dollars: *Provided*, That the proportion of annuities to which said stray bands of Potawatomes and Winnebagoes would be entitled if they were settled upon their reservations with their respective tribes shall be retained in the Treasury to their credit, from year to year, to be paid to them when they shall unite with their said tribes, or to be used by the Secretary of the Interior in defraying the expenses of their removal, or in settling and subsisting them on any other reservation which may hereafter be provided for them.

For the salary of a special agent, to take charge of said Indians, fifteen hundred dollars.

Yancton Tribe of Sioux.

For sixth of ten installments to be paid to them or expended for their benefit, commencing with the year in which they shall remove to and settle and reside upon their reservation, per fourth article treaty nineteenth April, eighteen hundred and fifty-eight, sixty-five thousand dollars.

Calapooias, Molalla, and Clackamas Indians, of Willamette Valley.

For last of five installments of annuity for beneficial objects, per second article treaty twenty-second January, eighteen hundred and fifty-five, eight thousand dollars.

Poncas.

For the first of ten installments of the second series, to be paid to them, or expended for their benefit, commencing with the year in which they shall remove to and settle upon the tract reserved

for their future homes, per second article treaty twelfth March, eighteen hundred and fifty-eight, ten thousand dollars.

For sixth of ten installments for the establishment and maintenance of one or more manual-labor schools, under the direction of the President, per second article treaty twelfth March, eighteen hundred and fifty-eight, five thousand dollars.

For sixth of ten installments, or during the pleasure of the President, to be expended in furnishing said Indians with such aid and assistance in agricultural and mechanical pursuits, including the working of the mill provided for in the first part of this article, as the Secretary of the Interior may consider advantageous and necessary for them, per second article treaty twelfth March, eighteen hundred and fifty-eight, seven thousand five hundred dollars.

Dwamish and other Allied Tribes in Washington Territory.

For fifth installment on one hundred and fifty thousand dollars, under the direction of the President, per sixth article treaty twenty-second January, eighteen hundred and fifty-five, ten thousand dollars.

For fifth of twenty installments for the establishment and support of an agricultural and industrial school, and to provide said school with a suitable instructor or instructors, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, three thousand dollars.

For fifth of twenty installments for the establishment and support of a smith and carpenter shop, and to furnish them with the necessary tools, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, five hundred dollars.

For fifth of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician, who shall furnish medicines for the sick, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, four thousand six hundred dollars.

Makah Tribe.

For second of three installments on thirty thousand dollars, under the direction of the President, per fifth article treaty thirty-first January, eighteen hundred and fifty-five, two thousand dollars.

For fifth of twenty installments for the support of an agricultural and industrial school, and for pay of teachers, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, two thousand five hundred dollars.

For fifth of twenty installments for support of a smith and carpenter's shop, and to provide the necessary tools therefor, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, five hundred dollars.

For fifth of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician, who shall furnish medicines for the sick, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, four thousand six hundred dollars.

Walla-Walla, Cayuse, and Umatilla Tribes.

For last of five installments of eight thousand dollars, under the direction of the President, per second article treaty ninth June, eighteen hundred and fifty-five, eight thousand dollars.

For fifth of twenty installments for the purchase of all necessary mill fixtures and mechanical tools, medicines, and hospital stores, books and stationery for schools, and furniture for the employes, per fourth article treaty ninth June, eighteen hundred and fifty-five, three thousand dollars.

For fifth of twenty installments for the pay and subsistence of one superintendent of farming operations, one farmer, two millers, one blacksmith, one wagon and plow maker, one carpenter and joiner, one physician, and two teachers, per fourth article treaty ninth June, eighteen hundred and fifty-five, eleven thousand two hundred dollars.

For fifth of twenty installments for the pay of each of the head chiefs of the Walla-Walla, Cayuse, and Umatilla bands, the sum of five hundred dollars per annum, per fifth article treaty ninth June, eighteen hundred and fifty-five, one thousand five hundred dollars.

For fifth of twenty installments for salary for the son of Pio-pio-mox-mox, per fifth article treaty ninth June, eighteen hundred and fifty-five, one hundred dollars.

For the erection of a saw and grist mill, in accordance with the provisions of the fourth article of the treaty of June ninth, eighteen hundred and fifty-five, ten thousand dollars.

Yakama Nation.

For last of five installments for beneficial objects, at the discretion of the President, per fourth article treaty ninth June, eighteen hundred and fifty-five, ten thousand dollars.

For fifth of twenty installments for the support of two schools, one of which to be an agricultural and industrial school; keeping in repair school buildings, and for providing suitable furniture, books, and stationery, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For fifth of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty ninth June, eighteen hundred and fifty-five, three thousand two hundred dollars.

For fifth of twenty installments for the employment of one superintendent of farming and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty ninth June, eighteen hundred and fifty-five, nine thousand four hundred dollars.

For fifth of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For fifth of twenty installments for keeping in repair the hospital, and providing the necessary medicines and fixtures therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, three hundred dollars.

For fifth of twenty installments for the pay of a physician, per fifth article treaty ninth June, eighteen hundred and fifty-five, one thousand four hundred dollars.

For fifth of twenty installments for keeping in repair the buildings required for the various employes, and for providing the necessary furniture therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, three hundred dollars.

For fifth of twenty installments for the salary of such person as the said confederated tribes and bands of Indians may select to be their head chief, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

Nex Perce Indians.

For last of five installments for beneficial objects, at the discretion of the President, per fourth article treaty eleventh June, eighteen hundred and fifty-five, ten thousand dollars.

For fifth of twenty installments for the support of two schools, one of which to be an agricultural and industrial school; keeping in repair school buildings, and for providing suitable furniture, books, and stationery, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For fifth of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three thousand two hundred dollars.

For fifth of twenty installments for keeping in repair blacksmiths', tinsmiths', gunsmiths', carpenters', and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For fifth of twenty installments for the employment of one superintendent of farming, and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty eleventh June, eighteen hundred and fifty-five, nine thousand four hundred dollars.

For fifth of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

Laws of the United States.

38TH CONG. 1ST SESS.

For fifth of twenty installments for keeping in repair the hospital, and providing the necessary medicines and furniture therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three hundred dollars.

For fifth of twenty installments for pay of a physician, per fifth article treaty eleventh June, eighteen hundred and fifty-five, one thousand four hundred dollars.

For fifth of twenty installments for keeping in repair the buildings for the various employes, and for providing the necessary furniture therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three hundred dollars.

For fifth of twenty installments for the salary of such person as the tribe may select to be their head chief, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

Flatheads and other Confederate Tribes.

For the first of five installments on one hundred and twenty thousand dollars, being the second series, for beneficial objects, at the discretion of the President, per fourth article treaty sixteenth July, eighteen hundred and fifty-five, five thousand dollars.

For fifth of twenty installments for the support of an agricultural and industrial school, keeping in repair the buildings, and providing suitable furniture, books, and stationery, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For fifth of twenty installments for providing suitable instructors therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, one thousand eight hundred dollars.

For fifth of twenty installments for keeping in repair blacksmiths', tin and gunsmiths', carpenters', and wagon and plow makers' shops, and providing necessary tools therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, five hundred dollars.

For fifth of twenty installments for the employment of two farmers, two millers, one blacksmith, one cooper, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, seven thousand four hundred dollars.

For fifth of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, five hundred dollars.

For fifth of twenty installments for keeping in repair the hospital, and providing the necessary medicines and furniture therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For fifth of twenty installments for pay of a physician, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, one thousand four hundred dollars.

For fifth of twenty installments for keeping in repair the buildings required for the various employes, and furnishing necessary furniture therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For fifth of twenty installments for the pay of each of the head chiefs of the Flatheads, Kootenays, and Upper Pend d'Oreilles tribes, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, fifteen hundred dollars.

Confederated Tribes and Bands of Indians in Middle Oregon.

For fifth of five installments of eight thousand dollars for beneficial objects, at the discretion of the President, per second article treaty twenty-fifth June, eighteen hundred and fifty-five, eight thousand dollars.

For fifth of fifteen installments for pay and subsistence of one farmer, one blacksmith, and one wagon and plow maker, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, three thousand five hundred dollars.

For fifth of twenty installments for pay and subsistence of one physician, one sawyer, one miller, one superintendent of farming operations, and one school teacher, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, five thousand six hundred dollars.

For fifth of twenty installments for payment

of salary to the head chief of said confederated bands, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, five hundred dollars.

Mole Indians.

For fifth of ten installments for keeping in repair saw and flouring mills, and for the pay of necessary employes, the benefits of which to be shared alike by all the confederated bands, per second article treaty twenty-first December, eighteen hundred and fifty-five, one thousand five hundred dollars.

For last of five installments (in addition to the installment specified in the treaty of twenty-ninth November, eighteen hundred and fifty-four, with the Umpquas and Calapoosias of Umpqua valley) for furnishing iron and steel and other materials for the smith in [and] tin shops provided for in said treaty, and for the pay of the necessary mechanics, per second article treaty twenty-first December, eighteen hundred and fifty-five, one thousand eight hundred dollars.

For fifth of ten installments for the pay of a carpenter and joiner to aid in erecting buildings and making furniture for said Indians, and to furnish tools in said service, per second article treaty twenty-first December, eighteen hundred and fifty-five, two thousand dollars.

For pay of teachers to manual-labor school, for all necessary materials therefor, and for the subsistence of the pupils, per second article treaty twenty-first December, eighteen hundred and fifty-five, three thousand dollars.

For last of five installments for the pay of an additional farmer, per second article treaty twenty-first December, eighteen hundred and fifty-five, eight hundred dollars.

Qui-nai-elt and Quil-leh-ute Indians.

For second of three installments on twenty-five thousand dollars for beneficial objects, under the direction of the President, per fourth article treaty first July, eighteen hundred and fifty-five, one thousand six hundred dollars.

For fifth of twenty installments for the support of an agricultural and industrial school, and for pay of suitable instructors, per tenth article treaty first July, eighteen hundred and fifty-five, two thousand five hundred dollars.

For fifth of twenty installments for support of smith and carpenter shop, and to provide the necessary tools therefor, per tenth article treaty first July, eighteen hundred and fifty-five, five hundred dollars.

For fifth of twenty installments for the employment of a blacksmith, carpenter, and farmer, and a physician who shall furnish medicines for the sick, per tenth article treaty first July, eighteen hundred and fifty-five, four thousand six hundred dollars.

S'Klallams.

For second of three installments on sixty thousand dollars, under the direction of the President, per fifth article treaty twenty-sixth January, eighteen hundred and fifty-five, four thousand dollars.

For fifth of twenty installments for the support of an agricultural and industrial school, and for pay of suitable teachers, per eleventh article treaty twenty-sixth January, eighteen hundred and fifty-five, two thousand five hundred dollars.

For fifth of twenty installments for the employment of a blacksmith, carpenter, farmer, and a physician who shall furnish medicines for the sick, per eleventh article treaty twenty-sixth January, eighteen hundred and fifty-five, four thousand six hundred dollars.

Ottawa Indians of Blanchard's Fork and Roche de Bruif.

For second of four installments in money, per fourth article treaty twenty-fourth June, eighteen hundred and sixty-two, eight thousand five hundred dollars.

For interest on twenty-five thousand five hundred dollars, at five per centum, per fourth article treaty twenty-fourth June, eighteen hundred and sixty-two, one thousand two hundred and seventy-five dollars.

Arapahoes and Cheyenne Indians of the Upper Arkansas River.

For fourth of fifteen installments of annuity of thirty thousand dollars, to be expended for their

benefit; that is to say, fifteen thousand dollars per annum for each tribe, commencing with the year in which they shall remove to and settle upon their reservations, thirty thousand dollars.

For second of five installments to provide the said Indians with a mill suitable for sawing timber and grinding grain, one or more mechanics' shops, with necessary tools for the same, and dwelling houses for an interpreter, miller, engineer for mill, (if one be necessary,) farmers, and the mechanics that may be employed for their benefit, five thousand dollars.

For transportation and necessary expenses of delivery of annuities, goods, and provisions, five thousand dollars.

For insurance, transportation, and necessary expenses of the delivery of annuities and provisions of [to] the Chippewas of Lake Superior, five thousand seven hundred and sixty-two dollars and sixty-three cents.

For insurance, transportation, and necessary expenses of the delivery of annuities and provisions of [to] the Chippewas of the Mississippi, three thousand eight hundred and eighty-six dollars and seventy-five cents.

Indian Service in New Mexico.

For general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, fifty thousand dollars.

New Mexico Superintendency.

For deficiency in the appropriation for the Indian service in New Mexico, for the fiscal year ending June thirtieth, eighteen hundred and sixty-four, twenty-five thousand dollars.

Indian Service in the District of Country leased from the Choctaws for the Indians lately residing in Texas.

For the expenses of colonizing, supporting, and furnishing agricultural implements and stock; pay of necessary employes, purchase of clothing, medicines, iron and steel, and maintenance of schools for Indians lately residing in Texas, to be expended under the direction of the Secretary of the Interior, twenty-two thousand eight hundred and twenty-five dollars.

For the Wichitas and other affiliated Bands.

For the expenses of colonizing, supporting, and furnishing said bands with agricultural implements and stock, pay of necessary employes, purchase of clothing, medicines, iron and steel, and maintenance of schools, to be expended under the direction of the Secretary of the Interior, thirty-seven thousand eight hundred dollars.

Eastern Bands of Shoshonees.

For first of twenty installments, to be expended under the direction of the President in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, per fifth article treaty second July, eighteen hundred and sixty-three, for the fiscal year ending June thirty, eighteen hundred and sixty-five, ten thousand dollars.

Northwestern Bands of Shoshonees.

For first of twenty installments, to be expended under the direction of the President in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, per third article treaty thirtieth July, eighteen hundred and sixty-three, for the fiscal year ending June thirty, eighteen hundred and sixty-five, five thousand dollars.

Goshiss Bands of Shoshonees.

For first of twenty installments, to be expended under the direction of the President in the purchase of such articles, including cattle for herding, or other purposes, as he shall deem suitable for their wants and condition, either as hunters or herdsmen, per seventh article treaty October twelve, eighteen hundred and sixty-three, for the fiscal year ending June thirty, eighteen hundred and sixty-five, one thousand dollars.

38TH CONG....1ST SESS.

*Laws of the United States.**Creek Nation.*

For interest on two hundred thousand dollars, at five per centum per annum, as permanent annuity, to be paid them in money, or for such mechanical labor or useful articles as the Secretary of the Interior may from time to time direct, per third article treaty September three, eighteen hundred and sixty-three, for the fiscal year ending June thirty, eighteen hundred and sixty-five, ten thousand dollars, payable on condition that the said nation ratify the amendments made by the Senate.

For payment of first installment, to be expended for their benefit in the purchase of stock, horses, sheep, clothing, and such other articles as the Secretary of the Interior, with the council of said nation, may direct, per fourth article of treaty September three, eighteen hundred and sixty-three, as amended by the Senate, for the fiscal year ending June thirty, eighteen hundred and sixty-five, forty thousand dollars, payable on condition that the said nation ratify the amendments made by the Senate.

Chippewas of Red Lake and Pembina.

For this amount as annuity to be paid per capita to the Red Lake band of Chippewas during the pleasure of the President, per third article of treaty October second, eighteen hundred sixty-three, and second article supplementary to treaty April twelve, eighteen hundred sixty-four, approved April twenty-five, eighteen hundred sixty-four, ten thousand dollars.

For this amount to the Pembina band of Chippewas, per same article and treaty, during the pleasure of the President, five thousand dollars.

For the first of fifteen installments to be expended annually for the purpose of supplying them with gilling-twine, cotton-matter, calicoes, linsey, blankets, sheeting, flannels, provisions, farming tools, and for such other useful articles, and for such other useful purposes, as may be deemed for their best interests, per third article of the supplementary treaty April twelve, eighteen hundred sixty-four, eighteen thousand dollars.

For the first of fifteen installments for same objects, for the Pembina band of Chippewas, per third article of the supplementary treaty April twelfth, eighteen hundred sixty-four, four thousand dollars.

For the first of fifteen installments for pay of one blacksmith, one physician who shall furnish medicine for the sick, one miller, and one farmer, per fourth article supplementary treaty April twelve, eighteen hundred and sixty-four, three thousand nine hundred dollars.

For first of fifteen installments for the purchase of iron and steel, and other articles for blacksmithing purposes, per fourth article supplementary treaty April twelve, eighteen hundred sixty-four, one thousand five hundred dollars.

For first of fifteen installments to be expended for carpentering and other purposes, per fourth article supplementary treaty April twelve, eighteen hundred and sixty-four, one thousand dollars.

For this amount to be expended in building a saw mill, with a run of mill-stones attached, per fifth article supplementary treaty April twelve, eighteen hundred sixty-four, six thousand dollars.

For this amount to be paid to the chiefs of said bands, through their agents, per fourth article treaty October second, eighteen hundred sixty-three, as amended March first, eighteen hundred sixty-four, and modified by the sixth article supplementary treaty April twelve, eighteen hundred sixty-four, twenty-five thousand dollars.

For this amount for the payment of claims of injured persons for depredations committed by said Indians on the goods of certain British and American traders, at the mouth of Red Lake river, and for exactions forcibly levied on the proprietors of steamboats plying on Red river, to be paid in full, and the remainder to be paid pro rata upon the debts of said tribe incurred since the first day of January, eighteen hundred and fifty-nine, to be ascertained by the agents in connection with the chiefs, per fourth article treaty October second, eighteen hundred sixty-three, as amended March first, eighteen hundred sixty-four, and modified by the sixth article sup-

plementary treaty April twelfth, eighteen hundred sixty-four, seventy-five thousand dollars.

For this amount to defray the expense of cutting out a road from Leach lake to Red lake, per fifth article of treaty October second, eighteen hundred sixty-three, five thousand dollars.

For the first of fifteen installments to defray the expense of a board of visitors, to consist of not more than three persons, to attend upon the annuity payments of the said Chippewa Indians, whose salary shall not exceed five dollars per day, nor more than twenty days, and ten cents per mile traveling expenses, and not to exceed three hundred miles, per sixth article of treaty October second, eighteen hundred sixty-three, three hundred and ninety dollars.

For insurance and transportation of annuity goods and provisions, and material for building mill, including machinery, iron and steel for blacksmiths, etc., for the Chippewas of Red Lake and Pembina tribe, ten thousand dollars.

For this amount to defray the expense of bringing on the delegation of Chippewas of Red Lake and Pembina tribe, and to defray their expenses while detained in the city of Washington, in making treaty, and their return to their home, ten thousand dollars.

For this amount to defray the expense of a board of visitors, to consist of not more [than] three persons, to attend upon the annuity payments of the Chippewas of the Mississippi, and the Pillager and Lake Winnebagoish bands of Chippewa Indians in Minnesota, whose salary shall not exceed five dollars per day, and not to be employed more than twenty days to attend upon any one payment and the duties connected therewith, and ten cents per mile for travel, not exceeding three hundred miles, per Senate amendment to seventh article treaty March eleventh, eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred sixty-four, three hundred and ninety dollars.

Same for fiscal year ending June thirtieth, eighteen hundred sixty-five, three hundred and ninety dollars.

MISCELLANEOUS.

For the general incidental expenses of the Indian service in California, including traveling expenses of the superintendent and agents, seven thousand five hundred dollars.

For the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools for Indians in California, fifty-five thousand dollars.

For the compensation of five extra clerks employed in the Indian office, under the acts of fifth August, eighteen hundred and fifty-four, and third March, eighteen hundred and fifty-five, and under appropriations made from year to year, seven thousand dollars.

For compensation of one clerk in the Indian office, to enable the Secretary of the Interior to carry out the regulations prescribed to give effect to the seventh section of the act of March third, eighteen hundred and fifty-five, granting bounty lands to Indians, fourteen hundred dollars.

For compensation of two extra clerks in the Indian office, employed to carry out the treaty with the Chickasaws in the adjustment of their claims, two thousand eight hundred dollars.

For insurance, transportation, and necessary expenses of the delivery of annuities and provisions to the Indian tribes in Minnesota and Michigan, twenty thousand three hundred and fifty dollars and sixty-two cents.

For insurance, transportation, and necessary expenses of the delivery of Pawnee, Ponca, and Yantion Sioux annuity goods and provisions, ten thousand dollars.

For expenses of transportation and delivery of annuity goods to the Blackfeet Indians for the year, seventeen thousand dollars.

For expenses attending the vaccination of Indians, two thousand five hundred dollars.

For the general incidental expenses of the Indian service in Oregon and Washington Territory, including insurance and transportation of annuity goods and presents, (where no special provision therefor is made by treaties,) and office [and] traveling expenses of the superintendent and sub-agents, thirty-five thousand dollars.

For defraying the expenses of the removal and

subsistence of Indians in Oregon and Washington Territory (not parties to any treaty) and for pay of necessary employes, fifty thousand dollars.

Indian Service [Service] in Nevada Territory.

For the general incidental expenses of the Indian service in Nevada Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars.

For general incidental expenses of the Indian service in the Territory of Dakota, including the purchase of goods and other articles, with a view to the preservation of peace, ten thousand dollars.

Indian Service in Utah Territory.

For the general incidental expenses of the Indian service in Utah Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars.

For deficiency in the appropriation for the Indian service in Utah Territory, for the fiscal year ending June thirtieth, eighteen hundred and sixty-four, fifteen thousand dollars.

For the transportation and necessary expenses of delivery of provisions, &c., to the Indians within the Utah superintendency, for the fiscal year ending June thirty, eighteen hundred and sixty-five, twenty-two thousand five hundred dollars.

Indian Service in Colorado [o] Territory.

For the general incidental expenses of the Indian service in Colorado Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars.

Cherokee Nation.

For interest on the "abstracted bonds" belonging to the national funds, fourteen thousand three hundred and eighty-five dollars.

For interest on the "abstracted bonds" belonging to the school fund, three thousand two hundred and seventy dollars.

For interest on the proceeds of sales of school lands in Alabama, sold at different times from and including the second quarter of the year eighteen hundred and fifty, to December thirty-one, eighteen hundred and sixty, computed to March first, one thousand eight hundred and sixty-four, sixteen thousand seven hundred and fifty-eight dollars and four cents.

For subsistence and clothing, and general incidental expenses of the Sisseton, Wahpaton, Medawakanton, and Wahpakoota bands of Sioux or Dakota Indians, at their new homes, one hundred thousand dollars.

For the general incidental expenses of the Indian service in Idaho Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

For the general incidental expenses of the Indian service in the Territory of Arizona, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and to sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

To enable the Secretary of the Interior to settle the claims and carry into effect the provisions of the second article of the treaty of May thirtieth, eighteen hundred and fifty-four, with the confederated tribe of Kaskaskia, Peoria, Piankeshaw, and Wea Indians, three thousand one hundred and sixty-four dollars and fifty-one cents.

Sec. 2. And be it further enacted, That the Secretary of the Interior be, and he is hereby, author-

Laws of the United States.

38TH CONG. 1ST SESS.

ized to expend such part of the amount herein appropriated to carry into effect any treaty stipulation with any tribe, or tribes of Indians, all, or any portion of whom, shall be in a state of actual hostility to the Government of the United States, including the Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, as well as the Cherokees, as may be found necessary to support such individual members of said tribes as have been driven from their homes or reduced to want on account of their friendship to the United States, and enable them to subsist until they can support themselves in their own country: *Provided*, That an account shall be kept of the sums so paid for the benefit of the said members of said tribes, which account shall be rendered to Congress at the commencement of the next session thereof. And all purchases of articles for the purposes above set forth shall be made of the lowest responsible bidder, after sufficient public notice by advertisement in appropriate newspapers: *Provided, also*, That the said Secretary shall not be required to accept any bid which is in his judgment unreasonable in its character: *Provided further*, That no part of said annuities shall be expended for Indians outside of the Indian territory south of Kansas, except in providing for such individual Indians or families as are sick and unable to remove to that territory, or such as may be driven out of that territory by armed rebels, after the passage of this act.

SEC. 3. *And be it further enacted*, That for the temporary subsistence of the Weas, Piankeshaws, Peorias, and Kaskaskias, and furnishing the same with clothing, five thousand dollars.

APPROVED, June 25, 1864.

CHAP. CXLIX.—An Act to provide for the Examination of certain Officers of the Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every quartermaster and assistant quartermaster, and every commissary and assistant commissary of subsistence, and every paymaster and additional paymaster shall, as soon as practicable, be ordered to appear for examination as to his qualifications before a board to be composed of three staff officers of the corps to which he belongs, of recognized merit and fitness, of whom two at least shall be officers of volunteers, which board shall make a careful examination as to the qualifications of all officers who may appear before them in pursuance of this act, and shall also keep minutes and make a full and true record of the examination in each case. And all members of such boards of examination shall, before proceeding to the discharge of their duties as herein provided, swear or affirm that they will conduct all examinations with impartiality, and with a sole view to the qualifications of the person or persons to be examined, and that they will not divulge the vote of any member upon the examination of any officer who may appear before them.

SEC. 2. *And be it further enacted*, That such boards of examination shall be convened under the direction of the Secretary of War, by the Quartermaster General, the Commissary General of Subsistence, and the Paymaster General, at convenient places; and general rules of examination and a standard of qualifications shall be prescribed by said officers, subject to the approval of the Secretary of War, and shall be published in general orders.

SEC. 3. *And be it further enacted*, That after such general orders shall have been published for sixty days, if any officer who shall then be ordered before a board of examiners, under the provisions of this act, shall fail for thirty days, after receiving such special order, to report himself as directed, all his pay and allowances shall cease and be forfeited until he does appear and report for examination; and if he shall still thereafter fail for a further period of thirty days so to appear, he shall thereupon be dropped from the rolls of the Army: *Provided, however*, That if such failure to appear and report shall have been occasioned by wounds or sickness or other physical disability, then there shall be no forfeiture of pay until thirty days after such disability has been removed; but if in sixty days after the disability is

removed the officer shall not report himself he shall then be dropped from the rolls as in other cases.

SEC. 4. *And be it further enacted*, That if the board of examination shall report that any officer does not possess the requisite business qualifications they shall forward the record of the examination of such officer to the head of the bureau to which he may belong, and if the head of such bureau shall approve the finding and report of the board he shall forward the same through the Secretary of War to the President of the United States, and if the President shall confirm the same the officer so failing in his examination shall, if commissioned, be dismissed from the service with one month's pay, and if not yet commissioned his appointment shall be revoked. And if the board shall report that any officer fails to pass a satisfactory examination by reason of intemperance, gambling, or other immorality, and if the head of the bureau shall approve the finding and report of the board, and the same being communicated, as before provided, to the President and confirmed by him, then such officer shall be dismissed from the service without pay, and shall not be permitted to reënter the service as an officer: *Provided*, That such dismissal shall not relieve him from liability under existing laws for any offense he may have committed.

SEC. 5. *And be it further enacted*, That the boards of examination shall forward all their records of examination to the heads of the bureaus to which they appertain, and such records shall be filed in the proper bureaus with a suitable index; and any officer who may desire it shall be entitled to receive a copy of the record in his own case upon paying the cost of copying the same.

APPROVED, June 25, 1864.

CHAP. CL.—An Act to amend an Act entitled "An Act to provide for the Payment of Horses and other Property destroyed in the Military Service of the United States."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act to which this is an amendment shall, from the commencement of the present rebellion, extend to and embrace all cases of the loss of horses by any officer, non-commissioned officer, or private in the military service of the United States while in the line of their duty in such service, by capture by the enemy, whenever it shall appear that such officer, non-commissioned officer, or private was or shall be ordered by his superior officer to surrender to the enemy, and such capture was or shall be made in pursuance of such surrender.

APPROVED, June 25, 1864.

CHAP. CLI.—An Act to amend an Act entitled "An Act to establish and equalize the Grade of Line Officers of the United States Navy," approved July sixteen, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the corps of commanders in the Navy of the United States on the active list, be temporarily increased so as to embrace all who had been appointed as such prior to the commencement of the present session of Congress, under that construction of the law which then prevailed in the Navy Department: *Provided*, That the number hereby allowed shall not exceed ninety-one: *And provided further*, That no further appointments of commanders shall be made on the active list till the number by deaths, dismissals, resignations, or otherwise, shall be reduced to seventy-two.

SEC. 2. *And be it further enacted*, That all payments heretofore made to any officers in the Navy as captains or commanders, under the construction of the law heretofore prevailing in the Navy Department, be, and the same are hereby, ratified and allowed, and the proper accounting officers of the Treasury are hereby authorized and instructed to allow the same, in the same way and manner as if there were no question as to the legality of said appointments.

APPROVED, June 25, 1864.

CHAP. CLII.—An Act to amend the Act of the twenty-first December, eighteen hundred and sixty-one, entitled "An Act to further promote the Efficiency of the Navy."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the act of the twenty-first of December, anno Domini eighteen hundred and sixty-one, entitled "An act to further promote the efficiency of the Navy," shall not be so construed as to retire any officer under the age of sixty-two years, and whose name shall not have been borne upon the Navy Register for a period of forty-five years after he had arrived at the age of sixteen years.

APPROVED, June 25, 1864.

CHAP. CLIII.—An Act granting Lands to the State of Wisconsin to build a Military Road to Lake Superior.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, granted to the State of Wisconsin, to aid in the construction of a military wagon road from Wausaw, Marathon county, Wisconsin, following the Wisconsin river as far as Skonowang, and from thence, on the most feasible and direct route, to a point on the State line between the States of Wisconsin and Michigan, in a direction leading to Ontonagon, on Lake Superior, every alternate section of public land, not mineral, designated by odd numbers, for three sections in width on each side of said road. But in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of any section, or any part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, then it shall be the duty of the Secretary of the Interior to set apart from the public lands of the United States, as hereinbefore described, designated by odd numbers, as near to said even section aforesaid as may be, and the same shall be located within six miles of said road, so much land as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the right of preemption or homestead settlement has attached; which lands, (thus selected in lieu of those sold, reserved, or otherwise appropriated, and to which the right of preemption or homestead settlement has attached as aforesaid) together with the sections and parts of sections designated by odd numbers as aforesaid, and approved as aforesaid, shall be held by the State of Wisconsin for the use and purpose, aforesaid: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of that road for and on account of which such lands are hereby granted, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatever: *Provided further*, That any and all lands heretofore reserved to the United States, or granted by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatsoever, be, and the same are hereby, reserved and excluded from the operation of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way only shall be granted.

SEC. 2. *And be it further enacted*, That the said lands hereby granted to the said State shall be subject to the disposal of the Legislature thereof, for the purposes aforesaid and no other; and the said road shall be, and remain, a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States.

SEC. 3. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner—that is to say, when the said Governor shall certify to the Secretary of the Interior that any ten consecutive miles of said road has been completed under the provisions of this act, and in accordance with the fourth section of this act, stating definitely where said completed section of road commences and where

38TH CONG....1ST SESS.

Laws of the United States.

it terminates, it shall be the duty of the said Secretary to cause patents to issue to said State for three sections of land for each mile of road thus completed as aforesaid, and so on until the whole of said road is completed: *Provided further*, That no patent shall be given for any of the aforesaid lands before the completion of ten consecutive miles of road, or for any road, or for any part of any road, made before the passage of this act, or for any greater quantity than thirty sections for each ten miles completed according to the provisions of this act; and if said road is not completed within five years, no further sales shall be made, and the lands unsold shall revert to the United States.

SEC. 4. *And be it further enacted*, That said military road shall be constructed under the direction of such agents or commissioners as the Governor of said State may appoint, and where it passes through timbered lands, shall be chopped out a uniform width of at least six rods. The road-bed proper to be not less than thirty-two feet wide, and constructed with ample ditches on both sides, so as to afford sufficient drains, with good and substantial bridges and proper culverts and sluices where necessary. All stumps and roots to be thoroughly grubbed out between the ditches the entire length of said road; the central portion of which to be sufficiently raised to afford a dry road-bed by means of drainage from the center to the side ditches; the hills to be leveled and valleys raised so as to make as easy a grade as practicable.

APPROVED, June 25, 1864.

CHAP. CLIV.—An Act to amend the Act of Congress making Donations to the Settlers on the Public Lands in Oregon, approved September twenty-seven, eighteen hundred and fifty, and the Acts amendatory thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases under the act of Congress approved September twenty-seventh, eighteen hundred and fifty, entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to settlers of the said public lands," and the several acts amendatory and supplemental thereto, in which the actual settlement may be shown to be bona fide, and the claim in all respects to be fully within the requirements of existing laws, except as to the failure of the party to file notice within the time fixed by statute, such failure shall not work forfeiture when no adverse rights intervene before the filing of the required notification by the claimant.

APPROVED, June 25, 1864.

CHAP. CLV.—An Act to expedite and regulate the Printing of Public Documents, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter, instead of furnishing manuscript copies of the documents usually accompanying their annual reports to each House of Congress, the heads of the several Departments of Government shall transmit them, on or before the first day of November in each year, to the Superintendent of Public Printing, who shall cause to be printed the usual number, and, in addition thereto, one thousand copies for the use of the Senate and two thousand copies for the use of the House of Representatives; and that it shall be the duty of the Joint Committee on Printing to appoint some competent person, who shall edit and select such portions of the documents so placed in their hands as shall, in the judgment of the committee, be desirable for popular distribution, and to prepare an alphabetical index to the same.

SEC. 2. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized to appoint some competent person to edit the printing of the official reports of the operations of the armies of the United States.

SEC. 3. *And be it further enacted*, That it shall be the duty of the heads of the several Departments of Government to furnish the Superintend-

ent of Public Printing with copies of their respective reports, on or before the third Monday in November in each year.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Superintendent of Public Printing to print the President's message, the reports of the heads of Departments, and the abridgment of accompanying documents prepared under the direction of the Joint Committee on Public Printing, suitably bound; and that in addition to the number now required by law, and unless otherwise ordered by either House of Congress, it shall be his duty to print ten thousand copies of the same for the use of the Senate, and twenty-five thousand copies for the use of the House, and to deliver the same to the proper officer of each House, respectively, on or before the third Wednesday in December following the assembling of Congress, or as soon thereafter as practicable; and further, it shall also be the duty of the said Superintendent to cause to be printed and stitched in paper covers twenty-five hundred copies of the annual reports of the Executive Departments for the use of said Departments, respectively; and also one thousand copies of the reports of the Commissioner of the General Land Office, Commissioner of Pensions, Commissioner of the Internal Revenue, and such number of the report of the Commissioner of Indian Affairs, to be bound, not exceeding three thousand copies, as may be directed by the Secretary of the Interior, for their use, respectively; and also five hundred copies of the reports of the superintendent of the Washington aqueduct, architect of the Capitol extension, Metropolitan Police Board, Third Auditor of the Treasury, and of the Insane Asylum, Columbia Institute, and Commissioner of Public Buildings, respectively, for their use, and one hundred copies of the report of the Bureau of Engineers, for the use of said bureau. And he shall not print any greater number of said reports unless otherwise directed by either House of Congress.

SEC. 5. *And be it further enacted*, That seven thousand copies of the Commercial Relations, annually prepared under the direction of the Secretary of State, be printed and distributed as follows, viz: the usual number (one thousand five hundred and fifty) for the Houses of Congress; four hundred and fifty for the State Department; two thousand for the use of the members of the Senate; and three thousand for the use of the members of the House.

SEC. 6. *And be it further enacted*, That the annual report of the Postmaster General of offers received and contracts for conveying the mails, in compliance with the twenty-fourth and twenty-fifth sections of the act of Congress, approved July two, eighteen hundred and thirty-six, be no longer printed, unless specially ordered by either House of Congress; and that such portion of the above mentioned act as authorized the said publication be, and the same is hereby, repealed.

SEC. 7. *And be it further enacted*, That from and after the passage of this act it shall be the duty of the Secretary of the Senate to furnish the Superintendent of Public Printing with correct copies of all laws and joint resolutions as soon as possible after their approval by the President of the United States, and that the Superintendent shall immediately cause to be printed, separately, the usual number for the use of the two Houses of Congress; and, in addition thereto, he shall cause to be printed and bound, at the close of each session of Congress, three thousand copies thereof for the use of the Senate and ten thousand copies for the use of the House, with a complete alphabetical index, prepared under the direction of the Joint Committee on Public Printing.

SEC. 8. *And be it further enacted*, That section seven of the joint resolution in relation to the public printing, approved June twenty-three, eighteen hundred and sixty, be so amended as to require the Superintendent of Public Printing to advertise only in two newspapers, published in the cities of New York, Cincinnati, Boston, Philadelphia, and Baltimore, for thirty days prior to the first day of November of each year, for proposals for furnishing the paper necessary for the execution of the public printing.

SEC. 9. *And be it further enacted*, That all lithographing and engraving, where the probable

total cost of the maps or plates illustrating or accompanying any one work exceeds two hundred and fifty dollars, shall be awarded to the lowest and best bidder for the interests of the Government, due regard being paid to the execution of the work, after due advertisement by the Superintendent of Public Printing, under the direction of the Joint Committee on Printing; *Provided*, That the Joint Committee on Public Printing be authorized to empower the Superintendent of Public Printing to make immediate contracts for engraving, whenever, in their opinion, the exigencies of the public service will not justify waiting for advertisement and award.

SEC. 10. *And be it further enacted*, That whenever any person may desire extra copies of any document printed at the Government printing office by authority of law, and shall notify the Superintendent of Public Printing of the number of copies desired previous to its being put to press, and shall pay, in advance, the estimated cost thereof to said Superintendent, the Superintendent shall be authorized, under the direction of the Joint Committee on Public Printing, to furnish such extra copies; and the money so received, together with moneys received by him from the sales of paper shavings and imperfections, shall be deposited in the Treasury of the United States to the credit of the appropriations for public printing, binding, and paper, respectively, as designated by said Superintendent; and, further, the Secretary of the Treasury is hereby directed to cause the moneys heretofore deposited by said Superintendent in the Treasury of the United States, being the proceeds of sales of paper shavings and imperfections, to be placed to the credit of the appropriations aforesaid, which said several sums of money shall be subject to the requisition of said Superintendent in the manner now prescribed by law.

SEC. 11. *And be it further enacted*, That whenever papers relating to foreign affairs shall be communicated to Congress accompanying the annual message of the President, it shall be the duty of the Superintendent of Public Printing to cause to be printed and bound, in addition to the usual number, four thousand copies for the use of the members of the Senate, seven thousand copies for the use of the members of the House of Representatives, and such number for the executive department as the President shall direct.

SEC. 12. *And be it further enacted*, That the forms and style in which the printing or binding ordered by any of the Departments shall be executed, the materials and size of type to be used, shall be determined by the Superintendent of Public Printing, having proper regard to economy, workmanship, and the purposes for which the work is needed.

SEC. 13. *And be it further enacted*, That all laws, or parts of laws, joint resolutions, or parts of joint resolutions, conflicting with the above provisions, be, and they are hereby, repealed.

APPROVED, June 25, 1864.

CHAP. CLVI.—An Act to provide for the Public Instruction of Youth in the County of Washington, District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the school districts in the county of Washington, District of Columbia, without the limits of the cities of Washington and Georgetown, shall be and remain as now laid down according to law, subject to revision and alteration by the levy court of said county, and that the school commissioners now in office shall be and remain so until others are appointed.

SEC. 2. *And be it further enacted*, That the levy court shall annually, on the first Monday in May, appoint one person from each school district as a commissioner of primary schools, of which appointment the clerk of the levy court shall immediately notify the person so appointed; and whenever a vacancy shall occur in the board of said commissioners, the levy court, as soon as may be thereafter, shall fill the same, and all appointments made by, or resolutions of said court concerning, said commissioners shall be forthwith communicated by the clerk of said court to the

Laws of the United States.

38TH CONG... 1ST SESS.

clerk of the said board of commissioners, and each of said commissioners shall hold the office until a successor is appointed.

Sec. 3. *And be it further enacted*, That each of the said commissioners, before he enters upon the execution of his office, and within fifteen days after notice of his appointment, shall take and subscribe, before some justice of the peace of said county, the following oath: "I, ———, do solemnly swear (or affirm, as the case may be,) that I will in all things, to the best of my knowledge and ability, well and truly execute the trust reposed in me as commissioner of primary schools for the county of Washington, District of Columbia, without prejudice and according to law;" and every justice of the peace, before whom such oath shall be taken, shall certify the same in writing, and within eight days thereafter transmit or deliver said certificate to the clerk of the levy court for record.

Sec. 4. *And be it further enacted*, That the said commissioners and their successors shall be a corporation, under the name and style of The Board of Commissioners of Primary Schools of Washington County, District of Columbia, with power to sue and be sued, and to take and hold, in fee-simple, or otherwise, any estate, real or personal, not prohibited by law, which may be given to, or purchased by, the said board for primary school purposes, and may alien and sell the same when, in the opinion of the levy court, it will be for the advantage of the said primary schools so to do; and all money in hand, after defraying the whole expenses of the several school districts at the end of each school year, shall be invested in some safe stock in the name of said corporation, and in their corporate name said board may prosecute and maintain actions for injuries done to the grounds, houses, furniture, or other property in their possession.

Sec. 5. *And be it further enacted*, That the said board of commissioners shall make and keep a record of all its official acts, and a strict and particular account of all moneys received or paid out by its order, a statement of which, with the vouchers relating thereto, as well as the record of the board, shall be subject at all times to the inspection of the levy court of said county, and to any tax payer; and said record, or a copy thereof, certified to be correct by any one of said commissioners, attested by the signature of the clerk of said board, shall be prima facie evidence of their acts in all proceedings, judicial or otherwise; and the said board shall appoint a capable person as their clerk, (who may be one of their own members, or otherwise,) prescribe his duties, and allow him a reasonable compensation for his services.

Sec. 6. *And be it further enacted*, That the said board of commissioners shall hold stated meetings in January, April, July, and October, of each and every year, at such times and places as they may appoint, and such other meetings as circumstances may require; but if less than four members are present at any one meeting no business shall be done, except to adjourn to a future day; and at the stated meetings in April and October the treasurer of the school funds and the collector of taxes shall render in writing a full statement of their accounts respectively for the next preceding half year.

Sec. 7. *And be it further enacted*, That the clerk of the levy court of said county shall annually, on or before the first Monday in April, furnish to the said board of commissioners alphabetical lists of the owners of property in each school district, according to the last county assessment, and a statement of the total amount of property assessed to each owner, exhibiting the school tax thereon according to the last levy made by the levy court for school purposes.

Sec. 8. *And be it further enacted*, That the said board of commissioners shall have power annually (or as a vacancy may occur) to appoint two persons in each school district as trustees of that district, who, with the commissioner of such district, shall have charge of the local concerns of the schools therein, and act in concert with the board of commissioners in carrying out all the rules and regulations ordained by the said board, and together may permit the school house or houses in their district to be used for public wor-

ship, or for other purposes of general benefit to the residents of the district.

Sec. 9. *And be it further enacted*, That the said board of commissioners shall have power, and it shall be their duty—

First. To receive and disburse any fund which may be provided for the purchase of sites and the erection and support of primary schools in said county and District.

Second. To regulate the number of children to be taught in each of said schools, and the price of their tuition.

Third. To select, upon a thorough examination, such teachers as are competent, giving to each a certificate of qualifications, without which no teacher shall be entitled to receive pay, and to fix their salaries and terms of service.

Fourth. To suspend or expel from any school, with the advice of the commissioner and trustees of the school district, any pupil who will not submit to the reasonable and ordinary rules of order and discipline therein.

Fifth. To prescribe the course of study and the text books to be used in the schools, to regulate and control the purchase and distribution of books, maps, globes, stationery, and other things necessary for the use of the same, and generally to prescribe rules and regulations for the management, good government, and well ordering of said schools.

Sixth. To report to the levy court, at the close of each school year, the amount of all expenditures on account of schools in the several districts during the previous school year, and the manner in which the same shall have been expended, specifying what portion and amount thereof has been expended for the services of teachers, and also shall particularly set forth the number of pupils taught, and their average attendance and progress, and such other statistics as the levy court may require.

Seventh. To select, purchase, or otherwise procure, suitable sites for school houses in each district; to adopt plans, and cause to be built, kept in repair, and furnished, such school houses; to supply the same with necessary fuel, books, stationery, and appendages, and to defray the necessary expenses of the board: *Provided*, That the pay of teachers shall always have preference.

Sec. 10. *And be it further enacted*, That, for the purpose of supporting said schools, and providing suitable sites, houses, and equipments therefor, the levy court shall, annually, on the first Monday in March, impose and levy a school tax not exceeding one fourth of one per centum on all the assessed property of said county without the limits of Washington and Georgetown, which tax shall be due at the same time, and be collected by the county collector in the same manner, and under the same regulations and restrictions, as are prescribed by law in relation to the collection of the county taxes, and which are hereby made applicable to the collection of the school tax imposed by this act, and when collected shall be paid to the treasurer of the school fund; and the treasurer of the levy court is hereby constituted treasurer of the school fund; and the said treasurer and collector shall be qualified by making oath or affirmation faithfully to discharge the duties required of them; and they shall give bonds respectively to the said board of commissioners, in a sum to be fixed by the levy court, with two sufficient sureties, conditioned for the faithful discharge of the duties required of them by this act, which bonds, being approved by the said board of commissioners, shall be filed with the clerk of the supreme court of the District of Columbia, who is hereby required to file the same, and a copy of either of said bonds, under seal of said court, shall be sufficient evidence of the making thereof; and the said treasurer shall be paid such compensation for his services as the said board of commissioners may allow, and the said collector the same fees as are allowed by the said levy court for collecting the county tax.

Sec. 11. *And be it further enacted*, That the whole amount standing to the credit of the school fund, when the aforesaid levy is to be made, shall be taken into the account in determining the amount of tax necessary to meet the current expenses of the school year, which amount shall be levied as aforesaid, and no more, and the said

board of commissioners shall apportion the school fund, after deducting such part thereof as the provisions of this act assign to the education of colored children, among the several school districts, giving to each one seventh of the whole amount of school taxes collected and then in hand, after deducting the necessary expenses of the board, and one seventh of all other funds paid in, after deducting as hereinbefore provided for the education of colored children, until an amount shall have accumulated sufficient to purchase a site and erect and furnish a school house in each district, the cost of which shall not exceed fifteen hundred dollars, (unless by private subscription,) except where the number of scholars is sufficiently large to require two schools, in which case the sum may reach three thousand dollars; after that it shall be apportioned according to the number of children in each district between the ages of six and seventeen years: *Provided*, That not more than the actual expenses of each district shall be paid: *And provided further*, That more than one school house may be established in any one district if the funds are procured.

Sec. 12. *And be it further enacted*, That in case the said commissioners should not be able to purchase suitable sites for the erection of school houses, they shall have power to condemn and value a suitable site or sites for that purpose, not exceeding one acre of land in each site, by giving ten days' notice in writing to the proprietors thereof, except in cases where notice cannot be served, and in cases of minors, femme coverts, and persons non compos mentis, and filing with the clerk of the levy court of the county of Washington, District of Columbia, for inspection, a certificate describing such lands, with the value assessed thereon, signed by the president and clerk of said board of commissioners, which shall be sufficient notice to the proprietors of such land that the said board of commissioners are ready to pay the amount of damages so assessed; and if within thirty days from the filing of said certificate the proprietors of such land shall not appeal from the decision of said commissioners, by written notice left with the said clerk of the levy court, the amount so assessed shall be paid to the proprietors, and the title to such land and premises shall pass to, and be vested in, the board of commissioners of primary schools of Washington county, District of Columbia, and the said certificate shall be recorded in the land records of Washington county, District of Columbia, and shall be final; but if the proprietors of such land and premises shall, within the said thirty days, notify the said commissioners, in writing, left with the clerk of the levy court, of their dissent from the valuation of such land as made by the said commissioners, or if the land or any part thereof be owned by a minor, femme covert, or person non compos mentis, or if a notice cannot be served, it shall be lawful for the said commissioners, and it is made their duty, by their president and clerk, to issue their warrant to the marshal of the District of Columbia, commanding him to summon a jury of five freeholders, not interested in the matter, to appear on a day to be appointed by the said commissioners, on the premises, and after having each taken an oath (which the marshal or any one of said commissioners is authorized to administer) that he will, without favor or prejudice, assess the damages sustained by the proprietor of said land by reason of the condemnation of said land by the said commissioners, the jury so qualified shall proceed to value and assess the damages accordingly; and if the amount assessed by the said jury shall not be greater than the amount assessed by the said commissioners, the whole costs of the said appeal shall be chargeable to the appellant, to be paid by the said commissioners, and deducted from the cost of the land in settlement therefor; otherwise the said board of commissioners shall pay the expenses incurred by reason of such appeal, the marshal's and jurors' fees to be computed according to the act of Congress approved March three, eighteen hundred and sixty-three, defining the powers and duties of the levy court.

Sec. 13. *And be it further enacted*, That the said jury, immediately after they shall have completed their inquest and assessed the damages, shall make out a written verdict, setting forth a

38TH CONG....1ST SESS.

Laws of the United States.

full and distinct description of the land and premises and the valuation or damages assessed therefor, which shall be signed by them, or a majority of them, and having been attested by the marshal, shall be immediately returned to the clerk of the levy court of the county of Washington, District of Columbia, and shall be final; and the said damages having been paid, or offered to be paid, to the said proprietors, the title to such land shall pass to; and be vested in, The Board of Commissioners of Primary Schools of Washington County, District of Columbia, and the verdict of the jury shall be recorded in the land records of Washington county, District of Columbia: *Provided*, That it shall be optional with the said commissioners to abide by said verdict, and occupy the said land, or abandon it without being subject to damages therefor.

SEC. 14. *And be it further enacted*, That it shall not be lawful to locate any site for a school house in any orchard or garden, nor within three hundred yards of any dwelling house, without the consent of the proprietor of such dwelling house, and in order to obtain such consent or refusal, thirty days' notice shall be given to said proprietor by the said commissioners, notifying such proprietor of their intention; and if, within thirty days, no answer is returned to said commissioners by said proprietor, it shall be taken for consent, and the said commissioners may proceed to erect their school house without let or hindrance.

SEC. 15. *And be it further enacted*, That if the treasurer or collector, having any school funds in his hands, or neglecting or refusing to obtain such funds as by law authorized and directed, shall refuse to pay for two weeks any order of the said commissioners drawn in conformity with the requisitions of this act, such treasurer or collector shall be liable, on proof before any court of justice or justice of the peace having cognizance, and without stay of execution, to pay the full amount of said order and interest thereon, at the rate of twenty per centum per annum, from the first refusal until the day of payment, by way of damages. If any collector appointed or acting under the provisions of this act shall in any case collect more than is due, the person aggrieved shall have his remedy against such collector by suit or warrant, and if he recover he shall have judgment for double the amount improperly and unjustly extorted from him, and costs. The levy court of Washington county shall exercise a general supervision over the proceedings of said commissioners, may examine their books and papers, and shall prosecute for any delinquencies or violations of their duty. It shall not be lawful for a member of the levy court of said county to be a commissioner of primary schools or trustee of any of the school districts, nor for any person to be at the same time commissioner and trustee as aforesaid.

SEC. 16. *And be it further enacted*, That any white resident of said county shall be privileged to place his or her child or ward at any one of the schools provided for the education of white children in said county he or she may think proper to select, with the consent of the trustees of both districts; and any colored resident shall have the same rights with respect to colored schools.

SEC. 17. *And be it further enacted*, That it shall be the duty of the said commissioners to provide suitable and convenient houses or rooms for holding schools for colored children, to employ and examine teachers therefor, and to appropriate a proportion of the school funds, to be determined by the numbers of white and colored children between the ages of six and seventeen years, to the payment of teachers' wages, to the building or renting of school rooms, and other necessary expenses pertaining to said schools, to exercise a general supervision over them, to establish proper discipline, and to endeavor to promote a thorough, equitable, and practical education of colored children in said county. It shall be lawful for such commissioners to impose a tax of not more than fifty cents per month for each child on the parents or guardians of children attending said schools, to be applied to the payment of expenses of the school of which said child shall be an attendant; and in the exercise of this power the commissioner may, from time to time, discontinue the payment altogether, or may graduate the tax according to the ability of the said

tax payers and the wants of the school: *Provided*, That no child shall be excluded from such school on account of the inability of the parent or guardian to pay said tax. And said commissioners are authorized to receive any donations or contributions that may be made for the benefit of said schools by persons disposed to aid in the elevation of the colored population in the District of Columbia, and to apply the same in such manner as in their opinion shall be best calculated to effect the object of the donors, said commissioners being required to account for all funds received by them, and to report to the levy court in accordance with the provisions of section nine of this act.

SEC. 18. *And be it further enacted*, That the first section of the act of Congress entitled "An act providing for the education of colored children in the cities of Washington and Georgetown, District of Columbia, and for other purposes," be, and the same is hereby, repealed; and that from and after the passage of this act it shall be the duty of the municipal authorities of the cities of Washington and Georgetown, in the District of Columbia, to set apart each year, from the whole fund, received from all sources, by such authorities, applicable, under existing provisions of law, to purposes of public education, such a proportionate part thereof as the number of colored children, between the ages of six and seventeen years, in the respective cities bear to the whole number of children thereof, for the purpose of establishing and sustaining public schools in said cities for the education of colored children; that the said proportion shall be ascertained by the last reported census of the population of said cities made prior to said apportionment, and shall be regulated at all times thereby; and that the said fund shall be paid to the trustees appointed under the act of Congress approved July eleven, eighteen hundred and sixty-two, entitled "An act relating to schools for the education of colored children in the cities of Washington and Georgetown, in the District of Columbia," to be disbursed by them in accordance with the provisions of the said act.

SEC. 19. *And be it further enacted*, That one fourth part of all the moneys now in the hands of the marshal of the District of Columbia, or of any other officer of said District, which have accrued from fines, penalties, and forfeitures imposed for the violations of the laws of the United States within said District, shall be by such officer or officers paid to the Board of Commissioners of Primary Schools of Washington County, District of Columbia, one fourth part to the mayor of the city of Georgetown, and the remaining two fourths thereof to the mayor of the city of Washington, the said sums so paid to the said commissioners and the said mayors to constitute in their hands funds for the support of primary schools within the said county and public schools in said cities in the proportions aforesaid. And it shall be the duty of said marshal and other officers to pay over, every three months, from and after the passage of this act, all money coming into their hands in the manner aforesaid, to the said board of commissioners of primary schools and to the said mayors, in the proportions aforesaid, for the use of the said primary and public schools, any law to the contrary notwithstanding: *Provided*, That the funds thus obtained for educational purposes shall be applied to the education of both white and colored children, in the proportion of the numbers of each between the ages of six and seventeen years as determined by the latest census report that shall have been made prior to said apportionment; and the mayors of the aforesaid cities of Georgetown and Washington are hereby authorized and instructed to pay over such part thereof as may be applicable under the provisions of this section and the proviso thereto to the education of colored children in the aforesaid cities, to the trustees appointed under the act of July eleven, eighteen hundred and sixty-two, entitled "An act relating to schools for the education of colored children in the cities of Washington and Georgetown, in the District of Columbia," to be used for the education of colored children according to the provisions of law, and the aforesaid officers failing to pay over the moneys as aforesaid shall be liable to the penalty imposed by the second section of the act of Con-

gress approved July twelfth, eighteen hundred and sixty-two, entitled "An act to provide for the payment of fines and penalties collected by and paid the justices of the peace in the District of Columbia, under the acts of Congress approved the third and fifth of August, eighteen hundred and sixty-one, and for other purposes."

SEC. 20. *And be it further enacted*, That every person in the said District of Columbia, having under his or her control a child between the ages of eight and fourteen years, shall annually, during the continuance of such control, send such child to some public school in that part of said District in which he or she shall at the time reside, at least twelve weeks, six of which shall be consecutive, and for every neglect of such duty the party offending shall forfeit to the use of the school of that portion of said District in which he or she shall reside a sum not exceeding twenty dollars, to be recovered before any justice of the peace of the said District: *Provided*, That if it be made to appear to said justice that the party so offending was not able for any cause to send such child to school, or that such child has been attending any other school for a like period of time, or that such child by reason of bodily or mental infirmity was not fit to attend such school, such penalty shall not be enforced.

SEC. 21. *And be it further enacted*, That the trustees or commissioners having charge of public schools in the said District shall not admit into such schools any child who shall not have been duly vaccinated or otherwise protected against the small-pox; and may make such arrangements for the purpose of ascertaining whether any children within the ages prescribed in the preceding section are not attending the public schools, as they shall deem best for the purpose of enforcing the attendance of such children upon said schools, under the provisions of such section and for enforcing the penalty therein prescribed.

SEC. 22. *And be it further enacted*, That this act be, and the same is hereby, declared public and remedial, and shall be construed by all courts of justice according to the equity thereof; and no proceedings of the inhabitants or of the trustees of any school district, or of the commissioners of primary schools, or of any other officer created under the provisions of this act, shall be set aside or adjudged to be void for defect of form, or for any irregularity therein, so that the requisitions of the said act are substantially complied with.

SEC. 23. *And be it further enacted*, That the act of Congress entitled "An act to provide for the public instruction of youth in primary schools throughout the county of Washington, in the District of Columbia, without the limits of Washington, and Georgetown," except the first and third sections, approved May twenty, eighteen hundred and sixty-two be, and the same is hereby, repealed.

APPROVED, June 25, 1864.

CHAP. CLVII.—An Act to amend an Act entitled "An Act to define the Powers and Duties of the Levy Court of the County of Washington, District of Columbia."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first clause of the third section of the act of Congress entitled "An act to define the powers and duties of the levy court of the county of Washington, District of Columbia, in regard to roads and for other purposes," be, and the same is hereby, amended so as to read as follows: "That the said court shall have the care and charge of, and the exclusive jurisdiction over, all the public roads and bridges in said county, except such roads and bridges as belong to and are under the care of the United States, and except such roads and bridges as shall have been or may hereafter be specially provided for by Congress. And the said court shall have power and it shall be their duty."

SEC. 2. *And be it further enacted*, That the tenth section of the said act be, and the same is hereby, amended by striking out the words "thirty-first," and inserting the word "thirtieth."

SEC. 3. *And be it further enacted*, That all cemeteries in the District of Columbia, outside of the cities of Washington and Georgetown, the own-

Laws of the United States.

38TH CONG....1ST SESS.

ers of which sell lots or burial rights therein indiscriminately to those applying therefor, shall be assessed and taxed as other property in the same parts of the said District: *Provided, however*, That all lots in said cemeteries, when actually sold for burial purposes, and any cemetery held and owned by a religious society, having a regular and known place of worship, shall be exempt from taxation.

SEC. 4. *And be it further enacted*, That hereafter the said court shall have power, and it shall be their duty, to appoint the county surveyor of said county of Washington, to define his duties, from time to time, to fix his compensation, and to remove him whenever they shall deem it proper so to do.

SEC. 5. *And be it further enacted*, That it shall be the duty of the collector of taxes for said county, whenever the owner or keeper of any dog or dogs shall neglect or refuse to pay the tax thereon, to kill, or cause to be killed, every and all such dogs.

SEC. 6. *And be it further enacted*, That the time specified by the act of February twenty-one, eighteen hundred and sixty-three, within which certain roads in said county shall be surveyed, plotted, and recorded, is hereby extended to three years from the first day of July, eighteen hundred and sixty-five.

SEC. 7. *And be it further enacted*, That the said court shall have power to issue, classify, and tax licenses for taverns, hotels, and restaurants, and for retailing goods, wares, and merchandise in said county, in proportion to the amount of business the person applying for a license is likely to do. The maximum sum to be charged for any one license not to exceed two hundred and fifty dollars, and the minimum to be so charged not to be less than two dollars.

SEC. 8. *And be it further enacted*, That the notice required to be given by the eighth section of the act of which this is an amendment, need not be given when all the parties interested are agreed; and all roads laid out under such agreement, without such notice being given, are hereby declared lawful highways.

SEC. 9. *And be it further enacted*, That all laws and parts of laws inconsistent with this act are hereby repealed.

APPROVED, June 25, 1864.

CHAP. CLVIII.—An Act to authorize the Bailiff of the Orphans' Court, in the County of Washington and District of Columbia, to serve Processes issued by said Court, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the bailiff of the orphans' court, in the county of Washington, and District of Columbia, or such person as may be deputed by the register of wills in said county, shall have authority to serve all processes issued by said court, and shall be entitled to a fee of fifty cents for serving citations, and a fee of one dollar for serving attachments and making returns of the same to the court. And there shall be paid to the register of wills for said county, for recording wills and other instruments, fifteen cents per folio of one hundred words.

APPROVED, June 25, 1864.

CHAP. CLIX.—An Act amendatory of an Act to amend an Act entitled "An Act to promote the Progress of the Useful Arts," approved March three, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person having an interest in an invention, whether as the inventor or assignee, for which a patent was ordered to issue upon the payment of the final fee as provided in section three of an act approved March three, eighteen hundred and sixty-three, but who has failed to make payment of the final fee as provided by said act, shall have the right to make the payment of such fee, and receive the patent withheld on account of the non-payment of said fee, provided such payment be made within six months from the date of the passage of this act: *Provided*, That nothing herein shall be so construed as to

hold responsible in damages any persons who have manufactured or used any article of thing for which a patent, as aforesaid, was ordered to be issued.

APPROVED, June 25, 1864.

CHAP. CLX.—An Act to grant to the State of California certain Lands for State Prison purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of the United States to the lands comprising that portion of the promontory or point known as Punta de Quintin, or Point San Quintin, lying east of the north and south line, dividing sections number three and ten from number two and eleven in township number one north range number six west, of Mount Diablo meridian, embracing portions numbers eleven, twelve, thirteen, and fourteen of the said township number one, north range number six west, upon which the State prison of the State of California is now located, not exceeding in quantity four hundred and fifty acres, be, and the same is hereby, ceded, granted, and confirmed to the said State of California, without prejudice to the rights or claims of any other parties.

APPROVED, June 25, 1864.

CHAP. CLXII.—An Act to carry into effect a Treaty between the United States and her Britannic Majesty for the final Settlement of the Claims of the Hudson's Bay and Puget's Sound Agricultural Companies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States, by and with the advice and consent of the Senate, shall appoint a commissioner, whose duty it shall be, conjointly with the commissioner appointed by her Britannic Majesty's Government, to investigate, adjust, and determine the claims of the Hudson's Bay Company and of the Puget's Sound Agricultural Company against the Government of the United States, pursuant to the terms of a treaty signed at Washington on the first day of July, eighteen hundred and sixty-three; and the commissioner shall be authorized to appoint a clerk, with a compensation at the rate of eight dollars a day.

SEC. 2. *And be it further enacted*, That the compensation of the commissioner shall be five thousand dollars in full for his services and personal expenses. And the sums necessary to pay the compensation aforesaid, the share of contingent expenses of the commission on the part of the United States, and of the compensation of the umpire, chosen under the convention, are hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That the commissioner on the part of the United States, in conjunction with the commissioner on the part of Great Britain, is hereby authorized to make all needful rules and regulations for conducting the business of the commission; such rules and regulations not contravening the Constitution of the United States, the provisions of this act, or the stipulations of the treaty.

SEC. 4. *And be it further enacted*, That the Secretary of State is hereby authorized and required to transmit to the said commission such papers or records relating to the business of the commission as he may deem proper, or as may be called for by the commissioner; and at the close of the commission, and of the duties of the umpire, all the records, documents, and all other papers which may have been presented on behalf of the United States, shall be returned to the Department of State.

APPROVED, June 27, 1864.

CHAP. CLXIII.—An Act in relation to the Fees and Emoluments of the Marshal, Attorney, and Clerk of the Supreme Court of the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fees of the clerk of the supreme court of the District of Columbia, except so far as hereinafter specifically provided, and of

the United States attorney and the marshal of said District, except so far as hereinafter provided, shall be the same as the fees respectively allowed to clerks of the district and circuit courts, attorneys, solicitors, and proctors, and marshals, by the act approved February twenty-six, eighteen hundred and fifty-three, entitled, "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes:" *Provided*, That the clerk of said supreme court shall not be allowed by the Secretary of the Interior to retain of the fees and emoluments of his said office, for his own personal compensation, over and above his necessary office expenses, the necessary clerk hire included, to be audited and allowed by the accounting officers of the Treasury, subject to an appeal to the Secretary of the Interior, more than the sum of four thousand dollars per annum; and in making out his semi-annual returns, required by the third section of said act, said clerk shall embrace his fees and emoluments of every name and character for any service required of him by law.

SEC. 2. *And be it further enacted*, That no marshal nor district attorney of the United States shall by reason of the discharge of the duties of his office, now or hereafter required of him by law, or in any case in which the United States will be bound by the judgment which may be rendered in the same, be allowed to retain out of the fees, charges, and emoluments therefor, whether prescribed by statute or allowed by a court or any judge thereof, a greater maximum compensation than that fixed by the act aforesaid; but all such fees and emoluments, of every name and character, shall be included in the semi-annual returns required of marshals and attorneys by the third section of the act aforesaid: *Provided*, That nothing in this act contained shall apply to the provisions of sections eleven and twelve of the "Act to prevent and punish frauds upon the revenue, approved March third, eighteen hundred and sixty-three."

SEC. 3. *And be it further enacted*, That, at the commencement of every suit in the supreme court of the District of Columbia, the plaintiff shall deposit at least eight dollars with the clerk, to be appropriated toward the costs of the suit; and if the plaintiff recover against the defendant a judgment with costs, and said costs do not amount to eight dollars, the overplus shall be paid back to the plaintiff by the clerk: *Provided*, That suits may be prosecuted in said court by poor persons without making the deposit herein prescribed, upon the order of the court, or of one of the justices thereof.

SEC. 4. *And be it further enacted*, That the following fees, and no other, shall be allowed to the clerk of said court, and the marshal of said District, for the services following:

For all services rendered by said clerk to the United States in cases in which the said United States is a party of record, five dollars.

For each marriage license issued by him, one dollar.

For each certificate of official character, including the seal, fifty cents.

For service of any warrant, attachment, summons, capias, or other writ, (except execution, venire, or a summons or subpoena for a witness,) one dollar for each person on whom such service may be made.

SEC. 5. *And be it further enacted*, That nothing in this act shall be so construed as to repeal or modify any of the provisions of an act entitled "An act concerning the disposition of convicts in the courts of the United States for subsisting persons confined in jails, charged with violating the laws of the United States, and for diminishing the expenses in relation thereto," approved May twelfth, eighteen hundred and sixty-four, or of "An act to authorize the appointment of a warden of the jail in the District of Columbia," approved February twenty-ninth, eighteen hundred and sixty-four; but the duties of said warden, and of the marshal of the United States for said District, in regard to the said jail and the prisoners committed thereto or confined therein, shall remain the same as if this act had not been passed.

APPROVED, June 27, 1864.

38TH CONG....1ST SESS.

Laws of the United States.

CHAP. CLXIV.—An act to prevent Smuggling, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passage of this act, all goods, wares, and merchandise, and all baggage and effects of passengers, and all other articles imported into the United States from any contiguous foreign country or countries, except as hereafter provided, as well as the vessels, cars, and other vehicles and enyôples in which the same shall be imported, shall be unladen in the presence of, and be inspected by, an inspector or other officer of the customs, at the first port of entry or custom-house in the United States where the same shall arrive; and to enable the proper officer thoroughly to discharge this duty, he may require the owner or owners, or his, her, or their agent, or other person having charge or possession of any trunk, traveling-bag or sack, valise, or other envelope, or of any closed vessel, car, or other vehicle, to open the same, or to deliver to him the proper key; and if such owner, agent, or other person shall refuse or neglect to comply with his demands, the said officer shall retain such trunk, traveling-bag or sack, valise, or whatever it may be, and open the same, and, as soon thereafter as may be practicable, examine the contents; and if any article or articles subject to the payment of duty shall be found therein, the whole contents, together with the envelope, shall be forfeited to the United States, and disposed of as the law provides in other similar cases. And if any such dutiable goods, article or articles, shall be found in such vessel, car, or other vehicle, the owner, agent, or other person in charge of which shall have refused to open the same or deliver the key as herein provided, the same, together with the vessel, car, or other vehicle, shall be forfeited to the United States, and shall be held by such officer, to be disposed of as the law provides in other similar cases of forfeiture.

Sec. 2. *And be it further enacted,* That to avoid the inspection at the first port of arrival, required by the first section of this act, the owner, agent, master, or conductor of any such vessel, car, or other vehicle, or owner, agent, or other person having charge of any such goods, wares, merchandise, baggage, effects, or other articles, may apply to any officer of the United States duly authorized to act in the premises, to seal or close the same, under and according to the regulations hereinafter authorized, previous to their importation into the United States; which officer shall seal or close the same accordingly; whereupon the same may proceed to their port of destination without further inspection: *Provided,* That nothing contained in this section shall be construed to exempt such vessel, car, or vehicle, or its contents, from such examination as may be necessary and proper to prevent frauds upon the revenue and violations of this act: *And provided further,* That every such vessel, car, or other vehicle, shall proceed, without unnecessary delay, to the port or place of its destination, as named in the manifest of its cargo, freight, or contents, and be there inspected, as provided in section one.

Sec. 3. *And be it further enacted,* That the Secretary of the Treasury be, and he is hereby, authorized and required to make such regulations, and from time to time so to change the same as to him shall seem necessary and proper, for sealing such vessels, cars, and other vehicles, when practicable, and for sealing, marking, and identifying such goods, wares, merchandise, baggage, effects, trunks, traveling-bags or sacks, valises, and other envelopes and articles; and also in regard to invoices, manifests, and other pertinent papers, and their authentication.

Sec. 4. *And be it further enacted,* That if the owners, master, or person in charge of any vessel, car, or other vehicle, sealed as aforesaid, shall not proceed to the port or place of destination thereof named in the manifest of its cargo, freight, or contents, and deliver such vessel, car, or vehicle, to the proper officer of the customs, or shall dispose of the same by sale or otherwise, or shall unload the same, or any part thereof, at any other than such port or place, or shall sell or dispose of the contents of such vessel, car, or other vehicle, or any part thereof, before such delivery, he shall be deemed guilty of felony, and on conviction thereof, before any court of competent jurisdiction, pay a fine not exceeding one thousand dollars, or shall be imprisoned for a term not exceeding five years, or both, at the discretion of the court; and such vessel, car, or other vehicle, with its contents, shall be forfeited to the United States, and may be seized wherever found within the United States, and disposed of and sold as in other cases of forfeiture: *Provided,* That nothing in this section shall be construed to prevent sales of cargo, in whole or in part, prior to arrival, to be delivered as per manifest, and after due inspection.

Sec. 5. *And be it further enacted,* That if any unauthorized person or persons shall willfully break, cut, pick, open, or remove any wire, seal, lead, lock, or other fastening or mark attached to any vessel, car, or other vehicle, crate, box, bag, bale, basket, barrel, bundle, cask, trunk, package, or parcel, or anything whatsoever, under and by virtue of this act and regulations authorized by it, or any other act of Congress, or shall affix or attach, or in any way willfully aid, assist, or encourage the affixing or attaching, by wire or otherwise, to any vessel, car, or other vehicle, or to any crate, box, bale, barrel, bag, basket, bundle, cask, package, parcel, article, or thing of any kind, any seal, lead, metal, or anything purporting to be a seal authorized by law, such person or persons shall be deemed guilty of felony, and, upon conviction before any court of competent jurisdiction, shall be imprisoned for a term not exceeding five years, or shall pay a fine of not exceeding one thousand dollars, or both, at the discretion of the court. And each vessel, car, or other vehicle, crate, box, bag, basket, barrel, bundle, cask, trunk, package, parcel, or other thing, with the cargo, or contents thereof, from which the wire, seal, lead, lock, or other fastening or mark shall have been broken, cut, picked, opened, or removed by any such unauthorized person or persons, or to which such seal or other thing purporting to be a seal, has been wrongfully attached as aforesaid, shall be forfeited to the United States.

Sec. 6. *And be it further enacted,* That from and after the passage of this act the penalty for violating any of the provisions of the first section of the act entitled "An act to further provide for the collection of the revenue upon the northern, north-eastern, and northwestern frontier, and for other purposes," approved July fourteen, one thousand eight hundred and sixty-two, shall be a fine of one hundred dollars, and the same shall be disposed of and applied as herein provided for the distribution of fines and penalties recovered by virtue of this act; and so much of the said first section as conflicts herewith is hereby repealed.

Sec. 7. *And be it further enacted,* That the Secretary of the Treasury be, and he is hereby, authorized to appoint whenever he shall think it necessary, additional inspectors of the revenue for the districts named below, as follows, to wit: Passamaquoddy, Maine, four; Portland and Falmouth, Maine, eight; Boston and Charlestown, Massachusetts, fourteen; Pembina, Minnesota, two; Chicago, Illinois, eight; Michilimackinac, Michigan, two; Sandusky, Ohio, one; Cuyahoga, Ohio, three; Erie, Pennsylvania, one; Dunkirk, New York, one; Buffalo Creek, New York, six; Niagara, two; Genesee, two; Oswego, five; Oswegatchie, two; Champlain, four; Vermont, two.

Sec. 8. *And be it further enacted,* That the Secretary of the Treasury shall have authority to remit in whole or in part, and upon such terms as he shall judge right, the fines, penalties, or forfeitures incurred or accruing under the provisions of this act, or of said act approved July fourteen, eighteen hundred and sixty-two, if, in his opinion, the same shall have been incurred without willful negligence or any intention of fraud in the person or persons incurring the same; and he shall have authority to ascertain the facts upon applications for remission under this act in such manner and under such regulations as shall be by him prescribed, and all fines, penalties, and forfeitures, recovered by virtue of this act, shall, after deducting all proper costs and charges, be disposed of and applied as provided in the ninety-first section of the act entitled "An act to regulate the collection of duties on imports and tonnage," approved on the second of March, in the year one thousand seven hundred and ninety-nine.

APPROVED, June 27, 1864.

CHAP. CLXV.—An Act in relation to the Circuit Court in and for the District of Wisconsin, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to enable the district courts of the United States to issue execution and other final process in certain cases," approved March three, eighteen hundred and sixty-three, be, and the same is hereby, repealed.

Sec. 2. *And be it further enacted,* That in all cases, wherein the district courts of the United States within and for the several districts of Texas, Florida, Wisconsin, Minnesota, Iowa, and Kansas had rendered judgments or decrees prior to the passage of an act approved July fifteenth, eighteen hundred and sixty-two, creating circuit courts for said districts, which cases might have been brought, and could have been originally cognizable in a circuit court, the original papers and all other papers now on file in the district courts aforesaid, shall be transferred into the clerk's office of the circuit court for the district in which said causes were heard and determined. And it shall be the duty of the district court clerks of said districts, respectively, to have said papers so removed. And it shall also be the duty of said district court clerks to transfer to the offices of the circuit court clerks aforesaid the books of records and journals of the district courts aforesaid, in which are any entries, orders, or proceedings affecting, or in any manner relating to, cases which were of circuit court cognizance, or which might have been presented in a circuit court, after having first copied into a book for that purpose provided, all entries, orders, or other proceedings, which may be found in said books, journals, or records relating in any manner to cases which were not of circuit court cognizance, and which could not have been prosecuted in a circuit court.

Sec. 3. *And be it further enacted,* That for the necessary costs and expenses of this transfer of books and papers, and for the expense of procuring books to copy the entries and orders above mentioned, and for the copying of said record entries from the original book into the new one, at the same rate of compensation now allowed to clerks of courts for copies from their records, the clerks of the district courts shall be paid, out of any money in the Treasury of the United States not otherwise appropriated, upon the certificate of the judge of the district court.

Sec. 4. *And be it further enacted,* That the transcripts thus made into a new book, after said book shall have been certified by the clerk to be full and true copies from the original book, shall have the same force and effect as records as the originals; and that the clerks of the circuit courts aforesaid shall be the custodians of the books and papers transferred to their offices, and their certificate of a transcript of any of said books or papers shall be received in evidence with the like effect as if made by the clerk of the court in which the proceedings were had.

Sec. 5. *And be it further enacted,* That the terms of the circuit and district courts of the United States for said district of Wisconsin shall hereafter be held as follows: at the city of Milwaukee, in said district, on the second Monday of April and the second Monday of September, and at the city of Madison, in said district, on the first Monday of January in each year, respectively. And all writs, process, and proceedings returnable to the terms of either of said courts, as now fixed by law, shall be deemed returnable, and shall be continued to the terms of said courts, respectively, as fixed by this act: *Provided,* That all executions, processes, or orders issued from the district court of any district in this act mentioned, in cases transferred to the circuit court, and in part executed, shall be regarded as having been issued from the circuit court to which each particular case is transferred, and shall be returned thereto. And no writ of execution or other final process, or power exercised, or proceeding had in accordance with law to enforce any judgment or decree shall be affected by reason of the transfer directed by this act.

APPROVED, June 27, 1864.

Laws of the United States.

38TH CONG., 1ST SESS.

CHAP. CLXVI.—An Act to repeal the Fugitive Slave Act of eighteen hundred and fifty, and all Acts and parts of Acts for the rendition of Fugitive Slaves.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections three and four of an act entitled "An act respecting fugitives from justice and persons escaping from the service of their masters," passed February twelve, seventeen hundred and ninety-three, and an act entitled "An act to amend, and supplementary to, the act entitled 'An act respecting fugitives from justice, and persons escaping from the service of their masters,' passed February twelve, seventeen hundred and ninety-three," passed September, eighteen hundred and fifty, be, and the same are hereby, repealed.

APPROVED, June 28, 1864.

CHAP. CLXVII.—An Act to provide for the Improvement of the Grounds of the Government Hospital for the Insane by an exchange of Land.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to deed to John Perkins a portion of the extreme south point or angle of the farm of the Government Hospital for the Insane, in exchange for two acres of land, more or less, now owned and occupied by the said Perkins, and situated near the middle of that side of the hospital farm which fronts upon the public roads: *Provided,* That not more than three acres are given for one contained in the last described piece of land belonging to the said Perkins: *And provided further,* That the said Perkins is able to give, and does give, to the United States a good and sufficient title to the piece of land now owned and occupied by him.

SEC. 2. *And be it further enacted,* That the Secretary of the Interior is further authorized to defray the expenses of moving the dwelling house on the present Perkins tract to the tract exchanged for it, and of digging and walling a well, out of any appropriation already made, or that may be made, for inclosing the grounds of the hospital.

APPROVED, June 28, 1864.

CHAP. CLXVIII.—An Act to provide for the Repair and Preservation of certain Public Works of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of two hundred and fifty thousand dollars, to be expended under the direction of the Secretary of War, in protecting the commerce of the lakes by causing the public works connected with the harbors on Lakes Champlain, Ontario, Erie, St. Clair, Huron, Michigan, and Superior, to be repaired and made useful for purposes of commerce and navigation, so far as the same, in his judgment, may be necessary.

SEC. 2. *And be it further enacted,* That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the further sum of one hundred thousand dollars, to be expended under the direction of the Secretary of War, in repairing and rendering useful for purposes of commerce and navigation such of the public works connected with the harbors on the seaboard of the United States as may, in his judgment, need such expenditure.

APPROVED, June 28, 1864.

CHAP. CLXIX.—An Act to incorporate the Colored Catholic Benevolent Society.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Basil Mullen, John Warren, William H. Wheeler, Charles Dyson, James M. Ferrell, David Adkins, William Queen, John H. Butler, William Ford, and their associates and successors, be, and they are hereby, constituted and declared to be a body politic and corporate,

by the name and title of the Colored Catholic Male Benevolent Society, located in the city of Washington, and by its corporate name shall have perpetual succession, with power to sue and be sued, to implead and be impleaded, in any court of the United States, or of the District of Columbia, of competent jurisdiction, to receive subscriptions, gifts, and benefits, and to make such rules and by-laws as shall be necessary and expedient for the government of the society, and to alter the same from time to time in such mode as shall be prescribed therein: *Provided, always,* That such rules and by-laws shall be in no wise inconsistent with the Constitution or laws of the United States; or with the objects of the society. The objects of the society are hereby declared to be to provide for the care and comfort of such members as shall be sick, disabled, or dependent, and of the families of such members, in cases where the officers of such society shall deem it expedient, and also to provide for the decent interment of such persons as may die in membership of such society, or belonging to the families of such members.

SEC. 2. *And be it further enacted,* That said society shall have power to hold real estate, or personal and mixed estate, by purchase, gift, or devise, for the purposes of such society and no other, and to lease, sell, or convey such real estate, or mixed estate, or personal property, as may be devised or donated to such society, and the leasing or sale of which will promote the interests of said society.

SEC. 3. *And be it further enacted,* That Congress shall have the right, at any time, to modify, amend, or repeal this act.

APPROVED, June 28, 1864.

CHAP. CLXX.—An Act repealing certain Provisions of Law concerning Seamen on board public and private Vessels of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of an act entitled "An act for the regulation of seamen on board the public and private vessels of the United States," approved the third of March, one thousand eight hundred and thirteen, as makes it not lawful to employ on board any of the public or private vessels of the United States any person or persons except citizens of the United States or person[s] of color, natives of the United States; and so much of the third, fifth, sixth, and seventh sections of an act concerning the navigation of the United States, approved the first of March, one thousand eight hundred and seventeen, as concerns the crews of vessels therein named; and so much of the first section of an act entitled "An act to repeal the tonnage duties upon ships and vessels of the United States and upon certain foreign vessels," approved the thirty-first of May, one thousand eight hundred and thirty, as makes discrimination in favor of vessels certain proportions of whose crews shall be citizens of the United States, shall be, and the same are hereby, repealed: *Provided, however,* That officers of vessels of the United States shall in all cases be citizens of the United States.

APPROVED, June 28, 1864.

CHAP. CLXXI.—An Act to increase Duties on Imports, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the first day of July, anno Domini eighteen hundred and sixty-four, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid, on goods, wares, and merchandise herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

First. On teas of all kinds, twenty-five cents per pound.

Second. On all sugar not above number twelve, Dutch standard in color, three cents per pound.

On all sugar above number twelve, and not above number fifteen, Dutch standard in color, three cents and a half per pound.

On all sugar above number fifteen, not stove-dried, and not above number twenty, Dutch standard in color, four cents per pound.

On all refined sugar in form of loaf, lamp, crushed, powdered, pulverized, or granulated, and all stove-dried or other sugar above number twenty, Dutch standard in color, five cents per pound: *Provided,* That the standard by which the color and grades of sugar are to be regulated shall be selected and furnished to the collectors of such ports of entry as may be necessary by the Secretary of the Treasury, from time to time, and in such manner as he may deem expedient.

On sugar-candy, not colored, ten cents per pound. On all other confectionery, not otherwise provided for, made wholly or in part of sugar, and on sugars after being refined, when tintured, colored, or in any way adulterated, valued at thirty cents per pound or less, fifteen cents per pound. On all confectionery valued above thirty cents per pound, or when sold by the box, package, or otherwise than by the pound, fifty per centum ad valorem.

Third. On molasses from sugar cane, eight cents per gallon. On sirup of sugar-cane juice, melado, concentrated melado, or concentrated molasses, two cents and a half per pound: *Provided,* That all sirups of sugar or sugar cane, cane juice, concentrated molasses, or concentrated melado, entered under the name of molasses, or any other name than sirup of sugar, or of sugar cane, cane juice, concentrated molasses, or concentrated melado, shall be liable to forfeiture to the United States, and the same shall be forfeited.

SEC. 2. *And be it further enacted,* That on and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

First. On brandy, for first proof, two dollars and fifty cents per gallon.

On other spirits, manufactured or distilled from grain or other materials, for first proof, two dollars per gallon.

On cordials, and liqueurs of all kinds, and arrack, absynthe, kirschenwasser, ratafia, and other similar spirituous beverages, not otherwise provided for, two dollars per gallon.

On bay rum, one dollar and fifty cents per gallon.

On wines of all kinds, valued at not over fifty cents per gallon, twenty cents per gallon and twenty-five per centum ad valorem; valued at over fifty cents and not over one dollar per gallon, fifty cents per gallon and twenty-five per centum ad valorem; valued at over one dollar per gallon, one dollar per gallon and twenty-five per centum ad valorem: *Provided,* That no champagne or sparkling wines, in bottles, shall pay a less rate of duty than six dollars per dozen bottles, each bottle containing not more than one quart and more than one pint, or six dollars per two dozen bottles, each bottle containing not more than one pint.

On all spirituous liquors, not otherwise enumerated, one hundred per centum ad valorem: *Provided,* That no lower rate or amount of duty shall be levied, collected, and paid, on brandy, spirits, and other spirituous beverages, than that fixed by law for the description of first proof, but shall be increased in proportion for any greater strength than the strength of first proof; and no brandy, spirits, or other spirituous beverages under first proof shall pay a less rate of duty than fifty per centum ad valorem: *Provided further,* That all imitations of brandy, or spirits, or of wines imported by any names whatever, shall be subject to the highest rate of duty provided for the genuine articles respectively intended to be represented, and in no case less than one dollar per gallon: *And provided further,* That brandies, or other spirituous liquors, may be imported in bottles when the package shall contain not less than one dozen; and all bottles shall pay a separate duty of two cents each, whether containing wines, brandies, or other spirituous liquors subject to duty as hereinbefore mentioned.

Second. On ale, porter, and beer, in bottles, thirty-five cents per gallon; otherwise than in bottles, twenty cents per gallon.

Third. On cigars of all kinds, valued at fifteen dollars or less per thousand, seventy-five cents per pound and twenty per centum ad valorem;

38TH CONG....1ST SESS.

Laws of the United States.

valued at over fifteen dollars and not over thirty dollars per thousand, one dollar and twenty-five cents per pound and thirty per centum ad valorem; valued at over thirty dollars and not over forty-five dollars per thousand, two dollars per pound and fifty per centum ad valorem; valued at over forty-five dollars per thousand, three dollars per pound and sixty per centum ad valorem: *Provided*, That paper cigars or cigarettes, including wrappers, shall be subject to the same duties imposed on cigars.

On snuff and snuff flour, manufactured of tobacco; ground, dry, or damp, and pickled, scented, or otherwise, of all descriptions, fifty cents per pound.

On tobacco in leaf, unmanufactured and not stemmed, thirty-five cents per pound.

On tobacco manufactured, of all descriptions, and stemmed tobacco not otherwise provided for, fifty cents per pound.

Sec. 3. *And be it further enacted*, That on and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned; there shall be levied, collected, and paid on the goods, wares, and merchandise, herein enumerated and provided for, imported from foreign countries, the following duties and rates of duty, that is to say:

On bar iron, rolled or hammered, comprising flats not less than one inch or more than six inches wide, nor less than three eighths of an inch or more than two inches thick; rounds not less than three fourths of an inch nor more than two inches in diameter; and squares not less than three fourths of an inch nor more than two inches square, one cent per pound. On bar iron, rolled or hammered, comprising flats less than three eighths of an inch or more than two inches thick or less than one inch or more than six inches wide; rounds less than three fourths of an inch or more than two inches in diameter; and squares less than three fourths of an inch or more than two inches square, one cent and one half per pound: *Provided*, That all iron in slabs, blooms, loops, or other forms, less finished than iron in bars, and more advanced than pig iron, except castings, shall be rated as iron in bars, and pay a duty accordingly: *And provided further*, That none of the above iron shall pay a less rate of duty than thirty-five per centum ad valorem.

On all iron imported in bars for railroads and inclined planes, made to patterns and fitted to be laid down on such roads or planes, without further manufacture, sixty cents per one hundred pounds. On boiler or other plate iron not less than three sixteenths of an inch in thickness, one cent and a half per pound. On iron wire, bright, coppered, or tinned, drawn and finished, not more than one fourth of an inch in diameter, not less than number sixteen, wire gauge, two dollars per one hundred pounds, and in addition thereto fifteen per centum ad valorem; over number sixteen and not over number twenty-five, wire gauge, three dollars and fifty cents per one hundred pounds, and in addition thereto fifteen per centum ad valorem: *Provided*, That wire covered with cotton, silk, or other material shall pay five cents per pound in addition to the foregoing rates. On smooth or polished sheet iron, by whatever name designated, three cents per pound. On sheet iron, common or black, not thinner than number twenty, wire gauge, one cent and one fourth of one cent per pound; thinner than number twenty, and not thinner than number twenty-five, wire gauge, one cent and a half per pound; thinner than number twenty-five, wire gauge, one cent and three fourths of one cent per pound.

On tin plates, and iron galvanized or coated with any metal by electric batteries, or otherwise, two cents and a half per pound.

On all band, hoop, and scroll iron from one half to six inches in width, not thinner than one eighth of an inch, one and one fourth cent per pound.

On all band, hoop, and scroll iron thinner than number twenty, wire gauge, one and one half cent per pound.

On all band, hoop, and scroll iron thinner than number twenty, wire gauge, one and three fourths cent per pound.

On slit rods one cent and one half per pound, and on all other descriptions of rolled or hammered iron not otherwise provided for, one cent and one fourth per pound.

On locomotive tire, or parts thereof, three cents per pound.

On mill irons and mill cranks of wrought iron, and wrought iron for ships, steam engines, and locomotives, or parts thereof, weighing each twenty-five pounds or more, two cents per pound.

On anvils and on iron cables, or cable chains, or parts thereof, two cents and a half per pound.

On chains, trace chains, halter chains, and fence chains, made of wire or rods, not less than one fourth of one inch in diameter, two cents and a half per pound; less than one fourth of one inch in diameter, and not under number nine, wire gauge, three cents per pound; under number nine, wire gauge, thirty-five per centum ad valorem.

On anchors, or parts thereof, two cents and one fourth per pound.

On blacksmiths' hammers and sledges, axles, or parts thereof, and malleable iron in castings, not otherwise provided for, two cents and a half per pound.

On wrought-iron railroad chairs, and wrought-iron nuts and washers, ready punched, two cents per pound.

On bed-screws and wrought-iron hinges, two cents and a half per pound.

On wrought board-nails, spikes, rivets, and bolts, two and one half cents per pound.

On cut nails and spikes, one and a half cent per pound.

On horseshoe nails, five cents per pound.

On cut tacks, brads, or sprigs, not exceeding sixteen ounces to the thousand, two and one half cents per thousand; exceeding sixteen ounces to the thousand, three cents per pound.

On steam, gas, and water tubs [tubes] and flues, of wrought iron, two cents and a half per pound.

On screws, commonly called wood screws, two inches or over in length, eight cents per pound; less than two inches in length, eleven cents per pound.

On screws of any other metal than iron, and all other screws of iron, except wood screws, thirty-five per centum ad valorem.

On iron in pigs, nine dollars per ton.

On vessels of cast iron, not otherwise provided for, and on andirons, sadirons, tailors' and hat-ter's irons, stoves and stove plates, of cast iron, one and one half cent per pound.

On cast-iron steam, gas, and water pipe, one and one half cent per pound.

On cast-iron butts and hinges, two and a half cents per pound.

On hollow ware, glazed or tinned, three and one half cents per pound.

On all other castings of iron, not otherwise provided for, thirty per centum ad valorem.

On all manufactures of iron, not otherwise provided for, thirty-five per centum ad valorem.

On old scrap iron, eight dollars per ton: *Provided*, That nothing shall be deemed old iron that has not been in actual use and fit only to be remanufactured.

On steel, in ingots, bars, coils, sheets, and steel wire, not less than one fourth of one inch in diameter, valued at seven cents per pound or less, two cents and one fourth per pound; valued at above seven cents and not above eleven cents per pound, three cents per pound; valued at above eleven cents per pound, three cents and a half per pound, and ten per centum ad valorem.

On steel wire less than one fourth of an inch in diameter and not less than number sixteen, wire gauge, two and one half cents per pound, and in addition thereto twenty per centum ad valorem; less or finer than number sixteen, wire gauge, three cents per pound, and in addition thereto twenty per centum ad valorem.

On steel in any form, not otherwise provided for, thirty per centum ad valorem.

On skates costing twenty cents or less per pair, eight cents per pair; costing over twenty cents per pair, thirty-five per centum ad valorem.

On cross-cut saws, ten cents per lineal foot.

On mill, pit, and drag saws, not over nine inches wide, twelve and a half cents per lineal foot.

On all hand saws not over twenty-four inches

in length, seventy-five cents per dozen, and in addition thereto thirty per centum ad valorem; over twenty-four inches in length, one dollar per dozen, and in addition thereto thirty per centum ad valorem.

On all back saws not over ten inches in length, seventy-five cents per dozen, and in addition thereto thirty per centum ad valorem; over ten inches in length, one dollar per dozen, and in addition thereto thirty per centum ad valorem.

On files, file blanks, rasps, and floats of all descriptions, not exceeding ten inches in length, ten cents per pound, and in addition thereto thirty per centum ad valorem; exceeding ten inches in length, six cents per pound, and in addition thereto thirty per centum ad valorem.

On pen-knives, jack-knives, and pocket-knives of all kinds, fifty per centum ad valorem.

On needles for knitting or sewing machines, one dollar per thousand, and in addition thereto thirty-five per centum ad valorem.

On iron squares marked on one side, three cents per pound, and in addition thereto thirty per centum ad valorem; on all other squares of iron or steel, six cents per pound, and thirty per centum ad valorem.

On all manufactures of steel, or of which steel shall be a component part, not otherwise provided for, forty-five per centum ad valorem: *Provided*, That all articles of steel partially manufactured, or of which steel shall be a component part, not otherwise provided for, shall pay the same rate of duty as if wholly manufactured.

On bituminous coal, and shale, one dollar and twenty-five cents for a ton of twenty-eight bushels, eighty pounds to the bushel; on all other coal, forty cents per ton of twenty-eight bushels, eighty pounds to the bushel.

On coke and culm of coal, twenty-five per centum ad valorem.

On lead, in pigs and bars, two cents per pound.

On old scrap lead, fit only to be remanufactured, one cent and one half per pound.

On lead in sheets, pipes, or shot, two and three quarter cents per pound.

On pewter, when old and fit only to be remanufactured, two cents per pound.

On lead ore, one and a half cents per pound.

On copper in pigs, bars, or ingots, two and a half cents per pound.

On sheathing copper, in sheets forty-eight inches long and fourteen inches wide, weighing from fourteen to thirty-four ounces per square foot, three and a half cents per pound.

On copper rods, bolts, nails, spikes, copper bottoms, copper in sheets or plates, called braziers' copper, and other sheets of copper not otherwise provided for, thirty-five per centum ad valorem.

On zinc, spelter, or teutenegue, manufactured in blocks or pigs, one and a half cent per pound.

On zinc, spelter, or teutenegue in sheets, two and one quarter cents per pound.

On diamonds, cameos, mosaics, gems, pearls, rubies, and other precious stones, when not set, a duty of ten per centum ad valorem.

Sec. 4. *And be it further enacted*, That on and after the day and year aforesaid, there shall be levied, collected, and paid on the importation of the articles hereinafter mentioned, the following duties, that is to say: On all wool, unmanufactured, and all hair of the alpaca, goat, and other like animals, unmanufactured, the value whereof at the last port or place from whence exported to the United States, exclusive of charges in such ports, shall be twelve cents or less per pound, three cents per pound; exceeding twelve cents and not exceeding twenty-four cents per pound, six cents per pound; exceeding twenty-four cents per pound, and not exceeding thirty-two cents, ten cents per pound, and in addition thereto ten per centum ad valorem; exceeding thirty-two cents per pound, twelve cents per pound, and in addition thereto ten per centum ad valorem: *Provided*, That any wool of the sheep, or hair of the alpaca, the goat, and other like animals which shall be imported in any other than the ordinary condition, as now and heretofore practiced, or which shall be changed in its character or condition for the purpose of evading the duty, or which shall be reduced in value by the admixture of dirt or any foreign substance, shall be subject to pay a

duty of twelve cents per pound and ten per centum ad valorem, anything in this act to the contrary notwithstanding: *Provided further*, That when wool of different qualities is imported in the same bale, bag, or package, and the aggregate value of the contents of the bale, bag, or package shall be appraised by the appraisers at a rate exceeding twenty-four cents per pound, it shall be charged with a duty of ten cents per pound and ten per centum ad valorem; and when bales of different qualities are embraced in the same invoice at the same price, whereby the average price shall be lessened more than ten per centum, the value of the whole shall be appraised according to the value of the bale of the best quality; and no bale, bag, or package shall be liable to a less rate of duty in consequence of being invoiced with wool of lower value: *And provided further*, That wool which shall be imported scoured, shall pay, in lieu of the duties herein provided, three times the amount of such duties.

Second. On sheepskins, raw or unmanufactured, imported with the wool on, washed or unwashed, shall be subject to a duty of twenty per centum ad valorem; and on fleeces, waste, or shoddy, three cents per pound.

Sec. 5. *And be it further enacted*, That on and after the day and year aforesaid, there shall be levied, collected, and paid on the importation of the articles hereinafter mentioned, the following duties, that is to say:

First. On Wilton, Saxony, and Aubusson, Axminster, patent velvet, Tournay velvet, and tapestry velvet carpets and carpeting, Brussels carpets wrought by the Jacquard machine, and all medallion or whole carpets, valued at one dollar and twenty-five cents or under per square yard, seventy cents per square yard; valued at over one dollar and twenty-five cents per square yard, eighty cents per square yard: *Provided*, That no carpeting, carpets, or rugs of the foregoing description shall pay a duty of less than fifty per centum ad valorem. On Brussels and tapestry Brussels carpets and carpetings, printed on the warp or otherwise, fifty cents per square yard. On all treble ingrain, three-ply, and worsted chain Venetian carpets and carpeting, forty cents per square yard. On yarn Venetian and two-ply ingrain carpets and carpeting, thirty-five cents per square yard. On hemp or jute carpeting, six and a half cents per square yard. On druggets, bookings, and felt carpets and carpeting, printed, colored, or otherwise, twenty-five cents per square yard. On carpets and carpeting of wool, flax, or cotton, or parts of either, or other material not otherwise specified, forty per centum ad valorem: *Provided*, That mats, rugs, screens, covers, hassocks, bedsides, and other portions of carpets or carpetings, shall be subject to the rate of duty herein imposed on carpets or carpetings of like character or description, and on all other mats, screens, hassocks, and rugs, forty-five per centum ad valorem.

Second. On woolen cloths, woolen shawls, and all manufactures of wool of every description, made wholly or in part of wool, not otherwise provided for, twenty-four cents per pound, and in addition thereto forty per centum ad valorem. On goods of like description, when valued at over two dollars per square yard, a duty, in addition to the foregoing rates, of five per centum ad valorem: *Provided*, That goods of like description, composed of worsted, the hair of the alpaca, goat, or other like animals, and weighing over eight ounces to the square yard, shall be subject to pay the same duties and rates of duty herein provided for woolen cloths. On endless belts or felts for paper, and blanketing for printing machines, twenty cents per pound, and in addition thereto thirty-five per centum ad valorem. On flannels, uncolored, valued at thirty cents or less per square yard, twenty-four cents per pound, and thirty per centum ad valorem; valued at above thirty cents per square yard, and on all flannels, colored, printed, or plaided, not otherwise provided for, and flannels composed in part of cotton, twenty-four cents per pound and thirty-five per centum ad valorem. On flannels composed in part of silk, fifty per centum ad valorem. On hats of wool, twenty-four [cents] per pound, and in addition thereto thirty-five per centum ad valorem. On woolen and worsted yarn, valued at fifty cents and not

over one dollar per pound, twenty cents per pound, and in addition thereto twenty-five per centum ad valorem; valued at over one dollar per pound, twenty-four cents per pound, and in addition thereto thirty per centum ad valorem. On woolen and worsted yarn, valued at less than fifty cents per pound, and not exceeding in fineness number fourteen, sixteen cents per pound, and in addition thereto twenty-five per centum ad valorem. On clothing, ready made, and wearing apparel of every description, composed wholly or in part of wool, made up or manufactured wholly or in part by the tailor, seamstress, or manufacturer, except hosiery, twenty-four cents per pound, and in addition thereto forty per centum ad valorem. On blankets of all kinds, made wholly or in part of wool, valued at not exceeding twenty-eight cents per pound, twelve cents per pound, and in addition thereto twenty per centum ad valorem; valued at above twenty-eight cents and not exceeding forty cents per pound, twenty-four cents per pound and twenty-five per centum ad valorem; valued above forty cents per pound, twenty-four cents per pound and thirty per centum ad valorem. On Balmorals, and goods of similar description, or used for like purposes, composed of wool, worsted, or any other material, twenty-four cents per pound, and in addition thereto thirty-five per centum ad valorem.

On women's and children's dress goods, composed wholly or in part of wool, worsted, mohair, alpaca, or goats' hair, gray or uncolored, not exceeding in value the sum of thirty cents per square yard, four cents per square yard, and in addition thereto twenty-five per centum ad valorem; exceeding in value thirty cents per square yard, six cents per square yard, and in addition thereto thirty per centum ad valorem.

On all goods of the last-mentioned description, if stained, colored, or printed, not exceeding in value the sum of thirty cents per square yard, four cents per square yard, and thirty per centum ad valorem; exceeding in value thirty cents per square yard, six cents per square yard, and in addition thereto thirty-five per centum ad valorem.

On shirts, drawers, and hosiery of wool, or of which wool shall be a component material, not otherwise provided for, twenty cents per pound, and in addition thereto thirty per centum ad valorem.

On bunting and on all other manufactures of worsted, mohair, alpaca, or goats' hair, or of which worsted, mohair, alpaca, or goats' hair shall be a component material, not otherwise provided for, fifty per centum ad valorem.

On lastings, mohair cloth, silk, twist, or other manufacture of cloth, woven or made in patterns of such size, shape, and form, or cut in such manner as to be fit for shoes, slippers, boots, booties, gaiters, and buttons, exclusively, not combined with India rubber, ten per centum ad valorem.

On oil-cloths for floors, stamped, painted, or printed, valued at fifty cents or less per square yard, thirty per centum ad valorem; valued at over fifty cents per square yard, and on all other oil-cloth, except silk oil-cloth, forty per centum ad valorem.

Sec. 6. *And be it further enacted*, That on and after the day and year aforesaid there shall be levied, collected, and paid, on the importation of the articles hereinafter mentioned, the following duties, that is to say:

First. On cotton, raw or unmanufactured, two cents per pound.

Second. On all manufactures of cotton; (except jeans, denims, drillings, bed-tickings, gingham, plaids, cottonades, pantaloons stuff, and goods of like description,) not bleached, colored, stained, painted, or printed, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding in weight five ounces per square yard, five cents per square yard; if bleached, five cents and a half per square yard; if colored, stained, painted, or printed, five cents and a half per square yard, and in addition thereto ten per centum ad valorem. On finer and lighter goods of like description, exceeding one hundred threads and not exceeding two hundred threads to the square inch, counting the warp and filling, unbleached, five cents per square yard;

if bleached, five and a half cents per square yard; if colored, stained, painted, or printed, five and a half cents per square yard, and in addition thereto twenty per centum ad valorem. On goods of like description, exceeding two hundred threads to the square inch, counting the warp and filling, unbleached, five cents per square yard; if bleached, five and a half cents per square yard; if colored, stained, painted, or printed, five and a half cents per square yard, and in addition thereto twenty per centum ad valorem.

Third. On all cotton jeans, denims, drillings, bed-tickings, gingham, plaids, cottonades, pantaloons stuffs, and goods of like description, or for similar use, if unbleached, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding five ounces to the square yard, six cents per square yard; if bleached, six cents and a half per square yard; if colored, stained, painted, or printed, six cents and a half per square yard, and in addition thereto ten per centum ad valorem. On finer or lighter goods of like description, exceeding one hundred threads and not exceeding two hundred threads to the square inch, counting the warp and filling, if unbleached, six cents per square yard; if bleached, six and a half cents per square yard; if colored, stained, painted, or printed, six and a half cents per square yard, and in addition thereto fifteen per centum ad valorem. On goods of like description exceeding two hundred threads to the square inch, counting the warp and filling, if unbleached, seven cents per square yard; if bleached, seven and a half cents per square yard; if colored, stained, painted, or printed, seven and a half cents per square yard, and in addition thereto fifteen per centum ad valorem: *Provided*, That upon all plain woven cotton goods not included in the foregoing schedules, unbleached valued at over sixteen cents per square yard, bleached valued at over twenty cents per square yard, colored valued at over twenty-five cents per square yard, and cotton jeans, denims, and drillings unbleached valued at over twenty cents per square yard, and all other cotton goods of every description, the value of which shall exceed twenty-five cents per square yard, there shall be levied, collected, and paid a duty of thirty-five per centum ad valorem: *And provided further*, That no cotton goods having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods which are of that number of threads.

Fourth. On spool-thread of cotton, six cents per dozen spools, containing on each spool not exceeding one hundred yards of thread, and in addition thereto thirty per centum ad valorem; exceeding one hundred yards, for every additional hundred yards of thread on each spool, or fractional part thereof in excess of one hundred yards, six cents per dozen, and thirty per centum ad valorem.

On cotton shirts and drawers, woven or made on frames, and on all cotton hosiery, thirty-five per centum ad valorem.

On cotton velvet, thirty-five per centum ad valorem.

On cotton braids, insertings, lace, trimming, or bobbinet, and all other manufactures of cotton, not otherwise provided for, thirty-five per centum ad valorem.

Sec. 7. *And be it further enacted*, That on and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

First. On brown and bleached linens, ducks, canvas, paddings, cotton bottoms, burlaps, diapers, crash, huckabacks, handkerchiefs, lawns, or other manufactures of flax, jute, or hemp, or of which flax, jute, or hemp shall be the component material of chief value, not otherwise provided for, valued at thirty cents or less per square yard, thirty-five per centum ad valorem; valued at above thirty cents per square yard, forty per centum ad valorem. On flax or linen yarns for carpets, not exceeding number eight Lea, and valued at twenty-four cents or less per pound, thirty per centum ad valorem. On flax or linen yarns valued

38TH CONG....1ST SESS.

Laws of the United States.

at above twenty-four cents per pound, thirty-five per centum ad valorem. On flax or linen thread, twine and pack thread, and all other manufactures of flax, or of which flax shall be the component material of chief value, not otherwise provided for, forty per centum ad valorem.

Second. On tarred cables or cordage, three cents per pound. On untarred Manila cordage, two and a half cents per pound. On all other untarred cordage, three and a half cents per pound. On hemp yarns, five cents per pound. On coir yarn, one and a half cent per pound. On seines, six and a half cents per pound.

Third. On gunny cloth, gunny bags, and cotton bagging, or other manufacture not otherwise provided for, suitable for the uses to which cotton bagging is applied, composed in whole or in part of hemp, jute, flax, or other material, valued at ten cents or less per square yard, three cents per pound; over ten cents per square yard, four cents per pound. On sail duck or canvas for sails, thirty per centum ad valorem. On Russia and other sheetings of flax or hemp, brown and white, thirty-five per centum ad valorem. On all other manufactures of hemp, or of which hemp shall be the component material of chief value, not otherwise provided for, thirty per centum ad valorem. On grass cloth, thirty per centum ad valorem. On jute yarns, twenty-five per centum ad valorem. On all other manufactures of jute or Sisal grass, not otherwise provided for, thirty per centum ad valorem.

SEC. 8. *And be it further enacted*, That on and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

On spun silk for filling in skeins or cops, twenty-five per centum ad valorem. On silk in the gum not more advanced than singles, tram, and thrown or organzine, thirty-five per centum ad valorem. On floss silks, thirty-five per centum ad valorem. On sewing-silk in the gum or purified, forty per centum ad valorem. On all dress and piece silks, ribbons, and silk velvets, or velvets of which silk is the component material of chief value, sixty per centum ad valorem. On silk vestings, pongees, shawls, scarfs, mantillas, pelerines, handkerchiefs, veils, laces, shirts, drawers, bonnets, hats, caps, turbans, chemisettes, hose, mitts, aprons, stockings, gloves, suspenders, watch-chains, webbing, braids, fringes, galloons, tassels, cords, and trimmings, sixty per centum ad valorem.

On all manufactures of silk, or of which silk is the component material of chief value, not otherwise provided for, fifty per centum ad valorem.

SEC. 9. *And be it further enacted*, That on and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

On all brown earthenware and common stoneware, gas retorts, stoneware not ornamented, twenty-five per centum ad valorem.

On china, porcelain, and Parian ware, gilded, ornamented, or decorated in any manner, fifty per centum ad valorem.

On china, porcelain, and Parian ware, plain white, and not decorated in any manner, forty-five per centum ad valorem; on all other earthen, stone, or crockery ware, white, glazed, edged, printed, painted, dipped, or cream-colored, composed of earthy or mineral substances, and not otherwise provided for, forty per centum ad valorem.

On slates, slate pencils, slate chimney-pieces, mantels, slabs for tables, and all other manufactures of slate, forty per centum ad valorem. On unwrought clay, pipe-clay, fire-clay, and kaoline, five dollars per ton.

On fuller's earth, three dollars per ton.

On white chalk and cliff-stone, ten dollars per ton. On red and French chalk, twenty per centum ad valorem. On chalk of all descriptions, not otherwise provided for, twenty-five per centum ad valorem.

On whiting and Paris white, one cent per pound.

On whiting ground in oil, two cents per pound.

On all plain and mould and press glass not cut, engraved, or painted, thirty-five per centum ad valorem.

On all articles of glass, cut, engraved, painted, colored, printed, stained, silvered, or gilded, not including plate glass silvered, or looking-glass plates, forty per centum ad valorem.

On all unpolished cylinder, crown, and common window glass, not exceeding ten by fifteen inches square, one cent and a half per pound; above that and not exceeding sixteen by twenty-four inches square, two cents [per] pound; above that and exceeding twenty-four by thirty inches square, two cents and a half per pound; all above that three cents per pound.

On cylinder and crown glass, polished, not exceeding ten by fifteen inches square, two and one half cents per square foot; above that, and not exceeding sixteen by twenty-four inches square, four cents per square foot; above that, and not exceeding twenty-four by thirty inches square, six cents per square foot; above that, and not exceeding twenty-four by sixty inches square, twenty cents per square foot; all above that, forty cents per square foot.

On fluted, rolled, or rough plate glass, not including crown, cylinder, or common window glass, not exceeding ten by fifteen inches square, seventy-five cents per one hundred square feet; above that, and not exceeding sixteen by twenty-four inches square, one cent per square foot; above that, and not exceeding twenty-four by thirty inches square, one cent and a half per square foot; all above that, two cents per square foot: *Provided*, That all fluted, rolled, or rough plate glass, weighing over one hundred pounds per one hundred square feet, shall pay an additional duty on the excess at the same rates herein imposed.

On all cast polished plate glass, unsilvered, not exceeding ten by fifteen inches square, three cents per square foot; above that and not exceeding sixteen by twenty-four inches square, five cents per square foot; above that and not exceeding twenty-four by thirty inches square, eight cents per square foot; above that and not exceeding twenty-four by sixty inches square, twenty-five cents per square foot; all above that, fifty cents per square foot.

On all cast polished plate glass, silvered, or looking-glass plates not exceeding ten by fifteen inches square, four cents per square foot; above that and not exceeding sixteen by twenty-four inches square, six cents per square foot; above that and not exceeding twenty-four by thirty inches square, ten cents per square foot; above that and not exceeding twenty-four by sixty inches square, thirty-five cents per square foot; all above that, sixty cents per square foot: *Provided*, That no looking-glass plates or plate glass, silvered, when framed, shall pay a less rate of duty than that imposed upon similar glass of like description not framed but shall be liable to pay in addition thereto thirty per centum ad valorem upon such frames.

On porcelain and Bohemian glass, glass crystals for watches, paintings on glass or glasses, pebbles for spectacles, and all manufactures of glass, or of which glass shall be a component material, not otherwise provided for, and all glass bottles or jars filled with sweetmeats or preserves, not otherwise provided for, forty per centum ad valorem.

SEC. 10. *And be it further enacted*, That on and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, and on such as may now be exempt from duty, there shall be levied, collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rate of duty, that is to say:

First. On annatto seed, extract of annatto, nitrate of barytes, carmined indigo, crude tica, extract of safflower, finishing powder, gold size and patent size, cobalt, oxyd of cobalt, smalt, zaffre, and terra alba, twenty per centum ad valorem; on nickel, fifteen per centum ad valorem.

Second. On albumen, asbestos, asphaltum, crocus colocottra, blue or Roman vitriol or sulphate of copper, bone or ivory drop black, murexide,

ultramarine, Indian red, and Spanish brown, twenty-five per centum ad valorem.

SEC. 11. *And be it further enacted*, That on and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, and collected, and paid, on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

On acetic acid, aceticus or concentrated vinegar, or pyroligneous acid, exceeding the specific gravity of 1.040, eighty cents per pound; not exceeding the specific gravity of 1.040, known as number eight, twenty-five cents per pound.

On acetate or pyrolignite of ammonia, seventy cents per pound; of baryta, forty cents per pound; of iron, strontia, and zinc, fifty cents per pound; of lead, twenty cents per pound; of magnesia and soda, fifty cents per pound; of lime, twenty-five per centum ad valorem.

On aniline dyes, one dollar per pound and thirty-five per centum ad valorem.

On blanc fixe, enameled white, satin white, lime white, and all combinations of barytes with acids or water, three cents per pound; on carmine lake, dry or liquid, thirty-five per centum ad valorem; on French green, Paris green, mineral green, mineral blue, and Prussian blue, dry or moist, thirty per centum ad valorem.

On almonds, six cents per pound; shelled, ten cents per pound.

On articles not otherwise provided for, made of gold, silver, German silver, or platina, or of which either of these metals shall be a component part, forty per centum ad valorem.

On antimony, crude, and regulus of antimony, ten per centum ad valorem.

On opium, two dollars and fifty cents per pound.

On opium prepared for smoking, and the extract of opium, one hundred per centum ad valorem.

On morphine and its salts, two dollars and fifty cents per ounce.

On arrowroot, thirty per centum ad valorem.

On brimstone, crude, six dollars per ton.

On brimstone, in rolls, or refined, ten dollars per ton.

On castor beans or seeds per bushel of fifty pounds, sixty cents.

On chicory root, four cents per pound; ground, burnt, or prepared, five cents per pound.

On cassia, twenty cents per pound.

On cassia buds and ground cassia, twenty-five cents per pound.

On cinnamon, thirty cents per pound.

On chloroform, one dollar per pound.

On collodion and ethers of all kinds, not otherwise provided for, and ethereal preparations or extracts, fluid, one dollar per pound.

On cologne water and other perfumery, of which alcohol forms the principal ingredient, three dollars per gallon, and fifty per centum ad valorem.

On cloves, twenty cents per pound; on clove stems, ten cents per pound.

On fusel oil, or amylic alcohol, two dollars per gallon.

On Hoffman's anodyne and spirits of nitric ether, fifty cents per pound.

On bristles, fifteen cents per pound; on hogs' hair, one cent per pound; on Isle, or Tampico fiber, one cent per pound.

On brushes of all kinds, forty per centum ad valorem.

On honey, twenty cents per gallon.

On lead, white or red, and litharge, dry or ground in oil, three cents per pound.

On percussion caps, forty per centum ad valorem.

On lemons, oranges, pine-apples, plantains, cocoa-nuts, and fruits preserved in their own juice, and fruit juice, twenty-five per centum ad valorem.

On licorice root, two cents per pound; on licorice paste or licorice in rolls, ten cents per pound.

On nutmegs, fifty cents per pound.

On mace, forty cents per pound.

On oils, croton, one dollar per pound; olive, in flasks or bottles, and salad, one dollar per gallon; castor, one dollar per gallon; cloves, two dollars per pound; cognac or ananthe ether, four dollars per ounce.

Laws of the United States.

38TH CONG. 1ST SESS.

On peanuts, or ground beans, one cent per pound; shelled, one and a half cents per pound.

On filberts and walnuts, of all kinds, three cents per pound.

On petroleum and coal illuminating oil, crude, ten cents per gallon. On illuminating oil, and naphtha, benzine, and benzole, refined or produced from the distillation of coal, asphaltum, shale, peat, petroleum, or rock-oil, or other bituminous substances used for like purposes, thirty cents per gallon.

On pimento, and black, white, and red or cayenne pepper, fifteen cents per pound; on ground pimento and pepper of all kinds, eighteen cents per pound.

On spirits of turpentine, thirty cents per gallon.

On sulphur, flour of, twenty dollars per ton and fifteen per cent. ad valorem.

On tannin, and tannic acid, two dollars per pound; on gallic acid, one dollar and fifty cents per pound.

On santonine, five dollars per pound.

On salt in sacks, barrels, and other packages, twenty-four cents per one hundred pounds. On salt in bulk, eighteen cents per one hundred pounds.

On crude saltpeter, two and one half cents per pound.

On strychnine and its salts, one dollar and one half per ounce.

On taggar's iron, thirty per centum ad valorem.

On vinegar, ten cents per gallon.

On watches, gold or silver, twenty-five per centum ad valorem.

On wood pencils, filled with lead or other materials, fifty cents per gross, and in addition thereto thirty per centum ad valorem.

On ostrich, vulture, cock, and other ornamental feathers, crude or not dressed, colored, or manufactured, twenty-five per centum ad valorem; when dressed, colored, or manufactured, fifty per centum ad valorem.

On playing-cards, costing not over twenty-five cents per pack, twenty-five cents per pack; costing over twenty-five cents per pack, thirty-five cents per pack.

Sec. 12. And be it further enacted, That on and after the day and year aforesaid there shall be levied, collected, and paid a duty of fifty per centum ad valorem on the importation of the articles hereinafter mentioned and embraced in this section, that is to say:

Anchovies and sardines, preserved in oil or otherwise.

Artificial and ornamental feathers and flowers, or parts thereof, of whatever material composed, not otherwise provided for, beads and bead ornaments.

Billiard-chalk.

Ginger, preserved or pickled.

Ivory or bone dice, draughts, chess-men, chess-balls, and bagatelle-balls.

Jellies of all kinds.

On kid or other leather gloves of all descriptions, for men's, women's, or children's wear.

On wooden and other toys for children.

Sec. 13. And be it further enacted, That on and after the day and year aforesaid, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the goods, wares, and merchandise enumerated and provided for in this section, imported from foreign countries, the following duties and rates of duty, that is to say:

On books, periodicals, pamphlets, blank-books, bound or unbound, and all printed matter, engravings, bound or unbound, illustrated books and papers, and maps and charts, twenty-five per centum ad valorem.

On cork, bark or wood, unmanufactured, thirty per centum ad valorem.

On corks, and cork bark manufactured, fifty per centum ad valorem.

On hatters' furs, not on the skin, and dressed furs on the skin, twenty per centum ad valorem. Furs on the skin, undressed, ten per cent. ad valorem.

On fire crackers, one dollar per box of forty packs, not exceeding eighty to each pack, and in the same proportion for any greater number.

On gutta percha, manufactured, forty per centum ad valorem.

On gunpowder and all explosive substances used for mining, blasting, artillery, or sporting purposes, when valued at twenty cents or less per pound, a duty of six cents per pound, and in addition thereto twenty per centum ad valorem; valued above twenty cents per pound, a duty of ten cents per pound, and in addition thereto twenty per centum ad valorem.

On marble, white statuary, brocatella, sienna, and verdantique, in block, rough or squared, one dollar per cubic foot, and in addition thereto twenty-five per centum ad valorem. On veined marble and marble of all other descriptions, not otherwise provided for, in block, rough or squared, fifty cents per cubic foot, and in addition thereto twenty per centum ad valorem.

On mineral or medicinal waters, or waters from springs impregnated with minerals, for each bottle or jug containing not more than one quart, three cents, and in addition thereto twenty-five per centum ad valorem; containing more than one quart, three cents for each additional quart, or fractional part thereof, and in addition thereto twenty-five per centum ad valorem.

On palm-leaf fans, one cent each.

On pipes, clay, common or white, thirty-five per centum ad valorem.

On meerschaum, wood, porcelain, lava, and all other tobacco-smoking pipes and pipe-bowls, not herein otherwise provided for, one dollar and fifty cents per gross, and in addition thereto seventy-five per centum ad valorem.

On pipe-cases, pipe-stems, tips, mouthpieces, and metallic mountings for pipes, and all parts of pipes or pipe fixtures, and all smoker's articles, seventy-five per centum ad valorem.

On pen-tips and pen-holders, or parts thereof, thirty-five per centum ad valorem.

On pens, metallic, ten cents per gross, and in addition thereto twenty-five per centum ad valorem.

On soap, fancy, perfumed, honey, transparent, and all descriptions of toilet and shaving soap, ten cents per pound, and in addition thereto twenty-five per centum ad valorem.

On all soap not otherwise provided for, one cent per pound, and in addition thereto thirty per centum ad valorem.

On starch, made of potatoes or corn, one cent per pound, and twenty per centum ad valorem.

On starch, made of rice, or any other material, three cents per pound, and twenty per centum ad valorem.

On rice, cleaned, two and a half cents per pound; on uncleaned, two cents per pound.

On paddy, one cent and a half per pound.

Sec. 14. And be it further enacted, That on the entry of any vessel, or of any goods, wares, or merchandise, the decision of the collector of customs at the port of importation and entry, as to the rate and amount of duties to be paid on the tonnage of such vessel or on such goods, wares, or merchandise, and the dutiable costs and charges thereon, shall be final and conclusive against all persons interested therein, unless the owner, master, commander, or consignee of such vessel, in the case of duties levied on tonnage, or the owner, importer, consignee, or agent of the merchandise, in the case of duties levied on goods, wares, or merchandise, or the costs and charges thereon, shall, within ten days after the ascertainment and liquidation of the duties by the proper officers of the customs, as well in cases of merchandise entered in bond, as for consumption, give notice in writing to the collector on each entry, if dissatisfied with his decision, setting forth therein, distinctly and specifically, the grounds of his objection thereto, and shall within thirty days after the date of such ascertainment and liquidation, appeal therefrom to the Secretary of the Treasury, whose decision on such appeal shall be final and conclusive; and such vessel, goods, wares, or merchandise, or costs and charges, shall be liable to duty accordingly, any act of Congress to the contrary notwithstanding, unless suit shall be brought within ninety days after the decision of the Secretary of the Treasury on such appeal for any duties which shall have been paid before the date of such decision on such vessel, or on such goods, wares, or merchandise, or costs or charges, or within ninety days after the payment of duties paid after the decision of the Secretary. And no

suit shall be maintained in any court for the recovery of any duties alleged to have been erroneously or illegally exacted, until the decision of the Secretary of the Treasury shall have been first had on such appeal, unless said decision of the Secretary shall be delayed more than ninety days from the date of such appeal in case of an entry at any port east of the Rocky mountains, or more than five months in case of an entry west of those mountains.

Sec. 15. And be it further enacted, That the decision of the respective collectors of customs as to all fees, charges, and exactions of whatever character, other than those mentioned in the next preceding section, claimed by them, or by any of the officers under them, in the performance of their official duty, shall be final and conclusive against all persons interested in such fees, charges, or exactions, unless the like notice that an appeal will be taken from such decision to the Secretary of the Treasury shall be given within ten days from the making of such decision, and unless such appeal shall actually be taken within thirty days from the making of such decision; and the decision of the Secretary of the Treasury shall be final and conclusive upon the matter so appealed, unless suit shall be brought for the recovery of such fees, charges, or exactions, within the period as provided for in the next preceding section in regard to duties. And no suit shall be maintained in any court for the recovery of any such fees, costs, and charges, alleged to have been erroneously or illegally exacted, until the decision of the Secretary of the Treasury shall have been first had on such appeal, unless such decision of the Secretary shall be delayed more than ninety days from the date of such appeal in case of an entry at any port east of the Rocky mountains, nor more than five months in case of an entry west of those mountains.

Sec. 16. And be it further enacted, That whenever it shall be shown to the satisfaction of the Secretary of the Treasury that, in any case of unascertained duties, or duties or other moneys paid under protest and appeal, as hereinbefore provided, more money has been paid to the collector, or person acting as such, than the law requires should have been paid, it shall be the duty of the Secretary of the Treasury to draw his warrant upon the Treasurer in favor of the person or persons entitled to the over-payment, directing the said Treasurer to refund the same out of any money in the Treasury not otherwise appropriated.

Sec. 17. And be it further enacted, That a discriminating duty of ten per centum ad valorem, in addition to the duties imposed by law, shall be levied, collected, and paid on all goods, wares, and merchandise which, on and after the day this act shall take effect, shall be imported in ships or vessels not of the United States: *Provided,* That this discriminating duty shall not apply to goods, wares, and merchandise which shall be imported, on and after the day this act takes effect, in ships or vessels not of the United States, entitled, by treaty or any act or acts of Congress, to be entered in the ports of the United States on payment of the same duties as shall then be paid on goods, wares, and merchandise imported in ships or vessels of the United States.

Sec. 18. And be it further enacted, That on and after the day and year this act shall take effect there shall be levied, collected, and paid on all goods, wares, and merchandise of the growth or produce of countries east of the Cape of Good Hope, (except raw cotton,) when imported from places west of the Cape of Good Hope, a duty of ten per centum ad valorem, in addition to the duties imposed on any such articles when imported directly from the place or places of their growth or production: *Provided,* That section three of the act approved August five, eighteen hundred and sixty-one, entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," and section fourteen of the act approved July fourteen, eighteen hundred and sixty-two, entitled "An act increasing temporarily the rates of duties on imports, and for other purposes," be, and the same are hereby, repealed.

Sec. 19. And be it further enacted, That all goods, wares, and merchandise which may be

38TH CONG....1ST SESS.

Laws of the United States.

in the public stores or bonded warehouses on the day and year this act shall take effect shall be subjected to no other duty upon the entry thereof for consumption than if the same were imported respectively after that day, and so much of the act of August sixth, eighteen hundred and forty-six, or any other act, as requires the sale of fire crackers, or prohibits their deposit in bonded warehouse, is hereby repealed.

SEC. 20. *And be it further enacted*, That the joint resolution to increase temporarily the duties on imports, approved April twenty-ninth, eighteen hundred and sixty-four, shall not be deemed to have taken effect until after the thirtieth day of April, eighteen hundred and sixty-four, and shall be and remain in force until and including the thirtieth day of June, eighteen hundred and sixty-four, and any duties which shall have been exacted and received, contrary to the provisions of this section, shall be refunded by the Secretary of the Treasury.

SEC. 21. *And be it further enacted*, That, during the period of one year from the passage of this act, there may be imported into the United States, free of duty, any machinery designed for and adapted to the manufacture of woven fabrics from the fiber of flax or hemp, including all the preliminary processes requisite therefor; and that steam agricultural machinery and implements may be imported free from duty for one year from the passage of this act.

SEC. 22. *And be it further enacted*, That all acts and parts of acts repugnant to the provisions of this act be, and the same are hereby, repealed: *Provided*, That the existing laws shall extend to and be in force for the collection of the duties imposed by this act for the prosecution and punishment of all offenses, and for the recovery, collection, distribution, and remission of all fines, penalties, and forfeitures, as fully and effectually as if every regulation, penalty, forfeiture, provision, clause, matter, and thing to that effect in the existing laws contained, had been inserted in and reenacted by this act: *And provided further*, That the duties upon all goods, wares, and merchandise imported from foreign countries not provided for in this act shall be and remain as they were, according to existing laws prior to the twenty-ninth of April, eighteen hundred and sixty-four.

SEC. 23. *And be it further enacted*, That, on and after the day and year this act shall take effect, it shall be lawful for the owner, consignee, or agent of any goods, wares, or merchandise which shall have been actually purchased, or procured otherwise than by purchase, at the time when he shall produce his original invoice, or invoices, to the collector, and make and verify his written entry of his goods, wares, and merchandise, as provided by section thirty-six of the act of March two, seventeen hundred and ninety-nine, entitled "An act to regulate the collection of duties on imports and tonnage," and not afterwards, to make such addition in the entry to the cost or value given in the invoice as, in his opinion, may raise the same to the true market value of such goods, wares, and merchandise in the principal markets of the country whence they shall have been imported, and to add thereto all costs and charges which, under existing laws, would form part of the true value at the port where the same may be entered, upon which the duties should be assessed. And it shall be the duty of the collector, within whose district the same may be imported, or entered, to cause the dutiable value of such goods, wares, and merchandise to be appraised, estimated, and ascertained, in accordance with the provisions of existing laws. And if the appraised value thereof shall exceed by ten per centum, or more, the value so declared on the entry, then, in addition to the duties imposed by law on the same, there shall be levied, collected, and paid a duty of twenty per centum ad valorem on such appraised value: *Provided*, That the duty shall not be assessed upon an amount less than the invoice or entered value, any law of Congress to the contrary notwithstanding: *And provided further*, That, on and after the day and year aforesaid, the eighth section of the act entitled "An act reducing the duty on imports, and for other purposes," approved July thirty, eighteen hundred and forty-six, and the act amendatory thereof, approved March three, eighteen hundred

and fifty-seven, be, and the same are hereby, repealed.

SEC. 24. *And be it further enacted*, That in determining the valuation of goods imported into the United States from foreign countries, except as hereinbefore provided, upon which duties imposed by any existing laws are to be assessed, the actual value of such goods on shipboard at the last place of shipment to the United States shall be deemed the dutiable value. And such value shall be ascertained by adding to the value of such goods at the place of growth, production, or manufacture, the cost of transportation, shipment, and transshipment, with all the expenses included, from the place of growth, production, or manufacture, whether by land or water, to the vessel in which shipment is made to the United States, the value of the sack, box, or covering of any kind, in which such goods are contained, commission at the usual rate, in no case less than two and one half per centum, brokerage, and all export duties, together with all costs and charges, paid or incurred for placing said goods on shipboard, and all other proper charges specified by law.

SEC. 25. *And be it further enacted*, That so much of section twenty-three of the act entitled "An act to provide for the payment of outstanding Treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," approved March two, eighteen hundred and sixty-one, as exempts from duty all philosophical apparatus and instruments imported for the use of any society incorporated for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use or by the order of any college, academy, school, or seminary of learning in the United States, is hereby repealed. And the same shall be subject to a duty of fifteen per centum ad valorem.

SEC. 26. *And be it further enacted*, That when any cask, barrel, carboy, or other vessel of American manufacture, exported or sent out of the country, filled with the products of the United States, shall be returned to the United States empty, the same shall be admitted free of duty, under such rules and regulations as may be prescribed by the Secretary of the Treasury.

SEC. 27. *And be it further enacted*, That on and after January first, eighteen hundred and sixty-five, the invoices of all goods, wares, and merchandise, imported into the United States, shall be made out in the weights or measures of the country or place from which the importations shall be made, and shall contain a true statement of the actual weights or measures of such goods, wares, and merchandise, without any respect to the weights and measures of the United States.

SEC. 28. *And be it further enacted*, That in all cases where officers of the customs, or other salaried officers of the United States, shall be, or shall have been, appointed by the Secretary of the Treasury, to carry into effect the licenses, rules, and regulations provided for by the fifth section of the act of the thirteenth of July, eighteen hundred and sixty-one, entitled "An act further to provide for the collection of duties on imports, and for other purposes," such officer of the United States shall be entitled to receive one thousand dollars per annum for his services under the act aforesaid, in addition to his salary or compensation under any other law: *Provided*, That the aggregate compensation of any such officer shall not exceed the sum of five thousand dollars in any one year.

SEC. 29. *And be it further enacted*, That any baggage or personal effects arriving in the United States, in transit to any foreign country, may be delivered by the parties having it in charge to the collector of customs, to be by him retained without the payment or exaction of any import duty, and to be delivered to such parties on their departure for their foreign destination, under such rules, regulations, and fees as the Secretary of the Treasury may prescribe.

APPROVED, June 30, 1864.

CHAP. CLXXII.—An Act to provide Ways and Means for the Support of the Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be,

and he is hereby, authorized to borrow, from time to time, on the credit of the United States, four hundred millions of dollars, and to issue therefor coupon or registered bonds of the United States, redeemable at the pleasure of the Government, after any period not less than five, nor more than thirty, years, or, if deemed expedient, made payable at any period not more than forty years from date. And said bonds shall be of such denominations as the Secretary of the Treasury shall direct, not less than fifty dollars, and bear an annual interest not exceeding six per centum, payable semi-annually in coin. And the Secretary of the Treasury may dispose of such bonds, or any part thereof, and of any bonds commonly known as five-twenties remaining unsold, in the United States, or if he shall find it expedient, in Europe, at any time, on such terms as he may deem most advisable, for lawful money of the United States, or, at his discretion, for Treasury notes, certificates of indebtedness, or certificates of deposit issued under any act of Congress. And all bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal authority.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury may issue on the credit of the United States, and in lieu of an equal amount of bonds authorized by the preceding section, and as a part of said loan, not exceeding two hundred millions of dollars, in Treasury notes of any denomination not less than ten dollars, payable at any time not exceeding three years from date, or, if thought more expedient, redeemable at any time after three years from date, and bearing interest not exceeding the rate of seven and three tenths per centum, payable in lawful money at maturity, or, at the discretion of the Secretary, semi-annually. And the said Treasury notes may be disposed of by the Secretary of the Treasury, on the best terms that can be obtained, for lawful money; and such of them as shall be made payable, principal and interest, at maturity, shall be a legal tender to the same extent as United States notes for their face value, excluding interest, and may be paid to any creditor of the United States at their face value, excluding interest, or to any creditor willing to receive them at par, including interest; and any Treasury notes issued under the authority of this act may be made convertible, at the discretion of the Secretary of the Treasury, into any bonds issued under the authority of this act. And the Secretary of the Treasury may redeem and cause to be canceled and destroyed any Treasury notes or United States notes heretofore issued under authority of previous acts of Congress, and substitute, in lieu thereof, an equal amount of Treasury notes such as are authorized by this act, or of other United States notes: *Provided*, That the total amount of bonds and Treasury notes authorized by the first and second sections of this act shall not exceed four hundred millions of dollars, in addition to the amounts heretofore issued; nor shall the total amount of United States notes, issued or to be issued, ever exceed four hundred millions of dollars, and such additional sum, not exceeding fifty millions of dollars, as may be temporarily required for the redemption of temporary loan; nor shall any Treasury note bearing interest, issued under this act, be a legal tender in payment or redemption of any notes issued by any bank, banking association, or banker, calculated or intended to circulate as money.

SEC. 3. *And be it further enacted*, That the interest on all bonds heretofore issued, payable annually, may be paid semi-annually; and in lieu of such bonds authorized to be issued, the Secretary of the Treasury may issue bonds bearing interest, payable semi-annually. And he may also issue in exchange for Treasury notes heretofore issued bearing seven and three tenths per centum interest, besides the six per centum bonds heretofore authorized, like bonds of all the denominations in which such Treasury notes have been issued; and the interest on such Treasury notes after maturity shall be paid in lawful money, and they may be exchanged for such bonds at any time within three months from the date of notice of redemption by the Secretary of the Treasury, after which the interest on such Treasury notes shall cease. And so much of the law

Laws of the United States.

38TH CONG...1ST SESS.

approved March third, eighteen hundred and sixty-four, as limits the loan authorized therein to the current fiscal year, is hereby repealed; and the authority of the Secretary of the Treasury to borrow money and issue therefor bonds or notes conferred by the first section of the act of March third, eighteen hundred and sixty-three, entitled "An act to provide ways and means for the support of the Government," shall cease on and after the passage of this act, except so far as it may effect seventy-five millions of bonds already advertised.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury may authorize the receipt, as a temporary loan, of United States notes or the notes of national banking associations on deposit for not less than thirty days, in sums of not less than fifty dollars, by any of the Assistant Treasurers of the United States, or depositaries designated for that purpose, other than national banking associations, who shall issue certificates of deposit in such form as the Secretary of the Treasury shall prescribe, bearing interest not exceeding six per centum annually, and payable at any time after the term of deposit, and after ten days' subsequent notice, unless time and notice be waived by the Secretary of the Treasury; and the Secretary of the Treasury may increase the interest on deposits at less than six per centum to that rate, or, on ten days' notice to depositors, may diminish the rate of interest as the public interest may require; but the aggregate of such deposits shall not exceed one hundred and fifty millions of dollars; and the Secretary of the Treasury may issue, and shall hold in reserve for payment of such deposits, United States notes not exceeding fifty millions of dollars, including the amount already applied in such payment; and the United States notes, so held in reserve, shall be used only when needed, in his judgment, for the prompt payment of such deposits on demand, and shall be withdrawn and placed again in reserve as the amount of deposits shall again increase.

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury may issue notes of the fractions of a dollar as now used for currency, in such form, with such inscriptions, and with such safeguards against counterfeiting, as he may judge best, and provide for the engraving and preparation, and for the issue of the same, as well as of all other notes and bonds, and other obligations, and shall make such regulations for the redemption of said fractional notes and other notes when mutilated or defaced, and for the receipt of said fractional notes in payment of debts to the United States, except for customs, in such sums, not over five dollars, as may appear to him expedient; and it is hereby declared that all laws and parts of laws applicable to the fractional notes engraved and issued as herein authorized, apply equally and with like force to all the fractional notes heretofore authorized, whether known as postage currency, or otherwise, and to postage stamps issued as currency; but the whole amount of all descriptions of notes or stamps less than one dollar issued as currency, shall not exceed fifty millions of dollars.

SEC. 6. *And be it further enacted*, That the coupon and registered bonds shall be in such form and bear such inscriptions as the Secretary of the Treasury may direct, and shall be signed by the Register of the Treasury, or for the Register, by such person or persons as may be specially designated for that purpose by the Secretary of the Treasury, and shall bear, as evidence of lawful issue, the imprint of the seal of the Treasury Department, to be made under the direction of the Secretary of the Treasury, in a room set apart especially and exclusively for that purpose, under the care of some person appointed directly by him. And the coupons attached to such bonds shall bear the engraved signature of the Register of the Treasury, and such other device or safeguard against counterfeiting as the Secretary may approve; and it is hereby declared that all bonds heretofore issued, bearing the signature of the Register, shall have the same force, effect, and validity as if signed also by the Treasurer, and all bonds bearing the signature of the Register, erroneously described as Treasurer of the United States, shall have the same force, effect, and va-

lidity, as if his official designation had been correctly stated; and all coupons bearing the engraved signature of the Register of the Treasury in office at the time when such signatures were authorized and engraved, shall have full force, validity, and effect, notwithstanding such Register may have subsequently ceased to hold office as such; when issued in connection with bonds duly authorized and signed by or for the successor or successors of said Register. And the Treasury notes and United States notes authorized by this act shall be in such form as the Secretary of the Treasury shall direct, and shall bear the written or engraved signatures of the Treasurer of the United States and the Register of the Treasury; and shall have printed upon them such statements, showing the amount of accrued or accruing interest and the character of the notes, as the Secretary of the Treasury may prescribe; and shall bear, as a further evidence of lawful issue, the imprint of the seal of the Treasury Department, to be made under the direction of the Secretary of the Treasury, as before directed.

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to issue, upon such terms and under such regulations as he may from time to time prescribe, registered bonds in exchange for, and in lieu of, any coupon bonds which have been or may hereafter be lawfully issued; such registered bonds to be similar in all respects to the registered bonds issued under the acts authorizing the issue of the coupon bonds offered for exchange. And for all mutilated, defaced, or indorsed coupon or other bonds presented to the Department, the Secretary of the Treasury is authorized to issue, upon terms and under regulations as aforesaid, and in substitution therefor, other bonds of like or equivalent issues.

SEC. 8. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized and required to make and issue, from time to time, such instructions, rules, and regulations, to the several collectors, receivers, depositaries, officers, and others, who may receive Treasury notes, United States notes, or other securities in behalf of the United States, or who may be in any way engaged or employed in the preparation and issue of the same, as he shall deem best calculated to promote the public convenience and security, and to protect the United States, as well as individuals, from fraud and loss.

SEC. 9. *And be it further enacted*, That the necessary expenses of engraving, printing, preparing, and issuing the United States notes, Treasury notes, fractional notes, and bonds, hereby authorized, and of disposing of the same to subscribers and purchasers, shall be paid out of any money in the Treasury not otherwise appropriated; but the whole amount thereof shall not exceed one per centum on the amount of notes and bonds issued.

SEC. 10. *And be it further enacted*, That if any person or persons shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, any obligation or security of the United States, or shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or shall bring into the United States from any foreign place with intent to pass, utter, publish, or sell, or shall have or keep in possession, or conceal, with intent to utter, publish, or sell, any such false, forged, counterfeited, or altered obligation, or other security, with intent to deceive or defraud, or shall knowingly aid or assist in any of the acts aforesaid, every person so offending shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine not exceeding five thousand dollars, and by imprisonment and confinement at hard labor not exceeding fifteen years, according to the aggravation of the offense.

SEC. 11. *And be it further enacted*, That if any person having control, custody, or possession of any plate or plates from which any obligation or other security, or any part thereof, shall have been printed, or which may have been prepared by direction from the Secretary of the Treasury, for the purpose of printing any such obligation or other security, or any part thereof, shall use such plate or plates, or knowingly suffer the same to be used for the purpose of printing any such or

similar obligation, or other security, or any part thereof, except such as shall be printed for the use of the United States, by order of the proper officer thereof, or if any person shall engrave, or cause or procure to be engraved, or shall aid or assist in engraving any plate or plates in the likeness or similitude of any plate or plates designed for the printing of any such obligation or other security, or any part thereof, or shall vend or sell any such plate or plates, or shall bring into the United States from any foreign place any such plate or plates, except under the direction of the Secretary of the Treasury or other proper officer, or with any other intent, or for any other purpose, in either case, than that such plate or plates shall be used for the printing of such notes, bonds, coupons, or other obligations or securities, or some part or parts thereof, for the use of the United States, or shall have in his control, custody, or possession, any metallic plate engraved after the similitude of any plate from which any such obligation or other security, or any part or parts thereof, shall have been printed, with intent to use such plate or plates, or cause or suffer the same to be used in forging or counterfeiting any such obligation or other security, or any part or parts thereof, or shall have in his custody or possession, except under authority from the Secretary of the Treasury, or other proper officer, any obligation or other security, engraved and printed after the similitude of any obligation or other security issued under the authority of the United States, with intent to sell or otherwise use the same; or if any person shall print, photograph, or in any other manner make or execute, or cause to be printed, photographed, or in any manner made or executed, or shall aid in printing, photographing, making, or executing any engraving, photograph, or other print or impression in the likeness or similitude of any obligation or other security, or any part or parts thereof, or shall vend or sell any such engraving, photograph, print, or other impression, except to the United States, or shall bring into the United States from any foreign place any such engraving, photograph, print, or other impression, except by the direction of some proper officer of the United States, or shall have or retain in his custody or possession, after a distinctive paper shall have been adopted by the Secretary of the Treasury for obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under authority of the Secretary of the Treasury, or some other proper officer of the United States, every person so offending shall be deemed guilty of a felony, and shall, on conviction thereof, be punished by fine not exceeding five thousand dollars, or by imprisonment and confinement at hard labor, not exceeding fifteen years, or by both, in the discretion of the court.

SEC. 12. *And be it further enacted*, That if any person shall have or retain in his or her custody, possession, or control, without the written authority or warrant of the Secretary of the Treasury, or of the Comptroller of the Currency, approved by the Secretary of the Treasury, any engraved or transferred plate, block, or electrotype, or any die, roll, or other original work used in making or preparing any plate, block, or electrotype, or any plate, block, or electrotype prepared or made after the similitude of any plate, block, or electrotype, from which any obligation or other security authorized to be issued by any act of Congress, or any part thereof, has been, or may hereafter be, printed, or shall use, or cause, or knowingly suffer, the same to be used, in forging or counterfeiting any such obligation or other security, or shall print, or cause to be printed, any bronzed or gilt letters or devices, or shall print, or cause to be printed, any letters, figures, or devices with green ink, or any green color or pigment, upon any note, bond, or other representative of value, intended or adapted to be used as a currency or a circulating medium, every such person, being thereof convicted by due course of law, shall be deemed guilty of felony, and shall be imprisoned and kept at hard labor for a term not more than ten years, and fined in a sum not more than ten thousand dollars: *Provided*, That nothing in this act shall affect any prosecution pending, or any civil or criminal li-

38TH CONG....1ST SESS.

Laws of the United States.

bilities incurred under any former act: *Provided further*, That the foregoing provisions of this section shall not be held or construed to deprive any person of the right to retain in his custody and possession and use for any lawful purpose, any engraved or transferred plate, block, or electrototype, or any die, roll, or other original work as aforesaid, which had been used by him in printing or engraving bank notes or other obligations, before being used in printing any obligation or other security authorized to be issued by any act of Congress; nor shall any of said foregoing provisions be held or construed to prohibit or restrain the lawful use by any person of any ink, color, or pigment, the exclusive right to which has been secured to any such person by letters patent which are still in force.

SEC. 13. *And be it further enacted*, That the words "obligation or other security of the United States," used in this act, shall be held to include and mean all bonds, coupons, national currency, United States notes, Treasury notes, fractional notes, checks for money of authorized officers of the United States, certificates of indebtedness, certificates of deposit, stamps, and other representatives of value of whatever denomination, which have been or may be issued under any act of Congress.

APPROVED, June 30, 1864.

CHAP. CLXXIII.—An Act to provide Internal Revenue to support the Government, to pay Interest on the Public Debt, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of superintending the collection of internal duties, stamp duties, licenses, or taxes, imposed by this act, or which may hereafter be imposed, and of assessing the same, the Commissioner of Internal Revenue, whose annual salary shall be four thousand dollars, shall be charged, under the direction of the Secretary of the Treasury, with preparing all the instructions, regulations, directions, forms, blanks, stamps, and licenses, and distributing the same, or any part thereof, and all other matters pertaining to the assessment and collection of the duties, stamp duties, licenses, and taxes which may be necessary to carry this act into effect, and with the general superintendence of his office, as aforesaid, and shall have authority, and hereby is authorized and required, to provide cotton marks, hydrometers, and proper and sufficient adhesive stamps, and stamps or dies for expressing and denoting the several stamp duties, or the amount thereof in the case of percentage duties, imposed by this act, and to alter and renew or replace such stamps, from time to time, as occasion shall require. He may also contract for or procure the printing of requisite forms, decisions, regulations, and advertisements; but the printing of such forms, decisions, and regulations shall be done at the public printing office, unless the Public Printer shall be unable to perform the work. And the Secretary of the Treasury may, at any time prior to the first day of July, eighteen hundred and sixty-five, assign to the office of the Commissioner of Internal Revenue such number of clerks as he may deem necessary, or the exigencies of the public service may require; and the privilege of franking all letters and documents pertaining to the duties of his office, and of receiving free of postage all such letters and documents, is hereby extended to said Commissioner.

GENERAL PROVISIONS.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Commissioner of Internal Revenue to pay over daily to the Treasurer of the United States all public moneys which may come into his possession, for which the Treasurer shall give proper receipts and keep a faithful account; and at the end of each month the said Commissioner shall render true and faithful accounts of all public moneys received or paid out, or paid to the Treasurer of the United States, exhibiting proper vouchers therefor, and the same shall be received and examined by the Fifth Auditor of the Treasury, who shall thereafter certify the balance, if any, and transmit the accounts, with the

vouchers and certificate, to the First Comptroller for his decision thereon; and the said Commissioner, when such accounts are settled as herein provided for, shall transmit a copy thereof to the Secretary of the Treasury. He shall at all times submit to the Secretary of the Treasury and the Comptroller, or either of them, the inspection of moneys in his hands, and shall, prior to the entering upon the duties of his office, execute a bond, with sufficient sureties, to be approved by the Secretary of the Treasury and by the First Comptroller, in a sum of not less than one hundred thousand dollars, payable to the United States, conditioned that said Commissioner shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in obedience to law and in compliance with the order or regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and for the safe-keeping and faithful account of all stamps, adhesive stamps, or vellum, parchment or paper bearing a stamp denoting any duty thereon, which bond shall be filed in the office of the First Comptroller of the Treasury. And such Commissioner shall, from time to time, renew, strengthen, and increase his official bond, as the Secretary of the Treasury may direct.

SEC. 3. *And be it further enacted*, That the Deputy Commissioner of Internal Revenue, whose annual salary shall be twenty-five hundred dollars, shall be charged with such duties in the Bureau of Internal Revenue as may be prescribed by the Secretary of the Treasury, or as may be required by law, and shall act as Commissioner of Internal Revenue in the absence of that officer, and exercise the privilege of franking all letters and documents pertaining to the office of Internal Revenue.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury may appoint not exceeding five revenue agents, whose duties shall be, under the direction of the Secretary of the Treasury, to aid in the prevention, detection, and punishment of frauds upon the internal revenue, and in the enforcement of the collection thereof, who shall be paid, in addition to the expenses necessarily incurred by them, such compensation as the Secretary of the Treasury may deem just and reasonable, not exceeding two thousand dollars per annum. The above salaries to be paid in the same manner as are other expenses for collecting the revenue.

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury may appoint inspectors in any assessment district where in his judgment it may be necessary for the purposes of a proper enforcement of the internal revenue laws or the detection of frauds, and such inspectors and revenue agents aforesaid shall be subject to the rules and regulations of the said Secretary, and have all the powers conferred upon any other officers of internal revenue in making any examination of persons, books, and premises which may be necessary in the discharge of the duties of their office. And the compensation of such inspectors shall be fixed and paid for such time as they may be actually employed, not exceeding four dollars per day, and their just and proper traveling expenses.

SEC. 6. *And be it further enacted*, That the cashier of internal duties, who shall hereafter be called cashier of internal revenue, and whose annual salary shall be twenty-five hundred dollars, shall perform such duties as may be assigned to his office by the Commissioner of Internal Revenue, under the regulations of the Secretary of the Treasury, and shall give a bond, with sufficient sureties, to be approved by the Secretary of the Treasury and by the Solicitor, that he will faithfully account for all the moneys or other articles of value belonging to the United States which may come into his hands, and perform all the duties enjoined upon his office, according to law and regulations, as aforesaid; which bond shall be deposited with the First Comptroller of the Treasury.

SEC. 7. *And be it further enacted*, That the second section of an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," approved July one, eighteen hundred and sixty-two, shall remain and continue in full force; and the President is hereby authorized to alter the respective

collection districts provided for in said section as the public interests may require.

SEC. 8. *And be it further enacted*, That each assessor shall divide his district into a convenient number of assessment districts, which may be changed as often as may be deemed necessary, subject to such regulations and limitations as may be imposed by the Commissioner of Internal Revenue, within each of which the Secretary of the Treasury, whenever there shall be a vacancy or the public interest shall require, shall appoint, with the approval of the said Commissioner, one assistant assessor, who shall be a resident of the district of said assessor; and in case of a vacancy occurring in the office of assessor by reason of death or any other cause, the assistant assessor of the assessment district in which the assessor resided at the time of the vacancy occurring shall act as assessor until an appointment filling the vacancy shall be made. And each assessor and assistant assessor so appointed shall, before he enters on the duties of his office, take and subscribe, before some competent magistrate, or some collector, to be appointed by virtue of this act, (who is hereby empowered to administer the same,) the following oath or affirmation, to wit: "I, A. B, do swear (or affirm, as the case may be) that I will bear true faith and allegiance to the United States of America, and will support the Constitution thereof, and that I will diligently and faithfully perform the duties of assessor (or assistant assessor) for (naming the assessment district) according to my best skill and judgment." And a certificate of such oath or affirmation shall be delivered to the collector of the district for which such assessor or assistant assessor shall be appointed.

SEC. 9. *And be it further enacted*, That before any collector shall enter upon the duties of his office, he shall execute a bond for such amount as shall be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, with not less than five sureties, to be approved by the Solicitor of the Treasury, conditioned that said collector shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the order or regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession; which bond shall be filed in the office of the First Comptroller of the Treasury. And such collector shall, from time to time, renew, strengthen, and increase his official bond, as the Secretary of the Treasury may direct, with such further conditions as the said Commissioner shall prescribe.

SEC. 10. *And be it further enacted*, That each collector shall be authorized to appoint, by an instrument of writing under his hand, as many deputies as he may think proper, to be by him compensated for their services, and also to revoke any such appointment, giving such notice thereof as the Commissioner of Internal Revenue shall prescribe; and may require bonds or other securities, and accept the same from such deputy; and each such deputy shall have the like authority, in every respect, to collect the duties and taxes levied or assessed within the portion of the district assigned to him which is by this act vested in the collector himself; but each collector shall, in every respect, be responsible both to the United States and to individuals, as the case may be, for all moneys collected, and for every act done by any of his deputies while acting as such, and for every omission of duty.

SEC. 11. *And be it further enacted*, That it shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, license, stamp, or tax imposed by law, when not otherwise provided for, on or before the first Monday of May in each year, and in other cases before the day of levy, to make a list or return, verified by oath or affirmation, to the assistant assessor of the district where located, of the amount of annual income, the articles or objects charged with a special duty or tax, the quantity of goods, wares, and merchandise made or sold, and charged with a specific or ad valorem duty or tax, the several rates and aggregate amount, according to the respective provisions of this act, and according to the forms and regulations to be

Laws of the United States.

38TH CONG...1ST SESS.

prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable to be assessed.

SEC. 12. *And be it further enacted*, That the instructions, regulations, and directions, as heretofore mentioned, shall be binding on each assessor and his assistants, and on each collector and his deputies, and on all other persons, in the performance of the duties enjoined by or under this act; pursuant to which instructions the said assessors shall, on the first Monday of May in each year, and from time to time thereafter, in accordance with this act, direct and cause the several assistant assessors to proceed through every part of their respective districts, and inquire after and concerning all persons being within the assessment districts where they respectively reside, owning, possessing, or having the care or management of any property, goods, wares, and merchandise, articles or objects liable to pay any duty, stamp, or tax, including all persons liable to pay a license or other duty, under the provisions of this act, and to make a list of the owners, and to value and enumerate the said objects of taxation respectively, by reference to any lists of assessment or collection taken under the laws of the respective States, to any other records or documents, to the written list, schedule, or return required to be made out and delivered to the assistant assessor, and by all other lawful ways and means, in the manner prescribed by this act, and in conformity with the regulations and instructions before mentioned.

SEC. 13. *And be it further enacted*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles and objects liable to pay any duty or tax, or any business or occupation liable to pay any license, as aforesaid, then, and in that case, it shall be the duty of the officer to make such list or return, which being distinctly read, consented to, and signed and verified by oath or affirmation by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person.

SEC. 14. *And be it further enacted*, That in case any person shall be absent from his or her residence or place of business at the time an assistant assessor shall call to receive the annual list or return, it shall be the duty of such assistant assessor to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum, addressed to such person, requiring him or her to present to such assessor the list or return required by law within ten days from the date of such note or memorandum, verified by oath or affirmation. And if any person, on being notified or required as aforesaid, shall refuse or neglect to give such list or return within the time required as aforesaid, or if any person shall not deliver a monthly or other list or return without notice at the time required by law, or if any person shall deliver or disclose to any assessor or assistant assessor any list, statement, or return, which, in the opinion of the assessor, is false or fraudulent, or contains any understatement or undervaluation, it shall be lawful for the assessor to summon such person, his agent, or other person having possession, custody, or care of books of account containing entries relating to the trade or business of such person, or any other persons as he may deem proper, to appear before such assessor and produce such book, at a time and place therein named, and to give testimony or answer interrogatories under oath or affirmation respecting any objects liable to duty or tax as aforesaid, or the lists, statements, or returns thereof, or any trade, business, or profession liable to any tax or license as aforesaid. Such summons may be served by any assistant assessor of the district. In case any person so summoned shall neglect or refuse to obey such

summons according to its exigency, or to give testimony, or to answer interrogatories as required, it shall be lawful for the assessor, upon affidavit proving the facts, to apply to the judge of the district court, or a commissioner authorized to perform the duties of such judge at chambers, for an attachment against such person as for a contempt. It shall be the duty of such judge or commissioner to hear such application, and, if satisfactory proof be made, to issue an attachment directed to some proper officer for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case, and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper to enforce obedience to the requirements of the summons and punish such person for his default or disobedience. It shall be the duty of the assessor or assistant assessor of the district within which such person shall have taxable property to enter into and upon the premises, if it be necessary, of such person so refusing or neglecting, or rendering a false or fraudulent list or return, and to make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the assessor, and on his own view and information, such list or return, according to the form prescribed, of the property, goods, wares, and merchandise, and all articles or objects liable to duty or tax, owned or possessed or under the care or management of such person, and assess the duty thereon, including the amount, if any, due for license and income; and in case of the return of a false or fraudulent list or valuation, he shall add one hundred per centum to such duty; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add fifty per centum to such duty; and in case of neglect occasioned by sickness or absence as aforesaid, the assessor may allow such further time for making and delivering such list or return as he may judge necessary, not exceeding thirty days; and the amount so added to the duty shall, in all cases, be collected by the collector at the same time and in the same manner with the duties; and the lists or returns so made and subscribed by such assessors or assistant assessors shall be taken and reputed as good and sufficient lists or returns for all legal purposes.

SEC. 15. *And be it further enacted*, That if any person shall deliver or disclose to any assessor or assistant assessor appointed in pursuance of law any false or fraudulent list, return, account, or statement, with intent to defeat or evade the valuation, enumeration, or assessment intended to be made, or if any person who being duly summoned to appear to testify, or to appear and produce such books as aforesaid, shall neglect to appear or to produce said books, he shall, upon conviction thereof before any circuit or district court of the United States, be fined in any sum not exceeding one thousand dollars, or be imprisoned for not exceeding one year, or both, at the discretion of the court, with costs of prosecution.

SEC. 16. *And be it further enacted*, That whenever there shall be in any assessment district any property, goods, wares, and merchandise, articles or objects, not owned or possessed by, or under the care or management of, any person within such district, and liable to be taxed as aforesaid, and no list of which shall have been transmitted to the assistant assessor in the manner provided by this act, it shall be the duty of the assistant assessor for such district to enter into and upon the premises where such property is situated, and take such view thereof as may be necessary, and to make lists of the same, according to the form prescribed, which lists, being subscribed by the said assessor, shall be taken and reputed as good and sufficient lists of such property, goods, wares, and merchandise, articles or objects as aforesaid, for all legal purposes.

SEC. 17. *And be it further enacted*, That any owner or person having the care or management of property, goods, wares, and merchandise, articles or objects, not lying or being within the assessment district in which he resides, shall be permitted to make out and deliver the lists thereof required by this act (provided the assessment

district in which the said objects of duty or taxation are situated is therein distinctly stated) at the time and in the manner prescribed to the assistant assessor of the assessment district wherein such person resides. And it shall be the duty of the assistant assessor who receives any such list to transmit the same to the assistant assessor where such objects of taxation are situated, who shall examine such list; and if he approves the same, he shall return it to the assistant assessor from whom he received it with his approval thereof; and if he fails to approve the same, he shall make such alterations therein and additions thereto as he may deem to be just and proper, and shall then return the said list to the assistant assessor from whom it was received, who shall proceed, in making the assessment of the tax upon the list by him so received, in all respects as if the said list had been made out by himself.

SEC. 18. *And be it further enacted*, That the lists aforesaid shall, where not otherwise specially provided for, be taken with reference to the day fixed for that purpose by this act, as aforesaid, and, where duties accrue at other and different times, the lists shall be taken with reference to the time when said duties become due, and shall be denominated annual, monthly, and special lists. And the assistant assessors, respectively, after collecting the said lists, shall proceed to arrange the same, and to make two general lists—the first of which shall exhibit, in alphabetical order, the names of all persons, firms, companies, or corporations liable to pay any duty, tax, or license under this act, residing within the assessment district, together with the value and assessment or enumeration, as the case may require, of the objects liable to duty or taxation within such districts for which each such person is liable, or for which any firm, company, or corporation is liable, with the amount of duty or tax payable thereon; and the second list shall exhibit, in alphabetical order, the names of all persons residing out of the collection district, who own property within the district, together with the value and assessment or enumeration thereof, as the case may be, with the amount of duty or tax payable thereon as aforesaid. The forms of the said general list shall be devised and prescribed by the assessor, under the direction of the Commissioner of Internal Revenue, and lists taken according to such forms shall be made out by the assistant assessors and delivered to the assessor within thirty days after the day fixed by this act as aforesaid, requiring lists from individuals; or where duties, licenses, or taxes accrue at other and different times, the lists shall be delivered from time to time as they become due.

SEC. 19. *And be it further enacted*, That the assessors for each collection district shall, by advertisement in some public newspaper published in each county within said district, if any such there be, if not, then in some newspaper in the collection district nearest thereto, and by notifications to be posted up in at least four public places within each assessment district, advertise, by not less than ten days' notice, all persons concerned, of the time and place within said county when and where appeals will be received and determined relative to any erroneous or excessive valuations, assessments, or enumerations by the assessor or assistant assessor returned in the annual list. And it shall be the duty of the assessor for each collection district, at the time fixed for hearing such appeal, as aforesaid, to submit the proceedings of the assessors and assistant assessors, and the annual lists taken and returned as aforesaid, to the inspection of any and all persons who may apply for that purpose. And the said assessor for each collection district is hereby authorized at any time to hear and determine in a summary way, according to law and right, upon any and all appeals which may be exhibited against the proceedings of the said assessors or assistant assessors: *Provided*, That no appeal shall be allowed to any party after he shall have been duly assessed, and the annual list containing the assessment has been transmitted to the collector of the district. And all appeals to the assessor, as aforesaid, shall be made in writing, and shall specify the particular cause, matter, or thing respecting which a decision is requested, and

38TH CONG....1ST SESS.

Laws of the United States.

shall, moreover, state the ground or principle of error complained of. And the assessor shall have power to reexamine and determine upon the assessments and valuations and rectify the same as shall appear just and equitable; but no valuation, assessment, or enumeration shall be increased without a previous notice of at least five days to the party interested to appear and object to the same, if he judge proper, which notice shall be given by a note in writing to be left at the dwelling house, office, or place of business of the party by such assessor, assistant assessor, or other person, or sent by mail to the nearest usual post office address of said party: *Provided further*, That on the hearing of appeals it shall be lawful for the assessor to require by summons the attendance of witnesses and the production of books of account in the same manner and under the same penalties as are provided in cases of refusal or neglect to furnish lists or returns. The bills for the attendance and mileage of said witnesses shall be taxed by the assessor and paid by the delinquent parties, or otherwise by the collector of the district, on certificate of the assessor, at the rates usually allowed in said district for witnesses in courts of justice.

Sec. 20. *And be it further enacted*, That the said assessors of each collection district, respectively, shall, immediately after the expiration of the time for hearing appeals concerning taxes returned in the annual list, and from time to time as duties, taxes, or licenses become liable to be assessed, make out lists containing the sums payable according to law upon every object of duty or taxation for each collection district; which lists shall contain the name of each person residing within the said district, or owning or having the care or superintendence of property lying within the said district, which is liable to any tax or duty, or engaged in any business or pursuit requiring a license, when such person or persons are known, together with the sums payable by each; and where there is any property within any collection district liable to the payment of the said duty or tax, not owned or occupied by or under the superintendence of any person resident therein, there shall be a separate list of such property, specifying the sum payable, and the names of the respective proprietors, when known. And the assessor making out any such separate list shall transmit to the assessor of the district, where the persons liable to pay such tax reside, or shall have their principal place of business, copies of the list of property held by persons so liable to pay such tax, to the end that the taxes assessed under the provisions of this act may be paid within the collection district where the persons liable to pay the same reside, or may have their principal place of business. And in all other cases the said assessor shall furnish to the collectors of the several collection districts, respectively, within ten days after the time of hearing appeals concerning taxes returned in the annual list, and from time to time thereafter, as required, a certified copy of such list or lists for their proper collection districts. And in case it shall be found or discovered by any assessor that the annual list so furnished to the proper collector, as aforesaid, is imperfect or incomplete, owing to the names of persons, firms, corporations, or objects liable to tax or duty being omitted therefrom, the said assessor may, from time to time, at any time thereafter, enter on a special list all such objects of duty or taxation, with the names of persons owning or having the care or superintendence of property lying within said district liable to said tax or duty, or engaged in any business or pursuit requiring a license, with the sums payable by each, as he shall discover to have been omitted as aforesaid; and the same proceedings shall obtain and be had with respect to such objects of duty or tax as are by this act required in respect to objects of duty or taxes, and persons liable to tax regularly entered and returned on any monthly or special list: *Provided*, That the office or principal place of business of the said assessor shall be always open when he is not necessarily absent therefrom during the business hours of each day, for the hearing of appeals by parties who shall appear voluntarily before him: *Provided further*, That it shall be in the power of the Commissioner of Internal Revenue to exonerate any assessor as

aforesaid from forfeitures, in whole or in part, as to him shall appear just and equitable.

Sec. 21. *And be it further enacted*, That every assessor or assistant assessor who shall enter upon and perform the duties of his office without having taken the oath or affirmation prescribed by this act, or who shall willfully neglect to perform any of the duties prescribed by this act at the time and in the manner herein designated, or who shall knowingly make any false or fraudulent list or valuation or assessment, or shall demand or receive any compensation, fee, or reward, other than those provided for herein, for the performance of any duty, or shall be guilty of extortion or willful oppression in office, shall, upon conviction thereof in any circuit or district court of the United States having jurisdiction thereof, be subject to a fine of not exceeding one thousand dollars, or to imprisonment for not exceeding one year, or both, at the discretion of the court, and shall be dismissed from office, and shall be forever disqualified from holding any office under the Government of the United States. And one half of the fine so imposed shall be for the use of the United States, and the other half for the use of the informer, who shall be ascertained by the judgment of the court; and the said court shall also render judgment against the said assessor or assistant assessor for the amount of damages sustained in favor of the party injured, to be collected by execution.

Sec. 22. *And be it further enacted*, That there shall be allowed and paid to the several assessors a salary of fifteen hundred dollars per annum, payable quarterly. And in addition thereto, where the receipts of the collection district shall exceed the sum of one hundred thousand dollars and shall not exceed the sum of four hundred thousand dollars annually, one half of one per centum upon the excess of receipts over one hundred thousand dollars. Where the receipts of a collection district shall exceed four hundred thousand dollars and shall not exceed six hundred thousand, one fifth of one per centum upon the excess of receipts over four hundred thousand dollars. Where the receipts shall exceed six hundred thousand dollars, one tenth of one per centum upon such excess; but the salary of no assessor shall, in any case, exceed the sum of four thousand dollars. And the several assessors shall be allowed and paid the sums actually and necessarily expended, with the approval of the Commissioner of Internal Revenue; but no account for such rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner shall require, and shall have been audited and approved by the proper officers of the Treasury Department, for office rent, not exceeding the rate of five hundred dollars per annum. And the several assessors shall be paid, after the account thereof shall have been rendered to, and approved by, the proper officers of the Treasury, their necessary and reasonable charges for clerk hire; but no such account shall be approved unless it shall state the name or names of the clerk or clerks employed, and the precise periods of time for which they were respectively employed, and the rate of compensation agreed upon, and shall be accompanied by an affidavit of the assessor stating that such service was actually required by the necessities of his office, and was actually rendered; and also by the affidavit of each clerk, stating that he has rendered the service charged in such account on his behalf, the compensation agreed upon, and that he has not paid, deposited, or assigned, or contracted to pay, deposit, or assign any part of such compensation to the use of any other person, or in any way, directly or indirectly, paid or given, or contracted to pay or give, any reward or compensation for his office or employment, or the emoluments thereof. And the chief clerk of any such assessor is hereby authorized to administer, in the absence of the assessor, such oaths or affirmations as are required by this act. And there shall be allowed and paid to each assistant assessor four dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor; and three dollars for every hundred persons assessed contained in the tax list, as completed and delivered by him to the assessor; and twenty-five cents for

each permit granted to any tobacco, snuff, or cigar manufacturer; and the said assessors and assistant assessors, respectively, shall be paid after the account thereof shall have been rendered to, and approved by, the proper officers of the Treasury, their necessary and reasonable charges for stationery and blank-books used in the discharge of their duties, and for postage actually paid on letters and documents received or sent, and relating exclusively to official business: *Provided*, That no such account shall be approved unless it shall state the date and the particular item of every such expenditure, and shall be verified by the oath or affirmation of such assessor or assistant assessor; and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized: *Provided further*, That the Secretary of the Treasury shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in cases where a collection district embraces more than a single congressional district, and to assessors and assistant assessors, revenue agents and inspectors, in Louisiana, North Carolina, Mississippi, Tennessee, Missouri, California, and Oregon, and the Territories, as may appear to him to be just and equitable, in consequence of the greater cost of living and traveling in those States and Territories, and as may, in his judgment, be necessary to secure the services of competent officers; but the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories respectively.

Sec. 23. *And be it further enacted*, That if any assessor shall demand of, or receive directly or indirectly from, any assistant assessor, as a condition of his appointment to, or continuance in, his said office of assistant assessor, any portion of the compensation herein allowed such assistant assessor, or any other consideration, such assessor so offending shall be summarily dismissed from office, and shall be liable to a fine of not less than five hundred dollars upon conviction of said offense in any district or circuit court of the United States of the district in which such offense may be committed.

Sec. 24. *And be it further enacted*, That the assistant assessors shall make out their accounts for pay and charges allowed by law monthly, specifying each item and including the date of each day of service, and shall transmit the same, verified by oath or affirmation, to the assessor of the district, who shall thereupon examine the same, and, if it appear just and in accordance with law, he shall indorse his approval thereon, but otherwise shall return the same with objections. Any such account, so approved, may be presented by the assistant assessor to the collector of the district for payment, who shall thereupon pay the same, and, when received by the assistant assessor, be allowed therefor upon presentation to the Commissioner of Internal Revenue. Where any account, so transmitted to the assessor, shall be objected to, in whole or in part, the assistant assessor may appeal to the Commissioner of Internal Revenue, whose decision on the case shall be final. And should it appear, at any time, that any assessor has knowingly or negligently approved any account, as aforesaid, allowing any assistant assessor a sum larger than was due according to law, it shall be the duty of the Commissioner of Internal Revenue, upon proper proof thereof, to deduct the sum so allowed from any pay which may be due to such assessor; or the Commissioner as aforesaid may direct a suit to be brought in any court of competent jurisdiction against the assessor or assistant assessor in default, for the recovery of the amount knowingly or negligently allowed, as hereinbefore mentioned: *Provided*, That in estimating the allowance to be made to assistant assessors for periods of service less than a day, each ten hours shall be deemed the equivalent of a day.

Sec. 25. *[And be it further enacted]*, That there shall be allowed to collectors, in full compensation for their services and that of their deputies, a salary of fifteen hundred dollars per annum, to be paid quarterly, and in addition thereto a commission of three per centum upon the first hundred thousand dollars, and a commission of one per

Laws of the United States.

38TH CONG... 1ST SESS.

centum upon all sums above one hundred thousand dollars and not exceeding four hundred thousand dollars, and a commission of one half of one per centum on all sums above four hundred thousand dollars, such commissions to be computed upon the amounts by them respectively collected and paid over and accounted for under the instructions of the Treasury Department. And there shall be further paid, after the account thereof has been rendered to, and approved by, the proper officers of the Treasury, to each collector his necessary and reasonable charge, for stationery and blank-books used in the performance of his official duties, and for postage actually paid on letters and documents received or sent, and exclusively relating to official business; but no such account shall be approved unless it shall state the date and the particular items of every such expenditure, and shall be verified by the oath or affirmation of the collector: *Provided*, That the salary and commissions of no collector, exclusive of stationery, blank-books, and postage, shall exceed ten thousand dollars in the aggregate, nor more than five thousand dollars exclusive of the expenses for rent, stationery, blank-books, and postage, and pay of deputies and clerks, to which such collector is actually and necessarily subjected in the administration of his office: *Provided further*, That the Secretary of the Treasury be authorized to make such further allowances, from time to time, as may be reasonable in cases in which, from the territorial extent of the district, or from the amount of internal duties collected, or from other circumstances, it may seem just to make such allowances.

SEC. 26. *And be it further enacted*, That in the adjustment of the accounts of assessors and collectors of internal revenue which shall accrue after the thirtieth of June, eighteen hundred and sixty-four, and in the payment of their compensation for services after that date, the fiscal year of the Treasury shall be observed; and where such compensation, or any part of it, shall be by commissions upon assessments or collections, and shall during any year, in consequence of a new apportionment [apportionment,] be due to more than one assessor or collector in the same district, such commissions shall be apportioned between such assessors or collectors according to the amounts collected by them respectively; but in no case shall a greater amount of the commissions be allowed to two or more assessors or collectors in the same district than is, or may be, authorized by law to be allowed to one assessor or collector. And the salary and commissions of assessors and collectors heretofore earned and accrued shall be adjusted, allowed, and paid in conformity to the provisions of this section, and not otherwise.

SEC. 27. *And be it further enacted*, That each collector, on receiving, from time to time, lists and returns from the said assessors, shall subscribe three receipts: one of which shall be made upon a full and correct copy of each list or return, and be delivered by him to, and shall remain with, the assessor of his collection district, and shall be open to the inspection of any person who may apply to inspect the same; and the other two shall be made upon aggregate statements of the lists or returns aforesaid, exhibiting the gross amount of taxes to be collected in his collection district, one of which aggregate statements and receipts shall be transmitted to the Commissioner of Internal Revenue, and the other to the First Comptroller of the Treasury.

SEC. 28. *And be it further enacted*, That each of said collectors shall, within twenty days after receiving his annual collection list from the assessors, give notice, by advertisement published in each county in his collection district, in one newspaper printed in such county, if any such there be, and by notifications to be posted up in at least four public places in each county in his collection district, that the said duties have become due and payable, and state the time and place within said county at which he or his deputy will attend to receive the same, which time shall not be less than ten days after such notification; and all persons who shall neglect to pay the duties and taxes so as aforesaid assessed within the time specified, shall be liable to pay ten per centum additional upon the amount thereof, the fact of which liability shall be stated in the advertisement and

notifications aforesaid. And if any person shall neglect to pay as aforesaid for more than ten days, it shall be the duty of the collector or his deputy to issue to such person a notice to be left at his dwelling or usual place of business, or be sent by mail, demanding the payment of said duties or taxes, stating the amount thereof, with a fee of twenty cents for the issuing and service of such notice, and with four cents for each mile actually and necessarily traveled in serving the same. And if such persons shall not pay the duties or taxes, with the penalty aforesaid, and the fee of twenty cents and mileage as aforesaid, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said duties or taxes, and fee of twenty cents and mileage, with ten per centum penalty as aforesaid. And with respect to all such duties or taxes as are not included in the annual lists as aforesaid, and all taxes and duties the collection of which is not otherwise provided for in this act, it shall be the duty of each collector, in person or by deputy, to demand payment thereof, in the manner last mentioned, within ten days from and after receiving the list thereof from the assessor, or within twenty days from and after the expiration of the time within which such duty or tax should have been paid; and if the annual or other duties shall not be paid within ten days from and after such demand therefor, it shall be lawful for such collector, or his deputies, to proceed to collect the said duties or taxes, with ten per centum additional thereto, as aforesaid, by distraint and sale of the goods, chattels, or effects of the persons delinquent as aforesaid. And in case of distraint, it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods or chattels distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels, or effects, or at his or her dwelling, or usual place of business, with some person of suitable age and discretion, with a note of the sum demanded, and the time and place of sale; and the said officer shall forthwith cause a notification to be published in some newspaper within the county wherein said distraint is made, if there is a newspaper published in said county, or to be publicly posted up at the post office, if there be one within five miles, nearest to the residence of the person whose property shall be distrained, and in not less than two other public places, which notice shall specify the articles distrained, and the time and place for the sale thereof, which time shall not be less than ten nor more than twenty days from the date of such notification, and the place proposed for sale not more than five miles distant from the place of making such distraint: *Provided*, That, in any case of distraint for the payment of the duties or taxes aforesaid, the goods, chattels, or effects so distrained shall and may be restored to the owner or possessor, if prior to the sale payment of the amount due or tender thereof shall be made to the proper officer charged with the collection of the full amount demanded, together with such fee for levying, and such sum for the necessary and reasonable expenses of removing, advertising, and keeping the goods, chattels, or effects so distrained, as may be prescribed by the Commissioner of Internal Revenue; but in case of non-payment or tender, as aforesaid, the said officers shall proceed to sell the said goods, chattels, or effects at public auction, and shall and may retain from the proceeds of such sale the amount demandable for the use of the United States, with the necessary and reasonable expenses of distraint and sale, and a commission of five per centum thereon for his own use, rendering the overplus, if any there be, to the person whose goods, chattels, or effects shall have been distrained: *Provided further*, That there shall be exempt from distraint the tools or implements of a trade or profession, one cow, arms, and provisions, and household furniture kept for use, and apparel necessary for a family.

SEC. 29. *And be it further enacted*, That in all cases where the property liable to distraint for duties or taxes under this act may not be divisible, so as to enable the collector by a sale of part thereof to raise the whole amount of the tax, with

all costs, charges, and commissions, the whole of such property shall be sold; and the surplus of the proceeds of the sale, after satisfying the duty or tax, costs, and charges, shall be paid to the owner of the property; or his, her, or their legal representatives; or if he, she, or they cannot be found, or refuse to receive the same, then such surplus shall be deposited in the Treasury of the United States, to be there held for the use of the owner, or his, her, or their legal representatives, until he, she, or they shall make application therefor to the Secretary of the Treasury, who, upon such application, shall, by warrant on the Treasury, cause the same to be paid to the applicant. And if the property advertised for sale as aforesaid cannot be sold for the amount of the duty or tax due thereon, with the costs and charges, the collector shall purchase the same in behalf of the United States for an amount not exceeding the said tax or duty, with the costs and charges thereon. And all property so purchased may be sold by said collector under such regulations as may be prescribed by the Commissioner of Internal Revenue. And the collector shall render a distinct account of all charges incurred in the sale of such property to the Commissioner of Internal Revenue, who shall, by regulation, determine the fees and costs to be allowed in cases of distraint and other seizures; and the said collector shall pay into the Treasury the surplus, if any there be, after defraying the charges.

SEC. 30. *And be it further enacted*, That in any case where goods, chattels, or effects sufficient to satisfy the duties imposed by this act upon any person liable to pay the same shall not be found by the collector or deputy collector whose duty it may be to collect the same, he is hereby authorized to collect the same by seizure and sale of real estate; and the officer making such seizure and sale shall give notice to the person whose estate is proposed to be sold, by giving him in hand, or leaving at his last and usual place of abode, if he has any such within the collection district where said estate is situated, a notice, in writing, stating what particular estate is proposed to be sold, describing the same with reasonable certainty, and the time when and place where said officer proposes to sell the same; which time shall not be less than twenty, nor more than forty, days from the time of giving said notice. And the said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted up at the post office nearest to the estate so seized, and in two other public places within the county. And the place of said sale shall not be more than five miles distant from the estate seized, except by special order of the Commissioner of Internal Revenue. At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at a minimum price, including the amount of duties with the ten per centum additional thereon, the expense of making such levy and all charges for advertising, and an officer's fee of ten dollars. And if no person offers for said estate the amount of said minimum, the officer shall declare the same to be purchased by him for the United States, and shall deposit with the district attorney of the United States a deed thereof, as hereinafter specified and provided; otherwise, the same shall be declared to be sold to the highest bidder. And said sale may be adjourned by said officer for a period not exceeding five days, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner. If the amount bid shall be then and there paid, the officer shall give his receipt therefor, if requested, and within five days thereafter he shall make out a deed of the estate so sold to the purchaser thereof, and execute the same in his official capacity, in the manner prescribed by the laws of the State in which said estate may be situated, in which said deed shall be recited the fact of said seizure and sale, with the cause thereof, the amount of duty for which said sale was made, and of all charges and fees, and the amount paid by the purchaser, and all his acts and doings in relation to said seizure and sale, and shall have the same ready for

38TH CONG.... 1ST SESS.

Laws of the United States.

delivery to said purchaser, and shall deliver the same accordingly, upon request therefor. And said deed shall be prima facie evidence of the truth of the facts stated therein, and, if the proceedings of the officer as set forth have been substantially in pursuance of the provisions of this act, shall be considered and operate as a conveyance to the purchaser of the title to said estate, but shall not affect the rights of innocent parties acquired previously to the claim of the United States under this act. The surplus, if any, arising from such sale shall be disposed of as provided in this act for like cases arising upon sales of personal property. And any person whose estate may be seized for duties, as aforesaid, shall have the same right to pay or tender the amount due, with all proper charges thereon, prior to the sale thereof, and thereupon to relieve his said estate from sale as aforesaid, as is provided in this act for personal property similarly situated. And any collector or deputy collector may, for the collection of duties imposed upon any person, or for which any person may be liable by this act, and committed to him for collection, seize and sell the lands of such person situated in any other collection district within the State in which said officer resides; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district. And the owners, their heirs, executors, or administrators, or any person having an interest therein, or a lien thereon, or any person on their behalf, shall have liberty to redeem the land sold as aforesaid, within one year from and after recording the said deed, upon payment to the purchaser, or, in case he cannot be found in the county where the lands are situated, to the collector, for the use of the purchaser, his heirs or assigns, of the amount paid by the purchaser, with interest on the same at the rate of twenty per centum per annum. And it shall be the duty of every collector to keep a record of all sales of land made in his collection district, whether by himself or his deputies, in which shall be set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed, and all proceedings in making said sale, the amount of fees and expenses, the name of the purchaser, and the date of the deed; which record shall be certified by the officer making the sale. And it shall be the duty of any deputy making sale, as aforesaid, to return a statement of all his proceedings to the collector, and to certify the record thereof. And in case of the death or removal of the collector, or the expiration of his term of office from any other cause, said record shall be deposited in the office of the clerk of the district court of the United States for the district within which the said collector resided; and a copy of every such record, certified by the collector, or by the clerk, as the case may require, shall be evidence in any court of the truth of the facts therein stated. And when any lands sold, as aforesaid, shall be redeemed as hereinbefore provided, the collector or clerk, as the case may be, shall make an entry of the fact upon the record aforesaid, and the said entry shall be evidence of such redemption. And the claim of the Government to lands sold under and by virtue of the foregoing provisions shall be held to have accrued at the time of seizure thereof.

SEC. 31. *And be it further enacted*, That if any collector shall find, upon any list of taxes returned to him for collection, property lying within his district which is charged with any specific or ad valorem tax or duty, but which is not owned, occupied, or superintended by some person known to such collector to reside, or to have some place of business, within the United States, and upon which the duty or tax has not been paid within the time required by law, such collector shall forthwith take such property into his custody, and shall advertise the same, and the tax charged upon the same, in some newspaper published in his district, if any shall be published therein, otherwise in some newspaper in an adjoining district, for the space of thirty days; and if the taxes thereon, with all charges for advertising, shall not be paid within said thirty days, such collector shall proceed to sell the same or so much as is necessary, in the manner provided for the sale of other goods distrained for the non-payment of taxes, and out of the proceeds shall satisfy all taxes charged upon such

property, with the costs of advertising and selling the same. And like proceedings to those provided in the preceding section for the purchase and resale of property which cannot be sold for the amount of duty or tax due thereon shall be had with regard to property sold under the provisions of this section. And any surplus arising from any sale herein provided for shall be paid into the Treasury, for the benefit of the owner of the property. And the Secretary of the Treasury is authorized, in any case where money shall be paid into the Treasury for the benefit of any owner of property sold as aforesaid, to repay the same, on proper proof being furnished that the person applying therefor is entitled to receive the same.

SEC. 32. *And be it further enacted*, That whenever a collector shall have on any list duly returned to him the name of any person not within his collection district who is liable to tax, or of any person so liable to tax who shall have, in the collection district in which he resides, no sufficient property subject to seizure or distraint from which the money due for duties or tax can be collected, it shall and may be lawful for such collector to transmit a copy or statement containing the name of the person liable to such duty or tax as aforesaid, with the amount and nature thereof, duly certified under his hand, to the collector of any district to which said person shall have removed, or in which he shall have property, real or personal, liable to be seized and sold for duty or tax; and the collector of the district to whom the said certified copy or statement shall be transmitted shall proceed to collect the said duty or tax in the same way as if the name of the person and objects of tax contained in the certified copy or statement were on any list furnished to him by the assessor of his own collection district; and the said collector, upon receiving said certified copy or statement as aforesaid, shall transmit his receipt for it to the collector sending the same to him.

SEC. 33. *And be it further enacted*, That the several collectors shall, at the expiration of each and every month after they shall, respectively, commence their collections, transmit to the Commissioner of Internal Revenue a statement of the collections made by them, respectively, within the month, and pay over monthly, or at such time or times as may be required by the Commissioner of Internal Revenue, the moneys by them respectively collected within the said term, and at such places as may be designated and required by the Commissioner of Internal Revenue; and each of the said collectors shall complete the collection of all sums assigned to him for collection, as aforesaid, shall pay over the same into the Treasury, and shall render his accounts to the Treasury Department as often as he may be required. And the Secretary of the Treasury is authorized to designate one or more depositories in each State, for the deposit and safe-keeping of the moneys collected by virtue of this act; and the receipt of the proper officer of such depository to a collector for the money deposited by him shall be a sufficient voucher for such collector in the settlement of his accounts at the Treasury Department. And the Commissioner of Internal Revenue may, under the direction of the Secretary of the Treasury, prescribe such regulations with reference to such deposits as he may deem necessary.

SEC. 34. *And be it further enacted*, That each collector shall be charged with the whole amount of taxes, whether contained in lists delivered to him by the assessors, respectively, or delivered or transmitted to him by assistant assessors from time to time, or by other collectors, and with the additions thereto, with the par value of all stamps deposited with him, and with all moneys collected for passports, penalties, forfeitures, fees, or costs, and he shall be credited with all payments made as provided by law, with all stamps returned by him uncanceled to the Treasury, with the salary, fees, commissions, and charges allowed by law, and with the amount of duties or taxes contained in the lists transmitted in the manner above provided to other collectors, and by them receipted as aforesaid; and also with the amount of the duties or taxes of such persons as may have absconded, or become insolvent, prior to the day

when the duty or tax ought, according to the provisions of this act, to have been collected: *Provided*, That it shall be proved to the satisfaction of the Commissioner of Internal Revenue that due diligence was used by the collector, and that no property was left from which the duty or tax could have been recovered, who shall certify the facts to the First Comptroller of the Treasury. And each collector shall also be credited with the amount of all property purchased by him for the use of the United States, provided he shall faithfully account for and pay over the proceeds thereof upon a resale of the same as required by this act.

SEC. 35. *And be it further enacted*, That if any collector shall fail either to collect or to render his account, or to pay over in the manner or within the times hereinbefore provided, it shall be the duty of the First Comptroller of the Treasury, and he is hereby authorized and required, immediately after evidence of such delinquency, to report the same to the Solicitor of the Treasury, who shall issue a warrant of distress against such delinquent collector, directed to the marshal of the district, therein expressing the amount with which the said collector is chargeable, and the sums, if any, which have been paid over by him, so far as the same are ascertainable. And the said marshal shall, himself, or by his deputy, immediately proceed to levy and collect the sum which may remain due, with five per centum thereon, and all the expenses and charges of collection, by distress and sale of the goods and chattels, or any personal effects of the delinquent collector, giving at least five days' notice of the time and place of sale, in the manner provided by law for advertising sales of personal property on execution in the State wherein such collector resides. And the bill of sale of the officer of any goods, chattels, or other personal property, distrained and sold as aforesaid, shall be conclusive evidence of title to the purchaser, and prima facie evidence of the right of the officer to make such sale, and of the correctness of his proceedings in selling the same. And for want of goods and chattels, or other personal effects of such collector, sufficient to satisfy any warrant of distress, issued pursuant to the preceding section of this act, the lands and real estate of such collector, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks in not less than three public places in the collection district, and in one newspaper printed in the county or district, if any there be, prior to the proposed time of sale, shall be sold at public auction by the marshal or his deputy, who, upon such sale, shall, as such marshal or deputy marshal, make and deliver to the purchaser of the premises so sold a deed of conveyance thereof, to be executed and acknowledged in the manner and form prescribed by the laws of the State in which said lands are situated, which said deed so made shall invest the purchaser with all the title and interest of the defendant or defendants named in said warrant, existing at the time of the seizure thereof. And all moneys that may remain of the proceeds of such sale after satisfying the said warrant of distress, and paying the reasonable costs and charges of sale, shall be returned to the proprietor of the lands or real estate sold as aforesaid.

SEC. 36. *And be it further enacted*, That each and every collector, or his deputy, who shall be guilty of any extortion or willful oppression, under color of law, or shall knowingly demand other or greater sums than shall be authorized by law, or shall receive any fee, compensation, or reward, except as herein prescribed, for the performance of any duty, or shall willfully neglect to perform any of the duties enjoined by this act, shall, upon conviction, be subject to a fine of not exceeding one thousand dollars, or to be imprisoned for not exceeding one year, or both, at the discretion of the court, and be dismissed from office, and be forever thereafter incapable of holding any office under the Government; and one half of the fine so imposed shall be for the use of the United States, and the other half for the use of the informer, who shall be ascertained by the judgment of the court; and the said court shall also render judgment against said collector or deputy collector for the amount of damages accruing to the party injured, to be collected by execution. And

Laws of the United States.

38TH CONG... 1ST SESS.

each and every collector, or his deputies, shall give receipts for all sums by them collected.

SEC. 37. *And be it further enacted*, That a collector or deputy collector, assessor, assistant assessor, revenue agent, or inspector, shall be authorized to enter, in the daytime, any brewery, distillery, manufactory, building, or place where any property, articles, or objects, subject to duty or taxation under the provisions of this act, are made, produced, or kept, within his district, so far as it may be necessary for the purpose of examining said property, articles, or objects, or inspecting the accounts required by this act from time to time to be made or kept by any manufacturer or producer, relating to such property, articles, or objects. And every owner of such brewery, distillery, manufactory, building, or place, or persons having the agency or superintendence of the same, who shall refuse to admit such officer, or to suffer him to examine said property, articles, or objects, or to inspect said accounts, shall, for every such refusal, forfeit and pay the sum of five hundred dollars: *Provided*, however, That when such premises shall be open at night, such officers may enter while so open in the performance of their official duties.

SEC. 38. *And be it further enacted*, That if any person shall forcibly obstruct or hinder any assessor or assistant assessor, or any collector or deputy collector, revenue agent or inspector, in the execution of this act, or of any power and authority hereby vested in him, or shall forcibly rescue, or cause to be rescued, any property, articles, or objects, after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending shall, upon conviction thereof, for every such offense, forfeit and pay the sum of five hundred dollars, or double the value of property so rescued, or be imprisoned for a term not exceeding two years, at the discretion of the court: *Provided*, That if any such officer shall divulge to any party, or make known in any manner other than is provided in this act, the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of official duties, he shall be subject to the penalties prescribed in section thirty-five [thirty-six] of this act.

SEC. 39. *And be it further enacted*, That in case of the sickness or temporary disability of a collector to discharge such of his duties as cannot under existing laws be discharged by a deputy, they may be devolved by him upon one of his deputies; and for the official acts and defaults of such deputy the collector and his sureties shall be held responsible to the United States.

SEC. 40. *And be it further enacted*, That in case a collector shall die, resign, or be removed, the deputies of such collector shall continue to act until his successor is appointed; and the deputy of such collector longest in service at the time immediately preceding shall, until a successor shall be appointed, discharge all the duties of said collector; and for the official acts and defaults of such deputy a remedy shall be had on the official bond of the collector, as in other cases; and of two or more deputy collectors, appointed on the same day, the one residing nearest the residence of the collector at the time of his death, resignation, or removal, shall discharge the said duties until the appointment of a successor. And any bond or security taken from a deputy by such collector, pursuant to this act, shall be available to his legal representatives and sureties to indemnify them for loss or damage accruing from any act of the deputy so continuing or succeeding to the duties of such collector.

SEC. 41. *And be it further enacted*, That it shall be the duty of the collectors aforesaid, or their deputies, in their respective districts, and they are hereby authorized, to collect all the duties and taxes imposed by this act, however the same may be designated, and to prosecute for the recovery of any sum or sums which may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which may be incurred or imposed by virtue of this act shall be sued for and recovered, in the name of the United States, in any proper form of action, or by any appropriate form of proceeding, *qui tam*, or otherwise, before any circuit or district court of the United States for the district within which said fine, penalty,

or forfeiture may have been incurred, or before any other court of competent jurisdiction; and where not otherwise and differently provided for, one moiety thereof shall be to the use of the United States, and the other moiety thereof to the use of the person, to be ascertained by the judgment of the court, who shall first inform of the cause, matter, or thing whereby any such fine, penalty, or forfeiture was incurred: *Provided*, That in case of any suit brought upon information received from any person, other than a collector, deputy collector, assessor, assistant assessor, or inspector, of internal revenue, the United States shall not be subject to any costs of suit, nor shall the fees of any attorney or counsel employed by any such officer be allowed in the settlement of his account unless the employment of such attorney or counsel shall be authorized by the Commissioner of Internal Revenue, either express or by general regulations.

SEC. 42. *And be it further enacted*, That if any person, in any case, matter, hearing, or other proceeding in which an oath or affirmation shall be required to be taken or administered under and by virtue of this act, shall, upon the taking of such oath or affirmation, knowingly and willfully swear or affirm falsely, every person so offending shall be deemed guilty of perjury, and shall, on conviction thereof, be subject to the like punishment and penalties now provided by the laws of the United States for the crime of perjury.

SEC. 43. *And be it further enacted*, That separate accounts shall be kept at the Treasury of all moneys received from internal duties or taxes in each of the respective States, Territories, and collection districts; and that separate accounts shall be kept of the amount of each species of duty or tax that shall accrue, so as to exhibit, as far as may be, the amount collected from each source of revenue, with the moneys paid as compensation and for allowances to the collectors and deputy collectors, assessors and assistant assessors, inspectors, and other officers employed in each of the respective States, Territories, and collection districts, an abstract in tabular form of which accounts it shall be the duty of the Secretary of the Treasury, annually, in the month of December, to lay before Congress.

SEC. 44. *And be it further enacted*, That the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, shall be, and is hereby, authorized, on appeal to him made, to remit, refund, and pay back all duties erroneously or illegally assessed or collected, and all duties that shall appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected, and also repay to collectors or deputy collectors the full amount of such sums of money as shall or may be recovered against them or any of them in any court, for any internal duties or licenses collected by them, with the costs and expenses of suit, and all damages and costs recovered against assessors, assistant assessors, collectors, deputy collectors, and inspectors, in any suit which shall be brought against them or any of them by reason of anything that shall or may be done in the due performance of their official duties, and also compromise such suits and all others relating to internal revenue. And all judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the collector as internal duties are required to be paid; and all sums of money which the Commissioner is authorized to pay by virtue of this section shall be paid by drafts drawn on collectors of internal revenue.

SEC. 45. *And be it further enacted*, That in all cases of distraint and sale of goods or chattels for non-payment of taxes, duties, or licenses, as provided for, the bill of sale of such goods or chattels given by the officer making such sale, to the purchaser thereof, shall be prima facie evidence of the right of the officer to make such sale, and conclusive evidence of the regularity of his proceedings in selling the same.

SEC. 46. *And be it further enacted*, That if, for any cause, at any time after this act goes into operation, the laws of the United States cannot be executed in a State or Territory of the United States, or any part thereof, or within the District of Columbia, it shall be the duty of the President, and he is hereby authorized, to proceed to exe-

cute the provisions of this act within the limits of such State or Territory, or part thereof, or District of Columbia, so soon as the authority of the United States therein shall be reestablished, and to collect the taxes, duties, and licenses, in such States and Territories under the regulations prescribed in this act, so far as applicable; and where not applicable, the assessment and levy shall be made, and the time and manner of collection regulated, by the instructions and directions of the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

SEC. 47. *And be it further enacted*, That the officers who may be appointed under this act, except within those districts within any State or Territory which have been or may be otherwise especially provided for by law, shall be, and hereby are, authorized, in all cases where the payment of such tax shall not have been assumed by the State, to perform all the duties relating to or regarding the assessment and collection of any direct tax imposed, or which may be imposed by law.

SEC. 48. *And be it further enacted*, That all goods, wares, merchandise, articles or objects on which duties are imposed by the provisions of law, which shall be found in the possession or custody, or within the control, of any person or persons, for the purpose of being sold or removed by such person or persons in fraud of the internal revenue laws, or with design to avoid payment of said duties, may be seized by any collector or deputy collector, who shall have reason to believe that the same are possessed, had, or held for the purpose or design aforesaid, and the same shall be forfeited to the United States; and also all articles of raw materials found in the possession of any person or persons intending to manufacture the same for the purpose of being sold by them in fraud of said laws; or with design to evade the payment of said duties, and also all tools, implements, instruments, and personal property whatsoever, in the place or building, or within any yard or inclosure where such articles on which duties are imposed, as aforesaid, and intended to be used by them in the fraudulent manufacture of such raw materials, shall be found, may also be seized by any collector or deputy collector, as aforesaid; and the same shall be forfeited as aforesaid; and the proceedings to enforce said forfeiture shall be in the nature of a proceeding in rem in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction. And any person who shall have in his custody or possession any such goods, wares, merchandise, articles or objects subject to duty as aforesaid, for the purpose of selling the same with the design of avoiding payment of the duties imposed thereon, shall be liable to a penalty of five hundred dollars, or not less than double the amount of duties fraudulently attempted to be evaded, to be recovered in any court of competent jurisdiction; and the goods, wares, merchandise, articles or objects which shall be so seized by any collector or deputy collector, may, at the option of the collector, during the pendency of such proceedings, be delivered to the marshal of said district, and remain in his care and custody and under his control until final judgment in such proceeding shall be rendered: *Provided*, however, That when the property so seized may be liable to perish or become greatly reduced in value by keeping, or when it cannot be kept without great expense, the owner thereof, the collector, or the marshal of the district, may apply to the assessor of the district to examine said property; and if, in the opinion of said assessor, it shall be necessary that the said property should be sold to prevent such waste or expense, he shall appraise the same, and the owner thereupon shall have said property returned to him upon giving bond in such form as may be prescribed by the Commissioner of Internal Revenue, and in an amount equal to the appraised value, with such sureties as the said assessor shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the collector, marshal, or otherwise, as he may be ordered and directed by the court, which bond shall be filed by said assessor with the Commis-

38TH CONG....1ST SESS.

Laws of the United States.

sioner of Internal Revenue. But if said owner shall neglect or refuse to give said bond, the assessor shall issue to the collector or marshal aforesaid an order to sell the same; and the said collector or marshal shall thereupon advertise and sell the said property at public auction in the same manner as goods may be sold on final execution in said district; and the proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court aforesaid, to abide its final order, decree, or judgment.

Sec. 49. *And be it further enacted*, That all the provisions hereinafter made for the delivery of returns, lists, statements, and valuations, and for additions to the duty in case of false or fraudulent lists or returns, or in case of undervaluation or understatement on lists or returns, or in case of refusal or neglect to deliver lists or returns, and for the imposition of fines, penalties, and forfeitures, shall be held and taken to apply to all persons, associations, corporations, or companies liable to pay duty or tax; and any additions to duties, fines, penalties, or forfeitures hereinafter imposed for failure to perform any duty required to be performed, shall be held and taken to be additional to those hereinbefore provided.

Sec. 50. *And be it further enacted*, That the provisions of the act entitled "An act further to provide for the collection of duties on imports," approved March second, one thousand eight hundred and thirty-three, now in force, shall be taken and deemed as extending to and embracing all cases arising under the laws for the collection of internal duties, stamp duties, licenses, or taxes, which have been, or may be hereafter, enacted; and all persons duly authorized to assess, receive, or collect such duties or taxes under such laws are hereby declared to be, and to have been, revenue officers within the true intent and meaning of the said act, and entitled to all the exemptions, immunities, benefits, rights, and privileges therein enumerated or conferred.

Sec. 51. *And be it further enacted*, That the provisions of the sixteenth section of the act approved August sixth, eighteen hundred and forty-six, entitled "An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," are hereby applied to, and shall be construed to include, all officers of the internal revenue, charged with the safe-keeping, transfer, or disbursement of the public moneys arising therefrom, and to all other persons having actual charge, custody, or control of moneys or accounts arising from the administration of the internal revenue.

Sec. 52. *[And be it further enacted]*, That all assessors and their assistants, all collectors and their deputies, and all inspectors, are hereby authorized to administer oaths and take evidence touching any part of the administration of this law with which they are respectively charged, and where such oaths and evidence are by law authorized to be taken; and any perjury therein shall be punished in the like manner, and to the same degree, as in the case of perjury committed in proceedings in the courts of the United States.

SPIRITS, ALE, BEER, AND PORTER.

Sec. 53. *And be it further enacted*, That any person required by law to be licensed as a distiller, shall, in addition to what is required by other provisions of law, make an application therefor to the assessor of the district, and before the same is issued the person so applying shall give bond to the United States, in such sum as shall be required by the collector, and with one or more sureties, to be approved by said collector, conditioned that in case any additional still or stills, or other implements to be used as aforesaid, shall be erected by him, his agent or superintendent, he will, before using, or causing, or permitting the same to be used, report in writing to the said assessor the capacity thereof, and information from time to time of any change in the form, capacity, ownership, agency, or superintendence, which all or either of the said stills or other implements may undergo, and that he will from day to day enter, or cause to be entered, in a book to be kept for that purpose, the number of gallons of spirits that may be distilled by said still or stills, or other implements, and also of the

quantities of grain or other vegetable productions, or other substances put into the mash-tub, or otherwise used by him, his agent or superintendent, for the purpose of producing spirits; and said book shall be open at all times during the day (Sundays excepted) to the inspection of the said assessor, assistant assessor, collector, deputy collector, or inspector, who may make any memorandums or transcripts therefrom; and also that he will render to the said assessor or assistant assessor, on the first, eleventh, and twenty-first days of each and every month, or within five days thereafter, during the continuance of said license, an exact account in writing, of the number of gallons of spirits distilled, and also of the number of gallons placed in warehouse and the number sold or removed for consumption or sale by him, his agent or superintendent, and the proof thereof, and also of the quantities of grain or other vegetable productions, or other substances, put into the mash-tub, or otherwise used by him, his agent or superintendent, for the purpose of producing spirits, for the period or fractional part of a month then next preceding the date of said report, which said report shall be verified by affidavit in the manner prescribed by law; that he will not sell or permit to be sold, or removed for consumption or sale, any spirits distilled by him under and by virtue of his said license, until the same shall have been inspected, gauged, and proved, and the quantity thereof duly entered upon his books as aforesaid; and that he will, at the time of rendering said account, pay to the said collector, or his deputy, the duties which by law are imposed on the spirits so distilled. And the said bond may be renewed or changed from time to time, in regard to the amount and sureties thereof, according to the discretion of the collector.

Sec. 54. *And be it further enacted*, That the application in writing made by any person for a license, for distilling as aforesaid, shall state the place of distilling, the number and capacity of the still or stills, boiler or boilers, and the name of the person, firm, company, or corporation using the same; and any person making a false statement in either of the said particulars shall forfeit and pay the sum of one hundred dollars, to be recovered with costs of suit.

Sec. 55. *And be it further enacted*, That in addition to the duties payable for licenses herein provided, there shall be levied, collected, and paid on all spirits that may be distilled and sold, or distilled and removed for consumption or sale, of first proof, on and after the first day of July, eighteen hundred and sixty-four, and prior to the first day of February, eighteen hundred and sixty-five, a duty of one dollar and fifty cents on each and every gallon; and on and after February first, eighteen hundred and sixty-five, a duty of two dollars on each and every gallon. And all spirits which may be in the possession of the distiller, or in public store or bonded warehouse, on either the first day of July or February aforesaid, no duty having been paid thereon, shall be held and treated as if distilled on those days respectively, and said duty shall be paid by the owner, agent, or superintendent of the still or other vessel in which the said spirits shall have been distilled, within five days after the time of rendering the accounts of spirits so chargeable with duty, required to be rendered by law. And the said duties shall be a lien on the distillery used for distilling the same, with the stills, vessels, fixtures, and tools therein, and on the lot or tract of land whereon the said distillery is situated, until the said duty shall be paid: *Provided*, That the duty on all spirits shall be collected at no lower rate than the basis of first proof, and shall be increased in proportion for any greater strength than the strength of first proof: *Provided further*, That any person who shall distill spirits and use the same in the manufacture of any other article, without having taken out a license and paid such duties as are prescribed by law in relation thereto, shall, in addition to all other penalties and forfeitures, be liable to pay one hundred per centum additional duties thereon.

Sec. 56. *And be it further enacted*, That the term first proof used in this act and in the laws of the United States shall be construed, and is hereby declared to mean, that proof of a liquor which corresponds to fifty degrees of Tralle's

centesimal hydrometer, adopted by regulation of the Treasury Department, of August twelfth, eighteen hundred and fifty, at the temperature of sixty degrees Fahrenheit's thermometer. And in levying duties on liquors above and below proof, the table contained in the Manual for Inspectors of Spirits, prepared by Professor McCulloch, under the superintendency of Professor Bache, and adopted by the Treasury Department, shall be used and taken as giving the proportions of absolute alcohol in the liquids gauged and proved according to which duties shall be levied, until otherwise ordered by the Secretary of the Treasury, who is hereby authorized to adopt such hydrometers and prescribe such rules and regulations as he may deem necessary to insure a uniform system of inspection and gauging of spirits subject to duties throughout the United States.

Sec. 57. *And be it further enacted*, That every person who shall be the owner of any still, boiler, or other vessel, used, or intended to be used, for the purpose of distilling spirituous liquors, as hereinbefore provided, or who shall have such still, boiler, or other vessel under his superintendence, either as agent for the owner or on his own account; and every person who shall use any still, boiler, or other vessel, as aforesaid, either as owner, agent, or otherwise, shall, from day to day, make true and exact entry, or cause to be entered in a book to be kept for that purpose, the number of gallons of spirits distilled, and also the number of gallons placed in warehouse, and also the number sold, or removed for consumption or sale, and the proof thereof; which book shall always be open in the daytime, (Sundays excepted) for the inspection of the said assessor, assistant assessor, collector, deputy collector, or inspector, who may take any minutes, memorandums, or transcripts thereof; and shall render to said assessor or assistant assessor, on the first, eleventh, and twenty-first days of each and every month in each year, or within five days thereafter, an account in duplicate, taken from his books, of the number of gallons of spirits distilled, and also the number of gallons sold, or removed for consumption or sale, and the proof thereof, not before accounted for; and shall also keep a book, or books, in a form to be prescribed by the Commissioner of Internal Revenue, and to be open at all seasonable hours for inspection by the assessor, assistant assessor, collector, deputy collector, or inspector of the district, wherein shall be entered, from day to day, the quantities of grain, or other vegetable productions, or other substances put into the mash-tub by him, his agent or superintendent, for the purpose of producing spirits; and shall verify, or cause to be verified, the said entries, reports, books, and accounts, by oath or affirmation, to be taken before the assessor or assistant assessor, or other competent officer, according to the form required by law, and shall immediately forward to the collector of the district one of the said duplicate accounts, duly verified, as aforesaid; and shall also pay to the collector the duties on the spirits so distilled and sold, or removed for consumption or sale, and in said accounts mentioned at the time of rendering the duplicate account thereof: *Provided*, That distillers who distill or manufacture less than one hundred and fifty barrels of spirits per year may make returns and pay duties on the first day of each and every month in lieu of the first, eleventh, and twenty-first days of the month, and furnish bonds correspondingly, anything to the contrary notwithstanding: *And provided further*, That brandy distilled from grapes shall pay a tax of twenty-five cents per gallon.

Sec. 58. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury, in every collection district where the same may be necessary, one or more inspectors of spirits, refined coal-oil, or other oil, tobacco, cigars, and other articles, who shall take an oath faithfully to perform their duties, in such form as the Commissioner of Internal Revenue shall prescribe, and who shall be entitled to receive such fees as may be fixed and prescribed by said Commissioner, to be paid by the owner or manufacturer of the articles inspected, gauged, or proved. And any manufacturer of spirits, refined coal-oil, or

Laws of the United States.

38TH CONG...1ST SESS.

other oil, tobacco, cigars, or other articles which may by law be required to be inspected, who shall refuse to admit an inspector upon his premises, so far as it may be necessary for the performance of his duties, or who shall obstruct an inspector in the performance of his duties, shall forfeit the sum of one hundred dollars, to be recovered in the manner provided for other penalties imposed by this act.

SEC. 59. *And be it further enacted*, That all spirits, distilled as aforesaid by any person licensed as aforesaid, shall, before the same are used, or removed for any purpose, be inspected, gauged, and proved by some inspector appointed for the performance of such duties, who shall mark upon the cask or other package containing such spirits, in a manner to be prescribed by said Commissioner, the quantity and proof of the contents of such cask or package, with the date of inspection and the name of the inspector, and shall make a return of all spirits so inspected, and the name of the distiller, to the collector, and a duplicate thereof to the assessor of the district; and the duty imposed by law shall be paid on all spirits so inspected and not removed forthwith to a bonded warehouse. And any person who shall attempt fraudulently to evade the payment of duties upon any spirits distilled as aforesaid, by changing in any manner the mark upon any such cask or package, shall forfeit the sum of one hundred dollars for each cask or package so altered or changed, to be recovered as hereinbefore provided. And any such inspector who shall knowingly put upon any such cask or package any false or fraudulent mark shall be liable to the same penalty hereinbefore provided for each cask or package so fraudulently marked. And any person who shall purchase or sell any empty cask with the inspection marks thereon, or who shall fraudulently use any cask or package so marked, for the purpose of selling any other spirits than that so inspected, or for selling spirits of a quality or quantity different from that so inspected, shall be subject to a like penalty for each cask or package so purchased, sold, or used.

SEC. 60. *And be it further enacted*, That the owner or owners of any distillery or oil refinery, may provide, at his or their own expense, a warehouse, in conformity with such regulations as the Secretary of the Treasury may prescribe; and such warehouse, when approved by the collector, is hereby declared a bonded warehouse of the United States, and shall be used only for storing distilled spirits or refined coal-oil, or naphtha, and to be under the custody of the collector or his deputy. And the duty on the spirits, coal-oil, or naphtha stored in such warehouse shall be paid before it is removed from such warehouse, unless removed in pursuance of law.

SEC. 61. *And be it further enacted*, That all distilled spirits, and all refined coal-oil and naphtha, upon which an excise duty is imposed by law, may, after being inspected, gauged, proved, and marked by the inspector according to the provisions of this act, be removed, without payment of the duty, under such rules and regulations, and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe. The said spirits, oil, or naphtha so removed shall be transferred directly from the distillery or refinery to a bonded warehouse, established in conformity with law and Treasury regulations, and may be transported from such warehouse to any one other bonded warehouse used for the storage of distilled spirits, coal-oil, or naphtha. And after the arrival of such distilled spirits, coal-oil, or naphtha, at the bonded warehouses within the district of the assessor to which it has been transferred, it shall be again inspected, and the duty shall be assessed and paid on any deficiency or reduction of the number of proof gallons beyond such allowance for leakage as may be established by the regulations of the Commissioner of Internal Revenue, received at the warehouse, from the number of proof gallons as stated in the bond given at the place of shipment. And any distilled spirits, coal-oil, or naphtha in the public warehouses shall be subject to the same rules and regulations, and be chargeable with the same costs and expenses in all respects to which imported goods deposited in

public store or bonded warehouse may be subject; and shall be in charge of a proper officer, to be designated by the Secretary of the Treasury, who, with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits, oil, or naphtha so stored in said warehouse, which shall be at the risk of the owner of the said spirits, oil, or naphtha. And all labor on the same shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer in charge of the same, and at the expense of said owner or proprietor of the warehouse. And no drawback shall in any case be allowed on any distilled spirits, coal-oil, or naphtha, upon which an excise duty shall have been paid, either before or after it shall have been placed in a bonded warehouse: *Provided*, That any distilled spirits, coal-oil, or naphtha may be withdrawn from the bonded warehouse after payment, to the collector of internal revenue for the district in which the warehouse is situated, of the duty imposed by law, or may be removed without payment of the duty for the purpose of being exported, or for the purpose of being redistilled for export, after the quantity and proof of the spirits, oil, or naphtha to be removed has been ascertained and inspected according to the provisions of law, under such rules and regulations and the execution of such bond or other security as the Secretary of the Treasury may prescribe. And any spirits, oil, or naphtha so removed for distillation shall be returned to the warehouse and shall be again inspected, and the duty shall be paid to the said collector on any deficiency or reduction beyond the allowance for loss by redistillation established by the Commissioner of Internal Revenue, in the number of proof gallons received at the warehouse for the purpose of being exported, as aforesaid. And nothing in this section shall be construed to prevent the manufacture for exportation, without payment of duty, of medicines, preparations, compositions, perfumery, cosmetics, cordials, and other liquors manufactured wholly or in part of domestic spirits, as provided for in this act.

SEC. 62. *And be it further enacted*, That the entries required to be made in the books of the distiller, as aforesaid, shall, on the first, eleventh, and twenty-first days of each and every month, or within five days thereafter, be verified by oath or affirmation of the person or persons by whom such entries shall have been made, which oath or affirmation shall be certified at the end of such entries by the assessor, or assistant assessor, or officer administering the same, and shall be, in substance, as follows: "I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of spirituous liquors distilled and sold, or removed for consumption or sale, at the distillery owned by —, in the county of —, amounting to — gallons, according to proof prescribed by the laws of the United States."

SEC. 63. *And be it further enacted*, That the owner, agent, or superintendent aforesaid, shall, in case the original entries required to be made in his books by this act shall not have been made by himself, subjoin to the oath or affirmation of the person by whom they were made the following oath or affirmation, to be taken as aforesaid: "I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so."

SEC. 64. *And be it further enacted*, That there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, by whatever name such liquors may be called, a duty of one dollar for each and every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity, or for fractional parts of a barrel, which shall be brewed or manufactured and sold, or removed for consumption or sale, within the United States or the Territories thereof, or within the District of Columbia; which duty shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors shall be made, and shall be paid at the time of rendering the accounts of such fer-

mented liquors so chargeable with duty, as hereinafter required: *Provided*, That fractional parts of a barrel shall be halves, thirds, quarters, sixths, eighths, and sixteenths; and any fractional part containing less than one-sixteenth shall be accounted one-sixteenth; more than one sixteenth, and not more than one eighth, shall be accounted one eighth; more than one eighth, and not more than one sixth, shall be accounted one sixth; more than one sixth, and not more than one quarter, shall be accounted one quarter; more than one quarter, and not more than one third, shall be accounted one third; more than one third, and not more than one half, shall be accounted one half; more than one half shall be accounted one barrel: *Provided further*, That beer, lager beer, ale, porter, and other fermented liquors in bottles, shall be assessed, according to the quantity contained therein, at the rate of one dollar for thirty-one gallons, when the duty has not been previously paid on the liquors contained therein.

SEC. 65. *And be it further enacted*, That every person owning or occupying any brewery or premises used or intended to be used for the purpose of brewing or making such fermented liquors, or who shall have such premises under his control or superintendence as agent for the owner or occupant, or shall have in his possession or custody any vessel or vessels intended to be used on said premises in the manufacture of beer, lager beer, ale, porter, or other similar fermented liquors, either as owner, agent, or otherwise, shall, from day to day, enter, or cause to be entered, in a book to be kept by him for that purpose, and which shall be open at all times, (except Sundays,) between the rising and setting of the sun, for the inspection of said assessor, assistant assessor, collector, deputy collector, or inspector, who may take any minutes or memorandums or transcripts thereof, the quantity, packages, or number of barrels and fractional parts of barrels of fermented liquors made, and also the quantity sold, or removed for consumption or sale, keeping separate account of the several kinds and descriptions; and shall render to said assessor or assistant assessor, on the first day of each month in each year, or within ten days thereafter, a general account in writing, taken from his books, of the quantity or number of barrels and fractional parts of barrels of each kind of fermented liquors made, and also of the quantity sold, or removed for consumption or sale, for one month preceding said day; and shall verify, or cause to be verified, the said entries, reports, books, and general accounts, and the facts therein set forth, on oath or affirmation, to be taken before the assessor or assistant assessor, or other competent officer, according to the form required by law; and shall immediately forward to the collector of the district one of the said duplicate accounts, duly certified by the assessor or assistant assessor, and shall also pay to the said collector the duties which are imposed by law on the liquor made and sold, or removed for consumption or sale, and in the said accounts mentioned, at the time of rendering the duplicate account thereof as aforesaid. But where the manufacturer of any beer, lager beer, or ale, manufactures the same in one collection district, and owns or occupies a depot or warehouse for the storage and sale of such beer, lager beer, or ale in another collection district, he may, instead of paying to the collector of the district where the same was manufactured the duties chargeable thereon, present to such assessor or assistant assessor an invoice of the quantity or number of barrels about to be removed for the purpose of storage and sale, specifying in such invoice the depot or warehouse in which he intends to place such beer, lager beer, or ale; and thereupon such assessor or assistant assessor shall indorse on such invoice his permission for such removal, and the assessor or assistant assessor shall, at the same time, transmit to the collector of the district in which such depot or warehouse is situated a duplicate of such invoice; and thereafter the manufacturer of the beer, lager beer, or ale so removed shall render the same account, and pay the same duties, and be subject to the same liabilities and penalties as if the beer, lager beer, or ale had been manufactured in the district to which the same has been removed. The Commissioner of

38TH CONG....1ST SESS.

Laws of the United States.

Internal Revenue may prescribe such rules as he may deem necessary for the purpose of carrying the provisions of this section into effect.

SEC. 66. *And be it further enacted*, That the entries made in the books required to be kept by the foregoing section shall, on said first day of each and every month, or within ten days thereafter, be verified by the oath or affirmation of the person or persons by whom such entries shall have been made, which oath or affirmation shall be certified at the end of such entries by the assessor or assistant assessor, or other competent officer administering the same, and shall be, in substance, as follows: "I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of fermented liquors either brewed, or brewed and sold at the brewery owned by ———, in the county of ———, amounting to ——— barrels."

SEC. 67. *And be it further enacted*, That the owner, agent, or superintendent aforesaid, shall, in case the original entries required to be made in his books shall not have been made by himself, subjoin to the oath or affirmation the following oath or affirmation, to be taken as aforesaid: "I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so."

SEC. 68. *And be it further enacted*, That the owner, agent, or superintendent of any vessel or vessels used in making fermented liquors, or of any still, boiler, or other vessel used in the distillation of spirits on which duty is payable, who shall neglect or refuse to make true and exact entry and report of the same, or to do, or cause to be done, any of the things by law required to be done as aforesaid, shall forfeit for every such neglect or refusal all the liquors and spirits made by or for him, and all the vessels used in making the same, and the stills, boilers, and other vessels used in distillation, together with the sum of five hundred dollars, to be recovered with costs of suits; which said liquors or spirits, with the vessels containing the same, with all the vessels used in making the same, may be seized by any collector or deputy collector of internal duties, and held by him until a decision shall be had thereon according to law: *Provided*, That such seizure be made within thirty days after the cause for the same shall have come to the knowledge of the collector or deputy collector, and that proceedings to enforce said forfeiture shall have [been] commenced by such collector within twenty days after the seizure thereof. And the proceedings to enforce said forfeiture of said property shall be in the nature of a proceeding in rem, in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction.

SEC. 69. *And be it further enacted*, That in all cases in which the duties aforesaid, payable on spirits distilled and sold, or removed for consumption or sale, or beer, lager beer, ale, porter, and other similar fermented liquors, shall not be paid at the time of rendering the account of the same, or at the time when they shall have become payable, as herein required, to the collector or deputy collector of the district, the person or persons chargeable therewith shall pay, in addition, ten per centum on the amount thereof; and, until such duties, with such addition, shall be paid, they shall be and remain a lien upon the distillery where such liquors have been distilled, and upon the brewery where such liquors have been brewed, and upon the stills, boilers, vats, and all other implements thereto belonging, and upon the lot or tract of land whereon the distillery or brewery is situate, until the same shall have been paid. And in case of refusal or neglect to pay said duties, with the addition, within ten days after the same shall have become payable, the amount thereof may be recovered by distraint and sale of the goods, chattels, and effects of the delinquent.

SEC. 70. *And be it further enacted*, That every person licensed as aforesaid to distill spirits, or licensed as a brewer, who shall neglect or refuse to furnish the account and duplicate thereof, as hereinbefore provided, or who shall refuse to per-

mit the said assessor, assistant assessor, collector, or deputy collector, or inspector to examine the books in the manner provided for, when requested, shall, for every such refusal or neglect, forfeit the sum of three hundred dollars.

LICENSES.

SEC. 71. *And be it further enacted*, That no person, firm, company, or corporation shall be engaged in, prosecute, or carry on any trade, business, or profession, hereinafter mentioned and described, until he or they shall have obtained a license therefor in the manner hereinafter provided.

SEC. 72. *And be it further enacted*, That every person, firm, company, or corporation required by this act to obtain a license to engage in any trade, business, or profession, for which a license is required by law, shall register with the assistant assessor of the assessment district, in which he shall design to carry on such trade, business, or profession, first, his or their name or style, and in case of a firm or company, the names of the several persons constituting such firm or company, and their places of residence; second, the trade, business, or profession for which a license is desired; third, the place where such trade, business, or profession is to be carried on; fourth, if a rectifier, the number of barrels he designs to rectify; if a peddler, whether he designs to travel on foot, or with one, two, or more horses; if an innkeeper, the yearly rental value of the house and property to be occupied for said purpose; if not rented, the assistant assessor shall value the same. All of which facts shall be returned duly certified by such assistant assessor, both to the assessor and collector of the district; and thereupon, upon payment to the collector or deputy collector of the district the amount as hereinafter provided, such collector or deputy collector shall make out and deliver a license for such trade, business, or profession.

SEC. 73. *And be it further enacted*, That if any person or persons shall exercise or carry on any trade, business, or profession, or do any act hereinafter mentioned, for the exercising, carrying on, or doing of which trade, business, or profession, a license is required by this act, without taking out such license as in that behalf required, he, she, or they shall, for every such offense, besides being liable to the payment of the tax, be subject to imprisonment for a term not exceeding two years, or a fine not exceeding five hundred dollars, or both, one moiety of such fine to the use of the United States, the other moiety to the use of the person who shall first give information of the fact whereby said forfeiture was incurred.

SEC. 74. *And be it further enacted*, That in every license to be taken out under or by authority of this act, shall be contained and set forth the purpose, trade, business, or profession for which such license is granted, and the name and place of abode of the person or persons taking out the same; if for a rectifier, the quantity of spirits authorized to be rectified; if by a peddler, whether authorized to travel on foot, or with [one,] or two, or more horses, the time for which such license is to run, and the date or time of granting such license, and (except in the case of auctioneers and peddlers) the place at which the trade, business, or profession for which such license is granted shall be carried on: *Provided*, That a license granted under this act shall not authorize the person or persons, (except lawyers, physicians, surgeons, dentists, cattle brokers, horse dealers, and auctioneers,) or firm, company, or corporation mentioned therein, to exercise or carry on the trade, business, or profession specified in such license in any other place than that mentioned therein, or otherwise provided; but nothing herein contained shall prohibit the storage of goods, wares, or merchandise in other places than the place of business, nor the sale by manufacturers or producers of their own goods, wares, and merchandise, at the place of production or manufacture, or at their principal office or place of business, provided no goods, wares, and merchandise shall be kept for sale at such office. And every person exercising or carrying on any trade, business, or profession, or doing any act for which a license is required, shall, on

demand of any officer of internal revenue, produce such license, and unless he shall do so, may be taken and deemed to have no license. And in case any peddler shall refuse to produce his or her license when demanded by any officer of internal revenue, said officer may seize the horse, wagon, and contents, or pack, bundle, or basket of any person so refusing, and hold the same until the license is produced. And all licenses granted after the first day of May in any year shall continue in force until the first day of May next succeeding, and shall be issued upon the payment of a ratable proportion of the whole amount of duty imposed for such license; and each license so granted shall be dated on the first day of the month in which the liability therefor accrued.

SEC. 75. *And be it further enacted*, That upon the death of any person or persons licensed under or by virtue of this act, or upon the removal of any person or persons from the house or premises at which the trade, business, or profession mentioned in such license, was authorized, it may and shall be lawful for the collector to authorize, by indorsement on such license, or otherwise, as the Commissioner of Internal Revenue shall direct, the person or persons so removing, as aforesaid, to any other place, to carry on the trade, business, or profession specified in such license, at the place to which such person may have removed, or the executors or administrators, or the wife or child of such deceased person, or the assignee or assigns of such person or persons so removing as aforesaid, who shall be possessed of and occupy the house or premises before used for such purpose as aforesaid, in like manner to exercise or carry on the same trade, business, or profession mentioned in such license, in or upon the same house or premises at which said person or persons, as aforesaid, deceased or removing as before mentioned, by virtue of such license before exercised or carried on such trade, business, or profession, for or during the residue of the term for which such license was originally granted, without taking out any fresh license for the residue of such term, until the expiration thereof: *Provided always*, That a fresh entry of the premises at which such trade, business, or profession shall continue to be exercised or carried on, as aforesaid, shall thereupon be made by, and in the name or names of, the person or persons to whom such authority, as aforesaid, shall be granted.

SEC. 76. *And be it further enacted*, That in every case where more than one of the pursuits, employments, or occupations, hereinafter described, shall be pursued or carried on in the same place by the same person at the same time, except as therein mentioned, license must be taken out for each according to the rates severally prescribed: *Provided*, That in cities and towns having a less population than six thousand persons according to the last preceding census, one license, if so applied for, may embrace the business of land-warrant brokers, claim agents, and real estate agents, upon payment of the highest fee for licenses applicable to either one of said pursuits.

SEC. 77. *And be it further enacted*, That no auctioneer shall be authorized, by virtue of his license as such auctioneer, to employ any other person to act as auctioneer in his behalf, except in his own store or warehouse, or in his presence, or by virtue of said license to sell any goods or other property at private sale; and any auctioneer who shall sell any goods or commodities, otherwise than by auction, without having taken out a license for that purpose, shall be subject and liable to the penalty imposed upon persons dealing in, or retailing, trading, or selling any such goods or commodities without license, notwithstanding any license granted, as aforesaid, for the purpose of exercising or carrying on the trade or business of an auctioneer; and where such goods or commodities are the property of any person or persons duly licensed to deal in, or retail, or trade in, or sell the same, such person or persons having made lawful entry of his, her, or their house or premises for such purpose, it shall and may be lawful for any person exercising or carrying on the trade or business of an auctioneer being duly licensed for that purpose, to sell such goods or commodities for and on behalf of such person or

Laws of the United States.

38TH CONG...1ST SESS.

persons in said house or premises, without taking out a separate license for such sale. The provisions of this section shall not apply to judicial or executive officers making auction sales by virtue of any judgment or decree of any court, nor public sales made by executors and administrators.

SEC. 78. *And be it further enacted*, That no license hereinbefore provided for shall, if granted, be held, or construed to exempt any person carrying on the trade, business, or profession specified in said license from any penalty or punishment provided by the laws of any State for carrying on such trade, business, or profession, within such State, or in any manner to authorize the commencement or continuance of such trade, business, or profession, contrary to the laws of such State, or in places prohibited by municipal law; nor shall any such license be held or construed to prevent or prohibit any State from placing a duty or tax for State or other purposes on any trade, business, or profession, for which a license is required by this act; nor shall any person carrying on any trade, business, or profession, for which a license is required by this act, be exempted from procuring such license, or from any penalty or punishment herein provided, by, or in consequence of, any State law either authorizing or prohibiting such trade, business, or profession.

SEC. 79. *And be it further enacted*, That there shall be paid annually for each license granted, the sum herein stated, respectively. Any number of persons, except lawyers, conveyancers, claim agents, physicians, surgeons, dentists, cattle brokers, horse dealers, and peddlers, carrying on such business in copartnership, may transact such business at the place specified in their license, and not otherwise, that is to say:

One. Bankers, using or employing a capital not exceeding the sum of fifty thousand dollars, shall pay one hundred dollars for each license; when using or employing a capital exceeding fifty thousand dollars, for every additional thousand dollars in excess of fifty thousand dollars, two dollars. Every person, firm, or company, and every incorporated or other bank, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale, shall be regarded a banker under this act: *Provided*, That any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning the same for the benefit of its depositors, and which does no other business of banking, shall not be liable to pay for a license as a banker.

Two. Wholesale dealers, whose annual sales do not exceed fifty thousand dollars, shall pay fifty dollars for each license; and if exceeding fifty thousand dollars, for every additional thousand dollars in excess of fifty thousand dollars, one dollar. Every person shall be regarded as a wholesale dealer under this act whose business it is to sell, or offer to sell, any goods, wares, or merchandise of foreign or domestic production, not including wines, spirits, or malt liquors, whose annual sales exceed twenty-five thousand dollars. And the license required by any wholesale dealer shall not be for a less amount than his sales for the previous year, unless he has made or proposes to make some change in his business that will, in the judgment of the assessor or assistant assessor, reduce the amount of his annual sales; nor shall any license as a wholesale dealer allow any such person to act as a commercial broker: *Provided*, That any license understated may and shall be again assessed, and that no person holding a license as a wholesale dealer in liquors shall be required to take an additional license on account of the sale of other goods, wares, or merchandise on the same premises.

Three. Retail dealers shall pay ten dollars for each license. Every person whose business or occupation it is to sell or offer for sale any goods, wares, or merchandise of foreign or domestic production, not including spirits, wines, ale, beer, or other malt liquors, and whose annual sales exceed one thousand, and do not exceed twenty-

five thousand dollars, shall be regarded as a retail dealer under this act.

Four. Wholesale dealers in liquors, whose annual sales do not exceed fifty thousand dollars, shall pay fifty dollars for each license; and if exceeding fifty thousand dollars, for every additional one thousand dollars in excess of fifty thousand dollars, one dollar. Every person who shall sell, or offer for sale, any distilled spirits, fermented liquors, or wines of any kind, in quantities of more than three gallons at one time to the same purchaser, or whose annual sales, including sales of other merchandise, shall exceed twenty-five thousand dollars, shall be regarded a wholesale dealer in liquors.

Five. Retail dealers in liquors shall pay twenty-five dollars for each license. Every person who shall sell or offer for sale foreign or domestic spirits, wines, ale, beer, or other malt liquors in quantities of three gallons or less, or whose annual sales, including all sales of other merchandise, do not exceed twenty-five thousand dollars, shall be regarded as a retail dealer in liquors under this act. But nothing herein contained shall authorize the sale of any spirits, wines, or malt liquors to be drunk on the premises.

Six. Lottery-ticket dealers shall pay one hundred dollars for each license. Every person, association, firm, or corporation who shall make, sell, or offer to sell lottery tickets, or fractional parts thereof, or any token, certificate, or device representing, or intended to represent, a lottery ticket, or any fractional part thereof, or any policy of numbers in any lottery, or shall manage any lottery or prepare schemes of lotteries, or superintend the drawing of any lottery, shall be deemed a lottery-ticket dealer under this act.

Seven. Horse dealers shall pay for each license the sum of ten dollars. Any person whose business it is to buy or sell horses or mules shall be regarded a horse dealer under this act: *Provided*, That one license having been paid, no additional license shall be required of any horse dealer who keeps a livery stable, nor of any livery stable keeper who may also be a horse dealer.

Eight. Livery-stable keepers shall pay ten dollars for each license. Any person whose business it is to keep horses for hire, or to let, or to keep, feed, or board horses for others, shall be regarded as a livery-stable keeper under this act.

Nine. Brokers shall pay fifty dollars for each license. Every person, firm, or company, except such as hold a license as a banker, whose business it is as a broker to negotiate purchases or sales of stocks, exchange, bullion, coined money, bank notes, promissory notes, or other securities, shall be regarded as a broker, under this act, and shall make oath or affirmation, according to the form to be prescribed by the Commissioner of Internal Revenue, that all their transactions are made for a commission: *Provided*, That any person holding a license as a banker shall not be required to take out a license as a broker.

Ten. Pawnbrokers, using or employing a capital not exceeding fifty thousand dollars, shall pay fifty dollars for each license, and when using or employing a capital exceeding fifty thousand dollars, for every additional thousand dollars in excess of fifty thousand dollars, two dollars. Every person whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, for the repayment or security of money lent thereon, shall be deemed a pawnbroker under this act.

Eleven. Land-warrant brokers shall pay twenty-five dollars for each license. Any person shall be regarded as a land-warrant broker within the meaning of this act who makes a business of buying and selling land warrants, or of furnishing them to settlers or other persons.

Twelve. Cattle brokers, whose annual sales do not exceed ten thousand dollars, shall pay for each license the sum of ten dollars; and if exceeding the sum of ten thousand dollars, one dollar for each additional thousand dollars. Any person whose business it is to buy, or sell, or deal in cattle, hogs, or sheep, shall be considered as a cattle broker.

Thirteen. Produce brokers, whose annual sales do not exceed the sum of ten thousand dollars, shall pay ten dollars for each license. Every

person, other than one holding a license as a broker, wholesale or retail dealer, whose occupation it is to buy or sell agricultural or farm products, and whose annual sales do not exceed ten thousand dollars, shall be regarded as a produce broker under this act.

Fourteen. Commercial brokers shall pay twenty dollars for each license. Any person or firm, whose business it is, as a broker, to negotiate sales or purchases of goods, wares, produce, or merchandise, not otherwise provided for in this act, or seek orders therefor, in original or unbroken packages, or to negotiate freights and other business for the owners of vessels, or for the shipper or consignors or consignees of freight carried by vessels, shall be regarded a commercial broker under this act.

Fifteen. Custom-house brokers shall pay ten dollars for each license. Every person whose occupation it is, as the agent of others, to arrange entries and other custom-house papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded a custom-house broker under this act.

Sixteen. Distillers shall pay fifty dollars for each license. Every person, firm, or corporation who distills or manufactures spirits for sale shall be deemed a distiller under this act: *Provided*, That any person, firm, or corporation, distilling or manufacturing less than three hundred barrels per year shall pay twenty-five dollars for a license: *And provided further*, That no license shall be required for any still, stills, or other apparatus used by druggists, and chemists for the recovery of alcohol for pharmaceutical and chemical or scientific purposes which has been used in those processes: *And provided further*, That distillers of apples, grapes, and peaches, distilling or manufacturing less than one hundred and fifty barrels per year from the same, shall pay twelve and one half dollars for a license for that purpose.

Seventeen. Brewers shall pay fifty dollars for each license. Every person, firm, or corporation, who manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, or from any substitute therefor, shall be deemed a brewer under this act: *Provided*, That any person, firm, or corporation who manufactures less than five hundred barrels per year shall pay the sum of twenty-five dollars for a license.

Eighteen. Rectifiers shall pay twenty-five dollars for each license to rectify any quantity of spirituous liquors, not exceeding five hundred barrels, packages, or casks, containing not more than forty gallons to each barrel, package, or cask of liquor so rectified; and twenty-five dollars additional for each additional five hundred such barrels, packages, or casks, or any fractional part thereof. Every person, firm, or corporation, who rectifies, purifies, or refines spirituous liquors or wines by any process, or mixes distilled spirits, whisky, brandy, gin, or wine, with any materials for sale under the name of whisky, rum, brandy, gin, wine, or any other name, shall be regarded as a rectifier under this act.

Nineteen. Coal-oil distillers shall pay for each license the sum of fifty dollars. Any person, firm, or corporation, who shall refine, produce, or distill crude or refined petroleum or rock-oil, or crude coal-oil, or crude or refined oil made of asphaltum, shale, peat, or other bituminous substances, or shall manufacture coal illuminating oil, shall be regarded a coal-oil distiller under this act.

Twenty. Hotels, inns, and taverns shall be classified and rated according to the yearly rental, or, if not rented, according to the estimated yearly rental, of the house and property intended to be occupied for said purposes, as follows, to wit: All cases where the rent or valuation of the yearly rental of said house and property shall be two hundred dollars, or less, shall pay ten dollars. And if exceeding two hundred dollars, for any additional one hundred dollars or fractional part thereof in excess of two hundred dollars, five dollars. Every place where food and lodging are provided for and furnished to travelers and sojourners, in view of payment therefor, shall be regarded as a hotel, inn, or tavern under this act: *Provided*, That nothing herein contained shall be

38TH CONG....1ST SESS.

Laws of the United States.

construed to exempt keepers of hotels, taverns, and eating-houses in which liquors are sold by retail, to be drank upon the premises, from taking out a license for such sale, for which license they shall pay a tax of twenty-five dollars. The yearly rental shall be fixed and established by the assessor of the proper district at its proper value, but if rented, at not less than the actual rent agreed on by the parties. All steamers and vessels, upon waters of the United States, on board of which passengers or travelers are provided with food or lodgings, shall be subject to, and required to pay, twenty-five dollars for each license: *Provided*, That if there be any fraud or collusion in the return of actual rent to the assessor, there shall be a penalty equal to double the amount of licenses required by this section, to be collected as other penalties under this act are collected.

Twenty-one. Eating-houses shall pay ten dollars for each license. Every place where food or refreshments of any kind, not including spirits, wines, ale, beer, or other malt liquors, are provided for casual visitors and sold for consumption therein, shall be regarded as an eating-house under this act. But the keeper of an eating-house, having taken out a license therefor, shall not be required to take out a license as a confectioner, anything in this act to the contrary notwithstanding.

Twenty-two. Confectioners shall pay ten dollars for each license. Every person who sells at retail confectionery, sweetmeats, comfits, or other confections, in any building shall be regarded as a confectioner under this act. But wholesale and retail dealers, having taken out a license therefor, shall not be required to take out a license as a confectioner, anything in this act to the contrary notwithstanding.

Twenty-three. Claim agents and agents for procuring patents shall pay ten dollars for each license. Every person whose business it is to prosecute claims in any of the Executive Departments of the Federal Government, or procure patents, shall be deemed a claim or patent agent, as the case may be, under this act.

Twenty-four. Patent-right dealers shall pay ten dollars for each license. Every person whose business it is to sell, or offer for sale, patent rights shall be regarded a patent-right dealer under this act.

Twenty-five. Real estate agents shall pay ten dollars for each license. Every person whose business it is to sell, or offer for sale, real estate for others, or to rent houses, stores, or other buildings or real estate, or to collect rent for others, shall be regarded as a real estate agent under this act.

Twenty-six. Conveyancers shall pay ten dollars for each license. Every person, other than one holding a license as a lawyer or claim agent, whose business it is to draw deeds, bonds, mortgages, wills, writs, or other legal papers, or to examine titles to real estate, shall be regarded a conveyancer under this act.

Twenty-seven. Intelligence office keepers shall pay ten dollars for each license. Every person whose business it is to find or furnish places of employment for others, or to find or furnish servants upon application in writing or otherwise, receiving compensation therefor, shall be regarded as an intelligence office keeper under this act.

Twenty-eight. Insurance agents shall pay ten dollars for each license. Any person who shall act as agent of any fire, marine, life, mutual, or other insurance company or companies, shall be regarded as an insurance agent under this act: *Provided*, That no license shall be required of any insurance agent or broker whose receipts, as such agent, are less than the sum of three hundred dollars in any one year.

Twenty-nine. Foreign insurance agents shall pay fifty dollars for each license. Every person who shall act as agent of any foreign fire, marine, life, mutual, or other insurance company or companies, shall be regarded as a foreign insurance agent under this act.

Thirty. Auctioneers, whose annual sales do not exceed ten thousand dollars, shall pay ten dollars for each license; auctioneers, whose annual sales exceed ten thousand dollars, shall pay twenty dollars for each license. Every person

shall be deemed an auctioneer within the meaning of this act, whose business it is to offer property for sale to the highest or best bidder.

Thirty-one. Manufacturers shall pay ten dollars for each license. Any person, firm, or corporation, who shall manufacture by hand or machinery any goods, wares, or merchandise, exceeding annually the sum of one thousand dollars, shall be regarded a manufacturer under this act.

Thirty-two. Peddlers shall be classified and rated as follows, to wit: when traveling with more than two horses or mules, the first class, and shall pay fifty dollars for each license; when traveling with two horses or mules, the second class, and shall pay twenty-five dollars for each license; when traveling with one horse or mule, the third class, and shall pay fifteen dollars for each license; when traveling on foot, the fourth class, and shall pay ten dollars for each license. Any person, except persons peddling only newspapers, Bibles, or religious tracts, who sells or offers to sell, at retail, goods, wares, or other commodities, traveling from place to place, in the street, or through different parts of the country, shall be regarded a peddler under this act: *Provided*, That any peddler who sells, or offers to sell, dry goods, foreign and domestic, by one or more original packages or pieces, at one time, to the same person or persons, shall pay fifty dollars for each license. And any person who peddles jewelry shall pay fifty dollars for each license: *Provided further*, That manufacturers and producers of agricultural tools and implements, garden seeds, stoves, and hollow ware, brooms, wooden ware, and powder, delivering and selling at wholesale any of said articles, by themselves or their authorized agents, at places other than the place of manufacture, shall not be required, for any sale thus made, to take out any additional license therefor: *Provided further*, That nothing contained in this paragraph shall authorize the sale of wine, spirits, or malt liquors.

Thirty-three. Apothecaries shall pay ten dollars for each license. Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians, or where medicines are sold, shall be regarded an apothecary under this act. But wholesale and retail dealers, who have taken out a license therefor, shall not be required to take out a license as apothecary, anything in this act to the contrary notwithstanding; nor shall apothecaries, who have taken out a license as such, be required to take out a license as retail dealers in liquor in consequence of selling alcohol.

Thirty-four. Photographers shall pay ten dollars for each license when the receipts do not exceed five hundred dollars; when over five hundred dollars and under one thousand dollars, fifteen dollars; when over one thousand dollars, twenty-five dollars. Any person or persons who make for sale photographs, ambrotypes, daguerreotypes, or pictures, by the action of light, shall be regarded a photographer under this act.

Thirty-five. Tobacconists shall pay ten dollars for each license. Any person, firm, or corporation whose business it is to sell, at retail, cigars, snuff, or tobacco in any form, shall be regarded a tobacconist under this act. But wholesale and retail dealers, and keepers of hotels, inns, taverns, and eating-houses, having taken out a license therefor, shall not be required to take out a license as tobacconists, anything in this act to the contrary notwithstanding.

Thirty-six. Butchers shall pay ten dollars for each license. Every person whose business it is to sell butchers' meat at retail shall be regarded as a butcher under this act: *Provided*, That no butcher having taken out a license, and paid ten dollars therefor, shall be required to take out a license as retail dealer on account of selling other articles at the same store, stall, or premises: *Provided further*, That butchers whose annual sales do not exceed one thousand dollars, and butchers who retail butchers' meat exclusively by themselves or agents, and persons who sell shell or other fish, or both, traveling from place to place, and not from any shop or stand, shall be required to pay five dollars only for each license, any existing law to the contrary notwithstanding; and having taken out a license therefor, shall not be required to take out a license as a peddler for

retailing butchers' meat or fish, as aforesaid. And no license shall be required of persons who sell shell or other fish from handcarts or wheelbarrows exclusively.

Thirty-seven. Proprietors of theaters, museum, and concert halls receiving pay as entrance money, shall pay one hundred dollars for each license. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, and not including halls rented or used occasionally for concerts or theatrical representations, shall be regarded as a theater under this act: *Provided*, That when any such edifice is under lease at the passage of this act, the fee for license shall be paid by the lessee, unless otherwise stipulated between the parties to said lease.

Thirty-eight. The proprietor or proprietors of circuses shall pay one hundred dollars for each license. Every building, tent, space, or area, where feats of horsemanship or acrobatic sports or theatrical performances are exhibited, shall be regarded as a circus under this act: *Provided*, That no license procured in one State shall be held to authorize exhibitions in another State. And but one license shall be required under this act to authorize exhibitions within any one State.

Thirty-nine. Jugglers shall pay for each license twenty dollars. Every person who performs by sleight of hand shall be regarded as a juggler under this act. The proprietors or agents of all other public exhibitions or shows for money, not enumerated in this section, shall pay for each license ten dollars: *Provided*, That no license procured in one State shall be held to authorize exhibitions in another State. And but one license shall be required under this act to authorize exhibitions within any one State.

Forty. Bowling alleys and billiard rooms shall pay ten dollars for every alley or table in the building or place to be licensed. Every place or building where bowls are thrown or billiards played, and open to the public with or without price, shall be regarded as a bowling alley or billiard room, respectively, under this act.

Forty-one. Proprietors of gift enterprises shall pay fifty dollars for each license. Every person, firm, or corporation, who shall sell, or offer for sale, any article of merchandise of any description whatsoever, with a promise, express or implied, to give or bestow, or in any manner to hold out to the public the promise of gift or bestowal of any article or thing for and in consideration of the purchase by any person of any other article, or thing, shall be regarded a proprietor of a gift enterprise under this act: *Provided*, That no such proprietor, in consequence of being thus licensed, shall be exempt from paying any other license or tax required by law, and the license herein required shall be in addition thereto.

Forty-two. Owners of stallions and jacks shall pay ten dollars for each license. Every person who keeps a male horse or a jack for the use of mares, requiring or receiving pay therefor, shall be required to take out a license under this act, which shall contain a brief description of the animal, its age, and place or places where used or to be used: *Provided*, That all accounts, notes, or demands, for the use of any such horse or jack without a license, as aforesaid, shall be invalid and of no force in any court of law or equity.

Forty-three. Lawyers shall pay ten dollars for each license. Every person who, for fee or reward, shall prosecute or defend causes in any court of record or other judicial tribunal of the United States, or of any of the States, or give legal advice in relation to any cause or matter whatever, shall be deemed to be a lawyer within the meaning of this act.

Forty-four. Physicians, surgeons, and dentists shall pay ten dollars for each license. Every person (except apothecaries) whose business it is, for fee and reward, to prescribe remedies or perform surgical operations for the cure of any bodily disease or ailment, shall be deemed a physician, surgeon, or dentist, as the case may be, within the meaning of this act.

Forty-five. Architects and civil engineers shall pay ten dollars for each license. Every person whose business it is to plan, design, or superintend the construction of buildings, or ships, or of roads, or bridges, or canals, or railroads, shall be

Laws of the United States.

38TH CONG.... 1ST SESS.

regarded as an architect and civil engineer under this act: *Provided*, That this shall not include a practical carpenter who labors on a building.

Forty-six. Builders and contractors shall pay twenty-five dollars for each license; and if his said contracts in any one year exceed in amount twenty-five thousand dollars, he shall pay one dollar on every additional thousand dollars in excess thereof. Every person whose business it is to construct buildings, or ships, or bridges, or canals, or railroads, by contract, shall be regarded as a builder and contractor under this act: *Provided*, That no license shall be required from any person whose building contracts do not exceed two thousand five hundred dollars in any one year.

Forty-seven. Plumbers and gas fitters shall pay ten dollars for each license. Every person, firm, or corporation, whose business it is to fit, furnish, or sell plumbing materials, gas pipes, gas burners, or other gas fixtures, shall be regarded as a plumber and gas fitter within the meaning of this act.

Forty-eight. Assayers, assaying gold and silver, or either, of a value not exceeding in one year two hundred and fifty thousand dollars, shall pay one hundred dollars for each license, and two hundred dollars when the value exceeds two hundred and fifty thousand dollars and does not exceed five hundred thousand dollars, and five hundred dollars when the value exceeds five hundred thousand dollars. Any person or persons or corporation whose business or occupation it is to separate gold and silver from other metals or mineral substances with which such gold or silver, or both, are alloyed, combined, or united, or to ascertain or determine the quantity of gold or silver in any alloy or combination with other metals, shall be deemed an assayer for the purpose of this act.

Forty-nine. A license fee of ten dollars shall be required of every person, firm, or corporation engaged in any business, trade, or profession whatsoever, for which no other license is herein required, whose gross annual receipts therefrom exceed the sum of one thousand dollars per annum.

SEC. 80. *And be it further enacted*, That where the annual gross receipts or sales of any apothecaries, confectioners, eating-houses, tobacconists, or retail dealers, except retail dealers in spirituous and malt liquors, shall not exceed the sum of one thousand dollars, such apothecaries, confectioners, eating-houses, tobacconists, and retail dealers shall not be required to take out or pay for license, anything in this act to the contrary notwithstanding; the amount or estimated amount of such annual sales to be ascertained or estimated in such manner as the Commissioner of Internal Revenue shall prescribe, and so of all other annual sales or receipts, where the rate of the license is graduated by the amount of sales or receipts; and where the amount of the license or the rate has been increased, or is liable to be increased, by law above the amount of any existing license to any person, firm, or company, or has been understated or underestimated, such person, firm, or company shall be again assessed and pay the amount of such increase, which shall be indorsed on the original license, which shall thereafter be held good and sufficient.

SEC. 81. *And be it further enacted*, That nothing contained in the preceding sections of this act, requiring licenses, shall be construed to require an additional license as a dealer for the sale of goods, wares, and merchandise made or produced and sold by the manufacturer or producer at the manufactory or place where the same is made or produced, or at the principal office or place of business, as provided in section seventy-three [seventy-four] of this act; [nor] to vintners [vintners] who sell, at the place where the same is made, wine of their own growth; nor to apothecaries, as to wines or spirituous liquors which they use exclusively in the preparation or making up of medicines; nor shall any provisions be construed to prohibit physicians from keeping on hand medicines solely for the purpose of making up their own prescriptions for their own patients.

MANUFACTURES, ARTICLES, AND PRODUCTS.

Specific and ad valorem duty.

SEC. 82. *And be it further enacted*, That every

individual, partnership, firm, association, or corporation, (and any word or words in this act indicating or referring to person or persons shall be taken to mean and include partnerships, firms, associations, or corporations, when not otherwise designated or manifestly incompatible with the intent thereof,) shall comply with the following requirements, that is to say:

First. Before commencing, or, if already commenced, before continuing, any manufacture liable to be assessed, under the provisions of this act, and which shall not be differently provided for elsewhere, every person shall furnish, without previous demand therefor, to the assistant assessor a statement, subscribed and sworn to, or affirmed, setting forth the place where the manufacture is to be carried on, and the principal place of business for sales, the name of the manufactured article, the proposed market for the same, whether foreign or domestic, and generally the kind and quality manufactured or proposed to be manufactured.

Second. He shall within ten days after the first day of each and every month, or on or before a day prescribed by the Commissioner of Internal Revenue, make return under oath or affirmation of the products and sales or delivery of such manufacture in form and detail as may be required, from time to time, by the Commissioner of Internal Revenue.

Third. All such returns, statements, descriptions, memoranda, oaths, and affirmations, shall be in form, scope, and detail as may be prescribed, from time to time, by the Commissioner of Internal Revenue.

SEC. 83. *And be it further enacted*, That upon the amounts, quantities, and values of produce, goods, wares, merchandise, and articles produced or manufactured, and sold or delivered, hereinafter enumerated, the manufacturer or producer thereof, whether manufactured or produced for himself or for others, shall pay to the collector of internal revenue within his district, monthly, or on or before a day to be prescribed by the Commissioner of Internal Revenue, the duties on such products or manufactures. And for neglect to pay such duties within ten days after demand, in writing delivered to him in person, or left at his house or place of business, or manufactory, or sent by mail, the amount of such duties; with the additions hereinbefore prescribed, may be levied upon the real and personal property of any such producer or manufacturer. And such duties and additions, and whatever shall be the expenses of levy, shall be a lien from the day prescribed by the Commissioner for their payment aforesaid, in favor of the United States, upon the said real and personal property of such producer or manufacturer; and such lien may be enforced by distraint, as provided in this act. And in all cases of goods manufactured or produced, in whole or in part upon commission, or where the material is furnished by one party and manufactured by another, if the manufacturer shall be required to pay under this act the tax hereby imposed, such person or persons so paying the same shall be entitled to collect the amount thereof of the owner or owners, and shall have a lien for the amount thus paid upon the produced or manufactured goods.

SEC. 84. *And be it further enacted*, That for neglect or refusal to pay the duties provided by law on manufactured articles, or articles produced, as aforesaid, the goods, wares, and merchandise manufactured or produced and unsold by, or not passed out of the possession of, such manufacturer or producer, shall be forfeited to the United States, and may be sold or disposed of for the benefit of the same, in manner as shall be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury. In such case the collector or deputy collector may take possession of said articles, and may maintain such possession in the premises and buildings where they may have been manufactured, or deposited, or may be. He shall summon, giving notice of not less than two, nor more than ten, days, the parties in possession of said goods, enjoining them to appear before the assessor or assistant assessor, at a day and hour in such summons fixed, then and there to show cause, if any there be, why, for such neglect or

refusal, such articles should not be declared forfeited to the United States. The manufacturers or producers thereof shall be deemed to be the parties interested; if the articles shall be at the time of taking such possession, upon the premises where manufactured or produced; if they shall at such time have been removed from the place of manufacture or production, the parties interested shall be deemed to be the persons or parties in whose custody or possession the articles shall be found. Such summons shall be served upon such parties in person, or by leaving a copy thereof at the place of abode or business of the party to whom the same may be directed. In case no such party or place can be found, which fact shall be determined by the collector's return on the summons, such notice, in the nature of a summons, shall be given by advertisement for the term of three weeks in one newspaper in the county nearest to the place of such sale. If at or before such hearing such duties shall not have been paid, and the assessor or assistant assessor shall adjudge the summons and notice, service and return of the same to be sufficient, the said articles shall be by him declared forfeit, and shall be sold, disposed of, or turned over by the collector to the use of any Department of the Government as may be directed by the Secretary of the Treasury, who may require of any officer of the Government, into whose possession the same may be turned over, the proper voucher therefor; and the proceeds of sale of said articles, if any there be after deducting the duties and additions thereon, together with the fees, costs, and expenses of all proceedings incident to the seizure and sale, to be determined by said Commissioner, shall be refunded and paid to the owner, or, if he cannot be found, to the manufacturer or producer in whose custody the articles were when seized, as the said Commissioner may deem just; by draft on the same, or some other collector; or if the said articles are turned over without sale to the use of any Department of the Government, the excess of the value of said articles, after deducting the amount of the duties, additions, fees, costs, and expenses accrued thereon when turned over as aforesaid, shall be refunded and paid by the said Department to the owner, or, if he cannot be found, to the manufacturer or producer in whose custody or possession the said articles were when seized as aforesaid. The Commissioner of Internal Revenue, with the approval of the Secretary of [the] Treasury, may review any such case of forfeiture, and do justice in the premises. If the forfeiture shall have been wrongly declared, and sale made, the Secretary is hereby authorized, in case the specific articles cannot be restored to the party aggrieved in as good order and condition as when seized, to make up to such party in money his loss and damage from the contingent fund of his Department. Immediate notice of any seizure of manufactured articles or products shall be given to the Commissioner of Internal Revenue by the collector or deputy collector, who shall also make return of his proceedings to the said commissioner after he shall have sold or otherwise disposed of the articles or products so forfeited; and the assessor or assistant assessor shall also make return of his proceedings relating to such forfeiture to the said Commissioner. And any violation of, or refusal to comply with, the provisions of the eighty-first [eighty-second] section of this act, shall be good cause for seizure and forfeiture, substantially in manner as detailed in this section; but before forfeiture shall be declared by virtue of the provisions of this section, the amount of duties which may be due from the person whose manufactures or products are seized, shall first be ascertained in the manner prescribed in the eighty-fourth [eighty-fifth] section of this act; and such violation or refusal to comply shall further make any party so violating, or refusing to comply, liable to a fine or penalty of five hundred dollars, to be recovered in manner and form as provided in this act. Articles which the collector may adjudge perishable may be sold or disposed of before declaration of forfeiture. Said sales shall be made at public auction, and notice thereof shall be given as the said Commissioner shall prescribe.

SEC. 85. *And be it further enacted*, That in case of the manufacture and sale, or production and

38TH CONG...1ST SESS.

Laws of the United States.

sale, consumption, or delivery of any goods, wares, merchandise, or articles as hereinafter mentioned, without compliance on the part of the party manufacturing or producing the same with all the requirements and regulations prescribed by law in relation thereto, the assistant assessor may, upon such information as he may have, assume and estimate the amount and value of such manufactures or products, and upon such assumed amount assess the duties, and add thereto fifty per centum; and said duties shall be collected in like manner as in case the provisions of this act in relation thereto had been complied with, and to such articles all the foregoing provisions for liens, fines penalties, and forfeitures, shall in like manner apply.

Sec. 86. *And be it further enacted*, That any person, firm, company, or corporation, manufacturing or producing goods, wares, and merchandise, sold or removed for consumption or use, upon which duties or taxes are imposed by law, shall, in their return of the value and quantity, render an account of the full amount of actual sales made by the manufacturer, producer, or agent thereof, and shall state in a separate column the items and account of the deductions, if any, claimed; whether any part, and if so, what part, of said goods, wares, and merchandise has been consumed or used by the owner, owners, or agent, or used for the production of another manufacture or product, together with the market value of the same at the time of such use or consumption; whether such goods, wares, and merchandise were shipped for a foreign port, or consigned to auction or commissioned merchants, other than agents, for sale; and shall make a return, according to the value at the place of shipment, when shipped for a foreign port, or according to the value at the place of manufacture or production, when removed for use or consumption, or consigned to others than agents of the manufacturer or producer. The value and quantity of the goods, wares, and merchandise required to be stated as aforesaid, shall be estimated by the actual sales made by the manufacturer, or by his, her, or their agent, or person or persons acting in his, her, or their behalf. And where such goods, wares, and merchandise have been removed for consumption or for delivery to others, or placed on shipboard, or are no longer within the custody or control of the manufacturer or his agent, not being in his factory, store, or warehouse, the value shall be estimated at the average of the market value of the like goods, wares, and merchandise, at the time when the same became liable to duty. And when goods, wares, and merchandise are sold by the manufacturer or producer, or the agent thereof having the charge of the business, the following deductions only may be allowed, viz:

First. Freight from the place of deposit at the time of sale to the place of delivery.

Second. That [The] reasonable commission, not exceeding three per centum, and other expenses of sale bona fide paid; and no commission shall be deducted when the sale is made at the place of manufacture or production: *Provided*, That no deduction shall be made on the market value at the place of manufacture or production, on goods, wares, and merchandise consigned to auction or commission merchants for sale, or placed on shipboard to be removed from the United States, or when consigned to other than agents having charge of the business of such manufacturer or producer, nor when used or consumed by the manufacturer, producer, or agent thereof.

Sec. 87. *And be it further enacted*, That any person, firm, company, or corporation who shall now be engaged in the manufacture of tobacco, snuff, or cigars, or who shall hereafter commence or engage in such manufacture, before commencing, or, if already commenced, before continuing, such manufacture for which they may be liable to be assessed under the provisions of law, shall, in addition to a compliance with all other provisions of law, furnish to the assessor or assistant assessor a statement, subscribed under oath or affirmation, accurately setting forth the place, and if in a city, the street and number of the street, where the manufacturing is, or is to be, carried on, the name and description of the manufactured article, the proposed market for the same, whether foreign or domestic, and if the

same shall be manufactured for, or to be sold and delivered to, any other person or party, the name and residence and business or occupation of the person or party for whom the said article is to be manufactured or delivered, and generally the kind and quality manufactured or proposed to be manufactured; and shall, within the time above mentioned, apply to, and obtain from, the assessor or assistant assessor of the district in which said manufacture is carried on, or proposed to be carried on, in addition to the license required by existing laws, a permit in writing, to be signed by said assessor or assistant assessor, in such form as shall be prescribed by the Commissioner of Internal Revenue, which permit shall be kept by such manufacturer suspended in some open and conspicuous place in the principal room in which such manufacturing is so carried on. And such manufacturer shall also give notice to the assessor [or] assistant assessor, in writing, of any and every change or removal made, accurately setting forth, as hereinbefore mentioned, the place where the said manufacture is to be carried on; and whenever such change or removal takes place, before it shall be lawful to commence such manufacture, a new permit in writing shall be applied for and obtained in manner aforesaid. And the assistant assessor of the proper assessment district shall be entitled to demand and receive from such manufacturer for each permit so granted the sum of twenty-five cents. And if any person or agent of any firm, company, or corporation shall manufacture for sale tobacco, snuff, or cigars of any description without first obtaining the permit herein required, such person or agent shall be subject, upon conviction thereof, to a penalty of three hundred dollars, and in addition thereto shall be liable to imprisonment for a term not exceeding one year, at the discretion of the court.

Sec. 88. *And be it further enacted*, That it shall be the duty of the assistant assessor of each district to keep a record in a book or books, to be provided for the purpose, to be open to the inspection of any person upon reasonable request, in which shall be arranged alphabetically the name of any and every person, firm, company, or corporation who may be engaged in the manufacture of tobacco, snuff, or cigars within his district, to whom a permit has been issued, together with the place where such manufacture is carried on and place of residence of the person or persons engaged therein; a copy of which record shall be, by said assistant assessor, forwarded to the assessor of the district, who shall preserve the same in his office.

Sec. 89. *And be it further enacted*, That in all cases where tobacco, snuff, or cigars, of any description, are manufactured, in whole or in part upon commission or shares, or where the material from which any such articles are made, or are to be made, is furnished by one party and manufactured by another, or where the material is furnished or sold by one party with an understanding or contract with another that the manufactured article is to be received in payment therefor, or any part thereof, the duty or tax imposed by law thereon, when paid by the manufacturer, may be collected at the time, or at any time subsequently, of the party for whom the same was made, or to whom the same was delivered, as aforesaid. And in case of any fraud or collusion by which the Government shall be defrauded, or attempted to be defrauded, by a party who furnishes the material and the manufacturer of any of the articles aforesaid, such material shall be liable to forfeiture, and such articles shall be liable to be assessed the highest rates of duty imposed by law upon any article belonging to its grade or class.

Sec. 90. *And be it further enacted*, That any person, firm, company, or corporation, now or hereafter engaged in the manufacture of tobacco, snuff, or cigars, of any description whatsoever, shall be, and hereby is, required to make out and deliver to the assistant assessor of the assessment district a true statement or inventory of the quantity of each of the different kinds of tobacco, snuff-flour, snuff, cigars, tin-foil, licorice, and stems held or owned by him or them on the day this act takes effect, or at the time of commencing business under this act, setting forth what portion of said goods was manufactured or produced by

him or them, and what was purchased from others, whether chewing, smoking, fine-cut, shorts, pressed, plug, snuff-flour, or prepared snuff, the several kinds of cigars and the market price thereof, which statement or inventory shall be verified by the oath or affirmation of such person or persons, and be in manner and form as prescribed by the Commissioner of Internal Revenue; and the said person, firm, company, or corporation engaged as aforesaid, on the first day of January in every year hereafter, shall make out and deliver to the said assistant assessor a true statement or inventory, in manner and form as aforesaid, and verified as aforesaid, of all such articles, aforesaid, then held or owned by him or them, setting forth all and singular what is required to be set forth in the statement or inventory first aforesaid; and every such person, company, or corporation shall keep in a book, in such manner and form as said Commissioner may prescribe, an accurate account of all the articles aforesaid thereafter purchased by him or them, the quantity of tobacco, snuff, snuff-flour, or cigars, of whatever description sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and he or they shall, on Wednesday of each week, furnish to the assistant assessor of the district a true and accurate copy of the entries in said book during the week ending on the preceding Saturday, which copy shall be verified by oath or affirmation, on the receipt whereof an assessment of the duties due by said person, company, or corporation shall be immediately made and transmitted to the collector of the district, to whom said duties shall be paid within five days thereafter; and in case the duties shall not be paid within the said five days, the said collector may, on one day's notice, distrain for the same, with ten per centum additional on the amount thereof, subject to all the provisions of law relating to licenses, returns, assessments, payment of taxes, liens, fines, penalties, and forfeitures, not inconsistent herewith in the case of other manufacturers; and such duty shall be paid by the manufacturer, or the person for whom the goods are manufactured, as the assessor may deem best for the collection of the revenue: *Provided*, That it shall be the duty of any manufacturer or vendor of tin-foil used in covering manufactured tobacco, on demand of any officer of internal revenue, to render to such officer a correct statement, verified by oath or affirmation, of the quantity and amount of tin-foil sold or delivered to any person or persons named in such demand; and in case of refusal or neglect to render such statement, or of cause to believe such statement to be incorrect or fraudulent, the assessor of the district may cause an examination of persons, books, and papers to be made in the same manner as provided in the fourteenth section of this act: *Provided*, That manufactured tobacco, snuff, or cigars may be transferred, without payment of the duty, directly from the place of manufacture to a bonded warehouse established in conformity with law and Treasury regulations, under such rules and regulations, and upon the execution of such transportation bonds, as the Secretary of the Treasury may prescribe; said bonds or other security to be taken by the assessor of the district from which such removal is made, and may be transported from such warehouse to a bonded warehouse used for the storage of merchandise at any port of entry and withdrawn therefrom for consumption or [on] payment of the duty, or removed for export to a foreign country without payment of duty, in conformity with the provisions of this act relating to the removal of distilled spirits; all the rules, regulations, and conditions of which, so far as applicable, shall apply to tobacco, snuff, or cigars, in bonded warehouse. And no drawback shall in any case be allowed upon any manufactured tobacco, snuff, or cigars, upon which any excise duty has been paid either before or after it has been placed in bonded warehouse.

Sec. 91. *And be it further enacted*, That every manufacturer of tobacco, snuff, or cigars, of any description, as hereinbefore mentioned, or his chief workman, agent, or superintendent, shall, at the end of each and every month, make and sign a declaration, in writing, that no such article or commodity, as aforesaid, has, during such pre-

Laws of the United States.

38TH CONG.... 1ST SESS.

ceding month or time when the last declaration was made, been removed, carried, or sent, or caused, or suffered, or known to have been removed, carried, or sent from the premises of such manufacturer other than such as have been duly assessed and the duties imposed by law paid thereon, on pain of forfeiting for every refusal or neglect to make such declaration, one hundred dollars. And if any such manufacturer, or his chief workman, agent, or superintendent, shall make any false or untrue declaration, such manufacturer or chief workman, agent, or superintendent, making the same, upon conviction thereof, shall forfeit three hundred dollars, or, at the discretion of the court, be liable to imprisonment for a term not exceeding one year.

SEC. 92. *And be it further enacted*, That if any person other than the manufacturer shall sell, or consign, or remove for sale, or part with the possession of any manufactured tobacco, snuff, or cigars, upon which the duties imposed by law have not been paid, with the knowledge thereof, such person shall be liable to a penalty of one hundred dollars for each and every offense. And any person who shall purchase or receive for sale any such tobacco, snuff, or cigars, which has not been inspected, branded, or stamped, as required by this act, or upon which the tax has not been paid, if it has accrued or become payable with knowledge thereof, shall be liable to a penalty of fifty dollars for each and every offense. And any person who shall purchase or receive for sale any such tobacco, snuff, or cigars, from any manufacturer who has not a permit to manufacture, shall be liable for each and every offense to a penalty of one hundred dollars, and, in addition thereto, a forfeiture of all the articles, as aforesaid, so purchased or received, or the full value thereof.

SEC. 93. *And be it further enacted*, That all goods, wares, and merchandise, or articles manufactured or made (except refined petroleum, refined coal-oil, gold and silver, spirituous and malt liquors, manufactured tobacco, and snuff and cigars) by any person or firm, where the product shall not exceed the rate of six hundred dollars per annum, and shall be made or produced by the labor of such person or firm, or by his or their family, shall be, and are hereby, exempt from duty; where the product shall exceed such rate and not exceed the rate of one thousand dollars, the duty shall be levied, assessed, and collected only upon the excess above the rate of six hundred dollars per annum; and in all other cases the whole annual product, (including any business or transaction where one party has been furnished with materials, or any part thereof, and employed by another party to manufacture, make, or finish the goods, wares, and merchandise, or articles, paying or promising to pay therefor, and to whom the same are returned when so made and finished,) shall be assessed, and the duty paid thereon by the producer or manufacturer: *Provided*, That whenever a producer or manufacturer shall use or consume, or shall remove for consumption or use, any articles, goods, wares, or merchandise, which if removed for sale would be liable to taxation, he shall be assessed upon the salable value of the articles, goods, wares, or merchandise so used or so removed for consumption or use.

SEC. 94. *And be it further enacted*, That upon the articles, goods, wares, and merchandise hereinafter mentioned, except where otherwise provided, which shall be produced and sold, or be manufactured or made and sold, or be consumed or used by the manufacturer or producer thereof, or removed for consumption, or for delivery to others than agents of the manufacturer or producer within the United States or Territories thereof, there shall be levied, collected, and paid the following duties, to be paid by the producer or manufacturer thereof, that is to say:

On candles, of whatever material made, a duty of five per cent. *ad valorem*.

On mineral coals, except such as are known in the trade as pea coal and dust coal, a duty of five cents per ton: *Provided*, That in case of contracts of lease of coal lands made prior to the passage of this act the lessee shall pay the tax, if not otherwise agreed; and all duties or taxes on coal mined and delivered by coal operators on con-

tracts heretofore made shall be paid by the purchasers thereof, if not otherwise agreed by the parties.

On lard oil, mustard-seed oil, linseed oil, and on all animal or vegetable oils, not exempted or provided for elsewhere, whether pure or adulterated, a duty of five cents per gallon.

On gas, illuminating, made of coal, wholly or in part, or any other material, when the product shall not be above two hundred thousand cubic feet per month, a duty of ten cents per one thousand cubic feet; when the product shall be above two and not exceeding five hundred thousand cubic feet per month, a duty of fifteen cents per one thousand cubic feet; when the product shall be above five hundred thousand and not exceeding five millions of cubic feet per month, a duty of twenty cents per one thousand cubic feet; when the product shall be above five millions, a duty of twenty-five cents per one thousand cubic feet. And the general average of the monthly product for the year preceding the return required by this act shall regulate the rate of duty herein imposed. And where any gas works have not been in operation for the next year preceding the return as aforesaid, then the rate shall be regulated upon the estimated average of the monthly product: *Provided*, That the product required to be returned by law by any gas company shall be understood to be the product charged in the bills actually rendered by the gas company during the month preceding the return; and all gas companies are hereby authorized to add the duty or tax imposed by law to the price per thousand cubic feet on gas sold: *Provided further*, That all gas furnished for lighting street lamps, and not measured, and all gas made for and used by any hotel, inn, tavern, and private dwelling house, shall be subject to duty, whatever the amount of product, and may be estimated; and if the returns in any case shall be understated or underestimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper: *And provided further*, That gas companies located within the corporate limits of any city or town, whether in the district or otherwise, or so located as to compete with each other, shall pay the rate imposed by law upon the company having the largest production: *And provided further*, That coal-tar, produced in the manufacture of illuminating gas, and the products of the redistillation of coal-tar thus produced, shall be exempt from duty.

On coal illuminating oil, refined, and naphtha, benzene, and benzole, produced by the distillation of coal, asphaltum, shale, peat, petroleum, or rock-oil, and all other bituminous substances used for like purposes, a duty of twenty cents per gallon: *Provided*, That such oil, refined and produced by the distillation of coal, asphaltum, or shale, exclusively, shall be subject to pay a duty of fifteen cents per gallon, anything to the contrary notwithstanding: *And provided further*, That distillers of coal-oil, or naphtha, benzene, or benzole, shall be subject to all the provisions of law applicable to distillers of spirits, with regard to licenses, bonds, returns, assessments, liens, penalties, drawbacks, and all other provisions designed for the purpose of ascertaining the quantity distilled, and securing the payment of duties, so far as the same may, in the judgment of the Commissioner of Internal Revenue, and under regulations prescribed by him, be deemed necessary for that purpose: *And provided, also*, That naphtha of specific gravity exceeding eighty degrees, according to Baume's hydrometer, and of the kind usually known as gasoline, shall be subject to a tax of five per centum *ad valorem*.

On spirits of turpentine, a duty of twenty cents per gallon: *Provided*, That all the provisions of law relating to the assessment and collection of the duties on cotton, under rules and regulations to be prescribed by the Secretary of the Treasury, so far as the same may be deemed applicable thereto, shall apply to the assessment and collection of duties on spirits of turpentine.

On ground coffee, and on all ground substitutes for coffee, or preparations of which coffee forms a part, and on all unground substitutes for coffee, a duty of one cent per pound.

On ground pepper, ground mustard, ground pimento, ground cloves, and ground clove stems,

ground cassia, and ground ginger, and all imitations of the same, a duty of one cent per pound.

On molasses produced from the sugar cane, and not from sorghum or imphee, a duty of five cents per gallon.

On sirup of molasses or sugar-cane juice, when removed from the plantation, concentrated molasses or melado, and cistern bottoms, of sugar produced from the sugar cane and not made from sorghum or imphee, a duty of one cent and one fourth of one cent per pound.

On brown or Muscovado sugar not above number twelve Dutch standard in color, produced from the sugar cane and not from sorghum or imphee, other than those produced by the refiner, a duty of two cents per pound.

On all clarified or refined sugars above number twelve and not above number eighteen Dutch standard in color, produced directly from the sugar cane and not from sorghum or imphee, a duty of two and one half cents per pound.

On all clarified or refined sugars above number eighteen Dutch standard in color, produced directly from the sugar cane and not from sorghum or imphee, a duty of three and one half cents per pound.

On the gross amount of the sales of sugar refiners, including all the products of their manufactories or refineries, a duty of two and a half of one per centum *ad valorem*: *Provided*, That every person shall be regarded as a sugar refiner, and pay the duties levied by law, whose business it is to advance the quality and value of sugar upon which a duty has been assessed and paid, by melting and recrystallization, or by liquoring, claying, or other washing process, or by any other chemical or mechanical means, or who shall advance the quality or value of molasses, concentrated molasses or melado, upon which a duty has been assessed and paid, by boiling or other process.

On sugar-candy and all confectionery made wholly or in part of sugar, valued at not exceeding twenty cents per pound, a duty of two cents per pound; exceeding twenty and not exceeding forty cents per pound, a duty of four cents per pound; when exceeding forty cents per pound, or sold by the box, package, or otherwise than by the pound, a duty of ten per centum *ad valorem*.

On chocolate and cocoa prepared, a duty of one and a half cent per pound.

On saleratus and bicarbonate of soda, a duty of five mills per pound.

On starch made of potatoes, a duty of two mills per pound; made of corn or wheat, a duty of three mills per pound; made of rice or any other material, a duty of one cent per pound.

On gunpowder, and all explosive substances used for mining, blasting, artillery, or sporting purposes, when valued at twenty-eight cents per pound or less, a duty of one cent per pound; when valued at above twenty-eight cents per pound and not exceeding thirty-eight cents per pound, a duty of one and a half cent per pound; and when valued above thirty-eight cents per pound, a duty of eight cents per pound.

On white lead, a duty of thirty-five cents per one hundred pounds.

On oxyd of zinc, a duty of thirty-five cents per one hundred pounds.

On sulphate of barytes, a duty of twelve cents per one hundred pounds: *Provided*, That white lead, oxyd of zinc, and sulphate of barytes, paints and painters' colors, or any one of them, shall not be subject to any additional duty in consequence of being mixed or ground with linseed oil, when the duties upon all the materials so mixed or ground shall have been previously paid.

On all paints and painters' colors, dry or ground in oil, or in paste with water, not otherwise provided for, a duty of five per centum *ad valorem*.

On varnish or japan, made wholly or in part of gum copal, or other gums or substances, a duty of five per centum *ad valorem*.

On glue and gelatine of all descriptions, in the solid state, a duty of one cent per pound.

On glue and cement, made wholly or in part of glue, to be sold in the liquid state, a duty of forty cents per gallon.

On pins, solid head or other, a duty of five per centum *ad valorem*.

38TH CONG....1ST SESS.

Laws of the United States.

On screws, commonly called wood screws, a duty of ten per centum ad valorem.

On clocks and timepieces, and on clock movements, when sold without being cased, a duty of five per centum ad valorem.

On umbrellas and parasols made of cotton or silk, or of other material, a duty of five per centum ad valorem.

On gold leaf, eighteen cents per pack, containing not more than twenty books of twenty-five leaves each.

On gold foil, two dollars per ounce troy weight.

On paper of all descriptions, including paste-board, binders' board, and tarred paper for roofing or other purposes, a duty of three per centum ad valorem.

On soap, castile, palm-oil, erasive, and soap of all other descriptions, white or colored, except soft soap and soap otherwise provided for, valued at not above five cents per pound, a duty of two mills per pound; valued at above five cents per pound, a duty of one cent per pound.

On soap, fancy, scented, honey, cream, transparent, and all descriptions of toilet and shaving soap, a duty of five cents per pound.

On soft soap, a duty of five per centum ad valorem.

On all uncompounded chemical productions, not otherwise provided for, a duty of five per centum ad valorem.

On essential oils, of all descriptions, a duty of five per centum ad valorem.

On pickles, preserved fruits, preserved vegetables, preserved meats, fish, and shell-fish in cans, kegs, or air-tight packages, a duty of five per centum ad valorem.

On bill-heads, printed, printed cards, and printed circulars, a duty of five per centum ad valorem.

On all printed books, magazines, pamphlets, reviews, and all other similar printed publications, except newspapers, a duty of five per centum ad valorem.

On productions of stereotypers, lithographers, and engravers, a duty of five per centum ad valorem.

On photographs, or any other sun picture, being copies of engravings or works of art, or used for the illustration of books, and on photographs so small in size that stamps cannot be affixed, a duty of five per centum ad valorem.

On all repairs of engines, cars, carriages, or other articles, when such repairs increase the value of the articles so repaired ten per centum or over, a duty of three per centum on such increased value: *Provided*, That on such repairs made upon ships, steamboats, or other vessels, a duty of two per centum only on the increased value shall be assessed.

On the hulls, as launched, of all ships, barks, brigs, schooners, sloops, sail-boats, steamboats, canal-boats, and all other vessels or water craft, (not including engines or rigging,) hereafter built, made, constructed, or finished, a duty of two per centum ad valorem.

On slate, freestone, sandstone, marble, and building stones of any other description, when dressed, hewn, or finished, a duty of three per centum ad valorem: *Provided*, That the cost for the erection, fitting, adjusting, or setting building stone of any description, shall not be included in the assessment of any duties thereon.

On marble, and other monumental stones, with or without inscriptions, five per centum ad valorem.

On lime and Roman or water cement, a duty of three per centum ad valorem.

On brick, draining tiles, and earthen and stone water pipes, a duty of three per centum ad valorem.

On masts, spars, and ship or vessel blocks, whether made to order or for sale, a duty of two per centum ad valorem.

On all furniture, or other articles made of wood, sold in the rough or unfinished, a duty of five per centum ad valorem: *Provided*, That all furniture, or other articles made of wood, previously assessed, and a duty paid thereon, shall be assessed a duty of five per centum ad valorem upon the increased value only thereof when sold in a finished condition.

On salt, a duty of six cents per one hundred pounds.

On sails, tents, shades, awnings, and bags, made of cotton, flax, or hemp, or part of either or other material, five per centum ad valorem: *Provided*, That when the material from which any of the foregoing articles are made was imported, or has been subject to and paid a duty, and the same is made by sewing, a duty shall be assessed only on the increased value thereof.

On artificial mineral waters, soda waters, sarsaparilla water, and all beverages used for like purposes, sold in bottles, or from fountains or otherwise, and not otherwise provided for, a duty of five per centum ad valorem.

On mineral or medicinal waters, or waters from springs impregnated with minerals, a duty of one half cent on each bottle containing not more than one pint; when containing more than one pint and not more than one quart, one cent; when containing more than one quart, for each additional quart or fractional part thereof, one cent.

On pig iron, a duty of two dollars per ton.

On blooms, slabs, or loops, when made in forges or bloomeries, directly from the ore, a duty of three dollars per ton.

On railroad iron, a duty of three dollars per ton.

On railroad iron, rerolled, a duty of two dollars per ton: *Provided*, That the term rerolled shall apply only to rails for which the manufacturer receives pay for manufacturing, and not for new iron.

On all iron advanced beyond blooms, slabs, or loops, and not advanced beyond bars, and band, hoop, and sheet iron, not thinner than number eighteen wire gauge, and plate iron not less than one eighth of an inch in thickness, a duty of three dollars per ton: *Provided*, That a ton shall, for all the purposes of this act, be deemed and taken to be two thousand pounds.

On band, hoop, and sheet iron, thinner than number eighteen wire gauge, plate iron less than one eighth of an inch in thickness, and cut nails and spikes, not including nails, tacks, brads, or finishing nails, usually put up and sold in papers, whether in papers or otherwise, nor horseshoe nails wrought by machinery, a duty of five dollars per ton: *Provided*, That bars, rods, ax-poles, bands, hoops, sheets, plates, nails, and spikes, not including such as are usually put up in papers, nor horseshoe nails wrought by machinery, as before mentioned, manufactured from iron, upon which the duty of three dollars has been levied and paid, shall be subject only to a duty of two dollars per ton in addition thereto, anything in this act to the contrary notwithstanding.

On iron castings used for bridges or other permanent structures, a duty of three dollars per ton.

On stoves and hollow-ware and castings of iron exceeding ten pounds in weight for each casting, not otherwise provided for, a duty of three dollars per ton.

On rivets exceeding one fourth of an inch in diameter, nuts and washers not less than two ounces each in weight, and bolts exceeding five sixteenths of one inch in diameter, a duty of five dollars per ton: *Provided*, That when a duty upon the iron from which rivets, nuts, washers, and bolts, as aforesaid, shall have been made, has paid a duty of not less than three dollars per ton, a duty only, in addition thereto, shall be paid of two dollars per ton: *Provided further*, That castings of iron, and iron of all descriptions advanced beyond pig iron, blooms, slabs, or loops, upon which no duty has been assessed or paid in the form of pig iron, blooms, slabs, or loops, shall be assessed and pay, in addition to the foregoing rates of iron so advanced, a duty of three dollars per ton.

On steel, in ingots, bars, sheets, or wire, not less than one fourth of an inch in thickness, valued at seven cents per pound or less, a duty of five dollars per ton; valued at above seven cents per pound, and not above eleven cents per pound, a duty of ten dollars per ton; valued at above eleven cents, a duty of twelve dollars and fifty cents per ton: *Provided*, That steel rolled, and sheet, rod, or wire made of steel upon which a duty has been assessed and paid, shall be assessed and pay a duty of five per centum ad valorem upon the increased value only thereof.

On steam engines, including locomotive and

marine engines, a duty of three per centum ad valorem.

On quicksilver produced from the ore, a duty of two per centum ad valorem.

On copper and lead ingots, pigs or bars, and spelter and brass, a duty of three per centum ad valorem.

On rolled brass, copper rolled, yellow sheathing metal, in rods or sheets, and shot, sheet lead, and lead pipes, a duty of three per centum ad valorem: *Provided*, That when any of the articles herein mentioned shall not have been assessed and a duty paid thereon of three per centum, in the form of ingots, pigs, or bars, a duty of five per centum shall be assessed and paid thereon.

On goat, calf, kid, sheep, horse, hog, and dog skins, tanned or dressed in the rough, a duty of five per centum ad valorem.

On goat, calf, kid, sheep, horse, hog, and dog skins, curried or finished, a duty of five per centum ad valorem: *Provided*, That all goat, calf, kid, sheep, horse, hog, and dog skins, previously assessed in the rough, and upon which duties have been actually paid, shall be assessed on the increased value only when curried or finished.

On patent, enameled, and japanned leather and skins of every description, a duty of five per centum ad valorem.

On oil-dressed leather and deer skins, dressed or smoked, a duty of five per centum ad valorem: *Provided*, That when leather or skins, upon which a duty has been previously assessed and paid, shall be manufactured into gloves, mittens, or moccasins, the duty shall only be assessed upon the increased value thereof when so manufactured.

On leather of all descriptions, tanned or partially tanned, in the rough, a duty of five per centum ad valorem.

On leather of all descriptions, curried or finished, a duty of five per centum ad valorem: *Provided*, That all leather previously assessed in the rough and upon which duties have been actually paid shall be assessed on the increased value only when curried or finished.

On wine made of grapes, a duty of five cents per gallon.

On all other wines or liquors known or denominated as wine, not made from currants, rhubarb, or berries, produced by being rectified or mixed with other spirits, or into which any matter whatever may be infused to be sold as wine, or by any other name, and not otherwise provided for in this act, a duty of fifty cents per gallon: *Provided*, That the returns, assessment, and collections of the duties on such wines shall be subject to the regulations of the Commissioner of Internal Revenue. And any person who shall willingly and knowingly sell, or offer for sale, any such wine made after the passage of this act, upon which the duty herein imposed has not been paid, or which has been fraudulently evaded, shall, upon conviction thereof, be subject to a penalty of one hundred dollars, or to imprisonment not exceeding two years, at the discretion of the court.

On furs of all descriptions, when made up or manufactured, a duty of five per centum ad valorem: *Provided*, That all manufactured furs, on which a duty has been previously assessed and paid before manufacture, it shall be assessed only on the increased value thereof when so manufactured.

On cloth and all textile or knitted, or felted fabrics of cotton, wool, or other materials, before the same has been dyed, printed, or bleached, and on all cloth painted, enameled, shirred, tarred, varnished, or oiled, a duty of five per centum ad valorem: *Provided*, That thread and yarn, and warps for weaving shall be regarded as manufactures, and be subject to a duty of five per centum ad valorem.

On ready-made clothing, boots and shoes, gloves, mittens, and moccasins, caps, hats, and bonnets, or other articles of dress for the wear of men, women, or children, five per centum ad valorem: *Provided*, That any tailor, boot or shoe maker, hat, cap, or bonnet maker, milliner or dressmaker, exclusively engaged in manufacturing any of the foregoing articles to order as custom work, and not for sale generally, who shall make affidavit to the assessor or assistant assessor, that the entire amount of such manufactures so made does not exceed the sum of six hundred

Laws of the United States.

38TH CONG., 1ST SESS.

dollars per annum, shall be exempt from duty; when exceeding six hundred dollars per annum, a duty of three per centum ad valorem on the excess above six hundred dollars.

On cotton upon which no duty has been levied, collected, or paid, and which is not exempted by law, a duty of two cents per pound, which shall be and remain a lien thereon, until said duty shall have been paid, in the possession of any person or persons whomsoever.

On all manufactures of cotton, wool, silk, worsted, flax, hemp, jute, India rubber, gutta percha, wood, willow, glass, pottery-ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold, silver, horn, ivory, bone, bristles, wholly or in part, or of other materials not in this act otherwise provided for, a duty of five per centum ad valorem: *Provided*, That on all cloths dyed, printed, or bleached, on which a duty or tax shall have been paid before the same were so dyed, printed, or bleached, the said duty or tax of five per centum shall be assessed only upon the increased value thereof: *And provided further*, That any cloth or fabrics, as aforesaid, when made of thread, yarn, or warps, upon which a duty, as aforesaid, shall have been assessed and paid, shall be assessed and pay a duty on the increased value only thereof.

On all diamonds, emeralds, precious stones, and imitations thereof, and all other jewelry, a duty of ten per centum ad valorem: *Provided*, That when diamonds, emeralds, precious stones, or imitations thereof, imported from foreign countries, or upon which import duties have been paid, shall be set or reset in gold, or any other material, the duty shall be assessed and paid upon the value only of the settings.

On cavendish, plug, twist, and all other kinds of manufactured tobacco, not herein provided for, from which the stem has been taken out in whole or in part, or which is sweetened, thirty-five cents per pound.

On smoking tobacco manufactured with all the stem in, the leaf not having been butted or stripped from the stem, and on refuse tobacco known as fine-cut shorts, twenty-five cents per pound.

On smoking tobacco made exclusively of stems, and not mixed with leaf or leaf and stems, fifteen cents per pound.

On snuff, manufactured of tobacco, or any substitute for tobacco, ground dry or damp, pickled, scented, or otherwise, of all descriptions, thirty-five cents per pound.

On fine-cut chewing tobacco, whether manufactured with the stems in or not, or however sold, whether loose, in bulk, or in packages, papers, wrappers, or boxes, thirty-five cents per pound.

On cigarettes made of tobacco, inclosed in a paper wrapper, valued at not over five dollars per hundred packages, each containing not more than twenty-five cigarettes, one dollar per hundred packages. And all cigarettes made of tobacco inclosed in a paper wrapper, valued at over five dollars per hundred packages, as aforesaid, shall be subject to the same duties herein provided for cigars of like value.

On cigarettes made wholly of tobacco, and also on cigars known as cheroots, or short sixes, valued in each case at not over five dollars per thousand, three dollars per thousand.

On cigars, valued at over five dollars and not over fifteen dollars per thousand, eight dollars per thousand.

On cigars, valued at over fifteen dollars and not over thirty dollars per thousand, fifteen dollars per thousand.

On cigars, valued at over thirty dollars per thousand and not over forty-five dollars, twenty-five dollars per thousand.

On cigars, at over forty-five dollars per thousand, forty dollars per thousand, and the valuation of cigars herein mentioned shall in all cases be the value of the cigars exclusive of the tax.

And all cigars manufactured after the passage of this act shall be packed in bundles, boxes, or packages open to inspection, and correctly labeled with the number and kind contained therein, and after inspection, unless the same shall be removed to a bonded warehouse for exportation, shall be stamped by the inspector with stamps to be provided by the Commissioner of Internal Revenue,

denoting the tax thereon, and so affixed that the bundle or box cannot be opened without effacing or destroying said stamp. And any bundle, box, or package of cigars which shall be sold, or pass out of the hands of the manufacturer, except into a bonded warehouse, without such stamps so affixed by an inspector, shall be forfeited, and may be seized wherever found, and sold, one half of the proceeds of such sale to be paid to the informer and the other to the United States. And every person, before making any cigars after the passage of this act, shall apply for and procure from the assistant assessor of the district in which he or she resides, a permit authorizing such person to carry on the trade of cigar-making, for which permit he or she shall pay said assistant assessor the sum of twenty-five cents. And every person employed, or working at the business of cigar-making in any other district than that in which he or she is a resident, shall, before making any cigars in such other district, present said permit to the assistant assessor of the district where so employed or working, and procure the indorsement of said assistant assessor thereon, authorizing said business in said district, for which indorsement the assistant assessor shall be entitled to receive from the applicant the sum of ten cents. And it shall be the duty of every assistant assessor, upon application of any person residing in his district, to furnish a permit, or to indorse upon the permit of the applicant, if resident in another district, authority to pursue the trade of cigar-making within the proper district of such assistant assessor; and said assistant assessor shall keep a record of all permits granted, or indorsed by him, showing the date of each permit, the name, residence, and place of employment of the party named therein, the name and district of the officer who originally granted the same, or who may have made any subsequent indorsements thereon, and the name or names of the party or parties by whom the person named in such permit is employed, or, if working for himself or herself, stating such fact; and every person making cigars shall keep an accurate account of all the cigars made by him or her, for whom, and their kind or quality; and, if made for any other person, shall state in said account the name of the person or persons for whom the same were made, and his or their place of business, and shall, on the first Monday of every month, deliver to the assistant assessor of the district, if required by him, a copy of such account, verified by oath or affirmation that the same is true and correct. And if any person shall make any cigars without procuring such permit, or the proper indorsement thereon, he or she shall be punished by a fine of five dollars for each day he or she shall so offend, or by imprisonment for such time as the court may order for each day's offense, not exceeding thirty days in the whole upon any one conviction. And if any person making cigars shall fail to make the return herein required, or shall make a false return, he or she shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days. And if any person, firm, company, or corporation shall employ or procure any person to make any cigars, who has not the permit or the indorsement thereon required by this act, he, she, or they shall be punished by a fine of ten dollars for each day he, she, or they shall so employ such person, or by imprisonment not exceeding ten days. And if any person shall be found making cigars without such permit, or the indorsement thereon, the collector of the district may seize any cigars, or tobacco for making cigars, which may be found in possession of such person, and the same shall be forfeited to the United States and sold; and one half of the proceeds paid to the United States, one fourth to the informer, and the other fourth to the collector making the seizure.

On bullion in lump, ingot, bar, or otherwise, a duty of one half of one per centum ad valorem, to be paid by the assayer of the same, who shall stamp the product of the assay as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe by general regulations. And every and all sales, transfers, exchanges, transportation, and exportation of gold or silver assayed at any mint of the United

States, or by any private assayer, unless stamped as prescribed by general regulations, as aforesaid, is hereby declared unlawful; and every person or corporation who shall sell, transfer, transport, exchange, export, or deal in the same, shall be subject to a penalty of one thousand dollars for each offense, and to a fine not exceeding that sum, and to imprisonment for a term not exceeding two years nor less than six months. No jeweler, worker, or artificer in gold and silver, shall use either of those metals except it shall have first been stamped as aforesaid, as required by this act; and every violation of this section shall subject the offender to the penalties contained herein. No person or corporation shall take, transport, or cause to be transported, export, or cause to be exported from the United States any gold or silver in its natural state, uncoined or unassayed, and unstamped, as aforesaid; and for every violation of this provision every offender shall be subject to the penalties contained herein: *Provided*, That the foregoing subdivision of this section providing for a tax on gold and silver shall only be in force from and after sixty days after the passage of this act.

Sec. 95. *And be it further enacted*, That whenever any manufactured articles, goods, wares, or merchandise on which an excise or impost duty has been paid, and which are not specially provided for, are increased in value by being polished, painted, varnished, waxed, oiled, gilded, electrotyped, galvanized, plated, framed, ground, pressed, colored, dyed, trimmed, ornamented, or otherwise more completely finished or fitted for use or sale, without changing the original character or purposes for which the same are intended to be used, there shall be levied, collected, and paid a tax of five per centum ad valorem upon the amount of such increased value, to be ascertained by deducting from the value of the finished article when sold, or removed for sale, delivery, or consumption, the cost or value of the original article to the person, firm, or company liable to the duty imposed upon the increased value thereof. The increasing of values in the manner aforesaid shall be deemed manufacturing, and any person, firm, company, or corporation engaged therein shall be liable to all the provisions of law for the collection of internal duties relating to manufacturers, as to licenses, returns, payment of taxes, liens, fines, penalties, and forfeitures.

Sec. 96. *And be it further enacted*, That newspapers, boards, shingles, laths, and other lumber, staves, hoops, shooks, headings, and timber partially wrought and unfinished for chairs, tubs, pails, hubs, spokes, felloes, snaths, lasts, shovel and fork handles, matchwood, umbrella stretchers, alcohol made or manufactured of spirits or materials upon which the duties imposed by law shall have been paid, bone dust, plaster or gypsum, malt, burning fluid, printers' ink, flax prepared for textile or felting purposes until actually woven, marble and slate, or other building stones in block, rough and unwrought, charcoal, coke, all flour and meal made from grain, bread and breadstuffs, butter, cheese, concentrated milk, paraffine, whale and fish oil, value of the bullion used in the manufacture of silver ware, silver bullion rolled or prepared for platers' use exclusively, materials prepared for the manufacture of hoop-skirts exclusively and unfit for other use, (such as cut tapes and small wares for joining hoops together,) shall be, and hereby are, exempt from duty. And also all goods, wares, and merchandise, and articles made or manufactured from materials which have been subject to, and upon which internal duties have been actually paid, or materials imported upon which duties have been paid, or upon which no duties have been imposed by law, where the increased value of such goods, wares, or merchandise, and articles so made or manufactured, shall not exceed the amount of five per centum ad valorem, shall be, and hereby are, exempt from duty.

Sec. 97. *And be it further enacted*, That every person, firm, or corporation, who shall have made any contract prior to the passage of this act, and without other provision therein for the payment of duties imposed by law enacted subsequent thereto, upon articles to be delivered under such contract, is hereby authorized and empowered to add to the price thereof so much money as will

38TH CONG.... 1ST SESS.

Laws of the United States.

be equivalent to the duty so subsequently imposed on said articles, and not previously paid by the vendee, and shall be entitled by virtue hereof to be paid, and to sue for and recover, the same accordingly: *Provided*, That where the United States is the purchaser under such prior contract, the certificate of the proper officer of the Department by which the contract was made, showing, according to regulations to be prescribed by the Secretary of the Treasury, the articles so purchased by the United States, and liable to such subsequent duty, shall be taken and received, so far as the same is applicable, in discharge of such subsequent duties on articles so contracted to be delivered to the United States and actually delivered according to such contract:

AUCTION SALES.

Sec. 98. *And be it further enacted*, That there shall be levied, collected, and paid, on all sales of real estate, goods, wares, merchandise, articles, or things at auction, including all sales of stocks, bonds, and other securities, a duty of one fourth of one per centum on the gross amount of such sales; and every auctioneer or other person making such sales, as aforesaid, shall, at the end of each and every month, or within ten days thereafter, make a list or return to the assistant assessor of the district of the gross amount of such sales, made as aforesaid, with the amount of duty which has accrued, or should accrue thereon, which list shall have annexed thereto a declaration under oath or affirmation, in form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same is true and correct, and shall, at the same time, as aforesaid, pay to the collector or deputy collector the amount of duty or tax thereupon, as aforesaid, and in default thereof shall be subject to and pay a penalty of five hundred dollars. In all cases of delinquency in making said list or payment the assessment and collection shall be made in the manner prescribed in the general provisions of this act: *Provided*, That no duty shall be levied under the provisions of this section upon any sales by judicial or executive officers making auction sales by virtue of a judgment or decree of any court, nor to public sales made by guardians, executors, or administrators.

BROKERS.

Sec. 99. *And be it further enacted*, That all brokers, and bankers doing business as brokers, shall be subject to pay the following duties and rates of duty upon the sales of merchandise, produce, gold and silver bullion, foreign exchange, uncurrent money, promissory notes, stocks, bonds, or other securities as hereinafter mentioned, and shall be subject to all the provisions, where not inapplicable thereto, for the returns, assessment, collection of the duties, and liens and penalties as are prescribed for the persons, firms, companies, or corporations, owning or possessing, or having the management of railroads, steamboats, and ferry boats, that is to say: Upon all sales of merchandise, produce, or other goods, one eighth of one per centum; upon all sales and contracts for sales of stocks and bonds, one twentieth of one per centum on the par value thereof; and of gold and silver bullion and coin, foreign exchange, promissory notes, or other securities, one twentieth of one per centum on the amount of such sales, and of all contracts for such sales: *Provided*, That any person, firm, or company, not being licensed as a broker, or banker, or wholesale or retail dealer, who shall sell, or offer to sell, any merchandise, produce, or gold and silver bullion, foreign exchange, uncurrent money, promissory notes, stocks, bonds, or other securities, not bona fide at the time his own property, and actually on hand, shall be liable, in addition to all other penalties provided in such cases, to pay fifty per centum in addition to the foregoing duties and rates of duty.

Sec. 100. *And be it further enacted*, That there shall be levied annually, on every carriage, yacht, billiard table, gold watch, or pianoforte, or other musical instruments, and on all gold and silver plate the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in schedule A, hereto annexed, to be paid by the person or persons owning, possessing, or keeping the same on

the first Monday of May in each year, and the same shall be and remain a lien thereon until paid.

SCHEDULE A.

Carriage, gig, chaise, phaeton, wagon, buggy wagon, carryall, rockaway, or other like carriage, and any coach, hackney coach, omnibus, or four-wheeled carriage, the body of which rests upon springs of any description, which may be kept for use, for hire, or for passengers, and which shall not be used exclusively in husbandry or for the transportation of merchandise, valued at fifty dollars and not exceeding one hundred dollars, including harness used therewith, each, one dollar.....	\$1 00
Carriages of like description, valued at above one hundred dollars and not above two hundred dollars, each, two dollars,	2 00
Carriages of like description, valued at above two hundred dollars and not above three hundred dollars, each, three dollars.....	3 00
Carriages of like description, valued at above three hundred dollars and not above five hundred dollars, each, six dollars.....	6 00
Carriages of like description, valued at above five hundred dollars, each, ten dollars.....	10 00
On gold watches, composed wholly or in part of gold or gilt, kept for use, valued at one hundred dollars or less, each, one dollar.....	1 00
On gold watches, composed wholly or in part of gold or gilt, kept for use, valued at above one hundred dollars, each, two dollars.....	2 00
On pianofortes, organs, melodions, or other parlor musical instruments, kept for use, not including those placed in churches or public edifices, valued at not less than one hundred dollars and not above two hundred dollars, each, two dollars.....	2 00
When valued at above two hundred dollars and not above four hundred dollars, each, four dollars.....	4 00
When valued above four hundred dollars, each, six dollars.....	6 00
On yachts, pleasure or racing boats, by sail or steam, measuring by custom-house measurement ten tons or less, each, five dollars.....	5 00
Exceeding ten and not exceeding twenty tons, each, ten dollars.....	10 00
Exceeding twenty and not exceeding forty tons, each, twenty-five dollars.....	25 00
Exceeding forty and not exceeding eighty tons, each, fifty dollars.....	50 00
Exceeding eighty and not exceeding one hundred and ten tons, each, seventy-five dollars.....	75 00
Exceeding one hundred and ten tons, each, one hundred dollars.....	100 00
Billiard tables, kept for use, ten dollars...	10 00
<i>Provided</i> , That billiard tables kept for hire, and upon which a license tax has been imposed, shall not be required to pay the tax on billiard tables kept for use as aforesaid, anything herein to the contrary notwithstanding.	
On plate, of gold, kept for use, per ounce troy, fifty cents.....	50
On plate, of silver, kept for use, per ounce troy, five cents.....	05
<i>Provided</i> , That silver spoons or plate of silver used by one family to an amount not exceeding forty ounces as aforesaid, belonging to any one person, plate belonging to religious societies, and souvenirs and keepsakes actually given and received as such, and not kept for use; also, all premiums awarded as a token of merit by any agricultural society, corporation, or association of persons, for any purpose whatever, shall be exempt from duty.	

SLAUGHTERED CATTLE, SWINE, AND SHEEP.

Sec. 101. *And be it further enacted*, That there shall be paid by any person, firm, company, or agent or employé thereof, the following duties or taxes, that is to say:

On all cattle and calves exceeding three months

old, slaughtered, except when slaughtered for the hides and tallow, exclusively, forty cents per head.

On all cattle and calves under three months old, slaughtered, five cents per head.

On all swine slaughtered, ten cents per head.

On all sheep and lambs slaughtered, five cents per head.

Provided, That cattle, not exceeding five in number, and calves, swine, sheep, and lambs, not exceeding in all twenty in number, slaughtered by any person for his or her own consumption, in any one year, shall be exempt from duty; and all sheep slaughtered for the pelts shall pay two cents only per head.

Sec. 102. *And be it further enacted*, That on and after the date on which this act shall take effect, any person or persons, firms or companies, or agents or employes thereof, who shall slaughter for sale, [any cattle, calves, sheep, lambs, or swine,] or who shall be the occupant of any building or premises in which such cattle, sheep, or swine shall be slaughtered, any cattle, calves, sheep, lambs, or swine, shall be required to make and render a list within ten days after the first day of each and every month to the assistant assessor of the district where the slaughtering is done, stating the number of cattle, calves, if any, the number of swine, if any, and the number of sheep and lambs, if any, slaughtered, as aforesaid, with the several rates of duty as fixed therein in this act, together with the whole amount thereof, which list shall have annexed thereto a declaration of said person or persons, agents or employes thereof, as aforesaid, under oath or affirmation, in such manner and form as may be prescribed by the Commissioner of Internal Revenue, that the same is true and correct, and shall, within the time and in the manner prescribed for the payment of duties on manufactures, pay the full amount of duties accruing thereon, as aforesaid, to the collector or deputy collector of the district, as aforesaid; and in case of default in making the return or payment of the duties, as aforesaid, the assessment and collection shall be made as in the provisions of this act required; and in case of fraud or evasion, the party offending shall forfeit and pay a penalty of ten dollars per head for any cattle, calves, swine, sheep, or lambs so slaughtered upon which the duty is fraudulently withheld, evaded, or attempted to be evaded; and the Commissioner of Internal Revenue may prescribe such further rules and regulations as he may deem necessary for ascertaining the correct number of cattle, calves, swine, sheep, and lambs liable to be taxed under the provisions of this act.

RAILROADS, STEAMBOATS, FERRY-BOATS, AND BRIDGES.

Sec. 103. *And be it further enacted*, That every person, firm, company, or corporation owning or possessing, or having the care or management of, any railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, or any stage-coach or other vehicle engaged or employed in the business of transporting passengers or property for hire, or in transporting the mails of the United States, or any canal, the water of which is used for mining purposes, shall be subject to and pay a duty of two and one half per centum upon the gross receipts of such railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, or such stage-coach or other vehicle: *Provided*, That the duty hereby imposed shall not be charged upon receipts for the transportation of persons or property, or mails, between the United States and any foreign port; and any person or persons, firms, companies, or corporations, owning, possessing, or having the care or management of any toll-road, ferry, or bridge, authorized by law to receive toll for the transit of passengers, beasts, carriages, teams, and freight of any description, over such toll-road, ferry, or bridge, shall be subject to and pay a duty of three per centum on the gross amount of all their receipts of every description. But when the gross receipts of any such bridge or toll-road shall not exceed the amount necessarily expended to keep such bridge or road in repair, no tax shall be imposed on such receipts: *Provided*, That all such persons, companies, and corporations shall have the right to add the duty

Laws of the United States.

38TH CONG... 1ST SESS.

or tax imposed hereby to their rates of fare whenever their liability thereto may commence, any limitations which may exist by law or by agreement with any person or company which may have paid or be liable to pay such fare to the contrary notwithstanding.

EXPRESS COMPANIES.

SEC. 104. *And be it further enacted*, That any person, firm, company, or corporation carrying on or doing an express business, shall be subject to and pay a duty of three per centum on the gross amount of all the receipts of such express business.

INSURANCE COMPANIES.

SEC. 105. *And be it further enacted*, That there shall be levied, collected, and paid a duty of one and a half of one per centum upon the gross receipts of premiums, or assessments for insurance from loss or damage by fire or by the perils of the sea, made by every insurance company, whether inland or marine or fire insurance company, and by every association or individual engaged in the business of insurance against loss or damage by fire or by the perils of the sea; and by every person, firm, company, or corporation, who shall issue tickets or contracts of insurance against injury to persons while traveling by land or water; and a like duty shall be paid by the agent of any foreign insurance company having an office or doing business within the United States; and that in the account or return to be rendered, they shall state the amount insured, renewed, or continued, the gross amount of premiums received and assessments collected, and the duties by law accruing thereon for the quarter then next preceding.

PASSPORTS.

SEC. 106. *And be it further enacted*, That for every passport issued from the office of the Secretary of State, there shall be paid the sum of five dollars; which amount may be paid to any collector appointed under this act, and his receipt therefor shall be forwarded with the application for such passport to the office of the Secretary of State, or any agent appointed by him; to be transmitted to the Commissioner of Internal Revenue, there to be charged to the account of such collector. And the collectors shall account for all moneys received for passports in the manner hereinbefore provided, and a like amount shall be paid for every passport issued by any minister or consul of the United States, who shall account therefor to the Treasury.

TELEGRAPH COMPANIES.

SEC. 107. *And be it further enacted*, That any person, firm, company, or corporation owning or possessing or having the care or management of any telegraphic line by which telegraphic dispatches or messages are received or transmitted, shall be subject to, and pay a duty of, five per centum on the gross amount of all receipts of such person, firm, company, or corporation.

THEATERS, OPERAS, CIRCUSES, AND MUSEUMS.

SEC. 108. *And be it further enacted*, That any person, firm, or corporation, or the manager or agent thereof, owning, conducting, or having the care or management, of any theater, opera, circus, museum, or other public exhibition of dramatic or operatic representations, plays, performances, musical entertainments, feats of horsemanship, acrobatic sports, or other shows which are opened to the public for pay, but not including occasional concerts, school exhibitions, lectures, or exhibitions of works of art, shall be subject to and pay a duty of two per centum on the gross amount of all receipts derived by such person, firm, company, or corporation from such representations, plays, performances, exhibitions, shows, or musical entertainments.

SEC. 109. *And be it further enacted*, That any person, firm, company, or corporation owning or possessing, or having the care or management of, any railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, or any ferry, toll-road or bridge, as enumerated and described in section one hundred and two [three] of this act; or carrying on or doing an express business; or engaged in the business of insurance, as hereinbefore described; or owning or having the care and management of any telegraph line, or owning, pos-

sessing, leasing, or having the control or management of any circus, theater, opera, or museum, shall within twenty days after the end of each and every month, make a list or return in duplicate to the assistant assessor of the district, stating the gross amount of their receipts, respectively, for the month next preceding, which return shall be verified by the oath or affirmation of such owner, possessor, manager, agent, or other proper officer, in the manner and form to be prescribed from time to time by the Commissioner of Internal Revenue; and shall also pay to the collector the full amount of duties which have accrued on such receipts for the month aforesaid. And in case of neglect or refusal to make said lists or return for the space of ten days after such return should have been made as aforesaid, the assessor or assistant assessor shall proceed to estimate the amount received and the duties payable thereon, and shall add thereto ten per centum, as hereinbefore provided in other cases of delinquency, to make return for purposes of assessment; and for the purpose of making such assessment, or of ascertaining the correctness of any such return, the books of any such person, firm, company, or corporation shall be subject to the inspection of the assessor or assistant assessor on his demand or request therefor. And in case of neglect or refusal to pay the duties, with the addition aforesaid, when the same have been ascertained, for the space of ten days after the same shall have become payable, the owner, possessor, or person having the management as aforesaid, shall pay, in addition, ten per centum on the amount of such duties and addition; and for any attempt knowingly to evade the payment of such duties, the said owner, possessor, or person having the care or management as aforesaid, shall be liable to pay a penalty of one thousand dollars for every such attempt, to be recovered as provided in this act for the recovery of penalties. And all provisions of this act in relation to liens and collections by distraint, not incompatible herewith, shall apply to this section and the objects therein embraced.

BANKS AND BANKING.

SEC. 110. *And be it further enacted*, That there shall be levied, collected, and paid a duty of one twenty-fourth of one per centum each month upon the average amount of the deposits of money, subject to payment by check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, with any person, bank, association, company or corporation engaged in the business of banking; and a duty of one twenty-fourth of one per centum each month as aforesaid, upon the average amount of the capital of any bank, association, company, or corporation, or person engaged in the business of banking beyond the amount invested in United States bonds; and a duty of one twelfth of one per centum each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank; and an additional duty of one sixth of one per centum, each month, upon the average amount of such circulation, issued as aforesaid, beyond the amount of ninety per centum of the capital of any such bank, association, corporation, company, or person, and upon any amount of such circulation, beyond the average amount of the circulation that had been issued as aforesaid by any such bank, association, corporation, company, or person, for the six months preceding the first day of July, eighteen hundred and sixty-four. And on the first Monday of August next, and of each month thereafter, a true and accurate return of the amount of circulation, of deposit, and of capital as aforesaid, for the previous month, shall be made and rendered in duplicate by each of such banks, associations, corporations, companies, or persons to the assessor of the district in which any such bank, association, corporation, or company may be located, or in which such person may reside, with a declaration annexed thereto, and the oath or affirmation of such person, or of the president or cashier of such bank, association, corporation, or company, in such form

and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amount of circulation, deposits, and capital as aforesaid, subject to duty as aforesaid, and shall transmit the duplicate of said return to the Commissioner of Internal Revenue, and within twenty days thereafter shall pay to the said Commissioner of Internal Revenue the duties hereinbefore prescribed upon the said amount of circulation, of deposits, and of capital, as aforesaid, and for any refusal or neglect to make or to render such return and payment as aforesaid, any such bank, association, corporation, company, or person so in default shall be subject to and pay a penalty of two hundred dollars, besides the additional penalty and forfeitures in other cases provided in this act; and the amount of circulation, deposit, and capital, as aforesaid, in default of the proper return, shall be estimated by the assessor or assistant assessor of the district as aforesaid, upon the best information he can obtain; and every such penalty, together with the duties as aforesaid, may be recovered for the use of the United States in any court of competent jurisdiction. And in the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of each branch, severally, and the amount of capital of each branch shall be considered to be the amount allotted to such branch; and so much of an act entitled "An act to provide ways and means for the support of the Government," approved March three, eighteen hundred and sixty-three, as imposes any tax on banks, their circulation, capital, or deposits, other than is herein provided, is hereby repealed: *Provided*, That this section shall not apply to associations which are taxed under and by virtue of the act "to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," nor to any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking: *And provided further*, That any bank ceasing to issue notes for circulation, and which shall deposit in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary of the Treasury may prescribe, shall be exempt from any tax upon such circulation.

LOTTERIES.

SEC. 111. *And be it further enacted*, That every individual partnership, firm, and association, being proprietors, managers, or agents of lotteries, shall pay a tax of five per centum on the gross amount of the receipts from the said business; and all persons making such sales shall, within ten days after the first day of each and every month, make and render a list or return in duplicate to the assistant assessor of the gross amount of such sales, made as aforesaid, with the amount of duty which has accrued or should accrue thereon; which list shall have annexed thereto a declaration, under oath or affirmation, in such form and signed by such officer, agent, or clerk, as may be prescribed by the Commissioner of Internal Revenue, that the same is true and correct, and that the said proprietors, managers, and agents shall, on or before the twentieth day of each and every month, as aforesaid, pay the collector or deputy collector of the proper district the amount of the duty or tax as aforesaid. And in default of making such lists or returns, the said proprietors, managers, and agents, and all other persons making such sales, shall be subject to and pay a penalty of one thousand dollars, besides the additions, penalties, and forfeitures in other cases provided; and the said proprietors, managers, and agents shall, in default of paying the said duty or tax at the time herein required, be subject to and pay a penalty of one thousand dollars, or be imprisoned not exceeding one year. In all cases of delinquency in making said list, return, or payment, the assessments and collections shall be made in the manner prescribed in the provisions of this act in relation to manufactures, articles, and products: *Provided*, That the managers of any sanitary fair, or of any charitable, benevolent, or religious association, may

38TH CONG....1ST SESS.

Laws of the United States.

apply to the collector of the district and present to him proof that the proceeds of any contemplated lottery, raffle, or gift enterprise will be applied to the relief of sick and wounded soldiers, or to some other charitable use, and thereupon the Commissioner shall grant a permit to hold such lottery, raffle, or gift enterprise, and the said sanitary fair, or charitable or benevolent association, shall be exempt from all charge, whether from tax or license, in respect of such lottery, raffle, or gift enterprise: *Provided further*, That nothing in this section contained shall be construed to legalize any lottery.

SEC. 112. *And be it further enacted*, That each lottery ticket, or certificate supplementary thereto, shall be legibly stamped at the time of sale with the name of the vendor and the date of such sale, under a penalty of fifty dollars, to be paid by the vendor of each lottery ticket or certificate supplementary thereto sold without being first stamped as aforesaid.

SEC. 113. *And be it further enacted*, That in addition to all other penalties and forfeitures now imposed by law for the evasion of license fees or other taxes upon the lottery business, any person who shall hereafter sell or dispose of any lottery ticket or certificate supplementary thereto, or any device in the nature thereof, without having first duly obtained a license, as hereinbefore mentioned, shall incur a penalty of five hundred dollars for each and every such offense; and any person who shall purchase, obtain, or receive any lottery ticket, or any policy of numbers, tokens, certificate, wager, or device, representing or intended to represent a lottery ticket, or fractional part thereof, from any person not having a license to deal in lottery tickets, as provided by law, may recover from such person of whom the same was purchased, obtained, or received, at any time within three years thereafter, before any court of competent jurisdiction, a sum equal to twice the amount paid for the same, with just and legal costs.

ADVERTISEMENTS.

SEC. 114. *And be it further enacted*, That there shall be levied, collected, and paid by any person or persons, firm, or company, publishing any newspaper, magazine, review, or other literary, scientific, or news publication, issued periodically, on the gross receipts for all advertisements, or all matters for the insertion of which in said newspaper or other publication, as aforesaid, or in extras, supplements, sheets, or fly-leaves accompanying the same, pay is required or received, a duty of three per centum; and the person or persons, firm, or company, owning, possessing, or having the care or management of any and every such newspaper, or other publication, as aforesaid, shall make a list or return on the first day of January, April, July, and October of each year, containing the gross amount of receipts as aforesaid, and the amount of duties which have accrued thereon, and render the same in duplicate to the assistant assessor of the district where such newspaper, magazine, review, or other literary or news publication is or may be published; which list or return shall have annexed a declaration, under oath, or affirmation, to be made according to the manner and form which may be from time to time prescribed by the Commissioner of Internal Revenue, of the owner, possessor, or person having the care or management of such newspaper, magazine, review, or other publication, as aforesaid, that the same is true and correct; and shall also, quarterly, within ten days after the time of making said list or return, pay to the collector or deputy collector of the district the full amount of said duties. And in case of neglect or refusal to comply with any of the provisions contained in this section, or to make and render said list or return, for the space of ten days after the time when said list or return ought to have been made, as aforesaid, the assistant assessors of the respective districts shall proceed to estimate the duties as heretofore provided in other cases of delinquency; and in case of neglect or refusal to pay the duties, as aforesaid, for the space of ten days after said duties become due and payable, and have been demanded, said owner, possessor, or person or persons having the care or management of said newspapers or publications, as aforesaid, shall pay, in addition thereto, a penalty of

ten per centum on the amount due. And in case of fraud or evasion, whereby the revenue is attempted to be defrauded, or the duty withheld, said owners, possessors, or person or persons having the care or management of said newspapers or other publications, as aforesaid, shall forfeit and pay a penalty of one thousand dollars for each offense, or for any sum fraudulently unaccounted for. And all provisions in this act in relation to returns, additions, penalties, forfeitures, liens, assessments, and collection, not incompatible herewith, shall apply to this section and the objects herein embraced: *Provided*, That in all cases where the rate or price of advertising is fixed by any law of the United States, State, or Territory, it shall be lawful for the company, person or persons, publishing said advertisements, to add the duty or tax imposed by this act to the price of said advertisements, any law to the contrary notwithstanding; and that the receipts for advertisements to the amount of six hundred dollars annually, by any person or persons, firm, or company publishing any newspaper, magazine, review, or other literary, scientific, or news publication, issued periodically, shall be exempt from duty: *And provided further*, That all newspapers whose average circulation does not exceed two thousand copies, shall be exempted from all taxes for advertisements.

SEC. 115. *And be it further enacted*, That whenever by this act any license, duty, or tax of any description has been imposed on any person or corporate body, or property of any person, or incorporated or unincorporated company, having more than one place of business, it shall be lawful for the Commissioner of Internal Revenue to prescribe and determine in what district such tax shall be assessed and collected, and to what officer thereof the official notices required in that behalf shall be given, and of whom payment of such tax shall be demanded: *Provided*, That all taxes on manufactures, manufacturing companies, and manufacturing corporations shall be assessed, and the tax collected, in the district within which the place of manufacture is located, unless otherwise provided.

INCOME.

SEC. 116. *And be it further enacted*, That there shall be levied, collected, and paid annually upon the annual gains, profits, or income of every person residing in the United States, or of any citizen of the United States residing abroad, whether derived from any kind of property, rents, interests, dividends, salaries, or from any profession, trade, employment, or vocation, carried on in the United States or elsewhere, or from any other source whatever, except as hereinafter mentioned, if such annual gains, profits, or income, exceed the sum of six hundred dollars, a duty of five per centum on the excess over six hundred dollars and not exceeding five thousand dollars; and a duty of seven and one half of one per centum per annum on the excess over five thousand dollars and not exceeding ten thousand dollars; and a duty of ten per centum on the excess over ten thousand dollars. And the duty herein provided for shall be assessed, collected, and paid upon the gains, profits, or income for the year ending the thirty-first day of December next, preceding the time for levying, collecting, and paying said duty: *Provided*, That income derived from interest upon notes, bonds, and other securities of the United States, shall be included in estimating incomes under this section: *Provided*, That only one deduction of six hundred dollars shall be made from the aggregate incomes of all the members of any family composed of parents and minor children, or husband and wife, except in cases where such separate income shall be derived from the separate and individual estate, gains, or labor of the wife or child: *And provided further*, That net profits realized by sales of real estate purchased within the year for which income is estimated, shall be chargeable as income; and losses on sales of real estate purchased within the year, for which income is estimated, shall be deducted from the income of such year.

SEC. 117. *And be it further enacted*, That in estimating the annual gains, profits, or income of any person, all national, State, and municipal taxes, other than the national income tax, lawfully assessed within the year upon the property

or sources of income of any person, as aforesaid, from which said annual gains, profits, or income is or should be derived, shall be deducted, in addition to six hundred dollars, from the gains, profits, or income of the person who has actually paid the same, whether owner, tenant, or mortgagor; also the salary or pay received for services in the civil, military, naval, or other service of the United States, including Senators, Representatives, and Delegates in Congress, above the rate of six hundred dollars per annum; and there shall also be deducted the income derived from dividends on shares in the capital stock of any bank, trust company, savings institution, insurance, railroad, canal, turnpike, canal navigation, or slack-water company, and the interest on any bonds or other evidences of indebtedness of any such corporation or company, which shall have been assessed and the tax paid, as herein-after provided; also the amount paid by any person for the rent of the homestead used or occupied by himself or his family, and the rental value of any homestead used or occupied by any person, or by his family, in his own right or in the right of his wife, shall not be included and assessed as part of the income of such person. In estimating the annual gains, profits, or income of any person, the interest over and above the amount of interest paid upon all notes, bonds, and mortgages, or other forms of indebtedness, bearing interest, whether due and paid or not, if good and collectable, shall be included and assessed as part of the income of such person for each year; and also all income or gains derived from the purchase and sale of stocks or other property, real or personal, and the increased value of live stock, whether sold or on hand, and the amount of sugar, wool, butter, cheese, pork, beef, mutton, or other meats, hay, and grain, or other vegetable or other productions of the estate of such person sold, not including any part thereof unsold or on hand during the year next preceding the thirty-first of December, shall be included and assessed as part of the income of such person for each year, and the gains and profits of all companies, whether incorporated or partnership, other than the companies specified in this section, shall be included in estimating the annual gains, profits, or income of any person entitled to the same, whether divided or otherwise. In estimating deductions from income, as aforesaid, when any person rents buildings, lands, or other property, or hires labor to carry on land, or to conduct any other business from which such income is actually derived, or pays interest upon any actual incumbrance thereon, the amount actually paid for such rent, labor, or interest shall be deducted; and also the amount paid out for usual or ordinary repairs, not exceeding the average paid out for such purposes for the preceding five years, shall be deducted, but no deduction shall be made for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate: *Provided*, That in cases where the salary or other compensation paid to any person in the employment or service of the United States, shall not exceed the rate of six hundred dollars per annum, or shall be by fees, or uncertain or irregular in the amount or in the time during which the same shall have accrued or been earned, such salary or other compensation shall be included in estimating the annual gains, profits, or income of the person to whom the same shall have been paid, in such manner as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe.

SEC. 118. *And be it further enacted*, That it shall be the duty of all persons of lawful age, and all guardians and trustees, whether such trustees are so by virtue of their office as executors, administrators, or in other fiduciary capacity, to make a list or return under oath or affirmation, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, to the assistant assessor of the district in which he resides, of the amount of his or her income, or the income of such minors or persons as may be held in trust as aforesaid, according to the requirements hereinbefore mentioned, stating the sources from which said income is derived, whether from any kind of property, or the purchase and sale of property, rents, interest, dividends, salaries, or

Laws of the United States.

38TH CONG... 1ST SESS.

from any profession, trade, employment, or vocation, or otherwise. And in case of neglect or refusal to make such return, the assessor or assistant assessor shall assess the amount of his or her income, and the duty thereon, in the same manner as is provided for in other cases of neglect and refusal to furnish lists or returns in the provisions of this act, where not otherwise incompatible; and the assistant assessor may increase the amount of the list or return, or of any party making such return, if he shall be satisfied that the same is understated: *Provided*, That any party, in his or her own behalf, or as guardian or trustee, as aforesaid, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, that he or she was not possessed of an income of six hundred dollars, liable to be assessed according to the provisions of this act, or may declare that he or she has been assessed elsewhere in the same year for, and has paid an income duty under authority of the United States, and shall thereupon be exempt from income duty in said district; or, if the list or return of any party shall have been increased by the assistant assessor, in manner as aforesaid, such party may be permitted to declare, under oath or affirmation, the amount of annual income, or the amount held in trust, as aforesaid, liable to be assessed, and the same, so declared, shall be received by such assistant assessor as true, and as the sum upon which duties are to be assessed and collected, except that the deductions claimed in such cases shall not be made or allowed until approved by the assistant assessor. But any person feeling aggrieved by the decision of the assistant assessor in such cases, may appeal to the assessor of the district, and his decision thereon shall be final; and the form, time, and manner of proceedings shall be subject to the rules and regulations to be prescribed by the Commissioner of Internal Revenue.

Sec. 119. *And be it further enacted*, That the duties on incomes herein imposed shall be levied on the first day of May, and be due and payable on or before the thirtieth day of June, in each year, until and including the year eighteen hundred and seventy, and no longer; and to any sum or sums annually due and unpaid for thirty days after the thirtieth of June, as aforesaid, and for ten days after demand thereof by the collector, there shall be levied in addition thereto the sum of ten per centum on the amount of duties unpaid, as a penalty, except from the estates of deceased and insolvent persons. And if any person liable to pay such duty shall neglect or refuse to pay the same, after such demand, the amount due shall be a lien in favor of the United States from the time it was due until paid, with the interest, penalties, and costs that may accrue in addition thereto, upon all the property and rights to property belonging to such person; and in default of the payment of said duty aforesaid, said lien may be enforced by distraint upon such property, rights to property, stocks, securities, and evidences of debt, by whomsoever held; and for this purpose the collector, after demands duly given, as aforesaid, shall issue a warrant, in form and manner to be prescribed by the Commissioner of Internal Revenue, under the directions of the Secretary of the Treasury, and by virtue of such warrant there may be levied on such property, rights to property, stocks, securities, and evidences of debt, a further sum, to be fixed and stated in such warrant, over and above the said annual duty, interest, and penalty for non-payment, sufficient for the fees, costs, and expenses of such levy. And in all cases of sale, as aforesaid, the certificate of such sale by the collector shall vest in the purchaser all right, title, and interest of such delinquent in and to such property, whether the property be real or personal; and where the subject of sale shall be stocks, the certificate of said sale shall be lawful authority and notice to the proper corporation, company, or association, to record the same on the books or records, in the same manner as if transferred or assigned by the person or party holding the same, to issue new certificates of stock therefor in lieu of any original or prior certificates, which shall be void whether canceled or not. And said certificates of sale of the collector, where the subject

of sale shall be securities or other evidences of debt, shall be good and valid receipts to the person holding the same, as against any person holding, or claiming to hold, possession of such securities or other evidences of debt.

Sec. 120. *And be it further enacted*, That there shall be levied and collected a duty of five per centum on all dividends in scrip or money thereafter declared due, and whenever the same shall be payable, to stockholders, policy-holders, or depositors, as part of the earnings, income, or gains of any bank, trust company, savings institution, and of any fire, marine, life, inland insurance company, either stock or mutual, under whatever name or style known or called, in the United States or Territories, whether specially incorporated or existing under general laws, and on all undistributed sums, or sums made or added during the year to their surplus or contingent funds; and said banks, trust companies, savings institutions, and insurance companies shall pay the said duty, and are hereby authorized to deduct and withhold from all payments made on account of any dividends or sums of money that may be due and payable as aforesaid, the said duty of five per centum. And a list or return shall be made and rendered to the assessor or assistant assessor in duplicate, and one of said lists or returns shall be transmitted, and the duty paid to the Commissioner of Internal Revenue within thirty days after the time when any dividends or sums of money become due or payable as aforesaid; and said list or return shall contain a true and faithful account of the amount of duties as aforesaid; and there shall be annexed thereto a declaration of the president, cashier, or treasurer of the bank, trust company, savings institution, or insurance company, under oath or affirmation, in form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful account of the duties as aforesaid. And for any default in the making or rendering of such list or return, with such declaration annexed, the bank, trust company, savings institution, or insurance company, making such default, shall forfeit as a penalty the sum of one thousand dollars; and in case of any default in making or rendering said list or return, or of any default in the payment of the duty as required, or any part thereof, the assessment and collection of the duty and penalty shall be in accordance with the general provisions of law in other cases of neglect and refusal: *Provided*, That the duty upon the dividends of life insurance companies shall not be deemed due or to be collected until such dividends shall be payable by such companies, nor shall the portion of premiums returned by mutual life insurance companies to their policy-holders be considered as dividends or profits under this act.

Sec. 121. *And be it further enacted*, That any bank legally authorized to issue notes as circulation, which shall neglect or omit to make dividends or additions to its surplus or contingent fund as often as once in six months, shall make a list or return in duplicate, under oath or affirmation of the president or cashier, to the assessor or assistant assessor of the district in which it is located, on the first day of January and July, in each year, or within thirty days thereafter, of the amount of profits which have accrued or been earned and received by said bank during the six months next preceding said first days of January and July; and shall present one of said lists or returns and pay to the collector of the district a duty of five per centum on such profits; and in case of default to make such list or return and payment within the thirty days as aforesaid, shall be subject to the provisions of the foregoing section of this act: *Provided*, That when any dividend is made which includes any part of the surplus or contingent fund of any bank, trust company, savings institution, insurance or railroad company, which has been assessed and the duty paid thereon, the amount of duty so paid on that portion of the surplus or contingent fund may be deducted from the duty on such dividend.

Sec. 122. *And be it further enacted*, That any railroad, canal, turnpike, canal navigation, or slack-water company indebted for any money for which bonds or other evidence of indebtedness have been issued, payable in one or more years

after date, upon which interest is stipulated to be paid, or coupons representing the interest, or any such company that may have declared any dividend in scrip, or money due or payable to its stockholders, as part of the earnings, profits, income, or gains of such company, and all profits of such company carried to the account of any fund, or used for construction, shall be subject to and pay a duty of five per centum on the amount of all such interest, or coupons, dividends, or profits, whenever the same shall be payable; and said companies are hereby authorized to deduct and withhold from all payments, on account of any interest, or coupons and dividends due and payable as aforesaid, the duty of five per centum; and the payment of the amount of said duty so deducted from the interest, or coupons, or dividends, and certified by the president or treasurer of said company, shall discharge said company from that amount of the dividend, or interest, or coupon, on the bonds or other evidences of their indebtedness so held by any person or party whatever, except where said companies may have contracted otherwise. And a list or return shall be made and rendered to the assessor or assistant assessor in duplicate, and one of said lists or returns shall be transmitted, and the duty paid to the Commissioner of Internal Revenue, within thirty days after the time when said interest, coupons, or dividends become due and payable, and as often as every six months; and said list or return shall contain a true and faithful account of the amount of the duty, and there shall be annexed thereto a declaration of the president or treasurer of the company, under oath or affirmation, in form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful account of said duty. And for any default in making or rendering such list or return, with the declaration annexed, or of the payment of the duty as aforesaid, the company making such default shall forfeit as a penalty the sum of one thousand dollars; and in case of any default in making or rendering said list or return, or of the payment of the duty, or any part thereof, as aforesaid, the assessment and collection of the duty and penalty shall be made according to the provisions of law in other cases of neglect or refusal.

Sec. 123. *And be it further enacted*, That there shall be levied, collected, and paid, on all salaries of officers, or payments for services to persons in the civil, military, naval, or other employment or service of the United States, including Senators and Representatives and Delegates in Congress, when exceeding the rate of six hundred dollars per annum, a duty of five per centum on the excess above the said six hundred dollars; and it shall be the duty of all paymasters, and all disbursing officers, under the Government of the United States, or in the employ thereof, when making any payments to officers and persons as aforesaid, or upon settling and adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of five per centum, and shall, at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of Internal Revenue, and entered as part of the internal duties; and the pay roll, receipts, or account of officers or persons paying such duty, as aforesaid, shall be made to exhibit the fact of such payment. And it shall be the duty of the several Auditors of the Treasury Department, when auditing the accounts of any paymaster or disbursing officer, or when settling or adjusting the accounts of any such officer, to require evidence that the duties or taxes mentioned in this section have been deducted or paid over to the Commissioner of Internal Revenue: *Provided*, That payments of prize money shall be regarded as income from salaries, and the duty thereon shall be adjusted and collected in like manner.

LEGACIES AND DISTRIBUTIVE SHARES OF PERSONAL PROPERTY.

Sec. 124. *And be it further enacted*, That any person or persons having in charge or trust, as administrators, executors, or trustees, any legacies or distributive shares arising from personal

property, where the whole amount of such personal property, as aforesaid, shall exceed the sum of one thousand dollars in actual value, passing, after the passage of this act, from any person possessed of such property, either by will or by the intestate laws of any State or Territory, or any personal property or interest therein, transferred by deed, grant, bargain, sale, or gift, made or intended to take effect in possession or enjoyment after the death of the grantor or bargainor, to any person or persons, or to any body or bodies politic or corporate, in trust or otherwise, shall be, and hereby are, made subject to a duty or tax, to be paid to the United States, as follows, that is to say:

First. Where the person or persons entitled to any beneficial interest in such property shall be the lineal issue or lineal ancestor, brother or sister, to the person who died possessed of such property, as aforesaid, at the rate of one dollar for each and every hundred dollars of the clear value of such interest in such property.

Second. Where the person or persons entitled to any beneficial interest in such property shall be a descendant of a brother or sister of the person who died possessed, as aforesaid, at the rate of two dollars for each and every hundred dollars of the clear value of such interest.

Third. Where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother, of the person who died possessed, as aforesaid, at the rate of four dollars for each and every hundred dollars of the clear value of such interest.

Fourth. Where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother, of the person who died possessed as aforesaid, at the rate of five dollars for each and every hundred dollars of the clear value of such interest.

Fifth. Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the person who died possessed, as aforesaid, or shall be a body politic or corporate, at the rate of six dollars for each and every hundred dollars of the clear value of such interest: *Provided*, That all legacies or property passing by will, or by the laws of any State or Territory, to husband or wife of the person who died possessed, as aforesaid, shall be exempt from tax or duty.

Sec. 125. *And be it further enacted*, That the tax or duty aforesaid shall be a lien and charge upon the property of every person who may die, as aforesaid, for twenty years, or until the same shall, within that period, be fully paid to and discharged by the United States; and every executor, administrator, or trustee, before payment and distribution to the legatees, or any parties entitled to beneficial interest therein, shall pay to the collector or deputy collector of the district of which the deceased person was a resident, the amount of the duty or tax assessed upon such legacy or distributive share, and shall also make and render to the assessor or assistant assessor of the said district a schedule, list, or statement, in duplicate, of the amount of such legacy or distributive share, together with the amount of duty which has accrued, or shall accrue thereon, verified by his oath or affirmation, to be administered and certified thereon by some magistrate or officer having lawful power to administer such oaths, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, which schedule, list, or statement shall contain the names of each and every person entitled to any beneficial interest therein, together with the clear value of such interest, the duplicate of which schedule, list, or statement shall be by him immediately delivered, and the tax thereon paid to such collector; and upon such payment and delivery of such schedule, list, or statement, said collector or deputy collector shall grant to such person, paying such duty or tax, a receipt or receipts for the same in duplicate, which shall be prepared as hereinafter provided. Such receipt or receipts, duly

signed and delivered by such collector or deputy collector, shall be sufficient evidence to entitle such executor, administrator, or trustee, to be credited and allowed such payment by every tribunal which, by the laws of any State or Territory, is, or may be, empowered to decide upon and settle the accounts of executors and administrators. And in case such executor, administrator, or trustee, shall refuse or neglect to pay the aforesaid duty or tax to the collector or deputy collector, as aforesaid, within the time hereinbefore provided, or shall neglect or refuse to deliver to said collector or deputy collector the duplicate of the schedule, list, or statement of such legacies, property, or personal estate, under oath, as aforesaid, or shall neglect or refuse to deliver the schedule, list, or statement of such legacies, property, or personal estate, under oath, as aforesaid, or shall deliver to said assessor or assistant assessor a false schedule or statement of such legacies, property, or personal estate, or give the names and relationship of the persons entitled to beneficial interests therein untruly, or shall not truly and correctly set forth and state therein the clear value of such beneficial interest, or where no administration upon such property or personal estate shall have been granted or allowed under existing laws, the assistant assessor shall make out such lists and valuation as in other cases of neglect or refusal, and shall assess the duty thereon; and the collector shall commence appropriate proceedings before any court of the United States, in the name of the United States, against such person or persons as may have the actual or constructive custody or possession of such property or personal estate, or any part thereof, and shall subject such property or personal estate, or any portion of the same, to be sold upon the judgment or decree of such court, and from the proceeds of such sale the amount of such tax or duty, together with all costs and expenses of every description to be allowed by such court, shall be first paid, and the balance, if any, deposited according to the order of such court, to be paid under its direction to such person or persons as shall establish title to the same. The deed or deeds, or any proper conveyance of such property or personal estate, or any portion thereof, so sold under such judgment or decree, executed by the officer lawfully charged with carrying the same into effect, shall vest in the purchaser thereof all the title of the delinquent to the property or personal estate sold under and by virtue of such judgment or decree, and shall release every other portion of such property or personal estate from the lien or charge thereon created by this act. And every person or persons who shall have in his possession, charge, or custody, any record, file, or paper containing, or supposed to contain, any information concerning such property or personal estate, as aforesaid, passing from any person who may die, as aforesaid, shall exhibit the same at the request of the assessor or assistant assessor of the district, and to any law officer of the United States, in the performance of his duty under this act, his deputy or agent, who may desire to examine the same. And if any such person, having in his possession, charge, or custody, and [any] such records, files, or papers, shall refuse or neglect to exhibit the same on request, as aforesaid, he shall forfeit and pay the sum of five hundred dollars: *Provided*, [That] in all legal controversies where such deed or title shall be the subject of judicial investigation, the recital in said deed shall be prima facie evidence of its truth, and that the requirements of the law had been complied with by the officers of the Government.

SUCCESSION TO REAL ESTATE.

Sec. 126. *And be it further enacted*, That for the purposes of this act the term "real estate" shall include all lands, tenements, and hereditaments, corporeal and incorporeal; that the term "succession" shall denote the devolution of title to any real estate; and that the term "person" shall be held to include persons, body-corporate, company, or association.

Sec. 127. *And be it further enacted*, That every past or future disposition of real estate by will, deed, or laws of descent, by reason whereof any

perso[n] shall become beneficially entitled, in possession or expectancy, to any real estate, or the income thereof, upon the death of any person dying after the passing of this act, shall be deemed to confer, on the person entitled by reason of any such disposition, a "succession;" and the term "successor" shall denote the person so entitled; and the term "predecessor" shall denote the grantor, testator, ancestor, or other person from whom the interest of the successor has been or shall be derived.

Sec. 128. *And be it further enacted*, That where any real estate shall, at or after the passing of this act, be subject to any charge, estate, or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase of benefit accruing to any person upon the extinction or determination of such charge, estate, or interest, shall be deemed to be a succession accruing to the person then entitled, beneficially, to the real estate or the income thereof.

Sec. 129. *And be it further enacted*, That where any persons, after the passing of this act, shall take any succession jointly, they shall pay the duty chargeable thereon by this act in proportion to their respective interests in the succession; and any beneficial interest in such succession, accruing to any of them by survivorship, shall be deemed to be a new succession, derived from the predecessor from whom the joint title shall have been derived.

Sec. 130. *And be it further enacted*, That where any disposition of real estate shall be accompanied by the reservation or assurance of, or contract for, any benefit to the grantor, or any other person, for any term of life, or for any period ascertainable only by reference to death, such disposition shall be deemed to confer at the time appointed for the determination of such benefit an increase of beneficial interest in such real estate, as a succession equal in annual value to the yearly amount or yearly value of the benefit so reserved, assured, or contracted for, on the person in whose favor such disposition shall be made.

Sec. 131. *And be it further enacted*, That where any disposition of real estate shall purport to take effect presently, or under such circumstances as not to confer succession, but, by the effect or in consequence of any engagement, secret trust, or arrangement capable of being enforced in a court of law or equity, the beneficial ownership of such real estate shall not, bona fide, pass according to the terms of such disposition, but shall, in fact, be reserved to the grantor or other person for some period ascertainable only by reference to death, the person shall be deemed, for the purposes of this act, to acquire the real estate so passing as a succession derived from the person making the disposition as the predecessor.

Sec. 132. *And be it further enacted*, That if any person shall, by deed of gift, or other assurance of title, made without valuable and adequate consideration, and purporting to vest the estate either immediately or in the future, whether or not accompanied by the possession, convey any real estate to any person, such disposition shall be held and taken to confer upon the grantee a succession within the meaning of this act.

Sec. 133. *And be it further enacted*, That there shall be levied and paid to the United States in respect of every such succession as aforesaid, according to the value thereof, the following duties, that is to say:

Where the successor shall be the lineal issue or lineal ancestor of the predecessor, a duty at the rate of one dollar per centum upon such value.

Where the successor shall be a brother or sister, or a descendant of a brother or sister of the predecessor, a duty at the rate of two dollars per centum upon such value.

Where the successor shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the predecessor, a duty at the rate of four dollars per centum upon such value.

Where the successor shall be a brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother of the predecessor, a duty at the rate of five dollars per centum upon such value.

Laws of the United States.

38TH CONG., 1ST SESS.

Where the successor shall be in any other degree of collateral consanguinity to the predecessor than is hereinbefore described, or shall be a stranger in blood to him, a duty at the rate of six dollars per centum upon such value.

Sec. 134. *And be it further enacted,* That where the interest of any successor in any real estate shall, before he shall have become entitled thereto in possession, have passed by reason of death to any other successor or successors, then one duty only shall be paid in respect of such interest, and shall be due from the successor who shall first become entitled thereto in possession; but such duty shall be at the highest rate which, if every such successor had been subject to duty, would have been payable by any one of them.

Sec. 135. *And be it further enacted,* That where ever, after the passing of this act, any succession shall, before the successor shall have become entitled thereto in possession, have become vested by alienation, or by any title not conferring a new succession, in any other person, then the duty payable in respect thereof shall be paid at the same rate and time as the same would have been payable if no such alienation had been made or derivative title created; and where the title to any succession shall be accelerated by the surrender or extinction of any prior interests, then the duty thereon shall be payable at the time of such surrender or extension [extinction] of prior title.

Sec. 136. *And be it further enacted,* That, where real estate shall become subject to a trust for any charitable or public purposes, under any past or future disposition, which, if made in favor of an individual, would confer on him a succession, there shall be payable in respect of such real estate upon its becoming subject to such trusts, a duty at the rate of six per centum upon the amount or principal value of such real estate.

Sec. 137. *And be it further enacted,* That the duty imposed by this act shall be paid at the time when the successor, or any person in his right or on his behalf, shall become entitled in possession, to his succession, or to the receipt of the income and profits thereof, except that if there shall be any prior charge, estate, or interest, not created by the successor himself upon or in the succession, by reason whereof the successor shall not be presently entitled to the full enjoyment or value thereof, the duty, in respect of the increased value accruing upon the determination of such charge, estate, or interest, shall, if not previously paid, compounded for, or commuted, be paid at the time of such determination.

Sec. 138. *And be it further enacted,* That the interest of any successor in moneys to arise from the sale of real estate, under any trust for the sale thereof, shall be deemed to be a succession chargeable with duty under this act, and the said duty shall be paid by the trustee, executor, or other person having control of the funds.

Sec. 139. *And be it further enacted,* That the interest of any successor in personal property, subject to any trust for the investment thereof in the purchase of real estate to which the successor would be absolutely entitled, shall be chargeable with duty under this act as a succession, and the tax shall be payable by the trustee, executor, or other person having control of the funds.

Sec. 140. *And be it further enacted,* That in estimating the value of a succession no allowance shall be made in respect of any contingent incumbrance thereon; but in the event of such incumbrance taking effect as an actual burden on the interest of the successor, he shall be entitled to a return of a proportionate amount of the duty so paid by him in respect of the amount or value of the incumbrance when taking effect.

Sec. 141. *And be it further enacted,* That in estimating the value of a succession no allowance shall be made in respect of any contingency upon the happening of which the real estate may pass to some other person; but in the event of the same so passing, the successor shall be entitled to a return of so much of the duty paid by him as will reduce the same to the amount which would have been payable by him if such duty had been assessed in respect of the actual duration or extent of his interest: *Provided,* That if the estate of the successor shall be defeated, in whole or in part, by its application to the payment of the

debts of the predecessor, the executor, administrator, or trustee so applying it shall pay out of the proceeds of the sale thereof the amount so refunded: *And provided also,* That if the estate of the successor shall be defeated, in whole or in part, by any person claiming title from and under the predecessor, such person shall be chargeable with the amount of duty so refunded, and such amounts shall be collected in the manner herein provided for the collection of duties.

Sec. 142. *And be it further enacted,* That where a successor shall not have obtained the whole of his succession at the time of the duty becoming payable, he shall be chargeable only with duty on the value thereof from time to time obtained by him; and whenever any duty shall have been paid on account of any succession, and it shall afterwards be proved, to the satisfaction of the Secretary of the Treasury, that such duty, not being due from the person paying the same, was paid by mistake, or was paid in respect of real estate, which the successor shall have been unable to recover, or of which he shall have been evicted or deprived by any superior title, or that for any other reason it ought to be refunded, the Secretary of the Treasury shall thereupon refund the same to the person entitled thereto, by draft drawn on any collector of internal revenue.

Sec. 143. *And be it further enacted,* That where, in the opinion of the Commissioner of Internal Revenue, any succession shall be of such a nature, or so disposed or circumstanced, that the value thereof shall not be fairly ascertainable under any of the preceding directions, or where, from the complication of circumstances affecting the value of a succession, or affecting the assessment or recovery of the duty thereon, the Commissioner shall think it expedient to exercise this present authority, it shall be lawful for him to compound the duty payable on the succession upon such terms as he shall think fit, and to give discharges to the successor, upon payment of duty according to such composition; and it shall be lawful for him, in any special cases in which he may think it expedient so to do, to enlarge the time for payment of any duty.

Sec. 144. *And be it further enacted,* That it shall be lawful for the Commissioner, in his discretion, upon application made by any person who shall be entitled to a succession in expectancy, to commute the duty presumptively payable in respect of such succession for a certain sum to be presently paid, and for assessing the amount which shall be so payable he shall cause a present value to be set upon such presumptive duty, regard being had to the contingencies affecting the liability to such duty, and the interest of money involved in such calculation being reckoned at the rate for the time being allowed by the Commissioner in respect of duties paid in advance, and upon the receipt of such certain sum he shall give discharges to the successor accordingly.

Sec. 145. *And be it further enacted,* That the duty imposed by this act shall be a first charge on the interest of the successor, and of all persons claiming in his right, in all the real estate in respect whereof such duty shall be assessed for five years, unless sooner paid.

Sec. 146. *And be it further enacted,* That the Commissioner shall, at the request of any successor, or any person claiming in his right, cause to be made so many separate assessments of the duty payable in respect of the interest of the successor in any separate tracts of real estate, or in defined portions of the same tract, as shall be reasonably required; and in such cases the respective tracts shall be chargeable only with the amount of duty separately assessed in respect thereof.

Sec. 147. *And be it further enacted,* That any person liable to pay duty in respect to any succession, shall give notice to the assessor or assistant assessor of his liability to such duty, and shall, at the same time, deliver to the assessor or assistant assessor a full and true account of said succession, for the duty whereon he shall be accountable, and of the value of the real estate involved, and of the deductions claimed by him, together with the names of the successor and predecessor, and their relation to each other, and all such other particulars as shall be necessary or proper for enabling the assessor or assistant as-

essor fully and correctly to ascertain the duties due; and the assessor or assistant assessor, if satisfied with such account and estimate as originally delivered, or with any amendments that may be made therein upon his requisition, may assess the succession duty on the footing of such account and estimate; but it shall be lawful for the assessor or assistant assessor, if dissatisfied with such account, or if no account and estimate shall be delivered to him, to assess the duty on the best information he can obtain, subject to appeal as hereinafter provided; and if the duty so assessed shall exceed the duty assessable according to the return made to the assessor or assistant assessor, and with which he shall have been dissatisfied, or if no account and estimate has been delivered, and if no appeal shall be taken against such assessment, then it shall be in the discretion of the assessor, having regard to the merits of each case, to assess the whole or any part of the expenses incident to the taking of such assessment, in addition to such duty; and if there shall be an appeal against such last-mentioned assessment, then the payment of such expenses shall be in the discretion of the Commissioner of Internal Revenue.

Sec. 148. *And be it further enacted,* That if any person required to give any such notice, or deliver such account, as aforesaid, shall willfully neglect to do so for the period of ten days after being notified, he shall be liable to pay to the United States a sum equal to ten per centum upon the amount of duty payable by him; and if any person liable under this act to pay any duty in respect of his succession shall, after such duty shall have been finally ascertained, willfully neglect to do so within ten days after being notified, he shall also be liable to pay to the United States a sum equal to ten per centum upon the amount of duty so unpaid, at the same time and in the same manner as the duty to be collected.

Sec. 149. *And be it further enacted,* That it shall be lawful for any party, liable to pay duty in respect of his succession, who shall be dissatisfied with the assessment of the assistant assessor, within thirty days after the date of such assessment, to appeal to the assessor from such assessment, who shall decide on such appeal, and give notice thereof to such party, who, if still dissatisfied, may, within twenty days after notice as aforesaid, appeal from such decision to the Commissioner of Internal Revenue, and furnish a statement of the grounds of such appeal to the Commissioner, whose decision upon the case, as presented by the statements of the assessor or assistant assessor and such party, shall be final.

Sec. 150. *And be it further enacted,* That the duties levied and assessed upon successions by this act shall be collected by the same officers, in the same manner, and by the same processes as are or may be prescribed by law for the collection of direct taxes assessed upon lands under the authority of the United States.

STAMP DUTIES.

Sec. 151. *And be it further enacted,* That all laws in force at the time of the passage of this act in relation to stamp duties shall continue in force until the first day of August, eighteen hundred and sixty-four, and on and after the first day of August, eighteen hundred and sixty-four, there shall be levied, collected, and paid, for and in respect of the several instruments, matters, and things mentioned and described in the schedule (marked B) hereunto annexed; or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them shall be written or printed, by any person or persons, or party who shall make, sign, or issue the same, or for whose use or benefit the same shall be made, signed, or issued, the several duties or sums of money set down in figures against the same, respectively, or otherwise specified or set forth in the said schedule.

Sec. 152. *And be it further enacted,* That it shall not be lawful to record any instrument, document, or paper required by law to be stamped, unless a stamp or stamps of the proper amount shall have been affixed; and the record of any such instrument, upon which the proper stamp or stamps aforesaid shall not have been affixed, shall be utterly void, and shall not be used in evidence.

38TH CONG... 1ST SESS.

Laws of the United States.

SEC. 153. *And be it further enacted*, That no instrument, document, writing, or paper of any description, required by law to be stamped, shall be deemed or held invalid and of no effect for the want of the particular kind or description of stamp designated for and denoting the duty charged on any such instrument, document, writing, or paper provided a legal stamp, or stamps, denoting a duty of equal amount, shall have been duly affixed and used thereon: *Provided*, That the provisions of this section shall not apply to any stamp appropriated to denote the duty charged on proprietary articles; or articles enumerated in schedule C.

SEC. 154. *And be it further enacted*, That all official instruments, documents, and papers, issued or used by the officers of the United States Government, shall be; and hereby are, exempt from duty.

SEC. 155. *And be it further enacted*, That if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp or die, or any part of any stamp or die, which shall have been provided, made, or used in pursuance of this act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression, of any such stamp or die, as aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper, with any such forged or counterfeited stamp or die, or part of any stamp or die, as aforesaid, with intent to defraud the United States of any of the duties hereby imposed, or any part thereof; or if any person shall utter or sell, or expose to sale, any vellum, parchment, or paper, article, or thing, having thereupon the impression of any such counterfeited stamp or die, or any part of any stamp or die, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same respectively to be forged, counterfeited, or resembled; or if any person shall knowingly use any stamp or die which shall have been so provided, made, or used as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear, or remove, or cause or procure to be cut, torn, or removed, the impression of any stamp or die which shall have been provided, made, or used in pursuance of this act, from any vellum, parchment, or paper, or any instrument of writing charged or chargeable with any of the duties hereby imposed; or if any person shall willfully remove, or cause to be removed, from any stamped envelope the canceling or defacing marks thereon, with the intent to use the same, or cause the use of the same, the second time, or shall knowingly or willfully sell or buy such washed or restored stamps, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same, or prepare the same with intent for the second use thereof, then, and in every such case, every person so offending, and every person knowingly and willfully aiding, abetting, or assisting in committing any such offense as aforesaid, shall be deemed guilty of felony, and shall, on conviction thereof, forfeit the said counterfeit stamps and the articles upon which they are placed, and be punished by fine not exceeding one thousand dollars, or by imprisonment and confinement to hard labor, not exceeding five years, or both, at the discretion of the court.

SEC. 156. *And be it further enacted*, That in any and all cases where an adhesive stamp shall be used for denoting any duty imposed by this act, except as hereinafter provided, the person using or affixing the same shall write thereupon the initials of his name and the date upon which the same shall be attached or used, so that the same may not again be used. And if any person shall fraudulently make use of an adhesive stamp to denote any duty imposed by this act without so effectually canceling and obliterating such stamp, except as before mentioned, he, she, or they shall forfeit the sum of fifty dollars: *Provided*, That any proprietor or proprietors of proprietary articles, or articles subject to stamp duty under schedule C of this act, shall have the privilege of furnishing, without expense to the United States, in suitable form, to be approved by the Commissioner of Internal Revenue, his or their own dies

or designs for stamps to be used thereon, to be made under the direction, and to be retained in the possession of, the Commissioner of Internal Revenue for his or their separate use, which shall not be duplicated to any other person. That in all cases where such stamp is used, instead of his or their writing the date thereon, the said stamp shall be so affixed on the box, bottle, or package, that in opening the same, or using the contents thereof, the said stamp shall be effectually destroyed; and in default thereof, shall be liable to the same penalty imposed for neglect to affix said stamp as hereinbefore prescribed in this act. Any person who shall fraudulently obtain or use any of the aforesaid stamps, or designs therefor, and any person forging, or counterfeiting, or causing or procuring the forging or counterfeiting any representation, likeness, similitude, or colorable imitation of the said last-mentioned stamp, or any engraver or printer who shall sell or give away said stamps, or selling the same, or, being a merchant, broker, peddler, or person dealing, in whole or in part, in similar goods, wares, merchandise, manufactures, preparations, or articles, or those designed for similar objects or purposes, shall have knowingly or fraudulently in his, her, or their possession, any such forged, counterfeited likeness, similitude, or colorable imitation of the said last-mentioned stamp, shall be deemed guilty of a felony, and, upon conviction thereof, shall be subject to all the penalties, fines, and forfeitures prescribed in the preceding section of this act.

SEC. 157. *And be it further enacted*, That the Commissioner of Internal Revenue be, and he is hereby, authorized to prescribe such method for the cancellation of stamps, as substitute for, or in addition to, the method now prescribed by law, as he may deem expedient and effectual. And he is further authorized in his discretion to make the application of such method imperative upon the manufacturers of proprietary articles, or articles included in schedule C, and upon stamps of a nominal value exceeding twenty-five cents each.

SEC. 158. *And be it further enacted*, That any person or persons who shall make, sign, or issue, or who shall cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, or shall accept or pay, or cause to be accepted or paid, any bill of exchange, draft, or order or promissory note, for the payment of money, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the duty chargeable thereon, with intent to evade the provisions of this act, shall, for every such offense, forfeit the sum of two hundred dollars, and such instrument, document, or paper, bill, draft, order, or note shall be deemed invalid and of no effect: *Provided*, That the title of a purchaser of land by a deed duly stamped, shall not be defeated or affected [affected] by the want of a proper stamp on any deed conveying said land by any person from, through, or under whom his grantor claims or holds title.

SEC. 159. *And be it further enacted*, That the acceptor or acceptors of any bill of exchange or order for the payment of any sum of money drawn, or purporting to be drawn, in any foreign country, but payable in the United States, shall, before paying or accepting the same, place thereupon a stamp, indicating the duty upon the same, as the law requires for inland bills of exchange, or promissory notes, and no bill of exchange shall be paid or negotiated without such stamp; and if any person shall pay or negotiate, or offer in payment, or receive or take in payment, any such draft or order, the person or persons so offending shall forfeit the sum of two hundred dollars.

SEC. 160. *And be it further enacted*, That no stamp duty shall be required on powers of attorney or any other paper relating to applications for bounties, arrearages of pay, or pensions, or to the receipt thereof from time to time, or upon tickets or contracts of insurance when limited to injury to persons while traveling; nor on certificates or [of] the measurement or weight of animals, wood, coal, or other articles; nor on deposit notes to mutual insurance companies for insurance upon which policies subject to stamp duties have been, or are to be, issued; nor on any cer-

tificate of the record of a deed or other instrument in writing, or of the acknowledgment or proof thereof by attesting witnesses; nor to any indorsement of a negotiable instrument, or on any warrant of attorney, accompanying a bond or note, when such bond or note shall have affixed thereto the stamp or stamps denoting the duty required; and whenever any bond or note shall be secured by a mortgage, but one stamp shall be required to be placed on such papers: *Provided*, That the stamp duty placed thereon shall be the highest rate required for said instruments, or either of them.

SEC. 161. *And be it further enacted*, That the Commissioner of Internal Revenue be, and is hereby, authorized to sell to and supply collectors, deputy collectors, postmasters, stationers, or any other persons, at his discretion, with adhesive stamps, or stamped paper, vellum, or parchment, as herein provided for, in amounts of not less than fifty dollars, upon the payment, at the time of delivery, of the amount of duties said stamps, stamped paper, vellum, or parchment, so sold or supplied, represent, and may allow, upon the aggregate amount of such stamps, as aforesaid, the sum of not exceeding five per centum as commission to the collectors, postmasters, stationers, or other purchasers; but the cost of any paper, vellum, or parchment shall be paid by the purchaser of such stamped paper, vellum, or parchment, as aforesaid: *Provided*, That any proprietor or proprietors of articles named in schedule C, who shall furnish his or their own die or design for stamps, to be used especially for his or their own proprietary articles, shall be allowed the following commission, namely: On amounts purchased at one time, of not less than fifty nor more than five hundred dollars, five per centum; on amounts over five hundred dollars, ten per centum. The Commissioner of Internal Revenue may, from time to time, make regulations, upon proper evidence of the facts, for the allowance of such of the stamps issued under the provisions of this act as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been paid in error, or remitted; and such allowance shall be made either by giving other stamps in lieu of the stamps so allowed for, or by repaying the amount or value, after deducting therefrom, in case of repayment, the sum of five per centum to the owner thereof; but no allowance shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner of Internal Revenue, or until satisfactory proof has been made showing the reason why said stamps cannot be so returned: *Provided*, That the Commissioner of Internal Revenue may, from time to time, furnish, supply, and deliver to any manufacturer of friction or other matches, cigar lights, or wax tapers, a suitable quantity of adhesive or other stamps, such as may be prescribed for use in such cases, without prepayment therefor, on a credit not exceeding sixty days, requiring, in advance, such security as he may judge necessary to secure payment therefor to the Treasurer of the United States, within the time prescribed for such payment. And upon all bonds or other securities taken by said Commissioner, under the provisions of this act, suits may be maintained by said Treasurer in the circuit or district court of the United States, in the several districts where any of the persons giving said bonds or other securities reside, or may be found, in any appropriate form of action.

SEC. 162. *And be it further enacted*, That it shall be lawful for any person to present to the collector of the district, subject to the rules and regulations of the Commissioner of Internal Revenue, any instrument not previously issued or used, and require his opinion whether or not the same is chargeable with any stamp duty; and if the said collector shall be of opinion that such instrument is chargeable with any stamp duty, he shall, upon the payment therefor, affix and cancel the proper stamp; and if of the opinion that such instrument is not chargeable with any stamp duty, or is chargeable only with the duty by him designated, he is hereby required to impress thereon

Laws of the United States.

38TH CONG....1ST SESS.

a particular stamp, to be provided for that purpose, with such words or device thereon as he shall judge proper, which shall denote that such instrument is not chargeable with any stamp duty, or is chargeable only with the duty denoted by the stamp affixed; and every such instrument, upon which the said stamp shall be impressed, shall be deemed to be not chargeable, or to be chargeable only with the duty denoted by the stamp so affixed, and shall be received in evidence in all courts of law or equity, notwithstanding any objections made to the same by reason of it being unstamped, or of it being insufficiently stamped.

SEC. 163. *And be it further enacted*, That no deed, instrument, document, writing, or paper, required by law to be stamped, which has been heretofore signed or issued without being duly stamped, or with a deficient stamp, nor any copy thereof, shall be recorded, or admitted, or used as evidence in any court until a legal stamp or stamps, denoting the amount of duty, shall have been affixed thereto, and the date when the same is so used or affixed, with his initials, shall have been placed thereon by the person using or affixing the same; and the person desiring to use or record any such deed, instrument, document, writing, or paper as evidence; his agent or attorney, is authorized in the presence of the court, register, or recorder, respectively, to affix the stamp or stamps thereon required: *Provided*, That no instrument, document, or paper made, signed, or issued, prior to the passage of this act, without being duly stamped, or having thereon an adhesive stamp or stamps, to denote the duty imposed thereon, shall, for that cause, if the stamp or stamps required shall be subsequently affixed, be deemed invalid and of no effect: *Provided further*, That any power of attorney, conveyance, or document of any kind, made, or purporting to be made, in any foreign country to be used in the United States, shall pay the same duty as is required by law on similar instruments or documents when made or issued in the United States; and the party to whom the same is issued, or by whom it is to be used, shall, before using the same, affix thereon the stamp or stamps indicating the duty required.

SEC. 164. *And be it further enacted*, That all the provisions of this act relating to dies, stamps, adhesive stamps, and stamp duties shall extend to and include (except where manifestly impracticable) all the articles or objects enumerated in schedule marked C, subject to stamp duties, and apply to the provisions in relation thereto.

SEC. 165. *And be it further enacted*, That if any person, firm, company, or corporation shall make, prepare, and sell, or remove for consumption or sale, drugs, medicines, preparations, compositions, articles, or things, including perfumery, cosmetics, lucifer or friction matches, cigar lights, or wax tapers, photographs, ambrotypes, daguerreotypes, or other sun pictures of any description, and playing-cards, upon which a duty is imposed by law, as enumerated and mentioned in schedule C, without affixing thereto an adhesive stamp or label denoting the duty before mentioned, he or they shall incur a penalty of ten dollars for every omission to affix such stamp: *Provided*, That nothing in this act contained shall apply to any uncompound medicinal drug or chemical, nor to any medicine compounded according to the United States or other national pharmacopœia, nor of which the full and proper formula is published in either of the dispensatories, formularies, or text-books in common use among physicians and apothecaries, including homœopathic and eclectic, or in any pharmaceutical journal now used by any incorporated college of pharmacy, and not sold or offered for sale, or advertised under any other name, form, or guise, than that under which they may be severally denominated and laid down in said pharmacopœias, dispensatories, text-books, or journals, as aforesaid, nor to medicines sold to, or for the use of, any person, which may be mixed and compounded specially for said persons, according to the written recipe or prescription of any physician or surgeon.

SEC. 166. *And be it further enacted*, That every manufacturer or maker of any of the articles for

sale mentioned in schedule C, after the same shall have been so made, and the particulars hereinbefore required as to stamps have been complied with, who shall take off, remove, or detach, or cause, or permit, or suffer to be taken off, or removed, or detached, any stamp, or who shall use any stamp, or any wrapper or cover to which any stamp is affixed, to cover any other article or commodity than that originally contained in such wrapper or cover, with such stamp when first used, with the intent to evade the stamp duties, shall for every such article, respectively, in respect of which any such offense shall be committed, be subject to a penalty of fifty dollars, to be recovered together with the costs thereupon accruing; and every such article or commodity as aforesaid shall also be forfeited.

SEC. 167. *And be it further enacted*, That on and after the passage of this act every maker or manufacturer of any of the articles or commodities mentioned in schedule C, as aforesaid, who shall sell, send out, remove, or deliver any article or commodity, manufactured as aforesaid, before the duty thereon shall have been fully paid, by affixing thereon the proper stamp, as provided by law, or who shall hide or conceal, or cause to be hidden or concealed, or who shall remove or convey away, or deposit, or cause to be removed or conveyed away from or deposited in any place, any such article or commodity, to evade the duty chargeable thereon, or any part thereof, shall be subject to a penalty of one hundred dollars, together with the forfeiture of any such article or commodity.

SEC. 168. *And be it further enacted*, That all medicines, preparations, compositions, perfumery, cosmetics, lucifer or friction matches, and cigar lights, or wax tapers, cordials, and other liquors manufactured wholly or in part of domestic spirits, intended for exportation, as provided for by law, in order to be manufactured and sold or removed, without being charged with duty, and without having a stamp affixed thereto, shall, under such rules and regulations as the Secretary of the Treasury may prescribe, be made and manufactured in warehouses similarly constructed to those known and designated in Treasury regulations as bonded warehouses, class two: *Provided*, That such manufacturer shall first give satisfactory bonds to the collector of internal revenue for the faithful observance of all the provisions of law and the rules and regulations as aforesaid, in amount not less than half of that required by the regulations of the Secretary of the Treasury from persons allowed bonded warehouses. Such goods, when manufactured in such warehouses, may be removed for exportation, under the direction of the proper officer having charge thereof, who shall be designated by the Secretary of the Treasury, without being charged with duty, and without having a stamp affixed thereto. Any manufacturer of the articles aforesaid, or of any of them, having such bonded warehouse, as aforesaid, shall be at liberty, under such rules and regulations as the Secretary of the Treasury may prescribe, to convey therein any materials to be used in such manufacture which are allowed by the provisions of law to be exported free from tax or duty, as well as the necessary materials, implements, packages, vessels, brands, and labels for the preparation, putting up, and export of the said manufactured articles; and every article so used shall be exempt from the payment of stamp and excise duty by such manufacturer. Articles and materials so to be used may be transferred from any bonded warehouse in which the same may be, under such regulations as the Secretary of the Treasury may prescribe, into any bonded warehouse in which such manufacture may be conducted, and may be used in such manufacture, and, when so used, shall be exempt from stamp and excise duty; and the receipt of the officer in charge, as aforesaid, shall be received as a voucher for the manufacture of such articles. Any materials imported into the United States may, under such rules as the Secretary of the Treasury may prescribe, and under the direction of the proper officer, be removed in original packages from on shipboard, or from the bonded warehouse in which the same may be, into the bonded warehouse in which such manufacture may be

carried on, for the purpose of being used in such manufacture, without payment of duties thereon, and may there be used in such manufacture. No article so removed, nor any article manufactured in said bonded warehouse, shall be taken therefrom, except for exportation, under the direction of the proper officer having charge thereof, as aforesaid, whose certificate, describing the articles by their marks, or otherwise, the quantity, the date of importation, the name of vessel, with such additional particulars as may from time to time be required, shall be received by the collector of customs in cancellation of the bonds, or return of the amount of foreign-import duties. All labor performed and services rendered under these regulations shall be under the supervision of an officer of the customs, and at the expense of the manufacturer.

SEC. 169. *And be it further enacted*, That any person who shall offer for sale any of the articles named in schedule C, whether the articles so offered are imported, or are of foreign or domestic manufacture, shall be deemed the manufacturer thereof, and subject to all the duties, liabilities, and penalties imposed by law in regard to the sale of domestic articles without the use of the proper stamp or stamps denoting the duty paid thereon: *Provided*, That when any such imported articles shall be sold in the original and unbroken package in which the bottles or other inclosures are packed by the manufacturer, the person so selling said articles shall not be subject to any penalty on account of the want of the proper stamp.

SEC. 170. *And be it further enacted*, That in any collection district where, in the judgment of the Commissioner of Internal Revenue, the facilities for the procurement and distribution of stamped vellum, parchment or paper, and adhesive stamps, are or shall be insufficient, the Commissioner, as aforesaid, is authorized to furnish, supply, and deliver to the collector and to the assessor of any such district, and to any assistant treasurer of the United States, or designated depository thereof, or any postmaster, a suitable quantity or amount of stamped vellum, parchment or paper, and adhesive stamps, without prepayment therefor, and shall allow the highest rate of commissions allowed by law to any other parties purchasing the same, and may in advance require of any such collector, assessor, assistant treasurer of the United States, or postmaster, a bond, with sufficient sureties, to an amount equal to the value of any stamped vellum, parchment, or paper, and adhesive stamps which may be placed in his hands and remain unaccounted for, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment, monthly, of all quantities or amounts, sold or not, remaining on hand. And it shall be the duty of such collector to supply his deputies with, or sell to other parties within his district who may make application therefor, stamped vellum, parchment, or paper, and adhesive stamps, upon the same terms allowed by law, or under the regulations of the Commissioner of Internal Revenue, who is hereby authorized to make such other regulations, not inconsistent herewith, for the security of the United States and the better accommodation of the public, in relation to the matters hereinbefore mentioned, as he may judge necessary and expedient. And the Secretary of the Treasury may, from time to time, make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all such stamped vellum, parchment, paper, and adhesive stamps.

SCHEDULE B. Stamp Duties.

	Duty.
Agreement of contract, other than those specified in this schedule; any appraisal of value or damage, or for any other purpose; for every sheet or piece of paper upon which either of the same shall be written, five cents.....	\$0 05
<i>Provided</i> , That if more than one appraisal, agreement, or contract shall be written upon one sheet or piece of paper, five cents for each and every additional appraisal, agreement, or contract.	

38TH CONG....1ST SESS.

Laws of the United States.

	Duty.		Duty.		Duty.
Bank check, draft, or order for the payment of any sum of money whatsoever, drawn upon any bank, banker, or trust company, or for any sum exceeding ten dollars drawn upon any other person or persons, companies, or corporations, at sight or on demand, two cents.....	\$0 02	Certificate of deposit of any sum of money in any bank or trust company, or with any banker or person acting as such: If for a sum not exceeding one hundred dollars, two cents.....	02	Insurance, (marine, inland, and fire:) Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description, whether against perils by the sea or by fire, or other peril of any kind, made by any insurance company, or its agents, or by any other company or person, the premium upon which does not exceed ten dollars, ten cents.....	\$0 10
Bill of exchange, (inland,) draft, or order for the payment of any sum of money, not exceeding one hundred dollars, otherwise than at sight or on demand, or any promissory note, (except bank notes issued for circulation, and checks made and intended to be forthwith presented, and which shall be presented to a bank or banker for payment,) or any memorandum, check, receipt, or other written or printed evidence of an amount of money to be paid on demand, or at a time designated, for a sum not exceeding one hundred dollars, five cents.....	05	Certificate of any other description than those specified, five cents.....	05	Exceeding ten and not exceeding fifty dollars, twenty-five cents.....	25
And for every additional hundred dollars, or fractional part thereof in excess of one hundred dollars, five cents.....	05	Charter-party: Contract or agreement for the charter of any ship or vessel, or steamer, or any letter, memorandum, or other writing between the captain, master, or owner, or person acting as agent of any ship or vessel, or steamer, and any other person or persons for, or relating, to the charter of such ship or vessel, or steamer, or any renewal or transfer thereof, if the registered tonnage of such ship or vessel, or steamer, does not exceed one hundred and fifty tons, one dollar.....	1 00	Exceeding fifty dollars, fifty cents.....	50
Bill of exchange, (foreign,) or letter of credit, drawn in but payable out of the United States, if drawn singly, or otherwise than in a set of three or more, according to the custom of merchants and bankers, shall pay the same rates of duty as inland bills of exchange or promissory notes.		Exceeding one hundred and fifty tons, and not exceeding three hundred tons, three dollars.....	3 00	Lease, agreement, memorandum, or contract for the hire, use, or rent of any land, tenement, or portion thereof, where the rent or rental value is three hundred dollars per annum or less, fifty cents.....	50
If drawn in sets of three or more: For every bill of each set, where the sum made payable shall not exceed one hundred dollars, or the equivalent thereof, in any foreign currency in which such bills may be expressed, according to the standard of value fixed by the United States, two cents.....	02	Exceeding three hundred tons, and not exceeding six hundred tons, five dollars.....	5 00	Where the rent or rental value exceeds the sum of three hundred dollars per annum, for each additional two hundred dollars, or fractional part thereof in excess of three hundred dollars, fifty cents.....	50
And for every additional hundred dollars or fractional part thereof in excess of one hundred dollars, two cents.....	02	Exceeding six hundred tons, ten dollars..	10 00	Manifest for custom-house entry or clearance of the cargo of any ship, vessel, or steamer for a foreign port:	
Bill of lading or receipt, (other than charter-party,) for any goods, merchandise, or effects, to be exported from a port or place in the United States to any foreign port or place, ten cents.....	10	Contract: Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, for each note or memorandum of sale, ten cents.....	10	If the registered tonnage of such ship, vessel, or steamer does not exceed three hundred tons, one dollar.....	1 00
Bill of sale by which any ship or vessel, or any part thereof, shall be conveyed to or vested in any other person or persons, when the consideration shall not exceed five hundred dollars, fifty cents.....	50	Conveyance: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons by his, her, or their direction, when the consideration or value does not exceed five hundred dollars, fifty cents.....	50	Exceeding three hundred tons, and not exceeding six hundred tons, three dollars..	3 00
Exceeding five hundred dollars and not exceeding one thousand dollars, one dollar.....	1 00	When the consideration exceeds five hundred dollars, and does not exceed one thousand dollars, one dollar.....	1 00	Exceeding six hundred tons, five dollars..	5 00
Exceeding one thousand dollars for every additional amount of five hundred dollars, or fractional part thereof, fifty cents, 50		And for every additional five hundred dollars, or fractional part thereof, in excess of one thousand dollars, fifty cents.....	50	Measurers' returns, if for a quantity not exceeding one thousand bushels, ten cents.....	10
Bond for indemnifying any person for the payment of any sum of money, where the money ultimately recoverable thereupon is one thousand dollars or less, fifty cents.....	50	Entry of any goods, wares, or merchandise at any custom-house, either for consumption or warehousing, not exceeding one hundred dollars in value, twenty-five cents.....	25	Exceeding one thousand bushels, twenty-five cents.....	25
Where the money ultimately recoverable thereupon exceeds one thousand dollars, for every additional one thousand dollars or fractional part thereof in excess of one thousand dollars, fifty cents.....	50	Exceeding one hundred dollars, and not exceeding five hundred dollars in value, fifty cents.....	50	Mortgage of lands, estate, or property, real or personal, heritable or movable, whatsoever, where the same shall be made as security for the payment of any definite and certain sum of money lent at the time or previously due and owing or forborne to be paid, being payable; also any conveyance of any lands, estate, or property whatsoever, in trust, to be sold or otherwise converted into money, which shall be intended only as security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise; or any personal bond given as security for the payment of any definite or certain sum of money exceeding one hundred dollars, and not exceeding five hundred dollars, fifty cents.....	50
Bond for the due execution or performance of the duties of any office, one dollar...	1 00	Exceeding five hundred dollars in value, one dollar.....	1 00	Exceeding five hundred dollars, and not exceeding one thousand dollars, one dollar.....	1 00
Bond of any description, other than such as may be required in legal proceedings, or used in connection with mortgage deeds, and not otherwise charged in this schedule, twenty-five cents.....	25	Entry for the withdrawal of any goods or merchandise from bonded warehouse, fifty cents.....	50	And for every additional five hundred dollars, or fractional part thereof, in excess of one thousand dollars, fifty cents.....	50
Certificate of stock in any incorporated company, twenty-five cents.....	25	Gaugers' returns, if for a quantity not exceeding five hundred gallons gross, ten cents.....	10	Provided, That upon each and every assignment or transfer of a mortgage, lease, or policy of insurance, or the renewal or continuance of any agreement, contract, or charter, by letter or otherwise, a stamp duty shall be required and paid equal to that imposed on the original instrument.	
Certificate of profits, or any certificate or memorandum showing an interest in the property or accumulations of any incorporated company, if for a sum not less than ten dollars and not exceeding fifty dollars, ten cents.....	10	Exceeding five hundred gallons gross, twenty-five cents.....	25	Passage ticket, by any vessel from a port in the United States to a foreign port, not exceeding thirty-five dollars, fifty cents.....	50
Exceeding fifty dollars and not exceeding one thousand dollars, twenty-five cents.....	25	Insurance, (life:) Policy of insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives:		Exceeding thirty-five dollars and not exceeding fifty dollars, one dollar.....	1 00
Exceeding one thousand dollars, for every additional one thousand dollars, or fractional part thereof, twenty-five cents...	25	When the amount insured shall not exceed one thousand dollars, twenty-five cents..	25	And for every additional fifty dollars, or fractional part thereof, in excess of fifty dollars, one dollar.....	1 00
		Exceeding one thousand dollars and not exceeding five thousand dollars, fifty cents.....	50	Power of attorney for the sale or transfer of any stock, bonds, or scrip, or for the collection of any dividends or interest thereon, twenty-five cents.....	25
		Exceeding five thousand dollars, one dollar.....	1 00	Power of attorney or proxy for voting at any election for officers of any incorporated company or society, except religious, charitable, or literary societies, or public cemeteries, ten cents.....	10
				Power of attorney to receive or collect rent, twenty-five cents.....	25

Laws of the United States.

38TH CONG... 1ST SESS.

	Duty.		Duty.		Duty.
Power of attorney to sell and convey real estate, or to rent or lease the same, one dollar.....	\$1 00	SCHEDULE C.		Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above the one dollar, as before mentioned, an additional two cents.....	\$0 02
Power of attorney for any other purpose, fifty cents.....	50	Medicines or Preparations:		Friction matches, or lucifer matches, or other articles made in part of wood, and used for like purposes, in parcels or packages containing one hundred matches or less, for each parcel or package, one cent.....	01
Probate of will, or letters of administration: Where the estate and effects for or in respect of which such probate or letters of administration applied for shall be sworn or declared not to exceed the value of two thousand dollars, one dollar.....	1 00	For and upon every packet, box, bottle, pot, vial, or other inclosure, containing any pills, powders, tinctures, troches, lozenges, sirups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils, or other medicinal preparations or compositions whatsoever, made and sold, or removed for consumption and sale, by any person or persons whatever, wherein the person making or preparing the same has, or claims to have, any private formula or occult secret or art for the making or preparing the same, or has, or claims to have, any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or exposed for sale under any letters-patent, or held out or recommended to the public by the makers, venders, or proprietors thereof as proprietary medicines, or as remedies or specifics for any disease, diseases, or affections whatever affecting the human or animal body, as follows: where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall not exceed, at retail price, or value, the sum of twenty-five cents, one cent.....	\$0 01	When in parcels or packages containing more than one hundred and not more than two hundred matches, for each parcel or package, two cents.....	02
Exceeding two thousand dollars, for every additional thousand dollars, or fractional part thereof, in excess of two thousand dollars, fifty cents.....	50	Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and not exceed the retail price or value of fifty cents, two cents.....	02	And for every additional one hundred matches or fractional part thereof, one cent.....	01
Protest:		Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents,.....	03	For all cigar lights and wax tapers, double the rates herein imposed upon friction or lucifer matches: <i>Provided</i> , That the stamp duties herein provided for on friction or lucifer matches made in part of wood, or cigar lights or wax tapers, shall not be imposed until the first day of September, eighteen hundred and sixty-four; but until that time the tax shall be assessed and collected as heretofore, and on and after said first day of September, every package or parcel sold by any person, firm, company, or corporation, shall be stamped as herein required.	
Upon the protest of every note, bill of exchange, acceptance, check or draft, or any marine protest, whether protested by a notary public or by any other officer who may be authorized by the law of any State or States to make such protest, twenty-five cents.....	25	Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents.....	04	Photographs, ambrotypes, daguerreotypes, or any sun pictures, except as hereinbefore provided, upon each and every picture of which the retail price shall not exceed twenty-five cents, two cents.....	02
Receipts for the payment of any sum of money, or for the payment of any debt due, exceeding twenty dollars, not being for the satisfaction of any mortgage or judgment or decree of any court, and a receipt for the delivery of any property, two cents.....	02	Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above the one dollar, as before mentioned, an additional two cents.....	02	Exceeding the retail price of twenty-five cents, and not exceeding the sum of fifty cents, three cents.....	03
Warehouse receipt for property, goods, wares, or merchandise, not otherwise provided for, in any public or private warehouse, when the property or goods so deposited or stored shall not exceed in value five hundred dollars, ten cents..	10			Exceeding the retail price of fifty cents, and not exceeding one dollar, five cents,.....	05
Exceeding in value five hundred dollars and not exceeding one thousand dollars, twenty cents.....	20			Exceeding the retail price of one dollar, for every additional dollar or fractional part thereof, five cents.....	05
Exceeding in value one thousand dollars, for every additional one thousand dollars, ten cents.....	10			Playing-Cards:	
Warehouse receipt for any goods, merchandise, or property of any kind, not otherwise provided for, held on storage in any public or private warehouse or yard, twenty-five cents.....	25			For and upon every pack of whatever number, when the retail price per pack does not exceed eighteen cents, two cents,.....	02
Weighers' returns, if for a weight not exceeding five thousand pounds, ten cents,.....	10			Exceeding the retail price of eighteen cents, and not exceeding twenty-five cents per pack, four cents.....	04
Exceeding five thousand pounds, twenty-five cents.....	25			Exceeding the retail price of twenty-five cents, and not exceeding fifty cents per pack, ten cents.....	10
Legal Documents:				Exceeding the retail price of fifty cents, and not exceeding one dollar per pack, fifteen cents.....	15
Writ or other original process by which any suit is commenced in any court of record, either of law or equity, fifty cents,.....	50	Perfumery, Cosmetics, Photographs, Matches, and Cards:		Exceeding the retail price of one dollar, for every additional fifty cents, or fractional part thereof, in excess of one dollar, five cents.....	05
Where the amount claimed in a writ, issued by a court not of record, is one hundred dollars or over, fifty cents.....	50	For and upon every packet, box, bottle, pot, vial, or other inclosure, containing any essence, extract, toilet water, cosmetic, hair oil, pomade, hair dressing, hair restorative, hair dye, tooth wash, dentifrice, tooth paste, aromatic cachous, or any similar articles, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known, or distinguished, used or applied, or to be used or applied as perfumes or applications to the hair, mouth, or skin, made, prepared, and sold or removed for consumption and sale in the United States, where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall not exceed, at the retail price or value, the sum of twenty-five cents, one cent.....	01		
Upon every confession of judgment, or cognovit, for one hundred dollars or over, (except in those cases where the tax for the writ of a commencement of suit has been paid) fifty cents.....	50	Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and shall not exceed the retail price or value of fifty cents, two cents,.....	02		
Writs or other process on appeals from justices' courts or other courts of inferior jurisdiction to a court of record, fifty cents,.....	50	Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents,.....	03		
Warrant of distress, when the amount of rent claimed does not exceed one hundred dollars, twenty-five cents.....	25	Where such packet, box, bottle, pot, vial, or other inclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents.....	04		
When the amount claimed exceeds one hundred dollars, fifty cents.....	50				
<i>Provided</i> , That no writ, summons, or other process issued by, and returnable to, a justice of the peace, except as hereinbefore provided, or by any police or municipal court having no larger jurisdiction as to the amount of damages it may render than a justice of the peace [peace] in the same State, or issued in any criminal or other suits commenced by the United States, or any State, shall be subject to the payment of stamp duties: <i>And provided further</i> , That the stamp duties imposed by the foregoing schedule B on manifests, bills of lading, and passage tickets, shall not apply to steamboats or other vessels plying between ports of the United States and ports in British North America.					
Affidavits in suits or legal proceedings shall be exempt from stamp duty.					

ALLOWANCE AND DRAWBACK.

SEC. 171. *And be it further enacted*, That from and after the date on which this act takes effect there shall be an allowance or drawback on all articles on which any internal duty or tax shall have been paid, except raw or unmanufactured cotton, refined coal-oil, naphtha, benzine or benzole, distilled spirits, manufactured tobacco, snuff and cigars of all descriptions, equal in amount to the duty or tax paid thereon, and no more, when exported, the evidence that any such duty or tax has been paid to be furnished to the satisfaction of the Commissioner of Internal Revenue by such person or persons as shall claim the allowance or drawback, and the amount to be ascertained under such regulations as shall, from time to time, be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, and the same shall be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal duties not otherwise appropriated: *Provided*, That no allowance or drawback shall be made or had for any amount claimed or due less than ten dollars, anything in

38TH CONG....1ST SESS.

Laws of the United States.

this act to the contrary notwithstanding: *And provided further*, That any certificate of drawback for goods exported, issued in pursuance of the provisions of law, may, under such regulations as may be prescribed by the Secretary of the Treasury, be received by the collector or his deputy in payment of duties under this act. And the Secretary of the Treasury may make such regulations with regard to the form of said certificates and the issuing thereof as, in his judgment, may be necessary: *And provided further*, That in computing the allowance or drawback upon articles manufactured exclusively of cotton, when exported, there shall be allowed, in addition to the five per centum duty which shall have been paid on such articles, a drawback of two cents per pound upon such articles, in all cases where the duty imposed by law upon the cotton used in the manufacture thereof has been previously paid; the amount of said allowance to be ascertained in such manner as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury.

SEC. 172. *And be it further enacted*, That if any person or persons shall fraudulently claim or seek to obtain an allowance or drawback on goods, wares, or merchandise, on which no internal duty shall have been paid, or shall fraudulently claim any greater allowance or drawback than the duty actually paid, as aforesaid, such person or persons shall forfeit triple the amount wrongfully or fraudulently claimed, or sought to be obtained, or the sum of five hundred dollars, at the election of the Secretary of the Treasury, to be recovered as in other cases of forfeiture provided for in the general provisions of this act.

SEC. 173. *And be it further enacted*, That the following acts of Congress are hereby repealed, to wit: The act of July first eighteen hundred and sixty-two, entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," except the one hundred and fifteenth and one hundred and nineteenth sections thereof; and excepting, further, all provisions of said act which create the offices of Commissioner of Internal Revenue, assessor, assistant assessor, collector, deputy collector, and inspector, and provide for the appointment and qualification of said officers. Also, the act of July sixteenth, eighteen hundred and sixty-two, entitled "An act to impose an additional duty on sugars produced in the United States." Also, the act of December twenty-fifth, eighteen hundred and sixty-two, entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government and to pay interest on the public debt,' approved July first, eighteen hundred and sixty-two." Also, the act of March third, eighteen hundred and sixty-three, entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government and to pay interest on the public debt,' approved July first, eighteen hundred and sixty-two, and for other purposes," excepting the provisions of said act which create the offices of deputy commissioner and cashier of internal duties and revenue agents, and provide for the appointment and qualification of said officers. Also, the twenty-fourth and twenty-fifth sections of the act of July fourteenth, eighteen hundred and sixty-two, entitled "An act increasing temporarily the duties on imports, and for other purposes." Also, the second section of the act of March third, eighteen hundred and sixty-three, entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," so far as the same applies to officers of internal revenue. And, also, the act of March seventh, eighteen hundred and sixty-four, entitled "An act to increase the internal revenue, and for other purposes," together with all acts and parts of acts inconsistent herewith: *Provided*, That all the provisions of said acts shall be in force for levying and collecting all taxes, duties, and licenses, properly assessed or liable to be assessed, or accruing under the provisions of former acts, or drawbacks, the right to which has already accrued, or which may hereafter accrue, under said acts, and for maintaining and continuing liens, fines, penalties, and forfeitures incurred under and by virtue

thereof. And for carrying out and completing all proceedings which have been already commenced, or that may be commenced, to enforce such fines, penalties, and forfeitures, or criminal proceedings under said acts, and for the punishment of crimes of which any party shall be or has been found guilty: *And provided further*, That no office created by the said acts, and continued by this act, shall be vacated by reason of any provisions herein contained, but the officers heretofore appointed shall continue to hold the said offices without reappointment: *And provided further*, That whenever the duty imposed by any existing law shall cease in consequence of any limitation therein contained before the respective provisions of this act shall take effect, the same duty shall be, and is hereby, continued until such provisions of this act shall take effect; and when any act is hereby repealed, no duty imposed thereby shall be held to cease, in consequence of such repeal, until the respective corresponding provisions of this act shall take effect: *And provided further*, That all manufactures and productions on which a duty was imposed by either of the acts repealed by this act, which shall be in possession of the manufacturer or producer, or of his agent or agents, on the day when this act takes effect, the duty imposed by any such former act not having been paid, shall be held and deemed to have been manufactured or produced after said date; and whenever by the terms of this act a duty is imposed upon any articles, goods, wares, or merchandise manufactured or produced, upon which no duty was imposed by either of said former acts, it shall apply to such as were manufactured or produced, and not removed from the place of manufacture or production, on the day when this act takes effect: *And provided further*, That no direct tax whatsoever shall be assessed or collected under this or any other act of Congress heretofore passed, until Congress shall enact another law requiring such assessment and collection to be made; but this shall not be construed to repeal or postpone the assessment or collection of the first direct tax levied, or which should be levied, under the act entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one, nor in any way to affect the legality of said tax or any process or remedy provided in said acts, or any other acts, for the enforcement or collection of the same in any State or States and Territories and the District of Columbia; but said first tax, and any such process or remedy, shall continue in all respects in force, anything in this act to the contrary notwithstanding.

SEC. 174. *And be it further enacted*, That the said Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, is authorized to make all such regulations, not otherwise provided for, as may become necessary by reason of the alteration of the laws in relation to internal revenue, by virtue of this act.

SEC. 175. *And be it further enacted*, That the one hundred and nineteenth section of an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," approved July first, eighteen hundred and sixty-two, shall remain in full force.

SEC. 176. *And be it further enacted*, That when any tax or duty is imposed by law, and the mode or time of assessment or collection is not therein provided, the same shall be established by regulation of the Secretary of the Treasury.

SEC. 177. *And be it further enacted*, That every collector to whom any duty upon cotton shall be paid shall mark the bales or other packages upon which the duty shall have been paid, in such manner as may clearly indicate the payment thereof, and shall give to the owner, or other person having charge of such cotton, a permit for the removal of the same, stating therein the amount and payment of [the] duty, the time and place of payment, the weight and marks upon the bales and packages, so that the same may be fully identified. Whenever any cotton, the product of the United States, shall arrive at any port of the United States from any State in insurrection against the Government, the assessor or assistant assessor shall immediately assess the taxes due thereon, and shall, without delay, return the same

to the collector or deputy collector of said district, and the said collector or deputy collector shall demand of the owner or other person having charge of such cotton the tax imposed by this act, and assessed thereon, unless evidence of previous payment of such tax shall be produced, under such regulations as the Commissioner of Internal Revenue, by the direction of the Secretary of the Treasury, shall from time to time prescribe; and in case the tax so assessed shall not be paid to such collector within ten days after demand, the collector or deputy collector, as aforesaid, shall institute proceedings for the recovery of the tax, as hereinbefore provided, which said tax shall be a lien upon said cotton from the time when said assessment shall be made: *Provided*, That all cotton sold by, or on account of, the Government of the United States shall be free and exempt from duty at the time of and after the sale thereof, and the same shall be marked free, and the purchaser furnished with such a bill of sale as shall clearly and accurately describe the same, which shall be deemed and taken to be a permit authorizing the sale or removal thereof.

SEC. 178. *And be it further enacted*, That consuls of foreign countries in the United States, who are not citizens thereof, shall be, and hereby are, exempt from any income tax imposed by this act which may be derived from their official emoluments, or from property in such countries: *Provided*, That the Governments which such consuls may represent shall extend similar exemption to consuls of the United States.

SEC. 179. *And be it further enacted*, That, where it is not otherwise provided for in this act, it shall be the duty of the collectors, in their respective districts, and they are hereby authorized, to prosecute for the recovery of any sum or sums that may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which may be imposed or incurred by virtue of this act shall and may be sued for and recovered, where not otherwise herein provided, in the name of the United States, in any proper form of action, or by any appropriate form of proceeding, before any circuit or district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any court of competent jurisdiction; and where not otherwise herein provided for, one moiety shall be to the use of the person who, if a collector or deputy collector, shall first inform of the cause, matter, or thing whereby any such fine, penalty, or forfeiture shall have been incurred, and the other moiety to the use of the United States. And the several circuit and district courts of the United States shall have jurisdiction of all offenses against any of the provisions of this act committed within their several districts.

SEC. 180. *And be it further enacted*, That if any person liable and required to pay any tax upon any article, goods, wares, merchandise, or manufactures, as herein provided, shall sell, or cause or allow the same to be sold, before the tax to which such article, goods, wares, merchandise, or manufacture is legally liable, is paid, with intent to avoid such tax, or in fraud of the revenue herein provided, any debt contracted in the sale of such article, goods, wares, merchandise, or manufactures, or any security given therefor, unless the same shall have been bona fide transferred to the hands of an innocent holder, shall be entirely void, and the collection thereof shall not be enforced in any court. And if any such article, goods, wares, merchandise, or manufacture has been paid for, in whole or in part, the sum so paid shall be deemed forfeited, and any person who will sue for the same in an action of debt shall recover of the seller the amount so paid, one half to his own use, and the other half to the use of the United States.

SEC. 181. *And be it further enacted*, That four hundred thousand dollars, or so much thereof as may be necessary for the payment of the expenses incident to carrying into effect the various acts connected with internal revenue which are or may be authorized and payable after the first of July, eighteen hundred and sixty-four, is hereby appropriated for that purpose, payable out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury. And it shall

Laws of the United States.

38TH CONG...1ST SESS.

be the duty of the collectors of internal revenue, as the Secretary may direct, to act as disbursing agents to pay the aforesaid expenses, without increased compensation therefor, who shall give good and sufficient bonds for the faithful performance of their duties as such disbursing agents for such sum and in such form as shall be prescribed by the First Comptroller of the Treasury, subject to the approval of the Secretary of the Treasury: *Provided*, That the aforesaid appropriation shall continue in force to the thirtieth day of June, eighteen hundred and sixty-five, and thereafter the Secretary of the Treasury shall embrace in his annual estimates the amount which, in his opinion, will be required for the expenses of this branch of the public service.

SEC. 182. *And be it further enacted*, That where ever the word State is used in this act, it shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out the provisions of this act.

APPROVED, June 30, 1864.

CHAP. CLXXIV.—An Act to regulate Prize Proceedings and the Distribution of Prize Money, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the commanding officer of any vessel or vessels making a capture to secure the documents of the ship and cargo, including the log-book, with all other documents, letters, and other papers found on board, and make an inventory of the same, and seal them up, and send them, with the inventory, to the court in which proceedings are to be had, with a written statement that they are all the papers found, and in the condition in which they were found, or explaining the absence of any documents or papers, or any change in their condition. He shall send to said court, as witnesses, the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any person found on board whom he may suppose to be interested in, or to have knowledge respecting, the title, national character, or destination of the prize. He shall send the prize, with the documents, papers, and witnesses, under charge of a competent prize master and prize crew, into port for adjudication, explaining the absence of any usual witnesses; and in the absence of instructions from superior authority as to the port to which it shall be sent, he shall select such port as he shall deem most convenient in view of the interests of probable claimants, as well as of the captors. If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, a survey shall be had thereon and an appraisal made by persons as competent and impartial as can be obtained, and their reports shall be sent to the court in which proceedings are to be had; and such property, unless appropriated for the use of the Government, shall be sold by the authority of the commanding officer present, and the proceeds deposited with the assistant treasurer of the United States most accessible to said court, and subject to its order in the cause.

SEC. 2. *And be it further enacted*, That if any vessel of the United States shall claim to share in the prize, either as having made the capture, or as having been within signal distance of the vessel or vessels making the capture, the commanding officer of such vessel shall make out a written statement of his claim, with the grounds on which it is rested, the principal facts tending to show what vessels made the capture, and what vessels were within signal distance of those making the capture, with reasonable particularity as to times, distances, localities, and signals made, seen, or answered; and such statement of claim shall be signed by him and sent to the court in which proceedings shall be had, and shall be filed in the cause.

SEC. 3. *And be it further enacted*, That it shall be the duty of the prize master to make his way diligently to the selected port, and there immediately deliver to a prize commissioner the documents and papers, and the inventory thereof, and make affidavit that they are the same and in the same condition as delivered to him, or explaining

any absence or change of condition therein, and that the prize property is in the same condition as delivered to him, or explaining any loss or damage thereto; and he shall further report to the district attorney, and give to him all the information in his possession respecting the prize and her capture; and he shall deliver over the persons sent as witnesses to the custody of the marshal, and shall retain the prize in his custody until it shall be taken therefrom by process from the prize court.

SEC. 4. *And be it further enacted*, That the attorney of the United States for the district shall immediately file a libel against such prize property, and shall forthwith obtain a warrant from the court directing the marshal to take it into his custody, and shall proceed diligently to obtain a condemnation and distribution thereof, and to that end shall see that the proper preparatory evidence is taken by the prize commissioners, and that the prize commissioners also take the depositions de bene esse of the prize crew and other transient persons cognizant of any facts bearing on condemnation or distribution. It shall also be the duty of the district attorney to represent the interests of the United States in all prize causes, and he shall not act as separate counsel for the captors on any private retainer or compensation from them, unless in a question between the claimants and the captors on a demand for damages. The district attorney shall examine all fees, costs, and expenses, sought to be charged on the prize fund, and protect the interest of the captors and of the United States. The district attorneys of all districts in which any prize causes are or may be pending, shall, as often as once in three months, send to the Secretary of the Navy a statement of the condition of all prize causes pending in their districts, in such form and embracing such particulars as the Secretary of the Navy shall require.

SEC. 5. *And be it further enacted*, That any district court may appoint prize commissioners, not exceeding three in number, of whom one shall be a retired naval officer, approved by the Secretary of the Navy, who shall receive no other compensation than his pay in the Navy, and who shall protect the interests of the captors and of the Department of the Navy in the prize property, and at least one of the others shall be a member of the bar of the court, of not less than three years' standing, and acquainted with the taking of depositions.

SEC. 6. *And be it further enacted*, That the prize commissioners, or one of them, shall receive from the prize master the documents and papers, and inventory thereof, and shall take the affidavit of the prize master hereinbefore required, and shall forthwith take the testimony of the witnesses sent in, separate from each other, on interrogatories prescribed by the court, in the manner usual in prize courts; and the witnesses shall not be permitted to see the interrogatories, documents, or papers, or to consult with counsel, or with any persons interested, without special authority from the court; and the witnesses who have the rights of neutrals shall be discharged as soon as practicable. The prize commissioners shall also take depositions de bene esse of the prize crew and others, at the request of the district attorney, on interrogatories prescribed by the court. They shall also, as soon as any prize property comes within the district for adjudication, examine the same, and make an inventory thereof, founded on an actual examination, and report to the court whether any part of it is in a condition requiring immediate sale for the interests of all parties, and notify the district attorney thereof; and if it be necessary to the examination or making of the inventory that the cargo be unladen, they shall apply to the court for an order to the marshal to unlade the same, and shall, from time to time, report to the court anything relating to the condition of the property, or its custody or disposal, which may require any action by the court, but the custody of the property shall be only in the marshal. They shall also seasonably return into court, sealed and secured from inspection, the documents and papers which shall come to their hands, duly scheduled and numbered, and the other preparatory evidence, and the evidence taken de bene esse, and their own inventory of

the prize property; and if the captured vessel, or any of its cargo or stores, are such that, in their judgment, may be useful to the Government in war, they shall report the same to the Secretary of the Navy.

SEC. 7. *And be it further enacted*, That the marshal shall safely keep all prize property under warrant from the court, and shall report to the court any cargo or other property that he thinks requires to be unladen and stored, or to be sold. He shall insure prize property if, in his judgment, it is for the interest of all concerned. He shall keep in his custody all persons found on board a prize and sent in as witnesses, until they are released by the prize commissioners or the court. If a sale of property is ordered, he shall sell the same in the manner required by the court, and collect the purchase-money, and forthwith deposit the gross proceeds of the sales with the assistant treasurer of the United States nearest the place of sale, subject to the order of the court in the particular cause; and each marshal shall forward to the Secretary of the Navy, whenever and as often as he may require it, a full statement of the condition of each prize and of the disposition made thereof.

SEC. 8. *And be it further enacted*, That, whenever any prize property shall be condemned; or shall at any stage of the proceedings be found by the court to be perishing, perishable, or liable to deteriorate or depreciate, or whenever the costs of keeping the same shall be disproportionate to its value, it shall be the duty of the court to order a sale thereof; and whenever, after the return day on the libel, all the parties in interest who have appeared in the cause shall agree thereto, the court is authorized to make such order, and no appeal shall operate to prevent the making or execution of such order. The Secretary of the Navy shall employ an auctioneer or auctioneers of known skill in the branch of business to which any sale pertains, to make the sale, but the sale shall be conducted under the supervision of the marshal, and the collecting and depositing of the gross proceeds shall be by the auctioneer or his agent. Before any sale the marshal shall cause full catalogues and schedules to be prepared and circulated, and a copy of each shall be returned by the marshal to the court in each cause. The marshal shall cause all sales to be advertised fully and conspicuously in newspapers ordered by the court, and by posters, and he shall, at least five days before the sale, serve notice thereof upon the naval prize commissioner, and the goods shall be open to inspection at least three days before the sale.

SEC. 9. *And be it further enacted*, That in case a decree of condemnation shall be rendered, the court shall consider the claims of all vessels to participate in the proceeds, and for that purpose shall, at as early a stage of the cause as possible, order testimony to be taken tending to show what part should be awarded to the captors, and what vessels are entitled to share, and such testimony may be sworn to before any judge or commissioner of the courts of the United States, consul, or commercial agent of the United States, or notary public, or any officer of the Navy highest in rank, reasonably accessible to the deponent. The court shall make a decree of distribution, determining what vessels are entitled to share in the prize, and whether the prize was of superior, equal, or inferior force to the vessel or vessels making the capture. And said decree shall recite the amount of the gross proceeds of the prize subject to the order of the court, and the amount deducted therefrom for costs and expenses, and the amount remaining for distribution, and whether the whole of such residue is to go to the captors, or one half to the captors, and one half to the United States.

SEC. 10. *And be it further enacted*, That the net proceeds of all property condemned as prize shall, when the prize was of superior or equal force to the vessel or vessels making the capture, be decreed to the captors; and when of inferior force, one half shall be decreed to the United States and the other half to the captors: *Provided*, That, in case of privateers and letters-of-marque, the whole shall be decreed to the captors, unless it shall be otherwise provided in the commissions issued to such vessels. All vessels of the Navy

38TH CONG....1ST SESS.

Laws of the United States.

within signal distance of the vessel or vessels making the capture, under such circumstances and in such condition as to be able to render effective aid if required, shall share in the prize; and in case of vessels not of the Navy, none shall be entitled to share except the vessel or vessels making the capture, in which term shall be included vessels present at the capture and rendering actual assistance in the capture. All prize money adjudged to the captors shall be distributed in the following proportions, namely:

First. To the commanding officer of a fleet or squadron, one twentieth part of all prize money awarded to any vessel or vessels under his immediate command.

Second. To the commanding officer of a division of a fleet or squadron, on duty under the orders of the commander-in-chief of such fleet or squadron, a sum equal to one fiftieth part of any prize money awarded to a vessel of such division for a capture made while under his command, the said fiftieth part to be deducted from the moiety due to the United States, if there be such moiety, otherwise from the amount awarded to the captors: *Provided*, That such fiftieth part shall not be in addition to any share which may be due to the commander of the division, and which he may elect to receive, as commander of a single ship making or assisting in the capture.

Third. To the fleet captain, one hundredth part of all prize money awarded to any vessel or vessels of the fleet or squadron in which he is serving, except in a case where the capture is made by the vessel on board of which he is serving at the time of such capture; and in such case he shall share, in proportion to his pay, with the other officers and men on board such vessel, as is hereinafter provided.

Fourth. To the commander of a single ship, one tenth part of all the prize money awarded to the ship under his command, if such ship at the time of the capture was under the command of the commanding officer of a fleet or squadron, or a division, and three twentieths if his ship was acting independently of such superior officer.

Fifth. After the foregoing deductions, the residue shall be distributed and proportioned among all others doing duty on board, (including the fleet captain), and borne upon the books of the ship, in proportion to their respective rates of pay in the service.

No commanding officer of a fleet or squadron shall be entitled to receive any share of prizes captured by any vessel or vessels not under his command, nor of such prizes as may have been captured by any ships or vessels intended to be placed under his command, before they have acted under his orders. Nor shall the commanding officer of a fleet or squadron, leaving the station where he had command, have any share in the prizes taken by ships left on such station after he has gone out of the limits of his said command, nor after he has transferred his command to his successor. No officer or other person who shall have been temporarily absent on duty from a vessel on the books of which he continued to be borne, while so absent, shall be deprived, in consequence of such absence, of any prize money to which he would otherwise be entitled. And he shall continue to share in the captures of the vessels to which he is attached until regularly discharged therefrom.

Sec. 11. *And be it further enacted*, That a bounty shall be paid by the United States for each person on board any ship or vessel-of-war belonging to an enemy at the commencement of an engagement, which shall be sunk or otherwise destroyed in such engagement by any ship or vessel belonging to the United States, or which it may be necessary to destroy in consequence of injuries sustained in action, of one hundred dollars, if the enemy's vessel was of inferior force, and of two hundred dollars, if of equal or superior force, to be divided among the officers and crew in the same manner as prize money; and when the actual number of men on board any such vessel cannot be satisfactorily ascertained, it shall be estimated according to the complement allowed to vessels of its class in the Navy of the United States; and there shall be paid as bounty to the captors of any vessel-of-war captured from an enemy, which they may be instructed to destroy, or which shall

be immediately destroyed for the public interest, but not in consequence of injuries received in action, fifty dollars for every person who shall be on board at the time of such capture. All ransom money, salvage, bounty, or proceeds of condemned property, accruing or awarded to any vessel of the Navy, shall be distributed and paid to the officers and men entitled thereto in the same manner as prize money, under the direction of the Secretary of the Navy.

Sec. 12. *And be it further enacted*, That every assignment of prize or bounty money, or wages, due to persons enlisted in the naval service, and all powers of attorney or other authority to draw, receipt for, or transfer the same, shall be void, unless the same be attested by the captain, or other commanding officer, and the paymaster; and in case of any assignment of wages, the same shall specify the precise time when they commence. But the commanding officer of every vessel is required to discourage his crew from selling any part of their prize money or wages, and never to attest any power of attorney until he is satisfied that the same is not granted in consideration of money given for the purchase of prize money or wages.

Sec. 13. *And be it further enacted*, That appeals from the district courts of the United States in prize causes shall be directly to the Supreme Court, and shall be made within thirty days of the rendering of the decree appealed from, unless the court shall previously have extended the time, for cause shown in the particular case, and the Supreme Court shall always be open for the entry of such appeals. Such appeals may be claimed whenever the amount in controversy exceeds two thousand dollars, and in other cases, on the certificate of the district judge that the adjudication involves a question of general importance. Notwithstanding such appeal, the district court may make and execute all necessary orders for the custody and disposal of the prize property; and in case of appeal from a decree of condemnation, may still proceed to make a decree of distribution so far as to determine what share of the prize shall go to the captors, and what vessels are entitled to participate therein. Any prize cause now pending in any circuit court shall, on the application of all parties in interest, who have appeared in the cause, be transferred by that court to the Supreme Court; and such transfer may be made, in the discretion of the court, and on such terms as it may direct, on the application of any party: *Provided*, That if the amount in controversy does not exceed two thousand dollars, such transfer shall not be made unless the court shall certify that the adjudication involves a question of general importance. All appeals to the Supreme Court from the circuit court in prize causes, now remaining therein, shall be claimed and allowed in the same manner as in cases of appeal from the district court to the Supreme Court. In any case of appeal or transfer the court below, or the appellate court, may order any original document or other evidence to be sent up, in addition to the copy of the record, or in lieu of a copy of a part thereof.

Sec. 14. *And be it further enacted*, That all costs and all expenses incident to the bringing in, custody, preservation, insurance, sale, or other disposal of prize property, when allowed by the court, shall be a charge upon the same, and be paid therefrom, unless the court shall decree restitution free from such charge. No payments shall be made from any prize fund, except upon the order of the court. All charges for work and labor, materials furnished, or money paid, shall be supported by affidavit or vouchers. The court may, at any time, order the payment, from the deposit made with the assistant treasurer in the cause, of any costs or charges accrued and allowed. When the cause is finally disposed of, the court shall make its order or orders on the assistant treasurer to pay the costs and charges allowed and unpaid; and in case the final decree shall be for restitution, or in case there shall be no money subject to the order of the court in the cause, any costs or charges allowed by the court, and not paid by the claimants, shall be a charge upon, and be paid out of, the fund for defraying the expenses of suits in which the United States is a party or interested.

Sec. 15. *And be it further enacted*, That the court may require any party, at any stage of the cause, and on claiming an appeal, to give security for costs.

Sec. 16. *And be it further enacted*, That the net amount decreed for distribution to the United States, or to vessels of the Navy, shall be ordered by the court to be paid into the Treasury of the United States, to be distributed according to the decree of the court. And the Treasury Department shall credit the Navy Department with each amount received to be distributed to vessels of the Navy; and the persons entitled to share therein shall be severally credited in their accounts with the Navy Department with the amounts to which they are respectively entitled. In case of vessels not of the Navy, the distribution shall be made by the court to the several parties entitled thereto, and the amounts decreed to them shall be divided between the owners and the ship's company, according to any written agreement between them, and in the absence of such agreement, one half to the owners and one half to the ship's company, according to their respective rates of pay on board; and the court may appoint a commissioner to make such distribution, subject to the control of the court, who shall make due return of his doings, with proof of actual payments by him, and who shall receive no other compensation, directly or indirectly, than such as shall be allowed him by the court: *Provided*, That in case of vessels not of the Navy, but controlled by any Department of the Government, the whole amount decreed to the captors shall be divided among the ship's company.

Sec. 17. *And be it further enacted*, That the clerk of each district court shall render to the Secretary of the Treasury and the Secretary of the Navy a semi-annual statement, beginning with the first day of July next, of all the sums allowed by the court and ordered to be paid, within the previous half year, to the district attorney and prize commissioners for services, and to marshals for fees and commissions; and he shall, in all prize causes in the district, for the purpose of the final decree of distribution, ascertain and keep an account of the amount deposited with the assistant treasurer, subject to the order of the court, in each prize cause, and the amounts ordered to be paid therefrom as costs and charges, and the residue for distribution; and shall send copies of all final decrees of distribution to the Secretary of the Treasury and the Secretary of the Navy; and shall draw the orders of the court for the payment of all costs and allowances, and for the distribution of the residue. And for the said services he shall be entitled to receive the sum of twenty-five dollars in each prize cause, which shall be in full for the services required by this section.

Sec. 18. *And be it further enacted*, That the marshal shall be allowed his actual and necessary expenses, for the custody, care, preservation, insurance, sale, or other disposal of the prize property, and for executing any order of the court respecting the same, and shall have a commission of one quarter of one per centum on vessels, and of one half of one per centum on all other prize property, calculated on the gross proceeds of each sale; and if, after he shall have had any prize property in his custody, and shall have actually performed labor and incurred responsibility for the care and preservation thereof, the same shall be taken by the United States for its own use without a sale, or if it shall be delivered on stipulation to the claimants, he shall, in case the same shall be condemned, be entitled to one half the above commissions on the amount deposited by the United States to the order of the courts, or collected upon the stipulation. No charges of the marshal for expenses or disbursements shall be allowed, except upon his oath that the same have been actually and necessarily incurred for the purpose stated.

Sec. 19. *And be it further enacted*, That neither the marshal nor the clerk shall be permitted to retain for all official services, of every kind, excepting those in prize causes, more than the maximum compensation allowed to be retained by him by the third section of the act of the twenty-sixth of February, eighteen hundred and fifty-three; nor shall the additional compensation which either of said officers shall be permitted to

Laws of the United States.

38TH CONG.... 1ST SESS.

retain for all services, of every kind, in prize causes, exceed one half the maximum compensation allowed to them, respectively, by the aforesaid act.

SEC. 20. *And be it further enacted*, That the district attorney and prize commissioners, except the naval officer, shall be allowed a just and suitable compensation for their respective services in each prize cause, to be adjusted and determined by the court, and to be paid as costs in the cause.

SEC. 21. *And be it further enacted*, That each district attorney and prize commissioner, except the naval officer, shall render to the Secretary of the Interior an annual account, beginning with the first day of July next, of all sums he shall have received for all services in prize causes within the previous year; and the district attorney shall be allowed to retain therefrom a sum not exceeding three thousand dollars for each year, in addition to the maximum compensation allowed to be retained by him by the third section of the act of the twenty-sixth February, eighteen hundred and fifty-three, or in addition to any salary he may receive in lieu of such maximum compensation; and each such prize commissioner shall be allowed to retain a sum not exceeding three thousand dollars for each year, which shall be in full for all his official services in prize causes; and any excess over those respective amounts shall be paid by the officer receiving the same into the Treasury of the United States, and shall be credited to the fund for paying naval pensions.

SEC. 22. *And be it further enacted*, That the auctioneers employed to make sales of prize property shall be entitled to receive commissions by a scale to be established by the Secretary of the Navy, not to exceed, in any case, one half of one per centum on any sum exceeding ten thousand dollars on vessels, nor one per centum on said sum of other prize property, which shall be in full for his expenses, as well as their services; and in case no such scale shall be established, they shall be entitled to receive such compensation as the court shall deem just under the circumstances of each case.

SEC. 23. *And be it further enacted*, That in any case of capture heretofore made, or that may hereafter be made by vessels of the Navy, the Secretary of the Navy may employ special counsel for captors, when, in his judgment, the services of such special counsel are needed in the particular case, for the due protection of the interests of the captors and of the Navy pension fund; and under the direction of the Secretary of the Navy such counsel may institute and prosecute such proceedings in the case as may be necessary and proper for the protection of such interests. The court may allow such compensation as it shall deem just under the circumstances of each case to special counsel for captors, not being the district attorney or any of his assistants, whether appointed by a Department of the Government or by the captors, for services actually rendered in the cause, to be paid as costs, in whole or in part either from the entire fund or from the portion awarded to the captors; but no such allowance shall be made except for services rendered on matters as to which the party the counsel represents has an adverse interest to the United States, or an interest otherwise proper in the opinion of the court to be represented by special counsel, or for services rendered in a contestation between parties claiming to participate in the distribution of the proceeds.

SEC. 24. *And be it further enacted*, That fees of special counsel in prize cases incurred or authorized by any Department of the Government, or for the defense of captors against demands for damages made by claimants in the district court, not paid by claimants, nor from the prize fund in the particular cause, and audited and allowed by the Department incurring or authorizing them, and by the Solicitor of the Treasury, shall be a charge upon and paid out of the funds appropriated for defraying the expenses of suits in which the United States is a party or interested.

SEC. 25. *And be it further enacted*, That whenever the court shall allow fees to any witness in a prize cause, or fees for taking evidence out of the district in which the court sits, and there is no money subject to its order in the cause, the same shall be paid by the marshal, and shall be repaid

to him from any money deposited to the order of the court in said cause; and any amount not so repaid the marshal shall be allowed as witness fees paid by him in cases in which the United States is a party.

SEC. 26. *And be it further enacted*, That no prize property shall be delivered to the claimants on stipulation, deposit, or other security, except where there has been a decree of restitution and the captors have appealed therefrom, or where the court, after a full hearing on the preparatory proofs, has refused to condemn the property on those proofs, and has given the captors leave to take further proofs, or where the claimant of any property shall satisfy the court that the same has a peculiar and intrinsic value to him, independent of its market value. In any of these cases, the court may deliver the property on stipulation or deposit of its value, if it shall be satisfied that the rights and interests of the United States and captors, or of other claimants, will not be prejudiced thereby, a satisfactory appraisal being first made, with an opportunity given to the district attorney and naval prize commissioner to be heard as to the appointment of appraisers. And any money deposited in lieu of stipulation, and all money collected on a stipulation, not being costs, shall be deposited with the assistant treasurer in the same manner as proceeds of a sale.

SEC. 27. *And be it further enacted*, That whenever any captured vessel, arms, munitions, or other material shall be taken for the use of the Government before it comes into the custody of a prize court, it shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained, and the survey, appraisal, and inventory shall be sent to the court in which proceedings are to be had; and if taken afterwards, sufficient notice shall first be given to enable the court to have the property appraised for the protection of the rights of the claimants and captors. In all cases of prize property heretofore taken for, or appropriated, to the use of the Government, or that shall hereafter be so taken or appropriated, the Department for whose use it was or shall be taken or appropriated, shall deposit the value thereof with the assistant treasurer of the United States nearest to the place of the session of the court, subject to the order of the court in the cause.

SEC. 28. *And be it further enacted*, That in case of any capture heretofore made, or that shall hereafter be made, if, by reason of its condition, or because the whole has been appropriated to the use of the United States, no part of the captured property has been or can be sent in for adjudication, or if the captured property be entirely lost or destroyed, proceedings for adjudication may be commenced in any district the Secretary of the Navy may designate. And in any such case the proceeds of anything sold, or the value of anything taken or appropriated for the use of the Government, shall be deposited with the assistant treasurer in or nearest to that district, subject to the order of the court in the cause. If, when no property can be sent in for adjudication, the Secretary of the Navy shall not, within three months after any capture, designate a district for the institution of proceedings, the captors may institute proceedings for adjudication in any district. And if, in any case of capture, no proceedings for adjudication shall be commenced within a reasonable time, any parties claiming the captured property may, in any district court as a court of prize, move for a monition to show cause why such proceedings shall not be commenced, or institute an original suit in such court for restitution, and the monition issued in either case shall be served on the attorney of the United States for the district, and on the Secretary of the Navy, as well as on such other persons as the court shall order to be notified.

SEC. 29. *And be it further enacted*, That when any vessel or other property shall have been captured by any force hostile to the United States, and shall be recaptured, and it shall appear to the court that the same had not been condemned as prize before its recapture, by any competent authority, the court shall award a meet and competent sum as salvage, according to the circumstances of each case; and if the captured property belonged to the United States, it shall be restored

to the United States, and there shall be paid from the Treasury of the United States the salvage, costs, and expenses ordered by the court; and if the recaptured property belonged to persons residing within or under the protection of the United States, the court shall adjudge the property to be restored to its owners upon their claim, on the payment of such sum as the court may award as salvage, costs, and expenses; and if the recaptured property belonged to any person permanently resident within the territory and under the protection of any foreign prince, Government, or State in amity with the United States, and by the law or usage of such prince, Government, or State, the property of a citizen of the United States would be restored under like circumstances of recapture, it shall be adjudged to be restored to such owner upon his claim, upon such terms as by the law or usage of such prince, Government, or State would be required of a citizen of the United States under like circumstances of recapture; and when no such law or usage shall be known, it shall be adjudged to be restored upon the payment of such salvage, costs, and expenses as the court shall order: *Provided*, That nothing in this act shall be construed to contravene any treaty of the United States. And the whole amount awarded as salvage shall be decreed to the captors, and no part to the United States, and shall be distributed as in the case of proceeds of property condemned as prize.

SEC. 30. *And be it further enacted*, That if it shall appear to the court, in the case of any prize property ordered to be sold, that it will be for the interest of all parties to have it sold in another district, the court may direct the marshal to transfer the same to the district selected by the court for the sale, and to insure the same with proper orders as to the time and manner of selling the same. And it shall be the duty of the marshal so to transfer the property, and keep and sell the same in like manner as if the property were in his own district; and he shall deposit the gross proceeds of the sale with the assistant treasurer nearest to the place of sale, subject to the order of the court in which the adjudication thereon is pending; and the necessary expense attending the insuring, transferring, receiving, keeping, and selling the said property shall be a charge thereupon and upon the proceeds thereof; and whenever any such expense is paid in advance by the marshal, and he shall not be repaid from the proceeds, any amount not so repaid he shall be allowed as in case of expenses incurred in suits in which the United States is a party. The Secretary of the Navy may, in like manner, either by a general regulation or special direction in any cause, require a marshal to transfer any prize property from the district in which the judicial proceedings are pending to any other district for sale, and the same proceedings shall be had as if such transfer had been made by order of the court, as hereinbefore provided.

SEC. 31. *And be it further enacted*, That if any person shall willfully do any act, or aid, assist, or advise, in the doing of any act relating to the bringing in, custody, preservation, sale, or other disposition of any property captured as prize, or relating to any documents or papers connected with the property, or to any deposition or other document or paper connected with the proceedings, with intent to defraud, delay, or injure the United States, or any captor or claimant of such property, he shall, on conviction, be punished by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding five years, or both, at the discretion of the court.

SEC. 32. *And be it further enacted*, That in the term "vessels of the Navy" shall be included, for the purposes of this act, all armed vessels officered and manned by the United States, and under the control of the Department of the Navy.

SEC. 33. *And be it further enacted*, That the provisions of this act shall be applied to all captures made as prize by authority of the United States, or adopted and ratified by the President of the United States.

SEC. 34. *And be it further enacted*, That this act shall apply to all prize proceedings now pending.

SEC. 35. *And be it further enacted*, That the act entitled "An act providing for salvage in cases of recapture," approved on the third day of

38TH CONG....1ST SESS.

Laws of the United States.

March, in the year eighteen hundred, and the act entitled "An act in addition to the act concerning letters-of-marque, prizes, and prize goods," approved on the twenty-seventh day of January, in the year eighteen hundred and thirteen, and the act entitled "An act in addition to an act entitled 'An act in relation to the Navy pension fund,'" approved on the sixteenth day of April, eighteen hundred and sixteen, and an act entitled "An act to facilitate judicial proceedings in adjudications upon captured property and for the better administration of the law of prize," approved on the twenty-fifth day of March, eighteen hundred and sixty-two, and the second, sixth, and twelfth sections of an act entitled "An act for the better government of the Navy of the United States," approved on the seventeenth day of July, eighteen hundred and sixty-two, and the act entitled "An act further to regulate proceedings in prize cases and to amend various acts of Congress in relation thereto," approved on the third day of March, eighteen hundred and sixty-three, and all other acts and parts of acts inconsistent herewith, are hereby repealed.

APPROVED, June 30, 1864.

CHAP. CLXXV.—An Act to establish certain Post Roads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following be established as post roads:

CALIFORNIA.

From San Buena Ventura, California, via Ravenna City, and Big Meadows, on the Mohave river, to the sink of said river, and thence to Fort Mohave on the Colorado river, and Fort Whipple, to Santa Fé, New Mexico.

From Keysville, via Walker's Pass, Little Owen Lake, and Big Owen Lake, to Union Mills. From Red Bluff, via Zelle's Ferry, Battle Creek, Parkville, Millville, and Buckeye, to Shasta.

From Los Angeles to La Paz, and thence to the capital of Arizona Territory, and thence to Santa Fé.

From San Jose, in Santa Clara county, via the mountain road leading into Pajer's Valley, to Watsonville, in Santa Cruz county.

From San Mateo to Pescadero, in Santa Cruz county.

From Aurora to San Carlos.

From Visalia to San Carlos.

From Stockton, via Copperopolis, to Angel's. From Sonora, California, via Bridgeport, to Aurora, Nevada Territory.

From Susanville, in Lassen county, California, to Boise City, in Idaho Territory.

From Campo Seco to Mokelumne Hill.

From Crescent City, California, to Waldo, Oregon.

From San Bernardino, California, to La Paz, Arizona Territory.

From Fulsom City, via Uniontown, to Coloma.

From San Pedro to Wilmington and Los Angeles.

ILLINOIS.

From Elgin, via Burlington, to Sycamore.

From Rock Island, via Camden Mills, Pleasant Ridge, Hazlet, Hamlet, Perryton, Aledo, High Point, New Boston, Keithsburg, Oquawka, Sagetown, Hopper's Mills, Shohoken, Tinappity, Dallas City, Pontoosac, and Appanoose, to Fort Madison, Iowa.

From Luda, Ogle county, to New Milford, Winnebago county.

From Argo, via Morrison road, in the town of York, and Baker's Spring, in the town of Union Grove, to Morrison.

From Hale, Ogle county, to Payne's Point.

From Beaverville, via Donovan, to Iroquois.

From Moro, via Ridgely, to Prairie City.

From Sparta, via Shiloh Hill, to Jones' Creek.

From Grand Ridge Settlement, in the south-west township of Kankakee county, via Norton Township, Union Hill, Essex Township, Kankakee county, and Reid Township, in Will county, to Wilmington in same county.

From Joliet, via Grinton, in Troy township, and Seward, to Platteville, in Kendall county.

From Clifton, Iroquois county, via L'Etable,

(intersecting main road running north and south on east side of Iroquois river,) and Martenton, to Middleport.

From Dupage, via East Wheatland, to Plainfield.

From Aurora, Kane county, via Wheatland and Tamarack, to Plainfield.

From Naperville, Dupage county, to Copenhagen, in same county.

From Lamont, Cook county, via Dupage, Will county, to Naperville, Dupage county.

From Sycamore, De Kalb county, via Genoa, North Kingston, and Blood's Point, to Belvidere, Boone county.

From Shabbona, De Kalb county, to Malta, in same county.

From Chester to Red Bud.

From Lewistown, Fulton county, to Lincoln, Logan county.

From Carthage, Hancock county, via Charles Abbott's and John Ruth's, to Dallas City, in Hancock and Henderson counties.

From Carthage to Fountain Green, in Hancock county.

From Ottawa, via Ford's Comet, Prairie Centre, Ophir Centre, and Triumph, to Mendota.

INDIANA.

From Portland, via College, Antioch, Boundary City, and Pittsburg, to Salem.

From Perryville to State Line City.

From Union City, via New Pittsburg and Antioch, to Jay Court-House.

IOWA.

From Washington, via North English, Webster, and Coal Creek, in Keokuk county, Union and New Sharon, to Granville, in Mahaska county.

From Vinton to Blairstown, in Benton county. From Iuka, via Toledo, Wolf Creek, and Buckingham, to Waterloo.

From Lexington, via Washington, to Wassonville.

From Sioux City, Iowa, via Vermillion and Yantown, in Dakota, Niobrara, in Nebraska, to Gallatin and Bannock City, in Idaho Territory.

From Waterloo, via Hudson, Grundy Centre, and Vienna, to Marshalltown.

From Mt. Ayr, via Eugene, to Afton.

From Belle Plaine, via West Irving, Waltham, Brush, Grove, and and Six Mile Grove, to Waterloo.

From Fredericksburg to New Hampton.

From Marengo, in Iowa county, via Millersburg, North English, and South English, Edom, Scotland, Seventy-Six, and Cedarville, to Washington.

From Monticello, via Castle Grove, Prairieburg, Boulder, Waubeck, and Jordan's Grove, to Marion.

From Onawa City, via Arcola, Mapleton, and Morris, to Ida.

From Lewis, via Oakfield, to Exira.

From Big Grove, via Newtown, to Harlan.

From Council Bluff, via Keg Creek, to Harlan.

From Council Bluff, via Keg Creek, Newtown, Harris Grove, and Oakfield, to Hamlin's Grove. From Ottawa, via Glenn's and Garden Grove, to High Point.

From Indianola, via Oceola, to Leon.

From Decatur City, Iowa, via Princeton and Trenton, Missouri, to Chillicothe.

From Lewis, via Grant, to Sciola.

From Anamosa, Jones county, via Highland Grove and Walnut Fork, to Clarence, Cedar county.

From Columbus City, Louisa county, via Downey's Station, West Branch, Cedar Bluffs, and Mechanicsville, to Anamosa, in Jones county.

From State Centre, via Minerva, Illinois Grove, and New Providence, to Eldora.

From Fort Dodge, via Rolfe and Spirit Lake, to Okoboji, Dickinson county.

From Onowa City, Monona county, via Kennebec, Smithland, Correctionville, Cherokee, O'Brien, and Peterson, to Spirit Lake, Dickinson county.

From St. Charles, Floyd county, via Belmond, Goldfield and Eagle Grove, Wright county, to Fort Dodge, Webster county.

From Maysville, Franklin county, via Ousville, Wall Lake, and Eagle Grove, Wright county, to Dakota, Humboldt county.

KANSAS.

From Rising Sun, via Arcola, to Grasshopper Falls.

From Junction City, Kansas, to Denver, Colorado.

From Junction City, Kansas, via the Republican river, to Fort Kearney, Nebraska.

From Atchison, via Pardee, Grasshopper Falls, and Mount Florence, to Topeka.

From Leavenworth, via Oakaloosa, Grasshopper Falls, Houlton, Circleville, and Lincoln, to Seneca.

From Lawrence, via Baldwin City and Black Jack, to Paola.

From Junction City, via the Solomon river, to Ayersville.

From Topeka, to the Sax and Fox Agency.

From Lawrence, via Osawatimie, to Fort Scott.

From Leavenworth, via Grasshopper Falls and Houlton, to Fort Riley.

From Lawrence, via Black Jack and Stanton, to Osawatimie.

From Fort Scott, via Baxter Springs, Toliquet, Fort Gibson, to Fort Smith, Arkansas.

From Lawrence, via Oskaloosa, Grasshopper Falls, Monrovia, and Pardee, to Atchison.

KENTUCKY.

From Bradfordsville, Marion county, via William T. Weatherford's, on Rush Branch, Powers' Store, and Low's Gate, to Hustonville, Lincoln county.

MARYLAND.

From Salisbury, via Friendship and Dublin, to Newtown.

From Linganore, via Woodville, to Ridgeville.

From Brookville, Montgomery county, via the Union turnpike road, Silver Spring, and Brightwood, to Washington, District of Columbia.

MICHIGAN.

From Wayne's to Romulus.

From Pere Marquette, Marva county, to Indian Town.

From Midland to Isabella.

From Big Rapids, Mecort county, to Hersey Branch.

From Unadilla to Plainfield, in Livingston county.

From Constantine, via Hartt's Corners, Newburg, and Vandalia, to Cassopolis.

From Steven's Landing, Somilac county, via townships of Worth, Fremont, and Speaker, to Maple Valley, Somilac county.

MINNESOTA.

From Carver, via Waconia, to Watertown.

From Hastings, via Empire City, Farmington, and Lakeville, to Shakopee.

From Faxon, via Glencoe and Koniska, to Hutchinson.

From Jordan, via Lexington and Le Suer Centre, to Cleveland.

From St. Charles, via Saratoga and Troy, to Preston.

From Red Wing, Goodhue county, via Belle Creek, Hader, Norway, Kenyon, and East Prairieville, to Faribault, in Rice county.

From Monticello, Wright county, to Rockford, in same county.

From St. Cloud, Minnesota, via Fort Abercrombie and Bannock City, in the Territory of Idaho, to Fort Walla-Walla.

From Anoka, via Cedar Grove, Bethel, Linwood, Anoka county, and Oxford, North Branch, Isanti county, to Sunrise, Chisago county.

From Waukato, Minnesota, to the Winnebago Agency, Dakota Territory.

From Preston, via Arundahl and Argo, to Enterprise.

MISSOURI.

From St. Joseph, Missouri, via Rochester, Empire Prairie, and Smithtown, to Mount Ayr, Iowa.

From St. Catharines, via North Salem and Kiddville, to Unionville.

Laws of the United States:

38TH CONG...1ST SESS.

NEW JERSEY.

From German Valley, Morris county, via Middle Valley and Lower Valley, to High Bridge, Hunterdon county.

From Egg Harbor City, via Green Bank, Lower Bank, and Wading river, to Tuckerton.

From Seaville Station, on the Cape May and Millville railroad, via Seaville, to Beasley's Point, Cape May county.

NEW YORK.

From Otisville, via Cuddlebackville, Oaklandville, and Hartwood, to Belford.

From Port Jervis to Mongaup Valley.

From Chemung, New York, to Saint John's, Pennsylvania.

From Long Lake, via Newcomb, to Minewa.

From Georgetown, Madison county, via West Eaton, to Morrisville.

From Forestville to Kennedy, via Arkwright Summit, Hamlet, Villanova, Cherry Creek, Cedar Creek, and Ellington.

OHIO.

From Gratis to Camden.

From McConnellsville, via Tunnel Ridge and Bloom Hill, to Rural Dale.

From Newcomerstown to Bakersville.

From Delta, Ohio, via Pancker's Corners, Chase's Corners, Rathbone's Corners, Chaney's Corners, and Bussett's Corners, to Adrian, Michigan.

From Sciota Furnace, via Lyra, Clinton Furnace, and Powellsville, to Kelly's Mills.

From West Union, via Wheat Ridge, to Youngsville.

From Zanesville, via Symmes Creek, to Dresden.

From Litchfield to Grafton.

From South Charleston to South Solon.

From Carrollton, via Davis and Leesville, to Bowerstown.

From Bowerstown, via New Hagerstown, Palermo, and Algonquin, to Carrollton.

OREGON.

From Portland, via Taylor's Ferry and Chehalem Gap, to Lafayette.

From Lafayette to Tillamook Valley.

From Dallas City, Oregon, via Canyon City and Independence, to Boise City, Idaho.

From Roseburg to Point Orford.

From Roseburg, via Ten Mile Creek, Camas Valley, junction of middle and south forks of Coquille, Lenharri's Prairie, and Sixes Mines, to Port Orford.

PENNSYLVANIA.

From Elderton, Armstrong county, to Plumville, Indiana county.

From New Geneva, Fayette county, Pennsylvania, to Morgantown, West Virginia.

From Farmington, via Elm, to Dawson.

From Wind Ridge to New Freeport.

From Newport to Liverpool, in Perry county.

From Shirland to Clinton.

From Falls, Wyoming county, via Milltown and Shultzville, to Humphreyville.

From Reading, via Adam's Tavern, Brownsville, Klopp's Store, Hetrich's Host, Wintersville, and Mount Aetna, to Myerstown.

From Mauch Chunk, via Nesquehoning and Summit Hill, to Tamaqua.

From Trout Run, via Lippincott's Mills, Murray's Run, Wallis' Run, Kelley's Mills, and Plunkett's Creek, to Barbour's Mill.

From the mouth of Cedar Run, via Lower Whetmores, Long Run, and Westfield's, to Elk Run.

From Millport, via Clara, to Oswego.

From Jefferson Station, via Cordorus, to Brodbeck's, in York county.

From Freeport, via State Lick and Melissurdale, to Leisurville.

From Duncanon, via Dellville and Grier's Point, to Keystone.

From West Alexandria to Independence.

From Fall Brook to Canton.

From Broadheads to Long Valley.

From Dingman's Ferry, Pennsylvania, to Centerville, New Jersey.

From Centretown, Mercer county, via Clintonville, to Emlenton, Venango county.

From Garland to Eagle.

From Comptonville, via Franklin's Corners, to Lockport.

From Waterville to English Centre.

From Middletown Centre, in Susquehanna county, to Rushville, in same county.

From Stone Church, Northampton county, via Roxbury, to Mount Bethel, in same county.

From Martin's Creek, Northampton county, via Flickville, Delpsburg, and Roxbury, to Mount Bethel and Will's Ferry, in same county.

From Clay Lick, via Welch Run, to Upton, in Franklin county.

From Franklin, Venango county, via Sunville, to Kingley Post Office, Crawford county.

From Brady's Bend, Armstrong county, via Phillipsburg, Clarion county, to Waterson's Ferry, Clarion county.

VERMONT.

From Montpelier, via Worcester, East Elmore, Elmore, and Wolcott, to North Wolcott.

WISCONSIN.

From Amherst to Stevens' Point.

From Mazomaine, Dane county, via West Blue Mounds and Moscow, to Green's Prairie, in Green county.

From Tempeleau to Arcadia.

From Mosinee to Marathon City.

From Wausau to Smith's Corner.

From Durand, via Waubeck, Dunnsville, Downsville, Menominee, Cedar Falls, Eighteen-mile Creek, Running Valley, Cook's Valley, and Bloomer Prairie, to Chippewa Falls.

From Ephraim to Washington Harbor.

From Barton to Young America.

From Rising Sun, via Freeman and Rush Creek, to De Soto.

From Wausau to Stettin.

From River Falls, in Pierce county, via Beltonville, Ellsworth, and Rush river, to Maiden Rock, in said county, and thence across Lake Pepin to Lake City, in Wabashaw county, Minnesota.

From Viroqua to Dabell, in Vernon county.

From Fort Howard, at the northern terminus of the Northwestern railroad, to Stiles.

From Fayette to Darlington, in Lafayette county.

From Wausau, Marathon county, to Ontonagon, Michigan.

From Avoca, via Clyde, to Dodgeville, Iowa county.

From Blue River Station, Grant county, to Port Andrew, Richland county.

From Green Bay, Brown county, via Red river and Lincoln, Kewaunee county, to Aknepee, Kewaunee county.

From Potosi to Cassville, Grant county.

From Tafton to Beeton, Grant county.

WEST VIRGINIA.

From Lost Creek Post Office, Harrison county, via Rockford and Johnstown, to Peel Tree Post Office, in Barbour county.

ARIZONA TERRITORY.

From the Pimos Village to the Capitol of Arizona.

COLORADO.

From Denver, Colorado, along the eastern base of the Rocky mountains, to East Bannock, in Idaho.

From Denver, Colorado, via Panchee Pass and Conejos, to Santa Fe, New Mexico.

From Denver to Bijou Basin.

From Golden City, via Ralston Creek and Boulder City, to Burlington.

DAKOTA.

From Fort Abercrombie, Dakota, to Bannock City, Idaho.

IDAHO.

From Boise City, via Bannock City, Centreville, Pioneer City, and Placerville, to Lewiston.

From Placerville to Fayetteville.

From Boise City, to Esmeraldo, in Alturas county.

From Boise City, via Owyhee, to Humboldt, in Nevada Territory.

NEBRASKA.

From Julesburgh, Nebraska, via Fort Laramie and Deer Creek, to Virginia City, in Idaho.

From Omaha City, by way of the Valley of the Elk Horn, to the Niobrara river.

NEVADA.

From Aurora, Nevada, to Keysville, California.

From Onionville to Dun Glen, east range.

From Virginia City, via Onionville, Star City, to Humboldt.

UTAH.

From Fort Bridger, Utah, via Richville, Soda Springs, the upper crossing of Snake river and Virginia City, to Hell Gate, in Idaho.

From Fort Bridger, Utah, via Boise City, Idaho, and Grand Ronde Valley, Oregon, to Walla-Walla, Washington Territory.

From Salt Lake City, Utah, via Fillmore City and St. George, to Los Angeles, California.

From Salt Lake City, via E. T. City, Grantsville, Tooele, Shambiss, Cedar Fort, Fairfield, and Goshen, to Payson.

From Salt Lake City, Utah, via Provo City, Salt Creek, Fillmore City, Beaver, Parawan, Cedar City, to St. George.

From Brigham City, via Mendon, Wellsville, Hyrum, Millville, Providence, Logan, Hyde Park, Smithfield, and Richmond, to Franklin.

From Hyrum to Paradise.

From Ogden City to Plain City.

From Ogden City to Huntsville.

From Great Salt Lake City, via Jordan, to Heriman.

From Rockville to Springdale.

From Salt Creek, via Poule, Rounds, and Holden, to Fillmore.

From Sprigville, via Spanish Fork, Canon Fairview, Mount Pleasant, Springtown, Ephraim, and Manti, to Gunnison.

From Mount Pleasant to Moroni.

From Fountain to Wales.

From Cedar City, via Piuto, Pine Valley, Alger, Banney, and Diamond, to Saint George.

From Beaver to Minersville.

From Fillmore City to Deseret.

From Gunnison to Chicken Creek.

From Great Salt Lake City, via Mountain, Weber, Morgan, Porter, Corydon, Heuneffer, Coalville, Hoytville, Wauship, Peoa, Kansas, Heber, Mound, Midway, and Charleston, to Provo City.

APPROVED, June 30, 1864.

CHAP. CLXXXVI.—An Act to amend the Charter of the Washington and Georgetown Railroad Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Washington and Georgetown Railroad Company shall have the right to extend their horse railway on any public highway in the county of Washington, commencing at the present terminus of either of their roads, extending north from Seventh and Fourteenth streets, and from the Capitol square to Maryland avenue; and extending north from the eastern extremity of that avenue, first having obtained the consent of the levy court therefor; and may charge additional fare of five cents for every three miles on each branch so extended, for each and every passenger conveyed upon any road constructed in said county of Washington, outside of the limits of the cities of Washington and Georgetown: *Provided*, That nothing herein contained shall be construed so as to prevent Congress from regulating the fare on either of said roads, or altering or amending the original charter of said company, or this amendment thereto, according to the provisions of said original charter.

APPROVED, June 30, 1864.

CHAP. CLXXXVII.—An Act to aid in the Settlement, Subsistence, and Support of the Navajoe Indian Captives upon a Reservation in the Territory of New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Interior, for

38TH CONG., 1ST SESS.

Laws of the United States.

the purpose of settling the Navajoe Indians, now captives in New Mexico, upon a reservation upon the Pecos river, in New Mexico, for the purchase of agricultural implements, seeds, and other articles necessary for such purpose, for breaking the ground, and for subsistence of said Indians to the end of the next fiscal year, the sum of one hundred thousand dollars.

SEC. 2. *And be it further enacted*, That the said reservation may, under the direction of the Secretary of the Interior, be so extended and enlarged on the south as to include the entire valley of the Pecos river, known as the Bosque Grandé, and that the whole of said reservation, so enlarged, shall be designated and known as the Navajoe and Apache reservation, and as such shall, until otherwise ordered by law, be exempt from sale, and free from all occupancy except by the said Indians for the purposes herein mentioned; excepting such portion of the said land as is now occupied by Fort Sumner, or as may be needed for the use of said post.

SEC. 3. *And be it further enacted*, That the southern Apache agency of New Mexico is hereby abolished, and that an agent for the Kioway, Apache, and Comanche Indians be appointed, at a salary of fifteen hundred dollars per annum.

APPROVED, June 30, 1864.

CHAP. CLXXVIII.—An Act to carry into effect a Convention between the United States of America and the United States of Colombia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of giving effect to a convention signed by the plenipotentiaries of the United States of America and the United States of Colombia, on the tenth of February, eighteen hundred and sixty-four, extending and renewing the provisions of the convention with the republic of New Granada, of tenth September, eighteen hundred and fifty-seven, the first eight sections of the "act to carry into effect conventions between the United States and the republics of New Granada and Costa Rica," approved February twentieth, eighteen hundred and sixty-one, be, and the same are hereby, renewed, reenacted, and made applicable to the said convention of tenth February, eighteen hundred and sixty-four.

APPROVED, June 30, 1864.

CHAP. CLXXIX.—An Act authorizing the Secretary of the Navy to appoint a Commission to select a Site for a Navy Yard or Naval Station on the Western Waters, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he hereby is, authorized and empowered to appoint a commission consisting of one naval officer, one officer of the engineer corps, and one civilian, to select the most approved site for a navy-yard, or naval station, on the Mississippi river, or upon one of its tributaries, and to report to the next session of Congress.

APPROVED, June 30, 1864.

CHAP. CLXXX.—An Act granting certain Privileges to the Guardian Society of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the use and occupancy of all that part of reservation numbered seventeen, in the city of Washington, lying west of Second street east, and east of the easterly line of New Jersey avenue in said city, be, and the same is hereby, granted for the period of thirty-three years to the Guardian Society of the District of Columbia, a corporation duly established by act of Congress, approved July first, eighteen hundred and sixty-two: *Provided*, That the said premises shall be used and occupied exclusively for the proper and legitimate purposes and objects of said Guardian Society: *And provided further*, That said Guardian Society shall, within three years from and after the approval of this act, expend, in the erection of buildings upon said premises, suitable for a house of industry and a widows' and orphans' home, the sum of twenty thousand

dollars, or more, otherwise the said use, as aforesaid, be forfeited to the United States.

SEC. 2. *And be it further enacted*, That all permanent buildings and structures upon said premises shall be erected and made in accordance with plans and specifications approved in writing and subscribed by the Commissioner of Public Buildings.

SEC. 3. *And be it further enacted*, That the rates of expenses which are, or shall hereafter be, adopted by the said Guardian Society, or the trustees thereof, for the support and maintenance of the several classes of persons described in the eleventh section of their said act of incorporation, shall be approved in writing and subscribed by a majority of the justices of the supreme court of the District of Columbia.

SEC. 4. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

APPROVED, June 30, 1864.

CHAP. CLXXXI.—An Act to authorize the President of the United States to negotiate with certain Indians of Middle Oregon for a relinquishment of certain Rights secured to them by Treaty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to negotiate with the tribes known as the Confederated Indian Tribes of Middle Oregon, for the relinquishment of certain rights guaranteed to them by the first article of the treaty made with them April eighteenth, eighteen hundred and fifty-nine, by which they are permitted to fish, hunt, gather roots and berries, and pasture stock, in common with citizens of the United States, upon the lands and territories of the United States outside their reservations, and to defray the expenses of said treaty, and to pay said Indians for the relinquishment of said rights, that the sum of five thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for that purpose.

APPROVED, June 30, 1864.

CHAP. CLXXXII.—An Act in relation to the Village of Deposit, Delaware County, New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the village of Deposit, which is situated partly in the county of Delaware and partly in the county of Broome, in the State of New York, shall, for all the purposes of the postal laws and regulations of the United States, and the publication of the laws of the United States, and notices and other publications in pursuance of such laws, be regarded as within the county of Delaware aforesaid.

APPROVED, June 30, 1864.

CHAP. CLXXXIII.—An Act relating to the Compensation of Pension Agents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be paid, over and above the compensation now allowed by law, to every pension agent disbursing fifty thousand dollars annually, not exceeding five hundred dollars per annum for clerk hire, rent of office, and office expenses; and to every agent disbursing one hundred thousand dollars annually, not exceeding seven hundred and fifty dollars per annum; and for every fifty thousand dollars additional, not exceeding two hundred and fifty dollars per annum, for the purposes aforesaid: *Provided*, That in no case shall the amount of compensation to any one agent exceed the sum of four thousand dollars.

APPROVED, June 30, 1864.

CHAP. CLXXXIV.—An Act authorizing a Grant to the State of California of the Yo-Semite Valley, and of the Land embracing the Mariposa Big Tree Grove.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be, and is hereby, granted to the State of California the Cleft or

Gorge in the granite peak of the Sierra Nevada mountains, situated in the county of Mariposa, in the State aforesaid, and the headwaters of the Merced river, and known as the Yo-Semite Valley, with its branches or spurs, in estimated length fifteen miles, and in average width one mile back from the main edge of the precipice, on each side of the valley, with the stipulation, nevertheless, that the said State shall accept this grant upon the express conditions that the premises shall be held for public use, resort, and recreation; shall be inalienable for all time; but leases not exceeding ten years may be granted for portions of said premises. All incomes derived from leases of privileges to be expended in the preservation and improvement of the property, or the roads leading thereto; the boundaries to be established at the cost of said State by the United States surveyor general of California, whose official plat, when affirmed by the Commissioner of the General Land Office, shall constitute the evidence of the locus, extent, and limits of the said Cleft or Gorge; the premises to be managed by the Governor of the State with eight other commissioners, to be appointed by the Executive of California, and who shall receive no compensation for their services.

SEC. 2. *And be it further enacted*, That there shall likewise be, and there is hereby, granted to the said State of California the tracts embracing what is known as the Mariposa Big Tree Grove, not to exceed the area of four sections, and to be taken in legal subdivisions of one quarter section each, with the like stipulation as expressed in the first section of this act as to the State's acceptance, with like conditions as in the first section of this act as to inalienability, yet with same lease privilege; the income to be expended in preservation, improvement, and protection of the property; the premises to be managed by commissioners as stipulated in the first section of this act, and to be taken in legal subdivisions as aforesaid; and the official plat of the United States surveyor general, when affirmed by the Commissioner of the General Land Office, to be the evidence of the locus of the said Mariposa Big Tree Grove.

APPROVED, June 30, 1864.

CHAP. CLXXXV.—An Act authorizing the Issue of Patents for Locations made with Certificates granted under authority of the Act of Congress, approved March seventeenth, eighteen hundred and sixty-two, allowing Floats in satisfaction of Lands sold by the United States within the limits of the Las Ormeigas and La Nana Grants in Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the case of all locations made with certificates issued under the act of Congress approved seventeenth March, eighteen hundred and sixty-two, "authorizing floats to issue in satisfaction of claims against the United States for lands sold by them within the Las Ormeigas and La Nana grants, in the State of Louisiana," it shall and may be lawful for the Commissioner of the General Land Office to cause patents to issue for such locations, where the same may be found bona fide and satisfactory to the said Commissioner.

APPROVED, June 30, 1864.

CHAP. CLXXXIX.—An Act to facilitate Trade on the Red River of the North.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to designate and establish such points or places upon the Red river of the North as to him shall seem expedient for lading and unlading the cargoes of vessels navigating the said river.

APPROVED, July 1, 1864.

CHAP. CXC.—An Act to Incorporate the Metropolitan Railroad Company, in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Alexander R. Shepherd, Richard

Laws of the United States.

38TH CONG... 1ST SESS.

Wallach, Lewis Clephane, Samuel P. Brown, Nathaniel Wilson, Franklin Tenney, Matthew G. Emery, Samuel Fowler, John Little, J. C. McKelden, Sayles J. Bowen, John H. Semmes, D. C. Forney, William W. Rapley, William G. Moore, Thomas Lewis, John B. Keasbey, and Charles H. Nichols, and their associates and assigns, be, and they are hereby, created a body-corporate, under the name of the Metropolitan Railroad Company, with authority to construct and lay down a double-track railway, with the necessary switches and turnouts, in the city of Washington, in the District of Columbia, through and along the following avenues and streets: Commencing at the junction of A street north and New Jersey avenue, at the north side of the Capitol; along the east side of New Jersey avenue to D street north; along D street north, and along C street north and Indiana avenue to the intersection of D street north with Indiana avenue; along Indiana avenue, D street north, and Louisiana avenue, to Fifth street west; along Fifth street west to F street north; along F street north to Fourteenth street west; along Fourteenth street west to I street north; along I street north, across Pennsylvania avenue, to the junction of New Hampshire avenue, and Twenty-Third street west; thence along New Hampshire avenue to the Circle. Also, a double or single-track branch railway, commencing at the intersection of D street north and New Jersey avenue; along New Jersey avenue to Massachusetts avenue; along Massachusetts avenue to H street north; and along H street north to Seventeenth street west, intersecting the double-track road. Also, a double or single-track road from the intersection of Fifteenth street west and I street north, connecting with the double-track road at Fifteenth street west; along I street north to New York avenue; along New York avenue to Ninth street west; and along Ninth street west to the Washington canal; with the privilege of extending the said branch road at any time along Ninth street west to M street north, along M street north to Twelfth street west, and along Twelfth street west to the Washington canal and Maryland avenue to the Potomac river, with the right to run public carriages thereon drawn by horse power, receiving therefor a rate of fare not exceeding five cents a passenger, for any distance between the termini of either of the said main railway, or between the termini of either of said branch railways, or between either terminus of said main railway and the terminus of either of said branch railways: *Provided*, That the use and maintenance of the said road shall be subject to the municipal regulations of the city of Washington within its corporate limits.

SEC. 2. *And be it further enacted*, That said road[s] shall be deemed real estate, and they, together with other real property and personal property of said body-corporate, shall be liable to taxation, as other real estate and personal property, and to license for their vehicles or cars in the cities aforesaid, except as hereinafter provided; and that all other corporations in the District of Columbia, heretofore organized for like purposes, shall be subject to pay license as provided in this section.

SEC. 3. *And be it further enacted*, That the said railway shall be laid in the center of the avenues and streets (excepting New Jersey avenue, and there it shall be laid as hereinbefore provided for,) as near as may be, without interfering with or passing over the water or gas pipes, in the most approved manner adapted for street railways, with rails of the most approved patterns, to be determined by the Secretary of the Interior, laid upon an even surface with the pavement of the streets; and the space between the two tracks shall not be less than four feet, nor more than six feet; and the carriages shall not be less than six feet in width, the gauge to correspond with that of the Baltimore and Ohio railroad.

SEC. 4. *And be it further enacted*, That the said corporation hereby created shall be bound to keep said tracks, and for the space of two feet beyond the outer rail thereof, and also the space between the tracks, at all times well paved and in good order, without expense to the United States or to the city of Washington.

SEC. 5. *And be it further enacted*, That nothing in this act shall prevent the Government at any time, at their option, from altering the grade or otherwise improving all avenues and streets occupied by said roads, or the city of Washington from so altering or improving such streets and avenues, and the sewerage thereof, as may be under their respective authority and control; and in such event it shall be the duty of said company to change their said railroad so as to conform to such grade and pavement.

SEC. 6. *And be it further enacted*, That this act may at any time be altered, amended, or repealed by the Congress of the United States.

SEC. 7. *And be it further enacted*, That nothing in this act shall be so construed as to authorize said body-corporate to issue any note, token, device, scrip, or other evidence of debt to be used as a currency.

SEC. 8. *And be it further enacted*, That the capital stock of said company shall be not less than two, nor more than five, hundred thousand dollars, and that the stock shall be divided into shares of fifty dollars each, and shall be deemed personal property transferable in such manner as the by-laws of said company may direct.

SEC. 9. *And be it further enacted*, That the said company shall place first-class cars on said railways, with all the modern improvements for the convenience and comfort of passengers, and shall run cars thereon during the day as often as every four minutes on the route from the Capitol, via the Baltimore and Ohio railroad depot and Departments, to the Circle; and on the other routes once in fifteen minutes each way, and until twelve o'clock at night as often as every half hour; and throughout day and night as much oftener as public convenience may require.

SEC. 10. *And be it further enacted*, That said company shall procure such passenger rooms, ticket offices, stables, and depots at such points as the business of the railroad and the convenience of the public may require. And the said company is hereby authorized to lay such rails through transverse or other streets as may be necessary for the exclusive purpose of connecting the said stables and depots with the main tracks. And the said company is hereby authorized to purchase or lease such lands or buildings as may be necessary for the passenger rooms, ticket offices, stables, and depots above mentioned.

SEC. 11. *And be it further enacted*, That all articles of value that may be inadvertently left in any of the cars or other vehicles of the said company shall be taken to their principal depot, and entered in a book of record of unclaimed goods, which book shall be open to the inspection of the public at all reasonable hours of business.

SEC. 12. *And be it further enacted*, That within five days after the passage of this act the corporators named in the first section, or a majority of them, or if any refuse or neglect to act, then a majority of the remainder, shall cause books of subscription to the capital stock of said company to be opened and kept open, in some convenient and accessible place in the city of Washington, from nine o'clock in the forenoon till five o'clock in the afternoon, for a period to be fixed by said corporators, not less than two days, unless the whole stock shall be sooner subscribed for, and said corporators shall give public notice, by advertisement in the daily papers published in the city of Washington, of the time when and the place where said books shall be opened. And subscribers upon said books to the capital stock of the company shall be held to be stockholders: *Provided*, That every subscriber shall pay at the time of subscribing twenty-five per centum of the amount by him subscribed to the treasurer appointed by the corporators, or his subscription shall be null and void: *Provided further*, That nothing shall be received in payment of the twenty-five per centum at the time of subscribing except money: *Provided further*, That no person shall be allowed to subscribe for more than fifteen thousand dollars. And when the books of subscription to the capital stock of said company shall be closed, the corporators named in the first section, or a majority of them, and in case any of them refuse or neglect to act, then a majority

of the remainder, shall, within twenty days thereafter, call the first meeting of the stockholders of said company, to meet within ten days thereafter for the choice of directors, of which public notice shall be given for five days in two public newspapers published daily in the city of Washington, or by written personal notice to each stockholder by the clerk of the corporation: And in all meetings of the stockholders each share shall entitle the holder to one vote, to be given in person or by proxy.

SEC. 13. *And be it further enacted*, That the government and direction of the affairs of the company shall be vested in the board of directors, seven in number, who shall be stockholders, and who shall hold their office for one year, and till others are duly elected and qualified to take their places as directors: And the said directors (a majority of whom, the president being one, shall be a quorum) shall elect one of their number to be president of the board, who shall also be president of the company; and they shall also choose a treasurer, who shall give bonds with surety to said company, in such sum as the said directors may require, for the faithful discharge of his trust. In case of a vacancy in the board of directors by the death, resignation, or otherwise, of any director, the vacancy occasioned thereby shall be filled by the remaining directors.

SEC. 14. *And be it further enacted*, That the directors shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper, touching the disposition and management of the stock, property, estate, and effects of the company, not contrary to the charter, or to the laws of the United States and the ordinances of the city of Washington: *Provided*, That there shall be no regulation excluding any person from any car on account of color.

SEC. 15. *And be it further enacted*, That there shall be an annual meeting of the stockholders, for choice of directors, to be held at such time and place, under such conditions, and upon such notice, as the said company in their by-laws may prescribe; and said directors shall annually make a report in writing of their doings to the stockholders.

SEC. 16. *And be it further enacted*, That the said company shall have at all times the free and uninterrupted use of the roadway. And if any person or persons shall willfully and unnecessarily obstruct or impede the passage on or over said railway, or any part thereof, or shall injure or destroy the cars, depot stations, or any property belonging to said railway company, the person or persons so offending shall forfeit and pay for every such offense the sum of five dollars to said company, to be recovered and disposed of as other fines and penalties in said cities; and shall remain liable, in addition to said penalty, for any loss or damage occasioned by his, her, or their act, as aforesaid; but no suit shall be brought unless commenced within sixty days after such offense shall have been committed.

SEC. 17. *And be it further enacted*, That unless said corporation shall make and complete their said railways between the Capitol and Seventeenth street west within four months after the company shall have been organized, and the railways on the other routes herein described within one year after the company shall have been organized, then this act shall be null and void, and no rights whatsoever shall be acquired under it.

SEC. 18. *And be it further enacted*, That all acts and parts of acts heretofore passed which are inconsistent with any of the provisions of this act are, for the purposes of this act, hereby repealed, so far as the same are inconsistent herewith.

SEC. 19. *And be it further enacted*, That each of the stockholders in the Metropolitan Railroad Company shall be individually liable for all the debts and liabilities of said company to an amount equal to the amount of stock held by such stockholder.

SEC. 20. *And be it further enacted*, That the said railroad company shall keep in good repair and in clean condition the flagstones or crosswalks leading to, upon, and over their tracks at the crossings of the several streets which intersect their railroad, removing therefrom snow

38TH CONG... 1ST SESS.

Laws of the United States.

and ice, as well as mud, dirt, or other annoyance; and shall further, whenever necessary to render such crossings dry and convenient, raise or elevate the same sufficiently for that purpose; and shall adjust the adjoining pavement, so as to make it convenient for carriages to pass said crossings.

Sec. 21. *And be it further enacted*, That for each and every violation of the foregoing provisions, the said company shall forfeit and pay a sum not less than five dollars, and not more than one hundred dollars, which may be recovered with costs of suit, on complaint of any person aggrieved, in any court of competent jurisdiction in the District of Columbia. Such action may be prosecuted in the name of the city of Washington, and one half of the penalties recovered shall be for the use of the city of Washington, and the other half for the use of the complainant: *Provided, however*, That any party complainant shall, before such action, file with the clerk of the supreme court of the District of Columbia a bond to be approved by the clerk of the said court, with at least one surety, to be approved by said clerk, and in a penalty of one hundred dollars, conditioned that the complainant shall well and truly save harmless and indemnify the said city against the payment of all costs and charges which shall be recovered against said city by reason of the failure of the complainant to prosecute or maintain his said complaint.

Sec. 22. *And be it further enacted*, That the said railroad company shall, by the fifteenth day of January, after the completion of said road, and annually on or before that day thereafter, transmit to Congress a full report of the affairs, business, and condition of the said company for the year terminating December thirty-one preceding such report, and such report shall be signed and sworn to by the president and treasurer of the company, or by a majority of the directors, and shall specify the following items:

- First. Capital stock fixed by charter.
- Second. Capital stock subscribed and actually paid in, in cash.
- Third. Dividends made to stockholders on the capital stock of the company, and when made.
- Fourth. Total capital stock at the termination of the previous year.
- Fifth. Funded debt of the company, and in what way secured.
- Sixth. Floating debt of the company.
- Seventh. Total indebtedness of company exclusive of capital.
- Cost of road:
- Eighth. Total cost of rails, chains, spikes, and other iron used in construction.
- Ninth. Total cost of ties, stringers, and other wood or timber used in construction.
- Tenth. Cost of paving-stone, gravel, and other material used in construction not above enumerated.
- Eleventh. Cost of labor in the construction of the road.
- Twelfth. Cost of engineering and salaries paid to officers and agents of the company, and discount or interest paid on loans.
- Thirteenth. Amount expended in repairs of road.

- Cost of equipment:
- Fourteenth. Number and cost of cars.
- Fifteenth. Number of horses or mules in the service of the road, and cost.
- Sixteenth. Cost of harnesses and other appointments.
- Seventeenth. Cost of tools and fixtures, including furniture of offices.
- Eighteenth. Cost of real estate and improvements thereon by the company.

- Characteristics:
- Nineteenth. Total length of road, measured as single track, including switches and turnouts.
- Twentieth. Weight and character of rail.
- Twenty-first. Number of passengers carried during the year.
- Twenty-second. Average number of passengers per trip.
- Income of road:
- Twenty-third. Total receipts from passengers.
- Twenty-fourth. Total receipts from other sources, and what sources.

Expenses of operation and maintenance of road:

Twenty-fifth. Amount of salaries paid to officers of the company.

Twenty-sixth. Amount paid to employes, with the number each of clerks, conductors, drivers, station-keepers, and laborers.

Twenty-seventh. Amount paid for taxes of all kinds, and insurance.

Twenty-eighth. Amount paid for reconstruction of, and repairs to, track, turnouts, and other structures.

Miscellaneous:

Twenty-ninth. Amount of dividends paid during the preceding year, in cash, and dividends in stock to stockholders, and percentage of each.

Thirtieth. Increase of capital stock, if any, during the year.

Thirty-first. Number of persons killed, or seriously injured, on the road during the previous year, and the causes thereof.

Sec. 23. *And be it further enacted*, That it shall be the duty of said company, when said road is completed, to have prepared tickets for passage on their cars, and to keep them at their office for sale by the package of twenty-five, or over, at the rate of twenty-five for the dollar.

APPROVED, July 1, 1864.

CHAP. CXCI.—An Act to incorporate the Potomac Ferry Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Henry D. Cooke, John B. Hutchinson, H. C. Fahnestock, Thomas Clyde, and William B. Hatch, and their associates and successors, or a majority of them, are hereby created and constituted a body-politic and corporate by the name and style of the Potomac Ferry Company.

Sec. 2. *And be it further enacted*, That the capital stock of said company shall not be less than one hundred thousand dollars, nor more than five hundred thousand dollars; to be divided into shares of one hundred dollars each.

Sec. 3. *And be it further enacted*, That said company is authorized and empowered to establish and run a line or lines of vessels, propelled by steam or other power, between the cities of Alexandria and Washington, and other ports in the State of Virginia, on the Potomac river, Chesapeake bay, or the tributaries of the same.

Sec. 4. *And be it further enacted*, That said company is also authorized to purchase, hold, and grant such real estate as may be necessary to carry into effect the purposes of this act, and to build all necessary docks, wharves, and buildings thereon for their own use; may transport passengers and freight of every description, subject to the rules and regulations and laws of the United States; may sue and be sued; may have a common seal, and generally may have and possess the rights and privileges usually possessed by similar corporations.

Sec. 5. *And be it further enacted*, That the affairs of said company shall be managed by such officers as the stockholders in general meeting shall elect, and such agents as may be appointed by the board of directors. The persons named in the first section of this act, or a majority of them, may call a meeting of the stockholders for the purpose of organizing said company, at such time and place as they may determine upon, after advertising the time and place of such meeting for ten days, in one or more newspapers published in the city of Washington. The officers of said company once elected shall hold their offices until their successors are chosen.

Sec. 6. *And be it further enacted*, That the said board of directors may make all necessary rules and by-laws for the transfer of the stock and the general management of the business of said company; and each stockholder in said company shall be individually liable for all claims against the same at the time such claims accrue.

Sec. 7. *And be it further enacted*, That this act shall be enforced from the passage thereof.

Sec. 8. *And be it further enacted*, That Congress may at any time hereafter alter, amend, or repeal this act.

APPROVED, July 1, 1864.

CHAP. CXCI.—An Act authorizing the Levy Court of Washington County, in the District of Columbia, to levy and collect its portion of the Direct Tax imposed by the Act of Congress of August five, eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the levy court of Washington county, in the District of Columbia, is hereby authorized and empowered to levy and collect, in the same manner as other county taxes in said county of Washington are levied and collected, a sum sufficient to pay the county's proportion of the direct tax imposed on the District of Columbia by the act of Congress approved August five, eighteen hundred and sixty-one, and the expense and cost of collecting the same, and that the aggregate of said direct tax imposed by the act aforesaid shall be distributed and apportioned between the cities of Washington and Georgetown, and that part of said county of Washington lying outside the limits of said cities, according to the assessed valuation of property made in the jurisdiction of each by the assessment last prior to the date of the passage of said act of August five, eighteen hundred and sixty-one.

APPROVED, July 1, 1864.

CHAP. CXCI.—An Act to authorize the Corporation of Washington to levy and collect the Direct Tax imposed by Act approved August five, eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the corporation of the city of Washington be, and they are hereby, authorized to assess and collect a tax not exceeding the rate of fifteen cents on every one hundred dollars of the value of all real and personal property in said city, and on any and all other subjects of taxation as made and returned by the board of assessors of said city, to enable the said corporation to pay to the Government of the United States the tax imposed by act approved August five, eighteen hundred and sixty-one: *Provided*, That any surplus that may accrue from the imposition of the tax as herein provided shall be deposited and applied to the use of the general fund of the said city of Washington.

APPROVED, July 1, 1864.

CHAP. CXCI.—An Act to expedite the Settlement of Titles to Lands in the State of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the surveyor general of California shall, in compliance with the thirteenth section of an act entitled "An act to ascertain and settle the private land claims in the State of California," approved March third, eighteen hundred and fifty-one, have caused any private land claim to be surveyed and a plat to be made thereof, he shall give notice that the same has been done by a publication, once a week for four consecutive weeks, in two newspapers, one published in the city of San Francisco, and one published near the land surveyed; and shall retain in his office, for public inspection, the survey and plat until ninety days from the date of the first publication in San Francisco shall have expired; and if no objections are made to said survey, he shall approve the same, and transmit a copy of the survey and plat thereof to the Commissioner of the General Land Office at Washington, for his examination and approval; but if objections are made to said survey within the said ninety days, by any party claiming to have an interest in the tract embraced by the survey, or in any part thereof, such objections shall be reduced to writing, stating distinctly the interest of the objector, and signed by him or his attorney, and filed with the surveyor general, together with such affidavits or other proofs as he may produce in support of the objections. At the expiration of said ninety days the surveyor general shall transmit to the Commissioner of the General Land Office at Washington a copy of the survey and

Laws of the United States.

38TH CONG....1ST SESS.

plat, and objections, and proofs filed with him in support of the objections, and also of any proofs produced by the claimant and filed with him in support of the survey, together with his opinion thereon; and if the survey and plat are approved by the said Commissioner he shall indorse thereon a certificate of his approval. If disapproved by him, or if, in his opinion, the ends of justice would be subserved thereby, he may require a further report from the surveyor general of California, touching the matters indicated by him, or proofs to be taken thereon, or may direct a new survey and plat to be made. Whenever the objections are disposed of, or the survey and plat are corrected, or a new survey and plat are made in conformity with his directions, he shall indorse upon the survey and plat adopted his certificate of approval. After the survey and plat have been, as hereinbefore provided, approved by the Commissioner of the General Land Office, it shall be the duty of the said Commissioner to cause a patent to issue to the claimant as soon as practicable after such approval.

SEC. 2. *And be it further enacted*, That the provisions of the preceding section shall apply to all surveys and plats by the surveyor general of California heretofore made, which have not already been approved by one of the district courts of the United States for California, or by the Commissioner of the General Land Office: *Provided*, That where proceedings for the correction or confirmation of a survey are pending on the passage of this act in one of the said district courts, it shall be lawful for such district court to proceed and complete its examination and determination of the matter, and its decree thereon shall be subject to appeal to the circuit court of the United States for the district in like manner, and with like effect, as hereafter provided for appeals in other cases to the circuit court; and such appeals may be in like manner disposed of by said circuit court.

SEC. 3. *And be it further enacted*, That where a plat and survey have already been approved or corrected by one of the district courts of the United States for California, and an appeal from the decree of approval or correction has already been taken to the Supreme Court of the United States, the said Supreme Court shall have jurisdiction to hear and determine the appeal. But where from such decree of approval or correction no appeal has been taken to the Supreme Court, no appeal to that court shall be allowed, but an appeal may be taken, within twelve months after this act shall take effect, to the circuit court of the United States for California, and said circuit court shall proceed to fully determine the matter: The said circuit court shall have power to affirm or reverse or modify the action of the district court, or order the case back to the surveyor general for a new survey. When the case is ordered back for a new survey, the subsequent survey of the surveyor general shall be under the supervision of the Commissioner of the General Land Office, and not of the district or circuit court of the United States.

SEC. 4. *And be it further enacted*, That whenever the district judge of any one of the district courts of the United States for California is interested in any land, the claim to which, under the said act of March third, eighteen hundred and fifty-one, is pending before him, on appeal from the board of commissioners created by said act, the said district court shall order the case to be transferred to the circuit court of the United States for California, which court shall thereupon take jurisdiction and determine the same. The said district courts may also order a transfer to the said circuit court of any other cases arising under said act, pending before them, affecting the title to lands within the corporate limits of any city or town, and in such cases both the district and circuit judges may sit.

SEC. 5. *And be it further enacted*, That all the right and title of the United States to the lands within the corporate limits of the city of San Francisco, as defined in the act incorporating said city, passed by the Legislature of the State of California, on the fifteenth of April, one thousand eight hundred and fifty-one, are hereby relinquished and granted to the said city and its successors, for the uses and purposes specified in the

ordinances of said city, ratified by an act of the Legislature of the said State, approved on the eleventh of March, eighteen hundred and fifty-eight, entitled "An act concerning the city of San Francisco, and to ratify and confirm certain ordinances of the common council of said city," there being excepted from this relinquishment and grant all sites or other parcels of lands which have been, or now are, occupied by the United States for military, naval, or other public uses, or such other sites or parcels as may hereafter be designated by the President of the United States, within one year after the rendition to the General Land Office, by the surveyor general, of an approved plat of the exterior limits of San Francisco, as recognized in this section, in connection with the lines of the public surveys: *And provided*, That the relinquishment and grant by this act shall in no manner interfere with or prejudice any bona fide claims of others, whether asserted adversely under rights derived from Spain, Mexico, or the laws of the United States, nor preclude a judicial examination and adjustment thereof.

SEC. 6. *And be it further enacted*, That it shall be the duty of the surveyor general of California to cause all the private land claims finally confirmed to be accurately surveyed and plats thereof to be made, whenever requested by the claimants: *Provided*, That each claimant requesting a survey and plat shall first deposit in the district court of the district within which the land is situated a sufficient sum of money to pay the expenses of such survey and plat, and of the publication required by the first section of this act. Whenever the survey and plat requested shall have been completed and forwarded to the Commissioner of the General Land Office, as required by this act, the district court may direct the application of the money deposited, or so much thereof as may be necessary, to the payment of the expenses of said survey and publication.

SEC. 7. *And be it further enacted*, That it shall be the duty of the surveyor general of California, in making surveys of the private land claims finally confirmed, to follow the decree of confirmation as closely as practicable whenever such decree designates the specific boundaries of the claim. But when such decree designates only the out-boundaries within which the quantity confirmed is to be taken, the location of such quantity shall be made, as near as practicable, in one tract and in a compact form. And if the character of the land, or intervening grants, be such as to render the location impracticable in one tract, then each separate location shall be made, as near as practicable, in a compact form. And it shall be the duty of the Commissioner of the General Land Office to require a substantial compliance with the directions of this section before approving any survey and plat forwarded to him.

SEC. 8. *And be it further enacted*, That the act entitled "An act to amend an act entitled 'An act to define and regulate the jurisdiction of the district courts of the United States in California, in regard to the survey and location of confirmed private land claims,'" approved June fourteen, eighteen hundred and sixty, and all provisions of law inconsistent with this act, are hereby repealed.

APPROVED, July 1, 1864.

CHAP. CXCV.—An Act for the Sale of a Lot of Land in Iowa, in the Fort Crawford Reservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall and may be lawful for the Commissioner of the General Land Office to cause to be sold, after public notice, the tract described as lot numbered one, in township ninety-five north, of range three west of the fifth principal meridian, in the State of Iowa, situated in what is known as the Fort Crawford military reservation, subject to such minimum price per acre as the said Commissioner may establish as fair and reasonable, not less than two dollars and fifty cents per acre; and in the event of said lot not being disposed of at public sale, the Commissioner is hereby authorized to reoffer the same at public sale, or after the second offering to dispose of said lot at such minimum as he may establish, and for

the sale so made a patent shall issue as in ordinary cases.

SEC. 2. *And be it further enacted*, That if it shall appear that there are any other lots in said reserve not disposed of by the United States, it shall and may be lawful for the said Commissioner to dispose of the same in the manner provided in the foregoing section.

APPROVED, July 1, 1864.

CHAP. CXCVI.—An Act to regulate the Compensation of Registers and Receivers of the Land Offices in the several States and Territories; in the location of Lands by States and Corporations under Grants from Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, in the location of lands by States and corporations under grants from Congress for railroads and other purposes, (except for agricultural colleges,) the registers and receivers of the land offices of the several States and Territories, in the districts where such lands may be located, for their services therein, shall be entitled to receive a fee of one dollar for each final location of one hundred and sixty acres, to be paid by the State or corporation making such location; the same to be accounted for in the same manner as fees and commissions on warrants and preemption locations, with limitations as to maximums of salary prescribed by existing laws, in accordance with such instructions as shall be given by the Commissioner of the General Land Office.

SEC. 2. *And be it further enacted*, That the Burlington and Missouri River Railroad Company may so far change or modify the location of the uncompleted portion of its line, as shown by the map thereof now on file in the General Land Office of the United States, so as to secure a better and more expeditious route to the terminus of said line on the Missouri river, said new line to be located within the limits of the land grant made by the United States to aid in its construction; and said change shall not impair the right to, nor change the location of, their present land grant. A map of the change shall be filed with the Commissioner of the General Land Office within one year after the passage of this act.

APPROVED, July 1, 1864.

CHAP. CXCVII.—An Act to establish Salaries for Postmasters, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the annual compensation of postmasters shall be at a fixed salary, in lieu of commissions, to be divided into five classes, exclusive of the postmaster of the city of New York. Postmasters of the first class shall receive not more than four thousand dollars, nor less than three thousand dollars; postmasters of the second class shall receive less than three thousand dollars and not less than two thousand dollars; postmasters of the third class shall receive less than two thousand dollars and not less than one thousand dollars; postmasters of the fourth class shall receive less than one thousand dollars and not less than one hundred dollars; postmasters of the fifth class shall receive less than one hundred dollars. The compensation of the postmaster of New York shall be six thousand dollars per annum, to take effect on the first day of July, eighteen hundred and sixty-four; and the compensation of postmasters of the several classes aforesaid shall be established by the Postmaster General under the rules hereinafter provided. Whenever the compensation of postmasters of the several offices, (except the office of New York,) for the two consecutive years next preceding the first day of July, eighteen hundred and sixty-four, shall have amounted to an average annual sum not less than three thousand dollars, such offices shall be assigned to the first class; whenever it shall have amounted to less than three thousand dollars, but not less than two thousand dollars, such offices shall be assigned to the second class; whenever it shall have amounted to less than two thousand dollars, but not less than one thousand dollars, such offices shall be assigned to the third class; whenever it shall have amounted

38TH CONG... 1ST SESS.

Laws of the United States:

to less than one thousand dollars, but not less than one hundred dollars, such offices shall be assigned to the fourth class; and whenever it shall have amounted to less than one hundred dollars, such offices shall be assigned to the fifth class. To offices of the first, second, and third classes shall be severally assigned salaries, in even hundreds of dollars, as nearly as practicable in amount the same as, but not exceeding, the average compensation of the postmasters thereof for the two years next preceding; and to offices of the fourth class shall be assigned severally salaries, in even tens of dollars, as nearly as practicable in amount the same as, but not exceeding, such average compensation for the two years next preceding; and to offices of the fifth class shall be severally assigned salaries, in even dollars, as nearly as practicable in amount the same as, but not exceeding, such average compensation for the two years next preceding. Wherever returns showing the average of annual compensation of postmasters for the two years next preceding the first day of July, eighteen hundred and sixty-four, shall not have been received at the Post Office Department at the time of adjustment, the same may be estimated by the Postmaster General for the purpose of adjusting the salaries of postmasters herein provided for. And it shall be the duty of the Auditor of the Treasury for the Post Office Department to obtain from postmasters their quarterly accounts with the vouchers necessary to a correct adjustment thereof, and to report to the Postmaster General all failures of postmasters to render such returns within a proper period after the close of each quarter.

SEC. 2. And be it further enacted, That the Postmaster General shall review once in two years, and in special cases, upon satisfactory representation, as much oftener as he may deem expedient, and readjust, on the basis of the preceding section, the salary assigned by him to any office; but any change made in such salary shall not take effect until the first day of the quarter next following such order, and all orders made assigning or changing salaries shall be made in writing and recorded in his journal, and notified to the Auditor for the Post Office Department.

SEC. 3. And be it further enacted, That salaries of the first, second, and third classes shall be adjusted to take effect on the first day of July, eighteen hundred and sixty-four, and of the fourth and fifth classes at the same time, or at the commencement of a quarter as early as practicable thereafter.

SEC. 4. And be it further enacted, That, at offices which have not been established for two years prior to the first day of July, eighteen hundred and sixty-four, the salary may be adjusted upon a satisfactory return by the postmaster of the receipts, expenditures, and business of his office: *Provided,* That fifty per centum of the gross revenue of such office shall be, in all cases, the largest amount allowed to such postmasters for their salaries, respectively, except in cases where it shall be a separating or distributing office, as provided for in the sixth section of this act.

SEC. 5. And be it further enacted, That at the post office of New York and offices of the first and second classes, the Postmaster General shall allow to the postmaster a just and reasonable sum for the necessary cost, in whole or in part, of rent, fuel, lights, and clerks, to be adjusted upon a satisfactory exhibit of the facts. And at offices of the third, fourth, and fifth classes, such expenses shall be paid by the postmaster, except as in the sixth section provided; it being intended that such allowances shall be made in accordance with existing usages.

SEC. 6. And be it further enacted, That the Postmaster General may designate certain convenient offices, at the intersection of mail routes, as distributing offices, and certain others as separating offices; and where any such office is of the third, fourth, or fifth class of post offices, he may make a reasonable allowance to such postmaster for the necessary cost, in whole or in part, of clerical services arising from such duties.

SEC. 7. And be it further enacted, That all postages and box rents at post offices, and all other receipts and emoluments at a post office, shall be received and accounted for as a part of the postal

revenues; and any part thereof which the postmaster ought to have collected, but has neglected to collect, shall be charged against him in his account, and he shall be liable therefor in the same manner as if the same had been collected; and he shall receive no fees or perquisites beyond his salary.

SEC. 8. And be it further enacted, That the uniform rate of United States postage, without reference to distance, upon letters and other mailable matter addressed to, or received from, foreign countries, when forwarded from, or received in, the United States by steamships or other vessels regularly employed in the transportation of the mails, shall be as follows, viz: ten cents per single rate of half an ounce or under, on letters; two cents each on newspapers; and the established domestic rates on pamphlets, periodicals, and other articles of printed matter; which postage shall be prepaid on matter sent, and collected on matter received: *Provided always,* That these rates shall not apply to letters or other mailable matter, addressed to, or received from, any foreign place or country, to and from which different rates of postage have been, or shall be, established by international postal convention or arrangement already concluded or hereafter to be made.

SEC. 9. And be it further enacted, That the Postmaster General is authorized to sell, or cause to be sold, to individuals, corporations, and business firms, postage stamps, in quantities of not less than one hundred dollars in value, at a discount not exceeding five per centum from the face value of such stamps, and to sell, or cause to be sold, stamped envelopes, in packages containing not less than five hundred envelopes, at a discount not exceeding five per centum from the current prices thereof when sold in less quantities.

SEC. 10. And be it further enacted, That the twenty-eighth section of the act entitled "An act to amend the laws relating to the Post Office Department," approved March three, eighteen hundred and sixty-three, be, and the same is hereby, amended by the addition of the following clause, namely: And when any letter bearing a request for its return to the writer, in case of its non-delivery, shall have been so returned to the office at which it was originally mailed, then, and in that case, it shall be obligatory upon the person to whom such letter has been returned, to receive the same, and to pay therefor the postage specified by this section; and in default of said writer to receive and pay for the letter so returned, he shall be subject to a penalty of ten dollars, to be recovered in any court of competent jurisdiction.

SEC. 11. And be it further enacted, That if any person, not authorized by the Postmaster General, shall set up or profess to keep any office, or any place of business bearing the sign, name, or title of post office, every such person shall forfeit and pay the sum of five hundred dollars for every such offense.

SEC. 12. And be it further enacted, That if any person employed in any of the departments of the post office establishment shall unlawfully detain, delay, or open any letter, packet, bag, or mail of letters, with which he shall be intrusted, or which shall have come to his possession, and which are intended to be conveyed by post, or to be carried or delivered by any mail carrier, mail messenger, letter carrier, route agent, or other person employed in any of the departments of the post office establishment of the United States, or to be forwarded or delivered through or from any post office or branch post office established by authority of the Postmaster General of the United States; [or] if any such person shall secrete, embezzle, or destroy, any letter or packet intrusted to such person as aforesaid, and which shall not contain any security for, or assurance relating to, money, as hereinafter described, every such offender, being thereof duly convicted, shall, for every such offense, be fined not less than three hundred dollars, or imprisoned not less than six months, or both, according to the circumstances and aggravations of the offense. And if any person employed as aforesaid shall secrete, embezzle, or destroy any letter, packet, bag, or mail of letters, with which he or she shall be intrusted, or which shall have come to his or her possession, and are intended to be conveyed by post, or to be carried or delivered by any mail carrier, mail messenger,

letter carrier, route agent, or other person employed in any of the departments of the post office establishment of the United States, or to be forwarded or delivered through or from any post office or branch post office established by authority of the Postmaster General of the United States, such letter, packet, bag, or mail of letters, containing any note, bond, draft, check, revenue stamp, postage stamp, money order, certificate of stock, or other pecuniary obligation, or Government security of any description whatever, issued, or that may hereafter be issued, by the United States, or by any officer or fiscal agent thereof, any bank note or bank post bill, bill of exchange, warrant of the Treasury of the United States, note of assignment of stock in the funds, letters of attorney for receiving annuities or dividends, or for selling stock in the funds, or for receiving the interest thereof, or any letter of credit, or note for, or relating to, payment of moneys, or any bond, or warrant, draft, bill, or promissory note, covenant, contract, or agreement, whatsoever, for, or relating to, the payment of money, or the delivery of any article of value, or the performance of any act, matter, or thing, or any receipt, release, acquittance, or discharge of, or from, any debt, covenant, or demand, or any part thereof, or any copy of any record of any judgment, or decree, in any court of law, or chancery, or any execution which may have issued thereon, or any copy of any other record, or any other article of value, or any writing representing the same; or if any such person, employed as aforesaid, shall steal, or take, any of the same out of any letter, packet, bag, or mail of letters, that shall come to his or her possession, whether such letter or packet, bag, or mail of letters, shall have come or been placed in his or her possession to be forwarded or delivered in the regular course of his or her official duties, or shall have come or been placed in his or her possession in any other manner, and provided that such letter, or packet, bag, or mail of letters, shall not have been delivered to the person or persons to whom it is directed, such person shall, on conviction for any such offense, be imprisoned not less than ten years, nor exceeding twenty-one years; and the fact that any such letter or packet, bag, or mail of letters, shall have been deposited in any post office or branch post office established by authority of the Postmaster General of the United States, or in any other authorized depository of mail letters, or in charge of any postmaster, assistant postmaster, clerk, carrier, agent, or messenger employed in the post office establishment of the United States, shall be taken and held as evidence that the same was "intended to be conveyed by post" within the meaning of this statute; and if any person who shall have taken charge of the mails of the United States shall voluntarily quit or desert the same before such person delivers it into the post office kept at the termination of the route, or some known mail carrier, or agent of the General Post Office, authorized to receive the same, every such person, so offending, shall forfeit and pay a sum not exceeding five hundred dollars, for every such offense; and if any person concerned in carrying the mail of the United States shall collect, receive, or carry any letter, or packet, or shall cause or procure the same to be done, contrary to this act, every such offender shall forfeit and pay, for every such offense, a sum not exceeding fifty dollars.—Section twenty-one, act of March three, eighteen hundred and twenty-five.

SEC. 13. And be it further enacted, That dead letters containing valuable inclosures shall be registered in the Department; and when it appears that they can neither be delivered to their address nor to the writers, the contents thereof, so far as available, shall be used to promote the efficiency of the dead-letter office, according to the provisions of the seventh section of act approved February twenty-seventh, eighteen hundred and sixty-one, entitled "An act to establish certain post routes;" and the amount thereof shall be shown in the annual report, and shall be subject to reclamation by either the party addressed or by the sender for four years from registry thereof, careful account being kept of the same. All other letters deemed of value or of importance to the party addressed, or to the writer, and which it appears cannot be returned

Laws of the United States.

38TH CONG. ... 1ST SESS.

to either destination, shall be disposed of as the Postmaster General shall direct.

SEC. 14. *And be it further enacted*, That letter carriers shall be employed at such post offices as the Postmaster General shall direct for the delivery of letters in the places respectively where such post offices are established; and for their services they shall severally receive a salary to be prescribed by the Postmaster General, not exceeding eight hundred dollars per year: *Provided*, That, on satisfactory evidence of their diligence, fidelity, and experience as carriers, the Postmaster General may increase their respective salaries from time to time, to any sum not exceeding one thousand dollars; and each of the said carriers shall give bond, with sureties, to be approved by the Postmaster General, for the safe custody and delivery of all letters, packets, and moneys received by him.

SEC. 15. *And be it further enacted*, That all expenses for the letter carriers, branch offices, and receiving boxes, or incident thereto, shall be entered and reported in a separate account from the ordinary postal expenses of such post office, and shall be shown in comparison with the proceeds of the postages on local mail matter at each office, in order that the Postmaster General may be guided in the expenditures for that branch of the postal service by income derived therefrom.

SEC. 16. *And be it further enacted*, That the eighth, eleventh, fourteenth, seventeenth, and eighteenth sections of the act entitled "An act to amend the laws relating to the Post Office Department," approved March three, eighteen hundred and sixty-three, the provisions of which have been modified and incorporated in this act, be, and the same are hereby, repealed.

SEC. 17. *And be it further enacted*, That the special agent of the Post Office Department in the Pacific States and Territories shall receive as compensation five dollars per diem.

APPROVED, July 1, 1864.

CHAP. CXCVIII.—An Act making an additional Grant of Lands to the State of Kansas to aid in the Construction of Railroad and Telegraph Lines.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to the State of Kansas, to aid in the construction of a railroad and telegraph line from Emporia, via Council Grove, to a point near Fort Riley, on the branch Union Pacific railroad, in said State, every alternate section of land designated by odd numbers for ten sections in width on each side of said road: *Provided*, That this grant shall be subject to all the provisions, restrictions, limitations, and conditions, in regard to selection and location of lands and otherwise, of an act of Congress approved March three, eighteen hundred and sixty-three, entitled "An act for a grant of lands to the State of Kansas, in alternate sections, to aid in the construction of certain railroads and telegraphs in said State;" *Provided*, That said railroad shall be a public highway and shall transport troops and munitions of war of the United States free of charge.

SEC. 2. *And be it further enacted*, That the branch railroad and telegraph from "Lawrence, by the valley of the Wakarusa river, to a point on the Atchison, Topeka, and Santa Fe railroad, where said road intersects the Neosho river," to aid in the construction of which a grant of lands was made by the said act of third of March, eighteen hundred and sixty-three, shall be so changed as to run from Lawrence to Emporia, and have and receive the grant of lands made by said act: *Provided*, That the line of railroad and telegraph from Leavenworth, by way of Lawrence and the Ohio City crossing of the Osage river, to the southern line of the State in the direction of Galveston bay, shall run via Baldwin city.

APPROVED, July 1, 1864.

CHAP. CXCI.—An Act to encourage and facilitate Telegraphic Communication between the Eastern and Western Continents.

Whereas the Governments of Russia and Great Britain have granted to Perry MacDonough

Collins, a citizen of the United States, the right to construct and maintain a line of electric telegraph through their respective territories, from the mouth of the Amoor river, in Asiatic Russia, by way of Behring's strait and along the Pacific coast to the northern boundary of the United States; with a view of thereby uniting the telegraphic systems of both continents, and of promoting international and commercial intercourse; and whereas, the Government of Russia, in furtherance of that object, is now constructing a line of telegraph through its Asiatic territory to unite at the mouth of the Amoor river with the line projected by said Collins; and whereas the Government of the United States desires cordially to cooperate with Russia and Great Britain in the establishment and maintenance of such a line of communication: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Perry MacDonough Collins, of California, his associates and assignees, shall have the right to construct and maintain a line or lines of telegraph from any point or points on the line of the Pacific telegraph, constructed in pursuance of the act of Congress, approved June sixteen, eighteen hundred and sixty, northerly, through any of the Territories of the United States, to the boundaries of British America, with such branch lines as may be needed to open communication with the various mining districts and other settlements in said Territories. And for the purposes aforesaid, the said Collins, his associates and assignees, shall have a permanent right of way over any unappropriated public lands of the United States, together with the right to take any timber and stone for construction purposes; and for the purpose of establishing and maintaining said lines and the stations necessary for the repair and working thereof, there is hereby granted to said parties the use of so much unappropriated public lands not sold, granted, reserved, preempted, nor occupied by homestead settlers, as may be necessary for stations, not exceeding forty acres for each fifteen miles of line constructed across the public lands of the United States, so long as the same may be used for said purpose: *Provided, however*, That so much of section one of this act as authorizes the construction of telegraph lines to open communications with the various mining districts and other settlements in said Territories, shall be null and void, unless said branch lines shall be completed within five years from the approval hereof.

SEC. 2. *And be it further enacted*, That in order to encourage and aid the construction of said line of telegraph beyond the limits of the United States, the Secretary of the Navy is authorized to detail for the use of the surveys and soundings along that portion of the Pacific coast both of America and Asia, where it is proposed to establish said telegraph, one steam or sailing vessel, in his discretion, to assist in surveys and soundings, laying down submerged cable, and in transporting materials connected therewith, and generally afford such assistance as may be deemed best calculated to secure a successful promotion of the enterprise.

SEC. 3. *And be it further enacted*, That the Government of the United States shall, at all times, have priority in the use of the line or lines, so far as the same are within its territory, and shall have the right, when authorized by law, to connect said line or lines by telegraph with any military posts of the United States, and to use the same for Government purposes. And in order to secure the same from injury by savages or other evil-disposed persons, to the interruption of the public business, the Secretary of War is authorized to direct the commanders of the military districts or stations, and other officers, acting under authority of the United States in the Territories traversed by said telegraph, to use any available force at their command to protect the same. Subject to the right of prior use by the Government, as aforesaid, said line or lines shall be at all times open to the public and to any other telegraph company upon the payment of the regular charges for transmission of dispatches, and all dispatches received shall be transmitted over said line and lines in the order of their reception at the telegraphic office; and the answers

to said dispatches shall be delivered to such parties as may be directed by the sender.

SEC. 4. *And be it further enacted*, That the better to accomplish the object of this act, namely, "to promote the public interest and welfare, by facilitating international and commercial intercourse between the eastern and western continents in the construction of said telegraph, and keeping the same in working order, and to secure to the Government at all times, but particularly in time of war, the use and benefits of the same for diplomatic, naval, military, postal, commercial, and other purposes, Congress may, at any time, add to, alter, amend, or repeal this act.

SEC. 5. *And be it further enacted*, That the rate of charges for public or private messages shall not exceed on said line the average usual rates in Europe and America for the same service, or such rates as shall be ascertained and fixed by a convention between the United States, Russia, and Great Britain: *Provided*, That it shall not be lawful for the owners or officers of said telegraph line to make any contract, either directly or through any intervening party or parties, for the transmission of dispatches for any newspaper or newspaper association, upon terms different from those open to the enjoyment of all other newspapers or newspaper associations.

APPROVED, July 1, 1864.

CHAP. CC.—An Act repealing so much of "An Act to supply deficiencies in the Appropriations for the service of the fiscal year ending the thirtieth of June, eighteen hundred and sixty-four, and for other purposes," approved March fourteen, eighteen hundred and sixty-four, as appropriates twenty-five thousand dollars for erecting a Naval Hospital at Kittery, Maine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of "an act to supply deficiencies in the appropriations for the service of the fiscal year ending the thirtieth of June, eighteen hundred and sixty-four, and for other purposes," approved March fourteen, eighteen hundred and sixty-four, as appropriates "for erecting naval hospital at Kittery, Maine, twenty-five thousand dollars," be, and the same is hereby, repealed.

APPROVED, July 1, 1864.

CHAP. CCI.—An Act to provide for the Efficiency of the Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person enlisted in the military service of the United States, who shall apply to the Navy Department to be transferred to the Navy or marine corps shall, if his application be approved by the President of the United States, be transferred to the Navy or marine corps to serve the residue of his term of enlistment therein, subject to the laws and regulations for the government of the Navy: *Provided*, That such transfer shall not release the transferred person from any indebtedness to the Government, nor, without the consent of the President of the United States, from any penalty incurred for a breach of military law.

SEC. 2. *And be it further enacted*, That any seaman or mariner, or person who may have served as such, drafted into the military service, may, by order of the President of the United States, be transferred to the naval service, to serve therein, subject to the laws and regulations for the government of the Navy, for the term, or residue of the term, for which he was drafted.

SEC. 3. *And be it further enacted*, That all enlistments into the naval service or marine corps during the present war shall be credited to the appropriate township, precinct, or district, in the same manner as enlistments for the Army.

SEC. 4. *And be it further enacted*, That persons hereafter enlisted into the naval service or marine corps during the present war shall be entitled to receive the same bounty as if enlisted in the Army. And the resolution approved February twenty-four, eighteen hundred and sixty-four, entitled "A resolution relative to the transfer of persons in the military service to the naval service," is

38TH CONG... 1ST SESS.

Laws of the United States.

hereby repealed: *Provided, nevertheless*, That such sums as may have been paid as bounty to persons transferred from the military to the naval service or marine corps shall be charged to, and paid out of, the proper naval appropriation, or appropriation for the marine corps.

APPROVED, July 1, 1864.

CHAP. CCII.—An Act to establish Portland, in the State of Oregon, and Leavenworth, in the State of Kansas, Ports of Delivery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Portland, in the State of Oregon, and within the collection district of Oregon, and Leavenworth, in the State of Kansas, and within the collection district of Mississippi, be, and hereby are, declared to be ports of delivery within their respective collection districts. And there shall be appointed a surveyor of customs, to reside at each of said ports, who shall perform the duties and receive the compensation and emoluments prescribed in the act of Congress approved March the second, eighteen hundred and thirty-one, being "An act allowing the duties on foreign merchandise imported into Pittsburg, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez to be secured and paid at those places."

APPROVED, July 1, 1864.

CHAP. CCIII.—An Act to compensate the Officers and Crew of the iron-clad Gunboat Essex for the destruction of the rebel Ram Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of twenty-five thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Navy to pay to the officers and crew of the iron-clad gunboat Essex, for the destruction of the rebel ram Arkansas, the bounty provided by the fourth section of the act entitled "An act for the better government of the Navy of the United States," approved July seventeen, eighteen hundred and sixty-two.

APPROVED, July 1, 1864.

CHAP. CCIV.—An Act prescribing the Punishment for enticing or aiding Seamen to desert the Naval Service of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall entice or procure, or attempt or endeavor to entice or procure any seaman or other person in the naval service of the United States, or who has been recruited for such service, to desert therefrom, or who shall in any wise aid or assist any such seaman or other person in deserting, or in attempting to desert from said naval service, or who shall harbor, conceal, protect, or in any wise assist any such seaman or other person who may have deserted from said naval service, knowing him to have deserted therefrom, or who shall refuse to give up and deliver such person on the demand of any officer authorized to receive him, shall be punished by imprisonment not less than six months nor more than three years, and by fine of not more than two thousand dollars, to be enforced in any court of the United States having jurisdiction.

APPROVED, July 1, 1864.

CHAP. CCV.—An Act for the disposal of Coal Lands and of Town Property in the Public Domain.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where any tracts embracing coal beds or coal fields, constituting portions of the public domain, and which, as "mines," are excluded from the preemption act of eighteen hundred and forty-one, and which under past legislation are not liable to ordinary private entry, it shall and may be lawful for the President to cause such tracts, in suitable legal subdivisions, to be offered at public sale to the highest bidder, after public notice of not less than three months, at a minimum price of twenty dollars per acre; and

any lands not thus disposed of shall thereafter be liable to private entry at said minimum.

SEC. 2. *And be it further enacted*, That in any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it shall and may be lawful for them to cause to be filed with the recorder for the county in which the same is situated, a plat thereof, for not exceeding six hundred and forty acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed; also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and area of each municipal subdivision, the lots in which shall each not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improvements; the said map and statement to be verified under oath by the party acting for, and in behalf of, the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the General Land Office a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized land district, a similar map and statement shall be filed with the register and receiver, and at any time after the filing of such map, statement, and testimony in the General Land Office, it shall and may be lawful for the President to cause the lots embraced within the limits of such city or town to be offered at public sale to the highest bidder, subject to a minimum of ten dollars for each lot; and such lots as may not be disposed of at public sale, shall thereafter be liable to private entry at said minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from time to time, after at least three months' notice, in view of the increase or decrease in the value of the municipal property: *Provided*, That any actual settler upon any one lot, as aforesaid, and upon any additional lot in which he may have substantial improvements, shall be entitled to prove up and purchase the same as a preemption, at said minimum, at any time before the day fixed for the public sale.

SEC. 3. *And be it further enacted*, That when such cities or towns are established upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the extension limits of the premises according to those lines, where it can be done without interference with rights which may be vested by sale; and patents for all lots so disposed of at public or private sale shall issue as in ordinary cases.

SEC. 4. *And be it further enacted*, That if within twelve months from the establishment of a city or town, as aforesaid, in the public domain, the parties interested shall refuse or fail to file in the General Land Office transcript map with the statement and testimony called for by the provisions of the second section of this act, it shall and may be lawful for the Secretary of the Interior to cause a survey and plat to be made of such city or town, and thereafter the lots in the same shall be disposed of as required by said provisions, with this exception, that they shall each be at an increase of fifty per centum on the aforesaid minimum of ten dollars per lot.

SEC. 5. *And be it further enacted*, That effect shall be given to the foregoing act, according to such regulations as may be prescribed by the Secretary of the Interior. The act entitled "An act for the relief of the citizens of towns upon the lands of the United States, under certain circumstances," approved May twenty-three, anno Domini eighteen hundred and forty-four, and all other acts and parts of acts inconsistent with this act, be, and the same are hereby, repealed.

APPROVED, July 1, 1864.

CHAP. CCIX.—An Act to repeal the Act of the seventeenth of June, eighteen hundred and sixty-four, prohibiting the Sales of Gold and Foreign Exchange.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to pro-

hibit certain sales of gold and foreign exchange," approved June seventeen, eighteen hundred and sixty-four, be, and the same is hereby, repealed.

APPROVED, July 2, 1864.

CHAP. CCX.—An Act making Appropriations for sundry Civil Expenses of the Government for the year ending the thirtieth of June, eighteen hundred and sixty-five, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, for the objects hereafter expressed, for the fiscal year ending the thirtieth June, eighteen hundred and sixty-five, viz:

SURVEY OF THE COAST.

For the survey of the Atlantic and Gulf coasts of the United States, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed in the work, one hundred and seventy-eight thousand dollars.

For continuing the survey of the western coast of the United States, including compensation of civilians engaged in the work, one hundred thousand dollars.

For continuing the survey of the Florida reefs and keys, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed in the work, eleven thousand dollars.

For publishing the observations made in the progress of the survey of the coast of the United States, including compensation of civilians employed in the work, four thousand dollars.

For repairs of steamers and sailing schooners used in the coast survey, four thousand dollars.

For pay and rations of engineers for four steamers used in the hydrography of the coast survey, no longer supplied by the Navy Department, nine thousand dollars.

LIGHT-HOUSE ESTABLISHMENT.

For the Atlantic, Gulf and Lake Coasts, viz:

For supplying the light-houses and beacon-lights with oil, wicks, glass chimneys, and other necessary expenses of the same, and repairing and keeping in repair the lighting apparatus, one hundred and fifty-six thousand and eighty-seven dollars.

For repairs and incidental expenses, refitting and improving light-houses and buildings connected therewith, one hundred and two thousand two hundred dollars.

For salaries of five hundred and eighty-nine keepers of light-houses and lighted beacons, and their assistants, two hundred and thirteen thousand one hundred and ninety-three dollars and thirty-three cents.

For salaries of forty-three keepers of light-vessels, twenty-three thousand nine hundred dollars.

For seamen's wages, repairs, supplies, and incidental expenses of forty-three light-vessels, one hundred and eighty-two thousand three hundred and two dollars.

For expenses of raising, cleaning, painting, repairing, remooing, and supplying losses of beacons and buoys, and for chains and sinkers for the same, one hundred and twelve thousand three hundred and fifty dollars.

For expenses of visiting and inspecting lights and other aids to navigation, two thousand dollars.

For commissions, at two and a half per centum, to such superintendents as are entitled to the same under the proviso to act third March, eighteen hundred and fifty-one, on the amount that may be or may have been disbursed by them, ten thousand dollars.

To enable the Light-House Board to reestablish lights and other aids to navigation, which have been injured or destroyed, on the southern coast, one hundred thousand dollars.

For completing the light-house works at Milwaukee, in addition to former appropriations, twelve thousand two hundred and eighty-seven dollars and twenty-six cents.

Laws of the United States.

38TH CONG.,...1ST SESS.

For completing the light-house works at Racine, in addition to former appropriations, twenty-one thousand three hundred and thirty-five dollars and twenty-eight cents.

For the erection of a light-house on Point Peninsula, between Big and Little Bays de Noguét, in the State of Michigan, fifteen thousand dollars.

For beacon-light on Land Point, on the west side of Little Bay de Noguét, in the State of Michigan, five thousand dollars.

For beacon-light at the mouth of Fox river, in the State of Wisconsin, five thousand dollars.

For removing and reconstructing beacon [beacon] light on Capen [Cape] Henlopen, Delaware, seventeen thousand five hundred dollars.

For erecting a light-house on Cape Arago, State of Oregon, fifteen thousand dollars.

For additional aids to navigation to facilitate the entrance to Portland, Maine, by suitably marking Alden's Rock and Bulwark Shoal, or otherwise, twenty thousand dollars, or so much thereof as may be found necessary.

For the Coasts of California, Oregon, and Washington.

For supplying twenty light-houses and beacon-lights with oil, glass chimneys, clamois skins, polishing powder, and other cleaning materials, transportation, expenses of keeping lamps and machinery in repair, and publishing notices to mariners of changes of aids to navigation, twenty-one thousand seven hundred and eighty dollars.

For repairs and incidental expenses of twenty light-houses and buildings connected therewith, ten thousand dollars.

For salaries of forty keepers and assistant keepers of light-houses, at an average not exceeding eight hundred dollars per annum, thirty-two thousand dollars.

For expenses of raising, cleaning, painting, repairing, remooing, and supplying losses of floating buoys and beacons, and for chains and sinkers for the same, and for coloring and numbering all the buoys, ten thousand dollars.

For special works, viz:

For repairing breakwater, and rebuilding keeper's dwelling at Newport harbor light-house, Rhode Island, six thousand dollars.

For repairs and renovations at Block Island light-house, Rhode Island, three thousand five hundred dollars.

For compensation of two inspectors of customs acting as superintendents for the life-saving stations on the coasts of Long Island and New Jersey, three thousand dollars.

For compensation of fifty-four keepers of stations, at two hundred dollars each, ten thousand eight hundred dollars.

For repairs of the roof of the court-house and post office at Windsor, Vermont, ten thousand dollars, or so much thereof as may be necessary.

For construction and repair of light-boats, to be expended under the direction of the Secretary of the Treasury, one hundred and fifty thousand dollars.

PUBLIC BUILDINGS AND GROUNDS.

For care, support, and medical and surgical treatment of forty transient paupers, medical and surgical patients in some proper medical institution in the city of Washington, to be selected by the Commissioner of Public Buildings, six thousand dollars.

For hire of carts on public grounds, two thousand dollars.

For purchase and repair of tools used in the public grounds, four hundred dollars.

To pay for ashes purchased by the public gardener three years ago for the public grounds, one hundred and twenty-five dollars.

For purchase of trees and tree-boxes, to replace, when necessary, such as have been planted by the United States, to whitewash tree-boxes and fences, and to repair pavements in front of the public grounds, three thousand dollars.

For annual repairs of the Capitol, water closets, public stables, water pipes, pavements, and other walks within the Capitol square, broken glass, and locks, and for the protection of the building, and keeping the main approaches to it unincumbered, eight thousand dollars.

To change Tiber creek, where it runs through

the botanic garden, into a sewer, ten thousand one hundred and fifty dollars, to be expended under the direction of the Commissioner of Public Buildings.

To enable the Commissioner of Public Buildings to reconstruct five of the old *burnt-out* [burnt-out] furnaces now under the old portion of the Capitol, five thousand dollars.

For annual repairs of the President's house and furniture, improvement of grounds, purchase of plants for garden, and contingent expenses incident thereto, six thousand dollars.

For fuel, in part, of the President's house, two thousand four hundred dollars.

For repairs, refitting, and furnishing the President's summer residence at the Soldiers' Home, three thousand dollars.

For lighting the Capitol and President's house, the public grounds around them, and around the executive offices, and Pennsylvania avenue, Bridge and High streets in Georgetown, Bour-and-a-Half street, Seventh and Twelfth streets across the Mall, and Maryland avenue west, and Sixth street south, sixty-three thousand five hundred dollars.

For repairs of the Potomac and upper bridges, six thousand dollars.

For repairs of Pennsylvania avenue, and aiding in keeping it clean and free from dust, six thousand dollars.

For public reservation number two and La Fayette square, two thousand dollars.

For taking care of the grounds south of the President's house, continuing the improvement of the same, and replacing trees destroyed, repairing fences, and other injuries, five thousand dollars.

For repairs of water pipes, five hundred dollars.

For cleaning out the sewer traps on Pennsylvania avenue, and repairing the same, three hundred dollars.

For casual repairs of all the furnaces under the Capitol, five hundred dollars.

For deficiency in tiling the floor of the Library of Congress, one thousand two hundred dollars.

SEC. 2. *And be it further enacted*, That a marble floor, similar to that of the Congressional Library or the Senate vestibule, shall be constructed in the old Hall of the House of Representatives, using such marble as may be now on hand and not otherwise required, and that suitable structures and railings shall be therein erected for the reception and protection of statuary, and the same shall be under the supervision and direction of the Commissioner of Public Buildings; and so much of the moneys now or heretofore appropriated for the Capitol extension as may be necessary, not exceeding the sum of fifteen thousand dollars, is hereby set apart and shall be disbursed for the *purposes* [purposes] hereinbefore mentioned. And the President is hereby authorized to invite each and all the States to provide and furnish statues, in marble or bronze, not exceeding two in number for each State, of deceased persons who have been citizens thereof, and illustrious for their historic renown or from distinguished civic or military services, such as each State shall determine to be worthy of this national commemoration; and when so furnished the same shall be placed in the old Hall of the House of Representatives, in the Capitol of the United States, which is hereby set apart, or so much thereof as may be necessary, as a national statuary hall, for the purposes herein indicated.

To reimburse the Commissioner of Public Buildings for money expended in replacing one of the iron panels in the ceiling of the Library of Congress, and to enable the Commissioner to secure all the panels by fastening them with iron shackles to the roof, five hundred dollars.

For repairs of the basement of the President's house, three thousand dollars.

To enable the Commissioner of Public Buildings to remove the water pipes which conduct the water from the spring at Franklin square to the President's house, rendered necessary by the grading around the Treasury extension, and to lay them down in another place, five hundred dollars.

To enable the Commissioner of Public Buildings to inclose Franklin square with a wooden

fence, and to guard the same and plant it with trees and shrubbery, three thousand dollars.

For repairing fence around Armory square, five hundred and thirty-three dollars.

For painting the iron railing around the Capitol grounds, fifteen hundred dollars.

For cleaning and painting the crypt and passages under the rotunda, two thousand dollars.

To pay expenses incurred by the Commissioner of Public Buildings in enlarging bench in Supreme Court room, one thousand two hundred and four-teen dollars.

For repairs of navy-yard bridge, twenty-five thousand dollars.

For balance due the draughtsman for his services in charge and continuation of the series of maps ordered by resolution of the fourth May, eighteen hundred and forty-eight, for part of the fiscal year ending in eighteen hundred and sixty-two, fifteen hundred and twenty dollars and thirty-eight cents.

For repairs to the bridge across the Potomac river at Little Falls, two hundred and fifty dollars.

To enable the Secretary of the Treasury to provide temporary accommodations for the State Department, and for such of the clerks of the Second Auditor of the Treasury as cannot be accommodated in Winder's building, ten thousand dollars.

JAIL OF THE DISTRICT OF COLUMBIA.

For salary of warden of the jail in the District of Columbia, from February twenty-ninth to thirtieth of June, eighteen hundred and sixty-four, at the rate of sixteen hundred dollars per annum, five hundred and forty dollars and sixty-five cents.

SMITHSONIAN INSTITUTE.

For the preservation of the collections of the exploring and surveying expeditions of the Government, four thousand dollars.

GOVERNMENT HOSPITAL FOR THE INSANE.

For the support, clothing, and medical treatment of the insane of the Army and Navy and the revenue-cutter service, and of the District of Columbia, at the Government hospital for the insane in said District, including five hundred dollars for books, stationery, and incidental expenses, sixty thousand five hundred dollars.

For finishing, furnishing, heating, and lighting additional accommodations in the east wing, five thousand dollars.

For continuation of the wall inclosing the grounds of the hospital, ten thousand dollars.

For iron coping of the battlement of the hospital edifice, two thousand five hundred dollars.

The Secretary of the Navy is hereby authorized and required to set apart from the pay of any officer of the Navy, or of the marine corps, who may be under treatment by his order in the Government hospital for the insane, such a portion of the monthly pay of said officer as may be needed for his personal use and comfort in addition to the ordinary resources of that establishment. The superintendent of the Government hospital for the insane shall recommend the portion of the pay of such officer of the Navy, or of the marine corps, that shall be set apart in the manner and for the purpose hereinbefore described, but the Secretary of the Navy may, in his discretion, increase or reduce the sum so recommended to be set apart. The said sum set apart for the personal benefit of any officer of the Navy, or of the marine corps, under treatment in the Government hospital for the insane, by order of the Secretary of the Navy, shall be paid to the said superintendent of that institution, by the paymaster having charge of the said officer's accounts; and the receipt of said superintendent for the sum which he is authorized by the Secretary of the Navy to draw from the said paymaster shall be equivalent to the receipt of the legal guardian of said officer, or to that of the officer himself. The said superintendent shall disburse the money thus set apart and drawn by him, and he shall account for it in quarterly statements to the Fourth Auditor of the Treasury.

BOTANIC GARDEN.

For grading, draining, procuring manure, tools, fuel, and repairs, purchasing trees and shrubs under the direction of the Library Committee of Congress, three thousand three hundred dollars.

38TH CONG... 1ST SESS.

Laws of the United States.

For pay of superintendent of botanic garden, and assistants in the botanic garden and green-houses, to be expended under the direction of the Library Committee of Congress, six thousand one hundred and forty-five dollars and eighty cents.

COLUMBIAN INSTITUTION FOR THE DEAF AND DUMB AND BLIND.

For salaries and incidental expenses, embracing, in addition to the objects heretofore provided for in this appropriation, the salary of an additional teacher, construction of a new sewer, and the construction and repairs of fences, seven thousand five hundred dollars.

For continuing the work for the accommodation of the students and inmates in said institution, in addition to the appropriations heretofore made, viz: for the purchase of a tract of improved land, containing about thirteen acres, bordering on Boundary street of the city of Washington, and adjoining the lot now belonging to the institution, to enable it to instruct the male pupils in horticulture and agriculture, and to furnish sites for mechanic shops and other necessary buildings, twenty-six thousand dollars: *Provided*, That before the purchase of the said thirteen acres is consummated, the owner shall complete the title in fee to the premises now held and occupied by said institution, by executing a release or conveyance of the remainders and reversions now outstanding in him to the said institution.

To bring the Potomac water into the institution from the nearest water mains, or other adequate sources in the city, three thousand two hundred dollars.

PATENT OFFICE.

For expenses of receiving, arranging, and taking care of copyright books, charts, and other copy-right matter, one thousand eight hundred dollars.

For preparing illustrations and descriptions for report, six thousand dollars.

SURVEY OF THE PUBLIC LANDS.

For surveying the public lands, (exclusive of California, Oregon, Washington, New Mexico, Kansas, Nebraska, Utah, Dakota, Colorado, Nevada, Arizona, Idaho, and Montana), including incidental expenses and island surveys in the interior, and all other special and difficult surveys demanding augmented rates, to be apportioned and applied to the several surveying districts, according to the exigencies of the public service, in addition to the unexpended balances of all former appropriations for the same objects, fifty thousand dollars.

For surveying the public lands in California and Nevada, fifty thousand dollars.

For surveying public lands in Oregon, twenty thousand dollars.

For surveying the public lands in Washington Territory, twenty thousand dollars.

For surveying the public lands in the Territory of Colorado, twenty thousand dollars.

For surveying the public lands in Kansas and Nebraska, fifty thousand dollars.

For surveying the public lands in the Territory of Dakota, five thousand dollars.

For the survey of a military road from Sioux City, Iowa, to Fort Randall, Dakota Territory, and from Nebraska, Nebraska Territory, to Fort Randall, and to bridge the Dakota and Vermillion rivers and other streams, fifteen thousand dollars.

For surveying the public lands in New Mexico, ten thousand dollars.

For surveying the public lands in the Territory of Arizona, ten thousand dollars.

For surveying the public lands in the Territory of Montana, ten thousand dollars.

MISCELLANEOUS.

For carrying [carrying] on the work of the commission appointed under the first article of the reciprocity treaty with Great Britain, eight thousand dollars.

For continuing the work on the Capitol extension, three hundred thousand dollars.

For finishing the Patent Office building, seventy-five thousand dollars.

To enable the Commissioner of Agriculture to

pay a debt incurred by the Commissioner of Patents in preparing the agricultural report for eighteen hundred and sixty-one, and transferred to the account of the Agricultural Department in pursuance of an opinion of the Attorney General of September eighteenth, eighteen hundred and sixty-two, three thousand seven hundred and four dollars and five cents.

To restore the salary of the chief messenger in the Department of Agriculture to nine hundred dollars per annum, at which it is fixed, three hundred dollars.

For the annual subsidy for facilitating communication between the Atlantic and Pacific States by electrical telegraph, forty thousand dollars.

For the continuation of the north wing of the Treasury extension, five hundred thousand dollars.

For furniture for Treasury building, twenty-five thousand dollars.

For the construction of vaults, as an additional security to the public funds in United States depositories, thirty thousand dollars.

For the repair and preservation of custom-houses, marine hospitals, and other public buildings under the supervision of the Treasury Department, forty thousand dollars.

For the purpose of building a new custom-house at Portland, Maine, on the site owned by the United States, fifty thousand dollars.

For furniture and repairs of furniture of the various public buildings under the supervision of the Treasury Department, fifteen thousand dollars.

For heating apparatus for the east front and center wing of the Treasury building, in addition to available appropriations, twelve thousand five hundred and thirty-seven dollars and sixty-seven cents.

For plates, paper, and special dies, and the printing of circulating notes, and expenses necessarily incurred in procuring said notes, including miscellaneous items, four hundred and forty-one thousand two hundred and fifty dollars.

For the discharge of such miscellaneous claims, not otherwise provided for, as shall be admitted in due course of settlement at the Treasury, ten thousand dollars.

For the payment of messengers of the respective States, for conveying to the seat of Government the votes of the electors of said States for President and Vice President of the United States, twenty thousand dollars.

For stationery for the Treasury Department, forty-five thousand dollars.

For compiling and supervising the Biennial Register, per act of March second, eighteen hundred and sixty-one, five hundred dollars.

To supply a deficiency in the appropriation for the branch mint at San Francisco for the year ending thirtieth of June, eighteen hundred and sixty-four, seventy-one thousand three hundred and eleven dollars and ten cents.

To supply a deficiency in the appropriation for the costs, charges, and expenses properly incurred by the State of Minnesota in suppressing Indian hostilities in the year eighteen hundred and sixty-two, the sum of one hundred and seventeen thousand dollars: *Provided*, That only so much of said sum shall be paid the State of Minnesota as is allowed by the proper accounting officers under [under] the twenty-second section of the act approved March third, eighteen hundred and sixty-three, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June thirtieth eighteen hundred and sixty-four, and for the year ending thirtieth of June, eighteen hundred and sixty-three, and for other purposes."

MONTANA.

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

To enable the Joint Library Committee to purchase a collection of early American maps and

plans, chiefly manuscript originals illustrative of the French war, and the war of the Revolution, for deposit in the Library of Congress, one thousand dollars.

For plans and detailed drawings for proposed changes in the Capitol-wings to secure improvement in the ventilation, heating, and acoustics of the Halls of Congress, the sum of fifteen hundred dollars, or so much thereof as may be necessary; the said outlay to be authorized and approved by the joint select committee of the two Houses upon the ventilation, &c., of said Halls, and to be paid out of the aforesaid appropriation for the Capitol extension.

For additional clerical force in the office of the assistant treasurer at Philadelphia, four thousand five hundred dollars.

Sec. 3. *And be it further enacted*, That the sum of one hundred thousand dollars is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of meeting any expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, or other securities of the United States, as well as the coin of the United States: *Provided*, That in the courts of the United States there shall be no exclusion of any witness on account of color, nor in civil actions because he is a party to, or interested in, the issue tried.

Sec. 4. *And be it further enacted*, That the compensation of the clerk to the Committee of Ways and Means shall be twenty-one hundred and sixty dollars per annum to commence with the present session of Congress; and such sum as may be found necessary to pay the same be, and is hereby, appropriated.

To compensate persons on board the U. S. gunboat Cincinnati, in accordance with the joint resolution, approved February [April] nineteenth, eighteen hundred and sixty-four, seven thousand two hundred dollars.

For compensation of stamp clerk in the office of the assistant treasurer at San Francisco, two thousand four hundred dollars, or so much thereof as may be necessary.

For compensation to clerks and extra clerk hire, in addition to that already appropriated, in the office of the Secretary of the Treasury, one hundred thousand dollars.

For payment to Messrs. Little, Brown & Co., for three hundred and ninety-five copies of the 10th and 11th volumes each of the Statutes at Large, at three dollars and fifty cents per volume, delivered by order of the Secretary of the Interior, dated February twenty-first, eighteen hundred and sixty-three, two thousand seven hundred and sixty-five dollars.

For payment of salaries for additional clerks in the Navy Department, for the fiscal year ending June thirtieth, eighteen hundred and sixty-five, nine thousand and eight hundred dollars.

For compensation to the clerk of the Committee of Elections for preparing for publication a continuation of the digest of election cases, to be expended under the direction of said committee, the sum of one thousand dollars, or so much thereof as in the opinion of said committee shall be necessary therefor.

To supply a deficiency in the appropriation for miscellaneous items for the Senate for the fiscal year ending June thirtieth, eighteen hundred and sixty-four, fifteen thousand seven hundred and thirty dollars.

For deficiency for the Congressional Globe for the present session, twenty-five thousand and sixty-five dollars and twelve cents.

Sec. 5. *And be it further enacted*, That in addition to the sum of ten thousand dollars, appropriated by the eleventh section of the act of March three, eighteen hundred and sixty-three, for the construction of vaults and the fitting up of offices in the custom-house building at Philadelphia, for the accommodation of the assistant treasurer of the United States at that city, there is hereby appropriated, payable out of any moneys in the Treasury not otherwise appropriated, the sum of forty thousand dollars, to be expended under the direction of the Secretary of the Treasury, for the object provided for in said section, and in such alterations of said buildings as may be required to adapt the same to the receipt, custody,

Laws of the United States.

38TH CONG...1ST SESS.

and disbursement of the public money by the assistant treasurer aforesaid, as well as to the convenient accommodation therein of the officers of the customs at the port of Philadelphia.

SEC. 6. *And be it further enacted*, That the President of the United States be, and hereby is, authorized to expend during the fiscal year ending the thirtieth day of June, eighteen hundred and sixty-five, so much of the appropriation of second March, eighteen hundred and sixty-one, as he may deem expedient and proper, not exceeding in the whole ten thousand dollars, for compensation to United States marshals, district attorneys, and other persons employed in enforcing the laws for the suppression of the African slave trade, for any services they may render, and for which no allowance is otherwise provided by law; and also, so much of said appropriation as may be necessary to pay the salaries of the judges and arbitrators appointed by him pursuant to the act of Congress, approved July eleven, eighteen hundred and sixty-two, entitled "An act to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade," and for the expenses of the mixed courts of justice provided for by said treaty.

SEC. 7. *And be it further enacted*, That section eleven of an act entitled "An act for the release of certain persons held to service or labor in the District of Columbia," approved April sixteen, eighteen hundred and sixty-two, and also that part of the first section of an act entitled "An act making supplemental appropriations for sundry civil expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-three, and for the year ending June thirtieth, eighteen hundred and sixty-two, and for other purposes," approved July sixteen, eighteen hundred and sixty-two, which reads as follows: "To enable the President to carry out the act of Congress for the emancipation of the slaves in the District of Columbia, and to colonize those to be made free by the probable passage of a confiscation bill, five hundred thousand dollars, to be repaid to the Treasury out of confiscated property, to be used at the discretion of the President in securing the right of colonization of said persons made free, and in payment of the necessary expenses of their removal," be, and the same are hereby repealed: *Provided, however*, That this section shall not be construed so as to interfere with any expenditure that may have been incurred by carrying into effect the parts of acts above repealed, or any expenditure necessary to fulfill existing engagements in relation thereto.

SEC. 8. *And be it further enacted*, That, until otherwise directed by law, the Territory of New Mexico and the Territory of Arizona shall constitute one surveyor general's district; that the Territory of Idaho and Nevada shall constitute, and be a part of, the surveyor general's district of Colorado; that the Territory of Dakota and Montana shall constitute one surveyor general's district, and that there shall be but one office of surveyor general for each surveyor general's district; that the provisions of this section shall be executed under such rules and regulations as may be prescribed by the Commissioner of the General Land Office; and that all acts and parts of acts in conflict with the provisions of this section are hereby repealed.

SEC. 9. *And be it further enacted*, That sections eight and nine of an act entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord eighteen hundred and eight," which said sections undertake to regulate the coastwise slave trade, are hereby repealed, and the coastwise slave trade is prohibited forever.

APPROVED, July 2, 1864.

CHAP. CCXI.—An Act making Appropriations for the Construction, Preservation, and Repairs of certain Fortifications and other Works of Defense, for the year ending the thirtieth of June, eighteen hundred and sixty-five, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they

are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the construction, preservation, and repairs of certain fortifications and other works of defense, for the year ending the thirtieth of June, eighteen hundred and sixty-five:

For Fort Montgomery, at outlet of Lake Champlain, New York, fifty thousand dollars.

For Fort Knox, at Narrows of Penobscot river, Maine, one hundred thousand dollars.

For fort at entrance of Kennebec river, (Fort Popham,) Maine, one hundred thousand dollars.

For fort on Hog Island Ledge, (Fort Georges,) Portland harbor, Maine, one hundred thousand dollars.

For Fort Preble, Portland harbor, Maine, one hundred and fifty thousand dollars.

For Fort Scammel, Portland harbor, Maine, one hundred thousand dollars.

For New Fort Constitution, Portsmouth harbor, New Hampshire, one hundred thousand dollars.

For Fort McClary, Portsmouth harbor, New Hampshire, fifty thousand dollars.

For Fort Winthrop, Governor's Island, Boston harbor, Massachusetts, fifty thousand dollars.

For Fort Warren, Boston harbor, Massachusetts, twenty thousand dollars.

For sea-wall of Great Brewster's Island, forty thousand dollars.

For repair of sea-walls on Deer and on Lovell's Island, ten thousand dollars.

For permanent forts at New Bedford harbor, Massachusetts, one hundred thousand dollars.

For Fort Schuyler, East river, New York, twenty-five thousand dollars.

For fort at Willet's Point, opposite Fort Schuyler, New York, one hundred and fifty thousand dollars.

For repairs of Fort Columbus, Castle Williams, South Battery, Fort Wood, and Fort Gibson, New York harbor, one hundred thousand dollars.

For new battery near Fort Hamilton, at the Narrows, New York, seventy-five thousand dollars.

For Fort Richmond, Staten Island, New York, twenty thousand dollars.

For fort on site of Fort Tompkins, Staten Island, New York, one hundred and fifty thousand dollars.

For casemated battery on Staten Island, New York, seventy-five thousand dollars.

For repairs and completion of sea-wall at Buffalo, thirty-seven thousand five hundred dollars.

For fort at Sandy Hook, New Jersey, one hundred and twenty-five thousand dollars.

For Fort Mifflin, near Philadelphia, Pennsylvania, twenty thousand dollars.

For permanent work for Delaware breakwater harbor, one hundred thousand dollars.

For Fort Carroll, Baltimore harbor, Maryland, one hundred thousand dollars.

For Fort Monroe, Hampton Roads, Virginia, fifty thousand dollars.

For Fort Wool, Hampton Roads, Virginia, two hundred thousand dollars.

For Fort Clinch, entrance to Cumberland sound, Florida, one hundred thousand dollars.

For fort at Ship Island, coast of Mississippi, one hundred thousand dollars.

For fort at Fort Point, San Francisco bay, California, fifty thousand dollars.

For fort at Alcatraz Island, San Francisco bay, California, ninety thousand dollars.

For land defenses at San Francisco, one hundred and seventy-seven thousand dollars: *Provided*, That no portion of the same shall be expended on other fortifications now in progress there.

For defenses in Oregon and in Washington Territory, at or near the mouth of Columbia river, one hundred thousand dollars.

For repairs and alterations of barracks, quarters, hospitals, storerooms, and fences at permanent forts not occupied by troops, fifty thousand dollars.

For construction of permanent platforms for modern cannon of large caliber in existing fortifications of important harbors, one hundred and thirty thousand dollars.

For tool and siege trains for armies in the field, two hundred thousand dollars.

For bridge trains and equipage for armies in the field, five hundred thousand dollars.

For contingencies of fortifications, including field works and field operations, seven hundred thousand dollars.

For providing obstructions to be moored in the Potomac river, to render the shore batteries more efficient for the protection of Washington against maritime attack, three hundred thousand dollars.

For completing and rendering more permanent the defenses of Washington, three hundred thousand dollars.

For surveys of the northern and northwestern lakes, including Lake Superior, one hundred thousand dollars.

For engraving and printing chart of lake surveys, ten thousand dollars.

For purchase and repair of instruments, fifteen thousand dollars.

For surveys for military defenses, and for purchase of campaign maps, manuscript notes, and maps of surveys of railroads and canals, one hundred and fifty thousand dollars.

APPROVED, July 2, 1864.

CHAP. CCXII.—An Act to authorize the United States to acquire Land in Wallabout Bay, belonging to the City of Brooklyn, and to authorize the Exchange of other Lands therefor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized and empowered to negotiate with the city of Brooklyn, in the State of New York, and to effect an exchange of lands in Wallabout bay between the United States and the said city, and thereupon to make, execute, and deliver good and sufficient deeds and releases therefor.

APPROVED, July 2, 1864.

CHAP. CCXIII.—An Act granting Lands to the State of Oregon, to aid in the construction of a Military Road from Eugene City to the eastern boundary of said State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to the State of Oregon, to aid in the construction of a military wagon road from Eugene City, by way of Middle Fork of Willamette river, and the most feasible pass in Cascade range of mountains, near Diamond Peak, to the eastern boundary of the State, alternate sections of public lands, designated by odd numbers, for three sections in width on each side of said road: *Provided*, That the lands hereby granted shall be exclusively applied in the construction of said road, and shall be disposed of only as the work progresses; and the same shall be applied to no other purpose whatever: *And provided further*, That any and all lands heretofore reserved to the United States by act of Congress, or other competent authority, be, and the same are, reserved from the operation of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way is granted.

SEC. 2. *And be it further enacted*, That the said lands hereby granted to said State shall be disposed of by the Legislature thereof for the purpose aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States.

SEC. 3. *And be it further enacted*, That said road shall be constructed with such width, graduation, and bridges, as to permit of its regular use as a wagon road, and in such other special manner as the State of Oregon may prescribe.

SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of only in the following manner, that is to say: that a quantity of land not exceeding thirty sections for said road may be sold; and when the Governor of said State shall certify to the Secretary of the Interior that any ten continuous miles of said road are completed, then another quantity of land hereby granted, not to exceed thirty sections,

38TH CONG....1ST SESS.

Laws of the United States.

may be sold, and so from time to time until said road is completed; and if said road is not completed within five years, no further sales shall be made, and the land remaining unsold shall revert to the United States.

APPROVED, July 2, 1864.

CHAP. CCXIV.—An Act to establish Colfax Street in the City of Washington and District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage hereof, the alley, which is sixty feet wide, across square seven hundred and twelve, and which connects L and M street north, and the west line of which is two hundred and twelve feet east of the east line of First street east, shall be known as Colfax street.

SEC. 2. *And be it further enacted,* That Congress may hereafter, at any time, amend or repeal this act.

APPROVED, July 2, 1864.

CHAP. CCXV.—An Act to provide for the more speedy Punishment of Guerrilla-Marauders, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the twenty-first section of an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved third March, eighteen hundred and sixty-three, shall apply as well to the sentences of military commissions as to those of courts-martial, and hereafter the commanding general in the field, or the commander of the department, as the case may be, shall have power to carry into execution all sentences against guerrilla-marauders, for robbery, arson, burglary, rape, assault with intent to commit rape, and for violation of the laws and customs of war, as well as sentences against spies, mutineers, deserters, and murderers.

SEC. 2. *And be it further enacted,* That every officer authorized to order a general court-martial shall have power to pardon or mitigate any punishment ordered by such court, including that of confinement in the penitentiary, except the sentence of death, or of cashiering or dismissing an officer, which sentences it shall be competent during the continuance of the present rebellion for the general commanding the army in the field, or the department commander, as the case may be, to remit or mitigate; and the fifth section of the act approved July seventeenth, eighteen hundred and sixty-two, chapter two hundred and one, be, and the same is hereby, repealed, so far as it relates to sentences of imprisonment in the penitentiary.

SEC. 3. *And be it further enacted,* That when a soldier sick in hospital shall have been discharged, or shall be discharged from the military service, but shall be unable to leave or to avail himself of his discharge, in consequence of sickness or of wounds, and shall subsequently die in such hospital, he shall be deemed to have died in the military service, so far as relates to bounties.

APPROVED, July 2, 1864.

CHAP. CCXVI.—An Act to amend an Act entitled "An Act to aid in the construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July first, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the capital stock of the company entitled the Union Pacific Railroad Company, authorized by the act of which this act is amendatory, shall be in shares of one hundred dollars, instead of one thousand dollars each; that the number of shares shall be one million, instead of one hundred thousand; and that the number of shares which any person shall hold to entitle him to serve as a director in said company (except the five directors to be appointed by Government) shall be fifty shares, instead of five shares; and

that every subscriber to said capital stock for each share of one thousand dollars, heretofore subscribed, shall be entitled to a certificate for ten shares of one hundred dollars each; and that the following words in section first of said act, "which shall be subscribed for and held in not more than two hundred shares by any one person," be, and the same are hereby, repealed.

SEC. 2. *And be it further enacted,* That the Union Pacific Railroad Company shall cause books to be kept open to receive subscriptions to the capital stock of said company, (until the entire capital of one hundred millions of dollars shall be subscribed,) at the general office of said company in the city of New York, and in each of the cities of Boston, Philadelphia, Baltimore, Chicago, Cincinnati, and Saint Louis, at such places as may be designated by the President of the United States, and in such other localities as may be directed by him. No subscription for said stock shall be deemed valid unless the subscriber therefor shall, at the time of subscribing, pay or remit to the treasurer of the company an amount per share subscribed by him equal to the amount per share previously paid by the then existing stockholders. The said company shall make assessments upon its stockholders of not less than five dollars per share, and at intervals of not exceeding six months from and after the passage of this act, until the par value of all shares subscribed shall be fully paid; and money only shall be receivable for any such assessment, or as equivalents for any portion of the capital stock hereinbefore authorized. The capital stock of said company shall not be increased beyond the actual cost of said road. And the stock of the company shall be deemed personal property, and shall be transferable on the books of the company, at the general office of said company in the city of New York, or at such other transfer office as the company may establish.

SEC. 3. *And be it further enacted,* That the Union Pacific Railroad Company, and all other companies provided for in this act and the act to which this is an amendment, be, and hereby are, empowered to enter upon, purchase, take, and hold any lands or premises that may be necessary and proper for the construction and working of said road, not exceeding in width one hundred feet on each side of its center line, unless a greater width be required for the purpose of excavation or embankment; and also any lands or premises that may be necessary and proper for turnouts, standing places for cars, depots, station house[s], or any other structures required in the construction and operating of said road. And each of said companies shall have the right to cut and remove trees or other materials that might by falling incumber its road bed, though standing or being more than one hundred feet therefrom. And in case the owner or claimant of such lands or premises and such company cannot agree as to the damages, the amount shall be determined by the appraisal of three disinterested commissioners, who may be appointed upon application by any party to any judge of a court of record in any of the Territories in which the lands or premises to be taken lie; and said commissioners, in their assessments of damages, shall appraise such premises at what would have been the value thereof if the road had not been built; and upon return into court of such appraisal, and upon the payment to the clerk thereof of the amount so awarded by the commissioners for the use and benefit of the owner thereof, said premises shall be deemed to be taken by said company, which shall thereby acquire full title to the same for the purposes aforesaid. And either party feeling aggrieved by said assessment may, within thirty days, file an appeal therefrom, and demand a jury of twelve men to estimate the damage sustained; but such appeal shall not interfere with the rights of said company to enter upon the premises taken, or to do any act necessary in the construction of its road. And said party appealing shall give bonds with sufficient surety or sureties, for the payment of any costs that may arise upon such appeal. And in case the party appealing does not obtain a more favorable verdict, such party shall pay the whole cost incurred by the appellee, as well as its own. And the payment into court for the use of the owner or claimant, of a sum equal to that

finally awarded shall be held to vest in said company the title of said land, and the right to use and occupy the same for the construction, maintaining, and operating of the road of said company. And in case any of the lands to be taken as aforesaid shall be held by any person residing without the Territory, or subject to any legal disability, the court may appoint a proper person who shall give bonds with sufficient surety or sureties, for the faithful execution of his trust, and who may represent in court the person disqualified or absent as aforesaid, when the same proceeding shall be had in reference to the appraisal of the premises to be taken, and with the same effect as have been already described. And the title of the company to the land taken by virtue of this act shall not be affected nor impaired by reason of any failure by any guardian to discharge faithfully his trust. And in case it shall be necessary for either of the said companies to enter upon lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purpose of its said railroad, and may institute proceedings in manner described for the purpose of ascertaining the value of, and acquiring a title to, the same; and the court may determine the kind of notice to be served on such owner or owners, and may in its discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or non-appearance. But in case no claimant shall appear within six years from the time of the opening of said road across any land, all claim to damages against said company shall be barred. It shall be competent for the legal guardian of any infant, or any other person under guardianship, to agree with the proper company as to damages sustained by reason of the taking of any lands of any such person under disability, as aforesaid, for the use as aforesaid; and upon such agreement being made, and approved by the court having supervision of the official acts of said guardian, the said guardian shall have full power to make and execute a conveyance thereof to the said company which shall vest the title thereto in the said company.

SEC. 4. *And be it further enacted,* That section three of said act be hereby amended by striking out the word "five," where the same occurs in said section, and by inserting in lieu thereof the word "ten;" and by striking out the word "ten," where the same occurs in said section, and by inserting in lieu thereof the word "twenty." And section seven of said act is hereby amended by striking out the word "fifteen," where the same occurs in said section, and inserting in lieu thereof the word "twenty-five." And the term "mineral land," wherever the same occurs in this act, and the act to which this is an amendment, shall not be construed to include coal and iron land. And any lands granted by this act, or the act to which this is an amendment, shall not defeat or impair any preemption, homestead, swamp land, or other lawful claim, nor include any Government reservation or mineral lands, or the improvements of any bona fide settler, or any lands returned and denominated as mineral lands, and the timber necessary to support his said improvements as a miner, or agriculturalist, to be ascertained under such rules as have been or may be established by the Commissioner of the General Land Office, in conformity with the provisions of the preemption laws: *Provided,* That the quantity thus exempted by the operation of this act, and the act to which this act is an amendment, shall not exceed one hundred and sixty acres for each settler who claims as an agriculturalist, and such quantity for each settler who claims as a miner, as the said Commissioner may establish by general regulation: *Provided, also,* That the phrase "but where the same shall contain timber, the timber thereon is hereby granted to said company," in the proviso to said section three, shall not apply to the timber growing or being on any land further than ten miles from the center line of any one of said roads or branches mentioned in said act, or in this act. And all lands shall be excluded from the operation of this act, and of the act to which this act is an amendment, which were located, or selected to be located, under the provisions of an act entitled "An act donating

Laws of the United States.

38TH CONG....1ST SESS.

lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred and sixty-two, and notice thereof given at the proper land office.

SEC. 5. *And be it further enacted*, That the time for designating the general route of said railroad, and of filing the map of the same, and the time for the completion of that part of the railroads required by the terms of said act of each company; be, and the same is hereby, extended one year from the time in said act designated; and that the Central Pacific Railroad Company of California shall be required to complete twenty-five miles of their said road in each year thereafter, and the whole to the State line within four years, and that only one half of the compensation for services rendered for the Government by said companies shall be required to be applied to the payment of the bonds issued by the Government in aid of the construction of said roads.

SEC. 6. *And be it further enacted*, That the proviso to section four of said act is hereby modified as follows, viz: And the President of the United States is hereby authorized, at any time after the passage of this act, to appoint for each and every of said roads three commissioners, as provided for in the act to which this is amendatory; and the verified statement of the president of the California company, required by said section four, shall be filed in the office of the United States surveyor general for the State of California, instead of being presented to the President of the United States; and the said surveyor general shall thereupon notify the said commissioners of the filing of such statement, and the said commissioners shall thereupon proceed to examine the portion of said railroad and telegraph line so completed, and make their report thereon to the President of the United States, as provided by the act of which this is amendatory. And such statement may be filed, and such railroad and telegraph line be examined and reported on, by the said commissioners, and the requisite amount of bonds may be issued and the lands appertaining thereto may be set apart, located, entered, and patented, as provided in this act and the act to which this is amendatory, upon the construction by said railroad company of California of any portion of not less than twenty consecutive miles of their said railroad and telegraph line, upon the certificate of said commissioners that such portion is completed as required by the act to which this is amendatory. And section ten of the act of which this is amendatory is hereby amended by inserting after the words "United States," in the last clause, the words "and States intervening."

SEC. 7. *And be it further enacted*, That so much of section seventeen of said act as provides for a reservation by the Government of a portion of the bonds to be issued to aid in the construction of the said railroads is hereby repealed. And the failure of any one company to comply fully with the conditions and requirements of this act, and the act to which this is amendatory, shall not work a forfeiture of the rights, privileges, or franchise of any other company or companies that shall have complied with the same.

SEC. 8. *And be it further enacted*, That for the purpose of facilitating the work on said railroad, and of enabling the said company as early as practicable to commence the grading of said railroad in the region of the mountains, between the eastern base of the Rocky mountains and the western base of the Sierra Nevada mountains, so that the same may be finally completed within the time required by law, it is hereby provided that whenever the chief engineer of the said company, and said commissioners, shall certify that a certain proportion of the work required required to prepare the road for the superstructure on any such section of twenty miles is done, (which said certificate shall be duly verified,) the Secretary of the Treasury is hereby authorized and required, upon the delivery of such certificate, to issue to said company a proportion of said bonds, not exceeding two thirds of the amount of bonds authorized to be issued under the provisions of the act, to aid in the construction of such section of twenty miles, nor in any case exceeding two thirds of the value of the work done,

the remaining one third to remain until the said section is fully completed and certified by the commissioners appointed by the President, according to the terms and provisions of the said act; and no such bonds shall issue to the Union Pacific Railroad Company for work done west of Salt Lake City under this section, more than three hundred miles in advance of the completed continuous line of said railroad from the point of beginning on the one hundredth meridian of longitude.

SEC. 9. *And be it further enacted*, That to enable any one of said corporations to make convenient and necessary connections with other roads, it is hereby authorized to establish and maintain all necessary ferries upon and across the Missouri river and other rivers, which its road may pass in its course; and authority is hereby given said corporation to construct bridges over said Missouri river, and all other rivers, for the convenience of said road: *Provided*, That any bridge or bridges it may construct over the Missouri river, or any other navigable river on the line of said road, shall be constructed with suitable and proper draws for the passage of steamboats, and shall be built, kept, and maintained, at the expense of said company in such manner as not to impair the usefulness of said rivers for navigation to any greater extent than such structures of the most approved character necessarily do: *And provided further*, That any company authorized by this act to construct its road and telegraph line from the Missouri river to the initial point aforesaid, may construct its road and telegraph line so as to connect with the Union Pacific railroad at any point westwardly of such initial point, in case such company shall deem such westward connection more practicable or desirable; and in aid of the construction of so much of its road and telegraph line as shall be a departure from the route hereinbefore provided for its road, such company shall be entitled to all the benefits, and be subject to all the conditions and restrictions of this act: *Provided further, however*, That the bonds of the United States shall not be issued to such company for a greater amount than is hereinbefore provided, if the same had united with the Union Pacific railroad on the 100th degree of longitude; nor shall such company be entitled to receive any greater amount of alternate sections of public lands than are also herein provided.

SEC. 10. *And be it further enacted*, That section five of said act be so modified and amended that the Union Pacific Railroad Company, the Central Pacific Railroad Company, and any other company authorized to participate in the construction of said road, may, on the completion of each section of said road, as provided in this act, and the act to which this act is an amendment, issue their first mortgage bonds on their respective railroad and telegraph lines to an amount not exceeding the amount of the bonds of the United States, and of even tenor and date, time of maturity, rate and character of interest with the bonds authorized to be issued to said railroad companies respectively. And the lien of the United States bonds shall be subordinate to that of the bonds of any or either of said companies hereby authorized to be issued on their respective roads, property, and equipments, except as to the provisions of the sixth section of the act to which this act is an amendment, relating to the transmission of dispatches and the transportation of mails, troops, munitions of war, supplies and public stores for the Government of the United States. And said section is further amended by striking out the word "forty," and inserting in lieu thereof the words "on each and every section of not less than twenty."

SEC. 11. *And be it further enacted*, That if any of the railroad companies entitled to bonds of the United States, or to issue their first mortgage bonds herein provided for, has, at the time of the approval of this act, issued, or shall thereafter issue, any of its own bonds or securities in such form or manner as in law or equity to entitle the same to priority or preference of payment to the said guaranteed bonds, or said first mortgage bonds, the amount of such corporate bonds outstanding and unsatisfied, or uncanceled, shall be deducted from the amount of such Government

and first mortgage bonds, which the company may be entitled to receive and issue; and such an amount only of such Government bonds and such first mortgage bonds shall be granted or permitted, as added to such outstanding, unsatisfied, or uncanceled bonds of the company shall make up the whole amount per mile to which the company would otherwise have been entitled: *And provided further*, That before any bonds shall be so given by the United States, the company, claiming them shall present to the Secretary of the Treasury an affidavit of the president and secretary of the company, to be sworn to before the judge of a court of record, setting forth whether said company has issued any such bonds or securities, and, if so, particularly describing the same, and such other evidence as the Secretary may require, so as to enable him to make the deduction herein required; and such affidavit shall then be filed and deposited in the office of the Secretary of the Interior. And any person swearing falsely to any such affidavit, shall be deemed guilty of perjury, and, on conviction thereof, shall be punished as aforesaid: *Provided, also*, That no land granted by this act shall be conveyed to any party or parties, and no bonds shall be issued to any company or companies, party or parties, on account of any road or part thereof, made prior to the passage of the act to which this act is an amendment, or made subsequent thereto under the provisions of any act or acts other than this act, and the act amended by this act.

SEC. 12. *And be it further enacted*, That the Leavenworth, Pawnee, and Western Railroad Company, now known as the Union Pacific Railroad Company, eastern division, shall build the railroad from the mouth of Kansas river, by the way of Leavenworth, or, if that be not deemed the best route, then the said company shall, within two years, build a railroad from the city of Leavenworth to unite with the main stem at or near the city of Lawrence; but to aid in the construction of said branch the said company shall not be entitled to any bonds. And if the Union Pacific Railroad Company shall not be proceeding in good faith to build the said railroad through the Territories when the Leavenworth, Pawnee, and Western Railroad Company, now known as the Union Pacific Railroad Company, eastern division, shall have completed their road to the hundredth degree of longitude, then the last-named company may proceed to make said road westward until it meets and connects with the Central Pacific Railroad Company on the same line. And the said railroad from the mouth of Kansas river to the one hundredth meridian of longitude shall be made by the way of Lawrence and Topeka, or on the bank of the Kansas river opposite said towns: *Provided*, That no bonds shall be issued or land certified by the United States to any person or company, for the construction of any part of the main trunk line of said railroad west of the one hundredth meridian of longitude and east of the Rocky mountains, until said road shall be completed from or near Omaha, on the Missouri river, to the said one hundredth meridian of longitude.

SEC. 13. *And be it further enacted*, That at and after the next election of directors, the number of directors to be elected by the stockholders shall be fifteen; and the number of directors to be appointed by the President shall be five; and the President shall appoint three additional directors to serve until the next regular election, and thereafter five directors. At least one of said Government directors shall be placed on each of the standing committees of said company, and at least one on every special committee that may be appointed. The Government directors shall, from time to time, report to the Secretary of the Interior, in answer to any inquiries he may make of them, touching the condition, management, and progress of the work, and shall communicate to the Secretary of the Interior, at any time, such information as should be in the possession of the Department. They shall, as often as may be necessary to a full knowledge of the condition and management of the line, visit all portions of the line of road, whether built or surveyed; and while absent from home, attending to their duties as directors, shall be paid their actual traveling expenses, and be allowed and paid such

38TH CONG....1ST SESS.

Laws of the United States.

reasonable compensation for their time actually employed as the board of directors may decide.

Sec. 14. *And be it further enacted, That the next election for directors of said railroad shall be held on the first Wednesday of October next, at the office of said company in the city of New York, between the hours of ten o'clock a.m. and four o'clock p.m. of said day; and all subsequent regular elections shall be held annually thereafter at the same place; and the directors shall hold their offices for one year, and until their successors are qualified.*

Sec. 15. *And be it further enacted, That the several companies authorized to construct the aforesaid roads are hereby required to operate and use said roads and telegraph for all purposes of communication, travel, and transportation, so far as the public and the Government are concerned, as one continuous line; and in such operation and use, to afford and secure to each equal advantages and facilities as to rates, time, and transportation, without any discrimination of any kind in favor of the road or business of any or either of said companies, or adverse to the road or business of any or either of the others, and it shall not be lawful for the proprietors of any line of telegraph, authorized by this act, or the act amended by this act, to refuse, or fail to convey for all persons requiring the transmission of news and messages of like character, on pain of forfeiting to the person injured for each offense, the sum of one hundred dollars, and such other damage as he may have suffered on account of said refusal or failure, to be sued for and recovered in any court of the United States, or of any State or Territory of competent jurisdiction.*

Sec. 16. *And be it further enacted, That any two or more of the companies authorized to participate in the benefits of this act, are hereby authorized at any time to unite and consolidate their organizations, as the same may or shall be, upon such terms and conditions, and in such manner as they may agree upon, and as shall not be incompatible with this act, or the laws of the State or States in which the roads of such companies may be, and to assume and adopt such corporate name and style as they may agree upon, with a capital stock not to exceed the actual cost of the roads so to be consolidated, and shall file a copy of such consolidation in the Department of the Interior; and thereupon such organization, so formed and consolidated, shall succeed to, possess, and be entitled to receive from the Government of the United States, all and singular the grants, benefits, immunities, guarantees, acts, and things to be done and performed, and be subject to the same terms, conditions, restrictions, and requirements which said companies respectively, at the time of such consolidation, are or may be entitled or subject to under this act, in place and substitution of said companies so consolidated respectively. And all other provisions of this act, so far as applicable, relating or in any manner appertaining to the companies so consolidated, or either thereof, shall apply and be of force as to such consolidated organization. And in case upon the completion by such consolidated organization of the roads, or either of them, of the companies so consolidated, any other of the road or roads of either of the other companies authorized as aforesaid, (and forming, or intended or necessary to form, a portion of a continuous line from each of the several points on the Missouri river, hereinbefore designated, to the Pacific coast,) shall not have constructed the number of miles of its said road within the time herein required, such consolidated organization is hereby authorized to continue the construction of its road and telegraph in the general direction and route upon which such incomplete or unconstructed road is hereinbefore authorized to be built, until such continuation of the road of such consolidated organization shall reach the constructed road and telegraph of said other company, and at such point to connect and unite therewith; and for and in aid thereof the said consolidated organization may do and perform, in reference to such portion of road and telegraph as shall so be in continuation of its constructed road and telegraph, and to the construction and equipment thereof, all and singular, the several acts and things hereinbefore provided, authorized, or grant-*

*ed to be done by the company hereinbefore authorized to construct and equip the same, and shall be entitled to similar and like grants, benefits, immunities, guarantees, acts, and things to be done and performed by the Government of the United States, by the Secretaries of the Treasury and Interior, and by commissioners in reference to such company, and to such portion of the road hereinbefore authorized to be constructed by it, and upon the like and similar terms and conditions, so far as the same are applicable thereto. And said consolidated company shall pay to said defaulting company the value to be estimated by competent engineers of all the work done and material furnished by said defaulting company, which may be adopted and used by said consolidated company in the progress of the work under the provisions of this section: *Provided, nevertheless, That said defaulting company may at any time, before receiving pay for its said work and material, as hereinbefore provided, on its own election, pay said consolidated company the value of the work done and material furnished by said consolidated company, to be estimated by competent engineers, necessary for, and used in, the construction of the road of said defaulting company, and resume the control of its said road; and all the rights, benefits, and privileges which shall be acquired, possessed, or exercised, pursuant to this section, shall be to that extent an abatement of the rights, benefits, and privileges hereinbefore granted to such other company. And in case any company authorized thereto, shall not enter into such consolidated organization, such company, upon the completion of its road as hereinbefore provided, shall be entitled to, and is hereby authorized to, continue and extend the same under the circumstances, and in accordance with the provisions of this section, and to have all the benefits thereof, as fully and completely as are herein provided, touching such consolidated organization. And in case more than one such consolidated organization shall be made, pursuant to this act, the terms and conditions of this act, hereinbefore recited as to one, shall apply in like manner, force, and effect to the other: *Provided, however, That rights and interests at any time acquired by one such consolidated organization, shall not be impaired by another thereof. It is further provided that, should the Central Pacific Railroad Company of California complete their line to the eastern line of the State of California, before the line of the Union Pacific Railroad Company shall have been extended westward so as to meet the line of said first-named company, said first-named company may extend their line of road eastward one hundred and fifty miles on the established route, so as to meet and connect with the line of the Union Pacific road, complying in all respects with the provisions and restrictions of this act as to said Union Pacific road, and upon doing so, shall enjoy all the rights, privileges, and benefits conferred by this act on said Union Pacific Railroad Company.***

Sec. 17. *And be it further enacted, That so much of section fourteen of said act as relates to a branch from Sioux City be, and the same is hereby, amended so as to read as follows: That whenever a line of railroad shall be completed through the States of Iowa, or Minnesota, to Sioux City, such company, now organized or may hereafter be organized under the laws of Iowa, Minnesota, Dakota, or Nebraska, as the President of the United States, by its request, may designate or approve for that purpose, shall construct and operate a line of railroad and telegraph from Sioux City, upon the most direct and practicable route, to such a point on, and so as to connect with, the Iowa branch of the Union Pacific railroad from Omaha, or the Union Pacific railroad, as such company may select, and on the same terms and conditions as are provided in this act and the act to which this is an amendment, for the construction of the said Union and Pacific railroad and telegraph line and branches; and said company shall complete the same at the rate of fifty miles per year: *Provided, That said Union Pacific Railroad Company shall be, and is hereby, released from the construction of said branch. And said company constructing said branch shall not be entitled to receive in bonds an amount**

larger than the said Union Pacific Railroad Company would be entitled to receive if it had constructed the branch under this act and the act to which this is an amendment; but said company shall be entitled to receive alternate sections of land for ten miles in width on each side of the same along the whole length of said branch: *And provided further, That if a railroad should not be completed to Sioux City, across Iowa or Minnesota, within eighteen months from the date of this act, then said company designated by the President, as aforesaid, may commence, continue, and complete the construction of said branch as contemplated by the provisions of this act: *Provided, however, That if the said company so designated by the President as aforesaid shall not complete the said branch from Sioux City to the Pacific railroad within ten years from the passage of this act, then, and in that case, all of the railroad which shall have been constructed by said company shall be forfeited to, and become the property of, the United States.**

Sec. 18. *And be it further enacted, That the Burlington and Missouri River Railroad Company, a corporation organized under and by virtue of the laws of the State of Iowa, be, and hereby is, authorized to extend its road through the Territory of Nebraska from the point where it strikes the Missouri river, south of the mouth of the Platte river, to some point not further west than the one hundredth meridian of west longitude, so as to connect, by the most practicable route, with the main trunk of the Union Pacific railroad, or that part of it which runs from Omaha to the said one hundredth meridian of west longitude. And, for the purpose of enabling said Burlington and Missouri River Railroad Company to construct that portion of their road herein authorized, the right of way through the public lands is hereby granted to said company for the construction of said road. And the right, power, and authority is hereby given to said company to take from the public lands adjacent to the line of said road, earth, stone, timber, and other materials for the construction thereof. Said right of way is granted to said company to the extent of two hundred feet where it may pass over the public lands, including all necessary grounds for stations, buildings, workshops, depots, machine shops, switches, side-tracks, turn-tables, and water-stations. And the United States shall extinguish, as rapidly as may be, consistent with public policy and the welfare of the said Indians, the Indian titles to all lands falling under the operation of this section and required for the said right of way and grant of land herein made.*

Sec. 19. *And be it further enacted, That for the purpose of aiding in the construction of said road, there be, and hereby is, granted to the said Burlington and Missouri River Railroad Company, every alternate section of public land (excepting mineral lands as provided in this act) designated by odd numbers, to the amount of ten alternate sections per mile on each side of said road, on the line thereof, and not sold, reserved, or otherwise disposed of by the United States, and to which a preemption or homestead claim may not have attached at the time the line of said road is definitely fixed: *Provided, That said company shall accept this grant within one year from the passage of this act, by filing such acceptance with the Secretary of the Interior, and shall also establish the line of said road, and file a map thereof with the Secretary of the Interior within one year of the date of said acceptance, when the said Secretary shall withdraw the lands embraced in this grant from market.**

Sec. 20. *And be it further enacted, That whenever said Burlington and Missouri River Railroad Company shall have completed twenty consecutive miles of the road mentioned in the foregoing section, in the manner provided for other roads mentioned in this act, and the act to which this is an amendment, the President of the United States shall appoint three commissioners to examine and report to him in relation thereto; and if it shall appear to him that twenty miles of said road have been completed as required by this act, then, upon certificate of said commissioner[s] to that effect, patents shall issue conveying the right and title to said lands to said company on each side of said road, as far as the same is completed,*

Laws of the United States.

38TH CONG., 1ST SESS.

to the amount aforesaid; and such examination, report, and conveyance, by patents, shall continue from time to time, in like manner, until said road shall have been completed. And the President shall appoint said commissioners, fill vacancies in said commission, as provided in relation to other roads mentioned in the act to which this is an amendment. And the said company shall be entitled to all the privileges and immunities granted to the Hannibal and Saint Joseph's Railroad Company by the said last-mentioned act, so far as the same may be applicable: *Provided*, That no Government bonds shall be issued to the said Burlington and Missouri River Railroad Company to aid in the construction of said extension of its road: *And provided further*, That said extension shall be completed within the period of ten years from the passage of this act.

Sec. 21. *And be it further enacted*, That before any land granted by this act shall be conveyed to any company or party entitled thereto under this act, there shall first be paid into the Treasury of the United States, the cost of surveying, selecting, and conveying the same, by the said company or party in interest, as the titles shall be required by said company, which amount shall, without any further appropriation, stand to the credit of the proper account, to be used by the Commissioner of the General Land Office for the prosecution of the survey of the public lands along the line of said road, and so from year to year until the whole shall be completed, as provided under the provisions of this act.

Sec. 22. *And be it further enacted*, That Congress may, at any time, alter, amend, or repeal this act.

APPROVED, July 2, 1864.

CHAP. CCXVII.—An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from Lake Superior to Puget's Sound, on the Pacific Coast, by the Northern Route.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Richard D. Rice, John A. Poore, Samuel P. Strickland, Samuel C. Fessenden, Charles P. Kimball, Augustine Haines, Edwin R. W. Wiggin, Anson P. Morrill, Samuel J. Anderson, of Maine; Willard Sears, I. S. Withington, Josiah Perham, James M. Becket, A. W. Banfield, Abiel Abbott, John Newell, Austin L. Rogers, Nathaniel Greene, jr., Oliver Frost, John A. Bass, John O. Bresbrey, George Shiverick, Edward Tyler, Filander J. Forristall, Ivory H. Pope, of Massachusetts; George Opydke, Fairley Holmes, John Huggins, Philander Reed, George Briggs, Chauncy Vibbard, John C. Fremont, of New York; Ephraim Marsh, John P. Jackson, jr., of New Jersey; S. M. Felton, John Toy, O. J. Dickey, B. F. Archer, G. W. Cass, J. Edgar Thompson, John A. Green, of Pennsylvania; T. M. Allyn, Moses W. Wilson, Horace Whitaker, Ira Bliss, of Connecticut; Joseph A. Gilmore, Onslow Stearns, E. P. Emerson, Frederick Smyth, William E. Chandler, of New Hampshire; Cyrus Aldrich, H. M. Rice, John McKusick, H. C. Waite, Stephen Miller, of Minnesota; E. A. Chapin, John Gregory Smith, George Merrill, of Vermont; James Y. Smith, William S. Slater, Isaac H. Southwick, Earl P. Mason, of Rhode Island; Seth Fuller, William Kellogg, U. S. Grant, William B. Ogden, William G. Greene, Leonard Sweat, Henry W. Blodgett, Porter Sheldon, of Illinois; J. M. Winchell, Elsworth Chesebrough, James S. Emery, of Kansas; Richard F. Perkins, Richard Chenery, Samuel Brannan, George Rowland, Henry Platt, of California; William F. Mercer, James W. Brownley, of Virginia; John H. B. Latrobe, W. Prescott Smith, of Maryland; Greenbury Slack, A. J. Boreman, of West Virginia; Thomas E. Bramlette, Frank Shorin, of Kentucky; John Brough, John A. Bingham, Oran Follett, John Gardner, S. S. L'Hommedieu, Harrison G. Blake, Philo Chamberlin, of Ohio; John A. Duncan, Samuel M. Harrington, of Delaware; Thomas A. Morris, Jesse L. Williams, of Indiana; Samuel L. Case, Henry L. Hall, David H. Jerome, Thomas D. Gilbert, C. A. Trowbridge, of Michigan; Edward H. Broadhead, Alexander Mitchell, Benjamin Ferguson, Levi Stirling, — Marshal, of

Wisconsin; J. C. Ainsworth, Orlando Humason, H. W. Corbett, Henry Failing, of Oregon; J. B. S. Todd, M. K. Armstrong, J. Shaw Gregory, J. Le Berge, of Dakota Territory; John Mullan, Anson G. Henry, S. D. Smith, Charles Terry, of Washington Territory; H. W. Starr, Platt Smith, Nixon Denton, William Leighton, B. F. Allen, Reuben Noble, John L. Davies, of Iowa; Willard P. Hall, George R. Smith, H. Gayle King, John C. Sargeant, of Missouri; William H. Wallace, of Idaho Territory; J. H. Lathrop, Henry D. Cooke, H. E. Merrick, of the District of Columbia, and all such other persons who shall or may be associated with them, and their successors, are hereby created and erected into a body-corporate and politic, in deed and in law, by the name, style, and title of the "Northern Pacific Railroad Company," and by that name shall have perpetual succession, and shall be able to sue and to be sued, plead and be impleaded, defend and be defended, in all courts of law and equity within the United States, and may make and have a common seal. And said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph line, with the appurtenances, namely, beginning at a point on Lake Superior, in the State of Minnesota or Wisconsin; thence westerly by the most eligible railroad route, as shall be determined by said company, within the territory of the United States, on a line north of the forty-fifth degree of latitude to some point on Puget's Sound, with a branch, via the valley of the Columbia river, to a point at or near Portland, in the State of Oregon, leaving the main trunk line at the most suitable place, not more than three hundred miles from its western terminus; and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act as herein set forth. The capital stock of said company shall consist of one million shares of one hundred dollars each, which shall in all respects be deemed personal property, and shall be transferable in such manner as the by-laws of said corporation shall provide. The persons hereinbefore named are hereby appointed commissioners, and shall be called the board of commissioners of the "Northern Pacific Railroad Company," and fifteen shall constitute a quorum for the transaction of business. The first meeting of said board of commissioners shall be held at the Melodion hall, in the city of Boston, at such time as any five commissioners herein named from Massachusetts shall appoint, not more than three months after the passage of this act, notice of which shall be given by them to the other commissioners by publishing said notice in at least one daily newspaper in the cities of Boston, New York, Philadelphia, Cincinnati, Milwaukee, and Chicago, once a week at least four weeks previous to the day of meeting. Said board shall organize by the choice from its number of a president, vice president, secretary, and treasurer, and they shall require from said treasurer such bonds as may be deemed proper, and may from time to time increase the amount thereof as they may deem proper. The secretary shall be sworn to the faithful performance of his duties, and such oath shall be entered upon the records of the company, signed by him, and the oath verified thereon. The president and secretary of said board shall in like manner call all other meetings, naming the time and place thereof. It shall be the duty of said board of commissioners to open books, or cause books to be opened, at such times, and in such principal cities or other places in the United States, as they, or a quorum of them, shall determine, within six months after the passage of this act, to receive subscriptions to the capital stock of said corporation, and a cash payment of ten per centum on all subscriptions, and to receipt therefor. So soon as twenty thousand shares shall in good faith be subscribed for, and ten dollars per share actually paid into the treasury of the company, the said president and secretary of said board of commissioners shall appoint a time and place for the first meeting of the subscribers to the stock of said company, and shall give notice thereof in at least one newspaper in each State in which subscription books have been opened, at least fifteen days previous

to the day of meeting, and such subscribers as shall attend the meeting so called, either in person or by lawful proxy, then and there shall elect by ballot thirteen directors for said corporation; and in said election each share of said capital stock shall entitle the owner thereof to one vote. The president and secretary of the board of commissioners, and, in case of their absence or inability, any two of the officers of said board, shall act as inspectors of said election, and shall certify under their hands the names of the directors elected at said meeting; and the said commissioners, treasurer, and secretary, shall then deliver over to said directors all the properties, subscription books, and other books in their possession, and thereupon the duties of said commissioners, and the officers previously appointed by them, shall cease and determine forever, and thereafter the stockholders shall constitute said body-politic and corporate. Annual meetings of the stockholders of the said corporation for the choice of officers (when they are to be chosen) and for the transaction of business shall be held at such time and place and upon such notice as may be prescribed in the by-laws.

Sec. 2. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said "Northern Pacific Railroad Company," its successors and assigns, for the construction of a railroad and telegraph as proposed; and the right, power, and authority is hereby given to said corporation to take from the public lands, adjacent to the line of said road, material of earth, stone, timber, and so forth, for the construction thereof. Said way is granted to said railroad to the extent of two hundred feet in width on each side of said railroad where it may pass through the public domain, including all necessary ground for station buildings, workshops, depots, machine shops, switches, side tracks, turntables, and water-stations; and the right of way shall be exempt from taxation within the Territories of the United States. The United States shall extinguish, as rapidly as may be consistent with public policy and the welfare of the said Indians, the Indian titles to all lands falling under the operation of this act, and acquired in the donation to the [road] named in this bill.

Sec. 3. *And be it further enacted*, That there be, and hereby is, granted to the "Northern Pacific Railroad Company," its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores, over the route of said line of railway, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the Territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any State, and whenever on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from preemption, or other claims or rights, at the time the line of said road is definitely fixed, and a plat thereof filed in the office of the Commissioner of the General Land Office; and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or preëmpted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections: *Provided*, That if said route shall be found upon the line of any other railroad route to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act: *Provided further*, That the railroad company receiving the previous grant of land may assign their interest to said "Northern Pacific Railroad Company," or may consolidate, confederate, and associate with said company upon the terms named in the first section of this act: *Provided further*, That all mineral lands be, and the same are hereby, excluded from the

38TH CONG... 1ST SESS.

Laws of the United States.

operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands, in odd-numbered sections, nearest to the line of said road, may be selected as above provided: *And provided further*, That the word "mineral," when it occurs in this act, shall not be held to include iron or coal: *And provided further*, That no money shall be drawn from the Treasury of the United States to aid in the construction of the said Northern Pacific railroad.

SEC. 4. *And be it further enacted*, That whenever said "Northern Pacific Railroad Company" shall have twenty-five consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated, the President of the United States shall appoint three commissioners to examine the same, and if it shall appear that twenty-five consecutive miles of said road and telegraph line have been completed in a good, substantial, and workmanlike manner, as in all other respects required by this act, the commissioners shall so report to the President of the United States, and patents of lands, as aforesaid, shall be issued to said company, confirming to said company the right and title to said lands, situated opposite to, and coterminous with, said completed section of said road; and, from time to time, whenever twenty-five additional consecutive miles shall have been constructed, completed, and in readiness as aforesaid, and verified by said commissioners to the President of the United States, then patents shall be issued to said company conveying the additional sections of land as aforesaid, and so on as fast as every twenty-five miles of said road is completed as aforesaid: *Provided*, That not more than ten sections of land per mile, as said road shall be completed, shall be conveyed to said company for all that part of said railroad lying east of the western boundary of the State of Minnesota, until the whole of said railroad shall be finished and in good running order, as a first-class railroad, from the place of beginning on Lake Superior to the western boundary of Minnesota: *Provided, also*, That lands shall not be granted under the provisions of this act on account of any railroad, or part thereof, constructed at the date of the passage of this act.

SEC. 5. *And be it further enacted*, That said Northern Pacific railroad shall be constructed in a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turnouts, stations, and watering places, and all other appurtenances, including furniture, and rolling stock, equal in all respects to railroads of the first class, when prepared for business, with rails of the best quality, manufactured from American iron. And a uniform gauge shall be established throughout the entire length of the road. And there shall be constructed a telegraph line, of the most substantial and approved description, to be operated along the entire line: *Provided*, That the said company shall not charge the Government higher rates than they do individuals for like transportation and telegraphic service. And it shall be the duty of the Northern Pacific Railroad Company to permit any other railroad which shall be authorized to be built by the United States, or by the Legislature of any Territory or State in which the same may be situated, to form running connections with it, on fair and equitable terms.

SEC. 6. *And be it further enacted*, That the President of the United States shall cause the lands to be surveyed for forty miles in width on both sides of the entire line of said road, after the general route shall be fixed, and as fast as may be required by the construction of said railroad; and the odd sections of land hereby granted shall not be liable to sale, or entry, or preemption before or after they are surveyed, except by said company, as provided in this act; but the provisions of the act of September, eighteen hundred and forty-one, granting preemption rights, and the acts amendatory thereof, and of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May twenty, eighteen hundred and sixty-two, shall be, and the same are hereby, extended to all other lands on the line of said road, when surveyed, excepting those hereby granted to said company. And the reserved alternate sections shall not be sold by the Government at a price less than two dollars and fifty cents per acre, when offered for sale.

SEC. 7. *And be it further enacted*, That the said "Northern Pacific Railroad Company" be, and is hereby, authorized and empowered to enter upon, purchase, take, and hold any lands or premises that may be necessary and proper for the construction and working of said road, not exceeding in width two hundred feet on each side of the line of its railroad, unless a greater width be required for the purpose of excavation or embankment; and also any lands or premises that may be necessary and proper for turnouts, standing places for cars, depots, station houses, or any other structures required in the construction and working of said road. And the said company shall have the right to cut and remove trees and other material that might, by falling, incumber its road-bed, though standing or being more than two hundred feet from the line of said road. And in case the owner of such lands or premises and the said company cannot agree as to the value of the premises taken, or to be taken, for the use of said road, the value thereof shall be determined by the appraisal of three disinterested commissioners, who may be appointed, upon application by either party, to any court of record in any of the Territories in which the lands or premises to be taken lie; and said commissioners, in their assessment of damages, shall appraise such premises at what would have been the value thereof if the road had not been built. And upon return into court of such appraisal, and upon the payment into the same of the estimated value of the premises taken for the use and benefit of the owner thereof, said premises shall be deemed to be taken by said company, which shall thereby acquire full title to the same for the purposes aforesaid. And either party feeling aggrieved at said appraisal may, within thirty days after the same has been returned into court, file an appeal therefrom, and demand a jury of twelve men to estimate the damage sustained; but such appeal shall not interfere with the rights of said company to enter upon the premises taken, or to do any act necessary and proper in the construction of its road. And said party appealing shall give bonds, with sufficient surety or sureties, for the payment of any cost that may arise upon such appeal; and in case the party appealing does not obtain a verdict, increasing or diminishing, as the case may be, the award of the commissioners, such party shall pay the whole cost incurred by the appellee, as well as his own, and the payment into court, for the use of the owner of said premises taken, of a sum equal to that finally awarded, shall be held to vest in said company the title of said land, and of the right to use and occupy the same for the construction, maintenance, and operation of said road. And in case any of the lands to be taken, as aforesaid, shall be held by any infant, femme covert, non compos, insane person, or persons residing without the Territory within which the lands to be taken lie, or persons subjected to any legal disability, the court may appoint a guardian for any party under any disqualification, to appear in proper person, who shall give bonds, with sufficient surety or sureties, for the proper and faithful execution of his trust, and who may represent in court the person disqualified, as aforesaid, from appearing, when the same proceedings shall be had in reference to the appraisal of the premises to be taken for the use of said company, and with the same effect as has been already described; and the title of the company to the lands taken by virtue of this act shall not be affected or impaired by reason of any failure by any guardian to discharge faithfully his trust. And in case any party shall have a right or claim to any land for a term of years, or any interest therein, in possession, reversion, or remainder, the value of any such estate, less than a fee simple, shall be estimated and determined in the manner hereinbefore set forth. And in case it shall be necessary for the company to enter upon any lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purposes of said railroad, and may institute proceedings, in manner described, for the purpose of ascertaining the value of, and of acquiring title to, the same; but the judge of the court hearing said suit shall determine the kind of notice to be served on such owner or owners,

and he may in its discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or non-appearance. But in case no claimant shall appear within six years from the time of the opening of said road across any land, all claims to damages against said company shall be barred.

SEC. 8. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to, and accepted by, said Northern Pacific Railroad Company, upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than fifty miles per year after the second year, and shall construct, equip, furnish, and complete the whole road by the fourth day of July, anno Domini eighteen hundred and seventy-six.

SEC. 9. *And be it further enacted*, That the United States make the several conditional grants herein, and that the said Northern Pacific Railroad Company accept the same, upon the further condition that if the said company make any breach of the conditions hereof, and allow the same to continue for upwards of one year, then, in such case, at any time hereafter, the United States, by its Congress, may do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road.

SEC. 10. *And be it further enacted*, That all people of the United States shall have the right to subscribe to the stock of the Northern Pacific Railroad Company until the whole capital named in this act of incorporation is taken up, by complying with the terms of subscription; and no mortgage or construction bonds shall ever be issued by said company on said road, or mortgage, or lien made in any way, except by the consent of the Congress of the United States.

SEC. 11. *And be it further enacted*, That said Northern Pacific railroad, or any part thereof, shall be a post route and a military road, subject to the use of the United States, for postal, military, naval, and all other Government service, and also subject to such regulations as Congress may impose restricting the charges for such Government transportation.

SEC. 12. *And be it further enacted*, That the acceptance of the terms, conditions, and impositions of this act by the said Northern Pacific Railroad Company shall be signified in writing under the corporate seal of said company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within two years after the passage of this act, and not afterwards, and shall be served on the President of the United States.

SEC. 13. *And be it further enacted*, That the directors of said company shall make an annual report of their proceedings and expenditures, verified by the affidavits of the president and at least six of the directors, and they shall, from time to time, fix, determine, and regulate the fares, tolls, and charges to be received and paid for transportation of persons and property on said road, or any part thereof.

SEC. 14. *And be it further enacted*, That the directors chosen in pursuance of the first section of this act shall, so soon as may be after their election, elect from their own number a president and vice president; and said board of directors shall, from time to time, and so soon as may be after their election, choose a treasurer and secretary, who shall hold their offices at the will and pleasure of the board of directors. The treasurer and secretary shall give such bonds, with such security as the said board from time to time may require. The secretary shall, before entering upon his duty, be sworn to the faithful discharge thereof, and said oath shall be made a matter of record upon the books of said corporation. No person shall be a director of said company unless he shall be a stockholder, and qualified to vote for directors at the election at which he shall be chosen.

SEC. 15. *And be it further enacted*, That the president, vice president, and directors shall hold their offices for the period indicated in the by-laws of said company, not exceeding three years, respectively, and until others are chosen in their place, and qualified. In case it shall so happen that an election of directors shall not be made on

Laws of the United States.

38TH CONG. 1ST SESS.

any day appointed by the by-laws of said company, the corporation shall not for that excuse be deemed to be dissolved, but such election may be holden on any day which shall be appointed by the directors. The directors, of whom seven, including the president, shall be a quorum for the transaction of business, shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper touching the disposition and management of the stock, property, estate, and effects of the company, the transfer of shares, and the duties and conduct of their officers and servants touching the election and meeting of the directors, and all matters whatsoever which may appertain to the concerns of said company; and the said board of directors may have full power to fill any vacancy or vacancies that may occur from any cause or causes from time to time in their said board. And the said board of directors shall have power to appoint such engineers, agents, and subordinates as may from time to time be necessary to carry into effect the object of the company, and to do all acts and things touching the location and construction of said road.

SEC. 16. *And be it further enacted*, That it shall be lawful for the directors of said company to require payment of the sum of ten per centum cash assessment upon all subscriptions received of all subscribers, and the balance thereof at such times and in such proportions and on such conditions as they shall deem to be necessary to complete the said road and telegraph line within the time in this act prescribed. Sixty days' previous notice shall be given of the payments required, and of the time and place of payment, by publishing a notice once a week in one daily newspaper in each of the cities of Boston, New York, Philadelphia, and Chicago; and in case any stockholder shall neglect or refuse to pay, in pursuance of such notice, the stock held by such person shall be forfeited absolutely to the use of the company, and also any payment or payments that shall have been made on account thereof, subject to the condition that the board of directors may allow the redemption on such terms as they may prescribe.

SEC. 17. *And be it further enacted*, That the said company is authorized to accept to its own use any grant, donation, loan, power, franchise, aid, or assistance which may be granted to, or conferred upon said company by the Congress of the United States, by the Legislature of any State, or by any corporation, person, or persons; and said corporation is authorized to hold and enjoy any such grant, donation, loan, power, franchise, aid, or assistance, to its own use for the purpose aforesaid.

SEC. 18. *And be it further enacted*, That said Northern Pacific Railroad Company shall obtain the consent of the Legislature of any State through which any portion of said railroad line may pass, previous to commencing the construction thereof; but said company may have the right to put on engineers and survey the route before obtaining the consent of the Legislature.

SEC. 19. *And be it further enacted*, That unless said Northern Pacific Railroad Company shall obtain bona fide subscriptions to the stock of said company to the amount of two millions of dollars, with ten per centum paid within two years after the passage and approval of this act, it shall be null and void.

SEC. 20. *And be it further enacted*, That the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes, Congress may, at any time, having due regard for the rights of said Northern Pacific Railroad Company, add to, alter, amend, or repeal this act.

APPROVED, July 2, 1864.

CHAP. CCXVIII.—An Act to quiet the Titles to Lands within the Rancho Laguna de Santos Calle, in the State of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it may and shall be lawful for all purchasers from the grantees or their assigns of

lands within the Rancho Laguna de Santos Calle, in the State of California, to file, within twelve months from the passage of this act, with the register of the land office at Marysville; applications describing the lands so purchased by them respectively, with proofs of bona fide purchase from the said grantees or their assigns; and, upon such proofs being found satisfactory, the said purchasers shall be permitted to enter, according to the lines of the public surveys, at one dollar and twenty-five cents per acre, the lands so purchased within the limits of said rancho, as described in the petition presented to the board of commissioners under the act of March 3, 1851, entitled "An act to ascertain and settle the private land claims in the State of California;" to the extent to which the lands so purchased have been reduced to possession, and are now held by said purchasers: *Provided*, That any person who shall avail himself of the provisions of this act shall be thereafter debarred any further claim under the grantee in the event of a final confirmation of the grant.

SEC. 2. *And be it further enacted*, That where any additional surveys may be found necessary to give full effect to this act, the Commissioner of the General Land Office shall cause such surveys to be made at the cost of the purchasers, as provided by the 10th section of the act of May 30th, 1862, entitled "An act to reduce the expenses of the survey and sale of the public lands of the United States;" *Provided*, That no entry of mineral lands or lands reserved for military or other public uses, shall be permitted under this act, nor shall any rights acquired under the pre-emption laws of the United States be affected hereby.

SEC. 3. *And be it further enacted*, That it shall be the duty of the register and receiver of the proper land office to receive all applications in cases presented under this act, pursuant to such instructions as may be prescribed by the Commissioner of the General Land Office, and to adjudge all such cases as preliminary to a final decision in due course of law.

APPROVED, July 2, 1864.

CHAP. CCXIX.—An Act to authorize assimilated Rank to be given to the Warrant Officers of the United States Navy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized; if, in his judgment, it shall be conducive to the interest of the service, to give assimilated rank to the warrant officers of the Navy, viz: boatswains, gunners, carpenters, and sailmakers, as follows: After five years of service to rank with ensigns; and after ten years' service to rank with masters.

SEC. 2. *And be it further enacted*, That, from and after the passage of this act, the officers named in the preceding section shall be known as "warrant officers in the naval service of the United States," and shall be so entered upon the Naval Register.

SEC. 3. *And be it further enacted*, That in all cases where it has been, or may be, found necessary during the present war to detain in confinement persons found on board of captured vessels, the expenses of the detention of such persons, when not chargeable to the proceeds of prize or other fund, shall be paid out of the appropriation for defraying the expenses of suits in which the United States are concerned, and that the expenses of prisoners sentenced by naval court-martial to confinement in a penitentiary shall be defrayed from the same fund.

SEC. 4. *And be it further enacted*, That the following addition be made to the clerical force now authorized by law in the Navy Department:

Bureau of Provisions and Clothing, two clerks of the third class and two of the first class.
Bureau of Ordnance, one clerk of the third class.
Bureau of Equipment and Recruiting, one clerk of the second class and one clerk of the first class.

APPROVED, July 2, 1864.

CHAP. CCXX.—An Act for increased Facilities of Telegraph Communication between the Atlantic and Pacific States and the Territory of Idaho.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Telegraph Com-

pany, and their associates, are hereby authorized to erect a line or lines of magnetic telegraph between the Missouri river and the city of San Francisco, in the State of California, on such route as they may select, to connect with the lines of the said United States Telegraph Company, now constructed, and being constructed through the States of the Union. The said company shall have the use of such unoccupied land of the United States as may be necessary for the right of way, and materials, and for the establishing of stations along said line for repairs, not exceeding at any station one quarter section of land; and such stations not to exceed one in fifteen miles on the average of the whole line, unless said lands shall be required by the Government of the United States for railroad or other purposes: *And provided*, That no right to preempt any of said lands under the laws of the United States shall inure to said company or their agents, or any other person or persons whatsoever.

SEC. 2. *And be it further enacted*, That the said United States Telegraph Company, under the direction of the President of the United States, is hereby authorized to erect a line of telegraph from Fort Hall, by Walla-Walla and the Dalles and San Francisco to Portland, in the State of Oregon, and from Fort Hall to Bannock and Virginia City, in the Territory of Idaho, with the same privileges as to the right of way, and so forth, as is provided in the first section of this act; the United States to have priority in the use of said lines of telegraph to Oregon and Idaho.

SEC. 3. *And be it further enacted*, That the aforesaid company is authorized by this act to send and receive dispatches on payment of the regular charges for transmission of dispatches over any line that may now or hereafter be constructed by the authority or aid of Congress, to connect with any line or lines authorized or erected by the Russian or English Governments, and that all dispatches received by said line or lines shall be transmitted in the order of their reception, and the answers thereto shall be delivered to said United States Telegraph Company for transmission over their lines to the office whence the original message was sent, whenever so directed by the sender thereof.

SEC. 4. *And be it further enacted*, That the several railroad companies authorized by act of Congress July one, eighteen hundred and sixty-two, are authorized to enter into arrangements with the United States Telegraph Company so that the line of telegraph between the Missouri river and San Francisco may be made upon and along the line of said railroad and branches as fast as said roads and branches are built, and if said arrangements be entered into and the transfer of said telegraph line be made in accordance therewith to the line of said railroads and branches, such transfer shall, for all purposes of the act referred to, be held and considered a fulfillment on the part of said railroad companies of the provision of the act in regard to the construction of a telegraph line; and, in case of disagreement, said telegraph company are authorized to remove their line of telegraph along and upon the line of railroad therein contemplated, without prejudice to the rights of said railroad companies.

APPROVED, July 2, 1864.

CHAP. CCXXI.—An Act in relation to the Sale of Reservations of the Public Lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any reservation of public lands shall be brought into market under existing laws, it shall be lawful for the Commissioner of the General Land Office to fix a minimum price, not less than one dollar and twenty-five cents per acre, below which such lands shall not be disposed of.

APPROVED, July 2, 1864.

CHAP. CCXXII.—An Act relating to the Law of Evidence in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding in any court of justice in the District of Columbia,

38TH CONG....1ST SESS.

Laws of the United States.

or before any person having by law, or by consent of parties, authority to hear, receive, and examine evidence within said District, the parties thereto, and the persons in whose behalf any such action or other proceeding may be brought or defended, and any and all persons interested in the same, shall, except as hereinafter excepted, be competent and compellable to give evidence, either viva voce or by deposition, according to the practice of the court, on behalf of either or any of the parties to the said action or other proceeding: *Provided*, That nothing herein contained shall render any person who is charged with any offense in any criminal proceeding competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband, or in any proceeding instituted in consequence of adultery; nor shall any husband be compellable to disclose any communication made to him by his wife during the marriage, nor shall any wife be compellable to disclose any communication made to her by her husband during the marriage.

APPROVED, July 2, 1864.

CHAP. CCXXIII.—An Act authorizing the Erection of Buildings for the Branch Mint at San Francisco.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of three hundred thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended, under the direction of the Secretary of the Treasury, in the purchase of a site, if necessary, and the erection of a suitable building or buildings for the use of the branch mint at San Francisco, in the State of California.

APPROVED, July 2, 1864.

CHAP. CCXXIV.—An Act prescribing the Terms on which Exemplifications shall be furnished by the General Land Office.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the first day of July next, all exemplifications of patents, or papers on file, or of record in the General Land Office, which may be required by parties interested, shall be furnished by the Commissioner of said office upon the payment by such parties at the rate of fifteen cents per hundred words, and two dollars for copies of township plates or diagrams, with an additional sum of one dollar for the Commissioner's certificate of verification with the General Land Office seal; and one of the employees of said office shall be designated by the said Commissioner as the receiving clerk, and the amounts so received shall, under the direction of the said Commissioner, be paid into the Treasury of the United States; effect to be given to this act according to such regulations as may be prescribed by the Secretary of the Interior not inconsistent with the laws of the United States: *Provided*, That the fees stipulated in the foregoing provisions shall not apply to such authenticated copies as may be required by the officers of any branch of the Government, nor to such unverified copies as the Commissioner in his discretion may deem proper to furnish.

APPROVED, July 2, 1864.

CHAP. CCXXV.—An Act in addition to the several Acts concerning Commercial Intercourse between Loyal and Insurrectionary States, and to provide for the collection of Captured and Abandoned Property, and the prevention of Frauds in States declared in insurrection.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sales of captured and abandoned property under the act approved March twelve, eighteen hundred and sixty-three, may be made at such places, in States declared in insurrection, as may be designated by the Secretary of the

Treasury, as well as at other places now authorized by said act.

SEC. 2. *And be it further enacted*, That, in addition to the captured and abandoned property to be received, collected, and disposed of, as provided in said act, the said agents shall take charge of and lease, for periods not exceeding twelve months, the abandoned lands, houses, and tenements within the districts therein named, and shall also provide, in such leases or otherwise, for the employment and general welfare of all persons within the lines of national military occupation within said insurrectionary States formerly held as slaves, who are or shall become free. Property, real or personal, shall be regarded as abandoned when the lawful owner thereof shall be voluntarily absent therefrom, and engaged, either in arms or otherwise, in aiding or encouraging the rebellion.

SEC. 3. *And be it further enacted*, That all moneys arising from the leasing of abandoned lands, houses, and tenements, or from sales of captured and abandoned property collected and sold in pursuance of said act, or of this act, or from fees collected under the rules and regulations made by the Secretary of the Treasury, and approved by the President, dated respectively the twenty-eighth day of August, eighteen hundred and sixty-two, the thirty-first day of March, and the eleventh day of September, eighteen hundred and sixty-three, or under any amendments or modifications thereof, which have been or shall be made by the Secretary of the Treasury, and approved by the President, for conducting the commercial intercourse which has been or shall be licensed and permitted by the President, with and in States declared in insurrection, shall, after satisfying therefrom all proper and necessary expenses, to be approved by the Secretary of the Treasury, be paid into the Treasury of the United States; and all accounts of moneys received or expended in connection therewith shall be audited by the proper accounting officers of the Treasury. That the first section of the "Act to provide for the collection of abandoned property and for the prevention of fraud in insurrectionary districts in the United States," approved March twelve, eighteen hundred and sixty-three, is hereby extended so as to include the descriptions of property mentioned in an act entitled "An act further to provide for the collection of duties on imports, and for other purposes," approved July thirteen, eighteen hundred and sixty-one, and an act entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July seventeen, eighteen hundred and sixty-two, respectively; and that the sales provided for in said act first mentioned may be made at such places as may be designated by the Secretary of the Treasury. And section six of said first-mentioned act is hereby amended so as to include every description of property mentioned in the acts of July thirteen, eighteen hundred and sixty-one, and July seventeen, eighteen hundred and sixty-two aforesaid; and that all property, real or personal, described in the acts to which this is in addition, shall be regarded as abandoned when the lawful owner thereof shall be voluntarily absent therefrom, and engaged, either in arms or otherwise, in aiding or encouraging the rebellion.

SEC. 4. *And be it further enacted*, That the prohibitions and provisions of the act approved July thirteen, eighteen hundred and sixty-one, and of the acts amendatory or supplementary thereto, shall apply to all commercial intercourse by and between persons residing or being within districts within the present or future lines of national military occupation in the States or parts of States declared in insurrection, whether with each other or with persons residing or being within districts declared in insurrection and not within those lines; and that all persons within the United States, not native or naturalized citizens thereof, shall be subject to the same prohibitions, in all commercial intercourse with inhabitants of States or parts of States declared in insurrection, as citizens of loyal States are subject to under the said act or acts.

SEC. 5. *And be it further enacted*, That whenever any part of a loyal State shall be under the control of insurgents, or shall be in dangerous

proximity to places under their control, all commercial intercourse therein and therewith shall be subject to the same prohibitions and conditions as are created by the said acts, as to such intercourse between loyal and insurrectionary States, for such time and to such extent as shall from time to time become necessary to protect the public interests, and be directed by the Secretary of the Treasury, with the approval of the President.

SEC. 6. *And be it further enacted*, That so much of the fifth section of the act approved May twenty, eighteen hundred and sixty-two, and the fourth section of the act approved March twelve, eighteen hundred and sixty-three, as directs the manner of distributing fines, penalties, and forfeitures, is hereby repealed, and that, in lieu of the distribution thereby directed to be made to informers, collectors, and other officers of the customs, the court decreeing condemnation may award such compensation to customs-officers, informers, or other persons, for any service connected therewith, as will tend to promote vigilance in protecting the public interests, and as shall be just and equitable, in no case, however, to exceed the aggregate amount heretofore directed by the said fifth section.

SEC. 7. *And be it further enacted*, That no property seized or taken upon any of the inland waters of the United States by the naval forces thereof, shall be regarded as maritime prize; but all property so seized or taken shall be promptly delivered to the proper officers of the courts, or as provided in this act and in the said act approved March twelve, eighteen hundred and sixty-three.

SEC. 8. *And be it further enacted*, That it shall be lawful for the Secretary of the Treasury, with the approval of the President, to authorize agents to purchase for the United States any products of States declared in insurrection, at such places therein as shall be designated by him, at such prices as shall be agreed on with the seller, not exceeding the market value thereof at the place of delivery, nor exceeding three fourths of the market value thereof in the city of New York at the latest quotations known to the agent purchasing: *Provided*, That no part of the purchase-money for any products so purchased shall be paid, or agreed to be paid, out of any other fund than that arising from property sold as captured or abandoned, or purchased and sold under the provisions of this act. All property so purchased shall be forwarded for sale at such place or places as shall be designated by the Secretary of the Treasury, and the moneys arising therefrom, after payment of the purchase-money and the other expenses connected therewith, shall be paid into the Treasury of the United States; and the accounts of all moneys so received and paid shall be rendered to, and audited by, the proper accounting officers of the Treasury.

SEC. 9. *And be it further enacted*, That so much of section five of the act of the thirteenth of July, eighteen hundred and sixty-one, aforesaid, as authorizes the President, in his discretion, to license or permit commercial relations in any State or section the inhabitants of which are declared in a state of insurrection, is hereby repealed, except so far as may be necessary to authorize supplying the necessities of loyal persons residing in insurrectionary States, within the lines of actual occupation by the military forces of the United States, as indicated by published order of the commanding general of the department or district so occupied; and, also, except so far as may be necessary to authorize persons residing within such lines to bring or send to market in the loyal States any products which they shall have produced with their own labor or the labor of freedmen, or others employed and paid by them, pursuant to rules relating thereto, which may be established under proper authority. And no goods, wares, or merchandise shall be taken into a State declared in insurrection, or transported therein, except to and from such places and to such monthly amounts as shall have been previously agreed upon in writing by the commanding general of the department in which such places are situated and an officer designated by the Secretary of the Treasury for that purpose.

SEC. 10. *And be it further enacted*, That all officers and privates of the regular and volunteer forces of the United States, and all officers, sailors, and marines in the naval service, are hereby

Laws of the United States.

38TH CONG... 1ST SESS.

prohibited from buying or selling, trading, or in any way dealing in the kind or description of property mentioned in this act, and the act to which this is in addition, whereby to receive or expect any profit, benefit, or advantage to himself, or any other person, directly or indirectly connected with him; and it shall be the duty of such officer, private, sailor, or marine, when such property shall come into his possession or custody, or within his control, to give notice thereof to some agent, appointed by virtue of this act, and to turn the same over to such agent without delay: any officer of the United States, civil, military, or naval, or any sutler, soldier, marine, or other person, who shall violate any provision of this act, or who shall take, or cause to be taken, into a State declared to be in insurrection, or to any other point to be thence taken into such State, or who shall transport or sell, or otherwise dispose of therein, any goods, wares, or merchandise whatsoever, except in pursuance of license and authority of the President, as provided in said fifth section of the act of July thirteen, eighteen hundred and sixty-one, aforesaid, and any officer or other person aforesaid who shall make any false statement or representation upon which license and authority shall be granted for such transportation, sale, or other disposition, and any officer or other person aforesaid who shall, under any license or authority obtained, willfully and knowingly transport, sell, or otherwise dispose of, any other goods, wares, or merchandise than such as are in good faith so licensed and authorized, or shall willfully and knowingly transport, sell, or dispose of the same, or any portion thereof, in violation of the terms of such license or authority, or of any rule or regulation prescribed by the Secretary of the Treasury concerning the same, or shall be guilty of any act of embezzlement, of willful misappropriation of public or private money or property, of keeping false accounts, or of willfully making any false returns, or of any other act amounting to a felony, shall be liable to indictment as for a misdemeanor, and fine not exceeding five thousand dollars, and to punishment in the penitentiary not exceeding three years, before any court, civil or military, competent to try the same. And it shall be the duty of the Secretary of the Treasury, from time to time, to institute such investigations as may be necessary to detect and prevent frauds and abuses in the trade and other transactions contemplated by this act, or by the acts to which this is supplementary. And the agents making such investigations shall have power to compel the attendance of witnesses, and to make examinations on oath.

SEC. 11. *And be it further enacted*, That the Secretary of the Treasury, with the approval of the President, shall make such rules and regulations as are necessary to secure the proper and economical execution of the provisions of this act, and shall defray all expenses of such execution from the proceeds of fees imposed by said rules and regulations, of sales of captured and abandoned property, and of sales hereinbefore authorized.

APPROVED, July 2, 1864.

CHAP. CCXXXVI.—An Act providing for satisfying Claims for Bounty Lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to provide for satisfying claims for bounty lands for military services in the late war with Great Britain, and for other purposes," approved July twenty-seventh, in the year one thousand eight hundred and forty-two, and the two acts approved January twenty-seventh, in the year one thousand eight hundred and thirty-five, therein and thereby revived, and also the two acts to the same intent and purpose, respectively approved the twenty-sixth day of June, in the year eighteen hundred and forty-eight, and the eighth day of February, in the year eighteen hundred and fifty-four, be, and the same are hereby, renewed and continued in force and effect, without restriction or limitation as to the time of location of said warrants issued in virtue thereof.

SEC. 2. *And be it further enacted*, That all warrants for bounty lands heretofore issued in virtue of any of the several acts hereinbefore named, may be located at any time subsequent to the passage of this act, in conformity with the general laws in force at the time of such location; and that all entries and locations heretofore made with such warrants shall be as valid and effectual as if the several acts aforesaid had not expired at the time of such entry and location, any law to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby, repealed.

APPROVED, July 2, 1864.

CHAP. CCXXXVII.—An Act further to regulate and provide for the enrolling and calling out the National Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States may, at his discretion, at any time hereafter call for any number of men as volunteers for the respective terms of one, two, and three years for military service; and any such volunteer, or, in case of draft, as hereinafter provided, any substitute, shall be credited to the town, township, ward of a city, precinct, or election district, or of a county not so subdivided, toward the quota of which he may have volunteered or engaged as a substitute; and every volunteer who is accepted and mustered into the service for a term of one year, unless sooner discharged, shall receive, and be paid by the United States, a bounty of one hundred dollars; and if for a term of two years, unless sooner discharged, a bounty of two hundred dollars; and if for a term of three years, unless sooner discharged, a bounty of three hundred dollars; one third of which bounty shall be paid to the soldier at the time of his being mustered into the service, one third at the expiration of one half of his term of service, and one third at the expiration of his term of service; and in case of his death while in service, the residue of his bounty unpaid shall be paid to his widow, if he shall have left a widow; if not, to his children, or if there be none, to his mother, if she be a widow.

SEC. 2. *And be it further enacted*, That in case the quota, or any part thereof, of any town, township, ward of a city, precinct, or election district, or of any county not so subdivided, shall not be filled within the space of sixty days after such call, then the President shall immediately order a draft for one year to fill such quota, or any part thereof, which may be unfilled; and in case of any such draft no payment of money shall be accepted or received by the Government as commutation to release any enrolled or drafted man from personal obligation to perform military service.

SEC. 3. *And be it further enacted*, That it shall be lawful for the Executive of any of the States to send recruiting agents into any of the States declared to be in rebellion, except the States of Arkansas, Tennessee, and Louisiana, to recruit volunteers under any call under the provisions of this act, who shall be credited to the State, and to the respective subdivisions thereof, which may procure the enlistment.

SEC. 4. *And be it further enacted*, That drafted men, substitutes, and volunteers, when mustered in, shall be organized in, or assigned to, regiments, batteries, or other organizations of their own States, and as far as practicable, shall, when assigned, be permitted to select their own regiments, batteries, or other organizations from among those of their respective States which at the time of assignment may not be filled to their maximum number.

SEC. 5. *And be it further enacted*, That the twentieth section of the act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February twenty-four, eighteen hundred and sixty-four, shall be construed to mean that the Secretary of War shall discharge minors under the age of eighteen years

under the circumstances and on the conditions prescribed in said section; and hereafter, if any officer of the United States shall enlist or muster into the military service any person under the age of sixteen years, with or without the consent of his parent or guardian, such person, so enlisted or recruited shall be immediately discharged upon repayment of all bounties received; and such recruiting or mustering officer who shall knowingly enlist any person under sixteen years of age, shall be dismissed the service, with forfeiture of all pay and allowances, and shall be subject to such further punishment as a court-martial may direct.

SEC. 6. *And be it further enacted*, That section three of an act entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved February twenty-four, eighteen hundred and sixty-four, be, and the same is hereby, amended, so as to authorize and direct district provost marshals, under the direction of the Provost Marshal General, to make a draft for one hundred per centum in addition to the number required to fill the quota of any district as provided by said section.

SEC. 7. *And be it further enacted*, That instead of traveling pay, all drafted persons reporting at the place of rendezvous shall be allowed transportation from their places of residences and persons discharged at the place of rendezvous shall be allowed transportation to their places of residence.

SEC. 8. *And be it further enacted*, That all persons in the naval service of the United States who have entered said service during the present rebellion, who have not been credited to the quota of any town, district, ward, or State, by reason of their being in said service and not enrolled prior to February twenty-four, eighteen hundred and sixty-four, shall be enrolled and credited to the quotas of the town, ward, district, or State, in which they respectively reside, upon satisfactory proof of their residence made to the Secretary of War.

SEC. 9. *And be it further enacted*, That, if any person duly drafted shall be absent from home in prosecution of his usual business, the provost marshal of the district shall cause him to be duly notified as soon as may be, and he shall not be deemed a deserter, nor liable as such, until notice has been given to him, and reasonable time allowed for him to return and report to the provost marshal of his district; but such absence shall not otherwise affect his liability under this act.

SEC. 10. *And be it further enacted*, That nothing contained in this act shall be construed to alter, or in any way affect, the provisions of the seventeenth section of an act approved February twenty-four, eighteen hundred and sixty-four, entitled "An act to amend an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,'" approved March third, eighteen hundred and sixty-three.

SEC. 11. *And be it further enacted*, That nothing contained in this act, shall be construed to alter or change the provisions of existing laws relative to permitting persons liable to military service to furnish substitutes.

APPROVED, July 4, 1864.

CHAP. CCXXXVIII.—An Act to repeal a Joint Resolution entitled "Joint Resolution to grant additional Rooms to the Agricultural Department," and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint resolution to grant additional rooms to the Agricultural Department," be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized and directed to assign for the temporary use of the Commissioner of Agriculture such rooms in the Interior Department suitable for the business of said Commissioner, and necessary to enable him to perform efficiently the business of said office, as can be so appropriated with the least inconvenience to the transaction of other public business.

38TH CONG....1ST SESS.

Laws of the United States.

SEC. 3. *And be it further enacted*, That the Commissioner of Agriculture is authorized to rent suitable rooms for the accommodation of his office, and to make necessary improvements, and to pay the rent of the same for one year, the sum of three thousand five hundred dollars is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, Such rooms shall not be rented for a period longer than three years.

APPROVED, July 4, 1864.

CHAP. CCXXXIX.—An Act making an Appropriation to carry into effect "An Act to prevent Smuggling."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of fifteen thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Treasury to carry into effect an act entitled "An Act to prevent smuggling, and for other purposes," passed at the present session of Congress.

APPROVED, July 4, 1864.

CHAP. CCXL.—An Act to restrict the Jurisdiction of the Court of Claims, and to provide for the Payment of certain Demands for Quartermasters' Stores and Subsistence Supplies furnished to the Army of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States growing out of the destruction or appropriation of, or damage to, property by the Army or Navy, or any part of the Army or Navy, engaged in the suppression of the rebellion, from the commencement to the close thereof.

SEC. 2. *And be it further enacted*, That all claims of loyal citizens in States not in rebellion, for quartermasters' stores actually furnished to the Army of the United States, and receipted for by the proper officer receiving the same, or which may have been taken by such officers without giving such receipt, may be submitted to the Quartermaster General of the United States, accompanied with such proofs as each claimant can present of the facts in his case; and it shall be the duty of the Quartermaster General to cause such claim to be examined, and, if convinced that it is just, and of the loyalty of the claimant, and that the stores have been actually received or taken for the use of and used by said Army, then to report each case to the Third Auditor of the Treasury, with a recommendation for settlement.

SEC. 3. *And be it further enacted*, That all claims of loyal citizens in States not in rebellion, for subsistence actually furnished to said Army, and receipted for by the proper officer receiving the same, or which may have been taken by such officers without giving such receipt, may be submitted to the Commissary General of Subsistence, accompanied with such proof as each claimant may have to offer; and it shall be the duty of the Commissary General of Subsistence to cause each claim to be examined, and, if convinced that it is just, and of the loyalty of the claimant, and that the stores have been actually received or taken for the use of, and used by said Army, then to report each case for payment to the Third Auditor of the Treasury with a recommendation for settlement.

APPROVED, July 4, 1864.

CHAP. CCXLI.—An Act to correct a Clerical Error in the Law of June thirtieth, eighteen hundred and sixty-four, relating to the Post Office Department.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the act of thirtieth June, [first of July] eighteen hundred sixty-four, as repeals the seventeenth, eighteenth, thirty-fifth, thirty-ninth, and forty-first sections of the act of March third, eighteen hundred and sixty-three, entitled "An act to amend the laws relating to the

Post Office Department," be, and the same is hereby, repealed.

APPROVED, July 4, 1864.

CHAP. CCXLII.—An Act to establish a Branch Mint of the United States at Dalles City, in the State of Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a branch of the Mint of the United States be located and established at Dalles City, in the State of Oregon, for the coinage of gold and silver.

SEC. 2. *And be it further enacted*, That, for carrying on the business of the said branch, the following officers shall be appointed, as soon as the public interest shall require their service, upon the nomination of the President, by and with the advice and consent of the Senate, namely: one superintendent, one assayer, and one melter and refiner, and one coiner, and the superintendent shall employ as many clerks, subordinate workmen and laborers, under the direction of the Secretary of the Treasury, as may be required. The salaries of the said officers and clerks shall be as follows: to the superintendent, the sum of two thousand dollars; to the assayer, the sum of eighteen hundred dollars; to the melter and refiner, eighteen hundred dollars; to the clerks, subordinate workmen, and laborers, such wages and allowances as are customary, according to their respective stations and occupations.

SEC. 3. *And be it further enacted*, That the officers and clerks to be appointed under this act, before entering upon the execution of their offices, shall take an oath or affirmation before some judge of the United States or of the supreme court of said State, faithfully and diligently to perform the duties of their offices, and shall each become bound to the United States of America, with one or more sureties, to the satisfaction of the Director of the Mint or the district judge of the United States for the district of Oregon and of the Secretary of the Treasury, with the condition of the faithful performance of the duties of their offices.

SEC. 4. *And be it further enacted*, That the general direction of the business of said branch mint of the United States shall be under the control and regulation of the Director of the Mint at Philadelphia, subject to the approbation of the Secretary of the Treasury; and for that purpose it shall be the duty of the said Director to prescribe such regulations, and to require such returns, periodically and occasionally, and to establish such charges for parting, assaying, refining, and coining, as shall appear to him to be necessary for the purpose of carrying into effect the intention of this act in establishing said branch, also for the purpose of preserving uniformity of weight, form, and finish in the coin stamped at said branch.

SEC. 5. *And be it further enacted*, That said branch mint shall be a place of deposit for such public moneys as the Secretary of the Treasury may direct. And the superintendent of said branch mint, who shall perform the duties of treasurer thereof, shall have the custody of the same, and also perform the duties of assistant treasurer; and for that purpose shall be subject to all the provisions contained in an act entitled "An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," approved August six, eighteen hundred and forty-six, which relates to the treasury of the branch mint at New Orleans.

SEC. 6. *And be it further enacted*, That the superintendent of said branch mint be authorized, under the direction of the Secretary of the Treasury, and on terms to be prescribed by him, to issue in the payment of the gold dust and bullion deposited for assay and coinage, or bars, drafts, or certificates of deposit, payable at the Treasury, or any sub-treasury of the United States, to any depositor electing to receive payment in that form.

SEC. 7. *And be it further enacted*, That all the laws and parts of laws now in force for the regulation of the Mint of the United States, and for the government of the officers and persons employed therein, and for the punishment of all offenses connected with the Mint or coinage of the

United States, shall be, and they are hereby, declared to be in full force in relation to the branch of the Mint by this act established, as far as the same may be applicable thereto.

SEC. 8. *And be it further enacted*, That the sum of one hundred thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to carry into effect the provisions of this act, and to meet the expenses of the current year, and for the fiscal year ending the thirtieth day of June, 1865.

APPROVED, July 4, 1864.

CHAP. CCXLIII.—An Act to regulate Proceedings in Cases between Landlord and Tenants in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a tenancy at will shall not arise or be created without an express contract or letting to that effect, and that all occupation, possession, or holding of any messuage or real estate without express contract or lease, or by such contract or lease the terms of which have expired, shall be deemed and held to be tenancies by sufferance; and all estates at will and sufferance may be determined by a notice, in writing, to quit, of thirty days, delivered to the tenant in hand, or to some person of proper age upon the premises, or in the absence of such tenant or person, then such notice may be served by affixing the same to a conspicuous part of the premises, where it may be conveniently read. The attornment of a tenant to a stranger shall be void, and shall not affect the rights of the landlord, unless it be made with the consent, express or implied, of the landlord: *Provided*, That no part of this section other than that which relates to attornment of a tenant to a stranger shall apply to contracts made, or to any tenancy existing prior to the passage of this act, except in cases of waste, or refusal to pay rent.

SEC. 2. *And be it further enacted*, That when forcible entry is made, or when a peaceable entry is made and the possession unlawfully held by force, or when possession is held without right, after the estate is determined by the terms of the lease by its own limitation, or by notice to quit, or otherwise, on written complaint on oath of the person entitled to the premises, to a justice of the peace, charging a forcible entry or detainer of real estate as aforesaid, a summons may be issued to a proper officer, commanding the person complained of to appear and show cause why judgment should not be rendered against him, which shall be served like other writs of summons at least seven days before his appearance. If it appears by default or upon trial that the complainant is entitled to the possession of the premises, he shall have judgment and execution for the possession and costs; if the complainant becomes nonsuit and fails to prove his right to possession, the defendant shall have judgment and execution for his costs.

SEC. 3. *And be it further enacted*, That if, upon trial, defendant pleads title to the premises in himself, or in another person under whom he claims the premises, he shall recognize in a reasonable sum to the complainant, to be fixed by said justice, with sufficient sureties, conditioned to pay all intervening damages and costs and reasonable intervening rent for the premises; and the complainant shall in like manner recognize to the defendant conditioned to enter the suit at the next term of the supreme court of the District, and pay all costs adjudged against him; and thereupon the proceedings shall be certified to said court by the justice. If either party neglects so to recognize, judgment shall be rendered against him as on nonsuit or default, and execution shall issue accordingly as aforesaid.

SEC. 4. *And be it further enacted*, That either party against which judgment is rendered by a justice of the peace, may appeal from such judgment to the supreme court of the District of Columbia, in the same manner as appeals are taken to the said court in other cases; but in case of an appeal by a defendant, he shall, in addition to the bail required in other cases, recognize in a reasonable sum to the complainant, to be fixed by said justice, with sufficient sureties, conditioned

Laws of the United States.

38TH CONG....1ST SESS.

to pay all intervening damages to the leased property resulting from waste and intervening rent for the premises; and such appeals shall be tried in the same manner and further proceedings had therein according to the practice in appeals in other cases in said court.

SEC. 5. *And be it further enacted*, That on the trial of said suit in the supreme court of the District, if the jury find for complainant, they shall assess the damages and intervening rent; and in case of default the same shall be assessed by the court.

SEC. 6. *And be it further enacted*, That the fees of the justice issuing the process, and hearing the issue, and making up the record, and certifying the same, and the officer for serving the process, shall be those allowed in civil causes.

SEC. 7. *And be it further enacted*, That all acts and parts of acts inconsistent with this act are hereby repealed.

APPROVED, July 4, 1864.

CHAP. CCXLIV.—An Act to provide for the Supervision, Repairs, Liabilities, and Completion of the Washington Aqueduct.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one hundred and fifty thousand dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of constructing the dam of solid masonry across the Maryland branch of the Potomac river, near the Great Falls, and for constructing the conduit around the receiving reservoir [reservoir], and for paying existing liabilities and expenses, engineering, superintendence, and repairs of said aqueduct.

APPROVED, July 4, 1864.

CHAP. CCXLV.—An Act to regulate the Sessions of the Circuit and District Courts for the Northern District of New York, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That instead of the times now fixed by law for holding district courts of the United States for the northern district of New York, the said court shall hereafter be held at the following times and places, that is to say: at the city of Albany on the third Tuesday of January; at the city of Utica on the third Tuesday in March; at the city of Rochester on the second Tuesday in May; at the city of Buffalo on the third Tuesday in August; at the city of Auburn on the third Tuesday in November; and, in the discretion of the judge of said court, one term annually at such time and in such place, within the counties of St. Lawrence, Clinton, Jefferson, Oswego, or Franklin, as the judge of said district shall from time to time appoint, by a notice of at least twenty days, to be published in the State paper of the State of New York, and also in one newspaper published at the place where the said court is to be held, which term shall be held only for the trial of issues of fact arising within the said counties; but nothing herein contained shall prevent the judge of said court from holding special terms thereof at the places above specified, or at any other places in said district, in addition to said regular terms, he shall deem necessary.

SEC. 2. *And be it further enacted*, That instead of the times and places now provided by law for holding the terms of the circuit court of the United States for the northern district of New York, the said circuit court shall be held at the times and places following, that is to say: at the village of Canandaigua on the third Tuesday in June; at the city of Albany on the second Tuesday in October; and the term of said court appointed by this act to be held at the city of Albany in October shall, when it is adjourned, be adjourned to meet in the city of Albany the third Tuesday in January, and that the adjournment of said adjourned term shall be further adjourned to meet at the city of Utica on the third Tuesday in March, and the said adjourned term shall be held for the transaction of civil business only; and no jury shall be drawn for service

therein exclusively, but the jury drawn to serve in the district court at the same time and place of the said adjourned terms of said circuit shall be used for the trial of issues of fact arising in civil causes in said circuit court, and the verdicts of said jury and all proceedings upon the trial of said issues shall be as valid and of the same effect as if the said jury had been drawn to serve in the said circuit court.

SEC. 3. *And be it further enacted*, That no process issued or proceedings pending in either of said courts shall be avoided or impaired by the change of time and place of holding such court; but all process, bail bonds, and recognizances returnable at the next term of either of said courts, shall be returnable and returned to the said court next held according to this act, in the same manner as if so made returnable on the face thereof, and shall have full effect accordingly; and all continuances may be made to conform to the provisions of this act.

SEC. 4. *And be it further enacted*, That in place and in lieu of the salary now paid to the judge of the district court of the United States for the northern district of New York, there shall be allowed and paid quarterly to said judge, out of the Treasury of the United States, the sum of three thousand five hundred dollars per year.

APPROVED, July 4, 1864.

CHAP. CCXLVI.—An Act to encourage Immigration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized, by and with the advice and consent of the Senate, to appoint a Commissioner of Immigration, who shall be subject to the direction of the Department of State, shall hold his office for four years, and shall receive a salary at the rate of two thousand five hundred dollars a year. The said Commissioner may employ not more than three clerks, of such grade as the Secretary of State shall designate, to be appointed by him, with the approval of the Secretary of State, and to hold their offices at his pleasure.

SEC. 2. *And be it further enacted*, That all contracts that shall be made by emigrants to the United States in foreign countries, in conformity to regulations that may be established by the said Commissioner, whereby emigrants shall pledge the wages of their labor for a term not exceeding twelve months, to repay the expenses of their emigration, shall be held to be valid in law, and may be enforced in the courts of the United States, or of the several States and Territories; and such advances, if so stipulated in the contract, and the contract be recorded in the recorder's office in the county where the emigrant shall settle, shall operate as a lien upon any land thereafter acquired by the emigrant, whether under the homestead law when the title is consummated, or on property otherwise acquired until liquidated by the emigrant; but nothing herein contained shall be deemed to authorize any contract contravening the Constitution of the United States, or creating in any way the relation of slavery or servitude.

SEC. 3. *And be it further enacted*, That no emigrant to the United States who shall arrive after the passage of this act shall be compulsively enrolled for military service during the existing insurrection, unless such emigrant shall voluntarily renounce under oath his allegiance to the country of his birth, and declare his intention to become a citizen of the United States.

SEC. 4. *And be it further enacted*, That there shall be established in the city of New York an office to be known as the United States Emigrant Office; and there shall be appointed, by and with the advice and consent of the Senate, an officer for said city, to be known as superintendent of immigration, at an annual salary of two thousand dollars; and the said superintendent may employ a clerk of the first class; and such superintendent shall, under the direction of the Commissioner of Immigration, make contracts with the different railroads and transportation companies of the United States for transportation tickets, to be furnished to such immigrants,

and to be paid for by them, and shall, under such rules as may be prescribed by the Commissioner of Immigration, protect such immigrants from imposition and fraud, and shall furnish them such information and facilities as will enable them to proceed in the cheapest and most expeditious manner to the place of their destination. And such superintendent of immigration shall perform such other duties as may be prescribed by the Commissioner of Immigration: *Provided*, That the duties hereby imposed upon the superintendent in the city of New York shall not be held to affect the powers and duties of the Commissioner of Immigration of the State of New York; and it shall be the duty of said superintendent in the city of New York to see that the provisions of the act commonly known as the passenger act are strictly complied with, and all breaches thereof punished according to law.

SEC. 5. *And be it further enacted*, That no person shall be qualified to fill any office under this act who shall be directly or indirectly interested in any corporation having lands for sale to immigrants, or in the carrying or transportation of immigrants, either from foreign countries to the United States and its Territories, or to any part thereof, or who shall receive any fee or reward, or the promise thereof, for any service performed, or any benefit rendered, to any person or persons in the line of his duty under this act. And if any officer provided for by this act shall receive from any person or company any fee or reward, or promise thereof, for any services performed or any benefit rendered to any person or persons in the line of his duty under this act, he shall, upon conviction, be fined one thousand dollars, or be imprisoned, not to exceed three years, at the discretion of a court of competent jurisdiction, and forever after be ineligible to hold any office of honor, trust, or profit in the United States.

SEC. 7. *And be it further enacted*, That said Commissioner of Immigration shall, at the commencement of each annual meeting of Congress, submit a detailed report of the foreign immigration during the preceding year, and a detailed account of all expenditures under this act.

SEC. 8. *And be it further enacted*, That the sum of twenty-five thousand dollars, or so much thereof as may be necessary, in the judgment of the President, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of carrying the provisions of this act into effect.

APPROVED, July 4, 1864.

CHAP. CCXLVII.—An Act supplementary to an Act entitled "An Act to grant Pensions," approved July fourteenth, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the biennial examinations of pensioners required by an act approved March three, eighteen hundred and fifty-nine, may be made by one surgeon only, provided he is a surgeon of the Army or Navy, or an examining surgeon duly appointed by the Commissioner of Pensions; nor shall the biennial certificate of two unappointed civil surgeons be accepted in any case, except upon satisfactory evidence that an examination by a commissioned or duly appointed surgeon is impracticable.

SEC. 2. *And be it further enacted*, That all fees paid to examining surgeons for biennial examinations, or for examinations specially ordered, as provided by the eighth section of the act to grant pensions, approved July fourteenth, eighteen hundred and sixty-two, shall be refunded by the agent for paying pensions in the district within which the pensioner or claimant resides, out of any money appropriated for the payment of pensions, under such regulations as the Commissioner of Pensions may prescribe.

SEC. 3. *And be it further enacted*, That declarations of pension claimants shall be made before a court of record, or before some officer thereof having custody of its seal; said officer being hereby fully authorized and empowered to administer and certify any oath or affirmation relating to any pension or application therefor: *Pro-*

38TH CONG....1ST SESS.

Laws of the United States.

vided. That the Commissioner of Pensions may designate, in localities more than twenty-five miles distant from any place at which such a court is holden, persons duly qualified to administer oaths, before whom declarations may be made and testimony taken.

SEC. 4. *And be it further enacted,* That section twelve of the act to grant pensions, approved July fourteen, eighteen hundred and sixty-two, is hereby repealed. And the Commissioner of Pensions is authorized and empowered to detail, from time to time, clerks in his office to investigate suspected attempts at fraud on the Government through the Pension Office, and to aid in prosecuting any persons so offending, with such additional compensation as is customary in cases of special service.

SEC. 5. *And be it further enacted,* That all persons now by law entitled to a less pension than hereafter specified, who shall have lost both feet in the military service of the United States and in the line of duty, shall be entitled to a pension of twenty dollars per month; and those who under the same conditions have lost both hands or both eyes shall be entitled to a pension of twenty-five dollars per month.

SEC. 6. *And be it further enacted,* That no pension claim now on file, unless prosecuted to a successful issue within three years from the passage of this act, and no claim hereafter filed, not thus prosecuted to a successful issue within five years from the date of such filing, shall be admitted without satisfactory record evidence from the War Department to establish the same; and in every case in which a claim for pension shall have been filed for more than three years after the discharge or decease of the party on whose account the claim is made, the pension, if allowed, shall commence from the date of filing the last paper in said case by the party prosecuting the same.

SEC. 7. *And be it further enacted,* That on the remarriage of any widow receiving a pension, such pension shall terminate, and shall not be renewed should she again become a widow.

SEC. 8. *And be it further enacted,* That examining surgeons, duly appointed by the Commissioner of Pensions, may be required by him from time to time, as he shall deem for the interests of the Government, to make special examinations of pensioners on the rolls of their respective districts, and such examinations shall have precedence over previous examinations, whether special or biennial; but when injustice is alleged to have been done by any examination so ordered, the Commissioner of Pensions may, at his discretion, select a board of three duly appointed examining surgeons, who shall meet at a place to be designated by him, and shall review such cases as may be ordered before them on appeal from any special examination as aforesaid, and the decision of such board shall be final on the question so submitted thereto. The compensation of all such surgeons shall not exceed that which has been customarily allowed in such cases, and shall be paid out of any appropriations made for the payment of pensions, in the same manner as the ordinary fees of appointed surgeons are or may be authorized to be paid.

SEC. 9. *And be it further enacted,* That those persons, not enlisted soldiers in the Army, who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or where persons otherwise volunteered and rendered service in any engagement with rebels or Indians since the fourth day of March, eighteen hundred and sixty-one, shall, if they have been disabled in consequence of wounds received in battle in such temporary service, be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents of any such persons as may have been killed in the temporary service aforesaid shall be entitled to pensions in the same manner as they would have been had such persons been regularly mustered: *Provided,* That no claim under this section shall be valid unless presented and prosecuted to a successful issue within three years from and after the passage of this act. All such claims shall be adjudicated under such special rules and regulations as the Commissioner

of Pensions may prescribe most effectually to guard against fraud.

SEC. 10. *And be it further enacted,* That if any person entitled to an invalid pension under the provisions of the act granting pensions, approved July fourteen, eighteen hundred and sixty-two, has died or shall hereafter die while an application for such pension is pending, and having a widow or dependent relative entitled to receive a pension by reason of his service and death, as provided in said act, then the pension to such widow or other person shall commence from the date at which the decedent's invalid pension would have commenced had he survived, subject to the conditions of this act and the act to which this is amendatory.

SEC. 11. *And be it further enacted,* That all enlisted soldiers in the Army who shall have become disabled in the service, whether they shall have been regularly mustered in or not, shall be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents entitled to pensions by law, as prescribed by the act of July fourteen, eighteen hundred and sixty-two, of any such soldier who may have been killed, or shall have died, or shall hereafter die, by reason of any wound received or disease contracted while in said service and in the line of duty, shall be entitled to the same pension as though such soldier had been regularly mustered into the service.

SEC. 12. *And be it further enacted,* That the fees of agents and attorneys for making out and causing to be executed the papers necessary to establish a claim for a pension, bounty, and other allowance before the Pension Office, under this act, shall not exceed the following rates: For making out and causing to be duly executed a declaration by the applicant, with the necessary affidavits, and forwarding the same to the Pension Office, with the requisite correspondence, ten dollars; which sum shall be received by such agent or attorney in full for all services in obtaining such pension, and shall not be demanded or received in whole or in part until such pension shall be obtained; and the sixth and seventh sections of an act entitled "An act to grant pensions," approved July fourteenth, eighteen hundred and sixty-two, are hereby repealed.

SEC. 13. *And be it further enacted,* That any agent or attorney who shall, directly or indirectly, demand or receive any greater compensation for his services under this act than is prescribed in the preceding section of this act, or who shall contract or agree to prosecute any claim for a pension, bounty, or other allowance, under this act, on the condition that he shall receive a percentage upon any portion of the amount of such claim, or who shall wrongfully withhold from a pensioner or other claimant the whole or any part of the pension or claim allowed and due to such pensioner or claimant, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall, for every such offense, be fined not exceeding three hundred dollars, or imprisoned at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offense.

SEC. 14. *And be it further enacted,* That the widows and children of colored soldiers who have been, or who may be hereafter, killed, or who have died or may hereafter die of wounds received in battle, or who have died or may hereafter die of disease contracted in the military service of the United States, and in the line of duty, shall be entitled to receive the pensions now provided by law, without other proof of marriage than that the parties had habitually recognized each other as man and wife, and lived together as such for a definite period, next preceding the soldier's enlistment, not less than two years, to be shown by the affidavits of credible witnesses: *Provided, however,* That such widow and children are free persons: *Provided further,* That if such parties resided in any State in which their marriage may have been legally solemnized the usual evidence shall be required.

SEC. 15. *And be it further enacted,* That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

APPROVED, July 4, 1864.

CHAP. CCXLVIII.—An Act for the Relief of Seamen and others borne on the Books of Vessels wrecked or lost in the Naval Service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized, under the direction of the Secretary of the Navy, in settling the accounts of seamen, and others, not officers, borne on the books of any vessel in the Navy, which shall have been wrecked, or which shall have been unheard from so long that her wreck may be presumed, or which shall have been destroyed or lost, with the rolls and papers necessary to a regular and exact settlement of such accounts, to fix a day when such wreck, destruction, or loss shall be deemed and taken to have occurred.

SEC. 2. *And be it further enacted,* That the proper accounting officers of the Treasury be, and they are hereby, authorized, in settling the accounts of the petty officers, seamen, and others, not officers, on board of any vessel in the employ of the United States, which by any casualty, or in action with the enemy, has been or may be sunk or otherwise destroyed, together with the rolls and papers necessary to the exact ascertainment of the several accounts of the same at the date of such loss, to assume the last quarterly return of the paymaster of any such vessel as the basis for the computation of the subsequent credits to those on board, to the date of such loss, if there be no official evidence to the contrary. Where such quarterly return has, from any cause, not been made, the said accounting officers are hereby authorized to adjust and settle said accounts on principles of equity and justice; and to allow and pay to each person, not an officer, employed on a vessel so sunk or otherwise destroyed, and whose personal effects have been lost, a sum not exceeding sixty dollars as compensation for loss of his personal effects.

SEC. 3. *And be it further enacted,* That in case of the death of such petty officer, seaman, or other person, not an officer, such payment shall be made to the widow, child or children, father, mother, brothers and sisters, (jointly,) in that order of preference, under such rules as the Second Comptroller of the Treasury may prescribe; such credits and gratuity to be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, July 4, 1864.

CHAP. CCXLIX.—An Act further to regulate the Carriage of Passengers in Steamships and other Vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term "contiguous territory," in the first section of the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March three, eighteen hundred and fifty-five, shall not be held to extend to any port or place connecting with any interoceanic route through Mexico.

SEC. 2. *And be it further enacted,* That the provisions of the eleventh section of said act be, and the same are hereby, extended to all vessels whose passengers, or any part of them, are or shall be bound from or to any of the ports or places therein mentioned, by way of any overland route or routes through Mexico or Central America.

SEC. 3. *And be it further enacted,* That hereafter there shall be delivered to masters or owners of vessels three copies of the inspectors' certificates directed to be given them by collectors or other chief officers of the customs, by the twenty-fifth section of the act entitled "An act to amend an act entitled 'An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam,' and for other purposes," approved August thirty, eighteen hundred and fifty-two, one of which copies shall be placed, and at all times kept, by said masters or owners, in some conspicuous place in the vessel, where it will be most likely to be discovered by stowage passengers, and the others as now provided by law; and the penalty for neglecting or refusing to place and keep up such additional copy shall be the same as is provided by the said twenty-fifth section in the other cases therein mentioned.

Laws of the United States.

38TH CONG. ... 1ST SESS.

Sec. 4. *And be it further enacted*, That the list of passengers required to be kept by section thirty-five of the said act of August thirty, eighteen hundred and fifty-two, shall also be open to the inspection of any passenger during all reasonable hours; and that after any clearance is granted, but before the vessel shall be allowed to depart, the master or other person in charge of such vessel, carrying passengers, shall file with the collector, or other officer of the customs granting the clearance, a list, verified by the oath of the master, or other agent, or owner of the vessel, of all passengers received, or to be received, on the vessel so cleared, for conveyance during the proposed voyage, designating cabin and and steerage passengers distinctly; and on the receipt by such customs officer on the full list so verified, a departure permit shall be given, without which no vessel conveying passengers shall go to sea; and such departure permit shall be shown to the pilot of each vessel before he shall have authority to take the vessel to sea; and any pilot who shall, without such authority being shown to him, pilot a vessel to sea, shall be subject to a fine of one hundred dollars, and a revocation of his license.

Sec. 5. *And be it further enacted*, That the master or commander of any vessel carrying passengers from any port or ports in the United States to any port or place in Mexico or Central America shall, immediately on arriving at such last-mentioned port or place, deliver to the United States consul, vice consul, or commercial agent at such port two copies of the list of passengers required to be kept on such vessel by said section thirty-five of the act of August thirty, eighteen hundred and fifty-two, embracing all the passengers on board the vessel at any time during its voyage up to its said arrival, and duly verified by the oath of such master or commander, and by the inspection of the consul, vice consul, or commercial agent, previous to or at the landing of the passengers; one of which copies the said consul, vice consul, or commercial agent shall file in his office, and the other of which he shall transmit, without delay, to the collector of the port in the United States from which the vessel last cleared. And if such master or commander shall refuse or neglect to comply with the requirements of this section, or shall knowingly make a false return of the list of passengers, he, together with the owner or owners of said vessel, shall be subject to a fine of not less than ten thousand dollars, and such fine shall be a lien upon the vessel until paid.

Sec. 6. *And be it further enacted*, That the provisions of section twelve of the act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," approved July seventh, eighteen hundred and thirty-eight, be, and the same are hereby, extended to the owner or owners of any steamboat or other vessel propelled in whole or in part by steam, and to all public officers, by, or in consequence of, whose fraud, connivance, misconduct, or violation of law, the life or lives of any person or persons on board such steamboat or vessel may be destroyed.

Sec. 7. *And be it further enacted*, That if the owner or owners, master, commander, or other person in charge of any steamboat or other vessel, shall willfully present, or cause to be presented, any false or fraudulent list or list of its passengers, or copies thereof, to any consul, vice consul, commercial agent, collector, or other custom-house officer, or of the departure permit to any pilot, he or they shall be held guilty of misdemeanor, and on conviction thereof shall be imprisoned for a term not exceeding two years; and the vessel shall be liable to seizure and forfeiture.

Sec. 8. *And be it further enacted*, That the Secretary of the Treasury shall cause to be prepared a synopsis of such of the laws relating to the carriage of passengers, and their safety on vessels propelled in whole or in part by steam, as he shall think expedient, and have the same printed in convenient form to be framed under glass, and give to any such vessel two copies, on application of its owners or master, who shall, without unnecessary delay, have the same framed under glass, and place and keep them in conspicuous places in such vessel, in the same manner as is provided by law in regard to certificates of inspectors; and no clearance shall be issued to

such vessel until the collector or other chief [officer] of the customs shall be satisfied that the provisions of this section shall have been complied with by such owner or master; and in case such owners or master shall neglect or refuse to comply with provisions of this section, he or they shall furthermore forfeit and pay for each offense one hundred dollars, and such fine shall be a lien upon the vessel until paid.

Sec. 9. *And be it further enacted*, That informers shall be entitled to one half of any penalty or fine collected under this act, or the said act of March third, eighteen hundred and fifty-five, upon their information.

Sec. 10. *And be it further enacted*, That all steamers and other vessels belonging to a citizen or to citizens of the United States, and bound from any port in the United States to any other port therein, or to any foreign port, or from any foreign port to any port in the United States, shall, before clearance, receive on board all such bullion, coin, United States notes and bonds and other securities as the Government of the United States or any department thereof, or any minister, consul, vice consul, or commercial or other agent of the United States abroad shall offer, and shall securely convey and promptly deliver the same to the proper authorities or consignees on arriving at the port of destination, and shall receive for such service such reasonable compensation as may be allowed to other carriers in the ordinary transactions of business.

APPROVED, July 4, 1864.

CHAP. CCL.—An Act to pay, in part, for publishing the Debates of Congress, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, directed to purchase from the publishers of the Congressional Globe and Appendix, for each Senator, Representative, and Delegate in the present and each succeeding Congress, who has not heretofore received the same, one complete set of the Congressional Globe and Appendix.

Sec. 2. *And be it further enacted*, That there shall be paid to the publishers of the Congressional Globe and Appendix, by the Secretary of the Senate and the Clerk of the House of Representatives, out of the contingent funds of the two Houses, according to the number of copies of the Congressional Globe and Appendix taken by each, one cent for every five pages exceeding three thousand pages for a long session, or fifteen hundred pages for a short session, including the indexes and the laws of the United States for this and each future Congress.

Sec. 3. *And be it further enacted*, That the sum of ninety-eight thousand five hundred and forty-four dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes herein named for the present Congress; and that thirty thousand four hundred and twenty-four dollars of the same be disbursed by the Secretary of the Senate, and the remainder by the Clerk of the House of Representatives.

Sec. 4. *And be it further enacted*, That all acts and parts of acts inconsistent herewith be, and the same are hereby, repealed: *Provided, however*, That the above provisions are made upon the express condition that they may be abrogated by either Congress or the publishers of the Congressional Globe and Appendix at any time after giving two years' notice for that purpose.

APPROVED, July 4, 1864.

CHAP. CCLI.—An Act making an Appropriation for testing Submarine Inventions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of twenty-five thousand dollars is hereby appropriated for the purpose of testing submarine batteries and other inventions, to be applied under the direction of the Secretary of the Navy to experiment upon such devices for submarine operations as may be recommended

as worthy of practical test by a commission of competent naval officers and scientific men, now or hereafter to be organized for their examination.

APPROVED, July 4, 1864.

CHAP. CCLII.—An Act to authorize the Secretary of the Navy to provide for the Education of Naval Constructors and Steam Engineers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to provide, by regulations to be issued by him, for the education of such midshipmen or others at the Naval Academy as show a peculiar aptitude therefor as naval constructors, or civil and steam engineers, and may form a separate class for this purpose, to be styled cadet engineers or otherwise afford to such persons all proper facilities for such a scientific mechanical education as will fit them for such professions.

Sec. 2. *And be it further enacted*, That upon the recommendation of the academic board, such persons connected with the scientific and mechanical class as graduate therein with credit, may be immediately appointed as assistant naval constructors or warranted as engineers.

Sec. 3. *And be it further enacted*, That cadet engineers, not to exceed fifty in number, shall be appointed by the Secretary of the Navy: *Provided*, That no person, other than midshipmen, shall be eligible for such appointment who shall not produce satisfactory evidence of mechanical skill and proficiency, and that he has been employed at least two years in the actual fabrication of steam machinery.

Sec. 4. *And be it further enacted*, That cadet engineers, when appointed, shall be under eighteen years of age, and shall have passed a mental and physical examination. They shall be admitted to the Naval Academy, where they shall be examined from time to time, according to the regulations prescribed by the Secretary of the Navy; and if found deficient at any examination, or dismissed for misconduct, they shall not be continued in the Academy, or in the service, except upon recommendation of the academic board.

Sec. 5. *And be it further enacted*, That the academic course of cadet engineers shall be two years, and their pay the same as that of midshipmen.

Sec. 6. *And be it further enacted*, That the number of chief engineers shall not exceed one for each first and second rate vessel in the Navy, with such first, second, and third assistant engineers, or those acting as such, as the wants of the service actually require. And that, from and after the passage of this act, the annual pay of the engineer-officers of the Navy, on the active list, shall be as follows:

Every chief engineer on duty, for the first five years after the date of his commission, two thousand two hundred dollars.

For the second five years after the date of his commission, two thousand five hundred dollars.

For the third five years after the date of his commission, two thousand eight hundred dollars.

After fifteen years after the date of his commission, three thousand dollars.

Every chief engineer on leave or waiting orders, for the first five years after the date of his commission, one thousand five hundred dollars.

For the second five years after the date of his commission, one thousand six hundred dollars.

For the third five years after the date of his commission, one thousand seven hundred dollars.

After fifteen years after the date of his commission, one thousand eight hundred dollars.

Every first assistant engineer on duty, one thousand five hundred dollars.

While on leave or waiting orders, one thousand one hundred dollars.

Every second assistant engineer on duty, one thousand two hundred dollars.

While on leave or waiting orders, nine hundred dollars.

Every third assistant engineer on duty, one thousand dollars.

While on leave or waiting orders, eight hundred dollars.

38TH CONG....1ST SESS.

Laws of the United States.

SEC. 7. *And be it further enacted*, That section two of joint resolution "authorizing the Secretary of the Navy to adjust the equitable claims of contractors for naval supplies, and regulating contracts with the Navy Department," approved March three, eighteen hundred and sixty-three, be, and the same is hereby, amended by adding to the same the following proviso, viz: *Provided*, That where articles are advertised and bid for in classes, and in the judgment of the head of the Department, any one or more articles appear to be bid for at excessive or unreasonable prices exceeding ten per centum above their fair market value, he shall be authorized to reject such bid.

APPROVED, July 4, 1864.

CHAP. CCLIII.—An Act to provide for the better Organization of the Quartermaster's Department.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the office of the Quartermaster General of the Army, to exist during the present rebellion and one year thereafter, the following divisions, each of which shall be placed in the charge of a competent officer of the Quartermaster's Department, to be assigned to such duty by the Secretary of War, who shall, under such rules as may be prescribed by the Quartermaster General, with the approval of the Secretary of War, transact the business of such division as hereinafter provided, to wit:

The first division shall have charge of the purchase, procurement, and disposition of horses and mules for cavalry, artillery, wagon and ambulance trains, and all other purposes for which horses or mules may be procured for the armies of the United States.

The second division shall have charge of the purchase, procurement, issue, and disposition of cloth and clothing, knapsacks, camp and garrison equipage, and all accoutrements of the soldier which are provided by the Quartermaster's Department.

The third division shall have charge of the purchase, charter, hire, and maintenance of all vessels to be used in the transportation of the Army, and of prisoners of war, and of their supplies, on the ocean, and the bays and sounds connected therewith, and upon the northern and northwestern lakes, including all vessels propelled by steam or otherwise, owned or employed by the War Department, excepting river steam vessels and barges upon the western rivers.

The fourth division shall have charge of the purchase, charter, hire, maintenance, and procurement of all transportation for the Army, and its supplies by land and upon the western rivers, (other than transportation by animal power in the field, and at camps, garrisons, posts, depots, and stations,) including all railroad and telegraph lines operated by the United States for military purposes, and of all steam rams and gunboats owned or employed by the War Department upon the western rivers, until other disposition shall be made of them by competent authority.

The fifth division shall have charge of the purchase, procurement, issue, and disposition of forage and straw for the Army.

The sixth division shall have charge of the erection, procurement, maintenance, disposition, and so forth, of all barracks, hospital buildings, storehouses, stables, bridges, (other than railroad bridges,) wharves, and other structures composed in whole or in part of lumber, and of all lumber, nails, and hardware for building purposes; and of the hire and commutation of quarters for officers, the hire of quarters for troops, the hire of grounds for cantonments, or other military purposes, and the repair and care of all buildings and other structures herein mentioned, and of all grounds owned, hired, or occupied for military purposes, except such as are lawfully under the charge of other bureaus of the War Department; and of extra pay to soldiers employed in erecting barracks, or other fatigue duty, under the acts of March second, eighteen hundred and nineteen, and August fourth, eighteen hundred and fifty-four.

The seventh division shall have charge of the purchase, procurement, issue, and disposition of

all wagons, ambulances, traveling forges and harness, (except such as are furnished by the ordnance department,) and of all hardware except as hereinbefore provided; and of all fuel for officers and enlisted men, camps, garrisons, hospitals, posts, storehouses, offices, public transports, steam rams, and Army gunboats, and of all transportation by animal power in the field, at camps, garrisons, posts, depots, and stations; and of the construction and repair of roads other than railroads; and of the compensation of wagon and forage masters, and of clerks to officers of the Quartermaster's Department; and of the purchase of heating and cooking stoves; and of the expenses of courts-martial, military commissions, and courts of inquiry; and of mileage and allowances to officers for the transportation of themselves and their baggage when traveling upon duty without troops, escorts, or supplies, and of supplies for prisoners of war and such refugees as the Secretary of War may direct to be temporarily provided for; and of the purchase of stationery, blanks and blank-books for the Quartermaster's Department; and of the printing of the division and department orders and reports; and of the proper and authorized expenses for the movements and operations of an army not expressly assigned to any other division or department.

The eighth division shall have charge of all inspections of the Quartermaster's Department and of all reports made by officers assigned to inspection duty, analyzing and preserving the reports as received, and communicating, through the Quartermaster General, to the chiefs of the proper divisions such portions of these reports as may be necessary for their information and use: *Provided*, That the officers assigned to inspection duty shall have power not only to report and to point out any errors or abuses which they may discover in the practical operations of the Quartermaster's Department, but to give, by order of the Quartermaster General, the orders which may be immediately necessary to correct and to prevent a continuance of such abuses or errors: *Provided further*, That all such orders shall be immediately reported to the chief of the inspection division for the approval, or otherwise, of the Quartermaster General.

The ninth division shall have charge of all the correspondence, returns, reports, and records received, filed, and preserved in the office of the Quartermaster General, and of the transmission thereof to the several other divisions of this office, and Departments of the Government.

SEC. 2. *And be it further enacted*, That the heads of the several divisions above mentioned shall, under the direction of the Quartermaster General, from time to time, advertise for proposals for the supplies necessary for the movements and operations of the several armies, posts, detachments, garrisons, hospitals, and for other military purposes, in newspapers having general circulation in those parts of the country where such supplies can be most advantageously furnished, having regard also to the places where such supplies are to be delivered and used; and all such supplies, so purchased or contracted for, shall be subject to careful inspection, and all clothing and camp and garrison equipage shall be subject to a double inspection, first, as to the quality of the material, and second, as to the kind and character of the workmanship, which inspection shall in all cases be performed by a competent inspector, with suitable assistants, who shall have had ample experience in the inspection of cloth, clothing, knapsacks, camp and garrison equipage; and all payments for supplies so purchased shall be made under the direction of the officers in charge of the several divisions above mentioned, upon receipts or certificates from the officers inspecting and receiving such supplies, prepared in such form and attested in such manner as may be prescribed by the Quartermaster General.

SEC. 3. *And be it further enacted*, That it shall be the duty of the Quartermaster General to establish depots, from time to time, at places convenient to the principal armies in the field, for receiving and distributing the supplies necessary for such armies, and for the detachments, posts, and hospitals most accessible to such depots; and the business of inspecting, weighing, measuring,

and receiving supplies for such armies, detachments, posts, and hospitals, and of giving receipts or certificates therefor to the persons furnishing such supplies, shall be carried on as far as practicable at such depots; but the Quartermaster General, or the heads of the several divisions above mentioned, may cause such supplies to be sent from the place of purchase directly to the quartermasters of the commands for whose use they are procured, in any cases where it may be more economical or advantageous so to do; and in cases where horses, mules, clothing, or camp and garrison equipage may be so sent, suitable and competent inspectors shall be sent to examine the same before they shall be issued and received for.

SEC. 4. *And be it further enacted*, That when an emergency shall exist requiring the immediate procurement of supplies for the necessary movements and operations of an army or detachment, and when such supplies cannot be procured from any established depot of the Quartermaster's Department, or from the head of the division charged with the duty of furnishing such supplies, within the required time, then it shall be lawful for the commanding officer of such army or detachment to order the chief quartermaster of such army or detachment to procure such supplies during the continuance of such emergency, but no longer, in the most expeditious manner, and without advertisement; and it shall be the duty of such quartermaster to obey such order; and his accounts of the disbursement of moneys for such supplies shall be accompanied by the order of the commanding officer as aforesaid, or a certified copy of the same, and also by a statement of the particular facts and circumstances, with their dates, constituting such emergency.

SEC. 5. *And be it further enacted*, That it shall be the duty of the Quartermaster General, immediately after the passage of this act, and at least once in every month thereafter, to require from the principal quartermasters of the several military departments and depots, approximate statements of the aggregate amounts of supplies on hand, and estimates of the additional amounts required for the service for the ensuing month, stating at what places such supplies will be required, and what amounts are legally contracted for but not yet delivered. And it shall be the duty of the heads of the several divisions above mentioned to cause to be made purchases or contracts for the supplies which the Quartermaster General may estimate to be necessary in accordance with law, and all quartermasters shall forthwith report to the Quartermaster General, to be referred to the heads of the several divisions above mentioned, all contracts not yet fulfilled which they may have executed on behalf of the United States, and all proposals which they may have received in answer to advertisements for future supplies, and shall hereafter regularly report to the Quartermaster General copies of all contracts made and all proposals received for supplies of any kind to be furnished. And if any quartermaster shall neglect or refuse, for the space of one month, to report to the Quartermaster General any such contract or proposal, such neglect or refusal shall be deemed prima facie evidence of fraud, and the pay of such quartermaster shall be stopped until he shall have made a satisfactory explanation to the Secretary of War of such neglect or refusal.

SEC. 6. *And be it further enacted*, That all inspectors of horses, mules, clothing, fuel, forage, lumber, hired transports, and other supplies of the Quartermaster's Department, shall be sworn (or affirmed) to perform their duties in a faithful and impartial manner, and shall, for any corruption, willful neglect, or fraud in the performance of their duties, be liable to punishment by fine and imprisonment, by sentence of court-martial or military commission. And if any contractor or person furnishing such supplies or transportation shall give, or offer to give, to any inspector or of such supplies or transportation, or to any other person for his use, directly or indirectly, any money or other valuable consideration, such person giving, or offering to give, such money or other valuable consideration, shall forfeit to the United States the full amount of his contract or contracts with the United States, and the name

Laws of the United States.

38TH CONG....1ST SESS.

and offense of such person shall be published in general orders, and also in one newspaper of general circulation nearest to his place of residence.

SEC. 7. *And be it further enacted*, That the provisions of the sixteenth section of the act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July seventeen, eighteen hundred and sixty-two, shall apply to all persons engaged in executing the contracts therein referred to, whether as agents of such contractors or as claiming to be assignees thereof, or otherwise, and to all inspectors employed by the United States for the inspection of subsistence, clothing, arms, ammunition, munitions of war, or other description of supplies for the Army or Navy of the United States: *Provided*, That any person arrested to answer charges for a violation of the provisions of this act, or of the act to which it is in addition, shall be admitted to bail for his appearance to answer the charges made against him before any court-martial constituted to try him, in such sums and with such sureties as shall be designated and approved by the judge of the district court of the district in which the arrest is made, or the offense is charged to have been committed, or any commissioner appointed by such court.

SEC. 8. *And be it further enacted*, That if any contractor or person furnishing supplies or transportation shall give, or offer to give, or cause to be given, to any officer or employé of the Quartermaster's Department having charge of the receipt or disposition of the supplies or transportation furnished by him, or in any way connected therewith, any money or other valuable consideration, directly or indirectly, all contracts and charters with such person shall, at the option of the Secretary of War, be null and void; and if any officer or employé of the Quartermaster's Department shall knowingly accept any such money or other valuable consideration from such person, he shall be deemed guilty of malfeasance, and shall be punished by fine and imprisonment, or both, as a court-martial or military commission may direct.

SEC. 9. *And be it further enacted*, That whenever it shall become necessary to purchase any steam or sailing vessel for the use of the Quartermaster's Department, the same shall be first inspected by one or more competent naval officers detailed in accordance with the provisions of the "act authorizing the detail of naval officers for the service of the War Department," approved February twelve, eighteen hundred and sixty-two, and all steam vessels shall be inspected by an officer skilled in the construction and operation of steam machinery, in addition to the other usual inspection of such vessels: *Provided*, That the provisions of this section shall not apply to steamboats or other vessels in military service on the western rivers; but such river steamboats or vessels shall be so inspected by competent builders, to be designated for that purpose.

SEC. 10. *And be it further enacted*, That the officers placed in charge of the several divisions provided for by the first section of this act, shall, during the time they remain in such charge, each have the rank, pay, and emoluments of a colonel in the Quartermaster's Department: *Provided*, That the Quartermaster General may, with the approval of the Secretary of War, from time to time, and according to the necessities of the public service, change the distribution of duties among them; and all such changes shall be forthwith published in general orders of the War Department.

SEC. 11. *And be it further enacted*, That during the continuance of the present rebellion, the Secretary of War may assign to duty, as inspectors of the Quartermaster's Department, six officers, to be selected from the regular and volunteer officers of that staff corps, who have served not less than one year, who shall have, while so assigned and acting, the temporary rank, pay, and emoluments of colonels of the Quartermaster's Department; and also, when in his judgment it is necessary, may assign to each army in the field, consisting of more than one Army corps, and to each military department and to each principal depot, not exceeding ten in number at any one

time, of the Quartermaster's Department, an officer to act as chief or senior quartermaster of said army, military department, or depot, who shall have while so assigned the temporary rank, pay, and emoluments of a colonel of the Quartermaster's Department; and also to assign to each division of two or more brigades, a quartermaster, as division quartermaster, who, while so assigned and acting, shall have the temporary rank, pay, and emoluments of a major of the Quartermaster's Department: *Provided*, That when any of said officers is relieved from such duty, his temporary rank, pay, and emoluments shall cease, and he shall return to his lineal rank in the department: *And provided further*, That when within the limits of any military department there shall be not more than one Army corps, then the chief quartermaster of the Army corps shall perform also the duties of the department quartermaster.

SEC. 12. *And be it further enacted*, That at least two thirds of all the officers of each grade or assigned rank provided for under the provisions of this act shall be selected from among quartermasters of the volunteer service.

SEC. 13. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

APPROVED, July 4, 1864.

PUBLIC RESOLUTIONS.

NO. 1.—Joint Resolution of Thanks to Major General Ulysses S. Grant, and the Officers and Soldiers who have fought under his command during this Rebellion; and providing that the President of the United States shall cause a Medal to be struck, to be presented to Major General Grant in the name of the People of the United States of America.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and they hereby are, presented to Major General Ulysses S. Grant, and through him to the officers and soldiers who have fought under his command during this rebellion, for their gallantry and good conduct in the battles in which they have been engaged; and that the President of the United States be requested to cause a gold medal to be struck, with suitable emblems, devices, and inscriptions, to be presented to Major General Grant.

SEC. 2. *And be it further resolved*, That when the said medal shall have been struck, the President shall cause a copy of this joint resolution to be engrossed on parchment, and shall transmit the same, together with the said medal, to Major General Grant, to be presented to him in the name of the people of the United States of America.

SEC. 3. *And be it further resolved*, That a sufficient sum of money to carry this resolution into effect is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

APPROVED, December 17, 1863.

NO. 2.—Joint Resolution tendering the Thanks of Congress to Captain John Rodgers, of the United States Navy, for eminent skill and zeal in the discharge of his duties.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in pursuance of the recommendation of the President of the United States, and to enable him to advance Captain Rodgers one grade, in pursuance of the ninth section of the act of Congress of sixteenth July, eighteen hundred and sixty-two, the thanks of Congress be, and they are hereby, tendered to Captain John Rodgers, "for the eminent skill and gallantry exhibited by him in the engagement with the rebel armed iron-clad steamer 'Fingal,' alias 'Atlanta,' while in command of the United States iron-clad steamer 'Weehawken,' which led to her capture on June seventeenth, eighteen hundred and sixty-three; and also for the zeal, bravery, and general good conduct shown by this officer on many occasions."

APPROVED, December 23, 1863.

NO. 3.—Joint Resolution to supply, in part, Deficiencies in the Appropriations for the Public Printing, and to supply Deficiencies in the Appropriations for Bounties to Volunteers.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That to supply deficiencies, in part, in the appropriations for the public printing, the sum of fifty thousand dollars be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated.

That the sum of twenty millions of dollars, or so much thereof as may be required, be, and the same is hereby, appropriated for the payment of bounties and advance pay: *Provided*, That no bounties, except such as are now provided by law, shall be paid to any persons enlisted after the fifth day of January next.

SEC. 2. *And be it further resolved*, That the money paid by drafted persons under the "Act for enrolling and calling out the national forces and for other purposes," approved third March, eighteen hundred and sixty-three, shall be paid into the Treasury of the United States, and shall be drawn out on requisitions, as in the case of other public moneys, and the money so paid shall be kept in the Treasury as a special deposit, applicable only to the expenses of draft and for the procurement of substitutes; for these purposes it is hereby appropriated.

APPROVED, December 23, 1863.

NO. 4.—Joint Resolution to provide for the Printing annually of the Report of the Commissioner of Internal Revenue.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the Superintendent of the Public Printing annually to print, for the use of the Commissioner of Internal Revenue, one thousand copies of his report to the Secretary of the Treasury.

APPROVED, January 13, 1864.

NO. 5.—Joint Resolution to continue the Bounties heretofore paid.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the bounties heretofore paid, under regulations and orders from the War Department, to men enlisting in the regular or volunteer forces of the United States for three years or during the war, shall continue to be paid from the fifth day of January, eighteen hundred and sixty-four, until the first day of March next, anything in the act [joint resolution] approved December twenty-third, eighteen hundred and sixty-three, to the contrary notwithstanding. This resolution to be in force from and after its passage.

APPROVED, January 13, 1864.

NO. 6.—A Resolution amendatory of the Joint Resolution "to supply, in part, Deficiencies in the Appropriations for the Public Printing, and to supply Deficiencies in the Appropriations for Bounties to Volunteers."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the money paid by drafted persons under the act for calling out the national forces and for other purposes, approved March third, eighteen hundred and sixty-three, or that may be paid under any act for like purposes, shall be paid into the Treasury of the United States, and shall be drawn out on requisitions, as are other public moneys, for the expenses of the draft and for the procurement of substitutes, for which purposes the money so paid in is hereby appropriated.

APPROVED, January 16, 1864.

NO. 7.—A Resolution expressive of the Thanks of Congress to Major General Nathaniel P. Banks and the Officers and Soldiers under his command at Port Hudson.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress are hereby tendered to Major General Nathaniel P. Banks

38TH CONG....1ST SESS.

Laws of the United States.

and the officers and soldiers under his command for the skill, courage, and endurance which compelled the surrender of Port Hudson, and thus removed the last obstruction to the free navigation of the Mississippi river.

APPROVED, January 28, 1864.

No. 8.—A Resolution of Thanks to Major General Ambrose E. Burnside and the Officers and Men who fought under his command.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and they hereby are, presented to Major General Ambrose E. Burnside, and through him to the officers and men who have fought under his command, for their gallantry, good conduct, and soldierlike endurance.

SEC. 2. *And be it further resolved,* That the President of the United States be requested to cause the foregoing resolution to be communicated to Major General Burnside in such terms as he may deem best calculated to give effect thereto.

APPROVED, January 28, 1864.

No. 9.—A Resolution expressive of the Thanks of Congress to Major General Joseph Hooker, Major General George G. Meade, Major General Oliver O. Howard, and the Officers and Soldiers of the Army of the Potomac.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That that the gratitude of the American people and the thanks of their representatives in Congress are due, and are hereby tendered, to Major General Joseph Hooker and the officers and soldiers of the army of the Potomac, for the skill, energy, and endurance which first covered Washington and Baltimore from the meditated blow of the advancing and powerful army of rebels led by General Robert E. Lee, and to Major General George G. Meade, Major General Oliver O. Howard, and the officers and soldiers of that army, for the skill and heroic valor which at Gettysburg repulsed, defeated, and drove back, broken and dispirited, beyond the Rappahannock, the veteran army of the rebellion.

APPROVED, January 28, 1864.

No. 10.—A Resolution presenting the Thanks of Congress to Cornelius Vanderbilt for a Gift of the Steamship Vanderbilt.

Whereas Cornelius Vanderbilt, of New York, did, during the spring of eighteen hundred and sixty-two, make a free gift to his imperiled country of his new and stanch steamship Vanderbilt, of five thousand tons burden, built by him with the greatest care, of the best material, at a cost of eight hundred thousand dollars, which steamship has ever since been actively employed in the service of the republic against the rebel devastations of her commerce; and whereas the said Cornelius Vanderbilt has in no manner sought any requital of this magnificent gift, nor any official recognition thereof: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be presented to Cornelius Vanderbilt for this unique manifestation of a fervid and large-souled patriotism.

SEC. 2. *And be it further resolved,* That the President of the United States be requested to cause a gold medal to be struck, which shall fitly embody an attestation of the nation's gratitude for this gift; which medal shall be forwarded to Cornelius Vanderbilt, a copy of it being made and deposited for preservation in the Library of Congress.

APPROVED, January 28, 1864.

No. 11.—A Resolution in relation to the Public Printing.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second section of the joint resolution approved March third, eighteen hundred and sixty-three, be, and the same is hereby, repeated; and that the Superintendent of Public Printing be directed to print hereafter seven hun-

dred copies of every bill or joint resolution ordered or required to be printed by either the Senate or the House of Representatives, under any rule of either House, unless some other number be specially required by the House ordering the same.

APPROVED, February 3, 1864.

No. 12.—Joint Resolution tendering the Thanks of Congress to Major General W. T. Sherman.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress and of the people of the United States are due, and that the same are hereby tendered, to Major General W. T. Sherman, commander of the department and army of the Tennessee, and the officers and soldiers who served under him, for their gallant and arduous services in marching to the relief of the army of the Cumberland, and for their gallantry and heroism in the battle of Chattanooga, which contributed in a great degree to the success of our arms in that glorious victory.

APPROVED, February 19, 1864.

No. 14.—Joint Resolution making Appropriation for the Payment of Taxes on certain Lands owned by the United States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That to pay taxes on lands owned by the United States, the sum of twenty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated; and the Secretary of the Treasury is hereby directed to report to Congress upon what lands such taxes may be paid, and the amount so paid.

APPROVED, February 22, 1864.

No. 15.—A Resolution relative to the Transfer of Persons in the Military Service to the Naval Service.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, First: That the Provost Marshal General be, and is hereby, directed to enlist such persons as may desire to enter into the naval service of the United States, under such directions as may be given by the Secretary of War and the Secretary of the Navy, which enlistments shall be credited to the appropriate district: *Provided, nevertheless,* That inasmuch as persons enlisted in the naval service receive prize money, persons so enlisting shall not be entitled to receive any bounty upon their enlistment. Second: That the President of the United States may, whenever in his judgment the public service requires, authorize and direct the transfer of persons who have been employed in sea service, and are now enlisted in regiments for land service, from such regiments to the naval service, upon such terms and according to such rules and regulations as he may prescribe: *Provided, nevertheless,* That the number of transfers from any company or regiment shall not be so great as to reduce such company or regiment below the minimum strength required by the regulations of the military service: *And provided further,* That such sum as may have been paid to persons so transferred, as bounty for entering into the military service, shall be transferred from the recruiting fund of the naval service to the credit of the proper appropriation for the land service.

SEC. 2. *And be it further resolved,* That there shall be paid to each enlisted able or ordinary seaman, hereafter enlisted into the naval service, an advance of three months' pay, as a bounty to be refunded to the Treasury from any prize money to which such enlisted man may be entitled.

APPROVED, February 24, 1864.

No. 16.—Joint Resolutions of Thanks of Congress to the Volunteer Soldiers who have reenlisted in the Army.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress are hereby

given to those noble and brave men who, having already so gallantly endured the hardships and perils of war, for more than two years, in support of their country's flag, present the sublime spectacle of again voluntarily enrolling themselves in the Army of the Union for another three years' campaign, or so long as the war shall continue.

SEC. 2. *And be it further resolved,* That the Secretary of War cause these resolutions to be read to each of the veteran regiments who have reenlisted, or shall reenlist, in both the volunteer and regular forces of the United States.

APPROVED, March 3, 1864.

No. 17.—Joint Resolution to continue the Payment of Bounties.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the bounties authorized to be paid under existing laws, and by regulations and orders of the War Department, to veterans reenlisting, or persons enlisting in the regular or volunteer service of the United States for three years, or during the war, shall continue to be paid from the first day of March, eighteen hundred and sixty-four, to the first day of April, eighteen hundred and sixty-four, anything in any law or regulation to the contrary notwithstanding; the said bounties to be paid out of any moneys already appropriated for such purposes.

APPROVED, March 3, 1864.

No. 18.—A Resolution of Thanks of Congress to Commodore Cadwalader Ringgold, the Officers, and Crew of the United States Ship "Sabine."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress are hereby tendered to Commodore Ringgold, the officers, petty officers, and men of the United States ship "Sabine," for the daring and skill displayed in rescuing the crew of the steam transport "Governor," wrecked in a gale on the first day of November, eighteen hundred and sixty-one, having on board a battalion of United States marines under the command of Major John G. Reynolds, and in the search for, and rescue of, the United States line-of-battle ship "Vermont," disabled in a gale upon the twenty-sixth of February last, with her crew and freight.

SEC. 2. *And be it further resolved,* That the Secretary of the Navy be directed to communicate the foregoing resolution to Commodore Ringgold, and through him to the officers and men under his command.

APPROVED, March 7, 1864.

No. 20.—Joint Resolution to authorize the Secretary of the Treasury to anticipate the Payment of Interest on the Public Debt, and for other purposes.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be authorized to anticipate the payment of interest on the public debt, by a period not exceeding one year, from time to time, either with or without a rebate of interest upon the coupons, as to him may seem expedient; and he is hereby authorized to dispose of any gold in the Treasury of the United States not necessary for the payment of the interest of the public debt: *Provided,* That the obligation to create the sinking fund according to the act of February twenty-fifth, eighteen hundred and sixty-two, shall not be impaired thereby.

APPROVED, March 17, 1864.

No. 21.—A Joint Resolution authorizing the Issue of a Register to the Steamer "Mohawk."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, authorized to issue an American register to the Canadian-built steamer "Mohawk," now owned by Warren Chapman, George Parmelee, and Matthias Teetzel, of Saint Joseph, in the State of Michigan: *Provided,* That nothing

Laws of the United States.

38TH CONG. 1ST Sess.

herein contained shall in anywise affect any legal proceedings now pending in regard to the said steamer "Mohawk."

APPROVED, March 25, 1864.

No. 22.—Joint Resolution tendering the Thanks of Congress to Admiral Porter.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and they are hereby, tendered to Admiral David D. Porter, commanding the Mississippi squadron, for the eminent skill, endurance, and gallantry exhibited by him and his squadron, in coöperation with the Army, in opening the Mississippi river.

APPROVED, April 19, 1864.

No. 23.—Joint Resolution authorizing the Secretary of the Navy to sell at Public Auction Lot Number Thirteen, in the Village of Sackett's Harbor, New York.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby authorized and empowered, at his discretion, to sell at public auction, after proper advertisement, and to convey, by quit-claim or otherwise, lot number thirteen, in the village of Sackett's Harbor, New York, the same not being wanted for use by the United States.

APPROVED, April 19, 1864.

No. 24.—Joint Resolution relative to the Accounts of the Petty Officers, Seamen, and others of the Crew of the United States Gunboat "Cincinnati."

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized, in settling the accounts of the petty officers, seamen, and others of the crew of the United States gunboat "Cincinnati," to allow each of them all back pay and a sum, not exceeding fifty dollars, for loss of clothing and other property, by the sinking of the said vessel in the Mississippi river, near Vicksburgh, on the twenty-seventh day of May, eighteen hundred and sixty-three.

APPROVED, April 19, 1864.

No. 25.—Joint Resolution directing the Committee on the Conduct of the War to examine into the recent Attack on Fort Pillow.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint committee on the conduct of the war be, and they are hereby, instructed to inquire into the truth of the rumored slaughter of the Union troops, after their surrender, at the recent attack of the rebel forces upon Fort Pillow, Tennessee; as also, whether Fort Pillow could have been sufficiently reinforced, or evacuated, and, if so, why it was not done; and that they report the facts to Congress as soon as possible.

APPROVED, April 21, 1864.

No. 26.—A Resolution relating to the Publication of the Decisions of the Supreme Court of the United States for December Term, eighteen hundred and sixty-three.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the act of Congress, approved August twenty-nine, eighteen hundred and forty-two, as provides that the reporter of the decisions of the Supreme Court shall not be paid the compensation provided by the said act unless he print and publish the decisions within six months after such decisions shall be made, shall not be held to apply to the decisions of December term, eighteen hundred and sixty-three, the present reporter of the said court not having been appointed until near the close of the term: *Provided, however,* That such decisions be published within one year from the passage of this resolution.

APPROVED, April 22, 1864.

No. 27.—Joint Resolution to increase temporarily the Duties on Imports.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That until the end of sixty days from the passage of this resolution, fifty per cent. of the rates of duties and imposts now imposed by law on all goods, wares, merchandise, and articles imported, shall be added to the present duties and imposts now charged on the importation of such articles: *Provided,* That printing paper un-sized, used for books and newspapers exclusively, shall be exempt from the operation of this resolution.

APPROVED, April 29, 1864.

No. 28.—Joint Resolution for the Payment of Volunteers called out for not less than One Hundred Days.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of twenty-five millions of dollars be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, for arming, equipping, clothing, subsisting, transporting, and paying volunteers that may be received by the President for any term not less than one hundred days.

APPROVED, May 6, 1864.

No. 29.—A Resolution to provide for the Printing of Official Reports of the Operations of the Armies of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, directed to furnish the Superintendent of Public Printing with copies of all such correspondence, by telegraph or otherwise, reports of commanding officers, and documents of every description in relation to the existing rebellion, to be found in the archives of his Department since the first day of December, eighteen hundred and sixty, to the present time, and during the continuance of said rebellion, which may be, in his opinion, proper to be published, [which] said correspondence, reports, and documents, shall be arranged in their proper chronological order.

Sec. 2. *And be it further resolved,* That the Superintendent of Public Printing shall cause to be printed and bound (in addition to the usual number) ten thousand copies of such correspondence, reports, and documents, in volumes of not exceeding (as near as may be) eight hundred octavo pages each, which shall be distributed by the Secretary of the Senate as follows, to wit: five hundred copies to the War Department; one complete copy to each State library of every State in the Union, and five complete copies to public libraries in each congressional district of the United States, to be designated by the Representatives of the present Congress from such district; and of the remaining copies three thousand shall be for the use of members of the present Senate, and six thousand for the use of members of the present House of Representatives.

Sec. 3. *And be it further resolved,* That it shall also be the duty of the Secretary of War to cause a complete index of the matter contained in each volume to be prepared and inserted therein.

Sec. 4. *And be it further resolved,* That all resolutions adopted by either House of Congress, at its present session, directing the printing of any of the correspondence, reports, or documents, as above contemplated, be, and the same are hereby, rescinded.

APPROVED, May 19, 1864.

No. 30.—A Resolution for the Payment of Expenses incurred by the Joint Committee on the Conduct of the War.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of twenty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to pay the expenses of the joint committee of Congress appointed to inquire into the conduct and expenditures of the war; and that said sum shall be drawn from the Treasury, upon the order of the Secre-

tary of the Senate; as the same shall be required from time to time by the committee having such investigation in charge; and any portion of the amount hereby appropriated that shall be allowed by the said joint committee to witnesses attending before it, or to persons employed in its service, for per diem, traveling, or other necessary expenses, and paid by the Secretary of the Senate in pursuance of the order of that joint committee, shall be accordingly credited and allowed by the accounting officers of the Treasury Department.

APPROVED, May 19, 1864.

No. 31.—Joint Resolution relative to Pay of Staff Officers of the Lieutenant General.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the staff officers on the staff of the Lieutenant General shall be entitled to receive the same pay, emoluments, and allowances as staff officers of the same grade on the staff of corps commanders; the same to take effect from the day of their appointment on the staff of the Lieutenant General.

APPROVED, May 20, 1864.

No. 32.—Joint Resolution providing for the Election of a Member of Congress for the State of Illinois by the State at large.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the election of Representatives to Congress from the State of Illinois, the additional Representative allowed to said State by an act entitled "An act fixing the number of the House of Representatives from and after the third day of March, eighteen hundred and sixty-three," approved March fourth, eighteen hundred and sixty-two, may be elected by the State at large, until the said State shall be redistricted by the Legislature thereof, for the election of the fourteen members to which said State is now entitled by law.

APPROVED, May 20, 1864.

No. 35.—A Resolution to amend the Charter of the City of Washington.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in case any person who is a qualified voter in other respects shall offer and claim the right to vote at any election held in the city of Washington, whose name is not registered, his name shall be registered by the Commissioners of Election upon the terms and conditions following, namely: he shall take an oath as follows: You do solemnly swear that you will true answer make to such questions as shall be asked you touching your qualifications as an elector at this poll; So help you God; or an affirmation to the same effect, which oath or affirmation, if he be unable to understand the English language, may be interpreted to him by one of the commissioners, or an interpreter, sworn by a commissioner, which interpreter shall also interpret his answers to the commissioners. If, in his answers on oath, he shall state positively that he has resided in the city one year next preceding the day of said election, designating particularly the place of his residence, and that he possesses the other qualifications of an elector, and if, furthermore, some qualified elector of the city, not a candidate for any office at that election, shall take an oath before said commissioners, which any one of them may administer, that he is well acquainted with such applicant; that he is, in fact, a resident in the city, and has been one year next previous to such election, and that he (qualified elector) has good reason to believe, and does believe, that all the statements of such applicant are true, the commissioners shall cause his name to be registered by their clerk, and shall then receive the vote of said applicant; or if said applicant shall present the affidavit of himself and a qualified elector, duly certified by any justice of the peace in and for the county of Washington, District of Columbia, which shall satisfy the commissioners that the applicant has been a resident of the city one year next preceding the day of such election, and that he is otherwise a qualified elector, the

38TH CONG....1ST SESS.

Laws of the United States.

commissioners may cause the applicant's name to be registered, as hereinbefore provided, and they shall then receive his vote; and if said applicant or such qualified elector shall, in said matter, willfully make any false statement, he shall be deemed guilty of perjury, and, on conviction, be subject to the pains and penalties thereof.

APPROVED, June 1, 1864.

No. 38.—A Resolution to compensate the Sailors on the Gunboat "Baron De Kalb" for loss of Clothing.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized, in settling the accounts of the petty officers, seamen, sailors, and others of the crew of the United States gunboat "Baron de Kalb," to allow to each a sum not exceeding fifty dollars as a remuneration for the damage they may have sustained in the loss of their clothing by the destruction of said vessel, to be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, June 7, 1864.

No. 39.—A Resolution authorizing the Acceptance of a certain Testimonial from the Government of Great Britain.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Surgeon Solomon Sharp, of the Navy of the United States, be, and he hereby is, authorized to accept the piece of plate recently presented to him by the Government of Great Britain as a mark of high appreciation of the unremitting attention and kindness shown by him to certain officers of the British ship "Greyhound," while in the naval hospital under his charge, at Norfolk, Virginia.

APPROVED, June 7, 1864.

No. 40.—A Resolution tendering the Thanks of Congress to Lieutenant Colonel Joseph Bailey, of the Fourth Regiment of Wisconsin Volunteers.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and they are hereby, tendered to Lieutenant Colonel Joseph Bailey, of the fourth regiment Wisconsin volunteers, acting engineer of the nineteenth Army corps, for distinguished services in the recent campaign on the Red river, by which the gunboat flotilla under Rear Admiral David D. Porter was rescued from imminent peril.

SEC. 2. *And be it further resolved,* That the President of the United States be requested to cause a copy of this resolution to be transmitted to Lieutenant Colonel Bailey.

APPROVED, June 11, 1864.

No. 41.—Joint Resolution granting certain Privileges to the City of Des Moines, in the State of Iowa.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States hereby relinquish to the city of Des Moines, in the State of Iowa, a municipal corporation established under the laws of said State, all their right and interest in the coal beds underlying the river Des Moines, within the limits of said city: *Provided,* That no disposition or use thereof shall be made which shall obstruct the free navigation of said river; nor shall any one grant of the privilege of mining the same extend for a longer period than ten years.

APPROVED, June 15, 1864.

No. 42.—A Resolution to provide for the Revision of the Laws of the District of Columbia.

Whereas the revised code of the District of Columbia, prepared under the authority of Congress, entitled "An act to improve the laws of the District of Columbia, and to codify the same," approved March third, eighteen hundred and fifty-five, and which was published by order of Con-

gress in the year eighteen hundred and fifty-seven; and whereas said code is believed to have been a comprehensive, complete, and accurate compilation of the laws of said District at the period of its execution, and that measures should be taken to have the work brought down to the present time and perfected: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Committees on the District of Columbia of the two Houses of Congress, respectively, be instructed to cause said code to be so revised, amended, and corrected, and also the laws of Congress for said District passed since the compilation aforesaid, as shall adapt the same to the present condition of the laws, and may employ not more than two suitable persons on the preparation of the work, at a compensation of ten dollars per day for the time employed. And said code so prepared shall be printed by direction of said committees in a neat and convenient form for the use of the committees and Congress; and said committees shall report the same to their respective Houses at the next session of Congress for adoption.

APPROVED, June 18, 1864.

No. 43.—A Resolution explanatory of an Act entitled "An Act extending the time for the completion of the Marquette and Ontonagon Railroad of the State of Michigan."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the act entitled "An act extending the time for the completion of the Marquette and Ontonagon railroad of the State of Michigan," shall be so construed as to extend the time for completing only so much of said road as lies between Marquette and Ontonagon.

APPROVED, June 18, 1864.

No. 45.—Joint Resolution authorizing the Secretary of the Navy to amend the Contract with John Ericsson for the construction of two impregnable Floating Batteries, the "Dictator" and the "Puritan."

Whereas the Navy Department on the twenty-eighth day of July, eighteen hundred and sixty-two, entered into contract with Captain John Ericsson, of the city of New York, for the construction of two impregnable floating batteries, the "Dictator" and the "Puritan;" and whereas experience with a similar class of vessels in actual conflict and during a varied service of more than two years has demonstrated that many improvements could be made to render them more complete and efficient as vessels of war; and whereas these improvements have added largely to the cost of construction of each of these vessels, rendering it impossible for the contractor to complete them under existing arrangements; and whereas it is of the utmost importance to the honor and interests of the country that they should be finished and ready for service at the earliest moment: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to amend the existing contract for the construction of these vessels so far as it relates to the "Puritan," and to appoint a competent board to ascertain the present value, as far as completed, of that vessel, and of the material on hand deemed actually necessary to her construction, and to pay to Captain John Ericsson, the contractor, the amount of valuation so ascertained, deducting therefrom any sums already advanced towards the completion of said vessel; and that upon said payment being made by the Secretary of the Navy the rights of the contractor to said vessel and material, or any portion thereof, shall cease and be vested wholly and absolutely in the United States, which shall thenceforth proceed to complete said vessel under such arrangements as may be deemed most advantageous: *Provided, however,* That nothing herein contained shall in any manner affect the contract for the construction of the "Dictator," which shall be completed by said contractor upon

the same terms and conditions as if this resolution had not been passed: *And provided further,* That no action shall be had under this resolution until said contractor shall have signified to the Secretary of the Navy, in writing, his acceptance of its provisions and his willingness to superintend to completion the construction of the "Puritan:" *Provided further,* That this resolution shall not take effect until the completion and delivery of the "Dictator:" *Provided, also,* That it shall be the duty of the Secretary of the Navy, in carrying this resolution into execution, to apportion and apply to the "Dictator," in payment for that vessel, only such portion of the gross contract price of the two million three hundred thousand dollars (\$2,300,000) for the "Dictator" and "Puritan" as the "Dictator" would justly be entitled to if both vessels had been completed at the price and in the mode of construction specified in the contract, special reference being had to the difference of cost between the two vessels arising from the difference in their construction provided for in the contract.

APPROVED, June 25, 1864.

No. 46.—Joint Resolution amendatory of "An Act to provide for the Deficiency in the Appropriation for the Pay of Officers and Men actually employed in the Western Department, or Department of Missouri."

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That where any person or persons holding any power of attorney or assignment executed subsequent to August sixteenth, eighteen hundred and sixty-three, and prior to January twenty-second, eighteen hundred and sixty-four, for the sum adjudged due to any officer or soldier by the commissioners appointed under joint resolution approved February sixteenth, eighteen hundred and sixty-three, shall have paid any money to any officer or soldier on the faith of such power of attorney or assignment, that the paymaster appointed to disburse the funds appropriated by the act approved January twenty-second, eighteen hundred and sixty-four, to provide for the deficiency in the appropriation for the pay of officers and men actually employed in the Western department, or department of Missouri, be, and he is hereby, authorized and directed to pay to such person or persons the amount thus paid to any officer or soldier, upon such attorney or assignee making and filing an affidavit to the effect that the amount was actually paid to said officer or soldier; and upon the paymaster being satisfied that the amount was actually paid; and the amount paid such attorney or assignee under this resolution shall be deducted from the amount due said officer or soldier, anything in any previous action of Congress to the contrary notwithstanding.

APPROVED, June 25, 1864.

No. 47.—A Resolution for the Relief of Clerks at the Kittery and Philadelphia Navy-Yards.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the settlement of the accounts of the Kittery and Philadelphia navy-yards, the proper accounting officers of the Treasury be, and they are hereby, authorized to allow such sums as have already been appropriated by Congress for the pay of clerks at said yards, from October, eighteen hundred and fifty-seven, to July, eighteen hundred and fifty-nine.

APPROVED, June 25, 1864.

No. 49.—Joint Resolution to continue in force the Joint Resolution entitled "Joint Resolution to increase temporarily the Duties on Imports," approved April twenty-ninth, eighteen hundred and sixty-four.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution increasing the duties on imports, approved April twenty-ninth, eighteen hundred and sixty-four, be, and is hereby, continued in force until the first day of July next.

APPROVED, June 27, 1864.

Laws of the United States.

38TH CONG.... 1ST SESS.

No. 50.—Joint Resolution correcting a Clerical Error in the Award of the Emancipation Commissioners.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to correct a clerical error in entering the amount of the award of the commissioners under the act of the sixteenth of April, eighteen hundred and sixty-two, entitled "An act for the release of certain persons held to service or labor in the District of Columbia," in the case of Nicholas Bowie, claimed by Martha Manning.

APPROVED, June 28, 1864.

No. 51.—Joint Resolution to incorporate the Young Men's Christian Association of the City of Washington.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Benjamin Stinemets, Samuel McElwee, jr., A. I. Stoddart, Samuel Ker Roberts, S. Jordan, Albert Ebeling, Charles H. Norton, George M. Powell, Warren Choate, Nicholas Du Bois, Joseph T. Brown, and Joseph C. Clayton, and their successors in office, be, and they are hereby, incorporated and made a body-politic and corporate by the name of the Young Men's Christian Association of the City of Washington, and by that name may sue and be sued, plead and be impleaded, in any court of law or equity, and may have and use a common seal, and the same change at pleasure, and have, use, and exercise the powers, rights, and privileges incident to such corporation.

SEC. 2. *And be it further resolved,* That the said corporation shall be capable of acquiring, receiving, taking, and holding real and personal estate, which estate shall never be divided among the members of the corporation, but shall descend to their successors for the promotion of religious, moral, educational, and benevolent purposes of said corporation.

SEC. 3. *And be it further resolved,* That this corporation shall have power to alter and amend its constitution and by-laws: *Provided,* That they do not conflict with the laws of the United States, or the laws of the corporation of the city of Washington.

SEC. 4. *And be it further resolved,* That said corporation shall not exercise banking privileges, or issue or put in circulation bank notes, or any note, paper, token, scrip, or device to be used as currency.

SEC. 5. *And be it further resolved,* That Congress reserves the right to alter, amend, or repeal this act at any time.

APPROVED, June 28, 1864.

No. 53.—Joint Resolution to authorize the Postmaster General to extend the Contract with the Overland Mail Company.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he is hereby, authorized and empowered, in his discretion, to extend the mail contract number ten thousand seven hundred and seventy-three with the present contractors, or any other responsible parties, commonly known as the Overland Mail Company, for the term of one year from the first day of July next, upon the same terms and conditions with the present existing contract, except as to schedule time, which shall not exceed sixteen days for eight months of the year, and twenty days for the remaining four months; and except as to compensation, which shall not exceed the sum of eight hundred and twenty thousand dollars, beyond the amount paid for carrying of the printed matter by water.

APPROVED, June 30, 1864.

No. 54.—Joint Resolution to provide for the publication of a full Army Register.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required, in connection with the Army Register for the year eighteen hundred and sixty-four, to cause to be printed and

published a full roster or roll of all field, line, and staff officers of volunteers who have been in the Army of the United States since the beginning of the present rebellion, showing whether they are yet in the service or have been discharged therefrom, and giving casualties and other explanations proper for such Register. And to defray, in whole or in part, the expenses of this publication an edition of fifty thousand copies of such enlarged Register shall be published, and may be sold to officers, soldiers, or citizens, at a price which shall not more than cover the actual cost of paper, printing, and binding, and shall not in any case exceed one dollar per volume.

APPROVED, June 30, 1864.

No. 55.—Joint Resolution authorizing the Secretary of the Treasury to release certain Parties from Liabilities or Payment of Duties and Penalties therein mentioned.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to release and discharge the "Irish National Fair," recently held at Chicago, of and from all liability heretofore incurred for, or on account of, having sold goods and lottery tickets without license or stamps, and of and from the payment of all license fees, stamp duties, or penalties incurred by reason of the sales aforesaid.

APPROVED, June 30, 1864.

No. 56.—Joint Resolution authorizing the Secretary of the Interior to reclaim and preserve certain Property of the United States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to prevent the improper appropriation or occupation of any of the public streets, avenues, squares, or reservations in the city of Washington belonging to the United States, and to reclaim the same if unlawfully appropriated; and particularly to prevent the erection of any permanent building upon any property reserved to or for the use of the United States, unless plainly authorized by act of Congress, and to report to the Congress at the commencement of its next session, his proceedings in the premises, together with a full statement of all such property, and how, and by what authority, the same is occupied or claimed. Nothing herein contained shall be construed to interfere with the temporary and proper occupation of any portion of such property, by lawful authority, for the legitimate purposes of the United States.

APPROVED, June 30, 1864.

No. 57.—Joint Resolution for the Relief of the Officers of the Fourth and Fifth Indian Regiments

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury are hereby directed to adjudicate and settle the claims of those officers of the fourth and fifth Indian regiments who were commissioned by the War Department, and accepted their appointments, for such times as they or either of them were actually performing duty other than that of recruiting for said regiments, and to pay such claims out of any moneys in the Treasury not otherwise appropriated: *Provided, however,* That no compensation shall be allowed beyond the pay and emoluments incident to the respective rank of the several officers; nor shall any claim be considered or allowed except accompanied by the official certificates or orders of the commanding officer of the regular or volunteer officers of the U. S. Army assigning them to such duty.

APPROVED, June 30, 1864.

No. 59.—A Resolution for the Relief of the State of Wisconsin.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Department of the Interior shall, in adjusting the amount due the State of Wisconsin, under existing laws, as five per centum of the net proceeds of sales of the

public lands within her limits, estimate and charge against her the value of the one hundred and twenty-five thousand four hundred and thirty-one and eighty-two one-hundredths acres of land granted to the Territory of Wisconsin, to aid in the construction of the Milwaukee and Rock River canal which have been sold by said Territory or said State, at one dollar and twenty-five cents per acre, and as much more as the Territory and State received upon the same upon sales of any part thereof at a higher price, and shall credit said State with the amount that has been legally and properly applied by said State or Territory toward the cost of selling said land and toward the construction of said canal. And the said Secretary shall also settle and allow to the Milwaukee and Rock River Canal Company such sums of money as have been properly expended by said company in the survey and location of said canal, in the construction thereof, as far as the same has been constructed, together with dams, locks, and slack-water navigation, and in the management and keeping the same in repair; and the same shall be paid to the said canal company out of any money in the Treasury not otherwise appropriated, not exceeding in amount, however, the balance charged against the State of Wisconsin upon the sales of said canal lands, as above required, after deducting the sum allowed said State for money paid by her out of the same fund. The same to be received by said canal company in full payment and satisfaction of all claims of said company against the State of Wisconsin and of the United States on account of said canal land grant, or on account of any action of the Territory or State of Wisconsin, or of the United States, in relation thereto.

SEC. 2. *And be it further resolved,* That the Commissioner of the General Land Office be, and he is hereby, appointed commissioner to adjust the accounts herein provided for, under the supervision of the Secretary of the Interior, and to determine what sum shall be charged to said State of Wisconsin for the lands granted for the construction of said canal; and what sums shall be credited, respectively, to said State and said company for the moneys expended by them in the construction of said locks and canal as herein provided.

APPROVED, July 1, 1864.

No. 60.—A Resolution explanatory of the Tenth Section of "An Act to reduce the Expenses of the Survey and Sale of the Public Lands in the United States," approved May 30, 1862.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the tenth section of an act entitled "An act to reduce the expenses of the survey and sale of the public lands in the United States," approved the thirtieth day of May, eighteen hundred and sixty-two, providing for the deposit of money in a proper United States depository to pay for the survey of public lands, shall be construed to be an appropriation of the sums so deposited for the objects contemplated in the said tenth section, and the Secretary of the Treasury is authorized to cause the sums deposited under the said section to be placed to the credit of the proper appropriations for the surveying service: *Provided,* That any excesses in the sums so deposited, over and above the actual cost of the surveys, comprising all expenses incident thereto, for which they were severally deposited, shall be repaid to the depositors respectively.

APPROVED, July 1, 1864.

No. 61.—A Resolution to authorize the acquisition of certain Land for the use of the Government Hospital for the Insane.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to deed to John Perkins a portion of the extreme south point or angle of the farm of the Government hospital for the insane, in exchange for two acres of land, more or less, now owned and occupied by the said Perkins, and situated near the middle of that side of the hospital farm which fronts upon the public roads: *Provided,* That not more than three acres is given

38TH CONG....1ST SESS.

Laws of the United States.

for one contained in the last-described piece of land belonging to the said Perkins: *And provided further*, That the said Perkins is able to give, and does give, to the United States a good and sufficient title to the piece of land now owned and occupied by him.

[Sec. 2.] *And be it further resolved*, That the Secretary of the Interior is further authorized to defray the expense of moving the dwelling-house on the present Perkins tract to the tract exchanged for it, and of digging and walling a well, out of any appropriation already made, or that may be made, for inclosing the grounds of the hospital.

APPROVED, July 1, 1864.

No. 62.—A Resolution regulating the Investment of the Naval Pension Fund.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy, as trustee of the naval pension fund, be, and he is hereby, authorized and directed to cause to be invested in the registered securities of the United States, on the first day of January and the first day of July of each year, so much of the said fund then in the Treasury of the United States as may not be required for the payment of naval pensions for the then current fiscal year; and upon the requisition of the said Secretary, so much of the said fund as may not be required for such payment of pensions accruing during the current fiscal year, shall be held in the Treasury on the days aforesaid in each year, subject to his order for the purpose of such immediate investment; and the interest payable in coin upon the said securities in which the said fund shall be invested, shall be so paid, when due, to the order of the Secretary of the Navy, and he is hereby authorized and directed to exchange the amount of such interest when paid in coin, for so much of the legal currency of the United States as may be obtained therefor at the current rates of premium on gold, and to deposit the said interest so converted in the Treasury to the credit of the said naval pension fund: *Provided*, That nothing herein contained shall be construed to interfere with the payment of naval pensions under the supervision of the Secretary of the Interior, as now regulated by law.

APPROVED, July 1, 1864.

No. 63.—Joint Resolution to grant additional Rooms to the Agricultural Department.

Whereas the space assigned to the Department of Agriculture in the Patent Office building, included between the central crypt and the west wing in the first story on the south front, is entirely inadequate to the necessities of the Department, two of the rooms within these limits being used as furnace rooms for the Patent Office, one as a chemical laboratory, and another having recently been taken for the use of the Land Office, leaving but five rooms, with one small storeroom, for the business of the Department; and whereas, additional rooms are indispensably necessary for the convenience of the Commissioner, for the accommodation of clerks engaged in the collection and compilation of statistics, and in other official duties; for the better accommodation of the operations of the chemist in making agricultural tests, analyses, and experiments, and for the arrangement and exhibition of pomological, entomological, and agricultural specimens, models, and paintings: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the rooms now occupied by the Department of Agriculture, there shall be, and hereby is, assigned to the said Department the suite of rooms upon the first floor included between the southwest corner and the western entrance of the Patent Office building.

APPROVED, July 1, 1864.

No. 66.—A Resolution requesting the President to appoint a Day for National Humiliation and Prayer.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States

be requested to appoint a day for humiliation and prayer by the people of the United States; that he request his constitutional advisers at the head of the Executive Departments to unite with him as the Chief Magistrate of the nation, at the city of Washington, and the members of Congress; and all magistrates, all civil, military, and naval officers, all soldiers, sailors, and marines, with all loyal and law-abiding people, to convene at their usual places of worship, or wherever they may be, to confess and to repent of their manifold sins; to implore the compassion and forgiveness of the Almighty, that, if consistent with His will, the existing rebellion may be speedily suppressed; and the supremacy of the Constitution and laws of the United States may be established throughout all the States; to implore Him, as the Supreme Ruler of the world, not to destroy us as a people, nor suffer us to be destroyed by the hostility or connivance of other nations, or by obstinate adhesion to our own counsels, which may be in conflict with His eternal purposes; and to implore Him to enlighten the mind of the nation to know and do His will; humbly believing that it is in accordance with His will that our place should be maintained as a united people among the family of nations; to implore Him to grant to our armed defenders and the masses of the people that courage, power of resistance, and endurance necessary to secure that result; to implore Him in His infinite goodness to soften the hearts, enlighten the minds, and quicken the consciences of those in rebellion, that they may lay down their arms, and speedily return to their allegiance to the United States, that they may not be utterly destroyed, that the effusion of blood may be stayed, and that unity and fraternity may be restored, and peace established throughout all our borders.

APPROVED, July 2, 1864.

No. 67.—Joint Resolution in relation to the Professors of the Military Academy at West Point.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thirty-first section of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March third, eighteen hundred and sixty-three, or the eleventh section of "An act to increase the pay of soldiers in the United States Army, and for other purposes," approved June twentieth, eighteen hundred and sixty-four, shall not be construed to abridge the privileges usually allowed to the professors of the Military Academy of being absent during the suspension of the ordinary academic studies of that institution.

APPROVED, July 2, 1864.

No. 68.—A Resolution explanatory of an Act entitled "An Act to increase the Pay of Soldiers in the United States Army, and for other purposes," approved, June twentieth, eighteen hundred and sixty-four.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the word "musicians" in the first section of an act entitled "An act to increase the pay of soldiers in the United States Army, and for other purposes," approved June twentieth, eighteen hundred and sixty-four, is not to be construed to include musicians, (other than leaders,) employed as members of brigade and regimental bands; but such members of bands shall be paid as heretofore, one fourth of the members of each band thirty-four dollars per month, one fourth of them twenty dollars per month, and the remaining half of them seventeen dollars per month.

APPROVED, July 2, 1864.

No. 75.—A Resolution to increase the Compensation of Matrons in the Hospitals.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of July, eighteen hundred and sixty-four, hospital matrons shall be entitled to, and shall receive, ten dollars per month and one ration.

APPROVED, July 4, 1864.

No. 76.—Joint Resolution for the Relief of the Sufferers by a late Accident at the U. S. Arsenal, in Washington, D. C.

Whereas nearly thirty persons, mostly females, were terribly injured, nineteen of them fatally, by an explosion in the cartridge factory at the United States arsenal in Washington, D. C., on the seventeenth day of June, eighteen hundred and sixty-four; and whereas all of the wounded are poor, and dependent upon daily labor for bread, who by this calamity have been deprived of the power to earn their living, and are without the means to procure the care and comforts necessary to their recovery: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of two thousand dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the relief of the victims of such explosion, said money to be distributed under the direction of Major Benton, commanding at said arsenal, and in such manner as shall most conduce to the comfort and relief of said sufferers, according to their necessities respectively, and that he report to this House.

APPROVED, July 4, 1864.

No. 77.—Joint Resolution imposing a Special Income Duty.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the income duty already imposed by law, there shall be levied, assessed, and collected on the first day of October, eighteen hundred and sixty-four, a special income duty upon the gains, profits, or income for the year ending the thirty-first day of December next preceding the time herein named, by levying, assessing, and collecting said duty of all persons residing within the United States, or of citizens of the United States residing abroad, at the rate of five per centum on all sums exceeding six hundred dollars, and the same shall be levied, assessed, estimated, and collected, except as to the rate, according to the provisions of existing laws for the collection of an income duty, annually, where not inapplicable hereto; and the Secretary of the Treasury is hereby authorized to make such rules and regulations as to time and mode, or other matters, to enforce the collection of the special income duty herein provided for, as may be necessary: *Provided*, That in estimating the annual gains, profits, or income, as aforesaid, for the foregoing special income duty, no deductions shall be made for dividends or interest received from any association, corporation, or company, nor shall any deduction be made for any salary or pay received.

APPROVED, July 4, 1864.

No. 78.—Joint Resolution explanatory of a Joint Resolution relative to Pay of Staff Officers of the Lieutenant General.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution relative to pay of staff officers of the Lieutenant General, approved May twenty, eighteen hundred and sixty-four, shall be so construed as to entitle all the staff officers on the staff of the Lieutenant General to receive the pay, emoluments, and allowances of cavalry officers of the same grade.

APPROVED, July 4, 1864.

PRIVATE ACTS.

CHAP. X.—An Act to indemnify the Owners of the British Schooner Glen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid to the owners of the British schooner "Glen," out of any money in the Treasury not otherwise appropriated, the sum of seventeen thousand one hundred and fifty dollars and sixty-six cents, the same being the amount awarded as an indemnification to the parties interested, by the district court of the

Laws of the United States.

38TH CONG....1ST SESS.

United States of America for the southern district of New York, for costs, damages, and expenses, by reason of the illegal seizure of the said vessel and cargo as prize.

APPROVED, February 13, 1864.

CHAP. XII.—An Act for the Relief of the Heirs of Noah Wiswall.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the United States be, and are hereby, directed to audit an account between the United States and the legal representatives of Noah Wiswall, assignee of Daniel Chilson, for the amount of purchase-money paid by said Daniel Chilson on the thirteenth day of July, eighteen hundred and thirty-five, by his agent, Amariah Watson, to J. W. Stephenson, receiver of public moneys, at Galena, Illinois, per receipt number twelve hundred and eighty-two, for eighty acres of the west half of the southwest quarter of section number fifteen, in township number sixteen north, of range number eight east, of the fourth principal meridian, at the rate of one dollar and twenty-five cents per acre; and that the Secretary of the Treasury be, and is hereby, directed to pay said amount upon such adjustment, out of any money in the Treasury not otherwise appropriated.

APPROVED, February 22, 1864.

CHAP. XIX.—An Act to authorize the Settlement of the Accounts of Paymaster E. C. Doran.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the payments made by William H. Peters, of Virginia, to the mechanics, laborers, and other employes of the Norfolk navy-yard, for wages due to them by the United States, for services and labor rendered to the twentieth day of April, eighteen hundred and sixty-one, and the rolls and vouchers therefor on file in the office of the Fourth Auditor of the Treasury, be, and the same are hereby, legalized for the benefit of Paymaster Edward C. Doran, of the United States Navy; and that the accounting officers of the Treasury be, and they are hereby, authorized to credit the said Paymaster Edward C. Doran, in the settlement of his account, with the sum of twenty-nine thousand three hundred and eighty-one dollars, (\$29,381.)

APPROVED, March 3, 1864.

CHAP. XXV.—An Act for the Relief of John H. Shepherd and Walter K. Caldwell, of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be instructed to allow and pay to the said Shepherd and Caldwell, all sums of money remaining due and unpaid and heretofore withheld by the Post Office Department for carrying the mails during the years eighteen hundred and fifty-four and eighteen hundred and fifty-five, on routes numbered eight thousand eight hundred and eighteen and eight thousand eight hundred and forty-nine, in the State of Missouri; said payments to be made for the time during which service was actually performed on said routes, at the rate of twenty-one hundred dollars per year on route number eight thousand eight hundred and eighteen, and at the rate of fourteen hundred and sixty dollars on route number eight thousand eight hundred and forty-nine, without making any deduction on account of the refusal of said contractors to enter into new contracts for performing extra service, or on account of reletting the same. And the Postmaster General is further instructed to pay to said contractors any sums of money due them for carrying the mails on routes numbered eight thousand eight hundred and nineteen and eight thousand eight hundred and seventy-two, in said State, during the years aforesaid, and withheld by the Post Office Department, on account of the reletting of the two routes first named.

APPROVED, March 8, 1864.

CHAP. XXVI.—An Act for the Relief of L. F. Cartee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office be, and he is hereby, authorized to pay to L. F. Cartee the sum of three thousand and thirty-three dollars and fifty cents, for services performed in surveys of the public lands in the State of Oregon in excess of his contract with the surveyor general of Oregon, dated October fourteen, eighteen hundred and sixty; and the sum of three thousand and thirty-three dollars and fifty cents is hereby appropriated for said payment, out of any money in the Treasury not otherwise appropriated: *Provided,* That before any payment is made, as provided for by this act, the work performed by said L. F. Cartee shall be tested in the field by actual examination thereof, under the direction of the surveyor general of Oregon, and any correction made, necessary to make it conformable to the laws of the United States and the instructions governing the surveys of the public lands, at the expense of the said L. F. Cartee, and the balance only of said appropriation paid him after deducting said expense of inspection and correction; and when the certificate of the surveyor general of Oregon is filed with the Commissioner of the General Land Office that said survey is complete according to the law and regulations governing public surveys.

APPROVED, March 8, 1864.

CHAP. XXIX.—An Act for the Benefit of John Dickson, of Illinois.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of twenty-one thousand dollars be paid to John Dickson, of Illinois, to compensate him for the damages he sustained by reason of the failure of J. W. Belger, quartermaster of United States volunteers, to receive one hundred thousand bushels of corn tendered him by said Dickson, under a contract therefor, and that the same be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, March 11, 1864.

CHAP. XXXII.—An Act granting a Pension to John L. Burns, of Gettysburg, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of John L. Burns, of Gettysburg, in the State of Pennsylvania, upon the pension roll, at the rate of eight dollars per month, for patriotic services at the battle of Gettysburg, where he was wounded, on the first day of July, anno Domini eighteen hundred and sixty-three, at which time said pension shall commence.

APPROVED, March 14, 1864.

CHAP. XXXVIII.—An Act for the Relief of the Owners of the French Ship "La Manche."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of paying the indemnity awarded to the owners of the French ship "La Manche," there be appropriated, out of any money in the Treasury not otherwise appropriated, a sufficient amount to purchase a bill of exchange on Paris for the sum of one hundred and forty thousand seven hundred and thirty-five and fifteen one-hundredths francs, with interest on the said sum at six per centum, from February five, last past, down to the date of the bill of exchange.

APPROVED, March 22, 1864.

CHAP. XLIII.—An Act for the Relief of E. F. and Samuel A. Wood.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to issue, or cause to be issued, executed, and delivered to E. F. and Samuel A. Wood duplicates of the following described bonds of the United States of America Treasury

Department, for the Oregon war debt, issued by the United States under an act of Congress approved March two, eighteen hundred and sixty-one, payable at any time after the first day of July, eighteen hundred and eighty-one, at the Treasury of the United States, with interest at the rate of six per centum per annum, viz: numbers thirteen hundred and twenty-nine, and thirteen hundred and thirty-four, to thirteen hundred and thirty-eight, inclusive, for the sum of five hundred dollars each; and number two hundred and seventy-one for fifty dollars, dated Washington, March twenty-four, eighteen hundred and sixty-two; and numbers thirteen hundred and fifty-two to thirteen hundred and fifty-nine, inclusive, for five hundred dollars each; number six hundred and sixty-five for one hundred dollars, and number two hundred and sixty-six for fifty dollars, dated Washington, March twenty-four, eighteen hundred and sixty-two; and number eight hundred and seventy-seven for one hundred dollars; number four hundred for fifty dollars, dated Washington, May twenty-second, eighteen hundred and sixty-two, and each and severally signed "L. E. Chittenden, Register of the Treasury," entered R. E., recorded J. O., with thirty-seven interest coupons attached to each of the five hundred dollar bonds for fifteen dollars each, payable semi-annually; eighteen interest coupons attached to bond number six hundred and sixty-five, and nineteen interest coupons attached to bond number eight hundred and seventy-seven for six dollars each; eighteen interest coupons attached to bonds numbers two hundred and sixty-six and two hundred and seventy-one; nineteen interest coupons attached to bond number four hundred for three dollars each, payable annually, all of which coupons are signed "G. Luff, for the Register of the Treasury;" in all nineteen Oregon war bonds, amounting to the sum of seven thousand three hundred and fifty dollars: *Provided,* That before the issue of such duplicate bonds said E. F. and Samuel A. Wood, or either of them, shall execute, or cause to be executed, and deposited with the Secretary of the Treasury of the United States, to the full acceptance and satisfaction of said Secretary, such bond of indemnity as is usually required by the regulations of the Treasury Department for the issue of duplicate certificates of inscribed stocks and bonds.

APPROVED, March 28, 1864.

CHAP. XLIV.—An Act in Favor of the Legal Representatives of Israel C. Wait.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay to the legal representatives of Israel C. Wait, late lieutenant in the United States Navy, the sum of fifteen hundred dollars, it being the amount of an unpaid balance due the said Wait under the act of January sixteenth, eighteen hundred and fifty-seven, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" and the sum of fifteen hundred dollars is hereby appropriated for this purpose.

APPROVED, March 28, 1864.

CHAP. LV.—An Act for the Relief of Daniel Wormer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, directed, out of any money in the Treasury not otherwise appropriated, to pay to Daniel Wormer the sum of one thousand seven hundred and seventy-eight dollars and thirty-six cents, in full for all percentage retained by the Government on payments heretofore made to him, and for all timber or other materials furnished by him in the construction of the pier at Little Sodus bay, on Lake Ontario.

APPROVED, April 9, 1864.

CHAP. LVI.—An Act for the Relief of Darius S. Cole.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be,

38TH CONG....1ST SESS.

Laws of the United States.

and he is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to Darius S. Cole the sum of two thousand two hundred and twenty-four dollars, in full for materials furnished to the United States for the construction of the pier in Little Sodus bay, Lake Ontario.

APPROVED, April 9, 1864.

CHAP. LVII.—An Act for the Relief of William G. Brown.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, directed, out of any money in the Treasury not otherwise appropriated, to pay to William G. Brown the sum of ninety-nine dollars, in full for stone or other materials used by order of the agents of the Government in the construction of a pier in Little Sodus bay, on Lake Ontario, in the year one thousand eight hundred and fifty-three.

APPROVED, April 9, 1864.

CHAP. LXII.—An Act confirming the Title of Joseph Ford to certain Lands in Rice County, in the State of Minnesota.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the title of Joseph Ford in and to the following described lands, to wit: the south half of the northeast quarter, and the southeast quarter of the northwest quarter, and the northwest quarter of the southeast quarter of section six, in township one hundred and eleven, of range nineteen, in Rice county, in the State of Minnesota, containing one hundred and sixty acres, be, and the same is hereby, fully and absolutely confirmed, and that a patent be issued to the said Joseph Ford for the same.

APPROVED, April 19, 1864.

CHAP. LXXV.—An Act for the Relief of William C. Walker, and others.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of six hundred and sixty-four dollars and ninety cents to the following persons, and in the sums following, viz: To William C. Walker, eighty-three dollars and twenty-five cents; to John S. Emrie, seventy dollars; to A. G. Crane, ninety-seven dollars and fifty cents; to George W. Pilbeam, twenty-one dollars and fifty cents; to E. Goodrich, eighty-seven dollars and seventy-five cents; to Jacob Cox, eleven dollars and twenty-five cents; to Thomas Lamkin, ninety-two dollars and twenty-five cents; to Porter Durell, ninety dollars; to Matthew Randall, ninety-six dollars and seventy-five cents; to David Lynn, five dollars and fifty cents; to Andrew Lisk, four dollars; to William Burkes, three dollars; to William Depuy, two dollars and twenty-five cents, for labor done and performed by the above named persons, respectively, on the bridge across the Ohio river and floating battery at Paducah, by and under the direction of General John C. Frémont, while commanding the army of the West.

APPROVED, May 3, 1864.

CHAP. LXXVI.—An Act for the Relief of Jesse Williams.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office be directed to issue a patent to Jesse Williams, of Jefferson county, Iowa, for the west half of the northwest quarter of section fifteen, township sixty-seven north, of range fifteen west, in the State of Iowa: *Provided,* however, That no rights acquired by other persons shall be affected by this act.

APPROVED, May 3, 1864.

CHAP. LXXXVII.—An Act to authorize the Settlement of the Accounts of A. Bush, late Public Printer for the Territory of Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officer of the Treasury be, and hereby is, authorized to audit and allow the account of Asahel Bush, late public printer of the Territory of Oregon, for printing, binding, and so forth, in the year eighteen hundred and fifty-five, five hundred copies of the statutes enacted by the Legislative Assembly of said Territory at its sessions of eighteen hundred and fifty-three and four, and eighteen hundred and fifty-four and five, and allow for the same such prices as were by law allowable for such services at that time; and that the amount that shall be found due upon said account shall be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, May 16, 1864.

CHAP. XC.—An Act for the Relief of Margaret M. Stafford, Widow of Reuben Stafford, of Coshocton County, Ohio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Margaret M. Stafford, widow of Reuben Stafford, of Coshocton county, Ohio, on the pension roll, at the rate of eight dollars per month, to commence on the twenty-sixth day of August, eighteen hundred and sixty-three, and to continue during her widowhood.

APPROVED, May 19, 1864.

CHAP. XCI.—An Act for the Relief of Charles L. Nelson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay to Charles L. Nelson the sum of three hundred and eight dollars, out of any money in the Treasury not otherwise appropriated, it being for his services as agent for the improvement of the harbor of Burlington, Vermont, from the fifteenth day of January, eighteen hundred and fifty-three, to the second day of April, eighteen hundred and fifty-three, inclusive, at four dollars per day.

APPROVED, May 19, 1864.

CHAP. C.—An Act for the Relief of Julia A. Ames.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Julia A. Ames, widow of John E. Ames, late a sergeant in the sixth regiment of Massachusetts volunteers, and who died of injuries received in the city of Baltimore on the nineteenth of April, eighteen hundred and sixty-one, upon the pension roll, at the rate of eight dollars per month, from the said nineteenth day of April, eighteen hundred and sixty-one, to continue during her widowhood.

APPROVED, May 28, 1864.

CHAP. CV.—An Act for the Relief of Frederick A. Beelen, late Secretary of Legation to Chili.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized to pay to Frederick A. Beelen, late secretary of legation to Chili, the sum of one hundred and sixty-six dollars and sixty-six cents, out of any money in the Treasury not otherwise appropriated, in full for difference in salary under the several acts of Congress on that subject, while he acted as such secretary, before he was informed of such reduction, and until he had full time to return to the United States.

APPROVED, June 2, 1864.

CHAP. CXII.—An Act for the Relief of Warren W. Green.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is

hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Warren W. Green the sum of forty-seven dollars and seventy-nine cents, being for his services on the Fort Kearney and Honey Lake wagon road, in the year eighteen hundred and fifty-seven.

APPROVED, June 7, 1864.

CHAP. CXLVI.—An Act for the Relief of Rhoda Wolcott, Widow of Henry Wolcott.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Rhoda Wolcott, widow of Henry Wolcott, who was a private in a company of New York United States detached militia, of the regiment commanded by Colonel Thomas B. Benedict, in the war of eighteen hundred and twelve, on the pension roll, at the rate of four dollars per month, said pension to begin on the fourteenth day of November, eighteen hundred and sixty, and to continue during her widowhood.

APPROVED, June 20, 1864.

CHAP. CLXI.—An Act to increase the Pension of Isaac Allen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized and directed to raise the pension of Isaac Allen from a half to a full pension, and to pay him such increased pension from the twenty-sixth day of April, in the year of our Lord one thousand eight hundred and sixty-four, and continue during his natural life.

APPROVED, June 25, 1864.

CHAP. CLXXXVI.—An Act concerning certain Locations of Lands in the State of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all of the right, title, and interest of the United States in and to all of the lands within the respective boundaries of the following described locations in township forty-five north, of the base line, in range seven east, of the fifth principal meridian line, in the State of Missouri, made by virtue of certificates issued under the act of Congress, approved February the seventeenth, eighteen hundred and fifteen, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes," shall be, and the same are hereby, granted, relinquished, and conveyed by the United States, in fee-simple and in full property, to the following mentioned persons, respectively, or their respective legal representatives, in whose names said locations were severally made, to wit: location under certificate number one hundred and sixty-one, being survey number two thousand five hundred, in the name of Joseph Hunot, or his legal representatives; location under certificate number three hundred and forty-eight, being survey number two thousand seven hundred and twelve, in the name of James Conway, or his representatives; location under certificate number one hundred and fifty-nine, being survey number two thousand four hundred and ninety-one, in the name of J. Smith, or his legal representatives; location under certificate number one hundred and forty-five, being survey number two thousand four hundred and ninety-nine, in the name of Martin Coontz, or his legal representatives; location under certificate number nineteen, being survey number two thousand six hundred and ninety-two, in the name of Joseph Genereux, or his representatives; location under certificate number sixteen, being survey number two thousand six hundred and twenty, in the name of Francis Delisle, or his legal representatives; and location under certificate number one hundred and sixty-four, being survey number two thousand five hundred and forty-one, in the name of John Brooks, or his legal representatives: *Provided, however,* That nothing contained in the foregoing provisions of this act shall, directly or indirectly, comprehend, include, extend to, grant,

Laws of the United States.

38TH CONG....1ST SESS.

relinquish, or convey, the whole or any part of any lot, tract, piece, or parcel of land in said township which has heretofore been confirmed and surveyed by the United States to any person or persons, or to the legal representatives of any person or persons: *And provided further*, That nothing in this act shall in any manner abridge, divest, impair, injure, or prejudice, any adverse right, title, or interest of any person or persons in or to any portion or part of the aforesaid lots, tracts, pieces, or parcels of land which are granted, relinquished, or conveyed by this act.

APPROVED, June 30, 1864.

CHAP. CLXXXVII.—An Act for the Relief of Lieutenant William P. Richner, Seventy-Seventh Regiment Ohio Volunteer Infantry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, directed to cause to be paid to William P. Richner, first lieutenant company H seventy-seventh regiment Ohio volunteer infantry, out of any money in the Treasury not otherwise appropriated, the pay and emoluments of a first lieutenant, from the thirty-first day of December, eighteen hundred and sixty-one, to the thirty-first day of August, eighteen hundred and sixty-two.

APPROVED, June 30, 1864.

CHAP. CLXXXVIII.—An Act for the Relief of the Estate of B. F. Kendall.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to allow, in the settlement of the accounts of B. F. Kendall, deceased, late superintendent of Indian affairs for Washington Territory, the sum of two thousand one hundred and eight dollars and thirty cents, the same being the amount shown to have been disbursed by him in his lifetime, and for which no vouchers were to be found.

APPROVED, June 30, 1864.

CHAP. CCVI.—An Act to authorize the Secretary of the Interior to issue a Land Warrant to Richard Fitch, of Ohio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to issue a land warrant for one hundred and sixty acres of land to Richard Fitch, of Ohio, in consideration of military services rendered in the Army of the United States during the last war with Great Britain.

APPROVED, July 1, 1864.

CHAP. CCVII.—An Act for the Relief of George F. Nesbitt.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That George F. Nesbitt be, and he is hereby, authorized and empowered to put an end to his contract with the United States; entered into with the Postmaster General on the twenty-seventh day of March, anno Domini eighteen hundred and sixty-two, for furnishing the Post Office Department with stamped envelopes and newspaper wrappers, on giving to the Postmaster General sixty days' notice in writing.

APPROVED, July 1, 1864.

CHAP. CCVIII.—An Act for the Relief of Ida Hoffman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Ida Hoffman, widow of the late Solomon Hoffman, of Carroll county, Indiana, who was shot and instantly killed on the fourteenth day of March, eighteen hundred and sixty-three, while engaged in the performance of the duties of deputy provost marshal, on the roll of pensioners, at the rate of eight dollars per month, to commence from the fourteenth day of March, eighteen hundred and sixty-three, and to continue during her widowhood.

APPROVED, July 1, 1864.

CHAP. CCXXVII.—An Act for the Relief of Richard G. Murphy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid, out of any money in the Treasury not otherwise appropriated, to Richard G. Murphy, of Minnesota, formerly Indian agent, for services and expenses in the removal of Sioux Indians, in the year one thousand eight hundred and fifty-three, the sum of six hundred dollars.

APPROVED, July 2, 1864.

CHAP. CCXXVIII.—An Act for the Relief of the Widow of C. A. Haun.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to place the name of Mrs. C. A. Haun, of the county of Greene and State of Tennessee, on the pension roll at the rate of eight dollars per month, to commence on the eleventh day of December, eighteen hundred and sixty-one, and to continue during her widowhood.

APPROVED, July 2, 1864.

CHAP. CCXXIX.—An Act for the Relief of John Williams.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Quartermaster General be, and he is hereby, authorized to audit and pay the account of John Williams, for twenty-five cords of wood, at two dollars and seventy-five cents per cord, delivered by said Williams to the United States, at Oshkosh, Wisconsin, under a contract made with the quartermaster of the twenty-first regiment Wisconsin volunteers, said account amounting to sixty-eight dollars and seventy-five cents, to be paid out of any money which has been, or may hereafter be, appropriated for defraying the expenses of the bureau of said Quartermaster General.

APPROVED, July 2, 1864.

CHAP. CCXXX.—An Act for the Relief of Major N. S. Brenton, a Paymaster in the United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and required to allow Major N. S. Brenton, on the settlement of his accounts, a credit of two million six hundred thousand dollars for money in his hands as paymaster in the Army, on board the steamer Ruth, and destroyed by fire on the night of the fourth of August, eighteen hundred and sixty-three, "if on examining the evidence by the Paymaster General, he, the said Paymaster General, shall deem him justly entitled to said credit; but such credit shall not be allowed without the said Paymaster General shall certify his approval thereof."

APPROVED, July 2, 1864.

CHAP. CCXXXI.—An Act for the Relief of William Sawyer and others, of the State of Ohio.

Whereas by the treaty of Saint Mary's with the Miami Indians, of October six, eighteen hundred and eighteen, the west half of section number twenty-six, the east half of section number twenty-eight, and section number twenty-seven, lying in the county of Auglaize and State of Ohio, were reserved and granted to Joseph Richardville and Joseph Richardville, junior; and whereas all of said lands have since been sold in several parcels to divers persons by the United States and by the State of Ohio, under and by virtue of a grant from the United States; and whereas, by virtue of a judicial sale upon a judgment rendered against the said Joseph Richardville, junior, survivor and sole heir-at-law of the said Joseph Richardville, senior, the title granted to the said Joseph Richardville, senior, and Joseph Richardville, junior, by said treaty, in all of said lands, has become vested in one Madison Sweetser, the purchaser at said sale; and whereas the said

Madison Sweetser has established his title to said lands by sundry judgments in ejectment, recovered in the circuit court of the United States for the northern district of Ohio, against the tenants in possession, holding under titles derived, directly or indirectly, from the United States as aforesaid: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized and required to cause the unimproved value of the said tracts of land to be ascertained, by the valuation and assessment of a commissioner to be appointed by him for that purpose, and which commissioner shall, before he proceeds to the assessment and valuation of the same, take an oath faithfully and impartially to perform his duties as such commissioner. And when the said Secretary of the Interior shall thus ascertain the unimproved value of said lands he shall report the same to the House of Representatives at the earliest practicable moment.

APPROVED, July 2, 1864.

CHAP. CCXXXII.—An Act for the Relief of Martha Jane Skaggs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized and directed to place the name of Martha Jane Skaggs, widow of Alfred Sykas Skaggs, late a private of company E, of the twenty-seventh regiment of Kentucky, and who died at Elizabethtown, Kentucky, on the twenty-seventh day of January, eighteen hundred and sixty-two, upon the pension roll from the said twenty-seventh day of January, anno Domini eighteen hundred and sixty-two, at the rate of eight dollars per month, to continue during her widowhood.

APPROVED, July 2, 1864.

CHAP. CCXXXIII.—An Act for the Relief of Eliza Cass Woodbridge.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to place the name of Eliza Cass Woodbridge, of the State of Michigan, the widow of Major Francis Woodbridge, deceased, on the roll of the Pension Office, at the rate of twenty dollars per month, during her natural life and her widowhood, and that said pension shall date from the first day of January, eighteen hundred and sixty.

APPROVED, July 2, 1864.

CHAP. CCXXXIV.—An Act to amend an Act entitled "An Act to enable the Trustees of the Blue Mont College to preempt a certain Quarter Section of Land," approved March two, eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to enable the trustees of the Blue Mont College to preempt a certain quarter section of land," approved March two, eighteen hundred and sixty-one, be, and is hereby, so amended as to authorize the legally constituted trustees of said college to locate on said tract of land any military bounty land warrant or land warrants issued under the military bounty land warrant act of eighteen hundred and fifty-five, said warrants being the property of said college, in the name and for the benefit and use of said college, said location to be made in accordance with the rules and regulations of the General Land Office, and not inconsistent with the provisions of this act.

APPROVED, July 2, 1864.

CHAP. CCXXXV.—An Act for the Relief of Sarah Robinson, Widow of Hon. John L. Robinson, late United States Marshal for the District of Indiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to credit to the account of Hon. John L. Robinson, late United

States marshal with said Department, the sum of six hundred and seventy-five dollars for services rendered by said deceased in making preparations for the taking of the census of eighteen hundred and sixty; and that in the legal adjudication of the accounts of the said marshal, judgment thereon shall be rendered only for the balance found to be due.

APPROVED, July 2, 1864.

CHAP. COXXXVI.—An Act for the Relief of Dr. Charles M. Wetherill.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Dr. C. M. Wetherill, the sum of seven hundred and fifty dollars, in full for his services as chemist of the Agricultural Department, out of any money in the Treasury not otherwise appropriated.

APPROVED, July 2, 1864.

CHAP. CCLIV.—An Act for the Relief of John C. McConnell.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to John C. McConnell, the sum of two thousand dollars, out of any money in the Treasury not otherwise appropriated, in full payment for money advanced and service rendered in raising troops in the State of Maryland.

APPROVED, July 4, 1864.

CHAP. CCLV.—An Act for the Relief of Horace Gates.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Horace Gates, of Franklin, in the State of Vermont, upon the roll of invalid pensions at the rate of eight dollars per month, to commence on the first day of January, eighteen hundred and sixty-two, and continue during his natural life.

APPROVED, July 4, 1864.

CHAP. CCLVI.—An Act for the Relief of Richard G. Murphy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay to Major Richard G. Murphy, out of any money in the Treasury not otherwise appropriated, the sum of eighteen hundred dollars, in full, for that amount charged to and paid by him as agent for the Sioux Indians, upon false vouchers transmitted to the Indian Bureau by Willis A. Gorman, late superintendent of Indian affairs for the northwestern superintendency.

Sec. 2. *And be it further enacted,* That the Solicitor of the Treasury be, and he is hereby, required and directed forthwith to cause to be commenced against the said Willis A. Gorman such suits as he may deem proper for the recovery of any money which the said Gorman may have wrongfully obtained from the Treasury.

APPROVED, July 4, 1864.

PRIVATE RESOLUTIONS.

No. 13.—Joint Resolution authorizing Payment of Prize Money due to Commander Abner Read, U. S. Navy, to his Widow, Constance Read.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized to pay to Mrs. Constance Read, widow of Commander Abner Read, late of the United States Navy, the share of prize money due, or to become due, to the said Abner Read, for prizes taken by the United States vessel New London, while under his command, in the year eighteen hundred

and sixty-one; taking, upon such payment, the receipts of the said Abner Read, placed by him in the hands of said Constance, to enable her to collect said prize money for her own use.

APPROVED, February 29, 1864.

No. 19.—Joint Resolution authorizing the Settlement of the Accounts of J. N. Carpenter, a Paymaster in the United States Navy.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized, in settling the accounts of J. N. Carpenter, paymaster in the U. S. Navy, to allow and credit him with the sum of two hundred dollars, the same being the value of articles of clothing stolen from the U. S. sloop "Saratoga," after said vessel had been put out of commission at Philadelphia, in January, eighteen hundred and sixty-three.

APPROVED, March 16, 1864.

No. 33.—Joint Resolution relating to Green Clay Goodloe.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing in an act entitled "An act making appropriations for the support of the Military Academy for the year ending June thirtieth, eighteen hundred and sixty-five," approved, April first, eighteen hundred and sixty-four, shall be so construed as to prevent the reappointment of Green Clay Goodloe, by the President of the United States, to a cadetship at said Military Academy.

APPROVED, May 20, 1864.

No. 34.—Joint Resolution referring the Claim of J. H. Clark & Co. to the Court of Claims.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the claim of J. H. Clark & Co., heretofore pending before Congress, be, and the same hereby is, referred to the Court of Claims.

APPROVED, May 26, 1864.

No. 36.—Joint Resolution to settle the Account of James Keenan, late Consul at Hong Kong, China.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is directed to settle the account of James Keenan, late consul at Hong Kong, China, by allowing him two thousand eight hundred and one dollars and eighty-four cents, the amount of judgment in certain cases obtained against him and paid by him; and also to pay him the amount incurred by him in the exchange between the countries, whatever it may be, and charge him with any balance on the books of the Treasury against him, and to pay him the balance, if any appears in his favor, out of any money in the Treasury not otherwise appropriated.

APPROVED, June 2, 1864.

No. 37.—Joint Resolution relative to the Claim and Letters-Patent of William Wheeler Hubbell.

Whereas William Wheeler Hubbell claims compensation for the use of his patent for the thunderbolt shell and fuse, which he claims were patented by him, and have been used by the Government, under a verbal contract, as he alleges, between him and the late George Bomford, colonel of ordnance of the United States, and for the use of his patent percussion apparatus for exploding shells, and said letters-patent are dated January twenty-two, eighteen hundred and fifty-six, reissued January nineteen, eighteen hundred and fifty-eight, for fourteen years for the shell, January seven, eighteen hundred and sixty-two, for seven years for the fuse, and January twenty-four, eighteen hundred and sixty, for fourteen years for the percussion device; and whereas the testimony in support of said claim submitted with said patents, and especially with regard to the validity of the same and the verbal contract aforesaid, is very voluminous, and the shells and fuses in the service, which said Hubbell claims, are made and

used in great numbers by the Government, and this committee feel that they have neither the time nor means for procuring witnesses and giving the case the careful legal investigation which its importance demands: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the claim of William Wheeler Hubbell be referred to the Court of Claims, which is hereby vested with jurisdiction, and whose duty it shall be to investigate and determine—

First. Is William Wheeler Hubbell the original inventor of the shell and fuse and percussion device aforesaid, or either of them, and has he a just and equitable right to compensation for the same; and

Second. What amount of compensation is he entitled to receive for the use of his inventions and patents, as claimed, up to the time of adjudication, and for a full and entire transfer of his patents to the United States.

Third. *And be it further resolved,* That either party may appeal to the Supreme Court of the United States within ninety days, and the Court of Claims shall certify any judgment that may be rendered in favor of said William Wheeler Hubbell, his heirs or legal representatives, in the same manner, and the same when presented to the Secretary of the Treasury shall have the same effect as now provided by law, and be paid out of any general appropriation in relation to judgments of said court, or for private claims: *Provided,* That the sum hereby authorized to be paid shall not exceed one hundred thousand dollars, which sum the claimant agrees to accept in full of all claims whatever by virtue of said patents and contract against the Government. And the payment of such judgment shall vest the full and absolute right to said patents in the United States.

APPROVED, June 3, 1864.

No. 44.—A Joint Resolution for the Relief of Rev. W. B. Matchett.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Paymaster General of the United States be authorized and directed to adjust and pay to W. B. Matchett the amount due him as chaplain of the tenth regiment of New York volunteers, from the time up to which he was last paid to the time said regiment was mustered out of service.

APPROVED, June 20, 1864.

No. 48.—Joint Resolution for the Relief of Major Morris S. Miller, of the Quartermaster's Department.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to credit the account of Major Morris S. Miller, quartermaster United States Army, with the sum of about thirty-seven thousand dollars, or so much thereof as was paid by him during the years eighteen hundred and fifty-nine and eighteen hundred and sixty, to the respective firms of Russell, Majors & Waddell, Brown & Russell, and Majors & Russell, upon the orders of the Secretary of War and the Quartermaster General, or either of them.

APPROVED, June 25, 1864.

No. 52.—Joint Resolution to declare the construction of a Joint Resolution for the Relief of W. B. Matchett, approved June twenty, eighteen hundred and sixty-four.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the above-entitled joint resolution shall be construed to authorize and direct the Paymaster General of the United States to adjust the account of W. B. Matchett, chaplain of the tenth regiment of New York volunteers, and pay him the amount of the pay and allowances of a chaplain for and during the period that said regiment was in the service of the United States, and up to the time the same was mustered out of service, deducting the amount heretofore paid him as such chaplain.

APPROVED, June 28, 1864.

Laws of the United States.

38TH CONG....1ST SESS.

No. 58.—Joint Resolution for the Relief of Mary Kellogg.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the name of Spencer Kellogg be entered upon the rolls of the Navy Department, with the rank of fourth master, to date from the first of June, eighteen hundred and sixty-two, and that Mary Kellogg, widow of Spencer Kellogg, deceased, be put upon the pension list, with the pension incident to the rank of her husband. And that the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to settle and adjust the accounts of said Spencer Kellogg, deceased, as a first lieutenant of infantry, from the fourteenth day of September, eighteen hundred and sixty-one, to the twenty-eighth day of October, eighteen hundred and sixty-one; and his accounts as fourth master in the Navy, from the first day of August, eighteen hundred and sixty-two, up to the twenty-fifth day of September, eighteen hundred and sixty-three, the date of the execution of said Kellogg at Richmond, Virginia, by the rebels; and to pay any money due him to his widow, Mary Kellogg, out of any moneys in the Treasury not otherwise appropriated.

APPROVED, June 30, 1864.

No. 64.—A Resolution providing for Adjustment of the Accounts of Henry W. Diman.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the accounting officers of the Treasury be, and they are hereby, directed to adjust the accounts of Henry W. Diman, late acting assistant paymaster in the Navy, (whose books and papers were sunk and lost in the transport steamer "Whitman" in July, anno Domini eighteen hundred and sixty-two, in the Mississippi river,) according to the principles of equity and justice.

APPROVED, July 1, 1864.

No. 65.—A Resolution for the Relief of Carlisle Doble.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he hereby is, authorized to examine and adjust the claim of Carlisle Doble for carrying the mails between Taylor's Falls, Minnesota, and Superior, Wisconsin, from April to November, eighteen hundred and fifty-seven, and to pay to the said Carlisle Doble such sum of money as shall be found to be justly and equitably due to him for carrying the mails as aforesaid; and the sum thus found due shall be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, July 1, 1864.

No. 69.—Joint Resolution authorizing the settlement of the Accounts of the late Captain Daniel Hebard, of the United States Volunteers, and of other Officers.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the settlement of the accounts of the late Captain Daniel Hebard, of the United States volunteers, an assistant adjutant general

on the staff of General Gorman, the Secretary of War is hereby authorized and directed to allow and pay for the whole time said officer was actually employed and on duty in the military service of the United States, whether before or after the date of his commission. And that the like principle of allowance and payment be observed in the settlement of the accounts of Major William M. Este and Captain Maxwell V. Z. Woodhull, aids-de-camp on the staff of Major General Robert C. Schenck, from the twenty-second day of December, eighteen hundred and sixty-two, when they entered upon their duties on the staff of the commanding general of the Middle department, and eighth Army corps, until the date when they respectively received and accepted their commissions as aids-de-camp, deducting only from the pay and allowances of Major Este what he received in any part of that time as a lieutenant of the twenty-sixth regiment of Ohio volunteer infantry.

APPROVED, July 2, 1864.

No. 70.—Joint Resolution to settle and pay the Accounts of John S. Phelps, of Missouri, as a Member of the Thirty-Seventh Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper officers of the Treasury are hereby authorized and directed to settle and pay the balance due to John S. Phelps, of Missouri, as a member of the Thirty-Seventh Congress, for salary and mileage, deducting any amount which he may have received thereon, or which he may have received as military governor of Arkansas; and the sum sufficient to pay the same be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

APPROVED, July 2, 1864.

No. 71.—Joint Resolution for the Relief of Thomas J. Galbraith.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Interior and Treasury Departments be, and they are hereby, authorized and directed to settle and adjust the money and property accounts and claims of Thomas J. Galbraith, as agent of the United States for the Sioux Indians of Minnesota, upon principles of equity and justice; and that he be allowed, upon such settlement, credit for all moneys and property actually expended by him, in good faith, in and about the affairs of his agency, and for the use of said Indians, upon his affidavit or affidavits, duly sworn to, of such expenditure; and that he be discharged from all liability for, or on account of, Indian trust property, which, by his affidavit or affidavits as aforesaid, shall clearly appear to have been destroyed or taken and carried away by hostile Indians, or by the troops or citizens of the United States, or of the State of Minnesota, against his will and without his fault or connivance: *Provided,* That, in addition to the affidavits aforesaid, the said officers may, in their discretion, require corroborative, countervailing, or explanatory evidence of the matters and statements in said affidavits set forth and sworn to.

APPROVED, July 2, 1864.

No. 72.—Joint Resolution to refer the Claim of Naham Ward back to the Court of Claims.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the claim of Naham Ward be, and is hereby, referred back to the Court of Claims: *Provided,* That said court shall allow no larger amount than the sum heretofore allowed by said court.

APPROVED, July 2, 1864.

No. 73.—Joint Resolution authorizing the Secretary of the Navy to settle and pay the Claim of Anthony Sweeting, late Pilot of the United States Steamer "Juniata."

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to settle and pay the claim of Anthony Sweeting, late pilot of the United States steamer "Juniata," for losses or fines sustained by him in consequence of his employment in the service of vessels of the United States: *Provided,* That the amount of said claim shall not exceed five hundred dollars.

APPROVED, July 2, 1864.

No. 74.—Joint Resolution for the Relief of Alexander Cross.

Whereas Alexander Cross heretofore filed his petition in the Court of Claims of the United States, praying relief on account of certain rents alleged to be due from the United States to him as assignee of one Daniel Saffarans, by virtue of certain alleged contract of lease between the said Daniel Saffarans (who is now deceased) and the United States; and whereas the said Court of Claims, on the twenty-fourth of January, eighteen hundred and fifty-nine, rendered a decision adverse to the prayer of said petition, on the sole ground of an alleged technical defect in the assignment of said lease from the said Daniel Saffarans to the said petitioner: Now, therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the said cause be remanded to said Court of Claims for a further hearing, upon the testimony heretofore filed therein, and such further testimony as either party may take and file pursuant to the rules of said court; and if, upon the further hearing of said cause, it shall appear that the said petitioner is the equitable owner of said lease, and in justice and equity entitled to the rents (if any) due thereon from the United States, the said court shall be authorized to render judgment therefor in his favor, notwithstanding any technical defect in the assignment of said lease: *Provided,* That no money shall be paid out of the Treasury upon any judgment which shall be rendered in favor of the petitioner in said cause, until he shall have filed with the Secretary of the Treasury a bond, with ample security, in such sum as will fully indemnify the United States against any demand which may be set up and established by, or on behalf of, the heirs or representatives of the said Daniel Saffarans, deceased, under, or by virtue of, said contract or lease.

APPROVED, July 2, 1864.

THE CONGRESSIONAL GLOBE AND APPENDIX will be furnished subscribers at the next regular session, which will be a short one. Terms will be made known by Prospectus.

Subscribers for this session who have not received, or who have lost, any numbers, either of THE CONGRESSIONAL GLOBE or THE APPENDIX, can get them by inclosing to us five cents for each missing number.

